

TWC/2016/0816

Royal Victoria Hotel, St Marys Street/16 & 17 Water Lane, Newport, Shropshire
Conversion of hotel into 7no. Apartments, two and three storey rear extension to hotel, erection of 21no. terraced dwellings with associated parking and landscaping and the demolition of 16 and 17 Water Lane

APPLICANT

Hawk Developments (UK) Ltd

RECEIVED

06/09/2016

PARISH

Newport

WARD

Newport North and West

1.0 PURPOSE OF THIS REPORT

- 1.1 The purpose of this report is to seek a Deed of Variation (DoV) of the s.106 Agreement, insofar as it relates to Royal Victoria Hotel, St. Marys Street, Newport (Planning Permission ref.: TWC/2016/0816), to remove an obligation to provide Commuted Sums in respect of Education and Recreation as part of the approved development, namely:
1. Education Contribution of £72,070; and
 2. Recreation Contribution of £16,800.
- 1.2 The Applicant has, on two separate occasions has submitted evidence to the LPA to demonstrate that bringing the site forward is not viable and has requested the obligations for commuted sums be removed. This was as part of planning application ref.: TWC/2021/0401 relating to an initial development for 15 apartments and latterly updated to 17 apartments. On each occasion this information has been reviewed by an Independent Assessor to verify the information to be a true reflection and accurate. The Applicant is therefore seeking Members approval to remove the obligation to provide the referenced Commuted Sums on the site.
- 1.3 Section 106A of the Town and Country Planning Act sets out the procedure for dealing with requests for modification and discharge of a s.106 Agreement. Where a formal application is made and formal consultation takes place, the Council can refuse a request and there is a right of appeal in respect of a refusal. Where it no longer serves a planning purpose, the Council can agree to discharge the obligation(s).
- 1.4 This application is supported by an explanatory letter in support of their request for the Deed of Variation, available for public view [[view Royal Victoria Request for Deed of Variation](#)].

2.0 PLANNING HISTORY

- 2.1 Planning Permission ref.: TWC/2016/0816 (and associated Listed Building Consent (LBC)) was Granted on 24 April 2017 for '*conversion of hotel into 7no. Apartments, two and three storey rear extension to hotel, erection of 21no. terraced dwellings with associated parking and landscaping and the demolition of 16 and 17 Water Lane*' at the Royal Victoria Hotel, St. Marys Street, Newport.
- 2.2 The s.106 Agreement, dated 24 April 2017 secured the obligation of the developer to provide:
1. Education Contribution of £72,070; and
 2. Recreation Contribution of £16,800.
- 2.3 A subsequent Planning Permission ref.: TWC/2018/0022 and associated LBC was Granted on 05 June 2018 for the '*demolition of rear extension and conversion of hotel into 12 no. Apartments*' at the Royal Victoria Hotel, St. Marys Street, Newport.
- 2.4 A further Planning Application, ref.: TWC/2021/0401, is currently pending consideration in respect of the '*conversion and extension of former hotel into 17no. Apartments, including retention of existing façade, associated works and partial demolition*' at the Former Royal Victoria Hotel, St Marys Street, Newport.
- 2.5 As part of the consideration of Application, ref.: TWC/2021/0401, the Applicant has, on two separate occasions, submitted viability evidence to demonstrate that bringing the site forward is not viable with an Obligation to provide the Commuted Sums. This has been reviewed by the Council's Independently Appointed Viability Consultant, CBRE to determine whether the Applicant's proposition is fair and reasonable and establish whether the assumptions made within the submitted evidence are acceptable and can be relied upon in determining whether the scale of development is justified on the grounds of financial viability.

3.0 PLANNING POLICY CONTEXT

3.1 National Guidance:

National Planning Policy Framework (NPPF), March 2021

3.2 Telford & Wrekin Local Plan (2011-2031)

HO5: Affordable Housing Thresholds and Percentages

HO6: Delivery of Affordable Housing

4.0 SUMMARY OF CONSULTATION RESPONSES

4.1 The Council has, on two separate occasions, had evidence provided by the Applicant to demonstrate that bringing the site forward is not viable with an Obligation to provide the Commuted Sums. This information has been independently assessed by an external consultant, who has most recently concluded that, with the omission of the Commuted Sums, the proposed development of the site is financially viable, albeit acknowledging that the financial viability is relatively finely balanced. However were the Commuted Sums payable to be included, this would in turn not provide the appropriate return to the developer in terms of the NPPF requirements when assessed against the appropriate developer return identified by CBRE for the proposed development of the site, as a result of the relatively significant constraints and abnormal works costs associated with the Grade II Listed façade retention and the ambitious Gross Development Value (GDV) adopted by the Applicant.

4.2 Neighbour Consultation

None.

5.0 BACKGROUND

5.1 Town Centre Properties (UK) Ltd, has already completed the land transfer of the 21 Mews Houses to Wrekin Housing Trust as a 100% Affordable Rental Scheme. This development is now considered, for the most part, to be complete and pending imminent occupations. In December 2018, the Applicant's primary funder was placed into administration, and placed in a position of having to re-pay borrowings with a half-completed development with no immediate finance to complete the development – resulting in a substantial loss for the development, which is evidenced within the submitted viability evidence.

5.2 Accordingly, The Applicant is seeking the Council's agreement to remove the s.106 commuted sum obligations from this development which relate to an Education Contribution of £72,070 and a Recreation Contribution of £16,800.

6.0 PLANNING CONSIDERATIONS

6.1 Having regard to the Development Plan Policy and other material considerations including comments received during the consultation process, the planning application raises the following main issue(s):

- Policy Guidance
- Consideration of Viability Position
- Other Considerations

6.2 Policy Guidance

6.2.1 The NPPF confirms that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision taking. Para. 58 of the NPPF states *'where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'*

6.3 Consideration of Viability

6.3.1 In support of the application, viability evidence to demonstrate that bringing the site forward is not viable with a Financial Contribution to provide the Commuted Sums in respect of Education and Recreation has been submitted by the Applicant which has been independently assessed by CBRE acting on behalf of the Council.

6.3.4 Officers accept the Applicants justification that the s.106 Agreement as approved is now unviable and needs to be reconsidered for the applicant as a willing developer to bring the site forward. It should also be noted that this is in relation to the most recent application for 17 apartments, noting that the original 2016 application for the conversion of the hotel to form 7 apartments will have a considerable and significantly reduced level of return and viability as a result of the net difference of ten residential units. There are no other obligations to renegotiate and as such, the only option is to consider the omission of the Commuted Sums. The Applicant has demonstrated that with the omission of the Commuted Sums, the proposed development of the site is financially viable, albeit acknowledging that the financial viability is relatively finely balanced. However were the Commuted Sums payable to be included, this would in turn not provide the appropriate return to the developer in terms of the NPPF requirements when assessed against the appropriate developer return identified by CBRE for the proposed development of the site, as a result of the relatively significant constraints and abnormal works costs associated with the Grade II Listed façade retention and the ambitious Gross Development Value (GDV) adopted by the Applicant.

7.0 CONCLUSION

- 7.1 Following review of the Viability Evidence, it is concluded that the provision of the Commuted Sums is not viable. It is acknowledged by CBRE that the omission of the Commuted Sums is accepted.
- 7.2 Given the above, Officers consider that the benefits in terms of allowing the site to come forward will significantly and demonstrably outweigh the harm brought about by the omission of Commuted Sums and as such, it is recommended that the application to vary the s.106 Agreement is approved.

8.0 RECOMMENDATION

- 8.1 That the Deed of Variation to the s.106 Agreement to remove all required commuted sums be Approved.