

Parish: Stokesley

Ward: Stokesley

14

16/01138/S106

Committee Date: 12 October 2017

Officer dealing: Mr Peter Jones

Target Date: 27 May 2016

Date of extension of time (if agreed):

Variation of Section 106 Agreement associated with application 14/02578/OUT – affordable housing requirements at White House Farm, Stokesley for Cecil M Yuill and Gentoo Homes

The application was deferred to allow the applicant to re-examine the viability of the scheme with a view to the provision of affordable housing.

1.0 UPDATE FOLLOWING DEFERRAL

- 1.1 Since Planning Committee deferred its consideration of the application the applicants have explored alternative mechanisms for the delivery of affordable housing. The applicants have also met with Stokesley Town Council in order that the Town Council has a clearer understanding of the issues around the viability of the scheme and for the Town Council to put forward its views with regard to the proposed affordable housing offer.
- 1.2 Due to the viability issues set out in the original report, repeated below, the applicants maintain that they can only afford to offer a single dwelling that would comply with the Council's policy in terms of affordable housing provision (4% of the total number). This dwelling is offered on the basis of affordable rent, along with a £15,000 commuted sum to be used for the provision of affordable housing.
- 1.3 As an alternative to this, and following discussion with the Town Council, the applicants have made a secondary offer of discounted housing for sale.
- 1.4 The offer has two options:
- Three units (12% of the total number) at 75% of market value; or
 - Four units (16% of the total number) at 80% of market value.

In each case the units would be two bedroom properties and the discount from the market price would apply in perpetuity, which could be secured through a legal agreement. It is understood that the applicants have delivered this form of housing elsewhere but only limited details have been made available.

- 1.5 The three or four units would also be offered on the basis of a local occupancy agreement, subject to similar clauses used in legal agreements for affordable housing in the District, i.e. first offered to residents of Stokesley parish, then to residents of adjacent parishes.
- 1.6 This secondary offer does not comply with Council policy because discounted market value housing is excluded from the local definition of affordable housing. However, it is put forward by the applicant as an alternative, seeking to address the Town Council's concerns.
- 1.7 Stokesley Town Council believes that there is currently a greater need for lower cost starter homes than for affordable housing in Stokesley, in particular when the recent permission for 113 affordable homes on the Tanton Road site is taken into account.

- 1.8 The Town Council has written in support of the idea of houses provided at a discount on market value, but it had understood that nine units would be provided. This is understood to be based on an offer the applicants had prepared before they undertook the site investigations which suggested abnormal build costs and the subsequent viability appraisal.
- 1.9 The applicant has expressed a preference for their revised offer of the discounted market value units over the policy compliant position of one affordable unit and a £15,000 commuted sum, with overage clause as previously recommended for approval at the June Planning Committee.
- 1.10 The Government has indicated a desire to see more low-cost housing for sale and has identified Starter Homes as a way of achieving this. Starter Homes must have a minimum 20% discount on first sale and cannot be priced higher than £250,000 outside London. A Written Ministerial Statement “Starter Homes” amended national planning policy in March 2015 to allow Starter Homes to be provided “on commercial and industrial land that is either under used or unviable in its current or former use, and which has not currently been identified for housing”.
- 1.11 The application site is not considered to be commercial or industrial land, having last been a farm and furthermore, by virtue of the outline planning permission for housing granted in April 2016 (14/02578/OUT) it has been identified for housing. Therefore it is not supported as a site for Starter Homes by Government policy. The applicants’ offer to apply the discount in perpetuity (rather than five years, which is the relevant period for Starter Homes) is better, however, it does not address the greater need for affordable rented housing and the small numbers of units on offer means it would make very little difference to the local market.
- 1.12 Due to the minimal additional benefit considered to be gained from the applicant’s revised offer it is considered preferable to proceed on the basis of the policy compliant position as reflected in the recommendation at paragraph 7.1. It may be possible for discounted market value housing to play a role in balanced housing provision in future, but that would need to be within a framework of consistently applied national and local policy, not by an exception negotiated through the planning application process.

2.0 SITE DESCRIPTION AND PROPOSAL

- 2.1 This application is for the variation of obligations agreed under a S106 agreement with regard to the provision of affordable housing on a site to the south of Westlands in Stokesley.
- 2.2 The original application (14/02578/OUT) sought approval of outline permission for agricultural land on the western outskirts of Stokesley, to the south of Westlands, to be developed for 25 houses. With the exception of access, all matters were reserved for a later stage of approval (i.e. appearance, layout, scale and landscaping).
- 2.3 The site is located to the south of Westlands on the western edge of Stokesley. The site is set within open farmland, bounded to the north by Westlands. The site is currently occupied by a range of modern and traditional farm buildings. The buildings are largely abandoned and in a partial state of dereliction.
- 2.4 The approval included the provision of 37.5% affordable housing (9 dwellings) to be delivered through a S106 agreement which was duly entered into. The applicant is now seeking to amend the percentage provision of affordable housing following site investigations which suggest more significant abnormal costs than those originally envisaged.

3.0 RELEVANT PLANNING AND ENFORCEMENT HISTORY

- 3.1 The site is allocated for employment uses (Class B1) rather than housing, within the Council's Local Development Framework. The allocation sets out requirements for the development of the site.
- 3.2 The primary requirement is in terms of the economic use of the site, but it also sets out other more general development requirements, which are:
- (i) Access to the site being taken directly from Westlands;
 - (ii) Provision of landscaping at the western and eastern boundaries;
 - (iii) Contributions from the developer to local infrastructure (now superseded by the adoption of CIL); and
 - (iv) No development other than essential infrastructure and water compatible uses should take place within Flood Zone 3b, as defined within the Environment Agency Flood Maps.
- 3.3 02/01524/OUT - Outline application for the construction of a care home with day centre facilities and 36 apartments for the elderly; Refused 21 November 2002, appeal dismissed 27 October 2003.
- 3.4 11/01300/OUT - Outline application for the construction of up to 213 dwellings, employment use (class B1) up to 2,900 sq. m including means of access; Refused 11 May 2012, appeal part allowed and part dismissed 29 May 2013 (this was an application for a wider area than the subject site).
- 3.5 14/02578/OUT - Outline application for the construction of up to 25 dwellings; Approved 25 April 2016.

4.0 RELEVANT PLANNING POLICIES

- 4.1 The relevant policies are:

Core Strategy Policy CP1 - Sustainable development
Core Strategy Policy CP8 - Type, size and tenure of housing
Core Strategy Policy CP9 - Affordable housing
Development Policies DP2 - Securing developer contributions
Development Policies DP13 - Achieving and maintaining the right mix of housing
Development Policies DP15 - Promoting and maintaining affordable housing
Affordable Housing - Supplementary Planning Guidance - June 2008
Affordable Housing - Supplementary Planning Document - Adopted 7 April 2015
National Planning Policy Framework - published 27 March 2012
Written Ministerial Statement "Starter Homes" - March 2015

5.0 REPRESENTATIONS AND CONSULTATIONS

- 5.1 Public comments - Two objections have been received to the application. These relate to the principle of the development, which has been decided and is not for reconsideration, and the proposed reduction in the percentage of affordable housing on the site.
- 5.2 Parish Council –
- Members of Stokesley Town Council Planning Committee have read the officer's and committee reports and what paperwork there was on the HDC website. A member of the committee subsequently had a telephone conversation with officer dealing with the application seeking clarification and additional information;

- For the developer to ask for the planning conditions to be changed from 37.5% affordable to just 4% (i.e. only one two bedroom house) is outrageous;
- The conditions of the site have not changed since the original application was approved. The asbestos position was clear at the beginning, as was the site contamination. The developer agreed to the previous S106 agreement knowing these site conditions;
- The mix of housing proposed does not meet the requirements for Stokesley and is not acceptable. (The first line of the Comparables Report stating 'Gentoo are proposing a small development of high quality four bedroom detached homes' highlights the bottom line of the applicants' wishes);
- The essence of the application is apparently based on a change in the financial evaluation of the proposed development by the applicant. However, the only financial information now available to the Town Council is the above Comparables Report which is now nearly 15 months out of date and contains sales data now at least 18 months old – official statistics indicate that a lot has happened to prices in the housing market since then! This lack of financial information means that the Town Council has been unable to date to prepare a meaningful and informed response to the application; and
- It is evident from the Officer's Report that the applicants and the District Valuer have not been able to reach agreement in at least two key areas. However, the solution proposed by HDC to accept only 1 affordable dwelling, a commuted sum and an overage clause (which may yield an additional sum of money) is not acceptable to the Town Council. If this approach were to be followed on other sites it would lead to the receipt of sums of money by HDC but not the delivery of affordable housing – a situation which has been highlighted in recent media comments relating to Kensington and Chelsea Council!

Stokesley Town Council – Updated position

5.3 The Town Council has provided an updated consultation response following a meeting with the applicants, summarised below. It should be noted that the detail of this response is based on an expectation that nine discount market units would be provided.

- Alternative approaches are available, that would offer an increased number of houses which Stokesley residents could afford;
- Current commitments in Stokesley go a long way toward meeting local need
- Evidence from Town Council surgeries that there is a lack of new housing available to purchase;
- Gentoo Homes would be prepared to discuss and present an alternative variation for consideration by the Planning Committee which is based on dwellings that would be for sale at a Discounted Market Value (DMV);
- Similar mechanisms have been used in Northumberland and Newcastle;
- Agreements have secured discounts on normal market values in perpetuity and contain local residency and local employment restrictions on purchasers
- Town Council recognises that such DMV dwellings are not considered as affordable housing but Government White Paper does propose a change which would include them;
- Approval of such a DMV scheme as on this site would serve as a trial for a potential model that could be used as and when new legislation is enacted; and
- The Town Council would be fully supportive if Gentoo Homes were able to prepare an alternative variation to the present Section 106 agreement which retained the current number of nine dwellings, with two / three bedrooms, as DMV properties, with a discount in the range of 20 to 30 per cent from market value and contained local residency and local employment restrictions.

6.0 OBSERVATIONS

- 6.1 The principle of housing development on this site has been established through the grant of outline planning permission. The issues for consideration in this application are whether the applicant has reasonably demonstrated that the development as approved is not viable, based on the agreed provision of affordable housing, whether the proposed level of affordable housing as now submitted is acceptable (subject to an assessment of the viability appraisal), whether the applicant's proposed form of affordable housing is acceptable and whether the housing mix used in the assessment is acceptable.
- 6.2 In order to consider these issues, it is necessary to (i) refer to what was discussed and agreed at the outline stage; (ii) consider relevant policy; and (iii) consider the applicants' offer.

Outline approval

- 6.3 The site lies within the Stokesley Sub Area where there is a development plan policy target for 50% affordable housing on residential development sites (unless a viability appraisal evidences that this is not deliverable). The applicant in the original application submitted a viability assessment which suggested that the development would only be able to deliver 30% affordable housing. An independent assessment of the viability of the site was undertaken by the District Valuer which suggested that the site was capable of delivering 48% affordable housing.
- 6.4 Lengthy discussion ensued between the Authority and the applicant in terms of the points of disagreement in the viability assessment. These related primarily to the assumed land value and the manner in which that was established. The applicant used the same methodology as was used for the site to the north of the application site when the 213-dwelling proposal on Whitehouse Farm was at appeal. In the final analysis, this established 32% affordable housing provision. At the outline stage it was not possible to reach an agreed position with regard to the value of the land as a starting point for the viability assessment, although it was accepted that the methodology used in the assessment of the land value was the same as had been agreed by the Appeal Inspector for the wider Whitehouse Farm development.
- 6.5 However, the applicant submitted a revised offer, which was agreed by Planning Committee, of 37.5% affordable housing with a tenure split of 70% social rent/30% intermediate rent. Outline planning permission was granted on that basis.

Housing policy

- 6.6 To meet local housing needs the affordable housing mix should comprise two and three bedroom houses with a tenure split of 70% social rent and 30% intermediate tenure (unless otherwise evidenced by needs data and also supported at the time in writing by a Registered Provider to whom the properties will be transferred). The affordable homes would also be required to be provided in accordance with the minimum size and transfer price contained in the Council's Affordable Housing SPD.
- 6.7 The Council is also keen to ensure that all new housing better meets the needs of the population in the light of demographic and lifestyle changes. Census data reveals that the population is ageing and this is increasing year on year. Lifestyle changes have also led to the formation of smaller households and this has also impacted on the type of housing that is needed to sustain communities and support economic growth. There is evidence to support the following market mix on larger market housing sites: 10% two bedroom bungalows, 10% one bedroom & 60% two and three bedroom homes.

- 6.8 As well as being a high demand area for family housing, Stokesley has a relatively high proportion of older people (34% of households are aged 65 plus). Like Hambleton's other Service Centres it is a popular location for homeowners seeking to downsize and purchase more manageable homes (including 2 bedroom bungalows) on the open market. Provision of some small open market bungalows on the site (10% of the overall open market provision) would improve the housing offer for existing home owners wishing to downsize.

The applicants' position

- 6.9 The applicants, in seeking to dispose of the site, have carried out more detailed assessments of the abnormal costs associated with the development of the site. In particular the costs associated with the removal of asbestos and problems with ground conditions and associated foundations.
- 6.10 The Council has retained the services of the District Valuer (DV) who carried out the assessment on the original application and the wider White House Farm development. The DV has raised two main areas for concern where he disagrees with the applicants' position. Firstly, he again returns to the question of the land value. However, given the previous position set out in the Inspectors report and accepted in the granting of outline planning permission for this site, it is not considered appropriate to revisit this issue in the consideration of this scheme.
- 6.11 The second issue raised by the DV was a lack of agreement over the costs associated with the abnormal issues raised following more detailed assessment of the site conditions. In order to move this matter forward, the applicant has agreed to the addition of an overage clause to be added to the S106 agreement. It is considered that the disagreement over the value of the abnormal costs can be dealt with in this way.
- 6.12 In developing the scheme and in an attempt to make the scheme viable the applicants have reassessed the housing mix for the development. The scheme previously approved set out a mix against which the viability of the scheme was assessed, bearing in mind this site was allocated before the development of the housing SPD. The mix was two two-bedroom dwellings, 13 three-bedroom dwellings and ten four-bedroom dwellings. 60% of units were two and three bedroom dwellings.
- 6.13 The applicant has sought to demonstrate that the scheme is not viable on this basis and their current viability appraisal is based on the following mix: eight two-bedroom including two bungalows; three three-bedroom dwellings and 14 four-bedroom dwellings. 44% of units would be two and three bedroom dwellings.
- 6.14 The proposed mix clearly does not comply with the current SPD on housing mix which would seek 60% two and three bed units and only 10% to 15% four bedroom units. The applicants have made it clear within their submission that they do not consider the site to be viable with an alternative housing mix based on the level of abnormal costs associated with the development of the site.
- 6.15 Within the applicant's submission, they initially put forward the option of discounted homes for sale. This option was put forward in order to increase the viability and notionally increase the percentage of affordable housing. However, this has been rejected as this product is not considered to meet the current national or local definition of affordable housing. The preferred option (should the approved scheme be accepted as not being viable) is a reduced percentage of affordable housing, delivered on site and in accordance with Hambleton's adopted SPD on affordable housing in terms of size and transfer values.

- 6.16 The applicants are now offering one two-bedroom property to be provided at the fixed transfer value of £65,200 for transfer to a Registered Provider for rent along with a financial contribution (commuted sum) of £15,000.

Summary

- 6.17 It appears from the applicants' submissions, and on the basis of the Inspector's previously agreed methodology for the valuation of the land, that the approved scheme is not viable based on the housing mix and affordable housing offer. If the development of the site is to be progressed with any affordable housing, then a modification of the housing mix would need to be accepted. The question of any variation in the abnormal costs associated with the development can be dealt with by way of an overage clause allowing money currently allocated in the development budget to the abnormal costs to be clawed back if it is not used.

7.0 RECOMMENDATION

- 7.1 That the S106 agreement be amended to provide one affordable dwelling on site, a commuted sum of £15,000 to facilitate the delivery of affordable housing and an overage clause be added to the agreement in order to deal with abnormal costs associated with the development of the site.