

Report Reference Number: 2018/1116/DOV

To: CEO Urgent Decision Session - Planning
Date: 16 April 2020
Author: Jenny Tyreman, Senior Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

Request for a Deed of Variation to a Section 106 agreement seeking the payment of a commuted sum to be used towards: (1) the provision of a children's play area and play equipment elsewhere in Hambleton; and/or (2) the enhancement of existing areas of recreational open space in Hambleton; in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 1/2 storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road

This matter has been brought back to the Chief Executive Urgent Decision Session following consideration at the 7 November 2018 Planning Committee meeting, where the applicants sought a Deed of Variation to the original Section 106 agreement seeking the payment of a commuted sum to be used towards the provision of a children's play area and play equipment elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL. Members resolved to approve the request for a Deed of Variation and delegate authority to Officers to complete a Deed in accordance with the application. This variation was to be time limited for a period of 3 years from the date of the decision.

The Minutes of the 7 November 2018 meeting indicate that Members had queried where the money (commuted sum) would be spent. Officers had advised that the then Ward Member and local Parish Council were supportive of the proposal and had indicated that they had another play area in mind which required enhancement and on which the commuted sum could be spent on. However, when Officers have come to complete the Deed of Variation alongside Legal Officers, it has become apparent that the committee resolution would only allow for the commuted sum to be spent on the provision of a new children's play area and play equipment on land elsewhere in Hambleton and does not provide the flexibility for this to also, or alternatively, be used for the enhancement of existing areas of recreational open space in Hambleton, which is the preferred and most realistic option. Therefore, the request for a Deed of Variation

before Members now is to provide that flexibility, by seeking the payment of a commuted sum to be used towards: (1) the provision of a children's play area and play equipment elsewhere in Hambleton; and/or (2) the enhancement of existing areas of recreational open space in Hambleton; in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL.

Since the principle of payment of a commuted sum in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL has already been agreed at the 7 November 2018 meeting, Members are now considering only what that commuted sum can be used towards. The preamble to Policy RT2 of the Selby District Local Plan sets out that a financial contribution could be used to either make alternative provision or to upgrade existing facilities, which is consistent with the proposed recommendation.

Furthermore, the previous resolution stipulated that the variation be time limited for a period of 3 years from the date of the decision. However, on further reflection, this is not considered necessary as the Deed of Variation would incorporate wording on when the commuted sum would need to be paid and once paid the commuted sum would need to be utilised in accordance with the requirements Deed of Variation.

Recommendation:

That the request for a Deed of Variation be approved subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to allow the payment of a commuted sum to be used towards: (1) the provision of a children's play area and play equipment elsewhere in Hambleton; and/or (2) the enhancement of existing areas of recreational open space in Hambleton; in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 1/2 storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road.

Reason for Recommendation

To enable the development to make alternative provision for recreational open space, to that agreed by Committee in 2005, as it is now impracticable to provide a children's play area together with play equipment on the recreational open space due to the subsequent positioning of the inspection chambers.

1. Legal/Financial Controls and other Policy Matters

Legal Issues

- 1.1 Even though this is not an application under the Planning Acts this recommendation has been made in the context of the planning policies and other material considerations. If agreed, a deed of variation will be required.

Financial Issues

1.2 Financial issues are not material to the determination of this application.

Impact Assessment

1.3 It is not anticipated that the proposed deed of variation will lead to discrimination or inequality in respect of any particular groups. Nor will it impact upon human rights.

2. Background Documents

Planning Application file reference 2005/0876/FUL and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer
jtyreman@selby.gov.uk

Appendices:

Appendix 1 - Report to Planning Committee 7 November 2018