

WATES DEVELOPMENTS - TENTERDEN

SECTION 106 DRAFTING RIDER FOR SPORTS FACILITIES

The purpose of this explanatory rider is to propose (non-exhaustive) drafting mechanisms to support the use of a planning obligation under Section 106 TCPA 1990 as the means by which to secure the identity of the end-use operator of the sports facilities within the scheme, as well as to control the delivery and future maintenance of those facilities to the appropriate standard. It is proposed that these terms would sit within a dedicated schedule of the prospective Section 106 agreement.

This rider should be read in conjunction with the Land Trust's detailed response to questions around estate management proposals. The following provisions are intended to be compatible with the proposed approach whereby Wates would transfer the freehold of all relevant amenity/open space and sports facilities to an estate management company/body such as the Land Trust – the sports facilities would then be leased by the Land Trust to the end-use operator/managing agent identified by the 'Sports Facilities Operator Plan'.

Identity of the Sports Facilities Operator

Paragraph 1 of Schedule X of the Section 106 agreement:

'1.1 Not to Commence the Development until the Sports Facilities Operator Plan has been approved in writing by the Council

1.2 Unless otherwise agreed in writing with the Council to implement the Sports Facilities Operator Plan in the form approved by the Council pursuant to paragraph 1.1'

Definition of '**Sports Facilities**'

means the sports pitches, pavilion and associated car park the location of which is shown indicatively on the plan at Appendix [] to this Deed

Definition of '**Sports Facilities Operator Plan**'

means a detailed plan to secure an appropriate body/organisation to undertake the ongoing maintenance and operational management of the Sports Facilities to make them available for their sports and

recreational use AND which details may include proposals for community use (where appropriate adopting Sport England's prevailing guidance on community/shared use)

Definition of '**Commencement**' of Development:

means the commencement of the Development by the carrying out of a material operation (as defined by Section 56 (4) of the Act) provided always that:

- (i) any works necessary in undertaking a land survey or investigation of or obtaining soil samples from the land whether that be in respect of any requirements for environmental or ecological studies or otherwise AND including any operations associated with habitats/ecological mitigation;
- (ii) any remedial works on the Property necessary to prevent the risk of harm to human health and safety or required in order to remediate the Property or comply with any condition imposed upon the grant of a planning permission or any licence;
- (iii) works of demolition and site clearance including earth works, re-grading, below ground works and landscape clearance works;
- (iv) works of archaeological excavation on the Property;
- (v) erection of hoardings, temporary enclosures, fences and other security measures on the Property including any advertisements upon them;

- (vi) works for the provision and diversion of services;
- (vii) construction of temporary accesses and/or any highway works and any haul roads to facilitate the carrying out of the Development;
- (viii) erection of temporary facilities for security personnel and the erection of security cameras
- (ix) the construction of a temporary site compound and welfare facilities/buildings/enclosures or a temporary marketing suite that does not form a structure or part of a structure that will become a Dwelling after its use as a temporary marketing suite
- (x) any other preparatory or enabling works agreed with the Council

AND for the purposes of paragraph 1.1 of Schedule [X] only:

- (xi) off-site drainage improvement works in Appledore Road.
- (xii) any foul and surface water drainage infrastructure works associated with the delivery of the Sports Facilities
- (xiii) ***[placeholder for descriptions of any additional operations/works/infrastructure that need not affect approval of the Sports Facilities Operator Plan]***

shall for the purposes of this Deed be deemed not to constitute a material operation and consequently shall not individually or together constitute works which shall begin or be deemed to commence the

Development and "Commence" and "Commence the Development" shall be construed accordingly

Physical Delivery of the Sports Facilities

'Not to Occupy or permit the Occupation of more than 50 Dwellings until a Certificate of Practical Completion (Sports Facilities) has been issued in respect of the Sports Facilities'

Definition of '**Certificate of Practical Completion (Sports Facilities)**':

means a certificate issued by the Owner's architect (in respect of the pavilion) or agronomist (in respect of grass pitches) confirming that the relevant Sports Facilities have been completed in all material respects in accordance with the Sports Facilities Specification **[N.B propose to append the appropriate parts of the detailed application to define this specification]**

Maintenance specification for the Sports Facilities

'Not to bring the Sports Facilities into use until the Council has approved in writing a scheme for the management and maintenance of the Sports Facilities'

'The Sports Facilities shall be managed and maintained in accordance with the details approved by the Council pursuant to paragraph [] Provided that such scheme may be amended from time to time by the Owner where reasonably necessary to take into account prevailing maintenance requirements'

(N.B. The above restriction would properly pass to the Sports Facilities operator to satisfy as leaseholder/freeholder).