

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**
DATE: **16TH JANUARY 2012**
REPORT BY: **HEAD OF PLANNING**
SUBJECT: **VARIATION OF SECTION 106 AGREEMENT TO ENABLE 'RENT TO BUY' SCHEME ON LAND AT MANSFIELD, LIXWM, HOLYWELL**
APPLICATION NUMBER: **050246**
APPLICANT: **LEASON HOMES LTD**
SITE: **LAND AT MANSFIELD, LIXWM, HOLYWELL**
APPLICATION VALID DATE: **30TH OCTOBER 2012**
LOCAL MEMBERS: **COUNCILLOR J.E. FALSHAW**
TOWN/COMMUNITY COUNCIL: **YSCEIFIOG COMMUNITY COUNCIL**
REASON FOR COMMITTEE: **DELEGATED POWERS DO NOT EXIST FOR THE VARIATION OF THE SECTION 106 AGREEMENT**
SITE VISIT: **NO**

1.00 SUMMARY

1.01 This report relates to a request seeking the modification of the means by which the affordable housing at the site is to be provided and safeguarded. This new request seeks to make the 3 remaining units upon site available for occupation by qualifying persons via a 'rent to buy' scheme. The proposals do not seek to alter any other provisions of the existing agreement.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 That the terms and relevant clauses of the Section 106 Agreement entered into in connection with planning permission ref. 41741, dated 17th December 2007, be amended to allow for the occupation of the 3 No. dwellings via a Rent to Buy scheme.

3.00 CONSULTATIONS

3.01 Local Member

Councillor J. E. Falshaw

No objection to a delegated determination.

Ysceifiog Community Council

No response at time of writing.

Head of Housing Strategy

Supports the additional delivery mechanism and considers it will allow some flexibility to prospective applicants for these affordable homes.

4.00 PUBLICITY

4.01 The application has been publicised by way of a press notice, site notice and neighbour notification letters. At the time of writing, no third party letters have been received in response to the publicity exercise.

5.00 SITE HISTORY

5.01 041822

Amended access.

Permitted 31/10/2006

041741

Erection of 25 affordable dwellings.

Permitted, subject to S.106 agreement 17.12.2007

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 - New Development

Policy STR4 - Housing

Policy HSG9 - Housing Mix & Type

Policy HSG11 - Affordable Housing in Rural Areas

Policy IMP1 - Planning Conditions & Obligations

7.00 PLANNING APPRAISAL

7.01 Planning permission was granted on application ref. 41741, for the erection of 25 dwelling units, on 17th December, 2007. The land concerned lies outside the recognised settlement boundary for Lixwm and the development was presented at the time of its determination, as a scheme of affordable housing within rural areas, under Policy HSG 11 of the Flintshire UDP. This followed extensive research and consultation with the Council and the local community culminating in the planning application which was considered by Committee on 11th April, 2007. All of the dwellings approved have been constructed, 22 of which are occupied, and 3No. are currently remain vacant.

- 7.02 Members may recall that this site was the subject of a General Matters report for their consideration at the Committee held on the 21st May 2008 which sought approval to vary aspects of the Section 106 Agreement which binds the terms of the disposal of the properties. This General Matters item was approved by Members.
- 7.03 Both the applicant and Cymdeithas Tai Clwyd have been actively marketing the site since July 2006. Despite a high level of take up, with 22 properties occupied, there has been no sustained interest in respect of the remaining 3 properties to be occupied in accordance with the Shared Ownership scheme outlined in the current S.106 agreement. It is clear that the major obstacle to the occupation of these properties is mortgage affordability for qualifying persons.
- 7.04 Therefore, this application seeks permission to vary the existing agreement to allow the 3 remaining properties to be made available on a rent to buy scheme and for the local connection criteria to be amended to be consistent with the range of other affordable homes schemes within the County. The proposed amendment would allow a qualifying person the opportunity to occupy the property upon a rental basis whilst assisting them in saving the deposit to enable them to purchase the property via the shared ownership provisions of the agreement in the future.
- 7.05 The scheme is intended to be targeted towards those qualifying persons who are in a financial position to sustain home ownership but do not have enough of a deposit for the required mortgage. This scheme is intended to assist them in having the time to save the required monies.
- 7.06 Members should be advised that the scheme, even in its proposed amended form, would be compliant not only with the nationally applicable planning policies relating to the provision of affordable housing, but is also with the provisions of the Flintshire Unitary Development Plan and the adopted Local Planning Guidance Note 9 - Affordable Housing.
- 7.07 The proposed scheme will operate in the following fashion;
- Applicants will be required to be registered on the Affordable Homeownership Register and meet the qualifying criteria within the agreement in respect of affordability and the local connection. Rental values are proposed to be set at the market value. However, the applicant will set aside 20% of the monthly rent into a tenant deposit account on behalf of the prospective tenant which they can access after 5 years to assist them in gaining a deposit to buy the property.
 - It is proposed that any tenant would be required to pay one month's rent in advance and one month's rent as a security

deposit. The deposit will be returned at the end of the tenancy agreement, together with the savings accrued towards a deposit.

- Rental figures will be subject to an annual review every April to keep in line with the true market value. However, 20% of this sum will always be retained as savings towards the deposit.
- The monies to be saved will be paid into a Tenant Deposit Account which will be opened jointly in the names of the tenant and the landlord. This proposal ensures that should the landlord cease to trade or be declared financially insolvent, these funds are protected for the tenant and cannot be considered as an asset of the landlord.
- At the end of the 5 year rental period (dependant upon the individual financial circumstances of the tenant) the tenant will be expected to buy the property, if this has not occurred earlier in the period. The tenant will be supported by Cymdeithas Tai Clwyd to ensure that they update their financial assessment (as required by the agreement) to ensure that they are on track to purchase the property.
- In the event that the tenant does not wish to purchase the property after the 5 year period, or vacates the property during this time, the tenancy agreement will be terminated and another tenant identified in accordance with the agreement provisions to either purchase the property via the shared ownership provisions or occupy the property under the rent to buy scheme.

7.08 I have consulted with the Council's Housing Strategy Manager within the Directorate of Community Services who advises that he is fully supportive of the requested amendment.

8.00 CONCLUSION

8.01 It is clear that the developers have made a substantial commitment to this development and I am sensitive to the genuine difficulties that are a result of the current economic climate. However, one of the main principles of Policy HSG 11 is that " houses will remain affordable in perpetuity for those in need..... " and it is important that the aims of this policy are not compromised. There is therefore a need for a balanced approach which allows certain changes in the interests of protecting the scheme and ensuring its success in the long term. In this context I support the greater range of means by which the affordability of the scheme can be delivered as a result of this proposal.

8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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