

Ward: Fulham Reach

Expiry Date: 15th October 2020

Site Address:

Mackenzie House 363 Lillie Road London



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For identification purposes only - do not scale.

Reg. No:

2020/02121/VAPO

Date valid:

20.08.2020

Recommendation Date:

15.09.2020

Committee Date:

13.10.2020

Case Officer:

Steven Mielczarek

Conservation Area:

Constraint Name: Crabtree
Conservation Area - Number 28

Applicant:

Box blue Ltd
c/o Agent N/A

Description:

Variation of the Section 106 Agreement attached to planning permission ref: 2014/03969/FUL granted 28th August 2015 to vary Schedule 5 to allow 8 no shared ownership units to be provided as intermediate affordable rented in place of shared ownership.

Drg. Nos:

Application type:

Vary or Discharge Planning Obligation

Officer Recommendation:

That the application be approved

Reasons for allowing Varying Planning Obligation:

- 1) Housing: It is considered that the proposed development, would allow for 8 affordable shared ownership units to be become 8 affordable intermediate for rent units. The proposed housing provision would continue to be affordable units and overall the proposed units would be genuinely more affordable. The proposal is therefore supported and considered to be in accordance with the NPPF, London Plan Policies 3.3, 3.4, 3.8, 3.9 and 8.2 of the London Plan and Policies HO1, HO3, HO5, and of the Local Plan 2018.
- 2) Planning Obligations: Planning obligations to offset the impact of the development have been secured under the extant consent. It is considered that the changes from shared ownership to intermediate rent affordable housing result in the provision of genuinely more affordable units which remain necessary, proportionate, reasonable, fair and linked to the development. It is considered that the S106 contribution is justified under the tests set out in CIL Regulation 122. The proposed development is therefore considered to adequately contribute to the mitigation of impacts in accordance with Policy 8.2 of the London Plan

That the applicant be informed as follows:

- 1) In determining this application, the local planning authority has worked in a pro-active and positive manner with the applicant to foster the delivery of sustainable development, in accordance with the requirements of paragraph 38 of the National Planning Policy Framework (2018).

Officer Report

**LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS**

All Background Papers held by case officer named above:

Application form received: 19th August 2020

Drawing Nos: see above

Policy Documents: National Planning Policy Framework (NPPF) 2019
The London Plan 2016
LBHF - Local Plan 2018
LBHF - Planning Guidance Supplementary Planning Document
2018

Consultation Comments:

Comments from:

Dated:

Neighbour Comments:

Letters from:

Dated:

1.0 BACKGROUND

Site and context

1.1 The application site (0.11 hectares) is currently occupied by a 4/5 storey block of 30 flats (Class C3) comprising of 10 x 1 bed, 15 x 2 bed and 5 x 3 bed units, including a basement car park for 15 cars with vehicular access from Purcell Crescent and associated landscaping.

Relevant Planning History

1.2 In 2013, an application (2013/04354/FUL) was submitted for a proposal involving a 4/6 storey block of 30 flats. The application was withdrawn by the applicants in February 2014.

1.3 In 2015, permission granted (2014/03969/FUL) for the demolition of the existing buildings (Class C3) and erection of a part 4/5 storey block of 30 flats (Class C3) comprising of 10 x 1 bed, 15 x 2 bed and 5 x 3 bed units, excavation to provide basement car park for 15 cars with vehicular access from Purcell Crescent and associated landscaping.

1.4 In 2016, permission was granted (2015/04296/VAR) to vary of Condition 2 (approved drawings) of the 2015 permission (2014/03969/FUL) to allow the following alterations:- stone panelling around the first and second floor windows; powder-coating to air vent covers; roof garden balustrading changed to railings; smoke vent extract and flues; brick boundary changed to provide secure cycle storage; ground floor raised by 300mm; wall between car ramp and flat 6 changed to brickwork; changes to position of windows, garden layouts, basement plant room and car parking provision increased to 18; Flats 8, 14 & 20 amended to two bedroom units; reduce terraces to Flats 25 and 27; add terrace to Flat 28; change area of PV panels; vary wording of Conditions 13 and 15 to use BS8233:2014; remove Condition 22 for Sustainable Homes and vary Condition 23 to allow an updated Energy Statement.

1.5 In 2017, permission (2017/02278/VAR) was granted to allow the removal of Condition 22 (code for sustainable homes) of the 2016 permission (2015/04296/VAR).

1.6 In April 2020, an application (2020/00245/VAPO) was granted to vary the s106 agreement attached to the 2015 permission (2014/03969/FUL), in relation to which units should be wheelchair accessible.

1.7 This application seeks to vary of the Section 106 Agreement to vary the affordable housing tenure from 8 shared ownership units to 8 intermediate affordable rent.

2.0 PLANNING CONSIDERATIONS

2.1 The main considerations under this application are the whether the variation of the S106 agreement would enable the Council to continue to provide affordable housing.

2.2 On 15th April 2015, the Council's Planning Committee granted planning permission (ref: 2014/03969/FUL) subject to a s106 legal agreement for the following development: -

Demolition of existing buildings (Class C3) and erection of a part 4/5 storey block of 30 flats (Class C3) comprising of 10 x 1 bed, 15 x 2 bed and 5 x 3 bed; excavation to provide basement car park for 15 cars with vehicular access from Purcell Crescent and associated landscaping.

2.3 The above planning permission was issued on 28th August 2015 following the completion after the s106 legal agreement had been signed.

2.4 Schedule 5 of the s106 Agreement relates to the provision of 8 "Affordable housing for shared ownership units".

2.5 Paragraph 1.7 to Schedule 5 states that the 'shared ownership' units will be affordable when sold or leased on initial sales or letting on the following terms: -

Flat Unit	Bedrooms	Salary (up to)
1	1-bed (2person) 60.4 sqm	£65,166
2	2-bed (3person) disabled 72.5 sqm	£66,000
3	1-bed (2 person) 51.8 sqm	£47,155
4	1-bed (1 person) 43.9 sqm	£35,208
5	3-bed (4 person) 76.2 sqm	£80,000
6	1-bed (2 person) 54.9 sqm	£63,675
29	1-bed (2 person) 50.1 sqm	£39,666
30	1-bed (2 person) 50.7 sqm	£40,097

2.6 This application seeks a Deed of Variation to the s106 legal agreement entered into on 28th August 2015 between The Mayor and Burgess of the London Borough of Hammersmith and Fulham and Boxblue Limited.

2.7 The purpose of this Deed of Variation is to change the affordable housing provision to Intermediate Rented affordable tenure in place of the previously agreed Shared Ownership part-sale affordable scheme.

Unit Size	Current (2015 S106) SO Affordability (HH Max £90k/ year)	Proposed (2020) Intermediate Rent Afford (HH Max IR £60k/ year)	variance
Flat 1 (1B, 2 pers, 60.4 sqm)	£65,166	£50,165	£-15,001
Flat 2 (2B, 3 pers, 72.5 sqm)	£66,000	£56,457	£-9,543
Flat 3 (1B, 2 pers, 51.8 sqm)	£47,155	£47,175	£20
Flat 4 (1B, 1 pers, 43.9 sqm)	£35,208	£35,100	£-108
Flat 5 (3B, 4 pers, 76.2 sqm)	£80,000	£60,000	£-20,000
Flat 6 (1B, 2 pers, 54.9 sqm)	£63,675	£50,165	£-13,510
Flat 29 (1B, 2 pers, 50.1 sqm)	£39,666	£39,560	£-106
Flat 30 (1B, 2 pers, 50.7 sqm)	£40,097	£39,560	£-537

2.8 Policy HO3 (Affordable Housing) states that housing development should increase the supply and improve the mix of affordable housing to help achieve more sustainable communities in the borough. For developments of 11 or more self-contained dwellings, and on sites with the capacity for 11 or more such dwellings, affordable housing should be provided in line with the following: -

- a. a borough wide target that at least 50% of all dwellings built should be affordable;
- b. 60% of additional affordable housing should be for social or affordable renting, especially for families and 40% should be a range of intermediate housing;
- c. affordable dwellings should be located throughout a new development and not concentrated on one part of the site;
- d. the provision of affordable rented and social rented housing in ways that enable tenants to move into home ownership.

2.9 It is considered that the proposed change of tenure of the consented homes would make the affordable units more genuinely affordable than the affordable units that were previously approved in 2015. For example, whereas 4 of the shared ownership units under the 2015 permission have affordability caps in excess of £60k, these same 4 units as intermediate rent are either significantly below or no more than £60k. Overall, the proposed units are more affordable.

2.10 The proposed change in tenure has been considered by the Council officers, including those from the Council's Housing Delivery Team. Officers concluded that the proposed variation would continue to ensure the provision of affordable housing, and the proposed improved affordability in tenure is acceptable. The proposed change complies with Policy HO3 of the Local Plan 2018.

3.0 CONCLUSION

3.1 The proposed change in tenure and to the S106 will not change the intentions of the planning permission and will not impact on the delivery of affordable housing

provision in accordance with Policy HO3 of the Local Plan (2018). Officers consider the proposal to amend the S106 to be acceptable.

4.0 RECOMMENDATION

1. That the Chief Planning Officer be authorised to vary Schedule 5 of the Section 106 agreement dated 28 August 2015, to allow the 8 affordable housing for shared ownership units to become 8 intermediate for rent units.
2. To authorise that the Chief Planning Officer after consultation with the Head of Law and the Chair of the Planning and Development Control Committee be authorised to make any minor changes to the proposed Heads of Terms of the legal agreement or conditions, which may include the variation, addition or deletion of conditions, any such changes shall be within their discretion.