

PLANS COMMITTEE – 21ST MARCH 2024

ITEM 3 - QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

Max Hunt - Estate Plan for the Garendon Park SUE and associated matters

1. “The Borough’s latest Annual Monitoring Report indicates that 60 homes on the West of Loughborough (Garendon Park) SUE would be completed by March 2024 and rising to about 200 a year by 2026, how many homes have actually been completed to date?
2. Bearing in mind the importance of occupied properties in the S106 Agreement, how many of the completions have been occupied to date?
3. The Borough Council began work on the Estate Management Plan for the future residents more than five years ago, including the engagement of consultants. What has been spent on consultants to date?
4. In November 2021 the Committee Chair responded to a question regarding the Estate Plan for the Garendon Park Development that “The Estate Plan required by Schedule 7 of the Section 106 is required to be submitted and agreed prior to the first occupation. and requires that the management companies agreed as part of the Estate Plan are set up prior to the first occupation. The Estate Plan has not been agreed at this point in time and CBC continue to liaise with the developers to progress this issue in line with the timescales set out in the S106 agreement.”

The Estate Plan will be published via Charnwood’s website upon agreement. After a further 18 months during which up to sixty properties may have been occupied, why has this important Plan still not been agreed?

5. What arrangements will be made for consultation, publication and approval of the Estate Plan?
6. In September 2018 it was confirmed that Para 2.1 of Schedule 7 prevents Occupation of any dwelling until the Estate Plan has been submitted to and approved by the Council. What sanction is available to the Local Planning Authority (LPA) to ensure this and why has it not been used?
7. Para 2.2 requires management in accordance with the approved Estate Plan in perpetuity and prevents occupation other than in accordance with the approved Estate Plan arrangements. What sanction is available to the LPA to enforce this and why has it not been used?
8. If the LPA does not enforce the S106 agreement triggered by the first occupied home, how can we expect developers to meet other commitments when more homes are occupied?

9. What potential legal and financial risks do purchasers take when signing a deed to maintain contributions to an Estate Plan that doesn't yet exist?"

The Chair, or her nominee, will respond:

1. As of 29th January 2024, it is understood that there have been 69 units completed.
2. As of 12th March 2024, it is understood that there have been 56 occupations.
3. Expert advice has been provided on three versions of the Estate Plan, once in 2019, once in 2022 and once in 2023, with a total cost to the Council of £7,800.
4. The Estate Management Plan is a complex document which will affect the success of public spaces within Garendon Park in perpetuity and includes parameters for the legal constitution of a management company, associated residents' association and financial appraisal on maintenance liabilities, including management and maintenance of the registered park and garden. A cautious approach has been taken to ensure that the matter is resolved appropriately. While recognising the trigger point, an updated version was received in March 2024 and is in the process of being formally agreed.
5. The Estate Management Plan is an obligation of the Section 106 and there is no statutory requirement for this to be publicised and consulted upon. However, advice has been provided by Charnwood's open space and legal teams which has informed the agreed version of the Plan. The Plan will be published as part of the planning file for the original outline permission to which the Section 106 relates when it has been formally agreed, expected to be by 22nd March.
6. The S106 trigger point is acknowledged, and while legal action could be taken to prevent occupations of dwellings until this matter has been agreed, active discussions have been underway. Also, officers have been mindful of the importance of delivering on this site in relation to Charnwood's 5 year housing land supply and the emerging Local Plan and it has not been expedient to enforce the trigger point of the Section 106 at this stage.
7. The same sanctions are available to be taken against the developer as for the previous response.
8. This is a large-scale site where there are numerous details to be agreed, conditions to be discharged and Section 106 obligations to be resolved, one of which is the Estate Management Plan. The majority of section 106 obligations and conditions have been resolved in line with their associated trigger points. In this instance, the option to pro-actively work with Persimmon to resolve this matter, rather than take legal action and halt occupations on the site, is considered to be the most reasonable use of resources.
9. Based on the wording of the Section 106, legal action could be taken against the developer for failure to discharge a relevant obligation. Charnwood are not

party to the agreements that purchasers enter into with Persimmon Homes so cannot comment on any subsequent liability that may be passed from the developer to the purchaser.