

Committee: Planning Committee

Agenda Item

Date: 8th February 2012

8

Title: **UTT/0400/09/OP and UTT/0407/09/OP
Development at Little Walden Road
and Ashdon Road, Saffron Walden**

Author: Christine Oliva, Solicitor 01799 510417

Item for decision

Summary

To change the recommendation for approval for the two linked applications from:

“Recommendation: UTT/0400/09/OP and UTT/0407/09/OP approval with conditions and S106 Legal Agreement”

To

“Recommendation: UTT/0400/09/OP and UTT/0407/09/OP approval with conditions and S106 Obligation”

Recommendation

Allow the change to the wording of the recommendation of approval for both planning applications.

Financial Implications

None

Background Papers

1. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Current drafts of the section 106 agreements relating to this development.

Impact

2.

Communication/Consultation	This report is submitted after consultation with the Applicant
Community Safety	No impact
Equalities	No effect
Health and Safety	No issues
Human Rights/Legal Implications	None

Page 1

Sustainability	No issues
Ward-specific impacts	None
Workforce/Workplace	No issues

Situation

3. The resolution to grant was made on 2 June 2010. Since then negotiations for the completion of a section 106 agreement for the two applications has proceeded. The two sites are to be linked and developed in tandem and it is, therefore, essential that the provisions relating to UDC (affordable housing and open space and sports facilities) are set out in a single planning agreement. Delays have occurred because there is an oil pipeline passing under the site at Little Walden Road and wayleaves had to be negotiated.
4. From the start Essex County Council were reluctant to enter into a single agreement for the two applications. It was explained that this was essential for UDC and if ECC could not accept this they should negotiate separate agreements with the applicant to cover the obligations relating to ECC (Education and Highways). ECC made no decision on how they wished to proceed despite letters and emails throughout 2011. In December 2011 a final letter was sent stating that the single section 106 agreement relating to UDC provisions would be completed and a Unilateral Undertaking by the Applicants would be provided to cover the obligations relating to ECC. ECC were given 14 days to make a decision, we received no reply. On receiving the Unilateral Undertaking from the Applicant ECC Legal Services did communicate with the Applicant and indicate that they would negotiate a section 106 agreement, but to date that has not been concluded. The section 106 agreement with UDC has been sealed.
5. The original resolution to grant required there to be a "Legal Agreement", which means that UDC cannot accept a Unilateral Undertaking unless ECC "agree" to this and they are unlikely to agree. By changing the resolution to "an obligation" under section 106, UDC can accept a Unilateral Undertaking provided all the contributions, works and assurances required by ECC to make the development acceptable are secured and that the development is properly carried out and then issue the decision notice.

Risk Analysis

5.

Risk	Likelihood	Impact	Mitigating actions
1	1	1	None

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.