

REPORT TO	DATE OF MEETING
Planning Committee	22/02/2017

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SUBJECT	PORTFOLIO	AUTHOR	ITEM
Report on Viability Issues & Affordable Housing Provision with regard to a previously approved residential development of 46 dwellings at Land adjacent to Barnflatt Close at Higher Walton (Planning Application Ref: 07/2013/0548/FUL)	Strategic Planning and Housing	Mike Atherton	10

SUMMARY AND LINK TO CORPORATE PRIORITIES

It is recommended that this application to vary the planning obligation under section 106BA of the Town and Country Planning Act be allowed to enable a reduced number of affordable dwellings to be provided

This proposal links to the corporate priority of a 'Strong South Ribble in the Heart of a Prosperous Lancashire' in terms of managing growth in a way which benefits local communities.

RECOMMENDATIONS

That the Committee agrees to the variation of the section 106 agreement to ensure the provision and delivery of 9 (number) affordable dwellings for sale at a discount of 20% below open market value.

BACKGROUND

Planning permission was granted on the 17th of July 2014 for the erection of 46 dwellings, formation of new access off Higher Walton Road and Pedestrian/Cycle link to King Georges Field with associated landscaping, subject to a section 106 agreement relating to the provision of 30% affordable housing and a sum of £75,000 towards off site public open space and playing pitch provision in the vicinity of the site.

An application has been received under section 106BA of the Town and Country Planning Act 1990 which seeks to remove the affordable housing contribution from the section 106 agreement and to vary the agreement accordingly.

The Growth & Infrastructure Act 2013 inserted a new section 106BA, BB & BC into the 1990 Town and Country Planning Act 1990. These sections introduced a new application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing. Government guidance from the Department of Communities and Local Government (DCLG) regarding this matter states, *'the application and appeal procedure will assess the viability of affordable housing requirements only. It will not reopen any other planning policy considerations or review the merits of the permitted scheme.'*

The DCLG guidance also states, *'unrealistic section 106 agreements negotiated in differing economic conditions can be an obstacle to house building. The Government is keen to encourage development to come forward, to provide more homes to meet a growing population and to promote construction and economic growth. Stalled schemes due to economically unviable affordable housing requirements result in no development. No regeneration and no community benefit.'*

Reviewing such arrangements will result in more housing and more affordable housing than would otherwise be the case.'

The Growth & Infrastructure Act 2013 at section 7, paragraph 3a states, *'if the affordable housing requirement means that the development is not economically viable, the authority must deal with the application so that the development becomes economically viable.'* Therefore, if the council finds that the obligation prevents the development from being economically viable then it has to deal with the application in a way that safeguards and promotes the economic viability of the development proposal to which it relates.

DETAILS AND REASONING

Section 106BA was intended as a temporary measure to speed up the delivery of housing sites. It is no longer in force as a legislative tool since it was abolished on the 30th of April 2016. However, this application was submitted at the end of April last year, immediately prior to the deadline for the removal of the powers under section 106BA.

This application under section 106BA seeks to remove the 30% affordable housing obligation in its entirety and was accompanied by the Applicant's Viability Appraisal. The DCLG guidance does not contain any requirement to publicise this type of application. However, the Council has taken advice on the issue of viability from its Consultant Surveyors, Keppie Massie and also sought the views of the Council's Strategic Housing Manager with regard to the affordable housing issue.

Keppie Massie have independently assessed the Applicant's Viability Appraisal & also requested further information from the Applicant to enable them to reach a conclusion, which is why the application has taken a considerable period of time to get to the recommendation stage. A revised draft section 106 agreement has also been drafted. Following their assessment of all of the Applicant's evidence, Keppie Massie concluded that whilst the development would be economically unviable with the full 30% contribution it could support a reduced affordable housing contribution. Negotiations have continued between the council, the council's Strategic Housing Manager and the Applicant, in order to agree a suitable and viable form of affordable housing. It is your Officers' view that a scheme which would deliver 9 (number) affordable dwellings on the site for sale at 20% below the open market value (OMV) for people who satisfy local connection criteria would ensure the development remained both economically viable and met a local housing need, in conformity with national guidance and local objectives. The proposal would deliver 4 (number) 'Ruskin' 2 bed house types and 5 (number) 'Austen' 3 bed house types. The development as a whole is for 46 houses, so the level of affordable housing would reduce from 30 % to 20%. Consequently, it is recommended that the section 106 obligation is varied to achieve this. Controls would also be required to ensure the development was commenced and the affordable housing delivered, as part of an amended planning obligation, in accordance with Government policy in the National Planning Policy Framework (NPPF) and the relevant DCLG guidance – 'Section 106 Affordable Housing Requirements – Review and Appeal – April 2013.' If the Planning Committee wish to refuse this application, the Applicant has the right of appeal against the Council's decision.

CONCLUSION

The Applicant's evidence with regard to viability has been thoroughly assessed by the council and its Consultant Surveyors, Keppie Massie. The Applicant's original intention to remove the 30% affordable housing contribution in respect of this development has been rejected as it is considered the proposal is viable with a reduced form of affordable housing equating to the delivery of 20% affordable housing. The revised level of affordable housing is considered to comply with Government Policy in the NPPF and also Core Strategy Policy 7 as it is deemed the development is viable with this level of contribution and it would assist in the objectives of delivering affordable housing and meeting housing supply targets.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

FINANCIAL	N/A		
LEGAL	<p>A formal deed of variation will need to be drawn up and entered into to effect the proposed changes.</p> <p>The legal costs of doing this would be recovered from the applicant.</p>		
RISK	N/A		
OTHER (see below)	<p>Equality, Diversity and Community Cohesion – The delivery of the affordable dwellings would benefit those on low incomes.</p> <p>Sustainability – this proposal would enable the delivery of 9 affordable dwellings.</p>		
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

BACKGROUND DOCUMENTS

DCLG – Section 106 Affordable Housing Requirements – Review and Appeal – April 2013.