

<b>Reference:</b> 20/00827/FUL	<b>Site:</b> Former Ford Motor Company Arisdale Avenue South Ockendon Essex RM15 5JT
<b>Ward:</b> Ockendon	<b>Proposal:</b> The erection of 92 units, comprising 86 No. 1 and 2 bed apartments, 2 No. 3 bed dwellings and 4 No. 2 bed dwellings along with associated infrastructure, works and landscaping. (Partial revisions to phase 4 of approval 18/00308/REM Dated 12th June 2018)

<b>Plan Number(s):</b>		
Reference	Name	Received
R9052-CUR-20-XX-DR-C-2001-P03	Drainage Layout	6th November 2020
R9052-CUR-20-XX-DR-C-2002-P04	Drainage Layout	6th November 2020
R9052-CUR-20-XX-DR-C-2003-P05	Drainage Layout	6th November 2020
R9052-STN-18-00-DR-A-0902-P60	Site Layout	20th January 2021
R9052-STN-18-00-DR-A-0903-P58	Site Layout	20th January 2021
R9052-STN-18-ZZ-DR-A-0900-P50	Location Plan	6th July 2020
R9052-STN-18-ZZ-DR-A-0904-P57	Roof Plans	20th January 2021
R9052-STN-18-ZZ-DR-A-0905-P57	Other	20th January 2021
R9052-STN-18-ZZ-DR-A-0906-P62	Other	20th January 2021
R9052-STN-18-ZZ-DR-A-0908-P57	Other	20th January 2021
R9052-STN-18-ZZ-DR-A-0909-P57	Other	20th January 2021
R9052-STN-18-ZZ-DR-A-0910-P57	Other	20th January 2021
R9052-STN-18-ZZ-DR-A-0912-P57	Other	20th January 2021
R9052-STN-18-ZZ-DR-A-0913-P57	Site Layout	20th January 2021
R9052-STN-20-01-DR-A-1051-P57	Floor Layout	6th November 2020
R9052-STN-20-02-DR-A-1052-P57	Floor Layout	6th November 2020
R9052-STN-20-03-DR-A-1053-P57	Floor Layout	6th November 2020
R9052-STN-20-EL-DR-A-2000-P49	Elevations	6th July 2020
R9052-STN-20-EL-DR-A-2001-P49	Elevations	6th July 2020
R9052-STN-20-EL-DR-A-2140-P56	Elevations	6th November 2020
R9052-STN-20-EL-DR-A-2150-P57	Elevations	6th November 2020

Planning Committee: 18 March 2021	Application Reference: 20/00827/FUL
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R9052-STN-20-EL-DR-A-2160-P57	Elevations	6th November 2020
R9052-STN-20-GF-DR-A-1040-P49	Floor Layout	6th July 2020
R9052-STN-20-GF-DR-A-1050-P57	Floor Layout	6th November 2020
R9052-STN-20-GF-DR-A-1060-P57	Floor Layout	6th November 2020
R9052-STN-20-R0-DR-A-1042-P49	Roof Plans	6th July 2020
R9052-STN-20-R0-DR-A-1054-P57	Roof Plans	6th November 2020
R9052-STN-20-R0-DR-A-1062-P57	Roof Plans	6th November 2020
R9052-STN-20-XX-DR-A-4006-P50	Other	6th July 2020
R9052-STN-20-XX-DR-A-4007-P57	Other	6th November 2020
R9052-STN-20-ZZ-DR-A-1000-P49	Floor Layout	6th July 2020
R9052-STN-20-ZZ-DR-A-1001-P49	Floor Layout	6th July 2020
R9052-STN-20-ZZ-DR-A-1041-P49	Floor Layout	6th July 2020
R9052-STN-20-ZZ-DR-A-1061-P57	Floor Layout	6th November 2020
R9052-STN-20-ZZ-EL-A-0920-P57	Elevations	6th November 2020
R9052-STN-18-ZZ-DR-A-0911-P57	Other	20th January 2021
2044 09 General Arrangement Plan	Landscaping	6th November 2020
2044 B POS Sketch Masterplan	Landscaping	6th November 2020
R9052-CUR-20-00-DR-C-2004-P01	Drainage Layout	6th November 2020
R9052-CUR-20-00-XX-RP-C-00001-V06	Drainage Layout	6th November 2020
R9052-CUR-18-XX-DR-D-7002-C11	Drainage Layout	6th November 2020
R9052-CUR-18-XX-DR-D-7215-P04	Drainage Layout	4th December 2020
R9052-STN-18-ZZ-DR-A-0907-P61	Other	20th January 2021
R9052-STN-20-XX-DR-A-4007-P57	Floor Layout	6th November 2020
R9052-CUR-18-XX-DR-C-9208-P14	Other	9th December 2020
R9052-CUR-20-00-DR-D-7216-P01	Drainage Layout	4th December 2020

The application is also accompanied by:

- Planning Statement
- Design and Access Statement & Addendum
- Accommodation Schedule
- Air Quality Assessment
- Financial Viability Assessment & Addendum
- Flood Risk Assessment and Drainage Report
- Noise Assessment
- Transport Statement

<b>Applicant:</b> Mr Owain Williams	<b>Validated:</b> 17 July 2020 <b>Date of expiry:</b> 24 March 2021 (Extension of time agreed with applicant)
<b>Recommendation:</b> Approve subject to conditions and a s106 agreement	

## 1.0 BACKGROUND

1.1 At the meeting of the Planning Committee held on 11 February 2021 Members considered two reports for this planning application. After a debate the application was deferred to allow Officers to review Members recommended reasons for refusal as set out below:

1. The proposed development as a result of its high density is at the absolute limit density of what would be acceptable for this site.
2. The proposal has increased the parking level by 3 parking spaces but the level of parking is not considered enough to be acceptable for this development taking into account the existing situation at the site and is inadequate to achieve sustainable development.
3. The proposal would result in a lack of affordable housing units at the site and therefore would not meet the needs of local people due this shortfall of affordable housing.

1.2 A copy of the previous reports are attached as Appendices. Appendix 1 is the 'update report' from the Planning Committee Meeting on 11 February 2021 and Appendix 2 is the 'main report' from the Planning Committee Meeting on 7 January 2021.

## 2.0 UPDATED INFORMATION

2.1 Since the February meeting the applicant has provided additional information in response to the Committee's recommended reasons for refusal. This comprises a supplementary statement, a counsel opinion and letter informing the Council of the applicant's intention to appeal should the application be refused planning permission. These details are considered in detail in the updated assessment below.

## 3.0 UPDATED ASSESSMENT

3.1 The following paragraphs assess Members recommended reasons for refusal:

1. The proposed development as a result of its high density is at the absolute limit density of what would be acceptable for this site.
- 3.2 The current proposal would result in 70 dwellings per hectare for this site (red line area) which complies with policy CSTP1 as the policy allows for '*a density range of between 30 and 70 dwellings per hectare*'. Whilst it is noted that the proposed density levels would be at the upper end of the policy requirement the key point here is that the proposal would comply with policy CSTP1. Furthermore, density is not just about numbers but about quality of the development. In this case the proposed development represents the final phase of development of Arisdale Avenue following the outline permission and implementation of the design code to achieve the form, scale, massing of another high quality designed development with an acceptable housing density.
- 3.3 The applicant's supplementary statement reiterates the compliance with policy CSPTP1 and states that the application would only increase the number of dwellings at the wider Arisdale development site by 27 dwellings more than the 650 dwellings the outline planning permission approved. The applicant considers the proposed housing density would not lead to a poor quality of life for existing or future residents.

The proposal would also help address Thurrock's shortfall in housing supply and reduce pressure upon the Green Belt.

- 3.4 The applicant's counsel opinion explains that the relevant test for the committee is '*whether the resultant density would amount to a breach of the development plan*', which is not the case here as the proposal would comply with policy CSTP1.

Furthermore, the applicant's counsel opinion advises that national planning policy is supportive of higher densities, especially those which represent brownfield opportunities in highly sustainable locations. The applicant's counsel opinion also refers to the NPPF's Housing Delivery Test, which is referred to in the 'update report' and the 'main report', and identifies a housing delivery shortfall of 309 homes over the three previous financial years up until 2017/18. The Council's response is an action plan committing to achieving higher densities and this is a material consideration with this application.

- 3.5 In conclusion under this heading Members are advised that it would be extremely difficult to sustain a reason of refusal on density as an Inspector would see that the application complies with policy and therefore would be highly likely to allow an appeal and grant planning permission.

2. The proposal has increased the parking level by 3 parking spaces but the level of parking is not considered enough to be acceptable for this development taking into account the existing situation at the site and is inadequate to achieve sustainable development.
- 3.6 The proposal would provide 120 parking spaces as explained in paragraph 4.20 of the 'update report' and this meets the requirements of the Council's draft Parking Standards, which requires a minimum of 115 spaces for this development. In addition the proposed parking ratio would be 1.3 spaces per dwelling so is within the 1.3 to 1.5 parking space per dwelling range as required by the Design Code 'pr6' (parking arrangements) and condition 15 of the outline permission. The Council are not aware of any ongoing parking issues at the site and the Council's Highway Officer raises no objection on parking grounds to this application. The proposal would therefore accord with policy PMD8, which requires all development to comply with the Council's parking standards.
- 3.7 The applicant's supplementary statement and the applicant's counsel opinion reiterates the compliance with the Council's draft parking standards and policy PMD8. It is explained that the proposal was amended following the January Planning Committee to increase on-site parking by including an additional 3 parking spaces to achieve 120 parking spaces for the proposed development. Planning conditions are recommended for electric vehicle charging provision and a parking management strategy, which would be agreed to control parking within the development and would include taking parking enforcement measures. The applicant's supplementary statement also identifies that the site is located in an accessible location.
- 3.8 In conclusion under this heading, Members are advised that it would be extremely difficult to sustain a reason of refusal on parking as an Inspector would see that the application complies with policy and therefore would be highly likely to allow an appeal and grant planning permission.
3. The proposal would result in a lack of affordable housing units at the site and therefore would not meet the needs of local people due this shortfall of affordable housing.
  - 3.9 Policy CSTP2 allows for exceptions to the 35% affordable housing requirement where financial viability indicates a policy compliant level of affordable housing is not viable. The proposed development has been subject to an independent viability assessment which has identified that a level of 6% affordable housing can be achieved. In

addition to this, and identified in the 'update report', the applicant would use reasonable endeavours for securing the transfer of 5 additional units for affordable housing using Homes England grant funding, so this would lead to 11 affordable housing units. If for any reason it is not possible to transfer the additional 5 unit affordable units then the applicant agrees that these 5 units will be available for discounted open market sale at 80% open market value to local residents. These would all be secured through planning obligations along with a viability review mechanism, as stated in the recommendation section of the 'update report'. The proposed development therefore complies with the exception criteria of policy CSTP2 and the Council's Housing Officer has no objections to the application.

- 3.10 The proposal would comply with the housing needs and mix set out in the latest (May 2016) Strategic Housing Marketing Assessment (SHMA) and the update Addendum (May 2017), which identifies the need for 3 bedroom semi-detached and terraced houses but also the need for 1 and 2 bedroom apartments, and therefore complies with policy CSTP1.
- 3.11 The applicant's supplementary statement reiterates the affordable housing position and that the proposal would deliver more affordable housing than earlier phases of the wider development which through the outline planning permission delivered 10% affordable housing for phases 1, 2 and 3. In response to Members concerns in relation to who would be eligible for the 5 discounted open market homes, these would be offered to eligible Thurrock residents in the first instance and criteria would be applied secured through the planning obligations. In regard to housing mix, the applicant explains that the proposal would meet with the SHMA with apartments meeting the demand for smaller housing needs and policy CSTP1. It is stated that apartments at this site are in greatest demand and the applicant has a waiting list of 50 people wanting an apartment.
- 3.12 The applicant's counsel opinion explains that policy CSTP2 is not breached as the exception within the policy allows for financial viability to be applied. The earlier phases of the development accepted 10% affordable housing based on viability assessments. The applicant's counsel opinion states that *'to refuse to accept viability evidence would amount to acting inconsistently and in*

*breach of development plan policy*'. Furthermore, the applicant's counsel opinion also states *'that a refusal of planning permission based on a demand for more affordable housing would be perverse, because refusal will actually lead to the delivery of less affordable housing'*, that is on the basis that the extant permission for Phases 4/5, as a fall-back position, would provide less affordable housing than the current scheme.

- 3.13 In conclusion under this heading Members are advised that it would be extremely difficult to sustain a reason of refusal on a lack of affordable housing as an Inspector would see that the application complies with the policy exceptions and therefore would be highly likely to allow an appeal and grant planning permission.

#### Other matters arising from the February Planning Committee Meeting.

- 3.14 The applicant's supplementary statement provides a response to matters arising from the February Planning Committee meeting as follows:
- 3.15 Lorry parking along Arisdale Avenue: The applicant confirms that no lorries associated with the development of Phases 4/5 park along Arisdale Avenue and the Construction Environmental Management Plan secured an agreed travel movement of construction vehicles associated with the wider site prior to development commencing on Phases 4/5.
- 3.16 Piling: It is confirmed that piling is required for the construction of apartments and houses due to the ground conditions and this is an increased construction cost considered in the viability assessment of the development.
- 3.17 Laundry facilities: All apartments would have balconies to allow residents to dry clothes outside and all apartments would be fitted with plumbing for tumble dryers. It is stated that this is common for modern apartment blocks but more importantly this matter is not a material planning consideration so no weight should be given to this as a consideration.

## **4.0 CONCLUSION**

- 4.1 Members are advised against refusing planning permission for this application. This report explains that the proposed development is not contrary to the Council's adopted Core Strategy and Policies for the Management of Development (2015) nor national planning policy and guidance set out in the NPPF/PPG. Indeed, the NPPF presumption in favour of sustainable development applies in this case and in an appeal situation an Inspector would be likely to give this significant weight.
- 4.2 It is worth noting that the applicant has already made clear their intention would be to appeal against a refusal of planning permission. Members are advised that it would be extremely difficult to defend the reasons put forward for refusing the scheme and it is highly likely that an Inspector would allow an appeal and grant planning permission for this development.
- 4.3 It should also be recognised through the appeal procedure there is a financial risk of a successful award of costs against the Council for using unreasonable reasons of refusal. The applicant has advised the Council that it is their intention to request a public inquiry procedure, which would lead to the appointment of consultants and legal representation, if the appeal was then allowed this could lead to a significant award of costs against the Council. The applicant's counsel opinion supports this view citing the current Members recommended reasons of refusal would result in unreasonable behaviour. It should also be noted that the Council would also have to provide additional expenditure to defend an appeal through the public inquiry procedure through the appointment of legal representation and external consultants as the Council's planning officers would not be able to defend the decision as they had recommended it for approval.
- 4.4 In light of this position, it is recommended that Members give very careful consideration to the content of this report. Given the risks associated with refusal, Officers advise the application should be approved in accordance with the recommendation below.

## **5.0 RECOMMENDATION**

- 5.1 Approve as set out in the recommendation section of the 'original report' and the 'update report', where the 'update report' includes updated planning obligations on affordable housing and the revised plans conditions.

### **Documents:**



All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<http://regs.thurrock.gov.uk/online-applications>

