

Delegated Report		Analysis sheet	Expiry Date:	n/a
		N/A	Consultation Expiry Date:	n/a
Officer			Application Number(s)	
David Fowler			2015/2775/P	
Application Address			Drawing Numbers	
254 Kilburn High Road London NW6 2BS			Letter from St Georges Finance dated 26 March 2016, Letter from Close Brothers Property Finance dated 31 March 2015, Development Appraisal (Residual Appraisal - Inflation 3Q 2015 to 1Q 2016) (Savills (UK) Ltd) 01 April 2016, Development Appraisal (Residual Appraisal Growth over Development Programme) (Savills (UK) Ltd) 01 April 2016.	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
<p>Redevelopment of the site (following demolition of existing buildings) to provide a mixed use development, comprising the erection of six storey building (with set back top floor) to provide 955sqm of commercial space (Classes B1 and B8) and 60 dwellings plus cycle parking, 2x disabled car parking bays, refuse/recycling facilities and access together with landscaping including outdoor amenity space.</p> <p>**The applicant proposes an upfront payment as opposed to a review mechanism and potential later contributions.</p>				
Recommendation(s):		<p>i) Agree to the proposed upfront payment as a potential alternative to a review mechanism and potential later contributions as part of the Section 106 agreement</p> <p>ii) Grant conditional permission subject to a Section 106 legal agreement (reflecting the above)</p>		
Application Type:	Full Planning Permission			
Consultations				
The application was fully consulted upon prior to Development Control Committee on 15 th October 2015. All consultation responses were included in the original report and reported to the DCC.				
Site Description				
The site is located on the north-east side of Kilburn High Road. Access to the site is via a narrow access route between Nos. 252 and 256 Kilburn High Road. The site comprises the land between the rear of No. 256-274 Kilburn High Road and Kilburn Grange Park. The site is currently vacant but until recently was occupied by a marble workshop (Class B2 and B8) located within a four storey Victorian building to the rear of the site and two single storey double height warehouse buildings. There is no				

formal parking at the site however there is space to park around 12 vehicles in the yard.

Relevant History

This application was approved at Development Control Committee (DCC) on 15 October 2015 subject to conditions and a Section 106 Agreement. The purpose of this report is to assess the applicant's proposed upfront payment as opposed to Deferred Affordable Housing Contribution (DAHC).

Relevant policies

London Plan 2016

Policy 3.3 Increasing housing supply; Policy 3.4 Optimising housing potential; Policy 3.5 Quality and design of housing developments; Policy 3.9 Mixed and balanced communities; Policy 3.10 Definition of affordable housing; Policy 3.11 Affordable housing targets; Policy 3.12 Negotiating affordable housing on individual private residential and mixed use schemes; Policy 3.13 Affordable housing thresholds.

LDF Core Strategy and Development Policies

LDF Core Strategy

CS6 Providing quality homes

LDF Development Policies

DP2 Making full use of Camden's capacity for housing

DP3 Contributions to the supply of affordable housing

Supplementary Planning Policies

Updated Camden Planning Guidance 2011 (updated 2013)

CPG2 - Housing

Assessment

PROPOSAL – application approved by DCC15th October 2015

Planning permission is sought for the erection of a six storey building with a set-back top floor to provide 989sqm of commercial space (Classes B1 and B8) at ground floor level and 60 residential flats (19 x 1beds, 27 x 2beds, and 14 x 3beds). The proposal includes, 2 disabled car parking bays, 85 bicycle spaces and integrated refuse storage, and external landscaping. The application includes 15 affordable homes, of which 8 would be for affordable/ social rent. These remain part of the package as approved by DCC.

PROPOSAL – the upfront payment

The applicant proposes the payment of a commuted Deferred Affordable Housing Contribution (DAHC) which is equivalent to 25% of the maximum potential deferred contribution in order to waive the necessity for a review mechanism and potential later contributions.

Key figures:

Maximum potential deferred contribution:	£3,095,200
Offered upfront payment:	£773,800 (25% of the maximum potential deferred contribution)

ASSESSMENT

The Section 106 Heads of Terms in the committee report included a deferred affordable housing contribution. The applicant is contesting the matter of the deferred contribution and has suggested an upfront commuted DAHC, which equates to 25% of the maximum potential deferred contribution payable on implementation. This payment would be an alternative to a deferred contribution and further viability reviews.

The applicant has submitted the following supporting information to justify a commuted payment in this instance as opposed to a deferred contribution:

- an updated viability assessment showing that current trends in construction costs and sales values mean the scheme is now less viable than when it was submitted;
- a more optimistic viability appraisal based on a growth model, and this indicates that any payment under our usual mechanism for deferred affordable housing contribution would be significantly less than the 25% upfront payment;
- letters from two prospective lenders indicating that they will not lend against the scheme with the mechanism for a deferred affordable housing contribution in place;

The applicant has indicated that they may appeal the application if a Section 106 agreement cannot be concluded without the inclusion of a deferred contribution, in which case there is a risk that some affordable homes secured would be lost from the scheme due to the worsened viability situation.

The principal consideration material to the determination of the acceptability of the commuted DAHC payment is whether it represents a good deal for the Council and for the residents of Camden, in financial terms and in terms of the delivery of affordable housing. Should the Council accept the upfront payment then the remainder of the maximum deferred contribution would not be securable. Conversely, the Council may not receive any money at all with the review mechanism, should the viability of the scheme not improve over time. Advice has been sought on this point from the

Council's independent assessor who considers the upfront payment to be a good deal.

The above documents indicate that some potential lenders would not provide finance for the scheme because they consider the deferred affordable housing contribution results in too great a risk. The two new viability assessments have been reviewed by BPS (the Council's independent viability assessor) and officers. The current day appraisal shows that the scheme deficit has increased since the application was submitted. Officers have discussed the commuted DAHC offer with BPS who has confirmed that viability has worsened since the time that the original viability appraisal was undertaken. This is owing to the fact that house prices have at best been increasing at 4-5% per annum whereas there has been a recent and significant spike in construction costs. Consequently, an appeal at this stage could result in a lower affordable housing offer than what is currently proposed. The Section 106 agreement would include obligations to ensure the scheme is implemented quickly and the housing (including affordable housing) is delivered as soon as possible. The Section 106 agreement would also ensure that the DAHC commuted sum is received promptly.

The proposed amendment to the draft Section 106 agreement is best described as providing an alternative delivery mechanism for securing the Deferred Affordable Housing Contribution –and as such the terms of the section 106 serve the same planning objective as the terms of the original draft Section 106 agreement securing such a contribution. The applicant is satisfied with obligations to secure prompt completion of the developments, with the completion of ground works/foundation works within 18 months (i.e. substantial implementation) and most importantly, a fixed upfront financial contribution towards affordable housing in place of the DAHC delivery mechanism. If this substantial implementation of the scheme does not occur within 18 months then the review mechanism would be triggered, however, the applicant would not receive any of the upfront payment back.

Given the above, officers' consider that this approach provides the best outcome for the Council based on current circumstances and given that the Section 106 would ensure a quick delivery of affordable housing within 18 months, the proposed DAHC commuted sum is considered acceptable in these specific circumstances.

CONCLUSION

Planning Permission is recommended subject to a Section 106 legal agreement, with obligations as detailed above. A Deed of Variation is not required as the Section 106 agreement has not been completed.