

OFFICER REPORT FOR COMMITTEE

DATE: 15/03/2023

Q/0230/23

WARSASH

MR R HANSLIP

DEED OF VARIATION TO A UNILATERAL UNDERTAKING PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 DATED 16 SEPTEMBER 2022, RELATING TO APPLICATION P/21/1823/FP

LAND TO SOUTH OF NO.79 GREENAWAY LANE (PHASE 2), WARSASH

Report By

Susannah Emery – direct dial 01329 824526

1.0 Introduction

- 1.1 In September 2022 planning permission was granted for the erection of six residential units and associated detached garages with access from Greenaway Lane (P/21/1823/FP).
- 1.2 This was the second phase of development to be permitted on the site and these dwellings would be positioned to the rear of a row of six dwellings permitted to either side of No.79 Greenaway Lane (Phase 1) which are now substantially complete. Both phases of the development share a single vehicular access from Greenaway Lane. The individual plots for both phases of the development are being sold as self-build plots.
- 1.3 The planning permission is subject to a Section 106 planning obligation which secures various obligations including off-site affordable housing contributions, payment of a contribution to address the likely significant effect of the development on Habitat sites in terms of recreational disturbance, pedestrian and cycle connectivity to adjacent land, and the provision, retention and maintenance of ecological buffers and a wildflower meadow.

2.0 Description of Proposal

- 2.1 Where the plots are being sold individually as self-built plots to people who are building their own homes, a number of planning applications are likely to come forward under Section 73 of the Town and Country Planning Act 1990 seeking to make material changes to the external appearance of the permitted dwellings. Such applications have already been received from the owners of Plots 1 (P/23/0009/VC) and 3 (P/23/0122/VC).
- 2.2 Any planning permission granted under a section 73 application has the legal effect of granting an entirely new planning permission. Therefore, if it is the

Section 73 application which is implemented, the obligations that are linked to the original permission would likely not be enforceable. This is of particular concern for the obligations relating to the pedestrian/cycle links and the ecological buffers/wildflower meadow which are ongoing obligations.

- 2.3 In order to ensure that the obligations within the Section 106 remain enforceable there is a need to vary the original Section 106 agreement to ensure that the obligations would also apply to any Section 73 application granted pursuant to the full permission. The deed itself would be simple and would have the effect of dealing with the current Section 73 applications in respect of Plots 1 & 3 and also any future Section 73 applications at the site.

3.0 Recommendation

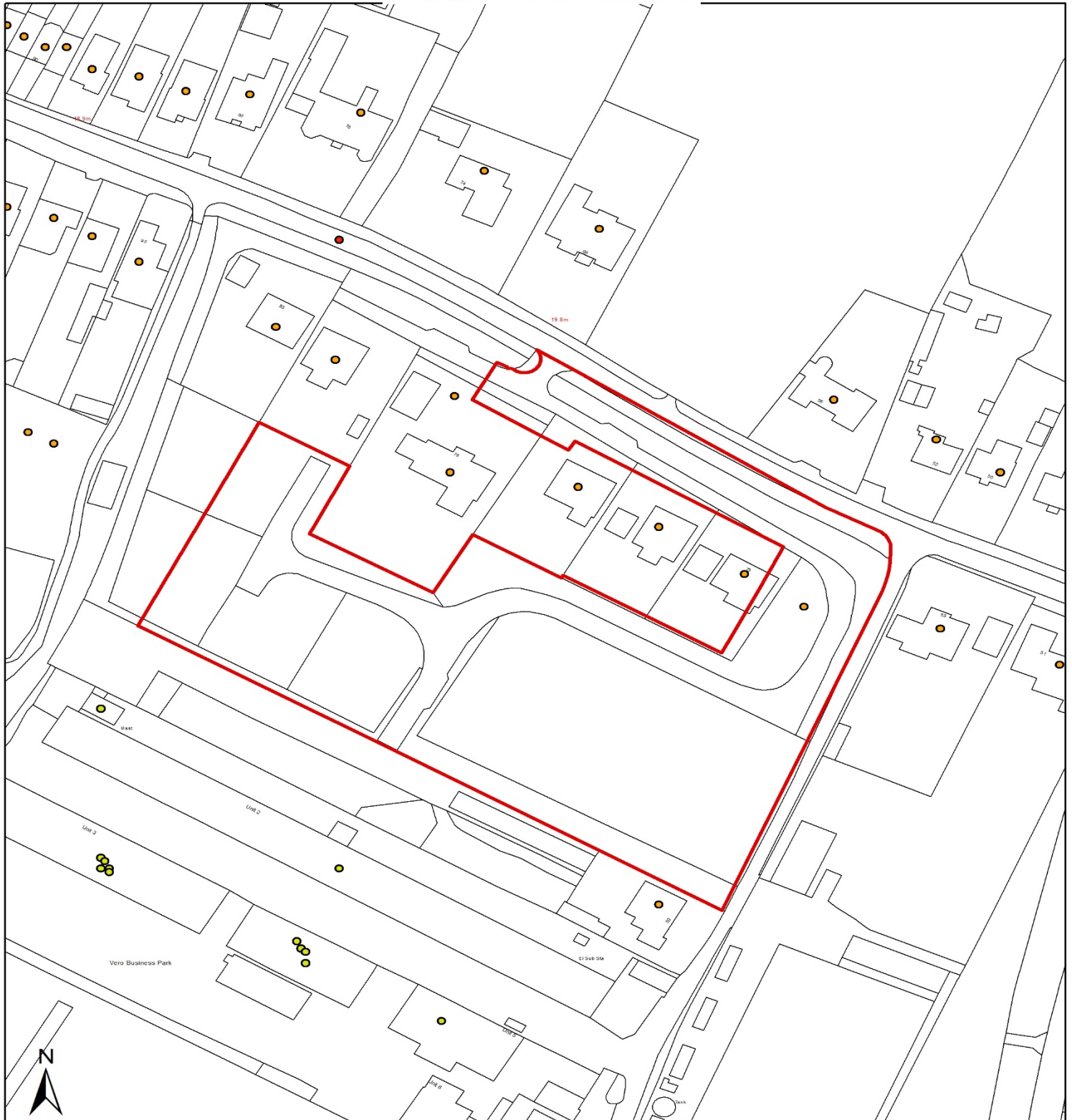
- 3.1 DELEGATE to the Head of Development Management in consultation with the Solicitor to the Council to complete a legal agreement to ensure that the obligations set out within the Section 106 dated 16 September 2022 also apply to any subsequent Section 73 application granted pursuant to the full permission and make any other amendments necessary.

4.0 Background Papers

Application documents and all consultation responses and representations received as listed on the Council's website under the application reference number, together with all relevant national and local policies, guidance and standards and relevant legislation.

FAREHAM

BOROUGH COUNCIL



Land to South of 79 Greenaway Lane
(Phase 2)
Scale 1:1,250

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