

Report to: **Development Management Committee**

Date: **16 February 2022**

Title: **Variation of Section 106 Agreement – Land at St Ann’s Chapel**

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### **Recommendations:**

1. The Head of Development Management is authorised to vary the section 106 agreement dated 13 August 2020 to give effect to the variation of the tenure of the affordable housing set out in paragraph 2.3 of the report.

#### **1. Executive summary**

- 1.1 Following the resolution to grant planning permission for the development of land at Holwell Farm, St Ann’s Chapel (Min DM.04/19 refers) a planning agreement was completed to secure the provision of affordable housing. Following the Council declaring a housing crisis due to the shortage of housing let at an affordable rent, the Council now wishes to vary the planning agreement so that up to all eight of the affordable dwellings would be let at an affordable rent, rather than the mix of low-cost discounted dwellings for sale and a single affordable rented dwelling that had been proposed and secured by the planning agreement. Apart from any consequential drafting amendments, all other terms of the planning agreement would be unchanged.
- 1.2 This report is being brought to the Committee as the Council is the applicant for the variation.

#### **2. Background**

- 2.1 On 22 May 2019, the Committee resolved to grant planning permission for 13 dwellings with associated access, car parking, public open space and landscaping on land at Holwell Farm, St Ann’s Chapel (Planning Ref: 4214/81/FUL. As applied for, the Council, as the applicant, had proposed that the Affordable Housing would be largely comprise low-cost discount purchase dwellings with one dwelling let at an affordable rent. The remaining plots would comprise three open-market sale properties to cross-subsidise the development and two serviced plots.

- 2.2 The grant of planning permission was subject to the completion of a planning agreement under section 106 of the Town and Country Planning Act 1990. The planning agreement, which was completed on 13 August 2020, secured, among other things, the provision of the Affordable Housing as proposed.
- 2.3 One of the key reasons for the Council declaring a housing crisis last year was the acute shortage of affordable rented accommodation throughout the District, particularly in coastal areas such as St Anns Chapel. In recognition of this, the Council has resolved that it would wish to see up to all eight of the dwellings that comprise the Affordable Housing on this site, being let at an affordable rent (Min CM.55/21 refers). Whilst the planning agreement is not prescriptive as to the mix of affordable rented or low cost housing, it prevents an increase of all eight dwellings being let at an affordable rent.
- 2.4 The Committee will recall that the officer report to the meeting May 2019 reminded members that Policy TTV1 of the JLP states that development within villages such as St Ann's Chapel will only be permitted if it can be demonstrated to support the principles of sustainable development and sustainable communities (Policies SPT1 and SPT2) including as provided for in Policies TTV26 (Development in the Countryside) and TTV27 (Meeting Housing Need in Rural Areas). The report also referred to Policy BP1 of the Bigbury Neighbourhood Plan, which was at that time at an advanced stage and has since been adopted. The report concluded that the "development meets all of [the Policy TTV27] criteria in that:
- It meets a proven need for affordable housing for local people;
  - It includes a mix of affordable and market housing products where necessary to be financially viable. This includes open market housing, of no more than 40% of the homes or 40% of the land take excluding infrastructure and services.
  - Management of the scheme will ensure that the dwellings continue to meet the identified need in perpetuity.
  - The proposal meets the requirement of all other relevant policies of the Plan
- 2.5 While no further housing need survey has been undertaken since the grant of planning permission, the shortage of dwellings let at an affordable rent within the South Hams is well-established and in the coastal regions in particular. The proposed affordable housing will be made available for rent at the Plymouth Local Housing Allowance (LHA) for the relevant property type within the Administrative Area. This rate is significantly lower than the South Hams LHA rate. On this basis, the rent will be £134.63 per week (£583/month) for a 2-

Bedroom house and £159.95 per week (£693/month) for a 3-bedroom house. Combined with the low running costs of the new energy efficient housing and high open market rents in the area, the rent is considered to be significantly affordable.

- 2.6 The Parish Council has been kept informed of the progress of the development scheme and has been advised of the proposed change to the tenure mix. It is understood, that the Parish Council is happy so long as the scheme meets local housing needs. Any update will be provided to Members at the Committee meeting.
- 2.7 Overall, the proposal to vary the planning agreement is considered to be consistent with the reasons why the original development proposal was considered to be acceptable in planning terms and would ensure that the development still met the Policy TTV27 criteria.

**3. Options available**

- 3.1 The Committee may decide that the planning agreement should:
  - 3.1.1 continue to have effect without variation;
  - 3.1.2 be discharged in whole or part eg because it no longer serves its intended purpose; or
  - 3.1.3 be varied to enable the Affordable Housing to be let at an affordable rent, but otherwise continuing to have effect as previously agreed

**4. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>A planning agreement may be modified or discharged by agreement between the local planning authority and the person against who it is enforceable against at any time (Section 106A(1) Town and Country Planning Act 1990).</p> <p>The Committee should consider the planning reasons for securing the affordable housing through the planning agreement and whether those reasons still exist. If those reasons do still exist, the Committee should consider whether the proposed variation serves the same purpose.</p> <p>As explained in paragraph 1.2 as the Council is the applicant, the request for the variation is being considered by the Committee.</p>

Financial implications to include reference to value for money	N	
Risk	N	
Supporting Corporate Strategy	Y	Improving homes and delivering local homes for local people that meet their needs and are affordable is a key priority for the Council.
Climate Change - Carbon / Biodiversity Impact	N	
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

**Background Papers:**

There are none.