

APPLICATION NO	PA/2020/2028
APPLICANT	Modernistiq Harrogate Ltd
DEVELOPMENT	Application for the modification of planning obligations attached to PA/2017/1975
LOCATION	Land off Westgate Road, Westgate, Belton
PARISH	Belton
WARD	Axholme Central
CASE OFFICER	Rachael Major
SUMMARY RECOMMENDATION	The existing planning obligation be modified
REASONS FOR REFERENCE TO COMMITTEE	Member 'call in' (Cllrs Tim Mitchell and David Robinson – significant public interest) Significant public interest

POLICIES

National Planning Policy Framework:

Chapter 2 – Achieving sustainable development

Paragraph 7 explains that the purpose of the planning system is to contribute to the achievement of sustainable development and that 'At a very high level...sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.'

Paragraph 9 states, 'Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.' It also explains that the three overarching objectives are not criteria against which every decision can or should be judged.

Chapter 3 – Plan making

Paragraph 34 states that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

Chapter 4 – Decision making

Paragraph 56 states that planning obligations must only be sought where they meet all of the following tests:

- (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.

Paragraph 57 of the NPPF states, 'where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'

North Lincolnshire Local Plan:

Policy H10 (Public open space provision in new housing development)

North Lincolnshire Core Strategy:

Policy CS7 (Overall housing provision)

Policy CS9 (Affordable housing)

Policy CS27 (Planning obligations)

CONSULTATIONS

No responses have been received.

PARISH COUNCIL

No response.

PUBLICITY

This application has been publicised by site and press notices, and placed on the council's website. Seventy-one responses have been received objecting to the application to modify the planning obligations.

The planning issues raised in the responses are:

- access to the development on a narrow road
- risk of flooding
- environment impact
- high volume of traffic and excess speeds on Westgate Road
- narrow footpaths

- contribution towards substantial traffic calming measures needed
- HGVs contravening the 7.5 tonne restriction
- vehicles mounting footpaths on Westgate Road, danger to pedestrians and there have already been accidents
- environmental impact on historic Belton Fields
- offsetting environmental impact to include electric car charging points, air source heating and solar panels; also rainwater harvesting to all the houses to support the drainage system
- land unsuitable for housing due to flood risk
- new developments not in keeping with the area
- too many houses for the site
- adversely affects the character, appearance and setting of historic environment
- burden on local amenities
- primary school oversubscribed
- only doctor's surgery under pressure.

ASSESSMENT

The proposal

This is not an application seeking planning permission but is an application to modify the existing Section 106 agreement attached to the outline planning permission (PA/2017/1975) for up to 23 dwellings. This application requests the removal of the open space contribution of £9,460.20. This is towards maintenance of Belton Playing Field and Bowling Green. There is also a request to remove the affordable housing contribution which is 10% of the total number of dwellings on site as affordable product (maximum of two dwellings). The application for modification has been submitted due to ascertain from the applicant of the non-viability of the scheme with the contributions applied.

The key issues in determining this request are whether the development is viable within the current contribution levels and whether the proposed amended agreement would adversely affect the provision of public open space and the affordable homes to the detriment of the local community.

Relevant planning history

PA/2017/1975: Outline planning permission for up to 23 dwellings with all matters reserved apart from access – refused 14/12/2018, allowed on appeal 11/03/2020.

PA/2020/1413: Approval of reserved matters following outline planning permission PA/2017/1975 dated 11/03/2020 to erect up to 23 dwellings, namely appearance, landscaping, layout and scale – approved 28/01/2021.

Principle

This application requests the removal of the open space contribution of £9,460.20. This was towards maintenance of Belton Playing Field and Bowling Green. There is also a request to remove the affordable housing contribution which is 10% of the total number of dwellings on site as affordable product (maximum of two dwellings). The site has outline planning permission and reserved matters approval; this application cannot address the highway concerns outlined by objectors in the comments received.

The development plan for North Lincolnshire comprises three parts: those policies of the North Lincolnshire Local Plan (2003) (LP) which were saved by a direction of the Secretary of State in September 2007; the North Lincolnshire Core Strategy DPD (2011) (CS); and the Housing and Employment Land Allocations DPD (2016) (HELAP). Policy CS1 of the CS sets out a spatial strategy for North Lincolnshire.

Policy CS9 of CS is concerned with affordable housing and requires schemes for new residential housing in rural settlements to contribute 10% of the scheme for affordable tenure. Ideally 70% of affordable housing supplied should be 70% for rent and, where possible, the housing should be provided on site, but an off-site contribution may be acceptable.

Policy H10 of the North Lincolnshire Local Plan is concerned with public open space. It states, '(i)...New housing developments on allocated and windfall sites of 0.5 hectares or more will be required to provide recreational open space on a scale, and in a form, appropriate to serve the needs of residents, or alternatively, where appropriate, to provide commuted payments for this provision to be made off-site, either individually or in combination with existing or other proposed recreational sites and facilities...'

Paragraph 56 of the NPPF concludes obligations must meet all the following tests:

- (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.

Within policy CS27 it is clear that if developments are unable to support the costs of a planning obligation (other than those essential to allow development to proceed) then negotiations can occur. Paragraph 57 of the NPPF allows local planning authorities to assess the weight that is given to a viability assessment having regard to all the circumstances in the case.

Within policy CS27 (Planning Obligations), the supporting text for this policy states, 'It is important that development costs, including the cost of implementing planning obligation agreements, should not prejudice development that supports North Lincolnshire Council's aspiration to see the regeneration, improvement and revitalisation of the area. If it is claimed that a development is unable to support the costs of a planning obligation (other than those essential to allow the development to proceed) then this could be the subject of negotiations. In such cases, the developer will have to demonstrate non-viability via an

“open book” approach.’ The applicant has concerns that the S106 contributions required would make the scheme unviable. As a result the applicant has submitted a viability report. This has been independently assessed as requested and instructed by North Lincolnshire Council. Mark Williams MRICS, a professional expert in this field on behalf of Carter Jonas LLP, concluded that the scheme is unable to support any affordable housing and off-site open space contribution.

Therefore, on balance, the removal of the S106 contributions will allow for the delivery of this residential scheme on this site. The development would contribute positively to the council’s housing land supply and would provide a mix of housing types on the site. These benefits are considered to outweigh the loss of the open space contribution and the affordable housing contribution on the site in this case. The scheme therefore complies with the relevant policies in the NPPF and Core Strategy which confirm that there can be flexibility with regard to obligations that would make a scheme financially unviable.

Other issues raised

Residents have raised a number of issues that relate to the approved development on the site for up to 23 dwellings (PA/2017/1975 (outline) and PA/2020/1413 (reserved matters). These matters have all been previously assessed within the outline and reserved matters applications associated with the site. These issues are not material to this application which is for the modification of the existing S106 agreement to remove the open space and affordable housing contribution attached to the planning permission.

Conclusion

The removal of the S106 contributions will allow for the delivery of this residential scheme on this site, thereby increasing the council’s housing land supply and will provide mix of housing types to meet housing needs in North Lincolnshire. The scheme complies with the relevant policies in the NPPF and Core Strategy which confirm that there can be flexibility with regard to obligations that would make a scheme financially unviable. It is therefore considered that non-viability has been demonstrated and the Section 106 agreement should therefore be modified to remove the open space and affordable housing contribution attached to planning permission PA/2017/1975.

RECOMMENDATION The existing planning obligation be modified by:

- **removing the open space contribution of £9,460.20 towards maintenance of Belton Playing Field and Bowling Green; and**
- **removing the affordable housing contribution of 10% of the total number of dwellings on site.**

The removal of these planning obligations will result in there being no section 106 agreement attached to planning permission PA/2017/1975.