

Variation of Section 106 Agreement – Land at 105 Thorpe Road, Kirby Cross

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NUMBER:	02/02407/OUT
PROPOSAL:	Outline application for residential development
LOCATION:	105 Thorpe Road, Kirby Cross

Proposal

To vary the terms of the Section 106 Agreement dated 15<sup>th</sup> October 1992. The proposed amendment relates to a Mortgage Exclusions Clauses (MEC). In this case there is an absence of any MEC. Therefore it is proposed to insert the following text;

'The affordable housing provisions in this Agreement shall not be binding on a mortgagee or chargee or any receiver (including an administrative receiver appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the affordable dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver'.

Background

Planning permission was granted on 6<sup>th</sup> August 2004 for residential development on the above-mentioned land, subject to a Section 106 Agreement dated 13<sup>th</sup> June 2004. The Section 106 Agreement related to the provision of affordable housing, provision of public amenity space and an education contribution.

The affordable housing provider seeks to vary the terms of the Section 106 Agreement as the provisions are considered to be onerous for lenders thereby resulting in the valuer attributing an EUV-SH value at best.

These represent minor changes required by lenders/purchasers and are acceptable to the Council.

Recommendation

As this is a minor change that does not affect the provision, number, or delivery of affordable housing units the proposal would remain in accordance with Saved Policy HG4 of the Tendring District Local Plan (2007) and Draft Policy LP5 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

The developer has agreed to cover the Council's legal costs.

It is therefore reasonable for the Council to enter in to the Deed of Variation in the circumstances.

Signed.......... Head of Planning

Dated.....19.09.19.....