

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: 120380 Concerning: The Maltings Student Accommodation	
Wards affected	Old Heath and Hythe	

This report seeks a variation to the S106 contribution spend project agreed for The Maltings 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 dates back to a planning application (and resultant concepts for s106 use) received in 2013. The specified clauses as agreed 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 bus discount for student travel as well as a sum for community use.
- 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 dialogue with The Maltings student accommodation developer and the accommodation manager concerning potential changes to the approved s.106 agreed via planning application 120380
- 4.2 The existing agreement secured measures to support a community event 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 as well as facilities which benefit students and local residents to add to community cohesion. 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.
- 4.3 The Maltings 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 residents and the wider community.
- 4.4 The existing s.106 clause detailed –
- i) Community Development Contribution Purposes – means the use of the Community Development Contribution towards events and activities to be held within the Open Space and in the vicinity of the site for the benefit of the public.*
- ii) Bus Travel Cards – means university bus travel cards enabling students to travel on buses at reduced rates.*
- 4.5 The Community Development contribution totals £85,000. The Council has considered possible events and activities over the years and taken account of local residents' views in a consultation. However no suitable proposal has been identified, and it is now suggested that this fund contributes towards animating the King Edward Quay making it more attractive for people to enjoy the space and encourage walking and cycling in the area and support the outdoor gym proposal which will be provided using the sports contribution.
- 4.6 Although the bus travel cards contribution secured are popular the funds set aside for annual reimbursement is in excess of the costs of the scheme. The excess, which now totals around £120,000, has accumulated over the years and it is now proposed to reassign this fund with the projects which will improve walking and cycling facilities between the development, the town centre and the university, benefitting students and local residents.
- 4.6 Both of these proposals will 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.
- 4.7 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 have 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:12380