

DATED 1st February 2016 ~~2015~~

CHERWELL DISTRICT COUNCIL

-and-

OXFORDSHIRE COUNTY COUNCIL

-and-

HENRY BONNER SHOULER and ROBERT THOMAS CHARLES SHOULER

-and-

PHILLIP INSULL ROBBINS

-and-

TAYLOR WIMPEY UK LIMITED

PLANNING OBLIGATION BY DEED OF AGREEMENT

**under section 106 of the Town and Country Planning Act 1990 (as amended) and
section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011**

**relating to land to the North of Green Lane,
Chesterton,
Oxfordshire**

Kevin Lane
Head of Law & Governance
Bodicote House . Bodicote
Banbury . Oxfordshire
OX15 4AA

DATE

1st February 2016

~~2015~~

PARTIES

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA ("the District Council")
- (2) **OXFORDSHIRE COUNTY COUNCIL** whose principal office is at County Hall, New Road, Oxford, OX1 1ND ("the County Council")
- (3) **HENRY BONNER SHOULER** of Hazleton House, Hazleton, Cheltenham, Gloucestershire, GL54 5DB and **ROBERT THOMAS CHARLES SHOULER** of Lodge Farm Cottage, Cheltenham, Oxfordshire, OX26 1XA ("together the First Owner")
- (4) **PHILLIP INSULL ROBBINS** of March Hares Cottage, Old Chester Road, Chesterton, Oxfordshire ("the Second Owner")
- (5) **TAYLOR WIMPEY UK LIMITED** (Company registration number 01392762) whose registered office is at Gate House, Turnpike Road, High Wycombe, Buckinghamshire, HP12 3NR ("the Developer")

INTRODUCTION

- 1 The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated
- 2 The County Council is the county planning authority for the purposes of the Act and has for the area in which the Site is situated sundry powers and duties in respect of education and in respect of highways and the regulation of traffic.
- 3 The First Owner is the freehold owner of that part of the Site registered at the Land Registry under Title Number ON133240 subject to the interest of the Developer but otherwise free from incumbrances as the First Owner hereby warrants.
- 4 The Second Owner is the freehold owner of that part of the Site registered at the Land Registry under Title number ON150457 subject to the interest of the Developer but otherwise free from incumbrances as the Second Owner hereby warrants.
- 5 The Developer entered into an option agreement dated 23 October 2013 to purchase the Site.

- 6 Pursuant to the Application the Developer has applied to the District Council for outline planning permission for the Development of the Site
- 7 The parties have agreed to enter into this Deed with the intention that the obligations contained herein may be enforced by the District Council and the County Council against the Owners and the Developer and their respective successors in title.
- 8 The parties to this Deed have given due consideration to the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (SI 2010 No.948 (to the extent relevant to the obligations in this Deed) and the advice set out at paragraph 204 of the National Planning Policy Framework and agree that the planning obligations it contains are:
- (i) necessary to make the Development acceptable in planning terms;
 - (ii) directly related to the Development; and
 - (iii) fairly and reasonably related in scale and kind to the Development.

NOW THIS DEED WITNESSES AS FOLLOWS

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

“Act”	the Town and Country Planning Act 1990 as amended
“the Application”	the application for outline planning permission validated 15 October 2014 submitted to the District Council for the Development and allocated reference number 14/01737/OUT
“Construction”	means the construction of any building forming part of the Development including footings or foundations and “Construct” and “Constructed” shall be construed accordingly
“Development”	the development of the Site for the erection of up to 45 dwellings served via a new vehicular

and pedestrian access; public open space and associated earthworks to facilitate surface water drainage; and all other ancillary and enabling works as set out in the Application

“Dwelling”

means a building (erected or proposed to be erected upon the Site as part of the Development pursuant to the Planning Permission) or part of such a building designed for residential occupation by a single household and includes Affordable Housing (as defined in the Second Schedule)

“Implementation”

the carrying out of any material operation (as defined in Section 56(4) of the Act) forming part of the Development other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services for construction purposes only, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Implement” and “Implemented” shall be construed accordingly

“Interest”

interest at 4% above the base lending rate of Lloyds Bank plc from time to time and compounded annually

“Market Dwelling”

a dwelling being part of the Development which is not Affordable Housing

“Occupy”

means the date on which a Dwelling is first occupied for the purposes permitted by the Planning Permission but not including occupation for fitting out or decoration or

occupation for marketing or display or
occupation in relation to security operations and
"Occupation" and "Occupied" shall be construed
accordingly

"Owners"	means the First Owner and the Second Owner
"Plan 1"	the plan attached to this Deed marked "Plan 1"
"Plan 2"	The plans attached to this Deed marked "Plan 2A, Plan2B and Plan 2C"
"Planning Permission"	means the outline planning permission which may be granted by the District Council pursuant to the Application subject to conditions and including any permission granted for the Development pursuant to an application made under Section 73 of the Act or any other provision to similar effect
"Reserved Matters Approval"	means a reserved matters approval issued by the District Council pursuant to an application for approval of Reserved Matters
"Reserved Matters"	means details of any one or more of access, appearance, landscaping, layout and scale reserved under the terms of the Planning Permission for subsequent approval
"Site"	the land against which this Deed may be enforced as shown edged with a red line on Plan 1 and further described in the First Schedule
"Working Day(s)"	means any Monday to Friday (other than Bank or public holidays)

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever more than one person is a party and/or where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually.
- 2.5 "Including" means including without limitation or prejudice to the generality of any preceding description defined term phrase or word(s) and "include" shall be construed accordingly.
- 2.6 Words denoting an obligation on a party to do any act or matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of that restriction.
- 2.7 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.8 Reference to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the District Council and the County Council the successors to their respective statutory functions and any duly appointed employee or agent of the District Council and the County Council or such successor.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.

- 3.2 The covenants, restrictions and requirements imposed upon the Owners and the Developer under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the District Council and the County Council as local planning authorities against the Owners and the Developer and their successors in title.

4 CONDITIONALITY

- 4.1 This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) Implementation

save for the provisions referable to legal costs, monitoring costs, change of ownership, jurisdiction and delivery which shall come into effect immediately upon completion of this Deed and clauses 11.2, 11.3 and paragraphs 1, 2.2 and 6.1 of Part 1 of the Second Schedule and paragraph 1.1 of Part 2 of the Second schedule and paragraphs 2.1, 2.2 and 2.6 of the Fourth Schedule and all deemed approval clauses which shall come into effect immediately upon the grant of the Planning Permission

5 OWNERS' AND DEVELOPER'S COVENANTS

- 5.1 The Owners and the Developer covenant with the District Council as set out in the Second Schedule.

- 5.2 The Owners and the Developer covenant with the County Council as set out in the Fourth and Fifth Schedules.

6 DISTRICT COUNCIL'S COVENANTS

- 6.1 The District Council covenants with the Owners and the Developer as set out in the Third Schedule.

7 COUNTY COUNCIL'S COVENANTS

- 7.1 The County Council covenants with the Owners and the Developer as set out in the Sixth Schedule.

8 MISCELLANEOUS

8.1 The Owners and the Developer;

8.1.1 will on completion of this Deed pay to the District Council and the County Council their respective reasonable legal costs in connection with this Deed;

8.1.2 will reimburse the District Council and the County Council in respect of all legal and administrative costs reasonably and properly incurred in connection with the enforcement of any of the provisions hereof should the need for enforcement arise in the reasonable opinion of the District Council and/or the County Council;

8.1.3 will on completion of this Deed pay to the District Council the sum of One Thousand Five Hundred Pounds (£1,500.00) as a contribution towards the cost of monitoring and administration of this Deed;

8.1.4 will on completion of this Deed pay to the County Council the sum of Three Thousand Seven Hundred and Fifty Pounds (£3,750) as a contribution towards the cost of monitoring and administration of this Deed;

8.2 No provisions of this Deed shall be enforceable under the Contracts (Right of Third Parties) Act 1999 (other than by the parties and their successors in title and assigns and any successor to the District Council's or the County Council's functions.)

8.3 This Deed shall be registrable as a local land charge by the District Council.

8.4 Where the agreement, approval, consent or expression of satisfaction of any party is required under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed

8.5 Following the performance and satisfaction of all the obligations contained in this Deed the District Council shall forthwith note this in the Register of Local Land Charges in respect of this Deed.

8.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

- 8.7 If prior to being Implemented the Planning Permission expires or is quashed or revoked this Deed shall absolutely determine and become null and void save that this will not affect any antecedent liability of the Owners or the Developer and any payments made to the District Council and/or the County Council before the date this Deed became null and void which have not been spent in accordance with the purpose for which it was paid (save for payments made pursuant to clause 8.1) shall following request from the party that made the payment be repaid to that party together with interest which has accrued on this balance after deduction of tax where required and any sum required to be deducted by law. Any contribution or part contribution which the District Council and/or the County Council have contracted to expend in accordance with the purpose for which it was paid prior to the date of receipt of such request will be deemed to have been expended prior to that date.
- 8.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 8.9 A purchaser of an individual Dwelling other than Affordable Housing shall not be bound by the obligations of this Deed PROVIDED HOWEVER THAT it is intended that the restrictions on Occupation shall be enforceable against such persons
- 8.10 A statutory undertaker with an interest in the Site only by virtue of the location of its apparatus at the Site shall not be bound by the obligations of this Deed
- 8.11 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission other than the Planning Permission or a Reserved Matters Approval granted (whether or not on appeal) after the date of this Deed.

9 WAIVER

No waiver (whether expressed or implied) by the District Council or the County Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council or the County Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

10 NO FETTER

Nothing in this Deed of Agreement shall prejudice or affect the rights powers duties and obligations of the District Council or the County Council in the exercise of their respective functions in any capacity.

11 CHANGE OF OWNERSHIP etc

The Owners and the Developer agree with the District Council and the County Council:

11.1 to give the District Council and the County Council immediate written notice of any change in ownership of any of their interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office if a company or usual address if not together with the area of the Site purchased by reference to a plan PROVIDED THAT this obligation shall not apply to the sale of individual Dwellings.

11.2 to give the District Council and the County Council notice in writing of:

11.2.1 the actual date of Implementation of Planning Permission within 14 days of its occurrence

11.2.2 the actual date of Occupation of the 10th Dwelling in the Development

11.2.3 the actual date of Occupation of 30% of the Market Dwellings in the Development

11.2.5 the actual date of Occupation of 60% of the Market Dwellings in the Development

11.2.6 the actual date of Occupation of 75% of the Dwellings in the Development

11.2.7 the actual date of Occupation of the final Dwelling in the Development

and to specify in the notification the date on which it occurred

11.3 The Owners and the Developer agree with the County Council:

11.3.1 to give to the County Council the Notification (Initial) within 14 days of the issue of the Approval (Qualifying Permission), as defined in Schedule 4 to this Deed;

11.3.2 to give to the County Council a Notification (Variation) within 14 days of the issue of each Approval (Variation), as defined in Schedule 4 to this Deed.

11.4 to notify the District Council and the County Council within fourteen days of each of the usual quarter days (25 March, 24 June, 29 September and 25 December) of the number of Dwellings on the Development which have been occupied on that quarter day and their addresses/plot numbers together with a plan showing plot numbers

12 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment and such Interest shall be compounded annually.

13 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable and the Owners and the Developer shall pay to the District Council and the County Council any Value Added Tax properly payable on any sums paid to the District Council and the County Council or works undertaken under this Deed upon presentation of an appropriate Value Added Tax invoice addressed to the relevant Owners or Developer.

14 NOTICE

14.1 Any notice or notification to be given to the District Council under this Deed shall be sent to the Head of Development Management of the District Council (reference 14/01737/OUT) at Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA or

to such other person at such other address as the District Council shall from time to time direct;

14.2 any notice or notification to be given to the County Council under this Deed shall be sent to the Director for Environment and Economy of the County Council (reference 14/01737/OUT) at County Hall, New Road, Oxford, OX1 1ND or to such other person at such other address as the County Council shall from time to time direct;

14.3 any notice or notification to be given to the Owners or Developer shall be sent to the address provided at the start of this Deed or to such other party and address as may be notified to the District Council and the County Council pursuant to clause 11.1 of this Deed

14.4 unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:

14.4.1 if delivered by hand, at the time of delivery;

14.4.2 if sent by post, on the second Working Day after posting;

14.4.3 if sent by recorded delivery, at the time delivery was signed for.

14.5 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.

14.6 for the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

15 DATA PROTECTION

15.1 The Owners and the Developer acknowledge and agree that information as to compliance with obligations pursuant to this Deed (including as to whether or not contributions have been paid) may be passed to:-

15.1.1 The District Council and the County Council so that they may revise their records including public records accordingly and/or monitor and audit compliance with this Deed

15.1.2 Persons who make enquiries on such matters and who advise that they or their clients are proposing to acquire an interest in the Site and it is acknowledged that the recipients of such information may then disseminate it further

15.1.3 Any person when so required in order to comply with statutory requirements including the Freedom of Information Act 2000

16 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

17 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

FIRST SCHEDULE

Details of the Owners' Title, and description of the Site

All that land known as land North of Green Lane, Chesterton, Oxfordshire shown edged red on the Plan registered under title numbers ON133240 and ON150457 subject to the matters mentioned in the Charges Register of those titles

SECOND SCHEDULE

Covenants with the District Council

Part 1

Provision, laying out and transfer of the Play Areas and Informal Open Space, payment of Contributions

Definitions

In this Part of this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed):-

"Balancing Ponds"	any balancing ponds to be provided on the Development as determined by approval of Reserved Matters applications
"Balancing Ponds Commuted Sum"	a payment for the future maintenance and management of the Balancing Ponds calculated at Fourteen Pounds and Ninety One Pence per square metre (£14.91/sqm) of Balancing Ponds Index Linked
"Ditches/Watercourses"	any ditches and watercourses to be provided on the Development as determined by approval of Reserved Matters applications
"Ditches/Watercourses Commuted Sum"	a payment for the future maintenance and management of the Ditches/Watercourses calculated at Fifty Pounds and Nine Pence per linear metre (£50.09/lm) of Ditches/Watercourses Index Linked
"Existing Mature Trees"	any existing mature trees to be retained on the Site as indicated on Plan 2
"Existing Mature Trees Commuted Sum"	a payment for the future maintenance of the Existing Mature Trees calculated at Two Thousand Five Hundred and Twenty Seven Pounds and Sixteen

Pence (£2,527.16) per Existing Mature Tree Index
Linked

"Final Completion Certificate"

a certificate issued by the District Council confirming final completion of the laying out, landscaping and equipping of the land in question in accordance with the relevant scheme or specification approved pursuant to this Deed and the making good of all defects and completion of the Maintenance Period to the District Council's satisfaction

"Guide"

the District Council's draft supplementary planning document on planning obligations dated July 2011

"Index Linked"

adjusted according to the fluctuations between the date of this Deed and the quarter period in which payment is due to the District Council in the BCIS All in One Tender Price Index published by the Royal Institution of Chartered Surveyors or any successor organisation

"LAP"

means one Local Area of Play to be provided by the Owners as part of the Development

"Maintenance Period"

a period of twelve (12) months following the issue by the District Council of a Practical Completion Certificate

"Practical Completion Certificate"

a certificate issued by the District Council confirming the practical completion of the laying out, landscaping and equipping of the land in question in accordance with the relevant scheme or specification approved pursuant to this Deed

"Public Amenity Space"

areas of public amenity space to be provided on the Development as determined by approval of Reserved Matters applications

"Public Amenity Space

a payment for the future maintenance and

Commuted Sum" management of the Public Amenity Space calculated at Twenty Five Pounds and Seven Pence per square metre (£25.07/sqm) of Public Amenity Space Index Linked

"Surveyor" the District Council's Street Scene and Landscape Services Manager or such other person or persons as shall be notified in writing by the District Council to the Owner

~~"Thames Valley Police Contribution"~~ means the sum of Six Thousand Two Hundred and Eighty Five Pounds and Sixty Five Pence (£6,285.65) Index Linked as a contribution towards police infrastructure serving the Development

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Contributions

1. ~~The Owners and the Developer covenant with the District Council that they will prior to Implementation of the Development pay to the District Council in full the Thames Valley Police Contribution AND will not Implement the Development or cause or permit the Development to be Implemented until the Thames Valley Police Contribution has been paid in full to the District Council.~~

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LAP

2. The Owners and the Developer covenant with the District Council that they:
 - 2.1 will upon the terms of paragraphs 2.2 to 2.10 below provide the LAP as a local area of play as part of the Development in accordance with the Guide (a copy of which has been supplied to the Owners) and will not at any time use the LAP or cause or permit the LAP to be used for any purpose other than as a children's play area (and the words "any other purpose" shall include using the subsoil of the LAP for the laying of services unless so agreed by the District Council by approval of conditions pursuant to the Planning Permission or otherwise and using the LAP or the site thereof for the storage of materials, the parking of cars and/or any other vehicles or as a site compound or for any other purpose detrimental to the structure of the soil or existing vegetation)
 - 2.2 will not Implement the Development until there has been submitted in writing to and agreed with the District Council a scheme (including a phasing programme) for the

laying out landscaping and equipping of the LAP in accordance with the Guide and which scheme shall include (1) details of the location of the LAP (2) a timetable for carrying out the works and the planting comprised in the said laying out landscaping and equipping of the LAP (3) provision to ensure that the LAP is suitable for disabled users and (4) detailed provision for the maintenance of the LAP for a period of twelve months following its completion, such maintenance to include regular inspection ("the LAP Scheme");

- 2.3 will during the first planting season following the commencement of Construction of any Dwelling within 30 metres of the LAP carry out and complete the laying out landscaping and equipping of the LAP in accordance with the approved LAP Scheme and the Guide and to the reasonable satisfaction of the District Council;
- 2.4 will not cause or permit to be Occupied any Dwelling within 30 metres of the LAP until the LAP is completed and ready for use in accordance with paragraph 2.3 above;
- 2.5 will on completion of the LAP secure the approval of the District Council as follows:
 - 2.5.1 the Owners shall invite the District Council in writing to inspect the LAP with a view to issuing a Practical Completion Certificate
 - 2.5.2 the District Council shall inspect the LAP within 14 days of receipt of the invitation in paragraph 2.5.1 above and shall within 14 days of such inspection EITHER issue a Practical Completion Certificate OR issue a notice ('Defects Notice') which states the LAP has not been provided to the District Council's reasonable satisfaction and set out details of the work required to reach that standard
 - 2.5.3 if the Owners receive a Defects Notice in respect of the LAP they shall use reasonable endeavours to complete the works specified in the notice as soon as reasonably practicable and in any event no longer than 8 weeks from receipt of a Defects Notice and then invite the District Council to re-inspect the LAP
 - 2.5.4 the procedure set out in paragraphs 2.5.1 to 2.5.3 above shall be repeated in respect of the LAP until such time as the District Council EITHER:
 - 2.5.4.1 issues a Practical Completion Certificate; OR

- 2.5.4.2 fails to inspect the LAP within 14 days of receipt of the invitation in paragraph 2.5.1 above in which case a Practical Completion Certificate shall be deemed to have been issued 14 days after receipt of the relevant invitation; OR
- 2.5.4.3 fails to serve within 14 days of their inspection a Defects Notice in which case a Practical Completion Certificate shall be deemed to have been issued 14 days following the relevant inspection
- 2.5.5 the Owners shall maintain the LAP for the Maintenance Period to the reasonable satisfaction of the District Council, rectifying any defects arising and (where relevant) replacing any trees shrubs plants or grass which have died or been removed or become seriously diseased or damaged with others of a similar size and species
- 2.6 upon completion of the Maintenance Period will secure the final approval of the District Council for the LAP by inviting the District Council in writing to inspect the LAP with a view to issuing a Final Completion Certificate and the provisions of paragraphs 2.5.1 to 2.5.4 above shall apply mutatis mutandis and the Owners shall continue to maintain the LAP in accordance with paragraph 2.5.5 above until its transfer to the District Council in accordance with paragraph 3 below;
- 2.7 will provide an unrestricted right of access for the general public to the LAP at all times following the issue of a Practical Completion Certificate for the LAP;
- 2.8 will not grant or cause or permit to be granted any rights or easements over the LAP or any part of it without the prior written consent of the District Council (such consent not to be unreasonably withheld or delayed) whether by way of conditions pursuant to the Planning Permission or otherwise;
- 2.9 will on completion of the transfers referred to in paragraph 3 below hand over to the District Council and assign to the District Council or other person at the District Council's direction all contract documents and documents of guarantee relating to any play equipment and its installation on the LAP;
- 2.10 will at all times prior to the issuing or deemed issue of any Practical Completion Certificate referred to in paragraph 2.5 above upon reasonable notice permit the District Council's officers servants and agents to enter onto any necessary part of the Site and the LAP or any of it and will afford them access to do so for the purpose of inspecting the laying out of the LAP and following the issuing of any Practical Completion Certificate referred to in paragraph 2.5 above will provide an

unrestricted right of access to that LAP and (if access cannot be gained by or over public highways) over an appropriate part of the Site for the purpose of maintaining that LAP; and

- 2.11 will provide to the District Council for the LAP prior to the inspection required in paragraph 2.5 above, a RoSPA post installation report and Risk Assessment for the LAP which RoSPA report and Risk Assessment must be satisfactory to the District Council (acting reasonably) and thereafter will provide a satisfactory RoSPA report in respect of the LAP annually until the date of transfer of the LAP none of which RoSPA reports shall be more than eleven months old at the date they are provided to the District Council.
- 2.12 will on completion of the transfer of the LAP pay to the District Council in full the LAP Commuted Sum and in the event of default will not cause or permit any further Occupation of the Development until the LAP Commuted Sum has been paid in full to the District Council (or as the District Council directs);
3. The Owners and the Developer will not cause or permit to be Occupied more than seventy five percent (75%) of the sum of all the Dwellings in the Development until:
 - 3.1 the Maintenance Period has expired and a Final Completion Certificate has been issued in relation to the LAP; and
 - 3.2 the unencumbered freehold of the LAP has been offered to be transferred to the District Council (or such other person or body as the District Council directs) in consideration of the sum of £1.00 but otherwise at no cost (including legal costs) to and subject to no other contribution by the District Council or such other person or body such transfer to be with full title guarantee, vacant possession on completion and free and unrestricted rights of access for the general public at all times.
4. The Owners and the Developer:
 - 4.1 will continue to maintain the LAP to its original completed standard and to the reasonable satisfaction of the District Council until the date of completion of the transfer in paragraph 3 above; and
 - 4.2 will provide to the District Council (or as the District Council directs) an executed transfer of the LAP within 28 days of the issue of the relevant Final Completion Certificate and the Owner will complete the transfer of the LAP within 14 working days of the receipt of the relevant transfer from the District Council or as the District

Council directs and if such transfer is not executed as a deed by the Owner and the Developer (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the issue of the relevant Final Completion Certificate then the Development (including any further Occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council.

5. In providing the LAP the Owners and the Developer shall:
 - 5.1 notify the Surveyor of all site meetings relating to the construction of the LAP;
 - 5.2 permit the Surveyor to attend and to put forward his views at all site meetings during construction and on reasonable notice to inspect during construction and to suggest items for inclusion in any necessary schedule of defects issued to the contractor; and
 - 5.3 send the Surveyor copies of all instructions issued to a contractor in respect of the LAP at the same time as issuing them.

Open space

6. The Owners and the Developer covenant with the District Council that they will:
 - 6.1 not Implement the Development until there has been submitted in writing to and agreed with the District Council a scheme for the laying out and landscaping of the Balancing Ponds, Ditches/Watercourses and Public Amenity Space for the Development in accordance with the Guide and which scheme shall include (1) a timetable for carrying out the works and the planting comprised in the said laying out landscaping of the Balancing Ponds, Ditches/Watercourses and Public Amenity Space (2) detailed provision for the maintenance of the Balancing Ponds, Ditches/Watercourses and Public Amenity Space for a period of twelve months following their completion, such maintenance to include regular inspection ("the Open Space Scheme");
 - 6.2 during the first planting season following Implementation of the Development carry out and complete the laying out and landscaping of the Balancing Ponds, Ditch/Watercourses and Public Amenity Space in the Development in accordance with the approved Open Space Scheme and any Reserved Matters Approvals and to the reasonable satisfaction of the District Council;

- 6.3 maintain the Balancing Ponds, Ditch/Watercourses, Existing Mature Trees and Public Amenity Space to the reasonable satisfaction of the District Council until the transfer referred to in paragraph 7.1 below is completed;
- 6.4 upon completion of the laying out and landscaping of the Balancing Ponds, Ditches/Watercourses and Public Amenity Space seek approval of the District Council to the provision of these areas and facilities in accordance with the same procedure as applies to the LAP under paragraphs 2.5 and 2.6 of this Part of this Schedule ;
- 6.5 will not grant or cause or permit to be granted any rights or easements over the Balancing Ponds, Ditches/Watercourses and Public Amenity Space or any part thereof without the prior written consent of the District Council (such consent not to be unreasonably withheld or delayed) whether by way of conditions pursuant to the Planning Permission or otherwise;
- 6.6 will provide an unrestricted right of access for the general public to the Public Amenity Space at all reasonable times following the issue of the Practical Completion Certificate for the Public Amenity Space; and
- 6.7 will at all reasonable times and upon reasonable notice permit the District Council's officers servants and agents to enter onto any necessary part of the Site for the purpose of inspecting the Balancing Ponds, Ditches/Watercourses and Public Amenity Space.
7. The Owners and the Developer will:
- 7.1 following receipt of the relevant Final Completion Certificates arrange the transfer of the unencumbered freehold of the Balancing Ponds, Ditches/Watercourses, Existing Mature Trees and Public Amenity Space to the District Council or such other person or body as the District Council directs in consideration of the sum of £1.00 but otherwise at no cost (including legal costs) to and subject to no other contribution by the District Council or such other person or body such transfer to be with full title guarantee, vacant possession on completion and free unrestricted rights of access for the general public at all reasonable times;
- 7.2 on the date of transfer to the District Council (or as the District Council may direct) pay to the District Council or as the District Council may direct the Balancing Ponds Commuted Sum, Ditches/Watercourses Commuted Sum, the Existing Mature Trees Commuted Sum and Public Amenity Space Commuted Sum as applicable and in

the event of default will not cause or permit any further Occupation of the Development until the relevant commuted sum has been paid in full to the District Council (or as the District Council directs);

- 7.3 will continue to maintain the Balancing Ponds, Ditches/Watercourses and the Public Amenity Space to their original completed standard and to the reasonable satisfaction of the District Council until the date of completion of the transfer in paragraph 7.1; and
- 7.4 will provide to the District Council (or as the District Council directs) an executed transfer of the Balancing Ponds, Ditches/Watercourses and Public Amenity Space within 28 days of the issue of the relevant Final Completion Certificate and the Owner will complete the transfer of the Balancing Ponds, Ditches/Watercourses and Public Amenity Space within 14 working days of the receipt of the relevant transfer from the District Council or as the District Council directs and if such transfer is not executed as a deed by the Owners and the Developer (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the issue of the relevant Final Completion Certificate then the Development (including any further Occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council.
- 7.5 will not cause or permit more than seventy five percent (75%) of the Dwellings in the Development to be Occupied until the Balancing Ponds, Ditches/Watercourses, Existing Mature Trees and Public Amenity Space in the Development has been offered to be transferred to the District Council (or as the District Council directs) in accordance with paragraph 7.1 above.

Further covenants

- 8 Any land to be transferred to the District Council under the terms of this Deed shall be located so as not to be subject to any adverse rights.

PART 2

AFFORDABLE HOUSING

Definitions

In this Part of this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed):-

"Affordable Housing"	subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market
"Affordable Housing Dwellings"	<p>Affordable Housing units comprised in the Development comprising 70% Affordable Rented Housing and 30% Shared Ownership Housing of the following indicative sizes::</p> <ul style="list-style-type: none">4 x 1 bedroom 2 person maisonettes;9 x 2 bedroom 4 person houses;3 x 3 bedroom 5 person houses <p>or such alternative mix of size type and tenure of Affordable Housing as the District Council may agree in writing provided that the Affordable Housing Dwellings shall comprise no less than 35% (thirty five percent) of the total number of Dwellings in the Development</p>
"Affordable Rented Housing"	means rented housing provided by the Registered Provider to households who are eligible for social rented housing and which is not subject to the national rent regime but in line with the District Council's tenancy strategy, the rents will be no more than 80% of local market rent (including service charge) or the relevant Local Housing Allowance rate in force at the time the property is advertised for letting

"Affordable Housing Scheme"	means a scheme submitted to the District Council pursuant to paragraph 1.1 of this Part of this Schedule
"Affordable Housing Site"	that part or parts of the Site or any building or any buildings on the Site upon or within which there will be provided Affordable Housing Dwellings together with full rights of access to each Affordable Housing Site from the Site and the provision of all necessary Infrastructure and connections thereto and the necessary installations thereof for the dwellings to be constructed on the Affordable Housing Site
"Affordable Housing Standards"	<p>the design criteria with which the Affordable Housing Dwellings shall comply namely:</p> <ul style="list-style-type: none"> • be constructed to the latest version of the Homes and Communities Agency Design and Quality Standards ("D&QS") in place at the time of signature of this Deed; and • shall be designed to the same external design as the Market Dwellings so as to be indistinguishable from the Market Dwellings; and • shall be located in two separate clusters; and • 50% of the Affordable Rented Housing shall comply with Lifetime Homes Standards;
"Allocate"	means any procedure whereby there are conferred or transferred rights of residential occupation in respect of a Dwelling which could for the avoidance of doubt include the first occasion on which a Dwelling is occupied and any subsequent changes in the occupier and 'allocating' 'allocated' and 'allocations' should be construed accordingly

"Allocations Scheme"

the District Council's allocation policy from time to time which determines the District Council's priorities and procedures when allocating accommodation in accordance with the requirements of Section 167 of the Housing Act 1996 (and any amendment, re-enactment or successor provision)

"Chargee"

any mortgagee or chargee of the Registered Provider of the Affordable Housing Site or any part of it and includes any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925

"HCA"

the Homes and Communities Agency constituted pursuant to the Housing and Regeneration Act 2008 and any successor or successors for the time being and any similar future authority carrying on substantially the same grant and regulatory making functions

"Help to Buy Agent"

that organisation which is appointed by the HCA to assess eligibility for and market low cost home ownership products

"Infrastructure"

means in relation to the Affordable Housing Site:

- roads and footpaths to serve the Affordable Housing Site
- temporary services for contractors and a haul road for the use of contractors;
- adequate inverts for the foul and surface water drains sufficient to serve the drainage requirements of the Affordable Housing Site;
- pipes sewers and channels sufficient to serve the Affordable Housing Site;
- spur connections to agreed inverts (to be available at a time or times to be agreed with the Registered Provider) from the Owner's foul

and surface water drain run serving the Development up to the boundaries of the Affordable Housing Site such spur connections to be to a specification agreed with the Registered Provider;

and the following services:

- a standard fire hydrant supply and fire hydrants in the public highway in positions to be agreed with the Registered Provider;
- a water supply connection from the mains (size and termination position to be agreed with the Registered Provider);
- an electricity supply (size and termination position to be agreed with the Registered Provider);
- a gas supply (size and termination position to be agreed with the Registered Provider) (should it be required for the Affordable Housing Dwellings)
- a telephone spur (terminating in a junction box at a location agreed with the Registered Provider);
- if digital communication systems (for example cable television or fibre optic broadband) are provided on the Development to provide a connection to the Affordable Housing Site (final locations to be agreed with the Registered Provider);
- landscaping on the Affordable Housing Site in accordance with a scheme first approved in writing by the District Council

"Lifetime Homes Standards"

those standards as prescribed in the Lifetime Homes Design Guidance produced by Habinteg Housing Association or any equivalent replacement standard

"Mortgage Land"

the Affordable Housing Site or any part of it which is mortgaged or charged to the Chargee

"Nominations Agreement"

an agreement which shall be entered into between the District Council and the Registered Provider, both parties acting reasonably, in relation to the Affordable Housing Dwellings on the Site and which shall guide in conjunction with the Allocations Scheme those persons eligible to be nominated to the Affordable Housing Dwellings

"Qualifying Persons"

those persons who are assessed by the District Council under its current Allocations Scheme and are nominated to an Affordable Housing Dwelling in accordance with this Allocations Scheme and the Nominations Agreement

"Registered Provider"

a private provider of affordable housing which is designated in the register maintained by the HCA or any similar future authority carrying on substantially the same regulatory or supervisory functions pursuant to section 111 of the Housing and Regeneration Act 2008 as a non-profit organisation under sub-sections 115(1)(a) or 278(2) of the Act or which is designated in that register as a profit-making organisation under section 115(1)(b) of the Housing and Regeneration Act 2008 which is EITHER on the District Council's list of preferred partners OR has demonstrated that it meets the performance criteria applicable to an organisation with preferred partner status and has been approved in writing by the District Council

"Shared Ownership Housing"

housing offered via the Registered Provider under the terms of a lease which accords with the HCA Shared Ownership Model Lease by which a lessee may acquire an initial share or shares of between 25% - 75% of the equity in an Affordable Housing Dwelling from the Registered Provider who retains the remainder and may charge a rent of up to 2.75% on the unsold equity

Covenants

1. The Owners and the Developer covenant with the District Council that they the Owners and the Developer:
 - 1.1 will not Implement or cause or permit the Implementation of the Development until there has been submitted to and approved by the District Council in writing the Affordable Housing Scheme for the Development which scheme shall include:-
 - 1.1.1 plans and details identifying to the satisfaction of the District Council such parcels of land in such locations as are capable in the opinion of the District Council of being developed to provide the Affordable Housing Dwellings in accordance with this Deed of Agreement and in particular with the requirements set out in the definitions contained in this Part of this Schedule and which parcels shall provide for the Affordable Housing Dwellings to be located in such positions throughout the Site as the District Council shall approve; and
 - 1.1.2 a phasing scheme for the provision and completion of the Affordable Housing Dwellings within the Development;
 - 1.1.3 details of the precise mix of tenure and house types and sizes of the Affordable Housing Dwellings in the Development which shall be substantially in accordance with the definition of Affordable Housing Dwellings in this Part of this Schedule;
 - 1.1.4 details of which of the Affordable Housing Dwellings will meet Lifetime homes Standards.
 - 1.2 will not Occupy or cause or permit the Occupation of more than thirty per cent (30%) of the Market Dwellings in the Development until each area comprising the Affordable Housing Site in the Development has been offered to and transferred to the Registered Provider together with all rights for Infrastructure and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Dwellings to be constructed thereon and with a good and marketable freehold or long leasehold title free from incumbrances and with vacant possession and capable of being fully serviced and properly connected to the public highway;

- 1.3 will not Occupy or cause or permit the Occupation of more than forty per cent (40%) of the Market Dwellings in the Development until there has been provided to the District Council's reasonable satisfaction the Infrastructure to serve each parcel of the Affordable Housing Site and the Affordable Housing Dwellings in Development at no cost to or other contribution by the Registered Provider;
- 1.4 will construct the Affordable Housing Dwellings in the Development and make the same ready for Occupation in accordance with the Affordable Housing Standards and the approved Affordable Housing Scheme to the reasonable satisfaction of the District Council as part of the Development upon the Site prior to use or Occupation of more than sixty per cent (60%) of the Market Dwellings in the Development;
- 1.5 will not cause or permit more than sixty per cent (60%) of the Market Dwellings in the Development to be used or Occupied unless and until the Owner has constructed the Affordable Housing Dwellings in the Development and made the same ready for Occupation as aforesaid in accordance with the Affordable Housing Standards and the approved Affordable Housing Scheme.
2. The Owners and the Developer covenant with the District Council that they the Owner and the Developer:
 - 2.1 will not use or cause or permit the use of the Affordable Housing Site or any part thereof or the Affordable Housing Dwellings erected thereon for any purpose other than for the provision of Affordable Housing in accordance with this Deed of Agreement; and
 - 2.2 will not without the consent in writing of District Council transfer the freehold interest or the long leasehold interest in the Affordable Housing Site or any part thereof or the Affordable Housing Dwellings erected thereon except to the District Council or a Registered Provider provided that consent shall not be required for any mortgage or charge of the freehold interest and provided that this shall not apply to the tenancies being granted to any of the occupiers of individual Affordable Housing Dwellings.
3. For the avoidance of doubt paragraphs 2.1 and 2.2 are binding on the Chargee PROVIDED THAT paragraphs 2.1 and 2.2 will not be binding on a bona fide purchaser for value from the Chargee exercising its power of sale (other than a purchaser which is a Registered Provider) or the successors in title of such purchaser provided that the provisions of paragraph 4 below have been complied with.

4. It is hereby agreed and declared that the proviso contained in paragraph 3 will only apply where the Chargee exercising its power of sale:-
 - 4.1 has first served written notice on the District Council of its intention to exercise its power of sale or other power or right conferred upon it, its mortgage, charge or other security; and
 - 4.2 has made every reasonable endeavours over a period of three months from receipt of notification pursuant to paragraph 4.1 above to dispose of the Mortgage Land subject to any leases and tenancies then subsisting and to the terms of this Deed to a Registered Provider or the District Council PROVIDED ALWAYS that nothing herein shall require the Chargee to dispose of the Mortgage Land at a price which is less than the greater of the open market value of the Mortgage Land subject to the restrictions contained within this Deed or all sums due under the terms of the Chargee's mortgage or charge together with costs and interest AND FURTHER PROVIDED THAT in any event if upon the expiry of 3 months from the date of receipt by the District Council of the notice in paragraph 4.1 above and provided the steps in this paragraph have been completed and no transfer of the Mortgage Land to either the District Council or a Registered Provider has completed within the said period of 3 months then upon expiry of the said 3 months the Chargee shall be able to sell the Mortgage Land free from the restrictions in paragraphs 2.1 and 2.2 with the effect that they shall cease to bind the Mortgage Land.
5. The provisions of paragraphs 2.1 and 2.2 will not be binding on:
 - 5.1 any purchaser pursuant to the exercise of a statutory or voluntary right to buy, preserved right to buy or right to acquire or any owner of Shared Ownership Housing who has staircased up to 100% or any successor in title thereto; or
 - 5.2 any statutory undertaker.
6. The Owners and the Developer will not Allocate or cause or permit to be Allocated any of the Affordable Housing Dwellings other than as follows:
 - 6.1 the Affordable Housing Dwellings shall only be Allocated to Qualifying Persons in accordance with the District Council's Allocations Scheme and in accordance with the terms of the Nominations Agreement;
 - 6.2 the Shared Ownership Housing shall be marketed through the Help to Buy Agent or such other appointed body for the region and only those deemed eligible under the

Help to Buy Agent's criteria shall be considered for the Shared Ownership Housing;
or

6.3 as agreed by the District Council.

7. For the avoidance of doubt, if the Affordable Housing Dwellings are vested or transferred to another Registered Provider pursuant to a proposal made by the Homes and Communities Agency pursuant to Section 44 of the Housing Act 1996 (or any statutory provision amending or replacing the same) then the provisions of this Agreement shall continue in respect of such other Registered Provider.

THIRD SCHEDULE

District Council's Covenants

1. Subject to paragraph 4 of this Schedule the District Council covenants with the Owners and the Developer to use all sums received from the Owners and the Developer under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Developer and the District Council shall agree.
2. The District Council covenants with the Owners and the Developer that following written request from the Owners and/or the Developer it will pay to the person that made the payment the balance (if any) of the sums received from the Owners and the Developer under the terms of this Deed (save for the sums paid pursuant to clause 8.1) which at the date of receipt of such request has not been expended for the purpose for which it was paid or such other purpose agreed pursuant to paragraph 1 of this Schedule together with any interest earned on those sums PROVIDED ALWAYS that no such request will be made prior to the expiry of ten years from the date of receipt by the District Council of such payment. Any contribution or part of a contribution which the District Council has contracted to expend for the purpose for which it was paid or such other purpose agreed pursuant to paragraph 1 of this Schedule prior to the date of receipt of such request shall be deemed to have been expended by the District Council prior to that date. If capital works have been carried out then commuted sums for maintenance will not be returnable under this paragraph AND FURTHER PROVIDED THAT the District Council shall not be obliged pursuant to this paragraph to return monies that do not relate to District Council functions or have been passed to persons/bodies other than the District Council;
3. Subject to paragraph 4 of this Schedule the District Council shall provide to the Owners and/or the Developer such evidence, as the Owners and/or the Developer shall reasonably require in order to confirm the expenditure of the sums paid by the Owners and/or the Developer to the District Council under this Deed upon receiving a written request from the Owner and/or the Developer such request not being made more than once in any six month period.
4. ~~Paragraphs 1 and 3 above shall not apply to the Thames Valley Police Contribution.~~
5. ~~The District Council covenants with the Owners and the Developer that it will pass on within 14 Working Days of receipt any sums received from the Owner and the~~

NB

~~Developer as part of the Thames Valley Police Contribution to Thames Valley Police without deduction.~~

6 ~~The District Council covenants with the Owners and the Developer that it will use reasonable endeavours to ensure that Thames Valley Police use all sums received under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owners and the District Council shall agree.~~

NB

7 ~~The District Council shall provide to the Owners and the Developer such evidence as the Owners and the Developer shall reasonably require in order to confirm that the Thames Valley Police Contribution has been passed on to Thames Valley Police such request not to be made more than once in any year.~~

NB

FOURTH SCHEDULE

Covenants with the County Council (Contributions and Highway Works)

1. Definitions

In this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed):

- "Approval (Qualifying Permission)"** means the Qualifying Permission which first establishes the Composition of the Development
- "Approval (Variation)"** means any Qualifying Permission which alters the Composition of the Development as established further to the Approval (Qualifying Permission) or as applicable preceding Approval (Variation)
- "Bedroom"** means a room in a Dwelling designed as a bedroom or study/bedroom and
- "1 Bedroom Dwelling" means a Dwelling with 1 Bedroom;
 - "2 Bedroom Dwelling" means a Dwelling with 2 Bedrooms;
 - "3 Bedroom Dwelling" means a Dwelling with 3 Bedrooms
 - "4 Bedroom Dwelling" means a Dwelling with 4 or more Bedrooms
- "Composition of the Development"** means the aggregate number of Dwellings comprised in the Development and the number of each Dwelling type classified by reference to the number of Bedrooms in the Dwelling
- "Contribution"** means the Primary School Contribution, the Secondary School Contribution or the Transport Contribution as the case may be;
- "the Highway Works"** means the following principal works together with the preparatory and ancillary works and the amenity and accommodation works set out in paragraphs (2) and (3) of the Schedule to the Section 278 Agreement The provision and construction in the position indicated in principle on the Works Plan(s) (as defined in the Section 278 Agreement) drawing JNY8140-05 Rev A attached of the following works:
- (a) widening of the unnamed road which runs north-south between the A4095 and Green Lane
 - (b) new vehicular access into the Site
 - (c) extending the existing footway in this unnamed road to the new vehicular access to the Site

"Index Linked"

means in respect of the Transport Contribution adjusted according to any variation occurring between November 2014 and the date of payment of that Contribution in a composite index comprised of the following indices of the BCIS Price Adjustment Formulae (Civil Engineering) 1990 Series as made available through the Building Cost Information Services (BCIS) of the Royal Institution of Chartered Surveyors weighted in the proportions set out below against each such index:

Index 1 – Labour and Supervision	25%
Index 2 – Plant and Road Vehicles	25%
Index 3 – Aggregates	30%
Index 9 – Coated Macadam and Bituminous Products	20%

Or if at any time for any reason it becomes impracticable to compile such a composite index then an index compiled in such other manner as may be agreed in writing between the Owners or the Developer and the County Council; and

means in respect of the Primary School Contribution and the Secondary School Contribution adjusted according to any variation occurring between first quarter 2012 and the date when a relevant payment is made to the County Council in the BCIS PUBSEC (Price Index of Public Sector Building Non Housing) within the BCIS Public Sector Price and Cost Indices as made available through the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors or if at any time for any reason it becomes impracticable to use this index such alternative index as may be agreed between the Owners or the Developer and the County Council

"the Matrix"

means the formula:

$$£(A \times W) + (B \times X) + (C \times Y) + (D \times Z)$$

where:

A means the number of 1 Bedroomed Units

B means the number of 2 Bedroomed Units

C means the number of 3 Bedroomed Units

D means the number of 4 Bedroomed Units

and W, X, Y and Z are as set out in the Fifth Schedule;

"Notification (Initial)"

means written notification of the Approval (Qualifying Permission) containing a copy of that approval and details of the Composition of the Development established by that approval

"Notification (Variation)"

means written notification of an Approval (Variation) containing a copy of that approval and details of the Composition of the Development established applying that approval

"the Primary School

means the sum of one hundred and seventy nine thousand eight hundred and sixty eight pounds

Contribution"		(£179,868.00) or if different the sum calculated by applying the Matrix to the Composition of the Development as identified in the Notification (Initial) Index Linked, in three instalments the first of 33% of the Contribution Index Linked, the second of 33% of the Contribution Index Linked and the third of 34% of the Contribution Index Linked towards the expansion of capacity at Chesterton Primary School;
"Qualifying Application"		means an application for approval of Reserved Matters or any separate application(s) for full planning permission for any part (but not the whole) of the Development or any application under Section 73 of the Act relating to a planning permission which relates to or affects the Development
"Qualifying Permission"		means a Reserved Matters Approval or planning permission as the case may be issued pursuant to a Qualifying Application as may from time to time be amended by the approval of a non-material amendment pursuant to Section 96A of the Act
"the Revised Primary School Contribution"		means the sum calculated by applying the Composition of the Development as identified in a Notification (Variation) to the Matrix where this is higher than the Primary School Contribution or in the event that there is more than one Approval (Variation) the Revised Primary School Contribution means the sum calculated by applying the Composition of the Development established further to the later Approval (Variation) to the Matrix if that sum is higher
"the Revised Secondary School Contribution"	Revised School	means the sum calculated by applying the Composition of the Development as identified in a Notification (Variation) to the Matrix where this is higher than the Secondary School Contribution or in the event that there is more than one Approval (Variation) the Revised Secondary School Contribution means the sum calculated by applying the Composition of the Development established further to the later Approval (Variation) to the Matrix if that sum is higher
"the Secondary School Contribution"		means the sum of two hundred and fifty four thousand two hundred and sixteen pounds (£254,216.00) or if different the sum calculated by applying the Matrix to the Composition of the Development as identified in the Notification (Initial) Index Linked, in three instalments the first of 33% of the Contribution Index Linked, the second of 33% of the Contribution Index Linked and the third of 34% of the Contribution Index Linked towards the construction of a new secondary school at Kingsmere, south west Bicester;
"Section Agreement"	278	means an agreement under Section 278 of the Highways Act 1980 substantially in accordance with the draft agreement annexed to this Schedule (subject to any additions and amendments that the circumstances may reasonably and properly require) which provides for the execution of the Works by the Owners/Developer at the

Owners'/Developer's expense

“the Transport Contribution” means the sum of thirty one thousand five hundred pounds (£31,500) Index Linked towards improvements to pedestrian and cycle links between Chesterton village and Bicester Park and Ride site and associated facilities and the formalisation and improvement of the existing footpath between the allotments and Alchester Road

Covenants (Contributions and Highway Works)

2. The Owners and the Developer jointly and severally covenant and undertake with the County Council:
 - 2.1. not to cause or permit the Development to be Implemented until the Notification (Initial) has been given to the County Council
 - 2.2. not to cause or permit the Development to be Implemented until the Transport Contribution and the first instalments of the Primary School Contribution and the Secondary School Contribution have been paid to the County Council and to pay the Transport Contribution and the first instalments of the Primary School Contribution and the Secondary School Contribution to the County Council prior to Implementation of the Development
 - 2.3. not to cause or permit any Dwellings to be Occupied until the second instalments of the Primary School Contribution and the Secondary School Contribution have been paid to the County Council and to pay the second instalments of the Primary School Contribution and the Secondary School Contribution to the County Council prior to the Occupation of the 1st Dwelling to be Occupied
 - 2.4. not to cause or permit more than 9 Dwellings to be Occupied until the third instalments of the Primary School Contribution and the Secondary School Contribution have been paid to the County Council and to pay the third instalments of the Primary School Contribution and the Secondary School Contribution to the County Council prior to the Occupation of the 10th Dwelling to be Occupied
 - 2.5. to pay to the County Council the sum(s) calculated further to paragraph 3.1.2 below Index Linked with the next relevant instalment subsequent to the date of grant of the relevant Approval (Variation) or if all the relevant instalments have been paid to pay such sum Index Linked within 14 days of the grant of the Approval (Variation)
 - 2.6. not to cause or permit the Development to be Implemented until:
 - 2.6.1. there has been submitted to the County Council and approved in writing by it 'in principle' drawings of the Highway Works and if land is required to be dedicated as highway, a dedication plan for the Highway Works and
 - 2.6.2. the Owners (or the Developer) and all parties with an interest in any land to be dedicated as highway have entered into the Section 278 Agreement with the

County Council incorporating such matters and also the following matters specified by the County Council acting reasonably:

- 2.6.2.1. a commuted maintenance sum in respect of the cost of future maintenance of the Highway Works
- 2.6.2.2. all other matters contemplated by the form of agreement under Section 278 of the 1980 Act annexed to this Deed including the duration of construction of the Highway Works
- 2.6.3. any mortgagee of any part of any land to be dedicated has released it from the charge and
- 2.6.4. a bond has been delivered to the County Council executed by the Owners or the Developer and a surety to secure the carrying out of the Highway Works
- 2.7. not to cause or permit any Dwelling to be Occupied before the Highway Works have been completed to the satisfaction of the County Council pursuant to and in accordance with the Section 278 Agreement

3. **Adjustment of Contributions**

- 3.1. The parties agree that where a Notification (Variation) has been given (or is required to be given further to clause 11.3) and it identifies (or would identify) a revised Composition of the Development which results in the establishment of a Revised Primary School Contribution and a Revised Secondary School Contribution then:
 - 3.1.1. for the purposes of calculating any relevant instalment which will be payable subsequent to the date of issue of the relevant Approval (Variation) the relevant Revised Contribution(s) shall be applied in place of the Contribution(s)
 - 3.1.2. there shall be calculated the difference between any relevant instalment paid prior to the issue of the relevant Approval (Variation) and the amount that such instalment would have been if it had been calculated by reference to the Revised Contribution (disregarding index linking)

FIFTH SCHEDULE

Matrix

	<u>1 Bed</u>	<u>2 Bed</u>	<u>3 Bed</u>	<u>4 + Bed</u>
Primary Education	Nil	£2,017.86	£4,629.21	£6,053.58
Secondary Education (including Sixth Form)	Nil	£2,408.62	£6,262.41	£10,116.19
Total	Nil	£4,426.48	£10,891.61	£16,169.77
	W	X	Y	Z

SIXTH SCHEDULE

County Council's Covenants

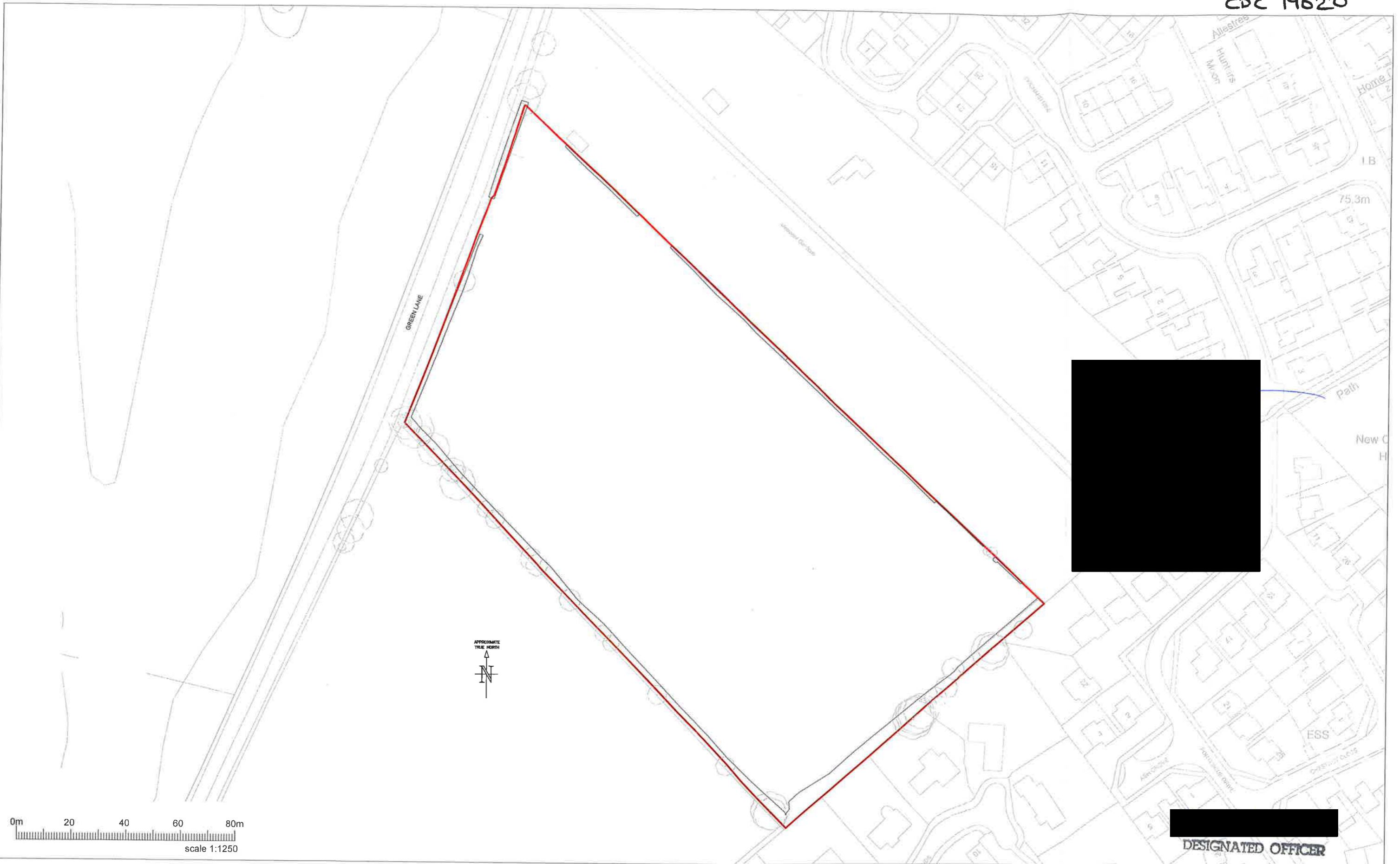
1. The County Council shall not apply any Contribution for any purpose other than that identified in the definition of the relevant Contribution.

2. Following written request from the person who made the relevant payment the County Council will repay to that person the balance (if any) of any Contribution which has not been expended for the purpose for which it was paid at the date of such written request together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law provided always that no such request will be made prior to the expiry of ten years from the date of payment of the Contribution or the final instalment of the Contribution as the case may be or if later ten years from expiry of the due date for payment of the Contribution or the final instalment of the Contribution as the case may be. Any Contribution or part of a Contribution which the County Council has contracted to expend for the purpose for which it was paid prior to the date of receipt of such request shall be deemed to have been expended by the County Council prior to that date.

3. The County Council shall provide to the Owners and/or the Developer such evidence as the Owners and/or the Developer shall reasonably require in order to confirm the expenditure of the sums paid by the Owners and/or the Developer to the County Council under this Deed upon receiving a written request from the Owner and/or the Developer such request not being made more than once in any 6 month period.

APPENDIX 1

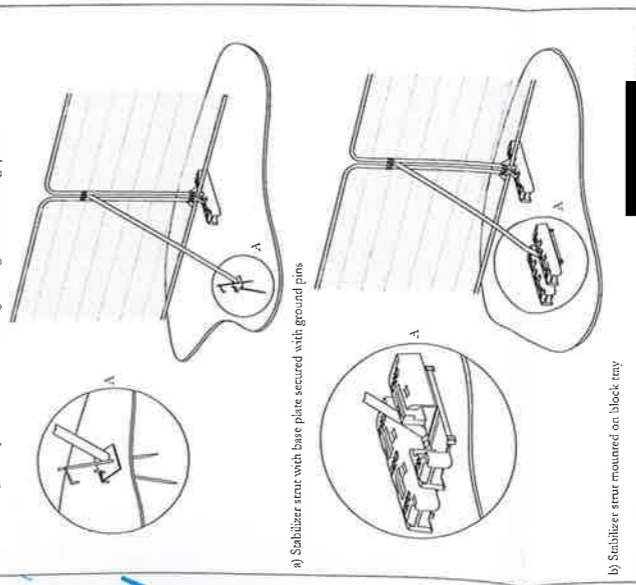
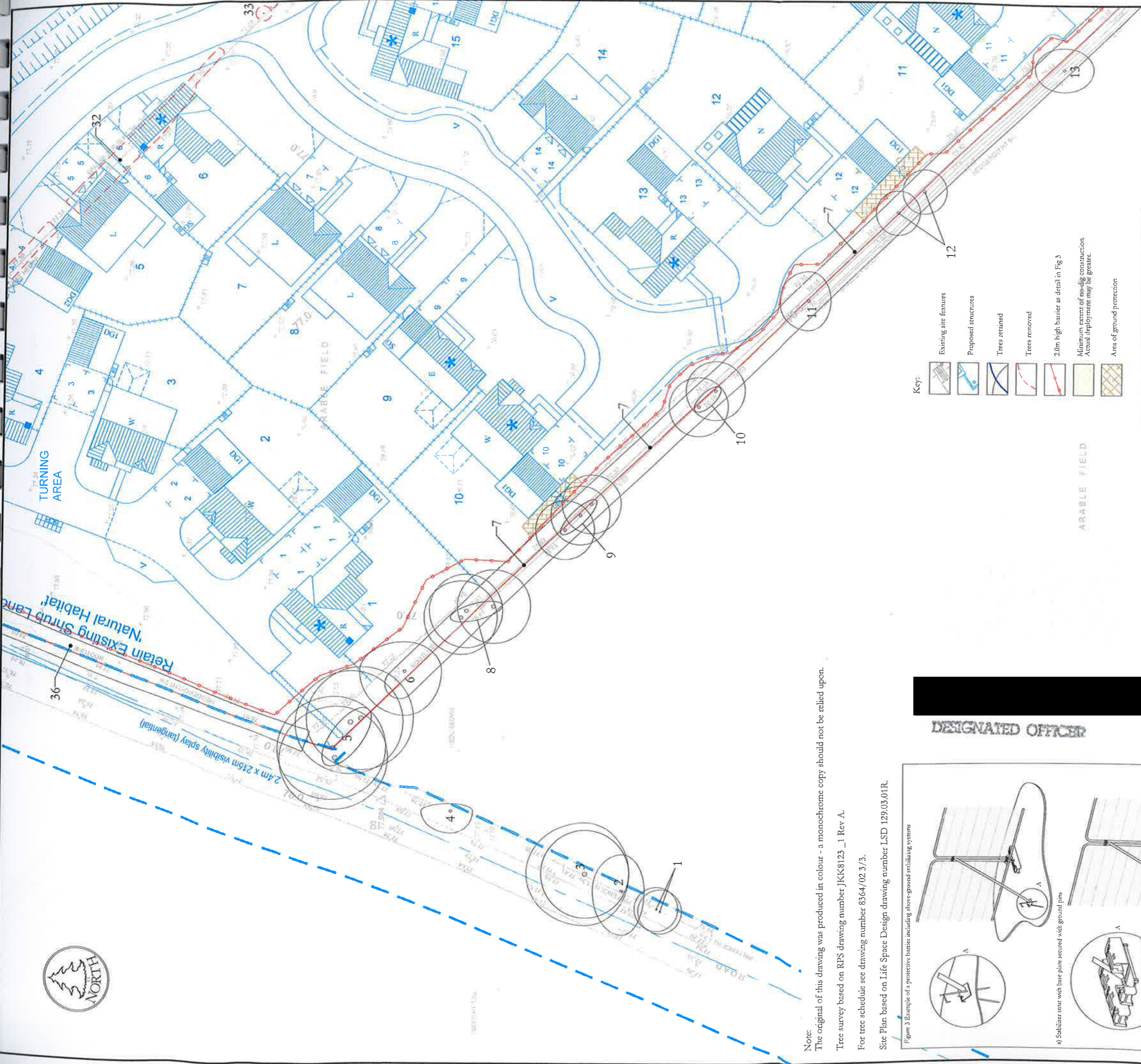
Plan 1



DESIGNATED OFFICER

APPENDIX 2

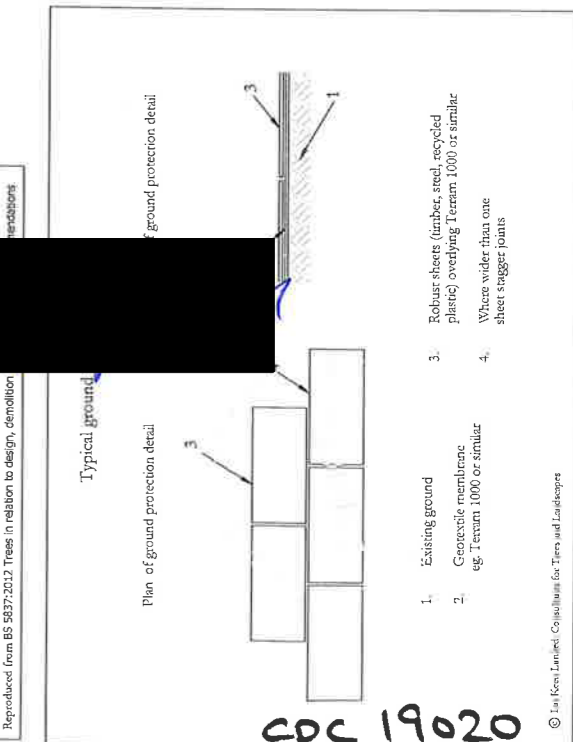
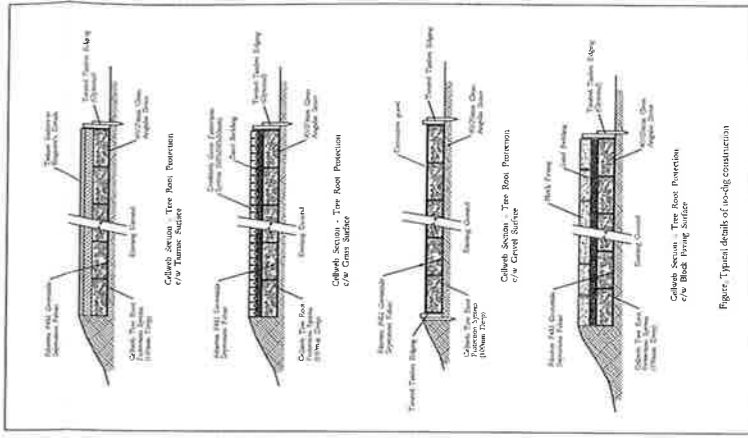
Plans 2A, 2B, 2C



Note:
The original of this drawing was produced in colour - a monochrome copy should not be relied upon.
Tree survey based on RPS drawing number JK18123_1 Rev A.
For tree schedule see drawing number 8364/02 3/3.
Site Plan based on Life Space Design drawing number LSD 129.03.01R.

DESIGNATED OFFICER

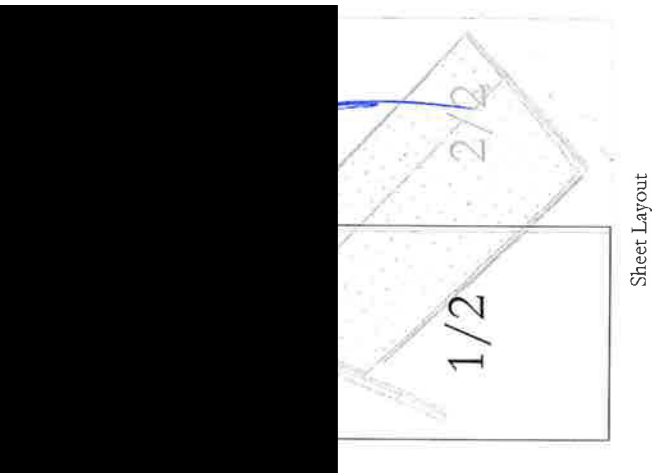
- Key:
- Existing site features
 - Proposed structures
 - Trees retained
 - Trees removed
 - 2.0m high barrier as detail in Fig 3
 - Minimum extent of no-dig construction. Actual deployment may be greater.
 - Area of ground protection



CLIENT:	CSA Environmental Planning
PROJECT:	Land at Green Lane, Chesterton
TITLE:	Tree Protection Plan
DRAWING NUMBER:	8364/02 1/3
STATUS:	For information
DATE:	Oct 2015
DRAWN BY:	ML
CHECKED BY:	JTK
SCALE:	1:250 @ A1

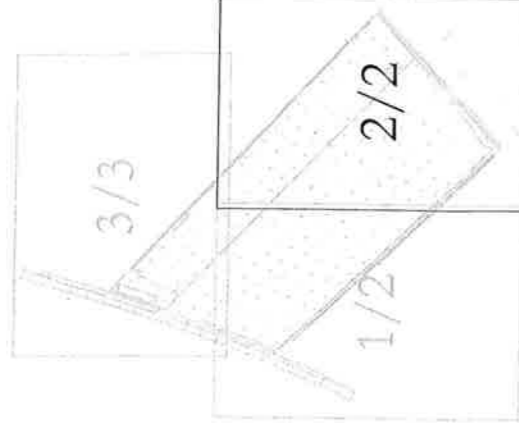
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IAN KEEN LIMITED
Consulting Tree, Landscape
and Nature Conservation
Rushley Farm, Rushley, Leicestershire, Leicestershire, Leicestershire, Leicestershire
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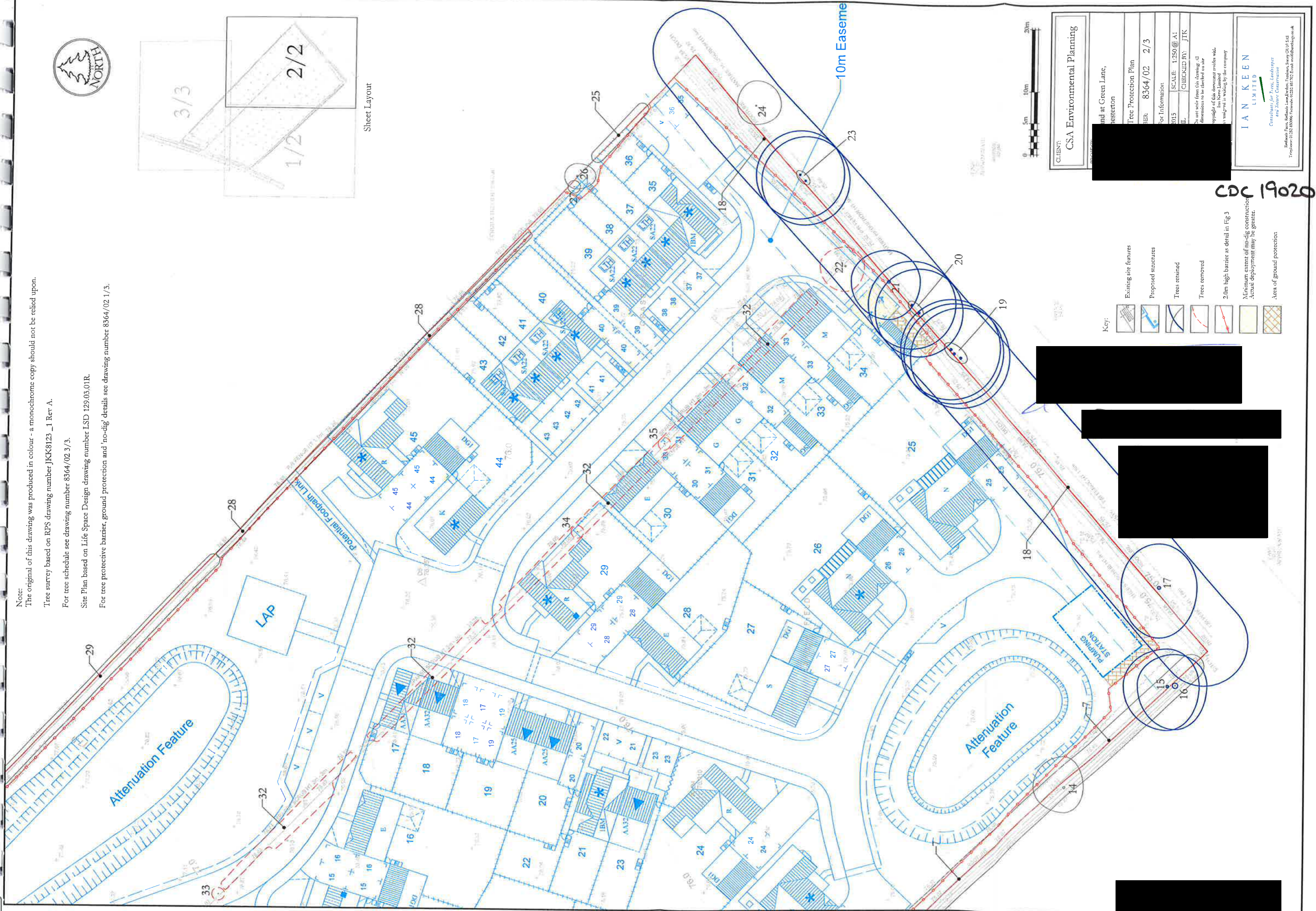


Sheet Layout

Note:
 The original of this drawing was produced in colour - a monochrome copy should not be relied upon.
 Tree survey based on RPS drawing number JKK8123_1 Rev A.
 For tree schedule see drawing number 8364/02 3/3.
 Site Plan based on Life Space Design drawing number LSD 129.03.01R.
 For tree protective barrier, ground protection and 'no-dig' details see drawing number 8364/02 1/3.



Sheet Layout



Key:

	Existing site features
	Proposed structures
	Trees retained
	Trees removed
	2.0m high barrier as detail in Fig 3
	Minimum extent of no-dig construction
	Actual deployment may be greater.
	Area of ground protection



CLIENT: [Redacted]

CSA Environmental Planning

Tree Protection Plan

REF: 8364/02 2/3

For Information

DATE: 2015

SCALE: 1:250 @ A1

CHECKED BY: JTK

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CDC 19020

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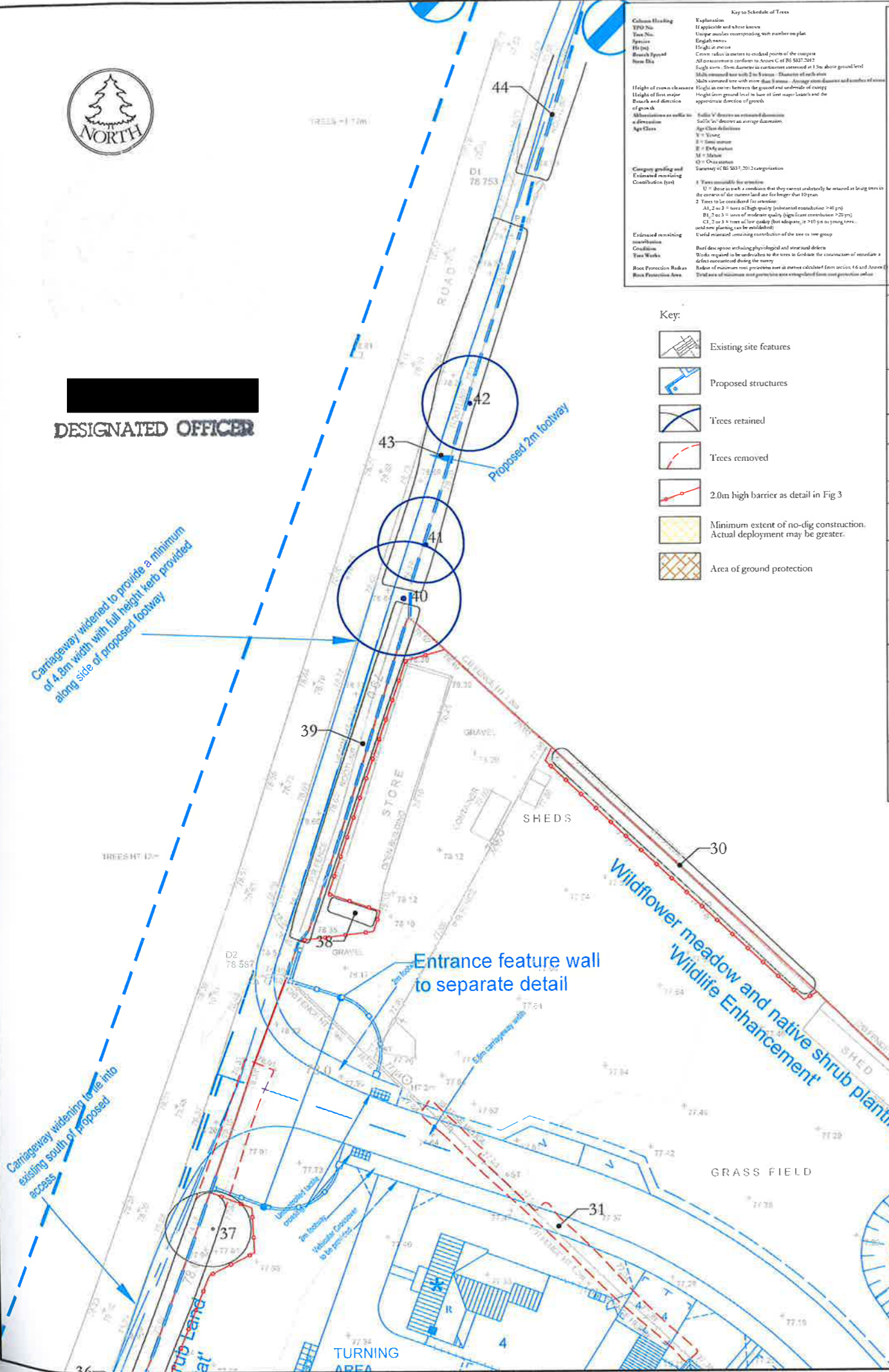
Key to Schedule of Trees

Column Heading	Explanation
Tree No.	Tree number as shown on plan
Tree Name	Tree name as shown on plan
Species	Tree species
Height (m)	Tree height in metres
Branch Spread (m)	Tree branch spread in metres
DBH (cm)	Tree diameter at breast height in centimetres
Health	Tree health condition
Age Class	Tree age class
Height of crown clearance	Height of crown clearance in metres
Height of first major branch	Height of first major branch in metres
Branch and direction of growth	Branch and direction of growth
Abundance as well as dimension	Abundance as well as dimension
Age Class	Age Class
Condition	Condition
Tree Protection Area	Tree Protection Area

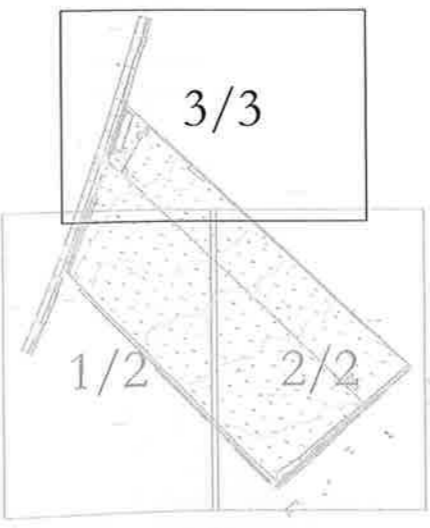
SURVEY OF TREES AT GREEN LANE, CHESTERTON

Tree No.	Species	DBH (cm)	Height (m)	Branch Spread (m)	Health	Age Class	Condition	Tree Value to BS 5839	Tree Protection Area (m²)	Notes
1	Tree 1
2	Tree 2
...
37	Tree 37
38	Tree 38
39	Tree 39
40	Tree 40
41	Tree 41
42	Tree 42
43	Tree 43
44	Tree 44

- Key:**
- Existing site features
 - Proposed structures
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39	Tree 39
40	Tree 40
41	Tree 41
42	Tree 42
43	Tree 43
44	Tree 44



Sheet Layout

ALLOTMENTS

Note:
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 Tree survey based on RPS drawing number JKK8123_1 Rev A.
 Site Plan based on Life Space Design drawing number LSD 129.03.01R.
 For tree protective barrier, ground protection and 'no-dig' details see drawing number 8364/02 1/3.

CLIENT:
CSA Environmental Planning

PROJECT:
Land at Green Lane, Chesterton

TITLE:
Tree Protection Plan

DRAWING NUMBER:
8364/02 3/3

STATUS:
For Information

DATE: Oct 2015 **SCALE:** 1:250 @ A1

DRAWN BY: ML **CHECKED BY:** JTK

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APPENDIX 3

Draft Section 278 Agreement with accompanying plan and conditions

DATED _____ 201[]

THE OXFORDSHIRE COUNTY COUNCIL

- and -

(OWNER)

-and-

(MORTGAGEE)

draft

Agreement relating to highway works at The Paddocks, north of Green Lane, Chesterton, Oxfordshire to be undertaken by Developer

KS/46836

N Graham Chief Legal Officer & Monitoring Officer
Oxfordshire County Council
County Hall
New Road
Oxford OX1 1ND

THIS DEED is made on the _____ day of

Two Thousand and [_____]

BETWEEN:-

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** ("the Council")
- (2) _____ (company registration
number _____) ("the Owner")
- (3) _____ (company registration
number _____) ("the Mortgagee")

1. **Interpretation**

In this Deed:-

- 1.1 "the 1980 Act" means the Highways Act 1980
- 1.2 "the 1990 Act" means the Town and Country Planning Act
1990
- 1.3 "As-Built Drawings" means detailed plans and drawings
showing the Works in the form in which they have actually
been executed and completed required under Condition 32
of the Standard Conditions
- 1.4 "Certificate of Completion" means a certificate issued under
Condition 29 of the Standard Conditions
- 1.5 "the Council" means the said Oxfordshire County Council
whose principal office is at County Hall New Road Oxford
OX1 1ND and any successor to its statutory functions as
highway authority or planning authority and any duly
appointed employee or agent of the Council or such
successor

- 1.6 "the Dedication Plan" means the plan marked 'B' annexed to this Deed or such other plan as the Owner [the Mortgagee] and the Council agree should be substituted for it
- 1.7 "the Development" means the development of the Site for the erection of up to 45 dwellings served via a new vehicular and pedestrian access public open space and associated earthworks to facilitate surface water drainage and all other ancillary and enabling works further to the Planning Permission
- 1.8 "Dwelling" means a dwelling constructed or to be constructed pursuant to the Planning Permission
- 1.9 "Implementation" means the carrying out of a material operation as defined in section 56(4) of the 1990 Act and "Implement" and "Implemented" shall be construed accordingly
- 1.10 "including" means including without limitation and 'include' shall be construed accordingly
- 1.11 "Index-Linked" means adjusted according to any increase occurring between [] and the date of payment to the Council in a composite index comprised of the following indices of the Monthly Bulletin of Indices Prices Adjustment Formulae for Construction Contracts (1990 Series) published on behalf of the Department of Business, Innovation and Skills weighted in the proportions below set out against each such index namely:-

- 1.18 "the Site" means the land at the Paddocks north of Green Lane Chesterton Oxfordshire shown edged in red on the Site Plan
- 1.19 "the Site Plan" means the plan marked "Plan A" annexed to this Deed
- 1.20 "the Standard Conditions" means the Council's Standard Conditions for the Control of Highway Works in Conjunction with Development (2013 Edition) a copy of which is annexed to this Deed
- 1.21 "the Works" means the works specified in the Schedule
- 1.22 "the Works Plan" means the plan reference JNY8140-05 Revision A marked "Plan C" annexed to this Deed
- 1.23 Any reference to an enactment includes any amendments to or modifications of it and the version of it for the time being in force shall apply
- 1.24 Headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation
- 1.25 References to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed
- 1.26 Where the context so requires:-
- 1.26.1 the singular includes the plural and vice versa
- 1.26.2 the masculine includes the feminine and vice versa

1.26.3 persons includes bodies corporate associations and partnerships and vice versa

1.27 Where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons

1.28 Where more than one party enters into any obligation or liability those parties are jointly and severally liable

1.29 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction

2. **Preliminary**

2.1 The Owner is the owner of the freehold of the Site [subject to a Charge in favour of the Mortgagee but otherwise] free from incumbrances as the Owner hereby warrants

2.2 For the purposes of the 1990 Act the Council is the county planning authority for the area which includes the Site

2.3 For the purposes of the 1980 Act, the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 the Council is the highway authority and the traffic authority for certain highways in the area which includes the Site

2.4 The district planning authority granted the Planning Permission for the Development on []

- 2.5 The Owner has agreed by virtue of an agreement pursuant to Section 106 of the 1990 Act dated [] and made between Cherwell District Council (1), Oxfordshire County Council (2), Henry Bonner Shouler and Robert Thomas Charles Shouler (3), Phillip Insull Robbins (4) and Taylor Wimpey UK Limited (5) that the Development shall not be implemented (as therein defined) prior to the completion of this Deed and shall not be occupied prior to the completion of the Works in accordance with this Deed
- 2.6 The Off-Site Works are works which the Council is authorised to execute by virtue of Part V of the 1980 Act
- 2.7 It has been agreed between the Owner and the Council that in lieu of the Owner paying the cost of the Off-Site Works the Off-Site Works should be executed by the Owner in conjunction with the carrying out of the Development
- 2.8 This Deed (which the Council are satisfied will be of benefit to the public) is made under Sections 38 72 and 278 of the 1980 Act, Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972 and all other enabling powers and is a planning obligation for the purposes of Section 106 of the 1990 Act entered into by the Owner [and the Mortgagee] in respect of the Site and enforceable by the Council

3. **Covenants**

The Owner covenants:-

- 3.1 not to cause or permit the Occupation of any Dwelling before the Works have been completed
- 3.2 to execute the Works entirely at its own expense and to the satisfaction of the Council
- 3.3 in executing the Works to observe and perform all the obligations which fall on "the Developer" under the Standard Conditions and
- 3.4 to complete the Works not later than _____ and in any event within _____ from the date on which the Works started
- 3.5 not to apply for the issue of the Certification of Completion until it has paid the Maintenance Costs to the Council
- 3.6 to give the Council written notice of any disposal of an interest in the Site and of the name and address of the new owner and the date of the disposal within 14 days of such disposal

4. **Adoption as Highway**

- 4.1 On the issue of a Certificate of Completion for the Works the whole of the land shown [coloured pink] on the Dedication Plan (subject to modification as provided in clause 4.2) shall be deemed to have been dedicated as public highway (for all public highway purposes including use by mechanically propelled vehicles) and shall thereafter subject to Condition 32 of the Standard Conditions be a highway maintainable at public expense

4.2 The Council may after consideration of the As-Built Drawings require the substitution of a modified dedication plan in which event a copy of that modified plan signed by the Owner [the Mortgagee] and the Council shall be annexed to this Deed and the dedication as provided in clause 4.1 shall have effect in respect of the relevant land as shown on the modified plan

4.3 the Owner [and the Mortgagee] consent to the noting of the provisions of clause 4 of this Deed on the register under title number []

5 **Act Reasonably**

Where a matter falls within a party's discretion that party shall exercise such discretion in a reasonable and expeditious manner and shall give any requisite notice of that decision and any other notice provided for by this Deed (including the Standard Conditions) without undue delay

6 **[Mortgagee's Consent**

The Mortgagee acknowledges that the Site is bound by the obligations contained in this Deed and in the event that the dedication area is revised further to clause 4.2 the Mortgagee agrees that any part of the dedication area which is subject to its charge shall be released from such charge on dedication pursuant to clause 4.1 and the Mortgagee will execute such further documentation as may be required to effect this]

7 **Costs**

7.1 The Owner shall on completion of this Deed pay the reasonable legal costs of the Council in connection with the preparation and completion of Deed

7.2 The Owner will reimburse the Council in respect of all legal and administrative costs in connection with the enforcement of any of the provisions of this Deed including correspondence monitoring and site visits by or on behalf of the Council

7.3 The Owner will not claim any compensation in respect of the provisions of this Deed

8 Third Party Rights

This Deed does not create any right enforceable by any person not a party to it except that it may be enforced by the successors in title and assigns of the parties and by any successor to the Council's statutory functions

9 Notice

Any notice or notification to be given to the Council under this Agreement shall be sent to the Director for Environment & Economy of the Council (Ref14/01737/OUT) County Hall New Road Oxford OX1 1ND or to such other person at such other address as the Council shall direct from time to time and any notice or notification to be given to any other party hereto shall be sent to their respective address as set out herein or to such other person at such address as the relevant party shall notify in writing to the Council from time to time

10 **No Waiver**

No alteration in the terms of this Deed nor any forbearance or forgiveness on the part of the Council in or in the extent or nature of any matter or thing concerning this Deed shall in any way release the Owner/the Mortgagee from any liability under this Deed

11 **No Fetter**

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions in any capacity

12 **VAT**

All works undertaken pursuant to and all payments made in accordance with the terms of this Deed shall be exclusive of value added tax and the Owner shall pay the Council any value added tax properly payable on any sums paid to the Council or works undertaken under this Deed upon presentation of an appropriate value added tax invoice addressed to the Owner

13 **Jurisdiction**

This Deed is governed by and interpreted in accordance with the Law of England

14 **Delivery**

The provisions of this Deed shall be of no effect until this Deed has been dated

IN WITNESS whereof the parties hereto have executed this Deed as a deed the day and year first before written

SCHEDULE

The Works

(1) **Principal Works**

The provision and construction in the position indicated in principle on the Works Plan(s) of the following works ("the Principal Works"):

- (a) the widening of the unnamed road which runs north-south between the A4095 and Green Lane
- (b) provision of a new vehicular access into the Site
- (c) the extension of the existing footway along the said unnamed road to the new vehicular access to the Site

(2) **Preparatory and Ancillary Works**

The provision and construction of all such preparatory and ancillary works (or in the case of existing works or features necessarily affected by any part of the Works such alteration thereof) as the Council shall consider requisite for the proper construction and functioning of the Principal Works including:-

- (a) all earthworks and other things necessary to prepare the site and provide proper support for the Principal Works
- (b) all culverts ditches and other things necessary to ensure the satisfactory movement of surface water

- (c) all gullies channels grips drains sewers and other things necessary for the permanent drainage of the Principal Works
- (d) all ducts cables columns lamps and other things necessary for the permanent lighting of the Principal Works and the illumination of traffic signs
- (e) all kerbs islands verges and reservations including the grading and seeding of grassed areas
- (f) all measures necessary to ensure visibility for drivers at any bend or junction
- (g) all traffic signs road markings bollards and safety barriers
- (h) all tapers joints and reinstatements necessary where the Principal Works abut the existing highway

(3) **Amenity and Accommodation Works**

The provision and construction of all such amenity and accommodation works as the Council shall consider requisite for the protection of the local environment and private and public rights and property in consequence of the Principal Works including:-

- (a) any earth bunds and/or planting necessary to screen the Principal Works
- (b) all fences gates hedges and other means of separation of the Principal Works from adjoining land

- (c) any necessary alteration of any private access or private or public right of way affected by the Principal Works
- (d) any necessary embankments retaining walls or other things necessary to give support to adjoining land

[STANDARD CONDITIONS]

THE COMMON SEAL of)
was affixed to this Deed in the)
presence of:-)

Director

Director/Secretary

[THE COMMON SEAL of)

was affixed to this Deed in the)

presence of:-)

Director

Director/Secretary]

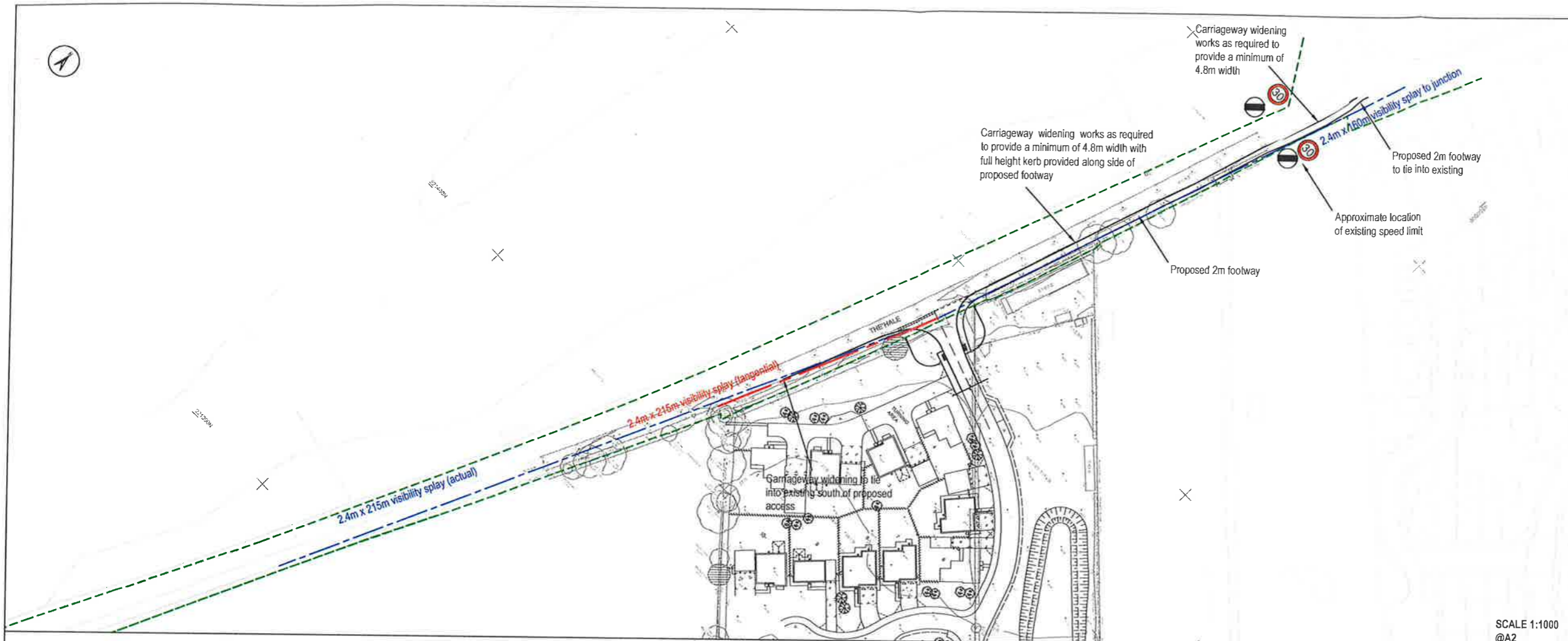
THE COMMON SEAL of THE)

OXFORDSHIRE COUNTY COUNCIL)

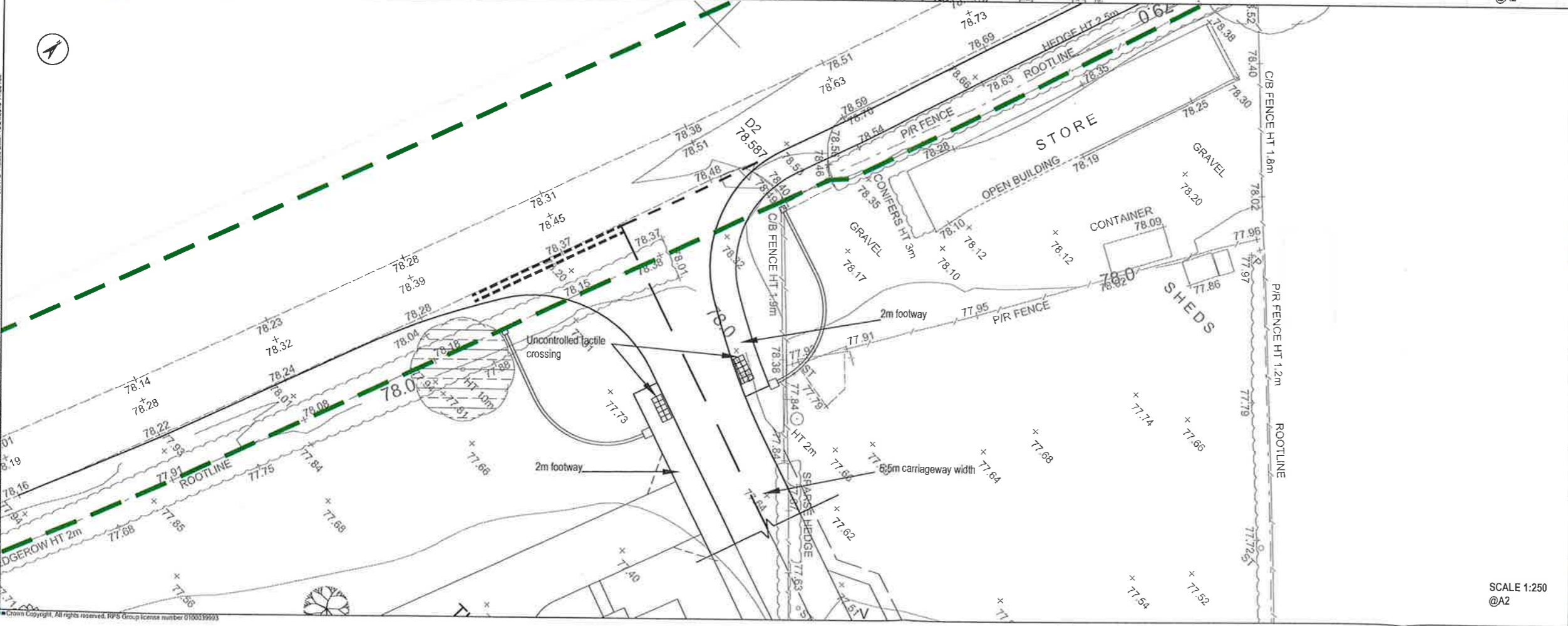
was affixed to this Deed)

in the presence of:-)

Designated Officer



SCALE 1:1000
@A2



SCALE 1:250
@A2

- NOTES**
1. If this drawing has been received electronically it is the recipient's responsibility to print the document to the correct scale.
 2. All dimensions are in metres unless stated otherwise. It is recommended that information is not scaled off this drawing.
 3. This drawing should be read in conjunction with all other relevant drawings and specifications.

KEY

--- Highway Boundary

Drawing Ref: PLAN140 - GREEN LANE, CHESTERTON, CHESHIRE, PROPOSED SITE ACCESS ARRANGEMENTS, DWG, 30/09/2014 11:38 AM

A Pedcrossing relocated west to suit listed layout. Complete highway boundary shown		HGS	BP	28/09/2014
rev		by	cd	date
RPS				
Planning and Development 20 Milton Park Abingdon Oxfordshire OX14 4SH		T +44 (0) 1235 432 100 W www.rpsgroup.com E Transport@rpsgroup.com		
Client	Taylor Wimpey			
Project	Land North of Green Lane, Chesterton			
Title	Proposed Site Access Arrangements			
Drawing Status	Date Created	Drawing Scale		
FOR INFORMATION	30.09.2014	AS SHOWN		
Drawing Size	Project Leader	Drawn By	Initial Review	
A2	CF	SM	CF	
Drawing Number	Rev			
JNY8140-05	A			
Transport				

OXFORDSHIRE COUNTY COUNCIL

STANDARD CONDITIONS FOR THE CONTROL OF HIGHWAY WORKS IN CONJUNCTION WITH DEVELOPMENT

CONTENTS

General

1. Interpretation
2. Relationship with Agreement
3. Communications with the Council
4. Approvals and Certificates etc
5. Council to act in Default or Emergency
6. Indemnity
7. Health and Safety
8. Payments

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10. Undertakers' Apparatus
11. Authorisations
12. Bond
13. Monitoring and Other Costs
14. Insurance
15. Approval of Contractors
16. Pre-Conditions to Letting Works Contract

Implementation of Works

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20. Inspection of Site and Materials
21. Errors and Defects
22. Suspension of Work
23. Variations and Additions
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26. Safeguarding of Completed Work
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28. Clearance of Site
29. Completion Certificate
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31. Easements
32. Health & Safety (and Noise Insulation)
33. Remedying of Defects and Outstanding Works
34. Release of Bond

P G Clark
County Solicitor
County Hall
New Road
Oxford OX1 1ND

S Scane
Director for Environment & Economy
County Hall
New Road
Oxford OX1 1ND

2013 Edition

OXFORDSHIRE COUNTY COUNCIL

STANDARD CONDITIONS FOR THE CONTROL OF HIGHWAY WORKS IN CONJUNCTION WITH DEVELOPMENT

GENERAL

1 INTERPRETATION

In these Conditions:-

- 1.1 "the Agreement" means any agreement or other instrument by which these Conditions are applied.
- 1.2 "Authorisations" has the meaning given in Condition 11.1.
- 1.3 "the Bond" means the bond referred to in Condition 12.
- 1.4 "the Certificate of Completion" means the certificate issued under Condition 29.
- 1.5 "Contractor" includes an agent and any sub-contractor or agent of a main contractor.
- 1.6 "the Council" means the Oxfordshire County Council of County Hall New Road Oxford OX1 1ND and, so far as the context admits, includes any employee or contractors duly appointed by them.
- 1.7 "the Developer" means the person or persons by whom the Agreement requires the Works to be executed.
- 1.8 "including" means including without limitation or prejudice to the generality of any preceding description defining term phrase or word(s) and 'include' shall be construed accordingly.
- 1.9 "Safety Audit" means a safety audit in accordance with Oxfordshire Safety Audit Guideline as revised from time to time and incorporating H.D. 19/03 (Road Safety Audit Volume 5 design manual for roads and bridges)
- 1.10 "the Scheme of Works" means the matters specified in Conditions 9.1 – 9.3 as may for the time being have been varied and/or augmented under Condition 11 and/or Condition 23.
- 1.11 "statutory requirements" means the requirements of any enactment (being any act and any subordinate legislation as defined in the Interpretation Act 1978) national guidance or good practice guides.
- 1.12 "the Works" means the works which the Agreement requires to be executed in accordance with these Conditions and references to "the Works" includes each and every part of them.
- 1.13 The headings are for ease of reference and shall not affect the construction or interpretation of these Conditions.

1.14 References to the Construction (Design and Management) Regulations are to the Construction (Design and Management) Regulations 2007 as varied or replaced from time to time.

1.15 Any reference to any enactment includes any amendments to or modification of it and the version of it for the time being in force shall apply.

2 RELATIONSHIP WITH AGREEMENT

These Conditions shall be construed together with and subject to the Agreement and in the event of any inconsistency between the Conditions and the Agreement the latter shall prevail.

3 COMMUNICATIONS WITH THE COUNCIL

Any notice or other communication required by these Conditions to be given by the Developer to the Council shall be given in writing to the Council's Director for Environment & Economy at his main office at Speedwell House Speedwell Street Oxford OX1 1NE or to such other person and/or at such other place as he may identify in writing to the Developer.

4 APPROVALS AND CERTIFICATES

4.1 No approval consent authorisation or payment as specified in Condition 4.3 shall create any contractual relationship between the Developer and the Council beyond that contained in the Agreement or operate in any way as a warranty or otherwise imply that the subject matter of such approval consent authorisation or payment is fit for its intended purpose nor shall it relieve the Developer or any professional adviser or contractor engaged in connection with the Works from their respective obligations to use all proper skill and care in respect of the Works.

4.2 The Council will not be liable for any loss damage or injury which the Developer may sustain arising from action taken in consequence of such approval consent authorisation or payment.

4.3 The matters referred to in Condition 4.1 are:

4.3.1 any approval or consent given by the Council in respect of the discharge by the Developer of its obligations under these Conditions;

4.3.2 any authorisation given or implied by or under these Conditions in respect of anything done or to be done by the Developer on or in relation to any highway; or any payment made by the Developer to the Council under these Conditions.

5 COUNCIL TO ACT IN DEFAULT OR EMERGENCY

5.1 In the event that either of the following circumstances occur:-

5.1.1 if the Developer shall be materially in default in respect of any of the provisions of the Agreement including these Conditions requiring work to be done or not done, or to be done in a particular manner or by a particular time and if such default continues after the Council have given to the Developer not less than 21 days' written notice of the steps they require to be taken to remedy such default; or

5.1.2 if it shall appear to the Council at any time during the course of execution of the Works that danger to persons or prejudice to the structure or stability of the public highway or of adjoining land exists or is imminent, and that it is not reasonably practicable to cause the Developer to take the necessary remedial steps forthwith;

the Council may take such steps themselves to the exclusion of the Developer and charge the expenses incurred (including their reasonable administrative costs) against the Developer.

5.2 Such expenses will be a debt due to the Council and recoverable by them by action or otherwise and for the avoidance of doubt the Council may recover such expenses under the Bond where the Council has taken such steps because the Developer is in default as provided in Condition 5.1.1 or where the Council has taken such steps in an emergency further to Condition 5.1.2 and in the latter case the Developer has failed to discharge the Council's expenses.

6 INDEMNITY

The Developer shall indemnify the Council and keep them indemnified against;

6.1 all actions, liabilities, claims, costs and proceedings which may arise from the execution and completion of the Works (except insofar as may arise from the negligence or default of the Council) and from anything done or not done by the Developer or by its employees or contractors in connection with the Works;

6.2 all actions, liabilities, claims, costs and proceedings arising in connection with or incidental to or in consequence of the lawful use of the highway following upon the carrying out or completion of the Works under the Land Compensation Act 1973 or under regulations made pursuant to Section 20 of the Land Compensation Act 1973 (insulation against noise) and any grants made by the Council under such regulations in accordance with its established policy. The Council may by advertisement invite claims under the Land Compensation Act 1973 and under regulations made pursuant to Section 20 of that Act.

7 **HEALTH AND SAFETY**

The Developer shall act as the only client in respect of the Works for the purposes of The Construction (Design and Management) Regulations.

8 **PAYMENTS**

Where the Council seeks any payment further to these Conditions then save where there is express provision as to timing for payment such payment shall be due within 28 days of written request from the Council and if payment is not made within such 28 day period (or where applicable such other period as expressly provided) then interest at 4% per annum above the base rate from time to time of Lloyds Bank PLC shall be payable from the expiration of the 28 day period until the date of payment.

PRELIMINARIES

9 **SUBMISSIONS TO THE COUNCIL**

The Developer shall submit to the Council the information and other matters specified in column 1 below in accordance with the timetable set out in column 2 below and the notes set out in column 3 below: -

Highway Matters

9.1

Information	Timetable	Notes
Detailed plans (which shall include a layout plan to a scale of 1:1250 or 1:2500 according to whichever is the Ordnance Survey base scale for the area), drawings and specifications of the Works (including the drainage of them) and the materials to be used to comply with the relevant standards and specifications of the Council for the time being in force, together with such structural and drainage calculations as the Council may consider necessary having regard to the nature of the Works;	No later than 3 months before any tender is invited for the execution of the Works	There shall be paid to the Council on the submission a sum equal to 0.4% of the estimated gross cost of the Works as identified in Condition 12

9.2

<p>A detailed programme designed to ensure the orderly and timely execution and completion of the Work with the minimum of disturbance and disruption to use of the highway and occupiers of property and to facilitate the implementation of any such measures in respect of undertaker's apparatus as may be identified pursuant to Condition 10.</p>	<p>No later than 2 weeks after the acceptance of any tender for the execution of the Works</p>	<p>Significant programme changes to be identified not less than 2 weeks prior to the change</p>
--	---	---

9.3

<p>(a) Measures for the control of vehicles and plant to be used in the course of execution of the Works (including vehicles engaged on the transport of materials and equipment to and from the Works) and measures for traffic regulation in order to minimise and/or alleviate damage to the highway disturbance to occupiers of property and disturbance and disruption to use of the highway (including traffic congestion) ;and (b) traffic safety measures and measures including lights, guards, fencing and warning signs in order to protect the Works and/or for the safety and convenience of the public</p>	<p>No later than 2 weeks before the Works are expected to commence</p>	
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9.4

<p>Safety Audit Stage 2 Report</p>	<p>No later than 3 months before any tender is invited for the execution of the Works</p>	
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9.5

<p>Details in accordance with Condition 15 of the persons proposed to be invited to tender.</p>	<p>No later than 1 month before any tender is invited for the execution of the Works.</p>	
--	--	--

Other Matters

9.6

Details of the bondsman proposed to be given pursuant to Condition 12, together with any bills of quantities or tenders which the Developer wishes the Council to take into account under that Condition.	No later than 1 month before the Works are expected to commence.	
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9.7

Details of the insurances required by Condition 14.	No later than 1 month before the Works are expected to commence.	
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9.8

<p>Part 1 Noise survey and assessment and modelling sufficient to establish whether any properties will be eligible for noise insulation according to regulation 3 or regulation 4 (as applied by the Council) of the Noise Insulation Regulations 1975 applying the requirements of the Design Manual of Roads and Bridges Volume 11 – Environmental Assessment and the Calculation of Road Traffic Noise 1988 to be undertaken by a noise expert approved by the Council.</p>	<p>No later than 1 month before the Works are expected to commence or earlier than 3 months before the Works are expected to commence.</p>	<p>Precise timing of survey to be agreed with the Council. Location of the survey/testing to be advised to the Council and if applicable adjusted to ensure regulatory compliance.</p>
<p>Part 2 If the assessment concludes that there will be any property eligible for noise insulation to submit to the Council:</p> <ul style="list-style-type: none"> (a) a map and list of all eligible properties. ¹ (b) a list of all occupiers and landlords (c) a survey and assessment for each eligible property of the work to be carried out to comply with requirements of the Noise Insulation Regulations 1975 and the specification for that work 	<p>As above</p>	

9.9

<p>Condition survey (comprising photographs) of land and highway adjoining and neighbouring the site of the Works together with such further areas as the Council may require.</p>	<p>No later than 1 month before the Works are expected to commence.</p>	
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9.10

<p>Notification of the identity of the contractor who has submitted a successful tender.</p>	<p>No later than 2 weeks after the acceptance of any tender for the</p>	
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¹ Dwellings and other buildings used for residential purposes which will be not more than 300 metres from the edge of the carriageway of the highway after completion of the work.

In any particular case any information or matter may be submitted to the Council at such later time as the Council may consider expedient subject to the Council identifying such later time in writing.

10 UNDERTAKERS' APPARATUS

10.1 The Developer shall in preparing the Scheme of Works consult every undertaker within the meaning of the New Roads and Street Works Act 1991 whose apparatus or services lie in, on, under or over the site of the Works or may otherwise be affected by the Works (whether or not it is intended to connect into such services in connection with the Works), with a view to the identification and implementation of any measures considered necessary by the undertakers for the protection of, or otherwise in relation to, their apparatus or services, and shall be responsible for all dealings with such undertakers in respect of the implementation of such measures and for all costs payable to the undertakers in that behalf.

10.2 For the avoidance of doubt the Developer shall comply with statutory requirements relating to street works (as defined in the 1991 Act).

11 AUTHORISATIONS

11.1 Authorisations signifies all rights, approvals and consents and any other requisite action to enable the Works to be properly and lawfully executed and completed (in accordance with the Agreement including these Conditions) and the subsequent implementation and functioning of the Works including (but not so as to provide an exhaustive list of examples)²:-

11.1.1 planning permission for the Works;

11.1.2 authority for stopping up diversion or other alteration of any existing highway so far as necessary to enable the Works to proceed and / or be implemented and function;

11.1.3 authority or agreement for stopping up (including relocating) any private access to any existing highways which is necessary in the opinion of the Council to enable the Works to proceed and / or be implemented and function³ ;

11.1.4 street works licence further to the New Roads and Street Works Act 1991;

11.1.5 authorisation for any traffic regulation measures including prohibitions, restrictions and controls where necessary in

² Examples may also include noise consent from district council

³ This relates to for example Section 127HA.

the Council's opinion to enable the Works to proceed and/or to be implemented and function⁴; and

- 11.1.6 any rights and easements which in the Council's opinion are necessary to ensure the permanent and satisfactory drainage or lighting of the Works such rights and easements to be in a form previously approved by the Council.
- 11.2 The Developer shall be responsible for ensuring that all Authorisations are secured in timely manner at its own cost.
- 11.3 Save in so far as any consent is expressly granted under the Agreement nothing in the Agreement shall prejudice or affect in any way the exercise by the Council of its powers and duties relating to any application for an Authorisation including the consideration and processing of an application, the carrying out of any procedural requirements (pursuant to any enactment or Council policies or protocols) and the determination as to whether or not the Authorisation should be made, granted or confirmed.
- 11.4 Any costs incurred by the Council relating to any application for an Authorisation - and any related matters shall be discharged by the Developer.
- 11.5 Where the procedures for securing any Authorisation entail consultation and in consequence of such consultation the Council determines that the Works / the Scheme of Works shall be varied and / or augmented then any reference to the Works and / or the Scheme of Works shall be construed as a reference to the Works and / or the Scheme of Works as so varied and / or augmented.
- 11.6 Forthwith on securing any Authorisation the Developer shall supply evidence of this to the Council to the Council's reasonable satisfaction.

⁴ This is directed at securing any requisite TROs which are integral to the Works e.g. bus lanes and also there may be various works such as traffic calming and signals where consultation is mandatory.

12 BOND

12.1 The Developer and a bondsman satisfactory to the Council shall enter into a Bond in such form as shall have been approved by the Council guaranteeing the execution and completion of the Works in accordance with the Agreement including these Conditions.

12.2 The amount of the Bond shall be

12.2.1. the gross cost of the Works (including any costs payable to undertakers pursuant to Condition 10) as then (being one month before the Works are proposed to be commenced) estimated by the Council and such estimate may take into account any bills of quantities prepared or tenders received by the Developer in respect of the Works and submitted by it to the Council; and

12.2.2. adjusted to take account of inflation for the duration of the Works (and subsequently) as reasonably estimated by the Council; and

12.2.3. adjusted to reflect the full costs that may be incurred by the Council as provided in Condition 5.1 (Council to act in default or emergency).

13 MONITORING AND OTHER COSTS

13.1 The Developer shall pay to the Council in respect of the costs to be incurred by the Council in monitoring the execution and completion of the Works (and administration of the Agreement) a sum equal to 9% of the amount of the Bond, subject to a minimum payment of £1,500

Note: The provisions of Condition 27.2 also apply

13.2 The Developer shall pay to the Council legal costs reasonably incurred in connection with the drafting and completion of the Bond.

14 INSURANCE

The Developer shall take out and maintain, until two years after the date on which the Council issues the Certificate of Completion (or if later the date on which all defects and outstanding works have been made good and completed as mentioned in Condition 33), such insurances satisfactory to the Council in the sum of £10million (or such higher sum as the Council may require) as may be appropriate to cover the liability of the Developer and of its employees and contractors in respect of any injury or damage to persons or property which may arise from or in connection with the execution and completion of the Works.

15 CONTRACTORS

15.1 The Developer shall not employ any contractor or agent for the execution of the Works except such contractor or agent as shall be recognised by the Council as being of proven competence and good standing in the field of civil and electrical engineering and experienced in the type and scale of the work which is to be the subject of the contract, and for that purpose the Developer shall not invite tenders for the execution of the Works except from persons proposed to and approved in writing by the Council before any such tender is invited; The employment of a contractor or agent shall not remove or abate any obligation on the part of the Developer arising from the Agreement including these Conditions.

15.2 The Developer shall appoint a contractor to undertake the Works in compliance with the following:-

15.2.1 advertising/publication of the proposed contract for carrying out the Works sufficient to open up the market to competition and for the transparency and impartiality of the procurement procedure to be reviewed such advertising/publication to include the essential details of the contract to be awarded and of the award methodology;

15.2.2 awarding the contract for the Works further to competition applying such transparent and impartial procurement procedures and award methodology.

15.2.3 the Developer shall without cost to the Council supply such information as the Council may reasonably require to demonstrate compliance with this Condition.

16 PRECONDITIONS TO LETTING CONTRACT

The Developer shall not let any contract for the execution of Works unless and until:-

16.1 The Scheme of Works has been approved by the Council; and

16.2 Safety Audit Stage 2 Report has been approved by the Council.

IMPLEMENTATION OF THE WORKS

17 COMMENCEMENT OF WORKS

The Developer shall agree a commencement date with the contractor appointed to execute the Works which is no less than one month from such agreement and forthwith on agreeing the commencement date the Developer shall notify the Council in writing of the agreed date to the intent that the Council is given no less than one month's notice of the commencement date provided always for the avoidance of doubt this notice is for the purpose of the Agreement only and does not constitute notice for any other function of the Council.

18 **NO WORK PENDING APPROVALS ETC**

18.1 The Works shall not be commenced before the following have occurred:

- 18.1.1 the Council has issued written approval of the Scheme of Works;
- 18.1.2 Safety Audit Stage 2 Report has been approved;
- 18.1.3 evidence of all Authorisations have been supplied to the Council;
- 18.1.4 the Bond duly executed as a deed by the Developer and the approved guarantor has been delivered to the Council;
- 18.1.5 the costs referred to in Condition 13 have been paid to the Council;
- 18.1.6 the Council has given its written approval to the insurances referred to in Condition 14;
- 18.1.7 the noise survey assessment and modelling in accordance with Condition 9.8 has been supplied to the Council and if appropriate the information referred to in the second part of that Condition has been supplied to the Council
- 18.1.8 the surveys referred to in Condition 9.9 (condition survey) has been supplied to the Council.

18.2 The Developer must have readily available at the site of the Works a copy of the insurances and approved Scheme of Works and shall retain them at the site for the duration of the Works and produce them to any representative of the Council on request.

19 **GENERAL CONDUCT**

19.1 The Developer shall execute and complete the Works in compliance with the approved Scheme of Works, in a sound and workmanlike manner with proper materials and in accordance with good engineering practice and in compliance with all statutory requirements and the provisions of the Agreement including these Conditions.

19.2 Without prejudice to the generality of Condition 6.2 and Condition 19.1 the Developer shall provide the Council with such assistance, information and documentation as the Council shall require to comply with any obligations under the Noise Insulation Regulations 1975 including assistance in responding to any claims made under Regulation 13 of those Regulations.

20 MONITORING OF SITE AND MATERIALS

20.1 The Developer shall at all reasonable times give to the Council free access to every part of the Works and shall permit them to monitor them and inspect all materials used or intended for use in the Works.

20.2 Where the Council require any such materials to be tested the Developer shall reimburse the Council the reasonable cost of such testing.

21 ERRORS AND DEFECTS

If in the course of execution of the Works it shall appear to the Council:

21.1 that any error has arisen in the position, levels, dimensions or alignment of the Works; or

21.2 that any work carried out or materials used for the purpose of the Works are defective to such extent as to prejudice in any respect the structure, stability, durability or subsequent functioning of the Works; or

21.3 that any damage has occurred in respect of the Works; or

21.4 that in any other respect the Works are not in accordance with the Scheme of Works;

and the Council notify the Developer in writing of this then the Developer shall, at its own expense and to the satisfaction of the Council, forthwith take such remedial steps as the Council shall specify in the notice. For the avoidance of doubt this Condition is without prejudice to Condition 19.

22 SUSPENSION OF WORK

If in the opinion of the Council some part of the Works ought not properly to be commenced or continued by reason either of:-

22.1 the dependence of that part on the completion of remedial steps specified in a notice given under Condition 21; or

22.2 adverse weather conditions such as to prejudice the structure or stability of that part if executed under those conditions;

the Developer shall on the written order of the Council suspend the progress of that part of the Works for such time or times and in such manner as the Council may consider necessary, and shall during such suspension properly protect and secure the Works so far as is necessary in the opinion of the Council.

23 VARIATIONS AND ADDITIONS

In the event that any of the following circumstances arising in the course of execution of the Works,:-

- 23.1 if discovery is made of adverse ground conditions or artificial obstruction or other unforeseen factor of a like nature which in the opinion of the Council necessitate a modification of the Works to avoid or compensate for such conditions, obstruction or other factor in the interests of the satisfactory completion and subsequent functioning of the Works; or
- 23.2 if it shall appear to the Council requisite, in accordance with good engineering practice and to ensure satisfactory completion and subsequent functioning of the Works that any work or materials should be added, or that any such work or materials proposed by the Developer to be done or used should be omitted or changed; or
- 23.3 if it shall appear to the Council expedient that any obligation arising from the approved Scheme of Works should be deferred by reason of delay incurred by the Developer arising from some cause not within the Developer's control; or
- 23.4 otherwise if in a particular case the Developer and the Council so agree;

the Scheme of Works shall be varied and/or augmented in manner notified in writing by the Council to the Developer, and in the application of these Conditions any reference to the Scheme of Works shall be construed as a reference to the Scheme of Works as so varied and/or augmented.

24 PREVENTION OF NOISE, DISTURBANCE ETC

- 24.1 All work shall be carried out without unreasonable noise and disturbance and in such manner as not to interfere unnecessarily or unreasonably with the use and enjoyment of property adjoining or near the Works by their owners and occupiers.
- 24.2 Without prejudice to the generality of Condition 24.1, no work shall be carried on between the hours of 8.00pm and 7.00am the following day or on any Sunday or public holiday except insofar as:-
 - 24.2.1 any operations are necessary to avoid disruption to or for the control of traffic on any highway; or
 - 24.2.2 any work is unavoidable or absolutely necessary for the safety of life or property or the safety of the Works; or
 - 24.2.3 the Council have in writing otherwise agreed.

25 PROTECTION OF HIGHWAY

- 25.1 Insofar as the Works affect in any respect the existing highway such part shall be executed with the minimum of disturbance to that highway and traffic using that highway consistent with the work in hand.
- 25.2 In the event of it appearing to the Council at any time that such disturbance has occurred or is likely to occur to such extent as to prejudice the structure of the highway or the safety of users the Developer shall forthwith take such remedial steps as the Council may require.
- 25.3 Prior to the commencement of the Works the Developer will provide suitable vehicle and wheel cleaning apparatus and ensure that such apparatus is maintained in good and useable condition and used by all vehicles immediately before leaving the site of the Works to prevent mud or other materials being deposited on the adjoining existing highway.
- 25.4 In the event of Developer receiving any complaint it will promptly notify the Council.

26 SAFEGUARDING OF COMPLETED WORK

The Developer shall until the Council have issued the Certificate of Completion take all steps necessary to protect and maintain those parts of the Works which have been executed, so that upon substantial completion of the whole of the Works every part of the Works is in a sound and workmanlike condition and free from any damage and any material wear and tear.

COMPLETION AND CONSEQUENTIAL MATTERS

27 COMPLETION OF WORKS

- 27.1 The Works shall be executed and completed within such period as the Agreement may define (whether by duration or by reference to a specified date or both), provided that in the event of delay to the work arising from some cause not within the Developer's control the Developer shall be entitled to a reasonable extension of such period.
- 27.2 Without prejudice to any right or remedy of the Council, the Council may at any time by notice to the Owner permit an extension of time as the Council shall in its discretion determine and the Developer shall pay within 14 days of demand such additional monitoring fees (in addition to that provided for in Condition 13) as is necessary to reimburse to the Council the additional cost incurred in monitoring the Works by reason of the grant of such extension of time

28 CLEARANCE OF SITE

On substantial completion of the Works the Developer shall clear away and remove from the site of the Works all plant, surplus material, rubbish and temporary works and items of every kind, and shall leave the whole of the site of the Works clean and in a workmanlike condition to the satisfaction of the Council.

29 COMPLETION CERTIFICATE

29.1 On substantial completion of the Works and clearance of the site of the Works in accordance with Condition 28 the Developer shall lodge a stage 3 Safety Audit report with the Council. The Council shall issue the Certificate of Completion forthwith if the Council is satisfied that the Works (save for such minor outstanding works as the Council shall agree) have been completed in accordance with the Agreement including these Conditions and if the Council has approved the Safety Audit Stage 3.

29.2 Where the Council is not satisfied and/or has not approved the Safety Audit Stage 3 report the Certificate of Completion will be issued when all remedial/outstanding work has been carried out to the satisfaction of the Council and without cost to the Council.

30 DEDICATION AS HIGHWAY

Upon the issue of the Certificate of Completion unless the Agreement provides otherwise the whole of the land comprised in the Works (so far as not already forming part of the public highway and excluding such part as the Developer and the Council may in writing agree) shall be deemed to have been dedicated as public highway and shall thereafter subject always to compliance with Condition 33 be a highway maintainable at public expense.

31 EASEMENTS

31.1 The Developer shall forthwith following the issue of the Certificate of Completion:-

31.1.1 transfer to the Council all those rights and easements (so far as the same do not at that time already subsist in favour of the Council) referred to in Condition 11.1.6; and

31.1.2 grant to the Council any easement which in the Council's opinion is necessary to ensure the permanent and satisfactory drainage or lighting of the Works in respect of any land which is retained by the Developer and such easement shall be in a form previously approved by the Council and the Developer will procure that any person with an interest in the relevant land joins in the deed of easement for the purpose of consenting to and confirming such easement.

31.2 The Council shall not be liable for the payment of compensation or legal or any other costs or fees arising from any such transfer or grant of easement.

32 HEALTH AND SAFETY (AND NOISE INSULATION)

32.1 The Developer shall within two months following the issue of the Certificate of Completion (or such longer period as the Council may in writing agree) furnish to the Council the Health and Safety File prepared in accordance with the Construction (Design and Management) Regulations. The Health and Safety File shall include detailed plans and drawings showing the Works as the same have actually been executed and completed and the Developer shall at his own cost ensure that the Council shall not be prevented by copyright or otherwise from reproducing such plans and drawings or part of them as the Council may require for purposes relating only to the Works and the highway and the Developer shall furnish satisfactory evidence to the Council that this has been done. The plans and drawings furnished under this Condition shall be no less detailed than the plans and drawings submitted under Condition 9.1 unless the Council shall in writing otherwise agree.

32.2 The Developer shall within 1 month after the opening of the Works to public traffic supply to the Council an update of the information required pursuant to part 2 of Condition 9.8 (noise survey assessment and modelling- map lists and works) which relates to all eligible properties at the date of the opening of the Works to public traffic.

33 REMEDYING OF DEFECTS AND OUTSTANDING WORKS

33.1 If at any time during the period of two years following the date on which the Council issue the Certificate of Completion:-

33.1.1 any defect in the Works becomes manifest (not being a defect arising solely from normal use by the public as a highway or from accidental or wilful damage by any third party); or

33.1.2 the Developer shall fail to complete any of the outstanding works mentioned in Condition 29 (minor outstanding Works on issue of Certificate of Completion) and the Council notify the Developer in writing of this

then the Developer shall at his own expense cause such defect to be made good or outstanding works to be completed (as the case may be) to the satisfaction of the Council.

33.2 The Council may require the Developer to carry out the Safety Audit Stage 4 within 3 months of the opening of the Works and to lodge the report with the Council within one month thereafter and if the Council is not satisfied with the Safety Audit Stage 4 report the Council may then notify the Developer of this at any

time prior to the expiry of two years following the date on which the Council issue the Certificate of Completion

- 33.3 Forthwith on receipt of any notification from the Council further to Condition 33.1 and/or as applicable Condition 33.2 the Developer will agree with the Council the timing of the carrying out of such remedial or outstanding works and unless otherwise agreed shall secure their completion within one month of receipt of such notification (except in the event of delay arising from some cause not within the Developer's control when the Developer shall be entitled to a reasonable extension of time).

34 **RELEASE OF BOND**

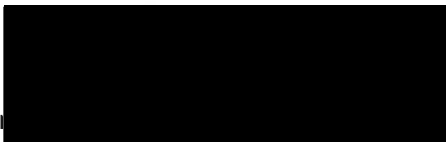
- 34.1 Upon the issue of the Certificate of Completion the Bond shall be deemed to be released by eighty per cent (80%) of its original value;
- 34.2 The Bond shall be deemed to be fully discharged at the latest of the following:
- 34.2.1 the date two years after the date on which the Council issue the Certificate of Completion; and
- 34.2.2 the date on which all defects and outstanding works have been made good and completed as referred to in Condition 33; and
- 34.2.3 the date on which the Council have recovered their full expenses in all cases where Condition 5 applies (Council may act in default or emergency);
- 34.2.4 the date on which the Council have received the transfers or grants further to Condition 31;
- 34.2.5 the date on which the Developer shall have furnished to the Council the detailed plans and drawings and consent to use as referred to in Condition 32.
- 34.3 Conditions 34.1 and 34.2 are without prejudice to the Council's absolute discretion from time to time upon application of the Developer to release the Bond to an extent commensurate with the proportion of the Works that have been executed and completed at such time.

THE COMMON SEAL of)
CHERWELL DISTRICT COUNCIL)
was affixed in the presence of:-)



CDC
19020

Authorised Signator



THE COMMON SEAL of)
OXFORDSHIRE COUNTY COUNCIL)
was affixed in the presence of:-)

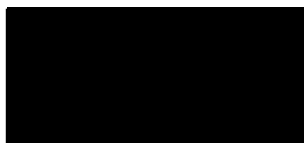


1269/15

County Solicitor/Designated Officer



EXECUTED AS A DEED by)
the said HENRY BONNER SHOULER)
in the presence of:)



Witness Signature

Print Name: T. DUNSHAY

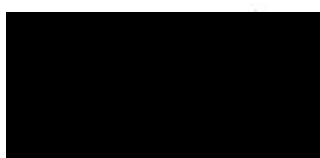
Address: BRIDGE COTTAGE

THERFIELD

BOYSTON S68 9RH

Occupation: RET'D CO DIRECTOR

EXECUTED AS A DEED by)
the said ROBERT THOMAS CHARLES SHOULER)
in the presence of:)



Witness Signature

Print Name: R J LANGSTAFF

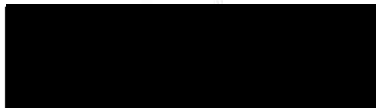
Address: HONG BARN

MANDE FARM LANE

CHESTERTON OY26 1UD

Occupation: MEDICAL PRACTITIONER

EXECUTED AS A DEED by)
the said PHILLIP INSULL ROBBINS)
in the presence of:)



Witness Signature 

Print Name: TIM HOWARTH

Address: 11 DUNNALL CLOSE

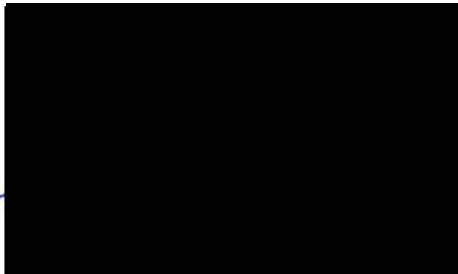
Ashey

LEGS 2SF

Occupation: Surveyor

EXECUTED as a Deed by
Diana Cummings and James Ball
Authorised attorneys of
TAYLOR WIMPEY UK LIMITED

Attorney
Attorney



in the presence of:-

Signature of Witness

Name in block capitals



Address

CARLY CHAPMAN
Taylor Wimpey UK Limited
600 Park Avenue
Aztec West
Bristol
BS32 4SD

Kevin Lane Esq
Head of Law and Governance
Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA

Date: 27 January 2016
Your ref:
Our ref: RAFFERC/165612.000076
Direct: 0121 232 1251
Email: conorafferty@eversheds.com

BY EMAIL AND SPECIAL DELIVERY

Dear Sirs,

Chesterton section 106 Agreement

I act on behalf of Taylor Wimpey UK Limited, the Developer, in relation to the negotiation of the above section 106 Agreement.

I understand that since the outset of this matter the Thames Valley Police have received more than 5 contributions in this region since 6 April 2010. As a result the planning committee of Cherwell District Council resolved on 21 January 2016 to remove this contribution from the above section 106 Agreement and proceed with the planning application.

I hereby confirm that I am agreeable on behalf of my client to all references to the Thames Valley Police Contribution being removed from the Chesterton section 106 Agreement by way of manuscript amendment.

Yours sincerely,


Conor Rafferty
Associate
for Eversheds LLP

bir_prop2\4252593\1\rafferc



BIRCHAM DYSON BELL

Kevin Lane Esq
Head of Law & Governance
Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA

Law and Governance

27 JAN 2016

Your Ref

Our Ref
CDF/161052.0001/Y071521

Date
26 January 2016

Dear Sir

**Shouler, Robbins and Taylor Wimpey
Land to the north of Green Lane, Chesterton - Section 106 Agreement**

I act on behalf of the Trustees of C & F Shouler and Mr Phillip Robbins in relation to the negotiation of the above section 106 Agreement.

I understand that since the outset of this matter the Thames Valley Police have received more than 5 contributions in this region since 6 April 2010. As a result the planning committee of Cherwell District Council resolved on 21 January 2016 to remove this contribution from the above section 106 Agreement and proceed with the planning application.

I hereby confirm that I am agreeable on behalf of my clients to all references to the Thames Valley Police Contribution being removed from the Chesterton section 106 Agreement by way of manuscript amendment.

Yours sincerely



Christopher Findley
Partner
For and on behalf of Bircham Dyson Bell LLP
T +44 (0)20 7783 3623
E christopherfindley@bdb-law.co.uk

cc Conor Rafferty, Eversheds (by email)

14001014.1

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DX 2317 Victoria W www.bdb-law.co.uk



**OXFORDSHIRE
COUNTY COUNCIL**

Our ref: KS/46836

Your ref: 14/01737/OUT

Law and Governance

27 JAN 2016

Mr Nigel Bell
Team Leader – Planning and Litigation
Legal Services
Cherwell District Council
DX24224 BANBURY

**Corporate Services
County Hall
New Road
Oxford OX1 1ND**

DX 4310 Oxford

**Katherine Stubbs
Legal Services**

25 January 2016

Dear Nigel

**Re: Land at The Paddocks (north of Green Lane), Chesterton, Oxfordshire
Proposed s.106 Agreement**

I understand that since the outset of this matter the Thames Valley Police have received more than 5 contributions in this region since 6 April 2010. As a result the planning committee of Cherwell District Council resolved on 21 January 2016 to remove a contribution to Thames Valley Police from the above section 106 Agreement and to proceed with the planning application.

I hereby confirm that I am agreeable, on behalf of Oxfordshire County Council, to all references to the Thames Valley Police Contribution being removed from the above Chesterton section 106 Agreement, by way of manuscript amendment.

Yours sincerely,

[Redacted Signature]
Katherine Stubbs
Solicitor
For and on behalf of Nick Graham
Chief Legal Officer & Monitoring Officer

Direct line: 01865 323941
Fax No: 01865 783362
Email: Katherine.Stubbs@oxfordshire.gov.uk
www.oxfordshire.gov.uk