HEADS OF TERMS

Detailed planning application for a Proposed Green Eco-Heritage Zone and Single Employment Unit with integral offices, new vehicular access, car and HGV parking, servicing and storage, landscaping, heritage and ecology mitigation and ancillary development

"The Oaks Site," Oak Road, Wrexham Industrial Estate, Wrexham LL13 9RG

FI Real Estate Management Ltd

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DOCUMENT REFERENCE: FI034_03

1 INTRODUCTION

1.1 This Heads of Terms document supports the detailed planning application submitted to Wrexham Council by FI Real Estate Management Ltd ("FIREM") for a Proposed Green Eco-Heritage Zone and Single Employment Unit with integral offices, new vehicular access, car and HGV parking, servicing and storage, landscaping, heritage and ecology mitigation and ancillary development. The application site is on land to the south of Oak Road, known locally as "The Oaks site."

2 NEED FOR THIS STATEMENT

2.1 Planning permissions are subject to planning conditions. The power to impose conditions when granting planning permission is very wide. Planning conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission.

2.2 Planning conditions should be fair, understandable, reasonable and practicable. They should also be necessary, reasonable, enforceable, precise and relevant both to planning and to the development to be permitted. When considering whether to impose a planning condition local planning authorities should ask themselves whether planning permission would have to be refused if the requirements of that condition were not imposed.

2.3 Where, by reference to relevant guidance, a planning condition cannot be used to control a particular aspect of a proposed development, for example, where a financial contribution is required to achieve improved education provision, it is necessary for the developer to enter into a legal agreement with the local planning authority ("LPA") to deliver this obligation. A planning agreement of this nature is available under section 106 of the Town and Country Planning Act 1990 as amended (s106 agreement). Section 106 allows extends to support both typical legals agreements which might be entered into by the LPA, the development and if necessary other parties and unilateral undertakings whereby the developer obligates itself to deliver the required obligation.

2.4 Of relevance in this instance is Wrexham Local Plan Policy SP5: Planning Obligations. This policy confirms that:

'Planning obligations will be sought to mitigate any impacts directly related to the development and will be assessed on a case by case basis in line with relevant planning legislation.
Examples of the types of obligations that could be sought as a result of new development could relate to the provision of some of the following but are not necessarily limited to these:

- *Education provision / facilities;*
- *Active travel, public transport and highway improvements;*
- *Public Open Space and Green Infrastructure;*
- *Community facilities;*
- *Affordable Housing;*
- *Ecological mitigation;*

- *Preservation and enhancement of heritage assets.*

Any attempts to sub divide sites to avoid thresholds for planning obligations will not be supported.'

2.5 Reference to Policy SP5 and the details, profile and scope of the proposed development promoted by the planning application suggests certain aspects of it, least with regard to the Green Eco-Heritage Zone and how it might be delivered and maintained and managed into the long term future, cannot be achieved through use of a single or series of linked planning conditions. As such it is likely that should planning permission be granted the permission will need to be subject to a s106 agreement or s106 unilateral undertaking. We set out details of likely obligations to be covered in such an agreement or unilateral undertaking in Section 4 of the statement.

3 SECTION 106 AGREEMENTS

3.1 A Section 106 agreement is a legally binding private contract between a developer and a Local Planning Authority and potentially other interested parties that operates alongside a statutory planning permission. Such agreements require developers to abide by specified planning obligations when implementing a planning permission. They are typically the result of negotiations on these matters between the key parties.

3.2 An agreement may be entered into to prescribe the nature of development, to secure a contribution from a developer to compensate for any loss or damage caused by a development or to mitigate a development's wider impact. Obligations can be delivered either by providing what is needed to a standard set out in the agreement or by paying a sum to the LPA which will then itself provide the facility or by a combination of both. The LPA may use formulae and standard charges as a means of making quantitative estimates of the level of contributions that are likely to be sought for a particular type of planning obligation through an individual development.

3.3 Typically LPAs resolve to grant planning applications subject to entering into of a S106 agreement with the developer and other parties as necessary. In these cases the decision notice will only be issued after the S106 has been entered into. In other instances, where a unilateral undertaking is the preferred route, and no other parties need to be signatories, and the signed unilateral obligation is provided to the LPA prior to the planning application being determined, the decision notice granting planning permission can be issued straight after the LPA has taken its decision to grant the planning application.

3.4 A s106 agreement / unilateral undertaking is a legal charge on the land and as such it will transfer automatically with any subsequent change in ownership.

4 POTENTIAL MATTERS FOR INCLUSION IN AN AGREEMENT

4.1 The planning application seeks detailed planning permission for a Green Eco-Heritage Zone and employment unit with integral offices (specific for HIAB as occupier), new vehicular access, car and HGV parking, servicing and storage, landscaping, heritage and ecology mitigation and ancillary development.

4.2 Based on the profile and scope of the proposed development, there might be the potential for the following matters to need to be dealt with through s106 agreement. This is subject to consideration by the LPA as to whether this is necessary; and in this regard the starting point and preferred approach should be to use planning conditions.

4.3 In addition, we suggest a s106 agreement rather than a s106 unilateral undertaking because it is likely that, in addition to the developer and LPA, other parties might need to also be signatories, for example, the local wildlife trust or similar.

4.4 Possible topic areas that might need to be covered are as follows:

Green eco-heritage zone

4.5 Potential obligations might be needed to cover:

- How delivery will be secured.
- Possible involvement of other parties in delivering facility.
- How maintenance will be delivered.
- How management will be delivered
- Costs of management and maintenance and securing this.
- Life of facility.

4.6 Through PAC the comments of NRW propose that the freehold ownership of the area of ecological mitigation, essentially the Green Eco-Heritage Zone, (though this is not necessarily all a mitigation area), should be transferred to a 'responsible body.' This is unacceptable to the land owner, Lea Valley Ltd, and the applicant, FIREM. Instead it is proposed that the area of ecological mitigation and management be operated through a cooperative with the local wildlife trust in a manner already agreed on other nearby development sites operated by FIREM at Kingmoor and Site 5.

Occupier

4.7 Potential obligations might be needed to cover:

- Scheme specific to applicant.
- Permission to specific to applicant.
- Roll of occupier in working with LPA and its partners on economic development initiatives.

Active travel measures

4.8 Potential obligations might be needed to cover:

- Scope of planned active travel measures.
- Delivery of active travel measures.
- Parties involved in delivery of active travel measures.
- Management of active travel measures.
- Monitoring and review of active travel measures.

Economic and social values benefits

4.9 Potential might be needed to cover:

- Requirement to produce and secure agreement on a skills and employment plan including implementation / roll out plans.
- Requirement to produce and secure agreement on a social values benefits plan including implementation / roll out plans.
- Related to above, working with relevant agencies to source potential new employment.
- Related to above, working with relevant agencies on apprenticeships and training initiatives.
- Related to above, working with relevant agencies on other related initiatives,

4.10 This list is not exclusive nor has it been discussed or agreed with the LPA or any other party. It is simply a list of possible matters that might need to be dealt with through a s106 agreement.

5 CONCLUSIONS

5.1 The proposed development is Green Eco-Heritage Zone and employment unit with integral offices (for HIAB), new vehicular access, car and HGV parking, servicing and storage, landscaping, heritage and ecology mitigation and ancillary works.

5.2 The application site is land known locally as The Oaks site, Oak Road, Wrexham Industrial Estate, Wrexham, LL13 9RG.

5.3 The profile and scope of the proposed development means that while key aspects of the overall proposals could be controlled and delivered through use of planning conditions should planning permission be granted, other aspects could only be controlled and delivered through planning obligations forming part of a s106 agreement.

5.4 Potential obligations, subject to discussions with the LPA in future, might be required to deal with aspects of the Green Eco-Heritage Zone, matters relating to how the proposed occupier of the employment unit uses and operates the unit, active travel measures and regarding provision of economic and Social values benefits.