



MIRRLEES PARK - LEGAL ARRANGEMENTS

Hazel Grove, Stockport



Holding the land in perpetuity

As part of the planning application for the residential development, MAN Energy Solutions propose to make 53 acres of its land available for public use and recreation in perpetuity.

This will be secured through a section 106 agreement associated with the development. The section 106 obligations will bind and run with the land, and the Council will enforce the provisions.

There are currently 3 options under consideration to hold the land in perpetuity:

1. Establishing a Community Trust (CT)
2. Establishing a Community Interest Company (CIC), or
3. Transferring the ownership of the land to Stockport Council.

MAN Energy Solutions preferred option at this stage is establishing a Community Interest Company.



Establishing a Community Interest Company (CIC)

A CIC is a limited liability company formed primarily for social enterprises carried out for the benefit of a community. The purpose of a CIC must be to provide community benefit and to use any monies received and held for that purpose.

The purpose of the CIC would be to hold, manage and maintain the land for the purposes of the use and recreation of the local community and the public. This purpose would satisfy the “community interest” test required by law for CICs.

It is envisaged that the initial board members of the CIC will be MAN Energy Solutions and the Council, with provision for other community groups and future residents of the development to be represented on the board. Arrangements would be included for MAN Energy Solutions, at an appropriate point, to step back and be replaced on the board.



The section 106 legal agreement

The section 106 agreement would include provisions for the following key matters:

- the proposed Articles of Association of the CIC would be submitted to the Council for approval – this would include the make-up of the company’s board of directors;
- land ownership – the freehold of the land could be transferred by MAN Energy Solutions to the CIC or, if the Council prefer for long-term certainty, the freehold of the land could be transferred to the Council and the Council enter into a long lease (possibly 999 years or 250 years) with the CIC;
- the land transfer would be subject to a covenant to the effect that the land could only be used for public open space and recreational use;
- the proposed management regime and maintenance standards would be submitted to the Council for approval, and the land managed and maintained in accordance with the approved scheme (as may be updated or amended with the Council’s approval) in perpetuity, and
- the proposals for funding the CIC would be submitted to the Council for approval.



Management and maintenance requirements and funding

The management and maintenance scheme would need to cover as a minimum the following details:

- the specification for the management and maintenance of the land
- how repairs will be undertaken
- health and safety inspections and inspections of works undertaken
- insurance, and management fees, and
- administration costs of the CIC (including annual filing of reports).

The CIC would appoint (and monitor) an agent to carry out the management and maintenance work.

In terms of funding, the CIC would be funded through a combination of an up-front commuted sum paid by CIC and a service charge levied on the residents in the new housing development. In future there may also be the opportunity to secure grants or other funding streams, but it is envisaged that the commuted sum and estate charge will in themselves be sufficient. An annual budget would be established at the outset, and the commuted sum and estate charge set at levels to fund this annual budget.



Timings

The detailed triggers for the establishment and operation of the CIC, and the transfer of the land, will be discussed with the Council as part of the planning application process.

It is envisaged that the structure and funding arrangements for the CIC would be subject to agreement prior to the commencement of the housing development, with the land being transferred and the management and maintenance regime commenced following the occupation of a certain number of houses in the development. The precise triggers will be agreed with the Council.

