



Walsall Council

Development Control Committee 17th February 2009

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Variation to Section 106 Agreement on the bond sum on Planning Permission 02/0069/OL/E2 –Residential development & associated works at Land at Aldridge Road Streetly.

1.0 **PURPOSE OF REPORT**

To agree a variation to the Section 106 agreement, attached to the permission for the Poets Wood housing estate which was granted in September 2002. The variation seeks to change the period of the bond sum to cover landfill gas management from a set 20 years to sub-periods of no fewer than 3 years at a time.

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 agreement at clause 3.1 as set out in this report.

3.0 **FINANCIAL IMPLICATIONS**

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

4.0 **POLICY IMPLICATIONS**

None

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**

None

7.0 **ENVIRONMENTAL IMPACT**

The bond sum will be provided to the Council and used towards the costs of monitoring the ground gas levels of the site if the Management Company (as set up by the land owner/developer) fails to carry out the required ground gas monitoring as set out within the original Section 106 agreement.

8.0 **WARD(S) AFFECTED**

Streetly

9.0 **CONSULTEES**

Pollution Control have commented that the 20 year period specified in the Section 106 Agreement reflects the time scale required to allow the stabilisation of the ground gas conditions following the disturbance of the site by ground improvement works. They raise no objections to the renegotiation of the "Bond" term periods providing assurances can be obtained securing financial provision for a period at least equal to the original 20 year period.

Financial Services have advised that there would be no financial implications, as the Monitoring Officer would ensure the bonds are entered into.

Legal Services have advised that there are no significant legal implications as Redrow are paying the legal costs of the Section 106 variation deed and the Monitoring Officer will monitor the bond expiry dates to ensure new bonds are entered into at the appropriate times.

10.0 RISK ASSESSMENT

The purpose of the 3 year bonds if they need to be called on is to finance Council action undertaking aerial photography of the development and ground gas monitoring. As long as there is a bond in place, there is no issue. The risk is whether the bonds will continue to be provided or not. If they are not, the Council will have to judge whether to continue the tasks or not. Officers conclude that in that situation, acceptable arrangements can be arrived at.

11.0 CONTACT OFFICER

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12.0 BACKGROUND PAPERS

None

D. Elsworthy Head of Planning and Building Control

REPORT DETAIL

1. Planning permission 02/0069/FL/E2 was granted in 2002 for the erection of 166 houses on a former waste disposal site at Aldridge Road, Streetly, subject to a Planning Agreement. The former Aldridge District Committee later authorised the making of an amended agreement to incorporate the setting up of a management company. The purpose of the company is to monitor and maintain landfill gas control measures. The Agreement also requires the payment of a bond to pay for gas monitoring and surveys to check for unauthorised developments on site for the period of twenty years from occupation of the 160th dwelling, in the event that the management company do not carry out this function.
2. The land owner seeks to change the period of the bond sum from a set 20 years to a series of 3 year bonds at a time and running continuously from the date of the first bond until the expiry of the 20 year period. The reason is that Surety companies do not look to issue any type of a bond beyond three years and therefore it is not possible to meet the 20 year period.
3. Legal Services and Financial Services have no objections towards the variation of the Section 106.