

Committee date	5th December 2018
Application reference	17/00862/FULM
Site address	85 Chalk Hill
Proposal	Demolition of existing disused bank building and replacement with new residential development which includes 11 new dwellings: 9 x apartments, 1 x duplex apartment, and 1 x 2-storey house, with associated gardens and car parking. [VARIATION OF S106 HEADS OF TERMS]
Applicant	Pinnacle UK Investments Ltd
Agent	n/a
Type of application	Full planning permission
Reason for committee item	Variation of s106 Heads of Terms on Major Application
Extended Statutory Target Date	7th December 2018
Statutory publicity	n/a
Case officer	Chris Osgathorp chris.osgathorp@watford.gov.uk
Ward	Oxhey

1. Recommendation

Amend the S106 Heads of Terms as set out in section 8 of the report.

2. Site and surroundings

2.1 The proposed development at 85 Chalk Hill was considered at Development Management Committee on 28th February 2018 where it was resolved that pursuant to a planning obligation under s.106 of the Town and Country Planning Act 1990 having been completed to secure the 3no. 3-bed houses proposed in the planning application at land adjacent to 17-19 St Johns Road (ref: 17/01619/FUL) as affordable rented units, conditional planning permission be granted subject to 10 conditions.

2.2 Further information, including the site plan and drawings, is available in the appendices to the report and on the council's [website](#).

3. Summary of the proposal

3.1 Proposal

To vary the s106 Heads of Terms associated with the application to:

- a. Remove the requirement for 3no. affordable rented units to be provided at 17 – 19 St Johns Road; and
- b. To secure a review mechanism of the viability of the development to be undertaken towards the end of the project when actual build costs and sales values of the flats are known. This shall allow financial payment to be made towards affordable housing provision where the viability of the development can be shown to have improved to provide a financial surplus.

3.2 Conclusion

Since the resolution to grant conditional planning permission at the 28th February Development Management Committee, the applicant has stated that it would not be economically viable to provide 3no. 3-bed affordable rented units at 17-19 St Johns Road and therefore the schemes at Chalk Hill and St Johns Road would be undeliverable.

- 3.3 The applicant subsequently submitted a viability appraisal, carried out by Affordable Housing 106, which shows that the Chalk Hill scheme generates a deficit of £466,201 assuming a developer's profit return of 20% of Gross Development Value. The Council has appointed BNP Paribas to independently review the viability appraisal. The report prepared by BNP Paribas shows that the Chalk Hill scheme (with 100% private housing) generates a deficit of £239,164 and therefore the proposed development cannot viably make a financial contribution towards the provision of affordable housing. However, BNP Paribas consider that there is sufficient justification for a review mechanism of the viability of the development to be undertaken towards the end of the project when actual build costs and sales values of the flats are known. This shall allow financial payment to be made towards affordable housing provision where the viability of the development can be shown to have improved to provide a financial surplus. The proposed review mechanism would need to be secured through a Section 106 planning obligation.

4. Relevant policies

Members should refer to the background papers attached to the agenda. These highlight the policy framework under which this application was determined. Specific policy considerations with regard to this particular application are detailed in section 6 below.

5. Relevant site history/background information

- 5.1 The proposed development at 85 Chalk Hill was considered at Development Management Committee on 28th February 2018 where it was resolved that

pursuant to a planning obligation under s.106 of the Town and Country Planning Act 1990 having been completed to secure the 3no. 3-bed houses proposed in the planning application at land adjacent to 17-19 St Johns Road (ref: 17/01619/FUL) as affordable rented units, conditional planning permission be granted subject to 10 conditions.

6. Main considerations

- 6.1 Policy HS3 of the Watford Local Plan Core Strategy 2006-31 states that a rate of 35% affordable housing will be sought on major applications of 10 residential units and above and only in exceptional circumstances will the council consider a lower level of affordable housing provision, where the developer can demonstrate exceptional planning, or other constraints on the development of the site through the submission of a development viability appraisal. The scheme at Chalk Hill includes 11 units and therefore Policy HS3 is applicable. The scheme at 17-19 St Johns Road (ref: 17/01619/FUL) is below the relevant policy threshold and therefore does not generate an affordable housing requirement of its own.
- 6.2 As part of the affordable housing negotiations prior to the Development Management Committee of 28th February 2018, the applicant put forward a proposal to use 17 – 19 St Johns Road as an affordable housing donor site in terms of ‘decanting’ the requirement from Chalk Hill. The proposal was to provide 3no. 3-bed houses as affordable rented units at St Johns Road, which equates to an affordable housing provision of 45% as a proportion of habitable rooms (33 habitable rooms at Chalk Hill and 15 habitable rooms at St Johns Road).
- 6.3 Since the resolution to grant conditional planning permission at the 28th February Development Management Committee, the applicant has stated that it would not be economically viable to provide 3no. 3-bed affordable rented units at 17-19 St Johns Road and therefore the schemes at Chalk Hill and St Johns Road would be undeliverable. The applicant has submitted information showing that following the Development Management Committee meeting they approached eight Registered Providers in relation to the affordable rented units at St Johns Road, however there was a general lack of interest. One offer was submitted by a Registered Provider, however this was below the value expected and required by the applicant to make the schemes viable. The comments from Registered Providers are summarised as follows:
- Site too small and not being a target location.
 - Would expect parking for houses.
 - Properties do not meet RP’s profile.

6.4 The applicant has explained factors which make the St Johns Road affordable units unviable, including:

- The St Johns Road site is of a scale which would not, under normal circumstances, generate an affordable housing requirement, and this would have been reflected in the land value (a site of 10 or more dwellings should have a land value that reflects the development plan policy requirement of providing 35% affordable housing).
- Construction at St Johns Road is difficult because the site is hard to access and the retained corner building would need to be worked around.
- The St Johns Road scheme was not conceived with affordable housing in mind, nor for only part of the development to become affordable housing.
- Splitting the site into different tenures results in a notable deflationary effect on the market housing due to the close relationship between the rear gardens of the houses and the adjacent flats, the relationship between the flats and the amenity area (located to the rear of the houses) and the requirement for access to bin and cycle stores to pass adjacent to the houses.
- Whilst the Chalk Hill scheme might generate a requirement for four affordable units (and only three are proposed at St Johns Road), this masks the accommodation differential of the two schemes. With the exception of two three bedroom units, the Chalk Hill scheme is essentially comprised of flats, primarily two bedroom units. If the affordable housing requirement were to be delivered on-site, it would ultimately reflect this housing mix (i.e., smaller units). Whereas, the St Johns Road affordable housing would comprise three large (house) units. This can be assessed in terms of habitable room equivalent; Chalk Hill provides a total of 33 habitable rooms, whereas the three houses at St Johns Road provide 15 habitable rooms. This equates to 45% affordable housing provision, 10% in excess of the Council's policy requirement in Policy HS3.

6.5 It is felt that the applicant offered 3no. affordable rented units at 17-19 St Johns Road in good faith, however for the reasons explained above it was concluded that it would not be viable for the on-site affordable housing to be delivered.

6.6 Taking the above into account, officers have since held discussions with the applicant to secure a financial contribution towards the provision of affordable housing, in accordance with the formula in the Commuted Sums SPD (Revised 2nd July 2018). The formula in the Commuted Sums SPD generates a financial contribution of £764,626 and the applicant has stated that this contribution would make the Chalk Hill scheme unviable.

6.7 The applicant subsequently submitted a viability appraisal, carried out by

Affordable Housing 106 which shows that the Chalk Hill scheme generates a deficit of £466,201 assuming a developer's profit return of 20% of Gross Development Value. The Council has appointed BNP Paribas to independently review the viability appraisal. The report prepared by BNP Paribas shows that the Chalk Hill scheme (with 100% private housing) generates a deficit of £239,164 and therefore the proposed development cannot viably make a financial contribution towards the provision of affordable housing. However, BNP Paribas consider that there is sufficient justification for a review mechanism to be secured through a Section 106 planning obligation.

- 6.8 The proposed development is otherwise unchanged from the proposal that was considered at Development Management Committee on 28th February 2018. Given that the applicant has submitted a development viability assessment, in accordance with Policy HS3 of the Watford Local Plan Core Strategy, it is recommended that planning permission should be granted subject to conditions and the completion of a s106 Agreement to include a review mechanism of the viability of the development towards the end of the project when actual build costs and sales values of the flats are known. This shall allow financial payment to be made towards affordable housing provision where the viability of the development can be shown to have improved to provide a financial surplus.

7. Consultation responses received

7.1 Statutory consultees and other organisation

None required

7.2 Internal Consultees

The Council's Housing Team has advised that they would not be interested in purchasing the affordable housing units at St Johns Road because funds could go further in less expensive areas of the town.

8.0 Recommendation

That, pursuant to a planning obligation under s.106 of the Town and Country Planning Act 1990 having been completed to secure the following Heads of Terms, conditional planning permission be granted subject to the conditions listed below:

Section 106 Heads of Terms

- i) To secure a review mechanism of the viability of the development to be undertaken towards the end of the project when actual build costs and sales values of the flats are known. This shall allow financial payment to be made towards affordable housing provision where the viability of the development can be shown to have improved to provide a financial surplus.

Conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved drawings:-

MRPP2; 5407/A100 Rev P; 5407/A101 Rev L; 5407/A108 Rev F; TS16-148R\1; TS16-148R\2; TS16-148R\3; TS16-148R\4; TS16-148R\5.

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No construction works above damp proof course level shall commence until details of the materials to be used for all the external finishes of the buildings, including walls, roofs, doors, windows, fascias and balustrades, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved materials.

Reason: In the interests of the visual appearance of the site and the character and appearance of the area, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

4. No construction works above damp proof course level shall commence until detailed drawings of the window and door reveals, brick detailing and capping to the external walls, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.

Reason: In the interests of the visual appearance of the site and the character and appearance of the area, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

5. No part of the development shall be occupied until full details of a soft landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be carried out not later than the first available planting and seeding season after completion of the development. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, or in accordance with details approved by the Local Planning Authority.

Reason: In the interests of the visual appearance of the site and the wider area, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

6. No part of the development shall be occupied until full details of a hard landscaping scheme, including: details of the surfacing of the vehicular access, car park, pathways and amenity areas; details of all site boundary treatments, and all fencing or enclosures within the site, have been submitted to and approved in writing by the Local Planning Authority and the works have been carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual appearance of the site and the wider area, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.

7. No part of the development shall be occupied until details of the siting, size and design of refuse and recycling storage facilities have been submitted to and approved in writing by the Local Planning Authority and the storage facilities have been installed in accordance with the approved details. The storage facilities shall be retained at all times thereafter.

Reason: In the interests of the visual appearance of the site and to ensure satisfactory provision for on-site storage facilities.

8. No part of the development shall be occupied until an updated Noise Assessment has been submitted to and approved in writing by the Local Planning Authority. This shall include specification details of the building

envelope and the mechanical ventilation system(s) for each of the dwellings to achieve the internal noise levels contained in BS 8233:2014, along with specification details of the building services plant. Together, the ventilation systems and building services plant shall not exceed 39dB(A) during the day-time and 27dB(A) during the night-time, one metre from the nearest residential façades when assessed in accordance with BS 4142:201. The building services plant shall be mounted on appropriate anti-vibration mountings. The development shall be implemented in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To ensure that an acceptable internal noise level is provided for future occupants of the development.

9. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 as amended (or any modification or re-enactment thereof), no development permitted under Schedule 2, Part 1, Classes A, B, D, E and F of the Order shall be carried out to the dwelling house adjacent to the boundary with No. 4 Haydon Road without the prior written permission of the Local Planning Authority.

Reason: To enable the Local Planning Authority to ensure that any such developments are carried out in a manner which will not be harmful to the character and appearance of the proposed development and will not prove detrimental to the amenities of adjoining occupiers.

10. No above ground construction may commence until a detailed surface water drainage scheme for the site, based on the Flood Risk Assessment and SUDS Strategy prepared by XCO2, dated January 2018, has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 1. Final, detailed drainage plan including the location and size of all SUDS features, pipe runs and discharge points with all invert and outlet levels.
 2. Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including and connecting pipe runs.
 3. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall subsequently be implemented in accordance with the approved details prior to occupation of the development.

Informatives

IN907 Consideration of the proposal in a positive and proactive manner

IN909 Street Naming and Numbering

IN910 Building Regulations

IN911 Party Wall Act

IN912 Hours of Construction

IN913 Community Infrastructure Levy

IN915 Highway Works – HCC agreement required