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Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2023/0862/MPO	ITEM 4	
Proposal:	Modify Planning Obligations to change on-site affordable housing planning obligation to deliver through 'first homes' scheme in relation to application 2020/0380/OUT and 2021/1334/RES.		
Address:	Land North of Cold Overton Road, Langham, Rutland		
Applicant:	Langton Homes Limited	Parish	Langham
Agent:	n/a	Ward	Langham
Reason for presenting to Committee:	Previous Committee Decision		
Date of Committee:	7 November 2023		
Determination Date:	13 October 2023		
Extension of time Date:	9 November 2023		

EXECUTIVE SUMMARY

Outline permission and reserved matters have been approved for 18 dwellings, subject to a Section 106 agreement for 5 affordable houses. An Affordable Housing Provider has not been found to take on the limited number of units. Modifying the S106 agreement to 'First Homes' would result in these units having a 30% discount and would be legally binding going forward for any subsequent sales. It is considered to be a reasonable change to the S106 agreement given that registered Affordable Housing Providers aren't interested in the site, and it would not diminish the provision of low budget/affordable housing in Rutland.

RECOMMENDATION

APPROVAL for modification of the Section 106 agreement to change the provision of on-site affordable housing, to First Homes.

Site & Surroundings

1. The site is located on the north side of Cold Overton Road some 330 metres from its junction with the A606.
2. To the north west of the site is Lodge Park, part of Ranksborough Mobile Home Park and to the North East is The Range, a short cul-de-sac off the A606. To the east is an area of open grassland and to the west is open farmland.
3. The site is well screened from Cold Overton Road by trees. The northern half of the site rises up towards Ranksborough. The site comprises open grassland, with some wooded areas, and slopes from the north west towards the Langham Brook in the south east. Recorded ground levels range from 132m AOD in the north west to 125m AOD in the south east.

4. The Conservation Area boundary and the Planned Limit to Development run along the north east boundary of the site, to include The Range, the lower part of Ranksborough Drive and the green space to the east of the site. The site is however allocated for Development in the Langham Neighbourhood Plan.
5. Langham Brook runs along the southern edge, having come under a bridge on Cold Overton Road just to the east of the proposed access. A public footpath, E151, runs through the site from Cold Overton Road through The Range onto the A606. The area immediately alongside the water course is within Flood Zones 2 and 3 but the main developable area of the site is Flood Zone 1.

Proposal

6. Outline planning permission was granted for 18 dwellings in 2021 (reference no. 2020/0380/OUT), with a Reserved Matters application then approved in 2022 (reference no. 2021/1334/RES).
7. The outline permission was subject to a Section 106 legal agreement (S106) for affordable housing provision for 5 houses, to be transferred to a Registered Provider for social housing.
8. Affordable housing is defined in Annex 2 of the National Planning Policy Framework as *'housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)'*, and which criteria for one or more of the following; 'affordable housing for rent, starter homes, discounted market sales housing, or other affordable routes to home ownership.
9. The applicant is now applying to modify the Section 106 agreement to change the affordable housing units to a 'First Homes' scheme.
10. First Homes are a specific kind of discounted market sale housing and fall under the above 'affordable housing' definition for planning purposes set out in the National Planning Policy Framework. They would be sold at a 30% discount from Open Market Value and can be sold by the developer without the involvement of a Registered Provider. Among other criteria they would be reserved for first time buyers only, and prospective owners would be required to have a local connection to Rutland (lived/paid employment/immediate family member in Rutland etc. or be a Key Worker).

Relevant Planning History

2020/0380/OUT - Erection of 18 no. dwellings with associated access, highways, open space and drainage infrastructure. – Approved 03/03/2021

2021/1334/RES - Reserved Matters application in relation to approved outline planning

permission 2020/0380/OUT (Erection of 18 no. dwellings with associated access, highways, open space and drainage infrastructure) to include Appearance, Landscaping, Layout and Scale. – Approved 22/04/2022

2022/1223/MAO - Variation of Condition 14 (diversion of public footpath) of application 2020/0380/OUT - Erection of 18 no. dwellings with associated access, highways, open space and drainage infrastructure. – Pending decision

Planning Guidance and Policy

National Planning Policy Framework (NPPF) 2023

Chapter 5 – Delivering a sufficient supply of homes

Site Allocations and Policies DPD (2014)

SP9 - Affordable Housing

Core Strategy DPD (2011)

CS11 - Affordable Housing

Supplementary Planning Document

First Homes Informal Planning Guidance

Neighbourhood Plan

The Langham Neighbourhood Plan was made in 2022. Policy SG2 – Meeting Housing Needs is relevant to the application.

Officer Evaluation

11. The objections from local residents and the Parish, are noted. No design or layout changes would be required to facilitate the modification. There would be no increase in the total number units or physical alterations as a result of this modification. For the avoidance of doubt, the application is not for changes to the planning permission, but to the legal agreement tied to the site. The only issue relevant to this application is the acceptability of the change to the Section 106.
12. The applicant has been in frequent contact with the Housing Strategy Officer following the outline approval, with a view of securing a Registered Provider for the affordable housing. However, the current difficult market conditions have resulted in these providers seeking larger sites (usually around 15 affordable housing units) in order to make them viable. The applicant has been unable to secure a Registered Provider for the site and is seeking this modification as an alternative.
13. First Homes is a scheme developed by the Government to provide discounted market sale properties. The Council adopted First Homes Informal Planning Guidance on 24 May 2022 which sets local connection, key worker and income

- requirements to help to ensure that First Homes meet local need. This would be incorporated into any modification of the Section 106 agreement.
14. There is no public subsidy in the First Homes scheme. They are sold by the developer without the involvement of a registered provider, at a 30% discount from Open Market Value. They are not shared ownership properties, as First Homes are sold freehold at a discount to eligible households without anyone holding onto any separate 30% share. After the initial sale of a property, subsequent sales would be at the 30% discount. This is controlled through the Section 106 agreement.
 15. The proposed modification of the S106 legal agreement is considered to be an acceptable alternative under the circumstances, in order to bring the site forward. First Homes fall within the 'affordable housing' definition for planning purposes in the NPPF and would provide a robust alternative to traditional affordable housing.
 16. A First Homes scheme would also be preferable to a commuted sum for off-site provision. This alternative is not recommended as the Council's planning policies require on-site provision under normal circumstances for a site of this size.

Crime and Disorder

17. It is considered that the proposal would not result in any significant crime and disorder implications.

Human Rights Implications

18. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

Consultations

Below is a summary of the comments. Full details can be viewed on the Council's website. (https://publicaccess.rutland.gov.uk/online-applications/?_ga=2.69299920.1503643438.1693558555-1954588303.1693558555)

19. Langham Parish Council

Having checked the provisions of both affordable housing and 'first home' schemes, it does not appear that they are fully comparable in what they offer, and the application to change offers very little explanation/further detail. Our recommendation would therefore be that before any decision is made there should be further discussion/information provided that ensures that the aim of the planning obligation is maintained. Recommend Refusal

20. **Housing Strategy**

This is a sensible proposal to provide affordable housing onsite due to the lack of interest from housing associations. This is because of the small number of affordable homes (five) and the current difficult market for Registered Providers for section 106 properties.

First Homes is a scheme developed by the Government of discounted market sale properties. The Council adopted First Homes Informal Planning Guidance on 24 May 2022 which sets local connection, key worker and income requirements to help to ensure that First Homes meet local need. This will need to be incorporated into the Deed of Variation.

There is no public subsidy. The First Homes would have a 30% discount from Open Market Value and can be sold by the developer without the involvement of a Registered Provider. These are not shared ownership properties, as First Homes are sold freehold at a discount to eligible households without anyone holding onto any separate 30% share. After the initial sale of a property, subsequent sales would be at the 30% discount. This is controlled through a section 106 agreement.

It would not be sufficient to simply amend the Affordable Housing Scheme - a substantial Deed of Variation would be required incorporating a modified version of the Government's model section 106 clauses for First Homes. The developer would need to pay the Council's legal costs, monitoring fee (including a First Homes monitoring fee), sealing and administrative costs as well as other provisions. The Government's model First Homes section 106 clauses include a 'Development Standard' which the developer will need to be mindful of.

The alternative would be for the Council to accept a commuted sum for off-site provision, but this is not recommended due to the Council's planning policies requiring on-site provision under normal circumstances for a site of this size and the difficulty in spending commuted sums, particularly if this is to be close to where the obligation arose.

Neighbour Representations

21. Two objections have been received from local residents. The objections are summarised as follows:

- Different from the previous approval
- Design and layout/number of buildings would need to change
- Increase in traffic

- 15 affordable units can be met on the adjacent site (50 homes)
- Are further changes proposed?
- Switching to a First Homes scheme need to be investigated
- Should not be allowed to turn to market housing

Conclusion

22. The proposed modification of the Section 106 agreement is considered to be a sensible and acceptable option given that a registered provider cannot be found for the site. The provision of affordable housing would still be brought forward on-site and would not diminish the provision of low budget housing in Rutland. The application is therefore recommended for approval.