



SHEFFIELD CITY COUNCIL

West and North

Planning & Highways

Report of: Director of Regeneration & Development Services

Date: 11 June 2013

Subject: Variation of Planning Obligations in respect of land at
Alsing Road, Blackburn Meadows

Author of Report: Carolyn Forster (273 5424) and
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Summary:

A report seeking authority to enter into a deed of variation to effect the deletion of an unnecessary and unworkable planning obligation in an agreement made pursuant to section 106 of the Town and Country Planning Act 1990.

Reasons for Recommendations:

The agreement containing the planning obligations was entered into pursuant to section 106 of the Town and Country Planning Act 1990 on 23rd September 2008. The planning obligation listed in clause 1.7 of Schedule 2 of that agreement is unnecessary and unworkable. Authority is sought to enter into a deed of variation to effect its deletion.

Clause 1.7 of Schedule 2 requires that in designing the Tinsley Link road, Sheffield City Council provide an alternate access to the E-ON site in addition to the existing main access off Alsing Road. In the time that has elapsed since 2008, Sheffield City Council have held extensive discussions with E-ON in relation to the Tinsley Link generally and both parties have agreed that neither wishes to propose such an additional access. Furthermore such an access is not practical from an engineering perspective, due to topographical and flood risk issues. Consequently E-ON have now issued a deed of variation to remove the clause governing this design requirement.

Recommendations:

1. To authorise the deletion of clause 1.7 of schedule 2 contained within the section 106 agreement by entering into a deed of variation of planning obligations as attached to this report or in a substantially similar form.
 2. To authorise Legal Services to take all steps necessary to effect the variation to the section 106 agreement, including applying the authority's common seal to the deed of variation of planning obligations.
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Background Papers:

1. Existing agreement – 'Deed of Planning Obligations made under section 106 of the Town and Country Planning Act 1990 in respect of land at Alsing Road Blackburn Meadow Tinsley Sheffield S9 1HF', dated 23rd September 2008.
 2. Proposed variation agreement – 'Deed of Variation of Planning Obligations made under section 106A of the Town and Country Planning Act 1990 in respect of land at Alsing Road Blackburn Meadows Tinsley Sheffield S9 1HF', undated.
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Category of Report: OPEN

DIRECTOR OF REGENERATION & DEVELOPMENT SERVICES

REPORT TO WEST AND NORTH PLANNING AND HIGHWAYS AREA COMMITTEE 11 JUNE 2013

VARIATION OF PLANNING OBLIGATIONS IN RESPECT OF LAND AT ALSING ROAD, BLACKBURN MEADOWS

1. PURPOSE

- 1.1 A report seeking authority to enter into a deed of variation to effect the deletion of an unnecessary and unworkable planning obligation in an agreement made pursuant to section 106 of the Town and Country Planning Act 1990.

2. BACKGROUND

- 2.1 The Council as local planning authority and the parties E.ON UK PLC and E.ON Climate & Renewables UK Ltd entered into an agreement pursuant to section 106 of the Town and Country Planning Act 1990, dated 23 September 1990. The agreement is attached to this report.
- 2.2 Planning permission reference 08/01225/OUT was granted by the Council for the construction of a bio-mass fired renewable energy plant with associated flood management works, landscaping and improvements to an existing access.

3. LEGAL IMPLICATIONS

- 3.1 A planning obligation may be discharged or modified by agreement between the local authority and the land owner in accordance with section 106A or the Town and Country Planning Act 1990, or be discharged or modified in accordance with a unilateral procedure in accordance with sections 106A and 106B of the same Act.
- 3.2 The section 106A and 106B procedure can only be used where at least 5 years has elapsed since the planning obligation was entered into. Therefore the only way to vary the planning obligation is by agreement between the local planning authority and the land owner. This can only be done by way of a deed of variation to be legally binding.
- 3.3 A local authority can only vary a planning obligation where it no longer serves any useful purpose. "Useful purpose" is construed with regard to planning criteria so that if the only remaining purpose is to fulfil some non-planning objective it will usually be reasonable to agree to the discharge or modification.

4. HIGHWAY IMPLICATIONS

- 4.1 An alternative access to the E.ON site will no longer be imposed as a planning condition. The main access to the E.ON site will be unaffected. The Council's highway engineers agree that the additional access is not practical from an engineering perspective, due to topographical and flood risk issues.

5. EQUAL OPPORTUNITIES IMPLICATIONS

- 5.1 There are no equal opportunities implications.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 An alternative access that is no longer required will not be imposed, saving the impact of development.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications.

8. RECOMMENDATIONS

- 8.1 To authorise the deletion of clause 1.7 of schedule 2 contained within the section 106 agreement by entering into a deed of variation of planning obligations as attached to this report or in a substantially similar form.
- 8.2 To authorise Legal Services to take all steps necessary to effect the variation to the section 106 agreement, including applying the authority's common seal to the deed of variation of planning obligations.

Les Sturch
Director of Regeneration & Development Services

11 June 2013