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| <b>Reference:</b><br>16/01115/DVOB | <b>Site:</b><br>Former St Chad's School site<br>St Chads Road<br>Tilbury  |
| <b>Ward:</b><br>Tilbury St. Chads  | <b>Proposal:</b><br>Application for a Deed of Modification to the s106 legal agreement for planning permission reference 14/01274/FUL (Residential re-development of former St. Chads School site for 128 units, comprising two, three and four-bed houses plus new associated landscaping and infrastructure). |

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|-------------------------|--------------------|------------------------|
| <b>Plan Number(s):</b>  |                    |                        |
| <u>Reference</u><br>N/A | <u>Name</u><br>N/A | <u>Received</u><br>N/A |

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|---|---|
| <p>The application is also accompanied by:</p> <ul style="list-style-type: none"> <li>• Financial Viability Assessment</li> </ul> |   |
| <b>Applicant:</b><br>Gloriana Thurrock Limited  | <b>Validated:</b><br>9 August 2016<br><b>Date of expiry:</b><br>31 March 2017 (Requested Extension of Time) |
| <b>Recommendation:</b> That the existing s106 agreement be varied in accordance with paragraph 3.1 of this report.                |   |

## 1.0 BACKGROUND

- 1.1 At the meeting of the Planning Committee held on 15<sup>th</sup> December 2016 Members considered a report for the above proposal. The report recommended that the existing s106 agreement be varied to delete the obligation for the provision of on-site affordable housing (as promoted by the applicant at that time).
- 1.2 A copy of the report presented to the 15<sup>th</sup> December 2016 meeting is attached as Appendix 1.

- 1.3 At the December meeting determination of the application was deferred to allow the applicant (Gloriana Thurrock Ltd.) to give due consideration to the possibility of an increased affordable housing figure.
- 1.4 Following the deferral, the applicant has considered its options and has responded as follows:

*“Gloriana has re-assessed its financial model and although the return from the housing development will be lower, the company will offer to provide:*

- *20% (26 units) of affordable housing and £640,000 financial contributions – based on some of the affordable housing being shared ownership; or*
- *22% (28 units) of affordable housing and £300,000 financial contributions – based on some of the affordable housing being shared ownership.*

*The preference being the first option (i.e. 20% affordable housing and a £640,000 financial contribution).*

*The key principle of this project was to demonstrate to the market the type of high quality housing that Tilbury and Thurrock deserves and expects; the quality and design principles have not been compromised. This development is a real asset to the Tilbury landscape and community and will provide residential infrastructure to the wider economic development of the area. From a site that the Council could not sell, that was contaminated, vulnerable to fly tipping and a local eyesore, Gloriana has taken it on, met the substantial decontamination costs and built 128 high quality new family homes for Tilbury that will ready for occupation from January 2017.”*

## **2.0 ASSESSMENT OF REVISED S106 CONTRIBUTIONS**

- 2.1 In summary, the existing s106 agreement associated with the planning permission for the redevelopment of the former St. Chad’s school site (ref. 14/01274/FUL) places obligations upon Gloriana as follows:
- 35% affordable housing (45 no. dwellings);
  - financial contribution of £640,000 towards education and recreation;
  - management and maintenance of open space and SUDS; and
  - off-site highways works.
- 2.2 The report considered by Members in December 2016 noted that during construction of the development unforeseen asbestos contamination was

encountered. This contamination added c. £3.35 million to site development costs. Previous viability modelling revealed that the development was not financially viable with the affordable housing obligation, although the development returned a small profit (no more than 5% of development cost) if the requirement to provide affordable housing was deleted. The proposal considered in December 2016 was to delete the affordable housing obligation, whilst retaining the other obligations listed at paragraph 2.1. The recommendation placed before Committee in December concluded, on the basis of the information provided by the applicant and with regard to planning policy, that the s106 agreement should be varied as proposed.

2.3 The response from the applicant, set out at paragraph 1.4 above, essentially sets out two options for the delivery of on-site affordable housing, linked to the ability of the development to provide financial contributions towards education and recreation provision. These options are summarised in the table below:

| <u>Option</u> | <u>% Affordable Housing</u> | <u>No. of Affordable Housing Units</u> | <u>Financial contribution (education and recreation)</u> |
|---------------|-----------------------------|--|--|
| 1             | 20%                         | 26                                     | £640,000   |
| 2             | 22%                         | 28                                     | £300,000   |

2.4 At the time when the application for full planning permission (ref. 14/01274/FUL) was considered by the Planning Committee in February 2015, the Planning Obligations Strategy (POS) was relevant and required a financial contribution of £640,000 (128 dwellings x £ 5,000) towards the costs of addressing infrastructure needs arising from the development.

2.5 However, due to changes to the Community Infrastructure Levy (CIL) Regulations which came into force on 1<sup>st</sup> April 2015, the Council can no longer rely on pooled financial contributions secured via the POS. The final s106 agreement, completed in June 2015, therefore ‘capped’ the total financial contribution at £640,000 as the figure considered by the Planning Committee in February 2015. The agreement splits this total figure between education and recreation provision.

2.6 It is clear from the applicant’s re-assessment of the financial model that some level of on-site affordable housing is viable, albeit with a lower level of financial return over a longer period. The judgement for Members of the Committee is to balance the desirability of delivering affordable housing against the need for financial contributions reasonably required to mitigate the impact of the development.

- 2.7 From the consultation responses that were received when the original planning application was submitted, it is apparent that the development will impact on education provision and recreational facilities locally. Although it may be tempting to maximise affordable housing as close as possible to the adopted Core Strategy target of 35%, Policy PMD16 of the Strategy also requires that development proposals mitigate their impacts, including impact on education provision and recreational facilities.
- 2.8 The Infrastructure Requirement List (IRL) identifies extensions to existing nursery, primary and secondary schools as infrastructure projects and it would therefore be legitimate to seek a financial contribution to these projects. Policy PMD5 of the Core Strategy is also relevant and requires that new open spaces or sports and recreational facilities are provided in order to meet the requirements of new development. In response to the original planning application, Sport England sought a financial contribution in accordance with the POS. Indeed, Sport England would have objected to the planning application without a financial contribution. In light of this response and the requirements of policy PMD5, a financial contribution towards recreational facilities is still relevant. To this end, the enhancement of existing facilities at King George's playing fields has previously been identified as an infrastructure project.
- 2.9 Accordingly, it is considered that the existing 'capped' financial contribution of £640,000 should be maintained and, as such, option 1 (above) offers the best solution in delivering some on-site affordable housing, whilst ensuring that the identified impacts of the development are adequately mitigated.

### **3.0 CONCLUSION**

- 3.1 The applicant has presented two options for the delivery of on-site affordable housing and financial contributions towards infrastructure provision. It is considered that the option of maintaining the existing agreed level of financial contributions (£640,000) whilst delivering 20% affordable housing represents the most balanced option.

### **4.0 RECOMMENDATION**

- 4.1 **A** – that the existing s106 agreement be varied as follows:
- (i) to reduce the affordable housing provision from the agreed proportion of 35% to 20% (26 dwellings) with the mix of two, three or four-bedroom properties and the mix of social rented and shared ownership properties to be negotiated and agreed between the parties;

- (ii) that the financial contributions towards education and recreation remain unchanged at £640,000 (subject to indexation from the date of the original s106 agreement) less any payments already received;
- (iii) that the reasonable legal costs incurred by the local planning authority in negotiating and completing the deed of modification are paid by the applicant;

**B** – that authority is delegated to the Head of Planning and Growth to negotiate and complete any consequential changes to the s106 agreement resulting from the proposed deed of modification.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

[www.thurrock.gov.uk/planning/16.01115.DVOB](http://www.thurrock.gov.uk/planning/16.01115.DVOB)

