



PLANNING COMMITTEE

20th September 2012

Report of Head of Planning and Building Control- Regeneration Deed of Variation to S106 Agreement for land at Bentley Road North

1. PURPOSE OF REPORT

- 1.1 To seek Committee authority for a variation to the Section 106 Agreement associated with the permission relating to 07/2228/FL/W7 Land at Bentley Road North dated 23rd October 2007. Permission was granted for erection of four and five storey building for a retirement village comprising 144 apartments and associated communal facilities together with associated car parking, landscaping and revised access arrangements. This was followed by permission 09/0880/FL dated 20th November 2009, described as addition of 4 no. flats to existing approval 07/2228/FL/W7 for a retirement village.
- 1.2 The request is made by Stanley Developments and seeks to vary the affordable housing clauses. The Agreement currently requires the provision of 27 affordable homes on site (20 one bed units and 7 two bed units). The variation request seeks to convert this to an off site contribution, in the form of a commuted sum.
- 1.3 Housing 21 previously agreed to purchase the 27 affordable units required by the S106. However this agreement was made some 3 years ago, and Housing 21 are no longer able to definitely commit to the scheme at this time. Further enquiries with Housing Associations such as Midland Heart have confirmed that they are not interested in purchasing these units.
- 1.4 The commuted sum has been calculated on the basis of the theoretical subsidy provided by the developer for the on site units ie the difference between current open market value of the units, and the original offer by Housing 21 for the units as affordable housing.
- 1.5 Stanley Developments commissioned Goodchilds Estate Agents to provide an independent valuation of the units, which concludes an open market value of £99,950 for the 1 bed flats, and £109,950 for the 2 bed flats. The S106 requires 20 one bed units (20 x £99,950 = £1,999,000), and 7 two bed units (7 x £109,950 = £769,650), giving an open market value for the 27 flats as £2,768,650. The Housing 21 offer for the affordable homes was £1,655,000. Therefore the contribution sought (the theoretical subsidy provided by the developer for the on site affordable homes) is **£1,113,650**. It is proposed that £556,825 would be paid to the Council prior to the sale of the 84th unit (ie last sale of Phase 1), and £556,825 would be paid on completion of Phase 2 (64 units). The original scheme was tested through an openbook viability assessment.
- 1.6 The commuted sum will be placed in a ringfenced account, and will only be used for the provision of additional affordable housing within the Walsall administrative boundary.

1.7 Since the permission, the Council has also revoked its Supplementary Planning Document towards Healthcare. It is proposed to remove this element from the S106 Agreement.

2. **RECOMMENDATIONS**

That the request is agreed for the Deed of Variation to the S106 Agreement to amend the affordable housing contribution to an off site commuted sum of £1,113,650, with 50% due prior to the sale of the 84th unit (last sale of Phase 1), and 50% on completion of Phase 2. It is also recommended to remove healthcare contributions (£36,000) from the S106 Agreement.

3. **FINANCIAL IMPLICATIONS**

Agreeing the request would mean that the Council should receive £1,113,650 in 2 staged payments, to be used for the provision of affordable housing within Walsall.

4. **POLICY IMPLICATIONS**

Policy DEL1 of the Black Country Core Strategy (BCCS) and Policy GP3 of Walsall Unitary Development Plan states that Planning Obligations will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by a development. Policy HOU3 of the BCCS seeks to secure affordable housing on all sites of 15 dwellings or more.

5.0 **LEGAL IMPLICATIONS**

No significant implications.

6.0 **EQUAL OPPORTUNITY IMPLICATIONS**

No specific equality implications.

7.0 **ENVIRONMENTAL IMPACT**

The environmental impacts of the development have already been considered in determining the earlier permissions 07/2228/FL/W7, 09/0880/FL .

8.0 **WARD(S) AFFECTED**

Bentley and Darlaston North

9.0 **CONSULTEES**

9.1 Housing Strategy – Fully supports the proposed amendment.
Asset Management - agreed that the Goodchilds valuation is reasonable.

10.0 **CONTACT OFFICER**

Andrew Thompson
Principal Planning Officer 01922 652403

11.0 **BACKGROUND PAPERS**

Planning Applications 07/2228/FL/W7, 09/0880/FL.

David Elsworthy
Head of Planning and Building Control.

Planning Committee
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12.0 BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission 07/2228/FL/W7 Land at Bentley Road North was granted 23rd October 2007, for the erection of four and five storey building for a retirement village of 144 apartments with associated communal facilities and associated car parking, landscaping and revised access arrangements. This was followed by permission 09/0880/FL dated 20th November 2009, described as addition of 4 no. flats to existing approval 07/2228/FL/W7 for a retirement village.
- 12.2 The permission included a S106 to secure affordable housing and contributions towards urban open space and healthcare (£36,000 towards each). It is proposed to remove the healthcare contribution following the cancellation of the Council's Supplementary Planning Document.
- 12.3 With regard to the clauses to secure provision of affordable housing, the developer now requests a revision to the agreement to provide affordable housing from an onsite provision to a commuted sum provision which would allow delivery of affordable housing on site. The contribution is the equivalent theoretical subsidy of onsite provision. This is calculated as the open market value of the 27 flats being £2,768,650, less the H21 (previous affordable housing offer) offer of £1,655,000. This would provide a total commuted sum of £1,113,650. It is proposed that £556,825 would be paid to the Council prior to the sale of the 84th unit (ie last sale of Phase 1), and £556,825 would be paid on completion of Phase 2 (64 units).
- 12.4 The Housing Strategy officer fully supports this proposal. Stanley Developments have applied to the Homes and Communities Agency (HCA) for a loan from the Get Britain Building Fund (GBBF) programme. The HCA have indicated that the Council's approach to this Deed of Variation (ie accepting an offsite commuted sum, that is paid on sale of homes) if agreed contributes positively to the HCA's ability to make this loan and unlock this stalled housing development site.
- 12.5 The valuation surveyor (Asset Management) has considered the Goodchilds valuation provided by Stanley Developments. He agrees values provided for 'standard new build' apartments reflects the market, and also with the assertion that that there should be an uplift to reflect the onsite care and leisure facilities. He notes the uplift for the onsite facilities across the 2 property sizes has been applied slightly differently, but concludes that the information provided 'appears to be well founded'.