

PART A	
Report of: Head of Development Management	
Date of committee:	1st November 2017
Site address:	52A-56, High Street
Reference Number:	n/a
Description of Development:	Variation of Section 106 unilateral undertaking dated 24th March 2015 pursuant to planning permission ref. 14/01617/VAR to vary the affordable housing provision.
Applicant:	Home Group
Date Received:	12th October 2017
13 week date (major):	n/a
Ward:	Central

1.0 Site and surroundings

- 1.1 The site is located on the western side of High Street between the junctions with Clarendon Road and Market Street and backs onto Wellstones. It adjoins the Five Guys restaurant and is opposite Wilko. The site is currently under construction to provide a ground floor retail unit and 56 flats.

2.0 Proposed development

- 2.1 To vary the Section 106 unilateral undertaking dated 24th March 2015 pursuant to planning permission ref. 14/01617/VAR to reduce the previously approved number of affordable housing units from 45 (80% provision) to 20 (35% policy compliant provision), comprising 17 x 2 bed affordable rent and 3 x 2 bed shared ownership units.

3.0 Relevant planning history

- 3.1 The following planning history is relevant to this application:

06/01335/FULM – Full planning permission granted on 18th May 2007 for the redevelopment of the existing buildings to provide 4, 5 and 7 storey buildings comprising ground floor retail use, 56 flats and 42 parking spaces in an undercroft

and basement.

10/00121/EXT – Full planning permission granted on 4th June 2010 for the renewal of planning permission ref. 06/01335/FULM for a further period of 5 years.

13/00712/NONMAT – A non-material amendment was granted to planning permission ref. 10/00121/EXT to add a new condition (13) to list the approved drawings.

13/00828/VAR – Planning permission was granted on 1st October 2013 for the variation of Condition 13 of planning permission ref. 10/00121/EXT for the redevelopment of the site to provide 4, 5 and 7 storey buildings comprising ground floor retail use and 56 flats without the provision of basement car parking and with the projecting balconies replaced by juliette balconies.

14/01617/VAR – Planning permission granted on 27th March 2015 for the variation of Condition 11 (location of affordable housing) of planning permission ref. 13/00828/VAR for the redevelopment of the site to provide 4, 5 and 7-storey buildings comprising ground floor retail use and 56 flats and the variation of the Section 106 legal agreement to increase the number of affordable housing units from 17 to 45 and to reduce the sums payable to the Council towards the provision or improvement of open space and children's playspace by £150,862.

4.0 Planning policies

Development plan

- 4.1 In accordance with s.38 of the Planning and Compulsory Purchase Act 2004, the Development Plan for Watford comprises:
- (a) *Watford Local Plan Core Strategy 2006-31;*
 - (b) the continuing "saved" policies of the *Watford District Plan 2000;*
 - (c) the *Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2026;* and
 - (d) the *Hertfordshire Minerals Local Plan Review 2002-2016.*
- 4.2 The *Watford Local Plan Part 2: Publication Version* was published in July 2016. This has been subject to 3 rounds of public consultation – Nov-Dec 2013, Dec 2014-Feb 2015 and Dec 2015-Feb 2016. It contains development management policies and site allocations. The emerging policies and site allocations in this document can be given limited weight at this time.

5.0 Consultations

5.1 Neighbour consultations

No neighbour consultations were required in this case.

5.2 Statutory publicity

No statutory advertisement was required for this application.

5.3 Technical consultations

The following responses have been received from technical consultees:

Housing Team

Support the request to vary the Section 106 undertaking.

6.0 Appraisal

6.1 Main issues

The main issues to be considered in the determination of this application are:

(a) The number and mix of affordable housing units.

(b) Section 106 financial contributions towards open space and children's playspace provision.

6.2 (a) The number and mix of affordable housing units

The original planning permission granted in 2010 and the subsequent renewal in 2013 both required a 30% provision of affordable housing (17 units), the policy requirement at that time. In the 2014 permission, the affordable housing provision was increased from 17 units to 45 units (80% provision). The remaining 11 units were to be for private sale. This application was made by the current applicant, Home Group, a registered provider of social housing who wished to maximise the affordable housing provision on the site. In recognition of the increase in the number of affordable housing units, the Council agreed to reduce the total financial contribution towards open space and children's playspace from £175,862 to £25,000, a reduction of £150,862.

6.2.1 Following discussions with the Housing team, a reduced provision of affordable housing has been agreed which provides 20 affordable housing units, a 35% provision, which complies with the Council's current Policy HS3 of the Core Strategy.

	Original mix	Approved mix	Proposed mix
Social rent			
1 bed	8		
2 bed	3		
Total	11		
Affordable rent			
1 bed	2	14	
2 bed		15	17
Total		29	
Intermediate			
1 bed	3	4	
2 bed	1	12	3
Total	4	16	
Grand total	17	45	20

The proposed mix is policy compliant, comprises all 2 bed units and 17 of these (30%) are affordable rent.

6.2.2 The applicant has given a brief justification for requesting this amendment in a supporting letter:

Home Group has been exposed to significant increases in costs through the course of the project, which have directly impacted on the viability of the scheme being delivered. The revised mix and reduction in the number of units bound by the S106 reflects these financial constraints. In 2015 and 2016, delays in obtaining party wall and demolition scaffold licenses were incurred. The overall programme delay ultimately amounted to 58.5 weeks. Due to the length of time the timber frame had been exposed to the weather, the need for remedial works was also confirmed and the whole frame had to be replaced. More recently, unforeseen costs have also been incurred as a result of the cost inflation of materials due to the current economic climate.

The key financial changes are as follows:

- The Build Cost has increased from £7.2 to £11.0 million;
- The total project cost has increased from £10.7 to £15.2 million;

- The net funding requirement has increased from £9.3 to £13.8 million.

In summary, due to financial restrictions associated with HCA funding and unforeseen delays and costs in the development of the scheme outside of their control, Home Group wish to reduce the number of units bound by the S106.

6.2.3 The applicant has confirmed that it is now their intention to provide all of the 56 units as affordable housing although the actual tenure mix will be dependent on additional funding being secured. At present it is proposed that of the remaining 36 units, 27 will be intermediate tenure and 6 affordable rent tenure. It is not proposed that any of the units will be for market sale (in the previous scheme 11 units were to be for private sale).

6.2.4 The applicant purchased the site in October 2013 and first occupation is not anticipated to be until June 2018, a period of 56 months. The project has clearly been the subject of significant delays and additional costs that have significantly impacted on the viability of the development. It is your officers' view that the Council should work with the applicant to facilitate the completion of this development whilst securing as much affordable housing as possible. The current proposed Section 106 mix of 17 x 2 bed affordable rent and 3 x 2 bed intermediate tenure units is policy compliant and provides the larger 2 bed units the Council has most need for. As such, there are no planning reasons why this request should be refused. The Housing Team will continue to work with the applicant to secure a 100% affordable scheme and to maximise the number of affordable rent units.

6.3 (b) Section 106 financial contributions towards open space and children's playspace provision

The planning permission granted in 2014 for the increase in the number of affordable housing units also included a reduction in the financial contributions payable to the Council towards open space and children's playspace. With the number of affordable units now being reduced, the Council could request the majority of this contribution, £150,862, be reinstated. However, it is evident that the project has suffered from significant delays and additional costs and the reinstatement of this payment would only undermine the ability of the applicant to deliver a 100% affordable scheme, as intended. Even if this is still achievable, it could reduce the additional number of affordable rent units that could be provided. For these reasons, it is not considered that the Council should seek to reinstate this payment.

6.3.1 One additional matter, not raised by the applicant, relates to the remaining £25,000 payment towards open space and children's playspace. This can be secured as previously agreed. However, the Council has recently upgraded all of its open

spaces and children's play areas and has also completed the major restoration of Cassiobury Park. There is, therefore, the option to transfer this payment from open space and children's play space and put it towards affordable housing as a commuted payment, where the payment could better meet the Council's key objectives. The applicant has agreed to this verbally. Your officers consider this would be a more valuable use of this money given the reduction in the number of affordable units secured through the Section 106.

7.0 Conclusion

- 7.1 The existing development has experienced significant delays and increased costs over the past 4 years which has had a significant impact on the viability of the development. The request of the applicant to reduce the number of units secured through the Section 106 has arisen directly as a result of these circumstances. The proposed number of 20 affordable units is policy compliant and all of the proposed units will be 2 bed, with 17 of them being affordable rent. The Housing Team consider this to be an acceptable policy compliant provision. The applicant is also willing to allow the existing £25,000 payment intended for open space and children's play space to be used for the provision of affordable housing within the Borough. Finally, as a registered provider, the applicant has stated their intention to deliver a 100% affordable scheme, with the tenure of the remaining units being dependent on additional funding. Overall, there is no planning reason to refuse this request.
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8.0 Human Rights implications

- 8.1 The Local Planning Authority is justified in interfering with the applicant's human rights in order to alleviate any adverse effect on adjoining properties and their occupiers and on general public amenity. With regard to any infringement of third party human rights, these are not considered to be of such a nature and degree as to override the human rights of the applicant and therefore warrant refusal of planning permission.
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9.0 Recommendation

That the Section 106 unilateral undertaking dated 24th March 2015 be varied as follows:

- i) That clause 3(f) be varied to allow the provision of 20 affordable housing units comprising 17 x 2 bed units for affordable rent and 3 x 2 bed units for shared ownership.
- ii) That clause 3(c)(i) be varied to allow the financial contribution of £25,000 to be used towards the provision of affordable housing in the Borough.

Drawing numbers

None.

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