

DEVELOPMENT CONTROL COMMITTEE

FRIDAY 16 MARCH 2018 AT 10.00 AM

PRESENT: Councillors Mrs Warwick (Chairman), Bloxham, Mrs Bradley, Christian, Earp (until 11:35am), Glendinning, McDevitt, McDonald, Mrs Parsons, Sidgwick T, Shepherd and Tinnion.

OFFICERS: Development Manager
Legal Services Manager
Principal Planning Officer
Planning Officer x 2

ALSO

PRESENT: Mr Allan (Cumbria County Council)

DC.26/18 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of the Corporate Director of Economic Development

DC.27/18 DECLARATIONS OF INTEREST

In accordance with the Council's Code of Conduct the following declarations of interest were submitted:

Councillor Shepherd declared an interest in respect of application 17/0969 – Land to north of Caxton Road, Carlisle, CA2 7NS. The interest related to objectors being known to him.

Councillor Mrs Warwick declared an interest in respect of item A.2 – Tree Preservation Order 292, Land at Caldew Road, Cummersdale, Carlisle. The interest related to supporters of the Order being known to her.

Councillor Earp declared a Registrable Interest / Interest in respect of item B.1 – Affordable Housing Contribution – Rear of Scotby Road, Scotby. The interest related to his being a member of Wetheral Parish Council.

DC.28/18 PUBLIC AND PRESS

RESOLVED – That the Agenda be agreed as circulated.

DC.29/18 MINUTES OF PREVIOUS MEETING

RESOLVED – That the minutes of the meetings held on 9 February be approved.

DC.30/18 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS

The Legal Services Manager outlined, for the benefit of those members of the public present at the meeting, the procedure to be followed in dealing with rights to speak.

DC.31/18 CONTROL OF DEVELOPMENT AND ADVERTISING

1) That the applications referred to in the Schedule of Applications under A be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

(2) That the applications referred to under the Schedule of Applications under B be noted.

1) Erection of 58no. Dwellings (Reserved Matters Application Pursuant to Outline Permission 15/0878), Land to north of Caxton Road, Carlisle, CA2 7NS (Application 17/0969).

Councillor Shepherd having declared an interest in the item of business removed himself from his seat and took no part in the discussion or determination of the application.

The Principal Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 14 March 2018.

Slides were displayed on screen showing; site location plan; site plan; site sections; house type plans, and photographs of the site and local highway network, an explanation of which was provided for the benefit of Members.

Outline Permission for 63 dwellings at the site had been granted by the Committee in August 2016, which had contained conditions requiring: the submission of samples or full details of the proposed materials for the dwellings be submitted to the Local Planning Authority for approval and; the level(s) of the finished floors to be approved by the Local Planning Authority.

The Principal Planning Officer noted that the site was adjacent to Siskin Court, and that the dwellings in the proposed scheme would sit at a higher level than the existing properties, with a 22 metre gap between the rear elevations. The proposed dwellings were to have one bedroom and one bathroom window at the first floor rear elevation, which along with the retention of the existing trees along the boundary would reduce overlooking into the existing properties.

In relation to boundary treatment, it was proposed that three demountable bollards would be installed at the emergency access point adjacent to Caxton Road, the Principal Planning Officer displayed on screen an image of demountable bollards, for the benefit of Members.

The roads within the development site were to be adopted, with the specific details of the bollards to be agreed as part of the process of approving the highway layout, by discharge of the relevant condition. A Swept Path Analysis of the site had been tracked by highway engineers, it demonstrated that all areas of the site were accessible by large vehicles such as refuse lorries and delivery vehicles.

In response to the consultation on the application 45 letters of objection had been received, in which the main issue raised had been the access to the site, which the objectors felt should be via Caxton Road. In addition, a petition signed by 97 people objecting to the use of Turnstone Drive as the main access had been submitted to the Council. The Principal Planning Officer noted that the Outline application for the development of the site had shown Turnstone Drive as the primary vehicular access, with Caxton Road being shown as a pedestrian and emergency access only. Furthermore, Condition 25 of the Outline Permission referred to the estate road via Turnstone Drive and the emergency access via Caxton Road.

The current application had been accompanied by a Transport Statement which noted that Turnstone Drive had been designed with the intention of providing access to the application site. The Local Highway Authority had been consulted on the application and had raised no objection to the proposal as the principles of the access via Turnstone Park and the emergency access via Caxton Road were agreed with the Highway Authority during the determination of the Outline application. As a point of clarification, the Principal Planning Officer advised that Caxton Road would be used as the access point during construction of the scheme.

Story Homes had submitted an objection to the application that queried whether the applicant was able to access the site via Turnstone Drive, as doing so would necessitate the removal of the Story Homes owned fence between the application site and Turnstone Drive. The correspondence indicated that permission to remove the fence had not been sought.

The Principal Planning Officer advised that the applicant had provided a letter from a solicitor on the matter which noted, the adopted highway in Turnstone Park abutted directly on to the proposed development site, and that there was no strip of land in the ownership of Story Homes. Consequently, the fence referred to in the objection sat upon the adopted highway and was able to be removed by the issuing of an appropriate Notice from the Highway Authority. Therefore the matter was a private legal matter to be resolved between the applicant and Story Homes, and was not a material consideration for Members in their determination of the application.

During the Committee's site visit, Members had requested clarification on: the level of visitor car parking provision and, the responsibility for the maintenance of the trees retained within the site.

The Principal Planning Officer stated that each of the proposed dwellings would have a minimum of two car parking spaces and that a number of the dwellings would have three spaces, including a garage. Additionally, the roads within the proposed development were to be 5.5m wide, which was sufficient to accommodate some on-street parking. The Highway Authority had indicated that the proposed level of parking provision was acceptable.

The maintenance of trees within the site boundaries would be the responsibility of future occupiers were they to be situated within a garden; any trees not within a garden would be maintained by the landowner.

In conclusion, the Principal Planning Officer recommended that the application be approved, subject to the conditions detailed in the report.

Councillor Dr. Tickner (Ward Member) addressed the Committee in the following terms:

The local residents and Ward Councillors welcomed the application to build a mix of homes in the area. Residents' primary concern was the choice of access and egress to the new development which was initially to be via Caxton Road but was subsequently changed to Turnstone Drive.

Councillor Dr Tickner understood that concerns relating to cost had led the developer to select Turnstone Drive as the main access to the site, rather than Caxton Road. He considered that the additional vehicular traffic through the existing housing estate would create a detrimental impact on what was currently a peaceful and tranquil family friendly estate where children were able to play outside in safety. He questioned the validity of the submitted Transport Statement which had calculated that additional vehicular movements per day during peak times would increase by 10 – 16. Councillor Dr Tickner noted that the proposed development would provide parking for a minimum of 116 vehicles.

The existing un-adopted highway of Caxton Road carried heavy vehicles on a daily basis and was considered strong enough to be used as the access and egress point for development and construction on the proposed scheme. Therefore, it would not be cost prohibitive to bring that section of the highway to adoptable standard thereby allowing it to be used as the primary access point to the development upon its completion.

The Construction (Design and Management) Regulations 2015 required designers to take into account the general principles of risk prevention and any pre-construction information to eliminate, so far as is reasonably practicable, foreseeable risks to the health or safety of any person. Councillor Dr Tickner noted that adherence to the Regulation was a legal requirement. He considered that vehicular access via Caxton Road satisfied that requirement, with access via Turnstone Drive being a breach of that requirement and therefore illegal.

The site visit undertaken by the Committee had afforded Members the opportunity to gain first-hand knowledge of the two access options, and note that the two properties at the end of Turnstone Drive adjoining the new site had already been sold with a third going to market shortly as a direct result of the access issue.

In conclusion, Councillor Dr Tickner requested that the Committee require a revised application be submitted with access and egress via Caxton Road as originally proposed.

Councillor Mrs Riddle (Ward Member) addressed the Committee and expressed concerns in relation to the proposed access arrangements for the site. Rather than using the direct access to the site Caxton Road, the proposed scheme would require future residents to travel through an existing housing estate via a number of right hand turns and past a very well used children's play area. Such a situation would be detrimental to the peace and quality of life that residents of the existing dwellings currently enjoyed, and may be hazardous to children using the play area. With reference to paragraph 6.31 of the report, Councillor Mrs Riddle questioned why the developer did not make up the entirety of the Caxton Road to adoptable standard so that it may be used as the primary access point for the site.

Mr Lee (Agent) responded that the issue of the location of the access point had been agreed by the Committee in its determination of the Outline application in August 2016, as referenced by Condition 25 in the report to the Committee, and the subsequent Decision Notice relating to the application. The technical assessment of increased vehicle numbers had been carried out by a traffic consultant and agreed by the Highway Authority.

The issue of bringing Caxton Road up to adoptable standard was a matter for the third parties which owned it and was not under the control of the developer. In relation to the sale of houses adjacent to the site, Mr Lee noted that those properties had been purchased which suggested that the buyers did not have any issues with respect to the proposed development.

Mr Crompton (Agent) added that in relation to the management of risk, developers had a legal duty to contact the Health and Safety Executive to ensure that all necessary matters were addressed during the construction of a development.

Mr Allan (Cumbria County Council) explained that from a Highway Authority perspective the approval of the Outline application had agreed the access to the site, which the Authority did not object to in principle. As part of the Outline Consent, the Highway Authority had required the submission of further information from the applicant, which would need to be provided in order to discharge a number of conditions.

Regarding the calculated increase in vehicular movements detailed in the submitted Transport Statement, Mr Allan advised that the figure had been generated based on the previous industrial use of the site.

The Principal Planning Officer added that using Caxton Road which serviced the nearby industrial estate may be more dangerous to vehicle users due to the higher proportion of Heavy Goods Vehicle's using the road.

The Committee then gave consideration to the application.

A Member asked whether consideration had been given to the installation of additional traffic calming measures in the vicinity of the children's play area.

Mr Allan advised that as a speed table had already been included on the highway adjacent to the play area, it had not been deemed necessary to identify any additional measures.

In response the Member suggested that consideration be given to the installation of additional road signs on the approaches to the play areas indicating to drivers that it was necessary to reduce their speed.

The Principal Planning Officer undertook to investigate the matter.

Responding to a question from a Member regarding the likelihood of flooding of adjacent gardens occurring at the site, the Principal Planning Officer stated that conditions relating to boundary treatment and drainage had been included in the Outline Permission.

In relation to the provision of power points for electric vehicles at the site, the Principal Planning Officer advised that there was no policy requirement for such provision.

A Member sought clarification as to the formula used to generate the off-site amenity/recreational space contribution.

The Development Manager outlined the process used in calculating the level of amenity/recreation space contribution levied on developers, highlighting that the Council had changed its approach following an alteration in government policy which had guided Local Planning Authorities away from using tariff based systems to generate contributions.

The Council's Green Spaces Team was involved in the process of agreeing the level of contribution required, in line with the requirements of Carlisle and District Local Plan 2015-30 (Local Plan) policy GI 4 Open Space. Developers were advised of the obligation in the application process via the Council's Validation Checklist documents, and the Council's website had an online calculator which indicated a potential level of contribution a development would be required to make. The final, approved sum was based upon the approved number of dwellings and layout plan.

With reference to paragraph 3.5 of the report which stated that "*...outline permission was granted (with all matters reserved)...*" a Member sought clarification as to why the issue of the location of the primary access point for the development was not a matter for the Committee to consider in its current deliberations.

The Development Manager confirmed that the Outline application had been submitted with all Matters Reserved, however, the Committee had undertaken lengthy discussion regarding the location of the access, the outcome of which had been Condition 25 which had stipulated that Turnstone Drive was the access to the site, with Caxton Road being for emergency access only. Therefore, the issue of the location of the access was no longer a matter for the Committee to consider, however, were Members minded to, they were able to consider such highways matters as road and pavement layout within the proposed development.

Regarding the issue of the highway adoption, the Development Manager explained that Caxton Road was owned and maintained by third parties and not the developer, and as such was not able to be made up to adoptable standard by the applicant. Therefore, he advised, it was neither feasible nor reasonable to require the developer to enhance that section of the highway.

Any future plans for the adoption of Caxton Road would require Highway Authority approval with the requisite works being funded by the owners of the road.

Mr Allan added that the Highway Authority did not object to Caxton Road being made up to adoptable standard, however, the Outline Permission granted for the site stipulated that Turnstone Drive was the access for the site.

The Legal Services Manager advised that the Highway Authority were not able to instruct that the road be made adoptable, rather, the road owners had to request that the Highway Authority adopt the road.

A Member asked who would be responsible for the operation of the proposed bollards, in the event that emergency access to the development was required.

The Principal Planning Officer advised that the construction of the proposed bollards was such that, in the event of access being required, emergency vehicles would be able to knock the bollards over. Additionally, were Turnstone Drive to be closed in the future, for example, for planned utilities works, residents of the proposed development would be able to have the bollards lowered in order to enable the use of Caxton Road for temporary vehicular access and egress to their properties.

In response to a question from a Member regarding the management of visitors to the proposed dwellings parking their vehicles along Caxton Road, the Development Manager stated that was an issue for the owners of the road to address and manage.

A Member asked whether bikes and motorbikes would be able to pass between the proposed bollards to gain access to the scheme.

The Principal Planning Officer indicated that the particular specification of the bollards would be agreed with the Local Planning Authority prior to the commencement of development.

Another Member stated that bollards were used widely across the country and did not prevent emergency service access, she further noted that the specific details of the proposed bollards were to be submitted for Officer approval. She appreciated the concerns raised in relation to the access arrangements, but felt that it was unreasonable to expect the owners of Caxton Road to improve its specification, and reminded Members that the Committee in its determination of the Outline application had stipulated Turnstone Drive as the primary point of access.

The Member moved the Officer's recommendation, which was seconded, and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

Councillor Shepherd resumed his seat.

2) Variation of Condition 15 (Open Spaces & Informal Play Areas) Of Previously Approved Application 12/0610 to allow investment in existing Off-Site Play Area at Tribune Drive, Land at Hadrian's Camp, Houghton Road, Houghton, Carlisle, CA3 0LG (Application 17/1000).

The Planning Officer submitted the report on the application which had been the subject of a site visit by the Committee on 14 March 2018.

Slides were displayed on screen showing; site location plan, schematic of routes from the development to the play area and photographs of the site, an explanation of which was provided for the benefit of Members.

The application related to the previously approved housing estate on the former Hadrian's camp currently under construction known as Eden Gate (Application 12/0610) and which comprised one hectare of open space in the north-eastern corner of the site. In 2017 an application for a discharge of condition was approved which made provision for a small play area at the top of the turning head to the Eden Gate development.

The current application sought to vary condition 15 of the previously granted permission to allow investment in an existing off-site play area at Tribune Drive. The level of payment had been agreed as £55,000 and the applicant had proposed to pay the commuted sum within one month of the date of any planning approval being granted. In the event that the proposal was approved, the area at the top of the turning head would remain as an area of informal open space.

The Planning Officer with the use of slides illustrated for Members the existing formal and informal routes linking the development at Eden Gate and the play area in Tribune Drive. As detailed in the report there was an opportunity for using a portion of the commuted sum to provide a more direct link between the two sites, subject to negotiations with landowners. She noted that during the Committee's site visit Members had seen the bark path which the applicants had constructed at Eden Gate to help facilitate the link between Eden Gate development and the play area. A number of Members had pointed out that a bark path was not an ideal surface for wheelchair/pram users to negotiate, subsequently, the applicant had submitted a plan illustrating the provision of a 2 metre wide tarmac path as the informal pedestrian link. Were Members minded to approve the application the plan would be incorporated into the approved documents for the development.

In conclusion, the Planning Officer recommended that the application be approved subject to a Deed of Variation to the existing Section 106 Agreement to enable the play area contribution and subject to the plan showing the 2 metre tarmac footway on Eden Gate forming part of the approved documents.

The Committee then gave consideration to the application.

A Member raised concerns that the level of contribution towards the existing play area was too low.

The Planning Officer explained that the contribution required of the developer through the application was greater than the cost of the construction of a play area within the site which had been required by the previous permission. The Council's Green Spaces team had consistently indicated a preference for the payment of a commuted sum to be used to enhance facilities at the play area at Tribune Drive, rather than the provision of an additional play area in Eden Gate. The current application was also supported by the Parish Council.

Another Member asked whether the area of informal open space within the Eden Gate development would be retained in the future.

The Planning Officer advised that the area formed part of the landscaping plan for the development, therefore it was required to be retained and would be maintained by the management company.

A Member moved the Officer's recommendation, which was seconded, and following voting it was:

RESOLVED: That the application be approved subject to a Deed of Variation to the existing Section 106 Agreement to enable the play area contribution and subject to the plan showing the 2 metre tarmac footway on Eden Gate forming part of the approved documents.

3) Proposed New Vehicular and Pedestrian Access to Serve Previously Approved Dwelling (Ref. 15/0179), Land adjacent to Wensleydale, Tarraby, Carlisle, CA3 0JS (Application 17/1047).

The Principal Planning Officer submitted the report on the application which sought permission for the creation of a new access to serve the dwelling approved by the Committee under application 15/0179.

Slides were displayed on screen showing; site location plan, site block plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer reminded Members that the approval of application 15/0179 had necessitated the removal of six trees from the site, and that the Committee had imposed a condition on the consent stipulating the existing hedge at the front of the site be retained at a height of two metres. The proposed new access required the removal of twelve metres of the existing hedge, a hedge report submitted as part of the application process considered the existing hedge to be in poor condition.

The proposal before Members provided for the retention of the six existing trees at the site and the planting of twelve metres of new hedge adjacent to the access. The Conservation Area Advisory Committee considered that, on balance, the retention of the trees which were to have been removed under the previous permission was preferable to the loss of a section of the hedge.

The Principal Planning Officer advised that a condition had been included in the consent requiring additional tree planting to the front of the dwelling to provide further mitigation for the loss of part of the hedge. On that basis, the Principal Planning Officer recommended that the application be approved, subject to the conditions detailed in the report.

The Committee then gave consideration to the application

A Member noted that photographs of the site shown on screen showed that the highway adjacent to the property formed a bend, he sought confirmation that the Highway Authority was satisfied with the proposal.

The Principal Planning Officer advised that the Highway Authority had confirmed that the visibility splays achievable from the proposed access were satisfactory and therefore had considered the proposal acceptable.

With regard to the replacement hedge, the Member asked whether it was intended for evergreen species to be used, and that the removal of the existing hedge would not take place during the bird breeding season.

The Principal Planning Officer noted that condition 3 required the details of the species of hedge to be planted be submitted to the Local Planning Authority for approval as part of the landscaping scheme. He indicated that condition 3 could be amended and a new condition

would be added to the consent requiring the replacement hedge to be of native species, and that the existing hedge not be removed during the bird breeding season.

A Member moved the Officer's recommendation, along with the changes to condition 3 and the imposition of additional condition requiring the replacement hedge to be of native species, and that the existing hedge not be removed during the bird breeding season which was seconded. Following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

DC.32/18 TREE PRESERVATION ORDER 292, LAND AT CALDEW ROAD, CUMMERSDALE

The Planning Officer submitted report ED.12/18 which considered the confirmation of Tree Preservation Order (TPO) 292, Land at Caldew Road, Cummersdale, CA6 2BN, following the receipt of objections to the making of the Order.

Further to the publication of the report, an additional letter in support of the application had been received, which raised similar points to those issues outlined in paragraph 2.4 of the report. The Planning Officer summarised the letter for the benefit of Members.

Slides were displayed on screen showing photographs of the trees which were the subject of the Order.

The Planning Officer advised Members that on 2 January 2018, prior to the serving of the Order, several branches of trees T2 - T4 had been removed, which had raised concerns in relation to the trees becoming unbalanced or potentially felled. Accordingly, the Council had commissioned Capita to undertake, a Tree Hazard Survey which had concluded that there was no increased risk of branch failure. The survey had further indicated that work such as phased pruning could be undertaken over time which would assist in recreating the form of the trees. Capita had also noted that three of the trees were Sycamores, therefore any confirmation of the Order would require that detail to be corrected.

A number of respondents to the consultation on the making of the Order had made reference to the possible future development of the site at which the trees were located. The Planning Officer advised that currently, no application had been received by the Local Planning Authority regarding the development of the site. Therefore he advised Members that in determining whether to confirm the Tree Preservation Order their principal consideration was the appropriateness of the Order, not the merits of any prospective applications.

The Planning Officer considered that the four trees formed a group which were situated in a prominent location, and made a positive contribution to the visual amenity and character of Cummersdale. In order to ensure the safety of wildlife and the continued provision of positive visual amenity, he recommended that Tree Preservation Order 292, Land adjacent to Caldew Road, Cummersdale, Carlisle, CA6 2BN be confirmed, with a modification to tree types listed in the Order as T2, T3 and T4 from Oak to Sycamore.

Mr Pretswell (Supporter) thanked the Planning Officer for his prompt action in attending the site where the trees were located on 2 January 2018 and serving the Order on the trees following the pruning that had occurred earlier that day, which in his view amounted to wanton harm of the trees. Tree T2 was in excess of fifty years old and its roots had grown under Caldew Lane and the driveways of Hillside and Highfield Houses, therefore he felt the owners of those properties had a claim of ownership of the trees. Mr Pretswell stated that the trees ought to be

retained for the benefit of the village and its residents, regardless of any future development of the site, and that the other eighteen mature trees at the site also needed to be preserved.

Mrs Pretswell (Supporter) on behalf of Mrs Dixon, addressed the Committee stating that the size, form, and probable lifespan of the trees made a positive contribution to the visual amenity of the village and helped it to retain a rural aspect. Many residents of the village and walkers enjoyed the amenity views the trees offered year round, whilst recognising that the owner of the trees had offered to plant new trees in replacement it was considered that any new trees at the site would take a long time to achieve the visual impact of those which were subject to the Order. The owner had indicated the trees needed to be removed to widen the road, however, due to the highway layout adjacent to the trees, their felling would not enable a large wagon and car to pass each other on the road, and as such the felling of the trees was not necessary.

The Committee then gave consideration to the confirmation of the Tree Preservation Order.

A number of Members thanked the Planning Officer for his prompt making of the Order, which they felt had been effective in preventing the felling of the trees.

A Member commented that it was difficult to understand why anyone should desire the removal of the trees.

A Member moved that Tree Preservation Order 292, Land at Caldew Road, Cummersdale, Carlisle, CA6 2BN be confirmed, subject to a modification to the tree types listed in the Order for T2, T3, and T4 from Oak to Sycamore. The proposal was seconded, and it was:

RESOLVED That Tree Preservation Order 292, Land at Caldew Road, Cummersdale, CA2 6BN be confirmed, subject to a modification to the tree types listed in the Order for T2, T3, and T4 from Oak to Sycamore.

The meeting adjourned at 11:35am and reconvened at 11:49am

DC.33/18 PUBLIC AND PRESS

RESOLVED - That in accordance with Section 100A(4) of the Local Government Act 1972, the Public and Press were excluded from the meeting during consideration of the following items of business on the grounds that it involved the likely disclosure of exempt information, as defined in Paragraph Numbers 2, 3, 5 and 6 of Part 1 of Schedule 12A of the 1972 Local Government Act.

DC.34/18 AFFORDABLE HOUSING CONTRIBUTION – REAR OF SCOTBY ROAD, SCOTBY (Private by Virtue of Paragraph 3)

Councillor Earp having declared a Registerable Interest / Interest in the item of business, remained outside of the Council Chamber and took no part in the discussion or determination of the matter.

The Development Manager submitted report ED.13/18 Affordable Housing Contribution – Rear of Scotby Road, Scotby which set out a number of options for Members consideration in relation to the planning obligations following assessment by the Council's independent viability consultant.

A number of photographs were displayed on screen showing the development of the site which had been permitted via two separate planning applications. The Development Manager noted

that since the Committee's consideration of the previous report on the matter, the government had issued new guidance in relation to viability assessments. However, it was emphasised that the guidance was at a draft stage and subject to consultation as part of changes to National Planning Policy Framework.

In assessing the options for a revised Section 106 Agreement, the Development Manager directed Members to consider what requirements made the development acceptable and accord with the Council policy. He noted that the Affordable Housing Policy H04 allowed for viability to be considered, however, that was less so in the case of Delivering Infrastructure Policy IP1 which related to other infrastructure.

On that basis, the Development Manager noted that Members may consider the infrastructure obligations relating to recreation/open space and education were essential components of the development which ought to be met. Such a consideration would impact on the remaining contributions set out in the planning obligation, and the appropriate balance between those factors was a matter for Members to determine.

Members' attention was drawn to the table in the report which summarised the options for a renegotiated Section 106 Agreement. In conclusion the Development Manager recommended that Members consider those options detailed in Section 3 of the report as the basis of a revised planning obligation for the development.

The Committee gave in-depth and detailed consideration to the report.

Members considered and discussed the various legal and planning constraints applicable to the renegotiation of Section 106 Legal Agreements, the financial information relating to the development, and the options detailed in the report.

A number of Members expressed serious dissatisfaction that the developer had requested a renegotiation of their planning obligations on the grounds of abnormal development costs, and the implications in relation to reduced contributions and provisions from the site.

The Committee discussed in detail the options set out in the report and considered the merits of each. Members also gave consideration to the potential outcomes of not imposing a new planning obligation on the developer and what impacts that may have on the existing site and wider locality.

The Legal Services Manager outlined the legal position with respect to the enforceability of the current planning obligations and the courses of action available to Council in the event of revised obligations not being agreed. She noted that were Members not satisfied with the options set out in the report, they may choose not to approve a new obligation. Such a determination would require the application for the second phase of development to be put before the Committee, thus affording Members the opportunity to reconsider the terms of the obligations relating to that aspect of the development of the site.

A Member proposed that Officers renegotiate the Section 106 Agreement on the basis of Option 3, as detailed in the report. The proposal was seconded.

Another Member proposed that the options set out in the report be rejected, and that a further report on the second phase of the development be presented to a future meeting of the Committee. The proposal was seconded.

The Chairman put to the vote the motion that Officers renegotiate the Section 106 Agreement on the basis of Option 3, as detailed in the report. Following voting it was:

RESOLVED – That Officers renegotiate the Section 106 Agreement on the basis of Option 3, as detailed in the report.

[The meeting closed at 12:47pm]