

**SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**2<sup>nd</sup> February 2016**

**Agenda item 21**

**Quarterly report on extensions to time periods within which obligations under section 106 can be entered into**

Since the agenda report was prepared on 15<sup>th</sup> January there have been developments with respect to a number of the 6 cases referred to within the report. These developments are detailed below:-

With respect to case **(1) application 14/00027/FUL Land adjacent to 31 Banbury Street** your Officer has now agreed to allow until the 18<sup>th</sup> February for the Section 106 to be completed. What is hoped to be a final draft of the agreement is currently in circulation. As resolved at the Planning Committee in March 2015 the draft agreement requires a reappraisal of the financial viability of the scheme (and appropriate NTADS, open space and education contributions then being made if the scheme is evaluated at that time as able to support such contributions, or part of them), if the development has not substantially commenced within 14 months of the date of the planning permission.

The agent is now requesting that this period be extended to 2 years from the last approval, by the Council, of the details required by the pre-commencement conditions of the planning permission – on the grounds that his client, whilst well organised and intending to build out the development quickly once started, is not based in this area and the current 14 month period does not on its own leave long enough to then obtain, after the grant of the planning permission, the approval of the LPA to various details that the planning permission will require and then get to substantial completion stage within that time. Having regard to the rapidly increasing material and labour costs and slowing price of property he does not think such a change would be problematic. He wants to emphasise to the Council that his client is fully committed to completing the agreement in a speedy manner, to discharging conditions and commencing on site.

Your officers have proposed that substantial commencement should mean the construction of the access to base course level, the construction of the retaining walls, and the construction of 6 of the 13 dwellings to damp proof course level. The agent suggests that construction of the access alone should constitute “substantial commencement”.

The District Valuer's appraisal for this scheme was undertaken in February 2015. The District Valuer recommended then that the assessment should be renewed if the development had not been substantially commenced within 12 months of being granted, or if the development was to be constructed in phases. The Committee, on recommendation, agreed that the period could be 14 months rather than 12.

Whilst an applicant cannot formally apply for approval of details required by conditions of a planning permission until the permission in question has been granted, the Service offers, at a charge, a pre-application advisory service, enabling a developer to obtain informal advice as to whether certain details are likely to be viewed favourably when a formal application is subsequently made for their approval.

Given the considerable time that has passed since the original appraisal, and the uncertainty that there always will be as to future viability, it is not recommended that any longer should be allowed than 14 months. Tying the period to the last of the LPA's approvals (of details) would effectively enable an applicant, having made a limited but legal commencement of the development to then complete the development any time in the future. **It is recommended that in this case the Committee resolve that should the agreement not be completed by**

**2<sup>nd</sup> March, that the above 14 month period be reduced to 13 months, and if the agreement is not completed by the 2<sup>nd</sup> April that it is reduced further to 12 months. It is also recommended that officers should not materially alter the definition of substantial commencement as it appears to your officers as drafted to represent the required significant degree of commitment to the development.**

With respect to case **(2) application 14/00767/FUL Former Woodshutts Inn, Lower Ash Road, Kidsgrove** your Officer has now agreed to allow until the 4<sup>th</sup> March for the Section 106 to be completed. Since the main agenda report was prepared a draft has been sent to the applicant's solicitors and they have promptly responded, and are indicating their wish to conclude this matter promptly. However in the light of the nature of their comments on the draft agreement it would appear that this may not be achievable. It is expected that a further draft will be circulated by the Council soon both to the applicant's solicitor and to the County Council who will need to be a party to the agreement

With respect to case **(5) 15/00368/OUT Land at West Avenue, Kidsgrove** the only outstanding matter apparently concerns the County Council rather than the applicant, and is a relatively minor matter. Your Officer has now agreed to allow until the 19<sup>th</sup> February for the Section 106 to be completed – there being a considerable number of parties, across various countries, whose signature will be required to this agreement.

**The recommendation with respect to this item remains as it was in the agenda report, except that the Committee are asked to expressly agree to the officer recommendation referred to in case 1) above (the Land adjacent to Banbury Street case)**