

**FIRST SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**17<sup>th</sup> July 2018**

**Agenda item 7**

**Application Ref. 17/01001/FUL**

**Land to the north-east of Eccleshall Road, south-east of Pinewood Road and north-west of Lower Road, Hook Gate**

Since the publication of the main agenda report, three further letters of representation have been received. A summary of the comments made in addition to those already reported is as follows:

- An unviable application for 16 houses has been previously approved on this site and the applicant has sought to increase the housing density and reduce the costs of the project to make it viable and maximise their return.
- The site density is not in keeping with the local area but still requires further cost reduction to be viable which has to be supported by the Council and tax payers.
- There are other sites in the local area that are significantly more viable with less impact on the environment and that will not require the degree of financial contribution being demanded for this site.
- Identification of the correct S106 charge should be documented and follow a standard county wide approach.
- The previous developer made a request to vary the provision of affordable housing but it was refused by the Council in 2016. Why now would the Committee want to agree to a financial sweetener at a time when public services are being trimmed?
- The financial modelling in the submitted viability appendices calculates their required profit percentage but has also included a contingent risk of 3% of build costs which has artificially reduced their return.
- Insufficient notice has been given to residents to prepare their representations and there has been very poor and inadequate communication from the Council.

The report of the District Valuer has been received and considered. The report concludes that a policy compliant scheme is not viable and that the scheme can in financial terms deliver the whole required affordable housing contributions (6 units) and sustain circa £77,000 of contributions (as opposed to the £113,806 of contributions that a policy compliant scheme would require).

**Officer Response**

With respect to the last point made by the third parties the appropriate publicity has been provided to this application, and the notice provided of the application going to Committee and of the associated guillotine on late representations has been in accordance with the Council's agreed procedure. There has been an extensive period for public comment on this application, well in exceedance of that required by legislation. There is no known procedural reason why the Committee should not determine the application at the meeting on the 17<sup>th</sup>.

Your Officer is satisfied that the conclusion of the District Valuer is a sound and robust one.

The Council has therefore to decide whether or not, given that there is substantive evidence that the scheme cannot support the full level of costs associated with the provision of affordable housing and the addressing of the implications for public open space and education places, whether to still accept the scheme and if so how to address the financial shortfall.

As is indicated in the report the NPPF states 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. In this case it is appropriate to give weight to the contribution which the development will make to the supply of housing, the Council being unable to demonstrate a 5 year housing land supply, and the contribution it could make to the provision of affordable housing, given the degree to which that provision is falling short in this area. If the Council were to insist upon a full policy compliant scheme the likely result is that the development would simply not proceed and there would be no delivery of housing and no delivery of any affordable housing. On this basis it appears reasonable to your officers that the Council should be prepared to accept a development that to some degree is non-policy compliant.

On this basis how should the accepted financial shortfall be addressed?

As the applicant is a housing association whose primary purpose is to deliver affordable housing, they seek to deliver the policy compliant number of affordable homes and have included within their appraisal, grant funding from Homes England. The District Valuer has concluded that without the grant funding, the developer would be able to deliver just 4 affordable homes and no Section 106 contributions. There is an acute need for the provision of smaller affordable housing units with the Borough and given the circumstances of this particular case, it is considered appropriate to seek to ensure that the policy compliant number of affordable units to be delivered and is not reduced.

Although the applicant's financial advisers are of the view that the maximum financial contribution that the scheme can sustain is just short of £50,000, due principally to differences of opinion regarding the Gross Development Value (GDV) of the scheme (the sale values), the District Valuer considers that the development can support £77,000 of contributions in addition to the affordable units. Your Officer has discussed this matter with the applicant and they have indicated that they would be prepared, notwithstanding their own appraisal, to make contributions totalling £63,500. It is important to remember that financial appraisals are based upon judgements about likely costs and returns, and there can be professional disagreements, and your officer's view is that the offer of contributions totalling £63,500 with the full amount of affordable housing is a reasonable one that can be accepted.

If the Committee are prepared to accept the above conclusions, there are three ways of proceeding:-

- (a) either reduce by the same amount both the education and public open space contributions that are required, or
- (b) reduce them by the same proportion, or
- (c) 'ringfence' and protect one of the contributions and allow the other to be even more substantially reduced.

In several cases the Committee have agreed to ringfence education place contributions on the basis of the view that the provision of education places where new housing development is proposed is of overriding importance. The Council has no agreed formal “hierarchy of need” in its Developer Contributions SPD which can be referred to in such cases.

In this case, your Officer would suggest that given the substantial amounts already secured by Section 106 obligations with respect to the provision of additional capacity at Madeley High School and given that the Public Open Space contribution has already been reduced on the basis that there is an extant planning permission on this site which requires lower contributions per unit, it would (a) not be appropriate to ringfence the education places contribution and (b) the impact of not securing the full figure should be shared equally with each contribution being reduced by the same proportion – the shortfall being “shared” across the board.

That said, market conditions, and thus viability, can change. On this basis it would be quite reasonable and necessary for the Local Planning Authority to require the independent financial assessment of the scheme to be reviewed if the development has not been substantially commenced within say one year of the grant of the permission, 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.

It would be normal practice to secure the affordable housing in perpetuity via a Section 106 obligation. However, the applicant has advised that to secure Homes England funding, the affordable housing will have to be secured by a planning condition rather than by Section 106 agreement. In relation to other permissions for RSLs it has been accepted that a condition can be an appropriate mechanism for securing the affordable housing in such cases and given that the funding is so important in achieving a viable scheme, it is considered acceptable in this instance.

### **Revised Recommendation**

**A) Subject to the applicant (providing they first agree in writing to extend the statutory determination period to the 31st August 2018) entering into a Section 106 obligation by agreement by 28th August 2018 to require:**

- a. A contribution of £44,950 for the improvement and development of the Burntwood View/Hugo Way play area and open space**
- b. A contribution of £18,550 towards the provision of education places at Madeley High School**
- c. A review mechanism of the scheme’s ability to make more policy compliant contributions to public open space and education if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such contributions if then found financially viable.**

**PERMIT subject to conditions relating to the following matters:**

- 1. Time limit**
- 2. Approved plans**
- 3. Materials**
- 4. Construction environmental management plan**
- 5. Artificial lighting**
- 6. Acoustic screening**

7. Glazing and mechanical ventilation
8. Waste storage and collection arrangements
9. Details of retaining structures
10. Arboricultural Method Statement
11. Schedule of works for retained trees
12. Details of hedgerow retention
13. Revisions to patio area of Plot 10
14. Boundary treatments
15. Provision of visibility splays
16. Provision of accesses, internal site roads, parking and turning areas
17. Submission of details of surface water drainage and surfacing materials
18. Details of off-site highway works
19. Retention of garages for parking of vehicles and cycles
20. Surface water drainage scheme
21. Protected species mitigation
22. Approval of the design of the acoustic fence
23. Retention of the existing boundary hedgerow at a height greater than that of the acoustic fence
24. Prior approval of a scheme for the provision, in perpetuity, of 6 affordable housing units within the development.

**B) Failing completion by the date referred to of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the planning application on the grounds that in the absence of a secured planning obligation the development would fail to secure the provision of adequately maintained public open space and an appropriate provision for required education facilities, and there would not be an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of policy compliant financial contributions towards public open space and education; or if he considers it appropriate, to extend the period of time within which the obligation can be secured.**