

PLANNING COMMITTEE: 4th September 2018
DIRECTORATE: Regeneration, Enterprise and Planning
HEAD OF PLANNING: Peter Baguley

APPLICATION REF: N/2018/0436

LOCATION: Upton Park Development, Upton Valley Way North

DESCRIPTION: Modification of Section 106 Agreement in relation to submission of single Reserved Matters Application, education contributions, trigger for other financial contributions and affordable housing delivery and viability reviews

WARD: Upton Ward

APPLICANT: Morris Homes
AGENT: HOW Planning

REFERRED BY: Head of Planning
REASON: Amendments to S106 Agreement

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1. RECOMMENDATION

- 1.1 That the Committee **AGREE** to vary the Section 106 legal Agreement dated 27th March 2015 (the original Agreement) to include the following:
- Amend the financial contributions on a pro-rata basis and the relevant timing of the payments of those obligations.
 - Remove the obligation to provide allotments and instead to include a financial contribution for the provision, maintenance and/or enhancement of burial grounds.
 - Reflect the fact that the planning permission will now be implemented by one developer.
- 1.2 That delegated authority be given to the Head of Planning in consultation with the Chair of Planning Committee to agree any such further amendments to the planning obligations contained in the original Agreement as is reasonably necessary.

2. THE PROPOSAL

- 2.1 The applicant has proposed to vary the original Agreement in relation to planning permission N/2011/0997 relating to the Upton Park Development. The outline permission was granted in March 2015, for up to 1,000 dwellings, including a primary school, local centre and public open

space. However, due to various constraints on the site and changes in the flood mitigation measures, this has reduced the quantum of developable land within the site boundaries. The reserved matters application (N/2018/0426) which has been received by the Council and currently still outstanding, relates to 860 dwellings.

- 2.2 As a result of the reduction in the number of dwellings that can be delivered, the applicant has requested a review of the level of financial contributions to reflect what can be achieved on the site.
- 2.3 In addition, the original Agreement required a number of the significant contributions to be paid prior to the commencement of development on site, or in the very early phases. This raised viability issues for the development and the applicant has requested that these are structured in a more appropriate manner, giving priority to education contributions in the first instance.

3. SITE DESCRIPTION

- 3.1 Under the current reserved matters application, the site proposes 860 dwellings and 3 commercial units (Use Classes A1 (shop) and A3 (restaurant/café)) along with the provision for a primary school and associated infrastructure.
- 3.2 This part of the Upton development stretches from West Street in Upton to Upton Valley Way North to the west. Quinton House School and associated land is located to the north with the development stretching to Weedon Road. To the south is Upton Country Park.

4. PLANNING HISTORY

- 4.1 N/2011/0997 - Outline Planning Application for up to 1,000 residential units, primary school and local centre up to 2,000msq. All matters reserved except access. Approved 31/03/2015.
- 4.2 N/2018/0426 - Application for Reserved Matters pursuant to Outline Planning Permission N/2011/0997 for the erection of 860 dwellings and 3 commercial units (Use Classes A1 (shop) and A3 (restaurant/café)) along with garages, roads, sewers, landscaping and ancillary works. Current application.
- 4.3 N/2018/0427 - Construction of access road linking West Street and the outline planning permission site (ref. N/2011/0997) to the west known as Upton Park Development, land off Weedon Road, Upton. Current application.

5. PLANNING POLICY

5.1 Statutory Duty

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014) and Northampton Local Plan (1997) saved policies.

5.2 National Policies

The National Planning Policy Framework (NPPF) sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

Paragraph 8 – There are three dimensions to sustainable development giving rise to the need for the planning system to perform an economic, social and environmental role.

Paragraph 11 – Central to the National Planning Policy Framework is a presumption in favour of sustainable development.

Paragraph 14 – the need to demonstrate a five year housing land supply

Paragraph 34 – developer obligations expected from a development

Paragraph 57 – the use of viability assessments

Paragraph 59 – To support the Governments objective of significantly boosting the supply of homes, without unnecessary delays.

Paragraph 122 – support development that makes efficient use of the land, taking account of different types of housing, viability, infrastructure and services, character of the area and well designed, attractive and healthy places.

5.3 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

Policy SA – Presumption in favour of sustainable development

Policy S3 – scale and distribution of housing development

Policy S5 – sustainable urban extensions

Policy H1 – housing density and mix and type of dwellings

Policy H2 – affordable housing provision

Policy BN1 – green infrastructure connections

Policy BN2 – biodiversity

Policy BN3 – woodland enhancement and creation

Policy BN5 – the historic environment and landscaping

Policy BN7 – flood risk

Policy BN7a – water supply, quality and waste water infrastructure

Policy INF1 – approach to infrastructure delivery

5.4 Northampton Local Plan 1997 (Saved Policies)

Due to the age of the plan, the amount of weight that can be attributed to the aims and objectives of this document are diminished, however, the following policy is material to this application:

Policy E20 – new development (design)

Policy H14 – residential development, open space and childrens play facilities

Policy R11 – shopping facilities/local centre in major residential development

Policy L13 – local community facilities

Policy L24 – local allotment gardens

6. APPRAISAL

6.1 The outline planning permission for the development was subject to a Section 106 legal Agreement which was completed on 27th March 2015 and secured a number of planning obligations.

6.2 The original Agreement set the contributions for education and highway improvements as an overall figure. The developers have requested that this is reviewed to take account of the reduction in the numbers of dwellings to be constructed. The financial contributions have been discussed with NCC (Education) and Highways England and a pro-rata figure agreed.

6.3 The second area of concern is the timing for payment of the contributions and the applicant is seeking to spread the contributions more evenly through the stages of the development.

Discussions have taken place with NCC who are agreeable, on the basis that the primary education is given high priority and the secondary education contribution can be made at a later stage of the development.

- 6.4 Trigger points for payments have been proposed by the applicant, which have been assessed against a viability appraisal.
- 6.5 The original proposal indicated an area of land to be designated for allotments. Given the constraints on the land the site was unable to achieve the quantum of development originally intended. As a result the applicant and Homes England reviewed the quantum of open space within the development, which identified that the provision was over and above policy compliant, even if the allotment area was then identified for further housing.
- 6.6 Amended plans have been submitted in respect of the reserved matters application, which replaces the allotment land with housing. The applicant has suggested a financial contribution to open space in lieu of this. Accordingly the original Agreement needs to be amended to reflect these changes.
- 6.7 Discussions have taken place with the NBC Communities Team, who have confirmed there are vacant allotments in the area and whilst the new allotments in St Crispins have some interest they are not fully subscribed. In preference, the Communities Team requested a financial contribution towards the provision and/or maintenance and/or enhancement of burial grounds within the Borough instead.
- 6.8 In terms of delivery of the development, the original Agreement refers to the reserved matters being submitted in phases. This would have allowed for situations where the development was to be implemented by more than one developer. In this instance, the site is now to be developed by Morris Homes, who will implement the development, but working from either end of the site. The original Agreement therefore also needs to be amended to take into account of this change.
- 6.9 In order to ensure the timely delivery of the development, the request to vary the relevant obligations, therefore, does not seem unreasonable to ensure timely delivery of the development.

7. CONCLUSION

- 7.1 Given the requirements of Policy INF1, the obligations set out in the original Agreement are considered to be onerous obligations on the developer due to the reduction in quantum of development, the timing of payment of the financial contributions and the viability for the development, which would then affect delivery of the much needed housing. The Council are keen to see the development completed in a timely manner and facilities completed and occupied to serve the local community around the local centre. It is considered that in this instance, the proposed amendment is acceptable.

8. BACKGROUND PAPERS

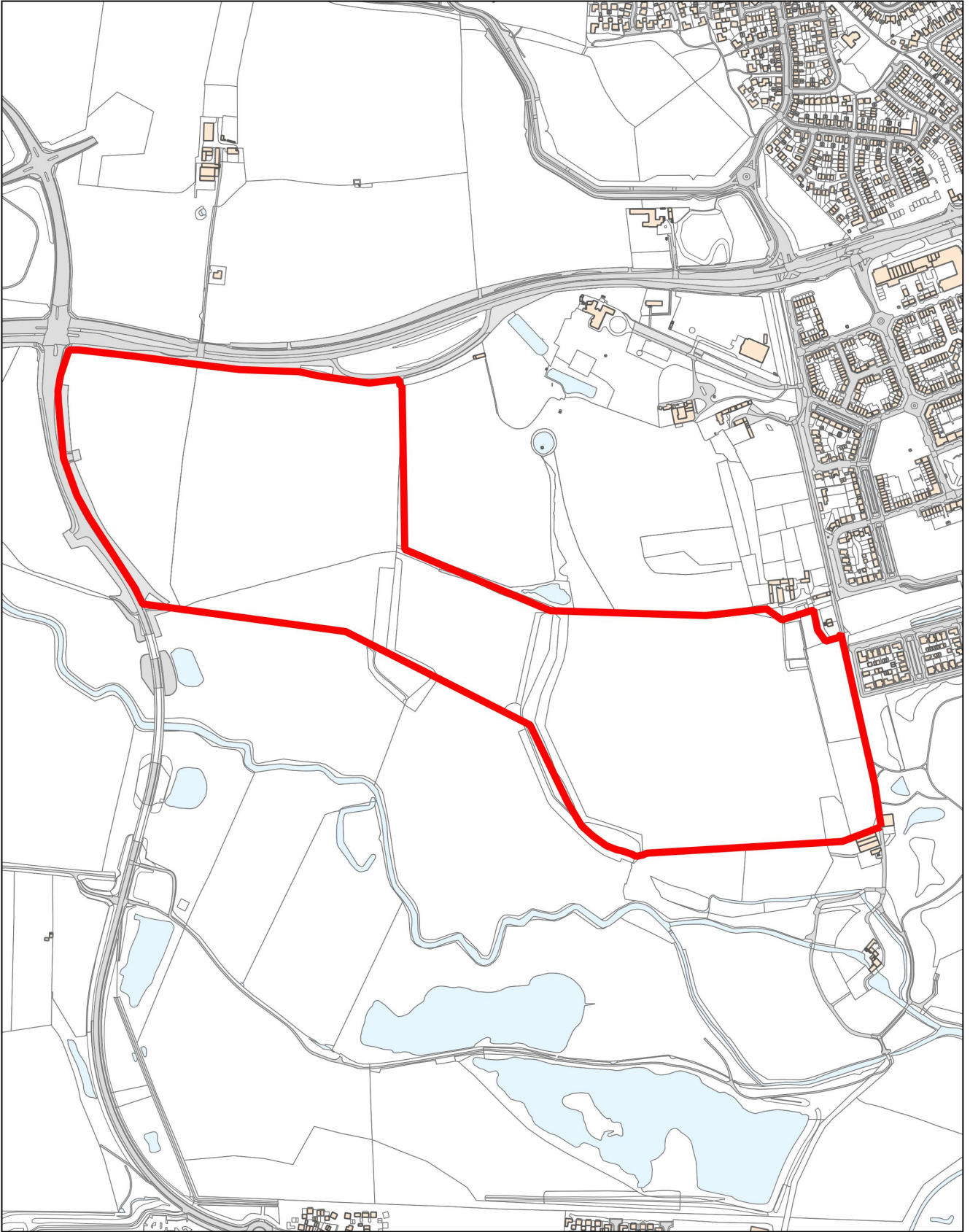
- 8.1 N/2018/0436, N/2018/0426 and N/2018/0427.

9. LEGAL IMPLICATIONS

- 9.1 None.

10. SUMMARY AND LINKS TO CORPORATE PLAN

- 10.1 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.



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