

Application No: W 15/0851

Town/Parish Council: Bishop's Tachbrook

Case Officer: Gary Fisher

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**Land at Grove Farm, Harbury Lane, Bishop's Tachbrook, Leamington Spa
CV33 9QF**

Residential development for (approximately) 520 dwellings together with two new accesses onto Harbury Lane, land for Country Park, open space, demolition of existing buildings, car parking and associated infrastructure.

**Variation of Section 106 Agreement in relation to
the early transfer of land for a Country Park, SUDs and Open Space**

INTRODUCTION

This report relates to the above planning permission which was granted on 20 August 2015 (reference W/15/0851) and is subject to a Section 106 Agreement which imposed a range of obligations on the developer.

RECOMMENDATION

Planning Committee is recommended to authorise the variation of the Section 106 agreement as necessary in order to:

- Facilitate the early payment of all financial contributions including the payment of commuted sums for maintenance;
- Facilitate the early transfer of the land for a country park; SUDs; open space and play area schemes;
- Enable access to land for the purpose of facilitating the implementation of SUDs; open space and play area schemes; and
- Provide for the payment of a bond to enable any works to be undertaken in default.

DETAILS OF THE VARIATION

The applicant would like to discharge their obligations under the existing Section 106 Agreement early, including the transfer of Land for i. the Country Park, ii. SUDs, and iii. Open Space and Play Areas, along with the early payment of all financial contributions due.

Section 106 Agreements are drafted on the basis that they require the developer to undertake certain obligations by specific stages of construction and before the development is complete. In this case the developer would like to undertake

their obligations ahead of the triggers set out in the agreement. Whilst this is unusual, it is not precluded by the terms of the Agreement.

However, with regard to the early transfer of the land for a country park, the existing Agreement requires that this occurs **on** the completion of 400 dwellings. Further, it also requires that the transfer of land for SUD's, open space and play areas occurs **after** the approval and subsequent laying out of those schemes by the developer.

The proposal is therefore that the section 106 Agreement be varied to enable those land transfers to take place prior to those triggers.

ASSESSMENT

The provision of a country park on land to the south of a number of allocated residential sites to the south of Leamington Spa is a key strategic element of the Local Plan and within that context the proposal to bring land forward early to facilitate that is to be welcomed, as is the proposal to make the required financial infrastructure contributions at an early stage.

With regard to the early transfer of the SUDs, open space and play area land, there is a theoretical risk that following that transfer, the developer may not layout the open space and SUDs to the requirements of the Council as intended.

To ensure that this is not the case, the Agreement will continue to require the developer to do so, and to facilitate that, is proposed to be revised provide for the granting of a licence for the relevant parties to enter the land in question (which the Council will then own) to undertake the works.

Further it is proposed that the Agreement will also be varied to ensure that, in the circumstances where it is necessary, the developer will grant a licence to the Council to enter any adjacent land (which is in the Developers ownership) to enable those works to be undertaken.

Finally, it is also proposed that the Agreement be varied to require the payment of a bond by the developer in order that in the circumstances that the works are not undertaken to the Council's satisfaction, the Council are able to do so by default.