

Decision maker: Planning Committee

Subject: 13/01388/PAMOD - Request to modify legal agreement attached to planning permission 13/00005/FUL relating to land at Compass House, 227-229 Kingston Road

Report by: City Development Manager

Wards affected: Nelson

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 13/00005/FUL in relation to affordable housing provision.

2 Recommendation

Approve modification of the legal agreement to:

- (a) remove the requirement to provide three units of affordable housing;
- (b) require a re-assessment of the viability of affordable housing if the development has not been occupied within 12 months.

3 City Development Managers comments

The applicant obtained planning permission in October 2013 for the conversion of the upper floors to form 12 flats, external alterations to include the removal of an external staircase from the rear elevation, the installation and alteration of windows and the formation of a store for refuse/recyclable materials to ground floor. 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 adopted Planning Obligations SPD (September 2008) that states if applications can satisfy the Council by way of open book negotiations that there is good reason why they should not make the contributions 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 2013 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 response to this request Dixon Searle LLP have, on behalf of the Council, undertaken a review of the submitted viability report. Dixon Searle conclude 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, Dixon Searle suggest that the even with no affordable housing provision the development would not appear to be economically viable at the present time.

A variation of the Agreement does not commit the Local Planning Authority to the same course of action should another scheme be submitted for consideration. The figures provided in support of the viability assessment are a snapshot in time. The decision could be made that the site should not be developed until such time as the scheme becomes viable. However the upper floors of the building are currently vacant, and in the absence of the implementation of the permission for a residential conversion, are likely to remain empty.

As the figures contained in the viability appraisal are only sound for a snapshot in time it is considered reasonable to reassess the situation should the development not be completed and flats occupied within an agreed period.

4 Representations

No s comments have been received.

5 Equality impact assessment (EIA)

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

6 Head of 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 Head of Finance’s 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 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| National Planning Policy Framework (March 2012) Community Infrastructure Levy Regulations 2010 Planning Obligations SPD (September 2008) Providing Affordable Housing in Portsmouth (May 2012) | |