

**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**23<sup>rd</sup> June 2015**

**Agenda item 5**

**Application number 14/00968/FUL**

**Former Woodshutts Inn, Lower Ash Road, Kidsgrove**

Members will have noted that the draft report of the District Valuer (DV) was received only just before the agenda report on this application had to be prepared. As indicated in the agenda report the District Valuer had been asked to report on the viability of this scheme taking into account financial obligations - the payment of contributions towards the provision of additional education facilities (£22,062) and the enhancement/improvement and maintenance of Clough Hall Park (£64,746). The Education Authority have recently clarified that the Education contribution would be used to increase the number of general teaching rooms at St. Saviours Primary School.

It should be noted that in the scheme by Aspire that has been assessed 7 of the 22 units are proposed to be of a shared ownership tenure and 15 of an affordable rent tenure.

Aspire's own appraisal taking into account a policy-compliant level of contributions indicates that the proposed scheme generates an internal rate of return of 5.84% which they consider to be inadequate for such a development.

The DV has undertaken two appraisals – one to reflect the allowances which a 'Not for profit Registered Provider' would be expected to make (Aspire is such a Provider) and the other to reflect the allowances (profit) that a developer who is not a Registered Provider would be expected to make. The DVs' approach is to identify the Residual Land Value (essentially the expected value of the scheme minus the expected costs) in each case and to then compare it with his assessment of the Site Value (which it should be noted he critically assesses, having regard to comparable development site sales evidence, to be, at £250,000, £100,000 more than the applicants agent considers to be the case. The DV conclusion is that the proposed residential development is not viable, to a marginal extent, and he has gone on to undertake what is termed 'sensitivity testing'. That has established, in his opinion, that the scheme is able to deliver contributions of approximately £42,000, although he does indicate that if the scheme were to be developed by a developer that is not a Registered Provider then it would be unable to provide any Section 106 contributions whatsoever.

Your officer considers that there is a reasonable basis to consider that the scheme can make a contribution of £42,000.

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".

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.

As already indicated the contributions being sought are ones which make the development policy compliant and 'sustainable and as discussed in the main report 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, and they also satisfy Regulation 123.

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. The guidance 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.

If the DVs' advice is followed a scaling back of contributions is involved.

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. The site does nothing to enhance the appearance of the area and its redevelopment will be beneficial to the area.

The indication is that if the Council were to pursue the full 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 case for a reduction in the required contributions has been established with evidence verified by the District Valuer, there are sufficient circumstances here to justify accepting the development without the full contributions that a policy-compliant scheme would required.

If the Committee are prepared to accept the principle of a reduction in the overall level of contributions there are two ways of proceeding, either to 'top-slice' both the education and public open space contributions that are required (i.e. reduce both by around 50%) or alternatively to seek in full one of the contributions (to 'ringfence' it) and allow the other contribution to be more substantially reduced. In several cases the Committee have agreed to ringfence education contributions, on the basis of the overriding importance of the provision of education facilities where new housing development is proposed.

Your officer would suggest that given the substantial amounts already secured by Section 106 obligations with respect to the same school a top- slicing approach is now more appropriate

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, and upward only alterations then made to the contributions if the scheme is then evaluated to be able to support higher contributions. This would need to be secured via a Section 106 agreement.

When the Planning Committee considered the scheme in December 2014 it considered that it would be appropriate, in the event of an approval, to condition the prior approval of a scheme for the provision, in perpetuity, of 6 affordable housing units within the development. Aspire have asked that the proposal be assessed on the basis that it provides 7 shared ownership tenure units and 15 of an affordable rent tenure and this mix should it is considered be reflected in a condition of any planning permission granted.

**The RECOMMENDATION now given is as follows**

1) That subject to the applicant entering into a Section 106 obligation by 23rd August 2015 securing an education contribution of £10,674 and a Public open space contribution of £31,326, and requiring the review of the financial assessment of the scheme, if there is no substantial commencement within a year of the grant of planning permission, and upward only alterations being then made to the contributions if the scheme is evaluated at that time to be able to support higher contributions,

PERMIT subject to the following conditions

- Standard Time limit condition
- Approved plans/drawings/documents
- Approval of all external facing and roofing materials
- Inclusion of windows in side elevation of plots 21 and 22
- Landscaping scheme
- Details of boundary treatments, including to the rear of the adjoining commercial properties to block the existing gap
- Construction Method Statement.
- Provision of access drives, parking and turning prior to occupation.
- Access to plots 4 to 11 to comply with submitted Cameron Rose Associates plan.
- Width of driveway to plots 1 to 3 to be 4.5m for first 6m rear of the highway boundary.
- Permanently closure of redundant access.
- Driveways to be surfaced in a bound material for 5m from the highway boundary.
- Surface water interceptors to be provided where driveways fall towards the public highway.
- Contaminated land conditions
- Site to be drained on a separate system with no surface water to be discharged into combined sewer network.
- Provision of 10m access strip to public sewer crossing site.
- Updating of ventilation system of adjoining fish and chip shop
- Those conditions requested by the Coal Authority including remedial measures to address the coal mining legacy issues on the application site to be undertaken prior to the commencement of the development
- Submission of a further noise assessment relating to noise from the adjoining industrial doors business and the details of the measures to be undertaken within the development to mitigate the impact of noise arising from that and other noise sources. Implementation of the approved details.
- Prior approval of a scheme for the provision of a scheme with the tenure indicated in the appraisal. The scheme shall include the timing of the construction for the affordable housing, arrangements to ensure that such provision is affordable for both initial and subsequent occupiers and the occupancy criteria to be used for determining the identity prospective and successive occupiers of such units and the means by which such occupancy will be enforce.

2) Should the matters referred to above not be secured by the 23<sup>rd</sup> August 2015, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure provision for education, the provision of adequate public open space, and an appropriate mechanism to allow for changed financial circumstances; or, if he considers it appropriate, to extend the period of time within which such an obligation can be secured