

## North Northamptonshire Planning Committee (North)

4<sup>th</sup> October 2023

<b>Application Reference</b>	<b>NC/23/00041/RVC106</b>
Case Officer	Robert Young
<b>Location</b>	Little Stanion
<b>Development</b>	Proposed variation of s106 agreement dated 28 <sup>th</sup> August 2016 relating to LPA ref: 04/00442/OUT dated 5 <sup>th</sup> July 2006 and LPA ref:17/00702/DPA (Detailed) dated 21 <sup>st</sup> May 2018 for 66 residential units, retail space and community hall known as the Multi Use Square Development and 17/00703/OUT dated 6 <sup>th</sup> September 2018 concerning outline planning permission for the erection of not less than 99 dwellings, and a maximum of 135 dwellings plus landscaping and associated works.
<b>Applicant</b>	<b>JME Developments Ltd</b>
<b>Agent</b>	iPlan Solutions Ltd
<b>Ward</b>	<b>Little Stanion</b>
<b>Original Expiry Date</b>	<b>8<sup>th</sup> February 2023</b>
<b>Agreed Extension of Time</b>	<b>31st October 2023</b>

### List of Appendices

**Appendix A** – Applicant’s agent update on planning history and background and Approved Masterplan for Landscaping/ Public Open Space

**Appendix B** – Plans of the Proposed Community Building E

**Appendix C** Applicant’s Viability statement (Aspinall Verdi) 2021 and March 2022

**Appendix D** Council’s viability Assessor White Land Strategies Response Statement dated 21<sup>st</sup> September 2022

**Appendix E** Masterplan and Village Square Context Plan

**Appendix F** Applicants projected phasing programme for the final phase of residential/retail development.

## **Scheme of Delegation**

This application is brought to committee because it falls outside of the Council's Scheme of Delegation and relates to a major development and a s106 variation application which concerns the delivery of a community asset (Village Hall and Football Pitch), amendments to two current obligations, wider viability issues, and legal matters to be considered. Negotiations are ongoing in respect of the terms and conditions of the s106 variation, and the Head of Legal Services will provide an update at the meeting.

### **1. Recommendation**

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#### **Recommendation A**

- 1.1. That planning permission be GRANTED to vary the terms and conditions of the current s106 agreement related to planning permission 04/00442/OUT dated 5<sup>th</sup> July 2006 varied on the 28<sup>th</sup> August 2016 and permissions 17/00702/DPA dated 21<sup>st</sup> May 2018 and 17/00703/OUT dated 6<sup>th</sup> September 2018. 17/00701/DPA dated 21<sup>st</sup> May 2018 approved the Landscaping and Public Open Space for the Little Stanion development. The proposed s106A is to be varied under LPA ref: NC/23/00041/RVC and completed within 3 months of the date of the Committee's decision.
- 1.2. That should the variation of the Section 106 Legal Agreement not be completed within 3 months or other date to be agreed, that it be delegated to Executive Director of Place and Economy to REFUSE permission for the s106 variation.
- 1.3. That the proposed modifications to the s106 obligations are only acceptable subject to the following: -
- 1.4. The applicant to agree to the implementation of an important element of the original agreement, being the construction of the community hall, following assessment of the updated viability statements of the Applicant and Council's appointed viability consultants, but to ensure enforceability of the following terms on the following terms:
  1. The transfer of land for the Community Hall and parking area known as Block E on plan 1616-P1001 to either the Council, Parish Council or an appointed management company prior to the commencement of the final residential phase (99 units) of the Little Stanion Development.
  2. That the applicant agrees to provide a sum on deposit in the sum of £1.2m in line with the applicant's submitted cost details for the construction of the village hall and parking area and vehicular and pedestrian access thereto as previously granted permission.
  3. The Football Pitch to be constructed within 3 months of the completion of s106A variation agreement.

- 4 Landscaping and Public Open Space provided under application 17/00701/to be monitored by officers to ensure full compliance with the approved landscape master plan (please see Appendix A)

## 1.5 Recommendation B

That the proposed s106 variation sought by the applicant to omit planning obligations set out in para 2.2 of the report be refused. This would be due to a risk that the applicant's proposed phasing of the residential development over 5- year period without pre-payment and a land transfer for the village hall would not enable the Council to recover the funds related to the remaining planning obligations. Consequently, the applicant's proposal may fail to deliver the deliver the construction of the Village Hall and Football pitch.

## 2. The Proposal

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2.1 The applicants are JME Developments Ltd civil engineers for the previous developed phases of the Little Stanion residential development, now freeholders of the final phases of the development.

The applicant seeks to modify the s106 agreement related to 17/00702/DPA and 17/00703/OUT with a proposed s106 variation agreement. The relevant Town and Country Planning Act 1990 s106 planning obligations a roof tax and uplift clause proposed to be modified /omitted are as follows:

a) " The Little Stanion Community sum" which equates to £11,000 for every dwelling to be used for reimbursing the public purse towards the costs of the Little Stanion Primary School;

b) The Little Stanion Up-lift sum " defined as a sum equal to 34% of the additional dwelling sales profit, also contributing as above towards the costs of the primary school.

c) The applicant undertakes upon the Council's acceptance of the omission of the two key obligations ( in a) and b) above ) to proceed to complete the final phases of development (99 units plus building C for 22 flats and 2 retail units). Public Open space and landscaping is now completed under application ref: 17/00701/D and will be checked by officers to ensure compliance with the approved masterplan The applicant's agent has also produced a summary which is also under Appendix A The applicant then confirms that this will facilitate the funding fund the construction of the Village community hall Building E on plan1616-P100I ( **Appendix B** )

The applicant's agent also confirms under para 18 of his latest letter which is as follows:

*"Upon this further S.106a modification application being approved, the 2-year delivery period for the new community building village hall will be triggered as per the 2016 S.106a modification. JME are agreeable to the provision of a requested £1.2m bond to be put in place after the 2-year period in the event that the village hall has not been completed by the end of this two-year period. If it has been constructed within the time period then the need for such security falls away.*

## **Viability Issues-Applicant's perspective**

- 2.2 The scheme has been subject to a number of viability assessments since its original start on site. The latest viability assessment commissioned by the Applicant was produced and submitted by Aspinall Verdi in 2021 and updated in April 2022 and has since been added to by the applicant Solicitors Gatesby. The applicant viability consultant contends that the final phase would not be considered viable if the above two s106 obligations were complied with.

The applicant seeks the removal of the above two s106 obligations, which they contend would make it financially viable to complete the final phase of residential development ( 99 dwellings ) plus the final phase of the Village Square and the construct the village hall (Building E).The proposed building is identified on the Village Centre Plan

The applicant's solicitor/agent advises that if the s106 variation is not approved, then the applicant considers that the obligation trigger points in the current s106 agreement could not be met. As a result, the final phase of development would stall and without the revenue stream the Community Hall would not be constructed.

- 2.3 In addition, there is the matter of the football pitch provision. The landscaping with in the Public Open space has been previously approved and implemented leaving landscaping related to the final phase of development.

### **Council's Viability Assessment**

- 2.4

The Council commissioned an independent viability assessment of the Aspinall Verdi submission. White Land Strategies was instructed by the former Corby Borough Council to undertake a viability appraisal of the residential and retail and community development proposed on the Little Stanion site, in Corby. The latest viability review was undertaken in 2021/2 due to ongoing viability matters identified by the applicant's viability assessor Aspinall Verdi. This assessment was a further re-appraisal following the 2019 viability assessment.

Both reports with conclusions are appended under (**Appendix C and D**). The key conclusions of the Council's viability response are set out in the main part of this report. In summary, members are being asked by the applicant to agree a number of variations which exclude any further financial obligations other than to secure the construction of the community hall and football pitch.

- 2.6 The current review by White Land Strategies is dated 21<sup>st</sup> September 2022 with further minor updates related to this s 106A application. It is understood, to have been submitted to demonstrate that viability issues have not changed since 2019. The 2022 submission by Aspinall Verdi consisted of the 2 appraisals.

The NPPF allows for an Applicant to submit an appraisal with a reasonable sum of money allocated to the land value. Aspinall Verdi submitted one appraisal with the Land Value (at £1,342,000) included plus a s106 contribution of £1,980,000 to reflect the Consent with approved obligation

contributions.”

The second appraisal assumed no land value and no s106 contribution in order to demonstrate that the contributions could not be met even if land value was excluded. The scheme proposed is for 99 houses on Parcel 5, 66 apartments and 15 houses on Parcel (the latter already constructed). The village square development –originally comprised 66 flats of which Building C -22 flats and ground floor retail are still to be constructed plus the Village Community Hall (400m2) Context Plan **(Appendix E)**.

- 2.7 The independent assessor concluded that the assumptions considered by Aspinall Verdi in their appraisals were reasonable overall. The NPPF allows for the applicant to receive a reasonable profit allowance within the appraisal. The applicant contends that removal of the requested financial obligations is required to allow for an NPPF compliant profit and importantly in order to facilitate the construction of the Community Hall, plus some sports pitches. The applicant’s viability statement (dated March 2022) and its conclusions has been agreed by the Council’s viability assessor. Since the Council’s assessment of the updated Viability Statement in March 2023 interest rates have increased substantially.

The applicant considers that this has further affected the financial position of his company which has not improved increasing the development risk.

#### Current Viability Position

- 2.8 The applicant was required to provide further information on the costs apportioned to the infrastructure and the village hall as these not backed up by evidence in the case of the infrastructure and the village hall was an estimated cost without a specification.

White Land Strategies assessed the response against the original report. The original cost submitted by Aspinall Verdi for the Village Hall was £1,035,300. The QS review submitted for the 2023 cost justification was provided as a range of £1,085,014 to £1,395,626 depending on the indices used.

The specification for the Village Hall is key to understanding the costs as to whether the specification is what the Council expect/want or rather what does the community expect/want because if the specification is correct then the costs flow from that and the best comparison is then a rates-based approach.

On that basis the price quoted in the 2023 update would suggest that their original cost estimate was about right in today’s money. White Land Strategies concluded that no adjustment to the cost estimate for the Village Hall in the viability appraisal would be necessary. In that regard the original cost estimate could be considered high but equally in current day it is not unreasonable.

- 2.9. In terms of the infrastructure costs White Land Strategies concluded that these were less referenceable to a dataset such as the Building Cost Information Service (BCIS). To really analyse these costs a Quantity Surveyor would be

needed to query the Applicant's QS rates. The quantities would need a review as much as the rates estimates do.

- 2.10 White Land Strategies was only able to undertake a high-level review of these costs and concluded in the absence of a QS review that the applicant's costs estimate for the roads appeared within the expected range for similar roads considered on other FVA studies undertaken (assuming the linear metre costs provided are correct).

The prelims/Overheads & profits rates were considered too high were reduced by WLSL however this reduction would not lower the 2023 cost to a figure below the FVA assessment submitted by Aspinall Verdi.

- 2.11 On the two points therefore White Land Strategies concluded that it would be difficult to suggest that the Applicant/Aspinall Verdi FVA submission is unreasonable.

It is arguable that the original Village Hall estimate was likely too high but at current day pricing it is likely reasonable subject to agreeing a specification. Regarding the infrastructure costs they would appear reasonable subject to someone measuring the quantities to which the rates are applied. On balance the 2023 submission cost estimates are not unreasonable.

- 2.12 In the context of the original FVA the NPPF allows for the applicant to assume a land value. The 2023 assessment would show that there is only marginal surplus if no land value allowance is assumed. As the NPPF allows an Applicant a reasonable land allowance even if there were a cost reduction the applicant would be within their right (in NPPF terms) to call for the land value to be taken into account which would reduce any surplus identified.

As it stands the Village Hall costs would be recommended to remain as per the FVA. The infrastructure costs could arguably be adjusted upwards worsening viability unfortunately.

### **Principle of Development**

- 2.13 The principle of the development of the site and the final phases have already been established through approval, firstly the outline application in 2006 and subsequent reserved matters for development phases, the s73 variation and discharge of conditions. The key matters for consideration are the applicant's proposed modifications/variations to the s106A agreement completed in 2016, when the previous owners Silent Pride Ltd were in administration. This followed the financial crash in 2008. This application has been brought forward by Silent Pride Ltd following the cessation of administration agreement of a modified S106a (04/00442/OUT dated 28.08.2016) with the Administrator, linked to the original permission.

### **Village Square Current Progress**

2.14. The relevant permissions linked to the extant s106A agreement are as follows:

i) LPA ref: 17/00702/DPA, a detailed permission granted on 21<sup>st</sup> May 2018 for 66 2-bedroomed apartments, (Blocks A-D), 588m<sup>2</sup> of retail space ground floor, of Blocks D already constructed. This leaves the community building to be constructed on parcel E.

2.15 Blocks A and B are completed and occupied, the retail food store Block D is now complete, and operational. Block C comprising 22-2 bedroomed flats and two Retail units 78m<sup>2</sup> and 85m<sup>2</sup> plus 33 car parking spaces has not been constructed.

Drawing 1616-P100 Rev D comprises the approved layout with approved drawings for Block C, the Village Centre Layout are relevant. (Appendix G)

#### **2.16 Parcel 5 and 6 for Residential Development Only**

ii) LPA ref: 17/00703/OUT an outline permission granted for a minimum of 99 to maximum of 135 dwellings. This projected final phase will comprise 99 dwellings, not constructed as yet. Parcel 6 is complete with 15 dwellings all sold. This makes a total of 114 dwellings when parcel 5 is complete.

2.17 To date, the current situation for Parcel 5 and 6 leaves a total of 99 residential units on parcel 5 to be constructed, completed, and occupied. The applicant contends that if the development phasing is not progressed and completed and the current planning obligations remain unmodified would be the loss of the community hall project unless funded separately. In discussions with the applicant, it is anticipated that the football pitch and landscaping will remain as a commitment to be delivered.

The lack of viability in this case to deliver the key financial obligations has been evaluated by the Council's viability statement in response referred to later in this report.

#### **The Current S106 Agreement dated 28<sup>th</sup> August 2018**

2.18 The s106 agreement which the applicant now seeks to vary relates to two permissions described in para 2.1 being an outline planning permission granted in September 2018 circa 99 dwellings with associated infrastructure across the two parcels of land. Plus, a detailed application 66 dwellings retail centre granted in 2018 and partly complete. The host outline permission was granted in 2016.

The applicant advises that construction works have continued to a point where any further development would trigger the specific obligations which the applicant contends would make the final phases of the Little Stanion development unviable.

2.19 To date, the current situation for both sites, leaves a total of 99 residential units to be constructed, completed, and occupied plus Buildings C and E within the Village Hall development. The applicant states that if the development phasing was not completed, it would be unviable to construct the community hall project. Officers can confirm that this does not include the football pitch and

landscaping.

The lack of viability in this case to deliver the other financial obligations is supported by the Council's viability statement in response to the applicant's viability statement referred to later in this report.

### **Applicant's Proposed s106a Modifications**

2.20 The applicant's intention is to complete the final phase of the Little Stanion development, which will then facilitate the construction of the Community Hall the football pitch and landscaping would not be affected. The applicant contends that this can only be facilitated by modifying the s106 agreement omitting the following contributions: -

1. The applicant supported by their viability statement seeks to remove the Little Stanion Community sum being £11,000 for each dwelling completed towards part reimbursement of some of the costs for the Little Stanion Primary School. Total contribution ...

2. Deletion of the Little Stanion Up-lift sum defined as a sum equal to 34% of the additional sales profit, also as a contribution towards the pre-incurred costs of providing Little Stanion Primary school.

2.21 The applicant considers that without the removal of these historic costs obligations, the other obligations the delivery of the community hall and football pitch would be unlikely to be met.

### **The Planning Obligations- Legal Perspective**

2.22 In planning law terms, the key issue is whether the proposed s106 variation will meet the s106 obligation tests set out in the NNPf Para 56 and in s106 of the Town and Country Planning Act 1990 as amended. Then whether the amended obligations would serve a useful purpose compared to the extant s106 agreement. This then needs to be balanced with the viability outcomes.

In this case both the applicant's and Council's' viability assessors agree that the final phasing would not be viable if the obligations referred to in above para 2.20 were enforced.

The applicant advises that this would result in the development stalling and by default, the community hall not being constructed.

2.23 The lack of viability in this case to deliver the other financial obligations is supported by the Council's viability statement in response to the applicant's viability statement referred to later in this report.

### Background to the current development situation

2.24 As a further outline planning application, it stands apart from the previous scheme; albeit that the previous extant and partially delivered approval is a material consideration. A further two applications have also been approved by the Local Planning Authority (LPA) 17/00702/DPA, and 17/00703/OUT –



detailing plans for further residential phases, public open space, and a new village centre (residential retail and a community hall).

### **3 Site Description**

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- 3.1 The application site comprises 4.02ha of land which is split over two parcels at Little Stanion, Corby. Little Stanion New Village is located to the southeast of the town of Corby and is accessed via the A43 and Long Croft Road. The topography of the site is such that there is a drop from north to south.
- 3.2 The application site forms part of a much larger residential site of 935 dwellings in total. The main site comprises various phases of residential development (houses and flats totalling 935 dwellings including 1,2, and 3 bedroomed dwellings ,2 bedroomed apartments, plus a primary school, and a recently constructed Village retail and residential centre.
- 3.3 A proposed community hall, which formed part of the 2016 s106 obligation has not been constructed (see Appendix B). Also, the primary school was built in 2018 with the former County Council funds which were not subsequently reimbursed by the previous applicant/owner.
- 3.4 Plus, in March 2023 the temporary retail food shop was replaced by a modern brick-built retail food store situated on the ground floor of Block D, which also comprises 30 2-bedroomed flats.
- 3.5 In terms of construction works, the applicants have advised that 99 dwellings are constructed without the impediment of the above-mentioned contributions then the community centre and sports pitch will be constructed.
- 3.6 The application site falls within extant permission (04/00442/OUT) with a modified s106 agreement following the previous owners Silent Pride Ltd entering administration when the site was set aside for residential development. It forms part of the wider Little Stanion New Village. The two parcels are the subject of an extant planning permission under 04/00442/OUT dated 28<sup>th</sup> August 2016, and set aside predominantly for residential development.
- 3.7 The parcels forms part of the wider Little Stanion New Village. The larger part of the two parcels is situated to the East of the wider site and the second parcel is set to the South of the subject site both, are vacant and undeveloped, cleared by the developer in anticipation for the commencement of developing the site. The applicant is not seeking any substantive changes to the proposed layout or designs but seeks to vary the current s106 agreement and omit two key planning obligations described in page 1 para 2.2.

#### **Relevant Planning History**

- 3.8 The relevant planning history is as follows: -

04/00442/OUT (Residential Development of not more than 970 dwellings; public open space, primary school, and community facilities, associated development

including provision of roads and infrastructure, access from Longcroft Road) – Approved 05/07/2006 - Various Reserved Matters and Condition discharges related to 04/00442/OUT. Primary School completed in 2018 and Tesco Food store now open in March 2023 (Block D).

3.9 17/00701 /DPA Landscaping public open space and 17/00703/OUT-dated 21<sup>st</sup> May 2018

17/00703/OUT Outline planning permission for the erection of between 99 dwellings and no more than 135 dwellings, landscaping and associated works granted permission 6<sup>th</sup> September 2018.( *known as Parcels 5 and 6* )

17/00702/DPA Detailed planning permission for the erection of 66 2-bedroomed apartments split between Blocks A-D, 598m<sup>2</sup> of retail space within block C and D, plus a Community hall granted permission on the 21<sup>st</sup> May 2018.( *Community Hall (not constructed)* ).

19/00541/REM reserved matters approved for 15 dwellings dated 19<sup>th</sup> March 2020 linked to 17/00703/OUT. ( *Parcel 6 since constructed* )

21/00031/REM reserved matters approval dated 26<sup>th</sup> July 2021  
S.73 variation of condition applications approved, amending the main planning permission 17/00702/DPA.

20/00301/RVC Condition 13 was amended by planning permission on 12 November 2020.

20/0059/RVC Condition 14 was amended by planning permission on 23 March 2021.

20/00551/NMA approved 6<sup>th</sup> January 2021.

NC/21/00034/RVC s.73 application granted permission dated 26<sup>th</sup> July 2021 linked to Parcel 5 residential phase.

NC/22/00078/RVC related to Block C (not constructed) granted permission on 1<sup>st</sup> June 2022 for ground floor retail floorspace to be subdivided in to 2 units.

17/007/702 /DPA -condition 16 concerning street lighting was approved on 11<sup>th</sup> March 2021

3.10 NC/23/00199/RVC under consideration relating to amendments to Block C prior to construction. ( **Current Application** )

## 4 Consultation Responses

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4.1 Council Consultation Newspaper advertisement/notification, as this involves a s106A variation application. It relates to a modification of agreed terms to the extant s106 agreement completed in 2016 between Silver Pride Ltd who were in administration at that time and the administrator/receiver and the

former Corby Borough Council.

#### 4.2 Parish/Town Council

Little Stanion Parish Council have expressed a number of concerns relating to failure by the applicants to construct the community hall, the football pitch and management issues relating to public open space. Plus, concerns about previous financial management of the development.

The Parish Council's key concerns are as follows:

Key changes to the original S106 in 2016

In order to produce a viable scheme for JME to continue with the development and exit administration [in 2016] a number of key changes were made to the original S106 [2006 version]. The key changes to improve JMEs viability involved allowing additional houses and apartments to be built, these are covered in planning applications: 17/00702/DPA [Apartments etc] and 17/00703/OUT [Additional houses].

The additional houses required extra land to build on, this resulted in:

1. Loss of some of the designated Public Open Space; Some of this land is on Brecon Close, where the 15 new houses have been built; The rest is within the as yet undeveloped area.
2. The loss of the 1 acre site for the Community Centre [Village Hall] with associated outside space; The Community Centre [Village Hall] was relocated to the centre of the roundabout, with no useable outside space for events.
3. The loss of the football pitch. It was originally promised that it would be relocated to another part of LS; however, it 'disappeared' in a subsequent planning application.

Additionally, the Parish Council state that following key changes occurred:

1. A reduction in s106 financial contributions, from circa £5.8m to circa £2m. [For, partial, funding of the construction of the Primary School, to be collected via a 'roof tax' of £11k per property].
2. All requirements for the provision of affordable housing were removed.
3. The change in the ownership and management of the Public Open Space. The change in the ownership and management of the Public Open Space, was the most controversial

In the original S106[2006] the Public Open Space was to be owned and managed by former Corby Borough Council - it would be paid for out of the normal council tax with no additional management fee.

Instead, when the S106[2006] was revised in 2016 the ownership and management of the Public Open Space was given to a private company: Little Stanion Farm Management Company. With the associated management charge in addition to the council tax.

The management company has transferred large sums of money to the development company. The decision to allow these changes was rather controversial, it was only passed on the casting vote of the chairman of the Corby Borough Council Development Control Committee

#### 4.3 Neighbours/Responses to Publicity

One objection from a local resident expressing a number of concerns summarised as follows:-

The monies this developer wishes to be let off of was already blocked by the previous authority so it would be incorrect for NNC to not uphold the same.

1. The monies this developer want to be let up of, both the roof tax and the uplift payment is public money, money that belongs to all the tax payers under NNC, therefore if he is let off of these payments, in effect the tax payers are funding his building, a number of properties have already been sold and occupied, has the funds been paid over for these? At the time of writing, it now is evident that Tesco have taken possession of one of the shop units, have funds from this been paid?
2. Comments redacted
3. Comments redacted
4. Concerns about speeding along Longcroft Road, Longcroft Road has no form of speed control (Part redacted.)
5. Concerns about CCTV (since resolved).
6. Omission of sports pitch as an obligation in the original S106 agreement not delivered.
7. A cycle path to Great Oakley was promised, never delivered.
8. Lack of a village sign.
9. In another application a completion date for the village hall was given to CBC this passed some two years apocenters about continual delays.
10. Concerns that the development has never been monitored.
11. Considers that in the past various objections were made both by residents and the Parish Council to the old CBC, these were totally ignored.
12. The viability report shows a short fall of around seven million, even if the developer is let of the circa two million, were to the other five million going to come from, it is clear that this development is and always has been under capitalised, to the detriment of the residents.
13. Despite promises and agreements sections of both highway and pavement still remain unfinished and in a dangerous condition, I am aware that persons have fallen over because of this, and I am given to understand that the developer have done nothing to rectify this, against health and safety?
14. Comments about the applicant redacted.

15. Concerns about the operation of the Little Stanion Management Company part redacted.

16. Concerns about continued delays in completing the development phases.

#### 4.3 Local Highway Authority (LHA)

No matters identified by officers related to the S106 variation.

### **5 Relevant Planning Policies and Considerations**

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#### 5.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

#### 5.2 National Policy

National Planning Policy Framework (NPPF) (2023)

National Planning Practice Guidance (NPPG)

Town and Country Planning Modification and Discharge of Planning Obligations) Regulations 1992 as amended ( 1993).

NPPF 2023– Paras Para 57 states “Planning obligations must only be sought where they meet all of the following tests:

a) necessary to make the development acceptable in planning terms;

b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development.”

This is set out in the CIL Regulations 2010.

Planning Practice Guidance – Planning Obligations Para23b-020

#### 5.3 North Northamptonshire Joint Core Strategy (JCS) (2016)

Policy 1: Presumption in Favour of Sustainable Development.

Policy 2: Historic Environment

Policy 3: Landscape Character

Policy 4: Biodiversity & Geodiversity

Policy 5: Water Environment, Resources and Flood Risk Management

Policy 6: Development on Brownfield Land and Land Affected by Contamination

Policy 7: Community Services & Facilities

Policy 8: North Northamptonshire Place Shaping Principles

Policy 9: Sustainable Buildings

Policy 10: Provision of Infrastructure

Policy 11: The Network of Urban & Rural Areas

Policy 12: Town Centres and Town Centre Uses

Policy 15: Well-connected towns, villages, and neighbourhoods

Policy 16: Connecting the network of settlements

Policy 19: The Delivery of Green Infrastructure

Policy 22: Delivering Economic Prosperity

Policy 28: Housing Requirements  
Policy 29: Distributing of New Homes  
Policy 30: Housing Mix & Tenure

#### 5.4 Local Plan – Local Plan 2 for Corby (2021)

#### 5.5 Neighbourhood Plan – (N/A)

#### 5.6 Other Relevant Documents

Town and Country Planning Act 1990 , 1993 Modification Regulations

The key issues for consideration are:

- Principle of Development
- Planning Obligations
- Delivery of the Community Building the Football pitch Landscaping

#### 5.7 **Principle of Development**

The principle of the development of the main site and the final phases have already been established through approval of reserved matters, s73 variation and discharge of conditions. This is set out in the relevant planning history The key matters for consideration are the modifications to the s106 agreement completed in 2016.

#### 5.8 **Town and Country Planning Act 1990 -s106 Matters**

In planning law terms, the key issue is whether the planning obligations which were completed on the 25<sup>th</sup> August 2016 between the applicant and the former Corby Council would perform a useful purpose if modified as proposed by the applicant, JME Developments Ltd. The relevant Town and Country Planning Act 1990 s106 planning obligations agreed at that time ( 2016) to be modified, and or omitted as follows:

- a) “ The Little Stanion Community sum” which equates to £11,000 for every dwelling to be used for reimbursing the public purse towards the costs of the Little Stanion Primary School;
- b) The Little Stanion Up-lift sum “ defined as a sum equal to 34% of the additional dwelling sales profit, also contributing as above towards the costs of the primary school.
- c) The applicant upon the Council’s acceptance of the omission of the two key obligations in (a) and b) above ) will then proceed to complete the final phase of development (99 units ) plus Building C 22 flats and 2 retail units. The applicant has then confirmed that this enables the funding of the construction of the community hall (Building E). This should include the provision of a football pitch and landscaping.

#### 5.9 **Impact on Neighbouring Amenity**

This is not a planning application public amenity has been addressed in the original outline permission from 2006, the two applications from 2017 mentioned in para 1.2. However, clearly the provision of the Village Hall, Football Pitch, and monitoring of the implemented Landscaping/Public Open Space would be an important social, environmental, and economic benefit to the local community.

## **6 Other Matters**

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- 6.1 Equality: As set out in the Equality Act 2010, all public bodies, in discharging their functions must have “due regard” to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular to the need to:
    - a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
    - b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
    - c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons 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 had due regard to the matters set out in section 149 of the Equality Act 2010. 15.0
- 6.1 Health Impact Assessment: Paragraph 91 of the NPPF 2021 states planning policies and decisions should aim to achieve healthy, inclusive, and safe communities and, specifically, criterion c) of this seeks to enable and support healthy lifestyles, for example, through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts which encourage walking and cycling. It is considered that the proposal subject provision of the community hall football pitch and final phase for flats with ground floor retail is considered acceptable on health impact grounds.

Hi Matt could, you have a quick look as I can't access Corby ?

## **7 Conclusion/Planning Balance**

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- 7.1 The development of the main site, post the administration phase in August 2016 and final phases in 2023/4, have already been granted planning permission, but were subject to specific planning obligations agreed in 2016 primarily to recover costs to the public purse for the construction of the Little Stanion Primary

School. Then obligations were agreed to provide the village/community hall, football pitch and the future management of the Public Open Space landscaping remained as part of the varied s106 agreement.

Unfortunately, the former County Council never received the s106 funding for the primary school from the previous developer BULA then Silent Pride Ltd. Since that time, the applicant has commissioned viability statements by Aspinall Verdi which has been assessed as accurate and robust by the Council's viability consultant. In summary that the development is not viable based upon the current obligations contained in the 2016 agreement.

7.2 As the Council accept its viability consultant's conclusions that the development is not viable, the applicant contends that they cannot fulfil the obligation referred to in para 7.1 in respect of :-

a) "The Little Stanion Community sum" which equates to £11,000 for every dwelling to be used for reimbursing the public purse towards the costs of the Little Stanion Primary School;

b) The Little Stanion Up-lift sum "defined as a sum equal to 34% of the additional dwelling sales profit, also contributing as above towards the costs of the primary school.

7.3 To conclude, the planning history including the administration phases are complex. The above current obligations were agreed post the administration phase and would have delivered a sum to the public purse for the construction of the Little Stanion Primary school with the village hall completion by 2020. Due to the current lack of viability the applicant advises that the final phase of the development would more than likely stall if the above obligations were retained in the 2016 s106 agreement. Therefore, the village hall, football pitch would not be delivered.

7.4 The current phasing of the final elements of the development as set out in the latest correspondence from the applicant's agent (**Appendix F**) The applicant seeks to deliver the residential development over a longer time span up to 2028. This increases the risk for the shorter-term delivery of the community hall and football pitch already much delayed. This has been addressed in the recommendations of this report. However, the applicant/agent recognises that the funds for the construction of the village hall need to be safeguarded and they suggest a £1.2m insurance bond but to be completed within an extended timescale.

7.5 If members agree to the s106 variation and the final phase of the Little Stanion development continues, it will be dependent upon the land transfer and the applicant providing the required sum to enable the construction of the Village Hall and football pitch prior to the commencement of the final residential phase. If not agreed in the Council's view would be likely to affect the Council's ability to recover the monies important to secure the construction of the Village Hall and the football pitch as per paras 1.1-1.4.

## 8 Recommendation

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- 8.1 Officers recommend that the S106A agreement can be varied but, on the terms, and conditions as set out in paras 1.1 -1.4 of this report.
- 8.2 If members do not agree please refer to Recommendation B in Para 1.5 of this report.