

Planning Committee: 26 February 2019

Urgent report

Application No: W/17/02371

Town/Parish Council: Cubbington

Case Officer: Dan Charles

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Land off Rugby Road and Coventry Road, Cubbington, CV32 7JN

Development of 120 dwellings (including 48 affordable units), formation of single access point from Coventry Road and single access point from Rugby Road, highway works, landscaping, public open space and ancillary works.

FOR Bellway Homes (South Midlands) Ltd

Proposed amendment to the Section 106 Agreement

INTRODUCTION

This report relates to planning permission W/17/2371, the decision for which has not yet been issued but which was previously presented to Members of the Planning Committee on September 11th 2018. The recommendation to committee was to grant 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.

This report is being brought forward as an urgent item with the agreement of the Chair in order to prevent any delay in finalising the Section 106 Agreement which is very close to completion.

RECOMMENDATION

That Committee approve the proposed additions to the content of the Section 106 Agreement.

RELEVANT POLICIES

- National Planning Policy Framework
- DM1

ASSESSMENT

Background

The planning application relates to a single application spanning two allocated sites (H25 and H26) in the Local Plan, on which Members of the Planning Committee have already resolved to grant planning permission. The full planning application for 120 dwellings was presented to Planning Committee last year.

The recommendation to grant the full planning application was subject to a number of conditions and the completion of a S.106 Agreement which sought to secure a number of financial contributions and other obligations from the developer.

Since the committee's resolution to grant permission, ongoing negotiations to agree the terms of the S.106 have resulted in the final decision not yet being issued.

During these negotiations, it has been identified that a contribution relating to bus stop replacement/improvement was not referenced within the Committee Report or the committee addendum. In addition to this, one of the requested contributions (Doctors Surgeries) is identified for Cubbington in the current Community Infrastructure Levy (CIL) Regulation 123 list. It would, therefore not be appropriate to secure payment of this through a Section 106 agreement.

Finally, it has also been identified that an additional obligation relating to the implementation and adoption of open space was not referenced in the original report to planning committee or the committee addendum and consequently was not in the first draft of the Agreement, on which Members based their resolution to grant permission.

Since this request forms a necessary part of the Agreement but did not form part of the previous committee report, the matter is now brought back before Members of the Planning Committee since there is no delegated authority to officers to include additional provisions in the terms of the Agreement.

Proposed variation / Additional obligation

Bus Stop Contribution

The proposed variation to the terms of the Agreement is the inclusion of one additional obligation on the developer, specifically, an additional financial contribution, requested by the County Infrastructure Team.

The request from the County Infrastructure Team is a financial contribution of £12,000 which is sought for improvements to existing bus stops to mitigate the additional impacts of the proposed development. The necessary justification has been provided to substantiate the amount requested, it is directly related to the development and the request is wholly related to the scale and kind of the application development.

The obligation is twofold. The proposal is potentially subject to the existing Bus Stop being moved as part of the Section 278 Highways works to create the new access to serve the site. If the bus stop is moved and replaced under the Section 278 works, the £12,000 contribution will fall away.

Should the access be deemed acceptable without the need to move the existing bus stop, the financial contribution would be required to provide the necessary improvements to upgrade the bus stops to take into account the potential increased use as a result of the development of 120 dwellings on the application site.

Doctors Surgeries Contribution

The contribution requested by the Clinical Commissioning Group of £120,960 was submitted prior to the latest Regulation 123 List being agreed. As the current Regulation 123 List does now include medical facilities in north Leamington (specifically Cubbington/Lillington) the CCG has confirmed that given that Cubbington Primary Care requirements is provided for through CIL no S106 monies can be obtained for their delivery.

This contribution request was in the report to Committee so for the avoidance of doubt, Members are requested to agree that this contribution should be omitted from the Section 106 Agreement.

Officers can confirm that the removal of the contribution has been formally agreed with the Warwickshire NHS Clinical Commissioning Group who advise on these contributions.

Open Space Adoption

The original report to Committee did not include reference the mechanism for the implementation and adoption of the Open Space within the development. This report seeks confirmation from Members to incorporate the standard clauses for open space adoption into the Section 106 Agreement. No changes are proposed to the open space areas and there is no financial implication to this change.

Conclusion

The test to be applied when deciding whether the revisions to the document are acceptable is whether the revisions are CIL compliant as proposed.

In this instance the change involves the addition of one financial contribution which is CIL compliant together with the omission of one financial contribution due to the requirement being covered satisfactorily by the CIL regulations.

The agreement of a standard clause regarding open space is not affected by the CIL regulations and is purely the mechanism to secure appropriate delivery of the open space areas of the development and their future management.

The proposed changes to the Section 106 Agreement accord with the CIL regulations and it is therefore considered that this test is satisfied.