
Subject: ALLOCATION OF S106 COMMUNITY BUILDING CONTRIBUTION (OBTAINED FROM THE DEVELOPMENT KNOWN AS TIMPERLEY PLACE IN SHOLDEN)

Meeting and Date: Developer Contributions Executive Committee – 3 July 2017

Report of: Nadeem Aziz, Chief Executive

Portfolio Holder: Councillor Nicholas Kenton, Portfolio Holder for Environment, Waste and Planning

Decision Type: Non-Key

Classification: Unrestricted

Purpose of the report: To consider options regarding the £17,503 'Community Building Contribution' obtained via a S106 agreement associated with DOV/10/01012 Timperley Place, Sholden, and to consider possible nomination of Sholden Parish Council as the recipient of a Community Building Site defined in that agreement.

Recommendation:

- (1) That the Head of Regeneration and Development be requested to seek a deed of variation to the S106 agreement to allow transfer of the funds to Sholden Parish Council for the purpose of improving Sholden Village Hall.
- (2) Should it prove impossible to agree and complete such a deed of variation within a period of six months, the Council nominate Sholden Parish Council as the recipient of the Community Building Site, for the purpose of providing a new facility.

1. Summary

A S106 agreement associated with the planning consent DOV/10/01012 for Timperley Place in Sholden secured a 'Community Building Contribution' to the value of £195,000 plus indexation. A total of £217,503 was received by Dover District Council (DDC). The S106 agreement defines the purpose of this contribution as provision of a community building either on the development site or within the ward of the development, or in an adjoining ward. The S106 agreement also required the applicant to reserve a 'Community Building Site' for the possible provision of a community building within the development.

On 5 December 2015 Cabinet allocated £200,000 towards the capital cost of constructing the new Deal Youth Centre. Sholden Parish Council has requested transfer of the remaining monies (£17,503) to help fund improvements at the existing Sholden Parish Hall. Use of the monies for the improvement of existing facilities is not contemplated by the S106 Agreement and if the Council wishes to accede to this request it would need to secure a deed of variation to the S106 agreement. Should it prove impossible to secure a deed of variation, Sholden Parish Council has requested that it be nominated as recipient of the 'Community Building Site'.

Alternatively the remaining funds could be returned to the developer.

2. Introduction and Background

- 2.1 A S106 agreement dated 28 March 2013 associated with planning consent reference DOV/10/01012 secured a 'community building contribution' to the value of £195,000. The purpose of this contribution was specified as 'to be paid towards the cost of provision of a Community Building either on the Land or within the ward in which the Land is located or the adjoining wards'. 'The Land' being the development site at Church Lane, Sholden.
- 2.2 In addition, the agreement identifies an area of land within the development known as the Community Building Site (located within the open space, on the plan attached at Appendix 1). According to the terms of the agreement, DDC may nominate a body to whom the site will be transferred for the subsequent use of the site for community purposes. If DDC does not nominate a body, the developer is required to maintain it as public open space in perpetuity.
- 2.3 The value of the contribution was linked to the Construction Costs Index. A payment of £217,503 was received by DDC on 30 June 2015. On 5 December 2015 Cabinet allocated £200,000 to KCC to help meet the capital cost of the new Deal Youth Centre, and the funds were transferred in August 2016. A sum of £17,503 therefore remains unallocated.
- 2.4 Sholden Parish Council has requested transfer of the remaining monies to help fund improvements to the fabric of Sholden Parish Hall and has provided evidence that the project is deliverable, in the form of quotes for works such as roof repairs. These works will help to ensure the existing village hall can withstand additional demand created by the development. Such a use of the funding does not accord with the terms of the S106 agreement. Therefore if the Committee is in favour of the Parish Council's request, it will be necessary for the Council to enter into a deed of variation with the applicant prior to transfer of the funds.
- 2.5 As stated in the letter from Sholden Parish Council attached at Appendix 2, should the request for a deed of variation be unsuccessful 'Sholden Parish Council will continue to pursue acquisition of the community building land'. The Parish Council could request transfer of the £17,503 at a later date towards provision of a community building at that site. Conversely, according to paragraph 5.2.1.2 of the agreement, if the remaining funding is transferred to Sholden Parish Council then the developer is freed from any future requirement to transfer the Community Building Site.
- 2.6 Dover District Council has covenanted to return any funds that have not been used for the purpose described in the S106 agreement within ten years of the date of payment.

3. Identification of Options

Community Building Contribution

- 3.1 Option 1 - To seek a deed of variation that would allow the funds to be transferred to Sholden Parish Council.
- 3.2 Option 2 - Not to seek a deed of variation.

Community Building Site

- 3.3 Option 3 - To nominate Sholden Parish Council as the recipient of the 'Community Building Site', in the event that the Council is unsuccessful in securing a deed of variation.
- 3.4 Option 4 - Not to nominate Sholden Parish Council as the recipient of the 'Community Building Site'.

4. **Evaluation of Options**

Community Building Contribution

- 4.1 Option 1 is the recommended option. The project proposed by Sholden Parish Council would increase the capacity of an existing community building close to the development site and is deliverable within an acceptable timescale.
- 4.2 Option 2 is not recommended because if the funding is not allocated to a project, it would eventually have to be returned to the developer. No other deliverable project has been identified.

Community Building Site

- 4.3 Option 3 is the recommended option because it would allow the Parish Council to pursue delivery of a new village hall and, potentially, to request the remaining funding for this purpose.
- 4.4 Option 4 is not recommended because it would close off the available options unnecessarily.

5. **Resource Implications**

The funding was received for the purpose of providing a community building either on the development site or within the ward of the development, or in an adjoining ward and would have to be returned to the planning applicant if it is not allocated to a deliverable project. There are no wider corporate financial implications.

6. **Corporate Implications**

- 6.1 Comment from the Section 151 Officer: Finance has been consulted and has nothing further to add (SB).
- 6.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 6.3 Comment from the Equalities Officer: This report does not specifically highlight any equalities implications, however in discharging their responsibilities members are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>.

7. **Appendices**

Appendix 1 – Plan 1 from the S106 agreement associated with DOV//10/01012

Appendix 2 – Letter from Sholden Parish Council

8. **Background Papers**

Cabinet report of 5 December 2015

Contact Officer: Emma-Jane Allen, Principal Infrastructure and Delivery Officer.