

DATED \_\_\_\_\_

<b>SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL</b>	<b>(1)</b>
<b>and</b>	
<b>BLOOR HOMES LIMITED</b>	<b>(2)</b>
<b>and</b>	
<b>KEVIN JOHN KINGSTON</b>	<b>(3)</b>
<b>and</b>	
<b>SUSAN ELIZABETH CHAPPELL and CLIVE ANSTEY</b>	<b>(4)</b>

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**A G R E E M E N T**

under Section 106 of the Town and Country Planning Act 1990  
Section 278 of the Highways Act 1980  
Section 1 of the Localism Act 2011  
Sections 111 and 120 of the Local Government Act 1972 and other  
statutory provisions relating to land at Sodbury Road, Wickwar,  
South Gloucestershire GL12 8PG

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John McCormack  
Head of Legal, Governance and Democratic Services  
South Gloucestershire Council  
PO Box 1953  
Bristol  
BS37 0DE

Reference PT.7740

**THIS AGREEMENT** is made the            day of            **B E T W E E N SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL** of Department for Resources and Business Change, PO Box 1953, Bristol, BS37 0DE (the "Council") of the first part, **BLOOR HOMES LIMITED** (Company Reg. No. 02162561) whose registered office is at Ashby Road, Measham, Swadlincote, Derbyshire, DE12 7JP (the "Developer") of the second part, **KEVIN JOHN KINGSTON** of South Farm, Sodbury Road, Wickwar, Wotton-Under-Edge, GL12 PG (the "First Owner") of the third part, **SUSAN ELIZABETH CHAPPELL and CLIVE ANSTEY** of 2 Frith Lane, Wickwar, Wotton-Under-Edge GL12 8PB (the "Second Owner")

**WHEREAS:-**

- A. The First Owner is registered at the Land Registry as proprietor with freehold title GR345658 in respect of part of the Land
- B. The Second Owner registered at the Land Registry as proprietor with freehold title GR354761 in respect of part of the Land
- C. The Developer has submitted the Application to the Council and intends to carry out the Development
- D. The Developer has submitted the Appeal for the non-determination of the Application to Secretary of State
- E. The Council is the local planning authority for the area in which the Land is situated and wishes to ensure that if Planning Permission is granted and the Development is commenced:
  - (i) the local highway network is constructed and improved to accommodate the additional traffic likely to be generated by the Development and/or ensure that highway safety is maintained on the local highway network
  - (ii) appropriate measures are implemented in order to reduce single occupancy car use and to promote use of an alternative means of transport
  - (iii) adequate arrangements are made for the provision of landscaping and subsequent maintenance of the Open Spaces and adequate arrangements are made for the dedication of the Open Spaces to ensure that sufficient land to serve the Development is available for open space and recreational purposes
  - (iv) that a financial contribution is made towards off-site Open Spaces improvements and maintenance which are necessitated by the Development
  - (v) that 35% the Dwellings comprising the Development are made available in perpetuity for social low-cost accommodation in order to meet the objectives set out in paragraph 2 of Schedule 6 to this Agreement

- (vi) that a financial contribution is made towards public transport improvements which are necessitated by the Development
  - (vii) that a financial contribution is made towards the provision of education which are necessitated by the Development
  - (viii) that a financial contribution is made towards library services improvements which are necessitated by the Development
  - (ix) that a financial contribution is made towards the provision or enhancement of a community centre which is necessitated by the Development
  - (x) adequate arrangements are made for the provision of a retail unit
  - (xi) that 5% of the Dwellings comprising the Development are made available as self and/or custom build housing
- F. The Council considers it expedient in the interests of the proper planning of its area that provision should be made for regulating or facilitating the Development as set out in this Agreement. For the purposes of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) the Council is satisfied that the restrictions and provisions contained in this Agreement are necessary to make the Development acceptable in planning terms, that they are directly related to the Development and are fairly and reasonably related in scale and kind to the Development.
- G. The Parties enter into this Agreement to secure the planning obligations contained in it which shall take effect should the Secretary of State (by his inspector or otherwise) allow the Appeal.

## **DEFINITIONS AND INTERPRETATION**

The words and expressions below shall mean as follows:-

- 1.1. "**Act**" shall mean the Town and Country Planning Act 1990 and that and any other reference to the Act shall include any amending or replacing legislation for the time being in force
- 1.2. "**Appeal**" shall mean the appeal for the non-determination of the Planning Application which has been given reference APP/P0119/W/23/3323836 by the Planning Inspectorate
- 1.3. "**Chief Financial Officer**" shall mean the Council's Chief Financial Officer for the time being or his duly appointed agent
- 1.4. "**Commencement of Development**" means the date upon which the Development shall commence by the carrying out on the Land pursuant to the Planning Permission of a material operation as specified in section 56(4) of the Act SAVE THAT the term "material operation" shall not include operations in connection with any work of or associated with demolition, site clearance, remediation works, environmental investigation, site and soil

surveys, erection of a contractor's work compound, erection of a site office and erection of fencing to the site boundary and "Commence Development" and "Commenced" shall be construed accordingly

- 1.5. "**Contributions**" shall mean the financial contributions payable by the Owner to the Council in accordance with the Schedules to this Agreement
- 1.6. "**Development**" shall mean the development of the Land in accordance with the Planning Permission
- 1.7. "**Director**" shall mean the Council's Director for Place for the time being or his duly appointed agent
- 1.8. "**Dwellings**" shall mean the residential units that may be built on the Land as part of the Development and "Dwelling" means one of them
- 1.9. "**Expert**" shall mean the independent expert appointment for the purposes of clause 19
- 1.10. "**Land**" shall mean the land situate at Sodbury Road, Wickwar, Wotton-Under-Edge in South Gloucestershire shown edged red on Plan 1
- 1.11. "**Monitoring Fee**" shall mean 1% of the Contributions payable under this Agreement
- 1.12. "**Occupation**" shall mean 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 expressions "Occupy" "Occupied" "Occupier" and "Occupant" shall be construed accordingly
- 1.13. "**Owner**" shall mean the First Owner and the Second Owner jointly
- 1.14. "**Practical Completion**" means the issue of a certificate of practical completion by the Owner's architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect
- 1.15. "**Parties**" shall mean the parties to the Agreement and "Party" shall be construed accordingly
- 1.16. "**Phase**" shall mean a phase of the Development on the Land containing one or more Dwellings
- 1.17. "**Plan 1**" shall mean the plan annexed to this Agreement and numbered 1 (SITE PLAN)
- 1.18. "**Plan 2**" shall mean the plan annexed to this Agreement referenced NRP Drawing 7909-SK02 Rev 2.0 (or alternative plan subject to any agreed road safety audit) and numbered 2 (HIGHWAY PLAN)
- 1.19. "**Plan 3**" shall mean the plan annexed to this Agreement referenced B05313 C SK05 Rev A (or alternative plan subject to any agreed road safety audit) and numbered 3 (HIGHWAY PLAN)



- 1.20. "**Plan 4**" shall mean the plan annexed to this Agreement and numbered 4 (OPEN SPACES PLAN)
- 1.21. "**Plan 5**" shall mean the plan annexed to this Agreement and numbered 5 (MASTER PLAN)
- 1.22. "**Plan 6**" shall mean the plan annexed to this Agreement referenced 7909-SK04 Rev 1 (or alternative plan subject to any agreed road safety audit) and numbered 6
- 1.23. "**Planning Application**" shall mean the application made by the Developer to the Council under reference number P22/01300/O for planning permission to develop the Land by the erection of up to 180 dwellings, a local shop and associated infrastructure (Outline) with access to be determined; all other matters reserved and shall include any application relating to the Land that is both substantially similar and made under section 73 of the Act SUBJECT TO clause 13 of this Agreement
- 1.24. "**Planning Permission**" shall mean any permission given in respect of the Planning Application
- 1.25. "**Reserved Matters Application**" shall mean an application for approval of matters reserved under the conditions of the Planning Permission
- 1.26. "**Reserved Matters Approval**" shall mean the approval of a Reserved Matters Application
- 1.27. "**Secretary of State**" shall mean the Secretary of State for Levelling Up, Communities and Local Government or other minister or other authority for the time being having or entitled to exercise the powers conferred by the Act
- 1.28. In this Agreement unless the context indicates otherwise: -
- 1.28.1. Any reference to the Parties or any other legal or natural person shall include his her its or their heirs assigns and successors in title and in the case of any local authority shall also include any successor in function
- 1.28.2. Any covenants obligations or other commitments given by more than one Party shall be joint and several
- 1.28.3. Where the Owner or Developer is not a body corporate then neuter words shall include the masculine or feminine gender (as the case may be) and singular words shall include their plural numbers
- 1.28.4. The headings throughout this Agreement are for convenience only and shall not be taken into account in the construction and interpretation of this Agreement

**NOW THIS AGREEMENT WITNESSES** as follows:

## **1 STATUTORY POWERS**

THIS Agreement is a deed and will be registered as a Local Land Charge and is entered into pursuant to Section 106 of the Act Section 278 of the Highways Act 1980 Section 1 of the Localism Act 2011 Sections 111 and 120 of the Local Government Act 1972 and all other statutory and other enabling powers and shall be enforceable accordingly but without prejudice to all and any other means of enforcing them at law or in equity or by statute

## **2 ENFORCEMENT**

THE Owner and the Developer covenant and agree that obligations created by this Agreement are planning obligations for the purposes of Section 106 of the Act and are enforceable as such by the Council

## **3 THIRD PARTIES**

IN accordance with Sections 1(2) and 2(3)(a) of the Contracts (Rights of Third Parties) Act 1999 no term of this Agreement shall be enforceable by a person who is not a party to this Agreement and any term may be rescinded or varied without the consent of any third party

## **4 SUBSTANTIVE COVENANTS**

THE Owner for and on behalf of themselves and their heirs assigns and successors in title with the intention that the following provisions shall bind the Land and every part of it into whosoever's hands it may come covenants with the Council that it will comply with the covenants contained in this Agreement and the Schedules annexed to this Agreement

## **5 RIGHT OF ENTRY**

IF pursuant to a breach the Council requires to carry out all or any part of the works required under the terms of this Agreement the Owner irrevocably authorises the Council and anyone appointed on its behalf (on giving reasonable notice except in the case of an emergency) to enter any part of the Land reasonably required for that purpose

## **6 CHANGE OF OWNERSHIP**

6.1 Subject to the provisions of 6.3 below UNTIL such time as the provisions of this Agreement have been fully complied with the Owner will in relation to any freehold or leasehold transfer of all or any part of their respective interests in the Land deliver to the Council (by Royal Mail Recorded Signed For service) notice in writing of the transfer including the following information namely

6.1.1 the name and address of the transferee and

6.1.2 a description of the land the subject of the transfer including a plan and

6.1.3 the nature of the interest transferred

- 6.2 Where notice pursuant to clause 6.1 has been given and subsequently it is identified that the details provided require change (whether due to an error or to a change in the terms of the transfer or otherwise) the Owner shall serve a further notice in accordance with clause 6.1 save that in the case of a non-material change the Council may in writing and in its absolute discretion waive the need for such further notice
- 6.3 The provisions of clauses 6.1 and 6.2 shall not apply to any freehold or leasehold transfer of any Dwelling or land required in connection with any substations, pumping stations or other form of infrastructure provided on the Land for the purposes of providing necessary utilities to Occupiers on the Land.

## **7 WARRANTY**

THE Owner and the Developer warrant that it is entitled to carry out all the works provided for in this Agreement in under or upon the Land and to carry out the Development

## **8 NOTICES**

ANY notices to be served on or document to be submitted on or to any Party to this Agreement shall be delivered or posted to that Party at the address specified as theirs at the head of this Agreement and in the case of the Council addressed to the Council's Head of Legal, Governance and Democratic Services and quoting the planning reference number

## **9 CONFIRMATION OF INTERESTS**

THE Owner confirms that apart from the Parties to this Agreement there are no other persons with any interest (legal or equitable) in the Land or any part thereof

## **10 LOCAL AUTHORITY'S STATUTORY POSITION**

NOTHING herein contained or implied shall limit prejudice or affect the rights duties and obligations of the Council under all statutes byelaws statutory instruments orders and regulations in the exercise of its function as a local authority

## **11 OPERATIVE DATE**

- 11.1 THIS Agreement shall come into effect on the grant of Planning Permission and the Commencement of Development save for Clause 14 which shall become operative on the date of this Agreement
- 11.2 The planning obligations contained in the this Agreement shall be conditional so that they shall only come into effect in the event that the Planning Inspectorate determining the Appeal finds that the relevant obligation satisfies the test of regulation 122 of the Community Infrastructure Levy Regulations 2010.

## **12 NOTICE OF COMMENCEMENT OF DEVELOPMENT**

THE Owner shall give to the Council seven (7) days prior written notice of its intention to Commence Development and shall confirm in writing within seven (7) days following the Commencement of Development that the Development has commenced PROVIDED that failure to provide either of the said notifications shall not render this Agreement inoperative

## **13 SECTION 73 PERMISSIONS**

IF the Council agrees pursuant to an application under section 73 of the Act to any variation or release of any condition contained in the Planning Permission or if any condition is varied or released following an appeal under section 78 of the Act the covenants or provisions of this Agreement shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission save where the Council in its determination of such an application for the new planning permission or the Secretary of State or Inspector in their determination of such appeal indicate that consequential amendments are required to this Agreement to reflect the impact of the section 73 application and in such circumstances a separate deed pursuant to section 106 of the Act will be required to secure relevant planning obligations relating to the new planning permission.

## **14 COSTS**

THE Developer shall pay to the Council on the date hereof its reasonable legal costs incurred in connection with this Agreement

## **15 MONITORING FEE**

THE Owner shall pay to the Council the Monitoring Fee upon the Commencement of the Development as a contribution towards the Council's cost of monitoring the implementation of this Agreement

## **16 INDEMNITY**

THE Owner will without prejudice to the Council's statutory and common law powers and rights hold the Council harmless and keep the Council indemnified from and against any claim in connection with or incidental to the carrying out of any works required by this Agreement or in respect of any other requirement of or covenant with the Council contained in this Agreement

## **17 INTEREST**

IF any sum payable under this Agreement is not paid within fourteen (14) days of the date when it is due then save in the case of a manifest error by the Director in calculating the due

sum the Owner shall in addition to any payment in respect of the sum due pay interest on the sum from the due date until actual payment at the rate of 3% above the base rate from time to time of National Westminster Bank Plc

## **18 INDEXATION**

ANY sum payable to the Council shall be index linked in accordance with the Schedules to this Agreement

## **19 DISPUTE RESOLUTION**

- 19.1 In the event of any dispute or difference relating to any matter contained in this Agreement any party to the dispute (including successors in title to the Parties to this Agreement) may, by serving notice of the same on the other party or parties, require it to be referred for determination by an Expert (who will act as an expert not an arbitrator) appointed under clause 19.2 below, acting in accordance with clauses 19.3 to 19.9
- 19.2 If the Parties do not make the appointment of the Expert by agreement within 14 days of service requiring reference of the dispute, the Expert shall be nominated upon the application of either Party by the President (or other officer to whom the making of such appointment is for the time being delegated) of the Law Society and the Expert shall be an independent person who has been professionally qualified in respect of the subject matter of the dispute or difference for not less than 10 years
- 19.3 Unless the Expert shall direct to the contrary, not more than 28 days after his appointment the Parties shall exchange and copy to the Expert written summaries of their cases together with a bundle of key documents relied upon
- 19.4 The Expert shall be at liberty to visit the Land relevant to the dispute unaccompanied and to call for such written evidence from the Parties as he may require
- 19.5 The Expert shall not, unless he directs to the contrary, hear oral representations from any party to the dispute
- 19.6 The Expert shall fully consider all submissions and evidence when making his decision
- 19.7 The Expert shall give his decision in writing and shall give reasons
- 19.8 The Expert shall use reasonable endeavours to give his decision and the reason for it as speedily as possible and in any event within 42 days of his appointment
- 19.9 The Expert's decision (save in the case of manifest or legal error) including his decision as to costs shall be final and binding. The Expert's fees shall be payable by the Parties in such proportions as he shall determine and in default of such determination equally between them

## **20 MISCELLANEOUS**

- 20.1 Insofar as any clause or clauses of this Agreement are found (by the Secretary of State or 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 Agreement
- 20.2 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development
- 20.3 No person shall be liable for any breach or non-performance of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Land or that part in respect of which such breach or non-performance occurred but without prejudice to liability for any subsisting breach arising prior to parting with such interest Provided That the reservation of any rights or the inclusion of any covenants or restrictions over the Land shall not constitute an interest for the purposes of this clause 20.3
- 20.4 The obligations in this Agreement are not binding or enforceable against any statutory undertaker or any individual owner, mortgagee, occupier, lessee or licensee of a Dwelling except for the obligations in Schedule 5 which shall apply to the Affordable Dwellings to the extent set out therein
- 20.5 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted after the date of this Agreement.
- 20.6 This Agreement is governed by and interpreted in accordance with the law of England and the Parties submit to the non-exclusive jurisdiction of the courts of England

**IN WITNESS** whereof this Agreement is executed as a deed by the parties and delivered the day and year first before written

## **SCHEDULE 1 : HIGHWAY IMPROVEMENTS**

### **Part 1: Definitions relating to Highway Works**

- 1.1 "Certificate No 1" and "Certificate No 2" shall mean the certificates of completion referred to respectively in Paragraphs 4.11 and 4.13 of Part 4 of this Schedule
- 1.2 "Highways Maintenance Period" shall mean a period of twelve months from the date of the issue of Certificate No 1 but if at the end of that period the Director forms the view that he cannot issue Certificate No 2 the Highways Maintenance Period shall include such further period as shall elapse until the issue of Certificate No 2
- 1.3 "Highway Works" shall mean the works described in Part 2 of this Schedule and shall be treated as if they were street works for the purposes of the New Roads and Street Works Act 1991 and "associated works" shall mean all related works properly required by the Council to assimilate the Highway Works into the existing highway network
- 1.4 "HMSO Specification" shall mean the "Specification for Highway Works" in force at the time of the execution of the Highway Works published by The Stationery Office and shall where appropriate include any standard specifications or requirements identified by referred to in or incorporated into those specifications
- 1.5 "Programme" shall mean the programme agreed by the Owner/Developer with the Council for carrying out the Highway Works
- 1.6 The "Safety Audit" shall mean an audit of the safety aspects of the design of the Highway Works which shall be carried out in accordance with the approved procedures of the Institute of Highways and Transportation and the "Auditor" shall mean the auditor approved under Part 4 paragraph 1.2 of this Schedule

### **Part 2: Highway Works**

- 2.1 The provision of the following highway works shown on Plan 2 and comprising of:
  - 2.1.1 a southbound bus stop with footway extensions ("Bus Stop and Footway Works");
  - 2.1.1 a controlled crossing, with footway extensions to tie into the new southbound bus stop ("Southern Access Works"); and
  - 2.1.3 a village gateway with speed roundels and fencing
- 2.2 A new pedestrian crossing to North junction as shown on Plan 3 ("Northern Access Works")
- 2.3 Upgrade signals at B4060/B4509 junction to MOVA ("MOVA Works")
- 2.4 Wayfaring signs, dropped kerbs and tactile paving on Burleigh Way, Amberley Way and Inglestone Road as shown on Plan 6 "Wayfair Works"

### **Part 3: Covenants relating to the Highway Works**

The Owner/Developer shall :-

- 3.1 Give to the Council at least one month's written notice of the Developer's intention to commence the Highway Works and thereafter diligently to proceed with the Highway Works at no cost to the Council in accordance with the provisions of this Schedule and without prejudice to the foregoing to keep to a minimum the period of occupation of the public highway so as to ensure the safety of traffic and pedestrians and the minimum disruption to users of and traffic flow on the public highway
- 3.2 Not to Commence the Development until he has carried out and substantially completed the Highway Works (to the stage when Certificate No 1 may be issued) at the Owner's/Developer's expense and to the reasonable satisfaction of the Council and that in doing so the Owner/Developer will observe the terms and requirements set out in Part 3 of this Schedule except for the Bus Stop and Footway Works, Southern Access Works, Northern Access Works and MOVA Works which shall be carried out and substantially completed with the following timetable:
  - 3.2.1 The Bus Stop and Footway Works are to be carried out and substantially completed (to the stage when Certificate No 1 may be issued) prior to First Occupation of the Development;
  - 3.2.2. The Southern Access Works are to be carried out and substantially completed (to the stage when Certificate No 1 may be issued) prior to completion of the Retail Unit;
  - 3.2.3 The Northern Access Works are to be carried out and substantially completed (to the stage when Certificate No 1 may be issued) prior to First Occupation of the Development;
  - 3.2.4 The MOVA Works are to be carried out and substantially completed (to the stage when the Certificate No 1 may be issued) prior to First Occupation of the Development
  - 3.2.5 The Wayfair Works are to be carried out and completed prior to the First Occupation of the Development.
- 3.3 Before the Commencement of Development enter into a Bond in the form annexed hereto at Appendix 3 with a reputable surety approved beforehand by the Council for Two Hundred Thousand Pounds (£200,000.00) to the effect that if the Owner/Developer defaults in any way in carrying out its obligations under this Schedule then the Council may demand the sum of money necessary to remedy the default from the surety and the surety shall pay such sum to the Council within five working days
- 3.4 Before commencing any part of the Highway Works or the Development pay to the Council towards the expenses to be incurred by the Council in supervising the execution of the Highway Works



- 3.5 If it commences any part of the Highway Works or the Development without producing a Bond in accordance with Paragraph 3.3 of this Part or complying with such alternative arrangements as the Council shall previously have agreed in writing forthwith pay to the Council in cash the amount of the Bond specified in Paragraph 3.3 of this Part the amount of the supervision fee specified in Paragraph 3.4 (if not already paid) and an additional sum of 10 per centum (10%) of both those sums to cover the Council's costs of administration in respect of such payment PROVIDED THAT on the issue of Certificate No 2 the Council shall refund the amount of the Bond to the Owner/Developer less any costs that the Council may have incurred in carrying out the obligations of the Owner/Developer under this Agreement
- 3.6 Before commencing any part of the Highway Works and without prejudice to the Owner's/Developer's responsibilities as set out in this Agreement submit to the Director for his approval (which will not be unreasonably withheld or delayed) the plan the drawings the Programme and details of the contractor the Owner/Developer proposes to use for the Highway Works
- 3.7 Comply with the provisions of Part III of the New Roads and Street Works Act 1991 and associated codes of practice and co-operate with the Director in the carrying out of his duty to co-ordinate street works
- 3.8 Pay the Council its reasonable and proper costs in connection with the issue of a substantial street works notice under Section 58 of Part III of the New Roads and Street Works Act 1991 to be notified to the Owner/Developer by the Director
- 3.9 Effect and maintain such insurance as the Council may require with reputable insurers approved beforehand by the Council in respect of any claims arising from the carrying out of the Highway Works and before commencing the Highway Works furnish the Council with certification of the insurance cover in such manner as the Council shall require and if called upon at any time by the Council supply the Council with a copy of the insurance policy and proof that it is in force and such other information relating to the policy as the Council shall reasonably require
- 3.10 Where the Developer uses a contractor to carry out the Highway Works the Developer shall remain liable to the Council for the due performance and observance of this Agreement and the Developer shall ensure that the contractor has insurance cover against losses and claims for injuries or damage to persons or property arising out of or in consequence of the Highway Works shall be not less than Five Million Pounds (£5,000,000) in respect of any one incident or such other sum as may be specified to the Council in writing
- 3.11 Without prejudice to the Council's right to take action under Section 59 of the Highways Act 1980 (or otherwise) either reimburse to the Council the cost of repairing any damage caused to any highway maintainable at the public expense by any traffic arising from the

carrying out of the Highway Works or of the Development or alternatively (at the option of the Council) effect such remedial works as may be required by the Director

- 3.12 Before commencing any part of the Highway Works or the Development obtain at the Owner's/Developer's expense any temporary or permanent orders closing or altering any roads bridleways or footpaths which cross the Land or which will be affected by the Development or which may otherwise be required to enable it to be implemented
- 3.13 Pay to the Council its reasonable and proper costs in connection with any traffic regulation orders or consultation procedures required for the Development or the Highway Works and carry out forthwith any consequent physical works including associated works
- 3.14 If the Highway Works or any part of them fall within the scope of the Construction (Design and Management) Regulations 2015 (SI 2015/51) comply at all times with those Regulations and with any request by the Director for him to inspect the Health and Safety file and prior to the issue of Certificate No 2 supply the Director with a copy of the sections of the Health and Safety file which relate to the Highway Works

#### **Part 4: Terms and conditions for the execution of the Highway Works**

##### **4.1 SPECIFICATION**

4.1.1 The Highway Works shall be designed and executed in accordance with the current HMSO Specification together with any modifications thereto which in the opinion of the Director are appropriate and applicable to the Highway Works on the day upon which execution of the Highway Works begins

4.1.2. Before commencing any part of the Highway Works the Owner/Developer shall submit the completed design to a reputable auditor approved beforehand by the Council for a Safety Audit. The Safety Audit and any report on the recommendations shall be submitted to the Council for final approval. The Owner/Developer shall amend the design in accordance with any direction given by the Council pursuant to such audit.

##### **4.2 ACCESS**

The Owner/Developer shall during the progress of the Highway Works give the Director and anyone duly authorised by him free access to every part of the Highway Works on the Land thereof and permit him or them to inspect the same as the Highway Works proceed and all materials used or intended to be used in the Highway Works and shall give effect to any requirements made or direction given by the Director to conform to the approved plans of the Highway Works and their specification

#### **4.3 TESTING OF MATERIALS**

4.3.1 The Director shall have full power without any obligation to do so to test all materials plant and workmanship at the Owner's/Developer's expense to ensure that they comply with the terms of the HMSO Specification or the publications referred to therein

4.3.2 The Owner/Developer shall forthwith replace or repair any materials plant or works which have been found unsatisfactory

4.3.3 The Director shall for the purposes of this Agreement be allowed access to the places where materials or plant for the Highway Works may be stored or are in the course of preparation manufacture or use

#### **4.4 OPENING OF HIGHWAY WORKS**

4.4.1 The Director may issue instructions to the Owner/Developer to open up or expose any work which has been covered up without previously being inspected by the Director

4.4.2 Should the Owner/Developer fail to comply with any instructions for the taking up or exposing of any work the Council may take up or expose the work in question

4.4.3 The Owner/Developer shall reimburse to the Council the full cost of any work done by the Council under this paragraph unless the Owner/Developer has first requested the Council to carry out an inspection which the Council has not carried out within five working days of receiving such request and on the Council subsequently taking up or exposing the work in question no defects have been discovered

#### **4.5 EXISTING STREET FURNITURE**

The Owner/Developer shall remove all existing street furniture affected by the Highway Works and any materials of a conservation nature and either relocate it/them or deliver it/them for storage as directed by the Director

#### **4.6 DIVERSION OF STATUTORY UNDERTAKERS' APPARATUS**

Should any of the statutory undertakers require all or any part of their underground or overhead plant or apparatus to be removed or diverted as a consequence of the Development or the Highway Works such removal or diversion shall be carried out in accordance with the provisions of the New Roads and Street Works Act 1991 and the costs of any such removal or diversion (as certified by the statutory undertaker affected) shall be borne by the Owner/Developer

#### **4.7 PREVENTION OF MUD BEING CARRIED ON TO THE PUBLIC HIGHWAY**

The Owner/Developer shall make provision to the Director's satisfaction at the site of the Highway Works to prevent mud and other materials from being carried on to adjacent highways by vehicles and plant leaving the Land or the site of the Highway Works (including the provision

and use of on-site wheel washing facilities if required by the Director) and shall sweep the highway in the vicinity of the Land and the Highway Works at the end of each working day

#### **4.8 TRAFFIC CONTROL**

During the period when the Highway Works are being executed the Owner/Developer shall institute at its own expense measures required or approved by the Director to maintain the best possible traffic flows on the highways in the vicinity of the Land

#### **4.9 ROAD SAFETY**

- 4.9.1 Before commencing any work on the Land the Owner/Developer will agree with the Director the number and location of access points to the Development from existing highways in order to reduce so far as possible road safety hazards and will use only the accesses approved by the Director
- 4.9.2 During the period when the Highway Works and the Development are being carried out the Owner/Developer will comply with the provisions of Chapter Eight of the Road Signs Traffic Manual (published by the Department of Transport) for lighting and signing the Highway Works and the Development
- 4.9.3 During the period when the Highway Works and the Development are being carried out and also during the Highways Maintenance Period the Owner/Developer will comply with any directions that the Director gives it with regard to measures to control traffic parking storage of materials and any matter relating to the preservation of public safety
- 4.9.4 If the Owner/Developer fails to comply with a direction given by the Director under paragraph 4.9.3 above or in the case of an emergency the Director may forthwith arrange for the taking of any necessary steps and recover the cost of doing so from the Owner/Developer and/or the surety

#### **4.10 SUBSTANTIAL COMPLETION OF THE HIGHWAY WORKS**

- 4.10.1 When the Highway Works have been substantially completed the Owner/Developer shall give notice to the Auditor requesting the Auditor to carry out a final audit of all safety aspects of the Highway Works and shall carry out any amendments to the Highway Works pursuant to such audit and shall procure a certificate from the Auditor certifying that he is satisfied that all the requirements of the Safety Audit have been satisfactorily complied with
- 4.10.2 If the Highway Works or any part of them to be carried out by the Owner/Developer under this Agreement are not carried out or not completed to the satisfaction of the Director in accordance with the terms of this Agreement and the Programme the Council after giving fourteen days notice of its intention to the Owner/Developer (except in cases of emergency) may execute or complete the Highway Works by its own employees or by contractors or in

such manner as it thinks fit and recover the proper cost as certified by the Director from the Owner/Developer or the surety and no completion certificate shall be issued in respect of the Highway Works until all such works have been executed and the cost of any such works carried out by or on behalf of the Council has been paid by or on behalf of the Owner/Developer

#### **4.11 CERTIFICATE OF SUBSTANTIAL COMPLETION**

- 4.11.1 When the Highway Works have been substantially completed to the satisfaction of the Director and are available for use by the public he shall issue Certificate No 1 to that effect on behalf of the Council
- 4.11.2 Upon issue of Certificate No 1 the Director will authorise the reduction of the Bond by up to ninety per centum of the Bond figure
- 4.11.3 If the Highway Works are constructed in phases the Director may authorise the phasing of the issuing of Certificate No 1 (and subsequently Certificate No 2) with appropriate reductions in the Bond which the Director may agree

#### **4.12 HIGHWAYS MAINTENANCE PERIOD**

- 4.12.1 During the Highways Maintenance Period the Owner/Developer shall remain responsible at his own expense for remedying to the Director's satisfaction any defect or damage arising from faulty workmanship design or materials and the Owner/Developer shall on being given notice in writing specifying such defect or damage at its own expense and within one month from the date of the notice (unless a longer period is agreed with the Director) make good the same to the Director's satisfaction
- 4.12.2 During the Highways Maintenance Period the Owner/Developer shall maintain the Highway Works (including scavenging sweeping cleaning and grass-cutting) to the Director's satisfaction
- 4.12.3 During the Highways Maintenance Period the Owner/Developer shall provide to the Director's satisfaction any pedestrian hardstandings and connections required to facilitate the use of public transport in the immediate vicinity of the Highway Works and/or the Development

#### **4.13 CERTIFICATE OF ADOPTION**

- 4.13.1 After the expiration of the Highways Maintenance Period and after the Owner/Developer has made good any defects or damage as therein provided to the Director's satisfaction the Director shall issue Certificate No 2 and from the issue of that certificate the Highway Works shall become highways maintainable at the public expense and the Owner/Developer shall cease to be required to have a Bond PROVIDED THAT

4.13.2 The Council's obligation to adopt and issue Certificate No 2 shall in the case of road gullies and their connections extend only as far as their points of entry to the surface water sewers where these are not being adopted by the Council as highway drains and, PROVIDED ALSO THAT

4.13.3 No certificate shall be issued under this Agreement until the Highway Works have been joined to an existing publicly maintained highway in accordance with the approved plan

4.13.4 On the issue of Certificate No 2 the remainder of the Bond shall be released

#### **4.14 MINOR ALTERATIONS**

4.14.1 If at any time during the progress of the Highway Works the Director considers it necessary and reasonable he may require the Owner/Developer to incorporate minor alterations or additions to the design or construction of the Highway Works

4.14.2 The Owner/Developer may request the Director to agree minor alterations or additions to the Highway Works and PROVIDED that the Director is satisfied (a) that the benefit to the public will not substantially be decreased by the alteration and (b) (where appropriate) that the Owner's/Developer's request is reasonable the Director will comply with such a request

4.14.3 The terms and provisions of this Agreement shall apply to the altered Highway Works as they apply to the Highway Works as originally planned

#### **4.15 AS-BUILT DRAWINGS**

Upon completion of the Highway Works (including remedial works) the Owner/Developer will provide the Council with a negative of the as-built drawings of the Highway Works

#### **4.16 COMPLETION OF THE HIGHWAY WORKS**

On completion of the Highway Works the Owner/Developer shall clear away and remove from the site of the Highway Works all constructional plant surplus material rubbish and temporary works of every kind and leave the site of the Highway Works in a workmanlike condition

## **SCHEDULE 2 : TRAVEL PLAN**

### **Part 1: Definitions relating to the Travel Plan**

In this Schedule the following words and expressions shall have the meaning set out below:-

- 1.1 "Annual Monitoring Fee" means the sum of one thousand pounds (£1,000) (Index Linked) to be paid each year for a period of 5 years to be applied towards the ongoing costs of the Council in monitoring the implementation of the approved Travel Plan over the Travel Plan Implementation Period
- 1.2 "Index" means the Retail Price Index (all items) published by the Office for National Statistics or any official publication substituted for it
- 1.3 "Index-Linked" means the sum is to be adjusted by reference to the amount of any increase in the Index over the period from August 2023 to the published Index for the month immediately prior to payment of any sums to the Council
- 1.4 "Smarter Travel Voucher" means a sum of money (or voucher equivalent) equal to One Hundred Pounds (£100) (Index Linked) per Dwelling to be made available to the first and (if not claimed) subsequent household(s) occupying each Dwelling to purchase items that encourage and support them to make sustainable travel choices including but not limited to bus tickets, rail tickets, waterproofs and bicycles
- 1.5 "Travel Plan" shall mean a residential travel plan and a commercial travel plan in respect of the Retail Unit Land to be submitted to and approved by the Council and which must secure the following:
  - 1.5.1 the appointment of a Travel Plan Coordinator for 5 years;
  - 1.5.2 the promotion of sustainable travel to and from the Development and within the Development;
  - 1.5.3 the provision of a travel information guide to the first household to Occupy each Dwelling and employees of the Retail Unit;
  - 1.5.4 set out a mechanism for the distribution of the Smarter Travel Vouchers
  - 1.5.5 the provision of a cycle maintenance stand within the Development
  - 1.5.6 the identity (including relevant qualifications) of the proposed Travel Plan Coordinator
  - 1.5.7 the promotion, implementation and monitoring of the Travel Plan for 5 years
  - 1.5.8 legacy travel planning once the Travel Plan Implementation Period has ended
- 1.6 "Travel Plan Contribution" means the sum of Four Hundred and Five Pounds (£405) (Index Linked) per Dwelling to be paid to the Council for the purpose of the Council implementing a travel plan at the Development and shall include the provision of the Smarter Travel Voucher

- 1.7 "Travel Plan Coordinator" means a suitably qualified and experienced travel plan coordinator engaged to undertake the role set out in the approved Travel Plan
- 1.8 "Travel Plan Implementation Period" means the period commencing on first Occupation and ending on the later of:-
- (a) the date which is five years following first Occupation and
  - (b) the date which is two years following the Practical Completion of the last Dwelling
- or such other date as may be agreed in writing between the Owner and the Council
- 1.9 "Retail Unit" means as defined at Schedule 7
- 1.10 "Retail Unit Land" means as defined at Schedule 7

## **Part 2: Covenants related to the Travel Plan**

### **2. TRAVEL PLAN ELECTION**

- 2.1 Within three (3) months of the date of the first Reserved Matters Approval the Owner/Developer shall serve written notice on the Council electing to do one of the following:-
- 2.1.1 implement the Travel Plan in accordance with paragraph 3; or
  - 2.1.2 subject to paragraph 2.2 pay the Travel Plan Contribution pursuant to paragraph 4
- and not to Commence the Development until such notice has been served.
- 2.2 The Council shall within twenty eight (28) Working Days after service of the Owner's notice pursuant to paragraph 2.1 be entitled to serve a counter-notice on the Owner rejecting the Owner's election to pay the Travel Plan Contributions, and in the event such a counter-notice is served, the Owner shall implement a Travel Plan in accordance with paragraph 2 PROVIDED THAT if no counter-notice is served on the Owner within the said 28 Working Day period it shall be deemed that the Owner is entitled to pay the Travel Plan Contributions.

### **3. TRAVEL PLAN**

- 3.1 Where in the written notice served pursuant to paragraph 2.1 the Owner elects to implement a Travel Plan or the Council serves a counter-notice pursuant to paragraph 2.2 the Owner shall:-
- 3.1.1 within six (6) months of Commencing the Development submit and obtain the Council's written approval to a Travel Plan;



- 3.1.2 actively promote, implement and maintain the approved Travel Plan in full in accordance with the timescales contained therein;
- 3.1.3 make the approved Travel Plan available to prospective purchasers of Dwellings as part of the marketing information for the Dwellings;
- 3.1.4 not Occupy any Dwellings until:
  - a) (without prejudice to the timescale outlined in paragraph 3.1.1) the Travel Plan has been approved in writing by the Council;
  - b) the first Annual Monitoring Fee has been paid to the Council and the Owner covenants to pay the Annual Monitoring Fee on the anniversary of the said payment each year until the end of the Travel Plan Implementation Period; and
  - c) the Travel Plan Coordinator has been appointed and the Council has been notified of such appointment in writing;
- 3.1.5 retain a Travel Plan Coordinator until the end of the Travel Plan Implementation Period and notify the Council in writing each time a Travel Plan Coordinator is appointed or replaced such notice to include the identity (including relevant qualifications) of the appointed person
- 3.1.6 make the Smarter Travel Vouchers available to residents of the first and (if not claimed by the first household) subsequent household(s) Occupying each Dwelling during the Travel Plan Implementation Period in accordance with the terms of the approved Travel Plan.

#### **4. TRAVEL PLAN CONTRIBUTIONS**

- 4.1 Where the written notice served pursuant to paragraph 1.1 the Owner elects to pay the Travel Plan Contributions and the Council does not serve a counter-notice pursuant to paragraph 1.2 the Owner shall:-
  - 4.1.1 pay the Travel Plan Contribution to the Council in the following instalments:-
    - (i) 10% within 3 months of Commencing the Development;
    - (ii) 40% no later than Occupation of the first Dwelling; and
    - (iii) 50% no later than Occupation of 50% of the Dwellings



## **SCHEDULE 3 : CONTRIBUTION TO PUBLIC TRANSPORT**

### **Part 1: Definitions relating to the financial contribution to Public Transport**

In this Schedule the following words and expressions shall have the meaning set out below:-

- 1.1 "Index" means the Retail Price Index (all items) published by the Office for National Statistics or any official publication substituted for it
- 1.2 "Index-Linked" means the sum is to be adjusted by reference to the amount of any increase in the Index over the period from August 2023 to the published Index for the month immediately prior to payment of any sums to the Council
- 1.3 "Public Transport Planning Contribution" means the sum of One Hundred and Fifty Thousand Pounds (£150,000.00) (Index Linked) to be used towards the intervention with residents along the bus service route between Wotton under Edge and Yate town centre to include the villages of Charfield and Wickwar to serve the Development to maximise the patronage to include promotion, information provision and bus taster tickets
- 1.4 "Public Transport Contribution" means the sum of [Fifty Thousand Pounds (£50,000.00) per annum for 5 years ]/[ Four Hundred and Eighteen Thousand Pounds (£418,000.00) per annum for 5 years ](Index Linked) towards the provision and/or enhancement of a bus service to serve the Development

### **Part 2: Covenants relating to the financial contribution to Public Transport**

- 2.1 The Owner covenants to pay:
  - 2.1.1 the first instalment of the Public Transport Contribution in the sum of [Fifty Thousand Pounds (£50,000.00)] / [Four Hundred and Eighteen Thousand Pounds (£418,000.00)] to the Council on Commencement of the Development;
  - 2.1.2 [Fifty Thousand Pounds (£50,000.00)] / [Four Hundred and Eighteen Thousand Pounds (£418,000.00)] of the Public Transport Contribution to the Council on the anniversary of the said payment at paragraph 2.1.1 each year until the end of the period of 5 years
  - 2.1.3 the Public Transport Planning Contribution to the Council on Commencement of the Development

## **SCHEDULE 4 : OPEN SPACES**

### **Part 1: Definitions relating to the Open Spaces**

- 1.1 "Ancillary Open Space" shall mean those elements of amenity space and other public and/or open space within the Development which are not Public Open Space including but not limited to inaccessible ecological areas, landscaped belts, boundary screening vegetation, embankments, and soft landscaped road verges which will not become maintainable at the public expense
- 1.2 "Allotments" shall mean the allotment plots to be used for the purpose of producing fruit vegetables or flowers for personal use to be provided by the Owner/Developer comprising a minimum of 864 square metres indicatively shown on Plan 4 to be provided for the Occupants of the Dwellings and such allotments shall be laid out levelled and topsoiled and provided with a water supply and each plot to be provided a secure storage and there shall be four parking spaces and a turning area provided. Some of the allotment provision should be suitable for disabled people e.g. raised beds and they shall comply with relevant legislation pertaining to the provision and use of allotments and shall be set up in accordance with the guidelines of the National Society of Allotment and Leisure Gardeners (unless otherwise agreed with the Council in writing)
- 1.3 "Certificate A" shall mean the certificate of completion referred to in Paragraph 2.7 of Part 2 of this Schedule
- 1.4 "Index" shall mean the indices based on the Updating Percentages published by the Building Cost Information Service for the Schedule of Rates for Grounds Maintenance 1987
- 1.5 "Index Linked" shall mean the sum is to be adjusted by any increase in the Index between August 2023 and the date of actual payment PROVIDED THAT if there is any change after the date of this Agreement in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of this Agreement had been retained
- 1.6 "Informal Recreational Open Space" shall mean informal recreational open space comprising an area of a minimum of 4,986 square metres indicatively shown on Plan 4
- 1.7 "Inspection Fee" shall mean the sum of Sixty Three Pounds and Ninety Six Pence (£63.96) Index Linked per one hundred square metres (100sq.m.) of Open Space payable to the Council as a contribution towards the costs of carrying out the inspections provided for in this Schedule 4 and such sum shall include the payment of a core service fee in the sum of Six Hundred and Fifteen Pound and Ninety Pence (£615.90)

- 1.8 "Landscaping Scheme" shall mean the scheme referred to in Paragraph 2.1 of Part 2 of this Schedule for the provision of the hard and soft landscape features of the Open Spaces, which shall include a timetable for the commencement and completion of the Landscaping Works prior to the Occupation of more than 70% of the Dwellings in a relevant Phase (if applicable)
- 1.9 "Landscaping Works" shall mean the works specified in the Landscaping Scheme including a timetable to be approved by the Council
- 1.10 "Management Entity" shall mean either (a) a company (including a residents management company) trust or other body established by the Owner and approved in writing by the Council or (b) an established company trust or other body approved in writing by the Council in either case whose:
- 1.10.1 primary objectives shall include owning, operating, managing and maintaining in perpetuity the Open Spaces in perpetuity, including engaging with residents on such operation, management and maintenance including promoting resident representation and engagement in the setting of the service charge; and
- 1.10.2 and whose memorandum and articles of association (or equivalent) shall provide that all of its income and profits arising from the Development are to be applied to the management and maintenance of the Open Spaces
- 1.11 "Management and Maintenance Scheme" shall mean a framework for the Management Entity setting out its purpose, powers, responsibilities and internal procedures and the detailed specification for the upkeep and future maintenance and management of the Open Spaces following the satisfactory laying out of the Open Spaces in accordance with the Landscaping Scheme and Surface Water Infrastructure Scheme and shall include the details set out in Appendix 1
- 1.12 "Natural and Semi-natural Open Space" shall mean the natural and semi-natural open space comprising an area a minimum of 6,480 square metres indicatively shown on Plan 4
- 1.13 "Open Spaces" shall mean the Allotments the Ancillary Open Space the Public Open Space and the Surface Water Infrastructure comprising 32,500 square metres of the Land and in such location(s) as may be agreed with the Council pursuant to the Reserved Matters Approval
- 1.14 "Provision for Children and Young People" shall mean a minimum of 1080 square metres of equipped play space for children and young people indicatively shown on Plan 4 to comply with EN1176 and EN1177 and completed to RoSPA and Fields in Trust guidelines and including seating bins and play area signage

- 1.15 "Public Open Space" or "POS" shall mean the Informal Recreational Open Space and Natural and Semi-Natural Open Space, the Provision for Children and Young People and any Surface Water Infrastructure located on or under the POS (which is not to be adopted by a statutory undertaker) to be provided by the Owner on the Land in such location(s) as may be agreed with the Council pursuant to the Reserved Matters Approval
- 1.16 "Site Compound" means any area used for siting offices toilets fuel tanks cabins storage containers the storage of materials and the construction of temporary roads and hardstandings
- 1.17 "Surface Water Infrastructure" means those parts of the Open Spaces that include watercourses and/or which the Owner/Developer has or proposes to carry out the laying out construction and implementation of surface water drainage land drainage surface water attenuation/retention/balancing or flood storage drainage works apparatus pipes and culverts and control facilities and devices and which are not to be adopted by a statutory undertaker
- 1.18 "Surface Water Infrastructure Scheme" shall mean a scheme for the provision and implementation of Surface Water Infrastructure and shall include a programme for implementation including any interim arrangements for managing surface water during the course of the construction of the Development
- 1.19 "Surface Water Infrastructure Works" shall mean the works to create the Surface Water Infrastructure

## **Part 2: Covenants relating to the Open Spaces**

- 2.1 The Owner/Developer shall pay the Inspection Fee to the Council prior to carrying out any works comprised in the Landscaping Works or the Surface Water Infrastructure Works whichever is the sooner

### **Scheme Approved**

- 2.2 The Owner/Developer shall not Commence the Development without having first submitted for and obtained the written approval of the Director to the Landscaping Scheme and the Surface Water Infrastructure Scheme
- 2.3 Within 6 months of Commencement of Development the Owner/Developer shall provide a Management and Maintenance Scheme for the Open Spaces and no Dwelling shall be Occupied unless or until the Management and Maintenance Scheme for the Open Spaces has been submitted to and approved by the Director

- 2.4 Prior to the Occupation of the first Dwelling the Owner/Developer shall secure the management and maintenance of the Open Spaces in perpetuity in accordance with the approved Management and Maintenance Scheme

### **Landscaping Works and Surface Water Infrastructure Works**

- 2.5 The Owner/Developer shall commence and complete the Landscaping Works in accordance with the timetable set out in the approved Landscaping Scheme

### **Site Compound**

- 2.6 The Owner shall not at any time use any part of the Open Spaces as a Site Compound without the prior approval in writing of the Director

### **Issue of Certificate of Completion of the Landscaping Works**

- 2.7 Upon completion of all the Surface Water Infrastructure Works and/or the Landscaping Works the Owner/Developer shall give to the Director written notification to that effect including independent documentary evidence that the Surface Water Infrastructure Works have been constructed in accordance with the design approved pursuant to the relevant condition in the Planning Permission and including an as-built survey that proves the required attenuating capacity and documentary evidence in the form of a certificate of practical completion from the Owner's/Developer's landscape architect confirming that the Landscaping Works have been completed in accordance with the approved Landscaping Scheme including a post- installation report from The Royal Society for the Prevention of Accidents in respect of the Provision for Children and Young People); and shall request the Director to inspect the Surface Water Infrastructure Works and/or the Landscaping Works AND it is agreed between the Parties that where Provision for Children and Young People is completed prior to the completion of other Landscaping Works the Owner/Developer shall give the Director written notification to that effect and invite the Director to inspect the Provision for Children and Young People prior to the completion of the other Landscaping Works in order that they may be made available for use
- 2.8 Upon the Director confirming on inspection that they have been satisfactorily completed he shall sign-on Certificate A to that effect and if the Director reasonably advises that he does not approve the completion of the Landscaping Works and any Surface Water Infrastructure Works as being in accordance with the Landscaping Scheme and/or the Surface Water Infrastructure Scheme the Owner/Developer shall undertake the necessary works to complete the Landscaping Works and/or the Surface Water Infrastructure Works in accordance with the Landscaping Scheme and/or the Surface

Water Infrastructure Scheme and shall make subsequent requests for written approval of the completion of the Landscaping Works and/or the Surface Water Infrastructure Works as soon as possible after completion thereof until such approval is provided by the issue of Certificate A

- 2.9 Following the issue of Certificate A in respect of the Landscaping Works and the Surface Water Infrastructure Works (or part of them) the Owner/Developer shall ensure that the Public Open Space which is the subject of the relevant Certificate A is made and thereafter remains freely available in perpetuity for use by the general public save where temporary closure is reasonably necessary for the purpose of essential maintenance and/or repair works or in the case of emergency
- 2.10 Following the issue of Certificate A in respect of the Landscaping Works and the Surface Water Infrastructure Works (or part of them) the Owner shall ensure that the Open Spaces are directly accessible allowing entry and egress of plant and materials from any publicly owned land or from the public highway to maintain the same

#### **Replacement of trees and shrubs**

- 2.11 In addition to the obligations under paragraph 2.5 above if the planting of any tree or shrub or other plant forming part of the Landscaping Scheme should for any reason die or be removed or felled the Owner/Developer shall to the Director's satisfaction replace that tree or shrub with another of the same or similar, or other species approved by the Director during the next planting season

#### **Existing hedges and trees**

- 2.12 Unless otherwise agreed with the Director in writing, the Owner/Developer shall not remove any existing hedges or fell any existing trees prior to the approval of or other than in accordance with the Landscaping Scheme

#### **Maintenance**

- 2.13 For the avoidance of doubt the Owner/Developer shall remain responsible for and hereby covenants to ensure the proper maintenance of the Open Spaces (or any part thereof) until such time as the legal transfer to the Management Entity has been completed

#### **Creation of Rights**

- 2.14 The Owner/Developer shall not create or grant any rights easements quasi-easements or privileges over the Open Spaces which might in any way affect the use of or the



access to the Open Spaces as envisaged under this Agreement without the Council's prior written approval

**Part 3: Transfer of on site open space to Management Entity**

- 3.1 The Owner/Developer may at their absolute discretion elect to retain ownership of and responsibility for the Open Spaces or to transfer the Open Spaces to a Management Entity PROVIDED THAT the Owner shall inform the Council of such election in writing upon submission of the Management and Maintenance Scheme to the Council pursuant to paragraph 2.3 of Part 2 of this Schedule
- 3.2 If the Owner/Developer elects to transfer the Open Spaces to a Management Entity such transfer shall take place as soon as reasonably practicable following approval by the Director of the completion of the Open Spaces and thereafter the Management Entity shall manage and maintain the Open Spaces in perpetuity and subject to the terms of the Planning Permission in accordance with the relevant Management and Maintenance Scheme
- 3.3 Subject to paragraph 3.1 above the Owner/Developer shall not cause or permit the transfer of the Open Spaces unless the Council has agreed in writing the terms and conditions of any such transfer (such agreement not to be unreasonably withheld or delayed).

## **SCHEDULE 5 : CONTRIBUTION TO OFF SITE OPEN SPACES**

### **Part 1: Definitions relating to the financial contribution towards off site open spaces facilities provision and/or enhancements**

The words below shall mean as follows :-

- 1.1 **"Index"** shall mean the indices based on the Updating Percentages published by the Building Cost Information Service for the Schedule of Rates for Grounds Maintenance 1987 or any official publication substituted for it
- 1.2 **"Index Linked"** shall mean the sum is to be adjusted by any increase in the Index between August 2023 and the date of actual payment PROVIDED THAT if there is any change after the date of this Agreement in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of this Agreement had been retained
- 1.3 **"Outdoor Sports Facilities Capital Contribution"** shall mean the sum payable in accordance with Paragraph 2.1 of Part 2 of this Schedule towards the provision and/or enhancement of outdoor sports facilities at such locations as may be appropriate to serve the Development and which projects are accepted by the Director as being compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010
- 1.4 **"Outdoor Sports Facilities Maintenance Contribution"** shall mean the sum payable in accordance with Paragraph 2.2 of Part 2 of this Schedule towards the future maintenance of the outdoor sport facilities provision of which is to be funded by the Outdoor Sports Facilities Capital Contribution

### **Part 2: Covenants relating to the financial contribution towards off site open spaces facilities provision/enhancements**

- 2.1 The Owner will pay to the Council the Outdoor Sports Facilities Capital Contribution (Index Linked) prior to the first Occupation of the Development such sum to be calculated as follows:-

$$\mathbf{A \times B \times C = Outdoor Sports Facilities Capital Contribution}$$

Where:

A = number of Dwellings to be constructed x 2.4 (persons per dwelling)

B = 16 (sq.m. per person)

C = £58.2749

- 2.2 The Owner will pay to the Council the Outdoor Sports Facilities Maintenance Contribution (Index Linked) prior to the first Occupation of the Development such sum to be calculated as follows:-

**A x B x C = Outdoor Sports Facilities Maintenance Contribution**

Where:

A = number of Dwellings to be constructed x 2.4 (persons per dwelling)

B = 16 (sq.m. per person)

C = £17.6379

## **SCHEDULE 6 : AFFORDABLE HOUSING**

### **Part 1: Definitions relating to Affordable Housing**

1. The words and expressions below shall mean as follows:
  - 1.1. "2008 Act" means the Housing and Regeneration Act 2008
  - 1.2. "Actual Market Value" shall mean the market value of an Affordable Dwelling assessed in a Staircasing Event.
  - 1.3. "Additional Affordable Housing" means any new replacement or additional Affordable Housing provided within the Council area in a scheme that shall first have been agreed by the Director (such agreement not to be unreasonably withheld or delayed) to meet identified housing need at the time of the provision which for the avoidance of doubt excludes any Affordable Housing provided without the need for Public Subsidy pursuant to Part 2 of this Schedule of this Agreement or brought forward as part of the Council's prevailing adopted development plan Affordable Housing requirement in pursuance of Section 106 of the Act or subsequent legislation
  - 1.4. "Affordable Dwelling" shall mean a dwelling identified and agreed as forming part of the Affordable Housing to be made available in perpetuity together with rights and easements over the Land to provide access to the dwelling and such entrance way corridors parking areas and other ancillary areas as are necessary for the enjoyment of such a dwelling including car parking in accordance with this Schedule
  - 1.5. "Affordable Housing" shall mean affordable housing as described and defined in Annex 2 of NPPF or any Planning Policy Statement Guidance Notes or Circulars which may supersede it
  - 1.6. "Affordable Housing Contract" shall mean a binding contract with an Approved RP or RP for the sale (which shall be by way of freehold or leasehold) and construction of the Affordable Dwellings on the Affordable Housing Land and such contract shall include terms that require:-
    - 1.6.1 the Approved RP or RP to offer to the Council the opportunity to refer potential Occupants for the Social Rented Units
    - 1.6.2 full and free rights of access both pedestrian and vehicular from a public highway to the relevant part of the Affordable Housing Land subject to any standard conveyancing requirements in respect of pro rata payments relating to the repair and maintenance of such accessways pending adoption
    - 1.6.3 full and free rights for the passage of water soil electricity gas if provided and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the

- relevant part of the Affordable Housing Land subject to any standard conveyancing requirements in respect of pro rata payments relating to the repair and maintenance of such accessways pending adoption and
- 1.6.4 such other commercial terms and conditions as may be reasonably required by the Owner and Approved RP or RP
- 1.7. "Affordable Housing Land" shall mean those parts of the Land to be identified on the plans approved as part of the Reserved Matters Approval under the Planning Permission which shall be set aside for the Affordable Dwellings
- 1.8. "Approved RP" shall mean any RP which at the date of this Agreement is on the Council's approved list or such other RP as is nominated by the Owner and approved by the Council
- 1.9. "Cluster" shall mean a group of Affordable Dwellings which does not have contiguous boundaries with another group of Affordable Dwellings
- 1.10. "Development Standard" shall mean a standard to meet or exceed
- 1.10.1 Part M of the Building Regulations accessibility standard M4(2) with the exception of any self-contained accommodation built above ground floor level
- 1.10.2 Part 2 of Secured by Design Standards Silver Award; and
- 1.10.3 RP Design Brief attached to this Agreement as Appendix 2
- 1.10.4 "Technical housing standards – nationally described space standards" published by the Department for Communities and Local Government in March 2015
- 1.10.5 all national construction standards and planning policy relating to design which may be published by the Secretary of State or by the Council from time to time.
- 1.11. "Formula Rent" shall mean a rent that is set in accordance with (1) any standard set by the Regulator of Social Housing in relation to rent (including any associated explanatory notes, statements or guidance) from time to time under Section 194 of the Housing and Regeneration Act 2008 and (2) any direction to the Regulator of Social Housing in relation to rent given by the Secretary of State from time to time pursuant to Section 197 of the Housing and Regeneration Act 2008
- 1.12. "Homes England" shall mean the Government's agency for the administration of affordable housing subsidy or any successor agency/organisation taking over such functions
- 1.13. "Index" shall mean the indices based on the Consumer Price Index compiled and published by the Office for National Statistics or any other such index that substitutes the Consumer Price Index
- 1.14. "Market Dwelling" shall mean any dwelling constructed pursuant to the Planning Permission other than an Affordable Dwelling

- 1.15. "Market Value" shall mean the value as assessed by a Valuer of a Permitted Dwelling as confirmed to the Council by the Owner (such value being calculated in accordance with the RICS Valuation Global Standards 2019 - UK National Supplement and being the estimated amount for which in the absence of this Agreement residential units of equivalent location specification size state of repair and condition and which are not restricted to use as Affordable Housing should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably prudently and without compulsion and on the following assumptions:-
- 1.15.1 no discount is to be allowed for bulk sales or on the basis that more than one property is being sold to the same purchaser
  - 1.15.2 it is sold with vacant possession and with good and marketable title
  - 1.15.3 the title is free from encumbrances
  - 1.15.4 the valuation is for the unrestricted freehold or leasehold (as appropriate) with vacant possession which for the avoidance of doubt ignores any use as Affordable Housing
  - 1.15.5 that the property is newly built decorated fully equipped for sale and serviced and fit for immediate Occupation
  - 1.15.6 that the valuation is for sale of an individual unit and not part of a larger sale
  - 1.15.7 all roads footpaths landscaping and open space have been laid out and completed and all other individual units have been built sold and occupied
  - 1.15.8 the Application Land is free from contamination
- 1.16. "NPPF" shall mean National Planning Policy Framework or any planning policy statement guidance notes or circulars which may supersede it and which is current at the date of this agreement
- 1.17. "On Costs" shall mean any reasonable costs incurred by an Approved RP or RP in relation to any transaction regarding Staircasing Receipts which are not to be reimbursed by any other person
- 1.18. "Permitted Dwelling" shall mean any unit of self-contained residential accommodation constructed pursuant to the Planning Permission
- 1.19. "Practical Completion" means the issue of a certificate of practical completion by the Owner's architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by that other party's architect
- 1.20. "Public Subsidy" shall mean any capital funding (excluding the RP contribution) provided by Homes England, the Approved RP or RP, the Council or any other public body

- 1.21. “RP” shall mean a registered provider being a social landlord registered with Regulator of Social Housing as defined in the 2008 Act
- 1.22. “Regulator of Social Housing” shall mean the body established by the 2008 Act as amended by the Legislative Reform (Regulator of Social Housing)(England) Order 2008 to regulate RPs
- 1.23. “Rental Agreement” shall mean a tenancy under which the rental payments are in accordance with the Formula Rent for Social Rented Units and the relevant Social Rented Unit is let on an assured tenancy
- 1.24. “Residential Parcel” shall mean a parcel containing one or more Dwellings within a Residential Phase which will be the subject of a separate Reserved Matters Application
- 1.25. “Residential Phase” shall mean a geographical phase within the Development containing one or more Dwellings and such phases to be identified on the Site Wide Affordable Housing Plan
- 1.26. “Right to Acquire” shall mean a scheme giving eligible tenants of RPs a statutory right to buy the home they currently rent at a discount and only applies to an Affordable Dwelling built with Public Subsidy after 1<sup>st</sup> April 1997
- 1.27. “Service Charge” shall mean the amount payable by the Occupant of any Affordable Dwelling for all services repairs maintenance and improvements of a communal nature and insurance of the building and curtilage including estate management costs to the extent that all costs in the Service Charge have been reasonably incurred
- 1.28. “Service Level Agreement” shall mean the service level agreement then in force made between the Approved RP or RP and the Council for which complies with the Council’s HomeChoice Lettings Policy and Procedure
- 1.29. “Shared Ownership Unit” shall mean an Affordable Dwelling as defined by the NPPF which is disposed of by way of a Shared Ownership Lease to persons who cannot afford to meet their housing needs in the open market
- 1.30. “Shared Ownership Lease” shall mean a lease in accordance with the guidance on model leases issued by Homes England in the Capital Funding Guide or any superseding guidance under which a Shared Ownership Unit may be disposed of by way of shared ownership lease granted at a premium to be paid by the shared ownership lessee upon completion or raised by way of mortgage or charge and an annual rental element which is a percentage of the Actual Market Value of the unsold equity as at the date of the grant of the lease and under which the provisions of the lease enable the shared ownership lessee to acquire the balance of the equity interest in the relevant Shared Ownership Unit via a Staircasing Event
- 1.31. “Site Wide Affordable Housing Plan and Schedule” shall mean a site wide plan and schedule, such plan illustrating the Residential Phases (and Residential Parcels to the

extent known) within the Development and such schedule illustrating the percentage quantum, housing type size and tenure of Affordable Dwellings proposed (including any Wheelchair Units) in each Residential Phase (and Residential Parcel to the extent known) in the Development to be approved in writing by the Council pursuant to paragraph 2.3 of Part 2 of this Schedule

- 1.32. "Social Rented Unit" shall mean an Affordable Dwelling which is to be reserved and set aside for initial and future letting on an assured tenancy at Formula Rent to people in housing need who cannot afford to meet that need in the open market
- 1.33. "Staircasing Event" shall mean any occasion on which a shared ownership lessee acquires additional equity in an Affordable Dwelling pursuant to a Shared Ownership Lease or a tenant of a Social Rented Unit acquires equity in that Affordable Dwelling and includes the Right to Acquire
- 1.34. "Staircasing Receipts" shall mean payments made to the Approved RP or RP (less reasonable On Costs) by a shared ownership lessee tenant or any other person for the acquisition of equity in an Affordable Dwelling pursuant to a Staircasing Event
- 1.35. "Subsidy" shall mean any Public Subsidy provided for the Affordable Dwelling (unless agreed in writing by the Council to exclude it) plus the notional subsidy provided by the Owner which is the amount expressed in pounds of the difference between
  - 1.35.1 the price paid by an Approved RP or RP to the Owner for the Affordable Dwelling pursuant to an Affordable Housing Contract and for the avoidance of doubt the price is as agreed between the Owner and the Approved RP or RP at the date of exchange of contracts for the sale and
  - 1.35.2 the Market Value of the Affordable Dwelling at the date of exchange of contracts for the sale of the Affordable Dwelling
- 1.36. "Valuer" shall mean a Member or Fellow of the Royal Institution of Chartered Surveyors being a chartered valuation surveyor appointed by the Approved RP or RP and acting in an independent capacity
- 1.37. "Wheelchair Units" shall mean an Affordable Dwelling which is self-contained accommodation designed for independent living by disabled people or wheelchair users to meet Part M of the Building Regulations Wheelchair adaptable standard M4(3)(2)(a) and accessibility standard M4(3)(2)(b) paragraphs 3.37 and 3.39 to provide a ground floor level wheelchair accessible wet room which shall contain a WC, a basin and a level access shower or any other national construction standards that may supersede it or as agreed in writing by the Director



## **Part 2: Affordable Housing Obligations**

### **Covenants relating to Affordable Housing**

- 2 Unless otherwise agreed in writing by the Council the Owner for and on behalf of itself and its successors in title to the Land with the intention that the following provisions shall bind the Land and every part of it into whosoever's hands it may come covenants with the Council that:

#### **Quantum**

- 2.1 35% of the total number of the Permitted Dwellings (rounded up or down to the nearest whole dwelling) shall be identified reserved and set aside as Affordable Housing

#### **Distribution**

- 2.2 The location of the Affordable Dwellings shall be identified on the plans approved as part of the Reserved Matters Approval under the Planning Permission unless otherwise agreed in writing by the Council
- 2.3 Where the Development will proceed over more than one Residential Phase, the first Reserved Matters Application including Dwellings shall be accompanied by a Site Wide Affordable Housing Plan and Schedule to be submitted pursuant to this paragraph shall ensure the delivery of mixed and balanced communities through the distribution of the Affordable Dwellings across the Residential Parcels.
- 2.4 As part of the first Reserved Matters Application including Dwellings the Site Wide Affordable Housing Plan and Schedule shall be approved in writing by the Council.

#### **Clustering**

- 2.5 To ensure the creation of mixed and integrated communities the Affordable Dwellings shall not be visually distinguishable from the Market Dwellings and with no more than 12 dwellings in each Cluster and no more than 6 flats with shared access within each Cluster
- 2.6 All flats sharing a communal entrance shall be of a single tenure

#### **Tenure and Type**

- 2.5 The mix of Affordable Dwellings shall be based on the following mix or such other mix of tenure and type and plot numbers as agreed in writing by the Director

**Tenure**

- 2.5.1 72% of the Affordable Dwellings shall be Social Rent (rounded up or down to the nearest whole dwelling) and
- 2.5.3 28% of the Affordable Dwellings shall be Shared Ownership (rounded up or down to the nearest whole dwelling)

**Type**

- 2.5.4 Social Rented Units consisting of

22% 1 bed 2 person flat at minimum size 50 square metres

16% 2 bed 4 person flat at minimum size 70 square metres

29% 2 bed 4 person house at minimum size 79 square metres

29% 3 bed 5 person house at minimum size 93 to 99 square metres

4% 4 bed 6 person house at minimum size 106 to 112 square metres

- 2.5.5 Shared Ownership Units consisting of

16% 1 bed 2 person flat at minimum size 50 square metres

17% 2 bed 4 person flat at minimum size 70 square metres

34% 2 bed 4 person house at minimum size 79 square metres

33% 3 bed 5 person house at minimum size 93 to 99 square metres

- 2.5.6 Wheelchair Units

8% of the Affordable Dwellings should be provided as Wheelchair units for Social Rent

## **Delivery Mechanism**

- 2.6 The Affordable Dwellings shall be delivered in accordance with the requirements of the Council's Affordable Housing and Extra Care Housing Supplementary Planning Document
- 2.7 The Affordable Dwellings shall be transferred to an Approved RP or RP
- 2.8 The Affordable Dwellings shall be provided without recourse to Public Subsidy unless otherwise agreed in writing with the Council
- 2.9 The Owner shall enter into an Affordable Housing Contract(s) with an Approved RP or RP in relation to the Affordable Dwellings on the Affordable Housing Land prior to the commencement of construction of any Permitted Dwelling
- 2.10 No more than 25% of the Market Dwellings shall be first Occupied until 25% of the Affordable Dwellings
  - 2.10.1 shall have achieved Practical Completion and
  - 2.10.2 shall have been transferred to an Approved RP or RP
- 2.11 No more than 75% of the Market Dwellings shall be first Occupied until all of the Affordable Dwellings
  - 2.11.1 shall have achieved Practical Completion and
  - 2.11.2 shall have been transferred to an Approved RP or RP

## **Monitoring**

- 2.12 The Owner shall inform the Chief Financial Officer in writing:
  - 2.12.1 upon commencement of construction above damp proof course level of any Permitted Dwellings
  - 2.12.2 upon completion of the legal transfer of 25% of the total number of Market Dwellings
  - 2.12.3 upon completion of the legal transfer of 75% of the total number of Market Dwellings

- 3 The Owner for and on behalf of itself and its successors in title to the Land with the intention that the following provisions shall bind the Land and every part of it into whosoever's hands it may come (unless otherwise agreed in writing by the Council) covenants with the Council that it will procure the following under the Affordable Housing Contract(s):

#### **Affordability Levels**

- 3.1 the rent payable by the Occupant of any Social Rented Unit shall be the Formula Rent
- 3.2 the initial premium and the rent payable by the Occupant of any Shared Ownership Unit shall meet local affordability levels and
- 3.2.1 the initial premium shall be no more than 40% of the Market Value as at the date of the lease and
- 3.2.2 the annual rental element shall be no more than 1.5% of the unsold equity at the date of the lease

#### **Shared Ownership Units**

- 3.3 The Shared Ownership Units shall not be disposed of on their initial sale other than by way of Shared Ownership Lease unless otherwise agreed in writing by the Council

#### **Social Rented Units**

- 3.4 The Social Rented Units shall not be disposed of other than by way of Rental Agreement unless otherwise agreed in writing by the Council. Each Affordable Housing Unit shall be excluded (so far as legally possible) from:
- 3.4.1 the Right to Acquire as referred to in the 1996 Act
- 3.4.2 any right to buy introduced in favour of the Occupants of the Affordable Housing Units and/or
- 3.4.3 any other mechanism that could result in any of the Social Rented Units becoming available for sale in the private housing market

#### **Occupation**

- 3.5 The Affordable Dwelling shall be Occupied only by persons in need of Affordable Housing to buy or to rent (at the point of sale or letting) in accordance with the Council's

- 3.6 In respect all first lettings and 75% of subsequent lettings of Social Rented Units the Council shall refer potential Occupants to the Approved RP or RP pursuant to a Service Level Agreement

### **Development and Management Standard**

- 3.8 All Affordable Dwellings shall be constructed to:
- 3.8.1 the Development Standard current at the time of the relevant Reserved Matters Approval (unless otherwise agreed by the Council): and
- 3.8.2 no less than the standard applied to Market Dwellings
- 3.9 Any RP which enters into an Affordable Housing Contract with the Owner/ Developer will be required to demonstrate that its housing management standards are no less than the Council requires of its Approved RPs

### **Additional Charges**

- 3.10 Service Charges payable by the first Occupants of each Affordable Dwelling shall be limited to no more than £650 per annum.
- 3.11 After the first Occupation of each Affordable Dwelling the Approved RP can uplift the Service Charge payable by the Occupants of each Affordable Dwelling from £650 per annum on an annual basis in line with and by no more than any annual uplift in the Index
- 3.12 Ground rents for the Affordable Housing shall be at a peppercorn rent

### **Transfer**

- 3.13 Under the terms of the legal transfer of the Affordable Housing Land to an Approved RP or RP on the 1<sup>st</sup> July, 1<sup>st</sup> October, 1<sup>st</sup> January and the 1<sup>st</sup> April in each calendar year the Approved RP or RP shall make a written return (if requested) to the Chief Financial Officer for the preceding six months detailing:

3.13.1 the number of Affordable Dwellings practically completed with a breakdown specifying the number of Affordable Dwellings built and Occupied with details of their tenure unit type size location rent and Service Charge

3.13.2 details of Actual Market Value and equity sold to the Occupants under a Shared Ownership Lease

3.13.3 the amount of Staircasing Receipts following a Staircasing Event

- 3.14 Under the terms of the legal transfer of the Affordable Housing Land to an Approved RP or RP and in the event that the Affordable Housing Land or part thereof is transferred to an Approved RP or RP that in such transfer the transferee shall covenant with the Owner/Developer or its successors in title not to construct or permit to be constructed on the Affordable Housing Land any dwellings other than Affordable Dwellings but shall not be required to accept any other restriction or condition regarding the future use of the Affordable Housing Land SAVE FOR the restrictions or conditions contained in this Schedule PROVIDED ALWAYS THAT the provisions at paragraph 4 of Part 2 of this Schedule shall apply to any mortgagee or chargee of the Approved RP or RP (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver"))

### **Mortgagee Exclusion Clause**

- 4 The Affordable Housing provisions in this Agreement shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver")) of the whole or any part of the Affordable Dwelling(s) or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
- 4.1 such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Dwelling(s) (herein referred to as the "Written Notice") and shall have used reasonable endeavours over a period of 3 months from

the date of the Written Notice to complete a disposal of the Affordable Dwelling(s) to another RP or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

- 4.2 if such disposal has not completed within the 3 month period from the date of the Written Notice, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwelling(s) free from the Affordable Housing provisions in this Agreement which provisions shall determine absolutely
- 4.3 and the mortgagee, chargee or Receiver shall notify the Council of any disposal pursuant to paragraphs 4.1 and 4.2 above by way of written notice within 14 days of the disposal.
- 5 Any Affordable Dwelling in respect of which a tenant exercises any statutory Right to Acquire or right to buy or any Shared Ownership Unit in respect of which the lessee shall have staircased to 100% equity share and (in either case) the tenant or lessee (as the case may be) acquires a freehold or long leasehold interest in the same so that such tenant or lessee shall be entitled to dispose of such Affordable Dwelling thereafter free from the covenants and obligations set out in this Agreement and that any person deriving title through or under such tenant or lessee or any other successor in title shall not be bound by it.

### **Part 3: Application of Staircasing Receipts**

- 6 On the occurrence of any Staircasing Event relating to an Affordable Dwelling and subject always to the application of paragraphs 6.1 and 6.2 and 6.3 below the Approved RP or RP (as successor in title to the Owners) shall (having first deducted an amount equal to X% of the initial outstanding net loan debt attributable to that Affordable Dwelling at the point of first disposal as assessed by the Approved RP or RP) (where X equals the additional proportion of the equity in the Affordable Dwelling sold as a percentage of the unsold equity immediately prior to the Staircasing Event) reserve and set aside the remaining balance of any Staircasing Receipts received in relation to that Affordable Dwelling for the provision of Additional Affordable Housing in South Gloucestershire until an aggregate amount equal to the Subsidy relating to that Affordable Dwelling (as recalculated and carried forward from time to time under paragraph 6.2.1 below) shall have been reserved and set aside for such purposes

6.1 The provisions of paragraph 6 above shall not apply where there is a statutory or regulatory requirement to account for Staircasing Receipts to any other body;

6.2 On the occasion of the first and any subsequent Staircasing Event the Subsidy shall be recalculated (but only for the purposes of identifying the amount of any Staircasing Receipt to be reserved and set aside for the provision of Additional Affordable Housing) as follows:-

6.2.1 On the date of the first Staircasing Event the Subsidy shall be increased or decreased by the percentage increase or decrease (if any) in the Market Value of the relevant Affordable Dwelling from the date as originally notified to the Council by comparing the Market Value so notified by the Approved RP or RP at the point of calculating the Subsidy with its Actual Market Value as notified to the Council by the Approved RP or RP at the date of the Staircasing Event

**AND** for the avoidance of doubt the Subsidy as increased or decreased under this paragraph shall be the result of the following calculation in respect of any relevant Affordable Dwelling

$$\frac{AMV \times S}{MV}$$

Where:

AMV equals the Actual Market Value of the Affordable Dwelling at the date of the first Staircasing Event.

MV equals the Market Value of the Affordable Dwelling as originally notified to the Council at the point of calculating the Subsidy

S equals the Subsidy attributed to that Affordable Dwelling as originally notified to the Council at the point of calculating the Subsidy

6.2.2 The increased or decreased Subsidy shall then be reduced by the amount of any Staircasing Receipts and the balance carried forward

6.2.3 On the date of any subsequent Staircasing Event relating to an Affordable Dwelling the Subsidy balance carried forward under 6.2.2 above shall be increased or decreased by the percentage increase or decrease in the Actual



Market Value from the date of the previous Staircasing Event in 6.2 and its Actual Market Value as notified to the Council by the Approved RP or RP at the date of the subsequent Staircasing Event and the provisions of paragraphs 6 to 6.2.3 shall be applied (*mutatis mutandis*) to such balances and any remaining Subsidy balance carried forward

6.3 this obligation shall be deemed satisfied and there shall be no requirement to reserve and set aside any further Staircasing Receipts (or part thereof) under paragraph 6.1 and 6.2 when

6.3.1 an amount equal to the Subsidy as re calculated and carried forward from time to time in accordance with paragraph 6.2 above shall have been set aside for the provision of Additional Affordable Housing as set out on 6 above; or

6.3.2 the final Staircasing Event (leaving the lessee of the Shared Ownership Unit owning a 100% freehold or leasehold share) has occurred and the Subsidy is recalculated in accordance with the provisions above in 6 and 6.2 if the final Subsidy balance as recalculated in accordance with paragraphs 6.2.1 to 6.2.3 is greater than the balance of the Staircasing Receipt to be used reserved and set aside for Additional Affordable Housing identified in paragraph 6 there will be no requirement to carry forward the Subsidy balances following this final Staircasing Event.

## **SCHEDULE 7 : CONTRIBUTION TO EDUCATION**

### **Part 1: Definitions relating to the financial contribution towards education provision and/or improvements**

In this Schedule the words below shall mean as follows:-

- 1.1 "Nursery Education Contribution" shall mean the sum payable in accordance with Paragraph 2.1 of Part 2 of this Schedule as a contribution towards the cost of the provision or improvement of early years education
- 1.2 "Index" shall mean the Royal Institution of Chartered Surveyors Building Cost All-in Tender Price Index or any official publication substituted for it
- 1.3 "Index Linked" shall mean the sum is to be adjusted by any increase in the Index between August 2023 and the date of actual payment PROVIDED THAT if there is any change after the date of this Agreement in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of this Agreement had been retained
- 1.4 "Primary School Contribution" shall mean the sum payable in accordance with Paragraph 2.2 of Part 2 of this Schedule as a contribution towards the cost of the provision or improvement of primary education
- 1.5 "Secondary School Contribution" shall mean the sum payable in accordance with Paragraph 2.3 of Part 2 of this Schedule as a contribution towards the cost of the provision or improvement of secondary education
- 1.6 "Secondary School Transport Contribution" shall mean the sum of Three Hundred and Twenty Five Thousand Six Hundred and Thirty Four Pounds (£325,634.00) Index Linked as a contribution towards the cost of the provision of transport for secondary school pupils from the Development

### **Part 2: Covenants relating to the financial contribution towards education provision and/or improvements**

- 2.1 The Owner shall pay to the Council the Nursery Education Contribution (Index Linked) prior to the First Occupation of the Development such sum to be calculated as follows:-

$$A \times B = C$$

$$C / D \times E \times F = \text{Nursery Education Contribution}$$

Where:

A = number of Dwellings to be constructed

B = 0.36 pupils per Dwelling  
C = Primary yield figure rounded up  
D = 7  
E = 2  
F = £11,072 cost per place (Q4 2021 costs)

- 2.2 The Owner shall pay to the Council the Primary School Contribution (Index Linked) prior to the First Occupation of the Development such sum to be calculated as follows:-

**A x B x C = Primary School Contribution**

Where:

A = number of Dwellings to be constructed  
B = 0.36 pupils per Dwelling  
C = £16,666 cost per place (Q4 2021 costs)

- 2.3 The Owner shall pay to the Council the Secondary School Contribution (Index Linked) prior to the First Occupation of the Development such sum to be calculated as follows:-

**A x B x C = Secondary School Contribution**

Where:

A = number of Dwellings to be constructed  
B = 0.18 pupils per Dwelling  
C = £ 25,259 cost per place (Q4 2021 costs)

- 2.4 The Owner shall pay to the Council the Secondary School Transport Contribution prior to the First Occupation of the Development

## **SCHEDULE 8 : COMMUNITY SERVICES AND INFRASTRUCTURE**

### **Part 1: Definitions relating to the provision and/or enhancement to community services and infrastructure**

In this Schedule the words below shall mean as follows:-

- 1.1 "Community Centre Contribution" shall mean the sum payable in accordance with Paragraph 2.7 of Part 2 of this Schedule as a contribution towards the enhancement of Wickwar Village Hall and/or other community facilities at such locations as may be appropriate to serve the Development and which projects are accepted by the Director as being compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010
- 1.2 "Index" shall mean:
  - 1.2.1 for the Community Centre Contribution and the Library Services Contribution the Updating Percentages published by the Building Cost Information Service (BCIS) or any official publication substituted for it
  - 1.2.2 for the Library Stock Contribution and the Strategic Access and Management Monitoring Contribution the Retail Price Index (all items) published by the Office for National Statistics or any official publication substituted for it
- 1.3 "Index Linked" shall mean the sum is to be adjusted by any increase in the Index between August 2023 and the date of actual payment PROVIDED THAT if there is any change after the date of this Agreement in the reference base used to compile the Index the figure taken to be shown in the Index after such a change shall be the figure which would have been shown in the Index if the reference base current at the date of the execution of this Agreement had been retained
- 1.4 "Library Services Contribution" shall mean the sum payable in accordance with Paragraph 2.2 of Part 2 of this Schedule as a contribution towards the enhancement of Chipping Sodbury Library, and/or Yate Library and/or Thornbury Library and/or other community facilities at such locations as may be appropriate to serve the Development and which projects are accepted by the Director as being compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010
- 1.5 "Library Stock Contribution" shall mean the sum payable in accordance with Paragraph 2.2 of Part 2 of this Schedule towards the provision of library stock at Chipping Sodbury Library and/or other community facilities at such locations as may be appropriate to serve the Development and which projects are accepted by the Director as being compliant with Regulation 122 of the Community Infrastructure Levy Regulations 2010
- 1.6 "Lower Woods Reserve" shall mean the Site of Special Scientific Interest within Wickwar, South Gloucestershire

- 1.7 "Retail Unit" shall mean a building of no more than 500 square metres to be provided on the Retail Unit Land
- 1.8 "Retail Unit Land" shall mean an area of minimum 0.15ha on the Land for the provision Retail Unit with car parking and an area for servicing indicatively shown on Plan 5
- 1.9 "Serviced Site" shall mean a site to be provided with any pipes, wires, cables, ducts, conduits, drains, sewers for the conduct of gas, water, electricity, foul and surface water, telephones and telecommunications.
- 1.10 "Strategic Access and Management Monitoring Contribution" shall mean the sum of One Hundred Thousand Pounds (£100,000.00)(Index Linked) as a contribution towards the mitigation and management of the Lower Woods Reserve.

**Part 2: Covenants relating to the provision and/or enhancement to community services and infrastructure**

The Owner hereby covenants as follows:

- 2.1 to pay the Council the Strategic Access and Management Monitoring Contribution prior to Commencement of the Development
- 2.2 to provide the Retail Unit Land as a Serviced Site within six (6) months of Commencement of the Development and the Owner has submitted to and obtained the approval of the Council to a marketing scheme for the Retail Unit Land setting out:
- 2.2.1 the strategy for marketing the Retail Unit Land including what actions will be taken and when
- 2.2.2 the interest or interests to be marketed
- 2.2.3 the timetable during which the Retail Unit Land should be marketed which shall commence no later than six (6) months from the Commencement of the Development and continue for a period of twelve (12) months thereafter
- 2.2.4 the price/rental at which the Retail Unit Land is offered taking account of the number of Dwellings which have been completed and sold and the number of Dwellings for which the Planning Permission has been granted this providing the immediate catchment for any retail building
- 2.2.5 the formula demonstrating how the price at which the Retail Unit Land is offered has been reached (such price to be open market value which for the purpose of this Part of Schedule 7 shall mean the value that would be paid by a willing purchaser to a willing seller for the purchase or lease of the Retail Unit Land)
- 2.2.6 the use for which the Retail Unit Land shall be permitted to be used being a local convenience shop (with a post office if practicable)
- 2.2.7 the other heads of terms upon which the Retail Unit Land is to be marketed

- 2.2.8 the steps which will be taken to revise the terms on which the Retail Unit Land is offered if within six (6) months of its first being marketed:
- i) no offer which accords with paragraph 3 below (the “Offer”) is received or
  - ii) it becomes evident that the terms are not in line with the usual industry or market practice for the sale or lease of a local convenience shop as part of the Development or market conditions taking the circumstances of the Development into account
- 2.3 If by expiration of the period for marketing the Retail Unit Land as set out in paragraph 2.2.3 above no Offer has been received for the sale or lease of the Retail Unit Land or if an Offer has been received but there has been no legally binding exchange of contracts pursuant to paragraph 2.4 below within sixty (60) Working Days of the end of the said marketing period the Owner shall construct the shell of the Retail Unit on the Retail Unit Land and to market the Retail Unit Land as set out in clause 2.2 for a further period of twenty four (24) months thereafter
- 2.4 During the marketing period referred to in paragraph 2.3 above the Owner shall be obliged to accept an unconditional offer to purchase or lease the Retail Unit Land at or above the open market value in which event the Owner shall use all reasonable endeavours to exchange contracts for the sale or lease of the Retail Unit Land as soon as reasonably practicable in accordance with the terms of the Offer and such other provisions as shall be appropriate to the sale of land as a local convenience shop within the Development
- 2.5 The Council shall be entitled to refuse approval of the marketing scheme for the Retail Unit Land referred to in paragraph 2.2 above if it considers its terms to be such that the Retail Unit Land will be unmarketable and any disputes arising therefrom shall be determined in accordance with clause 19 of this Agreement
- 2.6 to pay the Council the Community Centre Contribution (Index Linked) prior to the first Occupation of the Development such sum to be calculated as follows:-

**Number of Dwellings x 2.4 residents per Dwelling = Expected future population**  
**Expected future population x £685.728 = Community Centre Contribution**

- 2.7 to pay the Council the Library Services Contribution (Index Linked) prior to the first Occupation of the Development such sum to be calculated as follows:-

**Number of Dwellings x 2.4 residents per Dwelling = Expected future population**

**Expected future population x £115.69 = Library Services Contribution**

- 2.8 to pay the Council the Library Stock Contribution (Index Linked) prior to the first Occupation of the Development such sum to be calculated as follows:-

**Number of Dwellings x 2.4 residents per Dwelling = Expected future population**

**Expected future population x 0.75 items of stock per capita rounded = Additional stock required**

**Additional stock required x £11 = Library Stock Contribution**

## **SCHEDULE 9: SELF AND CUSTOM BUILD HOUSING**

### **Part 1: Definitions relating to Self and Custom Build Housing**

- 1.1 "Approved Enabler" shall mean any Enabler which at the date of this Agreement is on the Council's approved list or such other Enabler as is nominated by the Owners and approved by the Council.
- 1.2 "Custom-build Dwelling" shall mean a Dwelling on a Custom-build Plot with a target average GIA of 108 square metres (whereby the Council may otherwise approve a range of Dwelling sizes with acceptable GIA through the submission and approval of Plot Passports pursuant to paragraph 2.5) which meets the definition in section 1 (A1) and (A2) of the Self-Build and Custom Housing Act 2015 (as amended) and which is commissioned by an Eligible Purchaser
- 1.3 "Custom-build Plot" shall mean a plot within the Land for the construction of a Custom-build Dwelling or Shell Home (as the case may be)
- 1.4 "Delivery Statement" shall mean the programme for delivering the Custom-build Plots to a Serviced Condition and Remediated Condition including details of access, servicing, infrastructure, subdivision and boundary treatment and how the delivery of Custom-build Plots will meet the definitions of:-
  - 1.4.1 "self-build and custom housebuilding" in section 1 (A1) and (A2) of the Self-Build and Custom Housing Act 2015 (as amended) and
  - 1.4.2 "serviced plots of land" in section 5 of the Self-Build and Custom Housing Act 2015 (as amended)
- 1.5 "Design Code" shall mean the design code or design brief setting out the subdivision of plots, building line, scale, boundary treatments, parking, the plots relationship to the street, the Sustainability Checklist and only where necessary appearance parameters of the Custom-build Dwellings
- 1.6 "Eligible Purchasers" shall mean Part 1 Registered Eligible Purchasers Part 2 Registered Eligible Purchasers and Other Eligible Purchasers
- 1.7 "Enabler" shall mean specialist Self and Custom Build developer or contractor whose business is to build and develop Self and Custom Build Dwellings in accordance with the legal definition of self-build and custom housebuilding as defined in the Housing and Planning Act 2016 (Section 9(1))
- 1.8 "Enabler Sales Contract" shall mean a binding contract with an Approved Enabler or Enabler for the sale (which shall be by way of freehold or leasehold) and construction of the Custom-build Dwellings in accordance with the approved Design Code and Plot Passport



- 1.9 "First Marketing Period" shall mean a period of not less than twelve (12) months which shall commence no earlier than the date on which the Custom-build Plots are available for immediate purchase
- 1.10 "Marketed Appropriately" shall mean:-
- 1.10.1 in the case of the First Marketing Period, marketing and using reasonable endeavours to enter into contracts to sell the relevant Custom-build Plot as a Custom-build Dwelling or Shell Home as appropriate in accordance with the approved Marketing Strategy including through the use of the approved Plot Passport for no more than open market value
  - 1.10.2 in the case of the Second Marketing Period, marketing and using reasonable endeavours to enter into contracts to sell the relevant Custom-build Plot either as a Custom-build Dwelling or a Shell Home in accordance with the approved Marketing Strategy for no more than open market value
- in each case such open market value to be established through independent valuation (at the cost of the Owner) where such independent valuation is requested in writing by the Council
- 1.11 "Marketing Strategy" shall mean a strategy for the marketing of the Custom-build Plots incorporating the Site Wide Marketing Principles and including all of the following:-
- 1.11.1 a strategy for marketing the Custom-build Plots to Eligible Purchasers during the First Marketing Period and the Second Marketing Period (if applicable)
  - 1.11.2 details of the marketing periods, a programme of the marketing which shall include the marketing methods, and the type of site signage marketing the Custom-build Dwellings which are to be used throughout the Land
  - 1.11.3 contact details of the Owner's solicitor and marketing agent
  - 1.11.4 the valuation and method for valuing Custom-build Plots by a Valuer to ensure that the price at which Custom-build Plots are marketed does not exceed open market value and such method may include the need to re-agree the valuation of the Custom-build Plots during the Second Marketing Period, with an option to re-size some or all of the Custom-build Plots depending on customer interest from the First Marketing Period.
  - 1.11.5 the proposed terms and conditions of the sale of the Custom-build Plots including any bond payments between the Eligible Purchaser and the Owner and details of when services will become connected
  - 1.11.6 the use of the Register when marketing the Custom-build Plots to Part 1 Registered Eligible Purchasers and Part 2 Registered Purchasers and the provision of Plot Passports specific to each Custom-build Plot which will be made accessible through the Register and

- 1.11.7 the use of a reputable and experienced estate agent (as approved by the Council) when marketing the Custom-build Plots to Other Eligible Purchasers
- 1.12 "Non-Custom-build Dwelling" shall mean a Dwelling which is not constructed on a Custom-build Plot
- 1.13 "Other Eligible Purchaser" shall mean an individual (or an association of individuals as the case may be) who intends to construct or commission construction of a Custom-build Dwelling or Shell Home (as the case may be) for its own use and who intends to live in the Custom-build Dwelling or Shell Home (as the case may be) for a minimum of three years but who is not registered on the Register
- 1.14 "Part 1 Registered Eligible Purchaser" shall mean an individual or an association of individuals who is registered on Part 1 of the Register and who meets the local eligibility criteria
- 1.15 "Part 2 Registered Purchaser" shall mean an individual or an association of individuals who is registered on Part 2 of the Council's Register and who does not meet the local eligibility criteria
- 1.16 "Plot Passport" shall mean a simple summary of the design parameters for each Custom-build Plot which acts as a key reference point for prospective purchasers/Occupants capturing relevant information from the Planning Permission, the Design Code and the Delivery Statement to form part of the marketing material available for each Custom-build Plot and which shall also include the following details as a minimum:-
- (a) plot location
  - (b) back-to-back distances
  - (c) plot size and Gross Internal Area ("GIA") parameters
  - (d) scale
  - (e) permissible building lines
  - (f) side spacing requirements
  - (g) building height restrictions
  - (h) proximity restraints to neighbouring buildings
  - (i) developable footprint
  - (j) boundary treatments
  - (k) servicing and utilities details
  - (l) car parking and cycle storage
  - (m) access location
- 1.17 "Register" shall mean the register of people who are interested in custom build projects which is kept and maintained by the Council in accordance with its duties under the Self Build and Custom Housebuilding Act 2015 (as amended)

- 1.18 "Remediated Condition" shall mean remediation of the Custom-build Plot has been carried out in accordance with the mitigation works identified in the remediation strategy and verification strategy approved pursuant to the conditions of the Planning Permission
- 1.19 "Second Marketing Period" shall mean a period of not less than twelve (12) months for marketing a Custom-build Plot as either a Custom-build Dwelling or a Shell Home which shall commence following the expiry of the First Marketing Period if at that date there is no contract to sell the Custom-build Plot to an Eligible Purchaser
- 1.20 "Serviced Condition" shall mean the relevant Custom-build Plot meets the requirements set out in section 5 of the Self Build and Custom Housebuilding Act 2015 (as amended) and more particularly has all reasonably necessary service connections (including foul drainage, water, gas, electricity and telecommunications) provided to the boundary including being accessible by road of an adoptable standard and utility services to adoptable standards by the relevant statutory undertaker
- 1.21 "Shell Home" shall mean a Dwelling on a Custom-build Plot with a target average GIA of 108 square metres (whereby the Council may otherwise approve a range of Dwelling sizes with acceptable GIA through the submission and approval of Plots Passports pursuant to paragraph 2.3) which is to be built to a shell and commissioned by Eligible Purchaser
- 1.22 "Site Wide Marketing Principles" shall mean marketing the Custom-build Plots to Eligible Purchasers in the following order of priority:-
- 1.22.1 exclusively to Part 1 Registered Eligible Purchasers in the first two weeks of the First Marketing Period
  - 1.22.2 exclusively to Part 1 Registered Eligible Purchasers and Part 2 Registered Eligible Purchasers in the second two weeks of the First Marketing Period and
  - 1.22.3 thereafter to Part 1 Registered Eligible Purchasers, Part 2 Registered Eligible Purchasers and Other Eligible Purchasers
- 1.23 "Sustainability Checklist" shall mean a strategy for how the Custom-build Plots are to minimise energy demand and may include the following details:
- (a) Orientation and geometry of building (form factor)
  - (b) Fenestration - positioning of windows and glazing of windows in suitable locations to optimise natural light and to avoid overheating
  - (c) Ventilation - including opportunities for heat recovery
  - (d) Materials – embodied energy in the construction materials
  - (e) Air tightness and thermal bridging
  - (f) Insulation including floors, walls, ceilings, roofs, windows and doors
  - (g) Opportunities to install renewable energy technologies to generate electricity and to heat water

- (h) Electric vehicle charging infrastructure
- (i) Lighting

1.24 “Valuer” shall mean a Member or Fellow of the Royal Institution of Chartered Surveyors being a chartered valuation surveyor acting in an independent capacity appointed by the Owner and approved by the Council

## **Part 2 : Covenants relating to Self and Custom Build Housing**

The Owner covenants with the Council as follows:-

### **Site-Wide Delivery of Custom-Build Plots**

- 2.1 Not less than 5% Custom-build Dwellings (or more if the Owner so elects) located across the Development shall be made available and marketed in accordance with the provisions of this Schedule.
- 2.2 To transfer the Custom-build Dwellings to an Approved Enabler or Enabler.
- 2.3 To enter into an Approved Enabler Contract(s) with an Approved Enabler or Enabler in relation to the Custom-build Plot(s) prior to the commencement of construction of any Custom-build Dwelling
- 2.4 For the avoidance of any doubt the Owner shall be entitled to transfer (freehold or long leasehold) any part(s) of the Land identified for the delivery of the number of Custom-build Plots referred to at paragraph 2.1 PROVIDED THAT such transfer(s) shall not prejudice the performance by the transferee of the obligations within this Schedule
- 2.5 Unless otherwise agreed in writing by the Council not to Commence Development until the following documents have been submitted to and approved in writing by the Council:-
  - 2.5.1 details of the number of Custom-build Plots to be made available together with a plan identifying the precise boundaries of the Custom-build Plots such plan to be approved in writing by the Council
  - 2.5.2 the Delivery Statement;
  - 2.5.3 the Design Code;
  - 2.5.4 the Marketing Strategy; and
  - 2.5.5 the Plot Passports for all of the Custom-build Plots.
- 2.6 From the date of Commencement of the Development to work proactively with the Council to raise the public's awareness of the future availability of Custom-build Plots and the likely timing of the Custom-build Plots being made available and marketed.
- 2.7 To deliver and Occupy the Custom-build Plots in accordance with the phasing plan to be submitted for approval under the Planning Permission
- 2.8 To deliver the Custom-build Plots to a Serviced Condition and Remediated Condition in accordance with the approved Delivery Statement.

## **Marketing of Custom-Build Plots**

- 2.9 Each Custom-build Plot shall be Marketed Appropriately during the First Marketing Period in accordance with an agreed Marketing Strategy.
- 2.10 When marketing the Custom-build Plots in accordance with the Marketing Strategy the Owner shall ensure that the Custom-build Plots shall be in a presentable condition with each Custom-build Plot demarcated and made accessible for viewings.
- 2.11 The initial Occupant of any Custom-build Dwelling shall only be persons who will have a primary input into that Dwelling's final design and layout.
- 2.12 If the Owner is unable to contract to sell any Custom-build Plots as a Custom-build Dwelling to an Eligible Purchaser during the First Marketing Period then:-
- 2.12.1 that Custom-build Plot shall be made available and shall be Marketed Appropriately during the Second Marketing Period as either a Custom-build Dwelling or a Shell Home; and
- 2.12.2 the Owner shall notify the Council in writing prior to commencement of the Second Marketing Period, and the Second Marketing Period shall not commence until such notice has been served on the Council.
- PROVIDED THAT the Owner shall be under no obligation to construct any Shell Home until such time as there has been an exchange of contracts for the delivery and sale of that Shell Home.
- 2.13 Subject always to the provisions of paragraphs 2.14 and 2.15 of this Schedule, not to use the Custom-build Plots for any purpose other than the provision of Custom-build Dwellings or Shell Homes (as the case may be).
- 2.14 Where the Owner contracts to sell any Custom-build Plot as a Custom-build Dwelling or a Shell Home the Owner shall pay to the Council the sum which is 1% of the purchase price agreed for the Custom-build Plot and up to a maximum value of £1,000 per Custom-build Plot, such sum to be paid to the Council prior to the sale of such Custom-Build Plot.
- 2.15 If the Owner is unable to contract to sell any Custom-build Plot as a Custom-build Dwelling or a Shell Home once it has been Marketed Appropriately during the Second Marketing Period then the Owner shall:-
- 2.15.1 serve a written notice on the Director to that effect; and
- 2.15.2 offer to sell the Custom-build Plot to the Council at open market value which offer shall remain valid and available for acceptance for a period of not less than three (3) months following the date of the offer.
- 2.16 If the Council accepts (in writing) the offer (at open market value) made pursuant to paragraph 2.15.2 the Owner will seek to agree with the Council a form of transfer of the

Custom-build Plot and following such agreement will deliver a duly executed agreed form of transfer of the Custom-build Plot to the Council (or its nominee) incorporating such terms as to ensure that the Custom-build Plot is purchased from the Council (or its nominee) only by Eligible Purchasers and for no other purpose PROVIDED THAT where the agreed form of transfer has been released to the Council for completion but the Council fails to complete the transfer within 20 Working Days then the relevant Custom-build Plot(s) shall no longer be subject to the restrictions and obligations set out in this Schedule.

- 2.17 If the Council rejects the offer made pursuant to paragraph 2.15.2 or does not accept the offer in writing on or before expiry of the period set out in paragraph 2.15.2 then that Custom-build Plot shall no longer be subject to the restrictions and obligations set out in this Schedule.

## **SCHEDULE 10: COUNCIL'S COVENANTS**

- 1)** The Council hereby covenants with the Owner to use all sums received under the terms of this Agreement for the purposes specified in this Agreement for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council shall agree in writing both parties acting reasonably
- 2)** At the written request of the Owner the Council shall provide to the Owner such evidence, as the Owner shall reasonably require in order to confirm the expenditure of the sums paid by the Owner under this Agreement
- 3)** The Council covenants with the Owner that it will pay to the person who makes any payment to the Council under this Agreement such amount of any payment made by said person which has not been expended or committed in accordance with the provisions of this Agreement within ten years of the date of receipt by the Council of such payment EXCEPT where the said payment made to the Council relates to the payment of the Outdoor Sports Facilities Maintenance Contribution then any such payment made which has not been expended or committed in accordance with the provisions of this Agreement within 15 years of the date of payment shall be repaid to the person who made the payment
- 4)** At any time after fulfilment of a planning obligation contained within this Agreement the Council shall upon the written request of the Owner/Developer confirm in writing compliance with and fulfilment of the relevant planning obligation
- 5)** Following the performance and satisfaction of all of the planning obligations in this Agreement (or if this Agreement shall cease to have effect pursuant to clause 20.2 the Council shall forthwith effect the cancellation of all entries made in the Register of Local land Charges in respect of this Agreement

EXECUTED AS A DEED BY AFFIXING THE )  
COMMON SEAL of **SOUTH** )  
**GLOUCESTERSHIRE DISTRICT COUNCIL** )  
in the presence of:

EXECUTED AS A DEED by **KEVIN JOHN** )  
**KINGSTON** in the presence of: )

Witness Signature:

Witness Name:

Witness Occupation:

Witness Address:

EXECUTED AS A DEED by **SUSAN** )  
**ELIZABETH CHAPPELL** in the presence of: )

Witness Signature:

Witness Name:

Witness Occupation:

Witness Address:



EXECUTED AS A DEED by **CLIVE ANSTEY** in     )  
the presence of:   )

Witness Signature:

Witness Name:

Witness Occupation:

Witness Address:

EXECUTED AS A DEED by   )  
   )     Attorney  
and   )     Attorney

Attorneys for and acting on behalf of **BLOOR  
HOMES LIMITED** in exercise of the powers  
conferred on them by a Power of Attorney  
dated [   ]

Witness Signature

Witness Name

Witness Occupation

Witness Address

## **APPENDIX 1 : MANAGEMENT AND MAINTENANCE SCHEME**

A detailed specification for future operation, maintenance and management of the Open Spaces following the satisfactory completion as evidenced by the issue of Certificate A and a framework for the Management Entity which shall include as a minimum all of the following:

1. A plan and schedule identifying the relevant areas of Open Spaces to be covered by the scheme.
2. Full details of the permanent operation, management and maintenance specifications for the Open Spaces including frequency of inspections and maintenance and standard of maintenance and repair to be achieved and maintained.
3. Details of interim arrangements for managing and maintaining the Open Spaces during the course of the construction of the Development where appropriate;
3. Measures to replace any trees, shrubs, grass or other plants (in perpetuity) which may die or become diseased.
4. Details of the management of the Open Spaces to ensure they shall (save where temporary closure is reasonably necessary for the purpose of essential maintenance and/or repair works or in the case of emergency) remain available for use by the general public in perpetuity including the ecological, landscape, social and amenity uses (including how the Management Entity will engage with the residents and deal with land issues such as community events conflicts over the use of Open Spaces).
5. Strategy for maintaining appropriate insurances in respect of the Open Spaces both prior to and following the transfer of those areas to the Management Entity.
6. Details of the Management Entity (including emergency and routine contact details and arrangements for both office hours and out of office hours, constitution, articles of association, composition, objectives, responsible person and management arrangements) responsible for managing and maintaining the Open Spaces.
7. Details of funding arrangements to ensure that the operation, maintenance and management of the Open Spaces is funded in perpetuity and that funding shall be sufficient to properly manage and maintain the Open Spaces and for the avoidance of doubt this shall include:
  - 7.1 the Service Charge Terms (including draft TP1 in respect of the Dwellings with such terms included);
  - 7.2 a mechanism to ring fence funds received from owners of the Dwellings for use in relation to the operation, management and maintenance of the Open Spaces;

- 7.3 details of funding arrangements to cover the periodic costs of replacement and/or refurbishment of features and/or facilities;
  - 7.4 a mechanism where in the event the Council steps-in any funds held by the Management Entity that have been received from owners of the Dwellings will be paid to the Council
  - 7.5 a guarantee against any of the Open Spaces being made subject to a financial charge or mortgage
  - 7.6 measures to engage residents in relation to the following:
    - 7.6.1 the operation, management and maintenance of the Open Spaces;
    - 7.6.2 the setting of annual service charge budgets; and
  - 7.7 the capital expenditure programme for planned future maintenance to cover high cost items such as major repairs or renewals
  - 7.8 measures to enforce non-payment of service charge against residents of the Development.
- 8. Details of the procedure to be implemented to safeguard the Public Open Space and Ancillary Open Space should the Management Entity become insolvent or fail in its duties.
  - 9. In relation to the Allotments include details of a management plan for the running of the Allotments service, including managing waiting lists, lettings and creating and managing allotment regulations and guidance
  - 10. Include a commitment to provide annual reports to the Council (as lead local flood authority) of the inspections and maintenance activities that have been undertaken in the previous year in respect of the Surface Water Infrastructure
  - 11. Include a commitment to provide, upon request from the Council, copies of routine/ operational/annual play area inspections.

## **APPENDIX 2 : RP DESIGN BRIEF**

All Affordable Dwellings (as defined at Schedule 5) shall be provided in compliance with the following design brief:

1. All rear gardens to be turfed and generally to have 1.8m high close boarded fencing to boundaries and privacy panels;
2. All properties to have vinyl/tiles on floor in all ground floor rooms;
3. Ceiling height tiling to 3 sides of bathroom to be provided;
4. Provide wall mounted shower (either electric or valve and kit);
5. Provide gas and electric points to cooker space (where gas is available); and
6. Painted softwood curtain battens to each window (where construction is traditional as opposed to timber frame).

### APPENDIX 3 : DRAFT BOND

**THIS BOND** dated \_\_\_\_\_ is made **BETWEEN** \_\_\_\_\_  
Developer”) of \_\_\_\_\_ (“the  
and \_\_\_\_\_ (“the  
Surety”)

#### WHEREAS:

- 1 By an Agreement (“the Agreement”) dated \_\_\_\_\_ made between SOUTH GLOUCESTERSHIRE DISTRICT COUNCIL (“the Council”) (1) and the Developer (2) and \_\_\_\_\_ relating to the development of land at \_\_\_\_\_ in the District of South Gloucestershire the Developer is under an obligation to carry out certain highway works on the terms and conditions specified in the Agreement
- 2 Clause 3.3 of the Agreement contains a covenant for the Developer to enter into a bond with a surety (approved by the Council) to secure its obligations under the terms of the Agreement

#### NOW THIS DEED WITNESSES:

- 1 The Developer and the Surety are bound jointly and severally to the Council for the sum of [ \_\_\_\_\_ ]Pounds (£ \_\_\_\_\_) (“the Bond Figure”)
- 2 The Surety shall in the event of any breach or non-observance of any of the terms conditions or covenants contained in the Agreement pay to the Council within five working days after service on the Surety (at the address given above) of a demand in writing by the Council such sum of money as the Council's Director of Planning, Transportation and Strategic Environment for the time being shall certify to be necessary to make good the relevant default and in the event that the actual cost exceeds this the Surety shall be liable for the excess PROVIDED THAT the amount demanded by the Council whether as a single sum or as an aggregate sum shall not exceed the Bond Figure
- 3 It is hereby agreed and declared that the Surety shall not be released or discharged from this Bond by any arrangement which may either with or without the assent or notwithstanding the dissent of the Surety be made between the Developer and the Council either for the variation of the highway works or otherwise or by any dealing or transaction which may take place between the Developer and the Council

**IN WITNESS** of which this Bond has been duly executed as a deed on the date and year first before written

## EXECUTION CLAUSES



PLAN 1

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KEY

Application boundary

CLIENT

Bloor Limited

PROJECT

Land at Wickwar

DRAWING

Redline Plan - Phase 1

PROJECT NUMBER

BLOA3039

DRAWING NUMBER

1001

CHECKED BY

JB

REVISION

DATE

December 2021

STATUS

DRAFT

SCALE

1:2000 @ A3

NOTES:

*This scheme drawing has been developed as a design concept for the purposes of option testing and therefore does not represent a final design for construction.*

THIS DRAWING IS ONLY APPLICABLE TO THE PROJECT STATED BELOW.  
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ANY DISCREPANCIES ARE TO BE REPORTED TO THE DESIGNER NAMED BELOW.

2.0	21/10/22	CWB	HDL	HDL	REVISED FOLLOWING CLIENT REVIEW
REV	DATE	DRAWN	REV'D	APP'D	NOTES

DRAWING STATUS

DRAFT

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CLIENT

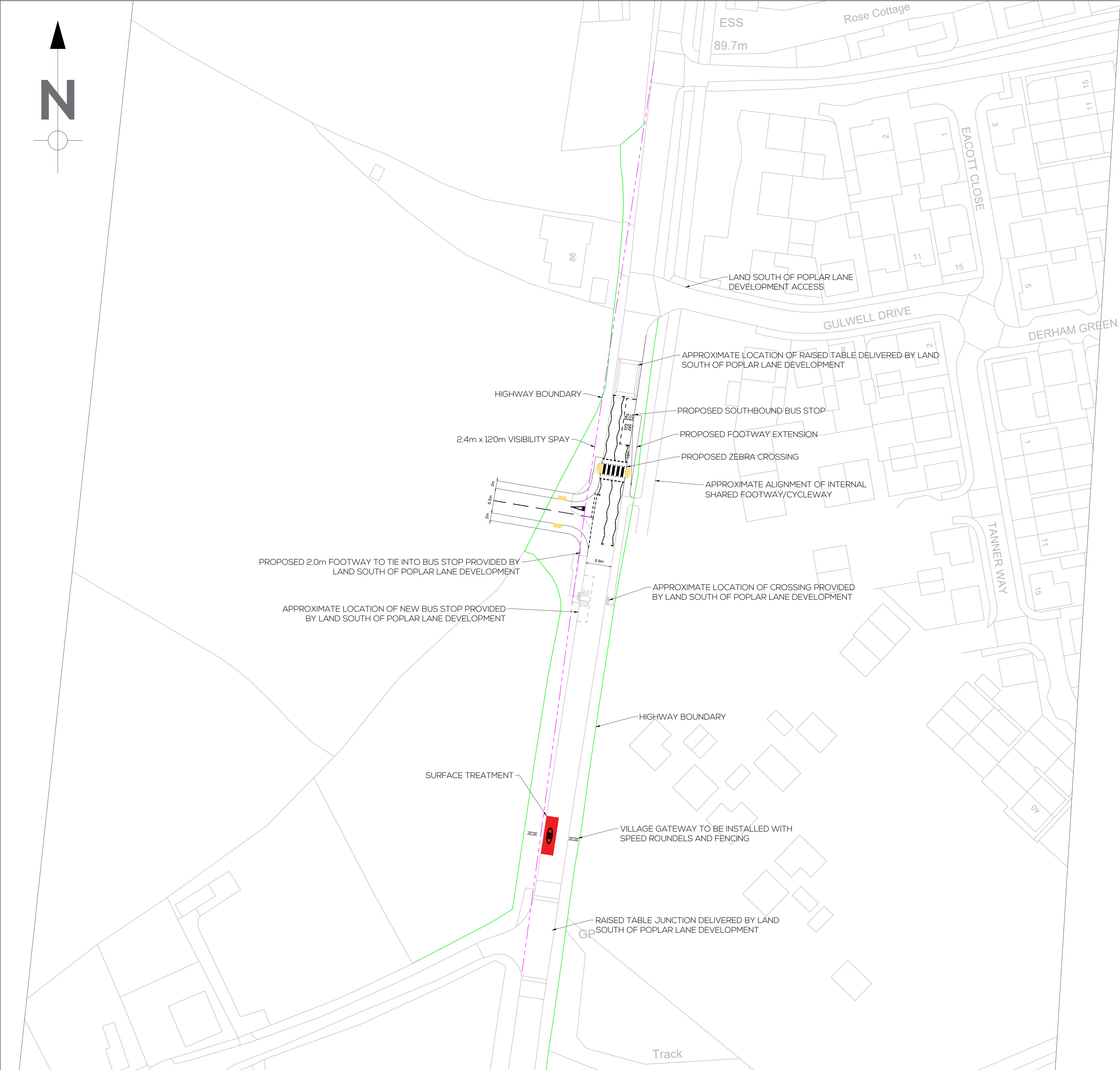
Bloor Homes

PROJECT  
SOUTH FARM, WICKWAR

DRAWN	DESIGNED	REVIEWED	DATE	APPROVED	DATE
CWB	CWB	DAK	04.10.22	DAK	04.10.22

TITLE  
PROPOSED SOUTHERN ACCESS

SCALE	DRAWING No	REV
1:500	7909-SK02	2.0





PLAN 3

CDM RESIDUAL RISKS

The work shown on this drawing is both familiar to the designers and routinely safely built in similar circumstances by competent contractors.

Risks are not considered significant.

Relevant data is included in the Pre-Construction Information Pack

Signed: .. Date: .....

DO NOT SCALE THIS DRAWING FOR CONSTRUCTION PURPOSES.

CONTRACTOR TO CHECK ALL DIMENSIONS AND REPORT ALL ERRORS AND OMISSIONS TO THE ENGINEER

A	RAISED TABLE AND TREE PLAN ADDED	CWB	DAK	30.09.21
*	PRELIMINARY FIRST ISSUE.	--	--	.....
Rev	Detail		By	Chk
Revisions				

clarkebond

MULTIDISCIPLINARY ENGINEERING CONSULTANTS

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web www.clarkebond.com  
Bristol Exeter London

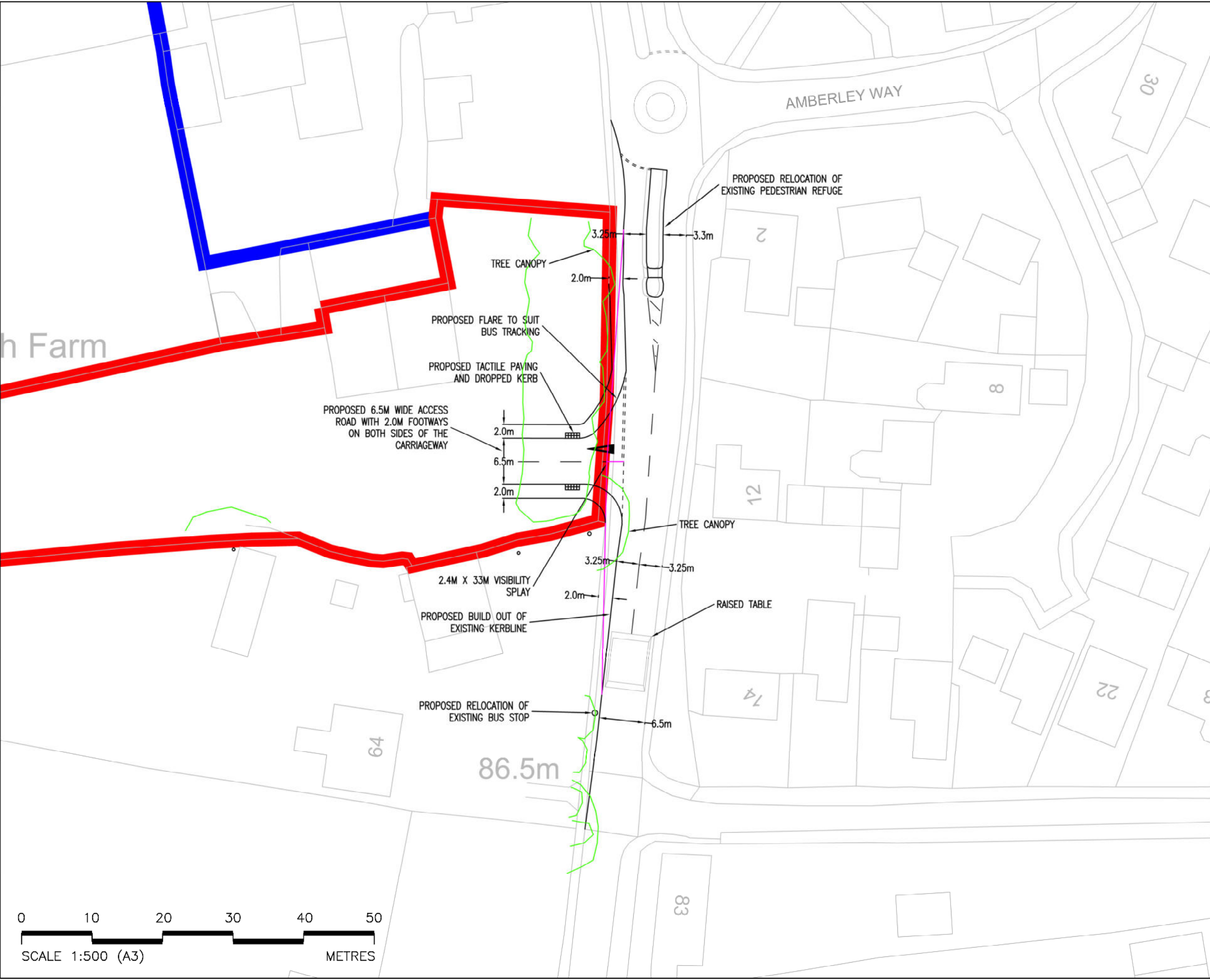
Client  
Bloor Homes Ltd

Project  
SOUTH FARM, WICKWAR

Drawing Title  
PROPOSED NORTHERN ACCESS

Drawing Status  
DRAFT

Project No.	Discipline	Drawing No.
B05313	C	SK05
Scale	Date	Revision
1:500	12.02.21	
Drawn	Checked	Sheet Size
MJK	DAK	A3
A		



DWG INFO: M:\BS1192\B05313-SOUTH FARM, WICKWAR\01\_WIP\DR\_DRAWING\B05313 - SK05A\_SK06A - PROPOSED NORTHERN ACCESS

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## PLAN 4

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### KEY

- Site Boundary
- Natural & Semi-Natural Green Space & Informal Recreational open space)
- Indicative Sustainable Urban Drainage Systems (SUDS) Location
- Allotments
- Indicative Location of Provision for Young People (with associated buffer)
- Retained Trees
- Retained Hedgerow
- Removed Trees
- Removed Hedgerow
- Areas for additional planting
- Areas for Orchard planting
- Indicative Location of SUDS Swale Corridor
- Indicative location of Primary Street verge with street trees
- Indicative location of Primary Street rain garden including street trees
- 1 Indicative location of LAP
- 2 Indicative location of LEAP

Application Ref.  
PK16/4006/O - Under  
construction by Bellway  
Homes

Application Ref.  
PK17/4552/O - Approved  
with Reserved Matters on  
behalf of Linden Homes

### CLIENT:

Bloor Homes

### PROJECT:

Land at Wickwar

### DRAWING:

Plan 4 - Open Spaces Plan

### PROJECT NUMBER:

BLOA3039

### DRAWING NUMBER:

3700

### CHECKED BY:

DH/AW

### REVISION:

A

### STATUS:

Post Submission

### DATE:

04/10/2023

### SCALE:

1:2500 @ A3

0 metres 100  
(1:2,500)

Turley





PLAN 5

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KEY

- Site Boundary (7.89 ha/19.51 ac)
- Residential Development (4.08 ha/10.08 ac)
- Area reserved for potential shop extents (0.15 ha/0.37 ac)
- Open Space including Informal Recreational and Natural & semi - natural urban green space (3.46 ha/ 8.55 ac)
- Allotments (0.09 ha/0.22 ac)
- Provision for Children and Young People LAP & LEAP (0.11 ha/0.28 ac)
- PROW (public rights of way)
- Primary Roads
- Areas of boundary to be bolstered with additional Planting
- Existing Hedgerow
- Existing Trees
- Proposed Pumping Station

- 1 Proposed Access Points
- 2 Proposed LAP (local area of play)
- 3 Proposed LEAP (local equipped area of play)
- 4 Proposed attenuation basin
- 5 Proposed swale
- 6 Proposed Rain Garden
- 7 Opportunity to provide new PROW link
- 8 Opportunity for views to Holy Trinity Church
- 9 Allotments

Application Ref.  
PK16/4006/O -  
Construction completed  
by Bellway Homes

Application Ref.  
PK17/4552/O - Under  
construction by Linden  
Homes

CLIENT:  
Bloor Homes

PROJECT:  
Land at Wickwar

DRAWING:  
Framework Masterplan

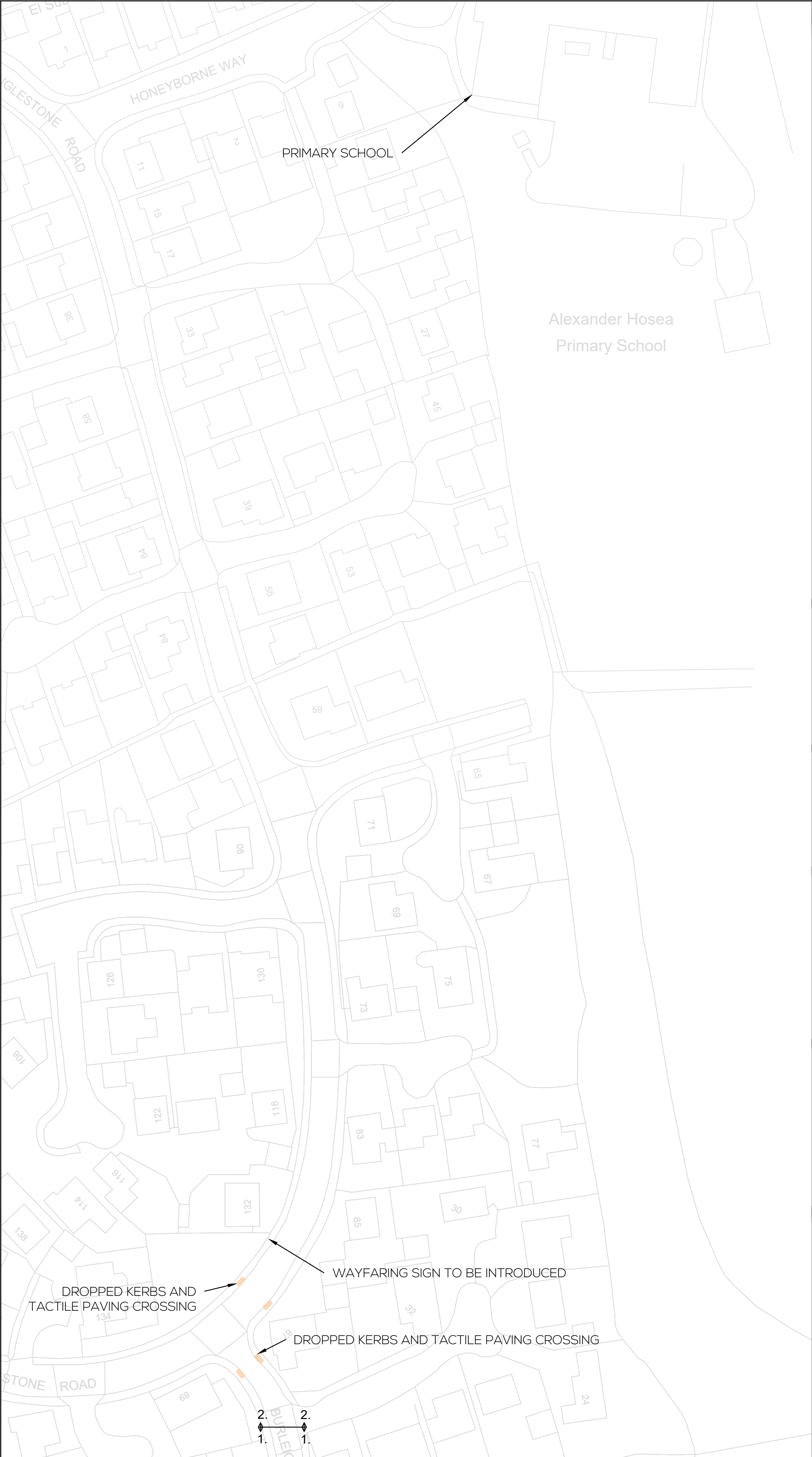
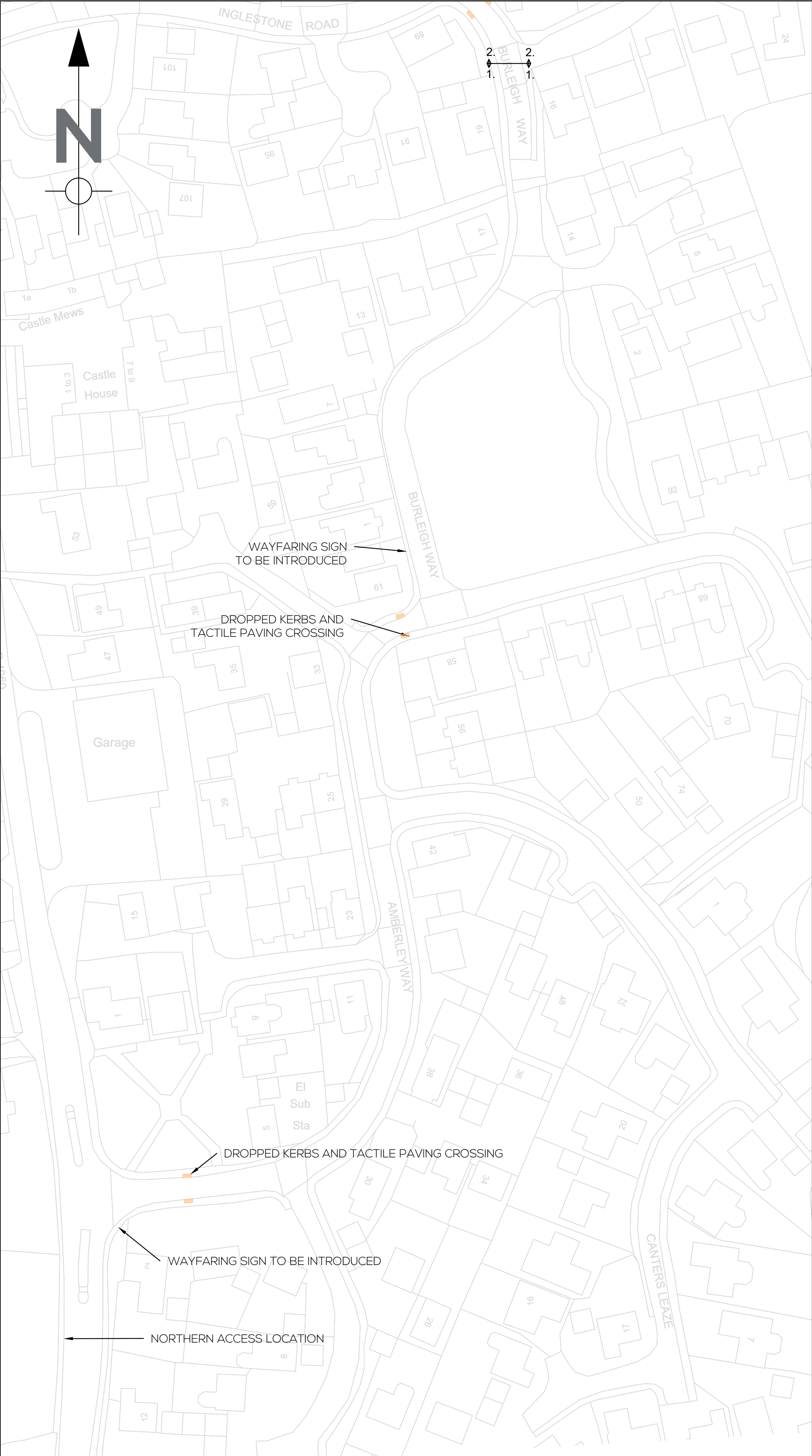
PROJECT NUMBER:  
BLOA3039

DRAWING NUMBER: 3002 CHECKED BY: AW

REVISION: C STATUS: Draft

DATE: August 2023 SCALE: 1:2500 @ A3





NOTES:

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THIS DRAWING IS ONLY TO BE USED AT THE SIZE AND SCALE STATED BELOW.  
ANY DISCREPANCIES ARE TO BE REPORTED TO THE DESIGNER NAMED BELOW.

REV	DATE	DRAWN	REV'D	APP'D	NOTES

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CLIENT

Bloor Homes

PROJECT

LAND AT SODBURY ROAD, WICKWAR

DRAWN	DESIGNED	REVIEWED	DATE	APPROVED	DATE
	CWB	HDL	28.10.22	DAK	28.10.22

TITLE

WCHAR IDENTIFIED OPPORTUNITIES -  
IMPROVEMENTS SCHEME

SCALE	DRAWING No	REV
NTS	7909-SK04	1.0