

3/11/2137/SV – Modification of s.106 agreement in respect of the commercial buildings approved under ref: 3/04/0657/OP by the removal of a £125,000 Highways Contribution at 95-97 London Road, Bishop's Stortford, CM23 3DU for Tanners Wharf Ltd.

Date of Receipt: 20.12.2011

Type: Variation of S106 – Major

Parish: BISHOP'S STORTFORD

Ward: BISHOP'S STORTFORD – CENTRAL, SOUTH AND ALL SAINTS

RECOMMENDATION:

That Members confirm that, if they were able to determine the application, they would have agreed to a variation of the s.106 agreement to remove the following financial contribution:

- A highways contribution of £125,000 towards the Bishop's Stortford Transportation Plan.

1.0 Update on application:

- 1.1 Members will recall that the above planning application was reported to the August committee meeting. The application seeks consent for the modification of a S106 agreement involving the removal of a financial contribution of £125,000 towards works contained in the Bishop's Stortford Transportation Plan. The Officers report relating to that application is attached as appendix A to this report.
- 1.2 Members resolved to defer the application at the August meeting to allow Officers to negotiate with the applicant in respect of a phased payment of the contribution, rather than complete removal of the contribution.
- 1.3 The applicant has not responded to Officers in respect of such a proposal, but has submitted to the Council a copy of an appeal to the Planning Inspectorate against non-determination of the application.
- 1.4 In light of that appeal, the Council will now be unable to make a decision on the application, but nevertheless must make representations in respect of the appeal. The Council must indicate to the Inspectorate as part of the process of the appeal what decision the Council would have made on the application, had it been able to do so.

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- 1.5 Given that this is an application which must be determined by the Development Control Committee, Officers seek the Committee's views on the likely decision of the Committee. Members are referred to the Officers Committee Report in relation to the planning considerations relating to this application. No further correspondence has been received from the applicant in respect of additional viability information – Officers previous considerations and recommendation therefore remain the same.

- 1.6 In particular, Members' attention is drawn to paragraphs 7.7 to 7.10 of the previous report which relates to the professional advice that has been received regarding the viability of the scheme and its ability to provide this financial contribution. Officers consider that, given this advice, it would be difficult to sustain a refusal on appeal and for this reason; Officers' recommendation remains that the Council should agree to remove the contribution from the legal agreement.