

TWC/2022/0162

Former Dairy Crest Ltd (Phase 3), Crudgington, Telford, Shropshire,  
Erection of 55no. dwellings with associated amenity space and car parking with the  
formation of new roundabout to the existing cross roads\*\*AMENDED PLANS & REPORTS  
RECEIVED - AND AMENDED DESCRIPTION\*\*

**APPLICANT**

Shropshire Homes Limited

**RECEIVED**

23/02/2022

**PARISH**

Waters Upton

**WARD**

**AS THE APPLICATION INVOLVES A VARIATION TO S106 FINANCIAL CONTRIBUTIONS, THIS APPLICATION IS TO BE DETERMINED BY MEMBERS OF THE PLANNING COMMITTEE.**

Online planning file:

<https://secure.telford.gov.uk/planning/pa-applicationsummary.aspx?applicationnumber=TWC/2022/0162>

**1.0 SUMMARY RECOMMENDATION**

1.1 It is recommended that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **APPROVE THE DEED OF VARIATION TO THE S106 AGREEMENT**, subject to the variation set out in the detailed recommendation at para 9.1.

**2.0 PURPOSE OF THE REPORT**

2.1 The purpose of this report is to seek a Deed of Variation (submitted May 2023) of the S106 agreement, in so far as it relates to residential development of land adjacent the former Dairy Crest site, Crudgington – Phase 3 (ref: TWC/2022/0162) to remove off-site financial contributions towards education and the associated monitoring fee; as part of the approved development.

2.2 The applicant has confirmed that the installation of the additional play equipment, at the existing play area in earlier phases, will still be delivered.

2.3 The S106 agreement, dated 3<sup>rd</sup> November 2022, sought the following off-site financial contributions:

- Education – £465,017.00 (£286,711.00 towards the Primary School provision; £132,452.00 towards Secondary School provision; and £46,854.00 towards transportation of children to the secondary provision.
- Installation of Play Equipment – on existing Play Area in previous phase of development.
- Monitoring Fee - £9,300.34.

2.4 The Applicants have provided updated quotes from their tender process to demonstrate that bringing the site forward would not be viable with the financial

contributions set out within the S106 agreement, as listed above, due to the rise in costs associated with the construction of the 4-arm roundabout. The details of these costings are available on the online public planning file.

### **3.0 PLANNING HISTORY**

- 3.1 Full planning permission was granted in 2022 under reference TWC/2022/0162 for residential development of 55 dwellings with associated 4-arm roundabout.
- 3.2 It was known at the time of the application that the costs of the roundabout, and the diversion of utilities necessary to undertake the works, was substantial.
- 3.3 On this basis, a Viability Assessment was submitted and an independent review undertaken by CBRE on behalf of the Council <https://secure.telford.gov.uk/planning/pa-documents-documents-public.aspx?ApplicationNumber=TWC/2022/0162>
- 3.4 The application was recommended for approval on the basis of 0% affordable housing, and the education contributions set out above. It was determined that the site was unviable should it be wholly policy compliant, providing both affordable housing and all off-site contributions.
- 3.5 At that time, Officers sought to focus available revenue on expansion of the local schools instead of affordable housing; to ensure future children from the development could be accommodated in the local vicinity.
- 3.6 In addition to this proposed variation the applicant is seeking to vary the trigger points for the delivery of the roundabout. This is subject of consideration under a further planning application TWC/2023/0305. However, the requirement to amend the trigger point has come about due to the deliverability of the roundabout with the obligated contributions and is therefore linked to this variation. The sister application seeks amendment to allow delivery of the roundabout prior to occupation of the 27<sup>th</sup> dwelling (50%) in lieu of the previous condition which was prior to occupation of the 13<sup>th</sup> dwelling (25%).

### **4.0 PLANNING POLICY CONTEXT**

- 4.1 National Guidance:  
National Planning Policy Framework (NPPF)
- 4.2 Telford & Wrekin Local Plan (2011-2031):  
SP3 Rural Area  
SP4 Presumption in favour of sustainable development  
C3 Impact of development on highways  
C4 Design of roads and streets  
COM1 Community Facilities

### **5.0 SUMMARY OF CONSULTATION RESPONSES**

- 5.1 Internal Consultations: None received.
- 5.2 **Cllr Stephen Bentley:** Support subject the following comments being considered by the developers:

- 1) Commitment to commencement date, and assurances the works completed by June 2024,
- 2) Works to be completed before full occupation of all residential units on Phase 3,
- 3) Details of traffic management plan provided for village notice boards (to reduce speculation on diversions),
- 4) Developer engagement with Crudgington primary school on traffic displacement, and management of new school car park extension (school wishing to operate a one way system).

5.3 Whilst the Parish Council have not commented upon this application, it should be recognised that they supported a previous DOV for the same request in February 2023 and have supported TWC/2023/0305 which seeks to vary the trigger point for the roundabout construction, on the basis that the applicants are looking to vary the S106 deed and need further time to comply with the required condition.

5.4 Neighbour Consultations: None received.

## **6.0 BACKGROUND**

6.1 Previous viability submissions have been made by the applicants for this site which had been reviewed during the full planning application stage (TWC/2022/0162). This resulted in a negotiated position of zero affordable housing provision but a financial contribution of £465,017.00 towards education together with the installation of two additional pieces of play equipment on the existing play area (within an earlier phase of development). Planning Committee appreciated that the site was unviable, and that the financial contributions that the Planning Officers had negotiated were acceptable, and resolved to approve the application on that basis.

6.2 The applicants are now seeking the support of the Council in making concessions in terms of removing the education contributions (set out at para 2.3 above) in order to allow the development to proceed.

## **7.0 PLANNING CONSIDERATIONS**

7.1 Having regard to the Development Plan policy and other material considerations including comments received during the consultation process, the planning application raises the following main issue:

- Policy Guidance
- Consideration of Viability
- Other Considerations – Play Equipment

### 7.2 Policy Guidance

7.2.1 The NPPF confirms that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision taking. Para 58 of the NPPF states:

*'where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be*

*assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'*

7.2.2 The applicants are currently in the process of discharging their conditions and have started works on site. Their willingness to deliver housing within the area and the much needed roundabout, is evident.

7.2.3 As was set out within the previous Committee Report for TWC/2022/0162, the provision of the roundabout is considered to be a significant benefit to the local area and the Borough as a whole, and was supported in the planning balance.

### 7.3 Consideration of Viability

*Overview of previous assessment/application:*

7.3.1 In support of the full application which would have required 35% affordable housing to be policy compliant amongst other financial contributions, a Viability Appraisal was carried out by the applicants, which was independently assessed by CBRE acting on behalf of the Council.

7.3.2 The Viability Appraisal submitted by the applicants sought to demonstrate that an open-market scheme remained unviable and the return for the developers/sales risk would not be sufficient should S106 contributions be sought from the Council. Undoubtedly, the costs associated with the creation of the roundabout (and the associated relocation of utilities within the adopted highway) were considered significant (circa £2million) and a review of the costings had therefore been undertaken by the independent assessors, CBRE.

7.3.3 Planning Practice Guidance - Viability (PPGV) states that an appropriate range for developer's return (for the purpose of Plan-making, which should subsequently inform decision-taking) equates to a range of 15-20% on Gross Development Value (GDV), with the rate appropriately adjusted for risk. The Viability Assessment undertaken by CBRE, subject to some adjustments to the figures produced by the applicants, concluded that the scheme could generate a healthy profit, as is defined by the NPPG, whilst still being able to offer some financial contributions.

7.3.4 In this respect, the assessment sought to re-run the figures on the basis of the provision of 10% affordable housing (i.e. 5no on-site affordable rent and 1no first homes dwelling), and was still considered viable.

7.3.5 the Education Department with respect to lack of provision at the local primary school, and shortage of places in the north Telford secondary schools, Officers

asked CBRE to re-run the assessment on the basis of the applicants making a full education contribution, with 0% affordable housing.

- 7.3.6 CBRE concluded at that time that there would be sufficient headroom for a contribution of £354,000 for education in total (split into the two equal instalments), plus the sum towards open space of £37,050 which was assumed as payable on commencement.
- 7.3.7 The figure of £354k did not cover the entirety of the education contribution which was being sought by the Education Team, and it was put to the applicants at time that that they pay the full education contribution (of £465,017.00) in addition to the installation of two pieces of outdoor gym equipment at the existing LEAP. Both the applicants, and Healthy Spaces were satisfied with this balanced approach.
- 7.3.8 The applicants had therefore agreed to pay an additional £111k more towards education, in addition to the play equipment; more than was deemed viable by CBRE. Thus impacting on their profit margins.

#### 7.4 *Overview of submission to vary S106:*

- 7.4.1 The applicants have submitted their variation request following receipt of updated costs from Civil Engineering companies whom will be responsible for the works.
- 7.4.2 Whilst the costs of the diversion of the utilities remain relatively similar to those set out previously (backed by quotes from the utility companies themselves), the applicants advise that the costs of the roundabout itself was greatly underestimated and with rising costs, the applicants claim that it now makes it unviable to offer the education contributions that were previously secured.
- 7.4.3 The previous estimation of costs for the roundabout was circa £2million. This factored in a quote from McPhillips of circa £1mill and the utilities companies quotes of around £1million. These costs were provided in the form of formal quotations from reputable firms and service providers. Having been assessed, CBRE found them to be within an acceptable range for such works. A figure of £2,075,000 was included in the previous viability review for the roundabout works as a whole.
- 7.4.4 StaveCon have now been instructed by the applicant to construct the roundabout, and have provided a more detailed costing, which has resulted in a detailed estimate of £1,431,360 and thus, an uplift of £431,000 more than the previous figure utilised in the viability assessment.
- 7.4.5 The StaveCon estimate remains valid until December 2023 albeit that inflation remains high resulting in substantially increased build costs and forecasts for house prices looking to reduce – this is likely to further affect the profit margins.

#### 7.5 *Conclusions:*

- 7.5.1 It is recognised by the Council that the costs of constructing the roundabout are significant.

- 7.5.2 The National Planning Practice Guidance (NPPG) states that an appropriate range for developer's return (for the purpose of Plan-making, which should subsequently inform decision-taking) equates to a range of 15-20% on Gross Development Value (GDV), with the rate appropriately adjusted for risk.
- 7.5.3 Enforcing the applicants to pay the full financial contributions set out at full planning stage would result in the profit margins being below the acceptable profit range set out in the NPPG and would jeopardise the delivery of the scheme including the roundabout.
- 7.5.4 The provision of the roundabout is considered to be a significant benefit to the local area and the Borough as a whole, and its delivery is a priority improvement for the local highway network.
- 7.5.5 As such, it is the Councils recommendation that the education contributions are removed in full as requested.

## 7.6 Other Considerations – Play Equipment

- 7.6.1 The applicant's intention is to still install the additional play equipment at the existing play area on the previous phases.

## 7.7 Other Considerations – Cllr Bentley comments

- 7.7.1 In response to the comments made by Councillor Bentley in his letter of support, Shropshire Homes have advised that:
- 1) Their intention is to start work on the roundabout in September 2023 and are currently awaiting legal agreements from the Streetworks Team to reserve the road space required for the construction. A September start should allow for completion in June 2024 but this will be dependent upon road space availability, winter working restrictions and taking account of any unforeseen matters arising during construction;
  - 2) Their intention is however that the works are completed prior to the occupation of all units on Phase 3;
  - 3) Once the Traffic Management plan is available, Shropshire Homes have committed to writing to both local residents and the Parish Council identifying any road diversions, timescales for the works and contact details for their Contractors;
  - 4) Shropshire Homes have committed to liaising with the school and their contractors to discuss the recent school car park extension and any associated traffic management. Albeit it is noted that they may be carrying out these works during the summer term, ahead of the roundabout works commencing.

## 8.0 **CONCLUSION**

- 8.1 Taking the above factors into consideration and following independent review, Officers accept the Applicants justification that the existing S106 is now unviable and must be reconsidered as set out in the NPPF.

8.2 The Council have concluded that the education contributions should be removed from the S106 agreement in full.

8.3 As the play equipment installation would remain part of the S106 agreement, a monitoring fee would still need to be applied but is recommended to be reduced, to be commensurate with the costs of the play equipment installation.

## **9.0 RECOMMENDATION**

9.1 Based on the conclusions above, it is recommended that Delegated Authority be granted to the Service Delivery Manager to **APPROVE THE DEED OF VARIATION TO THE S106 AGREEMENT** subject to:

A) Installation of Play Equipment – on existing Play Area in previous phase of development; and;

B) Monitoring Fee - £741.00.