

2<sup>nd</sup> July 2014

**REPORT OF HEAD OF REGULATORY SERVICES**

**PLANNING PERMISSION 12/00806/FUL : CLEARANCE OF SITE INCLUDING DEMOLITION OF EXISTING REDUNDANT FARM BUILDINGS, ERECTION OF FIVE RETIREMENT BUNGALOWS AT OLD DAIRY BUILDINGS, STATHERN LANE, HARBY.**

**APPLICATION TO REMOVE THE AFFORDABLE HOUSING PROVISION**

**1. PURPOSE OF THE REPORT**

1.1 This report is intended to provide sufficient information to enable the Planning Committee to consider the request submitted under section 106BA to modify the S106 and determine:-

- (a) whether the planning obligation shall continue to have effect without modification;
- (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
- (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

**2.0 RECOMMENDATION**

2.1 The Committee are invited to consider the request to modify the S106 to either

- a) remove the requirement to provide 2 no. Affordable Housing units on the site with no other modifications, or
- b) refuse the request in favour of the S106 having full affect without modifications.

**3.0 BACKGROUND**

Members may recall approving the planning application for a development scheme of 5 no. retirement bungalows on the Old Dairy Site, Stathern Lane Harby. The Committee granted permission for the scheme subject to a S106 agreement to secure:-

- (i) 2 of the units as affordable houses
- (ii) Occupancy restrictions prioritising the availability of the units for local need on the basis of Harby initially, then the Parish, then the Borough, then the open market

3.1 The site lies outside of the village envelope for Harby within the countryside and it was considered that there were sufficient other material considerations that justified

allowing the development contrary to the development plan. Housing development in this location represented an encroachment in to the countryside as the proposal was not one of the types of development permitted within the countryside by Policy OS2 of the Adopted Melton Local Plan. However, the site is 'brownfield' in nature and the development was considered to secure a house type and affordable units which would contribute to areas of housing supply which were deficient at that time.

#### **4.0 VIABILITY APPRAISAL**

- 4.1 Following the publication of the Growth and Infrastructure Act 2013 changes were implemented to the planning system to allow developers to apply to be released from S106 obligations for the provisions of Affordable House requirements, where it can be demonstrated that the Affordable Housing requirement threaten the deliverability of housing due to viability.
- 4.2 The applicants have submitted a viability appraisal which has been independently assessed by the District Valuation Office. It has been confirmed that the scheme with the inclusion for 2 no. affordable units would make the scheme unviable but not to the extent of the losses put forward by the applicant. This difference is attributed to the site being considered to have a negative land value given its current 'nil' use whereas the applicant's appraisal has used the present land value with full planning permission.

#### **5.0 KEY ISSUES**

- 5.1 The applicant's planning application recognised from the outset, that in order for a housing scheme in this location to be supported, a number of benefits would be required. Contained within the submitted Design and Access Statement (page 7) it is stated that the retirement bungalows were needed by the residents of Harby and a 'chain reaction' would occur, where larger properties would be freed up with those downsizing and smaller dwellings being available from those upsizing making available smaller properties in the village for the younger generation to continue to stay in the village of Harby. The application was also promoted on the basis that it should benefit from the same definition as would a 'Rural Exception Site'. A 'Rural Exception Site' is defined as a site for affordable housing, but can include market housing to enable their delivery
- 5.2 This occupancy criteria and requirement for 2 affordable houses was included within the S106 agreement. The occupancy criteria are not the subject of this application and will continue to exist and would not be affected should the modification be accepted.
- 5.3 The applicants own the land and intend to occupy one of the 'market' bungalows. Initial discussion with the applicant indicated that they would 'gift' the land to a developer in return for the bungalow.
- 5.4 Following further discussions with the applicants during the consideration of the planning application, an offer of 1 no. affordable unit was presented. The Council considered the offer of 1 unit was not sufficient to allow a departure to the development plan policies given the site was outside of the village envelope and resolved that the scheme should provide 2 no. units to assist with going 'some way' to meeting the requirements as a rural exception site, allowing some market housing to support the deliverability of affordable housing.

- 5.5 Since the grant of planning permission the Council is not aware that there has been a change in land ownership and the applicants still own the land. There was no indication that viability would be an issue during consideration of the application when the offer of 1 no. affordable unit was put forward; or during the signing of the S106 agreement dated as recently as **6<sup>th</sup> January 2014** which made the commitment to provide 2 no. affordable units.
- 5.6 The viability of the scheme rests upon being released from the requirement to provide 2 no. affordable houses on the site of 5 bungalows. There has been no other scheme put forward to show how the scheme could be made viable whilst still achieving some of the benefits secured within the S106.
- 5.7 Should the 2 no. affordable units be made available on the open market the scheme would produce a profit and become viable. The housing market has seen property prices increase following a period of nil increase and the Council has been advised that a 'clawback' or 'overprovision' should be applied. This contribution could be considered to assist in providing affordable housing within the Borough a corporate priority.

## **6 CONCLUSION**

The Committee needs to consider if the request to modify the S106 to remove both affordable units from the scheme would amount to an acceptable form of development. The merits of the application are not for consideration however should the S106 still be deemed to have a purpose the request should be refused and the applicants invited to reconsider alternative positions to make the scheme viable and deliverable.

- 6.1 It is considered that justification for the application was founded to a significant extent on the provision of an element of affordable housing and this was accepted as part basis for the grant of planning permission. It is therefore considered that the removal of this element would significantly and adversely affect the 'balance of the issues' upon which permission was granted. It is considered that without the affordable housing the benefits of the scheme would be limited to a small contribution to housing supply (5 bungalows) and links to locals supply, and the development of a derelict brownfield site.
- 6.2 It is not considered that these benefits are sufficient to justify an exception to Development Plan policies nor have there been changes in circumstances since the obligations were entered into in January 2014.

### Background Documents:

- Planning Application 12/00806/FUL
- Minutes of the Committee meeting of 14<sup>th</sup> March 2013