

**MAIN CASE**

**Reference No:** 19/00702/MPO

**Proposal:** To vary the s106 agreement to facilitate an early review on viability; fix the resultant level of affordable housing across remaining phases (excluding Phase 1 and the adjacent care home sold to LNT): and to secure the early delivery of the A10 roundabout and associated infrastructure

**Site Address:** Land North Of Cam Drive Ely Cambridgeshire

**Applicant:** Cheffins

**Case Officer:** Angela Briggs, Planning Team Leader

**Parish:** Ely

**Ward:** Ely North  
 Ward Councillor/s: Simon Harries  
 Alison Whelan

**Date Received:** 14 May 2019      **Expiry Date:** 31<sup>st</sup> January 2020  
**[U145]**

1.0 **RECOMMENDATION**

1.1 Members are recommended to APPROVE the Deed of Variation to vary the original S106 agreement to facilitate an early review on viability which would involve fixing the resultant level of affordable housing across the remaining phases (excluding Phase 1 and either Phases 2 or 3, whichever is delivered first, and the adjacent care home); and to secure the early delivery of the A10 roundabout and associated infrastructure.

2.0 **SUMMARY OF APPLICATION**

2.1 The application seeks to vary clause 1.5 of Schedule 8 of the original S106 agreement which requires the landowners to submit a first viability review, in relation to the delivery of affordable housing across the rest of this part of North Ely, following commencement of development of Phase 1, but prior to the commencement of development of phases 2 or 3, whichever is the latter. Clause 1.5 will be deleted and replaced with a new clause. This Deed of Variation would allow the provision of 18% affordable housing to be delivered, up from 10%, in Phase 2 or 3, whichever is the latter. Phase 4 shall not deliver any affordable housing as this phase would provide self-build plots, allotments and open space only. The proposal would also confirm a second viability review before the commencement of Phase 5.

- 2.2 The Deed of Variation would also secure the earlier delivery of the new A10 roundabout and associated infrastructure as illustrated on Drawing number 5321\_Deed of Variation (LDA Design), attached as Appendix 1 to this report. A new definition of “Roundabout and Link Road” shall be inserted into the original agreement.
- 2.3 A new clause 7 of Schedule 5 will also be inserted into the agreement to secure the delivery of the new roundabout as part of Phase 3.
- 2.4 A draft Deed of Variation document has been submitted and has been assessed by an independent property advisor. Discussions have also taken place during the course of this application at Management level between the landowners and LPA Officers in relation to the proposal.
- 2.5 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council’s Public Access online service, via the following link <http://pa.eastcambs.gov.uk/online-applications/>. **Alternatively a paper copy is available to view at the East Cambridgeshire District Council offices, in the application file.**

3.0 PLANNING HISTORY

- 3.1
- |              |                                                                                                                                                                                                                                         |          |            |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|
| 13/00785/ESO | Residential led development of up to 1,200 homes with associated employment and community uses (including care home or extra care home). Supporting infrastructure, and open space/landscaping on land to the west of Lynn Road in Ely. | Approved | 26.11.2014 |
|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|

4.0 THE SITE AND ITS ENVIRONMENT

- 4.1 The site is located at the northern fringes of the City, and forms part of the Isle of Ely rising gently above the surrounding fens. It extends to approximately 75.5 hectares of predominantly open fields, some currently used as agricultural land and some areas have now been developed. The site forms part of a larger proposed North Ely urban extension, which includes a total of 203 hectares of land stretching from the A10 in the west to the railway line in the east on land north of Kings Avenue and Cam Drive. This application site is bounded by Cam Drive to the south, by the A10 to the west, and by Chettisham village and open fields to the north. To the east the site boundary encloses King Edgar Close and Lily House and grounds, and is bounded by Lynn Road and residential dwellings fronting on to that Road. The Willows and Twinwood Cottage form a group of farm buildings located directly off Lynn Road to the north east. The south of the site is approximately 1km from the City centre, with Lynn Road being the direct linking route.

- 4.2 Development of the Southern part of this site is currently underway, with the Isle of Ely Primary School completed and opened in April 2016 followed by Phase 1 housing scheme, by Hopkins Homes, and the Care Home, situated opposite the School. The main access from Cam Drive has also been constructed which serves the School, and Phase 1 development, and the internal roadways. Many of the dwellings on Phase 1 are now already occupied and the Care Home is occupied.
- 5.0 PLANNING COMMENTS
- 5.1 Background Information:
- 5.2 The Council has instructed Andy Leahy, from Bespoke Property Consultants, who were involved in the original viability assessment and S106 negotiations for North Ely, and advised on the viability issues for affordable housing as stated within Schedule 8 of the original S106. Therefore, the Council has instructed Andy Leahy, to review the submitted first viability report and advise the Council on the acceptability of the proposal.
- 5.3 The outline planning permission, Ref: 13/00785/ESO, is accompanied by a S106 legal agreement which requests, under Schedule 8, that the landowners should submit a viability review in relation to affordable housing, to establish the delivery of affordable housing from Phases 2 and 3 (whichever is the latter), onwards. The original S106 agreement also includes a mechanism by which a second viability review would be submitted no more than three months, prior to the commencement of Phase Five which would confirm the affordable housing delivery for this last phase. The Phase Five mechanism is not changing under this Deed of Variation.
- 5.4 Policy HOU3 of the East Cambridgeshire Local Plan, 2015 requires developments of more than 10 dwellings to provide 30% affordable housing in Ely. However, the affordable housing delivery at present would not concur with this requirement due to the overall viability of the site which was assessed as part of the original application. Therefore, the original S106 allows for an initial affordable housing provision amounting to 10% within the first two phases of development, and then a viability review should be submitted, subject of this application, to confirm the affordable housing quantum for Phases 2 or 3 (whichever is the latter), onwards.
- 5.5 This application seeks to comply with this request and this is therefore the first viability review in accordance with Schedule 8 of the original S106 agreement.
- 5.6 Viability Assessment
- 5.7 The original proposal received as part of the viability review offered to deliver 18% affordable housing in Phase 2 or Phase 3 (whichever is the latter) and deleted the requirement for a second viability review before the commencement of Phase 5. Concerns were raised by Council Officers regarding this offer as it could have compromised the delivery of affordable housing on Phase 5 without a second viability review. Therefore, further discussions took place between parties to ensure that the delivery of affordable housing was acceptable and secured a second viability review. Another viability offer was submitted by the landowners, which was reviewed and assessed by Officers and the Council's independent consultant which

justified that provision of 18% (from 10%) affordable housing is the maximum increase that could be achieved at this stage. This offer also included the retention of a second viability review, at a later stage.

5.8 The following clauses have therefore been proposed within the Deed of Variation:

5.9 Section 5 – Operative Provisions:

5.10 Clause 1.5 of Schedule 8 shall be deleted and replaced with the following:

5.11 1.5 “For the further avoidance of any doubt, the level of Affordable Housing to be built in Phase 5 will be determined by the outcome of the Second Viability Review. Phase 2 shall deliver 18% Affordable Housing unless it is the second phase to be constructed in which case it shall deliver 10% affordable dwellings in accordance with the initial Affordable Housing Provision. Phase 3 shall deliver 18% Affordable Housing unless it is the second phase to be constructed in which case it shall deliver 10% Affordable Housing in accordance with the initial affordable housing provision. Phase 4 (self-build/custom build) shall not deliver any Affordable Dwellings”

A new definition of “Roundabout and Link Road” shall be inserted into the Original Agreement as follows:

“Roundabout and Link Road” means the roundabout as shown on plan 5321\_Deed of Variation, attached to this Deed (“the Roundabout”) and the link road connecting the Roundabout to the roundabout constructed adjacent to the Primary School as indicated on plan 5321\_Deed of Variation attached to this Deed to be provided by the Landowners in accordance with Schedule 5.

A new clause 7 of Schedule 5 shall be inserted into the original Agreement as follows:

“7 The Landowners shall provide the Roundabout and Link Road as part of Phase 3 of the Development”.

5.12 Following the revised viability review the Council’s independent Consultant has advised as below:

Revised Affordable Housing Offer:

“The applicant has now stated that they will increase the Affordable Housing provision from 10% to 18%.

The applicant, in the revised viability review, has further offered to keep the viability review in place at the start of Phase 5, which is a better position than previously offered, where the increase in Affordable Housing provision was going to be fixed for the remainder of the scheme. Thus, the concerns that we had previously raised have been mitigated by this revised offer.

In summary, we have no issues with the latest appraisal provided by the applicant subject to the comments made above.

There are a number of factors which are affecting the viability of the scheme (self-build plot values, density etc.) and these will be caught by the final viability review at Phase 5, secured by the S106.

The increase in the fixed level of affordable housing to 18% is the maximum reasonable amount that can be secured at this stage and will give developers certainty leading to continued housing delivery on this site”.

5.13 It is therefore considered that the above Affordable Housing offer which increases the percentage from 10 to 18 and secures a second viability review, is acceptable and Members are recommended to agree the variation to the original agreement and approve the application.

## 6.0 APPENDICES

6.1 Appendix 1 - Drawing number 5321\_Deed of Variation

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer(s)</u>
19/00702/MPO	Angela Briggs Room No. 011	Angela Briggs Planning Team Leader
13/00785/ESO	The Grange Ely	01353 665555 angela.briggs@east cambs.gov.uk

National Planning Policy Framework -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

East Cambridgeshire Local Plan 2015 -

<http://www.eastcambs.gov.uk/sites/default/files/Local%20Plan%20April%202015%20-%20front%20cover%20and%20inside%20front%20cover.pdf>