

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 1 NOVEMBER 2016

Title of report	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING OBLIGATIONS REQUIRED IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT LAND AT LEICESTER ROAD, ASHBY DE-LA ZOUCH
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Purpose of report	To consider a request from the developer of the above site to amend its affordable housing obligations
Council Priorities	Homes and Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>As set out in the report below</p> <p>N/A</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p> <p>Not applicable</p>
Comments of Head of Paid Service	Report is satisfactory
Comments of Deputy Section 151 Officer	Report is satisfactory

Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	Ashby de-la Zouch Town Council North West Leicestershire District Council Ashby Castle Ward Member North West Leicestershire District Council Strategic Housing Team
Background papers	Application documents in respect of planning application refs. 13/00857/OUTM and 15/01197/FULM
Recommendations	TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PROVISION OF 16 NO. GIFTED UNITS IN ACCORDANCE WITH DETAILS TO BE AGREED WITH THE DISTRICT COUNCIL

1.0 INTRODUCTION AND BACKGROUND

- 1.1 On 2 September 2014, the District Council's Planning Committee resolved to grant outline planning permission subject to Section 106 obligations for residential development of 101 dwellings and associated works on a site at Leicester Road, Ashby de-la Zouch (planning permission ref: 13/00857/OUTM).
- 1.2 The Section 106 agreement was completed on 13 February 2015, and the outline planning permission subsequently issued on 17 February 2015.
- 1.3 The Section 106 agreements include obligations in respect of, amongst others, affordable housing. The affordable housing obligations are as follows:
- 32 of the proposed dwellings (i.e. 31.68%) to be provided as affordable housing
 - Transfer of the affordable units to Registered Provider prior to occupation of 75% of the open market dwellings
 - The proposed mix was for 1 x 1 bed 2 person coachhouse; 10 x 1 bed 2 person houses; 4 x 2 bed 4 person houses; 1 x 2 bed 3 person flat over garage; 6 x 2 bed 3 person flats and 10 x 3 bed 5 person houses.
 - Whilst the tenure mix had not been finalised, it was anticipated that 70% of the properties (22 units) would be rented units.
- 1.4 A subsequent permission for an amended scheme relating to 56 no. of the originally approved 101 no. dwellings was granted on 29 June 2016 (ref: 15/01197/FULM), and was the subject of a supplemental agreement under Section 106. This application amended the housing mix but did not make any changes to the overall contribution requirement of 30% affordable units.
- 1.5 The developer has, however, now approached the Local Planning Authority with a view to entering into an amended scheme of obligations in respect of affordable housing, and has

undertaken a viability appraisal in order to demonstrate the need to enter into alternative obligations. The Local Planning Authority has commissioned the District Valuer to assess the developer's calculations on its behalf. For the avoidance of doubt, it is only affordable housing that is subject to viability, with the developer confirming that no other contributions would be impacted upon.

- 1.6 The wider residential development is currently under construction, however none of the 16 units, proposed to be gifted, are yet constructed.

2.0 PROPOSED AMENDED AFFORDABLE HOUSING OBLIGATIONS

- 2.1 The developer is of the view that, given anticipated costs and receipts, the provision of the on-site contribution set out under 1.3 above would not be viable having regard to the absence of any bids from Registered Providers. In response, the developer has been engaged in discussions with the District Council's Strategic Housing team, and has offered an alternative contribution of gifting 16 units (15.84%) to the District Council's Housing department (freehold) for use as rented accommodation comprising 10 x 1 bed 2 person houses; 1 x 2 bed 3 person flat over garage; 2 x 2 bed 4 person houses and 3 x 3 bed 5 person houses.

3.0 CONSULTATION

- 3.1 Ashby Town Council have confirmed that they have no concerns about the proposal, which is seen as a pragmatic response to the situation.
- 3.2 The District Council's Strategic Housing Team supports the proposed alternative obligations for the reasons set out in Section 5.0 below.
- 3.3 At the time of writing comments are awaited from the Ward Member.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)
Planning Practice Guidance

4.2 Adopted North West Leicestershire Local Plan

Policy H8 of the adopted North West Leicestershire Local Plan provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

4.3 Submitted North West Leicestershire Local Plan

Policy H4 of the publication version North West Leicestershire Local Plan provides that a minimum affordable housing contribution of 30% should be provided on developments of 15 or more dwellings in Ashby, and that the Council's preference is for on-site provision.

4.4 Other Local Policies

North West Leicestershire District Council Affordable Housing Supplementary Planning Document – January 2011.

5.0 ASSESSMENT

5.1 Having regard to the requirements of the NPPF and the Community Infrastructure Levy Regulations 2010, the view is taken that the current obligations are appropriate, and meet the legislative and policy tests. However, in view of the request to amend the terms of the existing Section 106 obligations, it is considered appropriate to assess:

- (i) Whether the current affordable housing requirements are unduly onerous when having regard to the viability / deliverability of the scheme, or are otherwise unachievable;
- (ii) If so, whether the alternative affordable housing obligations proposed by the developer are appropriate to the level of development viability (i.e. they are the maximum achievable whilst ensuring the development remains viable); and
- (iii) Whether the alternative proposals under (ii) above are appropriate in terms of helping to meet the affordable housing needs of the area.

5.2 Deliverability of Existing Affordable Housing Obligations

5.2.1 Having reviewed the developer's viability assessment on behalf of the District Council, the District Valuer concludes that, financially, the existing obligation to deliver 30% affordable housing would still be viable.

5.2.2 However, this also needs to be considered in the context of the ability of the developer to comply with the existing affordable housing obligations having regard to other factors. The District Council's Strategic Housing Team advises that the developer had indicated to the Strategic Housing Team its willingness to provide the originally agreed affordable housing and approached Registered Providers to gauge interest with a view to entering into a contract to secure delivery. Initially two Registered Providers were interested, however both offers were significantly lower than has been factored into the developers financial appraisal. In July 2015, following the budget announcements regarding Registered Providers' reducing rents by 1%, one of the offers fell away and the other Registered Provider re-evaluated their offer, reducing it further still. The remaining offer was, as the Strategic Housing Team advises, significantly below the figure factored in for these properties.

5.2.3 On this basis, therefore, it is accepted that, in practice, the developer is unable to deliver the on-site affordable housing in accordance with its existing obligations.

5.3 Appropriateness of Proposed Alternative Affordable Housing Obligations

5.3.1 In addition to reviewing the developer's viability assessment relating to the current obligations, the District Valuer has also assessed the alternative scheme of gifting 16 units to the District Council and again finds this viable (although the District Valuer does also

nevertheless suggest that the proposed alternative option would, in fact, be likely to entail a greater cost to the developer and therefore less profit, than the existing obligations.)

- 5.3.2 For its part, the District Council's Strategic Housing Team is of the view that, whilst its preferred position would be to secure the policy compliant 30% on-site contribution by way of a Registered Provider, it nevertheless accepts the reasons why this level of provision could not be achieved. It advises that the ability of Registered Providers to purchase affordable homes on housing sites is currently severely diminished.
- 5.3.3 The existing Section 106 agreement includes a "cascade" arrangement at paragraph 15.1.10 to be employed in the event that there is no Registered Provider interest in the affordable homes which is for a Housing Commuted Sum in lieu of the provisions of some or all of the Affordable Dwellings.
- 5.3.4 The District Council's Strategic Housing Team has confirmed that this would inevitably lead to a time delay in between receipt of the commuted sum payment and affordable homes being provided which delays the Council's ability to rehouse households in housing need. Accordingly the option for a commuted sum would not therefore assist in meeting the District's identified needs.
- 5.3.5 Whilst the proposed alternative scheme is not the Strategic Housing Team's preferred policy position, it accepts that the offer would nevertheless secure 16 rented units in a high demand settlement. It also advises that the properties would meet an identified need and their acquisition would support the District Council's Housing Revenue Account, ensuring that existing Council properties are maintained, and supporting the Council's own new house building programme. It therefore favours the approach now suggested over the cascade arrangements that would otherwise apply in this case.
- 5.3.6 Having regard to the advice of the District Council's Strategic Housing Team in respect of the difficulties in securing a Registered Provider, it is accepted that the provision of a smaller gifted contribution would be an appropriate alternative, and would be preferable to the cascade arrangement applicable under the existing obligations. As such, it is recommended that the proposed amended affordable housing obligations be accepted.