

CABINET

13 April 2006

SILVER HILL DEVELOPMENT AGREEMENT - VARIATION

Report of CHIEF ESTATES OFFICER

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RECENT REFERENCES:

CL 34 - Silver Hill Development - Landowners Approval (Council 1/2/06)

CAB 1179 - Silver Hill Development : Landowners approval (Cabinet 12/12/05)

EXECUTIVE SUMMARY:

Following detailed pre planning discussions with the local planning authority Thornfield Properties are proposing to make a variation to the scheme which goes outside of the framework agreed with the Council as landowner to provide them with more flexibility.

The change relates to the number of residential units and a reduction of up to 8 units brought about by a reduction in the height and configuration of the block facing Middle Brook Street.

As the variation has come about as a response to concerns of the local planning authority the Council needs to treat the request in a reasonable way and provide a swift response.

RECOMMENDATION:

That the Broadway Friarsgate Development Agreement is varied to reduce the minimum number of residential units from 285 to 277.

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1 Introduction and Background

- 1.1 At Council in February 2006, in its landowner capacity, the Council gave approval to Thornfield Properties (Winchester) Limited submitting a planning application for the site subject to certain conditions.
- 1.2 Once the landowner's approval is given the development agreement provides some necessary and practical flexibility for Thornfield to make minor variations to the planning application and the scheme. However, the 'required elements' and any 'material variations' can only be amended with the Council's approval, (as landowner). Material variations include; changes to the external elevations and massing, the number of shop units, cost and standard of construction greater than a 10% variance of any element, changes to the public areas, servicing and delivery arrangements, highway access arrangement, and the number and size of shop units. The 'required elements' include the size of the retail component and the number of residential units, and essential components such as the bus station shopmobility and CCTV room.
- 1.3 If the material variations arise as a result of a local planning authority requirement the Council (as landowner) must act reasonably in making a decision. In all other cases the Council has an absolute discretion whether to approve a material variation. The Council needs to deal with requests for variations as expeditiously as possible and to give a written decision within 15 working days. Council delegated Cabinet to approve or otherwise any requests.
- 1.4 In the event that the parties do not agree a material variation there is provision for an independent determination run in accordance with the disputes clause in the agreement.

2 Recent developments

- 2.1 Since February Thornfield and their design team have been working closely with the local planning authority, other stakeholders and planning consultees in order to prepare a planning application. As a result of the consultations a number of changes and variations have been made to improve the scheme and to accommodate the requirements of users. None of these changes are considered to be 'material variations' in accordance with the definition in the development agreement with the exception of changes to the Middle Brook Street elevation.
- 2.2 Proposed changes in this area in bulk and height would alter the elevation and lead to a reduction in the number of residential units below the minimum number specified in the 'required elements'. This is currently a minimum of 285 residential units.
- 2.3 Thornfield have requested some additional flexibility in this area and have asked for a reduction of up to 8 units down to 277 residential units as a 'worst case' and have requested the Council's approval as landowner. With 277 units at 35% the number of affordable units would reduce by 3 from 100 to 97.

- 2.4 On balance the recommendation is for approval to be given as it would be unreasonable for the Council to refuse the request as it is well founded having germinated from detailed discussions with the local planning authority. As discussions are continuing and planning advice is still being sought a final decision has not been made by Thornfield as to the exact content of their application in this area and the final number of units may be greater than 277.

3 Financial Implications

- 3.1 Whilst the criteria for making the decision relates to how reasonable the request is Members will be concerned as to the wider impact on the scheme of the changes. The reduction of a maximum of 5 market houses will result in a loss of potential profit to the scheme. If there is a desire to discussion of this element it would be appropriate for it to take place in the exempt session of the meeting.
- 3.2 At this stage the variation in scheme profit that this represents is only marginal and could only be truly tested if all other variations were similarly re tested. The fluid nature of development and the planning process dictates that the next most relevant point to test the viability in depth is when a planning approval has been granted.

OTHER CONSIDERATIONS

4 RELEVANCE TO CORPORATE STRATEGY:

The Silver Hill development remains one of the most significant developments in the City with the potential to help revitalise the local economy.

5 RESOURCE IMPLICATIONS

The impact upon scheme viability and the Council's financial interest is not assessed in the report but will follow when there is more certainty following the conclusion of the planning process.

6 BACKGROUND DOCUMENTS:

None.

7 APPENDIX

None.