

**Planning Committee:** 2 February 2021

**Item Number: 6**

**Application No:** W/19/1200

**Town/Parish Council:** Kenilworth

**Case Officer:** Dan Charles

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**Land at SouthCrest Farm, Crewe Lane, Kenilworth, CV8 2DG**

Outline application for demolition of existing dwelling house and outbuildings; residential development of up to 99no. dwellings including the creation of a new vehicular access, open space, landscaping and surface water attenuation, after (all matters reserved except access)

FOR Gleeson Strategic Land

**Proposed Deed of Variation to the signed Section 106 Agreement**

**INTRODUCTION**

This report relates to planning permission W/19/1200 which was previously presented to Members of the Planning Committee on 6 October 2020. The recommendation to committee was to grant outline planning permission, subject to the various conditions listed in the report as well as a Section 106 Agreement to secure a range of obligations from the Owner. The Section 106 was thereafter signed and the decision issued on 17 December 2020.

Upon review of the Section 106 Agreement, it became apparent that there were two elements missing from the completed agreement, namely;

- The provision of a custom/self-build housing clause.
- The inclusion of the principles agreed in the Memorandum of Understanding (MOU) between Warwickshire County Council and Warwick District Council relating to the education contributions.

**RELEVANT POLICIES**

- National Planning Policy Framework
- DM1 – Infrastructure Contributions
- H15 – Custom and Self Build Housing
- East of Kenilworth Development Brief.
- Kenilworth Neighbourhood Plan.

**ASSESSMENT**

The omitted elements as set out above were agreed as part of the Section 106 negotiations but were unfortunately omitted from the final draft of the Section 106 and this was not identified until after the Section 106 had been signed and the associated planning decision issued.

Therefore, Officers require a committee resolution to allow the provision of a Deed of Variation to insert both elements into the Section 106 Agreement for completeness.

The Custom/Self Build Clause secures the provision of the appropriate level of on-site Custom/Self Build units as required within the East of Kenilworth Development Brief and Kenilworth Neighbourhood Plan. This requires the provision of 5% of the plots to be marketed for Custom/Self-Build.

Whilst Officers are satisfied that any development coming forwards will provide the relevant amount of Custom/Self Build units, the clause is required to set out how the units are marketed and future disposal should there be no interest for this type of property on the site.

Secondly, the MOU between WCC and WDC provides for the Education Authority to use any part of the Education Contribution received by WCC, which is to be applied towards the provision of additional secondary or Post-16 places, to reimburse WDC for any funding provided to the Kenilworth Multi-Academy Trust for the purpose of creating the secondary school on land at Southcrest Farm. This would be until such a time as the Council has been reimbursed for all such funding unless WCC and WDC agree that part may be used for alternative educational purposes.

The Clause is required to allow the reimbursement of any forward funding provided by the District Council towards the Kenilworth High School Project from Section 106 payments received from housing developments within Kenilworth. The principles agreed in the MOU will be carried forward to all residential development within Kenilworth where an education contribution is required.

## **CONCLUSION**

The revisions are not affected by the CIL regulations. The inclusion of the Self Building House Clause defines the requirements for the developer and any potential purchaser of one of the plots. The MOU is purely the mechanism to ensure that the education contributions can be utilised appropriately. There would be no difference to the level of contributions to be received through the Section 106 Agreement.

## **RECOMMENDATION**

That Committee approve the additions to allow the elements to be incorporated through a Deed of Variation to the Section 106 Agreement.