

Committee Update - HW/REM/19/00494 - CP2B, CP2, Barnfield Way, New Hall

Additional representation received - Applicant

Reviewed the report and comment as follows:

Affordable Housing – A summary viability assessment was submitted with the s106 submission.

Condition 1 – This proposed condition does not make sense. There is no section within a Reserved Matters application form that requires the materials to be set out in detail, this level of information is only required within a full planning application form. Full details of the materials are contained within the material strategy plan. Should this condition be amended?

Condition 3 – This reiterates condition 14 of the outline permission. We are also not sure what is being referred to in respect of marked out, you will note that Newhall avoids lines and markings and uses materials to delineate the spaces. The condition is considered to be surplus.

Condition 4 – This re-iterates the content of outline permission condition 8 and is therefore surplus.

Condition 5 – I am not sure why we need a condition listing the plans, as a s73 is not possible against a REM submission. If this is a necessity, can you confirm that the condition will list all the plans?

Officer response

Affordable Housing - There is a separate legal agreement submission which relates to the affordable housing contribution for this tranche of development. The submission indicates that there is only viability for 15% of the properties to be provided as affordable housing. This is below current Policy requirements for 30% affordable housing, nonetheless it is in line with the minimum indicated in the legal agreement as being appropriate for the Newhall Neighbourhood and, as it has been considered acceptable elsewhere across the area, is therefore considered to be acceptable for this tranche of development.

Condition 1 – As the outline scheme did not include appearance, while a general palate of colours and materials were agreed, this scheme does have a material not within the general palate – black brick. It is therefore not unreasonable that the proposed materials for this tranche of development are conditioned to be provided in accordance with the details submitted. It is however proposed to amend proposed wording to refer to the Material Strategy Plan, as follows:

- 1. The external facing materials (including for windows and doors) to be used in the construction of the development hereby permitted shall be those materials specified on the Material Strategy Plan submitted in relation to the development hereby permitted, unless alternative materials are proposed. Where alternative materials are to be used, no development shall commence before details of those alternative external facing*

(including windows and doors) and roofing materials to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Where materials other than those materials specified on the Material Strategy Plan are agreed in writing by the Local Planning Authority, the materials agreed shall be those used in the development hereby permitted.

REASON: In the interest of visual amenity and to accord with policy BE1 of the Adopted Replacement Harlow Local Plan, July 2006

Conditions 3 and 4 – The outline scheme did not include access, appearance, layout, scale or landscaping for each tranche of development.

Condition 8 of outline approval HW/PL/04/00302 reads as follows:

“All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings within each phase of the development hereby permitted”

Landscaping details are provided with this reserved matters application (rather than under an earlier related condition) and it is therefore appropriate and necessary for a condition to require the implementation of the planting scheme in accordance with plans submitted with this application for approval.

Condition 14 of outline approval HW/PL/04/00302 reads as follows:

“The garage or parking area shall be provided and maintained for the benefit of occupiers of the attached residential accommodation for the parking of vehicles and no trade or business shall be carried out therefrom.

REASON: Any other use of the garage or business use would not be acceptable”

It is reasonable that conditions are attached to secure areas for parking and turning as part of the reserved matters approval. However, it is noted that there are no on-street markings for parking areas within Newhall and it is agreed that proposed Condition 3 can be amended to remove reference to markings, as follows:

3. *All parking areas shall be hardsurfaced and sealed. All vehicle parking and turning areas shall be identified through the use of differentiating materials as specified and retained for that purpose.*

Reason: In the interests of Highway Safety

No change to proposed condition 4.

Condition 5 - The recent Court of Appeal decision, R (on the application for Fulford Parish Council) v City of York Council [2019] EWCA Civ 1359, provides authority for both non-material amendments to reserved matters approvals (RMAs) (save for the extension of time) and for the conditional grant of RMAs. The Judgement makes it clear that there is scope for the attachment of, and the amendment of, conditions attached to a reserved matters approval either through S73 (minor material amendments) or S96A (non-material minor amendments).

Recommendation

The recommendation is that the application be **APPROVED** subject to: the revised conditions 1 and 3 set out above; and conditions 2, 4 and 5 as set out in the published report.