

## OFFICER REPORT

**Application Ref:** N/A (related to: EPF/0917/21; EPF/0919/21)

**Application Type:** S106 Deed of Variation

**Applicant:** Qualis Commercial Ltd

**Case Officer:** Nick Finney

**Site Address:**

- Former School, Centrepoint Building and Council Depot Land at St John's Road, Epping, CM16 7JU
- Civic Offices and Car Park, 323 High Street, Epping, CM16 4BZ

**Proposal:** S106 Deed of Variation

**Ward:** Epping Lindsey and Thornwood Common

**Parish:** Epping Town Council

**View Plans:** n/a

**Recommendations**

Approve Deed of Variation





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### **Reason For Presenting to Committee**

*This application is before this committee since it proposes a ‘major’ development where the Council is a landowner as defined in Article 10 of the Constitution.*

*The sites have been transferred from Council ownership to Qualis Commercial Ltd, however given that this is a wholly owned company of the Council, the proposal is considered to meet the DDMC terms of reference.*

### **Relevant Planning History**

The relevant planning history to this proposal is the five planning applications submitted by Qualis Commercial Ltd for development in Epping town centre comprising:

- Civic Offices, Conder Building and Car Park / EPF/0919/21 / Approved 25.02.22
  - The redevelopment of the existing office building and car park. Demolition of the existing office building and alterations to connection to existing Listed Civic Centre. Development to comprise new apartment buildings and houses to provide a mix of residential units (Use Class C3), revised vehicular and pedestrian access from High Street, all associated car and cycle parking, servicing, hard and soft landscaping and associated works.
- Former School, Centrepont Building and Council Depot Land at St John's Road / EPF/0917/21 / Approved 25.02.22

- Redevelopment of the former school buildings and depot. Demolition of five buildings and the retention of three locally listed buildings. Development to comprise erection of new apartment buildings and the conversion, extension and change of use of the existing locally listed Centrepoint building and Cookery School to provide a mix of residential units (Use Class C3) and ancillary communal amenity areas. Extension and refurbishment of two existing locally listed semi-detached caretaker cottages. Revised vehicular and pedestrian access from St Johns Road and new pedestrian access from High Street, all associated car and cycle parking, servicing, hard and soft landscaping and associated works.
- Bakers Lane Car Park / EPF/2924/20 / Approved 25.02.22
  - Full application for the redevelopment of existing surface level car park to provide a leisure centre to include swimming pool, gymnasium, sports hall, squash courts and studio (mixed Class E (d) and F.2 (d)) together with disabled parking provision, new vehicular and pedestrian access, all hard and soft landscaping, and associated works.
- Cottis Lane Car Park / EPF/2925/20 / Approved 25.02.22
  - Full application for the redevelopment of existing surface level car park comprising the demolition of public toilets and the construction of a multi-deck car park, cinema (sui generis), commercial floorspace (mixed Class E), replacement public toilets and cycle store, all associated plant, together with new vehicular and pedestrian access, all hard and soft landscaping, and associated works.
- Epping Sports Centre / EPF/0918/21 / Approved 25.02.22
  - Redevelopment of existing Sports Centre and car park. Demolition of existing Sports Centre. Development to comprise a new apartment building and houses to provide a mix of residential units (Use Class C3), new vehicular and pedestrian access from Nicholl Road and new pedestrian access from Hemnall Street, all associated car and cycle parking, servicing, hard and soft landscaping and associated works.

The five sites were considered collectively for the purposes of the planning assessment undertaken during their determination. As a result, a number of linkages between the developments were established (and secured via a cross-site s106 Legal Agreement) to ensure the appropriate sequencing of development and that the objectives of the site allocations within the Local Plan were secured.

### **Description of Proposal**

Section 106A of the Town and Country Planning Act 1990 (as amended) states that a planning obligation can be modified or discharged by agreement (at any time) between the appropriate authority and the person or persons against whom it is enforceable. The variations to the previously agreed s106's are set out in relation to each site below:

#### **Site-specific S106 – Civic Offices and Car Park, 323 High Road, Epping, CM16 4BZ**

The variation comprises:

- Remove all obligations relating to the provision of onsite affordable housing.
- Retain late-stage viability review only.

The effect of the change on affordable housing numbers is set out in the table below:

Total Existing Agreement	45 units	Total Proposed	45 units
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Affordable Units	11 units (24.4%)	Affordable Units	0 units (0%)
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### **Site-Specific S106 – Former School, Centrepoint Building and Council Depot, Land at St John’s Road, Epping, CM16 7JU**

The variation comprises:

- Variation to the triggers for each of the contributions/payments secured under the S106 so that they are due on a phased and ‘pro rata’ basis (i.e., block-by-block, based on the number of units within that phase or block). This applies to County and District Council contributions/payments.
- Reduce the provision of onsite affordable housing from 25% to 17%. This equates to 32 affordable homes to be provided. It is proposed that the units are location within Block E in a mix of one-bed and two-bed apartments equating to a total of 44 bedrooms.

The effect of the change on affordable housing numbers is set out in the table below:

Total Existing Agreement	184	Total Proposed	184
Affordable Units	46 (25%)	Affordable Units	32 (17.39%)

### **Main Issue and Consideration**

#### **Affordable Housing Requirements**

In the adopted Epping Local Plan, Policy H2 requires sites of 11 or more homes, or residential floorspace of more than 1,000 sq m to provide 40% of those homes as affordable housing. The affordable housing targets and tenures are however subject to viability.

It should also be noted that in accordance with paragraph 64 of the National Planning Policy Framework 2023, ‘Vacant Building Credit’ is applicable to the St John’s Road site which reduces the policy compliance affordable housing obligation from 40% to 34%. This calculation is set out in detail in the original applications committee report.

Policy H2 of the Local Plan requires proposals that do not accord with the policy must provide a financial and viability appraisal which is transparent and complies with the relevant national or local guidance application at the time.

The S106 Legal Agreements (dated: 22 February 2022) require that these developments each provide 25% affordable housing, with a tenure split of 80:20 between affordable/social rent and intermediate housing. The reduction from the policy compliant level was agreed due to the viability evidence provided and accepted at the time of the applications determination.

Both agreements have a Late Stage Viability Review mechanism that allows the viability status of the development to be reviewed at a point when 85% of the development has been sold. If this shows a positive change in the scheme viability there are mechanisms for the policy compliant affordable housing deficient to be made good. There is no proposal to change this obligation.

#### **Viability**

Due to current economic conditions, with rising inflation (affecting the cost of materials and labour) and rising interest rates, the applicant is currently facing an increase in the cost that

is causing a severe viability challenge. The corresponding increase in development values does not compensate for the increase in costs that have been experienced.

As a result the reductions in affordable housing levels have been proposed and the applicant instructed Carter Jonas instructed to prepare viability assessments for both sites.

The viability assessments are in keeping with previous submissions made in relation to these developments. Our independently engaged viability consultants have for comparison applied revised indexed costs and values to the previous appraisals on these sites which confirm that costs increases have outstripped value indices resulting in unviability of the development in its current form.

As per Planning Policy Guidance (PPG) on viability (paragraph 13), which was updated 09 May 2019, Benchmark Land Value (BLV) should be established based on the Existing Use Value of the land, plus a premium for the landowner.

- **Civic Offices** viability assessment scenarios:
  - Scenario 1 – provision of 40% affordable housing (policy compliant) would lead to a residual land value of -£3,551,196, where the BLV for the site is £2,028,000, leading to a project deficit of **-£5,579,196**.
  - Scenario 2 – provision of 0% affordable housing (proposed) would lead to a residual land value of -£409,847, where the BLV for the site is £2,028,000, leading to a project deficit of **-£2,437,847**.
  - Therefore, both scenarios will lead to a project deficit.

Civic Offices			
	Residual land value (£)	Benchmark land value (£)	Project surplus / Deficit (£)
40% Affordable Housing ( <i>policy compliant</i> )	-£3,551,196	£2,028,000	-£5,579,196
0% Affordable Housing (proposed)	-£409,847	£2,028,000	-£2,437,847

- **St John's** viability assessment scenarios:
  - Scenario 1 – provision of 34% affordable housing (reduced due to vacant building credits) would lead to a residual land value of -£14,397,874, where the BLV for the site is £1,217,091, leading to project deficit of **-£15,614,965**.
  - Scenario 2 – provision of 0% affordable housing would lead to a residual land value of -£5,523,615, where the BLV for the site is £1,217,091, leading to a project deficit of **-£6,740,706**.
  - Therefore, both scenarios will lead to a project deficit.

St Johns Road			
	Residual land value (£)	Benchmark land value (£)	Project surplus / Deficit (£)
34% Affordable Housing ( <i>reduced due to vacant building credits</i> )	-£14,397,874	£1,217,091	-£15,614,965
0% Affordable Housing	-£5,523,615	£1,217,091	-£6,740,706

### **St John's Pro-rata s106 Obligation Payments**

Qualis are now proposing to phase the development of the St John's Road site to make s106 obligation payments on the same basis, pro-rated. This variation request is made given the constrained cash flow demonstrated by the viability position. This does not alter the total s106 receipts that are due from the development which relate to transport, health, education and Epping Forest SAC mitigation.

A number of the obligations relate to payments to be made to Essex County Council (ECC) who are a signatory to the s106 and final wording and around the obligations will be subject to agreement with ECC.

### **Conclusion**

Within the district there is a pressing need to increase the provision of housing of all forms especially in the current cost context where some development projects are stalling. This is in accordance with Local Plan Policy SP1 which sets out the house building targets for the district. These schemes are currently in delivery with the construction of the Civic Offices site (now branded as Springwood Grove) well advanced and the St John's Road site cleared and the first phase scheduled to commence shortly.

Notwithstanding the shortfall in the previously agreed affordable housing levels the projects also have wider benefits to Epping Town Centre bringing disused and underutilised sites back into use and supporting the retail and amenities of Epping Town Centre through the increase population they will enable.

Acceptable viability evidence has been provided by the applicants and it is concluded that due to the significant project deficits set out above, that the reasonable level of affordable housing that can be supported by each of the proposed developments will be secured, without impeding the viability of the project and the prospects of delivery.

Late Stage Viability Reviews are retained in the obligations on both sites which will enable the level of affordable provision to be reconsidered if the viability position of the developments changes at a future date.