

**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**3<sup>rd</sup> March 2015**

**Agenda item 3**

**Application ref. 14/00027/FUL**

**Land adjacent to Banbury Street, Butt Lane**

As set out in the main agenda report, when Planning Committee resolved to grant planning permission for the proposed development, the erection of 13 dwellings, it was agreed that certain contributions would be required to make it acceptable. The financial contributions as follows:

- (i) A financial contribution of £38,259 for open space enhancements/improvements and maintenance
- (ii) A financial contribution of £8,000 towards the Newcastle (urban) Transport and Development Strategy (NTADS); and
- (iii) A financial contribution of £33,093 towards primary school provision.

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 Although the Circular has since been superseded the principles continue to apply.

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.

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.

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 of the financial contributions that the Committee decision resolved should be secured.

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 Regulation 122 of the Community Infrastructure Levy (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.

The NPPF states that pursuing sustainable development requires careful attention to viability and costs in both plan-making and decision-taking. In relation to viability 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.

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 no financial contribution towards open space; NTADS or primary school provision.

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. It is also noted that planning permission was granted in outline in 2008 and renewed in 2011 for this development at the same time as full planning permission was granted for a food retail store on part of the site fronting onto Cedar Avenue. Whilst the site was cleared and the store constructed some considerable time ago this site has remained undeveloped. Whilst the site could not be said to be harmful to the appearance of the area it does nothing to enhance the appearance of the area and its redevelopment will be beneficial to the area.

Every indication is that if the Council were to pursue the financial contributions, the development would simply not happen 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.

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.

**The RECOMMENDATION is therefore that subject to the applicant entering into a Section 106 obligation by 14<sup>th</sup> April 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:-**

- **Standard time limit for commencement**
- **Approved plans.**
- **Prior approval of facing materials and implementation of approved details.**
- **Prior approval and implementation of approved ground levels and finished floor levels.**
- **Prior approval and implementation of a detailed Arboricultural site monitoring schedule, and appropriate Arboricultural works to the sycamore tree.**
- **Prior approval of plans detailing 6m radius kerbs; a pedestrian crossing point including tactile paving; visibility splays of 2.4m by 43m; and an access gradient not exceeding 1:10 for the first 5m rear of the highway boundary. The access shall be completed before occupation of plots 7 to 14 and thereafter the visibility splays kept free of obstruction.**
- **Prior approval and implementation of the widening of the footway to 2m on Banbury Street and the permanent closure of the existing site access and its reinstatement as footway.**
- **No occupation until the access road, parking and turning areas have been provided in accordance with the approved plans.**
- **Submission, approval and implementation of surfacing materials for the access road, parking and turning areas; surface water drainage for such areas; and delineation of parking bays.**
- **Prior to occupation of plot 1 the parking spaces 1 and 2 shall be completed.**

- **Any gates to be a minimum of 5m from the site boundary and open away from the highway.**
- **Prior approval and implementation of a Construction Method Statement to include site compound; routing of construction vehicles; parking of vehicles; loading and unloading of plant and materials; storage of plant and materials; control of noise, vibration and dust; and wheel wash facilities.**
- **Provision of an access strip width of 6m, 3m either side of the centre line of the sewer crossing the site.**
- **The site to be drained on a separate system.**
- **Contaminated land conditions.**