



REGULATORY SERVICES COMMITTEE

14 November 2013

REPORT

Subject Heading:

Proposed variation of Section 106 agreement dated 17th October 2013 in connection with planning permission P0361.13 (Briar Site 2A) Garage/Parking Court Adjacent to 9A Myrtle Road and Okehampton Road, Romford:

Demolition of garages and erection of two storey block of flats (4 x 1 bed) and pair of semi-detached houses (2 x 3 bed); creation of parking.

The development included an infrastructure tariff contribution of £36,000 to be paid in full prior to the commencement of the development.

The Deed of Variation would replace the site plan included in the Agreement, reflecting the actual land subject to the planning application, the extent of which was changed during the consideration of the application.

Report Author and contact details:

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Policy context:

Local Development Framework
National Planning Policy Framework
Planning Obligations Supplementary
Planning Document.

Financial summary:

None

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

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Value and enhance the life of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The report relates to proposals for residential development for 6 residential units on land at the Briar Road estate in Romford. Resolution to grant planning permission was given by the Regulatory Services Committee on 22 August 2013, subject to conditions and a Section 106 legal agreement. The legal agreement was completed on 17th October 2013 (the original agreement). It has been brought to Staff's attention that the location plan forming part of the agreement was that originally submitted with the application and does not reflect changes made to the site red-line plan during the application. Planning permission has not been issued. In order to avoid any confusion in the future, it is considered that the S106 Agreement (the original agreement) be varied by the terms of a Deed of Variation of the original agreement to replace the site plan with a plan which reflects changes made to the site red-line plan during the application (the Site Plan). This will enable the planning permission to be issued.

Save for the variation set out above and any necessary consequential amendments to the original agreement all recitals, terms, covenants and obligations in the said original agreement shall remain unchanged.

RECOMMENDATIONS

It is recommended that the variation of the Section 106 agreement dated 17th October 2013 pursuant to planning application reference number P0361.13 by Deed of Variation under Section 106A of the Town and Country Planning Act 1990 (as amended), be approved in the following terms:

1. Add a Site Plan, replacing the plan in the original agreement

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

- 1.1 The site subject to the request for a deed of variation of the original agreement site comprises a garage and parking court located on the west side of Okehampton Road, to the north of its junction with Myrtle Road. The site currently includes two separate garage blocks and some areas of grass verge.
- 1.2 On 22 August, this Committee resolved to grant planning permission for development of the site comprising the construction of 4 no. one bed flats and 2 no. three bed houses, subject to a number of planning conditions, as well as a Section 106 legal agreement. The legal agreement was signed and dated 17th October 2013. The legal agreement included a clause to secure a financial contribution of £36,000 for infrastructure, payable on commencement of the development.
- 1.3 Subsequent to the completion of the original agreement, it was brought to the Council's attention that the site plan used in the legal agreement was that originally submitted with the application and did not reflect subsequent changes made during the consideration of the application. The planning permission has not been issued.
- 1.4 It is considered that, in order to avoid any confusion in the future, that the plan in the original legal agreement should be superseded by the site plan as amended, the Site Plan. This would enable planning permission to be issued. This would be secured through a deed of variation to the original agreement.
- 2. Conclusion
 - 2.1 Staff consider that the proposed variation of the original agreement is acceptable and in line with adopted planning policy. It is therefore recommended that a variation be approved.

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 proposal will increase the range of housing stock within the Borough. It will also enable the regeneration of the Briar Road Estate, which brings with it overall community benefits.

BACKGROUND PAPERS

1. Report to Regulatory Services Committee of 22nd August 2013 pursuant to planning reference P0361.13
2. Site Plan