

PARISH Old Bolsover

APPLICATION Variation of S106 Planning Obligation to remove the requirement to make a contribution to affordable housing.
LOCATION Land Adjoining North Side of Blind Lane Bolsover
APPLICANT Hallam Land Management Ltd
APPLICATION NO. 14/00577/OTHER **FILE NO.**
CASE OFFICER Mr T Ball
DATE RECEIVED 2nd December 2014

SITE

12ha of fields to north side of Blind Lane, generally overgrown, but in casual recreation use with owners consent. The sloping topography is a notable feature, with a gradual and then steep increase in gradient from west to east across the site. Other features include Blind Lane alongside the southern site boundary which is a sunken lane with a rural character and contains attractive stone walling and a stream following much of its length. There are mature hedgerows and a woodland belt to the northern boundary and various remnant hedgerows and trees within the site. From the site there are good views of Bolsover Castle to the south east and towards the Peak District to the west.

The site adjoins Woodhouse Lane in the west, restored colliery tips (now in agricultural uses) to the north; paddocks to the east with frontage housing development to Cundy Road and Hill Top beyond. To the south beyond Blind Lane is the Castle housing estate.

PROPOSAL

This is an application under S106BA of the Town and Country Planning Act 1990 for the modification of a S106 Agreement dated 11 January 2012, which accompanied the grant of outline planning permission under reference 10/000568/OUT MAJ on 13 January 2012, for residential development of approximately 250 dwellings on the above land.

An application under S106BA can only relate to affordable housing provision, other aspects of the S106 planning obligation remain and can only be changed by agreement, or by application after 5 years. This procedure is to review the viability of affordable housing requirements only; it is not to reopen any other planning policy considerations or to review the merits of the permitted scheme.

This application seeks the relaxation, in full, of the obligation to pay the sum of £1,025,000 to Bolsover District Council as an Affordable Housing Contribution to be used by the Council for off-site Affordable Housing Purposes.

The S106 defines Affordable Housing Purposes as:

“improvements to the affordable housing provision on the Castle Estate including redevelopment, community, environmental and connectivity improvements.”

No on-site provision is to be made.

The application is supported by a Development Appraisal Review (September 2014) carried out by Tustain Associate Ltd. The Appraisal takes the form of a residual valuation exercise. The assumptions with regard to private sales values, optimising housing mix and the rates of

sale that are likely to be achieved are informed by a Marketing Report prepared by Wilkins Hammond (Chartered Surveyors) in August 2014.

HISTORY

Outline planning permission was granted 13th January 2012 for residential development of approximately 250 dwellings on land adjoining Blind Lane Bolsover (application No 10/00568/OUTMAJ).

Attached to the outline planning permission is a S106 Planning Obligation which in summary requires:

- Affordable Housing Contribution £1,025,000
- Education Contribution £179,618
- Health Care Contribution £81,562
- Houghton Road Play Space Contribution £80,000
- Recreation contribution (enhancement of existing facilities) £191,250
- Provision of an on-site play space (to be approved by the local authority)

The elements of the S106 are related to set trigger points and phased payments.

A request to vary the S106 Planning Obligations by agreement in order to improve the likely deliverability of this housing site was made earlier in 2014 and was reported to Planning Committee on 23 July 2014. An independent review of the Development Appraisal accompanying that request was commissioned by the Council, this agreed with the conclusion that the affordable housing content should be zero. However the Planning Committee resolved not to revise the terms of the S106 Planning Obligation attached to the outline planning permission and clearly expressed the view that the original terms of the S106 should be adhered to. This request included variations to all the contributions required under the S106 retaining £750,000 for contributions to education, on-site play area provision/maintenance, and Travel Plan commitments.

CONSULTATIONS

Local Highway Authority: No comments. 11.12.14

Old Bolsover Town Council: No response received

Strategic Housing: No response received.

PUBLICITY

None required

POLICY

Bolsover District Local Plan (BDLP)

Policy HOU6 (Affordable Housing) seeks to negotiate the inclusion of an element of affordable housing to meet a proven local need. This is a saved policy of the Bolsover District Local Plan which was adopted February 2000.

Bolsover District Council Supplementary Planning Guidance: Affordable Housing (SPG)

Adopted in February 2002 this is a material consideration in determining planning applications. This contains a presumption that 10% of the site capacity shall be provided as affordable housing (paragraph 6.2). The SPG allows in exceptional circumstances an off-site financial contribution in lieu of on-site provision to enable the purchase and repair of existing

housing stock to provide new affordable homes.

As part of the preparation of the Local Plan Strategy, (to replace the Bolsover District Local Plan), a Strategic Housing Market Assessment and Economic Viability Study Review was undertaken in 2012. Subsequently, the Council in November 2012 approved a revised policy to change the operation of its affordable housing requirement. This requires a detailed viability analysis of a development proposal to allow, if viable, the negotiation of an affordable housing requirement based on the outcome of such an analysis (as assessed by an independent viability consultant). However in view of the market conditions the policy also allowed a waiver of the requirement where the applicant undertakes to commence development and complete at least 10% of the permitted dwellings within 3 years and 50% within 5 years. Failure to comply would require an affordable housing provision of 10% of the total permitted dwellings as affordable housing on the remaining site (or an equivalent financial contribution). The policy is to be reviewed in 2015.

National Planning Policy Framework

Policies seek to ensure viability and deliverability ; when taking account of viability the development should provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable (173).

Guidance issued by the Government on Section 106 Affordable Housing Requirements (April 2013) 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.

ASSESSMENT

The supporting information with the application is an updated Development Appraisal Review compared to that considered previously with the previous request to vary the S106 by agreement. This reflects that the application is only to remove the Affordable Housing requirement with other S106 obligations remaining in place, and takes account of current market and costs conditions.

This Appraisal gives a positive land value of £56,473 (compared to £957,875 with the previous request) equivalent to a gross land value of £1,905 per acre (previously £32,304 per acre). The applicant states that this is less than the existing use value of the site which for agriculture or amenity land might be around £5,000 - £8,000 per acre. Thus even with the affordable housing contribution removed the development would not provide a competitive return to a willing land owner.

Only by relaxation of the other S106 financial contributions could the development, according to the applicant, pass the viability test in current market conditions. With the previous failure to obtain agreement to vary these terms they cannot be challenged until the expiry of 5 years

from the date of the planning permission.

However the applicant indicates that the achievement of a positive land value gives the landowner the opportunity to engage with house-builders on the basis of a building licence agreement whereby the consideration for the land is deferred and is paid as a percentage of the sale price achieved for each house. In a rising market this would significantly improve the chances of finding a house-builder willing to take the risk of developing the site at an early stage.

The Council's independent review of the earlier development appraisal submitted as part of the request to vary the S106 terms agreed with the conclusions that the affordable housing content should be zero with the reduced S106 package. However it suggested that the development should be subject to regular reviews after each phase of development of 50 – 70 dwellings. However the applicant did not agree with the future staged reviews in view of the need for upfront investment in the site (due to the ground conditions and slope of the site the ground works to contour the site need to be carried out for the whole site to prevent risk to earlier phases of development).

Given the lower values expressed as a result of the revised appraisal, which has been undertaken on the same basis as the previous survey, but updated to reflect current costs/values and the revised S106 offer (i.e. no Affordable Housing but other contributions remain unaltered), taking account of the conclusions of the independent review of the previous appraisal there is no reason to disagree with the result. The site, even with the removal of the Affordable Housing contribution, has a very low residual value (lower than existing use value) but retains a positive value which may with special sales arrangements to recoup land value make the site more attractive to developers than currently.

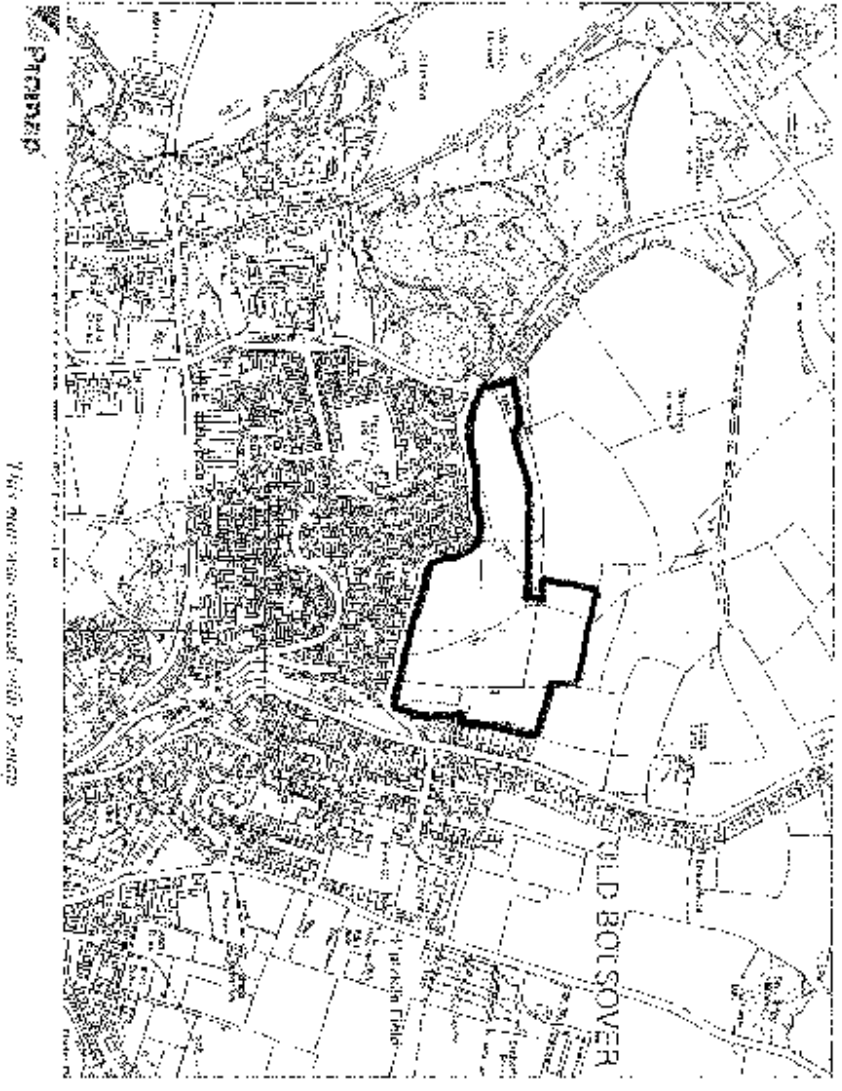
Accordingly taking into account the thrust of the National Planning Policy Framework to encourage development to come forward where schemes are stalled due to economically unviable affordable housing requirements, current market conditions and the site difficulties, it is considered that the Affordable Housing requirement should be relaxed in this instance. While removal of the affordable housing contribution is insufficient to persuade a willing landowner to sell for housing development because it is below existing use value, the relief to the total S106 financial contribution will improve the prospect of being able to attract house builder interest in the site.

The S106BA procedure aims to get schemes that have stalled due to economic viability, moving. If such an application is allowed at appeal, the modification of the S106 under this procedure is valid for 3 years, if the development is not completed in that time the original affordable housing requirement will apply to the parts of the site which have not commenced. Thus if market conditions improve in the future to a level where Affordable Housing can be supported then the opportunity to secure a financial contribution from any uncompleted balance of the development will not be lost. The Government Guidance suggests that local planning authorities in determining such applications may wish to make similar time-limited modifications or conditions to such an application. It should however be noted that the Council does not have an approved scheme of improvements to the Castle Estate to improve the affordable housing offer in this area, although the affordable housing contribution would have to be applied for purposes for which the need directly arises from the development.

RECOMMENDATION

In accordance with Subsection (5) of Section 106BA of the Town and Country Planning Act 1990 (as amended) Bolsover District Council determines that the planning obligation associated with planning application 10/00568/OUT for residential development of approximately 250 dwellings on land to the north side of Blind Lane Bolsover is modified to remove the requirement for the Affordable Housing contribution subject to after a period of three years from the date of this determination the original terms of the S106 Planning Obligation applying in proportion to any part of the development upon which the construction of dwellings has not commenced.

2011 Woodstock Lane, Porton



This map was created with ProMap

Location Plan showing site of 10/00568/OUTMAJ

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