

MC/21/0302 as amended by MC/22/2839

Location	Land south of Berwick Way, east of Frindsbury Hill and north and west of Parsonage Lane (known as Manor Farm) Frindsbury
Proposal	Proposed deed of Variation to the S106 agreement signed as part of hybrid application MC/21/0302 (as amended by S73 application MC/22/2839).
Applicant	Richard Smith The Heritage Design and Development Team Ltd
Agent	DHA Planning Alice Day Eclipse Park Sittingbourne Road Maidstone ME14 3EN
Ward	Strood Rural
Case Officer	Hannah Gunner

Recommendation of Officers to the Planning Committee, to be considered and determined by the Planning Committee at a meeting to be held on 4 June 2025.

Recommendation:

That a deed of variation be agreed to the S106 entered into as part of Planning Consent MC/21/0302 (relevant to the latter Section 73 application – MC/22/2839) to modify the S106 agreement to vary the following:

- Schedule 2, Part 7
- Schedule 2, Part 13
- Schedule 3, Part 1

For the reasons for this recommendation for approval please see Planning Appraisal Section and Conclusions at the end of this report.

Proposal

The applicant seeks a deed of variation to the section 106 agreement entered into in relation to the original planning permission MC/21/0302 (relevant to the latter Section 73 application – MC/22/2839).

Schedule 2, Part 7 and Part 13 relates to the Affordable Housing Tenure Split and Schedule 3, Part 1 relates to the first trigger point for occupation of the 60th unit tying into completion of the first phase of the barn conversion works.

The proposed variation will allow modification of the affordable housing tenure split to be in alignment with that agreed with the Medway Affordable homes Officer and also to change the trigger point for the first phase of the barn conversion and extension works to the 70th unit instead of the 60th unit to financially take account of the fact that the first phase of the residential development sees the affordable units coming forward.

Relevant Planning History

- MC/24/2463 Reserved matters application relating to appearance, layout, scale, access to and landscaping pursuant to outline planning permission MC/22/2839 for construction of up to 181 market and affordable dwellings with associated access, roads, open space, drainage and other works together with the discharge of conditions 4 (LEMP) 75 (CEMP) 83 (SuDs) 87 (Ev Charging) 88 (Travel Plan) 92 (Landscape details) 93 (Trees) 94 (Parking Strategy) 101 (Climate Change) and 102 (BNG).
- Decision Pending Cttee Decision
- MC/22/2839 Variation of condition 1 (approved drawings) to allow a minor material amendment to MC/21/0302 for relocation of multi-use games area, minor changes to various windows on main teaching block, changes to the heights of the feature brick work and main entrance curtain walling on the sports block, relocation of cycle parking, reconfiguration of the external dining area and play area and variation of condition 45 (surface water drainage) to allow changes to the drainage design, condition 47 (plant noise) to amend the description of the approved condition and condition 55 (landscaping) revised landscaping scheme to screen the relocated multi use games area.
- Decision Approval with conditions
Date 02.03.2023.
- MC/21/0302 Hybrid application seeking:
- Full planning permission for the construction of a new three-storey secondary school with sixth form and sports block with vehicular and pedestrian access from Frindsbury Hill, together with associated car parking and drop off area, multi-use games area, sports pitches, landscaping and other associated works.
- Full planning permission for the part conversion and extension of Grade I Listed Manor Farm Barn and change of use to a wedding venue and conference facility, including conversion and extension of former cattle byres to provide overnight accommodation, construction of single storey detached building for management facilities and construction of a new building to provide additional tourist accommodation with vehicular and pedestrian access from Berwick Way, car parking, landscaping and other associated works.
- Outline permission (with Frindsbury Hill access-detailed as part of the

full planning permission for the school element) to be considered in detail and all other matters reserved for future consideration for the construction of up to 181 residential dwellings, together with Parsonage Lane access, parking, landscaping and associated works.

Decision	Approval with conditions
Date	17 December 2021

Development Plan

The Development Plan for the area comprises the Medway Local Plan 2003 (the Local Plan). The policies referred to within this document and used in the processing of this proposed deed of variation have been assessed against the National Planning Policy Framework 2024 (NPPF) and are considered to conform.

Background

The original S106 agreement was entered into in connection with planning application MC/21/0302 granted on 17 December 2021. Work on site has seen the following take place:

- The complete construction of a new secondary school, which is now open and operational including community uses of the facilities when the school is closed.
- Some of the footings have been implemented at the barn for the barn extension works.
- The quarry continues to be filled.

To date the original agreement has been unaltered.

The original agreement provides for the following financial and non-financial contributions to be made to the Council:

i) NON-FINANCIAL

- Min 25 % affordable homes
 - 60% affordable rent
 - 40% shared ownership.
- No more than 60 units occupied until the first phase of the barn conversion and extension works are complete.
- No more than 130 units occupied until the final phase of the barn conversion and extension works are complete.

ii) A financial contribution of £298,263.47 in total to be provisionally split in the following ways:

SCHOOL

- Works to relocate/reroute the RS326 or the sum of £2500 toward the diversion costs.
- Works to relocate/reroute the RS328 of the sum of £2500 toward the diversion costs.

- £15,870 toward improvements to signage and furniture for the RR9.

HOUSING

- £40,000 toward resurfacing works of the RR9, to help support sustainability and encourage walking to the station and Town Centre.
- £116,706.99 toward support the creation of additional capacity in primary care premises required (£644.79 per unit x 181 units).
- £30,480.40 toward improving facilities and equipment at Strood library local libraries (£168.40 per unit x 181 units).
- £33,818.04 toward improvements within Strood Town Centre (£186.84 per unit x 181 units).
- £31,937.45 toward waste and recycling (£176.45 per unit x 181 units).
- £45,320.59 toward Habitats Regulations (mitigation for Wintering Birds - £250.39 per unit x 181 units).

The **financial contributions remain unaltered** in the Deed of Variation with the amendments only being made to the non-financial contributions.

The **first proposed amendment** relates to Schedule 2, Part 7 and Part 13 and to the affordable homes split. Currently it accords with the adopted developer contributions guide being a 60:40 split with 60% of the affordable homes to be affordable rent and 40% to be shared ownership.

The proposal is to change the split so that 65% of the affordable homes to be provided will be affordable rent and 35% shared ownership.

The **second proposed amendment** is Schedule 3, Part 1 to increase the trigger point for the first phase of the barn conversion to be completed from 60 residential units to 70 residential units.

The second trigger point relating to the completion of the final phase of the barn conversion works and extension would **REMAIN** unchanged at 130 residential units,

Planning Appraisal

1. *Schedule 2, Part 7 and Part 13*

In the current market there are very few Registered Providers (RPs) looking to purchase affordable homes. This is a market wide issue across Kent and indeed the Country and not limited to Medway. In response to this, the applicant has approached Medway Council's Housing Officer to resolve this issue to ensure that delivery of housing can come forward WITH affordable housing. Medway Council in response has offered to take on the affordable rent housing on site subject to certain criteria being met, but which do not align with the provisions in the S106.

It is intended that the shared ownership homes will be sold to an approved provider, but if this is not possible these homes would be sold at a discounted market sale value or alternative delivery method as agreed with the Council.

The proposed affordable housing scheme that has been agreed, and submitted alongside the Reserved Matters Application (Ref: MC/24/2463) is as follows:

UNIT TYPE:	NO. OF UNITS:	% OF TOTAL AFFORDABLE PROVISION
<u>Shared Ownership</u>		
2 bed apartment	4	21.7%
2 bed house	6	
3 bed house	6	34.78%
Total	16	34.78%
<u>Affordable Rent</u>		
1 bed apartment	12	26.09%
2 bed apartment	13	28.26%
3 bed house	3	6.5%
4 bed house	2	4.35%
Total	30	65.2%
Overall Total:	46	

This will ensure delivery of the required number of affordable units but with an increase in affordable rent % which better meets Medway's housing need and with a unit split that again meets Medway's current need. This has been discussed and agreed with Medway's housing team.

Based on the above, the applicants wish to vary the wording to Schedule 2 Part 7 and 13 as follows:

7. *To ensure that of the total number of Affordable Housing Units to be constructed to be constructed on the Affordable Housing Land the tenure shall be:*
 - a) *65% shall be provided as Affordable Rented Housing (rounded to the nearest whole number)*
 - b) *35% shall be provided as Shared Ownership Accommodation (rounded to the nearest whole number)*

13. *To use reasonable endeavours to procure that of the total number of Affordable Housing Units to be constructed on the Affordable Housing Land the size shall be:*
 - 26% shall be 1 bedroomed unit.*
 - 50% shall be 2 bedroomed units.*
 - 20% shall be 3 bedroomed units.*
 - 4% shall be 4 bedroomed units.*

2. Schedule 3, Part 1

Part 1 of Schedule 3 provides a development restriction on the residential element of the permission to ensure that corresponding phases of the Barn Conversion and Extension Works are completed in a corresponding manner.

Schedule 3 states:

“Not to cause or allow the first Occupation of more than 60 Housing Units within the Development until the First Phase of the Barn Conversion and Extension Works as shown hatched blue on Plan 2 has been completed in accordance with the following approved plans...”

The Applicant wishes to amend Schedule 3 to increase the first trigger point from 60 residential units to 70 residential units as follows:

“Not to cause or allow the first Occupation of more than 70 Housing Units within the Development until the First Phase of the Barn Conversion and Extension Works as shown hatched blue on Plan 2 has been completed in accordance with the following approved plans...”

The second trigger point, contained within the Fourth Schedule, would NOT be amended and would remain at 130 residential units. The Fourth Schedule would therefore remain unchanged which provides the Council with the same level of security that the Barn Conversion and Extension Works will be delivered prior to completion of the residential development as previously anticipated.

The detailed justification as set out by the applicants states how the residential development element of the consent is intended to provide capital receipts to enable the conversion and development of the listed barn. The Applicant is expected to fund the Barn Conversion and Extension Works by phased land sales to a developer that will deliver the new housing.

To achieve the first phase of the barn conversion and extension works prior to the occupation of the 60th unit, it is necessary to sell a phase of development up to 59 residential units. It was initially expected that the affordable housing would be distributed relatively equally between phases, however as discussions evolved and the developer has secured the social housing with Medway the ambition has been to deliver the affordable housing at an early stage. Consequently, the design was changed prior to submission of the Reserved Matters Application to increase the affordable content within Phase 1 to 35 and decrease the units for private sale to 22.

It should be noted that the decrease in units for private sale has dropped from 33 (55.9%) of the total unit's deliverable to 22 (38.6%). Whilst this has a considerable benefit to Medway, which will acquire 35 new affordable units in this first phase of development, it does mean that the land value is reduced from the equivalent of 33 units to that of 22. In real terms the Applicant will only achieve two thirds of the value previously anticipated, which significantly impacts the viability of undertaking the first phase of Barn Conversion and Extension Works.

Given the benefit afforded to Medway Council of front loading the scheme with a very significant proportion of the affordable housing provision, the Applicant believes that it would be equitable to increase the trigger point set out in the Third Schedule from 60 units to 70 units.

It is proposed that the 60th unit and 70th unit remain within the same phase of development (phase 2), however the alteration proposed will allow for the release of more funding to

allow for the barn works. It is very important to note that the delivery of the barn conversion and extension in its final form will not change in terms of timing.

Conclusions and Reasons for Approval

Based on the evidence submitted, it is considered that the proposed deed of variation accords with the NPPF, will deliver affordable homes earlier within the development and better meet the current housing needs in Medway and therefore can be agreed.

The deed of variation proposal is being referred to the Planning Committee for determination, as the original planning application(s) for this site were determined by the Planning Committee.