

Planning Committee

Item
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Date 31 March 2022

Report of	Place and Client Services	Author: Jane Thomps
Title	Deed of Variation s.106 Agreements pursuant to Permissions Ref: 160103, 181281 and 191141. Concerning: Host, Magdalen Street Student Accommodation	
Wards affected	New Town and Christ Church	

This report concerns a proposed variation to the S106 agreed for the Host student accommodation development. It is proposed to vary the agreement to allow the contribution to be used towards cycling and walking improvements in the area, better benefitting the accommodation residents.

1. Decision(s) Required

- 1.1 Members are asked to endorse the proposed deed of variation.

2. Reasons for Decision(s)

- 2.1 The existing agreement(s) date back to planning applications (and resultant concepts for s106 use) received in 2016, 2018 and 2019. The specified clauses are no longer considered to represent the best use of funds as a result of other emerging opportunities that are now deliverable. These new purposes are better aligned to our wider strategic approach and existing works being delivered by both this Council and by Essex County Council as the highway authority.
- 2.2 Officers consider that the existing contribution clause should be amended to include walking and cycling infrastructure improvements in the area that complement other projects that have been delivered and will be delivered in future. This allows enhancements to deliver active travel improvements to benefit resident students more effectively than the existing agreement. To formalise this a Deed of Variation to the s.106 agreement needs to be signed.

3. Alternative Options

- 3.1 Not to agree to the Deed of variation will mean the s.106 funds will be tied into schemes which are now considered to be of lesser benefit to residents including students occupying the development.

4. Supporting Information

- 4.1 The original s106 agreement sought to mitigate the impact of the development by contributing towards upgrading of buses with a catalytic reduction system, along with providing CCTV, bus stop improvements and the provision of real time travel information.
- 4.2 Since that time, the Council has continued to work on strategic projects around the borough and align these to our strategic strategies, as well as Essex County Council. The evolving sustainable travel projects now present new opportunities for the use of this s106 funding that may represent better value for money and outcomes with more positive impacts for residents. Officers have therefore been in conversation with the Host student accommodation developer and the accommodation manager concerning potential changes to the approved s.106 agreed via Planning applications 160103, 181281 and 191141.
- 4.3 The existing agreement listed measures which are not now considered to represent the best use of funds. Officers now consider that the contribution should be amended to include walking and cycling infrastructure improvements in the area. This facilitates delivery of active travel improvements which will benefit their students more significantly than those in the existing agreement. To formalise this change, a Deed of Variation needs to be signed.
- 4.4 The Host student accommodation manager is supportive of changes as they understand the greater benefit the investment in walking and cycling in the area will bring to the their residents and the wider community.
- 4.5 The existing s.106 clause detailed –
i) contribution towards the upgrading of buses with a catalytic reduction system and/or provision of two CCTV cameras and associated equipment to link the said CCTV cameras into the Council's CCTV network to ensure that the Development is adequately covered by CCTV cameras and/or the upgrading of the bus stop opposite the Site to current Essex County Council Specifications, to include real time passenger information.
- 4.6 The contribution of £66,000 for the provision of CCTV cameras and associated equipment has been allocated, and £55,000 has been allocated for the bus stop and shelter improvements. The remaining £45,000 could be used for buses catalytic reduction system, but it is not felt that this is now necessary due to some buses using this route have recently had catalytic reduction fitted or have been replaced with newer less polluting models. The upgrading of the two bus stops serving the site's students is now a priority for Essex County Council's Passenger Transport team.
- 4.7 It is now proposed to allocate the remaining £45,000 to support measures to encourage walking and cycling between the development, University of Essex campus and the town centre, and no additional contributions are required from the developer, with a sum allocated for the developer's reasonable legal fees from the s.106 contribution.
- 4.8 The developer has applied for a Deed of Variation, which officers support with a view to commissioning alternative walking and cycling improvements in the immediate area. This application was prompted at the request of officers.

5. Strategic Plan References

- 5.1 Promoting sustainability and reducing congestion is an important corporate objective within the Strategic Plan. The delivery of high quality and safe environment is also an important corporate objective. These objectives reflect the climate emergency declared by the Council.

6. Consultation

- 6.1 Legal Services has advised that the required variation falls outside the existing scheme of delegation in relation to s106 agreements and therefore requires Member approval.
- 6.2 The student accommodation manager has been consulted on and supports the proposal.

7. Publicity Considerations

- 7.1 None.

8. Financial Implications

- 8.1 There are no financial implications for the Council as these funds are already secured.

9. Equality, Diversity and Human Rights Implications

- 9.1 None directly arising from this report.

10. Community Safety and Health and Safety Implications

- 10.1 None arising.

Background Papers: S.106 Agreements for permissions ref:160103, 181281 and 191141.