

# Planning Committee

Greenlands Ward

16 June 2009

## **AFFORDABLE HOUSING TENURE CLAUSES – VARIATION TO A SECTION 106 AGREEMENT – FORMER MEGABOWL SITE**

(Report of the Head of Planning & Building Control)

### **1. Summary of Proposals**

To consider a variation to the Section 106 Agreement (planning obligation) to amend the affordable housing tenure clauses in line with current practice for nominating tenants and tenure types. This would bring the document in line with current Council policy and procedures and provide a better outcome in terms of the additional housing stock on this site.

This report cross-references to details approved under Planning Application 2005/552/FUL and is therefore business for the Planning Committee. (2005/552/FUL was an application for the erection of Erection Of 89 Residential Units With Associated Parking And Amenity Space on the former Megabowl site, Greenlands Drive, Redditch).

### **2. Recommendations**

**The Committee is asked to RESOLVE that**

**the variation to the Section 106 Agreement, dated 6 March 2006 and made between (1)The Council of the Borough of Redditch (2) Worcestershire County Council (3) Claypond Ltd (4) Dodd Homes (Greenlands) Ltd and (5) Britannia Building Society regarding the tenure and nomination rights of the affordable housing provision be agreed.**

### **3. Financial, Legal, Policy, Risk and Sustainability Implications**

#### Financial

- 3.1 The cost to the Council of entering into the Deed of Variation to the S106 Agreement will be sought from the other party.
- 3.2 The financial contributions required as parts of the planning obligation have all been paid and either spent or committed.

#### Legal

- 3.3 The legislative framework is provided by Section 106 of the Town and Country Planning Act 1990 (as amended).

- 3.4 Planning obligations, also known as Section 106 Agreements, are typically negotiated between local authorities and developers in the context of granting planning consent. (Sometimes they can take the form of unilateral undertakings made by developers.) They provide a means to ensure that a proposed development contributes to the creation of sustainable communities, particularly by securing contributions towards the provision of necessary infrastructure and facilities required by local and national planning policies. This can also include securing the provision in perpetuity of affordable housing and its occupation in line with Council policy and practice.

### Policy

- 3.5 Developers are required to provide infrastructure required as part of new developments having regard to standards set out in the Local Plan in force at that time.

### Risk

- 3.6 If agreement cannot be reached regarding the affordable housing provision, housing may not be provided in line with the needs of the residents of the Borough, and thus in compliance with the policies and practices of the Council, leading to a deficit of appropriate housing stock in the Borough. Officers will normally negotiate an acceptable solution in such situations, with reference to the relevant planning and legal framework.

- 3.7 Sustainability

No Sustainability / Environmental / Climate Change implications have been identified. All new affordable housing is now required to meet a minimum of level 3 of the Code for Sustainable Homes.

### Report

#### **4. Background**

- 4.1 Changes to the Council's affordable housing procedures, and especially the mechanism for allocating tenants and tenure types has changed recently in response to a housing need assessment, in order to ensure that the most appropriate accommodation is sought and provided to meet the needs of the Borough.
- 4.2 The dwellings on this site have been completed and some occupied, and the open space laid out ready to be transferred to the Council for ongoing maintenance, along with a commuted sum for the purpose.

- 4.3 There remains a sales presence on site, although most units appear to have been sold and occupied.

### 5. **Key Issues**

- 5.1 The planning permission for development at the former Megabowl site involved a planning obligation which specified the types of tenure that the affordable housing units (28 dwellings in total) would take, and the method of nomination of tenants. Further to that, five of the one bed flats that were identified as affordable housing for shared ownership have not been sold despite efforts by the RSL, and so it is now proposed that the tenure of these five units become social rented housing instead.
- 5.2 This minor change would comply with the current policy and practices of the housing team at the Council, and provide additional housing stock for those in need.
- 5.3 The original planning obligation required that the 28 affordable housing units be a mix of shared ownership and social rented units (for definitions see glossary at end of report). It is also important to ensure that the units remain as affordable housing in perpetuity by including a clause that if shared ownership units become 100% owned by the tenants, that there is a buy back clause that at the point of sale the unit has to be offered to a Registered Social Landlord ("RSL") at an appropriate value below market value.
- 5.4 It is therefore considered that as the change would not reduce the quantity or size of the affordable housing stock, and would provide homes for those in need, the proposed amendments are acceptable, and a deed of variation should be written accordingly.

### 6. **Other Implications**

No Asset Management, Community Safety, Human Resources, or Social Inclusion implications have been identified.

### 7. **Lessons Learnt**

Planning obligations drafted now no longer include specific plans and details, but refer to items that are to be agreed between the parties, or to the policy and practice of the Council current at the point of implementation in order to minimise the likelihood of this issue arising again.

8. **Background Papers**

Original Section 106 Agreement associated with the development of land at Greenlands Drive and the associated planning and legal files.

9. **Consultation**

There has been no consultation other than with relevant Borough Council Officers.

10. **Author of Report**

The author of this report is Ailith Rutt (Development Control Manager), who can be contacted on extension 3374 (email:-ailith.rutt@redditchbc.gov.uk) for more information.

11. **Appendices**

None.

12. **Glossary of Terms**

**RSL** means a Registered Social Landlord

12.1 **Affordable Housing Units** means those units forming the Development comprising the Social Rented Units and the Shared Ownership Units available for rent or shared ownership to specified eligible households whose needs are not met by the market as defined in Government Directive by Planning Policy Statement 3 entitled "Housing"

12.2 **Intermediate Housing Units** means the Affordable Housing Units to be provided via an approved Registered Provider (RP) at prices and rents above those of Social Rent, but below market prices or rents. These can include shared equity products (e.g. HomeBuy), other low cost homes for sale and intermediate rent

12.3 **Shared Ownership Units** means the Affordable Housing Units to be constructed on the Site to provide social housing by way of Shared Ownership available for leasehold purchase on a shared equity scheme enabling the purchase of an agreed proportion of equity in a lease (of not less than 25% and not greater than 90% thereof) by the occupier who continues to pay rent on the proportion of the lease which has not been so purchased.

- 12.4 **Social Rented Units** means the Affordable Housing Units to be provided via an approved Registered Provider (RP) for rent at or below Tenant Services Authority Benchmark Rent levels to persons registered as being in housing need on the Borough Council's Choice Based Lettings Register and to be occupied in accordance with the Nomination Rights