



Haringey Council

Agenda item:

[No.]

Planning Sub Committee

14<sup>th</sup> May 2012

Report Title. **Furnival House, 50 Cholmeley Park N6 - Proposed Variations to Section 106 Agreement**

Report of **Head of Development Management**

Signed :

Contact Officer : **Paul Smith , Head of Development Management Telephone 020 8489 5507**

Wards(s) affected: **Highgate**

Report for: **Sub-Committee**

### 1. Purpose of the report

1.1. To consider the proposal by Rozbelle the applicants for a variation of the current s106 agreement for the development at Furnival House, 50 Cholmeley Park as agreed in September 2010. No other changes to the planning permission are sought.

### 2. Summary

Planning Consent was granted In September 2010 to Rozbelle the applicants for a 15 residential unit development at Furnival House, 50 Cholmeley Park. A total financial contribution of £1,505,000 was agreed as part of the Section 106 agreement for housing, education, transportation, Traffic Management Order (TMO) and administration/recovery. Rozbelle are committed to the project and seek a variation to this S106 Agreement attached to the original planning permission in order to make the scheme viable and progress with construction.

### 3. Recommendation

3.1. That the Committee agrees the variations to reduce the contributions to the existing s106 Agreement attached to planning permission (HGY/2010/1175) for the development at Furnival House, 50 Cholmeley Park.

#### **4.0 Changing the Section 106 Agreement – National Guidelines**

##### Background

- 4.1 The Council's planning policies aim to promote development in appropriate locations and, as far as possible, in ways and for uses that will provide significant benefits for the wider area. Impacts of developments need to be mitigated adequately. In considering the form of a development, the mix and type of uses and the degree to which the impacts of that development are mitigated, it is reasonable to take into account the potential benefits, in planning terms, of the whole development.
- 4.2 The Minister for Decentralisation and Cities' 'Statement on Growth' in March 2011 calls for local authorities to review existing s106 agreements on schemes that are unviable. Where necessary and possible, obligations should be modified to allow development to proceed provided this continues to ensure that the development remains acceptable in planning terms.
- 4.3 The National Planning Policy Framework (March 2012) also encourages local planning authorities to avoid non-essential conditions or obligations when they would undermine the viability of development proposals.

#### **5.0 Detailed Considerations**

##### The Scheme

- 5.1 Planning Consent was granted In September 2010 to Rozbelle for a 15 residential unit development at Furnival House, 50 Cholmeley Park. A total financial contribution of £1,505,000 was agreed as part of the Section 106 agreement for Housing, Education, Transportation, Traffic Management Order (TMO) and Administration/recovery. Due to various circumstances, Rozbelle although committed to the project seek a variation to the S106 Agreement attached to the original planning permission in order to make the scheme viable and progress with construction.
- 5.2 The original planning permission remains unchanged; The proposed variation is in line with the Minister for Decentralisation and Cities' 'Statement on Growth'.
- 5.3 In order to improve the viability of the scheme and for the development to be carried out, the architects (Moxley Architects) have been left with no other option but to seek a reduction/variation in the Section 106 contribution for the approved scheme, and therefore ask to have this request put forward for consideration. The Education contribution will remain the same as existing.

5.4 **The existing Section 106 contribution are as follows;**

Contribution	£
Housing	1,320 000
Education	120,000
Transportation	50,000
TMO	1000
Admin/Recovery	14,000
<b>TOTAL</b>	<b>£1,505,000</b>

5.5 **The applicant seeks to vary the Section 106 contributions as follows;**

Contribution	£
Housing	1,080 000
Education	72,791
Transportation	50,000
TMO	1,000
Admin/Recovery	5,000
<b>TOTAL</b>	<b>£1,208,791</b>

5.6 A financial viability statement has been submitted by the architects which assesses the viability of the scheme based on Residual Value Basis. The appraisal was prepared on a current day basis using current day costs and current day values even though the appraisal makes references to July 2008 which related to when the original costings were prepared. Changes in the market between that date and the current time have essentially meant that there have been no net increases in tender prices over that period. It can be confirmed that this viability statement was independently verified.

5.7 There is an issue regarding the viability of the approved scheme and therefore the applicants seek a reduction figure of £296,209 of the existing Section 106 contributions. There are a number of factors that have led to the proposed reduction in Section 106 contributions such as the economic climate. This can be further justified by the following;

- Sales values have been depressed from the time of the original approval, this is generally something in the order of 15% lower or more.
- The build cost has increased - At the point of approval, the build costs allowed for a tender deflation figure of circa £500K as tenders at that time were coming in lower due to the depression in the construction market at that time. That situation is no longer the

case and therefore the deflation in tender prices can no longer be allowed for in the build cost as construction prices are increasing.

- The recent Government Budget put 20% VAT back onto works to listed buildings, such work had previously been exempt from the payment of VAT.

In summary therefore the sales are down a minimum of 15%, build cost is up circa £500K and 20% VAT has been added.

- 5.8 Despite the above, when the development is carried out, the Council will still receive albeit reduced receipts in terms of the contributions outlined within the original S106 agreement – enabling contribution to be made to the provision of education, housing in the borough also local highway enhancement.
- 5.9 Having assessed the appraisal a variation to the s106 agreement imposed on the original planning consent is recommended to reflect the current viability of the proposal and enable the development to be carried out.

## **6.0 Existing Section 106 Agreement Clauses Requested for Variation**

The officers recommend that the principle of the following variations are accepted

## **7.0 Recommendation**

- 7.1 Through discussions between Moxley Architects and the officers, it is agreed that in order to make the proposed development at Furnival House, 50 Cholmeley Park viable, a variation to the existing s106 obligations attached to the existing planning permission should be agreed.
- 7.2 This variation is sought to reflect a reduction in the S106 contribution. It is recommended that the Committee accept the changes to the contributions to the variation to the original s106 Agreement as outlined above.





**Haringey** Council