

Planning Committee: 27 February 2018

Item Number: 5

Application No: W/14/0967

Town/Parish Council: Warwick
Case Officer: Gary Fisher
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Land North of Gallows Hill, Warwick, CV34 6SJ

Development of up to 425 residential dwellings (Use Class C3), medical centre, community hall, formal and informal green spaces, sports and recreation provision, structural landscaping, new roads, footpaths and cycle ways, site access and ancillary works (outline application including details of access)..

**Variation of Section 106 Agreement in relation to
the transfer of land
FOR Warwick District Council**

INTRODUCTION

This report relates to the above planning permission which was granted on 3 April 2015 (W/14/0967) and subsequently varied (W/17/0988) to amend the location of the site access from Gallows Hill. Both permissions are subject to a section 106 Agreement which imposed a range of obligations on the developer.

This matter was last reported to Planning Committee on 10 October 2017 when Committee authorised the variation of the Section 106 Agreement in order to:-

- reflect the potential for the proposed changes in the size and location of the land to be safeguarded for a community stadium, and the new location of the land for educational purposes within the site;
- provide that the stadium land will be "safeguarded" for a period of three years from the date of varied section 106 Agreement during which time the District Council may purchase the land provided that it has obtained planning permission for the development of a community stadium;
- reflect the fact that, if the stadium land is transferred to the District Council, the overall site will have been split, in which case the planning obligations will be attributed proportionately between the parties in a manner which avoids the development of either element being frustrated by a failure to deliver infrastructure within the other element;
- include the circumstances in which the land is not used for a community stadium or for housing, whereby it may be used for another purpose with the consent of the neighbouring landowner (such consent not to be unreasonably withheld) subject to any required planning permission;

- enable the District Council to enter that part of the site under the control of the County Council in order to install services on the stadium land and to construct all or part of the spine road should it wish to commence development of the stadium before the County Council's land is developed, and to provide for the reimbursement of the District Council's reasonable costs in this respect;
- correct any minor typographical or drafting errors in the original Agreement; and
- provide for any consequential amendments required as a result of the changes set out above.

The Deed of Variation as authorised on 10 October 2017 is progressing.

Meanwhile Members will be aware that the District and County Councils are in advanced negotiations in respect of the sale by the County Council of land within the application site (to include the Stadium Land) to the District Council and the remainder of its land to Waterloo Housing Group excluding an area of land that will be retained by the County Council and is intended to be used for the provision of a school ("the Education Land").

In the event that the sale proceeds, it will be necessary for a further Deed of Variation to be completed which Waterloo Housing Group will be a party to as owner. The purpose of this further Agreement will be to distribute the planning obligations proportionately between the landowners; fix the site for the Stadium Land; identify the areas of the site where a Community Hall and GP Facility will be located and require Waterloo Housing Group (or their successors in title) to construct the spine road to certain standards by long stop dates to be agreed. The spine road will also contain servicing to the District Council land and the Education Land.

The revised agreement will further provide step in rights that will apply if the District Council wishes to develop its land before the land owned by Waterloo Housing Group ("WHG") is developed and the spine road is constructed. The step in rights will permit the District Council to access the WHG land, construct the spine road to facilitate access, and provide servicing to the District Council land. There will also be provision for the District Council to recover the costs of these works from WHG or their successors in title.

It should be noted that the proposed variation does not propose to alter any contributions towards infrastructure. The test to be applied when deciding whether to modify a Section 106 Agreement is whether the obligation would serve its purpose "equally well" as modified. It is considered that this test is satisfied by the revisions the subject of this report.

RECOMMENDATION

Planning Committee are recommended to authorise a further variation of the Section 106 Agreement the subject of this report in the event that the sale of

the County Council Land to the District Council and Waterloo Housing Group proceeds in order to:-

- Substitute a revised land use plan to show the locations of the Community Hall Land, the GP Facility Land, the Stadium Land, the Education Land and the alignment of the spine road. The variation agreement will also provide (subject to the agreement of the County Council) that whilst the total area of the Education Land will remain the same as the revised use plan the detailed boundaries may change.
- Reflect the fact the site has been split and the planning obligations will be attributed proportionately between the parties to ensure that development on one part is not frustrated by a failure to provide infrastructure on the other.
- Give the District Council the right to enter the WHG land to construct the spine road and provide servicing if necessary in order to facilitate development of its own land and to recover its costs
- Provide for any consequential amendments required as a result of changes set out above

RELEVANT POLICIES

- National Planning Policy Framework

Adopted Local Plan

- DS14

SUMMARY / CONCLUSION

The proposed changes to the Section 106 Agreement are considered to be in accordance with the Council's policies and serve the planning purposes equally as well as the original version. It is therefore recommended that the Section 106 is amended as requested.