



PLANNING COMMITTEE

Date: 28th June 2012

Report of Head of Planning and Building Control - Regeneration

Demolition of existing factory units and erection of 12 dwellings (4 x 2 bed, 6 x 3 bed & 2 x 4 bed) at Revival Street, Walsall.

Application No 08/1955/FL

1.0 **PURPOSE OF REPORT**

To seek Committee's decision on whether to agree a variation of a Section 106 Agreement associated with planning permission 08/1955/FL.

2.0 **RECOMMENDATIONS**

Revise the Section 106 Agreement to waive the education contribution of £30,207.90 and the open space contribution of £23,290.00.

3.0 **FINANCIAL IMPLICATIONS**

Should Members agree to waive the above contributions, the relevant service areas would not be able to apply the funds towards the provision of open space and education facilities. Associated costs for entering into a deed of variation are to be met by the developer.

4.0 **POLICY IMPLICATIONS**

Planning Obligations are primarily negotiated as part of the determination of planning applications in accordance with the National Planning Policy Framework 2012 (NPPF), Community Infrastructure Levy Regulations 2010 (Regulation 122), Policy GP3 of the Unitary Development Plan, Policy DEL1 of the Black Country Core Strategy and adopted Supplementary Planning Documents.

On **planning obligations** the NPPF says:

Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The NPPF also says that costs imposed on developments should pay careful attention to viability and take account of market conditions.

5.0 **LEGAL IMPLICATIONS**

A Deed of Variation to the existing S106 Agreement would need to be prepared in regard to the revised proposals.

6.0 EQUAL OPPORTUNITY IMPLICATIONS

Limited educational capacity and public open space provision was identified in the locality as part of the original application. Should the education and open space contributions be waived this could impact on particular groups within the area.

7.0 ENVIRONMENTAL IMPACT

The environmental impact of the development was originally considered in the determination of planning permission 08/1955/FL. However, should the open space contribution be waived this will result in decreased investment in open space in the area.

8.0 WARD(S) AFFECTED

Bloxwich East

9.0 CONSULTEES

9.1 Greenspace

Should the open space contribution be waived, this would impact on the delivery of key corporate investment plans for improving the quality and value of the boroughs green assets and increase in customer satisfaction.

9.2 Walsall Children's Services – Serco

No objection.

10.0 CONTACT OFFICER

Mike Brereton

Development Management Monitoring Officer, 01922 652589

11.0 BACKGROUND PAPERS

Planning Application 08/1955/FL.

David Elsworthy

Head of Planning and Building Control.

Planning Committee
31st May 2012.

12.0 BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission 08/1955/FL for demolition of existing factory and erection of 12 residential dwellings at Revival Street, Bloxwich, Walsall was granted subject to conditions and a S106 Agreement on 6th April 2009. The Section 106 Agreement dated 6th April 2009 included the requirement of contributions towards open space and education (£23,290.00 and £30,207.90 respectively).
- 12.2 The land owner approached the Council in September 2009 to discuss options relating to the contributions because they were facing financial difficulties on the site. It was subsequently agreed that the contributions be deferred for 12 months from the date of the site commencing to help bring the development forward. The deferral period ended in April 2011 at which time the land owner contacted the Council again to explain that the financial situation had not improved despite constructing 5 of the 12 dwellings.
- 12.3 The land owner submitted financial information (including build costs) to the District Valuation Office to evidence the financial circumstances of the site and to enable a financial appraisal to be undertaken. The final report from the District Valuer dated 19th April 2012 concluded that the scheme is not viable when taking account of the aforementioned financial contributions due under the Section 106 Agreement. Furthermore, the report concluded that the site would still not be viable even if the contributions were deferred until March 2013.
- 12.4 In order to waive the contributions, a deed of variation would need to be completed and the developer has agreed to meet the associated costs in a letter dated 30th April 2012.
- 12.5 In light of the evidence above it is recommended that Committee supports the proposal to enable the developer to enter into a deed of variation with the Council to waive the open space and education contributions of £23,290.00 and £30,207.90.