

PLANNING COMMITTEE – 21 AUGUST 2012

REQUEST FOR MODIFICATION OF S.106 AGREEMENT AT NORTH WARWICKSHIRE AND HINCKLEY COLLEGE LONDON ROAD HINCKLEY



Hinckley & Bosworth
Borough Council

A Borough to be proud of

REPORT OF HEAD OF PLANNING

WARDS AFFECTED: TBC

1. PURPOSE OF REPORT

- 1.1 To request that Planning Committee consider a proposal to vary the terms of the Section 106 Agreement in relation to the grant of outline planning permission ref: 10/00505/OUT for residential development at North Warwickshire and Hinckley College, London Road, Hinckley.

2. RECOMMENDATIONS

- 2.1 a) That the Planning Committee agrees to the request for a variation of the S106 agreement dated 20 October 2010 and made between Hinckley and Bosworth Borough Council, Leicestershire County Council and North Warwickshire and Hinckley College.
- b) That the agreement be amended in accordance with Section 5 of this report.
- c) That, if Planning Committee is minded to agree to the request then it be subject to:
- (i) The applicants meeting the Council's reasonable costs in concluding such an agreement.

3. BACKGROUND TO THE REPORT

- 3.1 Members may recall the above planning application being reported to Planning Committee on 28 September 2010. Members resolved to grant outline planning permission subject to conditions and the completion of the said Section 106 Agreement.
- 3.2 Members should also recall that at the meeting of the Planning Committee on 27 April 2011 they resolved to grant the associated reserved matters application in association with the outline consent previously granted and to which the Section 106 Agreement is attached.
- 3.3 The signed Section 106 Agreement secures planning obligations in respect of:
- Affordable Housing
 - Bus Passes & Travel Packs
 - Plan & Open Space
 - Education
 - Highways Improvements

4. Policy Considerations

- 4.1 There are no arising policy considerations over and above those raised in the initial report. The National Planning Policy Framework does not relate to the matter.

5. **Appraisal and Consideration of the Issues**

5.1 It is proposed to vary the Section 106 Agreement as follows:

5.2 To replace the definition of Social Rented Housing Units as follows:

EXISTING: means Affordable Housing Units which are to be transferred to an Affordable Housing Provider for rent on terms which are in accordance with the relevant Affordable Housing Provider's usual terms and policy in respect of such dwellings.	PROPOSED: means dwellings available at a Target Rent as determined through the national rent regime in accordance with proposals set out in the Three Year Review of Rent Restructuring (July 2004) which was implemented as policy in July 2006 or any amended or successor document thereto
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5.3 This amendment will ensure that, following changes to the products available as affordable housing since the original agreement was entered into, the houses provided on this site will be only let as Social Rented properties.

5.4 To amend the provisions that detail how the Affordable Housing will be let by the Affordable Housing provider as follows:

- (a) For first time lets all properties will be let via the Leicestershire Choice Based Lettings Scheme.
- (b) For subsequent lets, 50% of properties will be let via the Leicestershire Choice Based Lettings Scheme in accordance with same criteria above and the remaining 50% will be let via the Registered Providers own Choice Based Lettings Scheme with priority being given to any person meeting the criteria above.

5.5 The requests have been made to allow greater flexibility to Registered Provider and ensue that a deal with a Registered Provider can be secured, in accordance with the s.106 agreement. There are no arising planning issues in respect of the changes and the number of affordable units proposed and the tenure remains unaltered from the original. The changes are only to allow for greater operational flexibility with the Registered Provider.

6 **FINANCIAL IMPLICATIONS (PE)**

6.1 There are none arising directly from this report.

7 **LEGAL IMPLICATIONS (EP)**

7.1 Section 106A of the TCPA 1990 permits the modification or discharge of a planning obligation at any time by agreement. This will require all the parties to the original agreement to enter into the agreement ordinarily. The Original owner has now disposed of their land to the Developer and therefore the successors in title will be a party to the agreement and not the original party. All the successors in title have agreed to the variation in principle.

8. **CORPORATE PLAN IMPLICATIONS**

8.1 This document contributes to Strategic Aim 3 of the Corporate Plan: Safer and Healthier Borough.

9. **CONSULTATION**

7.1 None

10. **RISK IMPLICATIONS**

10.1 None.

11. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

11.1 The renegotiations are seeking to ensure that the development is deliverable and therefore the affordable housing offer is also deliverable.

12. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety Implications
- Environmental Implications
- ICT Implications
- Asset Management Implications
- Human Resources Implications

Background Papers: Planning application committee report 20 October 2010.

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Executive Member Councillor S.L.Bray