

BRECKLAND COUNCIL

Report of the Deputy Chief Executive **Development Control Committee – 13 July 2009**

EAST HARLING: LAND AT KEMPS MEADOW: RELEASE FROM s.106 AGREEMENT

Purpose of Report

To seek the Committee's views on a request to release two small pieces of remaining land from a S.106 Agreement.

Recommendation

It is recommended that the Council/Committee grant the request.

1. Planning permission was granted in April 1994 under reference 3/91/0795 for the erection of ten dwellings at Kemps Meadow, Garboldisham Road, East Harling, subject to a S.106 Agreement. The Agreement, dated 21 April 1994, required the ten dwellings to be owned by a Housing Association and restricted to ten houses which would be for rent or shared ownership for qualifying persons. The site affected is shown edged black on Plan A.
2. Most of the site has now been developed for the ten dwellings by Broadland Housing Association, in accordance with the S.106.
3. There are two small pieces of land which were covered by the S.106 but which are not part of the Broadland Housing Association development – these are shown approximately hatched and cross-hatched black on Plan B. A request has been received on behalf of the owner of these pieces of land and the surrounding land to the south and west (a Breckland Councillor) for the hatched and cross-hatched areas to be released from the S.106 restrictions. The dimensions of the hatched land are around 32m by 16m plus the spur to the north, and of the cross-hatched land, around 4m by 23m.
4. Whether or not any new application is subsequently made (e.g. for residential permission) for the hatched and other land, the officers feel that the objective of the S.106 has been met and that the hatched and cross-hatched areas could therefore reasonably be released from the 1994 S.106. If any application is made including this land, it would be dealt with on its merits, with or without a new S.106 according to the circumstances and planning considerations.
5. The restrictions involved here were imposed under section 106 of the 1990 Act as a planning obligation. Breckland has no connection with the site as landowner, and cannot therefore demand any consideration for the release. Here, the local planning authority has to decide whether the obligation no longer serves a useful planning purpose, and there is a right of appeal to the Secretary of State against refusal.
6. It is therefore recommended that authority be given for release of the hatched and cross-hatched areas from the restrictions of the S.106 Agreement dated 21 April 1994.
7. **Risk and Financial Implications**
- 7.1 **Risk : No significant risk**

7.2 Financial : None

8. Legal Implications: Contained in Report.

9. Other Implications

a) Equalities: None

b) Section 17, Crime & Disorder Act 1998: None

c) Section 40, Natural Environment & Rural Communities Act 2006: None

d) Human Resources: None

e) Human Rights: None

f) Other: [e.g. Children's Act 2004] None

10. Ward/Community Affected

East Harling

Background Papers: None

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Key Decision Status (Executive Decisions only): Non key decision and not on Forward Plan

Appendices attached to this report: Plans A & B