



PLANNING COMMITTEE: 30th September 2014

DIRECTORATE: Regeneration, Enterprise and Planning

DIRECTOR: Steven Boyes

REPORT TITLE: Section 106 Agreement

N/2013/1325 - Residential development comprising 69 dwellings with associated access (via Harcourt Way), public open space and local equipped area of play and balancing pond, land off Danes Camp Way

1. RECOMMENDATION

1.1 That the Committee **AGREE** to delegate authority to the Borough Secretary to negotiate and agree terms for a Section 106 Agreement including terms for the transfer to the Council of open space land in consultation with the Director of Regeneration, Enterprise and Planning.

2. BACKGROUND

2.1 Planning Committee resolved on 6 May 2014 to refuse Planning Application N/2013/1325 for reasons pertaining to highway safety, the unsustainable location of the site and the inappropriately positioned play area.

2.2 As detailed within the 6th May Committee Report, it was recommended by officers that the Application be approved in principle subject to conditions and the prior completion of a Section 106 Agreement to secure the planning obligations detailed below.

2.3 The Applicant has lodged an appeal with the Planning Inspectorate against the Council's decision to refuse the Application and the appeal is to be determined on the basis of a Hearing on 28th October 2014.

2.4 As part of the planning appeal process the Council and the Appellant are required to co-operate in agreeing terms for a Section 106 Agreement which will only come into effect should the Appeal be allowed.

2.5 Therefore, in light of the Committee's resolution to refuse the Application and not to take forward officers' associated recommendations with regard to a Section 106 Agreement, it is hereby requested that the Borough Secretary in consultation with the Director of Regeneration, Enterprise and Planning be granted the necessary delegated authority to progress and agree the terms of a Section 106 Agreement.

3. SECTION 106 HEADS OF TERMS

3.1 As specified within the 6th May Committee Report, the Section 106 Agreement is anticipated to secure:

i) 35% of the development to be used for affordable housing, or, in the absence of on-site provision, a commuted sum for off-site provision;

ii) The final Public Open Space and LEAP specification, the transfer to the Council of the freehold interest in this open space and the payment of a commuted sum for its maintenance;

iii) A financial payment to fund the provision of new bus shelters and a commuted sum for their ongoing maintenance within the vicinity of the site;

iv) A financial payment to fund the provision of primary and secondary school education facilities within the vicinity of the site;

v) A financial payment towards footpath and towpath improvements in the vicinity of the site;

vi) A financial payment towards primary care services provision;

vii) Construction training opportunities; and

viii) The Council's monitoring fee.

4. CONCLUSION

4.1 Delegating the authority to negotiate the terms of the Section 106 Agreement will enable the Council to comply with the appeal procedures outlined by the Planning Inspectorate, which require the Council to actively engage in progressing and finalising an appropriate Section 106 Agreement.

4.2 Members should be aware that, in accordance with the guidance contained within the National Planning Practice Guidance, failure to work in co-operation with other parties would constitute unreasonable behaviour which could result in an award of costs against the Council.

4.3 Members are advised that negotiation of the terms of the S106 agreement will in no way prejudice the decision of the appeal.

5. LEGAL IMPLICATIONS

5.1 As set out in the report.

6. SUMMARY AND LINKS TO CORPORATE PLAN

6.1 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.

7. BACKGROUND PAPERS

7.1 Report to Planning Committee 6th May 2014 - N/2013/1325