

REPORT TO: Development Control and
Conservation Committee

1st December 2004

AUTHOR/S: Development Services Director

**Cambourne: Lack of Developer Approval
for Affordable Housing Schemes**

Purpose

1. This report highlights the problems being experienced by the Council's Registered Social Landlord (RSL) partners in securing developer approval to their housing schemes, and the consequential impact on funding.

Effect on Corporate Objectives

2. Quality, Accessible Services	N/A
Village Life	Affordable housing is an integral part of the life of a village, ensuring homes are available to all sections of the community.
Sustainability	A range of housing is necessary to sustain a community, especially in the long term.
Partnership	The Council's partnership with RSLs will be jeopardised if these schemes lose funding, as there will be a knock-on effect for future funding of affordable housing.

Background

3. The Cambourne Section 106 Agreement includes clause 17.4 which requires all development schemes, including housing, to be approved by the developers before any construction can commence. The actual clause reads:

"No built development shall be constructed on the site unless and until the Developers shall have approved the design, materials, elevations and type of construction thereof PROVIDED ALWAYS that the Developers shall have regard to any decision by the relevant local planning authority upon any reserved matters application in respect thereof and shall also have regard to the financial implications in respect of the provision of Social Housing, Affordable Housing and all community and public buildings referred to in the Third Schedule hereto."

Additionally, Part 6.1 of the Section 106 Agreement states:

"The Owners shall transfer to the Council (or as the Council may direct) 37 acres of Free, Serviced land in tranches throughout the Site allocated in accordance with the Master Plan;"

Considerations

4. The lead officer for the RSL consortium (Dianne Page) has written to the Council outlining the possible problems of delivering affordable housing within four housing pods, GC16, GC20, GC21 and GC22 (attached plan highlights locations and a copy

of Dianne Page's letter outlining the issues is also attached). The RSL's have been discussing these sites with the developers' consortium since March, but still no formal agreement has been given by the developers to allow the schemes to proceed. The RSL's need the developer approval prior to the commencement of work on site and continued delays seriously risk the delivery of these schemes. It appears that the developers are requesting information outside the requirements in the Section 106 Agreement (the submission of landscaping and external surfacing materials) and therefore deliberately slowing down the process of affordable housing. This is leading to a serious concern regarding the delivery of affordable housing within Cambourne and potentially puts at risk 6 million pounds of external housing funding. Should this situation result in the loss of affordable housing and the commitment of the RSL's in the area the consequence could be that it becomes difficult for future affordable housing to be delivered within Cambourne.

5. It is reasonable to conclude that the developers are waiting on the outcome of the Cambourne Enhanced Inquiry, pre-application discussions on market housing sites have revealed that they are reluctant to discuss schemes in line with the current Masterplan at this time and are submitting proposals substantially above the Masterplan allocated numbers.
6. Potentially the most seriously affected pods are GC22 and GC16, which have tight timetables to deliver next year. In addition GC16 has attracted European funding for the provision of a Sustainable Drainage System and was to be a showcase within Cambourne of how water concerns could be address within the environment rather than using the traditional piped systems.
7. A further consequence would be that ultimately the land would revert to the developers:
8. *"If construction of social housing on any tranche of land has not begun within 36 months from the date of transfer, the land shall be re-transferred within one month to the developers for affordable or MARKET HOUSING at their option"*
9. Currently the RSL's themselves have no ability to consider taking the developers to arbitration in order to ensure a fair and just hearing, due to the wording of the current Section 106 Agreement, therefore they have no way of ensuring development can take place. However, the Section 106 Agreement does allow the Council to undertake this course of action on behalf of the RSL's although it is a lengthy procedure.
10. A meeting was held between the main developer Managing Directors, their Project Director and senior Members and officers of the Council including the Chief Executive in September 2004 where the developers agreed not to withhold developer approval for the RSL sites prior to the outcome of the Cambourne Enhanced appeal. As this no longer seems to be the case, an emergency meeting has been set up with the lead developers' Managing Directors, Senior Council Officers and the Leader of the Council, in order to discuss this matter and to attempt negotiate a way forward, the results of that meeting will be reported verbally to this meeting.

Options

1. That the Council consider re-introducing the "embargo" on issuing planning permissions for market housing until the developers agree to allow the affordable housing to proceed. Each of these affordable housing applications have been considered by this committee and have pending planning permissions, subject to

final wording of planning conditions and legal agreements regarding tenure. The re-introduction of the embargo will have limited effect as there is currently only one market housing application awaiting decision.

2. That the Council refers the matter to Arbitration, as allowed for in the Cambourne Section 106 Agreement. Hopefully this will not be necessary, but remains available as a fall-back position.
3. To advise officers not to discuss future planning applications within Cambourne that are in accordance with pending Cambourne Enhanced Application until the outcome of the Inquiry or an agreement regarding the affordable housing sites has been reached.

Financial Implications

11. None for Option 1 at this time however, the developers could consider appealing future applications on the grounds of non-determination within the required 8 or 13 weeks and apply for costs.

Option 2 would require some fees to the Arbitrator.

None for Option 3

Legal Implications

12. The developer's Project Director has implied that he considers it illegal to withhold a planning decision. It is not. The developers may appeal against non-determination at any time.

Staffing Implications

13. Officer time

Risk Management Implications

14. None

Consultations

15. None.

Conclusions/Summary

16. The situation regarding the provision of affordable housing affects a major corporate objective of the Council and the actions of the developer's consortium are currently raising concern regarding the delivery of affordable housing within Cambourne. It is unfortunate that the developers appear to be causing problems with a group who do not have a means to consider arbitration, and are therefore powerless to alleviate the situation. It is therefore considered appropriate that the Council take a strong stance with the developers in order to assist in the delivery of this important sector of housing.

Recommendation

17. Option 2 and 3 are followed in until such time as the developers have granted developers approval for each of the outstanding Affordable Housing site. This

recommendation will be updated in the light of the meeting to take place between the Council and the developers in the meantime.

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

Cambourne Section 106 Agreement

Planning applications – S/6225/03/RM (GC16)
S/6232/03/RM (GC20)
S/6226/03/RM (GC21)
S/6227/03/RM (GC22)

Contact Officer: Kate Wood – New Village/Special Projects Officer (Cambourne)
Telephone: (01954) 713264