

BRECKLAND COUNCIL

PLANNING COMMITTEE – 29th JULY 2013

REPORT OF DIRECTOR OF COMMISSIONING

(Author: Nick Moys, Principal Planning Officer (Major Projects))

PROPOSED RESIDENTIAL DEVELOPMENT, 119 NORWICH ROAD, WATTON: VARIATION OF SECTION 106 AGREEMENT

Applicant: S & A Jones

Reference: 3OB/2012/0004/OB

DEFERRED ITEM REPORT

1. This report concerns a request to vary the terms of a section 106 agreement related to a planning permission for a housing development at Watton. This matter was considered by Members on 1 July 2013, when a decision was deferred to allow a recreational contribution to be negotiated and for further information about development timescales to be provided.
2. The applicant has requested that the legal agreement is varied to omit the requirements to pay contributions towards affordable housing (£247,684), recreation (£13,400) and transport (£3,000), due to viability issues. As noted previously, the District Valuer has confirmed that the approved development would not be viable in current market conditions with these obligations.
3. In response to the concerns raised by Members, the applicant has offered to pay a contribution of £5,000 towards local recreational prior to the occupation of the third dwelling. The applicant has also confirmed that the development would start within 6 months of the issue of a revised legal agreement. Subject to market conditions, it is intended that the development would be completed within 3 years.
4. Whilst the proposed recreational contribution is less than would otherwise be required under Core Strategy Policy DC11, given current market conditions and the general desirability of facilitating new housing, it is considered that the proposal is acceptable.
5. It is considered that any relaxation in the current planning obligations should be subject to a review clause. A number of options are available to the Council in this respect. Firstly, the Council could require development viability to be re-assessed towards the end of the development, with a mechanism to claw back further contributions if developer returns exceed an agreed level. Whilst such provisions protect the interests of both parties, the requirements place an additional financial burden on the developer (particularly for smaller schemes) and do not incentivise early delivery. As an alternative, the claw back mechanism could be deferred so that it would only become operative if the development had not been completed within a prescribed period. This would encourage the development to be completed, but would carry a risk of a loss of potential contributions if market conditions improved significantly in the short-term. Provided the prescribed period is short (say up to 3 years), it is considered that the risks to the Council are small.
6. **RECOMMENDATION:** It is recommended that the section 106 agreement is varied as requested.