

C O M M I T T E E R E P O R T		
REPORT OF	MEETING	DATE
Director (Customer and Digital)	Planning Committee	Date 25 June 2020

ADDENDUM

ITEM 3C- 16/00804/FULMAJ – Eaves Green, Lower Burgh Way

The recommendation remains as per the original report and is not considered that any changes are required to the report as a result of the contents of this letter.

A letter has been received from the applicant’s agent, which has been reproduced in full below.

‘We write on behalf of the applicant, Taylor Wimpey UK Ltd, in relation to the Report to Committee concerning application ref. 16/00804/FULMAJ.

As you are aware, discussions on the Section 106 Agreement to be signed pursuant to the above planning application have been on-going since May 2017. After failing to reach agreement with the Council on the terms of the overage provision, Taylor Wimpey instructed Cushman & Wakefield to prepare an updated viability assessment which was submitted to the Council in September 2019. The updated viability assessment has been prepared in accordance with Planning Practice Guidance [PPG] and is informed by up to date information on build costs and site-specific abnormal costs reflected in the benchmark land values.

Over the past 10 months, Taylor Wimpey has made every effort to engage with the Council and has been open and transparent regarding the challenges of delivering a viable scheme on this site. However, the Council has consistently failed to provide a substantive response to the updated viability assessment and is unwilling to accept Taylor Wimpey’s position that the Section 106 Agreement as drafted in March 2018 would render the development unviable.

Having reviewed the Report to Committee, it is considered that there are a number of inaccuracies and misrepresentations. Cushman & Wakefield, who prepared the updated viability assessment and are appropriately qualified MRICS surveyors with extensive knowledge of the North West residential market have provided the following detailed response:

Paragraph 12 Build Costs

“It is difficult to identify any cost price indices that supports an increase of the magnitude suggested by the applicant (23.84%). The BCIS General Building Cost Index identifies an increase of just 6.3% over the period Sept 17 to Sept 19. BICS is the Building Cost Information Service of the Royal Institution of Chartered Surveyors (RICS). The BCIS ‘All In Tender Price Index’ shows an increase of 8.2% over the same period.”

Response

The inflation benchmarking over 2 years stated in the Report to Committee is incorrect. The original viability assessment was prepared in September 2016 and the updated viability assessment was submitted in September 2019. Therefore it is a 3-year period.

- The sales revenues adopted in the viability assessment were increased in February 2020 to reflect the most up to date evidence, yet the assumed build costs were not increased. Nevertheless, given that values are likely to have stayed flat or potentially decreased since February due to COVID-19, the inflation benchmarking should be taken from September 2016 to today's date, therefore just under 5 years.
- Above all, however, the most important question is whether the standard build cost adopted in the appraisal is robust. The methodology Cushman & Wakefield have utilised, based on the benchmarking to the BCIS, is standard industry practice, has been accepted in numerous appeal decisions as referred to in the submitted report, and is a methodology which is widely adopted by qualified surveyors for assessing build costs in viability assessments. Based on Cushman & Wakefield's extensive market experience, it is considered that the standard build cost allowance in the appraisal represents a very robust, market-facing assessment as at today's date

Paragraph 13 Sales value and overage

"The sales values that are being suggested by the applicant to justify the lower overage threshold for market houses are based on the achieved prices from the Taylor Wimpey scheme on the adjoining site. These are indisputable as they are reported land registry prices.

The challenge arises when incentives to achieve a sale are then deducted from the achieved sale price, as Taylor Wimpey are suggesting. The average incentive package reflects 5% of the purchase price. The result being that gross achieved sales prices of £218 per square foot become net prices of £208 per square foot. Recent appeal decisions have been clear that the impact of incentives is a matter for the house builder and should be reflected in their profit assumptions. The Council should not be expected to 'foot the bill' for these incentives."

Response

- The Council's consultant argues that sales values should be based on Land Registry achieved prices and that "Recent appeal decisions have been clear that incentives should be reflected in the housebuilder's profit". No appeal decisions have been provided to substantiate this comment.
- Incentives and profit assumptions are two entirely different unrelated items and Cushman & Wakefield have never seen any qualified viability surveyor argue that incentives should be reflected in the developer's profit in the way suggested by the Council.
- Cushman & Wakefield have provided the reservation forms for plots sold on Taylor Wimpey's adjacent site which provide clear evidence of the actual net achieved sales price received after all incentives.
- It is these net sales prices which must be used to determine the base value above which overage becomes payable, as it is the actual net revenues after all incentives which the developer receives and reports to HMRC, not the Land Registry values.

Benchmark land value

"The current suggested benchmark land value (BLV) utilised by the applicant is £150,000 per acre. This, as confirmed by the applicant, is not a figure that has been agreed with the landowner (the land has been secured under option with price to be paid determined post

the granting of a planning consent). Included within the land value is an allocated cost for releasing a ransom position held by Homes England. It can be argued that the impact of Homes England seeking a ransom payment is that there is less money available in the appraisal for affordable housing.

From the outset of the viability discussions concerning Eaves Green (2016), the Council has been clear that the abnormal/site specific infrastructure costs (currently £5.2m) demonstrate that the site is complicated and difficult to bring forward and this should be reflected in the BLV. The position was further clarified in the Framework and NPPG of 2018, which made it clear that BLVs should reflect policy compliance, abnormal costs and site-specific infrastructure. The applicant's position, therefore, does not follow national policy and guidance."

Response

- The Council's consultant claims that the applicant's position on BLV does not follow national policy and guidance which states that the land value should reflect policy compliance and abnormal costs. However, the Council's consultant has fundamentally misinterpreted the guidance.
- In determining the BLV, Cushman & Wakefield had regard to the site abnormalities and reflected the implications of these costs as required by the PPG.
- PPG is also clear that the BLV should provide a **reasonable incentive** for a landowner to sell. For all sites, there is a minimum value below which a landowner will not be incentivised to release their site. If deducting the full abnormalities tips the land value past the point of providing a reasonable incentive and leads to low land values which mean landowners will not sell, then this conflicts with the PPG.
- The updated viability assessment demonstrates that, with the current drafting of the Section 106 Agreement, the residual land value would be negative by £190,000. Clearly, a negative land value would not incentivise any landowner to sell. It is therefore the Council's position which does not follow national guidance.
- In fact, the BLV of £150,000 per net acre which Cushman & Wakefield adopts is consistent with the land value accepted in a recent appeal relating to a 102-unit scheme at Holts Lane, Poulton (ref: APP/U2370/W/19/3241233) in April 2020 and that site actually had higher abnormal costs than the subject site.

In addition to the above, Taylor Wimpey also wishes to highlight that any ransom payment made to Homes England will come out of the residual land value that the landowner receives. This has always been the case and the committee report misrepresents this.

Taylor Wimpey is committed to the delivery of this site and the provision of new aspirational family homes in Chorley. The Report to Committee outlines the substantial benefits of the planning application and it is clear that the application complies with the Development Plan as a whole. Whilst Central Lancashire Core Strategy [CLCS] Policy 7 sets a requirement for 30% affordable housing on market schemes, it is clear that this is "*subject to such site and development considerations as **financial viability** and contributions to community services.*" (Lichfields emphasis).

It is therefore disappointing that the Council is unwilling to properly consider the updated viability assessment, which has been carried out in accordance with PPG. This position is obstructive and fails to meet with the requirements of the Framework [§38], which states that local authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.

Taylor Wimpey has made a fair and robust offer with respect to the terms of an overage that would provide a financial uplift to the Council should revenues improve from their current position. It is Taylor Wimpey's strong opinion that the Council's position is misguided, as demonstrated by the factual inaccuracies contained in the Report to Committee that have been highlighted in this letter.'