

LOCATION: 102-124 Station Road And Car Park To Rear
Edgware
Middlesex
HA8 7BJ

REFERENCE: 16/0112/FUL

WARD: Edgware

APPLICANT: Network Housing Group

PROPOSAL: S106 Deed of variation – Premier Place, Edgware

Received:
Accepted:
Expiry:
Final Revisions:

It is proposed to vary the wording contained within the section 106 agreement dated 6 October 2016 by agreement between London Borough of Barnet and Erinastar Ltd in relation to the planning permission which was granted for:

Demolition of 120-124 Station Road and full planning permission for the rebuilding and extension of 102-120 Station Road to provide 1,705sqm retail floorspace (Use Class A1/A2) including a new frontage to Approach Road; redevelopment of rear car park for new buildings ranging in height from 3 to 17 storeys with podium level to provide 122 flats (Use Class C3) and a further 150sqm of new retail floorspace (Class A1/A2/A3) to Approach Road. The provision of car parking, landscaping and amenity areas and environmental improvements to Station Road and Approach Road, a pedestrian site access from Station Road and Approach Road and vehicular site access from Approach Road

Background

This report relates to the need to vary a S106 agreement pertaining to application: 16/0112/FUL, dated 6 October 2016 between the developer and local planning authority. Application 16/0112/FUL allows for a residential-led mixed use development of the site behind Premier House in Edgware. Since the permission was granted, a previous DoV split the application into separate residential and commercial phases with the residential phase of the development purchased by Network Housing Group.

The consented scheme was approved subject to a Section 106 Agreement which secured 24 of the 122 units as affordable (20%). These affordable units as consented consist of 66.6% (16 units) as affordable rented units and 33.3% (8 units) as shared ownership units.

Since Network Housing Group have purchased the residential element of the permission, they seek to vary the consent to allow for 100% of the residential units to be provided as shared ownership.

In addition, the applicant is seeking to commute the S106 obligations pertaining to employment and enterprise to allow for a financial payment to be made in-lieu of these obligations. The commuted sums would be as follows:

Outcome	No. of Outcomes	Unit Cost (£)- Schedule 5 definition	Total Cost (£)
Progression into employment, less than 6 months	8	5,340	42,720
Progression into employment, more than 6 months	5	5,340	26,700
Apprenticeships	10	10,000	100,000
Work experience	16	5,340	85,440
			259,860

Consequently, the applicant wishes to vary the principal agreement dated 6^h October 2016 to

1. Vary the definition of Registered Provider and the threshold for Households on Intermediate Incomes.
2. Exclude occupiers of AHUs who have exercised a statutory right to acquire.
3. Provide the granting of nomination rights to the Council.
4. Make changes to Mortgagee in possession clause.
5. Make changes to the marketing of Shared Ownership Housing Units
6. Delete the Affordable Housing Review mechanism and amount.
7. Delete the mechanisms relating to provision of employment outcome obligations
8. Insert relevant wording and mechanism to secure the necessary in-lieu financial contribution
9. Add new and delete certain definitions to reflect these changes

Legal Basis

Government guidance suggests that:

Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so. Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to change the obligation where it “no longer serves a useful purpose” or would

continue to serve a useful purpose in a modified way (see section 106A of the Town and Country Planning Act 1990).

Paragraph: 009 Reference ID: 23b-009-20160519

In practice there is no set process for varying a S106 by agreement. S106 agreements are normally varied when a later planning permission is granted which varies the original planning approval resulting in the need to revise the original S106; in this current situation there is no revised planning application requiring a revision to the original S106, however, there is a need to revise the wording of the original S106 on the basis that the current wording is no longer appropriate.

Consequently a S106a application is not an appropriate vehicle in this case, as the relevant S106 was signed in October 2016 which is less than 5 years ago.

Therefore the requirement is to vary the agreement by agreement between all parties against whom the S106 would be enforceable against. In this case, it is understood that the following parties have interest in the land:

- Voiceway Ltd
- North End Shops Ltd
- Betterpride Ltd
- Bank Leumi (UK) PLC
- Network Housing

The deed of variation therefore needs to be made between The Mayor and Burgesses of the London Borough of Barnet, and the abovementioned parties.

Policy Background

Core Strategy policy CS4: Providing quality homes and housing choice in Barnet. seeks a boroughwide target of 40% affordable homes on sites capable of accommodating ten or more dwellings.

The proposal set out in the deed of variation would provide 100% affordable housing on this site, compared to the 20% provided under the original s106, albeit with a proposed mix of 100% affordable. This contrasts with the CS4 policy of seeking 60% social rented and 40% intermediate. The original s106 agreement allowed for 16 affordable rent (67%) and 8 shared ownership (33%) affordable units.

The Barnet Supplementary Planning Document: Delivering Skills, Employment, Enterprise and Training (Oct. 2014) sets out the Council's approach to commuted Sums In lieu of Local Employment Agreements. Paragraph 2.8 states that in exceptional circumstances these obligations may be commuted to a financial contribution, in order to provide alternative EEET Opportunities with regard to construction and non- construction jobs.

Assessment

It is considered that the proposal to vary the S106 agreement is acceptable. In terms of the affordable housing changes, the amended mix provides a guaranteed 100% on

site affordable housing, which is significantly above the 40% set out in the Barnet Core Strategy policy. This is considered to be better than retaining the affordable housing review mechanism and the 20% on site affordable housing set out in the original s106 agreement which would only deliver a financial contribution towards affordable housing if certain thresholds for viability were met.

Whilst the proposed changes would result in a mix which is clearly not in line with the Council's aspiration to deliver a split of 60/40 between Social Rented and Intermediate products, there is clear additionality in the amount of affordable housing that would be provided on site. The *raison d'être* of affordable housing policies is to maximise the amount of affordable housing secured from residential developments and in this case, adjusting the tenure split allows the scheme to maximise its affordable housing delivery.

The amendment to the definition of registered provider is needed to reflect that the site is now owned by Network Housing Group who are a registered provider. The change to the mortgagee in possession clause is needed to reflect changes in definitions accepted by mortgagees since the original s106 was entered into. Changes to thresholds for households on intermediate incomes, exclusion of occupiers of affordable housing units who have exercised a statutory right to acquire, nomination rights, marketing of units and consequential amendments are needed to reflect currently accepted definitions. These changes are considered to be acceptable in the circumstances of this site and the proposal to provide 100% on site affordable housing.

In respect of the commuting of the employment and enterprise obligations, all parties recognise that the non-financial Obligations will require sufficient time to offer a quality learning platform onsite to achieve or provide a sustainable and productive learning environment for local Barnet Residents (+ 24 months). If you consider Apprenticeships and Progressions into Employment for those currently in receipt of Benefits.

Due to the location of this Site, it lends itself to align with elements of Edgware Town Centre aspirations (of public realm/ place making), including supporting and widening the Enterprise, Employment, Education and Training (EEET) offer by providing access to opportunities to a wider pool of Edgware residents. Access to opportunities is therefore not limited to those available onsite;

All parties agree that by commuting these obligations, the financial contribution can be used to increase access to other employing sectors and support local Enterprise opportunities, thereby widening our 'access to opportunities' offer to Barnet Residents.

The financial contribution which would be secured is commensurate with the obligations secured in the original agreement and would be used to promote and increase employment and learning opportunities elsewhere in the borough, without compromising the delivery of this residential development.

Recommendation

That all parties to the agreement dated 6 October 2016 and any other person having a requisite interest in the site be invited to enter into a Deed of Variation, varying the extant section 106 Agreement dated 6 October 2016 as set out below:

1. Vary the definition of Registered Provider and the threshold for Households on Intermediate Incomes.
2. Exclude occupiers of AHUs who have exercised a statutory right to acquire.
3. Provide the granting of nomination rights to the Council.
4. Make changes to Mortgagee in possession clause.
5. Make changes to the marketing of Shared Ownership Housing Units
6. Delete the Affordable Housing Review mechanism and amount.
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