

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

13th January 2010

AUTHOR/S: Executive Director (Operational Services)/Corporate Manager (Planning and Sustainable Communities)

S/1669/05/F - TEVERSHAM
Erection of Eighteen Flats Following Demolition of Two Houses
Including Part Demolition and Extension
at 750-754, Newmarket Road (the site is now known as Redwings)
for Gibson Developments

Recommendation: Delegated Approval

Notes:

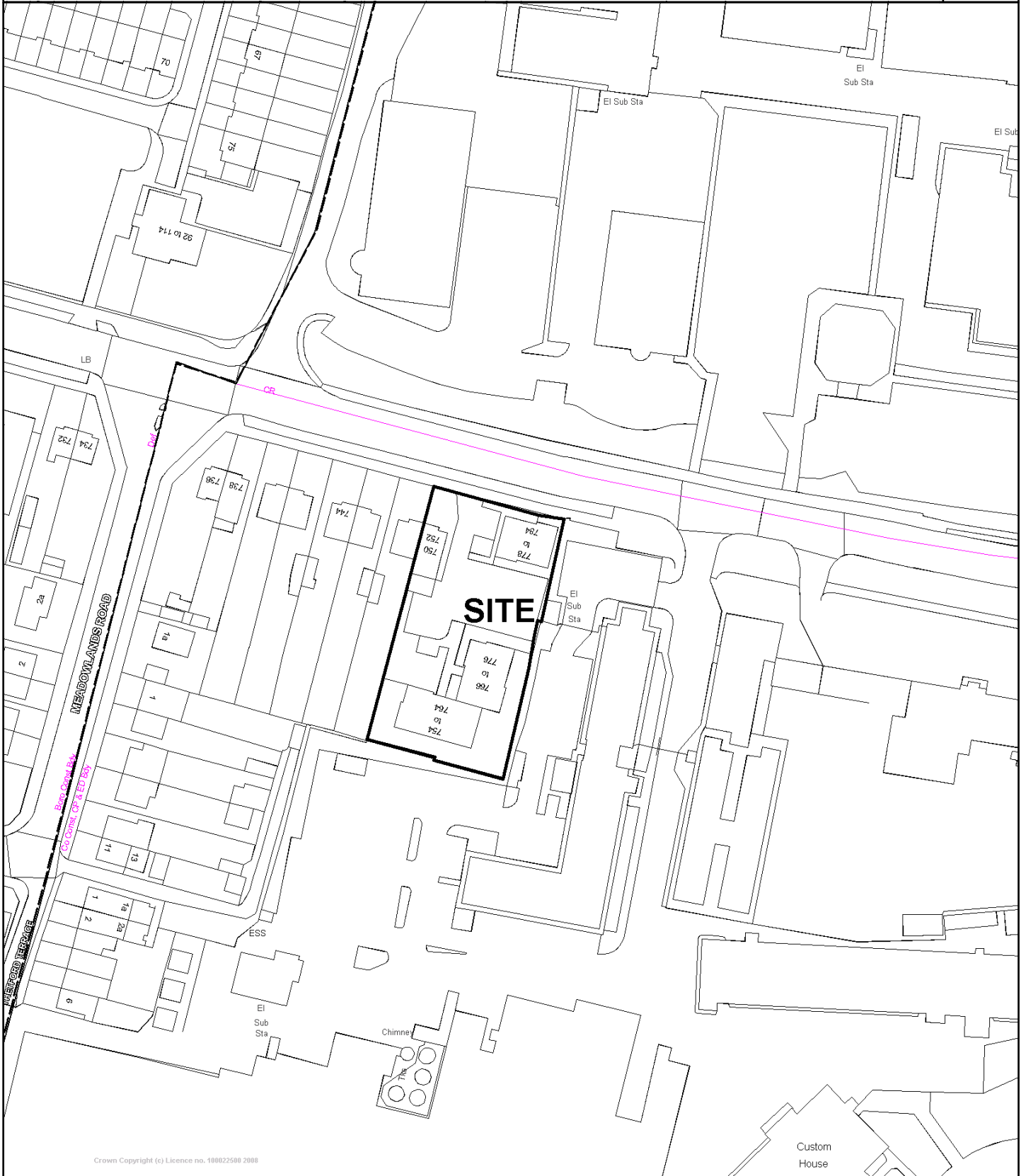
This Application has been reported to the Planning Committee for determination because of a material change to the Section 106 agreement from the Heads of Terms previously reported to Members.

Site and Proposal

1. The application site is a recently completed residential development comprising eighteen flats on 0.195 hectares.
2. The developer of the site is seeking a Deed of Variation to the Section 106 legal agreement attached to this planning permission, to permit:
 - (i) The renting of the affordable units on the market on an Assured Shorthold Tenancy basis for a period until 30th June 2011; and
 - (ii) Detach the occupation of the free market dwellings from the occupation of the affordable units;or;
 - (iii) Accept a commuted sum in lieu of on-site provision and allow all units to be let or sold on the free market.

Background

3. The original Section 106, which was secured by way of a Unilateral Undertaking, requires the developer to have entered into an agreement with a Registered Social Landlord (RSL) to deliver the affordable provision, prior to the occupation of the private units. All of the affordable units are for the purposes of shared ownership.
4. The developer had an agreement in place with an RSL, but unfortunately this was not completed and fell through. A new contract with an alternative RSL is yet to be completed. Although the Housing Development and Enabling Manager has been assisting in this process, the market conditions are such that it has not been possible to secure an alternative RSL. The developer has been liaising with the Council during the past year to ensure that all reasonable avenues have been explored.



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Scale 1/1250 Date 21/12/2009

Centre = 548554 E 259177 N

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5. In February 2009, Members of the Planning Committee agreed to allow the Variation of the Section 106 such that the private units are prevented from being sold, but allows them to be occupied on an assured shorthold basis for a 12 month period.
6. The current, on-going, difficult market conditions are having an impact on all sectors of the housing market, including affordable housing and particularly shared ownership units.
7. The developer is therefore requesting a further variation to the legal agreement, whilst an alternative RSL is found or that a contribution in lieu of provision on site be accepted. The attached appendix (Appendix 1) includes a letter from the developer's agent setting out their position and should be read in conjunction with this report.
8. A meeting is to be held with the developer's agent ahead of the Planning Committee meeting; an update will be provided.

Planning History

9. The planning application for this development (ref. **S/1669/05/F**) was reported to Members on 2nd November 2005. Permission was subsequently granted on 30th November 2005, following submission of a Unilateral Undertaking by the previous owners, which included the provision of affordable housing and contributions in respect to Public Art to the Council and a Transport contribution to the County Council. For information, the Council has received the Public Art contribution.
10. Prior to this approval, permission was refused in 2004 (ref. **S/0281/04/F**) for eleven flats due to issues concerning the impact on a neighbouring property.
11. A resubmission (ref. **S/1419/04/F**) for eleven flats was subsequently granted permission in November 2005. This included a Unilateral Undertaking in respect to the provision of affordable housing.
12. A further application (ref. **S/0722/05/F**) for a similar scheme was withdrawn prior to determination

Planning Policy

13. **Policy HG/3 Affordable Housing** of the South Cambridgeshire Local Development Framework (LDF) Development Control Policies DPD, adopted July 2007 is of relevance.
14. **Affordable Housing SPD (Draft), 2009** of the South Cambridgeshire Local Development Framework (LDF) has been consulted upon (consultation ended on 4th December 2009). It advises in chapter 5 that where financial viability is an issue a full economic appraisal is required of the costs of development and of returns from the sale of housing to show what sum could be made available for affordable housing. The acceptance of anything other than on-site provision is purely at the Council's discretion and is not an option available to developers / landowners / agents where it is simply their preference. It will only be looked at as a last resort where provision of affordable housing on-site cannot reasonably be secured. It will not be appropriate for major developments (10 or more dwellings) to provide financial contributions in lieu of on-site provision.
15. **Planning Policy Statement 3 (Housing)**

16. **Circular 05/2005 (Planning Obligations)** – Advises that planning obligations must be relevant to planning, necessary, directly related to the proposed development, fairly and reasonably related in scale and kind and reasonable in all other respect.

Consultation

17. **Legal Services** has not formally commented; an update will be provided.
18. The **Housing Development and Enabling Manager** has not formally commented; an update will be provided.

Representations

19. The views of the Local Member will be sought and an update provided.

Planning Comments – Key Issues

20. The issues in determining this matter are whether an acceptable mechanism for the delivery of affordable housing can be agreed.

Option A: The renting of the affordable units on the market on an Assured Shorthold Tenancy basis for a period until 30th June 2011; and Detach the occupation of the free market dwellings from the occupation of the affordable units;

21. In principle this option will ensure that the affordable units are secured and in time will be delivered. Tying the sale of market units to occupancy of affordable units is normally a mechanism used to ensure that the affordable units are constructed. This is not the case in this situation. Therefore, subject to suitable wording of a deed of variation to the Section 106 agreement, such that short-term letting be provided as a fall-back until transfer to an RSL can be resolved and that a time period for this is specified, this clause is not required.
22. The Council's solicitor has questioned whether the tenure could be varied from shared ownership to social rented in order to attract an RSL. This will be taken up with the Housing Delivery and Enabling Manager and the developer and an update will be provided.

Option B: Accept a commuted sum in lieu of on-site provision and allow all units to be let or sold on the free market.

23. In policy terms this option is not currently considered to be acceptable due to the size of the scheme and as no assessment of the scheme's viability has been submitted for assessment. However, it is informally considered that, as an exception to normal operation of the affordable housing policy, in this case, due to the time lapsed and lack of success in securing an RSL due to the market situation it is necessary to invite the developer to explore, as if the development funding falters it will be difficult to secure anything on the site. The developer's agent will be invited to submit an assessment using the Housing Corporation model. Should this option prove to be acceptable, a further variation to the Section 106 will be necessary.
24. A meeting with the developer's agent is to be held and an update will be provided in relation to the above matters.

Recommendation

25. That **delegated approval** be given to allow officers to:
- A. seek a variation to the Section 106 agreement to allow the renting of the affordable units on the market on an Assured Shorthold Tenancy basis for a period until 30th June 2011; and detach the occupation of the free market dwellings from the occupation of the affordable units and replace it with suitably worded alternative safeguarding clause;
- and,
- B. subject to an agreed valuation exercise being undertaken and receipt of evidence from an independent valuation on behalf of the Council clearly showing that the that the viability of the scheme is at risk, accept a commuted sum in lieu of affordable housing on-site.

Background Papers: the following background papers were used in the preparation of this report:

- South Cambridgeshire Local Development Framework Development Control Policies DPD (adopted July 2007)
- South Cambridgeshire Local Development Framework Affordable Housing SPD (Draft), 2009.
- Planning Policy Statement 3 (Housing)
- Circular 05/2005 (Planning Obligations)
- Planning File Refs. S/1669/05/F, S/0281/04/F, S/1419/04/F and S/0722/05/F.

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