

# Crawley Borough Council

## Report to Planning Committee

3<sup>rd</sup> July 2023

### **PROPOSED DEED OF VARIATION TO PLANNING APPLICATION CR/2020/0588/OUT RELATING TO NOS. 42 AND 44 BRIGHTON ROAD, SOUTHGATE, CRAWLEY**

Report of the Head of Economy and Planning –*PES/433*

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#### **1. Purpose**

- 1.1. This report sets out a proposed change to the S106 Agreement previously completed in relation to planning permission CR/2020/0588/OUT by way of a Deed of Variation. The proposed changes relate to the delivery of twenty affordable flats within the approved development, rather than the two affordable flats originally secured. The report also addresses the reasons for the proposed amendments to these provisions. This change is not a minor variation to the original committee resolution on the planning application (which was secured via the S106 Agreement) and for this reason requires the approval of the Planning Committee.

#### **2. Recommendation**

- 2.1. It is recommended that the Planning Committee **AGREE** to the making of a proposed Deed of Variation to reflect the changes as set out in para 5.1 of this report.

#### **3. Background and Planning History**

- 3.1. The site to which this report relates is Nos. 42-44 Brighton Road in Southgate. It previously contained two houses, but is currently being redeveloped to form a part three/part four storey block of twenty flats. The new building is nearing completion.
- 3.2. In accordance with Policy H4 of the Local Plan, as part of its outline planning application CR/2020/0588/OUT, the applicant produced viability evidence showing that the development could not support the 40% affordable housing normally required. Consequently, Planning Committee permitted the development, subject to a S106 agreement to secure two (10%) affordable flats and financial contributions towards tree planting and open space, at its meeting on 7 December 2020. The 10% affordable provision within the scheme met the minimum requirement for a major development set out in the National Planning Policy Framework.
- 3.3. In chronological order, the following applications on the site are relevant to the current report:

**CR/2019/0214/OUT** - Outline application (access and layout to be determined with appearance, landscaping and scale reserved) for the erection of a part 3 and part 4 storey building comprising of 5 x 1No. bedroom flats and 15 x 2No. bedroom flats,

following the demolition of existing semi-detached dwellings, the creation of a new vehicular access from Stonefield Close and associated works and landscaping. Refused 19 November 2019 and subsequent appeal dismissed on the grounds of lack of affordable housing provision and failure to meet identified housing needs.

**CR/2020/0588/OUT** – Outline application (access and layout to be determined with appearance, landscaping and scale reserved) for the erection of a part 3 and part 4 storey building comprising of 5 x 1No. bedroom flats and 15 x 2No. bedroom flats, of which 2 No. will be designated as affordable housing, following the demolition of existing semi-detached dwellings, the improvement of an access from Brighton Road, the creation of a new vehicular access from Stonefield Close and associated works and landscaping. Permitted 16 February 2021, subject to a S106 agreement securing two affordable flats within the building.

**CR/2021/0308/ARM** – Approval of Reserved Matters in relation to appearance and scale pursuant to CR/2020/0588/OUT for the erection of a part 3 and part 4 storey building comprising of 5 x 1No. bedroom flats and 15 x 2No. bedroom flats, of which 2 No. will be designated as affordable housing, following the demolition of existing semi-detached dwellings, the improvement of an access from Brighton Road, the creation of a new vehicular access from Stonefield Close and associated works and landscaping. Approved 1 September 2021.

**CR/2020/0588/NM2** – Non-material amendment of approved planning application CR/2020/0588/OUT to vary the description of the development to remove the reference to 2 of the dwellings being designated as affordable housing. Permitted 1 June 2023.

- 3.4 There have been a number of other applications over the last couple of years, not directly relevant here, to discharge planning conditions and seeking non-material amendments. The current position is that all required planning conditions have been discharged.

#### **4. Proposed Changes**

- 4.1 Crawley Borough Council is now in the process of purchasing the building for use wholly as affordable housing. The recent non-material amendment application (CR/2020/0588/NM2) has facilitated a change in the original description of development to allow for an increase in the number of affordable units. The applicant, Turnbull Land Ltd, has requested that the Deed of Variation be pursued to facilitate an increase in the affordable housing provision on the site and to address related Community Infrastructure Levy (CIL) issues.
- 4.2 This proposal represents a substantial increase in affordable housing provision, with twenty affordable flats, rather than two, being delivered. This will help to meet local affordable housing need in Crawley and exceeds the requirement to provide 40% affordable provision as set out in Policy H4. In planning terms, this increase in affordable housing provision should be supported given the considerable local housing need.
- 4.3 The sale of the development to Crawley Borough Council is dependent on the scheme not being liable for a Community Infrastructure Levy payment. CIL is not payable in relation to affordable housing. The Council has received legal advice confirming that the proposed variation to the S106 agreement would be required in order to claim CIL exemption.

- 4.4. This report seeks to agree a Deed of Variation to secure the delivery of twenty affordable flats within the building, rather than the two units previously secured. Officers consider that this represents a significant improvement in affordable housing terms upon the originally approved development, would facilitate the sale to the Borough Council and therefore recommend that Planning Committee approve the Deed of Variation.

## **5. Amendments to be addressed by the Deed of Variation**

- 5.1 Planning Committee is asked to agree the amendment to the scheme, to be addressed through a Deed of Variation to the original S106 Agreement:

- Securing twenty (100%) affordable flats to be provided within the development, rather than the two (10%) affordable units previously secured;

The previously agreed financial contributions towards tree planting and open space would be unaffected by the proposed change.

## **6 Background Documents**

- Application CR/2020/0588/OUT

[Planning Register - Crawley Borough Council](#)



# ArcGIS Web Map

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