



Development Control Committee

12 December 06

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

**Proposed Deed of Variation following restoration of land to Open Space , Brewers Drive
Pelsall.**

1.0 PURPOSE OF REPORT

To secure authority from Committee to vary the Section 106 Agreement, associated with permission BC64477P, by substituting amended plans which accurately define the area of land to be transferred into Council ownership

2.0 RECOMMENDATIONS

Committee are recommended to authorise the Deed of Variation

3.0 FINANCIAL IMPLICATIONS

None arising from the report.

4.0 POLICY IMPLICATIONS

Unitary Development Plan policy LC2.3 relates specifically identifies this site as a proposed additional area of open space.

Policies GP2 and 4 promote regeneration by addressing dereliction. ENV 14 & Para 3.9: give priority to the reclamation of derelict land for open space use. ENV7 seeks woodland planting. ENV 3 and 32 require careful consideration of green belt proposals. ENV33: requires good landscaping and GP3 states that Planning obligations will be used to secure open space and recreational provision.

5.0 LEGAL IMPLICATIONS

None arising from the report.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

7.0 ENVIRONMENTAL IMPACT

The completed remediation works have removed the dereliction and enhanced the amenity of the green belt and this area of designated open space

8.0 WARD(S) AFFECTED

Pelsall

9.0 CONSULTEEES

Legal Services have advised on the efficacy of the proposed Deed of Variance. In accordance with Table 2 Section 6(A)(1) the Power to enter into agreements regulating the development or use of land under Section 106 of Town and Country Planning Act can only be taken by the Development Control Committee.

The Head of Leisure and Life Long Learning has advised that he has delegated authority for the Council to enter into an agreement with the Developer to vary the Transfer by including the correct plans.

10.0 CONTACT OFFICER

Alison Deakin, Principal Planning Officer, Development Control 01922 652487.
deakinalison@walsall.gov.uk

11.0 BACKGROUND PAPERS

All published

David Elsworthy
Head of Planning and Building Control

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12 BACKGROUND AND REPORT DETAIL

12.1 Permission was granted on 11 June 2003 (application BC60381P) for land remediation and creation of Public Open Space on this former quarry and landfill site which is bordered by open land uses adjacent to Brewers Drive, Pelsall. The scheme included the transfer of the land from the developers to the Council, following a 2 year monitoring regime, under the terms of a Section 106 Agreement attached to the planning permission. (See attached Plan)

12.2 The land has been regraded and landscaped. Remediation works have been completed. The site was a series of humps and hollows and boundaries were difficult to identify on the ground. The reclamation works covered the area of despoliation and in doing so strayed over adjacent land outside the curtilages of the planning permission and S106 Agreement.

12.3 It also became apparent to the developers that the boundary of the Public Open Space in both the Transfer and Section 106 Agreement needed to be amended as an area of land in the south west corner of the site, which they believed to have been under their control, was actually found to be part of the landholding of an adjoining occupier. This required an amendment to the boundary of the site and thus required a Deed of Variation to the completed Section 106 Agreement.

12.4 The applicant has reclaimed a slightly larger site which has a positive benefit to the surrounding community by cleaning up contaminated land and successfully landscaping the finished site. No action is considered necessary to address these completed works outside the periphery of the site.

12.5 The site boundary plan has now been revised to reflect the correct ownership which requires a revision to the Section 106 Agreement in the form of a Deed of Variation. All other matters remain the same. The Deed of Variation requires substitution of the application plan for the corrected plan 1025/111 rev C to reflect the amended site boundary.

12.6 The Head of Leisure and Life Long Learning has the delegated authority for the Council to enter into an agreement with the Developer to vary the Transfer by including the correct plans. The only outstanding issue is therefore authority from Committee to complete the Agreement with the developers varying the Section 106 Agreement to include the amended plans.

12.7 Decisions to enter into agreements, or vary them, under Section 106 of Town and Country Planning Act can only be taken by the Development Control Committee. Committee are recommended to authorise the Deed of Variation.