ID-30

S106 Agreement made between Nottinghamshire County Council (1) Harworth Estates Investments Limited (2) and Bilsthorpe Waste Limited (3)

Land at Bilsthorpe Business Park, off Eakring Road, Bilsthorpe, Nottinghamshire

Call-In Appeal Ref.: APP/L3055/V/14/3001886

Schedule of Amendments to Draft Agreement contained at Core Document 84

Amendment incorporated in completed section 106 Agreement to draft version included at Core Document 84	Comment
Definition of "Council" removed	Previous definition of 'Council' referred to Newark and Sherwood District Council. Planning obligations are only being given to the County Council in this instance, so the definition was unnecessary
Definition of "CIL" removed	Definition not necessary as the Agreement no longer makes reference to this defined term at clause 3.24 (see below)
Definition of "Development" now includes reference to any Section 73 Permissions	Provides a mechanism by which the Agreement and planning obligations contained therein will be linked to any new permissions granted pursuant to an application made to vary existing conditions pursuant to section 73 of the Town and Country Planning Act 1990
Definition of "Heritage Interpretation Scheme Contribution" has been relocated in the definitions table so as to follow alphabetically. The definition now specifies that the contribution can be expended toward "the provision of a scheme to draw attention, raise awareness and improve intellectual access to the heritage asset of the identified vistas across the 18th century historic parkland setting of Rufford Abbey by undertaking an interpretation scheme (such as erecting interpretation boards, providing a web based information document, or an alternative scheme which may be agreed with the County")	The matters upon which the Heritage Interpretation Scheme Contribution can be expended has been amended to provide the County Council with flexibility in determining the specific elements of the Interpretation Scheme upon which the funds can be applied.

The definition of "Index Linked" now confirms that any contributions subject to indexation can only be adjusted upwards.	Amendment made to provide additional clarification on the application of Indexation
Definition of "Planning Permission" now refers to the call-in proceedings rather than a permission that would be granted by the County Council.	Amendment made to reflect the nature of the call-in proceedings.
Definition of "Section 73 Permission" has now been added	Amendment made to provide a mechanism to link any new permission granted following an application to vary a planning condition attached to an existing approval pursuant to section 73 of the 1990 Act.
Definition of Travel Plan now makes reference to Third Schedule rather than the Fourth Schedule	Amendment made to reflect updated referencing in the document
Definition of Wader Mitigation Plan now makes reference to the 15th September 2015 rather than 14th September 2015, and the Fourth Schedule rather than the Fifth Schedule	Amendment made to reflect factual position and the updated referencing in the document
Clause 2.3 added confirming that the Owner will not be inhibited from performing obligations herein notwithstanding that the section 106 agreement is not registered against the land comprising the Wader Mitigation Area.	The land comprising the proposed Wader Mitigation Area is outside of the redline boundary of the application, although it is within the Owner's ownership. The planning obligation is proposed to be registered against the title of the land which is subject to the obligation, and which will provide the County Council with sufficient land against which to enforce the terms of the obligations should it ever be required to do so.
Clause 2.7 now refers to the County rather than the Council	Amendment made to reflect factual position
Reference to Section 2 of the Local Government Act 2000 has been removed from clause 3.1	Statutory reference not necessary in light of the other enabling legislative provisions referred to in the clause.
Clauses 3.7.1 to 3.7.3 now state that matters in dispute 'may' be referred to independent persons referred to, rather than 'shall'.	Amendment made to provide the parties with flexibility as to how disputes are resolved should any such matters arise during the term of the Agreement.
Clause 3.8 now makes reference to consider the position where a new permission be granted pursuant to section 73 of the 1990 Act, and includes reference to clause 3.15 (payment of the Council's reasonable legal costs in	The reference to a Section 73 Permission ensures that the Agreement will continue to have effect should a new permission be granted which remains extant should the original permission expire prior to commencement.

connection with negotiating the Agreement).	The references to clause 3.15 ensure that the obligation to pay the Council's reasonable legal costs in connection with negotiating the Agreement is not conditional upon the Commencement of the proposed development.
Clause 3.9 now makes reference to 'any Section 73 Permissions'	Amendment made to make provision for any new planning permissions granted following an application to vary a condition on the original consent.
Clause 3.11 now confirms that the obligations shall be registrable as a local land charge by the 'appropriate Local Land Charges Authority' rather than 'the County'	Amendment made to ensure that the obligation is registered a local land charge by the proper authority
Clause 3.13 now confirms that any payments will be Index Linked from the date of this Agreement "until the date of payment".	Amendment has been made to clarify the relevant period for Indexation purposes
Clause 3.18 has been updated to clarify that all payments under the Agreement shall not be liable for VAT	Amendment made to clarify the factual nature of the payments.
Clauses 3.23 and 3.24 have been deleted	Clause 3.23 has been deleted as the purposes to which the Heritage Contribution Scheme can be expended is specific, and will not conflict with Regulation 123 of the CIL Regulations. Clause 3.24 was considered to be unnecessary as although the District Council has adopted CIL, new waste infrastructure is not identified as a category of development which attracts a levy.
Paragraph 1.1 of the First Schedule has been amended so as to require that written confirmation be received from the County Council that the Wader Mitigation Plan has been implemented prior to Commencement.	Although the previous draft required that the Wader Mitigation Plan be implemented prior to Commencement of the scheme, the provision of written confirmation provides the County Council with additional comfort that the requirements of the Wader Mitigation Plan will be undertaken.
Paragraph 3.1 of the First Schedule now requires that the Owner use "best" endeavours rather than "reasonable endeavours".	This amendment provides further reassurance that the Travel Plan will be implemented and complied with.

Paragraph 3.1 of the First Schedule now adds that the Owner shall provide an Employee Travel Pack to "any new employees together with all other employment policies at the time that the individual's employment commences"	This amendment has been made to provide further clarifications as to when the information pack will be provided to employees in ensuring that its requirements are complied with.
Minor amendments have been made to paragraph 3.4 of the First Schedule in confirming that the Owner will incorporate any reasonable recommendations made by the Council following each annual review of the Travel Plan	Amendments do not affect the substantive requirements of the obligation
Third and Fourth Schedules now include the Travel Plan and Wader Mitigation Plan, with 'Draft Decision Notice' removed from the Third Schedule	Draft Decision Notice no longer required to be included in the schedule given that consent would be granted by the Secretary of State rather than the County Council