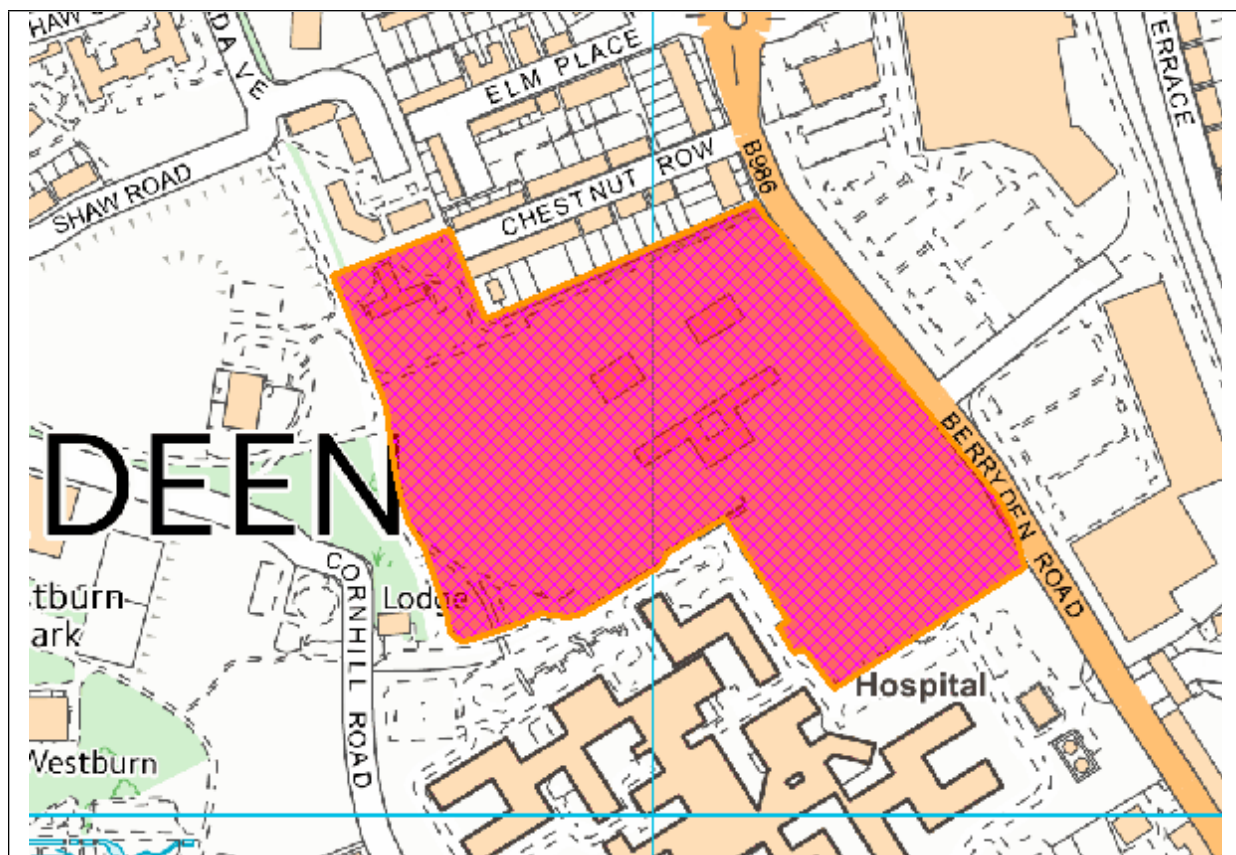


Planning Development Management Committee Modification/Discharge of Planning Oblig

170317/MPO: Modification of planning obligation associated with P130381 to transfer 22 from the overall obligation of 48 affordable flats at Westburn Gardens, Berryden Road to Ocean Apartments, 52-54 Park Road, Aberdeen at Former Royal Cornhill Hospital, Cornhill Road, Aberdeen, AB25 2ZH

For: Barratt North Scotland

Application Date:	27 March 2017
Officer:	Gavin Evans
Ward:	Mid Stocket/Rosemount
Community Council:	Rosemount And Mile End
Advertisement:	n/a
Advertised Date:	n/a
Committee Date:	20 th April 2017



Location Plan

RECOMMENDATION: Approve Modification/Discharge

SITE DESCRIPTION

The application site, which extends to 5.54ha, is that of the former Royal Cornhill Hospital. Lying between Berryden Road, to the east, and May Baird Avenue, to the west, the site is enclosed by the rear boundaries of properties on Chestnut Row to the north, with the new Cornhill Hospital (circa 1990) sitting between the site and Westburn Road, to the south.

The site lies within the Rosemount and Westburn Conservation Area, and contains the Forbes of Newe Obelisk, which is category 'C' listed.

RELEVANT HISTORY

App Ref.	Proposal	Decision Date
130381	Demolition of former Hospital Buildings and Proposed Residential Development of 323 units comprising 89 New build Houses, 198 New build Flats and Conversion of Former Hospital Building to Form 36 Flats, with associated car parking, open space and infrastructure	14.4.16

DESCRIPTION OF PROPOSAL

This application seeks to modify an existing legal agreement in relation to an earlier grant of planning permission. It seeks to modify an obligation relating to the delivery of Affordable Housing in order to allow for a proportion of the requisite affordable units to be delivered outwith the application site – specifically for 22 of those units (48 required in total) to be delivered at Ocean Apartments, 52-54 Park Road .

SUPPORTING DOCUMENTS

All drawings and supporting documents listed below can be viewed on the Council's website at <https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=ONBIPVBZJQ600>

CONSULTATIONS

None

REPRESENTATIONS

None

REASON FOR REFFERAL TO COMMITTEE

The application has been referred to the Planning Development Management Committee because the original planning permission to which the s75 agreement relates was determined by the Planning Development Management Committee. Delegated determination is therefore precluded by the current scheme of delegation.

PLANNING POLICY

National Policy

Scottish Planning Policy (SPP)

Aberdeen City and Shire Strategic Development Plan (SDP) 2014

Policy I1: Infrastructure Delivery and Developer Contributions

Aberdeen Local Development Plan 2017

Policy H5: Affordable Housing

OTHER RELEVANT MATERIAL CONSIDERATIONS

Planning Circular 3/2012: Planning Obligations and Good Neighbour Agreements

Planning obligations made under section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended) should only be sought where they meet all of the following tests:

- *necessary to make the proposed development acceptable in planning terms (paragraph 15)*
- *serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans*
- *relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)*
- *fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)*
- *be reasonable in all other respects (paragraphs 24-25)*

Interim Planning Advice

Planning Obligations

Affordable Housing

EVALUATION

Background

Planning permission was granted for the demolition of former Hospital Buildings and a Residential Development of 323 units comprising 89 New build Houses, 198 New build Flats and Conversion of Former Hospital Building to Form 36 Flats, with associated carparking, open space and infrastructure subject to conclusion of a legal agreement to secure the following matters:

- *25% affordable housing provision, including 15% on-site;*

- *Developer contributions in relation to Primary Education, Community facilities, Sports and Recreation and Library Facilities, in line with the assessment carried out by the Council's Developer Obligations team;*
- *Participation in a Car Club in order to mitigate the identified shortfall in car parking by providing memberships for residents;*
- *Contributions towards mitigation works at junctions in the local road network in the event that the development is implemented prior to Berryden Corridor road widening.*

Change in Circumstances

Paragraph 74 of the relevant Circular 3/2012, relating to Planning Obligations and Good Neighbour Agreements, highlights that in considering applications made under s75A to modify or discharge obligations, planning authorities should take into account any changes in circumstances, citing the example of external factors affecting the development meaning that the obligation is no longer reasonable and that a modification to reflect that change in circumstances is appropriate.

The most significant change in circumstances since proposals for the redevelopment of the Former Royal Cornhill site were considered is the recent adoption of the 2017 Aberdeen Local Development Plan. On adoption of the new LDP, Supplementary Guidance which had supported the earlier 2012 ALDP was revoked and ceased to have any formal status in decision-making. New Supplementary Guidance documents have been prepared and approved by Full Council, however these documents will continue to have the status of non-statutory guidance until such time as they have been ratified by Scottish Ministers. From this series of 'Interim Planning Advice' documents, the most significant relate to 'Planning Obligations' and 'Affordable Housing'.

The 'Planning Obligations' IPA is of relevance in setting out general terms, setting out how the principles of Circular 3/2012 will be applied at a local level. The 'Affordable Housing' IPA is of more direct relevance, and the most significant change from earlier supplementary guidance on the subject is the recognition of off-site delivery as an accepted form of Affordable Housing provision in specified circumstances. The modification of the existing planning obligation in order that it reflects the Council's current position on the delivery of Affordable Housing is therefore accepted in principle. Consideration must nevertheless be given to the detail of any off-site arrangements to ensure that they comply with, or can otherwise be justified against that current guidance.

Off-site Proposal and Justification

The Council's 'Affordable Housing' IPA sets out that AH may be delivered in three ways, as follows:

1. On-site (preferred option);
2. Off-site; and then
3. Commuted Payments

On-site delivery is recognised as the preferred option, in part due to its inherent benefits in building mixed communities. Off-site delivery is recognised as a useful mechanism, however the IPA highlights that this can potentially run contrary to the aim of creating mixed socio-economic communities, can add pressure on services within an area and can reduce the availability of suitable sites for Registered Social Landlords to deliver AH. In order to minimise these adverse effects, the IPA sets out a series of criteria to be satisfied by any proposal for off-site AH delivery. It states a general requirement that discussions on off-site delivery should be made in advance of any application being made, however it is recognised that in this instance consideration of the Cornhill redevelopment proposal occurred under an earlier policy regime, where off-site AH delivery was not provided for.

The IPA further states that any off-site location must be on a site where housing is supported in principle – in practical terms this will mean a site allocated for residential or mixed use in the ALDP, a suitable brownfield site, or a site where permission has already been granted for residential or mixed use development. In this instance, the applicants are proposing to make off-site provision at another Barratt residential development at Park Road, Aberdeen. That development has been consented for residential use and is presently being implemented and therefore satisfies this test.

Secondly, the any off-site provision must be made within the same submarket area (defined in appendix 3 to the IPA). Acceptance of any site outwith the same submarket area would be at the planning authority's discretion. In this instance, both Cornhill and Park Road lie within the 'Urban Core' submarket area. The proposal therefore also satisfies this second test.

The IPA further states that off-site provision should be in a location that does not already have a high concentration of affordable housing. Park Road is located off King Street, in a highly accessible location close to public transport links and where there is a range of residential accommodation types in the surrounding area. The Park Road development site itself would be largely privately owned, so there would be no undue clustering or over-concentration of affordable housing in the locality as a result of this proposal. It is recognised that, as the applicant would be delivering the affordable housing units on this secondary site, the release of market housing on the primary site (Cornhill) shall be linked to the delivery of those affordable units. This would be achieved through appropriate modification of the existing planning obligation, which already includes trigger points for delivery of AH units based on progression of the build.

It is recognised that the off-site delivery of AH units frees up additional market units within the primary development site (Cornhill). The IPA sets out that the percentage of affordable housing required should be based on the total number of units across the primary and secondary sites. In this case, because the off-site AH is being provided within a development of mainstream housing, the number of mainstream units on that secondary site would be reduced, with the result that the AH requirement attributable to the Park Road development would also reduce. The Park Road development has already made its AH provision (off-site) and therefore would be over-providing against its own AH obligations if mainstream units were reduced as proposed. That over-provision from the Park Road development, along with a

further Barratt over-provision of 3 units identified at Mugiemooss Road, would offset the any requirement for additional AH units in connection with the Cornhill development.

Taking these factors into account, the proposed off-site delivery of AH would accord with the criteria set out in section 4.6 of the relevant 'Affordable Housing' IPA, with the exception of its requirement that a developer demonstrate that on-site provision of AH is not viable. The applicants have not demonstrated this, but contend that there are benefits to off-site delivery in this instance that mitigate that policy conflict. Specifically, it is contended that the proposal would result in early delivery of AH on the ground. The 22 units that would be delivered as AH at Park Road through LAR Housing Trust are substantially complete, and LAR Housing Trust has gained board approval to proceed with purchase from Barratt. Delivery of these units at Park Road would be significantly earlier (estimated 3-4 years earlier) than on-site delivery of AH units at Cornhill. The applicants highlight also that a proportion of AH provision would still be required at Cornhill, with the 22 units under discussion representing less than half of the total requirement for 48 units. It is also recognised that delivery of AH for mid-market rental via LAR Housing Trust provides accommodation in a different delivery bracket from the more common Social Rented or Low Cost Home Ownership categories, thereby diversifying the city's AH portfolio.

Tests for Planning Obligations - Circular 3/2012

- necessary to make the development acceptable in planning terms;
- would serve a clear planning purpose;
- would relate directly to impact arising as a consequence of the development or as a cumulative impact of development within the locality;
- and remains fair and relates reasonably in scale and kind to the proposed development.

Affordable Housing provision in relation to the Cornhill development remains necessary to make the development acceptable in planning terms; This would serve a clear planning purpose in ensuring delivery of sustainable mixed communities, and it has been established that the alternative off-site location remains within the same housing sub-market area and is not in an area of excessive affordable housing concentration; The obligation also relates directly to impact arising as a consequence of the development; The obligation remains fair and relates reasonably in scale and kind to the proposed development at Cornhill.

Officers acknowledge the change in circumstances as a result of the publication of new non-statutory 'Affordable Housing' IPA and the revocation of the earlier IPA SG. The principle of off-site AH delivery in general terms is therefore accepted. Whilst it has not been demonstrated that on-site delivery is impracticable, the applicant has otherwise demonstrated that the Park Road site is a suitable location for the delivery of AH units, and has identified potential benefits in early delivery of the units off-site and the lack of public subsidy associated with Mid-Market Rented Accommodation. On the basis of the above, it is considered that the degree of conflict with the

Council's 'Affordable Housing' IPA is offset by the benefits attributable to off-site delivery in this instance. The obligation remains fair and reasonable in light of this change in circumstances and otherwise satisfies the tests set out in Circular 3/2012: Planning Obligations.

Aberdeen Local Development Plan 2017 – Legal Challenge

Combined Corp BVI Ltd has lodged an appeal against the adoption of the Aberdeen Local Development Plan 2017. The appellant seeks to quash that part of the Plan which incorporates the recommendations made by the Reporter in relation to Issue 11 – Allocated Sites and General Area Strategy; Deeside and Issue 12 – Alternative Sites; Deeside.

The remainder of the proposals and policies in the Local Development Plan 2017 are not subject to legal challenge and therefore, with the exception of the sites affected by Issue 11 and 12, planning applications can continue to be determined in accordance with the adopted Local Development Plan 2017. In this case, the areas of challenge are not related to the Cornhill or Park Road sites, and therefore the legal challenge to the ALDP has no direct relevance to determination of this particular application.

Conclusion

Paragraph 72 of Circular 3/2012 states that, *'in determining an application for modification, the planning authority may determine that the obligation be modified as per the proposed modification or should continue in its current form. The legislation does not permit the planning authority to determine that the obligation should be subject to any modification other than the modification, or modifications, set out in the application.'* This report demonstrates that the obligation remains justified, based on the methodologies set out in the Development Plan, however its modification to allow for a proportion of the total AH requirement to be delivered off-site at Park Road would not undermine the Council's aims for the delivery of AH as expressed in the 'Affordable Housing' IPA. Whilst it is recognised that on-site delivery has not been proven to be impracticable, the Park Road site is otherwise acceptable in all other respects and the benefits in early delivery of a less common type of AH are considered to offset any adverse impact arising from off-site delivery. On the basis of these factors, and having had regard for the provisions of the Development Plan, it is recommended that this application be approved subject to appropriate modification of the existing planning obligation.

RECOMMENDATION: Approve Modification

REASONS FOR RECOMMENDATION

The Planning Obligation relating to the delivery of Affordable Housing (AH) in connection with development at the Former Royal Cornhill Hospital site remains valid and consistent with the principles set out in Circular 3/2012: Planning Obligations and Good Neighbour Agreements. It is recognised that there has been a material change in circumstances with the adoption of the 2017 Aberdeen Local Development Plan (ALDP), whereupon earlier Supplementary Guidance (SG) ceased to have effect. Emerging Affordable Housing SG, which is presently non-statutory but has been approved by Full Council and is pending ratification by Scottish Ministers, recognises off-site provision as a legitimate means of affordable housing delivery. The principle of off-site delivery is therefore accepted.

The proposal for a proportion of Cornhill's AH to be provided at Park Road has been demonstrated to satisfy the tests set out in section 4.6 of that non-statutory IPA document, with the exception of a requirement to demonstrate that on-site delivery is not practicable. It is considered that the off-site proposal would allow for significantly earlier delivery of AH units, by a mechanism which is not subject to public subsidy, and these benefits are considered to offset that conflict with policy. The Park Road site is in the final stages of construction and is in all other respects an acceptable site for the delivery of AH units. On this basis, it is considered that modification of the existing planning obligation to allow for off-site delivery as described would be generally consistent with the provisions of the Development Plan, including policy H5 (Affordable Housing) and associated non-statutory guidance, and supports the Council's aims for the delivery of Affordable Housing within Aberdeen.