

Observation from Castle Cary Town Council re: 19/02353/DPO
Wayside Farm Ansford Castle Cary

The Issues

1. The s106 agreement, dated 13 October 2016, requires the developer to provide

- a. 35% of dwellings to be affordable
- b. Monetary contributions totalling £912,955 as at the date of the agreement, as set out in Appendix 6 of their application

The developers claim that their scheme is not viable and that they wish to reduce the amount of s106 money to be paid to the community by over £400k.

They claim that the overspend is partly due to conditions such as the construction of a foot path to the industrial estate and the addition of Cary stone details to some of the houses.

Furthermore they state that their intention is to make all 125 dwellings “affordable” (42 shared ownership, 23 rent-to-buy and 60 affordable rented), though this intention is not converted into a commitment within the proposals to vary the s106 agreement.

2. This application went to appeal, and the inspector effectively ruled that the following contributions were not in accordance with government policy and should not be enforced:

- Sums for ongoing maintenance of changing rooms, youth facilities, play areas and pitches, totalling £112,195
- The Theatre and Arts contribution towards upgrading the Westlands Entertainment Complex, amounting to £37,615.

3. At the same time, the inspector confirmed (Appeal decision para 16) his view that the other contributions set out in the agreement, relating to capital expenditure on new or extended facilities were in accordance with Local Plan policy HW1 and were justified. He went on to conclude (in para 19) that the contributions were “necessary to make the development acceptable in planning terms” and met all the relevant regulatory requirements

4. Some contributions are required to be paid before development commences and the developer has already paid:

- 50% of the education contribution, £175,088 (plus indexation, hence actual sum paid was £190,340.33)
- Travel plan sums totalling £38,250.00

5. This leaves a total of £549,847 (plus indexation) still to be paid.

6. The letter of application states that they are prepared to pay the capital sum for the “Equipped Play Contribution”, amounting to £97,635, and for all the travel plan requirements, the balance of which is £50,950. A total of £148,585.

7. They are not prepared to pay any of the other contributions, i.e. the remaining 50% of the education sum, and the sums relating to changing rooms, community hall and youth facilities, and play area and playing pitches, the total sum apparently being £401,262 (i.e. £549,847 minus £148,585).

8. Against this, the application letter says the proposal will still provide “meaningful public benefits” including:

- a. the developer’s intention to provide 125 affordable dwellings, instead of the s106 requirement of 44, i.e. all dwellings on the site will be “affordable”
- b. Large areas of formal and informal public open space down at the far end of the site mainly accessible only to those who live on the site;
- c. A significant contribution towards education provision which has already been made.

The views and comments of Castle Cary Town Council are:

9) We believe that to put 125 affordable houses on one site is not good practice, even with the range of affordable tenures proposed. A more mixed variety of housing would lead to a more rounded community. Given that the adjacent development has many affordable houses, it would be perfectly reasonable to stick with the 35% required number.

10) If it is being suggested that 81 additional affordable dwellings is an acceptable counterbalance to the loss of over £400k of contributions, primarily for education but also for community hall, youth and play facilities, we do not agree that this is a desirable trade-off. The County Council has already said that they object to losing half their contribution towards a new school.

11) The saving of £400k is fairly trivial compared with the reduction in development value – perhaps in the order of £10million - which the developer is voluntarily accepting by developing the whole site for affordable housing rather than simply providing 35% affordable in accordance with the agreement. If they can afford to lose £10million, how come they can't afford to lose £10.4 million? Alternatively, if there really is a requirement for the scheme to save £400k, there is no obvious reason why this amount, or a greater sum, could not be recovered by selling an appropriate number of the developed houses on the open market.

12) The application is accompanied by viability assessments intended (we assume) to demonstrate that the scheme is not viable unless the s106 payments are reduced. What they purport to show is that the scheme is not viable even if the s106 payments are reduced **and** the proportion of affordable housing is kept to the minimum 35% as required by the agreement. The application letter goes on to state that “it is self-evident that the viability deteriorates where a higher proportion of affordable housing is provided which, as a Registered Provider, is Stonewater’s objective”. If the scheme is, as the assessments seem to show, so catastrophically not viable, it is extremely puzzling that they have started at all, and even more puzzling that they have started without the reassurance that the s106 agreement would be modified as they are now requesting. Or to put it another way, they knew what they were in for when they started, so why are they **now** trying to save a mere £400k?

13) Appendix 1 “Market Land Value Assessment” seems to follow the standard spreadsheet approach which developers use to calculate what they should pay for the land. As with all calculations of this type it can be quite sensitive to the assumptions which are made, and the printout provided at Appendix 1 helpfully shows all the input assumptions highlighted in yellow.

- a. The first assumption is the expected sale price of the houses built: for example, looking at the first line of the table after the heading “Development Value”, this shows that plot no 1 is a 4-bedroom house (type J) measuring 130.1m², with an expected sale price of £2921 per m², giving a calculated sale price of £380,022.10. Similar calculations are done all the way down the table and different assumptions appear to be made for each plot about the figure for sale price per m². This seems a bit odd. However, Appendix 3 provides a “Schedule of Sales

and Rental Values”, which shows that a Type J 4-bed house of 130.1m² is valued at £380,000. The source and calculation basis of Appendix 3 are not stated but it does seem that the sale price figures apparently calculated in Appendix 1 are actually based on those in Appendix 3, and that the “sale price per m²” figures are not really “inputs” at all. This might not matter were it not for the fact that Appendix 3 is clearly dated April 2018 and Appendix 1 is dated 5 May 2020.

b. It therefore seems that the estimated sale price of the houses, and hence the total development value of the site, is actually based on values which are two years out of date. We don’t know how the market has moved in that time, let alone in the last few exceptional months, but this does raise important questions about the validity of one of the most important figures in the whole table. The District Valuer will no doubt provide a professional assessment but, for the sake of argument, suppose that the sale price of each house was £10,000 more than shown in the table, not a lot to ask perhaps, but with 125 houses on the site that would increase the development value by £1,250,000.

c. Even setting all that aside, and allowing that the table contains reasonable assumptions throughout, the outcome of the calculation is that the price that should have been paid for the land is £2,480,000. We are then told that the price that was actually paid was £3,605,000, leading to what the table calls a “deficit” of £1,125,000. Not so much a deficit as a big error. An alternative interpretation of the figures might be to suggest that they paid too much for the site.

d. Our conclusion from all the above is that Stonewater were willing to pay substantially more for the land than their own assessment suggests they should have done, and they are now seeking to recover some of this by reneging on their contractual obligations to the local community. Alternatively, it might well be that there isn’t a “deficit” at all because they have undervalued the houses and there is no basis for requesting a reduction in the s106 payments. Either way, the local community is the one that loses out.

14) We note that Appendix 2 does the same calculation as Appendix 1 in a slightly different way but comes up with a different answer. This seems to be largely because the developer’s profit has been incorrectly calculated,

using the development value of the whole site rather than using the value of the open market housing only.

Summary

Overall, however one looks at the proposal to vary the agreement, the implications are that it would result in a serious loss of essential community facilities which does not seem to be justified by the evidence provided. Effectively we are being asked to accept that contributions which the Inspector concluded were "necessary to make the development acceptable" are no longer necessary, thereby landing us with a development which would be unacceptable - to the inspector, to us and to our community.

We therefore strongly object to any reduction in the s106 payments to the community, although we are prepared to accept the appeal Inspector's conclusion on that allocated for maintenance.

We also accept the Inspector's conclusion regarding the sum allocated to the Westland Entertainment Complex, but request that the sum allocated to Westlands should be added to the sum payable for Community Hall Facilities Contribution. This would provide much-needed additional funds for ongoing improvements to Caryford Community Hall, and we draw attention to the importance we give to that facility in our Neighbourhood Plan (NP Policy INF3 and para 10.7).

In addition, regarding the Travel Plan, we feel that any monies not used if travel vouchers are not claimed by new residents, should be given to support the local CAT Bus (community accessible transport) and not be returned to the developer.

We wish to express our concerns about the developer's intention to develop the site entirely for affordable housing; whilst affordable housing is always to be welcomed in principle, we do not regard such a large development to be in the best long-term interests of our community.

The application letter invites discussions with the Local Planning Authority: since the proposal has such significant long-term implications for the local community, we would wish to be represented in the event of such discussions taking place.

Ends