

Committee(s)	Dated:
Community and Children’s Services - Decision Education Board - Information	11/05/2018 17/05/2018
Subject: Former Richard Cloudesley School Site	Public
Report of: Andrew Carter, Director of Community and Children’s Services	For Decision
Report author: Gerald Mehrtens, Director of Academy Development	

Summary

This report seeks authority for the Director of Children’s and Community Services to provide Undertakings, enter into an Agreement with, and give covenants to the relevant local planning authorities (LBI and the City) under Section 106 of the Town and Country Planning Act 1990 in connection with the grant of planning permission for a new primary school and social housing on the former Richard Cloudesley School Site (“the Site”). Authority is also sought in connection with related Community Infrastructure Levy matters.

Recommendation(s)

Members are asked to authorise the following:

1. The Director of Children’s and Community Services be authorised to sign Undertakings in the attached or similar form set out at Appendix 1
2. The Director of Children’s and Community Services be authorised to agree and instruct the Comptroller and City Solicitor to enter into a Section 106 Agreement to provide covenants in respect of the Heads of Terms listed in Appendix 2.
3. The Director of Children’s and Community Services be authorised to take all necessary steps in respect of Community Infrastructure Levy in connection with the implementation of the planning permission, including in relation to liability or transfer of liability and in relation to Social Housing Relief.

Main Report

1. As reported to Community and Children’s Services Committee in April 2018, planning applications for the provision of a new primary school and 66 social housing units were approved by LBI’s Planning Committee on 1 March 2018 and by the City’s Planning and Transportation Committee on 26 March 2018, subject to Section 106 obligations, planning conditions, and GLA approval.
2. The Section 106 covenants are required to ensure that a number of issues identified through the planning evaluations can be addressed. The issues, which

form the Heads of Terms and will be the basis of the Undertaking and covenants given, are listed in Appendix 2.

3. A Section 106 Agreement is normally required to be entered into by the developer and owner of the land. The majority of the Site is owned by LBI, and the City will not therefore be able to enter into the Section 106 Agreement in respect of the majority of the Site until LBI has transferred its land interest to the City. However, LBI is unable to transfer its ownership of the Site to the City until the planning permission has been issued and the judicial review period expired.
4. To enable the planning permission to be issued in advance of the Section 106 Agreement being completed, it is proposed that the Section 106 obligations be contained in an Undertaking (substantially in the form at Appendix 1). The Undertaking will also commit the City to enter into the Section 106 Agreement immediately on the ownership being transferred to it by LBI.
5. In addition to the planning obligations, there is also potential liability for Community Infrastructure Levy ("CIL") payable to LBI and the Mayor. However, Education use is nil rated, and social housing use is eligible for social housing relief from LBI. Neither of those uses will therefore incur LBI CIL subject to the proper statutory steps being undertaken. These include submission of the CIL Assumption of Liability Notice and submission of an application for Social Housing Relief. This application must be submitted by the owner and must be approved before the development starts, or the relief may be forfeited. As the owner is currently LBI it is proposed that appropriate CIL arrangements will be progressed in co-operation with LBI, the final arrangements to be agreed on the basis of expert advice.
6. Authority for the Director Children's and Community Services to give the Undertakings and for the Section 106 Agreement Agreement to be entered into are therefore sought, to enable the planning permission to be issued. Authority for any necessary CIL steps to be taken is also sought.

Appendices

- Appendix 1 - Director's Undertaking, S106
- Appendix 2 – Heads of Terms

Background Papers

Provision of additional primary school places and social housing on the former Richard Cloudesley School site, Community and Children's Services Committee, April 2018

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DIRECTOR’S UNDERTAKING

**PROPOSED REDEVELOPMENT OF SITE AT
FORMER RICHARD CLOUDESLEY SCHOOL,
GOLDEN LANE, EC1Y 0TZ
("THE SITE")**

**PLANNING APPLICATION REFERENCES:
LBI – P2017/2961/FUL; CoL – 17/007770/FULL**

SECTION 106 & 278 COVENANTS

Duplicate cross-boundary planning applications for the Site were approved by the London Borough of Islington’s (“LBI’s”) Planning Committee on 1 March 2018 and by the City of London Corporation’s (“the City’s”) Planning and Transportation Committee on 26 March 2018 (under planning application references above) subject to planning obligations under section 106 of the Town & Country Planning Act 1990.

In its capacity as freehold owner of part of the Site, as the proposed freehold owner of all of the Site, and as the proposed developer of the Site with responsibility for implementing the proposed development pursuant to the above planning applications, the City hereby:

- (a) Undertakes to enter into a Section 106 Agreement in the form annexed to this Undertaking immediately upon acquiring any further interests in the Site; and
- (b) Undertakes to being bound by the planning obligations contained in the Section 106 Agreement annexed to this Undertaking should the City implement the planning permissions issued pursuant to the above planning applications.
- (c) [Consents, in respect of the land within its ownership, to the Site being bound by the proposed planning obligations.]

Authority for the Director of Children and Community Services to give this Undertaking has been approved by the City’s Children and Community Services Committee at its meeting of [....]

Signed by.....
Andrew Carter, Director of Children’s and Community Services, City of London Corporation

Date.....

HEADS OF TERMS

1. On-site provision of 66 affordable (social rented) housing units with nomination rights split between the City of London and Islington in line with agreed unit allocations
2. Community Use agreement and management plan for the school hall
3. Contribution in lieu of on-site children's play space of £134,676, to be used within one mile of the site.
4. Residents of the residential building to have access of the school's MUGA outside of school hours in accordance with an agreed management plan.
5. The relocation of the Adult education centre. *Note: this may not be required as a Head of Term if already in place.*
6. Public realm improvements along the public right of way between the site and Basterfield House and on Golden Lane and Baltic Street West
7. Submission of a Green Performance Plan and a post occupation Green Performance Plan.
8. Connection to a local energy network if further studies demonstrate feasibility or, if not currently feasible, future proofing for connection to a network if a viable opportunity arises in the future.
9. Contribution of £155,991 towards offsetting projected residual CO2 emissions of the development, to be used within one mile of the site.
10. Compliance with the Code of Employment and Training.
11. Facilitation of 3 work placements during the construction phase of the development, lasting a minimum of 26 weeks, or a fee of £15,000 to be paid to LBI.
12. Compliance with the Code of Local Procurement.
13. Compliance with the Code of Construction Practice, including a monitoring fee and submission of site-specific response document to the Code of Construction Practice for approval which shall be submitted prior to any works commencing on site.
14. The repair and re-instatement of the footways and highways adjoining the development, including the removal of redundant footway crossovers. The cost is to be confirmed by LBI Highways/CoL, paid for by the applicant/developer and the work carried out by LBI Highways/CoL. Condition surveys will be required.
15. Provision of 2 accessible (Blue Badge) parking bays with all costs to be borne by the developer with works to be carried out by the Council, including any TMOs, and the re-provision within the vicinity of the site of any other accessible bays required as a consequence of displacement due to the development.
16. Provision of a contribution of £10,000 towards provision of on-street bays or other accessible transport initiatives.
17. Submission of a draft full Travel Plan for Council approval prior to occupation, and of a full Travel Plan for Council approval 6 months from first occupation of the development or phase.
18. Removal of eligibility for residents' car parking permits.
19. Payment of Council's fees in preparing and monitoring the S106.
20. Improved signage to school and wider Golden Lane Estate.
21. A programme for regular liaison with local residents.