

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

27th June 2012

Date of meeting:

Report of:

Title:

Development Management and Building Control Manager
Proposed Deed of Variation to the Section 106 Agreement to allow for a reduction in the number of affordable units at Marsh Farm, Newcastle Road, Congleton (09/4240C).

1.0 Purpose of Report

- 1.1 To consider a proposed Deed of Variation to the Section 106 Agreement agreed to by Southern Planning Committee in respect of application 09/4240C.
- 1.2 The report is presented to Southern Planning Committee because the original application for a residential development of 52 houses was approved by the Committee on 21st July 2010.

2.0 Decision Required

- 2.1 To agree to the amendments to the previous resolutions as stated in this report.
- 2.2 The principle of the residential development has already been established by the previous resolution and this report does not provide an opportunity to revisit that issue. This item relates solely to the proposed amendment to the requirements of the Section 106 Agreement.

3.0 Background

- 3.1 The application relates to a 1.66ha site which was farmland and a farmhouse but now contains the 52 dwellings approved on 21st July 2010.
- 3.2 To the northeast of the site is Astbury Mere Country Park; to the south is a care home, to the north a church and to the west residential properties and a garage.
- 3.3 The site is designated as being within the settlement zone line of Congleton, in the adopted local plan.

4.0 Previous Planning Permission

- 4.1 Members may recall that in July 2010, Southern Planning Committee resolved to grant full planning permission for a residential development of 52 units on Marsh Farm, Congleton.
- 4.2 The resolution to approve on 21st July 2010 was subject to the completion of a Section 106 Agreement making a number of provisions including, the provision of 15 affordable homes comprising 5 two bedroom and 3 three bedroom homes for social rent and 7 three bedroom homes for open market discount (30%) sale.
- 4.3 The developer is seeking to amend this to reduce the number to 14 by allowing 2 of the open market discount (30%) to be changed to shared equity, 1 to be changed to social rent and one to be released for the open market. The changes also include the option for open market sale of the 2 shared equity units, with 30% of the sales proceeds being paid back to the Council upon sales completion, as a commuted sum payment. This coming into being if a buyer has not exchanged contracts after a marketing period of 20 weeks from the completion of the Deed of Variation.

5.0 Officer Comment

- 5.1 The application has come forward after negotiations between the Housing Section and the developers.
- 5.2 Bloor Homes began marketing the discount for sale units in May 2011. This advertising took the form of local press advertisements, several property websites and the Cheshire Homechoice website.
- 5.3 Between May and October the Council were only able to nominate 3 people who had applied as eligible for the scheme.
- 5.4 Bloor Homes approached the Council to discuss the variation to the Section 106 Agreement due to the difficulties they were experiencing in finding buyers. This is due to the fact that discount for sale mortgages are limited, in this case only one lender will give mortgages for properties on the site. This particular lender requires a 20% deposit, meaning that purchasers would have to be able to provide a deposit of approximately £23,800. For shared equity units, the lender only requires a deposit of 5%.
- 5.5 The provision of the social rented unit will involve a much greater amount of subsidy by the developer than the subsidy involved in a shared ownership unit. For example, without any other subsidy a housing association will only be able to offer 54% of the market value of the property in order to be able to provide it at affordable rent. For comparison purposes this means the developer would have to sell a 3 bed house valued at £130,000 to a housing association for £70,200. As

a discount for sale or shared equity property the developer receives £91,000.

Another relevant consideration is the number of people on the waiting list for rented accommodation which is currently over 10,000 people. Of these there are approximately 350 people asking for Congleton. Therefore accommodation for rent is much needed and developers are usually reluctant to provide it

- 5.6 There is a clear demonstrable need for social rented and shared equity properties in Congleton. It is therefore considered that the benefits of the provision of these types of tenure, in place of discount for sale units, would outweigh the loss of one unit to the open market. This is especially relevant in the current economic climate as people in need of affordable housing are unable to raise the deposits which the lenders are demanding. Therefore, whilst theoretically, we may have the four discount for sale units available to people in housing need they are unlikely to be occupied and therefore have no beneficial impact on local housing need.
- 5.7 The Council would not normally support a spiral out clause enabling a developer to provide a financial contribution instead of on site affordable housing, however due to the circumstances on this site that the affordable homes in question have been marketed for over 12 months it is felt acceptable to enable the developer to sell the shared equity units on the open market and provide a financial contribution if a buyer has not exchanged contracts after a marketing period of 20 weeks from the completion of the Deed of Variation.
- 5.8 The Council is able to nominate two couples on the basis of shared equity, and an additional social rented unit is something that the Housing Section would welcome and for which there is a proven need. In fact it has recently emerged that the Council have actually been able to nominate 2 purchasers for the shared equity units as the housing need eligibility criteria is the same as it would be for a discounted for sale unit. Both nominated purchasers are couples with children however they cannot currently buy the properties as they are only able to access the deposits needed to buy the properties if they are on a shared equity basis.

6.0 Conclusion

- 6.1 On the basis of the above, the proposed Deed of Variation to the Section 106 Agreement is considered to be acceptable.

7.0 Recommendation

- 7.1 That the Southern Planning Committee resolve to agree to a Deed of Variation the Section 106 Agreement linked to application 09/4240C to allow for the plots 36 and 37 to become shared equity tenure, plot 44, social rented and plot 35 to be released for open market sale.

8.0 Financial Implications

8.1 There are no financial implications.

9.0 Legal Implications

9.1 The views of the Borough Solicitor have been sought and an update will be provided prior to Committee.

10.0 Risk Assessment

10.1 There are no risks associated with this decision.

11.0 Reasons for Recommendation

11.1 To allow the Deed of Variation to the Section 106 to be progressed to enable the properties to be occupied by people in need of affordable housing.

For further information:

Portfolio Holder: Councillor Rachel Bailey
Officer: Philippa Cockroft – Senior Planning Officer
Tel No: 01270 686757
Email: philippa.cockroft @cheshireeast.gov.uk

Background Documents:

- *Application 09/4240C*