

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

Date of meeting: 17th February 2010

Report of: Adrian Fisher, Head of Planning and Policy

Title: Wyche Lane, Bunbury

1.0 Purpose of Report

- 1.1 To consider a proposed variation to the Section 106 Agreement attached to planning permission P07/0867 for 10 affordable houses at Wyche Lane, Bunbury, approved by Crewe and Nantwich Borough Council.

2.0 Decision Required

- 2.1 To agree to the proposed amendments and to instruct the Borough Solicitor to prepare a Deed of Variation.

3.0 Background

- 3.1 Full planning permission was granted in March 2009 for an affordable housing development of ten houses along the frontage of the former football field, situated between the village centre and the area of Higher Bunbury to the east.
- 3.2 The scheme comprises 3 pairs of semi-detached dwellings fronting onto the road and a single larger detached dwelling at 90 degrees to the road. A further block of 3 mews houses is located to the rear of the site. A parking court has been provided in the centre of the site, with areas of open space to the rear corners. Vehicle access to the parking court is from a single T junction midway along the site frontage.
- 3.3 The current Section 106 Agreement identifies the split as 7 affordable rented units and 3 shared ownership units.

4.0 Proposals

- 4.1 Muir is very keen to progress and get this scheme started on site within the coming year. Discussions with the HCA suggest that they remain very keen to see this rural scheme come forward as deliverable rural schemes in Cheshire are very much a rarity and the need for affordable housing in such locations remains extremely high.

- 4.2 Muir wish to invite tenders for this scheme in early 2010 and to appoint a contractor but there is one major issue which affecting it's progression, which unless it is addressed it may jeopardise the entire scheme.
- 4.3 The Section 106 Agreement does not contain a Mortgagee in Possession clause. As such the potential purchasers of the shared ownership units might not be able to secure mortgages.
- 4.4 Muir has proposed two options to take this forward. A Mortgagee in Possession clause for the shared ownership units could be included or the Section 106 agreements could be amended to provide 100% target rented across the scheme, with no shared ownership units. The former would not be acceptable to the Council as this is a rural exceptions site which requires affordable housing in perpetuity, i.e. even after repossession by a mortgagee. Furthermore, the latter is Muir's preferred option, for the following reasons:
- 4.5 Firstly, it is still considered that the need for affordable rented units is till the highest priority within this area. This has been confirmed by the Councils housing section. Secondly, even if a mortgagee in Possession Clause could be included; there would remain a question of affordability of the shared ownership units. Notwithstanding the impact of the credit crunch and the restriction in values noted in the Section 106, the Open Market value (OMV) of the dwellings could be in excess of £190k. Total costs of ownership including the rental element of shared ownership would take costs to 70% of an outright sale, this would equate to a mortgage of £133k and it is questionable whether this can be considered to be truly affordable.
- 4.6 The issues raised by Muir have occurred on a number of sites since the credit crunch as there are not many mortgage deals on the market for properties with restrictions, as the mortgage lenders are reluctant to lend against them. The effect of this is that those lenders who are prepared to lend on a shared ownership basis, with a restriction on total purchase in place, charge a higher rate of interest than those without such a restriction in place. Thus the shared ownership purchaser is penalised to such an extent that in many cases, the shared ownership units cannot be sold. This clearly cannot be desirable.
- 4.7 The most important consideration must be to ensure that affordable housing is provided and that it is accessible to those people who are in housing need and if the terms of the legal agreement are prohibitive to achieving those objectives there is justification, in relation to this site, for the amendment.
- 4.8 Furthermore, it is noted that that the Council's Housing Section have supported the view expressed by Muir and raised no objection to the proposals in respect of this site. On this basis, they are considered to be acceptable.

5.0 Conclusion

- 5.1 On the basis of the above, the proposed changes to the Section 106 are considered to be appropriate and acceptable.

6.0 Recommendation

- 6.1 That the Committee resolve to instruct the Borough Solicitor to prepare a Deed of Variation in respect of the Section 106 Agreement attached to planning permission P07/0867 to modify the mix of tenure on the site from 7 affordable rented units and 3 shared ownership units to provide for all affordable rented units.

7.0 Financial Implications

- 7.1 There are no financial implications.

8.0 Consultations

Borough Solicitor

- 8.1 The Borough Solicitor has been consulted on the proposals and raised no objections

Housing Section

- 8.2 The housing section have commented that advice on the affordable housing mix within this development was provided when people in housing need could access mortgages for shared ownership and did not need a deposit. In the current economic climate and because of the high demand for social rented housing in areas with high value housing such as Bunbury they would support the request from Muir Group for this scheme to be changed to all social rented.

Parish Council

- 8.3 Bunbury Parish Council expresses concern at the proposal to make all ten homes in the development for rental rather than the original proposal to create a mixed development of rental and shared ownership properties.
- 8.4 At a public meeting called by the Parish Council and held on 19th July 2007 at which representatives of Muir were present. It was made clear by views expressed from the floor that a good many people in the village were in favour of affordable homes and in particular shared ownership homes. The original scheme allowed for a 50/50 split between rental and shared ownership subsequently changed 7/3 in favour of rentals. The proposal to move to 100% rental is a clear breach of the promise made by Muir Homes to provide shared ownership properties in the village and is made imply to suit the

developer rather than the needs and requests of those who live in the village.

- 8.5 The Parish Council believes that 7.3 split is still the most desirable option and asks that the development go ahead on this basis.

9.0 Risk Assessment

- 9.1 There are no risks associated with this decision.

10.0 Reasons for Recommendation

- 10.1 To ensure that an approved scheme for essential affordable housing within the rural area is delivered.

For further information:

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Background Documents:

Application P07/0867