



REGULATORY SERVICES COMMITTEE

6 June 2013

Subject Heading:

REPORT

Proposed variation of Section 106 agreement dated 24th January 2013 in connection with planning permission P1276.12 Land adjacent to Hilldene Avenue, Hilldene Close, Bridgwater Road, Darlington Gardens & Northallerton Way, Harold Hill:

Redevelopment of the part-vacant 'Hilldene North' site to provide 100 residential units with ancillary car parking and associated landscaping.

The development included an infrastructure tariff contribution of £600,000 to be paid in full prior to the commencement of the development.

The requested Deed of Variation would allow for the contribution to be paid at the commencement of three defined phases of the development. The two later phases involve parts of the site occupied by the library and former petrol station which would probably take longer to bring forward for development.

Report Author and contact details:

Simon Thelwell
Projects and Regulation Manager
simon.thelwell@havering.gov.uk
01708 432685

Policy context:

Local Development Framework
National Planning Policy Framework
Planning Obligations Supplementary
Planning Document.

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input type="checkbox"/>
Value and enhance the life of our residents	<input checked="" type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The report relates to proposals for residential development for 100 residential units on land at the 'Hilldene North' site in Harold Hill. The site has the benefit of planning permission under reference P1276.12, which was subject to a Section 106 legal agreement completed on 24th January 2013 (the original agreement). The owners have requested a deed of variation on the following terms:-

The S106 Agreement (the original agreement) be varied by the terms of a Deed of Variation of the original agreement as follows:

1. Add a definition:
Phasing Plan
2. Revised clause in relation to payment of Infrastructure Contribution to include:
Prior to Commencement of Phase 1 to pay the Council £348,000 in relation to Phase 1; Prior to Commencement of Phase 2 to pay the Council £126,000; Prior to Commencement of Phase 3 to pay the Council £126,000.
The Developer / Owner to provide the head of Development and Building Control with 14 days prior written notice of the Commencement of Phase 1, Phase 2 and Phase 3 of the development.

The developer / owner shall pay the Council's legal costs in respect of the preparation of the Deed of Variation irrespective of whether the matter is completed.

Save for the variation set out above and any necessary consequential amendments to the original agreement all recitals, terms, covenants and obligations in the said original agreement shall remain unchanged.

RECOMMENDATIONS

It is recommended that the variation of the Section 106 agreement dated 24th January 2013 pursuant to planning permission reference number P1276.12 by Deed of Variation under Section 106A of the Town and Country Planning Act 1990 (as amended), be approved in the following terms:

1. Add a definition:
Phasing Plan
2. Revised clause in relation to payment of Infrastructure Contribution to include:
Prior to Commencement of Phase 1 to pay the Council £348,000 in relation to Phase 1; Prior to Commencement of Phase 2 to pay the Council £126,000; Prior to Commencement of Phase 3 to pay the Council £126,000.

The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

REPORT DETAIL

- 1.1 The site subject to the request for a deed of variation of the original agreement has an area of approximately 1.53 hectares, comprising three parcels of land. The largest of these is located between Bridgwater Road and Darlington Gardens. Northallerton Way lies to the west and Darlington Path to the east. This part of the development site is now vacant and cleared for development. The other two parcels of land forming part of the application site are referred to on the submitted site plan as areas 'A', 'B' and 'C'. Area A is located to the south of Bridgwater Road, on the western side of Hilldene Close. It is a former petrol filling station, now used as an open air hand car wash. Area 'B' is a single storey building, used as a gym, located at the junction of Bridgwater Road and Hilldene Close and area 'C' is the existing Harold Hill library, a part single, part two storey building fronting on to Hilldene Avenue.
- 1.2 The site has planning permission for the redevelopment of the site to provide 100 residential units. Permission for the development was granted subject to a number of planning conditions, as well as a Section 106 legal agreement signed and dated 24th May 2013. The legal agreement included clauses to secure:

- A financial contribution of £600,000 for infrastructure, payable on commencement of the development
- The provision of a training and recruitment scheme relating to the construction period.
- The provision of a minimum 50% of units within the development to be affordable housing with a 36:64 split affordable rent to shared ownership.

1.3 Subsequent to the completion of the original agreement and the issuing of the planning permission under application reference P1276.12, the applicants have requested that the payments of the infrastructure contributions be phased. This is because the developer of the southern part of the site (containing 42 units) is unlikely to be in a position to develop the site for some time. The applicant would wish not to have financial burden of having to pay the infrastructure contribution for this part of the site until commencement is likely.

1.4 In considering this request, regard has been had to the Council's Supplementary Planning Document on Planning Obligations (SPD). The SPD at Paragraph 4.50 states:

“For large development schemes, with a long build out period, the Council and applicant may agree the staging of payment (ie. phased payments tied to dates or development ‘triggers’) in the section 106 planning agreement to aid developer’s cash flow.”

1.5 Staff therefore consider that it would be reasonable in this case to allow phased payments, with the commencement of the relevant phase being the trigger for the payment.

2. Conclusion

2.1 Staff consider that the proposed variation of the original agreement is acceptable and in line with adopted planning policy. It is therefore recommended that a variation be approved.

IMPLICATIONS AND RISKS

Financial implications and risks:

No direct financial implications or risks.

Legal implications and risks:

Legal resources will be required for the variation of the legal agreement.

Human Resources implications and risks:

None

Equalities implications and risks:

The Council's planning policies are implemented with regard to equality and diversity. The development includes a mix of unit types and is designed to meet Lifetime Homes criteria. The development provides affordable housing in excess of the minimum requirements, including both affordable rent and social housing and thereby contributes to the provision of mixed and balanced communities and access to quality housing for all elements of the community. The development accords with the objectives of the Harold Hill Ambitions programme, which seeks to promote equality of opportunity to all residents of the Borough.

BACKGROUND PAPERS

1. Report to Regulatory Services Committee of 10th January 2012 pursuant to planning reference P1276.12
2. Phasing Plan – See Appendix

