

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 agree 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 3 month period between 26th April 2016 (when the Committee last received a similar report) and the date of the preparation of this report (26th July 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 2 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, provided that agreement is obtained prior to the expiry of the existing statutory period, is defined as one that has been determined as being determined "in time".

Details of the applications involved are provided below:-

(1) 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 along with a further extension to the 13th May which was reported to the April Committee. These dates passed without completion of the agreement.

The agreement in engrossed form has been in circulation for a number of months and during this time the developers have re-mortgaged the site which has resulted in delays and whilst the new lender is prepared to enter into the agreement, they have sought amendments to a couple of clauses and these requests have had to be considered. The Council's solicitors have advised that the agreement ought to be able to be completed by the 12th August, and in the circumstances your Officer has agreed to a further extension to reflect this.

At the time of writing some 64 weeks has passed since the original receipt of the application.

(2) 15/00692/FUL Audley Working Mens Club, New Road, Bignall End

This application for full planning permission for the erection of 12 dwellings came before the Planning Committee on 29th March 2016 (at around week 27). The delay during the application concerned the question of whether the development could support policy compliant contributions towards public open space and education facilities and the issue of who should fund the cost of the District Valuer in conducting a viability appraisal. That was eventually resolved. The resolution of the 29th March Planning Committee included a time limit for the securing, by the 10th May 2016, of a review mechanism (of financial contributions) if the development is not substantially commenced within 12 months from the date of the decision. A further period of time for the completion of the legal agreement was required due to delays by all parties and this was given - to the 26th May. The agreement was completed on the 27th May and the planning permissions issued on the same day.

The decision was issued in this case some 35 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.

Date Report prepared

26th July 2016