

Application No: W 14 / 1340

Town/Parish Council: Kenilworth

Case Officer: Lucy Hammond

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Land at Common Lane, Kenilworth

Variation of Section 106 Agreement for planning permission ref: W/14/1340 -
Erection of up to 93 dwellings together with open space, drainage infrastructure
and access from Common Lane (outline application including details of access)
FOR Bloor Homes Ltd and Bluemark Projects Ltd

INTRODUCTION

This report relates to the above outline planning permission. That permission was subject to a Section 106 Agreement which imposed a range of obligations on the developer. The applicant has requested that the provisions of the section 106 agreement are varied.

RECOMMENDATION

Planning Committee are recommended to delegate authority to the Head of Development Services to vary the Section 106 agreement in relation to the tenure of affordable housing as set out below.

DETAILS OF THE VARIATION

The applicant has requested that the tenure mix for the affordable housing be amended. The current tenure mix is as follows:

- 19 social rented units (51%)
- 18 shared ownership units (49%)

The proposed tenure mix is as follows:

- 10 social rented units (27%)
- 27 shared ownership units (73%)

The overall proportion of affordable housing remains at 40% of the total number of units (37 of the 93 units). The changes are to the tenure mix within that 40%.

The change is proposed to ensure that the scheme remains viable. Viability has deteriorated because the costs of constructing the access have increased. This was already a significant cost that had impacted on the viability of the scheme previously. However, the cost has increased from the £1,785,220 that was assumed in the 2016 viability appraisal, to £3,702,698 now. There have been some cost savings that have partially offset this increase, but there have also been

some other cost increases, including increased finance costs due to the delays with the access works.

PLANNING HISTORY

There have been a number of previous planning applications relating to the application site, including the original outline planning permission and subsequent reserved matters submissions and amendments.

The original planning permission was granted in 2014 for "Outline planning permission with all matters reserved except for access, for erection of up to 93 dwellings together with open space, drainage infrastructure and access from Common Lane" (Ref. W14/1340).

Subsequently in 2017 a Deed for Variation to the section 106 agreement was approved. This provided for a reduction in the financial contributions and a change to the affordable housing mix due to issues relating to viability associated with the proposed access. The amendment to the affordable housing mix at that point changed the affordable rented units to shared ownership.

ASSESSMENT

The Council's Housing Strategy team have reviewed the proposed changes. They advise that this is far from ideal, not just with the reduced number of rented homes, but also the fact that all of the rented units are flats. However, they do appreciate that the full 40% affordable housing provision is maintained. Therefore, if the viability position is proven and verified by the Council's independent consultants, they would reluctantly accept the proposed mix.

The request to vary the section 106 agreement was accompanied by a Viability Report. This sets out that the viability of the scheme has worsened since this matter was last considered in 2016 / 2017. This is principally due to further significant increases in the cost of the access works (from £1,785,220 to £3,702,698).

The Viability Report has been checked by the Council's independent experts on development viability. They have verified the conclusions of the report and have confirmed that the changes to the tenure of the affordable housing are necessary in order to ensure that the scheme is viable.

SUMMARY / CONCLUSION

Local Plan Policy DM2 provides for section 106 requirements to be changed in circumstances where a development is unviable. This has been proven by the Viability Report that has been submitted by the applicant, and this has been verified by the Council's independent development viability experts. Therefore the section 106 agreement should be amended as requested.