

EXMOUTH LITTLEHAM
(Exmouth)

08/2871/MFUL

Target Date: 03.02.09

Applicant:

Bloor Homes

Location:

Land at Hasledene, Cyprus Road, Exmouth

Proposal:

Demolition of existing student accommodation and construction of 30 dwellings and 10 flats with associated roadways, parking and landscaping.

UPDATE REPORT

CONSULTATIONS

Head of Housing and Social Inclusion

In affordable housing terms this application creates a dilemma.

As a result of the current economic climate land values have dropped, in some circumstances by as much a half compared to two / three years ago. The developer we understand is trying to reflect this reduction in land value as a reduction in affordable housing and open space / highway Section 106 contributions.

Due to the current economic situation we have been presented with a reduced offer from the developer of eight affordable homes, equating to 50% of the section 106 requirement for this scheme. The developer purports to be able to deliver this scheme in the near future (Spring 2010). On the other hand holding out for a 40% affordable housing contribution means waiting until the developer feels confident that the scheme will "stack up" financially, and then deliver sixteen affordable homes. This could take several years for the land values to rise to a level that enables the developer to proceed.

The Housing Association involved with this scheme has successfully secured grant from the Homes and Communities Agency (£675K) for sixteen homes. This grant has been allocated on the basis that it is drawn down in phases upon completed homes. The first phase being May 2010 the second Sept 2010.

If we are to consider accepting the reduced amount of affordable housing, then the Housing Association would have to in effect hand back the grant allocation and rebid. There is no certainty that this rebid would be successful.

The problem with delivery as we understand it, is the original purchase price of the land against the current land value has seriously affected the viability. The District Valuer has considered the financial data supplied by the developer and considers that the scheme does in fact "stack up". Current advice when valuing land is that the historic or purchase price land value should be discounted; only the current value should be considered. The District Valuer concludes that this scheme is viable based on current land values all be it at a reduced profit to the developer.

Sticking to our 40% requirement may result in the delivery of no affordable housing whereas accepting the developer's revised offer could produce eight affordable homes, provided the applicant implements the permission.

BACKGROUND

Members will recall that this application was considered by the Development Control Committee on 10th February 2009. It was resolved to grant planning permission subject to the closing of the pedestrian link to Lime Kiln Lane, the enhancement of the external appearance of the mews housing and the applicants entering into a Section 106 agreement to secure a public open space contribution, highway improvement works, affordable housing and a landscape management and maintenance plan. A copy of the original report, plans and committee minute are attached to this report. The amendments to the proposed development have all been agreed in consultation with the ward members and the chairman of the committee, however the legal agreement has never been signed and thus the planning permission has not been issued.

Bloor Homes are now claiming that the agreed affordable housing and contributions are not affordable to them and the development is not financially viable. To demonstrate this they have submitted full details of their financial viability reports and accounts for this development. These reports have been fully assessed on behalf of the council by the District Valuers Office. These reports demonstrate that based on the land value that Bloor's paid for the site they would make a loss of 18.21% whereas in the current market a profit of between 17.5% and 20% would usually be acceptable. This loss primarily results from the drop in land values that have occurred over the last 2 years which means that the site is worth less than half of the value that Bloor's paid for it nearly two years ago. As a result they wish to renegotiate the agreed Section 106 requirements.

PROPOSAL

The original proposal that Bloor Homes had initially agreed to proposed the provision of 16 affordable houses, an open space contribution of £102,000 a contribution towards the upgrading of bus stops on Cyprus Road of £12,000 and a landscape management and maintenance plan. Bloor Homes are now proposing to provide only 8 affordable houses and pay only half of the proposed financial contributions. They are also proposing some form of claw back mechanism whereby a further financial contribution towards affordable housing and/or open space would be paid out of any profits above a pre-agreed profit margin. This would enable a further contribution if land values and property values increase markedly during the build out phase.

CONSIDERATIONS

The District Valuers have advised that the viability of this development should be tested taking into account the current land value of the site as oppose to the value paid by the developer. This view is based on a number of recent appeal decisions where inspectors have taken this approach on the basis that the community should not have to pay for the developer's delays in bringing development forward on a site. If the viability of this development is tested on this basis then the development would return a profit margin of 16.57% which is less than 1% below an acceptable profit margin in the current climate. As a result the District Valuer has advised that there is a good case to argue that the originally required contributions are still reasonable. An examination of case law also indicates that even when the viability of a scheme is threatened the contributions have generally only been varied by Planning Inspectors when they have considered that there is some form of wider public benefit in the development proceeding such as the regeneration of a prominent derelict site or because the development includes the construction of community facilities. In this case the development is located on a quiet residential road and is not overly prominent. The site has been vacant for a number of years but due to a back drop of mature protected trees and a high boundary wall its vacant status is not significantly harmful to the area. There are also no other wider community benefits arising from this development. There would therefore be a strong case to defend a decision not to negotiate the requirements in this case if Members are so minded.

Notwithstanding the above issues consideration must be given to the acute need for affordable housing in the district. The provision of 8 units in the near future would be welcomed. Bloor Homes have secured grant funding of £750,000 towards affordable housing provision on this site, however this funding is not secured until they make a start on site. It is understood that this was timetabled for November 2009. The grant funding is not actually drawn down until completion of the units. In any case it is understood that the reduction of affordable housing provision on this site would require an entirely new application for grant funding and new negotiations with the Housing Association due to changes in market conditions and their offer may vary according to the grant funding obtained. Bloor Homes believe that the funding would simply be reallocated on a pro-rata basis. If a new application is needed then there is no guarantee that grant funding would still be allocated to the site or on what basis it would be allocated to this site if it was.

Bloor Homes also propose to reduce the financial contributions towards open space provision and improvements to bus stops in the area by 50%. This would leave a shortfall in funding for these important pieces of infrastructure which would be needed as a result of the development. The shortfall would have to be made up through funding from the Council.

Local Planning Authorities are being encouraged to be flexible in the current economic climate so as not to unduly stifle development in the current market conditions. Usually negotiations would therefore aim to reduce contributions in order to make a development financially viable and return a reasonable profit to the developer. In such circumstances there is some reassurance that the development will proceed in good time. This case is considered to be highly unusual in that the proposed reductions in contributions and affordable housing would not make the development viable. The developer would still make a significant loss. Bloor Homes argue that by accepting a loss on this site it enables them to recoup some of the money they have invested in this site and use that to buy other land at current market rates knowing that prices will rise and therefore enable them to recover their loss on this site.

If Members are minded to agree to Bloor Homes request then this would clearly be on the basis of current market conditions. It will therefore be essential that Bloor Homes are tied into implementing the permission in good time. There can be some reassurance from the fact that they will need to complete the development for the RSL to get the grant funding and without this grant funding the scheme is even less viable. Planning permission could also be granted for only 1 year, however this would not prevent the developer from making a 'token' start to the permission within 1 year which would protect their permission and leave them open to complete the development at any time. They could therefore bank the permission and wait for land values to recover and then complete the development at a time when the scheme is fully profitable again and could support the full obligations previously agreed. A further option is to secure the affordable housing, financial contributions and any subsequent uplift requirements in a Section 106 agreement which is triggered by the issue of contracts to contractors or some other point after which the developers are committed to undertaking the works rather than the usual trigger point of upon commencement of development at which time the developer is not actually committed to implementing the scheme.

CONCLUSIONS

It is considered that this proposal from Bloor Homes presents a difficult choice between the provision of 8 affordable houses and reduced financial contributions now or waiting for the full contributions and affordable housing provision at some point in the future. The provision of affordable housing is the Council's top corporate priority and so far this year very little has been provided despite the economic downturn creating a greater need than ever. It is considered that the Council could hold its ground and insist on the full contributions and affordable housing with a good chance of success on appeal, however this approach would not secure any affordable housing in the short term.

Weighing all of these issues up as well as the financial implications for the Council of not receiving the full open space and public transport contributions it is considered that the application should be approved.

RECOMMENDATION

APPROVE for a 1 year period subject to the applicants entering into a Section 106 agreement to secure the 8 affordable houses, reduced open space, public transport contributions and proposed uplift mechanism. The tenure and mix of the affordable units to be agreed as well as suitable wording of the agreement to ensure that work is undertaken in good time. Planning permission to be subject to the previously agreed conditions as detailed in the attached report.

List of Background Papers

Application file, consultations and policy documents referred to in the report.