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Signed



Date

22/06/17

Walton & Co
2 Queen Street
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APPEAL STATEMENT

I, Steve McBurney, of Commercial Estates Group Limited (CEG), No 1 Leeds, 26 Whitehall Road, Leeds, LS12 1BE will say as follows:

Introduction

1. I am employed by CEG as Head of Planning (North). I hold a BSc(Hons) degree in Geography from the University of Durham and post graduate masters in Town and Regional Planning from Leeds Metropolitan University. I am a Chartered Member of the Royal Town Planning Institute (RTPI). I have nearly 17 years of experience working within the planning and development industry with over 9 of these years working for CEG.
2. CEG (on behalf of ASE II Developments as the owner) is the manager and developer of the Oughtibridge Mill site which is the subject of this planning appeal ("the site"). I personally have been working on the Oughtibridge project for nearly 2 years. My role has predominantly been to promote the site through the planning system in readiness for the comprehensive redevelopment of the site. In making this statement, I set out what I believe are the incentives for applying Vacant Building Credit (VBC) for CEG as applicant/appellant at the site.
3. I am duly authorised by CEG to make this statement on the company's behalf in connection with the appeal lodged by CEG against Sheffield City Council's decision on 8th March 2017 to refuse planning application 16/04679/OUT to remove Condition 22 (affordable housing provision) from planning permission 16/01169/OUT dated 28th October 2016.

4. The facts and matters set out in this statement are within my own knowledge unless otherwise stated and I believe them to be true. Where I refer to information supplied by others, I identify the source of the information. Facts and matters derived from other sources are true to the best of my knowledge and belief.

Context

5. The site is a large and complex brownfield site which includes a number of substantial vacant buildings associated with the historic operation of the industrial use of the site as a paper mill.
6. Further complexity is added by the fact that the site straddles the administrative boundaries of two local planning authorities; Sheffield City Council (SCC) and Barnsley Metropolitan Borough Council (BMBC). One significant consequence of this is that the site has two different development plan designations; being within the Green Belt within BMBC's administrative area and allocated for General Industry within SCC's administrative area. Further details can be found in the Statement of Case.
7. National Planning Policy Guidance (NPPG) provides an incentive for brownfield residential development on sites containing vacant buildings in the form of the "Vacant Building Credit" (VBC). VBC was reinstated in NPPG in May 2016 following the decision of the Court of Appeal in *Secretary of State for Communities and Local Government v West Berkshire District Council* [2016] EWCA 441.
8. The reinstatement of the VBC policy therefore post-dated the submission of the original planning application 16/01169/OUT in March 2016, but pre-dated its determination in October 2016.

Notwithstanding this, SCC (acting on behalf of both local planning authorities under delegated powers) concluded that VBC should not be applied and imposed Condition 22 of the planning permission 16/01169/OUT requiring the provision of affordable housing.

9. NPPG states the following in respect of the VBC:

“Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace....

...Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A ‘credit’ should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.”

10. In the case of the proposed comprehensive redevelopment of the Oughtibridge site, the proposed gross floorspace will be less than the gross floorspace of the existing vacant buildings. Therefore, should VBC policy be applied, this would result in no affordable housing provision.

The Incentive of Vacant Building Credit

11. The VBC policy is intended to incentivise brownfield development, both the reuse and redevelopment of empty and redundant buildings. The Written Ministerial Statement of November 2014 (WMS) which accompanied the original introduction of VBC spoke of *“boosting the attractiveness of brownfield sites”*.
12. The VBC incentive therefore goes beyond the issue of simple viability, i.e. whether a proposed development is viable or not before the application of VBC. It is not a precondition of the application of VBC that a development must not be viable with the level of affordable housing which would otherwise be provided without its application.
13. Moreover, the VBC calculation set out in the NPPG is not linked to what is required to make a development viable; rather it is linked to the gross floorspace of existing vacant buildings, whatever that might be. There is therefore no guarantee that applying VBC will *necessarily* make a development viable.
14. Therefore SCC was wrong to align VBC with viability and, in the absence of a viability appraisal submitted by CEG, was wrong to decide that “Vacant Building Credit was not needed to incentivise the development of this site” in the first reason for refusal.

The application of VBC as an incentive to the development of the Oughtibridge site

15. It is not disputed that the application of VBC at the Oughtibridge site would provide a financial benefit to CEG as the developer. The removal of the developer’s contribution towards affordable

housing provision would *in principle* mean a higher development revenue on the assumption that affordable housing provision would have been on-site (by virtue of those dwellings that would have been sold as affordable dwellings being instead sold on the open market) or a lower development cost on the assumption that affordable housing provision would have been off-site (by virtue of a financial contribution through a Section 106 Agreement no longer being required). Either way, with the application of VBC, the development would be more profitable to CEG than without the application of VBC. However, that is not the end of the matter.

16. Whilst the financial benefit of applying VBC is in itself an obvious incentive to CEG, to bring the site forward for development, this financial benefit could manifest itself as an incentive to develop the site in one or more different ways. I will explain.
17. Firstly, CEG could simply take more profit from the development if VBC is applied. A better financial return as a reward for taking on the high cost and high risk of developing a complicated brownfield site which includes Green Belt land acts as a clear incentive to CEG. The attractiveness of prioritising this site over others (such as greenfield sites within its portfolio) would be boosted, in accordance with the aims of the WMS.
18. Secondly, CEG would be incentivised to further enhance the quality of the build of the proposed development if VBC is applied; for instance in terms of design, specification, construction methods and materials. While this would undoubtedly increase the development cost and in turn result in a lower level of profit, CEG would still benefit because an even higher quality development in this location could assist in the development selling quicker, resulting in a more beneficial project risk profile for CEG. Again, the consequence here of applying VBC acts as a clear incentive to CEG.

19. Thirdly, CEG could bring the site forward for development quicker, both in terms of commencement and completion, if VBC is applied. The prospect of realising a higher level of profit would increase CEG's motivation to pay at risk the high development costs which are associated with bringing the site forward, particularly the upfront infrastructure which could be delivered in a quicker and more holistic manner. Again, a development that could be commenced and completed quicker is less risky and therefore acts as a clear incentive to CEG.
20. Finally, a development with no on-site affordable housing as a consequence of VBC being applied in this particular instance means greater flexibility for CEG in terms of the phasing and delivery of this large and complicated brownfield site, i.e. in terms of the timing of delivery of affordable housing relevant to market housing and infrastructure. The need to factor into those timescales the processes of agreeing the details (location, house type, tenure etc.) of the affordable housing with the Council and the subsequent negotiation, construction and sale of the affordable housing to a Registered Provider, would be removed; these are processes which have become more complicated and less certain over recent years. The phasing of delivery of the infrastructure and market housing would be simplified and made more certain and flexible, thus assisting further with the incentives I have identified in paragraphs 18 and 19 above. Again, increasing certainty in this way acts as a clear incentive to CEG to develop this particular site quicker and in preference to other large sites in its portfolio which might be the subject of complicated on-site affordable housing delivery mechanisms.
21. As such, the application of VBC will entice and incentivise CEG to bring the Oughtibridge site forward in more ways than just simply whether or not VBC ensures that the proposed development is viable. VBC could positively affect the manner and timing of the development and assist in minimising the

Statement of Truth

26. I believe that the facts stated in this statement are true.

Signed..........

Dated: 22/06/17

Name: Steve McBurney