

REPORT OF THE HEAD OF PLANNING AND REGENERATION – MRS JENNY CLIFFORD

**13/01616/MOUT – OUTLINE FOR THE DEVELOPMENT OF UP TO 330 DWELLINGS TOGETHER WITH PUBLIC OPEN SPACE, ASSOCIATED INFRASTRUCTURE AND OTHER WORKS INCLUDING VEHICULAR ACCESS, PEDESTRIAN/CYCLE LINKS AND HIGHWAY IMPROVEMENTS.**

**Cabinet Holder**                      Cllr Richard Chesterton  
**Responsible officer**              Jenny Clifford

**Reason for Report:** In light of ongoing negotiations over this application post Committee, to consider several proposed amendments to the draft S106 and planning conditions as a result.

**RECOMMENDATIONS:**

- 1. That subject to the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow 21.5% affordable housing together with a financial contribution towards affordable housing of £120,000 which will be delivered through a reduction in the cost of the land to the Council.**
- 2. That the agreed terms of the S106 be amended to discharge market housing developers from all affordable housing requirements upon the completion of the Council's land purchase of part of the site and the grant to the Council of reserved matters or full planning permission for the affordable housing.**
- 3. That subject to the agreement of recommendation 2 above and the Council remaining the affordable housing provider, the agreed terms of the S106 be amended to allow the open market housing to be constructed and occupied independently of the delivery of the affordable housing.**
- 4. The agreed terms of the S106 be amended to allow a contribution of £125,000 from the developer towards the re-alignment of the 12<sup>th</sup> hole at the Golf Club without the need for match funding being provided by Tiverton Golf Club.**

**Relationship to Corporate Plan:** To ensure the delivery of key plans for Mid Devon, including a thriving economy, better homes, empowering local communities and caring for the environment.

**Financial Implications:** Benefits in bringing forward development more quickly to meet the Council's 5 year land supply of housing sites, ensuring delivery of affordable housing and securing contributions towards Tiverton Golf Course.

**Legal Implications:** To ensure compliance with a committee resolution to avoid legal challenge.

**Risk Assessment:** The risks are set out in the main body of the report.

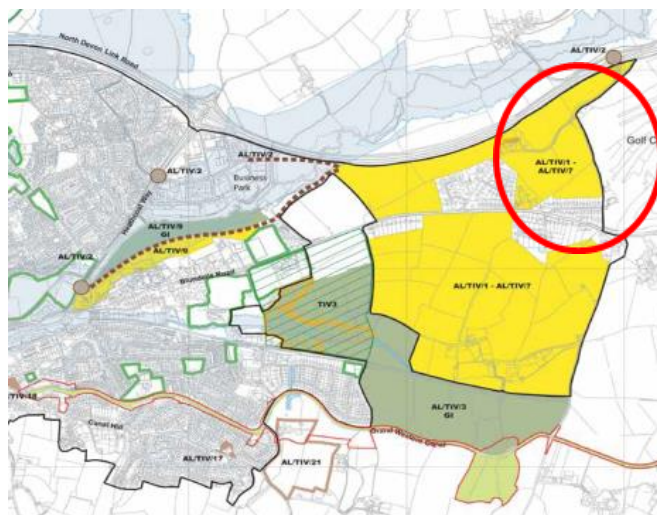
## 1.0 BACKGROUND.

1.1 This report relates to land on the Tiverton Easter Urban Extension (EUE). Policy AL/TIV/1 of the Allocations and Infrastructure Development Plan Document provides detail of this policy allocation:

- 1550 - 2000 dwellings, including a proportion of affordable housing.
- 95,000 - 130,000 sqm of employment floor space.
- Transport provision to ensure appropriate accessibility for all modes.
- Environmental protection and enhancement.
- Community facilities to meet local needs arising.
- Carbon reduction and air quality improvements.
- An agreed phasing strategy to bring forward development and infrastructure whilst retaining overall development viability.

Policy AL/TIV/7 of the AIDPD outlines the need for the master planning of the site leading to the adoption of a Supplementary Planning Document. The Tiverton EUE Masterplan SPD was adopted by the Council in April 2014.

1.2 This report relates to Application 13/01616/MOUT forming the north eastern part of the wider EUE site. The outline application was for the development of up to 330 dwellings together with public open space, associated infrastructure and other works including vehicular access, pedestrian/cycle links and highway improvements. The below plan shows the location of the site circled in red within the wider Tiverton EUE:



1.3 The application gained planning consent on 18<sup>th</sup> September 2015 with a signed S106 agreement to secure a range of clauses including those relating to affordable housing, highway works and financial contributions, as well as financial contributions towards education and community facilities.

1.4 The Housing Service of the Council proposes to acquire land on this site in order to be the affordable housing provider. Under this proposed arrangement the Council will deliver the whole of the affordable housing requirement of this permission, but this is dependent upon the completion of the land purchase and the granting of either reserved matters of a full planning permission for an affordable housing development. A draft contract with the landowner has been drawn up to purchase the land. This arrangement would mean that the market housebuilders on the remainder of the application site would not need to provide any affordable housing units. This arrangements for affordable housing trigger the need to change the existing S106 agreement.

1.5 Since the S106 for the planning application was entered into in September 2015, several amendments have now emerged as being required. They relate to the following elements:

- Percentage of affordable housing to be provided
- Timing for the delivery of market and affordable houses
- Delivery of the affordable housing
- Golf club contribution

## **2.0 PROPOSED AMENDMENTS TO S106 / CONDITIONS.**

### **2.1 Percentage of affordable housing.**

2.1.1 As signed, the S106 requires 22.5% of the dwellings to be affordable unless otherwise agreed in writing with the Council. This percentage would deliver 75 affordable housing units on site.

2.1.2 The area of land the Council is looking to acquire is now thought likely to only be able to accommodate approximately 70 houses due to a below ground water mains that needs to be avoided.

2.1.3 The change proposed within the S106 is to reduce the percentage of affordable housing from 22.5% to 21.5% together with a financial contribution towards affordable housing of £120,000 which would be delivered through a reduction in the cost of the land to the Council. The latter would form part of the contract to acquire the land. The Housing Service is satisfied with this approach. The reduction in the percentage of affordable housing is considered acceptable on the basis of the financial contribution in the form of a price reduction to the cost of the land to the Council as the intended affordable housing provider.

### **2.2 Market / Affordable Houses.**

2.2.1 As currently drawn up, the S106 requires:

- i) That development cannot start on site until an affordable housing scheme has been agreed by MDDC. This scheme would need to set out how the affordable units are to be provided including location, layout, tenure mix and details of the accommodation; and
- ii) That not more than 50% of the market dwellings can be occupied until all the affordable houses are constructed and ready for occupation and transferred to the affordable housing provider.

4.2.2 Point i) above requires a draft affordable housing scheme to be submitted for the Council to consider and the affordable housing requirement is currently enforceable against the whole site. With the Council's intended role as affordable housing provider for the whole development, it is proposed to amend the S106 so that the affordable housing requirements are no longer enforceable against the market dwelling providers.

4.2.3 Point ii) above links the timing of the market housing to the affordable. Since it is proposed that the land will be transferred to MDDC and the provision of all the affordable housing on the development site will be by the Council it is proposed that the clauses detailed above are deleted. This would mean that the provision of market houses would no longer be linked to the timing of the affordable dwellings. The provision of the affordable houses and their timing would remain within the Council's control due to the Council's acquisition of the land and intention to develop them. The Housing Service has no objection to the removal of the requirements set out in i) and ii) above as long as the Council is the affordable housing provider. If for any reason the Council does not complete the land purchase or gain planning permission for its affordable housing proposals, the affordable housing requirement will need to revert to the market developers. This safeguard will be retained. In planning terms, the proposed changes are considered acceptable only because the delivery of the affordable housing will be under the control of the Council

4.2.4 The change proposed within the S106 would discharge market housing developers from all affordable housing requirements upon the completion of the Council's land purchase and grant of planning permission for the affordable housing.

### **4.3 Golf Club contribution.**

4.3.1 The S106 agreement includes a clause securing the lesser of 50% of the cost to the golf club for re-aligning the 12<sup>th</sup> tee or £125,000 as a financial contribution towards the works. The Golf Club has advised that they have no funding available to put towards these works. The applicant has agreed to amend the S106 so that no funding towards these works is required from the

Golf Club. The £125,000 would come from the developer without any match funding from the Club. This will require a minor change to the S106 agreement. It is also to be amended to more accurately refer to the 12<sup>th</sup> hole rather than 12<sup>th</sup> tee.

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**List of Background Papers:** Cabinet 17<sup>th</sup> April 2014 (Masterplan SPD)  
**Application 14/00667/MFUL** Construction of a 'left in left out' (LILO) road junction.  
**Application 14/01168/MFUL** Construction of a full A361 road junction  
**Application 13/01606/MOUT** for up to 330 dwellings on land forming the north eastern part of the EUE. 18<sup>th</sup> September 2015.

Cabinet 7<sup>th</sup> April 2016 (Draft Design Guide)  
The adopted policies relating to the Tiverton Eastern Urban Extension may be viewed in the AIDPD at  
<https://new.middevon.gov.uk/residents/planning-policy/mid-devon-local-plan/part-2-aidpd/>

**Circulation of the Report:** Members of Planning Committee