

**New Lubbesthorpe Proposed changes to S106 via a S106A Application
Primary and Secondary Education**

- 1) Delete the entirety of the Sixth Schedule replace with the text below to form a new Sixth Schedule.

SIXTH SCHEDULE

Education

1. ACKNOWLEDGEMENTS AND DECLARATIONS

- 1.1. The Parties hereto acknowledge and declare that:
- 1.2. The Developer has built the Premises for Primary School 1 on the Primary School 1 Site and has transferred the Primary School 1 Site (which for the avoidance of doubt includes the Primary School 1 Extension Site) to the County Council.
- 1.3. Primary School 1 is currently a two form entry Primary School.
- 1.4. The Primary School 1 Extension will increase the size of Primary School 1 to a three form entry school with a pupil capacity of up to 630 for educating children between the ages of four and eleven. As a consequence of the Primary School 1 Extension the Primary School 1 Additional Land is required in order to meet play space standards for a three form entry primary school.
- 1.5. There are no other obligations on the Owner in relation to Primary School 1 which are yet to be discharged.
- 1.6. The Primary School 2 Review has been completed and the Primary School 2 Decision requires Primary School 2 to be provided as a school with an additional three forms of entry for educating children between the ages of four and eleven at a pupil capacity of no more than 630 additional primary school places as part of Phase 2 of the Development.
- 1.7. Instead of proceeding in accordance with the Primary School 2 Decision it has been agreed that the three additional forms of primary school places serving the Development will be provided not as a three form entry primary school in Phase 2 but rather the Owner will:
- (a) Provide or fund New Primary School 2 as a two forms of entry with a pupil capacity of no more than 420 at the Primary School 2 Site
 - (b) Provide a further form of entry at Primary School 1 in the form of the Primary School 1 Extension
- 1.8. The Owner shall have the choice (to be notified to the County Council by a written notice of election) either to build the Premises for New Primary School 2 or to make

the Primary School 2 Contribution and/or build the Secondary School or make the Secondary School Contribution.

- 1.9. New Primary School 2 shall be provided pursuant to the terms of this schedule either as a two form entry school with a pupil capacity of no more than 420 or via the Primary School 2 Contribution.
- 1.10. The Primary School 1 Extension and the Primary School 1 Additional Land shall be provided pursuant to the terms of this schedule to provide an additional one form of entry with a pupil capacity of up to 210 at Primary School 1.
- 1.11. For the avoidance of doubt it is agreed that
- (a) the Primary School 1 Extension together with the Primary School Additional Land; and
 - (b) either the construction of New Primary School 2 or the Primary School 2 Contribution
- will provide the additional three forms of entry for educating children between the ages and four and eleven to meet the needs of the Development as required by the Primary School 2 Decision.
- 1.12. The Secondary School Review has been completed and the Secondary School Decision requires the Secondary School to be provided as a school with a pupil capacity of 930.

2. PRIMARY SCHOOL 1 EXTENSION AND PRIMARY SCHOOL 2

- 2.1. Subject to the further provisions of this paragraph 2 the Owner shall Reserve the Primary School 1 Additional Land and the Primary School 2 Site for the duration of the construction phase of the Development.
- 2.2. The County Council and the District Council have agreed that the Primary School 1 Extension Site is to be located within the Primary School 1 Site and that the Primary School 1 Additional Land is to be in the general location shown on Plan 9.
- 2.3. The Owner and the County Council agree that the Primary School 1 Extension shall be built in accordance with the Primary School 1 Extension Specification
- 2.4. The Owner shall not Commence Development of a Phase in which New Primary School 2 is to be located until:-
- (a) the County Council and District Council have agreed the location of the Primary School 2 Site for the New Primary School 2 such Primary School 2 Site to be in the general location shown on the Approved Parameters Plan; and
 - (b) the Owner has made an election under paragraph 2.8(a), or has made or is deemed to have made an election under paragraph or 2.8(b).

Primary School 1 Extension and Primary School 1 Additional Land

2.5. The Owner shall

- (a) Not occupy more than 1400 Dwellings until the Owner has entered into a binding contract with the County Council to Transfer the Primary School 1 Additional Land at nil value and on such other terms as may be agreed at the date of the contract (including a pre-emption right such that in the event that the County Council no longer requires all or part of the Primary School 1 Additional Land for education purposes, it shall first offer it for sale to the Owner, including a mechanism for precise delineation of the boundaries of the land to be transferred, and including provisions allocating responsibility for compliance with paragraphs 4.5 and 4.6 of the Seventh Schedule) the Transfer to be completed no later than the opening of the Primary School 1 Extension.
- (b) Unless otherwise agreed in writing with the County Council ensure that the Premises for Primary School 1 Extension providing a pupil capacity of up to 210 are Practically Completed in accordance with the relevant agreed Primary School 1 Extension School Specification and available for use by the first day of term in the September prior to Occupation of the 1400 Dwelling and not to occupy more than 1450 until the Premises have been Practically Completed and is available for use.

New Primary School 2

- 2.6. If the Owner has not elected to build the Premises for New Primary School 2 by the date specified in paragraph 2.8(a) the Owner shall be deemed to have elected not to build the Premises for New Primary School 2 and no more than 2000 Dwellings may be Occupied until the Owner has entered into a binding contract with the County Council to Transfer the Primary School 2 Site at nil value (and on such other terms as may be agreed at the date of the contact including a pre-emption right such that in the event that the County Council no longer requires all or part of the Primary School 2 Site for education purposes it shall first offer it for sale to the Owner; including a mechanism for precise delineation of the boundaries of the land to be transferred, and including provisions allocating responsibility for compliance with paragraphs 4.5 and 4.6 of the Seventh Schedule) forthwith following service by the County Council on the Owner of notification that the Primary School 2 Site is required (which notification may be served at any time after Commencement of Development of the Phase which includes the Primary School 2 Site provided that no notification may be served in relation to the Primary School 2 Site prior to Occupation of the 2000th Dwelling).
- 2.7. Where the Owner elects not to build the Premises for New Primary School 2 the Owner shall pay the Primary School 2 Contribution to the County Council as follows:
- (a) 10% (Index Linked) within 2 weeks of receipt of a notice from the County Council confirming that the County Council has resolved to proceed with construction of the Premises for New Primary School 2;
 - (b) thereafter 10% (Index Linked) within 2 weeks of the agreed design stage being reached;
 - (c) thereafter 40% (Index Linked) within 2 weeks of issue of the tender for the construction contract to build New Primary School 2; and
 - (d) thereafter 40% (Index Linked) within 3 months of commencement of construction of New Primary School 2.

Provided that no part of the Primary School 2 Contribution shall be payable prior to Occupation of the 2000th Dwelling.

2.8. The Owner may elect to build the Premises for New Primary School 2 in lieu of payment of the Primary School 2 Contribution provided that:

- (a) such election shall be made in writing and communicated to the County Council prior to the earlier of Commencement of Development of the Phase in which New Primary School 2 is to be located and Occupation of the 2000th Dwelling and shall submit with the election the School Specification; and
- (b) provided that the County Council shall not be required to accept such election unless and until it has expressed itself satisfied with the School Specification proposed by the Owner.

2.9. Where:

- (a) the County Council is not satisfied (and has so expressed itself) with the School Specification proposed by the Owner; or
- (b) no such notice has been given by the date specified in paragraph 2.8(a)

the Owner shall (subject in connection with paragraph 1.9(a) to the outcome of any referral to an independent expert pursuant to clause 23) be deemed to have elected not to build the Premises for New Primary School 2 Provided That for the avoidance of doubt the Owner may serve a notice on the County Council electing not to build New Primary School 2 at any time prior to the earlier of Commencement of Development of the Phase in which New Primary School 2 is to be located and Occupation of the 2000th Dwelling

2.10. Where the Owner has elected to build New Primary School 2 the Owner shall:

- (a) Not Commence Development on the relevant Phase in which New Primary School 2 is to be located or Occupy more than 2000 Dwellings whichever shall occur earlier until the Owner has entered into a binding contract with the County Council to Transfer the Primary School 2 Site at nil value and on such other terms as may be agreed at the date of the contract (including a pre-emption right such that in the event that the County Council no longer requires all or part of the Primary School 2 Site for education purposes, it shall first offer it for sale to the Owner, including a mechanism for precise delineation of the boundaries of the land to be transferred, and including provisions allocating responsibility for compliance with paragraphs 4.5 and 4.6 of the Seventh Schedule) the Transfer to be completed no later than the opening of New Primary School 2.
- (b) Unless otherwise agreed in writing with the County Council ensure that:
 - (i) the Premises for the first form of entry of New Primary School 2 providing a pupil capacity of 210 are Practically Completed in accordance with the relevant agreed School Specification and available for use by the first day of term in the September prior to the Occupation of the 2,400th Dwelling;
 - (ii) the Premises for the second form of entry of New Primary School 2 providing a pupil capacity at New Primary School 2 of 420 are Practically Completed in accordance with

the relevant agreed School Specification and available for use by the first day of term in the September prior to the Occupation of the 3,300th Dwelling

3. SECONDARY SCHOOL

- 3.1. The Owner shall Reserve the Secondary School Site for the duration of the construction phase of the Development provided that the Owner shall not be required to Reserve the Secondary School Site in the event that the County Council serves written notice on the Owner before the Occupation of the 1,400th Dwelling that it does not require the Secondary School Site.
- 3.2. The Owner shall not Commence Development of the Phase in which the Secondary School is to be located until:
- (a) the County Council and the District Council have agreed the location of the Secondary School Site such site to be in the general location shown on Plan 7; and
 - (b) the Owner has made an election under paragraph 3.5 or has made or is deemed to have made an election under paragraph 3.7;
- 3.3. If the Owner has not elected to build the Premises for the Secondary School no more than 1,400 Dwellings may be Occupied until the Owner has entered into a binding contract with the County Council to Transfer the Secondary School Site at nil value (and on such other terms as may be agreed at the date of the contact including a pre-emption right such that in the event that the County Council no longer requires all or part of the Secondary School Site for education purposes it shall first offer it for sale to the Owner; including a mechanism for precise delineation of the boundaries of the land to be transferred, and including provisions allocating responsibility for compliance with paragraphs 4.5 and 4.6 of the Seventh Schedule) forthwith following service by the County Council on the Owner of notification that the Secondary School Site is required (which notification may be served at any time after Commencement of Development of the Phase which includes the Secondary School Site provided that no notification may be served in relation to the Primary School 2 Site prior to Occupation of the 1,400 Dwelling).
- 3.4. If the Owner elects not to build the Premises for Secondary School the Owner shall pay the Secondary School Contribution to the County Council as follows:
- (a) 10% (Index Linked) within 2 weeks of receipt of a notice from the County Council confirming that the County Council has resolved to proceed with construction of the Premises for the Secondary School;
 - (b) thereafter 10% (Index Linked) within 2 weeks of the agreed design stage being reached;
 - (c) thereafter 40% (Index Linked) within 2 weeks of issue of the tender for the construction contract to build the Secondary School; and
 - (d) thereafter 40% (Index Linked) within 3 months of commencement of construction of the Secondary School.

Provided that no part of the Secondary School Contribution shall be payable prior to Occupation of the 1,400th Dwelling.

3.5. The Owner elects to build Secondary School in lieu of payment of the Secondary School Contribution provided that:

- (a) such election shall be made in writing and communicated to the County Council prior to the earlier of Commencement of Development of the Phase in which the Secondary School is to be located and Occupation of the 1,400th Dwelling and shall submit with the election the School Specification; and
- (b) but the County Council shall not be required to accept such election unless and until it has expressed itself satisfied with the School Specification proposed by the Owner.

3.6. If the Owner elects to build the Secondary School the Owner shall:

- (a) Not Commence Development on the relevant Phase in which the Secondary School is to be located or Occupy more than 1,400 Dwellings whichever shall occur earlier until the Owner has entered into a binding contract with the County Council to Transfer the Secondary School Site at nil value and on such other terms as may be agreed at the date of the contract (including a pre-emption right such that in the event that the County Council no longer requires all or part of the Secondary School Site for education purposes, it shall first offer it for sale to the Owner, including a mechanism for precise delineation of the boundaries of the land to be transferred, and including provisions allocating responsibility for compliance with paragraphs 4.5 and 4.6 of the Seventh Schedule) the Transfer to be completed no later than the opening of the Secondary School.
- (b) Unless otherwise agreed in writing with the County Council ensure that:
 - (i) the Premises for the first phase of the Secondary School providing a pupil capacity of 500 is completed and available for use by the first day of term in the September prior to the Occupation of the 2,000th Dwelling;
 - (ii) the Premises for the second phase of the Secondary School providing a total pupil capacity of 930 is completed and available for use by the first day of term in the September prior to the Occupation of the 3,000th Dwelling

3.7. Where:

- (a) the County Council is not satisfied (and has so expressed itself) with the School Specification proposed by the Owner; or
- (b) no notice of election has been given by the date specified in paragraph 3.5(a)

the Owner shall (subject in connection with paragraph 3.7(a) to the outcome of any referral to an independent expert pursuant to clause 23) be deemed to have elected not to build the Premises for the Secondary School Provided That for the avoidance of doubt the Owner may serve a notice on the County Council electing not to build the Premises for the Secondary School at any time prior to Commencement of development of the relevant Phase in which the Secondary School is to be located or, if earlier, the Occupation of the 1,400th Dwelling.

2) Delete the following Definition:-

“Primary School 1 Contribution”

3) Amend the following Definitions (as shown in tracked changes):-

“Primary School”	Primary School 1 <u>and Primary School 1 Extension</u> and <u>New</u> Primary School 2 and each of them and the expression “Primary Schools” shall be construed accordingly
“Primary School 2 Decision”	the decision by the County Council <u>pursuant to the Primary School 2 Review that concludes that Primary School 2 is required to be a</u> as to whether Primary School 2 is required to be a two, two and a half or three form entry primary school and its required pupil capacity (which for the avoidance of doubt shall be no less than 420 and shall be no more than 630) carrying out of the Primary School 2 Review.
“Primary School 2 Contribution”	a sum <u>of £5,350,000</u> to be determined in payable in accordance with paragraph 2.7 4.13 of the Sixth Schedule to be applied by the County Council to constructing and fitting out Premises for <u>New</u> Primary School 2 to be provided on the Primary School 2 Site
“Primary School 2 Site”	a Serviced parcel of land <u>on the Phase 2 Site of 1.93</u> 2.77 hectares (subject to the further provisions of paragraph 1.11 of the Sixth Schedule) to accommodate Premises for <u>New</u> Primary School 2 whose general location is shown <u>on the Approved Parameters Plan</u> marked on Plan [] 7
“Secondary School”	the school within Phase 2 for the full time education of children between the ages of 11 and 18 with a pupil capacity of between 800 and 930 (the actual size of which shall be determined pursuant to the Secondary School Review)
“Secondary School Contribution”	a sum <u>£20,280,000</u> to be determined in accordance with paragraph <u>3.4</u> 2.8 of the Sixth Schedule to be applied by the County Council to constructing and fitting out Premises for the Secondary School
“Secondary School Site”	a Serviced parcel of land on the Site of 8 hectares (subject to the further provisions of paragraph 2.5 in the Sixth Schedule) to accommodate the Premises for a Secondary School and the phasing of its delivery

4) Insert the following definitions

Approved Parameters Plan	the approved parameters plan pursuant to condition 4 of the Planning Permission
“New Primary School 2”	the school within Phase 2 for educating children between the ages of four and eleven with two forms of entry and a pupil capacity of 420 on the Primary School 2 Site
“Primary School 1 Extension”	the extension to Primary School 1 to add another form of entry on to Primary School 1 and to increase the pupil

	capacity of Primary School 1 by 210 additional primary school places for children between 4 and 11 years old on the Primary School 1 Extension Site
“Primary School 1 Extension Site”	land within Primary School 1 of 969m2 GIA to accommodate the Primary School 1 Extension which is located within the Primary School 1 Site.
“Primary School 1 Additional Land”	a parcel of land on Phase 1 immediately north of the Primary School 1 Site whose general location is shown on Plan 9 of 3700m2 to provide sufficient play space for Primary School 1 and the Primary School 1 Extension
“Primary School 1 Extension Specification”	the specification for Primary School 1 Extension comprising typical primary schools’ specification room data sheets the mechanical outline specification and general electric specification and the equipment specification sufficient to define the build and equipment requirement of a fully operational and equipped additional form of entry on an existing primary school for the Owner to pass to the County Council in accordance with best practice and including Government Priority Schools Building Programme Baseline guidelines relevant at the date of construction and the Department for Education’s Priority Schools Building Programme to be agreed by the County Council as part of the reserved matters application for the Primary School 1 Extension
“Plan 9”	annexed hereto and marked “Plan 9” showing the general location of the Primary School 1 Additional Land