

REGULATORY SERVICES COMMITTEE

REPORT

4 August 2011

Subject Heading:

Proposed variation of Section 106 agreement in connection with planning permission P0478.08 – Upper floors 25 to 31 South Street, Romford

Change of use of second and third floors to form 12 apartments together with alterations to ground floor entrance and rear emergency escape stairs

Report Author and contact details:

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Policy context:

Local Development Framework
The London Plan
National Planning Policy

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

In July 2008 planning permission was granted for the conversion of the upper floors of nos. 25 to 31 South Street, Romford to form twelve residential apartments

under application reference P0478.08. A S106 legal agreement was completed as part of the application and the wording of the agreement requires the applicant to provide six of the units as affordable housing. The S106 requires that four of the units are made available for rent and two for shared ownership purposes. The remaining six apartments being for open market sale.

The planning permission has now been implemented and a request has been made to the Council to vary under Section 106A of the Town and Country Planning Act 1990 the S106 agreement in order that all six affordable units can be occupied for shared ownership purposes. Staff raise no objection to the requested change.

RECOMMENDATIONS

It is recommended that the variation of the S106 agreement dated 11th July 2008 to change the tenure mix, to that set out below by bilateral Deed of Variation under Section 106 of the Town and Country Planning Act (as amended), be approved:

The provision of at least six units for shared ownership purposes. 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) and that if the affordable housing units are no longer available for eligible users any subsidy is recycled for alternative affordable housing provision in accordance with PPS 3 Housing June 2011.

Save for the variation set out above and necessary consequential amendments the S106 agreement dated 11th July 2008 and all recitals, terms, covenants and obligations in the said Section 106 Agreement 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 located to the upper floors of nos. 25 to 31 South Street, Romford. Planning permission has been implemented at this site for the formation of twelve residential apartments (under planning permission reference P0478.08). Permission for the development was granted by the Council in July 2008 and was subject to a number of planning conditions, as well as a S106 legal agreement signed and dated 8th July 2008.
2. The S106 agreement requires that six of the twelve residential units are affordable in order to comply with the provisions of LDF Policy DC6. The tenure mix, as set out in the S106 agreement, is that four of the six units are for affordable rent and two of the six units are for shared ownership purposes. The remaining six apartments being for open market sale.
3. It is now proposed to vary the S106 agreement so that all six of the affordable units can be occupied for shared ownership purposes. Staff consider the proposed changes to the tenure mix to be acceptable. The provision of all six affordable housing units for shared ownership purposes would accord in principle with Policy DC6 of the LDF. The Council's Housing Service has confirmed that it is supportive of the proposed change of tenure mix. The proposed change in tenure would enable one of the Council's Housing Association Partners to provide six properties to those who would otherwise be unable to purchase a home on the open market.
4. The proposed change to the tenure mix would not change the number of units or bedrooms within the development. Staff have considered whether the proposed change to the tenure mix would materially affect the highway and education contributions, which are secured through the S106 agreement. The highway contribution, which was for town centre improvements, was calculated on the basis of the overall number of units proposed so would not be materially affected by the change in tenure mix. In respect of the education contribution, this was calculated as a bespoke figure for the development when the planning application was considered. Staff are satisfied, in conjunction with advice received from the Education Service, that the proposed changes to tenure mix would not justify any change to the required education contribution.
5. **Conclusion**
 - 5.1 Staff consider that the proposed variation of the S106 agreement to change the tenure mix of the development approved under application reference P0478.08 is acceptable. It is therefore recommended that variation of the S106 agreement in respect of the tenure mix is approved, subject to all other elements of the section 106 agreement remaining as per the original

agreement signed and dated on 11th July 2008 save for those referred to in the recommendation.

IMPLICATIONS AND RISKS

Financial implications and risks:

There are no financial implications arising from the proposal.

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.

BACKGROUND PAPERS

1. Email request received from the applicant's solicitors dated 10th June 2011.
2. S106 agreement dated 11th July 2008.