

PLANNING COMMITTEE: 24th September 2019
DEPARTMENT: Planning Service
HEAD OF PLANNING: Peter Baguley

APPLICATION REF: N/2019/0703

LOCATION: Sofa King Tivoli House, Towcester Road

DESCRIPTION: Variation of S106 agreement following the grant of planning permission N/2017/0127 for the development of 40 no. dwellings with retail

WARD: Delapre and Briar Hill

APPLICANT: Andy James
AGENT: Matt Collerson

REFERRED BY: Head of Planning
REASON: Major application requiring S106 agreement

DEPARTURE: No

1. RECOMMENDATION

- 1.1 That Committee **AGREE** to vary the Section 106 Legal Agreement so that 0% affordable housing is provided.

2. THE PROPOSAL

- 2.1 The applicant has applied to vary the existing Section 106 Agreement in order to vary the level of the affordable housing provision from 35% on site provision to 0%.

3. SITE DESCRIPTION

- 3.1 The application site is located on the periphery of the allocated Far Cotton local centre. St Leonards Road is sited to the east of the application site, which joins Towcester Road at a roundabout to the south of the application site. Towcester Road is therefore directly adjacent to the western boundary of the site.
- 3.2 The application site contains a building, which was originally constructed as a cinema, but over recent times has been subject to a number of alterations, and has been used as a retail unit but currently vacant.
- 3.3 The surrounding land uses within the immediate vicinity are therefore a variety of commercial and leisure uses, although residential accommodation is prevalent within the wider area. The general

trend is that buildings are generally of two storeys in height and constructed in more traditional styles of architecture. Notwithstanding this, the surrounding area has seen more recent developments of larger buildings that have included the erection of flats. This includes a block of flats on the opposite (western) side of Towcester Road.

- 3.4 In addition, the application site is relatively level in nature and is also located within an identified flood zone.

4. PLANNING HISTORY

- 4.1 N/2017/0127 - Demolition of existing building. Erection of 40no dwellings (Use Class C3) with associated car parking and ancillary space and 130.10m² of retail space (Use Class A1) – Approved

5. PLANNING POLICY

5.1 Statutory Duty

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and Northampton Local Plan (1997) saved policies.

5.2 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

Paragraph 57 outlines that it is for the applicant to demonstrate whether particular circumstances justify the need for a viability assessment.

Paragraph 59 states that an objective of the Government is to boost the supply of housing and that within this context (paragraph 61) a mixture of sizes, types and tenures should be delivered. Paragraph 62 of the NPP states that where there is a need for affordable housing, this should be delivered on site.

5.3 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

Policy H1 requires that a mixture of house types are provided, which should be of varying sizes, types and tenures. Policy H2 requires that at least 35% of developments of 15 or more dwellings should be made available for occupation as affordable housing.

In addition to these matters, Policy INF1 requires that developments provide sufficient infrastructure to mitigate the impacts of development, which is in addition to Policy INF2 that requires a reliable mechanism for the provision of such infrastructure.

6. APPRAISAL

- 6.1 Planning application N/2017/0127 for the demolition of the existing building and erection of 40 no. dwellings with associated car parking and retail was considered by the Planning Committee in June 2017. The Committee resolved to approve the application in principle, subject to the finalisation of a S106 agreement to secure:
- i) 35% on-site affordable housing;
 - ii) A payment towards the provision and/or enhancement and/or maintenance of off-site open space;
 - iii) The provision of construction worker training opportunities and a financial contribution in respect of the administration of that scheme; and
 - vi) The Council's monitoring fee.

The S106 agreement was subsequently completed and formal planning permission was issued on 12th January 2018. However, development has not commenced on site.

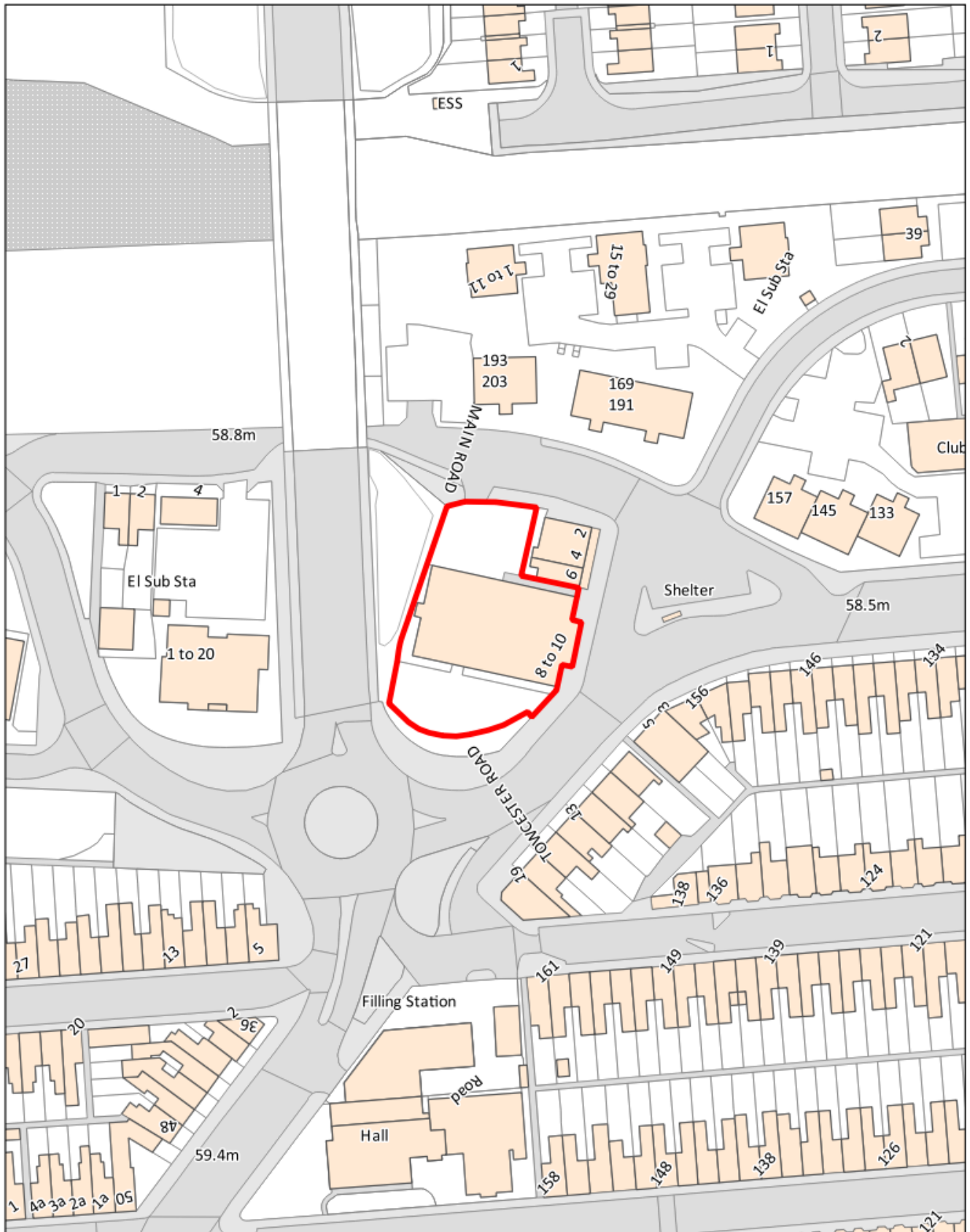
- 6.2 Following the grant of planning permission, the developer has not been able to bring the scheme forward for development due to the requirements of the Section 106 agreement, rendering the scheme financially unviable. As the site was not subject to a viability assessment for the original application, it is not known what the baseline viability position was to determine the changes since. Whilst the consented scheme offered policy compliant provision, it is understood that this has resulted in the scheme being undeliverable on site due to the current owners being unable to sell the site due to the scheme being financially unviable to build. It is understood that a buyer has been found for the site, Bauhaus Living Limited, however this is only on the basis that the scheme is amended on viability grounds.
- 6.3 The National Planning Policy Framework (NPPF) identifies at paragraph 57 that if full contributions cannot be made, it is for the applicant to demonstrate whether particular circumstances justify the need for a viability assessment. The weight to be given to the viability assessment is for the Council to decide having regards to all the circumstances in the case including whether the plan and the viability evidence underpinning it is up to date and any changes in circumstances.
- 6.4 As part of this application, the applicant provided a Planning Viability Assessment and this has been checked by White Land Strategies Ltd, an advisory consultancy specialising in independent assessment of development options and viability assessments on behalf of the Council. The basis for assessment is that the viability test requires that landowners should receive a reasonable return for disposal of land coming forward for such development and that the cost associated with planning contributions and infrastructure should not be so detrimental to land value that landowners should be forced to bring forward land below a reasonable market return.
- 6.5 The conclusions of this independent assessment are that the applicant's scheme is considered unviable in relation to affordable housing. It is advised that the development can proceed with the S106 payments and CIL being paid but only with 0% affordable housing. The report finds that the policy compliant scheme is wholly unviable as it residualizing to a negative profit. It has been found that the 0% provision would allow the scheme becomes viable with a 17.5% return, but only with a 0% affordable housing provision.
- 6.6 Having considered the submitted viability assessment and independent assessment, it is considered that it has been justified that the development cannot proceed in its current state due to the scheme being financially unviable. It has been demonstrated that the scheme will only become viable should the affordable housing be removed from the development. In order to secure development of this site, it is considered that the S106 should be amended to remove the requirement for affordable housing. This would enable this prominent vacant site to be brought forward for development, with the benefits of regeneration of this part of Far Cotton and contribution to the Council's housing land supply.

7 LEGAL IMPLICATIONS

- 7.1 None.

8. SUMMARY AND LINKS TO CORPORATE PLAN

- 8.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



NORTHAMPTON
BOROUGH COUNCIL

Title: **Tivoli House, Towcester Road**

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