



**PLANNING COMMITTEE:** 29<sup>th</sup> October 2013

**DIRECTORATE:** Regeneration, Enterprise and Planning

**HEAD OF PLANNING:** Susan Bridge

**REPORT TITLE:** Deed of Variation to S106 agreement pursuant to planning permission N/2011/0241 to allow the “on site equity share contribution” to be used off site for the provision of affordable housing, former Millway Primary School site, Millway, Duston

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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 An application for the erection of 52 dwellings on this site was considered by the Planning Committee on 7<sup>th</sup> February 2012. At that time it was proposed by the developers that only 23% affordable housing would be provided on the site, due to concerns over the viability of the scheme. The report to Committee recognised that there may be viability issues and recommended that the decision on the final level of affordable housing to be required on the site should be delegated to the Head of Planning, following a full consideration of the viability of the scheme and negotiations with the developers. This recommendation was accepted by the Planning Committee and the application was approved in principle.

2.2 After negotiations with the developers, a further report was presented to the Planning Committee on 4<sup>th</sup> September 2012. This recommended that in addition to the 23% affordable housing previously proposed, a further 11 units would be provided on a shared equity basis, with the Council taking a 20% stake in each of these 11 units, which would be paid for by a financial contribution from the developer. The occupiers of these units would then have to find only 80% of the cost of the properties, funded by a mortgage, making them more affordable. This would then bring the total level of affordable housing on the site to the equivalent of 44%.

- 2.3 In order to provide these units on the site it was necessary to include clauses within the Section 106 agreement requiring the developer to pay a financial contribution, referred to as the “on site Equity Share Unit Contribution” and for the Council to agree to enter into a further agreement, the “Equity Share Agreement” with the developer. This revised recommendation was approved in principle by the Planning Committee and a Section 106 agreement including these clauses was signed by the developers and the permission issued on 3<sup>rd</sup> December 2012.
- 2.4 Since that time negotiations have been ongoing between the developer and the Council’s nominated affordable housing provider on the implementation of the equity share scheme.
- 2.5 Whilst these negotiations were underway, changes to the housing market and Government legislation were also occurring. The most significant of these has been the introduction by the Government of the “Help to Buy” scheme. The terms of this scheme are more attractive to purchasers than the Council’s equity share initiative, the result of which is that this scheme is not being taken up by lenders.
- 2.6 The effect of this change and the legal complexity of drafting the Equity Share Agreement are that the scheme as originally envisaged has been overtaken by events and would appear to be effectively unworkable.

### **3. PROPOSED VARIATION**

- 3.1 The proposed variation to the agreement is that the developers would still make the previously proposed payment of £370,000, and that this would be made at the same trigger points as before.
- 3.2 However, rather than being reinvested into the shared equity scheme on this site, this payment would be used to provide affordable housing on other sites, which would be in addition to the 35% level required on those sites.
- 3.3 The sites would initially be either constructed by Westleigh, the developer in this case, either on sites they have acquired or which are referred to them by the Borough Council. However, if the money is not used on such sites over the first five years this would effectively become an off-site contribution to be used by the Council to purchase affordable housing elsewhere in the Borough.
- 3.4 The housing would be at tenures to be agreed between Westleigh, Northampton Borough Council and the Registered Provider and would include affordable rented and shared ownership properties.

#### **4. CONCLUSION**

- 4.1 It is considered that the previously proposed scheme of on-site shared equity has effectively been overtaken by events in the form of the introduction of the Government scheme as discussed above and that the proposed alternative of the same level of funding being applied to other sites represents an effective way of providing an acceptable level of affordable housing in respect of this development site.

#### **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.