

**PLANNING
COMMITTEE**

16th October 2019

Planning Application 19/00134/FUL

Provision of 14 no. self-contained supported one bedroom flats and resource hub (Use Class C2) and 13 no. 2 bedroom flats (Use Class C3) with associated external works, car parking and landscaping.

Land At Junction Of Ipsley Street, Station Way And Evesham Street, Redditch, Worcestershire, B98 7AJ

**Applicant:
Josie Bishton
Ward: Central Ward**

(see additional papers for site plan)

The author of this report is Sharron Williams, Planning Officer (DM), who can be contacted on Tel: 01527 534061 Email: sharron.williams@bromsgroveandredditch.gov.uk for more information.

RECOMMENDATION:

That Members endorse the revised recommendation as detailed below and the associated comments under the heading The Amendments.

Background

Members will recall that at the meeting of Redditch Borough Council on 17th July 2019, they resolved;

That having regard to the development plan and to all other material considerations, authority be delegated to the head of Planning and Regeneration to GRANT planning permission subject to:-

- a) The satisfactory completion of a S106 planning obligation ensuring that:
1. Contributions are paid to the Borough Council in respect to off-site open space, and equipped play and sport provision in accordance with the Councils adopted SPD.
 2. Contributions are paid to the Borough Council towards the provision of domestic and recycling bins for the new development in accordance with the County's Waste Strategy.
 3. Contributions are paid to County Highways towards IDP contributions to mitigate for the additional demands on the wider transport network that the development will generate. Plus improvements to the nearby kerbs and bus stop located on Evesham Street. A contribution towards Community Transport - the establishment

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of a new community car scheme which is underway in Redditch as well as upgrades to some of the streetlights within the vicinity of the site.

4. Contributions are paid to NHS towards the cost of local healthcare.
5. Affordable housing is provided as part of the scheme - 14 self-contained supported one bedroom flats and 13 No. shared ownership apartments.

b) Conditions and informatives as summarised in the report pack.

(See original report under APPENDIX A).

Procedural Matters

This matter is reported to members because the scheme of delegation to planning officers requires that:

All planning decisions, actions or advice/responses on behalf of the Local Planning Authority cannot be dealt with under delegated powers (so must be reported to committee) where:

- The application is for major development (more than 10 residential units) where the recommendation is for approval
- Any application where the Council will be required to become a party to a Planning Legal Agreement under Section 106

The Amendments

Following the resolution of the Planning Committee on 17th July 2019, drafting of the associated legal mechanism has commenced. As part of that process the off-site contribution towards NHS local healthcare (as detailed in criteria 4 of the resolution) has been considered more closely.

In accordance with Paragraph 56 of the NPPF and Section 122 of the Community Infrastructure Levy (CIL) 2010 Regulations, a planning obligation should only be sought where they meet all of the relevant tests, which include; necessary to make the development acceptable in planning terms, being directly related to the development, and fairly and reasonably related in scale.

Members will note that the Worcestershire Acute Hospitals Trust (NHS Trust) has requested a contribution that would be used directly to provide additional services to meet patient demand. Officers accept that the request is material. However, following legal advice received, the contributions requested by the NHS Trust requiring a developer to make annual shortfalls in National Health Service revenue are considered to be unlawful. Legal advice received concludes that the requests do not meet the CIL regulation 122 tests; the requests are contrary to policy and they do not serve a planning purpose; and/or do not fairly and reasonably relate to the proposed development. This is on the basis of consideration of all information received from the Acute Hospitals Trust.

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Policy 6 of the Borough of Redditch Local Plan No 4 expects new developments of 11 or more dwellings to provide a 30% contribution towards the provision of affordable housing. As mentioned above, following the resolution of the Planning Committee on 17th July 2019, drafting of the associated legal mechanism has commenced. As part of that process affordable housing (as detailed in criteria 5 of the resolution) has been considered more closely.

The applicant's legal advisor has clarified that whilst their client is intending to deliver the site as a fully affordable site, the 106 agreement can only restrict the site in accordance with Council policy that being 30% of the Class C3 units on site. Officers accept that only 30% affordable housing would be provided as part of the scheme and referred to this as such in the main report. However, criteria 5 of the recommendation could be interpreted wrongly and as such officers considered that this matter needed to be clarified.

30% of the Class C3 units would be 3.9 units (round up to 4 units) would be affordable housing under the S106. The applicant (who is a Housing Association) has clarified that their intention is to provide the two pairs of maisonettes/walk up flats as Homes England grant funded affordable rented dwellings and the remaining block of 9 No. communal access flats (corner apartment block) would be shared ownership units (including 4 plots secured under the S106).

The applicant has explained that if any affordable rent dwellings were to be secured via the S106, it would mean that the applicant wouldn't be able to apply for a grant towards these and the affordable housing scheme would be unviable.

Due to the potential ambiguity of criteria 5 of the resolution, it is considered prudent to advise members that 4 No. shared ownership plots within the corner plot apartment block would be secured under the S106 as part of the 30% affordable housing provision.

Conclusion

Your Officers conclude the following in relation to criteria 4 and 5:-

The NHS (Worcestershire Acute Hospitals Trust) request does not meet the CIL regulations under application 19/00134/FUL to address the needs of residents living on that scheme. It would therefore be unreasonable to seek this provision.

Clarification of the provision of 30% affordable housing required for the scheme would be 4 No. shared ownership units located within the corner apartment block.

There is a need for a consequential change to the terms of the original resolution, as taken on 17th July 2019 and subsequently minuted.

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Criteria 4 required contributions to be paid to NHS (Worcestershire Acute Hospitals Trust) towards the cost of local healthcare. This contribution is now removed, as detailed in the revised recommendation.

Criteria 5 (renumbered to be Criteria 4)

30% affordable housing is provided as part of the scheme - 4 No. shared ownership apartments.

Revised recommendation

- Contribution to be paid to NHS (Worcestershire Acute Hospitals Trust) towards the cost of local healthcare to be removed from the obligation.

- 4. 30% affordable housing is provided as part of the scheme - 4 No. shared ownership apartments.

All other requirements as set out in criteria 1 – 3 and associated conditions and informatives remain.