

Ward: Bures St. Mary & Nayland

Ward Members: Councillor Melanie Barrett

RECOMMENDATION: Amend delegation to Chief Planning Officer in relation to Section 106 obligation [7] as set out below.

DESCRIPTION OF DEVELOPMENT:-

Variation of condition 2 attached to the planning permission reference B//14/01103/FUL for:

‘The erection of 6 no. two-storey dwellings, demolition of existing commercial buildings and hard-standing and construction of private access driveway [scheme to utilise existing vehicular access to public highway.]’

..to allow for amended designs for dwellings on plots 5 and 6.

The variation specifically sought permission for the substitution of drawings no. 1471.04 [plot 5] and 1471.05 [plot 6] with new drawings.

CONTEXT:-

The Cuckoo Hill enforcement notice which Committee will be familiar with requires full demolition of the subject buildings on plots 5 and 6 by Thursday 26 August. On 14 July Planning Committee authorised a variation of the scheme which would overcome the need for demolition with various requirements including a Section 106 obligation to require a secure financial bond in the sum of £250,000 to cover works in default should the developer go into liquidation.

It has become apparent through the past week that the applicant cannot obtain a bond in the sum of £250,000 as required by the Committee authority. A verbal update will be given on the circumstances but this has given rise to the desirability of considering alternative ways in which to secure the completion of the works if the developer fails to do so.

Given the imminent deadline of the Enforcement Notice requiring compliance it is considered urgent to revise the delegated authority to enable an alternative Section 106 obligation clause by which the Council can safeguard the carrying out and completion of the works proposed in the application.

There are three alternative Options presently considered credible by Officers: [in no particular order]

[a] a deposit into the Councils bank account; or,

[b] a transfer to the Council of the freehold title to the two plots without encumbrance upon default; or,

[c] a financial bond for a revised sum which the Council can be confident secures the purpose; or,

These options have been discussed with Counsel during a conference on Tuesday 24th. This report has been amended such that your Officers recommendation reflects the advice received. Options [a], [b] and [c] are therefore amended to that set out below and are subject to a verbal update being provided at your meeting.

RECOMMENDATION:

That the authority delegated to the Chief Planning Officer be amended as follows [*Subject to verbal update to be given at your meeting*]

“That delegated authority be given to the Chief Planning Officer to GRANT conditional planning permission as previously set out in the Minutes to the meeting held 14 July 20221 **subject to the following amendment to clause [7] of that Minute and to the prior receipt of a suitable binding Section 106 planning obligation on those amended terms** that in his opinion satisfactorily secures: ...

Option [a]

7. the deposit into a **bank account** operated by the Council, or similar, of funds in the sum of **£130,000** that the Council can draw down to undertake such work as may be required itself to monitor and implement the planning permission in the event of the applicant/developer defaulting or failing to follow the agreed timetable, **and** the transfer, without charge or encumbrance, to the Council of the **freehold title** to the two dwellings subject to the application/permission such that the Council can undertake such work as may be required itself to monitor and implement the planning permission in the event of the applicant/developer defaulting or failing to follow the agreed timetable, and to, upon completion, take the properties to market for sale.

....”

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BACKGROUND:- 14 July 2021 Committee Minute Extract

"That delegated authority be given to the Chief Planning Officer to GRANT conditional planning permission subject to the prior receipt of a suitable binding Section 106 planning obligation that in his opinion satisfactorily secures:

....

1. An agreed partial demolition schedule; and,
2. A commitment to lower rear garden levels as described on the amended drawings; and,
3. A commitment to repair /replace the damaged garden walls between White Horse House and plot 6 subject to the owner’s agreement; and,
4. A commitment to properly repair the damaged brick end wall of the rear wing of White Horse House in a manner sympathetic to a listed building repair; and,

5. An agreed partial demolition, rebuild, commencement and completion timetable for the above 1-4; and,
6. Appropriate and absolute rights to enter, carry out and complete such work in the event that the applicant / developer fails to do so in accordance with the timetable; and,
7. A secure financial bond to the satisfaction of the Chief Planning Officer that the Council can draw down to undertake such work as may be required itself to monitor and implement the planning permission in the event of the applicant/developer defaulting or failing to follow the agreed timetable. [any additional reasonable costs to be recoverable]. That bond to be £250,000; and,
8. An appropriate charge upon the Land Register title to require the consent of the LPA to any transfer of either plot subject to the recovery of its costs in monitoring and carrying out / complete works to implement the planning permission."

EXTRACT ENDS