

DATED.....25th June.....2021

CHERWELL DISTRICT COUNCIL

-and-

OXFORDSHIRE COUNTY COUNCIL

-and-

PARKHOUSE COMMERCIAL PROPERTIES LIMITED

-and-

RECTORY HOMES LIMITED

PLANNING OBLIGATION BY DEED OF AGREEMENT

under Section 106 of the Town and Country Planning Act 1990

relating to land on the South Side of South Side, Steeple Aston, Bicester

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THIS AGREEMENT is dated

25th June

2021

PARTIES

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House, White Post Road, Bodicote, Banbury, OX15 4AA ("**District Council**")
- (2) **OXFORDSHIRE COUNTY COUNCIL** whose main office is at County Hall, New Road, Oxford, OX1 1ND ("**County Council**")
- (3) **PARKHOUSE COMMERCIAL PROPERTIES LIMITED** (Company Number 01171166) whose registered address is at 11 Boundary Business Park, Wheatley Road, Garsington, Oxfordshire, OX44 9EJ ("**Owner**")
- (4) **RECTORY HOMES LIMITED** (Company Number 02575047) of Rectory House, Thame Road, Haddenham Aylesbury, Buckinghamshire, HP17 8DA ("**Applicant**")

INTRODUCTION

- (A) The District Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (B) The County Council is the county planning authority for the purposes of the Act and sundry powers and duties in respect of education and in respect of highways for the area in which the Site is situated.
- (C) The Owner is the freehold owner of the Site subject to a contract for sale dated 23 August 2017 made between (1) the Owner and (2) the Applicant but is otherwise free from encumbrances.
- (D) The Applicant has submitted the Application to the District Council and the District Council has resolved to grant planning permission for the Development subject to the prior completion of this Deed which is required to mitigate the impact of the Development.
- (E) The District Council resolved on 12th March 2020 to grant the Planning Permission subject to the prior completion of this Deed.

(F) The Owner, the District Council, the County Council and the Applicant have agreed that it is necessary in planning terms to enter into this Deed to mitigate the impact of the Development and make it acceptable in the event that the Planning Permission is granted.

NOW THIS DEED WITNESSES as follows:

OPERATIVE PART

1. DEFINITIONS

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

Expression	Meaning
“Act”	the Town and Country Planning Act 1990 (as amended);
“Application”	the application for full planning permission submitted to the District Council and validated on 9 th January 2020 for the Development and allocated reference number 19/02948/F;
“Commencement of the Development”	occurs on and means the carrying out of any material operation (as defined in Section 56(4) of the Act) forming part of the Development (whether or not such operation shall lawfully operate to begin the Development) other than (for the purposes of this Deed and for no other purpose) operations consisting of: ; <ul style="list-style-type: none">• 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;• erection of any temporary means of enclosure;

Expression	Meaning
	<ul style="list-style-type: none"> the temporary display of site notices or advertisements <p>and “Commence” “Commenced” and “Commencing” or any other derivation of this term shall be construed accordingly;</p>
“Construction”	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 to erect 10 two storey residential dwellings as set out in the Application or as may be approved by a Qualifying Permission;
“Due Date”	the date on which any sum payable hereunder is required to be paid or if any sum is to be paid before an event the day before that event occurs unless any notice required by Clause 13 is not given at the time required in which case the Due Date for all purposes shall be the date hereof
“Dwelling”	a building (including a house flat or maisonette) Constructed or proposed to be Constructed on the Site as part of the Development or part of such building designed for residential Occupation by a single household pursuant to the Planning Permission and including Affordable Housing (as defined in Schedule [2]);
“Interest”	Interest at the rate of 4% above the base lending rate of Lloyds Bank PLC from time to time;
“NPPF”	the National Planning Policy Framework published in February 2019 (or as may be amended from time to time) or any Planning Policy Statement, Guidance Notes or Circulars which may amend, supplement or supersede it;

Expression	Meaning
“Occupation”	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and “Occupied” and “Occupy” shall be construed accordingly;
“Plan”	the plan attached to this Deed at the Annex to the First Schedule;
“Planning Permission”	the full planning permission subject to conditions to be granted by the District Council pursuant to the Application and shall be construed to also include and Qualifying Permission;
“Qualifying Application”	any application under Section 73 of the Act relating to the Planning Permission
“Qualifying Permission”	approval of planning permission issued to a Qualifying Application;
“Site”	the land against which this Deed may be enforced as shown edged red on the Plan;
“Trigger Event”	any event that when it occurs requires any party to this Deed to pay any sum or carry out any works or take (or desist from taking) any other action including service of any notice.
“Working Days”	Mondays to Fridays (excluding bank and other public holidays) and any day which is on or between 27 th and 31 st December in any Calendar Year.

2. CONSTRUCTION OF THIS DEED

- 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 interchangeably in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 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 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and County Council the successors to their respective statutory functions.
- 2.9 The headings and contents list are for reference only and shall not affect construction.

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act Section, 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and save as set out in sub-clause 3.3 below are enforceable by the District Council and the County

Council as planning authorities against the Owner and against any person deriving title from that person

3.3 Those covenants, restrictions and requirements

3.3.1 set out in the Second Schedule and the Third Schedule are enforceable by the District Council as local planning authority, and

3.3.2 set out in the Fifth Schedule and the Sixth Schedule are enforceable by the County Council as County planning authority

against the Owner and in accordance with Section 106(3)(b) against any person deriving title from that person.

4. CONDITIONALITY

4.1 Save as set out below this Deed is conditional upon:

4.1.1 the grant of the Planning Permission; and

4.1.2 the Commencement of the Development,

4.2 The provisions of Clauses 9.1, 12 13, 17 and 18 (legal costs, monitoring and administering, change of ownership, notifications, jurisdiction and delivery) and paragraphs 3.2 3.3 and 3.4 of the Third Schedule shall come into effect immediately upon completion of this Deed.

4.3 The provisions of paragraph 2.1.1 of the Sixth Schedule shall come into effect immediately upon the grant of the Planning Permission of this Deed

4.4 If the Planning Permission is

4.4.1 quashed by any Court or Tribunal of competent jurisdiction as a result of any legal proceedings; or

4.4.2 revoked pursuant to Section 97 of the Act; or

4.4.3 expires before the Commencement of the Development; or

4.4.4 rendered incapable of being implemented due to any action or failure to act on behalf of a public authority

then this Deed shall absolutely determine and save for any obligations that were to be undertaken before any of the above events the obligations herein shall terminate and no party shall be under any further duty to comply with them .

5. THE OWNER'S COVENANTS

- 5.1 The Owner covenants with the District Council as set out in the body of this Deed, Second Schedule, the Third Schedule and the Fourth Schedule.
- 5.2 The Owner covenants with the County Council as set out in the body of this Deed and the Fifth Schedule and the Sixth Schedule.

6. APPLICANT'S CONSENT

The Applicant acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the covenants, restrictions and obligations contained in this Deed and that their contract to purchase the Site shall take effect subject to this Deed provided that the Applicant shall otherwise have no liability under this Deed unless it takes possession of the Site or any part of it or undertakes any part of the Development of the Site in which case it too will be bound by the covenants, restrictions and obligations as if it were a person deriving title from the Owner.

7. THE DISTRICT COUNCIL'S COVENANTS

The District Council covenants with the Owner as set out in the 0.

8. THE COUNTY COUNCIL'S COVENANTS

The County Council covenants with the Owner as set out in the Eighth Schedule.

9. MISCELLANEOUS

9.1 The Developer shall

- 9.1.1 pay to the District Council on the execution and completion of this Deed the reasonable legal costs of the District Council incurred in the negotiation and the preparation and execution of this Deed;

- 9.1.2 pay to the County Council on the execution and completion of this Deed the reasonable legal costs of the County Council incurred in the negotiation and the preparation and execution of this Deed
- 9.2 The Owner shall reimburse the District Council and the County Council in respect of all legal and administrative costs reasonably and properly incurred in connection with any enforcement of any of the provisions in this Agreement should the need for enforcement arise in the reasonable opinion of the District Council or the County Council; and
- 9.3 The Developer shall on completion of this Deed pay
- 9.3.1 to the County Council the sum of £1,500 (One thousand five hundred pounds); and
- 9.3.2 to the District Council the sum of £1,000 (One thousand pounds)
- as a contribution towards the cost of monitoring and administering compliance with the obligations in this Agreement
- 9.4 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 9.5 This Deed shall be registrable as a local land charge by the District Council.
- 9.6 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council or County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and in the case of the District Council or the County Council, any such agreement, consent, approval or expression of satisfaction shall be given on behalf of:
- 9.6.1 the District Council by the Assistant Director: Planning Policy and Development; and
- 9.6.2 the County Council by the Director for Planning and Place,
- 9.7 Any notices or notifications to be given under this Deed to the District Council or the County Council shall be deemed to have been properly served if delivered by hand or sent by recorded delivery to the address at the beginning of this Deed and

9.7.1 any notice to the District Council shall be addressed to the Assistant Director:
Planning and Development of the District Council (Reference 19/02948/F)

9.7.2 any notice to the County Council shall be addressed to the Director for
Planning and Place of the County Council (Reference 19/02948/F)

or to such other person at such other address as the District Council or County Council
as appropriate shall direct from time to time

9.8 Pursuant to Clause 9.7 above any notices or notifications to be given shall be deemed
to have been delivered

9.8.1 on the second Working Day after posting; or

9.8.2 on the Working Day of delivery unless delivered after 1600 hours in which
case it shall be deemed delivered at 0930 hours on the following Working Day

9.9 Following the Owner notifying the District Council and the County Council and the
District Council and the County Council being satisfied of the performance and
satisfaction of all the obligations contained in this Deed the District Council shall
forthwith effect the cancellation of all entries made in the Register of Local Land
Charges in respect of this Deed.

9.10 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 and
insofar as reasonably practicable the parties shall amend that clause or clauses in
such reasonable manner as achieves the intention of the parties without illegality.

9.11 This Deed shall cease to have effect (insofar only as it has not already been complied
with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or
(without the consent of the Owner) it is modified by any statutory procedure or expires
prior to the Commencement of the Development.

9.12 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.

9.13 Except for any provision hereof that restricts or prevents any Dwelling being occupied or prevents a number of Dwellings being occupied until another provision hereof is complied with this Deed shall not be enforceable against owner-occupiers or tenants of any Dwelling nor any mortgagee or chargee of the interest of any such owner-occupier nor against those deriving title from them.

9.14 This Deed shall not be enforceable against any public utility company or statutory undertaker having an interest in the Site for the sole purpose of providing utility services to the Site.

9.15 Nothing contained or implied 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 and/or a Qualifying Permission granted (whether or not on appeal) after the date of this Deed.

10. 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.

11. NO FETTER

Nothing in this Deed 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.

12. CHANGE OF OWNERSHIP ETC

The Owner agrees with the District Council and separately with the County Council to give the District Council and the County Council written notice of any change in the ownership of any of its interests in the Site within 10 working days and in any event before the next Trigger Event that arises following such change in ownership if sooner 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 or unit of occupation purchased by reference to a plan provided that this clause shall not apply to:

12.1 the sale of individual Dwellings on the Development; or

12.2 any disposal of any part or parts of the Site for servicing or utility requirements or to a statutory body or service supply company of an electricity substation gas governor pumping station water pumping station or other statutory service which have been constructed or installed in or on the Site

13. NOTIFICATIONS

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

13.1.1 to notify the District Council and the County Council in writing

- (a) no later than 5 Working Days prior to Commencement of the Development of the anticipated date of Commencement of the Development and not to Commence until 5 Working Days have passed since service thereof; and
- (b) within 10 Working Days of the date of the Commencement of the Development the date on which such Commencement of Development occurred; and

13.1.2 to notify the District Council and separately the County Council in writing no later than within 10 Working Days prior to the anticipated date of the following events and after the event to specify in a further notification the date on which it occurred:

- (a) first Occupation of the Development;
- (b) Occupation of five Market Dwellings; and
- (c) Occupation of seven Market Dwellings

and not to Occupy or cause or permit first Occupation until the notice at (a) has been given and not to Occupy more than five Market Dwellings until the notice at (b) has been given and not to Occupy more than seven Market Dwellings until the notice referred to a (c) has been given

13.1.3 to notify the District Council and the County Council within ten Working Days of the each of the usual quarter days (25 March, 24 June, 29 September and 25 December) 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

14. INTEREST

14.1 If any payment due under this Deed is paid after the Due Date, Interest will be payable on the amount owed from the Due Date to the date of full payment.

14.2 Interest shall be calculated and accrue daily and shall be compounded monthly if any payment is made more than three months after the Due Date

15. VAT

15.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable and the Owner and/or the Applicant shall pay to the District Council and separately to the County Council any value added tax properly payable on any sums paid to the District Council and/or the County Council or works undertaken under this Deed upon presentation of any appropriate value added tax invoice addressed to the Owner and/or the Applicant

16. NOTICES

16.1 Any notice or notification to be given to the District Council under this Deed shall be sent to the District Council attention of the Assistant Director Planning and Development at Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA or to such other person at such other address as the District Council shall direct from time to time.

16.2 Any notice or notification to be given to the County Council under this Deed shall be sent to the Director for Communities of the County Council at County Hall, New Road, Oxford, OX1 1ND, or to such other person at such other address as the County Council shall direct from time to time.

16.3 Any notice to be given to the Owner shall be sent to the Owner at the registered office of the Owner and addressed to the Company Secretary or to such other person at

such address as the Owner shall notify to the District Council and separately to the County Council from time to time.

16.4 Any notice to be given to the Applicant shall be sent to the Applicant at the registered office of the Applicant and addressed to the Company Secretary] or to such other person at such address as the Owner shall notify to the District Council and separately to the County Council from time to time.

16.5 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:

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

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

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

16.6 If a notice, demand or any other communication is served after 16:00 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.

16.7 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.

16.8 Any notice or notification to be given pursuant to this Deed shall be in writing and shall, unless otherwise agreed, be delivered by hand or sent by post.

17. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

18. 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.

19. DATA PROTECTION

The parties to this Deed 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:

19.1 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

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

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

FIRST SCHEDULE

DETAILS OF THE OWNER'S TITLE, AND DESCRIPTION OF THE SITE

All THAT land on the South side of South Side, Steeple Aston, Bicester shown edged with red on the plan being part of the Land the freehold title of which is registered at the Land Registry under Title Number ON131041.

**SECOND SCHEDULE
AFFORDABLE HOUSING**

COVENANTS WITH THE DISTRICT COUNCIL - AFFORDABLE HOUSING

1. DEFINITIONS

1.1 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):

Expression	Meaning
Affordable Housing	housing for sale or rent that will be available for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers) and which meets the definition in Annex 2 of the National Planning Policy Framework dated February 2019 (or as may be amended from time to time)
Affordable Housing Dwellings	the two Dwellings shown as plot numbers 8 and 9 on the Layout Plan which shall be Shared Ownership Housing unless otherwise agreed in writing by the Council
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
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 (including a Housing Administrator under the provisions of the Housing and Planning Act 2016) howsoever appointed or

Expression	Meaning
Help to Buy Agent	any person appointed under any security documentation to enable such mortgagee or chargee to realise its security
Infrastructure	<p data-bbox="587 353 1437 555">that organisation which is appointed by the Regulator or other such successor body to assess eligibility for Intermediate Housing and low cost home ownership products</p> <p data-bbox="587 600 1169 633">in relation to the Affordable Housing Site:</p> <ul data-bbox="587 656 1437 1417" style="list-style-type: none"> <li data-bbox="587 656 1430 689">• roads and footpaths to serve the Affordable Housing Site <li data-bbox="587 712 1437 801">• temporary services for contractors and a haul road for the use of contractors; <li data-bbox="587 824 1437 969">• adequate inverts for the foul and surface water drains sufficient to serve the drainage requirements of the Affordable Housing Site; <li data-bbox="587 992 1437 1081">• pipes sewers and channels sufficient to serve the Affordable Housing Site; <li data-bbox="587 1104 1437 1417">• 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; <p data-bbox="587 1462 962 1496">and the following services:</p> <ul data-bbox="587 1552 1437 1980" style="list-style-type: none"> <li data-bbox="587 1552 1437 1697">• a standard fire hydrant supply and fire hydrants in the public highway in positions to be agreed with the Registered Provider; <li data-bbox="587 1720 1437 1854">• a water supply connection from the mains (size and termination position to be agreed with the Registered Provider); <li data-bbox="587 1877 1437 1980">• an electricity supply (size and termination position to be agreed with the Registered Provider);

Expression**Meaning**

- 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 spur to the Affordable Housing Site (final locations to be agreed with the Registered Provider);

PROVIDED THAT the Owner shall not be responsible for incurring the costs of any connection charges or actual supply for such Infrastructure to the Affordable Housing Site nor to the Affordable Housing Dwellings

Intermediate Housing

housing at prices and rents above those for social rented housing but below open market prices or rents and for the avoidance of doubt the expression 'Intermediate Housing' includes Shared Ownership, shared equity and low cost homes for sale but does not include Affordable Rented Housing. The Intermediate Housing will be delivered as Shared Ownership Housing unless otherwise agreed between the District Council and the Owners

Layout Plan

the plan numbered P.224.SP.01 submitted as part of the Application a copy of which is annexed to this Schedule

Market Dwellings

that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing

Mortgage Land

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

Expression	Meaning
Registered Provider	a private provider of social housing which is designated in the register maintained by the Regulator 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 subsections 115(1)(a) or 278(2) of the Housing and Regeneration 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 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 been approved in writing by the District Council
Shared Ownership Housing	ownership under the terms of a lease which accords with the Regulator's Shared Ownership Model Lease by which a lessee may acquire an initial share or shares of between 10% and 75% of the equity in an Affordable Housing Dwelling from the housing provider who retains the remainder and may charge a rent of up to 2.75% on the unsold equity and where the lessee has the option to increase their percentage of ownership through a process of staircasing up to 80% of the equity
Staircasing	the exercise by the owner-occupier of a Shared Ownership Dwelling of the right to purchase additional equity shares up to 80% of the entire interest in the dwelling after which the rent payable on any equity share retained by the Registered Provider shall be reduced proportionally
The Regulator	the Regulator of Social Housing constituted pursuant to the Housing and Regeneration Act 2008 (as amended) and any successor or successors for the time being and any similar future authority responsible for the regulation of social housing

2. AFFORDABLE HOUSING COVENANTS

The Owner covenants with the District Council that they:

- 2.1 will not Occupy or cause or permit the Occupation of more than seven of the Market Dwellings until
 - 2.1.1 the Infrastructure has been provided to the District Council's reasonable satisfaction at no cost to or other contribution by any Registered Provider and the Affordable Housing Dwellings have been Constructed and made ready for Occupation to the reasonable satisfaction of the District Council as part of the Development; and
 - 2.1.2 the Affordable Housing Site has been transferred to a Registered Provider together with all rights for Infrastructure and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Dwellings Constructed or to be Constructed thereon and with a good and marketable freehold or long leasehold title free from incumbrances and with vacant possession on completion and capable of being fully serviced and properly connected to the public highway; and
- 2.2 will not use or cause or permit the use of the Affordable Housing Site or any Affordable Dwelling for any other purpose than for the provision of Affordable Housing in accordance with this Deed unless otherwise specified in this Deed;
- 2.3 will not without the consent in writing of the 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 a Registered Provider provided that consent shall not be required for
 - 2.3.1 any mortgage or charge of the freehold interest;
 - 2.3.2 the grant of a lease by a Registered Provider or assignment of the lease of any Shared Ownership Housing to a Qualifying Personbut this shall not apply to any tenancy granted to any of the occupiers of individual Affordable Housing Dwellings.

3. MORTGAGEE EXEMPTION

The provisions of paragraph 2 are binding on the Chargee PROVIDED THAT they 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 below have been complied with.

3.1 It is hereby agreed and declared that the proviso contained in paragraph 3 will only apply where the Chargee exercising its power of sale:

3.1.1 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, in its mortgage, charge or other security; and

3.1.2 has used reasonable endeavours over a period of three months from receipt of notification pursuant to paragraph 3.1.1 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

3.1.3 if upon expiry of 3 months from the date of receipt by the District Council of the notice in paragraph 3.1.1 above and provided the steps detailed in this paragraph have been completed no transfer of the Mortgage Land to either the District Council or a Registered Provider has completed then upon expiry of the said 3 months the Chargee shall be able to sell the Mortgage Land free from the restrictions in paragraph 2 above with the effect that they shall cease to bind any person obtaining title to the Mortgage Land.

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 Schedule) or all sums due under the terms of the Chargee's mortgage or charge together with costs and expenses of the sale of the Mortgage Land and interest due under the mortgage

4. ALLOCATION

The Owner covenants not to allocate or cause or permit to be allocated any of the Affordable Housing Dwellings other than as follows:

4.1 the Shared Ownership Housing shall be marketed through the Registered Provider's website or other marketing media used by the Registered Provider or where possible 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

4.2 as agreed by the District Council.

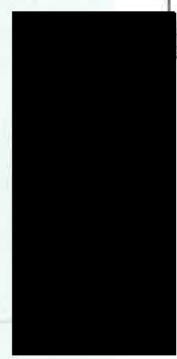
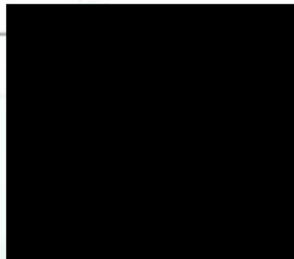
5. **MISCELLANEOUS**

It is agreed that

5.1 the provisions of this part will not be binding on any purchaser pursuant to the exercise of a statutory or voluntary right to buy, preserved right to buy or right to acquire or any mortgagee, chargee or successor in title thereto.

5.2 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 Sections 143A-169 of the Housing and Regeneration Act 2008 (or any statutory provision amending or replacing the same) then the provisions of this Agreement shall continue in respect of such other Registered Provider.

ANNEX: LAYOUT PLAN



Reduced from A3
Do not scale



rectory RECTORY HOMES LTD RECTORY HOUSE THAME ROAD HADDENHAM AVLEBURY, MK47 8DA MK47 8DA T 01844 265100 F 01844 263200 www.rectory.co.uk	
SOUTH SIDE SINGLE ALDER PROPOSED SITE PLAN	PLANNING P 224 SP 01 PROPOSED
QUANTITY 1:500 DATE 28.07.17	SCALE 1:500 DATE 28.07.17

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THIRD SCHEDULE
OPEN SPACE AND TRANSFER TO THE DISTRICT COUNCIL

1. DEFINITIONS

1.1 In this Schedule and the 0 the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be giving the meaning allocated to it in the main body of this Deed):

Expression	Meaning
“Bond”	an agreement between the parties hereto and a bank or insurance company or such other financial institution as the District Council may approve that secures sufficient finance (but limited to the amount of the Default Deposit) to meet the cost of the District Council in carrying out any works to or maintenance of the Open Space after the issue of the Practical Completion Certificate that are necessary due to the failure of the Owner to maintain the Open Space to a satisfactory standard during the Maintenance Period; a draft of which is annexed to this Schedule as Annex 2
“Bond Sum”	the sum of TWELVE THOUSAND NINE HUNDRED AND THREE POUNDS AND FIFTY PENCE (£12,903-50) Index Linked to be utilised in accordance with paragraph 7 below
“BS 5837:2012”	the publication entitled “Trees in relation to design, demolition and construction. Recommendations” published by the British Standards Institution in April 2012 or any amendment or replacement thereof
“Default Deposit”	the sum of TWELVE THOUSAND NINE HUNDRED AND THREE POUNDS AND FIFTY PENCE (£12,903-50) Index Linked to be utilised in accordance with paragraph 7 below
“Existing Hedgerows and Mature Trees”	those hedgerows and trees now on the Site identified in the Open Space Scheme as to be retained and maintained

Expression**Meaning****"Final Completion Certificate"**

means a certificate issued by the District Council confirming final completion of the laying out, landscaping and equipping of the Open Space in accordance with the Open Space Scheme and the making good of all defects and completion of the Maintenance Period to the reasonable satisfaction District Council

"Index"

means the BICS all in one tender index published by 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 Owner and the Council

"Index Linked"

means adjusted according to the increase (if any) in the Index between the published figure for the quarter in which the date hereof falls and the Due Date

"Management Company"

a body established or appointed by the Owner to carry out the long term management and maintenance of the Open Space which is to be managed by it in accordance with the provisions of this Agreement and whose objectives shall include (but not be limited to):-

- setting the level of charges for funding the running of the body and collecting such service charges from residents (such term to include but is not limited to owners occupiers lessees and tenants of the Dwellings
- ensuring that the level of any charges levied against any Affordable Housing Dwellings that are not owned outright by Registered Providers shall not materially affect the ability of these Dwellings to remain as Affordable Housing;
- ensuring accountability to residents of the Development.

Expression	Meaning
"Management Company Monitoring Payment"	the sum of pounds (£3,881.42) Index Linked towards the District Council's costs of monitoring the land and facilities transferred to the Management Company pursuant to the terms of this Schedule twice a year for 15 years
"Management Company Structure Scheme"	<p>a scheme that addresses the following in relation to the Management Company:</p> <ul style="list-style-type: none"> • Details of the proposed constitution of the Management Company which shall be a private company limited by shares or guarantee; • Proposed banking arrangements for the Management Company; • Procedures and justification that the Management Company will follow for drawing down monies by the Management Company from the ManCo Maintenance Escrow Account • Details of and arrangements for maintenance of such insurances as shall be appropriate in respect of the use of the Open Space against those risks as are reasonable to insure against in the circumstances then prevailing
"Management Scheme"	a written scheme for the detailed ongoing management and maintenance of the Open Space which shall detail the frequency and standard of maintenance of the facilities that are the subject of the relevant scheme together with measures to replace any equipment or infrastructure that becomes damaged or planting that may die or become diseased following implementation of the relevant scheme and which may be varied from time to time with the written agreement of the District Council

Expression	Meaning
"Open Space"	means areas of informal open space to be provided as part of the Development on that part of the Site shown edged in red on Annex 1 to this Schedule which is to be retained and maintained as open space to serve the Development in accordance with the provisions of this Schedule
"Maintenance Period"	means a period of twelve (12) months following the issue by the District Council of a Practical Completion Certificate or such longer period as the District Council may determine if it is not satisfied that the Open Space has been maintained in accordance with the Open Space Scheme during that period
"Open Space Scheme"	<p>means a scheme for the provision, laying out, landscaping and equipping (as appropriate) of the Open Space to be submitted to and approved in writing by the District Council for approval in accordance with paragraph 0 which shall include:</p> <ul style="list-style-type: none"> i. details of the layout of the Open Space together with the location of Existing Hedgerows and Mature Trees to which the scheme relates; and ii. details (which at a minimum shall comply with BS 5837:2012) of how Existing Hedgerows and Mature Trees are to be protected during the carrying out of the Development iii. a timetable for carrying out the works and the planting comprised in the laying out and landscaping of the Open Space; and iv. details of how the Open Space is to be maintained and any plants comprised in it replaced if they die during both its creation and during the Maintenance Period

Expression**Meaning****"Practical Completion Certificate"**

means a certificate issued by the District Council confirming the practical completion of the laying out, landscaping and equipping of the Open Space in accordance with the Open Space Scheme approved pursuant to this Deed

"Technical Specification"

means the specification set out in the document headed "Cherwell District Council and South Northamptonshire Council Contract for the provision of landscape maintenance services 01 April 2018 - 31 March 2024 Document 3: Technical Specifications" published by the Council and available to view and download at https://cherwellandsouthnorthants-my.sharepoint.com/:b:/g/personal/tim_screen_cherwell-dc_gov_uk/Eajlf5MeqBVEp1im7WLDjW4BZDanybKZnb985oqXkFSN1A?e=RtbtSE

"Transfer"

to transfer the freehold of the Open Space from the Owner to the Management Company which shall:

- a) not include any terms which would restrict public access save for the purposes of maintenance works or in the case of emergency; and
- b) not include any terms which would directly or indirectly affect the construction servicing or occupation of the part of the Site that is retained by the Owner; and
- c) include any reasonable reservation of rights of access and services over the Open Space for the benefit of any other part of the Site for the purpose of managing maintaining replacing renewing cleaning and repairing services including but not limited to as applicable sustainable urban drainage measures, water, gas, sewerage, drainage or electricity; and

Expression

Meaning

- d) include for the benefit of the Open Space the grant of any rights of access and services which are reasonably required for the use, management and maintenance of the area being transferred over any adjoining land for its intended purpose as set out in this Schedule; and
- e) be a transfer of the entire freehold interest of the Open Space with full title guarantee and vacant possession on completion;
- f) be free from any pre-emption or option agreement and free from any mortgage charge or lien or other encumbrance which restrict the use of the land for its intended purpose other than those which exist at the date of this Agreement and / or are agreed in the Transfer;
- g) contain a restrictive covenant that the land transferred shall not be used for any purpose other than for a publicly accessible games recreation relaxation and play area and publicly accessible free at the point of use recreational facilities

2. PRE-COMMENCEMENT

Before Commencing the Development there shall be submitted to the District Council the proposed Open Spaces Scheme and the Development shall not be Commenced until the District Council has approved it

3. OPEN SPACE

3.1 The Open Space

3.1.1 shall be provided and

3.1.2 shall be provided in accordance with the Open Space Scheme including for the avoidance of doubt the timetable set out therein

3.2 Nothing shall be done on the Site that shall prevent, inhibit or otherwise compromise the carrying out of the Open Spaces Scheme and in particular

3.2.1 no materials or equipment shall be stored on;

3.2.2 no services shall be run over, under or through;

3.2.3 no site offices, stores, hospitality or facilities cabins or other temporary structures shall be set up on; and

3.2.4 no parking area or temporary roadway shall be created or designated on;

unless otherwise approved by the Council in writing or they are things which are set out in the Open Space Scheme or are identified in any transport statement or other statements that are submitted to and approved by the Council to discharge any conditions attached to the Planning Permission .

3.3 The Existing Hedgerows and Mature Trees shall be protected by the erection of heras fencing and otherwise protected in accordance with BS 5837:2012 within twenty (20) Working Days of approval of the Open Space Scheme such fencing to be maintained until proposed to be removed in the Open Space Scheme or the time to begin the Development expires and not to remove or carry out any works to any of the trees on the Site other than those already identified in the arboricultural impact assessment and the tree protection plan as referred to in the Planning Permission unless otherwise approved in writing by the Council

3.4 The District Council shall be entitled on reasonable notice but no less than one Working Days' Notice to enter the Site with workman and contractors to remedy any default in compliance with paragraphs 3.2 and 3.3 above and to recover the cost thereof from the Owner

3.5 The Open Space shall be constructed laid out and seeded in accordance with the approved Open Space Scheme and in accordance with the timetable set out therein unless otherwise approved by the District Council in writing;

3.6 The Open Space shall not be used for any purpose other than as public open space land as an amenity for the occupiers of the Development and surrounding area but with the prior written consent of the District Council:

- 3.6.1 the subsoil of the Open Space may accommodate services provided such services do not prejudice the function of the Open Space;
- 3.6.2 may be used for the storage of materials and equipment necessary for the maintenance of the Open Space;
- 3.6.3 may accommodate an area for the parking of cars and/or any other vehicles associated with the use of the Open Space; or
- 3.6.4 may reserve any necessary rights of access over the Open Space to any adjoining land

but if any of the above matters are identified in any transport statement or other statements that are submitted to and approved by the Council to discharge any conditions attached to the Planning Permission then this shall automatically qualify as written consent

3.7 Upon completion of the Open Space the District Council shall be notified and invited to inspect the Open Space within 15 Working Days with a view to either

3.7.1 issue a Practical Completion Certificate that certifies that the Open Space has been provided in accordance with the Open Spaces Scheme to the satisfaction of the District Council; OR

3.7.2 issue a notice (Defects Notice) which states the Open Space has not been proved in accordance with the Open Spaces Scheme to a standard that satisfies the District Council and sets out details of the work required to reach that standard and the timescale in which the District Council expects such works to be done

but in the event that the District Council considers that any failure to comply with the Open Spaces Scheme is minor and can be remedied within the Maintenance Period a Practical Completion Certificate may still be issued but endorsed with a note of the minor works to be done and the period in which the District Council expects them to be completed.

3.8 If a Defects Notice is issued the works specified in the Defects Notice shall be carried out and the District Council invited to re-inspect the Open Space with a view to securing the issue of the Practical Completion Certificate.

3.9 Upon completion of the relevant Maintenance Period the District Council

3.9.1 if satisfied that the relevant Open Space has been maintained throughout the Maintenance Period in accordance with the Open Space Plan and any minor defects set out in the Practical Completion Certificate have been remedied shall issue a Final Completion Certificate; or

3.9.2 if not so satisfied EITHER

(a) issue a Defects Notice and the provisions of paragraph 3.7 and 3.8 above regarding Defects Notices shall apply to the issue of a Final Completion Certificate in the same manner as they apply to the issue of a Practical Completion Certificate; OR

(b) enter the Site and the Open Space (save for any Dwellings that may have been disposed of to Owner/Occupiers) as is necessary to permit the District Council and its employees and contractors to carry out any works and maintenance required pursuant to this Schedule ("Works in Default") for so long as is necessary to bring the Open Space to the condition that it should have been in should the Owner have complied with its obligations herein and recover from the Owner the costs of doing so

provided always that before any action is taken by the District Council under this paragraph it first provides the Owner with a reasonable opportunity to remedy any breach.

3.10 At all reasonable times and upon reasonable notice officers servants and agents of the District Council may enter onto any necessary part of the Site for the purpose of inspecting the Open Space upon the District Council first giving reasonable notice and complying with all necessary and reasonable health and safety requirements whilst on Site.

4. **MANAGEMENT COMPANY**

The Owner covenants with the District Council as follows:

4.1 that they shall:

4.1.1 Before Commencement submit a draft

- (a) Management Company Structure Scheme; and
- (b) Management Plan

to the District Council for its approval;

4.1.2 not Occupy or cause or permit the Occupation of any Dwelling until

- (a) the Management Plan is approved by the District Council; and
- (b) the Management Company Monitoring Payment has been paid to the Council

4.1.3 not to Dispose of any Dwellings until

- (a) the District Council shall have approved the submitted Management Company Structure Scheme; and
- (b) the Management Company has been established in accordance with the approved Management Company Structure Scheme and evidence thereof has been submitted to the District Council that it has been so established

4.2 not to Dispose of any Dwelling without putting in place in the plot documentation for each of the Dwellings a covenant whereby the owner/occupiers of each Dwelling (and their successors in title) shall be liable to make payment to the Management Company of the Service Charge which shall be collected and ring-fenced by the Management Company as successor in title to the Owner for application for the management and maintenance of the Open Space

4.3 to put in place in the sale documentation for each of the Dwellings a covenant whereby each of the residents (and their successors in title) shall be liable to make payment to the Management Company of the Service Charge prior to Occupation of the relevant Dwelling

5. **TRANSFER**

The Owners and the Purchasers shall Transfer the Open Space to the Management Company within 28 days of the issue of the Final Completion Certificate

6. FINANCIAL PROVISIONS

6.1 On or before Commencement and in accordance with this Schedule, the Owner shall either:

6.1.1 enter into the Bond and supply a certified copy thereof to the Council; or

6.1.2 pay the Default Deposit to the Council

7. DEFAULT

In the event that the Owner

7.1 shall have failed to comply with a Defects Notice; and

7.2 shall have failed for whatever reason to reimburse the costs and expenses incurred by District Council in carrying out any Works in Default within 14 days of a written demand therefor

the District Council shall be entitled to either call on the Bond or to deduct the costs from the Default Deposit to reimburse those costs and expenses provided always that before any action is taken by the District Council under this paragraph it first provides the Owner with a reasonable opportunity to remedy any breach.

ANNEX 1 TO THE SECOND SCHEDULE: THE OPEN SPACE



Existing line of trees will be required to remain in residential area as required as per

Manned buffer strip to rear & east from boundaries

Reduced from A3
Do not scale



REACTORY HOMES LTD REACTORY HOUSE THREE REACTORY ROAD ATLESBURY BRUCEGROVE ROAD, WPT17 0DA T 01844 205100 F 01844 295380 www.reactory.co.uk		PROJECT NO COL 2048 E	
PROJECT TYPE Planning	SCALE 1:500	DATE 28.07.17	DRAWN BY K
PROJECT NAME South Side, Sample Action Proposed Site Plan	PROJECT NO P 254.59.01	PROJECT TYPE PROPOSED	DRAWN BY K



**ANNEX 2 TO THE SECOND SCHEDULE:
DRAFT BOND**

THIS BOND dated the day of20[] is made

BETWEEN:-

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House, White Post Road, Bodicote, Banbury, OX15 4AA (“the District Council”)
- (2) [*to be inserted*] (company number) whose registered office is at (“the Owner”)
- (3) (company number) whose registered office is at (“the Surety”)

WHEREAS by an Agreement (“the Agreement”) dated the day of and made between Cherwell District Council (1) Oxfordshire County Council (2) Parkhouse Commercial Properties Limited (3) and Rectory Homes Limited (4) the Owner as defined in the Agreement agreed to provide and maintain the Open Space on the Site as part of the Development and further agreed that if the Owner should fail to provide or maintain the Open Space to the reasonable satisfaction of the District Council that the District Council may enter the Site and the Open Space and so much of it (save for any Dwellings that may have been disposed of the Owner/Occupiers) as is necessary to permit the District Council and its employees and contractors to carry out any works and maintenance required pursuant to the Third Schedule of the Agreement for so long as is necessary to bring the Open Space to the condition that it should have been in should the Owner have complied with its obligations in the said Third Schedule and recover from the Owner the costs of doing so;

NOW THIS DEED WITNESSES AS FOLLOWS

1. In this Bond the terms and expressions herein shall have the same meaning as they have in the Agreement unless the context otherwise requires
2. The Owner and the Surety are jointly and severally bound to the District Council in the sum of pounds (£X,000,00.00) (‘the Bonded Sum’)

3. The District Council may prior to the expiry of this Bond call for the Surety to make payment if the Owner shall fail to carry out its obligations pursuant to the Third Schedule of the Agreement after the Practical Completion Certificate is issued
4. Any claim hereunder shall be accompanied by a statement signed by the Solicitor to the District Council that the amount claimed represents the costs incurred by the District Council in carrying out any works and maintenance required pursuant to the Third Schedule of the Agreement for so long as is necessary to bring the Open Space to the condition that it should have been in had the Owner complied with its obligations in the said Third Schedule;
5. The Surety shall within 14 days after service of any claim pay the District Council the sum specified in such claim and shall not be entitled to delay or withhold payment for any reason notwithstanding any objection by the Owner or any other party provided always that the maximum aggregate liability of the Surety does not exceeded the Bonded Sum
6. The District Council may make as many separate claims under this Bond as it considers appropriate provided that they shall not exceed in aggregate the Bonded Sum
7. Without prejudice to the generality of clause 5 the obligations of the Surety under this Bond shall not be affected by any act, omission or matter which might (but for this clause) operate to release or discharge such obligations in whole or in part, including without limitation:
 - 7.1 any time or waiver or accommodation or credit granted to the Owner or the Surety or any abstention from enforcing the District Council's rights against the Owner or the Surety;
 - 7.2 any variation of or amendment to the Agreement (and references to the Agreement in this Bond shall be references to the Agreement as so varied or amended from time to time);
 - 7.3 any obligation on the part of the Owner being void;
 - 7.4 the bankruptcy, liquidation or insolvency of the Owner or the presentation of a petition for the making of an administration order in respect of the Owner or the

making of any such order or the appointment of (or giving of notice to appoint) an administrator in respect of the Owner;

7.5 any thing or matter that would or might have discharged or affected any liability if the Surety's obligation under this Bond had been secondary rather than primary

8. This deed gives no rights under the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act

9. This Bond shall be valid from the date hereof and will remain valid until 5.00 pm on the Expiry Date when it will expire and cease to be of effect whether returned to the Surety for cancellation or not unless a prior claim has been received by the Surety

10. This Bond shall be governed by and construed in accordance with English law and the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Bond

11. This Bond shall expire on EITHER

11.1 the issue by the District Council of a Final Completion Certificate

OR

11.2 the release of the Bond by the District Council if earlier

THIS BOND has been executed as a Deed and is delivered the day and year first before written

FOURTH SCHEDULE

FINANCIAL CONTRIBUTIONS PAYABLE TO THE DISTRICT COUNCIL

1. DEFINITIONS

- 1.1 In this Schedule and the 0 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): -

Expression	Meaning
“Community Hall Facilities Contribution”	means a contribution of Thirteen thousand seven hundred seventy-five pounds and ten pence (£13,775.10) Index Linked towards the refurbishment of the Village Hall, Fir Lane, Steeple Aston and/or the Sports and Recreation Centre, Fir Lane, Steeple Aston.
Index Linked	means the calculation of any financial contribution (upwards only) 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
“Off Site Outdoor Sports Facilities Capital Provision Contribution”	means a contribution of Twenty-four thousand three hundred one pounds and sixty pence (£24,301.60) Index Linked for the improvements of existing football pitches and resurfacing of the existing basketball court in Steeple Aston.
“Off Site Indoor Sports Facilities Contribution”	means a contribution of Ten thousand fifty-nine pounds and sixty pence (£10,059.60) Index Linked towards the replacement and improvements to the fabric of the building at the Sports and Recreation Centre in Steeple Aston.

Expression	Meaning
“Play Equipment Commuted Sum”	means a contribution of Thirty-nine thousand eight hundred twenty pounds and forty pence (£39,820.40) Index Linked towards the improvement of existing play equipment in the locality of the village.
“The Contributions”	means the Community Hall Facilities Contribution, Off-Site Outdoor Sports Contribution, Off-Site Indoor Sports Contribution and the Play Equipment Commuted Sum Contribution together.
“Refuse Contribution”	means a contribution of One thousand and sixty pounds (£1,060.00) towards the provision of refuse and recycling bins for the Development Index Linked

2. CONTRIBUTIONS

- 2.1 The Owner covenants with the District Council that they will pay the Contributions to the District Council prior to the first Occupation of any Dwelling.
- 2.2 The Owner covenants with the District Council not to Occupy nor cause or permit any Occupation of any Dwelling until The Contributions have been paid in full to the District Council.

FIFTH SCHEDULE
CONTRIBUTIONS TO THE COUNTY COUNCIL

1. DEFINITIONS

1.1 In this Schedule and the Eighth 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): -

Expression	Meaning
“Approval (Variation)”	means any non-material amendment pursuant to Section 96A of the 1990 Act or any Qualifying Permission which alters the Composition of the Development (Current) or as the case may be from the Composition of the Development as established by the last Approval (Variation)
“Bedroom”	means a room in a Dwelling designed as a bedroom or study/ bedroom and <ul style="list-style-type: none">• 1 Dwelling means a Dwelling with 1 Bedroom• 2 Dwelling means a Dwelling with 2 Bedrooms• 3 Dwelling means a Dwelling with 3 Bedrooms• 4 Dwelling means a Dwelling with 4 or more Bedrooms
Composition of the Development	means the aggregate number of Dwelling comprised in the Development and the number of each Dwelling type classified by reference to the number of Bedrooms in the Dwelling
Composition of Development (Current)	means 10 Dwellings comprising 2 x 2 Bedroom Units; 5 x 3 Bedroom Units and 3 x 4+ bedroom units as proposed in the Planning Application
Index Linked:	in relation to <ul style="list-style-type: none">• the Public Transport Contribution adjusted according to any increase occurring between January 2020 and the date when the relevant payment is made to the

Expression**Meaning**

County Council in the all Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office of National Statistics.; and

- the Education Payments adjusted according to any increase occurring between index value 333 and the index value for the quarter period in which the contribution is paid in the BCIS All in-Tender Price Index published by the Royal Institution of Chartered Surveyors

or if at any time for any reason it becomes impracticable to use any such index such alternative index as may be agreed between the Owner and the County Council

Education Contribution

the sum of Sixty-two Thousand Eight Hundred and Eighty two pounds only (£62,882) Index-Linked towards the expansion of secondary education provision serving the Development payable in the following instalments:

- Education Instalment 1 of £31,442 being 50% of the Education Contribution and
- Education Instalment 2 of £31,442 being the final 50% of the Education Contribution

Education Payments

means together the Education Contribution and any supplemental payments made under paragraphs 4.1 to this Schedule

Matrix

means the formula:

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

When

A means the number of 1 Dwellings

B means the number of 2 Dwellings

C means the number of 3 Dwellings

D means the number of 4 Dwellings

W, X, Y and Z are as set out in Part 2 to this Schedule

Expression	Meaning
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
Public Transport Contribution	the sum of Ten Thousand Pounds only (£10,000) Index-Linked to be expended on improving the bus service between Steeple Aston to Banbury and Oxford
Revised Education 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 Education Contribution or in the event that there is more than one Approval (Variation) the Revised Education 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

2. COVENANTS

The Owner covenants with the County Council:

- 2.1 to pay the Public Transport Contribution and the Education Instalment 1 to the County Council prior to first Occupation of any Dwelling; and
- 2.2 not to cause or permit the Occupation of any Dwelling until it has paid the Public Transport Contribution and the Education Instalment 1 to the County Council
- 2.3 to pay Education Instalment 2 to the County Council prior to first Occupation of more than 5 Dwellings; and
- 2.4 not to cause or permit the first Occupation of more than 5 Dwellings until it has paid Education Instalment 2 to the County Council

3. OWNER'S COVENANTS (NOTIFICATION AND ASSESSMENT)

- 3.1 The Owner covenants with the Council as follows:-

- 3.1.1 to give to the Council a Notification (Variation) within 14 days of the issue of each Approval (Variation)
- 3.1.2 where a Notification (Variation) has been given (or is required to be given further to clause 3.1.1) and the relevant Approval (Variation) results in the establishment of a Revised Education Contribution then
- (a) for the purposes of calculating any Education Payment which will payable subsequent to the date of issue of the relevant Approval (Variation) the Revised Education Contribution shall be applied in place of the Education Contribution
- (b) there shall be calculated the difference between any Education Payments paid prior to the issue of the relevant Approval (Variation) and the amount that such Education Payments would have been if they had been calculated by reference to the Revised Education Contribution (in both instances disregarding index linking)

4. COVENANTS – PAYMENT (ADDITIONAL COVENANT)

- 4.1 The Owner covenants with the County Council to pay to the County Council the sum calculated further to clause 3.1.2(b) Index Linked with the next Education Payment subsequent to the date of grant of the relevant Approval (Variation) or if all the Education Payments have been paid to pay such sum index linked within 14 days of the grant of the Approval (Variation)

Part 2

	<u>1 Bed</u>	<u>2 Bed</u>	<u>3 Bed</u>	<u>4 + Bed</u>
Secondary	£0	£2,377.89	£6,076.83	£9,247.35
TOTALS	W= £0	X=£2,377.89	Y=£6,076.83	Z=£9,247.35

**SIXTH SCHEDULE
HIGHWAY WORKS**

PART 1

1. DEFINITIONS

1.1 In this Schedule and the Eighth 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): -

the 1980 Act means the Highways Act 1980 (as amended)

Highway Agreement means an agreement under section 278 (and if appropriate section 38) of the 1980 Act which provides for the execution of the Works by the Owner at the Owner's expense and to be substantially in the form of the draft agreement and subject to the conditions at Annex 1 to this Schedule including such amendments as may be agreed

Works Plan means the drawing number reference 8171225/6110 Rev. A3 attached to this Deed as Annex 2 to this Schedule

Works means the works described in Part 2 of this Schedule which the County Council is authorised to execute by virtue of Part V of the 1980 Act

1.2 The Works are works which the County Council is authorised to execute by virtue of Part V of the 1980 Act

1.3 The parties intend to enter into the Highway Agreement

2. WORKS OBLIGATIONS

2.1 The Owner covenants with and undertakes to the County Council

2.1.1 not to cause or permit the Commencement of the Development until

(a) There has been submitted to the County Council and approved by it in writing in principle drawings for the Works together with associated

drawings and technical information as set out in the County Council's Section 278 Application Form as adjusted from time to time;

- (b) There has been submitted to the County Council and approved by it in writing plans detailing the land (if any) to be dedicated following completion of the Works and there has been deduced to the satisfaction of the County Council title in respect of any such land to be dedicated.
- (c) The anticipated duration of construction of the Works has been agreed with the County Council together with the longstop date for completion of the Works and commuted maintenance sum in respect of the cost of future maintenance, and as applicable replacement of the Works, has been agreed.
- (d) The Highways Agreement incorporating in principle drawings and plans and other matters approved and agreed pursuant to paragraphs 2.1(a) to 2.1(c) has been entered into by the Owner in respect of the Works together with all parties with an interest in any land to be dedicated further to the Highways Agreement and any mortgagee of such land has released it fully and effectively from its charge.

2.1.2 not to cause or permit any Dwelling on the Site to be Occupied before the Works have been completed pursuant to and in accordance with the Highway Agreement;

PART 2 THE WORKS

3. PRINCIPAL WORKS

The provision and construction of the following works as shown indicatively on Plan 8171225/6110 Rev. A3 attached as Annex 2("the Principal Works"):

- (a) The construction of a bellmouth junction to provide access between the site and South Side, as shown indicatively on drawing no. P.224.SP.01 Rev. K

- (b) Off-site highway works, including a length of 1.2m wide footway, coloured virtual footway, priority build-out feature, signing, lining and lighting, as shown indicatively on drg. no. 8171225/6110 Rev. A3

4. 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

5. 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

**ANNEX 1 TO THE SIXTH SCHEDULE
DRAFT 278 AGREEMENT**

DATED _____ **20[]**

OXFORDSHIRE COUNTY COUNCIL

-and-

-and-

(DEVELOPER)

**Agreement relating to Highway Works at []
to be undertaken by [DEVELOPER]¹**

Anita Bradley
Director of Law & Governance and
Monitoring Officer
County Hall
New Road
Oxford OX1 1ND

¹ Updated August 2020

THIS DEED is made on the _____ day of

Two Thousand and

BETWEEN:-

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** (“the Council”)
- (2) (“the Owner”)
- (3) (company registration number.....)
..... (“the Developer”)
- (4)

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 29 of the Standard Conditions
- 1.4 “Certificate of Completion” means a certificate issued under Condition 30 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 Developer and the Mortgagee] and the Council agree should be substituted for it
- 1.7 [“the Developer” means
of/whose registered office is at
and its successors in title and assigns]
- 1.8 “the Development” means [.....]
- 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 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 below set out against each such index namely:-

Index 1	Labour & Supervision	25%
Index 2	Plant & Road Vehicles	25%
Index 3	Aggregates	30%

- 1.17 “the Site” means the land
Oxfordshire shown edged black on the Site Plan
- 1.18 “the Site Plan” means the plan marked “Plan A” annexed to this
Deed
- 1.19 “the Standard Conditions” means the Council’s Standard
Conditions for the Control of Highway Works in Conjunction with
Development (2016 Edition) a copy of which is annexed to this
Deed
- 1.20 “the Works” means the works specified in the Schedule
- 1.21 “the Works Plan” means the drawing(s) numbered
[] annexed to this Deed
- 1.22 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
- 1.23 Headings in this Deed are for convenience only and shall not be
taken into account in its construction and interpretation
- 1.24 References to clauses sub-clauses and schedules are
references to clauses sub-clauses and schedules in this Deed
- 1.25 Where the context so requires:-
- 1.25.1 the singular includes the plural and vice versa
- 1.25.2 the masculine includes the feminine and vice versa

1.25.3 'persons' includes bodies corporate associations and partnerships and vice versa

1.26 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

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

1.28 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 freehold of the Site registered with absolute title under title number [.....] [subject to an Option in favour of the Developer (and/or) 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 (Owner/Developer) [has] submitted the Planning Application for the Development to the district planning authority

Alternative 1

The district planning authority is minded to grant planning permission for the Development subject inter alia to the completion of this Deed]

Alternative 2

It is a condition of the Planning Permission that the Development shall not be [] before certain works (which the Council is authorised to execute) are executed for the provision of safe and convenient access to the Site from the highways in the vicinity.

Alternative 3

The Owner has/it has been agreed [by virtue of an agreement pursuant to Section 106 of the 1990 dated [] and made between [] 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 the Deed

2.5 The Off-Site Works are works which the Council is authorised to execute by virtue of Part V of the 1980 Act

2.6 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

2.7 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 the Developer and the Mortgagee in respect of the Site and enforceable by the Council

2.8 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 and insofar as reasonably practicable the parties shall amend that clause or clauses in such reasonable manner as achieves the intention of the parties without illegality .

3. Covenants

The Owner and the Developer covenant:-

3.1 not to cause or permit [any planning permission obtained for the Development/the Planning Permission to be implemented (save insofar as is necessary for the execution of the Works)] [any building forming part of the Development [to be occupied] [to open for business] before the Works have been completed

3.2 to execute the Works entirely at his/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 commence the Works until the Maintenance Costs have been paid to the Council and to pay Maintenance Costs to the Council prior to commencing the Works
- 3.6 not to apply for the issue of the Certification of Completion until it has paid the Maintenance Costs to the Council
- 3.7 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
- 3.8 if any payment to be made to the Council is not paid on or before the due date for payment to pay interest at 4% per annum above the base rate from time to time of Lloyds Bank Plc from such due date to the date of payment¹

4. **Adoption as Highway**

- 4.1 On the issue of a Certificate of Completion for the Works the whole of the land shown [hatched black] 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 Conditions 34 and 35 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 that shall be agreed with the Owner [the Developer the Mortgagee] and the dedication as provided in clause 4.1 shall have effect in respect of the modified area

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

5/6 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

6/7 [the Mortgagee (*consider further amendment to accord with mortgagee provision in Section 106 agreement*)

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]

7/8 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 this Deed [and [] towards the costs of administering and monitoring the provisions of this Deed relating to the Contribution]

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 provision 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 Planning & Place of the Council (Ref) 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 [] shall be sent to [] or to such other person at such address as the [] 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 Developer/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 of the following works (“the Principal Works”)

- (a)
- (b)
- (c)

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

EXECUTION

THE COMMON SEAL of

was affixed to this Deed in the presence of:-

Director

Secretary

THE COMMON SEAL of

was affixed to this Deed in the presence of:-

Director

Secretary

SIGNED AS A DEED by the said

in the presence of:

Witness Signature

Witness Name (BLOCK CAPS)

Address

Occupation

THE COMMON SEAL of THE OXFORDSHIRE COUNTY COUNCIL

was affixed to this Deed in the presence of:-

**Director of Law & Governance/
Designated Officer**

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

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Anita Bradley
Director of Law & Governance and Monitoring
Officer
County Hall
New Road
Oxford OX1 1ND

Director of Planning & Place
County Hall
New Road
Oxford OX1 1ND

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 30.
- 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. 19/15 (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 2015 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 County Hall, New Road, Oxford OX1 1ND 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; or any technical approval or consent issued by the Council in respect of the Works.

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
<p>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;</p>	<p>No later than 3 months before any tender is invited for the execution of the Works</p>	<p>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</p>

9.2

Information	Timetable	Notes
<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

Information	Timetable	Notes
<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</p> <p>(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>	

9.4

Information	Timetable	Notes
<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>	

9.5

Information	Timetable	Notes
Details in accordance with Condition 15 of the persons proposed to be invited to tender.	No later than 1 month before any tender is invited for the execution of the Works.	

Other Matters

9.6

Information	Timetable	Notes
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.	

9.7

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

9.8

Information	Timetable	Notes
<p>Part 1</p> <p>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>	No later than 1 month before the Works are expected to commence or earlier than 3 months before the Works are expected to commence.	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.

Information	Timetable	Notes
<p>Part 2</p> <p>If the assessment concludes that there will be any property eligible for noise insulation to submit to the Council:</p> <p>(a) a map and list of all eligible properties.²</p> <p>(b) a list of all occupiers and landlords</p> <p>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	

9.9

Information	Timetable	Notes
<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>	

9.10

Information	Timetable	Notes
<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 execution of the Works.</p>	

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

² 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.

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 i including (but not so as to provide an exhaustive list of examples)³:-

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 function⁴ ;

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 the Council's opinion to enable the Works to proceed and/or to be implemented and function⁵; 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.

³ Examples may also include noise consent from district council

⁴ This relates to for example Section 127HA.

⁵ 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.

- 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.

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 £2,150

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 only undertake the Works at such times as have previously been approved by 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 any other unforeseen factor 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. PRE COMPLETION - CLEARANCE OF SITE AND STAGE 3 SAFETY AUDIT

28.1 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.

28.2 On substantial completion of the Works (and clearance of the site of the Works) the Developer shall lodge a stage 3 Safety Audit report together with the 'Designer's response' with the Council and the Developer shall execute and complete all works as advised by the Council arising from the Safety Audit recommendations.

29. HEALTH AND SAFETY

29.1 The Developer shall furnish to the Council the Health and Safety File prepared in accordance with Interim Advice Note 105/08 - Implementation of Construction (Design and Management) 2007 issued by the Highways Agency (now Highways England) as revised and/or replaced from time to time. 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.

30. COMPLETION CERTIFICATE

Subject always to prior compliance with the pre completion requirements (Condition 28) and with Condition 29 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

31. 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 Conditions 34 & 35 be a highway maintainable at public expense.

32. EASEMENTS

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

32.1.1. 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

32.1.2. 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.

32.2 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.

33. NOISE INSULATION

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.

34. REMEDYING OF DEFECTS AND OUTSTANDING WORKS

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

34.1.1. 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

34.1.2. the Developer shall fail to complete any of the outstanding works mentioned in Condition 30 (minor outstanding Works on issue of Certificate of Completion)

34.1.3. 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.

34.2 Forthwith on receipt of any notification from the Council further to Condition 34.1 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).

35. STAGE 4 ROAD SAFETY AUDIT

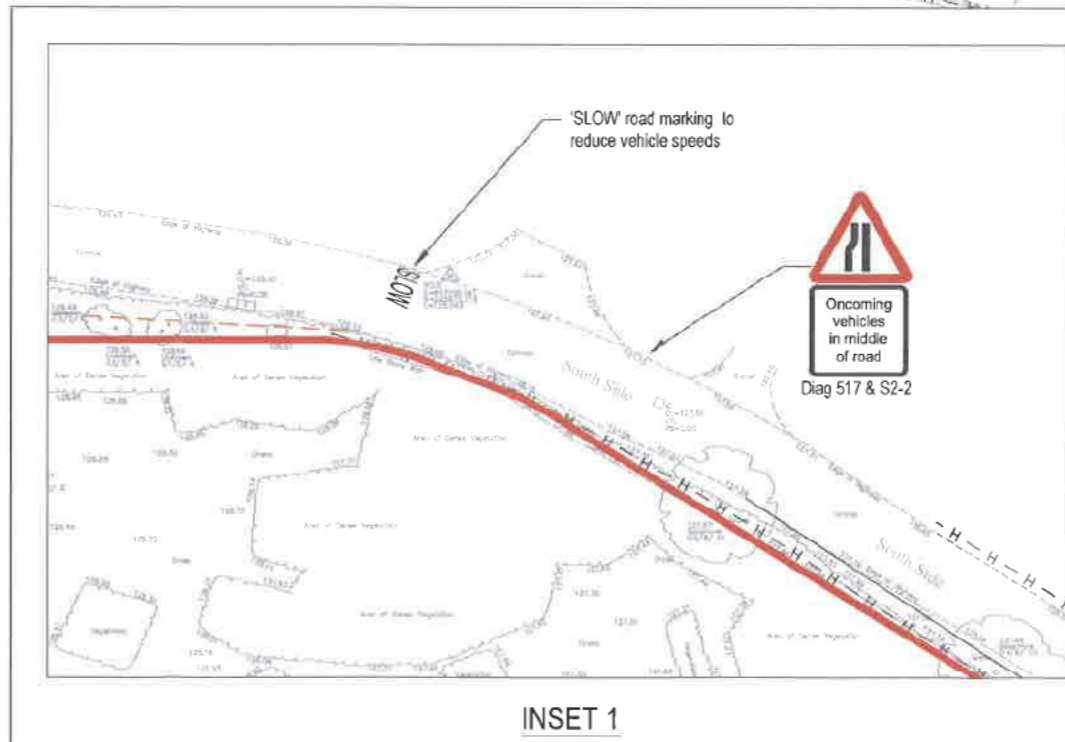
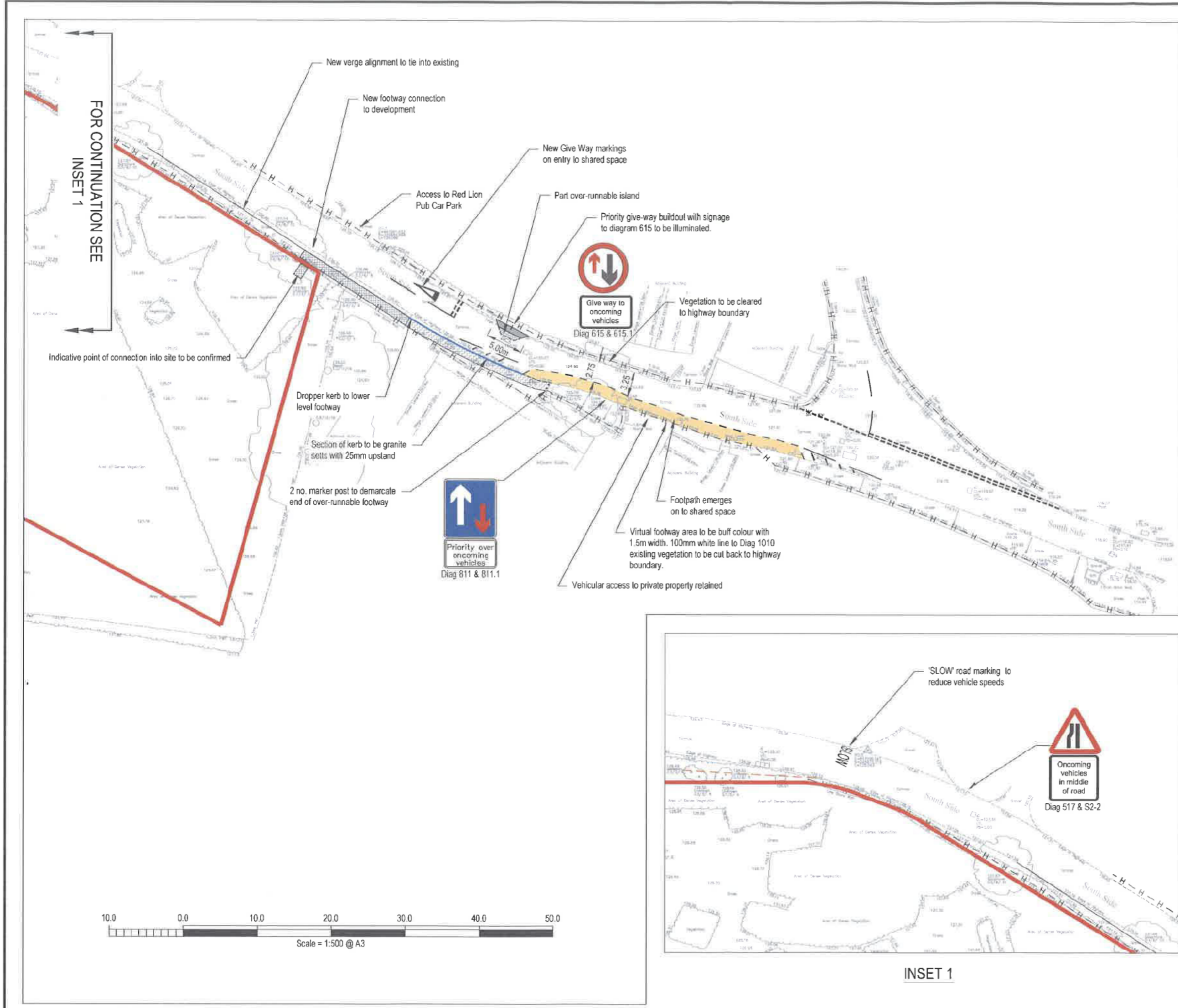
- 35.1 The Council may require the Developer to carry out a Safety Audit Stage 4 at any time within 36 months from the opening of the Works and to lodge the report with the Council together with the "Designer's response" within 2 months and the Council shall notify the Developer of all works required to be undertaken arising from the Safety Audit recommendations
- 35.2 In the event that notification of works is given by the Council further to Condition 35.1 prior to the full release of the Bond the Developer shall execute and complete all the works as advised by the Council. The Developer will agree with the Council the time that he will be carrying out such works and unless otherwise agreed shall secure their completion within 1 month of receipt of such notification (except in the event of delay arising for some cause not within the Developers control, when the Developer shall be entitled to a reasonable extension of time).
- 35.3 In the event that notification of works is given by the Council further to Condition 35.1 subsequent to the full release of the Bond the Developer shall pay to the Council within 28 days of written request from the Council the costs incurred or to be incurred by the Council in carrying out such works.

36. RELEASE OF BOND

- 36.1 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;
- 36.2 The Bond shall be deemed to be fully discharged at the latest of the following:
- 36.2.1. the date two years after the date on which the Council issue the Certificate of Completion; and
 - 36.2.2. the date on which all defects and outstanding works have been made good and completed as referred to in Condition 34; and
 - 36.2.3. the date on which all works have been completed as referred to in Condition 35.2
 - 36.2.4. the Council have recovered their full expenses in all cases where Condition 5 applies (Council may act in default or emergency);

36.2.5. the date on which the Council have received the transfers or grants further to Condition 32;

36.3 Conditions 36.1 and 36.2 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.



1. This drawing is to be read in conjunction with all relevant documents and specifications.

2. Dimensions are not to be scaled.

Source: RGL Surveys Ltd drawing number RGL-17-2679

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KEY

— H — H —	Existing highway boundary
	Virtual footway
	New footway constructed within verge (full height kerb)
	New footway constructed across existing driveways/accesses/property frontage (25mm upstand)
	Site Boundary
	Dropped kerb with 25mm upstand
	Dropped kerb with 6mm upstand

A3	Updated following Stage 1 Road Safety Audit	11/11/2019 T.Hart	TF
A2	Updated following consultation with OCC	17/04/2019 J.Heathcote	TF
A1	Updated following site meeting with OCC	10/04/2019 J.Heathcote	TF

Rev.	Description	Date	Chkd
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Glanville
 Cornerstone House
 62 Foxhall Road, Didcot
 Oxon, OX11 7AD
 Tel: (01235) 515550 Fax: (01235) 817799
 postbox@glanvillegroup.com www.glanvillegroup.com

Client: Rectory Homes

Project: Land at South Side, Steeple Aston

Title: Proposed Pedestrian Facilities with Shared Space

Project Engineer: J.Heathcote Scale: 1:500 @ A3
 Project Director: T. Foxall Date: March 2019
 Status: PRELIMINARY

Drawing No. 8171225/6110 Rev A3

SEVENTH SCHEDULE
DISTRICT COUNCIL'S COVENANTS WITH THE OWNER

1. DISCHARGE OF BOND/RETURN OF DEFAULT DEPOSIT

On issue of the Final Completion Certificate the District Council will

- 1.1 release or discharge the Bond; or
- 1.2 return the Default Deposit (or so much of it as has not been expended by it pursuant to the provisions of paragraph 7 of the Third Schedule) to the party that paid it

2. REPAYMENT OF CONTRIBUTIONS

- 2.1 The District Council covenants with the Owner to use all sums received from the Owner under the terms of the Fourth Schedule 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 District Council shall agree.
- 2.2 The District Council covenants with the Owner that following written request from the person who made the relevant payment the District Council will repay to that person the balance (if any) of any payment made by that person to the District Council under the terms of the Fourth Schedule in accordance with the provisions of this Deed which has not been expended or committed 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 of 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 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.
- 2.3 Any payment or part thereof which the District Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been committed by the District Council prior to that date

2.4 The District Council shall provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the expenditure of the sums paid under the terms of the Fourth Schedule upon a written request by the Owner such request not to be made more than once in any year.

3. **DISCHARGE OF OBLIGATIONS**

At the written request of the Owner, the District Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

EIGHTH SCHEDULE
COUNTY COUNCIL'S COVENANTS WITH THE OWNER

1. APPLICATION OF MONIES RECEIVED

1.1 The County Council shall not apply any of the contributions referred to in the Fifth Schedule for any purpose other than as set out in the definition of each contribution therein in such form and at such time as the County Council shall in its discretion decide

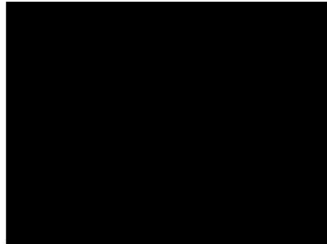
2. REPAYMENT

2.1 Following written request from the person who paid the relevant contribution the County Council will repay to that person the balance (if any) of such contribution which at the date of the receipt of such written request has not been expended 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 shall be made prior to the expiry of 10 years from the Due Date or the date of receipt by the County Council (whichever is the later) of the last instalment of any such contribution.

2.2 Any contribution or part of a contribution which the County Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the County Council prior to that date

EXECUTION

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

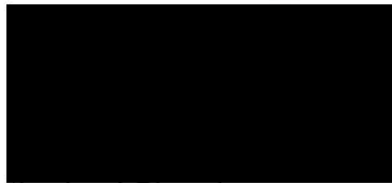


Authorised Signatory



CDC 20485

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



Authorised Signatory



867/21

(the officer appointed for this purpose)

EXECUTED as a DEED by PARKHOUSE COMMERCIAL PROPERTIES LIMITED

acting by a Director in the presence of:

Name

Director

Witness

Signature

Witness name

(BLOCK CAPS).....

KAY ANGLIN

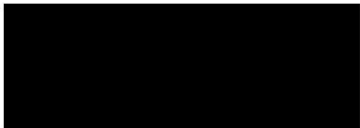
Address

**BOWER & BAILEY LLP
ANCHOR HOUSE
269 BANBURY ROAD
SUMMERTOWN
OXFORD OX2 7JF
DX 40669 SUMMERTOWN**

Occupation


Solicitor

EXECUTED as a DEED by RECTORY
HOMES LIMITED acting by a Director in
the presence of



Name DAVID ULLAITHALE Director

Witness

Signature .. 

Witness name

(BLOCK CAPS) GEORGE DETHELL VILGERS

Address 6 WHITE SWAN LANE

CUDDINGTON HP18 0YL

Occupation CHARTERED SURVEYOR

THE
SOLICITORS
FOR
THE
LONDON
AND
MIDDLESEX
COUNTY
COURTS