

29<sup>TH</sup> SEPTEMBER 2016

**REPORT OF HEAD OF REGULATORY SERVICES**

**15/00547/OUT : DEVELOPMENT OF 10 PRIVATE DWELLINGS AND PUBLIC OPEN SPACE, FIELD NO 7858, MELTON ROAD, LONG CLAWSON**

**REQUEST TO REVIEW S106 OBLIGATIONS**

**1. PURPOSE OF THE REPORT**

- 1.1 The purpose of this update report is to convey the request of the applicant to reconsider the developer obligations associated with this application, in the light of changing National Guidance.

**2.0 RECOMMENDATION**

- 2.1 That the Committee agrees to the variations to the contributions as requested**

**3.0 BACKGROUND**

- 3.1 Members will recall that permission was granted on 7th January 2016 subject to a Section 106 Agreement securing obligations for:
- Contribution for the improvement to civic amenity sites.
  - Contribution to Education
  - Contribution to travel packs
  - Contribution to maintenance of open space
  - Sustainable transportation
  - The provision of affordable housing, including the quantity, tenure, house type/size and occupation criteria to ensure they are provided to meet identified local needs
- 3.2 There has been slow progress on the s 106 (due mainly to the long term illness of the applicant's advisor) and in the meantime changes to National Planning Policy Guidance have taken place that relate to developments of the scale of this proposal. In the light of these the applicant has requested that the following obligations are deleted as they are no longer 'legitimate' requests:
- Affordable housing
  - 'Tariff style' contributions for civic amenity and libraries contributions.
- 3.3 In support of their request, in addition to the policy position, the applicants have explained that the requirement for 40% affordable housing has become an obstacle to its sale and deliverability. This is both because of the financial burden it imposes on prospective developers, but also because the number of houses involved (4) is an unattractive proposition for Registered Providers (Housing Associations and other providers of affordable housing). This is because such a small quantity, located separately from other parts of their stock, demand a difficult management and maintenance arrangement.
- 3.4 A letter is provided from a local Chartered Surveyor who explains that there is high interest from the market on the site, but that prospective developers have declined the site because of the affordable housing requirements.

## **4.0 POLICY CONTEXT**

- 4.1 Changes to Planning Practice Guidance that were implemented in May 2016 state that “ contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development”. It proceeds to define ‘small scale’ as “developments of 10-units or less” (Reference ID: 23b-031-20160519).

## **5.0 KEY ISSUES**

- 5.1 In view of the above it is considered that the applicants request is compliant with National Policy and there are insufficient grounds to resist it (which would require refusal of the application). Any subsequent appeal would be considered against the policy prevailing at the time which would apply these provisions, despite the fact that the application (and original determination) pre dated this policy.
- 5.2 However, clearly the absence of such contributions, especially those related to affordable housing, affects the balance of the issues in relation to this application. Members are familiar that the approach to decision making set out in the NPPF requires the ‘harm’ of development to be balanced against the ‘benefits’ and in this example affordable housing provision was clearly part of the latter. Removal of that aspect alters the balance and can only be regarded as weakening the weight of the benefits within this exercise. It is therefore necessary to revisit the balance of the issues in the light of the request.
- 5.3 Conversely, the removal of the items as requested would boost the deliverability of the scheme and indeed, the Written Ministerial Statement that accompanied the changes to National Policy explained that this was the very purpose of these changes. It is therefore considered that, against this policy background, the balance of the issues remains in favour of the application and permission should be granted.

## **6 CONCLUSION**

- 6.1 The request to delete the contributions to affordable housing, libraries and civic amenity are regrettable but it is considered there is little option in the light of the revisions to national policy.
- 6.2 Although the ‘planning balance’ is affected by this request, it is considered that the emphasis placed on the provision and delivery of housing (to which this request and the policy amendments it engages specifically relate) results in there remaining adequate benefits from the proposal to continue to justify the granting of permission, under the framework for decision making imposed by Para 14 of the NPPF.

### Background Documents:

- Committee report 15/00547/OUT 7<sup>th</sup> January 2016
- Minutes of the Committee meeting of 7th January 2016
- Applicant’s request and supporting letter