

WIRRAL COUNCIL

PLANNING COMMITTEE

22ND AUGUST 2013

SUBJECT:	PROPOSED REMOVAL OF REQUIREMENT FOR SECTION 106 AGREEMENT ON PLANNING APPLICATION APP/13/00599 (FOR A RESIDENTIAL DEVELOPMENT, CONSISTING 33 NO. AFFORDABLE HOUSES AND APARTMENTS AT THE FORMER POULTON RPRIMARY SCHOOL SITE, ALDERLEY ROAD, POULTON).
WARD/S AFFECTED:	SEACOMBE
REPORT OF:	DAVID BALL, HEAD OF REGENERATION & PLANNING
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 This report seeks Members approval to relax the requirement for a Section 106 Agreement with regard to proposed highway contributions in connection with the above development.

2.0 BACKGROUND

2.1 On 27th June 2013, Members resolved to grant planning permission for the erection of 33 no. affordable houses/apartments, a new access road off Rostherne Avenue, associated car parking, bin and cycle storage and landscaping. Approval was subject to the requirement for a Section 106 Agreement being used to secure a contribution towards the operation of School Crossing Patrols (SCPs) over a five year period - to be paid as a lump sum of £1,500 per patrol (£4,500 total), and to secure a contribution of £30,000 towards the upgrade of two puffin crossings close by the site, to appropriate standards. The requirements were considered necessary and reasonable given the nature of the development, which would be family housing.

2.2 In summary, the Agreement would oblige the developer to pay the sum of £34,500 to the Head of Environment and Regulation (Traffic Management Division) to undertaking the necessary works and provide the SCPs.

2.3 A Section 106 Agreement has to be entered into by a person who is "interested" in the land. At present, the whole of the site is still owned by the Council - the developer does not yet have an "interest" in any part of the site. The Council is thereby unable to enter into a legal Agreement with the developer. When the developer has entered into the 'Development Agreement' with the Council that may give it sufficient interest but it is

understood that the signing of such an agreement is not imminent and would normally rely on planning permission having been granted.

2.4 In order to overcome this issue, it has been agreed by the Head of Universal and Infrastructure Services (Asset Management Division) that the matter can be dealt with in the Development Agreement proposed, subject to the specific terms of the Development Agreement being agreed and approved by the Developer's solicitor.

2.5 Planning legislation makes it clear that if a Planning Obligation (Section 106 Agreement) serves no useful purpose then it should not be entered into. Given this, if the matter can be dealt with in the Development Agreement, then 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.

2.6 It is therefore recommended that Members agree to remove the requirement for a Section 106 Agreement as agreed on 27th June and to allow the planning permission to be issued as funding for the necessary SCP's and puffin crossing upgrade works will be met by a transfer of funds from the Head of Universal and Infrastructure Services (Asset Management Division) once secured through a Development Agreement, to the Head of Environment and Regulation (Traffic Management Division).

5.0 RELEVANT RISKS

5.1 None relevant.

6.0 OTHER OPTIONS CONSIDERED

6.1 Not applicable.

7.0 CONSULTATION

7.1 No public consultation has been undertaken by the Local Planning Authority on this issue – though notification of the planning application was undertaken in accordance with the adopted Guidance on Publicity for Planning Applications. This paper is to be circulated to members of the Planning Committee and all ward councillors.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

8.1 None relevant.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

9.1 None relevant.

10.0 LEGAL IMPLICATIONS

10.1 None relevant.

11.0 EQUALITIES IMPLICATIONS

11.1 It is not considered that this report has relevance to equality.

12.0 CARBON REDUCTION IMPLICATIONS

12.1 None relevant.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

13.1 As detailed above.

14.0 RECOMMENDATIONS

14.1 Members are asked to agree that the requirement for a Section 106 Agreement in relation to planning application APP/13/00599 is removed so that the planning approval can be issued and alternative arrangements for funding the various works will be agreed through a Development Agreement.

15.0 REASON FOR RECOMMENDATION/S

15.1 In order to enable a decision to be issued on the above application and a Development Agreement to progress.

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SUBJECT HISTORY

Council Meeting	Date
Planning Committee	27 th June 2013.