Land off Cefn Road, Erlas Park, Wrexham, LL13 9TT

DRAFT s106 Heads of Terms

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Introduction

These draft s106 Heads of Terms have been prepared by the applicant (Harworth Estates Investments Ltd) to support an outline planning application at land off Cefn Road, Erlas Park, Wrexham for the:

> *"Proposed phased residential development for the construction of up to 900 residential dwellings with associated infrastructure (playing fields, open space and SUDs attenuation) with all matters reserved except for detailed means of primary highway access"*

It is anticipated that the following matters will be addressed through a Section 106 Legal Agreement, where it meets the tests of Regulation 122 of the CIL Regulations 2010.

The contributions below are in draft and their detail will be agreed with the Local Planning Authority during the determination of the planning application.

Policy Background

Contributions serve to follow the ambitions of the adopted Wrexham Local Development Plan ***Policy SP4*** *which seeks phased infrastructure and affordable housing on the following basis:*

Necessary Infrastructure:

- *Highway improvements to address known infrastructure capacity constraints at the Greyhound roundabout;*
- *Ensuring connectivity between the land north and south of Bryn Estyn Road;*
- *Education: on site provision of a 420 place primary school, contributions towards secondary provision in the vicinity of the site and the retention of existing (65,393 m²) of playing fields for Ysgol Morgan Llwyd;*
- *Public open space;*
- *Community and leisure facilities, including the retention of the Erlas Victorian Walled Garden;*
- *Active Travel; and*
- *Public transport.*

Affordable Housing:

- *The starting point for negotiation will be the delivery of 20% affordable housing.*
- *Affordable housing will be expected to be delivered on site in the first instance and only in exceptional circumstances will off site or commuted sum contributions be accepted in lieu of on-site provision.*

The LDP therefore envisages that the entirety of KSS2 (and KSS3 Policy SP10) will fund the list of infrastructure required by Policy SP4. The applicant is committed to ensuring their application will cover its proportion.

A Statement of Common Ground (SoCG002) and its Appendix 1 "Infrastructure Contributions Model" was agreed between the Council and the development partners inviolved in delivering the KSS2 site back in September 2019 as part of the emerging LDP.

This identified a Pro-Rata and proportionate method of provision according to unit numbers. A percentage split between Bloor/Barratt, Harworth and MD Developments was tabled, but it is proposed that a better approach is to simply adopt a roof tariff so that each Reserved Matters application that comes forward pays a sum per unit permitted for Education, Highway spine road link and off-site Highway Improvement contributions.

In the event that, during the course of the planning application, evidence is presented that suggests that there is a need for additional physical infrastructure or commuted sum contributions to mitigate against the impacts arising from the proposed development, and it can be shown that this would comply with Regulation 122 of the CIL Regulations 2010, then obligations will also be secured (subject to viability) in this respect via the s106 legal agreement. Clearly, there is a risk that should contributions become excessive that this could place viability under pressure.

Affordable Housing

Policy SP4 seeks the delivery of 20% affordable housing from the KSS2 strategic allocation.

The proposals provide for a policy compliant 20% affordable housing provision, which equates to up to 180 no. dwellings.

The method by which affordable housing is to be delivered and the precise mix and tenure split of affordable housing deemed appropriate is to be agreed with the Council at the Reserved Matters stage as set out in an Affordable Housing Scheme to be be agreed with the Council.

A "cascading" approach should be adopted based upon the applicant being obliged to submit an "Affordable Housing Scheme" having first liaised with Registered Providers and the Council's Housing Strategy team; as it will be based upon housing mix / type being sought at the Reserved Matters stage

No more than 75% of the market housing within any phase will be occupied until the affordable housing units within that phase have been constructed, ready for occupation and have been disposed of to a registered provider.

Biodiversity

Whilst not specifically identified as an item under Policy SP4 the applicant considers that there are opportunities for enhancements to the natural environment through new landscape planting and habitat management, protection and creation that can be identified in a Biodiversity and Landscape Action Management Plan with a view that this achieves Net Benefit for Biodiversity (NBB). This may be delivered through a suitable condition instead of the s106.

Public Open Space

Policy SP4 seeks Public Open Space on site.

The illustrative layout shows approximately 16.72 ha of public open space. The provision is likely to include LAP (Local Area of Play) and LEAP (Locally Equipped Area of Play) provision; the nature and location which will be determined in detail at the Reserved Matters stage.

This significantly exceeds the required standards set out in the adopted Local Development Plan Policy CF2 (which seeks 50 sqm per dwelling : 900 x 50 = 45,000 sqm (4.5 ha)).

A POS Management Plan will be provided at the Reserved Matters stage and no more than 90% of dwellings shall be occupied within each phase until the POS for that phase has been completed to the satisfaction of the Council.

The intention is that the main access roads (incl. the connective spine road) will be adopted by the Council.

The remaining estate roads, common landscaped areas, parking courts, SUDS, POS, etc will be managed by a Management Company set up by the applicant.

Playing Fields / Community & Leisure

Policy SP4 seeks to not only seek the retention of 65,393 m² of playing fields (for Ysgol Morgan Llwyd) in order to deliver community recreational provision.

The application demonstrates that whilst the existing playing field area comprises 91,039 sqm an area of just 9,100 sqm is lost to development. However, a new area equating to 9,100sqm will be re-provided on the development site; resulting in no net loss.

The 91,039 sqm exceeds the area sought for retention under Policy SP4.

In addition, the masterplan is enabling enhanced public access to and between the site and the adjacent Rugby and other playing fields associated with the Wrexham Rugby Club land to the north and also across Cefn Road through a new controlled grade level crossing.

Moreover, the newly constructed replacement playing field will be fully drained to an acceptable standard and made available prior to the decommissioning of the old pitch.

The existing pitches will be subject of new re-marking and re-orientation to provide greater flexibility in meeting the known local sports needs thereby enhancing provision for both school and community function and serve to improve both youth and adult football / rugby sporting use.

At the time of writing, we are aware of there being an expired playing field lease between the owner of the playing fields and the Council. Along with the long-term management of the playng field land these are issues that the applicant/owner will look to have addressed in the s106 legal agreement.

Education

Policy SP4 seeks the provision of a 420-entry Primary School upon the KSS2 site.

The Council (at a meeting held in August 2024 with Education, Asset and Planning Officers) confirmed that it was their intention and preference to propose the a new Primary School be sited upon Council owned land at the Bryn Estyn site – central to the KSS2 allocation. Therefore, provision for any educational need can be dealt with through a commuted sum at a Reserved Matters stage as phases come forward.

Current investigations, undertaken by the applicant, do not show there to be any need for additional school places to support this development (or indeed the whole KSS2) with there being sufficient capacity for both primary and secondary places in Wrexham locally and a falling birth rate.

This could render any commuted sum contribution unnecessary because to provide it could significantly and detrimentally impact upon the viability of existing school provision locally.

This being the case, the applicant suggests that any request for educational provision (and/or commuted sum contributions) must first of all involve the applicants assessment being validated and fully tested, with any alternative evidence presented being based upon an objectively assessed need; and for agreement to be reached between the Education team at Wrexham Council and the applicant.

The applicant recognises that there are sustainable access and other benefits to locating a new primary school within the KSS2 area, but if no need is found to exist then such a request would clearly not meet CIL Regulation 122, unless of course other existing provision was to be closed in lieu of new provision being provided here.

If a need is found to exist (for either Primary or Secondary) then any s106 must clearly show/link that educational contributions are being used to directly mitigate the effects of the development and used in a specifc manner; funds cannot be used for "other projects". This is enshrined in Planning Law. In addition, any unspent funds must also be returned (with interest) to the payee after a defined time period of 5 (but no more than 10) years from the date of first payment being received.

KSS2 North-South Connectivity

Policy SP4 requires the construction of a link road connecting the northern and southern parcels of KSS2 with one another.

The applicant has designed their masterplan to safeguard a point of exit on their northern boundary so that the route northwards can be facilitated.

The applicant has also designed their masterplan to ensure the spine road starts from its south-eastern site access on Cefn Road through the site. The link road is to be constructed to an adoptable standard following completion of a s38 Legal Agreement.

This route (within the application site) can be constructed fully from Cefn Road to a point on the northern boundary of the site prior to the occupation of the 601st dwelling.

It is proposed that the s106 will place a covenant on the Council to confirm within 12 months from the date of the grant of permission the exact required location on the northern boundary of the site to which the link road should be constructed and its preferred onward route to connect with the KSS2 northern development parcel located to the northside of Bryn Estyn Road. This is agreed with the Council as being a reasonable period of time to allow it to determine the most appropriate route for a north/south connection of the link road across its own land, which will then enable the developers to advance the detailed design of the future phases of the site and to bring forward the entire allocation.

The developers will make a "spine road link commuted sum contribution", prior to the occupation of the 601st dwelling, which the Council will then use towards the cost of delivering the spine road across its land to the northern part of KSS2.

The cost could follow the percentage apportionment split described above, whereby the applicant will fund no more than 53.6% of the total cost (which was identified to be £1,222,901.18) in the Brookbanks 10833 Holt Road Wrexham Highway Infrastructure WBC Option 3 report.

However, the applicant considers that a fairer and more reasonable approach would be that it is simply based upon a roof tariff approach wherby each Reserved Matters application that comes forward pays a sum of £728 / dwelling (1,680 dwellings divded by £1,222,901) instead.

Rather than following a percentage apportionment split as previously set out in the 2019 "Infrastructure Contributions Model", whereby the applicant would have funded a % of the total cost (which was identified to be £1,222,901.18 in the Brookbanks 10833 Holt Road Wrexham Highway Infrastructure WBC Option 3 report) the applicant considers that a fairer and more reasonable approach would be that it is simply based upon a roof tariff approach, whereby each Reserved Matters application that comes forward pays a sum of Total Cost (Brookbanks Report) / dwelling (as a proportion of total dwellings across allocations (tbc)) instead.

Highway Improvements

Policy SP4 seeks to deliver a number of highway improvements, with specific reference to "known" capacity issues at the Greyhound roundabout.

A series of off-site highway improvements are associated with both this site and the wider KSS2 (and the KSS3 employment allocation) site.

These involve :

- *Priority access points onto Cefn Road into the site*
- *A new signallised pedestrian crossing*
- *Improvements identified in the VISSIM network modelling assessment which involve improvements to both the Holt Road/A5156/A483 roundabout and the Llan-y-Pwlll/A534/Industrial Estate Road roundabout*
- *Pedestrian and cycle links*

It should be noted that the VISSIM model did not find there to be any need for improvements to be made to the Greyhound Roundabout (the 5-way intersection of Holt Road, Bryn Estyn Road, Cefn Road and Dean Road) to justify the KSS2 allocation.

However, despite this, the applicant has identified some improvements that (combined with Active Travel measures) might offer local betterment and positively address the local perception that improvements are needed at this junction; and the applicant is prepared to offer these subject to them being acceptable.

The shared (KSS2 and KSS3) off-site highway improvements (i.e. A5156 / A534 roundabouts) are best apportioned between the developers of KSS2 and KSS3 based on a total cost calculation divided by dwelling numbers (or equivalent floorspace for KSS3) i.e. a rooftax paid into a central pot held by Wrexham that the Council would then draw down from to deliver the junction improvement schemes envisaged, to be delivered at a time to be decided by the highway authority.

Payments would probably be best linked to housing (or floorspace) completion numbers. This would follow the same approach the Council adopt for the KSS2 spine road; thereby enuring that each Reserved Matters application pays its fair share as phases come online.

Active Travel & Public Transport

Policy SP4 seeks to deliver both Active Travel and Public Transport benefits.

The TA has been informed by discussions between the applicant and Active Travel officers within the Wrexham Highways Department.

The measures identified relate to on-site provision to encourage, prioritise and facilitate non-motorised forms of transport (pedestrian, cycle) within the site, along with inclusion of a scheme to provide a new grade level pedestrian crossing.

In addition, off-site initiatives are largely common to the wider KSS2 and the KSS3 employment allocation (most notably along Bryn Estyn Road) and shall be agreed as part of any s106 legal agreement.

Public Transport routes and capabilities have also been discussed with the Council and will be brought forward as part of any s106 legal agreement. Most notably these include the need to enable existing services to penetrate the new development and offer (once a spine road is fully connected) a public service route that runs through the entire KSS2 site along a north-south axis.

Erlas Victorian Walled Garden

Policy SP4 seeks to ensure the retention of the Erlas Victorian Walled Garden.

The aim is to ensure it remains intact and is protected. It is a popular cultural, leisure and community resource and a new resident population will introduce opportunities to enhance its activities. Careful attention will be needed to ensure plans to create new development north and south of it , which serves to benefit it and result in enhanced accessibility (pedestrian and vehicular) to it. The applicant is committed to achieving quality place-making outcomes and consider their masterplan ambitions align with the EVWG as a community resource and benefit.

The applicant is minded to suggest that perhaps this aim is best safeguarded, not through a s106 legal agreement, but through good masterplanning and the detail that is permitted at Reserved Matters stages.
