

Address:	Guinness Court St Edmund's Terrace London NW8 7QE		
Application Number:	2010/4850/P	Officer: Christopher Heather	
Ward:	Swiss Cottage		
Date Received:	22/10/2012		
<p>Proposal: Deed of Variation to Section 106 Legal Agreement secured in connection with the redevelopment of the site which was granted planning permission on 13 December 2010. The proposed deed of variation relates to an alteration to the tenure of the affordable units, with 13 of the units which were approved as social rented units being converted to affordable rent.</p>			
Drawing Numbers: N/A			
RECOMMENDATION SUMMARY: Approve Deed of Variation			
Applicant:		Agent:	
Mr Jeff Astle Guinness Developments Limited Gate House, Fretherne Road Welwyn Garden City Hertfordshire AL8 6NS		None	

OFFICERS' REPORT

Reason for Referral to Committee: The proposal involves the making of an obligation or agreement under S106 of the Town and Country Planning Act 1990 to secure 'obligations' outside the agreed scheme of delegation [Clause 3 (vi)].

1.0 SITE

- 1.1 The application site is Guinness Court which is accessed off St Edmunds Terrace. It is located to the rear of 26 to 28b St Edmunds Terrace and is bound to the east by Broxwood Way, to the west by the rear gardens of two apartment complexes on Avenue Road (Nos. 14 & 16) and to the north by the grounds of three large apartment blocks within Avenue Close. The site slopes from the north-east to the south-west.
- 1.2 The site was originally a very substantial garden plot which formed part of 14 Avenue Road. It was redeveloped in the mid to late 1960s to provide a purpose built 32-bedroom elderly persons home (Class C2) plus warden accommodation and a block of Class C3 general needs housing (social rented) providing 11 bedsits and 12 x 1-bedroom flats. These buildings have now been demolished and construction work has commenced on the site.
- 1.3 The area surrounding the application site is characterised by large blocks of flats which vary in age, height, bulk, elevational detailing and materials, interspersed by short terraces of Victorian and more contemporary houses.

2.0 THE PROPOSAL

- 2.1 The proposal is not a new application for planning permission, but a request for a Deed of Variation to the Section 106 Legal Agreement which was completed in connection with the planning permission granted in 2010 for redevelopment of the site.
- 2.2 Of the 64 housing units approved, 36 were to be affordable. Of these 18 were to re-provide what was already on site, with a further 18 in addition. All 36 were to be social rented. The original mix of units on site (prior to demolition) was:

	Bedsits	1 bed	Total
Social Rented	11	12	23

- 2.3 As approved the mix is:

	Bedsits	1 bed	2 bed	3 bed	4 bed	Total
Social Rented	0	22	8	4	2	36
Market	0	6	11	11	0	28

- 2.4 The proposed amendment would introduce affordable rent units at the expense of social rent units:

	Bedsits	1 bed	2 bed	3 bed	4 bed	Total
Social Rent	0	22	1	0	0	23
Affordable Rent	0	0	7	4	2	13
Market	0	6	11	11	0	28

- 2.5 If approved, the Section 106 legal agreement would be amended to reflect this change of tenure.

3.0 RELEVANT HISTORY

- 3.1 Planning permission was granted on 13 December 2010 (Reference: 2010/4850/P) for the following development:

Erection of two buildings (4-storeys and 6-storeys) with basement to provide 64 (28 private and 36 affordable) residential units (2 x 4-bedroom, 15 x 3-bedroom, 19 x 2-bedroom, and 28 x 1-bedroom) with 29 car parking spaces (19 underground and 10 surface level), 71 cycle parking spaces, and associated landscaping (following demolition of all existing buildings on site).

- 3.2 The permission was subject to a Section 106 Legal Agreement securing, amongst other things, provision of the affordable units.

4.0 CONSULTATIONS

- 4.1 Housing – Support.

5.0 POLICIES

5.1 National Planning Policy Framework (2012)

5.2 The London Plan (2011)

- 3.3 – Increasing housing supply
- 3.4 – Optimising housing potential
- 3.8 – Housing choice
- 3.9 – Mixed and balanced communities
- 3.10 – Definition of affordable housing
- 3.11 – Affordable housing targets
- 3.12 – Negotiating affordable housing on individual private residential and mixed use schemes

5.3 Local Development Framework (2010)

- CS6 – Providing quality homes
- DP3 – Contributions to the supply of affordable housing
- DP4 – Minimising the loss of affordable housing

DP5 – Homes of different sizes
DP6 – Lifetime homes and wheelchair homes

5.4 **Camden Planning Guidance**

Camden Planning Guidance 2 – Housing
Camden Planning Guidance 8 – Planning Obligations
Draft amendments to Camden Planning Guidance

6.0 **ASSESSMENT**

6.1 Planning permission was granted in 2010 for a re-development scheme for this site which included the provision of 36 social rent units; this represented a percentage of 37% of the entire development. This lower level of provision was supported by the Council on the basis that the applicant had demonstrated via a viability appraisal that this was the maximum that the site could accommodate. Indeed, this was on the basis of only a 1.5% profit level, which is much lower than is usually the case.

6.2 Since this time the funding regime for affordable housing has changed considerably with the amount available being reduced, as well as the focus being altered. The only grant available to the applicant is £895,000 from the GLA, and this is on condition that it is used to provide affordable rent for the additional affordable (rather than re-provided) units.

6.3 The Government has amended the definition of affordable housing to include affordable rent, and this forms part of the National Planning Policy Framework (NPPF) which was not in place when the original decision was made. The definition is as follows:

*Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing.
Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).*

6.4 Even before the final version of the NPPF was published the GLA had started to amend their stance to affordable rent with the publication of a draft revised London Housing Strategy (December 2011). Since then the *Revised Early Minor Alterations* have been published, and only very recently the revised version of the Supplementary Planning Guidance on Housing has formally replaced the previous version (November 2012). The general approach is to add affordable rent into the definition of affordable housing.

6.5 At the local level the recently published draft amendments to the Camden Planning Guidance (CPG) includes reference to affordable rent. This is based on the Camden Affordable Rent Study 2011 and notes that at 80% of market rent units in the Borough are unlikely to be affordable to those eligible for social rented. The CPG refers to 'genuinely affordable rented housing' which is a response to the high rent levels and a more practical interpretation of what is affordable.

- 6.6 Specifically in relation to this site in this part of the Borough the applicant has provided information to indicate that the units would be significantly below 80% of market rent:

	2 bed	3 bed	4 bed
Market rent	£625	£900	£1,250
Proposed rent *	£188.50	£221	£260
% proposed rent of market rent	30%	25%	21%
Local housing allowance	£290	£340	£400

* inclusive of service charge

- 6.7 In such high rent areas a low percentage can still indicate a high rent. However, by factoring in the local housing allowance figures it can be seen that the proposed rent is significantly lower than would be available to those entitled to this allowance. Therefore, the units could be occupied by people who could afford them. By way of comparison the corresponding rent values for social rented are £139, £146, and £154 per week. This is *exclusive* of service charge so could be higher in practice and in the process bring the two sets of values closer together.
- 6.8 This aside there is a preference for social rent over affordable rent. It is felt that the former better reflects the needs of the Borough, despite the views of national Government and the GLA. The approval was for a scheme providing 37% affordable housing (based on floorspace), of which all was social rented. The amendment to the section 106 would result in the same overall percentage but within this the split in percentage terms would be 54/46 in favour of social rented.
- 6.9 It is disappointing that this amendment has had to be proposed, and that it is the larger units that would be converted from one tenure to another. However, this comes about for two reasons. The first is specific to the development itself and would not apply in the vast majority of instances. The proposal includes demolition of 23 existing social rented housing, of which 11 were bedsits and 12 were one-bedroom. As approved there would be no bedsits and the existing residents were to be re-housed in new one-bedroom units, with an additional two bedroom unit. This was a higher proportion of one bedroom units than would usually be required. This is not proposed to change, and is a real positive. It is also quite an unusual situation, distinct from most major housing schemes, as there are specific tenants who are directly affected by the development process. The end result will still be that these tenants are re-housed in improved accommodation. This was one of the reasons for departing from the ideal mix when the permission was originally granted, and still applies now. However, as it would not be reasonable to amend the tenure of the smaller units, the larger units are the ones affected.
- 6.10 The second reason concerns funding. Extensive discussions have taken place between the housing department and the Guinness Trust. The scheme is

dependent on some form of grant coming forward and the Council have known this for some time. Funds (£1.2million) secured as part of the development proposals for Land to the North St Edmunds presented a solution, but are no longer available following the recent appeal decision on a later scheme. As discussed above one of the conditions of the grant currently on offer is that it must be used for large affordable rent units. Another condition is that it cannot be topped up by another source. If this grant becomes unavailable or were to be rejected then an alternative source would be required. The only source would be the Council and it has been identified that £1.2m would need to be input. Although this has been discussed it is considered that there are other projects which the money could be spent on which would produce greater results. Overall, the scheme would provide the benefit of improved accommodation for existing social rented tenants, as well as a number of affordable rented units which would serve some need. The affordable rent units would be cheaper than market units so instead of the council supporting social rented at the expense of affordable rented on this site, the council's funds would be intact to support social rented at the expense of market units elsewhere.

7.0 CONCLUSION

- 7.1 The ideal solution would be for the social rented units to come forward as approved. The timing of this scheme has been unfortunate in that it was granted when greater funding was anticipated, and the alternative funding now available would be given with conditions that have led to the new tenure mix being proposed.
- 7.2 The applicant requires the change of tenure to bring the entire scheme forward, and it is important that the social rented units on site previously are re-provided. Therefore, it is considered that what is now proposed fits our requirements as closely as is possible given the specific circumstances of the site, which are unlikely to be replicated elsewhere.
- 7.3 It is recommended that the Deed of Variation to the S106 Legal Agreement should be approved.

8.0 LEGAL COMMENTS

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.