
F/YR15/0877/F, F/YR16/0316/F, F/YR16/0316/F

**Applicant: Mark Mann
Larkfleet**

Agent :

Phases 2, 2a and 3 of the Bassenhally Farm

**Modification of Planning Obligations attached to planning permissions
F/YR15/0877/F, F/YR16/0316/F, F/YR16/0316/F to enable adjustments to triggers
and contribution amounts relating to Pre-School Education, Primary Education
and Secondary Education.**

Reason for Committee: In the absence of delegated authority

1 EXECUTIVE SUMMARY

This application seeks to modify the existing Section 106 Agreement relating to Phases 2, 2a and 3 of the Bassenhally Farm/Whittlesey Green development to reflect the amendments to triggers. In addition, following input from the County Council, as Local Education Authority, amendments are also now proposed to the contribution amounts payable.

The County Council have clarified that the revisions to the amounts payable are 'as a consequence a need to *'correct a number of errors in the calculations relating to the pupil yields derived from the dwelling mixes across all three phases. The changes we have agreed ensure that all three phases (and phase 4) are calculated on the same basis to ensure consistency.'*

The guidance/input of the County Council is noted, and it is recommended that authority be granted by the Committee to enter into deeds of variation relating to the changes detailed

2 SITE DESCRIPTION

- 2.1 The application sites form Phases 2, 2a and 3 of the approved Bassenhally Farm/Whittlesey Green development.

3 PROPOSAL

- 3.1 This proposal seeks to vary the existing Section 106 Obligations entered into the developments at Phase 2, Phase 2a and Phase 3. These variations come forward under S106A (1)(a), i.e. an agreement between the parties and NOT

as a consequence of an application by the developer to modify pursuant to S106A (3).

- 3.2 Details of each S106 Agreement are shown in the table below; it should be noted that all details excepting the trigger points and the contribution amounts relating to Early Years, Primary Education and Secondary education remain unchanged by the proposed DOVs

Reference	S106 Dated	Obligations secured (triggers)
F/YR15/0877/F	18.08.2016	<p>Early Years £243,656 Primary Education £70,719 Secondary education £640,008 <i>(50% prior to commencement and 50% prior to occupation of 50%)</i></p> <p>Libraries and Lifelong Learning £9,814</p> <p>Strategic waste £778.41 <i>(prior to 50% occupation)</i></p> <p>Public Open space <i>(Construction and laying out prior to 50% occupation of the open market dwellings)</i></p> <p>25% Affordable Housing <i>(Contract to be entered into with Affordable Housing Provider before 50% occupation of open market dwellings)</i></p>
F/YR16/0316/F	30.09.2016	<p>Early Years £87,020 Primary Education £17,144 Secondary education £160,002 <i>(50% prior to commencement and 50% prior to occupation of 50%)</i></p> <p>Libraries and Lifelong Learning £3,959.28 <i>(prior to 50% occupation)</i></p> <p>Strategic waste £393.39 <i>(prior to 50% occupation)</i></p> <p>12 dwellings as affordable housing <i>(Contract to be entered into with Affordable Housing Provider before 50% occupation of open market dwellings)</i></p> <p>Monitoring contribution £650</p>
		<p>Early Years £365,484 Primary Education £505,550 Secondary education £443,327</p>

		<p><i>(50% prior to occupation of 1st dwelling and 50% prior to occupation of 50%)</i></p> <p>Healthcare contribution £39,902 <i>(prior to 80% occupation)</i></p> <p>Libraries and Lifelong Learning £15,950 <i>(prior to 50% occupation)</i></p> <p><i>27 dwellings as affordable housing (Contract to be entered into with Affordable Housing Provider before 50% occupation of open market dwellings)</i></p> <p>Monitoring contribution £650</p>
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3.3 The purpose of the variations is to secure amendments to the trigger points for payment of the Early Years Contribution, the Primary Education Contribution and the Secondary Education Contribution. For Phase 2 and Phase 2A the relevant triggers have already been reached at the developments are built out so the agreements will be varied to ensure all payments are made on completion of each respective deed.

3.4 In respect to Phase 3 the Early Years, Primary and Secondary triggers will be varied to ensure payment as follows:

1. 30% of the contribution prior to the Occupation of more than 40% of the Dwellings to be erected on the Site.
2. 30% of the contribution prior to the Occupation of more than 60% of the Dwellings to be erected on the Site.
3. 40% of the contribution prior to the Occupation of more than 80% of the Dwellings to be erected on the Site.

4 SITE PLANNING HISTORY

F/YR15/0877/F	Erection of 93 residential dwellings with associated garages and infrastructure to form Phase 2 of Whittlesey Green.	Granted 18.08.2016
F/YR16/0316/F	Erection of 47 x 2-storey dwellings (Phase 2a) comprising of 6 x 1-bed apartments, 10 x 2-bed, 26 x 3-bed, 1 x 4-bed and 4 x 5-bed with garages	Granted 30.09.2016
F/YR18/0331/F	Erection of 110 x dwellings comprising of: 5 x 2-storey 5-bed, 19 x 2-storey 4-bed, 73 x 2-storey 3-bed, 11 x 2-storey 2-bed and 2 x 2-bed flats with associated garages, parking and landscaping	Granted 02.10.2018

5 POLICY FRAMEWORK

5.1 National Planning Policy Framework (NPPF)

Planning Conditions and Obligations.

5.2 National Planning Practice Guidance (NPPG)

Viability and decision taking
Planning obligations

5.3 Fenland Local Plan 2014

LP13 - Supporting and Mitigating the Impact of a Growing District

5.4 Developer Contributions SPD (adopted February 2015)

6 ASSESSMENT

- 6.1 The purpose of the variations is to secure amendments to the trigger points for payment of the Early Years Contribution, the Primary Education Contribution, the Secondary Education Contribution, Libraries and Waste Contributions. For Phase 2 and Phase 2A the relevant triggers have already been reached at the developments are built out so the agreements will be varied to ensure all payments are made on completion of each respective deed.

In respect to Phase 3 the Early Years, Primary and Secondary triggers will be varied to ensure payment as follows:

1. 30% of the contribution prior to the Occupation of more than 40% of the Dwellings to be erected on the Site.
 2. 30% of the contribution prior to the Occupation of more than 60% of the Dwellings to be erected on the Site.
 3. 40% of the contribution prior to the Occupation of more than 80% of the Dwellings to be erected on the Site.
- 6.2 Originally the proposals came forward solely in respect of the 'triggers' and to this end the Deed of Variations (DOVs) progressed under delegated powers. However, on receipt of the draft DOVs Officers noted discrepancies between the contribution amounts and these were queried with the County Council.
- 6.3 Officers were advised that the amendments to the amounts detailed were necessary to *'correct a number of errors in the calculations relating to the pupil yields derived from the dwelling mixes across all three phases. The changes we [CCC] have agreed ensure that all three phases (and phase 4) are calculated on the same basis to ensure consistency.'* It is further noted that the revised contributions also sought to address the matter of 'rounding up' which was deemed as non-compliant with CIL as this would inflate the contribution levels across a phased scheme.
- 6.4 Whilst it is clear that this is largely a matter of 'book-keeping' and that the changes proposed have little consequence for the Local Planning Authority, being that the County are best placed to identify the requisite contributions in

line with their contributions formula, it was considered procedurally necessary to secure endorsement of the committee to enter into the DOVs.

- 6.5 As indicated above, each scheme remains fully policy compliant in terms of the necessary obligations due and it is not a case that there is scope to divert monies to other infrastructure requirements as the schemes each make requisite provision for appropriate infrastructure and contributions in accordance with the FLP
- 6.6 The original S106 Planning Agreements secured the amounts detailed in Column 2 in respect of education and these were payable prior to commencement (50% of contribution) with the remaining 50% due prior to occupation of 50% of the dwellings.

	Column 2 Original amount	Column 3 Revised contributions
Phase 2		
Early Years	243,656	238,435
Primary	70,719	45,432
Secondary	640,008	378,671
Phase 2a		
Early Years	87,020	81,779
Primary	17,144	16,278
Secondary	160,002	144,022
Phase 3		
Early Years	365,484	306,310
Primary	505,550	612,727
Secondary	443,327	471,327
	2,532,910	2,294,981

- 6.7 The County Council and the Applicant has agreed to amend the triggers to those set out in paragraph 6.1 above and in considering this matter have taken the opportunity to adjust the amounts payable as per column 3 given the formula and rounding-up anomalies highlighted at 6.3 above.

7 CONCLUSIONS

- 7.1 The request to enter into deeds of variation in respect of the highlighted schemes has been given due consideration and given that the changes have been agreed between the Applicant and the County Council, the Local Education Authority, it is recommended to accept the principle of Deed of Variations in respect of the above, i.e. amended to reflect the revised contribution amounts and trigger points.

8 RECOMMENDATION

- 8.1 Members approve the changes outlined above and give delegated authority to Officers to complete the Deeds of Variation.