

Item No. 11

SCHEDULE B

APPLICATION NUMBER	MB/02/00242/OUT
LOCATION	Land South of Stotfold, Norton Road, Stotfold
PROPOSAL	Outline: Comprehensive development comprising up to 650 dwellings, up to 2.27 Hectares of employment land (Class B1 Business), neighbourhood centre, a shop (150 square metres), public open space including sports pitches, equipped play areas and informal open space and access. All matters reserved except access.
PARISH	Stotfold
WARD	Stotfold & Arlesey
WARD COUNCILLORS	Cllr Dalgarno, Cllr Saunders, Cllr Street & Cllr Turner
CASE OFFICER	Hannah Pattinson
DATE REGISTERED	01 February 2002
EXPIRY DATE	06 June 2002
APPLICANT	
AGENT	Robert Turley Associates
REASON FOR COMMITTEE TO DETERMINE RECOMMENDED DECISION	Approval of Deed of Variation

Location

Land South of Stotfold is a strategic housing site located off the A507 with access being taken from Norton Road and Hitchin Road, Stotfold.

Background

This strategic housing site was identified in the Mid Bedfordshire Local Plan (First Review) 2005. Outline planning permission was granted on 21st April 2006 (planning application ref no. MB/ 02/00242/OUT) for residential development of up to 650 dwellings, up to 2.27 Hectares of employment land (Class B1 Business), neighbourhood centre, a shop (150 square metres), public open space including sports pitches, equipped play areas and informal open space and access. All matters reserved except access.

The legal agreement attached to the outline planning permission provides the obligations and provisions on behalf of both the developers and the Council. The legal agreement was prepared in a rising market and no provisions had been included to take into consideration the market place may change as has happened through the current economic crisis.

Discussions have been held with relevant Officers within the Council to obtain their agreement for the proposed trigger alterations.

The Education team and the Developers approached the Development Management Department of the Council to request the execution of a Deed of Variation. The purpose of the Deed is to vary certain provisions and triggers within the legal agreement to enable the early provision of the School Site and to resolve some current issues that have not been able to be provided by the Developers due to the current economic situation.

The reasoning behind the Deed of Variation is because of the current global and national economic climate. The large amount of sub-prime / bad debt lending has led to a lack of confidence in the Global and UK financial sector. This has led to both the major banks, mortgage lenders and the major house builders being among the first sectors of the economy to be hit by this situation.

The overall affect of what has become known as the “credit crunch” has resulted in an increase in the number of repossessions, a number of large national house builders stopping work or cutting down to skeleton staff on many of their major development sites and a large number of redundancies.

The Proposal

The following variations through a Deed of Variation are proposed to ensure that the existing legal agreement reflects the current economic situation. These are discussed individually under topic headings below.

School Site

As part of the legal agreement the developers and the Council agreed that the transfer of the School Site could not occur until the 200th Occupation. The purpose of these revisions to the Legal Agreement is to enable the transfer of the School Site to the Council prior to the end of September 2009 to ensure that the new School can be delivered in accordance with the need of Stotfold by the summer of 2011.

Clauses have also been included within the Deed of Variation to address the impact and problems associated with ensuring safe travel to school by children living both on site and off site whilst houses are still under construction through the provision of a Safe Route to School.

The Education Team have agreed that the Middle School Contribution and Upper School Contribution will now not be sought from the Developer for the following reasons:

The original intention of the S106 agreement required the Council to pay the Developer a purchase price for an element of the Lower School Land. It was always envisaged that the purchase price would be equal to the sum of the Middle School Contribution and the Upper School Contribution. As such the Education Team have agreed to waive these contributions as the Developer has agreed to transfer the land to the Council early for £1 to enable the early provision of the new Lower School and to meet the requirements of the Education Departments Capital Programme.

It is acknowledged that as a result of varying the existing S106 Legal Agreement it could result in a financial loss to the Council due to the current economic climate and the impact that this has had on residential land values.

The Legal Agreement was initially designed so that the Developer would pay to the Council the Middle School and Upper School Contributions. In return upon the transfer of the Land for the School Site to the Council the Council would pay a consideration to the Developer to the value of 0.35 Hectares of residential development land plus £1. At the time of signature of the Legal Agreement it was anticipated that this would result in a neutral position for both parties but due to the current economic down turn in land values this may result in a deficit in monies due to the Council.

This has been discussed at length with the Director of Children, Families & Learning and she has confirmed that to do otherwise would result in a negative impact in project terms of the provision of the much needed new school for Stotfold. Therefore it is considered that the benefit of provided the school in advance of the existing trigger outweighs the potential loss to the Authority.

Affordable Housing

The existing affordable housing includes the provision of pepper potting through out the site. Pepper potting is the provision of Affordable Housing in small groups within the overall provision of market housing to enable integration throughout the site. The existing pepper potting levels contained in the legal agreement are below the Council existing policies.

Currently the S106 Legal Agreement states that,

The Affordable Housing Units shall be pepper potted throughout the relevant part of the Site to be used for residential purposes and shall provide in clusters as follows:

- (i) in the case of apartments no more than 12 units in any one cluster; and*
- (ii) for houses within 2 or more bedrooms no more than 10 units in any one cluster.*

As such it has been agreed in principle to alter the pepper potting to reflect the Council's current Affordable Housing policies and therefore to allow pepper potting of up to 15 residential houses with two or more bedrooms units per cluster.

The pepper potting numbers for clusters of apartments would not be altered as these are still considered to be appropriate for this location.

Community Hall Bond

The Developers were required to provide the Council with a Community Hall Bond for £1.5 million. The Community Hall Bond is a device where the Council is able to draw upon the relevant monies if the Developer was not to either build the Community Hall or complete the Community Hall Bond in accordance with the specification included in the S106 Agreement.

Due to the current economic situation the Developers have not been in a position to secure a Bond. As such it is recommended that trigger is pushed back to 200 units for the provision of the Community Hall Bond. The Developers are anticipating by the time they reach this trigger point that they will be in a financial position to be able to provide a Bond.

Currently the S106 Legal Agreement has no provision in the event that the financial provider of the bond was to become insolvent. Therefore it is proposed to add a clause to ensure that the Developers would have to provide a further Bond if the initial Bond provider falls away for any reason.

Transport / Highways

Work is currently being undertaken by both parties to ensure that the works are undertaken in accordance with the Council's requirements. Unfortunately due to delays these works will not be complete by the existing trigger date. As such it is considered appropriate to alter the trigger to ensure that the Developer does not inadvertently become in breach of the existing S106 Legal Agreement.

As such the Highways Team have agreed the following trigger alteration has been agreed in principle.

Not to permit more than 325 Residential Units to be occupied until the Hitchin Road Pedestrian and Cycle Link and the Second Highway Works have been constructed and completed to the satisfaction of the Highway Authority.

The Highways Team have confirmed that alteration of this trigger would not prejudice Highways Safety.

Pix Brook Works

The majority of the Pix Brook Works have already been completed on site.

The specification of the Pix Brook Works is:

- Provision of "reed" beds to encourage bio-degradation of chemical pollutants and silt traps to remove suspended solids;
- Creation of a secondary channel and flood berm on Pix Brook;
- Creation of 2 new ponds and wetlands along Pix Brook and its tributary;
- Remodelling of balancing ponds;
- Provision of Sustainable Urban Drainage (SUDs); and
- Provision of a pedestrian and cycle crossing bridge as shown on plan 1019/BR/01 Revision A (Plan 15) annexed hereto and a specification to be agreed with the District Council.

The outstanding issue in relation to the Pix Brook Works is the provision of a pedestrian and cycle crossing bridge on to Howard Close. Howard Close is a private close and the Developer currently does not have control of the land where the bridge will be located on the Howard Close side of the Pix Brook.

Currently the trigger for the completion of the Pix Brook Works is 50 residential units and the Developer has already reached this number of occupations on site. As such the Developer has requested to push back this trigger to 200 residential units.

The Owners of Howard Close are not party to the S106 Legal Agreement and as such it is considered appropriate to alter this trigger to ensure that the relevant land transfer can take place to enable the completion of the Pix Brook Works.

Conclusion

Taking into consideration the current economic climate and the difficulty in obtaining affordable mortgages it is recommended that the above variations are accepted. The proposed variations have been designed to enable early provision of the new Lower School at Land South of Stotfold and to tidy up other provisions to reflect the current situation.

These revisions are considered to be in the best interests of delivering both Open Market and Affordable Housing on the site and do not prejudice the Council's goal of securing a successful development with the necessary infrastructure provision.

It is considered that the proposed variations are considered acceptable and as such it recommended that the principle of the proposed Deed of Variation is approved.