



Havering
LONDON BOROUGH

REGULATORY SERVICES COMMITTEE

25 April 2013

REPORT

Subject Heading:

Proposed variation of Section 106 agreement dated 28th March 2012 in connection with planning permission P0759.11 Former Woolpack Public House and Car Park, Angel Way, Romford:

Change of use of ground floor of no.48 High Street to retail/financial and professional services/restaurant or café use (classes A1/A2/A3) and the conversion of the upper floors of this building to 4 no. dwellings; the erection of a part 3/5/6/8 storey building to provide 70 no. dwellings, together with associated landscaping, amenity space, car and cycle parking.

The development proposed 6 units of affordable rented housing, which would be the three and four bed units within the development. The requested Deed of Variation would provided 100% affordable units split between 41 dwellings for Affordable Rent in partnership with a Registered Social Landlord and 33 Shared Ownership Units.

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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 residential units on land at former Woolpack Public House and car park, Angel Way, Romford. The site has the benefit of planning permission (under planning reference P0759.11) which was subject to a Section 106 legal agreement completed on 28th March 2012 (the original agreement) and which in turn was subject to a resolution to grant planning permission under Section 73 of the Town and Country Planning Act 1990 to amongst other things vary Conditions conditions 7, 9, 24, 25, 38 and 40 of planning permission P0759.11 under Planning Reference P1498.12. The owners have requested a deed of variation on the following terms:-

The Section 106 Agreement (the original agreement) which may be subject to a separate Deed of Variation pursuant to a resolution of this committee of 4th April 2013 (copy attached) be varied by the terms of a Deed of Variation of the original agreement as follows:

1. The definition of Affordable Housing Units be amended to read:
"41 dwellings for Affordable Rent in partnership with a Registered Social Landlord and 33 Shared Ownership Units with the Council to receive 100% of the nomination rights which shall be subject to the sub regional nomination arrangements confirmed in the East London Housing Partnership (or its successor).
2. The definition of Open Market Units be deleted. Clause 3.2 (b) be deleted. Clause 3.2 (c)(ii-iv) be deleted. Clause 3.2 (d) shall be renumbered as 3.2 (b). Clause 4.1 (b) be deleted and Clauses 4.1 (c), (d) and (e) be renumbered accordingly
3. In Clauses 5.2 and 5.3 the words "Open Market Unit" be deleted and replaced with "Affordable Housing Unit"

4. All other clauses in the Section 106 Agreement shall remain in full force and effect.
5. the Owner to bear the Council legal costs in respect of the preparation of the legal agreement irrespective of whether or not it is completed

RECOMMENDATIONS

It is recommended that the variation of the Section 106 agreement dated 28th March 2012 pursuant to planning permission reference number P0759.11 by Deed of Variation under Section 106A of the Town and Country Planning Act (as amended), be approved in the following terms:

1. The definition of Affordable Housing Units be amended to read:
"41 dwellings for Affordable Rent in partnership with a Registered Social Landlord and 33 Shared Ownership Units with the Council to receive 100% of the nomination rights which shall be subject to the sub regional nomination arrangements confirmed in the East London Housing Partnership (or its successor).
- 3 The definition of Open Market Units be deleted. Clause 3.2 (b) be deleted. Clause 3.2 (c)(ii-iv) be deleted. Clause 3.2 (d) shall be renumbered as 3.2 (b). Clause 4.1 (b) be deleted and Clauses 4.1 (c), (d) and (e) be renumbered accordingly
3. In Clauses 5.2 and 5.3 the words "Open Market Unit" be deleted and replaced with "Affordable Housing Unit"
4. All other clauses in the Section 106 Agreement shall remain in full force and effect.
5. the Owner to bear the Council legal costs in respect of the preparation of the legal agreement irrespective of whether or not it is completed

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 subject to the request for a deed of variation of the original agreement has an area of 0.27 hectares and is located on the south-western side of Angel Way. The site comprises a surface level car park, which provides 41 parking spaces for disabled users, comprising 27 'over-sized' spaces and 14 standard size parking bays, together with a former nightclub building (Secrets nightclub), which has recently been demolished and the former Woolpack Public House, which is a late nineteenth century building situated at the junction of Angel Way and High Street. The south-eastern part of the site is within the Romford Conservation Area and includes the majority of the Woolpack building. The site lies within the boundaries of Romford Town Centre. The site has planning permission for residential development comprising the change of use of ground floor of no.48 High Street to retail/financial and professional services/restaurant or café use (classes A1/A2/A3) and the conversion of the upper floors of this building to 4 no.dwellings; the erection of a part 3/5/6/8 storey building to provide 70 no.dwellings, together with associated landscaping, amenity space, car and cycle parking (under planning permission reference P0759.11). Permission for the development was granted subject to a number of planning conditions, as well as a Section 106 legal agreement signed and dated 28th March 2012.
2. The Council entered into an Option Agreement dated 27th February 2006 and an Agreement for Lease dated 1st September 2006 to secure amongst other things the provision of 25 disabled car parking spaces. This provision was required to compensate for the loss of disabled parking spaces on site through redevelopment of the site. Provision has yet to be made by the developer in accordance with the Option Agreement and the Council has in the interim negotiated a Deed of Variation and Agreement for Variation of the Option Agreement and Agreement for Lease to secure the Disabled Car Parking Provision Contribution of £400,000. The Disabled Car Parking Provision Contribution of £400,000 has now been paid in full.
3. Subsequent to the completion of the original agreement and the issuing of the planning permission under application reference P0759.11, the applicants requested that the council's housing Department consider a change to the original agreement so that 100% of the 74 dwelling units be provided as affordable housing instead of the 6 units proposed as affordable units in the original agreement which represents 8% of the 74 dwelling units..

4. The Housing and Planning departments support the request subject to 33 of the affordable units being provided on a shared ownership basis with nomination rights reserved on the basis of arrangements confirmed in the East London Housing Partnership,. The shared ownership arrangement and the affordable rented units align with the requirements of the Greater London Authority (GLA) which now holds in London those affordable housing investment powers previously exercised nationally by the Homes and Communities Agency (HCA). Staff considered that the proposed changes fall within the amended definition of affordable housing in Annex 2 of the National Planning Policy Framework NPPF).
5. A viability appraisal was been submitted with the application and it demonstrated the maximum amount of affordable housing provision which could then be supported by the development. That viability assessment report was independently assessed and the conclusions of the report were accepted. This justified the provision of 6 affordable housing units or 8% of the overall number of units. The applicants a housing association have support from the GLA and they can now provide 100% affordable units which exceeds the requirements of LDF Policy DC6 and Policies 3.11-3.13 of the London Plan.
6. All of the other planning conditions and planning obligation would be unchanged save as outlined in the recommendation
7. **Conclusion**
- 7.1 Staff consider that the proposed variation of the original agreement is broadly acceptable and in line with the revised definitions in Annex 2 of the NPPF of March 2012.

IMPLICATIONS AND RISKS

Financial implications and risks:

No direct financial implications or risks

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

1. Report to Regulatory Services of 27th October 2011 pursuant to planning reference P0759.11.
2. Report to Regulatory Services Committee of 4th April 2013 (Item 6) pursuant to planning reference P1498.12.