

<b>Planning Reference No:</b>	06/0300P
<b>Application Address:</b>	Kershaw Mill, Newton Street, Macclesfield, SK11 6QJ
<b>Proposal:</b>	New Class B1 offices together with associated access, car parking, a boundary wall, fencing and landscaping.
<b>Applicant:</b>	Magnus Limited
<b>Application Type:</b>	Deed of Variation to a S106 agreement

## **SUMMARY RECOMMENDATION**

**Approve a deed of variation to the previous Section 106 agreement**

### **1. REFERRAL**

- 1.1 The application has been referred to Strategic Planning Board because it was previously heard by a Committee.

### **2. BACKGROUND**

- 2.1 A Section 106 agreement was entered into on the 3<sup>rd</sup> August 2007 between Magnus Ltd, Macclesfield Borough Council, Cheshire County Council and The Royal Bank of Scotland relating to the development of land at Kershaw Mill, Newton Street, Macclesfield, SK11 6QJ (06/0300P).
- 2.2 The original planning permission, granted at Committee on 27<sup>th</sup> March 2006, was for the redevelopment, alteration and extension of the site to form a B1 office development together with associated access, car parking, boundary wall, fencing and landscaping.
- 2.3 The Section 106 related to highways improvements. Specifically:
- To improve access to the site by foot, cycle and public transport,
  - The upgrading of a bus stop on Bond Street in the vicinity of the site,
  - The provision of cycle signage on routes to / from the site
  - The provision of uncontrolled pedestrian dropped crossings at junctions / accesses on highways in the vicinity of the site.

2.4. A sum of £33,000 was paid to Cheshire County Council to fund Transport Improvements. The gross budget balance now is £35,350 with interest added.

### **3. CONSIDERATION**

3.1 The Section 106 money has not been spent to date by the Highways Service. Meantime, the applicant (Magnus) has helpfully suggested that the Section 106 funds be spent on the Town Centre priority improvements closest to the existing development, rather than having to be returned to them because there is a 5 year return clause for unspent S106 funds in the legal agreement.

3.2 The proposals to spend the funds on the town centre will adhere to aspects of the original 106 agreement in terms of signage and gateways into the town centre. The existing development site is located near to the town centre and the funds will be directed to areas which promote access and linkage into the development site.

3.3 The offer from the applicant is welcomed by Officers as they consider that it is desirable that the Section 106 funds be used on Town Centre public realm works, particularly since the works that the funds are to be spent on are similar in character to those granted previously and the applicant has agreed to this.

3.4. It is proposed to spend the funds on:

- Town Centre signage (including cycle signage)
- Lighting.
- General Town Centre highways improvements (rather than on site specific highways improvements).

### **4. ISSUES FOR CONSIDERATION**

4.1 The developer has come forward and proposed the changes based on the wider work of the Macclesfield Whole Town Vision and the priorities which are emerging for public realm improvements.

4.2 There are risks associated with agreeing a variation to the 106 agreement which are detailed below:

- Challenge to the decision because it does not comply with the tests in circular 05/05 on Planning Obligations.

## **5. LEGAL ISSUES**

- 5.1 S106 monies should be spent in accordance with the justification for their payment which complied with the test in circular 05/05 on Planning Obligations and should be reasonable, necessary and required to make the development acceptable.
- 5.2 There is no power under s106 to receive monies for any purpose not justified in planning terms.
- 5.3 The variation will not fall within s106 if it permits money to be spent other than to achieve a planning purpose.

## **6 RECOMMENDATION**

- 6.1 The recommendation is to agree the deed of variation to the previous s106 agreement to permit funds to be spent in accordance with the above report.