

**Report Reference Number:** 2015/0341/OUT

**Agenda Item No:** 6.5

**To:** Planning Committee  
**Date:** 7 March 2018  
**Author:** Louise Milnes (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2015/0341/OUT	PARISH:	Selby Town
APPLICANT:	Mary Cook, Hallam Land Management and Harron Homes Ltd	VALID DATE: EXPIRY DATE:	N/A N/A
PROPOSAL:	Deed of Variation to Section 106 Agreement attached to consent 2015/0341/OUT for Hybrid application comprising outline proposals for the erection of circa 200 new dwellings including the construction of a new junction onto Flaxley Road, the laying out of open space and children's play area, pumping station, siting of electricity substation, landscaping and creation of areas for sustainable drainage including connection to water course and detailed proposals for the conversion of agricultural buildings to form 2 dwellings together with associated works including the creation of curtilages and areas of driveways/hardstanding (including external areas relating to the existing farm house) and demolition		
LOCATION:	Land at Flaxley Road, Selby, North Yorkshire		

This matter has been brought to Planning Committee for consideration due to the applicant seeking to alter the Section 106 which was determined by Planning Committee.

**Summary:**

The original approval for this site secured 40% Affordable Housing provision on the site. Subsequently the applicant submitted an application under Section 106BA of the Planning Act which sought to modify their affordable housing provision to 22%, this application was refused by the Council, however was allowed on Appeal whereby the Inspector agreed that 27% affordable housing could be provided. As part of the appeal decision it was stated that the revised affordable housing requirement would only be applicable for three years. The developer in this instance has indicated that they would not be in a position to complete the development within this three year period and as such are seeking to extend the time limit so that this provision can be made in perpetuity.

## **Recommendation:**

**The application is recommended to be APPROVED subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to allow the Developer to provide 27% affordable housing in perpetuity.**

## **Introduction and Background**

### **1.0 Planning History**

- 1.1 Planning permission 2015/0341/OUT was Granted on the 3 December 2015 for a hybrid application comprising outline proposals for the erection of circa 200 new dwellings including the construction of a new junction onto Flaxley Road, the laying out of open space and children's play area, pumping station, siting of electricity substation, landscaping and creation of areas for sustainable drainage including connection to water course and detailed proposals for the conversion of agricultural buildings to form 2 dwellings together with associated works including the creation of curtilages and areas of driveways/hardstanding (including external areas relating to the existing farm house) and demolition.

The application was accompanied by a Section 106 Agreement which secured 40% affordable housing.

- 1.2 An application to modify the section 106 planning obligation under section 106BA following approval of 2015/0341/OUT was Refused on 11 April 2016. This was subsequently appealed and the Inspector allowed the appeal with a reduced level of 27% Affordable housing which had to be provided within a period of three years.
- 1.3 A Reserved Matters application 2017/0775/REMM relating to appearance, layout, landscaping and scale of approval 2015/0341/OUT was Pending Consideration.
- 1.4 A Discharge of Conditions application 2017/0811/DOC relating to Conditions 08 (energy supply), 21 (archaeological investigation), 22 (archaeological investigation), 29 (contamination), 30 (contamination) and 31 (contamination) of approval 2015/0341/OUT was Pending Consideration.
- 1.5 A Discharge of Conditions application 2017/1370/DOC relating to Conditions 05 (Surface Water), 12 (Surface Water) and 15 (Highway Improvements) of approval 2015/0341/OUT was Pending Consideration.

### **2.0 Assessment**

- 2.1 The original approval for this site secured 40% Affordable Housing provision on the site. Subsequently the applicant submitted an application under Section 106BA of the Planning Act which sought to modify their affordable housing provision to 22%, this application was refused by the Council, however was allowed on Appeal whereby the Inspector agreed that 27% affordable housing could be provided.

- 2.2 Under the Section 106BA process the modification to the affordable housing provision is valid for 3 years. If development is not completed in that time, the original affordable housing obligation will apply to those parts of the scheme that have not been commenced. This is in order to incentivise developers to build out as much of their scheme as possible within 3 years. The legislation makes it clear that it will not be sufficient to commence one part of the development to secure the revised affordable housing obligation for the whole scheme.
- 2.3 The applicants in this instance have advised that they would be unable to meet the three year time limit which would expire on 2 November 2019 and have requested that the Section 106 agreement be modified so that they can retain the 27% affordable housing provision in perpetuity, with a completion on this site envisaged to be by the end of December 2022.
- 2.4 The applicants have submitted a reserved matters application which will shortly be determined and are also currently seeking to discharge relevant planning conditions to enable commencement within the next couple of months. The reserved matters scheme demonstrates that the site would accommodate 162 dwellings reduced from the 200 units envisaged at outline stage and as such the applicants have provided an updated viability position. Their viability report demonstrated that 21% affordable housing provision would now be viable based on proposed housing numbers.
- 2.5 The Council's Valuation Officer has reviewed this and is of the opinion that 27% affordable housing provision is still reasonable for this site, despite the reduction in housing numbers.
- 2.6 On this basis the Council are satisfied that the scheme can still provide 27% affordable housing and it is considered that the applicants have demonstrated sufficient progress of the scheme in order that the three year time limit for provision of the affordable units can be extended to enable them to meet their anticipated build out rate.

### **3.0 Recommendation**

- 3.1 **The application is recommended to be APPROVED subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to allow the Developer to provide 27% affordable housing in perpetuity.**

#### **Contact Officer:**

Louise Milnes (Principal Planning Officer)

#### **Appendices:**

None.

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