SUMMARY

1.1 This application seeks to vary a legal agreement to reduce the affordable housing requirement for a development which was allowed at appeal from 35% to 20%.

1.2 This application is referred to the Committee partly because it relates to a major application and also because the Council's delegated powers make no reference to such applications.
SITE DESCRIPTION

2.1 The site is located between the existing Heritage Green development and the A12 Kessingland by-pass.

2.2 Planning permission for a scheme of 30 dwellings was refused in December 2013 because the site lies beyond the “physical limits” for Kessingland.

2.3 However an appeal was lodged and a public inquiry held in September 2014, following which the inspector allowed the appeal. The appellants offered a unilateral undertaking proposing 10 affordable dwellings, comprising 9 affordable rented houses and 1 intermediate housing dwelling.

PROPOSAL

3.1 The application seeks to reduce the affordable housing requirement to 20% (6 dwellings), with a proposal that these should be shared equity.

3.2 This application is being made under section 106BA of the Planning Act. This was a temporary provision whereby the Growth and Infrastructure Act inserted new Sections 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduce a new application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing.

3.3 Members may recall seeing similar applications in the past and there remain existing powers to renegotiate Section 106 agreements on a voluntary basis. Under this new type of application and appeal procedure only the viability of affordable housing requirements can be assessed. It will not reopen any other planning policy considerations or review the merits of the permitted scheme.

3.4 Councils only have 28 days to determine such applications and there is a right of appeal against a refusal to vary the agreement.

3.5 These provisions expired at the end of April 2016.

CONSULTATIONS/COMMENTS

4.1 **Kessingland Parish Council** was consulted on 26 April 2016

Consultees

4.2 **Pathfinder Development Consultants** were consulted on the 26 April 2016.

PUBLICITY

4.3 None

SITE NOTICES

4.4 None.
RELATED APPLICATIONS

<table>
<thead>
<tr>
<th>Reference No</th>
<th>Proposal</th>
<th>Decision</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>DC/12/1105/FUL</td>
<td>Construction of 30 dwellings (6 bungalows and 24 houses)</td>
<td>Allowed on appeal</td>
<td>21/10/2014</td>
</tr>
</tbody>
</table>

PLANNING POLICY

5.1 Development Management Policy DM18 states as follows:

5.2 “All new housing developments on sites with a capacity of 5 or more dwellings must make provision for affordable housing, preferably on site. On small sites of less than 10 dwellings and in other exceptional circumstances an off-site financial contribution may be considered more appropriate.

5.3 Planning applications for 5 to 14 dwellings inclusive shall provide 20% affordable housing onsite or provide an equivalent off-site financial contribution for affordable housing until the end of 2014. From the start of 2015 planning applications for 5 to 14 dwellings inclusive shall provide 35% affordable housing on-site or provide an equivalent off-site financial contribution for affordable housing elsewhere.

5.4 Outside the Area Action Plan area of Lake Lothing planning applications for proposals of 15 or more dwellings shall provide a minimum of 35% on-site affordable housing.

5.5 In the Area Action Plan area of Lake Lothing up until the end of 2014, planning applications for 5 or more dwellings shall provide 20% affordable housing. From the start of 2015 planning applications for 5 or more dwellings shall provide 35% affordable housing.

5.6 The above requirements will be reduced where it can be demonstrated that lower percentages of affordable housing are required to ensure the site remains financially viable when taking into account other development costs and where grant funding is not available.

5.7 The mix of tenure of affordable housing provided shall reflect the needs identified in the Housing Market Assessment and as a result of any pre-application discussions.”

PLANNING CONSIDERATIONS

6.1 The applicant states that following the budgetary changes to housing association funding made last year, the level of offers from housing associations for affordable housing have dropped considerably and in some cases associations have withdrawn completely from purchase, having previously indicated a desire to proceed.

6.2 He has referred to a letter from Brandon Lewis MP, Minister of State for Housing and Planning, sent to Councils on 9th November 2015. The Minister points out that developers may already or will be approaching councils to renegotiate Section 106 Agreements to make adjustments to planned schemes, including the type of affordable housing provided. Planning guidance is clear that local planning authorities should be flexible in their requirements, taking into account specific site circumstances and changing circumstances.

6.3 The Minister urges planning authorities to respond constructively, rapidly and positively to requests for such renegotiations and to take a pragmatic and proportionate approach to viability and says that the Government attaches great importance to the effective and flexible negotiation of Section 106 planning obligations, including on affordable housing.
6.4 The full text of this letter is attached as Appendix 1

6.5 This application is accompanied by a viability study from Maplins Associates. Pathfinder Development Consultants are retained by the Council's Housing department and have been asked to review the study. Their conclusions will be reported verbally to members.

CONCLUSION

7.1 Policy DM18 allows for a reduction in affordable housing requirements where it can be demonstrated that lower percentages of affordable housing are required to ensure the site remains financially viable and this policy mirrors current government policy. However whether this application is considered to be acceptable depends on the assessment of the viability study.

RECOMMENDATION

A verbal recommendation will be made to members once the review of the applicant’s viability study has been undertaken.

APPENDICES

Appendix 1 – Letter from Brandon Lewis MP dated 9 November 2015.

BACKGROUND INFORMATION: See application ref: DC/16/1713/VLAHH at www.waveney.gov.uk/publicaccess

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