

## Decision under Delegated Powers

### Officer Requesting Decision

Principal Planning Officer, Development Management

**Officer Making the Decision** Director Finance, Governance and Contracts

### Recommendation

That a Section 106 Agreement be signed to secure the following planning obligations under Planning Application reference P/21/2639/2 Barkby Road, Syston, appeal reference APP/X2410/W/23/3325902:

- A scheme for the provision of no less than 30% Affordable housing on the site (tenure mix of 39 Social Rented Dwellings and/or Affordable Rented Dwellings and 5 Shared Ownership Housing units and 15 First Homes)
- A contribution toward the creation of Allotment provision of £22,020
- An Early Years Contribution of up to £304,250.70
- Primary School Contribution of up to £679,172 towards the provision, improvement, remodelling or enhancement of education facilities at Merton Primary School or any other primary school within the locality of the Development
- Special Educational Needs contribution of up to £110,074.44 towards special school provision at Ashmount School, or other alternative within the locality (primary £46,480.26 and secondary £63,594.18)
- Contributions towards off-site open space as follows:
  - i. Youth Facilities Contribution of £186,028
  - ii. Outdoor sports facilities at a cost of £64,227
- To provide on-site open space in accordance with the On-Site Open Space Scheme, to include:
  - i. 0.66 Ha of accessible multi-functional green space
  - ii. 0.94 Ha natural and semi-natural open space
  - iii. One locally equipped area for play (LEAP) on site
- The provision of Travel Packs upon the first occupation of each dwelling (£52.85 per dwelling) at a total cost of £10,305.75
- The provision of 6-month bus passes (two per dwelling) upon the first occupation of each dwelling (£720 x 195 dwellings) per bus pass at a maximum total cost of £140,400

- A Construction Traffic Routing scheme, to be agreed in writing between the Owners and the County Council
- A £6,000 contribution towards Travel Plan monitoring
- A library facilities contribution of up to £5,888.55 towards Syston Library
- Waste Management contribution of £51.67 per dwelling, up to a maximum of £10,075.65 towards Mountsorrel Household Waste Recycling Centre (HWRC)
- A health care contribution of £94,984.03 towards providing additional capacity at The County Practice and Jubilee Medical Practice.
- A Biodiversity Net Gain Objective to deliver a net gain of 10% in biodiversity on site based upon the Biodiversity Impact Assessment score, and if required to provide mitigation off site or pay biodiversity impact compensation contribution.
- A Local Highways Mitigation Contribution of £263,991 payable by the owners to the County Council for the provision of sustainable travel improvements and/or highway junction improvements to achieve the necessary mitigation for the impacts of the development

The S106 agreement will be required to enable the grant of planning permission through the Appeal process. The Inspector will determine if the obligations meet the CIL Regulation 122 or not and may disallow some of the listed contributions within the agreement accordingly.

### **Reason**

To allow the appeal to progress following the public inquiry from 14<sup>th</sup> to 15<sup>th</sup> November 2023, an agreed S106 agreement is required to be submitted to the Planning Inspectorate by Wednesday 6<sup>th</sup> December 2023. The Council and the Appellant agreed some Heads of Terms in the submitted Statement of Common Ground and County matters have been agreed with the County Council. The healthcare contribution are not agreed and their inclusion will be determined by the Inspector.

### **Authority for Decision**

A S106 agreement is required to comply with the Plans Committee resolution. Under the Scheme of Delegation to Officers (8.2 Delegation of Council Functions) the Head of Governance (or in their absence the Director Finance, Governance and Contracts)) has delegation 'to enter into and vary an agreement under Section 106 of the Town and Country Planning Act 1990' (Item 7). The Head of Planning and Growth has delegation to negotiate the heads of terms of section 106 agreements (Item 21).

## Decision and Date



Simon Jackson

Director of Finance, Governance and Contracts

30th November 2024

## Background

Application P/21/2639/2 'Outline application for up to 195 dwellings, together with associated affordable housing, open space, landscaping, drainage and play space facilities. All matters reserved bar access which is proposed from Barkby Road" was the subject of a non-determination planning appeal, made in July 2023.

The appeal was brought to Plans Committee on 17<sup>th</sup> August '23. Having considered the officer's report, together with a late consultation response from LCC Highways and a schedule of obligations, the Committee resolved that they would have refused permission, had the decision been theirs to make, but further resolved:

*That delegated authority be given to the Head of Planning and Growth to respond to any changed circumstances in the context of the non-determination planning appeal which might alter the council's position. This authority would extend to whether to withdraw some or all reasons for refusal. It would also authorise him to agree the terms of a S106 agreement and planning conditions, which will be required by the Planning Inspectorate, regardless of the recommended decision.*

During the processing of the appeal we took legal advice on 31<sup>st</sup> August which strongly recommended that the Borough Council should proffer no reasons for refusal during the processing of the appeal. In considering the Council's draft Statement of Case, on 11<sup>th</sup> September, the Head of Planning and Growth confirmed that the council would withdraw all of the reasons for refusal.

A Statement of Common Ground has been agreed with the Appellant, which set out agreed Heads of Terms for S106 obligations. The appeal is being managed by a Public Inquiry which sat from 14<sup>th</sup> to 15<sup>th</sup> November 2023. The Inspector is now deliberating, and the decision is expected around the turn of the year.

Further inquiry details, including all of the written submissions, are available at [Public Inquiry: Barkby Road, Syston - Charnwood Borough Council](#)

## Financial Implications

None

### Risk Management

Risk Identified	Likelihood	Impact	Overall	Risk Management
Applicant doesn't comply with the S106 Agreement	Very Low	Low	Very Low (1 - 2)	Routine monitoring of the S106 Agreement.

Key Decision:

No

Background Papers:

Planning application and appeal ref.

P/21/2639/2

APP/X2410/W/23/3325902