

10. SECTION 106 AGREEMENT - GRANGE FARM, HIGH ROAD, CHIGWELL - REQUEST FOR VARIATIONS

The Committee gave further consideration to proposals made to the Council by the developer of the Grange Farm Core site which had been deferred by the Committee at its last meeting on 9 June 2009 in order to allow for the provision of additional information and seek observations from the Director of Finance & ICT.

The Committee noted that since 2002 there had been outline planning permission to redevelop the core area of the former holiday and camping centre at the above site for residential development in this Green Belt location. On 20 December 2006 after protracted negotiations a S106 Agreement had been completed and a renewed planning permission EPF/2190/05 granted subject to a number of conditions.

Under the Agreement, the rehabilitation works and the sports field works were to be carried out by the Developer and the Sports Pavilion and Interpretation Centre are to be constructed by Grange Farm Centre Trust (GFCT) before it was then leased to Chigwell Parish Council to manage and maintain.

The threshold for payment of the maintenance sums, Sports Pavilion and Interpretation Centre contributions, which were to be passed to GFCT and then to Chigwell Parish Council (CPC), as well as the contamination land assessments and affordable housing was that half was payable prior to implementation of the houses and the remainder prior to occupation of the 20th house. The Education and Transportation contributions were both required in their entirety prior to implementation.

Work has commenced on the clearing of the core area, ready to begin the residential development. The developer had written to the Director of Corporate Support Services seeking variations to the Agreement aimed at cost reductions because their funders were withholding funding of the development until the budget was reduced in view of the changed financial environment. They outline that over time, costs for open space and parkland works and roundabout access works had risen significantly over estimate and the economic downturn had resulted in the development being placed in jeopardy.

Following the last meeting, the developer had made further representations to the Council regarding payments to be made under the section 106 Agreement which instead of seeking not to pay elements of the Agreements sums, rather sought to the revised rephrasing of the payments to later in the development phase. Additionally, contributions to the sports pavilion, interpretation centre and community projects were proposed to be held by the developer and drawn down during the construction of the community facilities.

The Committee received representations from an objector, the GFCT and the developer.

It was the view of the Committee that there was a significant threat to the scheme, including the desired community elements, in the current economic environment. Additionally grant money promised to the scheme would also be lost if the scheme was further delayed or stopped. Officers had suggested proposals that protected the payments to the Council for the Sports Pavilion and Interpretation Centre Building Sum and the balance of the Community Project Sum as part of any deed of variation and members suggested that the deed be made personal to the current developer and contain dispute arbitration clauses. The Committee were of the view that, given

the proposed protections the Council should enter into the variation envisaged and resolved accordingly.

Resolved:

(1) That, the variation of the Section 106 Agreement in respect of Planning Permission EPF/2190/05 for Grange Farm, Chigwell be agreed subject to:

(i) The Deed of Variation being made personal to Byrne Estates (Chigwell) Limited;

(ii) A further review of the scheduling of section 106 payments after the sale of the 10th housing unit together with suitable arbitration clauses within the Deed of Variation to be agreed between the parties;

(iii) Byrne Estates (Chigwell) Limited agreeing that prior to the occupation of the first unit, if construction on the Sports Pavilion and Interpretation Centre had not commenced that Byrne Estates (Chigwell) Limited would pay the Sports Pavilion and Interpretation Centre Building Sum and the balance of the Community Project Sum (£230,000.00) at that time and if the contributions had not been fully defrayed by the 29th housing unit (assuming construction had started) Byrne Estates (Chigwell) Limited would pay the balance to the Council.

Based upon the following revised schedule of variations:

Section 106 Contribution item	Original Payment Date Under S106	Agreed Payment Date Or Cancellation	Revision Date to
Access way Commuted Sum (For future maintenance)	50% pre commencement 50% on 20 th Unit	On the sale or occupation (whichever is sooner) of the 20 th housing unit	
Signage	Appointed Date (12 months from date of approval of last reserved matter or 6mths from date of commencement)	No Change	
Affordable Housing Sum	50% pre commencement 50% on 20 th Unit	On the sale or occupation (whichever is sooner) of the 29 th housing unit	
Community Project Sum	50% pre commencement 50% on 20 th Unit	Contribution to held by developer and to be drawn down by developer during construction of pavilion subject to £20,000 direct contribution requested by Chigwell Parish Council (subject to (1)(iii) above)	
Transport Contribution	Prior to	Payment to be used for	

Sum	commencement. Sum already paid to ECC	Education Contribution and balance for Transport.
Contaminated Land Sum	50% pre commencement 50% on 20 th Unit	No payment to the Council
Open Space Commuted Sum (For future maintenance)	50% pre commencement 50% on 20 th Unit	On the sale or occupation (whichever is sooner) of the 20 th housing unit
Plant Defect Sum (For future maintenance)	50% pre commencement 50% on 20 th Unit	On the sale or occupation (whichever is sooner) of the 20 th housing unit
Secondary Contribution (Education)	Prior to Commencement	On the sale or occupation (whichever is sooner) of the 29 th housing unit
Sports Pavilion and Interpretation Centre Building Sum	Prior to Commencement	Contribution to held by developer and drawn down by developer during construction of pavilion (subject to (1)(iii) above)
Sports Pavilion and Interpretation Centre Commuted Sum (For future maintenance)	100% on 20 th Unit	No change

(2) That the Service Director for Corporate Support Services be authorised to prepare and complete the necessary Deed of Variation in accordance with the committee's decision above, subject to such deed requiring the original terms regarding payments and timing of contributions to be reinstated if the 29th housing unit has not been completed by 30 June 2012.