

PLANNING COMMITTEE

31st January 2019

REPORT OF THE DEVELOPMENT MANAGER

17/00641/OUT: FIELDS 8456 7946 AND 9744 NORMANTON LANE BOTTESFORD

REQUEST TO VARY S106 AGREEMENT

1. Introduction

1.1 The purpose of this report is to consider amendments to the s106 agreement associated with this application that have been requested by the applicant.

1.2 The purpose of this report is to invite the Committee to consider the applicant's request to vary the s 106 currently in place to:

- (i) Operate the car park with a minimum charge to users of £1 to park for the day** (previously no charge was intended).
- (ii) To require provision of a New Railway Car Park upon occupation of the final dwelling** (previously the 50th)

2. Background

2.1 Members will recall that the planning application was considered at the meeting of 28th September 2017 and was approved, subject to the completion of a S106 Agreement to provide a new Railway Car Park and various conditions.

2.2 The new Railway Car Park is described as thirty bays (30) of car parking to be provided within the site.

3. Update

3.1 A new Railway Car Park with 30 bays is to be provided on site but for health and safety reasons it is requested that the new car park is not constructed and open to the public until after the development is completed rather than by Occupation of the 50th Dwelling.

3.2 It is therefore requested to be amended to read as follows *"Not to occupy or permit Occupation of the final dwelling until a New Railway Car Park has been constructed*

and is open to the public as a railway station car park and the signage approved or deemed approved by the Borough Council Pursuant to clause 5.7.2”.

- 3.4 It has been confirmed that at the outline stage the applicant included the proposal for the car park to be free of charge and that this was not a requirement of the Council, Network Rail or any other consultee.
- 3.6 It has been requested to operate the car park with a minimum charge to users for example £1 to park for the day, this would enable a barrier to be in place and to aid other security features such as cameras.
- 3.7 Clause 5.7.4 is therefore requested to be amended to read as follows *“From the date that the New Railway Car Park is opened to the public to keep the New Railway Car Park open for use by fee paying public (subject to health and safety considerations).*

4. Representations

- 4.1 Representations have been received from the Bottesford Neighbourhood plan Steering Group as follows:
- The car park should be complete at the same time as the 55th house on the development and NOT, as in the proposed Deed of Variation, on completion of the 88th house. We have real concerns that the car park in the Outline Plans, and a clear planning gain, will not be adequately completed in a way that befits a potential visitors' entrance to the village,
 - If there are concerns over security the car park can be cordoned off until such time as the site is complete or the security problem is no longer an issue, whichever is the sooner.
 - There is also the proposal to install a gate and charge for the use of the car park. This is also unacceptable, the car park was to be free to use, and charges may limit its use when the existing station car park and on-street parking near the station are free. Additionally now that they are proposing the agricultural access to be via the main street, rather than to the north of the development, this will result in tractors, trailers and other farm plant having to go through the car park with the added obstruction of a gate (and a charge?)
 - The Parish Council (PC) does not have the resources to manage the barrier and collection of fees etc.
 - We further understand that Miller Homes are looking to use Section 106 monies for this work. We feel this is completely inappropriate as it does not fit in with the requirements for S106 funding since the car park is not made necessary as a result of this development. We always understood that this was an obligation on the buyer of the site and are checking this is the case with Messrs Goodson.
- 4.2 Two representations were received during the consideration of the Reserved Matters application 18/00874/REM which stated the following

- 4.3 A major plus for the site was the provision of free extra parking for the station. There must be no agreement to the Deeds of Variation which
- (a) do not require the car park to be completed until all 88 houses have been built (first 55 was the original agreement), and
- (b) change the car park from free to use to a gated area with payment. This will drive parkers to use the housing estate roads for parking. Given how frequently developers renege on their planning agreements there is a worry that if the car park is not built until after all the houses have been built it will suddenly be declared 'unviable'.
- 4.4 With free parking available at the Station Road entrance to the station, nobody would be prepared to pay at Normanton Road. Instead, they would park on the through road which will become littered with cars.

5. Assessment

- 5.1 Whilst noting the change of trigger point, the proposal does not remove the car park, the provision of parking would still be provided, however as put forward by the applicant, this would be at a time when building works to the dwellings would be complete and it would not be necessary for members of the public to access and drive through an active building site.
- 5.2 The charging of the car park has been requested due to the need to provide additional security to the car park, the charging would be used for security measures and a £1 per day charge would not be considered unreasonable to ensure adequate measures to be provided. There is no evidence to suggest that this charge would make the car park unviable, indeed the provision of security for cars could be considered as a benefit to the users of the car park however this argument is finely balanced.
- 5.3 The ongoing management and maintenance of the car park is not a planning consideration and would be the responsibility of the land owner until a sale/transfer is made.

6. Recommendations

- 6.1 **It is recommended that a Deed of Variation is granted to allow the amendment to the trigger of the New Railway Car Park and to allow a fee to be charged for the service.**

Background documents:

- Report to the meeting of Planning Committee 28th September 2017
- Minutes of the meeting of 28th September 2017