



**REGULATORY  
SERVICES  
COMMITTEE**

**REPORT**

21 July 2011

**Subject Heading:**

**Proposed variation of Section 106 agreement in connection with planning permission P0086.11 Snowdon Court, Elvet Avenue, Gidea Park:**

**Demolition of existing Snowdon Court buildings and the erection of two, new four storey buildings providing 38 sheltered flats and 60 extra care flats (total 98) with support facilities together with associated external landscaping.**

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**Policy context:**

**Local Development Framework  
The London Plan  
National Planning Policy  
Statements/Guidance**

**Financial summary:**

**None**

**The subject matter of this report deals with the following Council Objectives**

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

## SUMMARY

This report relates to proposals for residential development for 98 sheltered housing and extra care units on land at Snowdon Court, Elvet Avenue, Gidea Park. The site has the benefit of planning permission (under planning reference P0086.11) subject to a Section 106 legal agreement. The Section 106 agreement obligates the owners to provide 61 of the units as social rented flats, 20 of the units as shared equity flats and 17 of the units as discounted outright sale flats.

A request has been made to the Council to vary under Section 106A of the Town and Country Planning Act 1990 the legal agreement to convert the 17 units of discounted outright sale flats to social rented units in accordance with PPS 3 Housing June 2011.

## RECOMMENDATIONS

It is recommended that the variation of the Section 106 agreement dated 29 March 2011 to change the tenure mix, to that set out below by Deed of Variation under Section 106A of the Town and Country Planning Act (as amended), be approved:

The provision of 78 units for social rented accommodation, comprising 38 one bed flats and 40 two bed flats and the provision of 20 shared equity flats, comprising 10 one bed units and 10 two bed units. Such units to be managed by the Registered Social Landlord or Registered Provider with the Council to receive 100% of the nomination rights which shall be subject to the sub regional nomination arrangements confirmed by the East London Housing Partnership (or its successor).

Save for the variation set out above and necessary consequential amendments the Section 106 agreement dated 29 March 2011 and all recitals, terms, covenants and obligations in the said Section 106 agreement dated 29<sup>th</sup> March 2011 will remain unchanged.

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

## REPORT DETAIL

1. The site to which this proposal refers is the former Snowdon Court sheltered housing block, located in Elvet Avenue, Gidea Park. The site has planning permission for residential development of 98 units sheltered housing and extra care units (under planning permission reference P0086.11). Permission for the development was granted subject to a number of planning conditions, as well as a Section 106 legal agreement signed and dated 29 March 2011.
2. The legal agreement includes restrictions on the tenure mix of the proposed development. It also restricts the age of occupants to 55 years and over. The tenure mix, as set out in the S106 agreement, is for 81 of the units to be provided as affordable housing, of which 61 are for social rented accommodation and 20 are shared equity units. A further 17 units within the development are to be provided as discounted outright sale flats (to be sold at 85% of market value).
3. It is now proposed to vary the Section 106 agreement dated 29 March 2011 so that the development would now comprise 100% affordable housing. This would consist of 78 units of social rented accommodation and 20 units of shared equity accommodation (sold at an initial 50% equity to over 55's in the London Borough of Havering).
4. Staff consider the proposed changes to the tenure mix to be acceptable. The provision of a 100% affordable housing development would accord in principle with Policy DC6 and the proposed tenure mix would achieve a higher proportion of general needs rented accommodation than achieved by the current agreement (currently 61 but proposed to increase to 78 units). Policy DC6 seeks a tenure split of 70:30 of social rented units to intermediate housing types. The split in this case would be just under 80:20 and Staff consider this to be acceptable and to meet the Council's affordable housing objectives. Havering Council will have nomination rights for the social rented units and a large number of these will be for direct referrals by L.B. Havering's Adult Social Care Service for clients with higher care needs. The proposal is supported by the Council's Adult Social Care service and the proposal is considered by planning staff to meet the Council's objectives for providing care for residents within the Borough with particular needs. The development will continue to be restricted to residents of 55 years and over.

5. The Council's Housing Service has confirmed that it is supportive of the proposed change of tenure mix for the following reasons:

- There will be an additional 17 units of social housing to which the Council will have 100% nomination rights. This will potentially free up family housing stock elsewhere in the Borough that could be allocated to families in housing need.
- All nominations will be via Havering in perpetuity rather than the proposed out-right sales being offered initially to Havering residents, with a cascade arrangement to out of Borough applicants if sales were not forthcoming within an agreed timeframe.
- These new units will be at social rents rather than the new affordable rent product and therefore subject to the national rent regime.

6. The proposed change to the tenure mix would not change the number of units or bedrooms within the development. It is not therefore considered that there would be any material affect on the development as approved in terms of layout or design.

7. Staff have considered whether the proposed change to the tenure mix would materially affect the transport contributions, which are secured through the S106 agreement. The transport contributions were required to provide street lighting and footway works and for bus stop improvements. Highways have confirmed that the proposed change in tenure mix would not materially change the nature of highway improvement works required or the cost of these works. The S106 agreement also includes a requirement for the owners to enter into a S278 agreement for works affecting the public highway. This would not be materially altered by the proposed change in tenure

## 8. **Conclusion**

8.1 Staff consider that the proposed variation of the S106 agreement to change the tenure mix of the development approved under application reference P0086.11 is acceptable and accords with Policy DC6 of the LDF. It is therefore recommended that variation of the legal agreement in respect of the tenure mix is approved, subject to all other elements of the legal agreement remaining as per the original agreement signed and dated 29 March 2011.

## **IMPLICATIONS AND RISKS**

### **Financial implications and risks:**

The proposal gives rise to potential loss of overage from the sale of the 17 flats initially proposed for outright discounted sale.

### **Legal implications and risks:**

Legal resources will be required for the variation of the legal agreement.

### **Human Resources implications and risks:**

None.

### **Equalities implications and risks:**

The Council's planning policies are implemented with regard to Equalities and Diversity. The proposal will assist in the provision of affordable housing within the Borough, consistent with Policy DC6 of the LDF Development Control Policies Development Plan Document. The proposal will provide sheltered housing and extra care housing for older residents of the Borough. The proposal therefore directly contributes to the Council's equality objectives by providing accommodation tailored towards those households within the Borough who have been identified in the LDF as having special needs.

## **BACKGROUND PAPERS**