

PLANNING COMMITTEE – 3 AUGUST 2021

REVISED S106 AGREEMENT FOR LAND SOUTH OF NEWARK

Application No. 21/01688/VAR106

Proposal : Application to modify Section 106 Agreement pursuant to planning application 14/01978/OUTM for modifications sought in relation to altering the trigger for the build out of the Southern Link Road (SLR) and Off site sports contribution

Location : Land South of Newark, Bowbridge Lane, Balderton

Applicant : Urban & Civic

Reason for Report

This report is presented as a late item as the applicant needs to know whether there is agreement for an amendment to the Section 106 Planning Obligation relating to this land prior to the next Planning Committee in September. The details of the change and its implications are set out below.

The Site

The site is located to the south of the Newark Urban Area and forms the land allocated for up to 3150 houses plus two local centres, 1 primary school, landscaping, infrastructure, land allocated for a business park and other development.

Outline planning permission was granted in 2011 (10/01586/OUTM) with a further S73 variation granted in 2015 (14/01978/OUTM). Development has commenced on the site with three housebuilders building out a total consented number of 542 dwellings, a café and offices for the master developer. Construction of the primary school has commenced (due to open September 2021), as has the delivery of open space associated with phase 1 of the development.

To date, planning permission has been granted for 542 dwellings, which are being constructed on site. The level of development permitted is linked to the delivery, on the phased basis, of the Newark Southern Link Road (SLR). For the SLR triggers are detailed below:

Phase of SLR

Phase 1 from the East (A1 to Bowbridge Road)

Commence by 350th unit and complete by the 600th unit

Phase 2 from the West (A46 to Hawton Road)

Commence by 700th unit and complete by the 1000th unit

Phase 3 completion of the SLR (central link)

Commence by 1000th unit and completion by 1250th unit

Relevant Site History

10/01586/OUTM Outline planning permission was granted in November 2011 for means of access (in part) for development comprising demolition of existing buildings and the construction of up to 3,150 dwellings (Class C3); two local centres including retail and commercial premises (Classes A1 to A5), a 60 bed care home (Class C2), 2 primary schools, day nurseries/creches, multi-use community buildings including a medical centre (Class D1); a mixed use commercial estate of up to 50 hectares comprising employment uses (Class B1, B2 and B8) and a creche (Class D1); provision of associated vehicular and cycle parking; creation of ecological habitat areas; creation of general amenity areas, open space and sports pitches; creation of landscaped areas; new accesses for vehicles, pedestrians and cyclists (including the Southern Link Road); sustainable drainage measures, including storage ponds for surface water attenuation; associated engineering operations (including flood compensation measures); provision of utilities infrastructure; and all enabling and ancillary works.

10/01621/FULM Planning permission was granted for a new roundabout on the dualled A46 Farndon Bypass to provide a link with the Southern Link Road (SLR).

14/01978/OUTM Planning permission was granted on 22nd January 2015 to vary conditions of Outline planning permission 10/01586/OUTM with means of access (in part) for development comprising demolition of existing buildings and the construction of up to 3,150 dwellings (Class C3); two local centres including retail and commercial premises (Classes A1 to A5), a 60 bed care home (Class C2), 2 primary schools, day nurseries/creches, multi-use community buildings including a medical centre (Class D1); a mixed use commercial estate of up to 50 hectares comprising employment uses (Class B1, B2 and B8) and a crèche (Class D1); provision of associated vehicular and cycle parking; creation of ecological habitat areas; creation of general amenity areas, open space and sports pitches; creation of landscaped areas; new accesses for vehicles, pedestrians and cyclists (including the Southern Link Road); sustainable drainage measures, including storage ponds for surface water attenuation; associated engineering operations (including flood compensation measures); provision of utilities infrastructure; and all enabling and ancillary works.

15/00440/RMAM Application for Reserved Matters (relating to planning application no. 14/01978/OUTM) approval for access comprising Bowbridge Lane north of the southern link road including the junction with Bowbridge Road, Bowbridge Lane and Hawton Lane – Granted planning permission April 2016

15/00913/RMAM Reserved Matters comprising landscape details for the SLR Phase 1 works – Granted planning permission in February 2017.

15/00082/FUL Planning permission was granted on 2nd October 2015 for a proposed bridge over structure for cyclists, pedestrian and equestrian traffic using the Sustrans Route crossing the proposed Southern Link Road at Land South of Newark

15/02050/NMA Non-material amendment approved in December 2015 to planning permission 14/01978/OUTM, condition 8.

15/02093/FUL Proposed bridge over structure for cyclists, pedestrian and equestrian traffic using the Sustrans Route crossing the proposed Southern Link Road at Land South of Newark (Resubmission). Granted planning permission in January 2016.

16/01160/NMA Non material amendment approved in August 2016 to allow amendments to drawings attached to conditions 4,5 and 7 of planning consent 14/01978/OUTM.

16/01199/FUL Planning permission was granted on 30th September 2016 for use of land as highway for the Southern Link Road at Land South of Newark.

16/01104/RMAM Reserved Matters comprising the Phase 1 Spine Road. Granted planning permission in January 2017.

16/01581/RMAM Landscape Reserved Matters details for part of Phase 1, pursuant to Conditions 2 and 6 of Outline planning permission 14/01978/OUTM. Granted planning permission in January 2017.

18/02129/VAR106 Application to modify Section 106 Agreement pursuant to planning application 14/01978/OUTM for modifications sought in relation to affordable housing and education - S106 varied.

19/00384/RMA Application for reserved matters approval for access and landscaping for phase 1 central street Approved 28.05.2019

Whilst there are planning permissions relating to various other parcels of land within the wider site for Land South of Newark and DISCON applications, none of these are relevant to this current application.

The Proposal

As detailed above, there is a current maximum trigger of 600 units for completion of phase 1 of the SLR. To complete phase 1 the A1-end roundabout would need to be constructed. 'On the ground' the 546 dwellings already consented across the 3 housebuilders on-site have taken up most, but not all, of the area of land identified as phase 1 of the development. An additional phase of 54 units could be progressed within the terms of the exiting planning consent. This would still not take up the geographical land area of phase one, leaving an unfinished land parcel. It is estimated that to complete the land parcel a phase of 104 dwellings would be more appropriate, so an additional 46 dwellings over and above the current maximum cap.

It is therefore proposed to amend a number of current triggers to reflect a proposed amended phase 1 of 646 dwellings rather than the current 600 dwellings.

Specifically, this S106 variation seeks to modify the S106A agreement relating to Schedule 1 (Highway Improvements) and Schedule 3 (Community Facilities).

Highways

Schedule 1 of the 2011 S106 agreed the following triggers for the delivery of the SLR:

Commencement of the Initial SLR works by occupation of the first **500** dwellings
Completion of the Initial SLR works by occupation of no more than **800** dwellings

Schedule 1 was amended by the 2015 variation agreement to state:

Commencement of the Initial SLR works by occupation of the first **350** dwellings
Completion of the Initial SLR works by occupation of no more than **600** dwellings

The above changes were made to reflect the desire to accelerate delivery of phase 1 of the SLR. This was supported by Homes England (then the Homes and Communities Agency) loan.

It is not proposed to amend the Completion of the Initial SLR works to occupation of no more than **650** dwellings.

Open Space

Schedule 3 of the 2011 S106 agreed the following trigger:

Paragraph 6.2 states a third of the Off Site Sports Contribution (£850,000) should be paid prior to the first occupation of the **626th** dwelling.

This trigger was not amended in the 2015 and 2020 agreements.

This proposal is sought to amend the payment point to prior to the first occupation of the **650^h** dwelling.

Business Manager Comments

Schedule 1 – Highway Improvements

Members will be aware that the site is well underway with construction and part of the initial phase of the SLR has been constructed with the final section link to the A1 having been amended (temporarily) down Staple Lane pending completion of the A1-end roundabout which is the final element of works required to complete Phase 1 of the SLR.

In terms of housing numbers 542 dwellings are currently permitted and under construction, with 296 complete (as of July 2021). The Master Developer has a dilemma that there is a final parcel of residential land (approximately 3 hectares) within the geographical area of Phase 1 (to the east of the existing school) which is currently undeveloped. Under the current terms of the S106 whilst the Council could permit a reserved matters approval for up to 58 dwellings on this parcel. This size of development is not attractive to a housebuilder or Master Developer as it fails to 'complete' on the ground phase 1. Extending the current S106 triggers by 50 units to 650 would allow this to happen.

It is not considered that amending the trigger to complete Phase 1 of the SLR from 600 dwellings to 650 dwellings would be harmful in highways terms to such a degree as to warrant resisting the proposed change. It remains this Council's and the developer's intent to complete not only Phase 1 but the entirety of the SLR in advance of the planning triggers which currently exist. Members will be aware of the recent reports to the Economic Development and Policy & Finance Committees which have provided updates in this regards, including the submission last month of an application for grant funding to MCHLG under the Levelling Up Fund (LUF) to complete the full SLR.

In simple terms commencing the next phase of the SLR is public-grant dependant. If the proposal to amended the phase 1 trigger from 600 units to 650 units is resisted the current phase 1 will cease at 542 units given the aforementioned concerns that a phase 58 units would not work commercially or logically on the ground. Allowing a revised trigger would permit an additional 50 units over-and-above that originally permitted but would still mean that no more units could come forward without Phase 1 being completed with grant funding support.

Schedule 3 – Community Facilities

On the face of it an extension of a trigger from 626 dwellings to 650 dwellings (an additional 24 units) would appear acceptable and be unlikely, in itself, to create such pressure on open spaces to warrant resisting the amendment. That said, moving the trigger beyond the 626th would, on paper, delay a significant payment of up to £850,000.

The Council's Health Improvement and Community Relations Manager has raised concerns at the delay in any trigger beyond completion of any phase 1 of development (irrespective of the site of a phase 1) on the ground that there would then be uncertainty as to when monies would be received without confirmation on when the next phase of the SLR will start. Therefore the Council are unable to forward plan sporting infrastructure improvements.

The reality, as detailed above, is that the open space monies will not be forthcoming with or without an amended trigger. If the trigger is not amended to 650 dwellings the developer has been clear that they will not seek reserved matters approval beyond the current 542 consented units (for the reasons detailed above). Further, the A1-end roundabout will not be completed without further grant release.

If the 650 trigger were to be agreed the open space payments would come as part of a phase 2 delivery, which is dependent on the SLR delivery and associated grant support.

Given this, the fact that an amended trigger will allow continued delivery of homes on-site (and associated council tax base for local services) and that the trigger still keeps a firm requirement and commitment to have a maximum quantum of development unless and until further works to deliver the SLR are delivered, it is considered that a revision to the current trigger for open space payment from 626 to 650 is appropriate.

Recommendation

That the proposed variation to the Section 106 be agreed as per the amendments to Schedule 1 (Highway Improvements), Schedule 2 (Affordable Housing), and Schedule 3 (Community Facilities).

BACKGROUND PAPERS

Application case file.

For further information, please contact Lynsey Preston on ext 5329.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk

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