

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th March 2019

Agenda item 4

Permission ref: 18/00714/FUL

The Brighton, Sneyd Terrace, Silverdale

It is acknowledged by the Council's Supplementary Planning Document on Developer Contributions that in some circumstances an applicant may believe what is being asked for by the Council will render a scheme unviable. The SPD indicates that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is on the applicant to justify how and why special circumstances apply.

The applicant has submitted some financial information to make a case that the development will not be viable with the policy compliant obligation to make a contribution towards public open space and as indicated in the agenda report independent expert advice has been sought on financial viability and in particular the ability of a development to make policy compliant public open space contributions.

The methodology followed accords with the National Planning Policy Framework and that set out within recently issued National Planning Practice Guidance (NPPG) on viability. The new NPPG marks a significant change in the approach to be adopted to viability in planning decisions. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised.

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.

The Valuer's conclusion is that the scheme is only marginally viable (at best) without any financial contributions and that the scheme would be unviable with any policy compliant financial contribution.

The scheme does provide benefits, which include the reuse of a vacant building that has been left undeveloped for a number of years and by providing new affordable housing thereby boosting local affordable housing supply. These are material considerations and in light of such considerations it is concluded that it would not be appropriate, if granting planning permission, to insist upon the payment of the public open space contribution.

Any planning permission will still need to be the subject of a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the development not occur within 12 months of the date of any decision on the application, and then payment of an appropriate contribution towards POS, if the site were to be found capable of financially supporting these features.

The recommendation of your officer is therefore revised as follows:

A. Subject to the applicant first entering into a Section 106 agreement by 1st May 2019 to secure a review mechanism of the scheme's ability to make a policy compliant financial contribution of £93,727 (index linked) towards public open space at Silverdale Park, if the development is not substantially commenced within 12 months from the date of the the grant of the planning permission , and the payment of such contribution if then found financially viable,

PERMIT the application subject to conditions relating to the following matters:-

- 1. Time limit.**
- 2. Plans.**
- 3. Materials.**
- 4. Prior approval and implementation of landscaping and bin storage.**
- 5. Prior approval and implementation of tree protection details.**
- 6. Access and car parking provision implementation prior to occupation.**
- 7. Prior approval and provision of weatherproof cycle storage.**
- 8. Prior approval and implementation of revised bin storage details.**
- 9. Restriction of construction and demolition hours to be outside of 6pm and 8am Monday to Friday, not at any time on Sundays or Bank Holidays, or outside of 8am-1pm on a Saturday.**
- 10. No external lighting without prior approval.**
- 11. Agreed noise levels for internal and external areas.**
- 12. Prior approval of a scheme for the provision of at least 5 affordable housing units within the development. 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 of prospective and successive occupiers of such units and the means by which such occupancy will be enforced, but not requiring such provision to be "in perpetuity".**

B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Planning either refuse the application on the grounds that without the obligation being secured, there would be no provision made to take into account a change in financial circumstances in the event of the development not proceeding promptly and the potential payment of an appropriate policy compliant contribution for off site open space should financial circumstances then permit; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.