

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**REQUEST FOR MODIFICATION OF PLANNING OBLIGATION
UNDER SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 A decision is sought from the Planning Committee to modify an obligation under Section 106 of the Town & Country Planning Act 1990 relating to the provision and maintenance of an area of public open space and local area of play within a housing estate at Barton upon Humber.

2. BACKGROUND INFORMATION

- 2.1 Planning permission reference PA/2006/0782 for the erection of 45 dwellings with associated garages and allocated parking on land at Barrow Road, Barton upon Humber was granted to Haslam Homes Ltd (now known as Keepmoat Homes Ltd) on 8 February 2007. In conjunction with this application a Section 106 Agreement was entered into which required the developer to provide affordable housing, to pay an education contribution and to provide a public open space and local area of play, along with a financial contribution for future maintenance of the public open space and area of play.
- 2.2 The agreement requires the provision and landscaping of an area of local space and the provision of a local area of play, to be equipped in accordance with details as set out in Schedule II of the planning obligation.
- 2.3 The agreement also requires a recreation contribution of £22,971.00 to be paid to the council within 12 months of provision of the public open space and local area of play.
- 2.4 The public open space has been provided on the site and the local area of play has been completed in accordance with the terms of the agreement. The only outstanding aspect of the Section 106 in relation to the public open space/local area of play is the payment of the financial contribution to the council to be used for future maintenance.
- 2.5 Keepmoat Homes Ltd has written to North Lincolnshire Council to request modification of the planning obligation to allow non-payment of the financial contribution to North Lincolnshire Council and to allow the future maintenance of the local play area and public open space to be

undertaken by Greenbelt Group Ltd who are a private management company.

3. OPTIONS FOR CONSIDERATION

- 3.1 To consider modification of the existing obligation to allow the future maintenance of the public open space and play area to a private management company rather than North Lincolnshire Council and to remove the obligation for the developer to pay the recreation contribution of £22,971.00 to North Lincolnshire Council.
- 3.2 The alternative option is to refuse to modify the agreement as now requested.

4. ANALYSIS OF OPTIONS

- 4.1 Should the Planning Committee decide to agree to the variation, responsibility for the public open space and play area will be taken out of the council's remit therefore allowing more staff time and resources to be spent on other sites within North Lincolnshire.
- 4.2 The council would not be required to ensure that the recreation contribution is paid and that a clear audit trail of the monies spent is produced, thus allowing staff time to be spent on monitoring other sites with these types of obligations. Any future issues with the public open space and play area site would remain the responsibility of the private management company and landowner.
- 4.3 If the Planning Committee decides that responsibility for the maintenance of the public open space and play area should remain with North Lincolnshire Council, a scheme for regular maintenance of the public open space and play area would fall to Neighbourhood and Environmental Services to provide.
- 4.4 The local planning authority would be required to ensure that the recreation contribution is paid and that monies are spent in accordance with the terms of the agreement. Any future issues with the sites would remain the responsibility of North Lincolnshire Council.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

- 5.1.1 If agreement is given for the modification of the obligations, the council will not receive the maintenance financial contribution of £22,971.00. However, it would not be responsible for the resource for the future maintenance of the public open space and play area so there would be no financial loss.

5.2 Staffing

- 5.2.1 There are no staffing implications.

5.3 Property

5.3.1 If agreement is not given to modify the obligations, the council would look to formally adopt the land encompassing the public open space and the local area of play from the developer at no extra cost. This would add to the council's level of land stock and property.

5.3.2 If agreement is given to modify the obligation, the council would not look to adopt the land.

5.4 IT

5.4.1 There are no IT implications.

6 OUTCOMES OF CONSULTATION

6.1 The Service Director for Neighbourhood and Environmental Services, who is responsible for ensuring public open space and maintenance of such areas is delivered by North Lincolnshire Council, has been consulted on this request for modification of the planning obligation and has no objections to it.

6.2 Keepmoat Homes Ltd should be advised informally that the council would not assume any responsibility for maintenance of the public open space/area of play once agreement to vary the obligation has been made. Furthermore it is suggested that Keepmoat Homes Ltd, in conjunction with Greenbelt Group Ltd, consider appropriate information/details to be given in order to inform residents and others about ownership of the land and emergency contact numbers/information.

7 RECOMMENDATIONS

7.1 That the Planning Committee agrees to the request to modify the obligation under the existing Section 106 agreement in order to allow a private management company to undertake future maintenance of the public open space and play area.

HEAD OF PLANNING

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Background Papers used in the preparation of this report

Section 106 Agreement under the Town & Country Planning Act 1990 in connection with PA/2006/0782

Memo dated 8 January 2009 M Drust (GIS Officer) to W J Hill (Principal Planning Officer)