

Agenda item: **Decision maker:** Planning Committee**Subject:** 15/02010/PAMOD - Request to modify legal agreement attached to planning permission 12/01382/FUL relating to land at 249 Fratton Road**Report by:** Assistant Director of Culture & City Development**Wards affected:** Fratton**Key decision (over £250k):** No

1 Purpose

The purpose of the report is to request Members consider the applicants request to modify the legal agreement attached to planning application 12/01382/FUL in relation to affordable housing provision.

2 Recommendation

Approve modification of the legal agreement to remove the requirement to provide three units of affordable housing.

3 Comments

The applicant obtained planning permission in December 2013 for the redevelopment of the site following the demolition of the existing building (the former Contented Pig PH) and the construction of a four storey building to provide 11 flats with associated parking and a new access to Fratton Road. The permission was subject to a legal agreement requiring the provision of three units of affordable housing.

Portsmouth Plan policy PCS19 seeks affordable housing on sites of 8 or more dwellings, for a minimum of 25% on developments of between 11 and 13 dwellings. The supporting text recognises that other factors that will be taken into account in assessing the suitability of sites for affordable housing includes economic viability. This is consistent with the NPPF which states if applicants can satisfy a LPA by way of open book negotiations that there is good reason why they should not make the contributions which would otherwise be sought, it is likely that a reduced contribution will be negotiated or that certain benefits may not be sought.

The applicants have submitted a case to renegotiate the affordable housing requirements associated with the development on the basis that the scheme is not economically viable. In support, they have submitted a viability report dated November 2015 undertaken by

S106 Affordable Housing. On the basis of the applicant's submission, it is their contention that the development is unable to make provision for affordable housing due to the economic viability of the scheme.

Economic viability has been established as a material consideration in the determination of planning applications with the National Planning Policy Framework recognising that viability is a central consideration in planning policy. The principles underlying economic viability rely on the assumption that land/building will be used in the form that secures the best value for the land owner. Therefore where an alternative value exists for the land/building that outweighs the value of the proposed redevelopment, then the land/building will not be brought forward for redevelopment. In this instance the development has commenced with the new building approaching completion to core and shell.

In response to this request the District Valuer has, on behalf of the Council, undertaken a review of the submitted viability report. The District Valuer concludes that the economics of the scheme as presented by the applicant are reasonable and demonstrate that the scheme is not economically viable. Having regard to the information provided by the applicant, the District Valuer suggests that the even with no affordable housing provision the development would not appear to be economically viable at the present time.

Having regard to the advanced stage of construction and notwithstanding its apparent economic unviability, it is considered appropriate to enter into a deed of variation to remove the requirement for affordable housing to prevent properties being competed that cannot be occupied.

4 Representations

No comments have been received.

5 Equality impact assessment (EIA)

The document is a consultation document and therefore there is no significant impact.

6 Legal services' comments

The City Solicitor is satisfied that it is within the City Council's powers to approve the recommendation as set out.

7 Finance comments

None

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Signed by:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Legal Agreement dated 5 th December 2013 Planning Obligations SPD (September 2008) Providing Affordable Housing in Portsmouth (May 2012)	