

<b>Reference:</b>	17/00638/DOV	
<b>Ward:</b>	Shoeburyness	
<b>Proposal:</b>	Modification of planning obligation dated 6 February 2004 (as amended) pursuant to application 00/00777/OUT, in particular clauses relating to sea wall works and drainage infrastructure.	
<b>Address:</b>	Shoebury Garrison, Ness Road, Shoeburyness	
<b>Applicant:</b>	Avant Homes	
<b>Agent:</b>	n/a	
<b>Consultation Expiry:</b>	8 <sup>th</sup> June 2017	
<b>Expiry Date:</b>	8 <sup>th</sup> June 2017	
<b>Case Officer:</b>	Amanda Rogers	
<b>Plan Nos:</b>	17128-SK103B, 'Specification – Hydraulic Grade Asphalt', Shoebury Garrison Sea Wall Revetment Remedial Works', 'Hesselberg Hydro: Proposed works to repair revetment March 2017'; The "Shoebury Garrison Drainage Structures Review Report No. 2606-01 dated March 2016 (Rev 4)" by WSP Global Inc. and the following enclosed drawings: 779/DD/D/02H, 03G, 04G, 05H, 06F, 07G, 08G, 09G ; 779/DD/D/10F, 11F, 12E, 14F, 15C, 16F, 18D ; 779/DD/D/20E, 22D, 27C, 29C ; 779/DD/D/30E, 31C, 32E, 35B; 779/DD/GA/07C; 779/DD/SO/01F, 02E ; 2606/GH/D/107D; 2606/GH/SD/134D; 2606/GH/SO/102G	
<b>Recommendation:</b>	<b>DELEGATE AUTHORITY TO THE DEPUTY CHIEF EXECUTIVE (PLACE), DIRECTOR OF PLANNING AND TRANSPORT OR GROUP MANAGER OF PLANNING &amp; BUILDING CONTROL TO MODIFY THE SECTION 106 AGREEMENT DATED 6 FEBRUARY 2004 (AS AMENDED)</b>	



## 1 The Proposal

- 1.1 On 10<sup>th</sup> April 2014, under application ref. 14/00367/AD, the Council approved details pursuant to Condition 30 of the outline planning permission granted on 6<sup>th</sup> February 2004 for redevelopment of the Shoebury Garrison site. This was subsequently reflected in a Deed of Variation dated 15<sup>th</sup> January 2015 (application ref. 14/00153/DOV). However, since this time sea wall repair works have been carried out by contractors acting on behalf of the landowner Avant Homes, and it has come to the Council's attention that the quality of the repair in some areas is not yet satisfactory and in some locations needs to be replaced. Therefore, Avant Homes have appointed alternative contractors (Hesselberg Hydro – specialists in the application of asphalt in hydraulic engineering, particularly systems for erosion protection) who have now proposed a different sea wall repair specification. Hence, it is proposed to modify the Section 106 agreement dated 6<sup>th</sup> February 2004 (as amended) (S.106) to reflect these proposed changes.
- 1.2 Changes are also proposed in respect of the S.106 requirement for Avant Homes to submit collateral warranties relating to all works undertaken in respect of the sea wall and associated structures. The reasons for this are set out in the Appraisal below.
- 1.3 In addition, the wider drainage infrastructure within the Shoebury Garrison site has changed to a minor extent since 2004, and recently under application 16/01636/AD, the 'as built' drainage infrastructure was approved. The proposed modification to the S.106 will reflect this.

- 1.4 This application seeks agreement to modify the S.106. These changes relate to sea wall works and drainage infrastructure, and include the following:

Changes required to 6<sup>th</sup> February 2004 S106 Agreement

- **Plan 16** “Storm Water Drainage Strategy” superseded
- **Annexure 8** and **Annexure 11** to be amended to reflect the fact that Figure 1 of the WSP Drainage and Flood Defence Strategy – Concept Statement (Rev. 2 Nov 2001) referred to in these annexures has been superseded by drainage changes approved under application 16/01636/AD

Changes required to 15<sup>th</sup> January 2015 Deed of Variation

- **Paragraph 1 amendments** to reflect changes to **Annexure 8**
- **Paragraph 3.10.5 amendments** to reflect changes to collateral warranty requirements

- 1.5 This application and report should be considered in the context of the application seeking approval of details of the sea wall repairs (17/00639/AD) and the planning history set out in section 8 below.

## **2 Site and Surroundings**

- 2.1 The Shoebury Garrison site is located to the east of the borough. The site includes residential, commercial development, together with a school and church used for community facilities.
- 2.2 The main access roads into the Garrison include Campfield Road to the north and Ness Road to the southwest. There are a number of cycle/footpaths that link the site to the northeast and southwest. The landscape to the south of the site leads to the Shoeburyness coastline.
- 2.3 The developer, Avant Homes (previously known as Country and Metropolitan Homes, and Gladedale), has now completed the 465 dwellings granted in the outline planning permission and are now close to completion of the remaining S.106 works. The only remaining S.106 matters relate to the transfer of the coastal defences, upon satisfactory completion of repair works, and transfer of the Shoebury Garrison Heritage Centre.

## **3 Appraisal**

- 3.1 A significant proportion of the coastal defence repair works have been completed in accordance with the details outlined in “*Sea Wall and Defences Maintenance & Repair Works report dated November 2001*” and “*Drainage and Flood Defence Strategy Concept Statement Revision 2 dated November 2001*” prepared by WSP (as amended by approval of details application 14/00367/AD in 2014 and Deed of Variation application 14/00153/DOV in 2015) i.e. the reports that were previously approved under Condition 30 and as part of the S.106.

- 3.2 To date, the completed coastal defence works (aside from any on-going maintenance required to be carried out by Avant Homes until the sea wall is transferred to the Council) include repair works to the vertical sea wall between the Gantry Jetty adjacent to the Experimental Casement and East Beach (referred to as '**Part 1**' in Annexure 8 of the S.106). The remaining coastal defence works, to which this application relates, include the repair works required in the area stretching from the Coast Guard Station to the Gantry Jetty adjacent to the Experimental Casement (referred to as '**Part 2**' in Annexure 8 of the S.106).
- 3.3 To address the quality issues referred to in paragraph 1.1, the applicant has provided an alternative proposal for the remedial works in the area known as Part 2. This has been prepared in liaison with Avant Homes' appointed contractor Hesselberg Hydro and the Council, and is set out in **Appendix 1**.
- 3.4 It is important to note that the proposed repairs constitute maintenance improvements to ensure the lifespan of the coastal defences within the Shoebury Garrison area is extended. The works are not related to wider coastal defence considerations in the Borough including Shoebury Common, and do not (and cannot) constitute enhancements to the coastal defences above and beyond what was reasonably secured under the terms of the S.106 as being required as a consequence of the development by Avant Homes. The coastal defences, in conjunction with the set-back bund put in place by Avant Homes, at Shoebury Garrison have been designed on the basis of providing protection against a 1 in 200 year flood event.
- 3.5 In support of the application, Avant Homes have submitted a detailed plan outlining the proposed repairs and an accompanying specification for the hydraulic grade asphalt to be used. Essentially, Hesselberg Hydro intend to deposit a new layer of open stone asphalt (OSA) over the sound areas of previous repair. During the works, Hesselberg Hydro will ensure that a satisfactory concrete toe beam is in place to support the OSA, that any voids in the surface of the Essex Blocks are filled with Lean Sand Asphalt (LSA), and that the joints between the new material and the old are suitably sealed with mastic. Any groyne repairs that are required will also be carried out during the course of the works.
- 3.6 This alternative proposal for remedial works is considered to be an improved specification for repair. The Council's Coastal Defences Engineer is satisfied with the details submitted in support of this application pursuant to Condition 30. Mott MacDonald, who are acting in the capacity as independent expert advisers to the Council, have also offered assurances in respect of the submission. It is noted that Hesselberg Hydro has previously provided OSA on the existing revetment in other locations within Shoebury Garrison. OSA was placed under the Hesselberg Hydro Specification, on full revetment height panels on sections around 70m in length, and some of around 25m in length. This work was implemented some 10 years ago and remains in a satisfactory condition. Hesselberg Hydro OSA has also been used more recently on repairs to damaged OSA, that was not under the Hesselberg Hydro Specification. Such historical evidence demonstrates that the Hesselberg Hydro OSA can provide a suitable protection layer to the revetments, when the materials meet the specification requirements, and the OSA material is placed in accordance with the specification. It is understood that the existing OSA placed by

Avant Homes' previous contractor was of an insufficient thickness and was not in accordance with the Hesselberg Hydro Specification. The proposed Hesselberg Hydro OSA for the new sections under discussion is to be placed in a 200mm thick layer, which will provide greater durability and protection from fatigue.

- 3.7 As mentioned above, the S.106 required Avant Homes to submit collateral warranties relating to all works undertaken in respect of the sea wall and associated structures upon transfer to the Council. The duration of such warranties was not specified. A significant proportion of the sea wall repair works were undertaken approximately 10 years ago by different contractors and consultants over the years. A contractor's warranty period would run from the date of practical completion of the particular element of the works and a professional's warranty period would run from the date of their appointment. Therefore, any warranty from professionals/contractors who were employed by Avant Homes to undertake works is likely to have expired.
- 3.8 As the collateral warranty requirement as set out in the S.106 is no longer applicable, an application to modify this requirement has been submitted. The applicant has proposed the following in relation to warranties for the sea wall:
- Hesselberg Hydro has offered a 2 year warranty in respect of the proposed remedial scheme for the sea wall.
  - In addition to Hesselberg Hydro's warranty, Avant Homes (Central) Ltd will provide a contractor's warranty for 6 years from the date of practical completion in respect of the works being undertaken by Hesselberg Hydro.
  - Avant Homes' contractor's warranty will cover the OSA repair work to the full extent of the sea wall (relating to the area between Groyne No. 1 at the Coast Guard Station and the End Structure adjacent to Groyne No. 25 at the Gantry Jetty) including works done by previous contractors (W&H (Roads) Ltd).

This offer is considered as a reasonable operational standard offering sufficient protection to the Council in terms of guaranteeing the work.

- 3.9 As the quality and laying of the OSA is an essential part of ensuring that the repair works are satisfactory, it is proposed that the Deed of Variation that will be drafted pursuant to application 17/00638/DOV includes clauses requiring the following:
- Before the carrying out of any repairs, Avant to submit a detailed Method Statement i.e. how HH propose to undertake the works
  - Before the carrying out of any repairs, Avant to submit a detailed Site Supervision Plan i.e. how HH and the Council/MM will inspect and test the laying of the material and submit to the Council the daily inspection and sign off sheets
- 3.10 In addition to the S.106 modifications related to the coastal defences, other proposed S.106 changes relating to the wider drainage infrastructure (as set out in paragraph 1.3) are also considered acceptable as they merely relate to updating of the legal agreement to reflect changes already approved by the Council pursuant to planning condition 5 (see paragraph 8.5 for Relevant Planning History).

## **4 Conclusion**

- 4.1 Taking into account the opinion of the Council's in-house Coastal Defences Engineer and independent advice from Mott MacDonald, it is recommended that this application be approved, which will hopefully allow Hesselberg Hydro to carry out the repairs works before autumn 2017.

## **5 Planning Policy Summary**

- 5.1 National Planning Policy Framework (NPPF) 2012 and National Planning Practice Guidance (NPPG)
- 5.2 Core Strategy (DPD1) 2007 Policies KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (Implementation and Resources), CP4 (The Environment and Urban Renaissance)
- 5.3 Development Management DPD 2015
- 5.4 SPD2 Planning Obligations – A Guide to Section 106 and Developer Contributions 2015

## **6 Representation Summary**

- 6.1 **Coastal Defences Engineer:**  
Confirmed submission is considered acceptable subject to receipt of a detailed Method Statement and Site Supervision Plan.

## **7 Public Consultation**

- 7.1 Fifteen site notices posted around the site to cover each entry point and areas affected by application – no responses received.

## **8 Relevant Planning History**

- 8.1 6 February 2004 (00/00777/OUT): Conditional outline permission granted for "Mixed use development comprising conversion of existing buildings and erection of new buildings for: parkland and open space; up to a total of 465 dwellings; up to 23,750sq.m of business floorspace (Class B1(a) and (B)); up to 1625sq.m of non-residential (Class D1) uses, including A. a health centre within the mixed use area, B. the former Garrison Church as a community hall, and C. the former battery gun store as a heritage centre; up to 5,900sq.m of leisure (Class D2) uses; up to 800sq.m of retail (Class A1); up to 600sq.m of financial services (Class A2) use; formation of hotel (Class C1) with approximately 40 bedrooms; land for a new school; erection of landmark residential building; construction of new access roads; and associated works."
- 8.2 10 April 2014 (14/00367/AD): Details approved pursuant to condition 30 (details of sea wall repairs) of planning permission 00/00777/OUT dated 06/02/2004.

- 8.3 11 June 2014 (13/01743/RESM): Reserved matters approved pursuant to outline permission 00/00777/OUT including details relating to New Gunners Park infrastructure/facilities including childrens play area, toddlers play area, wheeled sports and multi-use games area, tennis courts, car parks, footpaths/cycleways and historic military structures.
- 8.4 15 January 2015 (14/00153/DOV): Modification of planning obligation dated 6 February 2004 pursuant to application 00/00777/OUT agreed, in particular clauses relating to New Gunners Park (including multi-use games and wheeled sports areas, tennis courts, children's and toddler play areas, car parks, footpaths/cycleways), sea wall works, Heritage Centre and timescales for delivery.
- 8.5 24 March 2017 (16/01636/AD): Details approved pursuant to condition 05 (details of drainage infrastructure) of Planning Permission 00/00777/OUT dated 06/02/2004.
- 8.6 Current application 17/00639/AD pending decision: Application for approval of details pursuant to condition 30 (details of sea wall repairs) of planning permission 00/00777/OUT dated 06/02/2004 [Revised application]

## 9 Recommendation

- 9.1 Members are recommended to **DELEGATE** authority to the Deputy Chief Executive (Place), Director of Planning and Transport or Group Manager for Planning and Building Control **TO MODIFY THE SECTION 106 AGREEMENT** dated 6<sup>th</sup> February 2004 to allow the revisions and additions set out in paragraph 1.4 and 3.9 of this report associated with sea wall works and drainage infrastructure.

## Appendix 1: Hesselberg Hydro/Avant's Proposed Sea Wall Revetment Remedial Works

1. All works on or in the beach will be under BacTec supervision.
  2. Loose material and over-thickness repair patches carried out by W H Roads (WHR) will be removed.
  3. Hesselberg Hydro (HH) will excavate down the face of the revetment to locate the concrete toe-beam which they had located at the locations of their previous repairs, and use this as the support for the new Open Stone Asphalt (OSA).
  4. Should the toe beam be absent in any locations, HH will construct a suitable substantial toe detail to prevent undermining of the new revetment using grouted rock, or extend the OSA revetment to 1m below the level of the top of the adjacent existing toe beam
  5. The existing OSA and Lean Sand Asphalt (LSA) material will be left insitu, and jet blasted to provide a clean surface. This will be overlaid with 200mm new OSA, suitably bonded to the existing with tack coat. Below the extent of the WHR overlay, ie on un-surfaced Essex Blocks below the beach, the new OSA will be applied to suitable additional thickness to provide a uniform surface profile for the whole repair depth.
  6. LSA will be available on site to fill any voids in the Essex Blocks which may become apparent during excavation.
  7. The top level of the 200mm OSA overlay will be constructed to a regular line about 4.0m down the slope from the foot of the crest wall, or at level 3.6m AOD, whichever is higher. This will be laid to create a uniform berm along the site at this level.
  8. The aggregate for the OSA will be either limestone, which is the usual material, or, subject to successful testing, gritstone. Subject to testing and economic availability, gritstone will be the material of choice.
  9. All joints between new material and old will be sealed with hot poured mastic.
  10. The works will extend from the fence set in the beach, west of groyne 1 and cover all of WHR's OSA work east of that point.
- Consents from MoD, Natural England and MMO will be arranged by Avant Homes.
  - HH will provide and fix new groyne boards as required along the frontage.