

Town and Country Planning Act 1990

Appeal under Section 78(1)(a) by Bloor Homes and Sandleford Farm Partnership

Sandleford Park, Newbury

APP/W0340/W/20/3265460

LPA Reference: 20/01238/OUTMAJ

Final Affordable Housing Statement of Common Ground

West Berkshire District Council and the Appellants agree the following in respect of affordable housing provision:

Core Strategy

1. Policy CS3 of the Core Strategy requires the provision of at least 40% of the dwellings at Sandleford Park to be affordable housing;
2. Policy CS6 seeks by negotiation the provision of 40% affordable housing on greenfield sites of more than 15 dwellings and “a tenure split of 70% social rented and 30% intermediate affordable units”. Any lower level of affordable housing would need to be justified by a viability assessment.

Sandleford Park SPD

3. The Sandleford Park SPD refers to Policies CS3 and CS6 of the Core Strategy and requires at least 40% affordable housing (pages 5 & 51). “Extra care housing ... could be provided as part of this requirement” (Page 51).

Planning Obligations SPD

4. TP – 1 Affordable Housing. “This Topic Paper sets out how the Council will deal with planning applications where the provision of affordable housing will be required”. It “acts as supplementary guidance to Policy CS1” and CS6 of the Core Strategy (Page 14). Paragraph 1.30 states: “to ensure satisfactory integration, affordable housing on new developments should be fully integrated within the general market housing. The Council expects affordable housing to be ‘pepper potted’ throughout a development. Where practicable, this means that affordable housing should be in groups of not more than 5 dwellings at any single location within the development. This approach is fully consistent with Government policy.”

Unilateral Undertaking

5. The *travelling draft*¹ of the Unilateral Undertaking includes the following obligations/covenants:

¹ The most recent version is referenced: *Council Draft 30 April 2021 to be read alongside Council's Solicitor's comments in covering email to the Appellants' solicitor dated 30.04.2021 and sent at 16:57 hrs.*

Quantum

6. Unless otherwise agreed by the Council in writing, the Appeal Scheme will provide:
- a) at least 40% of the Residential Units within the Development as Affordable Housing Units;
 - b) 70% of the General Affordable Housing Units as Social Rented Housing and 30% of the General Affordable Housing Units as Intermediate Housing;
 - c) 70% of the Extra Care Housing Units as Social Rented and 30% of the Extra Care Housing will be Intermediate Housing²;
 - d) the General Affordable Housing Units in accordance with the Target Housing Mix (which is in accordance with the Council's Strategic Housing Market Assessment).

Affordable Housing Scheme

7. For each Phase of the Development an Affordable Housing Scheme shall be submitted for the approval of the Council. Each Affordable Housing Scheme will include details for that Phase:
- a) the residential mix,
 - b) the location of the Affordable Housing Units, pepper potted throughout the Phase area and in clusters ranging from 5 to a maximum of 12 units, depending on size, mix and tenure, unless otherwise agreed in writing by the Council
 - c) the tenure mix is 70% social rented and 30% intermediate, unless otherwise agreed in writing by the Council
 - d) the triggers for the delivery of the affordable housing units, to ensure that no more than 80% of the open market units in a phase have been completed and occupied until all the affordable housing units in that phase have been completed and are available for occupation³
 - e) the Intermediate Housing Scheme, and
 - f) the Intermediate Rent Scheme, which should not exceed 5% of the overall number of affordable units or 1/6th of the intermediate units, as at least 5/6ths of the intermediate units must comprise affordable home ownership to satisfy the minimum 10% requirement in NPPF paragraph 64.
8. Only with the approval of the Council will tenure of affordable housing set out in 9(b) and 9(c) be capable of being different. The Appellants cannot unilaterally pursue a different approach towards affordable housing provision.
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Extra Care Housing

9. The Extra Care Housing shall comprise 70no 1-bed flats and 10no 2-bed flats and will be located in Development Parcel Central. Although the Council do not consider it necessary, the Council do not object to the principle of the Extra Care, are not opposed to the Extra Care Cascade, and wish to see this in the UU should the Appellants propose this. The tenure mix should be 70% social rented and 30% intermediate, unless otherwise agreed be the Council.
10. The owners shall enter into an agreement with an Extra Care Provider who shall prepare an Extra Care Scheme that will be submitted with the relevant Reserved Matters Application (DPC).
11. In the event the owners are not able to conclude an agreement with an Extra Care Provider in respect of part or the whole of the extra care units, within 24 months of the commencement of development, and subject to them providing evidence to the Council to demonstrate the endeavours taken to conclude such an agreement, the Extra Care Affordable Housing may become General Affordable Housing and would be subject to the General Affordable Housing Schemes referred to at para 7.⁴ In this scenario, the overall requirement of 40% affordable housing and the General Affordable Housing Mix, Tenure, Clustering and Phasing obligations would apply.

Phased Provision

12. In the event the Extra Care Housing is provided, each phase of the development shall provide between 30% and 40% of the residential units as General Affordable Housing in accordance with the relevant Affordable Housing Scheme. The Council will not approve an Affordable Housing Scheme if it provides less than 40% when the average provision across the previous approved Phases is less than 40%; this is to provide an appropriate reconciliation throughout the development process.
13. In the event the Extra Care Housing is not provided, each phase of the development shall provide between 35% and 45% of the residential units as General Affordable Housing in accordance with the relevant Affordable Housing Scheme. The Council will not approve an Affordable Housing Scheme if it provides less than 40% when the average provision across the previous approved Phases is less than 40%; this is to provide an appropriate reconciliation throughout the development process.

Cascade

14. *From Social Rented Housing, Affordable Rented Housing or Shared Ownership Housing to Intermediate Housing:* The owner is only permitted to cascade from Social Rented Housing, Affordable Rented Housing or Shared Ownership Housing to Intermediate Housing with the approval of the Council and such approval shall only be provided where the owner has provided to the Council reasonable evidence of efforts made to conclude an agreement with a Registered Provider and has provided

⁴ This principle is set out in the Housing Development Officer's response to the planning application (dated 5th August 2020) (CD2.29)

a full open book viability assessment using an agreed toolkit demonstrating that such units are unviable and setting out a proposal as to what tenure or combination of tenure would be viable.

15. *From Intermediate Housing to Market Housing*: The owner is only permitted to cascade from Intermediate Housing to Market Housing with the approval of the Council and such approval shall only be provided where the owner has provided to the Council reasonable evidence of efforts made to conclude an agreement with a Registered Provider and has provided a full open book viability assessment using an agreed toolkit demonstrating that such units are unviable and setting out a proposal as to what tenure or combination of tenure would be viable and subject to the payment of the Affordable Housing Commuted Sum.
16. It is agreed that, in these terms, the approach to affordable housing would be acceptable and would accord with Policy CS6 of the Core Strategy.

Designated Protected Area

17. Notwithstanding that the part of the Appeal Site within Greenham Parish, is within the Greenham Designated Protected Area⁵, the restriction that this designation could apply in terms of the acquisition of equity shares, is not appropriate for the scale of development proposed and a waiver can be applied in this instance. A waiver needs to be given by Homes England and the Council will make such an application on behalf of the owners Accordingly, references to the DPA have been removed from the from the s106.

Grant

18. Whist the General Affordable Housing Need shall be provided with nil grant, the owners shall not be prohibited from seeking grant for the provision of the Extra Care Housing.

Matters not agreed

19. Subject to the drafting of the text in the S106 Unilateral Undertaking reflecting the above, there are no matters in dispute between the Council and the Appellants in respect of Affordable Housing and the Appeal Scheme would accord with Policy CS3 and CS6 of the Core Strategy in respect of this matter.

Mr Nikolaos Grigoropoulos and Ms Lynn Robinson on behalf of West Berkshire Council

Mr Owen Jones on behalf of the Appellants

20th May 2021

⁵ Regulations are in place to ensure that rural affordable housing – specifically grant-funded shared ownership properties - remains in the ownership of local people. Where that is the case, providers are required to offer grant-funded shared ownership properties with a lease that contains provisions either: i) to restrict staircasing to no more than 80%; or ii) that in instances where the leaseholder is permitted to acquire more than 80% (i.e. up to full ownership), then there is an obligation on the landlord (or a designated alternative landlord) specified in the lease that commits them to repurchase the property when the leaseholder wishes to sell.