

# Development Control Committee (Special)

Tuesday 28 June 2016

7.00 pm in The Council Chamber, The Cube, Corby

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**Present:** Councillor Latta – Chair

Councillors Brown, Caine, Petch, Goult, Riley, Addison, Watts & Watt

## 6. Apologies for Absence

Apologies for absence were received from Councillors Beattie, Dady, Cassidy, Rutt and Sims. Councillor Addison, Watts and Watt substituted.

## 7. Declarations of Interest

Members were asked to declare any personal interests they may have in the business to be discussed and/or indicate whether this was prejudicial or non-prejudicial, the nature of any interest, and whether they intended participating in the relevant agenda item. No such declarations were made.

### 8.1 04/00442/OUT **Proposed modification of the Section 106 Agreement at Little Stanion, Land South of Longcroft Road, Stanion for JME Civils Ltd And Silentpride Ltd (in Administration)**

This report sought authority to approve an application made under Section 106A of the Town and Country Planning Act 1990 to vary the existing S106 legal agreement dated 4 July 2006, 28 July 2008 and 6 September 2010 currently in place on the Little Stanion site.

An identical duplicate application had simultaneously been made to Northamptonshire County Council to determine that duplicate application also. The County Council indicated it will transfer authority to the Borough Council to determine its application upon it being finally satisfied as to the exact wording of the 106 agreement. The recommendation had therefore been amended to request final authority to agree both applications be delegated to the Head of Planning and Environment.

The current proposal was a modified and improved scheme which was recommended for approval. The proposal as revised achieved much of the Council's key demands and had been improved by negotiation since submission in February 2016 and the subsequent public consultation.

The improved scheme would be made viable with the development of an additional 40 dwellings above the 125 which already had planning permission but were not yet built; there would be a loss of just under 10% of the previously proposed open space. The officer noted that even after this loss the open space to be provided exceeds the level required using current standards.

Planning applications would be required for some new development allowing for detailed review of the planning merits at a future date.

The officer had listed new key areas not previously covered by the 2006 agreement which included infrastructure provision (roads and sewers), new public open space quality standards and a shop. Variants of the previous agreement included recreation facilities, new community building and alternative use of land intended for other purposes.

The challenging financial environment meant there were changes or losses relative to the S106 agreement which included land for a community building to be gifted to the Council would now be used for a new community building and shop and another large part for housing., alternative provision of a playing field, areas of planned open space would now be used for additional housing, repayment of cost of the school, limited amount to be reimbursed, further payments might materialise should the financial environment improve.

Mr Nash of Little Stanion addressed Committee, he commented on the substantial changes to the S106 the applicant sought to make with respect to the Public Open Space (POS), he suggested these had been glossed over and misrepresented in other areas.

The POS had been intended as a public asset, ownership had no cost or viability implications for the applicant. Long term maintenance had been addressed in submissions to CBC by residents in such a way that there would be no cost to CBC and no maintenance costs would be required as Little Stanion residents would cover costs of the POS, this would make a substantial concession to the applicant to help improve viability of the scheme.

Mr Nash said there was no valid argument as to why the POS should be transferred to private ownership, this was a contradiction of the current Section 106, no viability implications to the success of development, the change merely allowed personal financial benefit.

Proposals were not in keeping with the NPPF or PPG good practice as advised in these documents, the application should be rejected, the proposed changes had failed to establish the old legal agreement no longer served a useful purpose.

Mr Oates of Little Stanion addressed the Committee commenting that the officer's report stated the Section 106 had been modified and improved, there were eleven key amendments but no-one other than officers had seen the documents, so residents were unable to make a decision for themselves. The POS verification changes were contrary to planning procedure, any material changes should have been done under a separate consultation.

There had been no public consultation, no-one else knew what had been considered and so Mr Oates was asking that Committee refuse the recommendation, NPPG encouraged sustainability in design and construction yet standards were being relaxed. The report had focussed on only a single paragraph in the NPPG Guidance. This relaxation of standards would open the flood gates to similar applications and the precedent set here would have to be considered. Viability was not an excuse to strip out community facilities from the heart of the village.

Mr Oates said he had asked to see documents but was told this would take twenty one days.

Mr Lattimore of Little Stanion addressed the Committee he said he was a member of Stanion Parish Council and the Little Stanion Village Association Management Committee.

He supported the previous statements made and as a resident of Little Stanion he wished to make a point regarding POS, which he felt should transfer to the Local Authority as agreed in the original document. Committee should impose that condition. Despite officers arguments within the report he could not see why this could not happen, it was entirely wrong that this land should be in private ownership.

However, if Committee agreed he believed certain safeguards needed to be put in place to protect resident's interests. Mr Lattimore was pleased that if the revised agreement was approved it would be possible to impose open space maintenance specifications, it was also important that residents could see what they would get for their annual fee including the annual accounts of any company working on their behalf.

Mrs Travis-Dade (LSVA) of Little Stanion addressed the Committee saying she represented the views of the residents of Little Stanion who had been balloted in March following original S106 application in February, she had since received the report which had been modified and despite significant modification and discussions behind closed doors CBC had not felt it necessary to present the revised proposals or seek the views of the residents.

LSVA objected to the proposal, the transfer of the POS to LSFM was in direct contravention of the wishes of the residents, the proposal tied all residents into an annual management charge in perpetuity.

The Community Centre had been moved and had very little outside space and was half a mile from the playing field with no changing facilities. LSVA felt that CBC had not acted in good faith and had failed to consult and did not respect the wishes of the residents. LSVA therefore asked that Committee declined the recommendation.

Ms Douglas of Little Stanion addressed Committee stating that whilst the efforts made were appreciated Stanion Parish Council objected to the application and the ballot taken showed that residents were not in support and there had been no opportunity to conduct a further ballot or a further period of consultation. The report was broadly similar to the August 2015 application and therefore she did not believe the current recommendation could be accepted. Critically the revised report was entirely silent in respect of Option 1, the Parish Council understood Option 1 to be a viable alternative to the current recommendation and were concerned this option had not been explored or explained in the report.

Initial consultation set out 3 objectives and the Parish Council did not find the revised report met these objectives as claimed. Public open space being transferred to CBC was a priority and would not be achieved if the report was agreed. During the proposals the Parish Council proposed a cost neutral solution which would let CBC the £1m commuted sum, we do not believe this was sufficiently explored, neither do we believe it is impossible to unpick the legal agreement. The Parish Council were exploring the provision of legal funding to support residents in this regard.

Regarding the open space the proposed playing pitch would seem to be a false promise, unlikely to obtain planning permission given the lack of parking, close proximity to housing and loss of buffer land close to ancient woodland, there would be no changing and toilet facilities and it would be half a mile from the community centre.

The Parish Council had concerns about the amount and type of parks to be delivered, the Community Centre was inferior and given the co-location with shops there was a decrease in outside space to accommodate events or extend the facility and no changing rooms. It was wholly unacceptable that the centre would be on a lease and not gifted.

Mr Waite addressed the Committee on behalf of the Applicant and explained he was a solicitor for Gately Plc.

Since last autumn he had been working to bring forward a planning led solution with the joint applicants. It was hoped that it was clear that the application required the landowner to 'pare down' the S106 deficit as far as it could be funded and address the lawful interests of the residents by requiring the outstanding works to be done according to their priorities.

Mr Waite said he had heard further concerns during the meeting but could confirm the application had been shaped by earlier points made by Stanion Parish Council and LSVA. However, he agreed with officers that no legal power existed for the Council to unpick the contractual arrangements entered into by the residents with Little Stanion Farm Management Ltd concerning the future management of the POS.

In response to Stanion Parish Councils concerns the application had been amended to relocate the Community Centre, delivering within two years of planning permission and to enable the Council to receive an additional share of profit if house prices improved.

As for the LSVA, they had requested works be prioritised in a certain order, roads, street lighting and sewers followed closely by play areas and open space. There were residual concerns about open space which included service contracts to an individual company that could be diverted to elsewhere, there was no power to do that under the application. However the management company could be requested to demonstrate that it was funded to look after the open space and maintain to a specification of your requirement.

Mr Waite stated that working with the applicants it was clear that real progress depended on the insolvent land owning company coming out of administration.

Members asked how CBC could ensure that the private company maintained the open spaces to a good standard, why the playing field was so far from the community centre and why there had been no public consultation.

The Planning Solicitor advised that the S106 included the enhanced specification as used in Oakley Vale, the Council had also built in a mechanism where a document will be requested on behalf of the residents and if this is not available then the company would be in breach of the S106.

The playing field is being offered in this position but did not have to be in that position, space needed to be large enough for under 11's football pitch, then changing facilities would be required, it may be that the playing field could be relocated and there would be a consultation process for that.

There had been no additional consultation as this was not a negotiation to which the public was a party. The purpose of the consultation that had taken place was to inform the decision making of the Committee. There had been a number of High Court Rulings on this type of issue since 2014 and the process followed had been correct. It was not necessary to consult on every change since there were improvements largely following from the consultation responses received. They were not fundamentally new issues that would require a consultation if the residents wanted to challenge the process followed they could but they would be unlikely to succeed.

Members asked if JME could request LSFM to give the land to the Council, the Planning Solicitor informed Committee that LSFM was Mrs Moore that the Council had suggested this but it had been refused, the Council did not have the power to strip away agreements householders had entered into.

Members were concerned that open space was being taken away but the Planning Officer explained that there would still be play areas and planning applications would be required to provide those areas, the extra housing also needed planning permission, this site still had considerable more open space than most.

Members asked what would happen if Committee turns down the recommendation, the Planning Solicitor said that the applicant would appeal on areas of viability and it was expected the Inspector would agree.

Chair moved to the recommendation and Councillor Addison moved and Councillor Goult seconded, each Member was asked to vote on the recommendation with Councillor Latta voting first, the final vote was tied and Councillor Latta used his casting vote to approve the application.

#### **RESOLVED that:-**

Members approve the section 106A application to modify the existing s106 agreements so as to substitute their terms with the replacement terms contained in an application dated February 2016 as amended, which are summarised below:

#### **Roads, street lighting & sewers**

- a. completion of the roads, streetlight and sewer infrastructure to adoptable standards

#### **Open space**

- b. an open space masterplan, implementation of open spaces, and new quality and performance standards
- c. removal of a specific planning requirement for sports pitches to be provided within the existing site boundary on the triangular area to the rear of the school (Site F in the key diagram)

#### **New community building ('NCB') & shop**

- d. a retail area and community facility, built by the applicant, and in accordance with a timetable
- e. a Master Plan based on the undeveloped areas on the key diagram attached as Appendix 7 to this report be delivered inside 1 year
- f. the construction of the community centre with a minimum gross external floorspace of 400m<sup>2</sup>, with specification to be agreed, and to be transferred at no cost to the Council inside two years from the UD.

- g. submission of a planning application (whether as a stand alone application or as part of a wider application) for the construction of retail floorspace with a combined minimum gross floorspace of 400m<sup>2</sup>, and marketing for one year
- h. removal of the previous requirement for the gift of land (0.45 ha/1 acre) to the Council for the construction of a Community Centre and monies for its construction budget
- i. changing rooms associated with the community centre be no longer required.

**'Residual' land**

- j. the development of a Masterplan for areas where new development is proposed
- k. applications for housing on undeveloped areas – on sites B, D, E, F, and part of J
- l. a first application to be made inside 6 months
- m. if permission is granted for housing, then a tariff of £11,000 per house will be payable to the County Council as an Education payment
- n. a Deferred Developer's Contribution securing, above a defined threshold, a third of additional profit for the benefit of future community benefits at Little Stanion

**Cycle and pedestrian access westward towards Oakley vale**

- o. the pedestrian and cycle connection westwards towards Oakley Vale should be provided in accordance with a specification to be agreed with the Council if Silentpride Limited were to acquire the Tata Land. An implementation programme is to be agreed.

**Tata land**

- p. acknowledgement that the developer may choose to bring forward further land as a future planning application, and that it will be an extension integral to Little Stanion and not a stand-alone development

**9. Close of Meeting**

The meeting closed at 8.10 pm.