

WIRRAL COUNCIL

PLANNING COMMITTEE 4th OCTOBER 2007

REPORT OF THE DIRECTOR OF TECHNICAL SERVICES

REMOVAL OF REQUIREMENT FOR SECTION 106 AGREEMENT ON PLANNING APPLICATION OUT/2006/7396 AND OUT/2006/7397 (ERECTION OF 226 HOUSES AND 57 APARTMENTS (TOTAL) ON LAND BORDERED BY BEDFORD ROAD, NEW CHESTER ROAD AND NELSON ROAD IN ROCK FERRY, WIRRAL

1. Executive Summary

- 1.1 This report seeks Members approval to relax the requirement for a Section 106 Agreement with regard to the proposed highway works required in connection with the above developments.

2. BACKGROUND

- 2.1 On 19 April 2007, Members resolved to grant outline planning permission for the erection of a total of 226 houses and 57 apartments on land bounded by Bedford Road, New Chester Road and Nelson Road in Rock Ferry, Wirral. Approval was subject to the requirement for a Section 106 Agreement being used to secure resident parking and associated traffic regulation orders in seven roads in Rock Ferry to be revoked and/or amended. The roads in question are Canterbury Road, Chatham Road, Medway Road, Rochester Road, Railway Road, New Chester Road and Bedford Road.
- 2.2 The Agreement would oblige the developer to pay the sum of £7,500 to the Technical Services Department for undertaking this work. The Agreement would also provide that should the actual costs of carrying out the work exceed £7,500 then the developer shall pay an additional amount which would represent the difference between that sum and the actual costs incurred by the Council provided that such additional payments shall not in any event exceed the sum of £10,000.
- 2.3 A Section 106 Agreement has to be entered into by a person who is "interested" in the land. At present, the Council is unable to enter into the Agreement itself as the developer has no "interest" in any part of the site, the whole of which is still owned by the Council. When the developer has entered into the 'Development Agreement' with the Council that may give it sufficient interest but it is my understanding that the signing of such an agreement is not imminent.
- 2.4 The outline planning permission cannot be issued until the Section 106 Agreement has been signed, and for the reasons outlined in Para. 2.3,

the Council is currently unable to enter into such an Agreement as it is presently the sole owner of the land. This is now posing a considerable risk to the delivery of the Council's HMRI programme in Rock Ferry and the Council is in danger of failing to achieve new-build targets which are a condition of receipt of HMRI funding. The risk could potentially leave the Council with a bill for £19 million to repay the Department for Communities and Local Government.

- 2.5 Lovell's are preparing to submit the Reserved Matters application in relation to the details of the development of these sites and have begun preliminary investigative site works. The delay in signing a Section 106 Agreement due to the legalities of land ownership issues is preventing the outline planning consent being issued, without which a reserved matters application cannot be submitted. However, in order to keep the programme moving forward, the Regeneration Department have now agreed to meet the costs of the required traffic and parking works from this years HMRI programme as a Council cost to the delivery of the scheme.
- 2.6 The works the agreement seeks to cover would be considered 'miscellaneous development costs' in much the same way that other costs are treated, e.g. construction costs, public realm costs etc. What this means is that these costs are deducted from the revenues which a scheme will generate, resulting in a land value which is paid to the Council. Therefore, the Council, in effect stands the costs of the works, as all costs reduce our land value/capital receipt.
- 2.7 If a Planning Obligation (Section 106 Agreement) serves no useful purpose then it should not be entered into. It is reasonable to question what would be gained by seeking to uphold the requirement for the Section 106 Agreement in light of the above. It is therefore recommended that Members agree to relax the requirement for a Section 106 Agreement as agreed on 19 April 2007 and to allow the outline planning permission to be issued. Funding for the necessary traffic and parking works will be met by a transfer of funds from the HMRI Programme funding to the Director of Technical Services.

3. Financial and Staffing Implications

- 3.1 There are no direct financial implications other than those set out above.

4. Equal Opportunity Implications

- 4.1 There are no equal opportunity implications arising directly from this report.

5. Human Rights Implications

5.1 There are no human rights implications arising directly from this report.

6. Community Safety Implications

6.1 There are no community safety implications arising directly from this report.

7. Local Agenda 21 Implications

7.1 There are no LA21 implications arising directly from this report.

8. Ward Member Implications

8.1 This report has no specific ward member implications.

9. Recommendation

9.1 Members are asked to agree that the requirement for a Section 106 Agreement in relation to Planning Applications OUT/20077396 and OUT/2007/7397 is relaxed.

D Green

Director of Technical Services

This report was prepared by Matthew Davies of the Development Control Section who can be contacted on 606 2246.