

.NOTICE OF APPLICATION TO VARY A SECTION 106 AGREEMENTS DATED 29<sup>th</sup> JANUARY 2008 ATTACHED TO PLANNING PERMISSION REF. 06/01804 AND THE 27<sup>TH</sup> FEBRUARY 2008 ATTACHED TO PLANNING PERMISSION REF. 06/01347.

Former East Berkshire College, Claremont Road and Former Goring Kerr Site, Vale Road, Windsor. Application to vary the Section 106 Agreements by means of Deed of Variation to transfer the affordable housing required to be provided on the Claremont Road development to the Vale Road development

Background

1. Both the Claremont Road and the Vale Road sites are currently owned by Linden Homes and both have the benefit of planning permission that allows for the delivery of housing, including affordable housing, achieved through Section 106 agreements.
2. A request for a Deed of Variation to the Section 106 agreements has been received that seeks to transfer the affordable housing requirement (of 12 residential units) from the Claremont Road site to the Vale Road site. In so doing the provision of additional affordable housing, over and above that which is provided for in the combined Section 106 agreements, would also be provided at the Vale Road site.
3. Consultations have been undertaken with all of those neighbours that were either consulted or responded to publicity on both of the Claremont Road and the Vale Road applications. Any responses will be reported as Late Observations to the Panel meeting.
4. The following report sets out the planning merits and recommends that the Deed of Variation be allowed.

Planning History

**The former East Berkshire College Site, Claremont Road, Windsor:**

In 2001 Outline permission was granted for the residential development of this site, with all matters reserved (ref: 01/81423). A renewal of the Outline permission was granted in February 2008, again with all matters reserved ( **ref: 06/01804**).

In conjunction with the Outline consent a Section 106 Agreement was entered into dated 29<sup>th</sup> January 2008 securing, alongside financial contributions to infrastructure and services, the on-site provision of “*at least 30% of the total number of dwellings*” for social rented Affordable Housing.

Reserved Matters approval was granted in June 2008 for 38 units comprising a mix of one and two bedroom flats, 3 bedroom duplex units and 4 and 5 bedroom townhouses and villas.

In accordance with Section 4.1 of the Section 106 in Outline permission a plan identifying the proposed location, mix and tenure of the affordable units was submitted to the Council on the 12<sup>th</sup> August 2008. The plan identifies **6 no. one bedroom and 6 no. two bedroom flats, totalling 12 units, located within the southern apartment block for social rent affordable** (3 no. private open market units remain on the top floor of the apartment block). This level of provision equates to 31.6% of the total number of dwellings thereby complying with the terms of the Section 106 agreement.

In the first instance the approval of the Council in writing is required to the identified location mix and tenure (para. 5 of the Section 106 agreement refers) with "*such approval not to be unreasonably withheld*". It is understood that Radian (Windsor Housing) supports this provision having raised concerns over any alternative mix of units in light of the higher maintenance and management charges likely to be attributable to the townhouses and villas elsewhere on the site. Confirmation is therefore sought from the Council that we are in agreement with the 12 nos. units identified. In terms of the timetable for delivery of the affordable housing, Linden Homes advise that within the current economic climate this is uncertain at present and that a programme and timetable for the provision of Affordable Housing on the Claremont Road site cannot be submitted to the Council at this time.

#### **The Former Goring Kerr Site, Vale Road, Windsor:**

Following submission of a planning application (ref: 06/01347) in June 2006, planning permission was granted by the Secretary of State under the "call in" procedures in June 2008.

The re-development includes an 80-bed care home and four apartment blocks comprising a total of 53 nos. 1, 2 and 3-bed units. The accompanying Section 106 agreement dated the 27<sup>th</sup> February 2008 provides for **26 affordable units (20 no. social rented and 6 no. shared ownership) comprising the whole of Block C, and part of Block B**. 2 no. open market units remain in Block B and Blocks A and D are also open market. A part copy of the section 106 agreement showing the location of the affordable units is attached to this report.

On behalf of Radian (Windsor Housing), work has commenced on the site to deliver the affordable housing units in 2009. Again, uncertainty remains over the timetable for the delivery of the open market Blocks A and D given the current economic climate.

Whilst the provision of the affordable housing units at Vale Road is progressing, the difficulties of selling open market units, and on mixed tenure sites, against the backdrop of current difficult housing market generally results in uncertainty as to the likely timescale for delivery of the open market units at Vale Road. Combining these open market units with the units at Claremont Road, this totals 65 units that cannot at present be counted into the Council's housing trajectory figures for 2008/2009.

### The Proposal

In recognition of the acute pressure to deliver affordable housing and to provide more certainty of delivery, the following proposal provides for a viable solution, which will bring benefits to all parties without detriment to the Council's or national planning policies.

#### ***The proposal is to:***

- ***transfer the affordable housing requirement of the identified 12 no. Section 106 affordable housing units from the Claremont Road site to the Vale Road site, and provided within Block D on the Vale Road site (currently 13 units);***
- ***providing a further 3 units at Vale Road for social rent units (the 13<sup>th</sup> unit in Block D and the balance of the 2 no. open market units in Block B); and***
- ***provide an additional 12 intermediate rent housing units at Vale Road (in Block A).***

The precise mix of affordable accommodation would be:

- nos. 1 bed 2 person for rent
- 10 nos. 2 bed 4 person for rent
- 1 nos. 3 bed 5 person for rent
- 6 nos. 1 bed 2 person for intermediate rent
- 6 nos. 2 bed 4 person for intermediate rent

The **additional affordable housing accommodation proposed for Vale Road would be 27 units (89 persons) compared to the 12 units (30 persons) that have been secured through the S106 agreement at Claremont Road, an addition of 15**

**units (59 persons) of affordable housing above that currently secured through the Section 106 agreement.**

In order to achieve this significant increase in affordable housing provision a total of £1,305,000 is required, equating to £14,622 per person. Both the Council's Head of Housing and the Housing Corporation are supportive of the proposal that will deliver more affordable homes and earlier than is otherwise likely to be the case. It is understood that Radian (Windsor Housing), who Linden Homes are already working with at Vale Road, have also confirmed their support for the proposal.

**Planning Justification**

Planning Policy Statement 3 'Housing' (PPS3) reflects the Government's key objectives in the delivery of housing, being the provision of:

- high quality housing;
- a mix of housing, both market and affordable to provide a wide variety of households in all areas;
- provide a sufficient quantity of housing taking into account need and demand and seeking to improve choice; and
- housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.

Paragraphs 20-30 of PPS3 sets out the key objectives to ensure the creation of sustainable mixed communities. The key characteristics of a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people.

Regional Spatial Strategies and Local Planning Authorities are tasked with planning for a mix of housing to cater for the diverse range of requirements across the area.

In Local Development Documents, the Local Planning Authorities are tasked with setting overall targets for the amount of affordable housing to be provided, taking into account the likely economic viability of land for housing within the area and taking account of risks to delivery.

At paragraph 29 of PPS3 it advises that “ *in seeking developer contributions, the is that affordable housing will be provided on site so that it contributes towards creating a mix of housing. However, where it can be robustly justified, off-site provision .....may be accepted as long as the agreed approach contributes to the creation of mixed communities in the local authority area.*”

Policy H3 of the Local Plan (which remains as a saved policy) seeks to deliver an appropriate provision of affordable housing on all sites of 0.5ha or over, or schemes proposing 15 or more net additional units. This policy, whilst predating the advice in PPS3 does within the supporting text (paragraph 5.3.5) acknowledge that *“in appropriate circumstances, the Council will be willing to consider the provision of affordable housing requirements by developers on alternative sites that would not otherwise have been used to accommodate affordable housing”*.

As such, where robustly justified, and taking into account all of the material considerations, the provision of affordable housing off-site can be acceptable in planning terms.

The following points demonstrate the significant benefits accruing from the decanting of affordable from Claremont to Vale Road.

#### Deliverability:

For the reasons set out above the proposal will secure accelerated delivery of affordable housing within the Windsor urban area. Without decanting the affordable units to Vale Road, a delay in the provision of affordable housing on Claremont Road is likely given current housing market conditions.

#### Need:

The two sites lie within 2 miles of each other within the same urban area. Whilst there is a proven need for affordable housing within the Windsor area generally, there is no detailed data to support the supposition that there is greater need for affordable housing at Claremont Road, than at Vale Road, in order to contribute to the creation of mixed communities in this local area. Similarly there is no detailed data to support the supposition that there is a lesser need for affordable housing at Vale Road. As such the increase in affordable housing provision at Vale Road is considered to outweigh any concern, being unsupported by evidence, the proposal will contribute in any negative way to the creation of mixed communities in either local area.

#### Management:

Currently at Claremont Road and Vale Road, the affordable housing provision forms part of a mixed-tenure building with its inherent higher management issues and increased maintenance costs to the RSL and its residents. Through the proposals a

more efficient and cost effective management regime can be set up by Radian ensuring more affordable service charges for future residents.

#### Housing Quality Indicators:

In analysing Housing Quality Indicators (HQI) in relation to both sites it is agreed by both Radian and the Council's Housing Enabling Manager that the Vale Road site performs to a higher HQI standard.

For example, it is considered that the cost of living at Vale Road, with more affordable grocery shopping provision within walking distance of the site allows for a better social and economic location for Radian's future residents.

Whilst a limited children's play area is to be provided at the Claremont Road site, the Vale Road site benefits from a significantly greater variety of play areas and public open space immediately adjacent to the site.

#### **Conclusions**

4. If Panel agrees to the Deed of Variation then it will deliver more affordable homes, and much earlier than is otherwise likely to be the case. There is no conflict with saved Policy H3 of the Local Plan and a robust justification has been put forward for providing affordable housing off the Claremont Road site.

#### **Recommendation**

**That, subject to the consideration of the responses to consultation the period for which has yet to expire, authority is delegated to the Head of Planning to enter into a Deed of Variation to transfer the affordable housing required to be provided on the Claremont Road development to the Vale Road development.**