



Draft Heads of Terms for Section 106 Obligation

LAND NORTH OF BALCOMBE ROAD, HAYWARDS HEATH

Application by Fairfax Acquisitions Ltd

Outline planning application for the erection of up to 125 dwellings, together with the provision of landscaping, open space, and associated development works, with access from Balcombe Road. All matters reserved except access.

December 2025

WITHOUT PREJUDICE

Introduction

This document is prepared on a without prejudice basis and sets out the draft Heads of Terms for inclusion within a S106 Agreement to be subsequently prepared in support of this outline planning application for the erection of up to 125 dwellings, and associated works, including access, parking, landscaping, publicly accessible open space.

The planning application is in outline, with access to be determined. Appearance, landscaping, layout and scale are reserved.

The Application is submitted to Mid Sussex District Council and planning obligations are to be secured with Mid Sussex District Council.

Planning Obligations: Draft Heads of Terms

The financial contributions to be requested by the Council will need to meet the planning obligations test set out in part 11 Section 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 58 of the NPPF (Dec 2024).

As such, any planning obligations to be imposed as part of the application must be:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

The below draft heads of terms give an indication as to the matters that may be secured through the subsequent Legal Agreement.

The Applicant will work with the Council to secure the requisite contributions to be secured through the provisions as set out in Appendix 5 of the Submission draft Mid Sussex Local Plan

Affordable Housing

The Applicant will enter into an obligation to secure the provision of 30% affordable housing (up to 37 dwellings).

The tenure split of the affordable dwellings (having regard to the definitions set out at Annex 2 to the NPPF) is a matter to be negotiated during the determination of the planning application.

Other Contributions

Financial contributions towards the provision of necessary and directly related infrastructure and services that is fairly and reasonably related in scale and kind to the development will be discussed with the Council through the consideration of the Application and will be secured through a s106 legal agreement, subject to the Councils providing the requisite justification having regard to the CIL Regulations.

Financial contributions towards the following matters are to be negotiated as part of the application process and may be required, based upon evidence to be provided by the Councils (and statutory consultees as appropriate) in terms of need. Obligations and/or contributions may be secured in relation to the following provisions:

On-site provision

- (i) On-site provision of affordable housing (30%).
- (ii) On-site community open space.
- (iii) Travel Plan.
- (iv) Biodiversity net gain.

Off-site provision

- (v) Sustainable Transport measures.
- (vi) Biodiversity net gain.

Councils' Costs

The Applicant is willing to pay the Council's reasonable costs to produce the legal agreement, which matter is to be agreed in advance.