Horsham District Council

DELEGATED APPLICATIONS - ASSESSMENT SHEET

APPLICATION NO./ADDRESS:
S106/24/0001
Plots 42,43,54,55,70-77 and 93-96, Kilnwood Vale, Crawley Road, Faygate, West Sussex,

DESCRIPTION:
Modification to the S106 Legal Agreement to planning permissions DC/15/2813 and DC/15/2561 to amend Mortgagee in Possession clauses relating to Plots 42 43 54 55 70-77 and 93- 96 (inclusive) Kilnwood Vale Crawley Road Faygate Horsham.

RELEVANT PLANNING HISTORY:

DC/15/2813	Variation of conditions 3, 4, 7, 8, 9, and 10 of hybrid planning application DC/10/1612 to enable the reconfiguration of the neighbourhood centre, community facilities and open space	Application Permitted on 28.04.2016
DC/10/1612	Outline approval for the development of approximately 2500 dwellings, new access from A264 and a secondary access from A264, neighbourhood centre, comprising retail, community building with library facility, public house, primary care centre and care home, main pumping station, land for primary school and nursery, land for employment uses, new rail station, energy centre and associated amenity space. Full planning permission for engineering operations associated with landfill remediation and associated infrastructure including pumping station. Full permission for the development of Phase 1 of 291 dwellings, internal roads, garages, driveways, 672 parking spaces, pathways, sub-station, floor attenuation ponds and associated amenity space. Full permission for the construction of a 3 to 6 metre high (above ground level) noise attenuation landform for approximately 700 metres, associated landscaping, pedestrian/cycleway and service provision (land known as Kilnwood Vale)	Application Permitted on 17.10.2011

PLANNING ASSESSMENT
Consent is sought to amend the wording of Paragraph 17, Schedule 4 of the s106 for DC/15/2813. DC/15/2813 was a S73 application approved for the development of the Kilnwood Vale site. The original permission was approved under DC/10/1612. The current application is to vary the wording for the mortgagee in possession clause for units within Phase 2D, E & F. The reserved matters for this phase was granted under DC/18/2227. The proposal relates to the affordable housing units.

Paragraph 17:
The proposal is for Paragraph 17.3 of Schedule 4 to be replaced with the following:

17.3 *subject to and without prejudice to the powers and requirements of the HCA or any regular of social housing under the Housing and Regeneration Act 2008 that in the event of a default under any security referred to in paragraph 17.2 nothing in this Paragraph 17 shall prevent a disposal of any Affordable Housing Unit or Phase 1D Affordable Housing Unit by any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person*

appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of an Affordable Housing Provider provided that the chargee, mortgagee or Receiver shall have first followed the procedure set out in Paragraph.

The proposal is also for Paragraph 17.4 of Schedule 4 of the Original Agreement to be deleted in its entirety and replaced with the following new paragraph 17.4:

17.4 the provisions of this Schedule 4 shall not be binding on a mortgagee or chargee or Receiver of the whole or any part of the Affordable Housing Unit(s) or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

17.4.1 such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Unit(s) and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Unit(s) to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

17.4.2 if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Unit(s) free from the provisions of this Schedule 4 which provisions shall determine absolutely

As amended, 17.1 & 17.2 of the Schedule are to be retained.

Mortgagee in possession gives the lender the right to manage and sell the property to ensure the debt is paid off if the borrower is unable to make the repayments. A 'mortgagee in possession' is a lender who has taken over the control and management of the mortgaged property from the borrower. The proposed amendment allows the lender to dispose of the affordable units. This is subject to written confirmation to the Council that they have used reasonable measures to dispose of the units to another affordable registered provider or the Council. The revised wording is in line with the National Housebuilders Federation standard wording for such clauses.

The Council's Housing team has no objection to the amended wording as it gives the Council's Housing Company or an alternative provider the opportunity to take on the affordable housing. The deed of variation is considered appropriate.

Recommendation: Application Permitted Subject to the Completion of a Deed of Variation

NOTE TO APPLICANT

POSITIVE AND PROACTIVE STATEMENT
Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

DELEGATED

Case Officer sign/initial Jason Hawkes Date: 20.09.2024

Authorising Officer sign/initial	Adrian Smith	Date:	01/10/2024