

Officer Decision Record

Decision Maker:	Ben Clifton – Team Leader, Strategic Transport
Title:	Land at Cartwright Drive, Titchfield, Fareham, Hampshire – Deed of Variation to S106 Agreement (Legal Reference 105023)
Reference:	

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1. The decision:

1.1. That authority be given to the Chief Executive's Department in accordance with Paragraph 1.23 of the Economy, Transport and Environment Department's Scheme of Delegation to enter into a Deed of Variation to a Section 106 of the Town and Country Planning (General Development) Order 1995 with Fareham Borough Council, Gregg Alan Hawker, Nebojsa Milivoje Iric and Milan Mandaric, Minton Health Care (Titchfield) Limited and Minton Health Care Limited relating to Land at Cartwright Drive, Titchfield, Fareham, Hampshire.

2. Reason(s) for the decision:

- 2.1. A planning application for development at Land at Cartwright Drive, Titchfield, Fareham, Hampshire was submitted under reference P/14/0841/FP. Fareham Borough Council granted consent to the development subject to the completion of the Section 106 Agreement to secure necessary planning obligations.
- 2.2 The County Council as Local Highway Authority was consulted on the planning application and responded to the statutory consultation raising no objection to the application on transport grounds, subject to a package of transport mitigation measures being secured as below;

A Travel Plan with the following:

- a bond approved by the County Council in the sum of £7,100 being the sum of the cost of implementation and compliance with the targets/measures contained in paragraph 10 for the first five years of the Travel Plan plus 10% thereof by a Surety acceptable to the Head of Legal Services, and
- the sum of £5,000 (being equivalent to the monitoring cost of £1,000 per annum for five years) payable by the Owner to the County Council in accordance with the provisions of Schedule Three clause 1.3 towards the costs to be incurred by the County Council in monitoring the Travel Plan.

2.3 The legal agreement secured the above planning obligations in order that adequate transport mitigation is secured against the development.

3. Alterations to the Section 106 Agreement

3.1 Minton Health Care, who are the planning applicant in relation to the development at Cartwright Drive have sought with Fareham Borough Council's permission(local planning authority) and Hampshire County Council as signatory to amend the Section 106 Agreement as follows;

Variation to Schedule 2 of the Section 106 Agreement

- i) The words contained in paragraph 6(a) of Schedule two shall be deleted and replaced with the following:
“a person aged fifty-five or over who is in need of Extra Care, or”
To be deleted and replaced with
“a person aged fifty-five or over who has entered into a Domiciliary Care Package with the Domiciliary Care Agency, or”
- ii) The words contained in paragraph 5(b) of Schedule two shall be deleted and replaced with the following;
“an Occupier of that Extra Care Unit has procured and is receiving from the Owner or Domiciliary Care Agency a Domiciliary Care Package (provided that this obligation shall not apply to a spouse of a person falling within paragraph 5(a)).”
To be deleted and replaced with
“an Occupier of that Extra Care Unit has procured and is or will be receiving from the Owner or Domiciliary Care Agency a Domiciliary Care Package (provided that this obligation shall not apply to a spouse of a person falling within paragraph 5(a)).”

3.2 The variations agreed do not effect the Hampshire County Council elements secured in the original Section 106 Agreement and identified in paragraph 2.2.

4. Other options considered and rejected:

Not to agree to enter into the agreement

4.1. This option was considered but dismissed on the basis that this would result in development which was not supported by adequate transport infrastructure and does not sufficiently promote sustainable transport.

5. Conflicts of interest:

5.1. Conflict of interest declared by an Executive Member who is consulted by the officer which relates to the decision: None

6. Dispensation granted by the Head of Paid Service:

6.1. None

7. Supporting information:

7.1. Final draft legal agreement

Approved by:

Date:

10th May 2016

Ben Clifton – Team Leader, Strategic Transport

On behalf of the Director of Economy, Transport and Environment