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Development Control Committee

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8 September 2008

**To: All Members of the Development Control Committee
All other Members of the Council for information**

Dear Member

DEVELOPMENT CONTROL COMMITTEE

A meeting of the Development Control Committee will be held in the Council Chamber, Nordon, Salisbury Road, Blandford Forum on **Tuesday, 16 September 2008 at 2.00pm** to consider the items overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Elizabeth Goodall', is written over a white background.

**Elizabeth Goodall
Chief Executive**

Public Participation

Members of the public who have made representations on a planning application considered at this meeting may speak on that application. If you wish to do so, please register with Sandra Deary (Democratic Services Officer) on 01258 484370 as far in advance of the meeting as possible. When you arrive at the meeting, please also register that you are present and intending to speak. Public participation is run on rules set out in a leaflet (available at the meeting, or by contacting Democratic Services as above).

The minutes of this meeting will be published and available on the website, usually before the date of the next meeting.

A summary of the decisions made at the meeting will be available and on the website (www.north-dorset.gov.uk) within a day or two of the meeting.

Agenda: see overleaf

A G E N D A

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**

Councillors are reminded of their obligations under the Code of Conduct to declare any personal and prejudicial interests

3. **S.106 AGREEMENT RELATING TO THE PROPOSED DEVELOPMENT AT THE BREWERY, BLANDFORD ST MARY – 2/2006/1353**

To ask Members to reconsider the developer contributions required from the proposed development of the brewery site at Blandford St Mary (Application: 2/2006/1353).

Please Note Annex B (The report presented to Full Council on 26th October 2007) is not attached to these papers due to the size of the document. Copies of this document are available on request.

Members of the Committee

Chairman	Bill Batty-Smith	
Vice Chairman	Mervyn Jeffery	
	Brian Anderson	Su Hunt
	Nigel Cook	Trish Lever
	Charles Dowden	Geoffrey Miller
	Victor Fox	David Milsted
	Joe Hickish	Val Potheary

NEXT SCHEDULED COMMITTEE MEETING

TUESDAY, 23 SEPTEMBER 2008

NORTH DORSET DISTRICT COUNCIL

Development Control Committee

Date of Meeting: 16 September 2008

REPORT TITLE: **S.106 AGREEMENT RELATING TO THE PROPOSED DEVELOPMENT AT THE BREWERY, BLANDFORD ST MARY**

Portfolio Holder: **Leader of the Council**

Report Author: John Hammond – Development Control Team Leader and Stuart Caundle – Solicitor to the Council

Purpose of Report:	To ask Members to reconsider the developer contributions required from the proposed development of the brewery site at Blandford St Mary (Application: 2/2006/1353)
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Statutory Authority: Town and Country Planning Act 1990

Financial Implications: The reduction in developer contributions identified in the body of this report

Consultations required/undertaken: Chairman of the Development Control Committee

Recommendations: That Members recommend to Council that it agrees to amend the Council's requirements for developer contributions for application numbered 2/2006/1353 to those set out at Annex A.

BACKGROUND AND REASON DECISION NEEDED

1. On 16th October 2007 the Development Control Committee considered application numbered 2/2006/1353, submitted by Hall and Woodhouse and relating to the brewery site at Blandford St Mary. As the granting of the application would have been contrary to the Development Plan, the Constitution required that if the Committee were minded to grant the application, their decision would have to be to recommend the matter to Full Council.
2. The Committee's decision was to recommend the application to Full Council for granting, subject to conditions and to a S.106 Agreement, the heads of terms for which were agreed by the Committee.

3. The application was decided by Full Council at its meeting on 26th October 2007, at which Council resolve to grant the application, subject to conditions and a S.106 Agreement. The heads of terms of the S.106 Agreement were set by Council, but delegated authority was given to the Development Control Manager, in consultation with the Chairman and Vice Chairman of the Development Control Committee to determine the detail of the grant.
4. Members are referred to the copy of the officers' report and the minute of Full Council (Annex B). Members will see that as part of the requirements of the S.106 Agreement, a range of developer contributions were required. A summary of those requirements is as follows;
 - a) Community facilities within site C (for parish council) - £50,000
 - b) Local Area of Play (LAP) for Blandford St Mary - £40,000
 - c) Maintenance of equipment at LEAP for Chettle Way/Pigeon Close - £40,000
 - d) Refurbishment of Stour Park Skate Park - £15,000
 - e) Refurbishment of existing equipment at Stour Park and enhancement of biodiversity - £45,000
 - f) Off Site provision for adult recreational facilities for Blandford/Blandford St Mary (Blandford Leisure Centre) - £150,000
 - g) Additional car parking spaces at Stour Park car park - £ £50,000
 - h) Two enclosed buss shelters on Bournemouth Road - £15,000
 - i) Off site highways works - £150,000.

This came to a total of £560,000. The justification for the various elements identified above are set out in the planning officers report within the Planning Appraisal at Sections 16 (youth & junior play facilities) , 17 (Stour Meadows enhancement), 18 (adult recreational facilities), 19 (Local community centre) 20 (off site highway works and Stour Meadows car park enhancement) and 21 (need for education contributions). A rationale for the approach adopted in seeking these contributions is set out at Annex C.

5. The trigger dates for the various payments were left for officers to resolve through detailed negotiations with the applicant. The terms negotiated with the applicant resolved that these contributions (with the exception of i) above) will not be payable until the residential part of the development is commenced. The triggers originally agreed provide for 2 payment stages through the residential development. This is a normal approach to securing the range of community infrastructure where need arises from the residential use rather than the replacement brewery or the employment development proposed to be undertaken as the first phases of development. Given the phasing proposals deliver the employment uses first it was always planned that the residential element would not be constructed for another three or four years.
6. Since the original negotiations and decision, there has been both a general economic downturn and a significant downturn in the housing market. House prices have begun to fall significantly. Although the situation could change, it is likely that the residential part of the development will be commenced within a different market environment to that taken into account when officers originally considered the independent financial appraisals of the development proposals in Spring 2007. Any delays in commencing the development will equally impact upon the delivery of the housing element and consequent delays in securing

payment of community infrastructure contributions.

7. Two elements of the contributions have been dealt with, other than by the requirement for payment of a contribution:
 - (i) The sum of £50,000 at a) above will be a notional payment, as the developer will be providing the Local Hall premises to the Parish Council on a lease. This sum has been added to the sums already secured in relation to the provision of a community hall within Blandford St Mary to secure a period of rent free accommodation when the lease is granted. Allowing for retention of a capital sum to enable a fit out, the secured rent free period has been agreed at 25 years.
 - (ii) The payment of the contribution for off site highway works at i) above will now be secured by a Grampian condition on the planning permission. What this means is that the specified development will not be able to take place until the required highway works have been completed. This is something the developer will arrange with DCC, either by carrying out the works themselves, or by paying DCC to carry out the works. Accordingly, the actual contribution to be paid under the existing decision of Council is £360,000.
8. As a result of the significant downturn in the housing and development market, developers are reappraising their plans for future housing and other types of development. Against this background, especially the present level of uncertainty in the market, the applicant has approached the Council's officers with a request to reconsider the Section 106 contributions. The applicant has proposed that it is willing to make a single, non refundable payment, in advance on 1st February 2009 and that in return for this; a discounted figure should be accepted by the Council.
9. The applicant has offered a discounted sum totalling £250,000 with agreement that the sum will be non refundable and will be payable on 1st February 2009. A breakdown of the proposed contributions is set out at Annex A.
10. In response to the applicant's approach officers have reviewed the original Section 106 proposals, including the scope to secure improved public access to land currently within the applicant's ownerships to determine whether an approach that recognises the applicant's current property market concerns can be offset through improved public usage this land.
11. In response to this review officers have identified 2 areas where public ownership / control would secure improved benefits to the parish and town, these being (i) the residue of the Stour Meadows retained by the applicant, and, (ii) parking spaces in the Stour Meadows public car park currently retained by the applicant.
12. In relation to (i) Stour Meadows this will secure the transfer of some 4 acres of land currently leased to the District Council at nil cost, increasing the amount of public open space available to the town and parish, securing the future of this wider and valuable public open space and improving the scope for future management regimes through long term single ownership. This will assist in promoting the sites Local Nature Reserve status whilst single ownership will assist any subsequent bid for Green Flag status.

- 13.** Turning to area (ii) when the applicant transferred the land for the Stour Meadows car park to the Local Authority it retained the right to occupy 12 spaces for brewery use. The scope to free up these spaces for any public use will improve the capacity of this car park to better serve the mixed use development as well as the nearby Blandford Forum town centre. This transfer will enable a review of the car park enhancement capital sum originally proposed with a lesser dilution of the originally planned overall public benefit.
- 14.** In addition to the offer of land in lieu of financial sums reviewed in Paragraph 7 above, there are potential benefits to the Council in accepting a discounted figure in six months, rather than the full sum in say five years, which can be seen in two ways. Firstly, the Bank of England projects that the leading construction industry index, by which the contributions would be increased, will increase at a rate of approximately 3% per annum. This should be seen against the Council's recent treasury management performance, where investment returns of approximately 6% per annum have been achieved. There is therefore a good prospect that any money not spent will accrue a greater return to the Council by being paid early than it would be being paid in say five years with a construction based indexation. It is estimated that this potential benefit is in the region of £40,000, which can be set against the proposed discount of £100,000. Accordingly, the discount in real terms can be seen as being in the region of £60,000. Members should recognise that these figures are based upon the assumptions referred to above.
- 15.** Set against this is the prospect of being able to bring forward some of the planned schemes for which the contributions are being collected. Whilst the schemes will require matched funding and their progress will be in part dependent on this; without the contributions, the schemes may not be commenced for five years or more. Officers believe that, with the exception of c) above and the possible exception of h) (as DCC have not been consulted), the communities for whose benefit the schemes are planned will benefit from the capacity to bring those schemes forward sooner.
- 16.** The most likely way in which the reductions in the contributions would be borne and an assessment of the impact of such reductions is set out below.
- The 2 x £40,000 funding secured to provide for on / off site play provision within Blandford St Mary would need to be reduced by 50%. This impact would require the agreement of the Blandford St Mary Parish Council as signatories to the Section 106 and may result in a single payment to be used at the parish's discretion. Further discussion would be necessary with the parish regarding the most appropriate locations for and types of play facility. The opportunity to provide an immediate on site location would be retained, however the parish does manage a well resourced play facility at the nearby Chettle Way which could provide an opportunity for an enhanced, more widely accessible solution.
 - The money available for enhancements at Stour Meadows would be reduced by £10,000 to £35,000. There is no fully costed scheme for the proposed works. A reduction will mean that whatever scheme is developed for enhancement works will be framed having regard to the lesser sum of money available. It is important to remember that with the acquisition of the additional 4 acres of public land it will be possible to implement a whole site scheme from 2009, rather than waiting for perhaps five years to be able to pursue a scheme. This will officer short term benefits to the wider users of this

important open space but will reduce the extent to which enhancements and more sensitive management regimes dealing with the twin issues of enhanced LNR status against increased usage by new residents can be managed through the planning contribution source in the longer term.

- A sum of £100,000 rather than £150,000 would be available for enhancement works to the Blandford Leisure Centre. The projects initially identified to which this sum would contribute comprised the provision of floodlighting to all weather pitches, or the creation of a fitness suite. Officers had previously secured provisions to use these funds on other adult facilities within Blandford should the future of the Leisure Centre be in doubt at the point of payment. That provision would no longer be a significant issue under the “non repayment” scenario proposed by the applicant. Officers consider the ability to spend a lesser sum in advance of transferring operational control of the Centre to another party would seem to be attractive.
 - The contribution of £50,000 towards improvements at the Stour Meadows car park would be reduced by £10,000. Whilst the original £50,000 represented a part contribution towards a comprehensive enhancement programme including additional spaces, community safety benefits and landscaping, a reduced sum can be set against the securing of public use of the 12 private spaces within the existing car park.
- 17.** An important consideration is the sum of £150,000 required for work to the Blandford Leisure Centre. The implementation of the Medium Term Financial Plan will mean that within two and a half years, the Council will no longer be subsidising the Centre. This will mean that within that time period, either an alternative solution for running the Centre will have been implemented, or the Centre will be likely to have closed. A capital contribution of £150,000 will, therefore, be of little use if paid to the Council in say five years time. Investment may however be beneficial in the short term in order to put the Centre in the best possible condition to facilitate an alternative arrangement for its management. This is highly likely to involve a private sector or trust partner. There is, accordingly, a considerable benefit in securing an early payment.
- 18.** Having regard to the likely discount in real terms, the additional benefits explained in paragraphs 6 & 7 and the potential benefits of being able to bring schemes forward several years earlier than had been planned, members are asked to consider whether those benefits are sufficient to outweigh the discount and to make the proposal acceptable.

In making this judgement, Members should have regard to:

- (i) The guidance in circular 5/05, that requirements under S.106 should be reasonable in all the circumstances. This requires a judgement regarding the conflicting issues raised. In addressing this guidance Members should consider the changed economic circumstances and in particular the downturn in the housing market, however Members should also appreciate that this application comprises a large scale development within the context of wider Blandford which will be undertaken over a number of years. There is no certainty that can be provided regarding the duration of the current property market downturn or the likely health of this market at the point when the residential element is proposed for commencement. Against the issue of future market condition is the certain requirement that if the development is undertaken if planning gain does not

secure the necessary on an off site recreational and community facilities, the Local Authority will be expected to make provision. Additionally,

(ii) The financial contributions do not comprise the totality of planning benefits offered by this scheme which also include 35% affordable housing with a 70/30 rental/shared equity split, securing the provision of a parish rooms facility at nil rental for 25 years, the provision of new and shorter links between the parish and town centre as well as the bringing forward of a replacement brewery and new employment opportunities.

19. Officers consider that the revised proposal comprising a reduced, single capital payment (£250,000) made in the early part of 2009 against a larger sum (£360,000) in the period 2012 – 2015, will improve the attractiveness of the Leisure Centre to future operators, enable schemes to be brought forward in advance of the brewery development to the benefit of residents of parish and town as a whole and taken with the securing of the 12 public car parking spaces and 4 acres of public open space to contribute to the wider Stour Meadows represents alternative but equally beneficial outcomes for the public domain when compared to the provisions originally proposed by officers and supported by the Development control Committee and Council in Autumn 2007.

OPTIONS

20. Members may agree to accept the proposed amendment to the developer contributions which is proposed; they may reject those proposals and retain the original contributions, or they may require some other sum between the two.

COSTS

21. The costs are as set out in this report and as specified in annex A to this report.

DIVERSITY AND CUSTOMER FOCUS

22. There are no direct customer focus or diversity issues beyond the prospect of being able to bring forward some of the proposed infrastructure projects.

HUMAN RIGHTS IMPLICATIONS

23. There are no human rights implications arising from this report.

RISK MANAGEMENT

24. The principle risk in not adopting the proposals is that the contribution to the Blandford Leisure Centre will not be forthcoming until after it is required to facilitate a solution for the Centre's future management.

RECOMMENDATION AND REASON

25. That Members agree to amend the Council's requirement for developer contributions for application numbered 2/2006/1353 to those set out at Annex A. This is to secure increased benefits for the community from the proposed contributions.

**Author: J. Hammond – Development Control Team Leader and S. Caundle –
Solicitor to the Council
Date: 28th July 2008**

Background papers: Planning Application file 2/2006/1353

Revised Heads of Terms 2/2006/1353

- I. The provision of 35% affordable housing comprising 30% shared equity / homebuy and 70% rental provision, subject to Housing Corporation Grant being available, otherwise the use of a cascade mechanism to control tenure,
- II. The provision of a community building of not less than 145 sq metres within Site C together with a contribution of £50,000 towards the construction and operation of the centre,
- III. The payment of a sum of £40,000 to support the provision, maintenance and replacement of Locally Equipped Areas of Play within Blandford St Mary.
- IV. The payment of a sum of £15,000 towards the refurbishment of the Stour Park Skate Park,
- VI. The securing of a management company to maintain the communal areas for parking, ancillary landscaping, the ongoing maintenance of the brewery chimney stack and the provision of the Brewery Square public art and play facility,
- VII. The provision for public art together with the future public display of brewery artefacts at Blandford Museum,
- VIII. The payment of a sum of £35,000 towards the refurbishment of existing structures within Stour Meadows and the development and delivery of an ongoing management plan for Stour Meadows to recognize the additional recreational demands placed upon it together with the enhancement of this site in relation to biodiversity,
- IX. The payment of a sum of £100,000 towards securing off site provision for adult recreational facilities within Blandford Forum & St. Mary,
- X. The provision of all new dwellings to BREEAM Eco Home Standard Very Good / Code for Sustainable Homes Level 3,
- XI. The securing of renewable energy provision in relation to new houses (not flats) within the residential development within Site C,
- XII. The maintenance of existing levels of CCTV in relation to the existing Stour Park car park boundary,
- XIII. The payment of a sum of £40,000 in relation to the provision of additional car parking spaces within the Stour Park car park together with the provision of landscaping and traffic management measures,
- XIV. The payment of a sum of £20,000 towards the provision of 2 enclosed bus shelters to include Real Time Information services on Bournemouth Road,
- XV. The securing of a Green Travel Plan in relation to all new B1 employment uses within Site B as defined on the Zoning Map and Phasing drawing 0514.436, and
- XVI. The securing of a marketing strategy in respect of the B1 employment sites within Site B together with the A1, A2, A3 and B1 uses within site C,

- XVI. The transfer of land within Stour Meadows currently within the applicant's ownership, and
- XVII. The revocation of the applicant's existing lease of 12 parking spaces within the Stour Meadows car park to provide additional public car parking.

Rationale supporting the original Section 106 Community Infrastructure negotiations in respect of application 2/2006/1353, Re-development of Hall & Woodhouse brewery.

1. For most residential planning applications the starting point in securing community infrastructure (“planning gain”) is the Planning Authorities Guidance Note “Planning Obligations for the provision of Community Infrastructure.” This document sets out the projects identified within the adopted Local Plan together with the sums required from each new dwelling to bring these projects forward. As the document amplifies the Local Plan it is intended that these projects will be funded over the life of the Local Plan and therefore should be delivered by the end of the Local Plan’s life in 2011.
2. The proposals to re-develop the brewery have always required the new brewery to be delivered as the 1st phase. The need to operate both new and existing breweries in tandem for a handover period means that the residential element of the scheme would generally not occur until post 2011, i.e. after the projects contained within the Local Plan should have secured full funding or indeed be complete.
3. In light of the issues set out in Paragraph 2 above officers considered that a simple reliance upon the Local Plan projects would not address the need for social infrastructure that would arise from the re-development proposals, however an initial assessment of the level of funding that such an approach would secure would provide a base line against which to assess the current application. Based upon the most recent version of the Guidance Note (April 2008) the formulae approach would secure in the order of £458,000. In addition to this sum the Planning Authority would seek contributions towards on and off site play facilities together with a commuted sum to secure a 20 year maintenance period and sums to secure any off site highway works required by the Highways Authority. The facilities to be improved through the Community Infrastructure formulae would serve the needs of Education, Community Facilities, Neighbourhood Halls, Outdoor Sports and highways enhancement.
4. In relation to the brewery re-development officers were aware that:
 - The scheme was not identified within the Local Plan therefore there was no evidence base to direct Section 106 negotiations,
 - The scheme provided improved pedestrian and cycle links between Blandford St Mary and Blandford Forum town centre,
 - The proposed development includes a high percentage of flats and relatively few houses,

- The scheme provides an opportunity to identify a site for a community hall for Blandford St Mary to replace the site previously identified within the Bryanston Hills development, and
 - Officers had secured a viability appraisal of the development and therefore understood the development costs and therefore the competing demands for funding.
5. In framing the planning gain negotiations officers sought to address the types of project that informed the Local Plan's underlying approach but relating the projects more closely to the anticipated impacts arising from the brewery re-development.
 6. Following discussions with the County Education Authority it acknowledged the high proportion of flats within the scheme and the timetable for the scheme set against likely falling rolls and did not seek a capital contribution to education provision.
 7. In relation to neighbourhood halls, the application provided an opportunity to secure a hall facility for the parish to replace the previous site at Bryanston Hills where no development had been pursued. The scope to revisit the parish hall scheme secures funding already held by the District Council (£88,000) towards this project.
 8. Turning to recreation and play facilities officers recognized the scheme would impact upon both the parish within which the site lies and the town which provides for adult recreation and play opportunities. Discussions with both parish and town identified opportunities to secure enhancements towards the recent LEAP at Chettle Way / Pigeon Close (to recognize the likely increased use of this facility and therefore need for greater maintenance costs.) and the provision of a LAP within the parish as well as a contribution towards the development of capital projects at the Blandford Leisure Centre (either fitness suite or floodlighting of outdoor pitches) to recognize the needs for adult provision given the higher proportion of flats within the proposal. Additionally a sum to enable the enhancement of the Skate Park was identified by both parish and town as a priority. The enhancement of wider recreational use was to be met through ongoing capital and management funding towards Stour Meadows which provides an immediately accessible area serving the development.
 9. The initial bid from the County Highway Authority for funding towards bus service connections to Poole were not accepted by officers given that the schemes initial design sought to generally match the numbers of new employment opportunities with the number of residents likely to arise from the new employment space and dwellings proposed. A sum towards the provision of bus shelters to either side of the road was however supported.

10. The projects outlined at Paragraphs 7 – 9 above were considered by officers to address the areas of infrastructure need identified by the Adopted Local Plan and, taken with the securing of renewable energy, BREEAM Eco Home Very Good Standard for all new build and 35% affordable housing the overall package was Recommended for approval and accepted by both the Development Control Committee and Full Council.