

Delegated Report

Planning Ref: 24/00424/DOV
Applicant: Beth Boddington
Ward: Burbage Sketchley & Stretton

Site: Land South of Sketchley Grange Hotel
Sketchley Lane

Proposal: Deed of Variation to Section 106 agreement on planning application 21/01131/OUT



Hinckley & Bosworth
Borough Council

1. Recommendations

- 1.1. **Grant Deed of Variation to the Section 106 Agreement for planning permission 21/01131/OUT (APP/K2420/W/22/3301735).**

2. Planning Application Description

- 2.1. This Deed of Variation application seeks to make alterations to the agreed tenure mix of the affordable housing provision within the development that was secured within the Section 106 Agreement of planning permission 21/01131/OUT, which was allowed at appeal (APP/K2420/W/22/3301735), at the Land south of Sketchley Grange, Sketchley Lane, Burbage.
- 2.2. This Deed of Variation seeks to deliver 25 affordable housing units. 50% of this provision would be delivered as Affordable Rented Dwellings, and 50% would be provided as Intermediate Dwellings.
- 2.3. The Affordable Rented Dwellings are provided as Rent-to-Buy units in association with Rentplus, who are a national provider of affordable Rent-to-Buy homes.
- 2.4. Intermediate Dwellings are defined within the revised Section 106 Agreement as affordable housing that can be provided as Discount Market Dwellings, Rent-to-Buy Dwellings, Affordable Intermediate Rent Dwellings, Affordable Shared Ownership Dwellings, and Afford Rent Plus Dwellings that satisfy the definition of 'Affordable Housing' as described in Annex 2 (Glossary) to the National Planning Policy Framework (NPPF) (December 2023).
- 2.5. The Applicant has justified this Deed of Variation by stating that there are no Registered Provider that are able to offer a mixture of affordable rent and shared ownership properties at this current time.
- 2.6. Previously, it was agreed as part of the associated signed Section 106 Agreement (dated: 06.12.2022) that the development, which approved the provision of up to 150 dwellings, would provide 20% of its total number of housing units towards affordable housing, with a tenure split of 75% Affordable Rent and 25% Shared Ownership. This would have resulted in 30 units of affordable housing.

- 2.7. Within planning application 23/01204/REM, the Reserved Matters of the development were approved for the provision of 127 dwellings. In accordance with the signed Section 106 Agreement, the scheme should have provided 26 affordable housing units. The development provided 25 affordable housing units, which was slightly under the Council's Policy position of 20% affordable housing at 19.69%.
- 2.8. However, on 11 January 2024, the Council's Affordable Housing Officer confirmed that, in accordance with the Affordable Housing Supplementary Planning Document, fractions of percentages should be rounded up. In light of this, the Council's Affordable Housing Officer confirmed that the provision of 25 affordable housing units, as opposed to 26, was acceptable in these site-specific circumstances. Following this, the Reserved Matters scheme was approved on 17 May 2024.

3. Relevant Planning History

3.1 23/01204/REM

- Application for approval of Reserved Matters (relating to layout, scale, appearance and landscaping) of appeal decision APP/K2420/W/22/3301735 (outline planning application 21/01131/OUT) for the provision of 127 dwellings, a substation, public open space, an attenuation pond and associated works.
- Permitted.
- 17.05.2024

3.2 22/00017/PP

- Demolition of existing poultry and cattle buildings and residential development of up to 150 dwellings with vehicular access from Sketchley Lane (outline – vehicular access only).
- Appeal Allowed.
- 04.01.2023.

3.3 21/01131/OUT

- Demolition of existing poultry and cattle buildings and residential development of up to 150 dwellings with vehicular access from Sketchley Lane (outline – vehicular access only).
- Refused.
- 16.06.2022.

4. Publicity

- 5.1. No publicity is required, and none has been undertaken.

5. Consultation

Burbage Parish Council

- 5.1 Burbage Parish Council objected to the development in principle as they were disappointed to see the loss of promised affordable housing.

The Case Officer notes that the total provision of affordable housing is unchanged within this Deed of Variation in comparison to the approved Reserved Matters stage of this development via planning permission 23/01204/REM, which was approved by the Planning Committee.

Planning Committee Chair

- 5.2 The Chair of the Planning Committee agreed to the Deed of Variation.

Hinckley & Bosworth Borough Council (HBBC)'s Section 106 Monitoring Officer

- 5.3 The Council's Section 106 Monitoring Officer confirmed that a signed Deed of Variation should be provided for their records and monitoring, which is acceptable to the Council's Affordable Housing and Enabling Officer.

HBBC's Affordable Housing Officer

- 5.4 The Council's Affordable Housing Officer confirmed that the proposal should provide 30 units of affordable housing on site. However, despite the efforts of the Applicant, due to the current issues with Registered Providers lacking capacity to take Section 106 Dwellings, there is no Registered Provider that is able to offer a mixture of affordable rent and shared ownership properties.
- 5.5 The Applicant's proposal for affordable home ownership within their development is via rented housing, which is provided by Rentplus. Rented housing via Rentplus as an alternative form of affordable home ownership housing is the first of its kind in the Borough. However, the Affordable Housing Officer is aware that such alternatives to affordable home ownership housing have been delivered in neighbouring local planning authorities.
- 5.6 In this instance, the Affordable Housing Officer has confirmed that that they support the variation of the Section 106 Agreement to allow for the delivery of alternative affordable home ownership provision, at an affordable rent of 80% of market rent, to people on the Council's Housing Register.

- 5.7 No further responses were received.

6. Policy

- 6.1 Core Strategy (2009):
- Policy 15: Affordable Housing

- 6.2 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (December 2023)
 - Planning Practice Guidance (PPG)

- 6.3 Other Relevant Guidance:
- Housing Needs Study (2019)
 - Affordable Housing SPD (2011)

7. Appraisal

- 7.1 The key issues in respect of this application are therefore:
- Assessment against strategic planning policies

Assessment against Strategic Planning Policies

- 7.2 The planning permission 23/01204/REM approved the development of 127 dwellings at the Land south of Sketchley Grange, Sketchley Lane, Burbage. Within the Section 106 Agreement of the outline planning permission to this scheme, 21/01131/OUT, which was signed on 06 December 2022, the Applicant legally agreed to provide 20% of the total units within the development to affordable housing. Originally, 75% of this contribution was towards Affordable Rented Dwellings and the latter 25% was towards Shared Ownership Dwellings.
- 7.3 In light of the comments of the Affordable Housing Officer on 11 January 2024 and the approval of Reserved Matters application 23/01204/REM, the provision of 25 affordable housing units, which is slightly under the policy-compliant required number of 26 affordable housing units, is acceptable in these site-specific circumstances.
- 7.4 The Applicant has contacted 11 Registered Providers, which the Council's Affordable Housing Officer has confirmed is all the Registered Providers that are locally active within the area, to acquire the affordable housing within the development. Both the Affordable Housing Officer and the Applicant have confirmed that all the Registered Providers have declined interest in the opportunity. Therefore, there are no Registered Provider that are able to offer a mixture of affordable rent and shared ownership properties at this time.
- 7.5 The Applicant has therefore offered to deliver an alternative provision of affordable housing on site by way of an alternative affordable home ownership scheme, which is delivered via rented housing in association with Rentplus.
- 7.6 Rentplus are a national provider of affordable Rent-to-Buy homes. This model of rented housing offers an opportunity for the tenant to purchase the property at a later date and offers a tenancy of up to five years or longer to allow the tenant time to save up to purchase the property in the future. The properties can be let through the Choice Based Lettings System who the Affordable Housing Officer have confirmed meet the Housing Allocations criteria for the Borough.

- 7.7 Whilst not all Rent-to-Buy Letting Schemes meet the definition of affordable housing, if such schemes are available in perpetuity and are managed by a Registered Provider, the Council's Affordable Housing Officer has confirmed that they can fall under an acceptable type of affordable housing provision.
- 7.8 Although this would be the first Rentplus scheme in the Borough, the Affordable Housing Officer has highlighted that neighbouring local planning authorities have utilised this alternative delivery of affordable housing provision.
- 7.9 Therefore, given the Affordable Housing Officer's support for the amendments to the affordable housing provision and the fact that this method of delivery ensures the provision of affordable housing within the site, in spite of the lack of availability of Registered Providers, the amendments to the Section 106 Agreement signed 06 December 2022 are considered to be acceptable.
- 7.10 By virtue of these factors, it is considered that the proposed variations to the Section 106 Agreement of planning permission 21/01131/OUT (dated: 06.12.2022) are acceptable.

8. Equality Implications

- 8.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

9. Conclusion

- 9.1 The Council's Affordable Housing Officer has no objections to the scheme and therefore it is considered that this Deed of Variation is acceptable.

10. Recommendation

- 10.1 **Grant Deed of Variation to the Section 106 Agreement for planning permission 20/00916/FUL.**