

## **Planning Committee – 20 March 2013**

**APPLICATION NUMBER:** 38/12/0265

**DEVELOPER:** GADD PROPERTIES LTD

**DEVELOPMENT PROPOSAL:** ERECTION OF 7 NO DETACHED DWELLINGS ON LAND TO THE REAR OF 14 – 28 STOKE ROAD TAUNTON AS AMENDED

**SITE:** LAND TO THE REAR OF 14 – 28 STOKE ROAD TAUNTON

### **Full Planning Permission**

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#### **RECOMMENDATION**

To substitute a S106 Agreement to secure leisure and recreation financial contributions as well as allotment and community hall financial contributions with an Agreement in the form of the attached draft Agreement between Taunton Deane Borough Council and Gadd Properties Ltd to secure similar financial contributions.

#### **BACKGROUND**

At a meeting of the Planning Committee on 9 January 2013, conditional approval for the Development Proposal was granted subject to a S106 Agreement to secure leisure and recreation contributions as well as allotment and community hall contributions.

The Developer does not currently own the Site and has contacted the Council to advise that there are logistical complications in arranging for all 7 landowners to sign the S106 Agreement. In addition, some landowners will require the consent of their mortgagees to the S106 Agreement. The requirement to enter into a Section 106 Agreement will therefore set this development proposal back by many weeks.

To overcome these delays, the Developer proposes to pay the financial contributions prior to the issue of the Planning Permission. It is expected that the transfer of the Site from the landowners to the Developer should be completed within a matter of days of the Planning Permission being issued and development may then commence.

It is considered that the Council is not disadvantaged by this course of action. The purpose of the original resolution on 9 January 2013 was to ensure that financial contributions were made for appropriate purposes alongside the grant of Planning Permission.

**CONTACT OFFICER Maria Casey 01823 356413 or  
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**AGREEMENT**

**(1) GADD PROPERTIES (SOUTH WEST) LIMITED**

**And**

**(2) TAUNTON DEANE BOROUGH COUNCIL**

**Land at the rear of 14-28 Stoke Road, Taunton, Somerset**

**This Agreement is made the**

**day of**

**2013**

**Between**

(1) **GADD PROPERTIES (SOUTH WEST) LIMITED** incorporated and registered in England and Wales with Company Number 7937964 whose registered office is at Ash House, Cook Way, Taunton, Somerset TA2 6BJ ("the Applicant")

**and**

(2) **TAUNTON DEANE BOROUGH COUNCIL** of The Deane House, Belvedere Road, Taunton, Somerset TA1 1HE ("the Council")

## **WHEREAS**

1. This is an agreement to secure financial contributions towards the provision of various leisure and recreation activities.
2. The Council is the local planning authority for the area in which the Land described below is situated and by whom the obligations in this Agreement are enforceable.
3. The Applicant is interested in the land at the rear of 14-28 Stoke Road, Taunton, Somerset as shown edged red on the Plan ("the Land") as a developer with options or agreements to purchase the Land.
4. The Applicant has applied to the Council for the Planning Permission.
5. At a meeting of the Council's Planning Committee on 9 January 2013, the members of the Planning Committee resolved to grant the Planning Permission subject to the prior completion of an agreement made under Section 106 of the Town and Country Planning Act 1990 (as amended) ("the S106 Agreement") to secure planning obligations by way of the Contributions listed in the Schedule without which Planning Permission would not be granted.
6. The Applicant requests that the Planning Permission be issued without completion of the S106 Agreement in order to avoid potential delay in completing the S106 Agreement resulting from the involvement of several parties having to be party to the S106 Agreement.
7. As an alternative to the completion of the S106 Agreement the Applicant has agreed to pay to the Council the Contributions such payment to be made prior to the time the Planning Permission is issued.
8. The issue of the Planning Permission is an acknowledgement by the Council that the Contributions will be used for the purposes set out in the Schedule

## DEFINITIONS

- “the Application”** means the full planning application for the Development at the Land and allocated reference number 38/12/0265
- “the Contributions”** means the financial contributions payable to the Council as listed in the Schedule
- “the Development”** means the erection of 7 No dwellings on the Land
- “the Land”** means land at the rear of 14-28 Stoke Road, Taunton, Somerset as shown edged red on the Plan
- “the Original Resolution”** means the decision made by the members of the Council’s Planning Committee on 9 January 2013 to grant the Planning Permission subject to the prior completion of an agreement made under Section 106 of the Town and Country Planning Act 1990 (as amended) (“the S106 Agreement”) to secure planning obligations by way of the Contributions listed in the Schedule without which Planning Permission would not be granted.
- “the Plan”** means the plan attached to this Agreement
- “the Planning Permission”** means the permission granted pursuant to the Application
- “Schedule”** means the schedule attached to this Agreement

## NOW THIS AGREEMENT WITNESSETH as follows:

1. The Applicant hereby agrees to pay the Contributions to the Council prior to the date the Planning Permission is granted.
2. In the event that the Contributions are not paid by 29 March 2013 the Planning Permission shall not be granted under the terms of this Agreement and the Original Resolution shall apply immediately thereafter
3. In consideration of the payment of the Contributions by the Applicant the Council agrees and acknowledges that it will use the Contributions for the purposes specified in the Schedule provided that if:
  - (a) the Planning Permission expires before the Development has been commenced; or

(b) the Contributions or any part of them shall not have been used for the specified purpose within 5 years from the date of payment of the Contributions

the Contributions or the appropriate part of them shall be repaid to the Applicant together with interest at the base lending rate from time to time of Lloyds TSB Bank Plc

**THE COMMON SEAL OF**

**TAUNTON DEANE BOROUGH COUNCIL**

was hereunto affixed in the presence of:

Legal Services Manager

Signed on behalf of

**GADD PROPERTIES (SOUTH WEST) LIMITED**

acting by **Andrew Gadd**

a Director

in the presence of

## SCHEDULE

### The Contributions

<b>Purpose</b>	<b>Amount of Contribution</b>	<b>Total</b>
The provision of children's play facilities	£2,668.00 per Dwelling with 2 or more bedrooms.	£18,676.00
The provision of facilities for active outdoor recreation	£1,454.00 per Dwelling	£10,178.00
The provision of allotments	£194.00 per Dwelling	£1,358.00
The provision of local community hall facilities	£1,118.00 per Dwelling	£7,826.00
<b>TOTAL CONTRIBUTIONS PAYABLE</b>		<b>£38,038.00</b>



**SITE PLAN FOR SECTION 106:  
LAND TO THE REAR OF 14-28 STOKE ROAD, TAUNTON**

Date: 10/08/2012      Scale 1: 1000

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