

DAC BEACHCROFT

Dated *Tuesday 30th June* 2020

- (1) **TERENCE DANIEL ROBINSON and RITA
ROBINSON
-and-**
- (2) **DOMENICO ROCCO and GIOVANNA ROCCO and
LIBERATO ROCCO and FELICINA DANIELA
CHAPERLIN

-and-**
- (3) **VERONICA CLIFTON BROWN

-and-**
- (4) **CAROLINE MARY DAWKINS

-and-**
- (5) **ROSEDALE ADL LIMITED

-and-**
- (6) **CREST NICHOLSON OPERATIONS LIMITED

- and -**
- (7) **THE COUNCIL OF THE BOROUGH OF
BROXBOURNE**

**AGREEMENT
pursuant to Section 106
of the
Town and Country Planning Act 1990
relating to
Land at Rosedale Park North,
land North and South of Andrews Lane
Planning Application Ref: 07/17/0352/O**

SCHEDULE 3

PRIMARY SCHOOL

Unless otherwise agreed in writing with the Council the Owner covenants with the Council as follows:

1. PRIMARY SCHOOL CONTRACT

1.1. Prior to the letting of the Primary School Contract the Owner shall:

1.1.1. Notify the Council of the parties from whom it intends to obtain quotes for the delivery of the Primary School and submit the Primary School Tender Invitation for the Council's approval AND the Council shall be entitled to comment upon and propose amendments to the Primary School Tender Invitation for the period of 20 Working Days from the date upon which it received the Primary School Tender Invitation AND for the avoidance of doubt the comments and amendments proposed by the Council pursuant to this paragraph will seek to secure provisions within the tender documentation which set out design expectations for the external appearance of the Primary School which would provide comfort to secure a Reserved Matters application approval and the Council is also seeking a measured assessment of the tenders design and cost

1.1.2. Invite the Council to confirm whether it wishes to propose additional parties from which to seek tenders for the purpose described at paragraph 1.1.1 Provided that should the Council fail to notify the Owner of any additional parties within 20 Working Days of the date on which the Council has received the Owner's notice pursuant to paragraph 1.1.1 then the Owner shall be entitled to obtain tenders only from the parties specified in its notice under paragraph 1.1.1

1.1.3. Seek tenders from the parties identified pursuant to paragraphs 1.1.1 and 1.1.2 (as applicable) based on a Primary School Tender Invitation in a form approved by the Council pursuant to paragraph 1.1.1 Provided that should the Council fail to approve the Primary School Tender Invitation within 20 Working Days from the date upon which it was received by the Council then the Primary School Tender Invitation shall be deemed to be approved in the form submitted by the Owner

1.1.4. Following the Owner's receipt of the tenders referred to at paragraph 1.1.3, the Owner will provide to the Council copies of the tenders received AND the Council shall use its Reasonable Endeavours to provide its written comments on those tenders within a period of 20 Working Days following receipt of the tenders

1.1.5. Within 10 Working Days of the earlier occurrence of (i) receipt of the Council's written comments pursuant to paragraph 1.1.4 AND (ii) the expiry of the period of 20 Working Days referred to at paragraph 1.1.4 the Owner shall submit to the Council a written

statement setting out the identity of the contractor party the Owner proposes to select for the delivery of the Primary School and giving full reasons for its decision having regard to the Council's comments (if any) received pursuant to paragraph 1.1.4.

- 1.2. The Owner shall let the Primary School Contract prior to the Occupation of more than 200 Dwellings.

2. PRIMARY SCHOOL INTERIM AND FINAL COSTS

- 2.1. The Owner shall as soon as reasonably practicable following receipt of:

- 2.1.1. any interim account of Costs for which it is contractually liable to pay pursuant to the Primary School Contract and all interim Costs otherwise incurred by the Owner in financing the delivery of the Primary School (the "Primary School Interim Costs"); and

- 2.1.2. the full and final account of all Costs for which it is contractually liable to pay pursuant to the Primary School Contract and all Costs otherwise incurred by the Owner in financing the delivery of the Primary School (the "Primary School Final Costs")

submit to the Council such evidence and any clarification of those Primary School Interim Costs and Primary School Final Costs as is reasonably requested by the Council AND provide the Council with such assistance as is reasonably necessary for the Council to comply with its covenants in Schedule 9 of this Deed to ensure that the Owner (being the party who entered into the Primary School Contract) is fully reimbursed for all sums payable in respect of the Primary School Construction Proportionate Contribution and the Council Primary School Construction Contribution as calculated based on the Primary School Final Costs AND for the avoidance of doubt the Council shall only be required to reimburse the Primary School Construction Proportionate Contribution from funds it has received pursuant to Schedule 9.

3. PRIMARY SCHOOL DELIVERY

Part 1

- 3.1. Not to Occupy or allow the Occupation of more than 100 Dwellings (unless otherwise agreed in writing by the Council) until Crest is entitled to the benefit of a legally binding contract for the purchase of the Primary School Land AND notice of the same has been served on the Council
- 3.2. Prior to Occupation of more than 150 Dwellings (unless otherwise agreed in writing by the Council) to submit the reserved matters application for the Primary School AND for the avoidance of any doubt the discharge of this restriction shall be achieved by the making of the Owner's first application for approval of those reserved matters notwithstanding that the Owner shall be entitled to make further and/or alternative reserved matters applications in respect of

the Primary School;

- 3.3. Prior to the making of any application for approval of reserved matters for the Primary School the Owner shall submit a detailed specification for the Primary School to the Council to include details of internal fit out and shall consult and cooperate with the Council with regard to the preparation of the Reserved Matters application for the Primary School AND where the Council has received a detailed specification for the Primary School for its approval but has failed to confirm its approval or refusal (giving reasons) of those details within 30 Working Days of receipt then those details shall be deemed to be approved for the purposes of this Schedule
- 3.4. the Owner shall construct and fit out the Primary School in accordance with the Primary School Specification and the details approved (or deemed to be approved) by the Council pursuant to paragraph 3.3
- 3.5. The Primary School shall be constructed and delivered on the Primary School Land by the Owner in accordance with the Primary School Specification BUT Subject always to the Owner's liability in the performance of the construction and delivery of the Primary School being limited to the Primary School Cost the Owner may for the purposes of compliance with this Schedule deliver the Primary School subject to such amendments to the Primary School Specification as are reasonably necessary to meet the requirements of any school operator selected and/or authorised to operate the Primary School
- 3.6. Subject to any alternative timescale or trigger as may be agreed between the Owner and the Council in writing the Owner shall use its Reasonable Endeavours to complete the construction of the Primary School prior to Occupation of more than 250 Dwellings AND which completion is to be evidenced by the issue of a Certificate of Practical Completion AND Provided That the Occupation restriction imposed by this paragraph shall instead become a restriction not to Occupy more than 325 Dwellings until the issue of the Certificate of Practical Completion for the Primary School in the event that the Council refuses or unreasonably delays its approval of the Owner's first Reserved Matters application for the Primary School AND for the avoidance of doubt in the event that the Occupation limit of more than 325 Dwellings applies the reference to the earlier Occupation limit of more than 250 Dwellings shall cease to apply and be of no effect
- 3.7. the Council (and those authorised by it) shall be permitted on the giving of reasonable prior notice to the Owner to access (for the purpose only of inspection and reporting on progress of the Primary School construction works) the Primary School Land at reasonable times during the construction phase of the Primary School PROVIDED THAT the access to enter the Property as provided for by this paragraph shall only be permitted on the basis that if reasonably requested by the Owner the Council's duly authorised representatives shall undertake appropriate and reasonable health and safety training at the Property immediately prior to entry to ensure compliance with relevant statutory requirements whilst on the Property





- 3.8. within 10 Working Days of the date of issue of the Certificate of Practical Completion for the Primary School pursuant to paragraph 3.6 the Owner shall deliver a duly executed Transfer of the Primary School Land to Hertfordshire County Council in accordance with the terms set out in Part 2 of this Schedule 3 **AND** in the event that Hertfordshire County Council shall refuse or within the period of 30 Working Days following its receipt of the Transfer fail to complete the said Transfer of the Primary School Land and on evidence of the same refusal or failure to complete the Owner shall within 10 Working Days of the provision of that evidence to the Council deliver a duly executed Transfer of the Primary School Land to the Council in accordance with the terms set out in Part 2 of this Schedule 3
- 3.9. the Council covenants with the Owner to execute and complete the Transfer of the Primary School Land delivered to it pursuant to paragraph 3.8 within 10 Working Days Provided that where the Owner has complied with the terms of paragraph 3.8 and where there is any unreasonable delay in the completion of the Transfer attributable to the Council then the Council shall indemnify and refund to the Owner any reasonable and proper Costs incurred by the Owner as the result of that delay
- 3.10. The Owner shall be responsible for the reasonable legal costs associated with the completion of the Transfer of the Primary School Land either to Hertfordshire County Council or the Council (as the case may be)
- 3.11. Upon the completion of the Transfer of the Primary School Land the Owner shall provide to the transferee the Warranties

Part 2

Primary School Land Transfer

- 1.1. The Transfer of the Primary School Land to either Hertfordshire County Council or the Council (as the case may be in accordance with paragraph 3.8 of this Schedule 3) shall be on/include the following terms:
- i. a restriction that the Primary School Land shall only be used for purposes associated with its principal function as a school for primary level/early years education but without prejudice to ancillary community/recreational uses
 - ii. with vacant possession and free from any refuse/construction materials
 - iii. reserving to the Owner (as transferor) such rights of access as may be reasonably required for the purposes of carrying out the Development on the transferor's retained land which Development shall be done with all due diligence by the Owner causing as little inconvenience to Hertfordshire County Council or the Council (as the case may be) as possible in respect of the use and enjoyment of the Primary School Land and Hertfordshire

County Council and the Council (as the case may be) reserves the right to refuse such access in the event the Owner is responsible itself or through its appointed agents for causing undue delay in completing the Development.

-  Southern Sports Ground
-  Main Sports Ground
-  Primary School Site
-  Indicative location of Health Centre



OMEGA

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LOCAL FACILITIES PLAN

ROSEDALE PARK NORTH, CHESHUNT

CREST NICHOLSON OPERATIONS LTD

PRELIMINARY

1:1500 @ A0

SEPTEMBER 2019

2099-SK-1701-B

AUTHORISED SIGNATORY

