



REGULATORY SERVICES COMMITTEE

REPORT

Subject Heading:

Proposed variation of Section 106 agreement in connection with planning permission P0206.10 Former Build Centre, Rushdon Close, Romford:

Redevelopment to provide 74 affordable residential units, together with associated landscaping, children's play space, refuse stores, access road and parking

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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 74 affordable residential units on land at Rushdon Close, Romford. The site has the benefit of planning permission (under planning reference P0206.10) subject to a Section 106 legal agreement. The Section 106 agreement obligates the owners to provide 52 of the units as affordable housing for social rent and 22 for intermediate ownership.

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 amend the definition of 'social rent' to read 'social rent, affordable rent and such other rent as agreed between the parties hereto'.

This variation is in addition to that previously agreed by Regulatory Services Committee in relation to planning application reference P0063.11.

RECOMMENDATIONS

It is recommended that the variation of the Section 106 agreement dated 2 August 2010 as varied by a Deed of Variation under Section 106A pursuant to planning permission reference number P0063.11 to be entered into on even date (the same day) as this proposed Deed of Variation to change the definition of social rent to that set out below under Section 106A of the Town and Country Planning Act (as amended), be approved:

The variation of the term "Social Rent" to read "Social rent or affordable rent," in accordance with PPS3 Housing June 2011.

The Developer and/or Owner to bear the Council legal costs in respect of the preparation of the legal agreement irrespective of whether or not it is completed.

Save as varied above the Section 106 agreement dated 2 August 2010 shall remain in full force and effect.

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 Build Centre, Rusdon Close, Romford. The site has planning permission for residential development of 74 affordable housing units (under planning permission reference P0206.10). Permission for the development was granted subject to a number of planning conditions, as well as a Section 106 legal agreement signed and dated 2 August 2010.
2. Subsequent to the granting of planning permission under application P0206.10, an application was made for amendments to this permission (under planning reference P0063.11) to re-design a flatted block within the development. This application was considered by Regulatory Services Committee on 27 October 2011, when it was resolved to grant planning permission subject to conditions and a Deed of Variation to the 106 legal agreement so that it would be tied to the development proposed under application P0063.11. Although there is a resolution to approve, the Deed of Variation has not yet been completed and the original planning permission (and Section 106 Agreement) remains the substantive permission for the site. It is the applicant's intention to complete a Deed of Variation in respect of planning application P0063.11 at the same time as the currently proposed Variation.
3. In addition to affordable housing matters, the legal agreement includes the requirement to pay a highways and education contribution and prevents residents of the development from applying for parking permits. In respect of affordable housing provision, the legal agreement requires the provision of 74 units as affordable housing, of which 52 are for rent and 22 for intermediate housing. The agreement contains a definition of what constitutes 'social rent'.
4. It is now proposed to vary the Section 106 agreement dated 2 August 2010 so that the definition of rented accommodation is changed from the term "social rent" to read "Social rent, affordable rent, and such other rent as agreed between the parties hereto".
5. 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 continue to achieve a 70:30 between rented units and intermediate housing types. However the proposal would not create "social rented" units as referred to in Policy DC6, although it would replace 'social rent' with other models, including 'affordable rent'. This is in accordance with PPS3 (June 2011) definitions of affordable housing and so is considered to be acceptable in

principle. An Executive decision has already been taken by the Council's Housing Service to support a conversion of tenure within the development from social rent to affordable rent.

6. The Executive Report has made this decision for the following reasons:

- The Government has introduced a new affordable housing tenure known as affordable rent. This new tenure is primarily different from the existing tenure of social rent in that gross rental levels may be up to 80% of private sector market rents. This policy change enables the Homes and Communities Agency (HCA) to fund the building of affordable homes with lower amounts of capital grant alongside this increased revenue stream.
- By contrast, under the social rented model rents around around 50-60% of the local market model and require up to four times more capital grant per dwelling.
- Havering supports 80% Market Rents for new Registered Provider development but they should be limited to no more than half of those dwellings becoming vacant.
- The relevant Housing Association has indicated there is little opportunity elsewhere to achieve such conversions
- The relevant Housing Association contributes a significant proportion of affordable housing provision within the Borough and support for this request from the Council will demonstrate a strong commitment to partnership working

7. 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.

8. Staff have considered whether the proposed change to the tenure mix would materially affect the transport and education contributions, which are secured through the S106 agreement or the restriction on obtaining parking permits. The proposed change in tenure mix would not materially change the highway implications of the development or the calculations for the education contribution.

9. **Conclusion**

9.1 Staff consider that the proposed variation of the S106 agreement to convert the tenure from social rent to include affordable rent to be acceptable and in accordance with the provisions of PPS3. It is therefore recommended that the variation of the legal agreement in respect of the tenure mix is approved.

IMPLICATIONS AND RISKS

Financial implications and risks:

No implications

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 and contributes to the Council's equality objectives by providing accommodation tailored towards the specific needs of Borough residents.

BACKGROUND PAPERS