

<b>Application Number:</b>	3/21/1115/FUL		
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/">https://planning.dorsetcouncil.gov.uk/</a>		
<b>Site address:</b>	184 RINGWOOD ROAD, ST LEONARDS AND ST IVES, BH24 2NR		
<b>Proposal:</b>	Demolish existing residential buildings and erect block of 15 apartments with parking, bin and cycle stores		
<b>Applicant name:</b>	Harbourwood Homes Ltd		
<b>Case Officer:</b>	Ursula Fay		
<b>Ward Member(s):</b>	Cllr Bryan; Cllr Gorringe		
<b>Publicity expiry date:</b>	30 September 2022	<b>Officer site visit date:</b>	April 2022
<b>Decision due date:</b>	31 October 2022	<b>Ext(s) of time:</b>	23 February 2023

- 1.1 This report provides an update to committee following the deferral of this application on 11 January 2023.
- 1.2 Members of the committee requested further information regarding the submitted viability assessment and the weight that this should be given, taking into consideration paragraph 58 of the National Planning Policy Framework (NPPF). Concerns were also raised during the meeting regarding arrangements for refuse collection, in response to which amended plans have been submitted.

### **Refuse Collection Update**

- 1.3 The applicant has submitted amended plans which reposition the bins and bring these closer to the entrance. Dorset Waste have advised that this is acceptable provided they can safely turn in the area detailed. This would be acceptable subject to a condition requiring details of a Refuse Management Plan to prevent parking on areas required for refuse vehicle turning.

### **National Policy - Viability**

- 1.4 Paragraph 58 of the NPPF states that *'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability*

*evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'*

- 1.5 National Planning Policy Guidance (PPG) Paragraph: 007 Reference ID: 10-007-20190509 explains with regard to changes in site circumstances that *'Such circumstances could include, for example where development is proposed on unallocated sites of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people); or where a recession or similar significant economic changes have occurred since the plan was brought into force.'*
- 1.6 When allowing an appeal for the erection of 74 apartments in St Albans (APP/B1930/W/17/3191472), where the affordable housing offer did not meet policy requirements, a Planning Inspector made the following conclusions:
- A Development Appraisal Viability Report (DAVR) had been submitted as part of the application and reviewed by the Council's independent viability advisor. The independent assessors agreed the key assumptions and inputs, and that the appeal scheme could not viably meeting affordable housing requirements.
  - No substantive evidence challenging these conclusions was submitted.
  - The Council referred to Paragraphs 117, 118(d), 120 and 122(a) of the NPPF (2019), and considered that the appeal site should make effective use of land by playing its full part in addressing the need for affordable housing. (Relevant paragraphs in the 2021 NPPF are 119, 120(d), 122 and 124(a) - <https://www.gov.uk/government/publications/national-planning-policy-framework--2>)
  - The Inspector accepted that there was an identified need for affordable housing in the district. However, paragraph 122(b) of the NPPF (2019) also needed to be considered. This provides that decisions need to take into account local market conditions and viability. (Relevant paragraph in the 2021 NPPF is 124(b))
  - With reference to paragraph 57 of the NPPF (2019), the Inspector's *'attention was not drawn to any meaningful assessment of viability within the [District Local Plan (DLP)] or the [Affordable Housing Supplementary Planning Guidance (AHSPG)]'*. Consequently, considerable weight was given to the conclusions of the DAVR. (Relevant paragraph in the 2021 NPPF is 58)
  - Based on the evidence presented, the Inspector concluded that the proposal would made appropriate provision for affordable housing.

- 1.7 This highlights that a key consideration for a decision maker when deciding on the level of weight to be applied to a viability assessment is as set out at paragraph 58 of the NPPF - *'whether the plan and the viability evidence underpinning it is up to date'*. In the absence of such evidence a site specific viability assessment should be afforded considerable weight. The evidence base which underpin the Council's plan and the weight that this should be afforded is considered below.

### **Local Policy Context**

- 1.8 Policy LN3 of the Christchurch and East Dorset Local Plan: Part 1 (adopted April 2014) sets policy percentage requirements regarding affordable housing. This provides that non-greenfield residential development which results in a net increase of housing is to provide up to 40% of the residential units as affordable housing. LN3 provides that *'any Planning Application which on financial viability grounds proposes a lower level of affordable housing than is required by the Policy Percentage Requirements must be accompanied by clear and robust evidence that will be subject to verification'*.
- 1.9 The Christchurch and East Dorset Affordable Housing SPD (AH SPD, Adopted December 2018) identifies a need for affordable housing. The total need per annum within East Dorset is 346 units, with an annual supply of 83 units. This demonstrates a significant need for affordable housing within the area.
- 1.10 The AH SPD states that viability assessments to be submitted as evidence in negotiations must be prepared to be capable of independent expert verification, carried out by a qualified (RICS) surveyor/valuer. Any abnormal or exceptional development costs should be supported with robust and costed specialist reports and technical data, capable of expert verification.
- 1.11 The AH SPD is worded to provide flexibility to support affordable housing negotiations, with each case considered on its merits.
- 1.12 In addition to the requirements in LN3, the AH SPD states that *'For such a case to be considered on viability grounds, development proposals must be supported by robust, detailed and clear financial evidence, capable of withstanding rigorous independent professional examination as set out in the negotiation procedure'*.
- 1.13 The AH SPD recognises that *'some development proposals may not be able to incorporate standard policy requirements and that local needs can sometimes be appropriately met through alternative 'offers' that do not directly align with standard requirements. The Councils will negotiate over individual development proposals and recognise that flexibility is necessary, however, any departure from standard policy requirements must be justified through appropriate and robust sources of evidence.'*

- 1.14 Regarding partial financial contributions, as proposed in this instance, the AH SPD states that *'a partial financial contribution may be required where viability assessment has demonstrated that the scheme will deliver a surplus above the benchmark land value (i.e. EUV plus uplift at the % current in the market) but does not result in an amount equivalent to the above calculation. In such cases the amount above benchmark value will be the amount to be secured as financial contribution through a legal agreement.'*

### **Evidence Base**

- 1.15 The East Dorset District Council – Affordable Housing Provision and Developer Contributions – Final Report January 2010 (by Three Dragons) began the process of evidencing viability, from which Policy LN3 resulted. When considering the viability of smaller windfall sites such as this one the report stated:
- 1.16 *'Above two dwellings (we tested here an example of five dwellings) the economics improve considerably with schemes that involve the demolition of a house. Looking at the data we think that a 40% affordable housing contribution is a justifiable starting point in these circumstances.'*
- 1.17 Alongside the examination of the Local Plan: Part 1, Christchurch and East Dorset prepared a Community Infrastructure Levy (CIL) Charging Schedule. A series of viability reports by Peter Brett Associates was produced as part of the evidence base. The Community Infrastructure Levy Viability Testing Reports (January 2013 and June 2013) formed part of the evidence base for the Local Plan: Part 1 Examination.
- 1.18 Viability testing was undertaken to demonstrate the level of CIL that could be accommodated within the scope of Policy LN3. This assessment followed a typology approach in line with the NPPG (paragraph 04 Reference ID: 10-004-20190509) and assessed a range of smaller 'windfall' sites such as the site subject to this application. The testing included assessment of a windfall site for 15 flats in East Dorset. Each typology tested included a 'viability buffer', a sum intended for use by developers to cope with the margin of error inevitably required in these types of calculations.
- 1.19 Viability testing continued following the adoption of the Local Plan: Part 1 in support of the CIL Charging Schedule, with several reports produced, the latest being the Community Infrastructure Levy Report Addendum: Viability Update on revised Affordable Housing Thresholds dated January 2015.
- 1.20 Of this further testing, of most relevance to the consideration of site is the Affordable Housing Viability Testing for CIL (35% and 40%) C2/C3 Uses (by Peter Brett Associates) produced December 2014, which updated housing values and costs using the most current data available at that time. Peter Brett Associates advice was *'that a CIL charge of £70 per sqm is adopted across both Christchurch and East Dorset. We consider that this level of CIL*

*Charge would allow for both the adopted Core Strategy affordable housing policy of up to 40% and an appropriate viability buffer between overage available and the CIL charge.'*

- 1.21 Following Independent Examination, the CIL Charging Schedule was adopted in September 2016 placing the CIL charge of £70 per sqm.
- 1.22 The CIL Charging Schedule sets indicators to inform the requirement for a review of the Charging Schedule and the viability evidence which underpins it. These are as follows:
  1. Housing delivery falls by 20% of expected figures at the end of any 3 year rolling programme or rises more than the 20% above.
  2. Infrastructure funding gap falls below the projected level of funding that would be generated by new development from CIL.
  3. Average property price changes (including upturn in the market), that lead to a significant impact on development viability.
  4. Changes in delivery times of major schemes to be funded in part by CIL.
- 1.23 Housing delivery as measured by the Housing Delivery Test was recorded as 94% (6% below expected figures) over the 2018-2021 period. This triggered the need for an Action Plan which identifies ways in which the Council will address the shortfall. These measures do not include a review of viability or CIL.
- 1.24 CIL continues to adequately help meet the cost of key infrastructure needs within the charging area, including habitat mitigation.
- 1.25 Regarding average property prices, the Council has not identified any significant changes which would impact viability. The House Price Index (HPI) (all types) for Dorset has increased from 100.95 in September 2014, to 149.4 in December 2022, representing an increase of 48%.
- 1.26 While build costs are not referenced within the indicators, the Council is aware of recent increases in costs. There has been an increase in build costs for Estate Housing Generally (median) from £970/sqm in September 2014, to £1,258/sqm in February 2023. This represents an increase of 29.6%. When considered alongside increases in sales values, the headline changes do not indicate a significant negative impact on development viability.
- 1.27 The Council publishes an annual Infrastructure Funding Statement which includes details of potential infrastructure projects that are intended to be, or may be, wholly or partly funded by CIL. Significant CIL receipts are allocated for habitat mitigation to protect the Dorset Heathlands, a need which will remain ongoing and keep pace with development.
- 1.28 In 2017 a partial review of the viability evidence base was carried out by the District Valuer Service (DVS) to inform the 2018 AH SPD. This found that the assumptions regarding uplift in EUV for brownfield development sites in the

Affordable Housing Provision and Developer Contributions – Final Report January 2010, taken forward into the 2014 AH SPD were overly generous. The DVS advised that a lower uplift would remain viable, and recommended that the uplift not be specified within the AH SPD but allow for flexibility.

### **Application Viability Assessment**

- 1.29 The applicant has submitted a viability assessment as part of this application. The assessment was carried out by a registered RICS valuer.
- 1.30 Paragraph 58 of the NPPF states that *‘all viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available’*. The NPPG states that *‘Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.’*
- 1.31 The submitted Economic Viability Assessment (EVA) does not refer back to the evidence base set out above. Insufficient evidence has been provided to demonstrate any changes that have taken place or justify varying assumptions.
- 1.32 The applicant has been asked to demonstrate the particular circumstances which justify the need for a viability assessment at the application stage, as required by paragraph 58 of the NPPF. Their response is assessed below.
- 1.33 The applicant has highlighted that particular circumstances justifying a viability review could include *‘where a recession or similar significant economic changes have occurred since the plan was brought into force’*. The applicant has not identified a specific event that they believe is relevant in this instance.
- 1.34 The applicant has further stated that *‘The East Dorset and Christchurch Local Plan was adopted in 2014 with an evidence base that was prepared before adoption – as such the evidence base is circa 10 years old. During this time there have been significant changes in land values, construction costs and variations in house prices.’*
- 1.35 As explained above, the most recent viability evidence relevant to this application is the Affordable Housing Viability Testing for CIL (35% and 40%) C2/C3 Uses Report, which was based on build costs and development values as of September 2014.
- 1.36 In terms of construction costs, adopted build costs for the CIL evidence base were £1,144/sqm for flatted development (dated September 2014). The build costs adopted for the site-specific viability assessment of this proposal (dated July 2022) are £1,473/sqm. This represents an increase of 28.6%.

- 1.37 As stated above regarding house prices, the House Price Index (HPI) for Dorset has increased from 100.95 in September 2014, to 148.72 in July 2022, representing an increase of 47.3%.
- 1.38 The applicant has not provided any explanation regarding how wider changes in land values would impact this site, which is currently in residential use. Nor has the applicant provided any further explanation of how they consider these changes would justify the need for a viability assessment.
- 1.39 Land values, construction costs and house prices are market factors which can be expected to change over time, and without any additional information from the applicant it is not clear within what context they are considered 'significant', nor is it clear how the applicant proposes these equate to a 'significant economic change' within the context of the NPPG.
- 1.40 The applicant has drawn attention to text within the EVA as follows: *'A significant factor in the sites overall Economic Viability is that the Existing Use Value is high. Further factors affecting the sites economic viability is the significant Community Infrastructure Levy charge. In order for the project to come forward the land owner needs to be suitably incentivised to release the site for redevelopment. This reflects National Planning Policy Framework and Planning Practice Guidance.'*
- 1.41 The EVA puts the Existing Use Value of the site at £586,180. No further information has been provided to support the statement that this is 'high' or what it is 'high' in relation to.

### **Independent Review**

- 1.42 Viability evidence prior to officer's committee recommendation was independently reviewed on behalf of the Council by the District Valuers. The applicant has declined to engage in further independent review of the submitted information. The applicant considers that the information provided is sufficient given that the viability assessment has not been adjusted.

### **Officer Assessment**

- 1.43 The evidence submitted by the applicant to demonstrate the particular circumstances which justify the need for a viability assessment is limited, and does not satisfactorily demonstrate that the requirement set out in paragraph 58 of the NPPF has been met.

#### Existing Use Value

- 1.44 The NPPG provides guidance on benchmark land values as follows: *'a benchmark land value should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner. The premium for the landowner should reflect the minimum return at which it is considered a*

*reasonable landowner would be willing to sell their land. The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing a sufficient contribution to fully comply with policy requirements. Landowners and site purchasers should consider policy requirements when agreeing land transactions. This approach is often called 'existing use value plus' (EUV+)* (Paragraph: 013 Reference ID: 10-013-20190509)

- 1.45 The NPPG is clear that *'The price paid for land is not a relevant justification for failing to accord with relevant policies in the plan'* and *'Landowners and site purchasers should consider this when agreeing land transactions'*. (Paragraph: 002 Reference ID: 10-002-20190509)
- 1.46 The applicant's Viability Assessment assessed the EUV of the site at £585,206. This was reviewed by the District Valuer, who disagreed with the submitted EUV, advising this lies somewhere in the region of £510,000.
- 1.47 No further information has been provided to support the statement that the EUV is 'high' or what it is 'high' in relation to. It is noted that the 15 flatted unit typology within the CIL evidence base used a site acquisition cost of £542,288 as the assumed land cost for this typology. It is not considered the applicant has demonstrated that the EUV is high in the context of this typology.
- 1.48 With regard to the premium for the landowner, the NPPG states this *'should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land'*. Most residential properties are sold on the open market, with reasonable householders who are minded to sell willing to sell at the market value. Further incentives could be required to encourage a reasonable householder who would not otherwise sell to release their property.
- 1.49 The applicant's Viability Assessment identified an incentive to the landowner of 20% of the EUV (£135,220). The District Valuer advised that an incentive of £75,000 would be a reasonable premium. However, the NPPG requires that an incentive allows *'a sufficient contribution to fully comply with policy requirements'*. In this case, the suggested incentive does not enable the proposed development to comply with affordable housing requirements.
- 1.50 The NPPG further requires that *'Landowners and site purchasers should consider policy requirements when agreeing land transactions'*. There is no evidence that policy requirements have been considered when negotiating the purchase or premium for the landowner at this site.

#### Community Infrastructure Levy

- 1.51 The applicant has cited the Community Infrastructure Levy as a reason why this development is unviable. This does not represent a change in circumstances under paragraph 58 of the NPPF, given the CIL charge is informed by the evidence base.

#### Economic Changes



- 1.52 The applicant has highlighted potential changes in economic circumstances - a recession or similar significant economic changes. No evidence has been provided to explain what these changes are or how these result in a change to site circumstances which would justify the need for a site-specific viability assessment.
- 1.53 The CIL evidence base included a 'viability buffer', intended to allow for a degree of error or changing circumstances. Officers are aware of changing circumstances, including rising house prices following the coronavirus pandemic, and recent rises in build costs. However, a high-level analysis of trends in build costs and house prices since 2014 does not indicate a general decline in viability across the Dorset County area over this period.

### **Viability Conclusions**

- 1.54 Officers were asked for further information regarding the submitted viability assessment and the weight that this should be given, taking into consideration paragraph 58 of the NPPF. As part of that exercise officers explored in greater detail evidence underpinning the CED Local Plan and CIL Charging Schedule.
- 1.55 It is for the applicant to demonstrate the particular circumstances which justify the need for a viability assessment. While a full viability review has been submitted, the applicant provided very limited evidence regarding the particular circumstances they consider necessitates this. The applicant has not provided evidence to demonstrate that the Local Plan/CIL viability evidence base is out of date.
- 1.56 Paragraph 58 of the NPPF states that *'the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.'*
- 1.57 In this instance the plan is considered up-to-date as per the definition in paragraph 11 of the NPPF. Indicators which would trigger the need for a review of the CIL Charging Schedule, and the viability evidence base, have not been met. Changes in site or typology circumstances since the plan was brought into force have not been satisfactorily demonstrated.
- 1.58 The CED Local Plan clearly sets out affordable housing policy requirements. The onus is on a site promotor to ensure that proposals for development are policy compliant. In this instance the site promotor has not ensured that their proposal can comply with planning policy.
- 1.59 It is recommended that significant weight be attached to the need to deliver affordable housing, due to the great need for this housing type in the area. While the need for market housing is also high, it is not considered that this

outweighs the need to deliver a policy compliant scheme. On balance the application is recommended for refusal.

**Refuse permission for the reasons set out below:**

1. The proposed development fails to make an appropriate contribution to affordable housing and is therefore contrary to Policy LN3 of the Christchurch and East Dorset Local Plan – Part 1 2014. Insufficient evidence has been submitted to demonstrate particular circumstances that would justify the need for a viability assessment under paragraph 58 of the NPPF. The applicant has not provided evidence to demonstrate that the need to ensure development is policy compliant has been sufficiently considered as part of this proposal. The application is therefore considered contrary to National Planning Policy Guidance (PPG) Paragraph: 002 Reference ID: 10-002-20190509.

**Informatives:**

1. The plans that were considered by the Council in making this decision are:  
9457/100 'J' Block Plan  
9457/101 'B' Floor Plans  
9457/102 'B' Elevations  
9457/103 'D' Elevations  
9457/105 'C' SUDS Plan  
9457/107 'A' Site Section
2. In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development. The council works with applicants/agents in a positive and proactive manner by:
  - offering a pre-application advice service, and –
  - as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

-The applicant was offered the opportunity to submit amended plans and additional information however this was not sufficient to overcome concerns

3. If planning permission is subsequently granted for this development at appeal, it will be subject to the Community Infrastructure Levy (CIL) introduced by the Town and Country Planning Act 2008. A CIL liability notice will then be issued by the Council that requires a financial payment, full details of which will be explained in the notice.