

Committee(s):	Date:
Planning and Transportation	30 July 2014
Subject: Sugar Quay, Lower Thames Street, London EC3R 6EA Affordable housing contribution from proposed residential redevelopment.	Public
Report of: Director of the Built Environment	For Decision

Summary

A Section 106 Agreement with planning permission for residential development at Sugar Quay requires the developer to make an affordable housing payment of £15,006,816 in lieu of affordable housing on-site or to submit an updated viability assessment demonstrating why they are unable to make this payment.

The developer has submitted an updated viability assessment which concludes that the scheme cannot afford to make any additional affordable housing payment over and above a 50% payment they previously agreed.

Consultants appointed by the City have reviewed the revised viability assessment and are of the view the scheme can afford a full payment in lieu of affordable housing on-site.

In view of the City's consultants' advice it is considered that the full amount should be sought and, in accordance with the Section 106 agreement, if the developer does not agree, an independent expert should be asked to consider and advise on whether the scheme can afford the full policy compliant payment in lieu of affordable housing on-site.

Advice from the independent expert would be brought back to your Committee for consideration. The final determination of the affordable housing payment would be a matter for your Committee taking account of the updated viability assessment, the City's consultants review findings and the advice of the independent expert.

Recommendation

Members are asked to:

(a) Agree that the value of the second instalment of the affordable housing payment should £7,503,408; and

(b) If the developer does not agree to this amount that the matter may be referred to an independent expert for advice on the value of the second instalment.

Main Report

Background

1. On 22nd March 2013 your Committee resolved to grant planning permission for redevelopment of Sugar Quay with a new building containing 165 residential units with associated residential facilities and 658sq.m of retail / cafe and restaurant (A1-A4) use at ground floor (Application number 12/01104/FULMAJ).
2. The planning permission was issued on 16th September 2013 following receipt of no objection from the Mayor and completion of the Section 106 Agreement.
3. Under the policies of the Core Strategy the development would result in an off-site affordable housing contribution of £15,006,816. The applicants considered that the development would not support a payment of that amount, whereas the consultants appointed by the City to appraise the financial viability of the scheme considered the scheme could pay the full amount. You agreed that officers continue to negotiate with a view to obtaining either the full policy compliant payment or an initial cash-in-lieu payment of at least 50% of the policy compliant payment and to an upwards only review of the viability prior to implementation of the scheme.
4. In making the decision your Committee instructed that any S.106 affordable housing contribution resulting in a final total contribution (following a viability review) of less than the £15,006,816 policy compliant sum be referred back to the Committee for approval.
5. The applicant and City did not agree on the amount to be paid and consequently the Section 106 Agreement included the requirement for an initial payment of £7,503,408 and an upward only review for the second payment. The Section 106 Agreement requires:
 - a. The developer to submit an updated viability assessment and for this to be reviewed by the City's consultants if the proposed second payment remained less than £7,503,408;
 - b. Your Committee to decide what you are minded to accept as the second payment, having regard to the updated viability assessment and City's consultant's review.
6. The Section 106 Agreement includes provision for you to agree that the matter to be referred to an independent expert if the developer does not agree with your decision. The expert's conclusions are not binding on either party and the expert's views would be reported to your Committee for a decision.

Current Position

7. The developer has submitted an updated viability assessment. They have reviewed the development economics of the redevelopment, having updated a number of key inputs and relevant information. They advise that there have been increases in the site value, residential values and build costs which have been factored into their revised appraisal.

8. Their conclusion is that the residual profit for the scheme is below the developer's target rate of return and as such the scheme cannot afford to make any additional affordable housing payment.
9. The City's consultants' have been reappointed and they remain of the view the scheme can afford the entirety of the second instalment as defined in the S106 agreement. They have assessed the updated financial information for the scheme and have varied a number of inputs in light of their research, knowledge and experience in appraising the viability of London Residential schemes. They do not agree with all of the inputs used by the developers and consequently get different viability results. Of particular note is the City's consultant's view that there is significant potential for the flats fronting the river to sell at prices in excess of the pricing put forward by the developer and that the commercial rent and yield is considerably lower than they would anticipate.
10. In view of the difference in the findings I am of the view that your Committee should not accept the applicant's conclusion that the scheme cannot afford to make any additional affordable housing payment and that you should ask for the full £7,503,408, providing a full policy compliant contribution of £15,006,816
11. If you determine that the full £7,503,408 should be paid and the developer does not agree with your decision I recommend you agree the matter be referred to an independent expert. The choice of expert is to be agreed between the developer and City Corporation, or in the event of failure to agree, by the president of the RICS.
12. The expert's recommendations will be reported to your Committee for you to decide on the amount of the second payment. The recommendations are not binding on your Committee.

Corporate & Strategic Implications

13. The affordable housing funds would be used by the City to provide affordable housing units and would meet the targets set out in the Core Strategy and the London Plan.
14. The costs of an independent review would be borne by the developer.

Conclusion

15. The consultants appointed by the City advise that the development is capable of paying a second instalment of £7,503,408, providing a full policy compliant contribution of £15,006,816. As such there is no reason to recommend that your Committee accepts a lesser amount.
16. A copy of the City's consultants' review has been provided to the developer who is considering the findings. It is believed that the developer will not agree with the findings of the review.
17. If your Committee agrees that the full amount should be paid and the developer does not agree, it may be referred to an independent expert, as provided for in the Section 106 Agreement.

Appendices

- Appendix 1 - Confidential updated Financial Viability Assessment by DS2, dated 20th February 2014. (See Non – Public Agenda)
- Appendix 2 – Confidential report reviewing the Financial Viability Assessment by DS2. (See Non – Public Agenda)

Background Papers

Public

Report to P&TC and Minutes 22 March 2013

Non-Public [Exempt information by virtue of paragraph 3 of Part I of Schedule 12A of the Local Government Act 1972]

Letter dated 20th February 2014 DS2

Financial Viability Assessment dated November 2012 DS2

Assessment for Financial Viability dated June 2014 Gerald Eve

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