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Application: 170997
Location: Hill House, Carters Hill, Boxted, Colchester, CO4 5RD
Ward: Rural North

Planning Committee

Item
8

Date 30 May 2019

Report of	Assistant Director – Policy and Corporate	Author	Lucy Mondon 01206 506964
Title	Amendment to the mortgagee exclusion in respect of affordable Housing clause in relation to s.106 agreement associated with development at Hill Farm, Carters Hill, Boxted		
Wards affected	Rural North		

This report concerns a request for a Deed of Variation to the Hill Farm, Boxted agreement in respect of mortgagee exclusion.

1.0 Decision Required

- 1.1 Members are requested to endorse the requested Deed of Variation to the s106 agreement dated 7th August 2017 in respect of the requested changes to the mortgagee exclusion clauses.

2.0 Reasons for Decision(s)

- 2.1 The reason for the requested Deed of Variations is that the mortgagee exclusion clause 5.1.2, and in Schedule 3 Part 3, of the original s106 agreement is considered defective by lenders to the Registered Provider and as such they will only provide loan finance at a reduced value.

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 reduced and this will affect their ability to provide affordable housing.

4.0 Supporting Information

- 4.1 Outline permission was granted (ref 170997) in August 2017 and is subject to a s106 legal agreement, which covers amongst other obligations the provision of affordable housing. The current mortgagee exclusion in the s106 legal agreement has the effect that lenders to the Register Providers sector will only lend finance at a reduced value.
- 4.2 By way of explanation, 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 approximately 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 by the number of units across a site then the difference in value becomes considerable.

The proposed amendment to the s106 agreement will enable Registered Provider 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 and secured as part of the Outline permission.

- 4.3 For information, Reserved Matters were approved for the development in June 2018 (ref: 180540).

5.0 Strategic Plan References

- 5.1 A key aim of the Strategic Plan (2018-21) is to generate opportunities for growth and infrastructure; this includes supporting opportunities to increase the number of affordable homes for local people.

6.0 Consultations

- 6.1 The Council's Housing Development Officer supports the proposed Deed of Variation to this development.

7.0 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