

**LAND AT NEWGATE LANE (SOUTH), FAREHAM**  
**PLANNING OBLIGATIONS (HEADS OF TERMS)**  
**S106 OF THE TOWN AND COUNTY PLANNING ACT 1990 (AS AMENDED)**

- 1.1 The Planning Obligations Supplementary Planning Document for the Borough of Fareham (April 2016) sets out the Council's process for securing planning obligations through Section 106 Agreements.
- 1.2 Having regard to Regulation 122 of the Community Infrastructure Regulations 2010, it states that planning obligations may only constitute a reason for granting planning permission for any development if the obligation is:
- Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.
- 1.3 The accompanying 'Regulation 123 List' updated 1<sup>st</sup> March 2018 (online resource) provides that CIL payments will wholly or partly fund a range of infrastructure needs including, of relevance to this proposal:
- Community centres;
  - Open space (excluding on-site provision of local open space and children's play equipment);
  - Playing fields and sports pitches; and
  - Transport infrastructure (excluding site specific access and mitigation).
- 1.4 Obligations to be provided through Section 106 should therefore not include the above items.
- 1.5 It is noted that the amended Regulation 123 List, which was approved by the Council's Executive Committee on 20<sup>th</sup> February 2018, was specifically updated to exclude education contributions.

1.6 The Executive Briefing Paper produced for the above meeting states:

*"24. Any request for financial contributions would need to be justified by the County Council on a case by case basis. The justification from the County Council would need to show a clear link between the contribution sought and the development proposed and how the contribution would directly mitigate any impacts of the proposed scheme. The County Council will therefore need to set out precisely the level of financial contribution they are seeking and where it would be spent. This Council will need to be satisfied that any obligation sought will comply with Regulations 122 and 123 of the Community Infrastructure Regulations 2010 (as amended).*

*25. Officers do not anticipate financial contributions being sought from every application for residential development. Furthermore, as stated above, Hampshire County Council will need to clearly demonstrate which schools' contributions are sought towards and why. The application of a 'tariff' based approach to contributions for all residential schemes of 10 units or more would not be appropriate, nor would it in the view of Officers represent proper justification.*

*26. Officers recognise that where Hampshire County Council seeks financial contributions towards education this could have implications for the viability of individual schemes. In these instances, it would be open to applicants to submit a viability assessment to demonstrate what level of contribution a site is able to withstand if they believed that viability would be unacceptably affected.*

*27. In some cases, the implications of making contributions towards education facilities may mean that the level of other contributions and/ or affordable housing provision is impacted. Where this is the case these matters will need to be weighed up by the decision maker in considering individual proposals. In many instances, the decision maker will be this Council's Planning Committee."*

1.7 As set out in the Executive Briefing Paper quoted above, the onus is on Hampshire County Council to demonstrate that there is a need for financial contributions towards school provision arising from this development.

1.8 The Draft Heads of Terms for the proposed development are therefore as follows:

Affordable Housing	<p>The proposed development will provide 40% affordable housing.</p> <p>The affordable housing tenure split and mix will be agreed in due course with the Council.</p>
Solent Waders and Brent Goose Strategy	<p>In accordance with the 'Guidance on Mitigation and Off-setting Requirements' document (October 2018), a payment of £35,610 per hectare will be made to mitigate the impacts on this "low use" site.</p>
Education	<p>To be agreed.</p>
Open Space	<p>On-site Public Open Space will be provided in the broad location shown on the Indicative Open Space Plan as coloured in green (not hatched) and in accordance with the Council's Planning Obligations SPD as follows –</p> <p>Parks and Amenity Open Space – at least 1.27 ha</p> <p>LEAP – at least 400sqm in size, contain 5 pieces of equipment and allow for a 20m buffer to the nearest residential properties to be accommodated.</p>

	<p>The Public Open Space will be offered to the local planning authority for adoption. Maintenance contributions will be made in line with the provisional rates set out in the Council's Planning Obligations SPD of £6 per sqm for Parks and Amenity Open Space and £92 per sqm for the LEAP.</p>
Highways	<p>The site access will be provided in accordance with the approved plans and a S.278 Agreement entered into to provide the necessary off-site access works.</p>
Solent Recreation Mitigation Strategy (SRMS)	<p>A payment towards the SRMS will be made as follows:</p> <ul style="list-style-type: none"> <li>• £337 for 1-bedroom dwelling;</li> <li>• £487 for 2-bedroom dwelling;</li> <li>• £637 for 3-bedroom dwelling;</li> <li>• £749 for 4-bedroom dwelling; and</li> <li>• £880 for 5 bedrooms or more.</li> </ul>
Travel Plan	<p>The measures set out in the Travel Plan shall be adhered to.</p>