



**Special Item 1 – Re-negotiation of Section 106 contributions at land adjacent to the former Technograv site, Nottingham Road, Spondon**

**SUMMARY**

- 1.1 The committee will recall that a report on the re-negotiation of Section 106 contributions for this site was brought to the July committee. Whilst Members agreed with the recommendation to re-negotiate the contributions on the site, they asked Officers to address some of the concerns raised. Since this meeting negotiations with the developer have recommended recommenced to address the points raised.
- 1.2 Due to the constraints and risks involved in the development of the site, the developers are unable to negotiate on the profit level and viability of the site remains difficult however they are prepared to offer an element of on-site affordable housing.
- 1.3 The options that the developers are able to offer are either all the S106 contributions going towards affordable housing, which would equate to seven affordable units on site, or a combination of part on site affordable housing (3 units) and part financial contribution. It is recommended that Members choose to proceed with one of these options to allow the site to come forward for housing.

**RECOMMENDATION**

- 2.1 To choose one of the options set out in the report to re-negotiate the terms of the Section 106 agreement for this site.

**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 the redevelopment of land surrounding the former Tecnograv factory on Nottingham Road, Spondon. Whilst this is in relation to the renewal of an outline application the developers have indicated that they intend to develop 76 dwellings. Whilst the site is vacant it is constrained by a number of factors which impact on the viability of development including the presence of a pylon on the site and the requirement to reserve land for the re-instatement of the Derby and Sandiacre canal.

- 4.2 The committee will recall that a report on the viability of Section 106 contributions on this site was presented at the July meeting. This stated that the District Valuer had assessed that on-site affordable housing was unviable but minimal Section 106 contributions could be achievable. It was recommended that the terms of the agreement be re-negotiated with £7,000 per unit to be spent on any item of infrastructure being offered.
- 4.3 Whilst the committee agreed with the recommendation to re-negotiate, they were concerned about a number of elements. These included the lack of on-site affordable housing, the recommended developer profit level of 20% and whether this level of contribution is acceptable in an improving housing market.
- 4.4 Following the meeting, negotiations with the developer recommenced to address these issues. The presence of the pylon on the site is a significant constraint on sales values and also has an impact on the type of finance the developer is able to access as it is seen as a risk to development. Lenders are therefore unwilling to negotiate a profit level lower than the accepted industry standard of 20%. The consequence of this is that it is not possible to re-negotiate the profit level. It should also be noted that whilst house prices may be rising, due to the demand for construction materials, which have become very expensive, this has a negative impact on development viability.
- 4.5 Whilst it was the opinion of Officers that £7,000 per unit was the best and most viable offer from the developer in terms of allowing flexibility of spending the contributions on off-site infrastructure, the developer has now agreed to offer some on-site affordable housing. This is the equivalent of £7,000 per unit as this is still the maximum amount the developers are able to afford as assessed by the District Valuer. They have however agreed to make a slightly enhanced offer which combines financial contributions and affordable housing with any increase in cost coming directly out of their profit.
- 4.6 This report asks Members to choose one of the following options for the re-negotiation of the Section 106 agreement. These are as follows:
- Seven on-site rented affordable units and no off-site contributions
  - 3 on-site rented affordable units and an off-site contribution of £5000 per unit on the remaining 73 units. This represents a slightly enhanced offer.
- The District Valuer has assessed these offers as acceptable in terms of viability. All of these options would require the developer to perform a further independently tested viability appraisal at 90% of developer completion. If the site has made a profit level of more than 20%, the developer will be required to pay financial contributions up to the value of the original Heads of Terms, minus those contributions already paid.
- 4.7 It should be noted that the site has been assessed as having some significant off-site highways constraints. Members should therefore be aware that choosing an option with no off-site contributions could impact on the mitigation of those impacts.

- 4.8 Choosing one of the approaches 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 would mean that other sites would potentially have to be released for housing to replace the lost units in Derby's housing land supply. It would also lead to the Council losing out on Council Tax and New Homes Bonus.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Andy Gill     Rosie Watson
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Rachel Reid 01332 642112 <a href="mailto:rachel.reid@derby.gov.uk">rachel.reid@derby.gov.uk</a> None Appendix 1 – Implications

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 Based on 76 units, accepting contributions at a lower rate will result in a loss of s106 income of:

- Option 1 – £2,280,000
- Option 2 – £1,915,000

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 militate 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

**IT**

- 4.1

**Equalities Impact**

- 5.1

**Health and Safety**

- 6.1

**Environmental Sustainability**

- 7.1

**Property and Asset Management**

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

**Risk Management**

- 9.1

**Corporate objectives and priorities for change**

- 10.1 An inspiring place to live