

WP/20/00150/OBL

Field South of Nottingham Lane, Nottingham Lane, Weymouth

Modification of planning obligations on Section 106 Agreement dated 26th June 2017 of planning application WP/17/00271/OUT

Applicant name – C G Fry & Son Ltd

Case Officer – Emma Telford

Ward Member(s) – Cllr H Legg

The application is brought to committee in accordance with section 151 of the Officer Scheme of Delegation.

1.0 Summary of Recommendation:

1.1 Delegate authority to the Head of Planning to modify the S106 agreement dated 26th June 2017 of planning application WP/17/00271/OUT to:

- Modify the public open space provision to a total of 4.70ha.

2.0 Reason for the recommendation:

2.1 It is considered that the proposed modification to the S106 would have an acceptable impact. The modification would involve the overall reduction in the provision of public open space from 4.75ha to 4.70ha resulting in an overall loss of 0.05ha. How the open space is provided would also change, the 4 play outposts (smaller defined play spaces) would be reduced in size individually from 400sqm to 250sqm but the number of play spots (incidental play spaces) would be increased from 4 to 12. The proposed provision as part of the outline application was in excess of that required. The proposed reduction in provision of 0.05ha to an overall provision of 4.70ha is still in excess of that required and therefore in this case the reduction in the public open space provision is considered acceptable.

3.0 Key planning issues

Issue	Conclusion
Provision of public open space	The proposed modification to the S106 agreement is considered acceptable.

4.0 Description of Site

4.1 The S106 agreement dated 26th June 2017 relates to the site field south of Nottingham Lane, Nottingham Lane, Weymouth. The agreement is associated with the application WP/17/00271/OUT for the phased development of up to 340no. dwellings with primary access from Nottingham Lane & secondary access from Dorchester Road including ancillary off-site highways works, on-site open space & drainage works.

4.2 The site is located within the defined development boundary.

5.0 Description of Proposal

5.1 This application seeks to modify the S106 agreement by reducing the public open space provision as summarised below:

	Included in Public Open Space Plan in the S106	Proposed Public Open Space
Overall Open Space	4.75 ha	4.70 ha
Main Neighbourhood Play Space	1,000 sqm	1,000 sqm
Play Outposts	400sqm x 4 (1600 sqm total)	250sqm x 4 (1000 sqm total)
Play Spots	X4	X12 (1625 sqm total)

6.0 Relevant Planning History

Application No.	Proposal	Decision	Decision Date
WP/19/01025/RES	Application for approval of reserved matters for access, appearance, landscaping, layout & scale of phases 1&2 of outline approval WP/17/00271/OUT	Ongoing	-
WP/20/00013/CWC	Request for confirmation of compliance with conditions 3, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18, 20, 22, 23, 24 and 25 of planning approval WP/17/00271/OUT	Ongoing	-
WP/17/00271/OUT	Outline application for phased development of up to 340no. dwellings with primary access from Nottingham Lane & secondary access from Dorchester Road including ancillary off-site highways works, on-site open space & drainage works	Approved	29/06/2017
WP/15/00072/OUT	Phased development of up to 340 dwellings with primary access from Nottingham Lane, secondary access from Dorchester Road, ancillary off-site highway works, on-site open space and drainage works (Outline)	Refused	12/07/2016

7.0 Relevant Constraints

Outside of Defined Development Boundary

8.0 Consultations

All consultee responses can be viewed in full on the website.

Weymouth Town Council – The Council has no objection.

9.0 Representations

9.1 No comments received at the time of report writing.

10.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan

COM 1 – Making sure New Development makes Suitable Provision for
Community Infrastructure

COM 4 – New or Improved Local Recreational Facilities

National Planning Policy Framework

- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 8. Promoting healthy and safe communities

11.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

13.0 Financial benefits

13.1 This application is not considered to alter the financial benefits of the development.

14.0 Climate Implications

14.1 The proposed modification to the S106 is not considered to alter the climate implications of the development.

15.0 Planning Assessment

Provision of Public Open Space

15.1 The legal agreement (s106) the subject of this application relates to the site field south of Nottingham Lane, Nottingham Lane, Weymouth which is subject of outline planning permission WP/17/00271/OUT. This current application seeks to modify the agreement in the following respect.

15.2 The current S106 requires the provision of open space meaning *the areas of formal and informal public open space measuring not less than 5 hectares and to include the Natural Area of Play and the four LAPs (Local Area for Play) to be laid out and equipped in general accordance with the principles set out in the Landscape Drawing and Open Space Specification*. However, the open space plan included in the S106, showing the various categories and areas of open space sets out an overall open space provision of 4.75ha.

15.3 The applicant is applying to reduce the overall open space provision to 4.70 ha and therefore it would involve the loss of 0.05 ha from that shown on the plan. Policy COM1 of the adopted Local Plan seeks to secure suitable provision towards improved community infrastructure where there is an identified need resulting from new development. In this regard para 6.2.5 of the Local Plan states the following:

“On-site provision of community infrastructure is likely to be sought for housing developments of 200 or more units or where the site area is 4 hectares or more, and may be triggered at a lower threshold of 50 or more units, for example in relation to young people’s play areas, if the standard would not otherwise be achieved in that locality. Otherwise a financial contribution will be collected.”

It was considered at the time of the outline permission that the scheme clearly exceeded those triggers and therefore on-site provision was secured. There is no set requirement in the adopted Local Plan for a specific size requirement per number of dwellings. As part of the outline permission, it was considered that based upon the standard established policy C10 of the former Local Plan, which wasn't a saved policy but was considered the best available evidence for this type of calculation at the time, an area of 45 sqm of public open space would be required per dwelling. For the outline application it was calculated this would equate to an area of 1.53ha to support the proposed development.

15.4 The proposed provision as part of the outline application was clearly significantly in excess of that required. The proposed reduction in provision of 0.05ha to an overall provision of 4.70ha is still in excess of that required and therefore in this case the reduction in the public open space is considered acceptable. The S106 required the provision of an equipped area not less than 1000sqm in area which is provided by the proposed main neighbourhood play space which would remain the same size at 1,000sqm. The provision would still include 4 play outposts but they would be reduced in size from 4, 400sqm spaces to 4, 250sqm spaces however the play spots (incidental play spaces) would be increased from 4 to 12. The S106 also required 4 informal play areas totalling 1600sqm in area, these are now being proposed as the 12 play spots. The play spots would be areas with natural features and landscape designed for play. These areas would be no smaller than 100sqm each and would equate to a total 1,625sqm, it is therefore considered that the required amount of play space would still be provided.

15.5 Given all of the above it is considered that the proposed modifications are acceptable.

16.0 Conclusion

16.1 It is considered that the proposed modifications to the S106 agreement would have an acceptable impact given the loss in public open space provision would be 0.05ha and the development would still involve a provision of public open space in excess of that required.

17.0 Recommendation

17.1 Delegate authority to the Head of Planning to modify the S106 agreement dated 26th June 2017 of planning application WP/17/00271/OUT to:

- Modify the public open space provision to a total of 4.70ha.