

Planning Committee

Item
8

Date 27 August 2015

Report of	Head of Commercial Services	Author	Alistair Day 01206 282479
Title	Amendment to the mortgagee exclusion in respect of affordable Housing on the Garrison Urban Village development		
Wards affected	Christ Church, New Town, Berechurch		

This report concerns a request for a Deed of Variation to the garrison legal agreements (both the s299a agreement and the s106 signed in relation to the development of Area S2SW) in respect of mortgagee exclusion.

1.0 Decision Required

- 1.1 Members are requested to endorse the requested Deed of Variations to the s299a agreement dated 30 June 2003 and the s106 dated 22nd May 2012 in respect of the requested changes to the mortgagee exclusion clauses.

2.0 Reasons for Decision(s)

- 2.1 The reasons for the requested Deed of Variations are:
- A. The mortgagee exclusion clause 9.4 in the s299a Garrison legal agreement is considered defective by lenders to the Registered Provider and as such will they only lend them finance at a reduced value.
 - B. The s106 relating to Garrison Area S2SW currently does not contain a mortgagee exclusion clause at all. It is proposed to add one as this will enable the Registered Provider to access a greater level of funding

3.0 Alternative Options

- 3.1 Members could decide not to endorse the requested Deed of Variation. If Members select this option, the finance that the Registered Provider is able to access will be less and this will affect their ability to provide affordable housing.

4.0 Supporting Information

- 4.1 The Outline Garrison Urban Village development (ref O/COL/01/0009) was granted planning permission in June 2003 and is subject to a s299a legal agreement, which covers amongst other obligations the provision of affordable housing. The mortgagee exclusion in the s299a legal agreement is considered defective by lenders to the Register Providers sector and, as such, they will only lend finance at a reduced value.

4.2 Chelmer Housing Partnership, who has requested the Deed of Variation to the s299a legal has provided the following simplified explanation of the situation:

A property is charged by a Registered Provider to a lender at market value subject to tenancy (MVST) which is approximately 2/3 of the open market value of the property. If there is a binding legal document which does not have an effective mortgagee exclusion clause then a lender will only lend finance at existing use value social housing (EUV-SH) level which is 1/3 of the open market value of the property. By way of example assuming a property is worth £200,000 if there is an effective mortgagee exclusion clause then the property can be charged at £132,000, but if there is a defective mortgagee exclusion clause then the lender will only loan £66,000. When this difference is multiplied across the number of units across a site the difference becomes considerable.

The proposed amendment to the s299a agreement will enable the Chelmer Housing Partnership properties to be charged at MVST rather than EUV-SH which it is currently limited to. This change will allow the Registered Provider to raise additional finance for the provision of affordable housing. The proposed amendment to the mortgagee exclusion clause does not affect the number of affordable housing units that have been agreed as a part of the Garrison Urban Village development.

4.3 The development on Garrison Area S2SW (ref 091563) was subject to a separate s106 legal agreement (dated 22nd May 2012). In this case, the affordable housing provisions did not include a mortgagee exclusion clause and, as a consequence of this, finance is limited to EUV-SH level. The insertion of a mortgagee exclusion clause will enable Chelmer Housing Partnership to secure finance at the higher MVST valuation. As with the proposed Deed of Variation to the s299a agreement, the requested amendment will not affect the number of affordable housing units that have been agreed as a part of the development of Area S2SW.

5 Strategic Plan References

5.1 A key aim of the Strategic Plan (2015-18) is to generate opportunities for growth and infrastructure; this includes supporting opportunities to increase the number of affordable homes for local people.

6. Consultations

6.1 The Council's Housing Development Officer supports the proposed Deed of Variation to the garrison legal agreements

7. Publicity Considerations, Financial Implications, Equality, Diversity and Human Rights Implications, Community Safety Implications, Health and Safety Implications and Risk Management Implications

7.1 None directly arising from this report.

Background Papers: Strategic Plan