Procedure for securing planning obligations by means of agreement under section 111 of Local Government Act 1972

Sheffield City Council (“the Council”) is the present proprietor of the land subject to the planning application in respect of the appeal (“the Land”). Avant Homes (England) Limited (“Avant”) does not have a proprietary interest in the Land and so cannot lawfully covenant as landowner at present to secure the planning obligations under a section 106 agreement.

In order to address this anomaly, the Council and Avant have agreed to enter into an agreement under section 111 of the Local Government Act 1972 (“the Section 111 Agreement”) and this will oblige both parties to enter into a section 106 agreement to secure the requisite planning obligations. The form of the section 106 agreement is now agreed and will be appended to the Section 111 Agreement. Under the Section 111 Agreement Avant and the Council will covenant as follows:

* Avant will covenant to enter into the section 106 agreement on the date that it acquires the Land from the Council and not to implement a planning permission that may be granted until the section 106 agreement has been executed by Avant.
* The Council will covenant to enter into the section 106 agreement with Avant on the date that it disposes of the Land to Avant.

Obligations to be secured under section 106 agreement

In the event that the planning permission is granted on appeal, the section 106 agreement will be entered into between the Council and Avant on the date of Avant’s acquisition of the Land. The section 106 agreement will secure the following obligations:

* The construction by Avant of the Sustainable Urban Drainage System (“SUDS”) serving the development (on land within the Council’s ownership) and provisions to secure its subsequent maintenance by the Council. When the Council assume responsibility for the SUDS, Avant will pay to the Council a contribution of £6,500 towards the Council’s costs associated with the adoption of the SUDS and a contribution of £10,000 towards the Council’s costs associated with the maintenance of the SUDS.
* (a) The construction by Avant of public open space on adjoining land within the ownership the Council; and (b) construction of landscaping on part of the Land and its subsequent transfer back to the Council (both areas together known as “the Public Open Space”).
* Annual maintenance charges payable by plot purchasers of the dwellings to the Council in respect of the Council’s costs in connection with maintenance of the SUDS, Owlthorpe Park and the Public Open Space.
* Payment of the following contributions prior to the commencement of development: £16,666 towards improvements to the Donetsk Way Tram Stop; £21,485 towards the provision of street lighting on a footpath abutting the Land; £22,935.91 towards the provision of tree planting on adjoining land; and £5,000 towards the provision of a stoned footpath between the Land and an adjacent right of way.
* Payment of a contribution of £230,400 to be applied by the Council to address impact of the development on bio-diversity. The measures to secure the bio-diversity net gain will be set out under a landscape and ecological management plan that is to be prepared by the Council. 50% of this contribution shall be payable prior to occupation of the first dwelling and the remaining 50% shall be payable prior to occupation of the 50th dwelling.
* Payment of a contribution of £14,000 to be applied by the Council towards the provision of litter bins, dog waste bins and signs on the approach to Owlthorpe Local Wildlife Site. This shall be payable prior to commencement of development.
* The provision of 15 on-site dwellings of affordable housing on the Land to be provided on shared ownership tenures.