

Outline planning permission was allowed on appeal in January 2015 for the erection of up to 113 dwellings on land at the end of Gateway Avenue, Baldwin's Gate (Ref. 13/00426/OUT). Reserved matters were subsequently approved for 109 dwellings in October 2016 (Ref. 16/00676/REM) and the development is underway with some houses completed. Prior to the grant of the outline planning permission a Unilateral Undertaking was entered into which secured, amongst other things, 16% of the dwellings on-site as affordable units, with some of these being shared-ownership units.

The developer is in the process of entering into a contract with Aspire Housing in relation to the on-site affordable housing units and Aspire are asking the Council to clarify the position with regards to staircasing. Staircasing describe the process whereby those in shared-ownership units increase the percentage of the value of the property that they own, as opposed to rent from a Registered Provider

This is an informal request rather than an application.

Members will note that a request in relation to the same staircasing restriction has been made with respect to a Section 106 agreement for a development at Loggerheads and a report on that request is to be found elsewhere on this agenda.

#### **RECOMMENDATION**

**That Aspire be advised that the Council as the Local Planning Authority is willing to agree to a variation to the Unilateral Undertaking so that staircasing to 100% of the market value is permissible.**

#### **Key Issues**

A clause (4.3) within the relevant Schedule (No.2) of the Unilateral Undertaking that was entered into prior to the granting of the outline permission refers to staircasing up to 100%. However in the same document in the definition of Shared Ownership Units there is reference to the purchase of additional shares (staircasing) up to a level determined by agreement and to the "option of staircasing to 90% of market value". Aspire's solicitors are proposing certain amendments to rectify what they consider to be an error in the document – such variations if accepted would enable staircasing up to 100%.

Aspire's solicitors do not advance any argument as to why 100% staircasing is acceptable – presumably because they do not consider that to be necessary. If legal advice is received that this is the case that will be reported to the Committee.

Working on the assumption that there is however a substantive issue here it is considered appropriate to draw members attention to the case that has been made by another Registered Provider with respect to the same 90% staircasing cap (in the case of an agreement with respect to land at Loggerheads) and which is the subject of a separate report on this agenda.

The Unilateral Undertaking was drawn up, by the then appellants (Richborough) and submitted as part of the appeal proceedings

When your officers advised, as required, on the terms of the Unilateral Undertaking, the 90% staircasing restriction would have been considered appropriate on the grounds that it would keep the units affordable in perpetuity by allowing registered providers to buy back these units and recycle them as affordable housing.

The Inspector in his decision letter makes no specific comment either way with respect to this restriction.

It is known that Registered Providers are of the opinion that the 90% restriction reduces the value of the units, could put off potential buyers who may wish to eventually own their properties fully and that

allowing staircasing up to 100% will give tenants improved borrowing opportunities, because the restriction would cause some lenders to decline mortgage applications.

The model Section 106 agreement in the Council's Affordable Housing Supplementary Planning Document does not include the staircasing restriction to be found in the Mucklestone Road agreement. Rather it gives the option of staircasing to 100% of the market value, albeit there are references within the SPD to seeking "affordable housing in perpetuity". The fundamental issue now for the Local Planning Authority is whether in practice such a restriction is affecting the delivery of these shared ownership units, because it is putting off Registered Providers. Facilitating the delivery of affordable housing should be a key objective for the Council. Registered Providers' concerns that the restriction is potentially having an adverse impact upon both the number of households likely to buy such units and on the number of lenders likely to lend on such units are considered to be credible. Furthermore the content of the SPD (a document that was the result of consultation) should be accorded due weight. For both of these reasons it is considered that the restriction should be removed and staircasing permitted to 100%.

## **APPENDIX**

### **Policies and Proposals in the Approved Development Plan relevant to this decision: -**

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted CSS)

Policy CSP6: Affordable Housing

Policy CSP10: Planning Obligations

### **Other Material Considerations**

National Planning Policy Framework (NPPF) (2018)

Planning Practice Guidance (PPG) (2014, as amended)

### **Supplementary Planning Documents/Guidance**

Affordable housing SPD (2009)

### **Date report prepared**

20<sup>th</sup> December 2018