

## Decision under Delegated Powers

### Officer Requesting Decision

Head of Planning and Regeneration

### Officer Making the Decision

Head of Strategic Support

### Recommendation

That a Deed of Variation (s106 Linking Agreement) be agreed to the Principal Agreement dated 23<sup>rd</sup> August 2013, as amended by the First Deed of Variation dated 26<sup>th</sup> August 2016 and Second Deed of Variation dated 19<sup>th</sup> July 2017, and subsequent Deed of Variation and Supplemental Planning Obligation Agreement dated 26<sup>th</sup> October 2018, in relation to planning application P/12/2641/2, and planning application P/17/2200/2, for a residential development at land north of Ling Road, Loughborough.

### Reason

The Deed of Variation seeks to vary an existing Section 106 Agreement to amend the wording of Clause 6.1 of the subsequent Deed of Variation and Supplemental Planning Obligation Agreement dated 26<sup>th</sup> October 2018 following the grant of the planning permission for planning application P/17/2200/2. This amendment is sought to address concerns raised by the Affordable Housing Provider (Riverside Group Limited) in respect of the existing Clause in respect of charging of affordable housing.

### Authority for Decision

A variation of a Section 106 Agreement can be made under the delegated authority of the Head of Strategic Support.

### Decision and Date

Adrian  
Ward

Digitally signed by Adrian Ward  
DN: cn=Adrian Ward, gn=Adrian Ward,  
c=GB, United Kingdom, o=Charmwood, ou=United  
Kingdom, ou=Charmwood Borough Council,  
email=adrian.ward@charmwood.gov.uk  
Reason: I am approving this document  
Location:  
Date: 2019-07-17 17:17+01:00

### Background

Outline Planning permission (reference P/12/2641/2) was granted for a residential development of up to 200 dwellings at land north of Ling Road, Loughborough on 29<sup>th</sup> August 2013. The approved scheme includes associated works including the formation of accesses, internal highway works, provision of public open space, drainage and landscaping. This was subject to a Section 106 Agreement (Principal Agreement) dated 23<sup>rd</sup> August 2013 relating to a variety of contributions towards the provision of land for a

Cemetary, community facilities, drainage, education, healthcare, libraries, highway improvements and public transport, open space and affordable housing.

The Principal Agreement has been amended by two subsequent Deeds of Variation; the First Deed of Variation dated 26<sup>th</sup> August 2016 and the Second Deed of Variation dated 19<sup>th</sup> July 2017.

Notwithstanding this, the Principal Agreement was further amended by a subsequent Deed of Variation and Supplemental Planning Obligation Agreement dated 26<sup>th</sup> October 2018, following the grant of Full Planning Permission (reference P/17/2200/2). The effect of this permission was the grant of planning permission for an additional 23 dwellings at land north of Ling Road, Loughborough, in addition to the 200 dwellings granted under planning permission (reference P/12/2641/2). The Agreement secured additional contributions towards the provision of drainage, open space and affordable housing.

This latest Deed of Variation relates to amendments to Clause 6.1 of the subsequent Deed of Variation and Supplemental Planning Obligation Agreement dated 26<sup>th</sup> October 2018. The amendments proposed relate to the deletion of the existing Clause 6.1 and its replacement with a new paragraph to reflect amended wording to this clause.

The existing Clause (6.1) states:

*“6.1 Save for the provisions of Schedule 1 of the Principal Agreement which has been modified by Schedule 1 to this Agreement for the purposes of the Additional Affordable Housing, the parties agree that the Principal Agreement as varied by the First Supplemental Agreement and Second Supplemental Agreement and this Agreement shall also apply to the Additional Planning Permission and shall continue in full force and effect as originally executed”.*

The proposed Clause 6.1 states:

*“6.1 Save for the provisions of Schedule 1 of the Principal Agreement which has been modified by Schedule 1 to this Agreement **with the additional provisions** for the purposes of the Additional Affordable Housing, the parties agree that the Principal Agreement as varied by the First Supplemental Agreement and Second Supplemental Agreement and this Agreement shall also apply to the Additional Planning Permission and shall continue in full force and effect as originally executed”.*

N.B. The proposed changes to the wording between the existing and proposed Clause 6.1 are highlighted in bold, above.

This amendment is sought to address concerns raised by the Affordable Housing Provider, Riverside Group Limited, in respect of the existing Clause and how it deals with the charging of affordable housing. Whilst the existing

S106 Agreement does not prevent charging of affordable housing, Riverside Group would like the Agreement to be made clearer to assist in this regard.

The agreed level of affordable housing contribution, at 30%, to be secured on-site, will still be delivered.

**Financial Implications**

None

**Risk Management**

Key Decision:

Background Papers:

P/12/2641/2 - Planning file and principal Section 106 Agreement

P/17/2200/2 - Planning file and Deed of Variation and Supplemental Planning Obligation Agreement

DD 098/2019

Correction Slip – Corrections shown in **Red** and/or struck through

**Decision and Date (for Corrections)**

08 November 2019

**Recommendations**

None

**Reasons**

None

**Background**


The proposed Clause 6.1 states:

*“6.1 Save for the provisions of Schedule 1 of the Principal Agreement ~~which has been modified by Schedule 1 to this Agreement~~ **with the additional provisions** for the purposes of the Additional Affordable Housing, the parties agree that the **remainder of the Principal Agreement as varied by the First Supplemental Agreement and Second Supplemental Agreement** and this Agreement shall also apply to the Additional Planning Permission and **the entire Principal Agreement as varied by the First Supplemental Agreement and Second Supplemental Agreement** shall **otherwise** continue in full force and effect as originally executed”.*

~~N.B. The proposed changes to the wording between the existing and proposed Clause 6.1 are highlighted in bold, above.~~

**Financial Implications**

None

  
20/12/19