

**DEVELOPMENT AT CAMBRIDGE SOUTHERN FRINGE – SECTION 106
AGREEMENTS**

To: **Cabinet**

Date: **8 September 2009**

From: **Executive Director for Environment Services**

Electoral division(s): **Sawston, Queen Edith's, Trumpington, Gamlingay (all divisions in terms of the possible financial consequences related to any Government decision referred to in paragraph 3.3)**

Forward Plan ref: **2009/015** *Key decision:* **Yes**

Purpose: **To inform Cabinet of the current position that has been reached on the Section 106 negotiations for the proposed development of Clay Farm at Cambridge Southern Fringe.**

Recommendation: **Cabinet are invited to consider the current position and endorse the proposed s106 heads of terms for the developments at Clay Farm and Glebe Farm.**

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|--------------------------------|--|------------------------------|--|
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1. BACKGROUND

- 1.1 In July 2009, Cabinet considered a detailed report on the S106 negotiations for the proposed developments on the southern Fringe of Cambridge.
- 1.2 Cabinet was informed in July that the negotiations on the Clay Farm and Glebe Farm applications were progressing well but that at that time, they had not reached a conclusion and that a further report would be brought to Cabinet. Cabinet was also informed that the developer, countryside, had lodged an appeal for non determination of the planning application and that if the negotiations could not be concluded, that appeal would be held in September.
- 1.3 This report sets out the current position in terms of these negotiations.

2. THE CURRENT POSITION

- 2.1 Since Cabinet last considered the position with the Clay Farm development, there has been a period of intense negotiation between the County Council, the City Council and the developer. This has resulted in refinement of the section 106 requirements on the County Council's part. The outline of the s106 package that has resulted from this is attached as Appendix 1. Significant areas that have changed since Cabinet last considered this development are as follows:
 - The new primary school at Clay Farm will be built in 2 phases;
 - The new secondary school will be built in 2 phases;
 - Following further discussion with the Learning and Skills Council (LSC), they have advised that the LSC capital contributions are no longer justified and have been removed;
 - For the repayment of the Rolling Fund for the Addenbrooke's Access Road, Cambridgeshire Horizons has agreed to push back the payments and link them to housing completions with the use of a backstop date.
- 2.2 In addition to the above points, the use of triggers for payments based on occupations of houses have been used more fully.
- 2.3 However, despite the extensive negotiations and progress that has been made, the developer remains of the view that the Clay Farm and Glebe Farm developments are not viable in their current form and therefore is still pursuing the appeal route. If the appeal takes place, it will commence in mid September and the outcome is likely to be known early next year.
- 2.4 Given the current position with this development, Cabinet is asked to endorse the renegotiated s106 package as contained in Appendix 1. Should the developer decide not to pursue the appeal and move towards completion of a s106 agreement, the contents of Appendix 1 should form the Heads of Terms for that agreement. Similarly, should the developer continue with the appeal route, the contents of Appendix 1 should form the Council's case for requirements of the development to put to the Inspector during the inquiry.

- 2.5 Despite the current views of the developer, the views of the financial consultants King Sturge, who are advising the City and County Councils on the inquiry, is that the development can come forward in a viable manner and this will clearly form a substantial part of the issues to be determined at the inquiry.

3. SIGNIFICANT IMPLICATIONS

Resources and Performance

- 3.1 The following bullet points set out details of significant implications identified by officers.

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 heads of terms would provide sufficient funding for the County Council to provide the necessary public services and infrastructure for both Clay Farm and Glebe Farm.
- 3.3 The issue of paying for infrastructure that is already in the process of being built may be raised by the Appellant. Clearly if the Secretary of State found against the County Council on the principle of these payments, then that would have a significant financial impact.

Outcome of Planning Appeal

- 3.4 If developer loses the appeal and the case of the Councils is accepted, then it does not necessarily mean that development will proceed. The developer could 'mothball the site and implement a permission in the future.

Costs of Planning Inquiry

- 3.5 These are estimated as between £150 000 and £200 000. Some of these costs will be incurred even if the inquiry does not take place. The County Council will be required to meet 50% of these costs. Discussions are taking place with Cambridgeshire Horizons for support for these substantial costs.

Other issues

- 3.6 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 is the 2nd quarter of 2007. This helps to limit the ability for the cost to have increased between the determination of the planning applications and the sealing of the S106 agreements.
- 3.7 Parent Company Guarantees and / or a combination of Bonds have been secured against the capital contributions for Clay Farm and Glebe Farm.
- 3.8 Cabinet needs to be aware that the S106 as currently drafted means that the provider of affordable housing would not be liable / cannot be enforced against in the event that the developers get into difficulty.

Resources and performance issues

- 3.9 In terms of performance, Local Area Agreement National Indicators (NI) 154 & NI155 – Number of homes delivered and number of affordable homes delivered are relevant here. If there is a delay in issue of planning permissions as a result in the delay of S106 completion, this will directly affect the performance against these two indicators.

Statutory Requirements and Partnership Working

- 3.10 The following bullet points set out details of significant implications identified by Officers
- 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.
 - The development proposals have been subjected to significant public consultation and debate. This includes through the Structure Plan and Local Plan processes. County Members sit on the Cambridge Fringe Joint Development Control Committee. County Members and Officers participated in the Cambridge Southern Fringe Member Reference Group that considered the proposals that were confirmed in the Cambridge southern Fringe Area Development Framework.

Climate Change implications

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

Access and Inclusion

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

Engagement and Consultation

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

| Source Documents | Location |
|-------------------------|--|
| Application documents | <i>B306, 2nd Floor Castle Court</i> |