

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**PLANNING COMMITTEE – 1 NOVEMBER 2016**

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

Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	Measham Parish Council North West Leicestershire District Council Measham South Ward Member North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of planning application refs. 14/00273/FULM and 15/00994/FUL
Recommendations	<b>TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PROVISION OF 10 NO. GIFTED UNITS IN ACCORDANCE WITH DETAILS TO BE AGREED WITH THE DISTRICT COUNCIL</b>

## 1.0 INTRODUCTION AND BACKGROUND

- 1.1 On 10 March 2015, the District Council's Planning Committee resolved to grant planning permission subject to Section 106 obligations for residential development of 77 dwellings and associated works on a site at Atherstone Road, Measham (planning permission ref. 14/00273/FULM).
- 1.2 The Section 106 agreement was completed on 5 June 2015, and the planning permission subsequently issued on 8 June 2015. A subsequent permission for an amended scheme relating to four of these dwellings was granted on 1 February 2016 (ref. 15/00994/FUL), and was the subject of a supplemental agreement under Section 106.
- 1.3 The Section 106 agreements include obligations in respect of, amongst others, affordable housing. The affordable housing obligations are as follows:
- 23 of the proposed dwellings (i.e. 29.9%) to be provided as affordable housing units, comprising 16 affordable rented dwellings and 7 intermediate dwellings
  - Transfer of the affordable units to Registered Provider prior to occupation of 75% of the open market dwellings
- The house types indicated at the application stage as the affordable housing contribution comprised 2 no. 1 bed units, 15 no. 2 bed units and 6 no. 3 bed units.
- 1.4 The developer has however now approached the Local Planning Authority with a view to entering into an amended scheme of obligations in respect of affordable housing, and has undertaken a viability appraisal in order to demonstrate the need to enter into alternative obligations. The Local Planning Authority has commissioned the District Valuer to assess the developer's calculations on its behalf.
- 1.5 The residential development is currently under construction.

## **2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS**

2.1 The developer is of the view that, given anticipated costs and receipts, the provision of the on-site contribution set out under 1.3 above would not be viable having regard to the level of the single offer received from an interested Registered Provider; no other Registered Providers chose to bid. In response, the developer has been engaged in discussions with the District Council's Strategic Housing Team, and has offered an alternative contribution of gifting 10 dwellings (comprising 2 no. 1 bed flats and 8 no. 2 bed houses (along with their associated shared private drive)) to the District Council's Housing department (freehold) for use as rented accommodation.

## **3.0 CONSULTATION**

3.1 Following consultation, Measham Parish Council advises that, in principle, it is fully in favour of the provision of the affordable homes on the development. However, the Parish Council requests that provision is increased on the site using the commuted sum secured in lieu of the affordable housing contribution for the former Pickering's Nursery site on Bosworth Road. The Parish Council has also requested that the proposed affordable dwellings are only allocated to potential tenants who are either Measham residents or can prove a strong connection to Measham.

3.2 The District Council's Strategic Housing Team supports the proposed alternative obligations for the reasons set out in Section 5.0 below.

## **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 H8 of the adopted North West Leicestershire Local Plan provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

### **4.3 Submitted North West Leicestershire Local Plan**

Policy H4 of the submitted North West Leicestershire Local Plan provides that a minimum affordable housing contribution of 30% should be provided on developments of 11 or more dwellings in the Measham area, and that the Council's preference is for on-site provision.

### **4.4 Other Local Policies**

North West Leicestershire District Council Affordable Housing Supplementary Planning Document – January 2011

## **5.0 ASSESSMENT**

- 5.1 Having regard to the requirements of the NPPF and the Community Infrastructure Levy Regulations 2010, the view is taken that the current obligations are appropriate, and meet the legislative and policy tests. However, in view of the request to amend the terms of the existing Section 106 obligations, it is considered appropriate to assess:
- (i) Whether the current affordable housing requirements are unduly onerous when having regard to the viability / deliverability of the scheme, or are otherwise unachievable;
  - (ii) If so, whether the alternative affordable housing obligations proposed by the developer are appropriate to the level of development viability (i.e. they are the maximum achievable whilst ensuring the development remains viable); and
  - (iii) Whether the alternative proposals under (ii) above are appropriate in terms of helping to meet the affordable housing needs of the area.

### **5.2 Deliverability of Existing Affordable Housing Obligations**

- 5.2.1 Having reviewed the developer's viability assessment on behalf of the District Council, the District Valuer concludes that, financially, the existing obligation to deliver 30% affordable housing would still be viable.
- 5.2.2 However, this also needs to be considered in the context of the ability of the developer to comply with the existing affordable housing obligations having regard to other factors. The District Council's Strategic Housing Team advises that the developer had indicated to the Strategic Housing Team its willingness to provide the originally agreed affordable housing and approached seven Registered Providers to gauge interest with a view to entering into a contract to secure delivery. Of these, five indicated that they would not be offering on the properties; of the two offers received, one was subsequently withdrawn. The remaining offer was, the Strategic Housing Team advises, significantly below the figure factored in for these properties.
- 5.2.3 On this basis, therefore, it is accepted that, in practice, the developer is unable to deliver the on-site affordable housing in accordance with its existing obligations.

### **5.3 Appropriateness of Proposed Alternative Affordable Housing Obligations**

- 5.3.1 In addition to reviewing the developer's viability assessment relating to the current obligations, the District Valuer has also assessed the alternative scheme of gifting 10 units to the District Council and again finds this viable (in effect, "breaking even" when allowing for a reasonable level of developer profit, although the District Valuer does also nevertheless suggest that the proposed alternative option would, in fact, be likely to entail a slightly greater cost to the developer than the existing obligations).
- 5.3.2 For its part, the District Council's Strategic Housing Team is of the view that, whilst its preferred position would be to secure the policy compliant 30% on-site contribution by way of a Registered Provider, it nevertheless accepts the reasons why this level of provision could not be achieved. It advises that the ability of Registered Providers to purchase affordable homes on housing sites is currently severely diminished.
- 5.3.3 The existing Section 106 agreement includes a "cascade" arrangement to be employed in the event that there is no Registered Provider interest in the affordable homes; the

cascade protocol set out in the Section 106 agreement provides the following hierarchy of alternative options to the developer:

- (i) Sale of the identified units as discounted open market properties at 65% of their open market value; and
- (ii) Payment of an off-site commuted sum should the properties not sell within a set timescale.

Whilst the discounted open market homes option would still enable properties to be secured on site, the provision of these units would not assist in meeting the District's greatest identified needs (which are for rented accommodation).

5.3.4 Whilst the proposed alternative scheme is not the Strategic Housing Team's preferred policy position, it accepts that the offer would nevertheless secure 10 rented units in a high demand settlement. It also advises that the properties would meet an identified need and their acquisition would support the District Council's Housing Revenue Account, ensuring that existing Council properties are maintained, and supporting the Council's own new house building programme. It therefore favours the approach now suggested over the cascade arrangements that would otherwise apply in this case.

5.3.5 It is noted that, whilst Measham Parish Council has no objections to the proposed changes per se, it has requested that provision is increased on the site using the commuted sum secured in lieu of the affordable housing contribution for the former Pickering's Nursery site on Bosworth Road, and that the proposed affordable dwellings are only allocated to Measham residents or potential tenants with a strong connection to Measham. In response to these requests, the District Council's Strategic Housing Team comments that the monies received in lieu of an on-site affordable housing contribution are ring-fenced for the provision of additional affordable homes anywhere in the District where an affordable housing need has been identified, and considers that this flexibility ensures that any monies can be used to deliver strategically important, wholly affordable, schemes in areas where there is housing demand and suitable sites but a shortfall in funding. The Strategic Housing Team is of the view that all affordable housing delivered in the District (excluding Rural Exception Sites) should meet the housing needs of all those households on the Council's District-wide housing register, and not just those within the particular locality where any new housing supply happens to be located. It also advises that the affordable housing contribution from the Pickering Nurseries development would be unlikely to be used to purchase properties on the Atherstone Road development as the Council would have to pay full market value for any additional properties. By contrast, the Strategic Housing Team advises, through using these monies to support Registered Provider or Council-led developments, the Council can ensure schemes go ahead with much lower contributions from the authority, and which deliver more affordable housing.

5.3.6 Having regard to the advice of the District Council's Strategic Housing Team in respect of the difficulties in securing a Registered Provider to purchase the agreed on-site contribution, therefore, it is accepted that the provision of a smaller gifted contribution would be an appropriate alternative, and would be preferable to the cascade arrangements applicable under the existing obligations. As such, it is recommended that the proposed amended affordable housing obligations be accepted.