

<b>Application Number:</b>	2021/0500	<b>Application Type:</b>	Variation of S.106 Agreement
<b>Proposal:</b>	Proposed amendment to S.106 Agreement, to enable the delivery of 100% affordable housing on the site, relating to planning permission 2021/0500 which granted the <i>demolition of existing two-storey detached dwelling and proposed construction of 41 no. new dwellings with vehicular access, landscaping/open space and associated works.</i>	<b>Location:</b>	Land off Blackwood Road, Stacksteads.
<b>Report of:</b>	Head of Planning and Building Control	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	16/01/2024
<b>Applicant(s):</b>	John Heaton	<b>Determination Expiry Date:</b>	N/A
<b>Agent:</b>	Mark Vaughan (Hive Land & Planning)		

<b>Contact Officer:</b>	<b>James Dalglish</b>
<b>Email:</b>	<b>planning@rossendalebc.gov.uk</b>

<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	✓ (Relates to a major application previously determined by Committee)
<b>Member Call-In</b> Name of Member: Reason for Call-In:	
<b>3 or more objections received</b>	
<b>Other (please state):</b>	

## HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

### Article 8

The right to respect for private and family life, home and correspondence.

### Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

## 1. **RECOMMENDATION**

Approve the proposed variation of the S.106 Agreement and delegate authority to officers to approve all details reserved within the Agreement (such as the Affordable Housing Statement, name of the Registered Provider and the mix of affordable housing tenures on site), and delegate authority to officers to carry out any further amendments to the Agreement in future.

## 2. **SITE**

The site is located within Stacksteads, and is situated on the south side of Blackwood Road. The land was previously used as a former quarry and scrap yard, however now comprises predominantly grassland and a disused dwelling. Owing to its former use, it is previously developed in planning terms.

The topography of the site is reasonably flat, with a 1.2m rise from north to south and the same east to west. There are no public rights of way (PROW) crossing the site itself, however a number are located in the immediately locality, affording views into the site from a range of vantage points. The site is not within or adjacent to a conservation area, nor, does it contain listed buildings.

It is allocated (ref H25) in the Local Plan for 41 dwellings. It is situated within the urban boundary, as defined by the recently adopted Local Plan.

Planning permission (2021/0500) was granted in 2022 for the construction of 41 dwellings on the site.

## 3. **RELEVANT PLANNING HISTORY**

2021/0500 - Full: Proposed demolition of existing two-storey detached dwelling and proposed construction of 41 no. new dwellings with vehicular access, landscaping/open space and associated works (Approved).

## 4. **PROPOSAL**

Members were minded to grant planning permission 2021/0500 at the Committee meeting held on 18<sup>th</sup> January 2022, subject to a S.106 Agreement requiring the provision of the following:

- 30% of the dwellings on site to be affordable houses.
- Maintenance and management of areas of communal open space within the site for the lifetime of the development.
- £5,500 commuted sum towards habitat management and biodiversity improvements at Stacksteads Country Park.

Planning permission was subsequently granted, and a S.106 Agreement was completed and signed, to include the above. Authority was not delegated by Members to officers to make any subsequent changes to that S.106 Agreement.

Since that time, the applicant has liaised with a Registered Provider (Together Housing) who wishes to deliver all of the units on site as affordable dwellings (in a mix of tenures to reflect demand at the time of provision). However, the scheme is partly reliant on funding

from Homes England, who (under their own funding rules) will not provide funding for developments where there is a requirement under a S.106 Agreement to provide affordable housing on site (as on such developments, the affordable units would be paid for through the profits made by the developer on the market houses).

As such, the applicant wishes to vary the S.106 Agreement to remove the requirement for 30% of the dwellings on site to be affordable houses in the event that the development is transferred to an approved Registered Provider for them to provide 100% affordable housing on the site. This would allow Homes England to fund the 100% affordable housing development on the site.

In the event that the site is not transferred to an approved Registered Provider for them to provide 100% affordable housing on the site, then the original requirement of the S.106 (requiring 30% affordable housing on the site) would still apply.

The other requirements of the original S.106 Agreement (including maintenance of communal areas on site, and the provision of a commuted sum towards biodiversity enhancements in Stacksteads Countryside Park) would remain in place in any eventuality.

As officers do not have delegated authority to amend the wording of the S.106 Agreement, the proposal is brought back before Members to make a decision.

## **5. POLICY CONTEXT**

### **National**

#### **National Planning Policy Framework**

- Section 2 Achieving sustainable development
- Section 4 Decision making
- Section 5 Delivering a sufficient supply of homes
- Section 8 Promoting healthy and safe communities
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land
- Section 12 Achieving well-designed places
- Section 14 Meeting the challenges of climate change, flooding and coastal change
- Section 15 Conserving and enhancing the natural environment

### **Development Plan Policies**

#### **Local Plan**

- Strategic Policy SS: Spatial Strategy
- Strategic Policy SD1: Presumption in Favour of Sustainable Development
- Strategic Policy SD2: Urban Boundary and Green Belt
- Policy SD3: Planning Obligations
- Strategic Policy HS1: Meeting Rossendale's Housing Requirement
- Policy HS2: Housing Site Allocations
- Policy HS6: Affordable Housing
- Policy HS7: Housing Density
- Policy HS8: Housing Standards
- Policy HS10: Open Space Requirements in New Housing Developments
- Policy HS11: Playing Pitch Requirements in New Housing Developments
- Policy HS12: Private Outdoor amenity space
- Strategic Policy ENV1: High Quality Development in the Borough

Policy H21 - Land at Blackwood Road, Stacksteads  
Policy ENV4: Biodiversity, Geodiversity and Ecological Networks  
Policy ENV6: Environmental Protection  
Policy ENV9: Surface Water Run-Off, Flood Risk, Sustainable Drainage and Water Quality  
Policy ENV10: Trees and Hedgerows  
Policy TR4: Parking

### **Other Material Planning Considerations**

National Design Guide  
National Planning Practice Guidance  
RBC Alterations and Extensions to Residential Properties SPD  
LCC Planning Obligations in Lancashire (2008)  
RBC Open Space & Play Equipment Contributions SPD

## **6. ASSESSMENT**

As this is only an application to vary the S.106 agreement (and not a new application for planning permission, or an application to vary the existing planning permission), no consultation with statutory consultees or neighbours has taken place. All planning conditions on the original planning permission would still apply.

Officers have liaised with colleagues in the Council's Legal team, and guidance has been obtained from Counsel in relation to the wording of the proposed variation to the S.106 Agreement.

Officers were initially concerned that the removal of the requirement for 30% affordable housing on the development could lead to a situation where the development / land was sold to another developer who could potentially develop the site without any affordable housing provision.

Subsequently, amendments to the wording of the S.106 Agreement have been agreed between all parties, which would ensure that the requirement for 30% of dwellings on the development would remain in place, *unless* the site is transferred to a Registered Provider (who would first need to be approved by the Council) who delivers 100% affordable housing on the site (in the form of a mix of tenures which would first need to be approved by the Council).

It is understood that Together Housing are the Registered Provider in this case who are interested in bringing the development forward.

Officers and their legal advisors are satisfied that the proposed variation as now worded will adequately secure the delivery of affordable housing on the site in any scenario, and will enable the site to access funding from Homes England to facilitate the development of 100% affordable houses on the site.

No changes to the approved development's design, layout or any other aspects would be made.

The proposed variation will enable the site to deliver a large number of affordable houses, which will go some way to addressing the recognised need for such accommodation within the Borough.

As such, it is recommended that Members approve the proposed variation of the S.106 Agreement and delegate authority to officers to approve all details reserved within the Agreement (such as the Affordable Housing Statement, name of the Registered Provider and the mix of affordable housing tenures on site), and delegate authority to officers to carry out any further amendments to the Agreement in future.