Commercial Estates Projects Limited and Hallam Land Management Limited

Land at Dearne Hall Road, Barnsley

Section 106 of the Town and Country Planning Act 1990

Draft Heads of Terms of Planning Obligations

8th March 2013

1. Introduction

1.1 This document sets out the draft Heads of Terms of potential planning obligations which may be entered into in connection with the proposed development pursuant to Section 106 of the Town and Country Planning Act 1990.

1.2 The Heads of Terms will inevitably be the subject of further discussions once the Council has had the opportunity to fully appraise the planning application. These Heads of Terms should therefore be viewed as a basis for those discussions and the negotiation and progression of a Section 106 Agreement, rather than a committed set of obligations. A first draft of a proposed Section 106 Agreement will be produced once the matters set out below have been finalised.

1.3 In addition, the Heads of Terms will need to take of account of any decision by the Council to progress a Community Infrastructure Levy.

1.4 In the light of the above, the applicant reserves the right to amend the Heads of Terms as discussions progress during the course of determination of the planning application.

1.5 In order to comply with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010, each obligation will need to directly related to the development and, necessary in order for the development to proceed and fairly and reasonably related in scale and kind to the development.

2. Interaction with Planning Conditions

2.1 It is important that any S106 Agreement sits alongside and is read in conjunction with the conditions attached to any planning permission granted. Therefore, the applicant will seek to discuss the schedule of draft planning conditions alongside the S106 negotiations.

3. General

3.1 The S106 Agreement will contain standard provisions relating to conditionality (linked to the grant and implementation of planning permission).

3.2 The planning obligations will be specifically tied to any planning permission granted pursuant to the planning application.

3.3 Other standard provisions will be included in the S106 Agreement, including (but not limited to) provisions relating to release from obligations in the event of disposal of interests and consequences on the lapsing, revocation or modification of the planning permission, excluding third party rights to enforce etc.

3.4 Obligations will be placed upon both the Owner and the Council. For example, the Council will be obliged to ensure that all payments made will applied towards their stated purpose. Repayment and accounting provisions will be included in order to address the circumstances in which this does not happen.

3.5 Obligations will be drafted so as to relate to various trigger points/timings within the carrying out of the development.

4 Education

4.1 The s.106 obligation will provide for the payment of a financial contribution towards the need for primary school education arising from the development. The amount of the contribution and the timing of payment are to be agreed with the education authority.

4.2 At this stage it is envisaged that the contribution will be applied towards the provision or enhancement of educational facilities at Barugh Green Primary School but this will be explored further with the Education Authority in due course.

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