



**PLANNING COMMITTEE:** 2<sup>nd</sup> September 2014

**DIRECTORATE:** Regeneration, Enterprise and Planning

**HEAD OF PLANNING:** Susan Bridge

**REPORT TITLE:** N/2014/0890 Former Pearce Leather Works: Application to vary the section 106 agreements in respect of applications 10/0027/FULWNN dated 13/10/10 and N/2012/0926 dated 07/08/2013 regarding affordable housing

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## **1. RECOMMENDATION**

1.1 That the Committee **AGREE** to vary the Section 106 agreements to reduce the level of affordable housing provision to zero and to delegate the decision to vary the Section 106 obligations, as set out in this report, to the Head of Planning subject to no further representations being received before the end of the consultation period.

## **2. BACKGROUND**

2.1 Lagan Homes is currently developing the site at the former Pearce Leatherworks off Wellingborough Road for residential use, as well as undertaking works to secure refurbishment and occupation of the existing listed office building and Power House building.

2.2 Planning permission 10/0027/FULWNN was granted by WNDC, for redevelopment of the former Pearce Leatherworks site to provide 126 residential dwellings and for works to the listed building. As part of this permission, a Section 106 agreement dated 13<sup>th</sup> October 2010 was completed between WNDC, Lagan Homes Limited and W Pearce & Co (Northampton) Limited.

2.3 Under the terms of this agreement the owner is obligated to provide not less than ten affordable housing dwellings as part of the residential development. This level of affordable housing was reached following submission of a viability appraisal by the owners.

- 2.4 A further planning permission N/2012/0926 was granted by the Council for conversion of the Power House building to seventeen dwellings. This building was part of the original planning permission but was subject to a re-plan by the developers. A Section 106 agreement dated 7<sup>th</sup> August 2013 between Northampton Borough Council, Lagan Homes (Northampton) Limited and Investec Bank PLC, obligated the developer to provide six of the Power House dwellings as affordable dwellings.
- 2.5 Lagan Homes have now requested that the Council voluntarily agree to remove all the affordable housing obligations due to 'significant hurdles' and the lack of viability in the site. This is due to the downturn in the property market, which has impacted upon market values and sales rates of the dwellings. The costs associated with the restoration of the listed building have also had a major effect.
- 2.6 The Committee has previously agreed to the variation of the agreement dated 13<sup>th</sup> October 2010 which varied the number of residential occupations required prior to the listed building works taking place.

### **3. PLANNING POLICY**

- 3.1 Section 106A of The Town and Country planning Act 1990 makes provision for a planning obligation(s) to be modified by agreement between the person(s) against whom it is enforceable and the local planning authority.
- 3.2 The Growth and Infrastructure Act 2013 inserted new sections 106BA, BB and BC into the 'Town and Country Planning Act 1990' to introduce a new application and appeal procedure, to review affordable housing obligations on the grounds of viability.
- 3.3 The National Planning Policy Framework requires local authorities to take into account the cost of infrastructure, including affordable housing, to enable development to be deliverable.
- 3.4 The Council's adopted Planning Obligations Supplementary Planning Document (SPD) states, "Where the applicant has demonstrated that there is a valid case on development viability grounds, the Council will give due consideration to such cases and will work with the developer to ascertain the best way to mitigate the impacts of a scheme without compromising its effective delivery."

### **4. PROPOSED VARIATION**

- 4.1 Lagan Homes has submitted a viability appraisal to the Council which demonstrates that the current level of s106 obligations contained in the aforementioned agreements render the development unviable. This may affect completion of the development. Lagan has requested that the Council agree to the level of affordable housing being reduced to zero.

- 4.2 The test for viability is that the evidence indicates that the current cost of building out the entire site (at today's prices) is at a level that would enable the developer to sell all the market units on the site (in today's market) at a rate of build out evidenced by the developer, and make a competitive return to a willing developer and a willing landowner.
- 4.3 Council Officers have instructed viability consultants CBRE to appraise Lagan Homes' submission. CBRE have confirmed the position indicated by Lagan and recommended that the Council review the affordable housing planning obligations.
- 4.4 Should Members be minded not to agree to voluntarily vary the planning obligations, an alternative course of action would be for Lagan Homes to make a formal application under s106BA of the Town and Country Planning Act 1990. This application would require the Council to make a formal determination, a refusal of which would open up a route of appeal to the applicant.

## **5. CONSULTATION**

- 5.1 A period of public consultation is currently taking place which expires on 3<sup>rd</sup> of September 2014.
- 5.2 Housing Strategy has responded to the consultation and considers the variation of agreement to be reasonable.
- 5.3 At the time of writing, one representation from a local resident has been received in support of the application.

## **6. CONCLUSION**

- 6.1 It is considered that the applicant has demonstrated that the development is in a position which leaves it unviable at present. In agreeing the requested variation of the affordable housing obligations in the s106 agreements, the Council will assist in improving the viability of the development in accordance with planning policy. This will support the developer in the delivering the remaining development. It is therefore requested that Members agree to the recommendation as set above.
- 6.2 As the consultation period expires on the 3<sup>rd</sup> of September, it is recommended that delegated authority be given to the Head of Planning to vary the s106 agreements subject to no further representations being received before the end of the consultation period.

## **7. LEGAL IMPLICATIONS**

- 7.1 As set out in the report.

## **8. SUMMARY AND LINKS TO CORPORATE PLAN**

- 8.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



**NORTHAMPTON**  
BOROUGH COUNCIL

Item: Location Plan  
Date: 08 August 2014  
By: 1026  
For: Planning  
From: Committee

Title:

### Former Pearce Leatherworks, Wellingborough Road

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