

Mendip District Council
Planning Application 2013/1635 DECISION_NOTICE
Date of Application 1st August 2013

Proposal:

Outline planning application with all matters reserved other than access for up to 450 dwellings (Class C3); **land for a school and pre-school provision in the form a childrens nursery**, green infrastructure provision to include retained vegetation, habitat creation (including new woodland planting), open space and play areas, drainage features and associated engineering, new walking/cycling/recreational routes; vehicular access via the construction of a new road off the existing supermarket access road, together with retained vehicular access to properties at Southfield Farm and associated works.

Notes

4 THIS APPROVAL IS SUBJECT TO A SECTION 106 LEGAL AGREEMENT TO SECURE THE FOLLOWING OBLIGATIONS:

- Travel Plan
- **Transfer of school land**
- **Education contribution**
- Affordable Housing
- Phasing
- Open space
- Off-site flood risk management works
- Contribution towards the footpath link

Agreement under section 106 of the Town and Country Planning Act 1990
relating to land at Southfield Farm, Walbridge, Frome, Somerset
Dated 22nd December 2014

1 DEFINITIONS

“Education Contribution”

Means the sum of £784,448 (seven hundred and eighty four thousand four hundred and forty eight pounds) or such other sum as agreed with the County Council Index Linked to be paid by the Owners to the County Council as a contribution towards the provision of a first school education facilities within the local area in accordance with the Sixth Schedule ;

“First School Notice”

Means a notice to be served by the County Council on the Owners confirming that the County Council has decided (by delegated decision or otherwise) to acquire the First School Site for the purpose of providing a first school and requiring the First School Site to be transferred to the County Council such notice to include a copy of the County Council's decision or evidence of such decision PROVIDED THAT the First School Notice cannot be served prior to the date of the Occupation of the 175th dwelling;

“First School Site”

Mans the part of the site being 1.2 hectares and as shown for identification purposes only coloured orange and marked 'PS' on the Parameters Plan and as shall be more particularly delineated in accordance with the reserved matters approval or planning permission for the first school;

SIXTH SCHEDULE

Education

1 The Owners covenant with the County Council on behalf of themselves and their successors in title to the Site to pay the Education Contribution to the County Council as follows

1.1 the first instalment of £261,483 (two hundred and sixty one thousand four hundred eighty three pounds) Index Linked prior to or on the date of the Occupation of the 100th Dwelling;

1.2 not to permit, cause or allow the Occupation of the 100th Dwelling until the first instalment £261,483 (two hundred and sixty one thousand four hundred eighty three pounds) Index Linked has been paid to the County Council;

1.3 the second instalment of £261,483 (two hundred and sixty one thousand four hundred eighty three pounds) Index Linked prior to or on the date of the Occupation of the 200th Dwelling;

1.4 not to permit, cause or allow the Occupation of the 200th Dwelling until the second instalment of £261,483 (two hundred and sixty one thousand four hundred eighty three pounds) Index Linked has been paid to the County Council;

1.5 the third and final instalment of £261,483 (two hundred and sixty one thousand four hundred eighty three pounds) Index Linked prior to or on the date of the Occupation of the 300th Dwelling;

1.6 not to permit, cause or allow the Occupation of the 300th Dwelling until the 3rd and final instalment of £261,483 (two hundred and sixty one thousand four hundred eighty three pounds) Index Linked has been paid to the County Council;

2 The Owners covenant with the County Council as follows:

2.1 Within 28 (twenty eight) days of receipt in writing by the Owners from the County Council of the First School Notice the Owners shall offer to transfer to the County Council the freehold of the First School Site to the County Council;

2.2 Access and the Services and the Service Media should have been provided to the boundary of the First School Site by the Owners and at the Owners' cost prior to the date of the Occupation of the 175th Dwelling.

2.3 Prior to transferring the First School Site to the County Council the Owners shall upon reasonable prior written notice to permit employees and agents of the County Council to enter on the First School Site and adjacent land for the purpose of undertaking surveys and investigations PROVIDED THAT the County Council makes good all damage occasioned thereby.

2.4 Where the First School Notice is not served in accordance with the provisions of this Agreement within 5 (five) years of the date of the Occupation of the 175th Dwelling then it shall be deemed that the County Council will not pursue the construction of a first school on the First School Site and the Owners will be able to use the First School Site for other purposes.

2.5 The Owner shall deduce title to the First School Site to the County Council free from any financial charge.

2.6 The Transfer to the County Council will be substantially in the form attached and be subject to:-

2.6.1 any matters contained or referred to in the entries or records made in registers maintained in respect to the First School Site by Land Registry as at the date of this Deed subject to priority searches;

2.6.2 any matters discoverable by inspection the First School Site before the date of the transfer;

2.6.3 any matters which the Owners do not and could not reasonably know about;

2.6.4 any matters disclosed or which would have been disclosed by the searches and inquiries which a prudent buyer would have made before entering into this contract;

2.6.5 public requirements;

2.6.6 any matters which are unregistered interests which override registered dispositions under Schedule 3 to the Land Registration Act 2002; and

2.6.7 the Owners first providing confirmation in writing to the County Council that the Site has been cleared of materials and debris, is in a clean and level condition and that all necessary archaeological and contamination mitigation has been carried out.

2.7 The transfer to the County Council shall include:-

2.7.1 appropriate rights in easements for the benefit of the County Council in using the First School Site as a first school;

2.7.2 appropriate rights and reservations for the Owners in relation to the carrying out of development on the Site;

2.7.3 restrictive covenants restricting the use of the First School Site to use as a first school; and

2.7.4 return at the First School Site to the transferor if the contract for the construction of the school on the First School Site has not been let within 2 years of the date of grant of full planning permission or reserved matters approval for the school or 5 years of the date of the transfer whichever is the earlier.

2.8 Completion of the Transfer will take place within 56 (fifty six) Working Days of receipt of the First School Notice by the Owners served in accordance with paragraph 2.1 or such alternative time period as agreed between the Owners and the County Council.

2.9 The Owners shall not create any encumbrance over the First School Site without the prior written consent of the County Council (an encumbrance includes any easement, restrictive covenant, lease or other right of occupation use or enjoyment of the whole or any part of the First School Site).

2.10 The Owners are not to enter into any disposal in respect of any interest in the First School Site unless the Owners procure that:

2.10.1 the disponent executes and delivers a deed of covenant to the County Council in such form as the County Council may reasonably require and the Owners shall approve (acting reasonably) whereby there disponent covenants with the County Council to observe and perform the obligations on the part of the Owners contained in this paragraph 2 of the Sixth Schedule to this Agreement as if the disponent had been named as the Owners in this Agreement; and

2.10.2 Upon any disposal to any disponent of the First School Site, the same obligations as are contained in this paragraph 2.10 of the Sixth Schedule apply;

2.11 Within 10 Working Days of the date of this Agreement the Owners are to make an application to the Land Registry on form RX1 to register the restriction on the proprietorship register of title number WS64567 in relation to the First School Site in the following Land Registry standard form:

“No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge is to be registered without a certificate signed by Somerset County Council or its conveyancers that the provisions of paragraph 2.10 of the Sixth Schedule of a section 106 agreement dated [] 2014 between [] have been complied with.”

Appendix 1 – Approved Travel Plan

Dated August 2014

1.0 INTRODUCTION

1.2 Travel Plan Scope

This Travel Plan has been prepared in line with the Department for Transport guidance on residential travel plans.

In addition reference has been made to 'Somerset County Council - Transport Policies - Travel Planning Guidance, November 2011'.

The developer is proposing to offer land to SCC for the provision of the primary school. SCC will produce its own School Travel Plan as details of the school are unknown at this outline stage. The School Travel Plan will be submitted alongside the detailed planning application for the school and approved by Mendip District Council and Somerset County Council within 12 months of the opening of the school to enable input from all stakeholders i.e. pupils, parents, teachers, school governors. The Travel Plan will be secured by a Section 106 agreement.

2.0 SITE DESCRIPTION AND PROPOSED DEVELOPMENT

2.2 Proposed Development

2.2.1 The development schedule of the proposed development is:

- Up to 450 dwellings (market and affordable);
- A community primary school

2.2.3 Land will be offered to Somerset County Council to develop a community primary school which will be filled with pupils who will live in the proposed development.

2.2.4 The primary school will also provide community facilities for the residents within the proposed housing development through the hire of its halls, classrooms and sports pitch.