

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY BLOOR HOMES (the "Appellant")

IN RELATION TO LAND AT SODBURY ROAD, WICKWAR (APP/P0119/W/23/3323836 / P22/01300/O)

PROPOSED S106 AGREEMENT

REGULATION 122 COMPLIANCE STATEMENT

UPDATED 09 NOVEMBER 2023

Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) states that a planning obligation may only constitute a reason granting planning permission where the obligation is:-

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

The Council and the Appellant confirm that in their opinion, the S106 Agreement submitted as part of this Inquiry, is in compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Unless otherwise stated, defined terms in this note have the same meanings as in the Unilateral Undertaking.

Reference	Obligation	Policy	Reasons
HIGHWAYS AND TRAVEL			

Reference	Obligation	Policy	Reasons
Schedule 1, Part 2, Paragraph 2	<p>The provision of the following highway works shown on Plan 2 and comprising of:</p> <ul style="list-style-type: none"> - a southbound bus stop with footway extensions; - a controlled crossing, with footway extensions to tie into the new southbound bus stop; and - a village gateway with speed roundels and fencing. <p>A new pedestrian crossing to North junction as shown on Plan 3.</p> <p>Upgrade signals at B4060/B4509 junction to MOVA.</p> <p>Wayfaring signs dropped kerbs and tactile paving on Burleigh Way, Amberley Way and Inglestone Road as shown on [Plan X].</p>	<p>NPPF paragraph 110 d). It should be ensured that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.</p> <p>SGC Policy CS8 2. Off-site mitigation as appropriate, physical off-site local transport improvements as may be necessary to make the scheme acceptable.</p> <p>SGC Policy PSP11 6. Development proposals will be acceptable where it would not generate traffic that would create or contribute to severe congestion.</p>	<p>The contributions are necessary to provide facilities to allow pedestrians to safely cross the B4060, slow traffic and provide facilities for the bus service.</p> <p>The contributions are required to ensure a clear and accessible walking route to school and control congestion at the existing lights at the B4060/B4509 junction.</p>
Schedule 2, Part 2	<p>The Owners shall either elect to implement the Travel Plan and administer and manage it, including providing the sustainable travel vouchers and pay the Annual Monitoring Fee of £1000 per year for 5 years; OR</p> <p>Elect to pay the Travel Plan Contribution being £405 (Index Linked) per Dwelling</p>	<p>NPPF paragraph 113. All development that will generate significant amounts of movement should be required to provide a Travel Plan.</p> <p>SGC Policy CS8. 3. Provision and promotion of sustainable travel options to be achieved through active promotion of a Green Travel Plan.</p> <p>SGC Policy PSP11. 9. Development proposals will be acceptable where potentially significant transportation</p>	<p>The contribution is necessary for the Council to manage, promote and monitor the Travel Plan or for the developer to do the same. It also includes sustainable travel vouchers to be promoted and provided to residents to exchange for sustainable travel items such as bus tickets and cycles.</p>

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		impacts are accompanied with a Travel Plan.	
PUBLIC TRANSPORT			
Schedule 3, Part 2	<p>The Owner shall pay Public Transport Contribution means the sum of Fifty Thousand Pounds (£50,000.00) per annum for 5 years OR Four Hundred and Eighteen Thousand Pounds (£418,000.00) per annum for 5 years</p> <p>The Owner shall pay Public Transport Planning Contribution in the sum of One Hundred and Fifty Thousand Pounds (£150,000.00). To go towards personal travel planning proposed by the Appellant.</p>	<p>NPPF paragraph 110. Appropriate opportunities to promote sustainable transport modes taken up. Paragraph 112. Facilitate access to high quality public transport. Appropriate facilities that encourage public transport use.</p> <p>SGC Policy CS8. 3. Contributions to bus services. Provision of and integration of walking, cycling and public transport.</p> <p>SGC Policy PSP11. 2. Any new or improved bus stops meet the Council's adopted standards and the appropriate national guidance.</p>	<p>WECA seeks a contribution of £418,000 per annum for 5 years which is the cost of the full subsidisation required to operate the 84/85 bus service that existed prior to the downgrade of the service in April 2023.</p> <p>The Appellant has proposed a bus contribution is alternatively of £400,000 made up as follows:</p> <ul style="list-style-type: none"> £50,000 for 5 years = £250,000 to support the bus operation, to pump prime the operation of Option 6; and £150,000 Personal Travel Planning intervention with residents along the route catchment to maximise patronage to include promotion, information provision and bus taster tickets. <p>It is the Local Planning Authority's opinion that the proposed figure of £418,000 by WECA which is to fund the upgrade of an entire service through subsidisation for 5 years is not sufficient to make the development acceptable as it will only provide an inadequate bus service for a period of 5 years and not address the fundamental concern that the development will be car borne, nor is it directly related to the development as it concerns the subsidisation of the entire bus route and is not therefore fairly or reasonably related in scale to the development.</p>

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			<p>The alternative proposal by the Appellant will also not render the development acceptable in planning terms as it is the Council's position that Option 6 is unviable to the tune of £565,398.00 and therefore is an inadequate amount to subsidise the running of Option 6 both in terms of the amount offered and for the duration covered and is therefore not necessary. Neither is it directly related to the development, nor fairly or reasonably related in scale or kind as it is not possible to work out how that level of subsidisation relates back to 180 dwellings alone, or other properties along the route. Furthermore even if the Appellant is correct and Option 6 is viable and the payment is solely to pump prime the service, the development would still be car borne and therefore would not make the development acceptable in planning terms and is not therefore necessary.</p> <p>Lastly, there is no identified operator, or evidence from an operator, that would be willing to take on this proposed Option 6 service, such that there is no guarantee that even with this level of funding that a service would be delivered and it would still not prevent the development from being car borne.</p>
OPEN SPACES			
Schedule 4, Part 2, Paragraph 2	Pay the Inspection Fee to the Council prior to carrying out any works comprised in the Landscaping Works or the Surface Water Infrastructure Works whichever is the sooner	National: NPPF including paragraphs, 130, 93, 98 and 99. NPPG National Design Guide	Necessary to make the development acceptable in planning terms Adopted planning policy requires sustainable development and provision of a range of good quality well connected open spaces where existing open spaces are not easily

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	<p>The Owner/Developer shall not commence the Development without having first obtained the written approval of the Director to the Landscaping Scheme and the Surface Water Infrastructure Scheme</p> <p>Prior to the Occupation of the first Dwelling the Owner/Developer shall secure the management and maintenance of the Open Spaces in perpetuity in accordance with the approved Management and Maintenance Scheme</p>	<p>Local: South Gloucestershire Local Plan: Core Strategy (Adopted) December 2013 Policy CS24 – Green Infrastructure, Sport and Recreation Standards - New developments must comply with all the appropriate local standards of provision in terms of quantity, quality and accessibility and there must be provision for subsequent management and maintenance. Where provision on site is not possible, contributions towards off-site provision and/or enhancement and maintenance are required.</p>	<p>accessible or do not have the capacity to fully meet the needs arising from the proposed development. Without provision or enhancement of open spaces people living here would not have adequate access, which would prevent them from developing as a healthy, socially sustainable community. Without sufficient open space to meet local need this development would lead to increased pressure on existing facilities elsewhere.</p> <p>Minimum policy requirements: Informal Recreational Open Space (at 11.5sq.m./person) = 4,968sq.m. Natural and Semi-natural Open Space (at 15sq.m./person) = 6,480sq.m. Outdoor Sports Facilities (at 16sq.m./person) = 6,912sq.m. Provision for Children and Young People (at 2.5sq.m./person) = 1,080sq.m. Allotments (at 2sq.m./person) = 864sq.m.</p> <p>Directly related to the development Contributions towards off-site enhancements are only sought when there is evidence of a local shortfall in either quantity and/or quality/capacity to meet the additional demand arising from the new development and the policy requirements for open space are not being provided for on site.</p> <p>As provision is not made on site, provision/enhancements would be made as close to the development as is feasible to serve the future residents of the proposed development,</p>

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			<p>and are likely to be at the following area of open space or such other open spaces as may be appropriate:</p> <ul style="list-style-type: none"> Outdoor Sports Facilities - King George V Playing Fields, Wickwar <p>Fairly and reasonably related in scale and kind to the development</p> <p>Where provision in line with minimum policy standards is not provided on site, the amounts requested towards the provision and/or enhancement of off-site open space and future maintenance are directly in scale with the quantity of open space required to offset the effect of the proposed development on existing provision; this is demonstrated in our calculations.</p> <p>All calculations are based on the expected future population of the proposed development calculated using Census 2011 data on household size and the net gain and mix of dwellings proposed.</p> <p>The calculator used to give costs for provision/enhancement and maintenance is regularly updated and reflects the type of spaces and facilities that the Council would expect to see delivered based on examples that have been adopted from other new developments, which have taken place within South Gloucestershire.</p> <p>The capital contributions are based on a range of industry costs for the provision of open space facilities, and the</p>

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			<p>maintenance costs are routinely tested through APSE (Association of Public Sector Excellence). They are therefore considered reasonable and fully justified in order to ensure standards of open space meet standards of appropriate national bodies e.g. Sport England, national sporting governing bodies, Fields in Trust, National Society of Allotment & Leisure Gardeners and material relating to the Green Flag quality award scheme.</p> <p>With regard to the Inspection Fee, if the applicant proposes private management of POS and surface water infrastructure the Council must be confident that the value of any service to the public is sustainable and does not create ambiguity in how people access those services should they have concerns or requests; it is important that the community receives a seamless service. The Council charges a fee to inspect the open spaces to ensure their compliance with the approved plans prior to transfer to the private management entity.</p>
Schedule 5, Part 2	<p>The Owner will pay to the Council the Outdoor Sports Facilities Capital Contribution prior to the first Occupation of the Development.</p> <p>The Owner will pay to the Council the Outdoor Sports Facilities Maintenance Contribution prior to the first Occupation of the Development</p>	As above	As above.
AFFORDABLE HOUSING			

Reference	Obligation	Policy	Reasons
Schedule 6, Part 2	<p>35% of the total number of the Permitted Dwellings (rounded up or down to the nearest whole dwelling) shall be identified reserved and set aside as Affordable Housing.</p> <p>72% of the Affordable Dwellings shall be Social Rented Units (rounded up or down to the nearest whole dwelling) and</p> <p>28% of the Affordable Dwellings shall be Shared Ownership (rounded up or down to the nearest whole dwelling).</p> <p>8% of the Affordable Dwellings should be provided as Wheelchair units for Social Rent.</p>		<p>Necessary to make the development acceptable in planning terms</p> <p>Policy CS18 sets out targets relating to affordable housing and the most up to date Housing Needs Assessment sets out the level and type of housing needed in the District. An appropriate element of affordable housing is therefore required on the site to meet identified need in this area of the District and to ensure that the affordable housing is genuinely affordable to those who need it, both now and in the future. It is therefore necessary that affordable housing is provided to make the development acceptable in planning terms</p> <p>Directly related to the development</p> <p>The proposed development is a new housing development which is of a scale to trigger an affordable housing contribution under policy CS18 and meets the threshold set out in National Planning Policy Guidance: Planning Obligations. The affordable housing required will be constructed on site. Therefore, the obligation is directly related to the development.</p> <p>Fairly and reasonably related in scale and kind to the development</p> <p>The development includes the provision of 180 no. residential dwellings. In line with the targets set out in Policy CS18 and the most up to date Housing Needs Assessment, it is both fair and reasonable to seek 35% affordable housing which will provide a mix of house types</p>

Reference	Obligation	Policy	Reasons
			to meet that identified affordable housing need. The level of affordable housing contribution therefore is considered fairly and reasonably related to the scale and kind to the development proposed.
EDUCATION CONTRIBUTION			
Schedule 7, Part	Pay a contribution in accordance with the formula for nursery and primary education and a secondary school contribution	<p>National Planning Policy Guidance Paragraph 008 Reference ID: 23b-008-20190315 'What Contributions are Required Towards Education' applies. ("NPPG")</p> <p>The NPPG refers directly to DFE 'Securing Developer Contributions for Education (April 2019) which together with the NPPG and the guidance within it sets out the framework for this SoPA.</p>	<p>Based on 180 dwellings the payments are required to meet the educational needs of the children from the development, due to insufficient capacity within the School Place Planning Area:</p> <p>Nursery Contribution - £210, 368</p> <p>Primary School Contribution - £1,083,295</p> <p>Secondary School Contribution - £833,550</p> <p>Secondary School Transport Contribution - £325,634</p> <p>The terms of the Agreement allow for flexibility to respond to the proposed housing mix.</p>
COMMUNITY SERVICES AND INFRASTRUCTURE			
Schedule 8 Part 2	Provision of a community centre contribution, a library stock contribution and a library services contribution.	<p>NPPF promoting healthy and safe communities paragraphs 92 – 93 and plan-making paragraphs 20 and 28.</p> <p>NPPG Paragraph 003 Nov 2019</p> <p>National Design Guide 2019</p>	<p>Contributions towards library enhancement - £49,979.59</p> <p>Contribution towards additional library stock - £3,564.00</p> <p>Contribution towards community centre - £296,234.67</p>

Reference	Obligation	Policy	Reasons
		SG Core Strategy: Policy CS23	<p>NB: figures are subject to indexation using the Updating Percentages published by the Building Cost Information Service (BCIS)</p> <p>Necessary to make the development acceptable in planning terms Adopted planning policy requires sustainable development and provision of social and cultural facilities to meet needs from new development. The local village hall has identified necessary enhancements, a contribution towards which is necessary to make this development acceptable in planning terms.</p> <p>Directly related to the development The proposed development for new housing is of a scale to trigger and contribution under policy CS23 to community infrastructure. The contribution is calculated using the expected future population of the proposed development and requested in line with the current national and locally adopted standards. Contributions are based on formulae which relate the size of the development and will be used to enhance community centres accessible to the development. Therefore, the obligation is directly related to the development.</p> <p>Fairly and reasonably related in scale and kind to the development Community and library calculations are based on future population of the proposed development using Census 2011 data on household size and the net gain of dwellings proposed. The costs are subject to indexation using the Updating Percentages published by the Building Cost</p>

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			Information Service (BCIS). Therefore, the obligation is fairly and reasonably related in scale and kind.
SELF AND CUSTOM BUILD			
Schedule 9, Part 2	Provide not less than 5% self and custom build dwellings	<p><u>Policy:</u></p> <p>The NPPF (para 62) requires LPAs to plan for a mix of housing including ‘people wishing to build their own homes’.</p> <p>The Self-build and Custom Housebuilding Act 2015 placed a duty on local authorities to keep a register of individuals (and associations of individuals) who wish to acquire serviced plots of land to bring forward Self-build and custom housebuilding projects, to publicise that register and to have regard to it when carrying out planning and housing functions. South Gloucestershire Council have kept a register since the 1st April 2016, as of the 31st January 2022 the total number of entries on the register was 1138.</p> <p>The Housing and Planning Act 2016 (Section 9, (1)) defines Self-build and Custom Housebuilding as “the building or completion by -</p>	<p><i>a) Necessary to make the development acceptable in planning terms</i></p> <p>The self-build contribution sought through the Section 106 Agreement is necessary for the proposed development to comply with the provisions of Policy PSP42 of the South Gloucestershire Policies, Sites and Places Plan (Adopted) November 2017.</p> <p><i>b) Directly related to the development</i></p> <p>The proposed development includes new housing development which is of a scale (over 100 dwellings) to trigger a self-build requirement under Policy PSP42 of the South Gloucestershire Policies, Sites and Places Plan (Adopted) November 2017 and therefore the obligation is directly related to the development. South Gloucestershire Council are required under the Self-build and Custom Housebuilding Act 2015 to keep a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority’s area where demand exceeds the plots available to Self-builders in South Gloucestershire Council.</p> <p><i>c) Fairly and reasonably related in scale and kind to the development</i></p>

Reference	Obligation	Policy	Reasons
		<ol style="list-style-type: none"> 1. individuals 2. associations of individuals, or 3. persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals. <p>It does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person”.</p> <p>Self and custom build housing can range from an individual constructing the property themselves to the individual simply acquiring the plot and selecting a customised product from a range of types which is then constructed by the custom home provider.</p> <p>The Housing and Planning Act 2016 defines a serviced plot of land as a plot that –</p> <ol style="list-style-type: none"> a) has access to a public highway and has connections for electricity, water and waste water, or b) can be provided with those things in specified 	<p>The self-build plot percentage requirements (criteria 4 of PSP42) where tested at public inquiry and accepted by an inspector as reasonable. They are also becoming a recognised policy mechanism to assist potential self-builders with access to land nationally. The Council’s self-build register gives a picture of demonstrated demand within the authority. The evidence base for the PSP42 Self and Custom Housebuilding Policy was taken from demand analysis on the register and an analysis of sites of over 100 units.</p>

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		<p>circumstances or within a specified period</p> <p>The Policies Sites and Places (PSP Plan) was adopted on 8th November 2017 and forms part of the South Gloucestershire Development Plan. The PSP Plan contains detailed planning policies to manage new development, allocate and safeguard sites for various types of development and includes Policy PSP42 – Self and Custom Housebuilding.</p> <p>The Council's first Self-Build and Custom Housebuilding Supplementary Planning Document was adopted on 30th April 2021. This SPD has been prepared in accordance with the Local Plan Regulations and is a material consideration when determining planning applications. The SPD provides further guidance and advice in implementing policy PSP42 and also refers to the wider planning context, including the Self-build and Custom Housebuilding Act 2015, Housing and Planning Act 2016, The Housing White Paper (2017), National Design Guidance (2019), and the National Planning Policy Framework (NPPF) (2019). With specific detail on: how a range of self and</p>	

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		<p>custom build homes are delivered in South Gloucestershire, the marketing of plots for self and custom build homes in South Gloucestershire and topics addressed in our Self-build Delivery Statement (Local Planning Application requirement October 2019).</p> <p>The Government has set out legislation that exempts self-build homes from the Community Infrastructure Levy (CIL). In order to benefit from this exemption, self-builders must provide a self-build exemption claim (prior to commencement of development) and additional supporting evidence within 6 months of completion of the dwelling.</p>	
Reference	Obligation	Policy	Reasons
RETAIL UNIT			
Schedule 8, Part 2, Paragraph 2	<p>Provision of a serviced parcel of land of no less than 0.15ha retail unit of no more than 500sqm.</p> <p>Provision of a marketing strategy.</p>	NPPF paragraph 105 which states that significant development should be focussed on locations which are or can be made sustainable through limiting the need to travel.	<p>Necessary to make the development acceptable in Planning terms.</p> <p>The provision of a convenience store would lessen the need to travel by car to undertake top up shopping.</p>

Reference	Obligation	Policy	Reasons
	Restriction of the retail unit to being a convenience store.	<p>Policy PSP11 – Transport Impact Management</p> <p>PSP31 – Town Centre Uses</p> <p>Policy CS8 – Improving Accessibility</p>	<p>No end user has been identified and the marketing strategy will ensure that best endeavours are undertaken to secure a suitable user.</p> <p>The restriction in floor area will ensure that the convenience store does not adversely affect the viability and vitality of nearby town centres.</p> <p>Directly related to the development The provision of 180 new dwellings in Wickwar will lead to additional car borne trips to access everyday services. The provision of a convenience store will limit this need.</p> <p>Fairly and reasonably related in scale and kind to the development. The size of retail unit is sufficient to attract an operator but sufficiently small that it would not affect the vitality and viability of nearby towns.</p>
Reference	Obligation	Policy	Reasons
GLOUCESTERSHIRE WILDLIFE TRUST			
Schedule 8, Part 2, Paragraph 2.1	£100k towards mitigation of impacts to Great Woods and surrounding SSSI – The Strategic Access and Monitoring Contribution	<p>NPPF paragraph 179 which states that development should promote the conservation, restoration and enhancement of priority habitats etc.</p> <p>Paragraph 180 states that development which causes significant harm to</p>	<p>Necessary to make the development acceptable in Planning terms. Without improvements to the SSSI as set out by Gloucestershire Wildlife Trust (GWT) the impact of increased use would be detrimental to the biodiversity of the SSSI.</p> <p>Directly related to the development</p>

Reference	Obligation	Policy	Reasons
		biodiversity which cannot be mitigated, should be refused.	<p>The provision of 180 new dwellings in Wickwar will lead to additional use of the SSSI for recreational purposes, which is likely to cause damage.</p> <p>Fairly and reasonably related in scale and kind to the development.</p> <p>GWT have given notice of the works that would be required to mitigate the impact and their costings. This has been agreed with the appellant.</p>