

SECTION 106 AGREEMENT - LAND AT GILGARRAN PARK, GILGARRAN

To consider a request to vary the Section 106 Agreement dated 30 September 2005 relating to the above site by amending clauses 1 and 2 of the Third Schedule to allow occupation of one of the properties on the basis that the required road works are completed by 30 July 2010.

Recommendation: That the request be approved.

Resource Implications: Nil

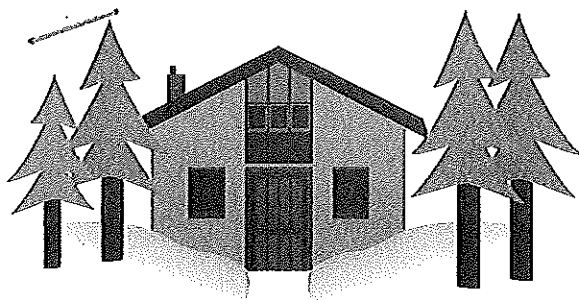
1.0 BACKGROUND INFORMATION

- 1.1 In September 2004 outline planning permission was granted for the erection of two dwellings on this area of land at Gilgarran Park (4/04/2157/001 refers). Approval was granted subject to the applicants entering into a Section 106 Agreement. In summary, the Third Schedule sets out the developer's obligation to carry out upgrading of the access road serving Gilgarran Park prior to the dwellings being occupied.
- 1.2 In 2007, reserved matters for the detailed design of the dwellings were approved (4/07/2245/0R1 refers). One of the dwellings is complete whilst the other is still nearing completion. Both properties have now been on the market for over twelve months with no success of a sale, despite sale prices being reduced inline with current market values in this depressed climate. As a result the road improvement works have yet to be carried out and the road continues to deteriorate
- 1.3 A formal request was agreed by Members in November 2009 to modify the agreement to allow one of the dwellings, known as Yew Tree View, to be occupied right away on the basis that the road improvement works would be completed by no later than 30 April 2010. Following the agreement, the tenant withdrew his offer and, as such, the road works did not commence. A new tenant has now been found and a further three month extension of time to complete the road works is sought. A copy of this request is annexed to this report. Should the amendment not be agreed it is unclear when the road works will be carried out.
- 1.4 Following consultation, the Councils Senior Legal Services Officer has raised no objections to the proposal.
- 1.5 In conclusion, I accept the argument put forward by the applicant and consider that the proposed amendment offers a suitable way forward in securing the road improvement works which will benefit the community as a whole.

Contact Officer: Rachel Carrol, Planning Officer

Others consulted: Marlene Jewell, Senior Legal Services Officer

Appendices: Letter from Mr Wirga



GILGARRAN
ESTATES LTD

RC

Ms R Caroll
Copeland Borough Council
The Copeland Centre
Catherine St
Whitehaven
CA28 7SJ



Date : 17th March 10

Subject : Gilgarran Highway Improvements

Dear Ms Caroll,

Further to our most recent discussion and application for an additional variation for permission to occupy Yew Tree View for the purpose of renting prior to the implementation of the Gilgarran highway improvement scheme.

As you are aware I originally applied for a variation to the aforementioned condition back in Oct 09. However, due to the complex administration process required to vary this agreement, an official agreement to my original application was not presented for signature until late Dec 09.

Additionally, there were errors in that proposal which also prevented an agreement being signed.

Unfortunately, as a consequence of the time taken to arrange my original variation proposal, the prospective tenant for whom the variation was being targeted withdrew his request to rent Yew Tree View as he required accommodation urgently.

As we discussed very recently, there is now a new opportunity to rent Yew Tree View which would commence on the 1st April 10. However, there is a very small window of time remaining within the original agreement to complete the road works. That said, I am trying to meet the terms of the original agreement, I have instructed a mainstream contractor to commence a programme of works on 12th April 10.

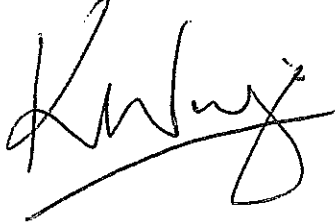
However, there are no margins for error in the aforementioned programme of works for example, bad weather or other matters outside my control with regard to the contractors work commitments.

Hence, I believe that it may be appropriate to agree an additional period of time following the 3rd April date i.e. three months to ensure a reasonable and adequate period of time can be given to the implementation of these extensive and significant works.

I should be grateful if you can confirm your acceptance of this latter variation to the implementation of the Gilgarran Highway improvement scheme as soon as possible.

Yours truly,

Kevin Wirga

A handwritten signature in black ink, appearing to read 'Kevin Wirga', with a long horizontal stroke extending from the end of the name.