Commercial Estates Group

Land east of Clitheroe Road, Whalley

Heads of Terms

1. Introduction

1.1 This document sets out the Heads of Terms of potential Section 106 planning obligations which may be entered into in connection with the proposed development.

1.2 The Heads of Terms will inevitably be the subject of further discussions once RVBC 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 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.

1.4 In order to comply with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010, each obligation will need to be justified as directly related to the development, 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 Section 106 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 obligations.

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, consequences on the lapsing, revocation or modification of the planning permission, excluding third party rights to enforce etc.

4. Affordable Housing

4.1 30% of the dwellings (calculated on a "round half up" basis) to be constructed on the Site shall be Affordable Housing.

4.2 60% of the Affordable Housing Units shall be 2-bedroom dwellings and 40% shall be 3-bedroom dwellings.

4.3 The tenure of the Affordable Housing Units shall be:

(a) one third Social Rented;

(b) one third Affordable Rented; and

(c) one third Intermediate

unless otherwise agreed in writing with the Council.

Note: the s106 Agreement will need to explain how each third will be converted into whole dwelling numbers which equate to the overall number of affordable dwellings to be provided.

4.4 An Affordable Housing Scheme will identify those dwellings within the development which are to be affordable, in line with the principles set out in paragraphs 4.2 & 4.3 above.

4.6 Not more than 25% of the Market Dwellings can be occupied until the Affordable Housing Units have been offered to an Affordable Housing Provider in accordance with the relevant Affordable Housing Scheme.

4.7 Not more than 75% of the Market Dwellings can be occupied before 100% of the Affordable Housing Units have been Practically Completed.

4.8 The Affordable Housing Units can only be used as Affordable Housing in accordance with the Priority Order (ie a cascade of 8 categories of persons in housing need) which is to reflect the "Qualifying Persons" criteria set out in the RVBC email of 6 April 2011 in relation to the previous planning application.

4.9 The Affordable Dwellings will also be subject to usual restrictions guarding their affordability in perpetuity, subject to exceptions e.g. for staircasing, mortgagees in possession etc.

4.10 A 'fallback' mechanism addresses the circumstances in which, despite reasonable endeavours having been used by the Owners, the Affordable Dwellings have not been purchased by an Affordable Housing Provider. In those circumstances the Affordable Dwellings would (subject to the Council's prior approval and certain pre-conditions being satisfied) be sold on the open market free of restrictions.

5. Wheeled Bin Contribution

5.1 A wheeled bin contribution to be calculated at £90 per dwelling will be payable (to be used for the provision of wheeled bins within the development). The total amount of the contribution will be calculated by reference to the number of dwellings for which reserved matters approval is given on a pro rata basis.

5.2 The contribution will be payable in phases to be agreed

6. Primary School Education Contribution

6.1 The Primary School Education Contribution is provisionally [£●] but this is subject to:

(a) The total number of dwellings being finalised through reserved matters; and

(b) The precise figure being calculated in accordance with the methodology set out in the Lancashire County Council response of 16 November 2011 in relation to the previous planning application.

4.2 The Primary School Education Contribution will be payable in phases to be agreed.

7. Secondary School Education Contribution

7.1 The Secondary School Education Contribution is provisionally [£●] but this is subject to:

(a) The total number of dwellings being finalised through reserved matters; and

(b) The precise figure being calculated in accordance with the methodology set out in the Lancashire County Council response of 16 November 2011 in relation to the previous planning application.

7.2 The Secondary School Education Contribution will be payable in phases to be agreed.

8 TRO Contribution

8.1 A payment of £10,000 is to be made towards traffic regulation orders on or before the commencement of development as follows:

(a) £5,000 for a TRO to reduce the speed limit on Clitheroe Road (part).

(b) £5,000 for a TRO to extend existing waiting restrictions as follows:

1) TRO extensions within vicinity of Clitheroe Road/Brookes Lane/B6246 King Street/B6246 Station Road mini roundabout.

East side of Clitheroe Road – Extension of existing waiting restriction by 46.0 metres to the north.
West side of Clitheroe Road – Extension of existing waiting restriction by 16.0 metres to the north.

2) TRO extension within vicinity of B6246 King Street/B6246 Accrington Road/King Street mini roundabout.

East side of B6246 King Street – Extension of existing waiting restriction by 10.0 metres to the north.

3) General TRO to restrict on street parking within the centre of Whalley to a maximum stay of two (2) hours.

9. Covenants by the Council and the County Council

9.1 Standard 'clawback' provision which requires the return of any unspent part of the contributions plus interest if the contribution is not spent 5 years after the date of payment. Other obligations may be imposed upon the Councils in order to reflect the above requirements and provide the Owner with appropriate protection.