

<b>AGENDA ITEM NO. 21</b>	
<b>PLANNING COMMITTEE</b>	
<b>Date</b>	<b>24 JULY 2013</b>
<b>Title</b>	<b>F/YR13/0101/PLANOBS- LAND SOUTH OF ELLIOT ROAD, MARCH MODIFICATION OF PLANNING OBLIGATION ATTACHED TO PLANNING PERMISSION F/YR07/0385/O</b>

**1. PURPOSE/SUMMARY**

The purpose of this report is to consider the applicant's request for a deed of variation to the existing Section 106 Agreement attached to planning permission reference F/YR07/0385/O

**2. KEY ISSUES**

To consider any risks or costs to the Authority arising from the request

**RECOMMENDATION**

It is recommended that the Deed of Variation be accepted namely:

- i) The removal of the fifth schedule of the agreement which makes reference to the provision of affordable housing

<b>Wards Affected</b>	<b>March West</b>
<b>Forward Plan Reference No.</b> (if applicable)	
<b>Portfolio Holder(s)</b>	
<b>Report Originator</b>	<b>Christine Flittner, Area Development Manager</b>
<b>Contact Officer(s)</b>	<b>Christine Flittner, Area Development Manager</b>
<b>Background Paper(s)</b>	<b>Planning Files</b>

**This proposal is before the Planning Committee due to the Original Section 106 Agreement being agreed at Planning Committee previously**

**This is a request for a Deed of Variation**

**1. DESCRIPTION**

The applicant has formally requested that a Deed of Variation be completed with regard to the following matter arising from the original Section 106 Agreement dated 7 December 2007

- i) The provision of affordable housing as set out in the fifth schedule

**2. HISTORY**

Of relevance to this proposal is:

- |                 |   |   |
|-----------------|---|---|
| F/YR13/0175/RM  | - | Erection of 60 Dwellings comprising of 9 x 3-storey 1-bed and 9 x 3-storey 2-bed flats, 1 x single-storey 2-bed, 4 x single-storey 1-bed and 22 x 2-storey 3-bed dwellings with associated sheds, bin/cycle stores, parking and landscaping – resolved to approve at 26 <sup>th</sup> June Planning Committee subject to no new neighbour objections resulting from amendments to plans showing single storey 1-bed bungalows on plots 13-16. |
| F/YR10/0730/EXT | - | Residential development up to 63 residential units (renewal of planning permission F/YR07/0385/O) – Granted 17/12/2010  |
| F/YR07/0385/O   | - | Residential development up to 63 residential units – Granted 21/12/2007   |

**3. ASSESSMENT**

Development on this site is yet to commence and it is intended to be provided as 100% affordable units for Roddons.

An application for the approval of Reserved Matters was considered by members of the planning committee on 26 June 2013 and it was resolved to approve the submission subject to no new objections being raised regarding the amended plans which propose bungalows in place of 2-storey dwellings on plots 13-16. No new objections have been received at the time of writing this report and the consultation period is about to expire, therefore it is likely the approval will be issued shortly.

A further application for the discharge of all pre-commencement conditions has been submitted and is under consideration.

Roddons can secure funding to deliver the scheme, however in order to qualify, it has been necessary to undertake a viability assessment to investigate whether, as an open market scheme, it would be viable to provide the level of affordable housing required under the terms of the original section 106 agreement. The requirement is to provide for the construction of 35% of the total number of housing units as affordable.

In order to encourage development the Government has introduced new legislation. As from 25 April 2013 under s106BA of the Town and Country Planning Act 1990, as amended by the Growth and Infrastructure Act 2013, an owner or developer may apply for modification, replacement or removal of the affordable housing requirement set out in a s106 agreement.

In the case of a first application, such as this, if the development is not economically viable, the planning authority may either modify, replace or remove the affordable housing requirement to restore viability. It must be remembered that the planning obligation cannot be made more onerous as a result of the modification.

Guidance issued by the Department of Communities and Local Government in April 2013 states that a local authority may wish to time limit the period for which the variation applies. In appeals of this nature, which are to be determined by the Secretary of State, a revised period of three years is prescribed.

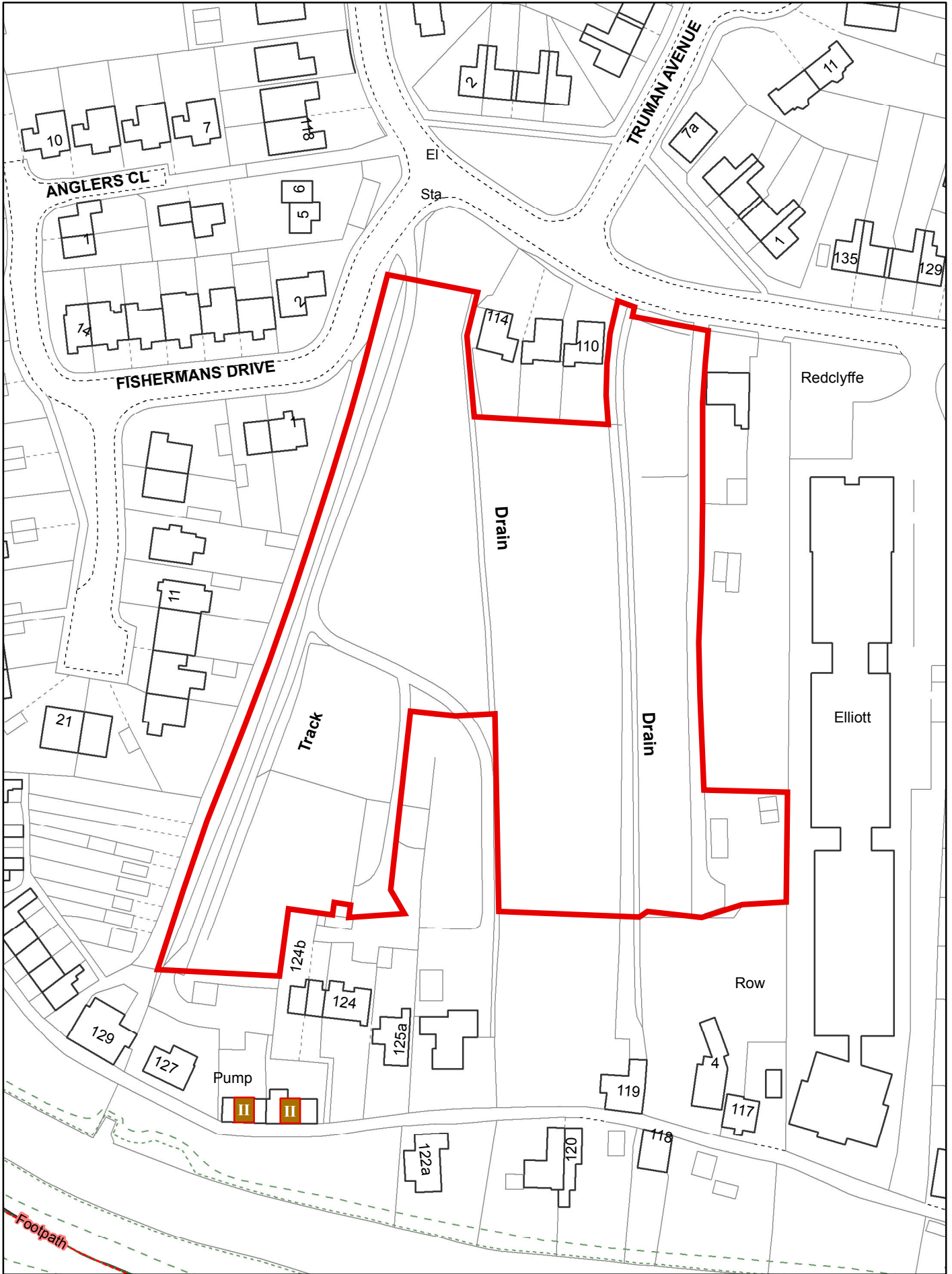
A viability assessment has been submitted and it has been independently assessed at the applicant's expense as per the requirements of this Council. The report contains two appraisals, one is based on standard Building Cost Information Service build costs and the other adopts the costs provided by Roddons. The independent assessor concludes that *'It is clear that neither scheme is viable and cannot produce any affordable housing or s106 contributions'*.

As a result officers have considered the impacts of such a request, and find that under s106BA of the Town and Country Planning Act the requirement for the provision of a 35% affordable housing requirement, as set out in the fifth schedule of the s106 agreement should be removed in order to ensure that the scheme can be delivered.

#### **4. RECOMMENDATION**

It is recommended that the Deed of Variation be accepted for the following:

- i) Removal of the Fifth Schedule of the Planning Obligation attached to application F/YR07/0385/O and dated 07/12/2007, which makes reference to the provision of affordable housing.



Created on: 14/02/2013

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