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NUTFIELD GREEN PARK, THE FORMER LAPORTE WORKS

Appellant's Summary Note of the Final Draft S106 Agreement

1. Introduction

- 1.1 This note, prepared by the Appellant, provides a high-level summary of the agreement (the "**S106 Agreement**") to be made under section 106 of the Town and Country Planning Act 1990 (the "**1990 Act**") for land shown edged red on the plan attached to the S106 Agreement at Schedule 1 which comprises all that land and premises situated at Nutfield Green Park, The Former Laporte Works, Nutfield Road, Nutfield, Surrey, RH1 4HF (the "**Site**"). The S106 Agreement is to be made between (1) The District Council of Tandridge (the "**District Council**"); (2) Surrey County Council (the "**County Owner**"); (3) SLT Trustees Limited (Co. Regn. No. 01299864) (the "**First Owner**"); (4) Nutfield Park (Developments) Limited (Co. Regn. No. 11577837) (the "**Second Owner**"); and (5) Nicholas Froude Newman, Peter James Newman, James Maclean and MW Trustees Limited (Co. Regn. No. 02630203) (the "**Third Owner**").
- 1.2 The First Owner is the freehold owner of that part of the Site registered under title number SY842289. The Second Owner is the freehold owner of that part of the Site registered under title numbers SY873490, SY885742, SY885743, SY885744, SY885745, SY885746, and SY885747. The Third Owner is the freehold owner of that part of the Site registered under title number SY873766. As per the S106 Agreement, in this summary document the term "**Owner**" means the First Owner, the Second Owner, and the Third Owner jointly and severally;
- 1.3 The following is only a summary of the S106 Agreement prepared in order to aid the Inspector in planning appeal reference APP/M3645/W/25/3374913. It does not seek to summarise all provisions, providing a high-level summary of key provisions only. The S106 Agreement is to be entered into pursuant to section 106 of the 1990 Act, section 111 of Local Government Act 1972, sections 12 and 93 of the Local Government Act 2003, and section 1 of the Localism Act 2011.

2. Definitions

- 2.1 Other than where expressly defined, any capitalised term in this note is a reference to a defined term in the S106 Agreement.

3. Contributions

- 3.1 The following financial contributions to be made by the Owner to the District Council and/or the County Council have been agreed between the Parties:

Contribution	Agreed Amount	Payment Deadline
BNG Monitoring Contribution	£7,880	50% in year 1 and 50% in year 3 of the monitoring submission years
Early Years Education Contribution	£159,821	prior to first Occupation
Healthcare Contribution	£215,466	prior to first Occupation

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Monitoring Fee (District Council)	£15,841	on completion of the S106 Agreement
Monitoring Fee (County Council)	£4,540	on completion of the S106 Agreement
Secondary School Contribution	£754,366	prior to first Occupation
Travel Plan Auditing Fee	£6,150	prior to first Occupation
TRO Contribution	£3,000	within 28 days of written request
Bus Service Contribution	£3,700,000 Index Linked (to be paid by instalments)	in annual instalments
Bus Service Up-Front Contribution	£300,000 Index Linked	prior to first Occupation

4. Obligations

4.1 The following obligations have been agreed between the Parties:

- (a) **Schedule 2 (Notices)** – the Owner will provide the District Council and the County Council notice prior to the intended dates of Implementation, the Commencement of Development, first Occupation of the Development, Occupation of 25% of the Dwellings in the Development, and Occupation of 75% of the Dwellings in the Development. The Owner will provide further notice within 5 Working Days of these milestones occurring.
- (b) **Schedule 3 (Owner’s Covenants)** – the Owner will:
 - (i) enter into a Highways Agreement for the completion of the Highway Works prior to first Occupation;
 - (ii) Practically Complete the Class E(e) Floorspace and the F2 Small Local Shop Unit to Shell and Core standard prior to the Occupation of more than 50 (fifty) Dwellings; and
 - (iii) ensure that the F2 Small Local Shop Unit shall only be used for a Class F2(a) use and shall not be amalgamated, subdivided, nor have its character changed without the District Council’s consent.
- (c) **Schedule 4 (Affordable Housing)** – the Owner will:
 - (i) Provide the Affordable Housing Dwellings in accordance with the S106 Agreement, including by providing 50% of the Dwellings as Affordable Housing Dwellings to be let in accordance with the Nominations Agreement and any applicable Local Lettings Plan;
 - (ii) not to Commence Construction of any Affordable Housing Dwellings until it has submitted to the District Council the name of the chosen Registered Provider, and to construct 100% of the Affordable Housing Dwellings in any Phase ready for

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Occupation prior to the first Occupation of more than 75% of the Open Market Dwellings in that Phase; and

- (iii) the Affordable Housing Dwellings shall not be used for any purpose other than as Affordable Housing.
- (d) **Schedule 5 (Open Space) – the Owner will:**
 - (i) not Occupy the Development until the Owner has submitted for the District Council’s written approval the Open Space Management Plan;
 - (ii) not erect any Dwellings on the Open Space or use the Open Space other than for open space and outdoor recreation for the lifetime of the Development;
 - (iii) construct and deliver the Open Space in accordance with the triggers set out in the approved Open Space Phasing Plan, and complete any remedial works to the Open Space identified by the District Council to the reasonable satisfaction of the District Council as soon as reasonably practicable;
 - (iv) maintain the relevant Open Space Area for the Maintenance Period, and allow access to members of the public on a permissive basis for the purposes of recreation and play (subject to reasonable regulations); and
 - (v) as soon as reasonably practicable after the issue of the Final Certificate, transfer the final Open Space Area to the Management Company in accordance with the approved Open Space Management Plan. The Management Company shall then maintain the Open Space in accordance with the approved Open Space Management Plan for the lifetime of the Development.
- (e) **Schedule 6 (Bus Service) - the Owner will:**
 - (i) pay the Bus Service Contribution to the County Council in annual instalments of £148,000 (one hundred and forty eight thousand pounds) (Index Linked) into the Escrow Account for a period of 25 (twenty five) years from the third anniversary of Occupation; and
 - (ii) ensure that at all relevant times sufficient cleared funds are in the Escrow Account to cover 3 years of the Bus Service Contribution instalments. In case of a shortfall, the Owner shall replenish the Escrow Account to the required level, subject to the Owner’s total liability in respect of the Bus Service Contribution and the Bus Service Up-Front Contribution not exceeding £4,000,000 (Index Linked).
- (f) **Schedule 7 (Integrated Retirement Community) – the Owner will:**
 - (i) restrict the use of the C2 Integrated Retirement Community Units to Use Class C2 and restrict Occupation of the C2 Integrated Retirement Community Units to Qualifying Persons and any cohabitee, spouse, or dependant of a Qualifying Person;
 - (ii) procure, prior to Occupation of the Integrated Retirement Community, the services of a Registered Service Provider (which might be the Owner or a third party) to operate and have an office at the Integrated Retirement Community;
 - (iii) to ensure that a Health Assessment is undertaken for each Qualifying Person on or before Occupation to identify the level and type of care and other support and assistance they require, and put in place a Care and Wellbeing Plan for each Qualifying Person who is to take up Occupation which shall be reviewed and updated on a regular basis; and

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- (iv) at all times provide the minimum level of care wellbeing and support services set out in the Care and Wellbeing Package, and make arrangements for such additional care and support services as may be required over and above the Care and Wellbeing Package either on its own or through a Registered Service Provider (or a combination) subject to the payment of additional fees.
- (g) **Schedule 8 (Self and Custom Builds)** – the Owner will:
 - (i) submit the Self-Build and Custom-Build Plots Scheme (which shall include the Marketing Strategy) to the District Council for its approval prior to Commencement of the relevant Phase;
 - (ii) provide, prior to Occupation of more than 85% of the Dwellings on the Development, the Self-Build and Custom-Build Plots as part of the relevant Phase or Phases of the Development in a Serviced Condition and in accordance with the approved Self-Build and Custom-Build Plots Scheme;
 - (iii) not to permit the disposal, use or Occupation of the Self-Build and Custom-Build Plots other than as Self-Build and Custom-Build Unit unless otherwise approved in writing by the District Council;
 - (iv) to market the availability for disposal of the Self-Build and Custom-Build Plots during the Marketing Period in accordance with the Marketing Strategy and to dispose these plots in a serviced condition, in accordance with the Marketing Strategy, and for the purpose of developing a Self-Build and Custom-Build Unit;
 - (v) (if at the expiration of the Marketing Period any Self-Build and Custom-Build Plots have not been disposed of) demonstrate to the District Council that the approved Marketing Strategy has been carried out for the Marketing Period and that the Owner has acted reasonably in any negotiations for the disposal of the remaining Self-Build and Custom-Build Plots. Where the District Council is satisfied, it shall confirm that the Owner is free to develop the remaining Self-Build and Custom-Build Plots as Market Housing Dwellings. Where the District Council is not satisfied, the Owner shall continue to market the Self-Build and Custom-Build Plots in accordance with the Marketing Strategy for the further reasonable period as agreed with the District Council.
- (h) **Schedule 9 (Biodiversity Net Gain)** – the Owner will:
 - (i) prior to Commencement of a Phase, submit the Biodiversity Gain Plan and the HMMP for the relevant Phase to the District Council for its approval;
 - (ii) issue the Completion Notice to the District Council within 20 (twenty) Working Days of the anticipated date of completion of the Habitat Creation and Enhancement Works in any Phase and rectify promptly any defects in those works identified by the District Council;
 - (iii) not Occupy more than 50% of the Dwellings in any relevant Phase of the Development unless and until the Habitat Creation and Enhancement Works set out within the HMMP for the relevant Phase have been completed in full; and
 - (iv) ensure that the Habitat Creation and Enhancement Works set out in the HMMP for each Phase are retained and maintained from the Completion Date until the 30th anniversary of the Completion Date for the relevant Phase, providing a Monitoring

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Report to the District Council within 20 Working Days of each Monitoring Report date.

- (i) **Schedule 10 (District Council's Covenants)** – the District Council will use the District Council Contributions for the specified purpose and repay any amount not used within 10 years from payment by the Owner.
- (j) **Schedule 11 (County Council's Covenants)** – the County Council will:
 - (i) use contributions paid to it for the specified purpose and (save for the Bus Service related contributions) repay any amount not used within 10 years from payment by the Owner;
 - (ii) provide the Bus Service Specification to the Owner prior to the anticipated start date for procuring of the Bus Service;
 - (iii) use the Bus Service Contribution instalments to fund the annual operating cost of the Bus Service in accordance with the Bus Service Specification to provide or procure the Bus Service from the later of the 2nd anniversary of first Occupation of the Development or Occupation of 25% (twenty five per cent) of the total Dwellings to be Occupied in the Development (whichever shall be the later) for a period of not less than 5 (five) yearly intervals constituting 25 (twenty five) years; and
 - (iv) to hold a review of the Bus Service provided at not less than 3 yearly intervals to consider its performance and any changes to the Bus Service Specification that may be required.
- (k) **Schedule 12 (Sustrans 21 Route Improvements)** – the Owner will:
 - (i) not Occupy the Development until the Sustrans 21 Improvement Scheme has been submitted to and approved in writing by the County Council;
 - (ii) prior to Occupation of Development to obtain the Necessary Consents for the delivery of the approved Sustrans 21 Improvement Scheme, provided that the Owner shall not be obliged to pay more than nominal consideration for the obtaining of the Necessary Consents (save in relation to reasonable professional fees) or procure dedication of further land in addition to the current Sustrans 21 Route;
 - (iii) implement and fully comply with the approved Sustrans 21 Improvement Scheme prior to Occupation of Development;
 - (iv) the Sustrans 21 Improvement Scheme may be amended from time to time with the written agreement of the County Council.

Town Legal LLP
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