
Report of the Chief Planning Officer

NORTH AND EAST PLANS PANEL

Date: 7th April 2016

Subject: 15/07209/FU - Demolition of existing buildings and erect part 3 and part 4 storey later living retirement housing accommodation, with 41 residential units, communal facilities, landscaping and car parking, Land and buildings adjacent to Devonshire Lodge, Devonshire Avenue, Roundhay, Leeds

APPLICANT

McCarthy and Stone
Retirement Lifestyles Ltd

DATE VALID

2nd December 2015

TARGET DATE

2nd March 2016

Electoral Wards Affected:

Roundhay

☐ Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

RECOMMENDATION: Defer and Delegate approval to the Chief Planning Officer subject to the conditions specified below and any others considered necessary and the completion of an agreement under Section 106 of the Town and Country Planning Act to secure an off site contribution to be directed towards affordable housing of:

£360,000 at 90% of occupation of the units

In the circumstances where the Section 106 Agreement has not been completed within 3 months of the resolution to grant planning permission the final determination of the application shall be delegated to the Chief Planning Officer

- 1 Standard 3-year Time limit
- 2 Plans Schedule
- 3 External Materials to be agreed
- 4 Drainage details to be agreed
- 5 Standard land contamination conditions
- 6 Provision of 2 metre wide footway to car park
- 7 Surfacing of car parking, footpath link(s) and walkway around building
- 8 Protection of existing tree and vegetation

- 9 Landscape implementation and management
- 10 Age limit on occupiers restricted to 60 years and above.

1.0 INTRODUCTION

- 1.1 Members will recall that they have previously considered this proposal when there was a shortfall in the affordable housing contribution to be policy compliant. (Reference 13/03606/FU). At that time, members were in agreement with officers that in all other respects the proposal was considered acceptable. That scheme was pre CIL and was the subject of an appeal which was dismissed and a subsequent High Court challenge by the applicants which was subsequently withdrawn. A costs award against the Council was subsequently quashed and a decision on that remains outstanding with The Planning Inspectorate.
- 1.2 The appeal inspector concluded that the proposal represented an unsustainable development due to the amount of offsite affordable housing provision made by the applicants. She made a number of decisions about elements of the financial viability including profit level in the appeal decision letter and whilst she did not conclude the amount that the developers should be offering, as that was a matter for the developers and the Council to negotiate, she concluded that it should be increased to make the scheme sustainable. The Inspector also concluded that in all other respects, the scheme was acceptable and was otherwise located in a sustainable location geographically. At that time the applicants were offering circa £67K when previously they had made an offer for a 'total pot' to the Council of circa £435K (plus the £50K for the release of the covenant) at the time of the application. Members will note that the offer currently on the table is an improvement over the earlier offer made under 13/03606/FU. (The inspectors conclusions did not take into account the £50K for the release of the covenant as this is not a material planning consideration).
- 1.3 As well as an improved offer on the off site housing contribution which has been negotiated on this application the applicants have agreed that should this scheme be approved they will withdraw the outstanding costs claim.
- 1.4 The application is subject to a financial viability statement and members should be aware that consideration of this application is to be accompanied by a separate report relating to the schemes overall viability. The information contained within the separate report is confidential as it relates to the financial and business affairs of the applicant. It is considered that it is not in the public interest to disclose this information as it would be likely to prejudice the applicant's commercial position. It is therefore considered that the viability report, when issued, should be treated as exempt under Schedule 12A Local Government Act 1972 and Access to Information Procedure Rule 10.4 (3). A senior representative of the District Valuer's Office has agreed to attend Panel to assist members in considering the viability evidence.

2.0 PROPOSAL

- 2.1 The application is a detailed proposal relating to the erection of 41 residential units with associated communal facilities, landscaping and car parking. The development comprises a 4 storey block of one and two bedroom apartments with a resident's lounge, guest room, laundry and mobility facilities.
- 2.2 The existing building which comprises Devonshire Court, Devonshire Hall and Devonshire Grange is to be demolished and the new apartment block will be built

on the site. As the footprint of the proposed apartment block will closely mirror the existing there is no proposal to remove any trees on the site. Indeed 16 additional trees are proposed to be planted. In addition, the existing parking area will continue to be used in conjunction with this scheme and the existing trees will be retained. In total 27 parking spaces will be provided for residents.

- 2.3 The apartments are for retired people aged 60 and above in a varied mixture of apartment type. In all there are approximately 15 apartment types proposed to be erected in one part 3 and part 4 storey block. The block will be built of a mix of materials including, red brick with feature banding, render and clay pantiles.
- 2.4 The proposed apartment block is set within landscaped grounds with gardens close to the apartment block and with a path around all sides of the block. The existing boundary treatment, low brick walls with railings on top is also to be retained.
- 2.5 The scheme is exactly the same in terms of layout, scale and design, car parking etc as the appeal scheme which was considered acceptable in all matters excepting the affordable housing contribution.
- 2.6 The initial submission was made with a Financial Viability assessment which acknowledged the applicants liability under the CIL regime and attempted to make a case for additional financial contributions against the required affordable housing provision of only **£37, 735**. Officers were of the opinion that the scheme could stand to contribute significantly more and the Financial Viability Assessment (FVA) was forwarded to the District Valuer (DV) for his assessment. As a result of the DV's findings the settlement reported in the head of this report was negotiated. The resultant offer of £360,000, (nearly 10x the original offer), is considered acceptable.

3.0 SITE AND SURROUNDINGS:

- 3.1 The application site is a brownfield site situated to the west side of Devonshire Avenue near its junction with Street Lane. The site is part of a group of buildings that originally comprised a Local Authority orphanage known as the Children's Central Home (Devonshire Hall) built at the beginning of the 20th century. A separate smaller building forming a lodge to the hall was built to the north of the children's home at the same time. An extension to Devonshire Hall was added later. A separate building known as Devonshire House was built to the west of Devonshire Hall to serve the children's home in the 1930's. Another building known as Devonshire Croft was added to the south west of the Hall and an extension to the north elevation of the Lodge was added in the last century. A doctor's surgery has been built adjacent to the southern boundary of the site. It is Devonshire Hall and its extension that are proposed to be demolished to facilitate the building of the apartment block.
- 3.2 With the exception of the doctor's surgery the buildings which lie on or adjacent to the site all take access from a single access point on Devonshire Avenue. In the main, again with the exception of the doctor's surgery, the buildings in the group are of a similar design and use the same palette of materials. The majority of the buildings are two or two and a half storey with pitched or hipped rosemary tiled roofs with gable details and dormers to the front and rear elevations. The walls are generally constructed using red brick to the ground floor with grey render above. The building known as Devonshire Croft is single storey as is the extension to the Lodge which has a flat roof with parapet walls. The doctor's surgery benefits from a separate access point from Devonshire Avenue.

- 3.3 The boundary of the site with Devonshire Avenue and Street Lane is provided by a low red brick wall topped with railings and there is a line of mature trees behind the wall on Devonshire Avenue and a privet hedge behind the wall on Street Lane. Opposite the site at the junction of Devonshire Avenue with Devonshire Lane lies a recently constructed three storey block of apartments in red brick, render and artificial stone with a red tiled roof.
- 3.4 Opposite the site at the junction of Devonshire Avenue with Devonshire Lane lies a recently constructed three storey block of apartments in red brick, render and artificial stone with a red tiled roof.
- 3.5 At the time of the appeal into the last refusal the buildings were in some form of commercial office use except for the single storey extension to the Lodge which is in retail use and Devonshire Croft which is in use as a church. It is not known if the premises are still occupied, but it appears that ownership of the site has transferred to the applicants in the intervening time. Outside of the local centre that lies immediately adjacent to the site the predominant use in the rest of the area is residential.

4.0 RELEVANT PLANNING HISTORY:

4.1 The relevant Planning History is as follows:

H30/428/84	Change of use of vacant assessment centre to offices	Approved April 1984
H30/236/84	Outline application for the demolition of assessment centre and children's home and erection of 40 bed private hospital	Withdrawn August 1984
H30/428/84	Change of use involving alterations and extensions of Children's home to offices	Approved January 1985
H30/103/85	Change of use of detached classroom unit to Christian Science church with 23 parking spaces	Approved May 1985
13/03606/FU	Demolition of existing buildings and erect part 3 and 4 storey later living retirement housing accommodation, with 41 residential units, communal facilities, landscaping and car parking	Refused 21 st August 2014
PREAPP/11/00950	Retirement Living development	
PREAPP/13/00072	Change of use/redevelopment	

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Given that the only matter between the developer and the Council since the previous refusal was the amount of the off site affordable housing contribution to be made, discussions with the developer regarding the proposal have concentrated on that, the present submission been the same as previously proposed under reference 13/03606/FU wherein all other material planning matters had been resolved.
- 5.2 The developer has submitted a VA with the application which has been reviewed by the District Valuer (DV). This concluded that the development could not stand to deliver the full requirement of contributions and remain viable. The DV agreed that the amount of £510,000 was a figure the development could achieve whilst retaining an acceptable return for the developer and this figure has now been negotiated which includes the commuted sum for affordable housing of £360,000, £50,000 for the removal of the Council covenant and £100,000 CIL contribution..

6.0 PUBLIC/LOCAL RESPONSE:

- 6.1 The application has been advertised by site notice and newspaper advert. Consultation period for this expired on 8th January 2016 with one letter of objection been received from the occupier of the adjoining property Devonshire Lodge. Comments refer to the address being inaccurate and should refer to Devonshire Court, Devonshire Hall and Devonshire Grange and they also raise concerns regarding drainage.
- 6.2 The ward Members have also been consulted on the proposal and updated about the improved offer. At the time of writing officers were still seeking their formal views although it is understood from pre-application discussion with ward members that they do not object to the principle of the proposed re-development in terms of a sheltered housing scheme in this location in this form.

7.0 CONSULTATIONS RESPONSES:

- 7.1 **Housing Growth Team** – Confirms that the development will need to provide an Affordable Housing Requirement of 15% which for a development of 41 units this would equate to 6 units for affordable Housing. 40% of which should be disposed of to Households on lower quartile earnings and 60% to households on Lower decile earnings. This split is slightly different under the Core Strategy to that required under the UDP where the split was 50/50.
- Coal Authority** – No Objection
- Contaminated Land team** – No objections subject to imposition of standard conditions
- Highways** – No objections subject to imposition of conditions and in particular a restriction on occupancy for retirement housing only.
- Flood Risk Management** – No objections subject to the imposition of conditions.
- Yorkshire Water** – No objection subject to the imposition of conditions.
- Landscape** – Broadly in agreement with development proposal and recommends conditions to be imposed to protect trees to be retained on site

8.0 PLANNING POLICIES:

- 8.1 The development plan is the Local Development Framework, the Core Strategy of which was adopted by the Council on 12 November 2014, as well as saved policies from the former Unitary Development Plan and which also form part of the Adopted Local Plan. The Local Plan also includes the Natural Recourses and Waste DPD. Of the Core Strategy the following policies are considered relevant:

Relevant objectives under the Spatial Vision include:

8. Deliver housing growth in sustainable locations related to the Settlement Hierarchy by prioritising previously developed land in urban areas.

11. Support the provision of community infrastructure that is tailored to meet the needs of the community including high quality health, education and training, cultural and recreation, and community facilities and spaces.

12. Support high quality design.....to create and maintain distinctive and cohesive places.

13. Promote the physical, economic, and social regeneration of areas taking into account the needs and aspirations of local communities.

The site lies within the Main Urban Area as defined by the Core Strategy (Map 3 Settlement Hierarchy).

Spatial Policy 1: Location of Development says, inter alia,

(i) The largest amount of development will be located in the Main Urban Area and Major Settlements

(ii) priority for identifying land for development will be as follows:

a) previously developed land and buildings within the Main Urban Area

(iii) For development to respect and enhance the local character and identity of places and neighbourhoods.

Spatial Policy 6 identifies that 500 dwellings per annum will be supplied by small and unidentified housing sites towards the housing provision of the Core Strategy.

Policy H2 seeks to support the provision of housing developments on non-allocated site provided that:

(i) The number of dwellings does not exceed the capacity of transport, educational and health infrastructure, as existing.

(ii) For developments of 5 or more dwellings the location accords with Accessibility Standards in Table 2 of Appendix 3 of the Core Strategy.

Additionally, the policy seeks to ensure that on greenfield land any development does not detract from a sites intrinsic value as amenity space or its contribution to the spatial character of the area within which it is located.

Policy P10 seeks to ensure that new developments are based on a through contextual analysis and provide good design that is appropriate to its location, scale and function. The policy also seek to encourage community involvement in the schemes evolution and will support schemes which accord with certain key principles including:

Size, Scale design and layout appropriate to its context

Protects the visual and residential amenity of the locality

Protects and enhances surrounding useable spaces, privacy and penetration of sunlight and daylight.

Policy T2 supports proposals that are located in accessible locations and adequately served by public transport with safe and secure access for pedestrians, cyclists and people with impaired mobility.

EN5 seeks to manage the potential for flood risk as a result of new development by controlling such things as surface water run off rates.

8.2 Saved UDP Policies that are considered relevant:

GP5 – Seeks to deal with matters of detail at the planning application stage

N25 – Seeks to ensure that site boundaries are treated and designed in a positive manner using walls, Hedges or railings which are appropriate to the character of the area.

BD2 – Seeks to ensure high quality design of new buildings

BD5 – Seeks to ensure adequate provision of amenity to the development site itself and to respect the amenity of adjoining buildings.

LD1 – seeks to ensure adequate landscaping of development sites

Advice contained in the SPG – Neighbourhoods for Living and the SPD on parking Standards are also considered relevant.

8.3 National Planning Policy Framework

This document sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system and strongly promotes good design. The NPPF also seeks to promote sustainable developments that reflects the community's needs and supports its health, social and cultural well-being; and contributes to protecting our built environment. (page 2).

8.4 Paragraph 12 of the NPPF states that developments that accord with the Local Plan should be approved and proposals that conflict with it should be refused.

8.5 Within the Core Planning Principles of Paragraph 17 of the NPPF the following are considered relevant to this development proposal; Seek high quality of design and good standard of amenity for all existing and future occupants of land and buildings

8.6 Take account of and support local strategies to improve health, social and cultural wellbeing for all and deliver sufficient community and cultural facilities and services to meet local needs

8.7 Paragraph 56 emphasises that Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Paragraph 47 expands on this by stating that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. The advice continues that developments should establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places. The development should respond to local character and history and reflect the identity of local surroundings and materials, while not preventing or discouraging innovation where this is appropriate. Further, that development proposals should create safe and accessible environments where crime or the fear of crime do not undermine social cohesion and result in visually attractive developments as a result of good architecture and appropriate landscaping. The NPPF also supports the reinforcement of local distinctiveness.

8.8 The NPPF at paragraph 64 supports the refusal of development of poor design that fails to improve the character and quality of the area in the way that it functions but also warns against refusing buildings that promote a high level of sustainability because of concerns about incompatibility with existing townscapes. The NPPF also expects that applicants will have worked closely with those directly affected by their proposals in order to take account of the views of the community.

8.9 At paragraph 197 the NPPF reminds us that authorities should apply the principle of a presumption in favour of sustainable development.

9.0 MAIN ISSUES

Principle of development

Impact on design, visual amenity and character

Impact on residential amenity

Highway implications

Flood Risk/ Drainage

Section 106 contributions

10.0 APPRAISAL

Principle of development

10.1 The principle of the development has been established through the history of processing the previous application and the appeal process which even though decided that the proposal at that time was unacceptable, this was due to the unsuitable level of contributions that were on offer at that time. (There was a difference in the offer made under the appeal process to that which was considered by Plans Panel with a significant reduction in the levels of contribution towards off site affordable housing provision). In all other respects, the proposal is seen to offer a sustainable location in relation to the Street Lane centre with good transportation links available for future occupiers.

10.2 In pure land use terms, the proposal is also seen as acceptable in that whilst there will be a loss of office space within the Street Lane Centre, this is off set by the introduction of 41 new 'households' either through new people coming into the area to live, or by the release of other larger property which will enable new families to set up home in the locality. On balance it is considered that the development of the site, as a brownfield site is acceptable in principle for residential development, particularly aimed at older people and that this is a good location being close to local facilities and services.

Impact on design, visual amenity and character

10.3 The application site is currently occupied by a two and a half storey building in use as offices. It is set within a small complex of buildings of a similar scale and era and in the main being used for office uses. The existing building although reasonably attractive has been extended, modified and altered over its life such that its original integrity has been significantly devalued and is not considered worthy of protection from demolition as suggested by the Civic Trust. Accordingly, the proposal involves the demolition of the existing building and the erection of a replacement building and officers are comfortable with this general approach to the site's redevelopment.

- 10.4 The proposed building will be built in a T-form with the top of the T lying adjacent to the Devonshire Avenue frontage and will overlay the existing footprint of the existing building on the site. The predominant height of the proposed building will be 3 storeys with the mid- section of the building rising to 4 storeys. This frontage height will mirror the height of St Edmunds Court, an existing apartment block on the opposite side of Devonshire Avenue that also lies in the Local Centre.
- 10.5 The western extent of the building will also be 3 storey and will be read in conjunction with existing 2 and two and a half storey buildings adjacent to the site but on the western boundary. This will create an interesting and acceptable step down from the 3 storey element to the domestic 2 storey scale of existing houses adjacent to the western boundary.
- 10.6 The 4 storey mid-section will be contained mainly in the roof of the building which will ameliorate any potential dominance and overshadowing issues in relation to the existing modern doctor's surgery and other existing buildings adjacent to the proposed building. Indeed the proposed building will be of a similar height to the existing and although it will be 10 metres closer than the existing it will not result in any significant detrimental impact on adjacent buildings.
- 10.7 The design of the building has, to a large extent, been designed in accordance with advice given at the pre-application stage and as such is considered to be acceptable. The design of the proposed building has been modified to take into account comments from the Architectural Liaison Officer in respect of secured by design. The existing buildings are predominantly red brick with render at first floor and with a varied roofscape including high ridges, gable elements and dormers. The proposed building picks up on these elements and incorporates them into the overall design through the use of projecting bays, gable features, high ridges and dormers. It also picks up on the existing materials, using red brick with contemporary features such as bays being picked out using render and grey window and door details and glass balcony fronts.
- 10.8 The layout retains an existing car park to the north of the apartment block, between this and the northern boundary with Street Lane. This parking area retains the existing trees around the car park. Additional car parking has been provided on either side of the entrance in the northern elevation of the apartment block which lies adjacent to a proposed planting area and circular walkway around the building.
- 10.9 The design of the building and the site layout results in a development that sits comfortably within the site and general street scene and retains a green backdrop to the development. As such the scheme is considered acceptable and can be supported.

Impact on residential amenity

- 10.10 The nearest dwellings are 30 metres away and even allowing additional distance because of the height of the apartment block there would still be sufficient distance to avoid any overlooking, loss of privacy or dominance, including overlooking from balconies.. Thus it is not considered that this proposal will result in any issues detrimental to residential amenity.

- 10.11 In respect of the amenities of the future residents of the apartments, the proposed garden area and circular walk will provide outdoor amenity space for use by and to the benefit of the residents. In addition, some of the units have the benefit of balconies which provide an element of private amenity space.

Highway implications

- 10.12 Highways have commented that the proposed development is acceptable subject to the provision of a 2 metre wide footpath between parking spaces 10 to 27 and the apartment block. This can be secured by way of a condition. It is not considered that the development would have any adverse impact upon the local highway network, and given the type of residential accommodation proposed, the level of car parking is considered to be appropriate.

Flood Risk/ Drainage

- 10.13 The site does not lie in a flood risk area and comments from Drainage officers and Yorkshire Water have confirmed that prevailing ground condition may support some form of infiltration drainage method for the disposal of surface water. Yorkshire Water also suggest that separate systems for the disposal of foul and surface water be established. These elements can be secured by way of conditions as suggested by the consultees.
- 10.14 The issues in relation to disposal of surface water raised by one of the objectors relates to problems with the main sewer in Street Lane being able to cope with surface water run off during periods of heavy rain and implies that the development of flats would exacerbate the problems. However, the objector's property and Street Lane are on higher ground than the application site and as such the surface water from the development would drain downhill and away from the objector's property. However, the introduction of infiltration methods for surface water disposal which is suggested would also require that surface water discharges from brownfield development be reduced by a minimum of 30% of the existing rate of discharge. Thus these measures should ensure that the proposed development would not result in surface water run off problem for any adjacent sites.

Section 106 contributions/CIL

- 10.15 The biggest material change that affects this case relates to the introduction of CIL and the adoption of the Leeds CIL charging schedule. This removes the need for the developer to make contributions towards Greenspace provision under a separate S106 agreement as this item is included on the CIL Charging Schedule. Given the extent of the proposed development, this amounts to a circa £100,000 contribution liability.
- 10.16 The outstanding requirement under the Section 106 therefore relates to the provision of affordable housing which was previously agreed could be provided off site via a contribution in this case. The applicants have submitted a Viability Assessment that has been independently verified by the District Valuer and its contents agreed. Due to various constraints it is agreed that the development proposed cannot sustain the full policy ask of the equivalent of 6 units.
- 10.17 In order to maximise the contributions offered by the developers, the payment of the £360,000 towards off site affordable housing contributions, will be made upon 90% occupation of the new units. This will be included in the S106 Agreement. In

addition, there is still the outstanding matter of the restrictive covenant. The developers have offered to pay £50,000 towards the release of this covenant. To this end, the total pot that is on offer from the applicants equates to £510,000 which is an improvement on the offer made under application 13/03606/FU which was £432, 242 an increase of circa £77,758.

11.0 CONCLUSION

- 11.1 It is considered the proposed development is acceptable in principle as the existing building is not worthy of protection from demolition and the loss of some local office accommodation from the area would not compromise the overall mix of uses still available. The proposed replacement building is considered to be well designed creating an attractive visual presence in the street scene and sits comfortably within its immediate context which is often a concern with these types of developments. Furthermore, the application proposes to make a positive contribution to an identified need for supported older persons housing accommodation which in turn can often help release the future occupiers existing accommodation to the market. Whilst the full policy ask in terms of contributions toward affordable housing are not offered, the reduced contribution has been verified as being reasonable through a viability appraisal which has taken on board the conclusions from the previous appeal . After considering all of the above factors, the scheme when considered in the round is considered to have merit and accordingly is recommended for approval subject to the stated conditions and securing a contributions pot of £510,000 broken down as set out in paragraph 10.17 above. Members are reminded a CIL charge is payable under the regulations and whilst a factor in the viability is not a material consideration on the planning merits of the case which in this case come down to whether the development provide an adequate level of affordable housing contribution and is therefore sustainable. Officers consider that the latest offer has been robustly tested and is acceptable to enable this development to proceed.

Background Papers:

Application files: 15/07209/FU

Certificate of ownership: Signed by on behalf of applicant by agent as sole owner of site.



NORTH AND EAST PLANS PANEL

© Crown copyright and database rights 2016 Ordnance Survey 100019567

PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/1500

