

Special Item –Section 106 Agreement - DER/08/12/01016Land east and south of Technograv Ltd, off Nottingham Road, Spondon.

SUMMARY

- 1.1 Outline planning permission is sought for residential development on the above site. The applicant /developer has requested that the required planning obligations for the development are reduced and on-site affordable housing waived due to the viability of the development in the current economic climate. To enable the development of this site to proceed, it is proposed that contributions of £7,000 per unit will be paid during the development but that the developer will enter into an agreement with the Council to pay further contributions at the end of the construction should this be shown to be viable.

RECOMMENDATION

- 2.1 To authorise the re-negotiation of the Section 106 agreement Heads of Terms for the site, to allow reduction in the package of contributions.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that the development of the site is economically viable and to encourage the delivery of housing on land that is suitable and available.

SUPPORTING INFORMATION

- 4.1 This report concerns an extension of time application for residential development at vacant land surrounding the former Technograv factory on Nottingham Road, Spondon. Outline planning permission was originally granted in August 2006 however the scheme was not commenced. In August 2009 a variation of condition application to remove a density restriction was granted however development was still not commenced. In August 2012 an application was received to extend the time limit of this permission for a further three years.

4.2 Negotiation on a revised Section agreement commenced with the current developer in January 2013. In line with the Planning Obligations Supplementary Planning Document (SPD), the contributions normally sought from this site and the starting point for negotiation were as follows:

- 30% affordable housing
- Highways
- Education
- On-site and off-site public open space
- Community facilities (sport, health, libraries, community centres)
- Public Realm
- Public Art

The application is for the renewal of outline permission but the current developer has indicated that they intend to submit a reserved matters application for a first phase of 70-80 dwellings should the outline permission be granted.

4.3 Due to worsening economic conditions since the site was first granted permission, the developer has indicated that no Section 106 contributions are affordable. This is further compounded by the presence of an electricity pylon on the site. They therefore agreed to the commissioning of an independent report by the District Valuer to test viability.

4.4 This assessment found that if 30% of the site was developed as affordable housing, the development would be unviable by over £1 million. With no affordable housing the development would still be unviable by over £130,000. The District Valuer therefore recommended the removal of affordable housing from the agreement and the negotiation of minimal Section 106 contributions from the site.

4.5 Following further discussion, the developer has offered to pay £7,000 per unit developed however no on-site affordable housing will be provided. A contribution fully compliant with the SPD would be around £30,000 per unit (including a financial sum for affordable housing). The sum would be payable at up to three points throughout the life of the development the timing of which to be negotiated. It would be available to spend on any infrastructure from the list in paragraph 4.2 to be negotiated following payment. They have also agreed to the insertion of a viability clause within the Section 106 agreement. This means that they will provide a further independently tested viability appraisal at the end of construction. If economic conditions have sufficiently improved, contributions will then be payable.

4.6 The developer will perform the assessment on 90% completion of the development. If the assessment shows the development has made over the agreed 20% profit any further profit will be split 50/50 between the developer and the Council. The maximum sum due to the Council will be the total sum of the contributions that should have been paid less any sums already paid (number of completed units x £7000).

- 4.7 This approach will enable the development of a site which has continued to be underused despite having planning permission since 2006. The development would also contribute to meeting the Council's objectively assessed housing needs and the five year supply of deliverable sites. The Government has indicated its commitment to housing delivery by stating in paragraph 173 of the National Planning Policy Framework that authorities should take into account the need to provide competitive returns to a willing landowner and developer when assessing the viability of infrastructure requirements. It also recently introduced the Growth and Infrastructure Act which gives developers the right to apply to the Council to re-negotiate affordable housing.

OTHER OPTIONS CONSIDERED

- 5.1 The Council could choose not to negotiate with the developer and continue to impose the full requirements of the Planning Obligations Supplementary Planning Document. This would lead to the site being unviable to build and remaining undeveloped.

This report has been approved by the following officers:

Legal officer	N/A
Financial officer	N/A
Human Resources officer	N/A
Estates/Property officer	N/A
Service Director(s)	N/A
Other(s)	Paul Clarke

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Background papers:	None
List of appendices:	Appendix 1 – Implications

IMPLICATIONS

Financial and Value for Money

- 1.1 Based on 75 units there will be a loss in S106 contributions of £1.725m

There is a risk that the reduction in S106 contributions will create a pressure for the Council in the future in terms of infrastructure costs.

Although this pressure cannot be quantified at this time, the potential future financial contributions, payable if development commences, will help to mitigate against this risk.

Legal

- 2.1 A Section 106 agreement will need to be drafted to enable planning permission to be issued

Personnel

- 3.1 None

IT

- 4.1 None

Equalities Impact

- 5.1 None

Health and Safety

- 6.1 None

Environmental Sustainability

- 7.1 None

Property and Asset Management

- 8.1 Contributions could be used for schemes which would increase the Council's assets.

Risk Management

9.1 None

Corporate objectives and priorities for change

10.1 An inspiring place to live