

TRUMPINGTON MEADOWS SECTION (S) 106 DEFERAL REQUEST

To: Cabinet

Date: 24th May 2011

From: Acting Executive Director: Environment Services

Electoral divisions: Trumpington

Forward Plan ref: 2011/40 *Key decision:* Yes

Purpose: To inform Cabinet of a request for deferral of a s106 payment from the Trumpington Meadows development and to recommend to Cabinet an approach to this request.

Recommendation: Cabinet is asked to:

- a. note the request for a section 106 deferral from developers of the Trumpington Meadows site, Grosvenor;
- b. approve the s106 deferral request and with Cambridge City Council, present the proposals to the Joint Development Control Committee for final approval of an amendment to the s106 agreement.

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1. BACKGROUND

- 1.1 A Section 106 Agreement (S106) is a legal agreement that is generally required alongside the grant of a planning permission between the Council and developers. Developers have signed numerous S106 agreements with the County Council in which they have agreed to pay financial contributions, mainly in relation to education, libraries and transport. The County Council ensures the S106 money is spent on developing new facilities or supporting existing services which are necessary in order to support the development.
- 1.2 The schemes which are funded by S106 contributions are linked to the County Council's capital programme and are reflected within the Integrated Plan, as well as other documents such as the Local Transport Plan and service based capital programmes. All County Council S106 contributions are negotiated and secured in line with current adopted planning policy.
- 1.3 As a result of the economic slowdown, the County Council has received a number of requests from developers who are seeking to defer Section 106 payments that have already been negotiated. As a result of this, a process to deal with these deferral requests was agreed by Cabinet in July 2009. This is set within the context of the scheme of financial delegation and all decisions will either be made by Cabinet or in the case of smaller deferral requests, reported through the Integrated Finance and Performance Report.
- 1.4 Although not strictly speaking a deferral request, Grosvenor, developers of the Trumpington Meadows site in Cambridge, have recently approached the Council seeking a minor variation to their s106 agreement. Procedurally, this will need to be agreed by the Joint Development Control Committee who originally granted the planning permission and Cambridge City Council, as the lead authority for that Committee will manage that process. However, as the request will impact mostly on the County Council, before that process commences, an approach to the deferral request from Cabinet needs to be agreed.

2. S106 DEFERRAL/AMENDMENT REQUEST

- 2.1 S106 obligations can be triggered by a number of actions through the course of a development - grant of planning permission, commencement of development or in some cases, particular amounts of development being completed.
- 2.2 In the case of the Trumpington Meadows s106 agreement, there are no s106 obligations triggered on grant of planning permission, with all coming into force at commencement of development and certain stages of development after that point. Given the need for a fair amount of preparatory work to the site prior to house building starting, there are also a range of activities that are excluded from the definition

of commencement of development in the s106. The reason for originally agreeing these exclusions was to allow preparatory works to commence quickly whilst final details of the development were agreed, thus meaning that when these final details were resolved, house building could commence straight away. This is normal practice for developments of this type.

- 2.3 This request for an amendment to the s106 agreement is based on the developers' view that an item of preparatory work that should have been included in the list of works that would not trigger the s106 agreement was inadvertently missed when the agreement was being prepared and therefore taking a strict reading of the agreement, this work would trigger the start of s106 payments. The item in question is the relocation of an access to the John Lewis Partnership (JLP) distribution centre that is located adjacent to the development site. The access currently crosses the development site and so without the relocation, the development can't commence. After much negotiation with JLP, the relocation of this road has now been agreed by the developer although a range of other issues still need to be agreed between the developer and JLP before the full development can start. It is estimated that these issues won't be resolved until September this year.
- 2.4 The developer has therefore formally requested that an amendment to the s106 agreement be made to remove the construction of this access road from the list of items that would trigger s106 payments. Both City and County Council officers can see the logic of this argument and believe that this work is something that would not normally be seen as triggering development.
- 2.5 As the developer is now ready to commit to the construction of this access road, the implications on the Council of accepting or not accepting this variation to the s106 agreement will depend on the responding actions that the developer takes. The best outcome for the Council would be to keep the access road as triggering the s106 payments and for the developer to start work on the access road straight away. This would mean that a range of s106 payments would be made immediately and further payments would be made when the housing development commences.
- 2.6 However, the developer has stated clearly that if this line is followed, works on the access road will not be commenced until all final outstanding matters in relation to planning are resolved and that as a result, any payments under the s106 agreement would be delayed until at least September. The amendment that is being sought is for the construction of the access road not to trigger the s106 agreement. The developer has, however, indicated that to make these proposals more acceptable to the Council, on commencement of the access road works, a range of initial payments under the s106 agreement would be made, with the remaining payments to commence when the house

building starts. The financial effect of this is set down in tables 1a and 1b.

- 2.7 If as the developer says, without this amendment, any works will not commence until all planning matters are resolved, this option is likely to give the Council the best financial outcome. Officers believe this is the best approach and it is recommended that Cabinet approves the removal of the access road works from items that will trigger the s106 payments and works with Cambridge City Council to present a report to the Joint development Control Committee to formally seek an amendment to the s106 agreement.

Table 1a - Schedule of S106 payments assuming the amendment is not agreed

S106 obligation (£000)	May 2011	Jun 2011	Jul 2011	Aug 2011	Sept 2011
Addenbrooke's Access Road					328
Addenbrooke's Access Road Property Costs					720
Addenbrooke's Access Road Junction Works					62
M11 Junction Improvements					22
Cambridgeshire Guided Busway					547
Primary School contribution					655
Ecological Mitigation Measures					114
Others					344
Total					2792

Table 1b - Schedule of S106 payments assuming the amendment is agreed

S106 obligation (£000)	May 2011	Jun 2011	Jul 2011	Aug 2011	Sept 2011
Addenbrooke's Access Road	328				
Addenbrooke's Access Road Property Costs					720
Addenbrooke's Access Road Junction Works	62				
M11 Junction Improvements	22				
Cambridgeshire Guided Busway	547				
Primary School contribution					655
Ecological Mitigation Measures					114
Others					344
Total	959				1833

3. ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING

3.1 Supporting and protecting vulnerable people when they need it most

There are no significant implications for this priority.

3.2 Helping people live healthy and independent lives in their communities

There are no significant implications for this priority.

3.3 Developing the local economy for the benefit of all

The construction of houses on this site is important not only to support local construction jobs but also to provide new housing in an area of housing shortage which will in term, help the local economy.

3.4 Ways of Working

There are no significant implications for this priority.

4. SIGNIFICANT IMPLICATIONS

4.1 Resource and Performance Implications

The proposed deferral request will, it is expected, result in the Council receiving s106 payments earlier than would otherwise be the case so the proposal is beneficial.

4.2 Statutory, Risk and Legal Implications

There are no significant implications for any of the prompt questions within this category.

4.3 Equality and Diversity Implications

There are no significant implications for any of the prompt questions within this category.

4.4 Engagement and Consultation

There are no significant implications for any of the prompt questions within this category.

Source Documents	Location
Trumpington Meadows s106 agreement	Room B306, Castle Court