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**Dated:** *12<sup>th</sup> July* 2021

- (1) CHERWELL DISTRICT COUNCIL
- (2) OXFORDSHIRE COUNTY COUNCIL
- (3) A2DOMINION SOUTH LIMITED
- (4) A2DOMINION DEVELOPMENTS LIMITED

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**Deed**

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under section 106 of the Town and Country Planning Act 1990 (as amended) relating to land at Charlotte Avenue, Bicester

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THIS AGREEMENT is made on

12<sup>th</sup> July

2021

**BETWEEN**

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House Bodicote Banbury Oxfordshire OX15 4AA ("**District Council**");
- (2) **OXFORDSHIRE COUNTY COUNCIL** whose principal office is at County Hall New Road Oxford OX1 1ND ("**County Council**"); and
- (3) **A2DOMINION SOUTH LIMITED** (Industrial and Provident Registered Society No. 28641R) of The Point, 37 North Wharf Road, London W2 1BD ("**the First Owner**"); and
- (4) **A2DOMINION DEVELOPMENTS LIMITED** (Company registration number 05585321) of The Point, 37 North Wharf Road, London, W2 1BD ("**the Second Owner**")

**BACKGROUND**

- (A) The District Council is the local planning authority for the purposes of the Act for the area in which the Hybrid Application Site and the Wider Site are situated.
- (B) The County Council is the county planning authority for the purposes of the Act and has for the area in which the Hybrid Application Site and the Wider Site are located sundry powers and duties in respect of education, the provision of library facilities, museums, waste disposal and social and health care and in respect of highways and the regulation of traffic.
- (C) The First Owner is the freehold owner of the part of the Hybrid Application Site which is registered at the Land Registry under Title Numbers ON324173 and ON335607 free from encumbrances which would otherwise prevent the First Owner from entering into this Deed.
- (D) The Second Owner is the freehold owner of the part of the Hybrid Application Site which is registered at the Land Registry under Title Number ON310596 free from encumbrances which would otherwise prevent the Second Owner from entering into this Deed.
- (E) On 9 July 2012 the District Council (1) the County Council (2) SGR (Bicester 1) Limited (3) SGR (Bicester 2) Limited (4) and Home Farm Exemplar Limited (5) entered into the Principal Agreement to control the development of the Wider Site pursuant to the Original Permission which agreement has been varied by the First Deed of Variation and the Second Deed of Variation and continues to bind the Wider Site however the Parties agree that in order to avoid duplication the Principal Agreement will continue to apply to the Development in terms of the Schedules in clause 5.1.3 of this Deed and furthermore there is no intention to discharge or perform any obligation more than once or pay any contribution more than once in any phase.
- (F) The Hybrid Application has been submitted to the District Council and the District Council has resolved to grant planning permission for the Development subject to the prior completion of this Deed which is required to mitigate the impact of the Development.

**OPERATIVE PROVISIONS**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement the following words and expressions have the following meanings:

- |  |   |
|--|---|
| <b>Act</b>                                     | means the Town and Country Planning Act 1990 (as amended)   |
| <b>Additional Affordable Housing Dwellings</b> | means 11 (eleven) Dwellings to be constructed as part of the Development on the upper floors of the Community Building as Affordable Housing and in |

accordance with the Affordable Housing Dwelling and Tenure Mix

**Affordable Housing**

has the same meaning as given in the National Planning Policy Framework 2019 (as amended from time to time)

**Affordable Housing Dwellings**

means 5 (five) Dwellings to be constructed as part of the Development on the upper floors of the Community Building as Affordable Housing and in accordance with the Affordable Housing Dwelling and Tenure Mix (which Dwellings for the avoidance of doubt satisfy the minimum on-site Affordable Housing provision criteria (30%) set out in Policy BSC3 of the District Council's Local Plan)

**Affordable Housing Dwelling and Tenure Mix**

means the following mix:

5 (five) number Affordable Housing Dwellings to be provided as Affordable Rented Dwellings as follows:

(i) 3 (three) no. one bedroom two person flats; and

(ii) 2 (two) no. two bedroom four person flats,

and 11 (eleven) number Additional Affordable Housing Dwellings to be provided as Affordable Rented Dwellings as follows:

(i) 5 (five) no. one bed two person flats; and

(ii) 6 (six) no. two bed four person flats

in the locations shown on the Affordable Housing Plan

PROVIDED THAT if Growth Deal Funding is confirmed and made available by 31 March 2022 the Affordable Housing Dwellings and Additional Affordable Housing Dwellings identified to be provided as Affordable Rented Dwellings may instead be provided as Social Rented Dwellings

or such other dwelling and tenure mix as may be agreed between the Owner and the District Council from time to time

**Affordable Housing Infrastructure**

means:

(a) roads and footpaths to serve the Dwellings;

(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 Dwellings;

(d) pipes sewers and channels sufficient to serve the Dwellings;

(e) spur connections to agreed inverts from the foul and surface water drain run serving the Development up to the boundaries of the Dwellings;

and the following services:

(a) a standard fire hydrant supply and fire hydrants in the public highway;

(b) a water supply connection from the mains;

(c) an electricity supply;

(d) a telephone spur; and

(e) if digital communication systems (for example cable television or fibre optic broadband) are provided on the Development to provide a spur to the Dwellings

**Affordable Housing Plan**

means the plan attached to this Agreement at **Appendix 5**

**Affordable Housing Standards**

means the design criteria with which the Dwellings shall comply, namely;

(a) nationally described space standards for the Dwellings as set out in the Department for Communities and Local Government's technical housing standards;

(b) the provision of 16 car parking spaces via a permit scheme;

(c) Carbon Neutral as defined in the PPS1 Standards;

**Affordable Housing 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

**Affordable Rented Dwelling(s)**

means rented housing provided by an Affordable Housing Provider to households who are eligible for affordable rented housing and which is not subject to the national rent regime but in line with the District Council's tenancy strategy, the rents will be no more than 80% of local Market Rent (including service charge) or the relevant Local Housing Allowance rate in force at the time the property is advertised for letting (whichever is lower)

<b>Allocate</b>	means any procedure whereby there are conferred or transferred rights of residential occupation in respect of an Affordable Housing Dwelling and Additional Affordable Housing Dwelling which could for the avoidance of doubt include the first and subsequent occasions on which a Dwelling is Occupied and <b>"Allocating"</b> <b>"Allocated"</b> and <b>"Allocations"</b> shall be construed accordingly
<b>Allocations Scheme</b>	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 (and any amendment, re-enactment or successor provision)
<b>Bedroom</b>	means a room in a Dwelling designed as a bedroom or study/bedroom and <ul style="list-style-type: none"> <li>• 1 Bedroomed Unit means a Dwelling with 1 Bedroom</li> <li>• 2 Bedroomed Unit means a Dwelling with 2 Bedrooms</li> <li>• 3 Bedroomed Unit means a Dwelling with 3 Bedrooms</li> <li>• 4 Bedroomed Unit means a Dwelling with 4 or more Bedrooms</li> </ul>
<b>Bicester Leisure Centre Contribution</b>	means the sum of £7,888 (seven thousand eight hundred and eighty eight pounds) Index Linked (BCIS) from Quarter 2 2017 towards enhanced community sporting facilities at the existing Bicester Leisure Centre which are reasonably expected to be used by residents of the Development
<b>Burial Ground Contribution</b>	means the sum of £169.60 (one hundred and sixty nine pounds and sixty pence) Index Linked (CPIX) from Quarter 2 2017 towards provision of a burial site as part of the North West Bicester Development and to serve the Development
<b>Café Area</b>	means the 179 sqm area within the Community Building that is to be made available for use as a café and ancillary uses thereto (other such other use as may be agreed with the District Council in writing from time to time) shown shaded light green on the Community Space and Café Area Plan
<b>Certificate of Substantial Completion</b>	means a certificate which may be issued (or deemed to be issued) by the District Council following its inspection or re-inspection of the Community Space in accordance with <b>paragraph 3</b> of <b>Schedule 2</b> which confirms that the Community Space has been provided to the Council's satisfaction and is substantially and practically complete save for such minor outstanding works as the Parties may agree
<b>Chargee</b>	means any mortgagee or chargee of the Affordable Housing Provider and includes any receiver or manager (including an administrative receiver)

(including a Housing Administrator under the provisions of the Housing and Planning Act 2016) howsoever appointed or any person appointed under any security documentation to enable such mortgagee or chargee to realise its security

**Community Building**

means a building to be constructed by the Owner as part of the Development in accordance with the plans to be approved by the Hybrid Planning Permission and which shall include the Dwellings

**Community Building Management and Maintenance Contribution**

means the sum of £53,146 (fifty three thousand one hundred and forty six pounds) Index Linked (BCIS) from Quarter 2 2017 which may be payable by the Owner as a financial contribution towards future management and maintenance of the Community Building by the District Council in accordance with the provisions of Schedule 2

**Community Building Specification**

means the specification to be submitted by the Owner to the Council for the Community Building as set out in Schedule 2 and which shall include (inter alia):

(i) the build specification and proposed layout of the Community Building;

(ii) fit-out of the Community Space in accordance with the Community Space Specification as a minimum

(iii) the services and utilities to be provided within the Community Building;

(iv) the programme of works and proposed timetable for the construction of the Community Building PROVIDED THAT the Community Building shall be completed and be ready for use within 24 months of its commencement subject always to the provisions of clause 7.13 of this Deed;

(v) the methods by which substantial completion of the Community Building may be inspected and approved by the District Council; and

(vi) the methods by which any defects with the construction and finish of the Community Building identified by the District Council are to be rectified, including the timescales for such rectification

**Community Space**

means the <sup>363</sup>~~362~~ sqm area within the Community Building that is to be used as a community space and ancillary uses thereto (or such other use as may be agreed with the Council in writing from time to time) shown shaded dark yellow on the Community Space and Café Area Plan

**Community Space and Café Area Plan**

means the plan attached to this Agreement at **Appendix 6**

\*amended on behalf of all parties by Richard Hawtin, solicitor for Cherwell District Council, on the date hereof, as authorised by the letter from Winckworth Sherwood LLP dated 7<sup>th</sup> July 2021 (Iken doc 374589), on behalf of A2Dominion South Limited and A2Dominion Developments Limited, and by the email from David Mytton, solicitor for Oxfordshire County Council, dated 8<sup>th</sup> July 2021 (Iken doc 374708)

<b>Community Space Specification</b>	means the specification attached to this Agreement at <b>Appendix 1</b>
<b>County Contributions</b>	means the Primary and Nursery School Contribution and the Secondary School Contribution or either one of them as the context so requires
<b>County Council Monitoring Fee</b>	means the sum of £1,500 (one thousand five hundred pounds) towards the County Council's costs of monitoring and administration of this Deed
<b>Cultural Wellbeing Statement</b>	means a statement of cultural wellbeing for the Development which shall cover the Development and detail the Owner's proposals for the cultural enrichment of the Development and will be in conformity with the North West Bicester Cultural Wellbeing Strategy comprising Appendix V of the North West Bicester SPD
<b>Deed</b>	means this section 106 agreement made between the Parties
<b>Defects Notice</b>	a notice which may be issued by the District Council following its inspection or re-inspection of the Community Building in accordance with <b>paragraph 3 of Schedule 2</b> which confirms that the Community Building has not been provided to the District Council's reasonable satisfaction and which outlines the works required to reach that standard
<b>Development</b>	means the development of the Hybrid Application Site authorised by the Hybrid Planning Permission or a Qualifying Permission
<b>District Contributions</b>	means the Burial Ground Contribution the Bicester Leisure Centre Contribution the Health Facility Contribution the Neighbourhood Police Contribution the Sports Pitch Capital Contribution the Sports Pitch Maintenance Contribution and the Waste Collection Contribution or any one of them as the context so requires
<b>District Council Monitoring Fee</b>	means the sum of £1,000 (one thousand pounds) Index Linked (CPIX) from the date of this Deed to the date of payment towards the District Council's costs of monitoring and administration of this Deed
<b>Due Date</b>	means the date on which any payment is to be paid in accordance herewith or if a payment has to be paid before an event then the Working Day before that events occurs
<b>Dwelling</b>	means a building (including a house flat or maisonette) or such part of a building designed for residential occupation by a single household
<b>First Deed of Variation</b>	means the agreement to vary the Principal Agreement entered into by the District Council (1) the County Council (2) and Dominion Developments (2005) Limited (3) pursuant to sections 106 and 106A of the Act and other enabling powers dated 31 March 2014



<b>Growth Deal Funding</b>	means all funding made available by the Government through the Oxfordshire Growth Deal to support increased housing delivery in Oxfordshire to 2031
<b>Health Facility</b>	means the NHS general practice facility as described in and proposed to be developed on land elsewhere on the North West Bicester Development pursuant to planning application reference 14/01641/OUT or a subsequent planning application for all or part of a same or similar development including an NHS general practice facility
<b>Health Facility Contribution</b>	means the sum of £4,151.36 (four thousand one hundred and fifty one pounds and thirty six pence) Index Linked (BCIS) from Quarter 2 2017 payable by the Owner to the District Council towards the build cost of the Health Facility or an alternative facility to serve the needs of the population that arises as part of the North West Bicester Development
<b>Hybrid Application</b>	means the application for full planning permission for "local centre community floorspace (Use Class D1), café (Use Class A1/A3), with a total GIA of 541 sqm, and 16 residential units (Use Class C3) with associated access, servicing, landscaping and parking" and for outline planning permission for "local centre retail, community or commercial floorspace (flexible Use Class A1/A2/A3/A4/A5/B1/D1)" and allocated reference number 19/01036/HYBRID by the District Council
<b>Hybrid Application Site</b>	means the land at Charlotte Avenue, Bicester, Oxfordshire shown edged red on the Site Plan
<b>Hybrid Planning Permission</b>	means the planning permission subject to conditions to be granted by the District Council pursuant to the Hybrid Application
<b>Implementation</b>	means the carrying out of any material operation (as defined in Section 56(4) of the Act) forming part of the Development other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Implement" "Implemented" and "Implementing" shall be construed accordingly
<b>Index Linked (BCIS)</b>	means adjusted according to any increase occurring in the BCIS (all items) Index made available through the Royal Institution of Chartered Surveyors from the date specified in the Schedules hereto in respect of each contribution due to the District Council and in all cases until the month before the month in which the relevant payment is made and applied to the relevant contribution up to the date of its payment

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<b>Index Linked (County)</b>	means adjusted according to any increase occurring between the third quarter 2019 and the quarter period when the relevant payment is made to the County Council in the BCIS All-In Tender Price Index published by the Royal Institution of Chartered Surveyors or if at any time or for any reason it becomes impracticable to use this index such alternative index as may be agreed between the Owner and the County Council
<b>Index Linked (CPIX)</b>	means adjusted according to any increase occurring between the relevant date identified in the relevant Schedule or clause and the date of payment of the relevant contribution to the District Council in the All Items Consumer Prices Index published by the Office of National Statistics
<b>Interest</b>	means interest at 4% per annum above the base rate of the Bank of England from time to time and compounded annually from the date on which it falls due to the date of actual payment
<b>Local Housing Allowance</b>	means the flat rate rental allowance providing financial assistance towards the rent costs of low income households for different housing areas and property types set out and reviewed by the Valuation Office Agency under a framework introduced by the Department of Works and Pensions or such similar framework that may replace it
<b>Local Food Specification</b>	means the specification attached to this Deed at <b>Appendix 3</b> which sets out (inter alia) measures to make available for provision or sale locally produced food from any shops, stores or services which operate from the Community Building or on the Outline Land
<b>Market Rent</b>	means the estimated amount for which the relevant Dwelling would be let on the date of valuation between a willing lessor and willing lessee on appropriate terms in an arm's length transaction after proper marketing wherein the Parties had acted knowledgeably, prudently and without compulsion
<b>Neighbourhood Police Contribution</b>	means the sum of £2,420.80 (two thousand four hundred and twenty pounds eighty pence) Index Linked (CPIX) from Quarter 2 2017 payable by the Owner to the District Council as a financial contribution towards the increase in capital costs of providing neighbourhood policing required pursuant to the Development
<b>Nominations Agreement</b>	means an agreement which shall be entered into between the District Council and the Affordable Housing Provider (both Parties acting reasonably) in relation to the Affordable Housing Dwellings and Additional Affordable Housing Dwellings and which shall guide in conjunction with the Allocations Scheme those persons eligible to be nominated to the Affordable Housing Dwellings and Additional Affordable Housing Dwellings

<b>North West Bicester Development</b>	means development of the site at North West Bicester which has been allocated for a mixed use development including up to 6000 homes pursuant to Policy Bicester 1 of the Cherwell Local Plan 2011 and of which the Hybrid Application Site forms part
<b>Occupation</b>	means occupation for the purposes permitted by the Hybrid Planning Permission or a Qualifying Permission but not including occupation for construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and " <b>Occupy</b> " " <b>Occupied</b> " and " <b>Occupier(s)</b> " shall be construed accordingly
<b>Original Permission</b>	means the hybrid planning permission issued for development at the Wider Site granted on 10 July 2012 by the District Council with reference 10/01780/HYBRID
<b>Outline Land</b>	means that part of the Hybrid Application Site shown hatched orange on the Site Plan
<b>Outline Marketing Strategy</b>	means a strategy to be submitted by the Owner to the District Council for approval which details the marketing methods to be carried out by the Owner in relation to the Outline Land and may be tailored to specific parts thereof with the aim of identifying the market demand for and commercial interest in the development and use of the Outline Land and to secure a viable occupier of the Outline Land or a relevant part thereof and which may be revised from time to time with the written approval of the District Council PROVIDED THAT the strategy shall market the Outline Land for the uses of the Use Classes Order specified in condition <del>54</del> <sup>52</sup> of the Hybrid Planning Permission only
<b>Owner</b>	means the First Owner and the Second Owner
<b>Pandemic Delay</b>	means any circumstance not within the Owner's reasonable control as a result of the 'Coronavirus' pandemic declared by the World Health Organisation on 11 March 2020
<b>Parties</b>	means the parties to this Deed and any one of them as the context so requires
<b>PPS1 Standards</b>	means the standards set out in the Ministry of Housing, Communities and Local Government's policy paper: " <i>Eco-towns: planning policy statement 1 (supplement)</i> "
<b>Primary and Nursery School Contribution</b>	means the sum of £70,178 (seventy thousand one hundred and seventy eight pounds) Index Linked (County) payable by the Owner to the County Council as a contribution towards the reimbursement of forward funding for and other costs incurred before or after the date of this Deed in connection with the provision of the new primary school (Gagle Brook Primary School) serving North West Bicester Development

\*amended on behalf of all parties by Richard Hawtin, solicitor for Cherwell District Council, on the date hereof, as authorised by the letter from Winckworth Sherwood LLP dated 7<sup>th</sup> July 2021 (Iken doc 374589), on behalf of A2Dominion South Limited and A2Dominion Developments Limited, and by the email from David Mytton, solicitor for Oxfordshire County Council, dated 8<sup>th</sup> July 2021 (Iken doc 374708)

<b>Principal Agreement</b>	means the agreement entered into by the District Council (1) the County Council (2) SGR (Bicester1) Limited and SGR (Bicester 2) Limited and (3) Home Farm Exemplar Limited pursuant to section 106 of the Act 1990 and other enabling powers dated 9 July 2012 (as may be varied from time to time)
<b>Qualifying Application</b>	means an application for approval of Reserved Matters for the Outline Land or any separate application(s) for planning permission PROVIDED ALWAYS THAT the uses for any separate applications for planning permission are the same as those set out on that part of the Outline Land that is governed by the Hybrid Planning Permission or any application under section 73 of the Act relating to the Hybrid Planning Permission and such Qualifying Application to be approved by Owner prior to submission to the District Council
<b>Qualifying Permission</b>	means a Reserved Matters approval or planning permission as the case may be issued pursuant to a Qualifying Application as may from time to time be amended by the approval of a non-material amendment pursuant to Section 96A of the Act
<b>Qualifying Person</b>	means those persons who are assessed by the District Council under its current Allocations Scheme and are nominated to an Affordable Housing Dwelling or an Additional Affordable Housing Dwelling (as the case may be) in accordance with the Allocations Scheme and the Nominations Agreement
<b>Reserved Matters</b>	means details of any one or more of access, appearance, landscaping, layout and scale reserved under the terms of the Hybrid Planning Permission or as applicable Qualifying Permission in respect of development on the Outline Land for subsequent approval
<b>RSH</b>	means the Regulator of Social Housing constituted pursuant to the Housing and Regeneration Act 2008 (as amended) and any successor or successors for the time being and any similar future authority responsible for the regulation of social housing
<b>Second Deed of Variation</b>	means the agreement to vary the Principal Agreement as varied by the First Deed of Variation entered into by the District Council (1) the County Council (2) and A2Dominion Developments Limited (3) pursuant to sections 106 and 106A of the Act and other enabling powers dated 28 July 2016
<b>Secondary School Contribution</b>	means the sum of £32,611 (thirty two thousand six hundred and eleven pounds) Index Linked (County) payable by the Owner to the County Council as a contribution towards the provision of a new secondary school including sixth form at North West Bicester
<b>Site Plan</b>	means the plan attached to this Agreement at <b>Appendix 4</b>

<b>Social Rented Dwelling(s)</b>	means a Dwelling to be let at a target rent as determined through the national rent regime (which rent for the avoidance of doubt shall be exclusive of any service charges) by an Affordable Housing Provider to a Qualifying Person in accordance with paragraph 1.2 of Schedule 1
<b>Sports Pitch Capital Contribution</b>	means the sum of £3,642.88 (three thousand six hundred and forty two pounds and eighty eight pence) Index Linked (CPIX) from the date of this Deed payable by the Owner to the District Council as a contribution towards the capital cost of providing permanent sports pitches as part of the North West Bicester Development which are reasonably expected to be used by the occupants of the Development
<b>Sports Pitch Maintenance Contribution</b>	means the sum of £4,005.60 (four thousand and five pounds and sixty pence) Index Linked (CPIX) from Quarter 2 2017 payable by the Owner to the District Council as a contribution towards the maintenance cost of the permanent sports pitches to be provided as part of the North West Bicester Development which are reasonably expected to be used by the occupants of the Development
<b>Substantially Complete(s)</b>	means the stage at which the facility or building in question has been constructed or provided to a standard or condition which enables it to be used or made available for its intended purpose without the need to undertake additional works and <b>"Substantial Completion"</b> <b>"Substantially Completed"</b> and like terms shall be construed accordingly
<b>"Transfer Terms"</b>	means such reasonable terms for the transfer of the Outline Land as may be agreed between the Owner and the District Council PROVIDED ALWAYS THAT: <ul style="list-style-type: none"> <li>(i) the transfer shall be for the sum of £1 plus VAT (if demanded); and</li> <li>(ii) in the event the remaining terms of the transfer are not agreed within [3 months] of the Offer (as defined in paragraph 3 of Schedule 5) then the disputed terms may be referred to expert determination by either the Owner or the District Council in accordance with clauses 10.2 and 10.3.2</li> </ul>
<b>Use Classes Order</b>	means The Town and Country Planning (Use Classes) Order 1987 (as amended)
<b>Waste Collection Contribution</b>	means the sum of £1,776.00 (one thousand seven hundred and seventy six pounds) payable by the Owner to the District Council as a contribution towards the provision of refuse and recycling receptacles for each Dwelling and towards collection vehicle provision and recycling banks within the vicinity of the Hybrid Application Site
<b>Wider Site</b>	means the land defined as "the Site" in the Principal Agreement

**Working Day**

means any Monday to Friday (other than Bank or public holidays)

**2. CONSTRUCTION OF THIS DEED**

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

**3. LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and insofar as it may be construed as modifying or varying the obligations contained in the Principal Agreement pursuant to Section 106A of the Act and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed in respect of the Hybrid Application Site create planning obligations pursuant to Section 106 of the Act and:
  - 3.2.1 those planning obligations contained in the First, Second, Third, Fifth and Sixth Schedules are enforceable by the District Council; and
  - 3.2.2 those planning obligations contained in the Fourth Schedule are enforceable by the County Council,as planning authorities against the Owner.

**4. CONDITIONALITY**

- 4.1 This Deed is conditional upon the grant of the Hybrid Planning Permission and Implementation save for the provisions of Clauses 7.1, 11, 14 and 15 and paragraph 1.1 of

each of the Third Schedule and the Fourth Schedule which shall come into effect immediately upon completion of this Deed.

5. **COVENANTS**

5.1 The Owner covenants:

5.1.1 with the District Council as set out in the First, Second, Third, Fifth and Sixth Schedules;

5.1.2 with the County Council as set out in the Fourth Schedule;

5.1.3 to comply with the covenants and obligations contained in the following schedules to the Principal Agreement as if the reference therein to 'Development' includes and incorporates reference to development undertaken pursuant to the Hybrid Planning Permission and SAVE insofar as the obligations in the relevant schedules have already been fully complied with and FOR THE AVOIDANCE OF DOUBT the Parties do not intend the Owner would have to perform or discharge the same obligations twice in relation to the following Schedules:

5.1.3.1 Schedule 5 (Community Governance);

5.1.3.2 Schedule 6 (Community Engagement, Development and Capacity Building);

5.1.3.3 Schedule 7 (Ecological & Landscape Management, Open Space and Play Areas);

5.1.3.4 Schedule 10 (Employment, Skills and Training);

5.1.3.5 Schedule 11 (Waste);

5.1.3.6 Schedule 12 (Energy Centre);

5.1.3.7 Schedule 13 (Construction Standards) only in relation to CEEQUAL

5.1.3.8 Schedule 14 (Post Occupancy Monitoring);

5.1.3.9 Schedule 15 (Infrastructure Fund);

5.1.3.10 Schedule 17 (Off-Site Highway Works);

5.1.3.11 Schedule 18 (On-Site Highway Works);

5.1.3.12 Schedule 20 (Transport - Miscellaneous) but excluding the provisions relating to Travel Plans;

5.1.3.13 Schedule 21 (Bus Services); and

5.1.3.14 Schedule 22 (Education),

and for the avoidance of doubt the Occupation of Dwellings pursuant to the Hybrid Planning Permission shall count towards the number of Occupations specified in the obligations in those Schedules.

5.2 The District Council covenants with the Owner as set out in the Seventh Schedule.

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

6. **VARIATION OF PRINCIPAL AGREEMENT**

6.1 The Owner and the District Council hereby declare and agree that upon the grant of the Hybrid Planning Permission and Implementation the Owner shall be released from the covenants and obligations contained in the Eighth Schedule to the Principal Agreement.

7. **MISCELLANEOUS**

7.1 The Owner will on completion of this Deed pay to the District Council and the County Council their respective reasonable legal costs incurred in connection with the preparation and completion of this Deed so far as such costs have not been paid prior to the completion of this Deed.

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

7.3 This Deed shall be registered as a local land charge by the District Council.

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

7.5 Any notices (including the notices referred to in clause 11, paragraph 3.1 of the First Schedule and paragraph 1.4 of the Second Schedule) shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party and any notice or notification to be given under this Deed to the County Council shall be sent to the Director for Planning & Place of the County Council (Reference 19/01036/HYBRID) at County Hall, New Road, Oxford OX1 1ND or to such other person at such other address as the County Council shall direct from time to time and to the District Council shall be sent to the Assistant Director – Planning and Development at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA or to such other person at such other address as the District Council shall direct from time to time.

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

7.7 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.

7.8 This Deed shall cease to have effect if the Hybrid Planning Permission and all Qualifying Permissions shall be quashed, revoked or otherwise withdrawn at any time or the Hybrid Planning Permission and all Qualifying Permissions expire before Implementation has occurred PROVIDED THAT if the Hybrid Planning Permission or Qualifying Permissions have been modified at any time this Deed shall be modified in order to take proper and reasonable account of this.

7.9 No person shall be liable for any breach of any of the planning obligations or other provisions in this Deed and/or its Schedules after it shall have parted with its entire interest in the Hybrid Application Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

7.10 This Deed shall not be enforceable against:

7.10.1 any statutory undertaker who acquires an interest in the Hybrid Application Site for the purpose of providing services to the Hybrid Application Site save that any provisions relating to works at the Hybrid Application Site and provisions as to use shall be enforceable in respect of its interest in the relevant part of the Hybrid Application Site;



- 7.10.2 the District Council or assignee in so far as it holds an interest in any part of the Hybrid Application Site as a result of the operation of this Agreement save for the obligations on the part of the District Council set out in paragraph 4 of Schedule 5: or
- 7.10.3 against any tenant or occupier of an individual unit within a completed building in the Development pursuant to the Hybrid Planning Permission ("**Unit**") nor against those deriving title from them nor against any mortgagee of such individual unit save for:
- 7.10.3.1 paragraph 1.2 of Schedule 1 but subject to paragraph 4 thereof; and
- 7.10.3.2 any provision hereof that restricts or prevents any Unit being Occupied or prevents a number of Units being Occupied until an obligation is complied with.
- 7.11 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the District Council and the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as local authorities.
- 7.12 Save for the provisions of the Fifth Schedule nothing in this Deed prohibits or limits the right to develop any part of the Hybrid Application Site in accordance with a planning permission, other than the Hybrid Planning Permission or a Qualifying Permission, granted after the date of this Agreement, whether or not pursuant to an appeal.
- 7.13 The Owner shall not be in breach of its obligations in paragraph 2 of Schedule 2 and/or Schedule 5 of this Deed nor liable for delay in performing, or failure to perform, any of its obligations therein if such delay or failure results from Pandemic Delay. In such circumstances the Owner shall notify the District Council of and demonstrate with supporting evidence to the satisfaction of the District Council (in its absolute discretion) the impacts that such event has had on any of the terms or obligations in paragraph 2 of Schedule 2 and/or Schedule 5 of this Deed (as applicable) and the District Council may, if so satisfied, grant an extension of the time for performing such obligations commensurate with the period of time of such delay.
8. **WAIVER**
- 8.1 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.
9. **NO FETTER**
- 9.1 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.
10. **DISPUTES**
- 10.1 In the event that the Community Building Specification, Cultural Wellbeing Statement and/or Outline Marketing Strategy (each a "Strategy" for the purposes of this clause 10) is rejected by the District Council on at least two occasions OR the District Council issues at least two Defects Notices pursuant to **paragraph 3 of Schedule 2**, the Owner may refer the relevant Strategy or any matter subject to the Defects Notices to an independent expert as follows:
- 10.1.1 the expert shall be an independent Chartered Surveyor with expertise relevant to the matters referred for expert determination, the identity of which shall be

agreed between the Owner and the District Council, and failing agreement the expert shall be nominated by or on behalf of the President of the Royal Institute of Chartered Surveyors; and

10.1.2 the expert shall act as an expert and not as an arbitrator. The expert's decision shall be final and binding on the Parties save in the case of manifest error. The Owner and the District Council shall bear their own costs of the expert determination and the expert's costs shall be payable as determined by the expert. Following the expert's appointment, the expert shall give the Parties 20 Working Days to make written submissions and submit supporting material and then afford the Parties a further 10 Working Days to make counter submissions. The expert must reach a decision and communicate it to the Parties within 20 Working Days from submission of the counter submission by the Parties.

10.2 In the event that any of the Transfer Terms cannot be agreed between the parties in accordance with the terms of this Deed, such dispute may be referred to an independent expert by either party to the dispute and clauses 10.1.1 and 10.1.2 shall apply to such referral, subject to clause 10.3.2.

10.3 For the avoidance of doubt:

10.3.1 clause 10.1 shall only apply to the determination of a Strategy or matter subject to a Defect Notice and to no other matter within this Agreement;

10.3.2 any determination by the expert in relation to the Transfer Terms pursuant to clause 10.2 shall apply only to those terms and nothing in this Deed shall impose a requirement on the District Council take a transfer of the Outline Land in the event the District Council does not agree to the Transfer Terms as determined by the expert; and

10.3.3 clause 10.2 shall only apply to a dispute as to the Transfer Terms and to no other matter within this Agreement.

## 11. **CHANGE OF OWNERSHIP**

11.1 The Owner agrees with the District Council and the County Council:

11.1.1 to give the District Council and the County Council written notice within ten Working Days of any change in ownership of its interest in the Hybrid Application 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 Hybrid Application Site purchased by reference to a plan FOR THE AVOIDANCE OF DOUBT this does not apply to the transfer of ownership in relation to a Dwelling; and

11.1.2 to notify the District Council and the County Council separately in writing within ten Working Days of the occurrence of each of the following events and to specify in the notification the date on which it occurred:

11.1.2.1 the date of Implementation of the Hybrid Planning Permission;

11.1.2.2 the date of Occupation of the first Dwelling;

11.1.2.3 the date of Occupation of the tenth Dwelling; and

11.1.2.4 the date of Occupation of the final Dwelling.

## 12. **INTEREST**

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

12.2 Interest shall be calculated daily and if any payment is made more than three months after the Due Date it shall be compounded thereafter monthly.

13. **VAT**

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

14. **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 in relation to any disputes between the Parties arising out of or related to this Deed.

15. **DELIVERY**

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

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

## **SCHEDULE 1**

### **Affordable Housing**

1. The Owner covenants and undertakes with the District Council that it:-
  - 1.1 will construct and Substantially Complete the Dwellings (including the Affordable Housing Infrastructure) and ensure Occupation of the Dwellings in accordance with the Affordable Housing Dwelling and Tenure Mix or any approved variation thereto and the Affordable Housing Standards;
  - 1.2 will ensure that the Affordable Housing Dwellings and Additional Affordable Housing Dwellings shall be retained and Occupied as Affordable Housing in accordance with the Affordable Housing Dwelling and Tenure Mix (or any approved variation thereto) by Qualifying Persons for the lifetime of the Development; and
  - 1.3 will not without the consent in writing of the District Council transfer the freehold interest or the long leasehold interest in the Affordable Housing Dwellings and Additional Affordable Housing Dwellings or any part thereof or the Affordable Housing Infrastructure except to an Affordable Housing Provider provided that consent shall not be required for any mortgage or charge of the freehold or leasehold interest and provided that this shall not apply to the tenancies being granted to any of the occupiers of individual Dwellings.
2. Paragraph 1 of this Schedule 1 shall 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 an Affordable Housing Provider) or their successors in title of such purchasers or persons deriving title there from provided that the provisions of paragraph 3 below have been complied with
3. It is hereby agreed and declared that the proviso contained in paragraph 2 will only apply where the Chargee exercising its power of sale:-
  - 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
  - 3.2 has used reasonable endeavours over a period of three (3) months from receipt of notification pursuant to paragraph 3.1 above to dispose of the relevant Affordable Housing Dwelling(s) and/or Additional Affordable Housing Dwelling(s) (as applicable) subject to any tenancies then subsisting and to the terms of this Agreement to an Affordable Housing Provider or the District Council PROVIDED ALWAYS that nothing herein shall require the Chargee to dispose of the relevant Affordable Housing Dwellings and/or Additional Affordable Housing Dwelling(s) (as applicable) at a price which is less than all sums due and outstanding under the terms of the Chargee's including security documentation all accrued principal monies, costs, interest and expenses AND FURTHER PROVIDED THAT in any event if upon the expiry of 3 months from the date of receipt by the District Council of the notice in paragraph 3.1 above and provided the steps in this paragraph have been followed and no transfer of the relevant Affordable Housing Dwellings and/or Additional Affordable Housing Dwelling(s) (as applicable) to either the District Council or an Affordable Housing Provider has completed within the said period of 3 months then upon expiry of the said three (3) months the Chargee shall be able to sell the relevant Affordable Housing Dwellings and/or Additional Affordable Housing Dwelling(s) (as applicable) free from the restrictions in paragraph 1 above with the effect that they shall cease to bind the relevant Affordable Housing Dwellings and/or Additional Affordable Housing Dwellings.
4. The provisions of paragraph 1 will not be binding on any purchaser pursuant to the exercise of a statutory or voluntary right to buy, preserved right to buy or right to acquire or any successor in title thereto.
5. The Owner will not Allocate or cause or permit to be Allocated any of the Affordable Housing Dwellings and Additional Affordable Housing Dwellings except to Qualifying Persons in

accordance with the Allocations Scheme and in accordance with the terms of the Nominations Agreement or as otherwise agreed in writing by the District Council and the Nominations Agreement shall incorporate paragraphs 2 & 3 of this Schedule with regard to the affordable housing restrictions to be contained therein.

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

## SCHEDULE 2

### Community Building Obligations

The Owner covenants and undertakes with the District Council as follows:

1. Prior to Implementation of the Development to submit to the District Council the Community Building Specification for approval by the District Council and not to Implement the Community Building until the Community Building Specification has been approved PROVIDED ALWAYS THAT if the District Council has not approved the Community Building Specification or informed the Owner that it will not approve the Community Building Specification within 28 Working Days of submission of Community Building Specification for approval by the District Council then the Parties agree that the Community Building Specification will be deemed approved.
2. To construct the Community Building in accordance with the approved Community Building Specification PROVIDED THAT the Community Building shall be Substantially Completed and be ready for use within 24 months of its commencement subject always to the provisions of clause 7.13 of this Deed.
3. Following Substantial Completion of the Community Building and the Community Space to secure the approval of the District Council of the Community Space as follows:
  - 3.1 to invite the District Council in writing to inspect the Community Space within 10 Working Days of Substantial Completion thereof with a view to issuing a Certificate of Substantial Completion;
  - 3.2 the District Council shall inspect the Community Space within 10 Working Days of receipt of the invitation to which paragraph 3.1 above refers and shall either issue a Certificate of Substantial Completion or a Defects Notice to the Owner within 10 Working Days of such inspection;
  - 3.3 if the District Council issues a Defects Notice pursuant to paragraph 3.2 the Owner shall use all reasonable endeavours to complete the works outlined in the Defects Notice as soon as is reasonably practicable and invite the District Council to re-inspect the Community Space PROVIDED ALWAYS THAT the Parties agree that any Defects Notice can only apply to a material or substantial defect;
  - 3.4 the procedure set out in paragraphs 3.1 to 3.3 above shall be repeated in respect of the Community Space until such time as the District Council either:-
    - 3.4.1 issues a Certificate of Substantial Completion; or
    - 3.4.2 fails to inspect the Community Space within 10 Working Days of receipt of a written invitation to inspect it in which case a Certificate of Substantial Completion shall be deemed to have been issued in respect of the Community Space on the day which follows the said 10 Working Day period; or
    - 3.4.3 fails to serve within 10 Working Days of their inspection a Defects Notice in which case a Certificate of Substantial Completion shall be deemed to have been issued in respect of the Community Space on the day which follows the said 10 Working Day period.
4. Within 28 Working Days of the Certificate of Substantial Completion being issued to offer a lease for the Community Space to the District Council in accordance with the heads of terms attached to this Agreement at Appendix 2 (unless otherwise agreed with the District Council in writing).
5. Within 10 Working Days of completion of the lease to which paragraph 4 above refers to pay the Community Building Management and Maintenance Contribution to the District Council.

6. Not to Occupy or cause or permit the Occupation of the Café Area unless and until the lease to which paragraph 4 above refers has been completed and the Community Building Management and Maintenance Contribution has been paid to the District Council
7. Not to use or cause or permit the use of the Café Area other than in compliance with condition 33 of the Hybrid Planning Permission and as set out in this Agreement without the written approval of the District Council.
8. To use reasonable endeavours to encourage the operator of the Café Area to comply with the Local Food Specification in relation to the Café Area and ensure the terms of any lease (or similar agreement) of the Café Area requires the lessee to use reasonable endeavours to comply with the Local Food Specification.

## **SCHEDULE 3**

### **District Council Contributions**

1. The Owner shall pay to the District Council:
  - 1.1 the District Council Monitoring Fee on completion of this Deed; and
  - 1.2 the District Contributions prior to first Occupation of any Dwelling.
2. The Owner shall not:
  - 2.1 Implement or cause or permit Implementation unless and until the District Council Monitoring Fee has been paid to the District Council; and
  - 2.2 first Occupy or cause or permit first Occupation of any Dwelling unless and until all District Contributions have been paid to the District Council.



## **SCHEDULE 4**

### **County Council Contributions**

1. The Owner covenants and undertakes with the County Council:
  - 1.1 to pay the County Council Monitoring Fee to the County Council on completion of this Deed
  - 1.2 not to cause or permit the first Occupation of any Dwelling at the Hybrid Application Site until it has paid the Primary and Nursery School Contribution and the Secondary School Contribution to the County Council and to pay the Primary and Nursery School Contribution and the Secondary School Contribution to the County Council on or before the first Occupation of the first Dwelling to be Occupied;
  - 1.3 not to cause or permit the construction of Dwellings on the Hybrid Application Site otherwise than 8 x 1 Bedroomed Units, 8 x 2 Bedroomed Units, Nil x 3 Bedroomed Units and Nil x 4 Bedroomed Units;

## SCHEDULE 5

### Non-Residential Uses

1. The Owner covenants and undertakes to the District Council as follows:
  - 1.1 to submit the Outline Marketing Strategy to the District Council no later than four (4) months of the date of the Hybrid Planning Permission;
  - 1.2 to implement the approved Outline Marketing Strategy for a period of three (3) years from one (1) month following the approval of the Outline Marketing Strategy and shall report to the District Council as to the success or otherwise of the Outline Marketing Strategy on each anniversary of commencement of the marketing such report to include details of all interest expressed in the Outline Land and what steps have been taken to progress the expression of interest into an application for a Qualifying Permission and the disposal of an interest in the Outline Land or any part thereof; and
  - 1.3 to use reasonable endeavours during the three (3) year period specified in paragraph 1.2 above to procure that interested occupier(s) enter into an agreement (or agreements) to Occupy the Outline Land and to notify the District Council on the completion of each such agreement.
2. In the event that an occupier(s) of the Outline Land is found and enters into an agreement to Occupy the Outline Land or part thereof subject to the grant of a Qualifying Permission for the benefit of the Outline Land, the Owner and/or the occupier as applicable shall submit a Qualifying Application to the District Council for development of the Outline Land within 6 months of completion of such agreement having been notified to the District Council pursuant to paragraph 1.3 above or such other date as may be agreed in writing with the District Council.
3. In the event that no agreement is entered into as set out in paragraph 2 above to Occupy the Outline Land or any part thereof within the three (3) year period specified in paragraph 1.2 above then subject to paragraph 5 below, the Owner shall within three (3) months of expiration of the said three (3) year period offer to transfer the relevant part of the Outline Land to the District Council on the Transfer Terms ("the Offer") which shall remain open for a period of three (3) months (or such other period as may be agreed between the parties) ("the Offer Period") from the date of the Offer in writing by the Owner. The Owner will respond to all reasonable enquiries raised by the District Council in respect of the transfer of the Outline Land and to disclose all relevant matters affecting the title of the Outline Land.
4. If, before the expiry of the Offer Period, the District Council accepts the Offer then the Owner shall transfer the Outline Land or the relevant part thereof to the District Council in accordance with paragraph 3 of this Schedule above and the District Council shall use reasonable endeavours to:
  - 4.1 secure a Qualifying Permission for development of the Outline Land or the relevant part thereof within twelve (12) months (or such other period as may be agreed between the parties) from the date of completion of such transfer; and
  - 4.2 commence the development in accordance with the relevant Qualifying Permission within 24 months of the date thereof PROVIDED ALWAYS THAT in the event that the District Council does not secure the Qualifying Permission and commence development pursuant to that Qualifying Permission in accordance with this paragraph 4 then the District Council shall transfer the Outline Land back to the Owner within one (1) month of expiry of the time referred to in paragraph 4.1 above on the Transfer Terms and respond to all reasonable enquiries raised by the Owner in respect of the transfer of the Outline Land and to disclose all relevant matters affecting the title of the Outline Land and on the transfer of the Outline Land the restrictions in this Schedule shall no longer be applicable.

5. Nothing in this schedule shall prohibit the Owner submitting a Qualifying Application for development of any part of the Outline Land prior to the identification of a viable occupier and in the event the Owner Substantially Completes development on any part of the Outline Land pursuant to a Qualifying Permission prior to viable occupier(s) being secured then the Owner shall:
  - 5.1 revise the Outline Marketing Strategy as required taking into account the development on the Outline Land that has been Substantially Completed;
  - 5.2 submit such revised marketing strategy to the District Council for approval and such revised marketing strategy to include any revised marketing period as the District Council considers appropriate (acting reasonably);
  - 5.3 thereafter implement the revised strategy as approved in accordance with the paragraph 5.2 above;
  - 5.4 comply with the reporting and notification requirements specified paragraphs 1.2 and 1.3 of this Schedule 5 (respectively).
6. For the avoidance of doubt nothing in this Schedule 5 shall prevent the Owner from submitting a planning application for alternative development of the Outline Land or any part thereof following expiry of the required period of marketing in the Outline Marketing Strategy in the event that no agreement has been entered into for Occupation of that part of the Outline Land and the District Council declines the Offer or does not accept the Offer within the Offer Period and no planning application other than a Qualifying Application shall be submitted within the required marketing period unless jointly agreed between the parties that a planning application could be submitted.
7. To use reasonable endeavours to encourage the Occupiers of the Outline Land to comply with the Local Food Specification in relation to the Outline Land and ensure the terms of any agreement to Occupy the Outline Land requires the occupier of the Outline Land to use reasonable endeavours to comply with the Local Food Specification to the extent relevant.

## **SCHEDULE 6**

### **Cultural Wellbeing Statement**

1. The Owner covenants with the District Council as follows:
  - 1.1 prior to Implementation to submit and secure the written approval of the District Council for a Cultural Wellbeing Statement;
  - 1.2 not to Implement or cause or permit Implementation unless and until the Cultural Wellbeing Statement has been approved by the District Council; and
  - 1.3 to implement the Cultural Wellbeing Statement as approved pursuant to this Schedule 6.

## SCHEDULE 7

### The Councils' Covenants to the Owner

1. The District Council covenants with the Owner as follows:-
  - 1.1 to use all District Contributions received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or such purposes for the benefit of the Development as the Owners and the District Council shall otherwise agree;
  - 1.2 to repay to the party that made the payment any unspent or uncommitted monies received by them pursuant to this Deed after the expiry of 15 (fifteen) years from the date of receipt of payment of each District Contribution upon written request to do so by the Owner PROVIDED THAT:
    - 1.2.1 any contribution or deposit or part thereof which the District Council has contracted to expend prior to the date 15 (fifteen) years following the date of receipt of the contribution or instalment shall be deemed to have been expended prior to that date; and
    - 1.2.2 if capital works have been carried out then commuted sums for maintenance will not be returnable under this clause; and
  - 1.3 to enter into the lease of the Community Space offered by the Owner in accordance with **paragraph 4 of Schedule 2** without unreasonable delay PROVIDED THAT the lease is in accordance (unless otherwise agreed with the District Council in writing) with the heads of terms attached to this Agreement at **Appendix 2**.
2. The County Council covenants with the Owner as follows:-
  - 2.1 not to apply the County Contributions for any purpose other than as set out in the definitions of those contributions or for such purposes for the benefit of the Development as the Owner and the County Council shall otherwise agree; and
  - 2.2 following written request from the person who paid the Secondary School Contribution the County Council will repay to that person the balance (if any) of such contribution which at the date of 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 15 years from the due date for payment or the date of receipt by the County Council (whichever is the later) of such contribution. Any part of the Secondary School Contribution which the County Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the County Council prior to that date.

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



Authorised Signatory



ccc/20498

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



Director of Law and Governance/Designated Officer



957/21

**EXECUTED** as a **DEED** by

Name:

on behalf of **A2DOMINION SOUTH LIMITED**



Director

In the presence

Witness Signature



Print Witness Name: CAROLINE ABOMELI

Witness Address: 215 LANSDOWNE ROAD, LONDON N17 0NU

Witness Occupation:

DIRECTOR of COMMUNICATIONS

**EXECUTED** as a **DEED** by

Name:

for and on behalf of **A2DOMINION  
DEVELOPMENTS LIMITED**

  
.....  
Director

In the presence of:

Witness Signature:  .....

Print Witness Name: CAROLINE ABOMELI .....

Witness Address: 215 LANSDOWNE  
ROAD, LONDON N17 0NU .....

.....  
Witness Occupation: DIRECTOR of COMMUNICATIONS .....

**APPENDIX 1**  
**COMMUNITY SPACE SPECIFICATION**



**Elmsbrook Community Facility Fit-Out Requirements**  
**Precise details of each item to be agreed via the Community Building Specification**

*Main Hall*

- Noise limiter linked to electrical sockets (and emergency lighting if possible)
- Ceiling mounted digital projector with wall mounted connection point
- AV Equipment, including wall mounted speakers
- Hearing loop
- Durable, low maintenance flooring suitable for a variety of uses (including light impact sport)
- Tables (foldable)
- Chairs (stackable)
- Trolley aid for moving tables and chairs
- Sectioned / dimmable lighting
- 'Black-out' blinds / curtains to all windows

*Community Room*

- Wall mounted TV, with USB connection point(s)
- Tables
- Chairs

*Office*

- Suitable office table and chair
- Phone line access point
- Lockable cabinet

*Kitchen*

- Oven and hob
- Microwave
- Dishwasher
- Fridge & Freezer
- Hot water urn(s)
- Sinks – separate hand wash basin to washing up basin
- Storage cupboards (lockable)
- Utensils
- Cutlery
- Pots and pans
- Crockery
- Durable, easy cleaning preparation / work surfaces
- Durable, easy cleaning floor

*Entrance Lobby / Hallway*

- Security alarm
- Fire alarm
- Heating controls (or most appropriate position)
- Noticeboard

*General*

- Wi-fi coverage throughout facility
- Signage
- Cleaning equipment

- Appropriate fire extinguishers
- External noticeboard

**APPENDIX 2**

**COMMUNITY SPACE LEASE HEADS OF TERMS**

[DRAFT HEADS OF TERMS]

16.06.2021

1.	<b>Landlord:</b>	<b>A2DOMINION DEVELOPMENTS LIMITED</b> The Point 37 North Wharf Road London W2 1BD  (CRN: 15585321)  <b>Contact:</b>  Details tbc  NAME: Direct Dial: *** mailto: ****
2.	<b>Tenant:</b>	Cherwell District Council Bodicote House White Posts Road Bodicote Banbury Oxfordshire OX15 4AA  <b>Contact:</b>  Thomas Darlington <b>Senior Community Infrastructure Officer</b> Cherwell District Council Direct dial: 01295 221693 <a href="mailto:thomas.darlington@cherwell-dc.gov.uk">thomas.darlington@cherwell-dc.gov.uk</a>
3.	<b>Premises:</b>	Community Centre Charlotte Avenue Bicester Oxfordshire  The building of which the Premises will form part is delineated in blue on Plan 1 ("Building") and the Premises comprises that part of the ground floor of the Building which is delineated in red on Plan 1. The Premises include and are bounded by:  <ol style="list-style-type: none"><li>1. the floor screed;</li><li>2. the ceiling plaster</li><li>3. the interior plasterwork and finishes of exterior walls and columns;</li></ol>

[DRAFT HEADS OF TERMS]

16.06.2021

4.	<b>Ancillary Rights:</b>	Rights of support, signage, access to services/utilities, satisfactory access and the exclusive right to four parking spaces in the Local Centre car park of which the Premises form part, such spaces to be within 75 metres of the demised Premises. Other visitor spaces on the estate to be available on a first come first serve basis.
5.	<b>Rent and VAT:</b>	£1 (one pound) per annum + VAT (if demanded).
6.	<b>Payment period:</b>	Payable annually in advance (if demanded).
7.	<b>Rent start date:</b>	Lease completion.
8.	<b>Term:</b>	99 (ninety-nine) years from completion of the lease.
9.	<b>Rent review:</b>	There will be no rent reviews.
10.	<b>Break:</b>	The tenant will be able to terminate this lease on giving not less than six month's written notice of their intention to do so expiring at any time after the fifth anniversary of the commencement of the lease.
11.	<b>Landlord &amp; Tenant Act (Contracting Out):</b>	There will be no contracting out of the security of tenure provisions of the 1954 Landlord and Tenant Act, as amended.
12.	<b>Rent Deposit:</b>	n/a
13.	<b>Guarantors:</b>	n/a
14.	<b>Service Charge:</b>	For the avoidance of doubt no service charge will be payable and as such the landlord will not be able to recover from the tenant any contribution towards the landlord's cost of repair, maintenance and meeting their other responsibilities under the terms of the lease.
15.	<b>Repairing liability:</b>	The landlord shall maintain and repair the structure and common parts and service areas of the Building of which the Premises form part.  Tenant to maintain and repair internally.
16.	<b>Decoration:</b>	The Tenant shall decorate the Premises as often as is reasonably necessary and also in the last year of the Contractual Term.

[DRAFT HEADS OF TERMS]

16.06.2021

17.	<b>Yield up:</b>	The tenant will return the Premises to the landlord on the termination of the lease in a condition consistent with the terms of the lease and any subsequent licences to alter unless the Landlord notifies the Tenant not to remove any works no later than 6 months before the end of the term.
18.	<b>Use:</b>	<p>During the term, not without the landlord's consent which shall not be unreasonably withheld or delayed to use the Premises other than as a community centre or community space</p> <p>The landlord shall make no regulations that unreasonably restrict the Tenant's use of the Premises beyond that required by law or as set out in these Heads of Terms.</p>
19.	<b>Landlord's initial works:</b>	<p>The landlord is to develop the Building and the Premises surrounding estate in line with planning permission 19/01036/HYBRID and any subsequent reserved matters approvals thereunder, subject to its associated S106 agreement (including any variations thereto) and any other works as the parties may agree prior to the completion of the lease acting reasonably</p> <p>For the avoidance of doubt, the Building and Premises shall be completed and ready for use within 24 months of its commencement</p> <p>The Premises are to be delivered to the tenant on a turn-key basis and in this respect the following minimum requirements all to an agreed specification are to apply:</p> <ul style="list-style-type: none"><li>a) Suitable doors, windows and blinds to be supplied and fitted</li><li>b) Central heating, mechanical ventilation and fire detection / alarm system supplied and fitted</li><li>c) Fully fitted kitchen and WC facilities supplied and fitted</li><li>d) The Premises are to be sub-divided as shown on the attached plan,</li><li>e) Small power distribution and lighting supplied and fitted</li><li>f) Walls to be plastered and painted, floor screed to be levelled and suitable floor covering to be agreed.</li></ul> <p>The Landlord shall use all reasonable endeavours to procure that the Contractor makes good any defects specified in any snagging list issued to the Contractor under the Building Contract as soon as possible and in</p>

[DRAFT HEADS OF TERMS]

**16.06.2021**

		<p>any event within one month of the Practical Completion Date and that any defects that appear in the 12 months after practical completion are remedied within 4 weeks.</p> <p>Tenant to have ability to inspect and approve works and attend any practical completion inspection.</p> <p>Warranties to be provided in favour of the tenant from the landlord's contractor, professional team and any sub-contractor's with design responsibility</p>
20.	<b>Tenant's initial works:</b>	n/a
21.	<b>Alterations:</b>	<p>External and structural works save as to signage will not be permitted. External signage may be erected with landlord's consent not to be unreasonably withheld or delayed</p> <p>Internal non-structural works and installation or removal or tenant's fixtures/demountable partitioning will be permitted without landlord's consent</p>
22.	<b>Insurance:</b>	<p>The landlord will insure the Building against the usual perils. The tenant to pay a fair and reasonable proportion of insurance costs to the landlord. The tenant will be responsible for insuring their own fixtures, fittings and contents and employers' liability cover.</p>
23.	<b>Rates and Utilities:</b>	<p>The tenant will be responsible for the payment of any national non-domestic rates attributable to the Premises and any utility costs directly attributable to their use of the Premises.</p>
24.	<b>Statutory Compliance:</b>	<p>The tenant will be responsible for complying with any statutory requirements and regulations that apply to their use and occupation of the Premises.</p>
25.	<b>Alienation:</b>	<ol style="list-style-type: none"><li>1. The assignment of the lease or the subletting of the whole of the Premises will not require the landlord's consent but the tenant is to notify the landlord of such dealings. A sublease of the whole must be for a term of at least three days less than the lease term, broadly on the same terms as the lease and contracted out of LTA 1954</li><li>2. Subletting in part will be permitted up to a maximum of three sub-tenancies at any time. All subleases must be</li></ol>

[DRAFT HEADS OF TERMS]

16.06.2021

		<p>of a "permitted part" capable of separate occupation and must be contracted out of the LTA 1954.</p> <p>3. For the avoidance of doubt:</p> <p>a) The tenant will be able to enter a management agreement and sublease with an operator to manage the community hall on behalf of the tenant without the landlord's consent.</p> <p>b) the tenant, sub-tenant or operator will be able to hire out the Premises on an hourly, daily or other periodic basis to community groups and other organisations consistent with the operation of the Premises as a community centre .</p> <p>The landlord will be able to review and comment on any management agreement/hiring conditions to ensure compliance with general estate regulations, noise management requirements and needs of nearby residential occupiers but the tenant will not be bound by such comments</p>
26.	<b>Legal Costs:</b>	The landlord will bear the tenant's legal costs in this matter.
27.	<b>Tenant's solicitor:</b>	<p>Amelia Hardman Eversheds Sutherland (International) LLP</p> <p>T: +44 121 232 1593 M: +44 7867 155 053 E: <a href="mailto:ameliahardman@eversheds-sutherland.com">ameliahardman@eversheds-sutherland.com</a> <a href="http://www.eversheds-sutherland.com">www.eversheds-sutherland.com</a></p> <p>and</p> <p>Richard Hawtin Cherwell District Council Bodicote House Bodicote Banbury Oxon. OX15 4AA</p> <p>T: 01295 221695 E: <a href="mailto:richard.hawtin@cherwell-dc.gov.uk">richard.hawtin@cherwell-dc.gov.uk</a></p>
28.	<b>Landlord's solicitor:</b>	Winckworth Sherwood Minerva House 5 Montague Close



[DRAFT HEADS OF TERMS]

**16.06.2021**

		London, SE1 9BB  (reference: TLF/32015.2032) Contact details tbc
29.	<b>Conditions:</b>	These Heads of Terms are subject to:  1. Contract 2. Completion of the Landlord's initial works
30.	<b>Programme:</b>	Completion of the Lease to take place within 28 days of Practical Completion of the Building.  The Building and Premises shall be completed and ready for use within 24 months of its commencement
31.	<b>Other:</b>	Please note the existence of the RICS 'Code for leasing business Premises' which has come into existence from September 2020 to promote fairness in lease negotiations. It is recommended that you seek appropriate professional advice in contemplation of entering into this lease.  The Code and supplemental guide can be accessed on the following link:  <a href="https://www.rics.org/globalassets/code-for-leasing_ps-version_feb-2020.pdf">https://www.rics.org/globalassets/code-for-leasing_ps-version_feb-2020.pdf</a>

**APPENDIX 3**  
**LOCAL FOOD SPECIFICATION**

## Local Food Specification

### Core Objectives

- Future retailers on the site should aim to source products from the areas in which they trade in order to benefit local communities and reduce food miles.
- Individuals should have easy access to food from their own locality that they can be proud of and which supports the region's economy.
- Customers should have confidence that they can access local producers and best quality produce.

### Local Sourcing

Locally sourced products should:

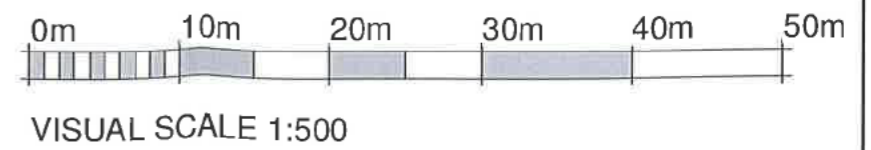
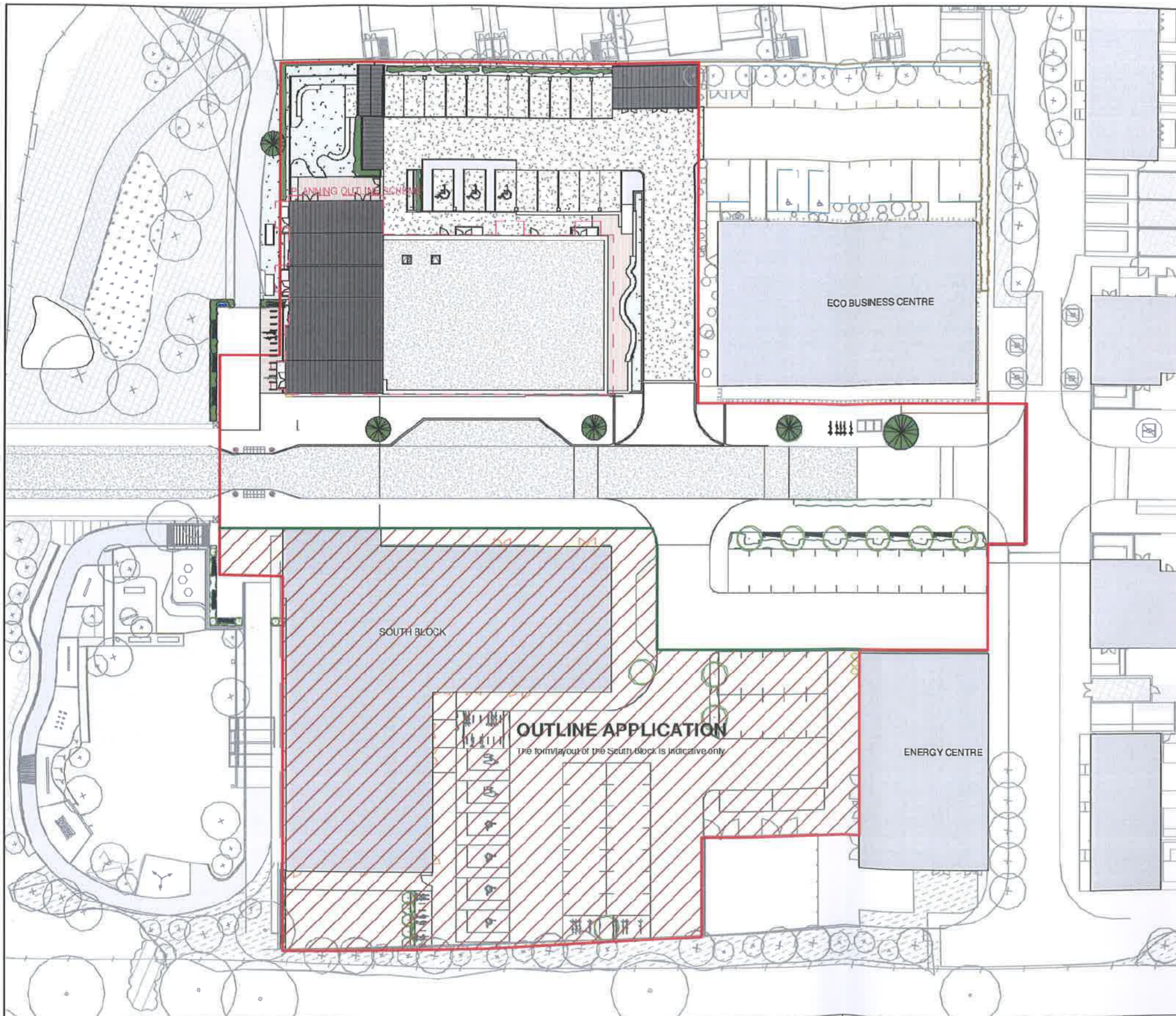
- Come from areas in which retailers trade, working alongside local suppliers and likeminded distributors.
- Be within a 40 mile radius of production.
- Be distributed via methods agreed with the supplier at the outset.
- Benefit from high ethical standards in respect to animal welfare, pesticide and sound sourcing should be demonstrated.
- If processed, should be made with the best quality ingredients which are, where possible sourced from the area.
- Be made from ingredients which are simple and recognisable and not include chemical additives such as stabilisers, emulsifiers, preservatives etc.
- Come from local producers who meet food safety standards and should be able to demonstrate their accreditation (and provide regular updates as necessary).
- Come from local producers who have strong links with the local economy.

### Range Review

Ideally, future retailers should discuss with local producers how often their range is reviewed to ensure that the foods sourced meet natural harvest cycles.

Future retailers should also discuss opportunities for one off ranges to meet specific occasions – i.e. Christmas and Easter.

**APPENDIX 4**  
**SITE PLAN**



- - - **PLANNING OUTLINE SCHEME**
- **SITE BOUNDARY**  
As per ADP drawing
- - - **FULL APPLICATION**  
As per ADP drawing

C	Landscaping and Internals updated	KJ	23.06.2021
B	Planning Issue	KJ	03.03.2021
A	Drawing issued for approval	MC	15.10.2020
REV:	NOTE:	BY:	DATE:

STATUS: PLANNING

TITLE: Site Plan

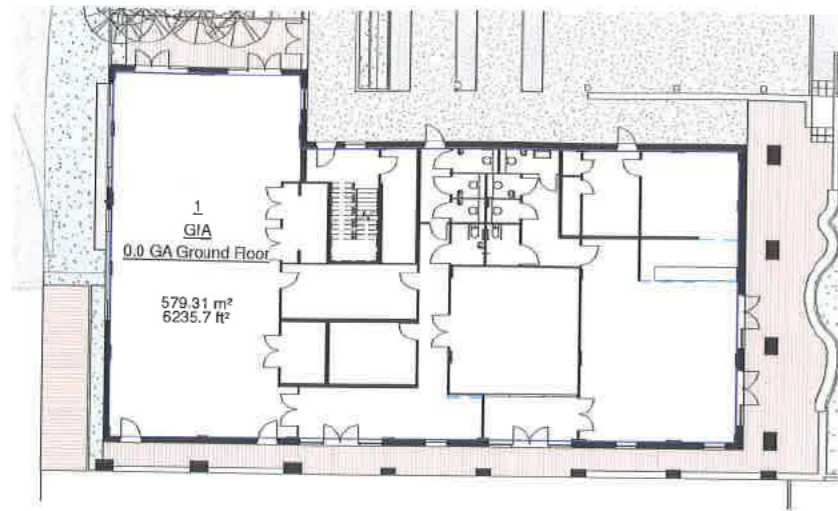
SCALE AT A1: As indicated	DATE: 16/07/2020	DRAWN: MC	CHECKED: Checker
PROJECT NO: AA0048	DRAWING NO: 2.1.000	REVISION: C	

**MB**  
 Mark Bell Architects Ltd  
 Bicester Eco Business Centre,  
 Elmsbrook, North West  
 Bicester Ecotown,  
 Oxfordshire, OX27 8AN  
 w- markbellarchitects.com

CLIENT	A2 Dominion Group
SITE	Elmsbrook Neighbourhood Centre, NW Bicester



**APPENDIX 5**  
**AFFORDABLE HOUSING PLAN**



1 0.0 GA Ground Floor  
1 : 200

Area Schedule (GIA)		
Name	Level	Area
GIA	0.0 GA Ground Floor	579 m <sup>2</sup>
GIA	0.2 GA Second Floor	626 m <sup>2</sup>
GIA	0.1 GA First Floor	626 m <sup>2</sup>
Grand total: 3		1831 m <sup>2</sup>



2 0.1 GA First Floor  
1 : 200



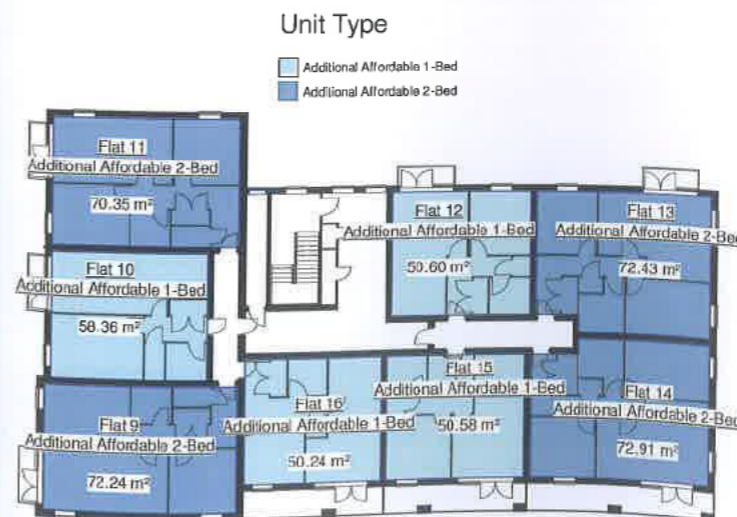
3 0.2 GA Second Floor  
1 : 200



4 0.0 GA Ground Floor  
1 : 200



5 0.1 GA First Floor  
1 : 200



6 0.2 GA Second Floor  
1 : 200

**NOTES**

- The contractor is responsible for checking dimensions, levels and elevations. Any discrepancy to be verified with the Architect before proceeding with the works.
- Where an item is covered by drawings to different scales the larger scale drawing is to be worked to.
- Do not scale drawing. Figured dimensions to be worked to in all cases.
- The structural / civil engineering and other non architectural information shown on this drawing is purely for co-ordination purposes only and in no way does it take on any responsibility or liability for MBA Ltd. For all detailed information relating to these items see the relevant consultants drawings and full design information.

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Area Schedule (Apartment Types)			
Number	Name	Area	Level
1	Community Area	363 m <sup>2</sup>	0.0 GA Ground Floor
2	Cafe Area	179 m <sup>2</sup>	0.0 GA Ground Floor
Flat 1	Affordable 2-Bed	72 m <sup>2</sup>	0.1 GA First Floor
Flat 2	Affordable 1-Bed	58 m <sup>2</sup>	0.1 GA First Floor
Flat 3	Affordable 2-Bed	70 m <sup>2</sup>	0.1 GA First Floor
Flat 4	Additional Affordable 1-Bed	51 m <sup>2</sup>	0.1 GA First Floor
Flat 5	Additional Affordable 2-Bed	72 m <sup>2</sup>	0.1 GA First Floor
Flat 6	Additional Affordable 2-Bed	73 m <sup>2</sup>	0.1 GA First Floor
Flat 7	Affordable 1-Bed	51 m <sup>2</sup>	0.1 GA First Floor
Flat 8	Affordable 1-Bed	50 m <sup>2</sup>	0.1 GA First Floor
Flat 9	Additional Affordable 2-Bed	72 m <sup>2</sup>	0.2 GA Second Floor
Flat 10	Additional Affordable 1-Bed	58 m <sup>2</sup>	0.2 GA Second Floor
Flat 11	Additional Affordable 2-Bed	70 m <sup>2</sup>	0.2 GA Second Floor
Flat 12	Additional Affordable 1-Bed	51 m <sup>2</sup>	0.2 GA Second Floor
Flat 13	Additional Affordable 2-Bed	72 m <sup>2</sup>	0.2 GA Second Floor
Flat 14	Additional Affordable 2-Bed	73 m <sup>2</sup>	0.2 GA Second Floor
Flat 15	Additional Affordable 1-Bed	51 m <sup>2</sup>	0.2 GA Second Floor
Flat 16	Additional Affordable 1-Bed	50 m <sup>2</sup>	0.2 GA Second Floor
Flat 20	Community Area	Redundant Area	0.0 GA Ground Floor
Flat 21	Cafe Area	Redundant Area	0.0 GA Ground Floor
		1537 m <sup>2</sup>	

0	Intelligent	SI	22.06.2024
1	Area Update	SI	15.09.2024
2	Layout Update	SI	03.10.2024
3	Notes	SI	03.10.2024

STATUS: PLANNING

CLIENT: A2 Dominion Group

PROJECT: Elmbrook Neighbourhood Centre, NW Bicester

TITLE: Accommodation Schedules

SCALE: A1 1:200

DATE: 15.09.2024

PROJECT NO: 42024

DRAWING NO: 2.011

DESIGNER: [Signature]

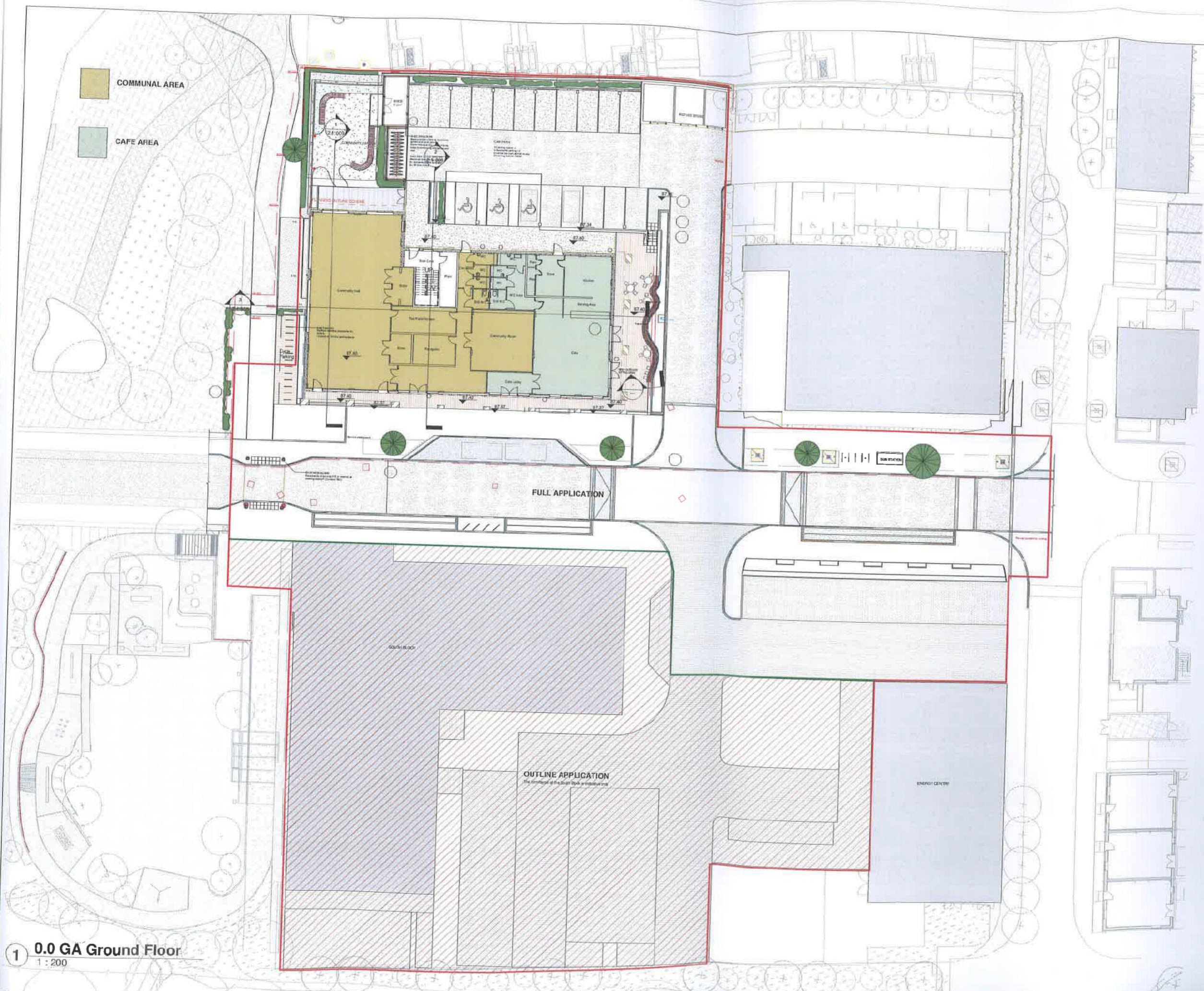
CHECKED: [Signature]

REVISION: [Signature]

**APPENDIX 6**

**COMMUNITY SPACE AND CAFÉ AREA PLAN**





**NOTES:**

- The contractor is responsible for checking dimensions, locations and alterations. Any discrepancy to be verified with the Architect before proceeding with the works. Where an item is covered by drawings in different scales the larger scale drawing is to be worked to.
- Do not scale drawing. Figured dimensions to be worked to in all cases.
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**NOTES:**


- Please note the site boundary positions identified on this drawing are subject to confirmation from Land Registry/valuation with the land owner's title deed. MBA Ltd take no responsibility for the accuracy of the survey information.
- The size and layout of the Sixth Block are for indication purposes only; the final layout, height, massing and design will be determined as filtered matters in accordance with the agreed outline parameters. Please refer to MBA Schedule of Accommodation for details.



- PLANNING OUTLINE SCHEME
- SITE BOUNDARY As per ADP drawing
- FULL APPLICATION As per ADP drawing



**1 0.0 GA Ground Floor**  
1 : 200

D	Approved/Instructed/Issued	KJ	24.06.2021				
C	Developed and Issued/Revised	KJ	23.08.2021				
R	Reviewed	KJ	02.08.2021				
A	Approved for approval	MB	18.10.2020				
REV	NOTE	BY	DATE				
STATUS	PLANNING						
							
CLIENT	AG Dominion Group						
SITE	Emmabrook Neighbourhood Centre, NW Leicester						
TITLE	Proposed GA Ground Floor Plan						
SCALE: DRAWN BY: DATE: APPROVED BY: DATE: CHECKED BY: DATE:	1:200	MB	18/10/20	KJ	23/08/21	MB	02/08/21
PROJECT NO: DRAWING NO: REVISION:	10000000	00000000	1				