



Hinckley & Bosworth
Borough Council

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PLANNING COMMITTEE 8 MAY 2018

WARDS AFFECTED: Barlestone, Nailstone & Osbaston

**PROPOSED VARIATION TO SECTION 106 RELATING TO PLANNING APPLICATION
14/00596/OUT**

Report of the Director (Environment & Planning)

1. PURPOSE OF REPORT

- 1.1 A request has been made to vary a signed Section 106 to planning application 14/00596/OUT to reduce the provision of on site affordable housing to 15% from the previously agreed 40%.
- 1.2 This report will provide the context of the request and the findings of an independent viability assessment.
- 1.3 Recommendations to planning committee are also made within this report.

2. RECOMMENDATION

- 2.1 That a deed of variation to the signed Section 106 for planning application reference 14/00596/OUT (permitted 17/12/2015) is agreed to reduce the on site affordable dwellings to 15% of the total dwellings on site and the addition of an overage clause.
- 2.2 That the Planning Manager, Development Management be given delegated powers to determine the details of the overage clause and the final wording of the deed of variation.

3. PLANNING HISTORY

- 3.1 An outline planning application with the description of 'Demolition of existing farmhouse, stables and outbuildings for the erection of up to 64 dwellings (outline - access only)' was submitted for the site at Garden Farm, Bagworth Road, Barlestone, Leicestershire, CV13 0EG.
- 3.2 This application was considered by Planning Committee 7th January 2015. Planning Committee resolved to approve the application subject to conditions and the signing of a Section 106 for obligations to provide affordable housing on site, public open space, highways improvements, education and police infrastructure.
- 3.3 A Section 106 was signed 9th December 2015. A summary of the obligations within the Section 106 are shown in the table below:

Contribution	Figure	Detail
On site affordable dwellings	40% of the total number of dwellings	75% to be Social Rented/Affordable Rented 25% are Intermediate Affordable Dwellings
Off-Site Open Space Contribution	£36,968.40	towards the provision and maintenance of play and open space facilities at Bosworth Road open Space
Additional Off site public open space	£106,076.00	towards the provision and maintenance of equipped and informal play and open space facilities at May Meadow Barlestone
On Site Public Open Space Maintenance Contribution	£866.00 per dwelling	Towards the maintenance of the on site open space provided within the development
Education	£188,057.31	towards Market Bosworth School and Bosworth Academy
Highway	£15,000.00	towards the costs of implementing traffic regulation measures in the central area of Barlestone
Real Time information	£11,680.00	Towards the costs of providing two real time information displays at the nearest two bus stops to the development
Travel Pack	£52.85 per dwelling	Packs containing details of local walking and cycling routes, and local bus and rail services stops and timetables, bus pass application forms, shops and other local amenities, and details of any community transport car sharing or car club schemes operating in the vicinity of the land
Bus Pass	£700 per dwelling	An adult buss pass entitling the holder of each bus pass to travel free on local bus services for a 6 month period
Bus Shelter	£4,908.00	
Police Contribution	£22,446.00	Towards the additional costs of policing arising from the development
Monitoring Fee (HBBC)	£250.00 or 2% of the value of the contributions due	

	under the agreement to the borough council	
Monitoring Fee (LCC)	£300.00 or 2% of the value of the contributions due under the agreement to the borough council	

4.0 Request to vary the Section 106

- 4.1 Section 106 agreements can be renegotiated at any point, where the Local Planning Authority and developer/applicant wish to do so. Variations to Section 106 can be sought under Section 106A of The Town and Country Planning Act 1990. As this request to vary the Section 106 is made within 5 years of the date of the original permission it is by agreement only and there is no right of appeal.
- 4.2 A requested was submitted by the landowner to vary the Section 106 due to viability issues with the scheme. It has been outlined by the landowner that a viability appraisal was not undertaken during the application process and the viability issues have only come to light when trying to sell the land to prospective developers. This request was supported by a full viability assessment of the outline scheme, undertaken by heb surveyors. This assessment submitted on behalf of the landowner identified that *'the allowance of the full Section 106 agreement and provision of affordable housing based upon 40% of the total number of dwellings shows the scheme has(sic) cannot be developed as it will make a loss.'* The viability report outlines the profit with all contributions and 0% affordable housing will provide a profit of £13.65%, below the usual level of 20%.
- 4.3 An independent assessment of the landowners viability assessment has been undertaken by Lambert Smith Hampton (LSH) for Hinckley and Bosworth Borough Council. LSH have concluded that with the provision of all monitory Section 106 contributions and 15% on site affordable dwellings the development would provide a developers profit on gross development value of 19.36% which is considered an acceptable profit level without prejudicing the viability and deliverability of the proposed scheme. Heb surveyors have stated that whilst they do not agree with all of the inputs from LSH on balance the overall planning obligations identified are considered to be fair and reasonable.
- 4.4 The LSH assessment has identified that if the tenure split for the affordable housing was provided as a 50/50 split (rather than the policy requirement of 75% social/affordable rent and 25% intermediate housing) this would not result in an additional affordable units, however it would provide a difference in monetary terms of £40,000 which could be provided as a commuted sum. Through discussions with the Housing Strategy and Enabling Officer it is considered that a policy compliant split would be the more preferable option to the 50:50 tenure split and a commuted sum as it would provide the type of affordable housing needed for the area.
- 4.5 Following the assessment above, it is recommended to Planning Committee that the variation to the Section 106 to reduce the on site affordable housing to 15% with a tenure split of 75% social/affordable rent and 25% intermediate housing is agreed. In addition to this it is recommended that an overage clause is included within the variation to the Section 106.
- 4.6 The viability assessment has been carried out on the basis of an outline scheme where layout has not been approved. Furthermore it is clear that the landowner intends to sell the site and any new owner would need to submit a reserved matters application

and may wish to develop the site with a different mix of house types and sizes. The time lag from gaining permission and the site being developed may therefore take a number of years. For these reasons it is considered necessary to require an overage clause within the S106 to require the viability to be re-visited post development to identify if any overage payments are required.

Conclusion

- 5.1 The applicant has submitted a request to vary the S106 agreement to reduce the amount of affordable housing from 40% on site to 15%. The request has been accompanied by a viability assessment which the Council has had independently assessed. The Council's appointed assessors have stated that 15% on site is a viable proposition which would still allow the site to come forward for housing. As 15% is less than the policy compliant position of 40% an overage clause is also considered necessary to ensure that any uplift in values can be secured by the Council, for further affordable housing, to ensure that the Council continues to secure the maximum amount of affordable housing that a site can viably support.
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