



## **PLANNING COMMITTEE**

**27<sup>th</sup> January 2011**

**Report of Head of Planning and Building Control- Regeneration**  
**Erection of 18 dwellings at former Bridgewater Public House, Stoney Lane,**  
**Little Bloxwich, Walsall, WS3 3QY**  
**Application No 07/2651/FL/E11**

**1.0 PURPOSE OF REPORT**

To seek Committee authority for a variation of a Section 106 Agreement associated with permission 07/2651/FL/E11, by releasing the developer from obligations relating to education and urban open space provision.

**2.0 RECOMMENDATIONS**

That the request for a Deed of Variation to the S106 Agreement to release the developer from the obligations relating to education and urban open space is granted.

**3.0 FINANCIAL IMPLICATIONS**

Agreeing the request would intensify pressure on education and urban open space in the locality by forgoing a contribution to improvements.

**4.0 POLICY IMPLICATIONS**

Policy GP3 of Walsall Unitary Development Plan states that Planning Obligations will be used, as appropriate, to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by a development. Policy LC1 requires new residential developments to make financial or other contributions to enable provision of new urban open spaces. Policy 8.8 states where residential development necessitates the provision of new or improved educational facility developers will be required to make financial contributions towards the cost of providing these. Supplementary Planning Documents for Urban Open Space and Education explains these policy aims further.

**5.0 LEGAL IMPLICATIONS**

No significant implications.

**6.0 EQUAL OPPORTUNITY IMPLICATIONS**

Agreeing the request would intensify pressure on education and urban open space in the locality by forgoing a contribution to improvements which may impact unevenly across the community.

**7.0 ENVIRONMENTAL IMPACT**

The environmental impact of the development has already been considered in determining planning permission 07/2651/FL/E11.

## 8.0 **WARD(S) AFFECTED**

Bloxwich East

## 9.0 **CONSULTEES**

- 9.1 District Valuer – Concludes that the proposed residential scheme is not viable. The gross development value is £2,394,984. The District Valuer has made assumptions regarding details not provided by the developer such as fixtures and fittings, level of specification and design of the proposed dwellings. The residual value based on the 18 unit scheme has a negative value of £69,018 which is not viable. The residual value is the value of the land once all costs including S106 obligations, professional fees, developer's profit etc have been subtracted from the gross development value. The District Valuer highlights that in this instance the residual value appraisal includes allowances for Level 3 of the Code for Sustainable Homes. A developers profit based on 20% of the gross development value has also been adopted which equates to a total sum of £478,997.
- 9.2 The District Valuer does not agree with the developer's appraisal which deducts the historic purchase price of the site (£460,000), inclusive of site acquisition costs as a cost. The District Valuer assessment is made on the estimated current market value of £250-£300,000. The construction costs also appear low and unachievable. There is no allowance for various elements such as service mains connections, contingencies, Stamp Duty, Land Tax, Agents fees or legal fees, sales and marketing but the District Valuer has made assumptions about these.
- 9.3 Walsall Children's Services - Serco –Would still seek the contribution but if Committee resolve to release the developer from the obligation then this decision is accepted.
- 9.4 Greenspace Services – The Green Space Service has placed increasing reliance on securing section 106 funding to implement improvements to its parks and open spaces including improvements to security, infrastructure, children's play facilities, implementing the Green Spaces Strategy and parks development plans. This funding is also used as match funding, leveraging in other external grant opportunities. The loss of section 106 funding can lead to an even greater loss of potential funding”.

## 10.0 **CONTACT OFFICER**

Alison Deakin  
Principal Planning Officer 01922 652487

## 11.0 **BACKGROUND PAPERS**

Planning Application 07/2651/FL/E11.

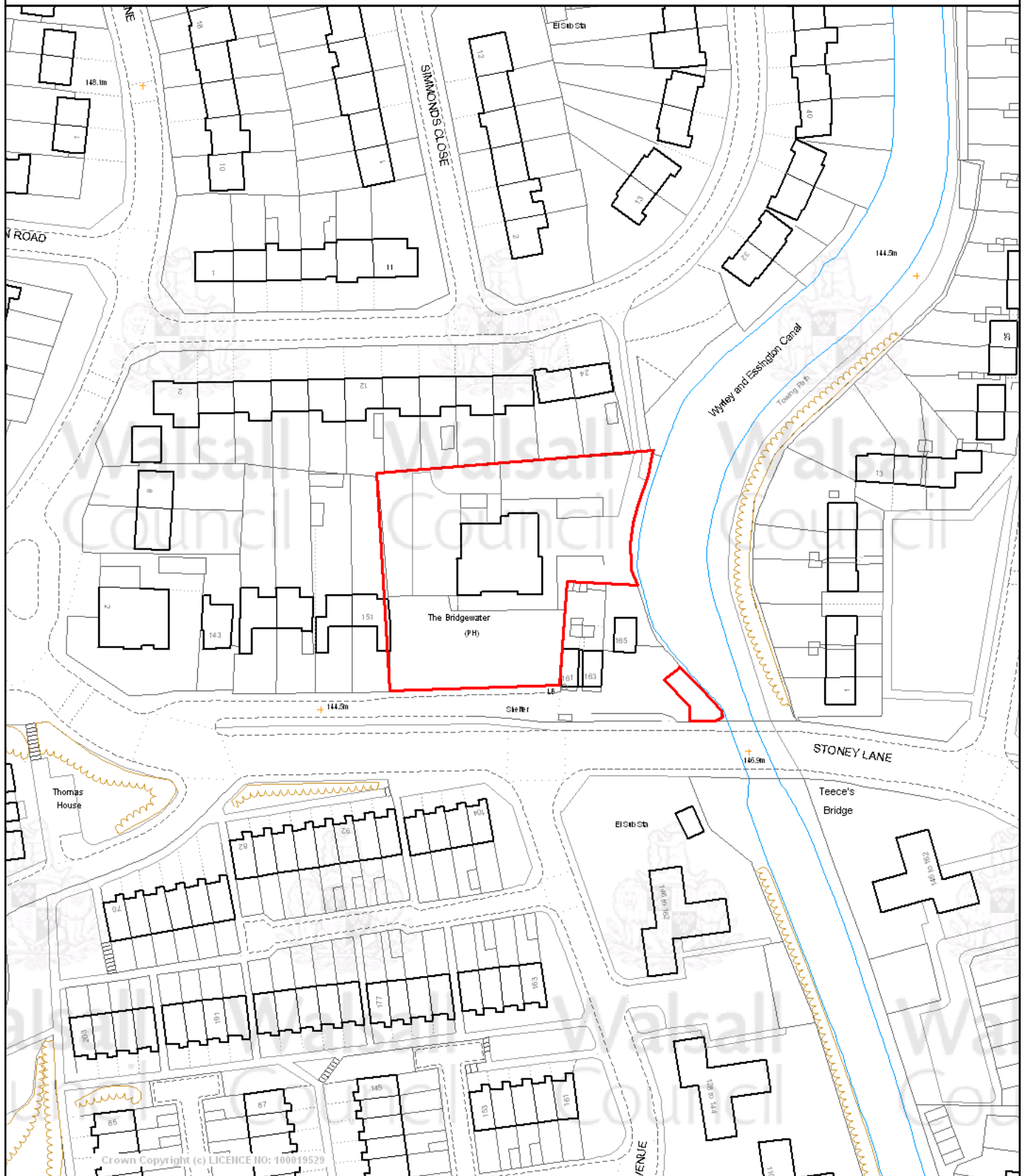
David Elsworthy  
Head of Planning and Building Control.

**Planning Committee**  
**27<sup>th</sup> January 2011**

**12.0 BACKGROUND AND REPORT DETAIL**

- 12.1 Planning permission 07/2651/FL/E11 for erection of 18 dwellings on the site of the former Bridgewater Public House, Stoney Lane, Little Bloxwich was granted subject to a S106 Agreement on 7<sup>th</sup> March 2008. The Agreement requires contributions of £39,794.33 towards secondary education and £36,990.00 towards the provision of urban open space. This gives a total contribution requirement of £76,784.33. It was revised on 4<sup>th</sup> April 2008 to attach the relevant plan.
- 12.2 The land owners Towncourt Limited request to be released from the original obligations to provide contributions towards education and urban open space in view of the viability of the scheme. A financial viability document for the scheme has been provided making their case for nil contributions. It states the current decline in the residential market and subsequent effect on residential land values makes the scheme no longer viable.
- 12.3 The financial viability documents explain that since permission was first granted in March 2008 land values have declined by 58% and in order for the development to proceed Towncourt Limited are faced with absorbing a financial deficit of £149,493.33 which renders the scheme unviable. Releasing the developer from the current S106 obligations would leave a debt to the company of £72,709 which the directors have agreed to write off and negotiate with interested parties in order to facilitate a future development at the site. Towncourt Limited state without releasing the obligations the site and the company's future is in jeopardy.
- 12.4 The financial viability document has been reviewed by the District Valuer on behalf of the Council and his findings are reported under section 9.0 above. Overall the District Valuer concludes that a development scheme including provision of S106 contribution is not viable. He considers that the scheme is not viable and has a negative residual value of £69,018. The District Valuer considers that there would be prospective purchasers interested in the land and his considered market value of the land would be in the region of £250,000 - £300,000 (as opposed to the developer's cost in purchasing the site at £460,000).
- 12.5 The District Valuer recommends that the Council may wish to consider inserting a clause in any revised agreement with the developer to the effect that if the market conditions improve and house prices rise above current levels before the development is completed and all the units sold, the Council can review any decision to forgo S106 contributions made at this date. However, the permission expires on 7<sup>th</sup> March 2011 so the risk of market conditions changing significantly by this time is minimal therefore a clawback clause is not recommended.

07/2651/FL/E11 - Former Bridgewater PH, Stoney Lane, Little Bloxwich



**Walsall Council**

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