

Report to: PLANNING COMMITTEE **Date of Meeting:** 14th April 2021

Subject: [DC/2020/00590](#)
[Unit 1 Site Of Mayflower Industrial Estate Liverpool Road Formby](#)

Proposal: Removal of condition 1 pursuant to planning permission DC/2019/01870 approved 04/04/2020

Applicant: Mr Terry Riley
Ascot Property Group

Agent: David Bennett
Keith Davidson Partnership
Architects

Ward: Ravenmeols Ward

Type: Removal of condition

Reason for Committee Determination: Matter of Principle

Summary

Permission was granted for a block of 32 apartments (for over 55's) only in October 2017 and changes to the elevation were approved in April 2020. This application requests removal of condition 1 of that permission which was to secure the provision of affordable housing provision.

This application was reported to last Committee on 17th March and deferred so members could receive a presentation on viability issues.

The main issue for consideration with this proposal relates to the acceptability of providing a significantly reduced financial contribution towards off site affordable housing, having regard to the viability of the scheme as a whole.

It is concluded there is no market demand for on site affordable housing and a financial contribution of £266,000 towards off site affordable housing provision would be acceptable, ensuring that the scheme can be delivered and outweighing any harm to the living conditions of neighbouring residents. It is therefore recommended that planning permission be granted subject to the applicant entering into a Section 106 legal agreement to secure the financial contribution towards off site affordable housing.

Recommendation: Approve with Conditions and subject to the signing of a Section 106 legal agreement.

Case Officer Kevin Baker

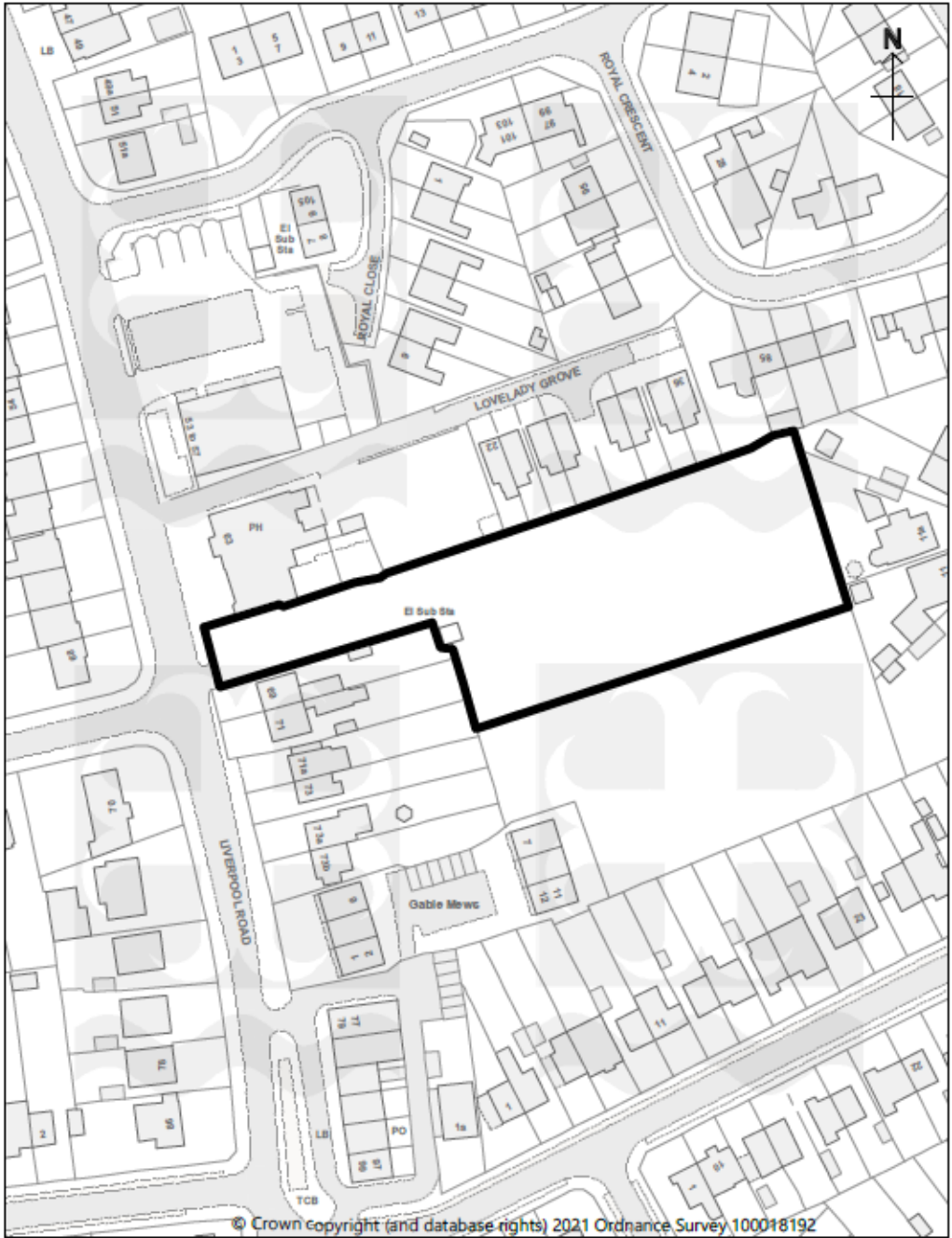
Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=Q8D80ONWJ8D00>

Site Location Plan



The Site

The application site is part of a larger site which comprised a former industrial estate. The sole vehicular access is gained between the Royal Hotel Public House and No.69 Liverpool Road.

With the exception of the public house the site is bound by a mix of existing residential properties. A care home, recently constructed, is in operation adjacent to the site on the remaining area of the former industrial estate.

The site is currently under construction and is nearing completion.

History

Planning permission was granted in January 2017 for the erection of a three storey apartment block containing 22 apartments for the over 55's and the erection of a care home. This included the demolition of no.65 Liverpool Road (Beamans Bathrooms) and all buildings within the Mayflower Industrial Estate to accommodate the development and an acceptable access off Liverpool Road (app.ref: DC/2016/00230).

A separate application for planning permission was approved in October 2017 for the erection of a block of 32 apartments (for over 55's) only, replacing the 22 apartments element of the previous approval (app.ref: DC/2017/00387).

In August 2018, permission was granted to vary the October 2017 permission to allow various changes to the elevations of the scheme (app.ref: DC/2018/01066)

An application to approve details required by a number of planning conditions attached to the original October 2017 permission was also determined (app.ref: DC/2018/00737).

In October 2018, an application was submitted to remove condition 1 (affordable housing) pursuant to planning permission DC/2018/01066, but was subsequently withdrawn by the applicant (app.ref: DC/2018/01796)

In April 2020, a further application to make changes to the 2018 permission was granted approval (app.ref: DC/2019/01870)

Consultations

Highways Manager

No objection.

Local Planning Manager

Consider that an off site contribution of £266,000 is acceptable.

Neighbour Representations

Correspondence has been received from 2 local residents objecting to the proposal on the following

grounds:

- Residents have had to look at the monstrosity for too long. If the new company cannot make a profit then they should not have entered into the agreement,
- Flies in the face of the Local Plan.
- Residents of Formby should not be subsidising the project on behalf of commercial developers.
- Complete lack of respect for those who will be affected.

Policy Context

The application site lies within an area designated as primarily residential in the Sefton Local Plan which was adopted by the Council in April 2017.

The Formby and Little Altcar Neighbourhood Plan was 'made' (i.e. adopted) on 21st November 2019 and carries full weight in decision making.

Assessment of the Proposal

The principle of the development and impacts were considered and agreed in the granting of the previous permissions. Subsequently, the issue for consideration relates specifically to the change proposed, that being to remove the affordable housing condition in favour of providing an off-site financial contribution towards affordable housing provision.

Affordable Housing Provision and Viability

As members will be aware, the original planning permission was subject to a planning condition requiring the applicant to enter into a planning obligation under Section 106 of the Town and Country Planning Act 1990 to secure the provision of affordable housing. The affordable housing contribution, in line with policy HC1 of the local Plan, equated to a total of 10 affordable housing units on site. Despite the subsequent variations to the original permission as recognised in the planning history, the condition and its requirements have remained intact with each decision.

In October 2018, a similar application to that now proposed was submitted to the authority. This application provided evidence demonstrating a lack of interest in the potential uptake of the affordable housing provision by several registered providers familiar to Sefton. The reasoning then, as now, related to the shared tenure (private and social) and difficulty in managing and servicing within the apartment block. In such circumstances, and in line with the Council's planning guidance for affordable housing, a financial contribution was sought to secure affordable housing off-site. However, whilst the applicant argued that the scheme would not be viable if required to provide the commuted sum, sufficient evidence was not provided to back this. The application was subsequently withdrawn by the applicant.

This current application maintains the same stance to that previously submitted in October 2018, in that the applicant considers there is no market demand for on site affordable housing and that the required off site contribution as calculated in the Council's guidelines would make the scheme unviable. The applicant advises that this is more relevant now as the building contractor originally contracted for the development fell into financial difficulties in December 2019 and the company was dissolved. Subsequently the scheme under construction has been carried out by a 'step in' contractor which has significantly increased the build costs.

In support of the application, the applicant has prepared a full viability assessment, whilst reliance has been given to the initial marketing responses received and submitted as part of the 2018 application (i.e. no market demand for providing the units within the site).

In relation to the demand for on site affordable housing provision, it is evident from the information provided that there is no demand for this development. Whilst an updated marketing exercise has not been carried out for this application, it is considered that it would be unreasonable to require this as there is unlikely to be a change to the evidence submitted in 2018. Consequently, whilst Policy H3 (Affordable Housing) of the Formby and Little Altcar Neighbourhood Plan seeks to provide affordable housing on site, it is simply not possible for this development.

Policy H3 of the Neighbourhood plan is silent on the scenario of where affordable housing cannot be achieved on site. However, Policy HC1 (Affordable and Special Needs Housing) identifies that a financial contribution can be considered towards providing affordable housing off site. Given the silence on the matter in the neighbourhood plan, and the exceptional circumstances, Policy HC1 becomes the relevant policy.

The Council's planning guidance for affordable housing sets out a step by step approach to calculating an acceptable off site contribution. Using this approach the Council's retained viability consultants have confirmed that the commuted sum payable by the developer to meet the full off site affordable housing provision is £1,451,638.

The applicant has confirmed that the required off site contribution would make the scheme unviable and have therefore prepared a viability assessment, which has also been assessed by the Council's viability consultant. In summary, the Council's viability consultants have acknowledged that the full affordable housing contribution cannot be viably provided here. They agree that a significant reduction is required. Taking account of all relevant factors, they have suggested that an appropriate contribution would be £266,000.

Policy H3 of the Neighbourhood plan and HC1 of the Local Plan both in their explanatory text acknowledge that affordable housing would be subject to economic viability. Para 57 of the National Planning Policy Framework confirms that planning applications that comply with the local plan policies should be assumed to be viable. It is up to the applicant to demonstrate whether circumstances justify the need for a viability assessment. It does go on, however, to say 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. Additionally, planning practice guidance suggests that an acceptable profit for a developer is between 15% and 20%. This, in essence, is the risk incentive to developing a site.

The Council's viability consultant has confirmed that the reduced contribution, would ensure a revenue of 15%. This is at the lower end of the range considered acceptable nationally. It is therefore considered that whilst the scheme would not be viable to provide the full off site financial contribution as identified in the Council guidelines, it would be viable should a contribution of £266,000 be provided. This contribution needs to be weighed in the overall balance of relevant factors when coming to a decision.

Other Matters

It was acknowledged within the original report to Planning Committee that some harm would be caused to the living conditions of residents on Lovelady Grove, specifically in relation to overlooking and loss of privacy as a result of a minor shortfall in interface distances. However, the report concluded that the harm was outweighed by the benefits of the development including the provision of affordable housing and the contribution of the development to the Borough's housing supply. The development, as constructed, does not overcome the harm originally identified and this needs to be weighed in the overall balance.

The 2019 permission was subject to various conditions which, other than the condition specifically relating to this proposal, remain relevant. Consequently, it is recommended that the conditions are re-attached to any decision, should permission be granted.

Planning balance and conclusion

This application seeks to remove the affordable housing condition attached to the 2019 planning permission. In support of the application, the applicant has demonstrated that there is no market demand for on site affordable housing and has successfully demonstrated a viability argument which has been verified by the Council's retained viability consultant. In this instance, it is considered that a financial contribution of £266,000 towards providing affordable housing off site locally would be a viable contribution. It is disappointing that the affordable housing contribution cannot be achieved on site or in full. However, the lack of interest in the affordable housing units and difficulties with appointing a new developer have presented significant challenges and have necessitated the need to re-assess the situation based on the new circumstances.

It is acknowledged that the development presents some harm to the living conditions of existing residents at Lovelady Grove. However, the development contributes towards the Council's 5 year housing supply and still supports the provision of affordable housing, albeit off site and at a reduced amount.

It is considered that the reduced affordable housing contribution would still weigh in favour of the development and would ensure the delivery of new housing within the borough, specifically for the over 55's.

Overall, the benefits of the development would still outweigh the harm caused and it is therefore recommended that the application be approved. The applicant would be required to enter into a Section 106 legal agreement to ensure the payment of the financial contribution.

Recommendation - Approve with Conditions and subject to the applicant entering into a Section 106 legal agreement.

Approved Plans

- 1) The development hereby granted shall be carried out strictly in accordance with the following approved drawings:

1000 Rev.Q; 1102 Rev.C; 1103 Rev.F.

And the following drawings attached to the original permissions (app.ref: DC/2017/00387 and DC/2018/01066):

Location Plan, 100, Proposed Landscaping scheme; 1001 Rev.F; 1002 Rev.E; 1003 RevD; 1004 Rev.C; 1010 Rev.D; 1011 Rev.D.

Reason: To ensure a satisfactory development.

During Building Works

- 2) The provisions of the Construction Traffic Management Plan approved under application DC/2018/00737 shall be implemented in full during the period of construction.

Reason: In the interests of highway safety.

- 3) The measures set out within Chapter 4 of the approved Red Squirrel Protection Strategy reference RT-MME-122310-02 must be implemented.

Reason: In the interests of ecology.

Before the Development is Occupied

- 4) Following completion of the remedial works identified in the approved remediation strategy, a verification report that demonstrates compliance with the agreed remediation objectives and criteria must be produced, and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 5) a) In the event that previously unidentified contamination is found at any time when carrying out the approved development immediate contact must be made with the Local Planning Authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

b) Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by Condition 4.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 6) Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

- 7) The development shall be completed in accordance with the surface water drainage scheme approved under application DC/2018/00737.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

- 8) No part of the development shall be brought into use until a means of vehicular and pedestrian access to the development has been constructed.

Reason: In the interests of highway safety.

- 9) No part of the development shall be brought into use until the required highway improvement works approved under application DC/2018/00737 have been constructed.

Reason: In the interests of highway safety.

- 10) No part of the development shall be brought into use until areas for vehicle parking, turning and manoeuvring have been laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and these areas shall be retained thereafter for that specific use.

Reason: In the interests of highway safety.

- 11) The hard and soft landscaping scheme, to be comprised of species identified as being suitable for red squirrels within the approved Red Squirrel Protection Strategy (reference RT-MME-122310-02) shall be carried out prior to the occupation of any part of the development or in accordance with a timetable to be agreed in writing with the Local Planning Authority.

b) Any trees or plants that within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced with others of a species, size and number as originally approved in the first available planting season.

Reason: In the interests of visual amenity.

- 12) The boundary details approved under application DC/2018/00737 must be implemented prior to the commencement of use and maintained as such thereafter.

Reason: In the interests of visual and residential amenity.

- 13) The window details identified on drawing no.1051, as approved under application DC/2018/00737, shall be implemented in full prior to first occupation and retained as such thereafter.

Reason: In the interest of residential amenity.

Ongoing Conditions

- 14) The development shall be completed, maintained and managed in accordance with the sustainable drainage management and maintenance plan approved under application DC/2018/00737.

Reason: To manage flooding and pollution and to ensure that a managing body is in place for the sustainable drainage system and there is funding and maintenance mechanism for the lifetime of the development.

- 15) The cycle parking facilities hereby approved shall be retained thereafter for that specific use.

Reason: In the interests of highway safety.

- 16) The 32no. flats hereby permitted shall only be occupied by:
- persons aged 55 or above;
 - persons living as part of a single household with such a person or persons;
 - persons who were living as part of a single household with such a person or persons who have since died.

Reason: The proposed development is considered an exemption to providing infrastructure contributions towards education improvements in the local area and the Council wishes to maintain control over this.

- 17) The Travel Plan approved under application DC/2017/00387 shall be implemented in full in a timetable to be agreed in writing with the Local Planning Authority / in accordance with the timetable approved in writing by the Local Planning Authority. The approved Travel Plan shall continue to be implemented as long as any part of the development is occupied.

Reason: In the interests of highway safety