

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	09 JANUARY 2024	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	JESSICA CHEADLE Jessica.cheadle@southderbyshire.gov.uk	DOC:
SUBJECT:	SECTION 106 VARIATION – LUCAS LANE, HILTON	REF: DMPA/2019/1143
WARD(S) AFFECTED:	HILTON	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) by means of Deed of Variation (DoV) to include the model National Housing Federation (NHF) Mortgagee in Possession (MiP) clause into the agreement and other strategic housing plan as considered relevant by the Strategic Housing Team including in relation to the changes to the housing mix approved by the Council pursuant to the reserved matters approval under application reference number DMPA/2021/1277 (RMA).
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

2.0 Purpose of Report

- 2.1 To inform the Committee of the proposed changes to the S106, primarily the inclusion of a MiP clause and the changes to the housing mix pursuant to the RMA.

3.0 Background

- 3.1 Members may recall that the site, known as Land at Lucas Lane was granted planning permission in September 2020 for up to 57 homes within Hilton. The original S106 agreement called for a 30% affordable housing contribution, with a tenure mix of 68% of the affordable homes provided as social rent homes and 32% provided as shared ownership homes within South Derbyshire.

4.0 Discussion

- 4.1 The Strategic Housing Team have been approached by the Affordable Housing Provider (AHP) who are in contact to purchase the affordable homes on the site. They would like to propose a variation to the formally agreed affordable housing definitions across the development being undertaken by Morris Homes by means of a DoV.

- 4.2 The proposed change would include a standard MiP clause, which means that in the unlikely instance that the AHP defaults on their loan payments or mortgage terms, their lender can take control of their affordable housing assets against which the loan is secured.
- 4.3 In such instances, the clause offers protection and allows for another AHP, including the Council, to purchase the affordable homes within a specified time period, however, in circumstances where a buyer cannot be found, the lender is free to sell the homes without the affordable housing restrictions to allow them to regain some or all of the loan provided.
- 4.4 The Council now includes the MiP as a standard clause in all S106 agreements in order to allow an AHP to borrow money to purchase the S106 affordable homes on sites. This S106 agreement pre-dates the use of this clause, and therefore these changes seek to rectify this.
- 4.5 The Strategic Housing Team would like to take the opportunity to update the S106 to be more aligned with current working practice by making other minor amends to the agreement.
- 4.6 The Strategic Housing Team are content that the changes to the housing mix pursuant to the RMA are minor and consistent with local housing requirements.

5.0 Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by the AHP.

6.0 Corporate Implications

- 6.1 None.

7.0 Community Implications

- 7.1 There would be the same number of affordable homes delivered on the site.

8.0 Background Information

- a. Section 106 Agreement:

<https://southderbyshire.my.site.com/s/planning-application/a0b4J000000Hgpz/dmpa20191143>