



**Planning Committee**  
17<sup>th</sup> September 2014

**Report from the Operational Director,  
Planning & Regeneration**

Wards affected:  
Mapesbury, Willesden Green, Dudden  
Hill, Brondesbury Park

**Report Title: 110 Walm Lane, Public Inquiry – Affordable  
Housing**

## **1.0 Summary**

- 1.1 Following the Council's decision in March 2014 to refuse planning permission for the redevelopment of 110 Walm Lane (including the Queensbury Public House) an appeal has been submitted by the applicant, Fairview New Homes Ltd. The appeal is due to be determined through the Public Inquiry procedure. During the appeal a Planning Inspector will examine whether the Council's reasons for refusal were reasonable and justified in planning terms. The Council cited three reasons for refusal which are set out in detail below. The second reason for refusal relates to affordable housing provision, identifying concerns that the applicant's proposal did not make adequate provision for on-site affordable housing within the scheme.
- 1.2 Following the submission of the appeal, the applicant has issued a revised affordable housing offer to the Council, which they intend to present to the Inspector during the appeal process. The revised offer proposes all affordable housing to be provided on-site. The purpose of this report is to provide information on the revised affordable housing offer so that the Planning Committee can decide whether the revised offer would adequately address the relevant reason for refusal.

## **2.0 Recommendations**

### **2.1 That the Planning Committee:-**

- i) agree to the principle of the revised affordable housing offer from Fairview New Homes Ltd subject to securing a suitable 'open book' review of the scheme viability and affordable housing offer taking into account both the costs and revenues achieved by the development.
- ii) delegate authority to the Head of Planning or such other duly authorised officer to agree, under advice from the Director of Legal Services and Procurement, the exact terms of a

s106 or other legal agreement to secure the revised affordable housing offer should the Planning Inspector be minded to allow the appeal and grant planning permission.

iii) note that the appeal will still be fully contested by the Council on the remaining reasons for refusal.

### 3.0 Detail

3.1 The subject site is located on the eastern side of Walm Lane, on the edge of Willesden Green town centre. The site is occupied by a two/three storey building which accommodates the Queensbury public house and some first floor office accommodation, used in connection with the former Conservative Club. The site lies within the Mapesbury Conservation Area and also borders the Willesden Conservation Area. The site is located in close proximity to Willesden Green Underground Station (Grade II Listed). The Queensbury public house is currently listed as an Asset of Community Value.

3.2 The proposal submitted by Fairview New Homes Ltd, under planning application ref. 13/3503, would involve the "*Demolition of existing Public House and Conservative Club and erection of 2 to 10 storey building containing A4/D1 use unit on ground floor and 53 residential units on the ground and upper floors (13 x one bed, 30 x two bed and 10 x three bed). Formation of revised vehicular access from Walm Lane to basement car park comprising 23 parking spaces and associated amenity space, landscaping works and pedestrian access from Walm Lane, subject to Deed of Agreement dated under Section 106 of the Town and Country Planning Act 1990, as amended*".

3.3 In March 2014, the Planning Committee resolved to refuse permission for the proposed development against the recommendation of officers. The application was refused for the following reasons. It is the second reason for refusal, highlighted in **bold**, that is the subject matter of this report:-

*1. The proposed development, by reason of its height, scale, massing and density, would appear unduly prominent and out of character in the street scene and in the wider locality. The development would fail to preserve or enhance the character and appearance of the Mapesbury Conservation Area in which the site is located and would adversely impact on the nearby Willesden Green Conservation Area and the setting of the Grade II Listed Willesden Green Station. As a result, the proposal fails to comply with the National Planning Policy Framework 2012; Policies 3.4, 3.5 and 7.4 of the London Plan 2011 and Revised Early Minor Alterations to the London Plan published on 11 October 2013; Policies BE2, BE3, BE9, BE10, BE23, BE25, BE27, H12 & H13 of Brent's Unitary Development Plan 2004; Supplementary Planning Guidance 17 "Design Guide for New Development", October 2001; Mapesbury Conservation Area Design Guide.*

**2. The proposed development would provide insufficient provision of on-site affordable housing. As a result, the development would fail to comply with National Planning Policy Framework 2012; Policies 3.8, 3.9, 3.10, 3.11, 3.12 and 3.13 of the London Plan 2011 and Revised Early Minor Alterations to the London Plan published on 11 October 2013; Policy CP2 of Brent's Core Strategy 2010; S106 Planning Obligations SPD, July 2013.**

*3. In the absence of a legal agreement, the development would not secure a Community Access Plan, sustainability measures, job & training opportunities for local residents, adherence to the Considerate Contractors Scheme, a Travel Plan and restrictions to prevent future residents from applying for parking permits. As a result, the proposal fails to*

*comply with the National Planning Policy Framework 2012; Policies 3.16, 4.6, 5.2, 5.3, 5.6, 5.7, 5.9, 5.13, 6.3, 6.13, 8.2 of the London Plan 2011 and Revised Early Minor Alterations to the London Plan published on 11 October 2013; Policies CP19 and CP23 of Brent's Core Strategy 2010; Policies EP2, EP14, TRN3, TRN4, TRN10, TRN23, TRN34 and CF2 of Brent's Unitary Development Plan 2004; Supplementary Planning Guidance 17 "Design Guide for New Development", October 2001; S106 Planning Obligations SPD, July 2013.*

- 3.4 At the time of determination, the applicant proposed to provide 10 (18.9%) of the 53 homes as affordable, shared ownership, units as well as a cash in lieu contribution of £138,346 towards the off site provision of affordable housing. The offer was reviewed by an independent consultant, BNP Paribas, instructed by the Council to assist with the negotiation of affordable housing on the site. BNP Paribas advised that in viability terms the proposed affordable housing offer would be acceptable.
- 3.5 Whilst acknowledging the advice on viability, this affordable housing offer was found to be unacceptable by the Planning Committee during their consideration of application given the "insufficient provision of on-site affordable housing". As noted above, the proposal did not provide all affordable housing 'on-site'.
- 3.6 Following the submission of an appeal against the decision, Fairview New Homes Ltd have approached the Council to see if this particular matter can be resolved prior to the Public Inquiry. They have issued a revised affordable housing offer which would increase the provision of shared ownership units from 10 to 12 (22.6%), an increase of 2 units. The affordable housing offer would therefore be delivered wholly on site and no longer include a cash-in-lieu contribution.
- 3.7 The 2 additional shared ownership units have been created by changing the tenure of 2 ground floor units that would have been private under the previous proposal. The proposal does not affect the layout or design of the building, nor does it affect the overall mix or quantity of units that would be provided within the scheme. The new shared ownership units would comprise 1x2-bed (3 person) and 1x 2-bed (4 person) units, both of which would share a core with the other private units within the scheme. As the units would be within a mixed tenure core it would be for the Registered Provider to negotiate a suitable service charge for the units. The following table summarises the changes between the original and revised affordable housing offers.

<b>Shared Ownership</b>	<b>Original AH offer</b>	<b>Revised AH Offer</b>
1-bed (2person)	3	3
2-bed (3 person)	3	4
2-bed (4 person)	0	1
3-bed (4 person)	4	4
<b>Total</b>	<b>10</b>	<b>12</b>
<b>Cash-in-Lieu</b>	<b>£138,346</b>	<b>£0</b>

- 3.7 This revised offer has been reviewed by BNP Paribas and they have confirmed that, in viability terms and on current assumptions, the revised offer of 12 shared ownership units is

acceptable. However, they highlight the sensitivity of such appraisals to changes in assumed future sales values and have recommended that, if the offer is accepted by the council, this be subject to securing a suitable 'open book' review of the scheme viability and affordable housing offer taking into account both the costs and revenues achieved by the development.

3.8 Having considered the revised affordable housing offer within the context of the previous decision, the appeal and the advice given by BNP Paribas, officers consider that the revised offer constitutes an improved position on the matter of affordable housing. As such, on balance, officers consider that the principle of the revised offer should be accepted, subject to the terms set out in paragraph 2.1 of this report.

3.9 In terms of the implications of accepting these recommendations on the Council's appeal case, whilst this would clearly narrow the matters in dispute, it is considered that the Council would maintain sufficient grounds to contest the appeal, particularly in relation to the design and heritage impacts of the proposed development. The Council have appointed an expert Design and Heritage witness to provide evidence to support the council's case at the public inquiry.

#### **4.0 Financial Implications**

4.1 Under the Public Inquiry appeals process the Council is required to bear the cost of hosting the Public Inquiry and the cost of preparing and presenting the Council's case. If the revised affordable housing offer is accepted by the Council this may reduce the duration of the Inquiry (which is currently programmed for 5 days) and the resources required to contest the appeal.

4.2 Under the planning appeals process, the Planning Inspector has legal powers to make an award of costs where it is found that costs have been incurred by one party due to unreasonable behaviour of another party.

#### **5.0 Legal Implications**

5.1 There are no particular legal implications associated with this matter other than it will be necessary to negotiate the exact terms of s106 or other legal agreement to secure the affordable housing contribution should the Inspector be minded to allow the appeal.

#### **6.0 Diversity Implications**

6.1 There are no particular diversity implications associated with this matter.

#### **7.0 Staffing/Accommodation Implications**

7.1 Staff resources will be required to contest the appeal. If the revised affordable housing offer is accepted then the council will not need to put forward an officer to prepare and provide evidence to the Inquiry in relation to the issue of affordable housing.

7.2 The Council are required to host the Public Inquiry and conference rooms at the Civic Centre have been reserved for 5 days. If the revised affordable housing offer is accepted by the Council this may reduce the duration of the Inquiry.

#### **8.0 Environmental Implications**

8.1 No significant environmental implications are anticipated.

## **9.0 Background Papers**

9.1 Officers report to Committee, 12<sup>th</sup> March 2014 (including Supplementary report

Decision notice 13/3503, dated 19<sup>th</sup> March 2014

Minutes of Committee meeting 12<sup>th</sup> March 2014

Revised Plan indicating ground floor units to be shared ownership

Letter from BNP Paribas, dated 4<sup>th</sup> August 2014

### **Contact Officers**

Any person wishing to inspect the above papers should contact Ben Martin, Area Planning, Planning & Regeneration 020 8937 5231

**Stephen Weeks**

**Head of Planning, Planning & Regeneration**