

ITEM 5.3

Application: TA/2017/212

Location: Land to the rear of Dormans Station, Station Road, Dormansland

Proposal: Variation of the Section 106 Agreement (S106) so that the 9 affordable housing units are provided as Discounted Market Housing.

Ward: Dormansland and Felcourt

RECOMMENDATION: that the Head of Planning and Head of Legal be authorised to proceed with a revised S106 Agreement (S106) on behalf of the Council relating to planning permission TA/2017/212 in the terms set out above and detailed in the attached Appendix A.

BACKGROUND

The site lies within the Green Belt to the rear of Dormans Station. On 15th July 2019, the Council granted planning permission for the provision of a car park, providing 70 commuter parking spaces, together with two blocks of housing providing 9 affordable dwellings with ancillary car parking. The provision of affordable housing on the site was secured by way of a S106 which provided that the houses should be affordable rented units.

Since the planning permission was granted, the site has been sold on to a new owner. All planning conditions requiring the submission of details for the Council's approval have been discharged. On 17th October 2022, the Council granted a certificate of lawfulness stating that the development had been lawfully commenced and the permission now stands in perpetuity.

Earlier in 2022, the new owner of the site, Globus Industries Ltd, approached the Council to request an amendment to the affordable housing provision in the S106 for this site. The S106 requirement for 100% affordable rented housing makes the development, which includes the provision of a 70-space commuter car park for the station, unviable. Furthermore, the new owner has tried without success to secure an affordable housing provider (housing association) to deliver the units as affordable rent. This current request for a variation to the S106 relates to changing the tenure of the affordable housing to low-cost home ownership (in the form of Discounted Market Sale). This improves the viability of the scheme and will allow the units to be delivered without the need for an affordable housing provider.

The units will be homes to buy at a discount to market value. In this case Discounted Market Sale means 30% less than Open Market Value. This an approach supported by the Council's Housing Development Team to get the affordable housing delivered and will also allow for the delivery of the commuter car park.

From a national planning policy perspective, 'Discounted Market Sales housing' was included within the definition of what constitutes 'affordable housing' within the National Planning Policy Framework 2021 (NPPF) This was at paragraphs 63 and 65 and 'Annex 2 Glossary (definition of affordable housing). The national planning policy definition of affordable housing (Annex 2) states that affordable housing is:

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 complies with one or more of the following definitions:

- *Affordable Housing for Rent (in accordance with the Government's policy on Social Rent or Affordable Rent, or at least 20% below market rents)*

- *Starter homes*
- *Discounted market sales housing (sold at a minimum of 20% discount (or minimum of 30% if the property is a First Home)*
- *Other affordable routes to home ownership (including shared ownership and rent to buy).*

As such this proposal is in-line with national policy which has changed in terms of the definition of affordable housing since the original (and base planning permission) for this site was granted under planning reference TA/2017/212

The proposed variation to the S106 deed provides for the original discount on the market value of each of the 9 properties to be secured in perpetuity to succeeding sales of these properties. There will be a restriction on title with a requirement to seek the Council's approval each time the property is sold.

The proposed deed of variation to the S106 is attached as Appendix A to this report (to follow).

The proposed S106 Deed of Variation would have no other planning implications for the approved development in terms of Green Belt, character and appearance, residential amenities, trees or highways matters.

All other matters have been previously approved and there are no material reasons for a different conclusion to be reached on them.

RECOMMENDATION: that the Head of Planning and Head of Legal be authorised to proceed with a revised S106 agreement on behalf of the Council relating to planning permission TA/2017/212 in the terms set out above and detailed in Appendix A to follow.

APPENDIX A (to follow)

Proposed deed of variation to S106 Agreement