

PLANNING COMMITTEE – 30 MAY 2019**DEFERRED ITEM**

Report of the Head of Planning

DEFERRED ITEMS

Reports shown in previous Minutes as being deferred from that Meeting

DEF ITEM 1 REFERENCE NO - 18/503723/MOD106			
APPLICATION PROPOSAL Modification of Planning Obligation dated 18/05/2010 under reference SW/08/1124 to allow a reduction of on site affordable housing.			
ADDRESS 153 London Road Sittingbourne Kent ME10 1PA			
RECOMMENDATION Grant Modification			
SUMMARY OF REASONS FOR RECOMMENDATION The proposal would provide three on site affordable units. Although this a lower provision than the eight units secured under the original Section 106 Agreement, it is at a level which complies with policy DM8 of the adopted Local Plan and is appropriate when considered in light of the viability evidence.			
REASON FOR REFERRAL TO COMMITTEE Initially called in by Cllr Mike Baldock, subsequently called-in by Head of Planning Services at Committee meeting on 7 th March 2019 and deferred by Members at Committee meeting on 4 th April 2019.			
WARD Borden And Grove Park		PARISH/TOWN COUNCIL	APPLICANT Clarity Properties Ltd AGENT Brachers LLP
DECISION DUE DATE 07/09/18		PUBLICITY EXPIRY DATE N/A	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
16/507631/LDCEX	Certificate of Lawful development to establish that works commenced under the approved planning permission, SW/13/0568, in the form of demolition of the existing buildings on 23rd May 2016.	Approved	08.12.16
16/508336/NMAM D	Non material amendment to alter the description of application SW/08/1124 to reflect the approved drawings which show 13 one bedroom apartments and 13 two bedroom apartments.	Approved	08.12.16
SW/13/0568	to replace an extant planning permission SW/08/1124 (Demolition of existing buildings and redevelopment of site to provide 12, two bedroom apartments, 14, one bedroom apartments, amenity space, 26, parking spaces and	Approved	08.08.13

	cycle store and new vehicular access) in order to extend the time limit for implementation.		
SW/08/1124	Demolition of existing buildings and redevelopment of site to provide 12, two bedroom apartments, 14, one bedroom apartments, amenity space, 26 parking spaces and cycle store and new vehicular access.	Approved	18.05.10

1.0 INTRODUCTION

- 1.01 Members will recall that this application was reported to Planning Committee on 7th March 2019 and 4th April 2019. These reports are appended (along with the appendices which were attached to the previous committee report(s)) and provide the details of the application site, the proposals considered at that time and relevant policies. The application reported to Planning Committee on 7th March 2019 was deferred following the Head of Planning calling in the application *“as the Planning Committee was minded to make a decision that would be contrary to officer recommendation and contrary to planning policy and/or guidance.”* As a result, the application was reported back to Planning Committee on 4th April 2019.
- 1.02 The proposal submitted to the 4th April 2019 Planning Committee was amended to provide a mechanism whereby in the first instance the provision of 3 on site affordable housing units would be delivered if a Registered Provider (RP) was willing to take this on. However, if after rigorous testing there were no RP's willing to do so then a commuted sum would be provided to contribute towards affordable housing elsewhere in the Borough. Members resolved that the application was deferred *“until after the meetings with the Applicant and Registered Providers had taken place.”*

2.0 PROPOSAL

- 2.01 Although it is contained in the appendices to this report, for clarity the proposal as considered at the 7th March 2019 Planning Committee sought to modify the Section 106 Agreement so that prior to the occupation of the 21st unit, a commuted sum of £40,000 is paid in one instalment for off site affordable housing. As set out above, this application was deferred and subsequent to this a revised proposal was submitted. This sought to modify the Section 106 Agreement to provide for 3 affordable units on site in the first instance. However, there was a fall back option proposed that if on site affordable units were not able to be delivered then a commuted sum of £40,000 would be provided. This proposal set out that no more than 22 open market units would be occupied prior to the delivery of the affordable units or commuted sum. This amended proposal was reported to 4th April 2019 Planning Committee and again deferred as stated above in paragraph 1.02.
- 2.02 Further to the latest deferral, discussions between the applicant and a RP have progressed in a positive way and a further amendment to the proposal from that previously considered has now been put forward. The agent has submitted the following to describe the proposed modification now being considered:

(i) The s106 agreement will be varied to provide for 3x units of affordable housing on site – the current affordable housing requirements in the Council's adopted policy require 10% on site provision equating to 2.6 units which has been rounded up to 3.

(ii) The three units will all be Shared Ownership.

(iii) The Developer will not be permitted to occupy more than 22 Open market units until such time as the AHUs have been transferred to a Registered Provider.

3.0 APPRAISAL

- 3.01 As set out above, the application now before Members has been amended quite significantly from the original proposal to amend the Section 106 Agreement. The modification now seeks to amend the Section 106 Agreement to provide 3 on site affordable units. Any possibility of providing a commuted sum as the alternative to affordable housing has been removed in its entirety from the modification being sought.
- 3.02 For the avoidance of doubt, the current Section 106 Agreement requires 30% of the units on site to be provided as affordable units. This would equate to 8 units. However, this agreement was signed when the policies of the 2008 Local Plan were applicable. Policy DM8 of the adopted Local Plan confirms that developments within Sittingbourne will be required to provide 10% of the total number of units as affordable, which in this case would equate to 3 units. Due to the specific viability evidence submitted in support of the proposal I am of the view that a reduction from 30% to 10% is now wholly compliant with policy.
- 3.03 As Members will note from the above, the 3 units will be provided as Shared Ownership tenure. The supporting text to policy DM8 does set out that in first instance, of the affordable units, an indicative target of 90% affordable rent and 10% intermediate products (usually Shared Ownership) will be sought. However, the supporting text states that specific site circumstances may affect the viability of individual proposals which may result in an alternative tenure being acceptable.
- 3.04 Throughout the course of the consideration of this proposal the Council's Strategic Housing and Health Manager has been heavily involved in discussions. This has continued and I have discussed both the proposed quantum of affordable housing and the tenure split with her. She has confirmed that the number of affordable units on this site, totalling three, is acceptable. In respect of the tenure, she has stated that this is a practical approach in management terms for a RP when delivering affordable tenure within an open market block, which is the case here. Furthermore, the specific viability evidence in this case demonstrates that the profit level of this development is 0.65%. I also note that the original Section 106 Agreement does not specify a tenure mix of the affordable units and therefore, it would have been possible without modifying the agreement to provide all the affordable units as Shared Ownership tenure.
- 3.05 Therefore when taking into account the adopted Local Plan, the viability evidence and the comments of the Council's Strategic Housing and Health Manager I am of the view that the proposal to provide 3 affordable units, as Shared Ownership tenure is acceptable.
- 3.06 The 26 residential units provided within the development are split as 12, two bedroom and 14, one bedroom dwellings. The units that have been proposed to be provided as the three affordable units are 2 x 2 and 1 x 1 bed units. I have also discussed this with the Council's Strategic Housing and Health Manager who considers this mix to be acceptable. Therefore, on the basis of the split of the units of the development as a whole I consider that the split of the affordable units would be appropriate.

- 3.07 In terms of the trigger point, Members will note that no more than 22 open market units can be occupied until the affordable units have been transferred to a Registered Provider. Although this is slightly later than the proposal as considered at the 7th March 2019 meeting, it is consistent with the trigger point for the proposal considered at the 4th April 2019 meeting and which Officer's believed to be acceptable. Therefore, as the proposal has now been amended to provide certainty in respect of the delivery of on site affordable units, and removes the possibility of the commuted sum, I consider this trigger point to be reasonable.

4.0 CONCLUSION

- 4.01 I note from the Committee Minutes of the 4th April 2019 meeting that a number of points by Members were made in respect of three affordable units on this site being acceptable and that the commuted sum approach was not appropriate. In this respect, the proposed modification secures 3 on site affordable units and removes the commuted sum approach in its entirety. I am of the view that this is wholly acceptable and in accordance with adopted policies.
- 4.02 In conclusion, I take the view that the Section 106 Agreement should be amended on the basis of the wording as set out above and recommend that the modification is granted.

- 5.0 RECOMMENDATION** – GRANT modifications to the existing Section 106 as set out above and delegation to agree the precise wording of the modified planning obligation under the instruction of the Head of Legal Services.

- NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

