

LOCATION: Grahame Park Estate, Colindale, London, NW9 5XA

REFERENCE: Permission reference **Received:**
19/5493/OUT

WARD: Colindale **Accepted:**
Expiry:

APPLICANT: London Borough of Barnet **Final Revisions:**

PROPOSAL: Deed of variation – Grahame Park Estate

Background

The Council is the freehold owner of the development land at Grahame Park Estate.

The Council and Choices for Grahame Park entered into a Principal Development Agreement dated 31st January 2007 (as amended) for the redevelopment of the Grahame Park Estate.

Planning permission 19/5493/OUT was granted on 31st July 2020.

The description of development was: Hybrid planning application for the demolition of 630 residential units and existing commercial, retail and community floorspace, and the phased redevelopment of Plots 10-12 of Grahame Park comprising a full planning application for the redevelopment of Plot A and an outline planning application for the redevelopment of Plots B to Q for up to 2,088 residential units and up to 5,950sqm (GEA) of flexible non-residential floorspace.

Full planning permission is sought for the demolition of 113 existing homes and the redevelopment of Plot A comprising the erection of 5 buildings between 3 and 11 storeys to provide 209 new homes and 440sqm (GEA) of non-residential floorspace (Use Class A1, A2, A3, B1), landscape, public open space and public realm, associated car parking, cycle spaces and other associated works.

Outline planning permission (scale, layout, landscaping and appearance reserved) for the demolition of 517 existing residential units, buildings and structures on Plots B to Q, and the redevelopment of the site in a series of phases to provide up to 1,879 new homes and up to 5,510sqm (GEA) of non-residential floorspace within classes A1, A2, A3, A4, B1, D1 and D2 including

a community centre and children's day nursery in buildings ranging in height from 3 storeys to 15 storeys, with associated public open space, hard and soft landscaping, public realm, car parking spaces, and cycle parking spaces, stopping up and diversion of Lanacre Avenue and associated works (SUBJECT TO SECTION 106 LEGAL AGREEMENT)

The planning obligations, included among other things, the requirement for the developer to construct a New Nursery centre. Schedule C, clause 2.2 of the s.106 agreement does not permit the demolition of the existing nursery centre until practical completion of the new nursery centre.

However, since the section 106 agreement was signed circumstances have changed. The existing nursery has now been vacant for over a year. Notice was given to Barnet Council in Autumn 2020 that the tenants were vacating the premises and the premises was vacated before 31st March 2021. The centre is situated under the flats on the Grahame Park concourse. The service provided by the nursery was frequently being affected by flooding from the flats above and they had issues with pest control and ineffective heating. It is understood that the cost of work/maintenance to make good was deemed not cost effective.

There are no proposals to re-let the nursery. The position has therefore changed since the hybrid planning permission was granted in July 2020 in that there is no occupied nursery on the site that requires replacement accommodation before the existing building is demolished.

Because of changes to the district heating system that result from the demolition works across the wider estate, it also makes practical sense to demolish the existing nursery building earlier than originally planned. The developer has therefore requested that the s106 be varied to facilitate this.

To provide CfGP / NHG with a degree of flexibility over the order of phasing of but to also provide the Council with certainty that the nursery will be delivered as part of the redevelopment of the southern part of the estate regeneration scheme, the developer has requested that trigger point for practical completion of the new nursery centre is amended. The suggested amendment to the trigger point in the s.106 for practical completion of the nursery is prior to the occupation of the first residential unit after the delivery of the final plot on the southern part of the site and Plot B which is the 1,218th residential unit as demonstrated in the table below.

Plot Number	Number of residential units
A	209
K	150
H	214
L	140
G	72
J	213
B	219
Total	1,217

This suggested amended trigger point for practical completion of the new nursery centre would therefore also enable the delivery of Plot B to be bought forward in tandem with Phase 2.

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: 020 Reference ID: 23b-020-20190315

The mechanism for varying a S106 by agreement is set out in section 106A of the Town and Country Planning Act 1990 (as amended) and the statutory process is set out in the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992 (as amended).

If accepted the section 106 would be amended by agreement in a deed entered into between all parties against whom the S106 would be enforceable against, in this case parties are (1) The Mayor and Burgesses of the London Borough of Barnet (as local planning authority) and (2) Choices for Grahame Park.

Amendments to the section 106 agreement

The suggested amendment to wording of Schedule C, clause 2.2 is as follows:

“The Developer shall Practically Complete the New Nursery Centre in accordance with the Approved Nursery Scheme and Approved Nursery Specification prior to occupation of 1,218 Residential Units and in accordance with details approved by the Council as part of the Reserved Matters Approval for the Plot in which the New Nursery Centre is to be provided and the Developer shall not to cause or permit the occupation of more than 1,217 Residential Units (on Plots A, K, H, L, G, J and B) until the said New Nursery Centre has been Practically Completed PROVIDED ALWAYS THAT the Developer shall not be required to deliver the New Nursery Centre at a cost to the Developer that exceeds one million eight hundred and seventy two thousand nine hundred and fifteen pounds (£1,872, 915)”

Assessment

Given that the existing nursery centre has been vacant for over a year and the variation to the s106 will enable a more timely and cost effective delivery of the New Nursery Centre, it is considered that the proposal to vary the S106 agreement is acceptable.

Recommendation

That Strategic Planning Committee agree that the agreement dated 31 July 2020 be amended as set out above by a deed of variation pursuant to section 106A of the Town and Country Planning Act 1990.

SITE LOCATION PLAN: Grahame Park, London NW9

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