

# CHESHIRE EAST COUNCIL

## SOUTHERN PLANNING COMMITTEE

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<b>Date of meeting:</b>	1 May 2013
<b>Report of:</b>	Development Management and Building Control Manager
<b>Title:</b>	Proposed Deed of Variation to the Section 106 Agreement to allow for a widening of the eligibility criteria (P03/1059)
<b>Site:</b>	Weir Cottage Warmingham

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### 1.0 Purpose of Report

- 1.1 To consider a proposed Deed of Variation of part of the land the subject of a s106 Agreement dated 6 August 2004
- 1.2 This report is presented to Southern Planning Committee because the original application subject to a s106 Agreement was approved by the Development Control Committee of Crewe and Nantwich Borough Council

### 2.0 Decision Required

- 2.1 To vary the s106 Agreement in respect only of Weir Cottage and its car parking space so as to change the definition of Borough Area to the administrative area of Cheshire East Borough Council and to reduce the residence or connection period to 3 out of the last 5 years.
- 2.2 This residential development in Warmingham is well established and the Applicant (Preferred Mortgages Limited) is seeking to sell a shared ownership lease to occupants who have connections with Cheshire East's administrative area through employment in Crewe.

### 3.0 Background

- 3.1 The s106 Agreement relates to 3 units of affordable housing one of which (Weir Cottage) is currently vacant.
- 3.2 The eligibility criteria in the existing s106 Agreement cascade from those with a connection to Warmingham, through those having connections with Acton, Bunbury or Nantwich to those with connections to the administrative area of the former Crewe and Nantwich Borough Council with such connections through residence or otherwise being for 5 years.
- 3.3 Weir Cottage has become vacant and the Applicant has advertised the shared ownership lease for Weir Cottage extensively but has not been able to find a purchaser who will meet the eligibility criteria in the existing s106 Agreement.

- 3.4 The Applicant has found purchasers who would meet eligibility criteria that extended to the whole of Cheshire East's administrative area through one of them having been employed in Crewe for upwards of 4 years.

#### **4.0 Previous Planning Permission**

- 4.1 No changes to the planning permission are proposed.

#### **5.0 Officer Comment**

- 5.1 The proposal will not alter the type or tenure of the affordable unit.

5.2 The Applicant has found purchasers for the existing shared ownership lease who are keen to complete and move in. They would not qualify as eligible purchasers unless the s106 Agreement is varied.

5.2 The Strategic Housing and Development Manager is satisfied that the property has been advertised and marketed extensively and supports the request for a deed of variation

#### **6.0 Conclusion**

- 6.1 On the basis of the above, the proposed Deed of Variation is considered acceptable and it will have the advantage of allowing occupation of a currently vacant unit.

#### **7.0 Recommendation**

- 7.1 That the Committee resolve to approve a Deed of Variation in respect only of Weir Cottage and its associated car parking space so as to change the definition of Borough Area to the administrative area of Cheshire East Borough Council and to reduce the residence or connection period to 3 out of the last 5 years.

#### **8.0 Financial Implications**

- 8.1 The Applicant has undertaken to pay the Council's legal costs

#### **9.0 Legal Implications**

- 9.1 The Deed of Variation is restricted to part of the land the subject of the existing s106 Agreement and the remainder will remain unaltered

#### **10.0 Risk Assessment**

- 10.1 There are no risks associated with this decision

#### **11.0 Reasons for Recommendation**

11.1 To allow the variation of a s106 Agreement to enable the shared ownership lease to be sold and the property occupied

***For further information:***

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***Background Documents:***

- *Application P03/1059*
- *S106 Agreement dated 6/8/2004*
- *Application letter*