



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration & Development Services

Date: 15 March 2016

Subject: UPDATE ON APPLICATION SEEKING REVIEW OF AFFORDABLE HOUSING OBLIGATION UNDER S106BA OF THE TOWN AND COUNTRY PLANNING ACT

Author of Report: Eleanor Ridge

Summary:

Notification of the Withdrawal of an application submitted under s106BA of the Town and Country Planning Act seeking review of a planning obligation attached to a previous planning permission.

Reasons for Recommendations

For noting.

Recommendations:

It is recommended that the Withdrawal of 16/00341/MDPO is noted

Background Papers:

Category of Report: OPEN

UPDATE ON APPLICATION 16/00341/MDPO – APPLICATION TO MODIFY SECTION 106 AGREEMENT FOR PLANNING PERMISSION 15/00122/FUL AT DYSON REFRACTORIES LTD, GRIFFS FORECLAY WORKS, STOPES ROAD, SHEFFIELD

At the 23rd February 2016 planning committee, Members were updated in respect of the submission of an application to vary the section 106 agreement relating to the recently approved residential development at the Dyson Refractories site at Stopes Road, Sheffield (previous application reference 15/00122/FUL).

Following the update to Members and subsequent to further discussions and comments from the District Valuation Office on the application, the applicant has withdrawn the application.

In withdrawing the application, the applicant has set out the background to, and their original intention in, the submission of this application to modify the s106. This is set out below for the benefit of members:

“Our team has worked closely with you and your colleagues over more than a year now in seeking to find a much needed answer to the regeneration of this site. You quite rightly set us some stiff challenges in terms of the design and sustainability of the scheme and we were pleased to reach full agreement of those points.

That said, throughout the process it was clear that there was a significant difference between us in terms of the viability appraisal underpinning the approach to affordable housing. As you know, we were careful consistently to explain that our appraisal unswervingly showed that the contribution sought by the Council for affordable housing could not viably be sustained by the scheme, whereas the advice you obtained from the DV took a different view. It was disappointing that we could not bridge the gap between us, but that is sometimes the case given assessments of this nature are not an exact science.

In circumstances where, respectfully, we were (and remain) convinced that our appraisal is a realistic one, and we remain committed to the development of this site, we faced a dilemma. Disagreement on the terms of a s106 agreement effectively creates an impasse, and the options available to applicants are limited. There are effectively two choices – either to take a refusal on the point and appeal, or secure the planning permission and seek to renegotiate the agreement via S106BA. The first option is abrupt, potentially expensive, and might seem confrontational. By taking the

second option we hoped that a fresh pair of eyes from the DV's office might bring our positions closer together."

However, it is clear that we misjudged the approach in terms of how it would be received by Members. We are sorry for that, it was never our intention to "play the system", and we want to reassure you and Members that we value open and transparent relationships. Again, therefore, we have two further choices. The first is to take a refusal on the s106BA application and, assuming that the Government extend the sunset provisions in the legislation, submit an appeal. The second is to take a step back, start with a clean slate, and seek to work with you towards an alternative solution for the site that is acceptable in planning, and viable. We hope that by taking the latter course the Council will recognise that we are committed to restoring trust and our positive relationship."

Officers note the comments made in this submission, and will be working with the applicant to secure an appropriate and acceptable redevelopment scheme for this site.

A number of representations have been received as part of this application, but as the application is withdrawn, it is not considered necessary or appropriate to set these concerns out or discuss further given the withdrawal of the application.

RECOMMENDATION

It is recommended that the withdrawal of Case No.16/00341/MDPO is noted

This page is intentionally left blank