

Decision under Delegated Powers

Officer Requesting Decision

Principal Planning Officer, Development Management

Officer Making the Decision

Head of Planning & Regeneration Services

Recommendation

That a Deed of Variation is completed to the existing s106 Legal Agreement for the development at Allendale Road, Loughborough to allow for:

1. Changes to the affordable housing clauses to the original and revised Deed of Variation to the Legal Agreement completed in October 2017 to planning permission P/16/2057/2.
2. Tie in planning permission relating to the Public Art condition removal
3. Tie in all relevant permissions and reserved matters approvals

Reason

To ensure that changes are made to facilitate the transfer of affordable housing to the registered provider and to make changes to the terms of the agreement that recognise that public art will no longer be sought and to ensure that the agreement overall ties in with the relevant planning permissions

Authority for Decision

As this application was received prior to the Council decision to amend the constitution on 27 February 2017 (minute 77.3 16/17 refers) the provision of the previous constitution apply:

Part 2a of the Council Constitution - Delegation to the Head of Planning and Regeneration:

2. To agree non-material amendments and minor material amendments to planning permissions where no demonstrable harm would be caused to an interest of acknowledged importance.
21. To negotiate the heads of terms of section 106 agreements.

Decision and Date



Date: 22 February 2018

Background

A planning application has been submitted to remove a planning condition (condition 14 of P/12/2640/2) and considered under planning reference P/16/2021/2 to remove the public art condition associated with the development of dwellings on land north west of Allendale Road, Loughborough. In addition a request has been made to amend the S106 legal agreement to accommodate changed working to facilitate the transfer of affordable housing to the Registered Provider.

Relevant Planning History

This is set out in the planning history and the officer's report (under reference P/16/2021/2) but in summary the site has planning permission for up to 130 dwellings on which work has commenced (granted under P/15/1108/2). Planning permission P/16/2057/2 approved reserved matters for a revised scheme of housing for 119 dwellings. An Aldi supermarket and associated retail scheme has been approved on the remaining part of the site under reference P/17/0942/2.

Policy Considerations

Development Plan

Policy CS3 of the Charnwood Core Strategy 2011 to 2028 - Strategic Housing Needs - sets out affordable housing requirements and an appropriate mix of types, tenures and sizes of homes.

Policy CS24 of the Charnwood Core Strategy 2011 to 2028 - Delivering Infrastructure – sets out that infrastructure should be delivered having regard to the economic viability and circumstances.

Housing SPD (May 2017)

The SPD provides guidance to support the Local Plan Core Strategy and the saved policies of the Borough of Charnwood Local Plan in respect of Policy CS3: Strategic Housing Needs - for affordable housing and housing mix. The new SPD includes a flexible and negotiated position in terms of meeting housing needs and tenure mixes.

Consultations

Housing Strategy – The amended clauses are noted and agreed

County Council – The contributions continue to be included in the Deed of Variation.

Considerations

Policy EV/43 of the Borough of Charnwood Local Plan required a percentage of development value to be secured to be used for public art projects in association with development. Many of the councils residential developments have an obligation to secure 1% of development value for this purpose. However, the policy has not been saved as part of the development plan and the developer has requested that the condition is removed from the planning permission, as it no longer passes the tests for planning conditions. The removal of condition 14 requires a new decision notice to be issued and this needs to be tied into the S106 Agreement along with the following decisions:

-) P/16/2057/2 – amendment to planning permission P/15/1108/2
-) P/17/2123/2 - Discharge of condition 21 of P/12/2640 have been submitted to Epinal Way highway works conditions under P/17/2123/2,
-) P/17/2419/2 - Condition 21 of P/14/1843/2
-) P/17/2366/2 - Conditions 3 and 16 of P/17/0960 related to the Morris Homes and David Wilson schemes on either side of Ling Road. The response of the highway authority is awaited.
-) P/15/1816/2 – Application to discharge the following conditions of P/12/2640/2- Conditions 5 - Design code, 7 - Ecological management plan, 8 - Landscaping, 10 - Archaeology, 11 - Surface water drainage, 12 - Construction method statement, 13 - Foul sewage, 15 - Bird and bat boxes, 17 - Ventilation details, 18 - Play facilities, 21 - Junction improvements (request for confirmation condition already discharged), 23 - Construction traffic routing, 24 - Travel plan.

It should be noted that not all of the applications to discharge conditions have been approved and the S106 agreement provides appropriate flexibility to respond to approvals as they occur or alternative arrangements.

Riverside Group are part of the Deed of Variation and a signatory to the S106 agreement. They seek an amendment to the mortgagee clause definition in the agreement to state:

“means a mortgagee or chargee or a security trustee or a receiver (including an administrative receiver) appointed by a mortgagee or chargee or security trustee or any successors in title to such mortgagee, chargee, security trustee or receiver or any administrator (howsoever appointed) including a housing administrator”

This will help facilitate the transfer of land to the Registered Provider and is necessary to realise the affordable housing on the site. The proposals to change the agreement to accommodate the request of the registered Provide has been discussed and agreed with Housing Strategy Officers. The proposals will facilitate the delivery of affordable housing on the development and make a contribution towards meeting housing needs.

The proposed Deed of Variation would also maintain the provision of an additional affordable housing unit and uplift County Council infrastructure contributions previously agreed (education libraries and civic waste) under

planning permission reference P/16/2057/2. The inclusion of all the permissions within a single Deed of Variation will also aid the transparency and provide a single point of reference for the decision.

The proposed mix and changes to the S106 Legal Agreement would be in accordance with the aims and objectives of Policies CS3 and CS24 of the Core Strategy and the new Housing SPD.

Financial Implications

None

Risk Management

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Affordable Housing Delivery	Unlikely	Minor	Housing Strategy Officers and Planning Officers are engaged in and have agreed the delivery of an appropriate mix of affordable housing and where these are best located.

Key Decision:

No

Background Papers:

Planning files: P/16/2021/2

Delegated Report and Draft Decision Notice

Agreed Deed of Variation