

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 24 MAY 2012
title: PROPOSED DEED OF VARIATION TO MODIFY THE SECTION 106 AGREEMENT DATED 2 NOVEMBER 2010 RELATING TO LAND AT BARROW BROOK, BARROW
submitted by: DIRECTOR OF COMMUNITY SERVICES
principal author: SARAH WESTWOOD – SENIOR PLANNING OFFICER

1 PURPOSE

- 1.1 To inform Members of the decision taken by an Emergency Committee convened on Tuesday, 1 May 2012 to agree proposed changes to the Section 106 Agreement in relation to all of the affordable properties at Phase 1 of the Barrow Brook Development.
- 1.2 Relevance to the Council's ambitions and priorities:
- Council Ambitions – To make people's lives safer and healthier by implementing established policy. Also insisting the Council to protect and enhance existing environmental qualities.
 - Community Objectives – The report relates to issues affecting the delivery of affordable housing in the borough.
 - Corporate Priorities – To facilitate the occupation of additional affordable homes.
 - Other Considerations – To ensure a consistency of approach in the determination of planning applications where a quota of affordable housing is required.

2 BACKGROUND

- 2.1 The Planning and Development Committee have considered applications concerning the redevelopment the former Printworks site at Barrow for a variety of uses including residential under 3/2007/1144/P, 3/2009/0791/P and 3/2010/0568/P.
- 2.2 The latter of the aforementioned applications is the subject of a Section 106 Agreement that outlines financial contributions in respect of public open space and also concerns itself with the provision of 19 affordable housing units.

3 ISSUES

- 3.1 The Agreement in respect of the affordable units provides details on the number of units, type and tenure as well as criteria for eligibility. In particular one of the clauses specifies that each and every affordable housing unit shall not be occupied or purchased by any person except an approved person who shall be approved in writing by the Council.
- 3.2 It has become apparent that the current terms of the Agreement in this respect are restricting mortgage lenders who have taken issue with the fact that the owners will never be able to sell their property other than to an approved person. The application made to the Council under reference 3/2012/0223/P seeks to add the following clauses by way of a Deed of Variation to the Agreement:

In marketing each Affordable Housing Unit the RSL shall, for a period of six months from the said Affordable Housing Unit becoming vacant, use all reasonable endeavours to identify a tenant or purchaser (as the case may be) being a person who meets the definition of Approved Person in this Agreement but if at the end of the period of six months in which an Affordable Housing Unit has been marketed no Approved Person has been identified then the RSL may dispose of the Affordable Housing Unit to a person who is not an Approved Person.

Should the Council and/or the RSL be unable to nominate an Approved Person to any mortgagee (of either the RSL or a person deriving title from the RSL) who has exercised its power of sale under any mortgage or charge of the Property or any Affordable Housing Unit comprised in the Property within two months of a request by such mortgagee in possession then the mortgagee in possession shall be free to sell the Affordable Housing Unit on the open market.

- 3.3 The Strategic Housing Working Group considered the request to vary the Section 106 for Barrow Brook on 29 February and then the standard clauses for time period of affordable housing sales to go to approved person was agreed by Health and Housing Committee on 22 March. The proposed variation was supported by the Working Group and agreed to be appropriate and necessary to ensure mortgages can be secured on the units.
- 3.4 Although the Section 106 Agreement itself is covered by delegated powers, the essential accompanying application is not.
- 3.5 The matter was brought before an Emergency Committee as the issue was time sensitive.
- 3.6 The Emergency Committee agreed to the deed of variation to the provisions in the Section 106 Agreement dated 2 November 2010 as outlined in paragraph 3.2 of this report and the accompanying planning application reference 3/2012/0223/P.
- 3.7 Due to neighbour notification issues, the decision could not be issued until 18 May 2012 at the earliest and at the time this report was drafted, there had been no representations made by any of the affected persons to prevent that decision being issued. However, should any correspondence be received in respect of this matter prior to the expiration of the notification period, the matters raised will be brought to the attention of the Planning and Development Committee for due consideration.

4 RECOMMENDED THAT COMMITTEE

- 4.1 Note the content of this report.

DIRECTOR OF COMMUNITY SERVICES

BACKGROUND PAPERS

- 1 3/2010/0568/P – Proposed erection of 64 dwellings and associated infrastructure. Approved with conditions 4 November 2010.
- 2 Section 106 Agreement dated 2 November 2010 relating to 3/2010/0568/P.

For further information please ask for Sarah Westwood, extension 4516.