



**Report To:** Leader and Cabinet  
**Lead Officer:** Director of Planning and New Communities

14 January 2016

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## **Wing: Community Infrastructure Delivery and Requirements**

### **Purpose**

1. To endorse the draft requirements for a Section 106 Agreement (S106) for the Wing outline planning application prior to a final decision on the planning application and overall S106 package being made by the JDCC.
2. This is not a key decision.

### **Recommendations**

3. It is recommended that Cabinet:
  - (a) Endorse the draft requirements for a S106 agreement for the Wing outline planning application, which will be considered and a final determination made by the Joint Development Control Committee (Cambridge Fringes), including: the list of items and triggers.
  - (b) Delegate to the Portfolio Holder for Planning, in consultation with the Director of Planning and New Communities, the authority to make any minor changes to the draft requirements prior to inclusion in the committee report for the Wing development.

### **Reason for Recommendations**

4. To ensure that Cabinet can consider any corporate implications arising from the current recommended requirements for the proposed Wing development.

### **Executive Summary**

5. The Wing site forms part of the wider Cambridge East Area Action Plan 2008 (CEAAP) allocation and the outline planning application for 1,300 homes and associated development (S/2682/13/O) was submitted in December 2013. The site is on the north of Newmarket Road, including Marshall's North Works and some car show rooms. The site is largely within the parish of Fen Ditton. There is a small application for related open space within the City Council boundary. The application as originally submitted proposed 40% affordable housing with a tenure split of 50/50 affordable rent and shared ownership homes, however this is to be amended shortly to reflect the current position, following viability discussions. Following the submission of amended plans in August 2014 the issues relating to the masterplan are essentially resolved.
6. This report presents the recommended requirements for the S106 agreement for the Wing development that would equate to approximately £22k per dwelling. Subject to planning approval by the JDCC, construction is expected to commence in 2017, once

archaeological investigations and infrastructure works have been carried out. Detailed negotiations on the S106 requirements have taken place, informed by the advice of the Local Authorities' viability cost consultant and expert legal opinion. The principal reason for the length of negotiation has been the need to address issues arising from the significant relocation costs of the businesses and buildings on the North Works site. The Cambridge East Area Action Plan states that the appropriate level of contributions sought from the development will take account of costs associated with the relocation of the airport and associated activities and elements of the North Works site. As a result of these relocation costs the figure of 40% affordable housing with a tenure split of 50/50 has needed to be revisited. This has been a complex negotiation and the potential need for further legal advice and review is still under consideration.

7. It is essential to ensure that Wing secures an appropriate amount of affordable housing, subject to viability as well as an appropriate provision of services and infrastructure to meet the needs of the new community, and to ensure that development is acceptable in planning terms. This includes financial contributions towards the provision and maintenance of infrastructure, services and facilities.
8. **Appendix 1** shows the list of items and triggers proposed for the S106 for Wing.
9. It is expected that the application will be reported to the JDCC for determination in the next few months, once discussions on viability have been completed and legal advice has been received.

### **Background**

10. Wing forms part of the wider Cambridge East allocation and the delivery of housing on the site will go towards meeting the District's identified housing need. This is a City Fringe site development and other Fringe sites have delivered 40% affordable housing in line with the Councils' policy that 40% is the starting point for negotiation, subject to viability. Wing is part of the wider redevelopment of the Cambridge East allocation which includes the approved new ice rink adjacent to the Newmarket Road Park & Ride site. Additional land to the north of Cherry Hinton has also been put forward as a proposed modification of the City Council's draft Local Plan.
11. The application includes a primary school, retail, playing fields and all homes being built to London space standards and Lifetime Home compliant. The proposals also include an underground car park and water attenuation features that would ensure that surface water from the development would not result in flooding outside the site.

### **Considerations**

12. Work is still underway to finalise the overall viability position and negotiations in order to take the outline planning application to JDCC (expected to be February or March 2016) and discussions are continuing between officers and at South Cambridgeshire, Cambridge City and Cambridgeshire County Councils.
13. During the negotiations of the S106 and policy requirements Marshall identified that the relocation costs for the North Works site, which would be required to enable the site to be developed, would have a significant impact upon the viability of the development with 40% affordable housing at a 50/50 tenure split. Significant costs are required to relocate the existing engine testing bay which will have an impact upon the viability of the overall scheme. This cost is still under review through the viability process. The existing facility, a large earth bund that is presently located to the south of Newmarket Road, results in significant noise being generated from the

aircraft that use it. This relocation of engine testing to a purpose built facility, which will reduce the level of noise generated from engine testing, is necessary to ensure an appropriate living environment for the future residents of Wing and other existing local residents. An application for this new facility is expected in 2016.

14. Policy CE/33 (Infrastructure Provision) of the CEAAP states “*The appropriate level of contributions sought from the development will take account costs which fall to the development, including the relocation of the airport and associated activities and elements of the North Works site.*” The Councils and Marshall sought joint expert legal advice on what was appropriate to be included as relocation costs. Simon Bird QC opined that it was the role of the Council to reconcile the competing objectives of relocation costs and planning requirements as well as what were “allowable costs” under the viability review and the balance between affordable rent and intermediate.
15. The independent cost consultants appointed by the local authorities have scrutinised the relocation costs and believe that the costs are mainly reasonable and should therefore be included in the viability assessment. There are some outstanding issues raised in relation to the total costs associated with the relocation of the engine testing facility and the extent of “allowable costs”. These discussions still need to be brought to a conclusion over the next few weeks. The requested S106 contributions have also been scrutinised to ensure that they are appropriate and meet the CIL tests in mitigating the likely impacts of the development.

The relocation costs include replacement new buildings and an allowance for land. The question of ‘betterment’ has been raised by the Council’s viability consultant in relation to the value of the new buildings that would accommodate the relocated Marshall businesses, in the context that some of the existing buildings on the site would potentially have on-going maintenance costs due to their age and would possibly need to be replaced at some point in the future. If betterment were a material consideration then the value of the new buildings could be used to offset some of the costs of relocation, however, no robust examples have been found of this element being applied to a planning viability assessment.

In addition, Marshall sought counsel advice, which did not support the view that betterment should be a material consideration in the same way that relocation costs could as there was no policy context requiring it to be considered. This is one topic where the Councils are still considering the need for further advice and will be reported to the JDCC for them to take account of in their decision making.

### **Section 106 contributions**

16. Discussions surrounding the S106 contributions for Wing started in summer 2013 and the latest S106 draft Heads of Terms document contains a list of requirements that will mitigate the impact of the development. The current S106 package of approximately £28m works out at approximately £22k per dwelling, which is comparable with other Cambridge fringe sites.

### **Schools, Health, Library, Sports and Community**

17. A two form entry primary school will be provided as part of the development and there is a financial contribution towards off-site provision of secondary education. The costs associated with both requirements are considered appropriate.

18. The S106 schedule includes a payment of £200,000 towards off-site primary health provision. Marshall indicated that they would consider accommodating a new health facility on Wing but the view of the NHS was that any facility would be better located within the Abbey Ward. The contribution will go towards improving the existing facility on Ditton Lane or towards the fitting out of a new facility that may come forward as part of the Abbey Stadium redevelopment.
19. No off-site contribution towards library provision is being sought. Marshall is interested in setting up a micro-library within the site and if appropriate this will be progressed when the local centre is considered in more detail.
20. Wing provides sufficient sports pitches within the site to meet the policy requirement. The artificial turf pitches will not be floodlit because they will be too close to the runway lights. No off-site contributions towards indoor sports or floodlit artificial turf pitches are being sought.
21. The local centre will include community space either as part of the primary school or in one of the other buildings. The specification and management of the community space will be detailed in the final S106.

### **Emergency Services**

22. Cambridgeshire Constabulary and Cambridgeshire Fire and Rescue have not sought payments from the S106.

### **Transport**

23. There are a number of improvements to the local cycle network that will be secured as part of the Wing development as well as a roundabout on Airport Way at the entrance to Teversham village.
24. The S106 schedule includes a contribution towards walking, cycling and public transport improvements to Newmarket Road at a cost of £2.27m and £475,000 towards the new cycle bridge to the new station, which is necessary to mitigate the impact of the development through the promotion of sustainable forms of transport. Some of these public transport improvements are part of wider strategic schemes.

### **Archaeology and Heritage**

25. Parts of the site are of high archaeological interest and appropriate investigations will take place before the site is developed. The nearest heritage asset to the site is the listed art deco airport building to the south of Newmarket Road. The development has been designed so that it does not detract from the setting of this building.

### **Environment and drainage**

26. The proposals are not considered to have a detrimental impact upon the water environment and surface water will be retained on site during heavy rain events so as not to result in flooding outside the site.

## **Waste**

27. A contribution was originally sought towards the Household Waste Recycling Centre at Milton. However, due to restrictions on the pooling of S106 contributions this contribution can no longer be sought. Wheeled bins and a bring site will be secured through the S106.

## **Affordable Housing**

28. The Councils' policy is 40% affordable housing is the starting point for negotiation, subject to viability. This site is different to other previous Fringe site developments, in that it is part brownfield, rather than all green field, contains a significant amount of existing infrastructure, has a high level of decontamination costs attached to it as well as the relocation costs already identified. This means that the viability position is significantly affected by this.
29. Within the standard methodology, modelling was carried out at 40% affordable housing and 25%. 40% affordable housing would deliver 5% affordable rent with 95% intermediate housing. The second option had a figure of 25% affordable housing, which would deliver 30% affordable rent with 70% intermediate housing.
30. Marshall have indicated that they would provide 30% affordable housing overall with a split of 30% affordable rent and 70% intermediate housing subject to there being no review mechanism in the S106. Essentially in exchange for giving up the risk associated with a review mechanism, Marshall are accepting the risk of delivering 5% more than they believe the viability model shows is the base level of provision, which would mean a reduction in the market land value achieved. However, the Council's viability consultants believe that the development is still viable at 30% affordable housing
31. In terms of numbers of affordable housing, 40% 5/95 would give 520 units, 26 of which would be affordable rent; 30% 30/70 split scenario would deliver approximately 390 units, 117 of which would be affordable rent. Whereas the 23% 50/50 split scenario would deliver approximately 299 units, 149 of which would be affordable rent.

## **Review Mechanism**

32. The Councils' viability consultants have suggested that a review mechanism be built into the S106 if the percentage of affordable housing secured is below the policy requirement of 40%. Simon Bird advised that in his opinion this would be essential if the local authorities accept less than 40% affordable housing. This would be in order to allow the potential to secure a higher percentage of affordable housing, or an improved tenure split, in later phases of the development, should the overall viability of the scheme improve over time (i.e. if the return to the developer was more than currently estimated by the viability model as a result of house values increasing by more than costs).

33. Marshall are resistant to any form of review mechanism as they believe it would result in uncertainty to land sales and therefore limit their ability to market the site and secure a developer. Marshall have stated that if a review mechanism was required then the baseline level of affordable housing proposed would be 25% (30/70 split). They have also indicated that they would wish to further review the viability model and S106 requirements, such as the Newmarket Road works and the cycle bridge, and that they would want to get a development partner on board before proceeding to complete any legal agreement with the Councils. This is an area where negotiations are not finalised and further advice, including legal advice is under consideration. There are different types of review mechanisms and it is important that all options are explored to deliver the maximum level of affordable housing/affordable rented housing over the build out.

### **Delivery Timescale**

34. Notwithstanding the above, Marshall have agreed with SCDC officers to accept a S106 obligation requiring them to deliver at least fifty units to a slab level within an agreed period. This is similar to the approach that is being taken on phase two of Northstowe and is an important commitment as it would necessarily mean the construction of significant infrastructure which would benefit the whole scheme. The penalty for not delivering these units within the specified period would be that a full review of the viability position would then be required. This approach is proposed to ensure that any planning consent is implemented at the earliest possible opportunity and there is no opportunity for Marshall to delay the delivery of the proposed new community at Wing. Further legal advice will need to be sought on the wording of this obligation to ensure that it is robust.

### **Cascade Mechanism**

35. Marshall have offered to include a cascade mechanism that would enable the Councils to flex the tenure split on individual phases of the development between the limits of 30% overall affordable housing provision with a 30/70 split and 23% overall affordable housing provision with a 50/50 split. This would allow greater flexibility if it were found that the level of intermediate housing was too high for the market at a certain phase of the development. If a cascade mechanism were used and some of the phases secured an alternative tenure split then the overall level of affordable housing across the site would therefore change. However, there would need to be an agreed overall baseline percentage and value of affordable housing position agreed for the whole development to ensure that the overall level of affordable housing did not fall below an agreed level. Moreover, the advice from the Council's viability consultants is that any cascade mechanism should be worded so that should the opportunity arise for the agreed value of affordable housing to deliver a higher percentage of affordable housing then this would not be precluded. Further legal advice is therefore being pursued to ensure that any cascade mechanism would be robust.
36. As the application documentation presently proposes 40% affordable housing with a 50/50 split an updated affordable housing statement will need to be submitted and

consulted upon before the application can be presented to committee. This document is expected to be submitted sometime in January.

### **Implications**

37. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

#### **Financial**

38. The majority of the proposed funding goes to the County Council and is considered appropriate to provide for the needs of the new community. The District Council items are also considered appropriate.

#### **Legal**

39. Heads of Terms will be included in a detailed S106 legal planning agreement to which the District Council, County Council, City Council and Marshall will be party.

#### **Staffing**

40. There may be staffing implications arising from future requirements of other sites within the CEAAP area, including discharging planning conditions of Wing, considering reserved matters applications and working with local residents and partner agencies.

#### **Risk Management**

41. There are two principal risks:
- (a) The reputational risk of not achieving a quality new development on the edge of Cambridge with less than 40% affordable housing and maximum level of affordable rented housing, given the level of strategic needs.
  - (b) The financial risk that the S106 funding will not meet the cost of the necessary items of community infrastructure.
  - (c) The risk that the site is not developed and much needed housing in a sustainable location with the redevelopment of a brownfield site is not delivered.

#### **Equality and Diversity**

42. The Wing proposals aim to create a sustainable new community and thereby welcome and address the needs of a diverse community on the edge of Cambridge.

#### **Climate Change**

43. The planning application includes a range of measures to adapt to and mitigate the effects of climate change including land drainage measures that are assessed to meet a 1:200 year rainfall event, and a level of renewable energy. The design and location of Wing will encourage cycling and walking, rather than car use due to its location on the edge of Cambridge.

#### **Consultation responses**

44. Wing was the subject of public consultation in 2014 after the application was submitted and again after the plans were amended in August 2014. Given the scale of development the number of representations from members of the public was relatively low but those comments that were received mainly related to the impact of traffic and the provision of services. Further consultation will be needed on an amended housing statement in early 2016.

#### **Effect on Strategic Aims**

45. The development of Wing is important in providing housing in a sustainable location on the edge of Cambridge and will aid the regeneration of the east of Cambridge. It is critical that the new community has the necessary infrastructure and also includes a level and mix of affordable housing appropriate to its context and location, taking into account viability.

#### **Background Papers**

46. Where the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require documents to be open to inspection by members of the public, they must be available for inspection: -
- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
  - (b) on the Council's website; and
  - (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

Cambridge East Area Acton Plan 2008  
Wing planning application S/2682/13/OL

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