

DEVELOPMENT CONTROL COMMITTEE - Date: 20 January 2009

Report of the Executive Head of Planning and Transportation.

Ref: B2009/61297/FUL	WARD: B07 / SUTTON CENTRAL	Time Taken: N/A
----------------------	-------------------------------	--------------------

Site: 48-50 Benhill Avenue Sutton Surrey SM1 4DA

Proposal: 'Demolition of existing club and flat and erection of two blocks in a part two, part three storey building with roof accommodation comprising eight 1-bedroomed, fourteen 2-bedroomed and five 3-bedroomed self contained flats (eleven in shared ownership and sixteen social rental) together with two car parking spaces, twenty seven secure cycle spaces, refuse and recycling facilities and new vehicular access from Lenham Road' to remove the tenure specification.

Applicant: S. G. Investments Ltd. & Wandle Housing Ass.

Agent: Keith Hiley Associates Ltd.

Recommendation:

AGREE CHANGE TO DESCRIPTION TO REMOVE REFERENCE TO HOUSING TENURE.

Reason for Report to Committee: Proposal involves a change to the description to a major development that members resolved to grant on 16 September 2009.

Summary of why application proposal is acceptable:

- The Section 106 agreement will ensure that the development provides the agreed tenure and occupancy so the amended description is considered as acceptable.

1.0 BACKGROUND

1.1 Site:

1.2 The site is located just outside the boundary of Sutton Town Centre on the southern side of Benhill Avenue at its junction with Lenham Road. The site covers an area of approximately 0.13ha and was occupied by the former Conservative Club but has been vacant since May 2008. The site is a quadrilateral shape with the north and east site boundaries (fronting Benhill Avenue and Lenham Road respectively) being longer than the western and southern boundaries. The frontage along Benhill Avenue (north site boundary) is approximately 37m, the return frontage along Lenham Road (east site boundary) is approximately 39m in length, and the west and south site boundaries are approximately 27m and 30m in length respectively.

- 1.3 The main building on the site dates from the early twentieth century, is 3 storeys in height and is located close to the north-eastern corner of the site. The building extends towards the western side of the site in the form of a substantial single storey flat roofed extension. This extension was previously in use as offices ancillary to the use of the main building.
- 1.4 Towards the rear of the site there is a large area of hard standing located in the south-west corner of the site, which has been used for off street parking. This area is accessed via a dropped kerb and access road located parallel to the site boundary with 77 Lenham Road.
- 1.5 The site contains soft landscaping between its front building line and the site boundaries facing Lenham Road and Benhill Avenue although this is overgrown. There are some small trees located towards the western boundary, but none of these are considered worthy of making a tree preservation order. There is a mature street tree located towards the Benhill Avenue frontage on Lenham Road with a canopy spread that is close to the existing building frontage to Lenham Road.
- 1.6 The site is currently enclosed by hoarding in preparation for the demolition of the existing club and the construction of the approved scheme.
- 1.7 **Surroundings:**
- 1.8 The site falls just outside the boundary of Sutton Town Centre being approximately 150 metres to the east of the High Street.
- 1.9 Directly to the north of the site, on the opposite side of Benhill Avenue, is the Benhill housing estate which consists of multi storey blocks of flats. The Salvation Army Hall is situated to the west of the housing estate. Situated directly to the east of the site on the opposite side of Lenham Road is the Thomas Wall Centre which is a Locally Listed Building used as a community hall. To the west of the site towards Throwley Way is the 'SJC' car repairs garage, and beyond this is a parade of buildings with ground floor commercial and retail uses (a mini-cab office, solicitors and newsagent) with residential above. At the rear (south and south-east) of the site are a number of terraced and semi-detached dwellings on both sides of Lenham Road.
- 1.10 The site is situated in close proximity to Throwley Way which forms part of Sutton Town Centre's one-way system (south bound) and deals with large volumes of traffic at peak times throughout the day. Benhill Avenue is accessed from Throwley Way and is used to bypass Sutton Town Centre on route to Carshalton. As such, the roads surrounding the site can be busy during daytime hours and Benhill Avenue and Lenham Road have the benefit of traffic calming measures.
- 1.11 The site is located within the limit of sustainable residential development as defined in Sutton's UDP.
- 1.12 A large area surrounding the site including Lenham Road is situated within a Controlled Parking Zone (Red Zone) which limits parking from 8am – 6.30pm Monday to Saturday to permit holders only.

1.13 **Site specific UDP designation:**

1.14 The site is subject to the following site-specific policies as designated within the Unitary Development Plan (UDP) and Adopted Proposals Map:

- BE14/HSG6 - Limit of Sustainable Residential Development
- BE40 – Archaeological Priority Area.

1.15 **Relevant Planning History:**

1.16 A 'resolution to grant' planning permission was made by the Development Control Committee on 16 September 2009 for the 'Demolition of existing club and flat and erection of two blocks in a part two, part three storey building with roof accommodation comprising eight 1-bedroomed, fourteen 2-bedroomed and five 3-bedroomed self contained flats (eleven in shared ownership and sixteen social rental) together with two car parking spaces, twenty seven secure cycle spaces, refuse and recycling facilities and new vehicular access from Lenham Road' (B2009/61297/FUL). The decision has not yet been issued as the wording of the legal agreement has not been finalised. This proposal seeks to amend this description (see para's 2.2 and 2.3).

2.0 **APPLICATION PROPOSALS**

2.1 **Details of Proposal:**

2.2 This proposal is to amend the description of the previously approved application B2009/61297/FUL for the 'Demolition of existing club and flat and erection of two blocks in a part two, part three storey building with roof accommodation comprising eight 1-bedroomed, fourteen 2-bedroomed and five 3-bedroomed self contained flats (eleven in shared ownership and sixteen social rental) together with two car parking spaces, twenty seven secure cycle spaces, refuse and recycling facilities and new vehicular access from Lenham Road' to remove the reference to the type of tenure.

2.3 The reason for this being reported for members consideration is that the change to the description is a material amendment that requires the authority of the Development Control Committee to vary. It does not affect the context of the 'resolved' scheme in any respect.

2.4 The applicant has advised that the change to the description is required as the reference to tenure is likely to have an adverse effect on the mortgageability of the site. Furthermore, the reference to tenure in the description of the development would put Wandle Housing Association or any future owner in the detrimental position of potentially being in breach of the planning permission if at some point in the future, the flats are occupied in some other way i.e the tenants of individual units may exercise rights to acquire/buy etc or a mortgagee may exercise a power of sale. There would be no risk to the Council in agreeing to the description of development being varied in this way as the accompanying legal agreement provides the necessary assurance (and enforceability) that the development will remain wholly in use for affordable

housing. Any variations in tenure would be referable in future by an application to vary the terms of the legal agreement by a deed of variation.

3.0 **PUBLICITY**

3.1 **Method of Notification:**

3.2 No additional notification was necessary.

3.3 **Official Consultation**

3.4 Legal Services: The amended description will have to be agreed at Committee. The proposed change in description should not be contentious as the S106 provides the necessary assurance and power of enforcement although a mortgagee in possession or an owner who exercises the right to buy could take the property (or the relevant unit) free from the s106 obligations. The current wording of the permission could technically leave the applicant in breach if future tenants exercised the power of sale or the right to buy. One of the main features of shared ownership units is to give those in the relevant categories the opportunity of acquiring their own home and mortgagees need to have flexibility in the event of a default. This draft wording arguably prevents both.

4.0 **PLANNING CONSIDERATIONS**

4.1 **Principle of the proposal**

4.2 There have been no changes to the development presented to members and there has been no significant change to planning policy since Committee resolved to grant permission in September 2009 and therefore the merits of the application remain the same and the previous recommendation to grant the application should remain.

4.3 The Legal department have advised that although the change to the description of development would remove the reference to the tenure, the Section 106 agreement would remain unchanged which would ensure that the development provides the agreed tenure and occupancy. As such, the change in description would not materially alter the proposal so the amended description is considered as acceptable. The new description would therefore read as follows:

- Demolition of existing club and flat and erection of two blocks in a part two, part three storey building with roof accommodation comprising eight 1-bedroomed, fourteen 2-bedroomed and five 3-bedroomed self contained flats together with two car parking spaces, twenty seven secure cycle spaces, refuse and recycling facilities and new vehicular access from Lenham Road

5.0 **CONCLUSION AND RECOMMENDATION**

5.1 It is considered that the amended description would not materially affect the nature of the development and it is recommended that this change is allowed.