



**DATED** \_\_\_\_\_ **2021**

**CLEAN VERSION OF DRAFT CIRCULATED ON 15.07.21 with final tidying  
amendments in track changes**

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**

**and**

**HERTFORDSHIRE COUNTY COUNCIL**

**and**

**ZEDRA TRUST COMPANY (UK), DIANA LADY FARNHAM and LUCINDA MARY  
CORBY, MICHAEL JOHN GILBERT BRIDGE and PATRICIA ELLEN BRIDGE**

**DEED**

Under Section 106 of the Town & Country Planning Act 1990  
Land at Heath Lane, Codicote, Herts

Legal Services  
North Hertfordshire District  
Council  
Council Offices, Gernon Road  
Letchworth Garden City  
Hertfordshire SG6 3JF  
(Ref: 18/02722/FP/LL13793)



- F Bridges are the registered freehold proprietors of the Land registered at HM Land Registry under Title Numbers HD574789 free from encumbrances that would prevent the Bridges from entering into this Deed.
- G Together Zedra, Farnham and Bridges are referred to in this agreement as the Owners.
- H On 12 October 2018 the Application was submitted to the Council for Planning Permission for the Development.
- I The Application was refused by the Council and an Appeal has been submitted to the Planning Inspectorate
- J This Deed is entered into to make provision for regulating the Development and securing the matters hereinafter referred to which are required in order to enable the Development to go ahead.

**OPERATIVE PROVISIONS:**

**WORDS AND EXPRESSIONS**

1. In this Deed the following expressions shall have the following meanings unless inconsistent with the text:

**"Act"**

means the Town and Country Planning Act 1990 as amended;

**"Affordable Housing"**

means subsidised housing within the definition of affordable housing contained in Annex 2 of the NPPF (or any subsequent replacement or modification thereof) that will be available to persons who cannot afford to rent or buy housing generally available on the open market;

**"Affordable Housing Land"**

means the land upon which the Affordable Housing Units will be built;

**"Affordable Housing Plan"**

means Plan 1 showing the location of the Affordable Housing Units attached hereto;

**"Affordable Housing Provider"**

means an organisation that is involved in the delivery and management and ownership of Affordable Housing which is registered or eligible for registration under chapter 3 part 2 of the Housing and Regeneration Act 2008 or such other body as shall be approved in writing by the Council which is capable of managing Affordable Housing and receiving grant from Homes England;

**"Affordable Housing Units"**

means those Dwellings permitted as part of the Development which are to be provided as Affordable Housing to Qualifying Persons in accordance with paragraphs 1 and 2 of Part I of Schedule One and shown marked [ ] on the attached plan;

**"Affordable Rented Unit"**

means a unit of Affordable Housing let by a local authority or private registered provider of social housing to households who are eligible for social rented housing in accordance with the definition of affordable rented housing contained in Annex 2 to the NPPF (or any subsequent replacement or modification thereof) but for the avoidance of doubt must be at an affordable rent which is subject to rent controls that require:

(i) in the case of each one or two bedroom unit a rent of no more than 80% of the equivalent local market rent (including service charges, where applicable) for one and two bedroom units respectively;

(ii) in the case of each three bedroom unit a rent of no more than 70% of the equivalent local market rent (including service charges, where applicable) for three bedroom units; and

(iii) in the case of each four bedroom unit a rent of no more than the equivalent rent (excluding service charge where applicable) for a four bedroom Social Rented Unit;

**"Appeal"**

means the appeal submitted to The Planning Inspectorate in respect of the Application and given reference APP/X1925/W/21/3273701

**"Application"**

means the application for detailed planning permission for the Development submitted to the Council by or on behalf of the Owners on 12 October 2018 and allocated reference number 18/02722/FP;

**"Application Housing Mix"**

means the mix of housing proposed by the Owners as part of the Application as set out in Schedule Five

**"BCIS Index"**

means the Building Cost Information Service All-in Tender Price Index published from time to time

**"Bus Link Contribution"**

means the sum of two hundred and twenty five thousand and Seven Hundred and Fifty pounds (£225,750) Index Linked which shall be applied towards the expansion of the 315 Bus Route through Codicote (Kimpton to Welwyn Garden City and vice-versa).

**"Call-in"**

means the reference of the Application to the Secretary of State under Section 77 of the Act

**"Car Club Spaces"**

means one parking space (unless an alternative number is otherwise agreed between the Council and the Owners in writing) to be provided on the Land as part of the Development and to be made available for use in accordance with the Travel Plan at no cost to the Council;

**"Chargee"**

means any mortgagee or chargee of the Owners or Affordable Housing Provider or the successors in title to such mortgagee or charge or any receiver or manager (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 administrator (howsoever

appointed) including a housing administrator of the whole or any part of the Affordable Housing.

***"Commencement"***

means the carrying out by any person (which for the avoidance of doubt may or may not be a Party to this Deed or their agents or representatives) of a material operation comprised in the Development within the meaning of Section 56 of the Act save that for the purposes of this Deed only "material operation" shall not include:

- a. site clearance;
- b. demolition of existing buildings;
- c. archaeological investigation;
- d. the assessment of contamination;
- e. remedial action in respect of any contamination;
- f. diversion and laying of services;
- g. the erection of fencing or other means of enclosure for site security;
- h. the display of advertisements;
- i. any off-site highways works;

and the term Commence and Commences shall be construed accordingly;

***"Community Centre Contribution"***

means the sum of two hundred and fifty one thousand, seven hundred and fifty three pounds and thirty-nine pence (£251,753.39) Index Linked which shall be applied towards the replacement/ re-build of the Codicote Scout Hut;

***"County Council Contributions"***

means together the Bus Link Contribution, Libraries Contribution, Primary Education Contribution, Secondary Education Contribution, the Sustainable Transport Contribution, Travel Plan Evaluation and Support Contribution and the Youth Service Contribution;

**“CPT Index”**

Means the Confederation of Passenger Transport Index for bus and coach industry costs which is published by the Confederation of Public Transport twice annually;

**“Decision Letter”**

means the decision letter issued by the Planning Inspector on behalf of the Secretary of State confirming whether or not the Appeal is allowed

**“Development”**

means the development authorised by the Planning Permission and described as Residential development of 167 dwellings (Use Class C3) and associated works including formal open space, internal road network, landscape enhancement and creation of accesses from Heath Lane and St Albans Road; and the demolition of 66 St Albans (as amended by drawings received 1<sup>st</sup> and 6<sup>th</sup> November 2018 and 17<sup>th</sup> and 18<sup>th</sup> December 2018;

**“District Council Contributions”**

means the Community Centre Contribution, the Pitch Sport Contribution [and](#) the Waste Collection and Recycling Facilities Contribution;

**“Disposal”**

means the transfer of a legal estate in an Affordable Housing Unit and “Dispose” shall be construed accordingly;

**“Dwellings”**

means an individual residential unit permitted as part of the Development and “Dwellings” shall be construed accordingly;

**“Ecology Contribution”**

means the sum of twenty-six thousand, seven hundred and sixty pounds (£26,760.00) (Index Linked) which shall be applied towards a local off-site biodiversity project to offset the impact on biodiversity as a result of the Development

**"Environment Bank"**

means The Environment Bank Ltd of Low Bramley Grange Farm, Bramley Grange, Grewelthorpe, Ripon, North Yorkshire, HG4 3DN, a body that delivers practical and effective net gain solutions for biodiversity in the planning system thereby achieving positive and large-scale outcomes for nature;

**"Fire and Rescue Service"**

means that part of the County Council known as the Hertfordshire Fire and Rescue Service;

**"Healthcare Contribution"**

means the sum of one hundred and eighteen thousand, two hundred and three pounds and thirteen pence (£118,203.13) (Index Linked) shall be applied towards reconfiguration of Bridge Cottage GP 41 High Street Welwyn AL6 9EF;

**"Homes England"**

means the body that funds and regulates Affordable Housing Providers and such expression shall include successors to the functions and powers of Homes England;

**"Index Linked"**

means that for the Healthcare Contribution, Libraries Contribution, Secondary Education Contribution and the Youth Service Contributions such sum shall be index-linked by reference to PUBSEC in accordance with **clause 11.1;**

means that for the Sustainable Transport Contribution and sum shall be index linked by reference to the SPONS Index in accordance with **clause 11.2;**

means for the Waste Collection and Recycling Facilities Contribution the Travel Plan Evaluation and Support Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.3;**

means for the Travel Plan Evaluation and Support Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.4;**

means for the Primary Education Contribution such sum shall each be index linked by reference to any increase in the BCIS Index in accordance with **clause 11.5;**



means for the Bus Link Contribution such sum shall be index linked by reference to any increase in the CPT Index in accordance with **clause 11.6;**

means for the Community Centre Contribution, and the Pitch Sport Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.7; and**

means for the Ecology Contribution such sum shall be index linked by reference to the Office of National Statistics Index of Monthly Retail Prices Information (RPI) in accordance with **clause 11.8 ;**

**"Interest"**

means interest at four percent above the base lending rate of Lloyds Bank from time to time;

**"Land"**

the land at Heath Lane, Codicote, Hertfordshire shown for identification purposes edged red on Plan 2;

**"Libraries Contribution"**

means the sum of twenty-eight thousand, eight hundred and seventy-four pounds (£28,874) (Index Linked) which has been calculated in accordance with the Application Housing Mix and shall be applied towards the cost of the reconfiguration of Welwyn Garden City Library to enable a Creator space;

**"Licence Period"**

means from the date of the transfer of the School Land to either:

- (i) the date when the Permanent Access has been provided; or
- (ii) the date when another suitable alternative access has been afforded

whichever is earlier

**"Local Connection"**

means that the Qualifying Person has one of the following connections to the relevant area:

- (i) has been continuously resident by choice in the relevant area for the last 12 months or has been resident by choice in the relevant area for 3 out of the last 5 years;
- (ii) has permanent employment in the relevant area; or
- (iii) has an immediate family member (this would normally be their mother, father, brother, sister or adult child) resident in the relevant area. Their residency must be by choice and have been so for a minimum of 5 years;

**"Management Body"**

means a body whose objects are for the management and maintenance of open space which has been approved by the Council in accordance with the Open Space Management Scheme

**"NHS"**

means the East and North Hertfordshire Clinical Commissioning Group (CCG) of Charter House, Parkway Welwyn Garden City Hertfordshire AL8 6JL

**"Nominations Request Form"**

means the nominations request form (Annex A to the 2019 – 2024 North Hertfordshire Housing Association Nominations Agreement) or such variations thereof as are approved by the Council

**"NPPF"**

means the National Planning Policy Framework issued by the Department for Communities and Local Government dated 19 February 2019 or any Government issued policy statement amending or replacing the same from time to time;

**"Occupation"**

means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the term "Occupied" and "Occupy" shall be construed accordingly;

**"Open Market Dwelling"**

means a Dwelling constructed on the Land as part of the Development which is not an Affordable Housing Unit;

**"Open Space Land"**

means that part of the Development identified as being Open Space pursuant to paragraph 4 of Part I of Schedule One and shown marked [ ] on Plan 3 ;

**"Open Space Management Scheme"**

means the scheme for the long-term management and maintenance of the Open Space Land by a Management Body to be approved by the Council pursuant to paragraph 4.3 of Part I of Schedule One or such variation thereof as may be agreed by the Owners and the Council;

**"Open Space Scheme"**

means the scheme for the laying out, landscaping, construction and maintenance of the Open Space Land as Open Space which shall include a scheme for the Public Right of Way to be approved by the Council pursuant to paragraph 4.1 of Part I of Schedule One or such variation thereof as may be agreed by the Owners and the Council;

**"Party"**

means any party to this Agreement;

**"Permanent Access"**

means a permanent right of way to be granted to the County Council and its agents concerning a road to be constructed by Zedra to pass over the Land and the adjoining title number HD349626 on foot and with emergency grounds maintenance and other vehicles ancillary to the Permitted Use along the approximate route shown edged and hatched green on Plan 6 or such other route as the parties may agree in writing acting reasonably and without delay at all times in connection with the Permitted Use;

**"Permitted Use"**

means a primary school playing field;

**"Pitch Sport Contribution"**

means the sum of fifty-six thousand, five hundred and sixty-two pounds and fifty pence (£56,562.50) Index Linked) which shall be applied towards the Codicote Pavilion refurbishment;

**"Plan 1"**

means the Affordable Housing Plan attached to this Deed and numbered Plan 1;

**"Plan 2"**

means the plan showing the location of the Land edged red and the School Land edged blue attached to this Deed and numbered Plan 2;

**"Plan 3"**

means the plan showing the Open Space Land attached to this Deed and numbered Plan 3;

**"Plan 4"**

means the plan showing the Temporary Access attached to this Deed and numbered Plan 4;

**"Plan 5"**

means the plan showing the Permanent Access attached to this Deed and

means the plan showing the Permanent Access attached to this Deed and numbered Plan 6;

**"Planning Inspector"**

means an inspector appointed by the Secretary of State to determine the Appeal

**"Planning Obligations SPD"**

means the North Hertfordshire District Council Planning Obligations Supplementary Planning Document dated November 2006;

Commented [DC3]: Is this reference up to date?

**"Planning Permission"**

means the planning permission granted by the Council in pursuance of the Appeal

**"Primary Education Contribution"**

means the sum of One million five Hundred and seventy three thousand and five hundred and sixty pounds (£1,573,560.00) (Index Linked) which has been calculated in accordance with the Application Housing Mix and shall be applied towards the expansion of Codicote Primary school by one form of entry;

**"Proceedings"**

means all or any of the following as the case may be:

- (i) an application for judicial review under order 54 of the Civil Procedure Rules either arising from the grant of the Planning Permission and made by any third party
- (ii) an application pursuant to Section 288 of the Act arising from the grant of the Planning Permission or a Refusal by the Secretary of State including in each case any appeals to a higher court following a judgement of a lower court

**"Public Right of Way"**

means the footpath shown on Plan 3 attached hereto that shall be provided as part of the Open Space Scheme;

**"PUBSEC Index"**

means the extension of PUBSEC Tender Price Index of Public Sector Non Housing Smoothed All-In Index published by the Building Cost information Service of the Royal Institution of Chartered Surveyors (or any successor organisation), specifically the series called 'Extension of Public Sector Tender Price Index of Public Sector Building Non Housing' or equivalent replacement index;

**"RPI Index"**

means the measure of change in the prices charged for goods and services bought for consumption in the UK produced by the Office for National Statistics

**"Qualifying Person"**

means a person or household in need of Affordable Housing identified in accordance with the provisions below:

- (i) in the case of an Affordable Rented Unit a person accepted on to the North Hertfordshire Common Housing Register (from time to time) in accordance with the North Hertfordshire Housing Partnership Common Housing Allocation Scheme 2013 (or any successor scheme approved in writing by the Council); and
- (ii) in the case of a Shared Ownership Unit, a person who meets the eligibility criteria for Shared Ownership housing set by the Government from time to time and who is approved by the relevant Help to Buy Agency appointed by the Homes and Communities Agency for the area in which the Shared Ownership Unit is located

and the term "Qualifying Persons" shall be construed accordingly;

**"School Land"**

means the land shown for identification purposes edged blue on Plan 2 forming part of freehold land registered at HM Land Registry under Title Number HD571744

**"School Land Planning Permission"**

means a planning permission with reference 1/2255-19 granted by the County Council on 21 October 2020 in pursuance of an application for detailed planning permission for the use of the School Land as a playing field in association with the Codicote Church of England Primary School, Meadow Way, Codicote, Hitchin, Hertfordshire SG4 8YL

**"Secondary Education Contribution"**

means a sum of three hundred and eighty-nine thousand, four hundred and forty-five Pounds (£389,445) (Index Linked) which has been calculated in accordance

with the Application Housing Mix and shall be applied towards the expansion of Monks Walk School by one form of entry from 8 forms of entry to 9 forms of entry;

**"Secretary of State**

means the Secretary of State for Communities and Local Government (as that title is used in the Secretary of State for Communities and Local Government Order 2006 (SI 2006/1926)) or such other office holder who at the relevant time is the person to whom an appeal may be made under Section 78 (1) of the 1990 Act;

**"Shared Ownership Lease**

means a lease in the form of the Homes England's model shared ownership lease and on terms of 990 years with shared owners able to claim up to £500 per year for the first ten years to cover repairs and maintenance costs that permit part purchase of the open market value of the equity in a unit in multiples of 1%, with a minimum of 10% and up to a maximum of 75% of the open market value of the equity in a unit being purchased initially and subject to the remainder of the equity up to 100% being obtained on any subsequent purchase together with rent payable for the open market rack rental value of the unpurchased percentage of the equity in the unit up to a value which does not exceed the rent levels set by the Homes England from time to time (or such other rent or form of lease approved in writing by the Council);

**"Shared Ownership Unit"**

means a unit of Affordable Housing to be made available by an Affordable Housing Provider under a Shared Ownership Lease and the term Shared Ownership shall be interpreted accordingly;

**"Social Rented Unit"**

means a unit of Affordable Housing which is owned by local authorities or private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime (such unit may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the Council) and in all cases in accordance with the definition of social rented housing contained in Annex 2 to the NPPF or any subsequent replacement or modification thereof;

**"SPONS Index"**

means the index linked by reference to the price adjustment formula for construction contracts in the monthly bulletin of indices published by the Building Cost Information Service (BCIS) as collated into a single index known as the Price Adjustment Formulae Indices (Civil Engineering) Series 2" .

**"Sustainable Transport Contribution"**

means the sum of seventy-six thousand pounds (£76,000) (Index Linked) which shall be applied towards the cost of upgrading the two bus stops at the Peace Memorial and the two bus stops at The Bell Public House

**"Temporary Access"**

means a temporary right of way to be granted to the County Council and its agents concerning a haul road to be constructed by the County Council to pass over the Land with or without vehicles along the approximate route shown edged and hatched green on a Plan 4or such other route as the parties may agree in writing acting reasonably and without delay for at all times the purposes of implementing the School Land Planning Permission on the School Land

**"Transfer"**

means the transfer deed in respect of the School Land substantially in the form contained in Schedule Six

**"Transfer of the Land"**

means the transfer of the Land to a third party for development;

**"Travel Plan Annual Review"**

means an annual study reviewing and monitoring the provisions of the Travel Plan (as more fully set out therein) such annual study to be carried out from the date two (2) calendar months from the first Occupation of any Dwelling and then annually on the corresponding calendar month

**"Travel Plan Coordinator"**

means the person appointed by the Owners and approved by the County Council who shall be responsible for managing on behalf of the Owners the implementation monitoring progression reporting and review of the Travel Plan in order to achieve its objectives and targets



**"Travel Plan Guidance"**

means the Hertfordshire County Council's document entitled 'Travel Plan Guidance' (as current at the time of application) which can be found at

<https://www.hertfordshire.gov.uk/travelplans>

**"Travel Plan"**

means a written agreement with the County Council setting out a scheme to encourage regulate and promote green travel measures for owners occupiers and visitors to the Development in accordance with the provisions of the County Council's 'Travel Plan Guidance for Business and Residential Development' (such version current as at the date of Commencement of the Development) and which such agreement may from time to time be varied with the written consent of the County Council or by the approval of the County Council of any recommendations for amendments or improvements to the Travel Plan made by the Owners pursuant to paragraph 9 of Schedule One or any reasonable amendments or improvements to the Travel Plan Statement notified by the County Council to the Owners pursuant to paragraph 9 of Schedule One

**"Travel Plan Evaluation and Support Contribution"**

means the sum of six thousand pounds (£6,000) (Index Linked) as a contribution towards the costs of the County Council of (1) administering and monitoring the objectives of the Travel Plan and of engaging in any Travel Plan Annual Review pursuant to this Agreement and (2) administering and monitoring the objectives of, or engaging in any review of, a travel plan in relation to the development pursuant to the requirements of the Planning Permission

**"Unconditional Date"**

means:

- (i) in the event of the grant of the Planning Permission 6 weeks plus 10 days after the date of such grant of the Planning Permission, provided that no Proceedings have been instituted in respect of the said permission before the expiry of the said 6 weeks plus 10 days; or
- (ii) in the event that following the grant of the Planning Permission Proceedings are instituted, (i) the date on which the Planning Permission is finally upheld

following the exhaustion of Proceedings; or (ii) the withdrawal of such Proceedings; or (iii) when the time for appealing against the decision of any court has expired and no such Proceedings have been lodged

**"Waste Collection and Recycling Contribution"**

means the sum means the sum to be calculated by £71.00 per dwelling house, £54 per flat with its own self-contained garden and £26.00 per dwelling flat (with shared or no amenity space) Index Linked which shall be applied towards the cost of providing waste collection and recycling facilities serving the Development;

**"Water Scheme"**

means either the proposal prepared by or approved by the water undertaker for the area pursuant to the Water Industry Act 1991 to provide mains water services for the Development whether by means of new mains or extension to or diversion of existing services or apparatus OR where existing water services are to be used it shall mean the details of the Dwellings and the water supply to them

**"Working Day"**

means any day other than a Saturday or a Sunday or a Public Holiday;

**"Youth Service Contribution"**

means the sum of seven thousand, four hundred and nineteen Pounds (£7,419) (Index Linked) which has been calculated in accordance with the Application Housing Mix and shall be applied towards upgrading the group work rooms provision at Bancroft Youth

2. Where the context provides:
  - 2.1 words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa;
  - 2.2 references to any Party means a party to this Deed and in the case of any of the Owners shall include their respective successors in title and assigns and any persons deriving title through or under them and in the cases of the Council and the County Council shall include successors to their respective functions;

- 2.3 where a Party includes more than one person any obligations of that Party shall be joint and several;
- 2.4 any reference to any statute or any section of a statute includes any statutory re-enactment or modification;
- 2.5 any reference to clauses and schedules are references to clauses and schedules to this Deed;
- 2.6 headings in the Deed shall not form part of or affect its construction;
- 2.7 where a Party is required to give consent or approval by any specific provision of this Deed such consent or approval shall not be unreasonably withheld or delayed;
- 2.8 any provision of this Deed which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Deed; and
- 2.9 any covenant by the Owners not to do any act or thing includes a covenant not to permit, allow or suffer the doing of that act or thing.

3. **STATUTORY PROVISIONS AND COVENANTS**

- 3.1 This Deed and the covenants within it are made pursuant to section 106 of the Act. To the extent that they fall within the terms of section 106 of the Act the obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council and the County Council against the Owners and each of their successors in title and assigns to each and every part of the Land and any person deriving title to each and every part of the Land through or under the Owners (subject to paragraph 2, Part I of Schedule One).
- 3.2 To the extent that any of the obligations in this Deed are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.
- 3.3 The Owners enter into the obligations for itself and its successors in title with the Council and the County Council to the intent that the obligations hereunder shall be enforceable not only against the Owners but also against the successors in title of the Owners and any person claiming through or

under the Owners an interest or estate in the Land or any part thereof PROVIDED THAT the obligations and restrictions in this Deed shall not be enforceable against a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owners to that statutory undertaker or in respect of any easements relating to cables, pipes or other service media running under the Land nor enforceable against any highway authority which may be responsible for any public highway maintainable at the public expense.

#### 4. **CONDITIONALITY**

- 4.1 Save where expressly provided for in this Deed, the covenants in this Deed are conditional upon:
- a) the grant of the Planning Permission; and
  - b) the Commencement of Development
- 4.2 If in determining the Appeal the Planning Inspector or the Secretary of State clearly and expressly states in the Decision Letter that any one or more of the planning obligations contained in this Deed are in whole or in part unnecessary or otherwise in whole or in part failed to meet the statutory tests set out in regulation 122 of Community Infrastructure Regulations 2010 then the said planning obligation or planning obligations to that extent shall not apply and to that extent shall not be enforceable by the Council or the County Council.

#### 5. **PLANNING OBLIGATIONS**

- 5.1 The Owners covenants with the Council and the County Council to observe the restrictions and to perform the obligations and activities specified in Schedule One to this Deed.
- 5.2 The Council covenants with the Owners to perform the obligations or activities specified in Schedule Two to this Deed.
- 5.3 The County Council covenants with the Owners and the Council to perform the obligations or activities specified in Schedule Three to this Deed.

6. **EXERCISE OF THE POWERS OF THE COUNCIL AND THE COUNTY COUNCIL**

Nothing in this Deed whether express or implied shall prejudice or affect the rights discretion powers duties and obligations of the Council or the County Council under any statute, bye-law, statutory instrument, order or regulation in the exercise of its functions as local planning authority, principle council, education authority, fire and rescue authority, highway authority, Libraries authority and social services authority.

7. **WAIVER**

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

8. **CONSENTS**

8.1 The Owners warrant and confirm that they have obtained all necessary permissions and consents to it enter into this Deed.

9. **SUCCESSORS IN TITLE**

No Person shall be liable for breach of any covenants or obligations in this Deed occurring after the date on which they have parted with all of their interest in the Land PROVIDED THAT they will remain liable for any breach occurring before that date. Neither the reservation of rights nor the inclusion of any covenants or restrictions over the Land in any transfer of the Land will constitute an interest for the purposes of this clause.

10. **PLANNING PERMISSION**

This Deed shall cease to have effect if the Planning Permission is quashed, revoked, expires, is modified by any statutory procedure without the consent of the Owners or is otherwise withdrawn.

11. **EXPENDITURE, INTEREST AND INDEXATION**

11.1. The Healthcare Contribution, the Libraries Contribution, the Secondary Education Contribution and the Youth Service Contributions shall be increased in accordance with any change in the Department of Business Innovation and Skills Tender Price

Index of Public Sector Non-Housing Smoothed All-In Index by the application of the formula:

$A = B \times (C \div D)$  where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the PUBSEC Smoothed All-In Index figure for the date upon which the interim payment described below is actually paid

D is the figure of 175.

11.2 the Sustainable Transport Contribution shall be index-linked to such movements in the SPONS Index from July 2006 to the date on which the Sustainable Transport Contribution is paid.

11.3 The Waste Collection and Recycling Contribution shall be increased by application of the formula:

$A = B \times (C \div D)$  where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the Office of National Statistics Index of Monthly Retail Prices Information figure for the date upon which the Contribution is actually paid;

D is the Office of National Statistics Index of Monthly Retail Prices Information figure from April 2006.

11.4 The Travel Plan Evaluation and Support Contribution shall be increased in accordance with any change to the RPI by application of the formula:

$A = B \times (C \div D)$  where:-

A is the total amount to be paid;

B is the principal sum stated in this Deed;

C is the Office of National Statistics Index of Monthly Retail Prices Information figure for the date upon which the Contribution is actually paid;

D is the Office of National Statistics Index of Monthly Retail Prices Information figure from April 2014.

11.5 The Primary Education Contribution shall be increased in accordance with any change in the Building Cost Information Service All-in Tender Price Index published from time to time by the application of the formula  $A = B \times (C \div D)$  where:-

A is the total amount to be paid;

B is the principal sum stated in this deed;

C is the BCIS Index for the date upon which the interim payment described below is actually paid and;

D is the BCIS figure of Q3 2020.

11.6 The Bus Link Contribution shall be index-linked to such movements in the CPT Index from the date of this Deed to the date on which the Bus Link Contribution is paid.

11.7 The Community Centre Contribution and the Pitch Sport Contribution shall be index-linked to such movements in the National Statistics Index of Monthly Retail Prices Information from April 2019 to the date on which the Community Centre Contribution and the Pitch Sport Contribution are paid

11.8 The Ecology Contribution shall be index-linked to such movements in the National Statistics Index of Monthly Retail Prices Information from January 2020 to the date on which the Ecology Contribution is paid

11.9 If any payment due under this Deed by the Owners is paid late, Interest will be payable from the date payment is due to the date of payment.

11.10 Where any sum to be paid to the County Council under the terms of this Deed is required to be indexed then an interim payment shall initially be made based on the latest available forecast figure (or figures as the case may be) at the date of payment and any payment or payments by way of adjustment shall be made within ten (10) Working Days of written demand by the County Council or the payer of the interim payment (as the case may be) once the relevant indices have been finalised

11.11 If prior to the receipt of any of County Council Contributions the County Council incurs any expenditure in providing additional primary education secondary education libraries youth facilities bus services sustainable transport measures or travel plan evaluation and support as the case may be the need for which arises from or in anticipation of the Development then the County Council may immediately following receipt of the relevant County Council Contribution deduct from the relevant County Council Contribution such expenditure incurred as appropriate.

12. **COSTS**

The Owners shall pay the Council's and the County Council's reasonable legal costs plus disbursements incurred in connection with the preparation negotiation and completion of this Deed immediately upon completion.

13. **REGISTRATION OF THIS DEED**

This Deed shall be registrable as a local land charge following completion by the Council as local planning authority.

14. **THIRD PARTIES**

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any right to enforce any of the terms and provisions herein on any person who is not a Party hereto or a successor in title to a Party hereto.

15. **NOTICE**

The Owners shall give the Council and the County Council prior written notice using the proforma set out in Schedule Four of

15.1 the Commencement of the Development;

15.2 the Occupation of the 1<sup>st</sup> Dwelling;

15.3 the Occupation of 50% of the Open Market Units;

15.4 the completion of the Development.

15.5 save for the disposal of any individual Dwellings to owner/occupiers any change of any interests in the Land occurring before all of 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 Land purchased by reference to a plan

15.6 the Owners shall give the County Council prior written notice using the proforma set out in schedule Four of:

15.6.1 the Occupation of the 42<sup>nd</sup> Dwelling;

15.6.2 the Occupation of the 84<sup>th</sup> Dwelling;

15.6.3 the Occupation of the 126<sup>th</sup> Dwelling; and

15.6.4 the Occupation of the 167<sup>th</sup> Dwelling.

#### 16. **SERVICE OF NOTICES AND DOCUMENTS**

Any notice required or authorised to be given by any Party shall be in writing in the form of proforma set out in Schedule Four and shall contain the Application reference number 18/02722/FP and reference to the date of this Deed and shall be sufficiently given if sent by first class post or facsimile to the following persons:

The Council                      Planning Control and Conservation Manager North Hertfordshire District Council Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF ref 18/02772/FP.

The County Council    Chief Legal Officer Hertfordshire County Council County Hall Hertford Hertfordshire SG13 8DE ref 11288.

The Owners                      at the addresses stated at the top of page 2 of this Deed

#### 17 **DETERMINATION OF DISPUTES**

In the event of there being a dispute arising out of this Deed or the subject matter thereof the following provisions shall apply:

17.1 The Parties shall use their reasonable endeavours to resolve the dispute by agreement.

17.2 If agreement cannot be reached the matter in dispute shall be referred to and settled by some independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional

body chiefly relevant in England to such qualifications and such person shall act as an expert on the application of either Party after giving notice in writing to the other party to this Deed.

- 17.3 The person to be appointed pursuant to clause 17.2 shall be a person having ten years or more post qualification experience of projects comprising works of the scale and nature of the Development.
- 17.4 Reference to the expert shall be on terms that determination shall take place within 28 working days of the expert accepting his instructions.
- 17.5 The expert shall have the power to award costs of the determination in favour of either Party to the dispute at the expense of the other Party and failing such determination such costs shall be borne by the parties in equal shares.
- 17.6 The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision.
- 17.7 The findings of the expert shall (other than in the case of a manifest material error) be final and binding on the parties to the dispute
- 17.8 For the avoidance of doubt references to 'Party' or 'Parties' in clause 17.1 exclude the County Council and the County Council shall not be required to submit to or be bound by the provisions of Clauses 17.1 -17.7.
- 17.9 For the avoidance of doubt this Clause shall not limit the right of any Party to refer any matter to the courts for determination.

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## 18 MISCELLANEOUS

- 18.1 Without prejudice to the Council's and the County Council's statutory rights the Owners hereby grant to the Council and/or the County Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter any part of the Land to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed provided that the Council or County Council gives the Owners two days notice and complies with any reasonable on site health and safety requirements of the Owners during any such inspection.
- 18.2 At the written request of the Owners at any time after the planning obligations have been fully and satisfactorily discharged/performed, the Council may issue the Owners with written confirmation of the cancellation

of all entries made in the Register of Local Land Charges in respect of this Deed.

18.3 Nothing in this Deed shall be construed as affecting prohibiting or limiting any rights to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted whether before or after the date of this Deed by the Council the County Council or the Secretary of State or any other competent authority.

18.4 Where any approval, agreement, consent, confirmation or expression of satisfaction is required under the terms of this Deed the request for it shall be made in writing and where a request is made the approval, agreement, consent, confirmation or expression of satisfaction shall not be unreasonably withheld or delayed.

18.5 Should any application for approval be made in writing by the Owners to which a response is not made by the Council within 20 working days such approval will be deemed to have been granted.

19 **JURISDICTION**

19.1 This Deed is to be governed by and interpreted in accordance with the laws of England.

19.2 The Courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Deed. This clause operates for the benefit of the Council and the County Council who retain the right to sue and enforce any judgment against the Owners in the courts of any competent jurisdiction.

20 **EXECUTION**

The Parties have executed this Deed as a deed and it is delivered on the date set out above.

## **SCHEDULE ONE**

### **PART I**

#### **OWNERS'S COVENANTS TO THE COUNCIL**

##### **Affordable Housing**

1. The Owner covenant with the Council:
  - 1.1 that the Owner shall ensure that at least 40% of the Dwellings to be built within the Development shall be Affordable Housing Units:
  - 1.2 that the Owner shall ensure that 65% of the Affordable Housing Units to be built within the Development are Affordable Rented Units/Social Rented Units and 35% of the Affordable Housing Units to be built within the Development are Shared Ownership Units;
  - 1.3 to provide the following types of Affordable Housing Units:
    - 1.3.1 as Affordable Rented Units and/or Social Rented Units:
      - 9 x one bedroom flats;
      - 20 x two bedroom house
      - 13 x three bedroom house and
      - 3 x four bedroom house
    - 1.3.2 as Shared Ownership Units:
      - 6 x one bedroom flats;
      - 6 x two bedroom houses; and
      - 10 x three bedroom house
  - 1.4 the Affordable Housing Units shall be designed and constructed so as to meet the standards contained in the National Space Standards;
  - 1.5 not to Occupy more than 35% of the Open Market Dwellings until 50% of the Affordable Housing Units:

- 1.5.1 have been constructed in accordance with the requirements set out in **paragraph 1.4** above and the Planning Permission;
  - 1.5.2 those Affordable Housing Units have been transferred to an Affordable Housing Provider; and
  - 1.5.3 subject to **paragraph 2** below and unless otherwise agreed in writing by the Council, all nominations will be made in compliance with the North Hertfordshire Common Housing Allocations Scheme and a Nomination Request Form (Annex A of the 2019-2024 Housing Association Nominations Agreement) has been submitted to the Council for all Social Rented Units and Affordable Rented Units. The Council shall have the right to nominate a Qualifying Person to occupy each of the Social Rented Units and Affordable Rented Units as referred to in **paragraph 1.16** (or such variation or substitution issued by North Hertfordshire District Council thereafter);
- 1.6 not to Occupy more than 70% of the Open Market Dwellings until all of the Affordable Housing Units:
- 1.6.1 have been constructed in accordance with the requirements set out in **paragraph 1.4** above;
  - 1.6.2 all of the Affordable Housing Units have been transferred to an Affordable Housing Provider;
  - 1.6.3 subject to **paragraph 2** below and unless otherwise agreed in writing by the Council, all nominations will be made in compliance with the North Hertfordshire Common Housing Allocations Scheme and a Nomination Request Form (Annex A of the 2019-2024 Housing Association Nominations Agreement) has been submitted to the Council for all Social Rented Units and Affordable Rented Units. The Council shall have the right to nominate a Qualifying Person to occupy each of the Social Rented Units and Affordable Rented Units as referred to in **paragraph 1.16** (or such variation or substitution issued by North Hertfordshire District Council thereafter);
- 1.7 that the transfers referred to in **paragraphs 1.5.2** and **1.6.2** shall contain the following:

- 1.7.1 the grant by the Owner to the Affordable Housing Provider of all rights of access from the public highway and full and free passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;
- 1.7.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development;
- 1.7.3 in the case of a lease (not being Shared Ownership Lease) the term shall not be less than 125 years;
- 1.7.4 covenants by the Affordable Housing Provider that:
  - 1.7.4.1 subject to **paragraph 2** below, each Affordable Housing Unit shall be used for no other purpose than Affordable Housing;
  - 1.7.4.2 subject to **paragraph 2** below, the grant of a lease, tenancy or Shared Ownership Lease in any Affordable Housing Unit shall be restricted to a Qualifying Person;
- 1.8 that subject to **paragraph 1.9 and paragraph 2** below the grant or assignment of a tenancy, lease or Shared Ownership Lease of any Affordable Housing Unit shall be restricted to a Qualifying Person with a Local Connection to the parish of Codicote;
- 1.9 that subject to **paragraph 2** if no Qualifying Person satisfies the requirements of paragraph 1.8 above then the grant or assignment of any tenancy lease or Shared Ownership Lease of any Affordable Housing Unit shall be made to a Qualifying Person with a Local Connection to one of the following areas (in order of priority from **paragraph 1.9.1 to 1.9.3**):
  - 1.9.1 the Parishes of Kimpton and Knebworth; or
  - 1.9.2 if no Qualifying Person satisfies **paragraph 1.9.1**, other rural parishes within North Hertfordshire; or
  - 1.9.3 if no Qualifying Person satisfies **paragraphs 1.9.1 or 1.9.2**, North Hertfordshire generally;
- 1.10 that subject to **paragraph 2** and with the exception of a Disposal of a Shared Ownership Lease the Owners shall not Dispose of a freehold or

leasehold estate in the Affordable Housing Units or the Affordable Housing Land other than to another Affordable Housing Provider which shall observe the covenants contained in this Deed;

- 1.11 that the Owner shall notify the Council immediately in the event of service of any notice under Sections 40 and 41 of the Housing Act 1996 or any notice, order or direction served, made or given under Schedule One Part IV of the Housing Act 1996 (or any replacement provisions to any of the above in the Housing and Regeneration Act 2008 or any subsequent statutory re-enactments or modifications thereof);
- 1.12 that subject to **paragraph 2** below the Owner shall not Occupy or permit the Affordable Housing Units to be used or Occupied other than for the provision of Affordable Housing in accordance with the terms of this Deed;
- 1.13 that subject to **paragraph 2** below the Owner shall not Occupy or permit the Social Rented Units or the Affordable Rented Housing Units to be provided pursuant to **paragraph 1.3.1** to be used or Occupied other than as Social Rented Units or Affordable Rented Units (as applicable) in accordance with the terms of this Deed;
- 1.14 that subject to **paragraph 2** below the Owner shall not Occupy or permit the Shared Ownership Units to be provided pursuant to **paragraph 1.3.2** to be used or Occupied other than as Shared Ownership Units (with the exception of those Dwellings that have been Staircased) and not to permit a tenant or occupier of a Shared Ownership Unit to initially purchase more than 80% of the equity of the Shared Ownership Unit in accordance with the terms of this Deed;
- 1.15 that subject to **paragraph 2** below the Owner and the Developer shall not Occupy or permit the Affordable Housing Units to be used or Occupied other than by Qualifying Persons and their dependants;
- 1.16 that subject to **paragraph 2** below and unless otherwise agreed in writing by the Council, the Council shall have the right to nominate a Qualifying Person to occupy the Affordable Housing Units as follows:
  - 1.16.1 the right to nominate Qualifying Persons to occupy all of the Social Rented Units and/or the Affordable Rented Units in respect of the first Disposal (by way of lease or otherwise) of all of the Affordable Housing Units; and

- 1.16.2 the right to nominate Qualifying Persons to occupy three out of every four of the Social Rented Units and/ or the Affordable Rented Units in respect of the second and subsequent Disposals of the Affordable Housing Units (by way of lease, assignment or otherwise);
- 1.17 that subject to **paragraph 2** below the Owner shall not Occupy or permit each Shared Ownership Unit to be Occupied unless and until in respect of that Shared Ownership Unit the Affordable Housing Provider referred to in **paragraph 1.6.2** above has entered into a Shared Ownership Lease to a Qualifying Person with a Local Connection.
2. The provisions of **paragraph 1.1, 1.2, 1.3, 1.4, 1.5.1,1.5.3, 1.6.1. 1.6.3, 1.7.4, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, 1.16** and **1.17** shall not be binding or enforceable against:
- 2.1 any person who shall acquire the freehold or leasehold interest in any Affordable Housing Unit pursuant to any statutory right of acquisition and any successor in title or mortgagee of that person;
- 2.2 a Chargee which shall have the benefit of a legal mortgage or charge secured against the Affordable Housing Provider's estate or interest in any Affordable Housing Unit(s) on the Affordable Housing Land who wishes to exercise its power of sale (or any person deriving title from such Chargee appointed by such Chargee) PROVIDED THAT the Chargee or receiver or manager appointed by the Chargee has notified the Council in writing that it wishes to exercise its statutory power of sale and for a period of three months from such written notification the Chargee having used reasonable endeavours has not completed the Disposal of the Affordable Housing Unit(s) to an Affordable Housing Provider PROVIDED THAT nothing in this paragraph shall require the Chargee to Dispose of the Affordable Housing Unit(s) at a price which is less than the outstanding balance of its legal mortgage or charge over the Affordable Housing Unit(s) (including interest, costs and expenses) FOR THE AVOIDANCE OF DOUBT if such Disposal has not completed after the three month period from such written notification the Chargee, shall be entitled to Dispose of the Affordable Housing Unit(s) free from the provisions of paragraphs 1.1, 1.2, 1.3, 1.5, 1.6, 1.7.4, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, 1.16 and 1.17;
- 2.3 a Chargee which shall have the benefit of a legal mortgage or charge secured against a tenant's estate or interest (leased by an Affordable



Housing Provider) in a Shared Ownership Unit who wishes to exercise its power of sale (or any person deriving title from such Chargee) PROVIDED THAT the Chargee has notified the Council in writing that it wishes to exercise its statutory power of sale and for a period of three months from such written notification the Chargee having used reasonable endeavours has not completed the Disposal of the Shared Ownership Unit to an Affordable Housing Provider or Qualifying Person PROVIDED THAT nothing in this paragraph shall require the Chargee or receiver or manager to Dispose of the Shared Ownership Unit at a price which is less than the outstanding balance of its legal mortgage or charge over the Shared Ownership Unit (including interest, costs and expenses) FOR THE AVOIDANCE OF DOUBT if such Disposal has not completed after the three month period from such written notification the Chargee, shall be entitled to Dispose of the Affordable Housing Unit(s) free from the provisions of paragraphs 1.1, 1.2, 1.3, 1.5, 1.6 1.7.4, 1.8, 1.9, 1.10, 1.12, 1.13, 1.14, 1.15, 1.16 and 1.17.

### Contributions to the Council

- 3 The Owner covenants with the Council:
  - 3.1 to pay 50% (fifty percent) of the District Council Contributions to the Council prior to the Occupation of the Development; and
  - 3.2 not to cause or permit Occupation of the Development until it has paid 50% (fifty percent) of the District Council Contributions to the Council in accordance with **paragraph 3.1** above.
  - 3.3 to pay the remaining 50% (fifty percent) of the District Council Contributions to the Council prior to the Occupation of 50% (fifty percent) of Open Market Units; and
  - 3.4 not to cause or permit Occupation of more than 50% of the Open Market Units until it has paid the remaining 50% (fifty percent) of the District Council Contributions to the Council in accordance with **paragraph 3.3** above.

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- 3.5 to pay the Ecology Contribution to the Council prior to first Occupation of any Dwelling on the Development;
- 3.6 not to cause or permit first Occupation of any Dwelling until it has paid the Ecology Contribution to the Council in accordance with **paragraph 3.5** above;
- 3.7 to pay the Healthcare Contribution to the Council prior to the Occupation of no more than 50 (fifty) Open Market Dwellings
- 3.8 not to cause or permit the Occupation of more than 50 (fifty) Open Market Dwellings until it has paid the Healthcare Contribution to the Council in accordance with **paragraph 3.7** above;

#### **Open Space**

- 4 The Owner covenants with the Council:
  - 4.1 to submit the Open Space Scheme to the Council for approval within three (3) months of the Commencement of the Development;
  - 4.2 prior to Occupation of 80% of the Dwellings to lay out the Open Space Land in accordance with the Open Space Scheme (as approved by the Council) and fully implement and comply with the Open Space Scheme (as approved by the Council);
  - 4.4 not to cause or permit the Occupation of more than 80% of the Dwellings until the Open Space Land has been laid out fully in accordance with the Open Space Scheme (as approved by the Council) to the Council's satisfaction and the Council has issued a certificate of completion in respect of the Open Space Land;
  - 4.6 prior to Occupation of 80% of the Dwellings to offer transfer the Open Space Land to the Management Body in accordance with the requirements of the Open Space Management Scheme:

- 4.7 not to cause or permit the Occupation of more than 80% of the Dwellings until (unless otherwise agreed in writing with the Council) until the Open Space Land has been transferred to the Management Body in accordance with the requirements of the Open Space Management Scheme approved by the Council and thereafter the Management Body shall manage and maintain the Open Space Land in accordance with the Open Space Management Scheme approved by the Council;
- 4.8 not to use the Open Space Land for any use or purpose other than as public open space for use by and for the enjoyment of the public in perpetuity.

#### **Car Club**

5. The Owner covenants with the Council:
- 5.1 not Occupy the Development until it has submitted a draft scheme for the operation of a Car Club including:
- (a) the location of the Car Parking Space in the Development to be made available by the Owners to residents of the Development; and
  - (b) the timing of the start of the operation of the Car Club on the Site to the Head of Planning for his approval such scheme in its approved form referred to herein as the "Car Club Scheme";
- 5.2 no more than 20 % of the Development shall be Occupied unless and until the Car Club Scheme has been approved in writing by the Head of Planning;
- 5.3 to procure the establishment and promotion of the Car Club on the Site in accordance with the Car Club Scheme and shall provide the names and address of the operator of the Car Club to the Head of Planning prior to Occupation of 30% of the Development;
- 5.4 secure that one Car Parking Space is reserved for the use of the Car Club on the Site and shall provide and retain that spaces as part and for the lifetime of the development.
- 5.5 In the event that a Car Club operator cannot be secured within 12 months of first Occupation of the Development then the Owners shall pay the sum of £5,000 (five thousand pounds) to the Council in lieu of the Car Club

provisions and on payment of such sum, the provisions of paragraphs 5.1 to 5.4 of this Schedule shall cease to have effect.

## **PART II**

### **OWNERS' COVENANTS TO THE COUNTY COUNCIL**

#### **Contributions to the County Council**

6. The Owner covenants with the County Council:
- 6.1 to pay 50% (fifty per cent) of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution and the Youth Service Contribution to the County Council prior to first Occupation of the Development; and
- 6.2 not to cause or permit first Occupation of the Development until it has paid 50% (fifty per cent) of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution and the Youth Service Contribution to the County Council in accordance with paragraph 6.1 above.
- 6.3 to pay the remaining 50% (fifty per cent) of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution and the Youth Service Contribution to the County Council prior to the Occupation of more than 50% of Development; and
- 6.4 not to cause or permit Occupation of more than 50% of the Development until it has paid the whole of each of the Primary Education Contribution, Secondary Education Contribution, Libraries Contribution, Sustainable Transport Contribution and the Youth Service Contribution to the County Council in accordance with paragraphs 6.1 and 6.3 above
- 6.5 to pay the Bus Link Contribution to the County Council in the following instalments:
- 6.5.1 £45,150 prior to first Occupation;

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6.5.2 £45,150 prior to Occupation of the 42<sup>nd</sup> Dwelling or the first anniversary of first Occupation, whichever is earlier;

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6.5.3 £45,150 prior to Occupation of the 84<sup>th</sup> Dwelling or the second anniversary of the first Occupation , whichever is earlier;

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6.5.4 £45,150 prior to Occupation of the 126<sup>th</sup> Dwelling or the third anniversary of the first Occupation , whichever is earlier;

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6.5.5 £45,150 prior to Occupation of the 167<sup>th</sup> Dwelling or the fourth anniversary of the first Occupation , whichever is earlier;

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6.6 not to Occupy the Development until the first instalment of the Bus Link Contribution has been paid to the County Council in accordance with paragraph 6.5.1.

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6.7 not to Occupy more than 41 Dwellings until the second instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 6.5.2;

6.8 not to Occupy more than 83 Dwellings until the third instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 6.5.3;

6.9 not to Occupy more than 125 Dwellings until the fourth instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 6.5.4;

6.10 not to Occupy more than 166 Dwellings until the fifth instalment of the Bus Service Contribution has been paid to the County Council in accordance with paragraph 6.5.5;

6.11 to pay the Travel Plan Evaluation and Support Contribution prior to Commencement;

6.12 not to Commence the Development until the Travel Plan Evaluation and Support Contribution has been paid to the County Council in accordance with paragraph 6.11

### **Fire Hydrants**

7. The Owner covenants with the County Council:

7.1 ensure that the Water Scheme incorporates fire hydrants in accordance with BS 750 (2012) as reasonably and properly required by the Fire and Rescue Service.

7.2 to prepare and submit the Water Scheme to the Fire and Rescue Service for its written approval prior to Commencement of the construction of any Dwelling to be constructed as part of the Development.

7.3 not to Commence nor cause nor permit Commencement of the construction of any Dwelling to be constructed as part of the Development until they shall have prepared and submitted the Water Scheme for the Development to the Fire and Rescue Service for its written approval.

7.4 to construct and provide at no cost to the Fire and Rescue Service or the County Council the fire hydrants reasonably and properly indicated in the Water Scheme and to advise the Fire and Rescue Service in writing of the date upon which each and every fire hydrant becomes operational and ready to be used for the purpose of fire-fighting by the Fire and Rescue Service.

7.5 once operational to maintain the fire hydrants in good condition and repair such that they are suitable at all times for use by the Fire and Rescue Service until they are adopted by the Fire and Rescue Service which adoption shall take place upon the issue of a certificate of satisfaction by the Chief Fire Officer of the Fire and Rescue Service the issue of which shall not be unreasonably withheld or delayed provided that such certificate shall not be issued prior to the issue by the Director of Environment of any certificate of maintenance for the highways in which the fire hydrants are located.

7.6 to ensure that each Dwelling can be served by a fire hydrant which is operational and ready to be used for the purpose of fire-fighting by the Fire and Rescue Service prior to Occupation of the Dwelling.

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- 7.7 not to Occupy nor cause nor permit Occupation of any building forming part of the Development including any Dwelling until such time as it is served by a fire hydrant which is operational and ready to be used for the purpose of fire-fighting by the Fire and Rescue Service.
- 7.8 address any notice to be given to the Fire and Rescue Service to the Water Services Officer, Fire and Rescue Service, 9 Merchant Drive, Mead Lane, Hertford SG13 7BH Telephone 01992 507638.

#### **Transfer of the School Land**

- 8 The Owner covenants with the County Council as follows:
- 8.1 subject to the grant of the Planning Permission and the provisions of this paragraph 8 and in consideration of the sum of One Pound (£1) if demanded the Owner shall transfer the School Land to the County Council.
- 8.2 the transfer of the School Land pursuant to paragraph 8.1 above shall take place upon the earlier of either:
- (i) the date that is 4 calendar months after the Unconditional Date in respect of the Planning Permission; or
  - (ii) the date falling six (6) weeks from the transfer of the Land to a housebuilder
- 8.3 the School Land shall be transferred to the County Council with vacant possession.
- 8.4 the transfer deed in respect of the School Land shall be in substantially the same form of the Transfer annexed to this Deed.
- 8.5 on the date of the transfer of the School Land to the County Council, the Owners shall place on risk a restrictive covenant indemnity insurance policy in the name of the County Council which shall have been approved by the County Council (acting reasonably) in respect of the unknown restrictive covenants affecting the School Land and the Owners shall meet the entire cost of that policy

8.6 On the transfer of the School Land to the County Council the Owner shall grant to the Temporary Access to the County Council for the Licence Period PROVIDED THAT:

- (i) there is nothing in the Planning Permission prohibiting or in contravention of this; and
- (ii) the County Council has obtained any necessary licences and/or consents to the construction of the Temporary Access
- (iii) the Permanent Access has not been provided; and
- (iv) another suitable alternative access has not been provided by way of licence to be completed on the date of the transfer of the School Land.

8.7 the Temporary Access shall be documented in the form of a haul road licence expressed to be personal between the Owners and the County Council which shall not constitute a tenancy or other interest in the land and the form of such document shall be agreed by the parties acting reasonably and without delay prior to the completion of the Transfer.

8.8 The Permanent Access shall be documented in the form of a deed of easement, the form of such document shall be agreed by the parties acting reasonably and without delay as soon as is reasonably practicable following the granting of the Temporary Access, and shall contain the following provisions:

- (i) no vehicles shall be parked on nor shall any damage be caused to the Permanent Access;
- (ii) the County Council shall within 14 days of written demand pay a fair proportion of the costs of repairing and maintaining the Permanent Access according to user;
- (iii) the County Council shall not dispose of the School Land unless the disponee enters into a direct deed of covenant with the then registered proprietor of the Permanent Access to perform the above covenants; and
- (iv) the right to use the Permanent Access shall terminate if and when adopted as highway maintainable at the public expense



## **Travel Plan**

9. The Owner hereby covenant with the County Council:
- 9.1 prior to Occupation of the Development to submit a draft Travel Plan for written approval to the County Council and obtain such approval.
- 9.2 not to Occupy nor cause nor permit Occupation of the Development until the Travel Plan has been submitted to and approved in writing by the County Council
- 9.3 prior to Occupation of the Development to nominate a Travel Plan Coordinator for written approval of the County Council and obtain such approval and such nomination shall include the contact details for the proposed Travel Plan Coordinator and the nature of their relationship to the Owners
- 9.4 not to Occupy not cause nor permit Occupation of the Development until the details of the Travel Plan Coordinator has been submitted to and approved in writing by the County Council and appointed
- 9.3 at all times during Occupation of the Development to:
- 9.3.1 comply with the terms of the approved Travel Plan including but not limited to implementing any actions by any dates specified in the Travel Plan;
- 9.3.2 promote and publicise the approved Travel Plan to owners occupiers and visitors to the Development;
- 9.3.3 implement the Travel Plan by the dates or within the time limits set out in the Travel Plan;
- 9.3.4 carry out the Travel Plan Annual Review and submit a written report setting out the findings of such review to the County Council within three (3) calendar months from the dates of each Travel Plan Annual Review such report shall include (but shall not be limited to) recommendations for amendments or improvements to the approved

Travel Plan and whether or not the objective of the Travel Plan have been achieved;

9.3.5 comply with any variations or amendments to the Travel Plan permitted by this Deed which shall in addition include any amendments or improvements reasonably required by the County Council following review of the report submitted pursuant to subparagraph 9.3.4 above and notified in writing to the Owners within three (3) calendar months from the date of receipt of such report.

## **SCHEDULE TWO**

### **COUNCIL'S COVENANTS**

1. The Council covenants with the Owners to pay the District Council Contributions and the Ecology Contribution into an interest-bearing account with the Council's bankers and together with all interest that may from time to time accrue the said monies will be applied by the Council towards the provision of the relevant facilities as specified in the definition of each such contribution.
2. If any part of the District Council Contributions paid to the Council has not been expended or committed to be spent by the Council within ten years of the date of receipt by the Council, the Council shall repay any such unexpended sum with any interest accrued thereon to the party who made that payment.
3. If a local off-site biodiversity project is not identified and/or any part of the Ecology Contribution paid to the Council has not been expended or committed to be spent by the Council within five years of the date of receipt by the Council, the Council shall give any such unexpended sum to the Environment Bank.
4. At the written request of the Owners the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been fully performed.
5. The Council covenants with the Owners to hold the Healthcare Contribution in an interest bearing account until such time as the NHS makes a written request for the Healthcare Contribution together with a proposal for the expenditure of the Healthcare Contribution for the purposes identified in this agreement.

**SCHEDULE THREE**

**COUNTY COUNCIL'S COVENANTS**

1. The County Council covenants with the Owners to use all sums received from the Owners under the terms of this Deed for the purpose(s) specified in this Deed for which they are paid
2. If any part of the County Council's Contribution paid to the County Council has not been expended or committed to be spent by the County Council within ten years of the date of receipt by the County Council of notification of completion of the Development the County Council shall repay any such unexpended sum to the party who made that payment.
3. At the written request of the Owners the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been fully performed.

**SCHEDULE FOUR**

**PROFORMA**

**EVENT NOTIFICATION AND PAYMENT**

**PURSUANT TO SECTION 106 AGREEMENT**

DATED .....

MADE BETWEEN .....

PLANNING PERMISSION REFERENCE.....

HCC DU REFERENCE .....

SITE ADDRESS .....

.....

.....

**SITE OWNERS DETAILS**

Name .....

Contact name .....

Address .....

.....

.....

Telephone nos.

Main .....

Mobile .....

Email .....

**EVENTS BEING NOTIFIED**

Commencement Date – date :.....

Occupation of Development (Number if relevant) – date:.....

Completion of Development – date: .....

**COMPLIANCE WITH OBLIGATION(S)**

**Schedule** ..... **Paragraph** .....

**Details of obligation and compliance** .....

**PAYMENT OF S106 CONTRIBUTIONS**

| Payment Type                | Amount | Interim Indexation | Final Indexation | Total    | Payable to           |
|-----------------------------|--------|--------------------|------------------|----------|----------------------|
| Example Education (primary) | X<br>£ | Y<br>£             | Z<br>£           | X+Y<br>£ | Herts County Council |
|                             |        |                    |                  |          |                      |
|                             |        |                    |                  |          |                      |
|                             |        |                    |                  |          |                      |
|                             |        |                    |                  |          |                      |
|                             |        |                    |                  |          |                      |
|                             |        |                    |                  |          |                      |

Payment of S106 contributions can be made by BACS, CHAPS or cheque. In any event the form should be completed to ensure the payment is identified correctly and forward to:

a) The Chief Legal Officer  
 Hertfordshire County Council  
 County Hall,  
 Pegs Lane  
 Hertford  
 Hertfordshire  
 SG13 8DE

(Ref : 11288)

b) To Planning Control and Conservation Manager North Hertfordshire District Council  
 Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF (18/02722/FP)

**SCHEDULE FIVE**

**SCHEDULE OF ACCOMODATION**

**SCHEDULE SIX**

**Form of Transfer**



**EXECUTED and DELIVERED** as a **DEED** on the date of this document

**EXECUTED** under the Common Seal of  
**NORTH HERTFORDSHIRE  
DISTRICT COUNCIL**

in the presence of:

Duly Authorised Officer

**EXECUTED** under the Common Seal of  
**HERTFORDSHIRE COUNTY COUNCIL**

in the presence of:

Chief Legal Officer/ Assistant Chief Legal Officer

**EXECUTED** as a **DEED** by  
**ZEDRA TRUST COMPANY (UK)**

Acting by two Directors/a Director  
and its Secretary

Director

Director/Secretary

**EXECUTED AS A DEED** by )  
**DIANA LADY FARNHAM** )  
in the presence of )

Witness Name

Signature  
Address  
Occupation

**EXECUTED AS A DEED** by )  
**LUCINDA MARY CORBY** )  
in the presence of )

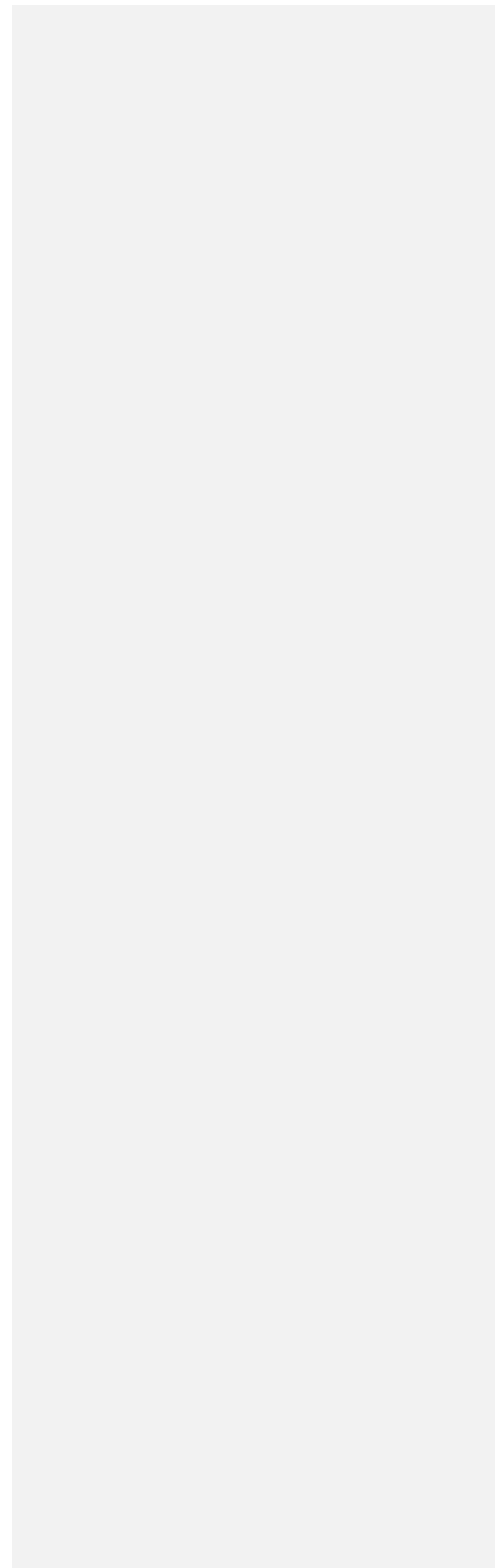
Witness Name

Signature  
Address  
Occupation

**EXECUTED AS A DEED** by )  
**MICHAEL JOHN GILBERT BRIDGE** )  
in the presence of )

Witness Name

Signature  
Address  
Occupation



**EXECUTED AS A DEED** by            )  
**PATRICIA ELLEN BRIDGE**        )  
in the presence of                )

Witness Name

Signature

Address

Occupation

