

Committee: DEVELOPMENT CONTROL
Date: 22 September 2003
Agenda Item No: 7
Title: Request for variation of s.106 agreement Oakwood Park Felsted
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Summary

- 1 On 25 February 1998 the Council entered into a s.106 agreement with Berisford Property Developments Limited relating to the redevelopment of the former sugar beet works. The agreement provided for land to be transferred to registered social landlords for the provision of affordable housing in perpetuity..
- 2 Plume Housing Association Limited (“Plume”) are a registered social landlord and are proposing to take a transfer of land pursuant to the agreement. Plume are the Council’s preferred affordable housing provider for this site. Plume have requested that the terms of the agreement be varied.
- 3 This report is to inform Members of the nature of the variations requested by Plume and to recommend that the same be agreed.

Background

- 4 The proposed development of affordable housing will consist of 46 units. Of these 32 will be rented and 14 will be shared ownership.
- 5 The recent Housing Needs Survey undertaken late 2002 has shown that whilst most housing need can best be met by the provision of social rented accommodation there is a growing need to provide an element of Shared Ownership. Shared Ownership schemes assist people on low to modest incomes, who do not necessarily qualify for social rented accommodation but are financially restricted from accessing the housing market due to high house prices, an opportunity to enter the housing market. Potentially there is an opportunity for a Shared Owner, over a period of time, to ‘staircase’ to 100% and eventually own the property outright.

- 6 Felsted was designated a 'rural area' by the Secretary of State under Statutory Instrument 1997 No.623 – The Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the East) Order 1997. Therefore the 32 rented properties will not be subject to the Right to Acquire and this effectively locks them into perpetuity. However, this legislation does not apply to Shared Ownership Leases.
- 7 Plume state that in order to get the rented units developed and for the scheme to be financially viable there should be no restrictions imposed on the Shared Ownership units. This will also benefit the prospective Shared Owners, as many residential mortgage finance companies are reluctant to lend on restrictive Shared Ownership Leases forcing buyers to resort to fringe mortgage lenders who charge significantly higher rates of interest than main stream lenders.
- 8 The Council could impose restrictions on the percentage ownership but this could prejudice the entire development. Further by allowing Shared Owners to staircase to 100% it encourages existing local low-income families, who aspire to, but are financially restricted from, owning their own home in their local community, to consider taking on a Shared Ownership Lease. A Shared Ownership Lease affords them the opportunity to gradually increase their percentage shares until they eventually purchase the property outright whilst remaining in their local community.
- 9 Plume Housing Association fully appreciate the Council's desire to try and retain affordable housing in perpetuity and have suggested that they could insert a requirement into the Shared Ownership Lease whereby, when the Shared Owner wishes to sell the property, they must first offer the property for sale to Plume. Plume could then acquire the property and re-grant a Shared Ownership Lease, thus ensuring that the property remains as affordable housing. In practice however Plume report that 90% of its shared ownership leases have not been escalated to 100% ownership.
- 10 A further difficulty with requiring the provision of affordable housing in perpetuity is that it deters lenders from lending on the site. Plume will be dependant on financing not only by way of grant but also by way of borrowing from the private sector. Lenders require the ability to sell on the open market in the event of default. In the highly unlikely event that Plume were to fall into any financial difficulty and default on their loan repayments, The Housing Corporation (the government quango set up to specifically monitor and regulate registered Social Landlord activities) would in all probability intervene and protect and maintain the affordable housing. The risk of the land being lost for affordable housing is therefore extremely low.

RECOMMENDED that Members agree that the s.106 agreement be varied to delete the requirement that the affordable housing be provided in perpetuity (subject to a right of pre-emption for the registered social landlord) and to permit a mortgagee in possession to sell on the open market without restriction.

Background Papers: [\[Click here to type in background paper details\]](#)