

**PROPOSED VARIATION TO COMMITTEE RESOLUTION -  
PLANNING APPLICATION 21/10693 TESTWOOD CLUB, 110  
SALISBURY ROAD, TOTTON**

**1. RECOMMENDATIONS**

1.1 It is recommended that the resolution of Planning Committee from 11 August 2011 in respect of application 21/10693 be amended to substitute the requirement to complete a Section 106 agreement with alternative arrangements to delegate authority to the Executive Head of Planning, Regeneration and Economy to secure:

- an obligation for the provision and retention of at least 35% of the homes as affordable housing.

- an obligation to pay the relevant financial contributions (Habitat Mitigation, Bird Awareness and Air Quality) directly to the Council before any development commences on site.

1.2 Upon these obligations being secured, the planning approval shall be issued, subject to the planning conditions previously approved by this Committee.

**2. BACKGROUND**

2.1 Planning application 21/10693 was approved by the Planning Committee at the meeting of 11<sup>th</sup> August 2021.

The application sought permission to demolish the existing social club and erect 12 new homes. The application was submitted on behalf of the Council by the Council's Strategic Housing Manager. The Council is therefore both the applicant and local planning authority.

The Officer's recommendation for approval was supported by the Committee (extract from minutes below):

*Decision:*

*Delegated Authority be given to the Executive Head of Planning, Regeneration and Economy to GRANT PERMISSION subject to a Section 106 agreement to secure the following:*

- i) the provision and retention of Affordable Housing on the site in accordance with Policy HOU2 in perpetuity*
- ii) the financial contribution of £42,168 to secure recreational habitat mitigation*
- iii) the financial contribution of £5,298 to secure Bird Aware mitigation*
- iv) the financial contribution of £1,020 to secure Air Quality monitoring.*

### **3. PROPOSED CHANGE**

- 3.1 Further discussions have taken place since the Committee meeting in respect of the proposed Section 106 agreement and the particular issue that occurs when the applicant is the Council as well also the Local Planning Authority (NFDC).

All Section 106 agreements require the inclusion a monitoring/enforcement provision to ensure that the obligations are met, and this would usually be the responsibility of NFDC as local planning authority. However, as NFDC is also the applicant/developer, then it is not possible for the council to enforce against themselves. It is possible to name another Local Planning Authority as the enforcing authority, but this can be a lengthy process and requires another authority to agree to take on the role.

Whilst it is preferable that a s106 agreement be completed, it is accepted that in these circumstances it might not be possible and other legal mechanisms may be necessary to secure the obligations required by policy.

One such option is to secure commitments from the landowner outside the s106 process to meet the obligations.

Officers consider that given the fact that the local planning authority and landowner are one and the same body, with both sharing the objective of delivering affordable homes within the district such an approach is appropriate in this particular instance. However, it would not be appropriate for schemes where the applicant is not the Council.

#### **For further information contact:**

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#### **Background Papers:**

Planning Committee report – 11 August  
2021  
  
Minutes of the Planning Committee – 11  
August 2021