

Review Note

Date: 9th April 2015

Ref: PB/D.0341

Re: **Upper Heyford Changing Provision Review**

Introduction

Pegasus have prepared a short note which reviews the applicable commitments in the various S106 agreements which concerned the provision of changing facilities/pavilion.

S106 agreements

There are three principal S106 agreements in existence of potential relevance:

1. The 'lead appeal' S106, which was signed in January 2009 and related to both the new settlement area and the flying field area;
2. The 'new settlement' S106, which superseded those parts of the lead appeal S106 which had related to the new settlement. This was signed in December 2011; and
3. The 'Deed of Variation' S106 which amended certain provisions concerning recreation, highways and education. This was signed in June 2014.

The nature of the provision required

The 2011 "New Settlement" S106 sets out the requirements for Sports Pitches and Changing Facilities in Schedule 5. Specifically with regard to issue of "changing facilities" this is set out in the definition, and cross refers to Appendix 9 within this definition. Two sets of changing facilities were to be provided. Appendix 9 sets out an "Outline Specification" for the "Sports Changing Pavilion" which variously comprises team changing rooms, officials changing rooms, storage, toilet facilities, first aid room, a kitchenette and other circulation areas/plant rooms.

These obligations were modified in the June 2014 Deed of Variation. Under Schedule 3 to the Deed of Variation, Clause 2.2 notes that under the previous 2011 Schedule 5 definition of "Changing Facilities", these should be reduced from "two" to "one".

Copies of the relevant extracts are duly attached to this note for ease of reference, together with a copy of the drawing K.0158-34C-4.

The timing of the provision required

The 2011 "New Settlement" S106 sets out the timing of the requirements for Sports Pitches and Changing Facilities in Schedule 5 at Clause 2. This states that no more than 650 dwellings shall be occupied until the changing facilities have been provided. This clause was not amended in the subsequent Deed of Variation.

Conclusions

1. The S106 commitments, as variously amended, require the provision of one set of changing facilities to a specification which includes a kitchenette and other ancillary facilities, but not a full 'pavilion-style' building.
2. The changing facilities will need to be provided prior to the occupation of 650 dwellings.



EVERSHEDS

PB
/

Dated

22 DECEMBER

2011

- (1) CHERWELL DISTRICT COUNCIL
- (2) OXFORDSHIRE COUNTY COUNCIL
- (3) UPPER HEYFORD GP LIMITED AND UPPER HEYFORD NOMINEE LIMITED
- (4) DORCHESTER HEYFORD PARK GP LIMITED AND DORCHESTER HEYFORD PARK NOMINEE LIMITED
- (5) FREP 2 (HEYFORD PARK) LIMITED
- (6) INVESTEC BANK PLC

AGREEMENT

under section 106 Town and Country Planning Act 1990 relating to the former RAF base at Upper Heyford

Final Version

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SCHEDULE 5

Sports Pitches and Changing Facilities

In this Schedule the following words and expressions shall have the following meaning:

"As-Built Drawings"

means detailed plans and drawings showing the facility in the form in which the Sports Pitches have actually been constructed including details of drainage and levels

"Changing Facilities"

means the two sets of changing facilities to be provided either as purpose built facilities or within Community Buildings to be agreed between the Landowner and the District Council in accordance with paragraph 1 of this Schedule 5 in the vicinity of and to serve the Sports Pitches in accordance with Sport England Guidance current from time to time and the Changing Facilities Specification appended hereto as Appendix 9 unless otherwise agreed in writing with the District Council which shall in the case of a facility which is not a purpose built facility be modified accordingly provided that if changing facilities are provided as part of a shared facility there are separate changing facilities to serve the Sports Pitches and separate exits leading on to the pitches

"Changing Facilities Contribution"

means a sum calculated in accordance with the Commuted Sum Calculations RPI Index-Linked towards the future maintenance of the Changing Facilities unless otherwise agreed in writing with the District Council

"Sports Pitches"

means 4 tennis courts constructed to Sport England specifications and 1 football pitch and 1 cricket pitch to be provided in accordance with Sport England's Natural Turf for Sport England current from time to time and the two existing baseball pitches and adjacent tennis courts situated on the Adjoining Land

"Sports Pitches Contribution"

means a sum calculated in accordance with the Commuted Sum Calculations RPI Index-Linked towards the future maintenance of the Sports Pitches

"the Surveyor"

means the District Council's Head of Central Services or such other person or persons as shall be notified in writing by the District Council to the Landowner.

1. The Landowner shall not start construction until it has submitted to and secured the approval of the District Council for a scheme detailing the proposed location and specification for the Changing Facilities and the siting and specification of the Sports Pitches.
2. The Landowner shall not cause or permit more than 650 Dwellings to be Occupied until it has
 - 2.1 laid out the Sports Pitches to the reasonable satisfaction of the District Council and brought them into use in the locations submitted under paragraph 1 or such other locations as may subsequently be notified to and agreed in writing with the District Council
 - 2.2 provided the Changing Facilities in accordance with the details submitted pursuant to paragraph 1 to the reasonable satisfaction of the District Council
3. In providing the Sports Pitches the Landowner shall
 - 3.1 notify the Surveyor of all site meetings relating to the construction of each Sports Pitch; and
 - 3.2 permit the Surveyor to attend and to put forward his views at all site meetings during the course of construction and on reasonable notice to inspect during the course of construction and to suggest items for inclusion in any necessary schedule of defects issued to the contractor and
 - 3.3 send the Surveyor copies of all instructions issued to a contractor in respect of a facility at the same time as issuing them
4. The Landowner shall not lay any new services through or beneath Sports Pitches (other than to serve any Changing Facilities) without the written consent of the District Council and shall prior to the issue of the Certificate of Practical Completion notify the District Council of any existing services laid through or beneath the Sports Pitches
5. Upon the completion of the laying out of the Sports Pitches and provision of the Changing Facilities the Landowner shall seek the approval of the District Council for the provision of the Sports Pitches and the Changing Facilities in accordance with Clause 7 PROVIDED THAT the maintenance period for the Changing Facilities and Sports Pitches shall be 24 months
6. Within 14 days of the issue of a Certificate of Final Completion in relation to the Changing Facilities or a Sports Pitch the Landowner shall either:
 - 6.1 notify the District Council that it intends to transfer the relevant Changing Facilities or Sports Pitch to a Management Company or
 - 6.2 offer to transfer the relevant transfer the relevant Changing Facilities or Sports Pitch to the District Council
 - 6.3 and the first such notification/offer shall also cover the two existing baseball pitches situated on the Adjoining Land

7. In the event that the Landowner elects to transfer the relevant Changing Facilities or Sports Pitch to a Management Company the Landowner shall prior to such transfer submit and secure the approval of the District Council for
 - 7.1 Details of the Management Company; and
 - 7.2 Details of the Management Scheme for the relevant Changing Facilities or Sports Pitch which shall comply with the maintenance specifications set out in Appendix 8.
8. If the Landowner has been unable to agree with the District Council the details submitted pursuant to paragraph 7 above within 3 months of the date of submission then the issue may be referred for determination by a single expert in accordance with Clause 8.
9. Any transfer of a Changing Facilities or Sports Pitch to the Management Company shall be subject to a covenant that the relevant Changing Facilities or Sports Pitch will be retained as a changing facility or a sports pitch (as appropriate) and maintained in accordance with the Management Scheme and a requirement that any subsequent transferee shall also be required to enter into such a covenant.
10. If Landowner elects to offer to transfer the relevant Changing Facilities or Sports Pitch to the District Council on acceptance of the offer the Landowner shall transfer the relevant Changing Facilities or Sports Pitch to the District Council subject to a restrictive covenant that the relevant Changing Facilities or Sports Pitch shall not be used other than for the provision of a changing facility or a sports pitch (as appropriate).
11. If the District Council has not accepted the offer referred to in paragraph 6.2 within 28 days of it being made or if having accepted the offer fails to complete a transfer within 3 months of the date of the original offer then the Landowner shall continue to be responsible for maintaining the relevant Changing Facilities or Sports Pitch to a standard to enable its continuing as a Changing Facility or a Sports Pitch (as appropriate) either through transfer to a Management Company or otherwise.
12. In the event that the Landowner elects to transfer a Changing Facility or Sports Pitch to the District Council and completes a transfer pursuant to paragraph 6.2 above the Landowner will pay to the District Council the appropriate Changing Facilities Contribution and/or Sports Pitches Contribution on the transfer of that facility to the District Council.
13. In the event of a dispute over the provision of the Changing Facilities or the Sports Pitches the matter may be referred by the Landowner or the District Council for resolution pursuant to Clause 8.
14. The District Council agrees with the Landowner as follows:
 - 14.1 the Changing Facilities Contribution (if paid) shall not be used other than towards the future maintenance of the Changing Facilities;
 - 14.2 the Sports Pitch Contribution (if paid) shall not be used other than towards the future maintenance of the Sports Pitches.

APPENDIX 9

Changing Facilities Specification

UPPER HEYFORD - Sports Changing Pavilion

Outline Specification

i) General Design Considerations

i) Location:

The exact siting of the pavilion needs to be agreed with relevant officers of Cherwell District Council. It must be adjacent to the sports pitches and 26 space fully constructed drained and tarmac surfaced car park.

ii) Design Principles:

The design of the building and internal accommodation needs to take account of the following broad principles:

- Attractive building that is visually pleasing and an asset to the locality
- Hard wearing, long lasting and value for money.
- Low maintenance, durable material and finishes.
- Secure, resistant to vandalism but aesthetically pleasing.
- General ease of access for maintenance, including M&E services.
- Flexible use.
- Requiring minimal operational supervision.
- Disabled access throughout in accordance with relevant standards and regulations.
- Well insulated and energy efficient.
- Usage by male and female, adults and children.
- Easy to clean.
- Fully compliant with all relevant British/European standards.
- Comply with Sport England guidance on Pavilion and Changing Room design.

iii) Schedule of Accommodation

The following is a general guide to the accommodation requirements:

Accommodation

Description

Minimum
m²

1. Entry/Circulation:

Main point of access to
changing rooms and internal
accommodation.
Separate point of access/egress
to pitches.

2.	Team Changing rooms:	Four in total with shower and toilet provision that complies with Sport England guidance.	120
3.	Officials Changing	Two individual units with shower, toilet and wash basin.	16
4.	Storage	One for cleaning equipment and materials and one for sports equipment. (Goal posts will be stored off site).	15
5.	Disabled toilets and changing facilities:	In compliance with DDA and building control guidance	6
6.	Toilets	2 Unisex toilets with hand wash basins and hand drying facilities, all to be compliant with DDA and building control guidance. These toilet must be accessible from outside the building when the pavilion changing areas are locked.	16
7.	First Aid Room		6
8.	Kitchenette		6
9.	Plant /Services Room		15
	Total		225
	External walkway areas	Estimate	75
	TOTAL		300

iv) General Specification: Applicable to all Areas

Roof: Pitched and tiled or suitable pre formed finish. All rain water goods to be protected against vandalism.

External Walls: Faced brick or block work to agreed specification.

Internal Walls: Fair faced blockwork, speckled paint finish with glazed topcoat (all general circulation and changing areas).

Floor to ceiling glazed ceramic wall tiles (toilet and shower areas).

Floors: Concrete with screed finish (general circulation areas) with integral drainage to enable regular wash down. Skirting boards not required to aid cleaning.

Non-slip quarry tile or similar (changing, toilet and shower areas). Full width mat well and mat at main entranceway.

Doors: External. Solid core construction faced with steel plates on both sides. Doors should not be recessed to avoid areas for congregation.

Internal. Solid core construction stained finish. Changing room doors to be lockable. Fire resistant as required by Fire Officer.

All to have kick plates, good quality door furniture.

Windows: Minimal and at high level only with security grill.

Ceilings: Painted plasterboard with taped joints and skimmed finish in general areas.

Suitable moisture resistant finish in high moisture areas.

Insulation to building control requirements.

Heating and Ventilation: Predominant use likely to be in the winter period. Convector heating to provide 'instant' space heating. Background heating controlled by temperature responsive switch to prevent damage to structure and fabric of building during winter period.

Mechanical ventilation will be required to ensure effective removal of moisture both when the building is in use and when it is closed to avoid deterioration to fabric of building. Controls should be on time switch 24/7 operation. External ventilation cowls require security grill.

Lighting: Lighting level to be 100-150 lux as appropriate. Lighting units to be energy efficient, securely fixed to wall/ceiling, robust and moisture resistant. Individual light switches in rooms with movement sensor control for automatic time lapse switch off (changing and toilet areas only).

- Power Points: Sockets to be provided in corridors and storage areas and at high level adjacent to mirrors in changing rooms.
- Plumbing: All pipes to be well insulated. Pipes to be concealed in ducts to prevent damage/vandalism.
- Shower pipes to be concealed within the walls. Showers to be push button control impulse.
- WHB taps are to be non-compressive return type and all waste are to be captive.
- Water pressure controlled flushing to urinals.
- Instantaneous water heating to provide hot water supply. (Preferably gas)
- Sanitary Ware: External down pipes to be integral.
- Stainless steel WC's, WHB's bowl urinals and cleaners sinks throughout.
- Provision for young children and disabled users.
- WC cisterns to be concealed behind proprietary panelling systems.
- All taps, wastes, spurge pipes, shower heads and controls are to be in chrome plated brass.
- Warm air hand dryers.

2. Detailed Requirements:

Entrance/Corridor:

- External mud grid
- Noticeboard
- Relevant signage in compliance with DDA
- Entrance mat in mat well
- Rubbish Bin
- Fire equipment/appliances (as agreed with fire officer)
- Intruder alarm sensor and control panel (NACOSS Approved installation)
- Lighting
- Power point
- Statutory notices

Changing Rooms (Interchangeable male/female):

- Showers
- Coat/hat hooks
- Changing benches - recycled plastic
- Hair/hand dryer
- WC
- Urinal
- Soap dispenser
- Rubbish Bin
- Plastic mirror
- Signage on doors in compliance with DDA
- Heating
- Mechanical ventilation
- Lighting
- Power point
- Jumbo toilet roll dispensers

Officials Rooms

- Showers
- Coat/hat hooks
- Changing benches - recycled plastic
- Hand/hair dryer
- WC
- Soap dispenser
- Rubbish Bin
- Plastic mirror
- Signage on door in compliance with DDA
- Heating
- Mechanical ventilation
- Jumbo toilet roll dispensers
- Lighting
- Power point
- Fire appliance
- Lockers (3 in each)

First Aid Room

- Sink with hot and cold water
- Rubbish Bin
- Hand dryer
- Soap dispenser
- Mechanical ventilation
- Fire appliances

- Wall mounted cupboards x2.
- Heating
- Lighting
- Power point
- Treatment bench
- Mirror
- Signage in compliance with DDA

Kitchenette:

- Instant hot water boiler
- Sink and draining board
- Preparation surfaces
- Wall mounted cupboards (lockable) x2
- Under Counter Cupboards
- Double Electrical Socket surface mounted
- Double electrical socket under counter

Storage:

- Sink and water supply
- Shelving
- Power point at high level
- Signage on door

Toilets. (male/female)

- 2 wash hand basin
- WC/Urinal (Provision for children)
- Soap dispenser
- Hand drier
- Toilet roll holders
- Plastic Mirror
- DDA signage

External Area:

- Hard paving to entranceway from car park and to pitches from pavilion
- Single paving around the building
- Landscaping
- Boot cleaner
- Signage in compliance with DDA

Other Equipment:

- 2 sets of senior football posts and 2 sets of junior football posts
- 4 Senior nets and 4 Junior nets
- Corner flags for 2 pitches
- First aid equipment



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Dated 27 June 2014

- (1) CHERWELL DISTRICT COUNCIL
- (2) OXFORDSHIRE COUNTY COUNCIL
- (3) DORCHESTER HEYFORD PARK GP LIMITED AND DORCHESTER HEYFORD PARK NOMINEE LIMITED
- (4) UPPER HEYFORD GP LIMITED AND UPPER HEYFORD NOMINEE LIMITED
- (5) HEYFORD PARK ESTATE LIMITED
- (6) BOVIS HOMES LIMITED
- (7) HEYFORD COMMERCIAL LIMITED
- (8) HEYFORD COMMERCIAL DEVELOPMENT LIMITED
- (9) HEYFORD RESIDENTIAL LIMITED
- (10) TRIMONT REAL ESTATE ADVISORS BV
- (11) LLOYDS BANK PLC

DEED OF VARIATION

under Section 106 and Section 106A of the Town and Country Planning Act 1990 relating to the former RAF base at Upper Heyford

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SCHEDULE 3

SUSPENSION AND VARIATION OF PROVISIONS

1. Provisions referred to in clause 4.5.1:
 - 1.1 Schedule 4, deletion of definition of "Existing Open Space" and all other references to "Existing Open space"
 - 1.2 Schedule 7
 - 1.3 Schedule 12 Parts 1 - 8 inclusive *para's 3 - 43.2.*
 - 1.4 Schedule 12 Part 12 *para's 53 - 54.*
 - 1.5 Schedule 12 Part 13 Paragraph 55.1 *55.1*
2. Provisions referred to in clause 4.5.2:
 - 2.1 Schedule 5, the definition of "Sports Pitches" shall read:

"means

 - a cricket pitch to Sport England's Natural Turf for Sport Guidance
 - a 5 a side football pitch to Sport England's Natural Turf for Sport Guidance
 - 2 tennis courts to Sport England's specification
 - 2 tennis courts resurfaced and re-marked
 - a 7 a side football pitch

as shown for identification purposes shaded orange on drawing K.0158_34C-4"
 - 2.2 Schedule 5 in the definition of "Changing Facilities" the word "two" shall be deleted and shall be replaced with "one"
 - 2.3 Schedule 13, deletion of the definitions of Building 74, Care Home, and Hotel; deletion of Paragraph 2 and of references to Building 74 in paragraphs 3 and 6.