

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

VARIATION OF S106 AGREEMENT: 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 IMPROVEMENT, LAND AT NGR 298671 113603, UPLOWMAN ROAD, TIVERTON

Cabinet Member
Responsible Officer

Cllr Richard Chesterton
Mrs Jenny Clifford, Head of Planning and Regeneration

Reason for Report: To consider proposed changes to the S106 agreement entered into in relation to this planning permission.

RECOMMENDATION:

That the timing of payments of the financial contributions and delivery of the Gypsy and Traveller pitches within the S106 be amended in accordance with the changes requested.

Relationship to Corporate Plan: The Corporate Plan 2016-2020 establishes priorities around the delivery of economic growth including housing provision, business development and planning for and enhancing the built environment. The Tiverton Eastern Urban Extension is a strategic mixed use land allocation within the adopted Local Plan, the delivery of which is vital to realising the Council's spatial strategy. This planning permission related to up to 330 dwellings on the north eastern part of the site.

Financial Implications: The proposed changes to the S106 affect the timing (not amount) of some of the financial contributions secured through the S106 agreement.

Legal Implications: Any agreed changes to the S106 will result in the signing of a supplemental agreement.

Risk Assessment: The implications of making changes to the S106 agreement must be considered in assessing whether they are acceptable or not. Such implications might be on the prospect of development and associated infrastructure or mitigation measures coming forward and their timing in relation to the overall development. Additionally it must also be considered whether any S106 clauses are currently frustrating progress in the delivery of development on the site

1.0 BACKGROUND.

- 1.1 Outline planning permission for up to 330 houses was granted on 18th September 2015 under the reference number 13/01616/MOUT following a resolution at a meeting of Planning Committee.
- 1.2 Since the grant of planning permission, discussions have been ongoing with the applicant over the delivery of dwellings on this site together with preparatory works

for the submission of reserved matters. A future reserved matters application is not expected to be submitted by the outline applicant, but rather by a developer, early in December 2017.

- 1.3 Members at Planning Committee on 29th March 2017 approved amendments to the timing of payments of the financial contributions. The contributions and triggers as approved at Planning Committee 29th March 2017 are set out in the table attached as **Appendix 1** of this report and form the basis for a Deed of Variation to the signed S106 of 18th September 2015. Subsequent to the March Planning Committee, a request was made by MDDC officers to the applicant for further amendments to the timing of payments. These were confirmed by the applicant on the 13th October 2017.

2.0 PROPOSED AMENDMENTS TO THE S106 AGREEMENT.

2.1 TIMING OF S106 FINANCIAL CONTRIBUTIONS.

- 2.2 The Deed of Variation (as drafted) details when financial contributions will be paid. Many of the financial contributions have two trigger points. Those with two trigger points include community facilities, cycle / footway enhancement, education land contribution, primary education, public transport enhancement and secondary education. It is on the 225th dwelling that the second financial contribution is required for payment. The second trigger point contributions total £1,557,460. Should a developer seek to avoid paying the contributions at the second trigger point, they would seek to build only 224 dwellings.

- 2.3 The payment amounts to be secured via the amended S106 agreement have not changed, however the timing of the payments are proposed to be amended. This is in part to shifting the timing of housing in relation to traveller pitch provision such that it does not prejudice the payment of the financial contributions at the second trigger point.

- 2.4 The proposed changes to the trigger points are detailed in **Appendix 2**. However, in summary:

- the pre commencement triggers remain the same;
- the first financial contribution will now be paid on or before the 125th dwelling (as opposed to the 150th dwelling),
- the second trigger on the 200th dwelling (as opposed to the 225th dwelling); and
- traveller pitch provision will be made prior to the 300th dwelling (as opposed to the 260th dwelling).

- 2.5 The changes proposed would mean that the first phase of financial contributions to mitigate the impact of the development will be made to MDDC and DCC earlier than provided for in the draft Deed of Variation. DCC is satisfied with the revised timing of financial contributions relating to any of interest to it: highways / transport and education. Appendix 2 indicates that as proposed, £3.97m of financial contributions would be made prior to 125th dwelling with the balance of £1.56m being made prior to 200th dwelling.

2.6 GYPSY AND TRAVELLER PITCH PROVISION.

- 2.7 Three pitches are proposed as part of this application and are indicated within the adopted masterplan supplementary planning document near the north-eastern corner of the site to the north of Uplowman Road. This area of the site was always expected to be in the last phases of development that will be reached by services and roads. No changes are proposed to the provision of the pitches in that location.
- 2.8 The existing S106 agreement in connection with this application requires the provision of three traveller pitches and that (by means of the draft Deed of Variation) not more than 260 dwellings on the site can be occupied until the traveller pitches have been constructed and are ready for occupation in accordance with a traveller pitch scheme. Note: reference to traveller pitches includes gypsy and traveller. This variation will see 300 dwellings being occupied prior to provision, as an amendment to the 260 originally agreed.

Contact for any more information

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Background Papers

Planning Committee 6th July 2016
Planning Committee 29th March 2017
Planning Committee 8th June 2017

File Reference

13/01616/MOUT

Circulation of the Report

Members of the Planning Committee