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| Subject: | 35 - 36 Egremont Place Brighton, BN2 0GB | | |
| Date of Meeting: | 5 June 2023 | | |
| Report of: | Liz Hobden, Head of Planning | | |
| Contact Officer: | Name: | Jane Moseley | Tel: 01273 292192 |
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| Ward affected: | Queen's Park | | |

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to consider a request to vary one of the Heads of Terms agreed by Planning Committee in December 2022 in relation to proposed Section 106 Legal Agreement to be secured in connection with planning application BH2022/02167. This requires the following:

“On-site provision of 10 Affordable Rent Units (40%) or as a commuted sum in lieu of onsite provision.”

- 1.2 The applicant is seeking to vary this to still provide 40% affordable housing but comprising four affordable rented units and six First Homes (or a commuted sum in lieu of onsite provision).
- 1.3 The Head of Terms would therefore read:
“On-site provision of ten affordable housing units (40%) comprising 4 affordable rented units, and 6 First Homes units, or as a commuted sum in lieu of on-site provision of the affordable rented units.”

2. RECOMMENDATION

- 2.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **AGREE** the amended Head of Terms to the proposed S106 Agreement, subject to a review mechanism.

3. BACKGROUND INFORMATION

- 3.1 Policy CP21 of the City Plan Part 1 requires the following:

“The Council will require the provision of affordable housing on all sites of 5 or more dwellings (net) and will negotiate to achieve the following affordable housing targets:

- a) 40% onsite affordable housing provision on sites of 15 or more (net) dwellings;

- b) 30% onsite affordable housing provision on sites of between 10 and 14 (net) dwellings or as an equivalent financial contribution;
- c) 20% affordable housing as an equivalent financial contribution on sites of between 5 and 9 (net) dwellings.”

3.2 In this case, therefore, to comply with Policy CP20 the scheme was required to provide 40% affordable housing, equivalent to 10 affordable dwellings either on site or as an equivalent financial contribution. The applicant agreed to do so.

3.3 In December 2022 the Planning Committee agreed they were minded to grant planning permission, subject to the signing of a s106 legal agreement, for the following:

BH2022/02167: Part demolition and part retention of the existing care home buildings (C2) to provide 25 dwellings (C3) in a mix of houses and flats with associated parking and landscaping.

3.4 This was subject to several Heads of Terms including one requiring the provision of ten on-site affordable *rented* units or the equivalent commuted sum (40% affordable housing).

3.5 However, the applicant had agreed to provide five affordable rented units, three First Homes and two shared ownership units. The Head of Terms relating to affordable housing was therefore erroneous.

3.6 The tenure mix had been correctly considered during the application, with the submission documents confirming it as five affordable rented units, three First Homes and two shared ownership units, and this was supported by Strategic Housing officers, as set out in the summary of their response in the December 2022 Committee Report.

3.7 However, because the head of terms requires 10 affordable rented units, this is what the developer would be required to provide if a deed of variation is not agreed.

3.8 Since that date the developer has been in contact with Registered Providers and the Housing Strategy team, reaching agreement that the provision of six First Homes and four affordable rental units (or a commuted sum in lieu of onsite provision of the affordable rented units) would best meet local housing needs.

4. PROPOSAL

4.1 It is proposed that the Head of Terms for the s106 is amended to reflect the scheme as submitted, namely the provision of four affordable rent units, and six First Homes units, or the equivalent commuted sum in lieu of the affordable rented units on site.

5. CONSULTATIONS

- 5.1 **Strategic Housing:** No objection.
- 5.3 Strategic Housing supported the original scheme which proposed providing 5 homes for affordable rent and 5 for affordable ownership (split as 3 First Homes and 2 Shared Ownership) on site with an option for commuted sum. The developer subsequently approached Strategic Housing outlining the difficulty of finding a Registered Provider to purchase the small number of homes within a mixed tenure block. This is an ongoing challenge that the council is aware of.
- 5.4 The developer investigated purchasing an alternative site with the intention of providing the affordable housing on the second site but this was unsuccessful.
- 5.5 The scheme has four homes in a separate block and these are the homes now to be offered for affordable rent.
- 5.6 If no RP purchaser is found for the four homes, a commuted sum will be an acceptable outcome providing funds that can be used to fund affordable rented homes elsewhere through one of the council programmes.

6. COMMENT

- 6.1 The sole consideration in the determination of this application relates to the acceptability of varying the legal agreement to change the tenure of the affordable housing secured on site from being entirely affordable rented to a split between affordable rented (4 units) and First Homes (6 units), or the equivalent commuted sum in lieu of the affordable rented provision on site.
- 6.2 'First Homes' is an initiative introduced by the Government in 2021. It is market housing discounted by at least 30% of the market value, with a price of no more than £250,000, to be purchased by a first time buyer, and falls within the definition of affordable housing. At least 25% of affordable housing provided on site must be 'First Homes' – so in this case three of the ten units.
- 6.3 The amended scheme would still accord directly with planning policy (Policy CP20 of CPP1) by providing 40% affordable housing on site (10 units).
- 6.4 Further, as amended, it would meet the Government requirement that 25% of the affordable housing is First Homes, which is not currently the case.
- 6.5 As noted above, Housing Officers support the revised proposal which they consider will be more attractive to Registered Providers. Further, providing First Homes will open up the development to first-time buyers at a reduced price.
- 6.6 As was previously the case, if a Registered Provider cannot be found for the affordable rented units, a commuted sum would be secured to provide affordable housing off-site, in accordance with Policy CP20.
- 6.7 It is therefore recommended that the Deed of Variation is permitted.

7. BACKGROUND DOCUMENTS:
Planning Application BH2022/02167