

7 May 2024

SECTION 106 UPDATE REPORT

Report of the Executive Director of Environment and Planning, pursuant to the Scheme of Delegation

Parish:	(A) STOKE FERRY (B) BURNHAM MARKET
Purpose of report:	SEEK AUTHORISATION FROM PLANNING COMMITTEE TO FINALISE AND COMPLETE S106 AGREEMENTS AND ISSUE DECISION NOTICES PERTAINING TO APPLICATIONS 22/00871/FM AND 23/00805/F
Location:	(A) LAND SOUTH OF LARK ROAD STOKE FERRY (22/00871/FM) (B) METHODIST CHURCH, STATION ROAD, BURNHAM MARKET (23/00805/F)
Summary <p>The purpose of the report is to seek authorisation from Planning Committee to finalise and complete S106 agreements pertaining to application ref 22/00871/FM and 23/00805/F on the following grounds:</p> <ul style="list-style-type: none">a) 22/00871/FM – agree that the legal agreement can be completed and issue the decision notice.b) 23/00805/F – agree a further 1 month from this committee resolution until 7th June 2024 to finalise the agreement and issue the decision. If the agreement is not completed by 7th June 2024, but reasonable progress has been made, delegated authority is granted to the Assistant Director/Planning Control Manger to continue negotiation and finalise the agreement and issue the decision. If in the opinion of the Assistant Director/Planning Control Manager no progress is made, the application is refused based on the failure to secure the dwelling as a Principal Residence.	

1.0 INTRODUCTION

1.1 Historically, Planning Committee has given authorisation to negotiate S106 agreements and ensure their completion within 4 months of the date of the committee resolution. This is to ensure that planning permissions are issued expeditiously. However, from time-to-time issues arise with signing agreements which results in delay. An example of such an occurrence is when Banks/Building Societies are required to be a party or landowners live abroad etc.

- 1.2 At present, officers have no authority to negotiate past the 4-month period as committee resolutions direct that applications be refused permission in the event they are not completed within time. Given that applicants can appeal the decision, the failure to allow a further reasonable period of time (particularly when agreements are circulating) may give rise to costs awarded against the Council for unreasonable behaviour in accordance with the Planning Practice Guidance on Appeals. The ability to agree an extension of time on a case-by-case basis negates potential costs awards.
- 1.3 The following reports sets out the position on two Planning Applications 22/00871/FM and 23/00805/F where the aforementioned circumstances occur.

2.0 PLANNING APPLICATION 22/00871/FM

- 2.1 Application ref 22/00871/FM for a proposed residential development of 13 dwellings at land south of 2 And 3 Lark Road, Stoke Ferry was considered by Planning Committee on 16th November 2023. Members resolved to approve the application subject to the satisfactory completion of a S106 Agreement to secure affordable housing within 4 months of the date of the committee resolution. The agreement was therefore required to be completed by 16th March 2024.
- 2.2 After initial delay with Solicitors on the landowner's side, the finalised legal agreement is now with our Legal Services Team. Officers do not have authority to instruct completion of the agreement but given the circumstances, it is recommended that Members authorise the completion of the agreement and issue the decision notice.

3.0 PLANNING APPLICATION 23/00805/F

- 3.1 Application ref 23/00805/F for the conversion of a chapel to form a dwelling at the Methodist Church Station Road, Burnham Market Norfolk PE31 8HA was considered by Planning Committee on 4th December 2023. Members resolved to approve the application subject to a S106 agreement to secure the new dwelling as a Principal Residence within 4 months of the date of the committee resolution. The agreement was therefore required to be completed by 4th April 2024.
- 3.2 Since this date, limited progress was initially made with the Applicant's legal position as the Trustees for the Church are located in Manchester and there were delays in getting a response and approval. However, the Applicants are now progressing towards completion of the legal agreement with engrossments circulating. As a result, it is recommended that Members authorise a further period of 1 month until 7th June to allow finalisation of the legal agreement.

4.0 NEGOTIATING FUTRE S106 AGREEMENTS

- 4.1 Members are aware of the current Government consultation on an “Accelerated Planning System” which includes limiting the use of extensions of time and ensuring that more decisions are issued within the statutory 8,13 and 16 week time limits. This will have a significant impact on processing planning applications and associated negotiation on S106 agreements. Officers will therefore be process-mapping applications to ensure that S106 agreements are signed by the time applications are determined under delegated authority or by Planning Committee going forward.

5.0 RECOMMENDATION

- 5.1 Given the specific circumstances advanced above, it is recommended that Members **Grant authority to continue to negotiate and complete S106 agreements and issue the decision notices** attached to the relevant planning applications on the following grounds:

1. 22/00871/FM – agree that the legal agreement can be completed and issue the decision notice.
2. 23/00805/F – agree a further 1-month extension from this committee resolution until 7th June 2024 to finalise the agreement and issue the decision. If the agreement is not completed by 7th June 2024, but reasonable progress has been made, delegated authority is granted to the Assistant Director/Planning Control Manger to continue negotiation and finalise the agreement and issue the decision. If in the opinion of the Assistant Director/Planning Control Manager no progress is made, the application is refused based on the failure to secure the dwelling as a Principal Residence.