

## S106 / 278 Agreement variation

DC Committee 5/4/06, item 6

**Committee:** Development Control

**Agenda Item**

**Date:** 5 April 2006

**6**

**Title:** Outline planning permission for 285 dwellings at Rochford Nurseries, Stansted Mountfitchet / Birchanger. Request by Croudace Ltd to vary a clause of the Section 106 / 278 Agreement.

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Item for decision

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### Summary

This report concerns a request from Croudace Ltd to be allowed to construct their site access road earlier than allowed in the existing Section 106 / 278 Agreement.

### Recommendation

That Members grant Croudace's request, and authorise Officers to prepare a draft Deed of Variation for circulation to signatories.

### Background Papers

Planning application file UTT/1123/01/OP and accompanying Section 106 / 278 Agreement.

### Impact

Communication/Consultation	Essex County Council as the local highway authority. Stansted Mountfitchet and Birchanger Parish Councils. <i>Any comments received will be reported.</i>
Community Safety	None
Equalities	None
Finance	None
Human Rights	None
Legal implications	Preparation of draft and final Deed of Variation.
Ward-specific impacts	Stansted Mountfitchet South and Birchanger
Workforce/Workplace	Officer time on preparation of draft and final Deed of Variation.

### Situation

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- 1 On 27 February 2004, outline planning permission was granted to Croudace for the erection of 285 dwellings on the western part of the Rochford Nurseries site. A clause (3.1.1.2) of the Section 106 / Section 278 Agreement between Croudace, this Council and Essex County Council that was signed on 26 February 2004 obliges Croudace:

*"Not to commence any part of the Development until the Bridge Works have been properly completed in accordance with the Bridge Works Agreement to the satisfaction of the Engineer as evidenced by the issue of a Certificate of Practical Completion".*

- 2 The "Bridge Works" referred to in the agreement are those that are currently underway at Pesterford Bridge on the B1383 at the junction with Forest Hall Road and which are programmed for the rest of this year. "Development" as defined in the agreement in Clause 2.1 means *"the residential development of the Site pursuant to the Planning Permission and the provision of public open space and associated access but excluding the Bridge Works"*
- 3 The Bridge Works are currently being undertaken by Taylor Woodrow, who benefit from outline planning permission (also granted on 27 February 2004) and subsequent reserved matters approval for the erection of 315 dwellings on the eastern part of the Rochford Nurseries site. To facilitate the Bridge Works, Forest Hall Road is currently closed at the junction with the B1383, with Taylor Woodrow construction traffic being routed to and from the site from the east, via the A120, Bury Lodge Lane, Round Coppice Road and Church Road, following agreement with BAA. Construction traffic routes are the subject of a condition on both Croudace's and Taylor Woodrow's outline planning permissions.
- 4 As part of their planning permission Taylor Woodrow have a similar S106 / S278 Agreement, but their agreement (in summary) does allow them to commence construction of the new main link road within their part of the site from Forest Hall Road to Church Road once the Bridge Works have commenced. Taylor Woodrow are proceeding with the construction of their link road, taking advantage of the closure of Forest Hall Road and the favourable traffic conditions that result.
- 5 A letter has been received from Croudace requesting that Clause 3.1.1.2 be varied so that they too may construct their site access road from Forest Hall Road prior to Bridge Works completion, also taking advantage of the existing closure of Forest Hall Road. This is not a request to commence the construction of any dwellings earlier than provided for in the existing agreement. A consequent redefinition in Clause 2.1 of "Development" would be required to retain the requirement to complete the Bridge Works.

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- 6 Officers consider that there is merit in granting this request, which also has the initial informal backing of Essex County Council as a signatory to the agreement as the highway authority.
- 7 Earlier construction of Croudace’s site access road would allow them to commence housing construction as soon as the Bridge Works have been completed, which could help increase housing completion rates in the medium and longer terms. If the request is denied, a start on housing could not reasonably be made until the site access road was constructed. Furthermore, denial might mean further traffic restrictions having to be put into place along Forest Hall Road after it reopens in order to accommodate the Croudace access construction works at its junction with Forest Hall Road.
- 8 Granting Croudace’s request should not result in any overall increase in the number of construction vehicles required to carry out the development but would, of course, displace some movements to earlier in the development period. However, these movements would be along an approved construction route and at a time when locals should have become accustomed to the temporary traffic conditions.

**Risk Analysis**

Risk	Likelihood	Impact	Mitigating actions
See Para 7	High	See Para 7	Agree to Croudace’s request.