

Report to Sub – Committee Area Plans South



**Epping Forest
District Council**

**Date of meeting: 12th December
2012**

**Subject: Planning Application EPF/1399/09 –212 Manor Road, Chigwell,
Chigwell– Outline planning permission for 68 residential units (52 affordable)
including public open space with all matters reserved except access.**

Officer contact for further information: K Smith

Committee Secretary: A Hendry Ext 4246

Recommendation:

That the Committee agrees that the proposed revised mix for the rented and shared ownership homes in respect of the “fallback position” within the Section 106 Agreement, which retains the same number of rented and shared ownership affordable homes as required by the Section 106 Agreement, be amended to the mix set out in the report.

Report Detail

1. This report follows the grant of outline planning permission on 12th October 2012 for the above proposed development. That development was subject to a Section 106 legal agreement which contained several obligations upon the developer, including a detailed breakdown of the affordable housing to be provided within the development.

2. The detail within the affordable housing sections of the legal agreement was provided for both the scenario in which the Developer was able to support the development by securing grant funding from the Homes and Communities Agency and also a ‘fall-back’ position, in the event that such grant funding was not forthcoming. The Developer has not been able to secure grant funding and now seeks slight amendments to the fall-back position set out on the legal agreement.

3. The Developer has requested that this matter receives urgent consideration and gives the following reasons for this request:

1. *The ability to deliver new affordable homes on programme*

Should we be successful in varying the S106 we will be able to complete the acquisition of the site with the nominated Registered Social Landlord (RSL) in compliance with the programme timescale. This will give us the confidence to commit to working drawings to enable a start on site soon after the reserved matters (detailed) planning application is determined. It stands to reason that the sooner we start, the sooner we will complete the affordable homes which will enable the council to move tenants off of the temporary housing list as anticipated.

2. Viability

I am sure you can appreciate that both our and our RSL partners' acquisition is based upon certain financial assumptions. Any further delay in acquiring the site will have a serious impact upon the cash flow of the project, and could potentially scupper the deal. Also it does mean that the delay will require a further board approval which could also delay the acquisition further. Such delays will have a negative financial impact which could require a re-assessment of the affordable housing element of the scheme for viability reasons.

4. Applications on both this and the adjacent development site (also being considered by this Committee) have a lengthy history of complications that have arisen through both the proposals and the associated legal agreements – resulting in the applications submitted in 2009 only being approved earlier this year. At present there is an expressed desire from both potential Developers to commence works as soon as possible – however, the development of the adjacent site may not be commenced until works on this application site (particularly in relation to the laying of the access road) have started and progressed. In view of this situation, the case made by the Applicant and also recent Government announcements which express a desire to facilitate and bring forward development, Planning Officers accept the Developers request for urgent attention. Furthermore the minor scale of the changes proposed, which do not relate to physical changes to the agreed development, nor do they alter the number of affordable units to be provided, are considered to be of a scale that may be capable of consideration prior to the Committee Meeting.

Planning Issues

5. The Council's Director of Housing has been directly involved in negotiations and discussions with the Developer regarding this matter and provides the following comments:

6. One of the benefits of the development is the high amount of affordable housing that it will provide – bearing in mind that there are currently around 6,600 households on the Council's Housing Register. The Section 106 Agreement, signed following the granting of outline planning permission, requires the provision of 76% affordable housing (52 affordable homes).

7. The Council's agreed preferred mix for the affordable housing, as set out in the Section 106 Agreement, is for the provision of 31 rented homes and 21 shared ownership homes. This is based on the Council's Local Plan policies and the Council's adopted Shared Ownership Policy. However, in order to fund the high amount of rented housing within such a mix, it requires Moat (the housing association providing the affordable housing) to provide grant funding from its own resources (called Recycled Capital Grant - RCG), which it is prepared to do. However, as a Registered Provider of Social Housing, Moat must seek the permission of the Homes and Communities Agency (HCA – the Government Agency that funds and regulates social housing) to use RCG funding.

8. Since it was not known at the time that outline planning permission was granted whether or not the HCA would give its permission for the use of RCG funding by Moat, the Area Plans Sub-Committee agreed a "fallback" position as part of its decision to grant planning permission, which has subsequently been set out in the Section 106 Agreement for the development. The Section 106 Agreement states that if the HCA does not give permission for RCG funding to be used, the affordable

housing will, instead, provide a mix of 17 rented homes and 35 shared ownership homes.

9. Although both Moat and the Council were in dialogue with the HCA throughout the time leading up to the granting of planning permission, and the HCA did not raise any objections to the proposed approach at the time, the HCA has now said that it is not willing to give Moat permission to use its RCG funding for this development. The main reason given is that the HCA has a policy that it will not provide grant funding itself, or allow housing associations to use their own RCG funding, on Section 106 sites since, generally, grant funding is no longer required, due to the higher “affordable rents” that now have to be charged. However, the basis for Moat’s use of RCG funding on this development is that most sites subject to Section 106 Agreements generally only provide a maximum of 40% affordable housing, and since this development will provide 76% affordable housing, grant funding is required to provide the preferred level of rented housing – which Moat and the Council believe, in the HCA’s terms, provides “additionality”.

10. At the time of writing, the Council’s Director of Housing is making further representations to the HCA on this issue, but is not hopeful of the HCA changing its view. Therefore, subject to any change of decision by the HCA (which would be reported orally), the fallback position within the Section 106 Agreement will apply.

11. Now that the detailed layout for the reserved matters application has been worked up by the developer, a minor change to the mix within the rented and shared ownership homes needs to be made, for practical reasons. Although the same number of rented and shared ownership homes will be provided (17 and 35 respectively), the new proposed mix is as follows:

Rented Housing

6 X 2 bed flats	
5 X 2 bed houses	
6 X 3 bed houses	Total = 17

Shared Ownership

16 X 2 bed flats	
13 X 2 bed houses	
6 X 3 bed houses	Total = 35

12. As approved, the 17 rented dwellings were to comprise 4 x 2 bed flats and 13 x 3 bed houses and the 35 shared ownership dwellings were to comprise 18 x 2 bed flats and 17 x 3 bed houses.

Conclusion

13. Both Housing and Planning Officers consider the amendments to the mix of affordable housing to be acceptable and also that they do not change the principle of the approved development, nor its acceptability in planning policy terms.

14. The Committee is, therefore, requested to approve this change to the agreed obligations within the Section 106.