

PLANNING COMMITTEE

24 MARCH

CASE OFFICER REPORT RECORD SHEET


<b>Proposal</b> (07-CO-0046 & 09-CE-00290)	<b>Address</b>
To vary the legal agreement for application reference 07-AP-0046 for the demolition of 1-41 Bradenham, 1-12 Red Lion Close, the Aylesbury Day Centre, the elevated pedestrian link across Bradenham Close and the single storey garages on Red Lion Close, and the erection of a series of buildings ranging in height from 1 (c.4.5m) to 10 storeys (29.9m) in height comprising around 260 dwellings, 404m <sup>2</sup> of retail floorspace, a new day centre and provision of public open space and public realm improvement work.	Open land east of Red Lion Row & north of Boyson Road, 1-41 Bradenham, 1-12 Red Lion Close & the Aylesbury Day Centre, London SE17 2ES  <b>Ward FARADAY</b>

**Case Officer:** Alistair Talbot


**Recommendation proposed by Case Officer:**

Signed  date 10/3/09.

**Recommendation cleared by Team Leader / Group Manager:**

Signed  date 11/3/09

**Recommendation cleared by Development and Building Control Manager:**

Signed  date 11/03/09

**Recommendation NOT cleared by Team Leader / Group Manager OR Development and Building Control Manager**

Signed \_\_\_\_\_ date \_\_\_\_\_

**Reason Recommendation NOT agreed:**

**Decision made by Planning Committee / Community Council**

Signed \_\_\_\_\_ date \_\_\_\_\_

<b>Item No.</b>  <b>1</b>	<b>Classification</b>  OPEN	<b>Decision Level</b>  PLANNING COMMITTEE	<b>Date</b>  24/03/09
<b>From</b>  HEAD OF DEVELOPMENT CONTROL		<b>Title of Report</b>  DEVELOPMENT CONTROL	
<b>Proposal</b>  To vary the legal agreement for application reference 07-AP-0046 for the demolition of 1-41 Bradenham, 1-12 Red Lion Close, the Aylesbury Day Centre, the elevated pedestrian link across Bradenham Close and the single storey garages on Red Lion Close, and the erection of a series of buildings ranging in height from 1 (c.4.5m) to 10 storeys (29.9m) in height comprising around 260 dwellings, 404m <sup>2</sup> of retail floorspace, a new day centre and provision of public open space and public realm improvement work.		<b>Address</b>  Open land east of Red Lion Row & north of Boyson Road, 1-41 Bradenham, 1-12 Red Lion Close & the Aylesbury Day Centre, London SE17 2ES  <b>Ward FARADAY</b>	

#### **PURPOSE**

- 1 To consider a request to vary the legal agreement in respect to:
  - a) The required quantum and mix of affordable housing;
  - b) The addition of a clause requiring the development to commence by 30 June 2009.

#### **RECOMMENDATION**

- 2 Agree to vary the legal agreement by way of a deed of variation.

#### **BACKGROUND**

- 3 This request relates to the first phase in the planned redevelopment of the Aylesbury Estate, which was granted Outline planning permission on 11 June 2007 for the demolition of the existing buildings and for a redevelopment to provide a series of buildings ranging in height from 1 to 10 storeys in height comprising around 260 dwellings, 404m<sup>2</sup> of retail floorspace, a new day centre and provision of public open space and public realm improvement work.
- 4 The planning permission was granted subject to a legal agreement which secured the tenure mix set out in Table 1, below.

5 **Table 1: Approved Tenure Mix**

Tenure	Units				
	1-bed	2-bed	3-bed	4-bed	Total
Private	57	74	10	0	141
Intermediate	10	19	0	0	29
Social rented	34	42	7	7	90
Total	101	135	17	7	260

- 6 Under Section 106A of the Town and Country Planning Act 1990, the Council may agree with the Developer to vary a Section 106 Agreement. This discretionary power to bilaterally agree with the Developer a variation to the Agreement must be done by way of a deed of variation.

**PROPOSAL**

- 7 The request is to vary the legal agreement to provide a different tenure mix to that granted in the Outline plan approval. The proposed tenure mix is set out in Table 2, below.

**Table 2: Proposed Tenure Mix**

Tenure	Units				
	1-bed	2-bed	3-bed	4-bed	Total
Private	48	68	10	0	126
Intermediate	15	18	0	0	33
Social rented	38	49	7	7	101
Total	101	135	17	7	260

- 9 The difference between the existing agreement and the current proposal is essentially the provision of more affordable units (i.e. 11 more social rented and 4 more intermediate units) and less private units (reduced from 141 to 126). The units affected by the proposal would be in the first phase (Stage A) of the redevelopment, which is to provide 52 units and the Aylesbury Resource Community Centre.
- 10 The remainder of the development would be unaffected by this variation. There is no change to the overall total number of flats, their mix (i.e. number of 1, 2, 3 & 4 bed units) or the scheme design.

**Relevant Planning History**

- 11 07-CO-0135: Reserve matter approval for the external appearance and landscaping of Site A (52 residential units and the Aylesbury Resource Community Centre) was granted on 20 December 2007.
- 09-AP-0244: Reserve matter approval for the external appearance and landscaping of Sites B, E and C (149 residential units and retail floorspace) was submitted for

consideration on 29 January 2009. The application is still to be determined.

## **FACTORS FOR CONSIDERATION**

### **Main Issues**

- 12 The main issue in this case is whether the changes sought will mean the proposal remains consistent with Development Plan policy.

### **Planning Policy**

#### Southwark Plan 2007

- 13 The relevant policies of the Southwark Plan include:  
2.5 Planning Obligations  
4.3 Mix of Dwellings  
4.4 Affordable Housing
- 14 The most relevant Southwark Supplementary Planning Document is Affordable Housing (2008).

#### Draft Aylesbury Estate Area Action Plan (draft AAP)

- 15 The publication/submission draft AAP was published on 16 January 2009 and is undergoing consultation until 6 April 2009. While the draft AAP provides a clear indication of the Council's planning policies that are intended to guide the Estate's regeneration it is at this stage emerging policy and does not yet form part of the Development Plan. As such in the consideration of this request it should be afforded less weight than the adopted UDP.

#### London Plan 2004 (updated 2008)

- 16 The relevant policies of the London Plan include:  
3A.1 Increasing the overall supply of housing  
3A.2 Borough housing targets  
3A.5 Housing choice  
3A.9 Affordable housing targets  
3A.10 Negotiating affordable housing  
6A.5 Planning Obligations
- 17 The most relevant Mayoral Supplementary Planning Guidance is the SPG on Housing.

#### Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)

- 18 The relevant PPG and PPS include:  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing

### **Consultations**

#### **Internal Consultees**

#### Housing Regeneration Initiatives

- 19 The Housing section has no objection to the proposed changes of tenure. The supply

of decant capacity ring-fenced to Aylesbury residents will be enhanced. The work around Phase 1a has heavily influenced the development of the Area Action Plan, which will further enable the delivery of the wider programme.

#### **Major Projects Team**

- 20 The Major Projects Department has approved the tenure change proposals and welcomes the additional social rented units.

#### **Greater London Authority (GLA)**

- 21 Consultation with the GLA was deemed not necessary given the nature of the proposed change which makes it more compliant with London Plan policy in terms of the overall level of affordable housing being provided.

#### **Neighbour Consultees**

- 22 There is no statutory requirement to consult neighbours on a request to vary a legal agreement. As the requested variation is solely to alter the number and mix of affordable flats consultation has not been undertaken.

### **PLANNING CONSIDERATIONS**

#### **Proportion of Affordable and Private Units**

- 23 In terms of affordable housing provision the Southwark Plan advises that within the Urban Zone (which the site lies within) a minimum of 35% of all new housing should be affordable, while the London Plan seeks that a minimum of 50% of all new housing is affordable. These policies establish minimum standards and a development is therefore policy compliant if it provides a higher level of affordable housing than the minimum standard. The policies in the draft AAP seek a 50% private 50% affordable tenure split but given the early stage of this documents development these policies should be afforded less weight than the adopted UDP.
- 24 In respect to the affordable units being provided the Southwark Plan and London Plan seek a 70% social rented and 30% intermediate tenure mix. The emerging draft AAP seeks a 75% social rented and 25% intermediate mix.
- 25 In respect of estate regeneration schemes both the Southwark Plan and London Plan advise that they should be used as opportunities to create more balanced communities by providing a greater mix of housing types. Overall however there should be no net loss of affordable housing (both social rented and intermediate housing).
- 26 The Southwark SPD on Affordable Housing (2008) advises with respect to estate redevelopment that *"when there is a net increase in the amount of housing provision, normal policy requirements for affordable housing will not usually apply to any additional housing that is built on the site"*. In addition it advises that *"the requirements for additional affordable housing in estate regeneration will be done on a case by case basis in consultation with the GLA and will need to be informed by a financial appraisal"*. The minimum affordable housing thresholds set out in paragraph's 22 and 23 above should be considered alongside this guidance provided in the SPD.

- 27 The existing agreement requires 52.5% private housing and 47.5% affordable housing mix across the development, and a 78:22 social rented:intermediate mix. The proposal would result in a 48% private housing and 52% affordable housing mix across the development and a 73:27 social rented:intermediate affordable mix.
- 28 In terms of the overall number of affordable units the proposal would exceed the minimum policy requirements of the Southwark Plan and London Plan. However, it would provide slightly less (i.e. approximately 2% or 15 habitable rooms) than the amount of private accommodation sought by the draft AAP. It would also provide a slightly different affordable mix to that sought by the Southwark Plan, London Plan (i.e. approximately 3% or 8 habitable rooms more social rented and 3% or 8 habitable rooms less intermediate) and draft APP (approximately 2% or 7 habitable rooms less social rented and 2% or 7 habitable rooms more intermediate).
- 29 The units affected by the proposal are all located in Stage A (i.e. the first stage) of the Outline planning permission. This stage includes 52 of the development's total of 260 residential units. The residential units in this building would all become affordable with a 72.5% social rented and 27.5% intermediate unit mix. The intermediate units would all be "intermediate market rent".
- 30 The Southwark Plan and London Plan advise that mixed tenure residential development is 'tenure blind' in that it is not possible to distinguish between the private and affordable units. These documents do not however include any specific policy guidance in respect to how the different tenures are distributed across a development. However, the draft AAP in its explanation to Policy BH3 (Tenure mix) advises that all development blocks should aspire to provide the 50/50 affordable/private split but that the actual mix requirement is to be applied across the phase rather than at development block level.
- 31 The applicant has advised that the development granted Outline planning permission is unable to proceed in the current market. A 3-dragons financial viability appraisal (FVA) has been provided to support the request and it confirms that the development requires a significant level of grant funding to proceed. The Outline planning permission was always dependent on grant funding (as noted in paragraph 91 of the appended report presented to the Planning Committee on 5 June 2007), however the deterioration in the national economy and housing market has made the scheme less viable and more dependent on grant funding.
- 32 The FVA advises that in the current housing market the development is viable with a tenure mix as set out in Table 2 (paragraph 7, above) and including a level of grant (which has already been conditionally approved) by Housing and Communities Agency. The Councils Valuation section has reviewed the FVA. While they have queried some of its assumptions and also whether a lower level of affordable housing could potentially be viable, since the level of grant funding is conditional on the tenure mix now proposed and that the scheme is unable to proceed in the short-term without it, it is recommended that the FVA is accepted in this instance.
- 33 The grant funding for the development which has already been secured from the Homes and Communities Agency is conditional on the development commencing by 31 March 2009. Commencement as defined by the Homes and Communities Agency contract may not be a "material operation" as normally defined in the Section 106 legal

agreement. It is therefore recommended that a clause in the revised Section 106 legal agreement requires commencement by 30 June 2009 to allow for material operations to commencement following mobilisation. It is recommended that this undertaking is included in any variation to the legal agreement. This is because the decision is justified on the basis of current economic conditions which may be subject to change in the future, and it would provide an assurance that the scheme would be built in the current market and ensure the benefits from the scheme are gained in the near future.

- 34 The development is considered to offer significant benefits particularly at a local level, including acting as a catalyst for the regeneration of the Estate. This first stage also includes delivery of the new Aylesbury Resource Community Centre. In regenerating the area the proposal would provide good quality accommodation in a well designed building. This change in tenure mix required to secure grant funding will ensure that this important first stage can proceed quickly, thus signalling the beginning of the regeneration of the Aylesbury Estate.

### **CONCLUSION**

- 35 In conclusion, the acceptance of the request to vary the legal agreement will allow development to proceed on a key regeneration site. In so doing key early enhancement benefits to the area will be gained which would act as a catalyst for further regeneration of the area. While the development would provide a mix of housing slightly different to that sought by the relevant policy documents, this difference is considered minor in the context of the regeneration programme, necessary at this time in order for the development to be financially viable and proceed, and could potentially be redressed in future development stages of Estate wide programme. It is therefore recommended that the request to vary the legal agreement is agreed.

### **COMMUNITY IMPACT STATEMENT**

- 36 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. The impact on local people is set out above.

### **SUSTAINABLE DEVELOPMENT IMPLICATIONS**

- 37 None applicable.

<b>LEAD OFFICER</b>	Gary Rice	Head of Development Control
<b>REPORT AUTHOR</b>	Alistair Talbot	Specialist Planner - Major Applications [tel. 020 7525 5257]
<b>CASE FILE</b>	TP/ H1059	
<b>Papers held at:</b>	Regeneration Department, Council Offices, Chiltern, Portland Street SE17 2ES [tel. 020 7525 5403]	