

PLYMOUTH CITY COUNCIL

Subject: Proposed variation to Section 106 relating to planning consent 05/00371/FUL.

Committee: Planning Committee

Date: 5th December 2013

CMT Member: Anthony Payne (Director for Place)

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Ref: 05/00371/FUL

Key Decision: No

Part: I

Item: 07

Purpose of the report:

This report seeks approval to enter into the process of securing a Deed of Variation for the S106 obligation with the University of Plymouth. The University have already given their support for this proposal.

The S106 obligation relates to planning permission: 05/00371/FUL for the erection of an Arts Facility Building and Arts Centre unit supporting accommodation.

It is proposed that a £100,000 transport contribution to a crossing at North Hill should now be used to deliver a public realm improvement scheme to Drake's Park and Reservoir.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

The report is considered in the context of the Local Development Framework, which includes a policy framework for addressing the impacts of development in support of the Council's priority for delivering growth.

<http://www.plymouth.gov.uk/corporateplan.htm>

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:

Since the Council no longer considers the measures agreed under this S106 agreement to be required or necessary, and given the fact that simply handing the money back to the University to use as they see fit would carry the risk of there being no net gains in terms of public benefits, it is considered that directing this money to Public Realm improvements will deliver a mutually positive outcome for all parties concerned. Beyond this there are no financial or resource implications identified.

This recommendation/request has no implications in relation to the CIL regulations.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

The case for seeking the measures in the first instance rested on the impact of the development on infrastructure and services. Through the variation of the S106 obligation, the Council's aims and priorities will still be respected.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

It is recommended that Planning Committee:

Agree to the preparation and completion of a deed of variation which amends the existing S106 obligation as follows:

- That the £100,000.00 Transport Obligation be amended to enable it to be spent on Public Realm Improvements to Drake's Park and Reservoir.

Alternative options considered and rejected:

To return the money to the University to spend as they see fit. This will run the risk of there being no net public benefits realised from this action.

Published work / information:

Planning consent for application 05/00371/FUL and related S106 obligation dated 17/10/2005.
Plymouth's Local Development Framework Planning Obligations and Affordable
National Planning Policy Framework 2013

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1.0 Background

1.1 Planning permission was granted for application no. 05/00371/FUL on the 17/10/2005 and has now been fully implemented. The associated S106 Agreement contained a single financial Obligation amounting to £100,000.00 to be used for the following purposes: **“Public Transport improvements within the area, to include alterations to the recent pedestrian crossing opposite the Central Library and associated highway works on North Hill by removing the stagger to create a ‘straight over’ crossing”**.

1.2 A time limit within which to spend the money was stipulated as part of the agreement; as is standard with all S106 Agreements. The ‘spend expiry date’ was 1/12/2011.

1.3 The North Hill ‘straight over’ crossing was a proposal led by Planning and master planning work undertaken by the Council with the University, and was partly driven by the Vision for Plymouth work led by David Mackay. The transport consultation response, dated April 2005, highlighted the concerns in transport about the crossing and said that an assessment of the impact of this crossing should be made prior to its implementation to demonstrate that the crossing could be achieved without causing unacceptable delay and queuing. An amount to test this feasibility was also requested. The £100k figure was agreed as a contribution although this was an estimate and not based on any firm design.

1.3 Two options were investigated for the use of the S106 funding to deliver the straight across crossing. Both options necessitated the loss of the southbound North Hill bus lane. It became apparent that both options would be detrimental to wider transport requirements, in particular bus punctuality, on North Hill and the Northern Corridor overall, and that the cost of these Options exceeded the amount of money available to deliver such a crossing.

1.4 Also, following discussions with the University, it became apparent that the University no longer supported the provision of a 'straight over' pedestrian crossing opposite Plymouth Library in part due to perceived safety concerns given the proposed extent of the works. It was also apparent that the University were supportive of the provision of an off road cycle path through the campus and the idea of upgrading the existing crossing on North Hill to a Toucan crossing which made it suitable for use by cycles. Separate funding had been received from the Government’s Local Sustainable Transport Fund to upgrade the crossing – work which was completed in 2012 although retained the staggered nature of the crossing which is evident on site today.

1.5 In summary the aspiration for the crossing in 2006 from both the UoP and the City Council came from urban design requirements, rather than to satisfy a highway need. Since the S106 agreement was signed the position of the UoP has changed – their Estates Team no longer want the crossing – and transport investigations have revealed that alterations to the crossing would be detrimental to the performance of the public transport network and cause capacity issues on the Charles Street, Cobourg Street and North Hill junctions. The cost of such a scheme also exceeded the money available. In recognition of the detrimental impact on the network and the change in requirements of the UoP it was felt that the delivery of the obligation was not achievable. Subsequently more minor alterations to the crossing were made which were delivered through the LSTF *Plymouth Connect* scheme to convert the crossing a toucan crossing as part of the phased delivery of an east west cycle route through the City Centre to Plymstock.

1.6 As a result of these issues, and the subsequent delay in implementing the scheme, the spend expiry date was reached before the money could be spent. As a result of this the Applicant (Plymouth University) requested the return of the money; as is their right under the terms of the Agreement.

1.7 Rather than returning the money to the University and potentially losing any public benefit which otherwise would have been realised, officers approached the University and were able to agree a compromise which would still secure some public benefits. The compromise was that it would have to first go through the necessary legal processes to vary the original S106 Agreement to allow the Council to retain the money until such time as Plymouth University were able to secure enough funds to deliver a public realm improvement scheme to Drake's Park and Reservoir. The University was in the process of applying for a Heritage Lottery grant for the majority of the funding needed to deliver the scheme.

1.8 This variation is considered a positive solution in that things have moved on in public transport terms to the point where the agreed works are no longer considered viable or technically necessary; and Public Realm improvements to Drake's Park and Reservoir would not only benefit the University but would deliver an equivalent public benefit to the original scheme to the residents and business of Plymouth.

1.9 The University confirmed in September this year that it had been successful at securing the necessary Heritage Lottery Funding for the. As a result of this, and in order to release us from the original S106 Agreement, approval is being sought from the Planning Committee to allow it to enter into a Variation Agreement with the University. This will allow the £100,000.00 Obligation to part-fund Public Realm improvements as opposed to Public Transport improvements as was originally agreed.