

Report of the Chief Executive

AFFORDABLE HOUSING CONTRIBUTION WITH REGARD TO PLANNING APPLICATIONS 14/00334/OUT AND 14/00335/OUT WEST AND EAST OF NEWMANLEYS ROAD, EASTWOOD

Due to the possible variation within the original Cabinet decision for S106 funding allocation for this development, it is deemed necessary that this issue is brought before Planning Committee.

1 History and details of the application

- 1.1 In May 2015 planning permission was granted for two concurrent housing developments within Eastwood on either side of Newmanleys Road. Application reference 14/00334/OUT related to outline planning permission for 40 houses on the west of Newmanleys Road and application reference 14/00335/OUT for 150 houses to the east. Thus, outline planning permission was granted for 190 houses overall. These planning permissions were granted at Planning Committee but subject to the signing of a S106 legal agreement. This legal agreement outlined that the Council must receive the equivalent of £910,000 (either in cash or through the freehold value of land or houses) in affordable housing contributions, across the two sites.
- 1.2 The £910,000 contribution is for affordable housing only, and this was determined following a Cabinet decision in November 2015. The overall S106 contributions for 190 houses would usually have been higher, but a viability assessment was submitted at the time outlining the significant issues with developing this site. The housing site to the east of Newmanleys Road borders a former landfill tip. This tip is producing landfill gases which migrate through the soil and could cause harm to human health unless suitably mitigated. It was outlined that, in order to mitigate the landfill gases, a large vent trench would be created on the border of the site with the tip, alongside secondary ground contamination measures. In return for remediating this site for redevelopment, the Council's Cabinet agreed to deviate from normal S106 requirements in order to facilitate the development. Consequently, a decision was taken to both reduce the S106 payments to £910,000 and it was determined to put this money towards affordable housing only.
- 1.3 Whilst the original decision to spend the £910,000 on 'affordable housing' only is not being revisited here, it is proposed that the specifics of the affordable housing contribution are amended, hence why this issue is being brought back to Committee.
- 1.4 The current S106 outlines the following main points:
- The applicant shall provide to the Council affordable housing to the equivalent value of £910,000.
 - The affordable housing provision shall be in the form of unremediated land, serviced and remediated land, or a financial contribution.
 - Prior to 50% practical completion of the eastern site, the affordable housing provision shall be provided/paid in full.

- 1.5 The current applicants, NCHA housing, are suggesting a proposed amendment/addendum to the existing S106 agreement within the context of their proposal to develop the whole of the western site for affordable housing. The applicants are offering nomination rights on seven houses, rather than paying any monetary contribution or donating land or housing. Nomination rights for seven houses essentially means that the houses are not owned or maintained by the Council but that they will be occupied indefinitely by applicants from the Council’s waiting list. Whilst the Council does not, therefore, get the physical houses or money, it does get access to affordable housing indefinitely to meet the affordable housing need of borough. Furthermore, the Council would not be responsible for any ongoing management or maintenance costs. It is important to note that the trigger of not developing more than 50% of the housing on the eastern site (eastern side of Newmanleys Road) remains.
- 1.6 The Housing department is happy with this proposal as it results in no long term management or maintenance costs, but ensures the long term benefit of providing seven houses at affordable rent indefinitely as the Council would have the nomination rights over these properties for their lifetime. Furthermore, and whilst not subject to this agreement, if NCHA develop this site (the western side), the whole western site would come forward for affordable housing. This would create a significant uplift in affordable housing within the area of Eastwood and ensure further nomination right opportunities and additional applicants could be housed. A recently commissioned social and affordable housing needs study has confirmed that there is significant need for affordable rented housing in Eastwood. The study estimated that 43 additional affordable homes per annum are required in the Eastwood area. If NCHA could develop the whole western site this would make a significant contribution towards meeting this need and should be seen as a significant benefit to the locality.
- 1.7 Members should be aware that, whilst it is anticipated the wider western site will come forward for affordable housing, the ability of the Council to enforce this is limited. This is due to the fact that the grant money utilised for this purpose from Homes England will not be available if it is included within a S106 requirement. To that end, Homes England have the ability to ensure this site is developed for affordable units (and it is fully expected it will be) but the Council will only be entitled to enforce the seven dwellings contained within the S106 agreement.

Recommendation

The Committee is asked to RESOLVE that the S106 Agreement be amended accordingly to enable the affordable housing requirement to be met by way of nomination rights for seven houses.

Background papers

Nil