

Committee: Planning Committee

Agenda Item

Date: 20 November 2013

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Title: S106 clauses

Author: Andrew Taylor, Assistant Director Planning and Building Control

Item for decision

Summary

1. The Planning Committee considered a number of applications for new dwellings in Swards End at its meeting on 31 July 2013. Applications UTT/13/1653/OP, UTT/13/1670/OP, UTT/13/1654/OP and UTT/13/1652/OP were all approved subject to S106 legal obligations to secure contributions for off-site affordable housing.
2. A fifth application for 3 dwellings under reference UTT/13/1655/OP was refused.
3. Concerns have been raised regarding the delegation given to approve the applications and this report seeks to clarify the situation.

Recommendations

4. That the permissions be issued in accordance with the details previously agreed by the Planning Committee once the Section 106 obligations for the 4 applications are concluded.
5. In the event that any of the obligations referred to in paragraph 4 above are not concluded by 27 December 2013 the Assistant Director Planning and Building Control shall be authorised to refuse permission for such application(s) in his discretion at any time thereafter for the reasons set out in the minutes of the meeting of 31 July 2013

Financial Implications

6. None. There are no costs associated with the recommendation.

Background Papers

7. 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.

None

Impact

- 8.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Report has been prepared on advice from Assistant Chief Executive - Legal
Sustainability	None
Ward-specific impacts	Ashdon
Workforce/Workplace	None

Situation

9. The Planning Committee considered a number of applications for new dwellings in Swards End at its meeting on 31 July 2013. Applications UTT/13/1653/OP, UTT/13/1670/OP, UTT/13/1654/OP and UTT/13/1652/OP were all approved subject to S106 legal obligations to secure contributions for off-site affordable housing.
10. A fifth application for 3 dwellings under reference UTT/13/1655/OP was refused.
11. The template recommendation with regards to S106 obligations was used which includes a date by which time the S106 should be signed. Generally if the obligation has not been signed by this date permission is refused.
12. In certain circumstances where the negotiations are continuing officers take a pragmatic approach and where an extension of time has been agreed in writing negotiations continue. This is what has happened in these cases.
13. The Assistant Chief Executive – Legal has considered the issue and while he considers that delegated powers exist to issue a decision post signing of the obligation considers that to avoid any potential ambiguity that the matter should be referred back to Committee for confirmation.

Conclusion

14. Following the resolution to grant planning permission negotiations have continued. Given the positive nature of the discussions the applications were not refused. Confirmation of authority to approve post the completion of the S106 obligations is sought.

Risk	Likelihood	Impact	Mitigating actions
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That insufficient delegated authority exists to issue an approval	1. Low taking into account legal advice sought	3. There would be a detrimental on the Council if decisions were issued without the necessary delegated authority.	Seek confirmation of delegation from Planning Committee.
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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.