

OFFICER REPORT FOR COMMITTEE

DATE: 15/03/2023

Q/0261/23

BARGATE HOMES & VIVID HOUSING

WARSASH

AGENT: TREVOR MOODY

DEED OF VARIATION TO A UNILATERAL UNDERTAKING PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 DATED 17 FEBRUARY 2021, RELATING TO APPLICATION P/17/0752/OA

LAND EAST OF BROOK LANE (PHASE 1), WARSASH

Report By

Susannah Emery – direct dial 01329 824526

1.0 Introduction

- 1.1 In February 2021 outline planning permission was granted with all matters reserved (except for access) for the construction of up to 140 residential dwellings on land to the East of Brook Lane, Warsash.
- 1.2 The reserved matters application for Phase 1 of the development (P/21/0300/RM) which consists of 76 dwellings was permitted in February 2022 and the reserved matters application for Phase 2 (P/21/2019/RM) which consists of 42 dwellings was permitted in October 2022. Development has commenced on site in respect of Phase 1 of the development known as 'Rivercross' which lies at the western end of the site adjacent to Brook Lane.
- 1.3 The outline planning permission is subject to a Section 106 planning obligation which secures various obligations including the provision of a central area of open space within Phase 1 of the development which was originally intended to be transferred to the Council for future maintenance (Schedule Three).

2.0 Description of Proposal

- 2.1 The approved site layout for Phase 1 of the development features an area of open space which lies centrally between the two areas of housing comprising Phase 1 to the west of the site and Phase 2 to the east. It is intended that this open space will connect to development to the north in due course forming a continuous central green corridor from Warsash Road to Greenaway Lane.
- 2.2 The central area of open space will incorporate a large ecologically sensitive enclosure containing a badger sett which is an area therefore not intended for use by the public and the remainder of the open space would not contain any formal areas for play.

- 2.3 The Council received a request from the developer Bargate Homes to discharge a clause within the S106 agreement in December 2022 which was accompanied by a Scheme of Works for the laying out of the open space, an interim open space management plan and the drainage management and maintenance plan.
- 2.4 Following discussions with the Council's Open Spaces Manager he advised that after further consideration the Council would not wish to take ownership of the open space in Phase 1 as there would be drainage infrastructure beneath the ground which the Council would not wish to take responsibility for as it would likely require additional resources to manage and maintain in the long term.
- 2.5 Bargate Homes have agreed to a variation of the S106 agreement which would effectively release the Council from being required to accept the transfer of the open space and would instead ensure the open space is maintained and managed by a private management company.
- 2.6 Members may recall that that there is an area of open space within Phase 2 of the development which will also not be transferred to the Council due to the presence of drainage infrastructure. A legal agreement dated 12 October 2022 was completed at the time the Reserved Matters application was being considered for Phase 2 ensuring its maintenance and management by a private management company. In addition, for the same reason, the open space within the development of 80 dwellings on land to the north adjacent to 125 Greenaway Lane (P/19/0402/OA & P/21/1780/RM), which was recently considered by Planning Committee in December 2022 will also be maintained and managed by a private management company.

3.0 Recommendation

- 3.1 DELEGATE to the Head of Development Management in consultation with the Solicitor to the Council to complete a deed of variation to the existing section 106 legal agreement to:
- a) remove the obligations requiring the transfer of the public open space to the Council;
 - b) secure details of robust and appropriate management and maintenance measures relating to the public open space for the lifetime of the development in lieu of the land being transferred to the Council, including details on the formation, funding and governance of the body responsible for doing so;

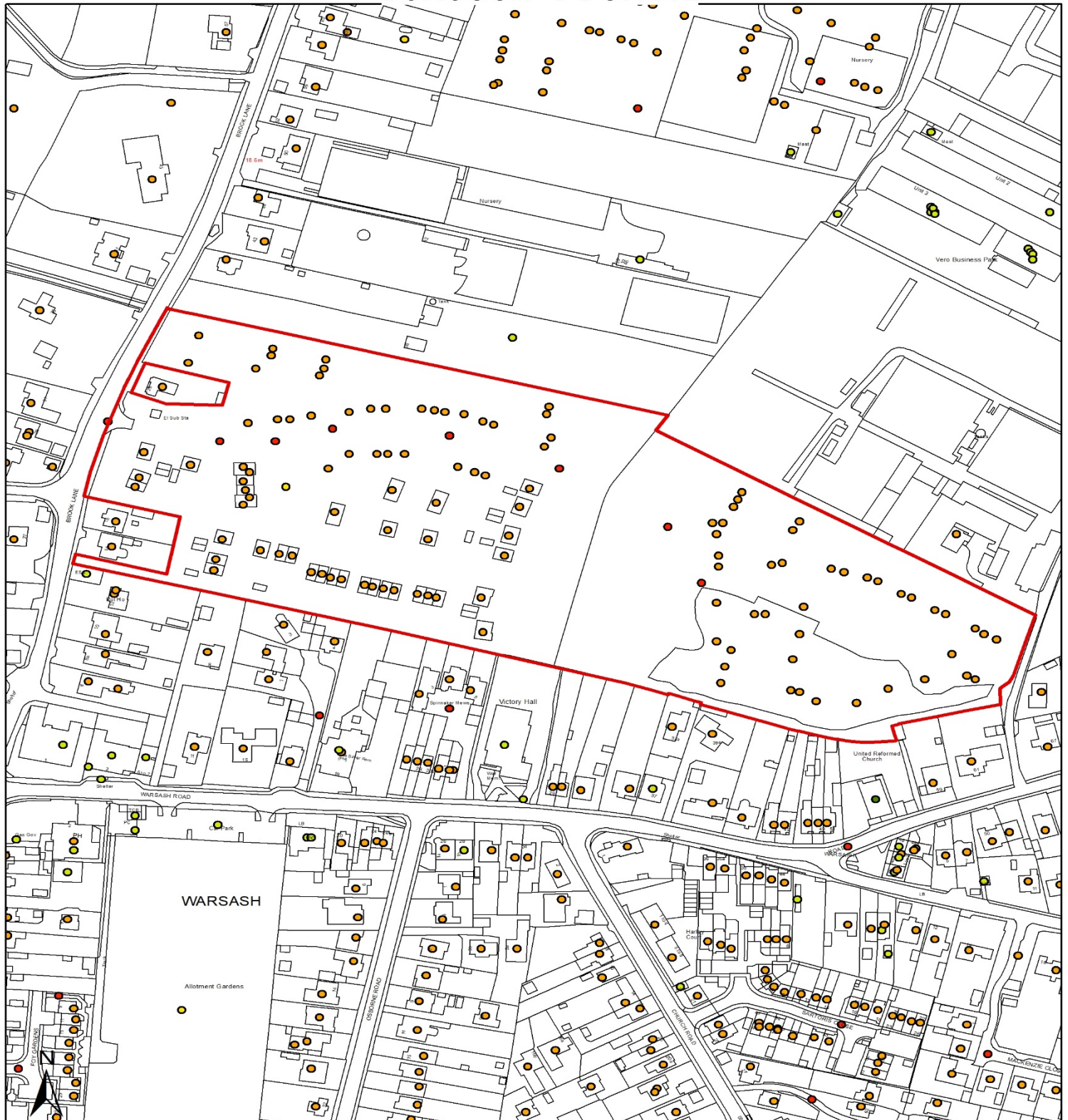
- c) To delegate to the Head of Development Management authority to agree suitable revised and additional obligations in respect of the above, and any other matters deemed necessary, in relation to Schedule Three of the original legal agreement.

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 East of Brook Lane

Scale 1:2,500

© Crown copyright and database rights 2021 OS 100019110. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.