

Report to Planning Committee

Application Number: 2013/0836

Location: Cornwater Fields, Longdale Lane, Ravenshead.

Proposal: Residential development of up to 70 dwellings, including access, equipped play area and open space

In October 2014, outline planning permission was granted for the erection of 70 dwellings, including access, equipped play area and open space, under application no: 2013/0836. This permission was, amongst other things, subject to a Section 106 planning obligation with the Borough Council for the provision of nine affordable two-bedroom bungalows on the site and a commuted sum for the provision of 12 affordable units off-site.

In February 2016, an application was made to the Borough Council under Section 106BA to remove the whole of the affordable housing requirement from the planning obligation attached to outline planning permission no: 2013/0836 on viability grounds.

The application was due to be considered by the Borough Council at the meeting of the Planning Committee on 20th July 2016, but prior to this an appeal against the non-determination of the application was lodged with the Planning Inspectorate and a Hearing was held at the Civic Centre on 15th November, 2017. It was resolved therefore that the Borough Council defended the appeal on the grounds that the affordable housing requirement in the planning obligation attached to outline planning permission no: 2013/0836 should continue to have effect without modification or replacement.

The appeal has been **allowed**. In reaching this decision, the Inspector concluded (in summary) that:

1. The main issue is whether the development would be economically unviable while subject to the affordable housing requirements in the Section 106 Agreement and, if so, how the requirements could be modified so that the development would become viable.
2. The elements of viability in dispute which were considered by the Inspector were Scheme Viability, Affordable Housing Values, Build Costs, Construction Contingency, Developer's Profit, Finance Costs, Professional Fees, Statutory Fees and Warranties and Legal Fees.
3. Having assessed each of the above elements in detail, the Inspector concluded on the basis of the evidence before him that the appellants had made a convincing case to support their assumptions in each of the areas of dispute with the Council. This inevitably led him to the conclusion that the development is economically unviable while subject to the affordable housing requirements in the Section 106 Agreement. Full removal of the affordable housing requirements would be necessary for it to become viable, which would also require a willing developer to proceed on the basis of reduced profit.
4. The Inspector noted the Borough Council's concern that, if the appellants' case was

accepted, the result would be that a greenfield site with limited need for abnormal construction costs, in a desirable part of the Borough, would not be able to deliver the policy requirement for affordable housing. However, the Inspector considered that this is to overlook the significance of the additional requirement for 30% of the development to be made up of bungalows, subject to age-restricted occupancy. As a result of this constraint, the housing scheme is not a typical development and different assumptions of costs and values come into play.

5. The extent of modifications to the Section 106 Agreement necessary to make the development viable was discussed at the Hearing and provisionally agreed. The Inspector considered that the changes outlined were all reasonable and necessary and modified the Agreement in that way. The modifications will endure for a period of three years from the date of the appeal decision.

Recommendation:

That the information be noted.