

## PLYMOUTH CITY COUNCIL

**Subject:** Proposed variation to Section 106 relating to planning Consent 05/01071/OUT at DEVONPORT STORAGE ENCLAVE, LAND BOUNDED BY DUKE STREET, CHAPEL STREET, AND GRANBY WAY, DEVONPORT

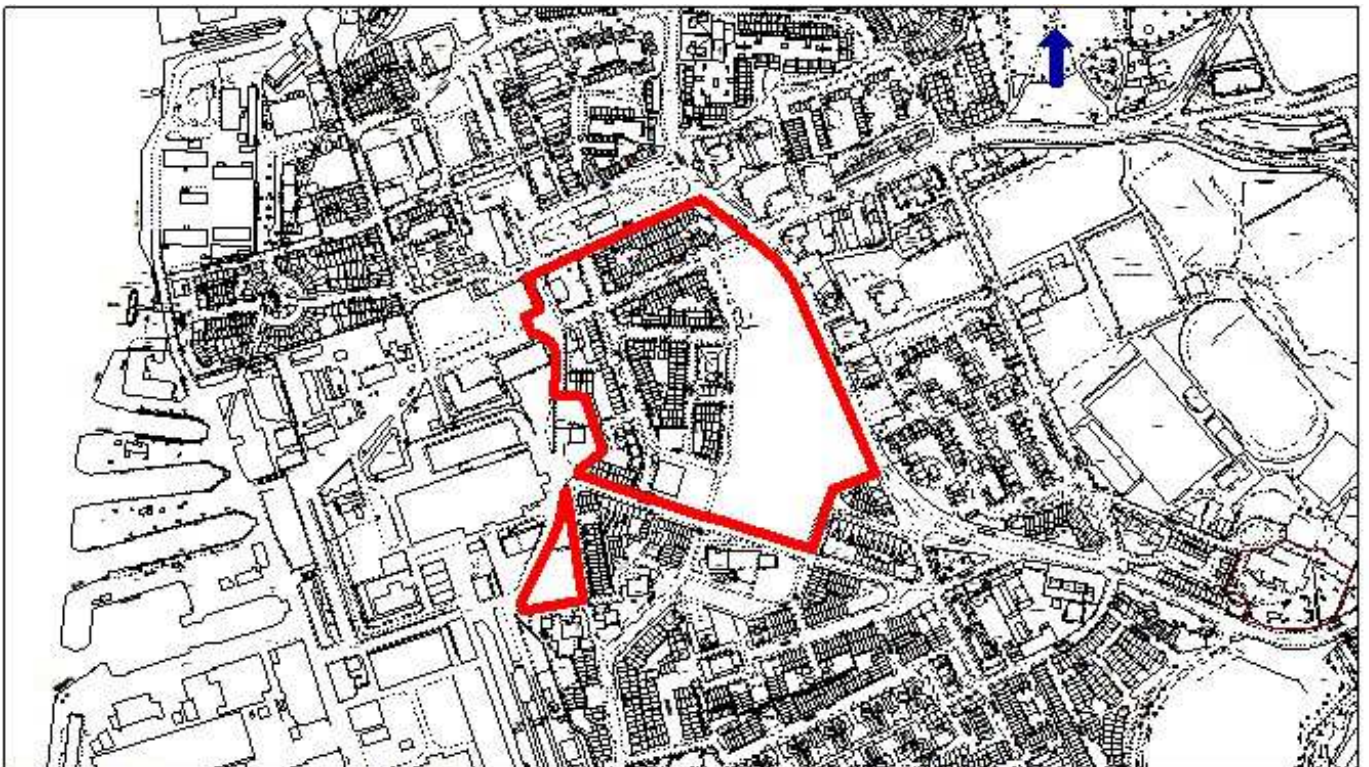
**Committee:** Planning Committee  
**Date:** 19 June 2014  
**CMT Member:** Anthony Payne (Director for Place)  
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**Ref:**

**Key Decision:** No

**Part:** I

**Item:** 01



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## **Purpose of the report:**

This report seeks approval to enter into the process of securing a Deed of Variation for the S106 obligation with Redrow and originally The Urban Regeneration Agency (English Partnerships) for development at Vision site, Devonport (allocated site DP01 as part of Devonport Area Action Plan).

The S106 obligation relates to planning permission: 05/01071/OUT Mixed use redevelopment comprising 463 residential units, 2,323sqm retail; 4,680sqm commercial uses; 2,112sqm mixed use (Market Hall), 400sqm community, public open space, car parking and associated highway infrastructure.

It is proposed to remove the requirement for a £100,000 education contribution to be used by the Council. The S106 requires this contribution to go towards a project to be agreed between the Council and the Owner for the improvement of educational provision within the Devonport area to a value of no less than £300,000.

This request has been made following the viability appraisal of planning application 13/02419/FUL for the development of Zones J, K and M for the erection of 117 residential units, public square with parking and associated works. It is due to the poor viability of this proposal that it is proposed to remove the requirement for an education contribution. The viability has been significantly affected by the requirement for the development to now pay a Community Infrastructure Levy (CIL) payment of approximately £268,000

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## **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>

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

Since the Council is no longer pursuing the creation of a new Primary School in Devonport and Education has confirmed there is no current need for the contribution, therefore the measures agreed under this S106 agreement are no longer required or necessary, and given the contribution also requires a further contribution from the Council of at least £200,000 towards the project, there are no financial or resource implications identified.

This recommendation/request has no implications in relation to the CIL regulations except issues outlined in the report.

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

The case for seeking these measures in the first instance rested on the impact of the development on local schools and Policy DP11 of Devonport Area Action Plan for the creation of a new Primary school. As there is no longer a proposal for the creation of a Primary School, the specific matched funded contributions are no longer required, and on this basis the Council's aims and priorities will still be respected through the variation of the S106 obligation.

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## **Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? No

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**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 requirement for a £100,000.00 Education contribution (and associated match funding) is removed from the S106 agreement

Reason: To allow for the applicant to reallocate this amount in order to address significant viability issues for the development of the majority of the remaining zones of the allocated Vision site (J, K and M).

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**Alternative options considered and rejected:**

To reject the amendment will put the remaining development at risk due to viability and may result in the 117 homes and public square and car parking not being delivered in this area. This would also have financial implications with regard to CIL payments, New Homes Bonus and Council Tax receipts.

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**Published work / information:**

Planning consent for application 05/01071/OUT and related S106 obligation dated 2<sup>nd</sup> May 2006.  
Plymouth's Local Development Framework Planning Obligations and Affordable Housing SPD  
National Planning Policy Framework 2013  
Plymouth Community Infrastructure Levy Regulation 123 List, 1<sup>st</sup> June 2013

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**1.0 Background**

- 1.1 Planning permission was granted for application no. 05/01071/OUT on the 09/05/2006 and has been partly implemented for zones A (07/02113/REM), B (06/01612/REM), D (07/02136/REM), F (09/00216/REM), G (12/01302/REM), H (12/00624.REM) and I (09/00519/REM). Zones C and E deviated from the outline through the submission of Full applications (12/00708/FUL and 12/00853/FUL respectively). These applications form part of the development of the Vision site in Devonport, which is allocated as DP01 in the Devonport Area Action Plan.
- 1.2 The S106 Agreement for 05/01071/OUT contained an Education Contribution:  
**“a contribution of one hundred thousand pounds (£100,000), to be used by the Council as a contribution of one third towards a project to be agreed between the Council and the Owner for the improvement of educational purposes in the Devonport area to a value of no less than £300,000.”**
- 1.3 The S106 goes on to state that there should not be the occupation of any Open Market dwellings on site until it has paid “the Education Contribution subject to the Council demonstrating the availability of matching funding”. To date the Council has not demonstrated the availability of match funding and this contribution has not been paid.

1.4 It should be noted that the following contributions and works have been achieved through this S106:

- Works of repair to the Market Hall (which has been confirmed by the agent to have cost £700,000)
- Offsite amenity contribution (£270,000)
- Transport contributions for new bus travel enhancements (£449,000)
- Completion of Highway works in Chapel Street (confirmed to have cost £2.3 million).

1.5 At the time of the original approval for the Outline consent the City Council did not have a CIL charging policy and therefore the S106 Agreement was negotiated on viability that did not account for this additional charge.

## **2.0 Current Position**

2.1 In March 2014, Redrow applied to redevelop the majority of the remaining Zones (J, K and M) for the “Erection of 117 residential units, a public square with parking and associated works” (13/02419/FUL). Viability information has been provided which shows that the proposed scheme is unviable. This is partly due to the creation of a public square with parking. It is proposed that this area will serve as a multi-functional space, but mainly to address a significant parking need in the area. The creation of this quality parking area, which will ultimately be transferred to the Council, will serve local businesses and residents. The S106 for this application also includes £15,000 of Transport contributions.

2.2 Officers are mindful that any proposal to vary the obligation should be considered in the context of the Council’s current policy on planning obligations as set out in the policy CS33 of the Core Strategy of Plymouth’s Local Development Framework, the Planning Obligations and Affordable Housing Supplementary Planning Document Second Review and the Government’s Community Infrastructure Levy Regulations. Officers consider that it is appropriate to reduce the level of mitigation payable in light of suitable, robust viability information. In order to unlock the challenging viability of 13/02419/FUL, the original outline S106 was revisited and the requirement for the education contribution was queried.

2.2 Following consultation with Education officers, it has been confirmed that there are available spaces in schools to take additional pupils from the application site. On this basis, it is not considered that there is a current need for any new education infrastructure requiring a £100,000 contribution (to be matched by a £200,000 Council contribution) resulting from this specific proposal and, since the terms of the S106 Agreement are tightly constrained to education requirements direct related to the proposal, it is recommended that the variation of condition is amended to remove this now redundant requirement.

2.3 If Members agree to the variation of the S106 Agreement then, through the delivery of 117 dwellings, there will be a CIL contribution of approximately £268,000 .