

Affordable Housing

Proof of Evidence

Town and Country Planning Act 1990 Section 78 appeal against the refusal of planning permission

Witness: Lynn Robinson

Subject of Evidence: Affordable Housing

Appeal: APP/W0340/W/20/3265460

Site: Sandleford Park
Newtown Road
Newtown
Newbury

Proposal: Outline planning permission for up to 1,000 new homes; an 80 extra care housing units (Use Class C3) as part of the affordable housing provision; a new 2 form entry primary school (D1); expansion land for Park House Academy School; a local centre to comprise flexible commercial floorspace (A1-A5 up to 2,150 sq m, B1a up to 200 sq m) and D1 use (up to 500sq m); the formation of new means of access onto Monks Lane; new open space including the laying out of a new country park; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works. Matters to be considered: Access.

Date: 7 April 2021

Council Reference: 20/01238/OUTMAJ

Proof of Evidence

Name: Affordable Housing

April 2021

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1. Summary

- 1.1 West Berkshire has a high level of need for affordable housing, and therefore will seek affordable housing via planning obligations and secured via Section 106 agreement on all new developments, in line with government policy.
- 1.2 Sandford Park is allocated as a strategic site (Policy CS3 West Berkshire Core Strategy 2012 (CD8.5)), and it is policy requirement that at least 40% of the scheme will be for affordable housing. This allocation is proposed to be carried forward in the Emerging Draft Local Plan 2037 in Policy SP16 (2021) (CD8.13). This policy is supported by the 2020 Affordable Housing Viability Study by Dixon Searle Partnership (paragraph 3.3.51) (CD17.25).
- 1.3 Social rent is the priority tenure which has been assessed at 70% to meet the housing needs of the district, and evidenced in housing needs assessments. The remaining 30% is intended for intermediate tenures, with the preference being for shared ownership. The submitted draft s106 legal agreement has combined social rent with affordable rent to form 70%, which is not acceptable, and risks the social rent element being reduced to less than 70%.
- 1.4 Due to the cascade mechanism in the current unilateral undertaking provided under s106, social/affordable rent tenure as described by the developer could revert to intermediate housing, should an agreement not be secured with a registered provider within 3 months. To the best of my knowledge the Council has not previously committed to such a short timeframe, and indeed it would appear to be unreasonably short, and would not allow enough time to negotiate and secure agreement between all parties. This tenure could then be further lost to market housing, which will ultimately result in the loss of the whole of the affordable housing provision, which would be contrary to policy, and totally unacceptable to the Council.
- 1.5 The NPPF 2019 definitions of affordable housing are noted, however the definition describes that affordable housing consists of housing for sale and rent, for those whose needs are not met by the market. The Council's policies have been established according to housing needs assessments which have identified the requirement of at least 70% to be justified for social rent provision due to the high property prices compared to the income level of residents in the district. The policy requires 70% of the

affordable provision for social rent, with the remainder of the 30% for intermediate tenures. The Council's policies have been established since 2012 and the evidence supporting the new local plan to 2037 does not change the evidenced position.

- 1.6 As proposed in the submitted draft s.106 legal agreement and current draft s.106 unilateral undertaking, the extra care provision, if not concluded in time, is proposed to revert to 'general affordable housing' which will distort the size mix and location of the affordable housing throughout the whole of the scheme, and potentially also result in the loss of affordable housing.

2. Introduction

Qualifications and Experience

- 2.1 My name is Lynn Robinson, and my role as Housing Development Officer is to identify and negotiate the delivery of new affordable housing, by implementing the agreed planning and housing strategies and policies. My role is split between planning and housing services to maximise the delivery of affordable housing in the district, in order to obtain the provision of s.106 obligations on housing sites in West Berkshire.
- 2.2 I confirm that the evidence which I have prepared and provided for this appeal is true to the best of my knowledge and belief.

Purpose and Scope of Evidence

- 2.3 This proof of evidence has been prepared in response to **Appeal against the refusal of application 20/01238/OUTMAJ – Sandleford Park, Newbury.**
- 2.4 This proof of evidence covers the **Affordable Housing Provision.**

Reasons for Refusal

- 2.5 Relevant to the proof of evidence, the application was refused for the following reasons:
 1. *The Council's policy on affordable housing (CS6 of the Core Strategy) requires a 40% on-site provision for major developments on greenfield sites, 70% of which should be for social rented. Although the application satisfies the overall 40% affordable housing requirement, it proposes that 70% of that provision to be for a*

mixture of affordable rented and social rented units. In this respect the proposal is unacceptable and unsatisfactory in that it fails to deliver the required proportion of units for social rent, for which there is the greatest need in the District.

In addition Schedule 8 of the accompanying draft Section 106 Legal Agreement submitted by the applicant proposes 80 extra care units (70x 1-bed & 10x 2-bed), which are all to be provided in one location within Development Parcel Central (DPC) and which form part of the affordable housing provision. Schedule 8 of the draft Section 106 stipulates that in the event that it was not feasible to progress the Extra Care Housing, the said units shall become General Affordable Housing Units. However, the unit mix and spatial distribution requirements of General Affordable Housing within the site are substantially different, to that of Extra Care Housing. Unless the proposal were to be considerably adjusted in good time, such a scenario would result in an unacceptable concentration of 80 units with an unacceptable unit mix. The development would fail to create a successful, sustainable, mixed and balanced community and to make satisfactory affordable housing provision.

Furthermore Schedule 8 of the draft Section 106 also provides that, under certain circumstances, the 30% intermediate housing would be allowed to switch to market housing, failing to make the required 40% affordable housing provision. Should the above occur, this would also result in a material change to the description of the development proposed, for which planning permission is hereby sought.

In all three of the above respects the application would be unacceptable and harmful to the community's need for affordable housing. The application therefore fails to make a policy compliant provision of affordable housing and it is contrary to Policies CS3, CS4 and CS6 of the West Berkshire Core Strategy Development Plan Document (Core Strategy adopted July 2012); the Vision, Strategic Objectives and the Development Principles in category F of the Sandford Park SPD (adopted March 2015); and the affordable housing provisions of the West Berkshire Planning Obligations Supplementary Planning Document (PO SPD, adopted December 2014).

Procedural Matters

- 2.6 I have considered the Appellants' comments in their Appeal Statement of Case and "Wheatcroft" submission (which includes the response to consultee responses dated 25.9.20) and have addressed the issue of affordable housing provision proposals with this in mind.

3. Issues

Risks to the affordable housing provision

- 3.1 Sandleford Park is a strategic allocation in the adopted West Berkshire Core Strategy 2006-2026 (Policy CS3 West Berkshire Core Strategy adopted 2012, CD8.5) for up to 2000 dwellings. Policy CS3 (WBCS 2012) of the adopted Core Strategy sets out the main principles for a sustainable and high quality mixed use development on the site. These principles include affordable housing.
- 3.2 This application is for a total of 1080 new homes, 80 of which form part of the affordable provision but which are proposed to be provided as “extra care accommodation” concentrated in one location, which I am advised will be in Development Parcel Central. The remainder of the affordable units (432) will be dispersed across the rest of the scheme.
- 3.3 West Berkshire is an area of high property prices compared to the level of income; the latest dataset provided by the Office of National Statistics on affordability (March 2021) shows that the ratio of median house price to median gross annual residence based earnings is currently 9.67 (CD17.26), which compares to an England ratio of 7.84. The median workplace based ratio is 9.43 (CD17.29). This means that the average West Berkshire resident, or someone working in the district who aspires to purchase a home local to their workplace, would need to borrow approximately nine and a half times their salary, which results in a high need for suitable affordable accommodation of all tenures.
- 3.4 This local housing need figure, together with housing needs assessments (Strategic Housing Market Assessment GL Hearn (CD8.18), Icenii Updated Housing Needs Evidence (CD8.19) and Affordable Housing Viability Study by Dixon Searle Partnership (CD17.25) identifies the necessity to provide affordable housing in perpetuity for current and future residents of West Berkshire, which also supports the government’s aim to significantly boost the supply of homes. Therefore, in order to address the need for affordable housing in the district, it is essential that a full policy compliant provision of affordable housing is sought from all residential developments to achieve both West Berkshire and the Government’s target, particularly one as this in terms of size and scale.

- 3.5 The Planning Statement paras 3.5, 4.9, Table 6 and Appendix 2 (CD1.3) and Affordable Housing Statement paras 1.4, 5.1 including Table 2, and 6.3 (CD1.4) suggest that a policy compliant provision of affordable housing will be delivered, with a tenure mix in accordance with policy. The submitted draft s.106 legal agreement and the current draft s.106 unilateral undertaking, Schedule 8, has conditions inserted that should various scenarios occur the full provision of affordable housing is at risk of being ultimately lost to market sales, whereby tenures will vary and revert, thereby leaving the situation open which could result in the loss of the affordable housing provision and not guarantee the retention of the required quantum of permanently available affordable housing on the appeal site.
- 3.6 **Emerging Draft Local Plan 2021**: The Emerging Draft Local Plan 2037 Policy SP16 (2021) (CD8.13) proposes to carry forward the existing site allocation for Sandleford Park, together with the 40% affordable housing. In addition policy SP19 Affordable Housing also seeks to main the tenure split of 70% social rented and 30% for affordable home ownership.
- 3.7 These policies are supported by the 2020 Affordable Housing Viability Study by Dixon Searle Partnership (paragraph 3.3.51) (CD17.25).
- 3.8 The study considered a 1,000 unit mixed green field development scheme and concludes:
- 3.3.51 For this site typology, we have assumed a greenfield site type to be considered against the most relevant viability test BLV at £250,000/ha in the circumstances. On this basis, the results indicate that at this stage a 40% headline AH target is supportable in viability terms from VL3+.
- 3.9 **Social Rent**: In the definition 'Affordable Housing Scheme' on Schedule 8 of the Draft s.106 legal agreement and the current draft s.106 unilateral undertaking, only the Intermediate Housing has been referred to, with no mention made of Social Rent as part of the General Affordable Housing. Social rent forms the majority of the affordable housing tenure which is sought in policy, as this tenure has been identified through housing needs assessments as the greatest need for residents (Berkshire (including South Bucks) Strategic Housing Market Assessment 2016, prepared by GL Hearn,

(CD8.18), 2020 Affordable Housing Viability Study by Dixon Searle Partnership (CD17.25) and 2020 Icenii Updated Housing Needs Evidence Final Report (CD8.19).

- 3.10 In order for Housing to fully support an application, a policy compliant 70% (CS6 CD8.5) (302 units) of the affordable provision should be proposed for social rent. The definition 'Affordable Housing Scheme' only covers 'intermediate' housing, which should reflect the remainder 30% (130 units) of the affordable provision, and it is the Council's preference for this tenure to be for shared ownership. This would also accord with the government's ambition of 10% (108 units) of all housing on new developments being for affordable home ownership (NPPF Feb 2019, para 64). A small remainder (22 units) could be negotiated as affordable rent which also sits in the intermediate category. Any diversion below these levels must be fully justified through clear evidence set out in a viability assessment, but no such notification or justification has been received.
- 3.11 The rent levels for social rent have rents specific to local incomes and provide a truly affordable, secure housing option for local residents.
- 3.12 The social rented tenure is then further compromised by clause 2.1 (b) of the submitted Draft s.106 legal agreement and the current draft s.106 unilateral undertaking, whereby it is included together with affordable rent to form the 70%. This is not acceptable as this quantum should be for social rent alone, with the affordable rent tenure as part of the intermediate element of 30%.
- 3.13 Social rented housing is for those with a specific need which cannot be met by other means, and with rents set at or below social target rents using the 'formula rent' which is calculated based on the relative value of the property, size and local income following government guidelines.
- 3.14 The social rented provision of the affordable housing is then further put at risk by first reverting to any form of intermediate housing (clause 4.2 (b)), which in turn could revert and be ultimately lost to market sales (Clause 4.3(b)).
- 3.15 **Affordable Rented Housing:** Affordable rent forms part of the 'Intermediate Housing' tenure (30%) and is let by registered providers of social housing, subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable). This is not social rent, and does not form part of the policy requirement of 70%

- 3.16 **Extra Care:** Should the extra care not be concluded in sufficient time (clause 2.2(b)) of the submitted draft s.106 legal agreement and the current draft s.106 unilateral undertaking the units would revert to general affordable housing. It is not clear whether this would mean that the 80 unit 'block' would remain, and if this were the case it would not be acceptable to have a high concentration of small (70 x 1 bed and 10 x 2 bed) units in one location, and this would contradict policy. Topic Paper 1 of Planning Obligations SPD (December 2014) (CD8.15) is clear on the Council's objective to create mixed and balanced communities - it states that a maximum of 5 units in one location should be provided in order to avoid potential neighbourhood problems. CS6 requires all affordable units to be appropriately integrated throughout the development. Furthermore, a large number of affordable units in one location could create potential management issues, and is highly likely to deter interest from registered providers.
- 3.17 As of March 2021 there is no evidence from Adult Social Care in West Berkshire (CD2.1) that this level of extra care is required, with the demand of 19 on the waiting list in July 2020, and with current levels remaining similar to date.
- 3.18 The Council have suggested that the applicant seeks early engagement with an extra care provider to prevent the risk of conversion of the 80 unit block for extra care to 'general affordable housing' or an acceptable size mix of any tenure of housing, including market sales. The applicant is currently not proposing to deliver any one bed dwellings for market sales, so there is no opportunity to convert market homes to affordable at a later date, to make up the required mix of dwellings size in accordance with Table 140 of SHMA 2016– Recommended Housing Mix Western Berkshire (page 370) (CD8.18), and therefore create a risk that this important size of affordable accommodation could be lost from the general affordable housing provision.
- 3.19 **Phased Housing Provision:** The developer proposes to submit the affordable Housing Scheme for each Phase as part of a reserved matters application prior to commencement. However, should the Extra Care provision not be concluded (clause 2.2(b) of the submitted draft s.106 legal agreement and the current draft s.106 unilateral undertaking), the above comments apply in that it would not be appropriate to have the high quantity of affordable units in one location. This would then further distort and put at risk the size mix of the whole scheme, as there is currently no other opportunity to relocate the one and two bed units as no one bed units are proposed as part of the market housing mix.

- 3.20 It is important that the level of affordable housing, including tenure is agreed at outline stage and secured via a Section 106 obligation. It is the preference for the Council to agree each individual plot location to ensure that satisfactory integration and even distribution within the general market housing has been achieved. This has been done on other large schemes in the district, for example the Coley Farm site (40% greenfield provision, 70/30 split social rent/shared ownership), Pinchington Lane scheme (40% greenfield provision 70/30 split social rent/shared ownership), and the Shaw Valley development (40% greenfield provision 70/30 split social rent/shared ownership).
- 3.21 Affordable dwellings should be pepper-potted in groups of no more than 5 dwellings at any single location within the development, in accordance with policy. This approach is fully consistent with government policy. This is to ensure sustainable, inclusive and mixed communities, and it is for this reason we would expect to be able to agree this at outline stage, and not on a phase by phase basis.
- 3.22 **Restriction of Occupation**: Delivering Investment from Sustainable Development SPD (June 2013) para 1.38 defines that the Council will require all affordable housing to be in place before and capable of occupation, as a maximum of 80% of the market housing on the site has been completed.
- 3.23 The Council will expect all affordable units to remain affordable in perpetuity to meet the needs of both current and future occupiers. A large majority of this scheme sits within the Designated Protected Area of Greenham as defined by The Housing (Right to Acquire or Enfranchise) (Designated Rural Areas in the South East) Order 1997 Schedule 2 Designated Rural Areas by Maps (CD17.28). This could mean that there would be restrictions on ownership, and shared owners would only be able to purchase up to a maximum of 80% of the property.
- 3.24 As part of the Local Plan Review in December 2020, whilst still at an early stage, the evidence suggests that policy has not changed, and the Council will continue to seek the same level of affordable housing as that set in current policy.

4. Conclusion

- 4.1 To conclude, the current obligation fails to meet local, emerging or government policy in relation to securing affordable housing at this important site.