

**Planning Committee:** 15 November 2022

**Item Number: 4**

**Application No:** [W/14/0681](#)

**Town/Parish Council:** Warwick  
**Case Officer:** Dan Charles

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**Registration Date:** N/A

**Expiry Date:** N/A

### **Land South of Gallows Hill/West of Europa Way, Warwick**

Residential development up to a maximum of 450 dwellings: Provision of two points of access (on from Europa Way and one from Gallows Hill); Comprehensive green infrastructure and open spaces including potential children's play space; Potential footpaths and cycleways; Foul and surface water drainage infrastructure, including attenuation pond; Ancillary infrastructure and ground modelling. (Outline application including details of access)

FOR Gallagher Estates Ltd

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

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This application is being referred to Planning Committee due to the applicant seeking a change to one of the trigger points within the Section 106 Agreement relating to the delivery of Public Open Space.

#### **RELEVANT POLICIES**

- National Planning Policy Framework

#### **INTRODUCTION**

This report relates to outline planning permission ref: W/14/0681 which was allowed on appeal, subject to the signing of a Section 106 Agreement on 14 January 2016.

Since the granting of the outline planning permission, the relevant reserved matters applications have also been approved and the site is currently under construction.

The applicants have confirmed that due to the size of the scheme and the building route that is being implemented, they foresee that they will not be able to provide the areas of Public Open Space (POS) in the north-eastern section of the site prior to 50% occupation of the dwellings as set out in the s.106 agreement. The scheme is being built out in 4 quarters and the POS in the north-east parcel will now be delivered later than originally anticipated.

There have been delays in the construction programme caused by the pandemic. Health and safety of the public has also been taken into consideration in terms of the construction of these POS areas in close proximity to dwellings.

The applicant has therefore requested that the trigger point be amended from 50% to 75% occupation to deliver the area of POS to the north-eastern quarter of the site only.

This report seeks agreement from Planning Committee to enter into and complete a Supplementary Deed to incorporate the requested change into the Section 106 Agreement.

### **ASSESSMENT**

The revisions would deliver the same overall quantum of open space across the site as originally approved, however the trigger point for the area of Public Open Space to the north-eastern quarter only would be increased to 75% occupation. The remaining areas of open space to be delivered would remain at the original trigger point of 50% occupation. Therefore, the site would still provide open space for future occupiers as originally required within the Section 106 Agreement.

The revised trigger point has been considered by the Green Space Development Officer who has raised no objection to the revised trigger point being agreed.

### **CONCLUSION**

The revisions are not affected by the CIL regulations.

There would be no difference to the overall level of open space to be delivered through the Section 106 Agreement and the site would still benefit from open space to the other areas of the site at the agreed trigger point.

The changes have the agreement of the relevant consultee and it is considered reasonable to recommend approval of the variation.

The associated Legal costs in providing the Deed of Variation would be met by the applicants so there is no cost to the Local Planning Authority.

### **RECOMMENDATION**

That Committee approve the addition to allow the required change to be incorporated through a Deed of Variation to the Section 106 Agreement.