



## PLANNING COMMITTEE

2<sup>nd</sup> May 2013

**Report of Head of Planning and Building Control- Regeneration**  
**Deed of Variation to S106 Agreement: Residential development at the Former**  
**St.Margaret's Hospital (Nether Hall Park development by Bovis Homes)**  
**off Queslett Road, Great Barr.**  
**Planning Permission Reference: 02/2417/OL/E2**

**1.0 PURPOSE OF REPORT**

To seek Committee authority for a variation to the Section 106 Agreement to provide a commuted sum of £199,500 instead of 3 shared ownership affordable homes.

**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.

**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 02/2417/OL/E2, 09/0753/RM and 12/1486/FL.

**8.0 WARD(S) AFFECTED**

Pheasey Park Farm.

9.0 **CONSULTEES**

9.1 Housing Strategy – Accepts the proposals as a commuted sum of £199,500 is a good offer. Whilst the example Housing Association offer is old (February 2011) it is still relevant and the 35% discount, which is the developer's theoretical subsidy, is acceptable for shared ownership.

10.0 **CONTACT OFFICER**

Alison Ives

Principal Planning Officer 01922 652604

11.0 **BACKGROUND PAPERS**

Planning Applications 02/2417/OL/E2 and 09/0753/RM.

David Elsworthy

Head of Planning and Building Control.

**Planning Committee**  
**2<sup>nd</sup> May 2013**

**12.0 BACKGROUND AND REPORT DETAIL**

- 12.1 The original outline planning permission 02/2417/OL/E2 for erection of up to a maximum of 445 dwellings on the site of the former St Margaret's Hospital was granted on appeal in September 2004. The permission was granted subject to a Section 229A Agreement (equivalent to a Section 106 Agreement) to secure a variety of obligations including provision of affordable housing. The original Agreement was dated 31<sup>st</sup> March 2004. Variations to the legal agreement have subsequently been approved in relation to provision of affordable housing including definitions of tenure and the amount of affordable housing which has been reduced to 18% in total throughout the site. Of this 18% only 3 units remain to be delivered. The three previous variations to the Agreement are dated 26<sup>th</sup> November 2008, 21<sup>st</sup> May 2010 and 22<sup>nd</sup> December 2010.
- 12.2 The developer states that a number of housing associations have been approached but none are willing to purchase the final three affordable units primarily due to difficulties in selling this tenure at this location based on the time taken to sell previous units. In the circumstances a commuted sum of £199,500 (£66,500 per unit) is offered which is effectively the subsidy the Bovis would provide if the units were to be provided as affordable housing. The figure equates to the difference between the open market value and the amount the Housing Association would be willing to pay.
- 12.3 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 values (OMV) of the homes and the amount (or % OMV) an RP is willing to pay. This is how the developer has calculated the commuted sum. The supporting information states the total open market value for the three dwellings is £570,000. A previous offer from Accord Housing Association offered 65% open market value. This gives a residual value of £199,500 which it is proposed to pay to the Council in lieu of on-site provision of affordable housing.
- 12.4 An application to substitute the house types on phase 3 (12/1486/FL) was considered by Planning Committee on 7<sup>th</sup> February 2013. Committee resolved to grant permission subject to conditions and subject to a Deed of Variation to the existing S106 Agreement for the whole site being entered into, should this become necessary to secure affordable housing within phase three. If committee resolve to approve the current proposal to provide a commuted sum in lieu of the three remaining affordable housing units on the site then a new Deed of Variation will be required and permission 12/1486/FL can be issued as soon as the new Deed of Variation is completed as the affordable housing (or commuted sum in lieu of on-site provision) will have been secured.
- 12.5 The developer has justified why they cannot provide the final 3 affordable housing units on the site due to lack of interest from a Registered Provider. As a consequence, in order to achieve their obligations in terms of affordable housing

provision the developer are offering a commuted sum of £199,500 to the Council to help deliver affordable housing elsewhere in the Borough.

- 12.6 The Housing Strategy officer fully supports the proposals and considers the commuted sum acceptable.



Walsall Council

