

## 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 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, and of any similar decisions made by the Chairman and Vice Chairman.**

### **Introduction**

For sometime the Committee have usually, when resolving to permit an application subject to the prior completion 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. In several cases the Head of Planning and Development has been required by the Committee to consult first with the Chairman and Vice Chairman, before making his decision. 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.

In the period since the Committee's consideration of the last quarterly report (at its meeting on 23 October 2012) it has been necessary to decide whether or not to exercise this delegated authority on 4 occasions with respect to 4 applications. In most, but not all, 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.

Details of the cases involved are provided below:-

### **Application ref 11/00284/FUL – Silverdale Goods Yard (Reliant Building Contractors)**

The proposal for the erection of 23 houses at the former Silverdale Goods Yard site came before the Planning Committee on 13 September 2011 (the 13 week period expiring on 10 October) and Members resolved to permit the application subject to the completion of a section 106 Obligation by 3 October 2011. The obligation was not completed by this date and the period was then extended on several occasions

When this matter was reported to the Planning Committee on 6 March 2012 and the Committee was advised that an extension had been agreed until 27 March 2012 it indicated that unless very special circumstances emerged as to why a further extension should be given this date (of 27 March) should not be exceeded, and the Chairman and Vice-Chairman should be consulted by the Head of Planning and Development if he was proposing a further extension.

Since the Committee meeting of 6 March the Head of Planning and Development has agreed, in consultation with the Chairman and Vice-Chairman, a number of extensions of time to complete the obligation the latest date being 28 November 2012.

Due to the length of time since the application was originally considered an updated viability assessment has been sought, received and re-assessed. The legal document required to meet the Committee's resolution contains a number of non- standard obligations requiring the agreement of a number of parties including Staffordshire County Council. These factors have lead to a continued delay in the completion of the document.

No change in the relevant planning policies, such as to justify reconsideration of the matter by the Committee, is considered to have occurred in the interim.

To date the obligation has not been completed and an update on this case will be given in a supplementary report.

**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 8 May 2012 (the 13 week period expiring on 13 June 2012). The resolution of the Committee was that planning permission should be granted subject to the prior securing of various obligations by 6 June. Progress on the Council's side was slow and further extensions of time have been granted until 26 June, 10 August, 10 September and 15 November.

The obligations have not been secured by these dates and this remains the position. The applicants are actively pursuing completion of the obligations, and have been pressing the authority on this matter which should rightly have been progressed and completed. The delay is on the Council's side. No change in the relevant planning policies, such as to justify reconsideration of the matter by Committee, is considered to have occurred in the interim.

An update on this case will be given in a supplementary report.

**Application 12/00301/FUL – Plot 34 Eastwood Rise, Madeley Park Wood. (Mr. N. Baskeyfield)**

The proposal for a detached dwelling came before the Planning Committee at its meeting on 23 October 2012 (the 8 week period expiring on 12 October 2012). The resolution of the Committee was that planning permission should be granted subject to the completion of a Section 106 unilateral undertaking by 2 November 2012 – a date only 10 days later. The applicant pursued the completion of an agreement rather than an undertaking, albeit with the same obligations and therefore equally acceptable, and by 19 November 2012 an agreement meeting the Committee's requirement and signed by the applicants was received by the Council.

There has been a subsequent delay in obtaining the required authority to complete the agreement, but that has now been given (until 18 January), there having been no change in the interim in the relevant planning policies and in recognition of the prompt action taken by the applicant after the Committee, and formal completion of the agreement by the Council and issue of the grant of permission is now anticipated prior to the Committee meeting.

**Application 12/00512/FUL – Former Thistleberry House Residential Home, Keele Road (Taylor Wimpey North Midlands)**

The proposal for residential development came before the Planning Committee at its meeting on 13 November 2012 (the 13 week period expiring on 11 January 2013). The resolution of the Committee was that planning permission should be granted subject to the prior completion by 7 January 2013 of a Section 106 obligation securing various obligations

The agreement was not completed by this date. This was not due to a lack of will by the applicant, but rather due to the number of parties to the agreement (4), and in particular the role of the County Council both as landowner and as Highway Authority, and the requirement for those acting on behalf of the parties to be instructed. Taylor Wimpey has also sought to negotiate on a number of points that differ from the "standard" approach and the Councils have had to respond to and deal with these points – which inevitably takes time. By 7 January the agreement had reached the stage that its terms and wording had been agreed to by all

parties, but signed by none. There has been no change in the relevant planning policies in the interim. A brief extension up to 11 January has been agreed. An update on this case will be given in a supplementary report to the Committee.

**Date Report Prepared**

10 January 2013