



NORTHAMPTON
BOROUGH COUNCIL
Planning Committee

PLANNING COMMITTEE: 11th April 2017
DIRECTORATE: Regeneration, Enterprise and Planning
HEAD OF PLANNING: Peter Baguley

APPLICATION REF: N/2016/1073

LOCATION: Land Rear of 62 Booth Rise

REPORT: Section 106 Agreement in relation to the forthcoming appeal against refusal of the outline planning application (with all matters reserved except access) for residential development of up to 30 residential dwellings with associated open space, car parking and vehicular access from Booth Rise and demolition of 58 and 62 Booth Rise

WARD: Boothville Ward

APPLICANT: Oxygen Real Estate Group Ltd
AGENT: Armstrong Rigg Planning

REFERRED BY: Head of Planning
REASON: Section 106 Agreement

1. Recommendation

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

2. Background

2.1 The above application for outline planning permission for up to 30 dwellings was refused by the Planning Committee on the 20th December 2016, as it was considered that the development would have a significant adverse impact upon the amenities of the existing properties at 56 and 60 Booth Rise arising from increased noise and disturbance.

2.2 Members will be aware that an Appeal has been submitted to the Planning Inspectorate, which is currently subject to their normal validation checks. Once validated, the Council would be expected to co-operate with the applicant to agree a Section 106 Agreement that would secure various elements of mitigation and infrastructure related to the development, in the event that the Planning Inspector deems the proposal acceptable.

2.3 As a consequence, it is requested that the Director of Regeneration, Enterprise and Planning be granted the necessary delegated authority to progress and agree the terms of a Section 106 Agreement.

2.4 Members are advised that the agreement of Heads of Terms for inclusion within the Section 106 Agreement would, in no way, prejudice the Council's case and the decision of the appeal, and that officers will continue to robustly defend the decision reached by the Planning Committee. Furthermore, it should be noted that the failure to agree a Section 106 Agreement in advance of the appeal being decided could be construed as unreasonable behaviour on the part of the Council and could potentially leave it open to an award of costs in favour of the appellant.

3. Heads of Terms

3.1 As outlined in the committee report considered by members in December 2016, it is considered a number of matters should be secured through a legal agreement in the event of an approval. In summary these are:

- i) 35% on-site affordable housing;
- ii) Primary school education payment;
- iii) That a minimum of 1,200 square metres of public open space is provided on site;
- iv) That the on-site public open space is maintained and made available for public access in perpetuity;
- v) A payment towards the provision and/or enhancement and/or maintenance of off-site open space; and
- vi) The Council's monitoring fee.

3.2 Due to the relatively limited amount of time that has passed since the December committee, it is considered that there has been no change in material considerations that would justify a lesser amount of mitigation being secured from those listed above.

4. Conclusion

4.1 In order to comply with Planning Inspectorate timescales and to avoid any potential claim for unreasonable behaviour, it is considered necessary to engage with the developer to agree a Section 106 Agreement to take effect only in the event of the appeal being allowed, notwithstanding the fact that the Council will continue to defend its previous decision in respect of the planning application.

5. Legal Implications

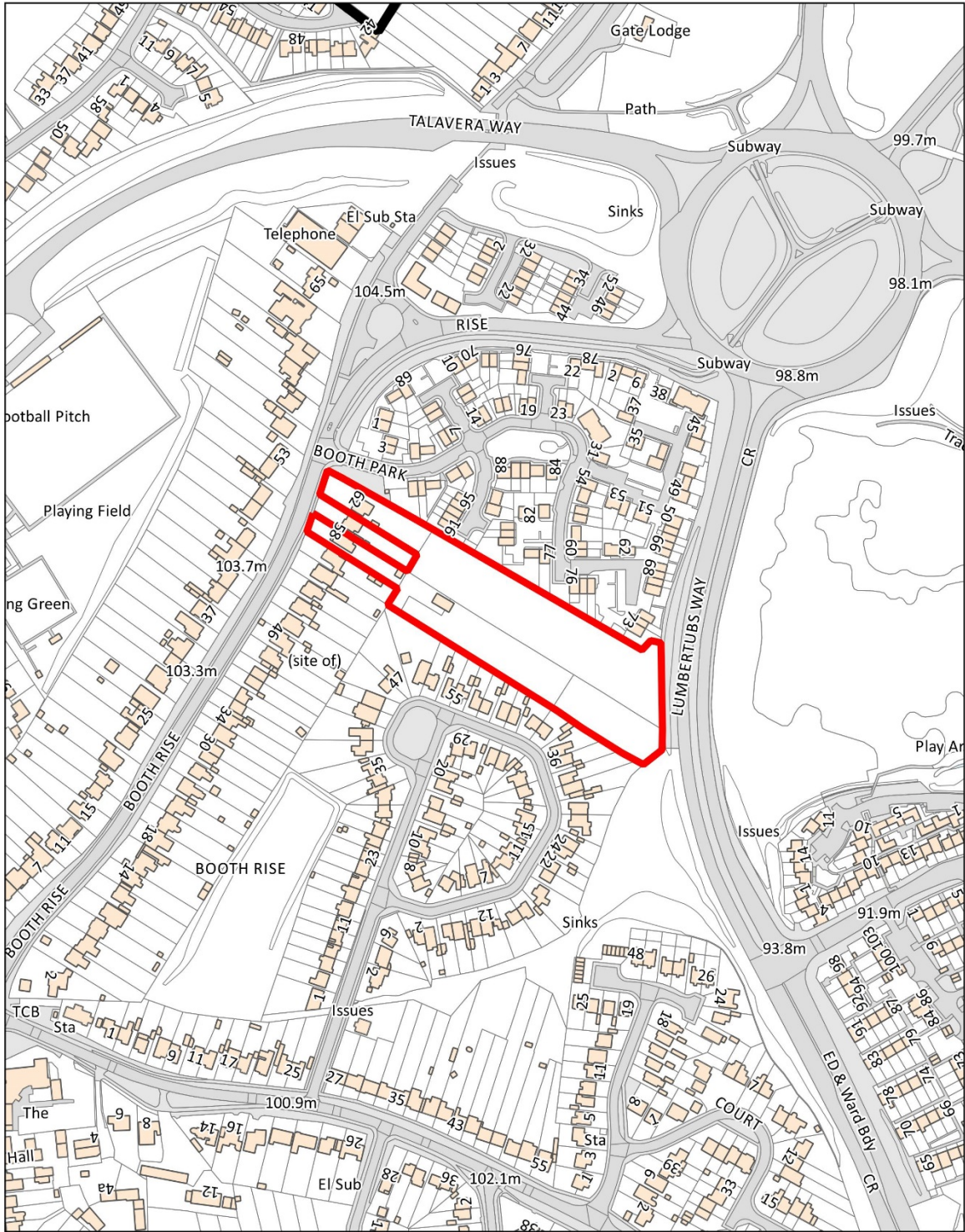
5.1 As set out in the report.


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 20th December 2016.



 <p>NORTHAMPTON BOROUGH COUNCIL</p>	<p>Title: Land rear of 62 Booth Rise</p>	<p>Date: 28-03-2017</p>
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