

Dated **2019**

WEST BERKSHIRE DISTRICT COUNCIL (1)

AND

[REDACTED] (2)

[REDACTED] (3)

SECTION 106 AGREEMENT

Sandleford Park, Newbury



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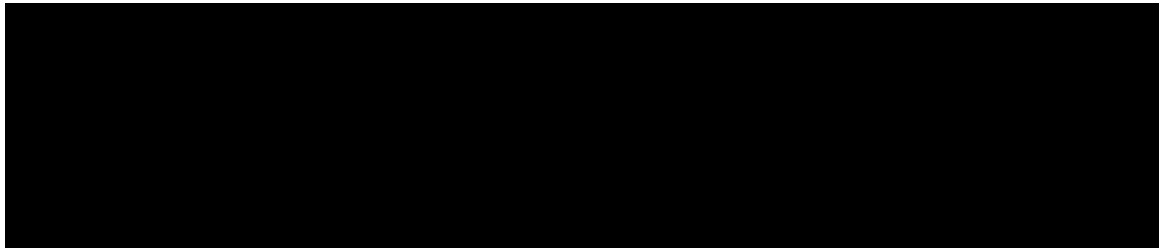
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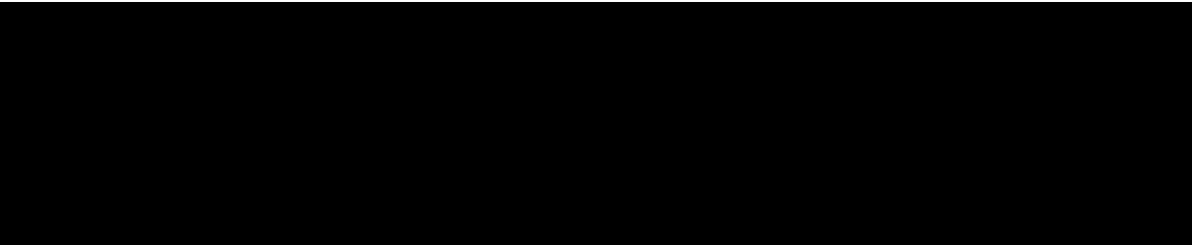
PARTIES

(1) **WEST BERKSHIRE DISTRICT COUNCIL** of Council Offices, Market Street, Newbury, Berkshire RG14 5LD (the "**Council**");

(2)



(3)



(4) **BLOOR HOMES LIMITED** (company number 02162561) whose registered office is situated at Ashby Road, Measham, Swadlincote, Derbyshire DE12 7JP (the "**Developer**").

1 INTRODUCTION

1.1 The Council is the Local Planning Authority for the purposes of the Act and the Highway Authority for the purposes of the Highways Act 1980 for the area in which the Site is situated.

1.2 The Partnership are registered as owners with freehold absolute title of that part of the Site registered at Land Registry under title number BK200633.

1.3 Skilldraw is the registered owner with freehold absolute title of that part of the Site registered at Land Registry under title number BK443938

1.4 The Developer has entered into an option with the Partnership dated 4 June 2014 to acquire land within the Partnership's land registered at Land Registry under title number BK200633.

1.5 The Developer has entered into an option with Skilldraw dated 4 June 2014 to acquire land within Skilldraw's land registered at Land Registry under title number BK443938.

- 1.6 The Developer and the Partnership submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- 1.7 The Council resolved on [] to grant the Planning Permission subject to the prior completion of this Deed.

2 DEFINITIONS

In this Deed the following expressions shall have the following meanings:

A339-A343 to Pinchington Lane Speed Reduction Scheme	a scheme for the provision of speed restriction signage on the A339 to A343 to Pinchington Lane as shown on Drawing [];
Act	the Town and Country Planning Act 1990;
Additional Sum	has the meaning given to it by clause 12;
Allocation Wide Dwellings	dwellings which are Occupied on the Site or the Sandleford Park West Land;
Application	the application for planning permission for the Development submitted to the Council and allocated reference 18/00764/OUTMAJ;
Commencement	has the meaning given to it by clause 3.7 and " Commence " shall be construed accordingly;
Contribution Security Strip	a strip of land one metre in width forming part of the Site at the boundary of the Site with the Sandleford Park West Land;
Country Park	the country park to be provided within the Site in the locations shown coloured pink and green on the Country Park Phasing Plan annexed to this Deed to be provided in two phases as illustrated on the Country Park Phasing Plan with parkland east shown coloured pink on the Country Park Phasing Plan to be delivered with Development Parcel North 1 and parkland

west shown coloured green on the Country Park Phasing Plan to be delivered with Development Parcel Central 3;

Country Park Phasing Plan means the plan with reference 04627_00005_16_306_12 attached to this Deed.

the Development development of the Site for up to 1,000 new homes; 80 extra care housing units (Use Class C3) as part of the affordable housing provision; a new 2 form entry primary school (D1); expansion land for Park House Academy School; a local centre to comprise flexible commercial floorspace (A1-A5 up to 2,150sq m, B1a up to 200sq m) and D1 use (up to 500sq m); the formation of new means of access onto Monks Lane; new open space including the laying out of a new country park; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works. Matters to be considered: Access;

Development Parcel Centre means the development parcel shown with that reference on plan 14.273/PP05 Rev B;

Development Parcel North means Development Parcel North 1 and Development Parcel North 2;

Development Parcel North 1 means the development parcel shown with that reference on plan 14.273/PP05 Rev B;

Development Parcel North 2 means the development parcel shown with that reference on plan 14.273/PP05 Rev B;

Development Parcel Central 3 means the development parcel shown with that reference on plan 14.273/PP05 Rev B;

Dwelling any single dwelling unit constructed on the Site pursuant to the Planning Permission to be used for Class C3 residential purposes, including General Affordable Housing Units as defined in Schedule 8;

Head of Planning and Countryside	the person from time to time holding the post of Head of Planning and Countryside with the Council or the person who is designated as such by the Council for the purposes of this Deed;
Head of Legal and Electoral Services	the person from time to time holding the post of Head of Legal and Electoral Services with the Council or the person who is designated as such by the Council for the purposes of this Deed;
Healthcare Contribution	a contribution in the sum of [] plus any Additional Sum to be paid to the Council towards the provision of healthcare facilities to serve the Development in the form of an extension to the Falklands Surgery at Monks Lane, Newbury RG14 7DF being two thirds of the estimated cost thereof;
Highway Works (Junction Improvements) Contribution	a contribution in the sum of £[] plus any Additional Sum to be paid to the Council towards the provision of the Highway Works (Junction Improvements) being two thirds of the estimated cost thereof;
Highway Works (Monks Lane Eastern Access)	the new junction on to Monks Lane as shown for illustrative purposes on plan numbered 172985_A_07.1;
Highways Works (Monks Lane Western Access)	the new junction on to Monks Lane as shown for illustrative purposes on plan numbered 172985_A_08;
Highway Works (Link Road to Sandleford Park West)	the access road from Monks Lane up to the boundary of (but excluding) the Contribution Security Strip as shown for illustrative purposes only on the Land Use Parameters Plan;
Highway Works (Link Road to Newbury College)	the link road to the eastern boundary of the Site as shown for illustration purposes only on drawing number 4768-SK-100 Rev C;

Highway Works (HWRC to Highwood School Access Road)	the access road between HWRC and the proposed High Wood School Access Road as shown for illustration purposes only on drawing number 4768-SK-100 Rev C;
Highway Works (HWRC to Highwood School Access Road) Contribution	a contribution in the sum of £[] plus any Additional Sum to be paid to the Council towards the provision of the Highway Works (HWRC to Highwood School Access Road);
HWRC	the household waste recycling centre identified on Drawing Number [];
the Index	the General Index of Retail Prices (all items) published by the Office of National Statistics, or during any period where no such index exists the index which replaces the same or is the nearest equivalent thereto as may be reasonably be specified by the Council;
Index Linked	increased by multiplying the relevant financial contribution by the percentage by which the Index has increased from the date of this Deed (and for the avoidance of doubt not from the date of any Sandleford Park West Section 106 obligations) to the date that the relevant financial contribution is due;
Land Use Parameters Plan	drawing number PP02 Rev H attached to this Deed;
LAPs	the local areas of play to be provided within the residential parcels;
LEAP	the locally equipped area of play shown on the Strategic Landscape and Green Infrastructure Plan;
Local Centre	the local centre shown on the Land Use Access Parameter Plan capable of accommodating the Local Centre Uses the boundaries of which shall be fixed by reserved matters approval;

Local Centre Uses	uses (and gross external floorspace) within Classes A1 to A5 (2150m ²), B1 (200m ²) and D1 (500m ²) of the Town and Country Planning (Use Classes) Order 1987;
Management and Maintenance Scheme	detailed proposals for the management and maintenance of the Strategic Landscape and Green Infrastructure and the Country Park including where applicable any particulars of any management company or other body to be responsible for the management and maintenance of the Strategic Landscape and Green Infrastructure and the Country Park;
Marketing Period	the period of three years from the commencement of marketing of the Local Centre;
NEAP	the neighbourhood equipped area of play shown on the Strategic Landscape and Green Infrastructure Plan;
Newbury College Link	the link road between the eastern boundary of the Site and Newtown Road (A339) as shown on drawing number 4768-SK-100 Rev C, or such other drawing as may be agreed between the parties;
Newbury College Link Contribution	the sum of £1,500,000 (one million five hundred thousand pounds) plus any Additional Sum to be paid to the Council as a contribution to the provision of the Newbury College Link ;
Newbury Rugby Club Contribution	the sum of £180,000 (one hundred and eighty thousand pounds) plus any Additional Sum to be paid to the Council to provide surface and drainage upgrades to the existing playing pitches at the Newbury Rugby Club located to the north west of the Site and to the south of Monks Lane;
Off Site Highways Works "A"	the works to upgrade traffic signals at Newtown Road/Pound Street and Bartholomew Street/Market Street in the location shown illustratively on drawing number [] ;

Planning Condition	a condition subject to which Planning Permission is granted;
Planning Permission	the planning permission subject to conditions to be granted by the Council pursuant to the Application (in the form of or substantially in the form of the draft attached to this Deed as Appendix []) and including any non-material amendment to such planning permission under Section 96A of the Act;
Play Areas	the NEAP, LEAPs and LAPs and a reference to a "Play Area" shall be a reference to the relevant one of them;
Primary School	a two form entry primary school to be constructed on Primary School Site North;
Primary School Contribution	a contribution in the sum of £[] plus any Additional Sum to be paid to the Council towards the construction of the Primary School to be constructed on Primary School Site North;
Primary School Site North	a site of no more than 2 hectares in the general location shown on the Land Use Parameters Plan within Development Parcel North 1 the boundaries of which shall be fixed by reserved matters approvals;
Primary School Specification	the specification for the Primary School to be provided on the Primary School Site North attached as Appendix 2 to this Deed;
Public Transport Contribution	a contribution in the sum of £[] ([] pounds]) plus any Additional Sum to be paid to the Council towards the provision of bus infrastructure improvements and an improved/new bus service linking Sandleford and Newbury Town Centre to be paid in instalments in respect of each Phase with each instalment payment being calculated by multiplying the number of Dwellings to be provided within the relevant Phase by the sum of [£] ([] pounds]);

Residential Mix	the mix of Dwellings to be provided in each Phase categorised by tenure and number of bedrooms;
Rights	the rights set out at paragraph 3 of Schedule 7
Rupert Road, Chandos Road and Wendon Road Pedestrian Improvements	the pedestrian improvements to Rupert Road, Chandos Road and Wendon Road shown illustratively on drawing number [];
Sandleford Park Off Site Highways Works "A" Contribution	the sum of £333,334 (three hundred and thirty three thousand three hundred and thirty four pounds) to be paid in accordance with Part 2 of Schedule 4 and to be applied towards the Off Site Highways Works "A";
Sandleford Park Off Site Highways Works "B" Contribution	subject to Part 3 of Schedule 4 the sum of £4,400,000 (four million four hundred thousand pounds) to be paid in accordance with Part 2 of Schedule 4 and to be applied towards the Off Site Highways Works "B";
Sandleford Park Off Site Highways Works "C" Contribution	subject to Part 3 of Schedule 4 the sum of £666,670 (six hundred and sixty six thousand six hundred and seventy pounds) to be paid in accordance with Part 2 of Schedule 4 and to be applied towards the Off Site Highways Works "C";
Sandleford Park West Application	the outline planning application made by Donnington new Homes to the Council given reference 18/00828/ OUTMAJ for development of up to 500 new homes and associated development on the Sandleford Park West Land;
Sandleford Park West Land	the land shown edged red on Plan SLP-01 Rev A annexed to this Deed which is the application site for the Sandleford Park West Application;
Sandleford Park West Mitigation Sums	any of the following: <ul style="list-style-type: none"> (i) Sandleford Park West Off Site Highways Works "A" Sum

(ii) Sandleford Park West Off Site Highways Works "B" Sum

(iii) Sandleford Park West Off Site Highways Works "C" Sum

**Sandleford Park West
Mitigation Sums Shortfall**

any of the following:

(i) Sandleford Park West Off Site Highways Works "A" Shortfall

(ii) Sandleford Park West Off Site Highways Works "B" Shortfall

(iii) Sandleford Park West Off Site Highways Works "C" Shortfall

**Sandleford Park West Off
Site Highways Works "A"
Shortfall**

the sum equal to $A - B$ where:

A is Sandleford Park West Off Site Highways Works "A" Sum

B is that part of the Sandleford Park West Off Site Highways Works "A" Sum which has been paid or has fallen due on the Sandleford Park West Off Site Highways Works "A" Longstop Date pursuant to a Sandleford Park West Section 106 Obligation

**Sandleford Park West Off
Site Highways Works "A"
Sum**

subject to any adjustment equivalent to the adjustment provided for by Part 3 of Schedule 4, the sum of £166,066 (one hundred and sixty six thousand and sixty six pounds) (Index Linked) (payable at the rate of £6,250 per dwelling in respect of the first 27 dwellings occupied at Sandleford Park West) to be applied towards Off Site Highways Works "A";

**Sandleford Park West Off
Site Highways Works "B"
Shortfall**

the sum equal to $A - B$ where:

A is Sandleford Park West Off Site Highways Works "B" Sum

B is that part of the Sandlesford Park West Off Site Highways Works "B" Sum which has been paid or has fallen due on the Off Site Highways Works "B" Sum Longstop Date pursuant to a Sandlesford Park West Section 106 Obligation

Sandlesford Park West Off Site Highways Works "B" Sum

subject to any adjustment equivalent to the adjustment provided for by Part 3 of Schedule 4 the sum of £2.2 million (two million two hundred thousand pounds) Index Linked (payable at the rate of £29,625 per dwelling in respect of the first 107 dwellings occupied at Sandlesford Park West) to be applied towards the Off Site Highways Works "B";

Sandlesford Park West Off Site Highways Works "C" Shortfall

the sum equal to $A - B$ where:

A is Sandlesford Park West Off Site Highways Works "C" Sum

B is that part of the Sandlesford Park West Off Site Highways Works "C" Sum which has been paid or has fallen due on the Off Site Highways Works "C" Longstop Date pursuant to a Sandlesford Park West Section 106 Obligation

Sandlesford Park West Off Site Highways Works "C" Sum

subject to any adjustment equivalent to the adjustment provided for by Part 3 of Schedule 4 the sum of £333,333 (three hundred and thirty three thousand three hundred and thirty three pounds) Index Linked (payable at the rate of £2,500 per dwelling in respect of the first 133 dwellings occupied at Sandlesford Park West) to be applied towards Off Site Highways Works "C";

Sandlesford Park West Section 106 Obligation

a planning obligation entered into pursuant to Section 106 of the Act in connection with the Sandlesford Park West Land pursuant to the Sandlesford Park West Application or any other application for planning permission to develop the Sandlesford Park West Land for residential purposes;

Secondary Education Delivery Package 1	the works to provide enhanced secondary education facilities at Park House Secondary School described at Appendix 3 and shown on Drawing Number [];
Secondary Education Delivery Package 2	the works to provide enhanced secondary education facilities at Park House Secondary School described at Appendix 3 and shown on Drawing Number [];
Secondary Education Delivery Package 3	the works to provide enhanced secondary education facilities at Park House Secondary School described at Appendix 3 and shown on Drawing Number [];
Secondary Education Delivery Package 1 Contribution	the sum of £[] being []% of the estimated cost of Secondary Education Delivery Package 1 plus any Additional Sum to be paid to the Council to be applied in respect of Secondary Education Delivery Package 1
Secondary Education Delivery Package 2 Contribution	the sum of £[] being the estimated cost of Secondary Education Delivery Package 2 plus any Additional Sum to be paid to the Council to be applied in respect of Secondary Education Delivery Package 2
Secondary Education Delivery Package 3 Contribution	the sum of £[] being the estimated cost of Secondary Education Delivery Package 3 plus any Additional Sum to be paid to the Council to be applied in respect of Secondary Education Delivery Package 3
Secondary Pupil Yield	<p>the number of pupils that are expected to inhabit the Dwellings and may attend Park House Secondary School to be calculated on the basis of:</p> <p>(a) 0 pupils per 1 bed Dwelling;</p> <p>(b) 0.024 pupils per 2 bed Dwelling that is a flat;</p> <p>(c) 0.037 pupils per 2 bed Dwelling that is a house;</p>

(d) 0.173 pupils per 3 bed Dwelling;

(e) 0.343 pupils per 4 bed Dwelling; and

(f) 0.430 pupils per 5+ bed Dwelling.

Secondary School Site

a site of no less than 1.6 hectares in the general location shown on the Land Use Parameters Plan [the boundaries of which shall be fixed and determined through the approval of reserved matters];

Services

the supply of water, electricity and the disposal of foul and surface water and to the extent that they are provided for the Development gas and radio, television, telephone and other audio visual and data signals;

Site

the land shown edged red on the Plan and known as Sandford Park, Newbury, Berkshire;

Statutory Agreements

any agreement required pursuant to Section 38 of the Highways Act 1980 to dedicate the Contribution Security Strip as public highway and [services?]

Strategic Landscape and Green Infrastructure

the green infrastructure, open space and facilities (including drainage features) shown on the Strategic Landscape and Green Infrastructure Plan including (for the avoidance of doubt) the Play Areas;

Strategic Landscape and Green Infrastructure Plan

drawing number 04627.00005.16.633.11 attached to this Deed;

Swan Roundabout Improvements

the improvements to the A339/B4640 Swan Roundabout with vehicle messaging system and [A339 Public Right of Way [] a [pedestrian] crossing shown illustratively on drawing number []];

Tranche A Dwelling	a Dwelling which is one of the first 54 Dwellings to be Occupied on the Site;
Tranche B Dwelling	a Dwelling which is in the first 214 Dwellings to be Occupied on the Site (including for the avoidance of doubt a Tranche A Dwelling);
Tranche C Dwelling	a Dwelling which is one of the first 266 Dwellings to be Occupied on the Site (including for the avoidance of doubt a Tranche A Dwelling and a Tranche B Dwelling);
Travel Plan Contribution	a contribution in the sum of £[] to the provision of travel plan measures to encourage non-car modes of travel; and
Triangle Land	the land shown [] on drawing number [].

3 INTERPRETATION

- 3.1 Save where this Deed specifies otherwise or where the context so requires the singular includes the plural and vice versa and references in this Deed to any party shall include the successors in title to that party's interest in the Site or part thereof.
- 3.2 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 3.3 Where in this Deed reference is made to any clause, paragraph, schedule, plan or recital such reference (unless the context otherwise requires) is a reference to a clause paragraph schedule plan or recital in this Deed or (in the case of the plan) attached to this Deed.
- 3.4 The titles and headings appearing in this Deed are for ease of reference only and shall not affect the construction of this Deed.
- 3.5 Where in this Deed any party covenants not to act such covenant shall include an obligation not to permit or suffer such an act by another person.
- 3.6 All references in this Deed to statutes, statutory instruments, regulations and other legislation shall include their successor amended or replacement provision.

3.7 For the purposes of clause 5 and Schedule 1, Schedule 2, Schedule 3 Schedule 4, Schedule 5, Schedule 6 and Schedule 8 to this Deed the Development shall be deemed to be Commenced on the earliest date on which any material operation (as defined in Section 56(4) of the Act) comprised in the Development is to be carried out and the words "Commence" "Commenced" and "Commencement" shall in such clauses and Schedule 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5, Schedule 6 and Schedule 8 be construed accordingly PROVIDED THAT for the purposes of this Deed and for no other purpose a material operation shall not be taken to include site clearance, site survey, archaeological investigation, demolition, investigation, preparation or remediation and any studies or investigations in that respect, the laying out or removal of services and any construction access, the erection of fences, hoardings and any temporary marketing suite and the carrying out of any of the works set out in paragraph [] of Schedule 6.

3.8 All references in this Deed to a particular title of offices or posts at the Council shall include successor or replacement offices or posts.

4 LEGAL BASIS

4.1 This Deed is made pursuant to Section 106 of the Act.

4.2 Each and every covenant given by the Owners and/or the Developer in this Deed is a planning obligation for the purposes of Section 106 of the Act and shall be enforceable by the Council in respect of the Site.

5 CONDITIONALITY

5.1 With the exception of clauses 8, 9, 14, 18, 19 and 20 which shall come into effect immediately upon completion of this Deed this Deed is conditional upon the grant of the Planning Permission and Commencement of the Development.

5.2 The obligations set out at paragraphs 1.5, 1.6 and 1.7 of Part 2 of Schedule 4 are conditional upon either:

- (a) the Council imposing planning obligations upon the grant of any planning permission to develop the Sandleford Park West Land for residential purposes to secure the payment of the Sandleford Park West Highway Mitigation Sums in substantially the same form and to the same effect as the obligations entered into by the Owners under Part 2 of Schedule 4; or

- (b) no planning permission to develop the Sandleford Park West Land for residential purposes having been granted (after the date of this Deed) on the date that the relevant payment (in each of paragraphs 1.5, 1.6 and 1.7 of Part 2 of Schedule 4) has fallen due.

6 THE OWNERS' COVENANTS

The Owners covenant with the Council as set out in schedules 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5, Schedule 6, Schedule 7 and Schedule 8.

7 THE COUNCIL'S COVENANTS

- 7.1 The Council covenants and agrees with the Owners as set out in paragraph 2 of Part 3 of Schedule 4 and as set out in Schedule 9.

8 MISCELLANEOUS

- 8.1 The Developer shall pay to the Council on completion of this Deed the reasonable costs of the Council up to a maximum of £[] incurred in the review negotiation, preparation and execution of this Deed.
- 8.2 No provisions of this Deed shall be enforceable under the Contract (Rights of Third Parties) Act 1999.
- 8.3 This Deed shall be registered on the Register of Local Land Charges and any other Register as the Council shall determine PROVIDED THAT the Council shall within 21 days of a written request from the Owners or their successors in title at any time after the obligations contained in this Deed have been satisfied issue confirmation of such in writing and thereafter secure that all related entries are cancelled in the Register of Local Land Charges.
- 8.4 Insofar as any clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity legality or enforceability of the remaining provisions of this Deed.
- 8.5 This Deed shall cease to have effect (except insofar only as it has already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to Commencement of the Development.

- 8.6 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have parted with their entire interest in the Site or where the planning obligation relates solely to a part of the Site or Phase of the Development parted with their entire interest in that part or Phase but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 8.7 The planning obligations or other provisions of this Deed will not be enforceable by or against any purchaser of a Dwelling and his successors in title and his mortgagees; or any statutory undertaker occupying the Site or any part of the Site for the purposes of their undertaking; or the Council as owner of the Primary School Site North and/or as owner of any public open space within the Site or as public highway authority in respect of any estate roads within the Site.
- 8.8 Where any agreement or consent is required under the provisions of this Deed such agreement or consent shall be required to be in writing and shall not be unreasonably withheld or delayed.

9 [CO-OPERATION

At all times during the period that starts on the date of this Deed and ends when all obligations contained within this Deed have been complied with and in connection with the obligations and covenants on each party pursuant to this Deed and the Planning Permission the parties to this Deed shall:

- (a) act in good faith towards one another sincerely, fairly and with honest intent and belief; and
- (b) not seek to rely on any rights or easements that affect the Site or Sandleford Park West Land that each party may have the benefit of in order to disrupt or prejudice the development of the Site or Sandleford Park West Land;

with the shared objective of securing the delivery of the Development pursuant to the Planning Permission and the development of the Sandleford Park West Land if planning permission is granted pursuant to the Sandleford Park West Application PROVIDED THAT the Owners and/or Developer the will not be obliged by this clause to permit or allow to be permitted any act that will prejudice the Development of the Site pursuant to the Planning Permission and this clause 9 will not apply to any rights or easements held by third parties or that affect third party land.]

10 WAIVER

- 10.1 No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or acting upon any subsequent breach or default.

11 FETTER OF DISCRETION

- 11.1 Nothing in this Deed shall prejudice the exercise of any statutory power duty or discretion by the Council.

12 INDEXATION

- 12.1 In addition to any financial contribution stated as being payable in the schedules to this Deed a further sum (the "**Additional Sum**") shall, where expressly stated, be paid and any obligation in the schedules to this Deed to pay a financial contribution shall be construed as an obligation to pay the Additional Sum as well.
- 12.2 The Additional Sum shall be calculated by multiplying the relevant financial contribution by the percentage by which the Index has increased from the date of this Deed to the date that the financial contribution (or the relevant instalment thereof) is due.

13 APPLICATION OF CONTRIBUTIONS

The Council may either spend a contribution or sum it has received under this Deed itself for the purposes for which it was paid as set out in the definitions of each contribution or pass it to a third party to spend on its behalf provided that such contribution or sum may only be applied by the third party for the purpose for which it was paid to the Council and the Council shall procure that the third party complies with the relevant terms of this Deed in relation to such sum or contribution.

14 CHANGE OF OWNERSHIP

The Owners agree with the Council to give the Council immediate written notice of any change in ownership of any of their interests in the Site occurring before all the obligations under this Deed have been discharged. Such notice to give details of the transferees full name and registered office (if a company or usual address if not) together with the area of the Site

purchased by reference to a plan but shall not be required to give such notice in respect of the transfer (freehold or leasehold) of any individual Dwelling.

15 NOTICES

15.1 Unless otherwise agreed in writing:

- (a) notices shall be in writing and delivered by hand or first class post to the Owners and Developer at such address and for the attention of such person as may be specified from time to time or in the absence of a specified address to (in the case of a company) its registered address marked for the attention of the Company Secretary or (in the case of an individual) to their usual or last known address and to the Council at West Berkshire District Council Offices, Market Street, Newbury, Berkshire RG14 5LD addressed to the Head of Planning and Countryside; and
- (b) notices served by the Council are deemed to be valid if signed by the Head of Planning and Countryside or his authorised officer or by the Head of Legal and Electoral Services.

15.2 Notices and representations served by the Owners and Developer are deemed valid if signed by the relevant person referred to in clause 15.1.

16 INTEREST

If any payment which is due under this Deed is paid late interest will be payable from the date payment is due to the date of payment at the rate of 4% above the Bank of England's base rate.

17 LATER PLANNING PERMISSION

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

18 SECTION 73 PERMISSION

18.1 In the event that planning permission is granted by the Council, pursuant to Section 73 of the 1990 Act to carry out the development authorised by the Planning Permission then unless

notice is served by the Owners disapplying this clause 18.1, with effect from the date such new planning permission is granted pursuant to Section 73 of the 1990 Act:

- (a) the obligations in this Deed shall (in addition to continuing to bind the Site in respect of the Planning Permission) relate to and bind the Site in relation to the development the subject of such permission without the need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the 1990 Act; and
- (b) the definitions of Application, Development and Planning Permission in this Deed shall be construed to include references to such applications under Section 73 of the 1990 Act, the planning permission granted thereunder and the development permitted by such planning permission.

18.2 Clause 18.1 shall not apply to any planning permission in respect of which the Owners have served notice in writing upon the Council prior to the grant of such planning permission that the provisions of clause 18.1 shall not apply to such permission.

19 VAT

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

20 JURISDICTION

This Deed is governed by and shall be interpreted in accordance with the law of England.

21 DELIVERY

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

22 DEVELOPER'S CONSENT

The Developer acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Deed PROVIDED THAT the Developer shall otherwise have no liability under this Deed unless and until it acquires a freehold interest in the Site in which case it will be bound by the obligations as a person deriving title from the Owner.

23 EXPERT DETERMINATION

- 23.1 In the event of any dispute or difference arising between the parties to this Deed in respect of any matter contained in this Deed (other than the sum of any Contribution) such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the president (or equivalent person) for the time being of the professional body chiefly relevant in England to such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties to the dispute or difference and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares.
- 23.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 23.1 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision in respect of such appointment, suitability or appropriateness as the case may be shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 23.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 28 days after the conclusion of the hearing that takes place or 28 days after he has received any file or written representation.
- 23.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting materials and the other party will be entitled to make a written counter submission within a further ten days.

IN WITNESS WHEREOF the Parties have executed this Agreement as a Deed the day and year before written

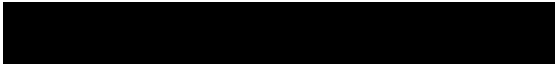
EXECUTED AS A DEED by affixing the Common Seal

of **WEST BERKSHIRE DISTRICT COUNCIL**

and authenticated by:

Authorised Signatory

EXECUTED AS A DEED by



Signature:

Witness:

Address:

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.....

EXECUTED AS A DEED by



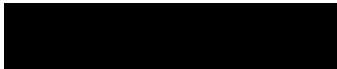
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EXECUTED AS A DEED by



Signature:

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Address:

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EXECUTED as a **DEED** by

BLOOR HOMES LIMITED

acting by its first attorney

.....

acting by its second attorney

.....

witnessed by:

Name (in BLOCK CAPITALS)

Signature:

Address:

.....

.....

SCHEDULE 1

Education

Part 1

Primary School

- 1 The references to the construction and delivery of the Primary School in this part of this schedule refer to the construction and delivery of the Primary School on Primary School Site North.

- 2 The Owners and the Council may agree in writing within [] months of Commencement of Development that the Primary School will be constructed and delivered by the Owners on Primary School Site North such agreement to include a detailed specification which shall be substantially in accordance with the Primary School Specification and the estimated final costs for the construction and delivery of the Primary School provided that in no circumstances will the Owners be liable to any costs in connection with the construction and delivery of the Primary School which are in excess of the Primary School Contribution.

- 3 If an agreement is made in accordance with paragraph 2 of this part of this schedule then:
 - 3.1 the Primary School shall be constructed and fitted out in accordance with the agreed specification;

 - 3.2 the Owners shall deliver a deed transfer of the Primary School Site North to the Council (or to a governing body of other organisation as directed by the Council) no later than the date of Occupation of 200 dwellings or such other date as may be agreed by the Council following the completion of the construction and fitting out of the Primary School in accordance with the agreed specification; and

 - 3.3 the obligation to pay the Primary School Contribution set out in part 2 of this schedule shall not apply and shall immediately cease to have effect.

Part 2

Primary School Contribution

- 1 If no agreement is made between the Owners and the Council in accordance with paragraph 2 of part 1 of this schedule within the period of [] months from the Commencement of Development then the Owners shall:
 - 1.1 within three months thereafter and at the written request of the Council delivery a deed of transfer of the Primary School Site North to the Council (or to a governing body of other organisation as directed by the Council) such transfer to be on the terms and conditions set out at part 5 of this schedule; and
 - 1.2 pay the Primary School Contribution to the Council in accordance with paragraph 2 of this part of this schedule.
- 2 The Owners covenant with the Council to pay the Primary School Contribution to the Council in the following instalments:
 - 2.1 a first instalment equivalent to fifty percent of the Primary School Contribution payable in respect of the relevant Phase prior to the Occupation of the 100th Dwelling within that Phase; and
 - 2.2 a second instalment equivalent to the balance of the Primary School Contribution payable in respect of the relevant Phase prior to the Occupation of the 200th Dwelling within that Phase.

Part 3

Secondary School Site

- 1 The Owners covenant with the Council to deliver a deed of transfer of the Secondary School Site to the Council prior to the Occupation of the 200th Dwelling such transfer to be on the terms and conditions set out at part 5 of this schedule.

Part 4

Secondary Education Contribution

- 1 The Owners covenant with the Council to submit the following details to the Council with each application for reserved matters approval pursuant to the Permission:
 - (a) the Residential Mix of the Phase that is the subject of the application for reserved matters; and
 - (b) the resulting Secondary Pupil Yield;
- 2 The Owners covenant with the Council that the Secondary Pupil Yield generated by the Residential Mix of the Development of the Site will not exceed 139 pupils.
- 3 The Owners covenant with the Council
 - (a) not to commence the Development without first having paid the Secondary School Delivery Package 1 Contribution;
 - (b) not to use or Occupy or cause suffer or permit to Occupy more than 100 Dwellings without first having paid to the Council the Secondary School Delivery Package 2 Contribution
 - (c) not to use or Occupy or cause suffer or permit to Occupy more than 500 Dwellings without first having paid to the Council the Secondary School Delivery Package 3 Contribution

Part 5

Terms of Transfer

- 1 The terms and conditions referred to at paragraph 1 of part 2 and part 5 of this schedule are that:
 - 1.1 The site shall be transferred according to the Law Society's Standard Conditions of Sale ([]Edition) so far as they are applicable to a sale by private Deed and each area shall be transferred subject to:

- (a) all matters registrable or capable of registration as local land charges (whether before or after the date hereof);
- (b) all entries proposals or requirements affecting or relating to the land to be transferred given or made by a Government Department statutory undertaker or other public body or local authority (whether before or after the date hereof); and
- (c) all rights easements created easements or privileges in the nature of light air drainage way passage and the light use enjoyed by or over the land to be transferred.

2 The transfer shall:

- 2.1 be for a consideration of £1 and be made with full title guarantee;
- 2.2 transfer to the Council the fee simple estate in the land thereby transferred with vacant possession unencumbered save as disclosed prior to the date of and in accordance with this Deed;
- 2.3 impose a restriction on the use of the land transferred so that the land transferred may only be used for the purposes of an educational institution serving the local area and charging no fees for admission;
- 2.4 subject to paragraph 2.5, provide that upon the land transferred or any part thereof, ceasing to be used for the purposes referred to in paragraph 2.3, the land transferred shall thereupon immediately revert and be transferred to the transferor for a consideration of £1, PROVIDED THAT for these purposes ceasing to be used shall be taken to mean the permanent discontinuance of the school without an immediate replacement by the establishment of another school or the planned relocation of an existing school to the land transferred on the same terms as set out in this paragraph 2; and
- 2.5 in the event that an approved reorganisation of the primary education provision in the area necessitates the disposal of the land transferred for redevelopment in order to fund the capital costs associated with the approved reorganisation, then the reverter provisions set out at paragraph 2.4 shall not apply, save that the transferor shall be granted a right of pre-emption in respect of the land transferred (with the land value accruing from the land being paid to the Council).

SCHEDULE 2

Local Centre

- 1 The Owners covenant with the Council not to use or Occupy or cause, suffer or permit to be used or Occupied more than 200 Dwellings in Development Parcel Centre until:
 - 1.1 a marketing plan in respect of the provision of Local Centre Uses in the Local Centre has been submitted to and approved in writing by the Council; and
 - 1.2 Services have been provided to the boundary of the Local Centre (but not for the avoidance of doubt to the boundary of any individual building or plot).
- 2 The Owners covenant with the Council not to carry out any development on the land for the Local Centre other than for Local Centre Uses until after the expiry of the Marketing Period.
- 3 The Owners covenant with the Council to market by offering for sale at open market value on the open market through independent commercial selling agents appointed by and at the cost of the Owners a freehold or leasehold interest in the Local Centre for each of the Local Centre Uses such marketing to be:
 - 3.1 begun within two months of the date on which the marketing plan shall have been approved in writing by the Council;
 - 3.2 continued until the expiry of the Marketing Period or in the case of any part of the land for which a binding contract for the sale thereof has been entered into between the Owners and an intending purchaser sooner than the expiry of the Marketing Period until the date of exchange of contracts;
 - 3.3 the open market value sought for shall be on the basis that the land may only be used for the purpose for which such interest is being marketed;
 - 3.4 on the basis that the Services referred to in paragraph 1 are to be provided;
 - 3.5 on the basis that the interests to be sold or granted shall contain the appropriate reciprocal rights and easements;
 - 3.6 with a good and marketable title;

- 3.7 subject to all matters to which the title to the part of the Site is subject at the date hereof and all matters registered as local land charges including this Deed; and
- 3.8 in accordance with the approved marketing plan.
- 4 In each year during the Marketing Period the Owners shall arrange for a written report to be supplied to the Council from its selling agents as to whether there is any commercial demand for the uses marketed unless either:
- 4.1 terms for the sale of any land for the uses marketed have been agreed between the Owners and an intending purchaser sooner; or
- 4.2 the Council has confirmed by notice in writing to the Owners that the Council is satisfied as the result of receiving such reports that there is no commercial demand for one or more of the Local Centre Uses in which case the obligations contained in this schedule in respect of those uses shall terminate.

SCHEDULE 3

Green Infrastructure

Country Park

- 1 The Owners covenant with the Council:
- 1.1 not to use or Occupy or cause, suffer or permit to be used or Occupied more than 150 Dwellings in Development Parcel North without first having completed the construction, laying out, planting and servicing of Parkland East forming part of the Country Park in accordance with Planning Condition 21;
- 1.2 not to use or Occupy or cause, suffer or permit to be used or Occupied more than 150 Dwellings in Development Parcel Centre without first having completed the construction, laying out, planting and servicing of the Parkland West forming part of the Country Park in accordance with Planning Condition 21;

Early Landscaping and Planting

- 1.3 not later than the first available full planting season after Commencement to complete the landscaping works shown as "advanced structure and woodlands planting" on the Strategic Landscape and Green Infrastructure Plan;

Management and Maintenance

- 1.4 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings without first having submitted the Management and Maintenance Scheme for the approval of the Council;
- 1.5 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings prior to the approval by the Council of the Management and Maintenance Scheme; and
- 1.6 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings without first having established the management company or body referred to in the Management and Maintenance Scheme which shall thereafter maintain the Strategic Landscape and Green Infrastructure and Country Park in accordance with the approved Management and Maintenance Scheme.

SCHEDULE 4

Part 1

Highway Works and Contributions relating to Sandford Park

- 1 The Owners covenant with the Council:
 - 1.1 not to Commence the Development without first having paid the Newbury College Link Contribution to the Council;
 - 1.2 [not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings on the Site without first having paid to the Council the Highway Works (HWRC to Highwood School Access Road Contribution)];
 - 1.3 [not to use or Occupy or cause, suffer or permit to be used or Occupied any Dwelling on the Site] prior to the substantial completion of the Highway Works (Monks Lane Eastern Access);
 - 1.4 [not to use or Occupy or cause, suffer or permit to be used or Occupied any Dwelling on the Site] prior to the substantial completion of the Highway Works (Monks Lane Western Access);
 - 1.5 within six years of the Commencement of the Development to construct and complete the Highway Works (Link Road to Sandford Park West);
 - 1.6 not to use or Occupy or cause, suffer or permit to be used or Occupied more than 300 Dwellings on the Site prior to the substantial completion of the Highway Works (Link Road to Newbury College Land);
 - 1.7 not to Occupy or cause suffer or permit to be used or Occupied more than 100 Dwellings prior to the substantial completion of the Swan Roundabout Improvements;
 - 1.8 not to Occupy or cause suffer or permit to be used or Occupied more than 100 Dwellings prior to the substantial completion of the A339 – A343 to Pinchington Lane Speed Reductions Scheme;
 - 1.9 not to Occupy or cause suffer or permit to be used or Occupied more than 100 Dwellings prior to the substantial completion of the Rupert Road, Chandos Road and Wandon Road Pedestrian Improvements.

Any works to be carried out pursuant to this paragraph 1 shall be carried out within the Site or within land falling within the public highway

Pedestrian and Cycle Way Works

1.10 not to use or Occupy or cause, suffer or permit to be used or Occupied more than the number of Dwellings on the Site shown in Column A below prior to the substantial completion of that part of the Pedestrian and Cycle Link Works and Pedestrian and Cycle Link Improvements shown in Column B below:

Column A	Column B
Number of Dwellings	Pedestrian and Cycle Works
[]	along Monks Lane and Pinchington Lane, Newton Road, Rupert Road, Chandos Road, Wenden Road (towards Newbury Town Centre) in the general location shown on plan number [];
[]	across the A339 to Deadmans Lane (as part of the Newbury College Link) in the general location shown on plan number [];
[]	via the PROW footpath Greenham 9, and the A339 towards Greenham Common and Employment at New Greenham Park in the general location shown on plan number [];
[]	along the A343 Andover Road to nearby schools and retail towards Newbury Town Centre in the general location shown on plan number []
[]	the pedestrian and cycle way link works to provide pedestrian and cycle links from the Site to Sandford Park West, Newbury Rugby Club, Newbury College, Parkhouse School and Monks Lane in the general location shown on plan number [];

- 1.11 not to use or Occupy or cause, suffer or permit to be used or Occupied more than 150 Dwellings in Development Parcel North prior to the substantial completion of the On-site PROW Improvements.

Part 2

Highways Contributions relating to Sandlesford Park and Sandlesford Park West

- 1 The Owners covenant with the Council:
- 1.1 To pay the Sandlesford Park Off Site Highways Works "A" Contribution at the rate of £6,250 (£ six thousand two hundred and fifty pounds) per Tranche A Dwelling in accordance paragraph 4.
- 1.2 To pay the Sandlesford Park Off Site Highways Works "B" Contribution at the rate of £20,625 (£twenty thousand six hundred and twenty five pounds) per Tranche B Dwelling in accordance with paragraph 4.
- 1.3 To pay the Sandlesford Park Off Site Highways Works "C" Contribution at the rate of £2,500 (£two thousand five hundred pounds) per Tranche C Dwelling in accordance with paragraph 4.
- 1.4 On each Payment Date to pay the sum due pursuant to paragraphs 1, 2 and 3 above in respect of each Tranche A Dwelling, Tranche B or Tranche C Dwelling which is first Occupied in the immediately preceding Payment Period.
- 1.5 On the Off Site Highways Works "A" Contribution Long Stop Date to pay (by way of forward funding) any Sandlesford Park West Off Site Highways Works "A" Shortfall
- 1.6 On the Off Site Highways Works "B" Contribution Long Stop Date to pay (by way of forward funding) any Sandlesford Park West Off Site Highways Works "B" Shortfall
- 1.7 On the Off Site Highways Works "C" Contribution Long Stop Date to pay (by way of forward funding) any Sandlesford Park West Off Site Highways Works "C" Shortfall

Part 3

Adjustments to Part 2 Contributions

- 1 The contributions payable under Part 2 of this Schedule 4 shall be adjusted to take account of any contributions secured by the Council in connection with the grant of planning permission for the development of land other than Sandlesford Park or Sandlesford Park West and which are to be applied to the same purposes.

- 2 The adjustment to the contributions payable under Part 2 of this Schedule 4 shall be by way of a reduction in the amount payable or by way of re-imbusement and shall be such adjustment as is fair and reasonable in all of the circumstances. The adjustment shall be agreed between the Owners and the Council or in default of agreement shall be determined by the Expert pursuant to clause 23.

SCHEDULE 5

Play Facilities

Play Areas

- 1 The Owner covenants with the Council:
 - 1.1 not to use or Occupy or cause, suffer or permit to be used or Occupied;
 - (a) more than 150 Dwellings in Development Parcel North without first having provided the NEAP in accordance with Planning Condition 21:
 - (b) more than [] Dwellings without first having provided one LEAP in accordance with Planning Condition 22; and
 - (c) more than [] Dwellings without first having provided a second LEAP in accordance with Planning Condition 22,
 - 1.2 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] per cent of the Dwellings within the relevant Phase without first having provided the LAPs within the relevant Phase in accordance with Planning Condition 22;

Retention of Former Newbury Rugby Club Limited Land in Recreational Use

- 1.3 With effect from the Occupation of any Dwelling within that part of the Site shown [] on [], to reserve and make available the Triangle Land for the playing of sports and not to use the Triangle Land for any other purpose; and
- 1.4 not to Occupy any Dwelling until the Owner has made an irrevocable offer to Newbury Rugby Club Limited to transfer back the Triangle Land for nil payment.

SCHEDULE 6

Further Contributions

- 1 The Owners covenant with to the Council:
 - 1.1 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings without first having paid the Public Transport Contribution to the Council;
 - 1.2 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings without first having paid the Healthcare Contribution to the Council;
 - 1.3 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings without first having paid the Travel Plan Contribution to the Council; and
 - 1.4 not to use or Occupy or cause, suffer or permit to be used or Occupied more than [] Dwellings without first having paid the Newbury Rugby Club Contribution to the Council

SCHEDULE 7

Contribution Security Strip

- 1 Subject to satisfaction of the pre-condition set out in paragraph 2 of this schedule the Owners covenant to grant the Rights [and to enter into Statutory Agreements] for the benefit of the Sandlesford Park West Land within 20 Working Days of the pre-condition being satisfied

- 2 The pre-condition is that all of the following are satisfied:
 - 2.1 The Owners have received written notice from the Council that the whole of the Sandlesford Park West Mitigation Sums have been received by the Council and confirming that the Owners shall have no further liability to pay any further Sandlesford Park West Mitigation Sum Shortfall (whereupon the Owners liability for any Sandlesford Park West Mitigation Sums Shortfall shall come to an end); and

 - 2.2 The Council has reimbursed to the Owners any Sandlesford Park West Mitigation Sum Shortfall previously paid by the Owners such sums to be increased by multiplying such sum by the percentage by which the Index has increased from the date of payment by the Owners to the date of reimbursement of such sums by the Council to the Owners

- 3 The Rights referred to in paragraph 1 above are as follows:
 - 3.1 the right to enter onto the Contribution Security Strip with or without workmen for the purpose of constructing a road (which is intended to become a highway maintainable at public expense) to connect into the Highway Works (Link Road to Sandlesford Park West) [and to lay and connect into services]

SCHEDULE 8

Housing

Part 1

Interpretation

1 In this schedule and throughout this Deed in addition to the definitions provided in clause 1 of this Deed the following words shall have the following meanings:

Affordable Housing	affordable housing as defined in the National Planning Policy Framework or National Planning Policy Guidance or any reissue of the same and which shall include Affordable Rented Housing, Extra Care Housing, Intermediate Housing, Shared Ownership Housing and Social Rented Housing;
Affordable Housing Commuted Sum	the sum of 25% of the actual sale price of any Unit which is sold pursuant to paragraph 4.3(b) of this schedule;
Affordable Housing Scheme	a scheme outlining: <ul style="list-style-type: none">(a) the residential mix within each Phase;(b) the tenure mix within each Phase;(c) the triggers for the delivery Affordable Housing Units or General Affordable Housing Units (as the case may be) based on the delivery of Market Housing Units;(d) the Intermediate Housing Scheme; and(e) the Intermediate Rent Scheme and/or Shared Equity Scheme (if applicable).
Affordable Housing Unit	each and every unit of Affordable Housing to be constructed pursuant to the Development and "Affordable Housing Units" shall be construed accordingly;

Affordable Rented Housing	housing let by Registered Providers to households who are otherwise eligible for Social Rented Housing but where the affordable rent is subject to controls that require a rent of no more than 80% of the local Market Rent (and Service Charges if any);
[Allocation Policy	[Council to confirm];
Base Rent	the annual rent of each individual Affordable Housing Unit divided by the number of weeks over which such rent is collected in each year excluding the Service Charge;
Building Standard	the Building Regulations 2010;
Choice Based Lettings Schemes	a scheme between the Council and Registered Providers who provide Social Rented Housing within the Council's area comprising arrangements for the priority allocation of such housing;
Extra Care Housing	housing which provides care and/or support for people aged 55 years and over (or by exception for people below the age of 55 years who are not able to live independently without assistance) in need of Affordable Housing comprising individual residential units and additional facilities for the provision of care services providing independent living for people with care needs;
Extra Care Housing Provider	a provider of Extra Care Housing;
Extra Care Housing Scheme	a scheme outlining the residential mix and tenure mix of the Extra Care Housing Units;
Extra Care Housing Unit	not less than 80 (eighty) units of Extra Care Housing which are to be constructed on the Development including any associated parking spaces(s) and residential curtilage and "Extra Care Housing Unit" shall mean any one of such units;
Extra Care Land	the land upon which the Extra Care Housing is to be constructed;
Extra Care Land Services	the following rights and the following services: <ul style="list-style-type: none"> (a) rights that enable access to and from the public highway by vehicles pedestrians and cyclists; (b) metalled access road to and from the public highway suitable for use by vehicles pedestrians and cyclists; (c) electricity and gas supply (if gas is available);

- (d) foul and surface water drainage;
- (e) telecommunications service; and
- (f) water services

First Time Buyer

a prospective purchaser who has not been the freehold or long leasehold owner of any other housing (whether as the outright owner or with mortgages or other loan finance) either in whole or part at any previous time within the United Kingdom and who cannot otherwise afford to rent or buy housing generally available on the open market within [West Berkshire];

General Affordable Housing

Affordable Housing which is not Extra Care Housing

General Affordable Housing Unit

each and every unit of General Affordable Housing to be constructed pursuant to the Development and "General Affordable Housing Units" shall be construed accordingly;

Homes England

Homes England as established under the Housing and Regeneration Act 2008;

Initial Let

the first tenancy of each newly constructed and previously unoccupied Affordable Housing Unit to be offered for rent within the Development;

Independent Valuer

a member of the Royal Institution of Chartered Surveyors appointed by the Owners at its own cost but first approved by the Council, and the phrase "Independent Valuers" shall be construed accordingly;

Intermediate Housing

housing for sale or rent provided at a cost above Social Rented Housing but below Market Value or Market Rent meeting the criteria of Affordable Housing. Such housing may include Shared Equity products (but not shared equity loans under the Homes England Help to Buy Scheme), Shared Ownership, Intermediate Rent or other approved affordable home ownership products (where a discount or subsidy from Market Value applies to provide for affordability) as may be agreed between the Owners, the Registered Provider and the Council and "Intermediate Housing Unit" shall be construed accordingly;

Intermediate Housing Scheme

a scheme outlining the:

- (a) the tenure of the Intermediate Housing on each Phase; and
- (b) marketing strategy that will be applied to the disposal of Intermediate Housing;

Intermediate Rent	Affordable Housing available for private letting either through the Owners or a Registered Provider at a Base Rent above that for Social Rented Housing but below Market Rent subject to the Base Rent and Service Charge (if any) for an Affordable Housing Unit comprising Intermediate Rent not exceeding 80% of the Market Rent and 80% of the Service Charge (if any) and "Intermediate Rent Units" shall be construed accordingly;
Intermediate Rent Scheme	a scheme submitted pursuant to paragraph 5.3 of this present schedule detailing the marketing arrangements for Intermediate Rent Units;
Local Help to Buy Agent	the organisation approved by Homes England from time to time to administer its affordable home ownership programme;
Local People	[Council to confirm];
Market Housing Unit	each and every Unit (other than an Affordable Housing Unit) to be constructed pursuant to the Development;
Market Rent	the market rent of a Unit at the point of letting on the assumption that the Unit is a Market Housing Unit and not an Affordable Housing Unit;
Market Value	the market value of the relevant Affordable Housing Unit at the point of sale as validated by an Independent Valuer on the assumption that the Unit was otherwise a Market Housing Unit and not an Affordable Housing Unit;
Practical Completion	completion of the construction of any Unit together with all associated infrastructure works and service connections to such a standard that any such Unit is fit for human habitation, free of patent defects and complies with the Planning Permission to enable beneficial Occupation;
Registered Provider	a provider of Social Housing who is registered with Homes England under Part 2 of the Housing and Regeneration Act 2008;
Retail Price Index	the Retail Price Index published by the Office for National Statistics (or such other index as may be agreed between the parties);

Service Charge

the amount chargeable by the Owners or Registered Provider as the case may be to the tenant of each Affordable Housing Unit to cover services to be provided by the Owners or Registered Provider having regard to the Landlord and Tenant Acts 1985 and 1987 as amended;

Shared Equity

Intermediate Housing where the purchaser (which may include a First Time Buyer) acquires an Affordable Housing Unit in part with a conventional mortgage (usually up to 75% of the Unit's Market Value including deposit) from a lender offering mortgages for residential property purchase together with an equity loan provided by the Registered Provider, Council or Owners as applicable for the balance of the Market Value in accordance with a detailed scheme to be agreed with the Council;

Shared Equity Scheme

the scheme to be submitted pursuant to paragraph 5.2 of this present schedule which shall include:

- (a) confirmation that the First Time Buyer (and any subsequent purchaser unless or until the charge is redeemed) will pay 75% of the Market Value for the Shared Equity Unit and a charge over 25% of the equity of the Shared Equity Unit in favour of the Council will be entered into;
- (b) details of the charge in favour of the Council, the terms of which are to be agreed but which will rank behind any primary charge in relation to a mortgage obtained by the purchaser in respect of the 75% of the equity which is not going to be subject to the charge in favour of the Council;
- (c) details of the re-sale provisions by first and subsequent purchasers, including the status of the charge and a cascade mechanism in the event that it is not possible to sell the Shared Equity Units to a Qualifying Person; and
- (d) confirmation that no rent or interest is payable on the 25% of the equity in the Shared Equity Unit that is to be charged to the Council;

Shared Ownership

housing provided by a Register Provider as applicable which is made available on the basis of part rent and part sale in proportions agreed between the relevant seller and the buyer/tenant in accordance with a Shared Ownership Lease

Shared Ownership Lease	a lease in the form or substantially in the form of the Homes England model form from time to time or in such other form as shall be approved by Council;
Social Housing	housing for either low cost rental or low cost home Ownership as defined in Part 2 of the Housing and Regeneration Act 2008 and which meets the criteria of Affordable Housing set out in the deed;
Social Rented Housing	housing owned by local authorities and private Registered Providers which is subject to Homes England guidance target rents regime and which is made available to people who are registered under the Choice Based Lettings Scheme to be agreed with the Council.
Target Housing Mix	the mix as set out in the tables at paragraph 7 of this Schedule, unless otherwise agreed with the Council;
Unit	for the purposes of this present Schedule 8 only any Affordable Housing Unit or Market Housing Unit (and for the avoidance of doubt includes Extra Care Housing) and "Units" shall be construed accordingly;

Part 2

2 Affordable Housing Quantum

2.1 Subject to paragraph 4.3 of this present schedule the Owners covenant to:

- (a) provide at least 40% of the Units to be provided as part of the Development as a whole as Affordable Housing Units and in accordance with the Affordable Housing Scheme;
- (b) provide 70% of the General Affordable Housing Units as Affordable Rented Housing or Social Rented Housing and 30% of the General Affordable Housing Units as Intermediate Housing; and
- (c) provide the General Affordable Housing Units in accordance with Target Housing Mix

PROVIDED THAT any fraction of a General Affordable Housing Unit (as the case may be) produced by calculating the percentage shall be rounded up if 0.5 General Affordable Housing Units or over and shall be rounded down if under 0.5 General Affordable Housing Units.

2.2 In respect of the Affordable Housing Units comprising Extra Care Housing the Owner shall: use reasonable endeavours to conclude an agreement relating to the transfer of Extra Care Land to an Extra Care Housing Provider for a period of [two years from the date of this Agreement] and

(a) In the event that the Owner concludes an agreement with an Extra Care Provider by the expiry of the period referred to in paragraph 2.2 above:

(i) the Owner shall provide Extra Care Land Services to the Extra Care Land and transfer the Extra Care Land to the Extra Care Housing Provider as required in accordance with the contract entered into between the Owner and the Extra Care Provider;

(ii) the Extra Care Housing Provider shall submit the Extra Care Housing Scheme to the Council as part of any reserved matters application for the Extra Care Housing; and

(iii) the Extra Care Housing Provider shall provide the Extra Care Housing in accordance with the Extra Care Housing Scheme; or

(b) In the event that the Owner has not concluded an agreement with an Extra Care Provider by the expiry of the period referred to in paragraph 2.2 then provided the Council confirms in writing (following receipt of evidence in writing of the efforts made to enter into such a contract) that it is satisfied that it is not feasible to progress the Extra Care Housing

(i) the provisions of paragraph 2.1(a), 2.2 and 2.2(a) of this present schedule will cease to be binding or enforceable on or against the Owners or their mortgagee or any successors or other persons deriving title from them; and

(ii) the Owner shall provide at least 40% of the Dwellings to be provided as part of the Development as a whole as General Affordable Housing Units in accordance with the Affordable Housing Scheme and paragraphs 2.1(b) and 2.1(c) of this present schedule.

2.3 If the Owner and the Council do not agree that it is not feasible to progress the Extra Care Housing pursuant to paragraph 2.2(b) of this present schedule clause 23 of this Deed shall apply.

2.4 The Owners shall:

(a) ensure that all Affordable Housing shall be advertised in accordance with the Council's [Allocation Policy];

(b) procure that all Affordable Housing Units shall be constructed to the Building Standard;

(c) subject to paragraphs 4.2(b) of this present schedule ensure that all Affordable Housing shall not be used other than for Affordable Housing;

3 Phased Housing Provision

3.1 The Owners covenant to submit the Affordable Housing Scheme for each Phase to the Council as part of any reserved matters application for each Phase and not to Commence Development of any Phase until the Affordable Housing Scheme has been approved by the Council as part of that reserved matters application for that Phase PROVIDED THAT if the mix and triggers submitted in the Affordable Housing Scheme accord with paragraphs 2.1(b), 2.1(c) (or 2.2(b) as the case maybe) and 4.1 of this present schedule the Affordable Housing Scheme shall be [deemed to be] approved by the Council.

3.2 In the event that paragraph 2.2(a) of this present schedule applies the Owners covenant to provide between 30% and 40% of the Units to be provided in each Phase as General Affordable Housing Units and in accordance with the Affordable Housing Scheme.

3.3 In the event that paragraph 2.2(b) of this present schedules applies to Owners covenant to provide between 35% and 45% of the Dwellings to be provided in each Phase as General Affordable Housing Units and in accordance with the Affordable Housing Scheme.

4 Restriction on Occupation

4.1 Not to Occupy or cause or permit the Occupation of more than [90%] of the Market Housing Units in a Phase until all of the Affordable Housing Units or General Affordable Housing Units (as the case may be) in that Phase have been transferred to a Registered Provider.

4.2 It is hereby agreed that the following provisions shall apply to Affordable Housing Units provided pursuant to the Permission comprising Shared Ownership Housing, Social Rented Housing or Affordable Rented Housing to be provided in each Phase:

- (a) the Owner shall use reasonable endeavours to conclude an agreement with a Registered Provider selected by the Owners for the transfer of Social Rented Housing or Affordable Rented Housing or Shared Ownership Housing as the case may be to the Registered Provider;
- (b) in the event that the Owner has not concluded an agreement with a Registered Provider for the transfer of either Social Rented Housing or Affordable Rented Housing or Shared Ownership Housing within three months the Owner shall provide the Council with reasonable evidence of efforts made to conclude an agreement with a Registered Provider during that period and shall be free to dispose of the Shared Ownership Housing, Social Rented Housing or Affordable Rented Housing as any type of Intermediate Housing subject to the provisions of this present schedule.

4.3 In respect of the Affordable Housing Units comprising Intermediate Housing in each Phase (excluding Shared Ownership Housing other than those Units which may be disposed of as Intermediate Housing pursuant to paragraph 4.2(b) of this schedule) the Owner shall:

- (a) use reasonable endeavours to conclude an agreement relating to the transfer of Intermediate Housing Units to a Registered Provider or an occupier (as the case may be) for a period of three months following the approval of the Intermediate Housing Scheme; and
- (b) in the event that the Owner has not concluded an agreement with a Registered Provider or an occupier for the transfer of the Intermediate Housing by the expiry of the period referred to in paragraph 4.3(a) the Owner shall be free to dispose of the Intermediate Housing as Market Housing and this present schedule shall no longer apply or be binding or enforceable on or against the Owners or their mortgagee or any successors or other persons deriving title from them PROVIDED THAT the Owner pays the Affordable Housing Commuted Sum to the Council within one month of the date of disposal of each Unit to which this paragraph applies.

5 Intermediate Housing

- 5.1 In respect of the Affordable Housing Units comprising Intermediate Housing to be provided in each Phase, the Owner may either:
- (a) transfer those Intermediate Housing Units to a Registered Provider for letting or disposal as appropriate to Local People on a Shared Ownership basis; or
 - (b) directly dispose of those Intermediate Housing Units to eligible Local People on a Shared Equity basis; or
 - (c) let those Intermediate Housing Units to eligible Local People on an Intermediate Rent basis.
- 5.2 In the event that the Owner elects to provide Intermediate Housing Units to eligible Local People on a Shared Equity basis pursuant to 5.1(b) of this present schedule a Shared Equity Scheme will be submitted to the Council for approval as part of the Affordable Housing Scheme for the relevant Phase.
- 5.3 In the event that the Owner elects to provide Intermediate Housing Units to eligible people on an Intermediate Rent basis pursuant to paragraph 5.1(c) of this present schedule an Intermediate Rent Scheme shall be submitted to the Council for approval as part of the Affordable Housing Scheme.

6 **Exclusion of Liability**

- 6.1 From the date of Practical Completion of an Affordable Housing Unit and its availability for Occupation it shall not be used other than for Affordable Housing save that all obligations in this deed shall not be binding on:
- (a) a mortgagee chargee or receiver (or an administrator, howsoever appointed, including a housing administrator) of each of the Affordable Housing Units or any part thereof exercising a power of sale in respect of a default by the then owner of the relevant Affordable Housing Unit (which may include mortgagees or chargees or receivers (or administrators howsoever appointed including a housing administrator) of a Registered Provider) or against a person deriving title from a mortgagee chargee or receiver (or an administrator, howsoever appointed, including a housing administrator); or

- (b) a person acquiring one of the Affordable Housing Units pursuant to any form of statutory right to acquire binding upon the then owner of the relevant Affordable Housing Unit or the mortgagee chargee or receiver of the relevant Affordable Housing Unit following such acquisition; or
- (c) a lessee of one a Shared Ownership Unit or who has staircased to 100% of the equity therein or the purchaser from or the mortgagee chargee or receiver of the lessee of that unit; or
- (d) the successors in title to the parties listed in paragraphs 6.1(a), 6.1(b) and 6.1(c).

7 Target Housing Mix

The Target Housing Mix is as set out below:

	General Affordable Housing
1 bed flat	35%
2 bed flat/maisonette	8%
2 bed house	27%
3 bed house	25%
4 bed house	5%

SCHEDULE 9

Council Covenants

Part 1

Financial Contributions

The Council covenants that it shall expend (or contractually commit to the expenditure of) any contributions paid to it under this Agreement within the period of seven years from the payment of the relevant contribution. In the event that the Council has not expended or contractually committed to expend the contribution by that date the Council shall within 28 days of receiving a written request to do so (such request not to be served before the expiration of the said seven year period) certify the amount of the relevant contribution(s) that has not been expended or contractually committed with relevant supporting documentation and repay that sum or the part of the relevant contribution(s) that has not been certified to have been expended or contractually committed to the Owners (which for the purposes of this paragraph shall mean Nicholas Laing, Noel Gibbs, Delia Norgate, and Lady Ana Quin and not their successors in title) along with interest accrued thereon within 28 days of such certification.

Part 2

Secondary School Site

The Council covenants with the Owners to use reasonable endeavours to procure that the Secondary School Site and any sporting facilities that are provided on the Secondary School Site are made available for use by the public following the transfer of the same to the Council pursuant to paragraph 1 of part 3 of Schedule 1 and subsequent occupation by the Park House Secondary School.

Part 3

Newbury College Link

The Council covenants with the Owner to provide the Newbury College Link [by []] and to allow connection between the Newbury College Link and estate roads constructed as part of the Development pursuant to the Planning Permission.

Part 4

- 1 The Council covenants with the Owner to use its reasonable endeavours to secure the payment of the Sandleford Park West Highway Mitigation Sums in substantially the same form and to the same effect as the obligations entered into by the Owners under Part 2 of Schedule 4 upon the grant of any planning permission for the development of the Sandleford Park West Land for residential purposes

- 2 The Council covenants with the Owner to apply any Sandleford Park West Mitigation Sum received pursuant to a Sandleford Park West Section 106 Obligation to reimburse to the Owners any Sandleford Park West Mitigation Sums Shortfall previously paid by the Owners such sums to be increased by multiplying such sum by the percentage by which the Index has increased from the date of payment by the Owners to the date of reimbursement of such sums by the Council to the Owners

APPENDIX 1

Form of Planning Permission

APPENDIX 2

Primary School Specification