Expiry Date - 12/05/2011

Development Control – Delegated Officer Report

Application Number: 11/0107/FULL **Recommendation – APPROVE**

Site: **Land At 84-92 Heene Road Worthing West Sussex**

Proposal: **Application to vary condition 3 of planning permission WB/03/00842/FULL (as varied by WB/04/01147/FULL) by reducing car parking from 27 to 20 spaces through omitting basement car park and rearranging the surface parking , together with allied alterations to the layout.**

Background

Planning Committee resolved to grant the above proposal at its meeting on 21.12.11, subject to certain conditions below and the completion of a legal agreement to secure the required development contributions and, subject to an overage clause, affordable housing.

The Committee report and draft decision notice as well as legal agreement with required condition are appended.

The legal agreement has now been concluded and is signed.

The Non Material Amendment application WB/04/01147/FULL/NMA1 was approved by Planning Committee at its meeting on 21.12.11 and is to be issued concurrently.

Planning Assessment

Since the Committee resolution the National Planning Framework has been published and residential space standards Supplementary Planning Document adopted but this does not materially impact on the acceptability of the proposal.

The legal agreement is otherwise acceptable and allows for a phased payment.

Recommendation

Grant planning permission subject to the conditions set out below and the appended legal agreement.

Reason for granting planning permission

The proposal amends an approved and live planning permission dating back to 2003 (WB/03/00842/FULL as amended by WB/04/01147/FULL) by making some relatively modest changes to the physical form and most notably reduces on site parking levels. The proposal is sustainably located and makes effective use of a cleared but prominent brownfield site in a sustainable location. Non-family flats are acceptable in view of the particular circumstances and the design is satisfactory. No significant harm to neighbour amenity would arise and the development achieve an acceptable standard. The reduced parking is acceptable if occupation restricted to over 55s. The complementary Non Material Amendments to WB/03/00842/FULL as amended by WB/04/01147/FULL are accepted.

It is acknowledged that there is a pressing need for more affordable housing in the town but the developer has demonstrated that the new affordable development contributions and sustainable design requirements now required under Worthing Core Strategy policies adopted since the original planning permission makes the scheme unviable. In view of the development appraisal submitted and taking into account the broader circumstances of the development including history, the modest changes proposed and Government advice in this area of viability, along with the benefits to be gained from encouraging early development of the site, the proposal is, on balance, acceptable subject to the overage clause in the accompanying legal agreement to capture development profits for affordable housing should profitability improve significantly in the future. The aforementioned legal agreement carries forward previously required and updated development contributions for transport and outdoor recreation but omits education development contributions due to the age occupancy of the future occupiers. Subject to the legal agreement and re-imposition of suitably amended previous conditions and new restrictions on occupation the proposal is acceptable.

Case Officer signed: [redacted] Date: 6 6 12

Authorised and signed by: [redacted] Date: 11 · 6 · 12

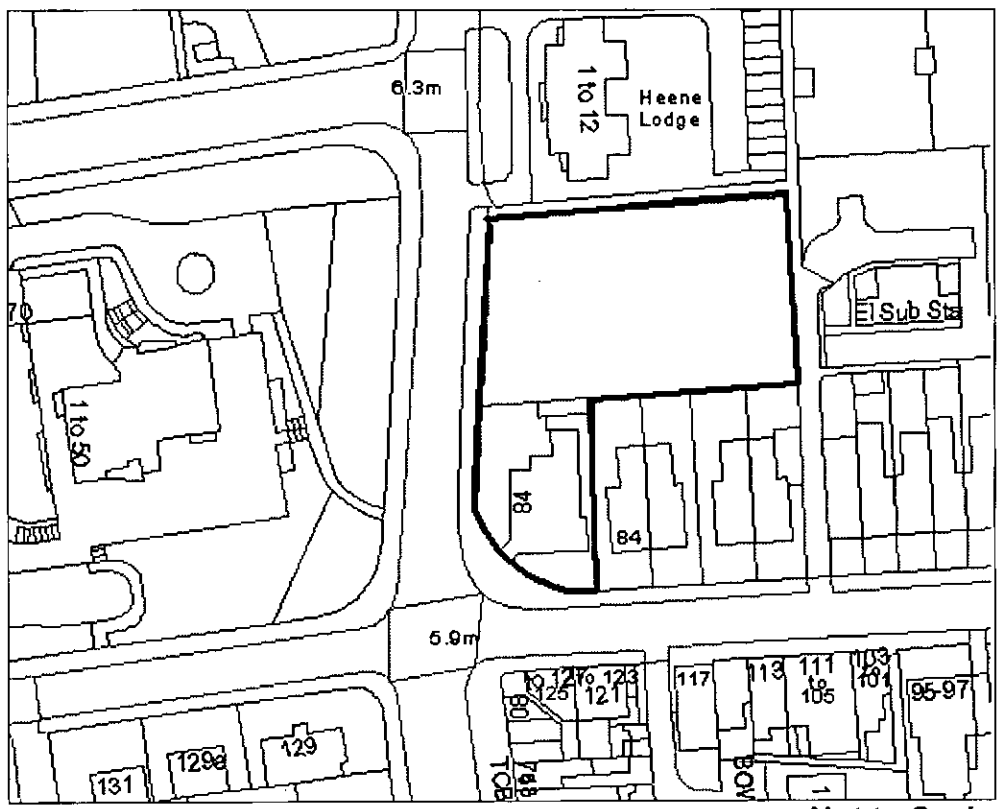
Town & Country Planning Solutions

Roffey Homes

WB/11/0107/FULL &
WB/04/01147/FULL/NMA/1
HEE
PD

Location : Land at 84-92 Heene Road

Proposal: Application to vary condition 3 of planning permission WB/03/00842/FULL (as varied by WB/04/01147/FULL) by reducing car parking from 27 to 20 spaces through omitting basement car park and rearranging the surface parking, together with allied alterations to the layout.



Not to Scale

Reproduced from OS mapping with the permission of HMSO (c) Crown Copyright Licence No LA100024321

1. THE PROPOSAL AND THE SITE

This is a proposal to amend an approved scheme for redevelopment with 23 flats by replacing the basement car parking with surface parking and reducing the number of car parking spaces from 27 to 20 with allied changes to layout and design.

The site comprises a semi-derelict former bank (No. 84) on the NE corner of Heene Road and Rowlands Road plus the adjacent cleared site formerly occupied by (Holcombe House - Nos. 88-92) on the east side of Heene Road.

No. 84 Heene Road is a prominent two-and-half storey Victorian building faced in light buff bricks and featuring a corner tower. The site is situated on the outer fringe of the town centre in an area still characterised by substantial Edwardian buildings but also featuring considerable modern infill and is within a Controlled Parking Zone. Rowlands Road Neighbourhood shopping centre lies to the south and east; Manor Lea opposite, to the west; and Heene Lodge (3 storey flats) to the north. Two storey semi detached houses (Nos. 78 to 84 Rowlands Road), converted to flats, are found to the east of No. 84 Heene Rd, whilst an electricity substation adjoins the cleared part of the site.

Planning permission was granted in July 2003 (WB/03/00842/FULL) for the demolition of all the buildings and its redevelopment for 23 flats in a scheme comprising two blocks. Block A would sit on the former Holcombe House site and is mainly four storeys tall but stepping down to three storeys adjacent to Heene Lodge and is built in a contemporary style. It consists of 14 flats and basement parking for 12 garages and a further 3 undercroft spaces. Block B accommodates 9 flats and occupies the former bank site at No. 84. It is between two and half and three and half storeys tall and incorporates a tower feature in a more period style. The remaining parking would be at surface level in the form of nine garages and two open spaces at the rear (eastern part of the site) bounding the substation. Vehicular access is between the blocks off Heene Road. The planning permission was accompanied by a unilateral legal undertaking to pay development contributions of £36,034 towards outdoor recreational facilities; £22,000 towards cycle facilities; £12,000 towards bus helter facilities and £14,000 towards education facilities within 7 days of commencement of development.

A further planning permission was granted in 2004 (WB/04/01147/FULL) to amend this permission by making some relatively modest changes to the elevational treatment of Block A and extending the rear garage block to the south, amongst others.

Pre-commencement conditions have all been approved and demolition of Holcombe House occurred in 2004 and further site preparations in order to lawfully commence the development in February 2009.

The legal agreement was modified in 2010 to make the trigger for the payment of the required development contributions within 7 days of the completion of sales.

The current proposal seeks to modify the extant planning permission by substituting surface parking for basement/undercroft parking under Block A and reducing the number of parking spaces from 27 to 20. Associated works involve modifying the landscaping and access/parking arrangements around the rear area of Block A. Notable amongst these are the removal of the vehicular ramp (to basement) to the rear of the block and retention of existing ground levels; creating a secondary rear a pedestrian access (primary access remains from Heene Road); providing five surface car parking spaces to the rear (including two which reduce the size of the rear communal garden); replacing the detached wide rear garage block adjacent to the east boundary

with open parking and replacing a balcony on a rear ground floor flat with a patio . The height, scale and design of Block A is unaltered.

The proposal seeks to achieve this by varying Condition 3 (relating to parking) of WB/03/00842/FULL (as modified by WB/04/01147/FULL) and a complementary Non Material Amendment application to the above planning permission. The proposal also promotes a restriction on occupation of the flats to the 55s and over.

The application is supported by a planning statement and detailed development appraisal on the apparent un-viability of the approved scheme. The application has been the subject of extensive negotiations on the matter of un-viability and development contributions.

2. APPLICANT'S PLANNING AND VIABILITY STATEMENTS

This explains the background to the proposal and the proposals themselves and argues their acceptability in planning terms. A subsequent viability report explains and details the un-viability of the consented scheme and the limited viability of the proposed scheme. It further advises that with the additional development contribution sought for affordable housing the scheme would be totally unviable. It supports this with detailed and confidential information about the development economics of the site.

3. CONSULTATIONS

The **Highway Authority** comments that the site is within a Controlled Parking Zone and that, if the age of the occupants is restricted to over 55s, the reduced parking provision is acceptable.

The **Planning Policy Manager** comments as follows:-

"To conform with Core Strategy policy 10 this scheme (if submitted today) would obviously be expected to provide an on-site provision of 30% affordable housing. However, some flexibility in this regard is accepted and, given recent precedent, this may also apply to the level of commuted sum requested.

Using the formula established within the 2007 SPD draft:

23 (units) x 30% (AH requirement) = 6.9 units

6.9 x £50,000 (off site contribution for 2 bed flat) = £345,000."

The **Social Housing Officer** comments that:-

"The pressures on affordable housing are severe due to the high number of people who cannot access the mortgage market nor the private rented sector due to borrowing constraints and high rents.

In Worthing the total number of people on the housing register is 1284 and there are currently 33 people in temporary accommodation. There are a large number of single homeless seeking accommodation although there is also a significant need for 2 and 3 bed properties.
At the same time the private rented sector is experiencing unprecedented growth, and the cost and affordability of rents is a major concern for many tenants.
The effects of the Government's Local Housing Allowance reforms from 1 April 2011 is anticipated to further compound the un-affordability of the private rented sector for many.
The Strategic Housing Market Assessment (SHMA) demonstrated an acute estimated level of need for affordable housing representing a minimum of 81% of anticipated levels of house building required to meet affordable housing need over the next 10 years in the study area which is highly unlikely to be met even at unprecedented levels of development.
The total number of affordable units developed over the past 3 years in Worthing was 221 (an average of 74 per annum) compared to the SHMA estimate of 161 annually to meet need.
In Worthing house build rates will be boosted by the anticipated development of West Durrington which will provide 210 affordable (from a total of 700), however, when compared to the overall annual need it is clear that the council needs to maximize the number of units from all strategic and windfall sites to come close to meeting the needs of the town.

Clearly there are many issues to be taken into account when a section 106 site is proposed and the contribution towards education, highways, health and community facilities must be addressed when considering the needs of the community. However, it must also be considered that affordable housing is a community benefit in its own right and the positive impact of providing housing which is accessible for those unable to afford market housing should not be underestimated. There are considerable economic benefits of providing housing to enable low income workers to live near their workplace as well as the positive impact it has on the serious issue of overcrowding and all its related problems."

4. REPRESENTATIONS

None.

5. PLANNING ASSESSMENT

The main issues for consideration are:-

i) Scope of considerations
ii) The principle of residential redevelopment, density and dwelling mix.
iii) The impact on the amenities of future and neighbouring occupiers.
iv) Quality of the design and impact on the character and appearance of the area.
v) Impact on access and parking.

Vi) Other environmental matters.
vi) Need for (affordable housing) development contributions.

As such the proposal should be principally assessed against saved Worthing Local Plan Policies H18; RES7; South East Plan Policies BE1, BE6; SP3; CC1; CC2; CC3; CC4; H1; H3; H4: H5; T2; T4; NRM1; NRM4; SCT1;and SCT5; Core Strategy Policies7, 8, 9,10,12, 13, 15, 16, 17, 18 and 19 and Space Standards Supplementary Planning Document. Government Policy is also relevant in Planning Policy Statement 1: Delivering Sustainable Development and Climate Change Supplement; Planning Policy Statement 3: Housing: PPG13: Transport; PPS22; Planning for Renewable Energy and various statements on development contributions and viability in the economic downturn; CIL Regulations 2010; Circular 05/05; Greater Flexibility For Planning Permissions. The Draft National Planning Policy Framework is material but has little weight:

Scope of Considerations

Under the planning system an amendment to a planning permission by way of a variation of condition application is required to be assessed afresh against the Development Plan and any other material consideration in accordance with S.38 of the Act. The main limiting factor here is that under S.73 of the Act this locus does not extend to altering the substance of the development itself; for example imposing additional conditions which require the scheme to be substantially physically reconfigured.

The tests for Non Material Amendment application are that its scale and nature are not substantially different from the approved scheme- effectively that the change is neither of substance, significance or consequence.

The principle of residential redevelopment, density and dwelling mix

The development is on a partly cleared brownfield site, which is sustainably located and, with the former uses having long ceased, eminently suitable for residential development.

Current planning policy in the Core Strategy now favours predominantly family houses rather than the two-bedroom flats originally consented and carried through in the new application. However, this is a central fringe site in a higher density, mixed use area with frontages onto reasonably busy roads where high density flats are, arguably, more in character. It is difficult to see how a scheme comprising mainly family housing could satisfactorily work at the scale and density expected of this site in townscape or dwelling yield terms. Moreover, the reported un-viability of the current proposal would be made still worse if a lower density family housing scheme were pursued. The fact that the flats would be restricted to over 55s (who would typically be moving from larger houses to smaller flats, thereby liberating their homes for occupation by younger families) further adds weight to flats rather than houses as the more appropriate dwelling type in this particular instance. The loss of the basement parking is regrettable but the scheme still makes efficient and effective use of the site at a density of 103 dwellings per hectare.

The impact on the amenities of future and neighbouring occupiers.

The relationship of the approved development to the neighbouring properties was considered acceptable at the time of granting permission given the separation distances, massing and form of the development and detailed design and safeguards imposed by conditions. The amendments sought do not generally materially alter this relationship, excepting that the rear detached block of 11 garages is now to be open parking. This raises potential issues of noise for the adjacent site. However, the adjacent land is a sub station and the rear of the plot of Lomas House in Wordsworth Road. The latter is currently under development for flats and the part closest to the application site, is itself, set aside for an open car park of 12 or more spaces.. The wider relationship between Block A and this development was reconsidered in 2007 when planning permission was granted and found acceptable with a 36 metres separation distance.

In terms of the amenity that future occupiers would enjoy, the development is served by lifts and all the flats significantly exceed the minimum internal space standards of the latest Supplementary Planning Document. All the flats have access to a large balcony or terrace and there is green curtilage space surrounding the development as well as a smaller communal garden in Block A. The reduction in size of the communal garden is not significant. Importantly, there is also an on-site fitness centre and the development is close to the sea front. The new surface parking provided to the rear of block A is close to unit A3 but buffer planting is shown and may be supplemented as necessary. At least one of the spaces should be assigned to this flat. This may be secured by condition.

Quality of the design and impact on the character and appearance of the area.

The scheme was considered an acceptable design at the time of granting planning permission which respected the context and provided a suitable replacement for the corner bank building with its tower. The amendments do not materially alter the appearance of the development from the street and the changes to the curtilage at the rear are not significant. The increased open parking is more visually noticeable but, being at the rear, is not visible from the street and is therefore acceptable, subject to suitable hard landscaping to break up any overpowering expanse of hard surfacing and the full scope for any soft landscaping to soften the view is explored. This may be achieved by condition.

Impact on access and parking

The site enjoys a highly accessible location and is in a Controlled Parking Zone. The six to seven parking space reduction is acceptable in terms of parking standards, given that development would be restricted to the over 55s. On this basis the Highway Authority raise no objections. Parking for 10 cycles is provided. Access is otherwise, unaffected.

Other environmental matters

Surface water drainage is addressed by condition and there is no significant wildlife on this brownfield part-construction site. Since granting planning permission in 2003, sustainable design has come to the fore with challenging levels in the Code For Sustainable Homes widely achieved in new development and likewise the South East Plan and PPS22 encourage provision of on-site micro renewable energy generation provision such as solar photo voltaics on major schemes such as this. However, whilst no commitment to achieving a specified level for Code For Sustainable Homes has been given, current Building Regulation carbon reduction standards far exceed those prevalent at the time of the original planning permission and such and micro renewable energy measures can add to construction costs. Whilst the additional costs for Code for Sustainable Homes cited by the applicant seem on the high side (compared to Government research), in view of the viability arguments discussed below, it is not considered appropriate to press these environmental standards at this point.

Need for (affordable housing) development contributions

The development contributions previously secured in the legal undertaking have been revisited and the County Council no longer consider an education contribution justified if the scheme is restricted to the over 55s. Otherwise the development contributions remain as before and the developer is willing to honour these in the required modification to the existing legal undertaking.

However, since the original planning permission, Planning Policy Statement 3: Housing has introduced a national requirement for affordable housing to be provided on all schemes of 15 or more dwellings and Core Strategy Policy H10 requires such provision on all schemes of 6 or more dwellings at a rate of 30% for schemes of this size.

The applicant has been requested to make this provision by way of a commuted sum towards off-site provision elsewhere rather than on-site provision to avoid the unreasonable disruption to the form of the scheme in compliance with S.73 (see above). The sum is £345,000.

The applicant has advised that the approved scheme is already unviable with a profit margin of around 7%, hence the new application to delete the basement parking. They advise that even with the deletion of the basement parking, the proposed amended scheme suffers poor viability with a profit margin of around 12%. The additional affordable housing development contribution would seriously erode the profitability of the scheme still further to also around 7% (even allowing for the removal of the education contribution). The new affordable housing contribution would therefore render the scheme unviable.

Government guidance over the past three or so years given the depressed economic conditions has increasingly emphasised the need for realism in the

application of development contribution requirements to reflect this situation and to avoid impeding economic recovery. Put plainly the issue is whether it is in the public interest to forgo the affordable housing development contribution if this materially improves the viability of the scheme and its likelihood of full implementation?

The starting point for any such appraisals, are the benefits to be gained either way.. In respect of affordable housing, the Social Housing Officer has commented on the increasing need to boost affordable housing provision, against a growing need and worsening situation. At the same time he has cited the acute pressure from some developers to relax affordable housing development contributions on a number of strategic and windfall sites, despite substantial commitments achieved at West Durrington. He stresses affordable housing is a community benefit in its own right and the positive impact of providing housing which is accessible for those unable to afford market housing. He also refers to the considerable economic benefits of providing housing to enable low income workers to live near their workplace as well as the positive impact it has on the serious issue of overcrowding and all its related problems. Because of the relative size of the affordable housing sum sought it would not be practical to substitute this for any of the historic development contributions already secured and agreed by the developer.

On the other hand, there are clear benefits from the proposed development proceeding as quickly as possible. This is a partly cleared, partly semi derelict site on a prominent corner near the town centre and its present appearance detracts from the character of the area. Its early return to a positive use would lift the area and boost confidence and the local economy and help regeneration as well as create jobs and provide housing. Clearly, these benefits would not materialise if the development does not proceed. Even so, there is no guarantee the development would proceed anyway if the affordable housing development contribution were relaxed, as this is still dependent upon funding and market conditions not deteriorating further.

A second key issue in the discussion is whether the developer has demonstrated that the development is genuinely unviable with the affordable housing development contribution. A full development appraisal supported by evidence of costs and a sales value commentary by Michael Jones has been submitted at officers' request. Whilst this has not been fully independently audited by the District Valuer it appears to be valid and the profit margins and viability forecasts cited, not unreasonable. Such is the state of the current market that similar claims by developers of un-viability are not unusual, and, whilst full contributions have been successfully negotiated on a number of schemes in recent times, many others are actively seeking relaxations. At least one has been accepted on its merits.

Nonetheless the applicant has agreed for the affordable housing development contribution to be paid in the event of the development becoming sufficiently profitable to sustain the requested sum, i.e. if the economic situation does materially improve. This "overage" payment would kick-in, if, at the completion of sales, it was apparent from the accounts that profits above an agreed rate of return had been achieved, with excess profits used to pay the

development contribution up to the value of the affordable housing sum. Some or all of the development contribution would therefore be paid, depending upon "excess" profits being achieved and their level.

Lastly, the discussion should heed Government guidance and pronouncements in this area. Hitherto, the Government had taken a tougher line, often insisting that developers should not be allowed to forgo their development contributions. . Increasingly though, the Government is encouraging Councils to be more pragmatic, recognising the importance of reviving the wider economy. This approach is material to the current application. The developer's particular circumstances also weigh heavily as does the reasonableness of insisting on a new development contribution (i.e. affordable housing) which could not have been factored in at the time of the original decision to purchase and develop the site. The fact that there is an extant, commenced permission and the modest nature of the amendments also are relevant material considerations in this case.

6. CONCLUSION

The proposal amends an approved and live planning permission dating back to 2003 by making some relatively modest changes to the physical form and most notably reduces on-site parking levels. The proposal is sustainably located and makes effective use of a cleared but prominent brownfield site in a sustainable location. Non-family flats are acceptable in view of the particular circumstances and the design is satisfactory. No significant harm to neighbour amenity would arise and the development achieves an acceptable standard. The reduced parking is acceptable. The Non Material Amendments sought are accepted.

However, the developer has reported that the new affordable development contributions now required under policies adopted post the original planning permission make a scheme of questionable viability, completely unviable, though pre-existing development commitments would be honoured. It is acknowledged that there is a pressing need for more affordable housing in the town. Nonetheless, in view of the development appraisal submitted and taking into account the broader circumstances of the development including history, the modest changes proposed and Government advice in this area of viability, along with the benefits to be gained from encouraging early development of the site, the proposal can, on balance, be supported with a suitable overage clause in the necessary Legal agreement should profitability improve significantly. That said, modern sustainable design targets will not be fully achieved due to the same viability issues. Subject to the aforementioned legal agreement and securing of the previously agreed development contributions (excepting education) and re-imposition of suitably amended previous conditions and new restrictions on occupation and as recommended elsewhere, the proposal should be supported.

7. RECOMMENDATIONS

1. **WB/11/0107/FULL**

THAT THE DECISION IN THIS CASE BE DELEGATED TO THE EXECUTIVE HEAD OF PLANNING, REGENERATION AND WELLBEING TO AWAIT THE COMPLETION OF A DEED OF VARIATION TO THE LEGAL AGREEMENT WITH A VIEW TO PLANNING PERMISSION BEING GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:-

1. Build to approved plans.
2. Provide boundary treatment in accordance with agreed details.
3. No occupation until parking has been provided in accordance with agreed plans and assignment of parking.
4. No dwelling shall be occupied by anyone less than 55 years of age.
5. Provide access in accordance with agreed details.
6. Provide dust suppression in accordance with agreed details.
7. No construction/demolition outside of 8am to 6pm Monday to Saturday and no work on Sunday or Public Holidays.
8. Provide landscaping in accordance with agreed details (including measures to soften expanse of parking.
9. External materials to be provided in accordance with agreed details.
10. Obscure glaze windows on south elevations of Block A and provide restricted opening.
11. Provide combined aerial in accordance with agreed details.
12. Provide drainage in accordance with agreed details.
13. Provide refuse storage in accordance with agreed details.
14. Bay windows in Block A design and siting to be in accordance with agreed details.
15. Dormer window on west elevation (2½ storey element) and two storey bay feature on Block B to be in accordance with agreed details.

THAT, IF THE APPLICANT SUBSEQUENTLY DECIDES NOT TO SIGN THE LEGAL AGREEMENT, THE EXECUTIVE HEAD OF PLANNING, REGENERATION AND WELLBEING BE AUTHORISED UNDER DELEGATED POWERS TO REFUSE THE APPLICATION.

2. **WB/04/0147/NMA**

That Approval be granted.

8. BACKGROUND PAPERS

Observations of the Highway Authority
Observations of the Planning Policy Manager
Observations of the Social Housing Officer