

Decision Maker: DEVELOPMENT CONTROL COMMITTEE

Date: Tuesday 10 February 2015

Decision Type: Non-Urgent Non-Executive Non-Key

Title: LAND REAR OF 86 - 94 HIGH STREET, BECKENHAM

Contact Officer: Tim Horsman, Deputy Development Control Manager (East)
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Chief Officer: Chief Planner

Ward: Copers Cope;

1. Reason for report

Application submitted under S106A of the Town and Country Planning Act 1990 which allows a person or persons against whom the obligation is enforceable to apply to discharge or modify a legal agreement attached to a planning permission. In this instance, development is subject to a S106 Planning Obligation 'Unilateral Undertaking', which is similar to a 'Planning Agreement'.

2. **RECOMMENDATION(S)**

APPROVE A DEED OF VARIATION TO THE S106 PLANNING OBLIGATION (UNILATERAL UNDERTAKING) SIGNED ON 13 JUNE 2012

The purpose of the modification is to enable amendments to the affordable housing obligation by way of:-

- Increasing the income threshold cap for eligibility for the Intermediate Units from £35,000 to £45,000
- Changing the location of the intermediate units by moving them from Blocks B and C to Block A

Corporate Policy

1. Policy Status: Not Applicable:
 2. BBB Priority: Excellent Council Quality Environment:
-

Financial

Not Applicable

Staff

Not Applicable

Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Consulted
2. Summary of Ward Councillors comments: None received

3. COMMENTARY

Description of Development

Application to modify legal agreement attached to planning permission DC/11/02100/FULL1 in respect of the Unilateral Undertaking signed on 13 June 2012 in connection with the following planning permission:

Development of 3 x four storey blocks comprising 9 one bedroom, 32 two bedroom and 3 three bedroom flats, with 37 car parking spaces, bicycle parking, landscaping and access at Land to the rear of 86-94 High Street, Beckenham.

The purpose of the modification is to enable amendments to the affordable housing obligation by way of:-

- Increasing the income threshold cap for eligibility for the Intermediate Units from £35,000 to £45,000
- Changing the location of the intermediate units by moving them from Blocks B and C to Block A

Key Designations

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
Flood Zone 2
London City Airport Safeguarding
London City Airport Safeguarding Birds
London Distributor Roads
Tree Preservation Order

Location

This site is located on the western side of Beckenham High Street equidistance from the junctions of Beckenham High Street with Manor Road and Church Avenue. This is effectively a backland site accessed from an existing vehicular access route running between Nos. 94 and 88 Beckenham High Street.

The site is currently being redeveloped in accordance with DC/11/02100. The main residential blocks are largely complete.

Surrounding development typically comprises 3 and 4 storey commercial buildings with some residential uses on the upper floors and many of these buildings have been extended to the rear in a haphazard fashion. To the north of the site are the gardens of houses fronting Church Avenue whilst to the west is an area of undergrowth and trees which is part of the grounds of 32 Church Avenue.

There is also a wooded area of designated Urban Open Space to the west of the site.

Comments from Local Residents and Amenity Societies and Consultees

No third party comments received.

Housing: From a housing perspective it is acceptable to review the Council's affordability criteria. Prior to the Council formally reviewing and consulting upon the affordability planning policy guidance, the interim solution - a proposed threshold of £45,000 based upon available recent market evidence is considered to be sound.

Planning Considerations

This application is made under S106A of the Town and Country Planning Act 1990 which allows a person or persons against whom the obligation is enforceable to apply to discharge or modify a legal agreement attached to a planning permission.

The Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 is also relevant.

In this particular case the issue to consider relates to the income eligibility criteria for intermediate housing therefore the following policies are relevant:

Unitary Development Plan (2006)

Policy H2 Affordable Housing - which requires affordable housing to be provided on sites capable of providing 10 dwellings or more. The supporting text for the policy states that intermediate housing will be available to people on moderate incomes who cannot afford to buy or rent housing generally available on the open market. This is defined as households on an income of less than £40,000 per annum (as at 2004). However, it is stated that the figure will be reviewed annually to reflect changes in income: house price ratios.

Supplementary Planning Document: Planning Obligations (2010)

This document sets out the Council's approach to securing obligations through the planning system. In respect of affordable housing it reflects the content of Policy H2 by setting thresholds for affordable provision and income cap for intermediate units. In 2012 the Council published an Addendum to the SPD dealing specifically with affordable housing provision. The addendum defines intermediate housing as:-

***“Intermediate housing:** sub-market housing available to people on moderate incomes who cannot afford to buy or rent housing generally available on the open market. This is presently defined as households on an income of less than £35,000 per annum (as at 2012), however this figure will be reviewed annually to reflect changes in income: house price ratios. Intermediate housing may take the form of shared ownership, low cost home ownership or sub market rented housing.*

This policy and SPD are consistent with the NPPF and the London Plan. The direction of policy is not changed in the emerging London Plan or Local Plan.

Planning History

In 2012 planning permission was granted on appeal for a development of 3x four storey blocks comprising 9 one bedroom, 32 two bedroom and 3 three bedroom flats, with 37 car parking spaces, bicycle parking, landscaping and access (DC/11/02100).

The application was allowed on appeal subject to 22 conditions and a S106 obligation (Unilateral Undertaking) to control the provision of affordable housing.

This planning permission has been implemented and the buildings are currently under construction.

Conclusions

The main issue to consider is the acceptability of allowing an amendment to the S106 obligation (Unilateral Undertaking) in respect of raising the income threshold for eligibility in respect of the shared ownership units.

The current legal agreement requires 35% affordable housing to be provided in the form of 15 residential dwellings (44 habitable rooms). The approved tenure is 8 affordable rent units and 7 intermediate (shared ownership). Within the legal agreement the definition of 'intermediate housing' sets a household income threshold of £35,000 per annum for the shared ownership units. This figure accords with the Planning Obligations SPD 2012 Addendum.

Given the changes that have taken place in market conditions and the review of the eligibility threshold it is considered necessary and reasonable to enter into a Deed of Variation to modify the existing legal agreement for this particular development. The amendment to the legal agreement would state a revised cap of £45,000 within the definition of 'Intermediate Housing'.

The second amendment sought relates to the location of the intermediate units. As originally approved the intermediate units would be provided in Blocks B and C (the affordable rented units are located in Block C). However, it is now proposed to locate all intermediate units in Block A which is positioned towards the rear of the site. This amendment would mean that the two bed units would slightly increase in size (71 sqm as opposed to 64 sqm). The increase in size would make the two bed units compliant with London Plan minimum sizes and would result in a higher standard of accommodation for future occupiers. This amendment would not result in any change to the overall number of affordable units to be provided nor would it change the unit size mix or tenure split. Consequently the relocation of the units to Block A is considered to be an acceptable amendment.

For the reasons set out above the proposed modifications to the S106 obligation (Unilateral Undertaking) are considered to be acceptable.

RECOMMENDATION: APPROVE A DEED OF VARIATION TO THE S106 OBLIGATION (UNILATERAL UNDERTAKING) SIGNED ON 13 JUNE 2012

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4. POLICY IMPLICATIONS

Planning policy implications discussed above.

5. FINANCIAL IMPLICATIONS

None

6. LEGAL IMPLICATIONS

Formal Deed of Variation to be prepared and agreed by the Council's Legal Team.

7. PERSONNEL IMPLICATIONS

None.

Non-Applicable Sections:	
Background Documents: (Access via Contact Officer)	

