

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – 6 APRIL 2016

Title of report	PROPOSED ALTERATIONS TO SECTION 106 OBLIGATIONS IN RESPECT OF AFFORDABLE HOUSING IN ASSOCIATION WITH RESIDENTIAL DEVELOPMENT AT ACRESFORD ROAD, DONISTHORPE (APPLICATION NO. 14/00802/OUTM)
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Purpose of report	To consider a request from the applicants of the above site to amend the Section 106 obligations to reduce the amount of affordable housing required in respect of a proposed housing development
Council Priorities	Homes and Communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>As set out in the report below</p> <p>Affordable Housing Working Group</p> <p>Not applicable</p> <p>Undertaken and no impacts identified</p> <p>Not applicable</p> <p>Not applicable</p>
Comments of Deputy Chief Executive	Report is satisfactory
Comments of Deputy Section 151 Officer	Report is satisfactory

Comments of Deputy Monitoring Officer	Report is satisfactory
Consultees	Councillor R Ashman (ward member) North West Leicestershire District Council Strategic Housing Team Oakthorpe and Donisthorpe Parish Council
Background papers	Application documents in respect of planning application ref. 14/00802/OUTM and viability information (confidential)
Recommendations	TO AGREE TO THE SUBSTITUTION OF THE EXISTING AFFORDABLE HOUSING OBLIGATIONS BY THE PAYMENT OF AN OFF-SITE COMMUTED SUM IN THE SUM OF £122,372 AND FOR A DEED OF VARIATION TO BE SECURED TO THE ORIGINAL SECTION 106 AGREEMENT

1.0 INTRODUCTION AND BACKGROUND

- 1.1 In February 2015, the District Council's Planning Committee resolved to grant outline planning permission for residential development of 36 dwellings on a site at Acresford Road, Donisthorpe (ref. 14/00802/OUTM). The applicant was Mr Philip Chatfield.
- 1.2 The Section 106 agreement was completed in July 2015, and the planning permission was subsequently issued.
- 1.3 The Section 106 agreement includes obligations in respect of, amongst others, the following:
- Provision of on-site affordable housing (30%)
 - National Forest Planting on site
 - Financial contribution in respect of healthcare (£16,237.38)
 - Financial contribution in respect of education (£222,869.22)
 - Financial contribution in respect of libraries (£2,170)
 - Provision / maintenance of a children's play area
 - Construction traffic routeing
 - Provision of travel packs to first occupiers of the new dwellings
 - Provision of bus passes to first occupiers of the new dwellings
 - Improvements to the two nearest bus stops (including raised and dropped kerbs (£3,263 per stop)
 - Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display
 - Section 106 monitoring
- 1.4 Section 106BA of the Town and Country Planning Act 1990 (as amended) allows an application to be made to the Local Planning Authority for a revised affordable housing obligation. The guidance indicates any application submitted under Section 106BA should

be supported by a relevant viability assessment. This procedure only allows for changes for affordable housing obligations and not in relation to other contributions.

2.0 PROPOSED AMENDED OBLIGATIONS

- 2.1 The applicants contend that, despite continued efforts to dispose of the site to a developer, there has been limited interest due to the requirement to provide for 30% affordable housing. A viability review has been carried out by a Chartered Surveyor instructed by the applicants and they advise there is a significant gap between what a developer is willing to pay and a fair return to the landowner. The viability report submitted originally indicated that the scheme could no longer provide any affordable housing on the site and that the S106 contributions of £459,760 should be reduced to £145,450.
- 2.2 The Local Planning Authority has commissioned the District Valuer to assess the developers' calculations on its behalf. In response, the District Valuer advises that, having undertaken an assessment, it is of the view that the scheme is in fact able to contribute towards all of the previously agreed contributions and provide an off-site affordable housing commuted sum of £122,372. This figure amounts to a payment of £11,124.73 per property. The applicants have considered the District Valuer's findings in this regard, and are willing to accept this position.

3.0 CONSULTATION RESPONSES

- 3.1 The list of consultations undertaken are as set out in the table above.
- 3.2 The District Council's Strategic Housing Team has no objection to the proposal given that the applicants have demonstrated to the District Valuer that the agreed scheme is unviable. The Strategic Housing Team have however expressed concerns that the Affordable Housing element on development sites always attracts the largest reduction of all contributions and would point out that this procedure reduces the opportunities for and the likelihood of developing like for like replacements elsewhere in the district.
- 3.3 At the time of preparing this report, no other comments had been received from consultees. Any received subsequently will be reported on the Update Sheet.

4.0 RELEVANT PLANNING POLICY

4.1 National Policies

National Planning Policy Framework (NPPF)

The following sections of the NPPF are considered relevant:

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 173 (Ensuring viability and delivery)

Paragraph 203 (Planning conditions and obligations)

Paragraph 204 (Planning conditions and obligations)

4.2 Adopted North West Leicestershire Local Plan (2002)

The following policies of the adopted Local Plan are considered relevant:

Policy H8 – Affordable Housing

4.3 **Other Local Policies**

North West Leicestershire District Council Affordable Housing Supplementary Planning Document – January 2011

5.0 **ASSESSMENT**

- 5.1 Having regard to the requirements of the NPPF and the Community Infrastructure Levy Regulations 2010, the view is taken that the current obligations are appropriate, and meet the legislative and policy tests. However, in view of the request to amend the terms of the existing Section 106 obligations, it is considered appropriate to assess:
- (i) Whether the current affordable housing requirements are unduly onerous when having regard to the viability / deliverability of the scheme;
 - (ii) If so, whether the alternative affordable housing obligations proposed by the developers are appropriate to the level of development viability (i.e. are the maximum achievable whilst ensuring the development remains viable); and
 - (iii) Whether the alternative proposals under (ii) above are appropriate in terms of helping to meet the affordable housing needs of the area.
- 5.2 Further to the Section 106 obligations set out under 1.3 above, the District Council's Strategic Housing Team had originally negotiated the on-site delivery of 11 affordable units with the developers, of which 8 would have been affordable rented, and 3 intermediate/low cost home ownership in terms of tenure. It is necessary to consider the developers' alternative proposals in this case.
- 5.3 The viability report submitted originally indicated that the scheme could no longer provide any affordable housing on the site and that the S106 contributions of £459,760 ought to be reduced to £145,450.
- 5.4 The District Valuer has been requested to assess the applicants' viability appraisals on the District Council's behalf. Having undertaken an assessment based on a scheme comprising private housing units, based on a developer's profit of 17.5% and what it considers to be a reasonable benchmark land value, together with the other Section 106 contributions associated with the development (which would be unchanged), the District Valuer calculates that the scheme would be able to contribute an off-site Affordable Housing commuted sum of £122,372. In response to this finding, the applicants have increased their commuted sum offer to this figure.
- 5.5 Whilst the District Council's preferred approach (as set out in its Affordable Housing SPD) is for the agreed affordable provision to be made on site, the SPD does, in exceptional circumstances, allow for off site provision. Given the likely lack of demand from a significant number of Registered Providers associated with a reduced affordable housing contribution, the District Council's Strategic Housing Team is satisfied that the applicants have demonstrated that delivery on this site is not possible in this instance, and that the provision of a commuted sum offered in lieu of on-site provision is an acceptable option in this instance.

5.6 The District Council's Strategic Housing Team advises that, in keeping with previously received off site commuted sum payments, the commuted sum would be used to support the delivery of affordable housing within the District (and anywhere in the District where a housing need has been identified). On this basis, the Strategic Housing Team requests that any commuted sums received in lieu of on site provision are made available to support the delivery of new affordable housing anywhere in the District where a need has been identified, so as to ensure that homes are built where they are needed and where there are opportunities to develop. Notwithstanding this preference for the District Council to retain flexibility on how to apply any commuted sums, the Strategic Housing Team also draws attention to the fact that affordable housing contributions requested from all developments are based on housing needs identified from the local area and the wider Council Housing Register (and are not, therefore, based on a need directly identified for an individual Parish).

6.0 CONCLUSIONS

6.1 Having regard to the advice of the District Valuer and the District Council's Strategic Housing Team, it is accepted that the payment of an off-site commuted sum in lieu of the on-site provision would be appropriate. In accordance with the findings of the District Valuer in respect of the amount of commuted sum achievable whilst ensuring the development remains viable, it is concluded that a commuted sum of £122,372 towards affordable housing would be the maximum achievable whilst ensuring the provision of a reasonable profit to any developers and the applicants.

6.2 It is therefore recommended that the proposed amended affordable housing obligations be accepted and that, in order to enable the District Council to support affordable schemes anywhere in the District where a need has been identified, the amended obligations entered into should not be framed so as to limit the contributions being spent only in Donisthorpe. In accordance with the advice within the DCLG document "Section 106 affordable housing requirements – Review and appeal", it is also recommended that, given the potential for economic circumstances to improve during the build period, the amended obligations should apply for a limited period of three years only, beyond which the original obligations should once again apply, unless the development has been completed, or updated evidence of a continuing need to make a reduced contribution has been provided and assessed.