

PLANNING COMMITTEE

30 NOVEMBER 2016

URGENT REPORT OF THE HEAD OF PLANNING

**A.12 PLANNING APPLICATION – 16/00677/FUL – KIDBYS NURSERIES, CLACTON ROAD, WEELEY HEATH, CLACTON-ON-SEA, ESSEX, CO16 9EF**

1. The Planning Committee will recall the meeting on 9<sup>th</sup> August 2016 at the Princes Theatre where it was resolved to approve planning application 16/00677/FUL for 22 dwellings at Kidbys Nurseries, Clacton Road, Weeley Heath. Following the resolution, solicitors have been preparing the s106 legal agreement for the site that will secure on-site Council Housing/Affordable Housing and on site or off-site open space/play equipment.
2. The section of the report dealing with Council Housing/Affordable Housing stated the following:

*“Policy HG4 in the adopted Local Plan requires large residential developments to provide 40% of new dwellings as affordable housing for people who cannot otherwise afford to buy or rent on the open market. Policy LP5 in the emerging Local Plan, which is based on more up to date evidence on housing need and viability, requires 30% of new dwellings on large sites to be made available to the Council or a nominated partner to acquire at a discounted value for use as affordable or council housing. The policy does allow flexibility to accept as low as 10% of dwellings on site, with a financial contribution toward the construction or acquisition of property for use as affordable or council housing (either on the site or elsewhere in the district) equivalent to delivering the remainder of the 30% requirement.”*

*“If the Committee is minded to approve this application, Officers will negotiate and agree an appropriate level of affordable or Council Housing to be secured through a s106 legal agreement.”*
3. In the process of drafting the s106 legal agreement, solicitors have identified an inconsistency between the Officer’s advice in the original report to Planning Committee, the actual proposal put forward as part of the application and the advice of the Housing Department given to the applicants at the pre-application stage – upon which the scheme has been designed.
4. The advice of the Housing Department at the pre-application stage was that they would prefer to be gifted one dwelling as an alternative to a percentage of dwellings being transferred to the Council or a registered provider at discounted value. The layout and housing mix of the development was subsequently drawn up to reflect this requirement, but this was not correctly reflected in the Officers’ report. Our colleagues in Housing have since re-affirmed that they would be happy to secure one gifted dwelling, as planned for by the applicants.
5. To avoid any ambiguity or risk of challenge on procedural grounds, and to enable the s106 legal agreement to be completed and for planning permission to be issued, the Planning Committee is asked to confirm that it is happy for the s106 legal agreement to secure the transfer of one gifted unit to the Council for use as Council Housing/Affordable Housing.

**Recommendation: That the Planning Committee confirms its agreement to one gifted dwelling being transferred to the Council for use as Council Housing/Affordable Housing through the s106 legal agreement for application 16/00677/FUL for 22 dwellings at Kidbys Nurseries, Clacton Road, Weeley Heath.**