

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

7 December 2016

AUTHOR/S: Head of Development Management

Application Number: S/2537/16/PO

Parish(es): Steeple Morden

Proposal: Application to modify planning obligations of planning permission S/2508/14/FL

Site address: 22-28 Ashwell Road, Steeple Morden

Applicant(s): E W Pepper Ltd

Recommendation: Approval

Key material considerations: Appropriateness of affordable housing as detailed in the Section 106 agreement

Committee Site Visit: None

Departure Application: No

Presenting Officer: Lydia Pravin, Senior Planning Officer

Application brought to Committee because: The application is of a type for which officers do not have delegated powers to determine

Date by which decision due: 07 December 2016 (Extension of time)

Executive Summary

1. The original application S/2598/14/FL was granted planning permission for Demolition of existing 4 dwellings and construction of 9 new dwellings with new vehicle access under delegated powers. The application was subject to a signed S106 agreement including two on site affordable rented housing units comprising one two bed and one three bed dated 29 January 2016.
2. The proposed application is to modify the tenure of the affordable housing element for x1 two bed affordable rented and x1 two bed shared ownership dwelling without altering the overall mixture of housing. The chosen Registered Provider also wants to amend the Mortgage in Possession Clause (MIP) and the trigger point amended for entering into a contract with the Registered Provider so that 2 open market dwellings can be occupied in the section 106 agreement.
3. The revised proposal for 2 x 2 bed units is reflective of the housing need in Steeple Morden and the district of South Cambs and the revised tenure split of 1 x affordable rented and 1 x Intermediate (Shared Ownership) is appropriate. The modifications

therefore complies with policy HG/3 of the adopted Local Development Framework 2007 and draft Local Plan policy H/9.

4. The Affordable Housing Team also understand that BPHA will take on the units and are happy for the MIP to be revised in agreement with them. The modifications proposed to the Section 106 agreement are considered acceptable.

Planning History

5. S/2598/14/FL - Demolition of existing 4 dwellings and construction of 9 new dwellings with new vehicle access – approved

S/2960/15/DC – Discharge of condition 3, 4, 6 and 9 of S/2598/14/FL – details accepted

Planning Policies

6. *National*
National Planning Policy Framework (NPPF) 2012
National Planning Practice Guidance
7. *South Cambridgeshire LDF Development Control Policies Development Plan Document, adopted July 2007:*
DP/1 Sustainable Development
HG/2 Housing Mix
HG/3 Affordable Housing
8. *South Cambridgeshire Local Plan Proposed Submission July 2013*
S/3 Presumption in Favour of Sustainable Development
H/8 Housing Mix
H/9 Affordable Housing

Consultation

9. **Steeple Morden Parish Council:** has no recommendation commenting:
The developer is seeking to reduce its affordable housing obligation on the grounds that, following a government announcement which reduces the amount of rent that would be receivable from the Social Rented element, the proposed development is no longer viable.
10. The Parish Council expect that the developer has provided SCDC with a detailed appraisal and valuation that comprehensively demonstrates and justifies its assertion that (as a consequence of complying with the government announcement referred to) the scheme is no longer viable on the basis of the current obligations under the S106 agreement dated 27th January 2016.
11. In the absence of an independent appraisal and valuation of the scheme, we are no in a position to assess whether the developer's grounds for the proposed modification are justified. SCDC has not provided us with any appraisal on which to evaluate the scheme and we must therefore rely on SCDC that the developers grounds for such modification are fully justified.
12. On the face of it, however, it does seem to us unlikely that the viability of the original scheme would be so fragile that the impact of the government announcement requires such modification as a necessity to ensure viability, rather than simply a desire on the

developer's part to maintain profit margin.

13. It may be that the scheme's viability is reduced, but, unless the scheme is rendered unviable, the negative impact of the government's announcement (assuming its effect to be retrospective) is a risk that ought to have been factored in by the developer with suitable contingency made within its own initial financial appraisal when the scheme's viability was assessed prior to development commencing.
14. The Parish Council respectfully ask that SCDC confirms that the developer's proposed modification is fully justified on financial grounds – based on an independent appraisal of the scheme to reflect any impact of the changed circumstances on which the developer is relying, together with disclosure of its financial appraisal to verify that prudent contingencies were made prior to development proceeding and that such contingency was reasonable, albeit insufficient to offset the changed circumstances.
15. It is noted that the development has already commenced and the Parish Council ask that SCDC confirms that the government announcement on which the developer is relying for the proposed modification is indeed relevant to this development: Is the announcement's effect retrospective?
16. In conclusion the Parish Council objects to the developer's proposed modification unless SCDC is fully satisfied that the developer has comprehensively demonstrated that the effect of the grounds on which the developer is relying, results in the development being unviable, as opposed to less profitable.
17. **Affordable Housing Officer commented:**
The proposal is for the modification of the S106 in respect of the tenure/mix and the wording of the MIP.
18. The revised proposal for 2 x 2 bed units is reflective of the housing need in Steeple Morden and the district of South Cambs. The revised tenure split of 1 x affordable rented and 1 x Intermediate (Shared Ownership) is compliant with our district wide tenure policy which is 70% rented and 30% Intermediate (Shared Ownership).
19. We understand that BPHA will take on the units and we are happy for the MIP to be revised in agreement with them.
20. Support this application.

Representations

21. No representations received.

Site and Proposal

22. The site is located within the village framework of Steeple Morden. The original application S/2598/14/FL was granted planning permission for Demolition of existing 4 dwellings and construction of 9 new dwellings with new vehicle access under delegated powers. The application was subject to a signed S106 agreement including two on site affordable rented housing units comprising one two bed and one three bed dated 29 January 2016.
23. The proposed application is to modify the tenure for x1 two bed affordable rented and x1 two bed shared ownership dwelling. The chosen Registered Provider wants to amend the Mortgage in Possession Clause. The construction of the dwellings has

already commenced and the trigger point amended for entering into a contract with the Registered Provider so that 2 open market dwellings can be occupied.

Planning Assessment

24. The material planning considerations with regard to this application are the appropriateness of the affordable housing element in regard to modification of the Section 106 agreement.
25. Planning application S/2598/14/FL enabled a housing mix of 3 x 2 beds and 6 x 3 beds in order to meet local need and reflect local circumstances (Policy HG/2 of the adopted Local Development Framework 2007 and draft Local Plan Policy H/8). This included the provision of 2 affordable rented units on site to meet the requirement of 40% affordable housing taking into account the net gain of five new dwellings on site in accordance with policy HG/3 of the adopted Local Development Framework 2007 and draft Local Plan policy H/9. A section 106 agreement dated 29 January 2016 included two on site affordable rented housing units comprising one two bed and one three bed.
26. The proposed application is to modify the tenure of the affordable housing element for x1 two bed affordable rented and x1 two bed shared ownership dwelling without altering the overall mixture of housing. The chosen Registered Provider also wants to amend the Mortgage in Possession Clause. The construction of the dwellings has already commenced and the trigger point amended for entering into a contract with the Registered Provider so that 2 open market dwellings can be occupied in the section 106 agreement.
27. Applications of this nature can be made at any time to modify the Section 106 agreement. The concerns of the Parish Council have been noted with the regard to providing evidence that the scheme is unviable as a result of the changes proposed. However, draft Local Plan policy H/9 only requires viability evidence if 40% affordable housing cannot be met and ensuring the housing meet local needs.
28. The Affordable Housing Officer has commented the revised proposal for 2 x 2 bed units is reflective of the housing need in Steeple Morden and the district of South Cambs. The revised tenure split of 1 x affordable rented and 1 x Intermediate (Shared Ownership) is appropriate. The modifications therefore complies with policy HG/3 of the adopted Local Development Framework 2007 and draft Local Plan policy H/9.
29. The Affordable Housing Team also understand that BPHA will take on the units and are happy for the MIP to be revised in agreement with them. The modifications proposed to the Section 106 agreement are considered acceptable.

Recommendation

30. Officers recommend that the Committee approve the application, subject to:

Requirements under Section 106 of the Town and Country Planning Act 1990

- (a) Drafting and completion of a revised legal agreement to modify the terms of the existing s106 agreement

Background Papers:

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Core Strategy (adopted January 2007)
- South Cambridgeshire Local Development Framework Development Control Policies (adopted July 2007)
- Planning File Refs: S/2537/16/PO

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