

Application No: 16/00837/FULL Full Application

Site: Lees And Co, Main Road, Portmore, Lymington, SO41 5RF

Proposal: Application to vary section 106 agreement of planning permission reference 15/00351 to waive financial contributions towards affordable housing, public open space and transport

Applicant: Mr D Lees, Lees & Co

Case Officer: Deborah Slade

Parish: BOLDRE

1. REASON FOR COMMITTEE CONSIDERATION

Previous Committee consideration.

2. DEVELOPMENT PLAN DESIGNATION

No specific designation

3. PRINCIPAL DEVELOPMENT PLAN POLICIES

DP1 General Development Principles
CP1 Nature Conservation Sites of International Importance
CP17 The Land Based Economy

4. SUPPLEMENTARY PLANNING GUIDANCE

Boldre Parish Design Statement
Development Standards SPD

5. NATIONAL PLANNING POLICY FRAMEWORK

Sec 11 - Conserving and enhancing the natural environment
Sec 12 - Conserving and enhancing the historic environment
Sec 3 - Supporting a prosperous rural economy
Sec 6 - Delivering a wide choice of high quality homes
Sec 7 - Requiring good design

6. MEMBER COMMENTS

None received

7. PARISH COUNCIL COMMENTS

Boldre Parish Council: Happy to accept the officer's decision under delegated powers.

8. CONSULTEES

No consultations required

9. REPRESENTATIONS

9.1 No representations received.

10. RELEVANT HISTORY

10.1 Two dwellings; garages; restoration of site to meadow/ pasture land; re-instatement of river bank (demolition of existing dwelling and accommodation block, poly tunnels, roads, yards, structures and buildings) 15/00351 ~ approved subject to conditions and S106 agreement 3 November 2015

11. ASSESSMENT

11.1 Members may recall this application from Committee **November 2015**. At that time, it was resolved to grant permission for 2 no. dwellings in lieu of the existing manager's dwelling and agricultural accommodation block at Lees & Co. nursery. This was subject to a S106 agreement to ensure demolition of the existing buildings and structures, restoration of the extensive nursery land to grazing land, and the payment of habitats mitigation amounting to £1,424 and affordable housing contributions amounting to £43,650.

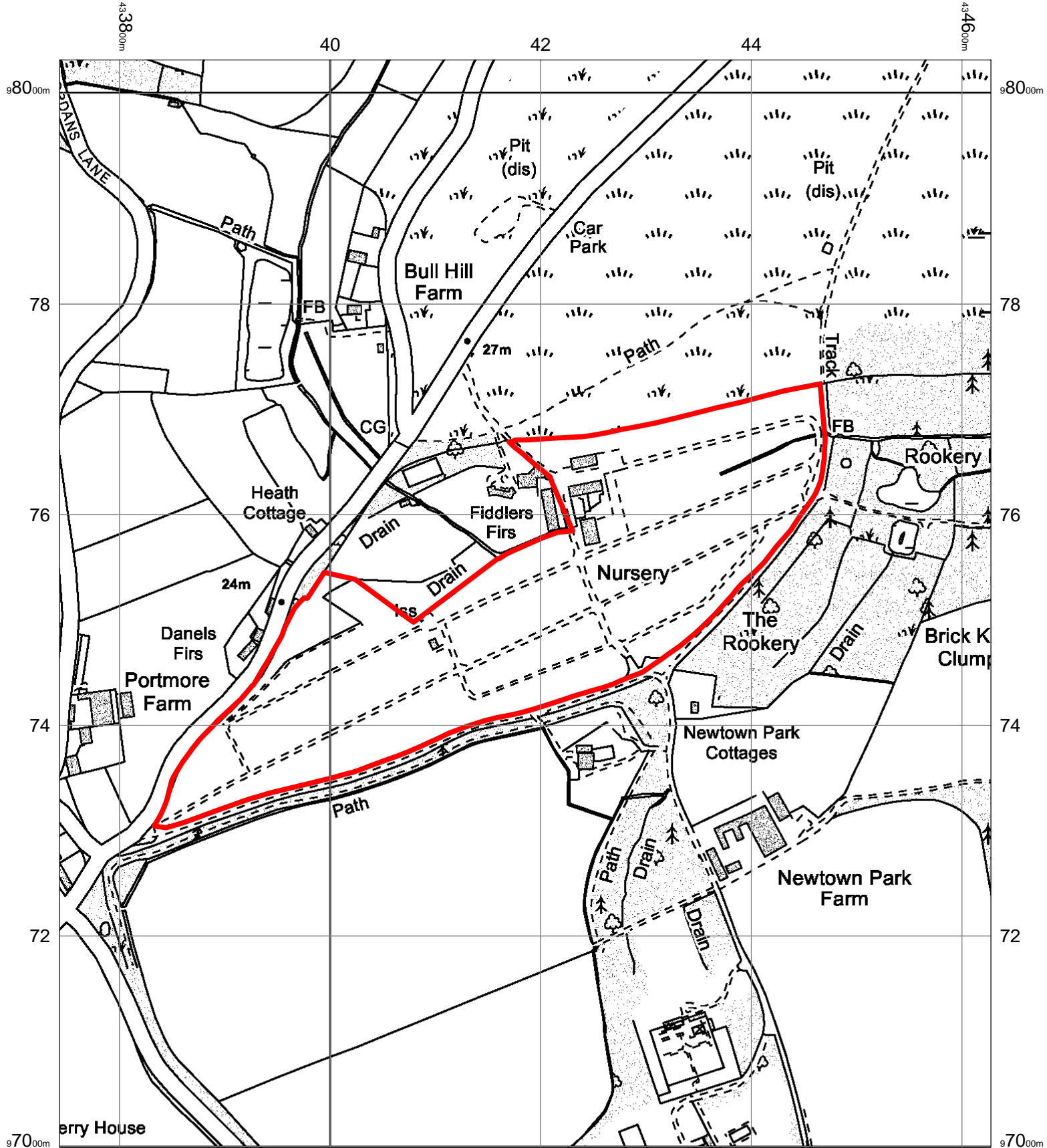
11.2 Members deemed the affordable housing contribution necessary in order to render more acceptable a proposal which was contrary to policy. The site does not provide for any on-site affordable housing (whereas Policy CP11 would require 50% on-site affordable housing, and Policy CP12 would not normally allow housing in this location). Therefore the affordable housing contribution which was offered by the applicant at the time would have provided off-site affordable housing benefits instead, thus rendering the proposal a little more compliant with the thrust of the Authority's affordable housing Policy, CP11. By removing this contribution, the proposal will not comply with Policy CP11 or Policy CP12.

11.3 This application now seeks to vary the legal agreement to remove the provision of affordable housing contributions from the S106 agreement. The applicant has cited viability issues as a key reason for the application at this time.

- 11.4 On **11 May 2016** the Court of Appeal found in favour of the Government in their appeal against the previous High Court decision in the case of *West Berkshire District Council & Reading Borough Council v Secretary of State for Communities and Local Government*. The consequence of this was that Local Authorities are no longer able to collect "tariff style contributions" on proposals for 5 dwellings or less. In this case, it means that contributions towards affordable housing, open space and transport can no longer be collected. This is confirmed in the National Planning Practice Guidance (NPPG) at paragraph 31.
- 11.5 Whilst the Government's advice on collecting affordable housing contributions is therefore clear, it should be noted that there have been some instances of appeal inspector's concluding that affordable housing can still be collected as a result of prevailing local planning policy.
- 11.6 A Habitats Mitigation Contribution of £1,424 can still be collected, and the applicant does not propose to remove this from the S106 agreement.
- 11.7 The contributions were originally sought to compensate for the increase in on-site residential impacts, due to the seasonal nature of the accommodation block to be removed, and the additional presence of a large dwelling with year-round occupation in the landscape as a replacement. However, it is not considered that the lack of affordable housing contributions would be a sound reason for refusal in light of the Government's advice on contributions, set out in the NPPG, which was issued and has now been upheld since the earlier committee decision to permit this development. The proposal will still bring the benefits of landscape restoration, and contributions towards habitats mitigation, which were previously negotiated.
- 11.8 It is therefore recommended that the S106 agreement is varied to remove the requirement for developer contributions towards affordable housing, to accord with the NPPG.

12. RECOMMENDATION

Vary S106 agreement to remove affordable housing contribution.



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