

Report for Planning Committee



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site. Reproduced with the permission of the Controller of H.M.S.O. Crown Copyright. Licence No LA100021248. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.



Report to Planning Committee

Application Number: 2001/1763

Location: College Road, Mapperley, NG36FD

Proposal: Variation of Section 106 Agreement with the Borough Council for Affordable Housing.

1.Purpose of the Report

- 1.1 The purpose of this report is to consider a request made by a registered provider of affordable housing to modify the Section 106 Agreements associated with planning permission 2001/1763 to permit the sale of 12 College Road Mapperley, to their tenants. The sale of the property is currently precluded by a Section 106 Agreement and may only be used for letting purposes only.
- 1.2 Places for People, the registered provider which owns and administers the affordable housing unit, has asked the Council to consider varying the Section 106 Agreement to allow the sale of the property under the Voluntary Right to Buy scheme to help the tenant of the property realise their home ownership aspirations and to meet the Government's objective of providing tenants of registered providers the opportunity to purchase their homes with a discount.

2.Background

- 2.1 The Government is proposing to extend the Right to Buy legislation to the tenants of Housing Associations (HAs) and has invited HAs in the East Midlands to participate in a Voluntary Right to Buy (VRTB) Pilot which went live in July 2018 and will run until March 2020.
- 2.2 The National Housing Federation (NHF), working with the Ministry of Housing, Communities and Local Government (MHCLG) has produced guidance on the VRTB pilot. This is further to an earlier pilot in January 2016 involving five specific HA's. The pilot will test two new aspects of the draft Right to Buy scheme. These are the 'one for one' replacement model and the portable discounts aspects of the scheme. In essence every unit sold has to be replaced, but the replacement units do not have to be of the same size, tenure or even in the same location, so this could see properties being sold in the borough, and their replacement built elsewhere. The portable element means that eligible tenants can use this aspect of the legislation to buy a property in another area, hence negating the need for a local connection. These two factors pose a considerable concern, as affordable housing is limited in the borough, and we are experiencing significant need from

our residents, who are having to wait for long periods of time to be offered suitable accommodation.

- 2.3 The pilot is voluntary and therefore the legal obligations of the scheme cannot be supported by the RTB legislation, and therefore the ability to enforce obligations such as right of first refusal, tenant repayment of discount – onward sale or subletting need to be included in the contract for sale produced by the HA.
- 2.4 A report was submitted to the Portfolio Holder for Growth and Regeneration on the 7th August 2018 which provided an update on the launch of the Voluntary Right to Buy Scheme in the East Midlands. The report outlined that the Council's social rent properties secured via Section 106 Agreements could be reduced at a time of significant need. As of November 2019 there were 614 applicants on the housing register, of which 63 are in band 1 urgent need (homeless), and 214 in band 2, (at risk of becoming homeless), meaning that 45% of applicants on the register need rehousing as a matter of urgency.
- 2.5 It was resolved that the strategic approach of the Council is not to support the sale of HA properties, unless the HA has demonstrated to the Council that there are exceptional circumstances which justify disposal of the affordable homes. An alternative option to give approval for the potential disposal of properties in the Borough as part of the East Midlands Voluntary Pilot Right to Buy was discounted due to the significant need for affordable housing in the Borough and concerns that affordable housing properties may be sold to residents from outside of the borough with the overall effect being the loss of affordable housing in the Borough.

3. Assessment of Planning Considerations

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.
- 3.2 The relevant planning policies are contained in the National Planning Policy Framework (NPPF), Greater Nottingham (Broxtowe, Gedling and Nottingham City) Aligned Core Strategies Part 1 Local Plan, Local Planning Document Part 2 Local Plan and the Council's Affordable Housing Supplementary Planning Document.

4. Relevant Planning Policies

National Planning Policy Framework 2019

Sets out the national objectives for delivering sustainable development. Sections 5 (Delivering a sufficient supply of homes) is particularly relevant.

Greater Nottingham Aligned Core Strategy Part 1 Local Plan

Policy 8: Housing Size, Mix and Choice – sets out the objectives for delivering new housing.

Local Planning Document (Part 2 Local Plan)

LPD 36: Affordable Housing – sets out that affordable housing provision will be required in accordance with the Council’s Affordable Housing SPD

Other Guidance

Affordable Housing SPD (2009) – sets out the affordable housing requirements for new residential development.

Other Material Considerations

Portfolio Holder for Growth and Regeneration decision of the 7th August 2018.

5. Planning Considerations

5.1 Paragraph 62 of the National Planning Policy Framework (2019) advises that planning policies should specify the type of affordable housing required, and expect it to be met on-site unless: a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and b) the agreed approach contributes to the objective of creating mixed and balanced communities.

5.2 The Council’s Development Plan policy for securing affordable housing is LPD 36 – Affordable Housing. This policy requires affordable housing to be provided on sites of 15 dwellings or more. No. 12 College Road is part of a modern residential development approved in 2002 and comprising more than 15 properties. The policy therefore applies and the requirement in the Mapperley area is 30%. Further guidance is provided in the Affordable Housing Supplementary Planning Document and the guidance states that the Council will identify what affordable housing is appropriate at the time of negotiating agreements. The policy is drafted in favour of shared ownership and social/affordable rent.

5.3 The need to ensure that units remain “affordable” is stipulated in the Aligned Core Strategy and the Local Planning Document. Para 3.89 of the ACS and 11.2.1 of the LPD states *“Government guidance indicates that new affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision”*.

5.4 There is no planning policy support for allowing the variation to the Section 106 Agreement and no exceptional circumstances have been advanced by the HA. The variation of the agreement would therefore be at variance with the decision made by the Portfolio Holder for Growth and Regeneration on the 7th August 2018.

Recommendation: Refuse Variation of Section 106 Agreement