

Unrestricted Report

ITEM NO: 13

Application No. 13/00966/FUL Ward: Binfield With Warfield Date Registered: 21 November 2013 Target Decision Date: 20 February 2014

Site Address: **Binfield House Nursery Terrace Road North Binfield Bracknell Berkshire**

Proposal: **Erection of 5 no. five bedroom, 7 no. four bedroom, 2 no. three bedroom and 10 no. two bedroom dwellings with associated landscaping and vehicular access from Knox Green following demolition of existing buildings, and alterations to wall within the curtilage of a listed building.**

Applicant: Beaulieu Homes South Ltd

Agent: MGI Architecture Ltd

Case Officer: Martin Bourne, 01344 352000

Development.control@bracknell-forest.gov.uk

Site Location Plan (for identification purposes only, not to scale)



OFFICER REPORT

1. REASON FOR REPORTING APPLICATION TO COMMITTEE

This application was originally reported to Planning Committee at its meeting on 16 October last year. The report and supplementary report to that committee are attached as an annex to this report.

At that meeting Planning Committee resolved that the Head of Development Management be authorised to approve the application subject to conditions and following the completion of planning obligations under Section 106 of the Town and Country Planning Act 1990 relating to:-

- mitigation of increased pressure on highways and transportation infrastructure, education, open space and built sports facilities;
- long-term management/maintenance of C19th garden wall and trees to south-east of Binfield House;
- provision of affordable housing;
- a S38/S278 agreement for the adoption of roads/footpaths on the site and to secure turning facilities.

Following this decision the applicant submitted a viability report which concludes that whilst the proposed development, including 6no. age-restricted dwellings, would be viable a scheme with 6no. social housing (affordable) dwellings is unviable and therefore undeliverable.

The applicant is therefore seeking the removal of the requirement for affordable housing to be provided as part of this development.

This matter was deferred at the meeting of the 22 January Planning Committee to enable members to see the viability study submitted by the applicant and the independent assessment of this study prepared for the Council. These are deemed to be commercially sensitive and details from them are published in Part 2 of the agenda.

2. DEVELOPMENT PLAN

The Development Plan includes the following:-

- Core Strategy DPD (February 2008)
- Site Allocations Local Plan (July 2013)
- Policy NRM6 of the South East Plan (May 2009)
- Bracknell Forest Borough Local Plan (January 2002) (saved policies)
- Bracknell Forest Borough Policies Map 2013

3. AFFORDABLE HOUSING POLICY

Relevant policy on affordable housing comprises BFBLP Policy H8, CSDPD Policy CS17 and the resolution of the 29 March 2011 BFC Executive. Taken together these seek a target of 25% affordable housing for schemes providing a net increase of 15 or more dwellings. The CSDPD (para. 194) and BFBLP Policy H8 state that consideration will be given to the economics of provision; in the Executive resolution the 25% provision is subject to viability.

Para 50 of the NPPF states, inter alia, that "local planning authorities should, where they have identified that affordable housing is needed, set policies for meeting this need on site... Such policies should be sufficiently flexible to take account of changing market conditions

over time". It is considered that the Council's policy with regard to affordable housing can be afforded full weight as it is consistent with this paragraph.

The site is allocated for housing in the SALP. It constitutes a previously developed site within a defined settlement, and as such is listed in Policy SA1. The requirements in the SALP for this site include the provision of affordable housing.

4. NATIONAL POLICY ON VIABILITY

In relation to 'ensuring viability and deliverability' para 173 of the NPPF states:-

Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

Relevant guidance in NPPG (National Planning Practice Guidance) includes the following:-

In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.

This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability.

In relation to competitive returns to developers and land owners NPPG states:-

The National Planning Policy Framework states that viability should consider "competitive returns to a willing landowner and willing developer to enable the development to be deliverable." This return will vary significantly between projects to reflect the size and risk profile of the development and the risks to the project. A rigid approach to assumed profit levels should be avoided and comparable schemes or data sources reflected wherever possible.

A competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of the land or its value for a realistic alternative use that complies with planning policy.

5. ASSESSMENT

Application 13/00966/FUL provides for the erection of 24 dwellings which exceeds the threshold (of 15 net) contained in the Executive resolution referred to above. Therefore under the Council's current affordable housing policy, 25% of the dwellings (6no. dwellings) should be affordable unless this would render the proposal unviable.

As noted above the applicant has submitted a viability report prepared by Haslams which concludes that whilst the proposed development, including 6no. age-restricted dwellings, would be viable a scheme with 6no. social housing (affordable) dwellings is unviable and undeliverable.

In line with normal practice this report has been forwarded to an independent expert assessor (in this case the District Valuer Services (DVS)) for advice on whether the conclusions of that report are sound taking into account the infrastructure requirements and other considerations. In its conclusions DVS agree with the findings of Haslams that a scheme with 6no. social rented or affordable rented units would not be viable. They agree that a scheme with 6 age restricted dwellings would be viable.

Following receipt of the DVS assessment officers asked whether some affordable housing, even if less than the policy compliant 6 units, could be provided. In its response DVS stated that based on its analysis the scheme could afford one social rented unit and remain viable. However it commented that *'at this level the result is very sensitive to any slight change in costs or values. The applicant's inputs are slightly different to mine and on their figures I don't believe that there is any ability to provide an affordable unit.'*

In relation to additional costs, the applicant has had a Geotechnical and Environmental Ground Appraisal undertaken on the site. A letter dated 13 January from a contractor giving an estimate for the costs of contaminated soils excavation and disposal, based on the ground appraisal dated 1 December, shows that these could be considerable. The letter from the contractor was forwarded to DVS for comment. DVS commented:-

"I confirm that there are currently no costs for removal of contaminated soils incorporated within my viability assessments appended to my draft report dated 15 December 2014 and even the minimum estimated cost for excavation and disposal (assuming soils are inert) will adversely affect the viability of the proposed scheme."

In its report DVS states that since its assessment takes account of current market conditions, it would recommend that should the Council decide to agree a less than policy compliant position then a viability review is triggered should development not commence and the dwellings not be delivered within an agreed timescale.

As set out above the relevant development plan policies make it clear that in seeking the provision of affordable housing consideration will be given to the economics of provision and under the Executive resolution (regarding affordable housing) the target percentage of provision of up to 25% is subject to viability. The submitted viability report demonstrates that if affordable housing is required to be provided to standard the development will not be viable and will not be implemented. Using its analysis DVS commented that the scheme might be able to provide one social rented unit and remain viable but it acknowledged that this conclusion was very sensitive to any slight change in costs and it is now apparent that there will be considerable costs – not included in the initial viability work – associated with dealing with contamination on the site. In the light of the above your officers consider that for the development to be viable and deliverable the requirement for affordable housing should be waived.

6. CONCLUSIONS

Taking account of relevant development plan policies and the Executive resolution on affordable housing, in the light of the findings of the independent assessment by DVS it recommended that the requirement for affordable housing be waived in this instance (with the condition requiring 6 dwellings to be age-restricted being retained) but that the s106

agreement contain a mechanism to trigger a viability review should the development not be completed within 3 years from the date of planning permission being granted.

7. SECTION 106 AGREEMENT

The Council is the owner of the large majority of the application site. Section 106 agreements have to be entered into with the owner of the land; it is not possible for the Council to enter into an agreement with itself. It is therefore proposed that a condition be imposed precluding commencement of the development until a Section 106 agreement is entered into, the agreement to be in the form attached to the planning permission. The completion of the transfer of the Council's land, the grant of planning permission and the completion of the Section 106 agreement will take place consecutively at the same time.

RECOMMENDATION

That:-

a) **the Borough Solicitor be authorised to complete an agreement under Section 106 of the Town and Country Planning Act 1990 relating to:-**

- mitigation of increased pressure on highways and transportation infrastructure, education, open space and built sports facilities;
- long-term management/maintenance of C19th garden wall and trees to south-east of Binfield House;
- a S38/S278 agreement for the adoption of roads/footpaths on the site and to secure turning facilities
- a viability review should the development not be completed within 3 years from the date of planning permission being granted (the purpose of this would be to assess whether changes in market conditions mean that a scheme including affordable housing would be viable, in which case such housing should be secured)

b) the Head of Development Management be authorised to **APPROVE** the application subject to the conditions/informatives imposed by Planning Committee at its meeting on 16 October 2014, with the following amendment to condition 30:-

30. The development hereby permitted, including works to deal with on-site contamination, shall not be begun until a Construction Traffic Management Plan has been submitted to and approved by the Local Planning Authority. The approved Management Plan shall be performed, observed and complied with for the duration of site preparation and the construction of the development hereby approved.

REASON: In the interests of road safety and the amenity of nearby residents.

[Relevant Policies: BFBLP EN25, CSDPD CS23]

and the following additional condition:-

41. The development shall not be begun unless and until all parties with any legal or equitable interest in the application site have entered into an Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 in terms set out in the proposed Section 106 Agreement annexed to this permission, and the title to such area of land has been properly deduced to the Council.

REASON: To secure the appropriate infrastructure and housing provision appropriate for the development and to ensure that necessary provision is made to mitigate the impact of carrying out the development.