DRAFT 106

Draft 1: 12/04/2011

LAND AT MARKFIELD ("the Site")

HINKLEY AND BOSWORTH BOROUGH COUNCIL

DRAFT HEADS OF TERMS – SECTION 106 AGREEMENT

1 PARTIES

The Agreement will be between:

(1) Midlands Co-operative Society Limited (Industrial/Provident Society Registration Number IP10143R) of Central House, Hermes Road, Lichfield, Staffordshire WS13 6RH ("the Owner");

and

(2) Hinckley and Bosworth Borough Council of Council Offices, Argents Mead, Hinckley, Leicestershire, LE10 1BZ ("the Council")

2 STATUTORY AUTHORITY

2.1 The Agreement will be entered into pursuant to S106 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") and will contain planning obligations on behalf of the Owner capable of enforcement by the Council.

3 THE DEVELOPMENT

3.1 The Owner has submitted a planning application for the redevelopment of the Site.

4 CONDITIONALITY

4.1 The obligations and restrictions contained within the Agreement will be conditional upon the prior satisfaction of the following events:

4.1.1 The grant of planning permission by the Council for the Development; and

4.1.2 The commencement of the development authorised by the planning permission by the carrying out of a material operation (as defined in the 1990 Act) i.e.

Implementation, but not including archaeological investigations, demolition, remediation, site clearance, site preparation or surveys, erection of hoardings

5 AFFORDABLE HOUSING

5.1 The Owner will covenant with the District Council to provide 2 Social Rented Affordable Housing Units as part of the Development where:-

5.1.1 "provide" means either entered into a contract with an affordable housing provider for sale of land and construction of the Affordable Housing Units or the Owner has constructed the Affordable Housing Units and made them available as applicable through an affordable housing provider;

5.1.2 the Affordable Housing Units comprise 40% of the total number of dwellings comprised in the Development; and

5.1.3 The timing for the provision of the Affordable Housing Unit will be set out in these provisions.

6 OPEN SPACE CONTRIBUTION

6.1 The Owner will covenant with the County Council in accordance with the following provisions:

6.1.1 To make a maximum financial contribution of £10, 300 (i.e. £1,720 per dwelling) towards the provision of or improvements to existing open space and play area in the vicinity of the Development; and

6.1.2 Timing for the payment of this calculation will be set out in these provisions;

7 RELEASE AND SUBSTITUTION

7.1 It shall be a term of the Agreement that upon parting with its interest in the Site any party shall be released from all of its respective obligations, rights and duties under the terms of the Agreement insofar as they are referable to its ownership or relate to any such part of the Site in which such breach occurs (save in respect of any liability for any prior breach of the Agreement)

8 REASONABLENESS

8.1 Unless otherwise specified, where any agreement, certificate, consent, permission, expression of satisfaction or other approval is required to be given by the Council or any

person on their behalf under the terms of the Agreement the same shall not unreasonably be withheld or conditioned or delayed.

9 ALTERNATIVE PLANNING PERMISSIONS

9.1 Nothing contained in the Agreement shall prohibit or limit the Development of any part of the Site in accordance with any planning permission (other than the permissions specifically contemplated by the Agreement) granted either before or after the date of the Agreement.

10 LAND OUTSIDE CONTROL

10.1 Nothing contained within the Agreement shall require the performance of any obligation in upon or under land outside the ownership of the party required to perform the obligation.

11 INDIVIDUAL RESIDENTIAL INTERESTS

11.1 The purchasers of individual residential units comprised in the Development will not be bound by the terms of the Agreement.

12 REPAYMENT OF UNEXPENDED CONTRIBUTIONS

12.1 The Agreement will contain provisions requiring the repayment by the Council to the person making the contribution of unexpended financial contributions together with interest in the event that the whole or any part of any such contribution(s) remain unexpended for their intended purpose by the Council after five years of receipt

Shoosmiths
12 April 2011