

Chichester District Council

PLANNING COMMITTEE

19 July 2017

**LAND WEST OF CENTURION WAY AND WEST OF OLD BROYLE ROAD,
CHICHESTER**

**PROGRESS OF THE S106 AGREEMENT AND COMMERCIAL
NEGOTIATIONS UPDATE**

1. Contacts

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2. Recommendation:

- 2.1 That the Committee notes the content of the report and makes any observations.

3. Background

- 3.1. This report provides an update on:
- the progress of the S106 Legal Agreement in relation to outline planning application 14/0401/OUT for the first phase of development for up to 750 homes with access from Old Broyle Road, temporary access from Clay Lane, a local centre (with associated employment, retail and community uses), primary school, informal and formal open space (including a Country Park), playing pitches, associated landscaping, utilities and drainage infrastructure with on site foul sewage package treatment plant or pumping station with connection to Tangmere Waste Water Treatment Works (Phase 1), and
 - the progress of the commercial land negotiations in relation to the delivery of the southern access and the future submission of an outline planning application for the second phase of the development on the West of Chichester Strategic Development Location (SDL) (Phase 2).
- 3.2 At the Planning Committee meeting on 11 November 2016, the committee resolved to defer outline planning application 14/04301/OUT to enable completion of the associated S106 Agreement and then to permit with conditions. In reaching its decision, the Planning Committee were made aware of the Development Delivery Timeline and Planning Performance Agreement (PPA Phase 2) for Phase 2 of the West of Chichester SDL. These documents indicated the developers' intentions to progress commercial discussions in respect of the phase 2 land as soon as possible with a view to

early delivery of the southern access. Early delivery of the southern access, initially as a construction route and then subsequently as a full access road, would minimise the period of time, and therefore the number of dwellings from the phase 1 scheme, served solely by the Broyle Road access.

- 3.3 The Development Delivery Timeline indicates commencement of infrastructure development on site in July 2018 with the southern access road being available for construction vehicles during March/April 2020, which would coincide with the delivery of the 120/125th dwelling approximately. The Development Delivery Timeline anticipates that the additional work required to bring the southern access road to a standard necessary for full residential use would take approximately 9 months. The Development Delivery Timeline anticipates availability of the southern access road for full residential use early in 2021, which coincides with the delivery of the 225th dwelling approximately, 2.5 years after commencement of the infrastructure works.

4. Progress of the S106 Agreement

- 4.1 Planning application 14/04301/OUT has a Planning Performance Agreement (Phase 1 PPA), updated on 16 January 2017, which sets out the timetable for completion of the S106 Agreement and the issuing of the decision. The Phase 1 PPA states that detailed discussions on the S106 legal agreement were to have been completed by 17 April 2017.
- 4.2 In the previous update to the Planning Committee on 26 April 2017, officers anticipated that following a review of the latest draft S106 agreement, discipline specific meetings would be set up with officers and the developers in May 2017 to conclude the remaining issues. In April it was anticipated that the completion of the S106 Agreement would be towards the end of June 2017.
- 4.3 Discipline specific meetings took place in May 2017 with the relevant Council officers and the developers. These meetings resulted in conclusions being met on the majority of the outstanding issues. The solicitors have subsequently drafted a revised S106 agreement which has now been issued for final comments. WSCC and CDC officers are in the process of providing final comments on this document, which will be sent back to the developer's solicitor on 7 July 2017. It is now likely that the completion of the S106 Agreement will be towards the end of July 2017, after which the decision notice will be issued. Subject to this timescale being met, this would represent a departure from the original expected timeline of 3 months.

5. Commercial Negotiations Update

- 5.1 The Development Delivery Timeline and PPA for the Phase 2 development include a target date for conclusion by the relevant parties of the commercial negotiations with the land owners regarding provision of land required to deliver the southern access by July 2017.

- 5.2 As Members may recall from the update in April 2017, officers have been advised that the first stage of the commercial negotiations is the receipt by the developers of confirmation from both Bishop Luffa School Academy Trust and West Sussex County Council (WSSCC) that they are content with the broad specification of the proposed southern access scheme and playing field relocation works to enable commercial discussions to be commenced in relation to the acquisition of the land required to implement the new access road and the proposed diversion of Centurion Way.
- 5.3 Since the update to Planning Committee in April 2017, it is understood that whilst some progress has been made on matters of principle, a number of specific concerns have been raised by Bishop Luffa School.
- 5.4 All parties met on 9 May 2017 and the developer was asked by Bishop Luffa Academy to address a number of design issues relating to the Southern Access and in particular the revised access into the School site.
- 5.5 The developer has advised that “whilst most matters appear capable of resolution, two areas have the potential to undermine the agreement thought to have been reached over the proposed physical form of the proposed southern access and consequential rearrangement of the school campus and adjoining proposed playing field land west of the current alignment of Centurion Way. These issues are:
- The School had understood that the two playing fields east of the proposed line of diversion of Centurion way were to be for their exclusive use, however it is expected that all pitches to the west of the current alignment of Centurion Way would be for shared community use. We have requested the school advise of the implications for the negotiations (they had indicated at the meeting that this would trigger a need for them to reconsider their position).
 - The school seeks to relocate the new school access from the west to the east of the MUGA currently on campus. This appears to 'work' from a highway standards perspective subject to a few adjustments, however, the revision also results in the need to relocate the school's existing running track and associated revisions to the layout of pitches to the west of Centurion Way . The revisions shown by the school would mean that the phase 1 pitch layout as indicated in the outline planning application documents and as constrained by the red line of the outline planning application could not be delivered in the form envisaged. We have again sought clarity from the school whether the running track needs to be relocated as suggested. If so, we will need to explore whether this revised arrangement would still fulfil the needs of phase one and two developments and how this could be accommodated without serious delay to delivery of phase 1”.
- 5.6 Bishop Luffa Academy has confirmed that discussions are beginning to concentrate on the detailed planning timing and commercial discussions relating to works affecting Bishop Luffa Academy. Bishop Luffa Academy has stated that the following issues remain:
- “Timing. We have made it clear to developers that work on the Southern access road cannot begin on the Bishop Luffa School site until both the

land allocated to the school and that allocated for joint school/community use has been equipped with appropriate drainage, levelled, prepared, seeded and established for at least two full seasons, and ready for use by the School. These issues have not yet been resolved beyond Andy Evans of Miller Homes saying that he would investigate a more realistic time-plan.

- Distinction between new school lands and the joint school/community use lands has not been finalised. We have worked on the understanding that the land within the diverted Centurion Way (Fields E & F on the Vectos plan of 9 July 2014, updated 8 November 2016) will be handed over to the School for sole use. Only the lands to the West of the diverted Centurion Way would be jointly used by school and community. That is why the diversion and its accompanying secure boundaries were agreed. However, this is not the developer's view and we are in discussion.
- The planned bus layby. We believe that the current design of the layby for buses carrying Bishop Luffa pupils is insufficient and unsafe for pupils. There should be a hard separation between the layby and the main road, which will, in due course, be likely to take a considerable volume of traffic both at rush hour times and throughout the day.
- The entrance to the school site requires detailed planning. The proposed outline plan does not take into account the volume of school traffic from staff and parents nor the difficulty of vehicles turning around to go back to the Southern entrance. We believe a road running along the East side of the existing MUGA, as proposed by our architect, would facilitate access and keep children safe by keeping children and vehicles separate”.

5.7 Since April it has been confirmed that WSCC, the Diocese and Bishop Luffa Academy will all be appointing agents with regard to the legal negotiations. The Diocese will also require Charity Commission consent to dispose of any of their land holding and consent will be required from the Department for Education in connection with any site changes at the School site.

5.8 Although the principle and method has been discussed, further agreement remains dependant on the detailed design and costing of the Phase 2 development. The developers have confirmed that they are awaiting Bishop Luffa Academy's response to the two points outlined in paragraph 5.5 above and cannot meaningfully proceed with the commercial discussions until these points are resolved. The developers have requested that Bishop Luffa Academy advise of their timescale for being in a position to respond.

5.9 If it is assumed that these points can be resolved shortly, it is the developer's view that it now seems unlikely that commercial discussions would conclude much before Autumn this year given that progress is likely to be slower over the Summer holiday period due to the limited availability of the key parties.

6. Conclusion

6.1 As outlined above, the completion of the S106 Legal Agreement and the subsequent issuing of the planning permission in relation to 14/04301/OUT is likely to be concluded by the end of July 2017. The commercial negotiations are likely to take longer than was anticipated, however it remains the view of

the developers that should the unresolved issues be resolved shortly, it should be possible by Autumn 2017 to reach an agreement on the commercial terms relating to the acquisition of the land required for the implementation of the southern access road. The developers have previously stated that, in light of the anticipated time required to complete these negotiations and depending on the level of agreement reached, they may be able to make a start on preparation of the phase 2 outline application ahead of exchange of those agreements in order to reduce any delays to a minimum.

7. Background Papers

7.1 Development Delivery Timeline.