

MINUTES OF THE EXTRAORDINARY MEETING OF WEST DOWN PARISH COUNCIL
HELD VIA ZOOM ON 30th JULY 2020.

Present: Cllr C King (Chair), Cllr S Ayre (Vice Chair), Cllrs, M Reeves, S Squire, R Drew, K. Oades, T Verney.

D. Cllr M Wilkinson, C. Cllr A Davis, Eric Ley, Michael Tichford,

Public, J Oades, A Yeo, M Bryant-Ley, B Lydon-Hewitt, L Simpson, S Carey, J Stainer, S Bryant, R Sherwin, Ian Davies, A Isaac.

The Chair opened the meeting at 6:30pm with apologies from Cllr R Watts.

4164. Public Speaking re: Acorn Developments/Lower Broad Park S106.

Mrs J Oades read a statement on behalf of the residents of Lower Broad Park. Attached.

Cllr C King added by saying that she had documentary evidence from a purchaser out of the area who pulled out of their purchase because the date of completion was put back time and time again.

C.Cllr A. Davis confirmed that Invoices were raised on 11th November 2019 for £6300 for Secondary School Transport Contribution and £18093.42 for New Classroom Contribution. The Highways invoice was raised during lockdown for a footpath. No money has been received as yet. The County Council will be happy to meet with all relevant parties.

Cllr C King added that some of this money was due to be paid before the development started. A question to be answered by Michael Tichford – Head of place.

Mrs S Carey, Head teacher of West Down School said that the school had made plans for the money. The rules around admissions are that where there is a new development with a S106 agreement in place the school automatically has to take those children. The school is already full and over the maximum of 30 per class. The new children, of which they have one already and are pleased to have him, will put more pressure on the children already in the class and with the addition of Covid it is worse. Even if the money comes in the next six months it will be too late to do the work that needs to be done, at the only time that is safe for the children which is over the summer holiday period. There is nowhere else to put the children to do the work at any other time.

The children that would have moved into the social housing are still attending the school and now the new residents will be added pressure. The plan was to extend a classroom that is already too small for the pupils that are in it.

The impact on the local families promised homes is huge, to be essentially homeless at the beginning of lockdown, the children have had a tough few months anyway, to be in this situation is just awful and immoral for them, not knowing where they were going to live and having all their toys in boxes somewhere in storage. It is difficult enough for the adults but for the children it is harder still. They should not have been put in that position in the first place.

J Stainer – West Down Village Community Field – Chair, seconds what has been said by the residents and the school is suffering in a big big way along with the Community Field and Parish Hall that have been banking on this money for years and have planned projects

to improve facilities to accommodate the rise in residents. Finding alternative funding will be very difficult and as time goes on costs will rise. The whole situation is deplorable.

When Acorn purchased this site, they obviously thought there was a very good profit in it, as backed up by two other prospective purchasers who expected there to be over a million pounds profit. Their accountancy is an issue. What has changed since they bought the site? Costs haven't gone up so if they had got on with the building more efficiently, they could have sold all the properties sooner, the excuse of Covid-19 they are using would not have even have be heard of. Just because of bad business they can't expect the village and the council to bail them out, we know they have been very inefficient, no control of their staff, they have been moving materials all around the site, I am aware because they are storing top soil on my land. They said for six months and it has been three years. The whole thing is ridiculous. They should not be allowed to get away with it and I am sure that the council will help us fight this case. It will be interesting to know how they intend to fight this and I'm sure we will find out later. What likely success do we have? How they got planning for Goodleigh....this should not have been granted with all this going on in West Down. The planning department must have been aware of what is going on here, maybe the same will happen in Goodleigh.

Stuart Bryant. I sent an email to be circulated to all the Parish councillors of my position and how I feel about this. Attached. One point I would like to clarify is that my daughter and grandson were offered No.4, this is solely to do with her current situation as a single parent and a genuine application for housing. I worked hard to get the affordable housing on this development and on the previous application which had 9 affordable properties on it. People that know me and my family will know how much this upsets me, my mother would be horrified to hear that the estate money is not going to the School, Parish Hall and Community Field. This upsets me, I have been put in a situation that I cannot win. It has been troublesome over the years to get planning, anyone would try to get planning in my situation, and it is my retirement and my family's future. I had no idea that I would be left in this situation with Acorn, they came highly recommended by the enabling officer at Colin Savage, with whom Acorn had done previous projects of this nature that have been successful. The Council approached me about the land as they needed to acquire areas for development. I have challenged Mark Thomas (director) at Acorn, sent a fairly strong email and I received a not very nice and abusive reply back. It is so sad; I have no control but I would like to apologise myself and on behalf of Acorn for the situation the village finds itself in and I feel really sad.

Cllr. Mike Reeves – I agree with everything that has been said so far, the development, whether you wanted it or not the S106 agreement was a fair compromise that benefited the Parish and the Village quite well if it had gone to completion. I deplore what Acorn is trying to do but I also think that North Devon Council in particular, maybe this is something Mr Tichford can answer. When the development commenced there should have been some money paid over straight away, this being £6300 that Andrea mentioned earlier, this should have been paid in January 2018 at the latest. When the first house was sold, according to Acorns statement, almost a year ago a payment should have gone to Highways of £8000, after the third house was sold, according to Acorns statement, in September 2019 another £18000+ should have been paid for half of the second educational contribution. All this money should have been paid to the County Council, so where were North Devon Council while this was going on, what is the monitoring procedure for S106 agreements? All the money so far should have been paid to the County Council; North Devon Council were paid £240 to monitor it. How are they monitoring this agreement or any others? The recreation payment is clouded by how many houses have been sold, according to Turley it is 5 but that doesn't seem to be the case from what other people are saying. So, therefore when the sixth house has been sold the recreational payment of £64000 should be paid. Obviously,

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that won't be paid at the moment because they haven't paid anything. Why was the first invoice not sent out until November 2019? Who was responsible, who was monitoring? Should Acorn have informed them of the sales or should the Council have been checking? If the money due so far had been paid at least we would have had something even if this does fall through. There should be interest accrued on late payments, nobody has mentioned that as yet. Stuart sold the land to Acorn at some point, according to the S106 agreement the change of ownership should have been notified, this may change who should be paying it. Did North Devon Council take into account the site viability when negotiating with the developer? Are there any precedent cases to help our cause? How long will it take Plymouth City Council to decide on the Turley statement? I agree with the others, to use Brexit and Covid-19 as excuses is not on. They have got their calculations wrong and I don't think we should have to suffer for it.

Mr David Ayre - I have always been in attendance at Council meetings either as a member or member of the public. A good meeting with valid points being made. I feel very sorry for the families promised social housing, people and their health and wellbeing is affected by this and it is terrible. As for the community, the Parish Hall, that is important to me, School and the Field should benefit from it.

Cllr Roy Drew – I have a document here. North Devon and Torridge Local Plan FAQ's. They are going against the Local Plan. Is the Local Plan standing up to this or is it a mockery of the Local plan? It looks like it to me. It says, 'the councils will dutifully review proposals for housing to ensure that they are contributing appropriately towards the delivery of affordable housing in accordance with the provision of the development plan, in doing so the Councils may look to take account of a wide range of matters, including, consideration of density, form, layout and the potential for artificial sub division of sites'. So, are they breaking any laws by going against the local plan?

D Cllr M Wilkinson – I called this application to full planning committee and it was passed and agreed with the caveat of affordable housing and all seemed fine. This is to do with viability. Their viability appraisal has gone to Plymouth City Council, appointed by North Devon Council, to be assessed, they are dubious of this appraisal. I am absolutely appalled, for many reasons, the moral grounds, the families that were expecting to move in almost tomorrow in a new home and a secure future and the open space money rightly, for the Parish Hall and the Green Field.

John Stainer - what else are Plymouth City Council appraising, we would all write ourselves a beneficial appraisal. What other evidence are they going to be considering, we all know that it is bad management, 2 years behind, all schemes cost you more if it is delayed. We know that suppliers were not paid on time and a local farmer is still waiting payment for moving earth. At the end of the day it is about bad management and inefficiencies.

Sue Ayre – I have one question for Mr Tichford to answer later, we are all looking at the S106 agreement but are there any other agreements between Acorn and the Council that we are not aware of?

Ian Davies – I understand that Acorn have another site on the other side of Barnstaple. Have they also got agreements in line with the planning permission consent for that site and are the Council able to use that as leverage to get payment for this site before they start building there?

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Cllr Carole King – I want to reiterate what John Stainer said, we need to know exactly what Plymouth City Council are going to be looking at. We have spent a lot of time and effort putting together information from various places and would like to be assured the Plymouth City Council will take this all into account. If they are just looking at the viability statement, we will be very unhappy, we feel that it is very important that North Devon Planning ensure that Plymouth City Council have everything, all our evidence as well. If this financial viability assessment is some magic bullet by which you judge whether the development is going to be viable or not, I find it extremely difficult to understand as to why this was not applied before the development took place, from a business point of view I would suggest you need to do due diligence, you need to find out if the development you are planning is financially viable, they are putting the cart before the horse at this late stage that they are going to lose money on it.

C Cllr Eric Ley – Every comment you've made there is understandable. I don't know about Mr Tichford but I have never seen a case like this before. They are playing on the loophole on the S106 agreement. A question to Mr Tichford should be, what guarantee do they have that the figures in the report are correct? They could be bogus.

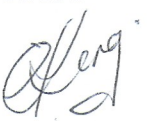
Mr Tichford – Apologies for not being able to use Zoom. I am quite happy to go through the questions. Some of them are quite similar so I will link them together.

The first speaker, shouldn't payment have been made on commencement? There are a number of triggers for each of the payment. The affordable housing was to be handed over upon completion of no more than six of the open market dwellings. The education provision was before commencement and on the matter of the County Council contributions, I believe they invoice themselves those amounts. We invoice for the payments that are due to come to us, we don't hold the education contribution they go straight to the County Council. So, they would invoice for that and the Highways contribution. We would be responsible for the recreational contributions and securing affordable housing.

So, there are various triggers, the second instalment, for instance, on the education upon the sale and occupation of no more than two and then eight dwellings. The educational contribution is split. The recreational contribution is due to be paid before occupational sale of six dwellings, £64578.00 that was invoice in October 2019. We do monitor, we have a support team who have a register of S106 agreements so that person will issue the invoices when the triggers are met. It's always a little bit tricky when they are linked to occupation, completion is fairly straight forward but houses can be completed but it is not always clear when they are occupied. However, we did invoice back in October, since then we have not had any response, we have sent several chasing correspondences to the developer and we were basically fobbed off. The last communication we had from them was in January, before Covid-19.

Initially they were arguing about how many dwellings had been completed at that time, in terms of if the trigger had been made. So yes, we do monitor. There was a question about interest being accrued, yes it does, so we apply a standard rate of indexation to S106 payments from the date at which the S106 was set and subsequent inflation. It is the council that is responsible to enforce these matters.

The way the enforcement is conducted is that it is a legal agreement and we have an ability to take injunctive action to secure the compliance with the clauses in the S106 should it not be adhered to by the developer. Acorn have come back and said that the scheme is not viable, we are duty bound to, obliged under the legislation to consider those viability appraisals, there was a question about, surely the project should be viable in the first place? Yes, absolutely right, we don't ask to see a viability assessment up front because


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the amount of work that would entail would be massive but the whole of the planning system assumes that developers are able to put together their own development proposals and if they start on site they are intending to do it and return a profit.

We do however get viability appraisals submitted at the time of submission of the planning application because the developer has already worked out that they are not going to make their profit and fulfil the obligation requirement that would normally be required under the local plan policies and captured in the planning consent.

To get it this late in the day is unusual as Cllr. Eric Ley mentioned earlier, we don't often but it's not unheard of. We don't normally because the developer should be well aware of what his profit and loss was going to be on any particular development. These S106 triggers were due to fall before Covid-19 so it doesn't seem plausible that it can be used as a rationale to why additional costs have been incurred. We are obliged to look at viability assessments whenever they come in, we use Plymouth City Council because they have a large Property and Estates Team and we, and other councils use the expertise within that team to provide us with professional assessment as to these sorts of appraisals. It is their business and they do it for a number of authorities. The basis on which they will make that appraisal is not to simply look at the developers own appraisal but to make their own assessment, they visit the site, look at the market conditions, look at other values. They do everything a developer would do to be sure the site will return a profit. They won't take the figures that Turley have supplied as read, they do their own analysis on all the things I have mentioned plus the build cost. The Royal Institute of Chartered Surveyors produce standard build costs which are per square meter which Plymouth City Council and other valuers will use. They will apply that, they will apply the cost of the land, particular market conditions at the time. They will then come back to us and advise us on whether there is substance in the viability appraisal.

Where a development has taken several years to come to fruition, we do get viability appraisals coming through because the economic circumstances have changed and that is deemed in the legislation as reasonable reason to reduce the S106 or other requirements.

It will be a thorough process of challenge and we have had some instances in the district in the last year where we put up a very robust challenge to developers and haven't been able to find a resolution but these have been at the planning approval stage.

If the response back from Plymouth City Council says, yes, we agree with the submission and we don't think this site is viable, we then have to make a decision with that information and advice. It may well mean that we amend the S106 to reduce the contributions that can allow the development to continue.

If Plymouth City Council come back and say that they feel that they can make some or all the contributions then we will require payment to be made and will be working with the County Council on this. If they don't comply, we would, along with the County Council take out an injunction action against the developers to ensure payment of the S106 contributions. This means that it goes to court, how they would judge I can't say. Injunctive Action is in the hands of the courts.

With the non-compliance of conditions, it is again under review and if they do not comply, we can, again take action, this could go to injunction and can become a civil court matter but it doesn't usually as they tend to comply before serious action is taken. We very much rely on the locals to report to us if things are not done as we do not have the resources to visit all the development sites in the district.

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A question was asked about, what if the S106 is cancelled? It will not be cancelled but it would be reviewed and if their claim is successful, effectively it would be null and void as they will have demonstrated that they cannot afford to make the payment to the S106 so the payments required would be zeroed.

What action are NDC and DCC taking? Both authorities have submitted invoices to the developers and we've been chasing those, they have been stalling and came in with a query on the S106 and two months ago they came to us and said that the viability was not stacking up and they were getting a viability appraisal. Again, we have had to push them to get this to us as they had missed several deadlines. We have been monitoring and chasing, we do have a lot of information about completion such as council tax and other resources.

Will the developer refund the purchasers? Breach of contract? Are between the developer and purchaser and is outside of the District Councils remit as it is a civil matter.

Are we notified of land sales? In this case the sale of land for the 18th property to be built. Land ownership is dealt with by Land Registry with in central government. We are able to access, as is anyone, the land registry details. We are not the holder of land ownership details.

Did we take into account site viability when assessing? When we put the local plan together we gather an awful lot of evidence, we didn't, in our local plan, do a site by site assessment as that would be expensive and time consuming and after a couple of years you would have to start again as the conditions will have changed. We apply a broad viability test across the whole local plan and an inspector, when they conduct an enquiry on the local plan, analyses that viability assessment and determines whether our requirements are reasonable. When a proposal comes in, we assume that the developer has done their homework and due diligence, because they put in their application plan knowing what our requirement is in the local plan and one of those is 30% affordable housing. Having said that, it is common in this district and the whole country and maybe a weakness of the planning system that a lot of developers do come back to us and say we can't afford to meet the requirements you set us. Unfortunately, we have very few tools, powers to resist that and government does require that we take in and access request for viability.

How long will Plymouth City Council take to decide? We do not expect to hear for at least 3 weeks, they have a heavy workload and need to visit the site.

Can we use their other site as leverage? I'm afraid we can't, each application is dealt with on its own merit and we are prohibited from taking account of the track record. This seems strange, I know but as I said before, the planning is very detached from the development side.

I'm sure that the answers I have given are not what you want to hear, are there any questions that I haven't addressed or any I have that are not clear?

Cllr. Carole King – There are four areas that I think we all have concern, one if which is enforcement, seems to be very inadequate, the fact that none of the invoices were sent at the right time, we understand that councils don't have much money at the moment and would have thought that you would want to get the money in as soon as possible. It seem extraordinary that the enforcement of these condition isn't taken seriously and also we, as a Parish Council reported Acorn many times for violating planning conditions, two planning officials came out and found nothing wrong yet we note that the street lighting is still not complete despite residents being there for more than a year. We have deep concerns about

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the enforcement of this site. It may well be that Acorn can prove that the site is not viable but why should the village pay for their incompetence. It has been said by John Stainer and Stuart Bryant that the site has been mismanaged from the start, houses haven't sold, because of their incompetence, prices have gone up, because of their incompetence. I don't understand why, when something is deemed not financially viable to them, someone else must pay. If I make a business decision that doesn't work, I still have to pick up the consequences, I can't shovel it off on to someone else! The other concern that you haven't answered is, between us we have collected a lot of information and it would be extremely important to us that the people at Plymouth City Council see this and actually look at this, yes I am sure that they will visit the site and I am sure they will play about with the figures in their own way but it is important to us that what we have discovered and have put forward to you actually reaches the people that are going to be making a decision. Finally, I am a bit concerned as I'm sure everyone is, at what seems to be a lack of joined up thinking in the council, that you are very compartmentalised and the left hand doesn't know what the right hand is doing when it comes to enforcement and decision making.

Cllr. Keith Oades – When the people from Plymouth City Council come up, will they actually come and speak to the residents on the street? Another question is, are Acorn still allowed to be selling the properties and completing on the properties without these conditions being met?

At the present time there is a lot of interest and they are at the completion stage with at least two properties, are they still allowed to continue?

Stuart Bryant – there are a number of factors I would like to support; we need Plymouth City Council to look at our story. Keith has taken a concern of mine about sales, surely there must be a block with land registry where they can freeze while this is going on. The street lights are going on now, as we speak. We need to make sure the sales are stopped because once the sales have gone through you won't get Acorn to give any money. I would like to say that I'm horrified by the figure that Mark Thomas has put for 'acquisition costs' Here at Pearldean we have supplied the electricity, he put a meter in Pearldean and covered it through to us so our bill rocketed and we had difficulties with a level of high input and it cost us money, we put the water in place, we got a water pipe left in our garden, we don't know who is paying for it, they have had free water for many, many months maybe years. We agreed to help them with land for a compound and parking then they wanted additional land to store items on. They didn't have a desk; we gave them a desk we gave them a hose pipe. I know it's petty but their figure is b.....s. We need Plymouth City Council to see, I have loads of emails that I can show them.

Cllr. Sue Ayre – Mr Tichford, you didn't answer my question of, are we singing from the same hymn sheet i.e. the S106 agreement or is there another further agreement between the Council and Acorn in place that we don't know about. The Parish Council reported conditions that were not being met on many occasions and were brushed under the carpet or fobbed off and nothing really happened there, so I would like to reinforce that. The information that the Parish Council, Cllr Mike Reeves has put together needs to go to Plymouth City Council with the viability statement. There is a lot of things here, my main concern is the families that have not got a house to live in because that affordable development is now not there and what upsets me is that fact that in the local press and all over social media is that North Devon Council are very proud of the fact that they have got a lot of affordable houses in the community while we are fighting and struggling to get four families from our community a home. They have given themselves a very good face of providing affordable housing when in fact it is actually being snatched away from our village and our community. Yes, I am angry, this is a precedent case and as DCllr. Eric Ley, has acknowledged, he has never seen a case like it in his time as Chairman of the Planning

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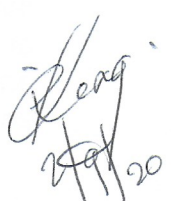
Committee at North Devon Council. I think there are things that need addressing and that we can move forward and to help people and sort this out.

Mike Reeves – I'm sorry, but with respect Mr Tichford, your monitoring procedures are not up to it, your trigger points are not working because the invoices were not sent out until November 2019 yet the development started in early 2018, there should have been at least 3 invoices sent out way before that. I can't prove it and nobody can but I don't think Acorn ever had any intention of paying but if the invoices had been sent on time and had not been paid maybe you would have smelt a rat and brought it to a head before now, maybe even last year before Covid-19. They are not bothered about the Invoices. They have just been allowed to go on. I agree with Keith, I hope they are not allowed to go and sell everything including the affordable houses until this is all resolved.

Michael Tichford – There are no other agreements, there is S106 and S278 which the County Council enter into for highways, I notice there is one on the S106 and I'm assuming there isn't an allied agreement with them. Payment of invoices before commencement, the only one due would have been the Education Contribution and this is invoiced by the County Council and I'm not sure what their monitoring arrangements are with them. I'm not sure whether they wait for us to notify them, I'm not sure of that procedure. We invoiced for the £64000 in October and chased until January and Covid-19 came in, yes there was a hiatus between then and further pursuing payment I agree. The comment 'one hand not knowing what the other is doing' are you referring to the District and the County Council?

Cllr Carole King – yes but also, you say there is planning and development and never the twain seems to meet with planning and enforcement.

Michael Tichford - The planning decision making and enforcement process are somewhat divorced from what goes on at the site. After speaking to Mr Bryant and his reiteration today of some instances of miss-management and the information that has been collected, is welcome, the way it is dealt with it is to go to the Planning Case Officer who is Bob Pedlar. We employ Plymouth City Council on a contract, they would not expect to go out and meet with yourselves to discuss how these costs have occurred, that is for us to do and both I and Bob Pedlar are happy to do so. The process by which the viability assessment is examined. Plymouth City Council will not factor in a mismanaged site. They will look at the build costs and profit equation. They don't take into account delays and the effects on individuals. They expect the developer to be professional, do the job once and do it right and if they don't it's their risk as you said and not for the community and others to take on. Bob Pedlar will take information that he feels is relevant for Plymouth City Council. We are happy to be taken through the information you have so that you are confident that we understand the issues and also that the costs incurred are correct. Can we stop the sales? We can, there is a Stop Notice which you can apply to a development site in extreme circumstances to stop construction, very rarely used as all the liabilities are passed on to the authority. We can't stop sales as planning do not have the authority to intervene in that process. Whether Land Registry would take it on I don't know, a solicitor, when a purchase is taking place would know if the conditions have been met as part of the Land Charge Search and would pass this information to the purchaser. It is then up to them if they proceed or not. Planning enforcement isn't a cut and dried matter, the case has been closed as it was deemed not expedient to do anything. A new planning enforcement case has been opened and the developers seem to be getting on with things. I will check as to why it was closed in the first instance. Payments split between County and District.



Stuart Bryant – I'm horrified that Plymouth City Council will not look into the fact that Acorn are not professional in any way and strongly feel that I am in a position to be able to explain what is happening in this site.

Michael Tichford - Ok, it is obviously not clear, Plymouth City Council will not take into account the extra costs incurred by the developer. They will do their own viability assessment as if the site is run well. If, for example they report back that it should have cost £10 million but Acorns Viability is £13 million then it is clear that there has been mismanagement and the developers are liable.

Cllr Carole King – what we need to do is get all the information from Stuart of all the things that have gone on as it is important for Stuart to put this information forward. We will get all the information together and send it to Mr Pedlar and if Plymouth City Council will see this information we can move forward.

Martina Bryant – Lee – I want to know who is responsible for paying my storage and for putting mine and my sons life on hold for seven months, when we had been accepted for one of the affordable houses, effectively Mark Thomas (director of Acorn) has ended up costing me £800 let alone the emotional, stress and anxiety caused by having our future, our forever home taken away from us and passing the buck, passing us back to the council and the council pass us back to Acorn. This has been going on for months, living in temporary accommodation, living in limbo, I'm a single mum on a low income I've had to find an additional £120 a month. I email Mark Thomas today asking for compensation of my storage costs, £800 may not be much to him but to me on a low income as a single mum is a lot of money. His response was to pass me on again. How can he walk around with his millions of pounds profit, making money from people who have nothing? I think this is disgusting, he is ruining people's lives, how can he be let get away with promising us, my child a new home for five months and then just changing his mind and saying he is selling them instead. You can't treat people like that.

Michael Tichford - Your feelings are understandable, we have never come across a situation like this before, morally as well as legally, it stands out and it's the last thing we tend to see because developers know it is outrageous. It is unprecedented and shameful; I agree with you. I will speak with my housing colleagues; I don't know enough about that side of things to know what recourse there is to making claim for your personal cost you have occurred.

Martina Bryant - Lee – why should I have to pay to have all my things in storage over lock down, for my son not to have his things around him. They don't care whose lives they mess with. What is the point of the S106 agreement with local connection if they decide to sell? We lived here all our lives. My grandparents lived in the village and my great grandparents. The fact that he is now not making any contribution to local families or to the community is outrageous.

Ben Lydon-Hewitt – basically we are in the same situation as Martina but we were given a verbal date of the 13th December so we purchased some furniture which we have in storage now. We were offered £500 that we didn't accept. We are a family of four living in one room in my girlfriend's parents' house. I don't think they ever intended to hand these houses over, we were told November, then December, then January and then we get an email saying unfortunately we can't give you a house as the site is unviable. There was no remorse or anything. When you are locked into getting one of the houses on social rent you can't go for any other houses so we have missed out on loads of properties we could have gone for and now with Covid-19 we are stuck, we can't go anywhere.

Sue Carey – Head Teacher of West Down School – I think the impact on the children we won't know until we are back at school normally but for young children, to have that level of uncertainty is traumatic in anybody's life, but for a child, a percentage of their lives with this uncertainty, I think it is immoral. On another point, I wonder if Webbers the Estate Agents know what is going on and if they should disclose any conflict with communities, can maybe stall the sales especially of the social housing to stop the developer walking away with more money until this is sorted legally. Once they are sold there is no way to get them back. I am looking to move to the area and they tried to sell me one of the houses today, I didn't, but I will follow up with the agents to make it clear why I don't want to add to their profits when they have done this.

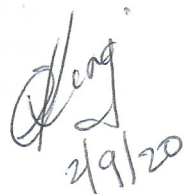
Michael Tichford – I will get further information on the issue of, if they try to sell the affordable, as they have submitted the viability assessment, I'm assuming they won't do anything like that. However, if anything does arise then we will be watching that, I will check with the legal team if we are able to expedite some action should there be any sign that they are looking to sell those units. Obviously, they have delayed but not definitively not complied, if they sell those affordable units they will then not have complied and will be unable to comply which is a different matter that may have legal actions. I will let the clerk know what information I get on that.

Cllr Eric Ley - Has anyone done any research as to whether this company has done this before, anyone looked into their past, it may be relevant. A job for someone. The affordable housing is a particular priority of the Council and will have egg all over their face if this situation can't be rectified. I appreciate money is tight at the minute but they should be looking at doing whatever it takes to rectify this situation. Mr Tichford may say it's easier said than done but I take the view to never give up. I would advise that the Parish Council ask that after Plymouth City Council have made their decision that it go back to a planning committee. If the developer is allowed to win it will be a precedent and the District Council will have great difficulty in the future.

Michael Tichford – I will check with the legal team as to whether constitutionally the planning committee has in its remit to make a decision on such a matter.

Cllr Carole King – I think we have covered everything and I would like to thank everybody for their contributions and for joining us tonight. The Parish Council does view this extremely seriously and not just the financial aspect but as Martina eloquently said, it is a real heart break for some people and has been a very traumatic time for families and the children. Nobody should have been put through that it is quite disgraceful to be told you can move in at Christmas and then to be told at the last minute, sorry it's not going to happen. It really should not have been allowed to happen. Thank you all for contributing. Please send all your information to Vanessa and we will ensure that this gets to Cllr Bob Pedlar asap. We will keep you all informed.

There being no further business, the Chair closed the meeting at 9.23pm.

Handwritten signature and date 2/9/20

**Statement from the residents of
1, 13, 14, 15 and 16 Lower Broad Park, West Down
in connection with the Extra-ordinary meeting of
West Down Parish Council
on Thursday, 30th July 2020**

We understand that the Section 106 agreement dated the 17th August, 2017 which details the monies to be paid by Acorn Developments (SW) Limited together with the agreed number of affordable housing is now being challenged by Acorn Developments (SW) Limited.

We are disappointed that three local families who we understood were going to move in at the beginning of this year have had their offers of accommodation withdrawn. We support the inclusion of affordable housing on the development.

The agreement lists the following monies to be paid over

• First Education Contribution	£5,934.35
• Highway	£8,000.00
• Recreation	£64,578.00
• Second Education Contribution	£34,084.23

Total	£112,596.58
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This amount excludes any indexation formula applied to the amounts to be paid to the District Council or County Council.

At the time the agreement was drawn up it was for 17 properties of which 12 were open market for sale properties.

The sum of £112,596.58 divided by 12 equates to £9,383.05 and we assume that this amount was taken into account when calculating the sale price for each property. This is a large amount to add to the cost of purchasing a property.

We understood at the time of purchase how the money would be allocated and are all happy with the mix of distribution to cover all age groups in the parish. We appreciate that the school needs financial help to cater for extra children moving into the estate and the social and exercise needs of all residents.

We are keen that the benefits of the Section 106 Agreement are achieved by the West Down Parish community.

If the money is paid we would wish to be assured that it will be allocated as per the legal document, the Section 106 Agreement, for which Acorn got planning permission.

The purchase of a property on the estate has been a long drawn out process with reservations being made by some in February 2018 and another later in the year with a moving in date of before Christmas 2018. The completion dates were put back by Acorn many times which caused problems as having found buyers for their properties, who could not wait until Acorn completed the builds, two parties had to move out and go into temporary accommodation for more than three months before they could move in rather than lose their sale. They eventually moved in during August and September 2019.

Some prospective buyers, who were not local, dropped out of their purchases because they could not/would not wait the length of time Acorn were going to take in completing their prospective property.

Some comments on sales of properties on the estate

- 1 The new Stamp duty holiday has caused a significant increase of interest in buying and selling houses as has the desire to move from 'up country' to a Covid 19 safer area.
- 2 We have seen viewers looking at all the properties during the past few weeks. During the evenings and weekends we notice people looking around the estate.
- 3 We understand that Plot 2 is now sale agreed

So, the projections of cash flow and profit will now be floored.

- 4 The rate of completion is solely in the management by Acorn
- 5 Comparisons with National builder who are building hundreds of houses on a single site is not relevant. These builders offer a lower cost and therefore different property type

If Acorn only had planning permission based on Section 106 - they should honour this. If the final profit outcome is not as expected then that is poor management of the relevant costs, surveys and architects' plans.

Questions:

1. When the Section 106 Agreement was drawn up as part of the planning permission was the money to be paid over at the commencement or on completion of the development?
2. Who is responsible for enforcing the Section 106 Agreement? We ask that the parish council support this document and forward it to the relevant person or department.
3. If the Section 106 money is not paid over by Acorn Developments (SW) Limited will Acorn refund each property purchaser by said amount paid?
4. If the Section 106 money is not paid over by Acorn Developments (SW) Limited does this constitute a breach of contract for the property purchases?
5. If plots 4, 5, 6 and 7 – the projected affordable properties – become open market for sale properties we would like to know what will happen to plot 17 the three bedroom semi detached property that we understood Acorn were retaining to rent at an open market rental price.
6. If the Section 106 agreement for financial amounts to be paid and affordable properties to be provided is cancelled can the District or County Council advise us and prospective purchasers how the relationship with Acorn Developments (SW) Limited will continue as presumably we are not the first development to encounter this problem?

7. Can we ask to meet up with the Parish Council, Devon County Council and North Devon District Council to find out what action they are taking?

1 Lower Broad Park – M and A Yeo

13 Lower Broad Park – I and F Davies

14 Lower Broad Park – R Sherwin

15 Lower Broad Park – K and J Oades

16 Lower Broad Park – M and L Simpson