

Officer Report to Chigwell Planning Committee

Application: EPF/1771/26/DOV

Site: Chigwell Primary Academy, Mandir Lane, Chigwell, IG7 6ED

Proposal: Deed of Variation to the s106 Legal Agreement attached to EPF/1681/19.

Background

EPF/1681/19 granted permission for 59 homes together with a replacement Chigwell Primary Academy, new playing field and playground.

The site is in the Green Belt. The housing was approved as enabling development linked to delivery of the new school. EFDC has since confirmed that the school was not an ancillary part of the scheme but a fundamental part of the permission. The s106 agreement therefore tied occupation of the homes to stages in construction of the school.

There have already been several attempts to separate the housing from delivery of the school.

EPF/1902/25 sought to remove the school from the approved plans and conditions. EFDC refused it and said the changes went beyond the original permission and required a full planning application.

EPF/1903/25 sought to remove the school from the description of development and was also refused.

EPF/1100/26/DOV then sought to remove the school obligations from the s106 agreement and replace them with a £2 million education contribution. EFDC refused that application because the change would materially undermine obligations which remained necessary to make the development acceptable.

Current proposal

This application is slightly different. It proposes that the homes cannot be occupied until Coral either pays Essex County Council £2 million, index linked, towards education facilities or, if the Department for Education does not deliver the new school, submits and carries out its own scheme for the school.

The draft Deed also separately requires Coral to pay £1.2 million to Essex County Council when the Deed is completed, for additional educational infrastructure close to the site.

The supporting documents do not clearly explain how that £1.2 million relates to the £2 million payment or to the existing outstanding s106 contributions.

Officer assessment

The key question is whether the proposed variation would serve the useful planning purpose of the existing school obligation equally well. It is considered it would not.

The present s106 secures delivery of a specific replacement school at Chigwell. The new wording would allow Coral to choose the £2 million payment route without first showing that the DfE school has actually been built. That could leave the housing occupied without the replacement school which formed part of the justification for allowing the development.

The fallback provision is also unclear. There is no firm date or objective trigger for deciding that the DfE has failed to deliver the school.

There is also an unresolved planning issue. EFDC has already refused attempts to remove the school from the permission, plans and conditions. Those parts of EPF/1681/19 therefore remain in place. It is not clear how varying the s106 alone can properly allow the housing to proceed independently of the school.

The separate £1.2 million payment adds further uncertainty because the submitted documents do not clearly explain whether it is a new contribution, an existing liability or part of the proposed replacement for the school obligations.

Recommendation

STRONGLY OBJECT.

It is recommended that the Committee responds to EFDC along the following lines:

Chigwell Parish Council STRONGLY OBJECTS to EPF/1771/26/DOV.

The replacement Chigwell Primary Academy was a fundamental part of the scheme approved under EPF/1681/19 and of the justification for enabling residential development in the Green Belt.

The proposed variation does not provide equivalent certainty that the school will be delivered. As drafted, the developer may pay £2 million towards education facilities without first demonstrating that the replacement Chigwell Primary Academy has actually been provided.

The proposed fallback is also unclear because there is no defined date or trigger for determining that the Department for Education has failed to deliver the school.

The draft Deed additionally requires a separate £1.2 million education payment, but the relationship between this sum, the £2 million contribution and the existing s106 obligations is not clearly explained.

EFDC has previously refused EPF/1902/25 and EPF/1903/25, which sought to remove the school from the approved development and stated that a full planning application was required.

The Parish Council therefore considers that the proposed variation fails to demonstrate that the existing useful planning purpose would be served equally well. If the applicant wishes the 59 dwellings to proceed independently of the replacement school, that should be considered through a fresh full planning application so that the Green Belt planning balance can be properly reconsidered.