



**Horsham  
District  
Council**

# **DEVELOPMENT MANAGEMENT REPORT**

**TO:** Development Management Committee (North)

**BY:** Head of Community and Culture

**DATE:** 4<sup>th</sup> October 2016

**DEVELOPMENT:** Countryside Development

**SITE:** Land South of Broadbridge Heath, Old Wickhurst Lane, Broadbridge Heath, West Sussex

**WARD:** Broadbridge Heath

**APPLICATION:** To vary the Original 2011 Section 106 Agreement.

**APPLICANT:** Countryside Properties

**REASON FOR INCLUSION ON THE AGENDA:** Variation to a S106 Agreement

**RECOMMENDATION:** That the Committee agrees to the Section 106 Agreement being varied.

## **1. THE PURPOSE OF THIS REPORT**

- 1.1 In 2010, the Committee agreed to grant the planning application approval under reference DC/09/2101 subject to the completion of a legal agreement.
- 1.2 The legal agreement was completed on 3<sup>rd</sup> October 2011. This has been varied three times and it needs to be varied again.
- 1.3 The Outdoor Sports Facilities are ready to be delivered. However, various changes to the outline plans and the respective obligations in the Original legal agreement need to be amended.
- 1.4 The Committee's authority is required in order for the Original Agreement to be varied again.
- 1.5 Both Countryside and the Council therefore need Committee's approval to enter into the further variation (Fourth Supplemental Agreement) to the original s106 Agreement dated 3<sup>rd</sup> October 2011
- 1.6 The reasons for the variation are as follows:
  - a. To deliver the intentions of the original sports and recreation master plan as set out in the Original Agreement as amended by further discussions
  - b. The Original Agreement required the developer to provide a 500 sqm pavilion subject to a £250,000 index linked costs cap.

- c. Since the date of the Original Agreement, the costs of providing a pavilion that is suitable have far exceeded this amount and a modified approach is required to enable the developer to deliver an appropriate pavilion and club house to service the new sports pitches/recreation ground south of Broadbridge Heath Leisure Centre in time for the 2017/18 football season
- d. In lieu of the improved specification for the Pavilion, Council officers have negotiated to provide the two MUGAs and a kick about area itself, on land that is to be transferred to the Council, instead of being provided by Countryside as required by the original s106.
- e. The commuted sums for the maintenance of the MUGAs and the sports pitches will remain to be paid to the Council by Countryside but will be reduced to enable the developer to build the pavilion to the requirements of the Council. These sums are satisfactory to the Council.
- f. In order for the Council to build the MUGAs the Broadbridge Heath Leisure Extension Land will need to be transferred to the Council earlier than set out in the Original Agreement and the Original Transfer Deed will have to be amended to reflect this. The Deed of Variation will have a new Transfer Deed and Plan and a new Plan 2 for the revised layout of the Outdoor Sports Facilities.
- 1.7 This variation will speed up the overall delivery of the sports pitches and outdoor sports facilities

#### **DESCRIPTION OF THE APPLICATION**

- 1.8 In brief, the deed of variation will amend the following:
- the obligations on the developer to provide 2 MUGAs and the kick about area will be removed and they will be provided by the Council instead
  - the obligations to provide a pavilion will be amended from providing a 500 sqm pavilion at a cost of no more than £250,000 to providing a 455 sqm pavilion at a cost of £881,341
  - the obligation to provide a skate park will remain
  - the obligations to pay commuted sums for the maintenance of the outdoor facilities will remain but will be apportioned accordingly
  - the obligation to transfer the Broadbridge heath leisure extension land and the outdoor sports facilities land will remain but the leisure centre extension site will be brought forward to enable the Council to arrange for the two MUGAs to be built.
  - there will be new obligations on the council to provide two MUGAs and a kick about area.
  - There will be a new obligation on the developer to pay a further open space contribution for the provision of open space facilities in the parish
  - The indicative outdoor sports facilities site plan will be replaced
  - The Transfer Deed and the Plan for the Broadbridge Heath Leisure Centre Extension Site will be replaced.

## DESCRIPTION OF THE SITE

- 1.8 The outdoor sports facilities are situated to the south of the Broadbridge Heath Leisure Centre.

## 2. INTRODUCTION

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

### RELEVANT GOVERNMENT POLICY

- 2.2 The National Planning Policy Framework (2012):

### RELEVANT COUNCIL POLICY

- 2.3 The following policies in the HDPF are considered to be relevant:

Policy 39 (Strategic Policy: Infrastructure Provision)

- 2.4 Local Development Framework: Supplementary Planning
- Facilitating Appropriate Development (2009) (FAD)
  - Planning Obligations (2007)

### 2.5 PLANNING HISTORY

DC/09/2101 - erection of 963 residential units, community facilities including land for a primary school, neighbourhood centre, youth and recreational facilities, other formal and informal open space, landscaping and environmental works, transport and access arrangements, new east-west link road, improvements to Five-Oaks roundabout, realignment and partial closure of existing A264 Broadbridge Heath by-pass and other ancillary works (outline planning permission).

DC/11/2059 – Details of first phase infrastructure works pursuant to outline DC/09/2101 comprising details of new roundabout etc.(reserved matters)

DC/11/2074 – Development of 105 residential units and open space (reserved matters)

DC/12/0814 – reserved matters approval for residential development of 135 houses (reserved matters)

DC/12/1651 – development of 101 residential units and open space (reserved matters)

DC/12/1251 – Details of second phase infrastructure works comprising eastern section of 40mph dual carriageway etc. (reserved matters)

DC/12/2202 – approval of reserved matters for the erection of 320 residential units (reserved matters)

DC/13/1144 – variation of condition 22 – footpaths/cycleway linked to DC/11/2074

DC/13/1690 – Development of 136 residential units including 22 affordable units, creation of open space etc. (reserved matters)

DC/14/0109 – erection of 70 residential units, etc. (reserved matters)

DC/15/0284 – reserved matters application for Neighbourhood Centre at Wickhurst Green (to be determined)

DC/16/1263 – development of 5 MUGAs, playing pitches etc.

### **3. OUTCOME OF CONSULTATIONS**

- 3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at [www.horsham.gov.uk](http://www.horsham.gov.uk).

#### **INTERNAL CONSULTATIONS**

- 3.2 The Head of Community and Culture fully supports the proposed deed of variation and comments that it is essential to obtain best value for both the MUGAs and the pavilion. It will also enable the delivery of a pavilion that is essential if the intended tenant (Broadbridge Heath Football Club) to maintain its FA status following the demolition of the existing Broadbridge Heath Leisure Centre in 2017 and the eventual relocation of the Athletics track (which currently doubles as a first team pitch for Broadbridge Heath Football Club). The variation also ensures the delivery of a pavilion that is critical to the business plan of the intended tenant and their ability to maintain the site in perpetuity after the commuted sums are eroded. Finally it ensures that the MUGAs, skate park and kick about area can be delivered within necessary and appropriate time lines given that site access will become problematic for construction of the MUGAs once work on the new Leisure Centre starts.

#### **OUTSIDE AGENCIES**

- 3.3 Broadbridge Heath Parish Council is aware of the proposed variation and has been party to the conversations and rationale that led to its construction.

### **4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS**

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

### **5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER**

- 5.1 The variation will facilitate the delivery and sustainability of important recreation and sporting infrastructure which will provide positive participation opportunities for young people and adults in perpetuity.

### **6. PLANNING ASSESSMENTS**

- 6.1 The key issue for consideration in relation to this proposal is the impact of making the changes sought upon the ability to deliver the sports pitches and outdoor sports facilities as defined in the original S106 Agreement. The variation has no impact in this respect.

- 6.2 Its sole purpose is to enshrine changes in responsibilities between the Council and Countryside Properties' in the way that the facilities will be delivered. This is to obtain best value for both parties and is linked to the Council's decision to build a new Broadbridge Heath Leisure Centre. This included 3 MUGAS that will now be conjoined with the 2 additional MUGAS provided through the original s106 which has helped to unlock resources to help deliver the pavilion.

## **7 CONCLUSION**

- 7.1 This application seeks the Committee's approval to vary some of the clauses contained in the original S106 agreement which relate to the sports pitches and outdoor sports facilities. The changes are to enable the Council and the developer to re-divide their respective responsibilities to ensure best value and the long term sustainability of the new sports ground. The changes are considered compliant with those policies that seek to ensure appropriate infrastructure, particularly sporting infrastructure, is secure to meet the demands as a result of the overall development.

## **8. RECOMMENDATIONS**

- 8.1 That the Committee agree to delegate to the Development Manager the power to vary the relevant Clauses in the original S106 Agreement as detailed in this report.

Officer responsible: Trevor Beadle – Head of Community and Culture  
Supporting papers: Paula Slinn – Legal Services