



**Havering**  
LONDON BOROUGH

**Strategic Planning  
Committee  
22 April 2021**

<b>Application Reference:</b>	<b>P1152.18</b>
<b>Location:</b>	<b>Land at Crow Lane/Sandgate Close, Romford</b>
<b>Ward</b>	<b>Brooklands</b>
<b>Subject of Report:</b>	<b>Deed of Variation to Legal Agreement</b>
<b>Case Officer:</b>	<b>Simon Thelwell</b>
<b>Reason for Report to Committee:</b>	<ul style="list-style-type: none"><li>• <b>Based on the Constitution relating to amendments to planning proposals, the Assistant Director Planning considers committee consideration to be necessary.</b></li></ul>

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## **1 BACKGROUND**

- 1.1 Following the resolution of the Strategic Planning Committee on 6 December 2018 to grant planning permission subject to satisfactory completion of a legal agreement, planning permission was granted on 1 February 2019 for the following:
- Redevelopment of the site to provide 82 dwellings, together with new access junctions, associated car parking, landscape and infrastructure works.
- 1.2 Construction works on the site are nearing completion and dwellings have been occupied.
- 1.3 The planning permission included a S106 Legal Agreement which sought to secure the following:
- Affordable housing – 16 units intermediate tenure, at least 50% to be discounted market rent, rest to be shared ownership

- Contribution of £492,000 towards education provision
- Contribution of £154,548 for carbon offset
- Restriction on parking permits

- 1.4 In relation to the affordable housing clause in the completed S106, the owner of the site has requested that the S106 clause be varied to reflect that they are delivering an alternate affordable housing provision. Under the original permission, one block, consisting of 16 flats (2 x 1 bed, 9 x 2 bed, 5 x 3 bed) was to comprise the affordable housing, all intermediate tenure. The intention is that the block of flats will no longer comprise affordable units and 38 houses on the site (33 x 4 bed, 6 x 3 bed) would be affordable with the tenure being rental (London Affordable Rent).
- 1.5 It is important to note that the provision of 27 (26 x 4 bed, 1 x 3 bed) of the affordable houses as per the request as outlined in para 1.3 above is required as part of the resolution of the Strategic Planning Committee meeting on 9<sup>th</sup> July 2020 in relation to the planning application for the development of the Upminster Miniature Golf Course, Hall Lane, Upminster (P0248.19) – off-site affordable housing to be secured through S106. Therefore, the extent of the alternative provision on this site is 11 houses (7 x 4 bed, 5 x 3 bed) rented provision instead of 16 flats intermediate.
- 1.6 Whilst the Assistant Director of Planning has delegated powers to deal with subsequent amendments to resolutions made by committee, including to the heads of terms of S106, that is only in cases where the change does not deviate from the overall principle of the decision reached by the committee. In this case, as a matter of judgement, it is considered that the change is more than minor and significant enough that the decision should be made by Members rather than by officers.

## **2 SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- 2.1 The requested change to the affordable housing provision on this site represents an improvement to the offer as previously secured, providing housing which meets the identified housing needs within the Borough. Furthermore, in viability terms, the offer would be less viable, so there are no concerns over the original conclusion reached at the time planning permission was granted that the maximum viable amount of affordable housing has been secured.

## **3 RECOMMENDATION**

- 3.1 That the Committee resolve to agree to the varying of the S106 Undertaking dated 31 January 2019 pursuant to Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended) and all other enabling powers in the following terms:

1. Deletion of Clause 4 (Affordable Housing) of the Original Agreement

2. Replace Clause 4 to ensure that 38 houses (33 x 4 bed, 5 x 3 bed) on the site provided as affordable housing at London Affordable Rent
  3. Consequential amendments as a result of 2 above
  4. Save for the amendments set out in 1-3 above the undertaking of 31 January 2019 to remain otherwise unaltered.
- 3.2 That the Assistant Director Planning is delegated authority to negotiate the legal undertaking indicated above.

#### **4 MATERIAL PLANNING CONSIDERATIONS**

- 4.1 Although the change to the S106 being sought is for the site to provide 38 affordable dwelling units instead of 16 units, 27 of these arise from requirement for off-site provision of affordable housing on the site as part of the development of the Hall Lane Miniature Golf Course site. Therefore the main consideration in regard to the request is in relation to 11 units being provided instead of 16 required by the current S106.
- 4.2 Whilst the number of units in numerical terms would be reduced, the proposed 11 units would be larger in terms of total floorspace (1374 sq m vs 1165 sq m) and habitable rooms (55hr vs 51hr). The houses would also benefit from much improved amenity space through private rear gardens. In terms of the tenure, the 11 units would be London Affordable Rent compared to the 16 units which were to be a form of shared ownership. This tenure and unit size is more aligned to the Borough's housing need.
- 4.3 In terms of viability, the provision of rental rather than intermediate product means that the viability position remains that the provision is more than the maximum amount that can viably be provided as was the position when assessed in 2018.
- 4.4 Policy DC6 of the LDF requires that the maximum reasonable amount of affordable housing be sought and that 70% be for social rent rather than intermediate. Policies H4 and H6 of the London Plan seek 50% of housing to be affordable with up to 70% rented. The Draft Havering Local Plan requires 35% affordable housing on site, 70% to be rented. Both the London Plan and Draft Local Plan specify that affordable housing percentages relate to habitable rooms.
- 4.5 For the reasons outlined above, it is concluded that the requested change to the S106 accords with planning policy and delivers an improved affordable housing provision that better meets the Borough's needs.

#### **Financial and Other Mitigation**

- 4.6 The financial contributions originally secured through the S106 remain unchanged.

- 4.7 At the time that planning permission was granted the development was liable for Mayoral CIL to be used for Crossrail. As a result of the changes to tenure, more of the floorspace would be subject to social housing relief, reducing the CIL payment to TfL from this development. Havering CIL does not apply to this development as planning permission was granted before 1 September 2019.
- 4.8 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.

## **Conclusions**

- 4.9 All other relevant policies and considerations have been taken into account. The amendment to the S106 should be agreed for the reasons set out above. The details of the decision are set out in the RECOMMENDATION.