

<b>DECISION DATE</b> 18 December 2008	<b>APPLICATION NO.</b> 08/01246/RCN A5	<b>PLANNING COMMITTEE:</b>  <b>9 February 2009</b>
<b>DEVELOPMENT PROPOSED</b>  <b>APPLICATION TO REMOVE AFFORDABLE HOUSING CONDITION FROM REMAINING FLATS</b>		<b>SITE ADDRESS</b>  <b>MILLENNIUM HEIGHTS LUNE STREET LANCASTER LANCASHIRE LA1 2AT</b>
<b>APPLICANT:</b>  Mr S Kay Flat 1 14 Millenium Heights Lune Street Lancaster		<b>AGENT:</b>

#### **REASON FOR DELAY**

Awaiting assessment of current housing market conditions.

#### **PARISH NOTIFICATION**

N/A.

#### **LAND USE ALLOCATION/DEPARTURE**

There are no 'saved policies' relating to this site.

#### **STATUTORY CONSULTATIONS**

Strategic Housing

#### **OTHER OBSERVATIONS RECEIVED**

None

#### **REPORT**

This application relates to a development of residential flats for which planning permission was granted (04/00426/FUL) on 28th June 2004. The site was occupied by the former Red Cross Hotel and is situated in a prominent gateway location to the City alongside the A6.

At the time the planning application was considered there had been put in place a restraint on housing growth in Lancaster District resulting from the approval of the first Regional Planning Guidance for the North West. There was, at that time, sufficient provision in existing planning permissions for housing completions to meet the Lancashire Structure Plan targets which were surprisingly reduced in the

Regional Planning Guidance by the Secretary of State. In response the City Council produced Supplementary Planning Guidance which barred new permissions being granted apart from in exceptional circumstances which enhanced regeneration priorities in the District. The 'exceptions' policy to normal restraint was extremely successful over the subsequent five year period in steering the pent up demand for housing development to lower demand areas and unpopular regeneration sites. The formal period of restraint has now been lifted, though regeneration priorities still play a part in steering new housing to appropriate locations.

The planning permission granted for the Millennium Heights development was justified as an exception to the restraint policy on two grounds. The first was that it secured the redevelopment of a run down premises in a key gateway location and within a ward which suffered from significant economic and social deprivation. To help regenerate this area the scheme was designed to particularly encourage first time buyers from the upwardly mobile private housing market to relocate in this less popular location. The design of the building was contemporary and refreshing and would make a considerable aesthetic contribution to the appearance of this key gateway site into Lancaster.

In addition to the regeneration benefits the scheme was also intended to provide low cost housing for first time buyers in the form of market discounted housing restricted in accordance with the Supplementary planning guidance under the former Local Plan. That not only required a continuing reduction to the open market value on first and subsequent sales, but also restricted accessibility to those discounts to eligible persons as specified by the Council. This means people with restricted income levels and prevents speculators purchasing discount schemes. In the original permission the developers offered to provide all 22 flats at an affordable discount.

After prices were originally set at It became apparent that the developers were struggling to find sufficient 'eligible persons' to comply and that their original intention to provide 100% affordable housing was somewhat unrealistic. By a further application 05/00947/FUL they asked that the affordable housing restriction be removed from 50% of the units. Consent was granted on 17th October 2005 as it was accepted that (a) The primary reason for granting the exception to housing restraint was the physical regeneration of the site; and (b) the building was still providing a level of affordable housing beyond the normal 30% provision which was being negotiated on other schemes at that time.

An unfortunate side effect of the relaxation was a complaint to the Local Ombudsman by owners of the remaining affordable units that their homes were becoming unsellable because the remaining flats, now unrestricted and available on the open market, were competing to be sold at the same price as they had paid for their own discounted properties. The complainants found it difficult to accept that their own discounted homes had reduced in value to either because the original scheme was over valued in a competitive market, and by that time market values for flats were also beginning to reduce due to a level of over provision. The ombudsman did not find maladministration as a result of the Council's decision, but did comment that the existing property owners who had already purchased flats should have been consulted before the decision was made.

This application has now been made by the complainant on behalf of the remaining 11 owners to remove the affordable housing restriction from their properties. It has been submitted with letters from four mortgage lenders explaining that because of the restrictions on the re-sales of the properties they were not prepared to provide mortgages for them.

In current unprecedented market conditions issues relating to slow sales and reluctance of lenders to provide mortgages cannot be used as reasons alone to remove occupancy conditions. If there is a strong and reasonable reason for restrictions then they should stay in place. Even before the current credit crunch however, the use of restricted market discounts as a means of providing affordable housing in the District had been abandoned. Following the introduction of Supplementary Planning Guidance (SPG) 16 'The Phasing of New Residential Development' in the Summer of 2003, and certainly by 2005, the City Council had recognised that ever increasing house prices had meant that even properties with 20% market discount were beyond the reach of 'eligible' purchasers. Schemes for affordable housing were only being negotiated on the basis of social rent or equity share managed by Registered Social Landlords.

Current falls in market values should in theory bring properties with restricted market discounts back within the reach of 'eligible persons'. However one has to balance this against the near collapse of the traditional mortgage market and recognise that future lending trends seems to be showing a reluctance to lend against properties with restrained equity. New forms of affordable housing are already emerging as concepts and there is likely to a greater involvement by Housing Associations in equity share and first time buyer initiatives than ever before.

In this context it is considered that whilst there was a laudable objective in securing the original Section 106 Agreement securing affordable housing in this scheme, it was not the primary objective justifying the exception to the restraint policy. In addition that restraint on housing growth has now been eased and the evidence shows that discounted open market pricing is unlikely to continue to make a realistic contribution to assisting new first time buyers on the housing market after the credit crunch. In this Ward the maintenance of quality market housing and the prevention of properties becoming empty and unused should also a priority. In the event of repossessions (if any property owners found themselves in this unfortunate position) it is clear that it would be difficult to find new buyers or finance to support their purchase. This would not be in the public interest.

For this reason it is concluded that the affordable housing restrictions on the remaining properties should be removed.

### **HUMAN RIGHTS IMPLICATIONS**

This application has to be considered in relation to the provisions of the Human Rights Act, in particular Article 8 (privacy/family life) and Article 1 of the First Protocol (protection of property). Having regard to the principles of proportionality, it has been concluded that there are no issues arising from the proposal which appear to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

### **RECOMMENDATIONS**

That **PERMISSION BE GRANTED** for the removal of the restrictions in the Principle and Variation Agreements under Section 106 and 106A of the Town and Country Planning Act 1990 relating to Millennium Heights.