

**West Wiltshire District Council**

**Planning Committee**

**19 April 2007**

**Land at Blue Hills, Hilperton, Trowbridge - 04/00095/OUT**

**Change to resolution relating to approval to grant  
planning permission in principle on 05/10/2006 subject  
to a Section 106 Agreement**

**1. Purpose**

To consider an amendment to the original committee resolution which required an index linked and bonded contribution by the developer to the County Education Authority towards the cost of additional education provision within the locality, following a reassessment by the Education Authority.

**2. Background**

This is an outline application for a residential development and associated roads, footpaths and open space involving demolition of an existing house with siting and means of access sought in detail, but with all other matters reserved.

The layout with the application indicated a total of 38 dwellings, including 11 affordable houses on a site of approximately 1.4 hectares.

Wiltshire County Council, the Education Authority, was originally consulted on the planning application when it was submitted on 20 January 2004.

At the time the Education Authority had responded to the consultation by requesting a financial contribution of £46,200 towards additional secondary school places.

The application was originally considered by the Planning Committee in October 2006 when it was resolved to grant permission subject to:

- 1) the completion of a legal agreement to secure the provision of 30% affordable housing
- 2) an index linked and bonded contribution to the provision of education within the locality
- 3) provision of public open space, together with a financial contribution to secure its future maintenance
- 4) provision of integrated cycleways and footpaths
- 5) provision of traffic calming within the development and locality
- 6) a contribution to the provision of public transport initiatives and

7) a contribution to the provision of public art within the development.

Solicitors were instructed and the S106 Legal Agreement is currently being prepared.

However, the Education Authority has now advised that its original request was on the basis of an obsolete methodology and it has made a reassessment of the need based on its current policy. It has concluded that there is no longer a case for a contribution as the designated area schools can accommodate the additional pupils that would be generated by this development. They stated that no contribution is therefore required for education and in the circumstances it no longer requires this to form part of a Section 106 Legal Agreement.

### **3. Key Issues**

This report is simply to reconsider that part of the original resolution that required a contribution to education needs. The principle of the residential development has already been considered by the Planning Committee on 5 October 2006 and cannot be revisited and is not for consideration as part of this report.

The planning process enables local authorities and developers to enter into legal agreements to secure the delivery of matters that are necessary to make a development acceptable in planning terms. This included the requirement for financial contribution for public services, such as to education needs.

When considering the need for a planning obligation it must meet the following six tests:

- relevant to planning;
- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development;
- fairly and reasonably related in scale and character to the proposed development; and
- reasonable in all other respects.

In this case, the Local Education Authority has reassessed its original position and concluded that there is no longer a necessity to make a contribution towards education needs in the area. To continue with this obligation would fail to meet all policy tests because it would no longer be necessary, reasonable or relevant to impose such an obligation.

### **4. Affect on Strategies and Codes**

None.

**5. Risk Management Implications**

None.

**6. Finance and Performance Implications**

None.

**7. Recommendation(s)**

That the resolution taken by the Planning Committee on 5 October 2006 be amended to delete the requirement for an index linked and bonded contribution to the County Education Authority towards the cost of providing additional education provision within the locality.

The amended recommendation should therefore read as follows:

"Planning permission be granted at a future date in the event of the Development Control Manager being satisfied as to the prior completion of a Legal Agreement to secure:

- 1) The provision of affordable housing in accordance with Council policy
- 2) Provision of public open space together with a financial contribution to secure its future maintenance.
- 3) Provision of integrated cycleways and footpaths leading into the existing network
- 4) Provision of traffic calming measures within the development and locality.
- 5) A contribution to the provision of public transport initiatives in the area.
- 6) A contribution to the provision of public art within the development

Together with justification reason and all conditions as identified on the original resolution numbered 1 to 19 and informative numbered 1.

**8. List of Background Papers**

Copy of original report to Committee, reference 04/00095/OUT dated 5 October 2006.

Copy of original resolution.

Plain English guidance given 

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RMG/JG/apr001