



**PLANNING COMMITTEE:** 29 July 2014  
**DIRECTORATE:** Planning and Regeneration  
**HEAD OF PLANNING:** Susan Bridge

**N/2014/0778**                      **Application to vary section 106 agreement in respect of N/1997/128 in relation to the provision of the park & ride facility, Development Land, Upton Valley Way East**

**WARD:** Upton

**APPLICANT:** Homes & Communities Agency

**REFERRED BY:** Head of Planning

**REASON:** S106 agreement

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**APPLICATION FOR DETERMINATION / CONSULTATION BY:**

**1. RECOMMENDATION**

1.1 That the committee agree to delegate the decision to vary the section 106 agreement, as set out in this report, to the Head of Planning subject to no further representations being received before the end of the consultation period.

**2. BACKGROUND**

2.1 As part of the planning permission N/1997/0128, for phase I of the Upton development, a section 106 Agreement dated 25 May 2000 was completed between Northampton Borough Council, Northamptonshire County Council and Commission for the New Towns trading as English Partnerships (now Homes and Communities Agency).

2.2 Under the terms of this agreement, upon the completion of six hundred properties, the HCA are obligated to issue a notice to NCC making an offer to the County Council to lay out and construct a Park and Ride facility adjacent to Weedon Road (Plan1). This notice was received by NCC on 1 July 2009.

2.3 Subject to NCC accepting this offer within five years from the date of the notice, the HCA are required to obtain planning permission, lay out and

construct the park and ride facility and enter into a lease with the County Council.

- 2.4 The County Council have subsequently accepted the HCA's offer to undertake the works and enter into a lease as set out in paragraph 2.3.
- 2.5 Following consultation between the HCA and the County Council it has been determined that demand for the park and ride facility will not be reached in the foreseeable future and the funds held by the HCA to implement this scheme will be better utilised to support other priority projects.
- 2.6 A planning obligation contained in the S106 agreement may be modified by agreement between the person(s) against whom it is enforceable and the local planning authority. Whilst there will be no additional obligation placed upon NBC, as local planning authority and signatories to the original agreement, the Borough Council need to give consent to the variation.

### **3. PROPOSED VARIATION**

- 3.1 The HCA propose to transfer the obligation to provide the park and ride to Northamptonshire County Council to be delivered once demand for the facility has been established.
- 3.2 Initially, in order to transfer the obligation, the HCA intend to provide a payment to the County Council. It is not proposed for this payment to form part of the agreement.
- 3.3 Within 3 years of a deed of variation, NCC may serve notice on the HCA advising that it wishes to use the land for a Park and Ride facility. The HCA and NCC will then, within 6 months of NCC serving the notice, enter into an agreement for lease to provide for NCC undertaking construction works. NCC will subsequently construct and thereafter operate the Park and Ride facility.
- 3.4 Should NCC determine that a park and ride facility is not required and therefore do not serve a notice on the HCA within the 3 year period, the land will revert to the HCA or its successors in title and the land may be used for such purpose as the HCA determine.
- 3.5 Consequently, the mitigation provided for in the agreement will be delivered, once/ if required, albeit by a different organisation (i.e. NCC rather than HCA).

### **4. CONSULTATION**

- 4.1 A period of public consultation is currently taking place which expires on 7 August 2014.
- 4.2 At the time of writing, no representations have been received.

### **5. CONCLUSION**

- 5.1 The purpose of the original obligation, to provide a park and ride facility if required, will remain, however the responsibility for delivery will transfer from the land owner to the County Council. The obligation to provide mitigation of the original development will continue and it is therefore considered that the variation is acceptable.

**6. BACKGROUND PAPERS**

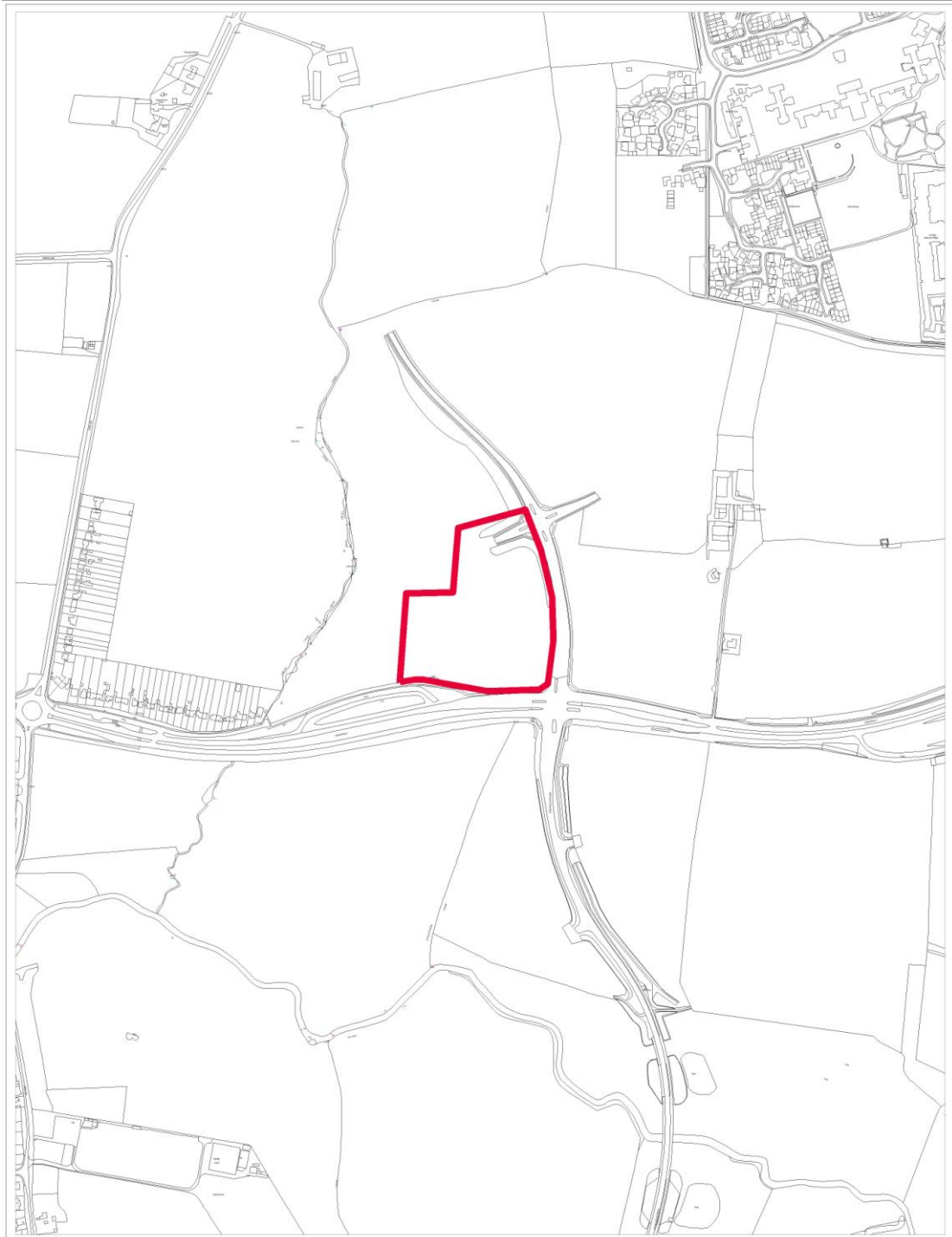
6.1 N/1997/0128 and N/2014/0778

**7. LEGAL IMPLICATIONS**

7.1 As set out in the report.

**8. SUMMARY AND LINKS TO CORPORATE PLAN**

8.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Name: **Location Plan**  
Date: **21st July 2014**  
Scale: **1:6500**  
Dept: **Planning**  
Project: **Committee**

Title

## Upton Park & Ride - Changes to Section 106

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