

Application No: W 14 / 1340

Town/Parish Council: Kenilworth
Case Officer: Sandip Sahota
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Land at Common Lane, Kenilworth CV8

Variation of Section 106 Agreement for planning permission ref: W/14/1340 -
Erection of up to 93 dwellings together with open space, drainage infrastructure
and access from Common Lane (outline application including details of access)
FOR Bloor Homes Ltd and Bluemark Projects Ltd

INTRODUCTION

This report relates to the above outline planning permission which was granted by Planning Committee in December 2014. That permission was subject to a Section 106 Agreement which imposed a range of obligations on the developer. The applicant has requested that the provisions of the Section 106 agreement in are varied.

RECOMMENDATION

Planning Committee is recommended to resolve to vary the Section 106 agreement to allow changes to the level of contributions as requested by the applicant.

DETAILS OF THE VARIATION

The applicant has requested that the level of planning contributions set out in the Section 106 Agreement are reduced from £1,782,735 to £1,159,227 in order to ensure the scheme remains viable, in light of increases in infrastructure costs that the applicant now anticipates.

It should be noted that the applicant is not seeking to reduce the level of affordable housing from the policy compliant 40% provision. However, it is proposed to make changes to the mix and tenure, as shown below:

Proposed Mix and Tenure:

Affordable House Type	No. of Units	% of Affordable Mix
Low Cost Market	14	38%
Social Rent	19	51%
Shared Ownership	4	11%
	37	100%

The Council's Housing Strategy and Development Officer has confirmed that he considers the proposed affordable housing mix and tenure to be acceptable.

The low cost market product is 2 and 3 bed units at a 30% discount and 4 bed units at a 40% discount. Bloor Homes' commitment will be to initially market to people who meet:

1. 18 years +
2. Household income less than £60,000
3. Sole residence
4. Unable to buy on open market
5. Local connection to parish or surrounding area

Approved Mix and Tenure:

Affordable House Type	No. of Units	% of Affordable Mix
Social Rent	18	49%
Shared Ownership	12	32%
Intermediate	7	19%
	37	100%

The applicant is also seeking to vary the housing mix conditioned as part of outline planning permission ref: W/141340 in order to keep the reduction in the level of planning contributions to a minimum. This application is the subject of a separate report.

PLANNING HISTORY

W/16/1724 - Application for Variation of Condition 7 to allow a 'fabric first' approach under planning application W/14/1340 - Granted 22/12/2016.

W/14/1340 - Application for outline planning permission with all matters reserved except for access, for erection of up to 93 dwellings together with open space, drainage infrastructure and access from Common Lane - Granted: 23/12/2014

W/14/0618 - Application for outline planning permission with all matters reserved except for access, for erection of up to 93 dwellings together with open space, drainage infrastructure and access from Common Lane - Refused: 22/08/2014.

A subsequent appeal (ref: APP/T3725/A/14/2224356) was received in October 2014 in relation to the requirements of the s.106 Agreement and viability. This appeal is currently held in abeyance pending the outcome of the current application and negotiations with the Local Authority on the s.106 agreement, which is the subject of a separate report to Planning Committee.

ASSESSMENT

The application is accompanied by a Viability Report. Due to the nature of the commercially sensitive material contained in the report it has been treated as confidential and for internal circulation only. However, in order to assess its validity, it has been referred to the Council's independent consultant for

assessment. The Council has received the independent assessment report which has been treated as confidential for the same reasons.

This assessment focuses on the viability issues relating to the outline planning permission and how the Section 106 Agreement is to be varied.

Bloor Homes became involved in the scheme in early 2012. The promoter of the site had previously employed a consultant to assess the likely design and cost of the proposed bridge. Bloor Homes subsequently employed their own consultant to review the costs. Both consultants assessed the proposed bridge from a design and cost perspective and both concluded that based on the traffic flows on Common Lane and the likely impact of the additional units that the design was acceptable and both concluded a similar cost and Bloor Homes proceeded to enter into a conditional contract to acquire the land. The purchase price was based on an appraisal which factored in this cost and reflected a developer profit margin on gross development value which was at the lower end of what is generally considered a reasonable return.

Since that time the design of the bridge has gone through a substantial amount of refinement and Bloor Homes have arrived at a design which has recently been agreed with the County Council Highway Authority. The final design has seen the bridge / access way widened by approximately 4 metres which has both necessitated the requirement for the purchase of third party land and also a substantial uplift in build costs as more of the proposed road needs to be structurally retained. In total, the additional road and third party land access costs have significantly increased the overall cost of the road.

Part of the increase in cost for the road can be attributed to the general increase in build costs between 2012 and now. The BCIS index reflects an increase in build costs of 20%.

In addition to the road, build and infrastructure cost increases, the package required through the s.106 agreement is considerably higher than the amount which was anticipated at inception.

While costs have increased, so have sales values. However, due to the housing mix required by Condition 22 of the outline planning permission which seeks to development of more smaller units, the scheme has become unviable. If the housing mix, as approved, is taken together with the increases in costs outlined above, then the overall margin of the scheme becomes negative.

A reduction in the s.106 contributions, taken together with an amended housing mix (assessed separately) would allow the delivery of a viable scheme on the site. The applicant has stated that the profit margin produced by the development would still be well below a level which would normally be deemed to be viable but given the considerable time, resources and money which they have already expended on the project, the developer is prepared to lower their margin requirement in this particular case.

Jones Lang LaSalle (JLL), on behalf of Warwick District Council, have undertaken a critical review of the viability information submitted with the application and the further information they have subsequently requested. They have focussed

on the financial assessment of development viability to examine the viability of the scheme, highlighting areas where they believe that further interrogation or information is required or where assumptions or the approach should be revised. They have also undertaken a sensitivity test of the sales values that the applicant has applied, to assess the impact on the viability of the scheme if higher sales values can be achieved.

After incorporating JLL's revised assumptions in the development viability appraisal analysis, a land value range has been deduced, based upon the level of Section 106 contributions that are assumed to be provided and whether the policy compliant housing mix is assumed or the applicant's proposed revised mix. In all scenarios, the Residual Land Value does not exceed the revised Site Value Benchmark that JLL have proposed. This remains the case after sensitivity testing the results to factor in possible higher sales values.

Summary/Conclusion

The viability report submitted and JLL's critical assessment of it suggests that the applicant's proposal to reduce the level of contributions is required to improve the viability of the scheme. If the level of contributions required is not reduced, it is highly likely that the site will not be able to move forward to provide housing.