The Planning Inspectorate

Appeal Decision

Hearing held on 17 and 24 January 2017 and 15 February 2017.

Accompanied site visit made on 17 January 2017

by I Jenkins BSc CEng MICE MCIWEM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 March 2017

Appeal Ref: APP/V2723/W/16/3152764
Land at Gough Road, Catterick Garrison, North Yorkshire, DL9 3HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Gleeson Developments Limited against the decision of Richmondshire District Council.
- The application Ref 15/00603/FULL, dated 27 July 2015, was refused by notice dated 31 March 2016.
- The development proposed is the erection of 29 no. 2, 3 and 4 bedroom 2-storey residential dwellings and associated works.

Decision

1. The appeal is dismissed.

Procedural matters

2. The planning application form describes the proposed development as involving the erection of 27 dwellings. However, it is clear from documents submitted in support of the application that 29 was the intended number and this was the basis upon which the Council determined the application. This is also confirmed by the appeal form and the Statement of Common Ground agreed between the Council and the appellant. I have taken this into account and reflected the higher number in the summary information above.

3. The proposal involves a planning application for residential development of a site on the southern side of Gough Road (GRS). This appeal was conjoined, during the appeal process, with appeal Ref. APP/V2723/W/16/3152766, which involves a planning application for residential development of a nearby site within Catterick Garrison, on Somerset Close (SCS), by the same appellant. The reason for refusal was the same in both cases and joint appeal statements, covering both sites, were submitted by the Council and the appellant. Whilst the appeals were dealt with at a joint Hearing, they are the subject of separate decisions.

4. When I opened the Hearing, the Council explained that the expert witness it had engaged from Savills, to deal with viability assessment, had been taken ill that morning, leaving too little time to arrange for a replacement. The Council requested an adjournment to another day in order to allow it to be properly represented; a request to which the appellant objected. I determined that it would be likely to unfairly prejudice the Council case, if I were to proceed, in

the absence of the Council's expert witness, to deal with the matters in dispute related to viability assessment, which are significant material considerations in the cases. Therefore, having dealt with more minor matters as far as reasonable, I adjourned the Hearing until 24 January 2017.

5. During the course of the Hearing on the 24 January 2017, the Council conceded that it would be reasonable to assess the viability of the schemes on the basis of a target of 20% profit on Gross Development Value (GDV). This was not the basis upon which the Savills evidence had been prepared, which was against a target of 20% profit on cost. In order to be clear as to the impact of this on the outcome of the viability assessments, I determined that it would be necessary to re-run them, an activity which could not be completed that day. Therefore, I adjourned the Hearing, having first set deadlines for the submission of written representations on this matter. Whilst I set a resumption date of 15 February 2017, I confirmed that if the submissions did not raise matters that required further discussion, it would be my intention to close the Hearing in writing before the resumption date. In the event, further discussion was necessary and the Hearing resumed for 1 day on 15 February 2017.

6. In relation to the GRS proposal, the appellant has provided a formally completed agreement (section 106 agreement) and a unilateral undertaking (UU), both pursuant to section 106 of the *Town and Country Planning Act 1990*. I have taken them into consideration in my determination of this appeal.

Applications for costs

7. At the Hearing, an application for costs was made by Gleeson Developments Limited against Richmondshire District Council and another was made by Richmondshire District Council against Gleeson Developments Limited. These applications are the subject of separate Decisions.

Main Issue

8. I consider that the main issue in this case is whether the proposal would make adequate provision for Affordable Housing.

Reasons

9. The appeal site comprises an irregular area of land, which fronts onto the southern side of Gough Road and is thought to have been used in the past by the Ministry of Defence (MOD) as a firing range. The central section of the site, which adjoins the highway has the appearance of overgrown grassland, while the areas to the west, south and east within the site comprise woodland. The proposal involves the development of the central section of the site for housing while retaining much of the woodland to the west, south and east. Opposite the site on the northern side of Gough Road there is residential property, which I understand was originally developed as army married quarters.

10. Outline planning permission, Ref. 14/00133/OUT, was granted on 21 August 2014 for residential development of up to 25 no. dwellings on the site. An associated section 106 agreement made provision for, amongst other things, arrangements in perpetuity for the provision of 30% of the dwellings (up to 8 units) to be provided across a range of affordable tenures (33% social rent; 33% affordable rent; and, 33% intermediate rent/sale) to be administered by a Registered Social Landlord.

11. The appeal scheme involves the erection of 29 no. 2-storey dwellings. At the Hearing, the Council and appellant confirmed that the proposed mix of housing comprises: 12 no. 2-bed semi-detached houses; 8 no. 3-bed semi-detached houses; 6 no. 3-bed detached houses; and, 3 no. 4-bed detached houses.

12. Policy SP1 of the *Richmondshire Local Plan Core Strategy, 2014* (CS) confirms that the Central Richmondshire sub area is the area of greatest growth, reflecting the location of the main towns of Richmond and Catterick Garrison, the scope for development and the scale of existing facilities. It indicates that this is the area where most housing related development will take place. Furthermore, CS Policy SP4 confirms that the majority of new housing will be associated with the settlement of Catterick Garrison. The reasoned justification for CS Policy CP6 confirms that most affordable homes will be provided through the strategic scale and distribution of housing planned in CS Policy SP4, not least, as this places affordable homes directly in relation to local service provision. Furthermore, it confirms that although Affordable Housing delivery targets have been set as ambitiously as possible, having had regard to the need to maintain the viability of local development, Affordable Housing need outstrips proposed delivery across all sub areas.

13. To my mind, it is clear that the provision of new Affordable Housing as part of the new housing development at Catterick Garrison has a key role to play in meeting the identified housing needs of the wider sub-area. Against this background, I give little weight to the appellant's contention that there is not an affordability issue in Catterick Garrison itself, on the basis that there are a substantial number of low value properties available there.

14. CS Policy CP4 requires proposals to deliver development which provides for the social needs of the local community. CS Policy CP5 indicates that proposals for housing must take account of the local housing requirements across all sectors of the community in terms of, amongst other things, tenure. CS Policy CP6 indicates that in relation to Central Richmondshire the Council will work with private developers to achieve a target of 40% Affordable Housing in all developments with a net gain in dwellings, subject to economic viability assessment. At the Hearing, the Council confirmed that in practice, this Policy operates on the basis that if, it could be shown through economic viability assessment, it is only viable to make provision for Affordable Housing at a particular site at a rate that falls short of 40%, it would be that lower level of provision which is required for compliance with CS Policy CP6. This appears to me to be reasonable and in keeping with the aim of the Policy to achieve the most ambitious affordable housing targets possible, while maintaining the viability of local development. It is also consistent with the *National Planning Policy Framework* (the Framework) which whilst seeking to ensure that identified housing needs are met, also identifies that pursuing sustainable development requires careful attention to viability. It indicates that to ensure viability, the costs of any requirements likely to be applied to development, such as Affordable Housing, should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

Whether the scheme includes Affordable Housing

15. The appellant has explained that the 'Gleeson Development Model' (GDM) focusses solely on building low cost market homes. Furthermore, it indicates

that typically over 40% of its customers buy with the help of the Government's 'Help to Buy' (HTB) equity loan, made by the Homes and Communities Agency (HCA), to fund up to 20% of the purchase cost. The appellant has calculated that, as a result, the monthly (mortgage/loan) repayment costs of the 2-bed dwellings it proposes would be likely to fall below local rental rates for social housing. This has not been disputed by the Council. Against this background, the appellant contends that the proposed units would fall within the definition of Affordable Housing set out in the Framework; a matter which is disputed by the Council.

16. The definition of Affordable Housing set out in the Framework confirms that Affordable Housing can include intermediate housing, which is homes for sale and rent provided at a cost above social rent, but below market levels (including shared equity units), subject to other criteria in the Affordable Housing definition. Those other criteria include that it should make provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative Affordable Housing provision. Furthermore, homes that do not meet the terms of the definition, such as 'low cost market' housing, may not be considered as Affordable Housing for planning purposes.

17. The open market sales values for the scheme cited by the appellant in its viability assessments are lower than those identified by Savills. Furthermore, the formally completed unilateral undertaking (UU) provided by the appellant would be likely to ensure that that remains the case for first sale of the properties. If the Savills' sales values are an accurate reflection of likely open market sales values, a matter which I will return to below, I consider it likely that the proposed dwellings would constitute 'housing that is provided for sale……. at a cost ………… below market levels', albeit that the discount below market levels would be likely to be small.

18. Nevertheless, the proposal does not include any formal provision to ensure that the units remain affordable in perpetuity. Notwithstanding the appellant's expectation, there is no guarantee that the purchase of any of the proposed units would be part funded by an equity loan, as this is a matter of personal choice for the buyer. Furthermore, even if purchases are subsidised, as suggested by the appellant, by the HTB equity loan scheme and that subsidy is paid back to the HCA over time, there is no evidence before me to show that there is any formal mechanism to ensure that the subsidy would be recycled for alternative Affordable Housing Provision. With particular reference to the HTB scheme, I understand that it has an end date of 2021, indicating that even if the HCA currently recycles repayments in to other HTB loans, there is no guarantee that that would continue beyond 2021. Under these circumstances, I consider that whilst the proposed dwellings may amount to low cost open market housing, they do not fit within the definition of Affordable Housing set out in the Framework.

19. The appellant has drawn my attention to the Housing White Paper entitled '*Fixing our broken housing market*', published by the Government on 7 February 2017, which includes a '*Box 4: Proposed definition of Affordable Housing*'. Under the terms of the Box 4 definition it appears that there would no longer be a requirement that a subsidy refunded to Government, such as repayment of a HTB equity loan, is recycled for alternative Affordable Housing provision. Under this definition, it may be, as suggested by the appellant at the Hearing, that housing discounted below market rates even by a small

amount and sold to purchasers who meet the cost in part through a HTB equity loan would qualify as Affordable Housing. However, as I have indicated above there is no guarantee that purchasers of the proposed units would meet part of the cost using a HTB equity loan. Furthermore, in any event, the Box 4 definition is the subject of consultation and there remains a considerable degree of uncertainty at this stage as to whether it will be adopted as national policy and so I give little weight to the prospect that units within the proposed schemes may qualify as Affordable Housing under this draft definition.

20. I conclude that, with particular reference to the terms of the Framework, the proposal does not include Affordable Housing. Therefore, I turn to consider the viability of making provision for Affordable Housing in this case.

Viability

21. The national *Planning Practice Guidance* (PPG) indicates that where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. This is particularly relevant to Affordable Housing contributions which are often the largest single item sought on housing developments[1].

22. There is disagreement between the Council and the appellant regarding a number of the numerical values that should be used in this case to assess the viability of Affordable Housing provision. These include Gross Development Value (GDV), marketing fees as well as professional fees and profit. The Council has also raised some concerns in relation to land value.

Viability-GDV

23. The PPG indicates that when assessing the viability of housing schemes, detailed assessment of GDV, total sales, is required. It indicates that wherever possible, specific evidence from comparable developments should be used, after adjustment to take into account factors such as form of property and location.

24. Savills have been engaged by the Council to advise it on the viability of the appeal schemes. Savills has confirmed that the open market sales values used in its viability appraisals[2] were originally drawn from a 2013 report produced for the Council by Deloitte entitled *Catterick Garrison, Richmondshire-Options Appraisal Baseline (OAB)*. Furthermore, Savills explained, at the Hearing, that it has validated its figures by reference to sales values associated with a more recent development in Colburn Village by Linden Homes, with discounts based on professional judgement to allow for likely differences between the schemes, such as the lower specification likely to be associated with the appeal units. The appellant argues that the discounts applied by Savills were too small, leading to assumed sales values that are too high and it considers that its own sales values should be given greater weight[3].

25. On the second day of the Hearing, in support of its view, the appellant suggested that the ongoing Persimmon development in Colburn Village would

[1] PPG ref. ID: 10-019-2140306.
[2] 2 bed semi-detached house-£112,623-116,083, 3 bed semi-detached house-£139,656-144,992, 3 bed detached house-£142,048-148,488 and 4 bed detached house-£168,428.
[3] 2-bed semi-detached house-£103,000, 3 bed semi-detached house-£116,000-125,000, 3 bed detached house-£132,000-140,000, and 4 bed detached house-£165,000.

be a better comparator, as: the specification of the units is to a lower standard than that associated with the Linden Homes properties referred to; the site is adjacent to older residential development; there are some amenities nearby; and, the prices of the Persimmon units are broadly comparable to those proposed at the appeal site. However, that last assertion was not supported by the appellant's '*Briefing Note: Quoting Prices-Persimmon Homes*', submitted on the third day, which indicates that, insofar as the house types are comparable, the actual open market sales prices of the Persimmon units[4] are significantly higher than those proposed by the appellant and are broadly comparable to those used by Savills. I consider that this lends weight to the Savills' figures.

26. The appellant has suggested that there are characteristics of the appeal site surroundings which would be likely to restrict the sales values of the proposed units to a lower level than might be achieved elsewhere in Catterick Garrison. In support of that view, the appellant cites a review it has undertaken of sales in Catterick Garrison over the last 24 months, on the basis of which it has calculated that the average selling price for a property in Catterick Garrison was £129,488 and the average selling price in the 2 areas closest to the appeal site, identified in the review as Catterick Garrison 1 and 2 (CG1 and 2), was £100,874. The appellant considers that this is primarily due to the nature of the housing in CG1 and 2 being relatively densely developed MOD married quarters (or former married quarters) that it considers lack any design quality, compared to more attractive areas elsewhere.

27. However, the appellant's conclusion regarding average sales values takes no account of the house type. For example, the sales figures used to generate the average value for CG1 and 2 are almost entirely related to terraced dwellings, whereas the average value for Catterick Garrison also includes semi-detached and detached properties, the inclusion of which to my mind may explain a large proportion of the difference in averages. Based on the appellant's data, it appears to me that the average value for terraced property elsewhere in Catterick Garrison, outside CG1 and 2, fell well below £129,488.

28. Furthermore, whilst the proposed units may constitute low cost housing, there is no suggestion that the proposed development would lack design quality and the main parties agree that, in comparison with second hand property, purchasers are generally willing to pay a premium for new houses. In addition, the appeal site has the advantage over many of the other areas included in the appellant's sales review, and also the Colburn Village Persimmon development, of being closer to the main centre for shops and other facilities in Catterick Garrison. In my judgement, the setting of the appeal site is no worse than that of the Persimmon development, which includes some older development, busy roads and a neighbouring dilapidated site. On the contrary, the Gough Road site, which is set apart from existing development, on the southern side of Gough Road, and adjoins woodland to the south, has a particularly attractive setting.

29. Under the circumstances, I consider it unlikely that the sales values of the proposed units would be limited to any significant degree due to their location neighbouring CG1 and 2, as opposed to elsewhere within Catterick Garrison.

30. The appellant has indicated that in relation to a number of other development proposals, its predicted sales values have been accepted at appeal and it has

[4] 2-bed end of terrace house-£117,950 and 3 bed semi-detached house-£137,950.

drawn particular attention to 2 appeals decisions[5]; one related to a site in Rotherham and the other Liverpool. However, I give those references little weight, not least as it is not self-evident either that sales values were disputed in the way that they have been in the case before me or that the sales values and market conditions were the same.

31. Based on the evidence before me, I consider that the open market sales values used by Savills in its viability appraisals are likely to be a reasonable indication of the value of the proposed units. As suggested by the Council, it appears that the sales figures promoted by the appellant in its viability appraisals under value the scheme. In these circumstances, I give little weight to the appellant's viability assessments.

32. There is no dispute that if Savills' sales values are accepted, even if the appellant's stated requirements of 4% marketing costs, 6% professional fees, 22% profit on GDV and a land value based on the purchase price are assumed, Savills' viability assessments indicate that around 6% Affordable Housing would be viable at the site[6]. That is, 2 properties with a 20% discounted sale value in perpetuity. However, that is not the end of the matter.

Viability-Marketing

33. The PPG indicates that assessment of costs should be based on robust evidence which is reflective of market conditions[7]. Savills has stated that, whilst in its experience a lower allowance would be normal, it has made an allowance for marketing costs in its favoured viability assessments scenario of 3% of GDV, as this has been accepted elsewhere by the Council. The Council has provided statements from 2 developers confirming that they would normally require 3%. In contrast, the appellant has indicated that, in its experience, its sites require a higher allowance for marketing costs of 4% of GDV. It suggests that this is due to a number of factors, such as: many of its customers are first time buyers requiring added assistance; and, whilst its sales values are relatively low, it has similar fixed marketing costs to other developers, necessitating a higher percentage. However, I have not been provided with any data to demonstrate that the costs it typically incurs necessitate what appears to be, on the basis of the evidence on behalf of the Council, an unusually high marketing allowance.

34. I give little weight to the acceptance of a 4% rate by my colleague who dealt with appeal Ref. APP/Z4310/W/15/3006792 in 2015. Her view appears to have been influenced by evidence from the appellant concerning costs incurred in a previous financial year and I have not been provided with any evidence to show that such an approach would be representative in 2017.

35. In the absence of any robust evidence, I conclude that the higher marketing allowance sought by the appellant is not justified. With reference to Hearing document no. 21, use of the 3% marketing allowance would be likely to increase the funds available for Affordable Housing provision.

[5] APP/Z4310/W/15/3006792 and APP/R4408/Q/14/2216976.
[6] Hearing document nos. 21.
[7] PPG ref. ID: 10-022020140306.

Viability-Professional fees and profit

36. The appellant has acknowledged that a figure of 20% profit on GDV is often cited as a maximum and at the Hearing the Council confirmed that it would normally accept a target for profit on GDV of 15-20%. Furthermore, the appellant has also indicated that a professional fees allowance of 10% of construction costs, which was used in the Deloitte viability assessment supporting the outline planning permission for the site, is an approach which is '*fairly standard across the industry*'. However, it explained that its normal approach to viability assessment is to only show 6% professional fees and to account for the other 4% as a 2% increase in the target for profit on GDV, from 20% to 22%. Its reason being that rather than employing external consultants to run its planning applications for it, it chooses to do the majority of that work in house and to include allowance for that, together with its other head office overheads, in the profit target.

37. However, based on calculations undertaken by Savills, the accuracy of which has been accepted by the appellant, in this case the 2 means of making allowance for professional fees are not equivalent in monetary terms. Increasing the target for profit on GDV by 2% would allow the appellant to recoup more monies than if the allowance for professional fees were increased from 6% to 10%.

38. Whilst the appellant's approach of seeking a target profit on GDV of 22% was accepted in appeal decision Ref. APP/R4408/Q/14/2216976, it is not self-evident that the allowance for professional fees was in dispute in that case or what the overall level of provision was. Therefore, I consider that it is of little assistance in the case before me.

39. In my judgement, it follows that the allowance for professional fees sought by the appellant, made up of 6% of construction costs plus 2% profit on GDV, exceeds the normal allowance of 10% of construction costs. I have not been provided with any compelling evidence to show that this is justified in relation to the scheme before me or to show that a profit on GDV greater than 20% would be otherwise justified in the particular circumstances of this proposal. Furthermore, with reference to Hearing document no. 21, it appears to me that the use of a target for profit on GDV of 20% and an overall allowance for professional fees of 10% of construction costs or less[8], would be likely to increase the funds available for Affordable Housing provision.

Viability-Land value

40. *Financial viability in planning*[9] indicates that site purchase price may or may not be material in arriving at a site value for the assessment of financial viability. It cautions, amongst other things, that a developer may make unreasonable/over optimistic assumptions regarding the type and density of development or the extent of planning obligations, which means that it has overpaid for the site. *Financial Viability Appraisal in Planning Decisions: Theory and Practice*[10] identifies that these points apply equally to any comparable evidence used to benchmark residual land value.

[8] The Council advocates a figure of 6%.
[9] The Royal Institution of Chartered Surveyors document entitled *Financial Viability in Planning, 2012*.
[10] The Royal Institution of Chartered Surveyors document entitled *Financial Viability Appraisal in Planning Decisions: Theory and Practice, April 2015.*

41. The PPG confirms that land or site value is central to the consideration of viability. In all cases, land or site value should: 1) reflect policy requirements and planning obligations; 2) provide a competitive return to willing developers and land owners; and, 3) be informed by comparable, market based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise[11]. At the Hearing, the Council and appellant agreed that these are all relevant considerations when determining land value and the weight to be attached to each is a matter for the decision maker.

42. The Council takes the view that the price paid for the site by the appellant did not have proper regard to the planning obligations attached to the outline planning permission for the site or the PPG requirement that it should reflect policy requirements, in particular in relation to Affordable Housing. To my mind, this implies that the appellant may have overpaid for the site, as increased costs associated with increased provision for Affordable Housing would, if anything, suggest that less should be paid for the site. The appellant disputes that it overpaid for the site.

43. I deal first with 'a competitive return for a willing landowner'. The appeal site comprises former MOD land, which had been identified as surplus to its requirements and included in the Government's Public Land Auction Pilot Scheme (PLAPS). I understand that the aims of the PLAPS were to bring forward sites for development as quickly as possible, providing more housing, including Affordable Housing, whilst also maximising the value of the sites by de-risking them. As part of the de-risking process the Council worked with the MOD to secure outline planning permission for the site, informed by considerations such as policy requirements and viability. The associated viability assessment, indicated that the scheme would be able to deliver 30% Affordable Housing, based on, amongst other things, a land value of £51,458 for the GRS. Outline planning permission was granted for the SCS on 2 September 2014. I understand that the associated section 106 agreement, between the Council and the MOD, included a planning obligation for the provision of 30% of dwellings to be provided across a range of affordable tenures. To my mind, with reference to the PPG criterion 2) set out above, these circumstances indicate it is likely that the MOD would have been willing to sell the site for a price significantly lower than that offered by the appellant of £185,000.

44. I turn now to 'comparable, market based evidence'. *Financial Viability Appraisal in Planning Decisions: Theory and Practice* acknowledges that transacted bids for other land can provide an important guide concerning land value. However, it cautions that as those transactions may have taken place in different market conditions and regulatory environments, adjustments may need to be made in order to use them as comparators. The appellant's *Briefing Note: Land Comparables* (BNLC) does not contain any details to show that any necessary adjustments have been made to the purchase prices of other sites quoted. For example, the extent to which planning obligations are embedded in the prices referred to is unclear and the Council indicated that there are differences.

[11] PPG ref. ID:10-023-20140306.

45. Of the sites identified in the BNLC, only the Linden Homes and Persimmon sites were transacted at a similar time to the appeal sites, in 2015, which to my mind makes it more likely that the market conditions for those sales were comparable. However, the reasons for the Persimmon price being significantly above all of the others on a value per acre and value per plot basis are unclear and, in my view, this indicates that it is likely to fall into the category '*transacted bids …..significantly above the market norm*' which the PPG indicates should be set aside.

46. That leaves the Linden Homes site. As the underlying density of development differs greatly between the 2 sites, this casts doubt over the reliability of using the value per plot metric identified by the appellant for direct comparison with the GRS. In terms of value per acre, the BNLC identifies a figure which is higher than that associated with the appeal site, which would potentially support a conclusion that the appellant had not overpaid for that appeal site. In any event, at the Hearing, the appellant also indicated that the figures may change if account were to be taken of the proportion of the sites that comprise open space and as no explanation accompanied by alternative figures have been provided, this casts further doubt over whether reliable comparisons can be drawn based on the BNLC figures.

47. Based on the information provided, I am not convinced that any of the sites quoted in the BNLC provides a reliable comparator with which to judge the land value of the appeal site. I consider that, with reference to the PPG criterion 3) set out above, the BNLC should be given little weight.

48. I turn now to 'policy requirements and planning obligations'. The MOD has confirmed that whilst the site was marketed prior to the grant of outline planning permission, the conditions had been agreed and made known to bidders. In its bid letter to the MOD, the appellant confirmed that '*with regard to the outline planning consent, I can confirm that we have made all necessary allowances within our offer, including the affordable housing requirements*'. The bid for the GRS was £185,000 and completion of the sale took place on 20 March 2015. However, at the Hearing, the appellant confirmed that its bid had not made allowance for the Affordable Housing planning obligations set out in the section 106 agreement associated with the outline planning permission. Furthermore, it indicated that the bid had been based on the GDM, that is low cost market housing, which as I have identified does not constitute Affordable Housing with reference to the Framework. It appears therefore, that the price paid did not, with reference to the PPG criterion 1) above, properly reflect policy requirements and planning obligations.

49. However, notwithstanding its concerns that the price paid did not make proper allowance for policy and planning obligations, the Council has not promoted the use of a lower land value and so the scale of impact in relation to this is uncertain. The figure used by the Council in its viability assessments for land value is the purchase price paid by the appellant. At the Hearing, the Council explained that it saw no need to promote a lower figure, as its viability assessments supported its reason for refusal that Affordable Housing would be viable, albeit not at 30%, even if the purchase price was used.

50. Based on the evidence presented, it appears to me that it would be appropriate to use a land value figure in the viability assessments which is lower than the purchase price paid for the site, with particular reference to PPG criteria 1) and

2), which would in turn increase the potential for provision to be made for Affordable Housing. Nonetheless, in any event, I am satisfied that it would not be appropriate to use a land value higher than the purchase price and, as I have indicated, based on that value, the Savills' viability assessments indicate that it would be viable to make some provision for Affordable Housing.

Conclusion on the main issue

51. I conclude that, with particular reference to the terms of the Framework, the proposal does not include Affordable Housing. Furthermore, in my judgement, the open market sales values used by Savills in its viability appraisals are likely to be a reasonable indication of the value of the proposed units. There is no dispute that, if those sales values are accepted, even if the appellant's stated requirements of 4% marketing costs, 6% professional fees, 22% profit on GDV and a land value based on the purchase price are assumed, the Savills' viability assessment indicates that around 6% Affordable Housing would be viable at the site. I conclude overall that the proposal does not make adequate provision for Affordable Housing and in this respect it conflicts with CS Policies CP6, CP5 and CP4 as well as the Framework. This weighs heavily against the scheme.

52. Furthermore, it also appears to me that: the marketing allowance should be below 4%; the combined allowance for professional fees of 6% plus profit on GDV of 22% should be reduced; and, it may well be that a figure lower than the purchase price for the site should be used for land value. If these adjustments were made, it would increase the scope for viable provision of Affordable Housing still further. This provides further support to my conclusion on the main issue.

Other matters

53. With reference to the requirement of the Framework that Councils are able to demonstrate a 5 year supply of deliverable housing sites, the Council has confirmed that a suitable supply currently exists. This is not disputed by the appellant. Nonetheless, I accept that the proposal would make a modest positive contribution towards housing land supply in a location supported by CS Policies SP1 and SP4. The Council has indicated that it involves the development of previously-developed land, at least in part, which is located in an area from which jobs, shops and services are likely to be accessible by modes of transport other than the private car. In these respects it would gain some support from the Framework and I give these factors moderate weight.

54. The appellant has indicated that in the northeast of England a significant proportion of its buyers tend to be people who currently occupy Council or Housing Association accommodation, thereby facilitating its release to others in need. However, I give this little weight, as there is no guarantee that this would be the case in relation to the appeal site, within Catterick Garrison. Given that the appellant expects a significant number of its buyers in this location to be army personnel, it may be that the result would be to release MOD accommodation instead. I have no reason to dispute the view of the appellant that the GDM low cost market housing proposed would add to the choice of housing in the area, in keeping with the aims of the Framework. Nevertheless, in my view, this would not negate the need for Affordable Housing required by the Development Plan and supported by the Framework.

55. Notwithstanding the concerns raised by a number of interested parties, the Council and appellant agree that, subject to the imposition of reasonable conditions, it would be possible to ensure that the effect of the scheme would be acceptable and compliant with the Development Plan in relation to: highways and transportation; flood risk; site layout, dwelling design and residential amenity; landscaping; as well as energy efficiency and carbon savings. I consider that this is likely to be the case, with reference to CS Policies CP2, CP11, CP12, CP13 and CP14.

56. Furthermore, the appellant has provided a formally completed section 106 agreement, which would secure: the payment of a contribution towards the provision of additional capacity at local infant and junior schools; and, the provision and management of open space, both of which would be necessary in order to meet the needs of future residents of the scheme. There is no dispute that it would accord with the provisions of Regulation 122 of the *Community Infrastructure Regulations 2010* and the tests of obligations set out in the Framework. I have no reason to reach a contrary conclusion on those matters. Nonetheless, these are measures necessary to make the development acceptable in planning terms and do not weigh for or against the scheme.

Conclusions

57. I conclude that the proposal would not make adequate provision for Affordable Housing, contrary to the aims of the Development Plan and the Framework as regards the creation of sustainable, inclusive and mixed communities. I conclude on balance, that the resulting harm would significantly and demonstrably outweigh the benefits of the scheme, it would not amount to sustainable development under the terms of the Framework and would conflict with CS Policy CP3 and the Development Plan taken as a whole.

58. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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Mr J Harrison FCIOB FIoD FBIoM	Gleeson Developments Limited
Mr M Smith BA(Hons) Finance, Accounting and Management.	Gleeson Developments Limited
Mr C Dodds	Gleeson Developments Limited
Mr J Rudge MSc MRICS RICS Registered Valuer.	Cushman & Wakefield

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Featherstone BA MRTPI	Richmondshire District Council
Mr M Robson BSc(Hons) DipMan	Richmondshire District Council
Mr A McCallion BSc(Hons) PGDip FRICS	Savills

DOCUMENTS

1 Letters notifying interested parties of the appeal and the Hearing arrangements.
2 Bundle of documents associated with 65-69 Parkhurst Road-PINS ref: APP/V5570/A/14/2227656-Potential Judicial Review Claim.
3 Draft section 106 agreements for the GRS and SCS, related to open space and education contribution.
4 Richmondshire District Council-Justification for financial contributions.
5 Appeal decision Ref. APP/Z4310/W/15/3006792.
6 Final set/list of application plans for the SCS and GRS schemes.
7 Updated draft section 106 agreements for the GRS and SCS, related to open space and education contribution.
8 List of qualifications for witnesses.
9 Plans showing the existing water main network at Somerset Close/along Gough Road.
10 Briefing Note: Land Comparables (Cushman & Wakefield).
11 Briefing Note: Build Cost Inflation (Cushman & Wakefield).
12 Site layout plans for other local development sites.
13 Appellant’s application for an award of costs and the Council’s response.
14 Email from the HCA to the Council, dated 23 January 2017.
15 Suggested conditions for the SCS and GRS, agreed between the Council and the appellant.
16 Updated-Richmondshire District Council-Justification for financial contributions.
17 Council’s comments on the draft s106 agreements for GRS and SCS.
18 Page 2.10 of the Richmondshire Local Plan Core Strategy, 2014.
19 Council’s application for an award of costs and the appellant’s response.

20 Email from the Planning Inspectorate (PINS) to the Council and appellant, dated 25 January 2017,-adjournment actions.
21 Email from the Council to PINS, dated 27 January 2017,-revised viability assessments and explanatory note.
22 Email from the appellant to PINS, dated 27 January 2017,-Briefing Note: Quoting Prices.
23 Email from the Council to PINS, dated 2 February 2017, comments on the appellant's submissions.
24 Email from the appellant to PINS, dated 3 February 2017, comments on the Council's submissions, development appraisals for SCS and GRS and draft Unilateral Undertakings for SCS and GRS.
25 Email from the appellant to PINS, dated 7 February 2017,-Comments on the Government's White Paper 'Fixing our broken housing market'.
26 Formally completed section 106 agreements for the GRS and SCS, related to open space and education contribution.
27 Email from the Council to PINS, dated 9 February 2017,-comments on whether account should be taken of the appellant's latest submissions.
28 Email from PINS to the Council and the appellant, dated 9 February 2017,-confirming that account will be taken of the appellant's latest submissions, giving the Council an opportunity to comment on them and confirming that Hearing will resume as agreed on 15 February 2017.
29 Email from the Council to PINS, dated 13 February 2017,-comments on the appellant's latest submissions.
30 Email from the HCA to the Council, dated 14 February 2017.
31 Formally completed unilateral undertakings for the SCS and the GRS.