

**Application Number: F/YR14/0443/PLANO**  
**Parish/Ward: March West**  
**Date Received: 2<sup>nd</sup> June 2014**  
**Expiry Date: 28<sup>th</sup> July 2014**  
**Applicant: Accent Nene Ltd**  
**Agent: ACSL Legal, Accent Corporate Services**

**Proposal: Modification of Planning Obligation attached to planning permission F/YR03/1387/F (entered into on 29/11/2004) relating to 37 Riverbank Close only to remove clause that prohibits key workers from stair casing to 100%**

**Location: Old Council Depot, Gaul Road, March**

Reason before Committee: This proposal is before the Planning Committee due to the Original Section 106 Agreement being agreed at Planning Committee previously

**1. EXECUTIVE SUMMARY/RECOMMENDATION**

The application seeks to modify the existing Planning Obligation dated 29<sup>th</sup> November 2004 tied to planning permission, F/YR03/1387/F for the residential development now known as 'Riverbank Close' in March.

The existing Planning Obligation refers to 7 properties out of the total of 38 dwellings approved under planning permission F/YR03/1387/F as key worker dwellings which are limited to stair casing to a maximum of 80%.

The change is required to allow the shared owner at 37 Riverbank Close, March to stair case to 100% and acquire the freehold interest in the property.

The Homes and Communities Agency (HCA) have confirmed that there is no longer a national definition of a "key worker" and therefore they no longer restrict schemes in this respect.

Accordingly there would be no objection in removing the clause to restrict key worker dwellings from stair casing to 80% for the property at 37 Riverbank Close to allow unrestricted stair casing.

Having considered all the matters raised, it is recommended that a Deed of Variation is accepted.

**2.0 HISTORY**

Of relevance to this proposal is:

2.1	F/YR03/1387/F	Erection of 38 dwellings comprising 2 x 2-bed detached bungalows, 7 x 2-bed semi-detached bungalows, 3 x 2-bed terraced bungalows, 7 x 3-bed terraced houses, 4 x 3-bed semi-detached houses, 7 x 2-bed	Granted 14 January 2005
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terraced houses, 2 x 2-bed semi-detached houses, 6 x 4-bed two and a half-storey semi-detached houses for affordable housing with parking and pumping station

### 3.0 PLANNING POLICIES

#### 3.1 Fenland Local Plan 2014

LP1 - A Presumption in Favour of Sustainable Development  
LP2 – Facilitating Health and Wellbeing of Fenland Residents  
LP3 - Spatial Strategy, The Settlement Hierarchy and the Countryside  
LP5 – Meeting Housing Need  
LP16 - Delivering and Protecting High Quality Environments across the District.

### 4.0 CONSULTATIONS

4.1 **Town Council:** Recommend approval.

4.2 **FDC Housing Strategy:** Supports application. Fenland District Council does not offer additional preference for affordable housing to key workers and there is no national definition of Key Worker. The Homes & Communities Agency no longer supports the provision of restricted shared ownership leases except on some rural schemes. Accordingly, I have no objection to the removal of clauses within the S106 agreement which relate to the provision of key worker accommodation and restricted staircasing.

4.3 **Local Residents:** No comments received.

### 5.0 PLANNING ASSESSMENT

5.1 This proposal seeks to modify the existing Planning Obligations dated 29<sup>th</sup> November 2004 in relation to the residential development which is now completed and known as Riverbank Close in March which comprises 40 dwellings.

The development permitted by the permission (LPA referenced: F/YR03/1387/F) was for the construction of 38 dwellings comprising 22 dwellings to be let on affordable rents, 7 dwellings for shared ownership housing, 7 dwellings for occupation by key workers and 2 non-affordable dwellings for sale on the open market.

This application relates principally to one of the 7 properties which were designated as key worker properties. These properties have restrictions imposed on them so as to prevent them from being able to increase their equity stake to more than 80%.

On 1 April 2008 the Homes and Communities Agency (HCA) confirmed that such key worker provisions, which cap the amount of equity to an amount below 100% are void and do not apply. As such the HCA confirmed that such leases should be treated as general shared ownership long leases and accordingly staircase

up to 100%.

The provision set out in the original Planning Obligations dated 29<sup>th</sup> November 2004 regarding key workers having restricted stair-casing does not apply in law no longer in line with HCA's position and therefore unenforceable. Accordingly this application seeks to vary the agreement by removing this specific provision.

It is understood that the Deed of Variation will only apply to 37 Riverbank Close, March and as they have a significant interest in the property will have to be a signatory to the agreement.

On the basis of the information provided, there would be no objection to the removal of the clause which states key worker properties are restricted to stair casing to 80%. In this case the applicant only wishes to vary the agreement in respect of one of the properties (37 Riverbank Close) and therefore the current draft Deed of Variation is required to be amended in this respect.

## 6. **CONCLUSION**

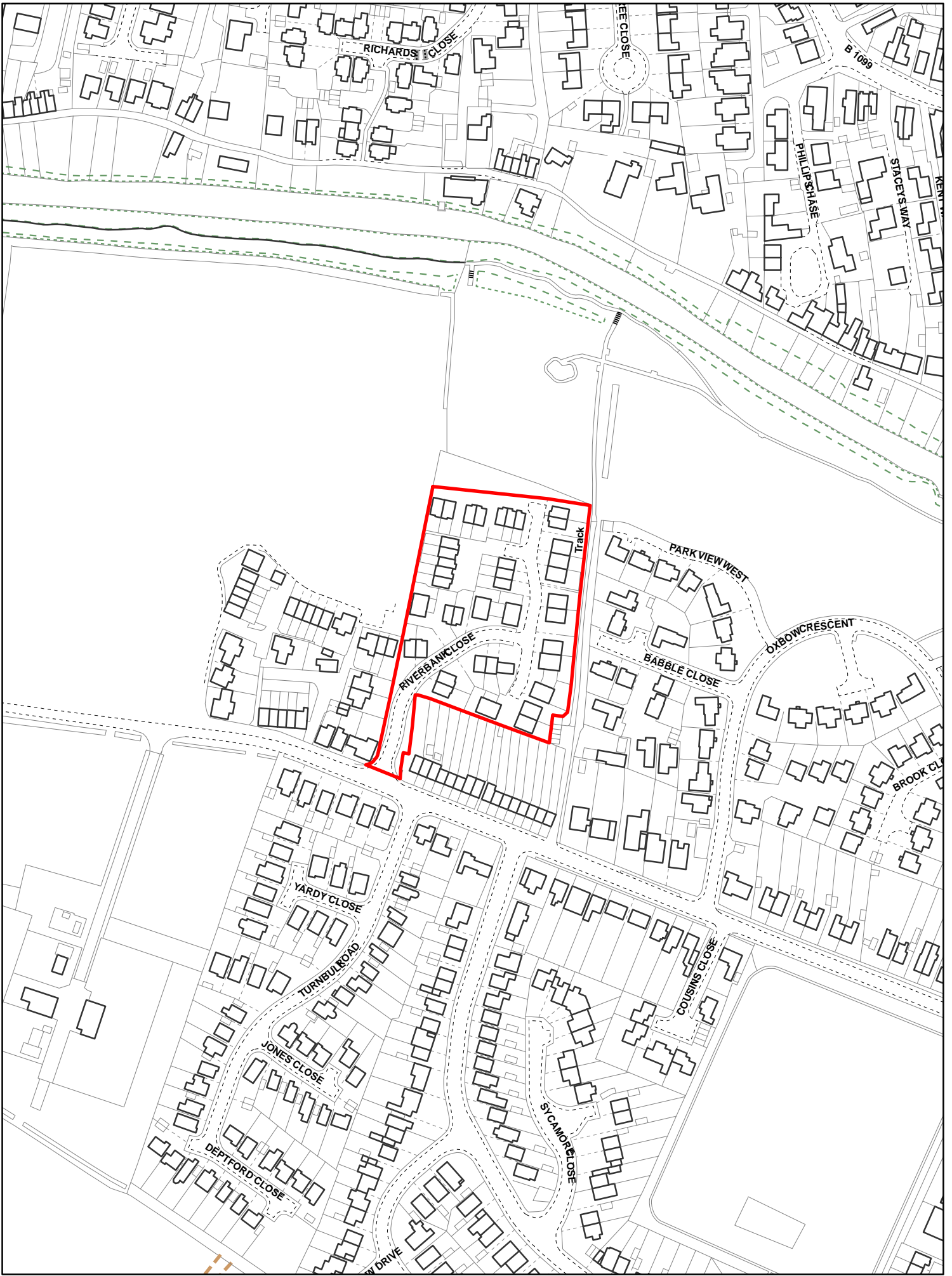
- 6.1 The application has been given due consideration and accordingly approval is recommended to accept the principle of a Deed of Variation in respect of the above.

## 7. **RECOMMENDATION**

GRANT subject to the completion of a Deed of Variation.

It is recommended that a Deed of Variation be accepted as follows:

- 7.1 Based on the property at No.37 Riverbank Close only and the current occupiers of that property being signatory to the agreement.



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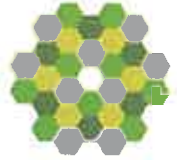
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N

  
Fenland District Council

Land Registry  
Official copy of  
title plan

Title number **CB309589**  
Ordnance Survey map reference **TL4196NW**  
Scale **1:1250**  
Administrative area **Cambridgeshire : Fenland**



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