

REPORT OF: Director of Planning and Economic Development

TO: Planning Committee

WARD: Castle

Request to vary the Section 106 Agreement made in association with planning permission 09/0141/FUL (for change of use from hotel (class C1) to hotel (class C1) or student accommodation (sui generis) in the alternative) at 139 Huntingdon Road, Cambridge, to allow the provision of open space and recreation facilities on College sites rather than via a financial contribution.

1.0 INTRODUCTION

- 1.1 At its meeting of 30th April 2009, Planning Committee approved an application for change of use of 139 Huntingdon Road (formerly known as the Cambridge Lodge Hotel) from hotel (class C1) to hotel (class C1) or student accommodation (sui generis) in the alternative. The permission was granted subject to conditions and the completion of a Section 106 Agreement.
- 1.2 An agreement under Section 106 between the Council and Hill Residential Limited, who were at that time the owners of the property, was completed on 28th August 2009. The agreement contained only one substantive obligation: to pay a sum of £6300 towards the provision of open space and recreation facilities. The permission was granted on 7th September 2009.
- 1.3 A request has been made by the present owners of the site, Fitzwilliam College, to vary the Agreement to allow open space and recreation facilities to be provided within College sites rather than via a financial contribution.

2.0 RECOMMENDATION

- 2.1 That members agree to the variation proposed to the Section 106 Agreement made in association with planning application 09/0141/FUL, and thus permit appropriate open space and recreation facilities to be provided on College sites rather than through a financial contribution.

3.0 BACKGROUND

- 3.1 Shortly after the permission was granted, the building was apparently let to a private tutorial college for use as student accommodation. This use is believed to have continued for a relatively short period (some months), and seems to have come to an end abruptly, at least partly because of building

maintenance issues including roof leaks. During this period, the open space and recreation contribution was not paid to the Council.

- 3.2 On 26th September 2010, the property was sold to Fitzwilliam College. The College carried out extensive refurbishment, and then began to use the building as college accommodation, effectively as an adjunct to the nearby College main site. In May 2013, the Council's Developer Contributions Monitoring Officer contacted the College about the non-payment of the open space contribution. A response was received on 2nd September of that year apologising for the delay in responding and suggesting that in view of the new ownership and occupation of the site the financial contribution was no longer justified. The private tutorial college which had used the site briefly in 2009-2010 (and to facilitate whose use of the site the original application had been made) had access to no open space or recreation facilities whatsoever for its students. Fitzwilliam, on the other hand, as its September 2013 letter made clear, has considerable open space and recreation facilities available to its students. The College believes that these facilities are at a level which exceeds the requirements of the Council's Open Space and Recreation Strategy. Accordingly, it seeks to amend the Section 106 Agreement to allow it to meet the requirements of policy 3/8 of the Cambridge Local Plan 2006 through in-College provision.
- 3.3 The delay between September 2013 and October 2015 in initiating a practical legal resolution of this matter is not the College's responsibility.
- 3.4 At the time the permission was granted the Council's Open Space and Recreation Standards (July 2006) required: 12m² of outdoor sports facilities per person, 18m² of informal open space per person, and one sports hall for every 13000 people as indoor sports provision.
- 3.5 Fitzwilliam College has a sports field at Oxford Road, 400m from the application site. It also has a gym and squash courts on the main College site, where there is also a significant amount of informal open space. The sports field measures 26304m². The College has 436 undergraduate students and 372 graduate students, a total of 808. The Oxford Road sports field alone therefore provides 33m² for each member of the college. The precise quantity of indoor sports facilities necessary for a total population much smaller than the 13000 referenced in the Standards is difficult to specify, but it appears to me that a gym and squash courts is a proportionate level of provision. It appears to me that the College is able to provide open space and recreation facilities for all its students, including those residing at 139 Huntingdon Road at a level compliant with policy, and that this in-college provision means there is no basis for seeking a financial contribution for such facilities.

3.6 It is my understanding that the College intends to keep 139 Huntingdon Road within its estate for the long term. However, it is clearly possible that the College might choose to dispose of it, or let it out, and that in the future it might therefore be occupied by students who did not have access to Fitzwilliam's sports ground, gardens, squash courts or gym. To cater for this possibility, the proposed Deed of Variation specifies that if the building is to be occupied by persons who do not have access to Fitzwilliam's open space and sports facilities, the owners of the site must either ensure that occupiers have access free of charge to other open space and recreation facilities which the Council accepts as comparable, or must pay the original financial contribution.

4.0 CONSULTATIONS

4.1 I have consulted the Planning Policy Manager. She has confirmed that the July 2006 Open Space Standards are the standards applicable to this application.

5.0 CONCLUSIONS

5.1 I am of the view that the information submitted by the College supports its case that it already makes appropriate open space and recreation provision for all its students, including those resident at 139 Huntingdon Road, and that therefore a financial contribution to such infrastructure is not justified. In this context, the proposed variation to the Section 106 Agreement is not in conflict with local plan policy.

6.0 IMPLICATIONS

(a) Financial implications: If the variation is agreed, no financial sum for open space provision will be made. In my view, as I have explained above, in present circumstances, requiring such a contribution could not be justified.

(b) Staffing implications: none

(c) Equal opportunities implications: none

(d) Environmental implications: none

Climate change impact: none

(e) Procurement: none

(f) Consultation and communication: none

(g) Community safety: none

BACKGROUND PAPERS The following are the background papers which were used in the preparation of this report:

Committee report on application 09/0141/FUL (30th April 2009)

Section 106 Agreement associated with 09/0141/FUL (28th August 2009)

Cambridge City Council Open Space Standards: Guidance for Interpretation and Implementation July 2006

Draft Deed of Variation

Letters from Bursar of Fitzwilliam College dated 27th August 2013 and 19th November 2015

To inspect these documents contact Tony Collins on 7157

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