6th October 2020

Bob Pedlar
North Devon District Council
Lynton House
Commercial Road
Barnstaple
Devon
EX31 1DG

Dear Mr Pedlar,

60385 ERECTION OF 17 DWELLINGS (3 BUNGALOWS & 14 HOUSES) LAND ADJ. PEARLDEAN, WEST DOWN

You have asked us to independently assess the viability report provided by the applicant on the above planning application and provide any advice we may have that would help you in determining your approach to this site. In this regard we have been provided with the following information:

- The Turley viability report on behalf of the applicant dated July 2020
- The development account provided by the applicant received September 2020
- Further information from the Parish Council including their report dated June 2020
- Correspondence from Mr S Bryant in relation to the scheme dated 15th September 2020

Policy context

The Council should first be aware of the national policy context of this assessment. An applicant has no right of renegotiation of a section 106 agreement on viability grounds without an accompanying planning application. Indeed Planning Practice Guidance on Viability states:

"As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer, but to strengthen local authorities' ability to seek compliance with relevant policies over the lifetime of the project."

The Council should therefore be advised that any potential renegotiation is voluntary on their part and even after receiving my advice are not obliged to reduce or amend the 106 requirements. The applicant has no right to appeal the Council's decision.

Having said that, voluntary renegotiation of section 106 agreements in order to facilitate the delivery of housing is not unusual. What is unusual in this instance is that the viability of the development has not prevented its delivery. We have been advised by the applicant that all costs related to the development have now been incurred and we understand that the development is effectively already delivered. The purpose of this exercise then does not appear to be to facilitate this development but to determine what level of profit the developer should receive and what level of community contribution is to be paid.

Correspondence from the Parish Council and other local parties

We have read through the correspondence that we have been provided from interested local parties and from this correspondence is appears that the development has experienced significant delay. We are not provided with any narrative explanation of the viability challenges experienced by the developer either from themselves or from their agent Turley although a number of the local parties provide various examples of what they consider to be mismanagement. We have not been asked to provide an opinion on the management of the development nor would we wish to speculate however it is clear from Mr Bryant's correspondence that there was an initial intention to deliver the development of 17 dwellings by the end of 2018, an ambitious but achievable development target of 14 months.

Turley Viability Assessment

The Turley viability assessment states that:

"4.2 The Development represents a consented planning application for the construction of 18 dwellings, comprising a mix of 2,3 and 4 bed houses and 3-bed bungalows."

This is not quite accurate. The Development as assessed by Turley represents two separate planning applications for 17 dwellings under application 60385 (amended 64125) and a single dwelling under application 65925. It is only the 17 dwelling application that is subject to the section 106 agreement and we would normally expect that it is only this element that would be subject to review.

We understand that the 18th plot was purchased for £100,000 and the completed unit is on the market for £299,950. An apportionment of build costs, finance and professional fees for this unit would be in the region of £180,000 to £200,000 and therefore it is reasonable to conclude that this unit in isolation provides a viability drag at target profit levels over about 5%. Turley have perhaps adjusted for this by using an overall benchmark and value of £807,390 for all 18 units when we understand the reality was the 17 units were £775,000 and the 18th unit £100,000 so £875,000 overall.

Assessment of scheme profitability

The Council may wish to understand whether or not the applicant will be making super normal profits if they were to allow the removal of the 106 agreements. We have considered the evidence provided and made some adjustments to Turley's figures and can conclude as follows:

We are of the opinion that should the Council allow the developer to not provide the affordable dwellings and only £118,201 of 106 contributions they will have made a profit (on the 18 dwellings) of around £900,000 or 13.5%.

What constitutes a reasonable profit in this scenario is up for debate. Planning Practice Guidance on viability suggests that for a site at planning stage a profit of between 15-20% is appropriate. This is a reflection of the risk involved in bringing a site from pre-planning through to sale. The risk to the developer at this late stage of development is many times lower than it would have been 3 years ago when they started the process. Furthermore, we have considered the developer's actual costs and these actual costs include all their realised development risk such as unexpected ground conditions or sub-contractor cost overruns. It is not reasonable for a developer to expect the LPA to allow them to reduce their obligations based on their realised risks *and also* allow them a profit level that is equivalent to a maximum risk scheme.

In this scenario we are at the post construction phase where all prior risks have been realised and the only remaining risk is sales risk on approximately 2/3rd of the dwellings. My view would be that at this stage the absolute maximum profit that the Council should be enabling would be 10% or circa £600,000. This would allow for a further £240,000 of 106 contributions taking the total to £360,000. Alternatively the Council could seek a number of plots, for example plots 4 and 5, to be affordable plus the £118,201 and this would still result in a developer profit of circa 10%.

Conclusion

We do not consider that the Council is obliged to review the viability of the development at this stage and any failure by the developer to achieve their profit targets is not the responsibility of the Council. However, should the Council wish to renegotiate the section 106 agreement our recommendation would be that they seek no less than £360,000 of section 106 contributions or two affordable dwellings and £120,000 of other section 106 contributions.

Yours sincerely,

Joe McCarthy
Development Viability Officer
Plymouth City Council
West Hoe Road
Plymouth
PL1 3BJ

Land at Pearl Dean
West Down
PCC Review

Development Appraisal
Prepared by JM
PLymouth City Council
15 October 2020

Land at Pearl Dean
West Down
PCC Review

Summary Appraisal for Phase 1

Currency in £

REVENUE					
Sales Valuation	**Units**	**ft²**	**Rate ft²**	**Unit Price**	**Gross Sales**
Open Market plots	16	20,493	298.94	382,886	6,126,177
Affordable Plots 4&5	2	1,608	121.88	97,992	195,983
Totals	**18**	**22,101**			**6,322,160**
NET REALISATION				**6,322,160**	
OUTLAY					
ACQUISITION COSTS					
Fixed Price			875,000		
				875,000	
Stamp Duty			52,000		
				52,000	
CONSTRUCTION COSTS					
Construction	**ft²**	**Rate ft²**	**Cost**		
Open Market plots	20,493 ft²	122.51 pf²	2,510,597		
Affordable Plots 4&5	1,608 ft²	122.51 pf²	196,996		
Totals	**22,101 ft²**		**2,707,594**	**2,707,594**	
Road/Site Works			1,338,064		
				1,338,064	
Municipal Costs					
S106 Planning Obligations			118,201		
				118,201	
PROFESSIONAL FEES					
Professional Fees			153,477		
				153,477	
DISPOSAL FEES					
Sales Agent Fee		2.00%	122,524		
Sales Legal Fee	16 un	750.00 /un	12,000		
				134,524	
Additional Costs					
Finance Costs			350,000		
				350,000	
TOTAL COSTS				**5,728,859**	
PROFIT					
				593,301	
Performance Measures					
Profit on Cost%		10.36%			
Profit on GDV%		9.38%			
Profit on NDV%		9.38%			
IRR		Infinite			