Hinckley & Bosworth Borough Council

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PLANNING COMMITTEE 10 October 2018

WARDS AFFECTED: Barlestone, Nailstone and Osbaston
Markfield, Stanton and Fieldhead

PROPOSED VARIATION TO SECTION 106 RELATING TO PLANNING APPLICATIONS 06/00980/OUT, 10/00851/EXT and 14/00572/CONDIT

Report of Interim Head of Planning

1. PURPOSE OF REPORT

1.1 A request has been made to vary a signed Section 106 to planning application 06/00980/OUT, 10/00851/EXT and 14/00572/CONDIT to amend the off site highways works originally agreed.

1.2 This report will provide the context of the request and the supporting evidence which has been submitted alongside the request.

1.3 Recommendations to planning committee are also made within this report.

2. RECOMMENDATION

2.1 That a deed of variation to the signed Section 106 for planning application reference 06/00980/OUT, 10/00851/EXT and 14/00572/CONDIT be agreed to amend the off site highways works to those outlined in the following plans:

- 018750 CA-0-G00-DR-SE-1000-P09
- 4752.000H1/1/001
- 4752.000H1/1/002
- 4752.000/H1/1/003

2.2 That the Interim Head of Planning be given delegated powers to determine the final wording of the S106.

3. PLANNING HISTORY

3.1 An outline planning application (reference 06/00980/OUT) with the description of 'Redevelopment of former colliery site to include storage and distribution uses (class B8), small business units (classes B1(c), B2 and B8), a country park, landscaping open space and the formation of a new access' was submitted for the site at Nailstone Colliery, Wood Road, Nailstone, Leicestershire, CV13 1GE.

3.2 This application was allowed at appeal, determined 6th March 2008. A unilateral planning obligation under S106 of the Town and County Planning Act (1990) was signed to support the application. This legal agreement secured contributions towards:

- Country Park management plans and financial contribution
- Provision of new Bus Service
- Off site highway improvement works
- HGV Directional Signage

3.3 The legal agreement supporting the application 06/00980/OUT was dated 7th December 2007. A summary of the obligations within the Section 106 are shown in the table 1 below:

Table 1.

Contribution	Figure	Detail
County Park Financial Contribution	£980,000	To pay for the maintenance of the Country Park for a minimum period of 10 years from its completion
Country Park Management Plan		The proposal for the creation maintenance and management of the Country Park
Country Park Management Company		A company set up for the express purpose of managing and maintaining the Country Park or the Borough Council or District Council or an existing company which the Borough Council or District Council accept is capable of maintaining and managing the Country Park
Bus Service		The operation of a new bus service to commence service either before or immediately from first occupation of the development
Bus Service Contribution	£140,000	To satisfy tender and up front set up and mobilisation costs
Bus Service Payment	£1,400,000	In the event that a bus operator has not entered into a contract as envisaged this obligation will be paid to the County Council prior to occupation of the development.

Provision of new bus stop infrastructure		Provision of bus stops at : - the main entrance to the application site - Bagworth Road - Grange Road - Wood Road near Battram Road (southbound) - Bardon Industrial Estate
Bus Travel Passes		Operators of any business employing people on the application site shall for a period of 5 years from the date of first employing a person and offer a free travel pass for a period of 6 months
Infrastructure Works (Off site highway works)		Main site access Junction at Wood Road New Roundabout Junction Improvements including Traffic Signals at Junction of Victoria Road with Ellistown Terrace Road and Station Road Junction Improvements including Traffic Signals at Junction of Station Road with Wood Road HGV Directional Signage

3.4 A second application was submitted to extend the time for the original application (reference number 10/00851/EXT). On the 15th February 2011 this application was approved. This application was supported by a legal agreement dated 14th February 2011, referred to in this report as the second legal agreement. This legal agreement made no changes to the agreed obligations as outlined in the table above, this legal agreement ensured that the original agreed obligations required by the first permission are also required by the second permission 10/00851/EXT.

3.5 A third application was submitted with a description of 'Variation of condition numbers: 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 16, 17, 21 and 24 of 10/00851/EXT to allow phasing of the development' (reference number 14/00572/CONDIT). This application was supported by a legal agreement dated 31st December 2014, referred to in this report as the third legal agreement. This legal agreement made no changes to the agreed obligations of the original application as outlined in the table above, this legal agreement ensured that the original agreed obligations required by the first and second permission are also required by the third permission 14/00572/CONDIT.

4.0 Request to vary the Section 106

4.1 Section 106 agreements can be renegotiated at any point, where the Local Planning Authority and developer/applicant wish to do so. Variations to Section 106 can be sought under Section 106A of The Town and Country Planning Act 1990.

Requested amendments

4.2 The table 2 below identifies the original highways mitigation measures and the mitigation measures which are proposed through this amendment:

Table 2.

Location	Original obligation off site highway works	Proposed amendments to off site highway works
Main Site Access off site works	This includes the appropriate visibility splays for the access to the site and a ghost turning island. drawing number 15209/003/002 Rev D	The drawing provided is significantly more detailed, identifying the ghost turning island, all required visibility splays and alterations necessary to achieve a suitable access to the development. Drawing number 018750 CA-0-G00-DR-SE-1000-P09
Wood Road B585/Grange Lane B582/Bagworth Road Junction	New roundabout Drawing number 15209/003/001	This element has been removed from the proposal.
Junction of Victoria Road/Ellistown Terrace Road/Station Road Junction	Junction improvements including traffic signals Drawing number 152009/003/004	The carriageway is proposed to be widened with two lanes, one right turn only and a second left turn only. The traffic signals are still proposed. Drawing number 4752.000H1/1/001
Station Road/ Wood Road Junction	Junction Improvements including traffic signals Drawing number 152009/003/005	This junction is proposed to be a compact roundabout the traffic signals have been removed. Drawing Number 4752.000H1/1/002

4.3 An additional clause is proposed to the legal agreement which reads 'the Development shall not be Occupied until road maintenance works are inspected and certified in writing to be substantially constructed by the County Council generally in accordance with Drawing Number 4752.000/H1/1/003.' This drawing identifies the two junction improvements and also two maintenance schemes along the B585.

4.4 Due to the removal of the roundabout at the Wood Road B585/Grange Lane B582/Bagworth Road Junction an amendment to the location of bus stops is

necessary as the previously required bus stops on Grange Road and Bagworth Road are no longer needed. The two bus stops proposed at Bagworth Road and Grange Road would be located in inaccessible areas with no footpaths serving them and no dwellings adjacent to them. Leicestershire County Council Highways have no objections to the removal of these bus stops. Therefore the removal of these bus stops is considered to be acceptable.

Justification for changes

4.4 Prior to this request to amend the off site highway mitigation measures a request was to LCC Highways Department for Section 278 works as per the mitigations works outlined in the agreed legal agreement. Following a review of the plans LCC Highways Department found the works to be undeliverable within the land either in the applicants or the highways control. Discussions were then held to develop mitigation works to the highway which were deliverable. LCC Highways department have designed the amended off site highway works which are being proposed.

4.5 LCC Highways have confirmed that the two junctions designed at Wood Road and Victoria Road junctions have been configured to maximise the capacity and efficiency of traffic flow at both junctions. They also highlight that previous design iterations of these junctions showed insufficient capacities in future modelling scenarios of the junctions. LCC Highways confirm that the proposed off site mitigation works provide good future capacity and are deliverable all within highway boundary so as to avoid the complications arising in obtaining 3rd party land.

4.6 The previously proposed roundabout at the Wood Road B585/Grange Lane B582/Bagworth Road Junction has been removed from the proposals as outlined in table 2. Further justification has been provided for the removal of this proposed roundabout by LCC Highways who identify that the original application was drafted approximately a decade ago and it is likely that the highway scenario now differs significantly with 2007. The delivery of a roundabout, as secured by the original legal agreement, was considered by LCC Highways and it was determined that it was not possible to achieve the required forward visibility on one of the approaches to the roundabout with a roundabout designed within the constraints of highway land. As a result of these land constraints, alternative options were looked into.

4.7 Upon analysing the scenario of the proposed application LCC Highways modelled the junction in LLITM 2026 involving a “worst case scenario” of flows from the future development from the site and including the current traffic count information that they had. The modelling indicated that the existing junction would have capacity to deal with the additional traffic anticipated from the development. For this reason LCC Highways consider the roundabout to be unnecessary. Furthermore LCC Highways reviewed the safety record of the junction and conducted camera surveys to determine whether any improvements could be made to improve the safety of the junction. It was found that between 1995-2006 there were 14 accidents at the junction (all slight) and the majority of these were in wet/damp/icy conditions. At the time of last checking there had on been one slight accident at the junction since 2008. LCC Highways believe that maintenance work carried out to this junction in the past (surface dressing) and the associated skid resistance led to the drop in accident rate. Due to these findings LCC Highways do not consider the junction to have any safety concerns.

4.8 As part of the mitigation proposal for the development LCC Highways intend to perform a signage review of all roads in and around the development to see if any improvements can be made. LCC Highways have also stated that the majority of

increased traffic flows from the development are anticipated to head towards the M1 and A511 in the opposite direction to the junction in question. The junctions in this direction will need to be improved as part of the mitigation works. LCC acting as highway authority believe that the negotiated maintenance works that would be included as part of the revised mitigation package, would actually provide much greater benefit to the local road users and more efficient mitigation than the original roundabout proposal would have.

4.9 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

(a) necessary to make the development acceptable in planning terms;
(b) directly related to the development; and
(c) fairly and reasonably related in scale and kind to the development

4.10 The original off site highway works outlined in table 2 were considered to be necessary to make the development acceptable in planning terms as they would have mitigated the impact of the development upon the highway network. The amended off site highway works therefore need to ensure that they will adequately mitigate the impact of the development upon the highway network to make the development acceptable in planning terms. As the local highway authority (LCC Highways) undertaken a review of the impact of the development and designed the off site mitigation measures they have no objection to the proposed amendments.

4.11 The two bus stops proposed at Bagworth Road and Grange Road to be removed would be located in inaccessible areas with no footpaths serving them and no dwellings adjacent to them. Leicestershire County Council Highways have no objections to the removal of these bus stops. Therefore the removal of these bus stops is considered to be acceptable.

4.12 Reviewing the information submitted by LCC Highways it has been demonstrated that full review and understanding of the impacts of the development upon the highway network has been undertaken and the proposed amendments to the off site highway work are considered acceptable and would mitigate the impacts of the development upon the highway network to make the development acceptable in planning terms..

5.0 Conclusion

5.1 The original off site highways works agreed in the original legal agreement are determined by the local highway authority to be undeliverable. The proposed amendments to the off site highways works have been designed by LCC Highways following a full review of the impacts of the development upon the highway network. It is considered that the amendments would mitigation the impacts of the development upon the highway network to make the development acceptable in planning terms.

6.0 Recommendation

6.1 That a deed of variation to the signed Section 106 for planning application reference 06/00980/OUT, 10/00851/EXT and 14/00572/CONDIT be agreed to amend the off site highways works to those outlined in the following plans:

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6.2 That the Interim Head of Planning be given delegated powers to determine the final wording of the S106.

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