

DEVELOPMENT AT CAMBRIDGE SOUTHERN FRINGE – SECTION 106 AGREEMENTS

To: **Cabinet**

Date: **27th April 2010**

From: **Acting Executive Director: Environment Services**

Electoral division(s): **Sawston, Queen Edith's, Trumpington, Gamlingay**

Forward Plan ref: **2010/029** *Key decision:* **Yes**

Purpose:

- 1. To update Cabinet on the Clay Farm and Glebe Farm Planning Inquiry and appeal decision**
- 2. To inform Cabinet of the current position that has been reached on the Glebe Farm full planning application and associated Section 106 agreement**
- 3. To inform Cabinet of the current position that has been reached on the Clay Farm Section 106 agreement**

Recommendation:

Cabinet are invited to consider the paper and endorse:

- i) The S106 packages for Clay Farm and Glebe Farm;**
- ii) The amended position on Library Capital and Revenue funding following the appeal decision;**
- iii) Remove the S106 and highway objections relating to the Glebe Farm planning application**

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1. BACKGROUND

- 1.1 On the 8th September 2009, Cabinet considered a report on the S106 negotiations for the proposed developments of Clay Farm and Glebe Farm at Cambridge Southern Fringe.
- 1.2 Cabinet were informed of a period of intense negotiation between the County Council, the City Council and the developer in advance of the Public Inquiry. The Public Inquiry commenced on 28th September 2009. Negotiations continued right up until the start date, and for some contributions, negotiations continued during the inquiry time.

2. APPEAL SUMMARY

- 2.1 The main reason the appeal was launched was in relation to economic viability and the developer claiming they could not provide the policy compliant 40% affordable housing. In terms of specific County matters, the developer was also appealing against:
- Education Capital and Revenue Payments
 - Transport Payments and Planning Conditions
 - The County's requirement for a second vehicular access to the Fawcett School
 - Library Capital and Revenue Payments
- 2.2 Through negotiation, with the exception of the library capital and revenue contributions, County Officers were successful in settling all of the above points with the developer outside of inquiry time; hence no evidence was presented on these matters. This significantly reduced the financial risk to the County Council. No agreement could be reached with regard to the library capital and revenue payments, therefore these issues were discussed at the Public Inquiry along with the evidence on economic viability and affordable housing.

3. APPEAL OUTCOME

- 3.1 The Secretary of State for Communities and Local Government dismissed the Clay Farm and Glebe Farm appeals in a letter dated 25th February 2010. The Secretary of State considered that the developer's approach to assessing viability has the effect of protecting historic land values as well as insulating the developer against any risk. This was not acceptable, and therefore the developer's argument was quashed, which represents a significant success for the Local Authorities.
- 3.2 Securing 40% affordable housing is a considerable success for the Local Authorities working together to secure much needed affordable housing. It not only sets a benchmark for future planning applications within the County, but it is considered that this decision is likely to have implications for planning applications on a regional and possibly national scale. Specifically for the County Council, a key benefit of the outcome is that the County review of the provision of secondary education in the City is robust and was not overturned by an appeal decision that could have rejected this approach.

- 3.3 In terms of the library capital and revenue payments, the County Council was successful in securing a library capital contribution. The Secretary of State reduced the capital contribution based on a methodology which Officers do not agree with, but the fact that the need and justification for a library contribution was recognised is considered a positive result. The Bell School development, which is part of the Cambridge Southern Fringe will also contribute to the Clay Farm Library, therefore the Bell School library capital contribution must also be reduced.
- 3.4 Unfortunately, the Secretary of State did not support the County Council's requirement for a library revenue contribution. It was deemed that Local Authority revenue expenditure on libraries is largely funded from Central Government and Council Tax. The library revenue contribution sought from Bell School must now also be removed.
- 3.5 In addition to the library contributions, the Planning Inspector scrutinised all other S106 requests. The Inspector commented that all requirements are policy compliant and the levels of payment are proportionate to the impacts of Clay Farm and Glebe Farm. This view was endorsed by the Secretary of State, which is another positive outcome for the Local Authorities.

4. CURRENT SITUATION

- 4.1 The developer has accepted the outcome of the appeal and is now in the process of trying to get a full application for Glebe Farm approved. Work to try and get the duplicate outline application for Clay Farm approved is expected to follow in the near future.
- 4.2 Both the Clay Farm and Glebe Farm planning applications will need to be accompanied by S106 agreements.
- 4.3 Extensive work has been undertaken on S106 requirements, therefore, despite new S106 agreements being required, the content which was agreed prior to and during the Inquiry is expected to largely remain.
- 4.4 Cabinet is therefore asked to consider and approve the S106 package for Clay Farm and Glebe Farm in Appendix 1 and 2. The main changes from the last report are summarised in Table 1:

Table 1: Changes to the Clay Farm and Glebe Farm S106 Contributions

Contribution	CF/GF S106 Sept 2009	CF/GF S106 April 2010	Reason for change
Southern Corridor Area Transport Plan	£770,909	£270,909	Negotiated position to reflect the fact that the developer is providing land for the secondary school
Fawcett Primary School Extension	£3,000,000	£2,537,688	Agreed revision to cost schedule
Primary/Secondary School Revenue	£786,200	£393,100	Negotiated position to reduce risk
Secondary School	£10,621,853	£10,214,611	Reduced contribution to factor in

			elements of the secondary school which potentially could have been perceived as 'non-essential' i.e. Adult Education Unit
Library	£496,062	£267,873	As explained above
Library Revenue	£288,300	£0	As explained above

4.5 The County Council commented on the Glebe Farm full application earlier this year. The County's comments, which included an objection in relation to S106 and highway issues, were endorsed by Cabinet on 23rd February 2010. Providing the S106 package is endorsed by Cabinet, the content of Appendices 1 and 2 will then form the content of the Glebe Farm and Clay Farm S106 agreements. It is therefore recommended that the County Council's holding objection on S106 matters should be removed.

4.6 In terms of the highway design objection, County Highway Officers have been working with the developer to address the County Council's concerns. All highway concerns have now either been addressed to the satisfaction of the County Council, or an appropriate planning condition will be imposed to ensure the development is built to the satisfaction of the County Council as Highway Authority. It is therefore recommended that this objection should be removed as well. It should be noted that the County Council has raised issues regarding adoptability of roads, and whilst Officers consider that there is a suitable solution and way forward, it is for the developer to consider their aspirations for road adoption.

5. LOOKING AHEAD

5.1 Both Glebe Farm and Clay Farm sites are expecting to commence infrastructure works in August 2010. First occupations are expected in Spring/Summer 2011. The Clay Farm Spine Road is anticipated to be built from the Addenbrooke's Access Road up to Long Road by September 2013. This means that access to the secondary school site will be provided quickly. The potential risk of a delay in the start of the construction of the school because access to the school site could not be achieved is now significantly reduced.

6. SIGNIFICANT IMPLICATIONS

Resources and Performance

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

6.1 The attached appendices would provide sufficient funding for the County Council to provide the necessary public services and infrastructure for both Clay Farm and Glebe Farm. The reduced library capital contribution is unlikely to be sufficient to fund a new library for Cambridge Southern Fringe, and therefore additional funding will probably be required; however this should be available through other small to medium scale developments located within the City area. The County Council currently seeks Library and Life Long

Learning contributions on all new developments within the City area (of 4 dwellings or more) and a significant amount of funding has already been received.

Developer actions following appeal decision

- 6.2 The developer may still ‘mothball’ the sites and implement permissions in the future, however, recent correspondence with the developer suggests this is now very unlikely and the developer is keen to get started.

Other issues

- 6.3 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 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.
- 6.4 Parent Company Guarantees and / or a combination of Bonds have been secured against the capital contributions for Clay Farm and Glebe Farm.
- 6.5 Cabinet needs to be aware that the S106 as currently proposed means that the provider of affordable housing would not be liable / cannot be enforced against in the event that the developer get into financial difficulty.

Resources and performance issues

- 6.6 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

- 6.7 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

- 6.8 There are no significant implications for any of the headings under this category.

Access and Inclusion

- 6.9 There are no significant implications for any of the headings under this category.

Engagement and Consultation

- 6.10 There are no significant implications under this category.

Source Documents	Location
Application documents	<i>New Communities – A wing, 2nd Floor Castle Court</i>