



**PLANNING COMMITTEE:** 30<sup>th</sup> September 2014

**DIRECTORATE:** Regeneration, Enterprise and Planning

**DIRECTOR:** Steven Boyes

**REPORT TITLE:** LA/2000/0009 – Variation of s106 obligations at land at Upton

## **1. RECOMMENDATION**

1.1 That the Committee **AGREE** to vary the obligations contained within the section 106 agreement dated 25 May 2000 as set out in this report.

## **2. BACKGROUND**

2.1 As part of the planning permission N/1997/0128, for phase 1 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, the HCA made financial payments to the Borough Council in respect of the provision of Changing Rooms, Interpretation Centre and Country Park at Upton as part of Upton Country Park phase 1.

2.3 The HCA also laid out the Country Park phase 1, including the establishment of the playing fields and construction of the Elgar Centre. All elements have been subsequently maintained by the HCA.

2.4 In addition to the above, the agreement requires the HCA to construct a play facility of both senior and junior multi-play units in two areas within the playing field land and make a number of further payments which include the Community Hall Contribution, Playing Fields Maintenance Contribution and the Play Facility Maintenance Contribution which total £628,167 plus indexation.

2.5 In turn, the Borough Council has agreed to enter into a transfer of the Country Park phase 1 (including the Playing Fields Land). On 13 February 2013 Cabinet agreed to delegate authority to the Director of Regeneration, Enterprise and Planning in conjunction with the Cabinet

Member for Regeneration, Enterprise and Planning to progress with the transfer of the Country Park phase 1 and the Country Park phase 2 respectively, subject to a number of parameters. Officers are currently working toward the transfer of both elements.

- 2.6 The Country Park phase 2 is a further phase of the wider Country Park, located to the west of phase 1, which is due to be delivered by the Borough Council once this area of land has been transferred to the Council from HCA ownership. This area is subject to an additional agreement. Further payments towards the implementation and future management of this area are due to be made at the time of transfer of phase 2.
- 2.7 The Council are obligated to expend the financial payments received from the HCA only towards the purposes for which they were paid and for no other purpose.

### **3. PROPOSED VARIATION**

- 3.1 A planning obligation contained in a S106 agreement may be modified by agreement between the person(s) against whom it is enforceable and the local planning authority.
- 3.2 Prior to the transfer of either of the Country Park phases, the Borough Council has undertaken discussions with the HCA regarding future implementation of the Country Park as a whole and its ongoing maintenance.
- 3.3 At present, the payments are ring-fenced to either implementation (capital) or maintenance (revenue) and specifically to phase 1 of the Country park only. The HCA are in agreement that the payments that have been/ will be paid to the Borough Council, under the terms of the agreement, may be expended flexibly to implement both phases 1 and 2 and upon maintenance of the park as a whole. This will allow the Borough Council the autonomy to implement the remaining elements of the Country Park as required and subsequently allocate funds and maintain it in the future as one contiguous park.
- 3.4 The HCA are content that the Borough are able to adequately determine the use of the monies in implementing both elements of the country park, without the need for the current restrictive obligations. The obligations contained within the previous agreement must therefore be varied to allow this to progress.
- 3.5 The mitigation provided by the country park and associated works will remain and the Council will have greater independence to implement and maintain both phases of the park in a comprehensive approach.

### **4. CONCLUSION**

- 4.1 The purpose of the original obligation is to provide, develop and maintain a country park. Sanctioning the variation of the obligations Members agree to allow the contributions to be used more flexibly and will assist in delivery of the country park as a whole. The obligation to provide mitigation of the original development will continue and it is therefore considered that the variation is acceptable. It is recommended that Members agree to the recommendation as detailed above.

## **5. LEGAL IMPLICATIONS**

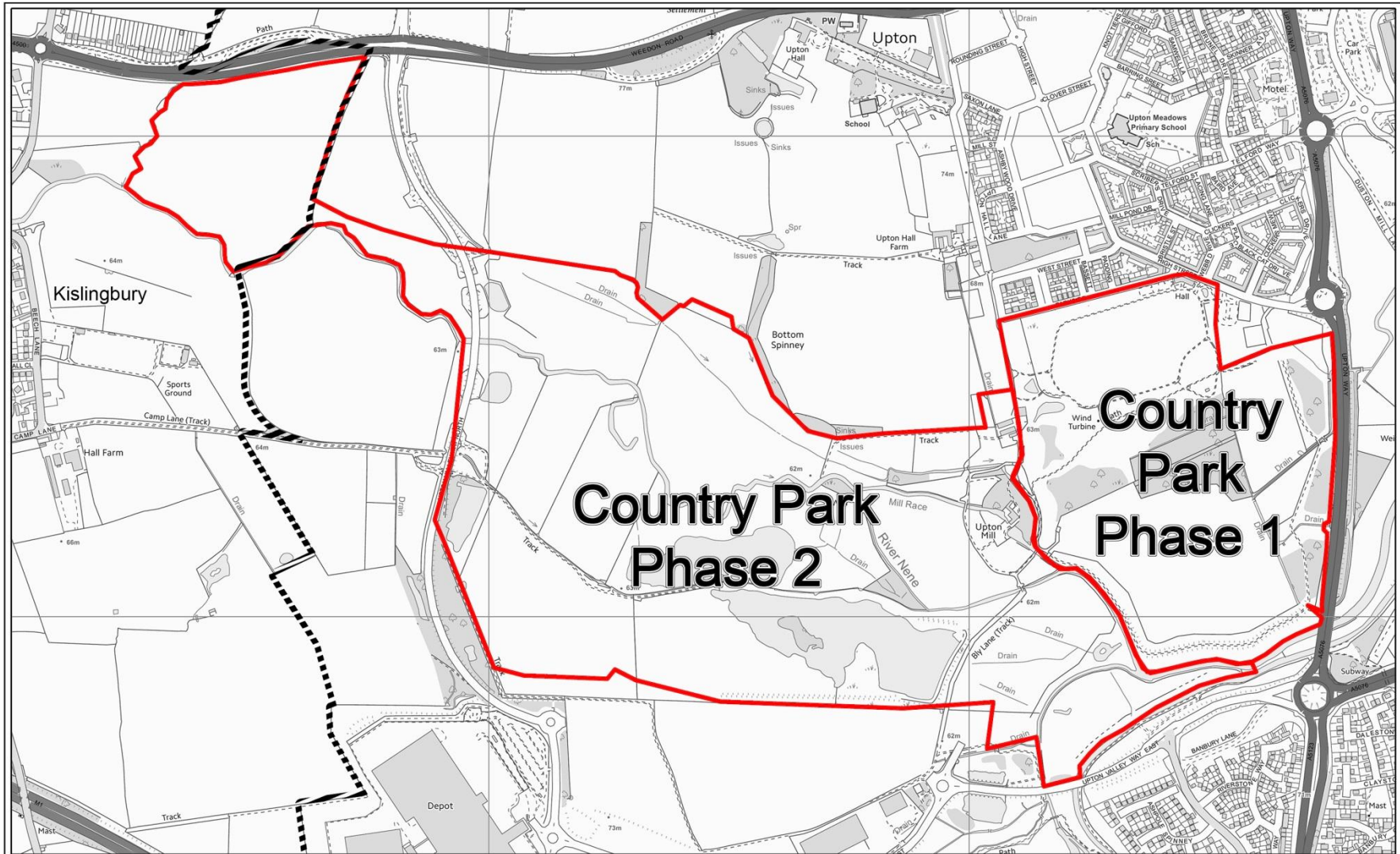
- 5.1 As set out in the report.

## **6. SUMMARY AND LINKS TO CORPORATE PLAN**

- 6.1 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.

## **7. BACKGROUND PAPERS**

- 7.1 Cabinet Report – Upton Country Park dated 13 February 2013.



# Country Park Phase 2

# Country Park Phase 1



**Upton Country Park Phases 1 and 2**  
not to scale  
18 September 2014

 Site Boundary  
 NBC Boundary

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