

PLANNING COMMITTEE

19 OCTOBER 2022

GARRISON POINT (WHIFFENS CAR PARK) S106 – OBLIGATIONS

Report from: Richard Hicks, Director of Place and Deputy Chief Executive
Author: Dave Harris, Head of Planning

Summary

This report relates to the financial contributions secured via a S106 agreement related to the Whiffens car park (Garrison Point) development and to the fact that due to viability the delivery of the agreed monetary obligations cannot be met in full.

1. Budget and policy framework

- 1.1. A decision on this matter is appropriate for Planning Committee and is within the Council's policy and budget framework including the Council Plan.

2. Background

- 2.1 In February 2020, under planning reference MC/18/2406, the Local Planning Authority approved planning permission for 'Construction of 115 no. residential apartments together with landscaping and associated parking'. This was subject a S106 agreement that secured:

- i) Contribution of £157,740.70 towards education and the provision of nursery, primary and secondary school places
- ii) Contribution of £32,969.35 towards local heritage in the form of survey work, repairs and improved visitor access to the underground sump
- iii) Contribution of £257,687.06 towards the restoration, improvement and enhancement of the Town Hall Gardens open space
- iv) Contribution of £28,631.90 towards footpath improvements (phase 2) at Great Lines Heritage Park
- v) Contribution of £72,721.40 for the NHS to support the purchase of equipment and infrastructure for a new Healthy Living Centre in the Chatham Central locality
- vi) Contribution of £30,380 towards public realm enabling work to improve the end of Military Road/Brook, creating a path at the end to the taxi rank, to

- facilitate the closure of the pedestrian underpass and thereby improve connectivity of the development with the town centre
- vii) Contribution of £8,788.30 towards youth services to support young people to access skills improvement in the Chatham area
 - viii) Contribution of £19,418.90 towards waste and recycling activities related to the development
 - ix) Contribution of £3,516.00 towards signage and information for Public Rights of Way network accessed from the development site
 - x) Contribution of £6,000 towards the improvement of bus infrastructure at the Chatham Bus Exchange to help encourage residents to utilise the bus service
 - xi) Contribution of £27,555.15 towards bird disturbance mitigation measures
 - xii) 20 x off-site affordable rented housing units (MC/18/2553 – White Road, Chatham)

Total: £645,408.76

- 2.2 The above contributions were agreed following the submission of a viability report by the applicant with the application submission.
- 2.3 A Deed of Variation was also agreed earlier this year, following the Government's introduction of 'First Homes', in an agreement between the applicant and Homes England that 'Garrison Point' was accepted as a development to bring forward an early delivery of 44 First Homes (13 x 1-bedroom, 31 x two-bedrooms).
- 2.4 Since the approval there has been significant national and international inflation pressure particularly relating to rising costs for materials and labour. The applicant specifically highlights that:
 - The White Road off-site affordable housing development delivered 20 x 2-bedroomed units rather than the 10 x 2-bedroomed and 10 x 3-bedroomed as accounted for in the 2018 viability report, thereby reducing revenue
 - Construction costs have increased by 22.8% since March 2020
 - Additional abnormal costs anticipated have increased due to drainage changes required by the Environment Agency (£119,715.00)
 - Increased cost of funding (offered to MDC by the council) over that used in the original viability assessment (now 5.5%, was 3%)
- 2.5 A viability assessment report addendum has been produced which addresses the current viability of development across the application site and the linked development site at White Road Community Centre (planning application MC/18/2553). This revised viability assessment position has been verified by an independent development consultant who advises "*The cumulative consequence of these changes has been tested and show that a viable level of S106 contribution affordable on the Whiffens scheme is £70,000.*" This

obligation threshold would deliver an equivalent profit percentage on Gross Development Value (GDV) as previously agreed under the original viability assessment.

3. Options

3.1. There are 2 options

3.2. Option 1: Planning Committee agree a deed of variation to allow for a reduction of the S106 financial contributions that would apply to the residential development in line with the amount within the viability report addendum with an overage clause to clawback addition monies if unit sales values increase. Therefore, work will continue on the delivery of the housing scheme on site.

3.3. Option 2: That Planning Committee do not agree a deed of variation to reduce contributions.

4. Advice and analysis

4.1 Option 1 delivers housing on site as per the approved scheme but without the same level of contribution towards mitigation of the impacts of the development within its wider context or contributions towards improvements of strategic facilities.

4.2 Option 2 – The liability to pay the original planning obligations would remain with the Developer which will result in a significant loss for the Developer. This could have a significant impact on future development possibilities on brown field regeneration Town Centre sites. Which could in turn negatively impact on the future viability and vitality of the centre and have the knock-on potential of further green field loss to meet housing need as a result of speculative development. The developer could stop the development and challenge the obligations by way of appeal to the Secretary of State after 5 years of the date of the agreement.

4.3 Option 1 has been assessed by the Council's independent viability consultant. He has made the following comments:

- To deliver this development using a typical market lending rate (of 6.5%) would not result in an economically viable level of land value as required by the National Planning Policy Framework, which notes sites need to deliver a "competitive return to the landowner."
- Utilising the preferential interest rates available to Medway Development Company (average rate of 5.5%) as a wholly owned local authority development vehicle generates a residual land value considered to be a marginally economically viable level of land value as required by the National Planning Policy Framework, which notes sites need to deliver a "competitive return to the landowner." (average of 13.3% profit on GDV – equivalent to profit at the original grant of planning permission.)

- The cumulative consequence of the reported changes to the cost pressures has been tested and show that a viable level of S106 contribution affordable on the Whiffens scheme is £70,000.

5. Climate change implications

- 5.1. This report has no implications in relation to climate change and the energy efficiency measures to be secured through the development.

6. Financial implications

- 6.1. These are set out above. If Option 1 is agreed then there will be delivered 9 affordable homes on site, 20 affordable homes off site and £70,000 in S106 contributions.

7. Legal implications

- 7.1. Option 1 would require a deed of variation to remove circa £645,408 financial contributions and substitution with £70,000 together with an overage clause to claw back additional profit.

8. Recommendation

- 8.1. The Planning Committee approve Option 1. It is further recommended that the remaining contribution go towards delivery of the Healthy Living Centre in the Pentagon.

Lead officer contact

Dave Harris, Head of Planning

Appendices

Addendum to Economic Viability Analysis

Background Papers

None