

## **SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Planning Committee

2 December 2015

**AUTHOR/S:** Planning and New Communities Director

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**Application Number:** S/2462/15/PO

**Parish:** Girton

**Proposal:** Application to discharge planning obligations (S106) of planning application S/1556/14/FL for conversion of one dwelling to separate dwellings

**Site address:** 6-8 Giffords Close, Girton

**Applicant(s):** Ms Barbara Uscinska

**Recommendation:** Approval

**Key material considerations:** Appropriateness of infrastructure contributions

**Committee Site Visit:** No

**Departure Application:** No

**Presenting Officer:** Lydia Pravin, Senior Planning Officer

**Application brought to Committee because:** The application is of a type for which officers do not have delegated powers to determine .

**Date by which decision due:** 16 November 2015

### **Relevant Planning History**

1. S/1556/14/FL – 6-8 Giffords Close – Conversion from one dwelling to two separate dwellings – approved

### **Planning Policies**

2. *National Planning Policy Framework (NPPF) 2012*  
*National Planning Practice Guidance*
3. *South Cambridgeshire LDF Development Control Policies, adopted July 2007*  
  
DP/4 Infrastructure in New Developments  
SF/10 Outdoor Playspace, Informal Open Space and New Developments  
SF/11 Open Space Standards TR/1 Planning for More Sustainable Travel
4. *South Cambridgeshire LDF Supplementary Planning Documents (SPD)*

Open Space in new Developments SPD – Adopted 2009

5. *Draft Local Plan*

S/1 Vision

S/3 Presumption in favour of sustainable development

SC/7 Outdoor Playspace, Informal Open Space and New Developments

SC/8 Open space standards

**Consultation**

6 **Girton Parish Council** – No representations received

7. **Legal Officer** - No Section 106 is required due to the exceptional circumstances of this case

**Representations**

8. None received.

**Site and Proposal**

9. The site lies within the Girton village framework. Planning application S/1556/14/FL granted permission for conversion of one dwelling into two dwellings. The application was subject to a signed S106 agreement dated 8 October 2014 requiring contributions towards off-site community space provision (£513.04) and off-site public open space provision (£3104.38). These monies were to be paid prior to the occupation of the dwelling..
10. This application seeks to revoke the S106 agreement so that all required contributions are removed.

**Planning Appraisal**

11. The original planning application was approved on the basis that S106 monies would be collected for the provision towards community facilities and open space. This was in accordance with the Council's adopted policy SF/10 and SF/11 of the Local Development Framework.
12. More recently National Planning Policy has sought to introduce a new national threshold on contributions. This was introduced following a Ministerial Statement made on 28 November 2014. However, following a Judicial Review of the Ministerial Statement the new national threshold which resulted from the Ministerial Statement has been removed from Planning Practice Guidance.
13. There remains restrictions on the use of section 106 agreements, however, resulting from the Community Infrastructure Levy Regulations 2010 (amended). CIL Regulation 122 states that a planning obligation may only constitute a reason for granting planning permission for the development of the obligation is (i) Necessary to make the development acceptable in planning terms, (ii) Directly related to the development; and (iii) Fairly and reasonably related in scale and kind to the development.

14. CIL Regulation 123 has the effect of restricting the use of pooled contributions. In accordance with Planning Practice Guidance “When the levy is introduced (and nationally from April 2015), the regulations restrict the use of pooled contributions towards items that made be funded via the levy. At that point, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.” The pooling is counted from 06 April 2010.
15. More than five planning obligations have been entered into for developments in the village of Girton. Planning application S/1556/14/FL was determined prior to pooling restrictions becoming operative in April 2015 and the approved development has now been completed, although the property is not yet occupied.
16. 6-8 Giffords Close was originally a pair of semi-detached dwellings built in 1963, but then converted internally into one dwelling in 1992. When application S/1556/14/FL was determined the appearance externally conveyed that of two semi-detached dwellings numbered 6 and 8 Giffords Close, respectively with separate driveways. The conversion back to two dwellings was approved and only involved reinstating a wall internally and externally adding a fence halfway between the dwellings at the rear.
17. As the two properties have been returned to their original condition, officers have concluded this represents an exceptional circumstance. Coupled with the changes in recent legislation and the existing number of pooled contributions collected for Girton, it would no longer be reasonable to enter into a section 106 agreement to secure developer contributions. The proposed development is not deemed to require improvement or provision of infrastructure to make the scheme acceptable in planning terms in accordance with policy DP/4, SF/10 and SF/11. It therefore follows that it is no longer reasonable to insist that the terms of the existing s106 agreement are enforced.
18. For the reasons presented above, the application to remove the requirement for contributions should be approved.

### **Recommendation**

19. Officers recommend that the Committee approve the application subject to:

### **Requirements under Section 106 of the Town and Country Planning Act 1990**

20. (a) Drafting and completion of a revised legal agreement to discharge the terms of the existing s106 agreement

### **Background Papers:**

The following list contains links to the documents on the Council’s website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Development Control Policies DPD (adopted July 2007)
- Planning File Refs: S/1556/14/FL, S/2462/15/PO

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