



**PLANNING COMMITTEE:** 30 July 2013

**DIRECTORATE:** Regeneration, Enterprise and Planning

**HEAD OF PLANNING:** Susan Bridge

**REPORT TITLE:** LA/2010/0011 and 0013, Land Off South Meadow Road, St Crispins, Deed of Variation to S106 agreement

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## **1. RECOMMENDATION**

- 1.1 That the Committee agree to the variation of the S106 agreement as set out in this report.

## **2. BACKGROUND**

- 2.1 In February 2011, WNDC (the Planning Authority at the time) entered into a S106 agreement in relation to an application to erect 80 dwellings on land off South Meadow Road, adjacent to the St. Crispin's estate.
- 2.2 The S106 contains a number of obligations with regard to affordable housing, off-site highway works and financial contributions to be made under WNDC's 'Standard Charge' contributions mechanism. The standard charge payments from the scheme are to be made over 4 instalments. Any obligations on WNDC, the former Planning Authority, transferred to NBC in April 2012.
- 2.3 Construction is underway at the site and a number of obligations have been discharged. The first standard charge payment has been made.
- 2.4 In terms of affordable housing, 35% (27 dwellings) of the scheme will comprise affordable units, with a mix of 70/30 social rent/ shared ownership. The Registered Social Landlord (RSL) taking forward the affordable units is Home Group Ltd.

## **3. PROPOSED VARIATION**

- 3.1 Home Group Ltd wish to vary paragraph 10 (c) of the agreement which relates specifically to the shared ownership (intermediate) units. This paragraph and the associated paragraph 14 require that any tenants of

a shared ownership unit who wish to dispose of that unit, shall not do so on the open market unless they have satisfied the following requirements:

- Served notice on the affordable housing provider and the Borough Council, stating their intention to dispose of the property;
- Provided three written assessments of the market value of the property;
- Allowed the affordable housing provider to market the property through the housing allocations and choice based lettings scheme at a price to be agreed.

3.2 Essentially, these requirements allow dwellings in which the tenant owns a part stake to be re-marketed. These requirements should fall away once a tenant has 'staircased' up and acquired 100% equity in the property i.e. there is little point in the affordable provider marketing a property in which a 100% stake has been acquired because it would have full market value making it unaffordable. However, due to a drafting error in the S106 at paragraph 10(c) (Schedule 4), tenants who acquire 100% are still required to go through this process under the terms of the agreement.

3.3 Accordingly, Home Group Ltd has proposed an amendment to the S106 by deed of variation which would amend paragraph 10(c). The new wording would state that the restrictions on the disposal of the affordable housing units shall

*(c) cease to apply to a tenant of an intermediate Housing Unit who has acquired 100% share in the value of the Intermediate Housing Unit and any successors in title*

#### **4. CONCLUSION**

4.1 Officers have discussed the amendment with colleagues from Housing Strategy and are satisfied that the wording in the original S106 was included in error. Once a tenant has acquired 100% stake in a dwelling, they should be free from any restrictions set out in the S106 agreement, insofar as it relates to the disposal of the dwelling. It is therefore recommended that the agreement is amended as set out above.

#### **5. LEGAL IMPLICATIONS**

5.1 As set out in the report.

#### **6. SUMMARY AND LINKS TO CORPORATE PLAN**

6.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.