



PLANNING COMMITTEE: 17th December 2015

DIRECTORATE: Regeneration, Enterprise and Planning

DIRECTOR: Steven Boyes

REPORT TITLE: Variation of Section 106 agreement dated the 23rd June 2015 pursuant to planning permission N/2014/0629 (Development of foodstore, 54 dwellings and associated highway works) at the former W. Grose garage site, Kingthorpe Road

1. RECOMMENDATION

- 1.1 That the Committee **AGREE** to vary the Section 106 agreement to accept the variation in tenure mixture for the provision of on-site affordable housing and in the event that the developer is unable to dispose of the properties as affordable housing to accept a contribution towards the provision of off-site affordable housing.

2. BACKGROUND

- 2.1 Planning application N/2014/0155 was considered by the Planning Committee in September 2014 and February 2015 where it was resolved to approve the application in principle, subject to the prior completion of a legal agreement to secure on-site affordable housing provision and contributions for open space, education and health care provision in addition to highway works and construction worker training opportunities.
- 2.2 The level of on-site affordable housing had been reduced from the normal 35% to 26% (14 dwellings) as a viability appraisal was submitted that had been the subject of a robust, independent analysis which demonstrated that the development would not be viable if the 35% was insisted upon and therefore the scheme would be unlikely to come forward.
- 2.3 The S106 agreement was completed in June 2015 and planning permission issued. Works on site have subsequently commenced.
- 2.4 In the intervening period, as a result of the Government's announcements in the Budget Summer 2015 to reduce social rents in the four years from 2016-17 and the intention to extend the Right to Buy to housing association tenants, housing associations are reviewing their existing financial commitments and the plans for the future. This has introduced some uncertainty in the market with a number of housing associations being

reluctant to commit to new projects until more detail about the Government's proposals are available including the conclusion of the Planning and Housing Bill which is currently progressing through Parliament.

- 2.5 As a consequence of this, the developer has not been able to identify an RP willing to operate the affordable housing with the previously agreed tenure mix (i.e. one third being occupied on shared ownership tenures and two thirds being occupied on affordable rented tenures).

3. PROPOSED VARIATION

- 3.1 Section 106A of the Town and Country Planning Act 1990 allows a planning obligation to be modified by agreement between both parties. As a consequence, Mulberry Property Developments Ltd and W. Grose Ltd have requested the Borough Council voluntarily agree to a variation of the planning obligations. As is standard, the Section 106 Agreement states that the no more than 50% of the market housing can be occupied until 50% of the affordable housing has been made available for occupation and that all affordable housing should be made available for occupation prior to 85% of the market housing being occupied.
- 3.2 The developer has provided full information regarding efforts to market the affordable housing mix as originally agreed and the interest shown by RPs would generate a return for the developer that is substantially less than the amount previously envisaged. If the Section 106 Agreement is not varied, there is a risk that the affordable and market housing – both of which are much needed in Northampton – would not be delivered in their entirety. In addressing this point, officers have considered recent Ministerial guidance (published 9th November 2015), which requires that Councils in addressing the matter of affordable housing should adopt a flexible approach in order to avoid delaying housing delivery. This approach should include considering the suitability of 'cascade' mechanisms (i.e. the securing of financial contributions towards off site provision) if necessary to avoid such delays.
- 3.3 The applicant has identified a procedure where the affordable houses would be sold through a Help to Buy agent to purchasers who meet the relevant eligibility criteria with the houses being managed in conformity with the relevant regulatory framework. This would result in the amount of affordable housing being the same as previously agreed, albeit with all dwellings being occupied on shared ownership tenures.
- 3.4 This approach does mean that there is a possibility of there being insufficient interest in the affordable units given that they would be available on one tenure type only. In order to demonstrate the flexibility that is required by the guidance described in paragraph 3.2, the revised legal agreement would need to include a 'cascade' mechanism. This situation was envisaged to some degree by the Council's Affordable Housing Interim Policy Statement.
- 3.5 The revised legal agreement would require the developer to market all 14 dwellings for occupation as shared ownership dwellings for a period of at least three months. Upon the conclusion of this period, the developer would need to submit details of the marketing of any unsold properties to the Council for assessment. Assuming that all reasonable efforts have been made to market the properties, the developer would then make a financial payment for each

unoccupied unit to the Council to contribute towards the provision of off-site affordable housing.

- 3.6 This payment would be calculated on the difference between the expected returns of market and affordable tenures (market housing will generally attract a much higher return for the developer). These figures were established in the viability appraisal, which has been independently assessed. This figure would be subject to a 15% uplift in order to cover the greater costs attributed to the provision of off-site affordable housing.

4. CONCLUSION

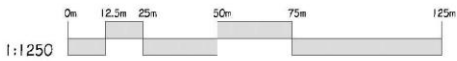
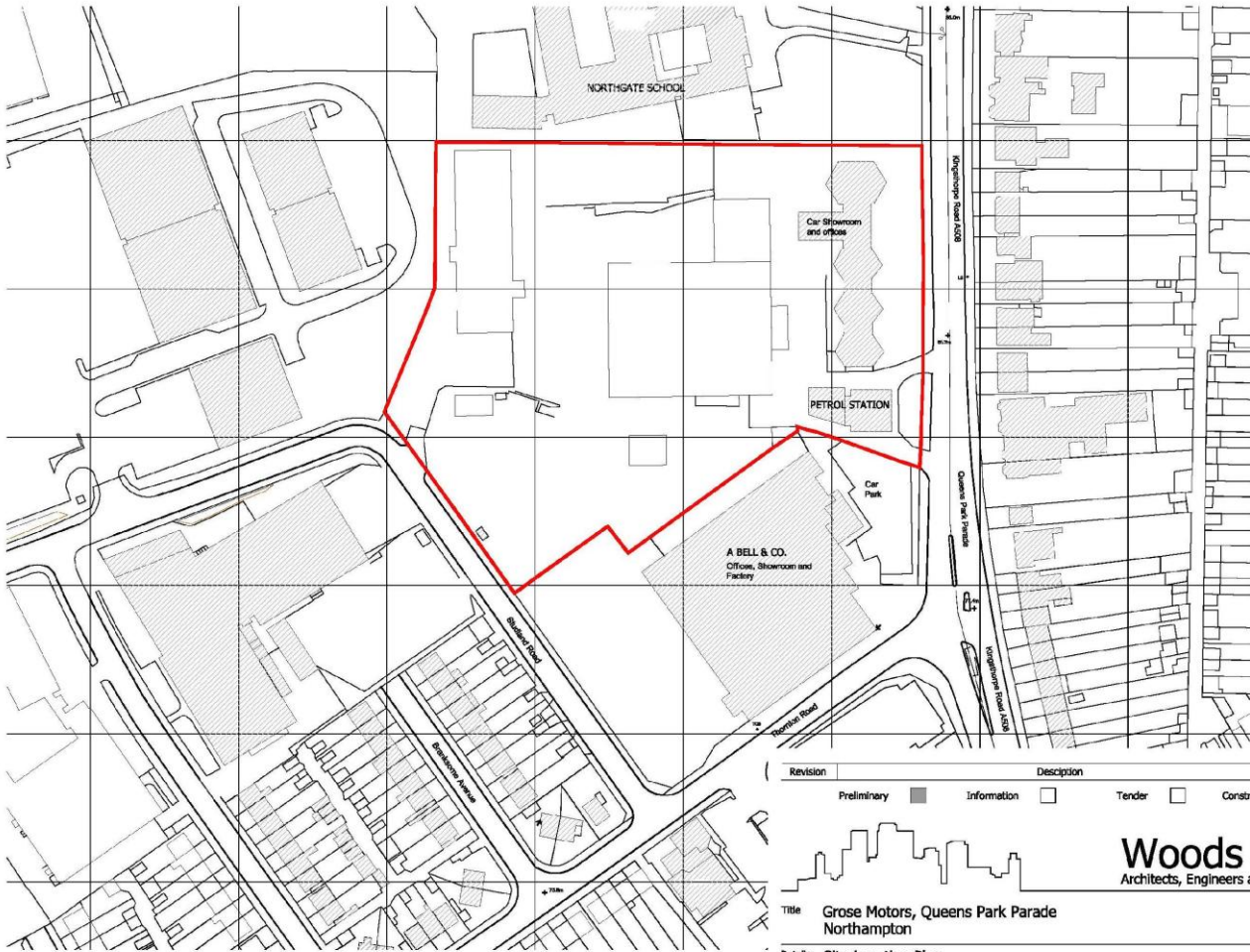
- 4.1 It is recognised that there are significant difficulties in the delivery of affordable housing on this site. Clearly, it would not be desirable to potentially disrupt the redevelopment of the site, which would contribute to meeting the demand for both market and affordable housing in Northampton particularly as the proposal represents the reuse of previously developed land and is in a sustainable location. In the event that the affordable housing is not deliverable on site, a mechanism has been agreed that would ensure the payment of a reasonable contribution for off-site provision.

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.



1:1250

Revision	Description	Drawn	Checked	Date
Preliminary	Information	Tender	Construction	As Built

Woods Hardwick
Architects, Engineers and Development Consultants

Title **Grose Motors, Queens Park Parade Northampton**

Details **Site Location Plan**

Scale **1:1250@A3** Date **May 2014** Drawn **DR** Chk **GS**

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