

Agenda Item A10	Committee Date 11 January 2016	Application Number 15/01355/VLA
Application Site Land To The Rear Of Burr Tree Cottage Long Level Cowan Bridge Lancashire	Proposal Variation of legal agreement attached to planning permission 15/00537/FUL to amend affordable housing provision	
Name of Applicant Mr Richard Morton	Name of Agent Mr James Ellis	
Decision Target Date 21 December 2015	Reason For Delay At the agent's request	
Case Officer	Mr Andrew Drummond	
Departure	N/A	
Summary of Recommendation	Refusal	

1.0 The Site and its Surroundings

- 1.1 The 0.54 hectare application site falls on the north east side of A65 close to the centre of Cowan Bridge. It comprises an agricultural field enclosed by a stone wall to the site's frontage, a disused railway embankment to the rear, Leck Beck to the north west and a further stone wall boundary to the south east (beyond which is the Fraser Hall). The field is undulating with a grass covering and benefits from a public right of way that runs across its north western edge to the top of the beck's bank. This edge also falls within Flood Zone 2, with a very small corner of the site within Flood Zone 3. The site falls within the District's Countryside Area, but just outside the Yorkshire Dales National Park extension (that will come into force next year). A Listed boundary stone is situated immediately outside the site on the grass verge to the A65, the Listed Cowan Bridge over Leck Beck is located adjacent to the site's western corner.

2.0 The Proposal

- 2.1 This application seeks to amend the legal agreement attached to the planning permission 15/00537/FUL for 18 residential houses in Cowan Bridge. The current legal agreement requires the provision of 7 affordable units (39% provision across the site) with a split of 3 social rented and 4 intermediate, but due to external factors affecting Registered Providers only 5 affordable (intermediate) units are now proposed, which equates to 28% provision across the site.

3.0 Site History

- 3.1 There have been 2 recent planning applications that relate to this site and the current proposal:

Application Number	Proposal	Decision
14/01052/FUL	Erection of 18 dwellings with associated access and parking	Withdrawn
15/00537/FUL	Erection of 18 dwellings with associated access and parking	Permitted

4.0 Consultation Responses

4.1 No comments have been received from statutory and non-statutory consultees, other than from Legal Services confirming that the legal agreement can only be altered by way a formal variation (Deed of Variation).

5.0 Neighbour Representations

5.1 No comments have been received.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework

The National Planning Policy Framework indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. At the heart of the NPPF is a presumption in favour of sustainable development (**paragraph 14**). The following paragraphs of the NPPF are relevant to the determination of this proposal:

Paragraph **17** - 12 core land-use planning principles
Paragraphs **50** and **54** - housing

6.2 Core Strategy

Policy SC4 – Meeting the District’s Housing Requirements

6.3 Development Management DPD

Policy DM41 – New Residential Dwellings

6.4 Other Material Considerations

Meeting Housing Needs Supplementary Planning Document

7.0 Comment and Analysis

7.1 National Background

The background to this proposal relates to external factors affecting Registered Providers at the current time, namely the summer Budget and the Housing and Planning Bill (the latter is at the second reading stage in the House of Commons). The announcements arising from the Budget and the Bill are a 1% reduction in rents year-on-year for 4 consecutive years, an extension to “Right to Buy” initiative and an introduction of the Starter Homes scheme. Whilst the decrease in income from rents is very clear cut, the other 2 schemes lack sufficient detail at this time for Registered Providers to be certain as to the impacts on their respective businesses, but based on the outline plans for each scheme/initiative it is likely that the impacts will be negative. Consequently Registered Providers are reviewing their business models – reconsidering elements of their operations that they have previously discounted and assessing whether to continue with elements that they are currently involved with. In the interim they are being very cautious about what they take on, and reducing the level of risk that they are willing to expose themselves to where developments are pursued.

7.2 Site Specific Background

The planning application 15/00537/FUL was approved by Planning Committee in June this year, subject to planning obligations and conditions. This was following an independent financial appraisal to ascertain what level of affordable housing could be achieved on the site. Based on the independent appraiser’s findings 7 affordable dwellings were deliverable (3 social rented and 4 intermediate housing), and this was duly reported to Members and endorsed by their decision to secure their delivery by way of a planning obligation set out in a Section 106 agreement. The applicant, landowner and the Council signed and completed the required legal agreement to this effect, and the decision notice granting planning permission was issued. However, the values used within the financial appraisal reflected the Registered Providers’ conditions in early 2015. As raised in 7.1, these conditions have changed. This coupled with the fact that this is a small residential scheme in a remote location (remote in terms of where most Registered Providers operate) has meant that the sum being offered by the only interested Registered Provider is less than what was envisaged.

7.3 Housing Mix

As a result, the applicant has come back to the Local Planning Authority with a revised offer of 5 intermediate rented units. The principle of seeking a variation to the tenure and overall level of provision is acceptable in the current market, but the extent of the changes sought are deemed insupportable. The viability of the scheme was subject to an independent assessment earlier this year, after which the applicant signed the required legal agreement to secure the planning permission for the site. The applicant is now stating that they never agreed to the independent appraiser's assessment, but signed the legal agreement to gain planning consent. However, even taking into consideration the lower offer from the interested Registered Provider 6 intermediate housing units are viable, especially when the original appraisal considered the build costs associated with 13 garages when only 8 are shown on the approved drawings. Furthermore, looking back at the information provided by the applicant over the last year, the financial value attributed to the land has incrementally increased on each version of the appraisal produced, so the Local Planning Authority is more than satisfied that land is being valued at a favourable level for the landowner to allow the site to be released for development. The applicant has provided further information to try and counter argue this position, but ultimately the land value for the landowner and the profit margin for a developer is viable. The Local Planning Authority accept that the provision of 7 affordable units is not viable, but deem that 6 is, which equates to 33% across the site. The proposal for 5 erodes the Council's affordable housing policy position at the expense of developer profit.

8.0 Planning Obligations

8.1 This report relates to one of the planning obligations attached to planning permission 15/00537/FUL, which is associated with affordable housing provision. The other obligation relates to ongoing public open space maintenance and managements, which can be financed through service charges levied on future occupiers of the open market houses.

9.0 Conclusions

9.1 The principle of varying the legal agreement is accepted. The circumstances surrounding affordable housing provision has changed in the last 6 months and as such the offer for affordable housing from a Registered Provider is less than previously envisaged. However, the applicant is seeking to reduce the obligation by providing only 5 affordable houses (all intermediate housing), which would effectively increase their profits. To maintain an acceptable level of profit from a scheme of this size whilst retaining the scheme's viability, the provision of 6 intermediate houses is deemed appropriate and feasible.

Recommendation

That the legal agreement attached to planning permission 15/00537/FUL **REMAIN UNVARIED** unless the applicant is willing to enter into a Deed of Variation to secure the delivery of 6 affordable houses (intermediate housing) on site rather than 7 (3 social rented and 4 intermediate housing).

Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015

In accordance with the above legislation, the City Council can confirm the following:

Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

Human Rights Act

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude 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.

Background Papers

None.