

WILTSHIRE COUNCIL

**SOUTHERN AREA PLANNING COMMITTEE
3 JUNE 2010**

OUTLINE APPLICATION S/2008/0779 FOR MIXED USE DEVELOPMENT OF LAND TO COMPRISE AROUND 90 DWELLINGS AND 3800 SQUARE METRES OF B1 BUSINESS FLOORSFACE (INCLUDING ASSOCIATED HIGHWAY INFRASTRUCTURE) AND LANDSCAPING ON LAND OFF HINDON LANE, TISBURY.

1. Report Summary:

- 1.1 To advise members of a proposed change to the s106 legal agreement, in relation to affordable housing provision.

2. Considerations:

- 2.1 The background to this report is the resolution of the former Western Area Committee of Salisbury District Council to grant planning permission for mixed use development of land off Hindon Lane, Tisbury, for around 90 dwellings and 3800 square metres of B1 business floorspace (including associated highway infrastructure). This was subject to a legal agreement under s106 of the Town and Country Planning Act 1990 to secure a number of planning requirements.

- 2.2 The requirements and the legal agreement relate to:

- (1) the provision of public recreational open space;
- (2) the provision of affordable housing;
- (3) the phasing of development;
- (4) the sum in relation to policy R4 (the community land) and R2 (public recreation facilities);
- (5) the provision of educational facilities;
- (6) the need for a Travel Plan and the requirements of the Highway Authority;
- (7) Public art;
- (8) the satisfactory long term operation and maintenance of the surface water drainage scheme;
- (9) Landscape Management;
- (10) A contribution in relation to bin storage and kerbside waste management facilities.

- 2.3 A time limit was originally imposed for the legal agreement to be completed within 3 months of the resolution, ie by 11th March 2009. It was subsequently agreed, at the meeting of the Southern Area Planning

Committee of 28th January 2010, that the period for completing the agreement could be extended under officers' delegated powers.

- 2.4 The completion of the legal agreement has now been delayed by a request by the applicants to change the wording of the draft agreement, to allow for greater flexibility in the provision of affordable housing.
- 2.5 In resolving to grant permission, the proposal was that 40% of 84 of the 90 dwellings would be affordable (ie 34 dwellings). Of these 34 dwellings, 14 units (40%) were going to be 'shared ownership' while 20 units (60%) were going to be 'affordable rent'.
- 2.6 Since the original resolution, there has been a change in the way that funding is allocated for affordable housing projects by the new Homes and Communities Agency. Social Housing Grant is now not available and this means that for the developers the affordable housing element at Hindon Lane, as negotiated, attracts a significant negative land value. This has significant implications for the delivery not only of the affordable housing proposed but also the range of community benefits flowing from the development. This is a problem that has affected other development sites through out the County.
- 2.7 The applicants' proposed solution is to vary the wording of the draft legal agreement to allow flexibility of tenure and staircasing. While this would retain the same number of affordable housing units as previously envisaged, there would be the scope for the balance between shared ownership and affordable rented tenures to be changed. However, this would only take place with the agreement of the Local Planning Authority.
- 2.8 The Council's Housing officer has discussed the possible changes to the mix with the likely Registered Social Landlord and both are content with the proposed increased flexibility within the s106, and the likely eventual mix (being 59% rented, 41% shared ownership and/or intermediate rent, although this could change). By accepting this change, the need would still be met but the affordable housing element would not attract a negative land value for the developer and the other aspects of the s106 (including financial contributions) would not need to be re-negotiated.
- 2.9 Also proposed is a change to the 'staircasing' provision from 80% to 100%. Staircasing is the lessee's right to purchase further shares in the property and the 80% limit would ensure that the remaining 20% would stay with the registered social landlord. Removal of this limit would mean that the purchaser has 100% ownership and over time, the benefits of affordable housing would not be available to occupiers in perpetuity. Eventually each dwelling could be staircased out of affordable housing entirely and then be sold on the open market.
- 2.10 Local Plan policy H25 says that, in dealing with schemes that have to include affordable housing:

“...arrangements will be made to ensure that the benefit of affordable housing is enjoyed in perpetuity, (i.e. not only by the initial occupiers of the dwellings provided, but also by their successors) through the management of the property by a Registered Social Landlord (such as a housing association, trust or similar organisation) and/or by the use of planning obligations and conditions.”

- 2.11 While the benefits of affordable housing would remain for a period of time to successive occupiers (until 100% is reached), ultimately there is a risk that the affordable houses would become open market houses, losing the benefits for successive occupiers. Once 100% has been reached the Registered Social Landlord would still retain a right of pre-emption for a period of 21 years, whereby they have the right to nominate a purchaser, buy or accept a surrender of the lease of the property.
- 2.12 The Council has not been able to impose an 80% staircasing limit except in some rural areas where grant is available and it has traditionally been its practice to do so where possible. In urban areas it has been standard practice to allow 100% staircasing for many years with Registered Social Landlords using the proceeds for further affordable housing.
- 2.13 Whilst this is clearly not ideal, it has been accepted by the Council’s Housing department because of advice to the Registered Social Landlord that lenders (ie for mortgages on the shared ownership dwellings) will not lend on units that do not allow staircasing to 100%. This has caused significant problems with sales of shared ownership units on other schemes, for instance Old Coal Yard in Tisbury. Essentially the 80% limit effectively prevents much of the benefit of affordable housing for the shared ownership units, because potential occupants cannot obtain a mortgage.
- 2.14 On balance, it is considered that allowing the flexibility sought by the applicants (in terms of tenure mix and removal of the staircase limit) is to be preferred, so that development can go ahead, including the provision of the affordable housing, which might otherwise not come forward at all.
- 2.15 A further change proposed by the applicants is to vary the range of different types of tenure within the proposed affordable housing stock. This means that some units would be made available (or have proportions of their equity) at an intermediate level, lower than the market price (or rent level) but higher than the Homes and Communities Agency’s normal affordable housing price or rent level.
- 2.16 This tenure range variation has only been proposed recently and is currently being considered. Members will be updated at the meeting itself, once the implications have been assessed further.

3. Options for consideration:

- 3.1 This proposed changes do not require a further resolution from members, because the original s106 delegation resolution was broad in scope. The

report has been brought for information only. Members are therefore asked to note the report.

Recommendation:

To note the report

4. Appendices:

A The original report to Salisbury's Western Area Committee on 11th December 2008 and the minutes of that meeting.

B The report and minutes of the meeting of Southern Area Planning on 28th January 2010.