

Drakelow Developments Limited

Drakelow Park

Section 106 Agreement

Schedule of Headline Contributions as at 22nd December 2011

Parties:

- (1) South Derbyshire District Council
- (2) Drakelow Development Holdings Limited
- (3) Drakelow Developments Limited
- (4) Roger Alfred Bullivant and Elizabeth Ann Bullivant
- (5) E.ON UK PLC
- (6) David William Allen
- (7) Park Manor Property Limited
- (8) Derbyshire County Council
- (9) Staffordshire County Council

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Subject of Contribution	Nature of Contribution
<p><u>Affordable Housing(AH)</u></p> <p><u>Overall Provision</u></p> <p><u>Schedules 3, 3A, 3B, 3C and 3D</u></p>	<p>(a) AH is to be provided on-site on a Phase by Phase and/or (at the Owners' election) a Sub-Phase by Sub Phase basis.</p> <p>(b) For AH purposes, the development is split into five phases as follows:</p> <ul style="list-style-type: none">(i) Phase 1 – the first 600 Dwellings;(ii) Phase 2 – the next 409 Dwellings after Phase 1;(iii) Phase 3 0 the next 409 Dwellings after Phase 2;(iv) Phase 4 – the next 409 Dwellings after Phase 3;(v) Phase 5 – the final 412 Dwellings after Phase 4 <p>(c) No AH is required in Phase 1. The Phase 1 can therefore be constructed free from AH requirements in Schedules 3, 3A, 3B, 3C and 3D.</p> <p>(d) However, if not all of Phase 1 is Practically Complete (PC) within 5 years from Commencement of Development then Phase 2 will attract an additional AH requirement over and above its own requirement. This will be the Phase 2 AH requirement (%) multiplied by the number of Dwellings in Phase 1 which are not PC when the 5 year period is up.</p>

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	<p>(e) The AH requirement for each of Phases 2, 3, 4 and 5 is determined for each Phase by:</p> <ul style="list-style-type: none">(i) The completion of a Housing Need Assessment (HNA) for each Phase. This must be “Up To Date” (as defined in the S106); and possible(ii) (at the developer’s election only) Viability Assessment. <p>(f) Provided Housing Need exists (as demonstrated in the HNA), there is a minimum AH requirement of 20% of the total number of Dwellings. This is to be provided on the balance (after the first 600 dwellings), regardless of viability.</p> <p>(g) There is a cap of 40% AH for each phase, regardless of the conclusions of the HNA (although the housing mix and tenure would still be as recommended by the HNA).</p> <p>(h) In each Phase or Sub-Phase, the delivery of the AH is phased as follows:</p> <ul style="list-style-type: none">(i) 50% AH to be PC before occupation of more than 50% of the market dwellings;(ii) 75% AH to be PC and offered to an AH Provider before occupation of more than 75% of the market dwellings;(iii) 100% AH to be PC and offered to an AH Provider before occupation of more than 95% of the market dwellings

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	<p>(i) The terms of offer to an AH Provider are set out in the S106 and exclusions are included for mortgagees in possession, right to buy, staircasing etc.</p> <p>(j) If an AH Provider cannot be found then there is a procedure in Schedule 3D which can ultimately lead to the AH units being sold on the open market with a commuted sum being paid to the Council in lieu, if the Council agrees.</p> <p>(k) The procedure for carrying out each Housing Needs Assessment is set out in Schedule 3A. This is a joint appointment between the Owners and the Council.</p> <p>(l) The procedure for carrying out a Viability Assessment is set out in Schedule 3B. This is a joint appointment between the Owners and the Council.</p> <p>(m) Schedule 3C contains the Choice Based Letting Agreement which the Council requires any AH Provider to sign to access its tenant lists.</p> <p>(n) Schedule 3D contains the “fallback” procedure referred to in (j) above.</p>
<p><u>Education – Primary</u></p> <p><u>Schedule 4</u></p>	<p>(a) DDL will reserve land for a Primary School. This will be Single Form Entry in the first instance but capable of expansion to an Up To Two Form Entry Primary School.</p>

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	<p>(b) Derbyshire County Council must determine that a Primary School is required by following the statutory procedures. This must be done within 10 years of Commencement of Development or the obligation will fall away. However the establishment date of the school must not be earlier than what is agreed to be the estimated date of occupation of 600 Dwellings.</p> <p>(c) A DCC determination triggers the process of design and build of the school by the Owners before transfer to DCC. Schedule 4 sets out the headline terms of the transfer, which is for nominal (£1) consideration.</p> <p>(d) DCC can determine that the school should be extended to an Up To Two Form School at any time up to 10 years after PC of all the Dwellings on the Development (after which the obligation falls away). Where it does so an notifies the Owners then the Owners must proceed to construct the expansion to the school in accordance with the procedures in the S106.</p>
<u>Education - Secondary</u>	A financial Contribution of £3.8m (index linked) is due in five instalments as set out in paragraph 2 of Schedule 4. It should be noted that the first instalment (£350k) is due within 14 days of the first reserved matters approval for the development (whether or not commencement has occurred).

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<p><u>Highways & Transportation</u></p> <p><u>Schedules 5 & 5A</u></p>	
<p>Paragraph 2</p>	<p>A38 Stage Two Contribution £564,199 (index linked) payable on Trunk Road (or Highways Agency) Trigger Point Three (as defined in the S106)</p>
<p>Paragraph 3</p>	<p>BUATMS Contribution £815,000 (index linked) payable in five instalments as set out in paragraph 3 of Schedule 5</p>
<p>Paragraph 4</p>	<p>Additional BUATMS Contribution Trip related maximum sum of £443,195 (index linked) – see paragraph 4 of Schedule 5 as to how liability arises</p>
<p>Paragraph 5</p>	<p>TRO Contribution £10,000 (index linked) payable prior to occupation of any part of the Development</p>

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Subject of Contribution	Nature of Contribution
Paragraph 6	Highways Contribution £130,000 (index linked) payable prior to the occupation of more than 600 Dwellings
Paragraph 7	Greenway Contribution £150,000 , (index linked) payable prior to the occupation of more than 100 Dwellings
Paragraphs 7 & 9	Other Greenway: <ul style="list-style-type: none">• Laying out, dedication & adoption of Greenway within the site (paragraph 7 of Schedule 5)• Production of specification and indemnity to DCC in relation to making a bridleway/cycleway creation order (Waterside Rd) and associated improvement works (paragraph 9 of Schedule 5)
Paragraph 8	Construction & Completion of Walton Bypass – prior to occupation of more than 100 Dwellings

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<u>Framework Travel Plan</u> <u>Schedules 6 & 6A</u>	
Paragraphs 2, 3 & 4	Upon commencement: (a) £10,900 Travel Plan Sum payable to Staffordshire County Council (b) Appoint Lead Travel Plan Co-Ordinator (c) Constitute & establish Drakelow Park Steering Group Upon occupation – implement Framework Travel Plan (insofar as able to do so)
Paragraph 5	Basic FTP Funding (Normal Staged Funding Payments) (Indexed) – phased payment of £511,000 into FTP Bank Account (paragraph 5 of Schedule 6)

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Paragraph 5	Mitigation FTP funding (if targets not met) – up to £240,000 into FTP Bank Account (paragraph 5 of Schedule 6)
Paragraph 6	Procure Bus Service prior to the occupation of more than 100 Dwellings
Paragraph 7	Appointment of Employment Floorspace Travel Plan Co-Ordinator (before the Lead Travel Plan Co-ordinator is discharged)
Paragraphs 8 & 9	Ensure implementation of Small & Large Employment Floorspace Travel Plans before occupation of employment floorspace
Paragraph 10	Install traffic counting equipment as part of access works to Walton Road and ensure operational before the access is brought into use.

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<u>Healthcare</u> <u>Schedule 7</u>	Construct and provide a minimum 5,000 patient capacity healthcare facility prior to occupation of more than 1,000 Dwellings (specification to be submitted prior to the occupation of more than 850 Dwellings and marketing (at commercial terms) to commence before occupation of more than 900 dwellings)
<u>Open Space Areas & Ancillary Facilities</u> <u>Schedule 8</u>	
Paragraphs 2 & 3	Open Space Areas, Children's Play Areas, Woodland Pitch Side, Changing Rooms, Sports Pitch and Sunken Gardens to be laid out in accordance with Open Space Strategy to be approved pursuant to Condition 7 of planning permission.
	Built Facilities Contribution of £815,000 (indexed) payable in three phases as set out in

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Paragraph 4	paragraph 4 of Schedule 8
<u>Listed Buildings</u> <u>Schedule 9</u>	Listed Building Works to be carried out in accordance with the Listed Building Consent prior to the occupation of more than 1,000 Dwellings
<u>Council and Counties Covenants</u> <u>Schedules 10& 11</u>	Covenants back from the Council and Counties are set out in Schedules 10 and 11