

COMMITTEE REPORT

Planning Committee on
Item No
Case Number

10 July 2024
02
N/A

SITE INFORMATION

RECEIVED	N/A
WARD	Wembley Hill
PLANNING AREA	Brent Connects Wembley
LOCATION	Fairgate House, 390-400 and 402-408, High Road, Wembley and land rear of 390-408 High Road, Wembley, HA9
PROPOSAL	<p>Deed of Variation to the Second Deed of Variation dated 25th April 2024 to the Deed of Agreement dated 3rd May 2023 under Section 106 under the Town and Country Planning Act 1990, as amended in relation to planning application reference: 22/2225 for the following development:</p> <p><i>Demolition of existing buildings and construction of an up to part 13 and part 17 storeys (including ground level) building comprising purpose built student bed spaces (Use Class Sui Generis) together with ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works</i></p> <p><i>As subsequently varied through s73 application, granted under planning application reference 23/3188</i></p> <p>(‘Phase 1’)</p> <p><i>And</i></p> <p>Deed of Variation to the Deed of Agreement dated 16th April 2024 under Section 106 under the Town and Country Planning Act 1990, as amended in relation to planning application reference: 23/2811 for the following development:</p> <p><i>Erection of 2 purpose-built student accommodation buildings with basement level (Sui Generis) connected at ground floor level by a podium together with ancillary communal facilities, internal and external communal amenity space, cycle parking, mechanical plant, hard and soft landscaping, new public realm, play space and other associated works. This application is accompanied by an Environmental Statement.</i></p> <p>(‘Phase 2’)</p> <p>The Deeds of Variation sought to both Phase 1 and Phase 2 development would secure the following changes:</p> <ul style="list-style-type: none">• Alteration of the Late Stage Review mechanisms to require the provision of additional payments in lieu (PiL) upfront towards affordable housing in the local area (instead of a late stage review) within 12 months of material start;• The additional PiL proposed overall is £6m; which will equate to an additional £2.106m for Phase 1, and £3.911m for Phase 2

	<p><i>(n.b. This is in addition to the PiL already secured for the relevant Phase 1 (£2.224m) and Phase 2 (£5.34m) developments)</i></p> <ul style="list-style-type: none"> • As per the previous Deed(s) of Agreement, the additional PiL proposed to be utilised to fund the provision of additional low-cost rent affordable housing, being affordable housing that is provided that goes beyond the minimum secured through the relevant planning consents for the site(s). • If at any time between a Material Start and Practical Completion of the Development works cease and subsequently no works of construction are carried out on the Land in respect of the Development for a continuous period of at least two (2) years, the agreed Late Stage Review mechanisms are retriggered
PLAN NO'S	N/A
LINK TO DOCUMENTS ASSOCIATED WITH THIS PLANNING APPLICATION	N/A

RECOMMENDATIONS


That the Planning Committee resolves to enter into separate Deed(s) of Variation under Section 106A of the Planning Act to vary;

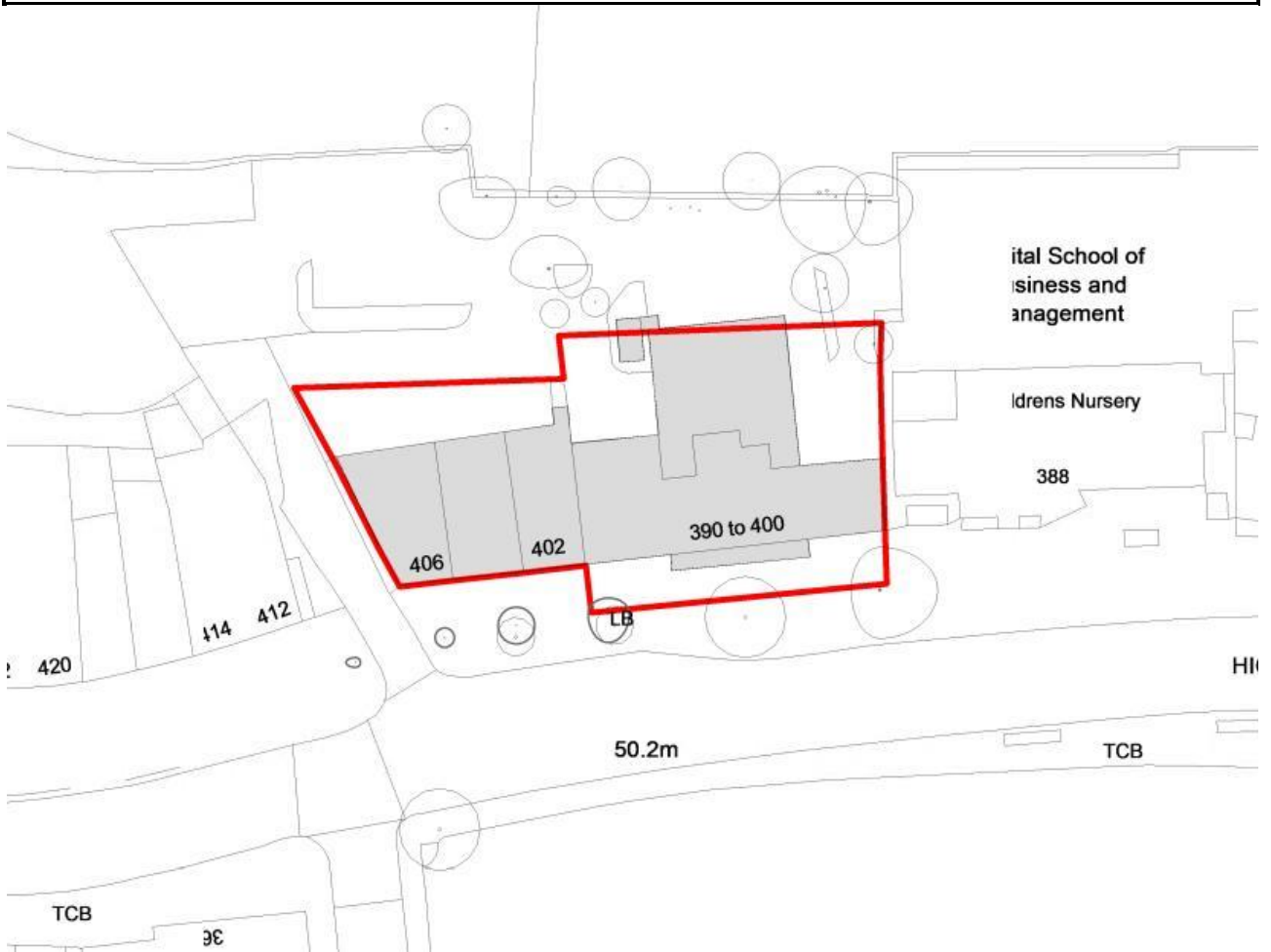
-the Principal Section 106 agreement associated with planning application reference 22/2225 ('Phase 1') and related Second Deed of Variation dated 25th April 2024 to the Principal Deed of Agreement dated 3rd May 2023;

-the Section 106 agreement associated with planning application reference 23/2811 ('Phase 2') and delegates authority to the Head of Planning and Development to agree the wording of the respective Deed(s) of Variation.

The separate Deed(s) of Variation sought for Phase 1 and Phase 2 would secure changes to the obligations secured already through legal agreements, to amend the Late Stage Review mechanisms, and to require the provision of additional PiL payment of £6m upfront; equating to £2.106m for Phase 1 and £3.911m for Phase 2 (indexed from date of committee resolution) towards the provision of additional low-cost rented affordable housing (within Use Class C3) within the local area.

SITE MAP (Phase 1)

**Brent**
Planning Committee Map
Site address: Fairgate House, 390-400 and 402-408, High Road, Wembley, HA9
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This map is indicative only.

SITE MAP (Phase 2)



Brent

Planning Committee Map

Site address: Land rear of 390-408, High Road, Wembley, HA9

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This map is indicative only.

PROPOSAL IN DETAIL

Summary of Proposal

Planning permission was granted for the redevelopment of two adjacent sites (Fairgate House and the land to the rear of Fairgate House) to provide two blocks of student accommodation (998 rooms in total) and c.348sqm sqm of commercial space. Financial contributions of £2.224 million (Phase 1) and £5.34 million (Phase 2) towards off-site traditional affordable housing were secured through the respective permissions. These schemes were also subject to late-stage review mechanisms which would secure additional contributions towards affordable housing if scheme viability improved. The Applicant has proposed fixed contributions of £2.1 m (Phase 1) and £3.9 m (Phase 2) in lieu of the late-stage reviews as the amendment of the late stage reviews will allow the Applicant to secure beneficial lending terms providing construction commences within 24 months. This would be in addition to the financial contributions already secured for these schemes, as referred above.

Background – planning history

Phase 1:

Planning permission (22/2225) was granted in May 2022 for the demolition of the existing buildings on site and the construction of a part 13 and part 17 storey building comprising purpose built student accommodation. This also included ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works.

A subsequent section 73 application (23/3188) was submitted for amendments to the approved scheme to amend planning conditions 2 (development built in accordance with approved plans and/or documents), 4 (commercial floor space - Use Class E) and 31 (storey heights of building) which would result in changes to the form and layout of the permission. 10 additional student bedspaces were also proposed from the original permission and the proposal would result in a slight reduction in student accommodation floorspace from 11,257.2 sq.m. to 10,958.78 sq.m. The scheme would also secure the widening of the underpass at the eastern end of the building to allow managed vehicle access to Network Rail land to the rear of the Site, together with other associated minor changes to the scheme. The S73 application also sought to change the requirement to enter into a nominations agreement with a higher education provider so that the developer was required to demonstrate that reasonable endeavours had been taken to enter into such an agreement.

The section 73 application was granted grant consent on 25th April 2024 and is subject to the completed First Deed of Variation dated 25th April 2024 to the Deed of Agreement dated 3rd May 2023.

The amendment of the on-site affordable student accommodation and its replacement with an offsite PiL contribution towards conventional affordable housing within the local area was also requested around the same time. The request was made to amend the affordable provision under Section 106A of the planning act, which is considered to be the appropriate route for such a change. This request to enter into a Deed of Variation to this change (Second Deed of Variation) was agreed by Planning Committee at the meeting held on 7 February 2024. The Second Deed of Variation was completed on 25th April 2024.

Phase 2:

The phase 2 consented scheme (23/2811) secured a PiL towards off site affordable housing rather than the delivery of affordable student accommodation on site. The Planning Committee resolved to grant permission for the Phase 2 scheme in December 2023, with the s106 legal agreement subsequently completed on 16th April 2024.

Deed of Variation through Section 106A of Town and Country Planning Act

Section 106A of the Town and Country Planning Act 1990 makes provision for existing planning obligations to be modified or discharged by agreement between the authority and the person or persons by whom the obligation is enforceable. Section 106A enables modification or discharge to be achieved either by an agreement with the local planning authority (which must be executed as a deed), or by an application to the local planning authority.

For obligations entered into after 6 April 2010, an application can only be made after 5 years beginning with the date the obligation has been entered into to. However, the Council may (at it's own discretion), agree to vary obligations to a legal agreement within this period. In this case, as the original obligation(s) concerned were made within the last 5 years, an obligation can only be modified or discharged through an agreement with the local planning authority (which must be executed as a deed). In such cases, there is no right of appeal under section 106B if any application is refused.

The Applicant has requested that the Council enters into a separate Deed of Variation, for both the Phase 1 and Phase 2 consented developments to make changes to the obligations associated with the s106 Legal Agreement (and in the case of Phase 1 development the subsequent Second Deed of Variation dated 25th April 2024) to secure the following changes:

- The amendment of the Late Stage Review mechanisms and the provision of additional payments in lieu (PiL) upfront towards affordable housing in the Borough.
- The additional PiL proposed overall is £6m; which will equate to an additional £2.106m for Phase 1 and £3.911m for Phase 2. This will be due to be paid no later than 12 months after a Material Start
- As per the previous Deed(s) of Agreement, the additional PiL proposed to be utilised to fund the provision of additional low-cost rent affordable housing, being affordable housing that is

provided that goes beyond the minimum secured through the relevant planning consents for the site(s).

- If at any time between a Material Start and Practical Completion of the Development works cease and subsequently no works of construction are carried out on the Land in respect of the Development for a continuous period of at least two (2) years, the agreed Late Stage Review mechanisms are retriggered

EXISTING

The Phase 1 site has undergone recent demolition works, prior to this existed Fairgate House, which was a vacant seven-storey office building at 390-400 High Road, and Pitman House, a vacant three-storey office building at 402-406 High Road, both accommodated some retail floorspace at ground floor level. The site is on the north side of the High Road in Wembley Town Centre and is part of a secondary shopping frontage. The Phase 2 site adjoins Phase 1 and comprises an area of hardstanding and mixed scrub to the north, and further to the north of this are railway embankment land and the Chiltern Line railway tracks.

The site(s) are not in a conservation area and do not contain any listed buildings.

RELEVANT SITE HISTORY

Fairgate House (Phase 1)

23/3188 Granted 25/04/2024

Variation of Conditions 2 (development built in accordance with approved plans and/or documents), 4 (commercial floor space - Use Class E) and 31 (storey heights of building) of Full Planning Permission (ref. 22/2225 dated 3 May 2023), as amended by Non-Material Amendment (ref. 23/2537).

23/2437 Granted 18/09/2023

Non-material amendment (remove number of storeys from development description) of Full Planning Permission reference 22/2225 dated 3 May, 2023, for Demolition of existing buildings and construction of an up to part 13 and part 17 storeys (including ground level) building comprising purpose built student bed spaces (Use Class Sui Generis) together with ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works, subject to Deed of Agreement dated 3rd May 2023 under Section 106 of Town and Country Planning Act, 1990, as amended.

22/2225 Granted 03/05/2022

Demolition of existing buildings and construction of an up to part 13 and part 17 storeys (including ground level) building comprising purpose built student bed spaces (Use Class Sui Generis) together with ancillary communal facilities, flexible non-residential floor space (Use Class E), cycle parking, mechanical plant, landscaping together with other associated works, subject to Deed of Agreement dated 3rd May 2023 under Section 106 of Town and Country Planning Act, 1990, as amended.

Land to the rear of Fairgate House (Phase 2)

23/2811 Granted 17/04/2024

Erection of 2 purpose-built student accommodation buildings up to 20 and 22 storeys with basement level (Sui Generis) connected at ground floor level by a podium together with ancillary communal facilities, internal and external communal amenity space, cycle parking, mechanical plant, hard and soft landscaping, new public realm, play space and other associated works. This application is accompanied by an Environmental Statement.

CONSULTATIONS

It should be noted that there is no statutory requirement to carry out public consultation on an application under Section 106A to modify or discharge existing planning obligations. Notwithstanding

this, the GLA has been notified of the request made under S106A and informed this is to be considered at Planning Committee on 10 July 2024.

DETAILED CONSIDERATIONS

Proposed Amendments

Request for the amendment of the Late-Stage Review mechanisms;

1. By way of context, works have commenced on site for Phase 1, and it is intended that Phase 2 works will start imminently. Whilst there are two separate planning permissions relating to Phase 1 and Phase 2, the Applicant is the same for both developments and these are being bought forward as one construction project. This is also the same from a funding perspective.
2. The request made under s106A submits that amendment of late-stage review mechanisms from the respective Deeds and securing the additional PiL upfront provides certainty at this stage of the total contribution (for both phases), for the Applicant and its funder, which subsequently secures the deliverability of the project going forward. It is said the primary reason why the Applicant is able to propose an additional upfront PiL of £6m is because they are required by their funder to provide less equity at the beginning of the project as the funder's future financial exposure will be reduced at the back end of the project. Consequently, this results in a reduced cost of borrowing, meaning the savings being made on reduced interest payments are able to be passed on to the Council through the proposed additional PiL. This is a significant planning benefit as it results in additional £6m of funding becoming available for the delivery of affordable housing in the Borough, which is on top of the PiL already secured through the Phase 1 and Phase 2 consents (which combined is £6.1m).

Acceptability of proposed off-site cash in lieu approach and securing additional PiL;

3. London Plan policy H15 requires the provision of the maximum level of affordable student accommodation within proposals for purpose-built student accommodation. The originally consented Phase 1 scheme secured the provision initially of 122 of the student bedspaces at affordable rent levels. This equated to 35% of the student bed spaces within the consented scheme and therefore qualified for fast track under policy H15 of London Plan. This meant that no financial viability assessment (FVA) was required to be submitted, and accordingly only an early-stage review mechanism was secured within the Section 106 Agreement, as set out by policy.
4. The subsequent S106A application referred to above, relating to Phase 1, which Planning Committee agreed to on 7 February 2024, sought to remove the requirement for Phase 1 to provide any affordable student accommodation on-site. Instead, a £2.24m PiL was proposed, and agreed as the maximum reasonable, which would be utilised for the delivery of low-cost rented Use Class C3 affordable housing in the Borough.
5. The Phase 2 development as submitted did not propose any affordable student accommodation on site. A PiL was proposed instead from the outset, and the consent secured a PiL of £5.34m, which was agreed as the maximum reasonable, also to be utilised in the same way as the Phase 1 PiL.
6. Both of the aforementioned demonstrate that the PiL approach has been found to be acceptable, in principle, subject to this being robustly justified in planning terms.
7. The PiL contributions already secured, which are to be utilised towards provision of traditional C3 affordable housing in the local area (as opposed to the provision of affordable student accommodation on site) recognise the very significant housing need for low-cost rent affordable housing (Social Rent and London Affordable Rent) within the Borough. Whilst the approach that has been agreed previously would not accord fully with London Plan policy H15 (as it would not secure the provision of affordable student accommodation on site), it is

considered to result in significant planning benefits given the current levels of housing need together with the ability to deliver additional affordable homes within extant consents already held by the Council. These benefits were attributed positive weight accordingly as part of the overall planning balance when the Phase 1 and Phase 2 schemes were being considered.

8. The accepted PiL approach towards provision of traditional C3 affordable housing in the Borough, instead of provision for affordable student accommodation on site was not objected to by the GLA at Stage 1, or Stage 2, in relation to the consented Phase 2 development.
9. Nevertheless, with regard to affordable housing delivery, the starting point as set out in London Plan Policy H4 (Delivering affordable housing) is that it should be provided on site and that it must only be provided off-site or as a cash in lieu in exceptional circumstances. Supporting text (Paragraph 4.4.10 of the LP) states that cash in lieu contributions should be used in even more limited circumstances, and only where there is detailed evidence to demonstrate that on-site affordable housing delivery is not practical, off-site options have been explored but are not acceptable and that accepting a cash in lieu contribution will not be detrimental to the delivery of mixed and balanced communities.
10. The following policy criteria must also be met in each case:

Additionality: Any cash in lieu payment must result in additional affordable homes over and above any affordable homes that would otherwise be expected to be provided.

No financial benefit: To avoid incentivising off-site provision, there must be no financial benefit to the applicant relative to on-site provision.

Monitoring: Robust monitoring and reporting mechanisms should be put in place to ensure the additional affordable homes are delivered.

Viability and reviews: Where a cash in lieu contribution is proposed then the viability tested route must be followed and schemes will need to be subject to early and late-stage review mechanisms.

11. An assessment of the agreed PiL approach for Phase 1 and Phase 2, against the above criteria, has already been made as part of the earlier considerations. For the avoidance of doubt this is repeated below (and updated as necessary).
12. In the context of policy H4, firstly consideration has previously been given to whether affordable accommodation could be delivered on site for both Phase 1 and Phase 2. While the provision of affordable student accommodation would be practical on-site, taking into account the design challenges of the site(s), its constraints, limited footprint available and proximity to the other developments, it would not be deemed practical to deliver high quality Class C3 housing, in addition to the student accommodation, including the necessary proportion of family housing and amenity space that would be required.
13. Secondly, off-site delivery of affordable housing has been considered by the Applicant. The Applicant has advised previously that they do not have any undeveloped land interests in the Borough that could deliver the additional affordable housing. It is noted that the Applicant is currently on-site with the Euro House development in Wembley, but that construction there is well advanced, and it was previously acknowledged that it would be difficult to change the tenure of homes at that advanced point in construction. Development on site has now advanced further since this was previously given consideration, therefore this position has not changed. As such, it is acknowledged that the provision of additional affordable housing on this site would be unrealistic, and it is accepted once again that it would not be practical to require of the Applicant off-site provision.
14. In these circumstances, as proposed and accepted before, the alternative is a financial contribution which in this instance would be secured as an additional PiL to be utilised towards delivery of conventional C3 affordable housing in the local area. As referred to above, the Applicant proposes an additional PiL upfront of £6m, which would be utilised specifically for this purpose, and would enable the further provision of additional low-cost rent affordable

housing within existing consented schemes, which would represent additionality and would be a significant planning benefit. The proposed additional PiL would be split such that £2.106m is for Phase 1 and £3.911m is for Phase 2. This split broadly apportions the contributions to the scale of the respective phases.

15. The Financial Viability Assessment's (FVA) that supported both Phase 1 and Phase 2 developments demonstrated that, in the case of Phase 1, even with the delivery of a PiL of £2.24m, and in the case of Phase 2, with delivery of a PiL of £3.958m (subsequently increased to £5.34m), each of the schemes would be in deficit. The benefits of delivering a contribution towards off site affordable housing delivery within the local area instead of affordable on-site student accommodation would be significant, as discussed in further detail below.
16. Delivery of conventional affordable housing is a strategic priority in Brent, with a particular emphasis on Social Rent and London Affordable Rent properties, as stated in the Local Plan. The proposed PiL approach, accepted in principle, provides the opportunity to help meet these priorities and is welcomed as this would help to address local housing need for low cost rented accommodation. The PiL already secured will help contribute towards the delivery of additional C3 affordable homes, which would help to provide additionally of affordable homes for already consented schemes, for which there is the greatest need at local and strategic level. It follows then that the requested amendment of the late-stage review mechanism(s) from both Deeds and the provision of an additional PiL upfront of £6m will help to provide an even greater level of additionality, which will help to address Borough housing need to a much greater extent than the previous consents are able to do.
17. As was the case previously, there would be a requirement through any new legal agreement(s) entered into that the additional PiL secured is specifically used to fund additional low cost rent affordable housing, being affordable housing that is provided which goes beyond the minimum secured through relevant planning consents for other site(s) in the local area. It is envisaged this could benefit either the Brent Council Homes programme, Wembley Housing Zone programme or the Estate Regeneration programme, where there are a number of potential site(s) across each of the programmes. The proposed approach that would see the amendment of the late-stage review mechanisms and the provision of an additional PiL upfront of £6m is therefore supported by the Council.

Assessment of Scheme Viability

18. As stated in London Plan policy H4, applications proposing off-site or a cash in lieu contribution must follow the viability tested route, and the applicant has submitted a further viability appraisal in connection with the request made under Section 106A, and the proposed additional PiL. Gerald Eve (instructed on the applicant's behalf) has undertaken further appraisals of the Phase 1 and Phase 2 schemes in order to forecast the potential future outcome of the late-stage viability reviews, in the event these were triggered. It needed to be robustly tested / demonstrated that the combined late-stage reviews of Phases 1 and 2 (if triggered) would unlikely provide additional payment in excess of the proposed £6m additional PiL.
19. In order to do so Gerald Eve updated the agreed appraisals, as agreed with BNPP (on behalf of the Council) at initial planning stage, on a forecast (growth) basis, using realistic growth rates for student accommodation rents, Opex (operating costs) and build costs. It is recognised that these are three of the key elements of change that would be expected over the development period of a scheme. It is forecast that rental growth of 2.5% pa could occur, that OPEX growth should be set at c.3%, and that build cost inflation rate of 3.0% would be reasonable and realistic. Gerald Eve provided a report, which used this forecasting to arrive at anticipated GDV and cost figures for both phases at the estimated time of the late-stage review(s) being triggered, as summarised in the tables below;

Phase 1

Input	Planning Stage	LSR Stage (grown)
PBSA GDV	£83,527,811	£90,324,689
Build Costs	£49,937,445 ¹	£55,108,306

Phase 2

Input	Planning Stage	LSR Stage (grown)
PBSA GDV	£152,987,221	£167,423,934
Build Costs	£90,497,175 ²	£101,354,815

20. The appraisals previously agreed between Gerald Eve and BNPP at planning stage have been updated, using the above grown GDV and build cost figures, in order to identify updated appraisal outputs.

21. The growth appraisal results indicate that;

-Phase 1 will produce a deficit of -£4,345,299, and

-Phase 2 will produce a deficit of -£17,158,144

22. This shows that the growth scenario appraisals generate significant deficits, once profit allowances have been deducted at the agreed rate of 15% profit on GDV.

23. Gerald Eve concluded, based upon this further financial analysis undertaken, the late-stage reviews for both phases (if triggered) are likely to result in significant financial deficits and would unlikely provide payment in excess of the proposed £6m additional PiL.

24. On behalf of the Council BNPP were instructed to review Gerald Eve's appraisals. BNPP adopted some slightly different forecast figures, applying rental growth of 3% pa, OPEX growth at 2% and build cost growth at 2.5% pa. Notwithstanding the recommended differences BNPP's appraisal also arrived at deficits for both phases, albeit the level of deficit was reduced, as illustrated in the table below;

Table 1.1: Growth and inflation assumptions

Phase	Application Stage	GE Projected Late Stage Review	BNPPRE Projected Late Stage Review
Phase 1			
PBSA GDV	£83,527,811	£90,324,689	£92,910,741
Build Costs	£49,937,445	£55,108,306	£54,221,625
Phase 2			
PBSA GDV	£152,987,221	£167,423,934	£172,835,558
Build Costs	£90,497,175	£101,354,815	£99,481,694

25. Using the above forecast figures BNPP undertook updated appraisals (based upon the agreed application stage viability assessment) and assuming the updated values and costs in the table above. The updated appraisals conclude as follows;

Phase	GE surplus / deficit (£)	BNPPRE surplus / deficit (£)
Phase 1	-£4,345,299	-£2,887,312
Phase 2	-£17,158,144	-£10,898,979

26. It is concluded Phase 1 and Phase 2 would generate deficits and therefore would not generate any additional payment as a result of the late-stage review mechanisms being triggered.

27. Additional sensitivity analysis was undertaken by BNPP which shows that student accommodation rental growth would need to grow to 5.05% in order to generate a surplus equivalent to the applicants proposed additional £6m PiL.

28. It is an agreed opinion of Gerald Eve and BNPP that student accommodation yields are unlikely to change between now and the date of any late-stage reviews being triggered, that were they to change yields are unlikely to change during this period to the extent they would reach levels which result in a higher contribution than the proposed additional contributions, and if this was to change there is no guarantee yields will reduce in the coming years. The agreed yield position for both phases at application stage was 4.75%, which BNPP have maintained. BNPP carried out sensitivity tests, which concluded that yields would have to drop well below 4.5% for both phases to go into a combined surplus in excess of £6m. Even if student accommodation yields were to move to 4.5% (which is not possible to forecast), then the late-stage reviews for Phases 1 and 2 would result in outputs that are significantly below the additional £6m PiL offered by the Applicant.

Balance of benefit and harm

29. As discussed above, the proposed amendment of the late-stage review mechanisms from both Deeds results in a reduced cost of borrowing for the Applicant, which enables savings to be passed on as a planning benefit in the form of the proposed additional £6m PiL, to be made upfront. This provides certainty for the Applicant (and its funder) of the total financial contribution, which secures the early deliverability of the two phases.

30. It is considered that this approach would result in significant wider planning benefits, namely;

- the increased delivery of affordable housing in the Borough, representing greater additionality than already secured through the Phase 1 and Phase 2 consents, addressing local and strategic housing need;
- Early deliverability of the two phases will help to bring forward regeneration in this part of Wembley Growth Area, which in turn will ensure the improved pedestrian link is delivered, further helping to contribute towards wider regeneration aims;
- Delivery of student accommodation, meeting a known London wide need

31. It was previously agreed that the Phase 1 and Phase 2 PiL amounts secured represented maximum viable contributions. Further to the Deed of Variation request made under S106A, the Council has robustly tested whether the combined late-stage review mechanisms for Phases 1 and 2 (if triggered) would be likely (or not) to provide additional payment in excess of the proposed additional £6m PiL. It is agreed, based on forecast growth over the development period, that Phase 1 and Phase 2 would generate deficits and therefore would not generate any additional payment as a result of the late-stage review mechanisms being triggered.

32. It is necessary to consider whether the Deeds of Variation sought would result in a different outcome when weighing the planning balance (of benefit and harm) associated with the developments as a whole. Both phases were noted to result in some impacts, as set out in full in the respective committee reports. Phase 1 (22/2225) was noted to result in some impacts, including some daylight and sunlight impacts beyond BRE guidelines and a minor shortfall in the Urban Green Factor. The daylight and sunlight impacts were considered to be reflective of the emerging context (within a designated tall building zone). Phase 2 (23/2811) was also noted to result in some daylight and sunlight impacts, but it was considered that conditions would be commensurate with development within this emerging context. It was also identified there be harm through loss of trees, however, this harm would be by replacement tree planting.

33. The proposals would continue to result in significant wider planning benefits, as identified above. Overall, and on balance, it is considered that the benefits associated with the development as a whole will continue to outweigh the harm previously identified.

Conclusion

34. Payment in Lieu of affordable student accommodation on-site, to be utilised for delivery of C3 affordable housing in the local area was accepted, in principle, and secured through the above mentioned consents. The requested amendment of late-stage review mechanisms from the respective Deeds is not in full accordance with London Plan policy H5, or the Mayor's Affordable Housing and Viability SPG, however weight is given to the fact an additional £6m PiL (if secured) will help to address to an even greater extent the very significant need for low-cost rent affordable homes

(Social and London Affordable Rent), and the presence of extant consents held by the Council within which additional affordable housing could be provided, it is considered that an increased PiL would result in significant planning benefits beyond those previously secured.

35. It is considered that there are exceptional circumstances for the amendment of the late-stage review mechanisms and the increased PiL approach to be supported in this particular instance, as set out above. This offers greater public benefit to Brent and it is considered that even in the event late-stage reviews were triggered for Phases 1 and 2, these would be unlikely to provide additional payment in excess of the proposed £6m PiL. This has been robustly tested by consultants acting for the Council. The increased contribution would represent the maximum viable contribution, would help ensure the early delivery of both phases and would result in greater additionality in terms of affordable housing, helping ensure extant (but not yet commenced) Council scheme's becoming more deliverable. The wider benefits of the development are considered to outweigh the harm associated with the policy conflict. It is recommended that members delegate authority to the Head of Planning and Development Services to enter into a separate Deeds of Variation for Phase 1 and Phase 2 to secure the legal obligations set out above.