

3/13/0343/SV – Modification of Section 106 agreement for 3/10/1522/FP to reduce the affordable housing provision from 23 units to 13 units on grounds of economic viability at Wallace Land, Buntingford Road, Puckeridge, SG11 1RT for Rialto Homes Ltd

Date of Receipt: 11.03.2013

Type: Major – Variation of S106

Parish: STANDON

Ward: PUCKERIDGE

RECOMMENDATION:

That East Herts Council agree to a variation of the Section 106 agreement to reduce the number of affordable houses to 13 units comprising of 10 units for social rent and 3 units shared ownership subject to the following time limit and condition:

- If, after 18 months from the date of this resolution to grant planning permission for the variation of the Section 106 agreement, the first residential dwellinghouse is not fully completed and made ready for occupation, the developer shall submit an updated viability appraisal to the Local Planning Authority. If the viability appraisal shows that a change in the number of affordable dwellings would result in a viable scheme, the applicant shall be required to vary the level of affordable housing through an amended Section 106 agreement.
- That the applicant pay the Council all reasonable costs in the event that an independent review of their viability appraisal is required.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2012 (as amended). The balance of the considerations having regard to those policies and the viability information submitted is that permission should be granted.

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1.0 Background:

- 1.1 The application site is shown on the attached OS extract and comprises of a large parcel of land to the north of the village of Puckeridge. The site is bordered to the south by Mentley Lane East and the west and north by the A10. To the east of the site is Buntingford Road, and residential dwellings along that road.
- 1.2 Planning permission was granted by the Council on 6 June 2011 for the erection of 58 residential units, associated car parking, access, amenity space and landscaping (ref: 3/10/1522/FP). The approved development included a Section 106 agreement requiring various financial contributions towards education, sustainable transport measures and open space. The Section 106 agreement also required the provision of affordable housing comprising of 23 units with 12 social rented and 11 shared ownership dwellings. The development has not yet been started, although various archaeological work and some landscape work has been undertaken on the site.
- 1.3 This application seeks a reduction in the level of affordable housing on grounds of economic viability. A viability report has been submitted by the applicant which is discussed below.

2.0 Site History:

- 2.1 The relevant planning history for the site is as mentioned above – 3/10/1522/FP – planning consent was granted for the erection of 58 residential dwellings.
- 2.2 Planning permission has also been granted for a temporary access to the development site under LPA reference 3/12/1593/FP.

3.0 Consultation Responses:

- 3.1 The Council's Housing Team has commented that the reduction in affordable housing to 13 units (10 social rent and 3 shared ownership) is acceptable having regard to the submitted viability appraisal.

4.0 Parish Council Representations:

- 3.5 Standon Parish Council objects to the application. The Council comment that many local people are not able to afford the high prices demanded for market housing in the villages of Standon and Puckeridge and they are unable to stay and live within the village. The Parish Council considers that the agreements within the Section 106

are important and this is part of the planning permission for the site which the developer accepted. The Parish Council do not consider it to be acceptable that the applicant seeks to reduce the affordable housing to make profit at the expense of the local community.

5.0 Other Representations:

5.1 The application has been advertised by way of press notice, site notice and neighbour notification.

5.2 5 letters of representation have been received which can be summarised as follows:

- The reason for the level of affordable housing at the approved level remain – there is a need for lower cost housing for young people and families;
- There is a lack of affordable housing and this development as approved will provide that housing;
- The applicants claim that the cost of purchase of the land was too high and additional archaeological work increased costs is disingenuous as they are an experienced housing developer who should anticipate this and undertake proper research;
- The resale figures in the viability report are too low and not a true reflection of Standon and Puckeridge.

6.0 Policy:

6.1 The relevant ‘saved’ Local Plan policies in this application include the following:

- HSG3 Affordable Housing
- IMP1 – Planning Conditions and Obligations

6.2 The Planning Obligations SPD and NPPF (National Planning Policy Framework) are also of relevance.

7.0 Considerations:

7.1 The main planning considerations in respect of this application is whether the reduction in the level of affordable housing is justified, in planning terms.

7.2 The approved residential development of the site comprises of 23 affordable units with a tenure mix of 12 social rent and 11 shared

ownership which is in accordance with the Councils policy for affordable housing provision, as set out in HSG3 of the Local Plan. That policy requires the provision of 40% affordable homes. The reduction in affordable housing as proposed in this application is therefore a departure to the Local Plan Policy.

- 7.3 In considering this application the Council should have regard to the NPPF which sets out that sustainable development is the golden thread running throughout the planning process and that the core planning principle should be to proactively drive and support sustainable economic development to deliver the homes that the country needs. In pursuing sustainable development, the NPPF sets out that careful attention should be made to viability. The NPPF sets out that, to ensure viability, the costs of any requirements likely to be applied to development including affordable housing should, when taking account of the normal cost of development, provide competitive returns to a willing developer to enable the development to be deliverable.
- 7.4 The developer has an extant permission for a residential development which was allocated for housing as part of the East Herts Local Plan Second Review April 2007. The acceptability of the site for housing development has therefore previously been addressed and the developer is willing to implement that permission subject to review of the level of affordable housing provided in order to make the development of the site viable.
- 7.5 To demonstrate this and, in accordance with the Council's Affordable Housing SPD, a viability assessment has been submitted by the applicant. The aforementioned SPD requires that any financial appraisal be considered independently. An independent review of the applicant's viability appraisal has been undertaken by the DVS, which is the commercial arm of the Valuation Office Agency.
- 7.6 DVS comment that, following their research and assessment, a fully policy compliant scheme, which includes 40% affordable housing, produces a residual land value of £1,491,693 or £980,312 per hectare. This is some £608,307 below the benchmarked land value. If this value is inputted the appraisal shows a deficit of £758,658. DVS have advised the Council that a policy compliant scheme is not therefore viable.
- 7.7 As part of this application, the applicant initially proposed a reduction in affordable units comprising of 11 affordable units. DVS considered such a reduction but found that this would provide a significant surplus of around £170,000 when taking into account a profit of 20% for the applicant.

- 7.8 In consultation with the applicant, DVS amended the affordable housing provision on the basis of 22.4% affordable housing which represents 13 units with 75% (10) social rent and 25% (3) shared ownership. This, in the opinion of DVS, is the maximum level of affordable housing which shows a viable scheme with minimal of surplus and all other financial contributions retained.
- 7.9 The applicant has accepted such a reduced level of affordable housing and the Councils Housing Team have commented that such a reduction is acceptable, in this case.
- 7.10 DVS recommend that that the reduction in affordable housing is accepted on the basis of it being time limited and consideration be given to an overage clause if values improve over the period.
- 7.11 Members will note that Officers have recommended that a time limit be attached with any variation of the agreement. The time limit is considered to be reasonable in the current market conditions and allows the level of affordable housing to be reviewed should there be a change in the market. Having regard to this recommended time limit and that the application only seeks to reduce affordable housing and not other financial contributions, Officers do not consider that an overage clause within the Section 106 to be necessary, in this case.
- 7.12 A third party representative raises concern that the market values for the dwellings as submitted in the applicants viability appraisal are too low and the developer has included significant costs in archaeology and that this would impact on the viability of the scheme. DVS have considered the market values and comment that the values submitted are broadly acceptable. DVS also broadly agree to the build costs which would include any onsite works relating to archaeology.
- 7.13 Officers note the comments from third parties and the Parish Council in respect of the reduction in affordable housing. Officers acknowledge that there is a need for affordable dwellings within the immediate and wider locality. However, Officers would comment that viability and delivery of dwellings is a key planning consideration and a policy compliant scheme as originally granted planning permission has not shown to be viable.

8.0 Conclusion:

- 8.1 The Council have a commitment to ensure that appropriate levels of housing are provided across the District and this site has an extant permission and has been allocated in the Local Plan process for

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housing. The National Planning Policy approach is to encourage sustainable development and ensure that viability is considered to ensure delivery for the wider benefit of the economy. The site is in a sustainable location and the delivery of this scheme will not only provide a significant level of housing for the local community but will also encourage economic development which is a key consideration as required in the NPPF. Officers therefore consider that significant weight should be attached to the viability justification provided for a reduced level of affordable housing and therefore recommend that the application be approved and the Section 106 be amended.