KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

PLANNING SUB-COMMITTEE HEAVY WOOLLEN

28 SEPTEMBER 2017

PLANNING APPLICATION 2014/91242 ITEM 11 – PAGE 25

RESERVED MATTERS APPLICATION FOR ERECTION OF 47 DWELLINGS

LAND OFF, ASHBOURNE DRIVE, CLECKHEATON, BD19 5HZ

For clarification, the dwellings would be faced in artificial stone with the exception of nine in white render.

PLANNING APPLICATION 2017/91046 ITEM 13– PAGE 61

OUTLINE APPLICATION FOR DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES AND ERECTION OF RESIDENTIAL DEVELOPMENT

GREENSIDE MILL, SAVILE ROAD, SKELMANTHORPE, HUDDERSFIELD, HD8 9EE

A letter has been received on behalf of the applicant requesting a further deferral (this application has been deferred twice previously with late submissions).

The letter is attached below in its entirety

Robert Halstead

Planning & Development Surveyors

N.C. Willock MRICS MRTPI

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Planning Development

FAO Mr Bill Topping

Investment & Regeneration Service

PO Box B93

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Huddersfield

HD1 2JR

27th September 2017

Application Ref: 2017/91046

RE: RESPONSE AND CONDUCT OF COUNCIL'S INDEPENDENT VIABILITY ASSESSORS FOR GREENSIDE MILLS, SKELMANTHORPE CASE

Dear Mr Topping,

In the run up to this week's committee, we've been instructed to lodge a complaint about the general conduct and response from the Council's assessors (GVA) following our submission of additional comments and evidence on the 15th August. Our view is that the application ought to be deferred.

Our client has no complaint whatsoever about the way the application has been handled by officers, and we know that the Council have assessed the application fairly and objectively. Unfortunately, the same cannot be said about the issue of development viability, following our joint meeting with the Council and their independent assessors on the 5th September.

This has left us in a very difficult position because whilst our client is keen to receive a positive decision on the planning application, we have decided after careful consideration, that we cannot accept the conclusions of the Council's assessors with regard to S106 contributions. The reasons for this are set out below, however before discussing aspects of viability, our client would like to raise the following points and ask the Council to consider whether it would be reasonable in the circumstances to determine the application this week.

We agreed that once our additional / rebuttal evidence had been submitted, the Council's assessors would consider this in readiness for a meeting where a S106 figure would be finally agreed. There was a period of three weeks between the submission of this evidence and the meeting with the Council's assessors at their offices in Leeds. However, when we arrived at the meeting in Leeds, GVA colleagues informed us that they hadn't actually properly assessed our evidence and could not therefore debate certain aspects of our evidence.

As such, an agreement could not be reached and it seems our client has been penalised as a result, because a final written response from GVA has since been received and we have not been afforded the opportunity to respond (as we would've been able to if the matter had been concluded through a verbal exchange, as expected at out meeting).

In submitting our additional evidence, we genuinely attempted to narrow down the areas of difference in the interests of co-operation, so that only the key matters of contention needed to be debated.

However, we didn't feel that our points were properly listened, and crucially, little in the way of counter-evidence was produced by GVA. We fully expect a robust assessment and debate about various viability inputs. However, unfortunately we didn't feel we received an objective or fair response from the Council's assessors.

It is also worth noting that whilst we have provided an open book assessment, providing our viability spreadsheets to the Council's assessors to allow them to fully interrogate our figures and calculations, we have not been afforded the courtesy of seeing their spreadsheet or calculations.

The matters discussed at the meeting were as follows:

<u>Construction cost per sq.ft</u>

We pointed our independent quantity surveyor's full breakdown of a house type on a development he is currently working on in Morley (immediately adjoining the Kirklees boundary and therefore arguably little different), and highlighted the fact that this was the best 'real life' evidence we had. The Council's assessors said they would look at the additional evidence, but have since replied that they are not prepared to take this into account.

To be clear about the roles of independent quantity surveyor costs versus BCIS information, the RICS guidance (Financial Viability in Planning) advises at 4.2.2:

"It is common practice for the practitioner to rely upon and form opinions in respect of various components of a viability assessment; for example, it may be appropriate that build cost information is prepared by a quantity surveyor (QS). This may be essential for nonstandard developments and complex schemes where to adopt build costs quoted by the Building Cost Information Service (BCIS) may lack the level of detail and robustness required. In general, a QS input will be necessary in many instances, to ensure that the cost element of the appraisal is viewed as fully independent."

Our view remains that the use of independent QS inputs represents a legitimate and acceptable means of estimating build costs, and should not be automatically dismissed in favour of the Council's independent assessors use of BCIS costs.

Finance

The Council's assessors argued we should 'cash-flow' the finance. We pointed out that this is not mandatory and we had in fact represented a simplified cash flow by only applying interest charges for 50% of the construction costs and 75% of the professional fees, reflecting the stages at which finance would be spent on these different costs.

Our overall view though is that it would be wholly impractical and unrealistic to undertake a full cash flow analysis for a site where we are only at the outline planning stage, and no details of the actual development programme or timescales are known.

We dispute the Council's assessors' contention that we have under-estimated finance and again, we must insist that if they feel the finance costs should be something different, their actual methodology and calculations must be disclosed for us to analyse and form an opinion on.

Contingency

Our adopted contingency figure is 7.5%. We sent over a planning appeal decision where an Inspector had judged 5% as an industry standard for relatively 'easy' sites, and said the figure would be expected to be higher to cater for increased risks on difficult sites.

The subsequent letter from the Council's assessors provides no counter-evidence to support their contention that our figure is incorrect.

Land values

The Council's assessors argued that our comparable evidence on land values should not be taken into account because of the number of unknown factors dictating those values, and hence it was unreliable.

We fully accept that comparable evidence does have its weaknesses but point to the RICS guidance, which says at 3.4.8 that the importance of comparable evidence (despite weaknesses) "cannot be over-emphasised, as seen in court and land tribunal decisions."

The Council's assessors had previously accepted the principle of using the comparable land value data in their initial assessment of our work, and had produced some of their own land transaction figures, suggesting that they are willing to take such evidence into account?

We stated that at the land value in the appraisal only achieved approximately half the value per acre when compared with other comparable land transaction evidence in the area. That being the case, we would not have a willing seller and 3.4.6 of the RICS guidance states that whilst the assessment of Site Value is not straightforward, "it will be, by definition, at a level at which a landowner would be willing to sell which is recognised by the NPPF (National Planning Policy Framework)."

In this case, the landowner (and applicant) is merely seeking to achieve a fair market price for the land.

Disputes & mediation

The RICS Guidance (Financial Viability in Planning) advises at 4.4.1: "Where disputes are unable to be resolved between the applicant's and the LPA's respective consultants, the parties may seek the opinion of a third party. This could be through either mediation, expert determination or arbitration and could arise at various stages in the planning process."

We have not been afforded the courtesy of viewing the Council's assessors methodology or calculations and they have not produced appropriate counter-evidence to dispute our evidence. It was also not possible to satisfactorily resolve differences of opinion due to the Council's assessors inadequate preparation for our final meeting, and there is a sense that our client has not been treated fairly in the latter stages of this process.

The RICS guidance advises at 4.5.3: Practitioners should be reasonable, transparent and fair in objectively undertaking or reviewing financial viability assessments. Where possible, practitioners should seek to resolve differences of opinion.

In the light of this, we would suggest that careful consideration needs to be given to determining the application this week, as there is a real and risk of an appeal where the LPA could be implicated in a charge of 'unreasonable behaviour'.

As discussed at our meeting on the 5th September, the applicant is willing to make a fair and reasonable S106 contribution, based on a fair, transparent and objective assessment of the viability position.

We would therefore request that the application is deferred.

Yours sincerely,

Nick Willock

Robert Halstead Chartered Surveyors & Town Planners

Officer reponse:- The viability appraisal process has been undertaken in accordance with the agreed Council process, with a further meeting to discuss the viability held in order to bring this matter back for decision at this Committee, as was agreed. The Council's Independent Assessors are aware of the applicants concerns, and maintain their opinion.

"In conclusion we maintain our original recommendation in that the scheme is able to sustain the full Section 106 Obligations (ie a total cost of £168,000)".

The recommendation is unchanged from that set out in the main agenda and is as follows:-

DELEGATE TO OFFICERS TO REFUSE FOR THE FOLLOWING REASONS:

1. The proposal fails to make any provision for Public Open Space, contrary to Policy H18 of the Kirklees Unitary Development Plan.

2. The proposal fails to make any provision towards Education Improvements contrary to the Councils policy guidance" Providing for Education Needs generated by New Developments"

PLANNING APPLICATION 2017/90272 ITEM 16 - PAGE 97

OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT (2 DWELLINGS)

LAND TO REAR OF, 119/127, MARSH LANE, SHEPLEY, HUDDERSFIELD, HD8 8AS

An amended site location plan has been received which clarifies that the current proposal is for point of access only. This is acceptable in terms of highway safety. All other details would be reserved matters, should outline permission be granted.
