
**LAND TO NORTH OF LITTLE GREEN LANE, CROXLEY GREEN,
WD3 3SP**

PINS APPEAL REFERENCE: 6004972

LPA APPEAL REFERENCE: 26/0012/REF

LPA PLANNING APPLICATION REFERENCE: 24/2073/OUT

**SUMMARY OF CASCADE MECHANISM IN DRAFT SECTION 106
AGREEMENT**

1. **Background**

Following the Section 106 Agreement Roundtable session on 3 September 2026 at the planning inquiry to determine the Appeal, this summary note has been prepared to assist the Inspector in connection with the cascade mechanism (the Cascade Mechanism) in the Section 106 Agreement to be entered into by: Rousebarn Investment Company Limited (the Owner), The Richborough Estates Partnership LLP (the Promoter), Three Rivers District Council (the Council) and Hertfordshire County Council (the County Council). The definitions used in this summary note are those used in the Section 106 Agreement.

This summary note has been prepared by and agreed between the Appellant and the Council.

2. **Cascade Mechanism**

2.1 The cascade mechanism is at Schedule 2 Paragraph 2 of the S106 Agreement. The different potential stages of the cascade mechanism are set out below.

2.2 Stages 3 and 4 will arise only if there is a dispute between the Council and Owner.

2.3 Stages 5 and 7 are the key stages of the cascade. These require the Owner to market a revised Affordable Housing Scheme (each of which is different to the original scheme marketed at stage 1) for a further 3-month period each.

2.4 Stage 8 will result in any remaining Affordable Housing Units being converted to Discount Market Units, but may never arise if one of the earlier revised Affordable Housing Schemes is sufficiently attractive to an Affordable Housing Provider.

2.5 **Stage 1 — Initial Marketing Period**

Key Date 1: Approval of the Affordable Housing Scheme for the relevant Phase

From this date, the Owner must for **6 months** use Reasonable Endeavours to enter into an unconditional legally binding contract with an Affordable Housing Provider for the transfer of the Affordable Housing Units on the relevant Phase, on reasonable and standard commercial terms.

The Affordable Housing Units in the relevant Phase must be in accordance with the Agreed Tenure Mix.

Stage 1, excluding the 6 month period, is consistent with what is ordinarily expected of an Owner in a Section 106 Agreement where there is no cascade mechanism.

2.6 **Stage 2 — Notification and Evidence of Failure (triggered at expiry of Stage 1)**

Key Date 2: Expiry of the 6-month period

If no unconditional contract has been concluded by this date, the Owner shall:

Notify the Council in writing of the failure;

Provide written reasons and supporting documentary evidence demonstrating that Reasonable Endeavours were used, including details of providers approached, marketing undertaken, prices and terms offered, and responses received; and

If the identified reason for failure is the Agreed Tenure Mix (which it will be unless there are no Affordable Housing Provider's operating in the area), submit an Alternative Affordable Housing

Mix to the Council for approval — limited to changes in size, type and location only, with no change to tenure types that are in listed in the Agreed Tenure Mix.

If the Council is satisfied that the Owner has used Reasonable Endeavours and approves an Alternative Affordable Housing Mix, the process advances to Stage 5.

If the Council is satisfied that the Owner has used Reasonable Endeavours but does not approve the Alternative Affordable Housing Mix, the Owner can refer the issue (being the Alternative Affordable Housing Mix) to the expert and the process advances to Stage 4.

If the Council is not satisfied that the Owner has used Reasonable Endeavours, the process advances to Stage 3.

2.7 **Stage 3 — Council Review of Evidence**

This Stage 3 will only arise if the Council is not satisfied that Reasonable Endeavours were used by the Owner during Stage 1.

If the Council reaches this conclusion it must provide the Owner with written reasons and the Owner will be required to carry out a further marketing period of **up to 3 months. In effect, this would take the total marketing period in Stage 1 from 6 months up to 9 months.**

Key Date 3: Expiry of the further period (up to 3 months as directed by the Council)

If the Owner still cannot conclude a contract following this further period, the Stage 2 notification and evidence process applies again.

2.8 **Stage 4 — Expert Determination (First Referral)**

This Stage 4 will only arise if the Council is not satisfied that Reasonable Endeavours were used by the Owner during the further 3 month period (Stage 2) or the Council accepts that Reasonable Endeavours were used by the Owner in Stage 1 or Stage 3, but does not approve the Alternative Affordable Housing Mix proposed by the Owner.

Depending on the reason for the referral, the Expert may:

Direct the Owner on steps required to demonstrate Reasonable Endeavours; and/or

Direct amendments required to the Alternative Affordable Housing Mix to make it acceptable.

The Owner may then comply with those directions and submit evidence or an amended Alternative Affordable Housing Mix to the Council.

2.9 **Stage 5 — Approval of Alternative Affordable Housing Mix and Second Marketing Period**

Key Date 4: Written confirmation (by the Council or Expert) that Reasonable Endeavours have been demonstrated AND that the Alternative Affordable Housing Mix is approved by the Council or Expert

From this confirmation, the Owner must for a further **3 months** use Reasonable Endeavours to enter into an unconditional legally binding contract for the transfer of the Affordable Housing Units in accordance with the approved Alternative Affordable Housing Mix.

2.10 **Stage 6 — Second Failure and Revised Affordable Housing Scheme**

Key Date 5: Expiry of the 3-month period referred to at Stage 5

If no unconditional contract has been concluded by this date, the Owner may:

Notify the Council in writing of the failure;

Provide written reasons and supporting evidence; and

Submit a Revised Affordable Housing Scheme to the Council for approval — at this stage, the Owner is no longer restricted to the tenure types in the Agreed Tenure Mix and could include Discount Market Units.

The provisions of Stages 3 to 5 then apply afresh, with necessary modifications to reflect the potential tenure types.

2.11 Stage 7 — Approval of Alternative Affordable Housing Mix and Second Marketing Period

Key Date 6: Written confirmation (by the Council or Expert) that Reasonable Endeavours have been demonstrated AND that the Revised Affordable Housing Scheme is approved by the Council or Expert.

From this confirmation, the Owner must for a further 3 months use Reasonable Endeavours to enter into an unconditional legally binding contract for the transfer of the Affordable Housing Units in accordance with the approved Revised Affordable Housing Scheme.

2.12 Stage 8 — Election to Provide Discount Market Units

This final stage is triggered in either of two circumstances:

The Council or Expert confirms that Reasonable Endeavours have been used but the failure to conclude a contract is not attributable to the tenure types in the Agreed Tenure Mix; or

The Owner has used Reasonable Endeavours in connection with the approved Revised Affordable Housing Scheme (whether approved by the Council or determined by the Expert) but has still been unable to conclude an unconditional contract by the expiry of the **3-month period** at Stage 5.

Key Date 7: Written election by the Owner to provide Discount Market Units

Upon making this election, the Owner must submit an updated Revised Affordable Housing Scheme to the Council for approval, reflecting the provision of any remaining Affordable Housing Units in the relevant Phase as Discount Market Units.

If the Owner does not make this election, it remains bound by the obligation to enter into an unconditional contract with an Affordable Housing Provider for the Affordable Housing Units in the relevant Phase.

If the updated Revised Affordable Housing Scheme is approved by the Council, the Owner must deliver and sell the Discount Market Units in the Revised Affordable Housing Scheme for the relevant Discount Market Price.

4 September 2026