

Variation of Section 106 Agreement – Land off Ingrams Piece, Ardleigh

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NUMBER:	TEN/91/1483
PROPOSAL:	Construction of 10 No. semi-detached domestic dwellings [5 pairs] being affordable village housing exclusively for local needs
LOCATION:	Land off Ingrams Piece, Ardleigh

Proposal

To vary the terms of the Section 106 Agreement dated 15th October 1992. The proposed amendment relates to a Mortgagee 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 16th October 1992, subject to Section 106 Agreement dated 15th October 1992. The Section 106 Agreement relates to the provision of affordable housing only.

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