

HEADS OF TERMS FOR S106 AGREEMENT

Nile + Villiers

SUNDERLAND CITY COUNCIL (1)
SIGLION DEVELOPMENT LLP (2)

Ref: v1.0
Date: Wednesday 20th March 2024

BETWEEN:

SUNDERLAND CITY COUNCIL (the "**Council**") of City Hall, Plater Way, Sunderland SR1 3AA
and

SIGLION DEVELOPMENTS LLP (the "**Owner**") of City Hall, Plater Way, Sunderland SR1 3AA

1. BACKGROUND

- (A) The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is located.
- (B) The Owner is the freehold proprietor of titles numbers TY250675, TY300242, TY34422, DU11551, TY418965, TY44914, TY112117, DU9503, TY350864, TY338547, TY70068, together forming the Site. The Owner has made a planning application to the Council under reference [insert application reference] as described at (C) below.
- (C) Planning application reference [insert application reference] is a detailed application with the following description:

"Construction of two- to four-storey buildings to provide a mixed-use development comprising up to 80 dwellings (use class C3) and up to 10 at ground floor for commercial, business and service (Use Class E), learning and non-residential institutions (Use Class F1) and local community uses (Use Class F2) including associated open space, drainage, communal refuse and cycling storage, and energy infrastructure"
- (D) These Heads of Terms for an agreement under section 106 are submitted alongside the planning application to facilitate discussions on planning obligations in relation to the proposed development and to ensure that a draft section 106 is produced in a timely manner.

2. PLANNING OBLIGATIONS ON THE PART OF THE OWNERS

2.1 Sunderland Recreation Mitigation Strategy

- I. Upon the grant of Planning Permission, the Council shall reserve Mitigation Credits for the Mitigation Requirement for a period of 1 year from the grant of Planning Permission.
- II. Prior to the Commencement of the Development the Owner covenants to submit the Notice of Commencement to the Council.
- III. The Council shall issue a Confirmation Notice within 10 Working Days of receipt of Notice of Commencement.
- IV. The Owner shall pay the Sunderland Recreation Mitigation Tariff to the Council within 10 Working Days of receipt of the Confirmation Notice.
- V. The Owner shall not Commence the Development unless:

- the Owner has submitted the Notice of Commencement to the Council; and
- the Council has issued a Confirmation Notice confirming that there is sufficient Available Mitigation Headroom; and
- the Owner has paid any Sunderland Recreation Mitigation tariff due to the Council.

The tariff set by the Local Authority is £557.14 per dwelling, and will amount to a total of £41785.50 across 75 dwellings.

2.2 **Biodiversity Net Gain**

Post the grant of planning permission, a detailed BNG Plan will be submitted to confirm the approach as set out in the planning application. In the event that offsite offsetting is required, the Strategy will demonstrate how that offsetting will be delivered, the agreement of any partner organisation(s) involved and proximity to the site.

2.3 **Remaining Obligation**

The total amount of S106 obligations available for this development totals £80,000.00.

After payment of the Sunderland Recreation Mitigation Tariff and any costs incurred through the offsetting of Biodiversity Net Gain, a net amount of [insert figure] is proposed to the Local Authority to meet additional obligations and allocated at their discretion. This could include, but not be limited to, education, sport and recreation, greenspace and equipped play space.

1. OBLIGATIONS ON THE PART OF THE COUNCIL

- Confirmation of discharge of obligations
- Not to unreasonably withhold or delay consents or approvals
- To repay unspent s106 contributions
- Interaction with CIL
- Highways

2. KEY BOILERPLATE PROVISIONS

- Interpretation
- Powers and legal effect
- Conditionality
- Owners' covenants – ref Schedule
- Relationship between Owners
- Council's covenants – ref Schedule
- Local Land Charge
- Agreement not to bind other planning permissions
- Indexation
- Interest on late payments
- Mortgagees
- Release on disposal of interest
- Section 73 permissions
- Dispute resolution mechanism
- Notices
- Contracts (Third Parties) Act
- Good faith
- Governing law and jurisdiction