

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	25th AUGUST 2020	CATEGORY: Delegated
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	OPEN
MEMBERS' CONTACT POINT:	LUCY MITCHELL EXT. 8758 LUCY.MITCHELL@SOUTHDERBYSHIRE.GOV.UK	DOC:
SUBJECT:	SECTION 106 VARIATION AT ROSLISTON ROAD SOUTH, DRAKELOW	REF: 9/2014/0948
WARD(S) AFFECTED:	LINTON	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) by means of a Deed of Variation (DoV) to allow for the staircasing of the shared ownership dwellings from the current 80% equity threshold to full ownership (100%), by inclusion of a requirement for these dwellings to be sold back to the Affordable Housing Provider (AHP), or by nomination to another AHP, for a period of six months prior to allowing sale on the open market.
- 1.2 That the Committee delegate authority to the Strategic Housing Manager 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 Designated Protected Areas (DPAs) within the District and how these can impact and influence affordable housing delivery, in particular the site at Rosliston Road South (9/2014/0948).

3.0 Background

- 3.1 Members may recall that the site, known as Rosliston Road South, was granted outline planning permission at appeal in February 2017. The scheme was proposed as a Local Plan complaint scheme providing 30% affordable housing. A reserved matters application was subsequently approved in June 2018 providing details of the development of 71 dwellings, with a 30% affordable housing contribution totalling 21 affordable dwellings, of which 14 were for affordable rent and 7 for shared ownership.
- 3.2 The development site sits within the Parish of Drakelow, and as such is covered by the protection afforded under the Housing and Regeneration Act 2008 which allows the Secretary of State to designate 'protected areas', which were subsequently set out in the Housing (Right to Enfranchise) (Designated Protected Area) (England) Order 2009.

- 3.3 The purpose of a DPA is to protect shared ownership homes being lost to the open market where they would be difficult to replace, predominantly rural areas. The exempted areas are often defined by parish or entire local authority areas and mirror the rural settlements exempted from the Right to Acquire in the 1990s. Within South Derbyshire most of the parishes within the District are covered by separate DPAs, with only Swadlincote and the Parishes of Church Gresley and Newhall being excluded from this protection.
- 3.4 The Order either:
- restricts the staircasing (the equity available to purchase) to a maximum of 80% ownership; or
 - in instances where staircasing is permitted to acquire more than 80% (i.e. up to full ownership), there is an obligation on the AHP, or a designated alternative AHP, specified in the lease that commits them to repurchase the property when the owner wishes to sell.
- 3.5 Shared ownership has been designed to help households to take a step on the ladder of homeownership when otherwise purchasing a home would be out of their means. Shared ownership purchasers qualify via financial eligibility and other criteria as assessed by the Help to Buy Agency:
- 3.6 The original S106 agreement for the site contained a clause to restrict the staircasing of shared ownership dwellings to a maximum purchase of an 80% equity share. The Strategic Housing Team has been approached by the AHP for this site, Midland Heart, to lift this restriction for the seven shared ownership dwellings to allow staircasing to full equity purchase, instead replacing this with a restriction at resale (the second of the restrictions allowed for within the Order) for Midland Heart, or another AHP, to purchase the property from the seller thus returning the dwelling back into an AHP's shared ownership stock.

4.0 Discussion

- 4.1 The Strategic Housing Team supports the request made by Midland Heart. The restrictions on staircasing to a maximum 80% equity share limits the availability of mortgages for most households, meaning some buyers will find it harder to secure a mortgage, or where this is possible, it will be at less favourable interest rate creating barriers to low income households getting onto the housing ladder.
- 4.2 In addition, the aim of retention of shared ownership homes created by the legislation is no longer an issue in some of the areas of the District that are covered by the DPA status due to the scale of historic (after 1990), current, and planned development in the area, indicating that shared ownership homes would not be hard to replace. Drakelow is one of these such areas given the proposed residential development at Drakelow Park, with land allocated for a sustainable urban extension through the Local Plan for 2,239 dwellings along with the close proximity to the urban area of Burton upon Trent and the continued development of affordable homes within the Parish of Stapenhill.

- 4.3 The Strategic Housing Team would not normally advocate changes which open affordable housing up to the possibility of this not being retained in perpetuity. However, on balance, the alternative potentially reduces the ability for the AHP to deliver the shared ownership dwellings on this site or could make the shared ownership dwellings more expensive for prospective purchasers by subjecting them to a smaller pool of mortgage providers and potentially higher interest rates. The proposal is allowed within the existing legislation and the risk of losing the homes to the open market is mitigated by the second clause being enacted. The related period proposed at six months is considered reasonable given current market conditions.

5.0 Financial Implications

- 5.1 There are no financial implications associated to the Council for this change as Midland Heart would the Council's legal fees associated with pursuing the DoV.

6.0 Corporate Implications

- 6.1 None noted. A 30% affordable housing contribution would be made from the development as originally agreed and the risk of losing the shared ownership homes to the open market has been mitigated against by adding in the second clause.

7.0 Community Implications

- 7.1 A policy compliant affordable housing contribution would still be made from the development as originally agreed so to secure the appropriate mix of housing tenures to support the local community.

8.0 Background Information

- a. Section 106 Agreement:
<https://planning.southderbyshire.gov.uk/ApplicationDetail.aspx?Ref=9/2014/0948>
- b. Deed of Variation (carrying forward the 2014 obligations to a revised layout):
<https://planning.southderbyshire.gov.uk/ApplicationDetail.aspx?Ref=9/2017/0887>