Item No. | Classification: | Date: | Meeting Name:
---|---|---|---
1.2 | OPEN | 02.06.10 | NUNHEAD AND PECKHAM RYE COMMUNITY COUNCIL

Report title: Development Management planning application: Application 10-AP-0660 for: Variation of legal agreement

Address:
LAND TO THE REAR OF 1-27 BRABOURN GROVE, 175-205 HOLLYDALE ROAD & 74-78 EVELINA ROAD, SE15 2BS

Proposal:
Variation of S106 in connection with application ref 09-AP-1769:

(description of development: Demolition of all buildings on site, coach depot and garages. Retention of boundary wall to rear garden properties along Hollydale Road and Brabourn Grove and redevelopment to provide a total of 22 units incorporating a four storey residential block fronting Evelina Road comprising 10 self contained units (8x2 bedroom and 2x3 bedroom) and a row of 12, 3 storeys terraced houses (9x3 bedroom and 3x4 bedroom) including 18 car spaces and associated cycle parking) granted 25/11/2009

To amend Schedule 5 to include Units 9 and 10 as social rented tenure to provide 100% social rented units.

Ward(s) or groups affected: Nunhead

From: Terence McLellan

Application Start Date 12/03/2010 | Application Expiry Date 07/05/2010

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**RECOMMENDATION**

1. Allow variation of legal agreement.

This application has been referred to Nunhead and Peckham Rye Community Council for determination as the variation to the legal agreement will result in housing tenure mix contrary to Policy 4.4 - Affordable Housing of The Southwark Plan 2007 (July) by providing 100% of the affordable units as social rented.

**BACKGROUND INFORMATION**

Site location and description

The application site refers to the plot located to the rear of 1-25 Brabourn Grove, 175-205 Hollydale Road and 74 - 78 Evelina Road, Nunhead, London. The site has an area of approximately 3400 square metres and is currently occupied by light industrial buildings and lock up garages, both of which have fallen into a state of considerable disrepair.

The site is located within a predominately residential area and is bounded to the
north, east and west by residential properties and to the south by the railway line. The terraced dwellings on Hollydale Road and Brabourn Grove are of Victorian style and are characterised by traditional brick construction with rendered reveals, bay windows, slate/tile roof, featured parapet walls and stacks above roof level.

The application site benefits from two separate entrances; the principle entrance is located immediately adjacent to 1 Brabourn Grove along the north western boundary. This access primarily serves coaches, lorries and industrial vehicles associated with the light industrial operations on this section of the site. A secondary access, to serve the existing lock up garages, is gained on the Evelina Road frontage of the site, situated to the south east of the site immediately adjacent to the railway viaduct.

The light industrial and lock up garage uses are distinctly separate with individual access. The light industrial buildings range in height from 6.5 metres to 8.5 metres and are single storey, vaulted structures utilising such materials as brick and corrugated asbestos. The lock up garages accessed from Evelina Road are of pre-cast concrete construction with asbestos cement roofs.

The light industrial buildings located from Brabourn Grove serve a coach depot used by approximately 24 coaches. The coach depot previously incorporated such uses as a coach wash, Tacho centre for visiting coaches and a maintenance workshop. There was previously a car repair business which shared the main depot building with the coach operator however access for this business was gained from the Evelina Road access to the site.

In terms of topography, the site is generally level however there is a slight increase in level towards the centre of the site and along the boundary with the railway embankment.

Details of proposal

An amendment is sought to the recently completed S106 legal agreement in connection with an approved residential development on the site to alter the tenure of the affordable housing units to provide 100% of the affordable units as social rented.

Policy 4.4 - Affordable Housing requires the provision of affordable housing to be split 70:30 in terms of social rented properties and intermediate/shared ownership properties. The approved scheme complied with this policy and provided eight social rented units and two intermediate units. The variation of the legal agreement seeks to replace the two intermediate units with social rented units.

The affordable housing is contained within block A on Evelina Road and consists of the following:

<table>
<thead>
<tr>
<th>Unit No.</th>
<th>No. of Bedrooms</th>
<th>Approved Tenure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>Social rented</td>
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<td>2</td>
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<td>3</td>
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<td>8</td>
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</tr>
<tr>
<td>9</td>
<td>3</td>
<td>Intermediate/shared ownership</td>
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<tr>
<td>10</td>
<td>3</td>
<td>Intermediate/shared ownership</td>
</tr>
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</table>
The proposal for Block A following the variation of the legal agreement will consist of the following:

<table>
<thead>
<tr>
<th>Unit No.</th>
<th>No. of Bedrooms</th>
<th>Proposed Tenure</th>
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</thead>
<tbody>
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<td>1</td>
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<tr>
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<tr>
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</tr>
</tbody>
</table>

Planning history

09-AP-1769 - Demolition of all buildings on site, coach depot and garages. Retention of boundary wall to rear garden properties along Hollydale Road and Brabourn Grove and redevelopment to provide a total of 22 units incorporating a four storey residential block fronting Evelina Road comprising 10 self contained units (8x2 bedroom and 2x3 bedroom) and a row of 12, 3 storeys terraced houses (9x3 bedroom and 3x4 bedroom) including 18 car spaces and associated cycle parking. Granted 25/11/2009.

It is the legal agreement in connection with this permission that is the subject of this application.

Planning history of adjoining sites

There is no planning history of adjoining sites that is of relevance in the determination of this application.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

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

a) Whether the Council, in this case, support the amendment to the affordable housing tenure mix in order to provide 100% social rented units as affordable housing provision.

Planning policy

Southwark Plan 2007 (July)

Policy 4.4 - Affordable Housing

London Plan 2008 consolidated with alterations since 2004

3A.10 Negotiating affordable housing in individual private residential and mixed use schemes

Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)
SPD Affordable housing  (Sept 2008)

**Principle of development**

The development has been approved under application 09/AP/1769 and no changes to its form are proposed. This application only seeks to amend the legal agreement attached to the previous consent.

**Environmental impact assessment**

An Environmental Impact Assessment is not required for an application of this nature.

**Impact of proposed development on amenity of adjoining occupiers and surrounding area**

The impact of the development on adjoining occupiers and the surrounding area was assessed to be acceptable with no significant impact on either the visual or residential amenity of the area. The current level of amenity enjoyed by existing neighbours will be retained and the development was assessed as acceptable under application 09/AP/1769 which was granted by members on 25.11.09. The variation of the legal agreement will not alter or change the previously approved scheme and seeks only to amend the legal agreement with regards to affordable housing provision.

**Impact of adjoining and nearby uses on occupiers and users of proposed development**

Previously assessed under application 09/AP/1769 which was granted on 25.11.2009. It was considered that there will be no a conflict of use detrimental to the amenity of the occupiers of the development sue to the residential nature of the surrounding area.

**Traffic issues**

Previously assessed as acceptable under application 09/AP/1769 which was granted on 25.11.2009. No changes in this respect are proposed.

**Design issues**

Previously assessed under the previous application and as previously mentioned will remain unchanged by the variation to the legal agreement.

**Impact on character and setting of a listed building and/or conservation area**

The development will not affect any listed buildings or conservation areas and was fully assessed under the previous application detailed above.

**Impact on trees**

There will be no impact on any trees.

**Planning obligations (S.106 undertaking or agreement)**

Legal advice given confirms that this amendment to the S106 is by agreement between the Council and the developer and gives authorisation to provide 100% of the affordable units within the development as social rented tenure. In all other
respects, the obligations secured as part of the previous application remain exactly the same.

Policy 4.4 - Affordable Housing requires the provision of affordable housing to be split 70:30 in terms of social rented properties and intermediate/shared ownership properties. The approved scheme complied with this policy and provided eight social rented units and two intermediate units. The variation of the legal agreement seeks to replace the two intermediate units with social rented units.

The S106 prepared in respect of the approved application 09/AP/1769 was drafted on the expectation that the selected Registered Social Landlord (Metropolitan Housing Trust) would manage the units on a part shared ownership/part social rented tenure. The Metropolitan Housing Trust has since advised the site developer that they cannot proceed with the mixed tenure of the affordable housing units and will require all affordable housing units to be managed on a social rented basis only.

Without the amendment to the S106, the development will lose the opportunity to provide a significant number of affordable units to the area. The provision of 100% affordable housing will enable the housing scheme to proceed, which will contribute to the stock of housing, and affordable housing in the borough. As such, and with the support of the Housing Officer, there are no objections to the amendment of the legal agreement in this way.

Sustainable development implications

No further issues in addition to those previously assed under the approved application 09/AP/1769.

Other matters

No other matters have been identified that are of relevance.

Conclusion on planning issues

The change of tenure is a minor matter and whilst not policy compliant in that no intermediate/shared ownership units will be provided, the proposal will still offer a valuable contribution to affordable housing provision in this part of the borough. The Council's Housing Officer has confirmed that the amended tenure of affordable housing to provide 100% social rented units is acceptable. In all other respects the scheme remains as previously considered and approved. As such it is recommended that the variation to the legal agreement be allowed.

Community impact statement

In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

b) There are no issues relevant to particular communities/groups.

c) There are no likely adverse or less good implications for any particular communities/groups.
Consultations

Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Consultation replies

Details of consultation responses received are set out in Appendix 2.

Summary of consultation responses
All comments received in response to the proposed development have been summarised and addressed below:

Housing Officer - No objections, support the provision of 100% social rented units for affordable housing provision.
Response - Noted and agreed.

Two letters of objection have been received from the occupier of 175 Hollydale Road and an anonymous third party. The points raised in the letters of objection are in reference to the initial planning application that has already been granted. The letters of objection raise no issue with the variation of the S106 and as such are not considered relevant to the outcome of this application to amend the S106 agreement.

Human rights implications

This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term ‘engage’ simply means that human rights may be affected or relevant.

This application has the legitimate aim of providing affordable housing. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

N/A

REASONS FOR LATENESS

N/A

REASONS FOR URGENCY

N/A
## BACKGROUND DOCUMENTS

<table>
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<tr>
<th>Background Papers</th>
<th>Held At</th>
<th>Contact</th>
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<tr>
<td>Site history file: TP/2488-1A</td>
<td>Regeneration and Neighbourhoods Department</td>
<td>Planning enquiries telephone: 020 7525 5403</td>
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<tr>
<td>Application file: 10-AP-0660</td>
<td>Department 160 Tooley Street London SE1 2TZ</td>
<td>Planning enquiries email:</td>
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<td>Southwark Local Development</td>
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<td><a href="mailto:planning.enquiries@southwark.gov.uk">planning.enquiries@southwark.gov.uk</a></td>
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<td>Framework and Development Plan</td>
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<td>Council website: <a href="http://www.southwark.gov.uk">www.southwark.gov.uk</a></td>
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## APPENDICES

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<tbody>
<tr>
<td>Appendix 1</td>
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<td>Appendix 2</td>
<td>Consultation responses received</td>
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## AUDIT TRAIL

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<tr>
<th>Lead Officer</th>
<th>head of Development Management</th>
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<tbody>
<tr>
<td>Report Author</td>
<td>Terence McLellan</td>
</tr>
<tr>
<td>Version</td>
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<tr>
<td>Dated</td>
<td>02.06.10</td>
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<td>Key Decision</td>
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## CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER

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<tr>
<th>Officer Title</th>
<th>Comments Sought</th>
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<tbody>
<tr>
<td>Strategic Director of Communities, Law &amp; Governance</td>
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<td>Strategic Director of Environment and Housing</td>
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<tr>
<td>Date final report sent to Constitutional / Community Council / Scrutiny Team</td>
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</tbody>
</table>
Consultation undertaken

**Site notice date:** 22.03.10

**Press notice date:** Posted on 25.03.10 in error, an application to vary a legal agreement does not require press advertisement.

**Case officer site visit date:**

**Neighbour consultation letters sent:** Sent in error on 23.03.10, consultation is not required on applications to vary a legal agreement.

**Internal services consulted:**

Housing Officer

**Statutory and non-statutory organisations consulted:**

No consultations required.

**Neighbours and local groups consulted:**

As detailed on Acolaid.

**Re-consultation:**

Re-consultation not required.
Consultation responses received

Internal services
Housing Officer

Statutory and non-statutory organisations
N/A

Neighbours and local groups
175 Hollydale Road
Anonymous third party