

<b>REPORT TO:</b>	<b>Planning Committee</b>	<b>AGENDA ITEM: 6</b>
<b>DATE OF MEETING:</b>	<b>4<sup>th</sup> February 2020</b>	<b>CATEGORY: Delegated</b>
<b>REPORT FROM:</b>	<b>Strategic Director Service Delivery</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Chris Nash ext. 5926 <a href="mailto:chris.nash@southderbyshire.gov.uk">chris.nash@southderbyshire.gov.uk</a></b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>SECTION 106 PLANNING OBLIGATIONS FOR BOULTON MOOR PHASE 2 (BM2)</b>	<b>REF: 9/2016/0166</b>
<b>WARD(S) AFFECTED:</b>	<b>Aston</b>	<b>TERMS OF REFERENCE:</b>

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## **1.0 Recommendations**

1.1 That the Committee agree the planning obligations set out in this report, delegating authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured by way of a Section 106 (s106) agreement.

## **2.0 Purpose of Report**

2.1 To consider and agree the broad detail of planning obligations.

## **3.0 Detail**

- 3.1 A planning application for the erection of up to 550 dwellings along with primary school, open space, drainage facilities and infrastructure was presented to Committee on 26 November 2019 where it was resolved to grant permission, subject to conditions and s106 agreement, but only after a further report to agree the planning obligations which would be secured under the agreement.
- 3.2 The main concerns raised by the Committee focussed on the request, at the meeting, to move the bus service obligation to a condition. This is discussed below, but in the interests of clarity and to ensure the Committee are fully appraised of the intended overall 'package', the report covers all the obligations to be secured.
- 3.3 As the application is in outline for up to 550 dwellings, it is not possible to provide exact figures at this point in time, as the calculations will depend on the number of dwellings provided, the number of bedrooms and, in terms of open space, the precise level of on-site provision. For the purposes of this report and so to illustrate estimates of contributions, where necessary, the following housing mix, reflecting the most recently approved phase on Boulton Moor Phase 1 (BM1), is applied:

1-bed	2-bed	3-bed	4+ bed
16 dwellings	151 dwellings	281 dwellings	102 dwellings

## **4.0 Planning Assessment**

### Education

- 4.1 The County Education Authority has indicated that the site would be served, at primary level, by the school to be constructed upon it. This is presently funded in so far as a one-form entry by BM1. It is requested that BM2 makes a proportionate contribution to allow the school to be extended to a two-form entry. Based on 550 dwellings, a total of £1,849,346.40 is required. This would be provided as payments upon commencement of each phase, proportionate to the number of dwellings in that phase.
- 4.2 As for secondary school provision, Noel-Baker School in the City is projected to be unable to accommodate children from BM2. Based on 550 dwellings, a sum of £3,009,272.86 is requested, to be put towards the provision of 83 secondary places and 33 post-16 places at the new South Derbyshire secondary school, off Infinity Park Way at Chellaston. This would be provided as payments upon commencement of each phase, proportionate to the number of dwellings in that phase.

### Healthcare

- 4.3 The CCG are presently working towards a southern Derby strategy for healthcare provision which makes it difficult for them to commit extensive funds from s106 to a particular site or project at this time. There is no doubt, however, that the development would have an unacceptable impact on nearby practices without mitigation being secured.
- 4.4 The CCG has a multiplier of £480.00 per dwelling, resulting in a total of £264,000.00 being required, based on 550 dwellings. This would be provided as payments upon commencement of each phase, proportionate to the number of dwellings in that phase.

### Built facilities

- 4.5 It was reported in November that built facilities contribution of £122.80 per bedroom would be directed towards the construction of the new swimming pool complex at Moorways in the city. As an approximate calculation using the indicative housing mix at §3.3 above, this results in a sum of £192,673.20, with this paid upon commencement of each phase, proportionate to the number of dwellings in that phase.

### Outdoor sports facilities

- 4.6 Again, the site would function as an urban extension to the city. BM1 is to provide some outdoor sports provision, but BM2 would increase demand over and above that provision. The contribution of £220.00 per bedroom would be put towards improvements to the cricket pavilion at Elvaston Cricket Club as well as either improvement to the outdoor sports provision at Chellaston Park or a shared facility at the new secondary school at Infinity Park Way.

- 4.7 Using the indicative housing mix at §3.3 above, this results in a sum of £345,180.00, with this paid upon commencement of each phase, proportionate to the number of dwellings in that phase. Provision would be made within the agreement to allocate a proportionate 'sub' split of the total amount as these projects progress towards the detailed stage, with it likely that timescales for delivery such projects mean one may receive funding over the other earlier on during the construction phase.

#### Open space provision

- 4.8 As noted in the November report, the Council's s106 guidance sets out the need for 25.4 sqm of public open space (POS) per bedroom created. Using the indicative housing mix, this equates to around 3.99 hectares. This would not include land which is fettered or not publicly accessible (i.e. swales and ponds, or 'closed off' landscaping buffers). The s106 would also require at least 2 Locally Equipped Areas for Play (LEAPs), applying the 400m walkability standard in the Design SPD, and a NEAP with Multi Use Games Area (MUGA) to meet the 800-1000m standards. Local Areas for Play (LAPs) should also be provided in addition.
- 4.9 The POS, LAPs, LEAPs and NEAP provision will however need to be considered in the context of what is proposed on Snelsmoor Grange (site to the west in the city) and BM1. A mechanism is therefore to be included to ensure that any shortfall in POS would be chargeable at a rate of £373 for each 25.4 sqm the on-site provision is deficient, with these sums directed towards improvements at Elvaston Country Park. As an approximate calculation using the indicative housing mix at §3.3 above and if the on-site provision were deficient by 15%, this results in a contribution of £87,785.55.

#### Bus service

- 4.10 BM1 is to be served by a bus service operating at frequent intervals. This service is to be extended through the BM2 and Snelsmoor Grange (SG) sites to offer sustainable modes of transport to the residents and public at large. Presently, the BM1 service is to be delivered by way of financial contributions to the City Council, who is then charged with securing an operator. A perpetuation of this process is considered less than ideal for all parties concerned as it could lead to delay in facilitating the service through BM2 and beyond. As indicated verbally at the November meeting, it is now proposed to require the developer to deliver the service through directly engaging the service provider under a Service Level Agreement. Thus, the proposed additional condition to those listed in the November report would read:

*31. Prior to the occupation of the 100th dwelling on the site, the developer shall enter into a minimum Service Level Agreement (SLA) with an operator to deliver a bus frequency of at least two buses per hour Monday to Saturday (6am-7pm) and an hourly off-peak service (Monday-Saturday 6pm-11pm and Sunday 9am-11pm). This SLA shall be submitted to and approved in writing by the Local Planning Authority and include a route map of the service to be provided, the length of the SLA and the maximum value of the bus service. The service, as set out in the approved SLA, shall be in operation prior to the occupation of the 250th dwelling and shall provide a service for all dwellings with a maximum 400 metre footway walk distance. Prior to the occupation of the 600th dwelling on the site or the 1000th dwelling across the BM2 and SG developments combined, whichever is the earliest, the frequency of the service shall be increased to three buses per hour on-peak, unless patronage assessments directly provided by the*

*bus operator to both the Local Planning Authority and Derby City Planning Authority, show that an increased frequency would not be viable and that this is subsequently agreed in writing by the Local Planning Authority. The service shall provide for all dwellings within a maximum 400 metre footway walk distance.*

- 4.11 Accordingly, it is not proposed to use a planning obligation to secure the service, with this approach aligning with the NPPF in that conditions should be used in preference to obligations where possible.

#### Affordable housing

- 4.12 As set out in the November report, the level of on-site provision in BM1 to date against the general needs arising in part of the District mean that 100% on-site provision is not presently ideal. A 50:50 split between on-site provision and a financial contribution is sought to enable delivery of affordable housing elsewhere within the administrative area of the Council.
- 4.13 The on-site provision would be informed by the Strategic Housing Market Assessment through application of policy H21 of the Local Plan at the reserved matters stage. However, as with BM1, flexibility would be applied to allow some phases to deliver a higher or lower proportion of affordable housing in that phase, as well as variance in the mix, subject to the overall provision across the site meeting the required need (i.e. 15% overall provision with 40% shared ownership (consisting of an equal split of two and three bedroomed houses) and 60% affordable/social rent (comprising 10% one-bed houses, 40% two-bed houses, 6% two-bed wheelchair accessible bungalows including level access shower, 36% three-bed houses and 8% four-bed houses). The usual restrictions on clustering of affordable houses (no more than 10 houses or 6 flats) would apply, in accordance with the Affordable Housing SPD. Homes should also meet the Nationally Prescribed Space Standards.
- 4.14 The off-site contribution would be calculated at the time of submission of the reserved matters, noting that calculating the contribution based on current market and affordable values and build costs would fail to account for market conditions which might prevail at the time the phase progresses (i.e. this could be up to 7 years after the date the agreement is signed). Such a calculation would be made with reference to the District Valuer, following the same methodology recently deployed on sites elsewhere in the District.
- 4.15 For example, if an indicative market value of £210 per sq ft is applied, alongside an average size of 950 sq ft per dwelling and build costs of £139 per sq ft (inclusive of 15% allowance for externals), a contribution of £55,560.75 per dwelling is achieved. At 15% of 550 dwellings, this would secure a contribution of circa £4.5m across the site as a whole. Members should be conscious these are not absolute figures which would be enshrined in the s106 – instead the formula leading to this contribution would be included.
- 4.16 It is intended that the contribution have a ten-year period for allocation/spend and be paid in three tranches per phase; first payment at 50% occupancy, second at 75% occupancy and the final at 85%.
- 4.17 Further provision is intended, as with existing s106 agreements, to allow a financial cascade in case a registered provider (RP) cannot be secured and that the provider is a not-for-profit organisation, or the Council. An Affordable Housing Statement and

Affordable Housing Scheme would be required for approval in writing prior to commencement of each relevant phase.

### Monitoring fees

- 4.18 In line with the amended CIL Regulations, it is intended to include a monitoring fee given the site would require frequent monitoring from the commencement of development through to its completion. This would span a number of years, requiring monitoring of build rates on site and triggering of thresholds in the s106 agreement, as well as the associated administration and communication with interested parties. Following benchmarking of the costs associated, it is intended this be set at £7,500.
- 4.19 The County Council also required a monitoring fee related to the Travel Plan. This would require monitoring over a 5-year period. The amount to be required is £5,000 with this paid upon the commencement of the development.

### Other matters

- 4.20 As noted in the November report, the off-site highway improvements would be secured by condition, as would the provision of adequate sustainable drainage systems (SuDS) on the site itself. The wording of these conditions, at the time of writing, is yet to be finalised through agreement delegated to the chair of the Planning Committee and Head of Planning and Strategic Housing. However, the draft drainage condition is proposed to capture all management requirements of the SuDS meaning the s106 only need address the arrangements for the transfer of the SuDS to the Council or statutory body, or to a management company:

*13. No construction of a building or hard surface, setting of site levels or installation of drainage services/utilities within a phase or sub-phase shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of the phase or sub-phase, in accordance with Defra non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the phase or sub-phase, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties. The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as details of any management company, responsible person(s), the mechanism of funding of the management company (including the details of any proposed service charge payable by the owners of the dwellings, justification for any amount proposed and the mechanism for calculating future increases in the service charge) so that the management company will be capable of carrying out the inspection, management and maintenance of the retained surface water drainage features. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system within that phase or sub-phase or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.*

- 4.21 The clawback periods for the obligations would generally be set at 5 years from the receipt of payment of the balance of the overall sum due for that obligation. There

would be exceptions to this for affordable housing and the built facilities sums where the projects are likely to require further time to acquire match funding, etc.

## **5.0 Conclusions**

- 5.1 The obligations set out above are proposed so to ensure the impacts of the development are appropriately mitigated where conditions cannot serve the same function. The obligations also secure benefits of the development as advanced as part of the application, such as affordable housing provision.
- 5.2 Whilst a draft s106 agreement is under preparation, further negotiations will be required to agree the final wording relating to each of the above matters. However, considerable work has already taken place such that the above discussion broadly summarises the obligations which would be secured.

## **6.0 Financial Implications**

- 6.1 The endorsement of the above recommendation would ensure that Corporate projects relating to sport and recreation, and affordable housing delivery, would be supported. It would also support the City and County authorities in their statutory duties.
- 6.2 The securing of a s106 agreement brings about a need for monitoring its provisions. The CIL Regulations support the imposition of a monitoring fee to fund such monitoring, with this fee set out in the report above.

## **7.0 Corporate Implications**

- 7.1 Approval of the recommendation set out above would: support the delivery of the planned housing allocation made within the Local Plan Part 1 (LP1) in a timely manner and in a co-ordinated approach with Derby City Council and Derbyshire County Council; contributing towards the key aims of the Corporate Plan of improving the environment across the District and enhancing its attractiveness, tackling climate change, and supporting economic growth and infrastructure.

## **8.0 Community Implications**

- 8.1 The principle of development has been established under both allocation in the Local Plan Part 1 and the planning application linked to the s106 agreement discussed above. Both have been consulted on several times and were considered through either a public examination process or by the Planning Committee in November 2019.
- 8.2 By securing the obligations set out, the communities created and impacted upon would be able to access suitable education, healthcare and recreation facilities, as well as access affordable housing.

## **9.0 Background Information**

- a. Report of the Strategic Director (Service Delivery) (November 2019)
- b. Section 106 – A Guide for Developers (2010)

