

# Planning Committee - 19 May 2010

## Report of the Head of Legal and Democratic Services

### Miscellaneous Item

Variation of S106 agreement and unilateral undertaking relating to proposed major development at Monkton Heathfield (Nos 48/2005/072 and 48/2007/006)

#### 1. Background

Permission was granted on appeal in 2008 for major development at Monkton Heathfield comprising residential development, community facilities, employment and a new distributor road. In order to meet the requirements of the development the Developers entered into a S106 agreement with Somerset County Council to secure contributions in respect of County issues, essentially highways and education. Agreement could not be reached with this Authority as to affordable housing and the provision of community facilities and accordingly a unilateral undertaking was tabled at the Planning Inquiry which was found acceptable by the Planning Inspector and on the basis of which permission was granted.

Since the Inquiry in April 2008 the housing market has been in decline and no progress has been made with the development. However a Consortium of developers has now secured funding to enable commencement but, because of the financial constraints, it will need to vary the way in which the development will be carried out which will require alterations to the S106 agreement and the unilateral undertaking.

#### 2. The S106 Agreement

This authority is not a party to this agreement and the Consortium has negotiated variations with the County Council directly. The main elements are as follows;

1. Not to permit occupation of the 300<sup>th</sup> unit of housing before the Easter Relief Road is constructed. There are to be pedestrian/cycle crossing instead of bridges.
2. The education contribution to be paid on a "per plot" basis on occupation, to be paid quarterly.
3. The Bus Subsidy contribution to be made on a similar basis
4. Amendments to the timing for the payment of the contribution to highway improvements at Creech Castle and the Travel Counter contribution.
5. Variation of the timings for the contribution to the Temporary Classroom contribution.

All of these details have been agreed by the County Council and are reported for information only.

### 3. The Unilateral Undertaking

The Developer has asked for three minor variations to the Unilateral Undertaking containing obligations to this Authority. They are as follows;

- 1 A specification for the Dyers Brook Corridor to be submitted prior to the commencement of the part of the development including the Dyer's Brook.

This would replace an obligation to submit the specification prior to the occupation of the 100<sup>th</sup> dwelling.

- 2 The Retail Land to be marketed upon the commencement of the phase in which it is to be constructed.

This would replace an obligation to market the Retail Land on commencement of the development.

- 3 No more than 200 dwellings to be occupied before providing services to the southern employment land and no more than 600 dwellings to be occupied prior to the provision of services to the northern employment land.

This merely alters the order in which the employment land will be developed. The original obligation provided for the northern land to be brought forward first.

All these variations are considered reasonable given the changed circumstances and in order to facilitate the early commencement of development at this site.

### RECOMMENDATION

It is recommended that the Solicitor to the Council be authorised to agree a revised Unilateral Undertaking to secure the developer's obligations in the terms reported and that the proposed changes to the S106 agreement be noted.

Tonya Meers  
Head of Legal and Democratic Services

Contact Officer Judith Jackson 01823 356409 or [j.jackson@tauntondeane.gov.uk](mailto:j.jackson@tauntondeane.gov.uk)