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**Report to:** Southern Area Committee

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**S/2008/1555    ERECTION OF 7 'AFFORDABLE' HOUSES OFF NEWTON LANE,  
WHITEPARISH**

**Proposal.** To enable the decision on S/2008/1555 to be issued

**Summary** The land is currently owned by the District Council who can not make a S106 agreement with themselves. The District Council can not sell the land to the Housing Association until the footpath is moved and the footpath can not be moved until a planning permission exists. This can be resolved, if instead of a S106 Agreement to secure affordable housing a condition is imposed.

**Background**

At the meeting on 6 November 2008 it was **Resolved:** that the above application be approved subject to conditions and to all relevant parties entering into a Section 106 Agreement under the requirements of the Town and Country Planning Act 1990 relating to:

- The payment of a commuted sum under the requirements of Policy R2 of the Adopted Salisbury Local Plan
- The provision of affordable housing as an exception site for rental in perpetuity.  
( See Appendix 1)

The land off Newton Lane is currently owned by the District Council. The Wiltshire Rural Housing Association's purchase of the land is conditional on the public footpath, which crosses the corner of the site, having been moved. The most appropriate legislation to move the public footpath is S257 of the 1990 Town and Country Planning Act. This allows a footpath to be moved to allow for development to take place, following the grant of a planning permission.

Put simply, the District Council cannot sell the land to the Housing Association, complete the S106 agreement with the owner and issue the planning permission, as the Housing Association can not purchase the land until the footpath is moved and the footpath can not be moved until a planning permission exists.

In order to resolve this unusual problem and issue the planning permission, it is proposed that even though the land is an 'exceptions' site, that the provision of affordable housing be secured by a condition restricting the benefit of the planning permission for affordable housing to a Registered Social Landlord providing rented housing for local need in Whiteparish and the surrounding villages.

The contract for the sale of the land will include restrictions relating to the type of tenancy and on the nomination of tenants of the future dwellings as well as the reimbursement of the R2 contribution to the Council

This is an exceptional situation whereby the combination of the land being in Council ownership, it being an exception site and the requirement for a public footpath diversion makes the usual process unachievable. Without this change from a S106 Agreement to a condition, it will not be possible to issue the planning permission for the affordable houses.

**Recommendations:**

1 That the following condition be added:-

(19)The development hereby permitted shall be carried out by the Wiltshire Rural Housing Association only or another Registered Social landlord. The planning permission shall be for the benefit of the applicant or another registered social landlord only to provide rented housing for the local needs of in the first instance Whiteparish Parish and then only if there are still vacancies for the local needs of the surrounding parishes in accordance with Policy H26 of the Adopted Salisbury Local Plan (June 2003)

Reason (19) To ensure that the development provides affordable housing to meet an identified need in the locality.

And subject to the payment of a commuted sum under the requirements of Policy R2 of the Adopted Salisbury Local Plan (June 2003);

1. **Background Papers:** none
2. **Implications:** none
  - **Financial:** none
  - **Legal:** none
  - **Human Rights :** none
  - **Human Rights Checklist**
  - **Personnel:** none
  - **Climate Change:** : none
  - **Councils Core Values :** **Supporting the provision of housing for local needs**
  - **Wards Affected:** Alderbury and Whiteparish

**Appendix Minute from Meeting of 6 November 2008**

**194. S/2008/1555 – Erection of 7 Dwellings (Rural Affordable Housing) and Alteration of Access, Newton Lane, Whiteparish, Salisbury, SP5 2SP, for John Lippitt Chartered Architects:**

The committee considered a presentation from the Planning Officer in conjunction with his previously circulated report and site visit. The Highways Agency officer also clarified any road issues affecting the application. Mr S Karmy, a local resident, spoke in objection to the application. Ms T Mulbury, a local resident, spoke in favour of the application.

**Resolved:** that the above application be approved subject to all relevant parties entering into a Section 106 Agreement under the requirements of the Town and Country Planning Act 1990 relating to:

- The payment of a commuted sum under the requirements of Policy R2 of the Adopted Salisbury Local Plan (1)
- The provision of affordable housing as an exception site for rental in perpetuity.

**For the following reasons:**

This application is for the development of a site outside the Housing Policy Boundary as a site for 'affordable' housing under the exceptions policy, saved policy H26. Whilst the delivery of affordable housing is one of the objectives of the Local Plan and of regional and national planning policy, other policies and requirements are still applicable to 'exception' housing sites.

In this case, it is accepted that there is a need for affordable housing in Whiteparish, and the provision of affordable housing within a medium-sized village such as Whiteparish where there are services and facilities is in accordance with that principle.

In relation to the existing site there were formally concerns regarding the lack of a full contamination survey, however, this issue has been addressed and the Council's Environmental Health Officer is satisfied that all that remains to be resolved is the method of remediation for the contaminants identified.

As the site had been derelict for a considerable period, concerns were raised regarding the potential effect on protected species. However, the District Ecologist is now satisfied that there are no protected species present on the site.

In relation to this scheme for 'affordable' housing, it is considered that in the view of the reduction in the number of dwellings proposed, the alterations to the layout, the reduction in the size of the area devoted to vehicular access, parking/turning areas and the larger rear gardens that the concerns expressed regarding these aspects in the previous application have been sufficiently overcome for this to no longer warrant a reason for refusal. In conjunction with the larger rear gardens, the more substantial planting and the smaller gaps in the frontage it is considered that the development is now sufficiently in keeping with character and appearance of the residential development in this area that the need for affordable housing outweighs the harm to the visual qualities of the landscape that the need for affordable housing outweighs the harm to the visual qualities of the landscape.

Furthermore on the basis that the proposal accords with Policy H26 of the adopted Salisbury District Local Plan; subject to highway improvements the Highway Authority considers the proposal would not be detrimental to highway safety in accordance with policy G2.

**And subject to the following conditions:**

(1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** To comply with the provisions of Section 91 of the Town and Country Planning Act 1990. AS amended by section 51 (1) of the Planning and Compulsory Purchase Act 2004 (0004 AMENDED).

(2) No development shall take place until a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external wall[s] and roof[s] of the proposed development have been submitted to and approved in writing, by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

**Reason:** To secure a harmonious form of development.

(3) Notwithstanding the provisions of the Town and Country Planning (3) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), no windows/dormer windows/roof lights [other than those expressly authorised by this permission] shall be inserted in any elevation (such expression shall be taken to refer to both walls and roofs) of any of the dwellings hereby approved and there shall be no extensions to the dwellings nor the erection of any structures or enclosures within the curtilages and no additions or alterations to the roofs of the dwellings, permitted by Classes A To F of Schedule 2 (Part 1) to the Town and Country Planning (General Permitted Development) Order 1995, unless otherwise agreed in writing by the Local Planning Authority upon submission of a planning application in that behalf.

**Reason:** To enable the Local Planning Authority to retain control over the development in the interests of neighbouring amenities and the character of the area.

(4) There shall be no development until a scheme for the improvements to the access to the site including the widening of the carriageway, the provision of a footway, street lighting, the disposal of surface water, car parking, visibility splays and the extension of the local speed limit have been submitted to and approved in writing, by the Local Planning Authority. The gradient of the two accesses shall not be steeper than 1 in 15 for the first 4.5m of its length measured from the carriageway. There shall be no occupation of the dwellings until the approved scheme has been implemented.

**Reason:** In the interests of highway safety.

(5) The proposed highway improvements shall be constructed in such a manner to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footway and carriageway to at least base course level between the dwelling and existing highway

**Reason:** In the interests of highway safety.

(6) The proposed development requires the legal diversion of Public Footpath 3 to enable the development to take place. Before the start of development details of a scheme for the replacement footpath, including the timing of the closure of the existing footpath and the opening of the new replacement footpath shall be submitted to and approved by the Local Planning Authority. The diversion order should be in place prior to the commencement of the development hereby approved

**Reason:** In the interests of pedestrian safety.

(7) No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (4) have been submitted to, and approved in writing by, the Local Planning Authority and these works shall thereafter be carried out in accordance with the approved details prior to the first commencement of the use hereby approved or in accordance with a timetable to be agreed in writing with the Local Planning Authority. These details shall include, as appropriate, indications of all existing trees, hedgerows and other site features and details of any to be retained together with measures for their protection in the course of development and proposed finished levels or contours. Details of soft landscaping works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes, numbers/densities and positions. The details for the hard landscaping of the site shall include full details of the surfacing materials and colours of all hard surfaces, and where so required by the Local Planning Authority samples of such materials and finishes. If within a period of 5 years from the date of the planting or establishment of any tree, shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

**Reason:** To enable the Local Planning Authority to secure a satisfactory standard of design and implementation for the landscaping of the proposed development and establishment of the approved landscape scheme, in the interests of visual amenity.

(8) A landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules covering all elements of the implementation of the agreed landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first commencement of the development, or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall thereafter be carried out in accordance with the approved details.

**Reason:** To enable the Local Planning Authority to secure the satisfactory evolution, management and maintenance of landscape works, in the interests of visual amenity.

(9) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to, and approved in writing by, the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

**Reason:** To enable the Local Planning Authority to secure the satisfactory maintenance of landscape works for a sufficient period of time to enable planted material to become adequately established.

(10) No tree, shrub, or hedge which are shown as being retained on the approved plans shall be cut down, uprooted, wilfully damaged or destroyed, cut back in any way or removed other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. All tree works approved shall be carried out in accordance with British Standard Recommendations for Tree Work

If any tree shown to be retained in accordance with the approved plans and particulars is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased within 5 years of the completion of the development, another tree, shrub or hedge shall be planted at the same place,

and that tree, shrub, or hedge shall be of such size, specification, and species, and should be planted at such time as may be specified in writing by the Local Planning Authority.

If within a period of five years from the date of planting any replacement tree is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

**Reason:** To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to safeguard the amenity of the existing trees to ensure a satisfactory appearance to the development.

(11) During construction works, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site other than between the hours of 0800 to 1800 on Mondays to Fridays, 0900 to 1300 on Saturdays and at no time on Sundays, Bank and Public Holidays. This condition shall not apply to the internal fitting out of the buildings.

**Reason:** To avoid the risk of disturbance to neighbouring dwellings/the amenities of the locality during unsocial hours.

(12) The existing drainage ditch on the south eastern boundary of the site shall be retained and maintained in accordance with details to be submitted to and approved by the Local Planning Authority.

**Reason:** In order to minimise the risk of flooding.

(13) No development shall take place until a scheme for the implementation of water efficiency measures has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the agreed details, prior to the first occupation of any of the dwellings hereby approved.

**Reason:** In the interests of sustainable development. Salisbury District Council's Supplementary Planning Guidance on "Achieving Sustainable Development" promotes the prudent use of natural resources. It is necessary to minimise the local demand for water to protect future supplies.

(14) No works shall be undertaken until the all vegetation has been removed from the site under the supervision and advice of an ecologist.

**Reason:** In the interests of nature conservation

(15) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of health and safety for occupants of, or visitors to, the proposed development.

(16) The above scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the [public/buildings/ environment] when the site is developed.

**Reason:** To enable the Local Planning Authority to ensure that appropriate measures are taken to avoid any threat which the proposed development might pose to health and safety and/or the environment.

(17) Development shall not commence until the measures approved in the scheme have been implemented.

**Reason:** In the interests of health and safety for persons working at or visiting the site during the construction period.

(18) Before the development hereby permitted commences on the site, a soil survey of the site shall be undertaken and the results provided to the Local Planning Authority. The survey shall be taken at such points and to such depth as the Local Planning Authority may stipulate. A scheme for decontamination of the site shall be submitted to and approved by the Local Planning Authority in writing and the scheme as approved shall be fully implemented and completed before any [residential] unit hereby permitted is first occupied.

**Reason:** In the interests of health and safety for occupants of, or visitors to, the proposed development.

#### **Informative: 1 Policy**

And in accordance with the following saved policies of the adopted Salisbury District Local Plan:

**Policy Purpose**

G1 General aims of the Local Plan  
G2 General Criteria for Development  
G9 Infrastructure contributions  
D2 Design of Infill Development  
H22 Application of Housing Policy Boundaries  
H23 Undeveloped land  
H26 Affordable housing  
C2 Countryside  
C6 Special Landscape Area  
C12 Protected species  
R2 Public Open Space  
TR11 Off-street car parking provision

**Informative: 2 Wessex Water**

The developer should also be aware of the importance of checking with Wessex Water to ascertain whether there may be any uncharted sewers or water mains within or very near to the site. If any such apparatus exists applicant's should plot the exact position on the design site layout to assess the implications. Please note that the grant of planning permission does not, where apparatus will be affected, change Wessex Water's ability to seek agreement as to the carrying out of diversionary and/or conditioned protection works at the applicant's expense or, in default of such agreement the right to prevent the carrying out of any such development proposals as may affect its apparatus.

**Informative: 3 Wiltshire Fire and Rescue Service**

The attention of the applicant is drawn to the comments of the Wiltshire Fire and Rescue Service, a copy of which is attached

**Informative: 4 Highways**

The applicant should be aware that the improvements should be undertaken via a Section 38 or Section 278 Agreement with the Highway Authority to ensure the future maintenance of the works, once adopted, will be at public expense. .