

P/15/0238/OD

ROBERT GAMLEN HOMES

FAREHAM EAST

AGENT: ROBERT GAMLEN
HOMES

APPLICATION SEEKING REVIEW OF AFFORDABLE HOUSING OBLIGATION UNDER
S.106 BA OF THE TOWN & COUNTRY PLANNING ACT IN RELATION TO PLANNING
APPLICATION P/07/0848/FP

70 TRINITY STREET FAREHAM PO16 7SJ

Report By

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Introduction

The applicant has made a formal request under Section 106BA of the 1990 Town and Country Planning Act claiming that the affordable housing obligation as currently agreed makes the scheme unviable in current market conditions and that the only method of bringing this site forward is to reduce the affordable housing contribution to nil. This request is supported by a viability appraisal. The applicant has a right of appeal under this formal process.

The viability appraisal also demonstrates that the development cannot support paying the open space and recreation contribution.

The Council has sought independent advice in relation to the viability appraisal and the opinions of Officers are set out below.

Planning Considerations - Key Issues

History

This item relates to the site of the former 'Skippers' fish and chip shop and adjacent land at the junction of Osborn Road and Trinity Street.

Planning permission was granted in September 2007 (under reference P/07/0848/FP) for the erection of 23 flats at the site, comprising a mix of one and two bedroom units. The development was commenced in 2011 when part of the foundation was laid for the permitted building.

The planning permission was subject to a number of conditions and a Section 106 planning obligation.

The planning obligation secured three specific elements:

- 1) The provision off site of three affordable houses (all three bedroomed) within the Borough of Fareham which met the specifications and requirements set out in the agreement;
- 2) A contribution towards the provision of off-site open space. On current figures this contribution is estimated at being approximately £33,500 (plus index linking);
- 3) A contribution of £2000 towards the cost of making a Traffic Regulation Order to

implement a loading prohibition in Osborn Road adjacent the site.

The applicant sought a review of the viability of the site in 2011, however Members resolved not to agree to vary the S.106 Agreement at that time. The site remains undeveloped to date.

Relevant Government guidance

Government guidance states:

'Unrealistic Section 106 agreements negotiated in differing economic conditions can be an obstacle to house building. The Government is keen to encourage development to come forward, to provide more homes to meet a growing population and to promote construction and economic growth. Stalled schemes due to economically unviable affordable housing requirements result in no development, no regeneration and no community benefit. Reviewing such agreements will result in more housing and more affordable housing than would otherwise be the case.'

The Growth and Infrastructure Act inserted a new Section 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduce a new application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing. Obligations which include a "requirement relating to the provision of housing that is or is to be made available for people whose needs are not adequately served by the commercial housing market" are within scope of this new procedure.

The National Planning Policy Framework paragraph 173 states:

'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 in account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and will developer to enable the development to be deliverable.'

Applicant's case for the variation of the Section 106 Planning Obligation

In assessing the impact of planning obligations on the viability of the development process, it is accepted practice to adopt the Existing Use Value and compare this with the residual land value of any proposed development, the Redevelopment Value.

The Redevelopment Value and Existing Use Value represent the parameters within which to assess the level of any planning obligations.

Current build costs mean small to medium sized developers are looking to secure profit margins of around 20% on Gross Development Value to adequately reflect the risk of delivering a scheme. However, in this case the applicant is prepared to reduce this to 15% on Gross Development Value in order to build out and deliver the scheme as quickly as possible.

A viable contribution payable by the developer is the difference between the Redevelopment Value and the Existing Use Value. The viability appraisal demonstrates there is a clear deficit. The applicant is therefore advising that if there is any prospect of

developing this site, the affordable housing obligation should be reduced to nil.

The viability appraisal also demonstrates that the scheme cannot support the obligation to contribute towards open space and recreation facilities.

The applicant has confirmed he is committed to bringing the scheme forward as soon as possible.

Officer's comments

The request to vary the Section 106 Planning Obligation has been accompanied by a detailed financial viability statement. The Applicant has provided financial information about the scheme on a confidential open book basis to Officers.

Officers have subsequently sought independent advice on the financial viability of the scheme and acknowledge the pressures on this particular scheme. Officers acknowledge that current market conditions, the contributions previously agreed at the site along with other factors have impacted upon the financial viability of the scheme.

In light of the viability appraisal of the site, Officers consider the only method of bringing this site forward, as encouraged by Government advice is to reduce the affordable housing contribution to nil.

Developing new and improved parks play areas and sports facilities using developer contributions and external funding are a priority as set out within the adopted Core Strategy.

The application site itself is somewhat different from many other development sites in the Borough. The site has the benefit of existing recreation facilities very close by. Apart from being a town centre location the future occupiers of the development would have the benefit of the Sensory Garden of Reflection opposite the site in Osborn Road and just a short walk away, extensive parkland and leisure facilities in Park Lane.

Officers consider there are clear advantages of bringing this site forward for development and these advantages in this case outweigh the need for the requirement of an open space and recreation contribution.

The applicant has confirmed that the obligation to fund the traffic regulation order to implement a loading prohibition in Osborn Road adjacent the site, will be met.

The existing Skippers building has been demolished and it is understood that one part of the foundation has been laid. The works undertaken to date appear to be a means to ensure that the planning permission is 'kept alive'. The site, which immediately adjoins a large surface car park has been fenced off with industrial type fencing for some years. Officers are keen to see the regeneration of a vacant/derelict corner site close to the town centre and Osborn Road Conservation Area. Not only bringing forward additional housing in this town centre location, its development will visually enhance the appearance of the street scene and area.

Conclusion

Officers acknowledge the current financial viability of the site, and are very much aware of

Government guidance urging flexibility on the contributions sought via planning obligations.

The viability appraisal and the benefits of developing a site which has remained undeveloped since planning permission was granted some 7.5 years ago are a material consideration. Officers have therefore concluded the request to vary the terms of the Section 106 Planning Obligation completed in connection with affordable housing and open space obligations relating to planning application P/07/0848/FP should be agreed.

Recommendation

That the request to vary the terms of the Section 106 Planning Obligation completed in connection with affordable housing and open space obligations relating to planning application P/07/0848/FP should be agreed.

Background Papers

P/07/0848/FP

FAREHAM

BOROUGH COUNCIL



70 Trinity Street
Scale 1:1250

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