

## Davies and Partners Solicitors

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Our ref: DCS/JCR/LAG003-71

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Dear Sirs,

### Ivel Road, Shefford – Section 106 Agreement

We have been asked to set out our client's objections to the current provisions in the draft section 106 agreement whereby there is a restriction on the occupation of dwellings on the Ivel Road site pending construction of the new football facility.

Under the terms of the draft agreement, the Owner has two choices as regard the new football facility: it can elect to construct the facility itself; or, it can pay a commuted sum to enable the local authority to construct the facility plus a sum to cover the cost of abnormal ground conditions. We understand that the local football club strongly prefers the commuted sum option as this will give it the opportunity to add to the proposed facility with additional funding.

Further, as currently drafted, the Owner is to covenant not to permit the occupation of more than 25% of the dwellings on the Ivel Road site until the Football Facility has been completed to the satisfaction of the Council. Such obligation is not, in its current form, acceptable to Lagan Homes for the reasons set out below.

Lagan accepts that, if it elects to construct the new facility itself, the restriction should apply. Lagan will have control of construction of the facility and will be able to ensure that it is completed so as not to delay the construction, sale and occupation of the dwellings on the Ivel Road site.

If, however, the commuted sum is paid then construction of the new facility is placed in the hands of the Council. Lagan will have no control over when the facility is commenced or completed. Any delay by the Council in procuring the completion of the facility will adversely affect Lagan's ability to sell its residential units. As with all developers, Lagan Homes assesses the financial viability of a site on the basis of a suitable return on capital employed. Any delay to sales rates will affect that calculation. Further, any delay in receipt of sale proceeds will increase Lagan Homes' holding costs making the site financially unviable.

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Aside from the financial calculations, it is unreasonable to expect Lagan Homes to build the site partially and then suspend building operations indefinitely whilst the Council procures the construction of the new facility.

For the above reasons, we request that the draft agreement be amended so that the restriction on occupations will not apply from the date that the commuted sum is paid to the Council if that is the option chosen by the Owner.

We look forward to hearing from you.

Yours faithfully,

**DAVIES AND PARTNERS**