

**DEVELOPMENT AT CAMBRIDGE NORTH WEST : NATIONAL INSTITUTE OF
AGRICULTURAL BOTANY FRONTAGE SITE (NIAB1) SITE – SECTION 106
AGREEMENT UPDATE**

To: **Cabinet**

Date: **20th October 2009**

From: **Executive Director, Environment Services**

Electoral division(s): **All**

Forward Plan ref: **2009/051**

Key decision: **Yes**

Purpose: **To inform Cabinet of the current position that has been reached on the Section 106 negotiations for the proposed NIAB1 development at Cambridge North West in advance of the expected determination of the amended outline planning application by the Fringes Joint Development Control Committee on 3rd November 2009.**

Recommendation: **Cabinet are invited to**

- i) consider the current position and endorse the proposed s106 heads of terms for the development at NIAB1.**
- ii) Delegate to the Lead Member for Growth, Infrastructure and Strategic Planning in consultation with the 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 the early Section (S)106 negotiations associated with the development of 1,593 dwellings on land between Huntingdon Road and Histon Road - known as the NIAB1 site.
- 1.2 In May 2009, Cabinet endorsed a response to the amended outline planning application which raised several objections to the development proposal and which affected the S106 package. These objections related to the need for better provision of transport and education infrastructure which were considered necessary for the development to mitigate its own impacts, but which had not yet been secured with the developer.
- 1.3 In August 2009, a revised viability appraisal from the developer was shared with the local authorities in confidence and showed an expected rise in sales revenues. As a result, the viability gap has reduced but is still considered to be greater than what is likely to be required to enable development to proceed. The applicant would therefore be unlikely to implement any planning permission granted, in the current economic climate, unless the market rises (sales revenues increase) or costs are reduced sufficiently.

2. MAIN ISSUES

- 2.1 Set out below are the key issues for which comments from Cabinet are sought. Appendix 1 sets out the County Council requirements being sought as part of this S106 agreement.

Primary School

- 2.2 The County Council requires that a 3 forms of entry (FE) Primary School be required at NIAB1. Depending on if and when the adjacent NIAB2 development comes forward, a flexible approach is proposed that would provide for a balanced education provision across the two sites. Cabinet considered and approved this approach in more detail on 8th September 2009 in granting approval to proceed with negotiations with the developers of the NIAB1 site on the basis of provision of a primary school capable of providing for up to 630 pupils aged 4 – 11.
- 2.3 Developers have agreed in principle that a 'switch' from 2 to 3FE can be in the S106 agreement. County officers require the review to be at 900 occupations in order that there is sufficient time to plan for the change.
- 2.4 The appendix to this report sets out the County requirements and triggers for primary school provision.

Secondary School

- 2.5 Following the Inspector's report into the South Cambridgeshire District Council (SCDC) Site Specific Local Development framework (LDF), which recommends that land for a secondary school will be required on the NIAB2 site, the developers will be required to provide a fully serviced site to build the

school on, with access through the NIAB1 site as necessary. The school will be paid for using apportioned developer contributions from all of the Cambridge North West developments that will generate a need for secondary school provision, which includes NIAB1.

- 2.6 Cabinet endorsing the need to require a 1200 place (8FE) secondary school and associated requirement for a 8 hectare (ha) site at north west Cambridge on the 8th September 2009. The County Council therefore requires that the S106 agreement for NIAB1 makes provision to secure a secondary school site, within NIAB2 and its early release to the County Council regardless of whether NIAB2 comes forward. County officers are working with City Council officers and the developer to reach agreement on the detail of this agreement.

Post 16 Education

- 2.7 The County Council has previously sought a Post 16 Education contribution following advice from the Learning Skills Council. Following a recent review of requirements this is now no longer necessary as there will be sufficient capacity within Cambridge City to accommodate Post 16 provision from this development.
- 2.8 Officers recommend that this request for a Post 16 Education Contribution is now withdrawn.

Library

- 2.9 The developer has accepted, in principle, that a Library be co-located with a health facility on the NIAB1 site. The developer has not accepted the need for revenue payments to be made.
- 2.10 The Library is planned to be co-located with the Health Centre. The development of the two facilities will be closely related and ensure the timely provision of these services to the development.

Waste Recycling

- 2.11 The developer has accepted the principle of payments being made for off-site provision for a Recycling Centre.

Transport

- 2.12 County Officers have progressed matters with the developer and agreed further aspects of the s106 package. Appendix 1 details the current status of the transport contributions.
- 2.13 Members are invited to consider specifically the Cambridgeshire Guided Busway Contribution which is not accepted by the developer on the basis that they consider the CGB does not immediately serve the development.
- 2.14 The planning application had originally relied on the Cambridgeshire Guided Busway (CGB) in the Transport Assessment to mitigate its' transport impact. Officers in responding to this reliance within the original planning application, sought to secure a contribution to the capital cost of the CGB scheme.

- 2.15 The developers of the NIAB 1 site have since amended the Transport Assessment supporting the planning application and the reference to reliance on the CGB was removed.
- 2.16 Officer's views are that given these points, there is insufficient planning policy basis for this contribution and it should be removed from the County Council requirements.
- 2.17 Drawing on the point noted above, Members are invited to consider the likely success in continuing to pursue the CGB capital contribution. Officers are of the view that on balance and noting the point immediately above, there is a very limited chance of securing a CGB contribution and it should be removed from the s106.

Adult Support Services

- 2.18 Provision for Adult Support Services is included in the specifications for community buildings and as such there is no direct contribution being sought.

Other matters

- 2.19 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 the view that this development will come forward with 40% affordable housing and Cabinet is asked to re-affirm and endorse the objective that 40% affordable housing across the site is still pursued.

3. SIGNIFICANT IMPLICATIONS

Resources and Performance

The S106 legal agreement provides insufficient funding to provide the necessary infrastructure.

- 3.2 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.
- 3.3 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.
- 3.4 If appropriate, Parent Company Guarantees and / or a combination of Bonds will be secured against the capital contributions for the NIAB1 development.

Statutory Requirements and Partnership Working

- 3.5 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.
- 3.6 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

- 3.7 There are no significant direct implications for any of the headings under this category

Access and Inclusion

- 3.8 There are no significant implications for any of the heading under this category

Engagement and Consultation

- 3.9 There are no significant implications of this under this category

4. CONCLUSIONS

- 4.1 County officers are close to agreeing the S106 package for the NIAB1 development and matters that are necessary for determination of the amended outline planning permission will need to be concluded in advance of the Joint Development Control Committee on the 3rd November 2009. Senior County Officers will continue to work with colleagues at the City Council, Cambridgeshire Horizons and the developers to agree a viable S106 package that will be presented to a future Cabinet for final endorsement.

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