



## Appeal Under Section 78 of the Town and Country Planning Act 1990

**Dean Farm  
150 Whittingham Lane  
Broughton  
Preston  
PR3 2JL**

Outline planning application seeking approval for access only for residential development for up to 32no. dwellings (all other matters reserved)

PINS Ref: APP/N2345/W/21/3278556

LPA Ref: 06/2020/0977

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**DRAFT HEADS OF TERMS FOR S106**

September 2021



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## **/1 DRAFT HEADS OF TERMS FOR S.106 AGREEMENT**

- 1.1. An appeal has been lodged under Section 78 of the Town and Country Planning Act 1990 on behalf of Community Gateway Association (CGA) ('the appellant'), following the refusal by Preston City Council ('the council') of planning application Ref: 06/2020/0977. This sought outline permission for up to 32 no. dwellings with access (all other matters reserved) at Dean Farm, 150 Whittingham Lane, Broughton, Preston, PR3 2JL ('the site').
- 1.2. The following provides potential Heads of Terms to be incorporated into any S.106 Agreement associated with the above planning application. All contributions made must be compliant with paragraph 57 of the National Planning Policy Framework (2021) and regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010.

### **Affordable Housing**

- 1.3. The Appellants, Community Gateway Association ('CGA'), is a Registered Provider as defined by the Housing and Regeneration Act 2008. Registered Providers include local authority landlords and private registered providers (not-for-profit housing associations and for-profit organisations) and in so far as their activity in the provision of social housing is concerned these are regulated by the Regulator of Social Housing. CGA is a charitable registered society operating on a not-for-profit basis and mainly within the Greater Preston area. CGA seeks to maximise the delivery of affordable homes in the spirit of a not-for profit Registered Provider.
- 1.4. As the site is proposed as an Entry Level Exception Site, as defined by paragraph 72 of the National Planning Policy Framework, the proposal is for all homes in this development to be delivered as affordable housing. This shall meet the definitions of 'affordable housing' and 'entry-level exception site' within Annex 2 of the National Planning Policy Framework (or any future, equivalent guidance that replaces it). It is

proposed that the affordable housing and provision of entry-level homes can be secured via S.106 obligation.

- 1.5. It is anticipated that the properties will be allocated in accordance with Select Move (or any equivalent replacement system), Preston City Council's choice-based lettings system. Homes for Shared Ownership will be sold and managed in accordance with Homes England grant funding requirements using Homes England standard lease clauses. CGA intend to allocate a minimum of 50% of the homes for affordable rent, with a maximum of 50% of homes being for shared ownership. The S.106 will include mechanisms to ensure that the homes are suitable for first-time buyers and equivalent for those looking to rent.

### **Education**

- 1.6. The Appellant is willing to pay a financial contribution towards local education provision, as per the requests made by Lancashire County Council. It is noted however that the assessment made by Lancashire County Council, dated 25<sup>th</sup> August 2021, nevertheless bases calculations upon an assumption that all properties delivered are 4-bedroom homes. As such, because the current appeal relates to an outline application, it is deemed reasonable for a reassessment to be made following the submission of a reserved matters application. Contributions will be payable via the S.106 agreement, with this legal document appropriately worded to allow for a re-assessment of the final amount.

### **Public Open Space**

- 1.7. The Committee Report for the outline application refers to the Council's Central Lancashire Open Space Study – Policy Implications and Recommendations Report 2012 confirms how:

*"there is a surplus of amenity greenspace and of active play facilities of 3.685 hectares and 0.067 hectares respectively. However, as the nearest amenity greenspace/active play area is at King Georges Field, in Broughton village centre, around 1.6km west of*

*the site (a 15-20 minute walk), the SPD requires that the appropriate level of on-site provision is delivered. This would equate to 0.017 hectares of amenity open space.*

*The indicative proposal includes an area of public open space in the north eastern part of site between plots 12 and 13 which covers an area of approximately 0.07ha. The area covers a gas main and its 10m buffer. The precise details would be a matter for a future reserved matters submission but the provision of the green space and its future maintenance and management could be secured through a Section 106 Obligation should planning permission be granted”.*

- 1.8. The Appellant is agreeable to finalising any contributions towards public open space at the reserved matters stage, as per the above. They are also willing for the S.106 agreement to include mechanisms for the future maintenance and management of the land.



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