

**PLANNING PERMISSION FOR RED HOUSE SITE – VARIATION OF S106 AGREEMENT**

*To:* **Cabinet**

*Date:* **6 March 2012**

*From:* **Executive Director: Economy, Transport and Environment**

*Electoral division(s):* **All**

*Forward Plan ref:* **N/A** *Key decision:* **No**

*Purpose:* **To consider a request from Cambridge City Council on whether the extant s106 planning agreement for the Red House site in Cambridge city should be varied.**

*Recommendation:* **It is recommended that Cabinet:**

- a) Consider the context of the request for a variation in the extant s106 agreement for the Red House site in Cambridge city; and**
- b) Agree to the Officers' recommendation that the extant s106 agreement for the Red House site in Cambridge city should not be varied**

<b><i>Officer contact:</i></b>	<b><i>Member contact</i></b>
Name: Joseph Whelan	Name: Councillor Bates
Post: Head of Passenger Transport	Portfolio: Cabinet Member for Growth and Planning
Email: <a href="mailto:Joseph.whelan@cambridgeshire.gov.uk">Joseph.whelan@cambridgeshire.gov.uk</a>	Email: <a href="mailto:Ian.Bates@cambridgeshire.gov.uk">Ian.Bates@cambridgeshire.gov.uk</a>
Tel: 01223 715585	Tel: 01223 699173

## **1 BACKGROUND**

- 1.1 Proposals for planning permission for a hotel development on the 'Red House' site on Station Road, Cambridge were submitted to Cambridge City Council in 2009 and refused by the City Council on a number of grounds in early 2010. It was subsequently approved in April 2011 following an appeal. As part of their case at the appeal, the applicants met the Council's proposed S106 requirements by entering into a unilateral undertaking. That unilateral undertaking is still extant and legally binding.
- 1.2 As part of the decision to grant the planning permission, however, the Planning Inspector stated that he could not give any weight to the obligations listed below in the s106 because, in his opinion, they did not meet the tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010.
- ☐ Public Art;
  - ☐ Southern Corridor Area Transport Plan (SCATP);
  - ☐ Station Area Development Framework (SADF);
  - ☐ Guided Busway;
  - ☐ Tension Rd Improvements; and
  - ☐ Cycle Parking.

The value of the County Council's elements of the S106 from this list is around £650 000.

- 1.3 Given the Planning Inspectors comments, the applicant for the site has now proposed to submit a replacement Unilateral Undertaking, which removes all of the obligations that the Inspector gave no weight to. This amounts to a request under s.106A (1) (a) of the Planning Act.
- 1.4 The original decision of the County Council to enter into the S106 agreement was properly taken, under authority delegated to the Director of Strategy and Development.
- 1.5 Some of the above obligations relate specifically to Cambridge City Council. The Cambridge City Council Planning Committee took a formal decision on 8 February 2012 not to vary the s106 agreement as proposed by the applicant. It is also necessary that the County Council, through Cabinet, take a formal decision on its position regarding the request to vary the S106 agreement.

## **2 SUMMARY OF THE S106 POSITION AND THE DECISION FOR THE COUNCIL**

- 2.1 The Red House appeal decision has potentially significant implications for future and current developer contributions under the Corridor Area Transport Plans and for Public Art. Accordingly, the City & County Councils jointly sought advice from Gregory Jones QC upon the matter. The advice is subject to legal professional privilege and accordingly is contained in a confidential Appendix to this report as it is exempt from the publication requirements. The recommendation of this report accords with the conclusions contained within the legal advice.

- 2.2 Cabinet is asked to consider whether a variation to the existing S106 agreement should be granted to the applicant.

### **3 ALIGNMENT WITH PRIORITIES AND WAYS OF WORKING**

#### **3.1 Supporting and protecting vulnerable people when they need it most**

Developer funding is used to improve the transport networks and help improve services and other facilities. Securing this funding will help meet this objective.

#### **3.2 Helping people live healthy and independent lives in their communities**

Developer funding being used to improve transport infrastructure and services in Cambridge City will help enable individuals who need to travel and may not otherwise be able to do so and to live independent lives.

#### **3.3 Developing the local economy for the benefit of all**

Improving transport infrastructure and services is a key way of helping to reduce congestion and grow wealth and prosperity in Cambridgeshire by enabling access to services and facilities.

#### **3.4 Ways of Working**

The SCATP and SADF were produced as a result of strong partnership working between the City and County Council. Officers at both Councils continue to work closely on transport matters in relation to new development.

### **4 SIGNIFICANT IMPLICATIONS**

#### **4.1 Resource and Performance Implications**

This is covered in the confidential Appendix

#### **4.2 Statutory, Risk and Legal Implications**

This is covered in the confidential Appendix.

#### **4.3 Equality and Diversity Implications**

There are no direct implications

#### **4.4 Engagement and Consultation**

There are no direct implications

### **5 RECOMMENDATION**

- 5.1 It is recommended that Cabinet :

- a). Consider the context of the request for a variation in the extant s106 agreement for the Red House site in Cambridge city; and
- b). Agree to the Officers recommendation that the extant s106 agreement for the Red House site in Cambridge city should not be varied