

The Application is for full planning permission for the demolition of the former Newcastle Baptist Church and the erection of a residential apartment development containing 14 two bed units and 8 one bed units with the formation of a new access (onto Vessey Terrace) and associated car parking.

The site lies within the Urban area of Newcastle as designated on the Local Development Framework Proposals Map.

London Road is part of the A34.

A decision on the application was deferred at the meetings of the Committee held on 9th December 2014 and 6th January 2015 to allow for the receipt and consideration of the advice of the District Valuer.

The 13 week period for this application expired on 24th September 2014, but the applicant has agreed an extension to the statutory period until 10th February 2015.

RECOMMENDATION

A. Subject to the applicant entering into a Section 106 obligation by 17th March 2015 to require the review of the financial assessment of the scheme if there is no substantial commencement within a year of the grant of planning permission,

Permit subject to conditions relating to the following matters:-

- 1. Time limit/Plans**
- 2. Materials**
- 3. Boundary treatments**
- 4. Landscaping**
- 5. Landscape management plan**
- 6. Provision of parking and turning areas**
- 7. Closure of existing access on Vessey Terrace**
- 8. Details of gates to replace the rise and fall posts shown at the access**
- 9. Construction method statement**
- 10. Provision of cycle parking and shelter**
- 11. Surface water drainage interceptor**
- 12. Written scheme of archaeological investigation**
- 13. Construction hours**
- 14. Piling details**
- 15. Details of ventilation system to ensure appropriate indoor air quality**
- 16. Details of the materials of the acoustic barrier**
- 17. Internal noise levels**
- 18. Details of any fixed mechanical ventilation or air conditioning plant**
- 19. Details of external artificial lighting**
- 20. Television reception study**
- 21. Contaminated land conditions**
- 22. Sustainable Homes Code Level 3**

B. Failing completion by 17th March 2015 of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that without such an undertaking, account would not be able to be taken of a change in market conditions and a development that could have made required contributions would not do so; or if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The site is located within the urban area of Newcastle close to the town centre and is a sustainable location for new housing. The benefits of the scheme include the provision of housing within an appropriate location making use of previously developed land. Subject to the imposition of suitable conditions it is not considered that there are any adverse impacts of the development that would significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

Taking into account the viability case made by the applicant, the independent advice received from the District Valuer and the merits of the scheme, particularly its contribution to housing availability, it would not be appropriate to require any contributions towards public open space or affordable housing.

Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application

Officers have worked with the applicant to address all issues and the application is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Policies and proposals in the approved development plan relevant to this decision:-

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP3: Spatial principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1: Residential Development – Sustainable Location & Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy C4: Open Space in new housing areas
Policy C22: Protection of Community Facilities

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

Supplementary Planning Guidance/Documents

Space Around Dwellings SPG (July 2004)

Developer Contributions Supplementary Planning Document (SPD) (September 2007)

Affordable Housing SPD (2009)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)

North Staffordshire Green Space Strategy – adopted December 2009

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Relevant Planning History

None considered relevant

Views of Consultees

The **Highway Authority (HA)** has no objections to the proposal subject to conditions regarding access, parking and turning, closure of the existing access, construction method statement, cycle parking and drainage.

Further comments from the HA have been received following the receipt of a traffic survey from a neighbouring resident. These comments are detailed below in paragraph 6.4 of the report.

The **Police Architectural Liaison Officer** makes the following comments (on the proposals as originally submitted):

- The proposals possess some sound crime prevention attributes including the defensible space provided by a low wall with planting behind along the London Road frontage and the brick wall along the boundary of the site with the rear access track of the Grosvenor Gardens houses. The rear car park will be enclosed and will have some overlooking from the apartment block.
- The rise and fall posts at the entrance to the car park should be replaced with automated, inward opening, visually permeable gates. The cycles store door should be relocated to a different elevation to accommodate this and the cycles store should be secured and provision made internally for cycles to be secured in situ.
- Good access control provision will need to be put in place to prevent unauthorised access to the building via the front and rear entrances for the security and benefit of the residents. Access control should be extended to cover individual floors.
- Compliance with the minimum physical security requirements contained within the Secured by Design New Homes 2014 guidance document is recommended.

The **Environment Agency** has no objections to the proposal. It is stated that the site has been occupied by a place of worship and such a use has limited potential to have caused contamination. Given the nature of the underlying strata (low permeability) there is no requirement for any further investigation of the site. The applicant should refer to the 'Groundwater Protection: Principles and Practice' document. All precautions must be taken to avoid discharges and spills to ground both during and after construction.

The **Environmental Health Division** has no objections to the proposal subject to conditions regarding hours of construction, vibration assessment, details of a ventilation system to ensure appropriate indoor air quality, internal noise levels, details of the materials of the acoustic barrier, details of any fixed mechanical ventilation or air conditioning plant, details of artificial lighting, a television interference condition and contaminated land conditions.

Staffordshire County Council as the **Education Authority** states that no education contribution will be requested as it is not the current policy to request a contribution from developments purely consisting of 1 or 2 bed apartments. However, the primary schools in this area are all projected to be full and so if the dwelling mix was amended they would wish to be informed.

The **Waste Management Section** has no objections and is happy with the size of the bin store area.

The **Housing Strategy Officer** states that 25% affordable housing is required which would be 6 units (4 social rented and 2 shared ownership).

The **Landscape Development Section (LDS)** states that approval of a detailed planting scheme should be conditioned and should follow the strategic landscape proposals as shown. It is questioned whether the planting beneath the proposed terrace to the rear of the building could be established successfully. The dry conditions, without an irrigation system, and poor light conditions would make this very difficult. A Public Open Space contribution of £2,943 per dwelling is requested to include a contribution for capital development/improvement of off-site green space of £1,791 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Further comments have been received stating that the play element could be removed from the 1-bed flats giving 8 at £1,482 (1-bed flats), 14 at £1,791 (2-bed flats) and 22 at £1,152 (maintenance contribution).

Staffordshire County Council Archaeologist states that an architectural and historical review of the churches and chapels of North Staffordshire (2009) identified that the Baptist Chapel makes a positive contribution to Newcastle's townscape and is worthy of local listing. In line within NPPF paragraph 128, it is advised that a heritage statement be produced. If planning permission is granted for the demolition of the Newcastle Baptist Chapel and given its recognised historical and townscape contribution to the town it is recommended that a building recording survey be carried out. This work would equate to a Level 2 survey as identified in the English Heritage volume entitled '*Understanding historic buildings: a guide to good recording practice*' (2006). This work would most appropriately be secured via a condition.

The Council's **Conservation Officer** states that the church is not on the local Register of Important Buildings and was not added this year during the review. It may be considered as a non-designated heritage asset, and this is backed up by the Church Survey which was carried out a number of years ago. The survey sets out a relatively detailed report for the history of the church and the building. Certainly the report identifies the building as worthy of local listing and if not used as a church it could be a flexible space. The church no longer own the building and have moved on which has left it vulnerable. It is difficult to find new uses for such buildings often, and perhaps this is not the best location for conversion to residential as has been the case for other such cases. If consent were to be granted for demolition, it is concurred with the County Archaeologist that a building recording exercise should be undertaken.

No comments were received from the former **Greater Town Centre Locality Action Partnership** when consulted.

Representations

Five letters of representation have been received. Objection is made on the following grounds:

- Loss of privacy and overlooking
- Overshadowing and loss of light as the building would be significantly taller than the existing building
- Impact on view
- Noise and pollution during building work
- Impact on property value
- Parking impact on streets where there is already a parking problem
- Highway safety concerns regarding proposed access opposite existing pub entrance
- There is no provision for operational space for commercial and service vehicles to park or manoeuvre to exit in a forward gear
- There is no provision for parking for people with disabilities
- There are no parking spaces reserved for motorcycles

A traffic and pedestrian survey has also been received from a resident which states that six separate 1 hour surveys of flows at the junction of London Road and Vessey Terrace were carried out in November 2014 on three separate weekdays and three separate weekends. A survey was also carried out of parked cars at the Cherry Tree Public House which is marked out with 57 parking spaces. A Table is submitted giving average numbers of vehicles and pedestrians for each hour.

Applicant's/Agent's submission

The applicant has submitted a Design and Access Statement, an Air Quality Assessment, an Acoustic Survey and a Geo-Environmental Desk Study. Details of the application are available to view via the following link www.newcastle-staffs.gov.uk/planning/1400477FUL

Key Issues

1.1 Full planning permission is sought for the demolition of the former Newcastle Baptist Church and the erection of a residential apartment development comprising 14 two-bed units and 8 one-bed units, with the formation of a new access and associated car parking.

1.2 The application site is within the urban area of Newcastle, as indicated on the Local Development Framework Proposals Map. The main issues in the consideration of the application are:

- Is the principle of residential development on the site acceptable?
- Is the loss of a community facility acceptable?
- Is the proposal acceptable in terms of its impact on the form and character of the area both in relation to the loss of the existing building, and the proposed development itself?
- Would there be any adverse impact on residential amenity?
- Is the proposal acceptable in terms of highway safety?
- Is the proposal acceptable in terms of its landscaping and open space provision?
- Is affordable housing provision required and if so how should it be delivered?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?
- Would some lesser or nil contributions towards the cost of addressing issues of open space and affordable housing be justified given issues of viability?

2.0 Is the principle of residential development on the site acceptable?

2.1 Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land. The site is located within the Urban Area of Newcastle.

2.2 Policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 3,200 dwellings within Newcastle Urban Central (within which the site lies).

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

2.4 This is a previously developed site in a sustainable location within the urban area. The site is in easy walking distance of the shops and services of Newcastle Town Centre with regular bus services to destinations around the borough and beyond. It is considered that the site provides a sustainable location for additional residential development.

2.5 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. At paragraph 14, the Framework also states that unless material considerations indicate otherwise where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF at a whole.

2.6 The Council is currently unable to demonstrate a five-year supply of housing land and the starting point therefore must be one of a presumption in favour of residential development. In this particular context as has already been stated the development is in a location which is close to services and facilities and promotes choice by reason of its proximity to modes of travel other than the private motor car.

2.7 On the basis of all of the above, it is considered that the principle of residential development in this location should be supported unless there are any adverse impacts which would significantly and demonstrably outweigh the benefits.

3.0 Is the loss of a community facility acceptable?

3.1 Policy C22 of the NLP relates to the Protection of Community Facilities and advises that when considering applications for development that would involve the loss of an important community facility, the need for the facility and the likelihood of its being able to be replaced will be a material consideration. Where the community facility is a commercial enterprise, planning permission for alternative use may not be given unless the applicant can demonstrate that the business is not commercially viable.

3.2 The site is currently occupied by the former Newcastle Baptist Church building which has been vacant for some time. Newcastle Baptist Church has relocated to a building in the Westlands and therefore this particular community facility remains provided nearby. In terms of churches and associated community facilities generally, there are a number in the locality and therefore, it is not considered that an objection could be sustained on the grounds of the loss of a community facility.

4.0 Is the proposal acceptable in terms of its impact on the form and character of the area both in relation to the loss of the existing building, and the proposed development itself?

4.1 The existing building is identified on the Staffordshire Historic Environment Record (HER). An architectural and historic review of the churches and chapels of North Staffordshire (2009) identified that the Baptist Chapel was built in 1914 by the architects George Baines & Son who are noted designers of non-conformist chapels. The review contended that the Baptist Chapel makes a positive contribution to Newcastle's townscape and is worthy of local listing.

4.2 The NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Although this is a building of architectural merit, the review states that it has been altered externally and contains no furnishings of great interest. The building is not Listed and is not on the Council's Register of Locally Important Buildings and Structures. On balance therefore, it is not considered that an objection to the loss of the building could be sustained. However, given its recognised historical and townscape contribution it is considered that a condition should be imposed requiring a building survey to be carried out for the record.

4.3 CSS Policy CSP1 states that new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres. It states that new development should protect important and longer distance views of historic landmarks and rural vistas and contribute positively to an area's identity and heritage (both natural and built) in terms of scale, density, layout, use of appropriate vernacular materials for buildings and surfaces and access. This policy is considered to be consistent with the NPPF.

4.4 The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) has been adopted by the Borough Council and it is considered that it is consistent with the NPPF. Section 7 of the SPD provides residential design guidance and R3 of that section states that new housing must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it. R12 states that residential development should be designed to contribute towards improving the character and quality of the area. Development in or on the edge of existing settlements should respond to the established urban or suburban character where this exists and has definite value. Where there is no established urban or suburban character, new development should demonstrate that it is creating a new urban character that is appropriate to the area.

4.5 The site occupies a prominent location at the junction of London Road and Vessey Terrace just outside Newcastle Town Centre. It lies within a predominantly residential area with a large Public House, 'The Cherry Tree', to the south-east on the opposite corner of Vessey Terrace. The existing structure on the application site is a single-storey building. The building would be predominantly four storeys with two of the 22 units at fifth floor level. The main elevation of the building would front London Road with a secondary elevation to Vessey Terrace. Both elevations would be sited close to back of pavement. Vehicular access would be from Vessey Terrace via a bridged entrance and pedestrian access would be on the corner of London Road and Vessey Terrace. Car parking is

proposed to the rear with 22 spaces and an enclosed bin store and secure cycle store. The proposed materials comprise red facing brickwork, off-white render, timber cladding and grey aluminium windows and trimming details. The building would have a flat roof.

4.6 In terms of its scale, the building is significantly larger than the current building on the site. However, the adjacent development to the north-west on the London Road frontage comprises substantial brick-built Victorian terraced properties with three floors of accommodation and a steeply pitched roof. The ground level of the Public House to the south-east is raised up significantly above the level of the road and Vessey Terrace slopes up from the site to the east away from London Road. The 'proposed elevations' drawing indicates that the London Road elevation would be very similar in height to the adjacent properties to the north-west. The site occupies a prominent position on a main approach into the Town Centre and your Officer considers that a building of this scale would be appropriate in its context. Urban Vision's Design Review Panel considered a similar scheme for the site at pre-application stage, which although it has now been altered in elevational treatment, was very similar in terms of its height and massing. The Panel considered that in this location fronting a main dual carriageway road, the scale and massing of the building would be acceptable.

4.7 In terms of architectural detailing, the scheme that was considered by Urban Vision differed from that now submitted. The variation in the different materials used was applied horizontally across the building and Urban Vision considered that this did not respond to the vertical rhythm of the dwellings in the surrounding area. It was considered that greater regard should be had to the distinctive character of the surrounding area by reducing the number of surface materials used and articulating the individual residential units in a more vertical rhythm. These comments have been taken on board in the current scheme. The amount of render has been reduced and the building now has more of a vertical emphasis. The variation in materials and the addition of a fifth storey set back from the main elevations provides some articulation and it is considered that the clean, contemporary design is appropriate in this location.

5.0 Would there be any adverse impact on residential amenity?

5.1 Supplementary Planning Guidance (SPG) Space about Dwellings provides advice on environmental considerations such as light, privacy and outlook.

1. The impact of the development on existing neighbouring living conditions

5.2 A number of objections have been received from residents of Grosvenor Gardens to the north-east of the site. Residents express concerns regarding loss of privacy and light and regarding impact on view and the value of their property. Issues of impact on private views and property values are not material planning considerations. Regarding privacy and light, the Council's Space Around Dwellings SPG sets out the Council's objectives for space about new dwellings including the need for privacy, daylight standards and environmental considerations. That part of the building that fronts onto London Road would be approximately 33m from the rear of the properties on Grosvenor Gardens, whilst that part of the building which fronts onto Vessey Terrace is closer, but is not directly behind the Grosvenor Gardens houses. The SPG recommends at least 21m between dwellings where the facing walls contain windows of principal rooms and goes on to state that where one or both facing dwellings are over two storeys high the distance between principal windows should be 21m plus an additional set back of 3m for each additional storey. In this case, there are no principal windows in the north-east elevation of the fifth storey and the 33m achieved exceeds the 27m distance recommended for a 4-storey building. In addition, the land slopes up to the north-east and therefore, the ground level of the dwellings on Grosvenor Gardens is several metres above the level of the application site. The existing dwellings on Grosvenor Gardens have substantial rear boundary treatments and therefore, there is existing screening of those gardens from the proposed car parking. The neighbouring dwelling on Vessey Terrace has no principal windows in its side elevation and has no amenity space to its south-west.

5.3 Given the above, it is not considered that there would be any significant adverse impact upon the amenity of the occupiers of the existing dwellings.

2. The adequacy of the expected living conditions of future occupants of the units proposed

5.4 In terms of the amenity of the future occupiers of the proposed units, Urban Vision considered that in the pre-application scheme an unacceptable level of amenity space was provided. It was considered that the over-intensive nature of the development meant that no shared outdoor amenity space was provided for the occupiers of the apartments.

5.5 In the application scheme a raised landscaped deck has been provided at first floor. It would measure 6m x 14.5m and would include decking, lawn and planting. Comments made by the Landscape Section as to viability of planting could be addressed by control of the landscaping scheme that a condition could provide. Access would be available for all residents. Although the amenity area is relatively limited in size, it would enable the residents to enjoy some outside space, without unduly compromising the amenity of the occupiers of the houses in Grosvenor Gardens.

5.6 The Environmental Health Division (EHD) initially expressed concern that the submitted Noise Assessment did not consider the noise environment on the roof top balcony/terrace but following the submission of additional information that recommends a 1.8 m high glass acoustic barrier around the perimeter of the rooftop terrace, the EHD has confirmed that it has been demonstrated that such a feature would be sufficient to address their concerns. Subject to the imposition of an appropriate condition as indicated in the recommendation section, it is not considered that an objection could be sustained on residential amenity grounds.

6.0 Is the impact of the development on highway safety acceptable?

6.1 The access to the site would be via Vessey Terrace. Based on the maximum parking standards in the Local Plan, the development should not be permitted to provide more than 39 spaces. 22 spaces are proposed. Policy T16 of the Local Plan states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem, and furthermore that development may be permitted where local on-street problems can be overcome by measures to improve non-car modes of travel to the site and/or measures to control parking and waiting in nearby streets. The NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

6.2 One parking space is proposed for each apartment and this is a particularly sustainable location in easy walking distance of the shops and bus services in Newcastle Town Centre. There is no particular need to promote more sustainable modes of travel by the residents (for example by the provision of an annual bus pass on first occupation as has been done elsewhere), or to require a residential Travel Plan, given the inherent features of the location and the size of the scheme. For these reasons it is considered that in this instance the level of car parking proposed is sufficient, and it is not considered that the proposal would create or materially aggravate a local on-street parking or traffic problem, let alone cause a severe highways impact.

6.3 Subject to conditions, the Highway Authority has not raised any objections to the scheme in relation to either the access or the acceptability of the proposed car parking provision. Although a condition requiring revised access details is recommended, the Highway Authority has since confirmed that this request was simply intended to achieve clarification regarding visibility. The pavement here is reasonably wide and your Officer is satisfied that acceptable visibility can be achieved. It is not considered necessary to attach a condition requiring revised access or details of visibility splays.

6.4 A traffic and pedestrian survey received from a local resident was forwarded to the Highway Authority for their consideration. They have commented that as part of the assessment of the application, the effect of the development on the highway network including vehicle movements, pedestrian connectivity and the site location was considered. They took into account the existing permitted use of the site as a church and hall without any off street parking provision and the potential vehicle/pedestrian movements that the authorised use could generate. They state that the proposal provides a betterment with the provision of 22 off-road parking spaces and also secure covered cycle parking. In conclusion they consider that the proposal is acceptable subject to the conditions previously recommended.

6.5 On the basis of the above, it is not considered that an objection could be sustained on the

grounds of impact on highway safety.

7.0 Is the proposal acceptable in terms of its landscaping and open space provision?

7.1 A very narrow landscaped buffer is proposed to the front of the London Road elevation of the development and some planting is proposed to the rear of the building adjacent to the car parking area. A raised landscaped amenity deck is also proposed at first floor level as already referred to above. The Landscape Development Section (LDS) has no objections to the landscaping subject to a condition requiring the submission of a detailed planting scheme to follow the 'strategic landscape proposals' referred to by the applicant. Although the extent of the proposed landscaping is very limited, it compensates somewhat for the lack of an active street level frontage on the London Road frontage the development when viewed from London Road and the landscaped amenity deck to the rear would provide some further visual amenity to the rear. On balance, it is considered that the landscaping as proposed is acceptable. Given the challenge provided by a location close to a primary route, and the prominence of the site, it is considered that a condition securing a landscape management plan would be appropriate if planning permission is to be granted.

7.2 In terms of open space provision, LP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, where it should be located and what issues should be taken into account in its design. It also indicates that its maintenance must be secured. Policy CSP5 of the CSS states that the plan area's open space, sports and leisure assets will be enhanced, maintained and protected by a number of measures.

7.3 This development would not include an area of public open space within the site. The LDS therefore considers that a financial contribution is required to include a contribution for capital development/improvement of off-site green space in addition to a contribution to maintenance costs for 10 years. Given that 1-bed apartments are very unlikely to be occupied by families with children, the LDS has advised that the play element of the sum for the capital development/improvement of off-site open space could be removed from those units. Your Officer considers that it also appropriate to reduce the maintenance contribution for the 1-bed flats in the same manner. This would give a total contribution requirement of £60,684 which could be secured through a planning obligation achieved by agreement. Such an obligation would be lawful – it would comply with Section 122 of the CIL Regulations.

8.0 Is affordable housing provision required and if so how should it be delivered?

8.1 Policy CSP6 of the CSS states that new residential development within the urban area, on sites or parts of sites proposed to, or capable of, accommodating 15 or more dwellings will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided.

8.2 On the basis of the number of dwellings proposed, the affordable housing requirement for this site would be 6 units. Such a requirement would be lawful – it would comply with Section 122 of the CIL Regulations. The applicant has advised that in this case however, the development could not support financially any element of affordable units. The issue of viability will be considered fully later in the report.

9.0 Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

9.1 In conclusion, subject to the imposition of suitable conditions and obligations, it is not considered that there are any adverse impacts of the development that would significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

10. Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?

10.1 As indicated above, to comply with policy, certain contributions would be required to make the development acceptable. These are either financial contributions or ones in kind, but they are all capable of being costed, and they would be considered by a developer to be "additional" costs. These

are, in no particular order, the provision of on site affordable housing (currently an uncalculated value) and a contribution of £60,684 towards the provision and maintenance of Public Open Space.

10.2 A Viability Assessment has been submitted with the application which concludes that a policy compliant development would not be viable. The assessment concludes that the development could support neither any affordable housing provision nor any substantial financial contribution.

10.3 It is acknowledged that in some circumstances an applicant may believe that what is being asked for by the Council will render a development unviable. The Developer Contributions SPD, adopted by the Borough Council in September 2007, has a section on the issue of “viability” and it starts with the point that any developer contributions required will need to comply with the tests set out in the then Circular on planning obligations, which include those of fairness and being reasonably related in scale and kind to the proposed development, and reasonable in all other respects. Although the Circular has since been superseded the principles continue to apply.

10.4 The Council’s position is that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is upon the applicant to justify why and how special circumstances apply. A list of the type of information which an applicant might consider useful to demonstrate why the Council’s requirements are too onerous is provided and it is indicated that negotiations over the level of and nature of contributions will be assessed on a ‘site by site’ basis, having regard to a financial appraisal (which may be informed by independent advice) and that such negotiations will need to take account of the economics of the development and other national, regional, and local planning objectives that may affect the economic viability of the proposal.

10.5 The applicant in this case has submitted financial information to substantiate their claim that the Council’s requirements as an LPA would render a policy compliant scheme unviable. The information submitted has been sent by your officers to the District Valuer (an independent third party who has the skills required to assess financial information in connection with development proposals) for further advice. There have been discussions between the District Valuer and the applicants’ agents with a range of supporting material being provided. The Report of the District Valuer has now been received.

10.6 The conclusion of the District Valuer is that on the basis of the developer’s appraisal and her own appraisal, it is not viable for the developer to provide any affordable housing and maintain a reasonable profit or to make the desired Section 106 financial contribution. Following receipt of an initial draft report, your Officer requested that the District Valuer carry out a sensitivity analysis for the scheme and review further evidence from other comparable sites. A number of scenarios were tested assuming differing levels of contributions and affordable housing provision and your Officer is now satisfied, having sought explanations and various clarifications, that the conclusion of the District Valuer is a sound and robust one. Appropriate flexibility in terms of the open space payment trigger has been offered.

10.7 As already indicated the contributions being sought are ones which make the development policy compliant and ‘sustainable’. They are considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

10.8 The NPPF states in relation to viability that the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable. It goes on to state that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, where appropriate, be sufficiently flexible to prevent planning development being stalled.

10.9 What is being sought here however is not a scaling back of contributions or the showing of flexibility in the normal sense (by say rephrasing of a contribution requirement) but rather it is an acceptance of a development with neither affordable housing nor required Section 106 contribution towards open space.

10.10 On the positive side there is the undoubted contribution that the development would make to housing availability which is acknowledged to be in short supply.

10.11 Every indication is that if the Council were to pursue affordable housing and a public open space contribution, the development would simply not happen (indeed there is a significant question mark, on the basis of the DVs' advice, as to the viability of the scheme even without such requirements) and accordingly no contribution would be received and much needed housing development would not take place. The LPA is being encouraged to boost the supply of housing and whilst the case for this particular development is not based upon the lack of a 5 year supply of deliverable housing sites (the principle being in accordance with policy in both the CSS and the NLP), encouraging this undeniably sustainable development (which could form part of that supply) is a proper material consideration. Your Officer's view is that given that the viability case is established with evidence verified by the District Valuer, there are sufficient circumstances here to justify accepting the development without these contributions.

10.12 That said, market conditions and thus viability, can change. On this basis it would be quite reasonable and necessary for the LPA to require the independent financial assessment of the scheme to be reviewed if the planning consent has not substantially commenced within one year of the assessment. This would need to be secured via a Section 106 agreement.

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

20th January 2015