



PLANNING COMMITTEE

2nd May 2013

Report of Head of Planning and Building Control- Regeneration

Deed of Variation to S106 Agreement.

Planning Permission 11/0516/FL for the erection of 44 dwellings comprising 43 houses and one flat, Victoria Avenue, Bloxwich

1.0 **PURPOSE OF REPORT**

To seek Committee authority for a variation to the Section 106 Agreement to secure £250,000 in lieu of on-site provision of affordable housing.

2.0 **RECOMMENDATIONS**

That the request for the Deed of Variation to the S106 Agreement to accept a commuted sum in lieu of on-site affordable housing provision is accepted in the proposed staged payments.

3.0 **FINANCIAL IMPLICATIONS**

Agreeing the request would provide the Council with a commuted sum to help deliver affordable housing in the Borough.

4.0 **POLICY IMPLICATIONS**

Policy DEL1 of the Black Country Core Strategy (BCCS) and Policy GP3 of Walsall Unitary Development Plan states that Planning Obligations will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by a development. Policy HOU3 of the BCCS seeks to secure affordable housing on all sites of 15 dwellings or more.

5.0 **LEGAL IMPLICATIONS**

No significant implications.

6.0 **EQUAL OPPORTUNITY IMPLICATIONS**

Agreeing the request would release the developer from the affordable housing terms of the original agreements to provide on-site provision but would still secure funding for off-site provision elsewhere within the Borough.

7.0 **ENVIRONMENTAL IMPACT**

The environmental impacts of the developments have already been considered in determining the earlier permissions 11/0516/FL.

8.0 **WARD(S) AFFECTED**

Bloxwich East.

9.0 **CONSULTEES**

9.1 Housing Strategy – Fully supports the proposals, the methodology and the resultant commuted sum figure. Also accepts the proposals for staged payments to reflect the additional risk and cash flow issues faced by the developer, as they will not now receive a lump sum payment from a housing association

10.0 **CONTACT OFFICER**

Alison Ives

Principal Planning Officer 01922 652604

11.0 **BACKGROUND PAPERS**

Planning Application 11/0516/FL.

David Elsworthy

Head of Planning and Building Control.

Planning Committee
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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission 11/0516/FL for erection of 43 houses and 1 flat (44 dwellings) was granted subject to conditions and a S106 Agreement in April 2012. The S106 Agreement required provision of seven units (identified as plots 32 – 38 inclusive) as social rented units to be acquired and managed by a Registered Provider (RP). The units are located at the rear of the site and include 3 x 3 bed terraced houses, 3 x 2 bed terraced houses and 1 x 1 bed flat over a garage. It also sought to secure a commuted sum of £83,570.00 towards provision of open space.
- 12.2 The request is made by the developer, Kendrick Homes, to provide a commuted sum for off-site provision of affordable housing instead of the agreed on-site provision of seven units. They are offering a commuted sum of £250,000 to be paid in stages.
- 12.3 Kendricks states that they have been unable to secure any agreement with a Registered Provider to deliver the seven affordable units as the design of the approved dwellings does not achieve Design Quality Standards (DQS) as required by the Homes and Community Agency. As a consequence Registered Providers have not been able to purchase the units on this site. In order to meet the DQS the scheme would need to be redesigned to incorporate larger affordable dwellings and would result in the loss of private sale dwellings undermining the scheme viability. Kendricks are proposing a commuted sum as a means of delivering the affordable housing obligation in this case.
- 12.4 The Walsall Affordable Housing Supplementary Planning Document (SPD) states that the Council will base the calculation of the commuted sum on the total sum required to enable a similar amount of affordable housing to be provided. The simplest way to do this is to calculate the difference between the open market value (OMV) of the homes and the amount (or % OMV) an RP is willing to pay. The supporting information states the total open market value for the seven dwellings is £765,000. An accepted but withdrawn offer from an RP (Midland Heart) offered £515,000. This gives a residual value of £250,000 which it is proposed to pay to the Council in lieu of on-site provision of affordable housing. The staged payments requested are 12.5% at sale of the first dwelling, 75% at sale of 80% of the dwellings and 12.5% at sales completion.
- 12.5 The commuted sum for open space provision has been paid.
- 12.6 The District Valuer assessed the original scheme proposals and found it to be viable. The Planning Committee resolved to grant permission subject to a S106 Agreement to secure a commuted sum for open space but to allow a reduction in the number of affordable housing units on site so as not to compromise deliverability of the scheme.
- 12.7 The reasons for the request to provide a commuted sum towards off-site affordable housing provision rather than on-site provision are considered acceptable.

12.8 The Housing Strategy officer fully supports the proposals, the methodology and the commuted sum figure offered. The proposals for staged payments to reflect the additional risk and cash flow issues are also considered acceptable as there will not now be a lump sum payment available from a housing association.

