

RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO PLANNING & DEVELOPMENT COMMITTEE

INFORMATION

meeting date: 1 JULY 2021
title: S106 AGREEMENT VARIATION WADDINGTON ROAD CLITHEROE
submitted by: DIRECTOR OF ECONOMIC DEVELOPMENT AND PLANNING
principal author: JOHN MACHOLC, HEAD OF PLANNING SERVICES

1 PURPOSE

1.1 To inform Members of the application for a variation to the Section 106 Agreement associated with planning permission ref: 3/2014/0597 which involved the removal of the bus contribution.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives – } To be a well-managed Council, providing efficient
- Corporate Priorities – } services based on identified customer need.
- Other Considerations – None.

2 BACKGROUND

2.1 Planning permission was originally granted for the residential development at land off Waddington Road Clitheroe in February 2015 and was subject to a S106 Agreement dated 24/02/2015. As part of the transport contributions Lancashire County Council (LCC) requested a financial contribution, totalling £550,000 over a 5-year period, to go towards an amended bus route through the site. This obligation was secured in Schedule 5 of the Agreement. The contribution would go directly to Lancashire County Council as the Highway Authority. A formal application (ref: 3/2021/0154) has been submitted under Section 106A of the Town and Country Planning Act to vary the S106 with the removal of the financial contribution for a bus service.

2.2 Members may recall that the original outline consent included the provision of a dedicated pedestrian and emergency vehicle/bus-link at the southern extents of the site located off Kirkmoor Road/Back Commons. The Reserved Matters application submitted under ref: 3/2018/0181 (approved on the 8/02/2019) no longer included a vehicular access on Kirkmoor Road. During consideration of this application LCC Highways confirmed that the dedicated vehicular access for public transport/emergency vehicles was no longer required.

2.3 The current application seeks to vary the original S106 Agreement and remove any financial contributions towards the bus proposals on the basis that there is no longer a requirement from LCC to provide the route into the site.

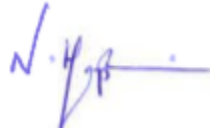
3 ISSUES

3.1 It is important that any financial contributions included in a S106 Agreement meet the statutory tests and are justified and required for the development (paragraph 56 of the Framework).

- 3.2 Following considerations from LCC they have confirmed that they no longer consider the bus route necessary and subsequently there is no justification or requirement for the financial contribution to LCC on this matter. This has been confirmed in their consultation response dated 15/04/21 (please see attached).
- 3.3 It should be noted that correspondence has been received which asks whether the developer will offer additional financial contributions based on this request. The developer has declined to offer any additional contributions as it would not comply the relevant tests of being reasonably required to make the development acceptable whilst considering the original planning application.
- 3.4 It is important to note that the purpose of a s 106 Agreement is to mitigate the impact of a development on the local community and infrastructure. It is not a mechanism to extract value from a developer. If a contribution is no longer deemed required, the value of that contribution cannot be transferred over to another type of infrastructure as any requests for obligations need to meet the relevant tests. There is no mechanism for a Section 106 Agreement to include a contingency that the developer pays the cash equivalent of obligations, that are later deemed not necessary, to the Council.
- 3.5 Lancashire County Council, who are signatories to the legal agreement, have agreed to the modification of the S106 Agreement and the deed of variation is currently with Solicitors for engrossments.
4. CONCLUSION
- 4.1 Committee note the variation of the Section 106 Agreement which has been agreed by Lancashire County Council who would have been recipients of the contribution.



JOHN MACHOLC
HEAD OF PLANNING SERVICES



NICOLA HOPKINS
DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING

BACKGROUND PAPERS

[Planning Application - Ribble Valley Borough Council](#)

For further information please ask for John Macholc, extension 4502.

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Your ref: 3/2021/0154
Our ref: 3/2021/0154/HDS/RH
Date: 15/04/2021

FAO Stephen Kilmartin

Location: Land off Waddington Road Clitheroe Lancashire BB7 2DE
Proposal: S106 Variation (planning application 3/2014/0597) proposal to remove the bus contribution following correspondence with LCC who confirmed that a bus service through the site was no longer required.
Grid Ref: 373905 442207

Dear Stephen

With regard to your consultation letter dated 1st March 2021 I have the following comments to make.

As indicated within section 4 of the submitted application form, LCC Highways can confirm the proposed bus service through the application site is no longer required. Therefore, LCC Highways has no objection to the proposed section 106 variation.

If you have any questions regarding my comments please do not hesitate to contact me.

Yours sincerely

Rob Hancock
Highways and Transport