

DEVELOPMENT AT CAMBRIDGE NORTH WEST : NATIONAL INSTITUTE OF AGRICULTURAL BOTANY (NIAB)1 SITE – SECTION 106 HEADS OF TERMS

To: Cabinet

Date: 25th May 2010

From: Acting Executive Director: Environment Services

Electoral division(s): Bar Hill (Girton), Arbury, Castle, Cottenham Histon and Impington

Forward Plan ref: 2010/036 **Key decision:** Yes

Purpose: To inform Cabinet of section 106 negotiations for the proposed NIAB1 development at Cambridge North West in advance of the expected determination of the amended outline planning application and section(s) 106 Heads of Terms by the Fringes Joint Development Control Committee on 16th June 2010.

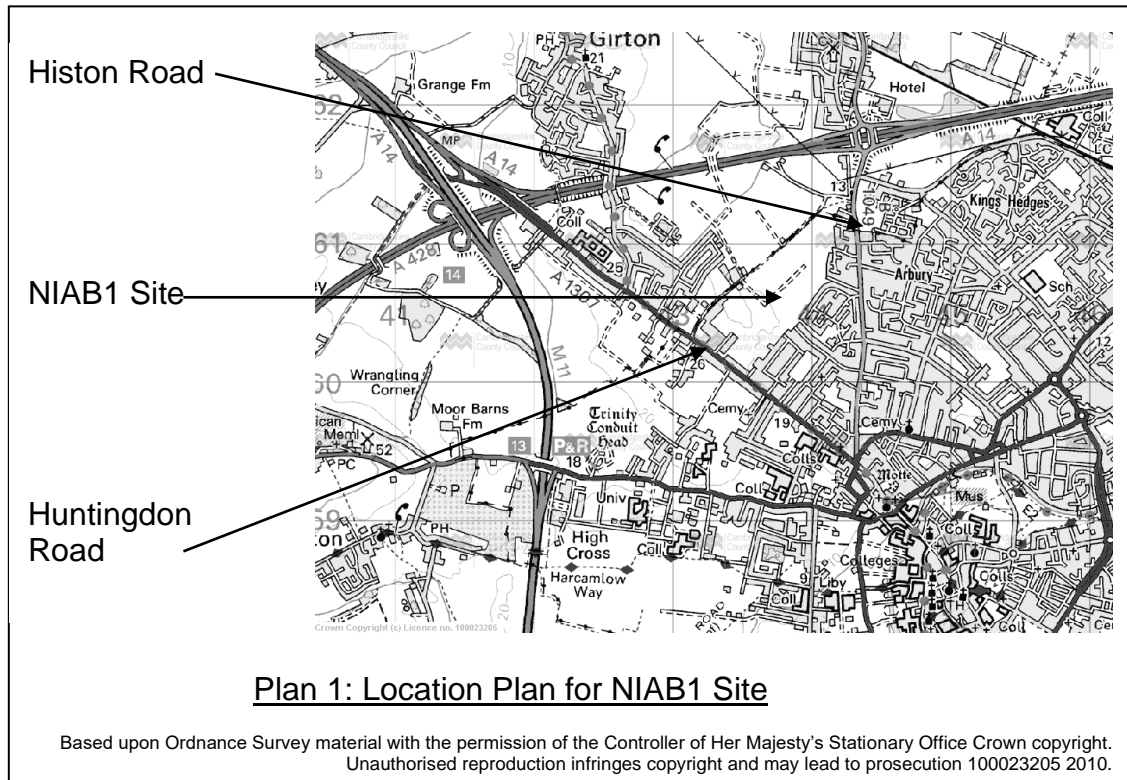
Recommendation: Cabinet are invited to:

- i) Consider and agree the proposed s106 Heads of Terms, as set out in Appendix A, for the development at NIAB1; and
- ii) Delegate to the Lead Member for Growth and Infrastructure in consultation with the Acting Executive Director: Environment Services, the authority to make any minor changes to the Heads of Terms prior to finalising the s106 agreement.

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1. BACKGROUND

- 1.1 In October 2008, Cabinet considered a report on s106 negotiations for the proposed development of 1,593 dwellings on land between Huntingdon Road and Histon Road (known as the NIAB1 site). Plan 1 below shows the general site location.



- 1.2 In May 2009, Cabinet approved a consultation response to the amended outline planning application that included several objections to the development proposal that were subsequently lodged with the local planning authority. These objections included the need for better transport provision and education infrastructure, both necessary for the development to mitigate its impact. An improved s106 package had not been secured with the developer at that time.
- 1.3 In August 2009, a confidential revised viability appraisal was shared with the local authorities by the developer. It showed the viability gap had narrowed. However, the developer had advised they were unlikely to implement any planning permission granted until the market for housing sales improved. This position was based on the provision of 40% affordable housing.
- 1.4 In October 2009, following further negotiations, Cabinet agreed an updated s106 Heads of Terms in advance of a then expected Joint Development Control Committee prior to Christmas 2009. At the request of the developer, and in agreement with the local authorities, determination of the planning application was delayed until Spring 2010. This was to allow for publication of the Secretary of State's decision on the public inquiry at Clay Farm in the south of Cambridge and the need, if any, to review the s106 requirements for the NIAB1 development.

2. MAIN ISSUES

- 2.1 Appendix A to this report sets out the County Council requirements for the s106 Heads of Terms that officers recommend should be taken forward to the Joint Development Control Committee in June 2010.
- 2.2 Set out below are the changes that are required to the s106 Heads of Terms that were previously agreed by Cabinet in October 2009. These result directly from the Secretary of State decision on Clay Farm.

Library provision

- 2.3 The County Council has sought, as of October 2009 :-
- i. that in accordance with its Service Level Policy, a level 2 library be required to serve the Cambridge North West developments (comprising of the University, NIAB1 and NIAB2 sites). The capital cost of the library has been considered to be proportionally shared amongst these developments; and
 - ii. a revenue cost for the first five years of the library opening.
- 2.4 The Secretary of State's decision on Clay Farm was published on 25th February 2010. It concluded that any capital library contributions for the southern fringe developments should be proportional to the population catchment that it serves and that the relevant catchment area is defined by a two mile radius (as the crow flies).
- 2.5 The Secretary of State also decided that a revenue contribution for a library is not consistent with the tests set out in Circular 5/05 (the non-statutory planning guidance on s106 agreements) and therefore is not appropriate.
- 2.6 The NIAB1 developer, in a letter of 25th March 2010 has indicated that it wishes the County Council to reconsider its position on library requirements. A revised capital contribution has been offered, by the developer, based on the approach set out in the Clay Farm decision. A revenue contribution is not accepted as appropriate by the developer.
- 2.7 County Officers have considered the issues and recommend that it is no longer appropriate to seek a library revenue contribution for a library at Cambridge north west.
- 2.8 County Officers recommend, as requested by the Secretary of State, that a catchment based approach to determining the capital contribution is appropriate. However, it is not accepted that a two mile radius is the appropriate catchment area. Following the publication of the Department for Culture, Media and Sport Modernisation Review of the public library service in March 2010 and subsequent advice from Officers at the Museums, Libraries and Archives Council the former Public Library Service Standards are no longer to be considered as forming the statutory definition of the service. Consequently there is no statutory distance requirement for catchment areas;

it is now a matter for the each local authority to determine appropriate levels of service to meet the needs of its local communities. The County Council's policy is that a 1 mile distance is appropriate for this site.

- 2.9 Taking all these points into account, Officers recommend that a reduced contribution be agreed with the developer in line with the advice given above. Members will be aware of the Library Service Review which is expected to conclude in September 2010. It is possible that this review may result in revisions to service provision within Cambridge City. Appropriate clauses should be inserted into the s106 agreement to allow for this scenario. The revised recommendations for the s106 agreement Heads of Terms are contained in Appendix A.

Education provision

- 2.10 Further discussions with the developer have sought to finalise costs and triggers in order to ensure that the contributions received from this development are fair, proportional to the development size and available in good time to allow for the timely construction and opening of the schools to meet the needs of the first residents.
- 2.11 Up to 9ha of land will be required for the secondary school site. 8ha are required for educational purposes with potentially additional land needed for wider sport/community uses serving the north-west developments.
- 2.12 Appendix A sets out the revised triggers. These triggers secure a position that allow for making the decision on whether to provide for 2 smaller or one larger primary school at the appropriate time. The County Council will determine the optimal approach to education infrastructure provision in the north west area and these triggers provide maximum flexibility to the County Council.

Transport provision

- 2.13 The transport financial requirement remains largely as that previously agreed by Cabinet in October 2009. There is a slight amendment to the contribution required for the Coton footpath link, from the NIAB1 development, to reflect a shared cost amongst all the north west developments.

Other matters

- 2.13 The use of triggers, based on the commencement of development or occupation of houses, will be used in the s106 Agreement to secure timely provision of contributions. It is currently anticipated that this development will come forward with 40% affordable housing. Cabinet is asked to note the objective that 40% affordable housing across the site is still pursued.

3. SIGNIFICANT IMPLICATIONS

Resources and Performance

- 3.1 There are a range of financial implications from the current negotiations on the S106 agreement. The attached S106 details, when agreed, would provide sufficient funding for the County Council to provide the necessary public services and infrastructure arising from the NIAB1 development.
- 3.2 In terms of the specific contributions themselves, all capital contributions are index linked to nationally recognised indices to protect the contributions. The baseline for the indexation will limit the potential problem for the cost to have increased between the determination of the planning applications and the sealing of the S106 agreements.
- 3.3 A combination of Bonds and / or a Parent Company Guarantees will be secured against the capital contributions for the NIAB1 development.

Statutory Requirements and Partnership Working

- 3.4 The S106 agreements will enable the County Council to provide facilities and services that discharge its statutory duties in relation to education, transport, waste, community learning and development. Failure to secure the funding will have a direct impact on the ability of the Council to undertake these duties and will impact on the new residents of the proposed development.
- 3.5 The development proposals have been subjected to significant public consultation and debate. This includes through the Cambridgeshire Structure Plan and Cambridge City Local Plan processes. County Members sit on the Cambridge Fringes Joint Development Control Committee.

Climate Change

- 3.6 The development proposal for this site responds to policy requirements to address climate change issues through applying Code for Sustainable Homes and Sustainable Urban Drainage measures.

Access and Inclusion

- 3.7 The development proposal responds to policy requirements for access and inclusion measures. There are no significant implications for any of the headings under this category.

Engagement and Consultation

- 3.8 There are no significant implications of this under this category.

Source Documents	Location
Cambridge City Council Local Plan Planning Applications for the Site	<i>New Communities 2nd Floor Castle Court</i>