

DEED OF VARIATION REPORT

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REF NO: BN/66/24/DOV

LOCATION: Land south of Barnham Station, Barnham

PROPOSAL: Application to enter a Deed of Variation to the Section 106 agreement dated 3/12/2021 linked to BN/142/20/OUT (APP/C3810/W/21/3273087) (as varied by BN/142/20/OUT) to add an additional first homes tenure to Schedule 1, Part 2 - Affordable Housing.

## SITE AND SURROUNDINGS

### DESCRIPTION OF APPLICATION

This application seeks the agreement of the Council to enter into a deed of variation to the Section 106 agreement signed under reference BN/142/20/OUT. The deed of variation seeks to amend Schedule 2 (affordable housing).

The proposed amendment to Schedule 2 (affordable housing) consists of the addition of First Homes as part of the affordable housing tenure mix.

## RELEVANT SITE HISTORY

BN/142/20/OUT	Outline planning application with all matters reserved, other than principal means of access, for up to 200 No. dwellings, with access taken from Marshall Close, associated infrastructure & landscaping & demolition of existing buildings. This application is a Departure from the Development Plan, may affect the setting of listed buildings, may affect the Church Lane, Barnham Conservation Area & affects a Public Right of Way.	Refused 23-02-2021  Allowed at Appeal 05-01-2022
BN/149/22/PL	Variation of condition imposed under BN/142/20/OUT relating to the re-wording of conditions 6, 9, 20 and 27.	Approved Conditionally 31-05-2023
BN/147/22/RES	Approval of reserved matters following BN/149/22/PL for 200 dwellings respect of appearance, landscaping, layout and scale. This application may affect the setting of listed buildings, may affect the Church Lane, Barnham Conservation Area & affects a Public Right of Way.	Approved Conditionally 10-01-2024

## REPRESENTATIONS

There is no requirement to advertise this application type as it is determined through negotiation between the Council and applicant. However, no letters of representation were received.

## CONSULTATIONS

### CONSULTATION RESPONSES RECEIVED:

AFFORDABLE HOUSING – No objection

Housing and enabling confirm acceptance of the proposed amendment on the basis that the First Homes provided by the applicant on site are limited to 25%.

### COMMENTS ON CONSULTATION RESPONSES:

No comments.

## POLICY CONTEXT

### DEVELOPMENT PLAN POLICIES

Arun Local Plan 2011 - 2031:

- Policy AH SP2 – Affordable Housing

NPPF National Planning Policy Framework

NPPG National Planning Policy Guidance

## POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

## DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

## OTHER MATERIAL CONSIDERATIONS

It is considered that there are other material considerations to be weighed in the balance with the Development Plan and these are set out in the Conclusions section below.

## CONCLUSIONS

This application has been submitted to agree an amendment to the Section 106 agreement signed under reference BN/142/20/OUT (allowed at appeal) to incorporate First Homes as part of the affordable housing tenure mix.

### AFFORDABLE HOUSING

Developers nationally are facing significant challenges in disposing of Section 106 Affordable Housing with Housing Associations facing a perfect storm of mounting pressures from constrained financial capacity, higher costs of finance, rising build costs and commitments to remediate existing stock to meet building safety and decarbonisation targets. Recent research undertaken by Savills has revealed that over half of the Housing Associations they surveyed (53%) reported that they were either no longer intending to acquire Section 106 homes or had reduced their requirements for them.

Given the challenges faced by developers in this regard, it is understandable why they are looking to overcome these issues and ensure that development can proceed even in the absence of agreement with a Housing Association for the disposal of Section 106 affordable housing.

The affordable housing tenure mix originally secured under reference BE/148/20/OUT was split 75% affordable rent and 25% intermediate. This affordable housing mix pre-dated the publication of the 'Arun Interim Affordable Housing Policy to Accommodate First Homes' which was approved by Full Council on 25 January 2022. This interim policy identifies that 33% of the affordable provision should be 'intermediate housing' (25% First Homes and 8% other intermediate ownership products) and 67% affordable rent.

The applicants are proposing to amend the tenure mix to align with the adopted interim policy which would secure the following affordable housing tenure mix:

- 67% (sixty-seven percent) (rounded to the nearest whole Affordable Housing Unit) of the Affordable Housing Units as Affordable Rent Units.
- 25% (twenty-five percent) (rounded to the nearest whole First Home) of the Affordable Housing Units as First Homes; and
- 8% (eight percent) (rounded to the nearest whole Affordable Housing Unit) of the Affordable Housing Units as Intermediate Units.

The proposed amendment has been considered by the Council's Affordable Housing Development Manager and it has been confirmed that First Homes delivery on-site is acceptable, and the tenure mix as proposed would accord with the Council's interim affordable housing policy. Therefore, the proposed amendment to the Section 106 agreement to introduce First Homes as part of the affordable housing tenure mix is acceptable.

## **RECOMMENDATION**

It is recommended that Planning Committee delegate authority to the Group Head of Planning in consultation with the Chair or Vice Chair authority to complete the Deed of Variation to amend the Section 106 Agreement, with any minor amendments authorised by the Group Head of Planning.

## **HUMAN RIGHTS ACT**

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

## **DUTY UNDER THE EQUALITIES ACT 2010**

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

