

# CHESHIRE EAST COUNCIL

## SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 18th April 2012  
**Report of:** Head of Development  
**Title:** Report in Relation to Section 106 Agreement for Planning Application 11/2999C for Variation of conditions 2, 3, 5, 10, 10 and 11 of Planning Permission 08/0712/FUL at Land South of Portland Drive, Scholar Green, Stoke-On-Trent

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### 1.0 Purpose of Report

- 1.1 To seek a resolution to amend the terms of the S106 Agreement Variation of conditions 2, 3, 5, 10, 10 and 11 of Planning Permission 08/0712/FUL relating to the erection of a new health care centre and residential development comprising of 56 residential units with a dedicated access off Portland Drive, which was the subject of planning application 08/0712/FUL considered by the former Congleton Borough Council.

### 2.0 Decision Required

- 2.1 Members need to agree to amend the terms of the S106 Legal Agreement so that the pedestrian crossing required by the development is delivered by way of a commuted sum of £70,000 (plus £10,000 for future maintenance), rather than under section 278 of the Highways Act 1980, as previously proposed.

### 3.0 Background and Report

- 3.1 The principle of the development has already been accepted and it is not the purpose of this report to revisit the merits of the proposal.
- 3.1 More recently, Members will recall that they agreed to vary condition numbers 2, 3, 5, 10 & 11 and the terms of the section 106 legal agreement so that work can proceed on commencing development on the residential element of the approved scheme before commencing the approved health care centre (planning ref: 11/299C).
- 3.2 Whilst drafting the revised s106 legal agreement, it has come to light that there is a flaw in the original clause relating to the delivery of the pedestrian crossing. It is proposed that the Council's Highways Department will deliver the pedestrian crossing, but this is hindered by the current terms. To enable the Council to provide the pedestrian crossing rather than the developer, a

commuted sum of £70,000 (plus £10,000 for future maintenance) will need to be secured. The developer Ben Bailey Homes have agreed to these terms.

- 3.2 Additionally, the original agreement specified the provision of a Pelican crossing. These are no longer provided and as such the terms should specify a Puffin crossing instead.

#### **4.0 Recommendation**

- 4.2 That Members resolve to agree to vary the s106 legal agreement to secure an additional commuted sum of £80,000 towards the delivery and future maintenance of the pedestrian crossing required by the development.