

Developer accused of wriggling out of affordable homes obligation

An Edinburgh developer has been accused of trying to “wriggle out” of a commitment to build affordable homes after it claimed doing so was no longer “financially viable”.

Councillors overwhelmingly refused a bid by developer, Henderson Place LLP, to abandon allocating 10 flats in a new block of 42 as social housing.

The company was told that making the properties affordable enough for registered social landlords to buy would “eat into the potential profitability” and would reduce income on the deal by £1.3 million.

It was proposed that just under £600,000 would be paid to the council instead for affordable homes to be delivered “in the vicinity” of the Henderson Place Lane site.

But councillors have rejected the move, saying they would be “lucky to get two” or “possibly three” built – down from a previously-agreed 10 in line with the local authority’s 25 per cent affordable housing policy.

One councillor remarked: “The developer is trying to wriggle out of the obligations for this which I’m not happy about.”

Planners said the overall cost of the project had risen from £7.9 million in 2020 to £10.6 million, while the estimated

income from property sales had “plummeted”.

Developers required to provide affordable housing on small sites were facing a “perfect storm” of difficult market conditions,” said Cllr Hal Osler, Convener of the Development Management Sub-Committee when the application was heard on Wednesday.

Planning officer John Maciver said the cost of taking on the units to a registered social landlord (RSL) “would be an amount of monies well above anything that could be afforded by any of them”.

Planner Alex Blyth added that figures provided to the council “prove the developer could not afford to reduce the price of the units to a level that would be affordable to an RSL”.

The pair were quizzed by councillors on whether there were any “exceptional circumstances,” which justified waiving the developer’s obligation to deliver affordable homes on site.

Cllr Chas Booth said: “In the past we’ve had arguments from developers that they have needed to do pile driving, which they had not anticipated beforehand and that had added costs.

“As far as I understand it, the reason for this developer saying they can’t afford the affordable housing is inflation in terms of the significantly increased build costs.”

He added: “Their argument for asking for this to be changed from on-site to a commuted sum is around construction price inflation. That is not unique to this specific site.

“I think it was reasonable to take into account some sort of expectation that inflation might increase.”

Cllr Booth was also concerned that approving this application would send a “message” to developers that on site affordable housing was “an optional extra”.

He said: "On site affordable housing is really, really important. We should be holding quite a firm line to developers, I believe."

Cllr Osler, who backed granting permission to the developer, said: "This is not something we like to see coming before us."

"We do seem to have a bit of a perfect storm. I know there's been much mentioned about the increase of costs of construction."

"We seem to have applications coming in front of us where they are small scale and so the build costs are more expensive for small builders, in particular areas which are expensive to build in."

"I would pretty much say a perfect storm of having three things in front of you is quite exceptional."

"I would with a heavy heart obviously go with what planners have recommended. I don't believe the planners would have recommended this if they didn't feel there was a different option."

Cllr Jo Mowat urged the committee to reject the bid. She said a subsequent appeal to The Scottish Government would be a "test for our policy".

She said: "I am highly concerned about what is being brought forward."

"Development is a risky business, it comes – we have determined that – with a high level of risk."

"I do not accept there are exceptional circumstances. I think this is purely a question of testing viability."

She said issues affecting construction costs "apply to every single site being developed" and "unless we want a rash of these applications to come in and lose all the affordable

housing this committee has fought very hard for over the years, we need to test this".

Cllr Alan Beal said: "From what should be 10 affordable housing units, we're going to be lucky to get two somewhere, possibly three.

"The developer is trying to wriggle out of the obligations for this which I'm not happy about. I think they've got a responsibility to meet this obligation."

The committee voted 8-2 to refuse modifying the planning obligation.

by Donald Turvill Local Democracy Reporter