

PLANNING DEVELOPMENT CONTROL COMMITTEE

31 January 2008

MORN HILL – HOTEL DEVELOPMENT

REPORT OF HEAD OF LEGAL SERVICES

Contact Officer: Howard Bone Tel No: 01962 848552

RECENT REFERENCES:

PDC 714 – Morn Hill Hotel Development – 13 September 2007

PDC 691 – Morn Hill Hotel Development – 14 June 2007

PDC 629 – Morn Hill Hotel Development – 16 November 2006

PDC 626 – Morn Hill Hotel Development – 25 May 2006

EXECUTIVE SUMMARY:

This report updates Members on the current situation in respect of the hotel development at Morn Hill and includes a request from the new owner of the site to enter into a new Section 106 agreement to extend the time for completion of the development.

RECOMMENDATIONS:

- 1 That the Head of Legal Services (in consultation with the Chairman, Portfolio Holder for Planning and Transport, the Ward Member and Head of Planning Control) be authorised to agree the terms of, and enter into, a new Section 106 agreement for the development of the hotel element of the Morn Hill Development based on the following :-
  - a covenant not to use the land other than as a hotel;

- a covenant to build the hotel in accordance with the milestones set out in 3.1 of the report
- the reinstatement of the site to open countryside in the event that the agreement is not complied with;
- the withdrawal of the completion notice (confirmed by the Secretary of State on 13 December 2007) provided that a start on site has commenced by 28 November 2008;
- provision of a bond of £250,000 to secure compliance with the agreement, and
- a confirmation that the terms of any previous planning agreements in relation to the site will not be enforced.

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##### DETAIL:

##### 1 Introduction

1.1 Members will be aware from previous reports of the complex history of this site. The matter last came before the Committee on 13 September 2007, following the appointment by the bank of a Receiver to sell the site. At that meeting, Members authorised the Head of Legal Services (in consultation with the Chairman, Portfolio Holder for Planning and Transport, the Ward Member and Head of Planning Control) to agree the terms of, and enter into, a new Section 106 agreement for the development of the hotel element of the Morn Hill Development to include:-

- A covenant not to use the land other than as a hotel;
- A covenant to build the hotel within three years of the date of the agreement;
- The withdrawal of the completion notice on the site upon the new agreement being entered into.

1.2 Following that meeting, the Receiver was then discharged and therefore he did not pursue this proposal. The land has now been sold to a new developer, Hallco 1460 Limited, which is proposing to implement the existing hotel consent, having secured funding to carry out the development.

1.3 In the meantime, the Secretary of State has confirmed the completion notice which was issued by the Council. The effect of this is that any development which takes place after 13 June 2009 will be unauthorised.

1.4 The issue over whether or not the works which have already taken place are sufficient to comply with the terms of the existing Section 106 agreement remains outstanding. Advice on this aspect is given in the Exempt Appendix to this report.

##### 2 Proposals from New Developer

2.1 The new owner is seeking to enter into a new agreement with the Council, on similar terms to that which was agreed in principle by the Committee in September 2007, as set out in 1.1 above. Officers have met representatives of the owner, the proposed hotel group under whose name the hotel would operate, and the financial institution providing the funding, and are satisfied that the new owner intends to pursue the development without delay.

2.2 The new developer is a shelf company at present, pending finalising of the arrangements between the company and funders. It is not therefore possible to carry out meaningful checks on the new developer, although the principal behind the

company has been involved in the acquisition (through other companies) of a number of existing hotels in the north west, as well as the development of several new hotels including a refurbishment and new build near Bristol. Officers have carried out credit checks on the funder which show that it has significant assets. The funder would be joined into any new section 106 agreement.

- 2.3 The director behind the new company will be attending the meeting to outline his proposal and answer Members' questions.

### 3 Details of Request for New Section 106 Agreement

- 3.1 The developer is proposing the following milestones for the project:-

30 September 2008	-	design and build contract signed
28 November 2008	-	start on site
30 June 2009	-	ground floor steel works up
30 September 2009	-	remaining steel works up
30 June 2010	-	hotel opens to the public

These are longstop dates which have slippage built in to deal with unforeseeable problems such as bad weather, etc. The developer would hope to have the hotel open by December 2009, but would not wish to be bound to such a tight timetable given the potential for hold-ups in the project.

- 3.2 The request from the new developer is for a new Section 106 agreement as follows:-

- a covenant not to use the land other than as a hotel;
- a covenant to build the hotel in accordance with the milestones set out in 3.1 above;
- the withdrawal of the completion notice (confirmed by the Secretary of State on 13 December 2007) provided that a start on site has commenced by 28 November 2008;
- provision of a bond of £250,000 to secure compliance with the agreement, and
- a confirmation that the terms of any previous planning agreements in relation to the site will not be enforced.

Other than the delay in withdrawal of the completion notice and the addition of the requirement for a bond, this is line with the terms which Members agreed to in September 2007 in respect of a similar request from the Receiver who was then acting. It is recommended that the compliance with the milestones would be secured by a requirement to reinstate the land to open countryside in the even of a breach of the agreement.

- 3.3 Members are requested to consider the request for a new section 106 agreement, taking into account the details set out in this report and further legal advice in the Exempt Appendix.

### OTHER CONSIDERATIONS:

#### 4 CORPORATE STRATEGY (RELEVANCE TO):

- 4.1 This report relates to the key objectives of economic prosperity and high quality environment.

5 RESOURCE IMPLICATIONS:

- 5.1 The Council's costs of entering into a new legal agreement would be met by the developer. Further resource implications are set out in the Exempt Appendix.

BACKGROUND DOCUMENTS:

Letter from developer dated 17 January 2008.

APPENDICES:

Exempt Appendix – Legal Advice