

---

**Report of the Head of Strategic Investment****HEAVY WOOLLEN PLANNING SUB-COMMITTEE****Date: 01-Jun-2018**

**Subject: Planning Application 2012/93803 Discharge of conditions on previous planning permission no. 2011/90359 for extension to time limit to previous app 2007/94743 for demolition of existing buildings and erection of 62 dwellings with garages and associated infrastructure Syke Ings Mills, 16, Off Ossett lane, Providence Street, Earlsheaton, Dewsbury, Dewsbury**

**APPLICANT**

Glen Wilson, D Noble Ltd

**DATE VALID**

07-Dec-2012

**TARGET DATE**

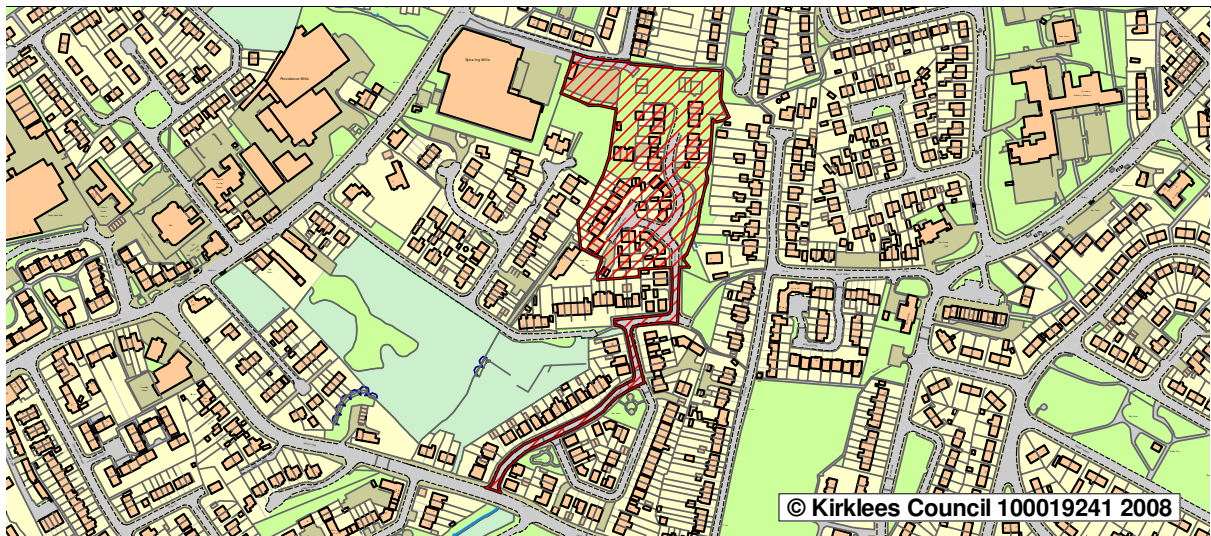
01-Feb-2013

**EXTENSION EXPIRY DATE**

---

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**

**Map not to scale – for identification purposes only**

---

## **Electoral Wards Affected: Dewsbury East**

No

Ward Members consulted  
(referred to in report)

### **RECOMMENDATION:**

**That the Planning Sub-Committee delegate to the Head of Strategic Investment authority to enter into a deed of variation as detailed in the report.**

### **1.0 INTRODUCTION:**

- 1.1 This application seeks the Sub-Committee's agreement to change arrangements for the delivery of social housing in a new residential development at the site of the former Syke Ing Mills, Earlsheaton. The application is brought for decision by the Sub-Committee at the request of the Chair.

### **2.0 BACKGROUND**

- 2.1 The application site lies between The Laurels, Jilling Ing Park and Mill Lane, Earlsheaton and forms part of the larger area previously occupied by Syke Ing Mills which is currently in the course of development for housing. Planning permission for 62 dwellings on the site was issued in April 2008 (2007/94743) following decision by Sub-Committee on 7 February 2008. The permission was conditional including requirements for the provision of public open space and affordable housing. The permission was extended by approved application 2011/90359 issued on 28 September 2011.
- 2.2 Following resolution by the Area Planning Sub-Committee on 4<sup>th</sup> July 2013 it was agreed that the applicant would construct four apartments for sub market rent (no greater than 80% of the prevailing market rent) to be made available to a Council approved tenant before 75% of the market dwellings are occupied.
- 2.3 It was agreed that the affordable housing element on the development would be provided by the landowners. There was as a result no requirement in the Section 106 Agreement on the landowners or the developer Noble Homes to partner with a Housing Association and transfer the affordable housing units to that Housing Association at the rates set out in the planning policy guidance. The form of affordable housing that was agreed was a form of "intermediate" housing that would be provided by the landowners and which was designed to promote home ownership.
- 2.4 As a consequence additional planning obligations were imposed on the landowners not just to construct 4 affordable housing units but also to then make those units available for letting at a rate of up to 80% of the market rent. In addition there was a provision (Clause 3.3) that required the landowner to accept 50% of the rent paid by the tenant during the first 24 months of a tenancy

as constituting a deposit in the event of the tenant wishing to buy the affordable housing unit. It was necessary to have these additional provisions because the landowners were not a Registered Provider of any type.

### **3.0 PROPOSAL:**

- 3.1 Connect Housing Association have agreed terms with the developer to purchase five units within this scheme comprising the four specified in the S106 Agreement and one other at market value. Connect Housing Association has very recently obtained funding from the Homes and Communities Agency (HCA) to buy housing units on the open market. One of the HCA's conditions of the funding is that any units that are purchased are bought at market value and that the units are not subject to any planning obligations that require them to be used as any form of affordable housing. Another of the conditions is that the funding is "spent" in the current financial year.
- 3.2 Connect Housing have agreed "subject to contract" to buy the four housing units that currently constitute the affordable housing at the Syke Ing Mills development and which have been recently completed. They will let the units at Affordable rent. However, they can only do so if the affordable housing provisions of the Section 106 Agreement cease to apply. Connect Housing have therefore applied to the council for the Section 106 Agreement to be varied so as to delete all the affordable housing provisions. The variation would take effect after Connect have acquired the four units.
- 3.3 The proposed revision is therefore to waive clause 3 of the Section 106 Agreement in its entirety to ensure that there are no affordable housing provisions in the Section 106 Agreement. This will enable Connect Housing to draw down their funding from the Homes England for the acquisition of these five units.

### **4.0 PUBLIC/LOCAL RESPONSE:**

- 4.1 The proposed variation has not been publicised.

### **5.0 CONSULTATION RESPONSES:**

- 5.1 Strategic Housing and Legal Officers have been involved in the preliminary discussions and raise no objections.

### **6.0 ASSESSMENT**

- 6.1 Officers are of the view that there will cease to be a need for the Section 106 Agreement to contain additional affordable housing provisions if the four affordable housing units are acquired by Connect Housing which is of course a registered provider. Officers can therefore recommend that the council as planning authority enters into this deed of variation.
- 6.2 It is accepted that the developer will benefit financially from the proposed deed of variation. However, this benefit would not come from the receipt of market value for the units as it was always intended that this would be the case in the signed S106 Agreement. The benefit to the developer comes from getting the sales now rather than needing to wait for a tenant to buy - and whilst waiting for the tenant to buy, having to accept a sub market rental income and then pay part of that towards a deposit.

- 6.3 However Officers consider that the current proposal represents a better offer than the existing S106 requirements as:
- The community get 5 affordable homes delivered (an increase in that previously agreed)
  - They will be managed by a Registered Provider (RP);
  - This Authority retains the right to nominate tenants.
  - The RP can later borrow against the stock to invest in their future housing products.
  - The scheme is in the area of focus for growth for this partner;
  - It represents expedient delivery and additions to the District's affordable housing stock.
  - The existing S106 Agreement does not incorporate any default arrangements if the developer failed to find a Registered Provider.
  - Anyone eligible to exercise the right to acquire would be entitled to a discount which would be likely to be greater than half of the rental paid in the first 24 months of the tenancy as referenced in clause 3.3.
  - The rental to be charged at Affordable Rent will be up to 80% of market rent as defined in the existing agreement and in practice will be the same in operation, albeit within the management undertaken by Connect.
  - The fifth unit will operate in the same way, at Affordable Rent, and be eligible to the right to acquire, and be part funded by Homes England grant as would the other 4 units.
  - Connect will need to liaise with the Council in respect of our Choice Based Lettings scheme [Choose-n-Move] and the Council will nominate as is standard practice.
- 6.4 Officers consider it appropriate for clause 3 of the Section 106 Agreement to cease to apply if (and only if) the apartments are acquired by a Registered Provider. Registered Providers are required to provide housing at affordable rents and tenants will be able to purchase their homes at a discount under the Right to Acquire Scheme or any future statutory scheme that gives a tenant the right to purchase the long lease of their flat at a discount.

#### **4.0 CONCLUSION**

- 4.1 That authority be delegated to the Head of Strategic Investment to vary the terms of the existing S106 Agreement in accordance with the Officer's recommendation.

#### **Background Papers:**

Link to application details (2012/93803):-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2012%2f93803>

Link to the Extension to time application (2011/90359):-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2011%2f90359>

Link to the original application (2007/94743):-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2007%2f94743>