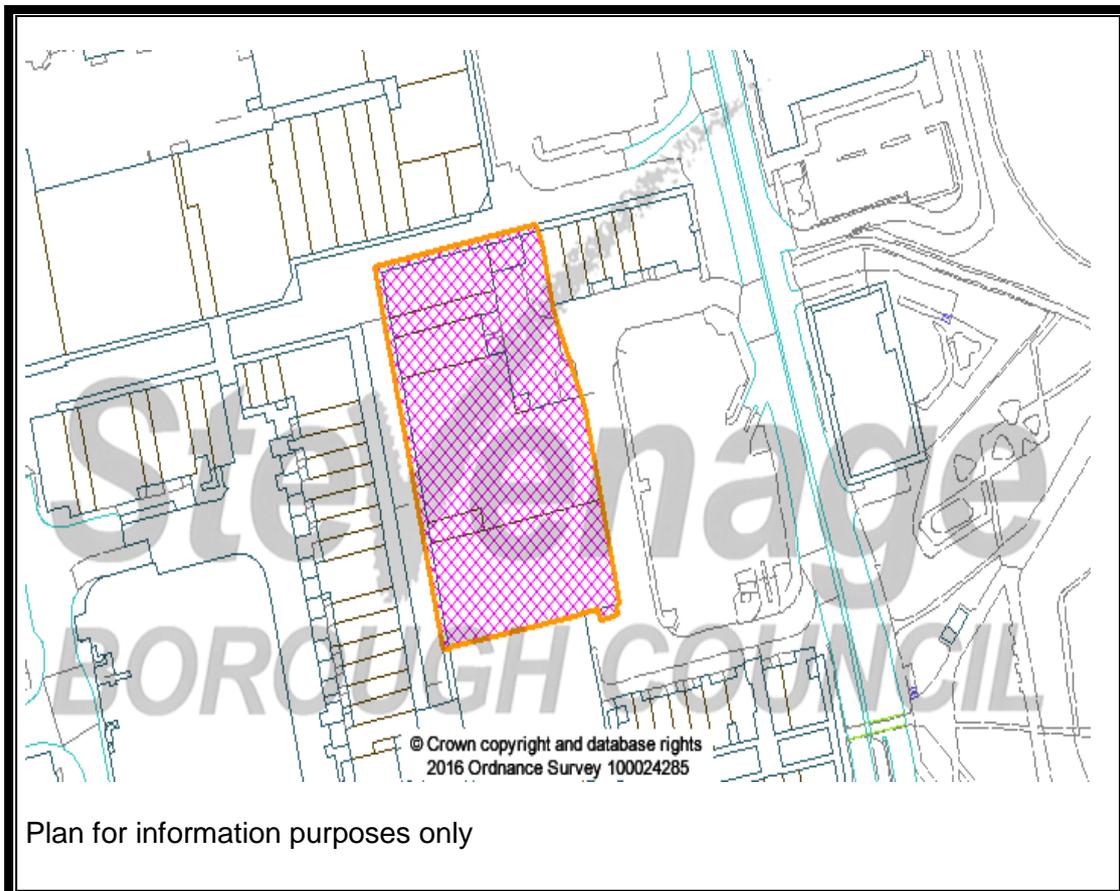


Meeting: Planning and Development Committee
Agenda Item:
Date: 27 May 2021
Author: Linda Sparrow 01438 242837
Lead Officer: Zayd Al-Jawad 01438 242257
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Application No:	21/00130/S106
Location:	85-103 Queensway, Town Centre, Stevenage, Herts
Proposal:	Modification of section 106 agreement to facilitate change of affordable housing tenure (from affordable rent to affordable build to rent) approved under planning permission reference 18/00268/FPM
Drawing Nos.:	N/a
Applicant:	Reef Group
Date Valid:	22 February 2021
Recommendation:	Agree variation of S106 Agreement



1. SITE DESCRIPTION

- 1.1 The application site is located at the northern end of Queensway which falls within Stevenage Town Centre. The site comprises numbers 85 (The former M&S store) to 103 (The former Poundland store) Queensway and is part three-storey, part four storeys in height with a shopping parade at ground floor level with offices and ancillary retail floorspace located above. However, the building drops down to single-storey where it turns the corner into The Forum with this part of the building occupied by “Kaprys Polish Delicatessen”. The building itself across all of the levels is flat roofed. The Queensway elevation is predominantly constructed from concrete panels with a textured pebble dash finish, with some crittall windows and green tiles. Construction works under planning permission 18/00268/FPM are now significantly advanced where the new ground floor shopping parade comprising of full height glazed shop frontages. There are also modernised canopies which have been re-clad with a perforated underside with stop lighting. These overhang the ground floor shopping parade. The additional floor above the former M&S store also appears to be nearing completion. The majority of improvement works have taken place where the existing brickwork has been cleaned and refurbished along with replacement of existing cladding. In addition, modern first and second floor windows have also now been installed.
- 1.2 The Marshgate elevation (rear) of the application site has been completely re-developed with the construction of a new five storey residential building which comprises of under croft parking. The rear elevation of the former M&S unit has been modernised and refurbished
- 1.3 To the east of the application site (rear) is the Marshgate Car Park and service road and beyond this is St George’s Way, Bowes Lyon and Town Centre Gardens. To the north of the development site is “The Forum” which is a modern two ½ storey building comprising of retail units and to the north-east is a modern, brick built, two-storey building comprising a tanning salon, hot food takeaway, a mattress store and the Job Centre. To the south/south east of the application site is Park Place which is currently undergoing extensions and external modernisation works in order to create a new residential development with ground floor retail units. To the west of the application (the front) is the main Queensway pedestrianised area of the town centre beyond which is the other part of the shopping parade with retail premises at ground floor level with ancillary retail floorspace above. To the front of the building is a metal framed, painted white, glazed canopy which over-sails the public footpath.

2. RELEVANT PLANNING HISTORY

- 2.1 There is a varied and lengthy history associated with this site. The most relevant applications are set out below:
- 2.2 18/00268/FPM Partial demolition of existing buildings to facilitate erection of new residential building comprising 39no. studio, 54no. one bed and 1no. two bed flats with under-croft car parking; retention of existing office use (Use Class B1) on upper floors; change of use of existing retail units (Use Class A1) to a mixed use development of Use Classes A1 (Shops), A2 (Professional & Financial Services), A3 (Restaurants & Cafes), A4 (Drinking Establishments) and D2 (Gym) with associated enhancements to shop frontages; replacement canopies; public realm improvements and associated car parking and highway works. Planning permission granted 20.12.2018.
- 2.3 18/00386/CPA Prior approval for Change of use of the second floor from use Class B1(a) (offices) to Use Class C3 (residential) to provide 11 flats. Prior Approval granted 30.08.2018.
- 2.4 18/00390/FP Change of use of part of the second floor from retail (Use Class A1) to form 8 residential flats (7 x studio flats and 1 x 1 bed) including upgrade and refurbishment to stair

- and access to residential flats, a new lift and formation of bin and cycle store areas at ground floor. Planning permission granted 05.09.2018.
- 2.5 18/00393/CPA Prior approval for the change of use of part of second floor from use class A1 (shop) and class A2 (financial & Professional) to 2no. dwelling units (use class C3). Prior Approval granted 09.08.2018.
 - 2.6 18/00508/FP Change of use of part of the first floor from retail (Use Class A1) to Offices (Use Class B1(a)) and external improvement works. Planning permission granted 03.10.2018.
 - 2.7 18/00735/FP Change of use of part of the second floor from Retail (Use Class A1) and Financial and Professional Services (Use Class A2) to offices (Use Class B1(a)) and external improvement works. Planning permission granted 09.01.2019.
 - 2.8 19/00012/COND Discharge of condition 12 (Drainage Strategy) attached to planning permission reference 18/00268/FPM. Conditions discharged 20.05.2019.
 - 2.9 19/00086/COND Discharge of conditions 8 (construction management); 14 (noise assessment); 15 (dust control); 17 (plant machinery); and 25 (demolition plan) attached to planning permission reference number 18/00268/FPM. Conditions Discharged 15.07.2019.
 - 2.10 19/00168/COND Discharge of condition 18 (Site Waste Management Plan) attached to planning permission reference 18/00268/FPM. Conditions discharged 12.04.2019.
 - 2.11 19/00284/FPM Change of use of 24-26 The Forum from A1 (Retail) to either A1 (retail), A2 (Financial and professional services), A3 (Restaurants and Cafes) or B1 (Business), conversion of part of 85 Queensway ground floor from A1 (Retail) to either A1, A2, A3 or A4 (Drinking Establishment) and change of use of ground floor of 87 Queensway and ground and first floor 91 Queensway from A1 (Retail) to either A1, A2 or A3. Planning permission granted 17.07.2019.
 - 2.12 19/00289/COND Discharge of Condition 19 (Site Investigation) attached to planning permission 18/00268/FPM. Conditions Discharged 23.05.2019.
 - 2.13 19/00374/COND Discharge of condition 3 (Sample Materials) attached to planning permission reference number 18/00268/FPM. Conditions Discharged 05.08.2019
 - 2.14 19/00641/FP Variation of condition 1 (approved plans) attached to planning permission 18/00268/FPM. Planning permission granted 23.12.2019.
 - 2.15 20/00003/COND Discharge of condition 9 (Travel Plan) attached to planning permission 18/00268/FPM. Conditions Discharged 05.08.2019.
 - 2.16 20/00005/COND Discharge of condition 16 (external lighting) attached to planning permission number 18/00268/FPM. Condition Discharged 31.01.2020.
 - 2.17 20/00007/COND Discharge of condition 21 (Remediation Works) attached to planning permission number 18/00268/FPM. Conditions Discharged 07.02.2020.
 - 2.18 20/00040/COND Discharge of condition 4 (Landscaping) attached to planning permission reference 18/00268/FPM. Conditions discharged 31.07.2020.
 - 2.19 20/00179/AD 2 x Internally illuminated fascia sign, 1 x internally illuminated projecting sign, 6 x vinyl window graphics. Advertisement Consent Granted 06.02.2020.
 - 2.20 20/00535/COND Discharge of condition 6 (Ventilation and ducting) attached to planning permission reference 18/00268/FPM. Conditions discharged 14.10.2020.

- 2.21 21/00324/COND Discharge of condition 13 (Drainage Strategy) attached to planning permission reference 18/00268/FPM. Pending determination
- 2.22 20/00664/AD Installation of 3no. non-illuminated fascia signs and 3no. internally illuminated fascia signs. Advertisement Consent Granted 11.12.2020.

3. THE CURRENT APPLICATION

- 3.1 This application has been made under S106A part 6(b) of the Town and Country Planning Act 1990 (As amended) to seek permission to vary the wording of the S106 agreement which was attached to planning permission reference 18/00268/FPM in respect of affordable rented units under Schedule 3.
- 3.2 This application seeks permission to modify Schedule 3 by way of replacing “affordable rented units” with “affordable build to rent units” only. The number of affordable units is unchanged.
- 3.3 The Queensway scheme is to be leased by Queensway LLP, as a long term income generating asset in the model of a Build to Rent scheme. It was envisaged that the Queensway residential units would be managed by a managing agent with residents on Assured Shorthold Tenancies. The Affordable Rent tenure nominations are drawn from the Local Authority Housing Register and require a Registered Provider to manage the units which was not the original intention.

4. PUBLIC REPRESENTATIONS

- 4.1 A site notice has been erected in accordance with Section 5 (1) of the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulation 1992. At the time of drafting this report, no comments or representations have been received.

5. CONSULTATIONS

- 5.1 The Council’s Housing and Regeneration department were consulted. At the time of drafting this report, no comments or representations have been received.

6. RELEVANT PLANNING POLICIES

6.1 Background to the Development Plan

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the decision on the planning application should be in accordance with the development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- The Stevenage Borough Council Local Plan 2011-2031
- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014); and
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007).

6.2 Central Government Advice

6.2.1 A revised National Planning Policy Framework (NPPF) was published in February 2019. This largely reordered the policy substance of the earlier 2012 version of the NPPF, albeit with some revisions to policy. The policies in the Local Plan are in conformity with the revised NPPF and that the Local Plan should be considered up to date for the purpose of determining planning applications. The NPPF provides that proposals which accord with an up to date development plan should be approved without delay (para.11) and that where a planning application conflicts with an up to date development plan, permission should not usually be granted (para.12). This indicates the weight which should be given to an up to date development plan, reflecting the requirements of section 38(6) of the 2004 Act. The NPPF with which Members are fully familiar, is a material consideration to be taken into account in determining this application.

6.3 Planning Practice Guidance

6.3.1 The PPG contains guidance supplementing the NPPF and with which Members are fully familiar. The PPG is a material consideration which has to be taken into account when determining all planning related matters.

6.4 Central Government Legislation

- Town and Country Planning Act 1990 (as amended);
- Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992;

6.5 Stevenage Borough Local Plan 2011-2031 (Adopted 2019)

Policy SP1: Presumption in favour of sustainable development;
Policy SP2: Sustainable Development in Stevenage;
Policy SP4: A vital town centre;
Policy TC1: Town Centre;
Policy TC3: Centre West Major Opportunity Area;
Policy TC4: Station Gateway Major Opportunity Area;
Policy TC5: Central Core Major Opportunity Area;
Policy TC6: Northgate Major Opportunity Area;
Policy TC7: Marshgate Major Opportunity Area;

6.6 Community Infrastructure Levy Charging Schedule

6.6.1 Stevenage Borough Council adopted a Community Infrastructure Levy Charging Schedule in 2020. This allows the Council to collect a levy to fund infrastructure projects based on the type, location and floorspace of a development.

6.6.2 It should be noted that as this application is not seeking to amend the approved planning permission reference number 18/00268/FPM then it will not result in a CIL levy charge.

7. APPRAISAL

7.1 The main issue for consideration in the determination of this application is whether the proposed variation of Schedule 3 for the provision of affordable build to rent units attached to the S106 agreement of outline planning permission 18/00268/FPM are acceptable in policy terms set out in the NPPF (2019) and adopted Local Plan (2019).

7.2 Planning Policy Considerations

7.2.1 Through Section 106a part 6(b) of the Town and Country Planning Act (1990), an application can be made to the Local Planning Authority to determine whether a planning obligation, in this case Schedule 3 (Affordable Rented Units). This application has therefore been submitted, in accordance with the Town and Country Planning (Modifications and Discharge of Planning Obligations) Regulation 1992, to seek to vary Schedule 3 of the agreed terms of the S106, to allow for the provision of Affordable Build to Rent units.

7.2.2 The existing legal agreement seeks to provide 24 units on an affordable rent basis. The NPPF glossary of terms defines affordable rent as follows:

“Affordable housing for rent: meets all of the following conditions:

- a) the rent is set in accordance with the Government’s rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable);*
- b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and*
- c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent)”.*

7.2.3 Affordable rented units are defined as ‘low cost’ rental accommodation and are therefore classified as ‘social housing’. This means that they are regulated by the Regulator of Social Housing and as such remain more affordable than renting on the private rental market.

7.2.4 The number of affordable units will not be altered under the proposed modification, only the tenure will be changed to affordable build to rent. The NPPF glossary of terms defines affordable build to rent as follows:

“Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control”.

7.2.5 As shown in point 7.2.4 above, developers will as a norm offer longer tenancy agreements of 3 years or more to all new tenants who want one. These are sometimes referred to as ‘family friendly tenancies’ since they provide longer term security and stability for those who wish to settle down within a community.

7.2.6 At the heart of build to rent is the professional management of buildings. As the objective of such development is to generate income through high occupancy and to retain existing tenants for the long-term to minimise voids, the simple way to help achieve this is by providing excellent management and customer service to support the high-quality buildings and public spaces. In this regard, the move to build to rent tenures offers more positive impacts on the site and surrounding areas as management companies seek to retain tenants for longer periods of time.

7.2.7 The units would be managed by the same management company as the private units as opposed to being nominated to a social registered landlord. Professional management enables much greater control over unauthorised short-term subletting.

7.2.8 Single ownership of a building and its associated public realm provides a strong ability and incentive to create, manage and maintain good quality places. Build to rent operators (and those who ultimately own the building) rely on the strength of their reputation and brand and

this is directly associated with the quality of the homes and the places they create and maintain. Build to rent operators will invest in the maintenance and renewal of their schemes covering everything from the accommodation itself through to the public realm and any commercial uses in the development such as cafés or restaurants to ensure they remain attractive for tenants and the wider community.

- 7.2.9 There are no specific policies within the adopted Local Plan (2019) regarding build to rent tenures so the Local Authority must weigh up the acceptability against the national guidance. Build to rent can offer affordable housing tenures to meet different housing needs, demographics and social groups and not just those on the Council's register for social housing.

7.3 Human Rights and Equalities

- 7.3.1 Consideration has been given to Articles 1 and 8 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.

- 7.3.2 When considering proposals placed before Members it is important that they are fully aware of and have themselves rigorously considered the equalities implications of the decision that they are taking. Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the Council's obligations under the Public Sector Equalities Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers

- 7.3.3 The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

- 7.3.4 It is not considered the proposed modifications sought to the Section 106 Agreement would impact upon the protected characteristics under the Equality Impact.

8. CONCLUSIONS

- 8.1 The application proposes to amend Schedule 3 of the agreed S106 and, in accordance with the above, the modification is considered to be acceptable. There will be no loss to the number of affordable units provided on the site and the provision of build to rent tenures will give tenants greater stability with longer tenancy agreements and the whole building remains under single ownership as opposed to varying owners for different units/tenures.

9. RECOMMENDATION

- 9.1 That the Committee agree to the variation to Schedule 3 (affordable rented units) of the S106 agreement, to delegate authority to the Assistant Director of Planning and Regulation in conjunction with the Council's appointed Solicitor, to agree the precise wording of the variation to the S106 agreement.

10. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Local Plan 2011-2031 (adopted May 2019).
3. Central Government advice contained in the National Planning Policy Framework February 2019 and the National Planning Policy Guidance 2014, as amended.
4. Responses to consultations with statutory undertakers and other interested parties referred to in this report.