
TITLE: TERENCE PLACE, FORDHAM (16/01551/OUM and 18/01067/RMM)

Committee: Planning Committee

Date: 30 November 2022

Author: Director Community

[X118]

1.0 ISSUE

1.1 To consider variations to the Sections 106 Agreement for planning application 16/01551/OUM) Fordham Technology Centre 5 Station Road Fordham Ely, now called Terence place, Fordham. Such variations will enable the unfinished site to be completed.

2.0 RECOMMENDATION(S)

2.1 Members are requested to:

- i) Note the efforts of Officers to bring about a solution to the unfinished development at Terence Place, Fordham, specifically:
 - a. Inadequate drainage provision;
 - b. Unfinished roadways;
 - c. Off-site highways improvement; and
 - d. Incomplete landscaping

- ii) Instruct the Director Community to agree a Deed of Variation to:
 - a. Remove the obligation to deliver affordable housing as part of the development to enable the completion of works identified in i) a)-d); and
 - b. Remove the obligation to pay a public open space maintenance contribution to ensure that the area is maintained in perpetuity

2.2 Members are further requested to instruct the Director Legal to complete a separate legal agreement to ensure that the Council secures agreement that revenue released from the delivery of affordable housing will be used to address the issues identified in i) a)-d).

3.0 BACKGROUND/OPTIONS

3.1 Planning application 16/01551/OUM – “*Residential development for up to 27 dwellings (incl up to 5 self-build dwellings), garages, open space, new accesses onto Station Road, internal roads and associated works. Retention of existing B1 building and remodel access and parking*” was approved in July 2017. The Reserved Matters application was approved May 2019.

3.2 During 2022 Officers became aware that the developer experienced financial difficulties that resulted in the site being recovered by a Receiver, i.e. the developer became insolvent. Unfortunately, the developer became insolvent prior to development works being completed.

- 3.3 The following areas are incomplete, which are causing significant distress and concern to the residents, and need to be addressed:
- The pumping station requires works to increase the capacity
 - The making good of the internal site roads and provision of a pedestrian crossings
 - The landscaping of the of the area of open space
- 3.4 In addition there are outstanding planning conditions that need to be reviewed and discharged. The Case Officer is working with the Receiver to enable this.
- 3.5 Senior Officers have been working with the Receiver to bring about a solution that would enable the successful completion of this development.

4.0 ARGUMENTS/CONCLUSIONS

- 4.1 The Section 106 (S106) Agreement requires 40% (10 dwellings) of the total number of dwellings to be provided as on-site Affordable Housing. The affordable housing is currently vacant as the Receiver was unable to secure a Registered Provider to purchase the dwellings due to the incomplete nature of the development.
- 4.2 The open market dwellings are occupied and the issues, identified above, are causing significant distress to those residents. A particular issue relates to the drainage of the site; the developer installed a pumping station which is not fit for purpose and although the Receiver has made some improvements to the pumping station, the improvements are not sufficient to handle the current connections and will be exacerbated if other properties are connected to it.
- 4.3 In an attempt to find a financially viable way to complete the site, in September 2022 the Receiver approached the Council with a request to vary the current S106 agreement. The request arose from the need to unlock revenue to complete the site. In order to complete the site and resolve all of the issues identified, the Receiver requested that the Council consider converting the 10 affordable housing units to open market units. The Receiver supplied a financial assessment to support the request.
- 4.4 The Receiver's financial assessment stated that all of the affordable housing units would need to be converted to open market dwellings in order for sufficient income to be generated to enable discharge of the outstanding planning conditions and address the outstanding issues.
- 4.5 The Council commissioned an independent review of the financial information. The Council tasked the independent reviewer to test whether the development appraisal could accommodate any affordable housing, regardless of tenure.
- 4.6 The independent review concluded that due to the costs of the works required to complete the development, it was not possible to retain any affordable housing units of any tenure on site. In addition, there was no evidence to suggest that a clawback could be achieved if open market sales values were higher than those assumed in the development appraisal.

- 4.7 It is acknowledged that the provision of affordable housing is important to the Council and this is reflected in both National and Local Policy. That being said, the current situation at the site necessitates the need to consider whether the situation, evidenced with a financial appraisal, requires the Council to agree to the request for a variation to convert the affordable housing units to open market units.
- 4.8 It is worth noting at this point that the Receiver has no obligation to complete the development and has worked proactively with Officers to design a solution to ensure the identified issues are resolved.
- 4.9 In the event that the Council refuses the request then the Council will have lost the opportunity to bring about a solution that enables the completion of the site including fixing the sub standard pumping station, completing the road surfaces and crossing point and essential landscaping work.
- 4.10 Regretfully, despite the effort of both the Officers and the Receiver, there is no solution that enables both the delivery of affordable housing and completion of necessary works on site. Therefore only two options exist; allow the conversion of all affordable housing units on the site to open market which will enable successful completion of the site or continue with the requirement to secure affordable housing and leave the site incomplete with existing issues, which will worsen over time.
- 4.11 Officers recommend that the affordable housing is converted to open market housing to enable the identified issues to be resolved.
- 4.12 The S106 Agreement also stipulates that the on-site public open space should be transferred to the District Council. At the time of transfer there is also a requirement to pay a public open space maintenance contribution.
- 4.13 The Public Open Space is one of the issues on site that needs to be addressed. There will need to be an amended plan for the public open space scheme. It is currently proposed by the Receiver that the area will be landscaped but will not provide a play area. The development appraisal evidences that the cost of the play area is unviable and therefore the Council should focus on resolving the current state and forego the desire for a play area on the site. Further, whilst an allowance has been made to landscape the area there is no scope to secure the financial public open space maintenance contribution.
- 4.14 The site will generate a CIL liability of circa £265,000. 25% of this will be paid to Fordham Parish Council as the meaningful proportion (circa. £66,250). It would be within the gift of Fordham Parish Council to use its CIL receipts to provide a small play area on this site.
- 4.15 It should be noted that if the request to vary the affordable housing and public open space contribution is refused then the Council will be unlikely to recover the outstanding CIL liability of circa £165,000. If the variations are agreed then the CIL liability will increase to circa £265,000. This is because the affordable housing relief will be withdrawn. The Council cannot use CIL to pay for affordable housing.
- 4.16 On the matter of a maintenance contribution, the Council is again faced with two options for the site. Agree to adopt the public open space and forego the

future maintenance contribution or agree that the public open space should be transferred to a private management company for maintenance.

Please note that the Receiver is already working on a management company for the pumping station and if this is the option agreed then the public open space land will transfer with the pumping station.

- 4.17 Following discussions with the Open Spaces & Facilities Manager, it would not be a significant burden to maintain the site without a maintenance contribution, as long as the maintenance of the site is limited to grass cutting. The Council already has maintenance obligations in the vicinity of the site and as such the financial burden is reduced.
- 4.18 Officers recommend, for the reason stated above, that the land is transferred to the Council without a public open space maintenance contribution.
- 4.19 If Members are to agree to the recommendations of this report the Receiver has agreed to enter into any further legal agreements that may be required to ensure that the release of affordable housing will facilitate the successful completion of the site.

5.0 FINANCIAL IMPLICATIONS

- 5.1 There are no additional financial implications arising from this report. The conversion of the properties to open market dwellings will generate additional CIL income to the Council.

6.0 APPENDICES

- 6.1 None.

Background Documents

Confidential viability appraisals.

Location

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The Grange,
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