

*This report contains appendices which are **NOT FOR PUBLICATION** in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that they contain information relating to the financial or business affairs of a particular person (including the authority holding that information) and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.*

Planning and EP Committee 10 July 2012

Item No. 5.7

Application Ref: 06/00892/OUT

Proposal: Revisions to the Signed Section 106 Agreement

Site: Arborfield Mill, Helpston

Applicant: Linden Homes

Referred By: Head of Planning Transport and Engineering Services

Reason: Revision of Section 106 of Interest to Members

Case Officer: Mr Nick Harding
Telephone No.: 01733 454441
E-mail: nicholas.harding@peterborough.gov.uk

Recommendation: To give the Head of Planning, Transport and Engineering the Authority to Vary the existing Section 106 Agreement.

1 Report

At its meeting in June 2012, the Committee resolved to defer the consideration of a proposed revision of the Section 106 agreement associated with the above development. Committee wished to see more information that supported the sales values that formed a key part of the viability assessment submitted to evidence the need to reduce the Section 106 burden.

Outline planning permission was granted in April 2006 for residential dwellings and associated development (with approval of reserve matters 07/01462/REM being given for 42 dwellings in January 2008). The outline permission was subject to a Section 106 planning agreement which requires the development to make provision for the following:

- A bus stop
- 13 affordable dwellings
- £105,511.98 contribution towards school places
- £189,511.98 contribution towards community facilities
- £20,000.00 contribution towards the Clare Trust

(the figures above are exclusive of any index allowance which may be attributed to the contribution under the terms and conditions of the Section 106 agreement).

Whilst a start has been made on the development, no dwellings have been completed or sold. With the change in the housing economy, the developer has found that the development is uneconomic to build with all the Section 106 provisions in place. The developer has therefore come to the City Council to renegotiate the Section 106 agreement. Policy CS 10 of the adopted Peterborough City Council Core Strategy recognised that Section 106 agreements should be negotiated on a site by site basis and Government has issued statements to the effect that Council's should renegotiate Section 106 agreements where developments have been found to be unviable as a result of

changing market conditions.

Initially, the developer requested, that due to the poor viability of the scheme, there should be no Section 106 obligations at all. To support this request, an economic appraisal of the development costs was submitted to the Local Planning Authority. Officers of the Council have looked at the appraisal and are satisfied that the costs and returns are representative. The conclusion of the appraisal (which is supported by your officers) is that even with there being no Section 106 agreement in place, the development would make a loss for the developer. A copy of the viability report is contained in Appendix 1, which is **not for publication** in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that they contain information relating to the financial or business affairs of a particular person (including the authority holding that information) and it is considered that the need to retain the information as exempt outweighs the public interest in disclosing it.

The Parish Council was asked for its view on there being no Section 106 obligation agreement in 2011, and it responded by saying that this would be unacceptable.

Since this time, the City Council has considered a similar case at Newborough (Guntons Road). In that case, the Planning & Environmental Protection (PEP) Committee rejected a proposal to reduce the development's Section 106 contributions to zero and secured a contribution of £5000 towards Parish facilities. Using the principle that the PEP Committee would not accept a zero Section 106 contribution, officers re-entered into negotiations with Linden Homes. The results of these negotiations are as follows:

- a) 6 No affordable housing units (4 units being for rent, 2 units being for shared equity)
- b) £105,511.98 towards the provision of primary and secondary school places
- c) £15,000 towards the provision of new or improved, sport, recreation, play or social facilities within Helpston Parish.

The bus stop provision from the existing agreement is to be retained.

Linden Homes is prepared to go forward with the development on this basis even though it will result in a financial loss. This is because it is important for the operation to have turnover (for turnovers sake) in the business. Linden Homes have stated that not progressing the scheme increases the risk that staff in the locally based firm and external contractors may have to be made redundant.

Update

Following the deferment at the last PEP Committee meeting, Linden Homes has submitted a report that has looked into actual sales values in comparison to those estimated in the viability report. The report and viability reports that test the sensitivity of the development's viability in relation to sales values are attached in Appendix 2, 3, 4 and 5, **not for publication**. The conclusion of these reports is that:

1. the estimated values are appropriate
2. that even with a 19% increase in sales values, the development would only break even.

2 Parish Council Comments

The Parish has formally indicated that it is unhappy with the latest Section 106 revisions proposed as it is felt that the development should properly contribute towards its impact on the village.

Cllr Over has indicated that he would support any comments made by the Parish.

3 Conclusions

It has been demonstrated that the approved development is not viable and the current Section 106 agreement worsens that situation. A revised Section 106 agreement has been negotiated which delivers local benefits and new development albeit at a financial loss for the developer. Whilst the proposed revised Section 106 does not provide as many benefits as desired by the Parish Council, it is considered by officers that a satisfactory position has been negotiated.

4 Recommendation

The Head of Planning, Transport & Engineering Services be given authority to vary the existing Section 106 agreement as follows:

- A) Delete (with the exception of the construction of a bus stop) the provisions of the current Section 106 with B to D below;
- B) 6 No. affordable housing units (4 being for rent and 2 being for shared equity);
- C) £105,511.98 towards the provision of primary and secondary school places; and
- D) £15,000 towards the provision of new or improved sport, recreation, play or social facilities with Helpston Parish.

Copy to Councillor David Over

This page is intentionally left blank