Dear Mrs Marshall

RE: Affordable homes clauses within the Section 106 associated with planning application 14/00537/MFUL and 16/00878/Full), Court Barton, Silver Street, Thorverton

I am writing in response to your letter that was addressed to Mr Walford regarding the above development and the associated Section 106 agreement.

Mr Walford has asked me to respond as I was the planning officer involved with the planning applications and have had recent discussions regarding the Section 106 with MDDC legal services as well as correspondence with Westhaven Homes and Devon and Cornwall Housing.

The development at Court Barton is half within and half outside the settlement boundary of Thorverton. The area of the site that is outside the settlement boundary was considered to be an exception site. The market dwellings that form part of the development were included to facilitate the provision of the affordable housing. The development of the affordable homes has been cross subsidised with the provision of the market dwellings. As you identify in your letter national planning policy and policy DM9 Local Plan Part 3 (Development Management Policies) allow for cross subsidy of affordable housing on exception sites where there is evidence of local need for affordable housing. The local need for affordable housing in Thorverton was evidenced by a housing needs survey.

The Section 106 (S106) agreement that was completed for this development secures 10 of the properties as affordable housing but it does not include a local connection clause. A local connection clause should have been included in the S106 so local people would have a priority when the properties are allocated by the affordable housing provider (which in this case is Devon and Cornwall Housing). It was the responsibility of MDDC to ensure that the S106 included all the clauses that were necessary. Although the S106 does not include a local connection clause, it is a signed and sealed document and is legally binding and the planning permission stands.

MDDC are responsible for the provision of a large number of legal agreements related to developments in the district and the number of errors known to have been made are very few. There are internal processes in place with regards to the instructions that are provided to legal services when a S106 agreement is required, however, in order to ensure that errors such as this do not occur in the future these internal processes are to be reviewed.

Since it has been identified that the local connection clause was not included in the S106, MDDC have been in contact with Devon and Cornwall Housing and they have voluntarily imposed a local connection clause for the allocation of the affordable homes at Court Barton Close. The MDDC Housing team have spoken to Devon and Cornwall Housing regarding the future allocations and we understand that if a property becomes available, DCH have indicated that they will endeavour to let it to someone with a local connection.

MDDC have asked the interested parties (Westhaven Homes, Devon and Cornwall Housing and Devon County Council) if they would be willing to sign a revised S106 agreement to include the local connection clause and have offered to pay the legal costs associated with the signing of the agreement. Unfortunately Devon and Cornwall Housing do not feel they

are in a position to be able to sign a revised agreement due to the financial implications for their business. MDDC are unable to insist that a revised S106 is signed.

In your letter you refer to the Devon Home Choice referring to 'bandings', I have discussed this with the MDDC Housing team. They have advised that the advert for the homes at Court Barton Close were advertised by Devon and Cornwall Housing (DCH) twice. The first advert was published during the week 29 March to 3 April 2017, which was when the local connection to Mid Devon applied. This advert stated that the local connection would apply. The advert for the week 5 to 10 April 2017, which related to the homes, stated that first priority would go to applicants in housing need (Bands A-D) with a local connection to Thorverton.

Devon Home Choice (DHC) is used by the Council to assess housing need and by DCH to let the homes in their management. The DHC scheme provides an assessment framework and housing applicants are placed into bands with A being for those in greatest housing need and E being for those who have no housing need. The Council, as the strategic housing authority, assesses housing need, and DCH, as the landlord in this instance, will allocate the homes. As DCH has undertaken to apply a local connection to allocations for the scheme at Thorverton they will be giving priority to those people with a local connection to Thorverton and the bids of anyone with such a connection will be reviewed to ensure that the people in greatest need with that connection will receive highest priority. As preference within each band is given in relation to the length of time someone has been registered, we would encourage anyone who has a local connection to the Parish and who is in housing need to register with DHC as soon as possible.

I understand that the Parish and community will be disappointed and upset that the error was made in the Section 106 and that MDDC cannot insist that the Section 106 agreement relating to the 10 affordable homes at Court Barton Close is now amended to include the local connection clause. However, I hope that the above information will explain the action that has been taken to seek a local connection clause in relation to the development as well as explain the Devon Home Choice allocations process.

Yours sincerely

Lucy Hodgson