

Head of Terms – Spout Farm, Longridge

**1. SECTION 106 TESTS**

- All Section 106 "planning gain" requests have to pass the legal test of Regulation 122 of the Community Infrastructure Regulations:  
  
(Regulation 122)  
  
A Section 106 agreement may only constitute a reason for granting planning permission for a development if the relevant obligation is:
  - Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.
- Further to this legislative requirement, the Planning for Growth Ministerial Statement 2011 dictates that Local Planning Authorities should:  
  
"ensure that they do not impose unnecessary burdens on development"  
  
and  
  
"Where they are asked to do so, Local Planning Authorities should carefully review planning obligations to ensure that they accord with all the policy tests set out in Circular 5/05. For planning consents for buildings granted after 6 April 2010, the statutory tests set out in Community Infrastructure Levy Regulations 2010 must be met."
- The National Planning Policy Framework published on 27th March 2012 states. "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition". Planning obligations should only be sought where they meet all of the Regulation 122 tests. "Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled".

- The final Section 106 Planning Obligation will be required to satisfy the CIL Regulatory Tests and should not include unlawful proposals, however desirable, which fail to satisfy those tests of necessity, relevance and reasonableness.

## **2. AFFORDABLE HOUSING**

According to Core Strategy Key Statement H3 affordable housing is to delivered at a rate to be agreed, but will comprise 10 of the Units within this development

## **3. CONDITIONALITY**

The section 106 agreement shall be conditional upon the granting of planning permission by the council