


LONDON BOROUGH OF BARKING & DAGENHAM
PLANNING COMMITTEE
19th October 2020
Application for Deed of Variation to S106 legal agreement dated 8th March 2019

Case Officer:	Nasser Farooq	Valid Date:	25/09/2019
Applicant:	Barking Riverside Limited	Expiry Date:	N/A
Application Number:	19/01780/DOV	Ward:	Thames
Address:	Barking Riverside Area, Renwick Road, Barking, Essex.		

The purpose of this report is to set out the Officer recommendations to Planning Committee regarding a Deed of Variation to a S106 agreement relating to the proposal below at Barking Riverside Area, Renwick Road, Barking, Essex.

Proposal:

Deed of Variation to the S106 Agreement dated 8th March 2019 to make various changes to the legal agreement relating to the Barking Riverside Development.

Explanation of application and officer recommendation:

This application is not an application for planning permission. It is an application to vary a legal agreement made under section 106 of the Town and Country Planning Act (as amended). It is being brought forward to the planning committee due to the significance of some of the changes proposed.

The application is made under s106a Modification and discharge of planning obligations. The legislation states at S106A(6):

- 6) Where an application has been made the authority may determine—
- (a) that the planning obligation shall continue to have effect without modification;
 - (b) if the obligation no longer serves a useful purpose, that it shall be discharged; or
 - (c) if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to those modifications.

Following a consideration of the changes officers consider the changes to fall under section 106A(c) as stated above. Therefore, the Planning Committee is asked to

1. Resolve to agree the updates to the s106 to secure the updates to the legal agreement as listed below and delegate authority to the Director of Inclusive Growth in consultation with LBBD Legal to authorise the deed of variation:

- a) Update of affordable housing definition to reflect introduction of London Affordable Rent and London Shared Ownership;
- b) Update to provisions related to private rented housing/ market housing;
- c) Update to provisions in relation to the East West Transit Route;
- d) Update to provisions relating to the A13 Renwick Road
- e) Update to provisions relating to London Overground Station
- f) Update to provisions relating to the Community Interest Company provision

In accordance with section 106A(6) C of the Town and Country Planning Act (as amended)

OFFICER REPORT

Site, Situation and relevant background information:

Barking Riverside comprises some 179.3 hectares located on the north bank of the Thames. It lies at the centre of the London Riverside Opportunity Area.

Barking Riverside falls in the south of the Borough, approximately 2 miles to the south east of Barking Town Centre and 800 metres to the south of the A13. The wider site is irregular in shape and has maximum dimensions east to west of 2.2 km and north to south of 1.1 km. The site occupies a large area of brownfield land which was previously used for power generation, with associated ash lagoons representing the spoil from the now demolished coal fired power stations.

The surrounding area is mixed in character. To the north west of the site is an established residential area comprising predominantly 2- storey semi-detached dwellings built circa 1990, known as Great Fleete. The north of the site is bounded by the A13 and the southern boundary comprises a 2 km frontage to the River Thames. Industrial estates adjoin the east and western boundaries of the site.

The site has an extensive planning history outlined in the following section. Following the granting of the most recent amendment application (under s73 of the Town and Country Planning Act) a composite s106 legal agreement was signed capturing the original s106 agreement and subsequent deed of variations into one legal agreement.

Barking Riverside Limited now wish to make further changes to this legal agreement to update various sections of the agreement.

Relevant Planning History:

The application site has an extensive planning history and the most relevant planning applications are listed below.

04/01230/OUT - this is the outline planning permission for the entire site.

Development comprising or to provide a mixed-use development of up to 10,800 residential dwellings and in addition up to 65,600 sqm of built floorspace for retail uses (Classes A1 to A3), business premises (Class B1), hotel (Class C1), communal care home and other residential institutions (Class C2), sui generis live work units, community and social facilities (Classes D1 and D2) (for uses such as libraries, primary health care facilities, places of worship and assembly, community facilities, creche and pre-school facilities, care facilities for the young, old and/or infirm, sport and leisure development). Approved on 7th August 2006.

08/00887/FUL - Application for variation of condition no. 4 (general layout and framework) no. 5 (average density) no. 8 (ground levels) no. 11 (building scale), no. 17 (riverside and wetland buffer zones) and no. 38 (footpaths/cycleways) on planning application 04/01230/OUT. Approved on 10th June 2009.

16/00131/OUT - Application for variation of all conditions following grant of planning permission 08/00887/FUL for the redevelopment of the site known as Barking Riverside. Approved on 6th December 2017.

18/00940/FUL - Application for variation of conditions 2 (drawing numbers), 14 (transport strategy), 15 (road adoption), 16 (strategic infrastructure scheme), 12 and 33 (nature conservation and landscape) following grant of planning permission 16/00131/OUT for the redevelopment of the site known as Barking Riverside. Approved on 26th October 2018.

Following the grant of the most recent variation (18/00940/FUL), a composite S106 Agreement was signed on 8th March 2019. This effectively collated the original S106 Agreement and subsequent Deed of Variations into one S106 Agreement.

Key issues:

- Housing
- Transport
- Community Interest Company

Material Planning Issues:

Housing:

Affordable Housing

Background

- 2.1. The first planning permission for the site was granted in 2006 (04/01230/OUT) and an amended iteration of this development (08/00887/FUL) was implemented. This development proposed 10,800 new homes, of which 41% were to be affordable housing based on habitable rooms (approximately 33% by unit) and a further 50% of these were to be social rented.
- 2.2. The first permission included plans for the Docklands Light Railway to be extended to the site. This failed to materialise and, as such, an alternative proposal to extend the London Overground from Barking Town Centre came forward. This necessitated changes to the approved permission which came forward and were approved under 16/00131/OUT.
- 2.3. As part of these changes, the viability of the scheme was revisited and this took account of the costs of delivering the London Overground, the viability of the development (following the recession) and changes to how affordable housing was now being defined, and lastly with different housing products.
- 2.4. The development has been further amended (18/00940/FUL) and this was followed by a 'composite' S106 Agreement which in effect combined and consolidated all the intervening changes into one S106 Agreement dated 8th March 2019.

- 2.5. The currently approved development requires a minimum of 35% affordable housing on a unit basis which is to be split as follows:
- 5% Affordable Rent units at a rent of 50% of an open market rent and no higher than 35% per cent of an average Barking and Dagenham net household income;
 - 20% London Shared Ownership units;
 - 5% Discounted Market Sale units (or Shared Ownership units if this product ceases);
- and
- 5% London Living Rent units.
- 2.6. In relation to affordable rent this equates to 540 units. These are the homes that will be let to households on the Council's waiting and transfer lists. To date, Barking Riverside Limited has completed 308 such homes, leaving a balance of 232 affordable rent homes to be provided. Of the remaining balance 60 are required to be specialist accommodation (young people leaving care and for people with mental health needs) which are expected to be one-bedroom properties (in the case of care leavers, it is proposed that these one bed flats are 'clustered' with communal space to enable peer-to-peer support, in line with the Council's wider aims to provide homes that support care leavers). As such, the proposed changes relate to 172 new homes (based on the 5% requirement).
- 2.7. Given the scale of development proposed, there is an additional layer between an outline planning permission and the submission of reserved matters. This is called a Sub Framework Plan (SFP) and is effectively a mini masterplan setting the detailed parameters and design codes for development that is to come forward in the reserved matters for those phases. There is an obligation in the S106 Agreement that the overall affordable housing provision will be reviewed at each SFP stage with the target of 50% affordable housing subject to viability and availability of grant subsidy from the GLA.
- 2.8. The precise amount of affordable housing will be calculated using an Internal Rate of Return of 12%. This is an agreed mechanism in the S106 Agreement to determine whether the scheme is viable and able to deliver more affordable housing.
- Proposal
- 2.9. Since the granting of the 2017 variation (16/00131/OUT) there have been a number of policy changes relevant to this proposal:
1. The Mayor of London has introduced London Affordable Rent and London Shared Ownership as his preferred Affordable Rent and Shared Ownership tenures for planning and grant funding purposes.
 2. The Mayor of London has ceased to offer funding support to Discounted Market Sale as an affordable housing tenure.
- 2.10. As a result, changes are proposed to the S106 Agreement to amend the affordable housing definitions, so they reflect current planning policy.
- 2.11. It is noted that the Mayor of London's grant (which would be required to hit the overall affordable housing target of 50%) is provided to schemes with the Mayor of London products and, as such, the applicant has advised the amendment to change the affordable housing definition so it meets the London Plan's Affordable Rent definition is needed to obtain the grant to hit the overall 50% affordable housing target.
- 2.12. The rent setting formula in the current Section 106 agreement is '50% of an open market rent and no higher than 35% per cent of an average Barking and Dagenham net household income'. In practice this means that the rent charged is whichever is lower – 50% of open market rent based on the size of the property, or 35% of average net income. As shown in the table below, this has the effect of limiting the rents for three and four bed properties, where 50% of market rent exceeds 35% of average net incomes.

- 2.13. London Affordable Rent levels are set by the GLA. The GLA set London-wide London Affordable Rent 'benchmark' rents in 2017/18. These were based on the levels of the national formula rent cap set by the Regulator of Social Housing. These benchmarks are then updated by CPI+1% in April each year.
- 2.14. Following discussions with officers and concerns over the affordability of the one and two bedroom units, amendments have been secured to the proposed rent levels to ensure the rents of the one and two bedroom units are capped at no more than 70% of the market rents (rent and service charge combined). It has also been agreed that the rents for the specialist units will be set by agreement between the Council, Barking Riverside and L&Q to ensure that the rent policy for these units reflects their specialist nature, and are set in a way that best supports these groups.
- 2.15. The following tables outline the estimated service charge based on bedrooms at Barking Riverside and an indicative breakdown provided by the applicant showing a comparison of market rents, current rents (based on the 2016 S106 definition) and proposed London Affordable Rent (LAR). It should be noted that the service charges are estimates based on actual expected costs, and as such are not themselves impacted by the proposed change in the rent definition. As such, the service charges shown below are the levels that will be charged on Barking Riverside whether or not the proposed change is agreed or not.

Bedroom Size	Estimated Service Charge at Barking Riverside
Bedsit and One bedroom	£39.34
Two Bedroom	£39.34
Three Bedroom	£39.34 (flats) £16.67 (houses)
Four Bedroom	£16.67

Table 1: Showing estimated service charge at Barking Riverside Ltd

Bedroom Size	Current				2020-2021 London Benchmark	Proposed	
	Rent at 50% of Market Rent	35% FT Median net Income	Applicable Rent charged	Total (Rent + Service Charge)		Total (Benchmark Rent + Service Charge)	Total - % of Market Rent in B&D
One bedroom*	£120.50	£172.77	£120.50	£159.84	£159.32	£168.70	70%
Two bedroom*	£144.00	£172.77	£144.00	£183.34	£168.67	£201.60	70%
Three bedroom	£172.50	£172.77	£172.50	£211.84 (flats) £189.17 (houses)	£178.05	£217.39 (flats) £194.72 (houses)	62% (flats) 55% (houses)
Four bedroom	£202.00	£172.77	£172.77	£189.44	£187.42	£204.09	51%

Table 2: Showing a comparison of current and proposed rents at Barking Riverside Ltd

*One and two bed capped at 70% of market rent.

Assessment- definition of affordable housing

- 2.16. The proposed amendments do not affect the affordable housing that has already been delivered which will remain at the rents already consented.

- 2.17. The information provided by the applicant and the most recently agreed viability position as set out in the SFP for Stage 2 North confirms that the development to date has not hit the Internal Rate of Return of 12%. This is not unexpected given the initial outlay towards the London Overground. However, this means under the terms of the legal agreement, BRL are able to seek a lower percentage of affordable housing, something they have not done to date. It also means it is unlikely through a viability position alone that BRL would be able to commit to 50% affordable housing across the site and therefore as expected would need to rely on grant funding and a commercial decision to provide the additional affordable housing.
- 2.18. In relation to rents, the resulting London Affordable Rents are more than what LBBB charge for new homes managed by Reside, as they comprise of rents plus service charge whereas LBBB products are rents incorporating service charge. As such, the rents (plus service charge) for bedsits, one bedroom and two bedrooms are close to or in the case of one bedroom at the maximum of 70% of market rents. In terms of the Borough's housing waiting and transfer lists it is likely they would continue to meet a housing need albeit at a different affordability range. When allocating homes to households on the waiting and transfer lists, the Council assesses the affordability of the property based on the circumstances of the specific household. Therefore, the homes would only be let to households who the Council is satisfied could afford the rent and service charge levels based on their income (including from housing benefit).
- 2.19. As noted above, it is anticipated that the vast majority of one beds provided at London Affordable Rents will be used to meet particular housing needs – housing for people with mental health needs and housing for care leavers.
- 2.20. The three and four-bedroom properties when considering service charge would be closer to the existing rents and as such, would continue to meet existing demand.
- 2.21. The main concern would be a scenario where the remaining 172 affordable housing that needs to be delivered comes forward (that is, those aside from the specialist housing) as one and two bedroom units which would not be the most affordable rents compared to the three and four bedroom properties. However, given the rents of one and two bedroom units are now proposed to be capped at 70% of market the concern is reduced. It is also noted the Council still retains some control over matters such as the housing mix and tenures as part of the housing strategies and SFP's for each stage. These (Sub framework Plan and Housing Strategy) when submitted are expected to be reported to committee for determination and as such, members would also retain some control in this respect.
- 2.22. It is considered, in this instance the proposed changes would help facilitate the continued delivery of affordable housing, increase the attractiveness of Barking Riverside as a development and increase the likelihood to hit the overall 50% affordable housing target.
- 2.23. Furthermore, BRL have advised they recognise the priority placed upon the provision of affordable housing and rented in particular and on the basis that the definition of the Affordable Rent is amended to LAR as proposed, they will commit to front load the provision of affordable housing.
- 2.24. BRL have identified that this will be through the provision of the remaining 232 Affordable Rent homes at an accelerated rate in the balance of Stages 2 and 3. This would deliver the minimum 5% Affordable Rent homes (a total of 580 units) several years in advance of when the Council might reasonably expect this to be provided on the basis of the current accepted viability assessment. BRL have also advised in the event that the financial performance improved beyond the thresholds in the s106 during the period then any further Affordable Rent requirement up to 10% of the total number of dwellings could be provided in stages 2-4.
- 2.25. Therefore, on balance there are sufficient benefits of the proposal to allow the variation in this instance, to maximise the overall percentage of affordable housing, and ensure the viability of the development is enhanced officers consider the variation to the S106 Agreement to be reasonable and acceptable in this instance.

Assessment - proposed amendments to Discounted Market Sale

- 2.26. The s106 also seeks amendments to Discounted Market Sale units definition to allow them to be provided as London Living Rent or London Shared Ownership units. Discounted Market Sale is not a Mayor of London's preferred affordable housing product and, as such, the proposed amendment to allow additional flexibility for the units to be delivered as either London Living Rent units or London Shared Ownership units is considered reasonable and acceptable.
- 2.27. The proposed amendment complies with the Mayor of London's preferred affordable housing tenures as set out at paragraph 4.7.3 of the Draft London Plan.
- 2.28. Overall, the proposed amendments to the S106 Agreement dated 8th March 2019 to facilitate the continued delivery of affordable housing are considered acceptable for the reasons outlined above.

Private Housing

Build to Rent (BtR)

- 2.29. The current 'policy' framework is set out in the Mayor's Affordable Housing and Viability SPG and the emerging London Plan. This in short provides for Discounted Market Rent (DMR) as the affordable housing element of a BtR scheme and a 'claw back' in the event of disposal within 15 years, with minimum lease terms.
- 2.30. Any income arising from BtR is typically spread over a longer period as opposed to a market sale of a unit. This can impact negatively within viability assessments and potentially result in lower affordable housing. To facilitate this, paragraph 4.11 of the Homes for London's SPD 2017 states "To ensure new private rented homes are secured for the rental market for a minimum period, and to enable the distinct economics to be taken into account in planning decisions, Build to Rent homes must be secured through a covenant in a Section 106 agreement".
- 2.31. The 15-year clawback is therefore secured within the legal agreement and would continue to work effectively if BtR was identified at the SFP stage. However, the legal agreement does not cover a scenario where BtR housing is provided post Reserved Matters (RM) approval for a temporary period. The applicant has advised that this could occur as part of a wider strategy to maintain completion rates and ensure completed homes intended for open market sale are occupied as BtR rather than remaining empty due to unfavourable market conditions.
- 2.32. Should BtR be used in the interim to avoid empty units, the preference for the local authority would be to dispose of the units to the market as original intended under the housing strategy for that stage. Furthermore, the clawback would not be required as these units would already have been considered for the purposes of viability as market housing and the affordable provided on that basis. Therefore, the clawback would serve a counter purpose to what it was intended to achieve.
- 2.33. Therefore, BRL propose that the s.106 is amended to ensure the obligations only relates to where BtR is agreed to provide for BtR specific affordable housing, i.e. DMR at sub framework plan stage.
- 2.34. In this instance, the economics of the development have already been taken into consideration and as part of each Sub Framework Plan an updated viability assessment is required. It is therefore considered that the covenant is not necessary to capture any BtR post reserve matter submission. As the affordable housing would have already been agreed as part of the assessment of the market. This will ensure a wider range of properties are available for sale and rent within the development to the benefit of Borough.
- 2.35. Overall, this is considered reasonable and given there is a viability review of the scheme as part of the submission of each stage it is considered the proposed amendment would continue to equally serve a purpose and as such, the proposed amendment would help ensure housing is occupied and the development is able to be brought forward as part of a strategy to maintain completions.

Open Market Housing

- 2.36. The applicant is seeking to amend the clause relating to Open Market Housing. As currently drafted, the clause restricts individual purchasers from purchasing more than one Open Market Housing unit within a 6-month period. This is proposed to be omitted to allow the purchase of more than one property. This could increase sales of the proposed units increasing confidence in the development.
- 2.37. An additional S106 clause is proposed to be inserted which would require purchasers who are buying to rent to use a reputable Managing Agent registered with ARLA or NAEA, or of similar repute.
- 2.38. Given there are still over 8,000 units to be submitted through the planning system at reserved matters stage, it is considered there will be sufficient opportunity for residents to be able to purchase a property.
- 2.39. Therefore, it is considered that the restriction on purchasing more than one property over a 6-month period is not considered necessary and it's removal acceptable.
- 2.40. Overall, the proposed amendments to the S106 Agreement dated 8th March 2019 to facilitate the continued delivery of housing are considered to equally serve a purpose and as such the amendments proposed within the Deed of Variation are acceptable.

Transport:

- 3.1. The applicant is proposing three changes related to the transport section of the report. This section assesses these changes.

A13/ Renwick Road Junction

- 3.2. Schedule 4, Part 2 – Transport, paragraph 16 of the s106 agreement requires TfL to progress option testing the feasibility of the A13/Renwick Road works. The works are required to be delivered by TfL prior to occupation of 4000 residential units. BRL are required to contribute £5.4million towards the costs of these works. To provide certainty, the s106 requires the submission of a programme of works by TfL within 180 working days of the implementation of the new permission (implementation was 10 March 2019). As such, the programme was due by 3 October 2019.
- 3.3. The legal agreement restricts occupation of more than 4,000 units at BRL, until the A13/Renwick Road works are open to the public.
- 3.4. Lastly, there is requirement on BRL to serve a written notice on TfL following occupation of 2,500 units asking TfL to confirm in writing:
- Whether or not TfL elects for BRL to pay the financial contribution
 - The current position in relation to A13/Renwick Road funding and
 - And whether TfL considers that using its reasonable endeavours it is likely for the works to be open for public use prior to the anticipated date of 4,000 units.
- 3.5. In relation to the programme, TfL have been unable to provide a programme by 3rd October 2019. This is partly due to the ongoing discussions taking place over the Lodge Avenue flyover which would have to be considered in conjunction with the A13/Renwick Road junction and also given additional studies are taking place on the A13 as part of the Councils Local Plan and the emerging London Plan.

- 3.6. Given the programme has not come forward, BRL are concerned they will be unable to dispose of land whilst this trigger remains in place. This is because developers would not be prepared to develop land on the basis of them not being able to occupy the completed units. As such, BRL have sought to remove this trigger.
- 3.7. It is considered the removal of the trigger would not have served an equal well purpose as outlined in the act as it could relinquish any control over the junction improvement works coming forward resulting in a significant development being built without its mitigation in place.
- 3.8. As such, in order to ensure the development is not affected by the above matters, officers have reached a negotiated position of raising the trigger from 4000 to 7000 units. This has been reached following an understanding of BRL's current delivery, current approvals and immediate programme as outlined below.
- 3.9. BRL have advised as of March 2020, there were just over 1550 homes in occupation, with a further circa 800 consented to Reserved Matters level and a further 600 provided for in approved SFPs (Stage 2 North).
- 3.10. The next two stages BRL intends to bring forward are the District Centre SFP and that for Stage 2 South, with an indicative capacity of 2700 and 1300 homes respectively. These are unlikely to come forward until early 2021 at the earliest. Accordingly, subject to planning approval BRL will have 'approval' or will have promoted through SFPs (and will therefore need to be disposed of) land for a total of circa 6950 homes.
- 3.11. As such, it is recommended the cap is raised from 4,000 to 7,000 residential units. For completeness the programme that TfL is required to submit is also to be amended to take into account the above changes.
- 3.12. To ensure the progress of the London Overground Extension, the applicant on request from Transport for London is seeking to amend the £5.4 million to £1.9 million and is seeking to divert the remaining £3.5million towards the London Overground Extension to Barking Riverside. This may mean additional funding may be required towards the A13/ Renwick Road junction if/when that scheme is developed.
- 3.13. The most recent information provided by the applicant is the Junctions Report prepared by WSP dated September 2020. This has been provided as required by the s106 agreement. The report in summary confirms no junction improvements are required at this stage based on current delivery.
- 3.14. Taking the above into account, and the more pressing need to ensure the London Overground is developed, it is considered the amendment to divert to the London Overground serves an equally well purpose and therefore to be acceptable.

London Overground Extensions

- 3.15. As discussed above, the S106 agreement is to be modified to divert £3.5million of the A13/Renwick Road contribution towards the London Overground Extension to Barking.
- 3.16. In addition, the applicant is seeking to increase amend the 'Barking Riverside Extension Contribution' to increase it from £172m to £182m to be paid in accordance with the 'Barking Riverside Extension Funding Agreement'.
- 3.17. The London Overground Extension is currently under construction. However, it is understood to do factors such as Covid-19 the costs of the project have increased. In addition, Transport for London's income has dropped dramatically. The options available are either to value engineer the project to reduce the costs of the project or to increase the funding towards the project.
- 3.18. In this context, it is considered these additional contributions will ensure the timely delivery of much needed transport infrastructure to serve the development and as such, the modifications to the s106

agreement serve an equally well purpose. Therefore, the proposed modifications are considered acceptable.

East West Transit

- 3.19. BRL under the terms of the s106 agreement is required to safeguard land to accommodate a future East West Transit route. This was originally expected to be the Docklands Light Railway, however it is now apparent that the DLR will not be extended from Beckton to Dagenham Dock and that any such east west transit connection across the lower River Roding would, if brought forward, likely be bus based.
- 3.20. The current safeguarded route is a 10m strip of land to the north of River Road and is located within Stage 4 (final stage) of the development. BRL have advised this land is subject to a number of easements and development constraints associated with the high voltage cables and sub-stations in this area.
- 3.21. BRL are seeking to retain a route however, are seeking flexibility in the alignment of the route and propose that the alignment through Stage 4 to be defined through the relevant Sub Framework Plan. A draft of the plan is provided at appendix 4.
- 3.22. This approach retains the East West route however ensures more flexibility over the development parcels within Stage 4. This ensures the proposed amendment would serve an equally well purpose and therefore it is considered acceptable.

Community Interest Company Provision:

- 4.1. The s106 agreement requires BRL will submit to the Council for Approval the Barking Riverside CIC Review Proposal (which shall include its legal status and draft memorandum and articles of association). This is required prior to the first anniversary of the implementation of the 2017 Permission which was 10th March 2020. The review is required to ensure the revised Barking Riverside CIC is set up in such a way as to achieve the following:
- a. to hold, manage, develop or otherwise deal with the freehold and/or leasehold interest and other assets on the Land
 - b. to provide services (including community services) either on the Land or elsewhere during the development of the Barking Riverside Development on the Land
 - c. to undertake social inclusion and other community functions for the benefit of those living and/or working at the Land and
 - d. to do all such things as may be considered to be incidental or conducive to any of the above
- 4.2. BRL propose to amend the timing element of this clause to state 'prior to the second anniversary'. Given only around 1550 units are currently in occupation the extension of the CIC review is unlikely to prejudice any aspects of the development. It is therefore considered to serve an equally well purpose within the s106 agreement and the proposed amendment is considered acceptable.

Conclusions:

As outlined above, all the matters are considered to meet the test under S106A(6)c. As such, the recommendation is the committee resolve to agree the amended obligations as outlined above and to delegate authority to the Director of Inclusive Growth in consultation with LBB Legal to authorise the deed of variation to the section 106 agreement dated 8th March 2019.

Appendix 1:

Development Plan Context:

The Council has carefully considered the relevant provisions of the Council's adopted development plan and of all other relevant policies and guidance. Of particular relevance to this decision were the following Framework and Development Plan policies and guidance:

National Planning Policy Framework (NPPF) (MHCLG, Feb 2019)

The London Plan: Spatial Development Strategy for London (GLA, consolidated with alterations since 2011, published March 2016)

The Mayor of London's Draft London Plan - Intend to Publish version December 2019 is under Examination. Having regard to NPPF paragraph 48 the emerging document is a material consideration and appropriate weight will be given to its policies and suggested changes in decision-making, unless other material considerations indicate that it would not be reasonable to do so.

Draft London Plan - Intend to Publish version December 2019

Local Development Framework (LDF) Core Strategy (July 2010)

Local Development Framework (LDF) Borough Wide Development Plan Document (DPD) (March 2011)

The London Borough of Barking and Dagenham's Draft Local Plan: (Regulation 18 Consultation Version, November 2019) is at an "early" stage of preparation. Having regard to NPPF paragraph 216 the emerging document is now a material consideration and limited weight will be given to the emerging document in decision-making, unless other material considerations indicate that it would not be reasonable to do so.

The London Borough of Barking and Dagenham's Draft Local Plan: (Regulation 18 Consultation Version, November 2019)

Additional Reference:

Human Rights Act

The provisions of the Human Rights Act 1998 have been taken into account in the processing of the application and the preparation of this report.

Equalities

In determining this planning application, the BeFirst on behalf of the London Borough of Barking & Dagenham has regard to its equalities obligations including its obligations under section 149 of the Equality Act 2010 (as amended).

For the purposes of this application there are no adverse equalities issues.

Local Government (Access to Information) Act 1985

Background papers used in preparing this report:

- Planning Application
- Statutory Register of Planning Decisions
- Correspondence with Adjoining Occupiers
- Correspondence with Statutory Bodies
- Correspondence with other Council Departments
- National Planning Policy Framework
- London Plan
- Local Plan

Other relevant guidance

Appendix 2:

Relevant Planning History:			
<i>Application Number:</i>	04/01230/OUT	<i>Status:</i>	Approved on 07/08/2007
<i>Description:</i>	Development comprising or to provide a mixed use development of up to 10,800 residential dwellings and in addition up to 65,600 sq.m. of built floorspace for retail uses (Classes A1 to A3), business premises (Class B1), hotel (Class C1), communal care home and other residential institutions (Class C2), sui generis live work units, community and social facilities (Classes D1 and D2) (for uses such as libraries, primary health care facilities, places of worship and assembly, community facilities, creche and pre-school facilities, care facilities for the young, old and/or infirm, sport and leisure development).		
<i>Application Number:</i>	08/00887/FUL	<i>Status:</i>	Approved on 10.06.2009
<i>Description:</i>	s73 application for the variation of condition no. 4 (general layout and framework) no. 5 (average density) no. 8 (ground levels) no. 11 (building scale), no. 17 (Riverside and wetland buffer zones) and no. 38 (footpaths/cycleways) on planning application 04/01230/OUT.		
<i>Application Number:</i>	16/00131/OUT	<i>Status:</i>	Approved on 06.12.2017
<i>Description:</i>	s73 application for the variation of all conditions following grant of planning permission 08/00887/FUL for the redevelopment of the site known as Barking Riverside.		
<i>Application Number:</i>	18/00940/FUL	<i>Status:</i>	Approved on 24/10/2018
<i>Description:</i>	Variation of conditions 2 (drawing numbers), 14 (transport strategy), 15 (road adoption), 16 (strategic infrastructure scheme), 12 and 33 (nature conservation and landscape), following grant of planning permission 16/00131/OUT for the redevelopment of the site known as Barking Riverside.		
The above applications have been subject to a s106 agreement which has been amended each time to capture the latest iteration of the scheme. The proposal seeks to amend the most recent legal agreement dated 8 th March 2019.			

Appendix 3:

The following consultations have been undertaken:

Summary of Consultation responses:		
Consultee and date received	Summary of Comments	Officer Comments
Transport for London (on going discussions have taken place)	No objection to the flexibility of the East West route. In relation to the raising of the trigger have requested that this is accompanied with an approach that seeks to reduce parking spaces in line with current standards.	In relation to parking standards, the proposed deed of variation is not a mechanism
Head of Housing and Asset Strategy (LBBD)	On going discussions taken place over the current and proposed rent levels.	

Appendix 4: Draft East West Transit Plan