64 - 68 Newmarket Road CB5

Update Report

18 January 2016

Introduction

BPS was appointed to provide an independent assessment of viability of development proposals at the above address.

Further to our most recent report of 2 November 2015 we have been asked to provide additional clarity in respect of a number of points raised by Councillors following the recent decent decision by the Planning Committee to consider a decision to refuse this scheme on various grounds one of which relates to viability.

This note seeks to address the points raised with the questions summarised and set out in italics in order to provide a coherent document.

Has recent advice issued to LB Islington by Government Lawyers acting on behalf of the S o S for CLG provided additional clarity concerning the land value and the need for developers to fully reflect planning policy when bidding for development land?

The advice referred to was provided in a letter to LB Islington in connection with a request by the Council to judicially review an Inspectors decision in connection with the following appeal 65-69 Parkhurst Road N7 0LP APP/V5570/A/14/2227656.

BPS acted for Islington Council on this appeal.

The appeal was dismissed but the Council objected to the Inspectors ruling in which he confirmed he was satisfied that the landowner was entitled to receive market value for the property even if this effectively meant that there was no effective margin from which to fund affordable housing. He regarded the key test being that the proposed land value was not in excess of market value and not that the developer should have made provision for providing affordable housing.

The Governments lawyers would not give the council leave for the review stating amongst other grounds that the Council would have the right to re-run these viability arguments again through another application given the appeal was dismissed. The following is an extract from the letter sent to the Council in which the Council's complaint is considered:

i. The Inspector erred in his approach to PPG because he failed to "understand and / or give lawful effect to the requirement that site value should reflect policy requirements". On its face this alleges simply that the Inspector's reasoning, taken as a whole, fails to give effect to the statement in PPG that in all cases land or site value "should reflect policy requirements and planning obligations …". That, of course, is the Secretary of State's own unambiguous policy position in the PPG itself, to which the Inspector himself referred. An argument about the Inspector's reasons in this case is just as likely to involve an argument about what the Inspector's reasons were, and whether he *applied* PPG correctly, as it is to involve a serious argument of principle about what the PPG actually requires. It is impossible to see how the court could be satisfied that this gives rise to any clear issue of legal principle, divorced from the facts and reasoning in the case, on which it could give meaningful guidance.

It can be seen that the position regarding the need to reflect planning policy is referred to in PPG. The Inspector accepted that planning policy, in this instance the provision of affordable housing could, taking into account viability, result in provision of between 0% and 100% affordable housing. This is because policy accepts the principle that obligations are capable of reduction to reflect viability and Islington's target of 50% provision was borough wide and it is implicit that some sites would deliver more and others less than this target. Therefore a 0% affordable housing provision could theoretically therefore be considered compliant if there was an adequate case to prove that this reflected scheme viability and that land value was not considered in excess of market value.

In this context the Inspector was concerned to ensure the land value did not represent an overbid.

We do not consider the Government lawyers statement serves to introduce new opinion but simply further restates the SoS established position on viability. It certainly does not state that land value should reflect policy compliance with plan targets. The extent to which a developer should "price" in planning obligations when buying land is in our view really no clearer from this statement and further clarity is needed.

In the subject case the land value is underpinned by two factors:

a) High commercial land values which provide a solid basis for suggesting a minimum land value outside of residential use.

b) Site assembly is a special case where land is in multiple ownerships. Without access to compulsory purchase as a means of assembly, developers are constrained to negotiate the best outcome possible and inevitably as the site becomes more and more assembled the remaining owners see themselves as having a ransom position. We have worked on an appeal in Chiswick for Hounslow Council where the Inspector accepted the principle of raised land costs in such situations and accepted developers were entitled to profit for undertaking an essentially risky process. Such profit has not been incorporated into the land assembly costs in this instance.

We remain of the view that the land value is potentially understated.

BPS has not considered recent more relevant new build schemes when considering scheme pricing of the private residential units and should look again at more local schemes.

We have considered market sales values on two separate occasions in May and October 2015.

We always accept that viability is a moving position and views on viability for planning purposes should reflect current costs and values. To this end we have again considered local schemes to see if these indicate grounds for updating our sales value estimates in relation to the subject scheme.

New Build Schemes

There are a number of new build schemes which have been suggested to us as potentially providing more relevant and local sales information. When using sales evidence we seek to ensure that where possible as many aspects of the sale are known to us in to provide as complete an analysis as possible. These include floor areas, number of beds, amenity, parking provision and specification. Not all this information is currently available in respect of the additional suggested comparators.

1-5 Midsummer Place, Auckland Road

This scheme will comprise semi-detached 2 and 3 bed houses. Consequently we would expect this scheme to achieve sales values in excess of flatted schemes.

The scheme has not yet come to the market and will be offered in February for terms as yet un-finalised but anticipated to be in the region of £550,-£600,000 for 2 bed units. This suggests rates of £650-£750 per sq ft.

There are a range of units value applied to the subject scheme two bed units but typically values are £520-£530,000. Though it should be noted ground floor 2 beds maisonettes are priced at over £900- £1,000,000 with other 2 bed flats priced at £600-£700,000 dependent on location. The proposed values from the subject scheme compare well to this scheme.

101 New Street opposite Occupation Road

This new build terraced house sold for £450,000 in March 2015. No further details are readily available but the figure broadly equates to the lower priced 1 bed units in the subject scheme.

Unit 9 Evening Court/Newmarket Road

This modern terraced unit first sold in 1997 and has now achieved values in excess of £1m as at June 2015. This is broadly in line with the value for the 2 bed maisonettes in the subject scheme, though more valid analysis would be possible with floor areas and the number of beds available to us.

Parkside Place

This property is available as self-catered serviced apartments, typically available for rent for period of 2 days to 1 week minimum stay depending on the level of advance booking. These schemes typically generate values much more closely allied to hotel development than residential sales.

House Price Index

A variety of sources provide estimates of house price growth in Cambridge and across the county. Land Registry places growth over the last 6 months in the City at 6% and running at 12% for the last 12 months. This contrasts with the Land Registry's estimates of 3.5% growth over the last 6 months for the county as a whole

By contrast Zoopla places a lower level estimate of 3.4% as the rate of price growth for this area of the City, but is inevitably working from a smaller sample size as it attempts to provide more local analysis.

Conclusion

We remain of the view that the scheme has been fairly priced by reference to relevant market evidence.