

**West Wiltshire District Council**

**Planning Committee**

**31 May 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**

A decision on whether or not to change the resolution was deferred by the Planning Committee at its meeting on 19 April 2007.

The reason for the deferral was in order to obtain additional information from Wiltshire County Council, the Education Authority, with regard to the different methodologies (current and past) for assessing the need and level for a contribution towards education; to obtain a copy of the current policy document; and ask whether such a contribution might be made towards the proposed new secondary school for the Melksham area.

This report relates to 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 subsequently 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.

Following the deferral the Education Authority was reconsulted and it now makes the following comments:

The application was originally considered in February 2004. At that time, using the assessment methodology based on the number of units, individual school capacities, pupil number forecasts and details of other known developments within the catchment areas which were then applicable, the LEA considered it had a case for developer contributions at the designated secondary school, Clarendon College, which was notified to WWDC.

Since February 2004 the LEA has updated its way of assessing education needs. Details of its current approach are appended to this report. Using this approach it felt obliged to review the matter, using the current assessment methodology which involves a calculation of the number of school places likely to be generated, capacities of individual schools, pupil number forecasts and details of other known housing in the catchment areas.

The application is for 38 dwellings which would produce 12 primary and 8 secondary age pupils. The local schools are:  
Hilperton Primary – net capacity 175 – forecast pupil numbers in 2010 = 126  
Clarendon College - net capacity 1490 – forecast pupil numbers in 2010 = 1397

We therefore have no reasonable case to pursue a secondary contribution based upon current data. We note the reference to Melksham, but the planned development lies within the designated area for Clarendon College, Trowbridge.”

The policy document which formed the basis upon which planning applications are assessed by the Education Authority for S106 purposes is attached. The policy is reviewed annually and the DfES Cost Multipliers updated for April in each calendar year. Your officers have queried why 2010 is currently used as the forecast date and the response from the Education Authority will be reported to Committee.

### **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, specifically Trowbridge as the development lies within the designated area for Clarendon College, Trowbridge.

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 which includes the original resolution.

Copy of Wiltshire County Council Policy.

Site Location plan.

Plain English guidance given

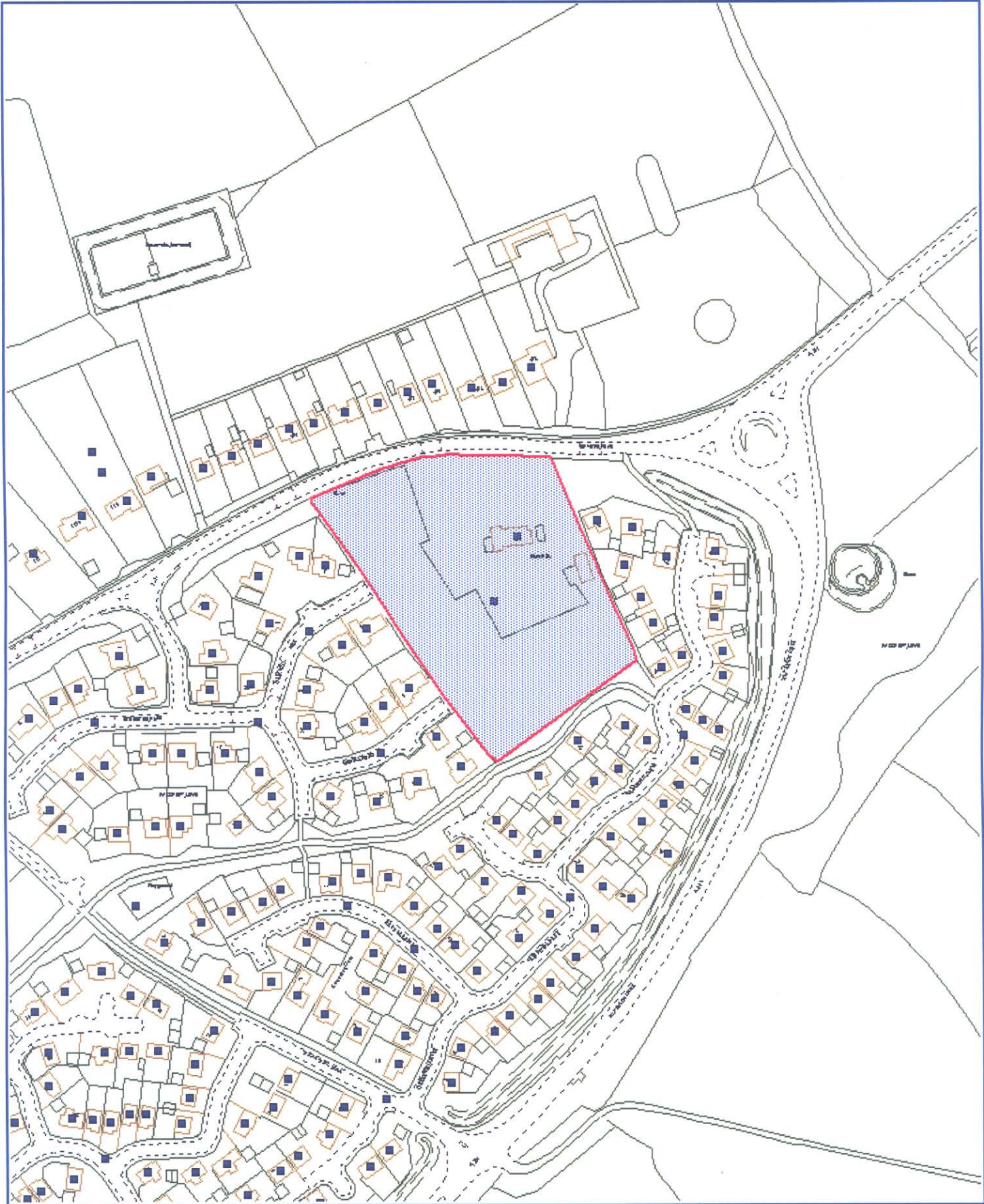


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RMG/May01

04/00095/OUT  
Land At Blue Hills Hilperton



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WILTSHIRE COUNTY COUNCIL  
POLICY FOR REQUESTING  
SECTION 106 CONTRIBUTIONS FOR EDUCATION INFRASTRUCTURE

**1. Background**

- 1.1 This document sets out Wiltshire County Council's policy for requesting infrastructure contributions where the need for extra school places arises directly from housing developments within the County. It is consistent with ODPM Circular 05/2005 "Planning Obligations". In particular, it complies with the principles that contributions must be necessary, reasonable and proportionate.
- 1.2 The L.A. aims to provide a good match between pupils and places with an infrastructure of high quality school buildings and facilities where all schools are of sufficient size and standard to deliver the curriculum cost effectively.
- 1.3 There is an expectation that children should, wherever possible, have the opportunity to be educated in their local communities as near as possible to their homes and that safe routes to school need to be provided to encourage children and their parents to walk or cycle to school.
- 1.4 The Wiltshire School Organisation Plan 2003-2006 states that the L.A. will generally only seek to open new primary or secondary schools. For primary schools there is a strong preference for schools which take in 1,1.5 or 2 forms of entry. Smaller new schools will only be considered if it is not possible to provide the extra places by expanding existing schools and the additional demand does not require seven classes. The maximum desirable size for a primary school is 420 pupils (2 forms of entry per year)

The L.A. will consider the establishment of a new secondary school where long term demand is likely to lead to a school with 900 11-16 school places. The minimum projected size for a new secondary school would be 600 11-16 pupils. The desirable maximum size for a new secondary school is 1200 11-16 pupils.

- 1.5 In general terms proposals for the development of 600 dwellings or more is likely to require a new primary school to serve the pupils generated by that development unless there is considerable surplus capacity at existing schools within reasonable walking distance of the development. Due to their relatively wide catchment area, a new secondary school is only likely to be required to serve a major urban expansion scheme.

**2. Assessing the need for school places and developer contributions**

- 2.1 The L.A. has a comprehensive and well-established system for forecasting the future pupil populations of primary and secondary schools in the County. Information is gathered on children registered with GPs in the County; admission trends (taking into account parental preferences for schools and demographic changes in population) and planned housing developments.
- 2.2 The L.A. publishes a School Organisation Plan. This document outlines the strategy for the planning and provision of school places over a three year period. However L.A. staff work closely with planning officers and developers

to ensure that the most up to date information is obtained prior to consideration of a planning application.

- 2.3. A developer contribution will be sought where it can be demonstrated that there is a need to expand education provision at the primary and/or secondary school serving the proposed housing development. Generally, the schools examined will be those serving the designated area in which the housing development is to be located. Occasionally, a housing development will relate geographically better to a school other than that which currently serves the designated area. In such a case, it would be the Council's intention to change the designated area boundaries to ensure the school serves a coherent geographical area.
- 2.4. It is accepted that it may not be reasonable to seek contributions for a single small development and generally contributions will only be sought in respect of developments of 10 or more dwellings. However where a number of small developments are located close together, the cumulative impact of all these developments on school place availability in the area will be taken into account when assessing the need to seek contributions from individual developers.
- 2.5. It is possible that a housing development may give rise to the need for a new school, either because the number of houses involved is so large (when all developments in the area are considered) or because existing schools have already reached the limits of their potential to expand. In these circumstances the Council would seek to provide a new school.
- 2.6. The Council has tracked the actual number of children arriving in Wiltshire schools from a variety of different sized housing developments over 10 years. From this it has calculated two pupil product figures which it uses as the basis for estimating the number of primary and secondary aged children likely to come from future housing developments. These figures are:  
  
0.31 per dwelling for primary aged pupils (31 per 100 dwellings)  
and  
0.22 per dwelling for secondary aged pupils (22 per 100 dwellings).  
  
These "pupil product" ratios are not applied to any one bedroom dwellings in a development.
- 2.7. When a request is received from a housing developer or landowner for information about the estimated level of Section 106 Education contributions to be sought, the developer or landowner will be asked to provide a plan showing the proposed housing site location and to specify the number of dwellings broken down by type, divided into Open market and Affordable.
- 2.8. Using this information, Officers of the Council will compute the likely number of pupils to come from the development and assess whether they can be accommodated within the existing capacity of the local school(s) taking into account other known developments in the area. The estimated pupil product calculated for a new housing development, plus the forecast numbers on roll at appropriate local schools are compared to these schools permanent capacities to identify the extent of any deficit that will need to be addressed.



- 2.9 Where the proposed housing development would lead to a school population in excess of the Net Capacity of the school(s), a contribution will be sought in respect of land and/or finance to enable the L.A. to meet the shortfall in places.

### **3. Extent and nature of developer contributions**

- 3.1 Land if required for a new school, or an extension to an existing one, should be provided free of charge by the developer to the Council. The size of the site area required should be agreed with the L.A., as should the location, shape and orientation of the land before a master plan is produced for the proposed development.

- 3.2 Where the scale of a development is sufficient in itself to justify a new school, then the developer will be expected to provide the site free of charge and pay the full construction costs, including all design fees and charges.

The use of DfES cost multipliers per pupil place to calculate a developer contribution is not suitable for the development of new schools. The DfES currently calculates the cost of each place at a level intended to cover the average cost of providing such places; that is, based on the average of new build costs and extension costs, which are lower. It does not, therefore, support the full cost of building whole new schools.

- 3.3 Where a development is not large enough to require a new school, but is of sufficient size to trigger the need for one because existing schools cannot satisfactorily accommodate all the pupils from the development, then a contribution to the land and construction costs will be required in proportion to the estimated pupils generated. The Council will use its best endeavors to draw together contributions from two or more sites to commission a new school. However developers will be required, as an absolute minimum, to provide the new school site free of charge.
- 3.4. If the pupil yield from a development can be accommodated by expanding an existing school, or by replacing temporary accommodation with permanent accommodation, then the developer will be expected to acquire and provide any land required free of charge and/or pay the relevant DfES cost multiplier unless estimates based on actual schemes are already available, in which case these figures will be used.
- 3.5. For 2006/07 the DfES Cost Multipliers are £10,732 for each primary school place, and £15,848 for each secondary school place.
- 3.6. Figures used to demonstrate shortfalls and any cost estimates will be made to applicants on request. These will be indicative and the value of the Cost Multiplier will be accurate at the time of responding to an enquiry. The Council will require that the cost multiplier figures on which the final contribution will be calculated are those applicable on the date of signature of a legal agreement. At that time, the latest School Population Forecasts will be used to determine whether there should be any modification to the earlier indicative contribution to allow for changes in the number or mix of dwellings, or to the pupil numbers in the local schools ("locking in")

- 3.7. A 30% “discount” on the number of pupils arising from the affordable dwellings will be applied at this stage to allow for some of the pupils already being in the local school(s).
- 3.8. Once the level of contribution has been determined, it will be included within a legal agreement and thereafter that sum of money will be indexed from the date of signature using the BCIS All – in Tender Price Index.
- 3.9. Since the Council is responsible for providing the extra education infrastructure at a rate which matches the increase in demand from the proposed housing development, there is a strong preference for any contribution to be paid on the commencement of development. Where a development is large and it is reasonable for the developer to ask for a phased payment arrangement, the Council will require all outstanding sums of money to be bonded. Phased payments will need to be made at the time of completion of agreed percentages of properties.
- 3.10 For large phased developments, the process of “locking in” may be repeated at two or three stages through the progress of the development.

#### **4. Meeting additional demand.**

- 4.1 The L.A. will identify and decide how best to meet the increased demand for education provision. The L.A. will need to take into account both educational and financial considerations when deciding whether it is necessary to build a new school, extend an existing school, or replace temporary accommodation with permanent accommodation.
- 4.2 The L.A. works very closely with schools and will need to consult with headteachers, school governing bodies, diocesan education boards, parents and the local community about a new residential development and the impact it is likely to have on existing school provision in the locality. During these consultations the L.A. will take into account:
  - the size of existing schools;
  - the proportion of their accommodation that is permanent/temporary;
  - whether the schools are capable of expansion (in terms of site areas) and how easily the existing buildings lend themselves to extension, and
  - whether it is desirable, on education grounds, to extend them.
- 4.3. The L.A. will also consider the geography of the area, the accessibility of safe routes between any existing schools and a new development, and the impact that increased pupil numbers are likely to have on road traffic in the surrounding area.
- 4.4. In addition to this, the L.A. will also wish to consider, in conjunction with planning officers and the developer, whether it would be desirable for the new development, if it is of sufficient size, to have its own school to serve the community. These consultations can be lengthy and a Section 106 Agreement may have to be signed before a definite conclusion can be reached. As a consequence such agreements may need to contain a number of options, in terms of the land and financial contributions that the LA may need for school provision, depending on which option is finally adopted.
- 4.5. This policy will be reviewed annually and the DfES Cost Multipliers updated for April each calendar year.