

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 2 OCTOBER 2018

Title of report	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT BOSWORTH ROAD, MEASHAM AND MEASHAM ROAD, MOIRA.
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Purpose of report	To consider a request from the developer of the above sites to amend its affordable housing obligations
Council Priorities	Homes and Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>Not applicable</p> <p>N/A</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>
Comments of Head of Paid Service	Report is satisfactory.
Comments of Section 151 Officer	Report is satisfactory.

Comments of Monitoring Officer	Report is satisfactory.
Consultees	Ashby Woulds Town Council Measham Parish Council North West Leicestershire District Council Ward Member – Councillor John Bridges North West Leicestershire District Council Ward Member – Councillor Gill Hoult North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of planning application refs:- 14/00444/FUL (New Street, Measham) 14/00445/FUL (Bosworth Road, Measham) 17/00130/FUL (Measham Road, Moira)
Recommendations	TO AGREE TO THE AMENDMENTS OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS WITHIN THE LEGAL AGREEMENTS FOR BOSWORTH ROAD, MEASHAM AND MEASHAM ROAD, MOIRA FOR THE PROVISION OF 9 NO. ON-SITE AFFORDABLE UNITS AT NEW STREET, MEASHAM IN LIEU OF AFFORDABLE HOUSING AT BOSWORTH ROAD, MEASHAM AND MEASHAM ROAD, MOIRA.

1.0 INTRODUCTION AND BACKGROUND

Bosworth Road, Measham

- 1.1 On 14 April 2015, the District Council's Planning Committee resolved to grant full planning permission subject to Section 106 obligations for residential development of 27 dwellings and associated infrastructure at Land Adjoining Greenacres, Bosworth Road, Measham (herein referred to as "Bosworth Road" (planning permission ref: 14/00445/FULM).
- 1.2 The Bosworth Road application was originally a linked application with ref: 14/00444/FUL at Land off New Street, Measham.
- 1.3 The New Street, Measham site originally proposed 22 affordable dwellings, with the intention being that the affordable housing requirements of 8 affordable dwellings from the Bosworth Road site would be provided at the New Street, Measham site. The applications were intended to be linked by way of a legal agreement and in the event that the New Street site was not granted planning permission, the Section 106 agreement would be

flexibly worded to ensure that on-site provision and/or a suitable equivalent by way of a commuted sum would be required on the Bosworth Road site.

- 1.4 Members were informed via the update sheet for Planning Committee on 14 April 2015 that the Council's Strategic Housing Officer requested that in the event that an on-site affordable housing provision was required for the Bosworth Road site, the mix of units on the site should be secured. Accordingly an amended plan was submitted showing an additional two, two bedroomed dwellings at Plots 1, 2, 15 and 15a, providing four on-site dwellings.
- 1.5 Within the update sheet the Council's Strategic Housing Officer confirmed that in the event that New Street, Measham was not consented, the Authority would accept four dwellings on the Bosworth Road site, with the other four dwellings, as a commuted sum and that flexibility would be provided within the S106 Agreement to allow for such a series of scenarios, if necessary.
- 1.6 The Section 106 agreement was completed on 25 August 2016 and the planning permission was issued on the same day.
- 1.7 The Section 106 agreement included obligations in respect of, amongst others, affordable housing comprising four x 2 bed 4 person Affordable Rented houses and an off-site commuted sum in lieu of 4 on-site units of £133,833.33. The affordable housing obligation therefore required four dwellings to be provided on-site and for the commuted sum, to be used anywhere within the District, where there is a need for affordable housing.

New Street, Measham

- 1.8 Full planning permission, was granted by delegated powers on 14 February 2017 for residential development of nine dwellings and associated infrastructure at Land off New Street, Measham (herein referred to as "New Street" (planning permission ref: 14/00444/FUL).
- 1.9 The original submission was for 22 affordable dwellings, and was intended to be the affordable provision for a then linked application ref: 14/00445/FULM at Land at Bosworth Road, Measham. During the course of the application, however, a series of amendments were made, including reducing the number of dwellings to 16 affordable dwellings and subsequently, nine open market dwellings.
- 1.10 At the time of determination, the application was assessed against Policy H8 (Affordable Housing) of the adopted North West Leicestershire Local Plan 2002 and the North West Leicestershire District Council Affordable Housing SPD, which required affordable housing to be sought on all sites of 11 or more dwellings in Measham. Accordingly, for the avoidance of doubt, following the reduction in the number of dwellings, there was no requirement for affordable housing provision as a stand-alone application, as the scheme did not meet the threshold for it.

Measham Road, Moira

- 1.11 Full planning permission, was granted by delegated powers on 15 August 2017 for residential development of four dwellings and associated garages at Measham Road, Moira (herein referred to as "Measham Road" (planning permission ref: 17/00130/FUL).
- 1.12 An application for 80 dwellings and a small retail store (planning permission ref: 13/00183/FULM) was previously approved on the site and the application ref: 17/00130/FUL proposed to replace the retail store, with four dwellings.
- 1.13 For the avoidance of doubt, whilst there would not usually be a requirement for affordable housing provision, for a scheme for four dwellings, the Local Planning Authority considered the application as an extension to the existing site and the Council's Strategic Housing Officer confirmed that the scheme should provide for 30% affordable housing within the site (which would equate to 1 dwelling).
- 1.14 The Section 106 agreement was completed on 14 August 2017 and the planning permission subsequently issued on 15 August 2017.
- 1.15 The Section 106 secured one x 2 bedroomed affordable rented dwelling (let by the District Council and/or a Registered Provider at a rent up to 80% of local market rent).

2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS

- 2.1 The developer is of the view that, given the interrelationship between the three sites, all of the affordable dwellings can be provided on the New Street site.
- 2.2 The developer has confirmed that the proposed changes have arisen, following discussions with Registered Providers on both the Bosworth Road and Measham Road schemes.
- 2.3 In relation to the Measham Road site, the developer has confirmed that the single plot, was a semi-detached unit joined to an open market unit, which has resulted in a lack of interest from Registered Providers.
- 2.4 The scheme at Bosworth Road had provision for four units on site, and the developer states that they were sited in isolated pairs on the development and that there was a lack of interest in these units due to them being located remotely and there only being four units.
- 2.5 The developer therefore confirms that the proposed scheme delivers nine affordable housing units in a close area, which will be easy to manage for Registered Providers going forward and they have a Registered Provider (Trent and Dove) lined up to take the dwellings.
- 2.6 In combination, the Bosworth Road, Measham and Measham Road, Moira sites provide the following affordable housing provision:-

- 4 x 2 bed 4 person Affordable Rented houses (Bosworth Road, Measham)
- An off-site commuted sum in lieu of 4 onsite units (£133,833.33) (Bosworth Road, Measham)
- 1 x 2 bed 4 person affordable rented house (Measham Road, Moira)

2.7 The New Street, Measham site approved open market dwellings comprising:-

- 6 x 3 bed units,
- 2 x 2 bed units
- 1 x 1 bed unit.

2.8 Accordingly the changes would result in the New Street, Measham site providing the following affordable dwellings:-

- 6 x 3 bed houses (comprising 4 x 3 bed as Affordable Rented and 2 x 3 bed houses as Shared Ownership)
- 2 x 2 bed houses as Affordable Rented
- 1 x 1 bed coach house as Affordable Rented

3.0 CONSULTATION

3.1 Measham Parish Council have no objections.

3.2 Ashby Woulds Town Council object to the loss of one affordable dwelling on the Measham Road, Moira site. The town council's view is that the affordable housing should not be taken out of the parish and provision should be increased not decreased and disputes that the plot is in isolation.

3.3 The District Council's Strategic Housing Team have indicated that the proposal maximises the level of onsite affordable housing provision and have confirmed that they are happy to accept the proposal.

3.4 At the time of writing comments are awaited from the Ward Members – Councillors Hault and Bridges.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)
Planning Practice Guidance

4.2 Adopted North West Leicestershire Local Plan

Policy H4 of the adopted North West Leicestershire Local Plan states that to support the provision of mixed, sustainable communities, the Council will seek the provision of affordable housing on new housing developments.

For Measham the affordable housing contribution is 30% and the threshold on 11 or more dwellings or 1,000 square metres of floor space.

5.0 ASSESSMENT

5.1 Interconnecting relationship between Bosworth Road and New Street

- 5.1.1 Consideration has been given to the original links between the Bosworth Road and New Street sites, where it was accepted in principle, at first, that all affordable units from the Bosworth Road site, were to be provided at New Street, Measham (as set out within Paragraph 1.3 above).
- 5.1.2 At the time of consideration of the Bosworth Road application at Planning Committee in April 2015, the New Street site was still at the original 22 dwellings, however at that time objections had been raised by statutory consultees, namely in respect of ecology and flood risk. Accordingly, the Local Planning Authority in consideration of the concerns of statutory consultees, considered a fall-back position, so that in the event that the New Street site did not receive consent, as a stand-alone application, that the policy compliant amount of affordable housing would still be provided at Bosworth Road.
- 5.1.3 As such the initial position was to link the two sites Bosworth Road and New Street together. Whilst the resolution at Planning Committee, still allowed for the link, this also established on-site provision of four dwellings on the Bosworth Road site, and an additional four dwellings, as a commuted sum, in the event that the New Street site did not received planning consent.
- 5.1.4 The Bosworth Road site received a resolution to permit, on 14 April 2015, but the Section 106 Agreement was not secured until August 2016. Within this time, the New Street site was initially reduced in numbers to 16 affordable dwellings in July 2015.
- 5.1.5 The New Street site was then subsequently reduced in numbers, again, which arose due to the physical constraints of the New Street site, being a sewer easement, and the alternative layouts proposed also reflected the ecological surveys and flood risk assessment.
- 5.1.6 At this time when the amendments for 9 dwellings at New Street were submitted in May 2016, the applicant also indicated that the dwellings were to be open market, and not a 100% affordable housing scheme, as had been originally submitted. Given the resolution at Planning Committee for Bosworth Road, which allowed for four on-site dwellings and four as a commuted sum, the change proposed by the applicant for the New Street site, did not affect the level of affordable housing to be provided at the Bosworth Road site.
- 5.1.7 Accordingly, it was at this time, that the link between the two sites was effectively severed, as there was provision for affordable dwellings within Bosworth Road site, secured within the S106 Agreement and the reduction to nine dwellings meant that affordable dwellings were not required to be provided within the New Street site, as a standalone application.
- 5.1.8 The original issues identified within the New Street site, were overcome and the scheme was ultimately granted planning permission for 9 open market dwellings in February 2017, with no link, or no requirement for affordable dwellings.
- 5.1.9 The amendments as now presented, seeks to re-iterate the original link between to the two sites at Measham, by New Street facilitating the provision of affordable housing, for

the Bosworth Road site. This reflects that of the original intention when New Street was to provide the entire affordable housing provision for Bosworth Road.

5.2 Registered Providers

- 5.2.1 The developer has confirmed that the proposed changes have arose, following discussions with Registered Providers on both the Bosworth Road and Measham Road schemes.
- 5.2.2 In relation to the Measham Road site, the single dwelling was a semi-detached unit joined to an open market unit. The developer has stated that this arrangement, and the single isolated dwellings, has resulted in a lack of interest from Registered Providers.
- 5.2.3 In respect of Bosworth Road, the four on-site dwellings were proposed as two pairs of semi-detached dwellings. Plots 1 and 2 were on the sites frontage, with Plots 15 and 15a located within the site. The developer states that the small number of dwellings, and the layout has resulted in there being a lack of interest from Registered Providers.
- 5.2.4 The developer states that the scheme would provide all nine affordable dwellings, within one area, which would be easy to manage for a Registered Provider and they have a Registered Provider (Trent and Dove) lined up to take the dwellings.
- 5.2.5 The Strategic Housing Team have confirmed that a Registered Provider (Trent and Dove) is already on board and would oversee the delivery of the properties in line with their business plan timescales and that all of the rented properties would be allocated off the Council's Choice Based Lettings Housing Register.
- 5.2.6 The Strategic Housing Team have also confirmed that they would be supportive of the Registered Provider seeking to prioritise applicants from the area, and to ring-fence one property initially for applicants from Moira (even though this would be physically located within Measham), to reflect the loss of one rented unit in Moira from the Measham Road site. The Strategic Housing Team would seek to negotiate that the remaining rented properties and the shared ownership properties were offered to those households with a connection to Measham.
- 5.2.7 In the event that the Registered Provider should withdraw at any time, the Strategic Housing Team have confirmed that the Council would seek to secure the transfer/ownership of the land at New Street at nil value for the Council to either develop the affordable scheme itself, or transfer to some other Registered Provider to develop the affordable scheme.
- 5.2.8 The developer has confirmed that terms have been agreed with Trent and Dove on these units, however, if for some reason Trent and Dove pull out of the scheme and no other Registered Provider is willing to accept transfer of the units, the developer has agreed to transfer the land to the Council, at nil value. It is therefore recommended to include provisions within the legal agreement to allow for such scenarios.

5.3 Deliverability of Affordable Housing Obligations

- 5.3.1 The developer has indicated that the amendments to provide nine affordable dwellings on New Street would be more efficient in timescale, in comparison to the previously approved

scheme, as additional time would be required to find suitable sites elsewhere in the District, for the off-site payment (commuted sum).

- 5.3.2 The delivery of the nine affordable dwellings at New Street would be required to be tied to trigger points on the Bosworth Road site, to ensure an appropriate level of affordable housing coming forward on New Street. The new trigger points should be at least, commensurate to the original trigger points that were set within the Section 106 Agreement for on-site affordable provision on Bosworth Road.
- 5.3.3 The developer has indicated that the triggers would be as per the original Bosworth Road scheme, therefore ensuring that no more than 18 of the open market dwellings on the Bosworth Road site shall be occupied, until two of the affordable dwellings on New Street have been provided and no more than 22 of the open market dwellings on the Bosworth Road site shall be occupied, until all of the affordable dwellings on New Street have been provided.
- 5.3.4 The developer is proposing to proceed by one new legal agreement to include the planning obligations relating to the New Street Site and the variations relating to the existing S106 Agreements in respect of Bosworth Road Site and the Measham Road Site.

5.4. Amendments to Provision

- 5.4.1 The existing S106 obligations require the on-site provision of 4 x 2 bed 4 person Affordable Rented dwellings at Bosworth Road and 1 x 2 bed 4 person Affordable rented dwelling at Measham Road.
- 5.4.2 The amendments would result in a change to 6 x 3 bed dwellings, 2 x 2 bed dwellings and 1 x 1 bed dwelling, this increasing the level of 3 bed roomed dwellings, and providing a greater mix of 1-3 bed roomed dwellings, than the originally secured schemes, which were all for 2 bed dwellings.
- 5.4.3 The Strategic Housing Team have confirmed that the property types and mix as proposed are acceptable and reflect current needs in the village.

5.5 Overall gain of on-site provision

- 5.5.1 The scheme would result in the loss of four on-site affordable dwellings at Bosworth Road site and one on-site affordable dwelling at Measham Road, however it would deliver the four additional dwellings from the Bosworth Road that were previously agreed to be provided as an off- site contribution (commuted sum).
- 5.5.2 The Strategic Housing Team have indicated that the principle regarding the affordable requirement from two sites being delivered on one site has been previously accepted by the initial links between Bosworth Road and New Street, and that a higher number of affordable units will be provided on-site than the two sites would, independently.
- 5.5.3 Overall the changes proposed would result in the same level of affordable housing provision by providing a total of nine dwellings, ensuring that accumulatively the three sites affordable housing provision, would be policy compliant.

5.5.4 Furthermore, the scheme would result in the provision of nine on-site affordable dwellings, which would otherwise have resulted in only five on-site affordable dwellings (four from Bosworth Road and one from Measham Road).

5.6 Loss of 1 unit in Moira

5.6.1 The scheme would result in the loss of one affordable dwelling in Moira, as this is now being proposed to be transferred to Measham and Ashby Woulds Town Council have objected, on that basis.

5.6.2 The Strategic Housing Team have confirmed that they would not usually consider transferring the affordable requirement from one parish and delivering in another. The Strategic Housing Team, however, have taken into consideration the recent history on affordable housing delivery in the two parishes and in considering this proposal the Strategic Housing Team have taken the following points into consideration –

- Increased on site delivery (from 5 across the 3 sites to 9 on one site)
- Recent and pipeline delivery in Moira (49 from Laud Close & 21 remaining at Measham Rd Moira)
- Very low delivery in Measham over the last 5 years due to a lack of Registered Provider interest and viability concerns. Overall 10 units have been provided at Atherstone Road from a negotiated 51 properties from developments at Atherstone Road and Bosworth Road (plus the required 4 properties agreed on Bosworth Road i.e. a maximum on site delivery of 14 units)
- Affordable Housing secured through S106 Agreements on planned developments. (19 affordable homes have been negotiated on full planned developments in Moira. Measham 0)

5.6.3 Taking the above into account the Strategic Housing Team believe that the loss of one affordable home in Moira is outweighed by the on-site provision of 9 dwellings through a local Registered Provider in Measham.

6.0 CONCLUSION

6.1 Having regard to the advice of the District Council's Strategic Housing Team in respect of the difficulties in securing a Registered Provider at Bosworth Road and Measham Road, due to the small number and isolated position of the dwellings, and given the overall gain in *on-site* provision and more efficient delivery of it, it is recommended that the proposed amended affordable housing obligations to provide nine affordable dwellings at New Street, be accepted.