

# **YOUR PLACE YOUR PLAN.**

Winchester District Local Plan

## **Winchester City Council Local Plan Examination**

### **Hearing Statement Matter 6: Winchester Site allocations**

April 2025



**Winchester**  
City Council

## **Matter 6 Winchester Site allocations**

### **Issue: Whether the proposed housing site allocations in Winchester would be justified, effective and consistent with national policy?**

Please provide comment on the specific issues raised below. For those sites where representations have been made the Council is requested to respond to the particular issues raised. In doing this any updated information regarding planning permissions, sites under construction and existing uses should be included.

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## **Winchester housing allocations**

### Policy W1 Barton Farm Major Development Area

- 1. This development has an extant outline planning permission for a development including 2,000 homes. That includes a comprehensive access strategy which incorporates the diversion and rerouting of the Andover Road. Is there any justification to promote a site allocation policy that differs from that outline permission?**

WCC response:

#### **Background**

- 1.1. The site allocation does not promote anything that is different from the outline planning permission. The decision to close Andover Road was agreed via a planning appeal heard by a planning inspector. Planning permission for the Kings Barton (Barton Farm) development was granted in 2012 by the Secretary of State (SoS) following an Appeal [linked here](#). The permission includes 2,000 homes, district centre, primary school and a 200-space park and ride “lite” to the north. The planning permission included the re-routing of through traffic that currently uses Andover Road through the development site (along the Winchester Avenue spine road) and the closure of Andover Road to traffic.
- 1.2. As part of the appeal, a Statement of Common Ground on Highways and Transport Issues was published in January 2011 (Appeal document CD/4.2). Hampshire County Council (HCC), as local highway authority, accepted the traffic volume assessment which underpinned the proposal to realign Andover Road through the development and closing Andover Road to through vehicular traffic. HCC agreed SoCG stated that the diversion of traffic would have sufficient capacity.
- 1.3. The developer was originally obliged to deliver the new development spine road, termed Winchester Avenue, and associated junction changes prior to the occupation of 650 housing units. We understand that HCC has agreed in principle to amend the trigger in the 106 agreement (the city council is not party to these discussions) to 1,000 occupations. The works that need to be done for the new Winchester Avenue to be formally open should be completed by December 2027.
- 1.4. In view of the above, neither the local planning authority or local highway authority has the power to direct the developer to keep Andover Road open to all traffic. For this to be achieved the developer would need to submit a new planning application with a revised access strategy which they are unwilling to do.

- 1.5. On the 9th March 2023 the Executive Lead Member for Hampshire 2050 via a [Decision Day Report](#) agreed to a transport strategy for Andover Road and Northern Winchester which included the closure of Andover Road and the diversion of traffic through Kings Barton. A study was undertaken, and a technical report was produced to support this decision. The technical report examined and discounted alternative options to keep Andover Road open. The Decision Day report however recognised that traffic flows may change because of the closure of Andover Road and agreed to monitor and manage the impact of traffic on the surrounding roads following the diversion of Andover Road.
- 1.6. The outline planning permission provides for significant alteration to the Harestock Road/Andover Road/Wellhouse Lane junction, with the Wellhouse Lane arm being downgraded (to walk and cycle access only) and access to Andover Road removed and replaced with a new alignment into Kings Barton. The junction will be signalised to control all traffic movements. The design has been updated to enhance walking and cycle provision and has allowed for the future provision of a bus only access onto Andover Road. These changes are considered appropriate to reflect contemporary design standards and policy development whilst in accordance with the extant outline permission.
- 1.7. The Kings Barton development, which includes the closure of Andover Road to through traffic, is a committed development in planning terms and therefore any future development in this area will need to assess their transport impacts with this closure in place as the decision has already been made to close it. In view of this the city council considers that the wording of the supporting text and the wording of Policy W1 does fully align and there is no difference with the outline planning permission that was granted by the then Secretary of State.

**2. Is modification to the policy required, for the purposes of soundness, to direct potential developers to the Lead Local Flood Authority in relation to groundwater levels in the northern part of the site?**

WCC response:

- 1.8. Whilst the whole of this site allocation has been granted outline planning permission, [Proposed Modification PM 68](#) includes the reference to the Lead Local Flood Authority. This is considered to add clarity to the wording of the policy, and it came specifically out of the responses from the Environment Agency (EA) to the Regulation 19 public consultation. The city council agrees with the EA that this additional wording would help with the soundness of the Local Plan.

**3. Should sufficient distance between Harestock Wastewater Treatment Works and sensitive land uses, such as residential units, schools and recreational areas, be required given its proximity?**

WCC response:

1.9. An Environmental Impact Assessment was undertaken to support the outline planning application for the site that was subject of an appeal. This involved the developer undertaking work to investigate and agreeing with Southern Water an 'odour plume exclusion zone' around the Harestock Waste Water Treatment Works. This work has informed the layout of the residential units (which have been built in the northern area of the site), the location of the new [Barton Farm Primary Academy](#) (which is now open) and the location of the recreational areas. Due to the odour plume around the Waste Water Treatment Works the northern part of the site has been allocated in the Masterplan for a Park and Ride facility (which has not yet been implemented). In view of this the city council does not believe that it is necessary based on the planning permission to specifically mention this requirement in Policy W1 as the only development in this area that has not yet taken place is the Park and Ride facility which is not affected by the odour plume. PM69 in the Schedule of Proposed Modifications ([SD14a](#)) has added a new criteria in relation to allowing access to existing underground infrastructure for maintenance and upsizing purposes and PM68 has added the words 'Lead Local Flood Authority (LLFA) to paragraph 12.10.

**4. Does the policy appropriately align with the Plan aim to promote active travel?**

WCC response:

1.10 As mentioned above, this particular site already has an outline planning permission, and the developer is bringing forward reserved matters for the outstanding phases of the development. It is considered important that the Local Plan is read as a whole and there are a number of policies in the Sustainable Transport and Active Travel topic that address active travel so there is no need to repeat these in Policy W1. The wording of the policies in the Sustainable Transport and Active Travel topic has been discussed and agreed with Active Travel England and HCC who have not raised any objections to the wording of Policy W1.

**5. Given past delivery on this site allocation, what is the evidence that it would be would deliver in its entirety within the Plan period?**

WCC response:

1.11 The city council accepts that the delivery of the Kings Barton site was initially slower than expected following the outcome of the planning appeal. The development required significant infrastructure works which involve the

creation of a central spine road. The technical approval for this infrastructure is nearing completion and works have started on the connection between existing phases on the development. This will allow the delivery of a large local centre. The development has been phased in the housing trajectory in Appendix A to Hearing Statement Matter 4 – Meeting housing needs at 115 homes per year.

1.12 The development is separated into 4 large phases. To date, the applicant has received approval for Reserved Matters within Phases 1 – 3A. Phase 1 is complete and occupied and Phase 2A is under construction and partly occupied. In March 2025, there were a total of 675 units occupied on the site.

1.13 Construction has commenced on Phase 2B (291 homes) and also Phase 3A (208 homes). Phase 3B reserved matters has been recently submitted. Pre-application discussions for Phase 4 is due to commence. The delivery of Phase 4 will benefit from the completion of the infrastructure currently under construction and can be delivered within the Local Plan period.

## Policy W2 Sir John Moore Barracks

**1. Given the length of the supporting text and policy requirements and repetition within both policy (criteria iv and xvii relating to existing buildings and facilities, criteria xiv and xvi relating to heritage assets) and supporting text (paragraphs 12.28, would the policy be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

WCC response:

1.14 The redevelopment of the SJM Barracks, which is currently an operational military base, is a particularly complex site when it is compared with the other site allocations in the Local Plan. This means that the successful redevelopment of this military base as a mixed-use site will need to address an extended number of issues. It is accepted that the supporting text and Policy W2 are fairly lengthy, however, the city council believes that this level of detail is required as it is a unique site, and its future use has generated a significant amount of local interest in terms of how the site needs to be redeveloped. PM70 in the Schedule of Proposed Modifications ([SD14a](#)) has added the words 'residential led' to the allocated uses on page 313 to add clarity. PM71 in the Schedule of Proposed Modifications ([SD14a](#)) has added the words **needed to make the development acceptable in planning terms together with** and the creation of neighbourhood centre(s)...'. PM74 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the Gym and leisure facilities, including a swimming pool and a **former** nursery; ~~which is used occasionally by the local community as well as military personnel;~~

- 2. The policy supporting text includes requirements of a masterplan. That includes some matters included in the supporting text that are not included in policy e.g. the need for a lighting strategy, the requirement to ensure air traffic control signals are not compromised through development. In so doing, would the policy be effective?**

WCC response:

- 1.15 The Defence Infrastructure Organisation (DIO) have entered into a Planning Performance Agreement with the city council. A Concept Masterplan for the SJM Barracks has recently been agreed at Cabinet on the 12 February 2025 ([ED12](#)) following extensive public consultation and engagement.
- 1.16 The supporting text that has been included in the Local Plan regarding lighting was included at the request of the Ministry of Defence in response to comments that were made at the Regulation 18 stage. As the disposal of the site is being undertaken by DIO (who are part of the Ministry of Defence), the city council does not believe in this particular instance, that it is necessary to include a lighting strategy as a specific criterion in Policy W2 as this was not requested by the Ministry of Defence and the DIO are fully aware of this requirement. However, if the Inspector believes that this would assist with the clarity and the interpretation of Policy W2, Officers do not have any objection to the requirement of a lighting strategy being included as an additional criterion in Policy W2.

- 3. What would the status of the masterplan be and in dealing with matters to ensure the development of the site is acceptable in planning terms, would the policy be effective?**

WCC response:

- 1.17 The city council has an agreed approach towards preparing [Concept Masterplans](#) which clearly sets out the process that the council expects applicants to follow. As mentioned in response to question 2, a Concept Masterplan for the SJM Barracks site has now been agreed by Cabinet on the 12/02/2025. The DIO are now in the process of working up more detailed proposals which will be used to inform a planning application that is expected to be submitted in Autumn 2025.
- 1.18 In view of this the city council believes that the status of Concept Masterplans, which has worked well with another strategic allocation at Bushfield Camp, is clear and the process that has been followed by the DIO (the Concept Masterplan has now been endorsed by Cabinet) will ensure the development of the site is acceptable in planning terms and that the policy will be effective.

- 4. What is the robust evidence to justify criteria vii which requires 'access off Andover Road', particularly given proposals at Barton Farm to divert and reroute Andover Road through that development? Given criterion vii would**

**the Plan be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

WCC response:

- 1.19 The city council agreed a Strategic Transport Assessment (STA) (SD15) with HCC and National Highways. This traffic modelling has used the traffic flows from the SJM Barracks site, which includes a new P&R facility and the assumption that traffic entering and leaving Winchester Town would use the Winchester Avenue Spine Road not the Andover Road. The traffic impacts of the SJM Barracks site have been assessed in combination with all other Local Plan site allocations/committed developments such as the development that is taking place at Kings Barton. The STA did not identify that there is a problem with the level of traffic flows, when these were combined with up to an 850 space Park & Ride site at SJM Barracks (which would after the closure of Andover Road need to travel along Winchester Avenue).
- 1.20 There is an existing vehicular access to the SJM Barracks site which is currently located off Andover Road North. There is only one other emergency access point to the site which is located off Chestnut Avenue/Kennel Lane, but this is a private road. Even if access could be secured off Chestnut/Kennel Lane it would be unsuitable to serve the level of development that will come forward on the site.
- 1.21 PM 72 and PM 73 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording of the supporting text and criterion vii 'Access should be off Andover Road **North (B3420)**' – this proposed change has been agreed with HCC.

**5. Given site constraints including its location within a settlement gap as defined by Policy NE7, heritage, open space, Protected Sites, flood risk etc, SINC and candidate SINC, what is the evidence to justify the quantum and mix of development proposed in policy W2?**

WCC response:

- 1.22 The potential redevelopment of the SJM Barracks site for a mixed-use development has involved a series of stakeholder engagement events which has informed the SJM Barracks Concept Masterplan that was agreed at Cabinet on the 12/02/2025. This includes an assessment of the densities, constraints and developable areas which has demonstrated that the 750 to 1,000 range is deliverable
- 1.23 In order to help inform the quantum and mix of development on the site working in collaboration with Officers from WCC the DIO have undertaken initial stages of assessing reusing and repurposing existing buildings (please see PM 77 in the Schedule of Proposed Modifications ([SD14a](#))). This work has involved exploring and testing various options in order to establish the appropriate quantum and mix of development that can be delivered in the site. Alongside this work it is equally important to ensure how any redevelopment of this site can



meet placemaking objectives at a suitable density/height/mix of dwellings that delivers quality homes on the site. Given the amount of work that has already taken place to-date, the city council believes through its collaborative work with the DIO that there is no reason to indicate that the site cannot accommodate the quantum and mix of development that has been identified in Policy W2. As mentioned above, all of this work has taken into consideration all of the constraints which have been discussed at length through the pre-application process. It is understood that a planning application for the site is due to be submitted in Autumn 2025. PM76, PM79 and PM80 in the Schedule of Proposed Modifications ([SD14a](#)) have clarified at the request of Historic England the wording around heritage issues. PM81 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording in criterion x in Policy W3 regarding flooding at the request of the Environment Agency.

**6. What is the evidence that it would retain the settlement gap's generally open and undeveloped nature so as to accord with Plan policy NE7?**

WCC response:

1.24 As mentioned in response to question 5 (settlement gaps) the existing Winchester – Littleton settlement gap already has built up development within in it. Owing to the fact that the site is a fenced off military site, this is an entirely different situation to other settlement gaps in the district as these do not have development in the settlement gap which is the case with the SJM Barracks site. The Concept Masterplan has demonstrated that the future development can take place at the SJM Barracks, and it will not result in the coalescence of Littleton/Winchester. The city council believes that there is an opportunity to redefine the settlement gap once the master planning work has been taken to the next stage through the outline planning application process and to redefine this in the next Local Plan.

**7. Does it strike the right balance between protecting the special qualities of the locality and the need to ensure land is used efficiently in accordance with NPPF paragraphs 11a, 123 and 129?**

WCC response:

1.25 Yes. The city council believes that the right balance has been struck between protecting the special qualities of the locality and the need to ensure land is used efficiently in accordance with NPPF paragraphs 11a, 123 and 129. The city council believes that the redevelopment of the SJM Barracks site is a sustainable site for a mixed-use development and there is an opportunity to improve the environment (as the site is currently not accessible to the general public). It is important to read the Local Plan as a whole as there are a number of other policies in the Proposed Submission Plan (Regulation 19) that mitigate against climate change.

- 1.26 The agreed Concept Masterplan has investigated making the effective use of land in terms of meeting the need for homes in accordance with paragraph 123 of the 2023 NPPF. However, it is also important that making the effective use of land is balanced against the need to provide a development that is 'multi-generational' and ensuring that it includes a wide diversity of different house types (i.e. different housing tenures, mix of housing etc) so that residents are able to continue to live on the site in the future as their personal circumstances change over time.
- 1.27 In accordance with paragraph 129 of the 2023 NPPF, there has been extensive discussions and engagement about the future redevelopment of the SJM Barracks site. As mentioned in response to question 3, the city council has an agreed approach towards the development of Concept Masterplans. The agreed Concept Masterplan has tested different densities, layouts and how the site can be accessed by walking, cycling and wheeling and how it can be served by a new Park and Ride facility. All of this work will be used to inform the outline planning application.

**8. Are the policy requirements justified, in particular those that require a park and ride facility and are the policy requirements clear and unambiguous in their intent? Would they provide adequate flexibility to bring forward a high-quality scheme that enhances the locality? Would the policy ensure open space and outdoor sports pitches to meet the needs of the proposed development and contribute to provision in the local area?**

WCC response:

- 1.28 As indicated in paragraph 12.29 of the Proposed Submission Plan (Regulation 19) the SJM Barracks site is located on one of the key radial routes into the city centre (Andover Road). The City of Winchester Movement Strategy ([ST01](#)) (page 40) has identified that the transport modelling has demonstrated the need to reduce city centre traffic. This traffic modelling identified that this can be achieved by increasing the number of Park & Ride facilities and a particular need to provide a Park and Ride facility on the north side of the city along Andover Road (at that time 750 spaces). As part of the comprehensive redevelopment of the SJM Barracks site, this will provide approximately 850 spaces as a Park & Ride facility. This would be in addition to the Kings Barton 200 space Park & Ride Light site that is located on the opposite side of Andover Road. Discussions are currently ongoing with the DIO/WCC/HCC regarding the delivery of the Park and Ride facility.
- 1.29 PM75 and PM78 in the Schedule of Proposed Modifications ([SD14a](#)) has identified a number of wording changes to paragraph 12.29 and criterion xix in relation to the Park & Ride facility.
- 1.30 The city council believes that the existing wording (which has been amended with the Proposed Modifications) would be clear and unambiguous in their intent. The city council considers that the Concept Masterplan combined with the

requirements in Policy W2 and other policies in the Local Plan (e.g. Policy D1) will ensure that there is a high-quality scheme that enhances the locality.

### Open space

- 1.31 There are no plans to close the existing sports ground on Harestock Road which is owned by the DIO and is currently leased to Littleton and Harestock Parish Council. There would, as part of the redevelopment of the site, be improvements to the cycle/pedestrian links across the site as it would be one of the key routes into and out of the site – please see page 5 of the [SJM Barracks Concept Masterplan](#).
- 1.32 There are a number of other sports pitches on the SJM Barracks site that are currently behind the ‘wire’ and are not open to the general public. The city council accepts that Policy W2 does not explicitly state a requirement/need for open space and outdoor sports pitches. However, the city council believes that it is important that the Local Plan is read as a whole. Policy NE3 (page 147) in the Proposed Submission Local Plan (Regulation 19) does state *‘New housing development should make the provision for public open space and built facilities in accordance with the most up to date standards’*. Table 1 on page 146 of the Proposed Submission Plan (Regulation 19) sets out the council’s open space standard which defines the standard and quantity of sports grounds which will be required per thousand population on every significant housing development.
- 1.33 The city council is currently working with consultants to prepare an updated Playing Pitch Strategy. This emerging work has identified that there is enough existing grass pitch provision across the district. However, more detailed modelling around the needs of the SJM Barracks site and north Winchester is underway but for the reasons stated above, any open space requirements arising from the redevelopment of the site would be addressed by Policy NE3 and the ongoing collaborative discussions that are taking place with the DIO.

## Policy W3 St Peter’s Car Park

### **1. Would the proposed development of this city centre car park strike the right balance between contributing to the reduction of city centre traffic, improving air quality and providing homes in accessible locations?**

WCC response:

- 1.34 The redevelopment of a number of city centre car parks for residential development are an important part of the city council’s policy approach to the climate emergency in terms of reducing air quality pollution and traffic congestion in the city centre. The redevelopment of a selective number of car parks are also an important component of making the best use of brownfield land that is located in easily accessible locations, and it would help to meet the city council’s

approach on addressing the climate emergency. The release of operational car parks for residential development are linked to the provision of a new Park and Ride facility at the SJM Barracks site. In view of this, the city council believes that the release of a selective number of city centre car parks for residential development does strike the right balance as there will still be other options for car parking in the city centre/on the edge of the city.

**2. Does the policy adequately and appropriately address site constraints, including heritage and the need to maintain access to essential underground water infrastructure?**

WCC response:

- 1.35 In recognition that there are a number of heritage assets that could be affected, the city council's heritage officer working in collaboration with Historic England has produced a Heritage Topic Paper ([SD10f](#)). In recognition that there were specific heritage issues that were associated with the redevelopment of this site allocation a Heritage Impact Assessment has been undertaken of the St Peter's car park site allocation (page 9 – 13 of document SD10f). This work has concluded the development has the potential to enhance the setting of the heritage assets. Harm to heritage significance of built heritage assets could be minimised through the detailed design process which should include an assessment of the height of development and ensure that the form of development is responsive to its context of linear street patterns.
- 1.36 In terms of underground water infrastructure, a site-specific flood risk assessment would need to be undertaken and there is the need to ensure that the design and layout allows future access to sewerage infrastructure (criterion xvi). In view of the above, the city council believes that wording of Policy W3 would address the site constraints and allow for the sustainable redevelopment of this site.

**3. Are the requirements in relation to flood risk adequate, clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

WCC response:

- 1.37 Working in collaboration with the Environment Agency (EA) a Stage 2 Strategic Flood Risk Assessment ([BNE21](#)) has been agreed. Policy W2 includes criterion x - xiii that deals with the need for a site-specific flood risk assessment, an assessment of impacts from all sources of pollution and exploring the potential for de-culverting. In view of this the city council believes that in relation to flood risk, the policy has been clearly written and is unambiguous and it is evident how a decision maker should react to development proposals as the city council has worked closely with the EA to agree the wording of Policy W2.

## Policy W4 Land West of Courtney Road

### **1. What is the justification for the site capacity, given the site constraints including proximity to the Barton Meadows Nature Reserve, and its location within the Winchester to Kings Worthy/ Headbourne Worthy settlement gap, proximity to the railway, biodiversity, and access and transport impacts?**

WCC response:

- 1.38 The site promoter has undertaken work on the site capacity of the site which has taken into consideration the site constraints. Proposed Modification PM167 in Appendix 1 of the Schedule of Proposed Modification document ([SD14b](#)) has proposed boundary change to the site in recognition of the proximity of the Barton Meadows Nature Reserve. Policy W4 includes a range of criteria to address matters such as the proximity of the railway line (criterion v), flexible accessible open space (criterion iv) and a safe vehicular access (criterion ii). Whilst there is not a specific criterion on biodiversity the city council believes that it is important that the Local Plan is read as whole as there are a number of other policies on green and blue infrastructure, biodiversity, landscape character and settlement gaps in the Local Plan.
- 1.39 The city council's Principal Ecologist/Biodiversity Officer has confirmed that the amended site boundary to Policy W4 will address the main objection regarding bats by limiting the potential impacts on this tree line. Protected species are a material consideration at the planning application stage and any potential impacts (including lighting) will be assessed, and proposals must demonstrate that impacts are avoided, mitigation or compensated in accordance with best practice guidance, standing advice and policy. Allied to this in view of the fact that bats are a protected species, the city council believes that there is no specific need to mention bats in the policy or supporting text for this site allocation as there is requirement to assess and provide mitigation measures under separate legislation. PM82 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording around the need to divert pressure from the River Itchen SAC.

### **2. How has the capacity had regard to the potential traffic impacts?**

WCC response:

- 1.40 The city council has agreed a Strategic Transport Assessment ([SD15](#)) with HCC Highways and National Highways. This work has modelled the traffic flows from the Courtenay Road site in combination with the other Local Plan site allocations. This has not identified that there is a problem with the level of traffic flows that would be generated from this site allocation either alone or in combination with any of the other site allocations. The city council believes that this site allocation is located in an accessible and sustainable location, and it is easily accessible

by cycling, walking and wheeling. The site allocation is also in close proximity to the services and facilities that are part of the Kings Barton site (which is the same developer) and is easily accessible to the bus stops that are located on Worthy Lane. PM83 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording in criterion iii in Policy W4.

**3. What is the justification for the indicative site capacity? How has the site capacity had regard to the provision of open space and community amenities, including parks and allotments in the locality?**

WCC response:

- 1.41 As mentioned in response to question 1, the site promoter has undertaken work in terms of the capacity of the site which has had regard to the provision of open space. 26% of the site is required to be left as undeveloped open space. Community amenities are being delivered to the west of the railway line on the Kings Barton Major Development Area site. Discussions have also taken place with the city council's landscape and ecologist officers on the wording of the criterion iv (on site flexible multi-functional informal green space).
- 1.42 [WCC Open Space Assessment](#) 2022 was based on the best information at the time. The city council website identifies that a number of amendments will need to be made in the next iteration of the Open Space Assessment. This includes making an amendment to the Headbourne Worthy Map on 34 that identified the extent of Barton Meadows (which incorrectly identified Barton Meadows as including this site allocation) and changing the site area of Barton Meadows (page 35).
- 1.43 CALA, who are developing the nearby Kings Barton major strategic allocation have proposed an enhanced sport provision with Phase 2B in the north of the site. A 3G sports pitch was proposed however due to local concern this has now been removed. CALA are required to discharge condition 16 on the associated reserved matters application (19/02124/REM) to provide details of this sport provision.
- 1.44 CALA are currently surveying the land to provide a drained sports pitch, changing facilities, a running track and play equipment. In addition, an additional Multi-Use Games Area is proposed in Phase 4 on the eastern boundary of the site. This is because a large MUGA was required within Phase 2A however due to National Grid infrastructure a large MUGA cannot be built. As a result, a small MUGA is to be constructed at Phase 2A and a further MUGA will be included in the reserved matter plans for Phase 4 over the coming years. PM85 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording of criterion vi in Policy W4 regarding physical and social infrastructure.

**4. Can the Council please confirm the status of this site allocation in relation to the Barton Meadows Nature Reserve and comments referred to in an Inspector's decision letter with regard to the Barton Farm development?**

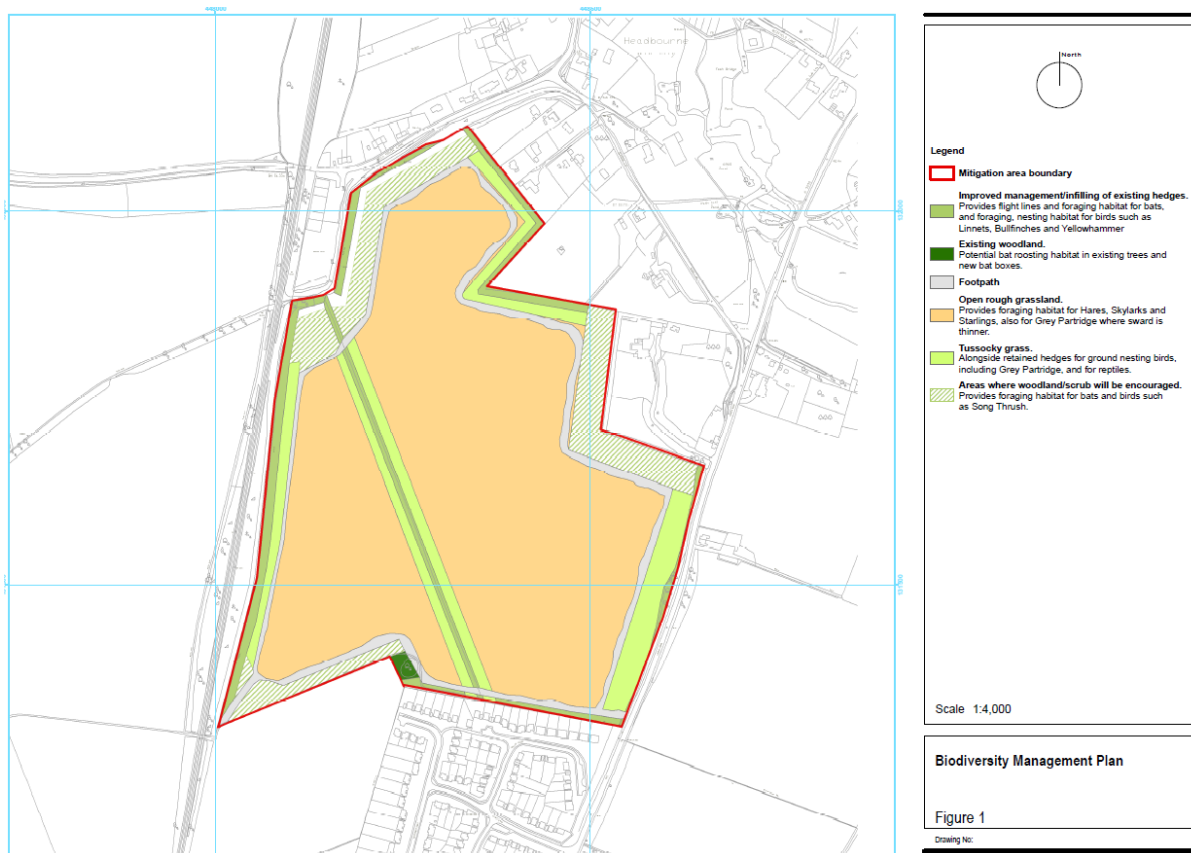
**(APP/LI765/A/10/2126522) Is clarification in this respect required for the purposes of soundness?**

WCC response:

1.45 The appeal inspector (Christina Downes BSc DipTP MRTPI) does make reference to 'land east of the railway' throughout her report. However, condition 15 (copied below) refers clearly to the land being shown edged in red on the 'Biodiversity Management Plan Figure 1'. This clearly shows that the area of land that is covered by this site allocation (Policy W4) is not covered by the S106 Agreement.

15. Before the development hereby permitted is commenced, a scheme for the setting out and management of land to the **east of the railway** line (as shown edged in red on the drawing marked "Biodiversity Management Plan Figure 1") shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and shall include the following details:

1.46 The plan below is taken from the submission which includes 'Biodiversity Management Plan Figure 1'. As indicated above, this plan clearly shows that it excludes the Land West of Courtenay Road.



The section 106 also defines the land as –

"Ecological Land" Amenity means land to the east of the railway amounting to 32.5 ha approximately shown edged red on the plan entitled "Biodiversity Management Plan" annexed hereto

A full copy of the signed agreement on the 8<sup>th</sup> March 2011 is attached as Appendix 1. PM85 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording in paragraph 12.52 regarding nutrient neutrality.

## 5. Would the phasing of development until 2030 be justified by the evidence?

WCC response:

- 1.47 Paragraph 6.8 of the Housing Topic Paper ([SD10g](#)) identifies the effects of the phasing policy which would prevent the new greenfield site allocations which are not for priority housing from coming forward until 2030. This shows that, without the phasing policy, completions would peak in 2028/29 and would start to fall thereafter. This is shown in the graph in Appendix C: Effect of Phasing on Housing Trajectory on page 42 of the Housing Topic Paper update ([EDO2](#)).
- 1.48 The 2030 greenfield phasing policy will give time for the Local Plan to be reviewed so as to provide the higher housing numbers required by the 2024 NPPF/Standard Method. Without phasing it may be possible to maintain an adequate 5-year + 20% land supply for only a short period after adoption of the Local Plan, creating a situation where there could be a presumption in favour of permission (NPPF paragraph 11d) due to inadequate land supply, but no adopted replacement Plan. The result would be a risk of planning by appeal and development that is not properly planned or plan-led. It also helps to deliver the City Council's prioritisation of brownfield sites, consistent with NPPF paragraph 123, whilst recognising that there are a number of site allocations, particularly Major Development Areas that have been rolled forward to the Proposed Submission Local Plan (Regulation 19) such as Kings Barton, West of Waterlooville and North Whiteley that are all located on greenfield sites.
- 1.49 As indicated in paragraph 6.14 of the Housing Topic Update ([EDO2](#)), as well as making a more even housing delivery over most of the Plan period, policy H2 also helps to address the delivery of infrastructure (e.g. electricity and water supply). All of the phasing assumptions in the Local Plan have been used to inform the collaborative discussions that have taken place between the city council and various infrastructure providers and the information that has been included in the Infrastructure Delivery Plan ([IN01](#)).
- 1.50 The phasing assumptions that have been included in the Local Plan have also directly informed the analysis of the demand and supply of nutrient mitigation which has been included in the Nutrient Neutrality Topic Paper ([SD10h](#)). Without the phasing policy for greenfield sites, there would be an immediate impact on the short-term supply of nutrient mitigation, potentially having a significant impact



on the five-year housing land supply – please see table in response to Matter 4 in relation to Policy H2. In view of the above, the city council believes that the phasing policy has been justified by evidence.

**6. Would policy requirements in relation off site transport improvements and infrastructure be required for the purposes of soundness?**

WCC response:

1.51 Criterion iii of Policy W4 has been included in order to be able to deal with any off-site junction improvements that are necessary as part of the development of this site. Since the Proposed Submission Plan (Regulation 19) was consulted on and the submission of the Local Plan for examination, highway improvement works have been undertaken at the entrance to Courtenay Road and there has been a new pedestrian crossing installed across Worthy Lane. The city council believes that criterion ii of Policy W4 is still required for the purposes of soundness as this will ensure that any highway works as part of this development are comprehensively dealt with.

## **Winchester mixed use allocations**

### Policy W7 Central Winchester Regeneration

**1. Would part of this site allocation be carried forward from the extant Plan or would it include a new allocation? In either case, would the Plan make this clear?**

WCC response:

1.52 Yes. This site allocation has been carried forward from the adopted Local Plan. Policy WIN4 in the Winchester District Local Plan Part 2 (Development Management and Site Allocations), which was adopted in April 2017 previously referred to the Central Winchester regeneration site as ‘Silver Hill’. Policy W7 would replace Policy WIN4 in the adopted Local Plan (please see Schedule of Proposed Modifications ([SD14a](#)) – PM 168). As part of this process, the opportunity has been taken to change the name of the site and to slightly amend the boundary of the site allocation in order to ensure that it is consistent with the area of land that is covered by the [Central Winchester Supplementary Planning Document \(SPD\)](#) which was adopted by the city council in June 2018. The wording of this site allocation was reviewed to ensure that it was consistent with the other site allocations in the Local Plan.

**2. Policy W7 ii refers to a masterplan with no requirement for this to be produced. Policy W7i refers to a supplementary planning document? In this regard would the Plan be clear and thereby effective? Paragraph 12.71 refers to a supplementary planning document. Does this include a masterplan?**

WCC response:

1.53 Please see response to question 1 in relation to the SPD. As there is a detailed SPD for this site, which went through extensive community and planning public consultation, there is no need to develop a masterplan for the site as the principles of how the site should be redeveloped has already been established in the SPD. The SPD identifies the aims and objectives for the site, design principles, planning and urban design framework, heights/scale/massing, diagrams along with a range of other matters including the constraints and opportunities. In view of this, the city council believes that the wording of the Policy W7 is considered to be effective as the SPD contains all of the material that would be found in a masterplan and there is no reason to repeat this work as the work is still valid.

**3. Is this a new or extant allocation? Is this clear?**

WCC response:

1.54 Please see response to question 1. This has been made clear through Proposed Modification PM 168 in the Schedule of Proposed Modification ([SD14a](#)) in terms of which policies are superseded/extant.

**4. In either case, given its complexity and site constraints, including land ownership, built heritage and archaeology, flood risk and securing nutrient neutrality, what is the evidence to justify indicative site capacity and that it will be delivered in the Plan period?**

WCC response:

1.55 The city council appointed a development partner (Jigsaw Consortium) who are in the process of bringing forward the redevelopment of this important town centre regeneration site. The Development Agreement red line boundary is a smaller area than the boundary of the SPD.

1.56 Jigsaw submitted their Development Delivery Plan (DDP) on 14 February 2025, which [Cabinet approved on 13 March 2025](#). The DDP is a comprehensive document outlining the how and when the development would come forward. As part of this submission, Jigsaw were also required to include Infrastructure Delivery Plan, Public Realm Delivery Plan, Phase Development Plan alongside an Initial Financial Model.

1.57 As part of the DDP, Jigsaw have included a high-level plan showing progress to the submission of the planning application and the various stages of

engagement. The DDP identified that that planning application coming to the Council as landowner for approval (with a Full Business case) at Cabinet on 12 March 2026. It would then be submitted to the LPA following that.

- 1.58 In terms of land ownership, the disused former Friarsgate Medical Centre (which has now been demolished), properties in Middle Brook Street, Kings Walk, Coitbury House and the five properties that are located on either side of the bus station entrance in the Broadway are all owned and under the control of the city council. To be clear the leases on all these properties have been set to expire in 2026/7 to allow for Jigsaw to take possession. Furthermore, the leases all include break clauses, with a notice period, to allow for earlier possession if the programme requires it. (See Plan of Land ownership) There is no need for a Compulsory Purchase Order.
- 1.59 The city council is acutely aware of the importance of the built heritage and archaeology of this site. During 2023 the city council commissioned Pre-construct Archaeology (PCA) to dig 4 trial holes on the site to further investigate the archaeological remains of the site. The locations for these trial holes were informed by previous work undertaken by the city council and advised by the Council's Archaeology Panel Chaired by Professor Martin Biddle. The results of these trial holes are being reviewed and will help inform an Archaeology Mitigation Strategy. A further trial hole was undertaken by PCA on the site of the former Friarsgate Medical Centre in 2024, following demolition of the buildings and is adding to the knowledge of the site.
- 1.60 The site lies within the Conservation Area (CA) but contains no listed buildings. The developer has to follow the policies in the Local Plan regarding enhancing the CA and producing a scheme that respects the heritage and Listed Buildings adjoining the site. The DDP has a design section that demonstrates their understanding of the importance of their scheme to enhance the historical character of Winchester through the use of materials, architectural detailing and roofscapes. The SPD contains guidance on building heights and range of urban design issues in order to preserve important views over the City.
- 1.61 Working in collaboration with the Environment Agency (EA) a Stage 2 Strategic Flood Risk Assessment ([BNE21](#)) has been agreed. Policy W7 includes criterion x - xiii (please see PM 92 in Schedule of Proposed Modifications ([SD14a](#))) that deals with the need for a site-specific flood risk assessment, an assessment of impacts from all sources of pollution and exploring the potential for de-culverting. In view of this the city council believes that in relation to flood risk, the policy has been clearly written and is unambiguous and it is evident how a decision maker should react to development proposals working closely with the EA. It is understood that the developer has allowed funding within the financial model to make contributions towards nutrient neutrality.
- 1.62 It is understood that as part of the DDP submission the developer has included information from a site capacity study taking into account all the constraints identified. This is a necessary part of the process in order to inform the initial financial model. This shows that the number of new homes within the DA red

line boundary is within 90% of the allocation in the Local Plan (300 dwellings which). The 300 dwellings for this site has been based on the work that informed the SPD and at that time included a significant element of retail development that we now know may not happen due to the changes that have occurred nationally on high streets. An important part to note that the Policy and SPD boundaries go beyond the DA red line boundary so there are further opportunities to add additional homes on other sites to reach the 300 dwellings. It is further understood that within the DA is a requirement for the city council to inform Jigsaw when it decides to bring any further development forward on the Middle Brook Street car park. PM91 in the Schedule of Proposed Modifications ([SD14a](#)) has proposed a change to the wording of criterion xv in Policy W7 in relation to the provision of infrastructure. PM91 in the Schedule of Proposed Modifications ([SD14a](#)) has made a minor wording change to criterion xvi in relation to a site specific flood risk assessment.

**5. Should the policy criteria address healthcare provision? Would policy W7 xvii provide appropriate flexibility to accommodate other solutions? Would criteria xvi be clear?**

WCC response:

- 1.63 In terms of healthcare provision, the St Clements surgery is a brand new fully accessible health care facility that has opened up a 2-minute walk away from CWR. In order to address representations that were submitted by the Integrated Care Board Proposed Modification PM91 in the Schedule of Proposed Modifications ([SD14a](#)) amended the wording of criterion xv in Policy W7 to make it clear about the need for the development to address health care provision.
- 1.64 The wording of the criterion xvii (flood risk and flood zone 3) has been discussed and agreed with the Environment Agency as part of the work on the Stage 2 Strategic Flood Risk Assessment ([BNE21](#)). In view of this, the city council believes that the wording of the criterion xvii provides the appropriate level of flexibility.
- 1.65 In response to a representation from the Environment Agency the wording of criterion xvi (the need for a Strategic Flood Risk Assessment) has been amended in PM 92 in the Schedule of Proposed Modifications ([SD14a](#)) to make it clear that there is the need for a **Site** Specific Flood Risk Assessment rather than a Strategic Flood Risk Assessment.

## Policy W8 Station Approach Regeneration Area

- 1. Given the length of the supporting text and policy requirements and repetition within both policy (criteria vii and viii) and supporting text (paragraphs 12.28 12.76 and 12.80, would the policy be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

WCC response:

- 1.66 The city council decided to progress the sites at Station Approach by way of capacity studies, working with the landowners (WCC and Network Rail), including extensive consultation on those studies. In accordance with the Council's adopted policy on concept masterplans, the city council as a landowner, followed the concept masterplanning route.
- 1.67 The successful redevelopment of Station Approach will need to address a number of issues. Public consultation has already taken place on a [draft Concept Masterplan for Station Approach](#) and the results of this public consultation have been analysed and informed the final version of the Concept Masterplan which is due to be submitted to Cabinet in June 2025.
- 1.68 The Station Approach site allocation includes a number of different parcels of land which are in multiple ownerships. The city council believes that it is important that the entire site is planned in a comprehensive manner in order to ensure that no individual stage prejudices further phases.
- 1.69 The Inspector appears to have referred to the incorrect paragraph as paragraph 12.28 is for a different site allocation (the SJM Barracks). Station Approach is one of the key gateways to Winchester, and in view of this it is considered to be important to clearly set out the opportunity that this site has in terms of pedestrian, vehicular and public realm improvements (paragraph 12.76). Paragraph 12.80 is also considered to be important as it identifies that part of the site abuts a Conservation Area.
- 1.70 PM93 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording in paragraph 12.78 in relation to Hampshire Archives which is a Grade II Listed Building. PM94 in the Schedule of Proposed Modifications ([SD14a](#)) deletes vi as the wording of this criterion is repeated in criterion vii. Criterion vii and criterion viii identify some of the key issues that a planning application would need to fully address and are also considered to be necessary. PM95 in the Schedule of Proposed Modifications ([SD14a](#)) has clarified the wording of criterion x in Policy W8 in response to comments from the Integrated Care Board. Whilst it is accepted that the supporting text and Policy W8 are lengthy, the city council considers that in this particular instance, the paragraphs and the criteria have been clearly written, and it will be clear how a decision maker should react to a proposal.

**2. Given its complexity, land ownership and site constraints, including built heritage and archaeology, flood risk and securing nutrient neutrality, what is the robust evidence that it will be delivered in the Plan period?**

WCC response:

- 1.71 The Station Approach area consists of sites in Winchester City Council (WCC), Network Rail and Defence Infrastructure Organisation (DIO) ownership. It is understood that the city council as a landowner, has worked closely with these

landowners to understand their ambitions and timescales to bring forward development. This has formed the basis of the phasing strategy that will see the WCC sites brought forward first.

- 1.72 The city council is aware of the rich heritage and archaeology interest across the area and commissioned a consultant team including Heritage experts Stephen Levrant Heritage Ltd as part of the capacity work. This work has helped inform the Concept masterplan.
- 1.73 There are listed buildings as well as buildings with heritage value on and surrounding the site. Part of the site is adjacent to the Conservation Area and therefore development must be undertaken sensitively and enhance the setting for these assets. The Concept masterplan provides guidance to developers on this which includes an analysis of heights and impact on important views. Whilst there are constraints and it is recognised that there is a still more work to do, the city council as a major landowner has taken a conservative estimate on the number of homes that can be delivered on this site.
- 1.74 Working in collaboration with the Environment Agency (EA) a Stage 2 Strategic Flood Risk Assessment ([BNE21](#)) has been agreed. Policy W2 includes criterion x - xiii that deals with the need for a site-specific flood risk assessment, an assessment of impacts from all sources of pollution and exploring the potential for de-culverting. In view of this the city council believes that in relation to flood risk, the policy has been clearly written and is unambiguous and it is evident how a decision maker should react to development proposals working closely with the EA. The viability studies undertaken have allowed funding within financial modelling to make financial contributions to achieve nutrient neutrality.

**3. Paragraph 12.75 states that the site has been defined in a broad way? On that basis what is the evidence to justify the indicative housing capacity?**

WCC response:

- 1.75 In 2022 the city council commissioned Haworth Tomkins to lead a multi-disciplinary team to undertake a capacity study for the Station Approach Area. The purpose of this study was to understand the housing and other use capacity that could be delivered across the area given the number of constraints and challenges. This work was undertaken in partnership with Network Rail and was subject to extensive resident and stakeholder consultation. The outcome of the study led to the background evidence that informed the Concept Masterplan for the site which in turn built upon the work within the capacity study. This work has led us to conclude that the housing numbers are deliverable.
- 1.76 The Concept Masterplan is due to be submitted to Cabinet in June 2025 for approval.

**4. Would the policy ensure appropriate co-ordination to manage movement, particularly trains, buses, pedestrians and cyclists to connect key locations in the town centre, in accordance with the Winchester Movement Strategy, given its potential role in reduction of transport emissions in the District helping to reach the target of net zero emissions by 2030?**

WCC response:

- 1.77 As any redevelopment of this site needs to ensure appropriate co-ordination to manage movement, particularly trains, buses, pedestrians and cyclists and to connect the important site to key locations in the town centre, this is one of the key reasons why the site is currently being taken forward through the Concept Masterplanning process and through an outline planning application.
- 1.78 A number of studies have been undertaken to understand demand for carparking (City Science) in order to release carparking for redevelopment and how sustainable transport options can be improved to/from and through the site including (Winchester Mobility Hub – Steer & Improved public realm - Publica) together with work from Systra and Urban Movement.
- 1.79 It is understood that the city council as a landowner has had joint meetings with transport consultants for Station Approach, Central Winchester Regeneration, the County Council and bus operators to discuss a total Winchester Approach. These discussions are on-going. The city council believes that the redevelopment of this key town centre brownfield site for mixed use development and the other policies in the Local Plan will help to reduce transport emissions as part of the site will be residential development which will help the city council to reach its target of net zero emissions in 2030. There are also a number of specific criteria in Policy W7 (vi, vii, viii, ix, x and xi) that will also assist with this key objective. In view of this, it is considered that the policy provides the appropriate co-ordination to manage movement, particularly trains, buses, pedestrians and cyclists to connect key locations in the town centre, in accordance with the Winchester Movement Strategy and it would assist with the District helping to reach the target of net zero emissions by 2030.

**5. Paragraph 12.90 sets out requirements for a masterplan. Are those adequately reflected in policy and if not would the policy be effective?**

WCC response:

- 1.80 Yes. As indicated in response to question 1, public consultation has already taken place on a draft Concept Masterplan for the Station Approach area. Given that this is a complicated site, the city council believes that this is the best approach. The policy is considered to be effective in terms of requiring a masterplan for the site and the requirements for how the masterplan should be developed have been clearly set out in Policy W8. This approach has been demonstrated in the recent public consultation on the draft Concept Masterplan.

**6. Would the policy appropriately secure provision for healthcare and education to ensure the development is acceptable in planning terms?**

WCC response:

1.81 In order to address representations that were submitted by the Integrated Care Board Proposed Modification PM95 in the Schedule of Proposed Modifications ([SD14a](#)) has slightly amended the wording of criterion x in Policy W8 to make it clear about health care provision. In terms of education, criterion xv deals with the need for this development to address the needs of education provision (Primary and Secondary) and will ensure that the development is acceptable in planning terms.

## Policy W9 Bar End Depot

**1. Given the length of the supporting text and policy requirements and repetition within both policy (criteria vii and viii) and supporting text (paragraphs 12.103 and 12.106), would the policy be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

WCC response:

1.82 The future of the Bar End depot site has already undergone an extensive engagement process. The Bar End depot is considered to be a key regeneration site as it is located on one of the key gateways to Winchester which is one of the reasons why the supporting text and the Policy are fairly lengthy.

1.83 The Inspector appears to have referred to the incorrect paragraph numbers as paragraph 12.103 and paragraphs 12.106 are in relation to a different site allocation (Former River Park Leisure Centre). Criterion vi in Policy W9 requires a safe vehicular and pedestrian access which is considered to be important as the site is located adjacent to one of the main gateways into the Winchester. Given the former use of the site as a depot, criterion viii is equally considered to be important as it refers to the need for a contamination land assessment. PM97 in the Schedule of Proposed Modifications ([SD14a](#)) has proposed a modification to the insert map to show the boundary of the South Downs National Park. The city council considers that the supporting text and the policy have been clearly written and are unambiguous and the policy wording would be effective in terms of how a decision maker should react.

**2. Would Policy W9 secure active travel routes for cycling and walking as part of the development in accordance with the Winchester Movement Strategy? Would it provide an appropriate framework for this area in accordance with the Winchester Movement Strategy?**

WCC response:



1.84 The city council considers that it is important to read the Local Plan as a whole, as the Sustainable Transport and Active Travel Topic includes a number of policies on how any future development needs to meet the needs of cycling, walking and wheeling, the Winchester Movement Strategy and the HCC's LPT4 which are in addition to criterion iii and criterion vii in Policy W9. PM96 in the Schedule of Proposed Modifications ([SD14a](#)) has proposed a new criterion about a footway/cycle link across the western boundary of the site. In view of this, the city council believes that Policy W9 would provide the appropriate framework for the redevelopment of this important regeneration site.

**3. Given the range of uses proposed, how has the indicative number of homes been defined?**

WCC response:

1.85 On the 15th October 2024, [Cabinet agreed](#) to the freehold disposal of the former Bar End depot site to McCarthy and Stone subject to the purchaser obtaining planning consent. As part of the preferred developer selection process, the bids that were put forward by the different site promoters were assessed. Whilst this work is confidential, as it was part of the initial tendering process, it is understood to have demonstrated that at least 30 dwellings are deliverable on this site. Pre-application discussions for taking the development of this site forward are due to take place in the next couple of months.

# Appendix 1 – Barton Farm Legal Agreement

DATED

*8th March*

2011

(1) WINCHESTER CITY COUNCIL

and

(2) CALA HOMES (SOUTH) LIMITED

and

(3) CALA MANAGEMENT LIMITED

and

(4) THE WARDEN AND FELLOWS OF WINCHESTER COLLEGE

and

(5) BANK OF SCOTLAND PLC

**A G R E E M E N T**  
relating to land known as  
**BARTON FARM, WINCHESTER**  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)

**Application Ref: 09/02412/OUT AND W/00942/19**

**PL1/6/1149**

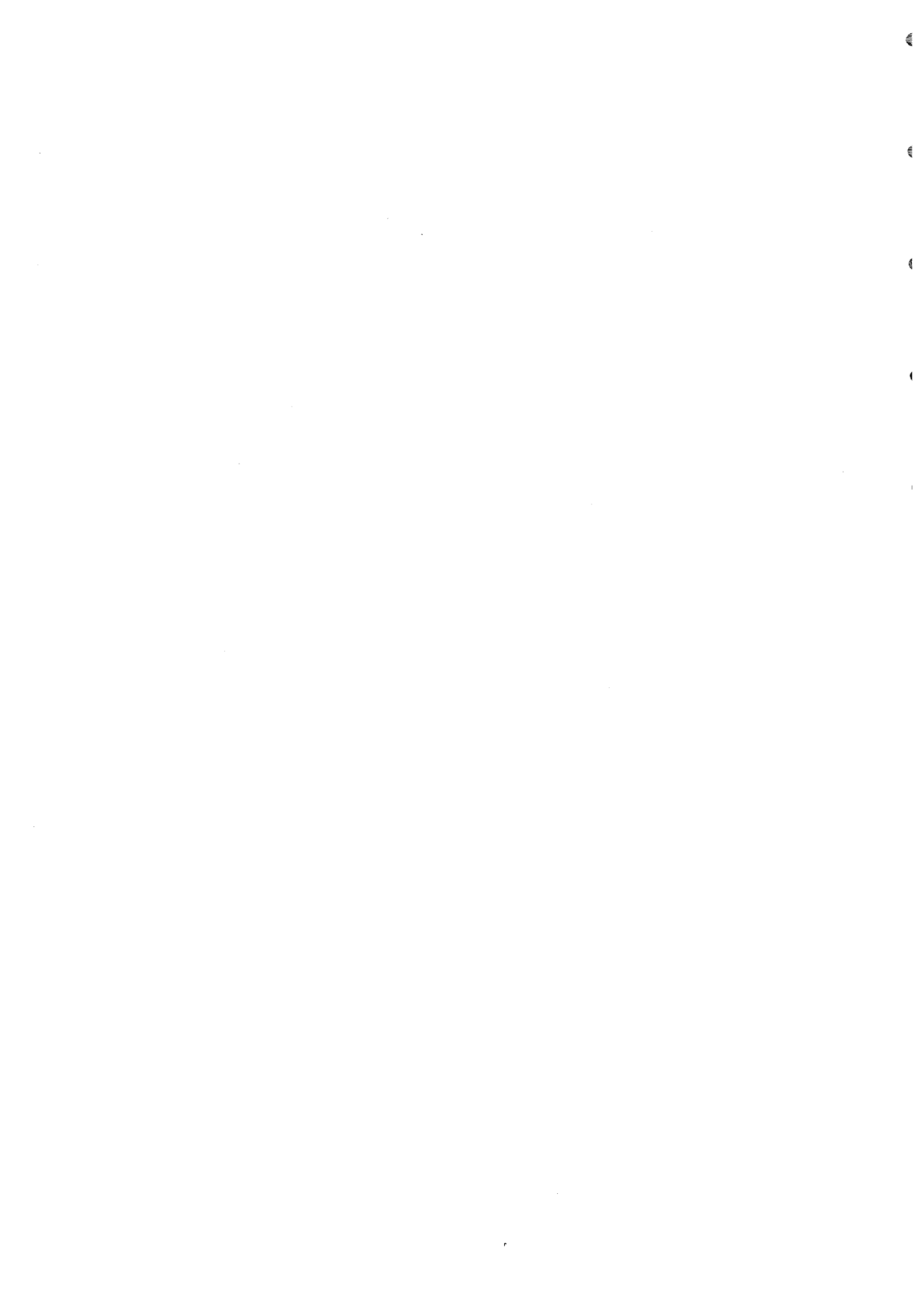
Howard Bone LL.B,  
Head of Legal Services,  
Winchester City Council,  
City Offices,  
Colebrook Street,  
Winchester,  
Hants,  
SO23 9LJ

**MACFARLANES**

Macfarlanes LLP  
20 Cursitor Street  
London EC4A 1LT

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**THIS AGREEMENT** is made the *eight* day of *March* 2011  
**BETWEEN**

- (1) **WINCHESTER CITY COUNCIL** of City Offices Colebrook Street Winchester Hampshire SO23 9LH of the first part, and
- (2) **CALA HOMES (SOUTH) LIMITED** of Burgan House The Causeway Staines Middlesex TW18 3PR of the second part, and
- (3) **CALA MANAGEMENT LIMITED** of Adam House 5 Mid Cutlins Edinburgh EH11 4DW of the third part, and
- (4) **THE WARDEN AND FELLOWS OF WINCHESTER COLLEGE** of The Bursary Winchester College College Street Winchester Hampshire SO23 9NA of the fourth part, and
- (5) **BANK OF SCOTLAND PLC** of The Mound Edinburgh EH1 1YZ of the fifth part

#### **RECITALS**

##### **(A) DEFINITIONS**

In this Agreement unless the context otherwise appears the following words and expressions shall have the following meanings:

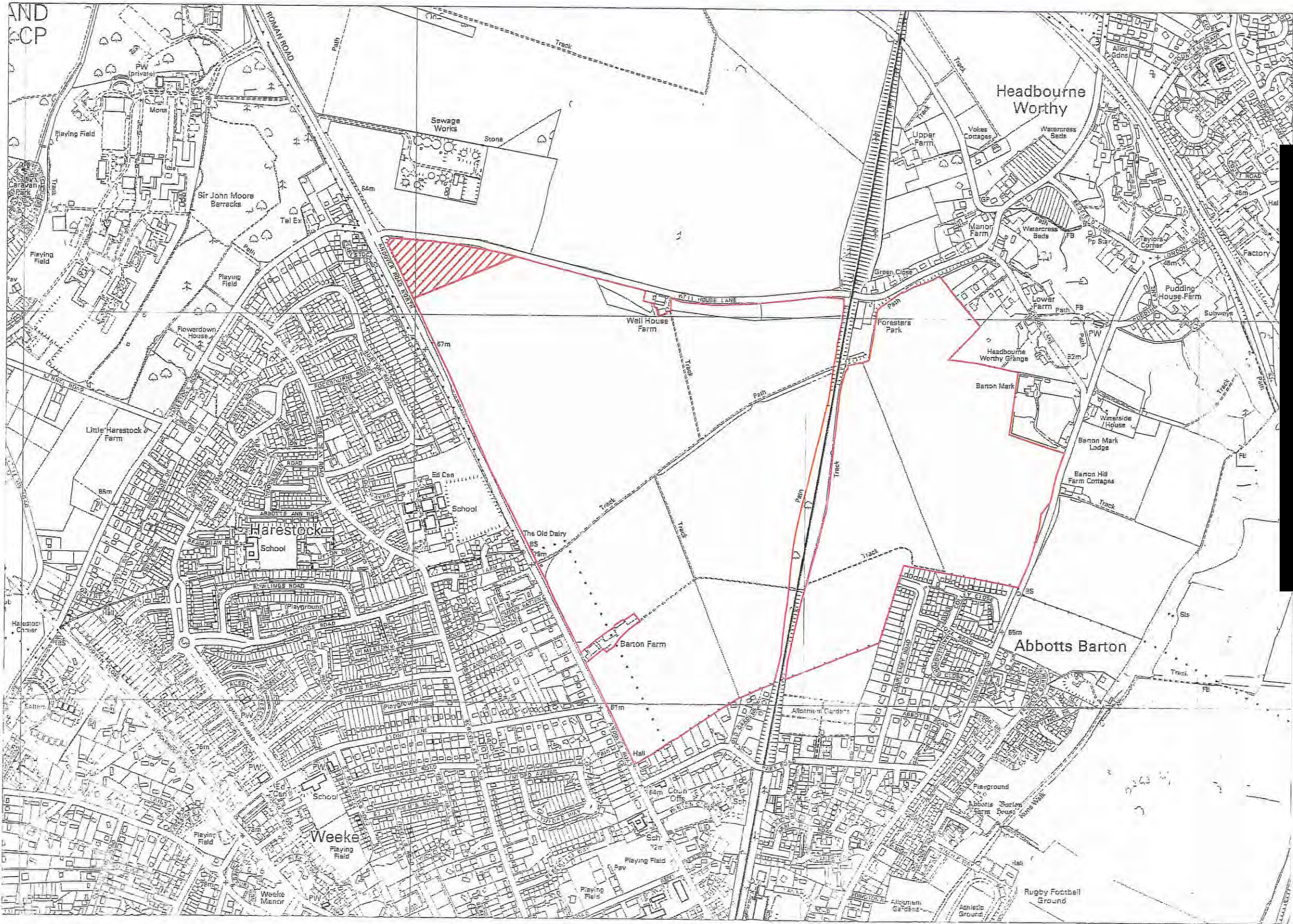
“Access” means the provision of roads footpaths cycleways cycle routes cycle paths and cycle tracks to a standard approved by the Head of Planning Management together with all rights and easements over the said roads footpaths and cycleways as are necessary to facilitate the construction and occupation of dwellings upon the Affordable Housing Land unless and until the adoption of the said roads footpaths and cycleways as public highway

“the Act” means the Town and Country Planning Act 1990 as amended

“Affordable Housing” means Affordable Housing Units to be provided in accordance with this Agreement which provides housing for

Eligible Persons whose needs are not met by the market

"Affordable Land"	Housing	means the land to be provided for the Affordable Housing Units within each Phase under Clause 3 including the Affordable Housing Units, their curtilages, any parking allocated to the Affordable Housing Units, and any Common Parts serving them
"Affordable Masterplan Strategy"	Housing	means the strategy to be submitted to the Council in accordance with Clause 3.7
"Affordable Tenure Mix"	Housing	means 66% Social Rented Housing (or, with the Council's prior written agreement, or as otherwise stipulated within this Agreement, Affordable Rented Housing) and 34% Intermediate Affordable Housing
"Affordable Reserved Strategy"	Housing Matters	means the strategy to be submitted to the Council in accordance with Clause 3.8
"Affordable Housing Unit"		means Social Rented Housing, Affordable Rented Housing, Extra Care Housing and Intermediate Affordable Housing and "Affordable Housing Units" shall be construed accordingly
"Affordable Housing"	Rented	means rented housing controlled and managed by Registered Providers let on tenancies and at rents and service charges agreed with the Council between target rents as determined through the national rent regime and 80% of the local open market rent, capped by the Local Housing Allowance



 Ownership Boundary

Scale 1:10000@A3

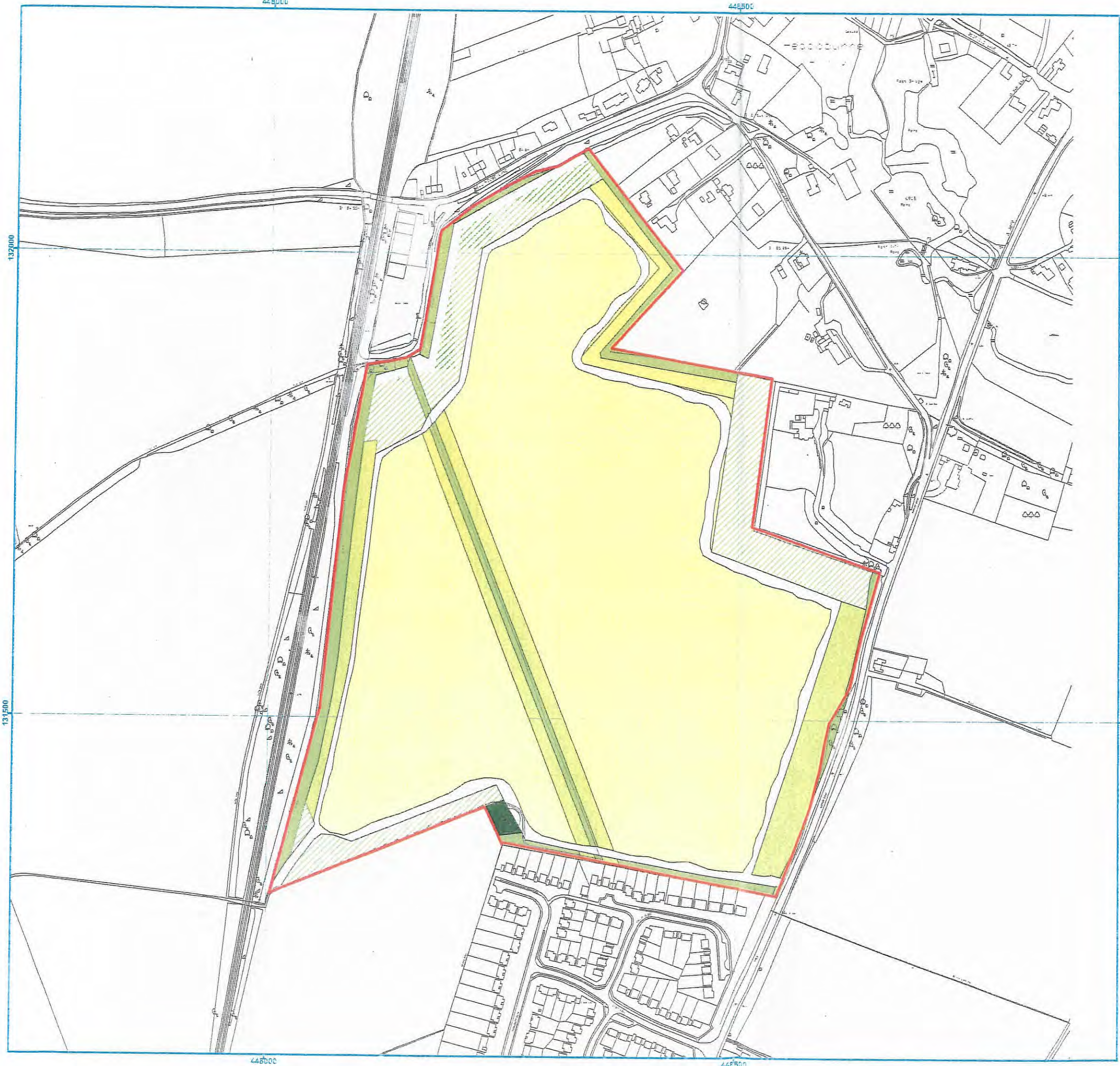
Do not scale from this drawing. This drawing is for indicative purposes only. All information contained in this drawing should be verified through a separate survey.

REF:	JBR0341	CHECKED BY:	VT
CLIENT:	CALA Homes (South) Ltd	DATE CHECKED:	01/02/11
DATE:	01/02/11	REVISION:	03
STATUS:	Final	PREPARED BY:	PO/AP



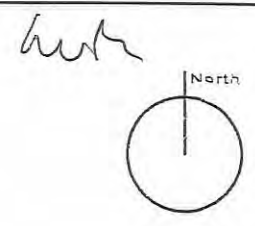






**Legend**

- Mitigation area boundary**
  
- Improved management/infilling of existing hedges.**  
Provides flight lines and foraging habitat for bats, and foraging, nesting habitat for birds such as Linnets, Bullfinches and Yellowhammer
  
- Existing woodland.**  
Potential bat roosting habitat in existing trees and new bat boxes.
  
- Footpath**
  
- Open rough grassland.**  
Provides foraging habitat for Hares, Skylarks and Starlings, also for Grey Partridge where sward is thinner.
  
- Tussocky grass.**  
Alongside retained hedges for ground nesting birds, including Grey Partridge, and for reptiles.
  
- Areas where woodland/scrub will be encouraged.**  
Provides foraging habitat for bats and birds such as Song Thrush.



Scale 1:4,000

**Biodiversity Management Plan**

Figure 1

Drawing No:

“Affordability Test”

means that at first sale or letting:

(1) the total housing costs (to include mortgage, rent and service/management charges) payable by the occupant(s) of all one bedroom Shared Ownership units shall not average more than 30% of the gross median income of those applicants on the HCA Zone Agent's (or other successor body's) housing register applying for one bedroom Shared Ownership units;

(2) the total housing costs (to include mortgage, rent and service/management charges) payable by the occupant(s) of all two bedroom Shared Ownership units shall not average more than 30% of the gross median income of those applicants on the HCA Zone Agent's (or other successor body's) housing register applying for two bedroom Shared Ownership units or larger;

and for the purposes of calculating the median incomes the bottom 10% of those on the appropriate register shall be excluded

“Certificate of Completion of the Final Open Market Housing Unit”

means the certificate to be served by the Owner on the Council under Clause 2.7 hereto confirming completion of the last Open Market Housing Unit comprised in the Development

“Clean Condition”

means free from any contamination which would (in the reasonable opinion of the Head of Planning Management) otherwise prejudice the use of the Site for the

provision of Affordable Housing Units or Open Space and having completed to the satisfaction of the Head of Planning Management all necessary preparatory work including any archaeological investigations demolition site clearance site or soil investigations site remediation the laying of services or temporary works such as the erection of fencing or hoardings

“the College”

means The Warden and Fellows of Winchester College as above

“Commencement of the Development”

means other than for the purposes of Clause 2.2 the carrying out of a material operation within the meaning of Section 56 (4) of the Act in respect of the Development and the expressions “Commence Development” and “Commencement” shall be construed accordingly and for the purposes of Clause 2.2 the expression shall not include any works of demolition nor any archaeological investigation ground investigation, diversion of services nor any erection of means of enclosure for the purposes of Site security and/or the display of advertisements nor any works permitted by the Town and Country Planning General Permitted Development Order 1995 or any re-enactment thereof and in respect of any Phase of the Development “Commence” and “Commencement” shall mean the same subject to the replacement of “temporary construction access” by “public highway works” in such case

"Common Parts"	means the parts of the Site comprising roads, communal parking areas, footways, footpaths, landscaped areas, open spaces and any children's play areas
"Community Centre"	means a building of not less than 660m <sup>2</sup> gross floorspace to consist of a hall meeting rooms kitchen (including appropriate cooking and dishwashing equipment) and toilets and such other fixtures and fittings of a standard as may be reasonably required in a community centre to serve the Development but for the avoidance of doubt shall exclude specialist equipment including sound lighting and video
"Community Centre Certificate of Practical Completion"	means the certificate of practical completion to be issued under the building contract required to be used for the construction of the Community Centre under this Agreement
"Community Centre Land"	means the land on which the Community Centre is to be constructed
"Community Development Worker"	means a person who is employed to facilitate the active involvement of residents of the Development in community life and to provide their integration with existing communities in the vicinity of the Site
"the Council"	means Winchester City Council as above which shall include its successors and assigns
"the County Council"	means Hampshire County Council of The

Castle Winchester Hampshire SO23 8UJ

- “Cultural Facilities Contribution”** means the sum of £50,000 Index Linked payable by the Owner as a contribution to cultural facilities as set out in Clause 6
- “the Development”** means the development of the Site in accordance with the Planning Permission
- “Ecological Land”** means land to the east of the railway amounting to 32.5 ha approximately shown edged red on the plan entitled “Biodiversity Management Plan” annexed hereto
- “Eligible Persons”** means a person or persons who are unable to afford housing accommodation on the open market (whether by renting or purchasing) within the administrative area of the Council and who are:-
- 1) registered as eligible for Affordable Housing on either:-
    - Hampshire Home Choice (the Council’s Choice Base Lettings scheme); or
    - the HCA Zone Agent’s register; or
    - any other register referred to by the Counciland
  - 2) nominated by the Council or the HCA Zone Agent for the Winchester District
- “Extra Care Housing”** means purpose-built Affordable Housing where some services are shared but where residents live in their own apartments, with

care and support, available on site 24 hrs, that can be offered in varying amounts to assist people to remain independent

“HCA” means the Homes and Communities Agency (including any successor body or organisation)

“Head of Planning Management” means the Council’s Head of Planning Management for the time being or any other officer appointed to undertake his functions

“Head of Strategic Housing” means the Council’s Head of Strategic Housing for the time being or any other officer appointed to undertake his functions

“HCA Zone Agent” means the HCA’s zone agent appointed for the Winchester District

“Housing Unit” means a dwelling house or flat comprised within the Development which is either an Affordable Housing Unit or an Open Market Housing Unit and “Housing Units” shall be construed accordingly

“the Index” means the ‘Consumer Prices Index’ as published by the Office for National Statistics or (if the Index ceases to be published) the nearest equivalent index as may be agreed between the Owner and the Council and in the event of disagreement such index as may be determined in accordance with the provisions of Clause 12 hereto

“Index Linked” means that the sum in question shall be

adjusted in accordance with the change in the Index from the date of the Planning Permission until the date such payment becomes due and for the avoidance of doubt the value of the Index will be the last figure published before the due date for payment

**“Intermediate Affordable Housing”** means units at prices and rents above those of Social Rented Housing, but below market price or rents, and which meet the criteria set out in this Agreement for Affordable Housing, which may include Shared Equity products (eg HomeBuy), Shared Ownership other low cost homes for sale and intermediate rent

**“Landscape and Open Space Strategy”** means any strategy for landscaping and open spaces within the Site which is approved pursuant to the Planning Permission

**“Local Housing Allowance”** means the maximum level of means-tested housing benefit established through the Social Security Contributions and Benefits Act 1992 and the Housing Benefit Regulations 2006 (as amended) which can be paid to Eligible Persons who pay rent in the private sector within the Development

**“Local Lettings Plan”** means a plan made pursuant to Section 167 (2E) of the Housing Act 1996 which is designed to allocate particular accommodation to people of a particular description in order to create and maintain a sustainable community to be supplied by



the Council in accordance with Clause 3.21

- “Low Cost Home Ownership” means Shared Equity or Shared Ownership
- “the Mortgagee” means Bank of Scotland plc as above
- “Occupation” means occupation of any Housing Unit and excludes occupation for the purposes of construction fitting out and marketing or site security purposes (and “Occupy”, “Occupied” and “Occupation” shall be construed accordingly)
- “Open Market Housing Unit” means a dwelling house or flat to be erected on the Site as part of the Development by the Owner and sold or rented at arm’s length value on the open market and ‘Open Market Housing Units’ shall be construed accordingly
- “Open Market Value” means the open market value as determined in accordance with sections 156A and 158 of the Housing Act 1985 (as amended)
- “Open Space” means those parts of the Site to be identified as public open space and to be made available for public use in accordance with Clause 4 of this Agreement to include not less than a total of 1ha of allotments, not less than 5.8ha of informal green amenity space, not less than 8.5ha of parks sport and recreation grounds (of which at least 4.5ha shall be for outdoor sport), not less than 2.26 ha for childrens’ play/amenity

areas and not less than 5.7 ha of natural green space

- “the Owner” means CALA Homes (South) Limited and CALA Management Limited as above
- “a Phase” means a phase of the Development as agreed in the Phasing Programme pursuant to Clause 2.4 of this Agreement and “Phases” shall be construed accordingly
- “Phasing Programme” means the details of the phasing programme of the Development to be submitted by the Owner and agreed by the Council in writing pursuant to Clause 2.4 of this Agreement
- “the Plan” means the plan marked ‘Ownership Boundary Plan’ annexed hereto
- “the Planning Application” means the outline planning application which was submitted on behalf of the Owner to the Council for the development of the Site for 2000 dwellings (to include 40% affordable housing); a local centre including: a new primary school, a children's pre-school nursery, a retail food store up to 2000 sq m, a community building, a health centre, a district energy centre, car parking and other commercial, leisure and community floor space (to include use classes A1 (food and non-food retail), class A2 (financial and professional services), class A3 (restaurants and cafes), class A4 (drinking establishments), class A5 (hot food take away), class D1 (non-residential

institutions), class D2 (assembly/leisure) and class B1 (a) (offices)); formal and informal recreational spaces; park and ride facility for up to 200 cars; land for allotments; hard and soft landscaping; storm water attenuation and foul and surface water drainage measures; the re-routing of Andover Road through the site; the closure of Andover Road to vehicular traffic in the vicinity of Henry Beaufort School; the creation of a pedestrian and cycle route along the route of Andover Road; new roads infrastructure; the formation of new public rights-of-way across the site and new route linking the railway underpass to Worthy Road; improvement and upgrading of existing public rights of way; provision of and diversion of services as necessary and provision of on- and off-site infrastructure necessary to facilitate development of the Site, and given reference numbers 09/02412/OUT and W/00942/19

**“the Planning Obligations”** means the works and contributions (capital and maintenance) arising from this Agreement and/or any other planning obligation pursuant to section 106 of the Act and conditions attached to the Planning Permission and all associated fees professional or otherwise interest costs and any taxes

**“the Planning Permission”** means a planning permission granted on appeal by the Secretary of State pursuant to the Planning Application

“Public Footpaths”	means the footpaths to be laid out over the Site and the Ecological Amenity Land so as to form a link between Andover Road and Worthy Road between the points marked “A”, “B”, “C”, “D”, “E”, “F”, “G”, “H”, “I”, “J”, and “K” on the plan attached and marked ‘Pedestrian and Cycle Access Points’ in accordance with Clause 10 hereof PROVIDED THAT in respect of the Ecological Amenity Land the link shall follow a route indicatively shown coloured grey on the plan entitled “Biodiversity Management Plan” annexed hereto
“Registered Provider”	means an organisation which is registered with the Tenant Services Authority or HCA as a provider of social housing, which may include housing associations, local authorities and private companies
“Reserved Matters Application”	means an application for approval of reserved matters for a Phase (or part of a Phase) submitted by the Owner under the Planning Permission
“Right to Acquire”	means the right for a tenant of a Registered Provider to acquire the freehold or a long lease of their property under the Housing Act 1996 (as amended by the Housing Act 2004)
“Secretary of State”	means the Secretary of State for Communities and Local Government (or such other person or organisation who has the jurisdiction from time to time to determine the Planning Application)

“Service Installations”	means sewers drains culverts channels outlets mains wire cables ducts flues soakaways and other conducting media for the supply of Services substations regulator valves and all other infrastructure whatsoever for Services all of which shall be laid by the Owner in on over or under the Site
“Services”	means electricity telephone gas water foul drainage surface water drainage cable television and other services running through the Service Installations
“Shared Equity”	means Affordable Housing which permits a buyer to purchase a share of the Affordable Housing Unit with the remaining share being held by the landlord
“Shared Ownership”	means Affordable Housing sold to a lessee on payment of a premium calculated by reference to the value of the Affordable Housing Unit (with a rent being paid on the remaining share)
“the Site”	means all that land known as Barton Farm, as is shown edged in red on the Plan
“Social Rented Housing”	means rented housing owned and managed by Registered Providers for which guideline target rents are determined through the national rent regime
“Specification	means the Council’s specification for soft landscape works and playing fields details of

which are set out at Schedule 4 to this Agreement

"Tenant Services Authority" means the 'Office for Tenants and Social Landlords' established in accordance with Section 81 of the Housing and Regeneration Act 2008

- (B) CALA Homes (South) Limited is the fee simple owner of the Site (excluding that part shown hatched red on the ) which is registered under title number HP 560 942.
- (C) CALA Management Limited is the fee simple owner of that part of the Site shown hatched red on the Plan which is registered under title number HP 666 574.
- (D) The College has a leasehold interest in the Site granted by virtue of a lease made between CALA Homes (South) Limited and the College dated 25 September 1998 and registered under leasehold title number HP 560 943.
- (E) The Mortgagee has the benefit of a legal charge dated 21 December 2009 which is registered against title number HP 560 942.
- (F) The Council is a local planning authority for the administrative area of Winchester District within which the Site lies for the purposes of the Act and is also a local authority for the purposes of Section 111 of the Local Government Act 1972.
- (G) CALA Homes (South) Limited submitted the Planning Application to the Council for the development of the Site and subsequently lodged an appeal for non-determination thereof. The appeal has been recovered for determination by the Secretary of State.
- (H) The Owner and the Council have agreed terms for the provision of Affordable Housing within the Site and other associated planning benefits (in the form set out in this Agreement) in the event of the grant of Planning Permission.

**NOW THIS DEED WITNESSETH as follows:**

## **1 SECTION 106 AGREEMENT**

- 1.1 This Agreement is executed by the parties hereto as a deed and is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other powers so enabling.

1.2 The obligations imposed upon the Owner under this Agreement shall be taken to be planning obligations for the purposes of the said Section 106 of the Act with the intent that they shall bind the Site and be binding on and enforceable by the Council against the Owner (and vice versa) and (subject to the provisions of Clause 1.5 below) the College and their respective successors in title subject to Clause 2 (conditionality) Clause 20 (circumstances in which this Agreement shall fall away) and Clause 1.3 (release upon parting with interest).

1.3 The Owner shall upon parting:-

- (a) with its interest in any part of the Site be released from all obligations under this Agreement insofar as they relate to or are binding on that part of the Site; and
- (b) with the entirety of its interest in the Site be released from all liabilities whatsoever under the terms of this Agreement

PROVIDED THAT the releases provided for above shall not apply to any prior or existing breach of this Agreement as at the date of disposal.

1.4 Where part of the Site is transferred to a Registered Provider the Registered Provider shall only be liable to contribute towards any costs or contributions payable by the Owner in the proportions of the number of Affordable Housing Units they are to provide as a percentage of the total number of Housing Units on the Phase.

1.5 The College enters into this Agreement in order to give its consent hereto but it is agreed by the Council and the Owner that the College shall have no liability hereunder (save in respect of the transfer of certain parts of the Site as expressly provided for herein in Clauses 5.5 and 7.9) PROVIDED THAT (if and to the extent that) the College (or a successor in title to the College) implements or takes the benefit of the Planning Permission the covenants on the part of the Owner under this Agreement shall apply equally to the College and the aforesaid exemption from liability shall not apply to the College.

- 1.6 None of the obligations contained in this Agreement shall be enforceable against any residential occupier of a Housing Unit or their successors in title or assigns.
- 1.7 The Mortgagee agrees to its interest in the Site being subject to the terms of this Agreement PROVIDED THAT the Mortgagee shall not incur any liability under this Agreement unless and until it enters into possession of the Site.
- 1.8 The Owner hereby covenants with the Council so as to bind the Site as set out in Clauses 2 – 22 and Schedules 1 – 4 of this Agreement.

## **2 COMMENCEMENT**

- 2.1 Subject to this Clause 2.1 and Clause 11 (costs) this Agreement shall be conditional upon the grant of the Planning Permission.
- 2.2 The Owner shall give to the Council ten days' written notice of its intention to Commence the Development provided that any failure on the Owner's part to comply with this Clause shall not render ineffective the Council's ability to enforce the provisions of this Agreement.
- 2.3 The Owner covenants to provide the Council with prior notice in writing or procure that it is so notified of the proposed
- (a) Occupation of the first Housing Unit;
  - (b) Occupation of the 200<sup>th</sup> Housing Unit;
  - (c) Occupation of the 250<sup>th</sup> Housing Unit;
  - (d) Occupation of the 550<sup>th</sup> Housing Unit;
  - (e) Occupation of the 800<sup>th</sup> Housing Unit; and
  - (f) Commencement of any Phase.
- 2.4 The Owner will not Commence the Development until the Phasing Programme has been submitted to and approved in writing by the Council PROVIDED THAT the Phasing Programme shall identify the Phases in which the Owner intends to carry out the Development and the order in which the Phases are proposed to be developed.



- 2.5 The Owner shall be entitled at any time to seek the Council's approval in writing to vary all or any part of the approved Phasing Programme.
- 2.6 The Owner shall not complete the Development otherwise than in accordance with the approved Phasing Programme (including any approved variations to it).
- 2.7 No later than twenty eight (28) days after completion of the final Open Market Housing Unit the Owner shall provide the Council with the Certificate of Completion of the Final Open Market Housing Unit.

### **3 AFFORDABLE HOUSING**

#### **General**

- 3.1 Not less than forty per cent (40%) of the total number of Housing Units within the Development shall be Affordable Housing Units.
- 3.2 The tenure mix of the Affordable Housing Units shall be the Affordable Housing Tenure Mix or as otherwise required by the Council pursuant to Clause 3.10 of this Agreement.
- 3.3 Save as otherwise agreed by the Council in accordance with the provisions of this Agreement:-
  - 3.3.1 the Affordable Housing Units shall be owned managed or disposed of by the Council or a Registered Provider in accordance with the provisions of this Agreement;
  - 3.3.2 subject to Clause 3.2 the total provision of Affordable Housing across the Development shall be in accordance with the table set out in Schedule 1;
  - 3.3.3 the Affordable Housing Land shall (subject to the provisions of this Agreement) not be used other than for the provision of the Affordable Housing Units during the period of eighty years from the date hereof;

3.3.4 the Affordable Housing provided under this Agreement shall:-

3.3.4.1 meet the needs of Eligible Persons including being available at a cost low enough for them to afford with regard to local incomes and local house prices;

3.3.4.2 include provision for the relevant Affordable Housing Unit to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision in the Winchester District.

3.4 Unless otherwise agreed with the Council, between thirty five per cent (35%) and forty five per cent (45%) of the total number of Housing Units within each Phase shall be Affordable Housing Units. In calculating the number of Affordable Housing Units required under this Clause any fractions of Affordable Housing Units shall be rounded up to the next whole number PROVIDED THAT in any event the Owner shall not be obliged to provide a higher level of Affordable Housing Units than is set out in Clause 3.1 above.

3.5 The Affordable Housing shall be provided in strict compliance with the approved Affordable Housing Masterplan Strategy and the approved Affordable Housing Reserved Matters Strategy (including any review of them). The Council may give its approvals to the Affordable Housing Masterplan Strategy and/or the Affordable Housing Reserved Matters Strategy (as the case may be) either as submitted or subject to modifications, and may take into account relevant policies including in particular the 'Affordable Housing Supplementary Planning Document' dated February 2008 (or any amendment to or replacement thereof).

3.6 It is agreed that Affordable Rented Housing shall be deemed to be Affordable Housing for the purposes of this Agreement (without any further act of the Council pursuant to this Agreement) if the Council adopts or otherwise endorses a policy that Affordable Rented Housing is an acceptable form of tenure PROVIDED THAT in any event and for the avoidance of doubt the Council may confirm in writing pursuant to the terms of this Agreement

(following a request from the Owner) that Affordable Rented Housing may comprise part of the Affordable Housing Tenure Mix.

### **Affordable Housing Masterplan Strategy**

3.7 Prior to Commencement of the Development the Owner shall submit a draft Affordable Housing Masterplan Strategy to the Council for its approval. The draft Affordable Housing Masterplan Strategy shall:-

3.7.1 demonstrate that the Development will accommodate the required level of Affordable Housing Units across the Site (in particular as set out in Schedule 1 hereto), and that there is sufficient land available within the Site for the required provision;

3.7.2 include an indicative layout of each Phase together with details of the estimated number/type/size/tenure of Affordable Housing Units on each Phase (to include an indication of likely costs to occupiers of the Affordable Housing Units, including rental, service and management charges and, where applicable, loan costs and open market values of homes provided for Low Cost Home Ownership);

3.7.3 include a programme for the Development and Phases;

3.7.4 set out a strategy for the engagement of a Registered Provider;

3.7.5 include a strategy for dealing with any disposal of any part of the Site to include details of mechanisms to be included in such disposal to ensure that the purchaser complies with the Affordable Housing Masterplan Strategy and the relevant Affordable Housing Reserved Matters Strategy; and

3.7.6 set out a process for reviewing the Affordable Housing Masterplan Strategy.

## **Affordable Housing Reserved Matters Strategy**

- 3.8 Each Reserved Matters Application shall be accompanied by a draft Affordable Housing Reserved Matters Strategy. No development shall Commence pursuant to that Reserved Matters Application until the relevant Affordable Housing Reserved Matters Strategy has been approved by the Council. The draft Affordable Housing Reserved Matters Strategy shall include:-
- 3.8.1 a site layout plan showing the proposed location of the Affordable Housing Units in the Reserved Matters Application;
  - 3.8.2 details of the number, size, type and tenure of the Affordable Housing Units in the Reserved Matters Application, such details to demonstrate how the proposals take into account priority local housing needs, the funding available and the need to provide a range of dwelling types and tenures that meet a range of affordability needs;
  - 3.8.3 details of likely costs to householders of the Affordable Housing Units in the Reserved Matters Application, including rental, service and management charges and, where applicable, loan costs and open market values of homes provided for Low Cost Home Ownership;
  - 3.8.4 a schedule demonstrating compliance with the HCA's 'Design Quality and Standards 2007' and the framework set out in the Council's 'Supplementary Planning Document on Affordable Housing 2008' (if applicable);
  - 3.8.5 details of the Registered Provider and delivery arrangements for the Reserved Matters Application;
  - 3.8.6 a timetable for provision of Affordable Housing within the Reserved Matters Application;

- 3.8.7 the number, type, size and delivery arrangements for wheelchair-accessible Affordable Housing Units to be provided within the Reserved Matters Application together with a mechanism for agreeing the fitting out of any such Affordable Housing Units;
- 3.8.8 scale plans of the Affordable Housing Units proposed within the Reserved Matters Application (at a scale of not less than 1:100).
- 3.9 Unless otherwise approved by the Council, each Affordable Housing Reserved Matters Strategy shall be in compliance with the approved Affordable Housing Masterplan Strategy and where necessary the Owner shall apply to the Council for approval to a revised Affordable Housing Masterplan Strategy to ensure compliance with this requirement.
- 3.10 When determining and approving an Affordable Housing Reserved Matters Strategy the Council (acting reasonably and having regard to the need for affordable housing from time to time within the district of Winchester) may require a lesser percentage of Social Rented Housing (and a higher percentage of Intermediate Affordable Housing) to be provided than comprises the Affordable Housing Tenure Mix and the Owner shall comply with many such requirement in providing the Affordable Housing Units pursuant to this Agreement.
- 3.11 Save for Extra Care Housing, or where otherwise agreed either as part of the approval of the relevant Affordable Housing Reserved Matters Strategy and/or any design code that is approved pursuant to the Planning Permission, no more than:-
- 3.11.1 fifteen (15) Affordable Housing Units which comprise houses;  
and
- 3.11.2 twenty five (25) Affordable Housing Units which comprise flats or apartments
- shall be grouped together in a single cluster. Where flats are to be provided as part of the Affordable Housing on a Phase, a higher figure may be permitted with the prior written approval of the Council.

## **Extra Care Housing**

- 3.12 The design and location of Extra Care Housing to be provided as part of the Affordable Housing shall be included in the Affordable Housing Masterplan Strategy and the relevant Affordable Housing Reserved Matters Strategy and shall not be implemented otherwise than in accordance with the approved Strategies.
- 3.13 Unless otherwise agreed with the Council, Extra Care Housing shall conform to the County Council's "*Guide to Designing Extra Care Housing*" 2009 or such other publication as the Council may reasonably require.
- 3.14 Where Extra Care Housing is approved as part of an Affordable Housing Reserved Matters Strategy and the design of such Extra Care Housing is fixed under an approved Reserved Matters Application but subsequent to the approval of the Affordable Housing Reserved Matters Strategy (and subject to the Owner having used all reasonable endeavours to provide such Extra Care Housing) it becomes impossible to implement the approved Extra Care Housing because of a lack of revenue funding within the budget of the relevant care provider then the Owner may permit the relevant building to be Occupied as Open Market Housing Units and/or Affordable Housing Units of a different tenure subject to the proportions thereof being approved (or specified) by the Council's Head of Strategic Housing in advance and subject also to any shortfall of Affordable Housing Units being provided elsewhere in the Development in a location agreed by the Council.

## **Triggers and Cascade mechanism**

- 3.15 Unless otherwise approved in writing by the Council no Open Market Housing Unit within a Phase shall be Occupied unless unconditional contracts have been exchanged (or other arrangements approved in advance by the Council entered into) with a Registered Provider for the provision and management of all of the Affordable Housing within that Phase.

working, or otherwise having a local connection with the Winchester district).

3.18 The provisions of Clause 3.17 above shall not apply to the extent that any funding requirements of the HCA prevent compliance in which case the receipts so affected shall be used in accordance with such requirements.

3.19 A written record of all receipts and expenditure receivable or spent under Clause 3.17 above shall be provided to the Head of Strategic Housing not less than once a year.

### **Registered Provider**

3.20 The following persons may act as a Registered Provider for the purposes of this Agreement:-

3.20.1 the Council;

3.20.2 a registered provider who has an established partnership with the Council who can demonstrate at all relevant times “four green traffic lights” (or equivalent) in its assessment by the HCA/Tenant Services Authority;

3.20.3 another registered provider approved by the Council who can demonstrate:

- “four green traffic lights” (or equivalent) in its assessment by the HCA/Tenant Services Authority;
- at least a 2 star Audit Commission Assessment (or equivalent); and
- sustainable management arrangements and approaches to community development which are acceptable to the Council (acting reasonably).

**3.16 Unless otherwise approved in writing by the Council:-**

3.16.1 no more than fifty per cent (50%) of the total number of Open Market Housing Units within a Phase shall be Occupied until fifty per cent (50%) of the Affordable Housing within that Phase has been completed and either a) has been transferred to the Registered Provider or b) the Owner has demonstrated to the reasonable satisfaction of the Head of Strategic Housing that the Owner has used reasonable endeavours to secure such transfer but this has not been possible due to circumstances outside the control of the Owner; and

3.16.2 no more than seventy five per cent (75%) of the total number of Open Market Housing Units within a Phase shall be Occupied until one hundred per cent (100%) of the Affordable Housing within that Phase has been completed and either a) has been transferred to the Registered Provider or b) the Owner has demonstrated to the reasonable satisfaction of the Head of Strategic Housing that the Owner has used reasonable endeavours to secure such transfer but this has not been possible due to circumstances outside the control of the Owner.

**Recycling of Receipts**

3.17 All receipts received by the Registered Provider from the transfer or other disposal of any Affordable Housing Units under the Right to Acquire scheme, by the exercise of any rights included in a lease to the occupier to acquire additional shares or a long lease/freehold interest in the property, or otherwise shall be paid into a separate account held by the Registered Provider and (subject to Clause 3.18 below) shall not be used other than for the provision of additional Affordable Housing within the Winchester district (or such other local areas as the Council may reasonably agree will assist those living,



### **Eligibility for Affordable Housing, Tenancies and Allocations**

- 3.21 Prior to Commencement of the Development the Council shall provide to the Owner a Local Lettings Plan for the Development PROVIDED THAT such Local Lettings Plan shall be reviewed by the Council (in consultation with the Owner) from time to time, and a copy of any revised Local Lettings Plan shall be sent to the Owner following adoption by the Council.
- 3.22 Unless otherwise approved in writing by the Council all lettings of the Affordable Housing Units shall be made in accordance with the Local Lettings Plan as notified from time to time by the Council to the Owner and shall also comply with the following requirements:-
- 3.22.1 the Registered Provider will notify the Head of Strategic Housing in writing of each Affordable Housing Unit for which the Council becomes entitled to nominate occupants and will ensure so far as it is able that the proposed occupant or occupants will accept the Affordable Housing Unit upon the terms offered by the Registered Provider;
- 3.22.2 the Registered Provider shall (within 14 days after completion of the agreement between the occupant) notify the Council of the date upon which the agreement was completed and provide the name and previous address of the occupant; and
- 3.22.3 the Registered Provider will provide the Council upon request with such details of occupancy as the Council may reasonably require to ensure that the provisions of this Agreement are being complied with.
- 3.23 The Affordable Housing Units shall not be Occupied other than by Eligible Persons PROVIDED THAT this restriction shall not prevent Occupation of an Affordable Housing Unit by:-

- 3.23.1 a person who has acquired the Affordable Housing Unit by the exercise of their rights under the Right to Acquire scheme;
- 3.23.2 a person who previously held a lease of the Affordable Housing Unit and has acquired the freehold (in respect of a dwelling house) or a long leasehold (in respect of a flat) by the exercise of any rights included in the original lease for the occupier to acquire a freehold or long lease interest (as applicable) in the Affordable Housing Unit;
- 3.23.3 a successor in title to a person in Clauses 3.23.1 or 3.23.2 above (subject to the provisions of Clause 3.25 having been complied with by such person prior to his or her disposal of their interest in the Affordable Housing Unit)

PROVIDED THAT the Council (acting reasonably) will have the right to nominate Eligible Persons to occupy the Affordable Housing Units and the Registered Provider will accept the Council's reasonable nominations.

- 3.24 Prior to letting any Affordable Housing Unit the Owner shall submit to the Council for its approval a draft of the lease or tenancy agreement and details of the type and length of tenancy to be offered.

#### **Pre-emption**

- 3.25 In granting any leases for Shared Ownership or Shared Equity of any of the Affordable Housing Units the Owner shall ensure that the Registered Provider includes a provision that in the event that the lessee or owner Occupier of an Affordable Housing Unit wishes to resell or dispose of the Affordable Housing Unit they will first offer the Affordable Housing Unit to either the Council or the Registered Provider or its successors in title or such other organisation as defined

by Section 1 Housing Act 1996 at Open Market Value unless the imposition of such a requirement would conflict with any conditions on any HCA grant funding or other third party sources of funding which may have been provided towards the cost of providing the Affordable Housing Unit.

### **Affordability**

- 3.26 At the first sale or letting of any Intermediate Affordable Housing Unit, the Owner shall ensure that the terms of the Affordability Test are complied with, except with the prior written approval of the Council.
- 3.27 Rents for Social Rented Affordable Housing units shall be set at or below the guideline target rents as determined through the national rent regime from time to time.
- 3.28 Without prejudice to Clauses 3.26 and 3.27, rents for all Affordable Housing shall be set in accordance with any policy adopted by the Council and any relevant guidelines issued by the HCA (provided that in the event of a conflict the policy of the Council shall prevail).
- 3.29 Service and management charges levied in respect of Affordable Housing Units shall not be set at a level which renders such units unaffordable to potential Eligible Persons.

### **Design Quality and Standards**

- 3.30 Unless otherwise agreed with the Council, all Affordable Housing within a Phase shall be designed and constructed to the HCA's 'Design and Quality Standards 2007', 'Lifetime Homes Standards 2010' (other than wheelchair accessible housing) and 'Building for Life Gold Standards 2008', the Council's 'Supplementary Planning Document on Quality Framework Standards in affordable housing 2008' or any replacement standard as may be in force at the time of Commencement of development of the Affordable Housing within that Phase.
- 3.31 Unless otherwise agreed with the Council, no less than ten per cent (10%) (rounded up to the nearest whole unit) of the Social Rented

Housing within a particular Phase shall be designed, constructed and equipped to wheelchair accessible standards, and in accordance with the details to be submitted and approved as part of the relevant Affordable Housing Reserved Matters Strategy.

- 3.32 Extra Care Housing shall be designed and constructed to the County Council's 'Guide to Designing Extra Care Housing 2009' (including any amendment or replacement thereof) save with the prior written approval of the Council.

#### **Transfer of Affordable Housing Land**

- 3.33 The Affordable Housing Land shall not be transferred to the Registered Provider otherwise than in accordance with the following:-

- 3.33.1 all Services and Service Installations and Access shall be provided up to at least the boundary of the Affordable Housing Land;
- 3.33.2 right to pass and repass on foot and/or with or without vehicles (as appropriate) over the Access for the purpose of access to and egress from the Affordable Housing Land;
- 3.33.3 a right of taking passage and running (as appropriate) of Services;
- 3.33.4 a right to maintain enjoy and use any Services and any projections over or under the remainder of the Site so far as may be necessary for any purpose connected with the Affordable Housing Land;
- 3.33.5 a right to enter upon the remainder of the Site including any Access so far as may be necessary for any purpose connected with the Affordable Housing Land the Service Installations and any projections;

- 3.33.6 such necessary rights of support shelter and protection from the Site; and
- 3.33.7 a right for the occupiers of the Affordable Housing their servants agents visitors successors and assigns to the use and enjoyment of the Common Parts.
- 3.34 All Affordable Housing Land shall be transferred to the Registered Provider in a Clean Condition.
- 3.35 The Affordable Housing Land (or the relevant part of it) shall not be transferred to the relevant Registered Provider otherwise than by either a transfer of the freehold of the relevant Affordable Housing Land or the grant of a lease of not less than 125 years from the date of the lease.

#### **Monitoring Provision**

- 3.36 The Owner shall submit to the Head of Strategic Housing at not less than six-monthly intervals following Occupation of the first Housing Unit a written return stating:-
  - 3.36.1 the number and location of all Housing Units Occupied in each Phase in the reporting period;
  - 3.36.2 the cumulative total of Housing Units Occupied in each Phase since Commencement of the Development;
  - 3.36.3 the number of Affordable Housing Units completed in each Phase during the reporting period together with details of funding secured/used for the Affordable Housing during such period;
  - 3.36.4 the number, location and tenure of Affordable Housing Units Occupied in each Phase a) during the reporting period and b) since the Commencement of the Development.

## **Mortgagee in Possession**

3.37 In the event only that there is a default under any legal charge or mortgage of the Affordable Housing then a mortgagee chargee receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 ("the Chargee") shall be entitled to exercise its power of sale in respect of an Affordable Housing Unit or Affordable Housing Units free from the Planning Obligations PROVIDED THAT the Chargee shall first follow the procedure set forth below:

3.37.1 the Chargee shall give 'written notice' ("the Notice") to the Council of its intention to exercise its powers of sale and shall at the time offer to sell ("the Offer") the Affordable Housing Unit or Affordable Housing Units to the Council for an amount ("the Purchase Price") to be agreed or determined in accordance with sub-Clause 3.37.3 hereinafter;

3.37.2 the Council shall notify the Chargee in writing within one (1) month of the date of the Offer whether or not it wishes to accept the Offer (in the case of acceptance such acceptance to be expressed to be conditional upon the Purchase Price being agreed) and if it does not wish to accept the Offer the Council may at the time of notifying the Chargee of its decision nominate a nominee ("the Nominee") in its place;

3.37.3 if pursuant to the foregoing sub-clause the Council shall accept the Offer or shall nominate a Nominee so to do then the Chargee and the Council (or the Nominee as the case may be) shall endeavour to agree the Purchase Price which shall represent the open market value of the Affordable Housing Units subject to any tenancies subsisting at the date of the Notice but disregarding the provisions of this Agreement which restrict occupation to Eligible Persons and in default of

agreement the Purchase Price shall be determined on the same basis of the valuation by an independent surveyor ("the Surveyor") who shall act as an expert and whose costs shall be borne equally between the parties and the Surveyor shall be appointed in default of agreement on the application of either party by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors and the Surveyor's determination shall be binding on both parties;

3.37.4 subject to the ensuing provision the transfer to the Council or to the Nominee shall be completed within two (2) months of the date the Purchase Price is agreed or determined in accordance with the foregoing provisions ("the Completion Period");

3.37.5 either party may at any time give to the other written notice of its intention to discontinue in any of the following circumstances namely:

(i) If the Council shall fail to give notice of intention to accept the Offer within one month of the date of the offer or

(ii) If the Council shall decline the Offer and fail to nominate a Nominee within one month of the date of the Offer or

(iii) If either the Council or the Nominee shall at any time serve notice of intention to discontinue or

(iv) If the transfer of the Affordable Housing Unit or Affordable Housing Units shall not be completed within the Completion Period notwithstanding the readiness willingness and ability of the Chargee to complete the transfer

then in any of the above circumstances the Chargee shall be entitled (subject to compliance with Sections 39 to 50 of the Housing Act 1996 so far as is applicable) to exercise its power of sale unfettered by the Planning Obligations which shall not bind any

purchaser from the Chargee or any subsequent successor in title of the Affordable Housing Unit or Affordable Housing Units and at the written request of the Chargee the Council shall expeditiously issue written confirmation that the Planning Obligations have been discharged in respect of the Affordable Housing Unit or Affordable Housing Units and the Council shall take steps to cancel any local registration of the Planning Obligations insofar as they may be recorded against the Affordable Housing Unit or Affordable Housing Units.

#### **4 LANDSCAPING AND OPEN SPACE**

- 4.1 To lay out and complete all hard and soft landscape works (including children's play/amenity areas) within each Phase in accordance with the Landscape and Open Space Strategy and the Specification within 12 months (or such longer period as may be agreed by the Head of Planning Management) of the Occupation of the first Housing Unit within the relevant Phase to the reasonable satisfaction of the Head of Planning Management.
- 4.2 To maintain the hard and soft landscape works in compliance with the Landscape and Open Space Strategy.
- 4.3 Subject to Clause 12, if following the receipt from the Council of a default notice (which shall detail a failure to comply with the provisions of this Clause 4 by identifying the breach and the required remedy and a reasonable timescale for rectifying the breach ("the Default Notice")) the Owner fails to comply with the provisions of the Default Notice the Council shall have the right to lay out and complete the works referred to and recover the costs of doing so from the Owner.
- 4.4 Within 12 months of the provision of any of the Open Space the Owner shall permit the public to have access to that Open Space and shall thereafter allow the public to have access to that Open Space such access to be free of any charge and to be available at all times throughout the year.



- 4.5 Not to impede access to the Open Space nor to build nor erect or cause or permit to be built or erected any buildings or erections thereon (except play equipment which may be erected on any designated play area within the Open Space) nor enclose the same save as may be agreed in writing by the Head of Planning Management.

## **5 PROPOSALS FOR MANAGEMENT OF THE DEVELOPMENT**

- 5.1 Prior to the Occupation of any Phase the Owner shall submit to the Council its proposals for the long term ownership maintenance and management of any of the following features that are within that Phase:

5.1.1 Open Space; and

5.1.2 any other land that has been (or is proposed to be) landscaped as part of the Landscape and Open Space Strategy

and the relevant Phase shall not be Occupied until such proposals have been approved by the Council.

- 5.2 The long term ownership maintenance and management proposals to be submitted pursuant to Clause 5.1 shall provide for one of the following:

5.2.1 the ownership maintenance and management of the features by a management company; or

5.2.2 the ownership maintenance and management of the features by a trust that has sufficient capital resources to ensure its ability to manage the features in the long term; or

5.2.3 the transfer of the freehold of such features to the Council following the Council certifying the completion of the Open Space and the maintenance thereof for a period of twelve (12) months thereafter by the Owner to the reasonable satisfaction of the Head of Planning Management by an agreement in the form set out in Part I of Schedule 2 and a transfer in the form set out in Part II of Schedule 2 hereto and including the

payment by the Owner to the Council of a reasonable commuted sum in relation to their future maintenance; or

5.2.4 a combination of any of the options referred to in Clauses 5.2.1 5.2.2 and 5.2.3; or

5.2.5 any other mechanism agreed between the Council and the Owner.

5.3 The Owner shall not Occupy or allow permit or suffer to be Occupied any of the Housing Units within any Phase (other than the first Phase) until it has given effect to the approved proposals for the ownership maintenance and long term management of the features referred to in Clause 5.1 that are within the immediately preceding Phase to the Council's reasonable satisfaction.

5.4 Until such time as the Owner has given effect to the proposals for the long term ownership maintenance and management of any of the features within the Development as are referred to in Clause 5.1 the Owner shall be responsible for the maintenance of such features to the reasonable satisfaction of the Council.

5.5 The College covenants with the Council to execute a deed of surrender to the Owner in respect of its leasehold interest in any Open Space to be transferred to the Council pursuant to this Clause prior to or at the same time as such transfer takes place.

## **6 CULTURAL FACILITIES CONTRIBUTION**

6.1 Prior to the Occupation of eight hundred (800) Housing Units the Owner shall pay to the Council the Cultural Facilities Contribution.

6.2 The Council covenants with the Owner that it shall not use the Cultural Facilities Contribution otherwise than for the purposes of providing new or improved facilities at the Winchester Discovery Centre, Jewry Street, Winchester or any replacement thereof including without prejudice to the generality thereof:-

- 6.2.1 the purchase of books and other materials;
  - 6.2.2 the provision of equipment such as computers and access to the internet; and
  - 6.2.3 the provision of additional seating or study areas and other similar enhancements.
- 6.3 If the Cultural Facilities Contribution shall be unpaid after the same have become due the Owner shall pay interest at the rate of 2% above the base lending rate of the National Westminster Bank plc from time to time in force on the Cultural Facilities Contribution in respect of the period from the date when the Cultural Facilities Contribution became due until final payment thereof.
- 6.4 For the avoidance of doubt the Council may exercise its powers under this Clause by paying all or part of the Cultural Facilities Contribution to the County Council for it to use on the specified purposes (in which case the Council shall notify the County Council within 28 days of the receipt of the payment).
- 6.5 If the Cultural Facilities Contribution (or any part of it) remains unspent on the date that is three (3) years after it was paid the Council shall return any unspent sums to the person or organisation who is entitled to it together with all accrued interest.

## **7 THE COMMUNITY CENTRE**

- 7.1 The Owner shall not Commence the first Phase of the residential development forming part of the Development until a specification of the Community Centre (including car parking) has been submitted to the Council following which the Owner and the Council shall use their reasonable endeavours to agree the specification not later than one month after the delivery of the same to the Council (and in the absence of agreement a dispute shall be deemed to have arisen pursuant to Clause 12 of this Agreement). The Community Centre shall be designed to include such adequate facilities and internal spaces for use as a

community centre and shall also be designed in such a way as to allow further limited internal changes (including the repositioning or addition of walls and doors) which may be desirable following consultation with the community as referred to in Clause 7.5 below.

7.2 As soon as reasonably practicable after the above specification has been agreed pursuant to Clause 7.1 (or determined pursuant to Clause 12) hereto the Owner shall apply for all necessary permissions consents and approvals required for the construction of the Community Centre (including approvals under the Planning Permission and building regulations).

7.3 The Owner may vary the agreed specification and plans in such manner as may in its reasonable opinion become necessary having regard to labour and materials obtainable or other unforeseen circumstances arising in the ordinary course of construction provided that any proposed variation which may:

7.3.1 result in material reduction to the dimensions or net floor area of the Community Centre; or

7.3.2 result in a material change in the provision of any easements or services thereto; or

7.3.3 otherwise materially diminish the use and enjoyment of the Community Centre

shall only be made with the prior written consent of the Council.

7.4 The Owner covenants with the Council that in the course of constructing the Community Centre it will observe all statutory requirements (including planning permissions and buildings regulation approvals) and the reasonable requirements of all competent authorities.

7.5 The Council may carry out consultation with the community on the specification submitted under Clause 7.1 above but only for a period of no more than twelve (12) months after the appointment of the Community Development Worker in accordance with the terms of this Agreement. No later than the Occupation of six hundred (600) Housing Units the Council may submit by written notice to the

Owner details of any limited internal changes which it may reasonably require (having regard to the outcome of consultation with the community) to adapt the Community Centre to reflect the reasonable requirements of users and potential users of the Community Centre provided that the Council cannot oblige the Owner to make any changes that would require planning permission and any disagreement over the changes shall be resolved by use of the dispute resolution procedure set out in Clause 13 hereof. The Owner shall thereafter carry out any such limited internal changes (as modified following the use of the dispute resolution procedure and making good any resultant reinstatement works which may be necessary).

7.6 The Owner covenants with the Council as follows:-

7.6.1 the construction of the Community Centre shall not be procured otherwise than by a suitable contractor using a JCT Intermediate Building Contract (2005 Edition) Revision 2 2009 or such other form of standard building contract as the Council may approve;

7.6.2 not to complete the Community Centre and any changes required pursuant to Clause 7.5 otherwise than i) in a good and workmanlike manner and (ii) using good quality and sound materials and in accordance with the agreed specification and (iii) prior to the earlier of:-

(a) the Occupation of eight hundred (800) Housing Units (in respect of the construction and fitting out of the Community Centre); and

(b) within twelve months of the date of the Council's notice referred to in Clause 7.5 above or final determination of any dispute under Clause 12

unless completion of the Community Centre or such internal changes are delayed by reason of:

- (i) delay which is both unreasonable and material in the granting of any permission approvals or consents referred to in Clause 7.2 hereof;
- (ii) exceptionally adverse weather conditions;
- (iii) local combination of workmen strike or lockout affecting any of the trades engaged in the preparation and manufacture or transportation of any of the goods or materials required for the Community Centre;
- (iv) civil commotion;
- (v) force majeure; or
- (vi) any other reason beyond the control of the Owner

and where it appears to the Owner that the completion of the Community Centre or the said internal changes are being or are likely to be delayed by reason of any of the matters set out in this Clause 7.6.2 the Owner shall give notice to the Council specifying details of the event or events causing the delay the expected extent of the delay the steps being taken to minimise such delay PROVIDED THAT the Council (acting reasonably) may require the Owner to provide temporary community facilities within the Site during the period of delay.

#### 7.6.3

to insure and keep insured the Community Centre against loss or damage by fire flood vandalism and such other risks as the Owner may in its absolute discretion determine ("the Insured Risks") in the full reinstatement value thereof (including fees and value added tax) until immediately after the date of the transfer of the Community Centre as hereinafter provided and if the Community Centre or any part thereof is damaged or destroyed by any of the Insured Risks the Owner shall subject to obtaining all necessary permissions consents and approvals forthwith lay out the insurance monies received (making up

any shortfall out of its own monies) in rebuilding and reinstating the Community Centre or the part so damaged or destroyed as soon as is reasonably practicable.

7.6.4 to give to the Council not less than fourteen days' written notice of the intention of the Owner's architect to issue the Community Centre Certificate of Practical Completion and to extend to the Council an invitation to make an inspection (within twenty eight (28) days of such invitation) of the Community Centre jointly with the Owner's architect and to make observations and written representations thereof.

7.6.5 within ten days of the inspection mentioned in sub-clause 7.6.4 hereof the Council may prepare (acting reasonably) a written schedule of defects and/or matters outstanding and serve it upon the Owner and the Owner shall fully and fairly take such written schedule received into account and

a) in any case where such defect relates to a failure to comply with the approved specification; and

b) in any other case where in the opinion of the Owner it is reasonable to remedy the defects and/or attend to the matters outstanding specified in such written schedule or any of them

the Owner shall procure that appropriate steps are taken to give effect to them PROVIDED THAT if no written schedule is received from the Council the Owner may issue the Community Centre Certificate of Practical Completion forthwith (which shall be conclusive and binding on the Council).

7.6.6 on completion of the Community Centre in accordance with the provisions of this Agreement to procure that its architect shall issue the Community Centre Certificate of Practical Completion (which shall be conclusive and binding upon the Council).

7.6.7 forthwith to procure that there shall be made good all defects and matters which the Owner's architect is entitled under JCT Intermediate Building Contract (2005 Edition) Revision 2 2009 (or such other contract as may have been approved by the Council under this Agreement) to require to be remedied or made good and which are notified in writing to the Owner:

7.6.7.1 by its architect at the time of the issue of the Community Centre Certificate of Practical Completion; or

7.6.7.2 by the Council within one year of the date of the issue of the Community Centre Certificate of Practical Completion.

7.7 The Owner covenants with the Council that up to Occupation of eight hundred (800) Housing Units it will not use the Community Centre other than as a visitor centre.

7.8 The Owner covenants with the Council that no more than eight hundred (800) Housing Units shall be Occupied or no later than twelve months following service of the notice under Clause 7.5 (whichever last occurs) until the Community Centre has been transferred to the Council upon the terms and conditions set out in Schedule 3 hereto for use as a community centre.

7.9 The College covenants with the Council to execute a deed of surrender to the Owner in respect of its leasehold interest in the Community Centre Land to be transferred to the Council pursuant to this Clause prior to or at the same time as such transfer takes place.

## **8 COMMUNITY DEVELOPMENT WORKER**

8.1 The Owner covenants with the Council that no more than two hundred (200) Housing Units shall be Occupied until it has employed or procured the employment of the Community Development Worker (which for the avoidance of any doubt may be an employee of the Owner) in accordance with terms (to



include a job description and hours of work) previously agreed in writing with the Council PROVIDED THAT the Community Development Worker shall be continually employed until the date of the Certificate of Completion of the Final Open Market Housing Unit PROVIDED FURTHER THAT the Council shall not be entitled to refuse to agree these terms simply because the proposed Community Development Worker is an employee of the Owner.

8.2 The Owner shall consult the Council from time to time on the work programme for the Community Development Worker and shall take into account any relevant comments on such work programme which the Council may provide.

8.3 Between the Occupation of two hundred (200) Housing Units and the date of the Certificate of Completion of the Final Open Market Housing Unit the Owner shall provide two (2) rooms of not less than 25m<sup>2</sup> in area each together with access to shared toilet and kitchen facilities which shall be available to the Community Development Worker (and the Council) for temporary accommodation purposes only on a location within the Site which has previously been approved in writing by the Council.

## **9 PUBLIC ACCESS ACROSS SITE**

9.1 Prior to Commencement of each Phase the Owner shall submit to the Council for its approval a plan of such Phase showing the routes through such Phase over which the public shall be permitted at all times and for all purposes to pass and repass on foot and (where appropriate) on bicycles PROVIDED THAT such routes shall allow access through the Phase (including in particular to access any Open Space and links to other adjoining Phases (whether planned, under construction, or constructed)) so as to permit the public to pass throughout the Development.

9.2 Each Phase shall not be developed otherwise than in accordance with the access routes approved under Clause 9.1 above and thereafter the approved routes shall be kept open and unobstructed and maintained to an adequate standard at all times so as to allow the public to pass over them.

## **10 PUBLIC ACCESS OVER THE SITE AND THE ECOLOGICAL AMENITY LAND**

10.1 Prior to Commencement of the Development the Owner shall submit to the Council for its approval:

10.1.1 a detailed route for the Public Footpaths from Andover Road through the Site and the Ecological Amenity Land to Worthy Road;

10.1.2 surfacing and other construction details for the Public Footpaths; and

10.1.3 proposals for the long term maintenance and management of the Ecological Amenity Land.

10.2 Prior to Occupation of two hundred and fifty (250) Housing Units the Owner shall construct the Public Footpaths to the satisfaction of the Head of Planning Management (as evidenced by a certificate issued by the Head of Planning Management) in accordance with the details approved pursuant to Clause 10.1 above.

10.3 The Owner shall not knowingly obstruct the Public Footpaths and shall allow the Council and any other person authorised by the Council to enter onto the Site at all reasonable times to remove any obstructions.

10.4 The Owner shall permit public access over the Public Footpath at all times on foot only as from the date of the certificate referred to in Clause 10.2 above.

10.5 For the avoidance of doubt it is agreed between the parties that the plan entitled "Biodiversity Management Plan" is included in this Agreement for the purposes of identifying the Ecological Amenity Land and the Public Footpath Routes (insofar as they are to cross the Ecological Amenity Land) only and the Council shall not be deemed to have approved or be otherwise bound to approve in the future any other details or proposals shown on such plan.

10.6 The long term maintenance and management proposals to be submitted pursuant to Clause 10.1 in relation to the Ecological Amenity Land shall provide for one of the following:

- 10.6.1 the maintenance and management of the features by a management company; or
- 10.6.2 the maintenance and management of the features by a trust that has sufficient capital resources to ensure its ability to manage the features in the long term; or
- 10.6.3 a combination of any of the options referred to in Clauses 10.6.1 and 10.6.2; or
- 10.6.4 any other mechanism agreed between the Council and the Owner.

10.7 The Ecological Amenity Land shall not be managed and maintained otherwise than in accordance with the proposals approved pursuant to Clause 10.6.

## **11 COSTS**

11.1 On the execution hereof the Owner shall pay to the Council the Council's legal costs to the sum of £5,000 incurred in preparing, negotiating and completing this Agreement.

## **12 DISPUTE RESOLUTION**

12.1 The Council and the Owner hereby agree and declare that where any dispute arises under this Agreement either party may at any time require by notice in writing to the other party an independent expert to be appointed to resolve the dispute.

12.2 The expert (who shall be an appropriately qualified person to resolve the dispute in question) may be agreed upon by the Council and the Owner and in default of such Agreement within one month of a requirement being made pursuant to Clause 12.1 the expert shall be appointed by the President for the time being of the Royal Institution of Chartered Surveyors upon the application of either the Council or the Owner made at any time after the said period of one month.

- 12.3 Notice in writing of the appointment of the expert shall be given by the expert to the Council and the Owner and he shall invite each to submit within a specified period (which period will not exceed four weeks) any written representations that each party wishes to make to him.
- 12.4 The expert shall act as an expert not as an arbitrator and he shall consider any written representations submitted to him within the period referred to in Clause 12.3 and the expert shall not be in any way limited or fettered thereby and shall determine the dispute in accordance with his own judgement including any input received from third parties deemed necessary by such expert.
- 12.5 Each party shall act reasonably in providing information requested by the expert.
- 12.6 In reaching a decision the expert will have regard to information provided by the parties including financial or otherwise information relating to the Phases.
- 12.7 The expert shall give notice in writing of his decision to the Council and the Owner within two months of his appointment or within such extended period as the parties may together allow.
- 12.8 The decision of the expert shall be final on all matters referred to him except in the case of manifest material error.
- 12.9 If for any reason the expert shall fail to make a decision or fail to give notice thereof within the time and in the manner here provided in this clause either party may apply to the President of the Royal Institution of Chartered Surveyors for a substitute expert to be appointed in his place which procedure may be repeated as many times as agreed is necessary.
- 12.10 Each party shall bear its own costs and the fees and costs of the expert and of the Royal Institution of Chartered Surveyors and any third parties referred to in Clause 12.4 above shall be shared equally between the parties.

### **13 SERVICE PROVISIONS**

13.1 Any notice or other written communication to be served or given by one party upon or to any other party under the terms of this Agreement shall be validly served or given if transmitted by facsimile (if confirmed by transmission confirmation slip) delivered by hand or sent by registered or recorded delivery post to the party upon whom it is to be served or to whom it is to be given

13.2 The address for any notice or other written communication is:

13.2.1 for the Owner and the Second Owner marked for the attention of the Managing Director of CALA Homes (South) Limited of Burgan House The Causeway Staines Middlesex TW18 3PR (facsimile number 01784 225301) or such other details as shall be notified in writing to the Council;

13.2.2 for the Council marked for the attention of the Head of Legal Services of Winchester City Council City Offices Colebrook Street Winchester Hampshire SO23 9LJ (facsimile number 01962 848 555) or such other details as may be notified in writing to the Owner;

13.2.3 for the College at The Bursary Winchester College College Street Winchester Hampshire S023 9NA or such other details as may be notified in writing by the College; and

13.2.4 for the Mortgagee at The Mound Edinburgh EH1 1YZ or such other details as may be notified in writing by the Mortgagee.

### **14 LOCAL LAND CHARGE**

14.1 It is hereby agreed and acknowledged that the provisions of this Agreement are by way of planning obligation and shall be a local land charge and a copy of the

same shall be recorded in the Register of Local Land Charges in accordance with section 106 (11) of the Act.

## **15 CLAUSE HEADINGS AND INTERPRETATIONS**

15.1 The clause headings are for convenience only and shall not affect the interpretation of this Agreement.

15.2 References to Clauses Recitals or Schedules are references to clauses recitals or schedules in this Agreement.

15.3 References to the singular shall include the plural and vice versa.

15.4 References to one gender shall include references to the other.

15.5 References in definitions to specific types of tenure shall (in the event of the relevant legislation being altered so that such types of tenure are no longer capable of being granted) include reference to such replacement types of tenure (being as close as possible in character to the original and which are approved by the HCA or other replacement body thereof) as the Head of Strategic Housing may reasonably nominate **PROVIDED THAT** if the Head of Strategic Housing shall not nominate such other category of tenure as aforesaid the Affordable Housing Units shall be occupied on such basis of tenure as the Registered Provider shall determine in its absolute discretion.

## **16 THIRD PARTIES**

16.1 None of the provisions of this Agreement are intended to operate so as to confer a benefit (pursuant to the Contracts (Rights of Third Parties) Act 1999) on any person who is not named as a party to this Agreement.

16.2 The Owner's obligations in this Agreement shall be conditional on the Owner not having to acquire or cooperate with respectively third party land or landowners.

## **17 COUNCIL OBLIGATIONS**

17.1 In relation to the contribution referred to at Clause 6 the Council covenants with the Owner that the contribution or part(s) thereof shall either be deposited into the Council's sole bank account ("Designated Bank Account") under a unique project code for "Barton Farm" and each relevant contribution shall be paid into the said Designated Bank Account and shall be identified in the said account by a reference number and in an individual spreadsheet and/or ledger account and interest shall accrue on the contribution held in the Designated Bank Account or paid to the County Council subject to equivalent requirements.

17.2 On the first anniversary of the date of payment of the contribution referred to in Clause 6 and annually thereafter the Council shall provide the Owner with details of any payments made from the relevant Designated Bank Account(s) together with details of interest accrued on the balance from time to time.

## **18 APPROVALS**

18.1 Where under this Agreement one party is required to obtain the agreement approval consent expression of satisfaction or other comment by the other party such agreement approval consent expression of satisfaction or other comment shall not be unreasonably withheld or delayed.

18.2 Where under this Agreement the Council is required to issue a certificate it shall within fourteen (14) days of either receipt of a request by the Owner or the relevant event or trigger occurring either:-

- (a) issue the relevant certificate; or
- (b) provide the Owner with reasons for withholding the certificate and this process shall be repeated until such time as the relevant certificate is issued.

## **19 LAPSE**

19.1 This Agreement shall lapse and its obligations shall cease to have effect in any of the following circumstances:-

- (a) if the Planning Permission shall be revoked or modified other than at the request of the Owner;

- (b) if the Planning Permission should lapse before the Commencement of Development; or
  - (c) if the Planning Permission shall be quashed
- in which case the Council shall issue written confirmation of such an event and cancel any entry made in the Council's register of local land charges in respect of this Agreement.

## **20 LAND OWNERSHIP**

20.1 Nothing in this Agreement shall require the performance by the Owner of any obligation on over or under land which is not within the ownership or control of the Owner unless the said land shall comprise public highway

## **21 CIL REGULATIONS**

21.1 If the Secretary of State determines (free of legal challenge and/or appeal) that the obligation contained within Clause 6 of this Agreement is not:-

21.1.1 necessary to make the Development acceptable in planning terms;

21.1.2 directly related to the Development; and

21.1.3 fairly and reasonably related in scale and kind to the Development

such that it does not constitute a reason for granting the Planning Permission then such obligation shall immediately cease and determine (without any further act by the parties to this Agreement).

## **22 INDEMNITY TO COLLEGE**

22.1 The Owner shall indemnify the College against all actions proceedings losses damages costs claims and expenses which are suffered by the College and which are attributable to any failure by the Owner to comply with the obligations in this Agreement.

**IN WITNESS WHEREOF** these presents have been executed by the parties hereto as a deed and delivered on the date of this Agreement



**SCHEDULE 1**  
**AFFORDABLE HOUSING**

**Overall Affordable Housing Mix** assuming 800 Affordable Housing Units in total (if less than 2,000 dwellings are provided the quantum and mix of Affordable Housing Units shall be reduced on a pro rata basis)

<b>Social Rent</b>						
<b>Beds</b>	<b>Bungalows</b>	<b>Flats</b>	<b>Houses</b>	<b>Extra Care (Flats)</b>	<b>Total</b>	<b>Design Occupancy (HQI/HCC Standards)/ Floorspace (min)</b>
1	0	118	0	9	127	2 person (48sqm)
2	0	26	96	21	143	General needs: 50% 3 person (61 sqm) /50% 4 person (71 sqm). (Extra Care 1 bed 55 sqm; 2 bed 68 sqm)
3	0	0	160	0	160	5 person (86 sqm)
4	0	0	90	0	90	70% 6 person (2/3 storey 102/110 sqm) 30% 7 person (112/120 sqm)
5	0	0	10	0	10	50% 7 person (2/3 storey 122/132 sqm) 50% 8 person (134/144 sqm))
<b>Total</b>	<b>0</b>	<b>144</b>	<b>356</b>	<b>30</b>	<b>530</b>	
<b>Intermediate Affordable</b>						
<b>Beds</b>	<b>Bungalows</b>	<b>Flats</b>	<b>Houses</b>	<b>Extra Care (Flats)</b>	<b>Total</b>	<b>Design Occupancy (HQI/HCC Standards)</b>
1	0	36	0	9	45	2 person (48 sqm)
2	0	78	78	21	177	General needs: 50% 3 person (61 sqm)/50% 4 person (71 sqm). Extra care to be agreed (Extra Care 1 bed 55 sqm; 2 bed 68 sqm)
3	0	0	48	0	48	5 person (86 sqm)
<b>Total</b>	<b>0</b>	<b>114</b>	<b>126</b>	<b>30</b>	<b>270</b>	



## SCHEDULE 2

### Part I

#### Agreement for Transfer of Open Space

**THIS AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ Two thousand \_\_\_\_\_ and **BETWEEN** [ \_\_\_\_\_ ] whose registered office is situated at [ \_\_\_\_\_ ] (hereinafter called "The Owner) of the first part **WINCHESTER CITY COUNCIL** of City Offices Colebrook Street Winchester (hereinafter called "the Council") of the second part

#### WHEREAS

- (1) The [ \_\_\_\_\_ ] is Owner in fee simple of land at [ \_\_\_\_\_ ] which is shown on the plan annexed hereto and coloured green (which pieces and parcels of land are hereinafter collectively referred to as "Open Space")
- (2) In this deed the expression "Head of Planning Management" shall mean the Council's Head of Planning Management for the time being or any other officer appointed to undertake his functions
- (3) The Parties hereto agree to the transfer of the Open Space in the manner hereinafter appearing

#### NOW THIS AGREEMENT WITNESSETH as follows:

- 1 This Agreement is made pursuant to Sections 111 and 120 of the Local Government Act 1972 Section 227 of the Town and Country Planning Act 1990 and all other powers so enabling the parties hereto and in consideration of the covenants hereinafter.
- 2 The Owner on behalf of itself its successors in title lessees and assigns covenants with the Council as follows:
  - 2.1 to lay out the Open Space to the reasonable satisfaction of the Council and thereafter maintaining the Open Space for a period of twelve months to the Council's satisfaction (as evidenced by a certificate ("the Certificate of Satisfaction") to be issued by the Council
  - 2.2 within two months of the issue of the Certificate of Completion the Owner will transfer the Open Space to the Council in the form set out in [Part 2 of Schedule 2] hereto
  - 2.3 To pay to the Council upon the signing hereof:
    - (i) a payment of [ \_\_\_\_\_ ] representing a proportion of The Council's costs in the future maintenance of the Open Space such figure to be

calculated so as to produce (when invested in accordance with the Council's usual investment practices) sufficient annual interest to offset the initial annual costs which the Council incurs in maintaining the Open Space

- (ii) the Council's reasonable legal expenses of dealing with the transfer of the Open Space

**Part II**  
**Transfer of Open Space Part 2**

**Date [ \_\_\_\_\_ ] 2011**

**[LAND OWNER ]**  
**WINCHESTER CITY COUNCIL**

**TRANSFER**  
**of the Open Space,**  
**Barton Farm, Winchester**

# Land Registry

## Transfer of part of registered title(s)

# TP

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

1	Title number(s) out of which the property is transferred: [            ]
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any: None.
3	<p>Property:</p> <p>The property is identified</p> <p><input type="checkbox"/> [on the attached plan and shown:] [<i>description to be added once the Property being transferred is known</i>]</p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown:</p>
4	Date:

Give full name(s).

Complete as appropriate where the transferor is a company.

5 Transferor:  
[ ] [to be added once the Property being transferred is known]  
For UK incorporated companies/LLPs  
Registered number of company or limited liability partnership including any prefix:  
For overseas companies  
(a) Territory of incorporation:  
(b) Registered number in the United Kingdom including any prefix:

Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

6 Transferee for entry in the register:  
Winchester City Council  
For UK incorporated companies/LLPs  
Registered number of company or limited liability partnership including any prefix:  
For overseas companies  
(a) Territory of incorporation:  
(b) Registered number in the United Kingdom including any prefix:

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

7 Transferee's intended address(es) for service for entry in the register:  
City Offices, Colebrook Street, Winchester, Hampshire SO23 9LH

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

8	The transferor transfers the property to the transferee
9	<p>Consideration</p> <p><input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures):</p> <p style="padding-left: 40px;">One pound (£1)</p> <p><input type="checkbox"/> The transfer is not for money or anything that has a monetary value</p> <p><input type="checkbox"/> Insert other receipt as appropriate:</p>
10	<p>The transferor transfers with</p> <p><input type="checkbox"/> full title guarantee</p> <p><input type="checkbox"/> limited title guarantee</p> <p><i>[Title guarantee provisions to be confirmed once the identity of the Transferor is known.]</i></p>
11	<p>Declaration of trust. The transferee is more than one person and</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants</p> <p><input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares</p> <p><input type="checkbox"/> they are to hold the property on trust:</p>



- Use this panel for:
- definitions of terms not defined above
  - rights granted or reserved
  - restrictive covenants
  - other covenants
  - agreements and declarations
  - any required or permitted statements
  - other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

## 12 Additional provisions

### Definitions and interpretation

- 12.1 "the Retained Land" means [ ] as shown edged [ ] on the attached plan [being that part of the land registered under the title number referred to in clause 1 as is not comprised by the property] [*description to be added once the Property being transferred is known*].
- 12.2 "the Estate Roads" means the access road or roads comprising the Retained Land allocated as such by the transferor.
- 12.3 References to a clause or schedule are references respectively to a clause of or a schedule to this transfer.
- 12.4 It is agreed and declared that the rights granted by this transfer shall be exercisable only if and to the extent that they and their subject matter come into existence on or before the 80th anniversary of the date of this transfer.

### Rights granted for the benefit of the property

- 12.5 The following rights are granted to the transferee for the benefit of the property and every part of it:-
- 12.5.1 A right of way with or without vehicles over and along such of the Estate Roads as is necessary for the purpose of gaining access to and egress from the Property from and to the [*main public access road*] Road subject to the transferee contributing a fair and reasonable proportion (according to use) of the cost of maintaining repairing and renewing such Estate Roads.
- 12.5.2 A right to use all services passing through the pipes mains cables sewers and other service media (if any) to be laid under the Estate Roads serving the Property together with the right to enter upon such of the Estate Roads as is necessary to maintain repair and renew the same subject to the transferee making good all damage occasioned to the such Estate Roads by the exercise of this right to the transferor's reasonable satisfaction;
- 12.5.3 [any other rights to be granted].

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

#### Rights reserved for the benefit of other land

12.6 The following rights are excepted and reserved to the transferor for the benefit of the Retained Land and every part of it:-

12.6.1 at its own cost and expense enter upon such parts of the Property as have not been built upon and construct and lay and connect into pipes mains sewers drains watercourses wires and cables in on under or over the Property;

12.6.2 a full and free right to use such pipes mains sewers drains watercourses wires and cables to be constructed or laid in on under or over the Property;

12.6.3 a full and free right to enter upon the Property for the purpose of repairing replacing renewing and cleansing all such pipes mains sewers drains watercourses wires and cables to be constructed or laid in on under or over the Property;

12.6.4 [any other rights to be reserved.],

provided always that the transferor shall give at least 14 days written notice of intention to exercise the above rights mentioned (except in an emergency where no notice shall be required) and in exercising the same cause as little damage and disturbance as possible and make good all damage caused to the reasonable satisfaction of the transferee.

Include words of covenant.

#### Restrictive covenants by the transferee

12.7 The transferee covenants with the transferor, to the intent that the burden of the covenant will run with and bind the property and every part of it and that the benefit of the covenant will be annexed to and run with the Retained Land and every part of it, to observe and perform the following stipulations:

12.7.1 not to use or cause or permit the Property to be used other than as Open Space as defined in the Town and Country Planning Act 1990 Section 336 but this restriction shall not prevent the Council from exercising its powers under the Town and Country Planning Act 1990 Section 235 or 241 the Local Government Act 1972 Section 145 or the Local Government Miscellaneous Provisions Act 1976 Section 19;

12.7.2 to keep and properly maintain the fences on the boundaries of the Property in good repair and condition;

12.7.3 to keep and properly maintain the landscaping on the Property;

12.7.4 to keep and maintain the Property in a clean and tidy condition;

12.7.5 not to cause or permit any nuisance to take place upon the Property and to keep the Property secure when not in use;

12.7.6 not to obstruct the Estate Roads or permit them to be obstructed;

12.7.7 to use the Estate Roads in accordance with any regulations the transferor may impose (and have given written notice of to the transferee) in accordance with the principles of good estate management;

12.7.8 upon completion of any disposition of the Property or any part thereof (except for a charge or the grant of a lease for a term of less than 21 years) to procure that any disponee shall simultaneously enter into a direct covenant with the transferee (or its successors in title which for the avoidance of doubt shall not include an owner or occupier of a Housing Unit) to observe and perform each and every one of the covenants contained in clause 12.7 of this Transfer including the covenant contained in this sub-clause,

and if the transferee shall be in breach of Clauses 12.7.1 – 12.7.7 (inclusive) the transferor shall be entitled to enter upon the Property together with all necessary plant equipment and workmen and take such steps as may be necessary to remedy such breach and/or to prevent its reoccurrence and the cost thereof shall be recoverable by the transferor against the transferee on an indemnity basis.

#### Incumbrances and indemnity covenants

12.8 The property is transferred subject to and where appropriate with the benefit of the matters contained or referred to in the documents listed in the schedule to the extent that they relate to the property or any part of it, provided that for the avoidance of doubt the transferor retains the benefit of any such matters to the extent that they benefit the retained land or any part of it.

12.9 With the object of giving the transferor a complete indemnity but not for any other purpose, the transferee covenants with the transferor that from the date of this deed of transfer the transferee will, to the extent that they relate to the property or any part of it, at all times observe and perform the covenants and conditions contained or referred to in the property and charges registers of the title referred to in clause 1 [(save for the entries numbered [ ] in the charges register)] [and in the documents specified in the schedule] [*to be completed once the Property being transferred is known*], and will indemnify the transferor and its successors in title against all actions, proceedings, losses, damages, costs, claims and expenses which may be suffered or incurred by the transferor or its successors in title in respect of any breach of or failure to observe those covenants and conditions.

#### No implied rights

12.10 Save as expressly provided in this transfer, there shall not be conferred on the transferee by implication of law or otherwise any easement, right or privilege of any kind in respect of the retained land or any part of it, and neither section 62 of the Law of Property Act 1925 nor the rule of implied grant known as the rule in Wheeldon v. Burrows nor any other rule of similar effect shall apply so as to create or transfer to the transferee any such easement, right or privilege.

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

**Rights of light**

12.11 The transferor, for itself and its successors in title, consents to the access and use of light and air to and for the property and any structure from time to time on it from and over the retained land, but this consent may be revoked at any time, either expressly or by implication, and without notice.

**Diversion**

12.12 The transferor may, at its discretion and at its own cost and expense, replace or change the route of the Estate Roads and/or any services media located on the Retained Land and serving the Property, in which case the relevant rights shall then apply to the access road and/or services media as replaced or re-routed. Such replacement or re-routed road and/or services media shall not (a) be materially less satisfactory or (b) provide materially less capacity than the facilities they are replacing and any interruption to the transferee's use of the Property must be kept to a minimum as far as reasonably practicable.

**Restriction**

12.13 As soon as reasonably practicable following the date of this Transfer the transferee will register the following restriction against the Property:

"No disposition of the registered estate (other than a charge or a lease for a term of less than 21 years) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of Clause 12.7.8 of the transfer made between [ ] (1) and Winchester City Council (2) dated [ ] have been complied with."

**SCHEDULE  
Incumbrances**

*[To be completed once the Property being transferred is known.]*

Date	Document	Parties
------	----------	---------

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the transfer contains transferee's covenants or declarations or contains an

13 Execution

**By a company:**

EXECUTED as a DEED by )  
 [NAME OF COMPANY] ) .....  
 LIMITED/PLC acting by )  
 [ ] )  
 (director) in the presence of: )  
 )  
 )

application by the transferee (such as for a restriction), it must also be executed by the transferee.

Witness: Signature: )  
 Name: .....  
 Address: .....  
 Occupation: .....

EXECUTED AS A DEED by )  
 affixing ) .....  
 THE COMMON SEAL of )  
 WINCHESTER CITY )  
 COUNCIL )  
 in the presence of )  
 )  
 )  
 Head of Legal Services

Witness: Signature: .....  
 Name: .....  
 Address: .....  
 Occupation: .....

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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**SCHEDULE 3**

**Date [ \_\_\_\_\_ ] 2011**

**[LAND OWNER ]**

**WINCHESTER CITY COUNCIL**

**TRANSFER**

**of the Community Centre Land,**

**Barton Farm, Winchester**

# Land Registry

## Transfer of part of registered title(s)

# TP1

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Leave blank if not yet registered.

When application for registration is made these title number(s) should be entered in panel 2 of Form AP1.

Insert address, including postcode (if any), or other description of the property transferred. Any physical exclusions, such as mines and minerals, should be defined.

Place 'X' in the appropriate box and complete the statement.

For example 'edged red'.

For example 'edged and numbered 1 in blue'.

Any plan lodged must be signed by the transferor.

1	Title number(s) out of which the property is transferred: [            ]
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any: None.
3	<p>Property:</p> <p>The property is identified</p> <p><input type="checkbox"/> [on the attached plan and shown:] <i>[description to be added once the Property being transferred is known]</i></p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown:</p>
4	Date:



Give full name(s).

Complete as appropriate where the transferor is a company.

Give full name(s).

Complete as appropriate where the transferee is a company. Also, for an overseas company, unless an arrangement with Land Registry exists, lodge either a certificate in Form 7 in Schedule 3 to the Land Registration Rules 2003 or a certified copy of the constitution in English or Welsh, or other evidence permitted by rule 183 of the Land Registration Rules 2003.

Each transferee may give up to three addresses for service, one of which must be a postal address whether or not in the UK (including the postcode, if any). The others can be any combination of a postal address, a UK DX box number or an electronic address.

5 Transferor:  
[ ] [to be added once the Property being transferred is known]  
  
For UK incorporated companies/LLPs  
Registered number of company or limited liability partnership including any prefix:  
  
For overseas companies  
(a) Territory of incorporation:  
  
(b) Registered number in the United Kingdom including any prefix:

6 Transferee for entry in the register:  
  
Winchester City Council  
  
For UK incorporated companies/LLPs  
Registered number of company or limited liability partnership including any prefix:  
  
For overseas companies  
(a) Territory of incorporation:  
  
(b) Registered number in the United Kingdom including any prefix:

7 Transferee's intended address(es) for service for entry in the register:  
  
City Offices, Colebrook Street, Winchester, Hampshire SO23 9LH

Place 'X' in the appropriate box. State the currency unit if other than sterling. If none of the boxes apply, insert an appropriate memorandum in panel 12.

Place 'X' in any box that applies.

Add any modifications.

Where the transferee is more than one person, place 'X' in the appropriate box.

Complete as necessary.

8	The transferor transfers the property to the transferee
9	Consideration <input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures):  One pound (£1)  <input type="checkbox"/> The transfer is not for money or anything that has a monetary value  <input type="checkbox"/> Insert other receipt as appropriate:
10	The transferor transfers with  <input type="checkbox"/> full title guarantee <input type="checkbox"/> limited title guarantee  <i>[Title guarantee provisions to be confirmed once the identity of the Transferor is known.]</i>
11	Declaration of trust. The transferee is more than one person and  <input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants  <input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares  <input type="checkbox"/> they are to hold the property on trust:

Use this panel for:

- definitions of terms not defined above
- rights granted or reserved
- restrictive covenants
- other covenants
- agreements and declarations
- any required or permitted statements
- other agreed provisions.

The prescribed subheadings may be added to, amended, repositioned or omitted.

Any other land affected by rights granted or reserved or by restrictive covenants should be defined by reference to a plan.

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

## 12 Additional provisions

### Definitions and interpretation

12.1 "the Retained Land" means [ ] as shown edged [ ] on the attached plan [being that part of the land registered under the title number referred to in clause 1 as is not comprised by the property] [*description to be added once the Property being transferred is known*].

12.2 "the Estate Roads" means the access road or roads comprising the Retained Land allocated as such by the transferor.

12.3 References to a clause or schedule are references respectively to a clause of or a schedule to this transfer.

12.4 It is agreed and declared that the rights granted by this transfer shall be exercisable only if and to the extent that they and their subject matter come into existence on or before the 80th anniversary of the date of this transfer.

### Rights granted for the benefit of the property

12.5 The following rights are granted to the transferee for the benefit of the property and every part of it:-

12.5.1 A right of way with or without vehicles over and along such of the Estate Roads as is necessary for the purpose of gaining access to and egress from the Property from and to the [*main public access road*] Road subject to the transferee contributing a fair and reasonable proportion (according to use) of the cost of maintaining repairing and renewing such Estate Roads.

12.5.2 A right to use all services passing through the pipes mains cables sewers and other service media (if any) to be laid under the Estate Roads serving the Property together with the right to enter upon such of the Estate Roads as is necessary to maintain repair and renew the same subject to the transferee making good all damage occasioned to the such Estate Roads by the exercise of this right to the transferor's reasonable satisfaction;

12.5.3 [any other rights to be granted].

Any other land affected should be defined by reference to a plan and the title numbers referred to in panel 2.

#### Rights reserved for the benefit of other land

12.6 The following rights are excepted and reserved to the transferor for the benefit of the Retained Land and every part of it:-

12.6.1 at its own cost and expense enter upon such parts of the Property as have not been built upon and construct and lay and connect into pipes mains sewers drains watercourses wires and cables in on under or over the Property;

12.6.2 a full and free right to use such pipes mains sewers drains watercourses wires and cables to be constructed or laid in on under or over the Property;

12.6.3 a full and free right to enter upon the Property for the purpose of repairing replacing renewing and cleansing all such pipes mains sewers drains watercourses wires and cables to be constructed or laid in on under or over the Property;

12.6.4 [any other rights to be reserved.],

provided always that the transferor shall give at least 14 days written notice of intention to exercise the above rights mentioned (except in an emergency where no notice shall be required) and in exercising the same cause as little damage and disturbance as possible and make good all damage caused to the reasonable satisfaction of the transferee.

#### Restrictive covenants by the transferee

12.7 The transferee covenants with the transferor, to the intent that the burden of the covenant will run with and bind the property and every part of it and that the benefit of the covenant will be annexed to and run with the Retained Land and every part of it, to observe and perform the following stipulations:

12.7.1 not to use or cause or permit the Property to be used other than as:

12.7.1.1 a community hall (which shall for the avoidance of doubt include use for dances parties dinners stage performances public performances public functions playgroups sports and social events [whilst(?)] clubs and other social/health clubs dancing classes social/charitable fund raising events jumble sale musical events exhibitions and artistic events;

12.7.1.2 for uses within Use Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or any re-enactment thereof ("the Use Classes Order");

12.7.2 not to use or cause or permit the Property to be used for any trade or business save where these are ancillary and incidental to an authorised use;

Include words of covenant.

- 12.7.3 not to use or cause or permit the Property to be used for residential purposes except in cases of national or local emergency brought about by natural disasters such as storm flood or fire and then on a short term basis only;
- 12.7.4 to keep the community centre building constructed on the Property at the date of this Transfer and any additional or replacement building and any structure and erection erected upon the Property in good repair and condition;
- 12.7.5 at all times to maintain an adequate number of car parking spaces to serve the community centre building constructed on the Property at the date of this Transfer;
- 12.7.6 to keep and properly maintain the fences on the boundaries of the Property in good repair and condition;
- 12.7.7 to keep and properly maintain the landscaping on the Property;
- 12.7.8 to keep and maintain the Property in a clean and tidy condition;
- 12.7.9 not to cause or permit any nuisance to take place upon the Property and to keep the Property secure when not in use;
- 12.7.10 not to obstruct the Estate Roads or permit them to be obstructed;
- 12.7.11 to use the Estate Roads in accordance with any regulations the transferor may impose (and have given written notice of to the transferee) in accordance with the principles of good estate management;
- 12.7.12 upon completion of any disposition of the Property or any part thereof (except for a charge or the grant of a lease for a term of less than 21 years) to procure that any disponent shall simultaneously enter into a direct covenant with the transferee (or its successors in title) to observe and perform each and every one of the covenants contained in clause 12.7 of this Transfer including the covenant contained in this sub-clause,
- and if the transferee shall be in breach of Clauses 12.7.1 – 12.7.11 (inclusive) the transferor shall be entitled to enter upon the Property together with all necessary plant equipment and workmen and take such steps as may be necessary to remedy such breach and/or to prevent its reoccurrence and the cost thereof shall be recoverable by the transferor against the transferee on an indemnity basis.

Incumbrances and indemnity covenants

12.8 The property is transferred subject to and where appropriate with the benefit of the matters contained or referred to in the documents listed in the schedule to the extent that they relate to the property or any part of it, provided that for the avoidance of doubt the transferor retains the benefit of any such matters to the extent that they benefit the retained land or any part of it.

12.9 With the object of giving the transferor a complete indemnity but not for any other purpose, the transferee covenants with the transferor that from the date of this deed of transfer the transferee will, to the extent that they relate to the property or any part of it, at all times observe and perform the covenants and conditions contained or referred to in the property and charges registers of the title referred to in clause 1 [(save for the entries numbered [ ] in the charges register)] [and in the documents specified in the schedule] [*to be completed once the Property being transferred is known*], and will indemnify the transferor and its successors in title against all actions, proceedings, losses, damages, costs, claims and expenses which may be suffered or incurred by the transferor or its successors in title in respect of any breach of or failure to observe those covenants and conditions.

No implied rights

12.10 Save as expressly provided in this transfer, there shall not be conferred on the transferee by implication of law or otherwise any easement, right or privilege of any kind in respect of the retained land or any part of it, and neither section 62 of the Law of Property Act 1925 nor the rule of implied grant known as the rule in Wheeldon v. Burrows nor any other rule of similar effect shall apply so as to create or transfer to the transferee any such easement, right or privilege.

Insert here any required or permitted statements, certificates or applications and any agreed declarations and so on.

**Rights of light**

12.11 The transferor, for itself and its successors in title, consents to the access and use of light and air to and for the property and any structure from time to time on it from and over the retained land, but this consent may be revoked at any time, either expressly or by implication, and without notice.

**Diversion**

12.12 The transferor may, at its discretion and at its own cost and expense, replace or change the route of the Estate Roads and/or any services media located on the Retained Land and serving the Property, in which case the relevant rights shall then apply to the access road and/or services media as replaced or re-routed. Such replacement or re-routed road and/or services media shall not (a) be materially less satisfactory or (b) provide materially less capacity than the facilities they are replacing and any interruption to the transferee's use of the Property must be kept to a minimum as far as reasonably practicable.

**Restriction**

12.13 As soon as reasonably practicable following the date of this Transfer the transferee will register the following restriction against the Property:

"No disposition of the registered estate (other than a charge or a lease for a term of less than 21 years) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer that the provisions of Clause 12.7.12 of the transfer made between [ ] (1) and Winchester City Council (2) dated [ ] have been complied with."

**SCHEDULE  
Incumbrances**

*[To be completed once the Property being transferred is known.]*

Date	Document	Parties
------	----------	---------

The transferor must execute this transfer as a deed using the space opposite. If there is more than one transferor, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003. If the

13 Execution

**By a company:**

**EXECUTED** as a **DEED** by )  
 [NAME OF COMPANY] )  
 LIMITED/PLC acting by )  
 [ ] )

.....

transfer contains transferee's covenants or declarations or contains an application by the transferee (such as for a restriction), it must also be executed by the transferee.

(director) in the presence of: ) ) ) ) )	Witness: Signature: ..... Name: ..... Address: ..... Occupation: .....
EXECUTED AS A DEED by ) affixing ) ..... THE COMMON SEAL of ) WINCHESTER CITY ) COUNCIL ) in the presence of ) ) )	City Secretary and Solicitor
Witness: Signature: ..... Name: ..... Address: ..... Occupation: .....	

**WARNING**  
If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.



## SCHEDULE 4

### PART I - OUTLINE SPECIFICATION FOR PLAYING FIELDS

- (1) In this Schedule the following expressions shall have the following meanings:
- |                     |  |
|---------------------|--|
| 'the site'          | the land identified in accordance with the Planning Permission and this Agreement for use as a playing field or playing field together with any surrounding land needed for the construction or provision of the playing field |
| 'the playing field' | that part of the site to be laid out as a playing field  |
| 'the remainder of'  | all parts of the site not forming part of the playing field the site   |
| 'the adjacent land' | all and any land not forming part of the site and within 10 metres of the site, measured along the ground  |
- (2) Remove all grass and other vegetation from the surface of the site, so as to leave bare earth.
- (3) After removal of the surface vegetation in accordance with (2) above, carefully remove the top 150mm depth of material ('the top-soil') from the site and carefully store for re-use (so as to avoid unnecessary compaction and damage to soil structure) but leaving undisturbed all parts of the site within 5m of any planting that is retained. Those parts of the site where the top-soil is to be removed shall be referred to as "the cleared site".
- (4) After removal of the top-soil, remove all material from the cleared site necessary to reduce the levels of the cleared site to the satisfaction of the Council.
- (5) Adjust levels within the cleared site, whether by addition, removal, or redistribution, of material, so as to provide the following:
- within the playing field, a flat final surface (after the addition of top-soil in accordance with (11) below) with a slope of between 1:60 and 1:80 falling from the south to the north;
  - within the remainder of the site, provide final surfaces (after the addition of top-soil in accordance with (11) below) which:

- (a) are at grade where those surfaces are directly contiguous with the adjacent land or the playing field (as the case may be); and
  - (b) in no place have a fall greater than (in the sense of steeper than) 1:5 in any direction, over a distance of 5 metres, measured along the ground.
- (6) As part of the process of achieving the levels required by (5) above, place 150mm-200mm of sandy loam ('the sub-soil') on to all parts of the cleared site ensuring that the depth of sub-soil within the playing field is 200mm.
- (7) Provide, within the cleared site, a drainage system to the satisfaction of the Council.
- (8) Trim the sub-soil surface.
- (9) Replace the top-soil carefully, using either tracked or balloon tyred earth moving equipment, by the methodical routing of the equipment over the cleared site. A minimum of 150mm (consolidated but not compacted) top-soil is required.
- (10) In achieving the levels required by (5) above, no material may be added to the cleared site other than the sub-soil in accordance with (6) above and the top-soil in accordance with (11) above.
- (11) Plough the cleared site through the top-soil depth, care being taken not to turn up sub-soil.  
[Note. It is recommended that soil tests on representative samples be arranged in order to check on the need for lime and to guide on the choice of fertilizer referred to in item (20)]
- (12) Cultivate the cleared site using tine cultivators or heavy disc harrows to break down the furrows, four passes in transverse directions to be carried out.
- (13) When a fine tilth has been produced during the above item, blade grade the cleared site using a blade grader to produce a smooth surface to even falls (minimum four passes in different directions). At no point must the cleared site finish with less than 150mm true top-soil on completion.
- (14) On completion of grading, provide and evenly apply per acre approximately:
  - 60 tons approved gritty lime free sand
  - 1 ton approved granulated peat
  - 10 tons approved dried sewage
  - 2 tons ground limestone
- (15) Two weeks before first cultivation apply glyphosphate weedkiller in accordance with manufacturer's instructions. Cultivate the cleared site

using disc harrows in order to mix the above materials in the surface soil and also at such intervals as it is found necessary to eliminate weeds and to produce a fine tilth. At least four cultivations (each of two passes in transverse directions) are required.

- (16) Immediately prior to seeding when a fine tilth has been produced during the above item, blade grade the cleared site using a blade grader all as previously specified. [(This operation is intended as a final 'finishing' operation only.)]
- (17) Produce a seed bed using cultivators as are necessary to thoroughly break up the soil to the full top-soil depth and form a fine tilth for grass seeding. The seed bed shall be fine, smooth and evenly firm but not over compacted.
- (18) No more than two weeks before seeding is carried out apply evenly to the cleared site a fertilizer using a distributor other than a lorry spinner.
- (19) Lightly chain harrow fertilizer into immediate surface.
- (20) During items (20) and (21) above, all surplus vegetable matter and rubbish and all surface stones having one dimension of 50mm or more shall be collected and removed off the playing field.
- (21) Provide a seeds mixture composed of approximately:
  - 42 lb perennial ryegrass
  - 14 lb crested dogstail
  - 7 lb rough stalked meadow-grass
  - 42 lb fine fescue
  - 7 lb browntop bent
  - 112 lbto be sown at the rate of 1½ cwt per acre to all areas of the cleared site.
- (22) Two weeks before seeding is carried out, a certificate of composition, purity, germination, year of harvest and country of origin for the above seeds mixture shall be provided to the Council.
- (23) Carry out seeding in April/May or late August/September. The total quantity of seed required shall be divided in half, each half being sown evenly in transverse directions to provide a total rate of sowing of 150 kg/ha.
- (24) Lightly chain harrow seed into immediate surface, care being taken not to work seed into drills or ridge the surface.
- (25) When seedlings are well established collect surface stones having one dimension of 50mm or more and remove.
- (26) When the grass is 1½ inches to 2 inches long roll with agricultural roller.
- (27) When the grass is 2 inches to 2½ inches long lightly top with gang mower removing not more than 1 inch.

- (28) (a) Carry out planting in accordance with any details approved under the Planning Permission and/or this Agreement save that no material changes in levels shall occur.
- (b) Any trees or plants which, within a period of 5 years from the date of planting, die, are removed, or become damaged or diseased shall be replaced in the next following planting season with others of the same size and species unless the Council gives written consent in advance to any variation.

## PART II - OUTLINE SPECIFICATION FOR SOFT LANDSCAPE WORKS

1. Standards of Workmanship and Materials
  - 1.1 All landscape operations shall be undertaken by skilled landscape operatives working under an experienced supervisor, to good horticultural standards in accordance with all current British Standards and Codes of Practice, to the reasonable satisfaction of the Council.
  - 1.2 All plant material shall be in accordance with the appropriate British Standard, shall be well branched and have a balanced shape and the correct habit for the particular species, with a good fibrous root system. Plant stock shall conform to that specified on the approved plans and schedules of planting.
  - 1.3 No roots shall be subjected to adverse conditions, such as exposure to drying wind, frosts or water logging. The root ball shall be free from weed growth.
  - 1.4 When workmanship or materials are not fully specified they are to be suitable for the purposes of the works, comply with any relevant British Standards and Codes of Practice and have the approval of the Council.
  - 1.5 Chemicals – All herbicides and pesticides used must comply with the “Control of Pesticides Regulations” and any relevant Code of Practice and be on the current list of approved products. A Certificate of Competence shall be held by any person handling or applying pesticides. The developer is responsible for making good any damage resulting from negligence in the application, storage or disposal of chemicals.
2. Protection and Ongoing Care of Retained Features
  - 2.1 All existing site features and vegetation (trees, hedgerows, shrubs etc) to be retained shall be adequately protected to the satisfaction of the Council. (Protection of trees shall be in line with BS5837 2005).
  - 2.2 All retained trees, shrubs and hedges shall be periodically inspected for safety and condition. Remedial work shall be carried out as agreed with the Council and retained features shall then be maintained in accordance with sound arboricultural and horticultural standards.
  - 2.3 Areas of grass to be retained for amenity open space shall be kept fenced-off, maintained in a tidy condition, free of broad leaf weeds and mown regularly throughout the period of the agreement. The land should not be used for storage of materials or for depositing rubbish, burning etc, unless specifically agreed otherwise with the Council.
  - 2.4 If necessary for establishment purposes, new planting shall be protected by temporary fencing.
3. Site Investigations and Remedial Actions
  - 3.1 Topsoil – Existing depths and quality of topsoil shall be investigated to ascertain that it will sustain healthy growth of the intended planting and be suitable for the intended use, or that it can be rendered suitable for such purposes. Measures shall be taken to ensure that this is achieved. Topsoil shall conform to BS 3882: 1994.

3.2 Sub-soil – On some sites, in particular where there has been filling or contamination, it will be necessary to inspect the sub soil, to determine its nature and to undertake any remedial measures necessary to ensure that it is capable of sustaining healthy plant growth. Sub-soil shall conform to BS 3882:1994.

3.3 Drainage – Sites subject to waterlogging may require installation of land drains to the approval of the Council (see also 6.4). Where development will result in a raising or lowering of the water table or interfere with natural drainage patterns or water sources, which will have an adverse effect on retained vegetation or features; (e.g. springs, ponds, streams or ditches); measures will be necessary to address this.

#### 4. Demolitions

4.1 Disused structures such as foundations, manholes etc. should be demolished to minimum depths below finished levels, as follows:

a) grass areas	450mm
b) ground cover & perennial planting areas:	450mm
c) shrub planting areas:	600mm
d) tree planting areas:	900mm

#### 5. Site Preparation

5.1 The contractor shall undertake complete weed and bramble control and clearance. The land shall be left fallow until the soil is weed free and uncontaminated before further work is undertaken.

5.2 The subsoil and topsoil shall have a good physical structure, be friable retentive of moisture and well drained. On sites where this is lacking, or the ground heavily compacted, cultivation of the whole area shall be undertaken. Topsoil shall be free from weeds; including couch grass; metal, concrete, hardcore large stones, lumps of clay or chalk and any other rubbish. Imported topsoil shall be one of the three grades described in the British standard 3882:1994 and suitable for the specific application.

#### 6. Specification for Grass Areas

6.1 Areas to be grassed, shall be surface graded either by hand raking or by graders, stones in excess of 50mm picked and removed to tip, along with all rubbish, dead roots, brambles and weeds.

6.2 Areas shall be cultivated to a minimum depth of 100 mm and to a fine tilth before seeding or turfing. In areas inaccessible or awkward for machinery, hand cultivation will be required.

6.3 Topsoil shall be evenly spread and supplemented where necessary with compatible topsoil from a source to be approved by the Council as per 5.2 above. Damage to soil structure by machine-induced compaction shall be avoided. A minimum depth of 100mm topsoil shall be provided after levelling unless otherwise agreed.

6.5 The final topsoil level after settlement shall be 25mm above adjacent paving or kerbs and 150mm below the damp-proof course of any building. It shall be free from ruts and hollows.

7. Pre-seeding and Turfing

7.1 In preparation for sowing, the surface shall be lightly and uniformly firmed and reduced to a friable tilth up to 25mm deep by raking or harrowing with a spike or chain harrow.

7.2 An approved pre-seeding fertiliser shall be applied at the appropriate rate and evenly distributed on the prepared soil 3-5 days before seeding.

8. Grass Seeding

8.1 Operations for grass seeding shall be planned for sowing from the beginning of April to the end of May or from mid-August to the end of September, unless weather conditions dictate otherwise.

8.2 The seed shall be of an approved and appropriate mixture. The developer shall satisfy the Council regarding the origin and germination of the seed which will be to BS 4428: 1969 and obtain approval of any variation.

8.3 Sowing shall be carried out during suitable calm weather conditions at the rate of 45gms/m<sup>2</sup> or such other rate as agreed with the Council depending on the specific circumstances. The operation shall be carried out in equal sowings in transverse directions. After sowing the ground shall be lightly raked or harrowed and then firmed with a lightweight roller.

Wild flora seed where required shall be sown mixed with a compatible grass seed mixture which shall be short growing and non aggressive.

Newly sown grass shall be protected by chestnut paling or equivalent and appropriate for the situation.

9. Turfing

9.1 Turves should be in accordance with B.S. 3969 1990, from an approved source.

9.2 The turves shall be laid when the weather is suitable ideally in autumn or early winter when the soil conditions are moist. No turf shall be stored or laid in waterlogged conditions or periods of drought or frosty weather.

9.3 Supplies of turves shall be delivered at appropriate intervals, to avoid stacking them for long periods. Daily checking is advisable to ensure there is no deterioration and they shall be laid within 7 days of lifting.

9.4 Turf shall be laid in accordance with BS 4428, on the prepared soil bed and firmed into position in consecutive rows with broken joints, (as in stretcher bond), closely butted and to correct levels. Turf edges shall be whole turves. Gaps and lumps in the turf shall be avoided. Any inequalities in finished levels shall be adjusted by raking or packing fine soil under the turf. Fine soil shall be brushed into the joints and seeded where necessary.

9.5 Watering will be necessary to ensure establishment.

10. Grass Cutting for sport, play and amenity areas

10.1 Initial cut – immediately before cutting, all stones above 25mm in diameter

shall be hand picked and the area to be rolled with a lightweight roller to firm and consolidate the surface.

- 10.2 When the grass is 75mm high it shall be topped using a rotary mower to avoid pulling, so as to leave 25-50mm of growth. Any arisings shall be raked off.
- 10.3 Subsequent cutting – the grass shall be cut again after a further 25mm of growth. It is to be maintained by cutting to a minimum height of 25mm and a maximum of 80mm throughout the period of maintenance.
- 10.4 Any shrinkage below the specified levels and areas showing insufficient covers of grass shall be rectified at the developer's expense.

#### 11. Planting Specifications

- 11.1 Planting shall be carried out in suitable weather, not in frost or drought conditions, neither before October nor after March and in accordance with the details and plans approved. Any planting scheme shall be approved by the Council before commencing works.
- 11.2 Topsoil for backfilling shall be well mixed with well rotted farmyard manure, (in a 5:1 ratio), or other approved fertilisation in accordance with the manufacturer's instructions

#### 12. Tree Planting

- 12.1 All plant material shall be to BS 3936: Parts 1 and 4; also BS 5236, BS 4043 and BS52310 as appropriate. The contractor is advised to make himself aware of these documents as sub standard tree stock will not be acceptable.
- 12.2 All planting operations shall comply with BS 4043, BS 4428 and BS 5236.
- 12.3 Excavations for standard tree pits shall be at least twice the diameter of the root spread and 1.5 times the depth of the roots. The bottom and sides of the hole shall be forked to loosen the soil.
- 12.4 Trees shall be planted to the same depth at which they have previously been growing. Broken or damaged roots shall be cut back to sound growth; heavily coiled roots on container grown trees shall be loosened. Bare roots shall be spread evenly in the planting pit.
- 12.5 Fine soil shall be shaken between the roots and firmed to ensure close contact with the roots. Firming after back filling shall be such as to ensure that roots are held secure and that penetration of moisture is not restricted. After planting areas shall be raked over to remove footprints, etc.

#### 13. Tree Stakes, Ties and protection

- 13.1 Stakes and ties shall be appropriate to the size and location of the tree. Standard trees shall generally be low doubled staked to avoid damage to the rootball and permit the crown of the tree to move.
- 13.2 Angled stakes shall be used for conifers and feathered trees, driven 1.0m into the ground at an angle of 45 degrees on the leeward side and one metre above ground level. The tree tie is to be secured to the stake with a 40mm galvanised nail. On slopes greater than 10 degrees all angled stakes are to be



driven in against the angle of the slope.

- 13.3 Advanced nursery stock and root balled trees may need an additional stake and two ties or cross bars. Semi mature stock shall be secured using underground guying.
- 13.4 The tree ties shall be purpose made and each tree shall be secured to the stake, so as to prevent excessive movement. Abrasions shall be avoided by using a buffer between the stake and the tree.
- 13.5 Young trees, whips and transplants should be protected from damage by rabbits, voles and deer etc with temporary tree shelters of plastic tube or slotted plastic mesh. Where livestock are allowed into newly planted areas protective post and rail fences with wire netting will be required.
- 13.6 Trees in urban areas will require permanent tree guards of steel or ornamental cast iron fixed in some cases to tree grilles.

#### 14. Pruning

- 14.1 Any necessary pruning including that to damaged roots and branches shall be carried out at the time of planting.

#### 15. Shrubs, Hedging, Transplants and Herbaceous Planting

- 15.1 All planting material shall comply with BS3936 and be generally healthy disease free specimens.
- 15.2 Immediately prior to planting all bare root stock shall have their roots thoroughly immersed in a solution of root dip in accordance with the manufacturer's instructions unless otherwise agreed with the Council.
- 15.3 Planting holes shall be dug to a minimum depth of 400mm and 150mm wider than root spread.
- 15.4 Shrubs shall be set in the holes so that the soil level, after settlement, will be at the same level that the plant had been growing at previously. The holes shall be backfilled with topsoil, to half their depth and firmed by treading. The remaining topsoil shall then be returned and again firmed by treading.
- 15.5 Shrubs shall be cut back or pruned to encourage bushy growth.
- 15.6 Plants for ground cover shall have stakes and ties removed and the stems shall be pegged out.

#### 16. Climbers and Wall Shrubs

- 16.1 Climbers and wall shrubs shall have supports fixed before planting, using galvanised wire, galvanised screw type vine eyes and horticultural ties, to adjacent fencing posts, brickwork or walls, as required.
- 16.2 Trellis shall be fixed to timber battens or spacing pieces screwed into plugs set in the wall so that the trellis is not less than 12mm clear of the wall.
- 16.3 Planting pits adjacent to walls shall be at least 300mm wider than the root spread, 500mm deep and backfilled with good quality humus rich soil. Plants shall be at least 300mm from the wall with the roots spread away from the wall.

Branches shall be secured firmly with flexible ties to the wire or trellis. The canes shall be retained when the plants are too young to reach the wire or trellis, or when the plants are of a self-clinging variety, when the cane should be angled to reach the required position.

17. Bulbs and Corms

17.1 Bulbs shall conform with BS 3936 Part 9.

17.2 These shall be treated with Carbendazim before storage and planted with the appropriate tool and at a depth approximately 3 x bulb diameter, unless otherwise specified. The base of the bulb or corm shall be in contact with the topsoil at the base of the hole. Usually they shall be planted randomly at a density of approximately 15 per sq.m. In fine turf, a plug of turf shall be neatly removed and replaced after planting.

18. Hedge Planting

18.1 Plants shall be notch or trench planted. Hedge trenches shall be a minimum of 400mm deep and a minimum of 400mm wide for single rows and 750mm wide for double rows.

18.2 Planting shall be at 500-600mm spacings, with double rows staggered with 500-600mm between rows.

19. Mulch

19.1 All planting areas for sport, play and amenity areas shall be thoroughly watered after planting before spreading a minimum depth of 50mm of approved mulch.

20. Protection

- 20.1 To protect newly seeded, turfed and planted areas the developers shall provide and erect protective fences of cleft chestnut in accordance with BS 1722: Part 4. These fences shall be maintained by the developer, and when the area is established shall be removed and cleared away and the ground reinstated. Any damage caused to grass, turf or plants shall be made good before handover.

22. Maintenance

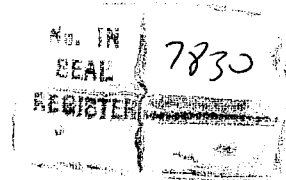
- 22.1 Provision shall be made for watering at the time of planting and throughout the growing season, to ensure satisfactory establishment. Contingency arrangements need to be made for periods when water restrictions apply.
- 22.2 All amenity planted areas and trees shall be refirmed after frost or wind if the soil has loosened, to include air pockets from around the roots.
- 22.3 All plant areas shall be kept free from weeds and grass until handover.
- 22.4 All amenity planting shall be periodically re-mulched to help with weed suppression and conservation of soil moisture.
- 22.5 All ties and plant supports shall be checked and adjusted as necessary.
- 22.6 Roots of all perennial and pernicious weeds and couch grass shall be removed from site so as to avoid re-infestation either by seed or vegetative means.
- 22.7 Grassed areas shall be cut regularly to ensure the establishment of a dense sward and to maintain it in a tidy condition.
- 22.8 All plants that have failed to show signs of healthy growth are to be replaced at the developer's expense as soon as practical.

January 2011.

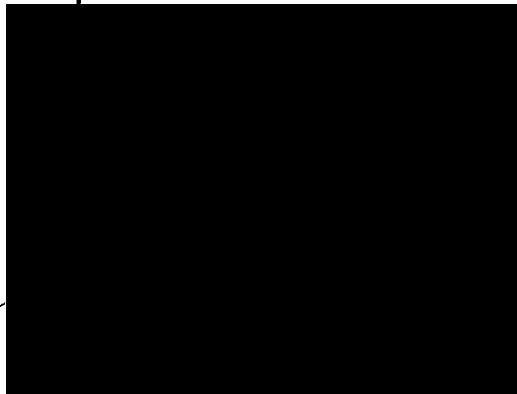


IN WITNESS whereof the parties hereto have executed this Deed and delivered it as a deed on the date of this document

THE COMMON SEAL of )  
WINCHESTER CITY COUNCIL )  
Was hereunto affixed in the presence of: )  
[Redacted] )  
Head of Legal Services )



EXECUTED AS A DEED  
by CALA HOMES (SOUTH) LIMITED  
acting by [Redacted]  
Director



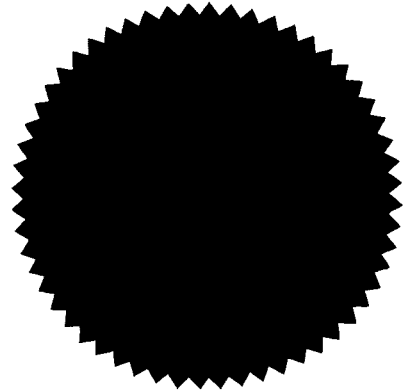
Director/~~Secretary~~

EXECUTED AS A DEED )  
by CALA MANAGEMENT LIMITED )  
acting by [Redacted] )  
Director )  
Director/Sec )

**THE COMMON SEAL of the WARDEN  
AND FELLOWS of  
WINCHESTER COLLEGE  
Was hereunto affixed  
In the presence of**

**Warden**

**Bursar**



**EXECUTED AS A DEED  
BY BANK OF SCOTLAND PLC  
acting by:**

