

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

Date of meeting: 26th August 2009
Report of: Head of Planning and Policy
Title: Report in relation to variation of Section 106 Agreement for affordable housing units provided under planning permissions P05/0703 and P06/1125 for residential units with shops at former Canalside Yard, now known as Moseley House, Kingbur Place, Audlem for Wulvern Housing.

1.0 Purpose of Report

- 1.1 To seek the approval of the Committee for alterations to (1) the definition of affordable housing and (2) the Management Covenant in Schedule 2 of the Section 106 Agreement for the provision of four shared ownership flats as affordable housing at the site formerly known as Canalside Yard, Audlem and now known as Moseley House, Kingbur Place, Audlem. The effect of the variations would be to allow residents to occupy the units for rent now, with a view to occupying the flats on a shared ownership basis in the future.

2.0 Decision Required

- 2.1 Members approve the variations to the Section 106 Agreement as set out in paragraphs 6.8 and 6.9 of this report.

3.0 Financial Implications for the Council

- 3.1 Costs for staff time to vary the Agreement.

4.0 Legal Implications for the Council

- 4.1 None

5.0 Risk Assessment

- 5.1 None.

6.0 Background and Report

- 6.1 Planning permission P05/0703 was approved for the demolition of the existing buildings and erection of 18 residential properties and three A1/A2 Units on land at the site known as Canalside Yard, Shropshire Street, Audlem on 13th September 2006. The application was subject to the requirements of a Section 106 agreement in relation to affordable housing. Subsequently application

P06/1125 was submitted for amendments to the original permission. That application sought permission for alterations to the shop front, a new bin/cycle store and service area and an increase in ridge height to the building which included eight apartments located above the retail unit. The application was approved subject to a further Section 106 agreement to confirm compliance with the requirements of the original agreement. The agreement was signed on 8th January 2007 and the planning permission issued.

- 6.2 The agreement required the provision of three 2-bed apartments and one 1-bed apartment to be made available as affordable housing for shared ownership. The units concerned were flats located above the premises now occupied by the Co-op Supermarket. The developer transferred the units to Wulvern Housing to manage as a Registered Social Landlord.
- 6.3 Wulvern Housing has been marketing the shared ownership flats for occupation since March 2008 in accordance with the requirements that residents should have a local connection, as established through the Section 106 agreement. Details of persons who have been sent information packs about the units and open days to promote their availability have been submitted to the Authority. However they have been unable to secure any residents for occupation and the properties stand empty. Further Wulvern Housing do not consider it likely that they will be able to sell any of the properties on a shared ownership basis in the current economic climate and note that there is a shortage of properties for rent in the area.
- 6.4 An application has therefore been submitted to vary the terms of the legal agreement to allow the flats to be provided for intermediate rent under the "Rent to Homebuy Scheme". Intermediate rent is defined as a rent which is equivalent to 80% of the market rent achievable on the property.
- 6.5 The flats would still be offered to persons with a local connection as required by the Agreement and would be targeted at those persons who could afford to pay the intermediate rent.
- 6.6 The Homebuy Scheme is designed for use by residents who are unable to meet the financial requirements of a shared ownership unit at present and are seriously interested in acquiring a share in the lease in the near future. Tenancies will be reviewed annually with the intention that the residents transfer to shared ownership after a period of three years. If at the end of this period the tenant is not able to transfer to shared ownership Wulvern Housing indicate that the tenant will be asked to relocate.
- 6.7 Wulvern Housing have to pay service charges to the Head Landlord and urgently seek an income from these four units to pay both the service charge and the interest on the loan for the original purchase of the units, which were acquired without grant aid.
- 6.8 Specifically Wulvern Housing request that the definition of affordable housing be extended to include the wording in italics as follows:-

“Affordable Housing means subsidised housing accommodation that is accessible to Persons in Housing Need *and shall include accommodation provided at an intermediate rent under the “Rent to Homebuy Scheme”* and **Affordable** shall be construed accordingly. **Intermediate Rent** means a rent that is equivalent to 80% of the market rent achievable on the property.”

6.9 The request also includes alteration to the Management Covenants in Schedule 2 to include the words in italics, as follows:-

1. “Managed at all times by an Affordable Housing Provider as Landlord in accordance with the terms and conditions of its usual and normal shared ownership lease or rental agreement of the type and style recommended and approved by the Housing Corporation *including an assured shorthold tenancy in the case of accommodation provided under the “Rent to Homebuy Scheme”* AND if secured without public subsidy.....”

7.0 Reasons for Recommendation

- 7.1 Despite efforts to find occupiers, the properties have been empty for more than 12 months and are therefore not providing accommodation for persons in need of affordable housing. It is recommended that the agreement be amended as requested in the two paragraphs above. This will ensure that the dwellings are retained as affordable accommodation to meet the needs of persons with a local connection and still retain the option for the units to be occupied as shared ownership units in due course.

For further information:

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Background Documents:

*Planning File and correspondence reference 09/1110N
Documents are available for inspection at: Municipal Buildings, Earle Street, Crewe
CW1 2BJ*