

<b>Subject:</b>	<b>S106 Planning Obligation for Sackville Trading Estate and Hove Goods Yard, Sackville Road, Hove: Appealed application ref. BH2018/03697</b>		
<b>Date of Meeting:</b>	<b>1 April 2020</b>		
<b>Report of:</b>	<b>Executive Lead Officer – Strategy Governance &amp; Law</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Hilary Woodward</b>	<b>Tel: 01273 291514</b>
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<b>Ward(s) affected:</b>	<b>Hove Park</b>		

## **1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Committee is being asked to agree that the final terms of the s106 Planning Obligation to be entered into in relation planning application BH2018/03697 : Sackville Trading Estate and Hove Goods Yard (“the appealed application”) be delegated to the Planning Manager to agree in consultation with the Committee Chair and Opposition and Group Spokespersons.

## **2. RECOMMENDATIONS**

That the Committee:

- 2.1 Authorises the Planning Manager to agree the final terms of the s106 Planning Obligation to be entered into in relation to appealed planning application reference BH2018/03697, in consultation with the Chair and Opposition and Group Spokespersons.

## **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 On the 10 July 2019 the Planning Committee considered a report on planning application reference BH2018/03697 relating to the demolition and redevelopment of Sackville Trading Estate and Hove Goods Yard, Sackville Road, Hove. The application was refused by the Planning Committee, contrary to officer recommendation. However, the Planning Committee agreed that should the refusal of planning permission be appealed a s106 planning obligation on the heads of terms set out in the report could be agreed.

- 3.2 The heads of terms set out in the report encompassed:

- Build to Rent Housing
- Affordable Housing
- A Sustainable Transport Contribution
- S278 Highway Works
- Travel plans

- A Delivery and Service Management Plan
- A Demolition and Environment Management Plan
- A Construction Environmental Management Plan
- An Education Contribution
- Public Art
- Open space and recreation/sports contributions
- Employment
- The Care Community
- Phasing

- 3.3 The refusal of planning permission has been appealed. The appeal was due to be heard by way of public inquiry commencing on the 21 April next. However, the current general advice from the Planning Inspectorate is that all hearings and inquiries will not proceed at the present time, although the use of technological solutions is being considered. So far as the Sackville Trading Estate appeal is concerned, the position at the time of writing this report is that the Inspector is seeking the LPA's and appellant's views on whether there is potential for pursuing and concluding the appeal on the basis of material currently before the Inspector, supplemented by way of exchanges of correspondence on matters on which the Inspector requires clarification or additional information. .
- 3.4 In November 2019 a planning application for a scheme that was similar to the appealed application was submitted: planning application reference BH2019/03548 ("the 2019 application"). This application went before the Planning Committee on 4 March last for determination, with the officer's recommendation being Minded to Grant. The decision of the Planning Committee on the 2019 application was to accept the Minded to Grant officer recommendation, having considered the revisions that had been made to the scheme since the proposals first came to Committee and the planning balance.
- 3.5 The appellant requested that the Planning Inspector due to hear the appeal agree that various amendments could be made to the appealed application so that it then became identical the 2019 application. The Planning Inspector agreed that the appealed application could be amended as requested. Accordingly the appealed application and the 2019 application that went before the Planning Committee on March 4 are one and the same so far as the development proposed is concerned.
- 3.6 As was noted in paragraphs 8.36 to 8.48 of the officer's report on the appealed application, a viability assessment had been provided by the applicant, to which a viability addendum was then submitted that set out that the scheme could not viably provide any affordable housing. The District Valuer Service (DVS) was commissioned by the Council to assess the applicant's viability case with the DVS subsequently agreeing with the applicant that the scheme could not viably provide any affordable housing.
- 3.7 Notwithstanding the DVS findings, the applicant made a commercial decision to offer 10% affordable housing at 75% of the market rent, subject to there not being a review mechanism. However given the scale of the scheme and the need to provide a consistent approach on developments across the city the case officer was unable to recommend that the scheme should not be subject to a review mechanism. Accordingly the affordable housing head of term in the

Committee report included both the provision of 10% affordable housing and for a viability review mechanism.

- 3.8 In accordance with the Planning Committee's determination that it was Minded to Grant the 2019 application the issuing of the decision notice is subject to the prior completion of the s106 Planning Obligation. The appellant's position is that it will not withdraw the appeal until such time as the decision notice has been issued and the statutory challenge period of six weeks has elapsed. That being so, the appeal stands and the decision on the appealed application will be made by the Planning Inspector.
- 3.9 As part of his decision on the appealed application the Planning Inspector will consider the need for, and the terms of, a s106 Planning Obligation. However, insofar as the appellant's offer of 10% affordable housing has been withdrawn on the appealed application, the Committee's authority, granted last July, to enter into the planning obligation cannot be relied on as it required the provision of affordable housing.
- 3.10 As it is not known when the appeal will be determined by the Inspector, but that it appears that it is to be progressed, it is considered expedient to seek the Committee's authority to allow the Planning Manager to agree the final terms of the s106 planning obligation in consultation with the Chair and Opposition and Group Spokespersons to ensure that a s106 acceptable to the LPA is concluded.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The Council is not obliged to enter into a s106 planning obligation in relation to the appealed application and the appellant could submit a s106 planning obligation by way of unilateral undertaking. However, if the Council is not a party to the planning obligation it will be unable to ensure that it secures, as far as possible, all the obligations that it considers necessary to make the development acceptable.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 None has been undertaken in view of the nature of the report.

#### **6. CONCLUSION**

- 6.1 In view of the expediency of agreeing a planning obligation with the appellant prior to the determination of the appeal the Committee is asked to agree that the final terms of the planning obligation be agreed by the Planning Manager in consultation with the Chair and Opposition and Group Spokepersons.

## **SUPPORTING DOCUMENTATION**

### **Background documents**

1. 10 July 2019 Planning Committee Report on application BH2018/03697