

## **Report to Area Plans Sub-Committee D**

**Date of meeting: 1 November 2006.**



**Epping Forest  
District Council**

**Subject: Variation to the head of terms of the Section 106 Agreement in respect of the Cobbins Brook Flood Alleviation Scheme**

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### **RECOMMENDATION:**

- 1. That the Section 106 Agreement not require the implementation of an approved landscape management plan.**
- 2. That, details of a revised location of a replacement footbridge over the Cobbins Brook south of the proposed Flood Alleviation Scheme be agreed as a minor amendment to the overall scheme.**

### **Background**

1. On 14<sup>th</sup> September 2005 this Sub-Committee agreed to grant planning permission for the construction of flood alleviation scheme (FAS) for Waltham Abbey comprising a new earth flood embankment and creation of flood storage area at Land between Brookmeadow Wood and Fernhall Road, Upshire, subject to the completion of a Section 106 Agreement.
2. The agreement was to be in respect of the following matters:
  - a) The implementation of an approved landscape management plan.
  - b) The implementation of an approved traffic management scheme for the duration of construction works.
  - c) Implementation of a one-way system of traffic movement on Fernhall Lane and Long Street for all traffic using the roads for the duration of construction works.
  - d) The reinstatement of Long Street and Fernhall Lane to their condition prior to the commencement of the development within 6 months of its completion. Enforcement of this matter depends on the completion and approval of a survey of the condition of the roads before the commencement of the development.
  - e) HGV's and tipper lorries shall not access any part of the site via Woodgreen Road, Upshire Road, Galley Hill or Breach Barns Lane and access to the construction site for the embankment shall only be via Fernhall Lane.

The agreement is in the process of being prepared.

3. The scheme included proposals to replace the existing footbridge south of the proposed works within Brookmeadow Wood that serves footpaths 42 and 81 with a new footbridge as part of the removal of existing hard engineered banks. It was proposed to replace it on adjacent land immediately upstream.

## **Proposal**

4. The applicant has proposed that the Section 106 Agreement does not require the implementation of an approved landscape management plan. The justification put forward by the applicant is as follows:

- a) The requirement to implement the landscape management plan in the section 106 Agreement would duplicate a condition that would be imposed on the grant of planning permission in any event. Such a condition is capable of being enforced therefore it is not necessary to repeat its requirements in the Agreement.
- b) Since the Section 106 Agreement must be signed by all landowners affected by it, this would require landowners who have formally objected to the FAS to be a party to the agreement. Should they refuse, the scheme could be considerably delayed and this could threaten its implementation. Protracted negotiations regarding the scheme have taken place with the landowners but progress is very slow.
- c) The amount of land affected by the landscaping scheme that is owned by landowners who object to the FAS is a small proportion of the total land covered by the landscaping scheme, i.e. 1.3 hectares of a total area of 8.7 hectares. The applicant and the Corporation of London own the remaining land and both have the resources to manage the landscaping.
- d) The landscaping scheme for the development has been designed to minimise maintenance requirements.

5. The applicant has also requested that the Sub-Committee agree to a minor variation of the overall proposal that involves the erection of a replacement footbridge over the Cobbins Brook that would be situated in the same place as the existing footbridge. The revised proposal would still include some softening of the adjacent banks of the watercourse.

## **Assessment of the proposals and conclusions**

6. Variation to the Section 106 Agreement

The planning issue raised by the proposal is whether it would be prejudicial to the long-term maintenance of the landscaping scheme for the development.

7. A landscaping scheme and landscape management plan has been prepared for the FAS in consultation with the Council's landscaping officers. In respect of the land in private ownership the landscaping scheme essentially requires it is maintained as fields in use for agriculture. That is in accordance with the lawful use of that land. In the circumstances the proposed variation would be unlikely to impact on the long-term maintenance of the land in private ownership. Since the remaining land would either remain in the ownership of the applicant or the Corporation of London as Epping Forest Buffer Land, there is a very good prospect that the landscaping scheme as it affects that land will be properly maintained. It is therefore agreed that the requirement to maintain the landscaping scheme can be properly secured through the agreed condition that would be imposed on the planning permission. This conclusion is reached regardless of the potential for the private landowners to frustrate the implementation of the FAS should the requirement remain part of the Agreement. Officers acknowledge that potential.

8. Alteration to the proposed location of a replacement footbridge

The proposed variation is considered to be a minor alteration to the agreed scheme that is of little consequence and is only reported to Members at the request of the applicant. Members will recall that the agreed scheme did not include details of the design of the replacement footbridge and this was to be dealt with by the imposition of a condition requiring the submission and approval of such details prior to the commencement of the development. Given that there are no planning issues raised by the proposed variation it is considered acceptable.