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## Justification Statement

Application for the Discharge of Planning Obligations:

The Wixams

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The Wixams**

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## 1.0 INTRODUCTION

- 1.1 This Justification Statement relates to an application made under S106A of the Town and Country Planning Act 1990 to renegotiate the S106 agreement, signed 2 June 2006, relating to the redevelopment the former Elstow Storage Depot and associated land (now known as the Wixams).
- 1.2 The primary rationale of this application is to discharge/modify specified planning obligations and to urgently reallocate these financial contributions to other important infrastructure. The purpose being to bridge a significant identified education funding gap and to assist with the timely provision of a new Secondary School and Village 2 primary school for the Wixams.
- 1.3 This objective is of acknowledged importance to the existing signatories of the original agreement and the modifications hereby sought are made in the light of relevant negotiations with Officers from both Central Bedfordshire Council and Bedford Borough Council (the Joint Councils).
- 1.4 Following the specific resolution of the Wixams Joint Development Control Committee, held on 21<sup>st</sup> October 2015 (Agenda Item 7) JJ Gallagher Ltd and Wixams First Limited (the Applicants) formally seek to discharge/modify the following Schedule 2 Covenants and Obligations, by Deed of Variation, as specified below:

### **Part 7 / Section 1: Community Facilities**

- 1.5 Modification of Section 1, with the effect of;
- a) deleting the requirement for the provision of **Community Facilities** (defined in Interpretation) to be in accordance with the specifications set out in the Wixams Specifications and Maintenance Schedule and;
- b) deleting the requirement for the occupation of dwellings to be restricted by the triggers set out in Section 3 and Appendix 3 of the Community and Leisure Facilities Strategy.

**Part 7 / Section 7: Public Art**

- 1.6 Discharge of the **Public Art Contribution** and modification of paragraphs 7.1 to 7.3 as required.

**Part 7 / Section 8: Library Facility**

- 1.7 Discharge of the **Library Contribution** (defined in Interpretation) and modification of paragraphs 8.1 to 8.2, as required.

**Part 12: Employment**

- 1.8 Discharge of the requirement to provide any of the specified **Business Incubator Units** (defined in Interpretation) and modification of paragraphs 1 to 5 as required.

**Part 2: Education**

- 1.9 The Applicants further seek to modify the terms of Part 2 (Education) of the agreement, with the effect of making provision for the co-location of the Village 2 Lower School with that of the proposed Secondary School, on a shared site. The site identified within the current Masterplan for the Lower School, to serve Village 2, to be released for additional residential development.
- 1.10 This Statement provides a rationale and a financial justification for the above proposed changes to the original planning obligation. It also sets out the Applicants' proposed additional commitments to help secure the necessary education gap funding identified.

## 2.0 BACKGROUND

- 2.1 The original S106 Agreement (subsequently varied by a further S106 in 2011) secured a 10.12 hectare site for a new Secondary School within Village 2 to serve the Wixams. However in terms of capital funding only £1 million was secured, as at the time when the original S106 was negotiated (2006) a surplus of available secondary school places in the catchment area had been identified. These funds were indexed linked and so now have a current indexed value of £1.34 million.
- 2.2 The capital cost of the new Secondary School is estimated by the joint Councils to be approximately £13.06 million. In terms of the meeting construction and delivery costs, the most significant contribution is in the form of a grant from the Department for Education (DfE) of £6.88 million.
- 2.3 Contributions available from the joint Councils equate to £2.34 million, to which the current value of the developer contribution will be combined. However, the sum total of these available contributions (£10.56 million) falls well short of the overall £13.06 million required, with an identified funding gap of £2.5 million as summarised below:

<b>Funding Source</b>	<b>£ million</b>
DfE Contribution	6.88
Bedford Borough Contribution	2.00
S106 Developer Contribution	1.34
S106 Central Beds Contribution	0.34
Funding gap	2.50
<b>Total</b>	<b>13.06</b>

### **3.0 A NEW TECHNICAL ACADEMY AT THE WIXAMS**

- 3.1 The DfE is seeking to establish a new (Free School) Technical Academy to serve the catchment area of Bedford and Central Bedfordshire. The Academy would be sponsored by Bedford College and to date, numerous existing buildings and locations within the Bedford urban area have been explored for their potential suitability and viability, pursuant to this objective.
- 3.2 The Wixams will eventually deliver in excess of 6,000 homes and so needs a Secondary School within the new settlement to accommodate in the region of 1,600 – 1,800 pupils, as jointly forecasted by both Central Bedfordshire and Bedford Borough Councils. The Wixams is however very well placed to serve the wider Bedford Borough and Central Bedfordshire catchment areas. Accordingly, the Chief Education Officer for Central Bedfordshire has made a case to the DfE that a new Technical Academy located at the Wixams and serving the wider Bedfordshire area, has tangible social and economic benefits over the refurbishment of an existing older building within the urban area.
- 3.3 The DfE and Bedford College are therefore persuaded by the case for the location of a new 824 place Technical Academy at the Wixams site, by reason of it having less direct impact upon other schools in the urban area and the core catchment which will be provided at the Wixams. However, this DfE support is contingent upon the Academy being constructed and operational by September 2017. In addition, the DfE's financial contribution of £6.88 million is not subject to renegotiation and will remain at the level originally set aside for the refurbishment of older building stock.
- 3.4 In summary, the Academy will be able to offer a full GCSE technical curriculum for pupils up to the age of 16 and provide career orientated technical qualifications for those aged between 16 and 18. Whilst the location of the Academy at the Wixams is supported by the DfE, it is clear that the two respective Councils, together with the Applicants, will need to address the remainder of the costs.

#### **Current Progress and the Way Forward**

- 3.5 The Borough's Chief Education Officer has taken forward the concept of securing the new Academy at the Wixams site. Based on this objective and in conjunction with their school delivery partners (Wilmott Dixon) as well as the applicant, the parties have been evaluating the feasibility of meeting the DfE deadline and the most realistic means of securing the necessary gap funding.

- 3.6 In order to achieve practical delivery by September 2017, it is clear that the Applicants will need to considerably accelerate all related infrastructure delivery, including roads, services and the base foundations. There is a similar related need to accelerate the delivery of the second primary school to accommodate the children from Villages 2 and 4. In this respect, there would be considerable benefits associated with the co-location of this primary school with that of the Technical Academy.
- 3.7 The primary school will also need to be accessible and fully serviced by September 2017, if it is to be co-located with the Academy, which places an additional financial burden upon the Applicants, as the agreed S106 contributions for this school would be triggered at an earlier date. Notwithstanding this requirement for accelerated delivery and the costs associated with facilitating the Academy, the Applicants are prepared to meet these accelerated ancillary costs, relating to education, in the mutual interest. What the Applicants cannot provide, is the identified £2.5 million shortfall.
- 3.8 At the Wixams Joint Development Control Committee, held on 21<sup>st</sup> October 2015 (Agenda Item 7) officers reported that the delivery of a Technical Academy at the Wixams was a 'once in a decade opportunity' based on advice from the Chief Education Officer of Central Bedfordshire. Officers also reported that if the Academy provision is made in Bedford, as opposed to the Wixams, it will be extremely difficult to make *any* case for a new Secondary School at the Wixams, given the surplus of secondary places within the wider catchment. Officers additionally reported that as the Academy would be 'state of the art', it would be subject to a Community Use agreement, bringing its facilities within reach of the Wixams community. As such, there were merits in 'grasping the opportunity now' as any delay could risk the withdrawal of the grant funding allocated by the DfE.
- 3.9 From a spatial planning perspective and in particular the housing delivery trajectories of the two relevant authorities, officers also recognised the significant benefits of providing a new Academy at the Wixams by September 2017. Essentially the provision of such a facility was recognised as being the likely catalyst for accelerated housing delivery rates and accelerated community development. Officers therefore sought a mandate from Members for officers to be able to negotiate with the Applicants with a view to finding the most pragmatic way of redeploying agreed contributions from other community obligations from within the original S106 agreement.
- 3.10 The resolution of Members was for Officers to pursue this initiative with the Applicants, as soon as practicable and this application to vary the S106 formally responds to that Committee Resolution.

## 4.0 OFFER FROM THE APPLICANTS

- 4.1 Notwithstanding their total investment in the Wixams to date, the Applicants still have very significant infrastructure commitments going forward, including the forward infrastructure necessary to ensure the timely delivery Villages 2 & 4. Similarly, the Applicants have substantial forward infrastructure commitments in order to deliver the Northern Expansion Area.
- 4.2 In addition, there is an urgent need to provide a new primary sub-station at a cost in excess of £5m and to complete earthworks across the Wixams. Taken together, these infrastructure costs require a forward financial commitment from the Applicants in excess of £20 million.
- 4.3 However the Applicants fully recognise the importance of education provision as a key driver of future housing delivery and community cohesion within the Wixams. Accordingly, the Applicants are willing to accelerate their existing Section 106 contributions, where deemed appropriate and to carry out additional infrastructure, beyond that required in the original agreement, in order to facilitate the Village 2 Primary and Secondary School, by September 2017.
- 4.4 This commitment was confirmed by the Applicants in a letter dated 9 November 2015 addressed to the Assistant Director of Planning at Bedford Borough Council. In the letter, the Applicants also committed to the following key actions:
- To accelerate the required Village 2 Primary Education Contribution. Originally £3,745,608.00 (Current value plus indexation £5.013m).
  - To accelerate the Secondary School Contribution – (Current value plus indexation £1.34m).
  - To provide the access road, site earthworks, servicing costs and other enabling works in respect of the school sites – (Current value £2m).
- 4.5 These enabling works and contributions require a total financial commitment equivalent to **£8.35** million. The identified £2.5m of gap funding is entirely new expenditure and would amount to a total liability of over **£10.85** million. Whilst it could be argued that all but the additional £2.5m of these infrastructure costs would be incurred by the Applicants in due course, the requirement to significantly accelerate these costs, has a financial cost in its own right, as well as a major bearing on the Applicants' own delivery cash flow.

- 4.6 As such, the Applicants are not able to make further direct contributions to cover the shortfall in the cost of delivering the Academy. The Committee resolution however fully acknowledges the need for adjustments to the Section 106 Agreement, to reflect these additional costs and cash flow burdens upon the Applicants, in the making of these commitments. The following package of Section 106 variations are therefore proposed to help cover the £2.5 million shortfall:

**Part 7 / Section 7: Public Art**

- 4.7 The Applicants commit to the incorporation of Public Art into the design of public spaces and other infrastructure. However, in the light of the education matters raised above, it is not considered that the Section 106 costs of commissioning individual items of Public Art represent the best use of the contributions. The Applicants therefore propose that the Public Art contribution is deleted entirely from the Section 106 obligation and redirected to help meet the secondary school funding shortfall.

**Part 7 / Section 8: Library Facility**

- 4.8 Given the modern accessibility of the internet, the role of library buildings has changed significantly and the full time maintenance of dedicated library buildings is now open to question. Accordingly, the Applicants do not consider that the cost of a standalone library building would be appropriate in the context of what is currently being sought at the Wixams, given the operational and resourcing commitments a new library building would entail.
- 4.9 Other existing buildings located within the Wixams town centre are however quite capable of accommodating a library use as part of wider community offer, if this were to become a future community aspiration. In this respect, the Applicants have identified, for example, that the Assembly Rooms building would offer a very suitable alternative option for accommodating a future library use / reading room should this be so required.
- 4.10 The Applicants therefore propose that all financial obligations relating to the new library are deleted from the Section 106 Agreement and redirected to help meet the educational funding shortfall. In addition, that Section 1 of Part 7 of the agreement, pertaining to the Community and Leisure Facilities Strategy, be modified as set out at paragraph 1.5 above.

### **Part 12: Employment (Incubator Units)**

- 4.11 The role and relevance of the incubator units proposed in the original agreement has also changed in the intervening years. The original objective driving the need for such Incubator units stemmed from a desire to re-accommodate former tenants of Elstow Storage Depot. However this requirement is now out of date as the employment offer at the Wixams has increased and materially changed.
- 4.12 The change is by virtue of the planning permission for 2.3 million square feet of new employment floorspace within the Northern Expansion Area. This dedicated employment area will provide a large number of new employment opportunities considerably beyond that which was originally envisaged. Accordingly, the Applicants consider that this historic incubator obligation is now inconsistent with the enhanced employment situation, as it currently stands.
- 4.13 The Applicants are also aware that Bedford Borough Council has committed to their own 'starter unit' initiative elsewhere locally within the Borough, which reduces the relevance of Incubator Units specifically located at the Wixams. In this regard it is also important to note that, in any event, no such units would be delivered at the Wixams for many years. The Applicants therefore propose that the requirement to provide the Incubator Units, as specified in the S106 Agreement, be deleted.

### **Village 2 Lower/Primary School Site**

- 4.14 The Applicants propose that the Village 2 primary school is co-located with the proposed Secondary School (Technical Academy) as a means of ensuring the timely delivery of the primary school by September 2017 and achieving the necessary cost and site efficiencies. Pursuant to this objective, the Applicants also commit to the acceleration of all related infrastructure necessary to deliver the primary school in accordance with the above timetable.
- 4.15 To assist with the overall accelerated infrastructure delivery costs associated with the Technical Academy and the primary school identified above, the also Applicants also propose that the current Village 2 primary school site (5 acres) is released for residential development. The reallocation of this site will assist the Applicants to meet the £8.35 million enabling works, identified above, as well as the costs associated with the acceleration of the related school infrastructure.

## **5.0 CONCLUSION**

- 5.1 The Applicants understand the statutory requirement for each Council to consult with stakeholders in order to make recommendations to the Joint committee. However there remains limited time to secure the necessary school funding from the DfE and to open the new schools by September 2017.
  
- 5.2 The preceding rationale and proposed package of proposed S106 variations set out above therefore represents the most pragmatic and achievable means of enabling the Applicants to accelerate their infrastructure commitments and to re-appropriate sufficient resources to help fund the £2.5 million education shortfall, within the timescale required.
  
- 5.3 The proposed S106 variations are therefore commended to both Councils.