

HOLT - RV/22/0308 - Variation of Conditions 2 and 24 of planning ref: PF/17/1803 to amend plans to reflect updated on-site affordable housing provision (0%) and to update previously approved Land Contamination Report, Land Rear of 67 Hempstead Road, Holt, Norfolk, for Hopkins Homes Limited

Major Development

Target Date: 28th April 2023

Extension of Time: 28th April 2023

Case Officer: Russell Stock

Variation of Condition Application

REASONS FOR REFERRAL TO COMMITTEE

This application was brought before Members for consideration at the 23rd February 2023 Development Committee meeting at the request of the Assistant Director for Planning. Following debate, the Committee resolved to defer making a decision on the application so that further discussions between the Local Planning Authority and the Applicants could take place, with the aim of reaching a position which would result in affordable housing being provided on this site including through use of grant funding.

Since the Development Committee meeting, discussions have taken place with the applicant and Officers which are summarised below. Additionally, further public representations have been received since the meeting on the 23rd February and a summary of these are also provided within the relevant section below.

A copy of the Officer Report from the 23rd February 2023 agenda is attached at **Appendix 1**.

REPRESENTATIONS (received since the 23rd February meeting):

A letter of objection has been received from CPRE Norfolk as summarised below:

- The process is not lawful and is being used to secure excess developer profits;
- The loss of affordable housing would significantly and demonstrably outweigh the benefits of the development;
- CPRE would wish to review the outcome of the open book assessment.

A representation has been received as summarised below:

- The use of HMRC Corporation Tax Subsidy should be looked into as this could provide the developer with a greater return.

OFFICER ASSESSMENT:

A fundamental consideration for the Development Committee is to determine whether it is reasonable to accept the applicant's assertion that the proposal is not viable to provide affordable housing on-site via the standard S106 Obligation process.

The application approved under planning ref: PF/17/1803 proposed 23 of the 52 dwellings as affordable housing (44%) and this is now proposed to be reduced to 0% via S106 derived units. The Officer recommendation to the 23rd February Development Committee was one of approval, primarily on the basis that it is considered that refusal of the proposal would be difficult to sustain in light of both local and national planning policy provisions and government guidance in respect to developer profit and scheme viability.

Notwithstanding the clear local and national guidance, the Development Committee resolved to defer the decision and asked Officers to negotiate with the applicant to see what additional public benefits could be derived including through use of other S106 monies held by the Council to deliver grant funded on-site affordable housing.

Since the 23rd Feb Committee, Officers have met with representatives of Hopkins Homes on three occasions to discuss the securing of affordable housing. After exploring various options, an agreement has been reached (informal at this stage) which would see Flagship, a local Housing Association, purchase from Hopkins Homes the original 23 dwellings which were to be provided as affordable as part of application PF/17/1803. These properties would then be managed as affordable housing by Flagship as part of their wider portfolio of properties. The purchase of these 23 dwellings by Flagship would be supported by various forms of grant funding which are available for affordable housing provision at this time, as well as from the Section 106 monies which were secured as part of applications PO/14/0283, PO/14/0284 and PO/14/0274.

It is important for the Development Committee to appreciate that these 23 affordable dwellings are not being secured via a traditional S106 affordable housing obligation. Viability evidence demonstrates that the development is not viable to deliver any S106 affordable units. However, Flagship Housing would be buying the 23 dwellings at near market rates and then managing the 23 properties as affordable housing. The use of grant funding has been pivotal in securing the market units for use as affordable units.

Consideration as to whether these 23 affordable dwellings can in some way be secured as part of the required varied/new legal agreement is being given by the Council's Legal Team and the applicants solicitors. As part of the wider process of securing these dwellings as affordable, an agreement between the Council and Flagship will need to be formally made. A separate agreement between Flagship and Hopkins Homes will also likely be required. If available, an update on the latest position in this regard will be reported to Members on or ahead of the 20th April meeting.

The Housing Strategy and Delivery Manager supports the proposal.

Viability Assessment – Other Matters

Following receipt of representations relating to Land Remediation Tax Relief, this matter has been considered by the Council's Viability Assessor. His comments on this matter are as following:

“This is a relief that reduces the amount of tax paid on profit so does not directly reduce the actual costs of undertaking the on-site remediation. Therefore, it does not change the viability of the scheme but does mean the developer can retain more profit than would otherwise be the case. In this case the cost of decontamination within the cost plan is £154,000 and applying the developer rate of tax relief at 50% the amount of tax saved would be £19,250 (assuming the

incoming Corporation tax rate of 25%). Even if this were taken into account within the viability it will not make a material difference or change the conclusions reached” [in relation to development viability].

Having considered the comments received from third parties and those from the Viability Assessor set out above, it is considered that the conclusions reached by the Council’s Viability Review, and by extension the applicant’s Viability Assessment, remain sound and are not at odds with the relevant guidance.

In relation to the letter of Objection received from CPRE relating to the loss of affordable housing and viability matters, the issues raised by the CPRE are matters which have already been considered as part of the assessment of this application and which are set out within the main report attached at **Appendix 1**.

Summary

Officers have been able to make some positive progress in securing affordable housing on the site, enabled through use of grant funding sources. This would see 23 properties (the same ones as the original S106 units) on this development site being purchased by Flagship to be used and managed as affordable dwellings. Given that the developer’s affordable housing contribution on this site would still remain at 0%, the previously discussed viability review mechanism would still need to form part of the revised legal agreement in the event that developer profit for the development exceeds 17.5%.

For clarity an updated officer recommendation for this application is set out below.

RECOMMENDATION:

Delegate APPROVAL to the Assistant Director for Planning subject to:

- 1. The completion of a deed of variation to the original Section 106 Agreement associated with the approval of application PF/17/1803, or completion of a new Section 106 Agreement, whichever is more appropriate, to secure the updated affordable housing position and review mechanism;**
- 2. The imposition of appropriate conditions (draft list attached at Appendix 2);**
- 3. Any other conditions that may be considered necessary at the discretion of the Assistant Director for Planning; and**
- 4. In the event that the Deed of Variation cannot be secured within three months of the date of Committee resolution to approve, to return the matter to the Development Committee for further consideration.**