

Report to Development Control Committee

REPORT OF: Pat Reid Development Management Service Manager

REPORT NO: PLA 955

DATE: 20 November 2012

TITLE:	S12/2004 – Discharge of planning obligation (restricting or regulating the development of land) in relation to Section 52 agreement dated 19 November 1984 attached to planning permission 1218/83/2351.	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	N/A	
CONTACT OFFICER:	Louise Parker	
INITIAL IMPACT ANALYSIS:		
Equality and Diversity	Not applicable	Not applicable
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	N/A	

1. RECOMMENDATIONS

That determination of the planning application be delegated to the Development Management Service Manager in consultation with the Chairman and Vice Chairman of the Development Control Committee to complete a Deed of Discharge.

2. PURPOSE OF THE REPORT

To provide advice to Members on a request to discharge a Section 52 Agreement in respect of the former Millcroft residential nursing home now known as The Heathers Barrowby High Road Grantham.

3. DETAILS OF REPORT

On 19 November 1984 planning permission was granted for the change of use to Nursing home and construction of fire escape staircase at Millcroft (now The Heathers) Barrowby High Road Grantham. The change of use was the subject of a Section 52 legal agreement requiring that the maximum number of patients accommodated on the premises at any one time shall be fourteen. Section 52 Agreements was the historical name given to planning obligations, (members will note that Section 52 agreements have now been replaced by Section 106 agreements.)

The application seeks to discharge the Section 52 agreement to allow the number of Patients accommodated on the premises to exceed fourteen.

The application site and surroundings

The site is the former Millcroft residential nursing home now known as The Heathers Barrowby High Road Grantham.

The site is located on the approach to the A52 exiting Grantham towards Barrowby, the building was formerly used as a residential nursing home, although no change of use has taken place it is believed that this use has now ceased.

Clause 1 of the legal agreement states:

“The applicants hereby agree and declare and covenant with the Council and Mortgagees hereby consent to such agreement declaration and covenant that the maximum number of patients accommodated on the premises at any one time shall be fourteen.”

This agreement would be discharged.

Supporting Information

The applicants have submitted the following information in support of the proposals:

“Such planning obligation is obsolete having regard to the subsequent planning history of the property”

The application is not for planning permission, but to solely discharge the Section 52 Agreement.

Relevant Site History

SK.1218/83/2351 – Change of use to Nursing Home and construction of fire escape staircase approved 27 November 1984.

SK.1242/84 2335 – Single storey extension to Nursing Home approved 8 January 1985

SK.0721/87/1267 – 2 storey extension to Nursing Home approved 21 July 1987

SK.1206/87/2096 – Link extension to Nursing Home approved 6 October 1987

SK.95/0121/06 – Construction of lift shaft approved 7 March 1995

S00/0719 – Erection of conservatory approved 29 August 2000

S01/0362 – Change of Use of Nursing Home to Guest House withdrawn

Conclusion

It appears from the Councils records that the reason for the Section 52 Agreement is highway safety and restriction on further development. The highway comments for the 1983 application noted poor access and possibility of the intensification of use of the access. Highways issued a direction to refuse the application. The application went before a subcommittee and an indication was given to grant permission subject to conditions. Further highway comments received by the Council indicated that the change of use is acceptable subject to a Section 52 Agreement limiting patients to 14 and also conditions.

Both SK.1242/84/2335 and SK.0721/87/1267 applications were for an additional 5 suites, although the later application spanned this out over 2 floors and proposed an additional bathroom, conservatory and sitting room increasing the accommodation space available. Highways made no objection or mention of the Section 52 Agreement and attached one condition stating that before the extension be occupied the car parking shall be laid out according to submitted plan. This application was not the subject of a Section 52 Agreement.

There is considered to be an acceptable level of car parking provided on this site. Highway improvements within the wider road network have taken place since the granting of the 1983 Change of Use application. It is therefore shown that the Section 52 Agreement does not serve a useful purpose and as such it is recommended that the legal agreement be discharged to allow the number of patients accommodated on the premises to exceed fourteen as this would not impact further on the site than the current situation, this is confirmed by the comments of the Local Highway Authority. As the Nursing Home is not longer in use, it would not be in the public interest to enforce the Section 52 agreement in this instance.

4. OTHER OPTIONS CONSIDERED

None

5. RESOURCE IMPLICATIONS

No significant impact on resources

6. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls

7. ISSUES ARISING FROM IMPACT ANALYSIS

None

8. CRIME AND DISORDER IMPLICATIONS

It is considered that the development would not result in any significant adverse crime and disorder implications.

9. COMMENTS OF FINANCIAL SERVICES

There are no specific financial comments to make in respect of this report.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

In accordance with Section 106A(6) an authority which receives an application for discharge of a planning obligation may determine it by refusing it: or, if the obligation no longer serves any useful purpose, by discharging it by entering into a Deed of Discharge. In view of the details set out in paragraph 3 of this report, the obligations contained within the S52 Agreement dated 19th November 1984 no longer serve a useful purpose and cannot be enforced.

11. COMMENTS OF OTHER RELEVANT SERVICES

The Local Highways Authority does not wish to restrict the Discharge of Planning Obligation in relation to Section 52 Agreement, it is considered by the Highway Authority that the proposed Discharge of Planning Obligation will not be detrimental to highway safety or traffic capacity

12. APPENDICES:

Planning submission can be viewed via the following link:

<http://www.southkesteven.gov.uk/index.aspx?articleid=2230&ApplicationNumber=S12/2004>