

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL		
SUBJECT:	ZAZEN DEVELOPMENTS LTD - ROEBUCK HOUSE, 24-28 BEDFORD PLACE		
DATE OF DECISION:	26 MARCH 2013		
REPORT OF:	SENIOR MANAGER: PLANNING, SUSTAINABILITY AND TRANSPORT		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY
None.

BRIEF SUMMARY

This report relates to the development at 24-28 Bedford Place, and is seeking authorisation to vary the terms of the original Section 106 Agreement, by way of paying a commuted sum of £10,000, from the Administrators proceeds of the sale of the development, in lieu of providing the Sustainable Travel Vouchers obligation, as set out in Paragraph 5 of Schedule One of the Section 106 Agreement, that was attached to planning permission 03/01682/FUL.

The fact that the obligation remains outstanding has been agreed with the Administrator, as it was deemed more beneficial for this obligation to be utilised by permanent or long term tenants of the residential units and not the current short-term tenants, for whom the vouchers may be of limited benefit in informing sustainable travel habits. The premise behind the proposal to now accept the offer, is based on the fact that the new owner of the property is not guaranteed to provide the long-term lettings or sales, which would maximise the benefits of the vouchers and it is deemed more beneficial to utilise the contribution on sustainable travel infrastructure provision within the vicinity of the development site, for the benefit of the immediate community, including all occupants of the development site.

RECOMMENDATIONS:

- (i) To delegate authority to the Head of Legal, HR and Democratic Services to enter into a Deed of Variation of the Section 106 agreement, removing the need to comply with the Sustainable Travel Voucher obligation, in lieu of providing a commuted contribution of £10,000 to discharge the relevant obligation, within a timescale to be agreed after the sale of the property by the Administrator.

REASONS FOR REPORT RECOMMENDATIONS

1. Currently the obligation remains outstanding with no definite prospect of the obligation being discharged in the near future.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. Reject the offer and allow the obligation to be dealt with by the new owner, following the current wording of the Section 106 Agreement.

DETAIL (Including consultation carried out)

3. The original application referenced 04/00286/FUL and related section 106 Agreement was completed and determined in February 2006, which gained consent for the:

“conversion of the existing retail/office block to provide 47 no. residential units with an extended retail unit at ground floor level and 2 no. restaurants at ground/first floor level. The extension of the 3rd floor level and the addition of a 4th floor with associated car parking and amenity space, including alterations to the external appearance of the building”

The scheme was altered by planning application 08/00153/FUL and related section 106 in June 2008.

4. Implementation of the planning consent was confirmed in an email from Stephen Smith (Zazen Developments) dated the 13 December 2006, with an intention to start on site on the 8 January 2007. After confirming the amounts due on implementation, a cheque for £78,683 was paid on the 6 February 2007, which discharged the following obligations
 - Off-Site Highway Works
 - Play Space
 - Open Space

Subsequent to this a further cheque for £187,291, representing the Affordable Housing contribution was banked by the Council on the 29 August 2008 but this cheque did not clear and was therefore returned, as being “not signed in accordance with the mandate”. Despite confirming the non-payment of the cheque, no replacement was provided and in an email dated the 13th November 2008 from Stephen Smith (Zazen Developments) it was confirmed that occupation of the development had not taken place and therefore the Affordable Housing Obligation was not due to be discharged.

5. Based on this information it was assumed that the residential element of the development had not reached occupation, so a site visit was diarised for the 8th December 2008 when it was identified that the site was completed and was at least partially occupied, and individual units had been rented out. Unfortunately before the Affordable Housing contribution was paid, on the 19 December 2008, Zazen Developments Ltd went into administration.
6. Since this time the Council has been in regular correspondence with Chris Wright of Edward Symmons, acting as agent for the administrator in this matter. The Council acting through its officers agreed to allow the Administrator time to sell the development on the understanding that the Council would receive full payment of the Affordable Housing obligation from the proceeds of the sale of the development site, and the Sustainable Travel

Voucher obligation would fall on the new owner to discharge.

7. The Council, based on the decision made by the Planning and Rights of Way Panel on the 14 February 2012, have entered into a payment arrangement and a Deed of Variation dated the 15 March 2012, with the Administrator to deal with the Affordable Housing debt, by clearing the total debt within 36 months or clear the debt from the proceeds of any subsequent sale. Currently the debt has been reduced by £109,404, with £96,487 still to be paid.
8. Along with the Affordable Housing obligation the only other matter outstanding is the Sustainable Travel Vouchers obligation, which now cannot be guaranteed to be resolved in the short-term. The £10,000 offer is recommended upon the basis that it is a pragmatic approach to resolving the final obligation outstanding, in the short term, and at the point that the property is sold, thereby maximising the benefit to the Council and occupants of the development by providing improvements to sustainable travel infrastructure. The removal of the obligation may also speed the progress of the sale and therefore the discharge of the outstanding planning obligations, in what is a long-standing Section 106 Agreement.

RESOURCE IMPLICATIONS

Capital/Revenue

9. The implication of accepting this reports proposals would be to accept a payment offer, in lieu of the Sustainable Travel Voucher obligation, which would not likely be discharged in the short-term.

Property/Other

10. None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

11. S106A gives the Council power to modify a planning obligation by agreement

Other Legal Implications:

12. The applicant will be required to meet the Council's legal costs.

POLICY FRAMEWORK IMPLICATIONS

13. None

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	Bargate
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SUPPORTING DOCUMENTATION

Appendices

1.	None
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Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
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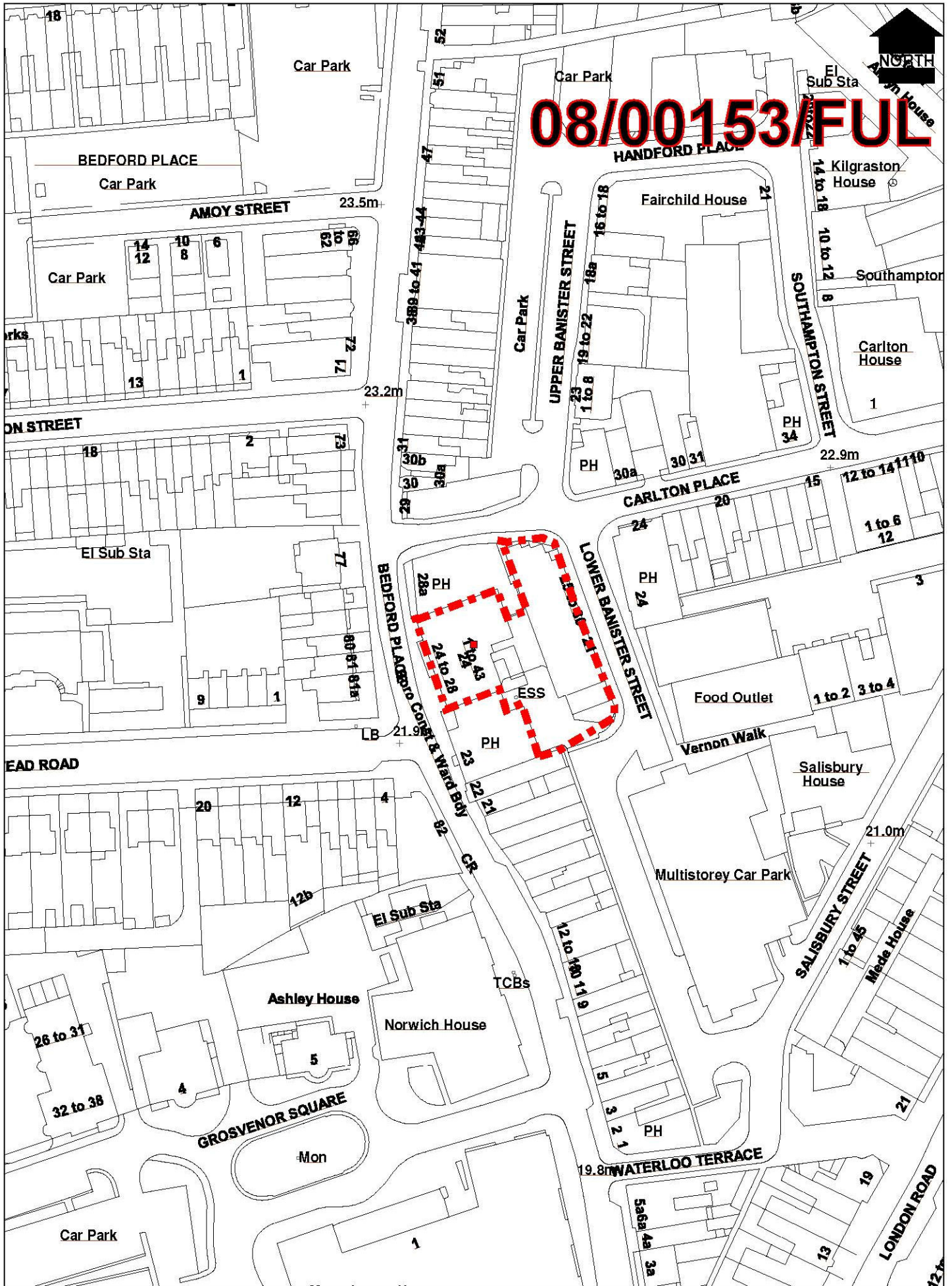
Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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08/00153/FUL

Scale : 1:1250

Date : 13 March 2013

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