

Report of the Head of Planning & City Regeneration

Planning Committee – 3rd September 2019

Planning Application Ref: 2018/1014/FUL

Construction of 20 no. detached dwellings, garages and associated access and landscaping works and demolition of 188 St. Teilo Street, Pontarddulais

Land formerly known as The Gardens and rear of 188 St. Teilo Street, Pontarddulais.

1.0 Purpose of the Report

- 1.1 To seek authorisation to amend the proposed requirements of Section 106 agreement of the Town and Country Planning Act 1990 (as amended) to remove the affordable housing contribution.

2.0 Background

- 2.1 An application for the residential development of the land formerly known as The Garden and 188 St. Teilo Street was submitted in May 2018, prior to the adoption of the Local Development Plan (Ref: 2018/1014/FUL). At the time of the submission, the Adopted Unitary Development Plan was time expired, but was still the development plan for S38(6) purposes.
- 2.2 Under the UDP, there was no requirement for an affordable housing contribution at this location as the scheme was for less than 25 units.
- 2.3 The report prepared for committee required the following Section 106 contributions:
 - a. An education contribution of £41,488 plus indexation for the English medium primary school (Pontarddulais), £20,744.00 plus indexation for the Welsh medium primary school (YGG Bryniago) and £47,544 plus indexation for the English medium Secondary school (Pontarddulais).
 - b. A highways contribution of £15,000 to add a new pedestrian crossing phase across Alltiao Road at the nearby traffic signal junction.
- 2.4 The Local Development Plan was adopted on the 28th February 2019. Consequently, there was a material change in circumstance between the preparation of the report on the application and the Planning Committee meeting held on the 5th March 2019. Policy H3 of the LDP seeks a contribution to affordable housing where the proposal would provide 5 or more dwellings. As a result, prior to Committee the Council sought the provision of 3 affordable housing units on this site. The applicant agreed to this request.
- 2.5 In terms of the Affordable Housing contribution, the minutes of the Committee Agenda on 5th March 2019 stated:

“This proposal did not meet the Affordable Housing threshold of 25 dwellings within the UDP. However, the Adopted LDP has lowered this threshold to 5 units or more in this location and has set a threshold of 15% provision of Affordable Housing to be provided on site which would equate to 3 units. The applicant has been advised of this requirement, and agreed that the resolution be amended to include this provision within the S106 agreement. The Housing

Enabling Team has indicated that the AH units need to be DQR compliant, and ask for 3 x 3 bedroom houses, to be transferred to the Council/Registered Social Landlord (to be determined/negotiated), social rented tenure. The design and specification of the affordable units should be of equivalent quality to those used in the Open Market Units.”

- 2.6 It was resolved at Committee that planning permission should be granted for the development subject to a S106 contribution requiring the provision of affordable housing, a contribution towards education facilities and a contribution towards highway improvements.

3.0 Current Situation

- 3.1 Following discussions with MyTy Homes following the Committee decision, the applicant has stated that the very late addition of the Affordable Housing requirements reduced the viability of the overall scheme. Consequently, the S106 agreement has not been signed and the planning permission has not been issued.
- 3.2 The applicant has requested the terms of the proposed S106 agreement be amended to remove the requirement to provide the 3 affordable housing units. In order to support this request, an independent third party viability appraisal has been undertaken. The conclusion of the viability appraisal is that the amount of overall contributions required is excessive for the site and that if the Affordable Housing contribution was to be provided, then the other Education and Highways contribution should be reduced or removed.
- 3.3 To this end, the Local Planning Authority opines that given these findings, and following a further internal consultation with housing colleagues, the affordable housing contribution should not be requested and should be removed from the legal agreement. This also takes into account the unusual set of events whereby the land price was agreed, and legal agreements progressed, under the previous Unitary Development Plan regime where Affordable Housing would not have been a requirement.
- 3.4 It is considered that in view of the findings of the viability appraisal and taking into account the circumstances of the case, the requirement to provide affordable housing should be removed from the proposed legal agreement, and that planning permission should be granted subject to the applicant providing contributions towards education facilities and highway improvements within the area. To expedite matters, the applicant has proposed that a Unilateral Undertaking (UU) be submitted under S106 of the Town and Country Planning Act 1990 (as amended), whereby the applicant would agree to provide the contributions towards education and highway improvements. Such an approach is acceptable. However, the applicant has yet to provide a suitable UU wording. It is considered therefore that it would be appropriate to pursue a Section 106 agreement unless the applicant submits an acceptable UU.
- 3.5 A copy of the original report to Planning Committee is available to view via the link below

4.0 Recommendation

4.1 It is recommended that the planning application be **APPROVED subject to the conditions outlined in the previous report and either:**

- The applicant entering into a S106 agreement (planning obligation) to provide the combined Highways and Education contributions of £124,776 only in the following timescales:
Sale of 6th unit - £45,000
Sale of 12th Unit - £45,000
Sale of 18th unit - £34,776; or
- The applicant submitting an Unilateral Undertaking to secure these contributions.