

### Supplementary Information

The following information is being reported to the Planning Committee at its meeting on 11<sup>th</sup> September 2018

**Agenda Item 5      Application No. 18/00183/FUL**  
**The former Orme Centre, Orme Road, Newcastle-under-Lyme**

As indicated in the agenda report in order to provide independent expert advice on issues of financial viability and in particular the ability of a development to make policy compliant contributions, it is practice at the Borough Council to commission the obtaining of an independent viability appraisal. The methodology to be followed is that set out within recently issued National planning practice guidance on viability and valuers if they are members of the RICS will also follow their Institute's Guidance on "Financial Viability in Planning". The Government have made it clear in the planning practice guidance that any viability assessment should reflect the government's recommended approach to defining key inputs. In this case a viability appraisal has been undertaken by Mr Phillips of the District Valuer Service – the "District Valuer" or DV.

In July immediately prior to the Planning Committee meeting at which the application was to be considered the report of the DV was received. The applicant was provided with an opportunity to comment upon that report. They raised a number of concerns with the report, and since that time further information has been provided by them via your officers to the DV and the DV has been asked to reconsider the advice that he had previously given. The further information provided were a number of invoices evidencing the sale and marketing fees have been paid and a letter of offer for the premises which the previous vendor received (from the "underbidder"). Very recently the DV has provided a further opinion on the matter. Various oral submissions have been made to your officers concerning the possibility that the scheme, on the basis might be concluded to be able to support the contributions that would normally be required, and the implications of the Council seeking such policy compliant contributions.

The DV, having been provided with an appraisal undertaken by the applicant (or by persons employed by him) has made comment upon that appraisal and has undertaken their own. In essence the first part of an appraisal is an assessment of the likely gross development value that can be expected to be achieved and the second is one of the expected costs. Having assessed the likely values and the likely costs, what is termed a residual land value is then obtained (the difference between the two).

In respect of this development the gross development value is based upon the prices of the one and two bed units, and the DVs' GDV figure is significantly less than that assumed by the developer – possibly because in part the value of the car parking spaces has not been factored in by the DV. If the DVs' figure is accepted this will be a factor which will reduce the residual land value (and thus lessen the likelihood that the scheme is "viable").

In relation to expected costs these are not just the construction costs, including various "abnormals", but they also include expected fees, the cost of financing the development, the policy compliant contributions (which in this case amount to some

£176,760) and an allowance for profit. In terms of the construction costs the DV has assumed a higher construction cost than that assumed by the applicant. Again if the DV's figure is accepted this will again be a further factor reducing the residual land value of the scheme.

There are a number of points where there is a significant divergence of approach between the DV and the applicant's appraisal which are disputed by the applicant. Inevitably these are where acceptance of the DV's approach would increase the residual land value of the scheme. Further reference will be made to them below.

As indicated above, having assessed the likely values and the likely costs, what is termed a residual land value is then obtained – this being the difference between the two. This then is compared with either what is termed the site or benchmark value – which according to the government's recommended methodology is to be based upon either the Existing Use Value + approach (EUV+) – or what is termed the Alternative Use Value approach. If the residual land value of the scheme is greater than the EUV+ or AUV values then the scheme is considered to be viable with the policy compliant contributions. If it is less then the scheme is considered not to be viable (with the policy compliant contributions).

The conclusion reached by the DV in his draft report was that the Residual Land Value for the scheme is of the order of £841,500, and that to determine the appropriate benchmark value in this case it is appropriate to undertake a Residual appraisal of the scheme that was granted consent under permission 16/00796/OUT which he calculates would give a residual land value of in the order of £538,000. Because the Residual Land Value of the current proposal is greater than the Site Value his conclusion is that the scheme is viable on a policy-compliant basis – i.e. with Section 106 contributions of £176,760.

The applicant disagrees with a number of the assumptions made

In particular he contends that the DV has significantly underestimated his sales and marketing costs – in support of this the applicant has provided copies of a significant number of invoices demonstrating that his business model involves sales and marketing costs of 11% of sale values rather than the 3% figure assumed by the DV in his appraisal.

The DV's response has been as follows

*"I have considered the Applicant's business model whereby the proposed units are forward funded by Investors by way of an exchange of contracts to purchase and the provision of finance at an interest rate of 5%. This model has the benefit of providing 100% finance, and also obviating the need to secure bank finance and any requirement to provide some form of guarantee. This forward funding finance has been arranged for the Applicant by Residential Estates Limited whose fees are 11% of the sales prices for the identification of the purchasers and the arrangement of the forward financing of the scheme by these purchasers.*

*Whilst this approach to financing the scheme provides the benefits confirmed above, it is in my view expensive in comparison to a more traditional method (employed by many developers/operators of student accommodation) whereby the finance would be secured from a bank or other finance institution, the scheme built out, the units marketed during the course of the development programme, with completion of the lettings to students taking place after practical completion of the scheme has been achieved. Subsequent to this the completed scheme would either be sold or retained and operated by the developer.*

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*The Applicant has confirmed their finance cost of £250,750 together with agent's fees of 11% (for identification of the investors/purchasers and negotiating the forward funding of the scheme by them) in the sum of £792,550 – ie. a total of £1,043,300. My appraisal, which assumes the acquisition of finance and disposal of the units by the more traditional method detailed above, shows an interest cost of £238,764 and sales fees £212,000, which gives a total cost in these respects of £450,764.*

*Whilst I appreciate the benefits of the Applicant's business model, it can be seen from the above that it is £592,536 more expensive than proceeding traditionally, and it is my view therefore that the majority of developers of student accommodation would finance and dispose of the scheme using the traditional, more cost-effective method.*

*I therefore remain of the opinion that the costs which I have provided for in my appraisal in these respects are reasonable”.*

The purpose of an appraisal, is always to determine what the financial position is on the assumption that a rational and logical approach is taken by the developer, rather than to allow for the particular business practices of any particular individual developer. On this basis and given the apparently significant difference in the “cost” of the two options, with the applicants approach being much more expensive, it is considered that the DV's approach should be utilised in any viability appraisal for planning purposes.

The second issue is what the benchmark value should be. In his draft report the DV concluded that the benchmark value against which the Residual Land Value of the scheme should be measured was £538,000. However the applicant paid £1.4 million for the site and he contends that figure should be the benchmark value

In response the DV has advised as follows

*“The Draft Report was undertaken in accordance with the NPPF key principles regarding viability as published on 6<sup>th</sup> March 2014 and updated on 24<sup>th</sup> July 2018. Specifically, the approach recommended for the assessment of benchmark land value and referred to in the Guidance as EUV+, was implemented in my assessment of viability. This revised NPPF Guidance states that “a benchmark land value should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner” (in order to incentivise the landowner to sell the land for development). It goes on to say that “EUV is the value of the land in its existing use together with the right to implement any development for which there are policy compliant extant planning consents” and that “where viability assessment is used to inform decision making under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan”.*

*The Guidance goes on to say that the alternative use value (AUV) “of the land may be informative in establishing benchmark land value. If applying alternative uses when establishing benchmark land value these should be limited to those uses which have an existing implementable permission for that use”. It also states that “valuation based on AUV includes the premium to the landowner. If evidence of AUV is being considered the premium to the landowner must not be double counted”.*

*Accordingly, it was considered that extant Planning Consent Number: 16/00796/OUT for the provision of 92 no. units of Student accommodation within the converted former Orme Centre and a new building, would derive best value and would also provide the incentive for*

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*the landowner to sell for development, as referred to in the Guidance. The land value was assessed on this basis using a Residual Land Valuation and a value of £538,000 was derived.*

*Additionally, in accordance with the Guidance, I would confirm that the purchase price of £1,400,000 paid by the Applicant was not taken into account. Subsequent to the provision of the Draft Report I have not found or been provided with any evidence to support the Applicant's contention that this figure comprises the land value to be used for benchmarking purposes in the assessment of the scheme's viability, and it continues to be my view that the figure of £538,000 comprises the land value as at the date of the Draft Report".*

As will be noted the DV has not been persuaded by sight of the "underbidders" offer of £1.315 million. Whilst the DV did show a willingness to take into account information relating to the sale of the land in January 2018, particularly if it had been in the form of a number of unconditional offers from parties of substance, he is not satisfied that there is good enough evidence that a truly market value of the site has been paid. Indeed he contends that it would appear from the appraisals that he has undertaken that the applicant has overpaid for the site, and the NPPG does make it clear that under no circumstances should the price paid for land be justification for failing to make to accord with relevant policies in the plan (ie for not making the contributions required by planning policy). Although it accepted that the presumption against the consideration of viability appraisals at the decision-making stage does not yet apply in Newcastle, because of the out of date nature of the Local Plan, the principle – of the very limited weight to be given to "price paid" in such appraisals is very relevant to the decision.

A further factor which the applicant has referred to is that the Council did accept, in relation to the 2016 scheme that that scheme was not viable with the contributions that it required – which amounted at the time to some £145,608 . Your Officer's view on that argument is that any assessment of viability has to take into account the circumstances at the time, and the advice received at that time – which was not from the DV – that the appropriate benchmark site value was only £240,000. The circumstances that should be taken into account have changed, and no "precedent" has been set.

The NPPG indicates that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including the transparency of assumptions behind evidence submitted as part of the viability assessment.

Your Officers' recommendation is that given it would be appropriate for the Council to seek the contributions and accordingly the recommendation now given with respect this application is amended to read as follows

- (1) Subject to the applicant entering into a Section 106 obligation by agreement by 12<sup>th</sup> November 2018 requiring**
  - a. financial contributions to the enhancement and maintenance of Queen Elizabeth Park of £124,560 (allowing for the extant permission) and a travel plan monitoring fee of £2,200**
  - b. a financial contribution of £50,000 to be used to fund a Resident Parking Zone in the event that it has been demonstrated (through surveys secured by condition) that the development has resulted in on street parking problems**

**PERMIT subject to conditions relating to the matters listed in the recommendation section of the agenda report**

**(2) Failing completion by the date referred to in the above resolution (1) 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 public open space needs of the development would not be met and the development would fail to ensure it achieves sustainable development outcomes; or if he considers it appropriate, to extend the period of time within which the obligation can be secured.**