
REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 5
DATE OF MEETING:	19th MARCH 2019	CATEGORY: DELEGATED
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	TONY SYLVESTER PLANNING SERVICES MANAGER	DOC:
SUBJECT:	APPLICATION FOR AMENDMENT TO SECTION 106 AGREEMENT AT CHURCH ST CHURCH GRESLEY	REF:
WARD(S) AFFECTED:	CHURCH GRESLEY	TERMS OF REFERENCE: DC01

1.0 Recommendations

1.1 The Committee endorses the amendment to the agreement to accept £500,000 in lieu of the 15% on-site affordable housing and previously required (for the purchase of affordable housing units elsewhere in Church Gresley), £2,398,100 towards education, recreation and adoption of sustainable urban drainage on the site (see 4.1 below), and the acquisition and transfer to the adjacent primary school of adjacent land. It is recommended that the sums be expended as local to the site as possible.

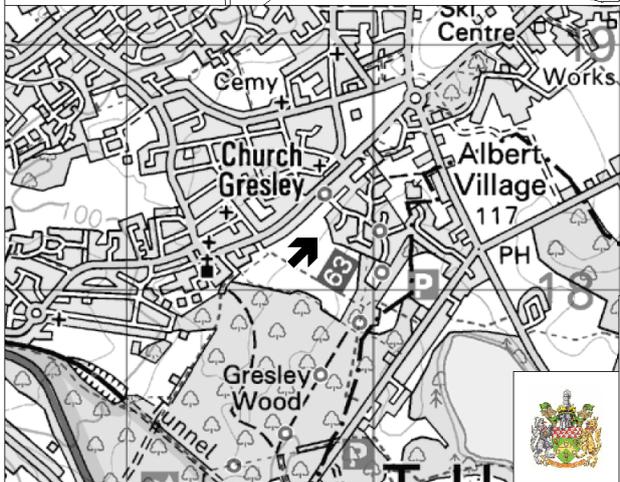
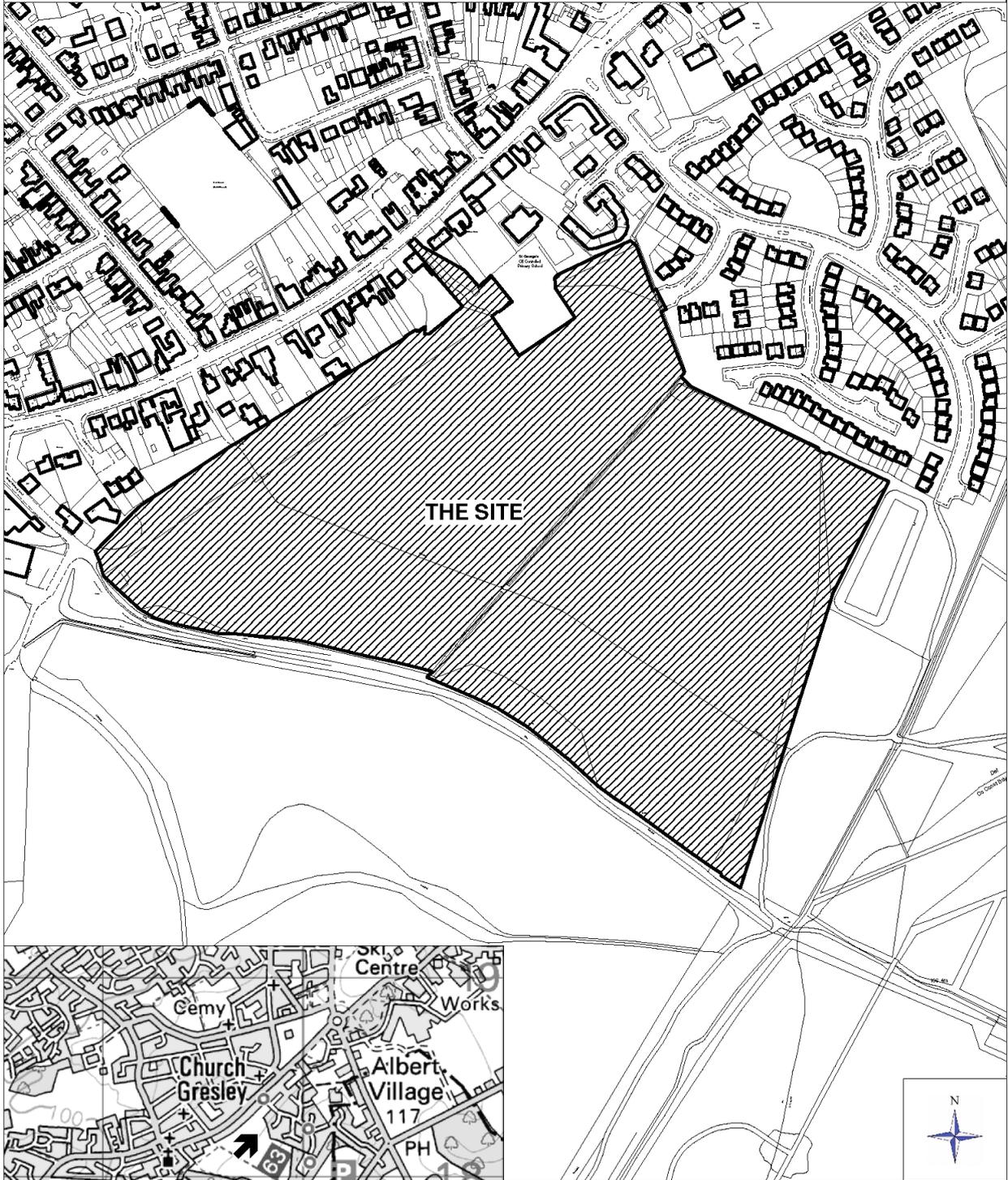
2.0 Purpose of Report

2.1 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.

3.0 Executive Summary

3.1 The submitted amendment to the Section 106 agreement for the site shows that following further site investigation, the cost of remediating this former clay pit had previously been underestimated such that the costs of the Section 106 agreement could not be met in full from the values that the sale of properties on the site could normally attract. This conclusion has been confirmed by the District Valuer. However, a revised affordable housing solution has been offered which is recommended for acceptance.

Land at SK2918 7015 Church Street, Church Gresley, Swadlincote
(DE11 9NP)



THE SITE



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4.0 Detail

- 4.1 Members will recall that the site is part of the Church Gresley Housing allocation in the adopted Local Plan Part 1 under Policy H3. Accordingly, in 2014 an outline application for the development of the site (as shown on the plan on the previous page) for 306 dwellings was granted permission subject to certain provisions set out in a Section 106 agreement:
- Education: St George's Primary School: £695,339, Secondary (Pingle School): £790,104, Post 16 (Pingle School): £335,302 (total: £1,820,745)
 - Recreation/Public Open Space (POS): £497,355¹
 - Adoption of SUDs: £80,000
 - Waste & recycling: £5,893
- 4.2 The agreement also included some additional dedicated land given over to enable the expansion of the primary school onto adjoining land (part of the housing site) in accordance with the H3 policy. It was agreed that 15% affordable housing would enable a viable scheme to emerge (it was also agreed that some of the affordable housing could be given up in order to help facilitate the construction of a new community facility which could assist with the future accommodation of Gresley F.C.).
- 4.3 A number of attempts have been made over the last few years to find a development partner to bring the site forward but the scale of the planning obligations has always been seen as a major problem when considered alongside the significant costs associated with site remediation. As such the site has remained unsold whilst others in the District proceed apace.
- 4.4 As further site due diligence was undertaken, after the outline planning permission was granted, it became evident that the magnitude of the site constraints (due to its former use as a clay pit) were far greater than original anticipated.
- 4.5 A viability assessment has been submitted by the land owner which has been considered by the District Valuer who came to the conclusion that a scheme with no affordable housing, but with the full Section 106 contributions only, shows a small deficit of £66,013 and therefore only a small reduction in the Section 106 contributions would be needed for a viable scheme. This would effectively leave the total package of contributions that the development could 'afford' at £2,337,980 but without any affordable housing.
- 4.6 Considerable negotiations have subsequently taken place to find a solution that provided the majority of the contributions but retaining some affordable housing on site notwithstanding the District Valuer's assessment of what the site can afford. An offer has now been made by the land owner that confirms the three main elements of the current Section 106 agreement remain intact (i.e. all elements excluding the waste contribution, which case law has since discredited) along with a contribution of £500,000 to support the delivery of affordable housing elsewhere in the area. This amounts to the equivalent of about 12 on-site affordable dwellings. This offer equates to a total package of £2,898,100 representing an additional contribution of £560,120 above the

¹ less £177,927 if the on-site POS is not transferred to the Council

District Valuer's concluding affordable package. The expansion land for the primary school would also be honoured.

- 4.7 The land owner states that it remains committed to bringing the site forward but believes that a concession against the planning obligations set out in the March 2016 Agreement is essential to incentivise a developer partner, hence the compromise offer put forward.

5.0 Financial Implications

- 5.1 The amended agreement would result in the maintenance of the sums for: education £1,820,745, recreation/POS: £497,355¹, adoption of SUDs: £80,000, (i.e. a total of £2,398,100) and the additional affordable housing commuted sum of £500,000 as set out above. This would not necessarily allow a contribution to be made to a Community Stadium (Gresley F.C.) in the sum that was previously envisaged.

6.0 Employee Implications

- 6.1 None.

7.0 Corporate Implications

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

8.0 Community Impact

- 8.1 **Consultation:** As carried out in the course of the planning application.
- 8.2 **Equality and Diversity Impact:** The available funds for the purchase of affordable housing will thus assist in achieving greater equality.
- 8.3 **Social Value Impact:** the package put forward although reduced from the current requirements would assist in improvements to local education and other facilities and access to affordable homes.
- 8.4 **Environmental Sustainability:** Mitigation of the impact of the development will contribute toward the achievement of environmental objectives.

9.0 Conclusions

- 9.1 Although it is always disappointing when the impact of development on local area infrastructure cannot be fully mitigated, the solution offered is reasonable given the difficulties in site remediation and thus the viability of the development.