

Committee:	Planning Committee
Date:	22 July 2009
Subject:	INFORMATION REPORT – Urgent Non-Executive Decision: Lowlands Road Recreation Ground
Responsible Officer:	Hugh Peart - Director of Legal and Governance Services
Portfolio Holder:	Councillor Marilyn Ashton - Portfolio Holder for Planning, Development and Enterprise
Exempt:	No
Enclosures:	None.

## **Section 1 – Summary**

The Urgent Non-Executive Decision procedure, set out in Part 3 of the Council's Constitution, requires all decisions taken under the procedure to be reported to the appropriate Committee. The Committee is requested to note the action taken under the Urgent Non-Executive Decision procedure, as outlined in Section 2 below.

**FOR INFORMATION**

## Section 2 – Report

### CIRCUMSTANCES

- 2.1 On 14 May 2008 and 14 January 2009, the Strategic Planning Committee considered an application from Harrow College for its redevelopment in an 8 to 10 storey building on land at Lowlands Road Recreation Ground (ref: P/0707/08) including the replacement and reconfiguration of 0.97 hectares of Metropolitan Open Land and the creation of a new access at Station Approach.
- 2.2 On 14 January 2009, the Committee resolved to grant planning permission, subject to the prior completion of a Section 106 agreement, dealing with fourteen separate matters, within one year from the date of that decision and subject to conditions.
- 2.3 Proposed condition 7 in the Strategic Planning Committee resolution of 14 January 2009, provided:

The access carriageway that forms the current principle (sic) access to the College shall be constructed to base course in accordance with the specification and levels agreed before works commence on the building(s) hereby permitted, and the carriageways and footways completed before any building is occupied in accordance with details to be submitted to, and approved by, the local planning authority. The development shall thereafter be retained.

REASON: To ensure that the traffic generated by the building operations will not interfere with the free flow of traffic on the public highway and that the road and footway shall be of an adequate specification for the anticipated traffic.

Condition 7 was both inaccurate and superfluous. The “current principal access to the College” was unrelated to the proposed College development and would, in fact, be closed on completion of the replacement College building, and then brought within the extended Metropolitan Open Land. Provision for this would be secured by condition. In terms of access to the new College, this would be provided from Station Approach and land currently used by London Underground as a surface car park. No new access carriageway would be formed.

Improvements to Station Approach were being addressed separately in the legal agreement and would require completion of those works prior to the occupation of the new college. The proposed condition did not serve a genuine planning purpose and deletion was considered acceptable.

- 2.4 Proposed condition 19 in the Strategic Planning Committee resolution of 14<sup>th</sup> January 2009 provided:

Development shall not proceed beyond ground level damp proof course until details of a scheme for generating 20% of the predicted energy requirement of the development from on-site renewable resources have been submitted to and approved in writing by the local planning authority.

REASON: To ensure the development satisfactory level of renewable energy.

In addition, the agreed heads of terms for the legal agreement included a provision relating to renewable energy and required "The College to covenant that at least 20% of the energy used in the development will be generated using renewable energy resources and low carbon technologies".

The head of term in respect of renewable energy, and condition 19 of the list of conditions agreed at the 10<sup>th</sup> January 2009 Strategic Planning Committee, both dealt with target levels for energy generation to be provided from on-site renewable sources. The College's energy strategy, however, which was set out in the body of the January Committee report, had a different objective, namely to ensure a reduction in carbon dioxide emissions, to be achieved through the use of on site renewable energy sources and passive and energy efficient design measures. This strategy followed a set of principles agreed with officers, and with the GLA.

The S106 agreement had been drafted on this basis, providing for a reduction in CO<sub>2</sub> emissions of between 21% and 33% through a combination of passive design, energy efficiency measures, connection to a Combined Heat and Power system and ground source heat pumps. The level actually achieved would depend on whether the College development was actually linked to the energy system in the proposed Dandara scheme, or to other potential development on the Lowlands Road site, should they go ahead. The agreement as currently drafted, however, was inconsistent with the agreed head of term and with Condition 19 which, in essence, sought to meet an entirely different target.

It is clear that the aim of the London Plan was to ensure that development met target reductions for CO<sub>2</sub> emissions through the use of passive and energy efficient design measures and on site renewable energy sources as opposed to achieving a specified level of on site renewable energy generation. The College's energy strategy had been prepared on this basis, and planning policy requirements would be secured through the S106 agreement. There was no policy basis for setting a 20% target for energy generation from on site renewable sources as set out in Condition 19 and in the head of term in the form agreed by Committee in January 2009.

The deletion of Condition 19 and the variation to the renewable energy head of term as proposed was therefore recommended.

2.5 The head of term relating to Lowlands Recreation Ground stated:

The College to lay out the remodelled Lowlands Recreation Ground to a specification to be agreed with the Council, and to contribute £20,000 towards future maintenance for period of 10 years.

The head of term was ambiguous and had been interpreted differently by the College and Council officers. The College had understood that it required a total contribution of £20,000; officers that it required a contribution of £20,000 per year for 10 years. The College considered that to require payment of £200,000 was excessive and had requested that the Council reconsider.

Maintaining the remodelled recreation ground to a high standard was an important objective, given its Metropolitan Open Land classification and value in framing the proposed College development. It was recognised however that the wording of the head of term was ambiguous and may not have been accepted by the College prior to the application being determined by Committee had they appreciated the Council's interpretation, and the extent of their potential maintenance liability. Officers had reviewed the maintenance requirements and considered that a single commuted payment of £100,000 would provide an appropriate and proportionate contribution to future maintenance costs, well in excess of that currently available for the management for Lowlands Recreation Ground.

As such, the suggested variation was considered acceptable.

### ACTION SOUGHT

To amend the decision of the Strategic Planning Committee dated 14 January 2009, in respect of the proposed Harrow College development, as follows

1. Delete conditions 7 and 19.
2. Delete Head of Term in relating to the Lowlands Recreation Ground and replace it with the following:

**Lowland Recreation Ground:** The College to lay out the remodelled Lowlands Recreation Ground to the specification agreed with the Council and to make a single commuted payment of £100,000 towards future maintenance, to be paid one month after the completion of the remodelled open space

3. Delete Head of Term in respect of Renewable Energy and replace it with the following:

**Mitigating Climate Change:** A detailed scheme to achieve a 20% reduction in carbon dioxide emissions as measured against the 2006 Part L Building

Regulations baseline target emission rate in Regulated Carbon Dioxide emissions or such other criteria as shall have been previously agreed by the Local Planning Authority

Date of Request for Action: 15 June 2009

Reason for Urgency: The Learning and Skills Council had indicated that capital funding may be made available for those colleges ready to commence development, and had invited Colleges to submit appropriate evidence before the end of May, to enable a funding decision to be taken in early June. Harrow College would be able to start building if, amongst other things, they could complete the S106 agreement and secure planning permission. Negotiations to complete agreement had been finalised and all parties – the College, the Council, and London Underground – were now in a position to sign.

The next available meeting of the Planning Committee was not until 24 June 2009. As such, it would not be possible to vary the conditions and legal agreement head of term, as proposed above, within the timescales imposed by the Learning and Skills Council.

Decision: Officer Recommendation agreed.

### **Section 3 – Further Information**

None.

### **Section 4 – Financial Implications**

The renegotiated proposal gave the Council a single commuted payment of £100,000 as contribution towards future maintenance costs management for Lowlands Recreation Ground which was covered in the body of the report.

Name: Sheela Thakrar	<input checked="" type="checkbox"/>	On behalf of the Chief Financial Officer
Date: 15 June 2009		

## **Section 5 - Contact Details and Background Papers**

Contact: Vishal Seegoolam, Senior Democratic Services Officer, 020 8424 1883

Background Papers: Individual Urgent Non-Executive Decision Form, as reported.