

S73 Variation of Condition Application and associated DOV to S106 obligation – Land at Elm Grove Farm Drynham Road, Trowbridge, Wilts, BA14 0PL

Note on S106 variations required - subject to discussion and agreement

1. This note provides the background to a need to apply for a DOV/revised S106 applicable to a development at the above site.
2. The outline permission (OPP) was granted with detailed access plans, and referenced specific access and highways plans in its conditions. The same plans are included within the S106.
3. The Reserved Matters (RM) scheme approved varies from several plans approved at OPP stage.
4. A S73 planning application is being made to align the Outline and RM approvals, as explained below.
5. The differences between the approved plans at OPP and RM stages means that the S106 needs to be varied to include the revised plans where appropriate.
6. Other changes will be required to the S106 regarding the delivery and specification of the Changing Rooms, the Management Company arrangements, Public Art Scheme and the Bio-diversity contribution.

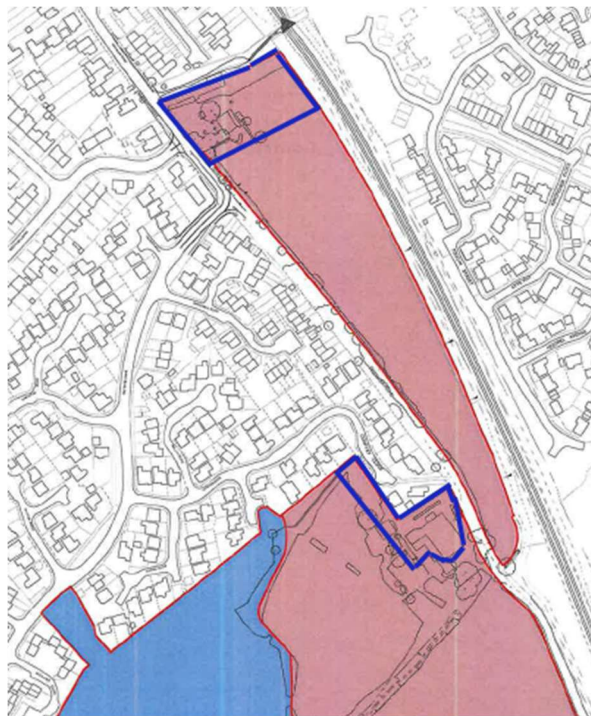
Key Planning History

- 19/11459/OUT – Erection of up to 261 dwellings following the demolition of Elm Grove Farmhouse; erection of multi-use community facility (Class F.2); strategic landscaping; access and drainage works; and demolition redundant former agricultural outbuildings – subject to a s106 legal agreement which was sealed on 31/10/2022 when outline permission was granted.
 - PL/2022/09425 - Demolition of existing buildings and structures and construction of 248 residential homes, playing pitches, allotments, areas of open space, upgrading of existing play area, sustainable drainage infrastructure, internal roads, paths and parking areas, landscaping and associated works, plant and infrastructure (Reserved Matters Application pursuant to 19/11459/OUT -relating to appearance, landscape, layout and scale) (Amended Details) – approved 4 December 2024.
 - PL/2025/08175 - Reserved Matters application seeking approval for the appearance, layout, and scale of the proposed multi-use community facility, in accordance with outline planning permission reference 19/11459/OUT – approved 22/4/26.
 - Various discharge of condition notices.
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7. The development has been commenced. CIL liability has been assumed and demand notices issued on a phase by phase basis. Phase 1 has been commenced for CIL purposes.

Land Ownership

8. Since the signature of the S106 Barratt Redrow has acquired all land within the red line, except for land controlled by Wiltshire Council (inc highways land and the public open space shown solid blue below) and the areas within the blue lines below. The blue lined land was retained by Coulston Estates Ltd.



S106 Plans

The S106 references the following plans:

- **Plan 1:** means the plan attached in Annex 1 and referenced A-P10-008 Rev C which plan is for the purposes of identification only
 - **Plan 2** means the plan attached in Annex 1 and referenced 038-001_B which plan is for the purposes of identification only
 - **Plan 3** means the plan attached in Annex 1 and referenced 038 _ 033 _P1 which plan is for the purposes of identification only
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- **Plan 4** means the plan attached in Annex 1 and referenced 1008-008 Rev A which plan is for the purposes of identification only
 - **Plan 5** means the plan attached in Annex 1 and referenced 1008-009 Rev C which plan is for identification purposes only
 - **Plan 6** means the plan attached in Annex 1 and referenced 1008-017 which plan is for identification purposes only
 - **Plan 7** means the plan attached in Annex 1 and referenced 1008-018 Rev C which plan is for identification purposes only
 - **Plan 8** means the plan attached in Annex 1 and referenced 1008-021 Rev A which plan is for identification purposes only
 - **Plan 9** means the plan attached in Annex 1 and referenced 1008-023 Rev A which plan is for identification purposes only
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RM Plans vs OPP/S106 Plans

9. The plans permitted under the RM vary from those referenced in the OPP/S106 in the following way:

Plan Ref	S106 Ref	Relevant Condition Number	Comment
A-P10-008 Rev C Ownership Plan	Plan 1		Changes in ownership (see below) mean that this is out of date and likely requires a revision.
038-001_B S106 Plan	Plan 2		References changing rooms which will change to a multi function community building.
038 _ 033 _P1 Biodiversity Plan	Plan 3		The RM provides the necessary BNG within the RM red line, hence the Biodiversity plan can be changed, subject to agreement.
1008-008A – Proposed Footpaths and Cycle Route	Plan 4	6	New plan required in line with the approved RM plans.
1008-009C – Proposed Wiltshire Drive / Drynham Lane Access Arrangement	Plan 5	6	No change
1008-017 – Proposed Wiltshire Drive Pedestrian and Cycle Access	Plan 6	6	No change
1008-018C – Proposed Drynham Lane Access	Plan 7	6	Revision needed as pavement arrangement differs, and the S106 plan extends a pavement into the site, whereas the RMs shows a shared surface. Revise to reflect plans approved at RM.
1008-021A – Proposed Drynham Lane Turning Head Arrangement	Plan 8	6 & 24	Remove as the proposal is to determine a turning head location through a revised condition.
1008-023A – Proposed A363 Site Access via Business Park Land	Plan 9	6	No change

Likely revisions to the S106

10. Aside from the plans list and plans set out above, the following revisions are required.

Changing Rooms

11. The S106 includes the following:

"Changing Rooms" building comprising changing facilities for two (2) teams of players to be provided on the Land as shown indicatively on Plan 2 in accordance with the Changing Rooms Specification

"Changing Rooms Specification" means the specification for the Changing Rooms attached at Annex 3 or such other specification as is agreed in writing by the Council

12. Discussions with the Town Council have resulted in their support to for a revision to the internal layout of the 'Changing Room' building. The preference is to remove the changing room elements and instead lay it out as a multi function hall. These changes are approved under RM application reference PL/2025/08175. Reference can be made to the building as a Multi-use Community Facility to tie in with the application description.

13. The Changing Rooms Specification will also need to change, in line with the revised proposals.

Biodiversity Contribution

14. The S106 sets out a definition and payment trigger as follows:

"Biodiversity Contribution"	means the sum of three hundred and fifty six thousand three hundred and twenty two pounds (£356,322.00) towards the provision of measures to offset any loss of habitat units as a result of the Development or such other sum as is agreed with the Council at the date of the last Reserved Matters Application in accordance with DEFRA Metric 3 or any successor or replacement document
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Schedule 2 - Financial Contributions to the Council

The Owner covenants with the Council:

- 1.2 the Biodiversity Contribution prior to Occupation of any of the Residential Units and not to allow the Occupation of any of the Residential Units until the Biodiversity Contribution has been paid to the Council

15. The final RM was validated on 10 October 2025, seeking approval for the changing room/community building.
16. Correspondence with the Council dated 24 September 2025 confirms that there is no requirement for a payment. For completeness and certainty, the removal of 1.2 above and the associated definition is being sought.

Management Company

17. There are numerous references to Management Company obligations throughout the document, as well as triggers.

“Management Company” -means the private limited company to be established by the Owner (and registered at Companies House) the purpose of which will be (amongst other things) to manage and maintain the Open Space the Biodiversity Area and the SUDS in accordance with the relevant obligations in this Deed

18. References are included to the potential for the Management Company to manage the Allotments, Changing Rooms and Playing Pitches. We are in advanced discussion with the Trowbridge Town Council (TTC) in respect of the transfer of the community assets. The option being advanced is for the traditional transfer of the land for the allotments, playing pitches, ‘changing rooms’ and other POS for adoption by the Town Council. A transfer of the land to TTC is to take place. TTC would maintain the assets in perpetuity. This is not envisaged in the S106, but we will seek to vary the agreement. Incidental spaces and SUDS would be transferred to a traditional management company.

Public Art Contribution

19. Schedule 5 of the S106 requires the developer to agree a Public Art Scheme on which the Public Art Contribution (£300 per dwelling) shall be utilised. Preliminary discussions have been held with the Wiltshire Public Arts officer regarding changing the mechanism to a contribution only, with the local authority taking on the role of allocating the contribution for public art. This is to be explored further with the authority, and subject to agreement on no more onerous costs, the applicant is supportive of making the necessary changes to the S106.
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Contributions already made

20. A number of pre-commencement contributions have been made. Changes to the S106 to acknowledge the contributions already satisfied will be sought.

Summary of Changes/Queries

21. Subject to discussions on the above, and the parallel changes being sought to the conditions, and ultimately subject to agreement on a revised S106/DOV - the following changes to the S106 are being sought/likely to be required:
1. Update of S106 Plans -Replacement/addition of several highways, access, footpath/cycleway and biodiversity plans to reflect the approved RM layout and revised technical drawings.
 2. Updates to ownership plans due to post-agreement land acquisitions - revision of outdated plans that are no longer deliverable or applicable.
 3. Changing Rooms / Community Facility Provision - Replacement of the “Changing Rooms” obligation with a Multi-Use Community Facility, reflecting the discussions with Trowbridge Town Council and revision of the “Changing Rooms Specification” to correspond with the new internal layout and building function.
 4. Removal of Biodiversity Contribution - Deletion of the defined “Biodiversity Contribution” and the corresponding payment trigger wording, as the Council has confirmed in writing that no off-site payment is require.
 5. Updating the S106 to reflect that all required biodiversity net gain is provided within the RM site boundary.
 6. Management Company Arrangements - Amendment of all Management Company obligations to reflect the emerging strategy for long-term open space, SuDS, allotments, playing pitches and community facility maintenance.
 7. Public Art Contribution - Amendment of Schedule 5 to move from a scheme-based approach to a financial contribution-only mechanism, enabling the Council to manage and distribute the public art budget, subject to no increase in overall financial liability for the developer.
 6. Recognition of Contributions Already Paid- Technical drafting amendments to record that all pre-commencement contributions already paid under the existing S106 have been satisfied, ensuring no duplication of obligations.
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