

DATED _____ **2025**

- (1) CHERWELL DISTRICT COUNCIL**
- (2) OXFORDSHIRE COUNTY COUNCIL**
- (3) THE CITY OF OXFORD CHARITY LIMITED**
- (4) HILL RESIDENTIAL LIMITED**

**PLANNING OBLIGATION BY DEED OF
AGREEMENT**

**under section 106 of the Town and Country
Planning Act 1990 relating to
Land North of 66 and Adjacent to Water Eaton Lane,
Gosford
Application Number: 22/03883/F**

*Shiraz Sheikh
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application Ref: 22/03883/F
IKEN Ref: 8275

CONTENTS

	Page
1. DEFINITIONS	4
2. CONSTRUCTION OF THIS DEED	6
3. LEGAL BASIS	7
4. CONDITIONALITY	7
5. OWNER'S COVENANTS	7
6. THE DISTRICT COUNCIL AND THE COUNTY COUNCIL COVENANTS	8
7. DISPUTE RESOLUTION	8
8. LEGAL COSTS AND MONITORING	8
9. NOTICES	9
10. MISCELLANEOUS	10
11. WAIVER	11
12. NO FETTER	11
13. NOTIFICATIONS	11
14. TITLE WARRANTY	12
15. INTEREST	12
16. VAT	12
17. DETERMINATION OF DEED	12
18. REASONABLENESS	13
19. DATA PROTECTION	13
20. JURISDICTION	13
21. DELIVERY	13
SCHEDULE 1 THE SITE	14
APPENDIX 1 A PLAN 1 – SITE LOCATION PLAN	15
SCHEDULE 2 AFFORDABLE HOUSING	16
SCHEDULE 3 COMMUNITY AND GREEN SPACE	24
APPENDIX 1 A – OPEN SPACE PLAN	45
APPENDIX 1 B – SUDS PLAN	46

APPENDIX 1 C – CEMETERY PLAN.....	47
SCHEDULE 4 CONTRIBUTIONS PAYABLE TO THE DISTRICT COUNCIL.....	48
SCHEDULE 5 COUNTY COUNCIL CONTRIBUTIONS	50
SCHEDULE 6 HIGHWAYS WORKS	56
APPENDIX 6 A – HIGHWAY WORKS PLAN.....	59
SCHEDULE 7 THE DISTRICT COUNCIL'S COVENANTS WITH THE OWNER	60
SCHEDULE 8 THE COUNTY COUNCIL'S COVENANTS WITH THE OWNER.....	62

BETWEEN:-

- (1) **CHERWELL DISTRICT COUNCIL** of 39 Castle Quay, Banbury, Oxfordshire OX16 5FD (the "**District Council**");
- (2) **OXFORDSHIRE COUNTY COUNCIL** whose principal office is at County Hall, New Road, Oxford OX1 1ND (the "**County Council**");
- (3) **THE CITY OF OXFORD CHARITY LIMITED** (Co. Regn. No. 10670170) of The Office, Stones Court, St Clements Street, Oxford OX4 1AP (the "**Owner**"); and
- (4) **HILL RESIDENTIAL LIMITED** 1BN (CRN 04251718) of The Power House, Gunpowder Mill, Powdermill Lane, Waltham Abbey, Essex EN9 (the "**Developer**").

WHEREAS:-

- (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) For the purposes of the Act the County Council is the county planning authority and for the purposes of the Highways Act 1980 and the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004, the highway authority and the traffic authority for certain highways in the area which includes the Site and it also has powers and duties in respect of education and the provision of library facilities and waste disposal for the area in which the Site is situated.
- (C) The Owner is the freehold owner of the Site registered with title absolute at H M Land Registry under title number ON259281.
- (D) The Developer has an option agreement in relation to the Site registered with H M Land Registry against title number ON259281 dated 22 March 2018 which has been varied by two (2) supplemental agreements dated 28 April 2020 and 20 May 2021 respectively.
- (E) The Owner submitted the Application to the District Council which was validated on 19 January 2023.
- (F) The Owner and Developer enter into this Deed with the intention that the covenants and obligations contained in this Deed may be enforced by the District Council or the County Council (as the context provides) against the Owner and its successors in title as being necessary to make the Development acceptable in planning terms, directly related to the Development and fairly and reasonably related in scale and kind to the Development.

IT IS AGREED as follows:-

1. **DEFINITIONS**

1.1 In this Deed:-

- | | |
|----------------|---|
| "Act" | means the Town and Country Planning Act 1990 (as amended) |
| "Application" | means the application for planning permission dated 19 January 2023 with the application reference 22/03883/F |
| "Commencement" | means the carrying out of any material operation (as defined in section 56(4) of the Act) pursuant to the Planning Permission other than (for the purposes of this Deed and for no other purpose) operations consisting of: site clearance; demolition works; |

archaeological investigations; investigations for the purpose of assessing ground conditions and site survey work; remedial work in respect of any contamination or other adverse ground conditions; earthworks and/or the diversion of and laying of services (for construction purposes only); erection of any temporary means of enclosure including erection of any gates fences or hoardings; provision of site access and temporary internal roads or the temporary display of site notices or advertisements and "**Commence**" "**Commenced**" and "**Commencing**" shall be construed accordingly

"County Council Monitoring Fee"

means the sum of fourteen thousand eight hundred pounds (£14,800) calculated in accordance with the Oxfordshire County Council administration fees scale for the period first April 2024 to 31 March 2025 to be paid towards the cost of monitoring and administration of this Deed by the County Council

"Development"

means the development consisting of 96 Dwellings (50% affordable housing), extension to Bicester Road Cemetery with associated access (from Bicester Road), open space, landscaping and infrastructure to be constructed pursuant to the Planning Permission

"District Council Monitoring Fee"

means the sum of five thousand four hundred and eleven pounds and forty three pence (£5,411.43.00) calculated in accordance with Appendix 4 of the Revenue Budget Strategy and Medium-Term Financial Strategy (2025-26) dated February 2025 entitled "Fees and Charges" for developments of 10 – 100 dwellings, being a bespoke charge based upon the number of obligations and triggers (with a minimum charge of £1,000) to be applied by the District Council towards monitoring and reporting upon compliance with the planning obligations as set out in this Deed

"Document(s)"

means any document submitted by the Owner to the District Council as may be required for consent or approval pursuant to the obligations in this Deed, and for the avoidance of doubt this means any set of Documents that together form a scheme or strategy

"Dwelling"

means a building (including a house flat or maisonette) constructed or proposed to be constructed on the Site pursuant to the Planning Permission or part of such building designed for residential occupation by a single household and includes Affordable Housing (as defined in Schedule 2)

"Due Date"

means 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

"Expert"

means an independent and suitable person holding appropriate professional qualifications and of at least ten years post qualification experience appointed in accordance with the provisions of Clause 7 of this Deed to determine a dispute

"Implementation"

means the carrying out of any material operation (as defined in section 56(4) of the Act) pursuant to the Planning Permission

"Interest"

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

"Market Dwelling"	means those Dwellings which are general market housing for sale on the open market and which are not Affordable Housing (as defined in Schedule 2)
"Occupation"	means occupation of the Site 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 "Occupy" and "Occupied" and "Occupiers" shall be construed accordingly
"Plan 1"	means the plan attached to this Deed at Appendix 1A and entitled Site Location Plan reference 141-LP-100 A
"Planning Permission"	the full planning permission subject to conditions to be granted by the District Council pursuant to the Application which where the context admits shall include each and every Qualifying Permission subject to clause 3.4
"Qualifying Permission"	means a planning permission granted by the District Council pursuant to section 73 or section 73A of the Act permitting the Development subject to conditions which differ from the conditions of the Planning Permission and for the avoidance of doubt includes a Qualifying Permission permitting the Development subject to conditions which differ from the conditions of a previous Qualifying Permission
"Site"	means the land described in Schedule 1 and shown edged red on Plan 1 in Appendix 1A against which this Deed may be enforced
"Strip"	means a strip of land 0.5m wide between the points marked A and B on Plan 1
"Working Day"	means any day other than a Saturday, Sunday or any public or bank holiday in England or any day which is on or between 27 and 31 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 **"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.
- 2.5 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.
- 2.6 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.

2.7 Reference 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 the County Council the successors to their respective statutory functions and any duly appointed employee or agent of the District Council and the County Council or such successor.

2.8 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, section 278 of the Highways Act 1980 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 are enforceable by the District Council and the County Council as planning authorities against the Owner and its successors in title as specified in this Deed.

3.3 To the extent that any of the covenants, restrictions and requirements contained in this Deed are not planning obligations within the terms of section 106 of the Act they are entered into pursuant to section 111 Local Government Act 1972, section 1 Localism Act 2011 and all other enabling powers.

3.4 In the event that a Qualifying Permission is granted then, unless the District Council confirms to the Owner in writing that a new deed is required under section 106 and/or section 106A(1)(a) of the Act in relation to the Qualifying Permission, the covenants and provisions of this Deed shall be deemed to apply to the Qualifying Permission and to any development carried out pursuant to the Qualifying Permission and the definition of Planning Permission shall be construed accordingly.

3.5 The Off-Site Highways Works set out in Schedule 6 are works which the County Council is authorised to execute by virtue of Part V of the Highways Act 1980 the County Council is satisfied that they will be of benefit to the public and the parties intend to enter into the Highway Agreement (as defined in Schedule 6).

4. **CONDITIONALITY**

4.1 This Deed is conditional upon:-

4.1.1 the grant of the Planning Permission; and

4.1.2 Commencement of Development,

save for the provisions of Clauses 1 (Definitions), 2 (Construction), 3 (Legal Basis), 4 (Conditionality), 8 (Legal & Monitoring Costs), 9 (Notices), 10 (Miscellaneous), 12 (No Fetter), 14 (Title Warranty), 17 (Determination), 18 (Reasonableness), 19 (Data Protection), 20 (Jurisdiction), 21 (Delivery) which shall come into effect immediately upon completion of this Deed and the provisions of Clauses 7 (Dispute Resolution), 11 (Waiver), 13.1.2 and 13.1.3 (Notifications) and paragraph 1.2 of Part 1 of Schedule 2 which shall come into effect on the grant of Planning Permission.

5. **OWNER'S COVENANTS**

5.1 The Owner covenants with the District Council to observe and perform the obligations and covenants as set out in Schedule 2 to Schedule 4 inclusive and those imposed on it throughout this Deed.

5.2 The Owner covenants with the County Council to observe and perform the obligations and covenants as set out in Schedule 5 to Schedule 6 inclusive and those imposed on it throughout this Deed.

6. **THE DISTRICT COUNCIL AND THE COUNTY COUNCIL COVENANTS**

6.1 The District Council covenants with the Owner to observe and perform the covenants as set out in Schedule 7 and those imposed on it throughout this Deed.

6.2 The County Council covenants with the Owner to observe and perform the covenants as set out in Schedule 8 and those imposed on it throughout this Deed.

7. **DISPUTE RESOLUTION**

7.1 The parties agree that the provisions of this Clause 7 shall not apply to:-

7.1.1 Any dispute between any of the parties and the County Council; and

7.1.2 Any dispute relating to any of the financial contributions payable to the District Council by the Owner pursuant to Schedule 4 (Contributions payable to the District Council).

7.2 If there is any dispute between any of the parties in respect of any of the matters to be agreed pursuant to this Deed which cannot be resolved by prior agreement between the parties in dispute, such dispute shall be determined in accordance with this Clause 7 and any party to the dispute may at any time require by notice in writing to the other an Expert to be appointed to resolve the dispute.

7.3 The Expert shall be appointed jointly by the parties in dispute and, in the absence of such agreement within two (2) weeks of service of the notice pursuant to Clause 7.2, be appointed by the President for the time being of the Royal Institution of Chartered Surveyors within two (2) weeks of an application being made by one of the parties and the President's decision as to the expert shall be final and binding on the parties to the dispute.

7.4 The Expert shall invite written representations (and, if the Expert determines, further written representations by way of rebuttal) from each of the parties to the dispute and shall make his final determination within one month of his appointment PROVIDED THAT if the Expert fails to do so, then any of the parties in dispute may apply to the President for the time being of the Royal Institution of Chartered Surveyors for a substitute to be appointed in which case the same procedure shall be repeated.

7.5 The findings of the Expert shall be final and binding on the parties in dispute except in the case of manifest, material error.

7.6 The Expert shall act as an expert and not as an arbitrator.

7.7 The costs of the dispute shall be payable by the parties in dispute in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by the parties in dispute.

7.8 Nothing in this Clause 7 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Deed.

8. **LEGAL COSTS AND MONITORING**

8.1 The Developer will on completion of this Deed pay to the District Council and the County Council their respective legal costs reasonably and properly incurred in the negotiation, preparation and execution of this Deed.

8.2 The Developer shall:-

8.2.1 pay to the County Council prior to completion of this Deed one thousand pounds (£1000.00) of the County Council Monitoring Fee;

8.2.2 pay to the District Council prior to completion of this Deed one thousand pounds (£1000.00) of the District Council Monitoring Fee;

8.3 The Owner shall:-

8.3.1 pay to the County Council prior to Commencement of Development the remaining thirteen thousand eight hundred pounds (£13,800.00) (Index Linked) of the County Council Monitoring Fee;

8.3.2 pay to the District Council prior to Commencement of Development the remaining four thousand pounds (£4,000) (Index Linked) of the District Council Monitoring Fee;

8.3.3 reimburse the District Council and/or the County Council in respect of all reasonably and properly incurred legal and administrative costs in connection with the reasonable enforcement of any of the provisions of this Deed including correspondence monitoring and site visits by or on behalf of the District Council and/or County Council which relate to enforcement proceedings only and which are reasonably required to enforce the terms of this Deed; and

8.3.4 save in relation to any claims made pursuant to Clause 7 and/or any claims made by the Owner against the District Council and/or the County Council in relation to any breach of any obligations contained within this Deed by either/both of the District Council and/or the County Council, the Owner shall not claim any compensation in respect of the provision of this Deed.

9. **NOTICES**

9.1 Any notice required to be given under this Deed shall be in writing and shall be deemed to have been properly served at the time of delivery if delivered by hand (subject to Clause 9.2 below) or at the time delivery was signed for if sent by recorded delivery or the second Working Day after posting if sent by post and any notice should be delivered and/or sent to the to the addresses specified below, or as specified by notice in writing to the other parties:

9.1.1 for the District Council, the notice should be addressed to the Assistant Director Planning and Development and sent to the address given at the start of this Deed or to such other person at such other address as the District Council shall direct from time to time with reference 22/03883/F;

9.1.2 for the County Council, the notice should be addressed to the Director for Environment and Place and sent to the address given at the start of this Deed with reference 22/03883/F;

9.1.3 for the Owner, the notice should be sent FAO John Gould and sent to the address given at the start of this Deed; and

9.1.4 for the Developer, the notice should be sent FAO Amanda Miller and sent to the address given at the start of this Deed.

9.2 If a notice, demand or any other communication is served after 4.00 pm 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.

9.3 For the avoidance of doubt, where proceedings have been issued in the Courts of England, the provisions of the Civil Procedure Rules shall be complied with in respect of the service of documents in connection with those proceedings rather than the provisions of Clauses 9.1 and 9.2 above.

10. **MISCELLANEOUS**

- 10.1 No provisions of this Deed shall be enforceable under the Contracts (Right of Third Parties) Act 1999 (other than by the parties and their successors in title and assigns and any successor to the District Council's or the County Council's functions).
- 10.2 This Deed shall be registrable as a local land charge by the District Council.
- 10.3 Where the agreement, approval, consent or expression of satisfaction of any party is required under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 10.4 Following the District Council and the County Council being notified in writing and the District Council and the County Council being satisfied of the performance and satisfaction of all the obligations contained in this Deed (as confirmed in writing), or if this Deed is determined pursuant to Clause 17, the District Council shall note this in the Register of Local Land Charges in respect of this Deed and cancel all entries made in the local land charges register in respect of this Deed.
- 10.5 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.
- 10.6 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 or that part of the Site to which the breach relates but without prejudice to liability for any subsisting breach arising prior to parting with such interest PROVIDED THAT obligations to pay financial contributions shall be taken to relate to each and every part of the Site.
- 10.7 This Deed shall not be enforceable against:-
- 10.7.1 any owner-occupiers or tenants of any of the Market Dwellings constructed pursuant to the Planning Permission nor their mortgagees or those deriving title from them PROVIDED ALWAYS THAT this Clause shall not apply to any provisions placing a restriction on first Occupation of any Dwellings or of the Development;
 - 10.7.2 except for the requirements of paragraph 3.5 of Part 1 of Schedule 2 any owner-occupiers or tenants of Dwellings provided as Affordable Housing (as defined in Schedule 2) constructed pursuant to the Planning Permission nor their mortgagees or those deriving title from them PROVIDED ALWAYS THAT this Clause shall not apply to any provisions placing a restriction on first Occupation of any Dwellings provided as Affordable Housing or of the Development;
 - 10.7.3 any future chargee or mortgagee which for the purpose of this clause 10.7.3 shall mean any entity authorised and/or regulated by the Financial Conduct Authority from time to time who shall have the benefit of a charge or a mortgage of or on any part or parts of the Site (other than of individual Dwellings), or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee or receiver unless and until such chargee, mortgagee, receiver or person deriving title has entered into possession of the Site or part thereof to which such obligation relates;
 - 10.7.4 any statutory undertaker who acquires an interest in the Site for the purpose of providing services to the Site;
 - 10.7.5 any Registered Provider (as defined in Schedule 2) provided that their only interest in the Site is in relation to the Affordable Housing Site and except in relation to:
 - (a) negative obligations in favour of the District Council;

- (b) the affordable housing obligations in Schedule 2; and
- (c) obligations in favour of the County Council.

10.7.6 the Developer (except in relation to Clause 8.1 and 8.2) other than where they exercise their option to acquire the Site whereupon they become bound by the obligations in this Deed as a successor in title to the Owner; and

10.7.7 anyone benefitting only from an easement or licence in relation to the Site.

10.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission other than the Planning Permission granted (whether or not on appeal) after the date of this Deed.

11. **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.

12. **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.

13. **NOTIFICATIONS**

13.1 The Owner agrees with the District Council and the County Council.

13.1.1 to give the District Council and separately the County Council written notice within **ten (10)** Working Days of any change in ownership of any of interest in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office if a company or usual address if not together with the area of the Site or unit of occupation purchased by reference to a plan PROVIDED THAT this obligation does not apply to:-

- (a) the sale of individual Dwellings on the Development;
- (b) the sale or disposal of any non-residential building forming part of the Development; or
- (c) any disposal of any part or parts of the Site to any public utility company or statutory undertaker for the sole purpose of providing utility services to the Site; and

13.1.2 to notify the District Council and separately the County Council in writing no later than **five (5)** Working Days prior to the anticipated occurrence of each of the following events:-

- (a) Implementation;
- (b) Commencement of the Development;
- (c) completion of construction of the Development;
- (d) Occupation of the first Dwelling;
- (e) Occupation of 35% of the Market Dwellings;

- (f) Occupation of 85% of the Market Dwellings;
- (g) Occupation of 50% of the Dwellings;
- (h) Occupation of 75% of the Dwellings; and
- (i) Occupation of 90% of the Dwelling;

13.1.3 not to Commence Occupy or cause or permit Occupation (of more than the relevant number of Dwellings) until the appropriate notice has been given and **five (5)** Working Days have elapsed since it was served; and

13.1.4 to notify the District Council and the County Council in writing of the actual date of each such event referred to in Clause 13 no later than **ten (10)** Working Days after the event occurs.

14. **TITLE WARRANTY**

14.1 Save for the Developer's option agreement, the Owner warrants that no person other than the Owner has any legal or equitable interest in the Site.

15. **INTEREST**

15.1 If any payment due under this Deed is paid late, Interest will be payable on the sum outstanding from the date payment is due to the date of payment.

15.2 In respect of payment made to the District Council, 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.

16. **VAT**

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable and the Owner 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 for works undertaken under this deed upon presentation of any appropriate value added tax invoice addressed to the Owner.

17. **DETERMINATION OF DEED**

17.1 Save for those Clauses relating to any obligations that were complied with or due to be complied with before the date of occurrence of any of the events below the obligations in this Deed shall cease to have effect:-

17.1.1 if:-

- (a) before Commencement of Development the Planning Permission expires: or
- (b) if at any time the Planning Permission is revoked (pursuant to section 97 of the Act) other than at the request of the Owner or is quashed by any Court or Tribunal of competent jurisdiction as a result of any legal proceedings (and refused upon re-determination); or
- (c) if the Planning Permission is otherwise withdrawn or (without the consent of the Owner) is modified by any statutory procedure so as to render this Deed or any part of it irrelevant, impractical or unviable.

18. **REASONABLENESS**

18.1 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 shall be given on behalf of:-

18.1.1 the District Council by the Assistant Director: Planning and Development; and

18.1.2 the County Council by the Director for Environment and Place.

19. **DATA PROTECTION**

19.1 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:-

19.1.1 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; and

19.1.2 any person when so required in order to comply with statutory requirements including the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004.

20. **JURISDICTION**

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

21. **DELIVERY**

The provisions of this Deed (other than this Clause which shall be of immediate effect and subject to Clause 4) shall be of no effect until this Deed has been dated.

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

SCHEDULE 1

THE SITE

Land lying to the south of Beagles Close, Gosford, Kidlington as shown edged red on Plan 1 (excluding the Strip) in Appendix 1A being part of the title registered with title absolute at HM Land Registry under title number ON259281.



APPENDIX 1A
PLAN 1 – SITE LOCATION PLAN





Client:
Hill Residential Limited
 The Courtyard, Abbey Barns,
 Ickleton, CB10 1SX

Project:
Land at Bicester Road & Water Eaton Lane
 Gosford, Kidlington
 Oxfordshire

Drawing:
Title Red Line Plan

Scale: 1:500@A1	Date: July 2024
Drawn By: BB	Checked By: LK
Drawing No: 141-LP-100	Rev. No: A
CAD Ref:	

THIS DRAWING IS A COPYRIGHT
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 All dimensions to be checked on site or in the workshop before work commences.
 Only figured dimensions to be worked to. Any discrepancies to be reported to the Architect

SCHEDULE 2

AFFORDABLE HOUSING

1. DEFINITIONS

1.1 In this Schedule 2 the following additional definitions shall apply (for the avoidance of doubt any defined term which does not appear below shall be given the meaning allocated to it in the main body of this Deed):-

"Affordable Housing" means Dwellings 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

"Affordable Housing Dwellings" means those Dwellings in the Development that are to be provided as Affordable Housing consisting of Social Rented Dwellings, Affordable Rented Dwellings and Shared Ownership Dwellings

"Affordable Housing Plan" a plan to be submitted to the District Council for approval in accordance with Part 1 of this Schedule and which shall show the proposed location of the Affordable Housing Dwellings or such other plan as may be agreed in writing by the District Council from time to time

"Affordable Housing Scheme" a scheme submitted to the District Council pursuant to paragraph 1.2 of Part 1 of this Schedule which demonstrates that no less than fifty percent (50%) of the Dwellings shall be provided as Affordable Housing and which shall in relation to the Affordable Housing Dwellings set out details of:

- (a) numbers, locations internal layouts and external appearance;
- (b) timing of construction;
- (c) parking arrangements; and
- (d) all Affordable Housing Dwellings will meet the M4(2) Standard which will be constructed to conform to M4(2) of the Building Regulations Accessibility Requirement; and
- (e) three (3) Affordable Housing Dwellings will meet the M4(2) Category 3 Standard (Wheelchair access) and which will be constructed to conform to M4(3) Category 3 (2) (b) of the Building Regulations Accessibility Requirement

"Affordable Housing Site" means that part of the Site on which the Affordable Housing Dwellings are located

"Affordable Housing Standards"

means the design criteria with which the Affordable Housing Dwellings shall comply, namely:

- all Affordable Housing Dwellings to comply with the Building Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings; and
- at least 3 (three) of the Affordable Housing Dwellings to comply with the Building Regulations Requirement M4(3) Category 3 (2) (b): Wheelchair User Dwellings; and
- shall be designed to the same external design as the Market Dwellings so as to be indistinguishable from the Market Dwellings; and
- shall be constructed to the nationally described space standard as set out in the Department for Levelling Up, Housing and Communities' technical housing standards current at the time of the relevant Qualifying Permission

"Affordable Housing Tenure Mix"

the mix of tenure and dwelling types of the Dwellings consisting of Affordable Housing of which:

- nineteen (19) of the Affordable Housing Dwellings shall be provided as Affordable Rented Dwellings; and
- fifteen (15) of the Affordable Housing Dwellings shall be provided as Social Rented Dwellings; and
- fourteen (14) of the Affordable Housing Dwellings shall be provided as Shared Ownership Dwellings; and

the Affordable Housing shall comprise the following tenure and mix;

Affordable rent:

- 5 x 1-bedroom, 2-person flats;
- 10 x 2-bedroom, 4-person flats;
- 4 x 2-bedroom, 4-person houses;

Social Rent:

- 12 x 3-bedroom, 6-person houses;
- 3 x 4-bedroom, 7-person houses;

Shared Ownership

- 9 x 1-bedroom, 2-person flats (provided that these flats are all within the same block);
- 3 x 2-bedroom, 4-person flats (provided that these flats are all within the same block);
- 2 x 3-bedroom, 6-person houses;

or such alternative mix and proportion of tenure as at any time may be submitted to and approved by the District Council in writing

"Affordable Rented Dwellings"

the Affordable Housing Dwellings provided by a Registered Provider to Qualifying Persons which is not subject to the national rent regime but shall be in line with Homes England's Rent Standard Guidance for Affordable

Rent and in accordance with the District Council's tenancy strategy, the rents shall be no more than eighty per cent (80%) of the local market rent (including service charge) or the relevant Local Housing Allowance rate in force at the time a dwelling is advertised for letting whichever is the lower

"Allocate"

means any procedure whereby there are conferred or transferred rights of residential occupation in respect of an Affordable Housing Dwelling and which could include the first occasion on which an Affordable Housing Dwelling is Occupied and **"Allocating"**, **"Allocated"** and **"Allocations"** shall be construed accordingly

"Allocations Scheme"

means the District Council's allocation policy from time to time which determines the District Council's priorities and procedures when Allocating accommodation in accordance with the requirements of Section 166A of the Housing Act 1996 (as amended by the Localism Act 2011 and any amendment, re-enactment or successor provision)

"Chargee"

means any mortgagee or chargee of a Registered Provider of the Affordable Housing Dwellings or any part thereof to include any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any manager or administrator (including a housing administrator appointed under the provisions of the Housing and Planning Act 2016) howsoever appointed

"Homes England"

means the body known as Homes England constituted pursuant to the Housing and Regeneration Act 2008 and any successor or successors for the time being and any similar future authority carrying on substantially the same grant making functions

"Infrastructure"

in relation to the Affordable Housing Site:

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

and the following services:

- (f) a standard fire hydrant supply and fire hydrants in the public highway in positions to be agreed with the Registered Provider;
- (g) a water supply connection from the mains (size and termination position to be agreed with the Registered Provider);
- (h) an electricity supply (size and termination position to be agreed with the Registered Provider);

- (i) a telephone spur (terminating in a junction box at a location agreed with the Registered Provider);
- (j) 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 any Social Rented Dwellings, Affordable Rented Dwellings or Shared Ownership Dwellings or First Homes

"Let"

means:-

- (a) the grant of a lease of a Dwelling for a term of less than 70 (seventy) years or
- (b) the grant of an assured shorthold tenancy or a short term let of any Dwelling

and which in any case shall be or shall be assumed to be for valuable consideration and at arm's length between a willing vendor and purchaser and with there being no unusual or onerous restrictions

"Market Value"

means the definition in the RICS Valuation — Global Standards ('Red Book Global Standards') (effective from 31 January 2022) namely the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion

"M4(2) Standard"

those standards prescribed in Building Regulations Optional Requirement M4(2) Category 2: Accessible and adaptable dwellings or any equivalent replacement standard

"M4(3) Standard"

those standards prescribed in Building Regulations Optional Requirement M4(3) Category 3: Wheelchair user dwellings, or any equivalent replacement standard

"Nominations Agreement"

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

"Qualifying Persons"

means those persons whose needs are not met by the market and/or essential local workers (unless otherwise agreed in writing with the District Council) and are nominated to an Affordable Housing Dwelling in accordance with the Allocations Scheme and the Nominations Agreement

"Registered Provider"

means a private provider of Affordable Housing which is designated in the register maintained by the RSH or any similar future authority carrying on substantially the same regulatory or supervisory functions pursuant to section 111 of the Housing and Regeneration Act 2008 as a non-profit organisation under sub-sections 115(1)(a) or 278(2) of the Act or which is designated in that register as a profit-making organisation under section 115(1)(b) of the Housing and Regeneration Act 2008 which is EITHER on the District Council's list of preferred partners OR has demonstrated that it

meets the performance criteria applicable to an organisation with preferred partner status and has been approved in writing by the District Council

“Rent Guidance”

means the policy statement applicable to local authorities on rents for social housing issued by the Ministry of Housing, Communities & Local Government in February 2019 or such other replacement guidance in force and applicable at the relevant time

“Rent Standard”

means the standard relating to rent set by the Regulator of Social Housing from time to time having regard to the Welfare Reform and Work Act 2016, the Guidance on Rents for Social Housing and the Direction on the Rent Standard 2020 and the Government’s Policy Statement on Rents for Social Housing 2019 or such other replacement guidance or direction or legislation

“RSH”

means the Regulator of Social Housing constituted pursuant to the Housing and Regeneration Act 2008 (as amended) being an executive non-departmental public body, that regulates registered providers of social housing and any successor or successors for the time being and any similar future authority responsible for the regulation of social housing

“SDLT”

means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect

“Shared Ownership Dwellings”

means those Dwellings in the Development that are to be provided as Shared Ownership Housing

“Shared Ownership Housing”

means housing offered via the Registered Provider under the terms of a lease which accords with the Homes England Shared Ownership Model Lease by which a lessee may acquire an initial share or shares of between 25% - 75% of the equity in an Affordable Housing Dwelling from the Registered Provider who retains the remainder and may charge an annual rent of up to 2.75% on the unsold equity (or such higher figure as is set out in a review of the District Council’s tenancy strategy from time to time) where the shared ownership lessee for the time being has the right to carry out Staircasing and dispose of the unit on the open market

“Social Rented Dwellings”

means those Dwellings in the Development that are to be provided as Social Rented Housing

“Social Rented Housing”

means Affordable Housing to be owned, let under an assured tenancy and managed by local authorities and Registered Providers at rents which do not exceed local Target Rents subject to normal rent increases (CPI+1% annually) as recommended by Homes England and **“Social Rent”** shall be construed accordingly

“Staircasing”

the exercise by the owner-occupier of a Shared Ownership Dwelling of the right to purchase additional equity shares up to one hundred per cent (100%) of the interest in a Shared Ownership Dwelling after which the rent payable on any equity share retained by the Registered Provider shall be reduced proportionally and **“Staircases”**, **“Staircased”** or any other derivative thereof shall be construed accordingly

“Target Rents”

means rents for Social Rented Housing conforming with the pattern produced by the rents formula set out in the Rent Guidance or Rent Standard and subject to the limit on rent changes and rent caps set out therein and subject to indexation as permitted by the Rent Standard or Rent Guidance from time to time

PART 1

AFFORDABLE HOUSING COVENANTS

1. DELIVERY

1.1 The Owner covenants with the District Council:

1.2 not to Commence or permit the Commencement of the Development until:

1.2.1 the Affordable Housing Scheme;

1.2.2 the Affordable Housing Plan; and

1.2.3 the Affordable Housing Tenure Mix;

have been submitted to and approved by the District Council AND FOR THE AVOIDANCE OF DOUBT these details can be amended by agreement between the parties and confirmed in writing by the District Council at any time.

1.3 to construct and practically complete the Affordable Housing Dwellings in accordance with:

1.3.1 the Affordable Housing Plan;

1.3.2 the Affordable Housing Scheme; and

1.3.3 the Affordable Housing Tenure Mix

approved by the District Council in accordance with paragraph 1.2 above;

1.4 to construct and practically complete the Affordable Housing Dwellings to the Affordable Housing Standards;

1.5 not to first Occupy or cause or permit the first Occupation of more than thirty-five per cent (35%) of the Market Dwellings until:

1.5.1 the Affordable Housing Site has been offered to a Registered Provider together with all rights for Infrastructure and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Dwellings to be constructed thereon and with a good and marketable freehold title free from incumbrances and with vacant possession on completion and capable of being fully serviced and properly connected to the public highway and a Registered Provider has exchanged a binding contract for the transfer of the Affordable Housing Site; and

1.5.2 there has been provided to the District Council's reasonable satisfaction the Infrastructure to serve the Affordable Housing Site and the Affordable Housing Dwellings to be constructed thereon at no cost to or other contribution by the Registered Provider (other than the price agreed for the transfer of the Affordable Housing Site);

1.6 not to cause or permit more than eighty-five per cent (85%) of the Market Dwellings to be used or first Occupied unless and until the Owner has constructed all of the Affordable Housing Dwellings and made the same ready for Occupation as aforesaid in accordance with the Affordable Housing Standards and the Affordable Housing Scheme and the Affordable Housing Site has been offered to and disposed of to a Registered Provider together with all rights for Infrastructure and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Dwellings to be constructed thereon and with a good and marketable freehold or long leasehold title free from incumbrances and with vacant possession and capable of being fully serviced and properly connected to the public highway;

- 1.7 not to cause or permit the use of the Affordable Housing Site for any other purpose than for the provision of the Affordable Housing Dwellings in accordance with this deed unless otherwise specified in this deed;
- 1.8 to provide the Affordable Housing Dwellings in line with the Affordable Housing Plan and the Affordable Housing Standards or such other plan or standard as may be agreed in writing between the Owner and the District Council;
- 1.9 The Owner covenants with the District Council that it shall:-
- 1.9.1 provide forty-eight (48) Dwellings pursuant to the Planning Permission as Affordable Housing in accordance with the Affordable Housing Tenure Mix and in accordance with the Affordable Housing Scheme, unless otherwise agreed in writing with the District Council; and
- 1.9.2 provide the Affordable Housing Dwellings.

2. **AFFORDABLE HOUSING SCHEME**

- 2.1 The Owner covenants with the District Council that it will update and resubmit the Affordable Housing Scheme if a Qualifying Permission results in a change to the total number of Dwellings that are expected to form part of the Development pursuant to the Planning Permission;

3. **AFFORDABLE HOUSING COVENANTS**

- 3.1 The Owner covenants with the District Council that subject to paragraphs 3.2, 3.3 and 3.4 of Part 1 of this Schedule 2 it will:-
- 3.1.1 not use or cause or permit the use of the Affordable Housing Dwellings other than as Affordable Housing; and
- 3.1.2 not without the consent in writing of the District Council transfer the freehold interest or the long leasehold interest in the Affordable Housing Dwellings except to a Registered Provider PROVIDED THAT such consent shall not be required in relation to:-
- (a) any mortgagee or chargee of the freehold or long leasehold interest; or
- (b) tenancies being granted to any of the occupiers of individual Affordable Housing Dwellings or any transaction referred to in paragraph 3.4 of Part 1 of this Schedule 2 below.
- 3.2 For the avoidance of doubt paragraph 3.1 and 3.5 of Part 1 of this Schedule 2 is not binding on a Chargee or 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 to such purchasers or persons deriving title from them, provided that the provisions of paragraph 3.3 of Part 1 of this Schedule 2 below have been complied with.
- 3.3 It is hereby agreed and declared that the proviso contained in paragraph 3.2 of Part 1 of this Schedule 2 will only apply where the Chargee exercising its power of sale:-
- 3.3.1 has first served written notice on the District Council of its intention to exercise its power of sale or other power or right conferred upon it, its mortgage, charge or other security; and
- 3.3.2 has used reasonable endeavours over a period of three months from receipt of notification pursuant to paragraph 3.3.1 above of Part 1 of this Schedule 2 to dispose of the relevant Affordable Housing Dwellings (subject to any leases and tenancies then subsisting and to the terms of this Deed) to a Registered Provider or the District Council PROVIDED THAT nothing herein shall require the Chargee to dispose of the Affordable Housing Dwellings at a price which is less than the greater of the open market value of the Affordable Housing

Dwellings (subject to the restrictions contained within this Schedule) or all sums due under the terms of the Chargee's mortgage or charge together with including all accrued principal monies, interest, costs, expenses and interest AND FURTHER PROVIDED THAT if no transfer of the said Affordable Housing Dwellings to either the District Council or a Registered Provider has completed within the said period of three months then the Chargee shall be able to sell the Affordable Housing Dwellings free from the requirements and restrictions in paragraph 3.1 above of Part 1 of this Schedule 2 with the effect that they shall cease to bind the Affordable Housing Dwellings.

- 3.4 The provisions of paragraph 3.1 and 3.5 of Part 1 of this Schedule 2 will not be binding on:-
- 3.4.1 any purchaser of an Affordable Housing Dwelling that has purchased such dwelling pursuant to the exercise of a statutory or voluntary right to buy, preserved right to buy or right to acquire or (in any such case) any successor in title or mortgagee or chargee of such purchaser or successor in title thereto; and
 - 3.4.2 any persons that have acquired 100% of the equity in a Shared Ownership Dwelling or any mortgagee or chargee of the same or their successors in title.
- 3.5 The Owner will not Allocate or cause or permit to be Allocated any of the Affordable Housing Dwellings other than in accordance with the following:-
- 3.5.1 the Affordable Housing Dwellings shall only be Allocated to Qualifying Persons in accordance with the Allocations Scheme and in accordance with the terms of a Nominations Agreement;
 - 3.5.2 the Shared Ownership Housing or other Intermediate Housing (with the exception of any starter homes as defined in the National Planning Policy Framework) shall be marketed through the Help to Buy Agent or such other appointed body for the region and only those deemed eligible under the Help to Buy Agent's criteria (or if applicable such other appointed body) shall be considered for the Intermediate Housing; and/or
 - 3.5.3 as agreed in writing by the District Council.

SCHEDULE 3

COMMUNITY AND GREEN SPACE

1. DEFINITIONS

- 1.1 In this Schedule 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

“Approved Body”

means a charitable trust, a parish council or such other body experienced in the management and maintenance of facilities such as the Open Space and SUDS and/or the Cemetery as may be approved in writing by the District Council (such approval not to be unreasonably withheld or delayed)

“Barwood Development”

the adjacent development on PR7a (planning application reference 22/00747/OUT)

“BS5837”

the British Standard for Trees in relation to design, demolition and construction – Recommendations, the latest version being published in 2012 and applies to all trees and Hedgerows that could be affected during the carrying out of the Development

“Cemetery”

the land shown edged red on the attached plan reference 141-LP-110 to be provided by the Owner with appropriate infrastructure in place including principal routes, connections, services and drainage

“Combined LEAP NEAP MUGA”

means the facility that provides on the Barwood Development a combined LEAP/NEAP/MUGA with an equipped activity zone including at least 2,400 square metres set within a non-equipped landscaped area designed to provide a safe area for alternative play for children aged 4 to 14 years and supervising adults. The size of the landscaped area (incorporating the equipped activity zone and a minimum will be informed by the development context (acknowledging activity zone buffer requirements) and local design guidance as well as Fields in Trust Guidance for Outdoor Sport and Play. A minimum of 3 items of play equipment is required for the NEAP element and 5 items of play equipment for the LEAP element (in combination with multi-play structures). The equipped activity

zone within the landscaped area should be located a minimum of 10 metre from the nearest Dwelling boundary and a minimum of 20 metres from the nearest habitable room façade. The landscaped area around the equipped activity zone could be used to incorporate this buffer.

“Combined LEAP NEAP MUGA Commuted Sum”

the sum of one hundred and eleven thousand two hundred and forty nine pounds and ninety five pence (£111,249.95) Index Linked being 20.6% of the total maintenance contribution of five hundred and forty thousand and forty-eight pounds and thirty-one pence (£540,048.31) Index Linked to reflect the liability of the owner/developer of the Barwood Development to contribute to the maintenance of these areas provided on the Barwood Development

“Defects Notice”

a notice that may be issued by the District Council in the event of a failure by the Owner or the Management Company to maintain the Open Space and/or SUDS (as the case may be) in accordance with the Open Space Scheme and/or the SUDS Scheme (as the case may be)

“Enhanced LAP”

means a minimum 100 sq m equipped activity zone set within a landscaped area designed to provide a safe area for alternative play for children ages 2 to 6. The size of the landscaped area (incorporating the equipped activity zone) will be informed by the development context (acknowledging activity zone buffer requirements) and local design guidance. A minimum of 5 items of play equipment is required for the LAP (in combination with multi-play structures). The equipped activity zone should be located a minimum of 5m from the nearest dwelling boundary. The landscaped area around the equipped activity zone could be used to incorporate this buffer

“Enhanced LAP Commuted Sum”

means the Index Linked sum of ninety eight thousand three hundred and forty-six pounds (£98,346)

“Estate Service Charge Deed”

means an Estate Service Charge Deed that shall set out:

- (a) all of the obligations relating to the provision of the maintenance and

management of the Open Space by the Management Company; and

- (b) details of the payment of a service charge by the Plot Owner to meet the full costs incurred by the Management Company in carrying out the maintenance and management of the Open Space; and
- (c) provision for adjustments in service charge from year to year, dependent upon the Management Company's expenditure which includes:
 - a. any overpayments being credited against the next service charge payment that is due for the following financial year; and
 - b. any shortfalls in actual expenditure incurred by the Management Company being payable by Plot Owner as an additional payment at the end of each service charge year; and
- (d) provisions to ensure that the service charge payments are secured by way of a deed of covenant mechanism on resale, which is protected by a restriction registered against the title to the Dwelling; and
- (e) provisions to ensure that the restriction above ensures that any new Plot Owner enters into a deed of covenant with the Management Company to pay an equal contribution of service charge for that Dwelling and to ensure there is service charge recovery for the life of the Development

“Final Completion”

the provision of the Cemetery and/or final completion of the laying out, landscaping and equipping of the Open Space and provision of the SUDS in accordance with the Open Space Scheme and/or the SUDS Scheme (as the case may be) approved by the District Council in accordance with this Schedule and (where relevant) the making good of all defects and completion of the Maintenance Period to the District Council's reasonable satisfaction

“Final Completion Certificate”	a certificate issued by the District Council confirming Final Completion
“Hedgerow”	any hedgerow whether existing or to be planted identified in the Open Space Scheme
“Hedgerows Commuted Sum”	the sum of forty-one pounds and eleven pence (£41.11) Index Linked per linear metre of Hedgerow within the Site (to be assessed)
“Index”	the BCIS All in One Tender Price index published by the Royal Institution of Chartered Surveyors or such other index as may from time to time replace the BCIS All in One Tender Price index or any such alternative index or comparable measure of price inflation as the Owner and the District Council may agree in writing
“Index Linked”	adjusted according to the increase (if any) in the Index between the date of this deed and the date a sum is received by the District Council
“Informal Open Space”	areas of informal open space to be provided on the Development as identified within the Planning Permission or any Qualifying Permission and/or the Open Space Scheme but excluding any area accommodating the Enhanced LAP
“Informal Open Space Commuted Sum”	the sum of twenty pounds and ninety-eight pence (£20.98) Index Linked per square metre of Open Space within the Site as shown in the Open Space Scheme
“LEMP”	once approved by the District Council, the landscape and ecology management plan submitted to the District Council pursuant to paragraph 2, being a written scheme for the detailed ongoing management and maintenance of the Open Space and SUDS (which for the avoidance of doubt includes the maintenance of any balancing ponds or other aspects of the SUDS within the Open Space) which shall detail the frequency and standard of maintenance of the facilities that are the subject of the 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 scheme and

which may be varied from time to time with the written agreement of the District Council

“LEMP Monitoring Sum”

the sum of twenty four thousand, eight hundred and eighty pounds and thirty two pence (£24,880.32) Index Linked as a contribution towards the District Council's costs of monitoring the land and facilities transferred to the Management Company or Approved Body in accordance with the LEMP at an Index Linked rate of £829.34 twice a year for 15 years

“Maintenance Period”

a period of 12 (twelve) 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 any defects identified in the Open Space and/or SUDS have been rectified or if the Open Space and/or SUDS have not been maintained in accordance with the LEMP during that period

“Management Company”

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

- (a) 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), as defined under an Estate Service Charge Deed;
- (b) ensuring that the level of any charges levied against any Affordable Housing Dwellings (as defined in Schedule 2) that are not owned outright by Registered Providers shall not materially affect the ability of these Dwellings to remain as Affordable Housing;
- (c) ensuring security best value for management services provided and transparency and accountability to residents of the Development with specific provision for residents to request the transfer of the maintenance and management responsibilities for the Open Space and SUDS from the Management

Company to the District Council if the Management Company fails to fulfil those responsibilities to the residents' reasonable satisfaction

“Management Company Default Escrow Account”

means an account into which the Management Company Default Deposit shall be paid pursuant to paragraph 10.1.2 of this Schedule

“Management Company Default Deposit”

means the sum calculated as follows:

- (a) the relevant commuted sum for the Open Space and/or SUDS being transferred to the Management Company ÷ 15

plus

- (b) 10% of the capital cost of the Open Space (or any part of the Open Space) and/or SUDS being transferred to the Management Company

“Management Company Structure Scheme”

a scheme that addresses the following in relation to the Management Company:

- (a) details of the proposed constitution of the Management Company which shall be a private company limited by shares or guarantee;
- (b) proposed banking arrangements for the Management Company;
- (c) procedures and justification that the Management Company will follow for drawing down monies by the Management Company from the Management Company maintenance account;
- (d) 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;
- (e) details of the mechanism together with suitable documentation to ensure the transfer of ownership (if the District Council so elects) and responsibility for management and maintenance of the Open Space that are in the ownership of the Management Company to the

District Council or its nominee on terms to be agreed (including details of how and when such transfer and step-in mechanism shall be triggered (likely to be written petition by at least 66% of households occupying the development) settlement of outstanding management costs prior to transfer and liability for legal costs/expenses associated with the transfer)

“Management Schemes”

together the:

- (a) Open Space Scheme;
- (b) SUDS Scheme;
- (c) LEMP;

and Management Scheme means any one of them

“Mature Trees”

those trees identified as such in the Open Space Scheme

“Mature Trees Commuted Sum”

the sum of four hundred and sixty-four pounds and twenty one pence (£464.21) Index Linked per Mature Tree

“New Woodland”

any hedgerow whether existing or to be planted identified in the Open Space Scheme

“New Woodland Commuted Sum”

the sum of fifty-eight pounds and eight pence (£58.08) Index Linked per square metre of new woodland (to be assessed)

“Open Space (Northern)”

the areas within the Site shown shaded purple on Plan 141-LP-001 which shall:

- (a) be made available for use by members of the public in perpetuity;
- (b) be transferred to the Management Company or to the District Council (or such Approved Body as the District Council may direct);
- (c) be retained, maintained and managed in accordance with the provisions of this Schedule; and
- (d) include:
 - (i) the Informal Open Space;
 - (ii) the Hedgerows;
 - (iii) the Mature Trees;
 - (iv) New Woodland; and
 - (v) the Enhanced LAP

“Open Space (Southern)”

the areas within the Site shown shaded orange on Plan 141-LP-001 which shall:

- (a) be made available for use by members of the public in perpetuity;
- (b) be transferred to the Management Company or to the District Council (or such Approved Body as the District Council may direct);
- (c) be retained, maintained and managed in accordance with the provisions of this Schedule; and
- (d) include:
 - (i) the Informal Open Space;
 - (ii) the Hedgerows;
 - (iii) the Mature Trees; and
 - (iv) New Woodland

“Open Space”

the Open Space (Northern) and Open Space (Southern)

“Open Space Commuted Sum”

the sum comprising ALL of the following sums:

- (a) the Informal Open Space Commuted Sum;
- (b) the Hedgerows Commuted Sum;
- (c) the Mature Trees Commuted Sum;
- (d) the New Woodland Commuted Sum;
- (e) the Enhanced LAP Commuted Sum
- (f) the Combined LEAP NEAP MUGA Commuted Sum; and
- (g) the Play Area Signage Commuted Sum

“Open Space Scheme”

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 2 which shall include:

- (a) details of the location of the various elements comprising the Open Space (and their number); and
- (b) a timetable for carrying out the works and the planting comprised in the laying out landscaping of the Open Space

“Play Area Signage Commuted Sum”

the one thousand two hundred and forty-four pounds and two pence (£1,244.02) Index Linked per sign (for the avoidance of doubt two are required for the Enhanced LAP)

“Plot Owner”

the owner of any of the Market Dwellings and the Registered Provider in the case of the Affordable Housing Dwellings

“Practical Completion”

practical completion of the laying out, landscaping and equipping of the Open Space and/or SUDS (or relevant part thereof) in accordance with the Open Space Scheme/SUDS Scheme (as applicable) approved pursuant to this Deed

“Practical Completion Certificate”

a certificate issued by the District Council confirming Practical Completion whereby the Open Space (Northern) and/or the Open Space (Southern) and/or the SUDS

(Northern) and/or the SUDS (Southern) and/or Enhanced LAP is opened for public use immediately after confirmation

“RoSPA Inspection Report”

a report prepared by an inspector accredited and certified by Register of Play Inspectors International (RPII) as a play area inspector that certifies that the recreation facility is fit for purpose in accordance with the appropriate standards set by the Royal Society for the Prevention of Accidents prior to Practical Completion and again prior to Final Completion stages

“Service Charge”

the charge set by the Management Company as a relevant proportion of the costs of managing and maintaining the Open Space and the SUDS transferred to it payable by the Occupiers of each Dwelling (or the Owner in the event that any Dwelling is not Occupied) and which charge may vary depending on the size of each Dwelling

“SUDS (Northern)”

any balancing ponds, attenuation basins, ditches watercourses, swales or similar features, to be provided to form the sustainable urban drainage system for the Development as detailed in the SUDS Scheme and to be provided on the areas within the Site shown shaded green on plan reference 141-LP-002 V2 as determined by the Planning Permission or Qualifying Permissions

“SUDS (Southern)”

any balancing ponds, attenuation basins, ditches watercourses, swales or similar features, to be provided to form the sustainable urban drainage system for the Development as detailed in the SUDS Scheme and to be provided on the areas within the Site shown shaded blue on plan reference 141-LP-002 V2 as determined by the Planning Permission or Qualifying Permissions

“SUDS”

the SUDS (Northern) and SUDS (Southern)

“SUDS Commuted Sum”

the sum of one hundred and thirty five pounds and five pence (£135.05) Index Linked per linear metre of ditches, watercourses swales and similar features and the sum of eighty four pounds and two pence (£84.02) Index Linked per square metre of attenuation basin comprised in the SUDS Scheme

“SUDS Scheme”

a scheme for the provision and onward management of the sustainable urban drainage systems to be provided as part of the Development which is to be submitted and approved in writing by the District Council in accordance with paragraph 2 which includes details of all the works features and measures for the SUDS that are proposed to be carried out constructed and implemented on the Site during the Development and the timescales for when the said works and features are to be carried out

“Transfer”

the transfer by the Owner of the freehold of the Open Space (Northern) and/or the Open Space (Southern) and/or the Enhanced LAP and/or SUDS (Northern) and/or the SUDS (Southern) and/or Cemetery or from the Owner or Management Company to the District Council (or such other Approved Body as the District Council may direct) FOR THE AVOIDANCE OF DOUBT the Cemetery shall only be transferred to an Approved Body (as the District Council may direct pursuant to paragraph 9.3 of this Schedule unless paragraph 9.4 applies) and the terms of such transfer shall:

- (a) not include any terms that would:
 - (i) restrict public access save for the purposes of maintenance works or in the case of emergency; or
 - (ii) directly or indirectly affect the construction servicing or occupation of the part of the Site that is retained by the Owner;
- (b) include any reasonable reservation of rights of access and services over the Open Space and the SUDS (excluding the Enhanced LAP and Cemetery) 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;
- (c) include for the benefit of the Open Space and SUDS and Cemetery 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

- (d) be a transfer of the entire freehold interest of the Open Space and SUDS and Cemetery with full title guarantee and vacant possession on completion;
- (e) be free from any pre-emption or option agreement and free from any mortgage charge or lien or other encumbrance which restricts the use of the land for its intended purpose other than those which exist at the date of this deed and/or are agreed in the Transfer;
- (f) be with full title guarantee and vacant possession on completion;
- (g) be at a consideration in the sum of £1.00 and otherwise at no cost (including legal and surveying costs) to and subject to no other contribution by the District Council or its nominee or the Management Company as applicable; and
- (h) be subject to a restrictive covenant that the Open Space and/or SUDS shall not be used for any purpose other than those identified in the Open Space Scheme or the SUDS Scheme as may be relevant, the Planning Permission and this deed and shall be publicly accessible and free at the point of use PROVIDED THAT FOR THE AVOIDANCE OF DOUBT the SUDS can be used as both SUDS and Open Space and in the case of the Cemetery be subject to a restrictive covenant that the Cemetery shall not be used for any purpose other than as a cemetery and for the avoidance of doubt for ancillary cemetery use;

and “**Transferred**” shall be construed accordingly

works that may be required to remedy a failure by the Owner and/or Management Company (as appropriate) to manage and maintain the Open Space and/or the SUDS (as the case may be) in accordance with the Management Schemes

“Works in Default”

The Owner covenants with the District Council as follows:

2. **PRE-OCCUPATION**

2.1 Before first Occupation of the Development the Owner shall submit the Management Schemes to the District Council for approval.

2.2 The Development shall not be first Occupied until the District Council has approved the Management Schemes and thereafter in this Schedule any reference to a Management Scheme means that scheme as approved by the District Council.

3. **OPEN SPACE**

3.1 The Open Space (Northern) shall be provided and available for use in accordance with the Open Space Scheme prior to first Occupation of no more than seventy-five per cent (75%) of the Dwellings.

3.2 The Open Space (Southern) shall be provided and available for use in accordance with the Open Space Scheme prior to first Occupation of no more than ninety per cent (90%) of the Dwellings.

3.3 Save as set out in:

3.3.1 the Management Schemes approved by the Council in accordance with paragraph 2 of this Schedule; and/or

3.3.2 BS5387 nothing shall be done on the Site that shall prevent, inhibit or otherwise compromise the carrying out of the Open Space Scheme or the efficient implementation of the LEMP or that the District Council considers materially affects the costs associated with the maintenance and operation of the Open Space and in particular:

- (a) no materials or equipment shall be stored on the Enhanced LAP or within the Root Protection Areas (as provided for in BS5378) of any Mature Tree or Hedgerow;
- (b) no services shall be run over, under or through the Enhanced LAP or within the Root Protection Areas (as provided for in BS5378) of any Mature Tree or Hedgerow;
- (c) no site offices, stores, hospitality or facilities cabins or other temporary structures shall be set up on the Enhanced LAP or within the Root Protection Areas (as provided for in BS5378) of any Mature Tree or Hedgerow;
- (d) no parking area or temporary roadway shall be created or designated on the Enhanced LAP or within the Root Protection Areas (as provided for in BS5378) of any Mature Tree or Hedgerow;
- (e) no structure or erection that is intended to remain after the Maintenance Period but is not shown in the Open Space Scheme or the LEMP shall be erected or set up on the Enhanced LAP or within the Root Protection Areas (as provided for in BS5378) of any Mature Tree or Hedgerow, nor shall any such structure be located on any part of the Site that is to accommodate the Open Space unless the express prior written permission of the District Council has been requested and given.

3.4 Except for any works set out in a Management Scheme all trees and/or hedgerows currently on the Site shall be protected in accordance with BS5837.

3.5 In the event of a breach of the obligations in paragraph 3.3 and 3.4 the District Council shall give the Owner written notice specifying:

3.5.1 the nature of the breach;

3.5.2 the steps required by the District Council to remedy the breach; and

3.5.3 a reasonable time period for compliance (having regard to the nature of the breach).

3.6 Before taking action to enforce any of the terms of this Schedule the District Council shall have given the Owner a reasonable time period for remedying any breach of the obligations in paragraphs 3.3 and 3.4 above and shall afford the Owner a reasonable opportunity to remedy the breach in accordance with the steps and time period in the written notice and in the event that the Owner has remedied the breach in accordance with the steps and time period in the written notice the Council shall take no further action unless the breach re-occurs prior to Transfer.

3.7 The Open Space shall be equipped 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.

4. **SUDS**

4.1 The SUDS (Northern) shall be provided in accordance with the SUDS Scheme prior to first Occupation of no more than seventy-five per cent (75%) of the Dwellings.

4.2 The SUDS (Southern) shall be provided in accordance with the SUDS Scheme prior to first Occupation of no more than ninety per cent (90%) of the Dwellings.

4.3 Save as set out in the Management Schemes and/or with BS5387 nothing shall be done on the Site that shall prevent, inhibit or otherwise compromise the carrying out of the SUDS Scheme or its efficiency or that the District Council considers materially affects the costs associated with the maintenance and operation of the SUDS and in particular, on any part of the Site that is to accommodate the SUDS or any part of it:

4.3.1 no materials or equipment shall be stored;

4.3.2 no services other than particular to the SUDs, shall be run over, under or through;

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

4.3.4 no parking area or temporary roadway shall be created or designated;

4.3.5 no structure or erection that is intended to remain after the Maintenance Period but is not shown in the Management Schemes shall be erected or set up;

without the express prior written permission of the District Council unless such is essential for the creation of the SUDS itself.

4.4 The SUDS shall be constructed laid out and seeded in accordance with the approved SUDS Scheme and in accordance with the timetable set out therein unless otherwise approved by the District Council in writing.

4.5 The SUDS shall not be used for any purpose that may prejudice its function as:

4.5.1 part of the drainage for the Development; or

4.5.2 subject to 4.5.1 above 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 the subsoil of the SUDS may accommodate services provided such services do not prejudice the maintenance and function of the SUDS.

- 4.6 In the event of a breach of the obligations in paragraphs 4.3 and 4.4 above the District Council shall give the Owner written notice specifying:
- 4.6.1 the nature of the breach;
 - 4.6.2 the steps required by the District Council to remedy the breach; and
 - 4.6.3 a reasonable time period for compliance (having regard to the nature of the breach).
- 4.7 Before taking action to enforce any of the terms of this Schedule the District Council shall have given the Owner a reasonable time period for rectifying the breach and shall afford the Owner a reasonable opportunity to rectify the breach in accordance with the steps and time period in the written notice and in the event that the Owner has remedied the breach in accordance with the steps and time period in the written notice the Council shall take no further action unless the breach re-occurs prior to Transfer.
5. **COMPLETION OF OPEN SPACE AND SUDS**
- 5.1 No Dwellings within thirty (30) metres of the furthest landscaped boundary of the Enhanced LAP shall be first Occupied unless and until the Enhanced LAP has been completed and made available for use.
- 5.2 Upon Completion of the Open Space (Northern) and/or Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern) the District Council (or of the rectification of any Defects identified under clause 5.2.2 below) shall be notified by the Owner and invited to inspect the Open Space (Northern) and/or Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern) within fifteen (15) Working Days with a view to either:
- 5.2.1 issuing a Practical Completion Certificate that certifies that the Open Space (Northern) and/or Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern) have been provided in accordance with the Open Space Scheme and the SUDS Scheme to the satisfaction of the District Council; OR
 - 5.2.2 issuing a Defects Notice stating that the Open Space (Northern) and/or Open Space (Southern) and/or the SUDS (Northern) and/or SUDS (Southern) has not been provided in accordance with the Open Space Scheme and/or SUDS Scheme (as the case may be) to a standard that satisfies the District Council and setting out details of the work required to reach that standard and a reasonable timescale in which the District Council expects such works to be carried out;
- but in the event that the District Council considers that any failure to comply with the Open Space Scheme or the SUDS 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.
- 5.3 If a Defects Notice is issued the works specified in the Defects Notice shall be carried out by the Owner which shall invite the District Council to re-inspect the Open Space (Northern) and/or Open Space (Southern) and/or the SUDS (Northern) and/or SUDS (Southern) (as the case may be) in accordance with paragraph 5.2 above and which procedure shall be repeated until the issue of the Practical Completion Certificate and the steps outlined in paragraph 5.2 shall be repeated until the District Council is satisfied that all Defects have been rectified so as to issue the Practical Completion Certificate.
- 5.4 In addition to the above upon Practical Completion of the Enhanced LAP the Owner shall produce RoSPA Inspection Reports certifying that the Enhanced LAP has been completed to an appropriate safety standard and the District Council shall not be obliged to issue a Practical Completion Certificate in relation to the Enhanced LAP until those reports have been supplied to it.
- 5.5 Once the Practical Completion Certificate in relation to the Open Space (Northern) and/or Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern) is issued the Maintenance

Period in relation to that Open Space (Northern) and/or Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern) shall begin and the Owner shall then carry out any minor works endorsed on that certificate and implement the LEMP.

5.6 Upon completion of the Maintenance Period:

5.6.1 in relation to the Enhanced LAP the Owner shall produce RoSPA Inspection Reports certifying that the Enhanced LAP continue to meet an appropriate safety standard and the District Council shall not be obliged to issue a Final Completion Certificate until those reports have been supplied to it; and

5.6.2 in relation to the Open Space (Northern) and/or Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern) the Owner shall pay to the District Council the or relevant proportion of the LEMP Monitoring Sum for the Open Space (Northern) and/or the Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern) **ONLY IF** the Management Company are accepting a Transfer of the Open Space (Northern) and/or the Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern).

5.6.3 the District Council:

(a) if satisfied that the Open Space (Northern) and/or the Open Space (Southern) and/or SUDS (Northern) and/or the SUDS (Southern) have been maintained throughout the Maintenance Period in accordance with the LEMP, that the Enhanced LAP has been maintained as evidenced by satisfactory further RoSPA Reports, and that any minor defects set out in the Practical Completion Certificate have been remedied, shall issue a Final Completion Certificate in relation to the Open Space (Northern) and/or the Open Space (Southern) and/or SUDS (Northern) and/or SUDS (Southern) and/or Enhanced LAP; or

(b) if not so satisfied shall issue a Defects Notice and the provisions of paragraphs 5.2 and 5.3 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.

5.7 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 (Northern) and/or the Open Space (Southern) and/or SUDS (Northern) and/or SUD (Southern) upon the District Council first giving reasonable notice and complying with the Owner's site regulations and requirements and all necessary and reasonable health and safety requirements whilst on Site.

6. **ELECTION**

6.1 If not already confirmed within the Management Scheme before any Dwelling is Occupied the Owner shall give written notice to the District Council confirming whether they wish:

6.1.1 to secure the maintenance and management of the Open Space (Northern) and/or the Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern) as one entity through a Management Company;

OR

6.1.2 the District Council or an Approved Body to acquire the Open Space (Northern) and/or the Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern).

6.2 In the event that no such written notice is served in the time specified in paragraph 6.1 above (time being of the essence) the Owner shall be deemed to have elected to secure arrangements through a Management Company.

6.3 If the Owner shall elect (or shall be deemed to have elected) to secure the maintenance and management of the Open Space (Northern) and/or the Open Space (Southern) and SUDS (Northern) and/or the SUDS (Southern) through a Management Company then:

6.3.1 the provisions of paragraphs 7, 8.1 and 10 of this Schedule shall thereafter apply; and

6.3.2 the Owner shall no longer be entitled to elect by written notice to require the District Council or Approved Body to acquire the Open Space (Northern) and/or the Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern) (or any such part or parts thereof).

6.4 If the Owner shall elect for the District Council or Approved Body nominated by the Council to acquire the Open Space (Northern) and/or Open Space (Southern) and/or SUDS (Northern) and/or the SUDS (Southern) (sub paragraph 6.1.2 above) the provisions of paragraph 8.2 and 11 below shall apply.

7. **MANAGEMENT COMPANY**

7.1 Subject to election pursuant to paragraph 6.1.1 of this Schedule the Owner covenants with the District Council that they shall:

7.1.1 before any Dwelling is first Occupied submit a draft Management Company Structure Scheme to the District Council for its approval;

7.1.2 not first Occupy or cause or permit the first Occupation of more than five (5) Dwellings until:

(a) the District Council shall have approved the submitted Management Company Structure Scheme (PROVIDED THAT such approval shall be deemed to have been given in the event that the District Council fails to respond within 28 days); 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

7.1.3 not dispose of an interest in 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 and SUDS and

7.1.4 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 fair and reasonable payment to the Management Company of the Service Charge prior to Occupation of the relevant Dwelling, to procure that the Management Company is obliged to employ certified auditors to assess the performance of the Management Company in terms of financial performance and annual statement of accounts and to procure that the Management Company submit the auditor's report to the District Council every year for 15 years, or until the Management Company no longer exists.

8. **TRANSFER**

8.1 Subject to election pursuant to paragraph 6.1.1 of this Schedule, the Owner shall secure the Transfer of the Open Space (Northern) and/or Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern) to the Management Company within twenty (20) Working Days of the Occupation of the final Dwelling PROVIDED THAT a Final Certificate has been issued and the Owner shall remain liable to maintain the Open Space and SUDS in accordance with the Management Schemes until the completion of the Transfer to the Management Company and following completion

of the Transfer the Management Company (as the successor in title to the Owner) shall maintain the Open Space and SUDS in accordance with the Management Schemes.

- 8.2 Where Transfer of the Open Space (Northern) and/or the Open Space (Southern) and/or the SUDS (Northern) and/or SUDS (Southern) is to the District Council or Approved Body, prior to completion of the Transfer of the Open Space and/or the SUDS to the District Council or that Approved Body, the relevant part of the Open Space Commuted Sum and/or SUDS Commuted Sum (as appropriate) shall be paid to the District Council or Approved Body (as appropriate) **AND FOR THE AVOIDANCE OF DOUBT** where the Transfer of the Open Space and/or the SUDS (or relevant part thereof) is to the Management Company the Open Space Commuted Sum and/or SUDS Commuted Sum (or relevant part thereof) shall not be payable.

9. **CEMETERY**

- 9.1 The Owner shall discharge the condition of the Planning Permission requiring the approval of an updated Groundwater Risk Assessment prior to the Cemetery being Transferred to an Approved Body.
- 9.2 After the approval of the discharge of condition application pursuant to paragraph 9.1 above and prior to first Occupation of no more than seventy-five per cent (75%) of the Dwellings the Owner shall offer to Transfer the Cemetery to an Approved Body.
- 9.3 If an Approved Body accepts the offer in paragraph 9.2 above the Owner shall in accordance with paragraph 11 Transfer the Cemetery to an Approved Body with 14 days of the acceptance of the offer; and
- 9.4 In the event an Approved Body refuses to accept the offer in paragraph 9.2 above the provisions relating to the Cemetery in this Deed shall no longer be of any effect.

10. **MANAGEMENT COMPANY FINANCIAL PROVISIONS**

- 10.1 On or before the Transfer to the Management Company of the Open Space (Northern) and/or the Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern) in accordance with this Schedule, the Owner shall:
- 10.1.1 set up the Management Company Default Escrow Account and provide evidence to the District Council that the relevant account has been set up; and
 - 10.1.2 pay the Management Company Default Deposit into the relevant Management Company Default Escrow Account and provide evidence to the District Council that such payment has been made.
- 10.2 The Management Company Default Escrow Account shall be retained for a period expiring fifteen (15) years after the date the Management Company Default Escrow Account is first opened and the Management Company Default Escrow Account shall be closed at this point (or earlier if the Management Company is wound up prior to the expiration of the said fifteen (15) years) and any monies whether capital or interest sums remaining in the Management Company Default Escrow Account at that time shall be released to the person who made the payments or to such other person or body as the District Council at the request of the Owner shall permit.
- 10.3 In the event that:
- 10.3.1 the Management Company fails to maintain any part or aspect of the Open Space and/or SUDS in accordance with the approved Management Scheme; or
 - 10.3.2 the Management Company:
 - (a) suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if

the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986;

- (b) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than for the sole purpose of a scheme for a solvent amalgamation of it with one or more other companies or its solvent reconstruction;
- (c) is wound up or a petition is filed, a notice is given, a resolution is passed or an order is made, for or in connection with the winding up of the Management Company (other than for the sole purpose of a scheme for its solvent amalgamation with one or more other companies or its solvent reconstruction);
- (d) has an administrator appointed or an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given;
- (e) has an administrative receiver appointed or the holder of a qualifying floating charge over the assets of it has become entitled to appoint an administrative receiver, or a notice of intention to appoint an administrator is given;
- (f) a receiver is appointed over all or any of its assets or a person becomes entitled to appoint a receiver over all or any of those assets;
- (g) has a creditor or encumbrancer of it attach or take possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against the whole or any of its assets, and such attachment or process is not discharged within ten (10) Working Days;
- (h) suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business (whether or not that part of the business involves maintaining the Open Space and the SUDS);

the District Council may enter on to the relevant area of the Open Space and/or the SUDS together with relevant personnel and equipment to ensure the performance of the obligations contained in this Schedule and/or carry out any works it considers reasonably necessary to maintain or make good any defect or damage or reinstate the relevant area of the Open Space or the SUDS ("**Works in Default**") and shall be entitled to full reimbursement by the Management Company of all reasonable costs and expenses incurred in performing the said obligations.

10.4 In the event that the Management Company:

- 10.4.1 shall have failed to maintain the Open Space and/or the SUDS in accordance with the approved Management Schemes the District Council will not exercise the right in paragraph 10.3.2 to carry out Works in Default before having given written notice to the Management Company stating the nature of the failure, the steps required to remedy the failure, and a reasonable time period for remedying it and shall afford the Management Company the opportunity to remedy the failure in accordance with the steps and time period in the written notice;
- 10.4.2 shall have failed for whatever reason to carry out the Works in Default within a reasonable time period or to reimburse the reasonable costs and expenses incurred by Council in carrying out any Works in Default within a reasonable time of a written demand, the District Council shall be entitled to recover such costs and expenses from monies held in the Management Company Default Escrow Account.

10.5 The District Council shall be entitled to draw down from the Management Company Default Escrow Account all sums to recover such unpaid costs and expenses incurred pursuant to paragraph 10.4 above.

10.6 In the event that:

10.6.1 the District Council shall have served notice on the Management Company requiring it to remedy any failure to maintain the Open Space and/or the SUDS in accordance with the approved Management Scheme and:

- (a) the Management Company has failed to remedy that failure within the time given in the notice; and/or
- (b) at that point in time the funds in the Management Company Default Escrow Account are insufficient to defray the costs of the Works in Default; and/or
- (c) the Management Company otherwise ceases to be able to carry out its obligations pursuant to the Management Schemes;

then the provisions of paragraph 10.7 below shall apply.

10.7 The Management Company (or the such other person or body as shall then have control over the Management Company's assets) as successor in title to the Owner shall, at the election of the District Council either:

10.7.1 transfer all its interest in the Open Space and/or SUDS to the District Council or an Approved Body together with all responsibilities for management and maintenance of the same; or

10.7.2 transfer the responsibility for management and maintenance of the Open Space and/or the SUDS to the District Council or an Approved Body; and

10.7.3 pay any accrued Service Charges to the District Council or its nominee and assign;

- (a) its right to collect and receive payments of the Service Charge; and
- (b) any rights it has to draw down funds from the Management Company Default Escrow Account.

10.8 The Owner shall be entitled to recover any sums draw down from the Management Company Default Escrow Account by the District Council from the Management Company or from the Service Charge.

11. **TRANSFER TO THE DISTRICT COUNCIL OR APPROVED BODY (IF APPLICABLE)**

11.1 The District Council or Approved Body may accept in writing a Transfer of the Open Space (Northern) and/or the Open Space (Southern) and/or the Enhanced LAP and/or the SUDS (Northern) and/or the SUDS (Southern).

11.2 Prior to completion of the Transfer of the Open Space (Northern) and/or Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern) and/or the Enhanced LAP the Open Space Commuted Sum (or relevant part thereof) shall be paid to the District Council (or the Approved Body).

11.3 Subject to election pursuant to paragraph 6.1.2, upon completion of the Maintenance Period and issue of the Final Completion Certificate the Owner shall offer to Transfer the freehold interest in the Open Space (Northern) and/or Open Space (Southern) and/or the SUDS (Northern) and/or the SUDS (Southern) and/or the Enhanced LAP and/or Cemetery to the District Council or such other Approved Body as the District Council may direct on the following terms:

11.3.1 Save as is inconsistent herewith the Transfer:

- (a) shall be on the Law Society's Standard Conditions of Sale applicable at the time of the issue of the Final Completion Certificate;
- (b) consideration therefor shall be no more than one pound (£1);
- (c) shall be with full title guarantee,
- (d) vacant possession on completion; and
- (e) shall include such rights as may be necessary for the District Council to access the Open Space and SUDS for purposes of maintenance repair improvement and replacement of any aspect of the Open Space and/or the SUDS and or Cemetery.

11.4 If the Owner elects to Transfer the Open Space (Northern) and/or the Open Space (Southern) and/or the Enhanced LAP and/or the SUDS (Northern) and/or the SUDS (Southern) to the District Council or the Approved Body (as the case may be) the District Council or Approved Body may accept the Open Space (Northern) and/or the Open Space (Southern) and/or the Enhanced LAP and/or the SUDS (Northern) and/or the SUDS (Southern).

11.5 The Transfer of the Open Space and the Enhanced LAP and the SUDS and the Cemetery shall contain a covenant not to use or permit the Open Space and the Enhanced LAP and the SUDS and the Cemetery to be used for anything other than the purposes that they were provided for.

11.6 A draft Transfer shall be prepared by the Owner and sent to the District Council for approval or amendment within twenty (20) Working Days of the issue of the last Final Completion Certificate and once approved an executed transfer shall be delivered to the District Council for execution by the District Council within ten (10) Working Days

11.7 Notwithstanding the issue of a Final Completion Certificate the Open Space and SUDS shall continue to be maintained in accordance with the LEMP until its transfer in accordance with paragraph 11.3 above.

11.8 If at the end of the Maintenance Period the District Council shall not issue a Final Completion Certificate but shall issue a Defects Notice the Owner shall deposit with the District Council a further sum equal to the Open Space Commuted Sum and/or SUDS Commuted Sum for that part of the Open Space/SUDS to which the Defects Notice relates, and:

11.8.1 subject to 11.8.2 when the requirements of the Defects Notice are complied with that sum shall be returned to the person or body that deposited it; but

11.8.2 if the Defects Notice is not complied with within twelve (12) months of the end of the Maintenance Period the Open Space Commuted Sum and/or SUDS Commuted Sum for that shall be forfeited and the District Council shall use the Open Space Commuted Sum and/or SUDS Commuted Sum to remedy any defects as set out in the Defects Notice so as to bring the Open Space and/or the SUDS to a condition deemed to be satisfactory by the District Council and any balance of the Open Space Commuted Sum and/or SUDS Commuted Sum not used to remedy those defects shall be returned to the person or body that deposited it;

and thereupon the District Council covenants to issue the Final Completion Certificate.

11.9 For the avoidance of doubt, the Owner shall maintain the Open Space and SUDS and Cemetery until the Transfer of the Open Space and/or SUDS and/or Cemetery (as the case may be is completed).



APPENDIX 3A
OPEN SPACE PLAN



- Northern Open Space
- Southern Open Space



Client:
Hill Residential Limited
The Courtyard, Abbey Barns,
Ickleton, CB101SX

Project:
Land at Bicester Road & Water Eaton Lane
Gosford, Kidlington
Oxfordshire

Drawing:
Secton 106 Plan
Open Space S106 Plan

Scale:	Date:		
1:1000@A3	January 2025		
Drawn By:	Checked By:	Drawing No:	Rev. No:
PD	LK	141-LP-001	
CAD Ref:			

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All dimensions to be checked on site or in the workshop before work commences.
Only figured dimensions to be worked to. Any discrepancies to be reported to the Architect.

PRELIMINARY

APPENDIX 3 B

SUDS PLAN



- Northern SUDs
- Southern SUDs



Client:			
Hill Residential Limited The Courtyard, Abbey Barns, Ickleton, CB101SX			
Project:			
Land at Bicester Road & Water Eaton Lane Gosford, Kidlington Oxfordshire			
Drawing:			
Secton 106 Plan SUDS S106 Plan			
Scale:		Date:	
1:1000@A3		January 2025	
Drawn By:	Checked By:	Drawing No:	Rev. No:
PD	LK	141-LP-002	
CAD Ref:			

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All dimensions to be checked on site or in the workshop before work commences.
Only figured dimensions to be worked to. Any discrepancies to be reported to the Architect.

APPENDIX 3 C
CEMETERY PLAN





Client:
Hill Residential Limited
The Courtyard, Abbey Barns,
Ickleton, CB10 1SX

Project:
Land at Bicester Road & Water Eaton Lane
Gosford, Kidlington
Oxfordshire

Drawing:
Cemetery Location Plan

Scale: 1:500@A1
Date: July 2024

Drawn By: BB
Checked By: LK
Drawing No: 141-LP-110
Rev. No:

CAD Ref:

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All dimensions to be checked on site or in the workshop before work commences.
Only figured dimensions to be worked to. Any discrepancies to be reported to the Architect.

SCHEDULE 4

CONTRIBUTIONS PAYABLE TO THE DISTRICT COUNCIL

1. DEFINITIONS

1.1 In this Schedule 4, the following additional definitions shall apply (for the avoidance of doubt any defined term which does not appear below shall be giving the meaning allocated to it in the main body of this Deed):-

"BCIS All-In TPI Index"	means the All In Tender Price Index produced quarterly by the Building Cost Information Service Ltd
"BOB ICB Contribution"	means the sum of eighty-four thousand six hundred and forty-eight pounds (£84,648) (Index Linked) to be paid to the District Council being a contribution towards the improvement of medical practices including enhancement of consultancy rooms at Gosford Hill or Exeter Close
"Community Hall Contribution"	means the sum of one hundred and nine thousand seven hundred and fifty-four pounds and four pence (£109,754.04) (Index Linked) to be paid to the District Council being a contribution towards improvements at a community facility to be directed towards the provision of the community building on the Barwood Development (as defined in Schedule 3)
"Index Linked"	means, for the purposes of this Schedule 4, adjusted according to any increase occurring between the date of this Deed (unless an alternative date specified in this Deed) and the Due Date of the relevant payment in the BCIS All-In TPI Index made available through the Royal Institution of Chartered Surveyors
"Indoor Sports Contribution"	means the sum of eighty thousand one hundred and fifty four pounds and eighty-nine pence (£80,154.89) Index Linked (calculated from Q4 2023 BCIS) to be paid by the Owner to the District Council and to be applied towards improvements at Kidlington & Gosford Leisure Centre and/or a new facility in the vicinity
"Outdoor Sports Contribution"	means the sum of two thousand and seventeen pounds and thirty-three pence (£2,017.03) per Dwelling Index Linked (calculated from Q4 2023 – BCIS) to be paid by the Owner to the District Council and to be applied towards the construction and maintenance of football pitches on the Barwood Development
"Public Art, Public Realm and Cultural Wellbeing Contribution"	means the sum of eighteen thousand eight hundred and sixteen pounds (£18,816.00) Index Linked to be paid by the Owner to the District Council and to be applied towards the promotion and provision of public art, public realm and cultural wellbeing public projects in the local vicinity

2. The Owner covenants with the District Council as follows:-

2.1 INDOOR SPORTS CONTRIBUTION

2.1.1 To pay fifty percent (50%) of the Indoor Sports Contribution to the District Council prior to the first Occupation of the Development; and

2.1.2 To pay the remaining fifty percent (50%) of the Indoor Sports Contribution to the District Council prior to fifty percent (50%) Occupation of the Development.

2.1.3 Not to first Occupy the Development until the Indoor Sports Contribution in clause 2.1.1 above has been paid to the District Council.

2.1.4 Not to first Occupy fifty percent (50%) of the Development until the Indoor Sports Contribution in clause 2.1.2 above has been paid to the District Council.

2.2 OUTDOOR SPORTS CONTRIBUTION

2.2.1 To pay fifty percent (50%) of the Outdoor Sports Contribution to the District Council prior to the first Occupation of the Development; and

2.2.2 To pay the remaining fifty percent (50%) of the Outdoor Sports Contribution to the District Council prior to fifty percent (50%) Occupation of the Development.

2.2.3 Not to first Occupy the Development until the Outdoor Sports Contribution in clause 2.2.1 above has been paid to the District Council.

2.2.4 Not to first Occupy fifty percent (50%) of the Development until the Outdoor Sports Contribution in clause 2.2.2 above has been paid to the District Council.

2.3 PUBLIC ART, PUBLIC REALM AND CULTURAL WELLBEING

2.3.1 To pay the Public Art, Public Realm and Cultural Wellbeing Contribution to the District Council prior to first Occupation of more than fifty percent (50%) of the Development.

2.3.2 Not to first Occupy more than fifty percent (50%) the Development until the Public Art, Public Realm and Cultural Wellbeing Contribution in clause 2.3.1 above has been paid to the District Council.

2.4 COMMUNITY HALL CONTRIBUTION

2.4.1 To pay the Community Hall Contribution to the District Council prior to fifty percent Occupation of the Development.

2.4.2 Not to first Occupy more than fifty percent (50%) of the Development until the Community Hall Contribution in clause 2.4.1 above has been paid to the District Council.

2.5 BOB ICB CONTRIBUTION

2.5.1 To pay fifty percent (50%) of the BOB ICB Contribution to the District Council prior to the first Occupation of the Development; and

2.5.2 To pay the remaining fifty percent (50%) of the BOB ICB Contribution to the District Council prior to fifty percent (50%) Occupation of the Development.

2.5.3 Not to first Occupy the Development until the BOB ICB Contribution in clause 2.5.1 above has been paid to the District Council.

2.5.4 Not to first Occupy fifty percent (50%) of the Development until the BOB ICB Contribution in clause 2.5.2 above has been paid to the District Council.

SCHEDULE 5

COUNTY COUNCIL CONTRIBUTIONS

1. DEFINITIONS

- 1.1 In this Schedule 5 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
“Active Travel Improvements Contribution”	<p>means a sum of ninety six thousand pounds (£96,000.00) Index Linked towards improvements along Bicester Road between the junction of Bicester Road and Water Eaton Lane and the junction between Bicester Road and the A4260 payable in two instalments as follows:</p> <ul style="list-style-type: none">• Active Travel Improvements Instalment 1 being 50% of the Active Travel Improvements Contribution and• Active Travel Improvements Instalment 2 being the remaining 50% of the Active Travel Improvements Contribution
“A4260 Signalised Junction Contribution”	<p>means a sum of twenty eight thousand three hundred and forty six pounds (£28,346.00) Index Linked towards the installation of a signalised junction at the junction of the A4260 and Bicester Road and a signalised junction at the junction of the A4260 and Lyne Road and the installation of a toucan crossing RT detection and advanced stop line payable in two instalments as follows:</p> <ul style="list-style-type: none">• A4260 Signalised Junction Instalment 1 being 50% of the A4260 Signalised Junction Contribution and• A4260 Signalised Junction Instalment 2 being the remaining 50% of the A4260 Signalised Junction Contribution
“A4260 Southbound Improvements Contribution”	<p>means a sum of one hundred and seventy six thousand six hundred and seventy nine pounds (£176,679.00) Index Linked towards the installation of a bus lane from the junction of Bicester Road and the A4260 to the Kidlington Roundabout payable in two instalments as follows:</p> <ul style="list-style-type: none">• A4260 Southbound Improvements Instalment 1 being 50% of the A4260 Southbound Improvements Contribution and• A4260 Southbound Improvements Instalment 2 being the remaining 50% of the A4260 Southbound Improvements Contribution
“Bedroom”	<p>means a room in a Dwelling designed as a bedroom or study/ bedroom and</p> <ul style="list-style-type: none">• 1 Bed Dwelling means a Dwelling with 1 Bedroom• 2 Bed Dwelling means a Dwelling with 2 Bedrooms• 3 Bed Dwelling means a Dwelling with 3 Bedrooms• 4 Bed Dwelling means a Dwelling with 4 or more Bedrooms
“Cutteslowe Roundabout Upgrade Contribution”	<p>means a sum of seventy eight thousand two hundred and seventy four pounds (£78,274.00) Index Linked towards improvements to the Cutteslowe roundabout payable in two instalments as follows:</p>

Expression

Meaning

“Cycle Super-Highway Contribution”

- Cutteslowe Roundabout Upgrade Instalment 1 being 50% of the Cutteslowe Roundabout Upgrade Contribution and

- Cutteslowe Roundabout Upgrade Instalment 2 being the remaining 50% of the Cutteslowe Roundabout Upgrade Contribution

means a sum of ninety four thousand one hundred and eighty eight pounds (£94,188.00) Index Linked towards the construction of a cycle super-highway along the A4165 Oxford Road between the Kidlington roundabout and the Cutteslowe Roundabout payable in two instalments as follows:

- Cycle Super-Highway Instalment 1 being 50% of the Cycle Super-Highway Contribution and

- Cycle Super-Highway Instalment 2 being the remaining 50% of the Cycle Super-Highway Contribution

“Index Linked”

means in relation to:

- The A44 Park and Ride Contribution and the Active Travel Improvements Contribution and the A4260 Southbound Improvements Contribution and the A4260 Signalised Junction Contribution and the Public Realm Improvements Contribution and the Cycle Super-Highway Contribution adjusted according to any increase occurring between March 2022 and the date when the relevant payment is made to the County 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%
Index 9	Coated Macadam & Bituminous Products	20%;
- the Public Rights of Way Contribution adjusted according to any increase occurring between April 2022 and the date when the relevant payment is made to the County 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%
Index 9	Coated Macadam & Bituminous Products	20%;
- the Cutteslowe Roundabout Upgrade Contribution adjusted according to any increase occurring between June 2022 and the date when the relevant payment is made to the County 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

Expression

Meaning

proportions below set out against each such index namely:-

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

- the Secondary Land Contribution adjusted according to any increase occurring between November 2020 and the date when the relevant payment is made to the County Council in the all Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office of National Statistics; and
- the Travel Plan Monitoring Contribution adjusted according to any increase occurring between April 2022 and the date when the relevant payment is made to the County Council in the all Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office of National Statistics; and
- the Traffic Regulation Order Contribution adjusted according to any increase occurring between March 2021 and the date when the relevant payment is made to the County Council in the all Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office of National Statistics; and
- the Public Transport Services Contribution adjusted according to any increase occurring between April 2023 and the date when the relevant payment is made to the County Council in the all Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office of National Statistics; and
- the Library Book Stock Contribution adjusted according to any increase occurring between December 2022 and the date when the relevant payment is made to the County Council in the all Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office of National Statistics; and
- the Library Contribution adjusted according to any increase occurring between index value 349 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; and
- the Secondary Education Contribution and the SEND Contribution and the Strategic Waste Contribution adjusted according to any increase occurring between index value 327 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

“Library Contribution”

means the sum of seven thousand one hundred and ninety four pounds (£7,194.00) Index Linked towards increasing library capacity serving the Site

Expression	Meaning
“Library Book Stock Contribution”	means the sum of three thousand one hundred and sixty pounds (£3,160.00) Index Linked towards the provision of library book stock serving the Site
“A44 Park and Ride Contribution”	<p>means a sum of two hundred and thirty eight thousand four hundred and eleven pounds (£238,411.00) Index Linked towards the Park and Ride adjacent to the A44/London Oxford Airport or an alternative scheme of similar benefit payable in two instalments as follows:</p> <ul style="list-style-type: none"> • A44 Park and Ride Instalment 1 being 50% of the A44 Park and Ride Contribution and • A44 Park and Ride Instalment 2 being the remaining 50% of the A44 Park and Ride Contribution
“Public Realm Improvements Contribution”	<p>means a sum of six thousand one hundred and fifty seven pounds (£6,157.00) Index Linked towards improvements on the A4260 between Benmead Road and Yarnton Road payable in two instalments as follows:</p> <ul style="list-style-type: none"> • Public Realm Improvements Instalment 1 being 50% of the Public Realm Improvements Contribution and • Public Realm Improvements Instalment 2 being the remaining 50% of the Public Realm Improvements Contribution
“Public Rights of Way Contribution”	means a sum of twelve thousand two hundred and eighty pounds (£12,280.00) Index Linked towards improvements to the surfaces and furniture of public rights of way in the vicinity of the Site
“Public Transport Services Contribution”	<p>means a sum of ninety five thousand nine hundred and ten pounds (£95,910) Index Linked towards bus service improvements required to maximise frequency in order to increase bus modal share from the Site payable in two instalments as follows:</p> <ul style="list-style-type: none"> • Public Transport Services Instalment 1 being 50% of the Public Transport Services Contribution and • Public Transport Services Instalment 2 being the remaining 50% of the Public Transport Services Contribution
“Secondary Education Contribution”	<p>means the sum of six hundred and seventy six thousand four hundred and thirty eight pounds (£676,438.00) Index Linked towards secondary education capacity serving the Site payable in two instalments as follows:</p> <ul style="list-style-type: none"> • Secondary Education Instalment 1 being 50% of the Secondary Education Contribution and • Secondary Education Instalment 2 being the remaining 50% of the Secondary Education Contribution
“Secondary Contribution”	Land means the sum of sixty one thousand and thirty pounds (£61,030.00) Index Linked towards the purchase of land for secondary education serving the Site

Expression	Meaning
“SEND Contribution”	means the sum of fifty three thousand eight hundred and forty five pounds (£53,845.00) Index Linked towards special education needs and disability education capacity serving the Site
“Strategic Contribution”	Waste means the sum of nine thousand and twenty pounds (£9,020.00) Index Linked towards the expansion and efficiency of household waste recycling centres serving the Site
“Traffic Regulation Order Contribution”	means a sum of six thousand six hundred and forty pounds (£6,640.00) Index Linked towards reducing the speed limit between the junction of Bicester Road and Water Eaton Lane to the Kidlington Roundabout from 40mph to 30mph and the introduction of parking control road markings along between the junction of Bicester Road and Water Eaton Lane to the Kidlington roundabout
“Travel Plan Monitoring Contribution”	means the sum of £1,890.00 Index Linked towards the cost of monitoring the travel plan for the Development

2. COVENANTS

The Owner covenants with the County Council as follows:

- 2.1 to pay the Travel Plan Monitoring Contribution and the Public Rights of Way Contribution and the Traffic Regulation Order Contribution and the Secondary Land Contribution and the Secondary Education Instalment 1 and the Active Travel Improvements Instalment 1 and the A4260 Signalised Junction Instalment 1 and the A4260 Southbound Improvements Instalment 1 and the Cutteslowe Roundabout Upgrade Instalment 1 and the Cycle Super-Highway Instalment 1 and the A44 Park and Ride Instalment 1 and the Public Realm Improvements Instalment 1 and the Public Transport Services Instalment 1 to the County Council prior to first Occupation of any Dwelling; and
- 2.2 not to cause or permit the first Occupation of any Dwelling until it has paid the Travel Plan Monitoring Contribution and the Public Rights of Way Contribution and the Traffic Regulation Order Contribution and the Secondary Land Contribution and the Secondary Education Instalment 1 and the Active Travel Improvements Instalment 1 and the A4260 Signalised Junction Instalment 1 and the A4260 Southbound Improvements Instalment 1 and the Cutteslowe Roundabout Upgrade Instalment 1 and the Cycle Super-Highway Instalment 1 and the A44 Park and Ride Instalment 1 and the Public Realm Improvements Instalment 1 and the Public Transport Services Instalment 1 to the County Council
- 2.3 to pay the SEND Contribution and the Strategic Waste Contribution and the Library Contribution and the Library Book Stock Contribution and the Secondary Education Instalment 2 and the Active Travel Improvements Instalment 2 and the A4260 Signalised Junction Instalment 2 and the A4260 Southbound Improvements Instalment 2 and the Cutteslowe Roundabout Upgrade Instalment 2 and the Cycle Super-Highway Instalment 2 and the and the A44 Park and Ride Instalment 2 and the Public Realm Improvements Instalment 2 and the Public Transport Services Instalment 2 to the County Council prior to the Occupation of more than forty eight (48) Dwellings; and
- 2.4 not to cause or permit the Occupation of more than forty eight (48) Dwellings until it has paid the SEND Contribution and the Strategic Waste Contribution and the Library Contribution and the Library Book Stock Contribution and the Secondary Education Instalment 2 and the Active Travel Improvements Instalment 2 and the A4260 Signalised Junction Instalment 2 and the A4260 Southbound Improvements Instalment 2 and the Cutteslowe Roundabout Upgrade Instalment 2 and the Cycle Super-Highway Instalment 2 and the and the A44 Park and Ride Instalment 2 and the

Public Realm Improvements Instalment 2 and the Public Transport Services Instalment 2 to the County Council

3. **OWNER'S COVENANTS**

- 3.1 The Owner covenants with the County Council not to cause or permit the construction of more than 14 x 1-Bed Units, 31 x 2 Bed Units, 36 x 3 Bed Units, 15 x 4+ Bed Units on the Site further to the Planning Permission

SCHEDULE 6
HIGHWAYS WORKS

1. DEFINITIONS

1.1 In this Schedule 7 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
“the 1980 Act”	means the Highways Act 1980 (as amended)
“Binder Course”	means the course layer preceding the final wearing course with all ironwork flush with the surrounding surfacing and the footways adjacent to be completed to final course
“Highway Agreement”	means an agreement under Section 278 (and if appropriate section 38) of the 1980 Act in accordance with the form annexed to this Deed (subject to any amendments that the circumstances may reasonably and properly require) which provides for the execution of the Works by the Owner at the Owner’s expense.
“Spine Road Works”	means those works to be shown on the Spine Road Works Plan to be carried out pursuant to a Highway Agreement
“Spine Road Works Plan”	means a drawing to be submitted to and approved by the County Council in writing and which will indicate the location and route of the Spine Road serving the Development including the co-ordinates of where it will terminate and link into the development to the south of the Development
“Works Plan”	means the drawing reference number 1704-10.PL02 Rev B attached to this Deed
“Works”	means the Principal Works set out in Part 2 of this Schedule (together with associated preparatory and ancillary works and the amenity and accommodation works set out in Part 3 of this Schedule) and the Spine Road Works

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 not to cause or permit the first Occupation of the Development until:

2.1.1 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;

2.1.2 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;

- 2.1.3 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; and
 - 2.1.4 a Highways Agreement incorporating in principle drawings and plans and other matters approved and agreed pursuant to paragraphs 2.1.1 to 2.1.3 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.
- 2.2 Not to cause or permit the first Occupation of any building/Dwelling on the Site unless and until the Works have been completed (but for the avoidance of doubt not necessarily adopted) pursuant to and in accordance with the Highway Agreement PROVIDED THAT this shall not include the Spine Road Works which shall be completed to Binder Course level prior to first Occupation and completed (but for the avoidance of doubt not necessarily adopted) prior to Occupation of 50% of the Dwellings.
- 2.3 Notwithstanding the terms of paragraph 2.2 above not to cause or permit the first Occupation of any building/Dwelling on the Site until the Highway Agreement has been entered into in accordance with paragraphs 2.1.1 to 2.1.3 above and the Works (other than the Spine Road) have been completed pursuant to and in accordance with the Highway Agreement but for the avoidance of doubt such works need not have been adopted.
- 2.4 Prior to first Occupation to submit the Spine Road Works Plan to the County Council for its approval which for the avoidance of doubt must include the coordinate points where the Spine Road shall link to the adjoining development to the south of the Site;
- 2.5 Not to Occupy or permit the Occupation of the Development until the Spine Road Works Plan has been submitted to the County Council.

PART 2

THE WORKS

(1) PRINCIPAL WORKS

The provision and construction of the following works as shown indicatively on the Works Plan ("the Principal Works"):

- a) Provision of a bell-mouth vehicle access to the site via a priority junction onto Bicester Road to include a 5.5m wide access road. Drawing by TPA Drwg No: 1704-10.PL02 Rev B. The access arrangement will include a ghost-island right turn lane.
- b) Vehicular and pedestrian access onto Bicester Road including localised widening of Bicester Road to accommodate a right turning pocket, a Toucan crossing to the north of the site access as illustrated by the Proposed Site Access Priority Junction Drawing by TPA Drwg No: 1704-10.PL02 Rev B.
- c) A new Toucan crossing, with dropped kerbs and tactile paving along Bicester Road, approximately 75m to the north of the proposed site access and will connect the site to the existing shared footway / cycleway on the western side of Bicester Road.

- d) Provision of a 3m wide shared footway/ cycleway at the north-eastern corner of the site connection from the Site to the existing footway on Water Eaton Lane at the north eastern-eastern corner of the Development.
- e) Provision of a pair of bus stops with associated hardstanding and also a 3 bay bus shelter all as illustrated on the works plan provided that for the avoidance of doubt the bus stops may be in a different location to that shown on the Works Plan.
- f) Provision of a pair of bus shelters with associated flagpole, Real Time information units and timetable cases provided that for the avoidance of doubt the bus stops may be in a different location to that shown on the Works Plan.

PART 3

SUPPLEMENTAL WORKS

(1) 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 Principal 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

(2) AMENITY AND ACCOMMODATION WORKS

The provision and construction of all such amenity and accommodation works as the County 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

SCHEDULE 6A
HIGHWAY WORKS PLAN









A3
ORIGINAL
PLOT SIZE

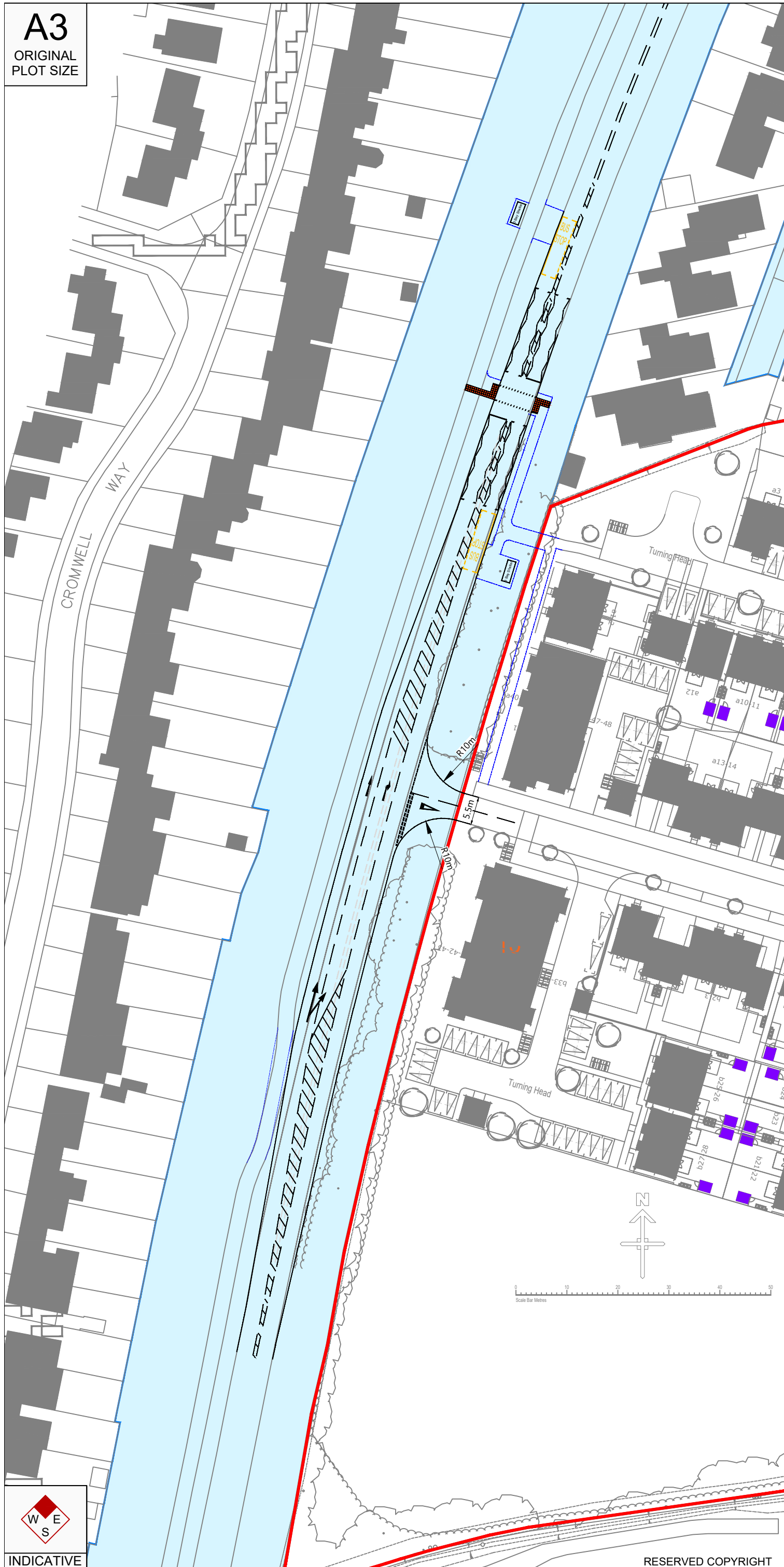
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NOTES:

1. Based on Anthony Brookes Surveys Ltd Topographical Drawing No. A524/9991/1 Rev A and OS Mapping Data.
2. Highway Boundary interpreted from information supplied by Oxfordshire County Council.
3. Designed in accordance with CD123 of the Design Manual for Road and Bridges.

KEY

-  - Indicative Site Boundary.
-  - Highway Boundary maintainable at public expense.
-  - Proposed Kerblines.
-  - Proposed Footway.
-  - Proposed Tactile Paving.
-  - Proposed 3 Bay Bus Shelter.



Rev	Date	Details	Drawn by	Checked by	Approved by
B	01.12.22	Amendments to Footway on Bicester Road	LR	TW	TW
A	11.11.22	Updated in response to RSA comments	JA	TW	DF

Bristol
Cambridge
London
Manchester
Oxford
Welwyn Garden City



Transport Planning Associates

Sandford Gate
East Point Business Park
Oxford
OX4 6LB
01865 807284
www.tpa.uk.com

CLIENT:



PROJECT:
**Bicester Road,
Kidlington**

TITLE:
**Proposed Site Access
Priority Junction**

STATUS:
FOR PLANNING

SCALE: 1:750	DATE: 24.10.22	DRAWN: LR	CHECKED: TW	APPROVED: DF
JOB NO: 1704-10	DRAWING NO: PL02	REVISION: B		



RESERVED COPYRIGHT

SCHEDULE 7

THE DISTRICT COUNCIL'S COVENANTS WITH THE OWNER

1. REPAYMENT OF CONTRIBUTIONS

- 1.1 The District Council covenants with the Owner to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.
- 1.2 The District Council covenants with the Owner that following written request from the Owner it will pay to the Owner such amount of any payment made by the Owner to the District Council under the terms of this Deed (except any maintenance contributions) which has not been expended 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 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 any capital works have been carried out and completed then maintenance contributions will not be returnable under this paragraph.
- 1.3 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 by the Owner under the terms of this Deed upon a written request by the Owner such request not to be made more than once in any year.

2. DISCHARGE OF OBLIGATIONS

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

3. APPROVAL OF DOCUMENTS & FACILITIES

- 3.1 On submission of any Document to the District Council to secure approval of such Document in writing from the District Council the following approval procedures shall apply:-
- 3.1.1 Within twenty-five (25) Working Days of receipt of the said Document submitted pursuant to this Deed, the District Council shall either:-
- (a) confirm in writing to the Owner that the said Document is considered to be a complete and final document that has secured the District Council's final approval; or
 - (b) set out to the Owner in writing the areas of the said Document requiring amendment in order to meet with the District Council's approval.
- 3.2 The Owner shall submit a revised Document within twenty-five (25) Working Days of receipt of written comments by the District Council pursuant to Clause 3.1.1(b) and the procedures in Clause 3.1.1 shall apply to the revised Document.
- 3.3 In the event that the District Council do not respond within twenty-five (25) Working Days in accordance with Clause 3.1.1, the said Document shall be deemed to have been approved by the District Council.
- 3.4 The District Council shall inspect the Open Space and SUDS within 20 Working Days of an invitation to do so pursuant to paragraph 5.2 of Schedule 3.
- 3.5 The District Council shall issue a Practical Completion Certificate or a Defects Notice within 20 Working Days of the above inspection pursuant to paragraph 5.2 of Schedule 3.

- 3.6 The District Council shall issue a Final Completion Certificate or a Defects Notice within 20 Working Days of completion of the Maintenance Period pursuant to paragraph 5.6.4 of Schedule 3.
- 3.7 The District Council shall approve/amend the draft transfer within twenty (20) Working Days of receipt of that draft transfer pursuant to paragraph 11.6 of Schedule 3. The District Council shall execute the agreed transfer within ten (10) Working Days of delivery of the executed transfer to it pursuant to paragraph 11.6 of Schedule 3.
- 3.8 The District Council shall execute and complete a Transfer of the Cemetery within twenty (20) Working Days of receipt of that transfer from the Owner pursuant to paragraph 9.1 of Schedule 3.

SCHEDULE 8

THE 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 Schedule 5 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 or for such other purposes for the benefit of the Development as the Owner and the County Council shall agree in writing

2. REPAYMENT

- 2.1 Following written request from the person who made 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 (being the date on which any sum payable is required to be paid or if any sum is to be paid before an event the day before that event occurs) or the date of receipt by the County Council of the last instalment of any such contribution (whichever is the later) .

- 2.2 Any contribution or part of a contribution which the County Council has committed 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.

- 2.3 The County Council shall provide to the Owner such evidence, as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner to the County Council under this Deed upon receiving a written request from the owner such request not being made more than once in any year.

3. DISCHARGE OF OBLIGATIONS

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

The COMMON SEAL of **CHERWELL DISTRICT COUNCIL** was Affixed to this Deed in the presence of

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Authorised Signatory

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The COMMON SEAL of **OXFORDSHIRE COUNTY COUNCIL** was Affixed to this Deed in the presence of

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Director of Law and Governance/Authorised Signatory

.....

EXECUTED as a deed
By **THE CITY OF OXFORD CHARITY LIMITED**

acting by a Director)

Director

.....

in the presence of

Witness Signature:

Name of Witness:

Address:

EXECUTED as a deed

By **HILL RESIDENTIAL LIMITED**

acting by a director

Director

.....

in the presence of

Witness Signature:

Name of Witness:

Address:

