

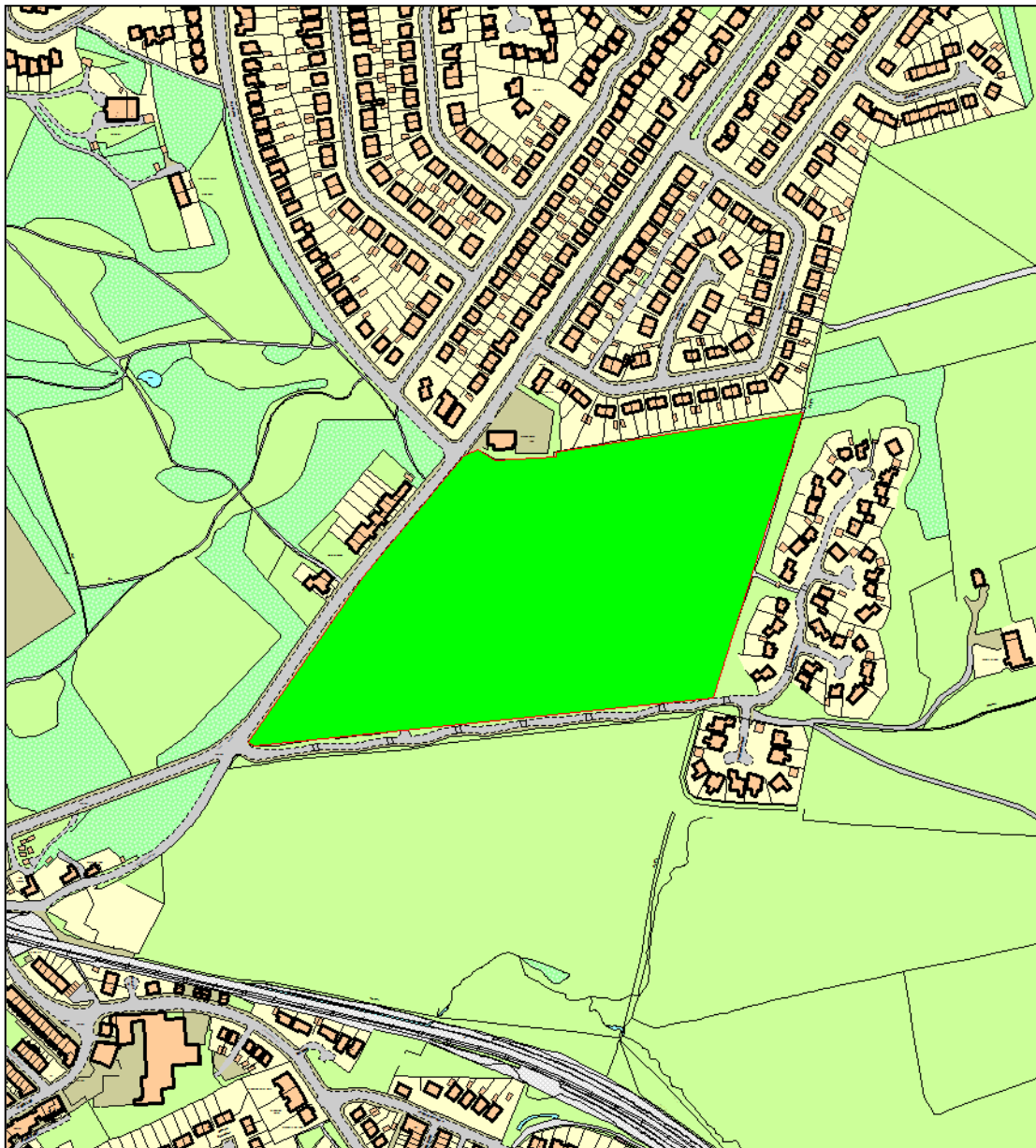
Proposed development: Variation to Section 106 Planning Obligation for Planning Application 10/16/0789

Site address: Land at Pole Lane, Darwen

Applicant: Ruttle Plant Holdings Ltd

Ward: Marsh House

**Councillor Kevin Connor
Councillor Neil Slater
Councillor Lynn Perkins**



1.0 SUMMARY OF RECOMMENDATION

- 1.1 It is recommended that Members agree to the suggested amendment to the existing Section 106 Agreement, amounting to additional commuted sum payments of £250,000, in order for the development to proceed fully.

2.0 KEY ISSUES/SUMMARY OF PLANNING BALANCE

- 2.1 The developers of the site have indicated that the proposed deed of variation to the existing s106 agreement is required to allow for the existing approved development to be delivered. The current s106 agreement has two elements that cannot be delivered in their existing format; (1) the re-routing of drain S10, which serves Spring Meadows and was to be diverted into an adopted surface water drain (2) The agreed position of the access road on the southern boundary of the site.
- 2.2 Therefore, officers and the developer have been working together to find a practical solution to ensure that the development proceeds, which will enable the approved scheme for 126 dwellings to be delivered. The current proposal seeks to address point (1) via the provision of a commuted sum payment of £150,000 to enable surface water to be directed to an existing watercourse rather than drain S10; and (2) the provision of a £100,000 commuted sum payment to enable the access road position to be adjusted by approximately 1.4m to the south.
- 2.3 Members must determine whether the suggested amendment of the Section 106 Agreement is acceptable in order to facilitate the development at this site.

3.0 RATIONALE

3.1 Site and Surroundings

- 3.1.1 The site is located on the eastern side of Pole Lane and is bounded by Spring Meadows road along the southern boundary, Spring Meadows residential properties to the east and Rudyard Drive and the Craven Heifer Public House are located to the north. The housing development area measures approximately 5.7 hectares, comprising rough grassland, most recently used for the grazing of horses.

3.2 Proposed Development

- 3.2.1 The site has the benefit of an outline planning approval (10/12/0933) for up to 133 dwellings and reserved matters approval (10/16/0789) for 126 units. A number of the conditions within the reserved matters approval has subsequently been varied by application 10/17/1043.
- 3.2.2 The approval granted under 10/16/0789, was subject to the applicant entering into a Section 106 Agreement, to covenant a financial contribution of £30,000

towards the delivery of community benefits; and £40,000 towards the provision of highway improvements.

- 3.2.3 The applicant is seeking to amend the existing s106 agreement by committing to a further £250,000 financial contribution towards the delivery of an alternative surface water drainage solution (£150,000) and revised highway infrastructure arrangements (£100,000). The existing committed commuted sum requirements attached to the 10/16/0789 application are unaffected by these additional payments.

3.3 Development Plan

3.3.1 Core Strategy (January 2011):

Policy CS1: A Targeted Growth Strategy

Policy CS5: Locations for New Housing

Policy CS7: Types of Housing

3.3.2 Blackburn with Darwen Borough Local Plan Part 2 (December 2015):

Policy 11: Design

Policy 8: Development and People

Policy 9: Development and the Environment

Policy 10: Accessibility and Transport

Policy 12: Developer Contributions

3.4 Assessment

- 3.4.1 The applicant has advised that the proposed deed of variation to the original s106 legal agreement is required for the development to be delivered and Spring Meadows Road to be widened and upgraded. There are two unforeseen issues that have come to light since the approval of the reserved matters application 10/16/0789 that prevent those outcomes, they are set out below.

- 3.4.2 Issue one: The original s106 agreement allowed for the re-routing of an existing drain (S10) to run into an adopted surface water drain on the site periphery. That solution was based upon discharge rates that were agreed as part of reserved matters application 10/16/0789. Prior to implementation United Utilities, who are the statutory provider of the adopted surface water drain in Pole Lane, has now revised the discharge rates to a minimal level. The impact of this change is that it is no longer possible for the S10 drain to be discharged to the adopted surface water drain. In the absence of an alternative solution, this would effectively prevent the development coming forward.

- 3.4.3 Through dialogue with the Council's drainage team it has been agreed that drain S10 can be discharged to an existing watercourse; that solution being compliant with local and national flood risk planning policy and not liable to place the future development or surrounding uses at an increased risk of

flooding to the scheme currently in place. In order to fulfil this alternative solution it has been agreed that a commuted sum payment of £150,000, to allow for the re-route of the S10 drain under Council powers, is necessary. The figure has been agreed by both the Council and the developer and it is requested that Members sanction this change by supporting the current s106 deed of variation application.

- 3.4.4 Issue two: The original s106 agreement attached to 10/16/0789 included a plan that detailed the realignment of Spring Meadow road. The developer has advised that the position of the proposed and consented roads needs to be adjusted in position by approximately 1.4m to the south. This is in order to allow for minimal disturbance of the existing adopted services in the road and allow for the Council to form the top coat of the carriageway at their discretion.
- 3.4.5 The Council Highway team has been involved in extensive dialogue with the developer that has resulted in the submission of the revised highway layout accompanying this application, which is intended to be appended to the s106 agreement. The construction of the road is now being proposed to be split between the developer and the Council. In order to facilitate this, a negotiated payment of £100,000 is required; the payment is also to be secured through the amended s106 legal agreement. The proposed changes are considered to be without detriment to the safe, efficient and convenient movement of all highway users. Furthermore, it is considered the proposed change will allow the Spring meadows road to be delivered quicker than was likely with the previously consented scheme.
- 3.4.6 In summary, the proposed changes amount to an additional commuted sum payment by the developer of £250,000. The changes to the previously agreed drainage and highway arrangements are considered to be without detriment to flood risk or highway safety interests, whilst the financial contribution has been negotiated to ensure that the payment is appropriate and proportionate. It is considered that the requested change to the s106 is necessary to enable the previously consented scheme for 126 dwellings to be implemented and that this outcome is compliant with the Council's strategic objectives for growth and housing delivery.

4.0 RECOMMENDATION

- 4.1 **APPROVE** – amend the s106 legal agreement pursuant to application 10/16/0789

5.0 PLANNING HISTORY

- 5.1 The following applications are of relevance to the assessment of this application;

10/12/0933 – Outline Application for: Erection of up to 133 no. dwellings

10/16/0789 - Reserved Matters Application for erection of 126 dwellings pursuant to Outline Planning Approval 10/12/0933.

10/17/0250 - Works to straighten and upgrade Spring Meadows Road so that it can be adopted

10/17/0414 - Variation to Section 106 Planning Obligation for Planning Application 10/12/0933

10/17/0418 - Removal of Condition No. 8 on planning approval 10/12/0933

10/17/1043 - Variation of conditions 1, 3, 4 and 5 relating to planning permission (10/16/0789) Reserved Matters Application for erection of 126 dwellings pursuant to Outline Planning Approval 10/12/0933

6.0 CONSULTATIONS:

6.1 Local Highways Authority: See update report

6.2 Local Drainage Authority: See update report

7.0 CONTACT OFFICER: Martin Kenny, Principal Planner

8.0 DATE PREPARED: 4th January 2018