

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	9th NOVEMBER 2021	CATEGORY: DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	RESTRICTED
MEMBERS' CONTACT POINT:	LUCY MITCHELL Lucy.mitchell@southderbyshire.gov.uk	DOC:
SUBJECT:	SECTION 106 VARIATION - BROOMY FARM HARTSHORNE	REF: 9/2014/0740
WARD(S) AFFECTED:	HARTSHORNE	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) and subsequent Deed of Variation (DoV) by means of a further DoV to include a standard Mortgagee in Possession (MiP) clause into the agreement and other minor amends as the Strategic Housing Team feel appropriate.
- 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.

3.0 Background

- 3.1 Members may recall that the site, known as Broomy Farm, Woodville Road, Hartshorne was granted planning permission in October 2015 for up to 400 homes. The original S106 agreement called for a 18% affordable housing contribution, with a tenure mix of 70% of the affordable homes provided as affordable rented homes and 30% provided as intermediate (affordable home ownership) homes.
- 3.2 To date, the developer has made significant progress in the delivery of affordable homes across the various different phases of the scheme which has contributed to alleviating housing need within the District.

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 site 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 and DoV to be more aligned with current working practice by making other minor amends to the agreement.

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: [9_2014_0740 Section 106 Agreement.pdf](#)
(southderbyshire.gov.uk)

b. Deed of Variations: [9_2014_0740 Section 106 Deed of Variation \(12-06-18\).pdf](#)
(southderbyshire.gov.uk)