



Walsall Council

DEVELOPMENT CONTROL COMMITTEE

Date : 18th NOVEMBER, 2008

Report Of Head Of Planning And Building Control

Variation to financial contributions on application 06/2186/OL/W5 – Residential Development, Midland Road, Walsall

1.0 PURPOSE OF REPORT

To agree a variation to the Section 106 Agreement relating to application 06/2186/OL/W5, approved 16th May, 2008, changing the date when payment of the financial contributions for open space and education are made.

2.0 RECOMMENDATIONS

That the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control, be authorised to amend the Section 106, to defer payments of the contributions to first occupation of any unit.

3.0 FINANCIAL IMPLICATIONS

The developer will meet all the council's reasonable legal costs to enable a Deed of Variation to the Section 106 agreement.

4.0 POLICY IMPLICATIONS

The open space and education contributions from the developer were secured in line with UDP Policy H4 (requiring 25% on site affordable homes) and the current Supplementary Planning Documents for open space and education.

5.0 LEGAL IMPLICATIONS

This report requires the council's Legal Services and the developer's solicitors to produce and agree a Deed of Variation on the Section 106.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

The financial contributions will be used in the surrounding wider area to increase open space facilities and improve educational opportunities within both primary and secondary sectors.

7.0 ENVIRONMENTAL IMPACT

None

8.0 **WARD(S) AFFECTED**

St. Matthews

9.0 **CONSULTEES**

Greenspace Services - no comments received

Walsall Children's Services (Serco) – no comments received

10.0 **CONTACT OFFICER**

Karon Hulse

Senior Planning Officer

01922 652492

11.0 **BACKGROUND PAPERS**

Walsall Unitary Development Plan 2005

Supplementary Planning Document for Open Space - April 2006

Supplementary Planning Document for Education - February 2007

David Elsworthy

Head of Planning and Building Control

18th November, 2008

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission (06/2186/OL/W5) was given in May, 2008 for the residential development of the former Co-Op dairy site on Midland Road, Walsall (location plan attached). Work has not begun. In the committee report (20th February, 2007) Section 106 Agreement contributions for education, open space and affordable housing were identified. This report only concerns the open space and education financial contributions component of the section 106 agreement that was subsequently signed.
- 12.2 The Section 106 Agreement requires the developer to make a percentage of the financial contributions for education and open space within 7 days of commencement of the development. For education £103,708.26 is required 7 days after commencement the remainder £69,138.84 to be payable upon first occupation and for open space, £84,120 is required to be paid 7 days after commencement with £56,080 being payable upon first occupation.
- 12.3 Due to the downturn in the housing market and current economic climate, the developers are requesting that the requirement to pay the proportions within 7 days of the commencement is removed and that all payments are made in full upon first occupation of any unit.
- 12.4 The request is therefore to defer the payment only not to reduce the payments. A spreadsheet has been provided to support their request which suggests that the first unit will be completed approximately 13 months after the start of construction on the site.
- 12.5 In general, officers seek payments on commencement so that a start can be made on spending the contribution as soon as possible. In turn, completion follows as early as possible, to accommodate the occupiers of the development. In this case, a deferral of 13 months, to avoid the delivery of the development is not unreasonable.
- 12.6 This report requests authority for a variation to the Section 106 agreement to allow for the deferral of payment of financial contributions to be paid in full upon first occupation on the basis that it will ensure the development of this site.