

Report of the Chief Executive

VARIATION TO SECTION 106 AGREEMENT KIMBERLEY BREWERY, KIMBERLEY

Variations are proposed to the Section 106 Agreement which deviate from the decision taken by Planning Committee and therefore require the approval of the Members.

1 History and details of the Application

1.1 In December 2015 planning permission and Listed Building Consent was granted for a hybrid application at Kimberley Brewery (13/00570/FUL and 13/00571/LBC). This application related to the construction of 78 dwellings, including details of access and scale, all other matters reserved (outline) and a full application for change of use of Maltings No. 1 to 18 apartments and the tower to 2 apartments and the construction of a 3-storey building to comprise 24 new apartments. These applications were granted at Planning Committee, subject to the signing of a Section 106 legal agreement.

1.2 This legal agreement was worded to ensure that the historical buildings within the Brewery yard were repaired and converted prior to the completion of more than 10 new build properties (part of the 78 dwellings making up the outline part of the permission) within 'Area 3' of the site. This area is located within the woodland. The agreement was required to be worded in such a way so to ensure that the historical buildings within the site were bought back into beneficial use, rather than left to deteriorate further, in favour of the more easy to construct new build properties.

1.3 Members will recall approving planning applications for amended schemes within the brewery yard in March of 2018. These were approved subject to the prior signing of a Section 106 Agreement which was required to ensure that the requirements of the original agreement still 'bite'.

1.4 In January 2019 a proposal to vary the terms of the S106 Agreement was brought before Committee as the developers wanted to be able to sell the tower off as a separate project and not be bound by a restrictive obligation to undertake works to the tower which would prevent them building the remaining dwellings that make up the 78 approved under the outline permission. Members approved these variations which required the Phase I repair works to the tower to be completed within 2 years of the date of the signed agreement rather than the completion of a set number of dwellings. A number of other less significant minor changes were made to the agreement to reflect more recent planning permissions.

1.5 Legal advice is included in the confidential appendix to this report.

2 Requested amendments

2.1 Fairgrove Homes have approached the Council to request that the timeframe of 2 years for the initial Phase I repair works to the tower is extended by 1 year. This request comes due to the difficulties they have encountered over the last 9

months associated with COVID, particularly with regard to staffing issues, supply of materials and purchaser reluctance due to the current economic uncertainty.

- 2.2 They have confirmed that this will have no repercussions in respect of the timeframe within the DoV to complete the Phase II repair works to the tower and this will remain at 5 years from the date of the original DoV (28 January 2024).

3 Conclusion

- 3.1 Having regard to the decision of Members in relation to the original DoV, the current pandemic and the repercussions of this on individuals, businesses and the wider UK economy, it is considered that the proposed delay of 1 year in respect of the Phase I works to the tower, provided that the developer is willing to provide a further personal guarantee to cover this period, is a reasonable request.

Recommendation

The Committee is asked to RESOLVE that the Section 106 Agreement is amended to allow a further year for the completion of all works associated with Phase I of the tower repairs.

Background papers

Nil