



Derby City Council

**PLANNING CONTROL COMMITTEE**  
**14 August 2014**

# ITEM 10

Report of the Strategic Director of Neighbourhoods

## **Special Item 2 – Affordable housing and Section 106 contributions for residential development at Lodge Lane/St Helen's Street/ Willow Row, Derby**

### **SUMMARY**

- 1.1 Planning permission is sought for the development of the above brownfield city centre site into 35 apartments. The District Valuer has confirmed that no on-site affordable housing is viable and only minimal contributions can be afforded up front. Brownfield sites are generally more expensive than greenfield sites to develop. In addition this is the first city centre apartment scheme to be developed in a number of years. Therefore there is no established market and the cost and risk to the developer is higher. This all impacts on viability.
- 1.2 In order to allow this scheme to come forward it is proposed to waive on-site affordable housing and accept minimal contributions up front with an overage agreement to provide further contributions at the end of the development should viability have been shown to improve.

### **RECOMMENDATION**

- 2.1 To waive the requirement for on-site affordable housing and to accept the reduction in Section 106 financial contributions proposed as objectively assessed by the District Valuer.

### **REASONS FOR RECOMMENDATION**

- 3.1 To enable the viable development of this brownfield site which will contribute towards Derby's housing land supply and the promotion of city centre living.

### **SUPPORTING INFORMATION**

- 4.1 Planning permission is sought for the redevelopment of this site into 35 apartments. Early in the planning application process, the developer approached the Council to explain that affordable housing and Section 106 contributions were unlikely to be viable. They agreed to the District Valuer performing an independent assessment of site viability to confirm whether this was the case.

- 4.2 The waiving of planning obligations is only considered where there is a sound and reasonable justification for doing so. The nature of brownfield sites is that they are generally more expensive to develop and this is one of the first city centre apartment schemes to come forward for a number of years. Therefore the market for this type of scheme is uncertain. This makes it a more risky and costly development.
- 4.3 The District Valuer has confirmed that no on-site affordable housing is viable but that £4,573 of off-site contributions could be made. The developer has agreed that this can be spent on any form of infrastructure. The normal SPD compliant starting point for negotiations on a site like this would be:
- 30% affordable housing
  - £44,694 for incidental open space
  - £62,825 for major open space
  - £17,535 for highways improvements
  - £2,940 for public realm
  - £1,970 for administration costs
- 4.4 The developer has agreed to enter into an overage agreement with the Council. This means that, although only minimal contributions will be payable up front, a further independently tested viability appraisal will be submitted at the end of construction. If economic conditions have sufficiently improved, contributions will then be payable. This will include an off-site contribution towards affordable housing.
- 4.5 The developer will perform the assessment on 90% completion of the development or 11 months from commencement whichever is earliest. If the assessment shows the development has made over 20% profit (which is the industry standard level of viability recommended by the District Valuer for this type of scheme), any further profit will be split 50/50 between the developer and the Council. The maximum sum due to the Council will be the total sum of the contributions not payable up front.
- 4.6 Waiving the requirement for on-site affordable housing and negotiating minimal up-front Section 106 costs would allow this city centre brownfield site to come forward for development. The development would also contribute to meeting the Council's objectively assessed housing needs and the five year supply of deliverable sites.
- 4.7 The Government has indicated its commitment to housing delivery by stating in paragraph 173 of the National Planning Policy Framework that authorities should take into account the need to provide competitive returns to a willing landowner and developer when assessing the viability of infrastructure requirements. It also recently introduced the Growth and Infrastructure Act which gives developers the right to apply to the Council to re-negotiate affordable housing.

## OTHER OPTIONS CONSIDERED

- 5.1 The Council could choose not to negotiate with the developer and continue to impose the full requirements of the Planning Obligations Supplementary Planning Document. This would lead to the site being unviable to build and remaining undeveloped. This would mean that other sites would potentially have to be released for housing to replace the lost units in Derby's housing land supply. It would also lead to the Council losing out on Council Tax and New Homes Bonus.

This report has been approved by the following officers:

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Rosie Watson
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Rachel Reid 01332 642112 <a href="mailto:rachel.reid@derby.gov.uk">rachel.reid@derby.gov.uk</a> None Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 Accepting s106 contributions of £4,573 would result in a loss of income of £125,391.

There is a risk that the reduction in S106 contributions will create a pressure for the Council in the future in terms of infrastructure costs.

Although this pressure cannot be quantified at this time, the potential future financial contributions, payable if development commences, will help to militate against this risk.

**Legal**

- 2.1 A Section 106 agreement will need to be drafted to enable planning permission to be issued

**Personnel**

- 3.1

**IT**

- 4.1

**Equalities Impact**

- 5.1

**Health and Safety**

- 6.1

**Environmental Sustainability**

- 7.1

**Property and Asset Management**

- 8.1 Contributions could be used for schemes which would increase the Council's assets

**Risk Management**

- 9.1

**Corporate objectives and priorities for change**

- 10.1