



Report of the Chief Planning Officer

PLANS PANEL WEST

Date: 15th JULY 2010

Subject: TERMS OF THE SECTION 106 AGREEMENT FOR RESIDENTIAL DEVELOPMENT AT LAND TO THE REAR OF MID POINT, OFFICE PARK, DICK LANE, PUDSEY.

APPLICANT	DATE VALID	TARGET DATE
Taylor Wimpey Yorkshire	11 February 2010	13 May 2010

Electoral Wards Affected:

Calverley & Farsley

Ward Members consulted

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: TO APPROVE THE TERMS OF THE SECTION 106 AGREEMENT IN RELATION TO AFFORDABLE HOUSING AND GREENSPACE

1.0 INTRODUCTION:

1.1 The report comprises the proposed terms for a section 106 agreement in relation to affordable housing and greenspace. The report details the developers latest offer in relation to this required contributions for Members to consider.

2.0 PROPOSAL:

2.1 Outline planning permission for residential development was granted in September 2006. This outline permission was for layout of access road and to erect a residential development. Subsequent to this approval a reserved matters application was granted permission in February 2009 for laying out of an access road, 48 apartments, 1 flat over garage, 119 houses with associated bin and cycle's store. This permission was granted by Panel on 22nd January 2009 and a copy of this Panel report is attached.

2.2 An application to vary condition 28 of the previous application relating to affordable housing was submitted to Plans Panel on 15th April 2010. The application was to amend the condition to read:

‘Prior to the commencement of development arrangements for the provision of affordable housing shall be agreed in writing by the Local Planning Authority.’

At the same time an application to vary condition 5 of the reserve matters application which also covers affordable housing was considered by Panel.

Panel approved the condition in terms of affordable housing to be varied to the wording above and planning permission was granted on 15th April 2010. The purpose of these amendments was allow flexibility in relation to the discharge of these conditions and the terms of the section 106 agreement to reflect changes in the economic climate.

2.3 Also at this Panel there was a discussion regarding the precise terms of a section 106 agreement to cover affordable housing and greenspace contributions. Panel accepted that both could be provided by a full commuted sum. The offer in terms of the full commuted sum from the developer was to pay £406,400 upfront towards affordable housing and greenspace out of a requirement of approximately £1.8 million. The rest of the contributions would be subject to a financial viability statement to be submitted 2, 3 and 4 years after the signing of the section 106 agreement. Panel did not accept this way forward and suggested that they would support the full affordable housing and greenspace requirement but phased to allow for some of the houses to be constructed and sold before having to pay the commuted sums. A phasing of the payments was suggested so that when 25% of the houses were sold 25% of the affordable housing requirement had to be paid. When 50% sold another 25% of affordable housing contribution was to be paid. Another quarter would be paid when 75% of houses sold and the last quarter when 100% of houses sold.

2.4 The applicant due to the current economic climate cannot commit to this way forward as it will make the scheme financial unviable. They have offered another package. The previous offer was to pay a total contribution to affordable housing and greenspace of £406,400 and £104,160 for bus passes for the residents and £10,000 for a Traffic Regulation Order and these would have been paid upfront. This amounts to £520,560 of a £2.2 million requirement which is 23% of the overall requirement. The rest of the contributions would have been subject to a financial viability assessment carried out at 2, 3 and 4 years from signing the section 106. The developer has increased their offer to still pay for the Traffic Regulation Order and the bus passes plus £1.03 million for affordable housing and greenspace. The offer is to pay £406,400 after 25% of the properties sold and then a further £202,200 when 50%, 75% and 95% of properties sold. This would then be a guaranteed 51% of the total contributions. The other 49% would be subject to the financial viability statements submitted at 2, 3 and 4 years after signing the section 106 agreement.

2.5 A table attached to this Panel report shows a summary of both the previously rejected scheme and the new proposal.

3.0 SITE AND SURROUNDINGS:

3.1 The site comprises of 3.76 ha, and was formerly used for engineering and manufacturing purposes. It is accessed off Dick Lane, which itself links onto the Thornbury roundabout 200m to the north west and the A647 Leeds Road/Bradford Road.

3.2 The site is surrounded by open land to the south, a golf course to the east, both of which are in green belt, the Odeon cinema and car park to the north and office uses to the west.

4.0 RELEVANT PLANNING HISTORY:

4.1 An outline planning application (25/407/05/OT) for residential development was reported to Panel on the 13th July 2006 and granted permission on 28th September 2006. A reserved matters application (07/05428/RM) was forwarded to Panel on 22 January 2009 and granted planning permission on 26 February 2009.

4.2 A number of planning permissions exist on the adjoining site to the west originating with an outline permission in 1991 for a major leisure development. (H25/47/91.). Since then a variety of permissions have provided for mixed uses comprising a leisure use, A3 uses, Travelodge hotel and various offices.

4.3 Planning application number 10/00613 is to vary condition 5 of the reserved matters application relating to affordable housing Approved 15/4/2010

4.4 Planning application number 10/00614 – vary condition 28 of the outline application relating to affordable housing Approved 15/4/2010.

5.0 HISTORY OF NEGOTIATIONS:

5.1 A residential viability assessment has been submitted which formed the basis for a section 106 agreement to ensure the provision of affordable housing, greenspace and highway contribution. The developers previous offer was not acceptable by Panel on 15th April and officers have been in discussions with officers to negotiate the scheme in front of you today.

6.0 PUBLIC/LOCAL RESPONSE:

6.1 Ward members have been reconsulted on this new proposal. Councillor Carter has commented supporting the new offer stating that there is a good chance of getting a scheme moving quickly and we should face the economic reality that we are all in at the moment. This is a scheme of low cost housing with a significant regenerative effect once it has commenced.

Councillor Marjoram has very strong support of the proposal stating that the commuted sum will allow house building in higher priority areas; there is plenty of private sector affordable housing in this location; it will provide much needed work for many people over a number of years.

7.0 CONSULTATIONS RESPONSES:

7.1 Statutory

No comments received.

Non-Statutory

No comments received.

8.0 PLANNING POLICIES:

8.1 The Development Plan for the area consists of The Yorkshire and Humber Plan - Regional Spatial Strategy 2008 (RSS) and the Leeds Unitary Development Plan (Review 2006).

Unitary Development Plan (Review 2006)

The site is located within the main urban area and comprises part of a LT5B:5 (leisure and tourism) allocation as defined by the Leeds UDP Review 2006. It is also includes a small element of the adopted green belt and a protected playing pitch. The whole site is also included within an area under GP5 (unimplemented local plan proposals). No other allocations or designations affect the site.

Relevant policies include:

GP5 Applications to resolve development control considerations.
H12 Affordable housing to be negotiated.

Leeds City Council SPG3 'Affordable Housing' is relevant.

PPS3 states that new housing development should provide good private and public amenity space.

9.0 MAIN ISSUES

Viability of the proposal

10.0 APPRAISAL

- 10.1 A financial viability statement was submitted in July 2009 which stated that the amount of profit available from the development equated to the financial contributions that were required for the commuted sums.
- 10.2 Based on the submitted viability information Asset Management ran a number of different development scenarios based on fixed cost/residual land value and different affordable housing requirements of 0%, 25% and 30%. The conclusions of the various assessments are:
- 10.3
1. Given the price that George Wimpey paid for the land, the scheme for which they have permission would not be viable if affordable housing and greenspace contributions provided now on the basis that development commenced immediately.
 2. If the land was sold to another housebuilder at current residential land values, the scheme would be viable with a 20% profit and a partial contribution towards affordable housing and greenspace (£300,000 - £400,000).
 3. The land would be more profitable in the current market for an industrial development.
- 10.4 The view from Asset Management is that the price paid for the land was paid knowing the commercial risk involved and it is not the responsibility of the planning system to underwrite developer's losses.
- 10.5 On the other hand the local planning authority is seeking to be helpful to the development sector where appropriate in a difficult economic climate. It is agreed that this is in line with the recent DCLG announcements and both the national and local need in Leeds to increase housebuilding development rates, particularly on brownfield sites such as this. It is acknowledged that the economics of provision are a material planning consideration.

- 10.6 The developer is committed to starting on site in the very near future and have submitted a letter to this effect. They need to start on site before February 2011 when the reserve matters application expires. The section 106 agreement is only awaiting the decision on these terms of contributions and then it is ready for signature and issuing. The section 106 ties the developer to the site so they cannot sell the land on for a profit and allow another developer to not have to contribute to affordable housing. If the site is sold it would involve a new section 106 agreement and this matter would have to be re-examined.
- 10.7 A residential viability assessment which seeks to demonstrate that the scheme is unviable with contributions to affordable housing and greenspace as stated previously has been submitted. This has formed the basis of negotiation to formulate the section 106 agreement. The previous s106 agreement allowed for flexibility which included clauses foregoing affordable housing provision in early phases, to be reviewed as part of subsequent phases when the market may have improved. This would be appropriate to the individual circumstances of this developer and the section 106 agreement ties the development in with this developer.
- 10.8 This S106 allowed for no commitment to affordable housing to be provided immediately development commences, however, if development is not substantially completed within 2 years, the viability assessment will have to be resubmitted. This will assess if the market has improved and whether provision for affordable housing can then be provided. The two years start from when the S106 agreement is signed and not when development starts on site. If in two years time the financial viability shows that a contribution to affordable housing is able to be provided then this will be the full amount required of affordable housing based on the total number of residential dwellings proposed rather than a percentage of the residential units left to be built. This assessment has then to be carried out yearly until the development is complete. The initial provision allowed for 50% of the provision to be provided on site with 50% being a commuted sum. Comments from the Ward Members have indicated that they would prefer to see the affordable housing provided in a full financial contribution and not the 50% split for provision on site and off site contribution. The Ward Members have requested this as the site is in a location where the prices of the houses will be competitive and the financial contribution can then be used were the provision of affordable housing is low which is likely to be locally. Whilst this request is at odds with current policy guidance it does ensure that development can commence on site as soon as possible with all the economic benefits and the prices of the properties in this location would be competitive and the commuted sum put to use where it is most needed.
- 10.9 The new scheme for consideration today increases the guaranteed contribution from 23% of the overall financial contribution required as part of the planning permission to 51%. This is a substantial increase on the previous offer. The offer is to pay the amount in phases when 25%, 50%, 75% and 95% of the development is sold. The developer is happy to consider other phases of payment for this 51%. The remaining 49% will be subject to the financial viability assessment discussed elsewhere in this report.

The s106 allows development to proceed on site in this difficult financial period and protects the interests of the Council in that the full amount of affordable housing provision may be required and provided before the development is complete.

- 10.10 It has to be acknowledged, that the situation could arise where development has been completed on site and the viability of the site still does not generate any affordable housing. However, it is considered, on balance that in view of the current

trends viability of the site will improve and the early commencement of development on site and the economic benefits this will bring, outweighing the possibility that the site may not generate any affordable housing provision.

- 10.11 In summary the previous proposal guaranteed a payment of £406,400 for affordable housing and greenspace which when added to the contributions for bus passes and a traffic regulation order it amounted to 23% of the anticipated contributions. The payment of the remaining sum for affordable housing and greenspace would be based on assessment by the viability of the site at 2, 3 and 4 years from signing of the section 106 agreement. This proposal before you today now guarantees a minimum of £1.127m which is 51% of the total anticipated contributions, paid at various stages during construction. The other 49% will be based on the viability of the site at 2, 3 and 4 years from the signing of the section 106 agreement.

11.0 CONCLUSION

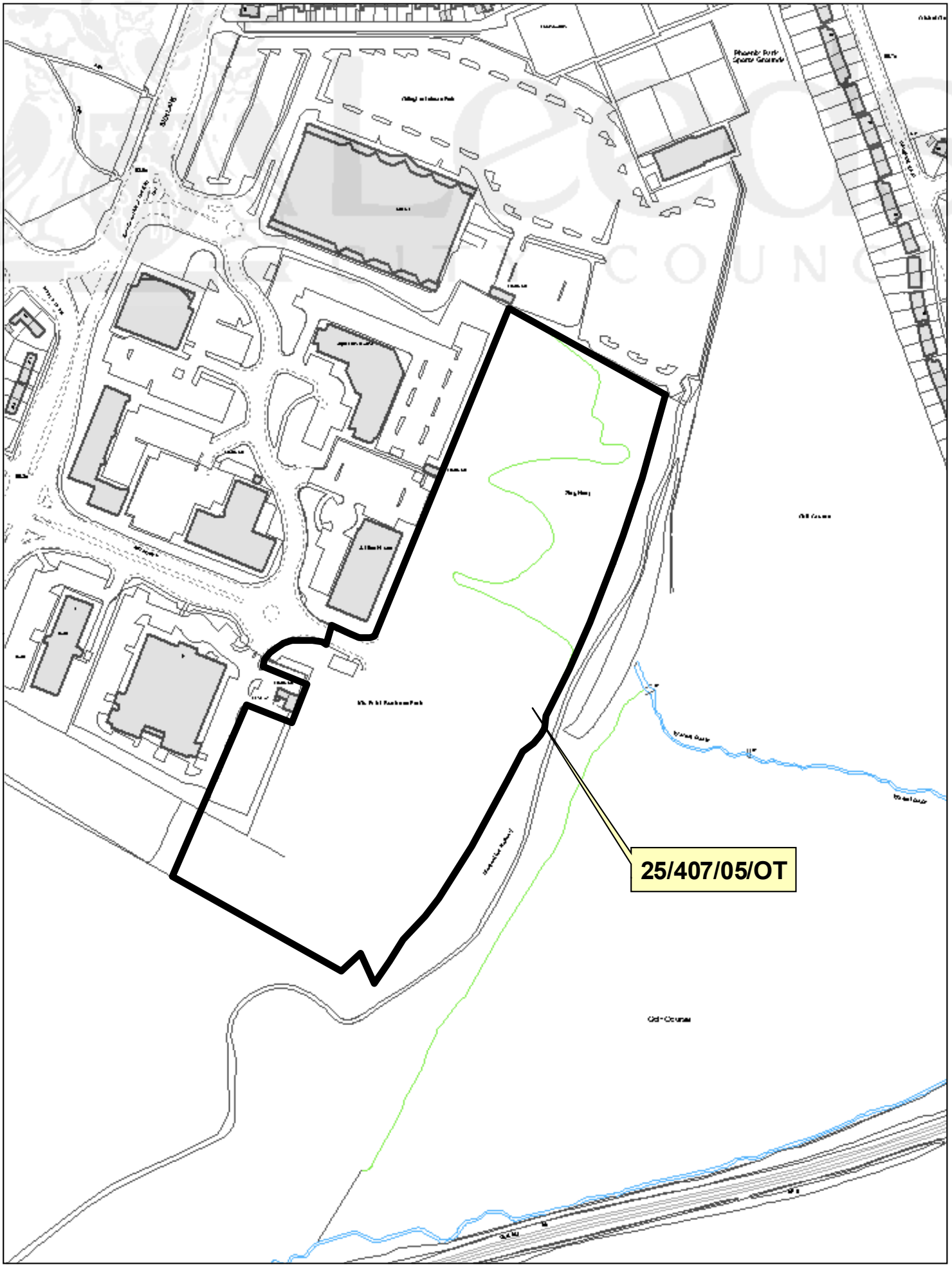
It is concluded that the terms of the section 106 agreement allow for development to commence and continue on site while guaranteeing the payment of half of the required contributions. The other half is subject to reassessment through the financial viability statement during the course of the development.

Background Papers:

Certificate of Ownership – signed as applicant.

Application file 10 /00613/fu.

<u>PREVIOUSLY REJECTED SCHEME</u>		<u>NEW PROPOSAL</u>	
<u>PHASE</u>	<u>CONTRIBUTION</u>	<u>PHASE</u>	<u>CONTRIBUTION</u>
Commencement of Development	£406,400	On sale of 25% of dwellings (expected within 1st year)	£406, 400
		On sale of 50% of dwellings (expected within 2nd year)	£202, 200
		On sale of 75% of dwellings (expected within 3rd year)	£202,200
		On sale of 95% of dwellings (expected within final year)	£202, 200
After 2 years from signing of Section 106 agreement	Financial viability to be submitted if house prices have risen further contributions will be paid	After 2 years from signing of Section 106 agreement	Financial viability to be submitted if house prices have risen further contributions will be paid
After 3 years from the signing of the Section 106 Agreement	Financial viability to be submitted if house prices have risen further contributions will be paid	After 3 years from the signing of the Section 106 Agreement	Financial viability to be submitted if house prices have risen further contributions will be paid
After 4 years from the signing of the Section 106 Agreement	Financial viability to be submitted if house prices have risen further contributions will be paid	After 4 years from the signing of the Section 106 Agreement	Financial viability to be submitted if house prices have risen further contributions will be paid
Traffic Regulation Order	£10,000	Traffic Regulation Order	£10,000
Bus passes	£104, 160	Bus passes	£104,160
TOTAL % OF CONTRIBUTIONS GUARANTEED	23%	TOTAL % OF CONTRIBUTIONS GUARANTEED	51%
POSITIVES £406,400 secured upfront before development commences and is 23% of the overall requirement		POSITIVES Minimum of £1.03 million secured which is 51% of the overall requirement	
NEGATIVES May be all that is paid if economy does not improve during the 4 years of development		NEGATIVES May be all that is paid if economy does not improve during the 4 years of development	



WEST PLANS PANEL


Scale 1/2500

PRODUCED BY COMMUNICATIONS, GRAPHICS & MAPPING, LEEDS CITY COUNCIL
This map is based upon the Ordnance Survey's Digital data with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office.
(c) Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.
(c) Crown Copyright. All rights reserved. Leeds City Council O.S. Licence No. - 100019567