

Stoke sub Hamdon Parish Council's

Formal Objection to 17/02732/DPO

The Parish Council wishes to raise a strong objection to the discharge of these two s.106 planning obligations on the following grounds:-

1 **Evidence of Continuing Need for a s.106 Agreement**

1.1 **Affordable housing**

Stoke sub Hamdon has a dire need for affordable housing. The Parish Plan way back in 2005 identified housing costs as an issue. Since then local house prices have risen way beyond affordability for the average person living in Stoke, and salary levels in South Somerset are below the national average. The cheapest family house in Stoke is currently around £200,000, and most houses are way above this at the £300- £400,000 level. This has resulted in young people continually having to leave the village as they approach adulthood and have families. Lack of suitable housing is changing the demographics of the area.

- 1.2 Stoke is a 2 mile long "string" village surrounded by actively farmed fields, so there are little in-fill opportunities in the village itself. The SSDC's own [Housing and Economic Land Assessment Report](#) issued in Feb 2017 identified that there are now only 2 suitable sites around Stoke that currently meet the HELAA criteria for sustainable development, this Stanchester site, and the land OS8000 at West Street. The latter has been granted outline planning permission, pending completion of a s.106 agreement. The only way the lack of affordable housing (both rented and shared ownership) can be remedied therefore is through the development of new sites like this with s. 106 obligations.

We already have one site in the village with grant on Great Field Road (Southcombes) due to be developed, where there is no provision whatsoever for affordable housing as it is intended to be retirement housing. This only emphasizes the urgent need for affordable housing units on this Stanchester site.

- 1.3 The [SSDC's Local Plan 2006-2028](#) at 10.25 on page 155 sets out "the objective to include all residential development in the affordable housing contribution process". [Policy HG3](#) states "where the above level (35%) of affordable housing provision renders a site unviable a reduction of provision will be accepted on the basis of an "open book" submission in accordance with Policy SS6 and the Planning Obligations Protocol 2006." For a developer to request that the obligation to build affordable housing obligation should be completely discharged, as in this application, is contrary to SSDC policy and should be refused. The Parish Council would submit that where commercial unviability has been proven without doubt and where outside the developer's control, then in any re-negotiation of housing provision in a s.106 Agreement, a dominant factor should still be the extent of the affordable housing needs of the local community, so that the community is not unfairly disadvantaged.

If affordable housing provision is removed from this site, this will have a significant impact on the growth of family life for generations to come in the village. It can never, ever be replaced.

1.4 **The Parish Council submits that :-**

- ***There has been a continuing need for affordable housing in Stoke for years that is not being met***
- ***There is no other method of provision of affordable housing in Stoke other than from new development sites, with a limited number of sites available***
- ***Discharge of the affordable housing obligation would significantly impact on families***
- ***SSDC is strategically committed to increase the levels of affordable housing both in its Community Sustainability Strategy 2006-2028 and in its Local Plan 2006 – 28 (adopted in March 15) to meet housing need***
- ***The provision of affordable housing on this site should be retained in any re-negotiation***

2 **Evidence of Continuing Need for Developer's Contributions for Community Facilities**

2.1 Under the s.106 Agreement there is a developer's contribution of a total of £110,213 (of which just over £84,258 would potentially come back to the village over time to support relevant projects). Specific sums are set against individual projects for sports and recreation facilities and provision of new community facilities. All these projects in Stoke are ongoing and have been for some time. All have received support from both SSDC and County, both in the form of grants and officer advice.

2.2 **Stoke's Parish Plan in 2005** had identified a lack in youth facilities and SSDC's Local Plan 2006-2028 confirmed this assessment. The Infrastructure Plan identified the requirement for the extension of formal pitches and changing facilities, and the expansion of existing youth facilities.

2.3 Stoke is a very proactive village and over a number of years has set to work to do its bit in remedying this lack of facilities. The Stoke sub Hamdon Sports & Recreation Trust, a charitable trust set up by volunteers in the village in 1997, has improved the Recreation Ground facilities and activities beyond all recognition. One of their projects that would be very hard hit by any withdrawal of contribution is the creation and development of an Adventure Playground. This is part of the Trust's 5 Year Plan and has had considerable input from SSDC Officers and grant. It is shortly going to tender. It should be supported.

2.4 The second project that would be significantly impacted is the development of a new Youth Centre, which will provide a desperately needed meeting place for the young people of Stoke, who have nowhere else to meet. This project is being created through the exercise of a successful Community Right to Bid by the Parish Council for the Methodist Church in West Street. Funding will be provided via the Public Works Loan Board, paid for by the community via the precept, and run by a user led Charitable Trust. The Parish Council is currently going through negotiations for exchange of contracts. Again, SSDC has supported the project from the start as part of its objectives under the Local Plan, and it is the first successful Community Right to Bid project for South Somerset. It should be supported.

If these contribution obligations are discharged, they will have a huge negative impact on Stoke.

3. **Background to the s.106 agreement**

3.1 It is significant to note that the Area North Committee itself noted the site was in fact greenfield land outside the development area in Stoke sub Hamdon during determination of outline planning permission in 2013. The Officer's report noted from the statement by Strategic Housing that at that stage the District had no deliverable 5 year housing plan, so NPPF guidelines therefore determine that presumption should be for the award of permission. Because Area North Committee agreed that the site was now to be treated as being within development limits, SSDC planning policies for Affordable Housing etc. were therefore relevant. The Officer's report states "Provided these contributions are secured by way of a Section 106 Agreement the application is considered to comply with Policy ST10 of the SSLP".

3.2 **NPPF Guidelines** require that obligations are necessary, these must be directly related to the site and fair in scale. In this respect, the Officer's Report in 13/03622/FUL notes:-

Strategic Housing had acknowledged the original need in Stoke. "If the site is to be treated as if it were within development limit, regarding the affordable housing element of the scheme, current policy requires 35% affordable housing split 67.33 in favour of social rented without access to further public subsidy (e.g. grant from HCA). I would expect six affordable units based on 18 houses in total with four social rented and two shared ownership or other intermediate solutions. Based on the current Housing Need Register data and existing social housing stock levels in Stoke Sub Hamdon I propose the following property mix: four, one-bedroom (2 person) houses; and two, two-bedroom (four person) houses".

The Sports Leisure & Culture Department had identified a need for contribution as follows:- "The proposed development will result in an increased demand for outdoor play space, sport and recreation facilities and in accordance with Policies CR2, CR3, ST5 and ST10 of the South Somerset Local Plan an off-site contribution towards the provision and maintenance of these facilities is requested of £6,122.98 per dwelling (equating to an overall total of £110,213.65)."

3.3 The final Agreement in 2014 confirmed these proposals which were calculated in line with agreed SSDC formulae and policies **and matched need at the time of grant in 2013 and continued to do so at the time of the s.73 variation grants in 2016 and 2017.**

3.4 The s.106 Agreement in 2014 also stated in Clause 3.4.1 that it was intended to be binding on all future owners or successors in title. As a legal contract, and a charge on the land itself, Arc Homes would have been aware of its obligations on purchasing the land. It would have been their own responsibility to carry out an assessment on the commercial viability of the site before purchase and planning application/build.

3.5 Planning obligations are deemed to take effect once material commencement of the planning permission takes place on site. The Parish Council notes that:-

- S.73 Variation conditions on housing stock were approved on 17 May 2017
- Groundworks commenced on site the same week
- Applications for discharge of some of the conditions on materials have already been made
- Build is ongoing. Foundations have been dug and some houses are already being roofed.

3.6 *The Parish Council therefore submits that*

- *The s.106 obligations were fundamental to the permission*
- *Were intended by District to be binding*
- *That Arc Homes would have known of the extent of their obligations from the start*
- *That obligations were reasonable in scale when grant was given.*
- *That planning obligations have already begun*

4 Variation of S.106 Agreements

4.1 The original [Town & Country Planning \(Modification and Discharge of Planning Obligations\) Regulations 1992](#) allowed developers to apply for an obligation to be modified “if it no longer serves a useful purpose”.

4.2 In 2013 a new Act, [The Growth and Infrastructure Act \(Clause 7\)](#) amended the [Town and Country Planning Act 1990](#). Under this new clause 7, developers have been able to re-negotiate the terms of s.106 Agreements where viability becomes a new concern, or where there is no longer any demonstrable need for facilities. [The Department for Communities and Local Government Guidance on Section 106 affordable housing requirements Review and Appeal, published in April 2013](#) provides excellent guidance on this. Government guidance makes it clear that the main purpose behind this initiative is to encourage stalled developments where the land has remained unbuilt for a number of years, or where there is no longer a demonstrable need for the obligation to remain. **Those conditions need to be proved. The Act is not intended to allow developers to avoid their obligations without just cause, or to improve profitability levels, but to support those developers where viability concerns have arisen outside their control. In most cases a s.73 application requires a re-negotiation of a s.106 agreement not a discharge of all its obligations.**

5 Viability

5.1 We understand that Arc Homes have submitted a Viability Report to the District Valuer, which sets out that the site is commercially unviable. This Parish Council has neither been able to see (for confidentiality purposes) the content of the application documents in relation to both the viability test figures submitted, nor whether there has been any proposal for modification of the proposals as opposed to wholesale discharge. As the application form refers to a discharge of obligations, we assume this is the extent of the application. Whilst respecting the need for commercial confidentiality, we are disappointed in the lack of openness and transparency in a local government process. Fundamentally the reasons why this site is no longer viable and HOW THAT PROCESS HAS OCCURRED needs to be questioned: this must be a transparent and a public process.

5.2 It is pertinent to note that in the SSDC Housing & Economic Land Availability Assessment Report (“HELAA”) issued in February 2017 this piece of land was categorized as being “suitable, available, and achievable”. (Reference N/STHA/003 at Appendix 4, page 42) In determining criteria, the general viability of a site is taken into account i.e. whether there are any known major issues which might impact on viability. It is difficult to square up this assessment with the “unviability” of the site now presented by the developer’s accountants just a few months later. There has been an incredibly short time period between submission of the last planning application to re-design the site, the grant of permission and the build

start the same week – only 7 months. It is somewhat inconceivable that a developer would engage new architects, sub-contractors, and order materials for an immediate build start following grant if the site really were commercially unviable! Profit margins may be lower than originally envisaged, but that is a normal commercial risk for the developer himself.

6 **Summary**

Committee members will appreciate that residents in our village feel very strongly about this application, in view of its potential impact on the village for generations to come. Councillors have had a large number of representations from residents.

Stoke sub Hamdon Parish Council submits that from the information provided above in this statement there is a clear demonstrable and continuing need for both affordable housing units and a developer's contribution towards community facilities. Both were relevant when grant was given, and both are as relevant today. There is also a requirement for SSDC to maintain strategic objectives as defined in its Community Sustainability Strategy and Local Plan 2006-2028 towards affordable housing and community facilities.

The Parish Council asks SSDC when it comes to a conclusion about the submitted Viability Report that it should bear in mind that it is reasonable to suppose that the worst possible scenario has been presented by the developer's accountants in order to support any application, and that some reduction in profit margins should be deemed a normal commercial risk. By intervention on the grounds of reduced viability the council is disrupting true market forces and the Parish loses out.

The Parish Council is not unsympathetic to the needs of any developer to make a profit. There may well be exceptional times when re-assessment is needed in order to provide a win-win situation for both developer and Local Planning Authority. However, this process should not be at the cost of the interests and needs of the community, which the District Council serves.

We would ask that the Council does not allow the wholesale discharge of these planning obligations.

***Barbara Brooks
Chair
Stoke sub Hamdon Parish Council***

15 September 2017