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Enquiries To Holly Drury
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Date 1 April 2021

My reference 031641
Your reference APP/21/00226
Email havantdc@hants.gov.uk

Dear Sir,

Land at Forty Acres Farm, Havant Road, Havant

Application for Deed of Variation to S106 dated 17.1.2020 relating to Schedule 5, clauses 1.2, 2.2, 2.3, 2.4 and 7.4 relating to Highways Works Agreement.

Thank you for consulting the Highway Authority on the above application to vary the s106 agreement at Forty Acre Farm secured under application APP/18/00450.

The applicant has discussed this matter with the Highway Authority. In June 2020 the Highway Authority formally notified the applicant that the TCF bid for works at the Rusty Cutter Roundabout had been unsuccessful and therefore the Highway Authority were calling in the obligations as set out under Schedule 5 clause 2.2 of the approved S106.

The applicant is now seeking to align appropriate s106 triggers for approval and implementation of the works with commencement on site which was delayed due to Covid19. The principle of this is agreed with the Highway Authority.

Schedule 5 Clause 1.2

The existing clause sets out the requirements for payment of the Rusty Cutter Contribution. This reads:

*Director of Economy, Transport and Environment
Stuart Jarvis BSc DipTP FCIHT MRTPI*

'To pay the Rusty Cutter Roundabout Contribution to the County Council within 28 days of the date of written notification from the County Council that the TCF Bid is successful unless that date is prior to Commencement of Development in which case pay the Rusty Cutter Roundabout Contribution to the County Council on Commencement of Development.'

This is no longer required as the TCF bid was not successful. Therefore, the applicant is required to comply with clause 2.4 of the s106 agreement.

Schedule 5 Clause 2.2

This clause currently reads:

'To enter into a Highway Works Agreement for the delivery of that part of the ramp connection to the Rusty Cutter roundabout within the Land as detailed in principle in the Landscape Master Plan together with the Shared Use Path and to complete those works prior to Occupation of any dwelling on the Land'.

The applicant has proposed to amend the wording to read the following:

To enter into a Highway Works Agreement for:

- (i) the delivery of that part of the ramp connection to the Rusty Cutter roundabout within the Land as detailed in principle in the Landscape Master Plan together with the Shared Use Path;*
- (ii) for the delivery of the southern walking and cycling route around the Rusty Cutter roundabout as detailed in principle drawing number 041.0023.024 and to complete those works to the Completion Standard prior to the Occupation of the 200th Dwelling.*

Schedule 5 Clause 2.3

This clause currently reads:

'Not to permit the Occupation of any Dwelling on the Land until the works described at paragraphs 2.1 and 2.2 have been completed to Completion Certificate Standard.'

The applicant has proposed to amend the wording to read:

'Not to permit the Occupation of any Dwelling on the Land until the works described in paragraph 2.1 have been completed to Completion Certificate Standard.'

Schedule 5 Clause 2.4

This clause currently reads:

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'Within six calendar months of receipt of written notification from the County Council that the TCF Bid is unsuccessful (or such other timeframe as agreed between the County Council and the Owners) to enter into a Highway Works Agreement for the delivery of the southern walking and cycling route around the Rusty Cutter roundabout as detailed in principle in drawing number 041.0023.024 and to complete these works to Completion Certificate Standard no later than eighteen calendar months of receipt of such notice'

The applicant has proposed to amend the wording to read the following.

'Not to permit the Occupation of more than 200 Dwellings on the Land until the works in paragraph 2.2 have been completed.'

Whilst the above amendments look to set out revised triggers and agreed delivery mechanisms, they do not give the Highway Authority the required level of assurance that interim targets will be met or that the applicant is legally bound by these. Therefore, the DoV should be amended to include the following provisions as previously discussed with the applicant and the Planning Authority:

1. To make a preliminary design check submission of the Rusty Cutter Roundabout works to the Highway Authority no later than the end of April 2021.
2. To make a detailed design submission of the Rusty Cutter Roundabout works no later than 4 months after receipt of prelim design check approval.
3. To have entered into a signed s278 legal agreement in relation to the Rusty Cutter Roundabout Works no later than 18 months after the submission of the preliminary design check to the Highway Authority.
4. To commence the Rusty Cutter Roundabout works on site no later than 18 months of the detailed design submission.
5. Not to occupy more than 200 Dwellings on the Land until the works in paragraph 2.2 have been completed.
6. To have entered into a s38 agreement prior to occupation for the ramp connection and for these works to be constructed prior to completion of the Rusty Cutter Roundabout works.

Clause 7.4

This clause currently reads:

Within 28 days of the completion of the works described at paragraph 2.4 of Schedule 5 to Completion Certificate Standard (or 31 March 2023 if the TCF Bid is unsuccessful)

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the County Council shall return to the Owners any part of the School Travel Contribution which remains unspent'

The applicant has proposed to amend the wording to read the following:
'The County Council shall return to the Owners any part of the School Travel Contribution which remains unspent as of 31 March 2024.'

The requirements for the school travel contribution need to be discussed with Hampshire County Council's Education Department. Given that triggers have moved it is likely that the contribution will need to be recalculated.

Additional Requirements

Further amendments are required before the proposed DoV can be agreed. The Highway Authority will provide the required instructions to the legal team to ensure drafting reflects the above position.

I trust that the above is clear but please contact me on the above number should you need further information.

Yours faithfully,

Gemma McCart
Team Leader – Highways Development Planning

Yours sincerely,

Director of Economy, Transport and Environment
Stuart Jarvis BSc DipTP FCIHT MRTPI