

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

12th May 2022

Application No:	SMD/2020/0552	
Location	Land at Barnfields Road and Sunnyhills Road, Cornhill, Leek	
Proposal	Application To Vary The Section 106 Agreement Attached To SMD/2014/0750	
Applicant	Casey Group	
Agent	Avison Young	
Parish/ward	Leek	Date registered: 02/10/2020
If you have a question about this report please contact: Jane Curley, tel: 07794 768397, email: jane.curley@staffs Moorlands.gov.uk		

REFERRAL

This relates to an application which was determined by the Planning Applications Committee.

SUMMARY OF RECOMMENDATION

Agree to the request to Vary the Section 106 Agreement
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1. BACKGROUND

1.1 Outline planning permission was granted for a residential-led mixed use scheme for the Cornhill site on 17th August 2015. The description of development was as follows:-

Demolition of former industrial buildings and redevelopment of site comprising: residential (Use class C3 up to 175 dwellings) with associated open space, play area and cycle links; live/work units (up to 2000sqm), employment units (use class B1C/B2 up to 1847 gross sqm including mezzanine); tourism and leisure uses including a marina / basin and associated boating facilities (up to 20 berths); reserve land for future railway station with associated heritage/railway activities building including tourist/local needs retail unit (Use class D2/A1 up to 394 gross sqm); public house/ restaurant (Use class A3 / A4 up to 340 sqm) including associated car parking and servicing; reserve land for future link road including associated landscaping

1.2 The site extends to approx. 15.2 acres.

1.3 At the time of the outline application viability was considered. The applicant provided a Viability Assessment which was independently assessed on behalf of the Council by Keppie Massey. The agreement reached between the parties was that the site could not withstand any affordable housing provision or public open space contribution on viability grounds. However a number of benefits were secured within a Section 106 Agreement. In summary these are as follows:-

- a) Construction of a Marina, connection to the Cauldon Canal and provision of a footbridge over the aqueduct before no more than 50% of the dwellings have been occupied
- b) Reservation the Railway Station Hub Land for a minimum period of 7 years following commencement of development and transfer to the Council for £1 upon written request.
- c) Reservation of the Link Road land for a minimum period of 7 years following commencement of development and transfer to the Council for £1 upon written request.
- d) On site provision and future maintenance/management of open space and children's play facilities
- e) Viability reassessment on no more than 50% of the total dwellings being occupied. Any surplus to be first applied as an education contribution (up to a maximum of £469 000) and thereafter as an affordable housing contribution (up to a maximum of £1 237 500)
- f) Payment of Travel Plan monitoring fee
- g) Education contribution of £200 000

1.4 Since the grant of outline permission reserved matters applications have followed:-

SMD/2019/0502 Reserved matter of Layout for the employment units. Approved

SMD/2021/0538 Reserved matters of Scale, Appearance and Landscaping for the employment units. Pending consideration

SMD/2021/0536 Reserved matters of Scale, Appearance and Landscaping for the housing, Marina, Live-work units and public house/restaurant. Pending consideration

2. RELEVANT POLICY

Staffordshire Moorlands Local Plan (Adopted September 2020)

- SS1 Development Principles
- SS5 Leek Area Strategy
- SD1 Sustainable Use of Resources
- SD3 Sustainability measures in development
- SD4 Pollution and water quality
- SD5 Flood risk
- SS10 Rural Area strategy
- SS11 Churnet Valley Strategy
- SS12 Planning obligations and CIL
- DC1 Design Considerations
- DC2 Heritage
- DC3 Landscape and visual impact
- H1 New housing development
- H3 Affordable housing
- E4 Tourism and cultural development
- C1 Creating Sustainable Communities
- C2 Sport, recreation and open space
- C3 Green infrastructure
- NE1 Biodiversity and Geological Resources
- NE2 Trees, woodland and hedges
- T1 Development and Sustainable Transport
- T2 Other Sustainable Transport Measures

3. CONSULTATION

Head of Regeneration

Cornhill is a strategic regeneration area, situated to the south of Leek, adopted in the Churnet Valley Masterplan (2014) and Adopted Local Plan (2020) and is divided into 2 sub-sites—dissected by the north/south former rail track, each with a number of interlinking elements. It has been a long-standing aim to see development at Cornhill which would deliver homes, provide land for employment use and deliver a key phase of strategic road link between A53 and A625.

Overall the site will deliver the following outcomes:

- approx. 200 homes
- 3847 sqm work units
- Site for Railway station (associated platform, car parking, retail unit)
- Site for Public house Link road from the A520 to the A53
- Provide opportunities for the future redevelopment of the canal basin.

The regeneration of the Cornhill site has been a corporate priority since 2010 and officers have worked closely with land owners and Casey Group to bring forward development. In May 2017, the landowner – Barnfield Hughes (BH) – entered into a Development Agreement with P Casey Developments Ltd (PCD) and In 2018/19 a joint vision document was commissioned by Casey Group (Cornhill East developers) with 25% co-funding from SMDC to understand potential for delivery of SMDC land at Cornhill East for residential uses, if unlocked via Cornhill West. However, viability issues arising from the scale and nature of the remediation and infrastructure requirements mean development of the site has stalled.

Approval of SMD/2021/0536 will provide the initial phase of delivery, unlocking further development and private sector investment across a significant area of brownfield land, and address the identified shortage of new homes within the District. Securing the initial phase of development will also allow options for the leisure and transport hub to be further progressed.

The direct outcomes associated with this application are:

- 157 homes
- Up to 1847sqm of employment space
- Around 100 temporary construction jobs (including at least 15 apprenticeships and training places) during the next 6 years
- Reuse of brownfield land (circa 5.3ha on the housing area)
- Proposals for the development of the canal basin (up to 13 berths) to secure future tourism/leisure use

Indirect outcomes include:

- 715 m² of business (B1/B2/B8) units that would create 15 permanent FTE jobs
- A new hub for a Heritage Railway project including a station, associated platform, car parking, retail unit & cafe to support efforts to boost the local visitor economy
- Re-use of a further 1.4ha of brownfield land

- Provide opportunities for the development of the scrap yard and canal basin
- Qualitative outcomes in terms of enhanced environment to support the visitor offer
- Ensure development of public and private sector land;
- Help SMDC to achieve a plan led supply of housing by releasing one of the few large-scale housing opportunities in Leek;
- Promote sustainable development in line with government policy by promoting development on brownfield land close to existing facilities and public transport assets in the absence of no alternative sites within Leek that can be easily developed;
- Create the conditions to unlock £49m of private sector investment;
- Achieve SMDC targets for the type of homes that will meet local identified housing need, including opportunities for those starting out on the housing ladder; and
- Deliver willing public and private sector partner objectives

Strategic case

Stoke & Staffordshire Strategic Links SEP

Stoke & Staffordshire Local Economic Partnership (LEP) through the Strategic Employment Plan (SEP) has identified key priorities for the LEP area which link closely with this project including

- Housing investment and delivery “is vital to the economic prosperity of Stoke on Trent and Staffordshire”
- Place led growth “provide the housing mix needed for growth... and provide the quality of life that can help to attract and retain highly skilled workers” (
- Property – SOT and Staffordshire “needs to offer a good spread of housing which caters for the range of types, locations and affordability of current and potential residents”
- Stoke on Trent [housing area] which includes SMDC as travel to work areas has a *“shortage of the sort of aspirational family and executive housing needed to attract highly skilled people and there are a number of barriers and market failures that help explain the relatively poor performance and why we have not successfully replaced lost jobs with higher value employment”* – the number one identified reason for this is **Land remediation** – and the challenge of remediating contaminated land.
- Connected county :
 - Housing – “development of appropriately skilled workforce to meet current and future business needs whilst also creating attractive and sustainable places where people want to live, work and visit”
 - Site is listed as Strategic Site (Cornhill) within priority Strategic Employment sites

Stoke & Staffordshire’s LEP Economic Growth Strategic Priorities 2018

- Aim 1: Develop the infrastructure needed so that the growth planned for Stoke-on-Trent and Staffordshire (S&S) can be accommodated;
- Aim 4: Delivery of Local Plan housing, delivery of affordable housing in areas that people want to live to attract and retain a younger population, delivery of first time buyer homes, smaller sites. Support Local Government finance.
- Aim 7: deliver and enable the delivery of employment sites across S&S, giving consideration to the portfolio of sites to maximise suitability for a range of businesses types and sectors that are we are aiming to develop, grow and attract.
- Aim 8: To create a greater number of higher paid jobs in all parts of S&S, a sufficient supply and range of suitable commercial accommodation and serviced employment land needs to be available

- Aim 9: Ensure that we have premises ready and available, across all use classes, so that we can take advantage of future inward investment opportunities
- Aim 10: Alongside wider overall aims such as generating more high-value jobs, carefully consider the types of business premises that we are encouraging and directly developing in S&S in order to ensure that developments are having a positive impact on local government finances and providing a revenue stream to fund other priorities (e.g. unlocking difficult sites).

Staffordshire Moorlands District Council Corporate Priorities 2019- 2023:

- Aim 3 - To help create a strong economy by supporting further regeneration of towns and villages (the development of Cornhill is specifically identified as key project within this aim)
- Aim 2 - To use resources effectively and provide value for money

Staffordshire Moorlands District Council Growth Strategy 2018

Highlights the low rate of house-building due to small sites not being attractive to regional developers and investors, viability issues due to low values, poor connectivity adding to high construction costs and the low level of profit margins not providing enough incentives for developers. The Growth Strategy commits to consider all options to support housing delivery.

Staffordshire Moorlands District Council adopted Local Plan (2020).

Specifically: Policy SS5a (Leek Area Strategy) which states “The Council and its partners will seek to consolidate the role of Leek as the principal service centre and a market town and support its regeneration. This will be achieved through the following actions:

Continue to meet the housing and community needs of Leek and its rural hinterland by

- Increasing the range of available and affordable housing types including for first time buyers and older people
- Allocate a range of suitable, deliverable housing sites sufficient to meet the requirements of the area
- Support the development of new housing on sustainable sites within the development boundary
- Create employment growth and increase the diversity of employment opportunities to meet existing and future needs by:
 - providing opportunities for new enterprises and businesses by allocating employment sites with good access to the A520 and A53.
 - Promoting measures to improve walking and cycling

The plan also supports the creation of major mixed use development opportunities and related infrastructure improvements for the following strategic sites: Cornhill East – uses which may be suitable include employment and housing. Development should enable provision for a link between the A520 and A53 to the south of the town and links to the canal and Churnet Valley railway and should have regard to the Churnet Valley Masterplan. Further policy for this site is set out in Policy DSL4

Churnet Valley Masterplan 2014

The Churnet Valley Masterplan identifies the opportunity to promote Leek as a gateway to the area, both in a physical sense including potential hotel developments and by acting as a source of visitor information. Cornhill is identified as offering a positive potential redevelopment opportunities for the visitor economy.

4. PUBLICITY

Leek Town Council

Concern regarding the delay to the Marina and other agreed infrastructure developments

Inland Waterway Association

IWA objects to the proposed variation on planning application SMD/2014/0750. This is not because we wish to see the marina as outlined in that application built, but because we still believe that the developer has missed an opportunity to get a better outcome for this site and would ask them to reconsider the alternative proposals put forward by IWA and Caldon & Uttoxeter Canals Trust at the time of the original application, as outlined in IWA's objection letter of 17th December 2014.

In particular, we consider that any new terminus of the canal should link in with current proposals for extending the railway line into Leek. If the plans for this site incorporated the Route Option 2 identified in the 2006 Leek Canal Corridor study (carried out by IWA, CUCT and British Waterways) this provides a unique opportunity to create an attractive new destination in Leek that would include a canal basin, railway station and visitor facilities including a pub, and this chance should not be missed.

Examples exist elsewhere in the country where market towns have made much of their waterway terminus, and we would specifically commend Market Harborough, Brecon and Llangollen as examples of where a town has benefited from well thought out development of a dead end waterway.

There has been overwhelming public support for a new basin at Leek which has been demonstrated at various local consultations in recent years. The 2006 feasibility study can be seen on the Caldon & Uttoxeter Canals Trust's website. <http://www.cuct.org.uk/caldon/leek-canal-corridor-study>

Such a revised proposal would be more in keeping with the aspirations of SMDC's Churnet Valley Master Plan which identifies the tourism potential of a railway and canal hub, with associated hotel, restaurant/pub and creating a destination. A canal route through the site towards the location of the new railway station would actually enable the developer to build a different style of housing, more in keeping with a canal environment, which would offer the opportunity for a higher number of more affordable dwellings. We would urge the developer to start afresh with these suggestions in mind

Caldon and Uttoxeter Canals Trust

Object

The Trust has long supported the creation of a canal basin as a public amenity for visitors to Leek, having campaigned for this since the early 2000s. Following very successful and widely supported public events at the present terminus of the canal in 2002 and 2004, we were pleased to participate in Leek Canal Corridor Study in 2006 (<https://cuct.org.uk/caldon/leek-canal-corridor-study>) which confirmed the significant opportunities presented by this location. The subsequent Churnet Valley Masterplan rightly envisages the opportunity of a canal and railway hub - both significant tourist attractions in their own rights, but together would be a unique combination in this country. Additionally the recent announcement by the authority that they are supporting the reopening of the Stoke -

Leek rail line potentially makes this location attractive not only to tourists but potentially increases its appeal and value as a residential location.

The Trust recently had had a very useful meeting with the Leader of Staffordshire Moorlands District Council and a number of colleagues at which we presented our vision for the Barnfields site and demonstrated how developments around canal basins had become attractions in very similar sized towns such as Market Harborough. We were greatly encouraged by the response to our suggestions and agreed that it would be useful to meet again to further these discussions.

We fully support the applicants in their aspiration to create a sustainable and viable proposal and would highlight any number of studies which demonstrate the uplift in property prices where they are situated next to a canal. The indicative scheme analysed in the present application to vary the S106 agreement really is a worst case demonstration of how one might propose to develop this site. Pretty much any variant on this would produce a more attractive and profitable outcome. The Canal & River Trust and Inland Waterways Association recently undertook a study "Water Adds Value" which very effectively demonstrated this, see <https://canalrivertrust.org.uk/specialist-teams/restoration/water-adds-value>. Far from removing the canal basin from their scheme, this detail should be embraced and, along with the railway station, should form a focal point for the site in a subsequent full planning application.

The Churnet Valley Masterplan included an indicative drawing showing apartments adjacent to a canal basin and we would fully support a detailed application of this type, which of course would make the site significantly more viable, greatly increasing the density of development, whilst simultaneously creating a visually more attractive and substantive destination. This would of course instead require a significant rethink of other aspects of the outline permission granted in 2014 but we would strongly encourage a fresh dialogue between the landowners, District Council, ourselves and other waterway and railway interests, so that the full opportunity of this key gateway site into Leek may be realised in a way that could not have been envisaged in 2014, but is a fit for both our own and the District Council's present vision for Leek.

SCC Education

Providing that the education contribution secured within planning application SMD/2014/0750 and the terms of the S106 agreement remain the same and is secured within the deed of variation then we have no further comments to make.

5. PROPOSAL

5.1 The applicant has applied to vary the Section 106 Agreement attached to SMD/2014/0750. The principle concern of the applicant relates to the provision of the Marina. The applicant's case is that the scheme is no longer viable if there is a positive obligation on the developer to deliver the Marina. The case is that, without changes to the S106 the current planning permission is not capable of being implemented as no development, even up to the assumed limits outlined in the 106 could commence. A Viability Assessment has been submitted to support the case.

5.2 In respect of the Marina, the obligation on the developer/landowner in the existing 106 is as follows:-

- a) No more than 25% of the houses to be occupied before a Network Access Application has been submitted to the CRT

- b) No more than 50% of the houses to be occupied before the Marina has been constructed, connected to the Caldon Canal and a footbridge installed over the aqueduct

5.3 The changes put forward by the applicant effectively seek to remove the existing obligations on the developer/landowner to physically deliver the Marina but instead inset a new obligation on the developer/landowner to safeguard the potential to deliver the Marina by reserving land for a defined period and transferring this to the Council or another party the Council considers capable of financing, constructing and operating the Marina. In this way the opportunity for the Council to achieve its vision for the area is maintained, working with local partners and funding agencies. The applicant has committed within his Viability appraisal a sum of money to landscape the Marina land in the short term

5.4 All other obligations in the Section 106 as summarised above remain unchanged

5.5 A Planning Viability Assessment (September 2020) was submitted to support the application. However as acknowledged by the applicant this initial appraisal did not take into consideration some aspects of the outline consent, in particular the Marina, Live/work units and the Pub/restaurant. A Revised Viability Statement (August 2021) was subsequently provided by the applicant which includes all elements of the consented scheme. It contains two financial appraisals which set out the viability position both with and without the Marina. Based on the outcome of the appraisal inclusive of the Marina the applicant concluded that the scheme was not viable with an obligation to deliver the Marina. The second appraisal which excluded the costs of delivering the Marina produced a surplus of £675,000 over the benchmark profit return of 20% and the education contribution of £200,000 which is already committed in the Section 106 Agreement

5.6 Keppie Massey (KM) were instructed to independently review the Viability appraisal on behalf of the Council. They provided a report dated 6th January 2022. Whilst the majority of the applicants appraisal inputs were found to be acceptable and were agreed, KM identified 3 areas of disagreement with the applicants inputs as follows:-

- a) Development Programme – the applicant's construction programme did not keep pace with sales as would ordinarily be expected. This was adjusted with a consequent reduction in finance costs

- b) Value of the 4 bed detached houses – were increased by £10 per sq.ft to reflect the prevailing market conditions resulting in increased sales revenue

- c) Value of the marina – considered to be low in the applicant's appraisal ; revised the value from £56,083 to £200,000 by increasing occupancy rates, reducing salary costs and excluding asset depreciation and purchasers costs

The benchmark land value used and agreed by both parties is £150 000 per acre, equating to £2 280 000.

5.7 Making these changes at a) to c) Keppie Massey concluded that with the Marina the development was viable and able to support the education contribution of £200,000. In addition their advice was that there was a further sum of £200,000 available for other planning contributions giving a profit of 19.98% of GDV. With the Marina excluded KM concluded that the development was viable and could support a planning contribution of £1.4m in addition to the education contribution (£200,000) giving a profit of 20.01% of GDV.

5.8 The applicant subsequently provided a rebuttal of Keppie Masseys report. It was received on the 28th January 2020. Details of cashflow/finance calculations to demonstrate the assumptions made around the development and sales programmes were also provided. Based on the revised layout (a result of negotiations with Officers), increased construction and abnormal costs and the increase sales revenue, the applicant's revised position concluded that in the 'with Marina' option and £200 education contribution the development

becomes more unviable with the level of profit reducing to 16.39% of GDV. Without the Marina and with these changes and a total planning contribution of £875K (including £200K education) the profit is 18.53% of GDV. The applicant says whilst the return of 18.53% of GDV would be below the required benchmark of 20%, this is within a tolerance that the developer and landowner could sustain. This option also includes setting aside and landscaping approx. 2 acres of land for the Marina

5.9 The applicants revised position of January 2022 was put to KM for review and their final report was provided on 22nd March 2022. It included revised appraisals taking account of increase sales revenue, increase construction costs, slightly reduced Marina value and an extended sales and development programme.

5.10 The conclusion and advice of Keppie Massey is that with the requirement to construct the Marina the development is at best marginal, with a profit level of 18.74% which is below the benchmark 20%. They say that with a reasonable landowner premium included in the benchmark land value, the development becomes unviable. They say that a key factor in this case is the fact that the delivery of a Marina would not normally form part of a housebuilder's business model. Furthermore it is not clear who would take on ownership of the completed Marina and responsibility for its operation. These factors they advise all add to the risk of development and justify a higher profit requirement.

5.11 Without the Marina but with land set aside by the developer for a Marina to be built at some future date by others, Keppie Massey conclude that a 20% profit of GDV can be realised and the scheme can support an education contribution of £200,000 and a further planning contribution of £815,000.

SUMMARY OF THE APPLICANT'S AND COUNCILS VIABILITY POSITION

	<u>With Marina</u>	<u>Without Marina</u>
1. <u>Applicant</u> Aug 2021	Profit 17.85% of GDV Education Contribution £200K	Profit 19.99% of GDV Education contri, £200K Planning surplus £675K
2. <u>Applicant</u> Revised Jan 2022	Profit 16.39% Education contribution £200K	Profit 18.53% of GDV Education contri £200K Planning surplus £675K
3. <u>Keppie Massey</u> <u>(for the Council)</u> <u>Jan 2022</u>	Profit 19.98% Education contribution £200K Planning surplus £200K	Profit 20.01% Education contri £200K Planning surplus £1.4m
4. <u>Keppie Massey</u> Revised March 2022	Profit 18.74% Education contribution £200K	Profit 20% Education contri £200K Planning surplus £815K

OFFICER COMMENT AND PLANNING BALANCE

6.1 Planning obligations can be renegotiated at any point where the LPA and developer wish to do so.

6.2 In this particular case the issue revolves solely around the obligation in the Section 106 relating to the Marina and the requirement on the developer/land owner to construct this, connect to the Caldon Canal and provide a footbridge over the aqueduct before no more than 50% of the dwellings are occupied.

All other requirements of the Section 106 Agreement as set out above remain unchanged.

6.3 The Marina formed a component of the outline planning consent, SMD/2014/0750. Details of it are included in the reserved matters application (SMD/2020/0536) which is currently pending consideration

6.4 To support this application to Vary the Section 106 Agreement, the applicants have provided a Viability assessment which is described in the section above. Keppie Massey were instructed to independently review this and have been advising the Council throughout.

6.5 The applicants position is that with the requirement to construct the Marina, the development becomes unviable and will not proceed.

6.6 The conclusion and advice of Keppie Massey is that with the requirement to construct the Marina the development is at best marginal, with a profit level of 18.74% against a benchmark of 20%. They say that with a reasonable landowner premium included in the benchmark land value, the development becomes unviable. They say the key factor is likely to be the fact that the delivery of a Marina would not normally form part of a housebuilder's business model. Furthermore it is not clear who would take on ownership of the completed Marina and responsibility for its operation. These factors they advise all add to the risk of development and justify a higher profit requirement.

6.7 Without the Marina but with land set aside by the developer for a Marina to be built at some future date by others, Keppie Massey conclude that a 20% profit of GDV can be realised and the scheme can support the education contribution of £200,000 and a further planning contribution of £815,000. The applicant on the other hand suggests that he would tolerate an 18.53% profit level which on his appraisals secures the £200K education contribution and a lower planning surplus of £675K.

6.8 The applicant was invited to review his position in light of Keppie Masseys advice to the Council. After further discussion he has subsequently confirmed that he would be prepared to accept the higher planning contribution of £815 000 in addition to the £200 000 education contribution already committed in the existing 106 Agreement.

6.9 In the Committee report for the outline application, the provision of the Marina was noted as one of the key benefits of the scheme in terms of its contribution towards the establishment of a tourism hub (the envisaged Role of Cornhill para 7.3.1.1 Masterplan) and the link with the canal. Its significance was such that triggers for its delivery by the developer/landowner were secured in the 106 Agreement

6.10 Development at the application site (and to which the Section 106 corresponds) is significant for the Council for a number of reasons. Not only will it regenerate a brownfield site at the entrance to the Churnet Valley but it will provide much needed housing in circumstances where the Council cannot currently demonstrate a 5 year deliverable supply. It is also strategically important to the Council because it reserves land for a future link road from the A520 and the A53 and it also reserves land for a future railway station alongside the Leekbrook line which has planning permission and funding for its reinstatement. The Head of Regeneration sets out the considerable direct and indirect benefits associated with the application above. She refers to the fact that the regeneration of the Cornhill site has

been a corporate priority since 2010 and that Officers have worked closely with land owners and Casey Group to bring forward development. In 2018/19 a joint vision document was commissioned by Casey Group (Cornhill East developers/applicant) with 25% co-funding from the Council to understand the potential for delivery of SMDC land at Cornhill East for residential uses, if unlocked via Cornhill West.

6.11 However, it is only once development commences on site that any of the benefits referred to above will be realised. The Head of Regeneration says that viability issues arising from the scale and nature of the remediation and infrastructure requirements are the reason that development of the site has stalled. This appears to support the applicant's case that it is the viability position, particularly relating to the Marina which has delayed progress on site. They say that with a requirement to construct the Marina, the site will not come forward. The assessment by Keppie Massey of the viability evidence provided would appear to back this claim. They conclude that with the requirement to construct the Marina the development is unviable – see above. If the site does not come forward, none of the benefits associated with the application, direct or in direct will be realised.

6.12 Given the conclusion of the Councils advisors that the development is unviable with the obligation to provide the Marina, Officers consider that the variation to the Section 106 sought is supportable. This is because

- a) it unlocks the current impasse and hopefully kick starts development on site and unlocks further development to the east
- b) it delivers much needed homes and employment units
- c)it safeguards land on which a Marina can still be constructed if and when funding is secured elsewhere. The benefit of the Marina is not therefore lost altogether. The Marina is included in the reserved matters application SMD/2021/0536 to be determined by Committee in due course
- d) Once development commences, the other strategic benefits are secured including the reservation of land for the link road and land for the railway station
- e) The revised Viability does provide a greater planning surplus of £815 000 in addition to the £200 000 education contribution already secured in the 106 Agreement and it is suggested this could be directed towards funding of a Marina

6.13 It is for these reasons that Officers recommend that the Section 106 Agreement is varied to:-

- a)remove the existing obligation on the developer to construct the Marina, link to the Caldon Canal and install a footbridge over the aqueduct
- b)insert a new obligation which requires the developer to reserve land for the Marina and subsequently transfer this to the Council (or other body that the Council considers capable of financing and operating the Marina and associated liabilities) for nominal cost (£1)
- c) insert a new obligation requiring the developer to landscape and maintain the Marina land area as public open space until the transfer of the land takes place.
- d)insert a new clause to secure the planning contribution of £815 000 in addition to the £200 000 education contribution already secured in the 106 Agreement. It is recommended that this contribution is directed towards funding of a Marina

6.14 Members are asked to note that the applicant has put forward suggested trigger points for b) and c) to occur. These are not agreed and will need to form part of the detailed discussion once drafting of the revised clauses takes place with input from the Council's lawyer.

6. RECOMMENDATION

A. That the request to vary the Section 106 Agreement is agreed on the following terms subject to detailed discussion on the wording of the revised and new clauses and trigger points, with input from the Council's lawyer

a) to remove the obligation on the developer/landowner to construct the Marina, link to the Caldon Canal and install a footbridge over the aqueduct

b) insert a new obligation which requires the developer to reserve land for the Marina and subsequently transfer this to the Council (or other body that the Council considers capable of financing and operating the Marina and associated liabilities) for nominal cost (£1)

c) insert a new obligation requiring the developer to landscape and maintain the Marina land area as public open space until the transfer of the land takes place.

d) insert a new clause to secure the planning surplus of £815 00 to be directed towards funding of a Marina. This is in addition to the £200 000 education contribution already secured in the 106 Agreement.

All other provisions/obligations as set out at 2.1 to remain in place.

B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/in formatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's Decision.