

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM: 6</b>
<b>DATE OF MEETING:</b>	<b>9<sup>th</sup> FEBRUARY 2021</b>	<b>CATEGORY: Delegated</b>
<b>REPORT FROM:</b>	<b>HEAD OF PLANNING AND STRATEGIC HOUSING</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>RICHARD STEWART 01283 595730</b> <a href="mailto:richard.stewart@southderbyshire.gov.uk">richard.stewart@southderbyshire.gov.uk</a>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>AMENDMENT TO SECTION 106 AGREEMENT RELATING TO LAND AT COURT STREET, WOODVILLE</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>SWADLINCOTE AND WOODVILLE</b>	<b>TERMS OF REFERENCE: DC0221</b>

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## **1.0 Introduction / Background**

- 1.1 A report was considered by members in November 2019 (Attached at Appendix 1) that related to the viability of the development for 72 affordable dwellings off Court Street, Woodville. Members resolved to accept the findings of the District Valuer and a significantly reduced contribution of £27,500. It was agreed that this contribution would be allocated towards the delivery of the Swadlincote Regeneration Route.
- 1.2 This report follows the receipt of a planning application on part of the same site for an additional 4 shared ownership dwellings (DMPA/2019/1415). Given the history of viability on the site and that this smaller development is within the same site considered previously, has been the subject of an additional viability exercise also interrogated by the District Valuer. The report identifies that the additional development on the site would be able to afford a contribution of £26,000.

## **2.0 Recommendations**

- 2.1 The Committee endorses the amendment to the agreement to include an additional financial contribution of £26,000 as a result of the additional 4 dwellings proposed. In light of the initial sum being allocated towards the delivery of the Swadlincote Regeneration Route, it is recommended that the sum be allocated towards the adjacent Council owned and managed Swadlincote Woodlands.
- 2.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the Deed of Variation.

## **3.0 Purpose of Report**

- 3.1 This report follows the receipt and consultation on an application for additional dwellings on a site that has previously been the subject of viability, and that an additional financial contribution is being secured and as such a Deed of Variation to the original agreement is required.

## **4.0 Discussion**

- 4.1 The application for additional dwellings on the site results in a profit over and above that considered by the previous viability assessment. It is therefore appropriate to consider the viability of this additional scheme and whether any additional S106 contributions are viable. This assessment includes consideration of the additional profit from these dwellings (taking in to account the known costs of developing the remainder of the site).
- 4.2 Whilst the additional dwellings would not recoup close to the contributions lost as a result of the overall viability of the site an additional contribution of £26,000 is considered viable. The assessment undertaken by the District Valuer notes in his appraisal that this additional contribution would have been higher save for the additional drainage easement of £110,541 required on the site.
- 4.3 Given the loss of all but £27,500 in terms of financial contributions from the original scheme which was agreed by this Committee to be allocated towards the Swadlincote Regeneration Route (Highway Contribution), consideration needs to be given to the allocation of these additional funds. The originally required contributions are set out in the report at Appendix 1.
- 4.4 The option remains for the contribution to 'make up' the shortfall of the original Highway Contribution (an additional £13,975.36) with the remainder apportioned to Built Facilities, Outdoor Sports, Education or Healthcare. However, given the location of the site directly adjacent to Swadlincote Woodlands, utilising the additional contribution towards the provision of improved play or sports facilities and on-site infrastructure is considered to be the most appropriate allocation of funds in this instance resulting in tangible benefits for both proposed and existing residents of the locality.

## **5.0 Financial Implications**

- 5.1 The endorsement of the above recommendation would ensure that Corporate projects relating to sport and recreation and affordable housing delivery would be supported.
- 5.2 The Council's legal fees associated with this DoV would be covered by the developer.

## **6.0 Corporate Implications**

- 6.1 Approval of the recommendation set out above would support the delivery of additional dwellings in a sustainable location.
- 6.2 The proposal would contribute towards the key aims of the Corporate Plan including the measure to enable the delivery of housing across all tenures to meet Local Plan targets. Furthermore, it would ensure the improvement of infrastructure to meet the demands of growth, again in line with a Corporate Plan measure.

## **7.0 Community Implications**

- 7.1 The principle of development has been established through approval of the outline and reserved matters applications and the required public consultation has been undertaken. Delivery of the scheme would contribute positively towards the social dimension of sustainable development through the provision of market housing, and more specifically would help address an identified local need in regard to the provision of affordable housing.
- 7.2 By securing the financial obligations set out, the communities created and impacted upon would be able to access suitable education and recreation facilities.

## **8.0 Conclusions**

- 8.1 The additional financial contribution resulting from the additional 4 dwellings on the site will go some way to addressing the previous shortfall. Allocation of the funds to existing areas of public open spaces near to site will result in a tangible benefit for both new residents of the site and existing residents in the vicinity.

## **9.0 Background Information**

- a. Appendix 1 – Previous Committee Report
- b. Existing section 106 Agreement:  
<https://planning.southderbyshire.gov.uk/ApplicationDetail.aspx?Ref=9/2016/0288>

## Appendix 1

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REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM:
DATE OF MEETING:	5 NOVEMBER 2019	CATEGORY: DELEGATED
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	RICHARD STEWART 01283 595730 ( <a href="mailto:richard.stewart@southderbyshire.gov.uk">richard.stewart@southderbyshire.gov.uk</a> )	DOC:
SUBJECT:	AMENDMENT TO SECTION 106 AGREEMENT RELATING TO LANDAT COURT STREET, WOODVILLE	REF:
WARD(S) AFFECTED:	SWADLINCOTE AND WOODVILLE	TERMS OF REFERENCE: DC01

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### 1.0 Introduction

- 1.1 Members will recall deferring this matter at the Committee meeting on the 6 August 2019. The matter was deferred in order to seek advice from the Highway Authority as to what the £27,000 highways contribution would be spent on, and whether there are improvements that could be provided within the 'Granville Island'

### 2.0 Recommendations

- 2.1 The Committee endorses the amendment to the agreement to accept a financial contribution of £27,500 in lieu of the previously required financial contributions totaling £340,511.60 towards education, healthcare, built facilities, open space, outdoor sports, highways (Swadlincote Regeneration Route), and a Traffic Regulation Order. It is recommended that the sum be allocated towards the delivery of the Swadlincote Regeneration Route.

### 3.0 Purpose of Report

- 3.1 An application has been received from the land owner of this site to review the Section 106 agreement under Section 106A of the 1990 Act. This report considers the reasons why the application has been submitted and a recommendation is proposed.

### 4.0 Executive Summary

- 4.1 The submitted amendment to the Section 106 agreement for the site shows that the site is being developed as a 100% affordable housing scheme and a design and build contract for the site has been agreed for the site (which is currently under construction) and includes grant funding from Homes England. The application and supporting viability assessment concludes that the costs of the Section 106 agreement

could not be met though the development of the site as a 100% affordable scheme. Whilst the viability assessment submitted indicates that no form of financial contribution would be viable, following an independent assessment of the detail of the scheme and its costs by the District Valuer a financial contribution of £27,500 had been proposed which in accordance with the advice of the District Valuer merits serious consideration and is recommended for acceptance.

## **5.0 Detail**

- 5.1 Members will recall that the site was granted outline planning permission at this Committee in December 2016 for 72 dwellings. The originally considered scheme was proposed as a local plan complaint market housing led scheme.
- 5.2 A viability assessment has been submitted by the land owner which has been considered by the District Valuer who has come to the conclusion that a scheme for the development of the site for 100% affordable housing would not be viable based on the design and build contract agreed at the site but that a contribution of £55,704 would be viable based on the use of BCIS build costs. However, it cannot be ignored that a design and build contract has been agreed on the site and development has commenced. In discussions undertaken following the submission of the viability assessment an offer of £27,500 has been made by the applicant as a compromise against the above figure. The advice of the District Valuer is that serious consideration be given to accepting the proposed contribution.
- 5.3 The original agreement contained 6 schedules, 4 of which required the undertaking of works, the payment of financial contributions or the provision of infrastructure. For clarity each of the relevant schedules and the proposals put forward by the applicant for their amendment are set out below:
- 5.4 Second Schedule (Open Space); Part 1 - The provision of (or financial equivalent) of an off-site LEAP on land within the ownership of the Council (to the south of the site). Part 2 - Provision of on-site open space (including an option for transfer of the land to the Council or managed and maintained by a management company). Part 3 – Construction of the off-site LEAP. Part 4 – Payment of the off-site LEAP contribution. Part 5 – Off-site open space financial contribution if the quantum of open space provided on site is inadequate. The proposal is for the full quantum of open space to be provided on-site, and offered to the Council for adoption with a commuted sum to be provided for the sites maintenance, no provision or financial contribution is proposed for the delivery of the off-site LEAP.
- 5.5 Third Schedule (National Forest Planting); Part 1 – Approval of on-site planting. Part 2 – Provision and management of on-site planting. Part 3 – Payment of a financial contribution should the on-site provision not meet the national forest planting requirement. The applicant proposes to meet the requirements of this schedule in full.
- 5.6 Fourth Schedule (Financial Contributions); Built Facilities Contribution - £21,121.60. Outdoor Sports Facilities Contribution - £37,840. Education Contribution – Infant and Junior £159,586.14. Healthcare Contribution - £27,388.80. Highway Contribution - £41,475.36. TRO Contribution - £15,000. The proposed amendment would see a contribution of £27,500 paid for the Council to determine the most appropriate location for the contribution.
- 5.7 Fifth Schedule (Drainage Matters); The provision, management and maintenance of on-site SUDS, with options for maintenance by a management company or transfer to the Council and as required the payment of a maintenance sum. This schedule of the agreement is to remain unchanged.

- 5.8 The main changes to the agreement therefore relate to the required financial contributions. Consideration therefore needs to be given to the allocation of the contribution deemed financially viable. In infrastructure terms, one of the key considerations as to the acceptability of the site for residential development was its impact on the highway network i.e. the Clock Island – and the need for the development to contribute towards the delivery of the Swadlincote Regeneration Route. To this end it is considered appropriate for the financial contribution to be allocated towards the delivery of the Swadlincote Regeneration Route or improvement works to mitigate traffic congestion at Tollgate Island.
- 5.9 At the request of Members the Highway Authority has considered what improvements could be made in the vicinity of the site in order to improve the highway network. The conclusion to these investigative works has concluded that there is little that could be done and that the contribution should go towards the Swadlincote Regeneration Route – the justification being that a contribution towards the delivery of the new road would alleviate some of the congestion on the A514 & A 511 which would, to an extent, mitigate the impact of the traffic generated by the new dwellings.

## **6.0 Financial Implications**

- 6.1 The amended agreement would result in the maintenance of schedules 3 and 5 without alteration, the removal of the requirement to deliver an off-site LEAP from Schedule 2, and a substantial alteration to the financial contributions required by Schedule 4.

## **7.0 Employee Implications**

- 7.1 None.

## **8.0 Corporate Implications**

- 8.1 The scheme would contribute towards facilitating and delivering a range of integrated and sustainable housing and community infrastructure.

## **9.0 Community Impact**

- 9.1 **Consultation:** As carried out in the course of the planning application, and directly with the Highway Authority following deferral of this decision.
- 9.2 **Equality and Diversity Impact:** The delivery of affordable housing will assist in achieving greater equality.
- 9.3 **Social Value Impact:** The overall development would assist in access to affordable homes.
- 9.4 **Environmental Sustainability:** Mitigation of the impact of the development will contribute toward the achievement of environmental objectives.

## **10.0 Conclusions**

- 10.1 As members will be aware the development of sites for the provision of 100% affordable dwellings rarely provide sufficient 'headroom' in development finance terms to provide the financial contributions that a predominantly market dwelling scheme would see. Particularly as much of the funding for the development of the site is based on Homes England grant funding.

- 10.2 There are a number of strategic sites around the District which are unable to deliver the local plan requirement of 30% affordable housing, and sites such as this which are delivering 72 affordable dwellings are necessary in order to help make up 'the balance' and help deliver the affordable homes the District needs. Whilst the full social and environmental needs and impacts of the development might not be fully mitigated this is not considered to make the development unsustainable in principle. Given the above and the significant benefits associated with delivering such a quantum of affordable dwellings the amendments to the agreement are recommended for approval including allocation of the monies to the Swadlincote Regeneration Route.