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172935
Stane Park Site, Essex Yeomany Way, Stanway

Planning Committee

Item
8

Date 3 January 2019

Report of	Assistant Director – Policy and Corporate	Author	Lucy Mondon 01206 506964
Title	Amendment to Condition 14 and s106 Agreement for Stane Park Phase 2 Application Ref: 172935		
Wards affected	Stanway/Marks Tey & Layer		

This report concerns a proposed amendment to Condition 14 and the s106 agreement in relation to the requirement for a pedestrian crossing on London Road.

1.0 Decision(s) Required

- 1.1 Members are asked to endorse the proposed amendment to Condition 14 to omit the requirement for a pedestrian crossing on London Road and instead include it as a clause within the s106 agreement, with the requirement that should it not be possible to provide the crossing, a contribution of £25,000 (index-linked) will be paid towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance).

2.0 Reasons for Decision(s)

- 2.1 Following the committee resolution on 23rd August 2018, where the provision of a pedestrian crossing on London Road was conditioned in lieu of the contribution requested by Essex County Council Highway Authority for improvements at the Stanway Western Bypass/London Road roundabout, it has become apparent that it may take some time to establish whether a crossing is acceptable in terms of highway safety and traffic flows. So as not to delay the issue of planning permission any further it is considered necessary to include the requirement for the crossing within the s106 agreement; this will also allow for the contribution to be paid should the crossing not be possible.

3.0 Alternative Options

- 3.1 The alternative options are:
- Not to agree to the revisions to Condition 14 and the s106. In which case it is likely that the planning permission will be delayed and the Applicant will have the option to appeal non-determination of the application under section 78 of the Town and Country Planning Act 1990. This would result in an appeal (informal hearing or public inquiry).
 - Not to agree to the revisions to Condition 14 and the s106 and issue the decision once the s106 has been finalised. In this instance, the Applicant would need to adhere to the requirements of Condition 14, but could seek to vary the condition under section 73 of the Town and Country Planning Act 1990 should it be shown to be unacceptable in highway terms. If the application were successful, the crossing would not be provided and there would be no recourse to seek the contribution for the improvements to the roundabout.

4.0 Supporting Information

- 4.1 The Highway Authority have confirmed that they will require a longer period of time to consider the acceptability of the pedestrian crossing and they have recommended the course of action now being put forward to Members in this report.

5.0 Proposals

- 5.1 It is recommended that reference to the provision of a pedestrian crossing on London Road is omitted from Condition 14 and that the requirement is added as a clause in the s106, along with an alternative provision that should the crossing not be agreed by Essex County Council (either by confirmation that the crossing is unacceptable or in the event that they do not confirm within a stipulated time period) following the submission of details, the contribution of £25,000 index-linked (plus monitoring fee) will be paid towards improvements at the Stanway Western Bypass/London Road roundabout. The s106 will include appropriate triggers for either the crossing to be provided and made available for use, or the payment of the contribution.

6.0 Strategic Plan References

- 6.1 The development of this site would help meet aims in the Council's Strategic Plan in that it would develop job opportunities, as well as provide economic growth for both the town and borough along with necessary infrastructure. In addition, new routes for walking or cycling to work would be provided as part of the development that would contribute to making the borough more pedestrian-friendly.

7.0 Consultation

- 7.1 Highway Authority (see section 4 above).

8.0 Publicity Considerations

- 8.1 None directly arising from this report.

9.0 Financial Implications

- 9.1 None directly arising from the recommendations of this report. There would be financial implications in the event that the amendments are not agreed and the Applicant takes the application to appeal under non-determination.

10.0 Equality, Diversity and Human Rights Implications

- 10.1 None directly arising from this report.

11.0 Community Safety Implications

- 11.1 No risk as a result of this report as safety implications of the pedestrian crossing will need to be considered by the Highway Authority upon receipt of details of the crossing from the Applicant.

12.0 Health and Safety Implications

- 12.1 No risk as a result of this report as safety implications of the pedestrian crossing will need to be considered by the Highway Authority upon receipt of details of the crossing from the Applicant.

13.0 Risk Management Implications

- 13.1 None directly arising from this report.

Background Papers

A. Planning Committee resolution 23rd August 2018:

RESOLVED (SIX voted FOR and FOUR ABSTAINED) that –

(i) The application be approved subject to the conditions and Section 106 Agreement contained in the report and the amendment sheet;

(ii) The Assistant Director Policy and Corporate be authorised to consult the Secretary of State in order to ascertain whether they wished to exercise their call-in powers under section 77 of the Town and Country Planning Act 1990;

(iii) The Assistant Director Policy and Corporate be authorised to determine the application either upon receipt of confirmation from the Secretary of State that they do not wish to ‘call-in’ the application or following the expiry of 21 days from receipt of the consultation;

(iv) The Assistant Director Policy and Corporate be authorised to negotiate the obligations and clauses of the Section 106 and approve planning permission subject to the conditions and revisions set out in the report and the amendment sheet, together with additional conditions to provide for site safety and security and the disposal and collection of litter, mirroring the condition attached to the Stane Park 1 development, as well as the revision of condition 14 to add a further pedestrian crossing on London Road and the consequent deletion of the £25k contribution for roundabout improvements and subject to the signing of a legal agreement under Section 106 of the Town and Country Planning Act 1990, within six months from the date of the Committee meeting to provide for the following:

* Mitigation contribution (£150,000 proposed by the Applicant) towards funding the Council's economic development initiatives to improve the commercial attractiveness of Colchester;

* Employment initiatives to ensure that occupier's seek employees on opening through local agencies (e.g. Job Centre);

* Provision of an extended footpath/cycleway link between the existing footpath/cycleway which currently terminates south of Essex Yeomanry Way and north of the Sainsbury's building;

* A £25,000 index-linked contribution towards improvements at the Stanway Western Bypass/London Road roundabout (plus a contribution monitoring fee in accordance with Essex County Council guidance);

* A Travel Plan monitoring fee.

(v) In the event that the legal agreement is not signed within six months from the date of the Planning Committee, Assistant Director Policy and Corporate be authorised, at their discretion, to refuse the application.