

THIRD QUARTER 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 and Development 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 and Development 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 the Section 106 obligations.

Introduction

The Committee have usually, when resolving to permit an application subject to the prior entering into of a planning obligation, also agreed to authorise the Head of Planning and Development 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 occur where the Head of Planning and Development 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 Officer 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 the significant number of applications that are being determined under delegated powers where an obligation by unilateral undertaking is being sought.

This report covers the period between 29th October 2013 (when the Committee last received a similar report) and the date of the preparation of this report (14th January 2013)

In the period since the Committee's consideration of the last quarterly report (at its meeting on 29th October 2013) section 106 obligations have not been entered into by the dates referred to in Committee resolutions with respect to some 5 applications. In 1 case no formal decision has yet been made on whether or not to extend the period. In all the other cases where an extension has been agreed it has been on the basis that the applicants similarly agree to extend the period within which they cannot appeal against the Council's failure to determine the application, and that should the Head of Planning and Development consider at any time there to have been a material change in planning circumstances he has a right to bring the matter back to the Planning Committee for reconsideration regardless of the stage the Section 106 negotiations have reached at that point.

As from 1st October the Planning Guarantee has been introduced, and in particular it requires Local Planning Authorities to refund any planning fee 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 will only apply to applications received after the 1st October 2013. This introduction of the Planning

Guarantee provides yet another reason for maintaining a clear and continued focus on timeliness in decision making.

Details of the applications involved are provided below:-

Application 12/00127/OUT - Land South Of West Avenue, West Of Church Street And Congleton Road And North Of Linley Road, Butt Lane, (Revelan Developments)

The proposal for residential development on land off West Avenue came before the Planning Committee at its meeting on the 8th May 2012 (the 13 week period expiring on the 13th June 2012). The resolution of the Committee was that planning permission should be granted subject to the prior securing of various obligations by the 6th June 2012. Progress on the Council's side was slow and further formal extensions of time were given until the 26th June 2012, 10th August 2012, 10th September 2012, 15th November 2012, 17th February 2013, 15th May 2013, 23rd August 2013 and 30th October 2013.

As previously reported the initial delays were attributable to delays on the Council's side, however, there were then discussions/negotiations following the applicant disputing level of financial contributions sought and the Council's ability to request some of the contributions, notably that for NTADS. In mid-May 2013 the applicant agreed to the principle of the NTADS request and a draft of the proposed agreement was then issued to the County Council. There then followed further delay on the County Council's side (the County being required to be a party to the agreement) which held up completion of the agreement and your legal officers regularly sought progress in this matter as did the applicants. Matters moved on with the agreement being approved, and then circulated for completion by the various parties involved (there were 6). Whilst the agreement was not in place by the last agreed extended period i.e. 30th October 2013, all parties have progressed the matter to a conclusion whereby the completed agreement was completed on the 20th December 2013. Whilst there had been no formal further agreed extension of time to complete the agreement, the Head of Planning and Development considers it would be unreasonable to refuse the application given the agreement is now in place. The draft decision notice has been prepared and should be issued prior to your meeting. If this is the case 98 weeks will have passed between the application submission and its decision.

Application 13/00021/FUL – Maer Hall

The proposal before the Authority was to vary condition 1 of planning permission 06/00723/FUL that permitted the conversion of a redundant outbuilding to form 3 holiday cottages, reception and managers flat and construction of a car park. Condition 1 restricted the use of the holiday cottages to short term holiday accommodation only. The variation sought would allow 2 of the units to be occupied as 6 month shorthold residential tenancy lettings. The application came before the Planning Committee at its meeting on the 16th April 2013 (the eight week period having expired on 27th March 2013). The resolution of the Committee was that planning permission should be granted subject to prior securing a planning obligation by the 16th May 2013.

The obligation was not completed by this date. The applicant and Officers have subsequently held a meeting where the particular circumstances of the case were discussed. As a result of this meeting and further discussions the application was withdrawn in November.

Application 13/00245/FUL – Old Springs Farm, Stoneyford (HLW Farms)

The proposal for the retention of an agricultural building for chopping and storage of Miscanthus came before the Planning Committee at its meeting on the 4th June 2013

(the eight period expiring on the 10th June 2013). The resolution of the Committee was that planning permission should be granted subject to prior securing a planning obligation by the 17th July 2013, and that if the obligation was not secured by that date, then the Head of Planning should consult with the Chairman and Vice Chairman prior to making any decision on whether to extend the period within the obligation could be secured.

The obligation was not secured by the 17th July and was subsequently extended, in consultation with the Chair and Vice Chair, to the 6th September. The obligation was not secured by this extended date.

The applicant's planning consultant has provided comments on the draft section 106 after some delay due to personal circumstances, the Council are considering those suggested amendments. The Head of Planning and Development is yet to consider whether it would be appropriate and reasonable to further extend the period of time for the applicant to enter into the agreement and if it is reasonable what is a reasonable but challenging extension period and he will be consulting with the Chair and Vice Chair on this matter, in accordance with the previous resolution.

An update on this case will be given in a Supplementary Report.

Application 10/00278/EXTN – Squire Copper, Mount Road, Kidsgrove

The proposal for a new planning permission to replace or extend the time limits for implementation of an existing planning permission for residential development of 12 dwellings came before the Planning Committee at its meeting on 27th August 2013 (the 13 week period expiring on the 14th October 2013). The resolution of the Committee was that planning permission should be granted subject to prior securing a planning obligation by 8th October 2013. A planning obligation had been entered into with respect to the earlier permission.

Whilst well advanced the obligation was not secured by 8th October 2013, the delay was as a result of title details of the site not being requested at the appropriate time in accordance with the Council's agreed Section 106 procedure and complications arising which were not anticipated including three additional parties having to be signatory to the document, and the introduction of the NTADS contribution requirement, neither being a requirement of the original agreement.

On the basis of the above, and following expressions of concern to the Chief Executive by the developer about the deadline, its lawfulness and reasonableness, the Head of Planning and Development whilst maintaining that it was lawful considered it unreasonable to exercise his delegated authority to refuse the application in this instance and he agreed to a limited extension to the period to complete the obligation to 29th October 2013. The obligation was not completed by this extended date. The Head of Planning and Development then considered it reasonable to extend the period further due to the advanced nature of the agreement, albeit by only a short and challenging period to 8th November 2013. The obligation was completed shortly afterwards and the decision was issued on 12 November 2013. Approximately 17 weeks passed in this case between the application submission and its decision.

Application 13/00103/FUL – The Skylark, Talke Pits

The proposal for planning permission for the demolition of the Public House and the erection of 14 dwellings came before the Planning Committee at its meeting on 17th September 2013 (the 13 week period expiring on the 15th October 2013) The resolution of the Committee was that planning permission should be granted subject to prior securing a planning obligation by the 11th October 2013.

Whilst well advanced the obligation was not secured by 11th October 2013, the delay being as a result of information on a chargee becoming known to the Council late in the day. Whilst the case officer made significant efforts to progress the Section 106 agreement prior to the Committee, the applicant was not explicitly advised of the resolution of the Committee especially the consequences of not meeting the deadline to complete the obligation.

On the basis of the above the Head of Planning and Development considered it unreasonable to exercise his delegated authority to refuse the application in this instance and he agreed to a limited extension to the period to complete the obligation to 29th October 2013. The obligation was not completed by this extended date. The Head of Planning and Development considered it reasonable to extend the period, further due to the advanced nature of the agreement, albeit by only a short and challenging period to 13th November 2013. The obligation was completed on 11th November 2013 and the decision was issued on 21st November 2013. Approximately 18 weeks passed in this case between the application submission and its decision.

Date Report prepared

14th January 2014.