

Section 106 Agreement Summary: Land at Brook Farm, Essex (APP/M1520/W/24/3351658)

1	Scope of this Report	This report summarises the obligations contained within the Section 106 Agreement to be entered into pursuant to Section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of the development.
2	S106 Agreement	<p>The proposed agreement will be entered into by (1) Michael George Smith and Henry Peter Smith (the Owner) (2) Essex County Council (the County Council) (3) Castle Point Borough Council (the Council) and (4) Countryside Properties (UK) Limited (the Developer) (the Section 106 Agreement).</p> <p>The Section 106 Agreement will be entered into in connection with planning permission sought via appeal (reference APP/M1520/W/24/3351658) (the Planning Permission) for the construction of 173 No. dwellings including public open space, landscaping, access, drainage, parking, servicing, utilities and all associated infrastructure and ancillary buildings (the Development).</p>
3	Conditionality of the S106 Agreement	<p>The obligations within the Section 106 Agreement are conditional upon the grant of Planning Permission and the Commencement of Development save for a number of boilerplate clauses such as the obligation to pay the legal fees of the Council and the County Council which take effect immediately upon completion of the Section 106 Agreement.</p> <p>The Section 106 Agreement shall cease to have effect (insofar as it has not already been complied with) if the Planning Permission shall be quashed, revoked, or otherwise withdrawn or (without the consent of the Developer) is modified by any statutory procedure.</p>
4	Blue Pencil Test	<p>The Section 106 Agreement includes a clause (cl 8.13) which provides the Inspector with power to declare that planning obligations (or part of such obligations) within the Section 106 Agreement shall cease to have effect if:</p> <ul style="list-style-type: none">• they do not meet the statutory tests set out in Regulation 122 of the CIL Regulations; and/or• the Inspector chooses to impose a condition upon the Planning Permission instead of one or more of the planning obligations within the Section 106 Agreement.

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		<p>This clause also presents the Inspector with two different options in relation to the Affordable Housing Agreed Mix as follows:</p> <ul style="list-style-type: none"> • Option A Agreed Mix: <ul style="list-style-type: none"> ○ 44 Affordable Rented Units; and ○ 43 Shared Ownership Units • Option B Agreement Mix: <ul style="list-style-type: none"> ○ 62 Affordable Rented Units; and ○ 25 Shared Ownership Units. <p>In the event that the Inspector does not set out in his decision letter for the Appeal either that Option A Agreed Mix or Option B Agreed Mix is his/her preferred approach then for the purposes of the Section 106 Agreement the Option A Agreed Mix shall automatically be applicable as the default option and therefore the Inspector should be specifically made aware of this.</p>
5	Liability for performance of obligations and key exclusions	<p>Upon the completion of the S106 Agreement, the obligations will not be enforceable against the following:</p> <ol style="list-style-type: none"> 1 statutory undertaker(s); or 2 individual owner(s), occupier(s) or tenant(s) or mortgagee of a Dwelling save in respect of the Affordable Housing obligations which shall apply to individual owners, occupiers or tenants of the Affordable Housing Dwellings (unless they staircase to 100% or exercise a right to buy); or 3 Affordable Housing Chargees subject to the requirements set out in the mortgagee exclusion clause at clause 12.
6	Obligations: Affordable Housing	<p>The obligations are summarised as follows:</p> <ul style="list-style-type: none"> • Not to Commence until the Affordable Housing Scheme has been approved;

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		<ul style="list-style-type: none"> • Obligation to deliver the affordable housing in line with the Agreed Mix (to be confirmed pursuant to the Blue Pencil Clauses outlined at section 4 above); • A restriction on Occupation of more than 50% of the Market Dwellings until such time as all Affordable Dwellings have been constructed and transferred to an RP; and • Nominations Agreement to police all first and subsequent disposals. 												
7	Obligations: Public Realm	<p>The key obligations are summarised as follows:</p> <ul style="list-style-type: none"> • Not to Commence until an Open Space Scheme has been approved and to layout the open space in accordance with a timetable to be agreed in the scheme; and • Transfer the open space to a Management Company in accordance with a programme to be set out in the Open Space Scheme. 												
8	Obligations: Financial Contributions	<p>The following financial contributions are payable under the S106 Agreement.</p> <table border="1"> <thead> <tr> <th>Financial Contribution</th><th>Amount</th><th>Trigger</th></tr> </thead> <tbody> <tr> <td>Monitoring Fee</td><td>£2305.80 plus £100 for each Affordable Housing Dwelling (£8700.00) towards the Council's costs of monitoring compliance.</td><td>Prior to Commencement of Development</td></tr> <tr> <td>Residential Travel Plan Monitoring Fee</td><td>£1596 Index Linked towards the monitoring by the County of the implementation of the Residential Travel Plan.</td><td>Payable prior to Occupation with an additional monitoring fee payment due annually until one year following Final Occupation</td></tr> <tr> <td>Healthcare Contribution</td><td>£85,600 Index Linked towards improvements to capacity by way of refurbishment, reconfiguration, extension or</td><td>Prior to Commencement of Development</td></tr> </tbody> </table>	Financial Contribution	Amount	Trigger	Monitoring Fee	£2305.80 plus £100 for each Affordable Housing Dwelling (£8700.00) towards the Council's costs of monitoring compliance.	Prior to Commencement of Development	Residential Travel Plan Monitoring Fee	£1596 Index Linked towards the monitoring by the County of the implementation of the Residential Travel Plan.	Payable prior to Occupation with an additional monitoring fee payment due annually until one year following Final Occupation	Healthcare Contribution	£85,600 Index Linked towards improvements to capacity by way of refurbishment, reconfiguration, extension or	Prior to Commencement of Development
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			potential relocation for the benefit of the patients at GP practices within the primary care network serving the Site including the reimbursement of capital funding for such provision made by NHS England in anticipation of receipt of the Healthcare Contribution.	
		RAMS Contribution	<u>£28,347.78 Index Linked</u> towards the mitigation of recreational disturbance on the European designated sites.	Prior to Commencement of Development
		Education Contribution	<p>The Education Contributions are calculated by reference to product cost generators linked to the number of qualifying dwellings. As this is a detailed application this can be calculated as follows:</p> <ul style="list-style-type: none"> • Early Years and Childcare: <u>£245,550.96 Index Linked</u> • Primary Education: <u>£818,503.20 Index Linked</u> 	<p>50% prior to Commencement of Development; and</p> <p>50% prior to first Occupation.</p>

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		Library Contribution	£77.80 per Dwelling (Index Linked) towards the upgrading of existing facilities at local libraries to include, but not limited to, additional furniture, technology and stock.	Prior to first Occupation
		Bus Service Improvements Contribution	£510,000 Index Linked towards bus service enhancements along the Daws Heath Road Corridor.	Prior to first Occupation
9	Obligations: Travel Plan	<p>The obligations are as follows:</p> <ul style="list-style-type: none"> • Residential Travel Plan (based on the template version attached to the Section 106 Agreement) to be approved prior to Occupation to be implemented until one year following Final Occupation; • Appointment of a Travel Plan Co-ordinator prior to first Occupation (until one year following Final Occupation); • To submit data from Annual Traffic Counts (trigger to be agreed as part of the Residential Travel Plan) to the County Council; • Payment of the Travel Plan Monitoring Fee (see above); and • Residential Travel Information Packs to be agreed by the County Council prior first Occupation with each first occupier being provided with a copy alongside travel vouchers. 		

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10	Obligations: Highways	An obligation to enter into a Highways Works Agreement prior to Commencement of such works provided always that this shall be prior to Occupation with an obligation to complete such works prior to Occupation.
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Engrossment version to be finalised with the Council and County Council to pick up minor tweaks such as referencing and formatting.

