



PLANNING COMMITTEE: 24th November 2020
DEPARTMENT: Planning Service
DIRECTOR OF PLANNING: Peter Baguley

APPLICATION REF: N/2020/1396

LOCATION: Land to the east of Hardingstone north of Newport Pagnell Road

DESCRIPTION: Request for variations to S106 agreement dated 29 July 2015 to remove obligations relating to highways and secondary education that are now covered by the Community Infrastructure Levy

WARD: Nene Valley Ward

APPLICANT: Kier Living Ltd
AGENT: N/A

REFERRED BY: Director of Planning and Sustainability
REASON: Major application requiring S106 agreement

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1 RECOMMENDATION

- 1.1 That the Committee **AGREE** to vary the Section 106 Agreement dated 29 July 2015 to remove the obligations to make financial contributions towards highway works forming part of the Northampton Growth Management Scheme and secondary education as set out in the report.
- 1.2 That the Borough Secretary and Monitoring Officer in consultation with the Director of Planning and Sustainability be given delegated authority to remove the obligations to make financial contributions towards highway works forming part of the Northampton Growth Management Scheme and secondary education together with any consequential amendments as are considered necessary.

2 THE PROPOSAL

- 2.1 The application requests variations to the S106 agreement dated 29 July 2015 (relating to the development of land to the east of Hardingstone which forms part of the Northampton South of Brackmills SUE) to remove obligations relating to highways and secondary education which are now covered by the Community Infrastructure Levy.

3 SITE DESCRIPTION

- 3.1 The application site is located to the north of Newport Pagnell Road and comprises two parcels of agricultural land located either side of Landimore Road. A public footpath (KN6) runs through both parcels of land diagonally, extending from the northwest in Hardingstone across the site south-eastwards towards Pagnell Court and onto Newport Pagnell Road. The site is situated on a ridge where the land rises up from the Nene Valley and Brackmills Industrial Estate towards Brackmills Wood and then undulates throughout the site dropping away to Newport Pagnell Road. The site is bounded by residential properties on The Warren to the west, Newport Pagnell Road to the south west and residential properties on Pagnell Court to the south east.

4 PLANNING HISTORY

- 4.1 N/2013/0338: Sustainable Urban Extension for up to 1,000 dwellings; local centre; primary school; community uses; associated infrastructure improvements and highway access from Landimore Road and Newport Pagnell Road. Refused permission; appeal allowed.
- 4.2 N/2019/0048: Reserved Matters Application pursuant to Outline Planning Permission N/2013/0338 (Sustainable Urban Extension for up to 1,000 dwellings; local centre; primary school; community uses; associated infrastructure improvements and highway access from Landimore Road and Newport Pagnell Road) for Phase One development comprising 385no dwellings with associated infrastructure and open space areas. Approved.

5 PLANNING POLICY

5.1 Statutory Duty

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014), and Northampton Local Plan (1997) saved policies.

5.2 National Policies

The **National Planning Policy Framework (NPPF)** sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

Paragraphs 7-12 - Presumption in favour of sustainable development.

Section 4 - Decision making

Section 5 - Housing Supply

Section 8 - Promoting healthy and safe communities

Section 9 - Promoting sustainable transport

Section 11 - Making effective use of land

Section 12 - Achieving well designed places

Section 14 - Meeting the challenge of climate change and flooding

Section 15 - Conserving and enhancing the natural environment

Section 16 - Conserving and enhancing the historic environment

5.3 West Northamptonshire Joint Core Strategy (2014)

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

SA - Presumption in Favour of Sustainable Development

S5 - Sustainable Urban Extensions
S10 - Sustainable Development Principles
N6 - Northampton South of Brackmills SUE
C1 - Changing Behaviour and Achieving Modal Shift
C2 - New Developments
H1 - Housing Density and Mix and Type of Dwellings
H2 - Affordable Housing
BN1 - Green Infrastructure Connections
BN2 - Biodiversity
BN3 - Woodland Enhancement and Creation
BN7A - Water Supply, Quality and Wastewater Infrastructure
BN7 - Flood Risk
BN9 - Planning for Pollution Control
Policy INF2 - Contributions to infrastructure requirements

5.4 **Northampton Local Plan 1997 (Saved Policies)**

Due to the age of the plan, the amount of weight that can be attributed to the aims and objectives of this document are diminished, however, the following policies are material to this application:

E7 – Skyline Development
E20 – New Development (design)
E26 – Conservation Areas

5.5 **Other Material Considerations / Supplementary Planning Documents**

NBC CIL Charging Schedule 2015
NBC CIL Regulation 123 List 2016
Planning Obligations Strategy SPD 2013
Affordable Housing Interim Statement 2013

6 **CONSULTATIONS/ REPRESENTATIONS**

- 6.1 **NCC Development Management:** No objection to the application to vary the s106 agreement for this development in the manner set out, on the basis that the level of s106 contributions proposed to be removed from the agreement will instead be met through the Community Infrastructure Levy.

7 **APPRAISAL**

- 7.1 On the 29 July 2015, a S106 agreement was entered into in connection with an appeal against the refusal of outline application N/2013/0338 for up to 1000 dwellings together with provisions for other facilities at land relating to the east of Hardingstone. The appeal was determined by the Secretary of State in April 2016, following a public inquiry, and the outline application was allowed. The completed S106 agreement includes various obligations to mitigate impacts of the development and the current application seeks to remove the obligations to make financial contributions to the Northampton Growth Management Scheme, specifically the A45 Queen Eleanor, Brackmills and Lumbertubs Junctions (Clause 3.1 of the Second Schedule), and Secondary Education (Clauses 7.1-7.2 of the Second Schedule), which are now covered by the Community Infrastructure Levy (CIL).
- 7.2 However, Clause 19 (Community Infrastructure Levy) of the S106 Agreement details that, if after the date of the Agreement but prior to the planning permission being issued by the Secretary of State the Community Infrastructure Levy (CIL) is applicable, then all parties shall use reasonable endeavours to agree amendments to the Agreement with the intent that the owner is not adversely prejudiced by the introduction of CIL or required to contribute more than once for any item of infrastructure. As detailed above, the S106 Agreement was completed on the 22 July 2015 and the Appeal Decision Notice was issued by the Secretary of State on 14 April 2016.

- 7.3 The Council adopted CIL on 21 September 2015 and it came into effect on the 1 April 2016 such that all residential developments granted after this date are required to pay the levy to contribute to infrastructure on the Council's list of CIL infrastructure types/projects (the CIL Regulations 123 List). Furthermore, the Council's CIL infrastructure list includes 4 infrastructure types/projects, which include the Northampton Growth Management Strategy and education (excluding primary schools). As such, CIL came into effect prior to the Appeal Decision Notice on the site being issued and its introduction would result in the developer being required to make financial contributions towards the NGMS and secondary education under both the S106 Agreement and CIL. Therefore, the provisions under Clause 19 of the S106 are enacted, which detail that the owner should not contribute more once for an item of infrastructure, and it is recommended that the NGMS and secondary education obligations are removed from the S106 Agreement.

8 CONCLUSION

- 8.1 The completed S106 agreement and CIL both include requirements for financial contributions towards the NGMS and secondary education. However, the completed S106 agreement also includes a clause detailing that the owner should not contribute more than once for an item of infrastructure following the introduction of CIL. Therefore, the removal of the requirement in the S106 agreement to contribute towards these two forms of infrastructure is considered an acceptable request.

9 BACKGROUND PAPERS

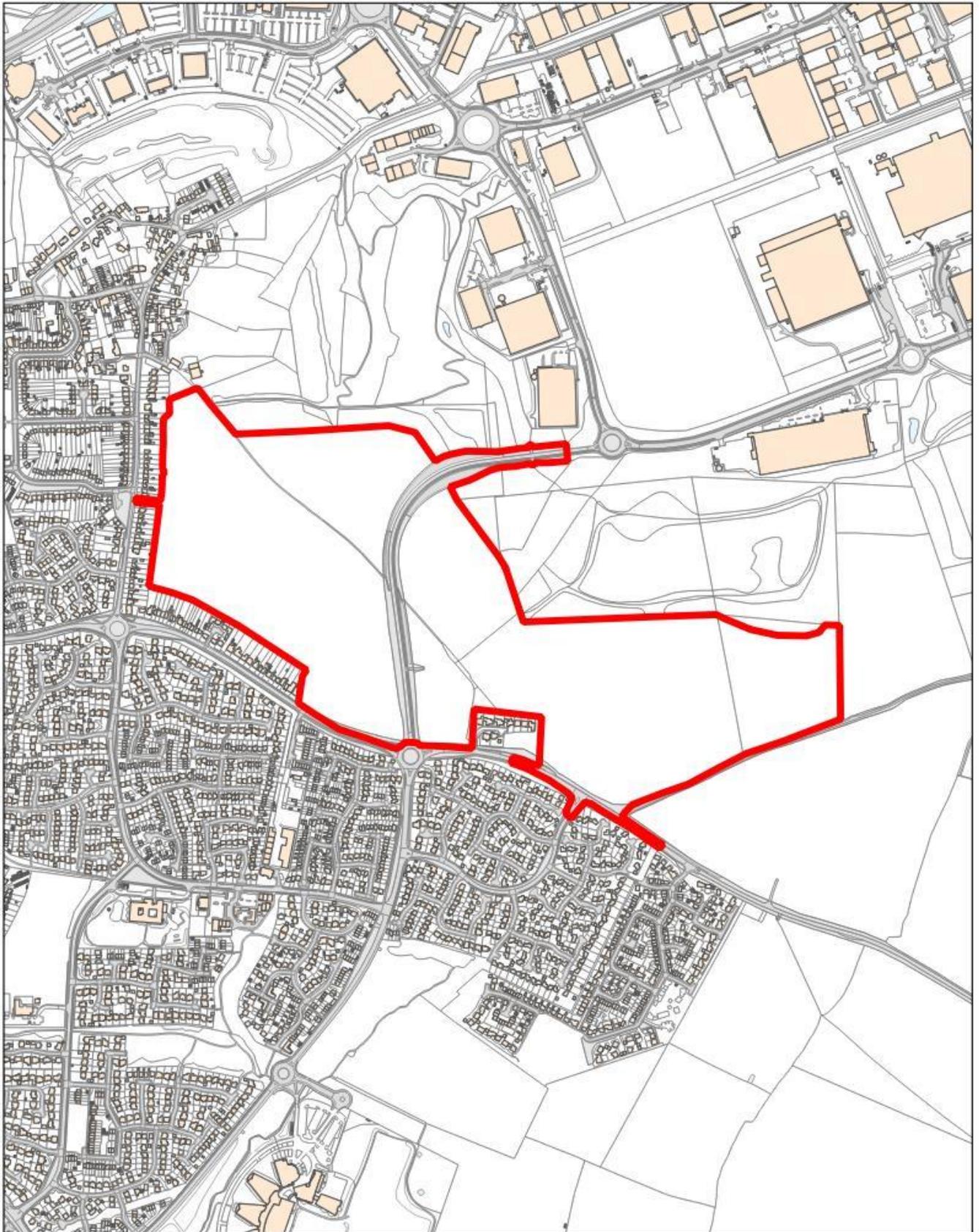
- 9.1 N/2013/0338.

10 LEGAL IMPLICATIONS

- 10.1 The development is CIL liable.

11 SUMMARY AND LINKS TO CORPORATE PLAN

- 11.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Title: **Land East of Hardingstone, North of
Newport Pagnell Road**

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Scale: 1:9,082

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