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Hinckley & Bosworth
Borough Council

Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 24 April 2019

To: Members of the Planning Committee

Mr R Ward (Chairman)	Mr C Ladkin
Mr BE Sutton (Vice-Chairman)	Mr KWP Lynch
Mr PS Bessant	Mrs J Richards
Mr DC Bill MBE	Mr RB Roberts
Mrs MA Cook	Mrs H Smith
Mr WJ Crooks	Mrs MJ Surtees
Mr MA Hall	Ms BM Witherford
Mrs L Hodgkins	Ms AV Wright
Mr E Hollick	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

Please see overleaf a Supplementary Agenda for the meeting of the **PLANNING COMMITTEE** on **TUESDAY, 23 APRIL 2019** at **6.30 pm**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Manager

SUPPLEMENTARY AGENDA

8. **19/00264/S106 - LAND SOUTH OF 26 TO 28, BRITANNIA ROAD, BURBAGE**

Application for Deed of variation to amend section 106 agreement relating to application 12/00154/FUL to provide the provision of right to buy for no. 22 Jubilee Way.

Late items

Consultations:-

The HBBC Strategic Housing and Enabling Officer has made comments on the proposed amendment which is summarised below:

The loss of stock for affordable and social rent is always disappointing due to the pressures on the Council's housing register, which currently (14 March 2019) has 1525 applicants waiting for rehousing. However allowing existing tenants to exercise a right to buy would accord with the policies set out in the HBBC Housing Strategy 2018 - 2023, which has as a priority to develop pathways into home ownership to assist people who want their own homes to get onto the housing ladder. Weight should therefore be given to the fact that a right to buy is assisting people to meet their housing aspirations when they may not be able to enter owner occupation by any other means.

Appraisal:-

Hinckley and Bosworth have adopted a Housing Strategy 2018 to 2023 which whilst not a statutory planning document can be given some weight in the determination of this application as this document supports the councils Corporate Plan 2017 to 2021. This document identifies within key housing issue 2 that the councils aims are to:

'Develop pathways into home ownership to assist people who want their own homes to get onto the housing ladder.

For people who do not qualify for affordable housing, or who wish to leave social housing to buy their own home, we will:

- Provide information on the different types of home ownership and signpost them to appropriate professional advice
- Make greater use of the Choice Based Lettings website to advertise other tenure types in addition to social and affordable rent
- Produce literature to help people on the practicalities of moving house'

Some weight is given to this strategy as this forms part of the consideration of the amendment. However local planning policy has a significant weight in the decision of this application, with the relevant local plan policies ensuring that there is a differing mix and type of tenure options available within the development.

It is considered that the Local Plan Policies, specifically Policy 15 of the Core Strategy, are in accordance with the Housing Strategy as it requires a mix of tenure types on all sites. These mix of tenure types allow for pathways into homeownership whilst also retaining some affordable housing for rent. Both the Housing Strategy and the Local Plan focus

upon increasing the availability of affordable dwellings within the borough. The planning policy and the housing strategy are therefore aligned and there is no conflict between the two. The recommendation and accompanying assessment given in the committee report therefore remains unchanged.

It is understood that the tenants have the benefit of being assured tenants. For clarity an assured tenant has very strong rights and as such there are very limited reasons an assured tenancy can be brought to an end. Even then, it would need to go through court for a decision. The legal basis for assured tenancies is set out in the Housing Act 1988 and the following paragraph provides the rights of tenure security:

"An assured tenancy cannot be brought to an end by the landlord except by—

a) obtaining—

- i) an order of the court for possession of the dwelling-house under section 7 or 21, and
- ii) the execution of the order,

b) obtaining an order of the court under section 6A (demotion order), F2...

c) in the case of a fixed term tenancy which contains power for the landlord to determine the tenancy in certain circumstances, by the exercise of that power[F3, or

d) in the case of an assured tenancy—

- i) which is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and
- ii) in relation to which the condition in section 33D(2) of that Act is met, giving a notice in accordance with that section,]

and, accordingly, the service by the landlord of a notice to quit is of no effect in relation to a periodic assured tenancy."

As such it is considered that the tenants of the properties would be able to continue to reside within the property they currently live in and they would not become homeless or have to relocate if they wished to remain in the properties they live in.

Overall, it is considered that the amendment to the Section 106 agreement would result in the net loss of affordable units with no guarantee that this would be recycled within the borough at a time when the delivery of affordable housing units is below the council's targets. The benefits of this proposal for existing tenants to meet their housing aspirations to own their own home is not considered to outweigh the harm identified to the loss of affordable housing stock for the borough. As such, the proposed amendment is considered to be contrary to Policy 15 of the Core Strategy and the Affordable Housing SPD.

Recommendation:-

The recommendations to Planning Committee do not alter from committee extract and the proposed Section 106 Amendment is recommended for refusal for the reason outlined in the committee extract.

9. 19/00013/S106 - ST MARTINS CONVENT, HINCKLEY ROAD, STOKE GOLDING

Application for Deed of variation to amend section 106 agreement relating to application

10/00358/OUT to provide the provision of right to buy for 8, 9, 14, 51 and 53 Convent Drive.

Late items

Consultations:-

Following the production of the committee extract, a number of responses have been received from the occupants of the properties who are requesting the provision of voluntary right to buy. The responses received raise the following comments:-

- 1) The applicant, Stonewater Homes, are providing 63 affordable housing units in the borough in Earl Shilton, thus replacing the loss of affordable units
- 2) Not the first time the tenants have attempted to buy the property in the village has been thwarted
- 3) All residents are settled within the community of Stoke Golding and have no plans to relocate
- 4) Loss of 4 affordable units would not result in a significant loss of affordable housing stock, with 17 other properties within the development remaining as affordable units
- 5) An agreement could be made between the applicant and HBBC ensuring that the applicant would reinvest some of the money received from the sale of the properties
- 6) The tenants have a right to acquire the property
- 7) The number of tenants wanting to participate in the scheme has been reduced, thus resulting in less of an impact on affordable housing
- 8) Due to affordability and local market value, the tenants would be forced to leave the home due to aspirations of owning their own home and the area, contradicting advice given referring to long term impact
- 9) Disruption to one of the occupants son's who has Autism and EHCP, the relocation would not allow him to attend the local school thus disrupting the currently stable and secure environment he benefits from

The HBBC Strategic Housing and Enabling Officer has made comments on the proposed amendment which is summarised below:

The loss of stock for affordable and social rent is always disappointing due to the pressures on the Council's housing register, which currently (14 March 2019) has 1525 applicants waiting for rehousing. However allowing existing tenants to exercise a right to buy would accord with the policies set out in the HBBC Housing Strategy 2018 - 2023, which has as a priority to develop pathways into home ownership to assist people who want their own homes to get onto the housing ladder. Weight should therefore be given to the fact that a right to buy is assisting people to meet their housing aspirations when they may not be able to enter owner occupation by any other means.

Appraisal:-

Comments have been received regarding whether the tenants have the right to acquire their property. Following comments from Legal Officers it is concluded that the tenants of these properties do not have the right to acquire as the Section 106 restricts this. Currently, in order to be able to sell the property to the tenant, the Housing Association needs to get the restriction removed, hence this application. The legal agreement was secured in the first instance to ensure that the proposed development was compliant with the local planning policies at the time of the decision and secured the retention of affordable housing.

Hinckley and Bosworth have recently adopted a Housing Strategy 2018 to 2023 which

whilst not a statutory planning document can be given some weight in the determination of this application as this document supports the councils Corporate Plan 2017 to 2021. This document identifies within key housing issue 2 that the councils aims are to:

'Develop pathways into home ownership to assist people who want their own homes to get onto the housing ladder.

For people who do not qualify for affordable housing, or who wish to leave social housing to buy their own home, we will:

- Provide information on the different types of home ownership and signpost them to appropriate professional advice
- Make greater use of the Choice Based Lettings website to advertise other tenure types in addition to social and affordable rent
- Produce literature to help people on the practicalities of moving house'

Some weight is given to this strategy as this forms part of the consideration of the amendment. However local planning policy has a significant weight in the decision of this application, with the relevant local plan policies ensuring that there is a differing mix and type of tenure options available within the development.

It is considered that the Local Plan Policies, specifically Policy 15 of the Core Strategy, are in accordance with the Housing Strategy as it requires a mix of tenure types on all sites. These mix of tenure types allow for pathways into homeownership whilst also retaining some affordable housing for rent. Both the Housing Strategy and the Local Plan focus upon increasing the availability of affordable dwellings within the borough. The planning policy and the housing strategy are therefore aligned and there is no conflict between the two. The recommendation and accompanying assessment given in the committee report therefore remains unchanged.

Comments have been received regarding the applicant, Stonewater Homes, providing 63 affordable housing units at Westfield Farm, Earl Shilton with properties being built between November 2019 and October 2023. Notwithstanding that this has been addressed within the original committee extract, further consideration regarding this has been given below.

The construction of 63 affordable units in Earl Shilton would have been a requirement for that specific residential development and would be in accordance with the policy 15 of the Core Strategy. The provision of 63 units would be policy compliant for that development and would be tailored specifically to people from the local geographical area, Earl Shilton. As such, the development of 63 affordable units would not replace the affordable units being lost in Stoke Golding by this amendment as they would be required by the council, irrespective of this amendment. Therefore, the loss of affordable units through this proposed deed of variation would still result in a net loss of affordable housing units within both Stoke Golding and the borough and as such would be contrary to the Policy 15 of the Core Strategy.

Comments have also been received regarding the formalisation of an agreement between the applicant and HBBC to ensure that Stonewater Homes would reinvest some of the money received from the sale of the properties within the borough. It is not considered that this could be conditioned or secured by legal agreement as the scheme states that there is a requirement to reinvest in affordable housing but it does not have to be reinvested in the area in which the sale was made.

Officers are fully aware of HBBC's duties under the Equality Act 2010 and have taken

these fully into account in reaching the recommendation to refuse within section 9 of the original committee extract. The circumstances of tenant's would not be detrimentally affected in this instance as there is no reason why the tenant's could not continue to rent the same house from the Housing Association via their assured tenancy and remain in Stoke Golding.

It is understood that the tenants have the benefit of being assured tenants. For clarity an assured tenant has very strong rights and as such there are very limited reasons an assured tenancy can be brought to an end. Even then, it would need to go through court for a decision. The legal basis for assured tenancies is set out in the Housing Act 1988 and the following paragraph provides the rights of tenure security:

"An assured tenancy cannot be brought to an end by the landlord except by—

a) obtaining—

- i) an order of the court for possession of the dwelling-house under section 7 or 21, and
- ii) the execution of the order,

b) obtaining an order of the court under section 6A (demotion order), F2...

c) in the case of a fixed term tenancy which contains power for the landlord to determine the tenancy in certain circumstances, by the exercise of that power[F3, or

d) in the case of an assured tenancy—

- i) which is a residential tenancy agreement within the meaning of Chapter 1 of Part 3 of the Immigration Act 2014, and
- ii) in relation to which the condition in section 33D(2) of that Act is met, giving a notice in accordance with that section,]

and, accordingly, the service by the landlord of a notice to quit is of no effect in relation to a periodic assured tenancy."

As such it is considered that the tenants of the properties would be able to continue to reside within the property they currently live in and they would not become homeless or have to relocate if they wished to remain in the properties they live in.

No further information has been provided regarding the tenant stating that this is not the first time the tenant has attempted to buy the property in the village. As such the council are unable to comment on this.

Overall, it is considered that the amendment to the Section 106 agreement would result in the net loss of affordable units with no guarantee that this would be recycled within the borough at a time when the delivery of affordable housing units is below the council's targets. The benefits of this proposal for existing tenants to meet their housing aspirations to own their own home is not considered to outweigh the harm identified to the loss of affordable housing stock for the borough. As such, the proposed amendment is considered to be contrary to Policy 15 of the Core Strategy and the Affordable Housing SPD.

Recommendation:-

The recommendations to Planning Committee do not alter from committee extract and the

proposed Section 106 Amendment is recommended for refusal for the reason outlined in the committee extract.

11. 18/01278/FUL - 131 LUTTERWORTH ROAD, BURBAGE

Application for erection of detached dwelling and a new vehicular access.

Late items

This application has been deferred as the applicant has now submitted an amended site layout plan to relocate the position of the proposed access. The application will be brought back to another Planning Committee for consideration when re-consultation on the amended plan has been undertaken.

12. 19/00031/FUL - 146 HINCKLEY ROAD, BARWELL

Application for change of use from children's day nursery to a residential care home for children with education facility.

Late items

Introduction:-

The application was deferred at the last Committee. There is an update on the application on the Agenda. The applicant has also now provided a Fence detail drawing which shows the dividing fence between the application property and the neighbouring property to the east (no 144 Hinckley Road) at a height of 2.4 metres (Dwg no SK01, Scale 1:50 @ A4).

Consultations:-

No additional consultations have been made.

Appraisal:-

The submitted fence detail is acceptable in regards to the appearance and scale, however the detail of the location of the fence to be erected has not been submitted. Therefore Condition 7 outlined in the committee report will need to remain, however condition 2 is amended to include the submitted plan for clarity.

Recommendation:-

The officer's recommendation remains as an Approval with the following alteration to Condition 2 to read:

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted unnumbered plans: Site Plan, Block Plan (un-numbered but both received by the local Planning Authority on 9th January 2019, Proposed floorplans of dwelling ground and first floor (un-numbered but received by the Local Planning Authority on 16th January 2019), Close boarded boundary fence detail , Dwg no SK01 (scale 1:50 @A4) received by the Local Planning Authority on 8 April 2019.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

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