

## **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Planning Committee

4<sup>th</sup> February 2009

**AUTHOR/S:** Executive Director / Corporate Manager – Planning and Sustainable Communities

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### **S/1669/05/F - TEVERSHAM**

**Erection of Eighteen Flats Following Demolition of Two Houses Including Part Demolition and Extension at 750-754, Newmarket Road for Gibson Developments**

**Recommendation: Approval**

#### **Notes:**

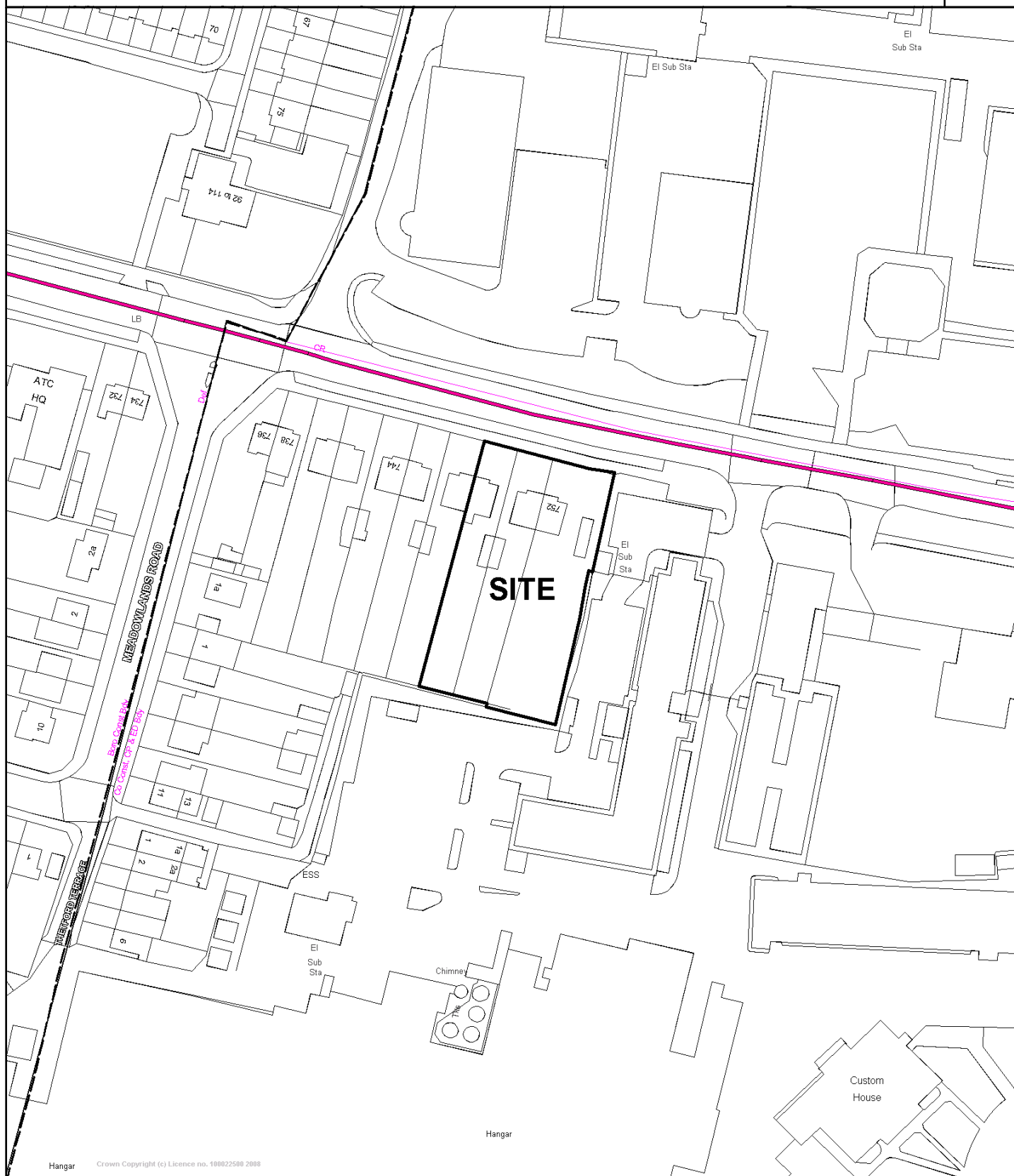
**This Application has been reported to the Planning Committee for determination because of a material change to the Section 106 agreement from the Heads of Terms previously reported to Members.**

#### **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 the renting on an assured short hold basis of the 11 private units in this development, without the occupation of the 7 affordable housing units.

#### **Background**

3. The current 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. A new contract with an alternative RSL is yet to be completed, although the Housing Development and Enabling Manager is assisting in this process.
5. The current difficult market conditions are having an impact on all sectors of the housing market, including affordable housing and particularly shared ownership units.
6. The developer is therefore requesting a variation to the legal agreement, in order for the private units to be rented on an assured short hold basis, to generate some income, whilst an alternative RSL is found. They have requested a period of 12 months and are only seeking to rent the private units and not to sell them during this time.



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Scale 1/1250      Date 22/1/2009

Centre = 548542 E 259164 N

February Planning Committee

## Planning History

7. The planning application for this development (ref. **S/1669/05/F**) was reported to Members on 2<sup>nd</sup> November 2005. Permission was subsequently granted on 30<sup>th</sup> 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.
8. 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.
9. 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.
10. A further application (ref. **S/0722/05/F**) for a similar scheme was withdrawn prior to determination

## Planning Policy

11. **Policy HG/3 Affordable Housing** of the South Cambridgeshire Local Development Framework (LDF) Development Control Policies DPD, adopted July 2007 is of relevance.

## Consultation

12. **Legal Services** have advised that there is no reason why a variation cannot be entered into by agreement, although it should be emphasised that this is in response to an approach outside the statutory 'application' process.
13. A formal Deed of Variation is required should the proposed 12 month period be considered acceptable.
14. The Council's Solicitor has been in discussion with the developer's solicitors and an initial wording has been drafted.
15. The **Housing Officer** raises no objections to the proposed Deed of Variation and is working with the developer and RSLs in order to find an appropriate alternative partner.

## Representations

16. None

## Planning Comments – Key Issues

17. The sole determining issue in respect to this matter is whether it is reasonable to allow the developer a 12 month period of letting the private units, in the absence of an agreement with an RSL in respect to the affordable units.
18. The proposed agreement with the original RSL partner fell through at a late stage. The developer has however kept the Council informed of this and progress in securing an RSL alternative partner on this site.

19. All of the private and affordable units are completed, but remain unoccupied, with the potential for this situation to continue, whilst the developer seeks an alternative RSL.
20. It is felt that an appropriate compromise position is now proposed, which prevents the private units from being sold, but allows them to be occupied on an assured short hold basis for the 12 month period, which is a reasonable time period for discussions with RSLs to take place, whilst giving some cash flow to the developer.
21. If during the 12 months a new RSL partner is found and a formal agreement made with the developer, the private units can then be sold or they can continue to be rented.
22. This protects the Council's position in ensuring that the affordable housing is delivered, ensuring a reasonable approach to the developer in a difficult market, whilst minimising the number of empty properties.

### **Recommendation**

23. That the proposed variation to the Section 106 agreement be agreed.

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

- South Cambridgeshire Local Development Framework Development Control Policies (adopted July 2007)
- Planning File Ref. S/1669/05/F

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