

QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO

Purpose of the Report

To provide Members with a quarterly report on the exercise by the Head of Planning of the authority to extend periods within which planning obligations can be secured by (as an alternative to refusal of the related planning application).

Recommendations

a) That the report be noted

b) That the Head of Planning continue to report, on a quarterly basis, on the exercise of his authority to extend the period of time for an applicant to enter into Section 106 obligations.

Introduction

The Committee, when resolving to permit an application subject to the prior entering into of a planning obligation, usually also agreed to authorise the Head of Planning to extend the period of time for an applicant to enter into the Section 106 obligations if he subsequently considers it appropriate (as an alternative to refusing the application or seeking such authority from the Committee).

When this practice was first established it was envisaged that such an extension might be agreed where the Head of Planning was satisfied that it would be unreasonable for the Council not to allow for additional time for an obligation to be secured. It was recognised that an application would need to be brought back to Committee for decision should there have been a change in planning policy in the interim. It was agreed that your officers would provide members with a regular quarterly report on the exercise of that authority insofar as applications that have come to the Committee are concerned. The report does not cover applications that are being determined under delegated powers where an obligation by unilateral undertaking is being sought.

This report covers the period between 2nd February 2016 (when the Committee last received a similar report) and the date of the preparation of this report (14th April 2016).

In the period since the Committee's consideration of the last quarterly report, section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or subsequent extensions, and extensions have been agreed with respect to some 7 applications.

The Council needs to maintain a focus on delivery of these obligations – which can become over time just as important (to applicants) as achieving a prompt consideration of applications by Committee. In some cases applicants have however little immediate requirement to complete such obligations, being content to rest upon the resolution of the Committee. Expectations and requirements vary considerably. It is the issuing of the decision notice, rather than the consideration of the application by the Committee, which is the basis for the measurement of whether the decision has been made “in time” insofar as the speed of determination criterion for designation of poorly performing LPAs. The Government are bringing forward proposals to extend the performance regime from just Major developments to Non-Major developments as well thus further reinforcing the importance of timeliness.

Local Planning Authorities are required, as part of the Planning Guarantee, to refund any planning fee paid if after 26 weeks no decision has been made on an application, other than in certain limited exceptions, including where an applicant and the Local Planning Authority have agreed in writing that the application is to be determined within an

extended period. This provides yet another reason for the Planning Service maintaining a clear and continued focus on timeliness in decision making, instructing solicitors and providing clarification where sought.

In cases where extensions of the period within which an obligation may be secured have been considered appropriate your Officer's agreement to that has normally been on the basis of that should he consider there to be a material change in planning circumstances at any time short of the signing of the final document he retains the right to bring the matter back to the Planning Committee. Applicants are also asked to formally agree a parallel extension of the statutory period within which no appeal may be lodged by them against the non-determination of the application, and in most cases that agreement has been provided. An application determined within such an agreed extended period is defined as one that has been determined as being determined "in time".

Details of the applications involved are provided below:-

(1) Application 14/00027/FUL Land adjacent to 31 Banbury Street

This application for permission for the erection of 13 dwellings came before the Planning Committee at its meeting on the 11th March 2014 (at around week 7). The resolutions of the Committee inter alia required that obligations securing financial contributions to NTADS, education provision and open space improvement. Subsequently the Committee, following an appraisal by the District Valuer agreed (at around week 54) that no contributions would be required but that an agreement requiring a reappraisal if after 14 months the development had not substantially commenced would be appropriate, with the potential future requirement for such contributions.

Various developments resulted in the matter not progressing - these being reported in detail in previous quarterly reports to the Committee. The Committee agreed in February this year to by stages reduce the 14 month period if the agreement was not promptly completed. An extension of time for the completion of the agreement was agreed for the 14th March 2016 and the S106 was completed on the 10th March and a decision issued on the 14th March (some 112 weeks since the receipt of the application).

The application was received after the introduction of the Planning Guarantee however no repayment of the fee was required in this case.

(2) Application 14/00767/FUL Former Woodshutts Inn, Lower Ash Road, Kidsgrove

The application for full planning permission for the erection of 22 affordable dwellings comprising a three storey block of 6, one bedroom flats; 10 two storey, two bedroom dwellings and 6 two bedroom bungalows came before the Planning Committee on the 9th December 2014 (at around week 9). The resolution of the Planning Committee included a time limit for the securing of certain planning obligations relating to public open space and education contributions, with the usual caveat that your Officer could extend that period if he considered it appropriate, and the Coal Authority withdrawing its objection by no later than 20th January 2015.

Members have been advised previously that the Coal Authority had withdrawn their objection and the applicant had subsequently informed the authority that the levels of contributions sought towards education and POS would make the scheme unviable. This resulted in a further report, following a viability appraisal, coming before the Planning Committee on 21st July 2015 (at around week 41). This time the Committee resolved to permit the application subject to the applicant entering into a Section 106 obligation by the 21st September 2015 to secure the review of the financial assessment of the scheme if there is no substantial commencement within a year of the grant of planning permission and contributions then being made to public open space and education on an equal proportion basis, if the scheme is evaluated at that time as able to support such contributions.

That date passed without completion of the agreement, and further periods lapsed without completion of the agreement.

Since the 2nd February meeting, by which point a period until the 4th March had been agreed, a further deadline of the 22nd March 2016 was agreed. Whilst this was not achieved, the agreement had by then reached a very advanced stage (it had been completed by Aspire but not by the other parties to the agreement, a further extension of one day was agreed, the agreement was finally completed on the 23rd March, and the decision notice then issued.

The decision was issued some 77 weeks after receipt of the application. The application was received after the introduction of the Planning Guarantee however no repayment of the fee is required in this case.

(3) 15/00368/OUT Land at West Avenue, Kidsgrove

This application, for outline planning permission for the erection of up to 44 dwellings, came before the Planning Committee on 21st July 2015 (at around week 9). The resolution of the Planning Committee included a time limit for the securing, by the 15th August 2015, of planning obligations relating to on-site affordable housing, and payment of contributions towards public open space and education facilities. A further period of time for the completion of the legal agreement, up to the 12th November 2015 and then another to the 3rd December was then agreed. That date passed without completion. A further extension to the 19th February 2016 was reported to the February Committee. It too also passed without completion. However, the agreement is in circulation and it is understood should be completed shortly.

A supplementary report will be provided to the Committee on this case.

At the time of writing some 50 weeks has passed since the original receipt of the application.

(4) 15/00699/FUL Land At Ashfields New Road, Newcastle

The application is for full planning permission for the erection of 42 residential units made up of five pairs of semi-detached, two bedroom dwellings; a block of 10 one bedroom flats; and a further block of 22 one bedroom flats. The application came before the Planning Committee on the 13th October 2015 (at around week 9). The resolution of the Planning Committee included a time limit for the securing of planning obligations, by the 6th November, for a financial contribution for the enhancement and maintenance of the open space at the Greenway.

After the original committee meeting the applicant submitted a financial viability report and advice of the District Valuer was then obtained. A further report came before the committee on the 2nd February 2016 with a revised recommendation which sought a review of the financial assessment of the scheme, if there is no substantial commencement within a year of the grant of planning permission, and a contribution then being made to public open space if the scheme is evaluated at that time to be able to support such a contribution.

A new date for the completion of the S106 agreement was set as the 27th February 2016. This date was not achieved but a revised date was agreed of the 21st March. The agreement was completed on the 15th March and the planning permissions issued on the 21st March 2016.

The decision was issued in this case some 32 weeks after receipt of the application. The application was received after the introduction of the Planning Guarantee however no repayment of the fee is required in this case.

(5) 15/01004/FUL The Hawthorns & Keele Campus Keele University

This application, for full planning permission for the demolition of the Management Centre buildings at the Hawthorns, Keele and for the construction of student accommodation at Keele University Campus and residential development at The Hawthorns in the village of Keele, came before the Planning Committee on 5th January 2016 (at around week 8). The resolution of the Planning Committee included a time limit for the securing, by the 5th March 2016, of a planning obligation to secure the long term management, availability, and maintenance of the public open spaces within the development, a financial contribution towards education places and a review mechanism if the development is not substantially commenced within a certain period. The agreement was not completed by the 5th March due to delays on behalf of the Council and a further extension of time was agreed to the 5th April 2016. The agreement was completed on the 30th March and the planning permission issued on the 5th April 2016.

This application was received after the introduction of the Planning Guarantee and by the time the decision was issued some 21 weeks since receipt of the application.

(6) 15/01116/FUL Former Squires Copper, Mount Road, Kidsgrove

This application, for full planning permission for the erection of 2 dwellings additional to the 12 dwellings given planning permission on the site previously, came before the Planning Committee on 2nd February 2016 (at around week 8). The resolution of the Planning Committee included a time limit for the securing, by the 12th March 2016, of a planning obligation to secure a contribution towards off site public open space.

An extension of time for the completion of the agreement from the 12th to the 22nd of March was necessary due to delays by the Council in sending the draft agreement to the applicant. The agreement was not completed until the 23rd March and the decision notice then issued.

This application was received after the introduction of the Planning Guarantee and by the time the decision was issued some 15 weeks had passed since receipt of the application.

(7) 15/00759/FUL Former Blue Bell Inn, New Road, Wrinehill

This application, for full planning permission for the erection of 5 dwellings, came before the Planning Committee on 2nd February 2016 (at around week 22). The resolution of the Planning Committee included a time limit for the securing, by the 14th March 2016, of a planning obligation to secure a commuted off site affordable housing contribution and review mechanism if the development is not substantially commenced within a certain period. An extension of time for the completion of the agreement from the 14th to the 21st of March was agreed because the applicant did not receive the hard copy engrossments which were sent out in advance of the 14th March. The agreement was then completed on the 21st March, and the decision notice of approval was then issued 'in time' on the 22nd March 2016.

This application was received after the introduction of the Planning Guarantee and by the time the decision was issued some 29 weeks had passed since receipt of the application, but no repayment of the planning fee was due in this particular case.

Date Report prepared

14th April 2016