

LOCATION: Former East Camp, RAF Hendon, Aerodrome Road, Grahame Park Way, Hendon, London NW9.

REFERENCE(S): W00198AA/04

WARD: Colindale

APPLICANT: St George North London Limited

PROPOSAL: Deed of variation to Section 106 Agreement in respect of Clause 1 (definitions) and Planning Obligation Schedule R.

RECOMMENDATION:

That, subject to Cabinet Resources Committee (CRC) approval and the completion of all necessary legal and other documentation, a Deed of Variation to the Section 106 Agreement attached to planning permission W00198AA/04 is authorised to secure the following changes:-

- (i) **Clause 1 (Definitions):** To alter the wording to the definitions of “*Affordable Housing*”, “*Affordable Housing Contract*” and the insertion of the definitions “*Affordable Rented Housing*” and “*Affordable Rented Housing Price*”;
- (ii) **Schedule R (Affordable Housing):** To alter the wording of schedule R to allow the remaining discount market sale (DMS) units (208) to be sold as full market value private tenure units and that the 20% covenant value stake that the Council owns from the already built DMS units (49) is transferred to St George.

And to allow:

75 Shared ownership to be sold as private tenure units; and

Change in mix and tenure of the remaining 177 rented homes to be provided from social rent to affordable rent and the provision of 26 x 1 bed, 80 x 2 bed, and 71 x 3 bed flats.

1. BACKGROUND

In April 2005 Outline Planning Permission (Ref W00198AA/04) was granted for the residential-led mixed use redevelopment of the former RAF East Camp site (now known as Beaufort Park), following completion of a Section 106 Agreement securing community and infrastructure benefits. The outline consent allows for 2,800 residential homes and approximately 7,850 sqm of non-residential and commercial floorspace. A subsequent full planning application was approved in 2009 for an additional 190 homes and 799 sqm of non-residential accommodation on the site of the former Listed Watch Tower building which was relocated to the RAF Museum directly to the north of the development. The total number of homes approved at Beaufort Park is therefore 2,990 with 8,649 sqm of non-residential floorspace.

The approved outline planning permission established an overall Masterplan for the development of the site which is divided into phases. Detailed designs have been approved for each of the phases through Reserved Matters and a number of phases have been completed and are under construction. The development is now close to being 50% complete.

The original s106 secured a total of 641 affordable units (427 social rent and 214 shared ownership) plus 257 Discount Market Sale units. This mix of tenures was aimed at meeting a range of needs as follows:

- 427 social rent – homes built for households nominated by the Council at target rent set by the Government
- 214 shared ownership – homes sold to households on a part buy part rent basis where shares are sold between 25% and 75% of the market value and rent is paid on the unsold equity. Priority is given to Barnet residents.
- 257 discounted market sale (DMS) – homes sold to households at 80% of the market value. The remaining 20% equity is covenanted to the Council. Occupiers can buy out the Council's interests at 20% of the market value. This sum is a commuted sum and can only be used to contribute towards the costs of providing affordable housing.

A total of 250 social rented, 139 shared ownership and 49 DMS units have been delivered at Beaufort Park to date.

2. MATERIAL CONSIDERATIONS

2.1 Relevant Planning History

App Ref.	Address	Description of Development	Decision and Date
W00198AA/04	Former RAF East Camp, Hendon, Aerodrome Road, Grahame Park Way, Hendon, London NW9	Redevelopment of site comprising 2800 residential units (Class C3), approximately 7850sqm of retail (Class A1), financial and professional services (Class A2), food and drink (Class A3), business (Class B1), leisure and community (Class D1 and D2) uses and driving test centre (sui generis) with associated landscaped open space, car parking and access arrangements. Submission of Environmental Statement.	APPROVED 08/0805 following completion of Section 106 Agreement.
W00198AK/05	Former RAF East Camp	Phase A: Reserved matters providing 485 units.	APPROVED 21/09/05
W00198AG/05	Former RAF East Camp	Phase B: Reserved matters providing 191 units.	APPROVED 26/05/05
W00198BE/06	Former RAF East Camp	Phase C1 and C2: Units provided being 145 (through a non-material amendment H/02365/10 approved 12/07/07).	APPROVED 17/01/07
W00198BT/07	Former RAF East Camp	Phase C3 and C4: Units provided being 190 (this 190 is above the 2800 approved by the Outline Permission).	APPROVED 14/08/09
W/00198BJ/07	Former RAF East Camp	Phase C5 and C12: Units provided being 517.	APPROVED 06/06/07
H/00146/12	Former RAF East Camp	Phase C5 and C12: Units provided being 560. This reserved matters application allowed an increase from 517 to 560 units.	APPROVED 21/12/12
H/02713/09	Former RAF East Camp	Phase D: Units provided being 350.	APPROVED 12/11/09
W00198/AQ/05	Former RAF East Camp	Phase E: Units provided being 309.	APPROVED 30/11/05
H/01259/08	Former RAF East Camp	Phase E: Units provided being 442.	APPROVED 01/07/09
H/00172/12	Former RAF East Camp	Phase E: Units provided being 337. NOTE: The current approval following amendments for phase E permits 377 units for this phase in total.	APPROVED 23/11/12
H/00123/10	Former RAF East Camp	Phase F: Units provided being 533.	APPROVED 18/03/10
W00198AW/06	Former RAF East Camp	Phase G: Units provided being 306.	APPROVED 05/07/06
H/04118/10	Former RAF East Camp	Phase G: Units provided being 309. The current approval following amendments for phase G permits 309 units for this phase in total.	APPROVED 10/01/11

2.2 Proposed Change to Affordable Housing at Beaufort Park

Since the grant of the outline planning permission and completion of the original s106 agreement in 2005 there have been significant changes in the housing market and to the way affordable housing is funded by Government. This has impacted on the amount of affordable housing that can be delivered by private developments in recent years.

The most significant change is the availability of capital funding (housing grant). Housing associations can no longer receive a capital grant towards acquiring affordable homes from developers. As a result of this, the amount a housing association can pay for an affordable housing unit is significantly reduced.

The s106 agreement for Beaufort Park included a set price for the social rented and shared ownership affordable homes which was based on the assumption that grant would be available. Given the grant money is no longer available the affordable housing provision at Beaufort Park can no longer be delivered as originally envisaged. The monetary shortfall at Beaufort Park between the original price set in the section 106 agreement and the current amount housing associations are able to pay to acquire the affordable homes is approximately £45 million.

In light of these changes and the funding shortfall in relation to the remaining affordable units at Beaufort Park, St George are now proposing a revised affordable housing package that is based deliverable and aims to meet the Council's priorities for rented homes.

Reflecting the need and priority for rented homes in the borough the proposal is to deliver the remaining 177 rented homes within the development and cross subsidise these through increased private sales. This will be done by converting the remaining 75 shared ownership units and 208 DMS units to private sale. In addition the 20% equity stake that the Council currently has in the 48 built and occupied DMS homes will also be transferred to St George to help subsidise the delivery of the remaining rented units (this is discussed further below).

The existing S106 requirements and the revised affordable housing offer is summarised in the table below:

Unit Type	Existing S106 requirements for AH	Affordable homes delivered to date	Remaining affordable homes to be delivered	Revised proposal for delivering the remaining affordable homes
1 bed shared ownership	53	39	14	0
2 bed shared ownership	107	75	32	0
3 bed shared ownership	54	25	29	0
Sub-total	214	139	75	0
1 bed rented	0	0	0	26
2 bed rented	213	161	52	80
3 bed rented	214	89	125	71
Sub-total	427	250	177	177
Discounted Market sale	257	49	208	0
Sub -total	257	49	208	0

Change to rented mix

The mix of unit sizes within the 177 rented homes is also proposed to be amended (as per table above) to reflect the borough's needs whilst also taking into account the design issues and housing association requirements related to this type of flatted development. The changes comprise the introduction of 1 bed units, reduction in the number of 3 bed units and an increase in the number of 2 bed units. This housing mix has been viewed by the Council's Housing Officer who considers this mix to address a need of the borough and is therefore considered to be acceptable. The unit mix is within the scope of what is acceptable within the SPD for Affordable Housing taking into account that this is a high density flatted development and that the borough has a large shortfall (5,148 units per annum) of affordable homes of all sizes with the largest shortfall being for one and three bedroom homes.

Transfer of Council's equity stake

The Council has a 20% equity stake in 48 DMS properties built to date (1 of the 49 has been bought out already). The value of this equity stake is approximately £2.4 million. Any of the owners of the remaining 48 DMS properties at any time can buy out the Council's interest at 20% of the market value. If they do so, under the terms of the section 106 agreement the money can only be used to provide affordable housing in the borough.

In order to make the rented units viable, St George has requested that the Council's interests (the 20% equity stake) be transferred to them. The value of this interest will then help subsidise the 177 rented homes that will be delivered. As described above, the remaining 208 DMS units will no longer be provided but instead the projected value of these units, which is in the region of approximately £10.3 million, will go towards cross subsidising the rented accommodation.

DMS housing is an Intermediate form of affordable housing, but is only considered affordable housing (in the case of homes for sale) if, as stipulated within the Council's Affordable Housing SPD 2007:

- The purchase price is "...no greater than 3.5 times the household income...";
- "A planning covenant (in the case of housing for sale) or the involvement of a RSL ensures that the housing remains affordable in the long-term to households identified as being unable to afford market housing."; and
- The costs to the household of purchasing or renting will be at least 30 per cent lower than the costs of homes of similar type that can be acquired on the open market in the lowest price-quartile for that size and type of accommodation.

In this instance, flats within the Beaufort Park development sell at well above the established price point for the Colindale area with the DMS on offer only reduced to 80% the market value and not 70%.

Having viewed an overview of prices for properties for sale within the Colindale area, it is considered that those properties for sale within Beaufort Park, even with a 20% discount on the market price, sell well above the lowest price-quartile of housing for sale in Colindale on the open market. Therefore, the DMS does not make a contribution to the provision of affordable housing because even at 80% of the market value, the homes are still a higher price than the lowest quartile resale values of those homes for sale in Colindale on the open market.

Furthermore, if the average household income in the Colindale area is assumed at £30,000 then £105,000 represents the value 3.5 times this income, and thus represents a purchase price that

is considered to be affordable. Beaufort Park products sell for far higher than this figure, even with a 20% discount price for the DMS homes. Therefore, these DMS units would not be considered affordable. In this case it is considered that the loss of the remaining 208 DMS units is acceptable on the basis that the subsequent increased value to the development will enable the delivery of the remaining 177 rented affordable units.

Removal of Shared Ownership

In addition to the reduction in DMS, it is proposed that the remaining 75 shared ownership are not provided and this will allow St George to build these units as private sale properties. The increased revenue received by St George as a result of this change will contribute to reducing the price to be paid by the housing association for the rented homes, thus contributing towards the delivery of the remaining 177 rented homes.

There is currently a significant amount of shared ownership being built in Colindale and this is currently being sold to non-Barnet residents as supply is greater than demand from local residents. There is therefore less of a need for shared ownership in the area. In this instance the loss of the remaining 75 shared ownership units is considered acceptable on the basis that the subsequent increased value to the development will enable the delivery of the remaining 177 rented affordable units which are the type of affordable housing that the Council has an identified demand for.

Change from Social Rent to Affordable Rent

Since the original s106 agreement was signed, the Government has introduced Affordable Rent as a type of affordable accommodation where rents of up to 80% of market rents can be charged.

The remaining 177 rented units at Beaufort Park are proposed to be provided as affordable rent instead of social rent. This will also contribute to bridging the shortfall as the revenue received by St George for affordable rent is greater than that received for social rent.

When all of the proposed changes are factored together, St George have advised that they will receive approximately £5.32 million less for the affordable housing than the price stated in the s106 Agreement to which their board has agreed to accept this.

Delivery of the revised affordable homes

Should the above changes to the affordable provision within the development be agreed, an updated reserved matters planning application would be forthcoming to include all 177 affordable homes to be contained within Block F. Discussions have been undertaken between St George and a housing association in relation to taking on the units which indicate that the principle of the location, design, layout of the 177 affordable homes within Block F are broadly acceptable to the housing association, subject to the detailed design and management of such arrangements. These homes, subject to approval of reserved matters, are projected to be started in the summer of 2014. This provides some certainty as to the delivery of the 177 affordable homes within St George's projected timescale.

Summary of proposed changes

St George propose the following changes to the approved affordable housing within the Beaufort Park development to deliver a revised affordable housing package that is considered viable and deliverable:

- Continue to deliver rented accommodation, however, instead of social rent as previously agreed, this will be in the form of affordable rent;
- Amend the mix of the 177 affordable rented homes to be delivered to be: 26 x 1 bed, 80 x 2 bed, 71 x 3 bed;
- Convert the remaining 75 shared ownership and 208 discount market sale homes that were to be provided as part of the original affordable housing package agreed under the s106 to private sale homes;
- Transfer the beneficiary of the 20% covenanted value in the 48 DMS already sold (£2.4 million) from the Council to St George.

The changes to the s106 will be secured through a revision to the existing S106. The revisions to the s106 will ensure that the affordable housing remains affordable in perpetuity.

The proposed variation to the existing S106 will allow future development phases to be delivered in a timely manner and will allow the Council to receive New Homes Bonuses and any further S106 contributions for infrastructure requirements.

2.3 Proposed Amendments to Schedules within Section 106

2.3.1 Clause 1 (Definitions):

To alter the wording to the definitions of “*Affordable Housing*”, “*Affordable Housing Contract*” and the insertion of the definitions “*Affordable Rented Housing*” and “*Affordable Rented Housing Price*”.

The definition of “*Affordable Housing*” is to be amended to differentiate between the homes built as social rent, shared ownership and discount market sale.

A new definition is to be inserted which refers to the 177 affordable rented homes. This will allow a separate definition to be introduced which deals specifically with the affordable rented homes subject to this deed of variation application.

2.3.2 Schedule R (Affordable Housing) to the S106 Agreement

Wording would be altered to adjust the number of Discounted Market Sale Units (DMS). These alterations change the number of DMS from 257 to 49 and will remove the Council’s authority to refuse the release of payment to St George (the new beneficiary) should the DMS units be sold in the future.

2.3.3 New Clauses

New clauses would be added to state a clear timeframe as to when the Council is to transfer their interests and how the release payment will be made to St George.

2.3.4 Further Negotiation

Details regarding the exact wording of the varied S106 sections are still under negotiation between St George and the Council. However, the principle of the alteration to the S106 is considered to be acceptable.

Furthermore, as the proposal involves the transfer of Council's interest in the existing DMS properties, the proposal requires the approval of the Cabinet Resources Committee (CRC).

3. CONCLUSION

Overall, the proposed alterations to the affordable housing provision within the Beaufort Park development are considered to be acceptable in principle and are considered necessary in order to ensure the viable and timely delivery of 177 affordable rented homes within the next phase of development. To secure the revised affordable housing the above variations to the S106 are recommended for approval subject to approval at the Cabinet Resources Committee (CRC) and the completion of all necessary legal and other documentation.