

Application Number	21/05449/S106A	Agenda Item	
Date Received	9th September 2021	Officer	Amy McDonagh
Target Date			
Ward	Arbury		
Site	149B Histon Road Cambridge		
Proposal	Modification of planning obligations contained in a Section 106 Agreement dated 30th October 2017 made between (1) Cambridge City Council and (2) bpha Limited pursuant to planning application 17/0412/S73		
Applicant	Rebecca Fleckney Bedford Heights Manton Lane Bedford MK41 7BJ		

SUMMARY	<p>The application is for the variation of a Section 106 agreement which has been made under the provisions of s106A of the TCPA 1990.</p> <p>The applicant wishes to vary the Section 106 agreement to allow for 100% affordable rent.</p> <p>The proposal seeks to increase the level of affordable housing the scheme currently offers and therefore is compliant with Policy 45 of the Local Plan.</p>
RECOMMENDATION	APPROVE

1.0 SITE DESCRIPTION/AREA CONTEXT

- 1.1 The site is located to the west of a block of student flats known as Masters House and Aldi supermarket. An Esso petrol station is situated to the right of the access drive into the site. The site is currently a construction site where works associated with permission 15/1369/FUL and 17/0412/S73 are being undertaken. The site has permission for the construction of 21 residential units.

- 1.2 West of the site is a block of 15 flats which previously use to be a bungalow (149 Histon Road). To the north of the site is Nursery Walk which is lined with two-storey detached houses which form a cul-de-sac. Further south of the site is industrial land consisting of the Murketts Ltd Vauxhall showroom and repairs centre, and beyond that is the Histon Road Recreational Grounds.
- 1.3 The site does not fall within a Conservation Area, does not contain any listed buildings or any buildings of local interest. The site is outside of the controlled parking zone.
- 1.4 Although a Tree Preservation Order applies to the entirety of the site and the surrounding area, the trees formerly present on this site have been removed without prior consent. The applicant has said this was a genuine mistake and subsequently offered a replacement planting scheme, which was accepted by the Council Tree Officer.

2.0 THE PROPOSAL

- 2.1 Full planning permission was granted in October 2016 for the demolition of the existing industrial building to redevelop the site with 23 dwellings within two blocks of flats comprising of 14 market housing flats (in Block A to the west) and 9 affordable housing flats (Block B to the east), with additional landscaping works alongside the north elevation of the current building. This development has a Section 106 agreement attached to it.
- 2.2 A section 73 application was submitted and approved in November 2017 for the variation of condition 2 (drawings condition) of 15/1369/FUL, to allow minor amendments to the external envelope of the building, and for the reduction of units from 23 to 21. It was stated that all units proposed were to be affordable (4 social rented and 17 shared ownership).
- 2.3 In this application, BPHA (the applicant) are seeking to vary the Section 106 agreement to allow for 100% affordable rent thus removing the option of shared ownership.
- 2.4 The reason for the amendment is that BPHA are using Recycled Capital Grant Funding to provide 100% affordable rent properties in which the rents will be set at Local Housing Allowance (LHA) rates.

2.5 BPHA are also seeking a few amendments to the Design Standards and the definition of the Certificate of Practical Completion. This change will enable the certificate to be issued by the Employers Agent when before it had to be issued by the architect or engineer.

2.6 The amendments to the Section 106 Agreement through a Deed of Variation are proposed as follows:

- ☐ The definition of “Affordable Unit” in paragraph 1 of the Fifth Schedule shall be deleted and replaced with the following: *“Affordable Unit” means the Affordable Rented Units comprising the Affordable Housing within the Development.*
- ☐ The definition of “Certificate of Practical Completion” in paragraph 1 of the Fifth Schedule shall be read as if the words *“qualified architect or engineer”* are deleted and replaced with *“Employer’s Agent”*
- ☐ The definition of “Design Standards” in paragraph 1 of the Fifth Schedule shall be read as if the words *“current HCA technical requirements and housing standards and comply with” and “and Secured By Design Standard”* had been deleted.
- ☐ The definition of “Nomination Rights” in paragraph 1 of the Fifth Schedule shall be read as if the words *“or Shared Ownership Qualifiers”* had been deleted.
- ☐ The definitions of “Secured by Design Standard”, “Shared Ownership Qualifiers” and “Shared Ownership Unit” in paragraph 1 of the Fifth Schedule had been deleted.
- ☐ Paragraph 5 of the Fifth Schedule shall be deleted and replaced with the following: *“To provide 21 Affordable Rented Units”*
- ☐ Paragraph 7 of the Fifth Schedule shall be deleted.
- ☐ Paragraph 9.2 of the Fifth Schedule shall be deleted.
- ☐ Paragraph 11 of the Fifth Schedule shall be deleted.

3.0 SITE HISTORY

Reference	Description	Outcome
15/1369/FUL	Demolition of industrial building and erection of 23 residential units (use class C3) to be arranged in two blocks comprising a mix of studio and 1 & 2 bed flats including 40% affordable housing, two car parking spaces, cycle parking and associated hard and soft landscaping.	Permitted
17/0412/S73	Section 73 application to vary condition 2 of permission 15/1369/FUL to allow for: external and internal changes; a reduction in the number of residential units from 23 to 21; and an increase in affordable housing provision from 40% (6 social rented & 3 shared ownership) to 100% (4 social rented & 17 shared ownership).	Permitted

4.0 PUBLICITY

4.1	Advertisement:	No
	Adjoining Owners:	No
	Site Notice Displayed:	No

5.0 POLICY

5.1 See Appendix 1 for full details of Central Government Guidance, Cambridge Local Plan 2018 policies, Supplementary Planning Documents and Material Considerations.

5.2 Relevant Development Plan policies

PLAN		POLICY NUMBER
Cambridge	Local	45, 56, 57

Plan 2018	
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5.3 Relevant Central Government Guidance, Supplementary Planning Documents and Material Considerations

Central Government Guidance	<p>National Planning Policy Framework 2021</p> <p>National Planning Policy Framework – Planning Practice Guidance from 3 March 2014 onwards</p> <p>Circular 11/95 (Annex A)</p>
Previous Supplementary Planning Documents	<p>Affordable Housing (January 2008)</p> <p>Planning Obligation Strategy (March 2010)</p>

6.0 CONSULTATIONS

6.1 Housing Officer: Supportive of changes.

7.0 REPRESENTATIONS

7.1 No representations were received for this application

8.0 ASSESSMENT

8.1 The main elements are as follows:

1. Affordable Housing
2. Change of unit type
3. Context of site, design and external spaces (and impact on heritage assets)

Affordable Housing

8.2 The variation of the section 106 results in the production of 21 flats designated as 100% affordable rented properties, rather than 17 of these units being shared ownership.

8.3 The reasoning behind this change, is in conjunction with Homes England, BPHA are using Recycled Capital Grant Funding to

provide 100% affordable rent properties (for which there is a high demand) and for which the rents will be set at LHA rates.

- 8.4 Policy 45 of the Cambridge Local Plan requests that developments provide at least 40% affordable housing. The scheme proposes to supply 100% affordable housing all set at LHA rates, which is above the policy 45 threshold. In light of this, the principle of development is considered acceptable.

Change of unit type

- 8.5 The proposal does not reduce the overall number of units; it does however remove the option for shared ownership of the units. Although this variation does remove the ability for occupants to part own their home, the scheme still delivers 100% affordable housing and contributes to a growing need for housing of this type. Therefore, the development is acceptable in relation to policy 45 of the Cambridge Local Plan (2018).

Context of site, design and external spaces (and impact on heritage assets)

- 8.6 The variation is for the type of unit available to residents rather than the physical structure. On the basis that the development is undertaken in accordance with permission 15/1369/FUL and 17/0412/S73, this variation of the section 106 should not impact the context, design or external spaces associated with the development.
- 8.7 Therefore, the proposal is compliant with policies 56 and 57 of the Cambridge Local Plan (2018).

9.0 CONCLUSION

- 9.1 The proposal seeks to amend the wording of the existing Section 106 to make all units provided through a permitted scheme 100% affordable rented properties. The request does not conflict with any Local Plan policy and would aid in the growing demand for affordable housing.

10.0 RECOMMENDATION

APPROVE. Permitted amendments to the Section 106 Agreement are shown below.

10.1 The amendments to the s106 Agreement through a Deed of Variation are permitted as follows:

- ☐ The definition of “Affordable Unit” in paragraph 1 of the Fifth Schedule shall be deleted and replaced with the following: *“Affordable Unit” means the Affordable Rented Units comprising the Affordable Housing within the Development*
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