

# CHESHIRE EAST COUNCIL

## SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 16<sup>th</sup> November 2011  
**Report of:** Caroline Simpson, Head of Development  
**Title:** Planning Approval P03/0494 – 24 No. Dwellings at Hastings Road - Variation to S.106 Agreement relating to No.21 The Gatehouse  
**Applicant:** Miss L Vass and Plus Dane Housing Group

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### 1.0 Purpose of Report

- 1.1 To consider proposed amendments to the wording of a signed S.106 agreement.
- 1.2 The report is being presented to Southern Planning Committee because the original approval for planning application P03/0494 was made by the legacy Crewe and Nantwich Borough Council Planning Committee for the construction of 24 dwellings. The decision was issued on 27<sup>th</sup> September 2004.

### 2.0 Decision Required

- 2.1 To agree to the amendment to the wording of a S.106 agreement attached to the above to enable 1005 staircasing to the property known as 21 The Gatehouse, Nantwich.

### 3.0 Background

- 3.1 The application (P03/0494) relates to the construction of 24 Dwellings on land adjacent to London Road, Nantwich. The dwellings have been completed and are occupied. The development was approved subject to the completion of a s.106 agreement to secure affordable housing on the site. The s.106 agreement has been completed and signed.
- 3.2 The s.106 agreement refers to three affordable units which are known as No.17, 20 and 21 The Gatehouse. The properties are subject to a shared ownership lease whereby the occupier acquires a percentage interest in the unit and a rent is payable to the Housing Association on the remainder of the unit.
- 3.3 In this instance the s.106 agreement allows for staircasing whereby the occupier pursuant to a Shared Ownership Lease has the right to acquire a greater interest in the unit by paying a % of the open market value of the property. The rent payable thereby reduces proportionately.

- 3.4 This s.106 contains a clause whereby any leaseholder of the affordable unit is not permitted to staircase beyond acquiring a 90% share of that unit. Therefore, the occupier cannot own the dwelling outright.

#### **4.0 Proposals**

- 4.1 This application has been made by the occupier and part owner of the property known as 21 The Gatehouse (Miss L Vass) and the Housing Association (Plus Dane Housing Group). It is requested that the Committee agree to the variation of the wording of the s.106 agreement to remove the 90% restriction on staircasing and allow for the outright ownership of the dwelling known as 21 The Gatehouse, Hastings Road.

#### **5.0 Analysis**

- 5.1 The joint application has been made by the joint owners of the property. The applicant has stated that the reason behind the request to vary the s.106 agreement is that they have experience great difficulty in selling the property due to this restriction.
- 5.2 The property has been marketed since 2008. Evidence has been submitted from two estate agents, 1<sup>st</sup> Choice for Homes and Bridgfords, demonstrating the applicants instruction to market the property. The marketing price in 2008 for Ms Vass's share of the property was £57,500 which reduced in 2011 to £50,000. Plus Dane Group have confirmed that all the appropriate steps have been taken to market the property but the dwelling remains unsold.
- 5.3 Feedback from the estate agents and comments from Dane Plus Housing has stated that whilst owning a 50% share in the property is attractive to young people, they are unwilling to commit to the property without having the option to own the remaining 50% at some point in the future.
- 5.4 It is also stated that since the housing market crises most mortgage providers have now withdrawn from providing mortgages where restricted staircasing is imposed.
- 5.5 Consultation has been carried out with the Strategic Housing and Development Manager. They have stated that there are currently 7 shared ownership properties within the housing scheme which are subject to this restriction and there has been no approach from the other 6 owners in this respect. Notwithstanding this, they applicant has marketed the property since 2008 and they have witnessed an inability to sell despite considerable price reductions as potential purchasers are deterred from placing an offer due to the staircasing restriction.

5.6 The Strategic Housing and Development Manager has also confirmed that most mortgage providers have withdrawn from providing mortgages where restrictive staircasing is imposed because if the property is repossessed the mortgage lender is not able to access 100% ownership. Therefore it is extremely difficult to access a mortgage.

5.7 Furthermore, there are no other urban schemes in Cheshire East with such a restriction. The Homes and Communities Agency (HCA) document "Shared Ownership: Joint Guidance for England" states that except in certain rural schemes, schemes in Protected Areas and shared ownership schemes for the elderly all HCA funded schemes must allow for the leaseholder to staircase to 100% and own the property outright.

## **6.0 Conclusion**

6.1 In the light of the comments raised by the Strategic Housing and Development Manager it is considered that the wording of the s.106 agreement attached to Planning Permission P03/0494 be amended to allow staircasing for 100% ownership of the property known as 21 The Gatehouse.

## **7.0 Recommendation**

7.1 That the Committee resolve to vary the wording of the s.106 Agreement in respect of application P03/0494 to allow for 100% staircasing of the property known as 21 The Gatehouse.

## **8.0 Financial Implications**

8.1 There are no financial implications.

## **9.0 Legal Implications**

9.1 Revisions to the wording of the signed Legal Agreement attached to Planning Application P03/0494 to allow for staircasing to the property known as 21 The Gatehouse, Hastings Road, Nantwich. Subject to approval from Committee the Borough Solicitor will have authority to execute a s106 Agreement in those revised terms.

## **10.0 Risk Assessment**

10.1 There are no risks associated with this decision.

### ***For further information:***

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***Background Documents:***

- *Application P03/0494*