

**Parish: Stokesley**

Ward: Stokesley

**1**

**22/00143/MRC**

Committee Date : 10 Mach 2022

Officer dealing : Mr Peter Jones

Target Date: 25 April 2022

Date of extension of time (if agreed):

**Application for variation of condition 10 (affordable housing) following grant of appeal APP/G2713/A/14/2223624 of 14/00337/OUT. Where reference is made to 50% affordable housing delivery this requires amending to 30%.**

**At: Kier Living Tanton Fields Development Land to the North and West of Woodlands Walk, Tanton Road, Stokesley**

**For: Tilia Homes**

This application was presented to and deferred from the Planning Committee at the 10<sup>th</sup> February 2022 meeting, alongside application 21/01877/MRC. The deferral was to allow the Council to obtain an independent assessment of the applicant's viability appraisal and to allow for further information to be obtained in relation to the implications resulting from the change of ownership of the site.

Further information on the scheme viability will be provided to the meeting. This will be assessed against the policies in the new Local Plan in the update sheet for Members. The report previously considered and deferred by Members is set out as follows:

## **1.0 Site, Context and Proposals**

- 1.1 This application is for the modification of condition 10, attached to 14/00337/OUT in order to reduce the percentage of affordable housing on the development from 50% to 30%. This application does not propose any other alterations to the development.
- 1.2 It should be noted that modifications to the housing mix and layout are proposed as a modification to the Reserved Matters permission (21/01877/MRC), which is considered elsewhere on this agenda.
- 1.3 The modification of condition process only allows us to look at the changes proposed and the impact of those changes and does not allow for a wholesale review of the permission.

## **2.0 Relevant Planning and Enforcement History**

- 2.1 14/00337/OUT - Outline application for a residential development of up to 226 dwellings with associated access (with all other matters reserved); Refused 30 May 2014, appeal allowed 7 September 2015 following a Public Inquiry.
- 2.2 16/02756/REM - Reserved matters submission for details of layout, scale, appearance and landscaping for residential development of 225 dwellings as per amended plans received by Hambleton District Council on 15th May 2017.
- 2.3 17/00788/FUL - Creation of a landscaped embankment adjacent to the residential development site boundary (16/02756/REM) to provide a landscaped buffer.

- 2.4 19/00730/NMC - Application for non-material amendment relating to planning application 16/02756/REM - Reserved matters submission for details of layout, scale, appearance and landscaping for residential development of 225 dwellings.
- 2.5 20/00661/NMC - A non material amendment to previously approved application 16/02756/REM-Reserved matters submission for details of layout, scale, appearance and landscaping for residential development of 225 dwellings
- 2.6 20/02402/MRC - Variation of conditions attached to Planning Application Reference Number 16/02756/REM-Reserved matters submission for details of layout, scale, appearance and landscaping for residential development of 225 dwellings
- 2.7 22/00143/MRC – Application for variation of condition 10 (affordable housing) following grant of appeal APP/G2713/A/14/2223624 of 14/00337/OUT. Where reference is made to 50% affordable housing delivery this requires amending to 30%. Decision Pending.

### **3.0 Relevant Planning Policies**

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set out at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990.

Previous Local Development Framework Policies:

Core Strategy Policy CP1 - Sustainable development  
Core Strategy Policy CP2 - Access  
Core Strategy Policy CP4 - Settlement hierarchy  
Core Strategy Policy CP7 - Phasing of housing  
Core Strategy Policy CP8 - Type, size and tenure of housing  
Core Strategy Policy CP9 - Affordable housing  
Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets  
Core Strategy Policy CP17 - Promoting high quality design  
Core Strategy Policy CP18 - Prudent use of natural resources  
Core Strategy Policy CP19 - Recreational facilities and amenity open space  
Development Policies DP1 - Protecting amenity  
Development Policies DP2 - Securing developer contributions  
Development Policies DP3 - Site accessibility  
Development Policies DP4 - Access for all  
Development Policies DP8 - Development Limits  
Development Policies DP9 - Development outside Development Limits  
Development Policies DP10 - Form and character of settlements  
Development Policies DP11 - Phasing of housing  
Development Policies DP13 - Achieving and maintaining the right mix of housing  
Development Policies DP15 - Promoting and maintaining affordable housing  
Development Policies DP28 - Conservation  
Development Policies DP29 - Archaeology

Development Policies DP30 - Protecting the character and appearance of the countryside  
Development Policies DP31 - Protecting natural resources: biodiversity/nature conservation  
Development Policies DP32 - General design  
Development Policies DP33 - Landscaping  
Development Policies DP34 - Sustainable energy  
Development Policies DP36 - Waste  
Development Policies DP37 - Open space, sport and recreation  
Development Policies DP43 - Flooding and floodplains  
Supplementary Planning Document - Size, type and tenure of new homes - adopted September 2015  
Supplementary Planning Document - Sustainable Development - Adopted 22 September 2009  
National Planning Policy Framework  
Hambleton Local Plan  
The Hambleton Local Plan was adopted following the Council meeting on 22 February 2022.

National Planning Policy Framework

The following Local plan policies are considered to be relevant to this matter:

Local Plan Policies

S 1 : Sustainable Development Principles  
S 2: Strategic Development Needs  
S 3: Spatial Distribution

HG 1: Housing Delivery  
HG3: Affordable Housing  
HG 2: Delivering the Right Types of Homes  
HG 3: Affordable Housing Requirements

## **4.0 Consultations and Representations**

4.1 Stokesley Town Council –

4.2 Police – No comments

4.3 Archaeology – The field work required has been completed.

4.4 Third Party Representations –

2 objections received consider that the reduction in affordable housing is not acceptable. The reduction will have a harmful impact in terms of those seeking affordable housing in the locality.

1 letter of support received stating that 30% affordable housing is still significantly more than would have been expected in 2017.

## **5.0 Analysis**

- 5.1 The main issues to consider are: i) the impact of the reduction in the percentage of affordable housing from 50% to 30%.
- 5.2 The reduction in the affordable housing offer has been applied for owing to requested amendments to the development due to amenity impacts on existing neighbouring housing. The amendments to the scheme are also subject to another amendment of condition application for the reserved matters application, which is discussed elsewhere on this agenda.
- 5.3 The applicant was asked to submit a supporting statement covering the issue of viability, in order for the Council to be able to understand the relative impact of the layout and house type amendments, comparatively to the reduction in the affordable housing offer, to ensure that the benefit gained from the changes to the scheme were proportionate to the benefit to the developer.
- 5.4 However, the applicant's submission goes further than this, looking at the viability of the development as a whole and seeking to demonstrate that, notwithstanding the changes to the proposals and the requested reduction in affordable housing, the development is only marginal in terms of viability.
- 5.5 Owing to some minor changes elsewhere in the development the application results in a net reduction across the site of 1 unit, reduced from 225 units to 224 units.
- 5.6 It is clear from the recent work carried out in support of the Local Plan that 50% affordable housing would be unlikely to be viable and hence the change in policy to a 30% target across the District.
- 5.7 NPPF paragraphs 34, 38 and 83 encourages the positive consideration of proposals to ensure that delivery remains viable whilst securing a design that induces a positive impact.
- 5.8 It is understood from the applicant's submission that the revisions to the consented development come at considerable expense to the applicant and it is recognised that they relate to changes they are not otherwise obliged to undertake. The implications of the additional costs on the scheme are significant if one considers that the scheme has been shown to be marginal in viability terms, even in the absence of the proposed alterations to the layout.
- 5.9 The applicant has provided an appraisal which assess both the current and revised scheme which includes the reduction in affordable housing to 30%. When reviewing this appraisal, it is important to have significant regard to the profit margins necessary, in order to provide adequate flexibility to cover abnormal costs and also be able to secure bank or grant funding. The generally accepted position is that development of this scale should be securing a 20% profit margin, which is a common minimum threshold for securing funding, though in some situations 15% is acceptable where an affordable housing quotient is included, subject to an assessment of risk. Generally a scheme of this type with a high proportion of affordable housing would be expected to achieve a blended profit rate of between 18% and 25% again subject to risk.

- 5.10 The applicant's viability appraisal sets out the viability position of the approved scheme and that of the revised scheme, on the basis that the revised scheme, replacing 7 two storey dwellings with 5 bungalows will have a detrimental impact on viability.
- 5.11 The supporting information indicates that the current development achieves significantly below the expected level of developer profit with only a 2.4% net margin on Gross Development Value shown as achievable. The applicant suggests that at this level there is a significant risk that any marginal increase in costs would result in the site losing money and as such the development could not reconcile the requested changes to the scheme without a reduction in affordable housing. They consider that such a low net margin is not sustainable and needs to be addressed to ensure the build-out can progress without interruption.
- 5.12 The appraisal shows the revised outcome when the proposed layout changes are introduced, and the level of affordable housing reduced. This results in an increase in the net margin on GDV to 9.8%. Whilst this is a significant increase it still is notably below the level expected by funders and other interested parties. However, the applicant acknowledges there is a balance to be struck between ensuring the development can proceed and still providing sufficient affordable housing.
- 5.13 Consequently, the decision was made by the applicant to keep affordable housing at 30% given this still delivers a substantial amount of affordable housing and is at a level in line with Policy HG3.
- 5.14 It is clear from the applicant's submission that the approved scheme lacked viability with significantly less than the usual expected 20% developer's profit being achieved. The proposed amendment to the scheme further reduces the developers profit resulting from the development. The applicant has requested that the affordable housing contribution be reduced from 50% to 30%. It is clear from their submission that even at the 30% rate of affordable housing, the developers profit still sits substantially below the 20% profit expectation notwithstanding the requested changes to the layout.
- 5.15 Policy HG3 of the Local Plan sets out that within all new market housing developments across the Hambleton area, a provision for 30% of affordable housing is sought by the council. The policy goes further, to identify where the requirements are not considered viable, with reasons including:

*'material considerations affecting development of the site, an alternative dwelling or tenure mix that meets local need or a lower level of provision may be acceptable. When amending the level of provision, preference will be to reduce the proportion of intermediate housing and other types of affordable home ownership first, then affordable rented housing and finally social rented housing.'*

#### Housing Mix

- 5.16 The housing mix is little altered as a result of the proposed amendment to the affordable housing condition. However, for completeness the mix is set out below:

## Housing Mix

Affordable		Percentage Affordable or Market	Percentage Total
1 bed	8	12%	3.5%
2 bed	41	61 %	18.2%
3 bed	18	27 %	8%
Total	67		
Market			
2 bed	31	20%	13.7%
3 bed	58	37%	25.7%
4 bed	61	39.1%	27%
5 bed	6	3.9%	2.6%
Total	156		
Overall Mix			
1bed	8		3.6%
2 bed	72		32.3%
3 bed	76		34%
4 bed	61		27.3%
5 bed	6		2.7%
2 bed bungalows	17		7.6%

5.17 Condition 11 of the outline planning permission states: "At least 5% of the dwellings hereby permitted, both market and affordable, shall comprise 2 bedroom bungalows". This requirement continues to be met in the revised submission through the provision of 17 two bedroom bungalows, comprising 9 affordable units and 8 open market units. Therefore, having regard to the above, it is considered the proposal would continue to provide an appropriate quantity of two-bedroom bungalows.

### Planning balance

5.18 The original permission, was granted at least in part on the premise of the delivery of 50% affordable housing, although in a time when the Council was struggling significantly with 5 year land supply, which is no longer the case. The reduction of affordable housing to 30% clearly weighs against the proposed development. However, the 30% offer is in line with the requirements of the emerging plan and in particular the Council's understanding of viability gained through the viability work carried out as part of the evidence for the new Local Plan.

5.19 The application proposes additional changes to the house types along part of the boundary of Woodlands Walk, clearly this results in an improvement to the development and results in significantly less impact than the approved scheme. This is considered to weigh positively in the planning balance and is discussed in detail elsewhere on this agenda.

5.20 Concern has been expressed by occupiers of properties which do not see a benefit to them, resulting from the change in house types. However, this is not an opportunity to review the wider development proposals, only the changes proposed in the application. However, it is considered that the balance of the determination weighs between the improvements gained to the scheme and the loss of affordable housing from the development. Given the position of the Local Plan, the viability position expressed by the applicant and the improvements gained to the development it is considered that the beneficial impacts outweigh the harm and as such the proposed amended scheme is recommended for approval.

## 6.0 Recommendation

6.1 That subject to any outstanding consultations the application be **Granted** subject to the following conditions and an amendment to the Section 106 agreement to reflect the change to the affordable housing percentage from 50% to 30%.

Please note that the conditions are as set out in the Inspectors decision letter.

Conditions.

Approval of details

1) Details of the appearance, landscaping, layout and scale of the dwellings (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

2) Details of the finished floor levels of the dwellings shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

3) The development hereby permitted shall comprise no more than 226 Dwellings.

4) The development shall be carried out in general accordance with the details shown on the Development Framework Plan, drawing number 2013-033100-02 Rev D and the Design and Access Statement – February 2013.

5) Access to and within the development shall be carried out in full accordance with the details shown on the Access Plans – 3065/SK001/001 and 3065/SK001/002 before the occupation of the first dwelling on the site.

Timing of implementation

6) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 18 months from the date of this permission.

7) The development shall be begun either before the expiration of:

(a) 18 months from the date of this permission; or

(b) 12 months from the date of approval of the last of the reserved matters to be approved, whichever is the later.

#### Phasing

8) Prior to commencement of development a scheme outlining the phasing of development (the 'phasing scheme'), including a site layout plan identifying land uses such as formal and informal open space, hard and soft landscaping, pedestrian and cyclist access routes and infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.

#### Landscaping

9) The reserved matters application for landscaping shall be accompanied by a detailed Landscape Masterplan and Strategy (in substantial accordance with the Framework Plan 2013-033-100-02 Rev D) to demonstrate that the landscaping proposals have taken account of, and been informed by, the existing landscape characteristics of the site and by any loss of existing vegetation on the site. The Landscape Masterplan and Strategy, following its approval by the Local Planning Authority, shall be implemented in accordance with the phasing details approved under condition 8 above.

#### Affordable housing

10) The development shall not begin until a scheme for the provision of affordable housing as part of the development (the 'affordable housing scheme') has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved affordable housing scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

The affordable housing scheme shall include:

(a) the numbers, size, type, tenure and location on the site of the affordable housing provision which shall consist of not less than 30% of the overall total number of housing units on the site. The affordable housing provision shall comprise either houses or bungalows and shall accord with the Council's Affordable Housing Supplementary Planning Document (and/or any additional or successive relevant planning policy document adopted by the Council);

(b) a timetable for the delivery of the affordable housing and its phasing in relation to the occupancy of the market housing which shall provide for the final affordable unit to be made available for occupation before the occupation of the 100 open market dwelling on site;

(c) the arrangements for the transfer of the affordable housing to an affordable housing provider and these arrangements shall be in accordance with the provisions of the Council's Affordable Housing Supplementary Planning Document (and/or any additional or successive relevant planning policy document adopted by the Council). The arrangements shall ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and



(d) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

#### Housing mix

11) At least 5% of the dwellings hereby permitted, both market and affordable, shall comprise 2 bedroom bungalows.

#### Construction method statement

12) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority; and the approved statement shall be adhered to throughout the construction period. The statement shall provide for:

- (a) the hours of work;
- (b) the parking of vehicles of site operatives and visitors;
- (c) loading and unloading of plant and materials;
- (d) storage of plant and materials used in constructing the development;
- (e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (f) wheel washing facilities;
- (g) measures to control the emission of dust and dirt during construction;
- (h) a scheme for recycling/disposing of waste resulting from construction works;
- (i) means of protection of trees and hedgerows during site preparation and construction; and
- (j) access arrangements for emergency vehicles during the construction phase.

#### Sustainable drainage

13) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the Local Planning Authority. This sustainable drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The details of the scheme shall include:

- (a) a timetable for its implementation; and
- (b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

#### Foul drainage

14) No development shall take place until details of foul water drainage works have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the drainage works required for that building have been implemented in accordance with the approved details. The approved foul water drainage works shall be retained and managed thereafter in accordance with the approved details.

## Archaeology

15) No development shall take place within the application site until a written scheme of archaeological investigation, including the methodology of further investigation works and a programme for the works to be undertaken (the 'archaeological scheme'), has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the agreed archaeological scheme.

## Ground contamination

16) No part of the development shall be commenced on site unless and until:

(a) a site investigation has been designed for the site using the information obtained from the desktop investigation (Preliminary Risk Assessment (Phase 1 Desk Study) LKC 13 1131 – February 2014. This shall be submitted to and approved in writing by the Local Planning Authority prior to the investigation being carried out on site;

(b) the site investigation and associated risk assessment have been undertaken in accordance with details submitted to and approved in writing by the Local Planning Authority; and

(c) a method statement and remediation strategy, based on the information obtained from (b) above, including a programme of works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation strategy.

## Biodiversity

17) Before development commences detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds (including swifts and house sparrows) and protected species including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall be installed in accordance with the approved details and timetable and retained thereafter.

18) Before any development or other operations commence, and within one month of the planned commencement of works, an assessment of the trees on the site for bat roosts shall be undertaken by a licensed bat ecologist. A copy of the assessment report shall be submitted to the Local Planning Authority and any necessary mitigation plan shall be approved, implemented (and if necessary maintained in consultation with Natural England) and confirmed in writing by the Local Planning Authority.

19) No tree/shrub clearance works shall be carried out on the site between 1 March and 31<sup>st</sup> August inclusive, in any year, unless the site has been surveyed within that period for breeding birds and a scheme to protect breeding birds is submitted to and approved in writing by the Local Planning Authority. If such a breeding bird protection scheme is submitted and approved the development shall thereafter only be carried out in accordance with the approved scheme.

#### Boundary treatments

20) No part of the existing boundary hedges of the site shall be uprooted or removed or reduced in height to a height below 1.5 metres (except for access) other than in accordance with details that have been submitted to, and approved in writing by, the Local Planning Authority.

#### Sustainable energy

21) At least 10% of the energy supply of the development shall be secured from decentralised and renewable sources or otherwise through design measures. Details of a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to, and approved in writing by, the Local Planning Authority as part of the reserved matters submissions. The approved details shall be implemented in accordance with the approved timetable and retained thereafter.

#### Provision of on-site amenity space, children's play and young people's facilities

22) The development hereby approved shall not begin until arrangements (including a timetable for implementation and management plan) for the provision of on-site amenity space, children's play and young people's facilities have been submitted to and approved in writing by the Local Planning Authority. The on-site amenity space, children's play and young people's facilities shall be provided in accordance with the approved arrangements and the future management transferred to a management company to be managed in perpetuity.

#### Travel plan

23) No dwelling in the development hereby approved shall be occupied until a Travel Plan based on the Framework Travel Plan ('the Travel Plan') accompanying the application has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include the objectives, targets, mechanisms and measures to achieve the targets, implementation timescales, provision for monitoring, and arrangements for a Travel Plan coordinator, who shall be in place until 5 years after the completion of the final phase of development.

The approved plan shall be audited and updated and submitted for the written approval of the Local Planning Authority at intervals no greater than 18 months.

The measures contained within the approved plan and any approved modifications shall be carried out in full.

#### Street lighting

24) No dwelling shall be occupied until a scheme, previously submitted to and approved in writing by the Local Planning Authority, for the extension of the street lighting system between the site access on to Tanton Road and the junction of Tanton Road with B1365 has been implemented in accordance with the approved details.

Stokesley footpath 10.140/2/2

25) Development shall not commence until a survey and scheme for footpath surfacing works to Footpath Ref No:10.140/2/2 running northwards from North Road, passing to the east of Neasham House Farm to the development boundary, as shown on Drawing Stokesley Footpath 10.140/2/2, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed prior to the occupation of the first dwelling on the site.