

PLANNING DEVELOPMENT CONTROL COMMITTEE

27 JULY 2005

THE DOWER HOUSE, SPRINGVALE ROAD, HEADBOURNE WORTHY, WINCHESTER

REPORT OF THE CITY SECRETARY AND SOLICITOR

Contact Officer: Fiona Sutherland Tel No: 01962 848513

RECENT REFERENCES:

Item 5, Planning Development Control Committee, 25 May 2005.

EXECUTIVE SUMMARY:

At its meeting on 25 May 2005, Committee decided that the application relating to the above site should be referred to a Viewing Sub Committee for further consideration. At the Viewing Sub Committee Members asked for a report to be prepared outlining the history and effect of the Section 52 legal agreements relating to the site.

RECOMMENDATIONS:

- 1 That the contents of this report be considered together with the recommendation of the Viewing Sub-Committee that took place on 17 June 2005.
- 2 That should planning permission be granted, the City Secretary and Solicitor be authorised to vary the 1980 agreement to release the remainder of the application site from the covenants contained in the agreement.

PLANNING DEVELOPMENT CONTROL COMMITTEE

27 JULY 2005

THE DOWER HOUSE, SPRINGVALE ROAD, HEADBOURNE WORTHY, WINCHESTER.

REPORT OF THE CITY SECRETARY AND SOLICITOR

DETAIL:

1 Introduction

- 1.1 At a meeting of this Committee on 25 May 2005, and subsequently at a Viewing Sub-Committee on 17 June 2005, Members considered an application in respect of development of The Dower House, Springvale Road, Headbourne Worthy. During the Viewing Sub-Committee, officers explained that the site was the subject of a Section 52 legal agreement (under the 1971 Town and Country Planning Act) which restricted occupancy of the dwellings and set out an area that was to be retained as amenity open space. It was explained that subsequently, developments that affected the area to be retained as amenity open space had been permitted and that the agreement had been varied on a number of occasions.
- 1.2 At a recent appeal a Planning Inspector had concluded that as the site fell within the development boundary of Headbourne Worthy and is identified in the Urban Capacity Study, and taking into account the introduction of Planning Policy Guidance Note 3, the existence of the legal agreement was not an over-riding factor. Accordingly, if Members decided that permission should be granted, the legal agreement should be varied as required. Members of the Viewing Sub-Committee considered the application, and were minded to grant planning permission but wished to receive further legal advice regarding the legal agreement.

2 History of the Legal Agreement and variations

- 2.1 By an application in 1979, the owners of land and buildings at Headbourne Worthy House applied for planning permission to build 6 additional dwellings. Permission was granted subject to a legal agreement (which replaced earlier agreements signed in 1970, 1972, 1976 and 1977). On 7 February 1980, the owners of Headbourne Worthy House entered into a Section 52 legal agreement which contained covenants requiring that: (i) for a period of 25 years from the date of the agreement, no building (other than those parts of the site occupied by the owners) should be used otherwise than in conjunction with the existing buildings on the site as a grouped dwelling system for old or disabled people, and (ii) that part of the land [see area hatched on the attached plan] should not be developed and should be retained as an amenity area in connection with Headbourne Worthy House
- 2.2 The 1980 agreement was subsequently varied on 18 September 1986 to allow for the construction of three retirement bungalows for the elderly and four additional car parking spaces. By this agreement the owners covenanted that until 4 October 1997 no retirement bungalow permitted would be occupied by a person aged under 55, unless that person was disabled.

2.3 On 5 February 1988 part of the amenity open space area (shown crosshatched on the plan) was sold and the 1980 agreement was further varied on 23 May 1988 to allow for the construction of The Dower House on that land. On 10 October 1991 the agreement was again varied to allow for construction of a single storey extension to The Dower House and to construct a new driveway (on the amenity land). Permission was granted for a further extension to The Dower House in 2000 but the agreement was not varied.

3 Conclusion

3.1 The covenants that restrict occupancy of the existing dwellings on site have expired.

3.2 Since the construction of The Dower House, it seems that little, if any, of the current application site has been used as amenity space in connection with Headbourne Worthy House. Much of it has been in use for car parking and access.

3.3 The 1980 agreement has been varied on a number of occasions to allow for construction of The Dower House, new dwellings, parking and access.

3.4 If planning permission is granted for the proposed development, little, if any, amenity space will be lost. If permission is granted, Members should authorise the City Secretary and Solicitor to vary the 1980 agreement so far as is necessary to allow the development to proceed.

OTHER CONSIDERATIONS:

4 CORPORATE STRATEGY (RELEVANCE TO):

4.1 Looking after the natural and built environment is a core objective.

5 RESOURCE IMPLICATIONS:

5.1 None

BACKGROUND DOCUMENTS:

Application form, drawings, correspondence, notes of site visits and discussions, representations, and any amended plans and drawings included in the appropriate application file.

APPENDICES:

Plan showing areas covered by legal agreement.