

Agreement

Relating to Planning Obligation under Section 106 of the Town and Country Planning Act 1990 relating to Land East of Tiverton, South of A361 and both North and South of Blundells Road, Tiverton, Devon

Dated

9th June 2017

- (1) MID DEVON DISTRICT COUNCIL
- (2) DEVON COUNTY COUNCIL
- (3) THE CHETTISCOMBE TRUST
- (4) NATIONAL WESTMINSTER BANK PLC

(b) The terms and conditions to which a connection to any available District Heating Facility is subject

4.2 In which case the Owner shall not be required to connect the Dwellings within that phase to a District Heating Facility

Part 2

Covenants with the County Council

Education

5 School Land

Location

5.1 As from the date of this Agreement the Owner shall permit the County Council to have access to the School Land at all reasonable times for the purposes of undertaking surveys and soil surveys and any other surveys reasonably required to enable the County Council to determine whether or not the School Land is suitable for its requirements PROVIDED THAT the County Council shall make good any damage caused in the exercise of its rights pursuant to this paragraph (or otherwise) to the reasonable satisfaction of the Owner within 20 Working Days AND FURTHER PROVIDED THAT the rights granted to the County Council pursuant to this provision shall terminate on the earlier of:

5.1.1 12 months from the date of this Agreement;

5.1.2 the date on which the County Council serves its notice on the Owner pursuant to paragraph 5.5 below

5.2 Within 12 months of the date of this Agreement the County Council shall submit a plan showing the exact proposed boundaries of the School Land agreed with the Council, together with any points of access and the proposed layout of the School development to the Owner (copied to the Owner's Agent) and the Owner and the County Council shall use reasonable endeavours to agree the exact boundaries of the School Land and the layout of the proposed development PROVIDED THAT:

5.2.1 it shall be reasonable for the Owner to withhold approval of the said plan in the event that the location of the School Land or the proposed points of access either have not been agreed with the Council, or when considered in isolation or in connection with the location or likely location of the Community Centre Land would harm or reduce the development potential of the surrounding Land; and

5.2.2 in the event that the Owner does not notify the County Council in writing that it does not approve the details submitted pursuant to paragraph 5.2 above within 60 Working Days the Owner's approval shall be deemed

5.3 In the event that the Owner (acting reasonably) notifies the County Council in writing that it does not approve the details submitted pursuant to paragraph 5.2 above, the County Council and the Owner shall use reasonable endeavours to agree an alternative plan showing the

exact proposed boundaries of the School Land together with any proposed points of access and the proposed layout of the School Land development PROVIDED THAT if no agreement has been reached within 20 Working Days the dispute shall be referred to determination by an Expert pursuant to Schedule 6

Value

- 5.4 Within 1 month of the agreement of the plans and details pursuant to paragraph 5.2 or 5.3 hereof the Owner shall serve written notice on the County Council containing its calculation of the School Land Market Value (the "Owner's Notice")
- 5.5 Within 3 months of receipt of the Owner's Notice, the County Council shall serve written notice on the Owner (the "County Council's Notice") confirming whether it accepts the Owner's calculation of the School Land Market Value or whether the County Council:
 - 5.5.1 Does not wish to acquire the School Land; or
 - 5.5.2 Disputes the School Land Market Value as set out in the Owner's Notice in which case the County Council's Notice shall contain full details of the County Council's calculation of the School Land Market Value
- 5.6 In the event that either:
 - 5.6.1 the County Council has not served the County Council's Notice within 3 months of receipt by the County Council of the Owner's Notice; or
 - 5.6.2 the County Council responds to the Owner's Notice within 3 months of receipt by the County Council to confirm that it does not wish to acquire the School Landthe Owner shall:
 - 5.6.3 pay the Education Land Contribution to the County Council or its Nominee on 200 Occupations or, if later, within 12 months of the County Council confirming that it does not wish to take a transfer of the School Land; and
 - 5.6.4 be free to deal with the School Land as it sees fit free from the constraints of this Agreement
- 5.7 In the event that the County Council responds to the Owner's Notice to dispute the School Land Market Value the Owner and the County Council shall use reasonable endeavours to agree the School Land Market Value for a period of 20 Working Days following the receipt of the County Council's Notice by the Owner (or such other period of time as the Owner and the County Council may agree)
- 5.8 If the County Council and the Owner have not been able to agree School Land Market Value following the expiration of a period of 20 Working Days following the receipt of the County Council's Notice by the Owner (or such other period of time as the Owner and the County Council may agree) the matter shall be referred to Expert Determination in accordance with Schedule 6

- 5.9 The County Council and/or its Nominee shall submit an application for the Necessary Consents for the School in accordance with the plan and details agreed pursuant to paragraph 5.2 or 5.3 within 3 months of the date on which the School Land Market Value is agreed or determined

Transfer

- 5.10 Provided that:

5.10.1 The School Land Market Value has been agreed by both the Owner and the County Council or determined through Expert Determination; and

5.10.2 The County Council and/or its Nominee has obtained all Necessary Consents for the School in accordance with the plan and details approved by the Owner pursuant to paragraph 5.2 or 5.3 above; and

5.10.3 The County Council has served a notice on the Owner requesting the transfer of the School Land

the Owner shall transfer the School Land to the County Council or its Nominee within 20 Working Days of the occurrence of the latest of above events and:

(a) In the event that the transfer takes place after the Commencement Date the total sum of the Primary School Contribution and the Secondary School Contribution payable by the Owner shall be reduced by a sum equivalent to 55% of the School Land Market Value as agreed between the Owner and the County Council or determined through Expert Determination (as appropriate) and the Owner and the County Council shall agree in writing amended instalment payments for the payment of the reduced sum of the Primary School Contribution and the Secondary School Contribution; or

(b) In the event that the transfer takes place before the Commencement Date the County Council shall pay to the Owner on the date of the transfer a sum equivalent to 55% of the School Land Market Value and paragraph 5.11 shall cease to apply

- 5.11 In the event that the School Land Market Value exceeds the sum of the Primary School Contribution and the Secondary School Contribution to be paid by the Owner the County Council shall on the date of the transfer of the School Land pay to the Owner a sum equivalent to the amount by which the School Land Market Value exceeds the sum of the Primary School Contribution and the Secondary School Contribution such payment to be in instalments to be agreed in writing between the Owner and the County Council

- 5.12 The transfer of the School Land shall include the grant of such rights over the Land as are necessary for the School Use and may be subject to such reasonable restrictions and reservations as the Owner may require to enable the proper functioning of the Development and to ensure that the development and use of the School Land shall not cause nuisance, annoyance or disturbance to the Occupiers of the Development including:

- 5.12.1 A covenant on the County Council or its Nominee (if appropriate) not to use the School Land in a manner which may cause nuisance, annoyance or disturbance for the occupiers of the Development save that use of the School Land for the construction and subsequent use as a School and all associated uses shall not be a breach of this covenant
- 5.12.2 Rights for the benefit of the Land to use all conduits in, on, under or over the School Land for the passage of Services to and from the Development together with the right to cleanse, maintain and repair any such conduits the Owner making good any damage caused to the reasonable satisfaction of the County Council or its Nominee (if appropriate) and complying with all reasonable requirements of the County Council or its Nominee (if appropriate) relating to the health, safety and welfare of pupils and staff attending the school situated on the School Land
- 5.12.3 Rights for the benefit of the School Land to use all conduits in, on, under or over the Land for the passage of Services to and from the School Land as may be required for the purposes of the School Use together with the right to cleanse, maintain and repair any such conduits
- 5.12.4 Rights to enter onto the School Land for the purposes of maintaining the Development or any Services, conduits, Service media or infrastructure associated therewith (including, without limitation, drainage infrastructure) where such works cannot reasonably be carried out from within the Land excluding the School Land subject to the Owner complying with all reasonable requirements of the County Council or its Nominee (if appropriate) relating to the health, safety and welfare of pupils and staff attending the school situated on the School Land
- 5.12.5 Rights of support
- 5.12.6 A covenant on the County Council or its Nominee (if appropriate) to maintain the School Land to a reasonable standard

6 Primary School Contribution and Secondary School Contribution

- 6.1 Due to existing capacity at local schools, the County Council hereby acknowledges that:
 - 6.1.1 No Primary School Contribution is payable in respect of 12 Family Dwellings
 - 6.1.2 No Secondary School Contribution is payable in respect of 194 Family Dwellings
- 6.2 The Owners hereby covenant with the County Council:
 - 6.2.1 Once 12 Family Dwellings have been Occupied, any additional Family Dwellings ("the Extra Family Dwellings") shall be required to pay the Primary School Contribution in accordance with the following provisions:
 - (a) No more than 25% of the Extra Family Dwellings comprised in a particular Phase may be Occupied unless and until 50% of the Primary School Contribution relating to the Extra Family Dwellings comprised in the relevant Phase has been paid to the County Council or its Nominee; and