

## AGREEMENT UNDER SECTION 106 (S.106) OF THE TOWN AND COUNTRY PLANNING ACT 1990

### DRAFT HEADS OF TERMS

#### Application Site

Land adjacent to 38 Limestone Road, Burniston, Scarborough.

#### Applicant

Mandale Homes

#### Development Proposals

Erection of 18no. dwellings together with landscaping and associated external works.

#### Planning Obligations

Paragraph 57 of the National Planning Policy Framework (NPPF) advises Local Planning Authorities (LPAs) that planning obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and related in scale and kind to the development.

The above requirements are also echoed in Section 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

It is envisaged, at this stage, that any S.106 Legal Agreement may cover the following matters:

- Affordable housing;
- Education (contribution);
- Equipped play space (contribution);
- Outdoor sports facilities (contribution); and

- Urban parks (contribution).

#### Affordable Housing

As made clear in Local Plan Policy HC 3, where it is demonstrated to the LPA's satisfaction through an independent assessment of viability that on-site provision in accordance with the above requirements would render the overall scheme unviable, a reduced level of on-site provision or a financial contribution towards off-site provision may be acceptable.

In this instance, the achievement of the indicative yield of 40no. dwellings in the Local Plan is not possible due to the existence of a restrictive covenant preventing residential development on part of the site, whilst another part ponds at present. Our client's scheme, in contrast, proposes only 18no. dwellings, some of which are bungalows in response to the challenging site levels. Due to their greater footprint, bungalows will reduce the number of dwellings that could otherwise be accommodated on the site. The aforementioned challenging site levels and the associated retaining structures required as a result, will also lead to significant abnormal costs on this occasion.

For the above reasons, our client intends to submit a Viability Appraisal shortly, in accordance with Policy HC 3.

#### Education

As set out in the Education Payments Supplementary Planning Document (SPD), the contribution will be £13,596 per primary pupil place, which is then summed on the basis that 0.25 (1 in 4) primary school places are generated per relevant residential unit within the development. As the proposed scheme comprises less than 150no. dwellings, no contribution towards secondary school places would be required.

In this instance, a scheme of 18no. dwellings of two-bed size or larger, would equate to 6no. primary school places. This would require a contribution of £54,384, subject to any index linking.

As stated earlier, our client intends to submit a Viability Appraisal shortly, and the above figure will form part of that assessment accordingly.

#### Equipped play space, outdoor sports facilities, and urban parks

As set out in the Green Space SPD, with 4no. 2-bed dwellings and 18no. 3-bed dwellings proposed, this equates to the scheme generating 50no. people. Applying this amount in line with the Green Spaces SPD generated the following results with regards to on-site provision:

- Outdoor sport:  $1.85/1,000 \times 50\text{no.} = 0.09$  hectares (ha);
- Equipped play:  $0.20/1,000 \times 50\text{no.} = 0.01\text{ha}$ ; and
- Amenity green space:  $0.55/1,000 \times 50\text{no.} = 0.03\text{ha}$ .

However, of the above only amenity green space would be required on-site in line with the SPD. All other quantitative requirements generated all fall below the thresholds for on-site provision, and thus a financial contribution would be appropriate for those elements and also urban parks. These are projected to be as follows:

- Outdoor sport:  $50\text{no.} \times £199.20 = £9,960$ ;
- Equipped play:  $50\text{no.} \times £323.60 = £16,180$ ; and
- Urban parks:  $50\text{no.} \times £155.47 = £7,773.50$ .

The above comes to a total of £33,913.50.

A contribution towards natural parks and green space are not required within the district, as confirmed within the SPD.

As stated earlier, our client intends to submit a Viability Appraisal shortly, and the above figure will form part of that assessment accordingly.

#### **Conclusions**

In principle, Mandale Homes considers it reasonable for any S.106 Legal Agreement to cover the matters outlined above, subject to the outcomes of the Viability Appraisal referred to earlier. Should the LPA consider further S.106 contributions are required, it must be demonstrated that these meet the tests outlined earlier.