

Report to District Development Control Committee



**Epping Forest
District Council**

Date of meeting:

**Subject: Further Deed of Variation to Unilateral Undertaking – Affordable Housing Requirements
EPF/1400/2004 – Development at St Johns School, Epping**

**Officer contact for further information: Alan Hall
Committee Secretary: S Hill Ext 4249**

Recommendation(s):

That the Council enters into a further Deed of Variation to the Unilateral Undertaking with the applicant in respect of the planning permission granted for the demolition of St. Johns School, Epping and the construction of a new secondary school and residential development, in order to assist with the delivery of the affordable housing, specifically:

- (1) The confirmation of the actual proposed mix of affordable housing within the deed agreed with the Director of Housing; and**
- (2) the agreement that some of the individual shared ownership units do not meet the Homes and Communities Agency's Housing Quality Indicators (HQI's); and**
- (3) to allow the Housing Association and developer to negotiate and complete purchase of the affordable units on the site at a sum other than the maximum of build cost.**

Background

1. (Director of Planning and Economic Development/Director of Housing) Following an planning appeal in 2006, the Planning Inspectorate granted outline planning permission for the demolition of St. Johns School, Epping and the construction of a new secondary school and residential development. This included the acceptance of a Unilateral Undertaking submitted by the applicants, dated 19th September 2006.

2. Subsequently, in 2009, the Council approved the Reserved Matters application (EPF/0585/09) for the demolition of the School, the construction of the new school and the development of 149 dwellings (including 38 affordable homes – in accordance with the Outline Planning Permission).

3. In 2011, the District Development Control Committee agreed that the Council should enter into a Deed of Variation to the Unilateral Undertaking, to allow Affordable Rents (with rents of up to 80% of market rents, including service charges) to be charged instead of Social Rents, in accordance with Government policy.

4. In December 2012, the Council approved some non-material amendments to the development and the mix of the affordable housing.

5. The developer will be commencing the residential development part of the overall scheme later in the Autumn and the developer's solicitor has requested that, in order to safeguard their client, the Council enters into a Deed of Variation to confirm the minor changes to the original Unilateral Undertaking that have been agreed in principle or have come about through the passage of time.

6. The proposed Deed of Variation would cover the following main issues, plus some minor wording changes:

(a) **Confirmation of the mix of the affordable housing** – the Unilateral Undertaking states that the mix of the affordable housing should reflect the mix of the market housing. However, subsequent negotiations between the developer and the Director of Housing have resulted in a more appropriate and preferential mix for the affordable housing, that does not reflect the mix of the market housing.

The proposed Deed contains the actual mix of the affordable housing.

(b) **Scheme Development Standards** – the Unilateral Undertaking states that the affordable housing must meet the Housing Corporation's Scheme Development Standards and other funding conditions. However, since the time the Unilateral Undertaking was submitted, the Housing Corporation has been replaced by the Homes and Communities Agency (HCA) and the Scheme Development Standards have been replaced by Housing Quality Indicators (HQIs). Although the scheme as a whole meets the HQI standards, some of the individual shared ownership properties do not fully meet these new standards. Since, to a large extent, the quality of shared ownership properties is reflected in their market value, this does not cause any concerns.

The proposed Deed allows specific individual properties not to fully meet the HQIs.

(c) **Price for the affordable housing** – the Unilateral Undertaking states that the purchase price paid by the housing association to the developer must be no more than the cost of building the affordable housing. This was a common provision that the Council sought to include within Section 106 Agreements and Unilateral Undertakings back in 2006, since affordable housing was significantly funded by the former Housing Corporation at that time - through a bidding process.

However, the whole landscape of affordable housing development has changed over recent years, not least a significant reduction in HCA grant provided to housing associations (made possible by requiring housing associations to charge higher, Affordable Rents) and housing associations no longer having to bid for funding to the HCA (the successor to the Housing Corporation). Housing associations therefore negotiate purchase prices for affordable housing with developers, taking account of a number of factors. In this case, London and Quadrant Housing Trust will be purchasing the completed affordable properties from the developer and has negotiated an appropriate and affordable price.

The proposed Deed therefore removes definitions relating to the purchase price for the affordable housing.

7. The developer has agreed to meet the Council's legal costs to enter into the Deed. It is therefore recommended as set out at the commencement of the report.