



## **Draft Heads of Terms for Section 106 Obligation**

### **LAND NORTH OF BORERS ARMS ROAD, COPTHORNE**

#### **Application by Fairfax Acquisitions Ltd**

***Outline planning application with all matters reserved except for access for the demolition of an existing commercial building and the erection of up to 260 dwellings, up to 1,700sqm of employment floorspace E(c)(iii), E(g)(i)(ii)(iii), car parking, landscaping, open space, and associated development works, with access from Copthorne Bank and Borers Arms Road. All matters reserved except access.***

**November 2025**

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**WITHOUT PREJUDICE**

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#### **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 260 dwellings, up to 1,700sqm of employment floorspace, 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 both Mid Sussex and Tandridge District Councils as it extends across both Local Authority boundaries.

Accordingly, planning obligations are to be secured with Tandridge District Council and Mid Sussex District Council, noting that the majority of the Application Site falls within Tandridge District Council.

#### **Community Infrastructure Levy**

##### **Tandridge District Council**

Tandridge District Council's Community Infrastructure Levy ("CIL") Charging schedule was adopted and took effect in December 2014. Allowing for indexation, the current rate for residential dwellings (C3) is understood to be £196.32 per qualifying square metre (as per the Council's Annual CIL Rate Summary 2025).

A completed CIL form accompanies this Planning Application.

As the Application is submitted in outline, the financial sum to be secured through CIL is to be calculated at the reserved matters stage.

### Mid Sussex

Only the proposed access road to serve the Site from Borers Arms Road is within Mid Sussex District. The proposed dwellings and employment provision falls entirely within Tandridge District.

To the extent S106 obligations need to be secured in favour of Mid Sussex, they will need to have regard to Appendix 5 of the Submission draft Local Plan.

### **Planning Obligations: Draft Heads of Terms**

The financial contributions to be requested by the Councils 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(s), where not already secured through Tandridge District Council's Community Infrastructure Levy ("CIL").

The Applicant will work with the Councils (Mid Sussex and Tandridge) to secure the requisite contributions to be secured through the provisions as set out in (i) The Tandridge District Core Strategy 2008, (ii) The Tandridge Local Plan Part 2: Detailed Policies 2014-2029; and (iii) Appendix 5 of the Submission draft Mid Sussex Local Plan

### Affordable Housing

The Applicant will enter into an obligation to secure the provision of 50% affordable housing (up to 130 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 Councils 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.

Where not secured through CIL, 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 (50%).
- (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 Councils' reasonable costs to produce the legal agreement, which matter is to be agreed in advance.

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