

Planning Committee: 26 March 2019

Item Number: 6

Application No: W/18/1435

Town/Parish Council: Warwick

Case Officer: Dan Charles

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Land South of Gallows Hill, Warwick

Application for outline planning permission, with all matters reserved except access, for residential development of up to 180 dwellings, public open space, landscaping, access to Gallows Hill, sustainable urban drainage systems, footpaths/cycle ways and associated infrastructure.

FOR William Davis Limited & Hallam Land Management Limited

Proposed amendment to the Section 106 Agreement

INTRODUCTION

This report relates to planning permission W/18/1435, the decision for which has not yet been issued but which was previously presented to Members of the Planning Committee on October 9th 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 in order to prevent any delay in finalising the Section 106 Agreement which is due for completion on 29 March 2019.

RECOMMENDATION

That Committee approve the proposed amendments and 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 part of allocated site reference H46A in the Local Plan, on which Members of the Planning Committee have already resolved to grant planning permission.

The outline planning application for 180 dwellings was presented to Planning Committee last year.

The recommendation to grant the outline 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, a number of obligations and contributions remained under consideration and therefore were not fully identified within the Committee Report or the committee addendum.

This report seeks to address these measures fully and allow Members to confirm the agreement for these elements to be incorporated within the Section 106 Agreement.

The following items are for Committee to consider;

Contributions

- Strategic Highways Contribution.
- NHS Clinical Commissioning Group (Doctors Surgeries).
- South Warwickshire NHS Foundation Trust (Hospitals).
- Bus Stop Maintenance/Provision.
- Biodiversity Offsetting.

Other Obligations

- Adoption of Open Space.
- Affordable Housing Definitions.

Proposed variation / Additional obligation

Strategic Highways Contribution

At the time of writing the original committee report, the Strategic Highways Contribution was not known and did not come forward within the update sheet. This figure has now been provided as £6,000 per open market dwelling giving a total contribution request of £432,000.

This figure is still being assessed against the CIL criteria for its acceptability. Should there be found to be any conflict with CIL, the contribution will be amended accordingly.

Officers are therefore requesting that Members agree the amount of this contribution and delegate authority to the Head of Planning Services in conjunction with the Chair of Planning Committee to finalise the highways contribution subject to a capped contribution of £432,000.

NHS Clinical Commissioning Group (Doctors Surgeries)

The figure quoted in the Committee Report was £70,855. Following a review of the population assessment in line with the latest Strategic Housing Market Assessment (SHMA), the CCG confirmed that the figure was incorrect and based on the latest population figures should be £68,788. This figure has been confirmed by the CCG.

Officers are therefore requesting that Members agree the amount of this contribution to be included in the Section 106 agreement in lieu of the previous amount.

South Warwickshire NHS Foundation Trust (Hospitals)

At the time of writing the original committee report, the SWFT had not been received and was therefore not included within the report nor come forward within the update sheet. This figure has now been provided as £207,153.14p.

Officers are therefore requesting that Members agree the amount of this contribution to be included in the Section 106 agreement.

Bus Stop Contribution

The original request was for £30,000. Within the original request, there was no definition of whether the scheme was for 3 bus stop improvements or 3 pairs of bus stop improvement. Since this time, the applicants have been in discussions with the County Council with a proposal for £15,000 to deliver improvements to 3 bus stops adjacent to the site and not 3 pairs. The final figure has not yet been confirmed with the County Infrastructure Team.

Officers are therefore requesting that Members delegate authority to the Head of Planning Services in conjunction with the Chair of Planning Committee to finalise the figure subject to a capped contribution of £30,000.

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.

Bio-diversity Offsetting

This element was not included within the Committee Report or Update sheet but was subject to a request from the County Council Ecology Team to mitigate for the potential Bio-diversity loss on the site as a result of the development. This figure is a capped maximum of £324,116.

As the proposal is an outline application, the net impact on Bio-diversity is unknown but has been calculated on the maximum potential bio-diversity loss as a result of the proposal. It is proposed to incorporate a standard clause within the Section 106 that requires a fresh calculation at reserved matters stage when the detailed plans are finalised. At this point, the Bio-Diversity Offsetting calculation will be completed and if there is any loss, the developers will be

required to pay the appropriate offsetting fee subject to the capped figure set out above.

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.

Open Space Adoption

The original report to Committee did not include reference to 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.

Affordable Housing Definitions

This element seeks minor wording changes to the definitions for the affordable housing. It does not amend the amount of affordable housing which remains at 40% of the total housing (72 Units). The changes relates purely to the definitions within the Legal Agreement regarding technical elements only.

Officers are therefore requesting that Members delegate authority to the Head of Planning Services in conjunction with the Chair of Planning Committee to agree the final definitions within the affordable housing clause.

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 subject to a test of CIL compliance for the final figure and two CIL compliant requests.

The agreement of a standard clause regarding open space and revisions to the affordable housing definitions are not affected by the CIL regulations and are purely the mechanism to secure appropriate delivery of the open space areas and affordable housing for the development and the 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.

Officers therefore request where negotiations are still ongoing, that delegated authority is given to the Head of Service in conjunction with the Chair of Planning Committee to secure the appropriate contributions in order to finalise the Section 106 Agreement and issue the decision on the application.