

Report to Planning Committee

Application Number: 2014/0740

Location: Spring Lane, Mapperley

Proposal: Residential Development (Up to 150 Dwellings)

Summary

Authorisation is sought by the Corporate Director/Service Manager for Housing to instruct the Service Manager for Legal Services to enter into a Deed of Variation to vary the Planning Obligation dated 22nd May 2015 that requires, amongst other things, the provision of 30 units of Affordable Housing on the above site.

The Developers are asking the Council to agree to enter into a Deed of Variation to include a new clause which relates to the mortgagee in possession and is required to ensure that in the rare event that the Housing Association was declared bankrupt, the mortgagor would be able to sell the property to protect their investment.

This new clause will also relate to those tenants who choose to exercise their right to acquire, as without it, they would also not be able to access a mortgage.

Background

Clauses 4.2 and 4.3 of the current Planning Obligation specify the following requirements:

“4.2 Upon the transfer by a Registered Provider of a freehold interest or a term of years in any unit of the Affordable Housing pursuant to a statutory right or the terms of a shared ownership lease or shared equity lease to acquire that interest or term, the unit of Affordable Housing shall by operation of this clause be automatically released from the obligations contained within Schedule Two to this Agreement.”

“4.3 The provisions of this Agreement shall not be binding on a mortgagee of any unit of the Affordable Housing or on any person deriving title from such mortgagee or any successor in title.”

It is proposed that the Principal Agreement be varied in the following matter:

1. Clause 4.2 of the Principal Agreement shall be deleted in its entirety and replaced with the following:

“4.2 Upon the transfer by a Registered Provider of a freehold interest or a term of years in any unit of the Affordable Housing pursuant to a statutory right to buy or

acquire or the terms of a shared ownership lease or shared equity lease to acquire that interest or term, the unit of Affordable Housing shall by operation of this clause be automatically released from the obligations contained within Schedule Two to this Agreement".

2. Clause 4.3 of the Principal Agreement shall be deleted and replaced with the following:

"4.3 The provisions of this Agreement shall not be binding on a mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 of any unit of the Affordable Housing or on any person deriving title from such mortgagee chargee receiver or manager or any successors in title thereto".

3. The inclusion of the following as a new Clause 4.6:

"The provisions of this Agreement (other than those set out in Schedule Two relating to the provision of Affordable Housing) shall not be enforceable against any Registered Provider or any chargee, mortgagee, receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 of the Registered Provider"

In clause 13.1 of Schedule Two of the Principal Agreement the words "and without payment of a premium" shall be deleted.

Considerations

There are no financial implications to the Council, and no planning considerations in that there would be no physical or aesthetic changes to the development whatsoever.

Recommendation:

That the Corporate Director/Service Manager for Housing be authorised to instruct the Service Manager for Legal Services to undertake the necessary work to prepare and finalise a Deed of Variation to the Planning Obligation lodged with the Borough Council dated 22nd May 2015, in relation to the development permitted by Planning Permission no: 2014/0740.