

<b>REPORT TO:</b>	<b>PLANNING COMMITTEE</b>	<b>AGENDA ITEM:5</b>
<b>DATE OF MEETING:</b>	<b>07 MARCH 2023</b>	<b>CATEGORY: DELEGATED</b>
<b>REPORT FROM:</b>	<b>HEAD OF PLANNING AND STRATEGIC HOUSING</b>	<b>RESTRICTED DOC</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>Sarah Beeby</b> <a href="mailto:sarah.beeby@southderbyshire.gov.uk">sarah.beeby@southderbyshire.gov.uk</a>	
<b>SUBJECT:</b>	<b>DEED OF VARIATION – LAND AT SK2420 2230, DRAKELOW PARK, WALTON ROAD, DRAKELOW</b>	<b>REF: DMPA/2020/1460</b>
<b>WARD(S) AFFECTED:</b>	<b>LINTON, SEALES</b>	<b>TERMS OF REFERENCE</b>

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## **1.0 Recommendations**

- 1.1 That the Committee approves the request to amend the Section 106 Agreement (S106) to include a clause which would allow S73 applications to be made with no impact on the Section 106 Agreement – such that its provisions and all requirements would remain in place, unaffected.
- 1.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the final wording of the clause to be secured under the DoV.

## **2.0 Purpose of Report**

- 2.1 To inform the Committee of the proposed change to the S106 Agreement, Land at SK2420 2230, Drakelow Park.

## **3.0 Background**

- 3.1 Members may recall that the site was granted outline planning permission most recently by means of a Section 73 application to vary conditions on a previous approval for up to 2,239 dwellings. This permission was subject to a new S106 Agreement and can be found under planning reference [DMPA/2020/1460](#).
- 3.2 South Derbyshire District Council are currently dealing with a further S73 application to amend the condition relating to the phasing of the development which would slightly enlarge phase 2 of the development. This application does not seek to amend any of the contributions or triggers identified in the S106 Agreement.

## **4.0 Discussion**

- 4.1 The developers have submitted an application to amend a condition relating to the approved phasing areas of the site, by means of a S73 application. This decision on the S73 application would effectively become 'the permission' for the development.
- 4.2 This application does not seek to amend the contributions within the S106

Agreement or any of the trigger points contained within this legal document.

4.3 However, the S106 Agreement for the site does not include a standard clause, which is frequently used in S106 Agreements, to ensure that the contents of the S106 Agreement remain valid subsequent to any permissions to vary or remove conditions by means of the provisions of S73 of the Act.

4.4 The developers would therefore like to amend the S106 Agreement to include a standard clause to ensure that the S106 Agreement and all requirements contained within this remain valid should the current S73 application or any subsequent such applications which could come forward in the future be approved.

## **5.0 Financial Implications**

5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by the developers they have requested the DoV.

## **6.0 Corporate Implications**

6.1 None.

## **7.0 Community Implications**

7.1 None

## **8.0 Background Information**

a) [Section 106 Agreement](#)