

Planning Committee: 1 December 2020

Application No: [W 18 / 0643](#)

Town/Parish Council: Stoneleigh
Case Officer: Gary Fisher

01926 456502 gary.fisher@warwickdc.gov.uk

Registration Date: 03/04/18

Expiry Date: 03/07/18

Land at Kings Hill Lane, Stoneleigh

Outline application with access: Development of up to 2,500 dwellings (C3); 4,000 sq.m. of mixed use floorspace (A1, A2, A3, A4, A5, B1, C2, D1 and D2); Primary School; Secondary School, Open Space and Associated Infrastructure FOR Lioncourt Strategic Land Limited, Lioncourt Homes (Development No.17) Limited De

This item is being brought to Planning Committee to seek authorisation for a small number of revisions to the requirements of a Section 106 Agreement relating to this development.

This is a complex agreement relating to a significant development for which Planning Committee resolved to grant permission on 3 December 2019.

A number of parties including the applicant along with various District and County Council Officers are continuing to work on the agreement with a view to finalising it in the near future. The scale of the work involved and nature of those discussions is such that from time to time, the need for revisions to the agreement are identified.

Planning Committee are asked to note that the overriding purpose in securing this agreement is to ensure that it makes provision for all of the infrastructure requirements arising from the development and that they come forward at the appropriate time.

RECOMMENDATION

Planning Committee are recommended to delegate authority to the Head of Development Services to agree and finalise the revisions to the Section 106 agreement set out below.

DETAILS OF THE DEVELOPMENT

The proposed revisions to the requirements of the agreement are as follows:-

1. The revision of the requirement identified by the Coventry and Rugby Clinical Commissioning Group (CCG) for the provision of 0.501 hectares of land for the provision of an on-site health centre to an area of 0.303 hectares which the CCG has subsequently identified as necessary to make that provision.
2. The revision of the purpose for the Libraries Contribution so that the contribution shall be used solely for towards improving, enhancing and

extending the facilities or services at libraries operated by Warwickshire County Council

3. The inclusion of a review mechanism within the Section 106 Agreement so that the NHS Trust Contributions will not be payable where the High Court rules that such contributions fail to meet the tests for obligations under the CIL Regulations.
4. Revisions to build in flexibility to the requirements relating to outdoor sports provision such that should it become necessary, Officers are authorised to agree to either the provision of on-site sports pitches, or alternatively a contribution in lieu of that provision, or elements of both.

THE SITE AND ITS LOCATION

The application site is located to the north of the District, abutting the administrative boundary with Coventry.

RELEVANT POLICIES

- National Planning Policy Framework

Warwick District Local Plan 2011-2029

- H1 - Directing New Housing DM1 – Infrastructure Contributions

ASSESSMENT

The overriding consideration here is to ensure that appropriate provision is made for all of the infrastructure requirements arising from the development; that they are fully justified; and that they come forward at the appropriate time.

All of the proposals set out in this report accord with that aim.

Land for an On Site Health Centre

The proposal in this regard remains to ensure that sufficient land is available for this purpose and takes account of the CCG's revised requirement in that respect.

The Libraries Contribution

The background here is that Warwickshire County Council requested a contribution towards their library service based on their standard formula whilst Coventry City Council did not request a contribution and have advised that they do not usually do so.

Nevertheless, in view of the proximity of the site to Coventry's administrative area, discussions on the format of the Section 106 Agreement previously moved towards the sharing of the contribution between the 2 library services

However, in view of the absence of a request from Coventry City Council or therefore of any justification for a contribution to be made towards their library

service, the position on this matter is now that the full contribution should be directed towards the Warwickshire County Council Library service in accordance with their request.

Review Mechanism

The applicant has requested that a mechanism for review of the NHS Trust contributions be included within the agreement. In support of this request the applicant has drawn officers attention to a recent appeal decision in Teignbridge where the Secretary of State concluded that the request for a contribution from the NHS Trust did not meet the tests for obligations under the CIL Regulations. The appeal is now the subject of a statutory review by the NHS Trust and is due to be heard by the High Court shortly.

Whilst the Secretary of State's decision in the planning appeal would not constitute a legally binding precedent it is capable of being a material consideration for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004. Notwithstanding this, in the event that the High Court rules that the request from the NHS Trust fails to meet the tests under the CIL Regulations then this will create a legal binding precedent.

Committee is requested to delegate authority to the Head of Services to agree and finalise a review mechanism within the agreement to provide that where the High Court rules that the contribution or any part of the contribution requested by the NHS fails to meet the tests under the CIL Regulations that such contribution or such part of that contribution shall cease to be payable. Further that the review mechanism will only operate where there is a clear ruling by the High Court that such Contribution fails to meet the tests under CIL and that all rights of appeal from the High Court have been exhausted by the NHS Trust.

Outdoor Sports Provision

Discussions concerning the quantum; location and nature of outdoor sports provision are currently being finalised between the applicant and Officers from the Green Space team.

The main Committee report in respect of this application referred to a requirement for the on-site provision of outdoor sports pitches along with the provision of a finite outdoor sports pitch contribution.

It is possible that those discussions may result in a final solution involving on-site provision only without the need for any such contribution or more likely, a combination of both. Therefore, authorisation is sought to agree to that solution should it become necessary rather than the current requirement for both on-site provision and a contribution of a specific quantum as originally proposed.

SUMMARY/CONCLUSION

For the reasons set out above, Committee are asked to agree to the recommendation in order to assist officers to bring the discussions on the Section 106 agreement to a conclusion.