

Reference No: 14/00881/MOUT
Parish: Tiverton 52

TOWN AND COUNTRY PLANNING ACT 1990

APPROVAL OF OUTLINE PLANNING APPLICATION

Name and Address of Applicant:

Sir Ian Amory
Chettiscombe Trust Estate
The Island
Lowman Green
Tiverton
EX16 4LA

Name and Address of Agent:

Mr D Seaton
PCL Planning Ltd
First Floor
3 Silverdown Office Park
Fair Oak Close
Clyst Honiton
Exeter
EX5 2UX

Date Registered : 4th June 2014

Date of Permission : 12th June 2017

- Proposal:** Outline for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home, primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road
- Location:** Land East of Tiverton, South of A361, and Both North and South of Blundells Road Uplowman Road Tiverton Devon

Site Vicinity Grid Ref: 298246/113549

MID DEVON DISTRICT COUNCIL HEREBY GRANTS OUTLINE PLANNING PERMISSION FOR THE ABOVE DEVELOPMENT

NOTE: THIS DECISION NOTICE IS SUBJECT TO A UNILATERAL UNDERTAKING/SECTION 106 AGREEMENT, A COPY OF WHICH IS AVAILABLE TO VIEW ON PUBLIC ACCESS.

Subject to the following conditions:

1. Before any part of a phase of the development hereby permitted is begun, detailed drawings to an appropriate scale of the layout, scale and appearance of the building(s), and the landscaping of the relevant phase (hereinafter called the Reserved Matters) shall be submitted to and be approved in writing by the Local Planning Authority.
2. Prior to the submission of a reserved matters application the following supporting information shall be submitted to and approved in writing by the Local Planning Authority:
 - i) Illustrated urban design and architectural principles, including block types and principles, parking, boundaries, public realm codes for character areas and architectural guidelines,
 - ii) A strategy for the management and maintenance of all green infrastructure across the application site and the other relevant land owned by the applicant that falls with the

boundaries of the adopted Masterplan Area. The Strategy document shall set out the management, maintenance, access and use arrangements for each land parcel and a delivery plan identifying a trigger date for the completion of each of the relevant land parcels.

iii) A low emissions strategy.

Reserved matters applications for the site shall incorporate the approved details.

3. Application(s) for approval for the Reserved Matters relating to the first phase shall be made to the Local Planning Authority before the expiration of four years from the date of this permission, and they shall accord with the guiding principles as set out at section 3.3 of the adopted Masterplan.
4. Application(s) for approval for all Reserved Matters shall be made to the Local Planning Authority before the expiration of ten years from the date of this permission and shall accord with the guiding principles as set out in Section 3.3 of the Adopted Masterplan.
5. The first and subsequent phases of the development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the Reserved Matters relating to that phase which have been approved, whichever is the latter.
6. The detailed drawings required to be submitted by Condition 1 and information submitted under Reserves Matters applications shall include the following information:
 - i) Boundary treatments, existing site levels, finished floor levels, long and cross sections through the relevant phase indicating relationship of proposed development of the phase with existing adjacent development with properties in Poole Anthony Drive and Mayfair and/or other phases where appropriate
 - ii) Provision of a landscaped buffer where the relevant phase shares a party boundary with existing properties on Mayfair and Poole Anthony Drive in accordance with the adopted masterplan.
 - iii) Protective measures for all Grade A trees and hedges on the relevant phase.
 - iv) Measures to demonstrate that non-residential floorspace complies with the carbon footprint targets as set in the policy AL/IN/6 and AL/TIV/5
 - v) Where a phase of development impacts upon the landscape setting of Knightshayes Court as identified in the report 'The Setting of Knightshayes Park and Garden. A Historic Landscape Assessment. September 2007':
 - ii) A single image photomontage of the proposed development from Knightshayes Court and its curtilage the location of which will have been agreed in advance with the Local Planning Authority;
 - iii) A Heritage asset setting protection statement. The submission shall include an assessment of the impact of the proposed development on Knightshayes Court and its setting (as defined in the report 'The Setting of Knightshayes Park and Garden. A Historic Landscape Assessment. September 2007' and associated Figure No.48) and details of hedgerow provision and retention or other measures to reduce any visual impact of the proposed development.
 - vi) A habitat assessment and mitigation plan for the relevant phase
7. The Reserved Matters for a particular phase must include full details of a surface water drainage management plan relating to the relevant phase.
The surface water drainage management plan must be designed in accordance with the principles of the approved Flood Risk Assessment (Report Ref. C698-DOC3 FRA Issue 2, Rev. 2, dated 21st November 2014) so that there is no increase in the rates and volumes of surface water runoff from the site resulting from the development, whilst also providing

benefits to water quality, visual amenity and biodiversity. For the avoidance of doubt, the surface water drainage management plan(s) must take into account the impact of the development of the relevant Phase on the sub-catchment area in which the Phase is situated.

No development on a Phase shall commence until the full details of the relevant surface water drainage management plan have been approved in writing by the Local Planning Authority, in consultation with Devon County Council as Lead Local Flood Authority. The development shall thereafter be carried out and maintained in accordance with the approved details.

8. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
9. The development hereby approved shall not be carried out otherwise than in accordance with a phasing programme which shall previously have been submitted to and approved by the Local Planning Authority in writing.
10. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out:
 - A) The spine road and cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The spine road and cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
 - G) The street nameplates for the spine road and cul-de-sac have been provided and erected.
11. There shall be no occupation of development within the application site until the first phase of the A361 road junction (known as the 'left in left out' southern slips) and linking road between the new A361 road junction and Blundell's Road consented under planning permission 14/00667/MFUL have been constructed, are completed and made available for public use.
12. There shall be no occupation of development within the application site until the roundabout at the junction of Blundell's Road and the link road hereby approved has been constructed and made available for public use.
13. No part of the development shall be accessed from West Manley Lane unless and until details for the provision of passing places and/or highway mitigation measures on West Manley Lane have been submitted to and agreed in writing with Local Planning Authority and

thereafter implemented prior to the occupation of any part of the development which is proposed to be accessed from West Manley Lane.

14. Prior to commencement of development of each phase of the site a Construction Management Plan (CMP) shall have been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following:
 - (a) The timetable of the works;
 - (b) Daily hours of construction;
 - (c) Any road closure;
 - (d) Hours during which delivery and construction traffic will travel to and from the site;
 - (e) The number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;
 - (f) The compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;
 - (g) Areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
 - (h) The means of enclosure of the site during construction works;
 - (i) Details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
 - (j) Details of wheel washing facilities, road sweeping and strategies to mitigate against any dust, noise, fumes, odour and waste that arise from the development hereby approved;
 - (k) The proposed route of all construction traffic exceeding 7.5 tonnes;
 - (l) Details of the amount and location of construction worker parking;
 - (m) Photographic evidence of the condition of adjacent public highway prior to commencement of any work.
15. No development shall take place on the relevant phase until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.
16. Noise from operations conducted at any of the employment premises on the application site shall not at any time exceed a decibel level of LAeq (1hour) 55 dB as measured on any boundary of the site with adjoining residential properties, between the hours of 0700 and 1900 on Mondays to Fridays and 0700 and 1300 on Saturdays, and LAeq (15min) 45 dB(A) during any other time including Bank Holidays.
17. No more than 320 of the dwellings on the application site shall be occupied, until the completion of works to ensure sufficient capacity within the public foul sewerage network to accommodate the foul sewage discharge from the development proposed, or it is confirmed in writing by the sewerage undertaker that sufficient capacity exists to accommodate the development.

18. No more than 300 of the dwellings permitted hereby may be occupied unless and until a scheme for 3 private Gypsy and Traveller pitches has been submitted to and approved in writing by the Local Planning Authority, such scheme to include details of:
 - (a) The location of the pitches within the site of the development hereby permitted;
 - (b) The specification for laying out of the pitches; and
 - (c) The management of the pitches, including the arrangements for making the pitches available for occupation by the Gypsy and Traveller community.
19. No more than 525 of the dwellings permitted hereby shall be occupied unless and until the 3 private Gypsy and Traveller pitches have been laid out and made available for occupation in accordance with the details of the scheme approved under condition 18. The pitches shall thereafter at all times be maintained, retained and made available for occupation in accordance with the said scheme and shall only be occupied by persons meeting the definition of gypsies and travellers in accordance with the 'Planning policy for traveller sites' DCLG 2015 (or as subsequently amended) or their dependents.

REASONS FOR CONDITIONS:

1. To ensure the timely delivery of a complex site which will be sold to and developed by a multiple number of developers. The proposed wording allows reserved matters to be submitted on a phased basis.
2. To ensure the site is developed in accordance with the adopted Masterplan for the Tiverton Eastern Urban Extension and Policies AL/TIV/1-AL/TIV/7 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2).
3. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
4. To ensure the timely delivery of a complex site which will be sold to and developed by a multiple number of developers.
5. In accordance with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
6. To enable the Local Planning Authority to consider whether adequate provision is being made for the matters referred to in the condition.
7. To protect water quality and minimise flood risk and in accordance with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
8. To ensure that adequate information is available for the proper consideration of the detailed proposals and in accordance with policy DM2.
9. To ensure the proper development of the site and to safeguard with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
10. To ensure that adequate access and associated facilities are available for the traffic attracted to the site with Policy DM2 of the Local Plan Part 3 (Development Management Policies).
11. To ensure that the A361 left in left out southern part of the junction together with road linking to Blundell's Road is available in advance of the occupation of development in order to accommodate traffic attracted to the site in the interests of the safety of users of the public

highway and to protect the amenities of the nearby residents and the amenities and character of the area in accordance with the National Planning Policy Framework.

12. To minimise the impact of the development on the highway network in accordance with policy in National Planning Policy Framework.
13. To minimise the impact of the development on the West Manley Lane and in accordance with the National Planning Policy Framework.
14. To minimise the impact of the development on the highway network during the construction phases, and in accordance with policy in National Planning Policy Framework.
15. To ensure that an appropriate record is made of archaeological evidence that may be affected by the development in accordance with Policy DM27 of the Local Plan Part 3 (Development Management Policies).
16. To ensure that the proposed development does not prejudice the amenity of residents in the locality by reason of noise.
17. To ensure there are adequate water company (public) sewerage facilities to receive foul water flows from the development in order to safeguard the environment.
18. In order to secure accommodation required by members of the gypsy and traveller community in accordance with policy AL/TIV/1.
19. In order to secure accommodation required by members of the gypsy and traveller community in accordance with policy AL/TIV/1.

REASON FOR APPROVAL OF PERMISSION/GRANT OF CONSENT

The principal of developing the site for up to 700 dwellings, 22,000 square metres employment floor space, primary school, care home and neighbourhood centre and the proposed means of access to service the application site are the issues for consideration through this outline application. The quantum and density of development proposed reflects the policy aspirations established in the relevant development plan policies and the adopted Masterplan. The design process and guiding principles set out in the adopted Masterplan provide a framework to guide the reserved matters process. This is supplemented by the publication of the Design Guide prepared by Mid Devon District Council with feed in from key stakeholders. Matters relating to architecture and design of all buildings, height, scale and massing of all buildings, design and layout of public and other highway infrastructure (carriageway, footpath, cycleway) within the site area, design and layout of open space areas and green infrastructure, design of other landscaped areas, drainage infrastructure and parking provision are all reserved for future consideration. The delivery arrangements for improvements to the existing and new highway infrastructure, including via a new junction onto and off of the A361 as already permitted, are controlled by condition and/or as part of the Section 106 agreement as agreed. The level and tenure of affordable housing as recommended is considered acceptable reflecting on the scale and quantum of financial contributions required to deliver new and improved infrastructure off site, including improvements to the highway network, education and community facilities. No issues are raised in terms of this application scheme regards drainage, archaeology, flood risk and/or ground contamination or the impact on protected species/biodiversity.

The delivery of development on this application site can be achieved in line with the highways infrastructure triggers as set out in the adopted Masterplan, and the triggers and phasing within AL/TIV/6. Permission has already been granted for the provision of the Left-In Left-Out and Full

Grade junctions which are to be provided on land within the applicant's ownership. It is considered that the application scheme can provide safe access to the site during construction and post occupation without having severe impacts on the transport network. The Highway Authority has confirmed their support for this application and the means of access that have been proposed.

On this basis the application scheme is considered acceptable and therefore meets the requirements of Policies COR1, COR2, COR3, COR4, COR8, COR9, COR11 and COR13 of the Mid Devon Core Strategy (Local Plan Part 1), Policies AL/DE/1-5 and AL/IN/3 of the Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2) and Policies DM1, DM2 and DM27 of the Mid Devon Local Plan Part 3 (Development Management Policies), (as far as is relevant to the application details) and Supplementary Planning Document relating to meeting housing needs. The application is generally in accordance Policies AL/TIV/1-7 and the Tiverton Eastern Urban Extension Masterplan Supplementary Planning Document in respect of the phasing and delivery of highway infrastructure. The delivery of the new A361 junction (both LILO and Full grade junction) is within land controlled by the applicant and external government funding has been granted toward the cost of the provision of the LILO junction. Financial contributions towards highway infrastructure, primary school etc are required via the S106 agreement. The application is recommended for approval with a series of conditions to control many aspects of the development of the site. They allow development to come forward in a considered and controlled manner whilst securing the funding to deliver the required highway infrastructure.

Statement of Positive Working

In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, in determining this application the Local Planning Authority has worked proactively and positively with the applicant to ensure that all relevant planning considerations have been properly resolved. This has included working positively and proactively.

In accordance with paragraph 69 of the National Planning Policy Framework, the Local Planning Authority has also involved the community in the consideration of this application.

DEVELOPMENT PLAN POLICIES:

Mid Devon Core Strategy (Local Plan Part 1)

COR1 - Sustainable Communities
COR2 - Local Distinctiveness
COR3 - Meeting Housing Needs
COR8 - Infrastructure Provision
COR9 - Access
COR11 - Flooding
COR13 - Tiverton

Mid Devon Allocations and Infrastructure Development Plan Document (Local Plan Part 2)

AL/DE/1 - Housing Plan, Monitor and Manage
AL/DE/2 - Overall Affordable Housing Provision
AL/DE/3 - Affordable Housing Site Target
AL/DE/4 - Occupation of Affordable Housing
AL/DE/5 - Inclusive Design and Layout
AL/IN/3 - Public Open Space
AL/TIV/1 - Eastern Urban Extension
AL/TIV/2 - Eastern urban Extension

AL/TIV/3 - Eastern Urban Extension Environmental Protection & Green Infrastructure
AL/TIV/4 - Eastern Urban Extension Community Facilities
AL/TIV/5 - Eastern Urban Extension Carbon Reduction & Air Quality
AL/TIV/6 - Eastern Urban Extension Phasing
AL/TIV/7 - Eastern Urban Extension Masterplanning

Mid Devon Local Plan Part 3 (Development Management Policies)

DM1 - Presumption in favour of sustainable development
DM2 - High quality design
DM7 - Pollution
DM27 - Development affecting heritage assets
DM28 - Green infrastructure in major development

Relevant Plans

The plans listed below are those approved. No substitution shall be made.

Plan Type	Reference	Title/Version	Date Received
Proposed	C698/25		28/11/2014
Proposed	C698/21		28/11/2014
Site Location Plan	131206 L 01 01 REV D		13/04/2015

A copy of the approved plans will be available on Mid Devon's online planning facility.

Website: <http://www.middevon.gov.uk/planning>

Signed:

Mrs Jenny Clifford
Head of Planning and Regeneration

Date: 12th June 2017

THIS DECISION IS NOT A DECISION UNDER BUILDING REGULATIONS AND SEPARATE CONSENT MAY BE REQUIRED. PLEASE CONTACT OUR BUILDING CONTROL DEPARTMENT FOR MORE INFORMATION.

Please refer to notes attached

NOTE – Failure to adhere to the details of the approved plans or to comply with the above conditions constitutes a contravention of the Town and Country Planning Act, 1990 in respect of which enforcement action may be taken.

TOWN AND COUNTRY PLANNING ACT 1990

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice and you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against your local planning authority's decision on your application, then you must do so within:
28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- If you want to appeal against the Local Planning Authority's decision then you must do so within 6 months of the date of this notice.
- If this is a decision for a minor commercial application and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- If this is a decision for the display of an advertisement and you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at www.planningportal.gov.uk/pcs.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notices

- If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
- In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such

compensation is payable is set out in Section 114 of the Town and Country Planning Act 1990.

Agreement

Relating to Planning Obligation under Section 106 of the Town and Country Planning Act 1990 relating to Land East of Tiverton, South of A361 and both North and South of Blundells Road, Tiverton, Devon

Dated

9th June 2017

- (1) MID DEVON DISTRICT COUNCIL
- (2) DEVON COUNTY COUNCIL
- (3) THE CHETTISCOMBE TRUST
- (4) NATIONAL WESTMINSTER BANK PLC

THIS DEED is dated the

9th

day of

June

2017

PARTIES

- (1) **MID DEVON DISTRICT COUNCIL** of Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP (the "**Council**").
- (2) **DEVON COUNTY COUNCIL** of County Hall, Topsham Road, Exeter, Devon EX2 4QD (the "**County Council**").
- (3) **SIR IAN HEATHCOAT AMORY** and **FRANCES LOUISE LADY HEATHCOAT AMORY** as Trustees of the Chettiscombe Trust of Calverleigh Court, Calverleigh, Tiverton, Devon, EX16 8BB (the "**Owner**")

NATIONAL WESTMINSTER BANK PLC (Co Regn No 929027) of ~~Credit Documentation, PO~~

~~Box 339, Manchester M60 2AH~~ ("**the Bank**") *whose registered office is at 135 Bishopsgate, London EC2M 3UR and whose address for service is Credit Documentation, Po Box 339, Manchester M60 2AH.*

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (B) The County Council is the highway authority and education authority for the area in which the Land is situated.
- (C) The Owner is the freehold owner the Land with title registered at HM Land Registry under Title No. DN534628 subject to a legal charge in favour of the Bank dated 6 September 2013
- (D) The Owner has made the Planning Application.
- (E) The Council having regard to the provisions of the development plan and to all other material considerations resolved at its meeting on 22 April 2015 to grant the Planning Permission subject to the prior completion of this Deed.

AGREED TERMS

1 Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Deed:

"A361 Junction Northern Side" Means the junction to the north of the A361 including the eastbound on and off slip roads and embankment rising to and including the bridge over the A361 as shown coloured pink on Plan 6

"A361 LILO Junction" Means the junction to the south of the A361 including the westbound on and off slip roads and a length of road joining with the Link Road to be constructed as shown coloured blue on Plan 6 or

to such limits as may be agreed with the Owner

“Act”

Means The Town and Country Planning Act 1990 (as amended)

“Affordable Housing”

Means affordable housing available to specific eligible households in accordance with the terms of this Deed whose needs are not met by the market

“Affordable Housing Provider” or “AHP”

Means either the Council or a housing association within the meaning of the Housing Association Act 1985 or a registered provider as defined in Part 1 of the Housing Act 1996 who is registered with the HCA or any successor body pursuant to section 3 of the Housing Act 1996 and has not been removed from the register pursuant to section 4 of the Housing Act 1996 or such organisation registered by the Regulator of Social Housing in accordance with the Housing and Regeneration Act 2008 or (if such bodies cease to exist or are superseded) an equivalent body whose objectives include the provision of Affordable Housing as shall be agreed in writing by the Council (such agreement not to be unreasonably withheld or delayed) PROVIDED THAT if the Affordable Housing Provider is a preferred or main partner the Council's approval shall be deemed to have been given under the terms of this Deed.

“Affordable Housing Scheme”

Means a scheme for the provision of the Affordable Housing Units such scheme to identify:

- (i) the location and layout of the Affordable Housing Units
- (ii) the tenure mix of Affordable Housing Units
- (iii) the details of the living accommodation to be provided in each Affordable Housing Unit

And shall include any revisions to the Affordable Housing Scheme as may be agreed in writing by the Council (such agreement not to be unreasonably withheld or delayed)

"Affordable Housing Unit"	Means any of the Dwellings to be used to provide Affordable Housing
"Affordable Rented Housing"	Means housing that is let at an Affordable Rent by an Affordable Housing Provider to Designated Persons as defined by Annex 2 of the National Planning Policy Framework.
"Affordable Rent"	means a rent at commencement of a tenancy which does not exceed 80% of the local Open Market Rent (inclusive of any service charges) for the relevant property type such percentage not to be above the Local Housing Allowance to determine affordability as stated in the National Planning Policy Framework Affordable Housing definition and the Council's Supplementary guidance document, Planning Obligations and Affordable Housing Second Review 2012 (or successor policy documents)
"BCIS"	Means the Building Costs All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation
"Bus Voucher"	Means a voucher to be provided by the Owner to the first Occupier(s) of each Dwelling which shall entitle the holder to redeem the voucher on application to the Local Bus Provider against the cost of using sustainable modes of travel (such as bus travel commencing within the vicinity of the Land) to a maximum value of not more than £250.00 per household
"Chargee"	Means any mortgagee or chargee of one or more of the Affordable Housing Units (or any receiver including any administrator howsoever appointed) or other person appointed under any security documentation to enable such mortgagee or chargee to realise its security;
"Commencement of Development" or "Commence Development"	Means the carrying out in relation to the Development of any material operation as defined by section 56(4) of the Act but disregarding for the purposes of this Deed and for no other purpose the following operations: demolition works; site clearance; ground investigations; site survey

works; temporary access construction works; any laying out or pegging out works; archaeological investigation; erection of any fences or hoardings around the Land; any works carried out by or on behalf of the County Council or its agents or contractors; and/or any construction works associated with the delivery of the A361 LILLO Junction and/or the A361 Junction Northern Side and/or the Link Road.

"Commencement Date"	Means the date of Commencement of Development.
"Commercial Unit"	Means any commercial or employment unit to be constructed pursuant to the Planning Permission but excluding the School
"Community Facilities Cash Contribution"	Means the sum of £1,973.68 (one thousand nine hundred and seventy three pounds and sixty eight pence) per Dwelling payable as a financial contribution towards the cost to the Council of providing off site public open space and play area(s) to include a community centre and associated hard court play area and sports pitch, an all-weather pitch, changing room facilities and five sports pitches as part of the Tiverton Eastern Urban Extension.
Communities Facilities (With Land) Contribution"	Means the sum of £928.57 (nine hundred and twenty eight pounds and fifty seven pence) per Dwelling payable as a financial contribution towards the cost to the Council of providing public open space and play area(s) to include a community centre and associated hard court play area and sports pitch, an all-weather pitch, changing room facilities and five sports pitches as part of the Tiverton Eastern Urban Extension.
"Community Hall"	means the community centre to be constructed by the Council or its nominee on the Community Centre Land
"Community Centre Land"	means an area of land of no less than one (1) ha. within the Neighbourhood Land (or in such other location as may be agreed in writing between the Council and the Owner)
"Cycle Vouchers"	Means a voucher to be provided to the first

	Occupier(s) of each Dwelling which shall entitle the holder to redeem the voucher against the cost of bicycles or cycling equipment to a value of not more than £50.00 per household.
"Default Interest Rate"	4% per annum above the base rate from time to time of Barclays Bank plc.
"Designated Persons"	Means those persons who show to the reasonable satisfaction of the Council that their income indicates a need for Affordable Housing.
"Development"	Means the development of the Land in accordance with the Planning Permission.
"District Heating Network"	Means a system of pipes, cables and other infrastructure that connects a number of users locally to a locally generated supply of renewable or low carbon energy that is capable of providing a constant supply of space heating and hot water for the whole Development
"Discount Market Housing Unit"	Means each Affordable Housing Unit which is to be disposed of to and occupied in accordance with the provisions set out in Schedule 4
"Dwelling"	Means any dwelling (including a house, flat or maisonette) to be constructed pursuant to the Planning Permission.
"Education Land Contribution"	Means a financial contribution (payable in the event that the County Council does not take a transfer of the School Land) towards the cost to the County Council of acquiring land to accommodate a school to meet the educational needs arising from the Development in the sum of: £636,363.63 (six hundred and thirty six thousand three hundred and sixty three pounds and sixty three pence); or, if lower, A sum equivalent to 45% of the School Land Market Value
"Family Dwelling"	Means a Dwelling having two or more bedrooms
"Index Linked"	Means increased in accordance with the following

formula:

Amount payable = the payment specified in this Deed x (A/B) where:

A = the figure for the Retail Prices Index (All Items) that applied immediately preceding the date the payment is due (or to such other date as may be specified in this Agreement).

B = the figure for the Retail Prices Index (All Items) that applied when the index was last published prior to the date of this Deed save that where a contribution is to be paid to the County Council the indexation formula shall be the same as that set out above but the reference to the Retail Prices Index shall be deleted and in its place shall be substituted the BCIS.

“Intermediate Unit”

means the Affordable Housing Units to be disposed of as Discount Market Housing Units or let under a lease (of not less than 99 years) in the standard form of the Affordable Housing Provider and in accordance with the requirements of the Homes and Communities Agency whereby the Dwelling is let by an Affordable Housing Provider and:

(a) the leaseholder acquires an initial equity share in the Affordable Housing Unit the value of which is not more than 40% (forty per cent) of the market value except in cases where the Homes and Communities Agency has agreed the shared equity leases shall be granted on the basis of a higher percentage of value being transferred to purchaser; and

(b) the purchaser pays to the Affordable Housing Provider a rent in respect of the remaining equity of up to 2.75% of the unsold equity;

or such similar or equivalent means of tenure as may be defined as intermediate affordable housing within the National Planning Policy Framework (including any revisions thereto or any documents which might replace it);

"Land"	Means the Land shown edged red on Plan 1
"Link Road"	Means the link road broadly in the location shown coloured green on Plan 6 (the precise boundaries and location of which shall be agreed between the Owner and the County Council) which shall include drainage and the junctions required to access the Development (but which for the avoidance of doubt does not include any part of the bridge over the A361) and which shall join the A361 LILO Junction and Blundells Road
"Local Bus Provider"	Means any local provider of bus services within the area of Tiverton as agreed between the Developer and the bus company
"Necessary Consents"	means any such planning permissions, reserved matters approval(s) or other consents or licences which are necessary to enable the construction of the School or the Community Hall as the context requires
"Neighbourhood Land"	means that part of the Land shown edged red on Plan 8, being not less than 3.9 ha and within which shall be located certain facilities, including but not limited to the Community Hall, the School and shops
"Nominee"	Means a third party nominated by the County Council to receive a transfer of the School Land and/or receive any part of the Primary School Contribution and/or the Secondary School Contribution
"Northern Land"	Means that part of the Land shown hatched red on Plan 3
"Northern Landowner"	Means the person who owns the freehold to the Northern land from time to time
"Occupation"	Means occupation of a Dwelling or part of a Dwelling for residential purposes but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupiers" shall be construed similarly.

"Open Market Dwelling"	Means those Dwellings that are not Affordable Housing Units.
"Open Market Value"	<p>means the best price that might reasonably be obtained for a parcel of land by an unconnected third party on a certain date assuming the said parcel of land is being sold:</p> <p>(a) on the open market assuming a residential planning permission has been granted which permission is assumed to have been granted more than 6 weeks prior to the relevant date and in respect of which all pre-commencement conditions are assumed to have been discharged and reserved matters approvals obtained and which is in all other respects assumed to be capable of being implemented immediately;</p> <p>(b) at the relevant date;</p> <p>(c) by a willing vendor to a willing purchaser;</p> <p>(d) as a whole;</p> <p>(e) with vacant possession and subject only to those matters set out in the Charges Register of the relevant title (disregarding any mortgage or legal charge);</p> <p>(f) with no additional restrictions as to use;</p>
"Open Market Rent"	<p>means the estimated amount for which a unit of Affordable Rented Housing should be let on the date of valuation between a willing lessor and willing lessee (disregarding the obligations in this Agreement) in an arm's length transaction after proper marketing where the parties have acted knowledgeably, prudently and without compulsion such estimated amount to be agreed between the Council and the AHP or in the absence of such agreement to be determined by the Expert pursuant to Schedule 6</p>
"Owner's Agent"	Means Chesters Commercial, First Floor, Motivo House, Bluebell Road, Yeovil, Somerset BA20 2FG or such other agent as may be notified to the Council in writing.

"Ownership Interest"	Means an interest in the relevant part of the Land for the purposes of s.106 of the Act provided that no person will be deemed to have retained any interest in the Land for the purposes of this Deed by virtue of the reservation of any rights over the Land or enjoying the benefit of any covenants or rights to claim overage affecting the Land
"Phase"	Means each phase of the Development as set out on the phasing plan to be submitted to and approved by the Council pursuant to the Planning Permission including any revisions to the phasing plan as may be agreed between the Owner and the Council
"Plan 1"	Means the plan identifying the Land attached to this Deed marked Plan 1
"Plan 2"	Means the plan identifying the A361 Junction Licence Land and the A361 Junction Land attached to this Deed marked Plan 2
"Plan 3"	Means the plan identifying the Northern Land and the Southern Land attached to this Deed marked Plan 3
"Plan 4"	Means the drawing showing the Roundabout Works attached to this Deed marked Plan 4
"Plan 5"	Means the drawing showing indicatively the Traffic Calming Works attached to this Deed marked Plan 5
"Plan 6"	Means the A361 Junction phasing plan attached to this Deed marked Plan 6
"Plan 7"	Means the drawing referred to in the definition of Public Transport and Cycle Improvements showing the area in which pedestrian and/or cycle improvements may be undertaken attached to this Deed marked Plan 7
"Plan 8"	Means the plan appended hereto showing the Neighbourhood Land marked Plan 8
"Planning Application"	Means the application for outline planning permission for a mixed use development comprising up to 700 dwellings, 22,000 square metres of B1/B8 employment land, care home,

primary school and neighbourhood centre with associated access including a left in left out junction on the westbound A361 and access and egress onto Blundells Road registered by the Council on 4 June 2014 and accorded reference number 14/0881/MOUT.

"Planning Permission"

Means the planning permission to be granted by the Council in respect of the Planning Application including any variations of that permission granted pursuant to s.73 of the Act.

"Primary School Contribution"

Means a financial contribution in the sum of: £3,332 (three thousand three hundred and thirty two pounds) per Family Dwelling towards the provision of a new primary school funding up to 420 places plus early years to meet the educational need arising from the Development

"Public Transport and Cycle Improvements"

Means:

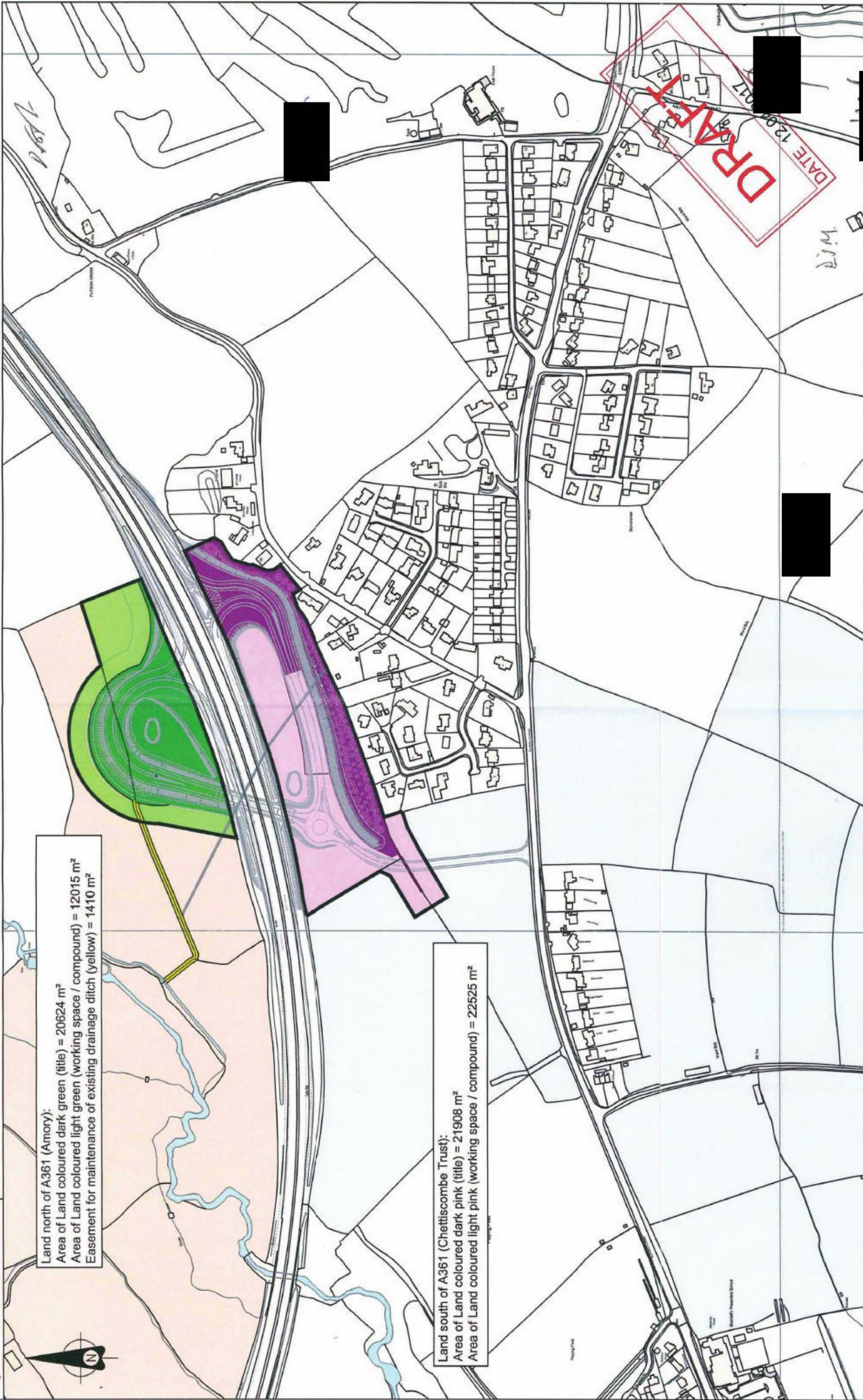
- the extension of the Tiverton to Exeter bus service (via Bickleigh) from Tiverton town centre to Tiverton eastern urban extension land allocation and/or
- the increase in frequency of the bus service from the Tiverton eastern urban extension land allocation to Tiverton Parkway railway station; and/or
- the improvement of pedestrian and/or cycle facilities between Tiverton eastern urban extension land allocation and Tiverton town centre and/or improvements of pedestrian and/or cycle facilities to and from Tiverton Parkway railway station located within the areas highlighted in green on Plan 7

"Public Transport and Cycle Improvements Contribution"

Means a financial contribution in the sum of £851,974 (eight hundred and fifty one thousand nine hundred and seventy four pounds) as a contribution towards the cost of the County Council delivering the Public Transport and Cycle Improvements

"Reserved Matters"

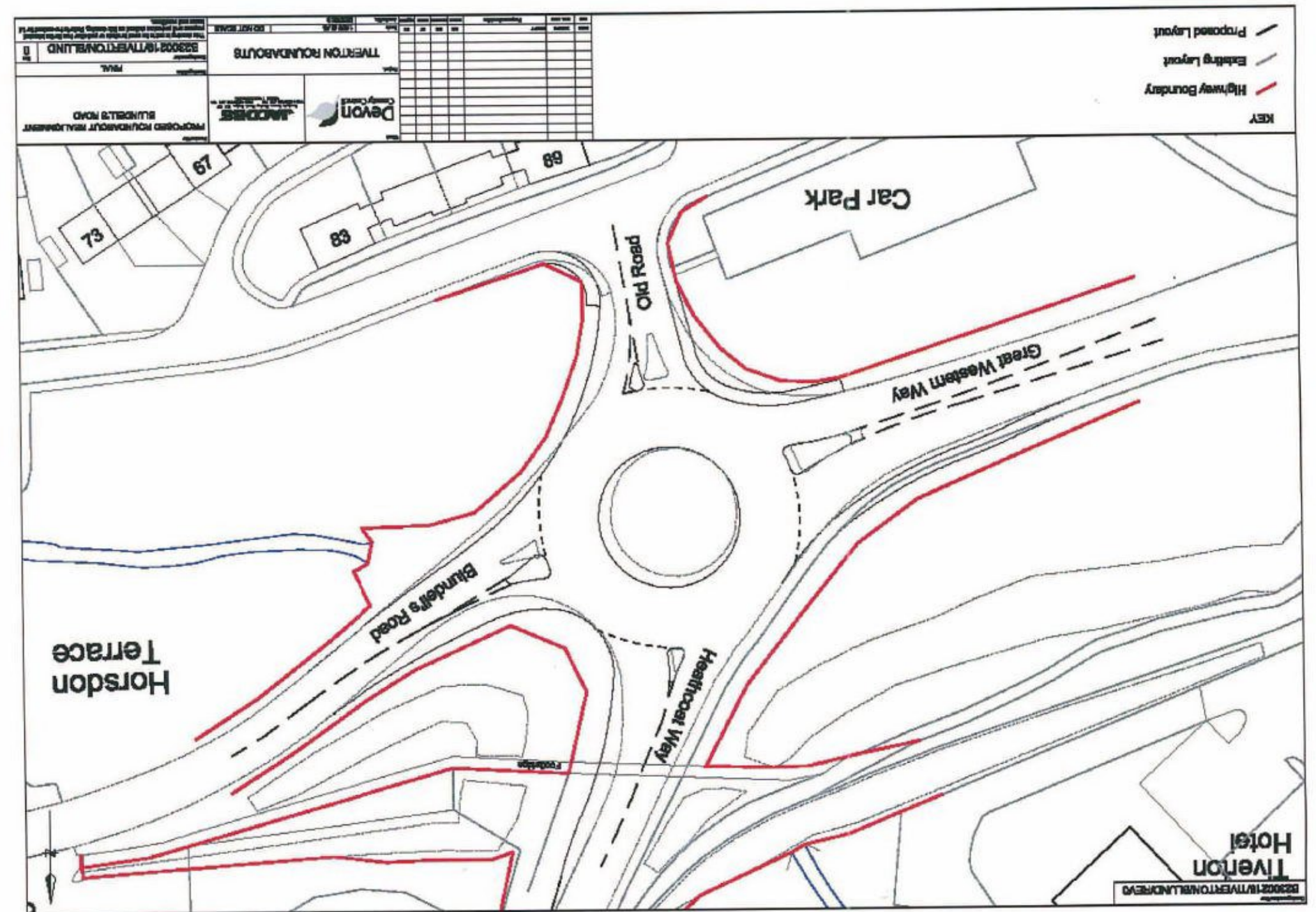
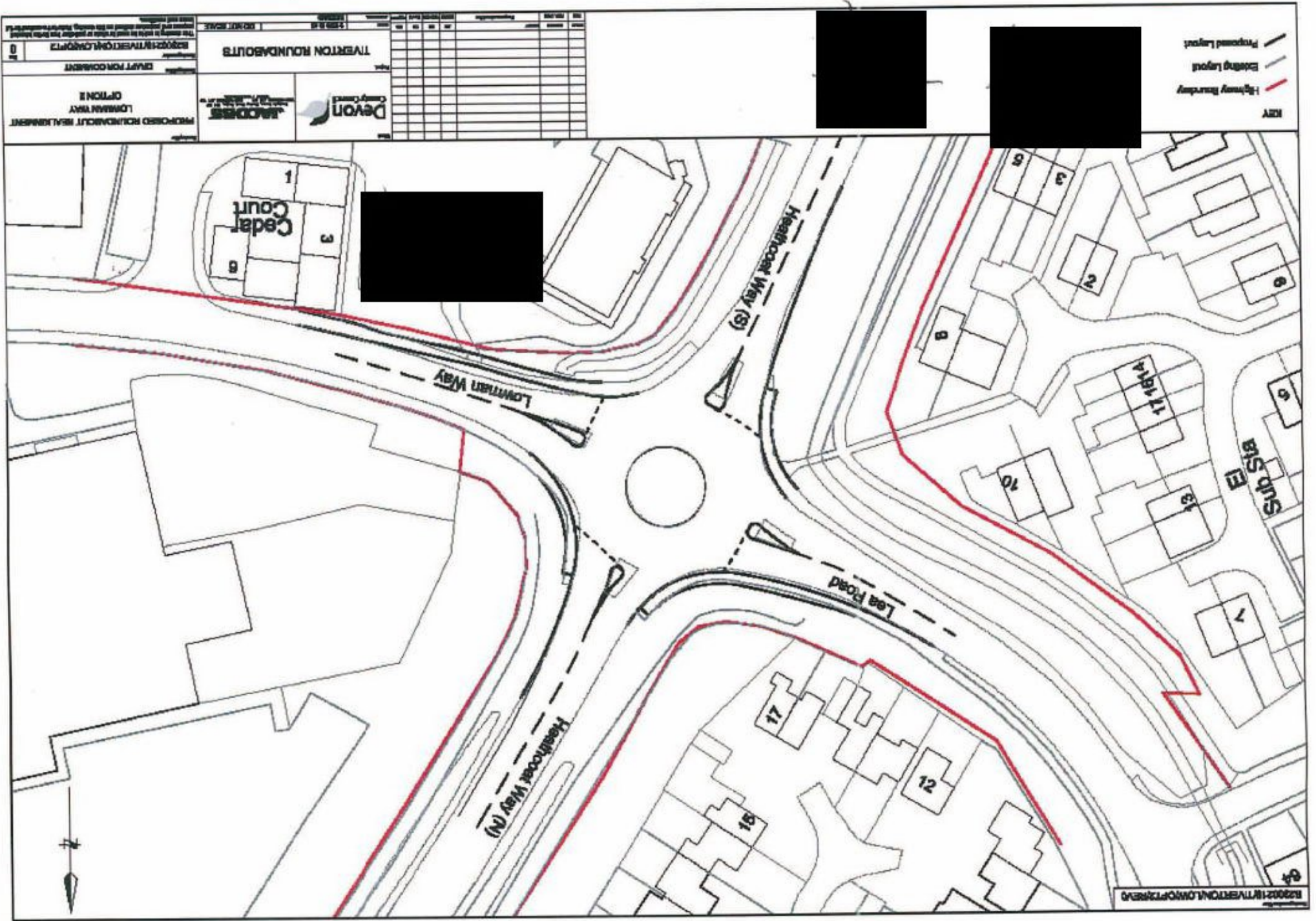
Means an application for reserved matters



Land north of A361 (Amory):
 Area of Land coloured dark green (title) = 20624 m²
 Area of Land coloured light green (working space / compound) = 12015 m²
 Easement for maintenance of existing drainage ditch (yellow) = 1410 m²

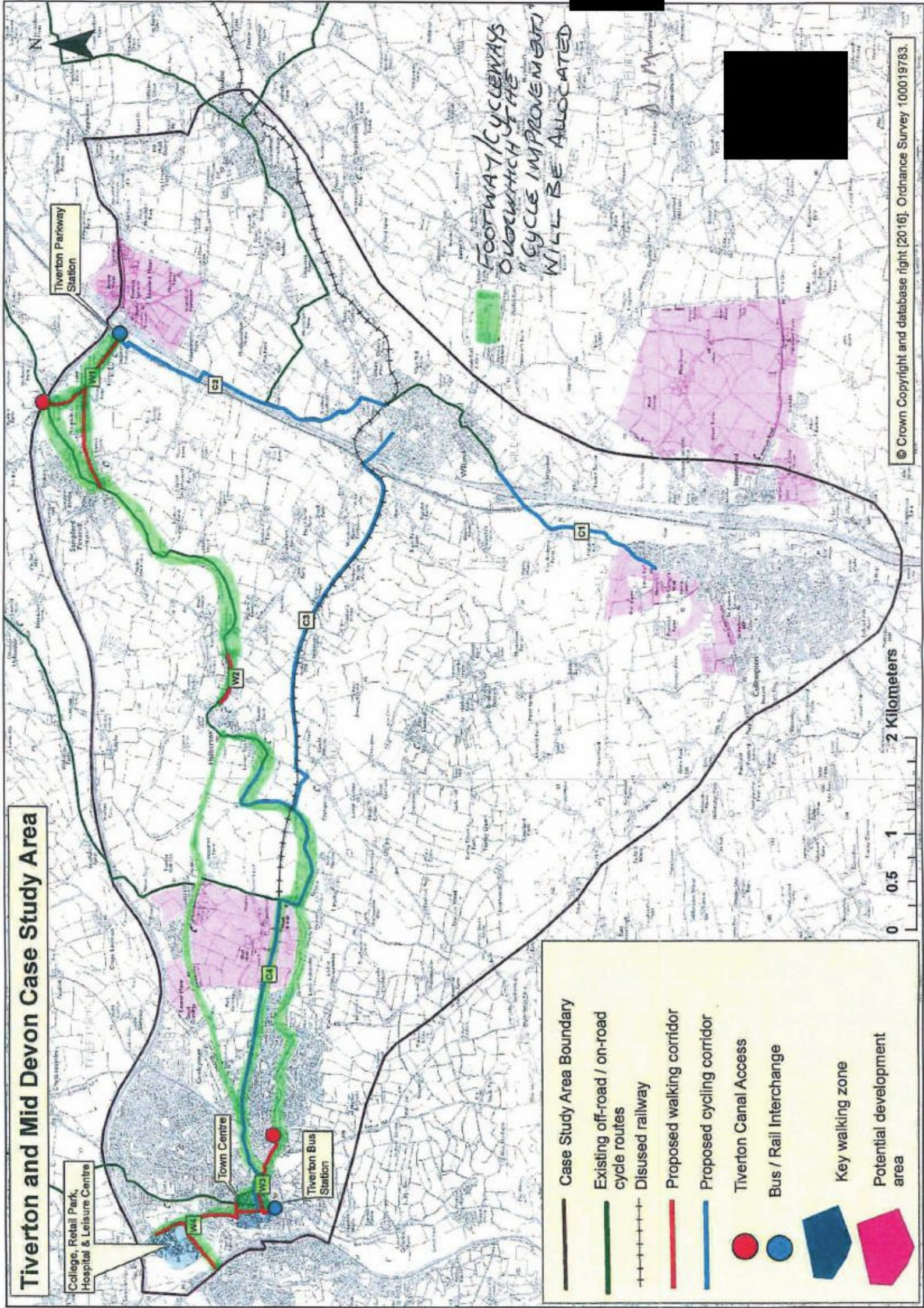
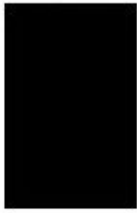
Land south of A361 (Chettiscombe Trust):
 Area of Land coloured dark pink (title) = 21908 m²
 Area of Land coloured light pink (working space / compound) = 22525 m²

<p>Devon County Council</p>		<p>Engineering Design Group Matford Offices County Hall Topsham Road Exeter EX2 4QD Tel 0845 155 1004 Fax 01392 382342 customer@devon.gov.uk www.devon.gov.uk</p>		<p>JOB</p> <p>Tiverton EUE</p>		<p>DRAWING TITLE</p> <p>Land plan for S106 agreement Plan 2</p>		<table border="1"> <thead> <tr> <th>Rev</th> <th>Date</th> <th>Drawn</th> <th>Revisions</th> <th>Chk</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>July 2015</td> <td>AS</td> <td>Working zones updated</td> <td></td> </tr> <tr> <td>B</td> <td>November 2015</td> <td>AS</td> <td>Areas of land updated, easement added</td> <td></td> </tr> <tr> <td>C</td> <td>November 2015</td> <td>AS</td> <td>Area south of Blundells Road added for drainage</td> <td></td> </tr> <tr> <td>D</td> <td>March 2016</td> <td>AS</td> <td>Compound updated, areas A to D added</td> <td></td> </tr> <tr> <td>E</td> <td>March 2016</td> <td>AS</td> <td>Swale alignment updated</td> <td></td> </tr> <tr> <td>F</td> <td>July 2016</td> <td>AS</td> <td>Compound on north side amended</td> <td></td> </tr> <tr> <td>G</td> <td>April 2017</td> <td>AS</td> <td>Area B amended</td> <td></td> </tr> </tbody> </table>		Rev	Date	Drawn	Revisions	Chk	A	July 2015	AS	Working zones updated		B	November 2015	AS	Areas of land updated, easement added		C	November 2015	AS	Area south of Blundells Road added for drainage		D	March 2016	AS	Compound updated, areas A to D added		E	March 2016	AS	Swale alignment updated		F	July 2016	AS	Compound on north side amended		G	April 2017	AS	Area B amended		<p>DATE 12/04/2017</p> <p>DRAFT</p>		<p>Do not use this drawing for any other purpose without the written consent of the author. No responsibility is accepted where this drawing is used in circumstances other than that for which it was originally prepared and issued.</p> <table border="1"> <tr> <td>Drawing Number</td> <td>C11017/16</td> <td>Revision</td> <td>G</td> </tr> <tr> <td>Scale</td> <td>1:5000</td> <td>Sheet</td> <td>A3</td> </tr> </table>		Drawing Number	C11017/16	Revision	G	Scale	1:5000	Sheet	A3
Rev	Date	Drawn	Revisions	Chk																																																									
A	July 2015	AS	Working zones updated																																																										
B	November 2015	AS	Areas of land updated, easement added																																																										
C	November 2015	AS	Area south of Blundells Road added for drainage																																																										
D	March 2016	AS	Compound updated, areas A to D added																																																										
E	March 2016	AS	Swale alignment updated																																																										
F	July 2016	AS	Compound on north side amended																																																										
G	April 2017	AS	Area B amended																																																										
Drawing Number	C11017/16	Revision	G																																																										
Scale	1:5000	Sheet	A3																																																										





<p>Do not scale from this drawing in either hard or electronic format. No responsibility is accepted where this drawing is used in circumstances other than that for which it was originally prepared and issued.</p>		Chk					
<p>Revision</p> <table border="1"> <tr> <td>Revision</td> <td>0</td> </tr> <tr> <td>Scale</td> <td>A3</td> </tr> </table>		Revision	0	Scale	A3	Revisions	
Revision	0						
Scale	A3						
<p>Drawing Number</p> <p>C11017/51</p>		Drawn					
<p>Scale</p> <p>1:5000</p>		Date					
<p>Rev</p>							
<p>DRAWING TITLE</p> <p>A361 Junction Phasing Plan Plan 6</p>							
<p>JOB</p> <p>Tiverton EUE</p>							
<p>Engineering Design Group</p> <p>Matford Offices County Hall Topsham Road Exeter EX2 4QD</p>		<p>Tel 0845 155 1004 Fax 01392 382342 customer@devon.gov.uk www.devon.gov.uk</p>					
<p>Devon County Council</p>		<p>R:\EATS\sect_H15\Schemes\Tiverton LSO\Tiverton EUE Access Routes\Drawings\C11017-51 Land Plan A361 junction.dwg - 13/04/2017 11:05:15 - A361 junction - Anette.Smith</p>					





Scale 1:2500 A4
 Date 16th May 2017

Plan 8
 Tiverton Eastern Urban Extension
 Neighbourhood Centre



Application“	approval pursuant to the Planning Permission.
“Roundabout Works“	Means works to alter and improve the roundabout at the junction of Heathcoat Way and Lowman Way, Tiverton as shown on Plan 4
“Roundabout Works Contribution“	Means a financial contribution in the sum of £253,289 (two hundred and fifty three thousand two hundred and eighty nine pounds) towards the cost to the County Council of delivering the Roundabout Works.
“School“	Means the school to be constructed on the School Land
“School Land“	Means an area of land of no less than 1.93 ha. located within the Neighbourhood Land
“School Land Market Value“	Means the Open Market Value of the School Land
“Secondary School Contribution“	Means a financial contribution in the sum of £2,736.15 (two thousand seven hundred and thirty six pounds and fifteen pence) per Family Dwelling towards the provision of the expansion, procurement and/or improvement of secondary school infrastructure at Tiverton High School to meet the educational need generated by the Development
“Serviced“	Means provided with proper connections to all of surface water drainage facilities, foul drainage facilities, water, electricity and communications cabling to the extent that they are available
“Services“	Means those services necessary or desirable for the Development
“Southern Land“	Means the part of the Land shown hatched green on Plan 3
“Southern Landowner“	Means the person who owns the freehold to the Southern Land from time to time
“Sustainable Travel Pack“	Means a pack of information and vouchers to be provided by the Owner to the first Occupiers of each Dwelling containing a Bus Voucher, a Cycle Voucher and Travel Information Pack the content and form of which shall be approved in writing by

the County Council.

"Traffic Calming Contribution"	Means a financial contribution in the sum of £921,053 (nine hundred and twenty one thousand and fifty three pounds) towards the cost to the County Council of delivering the Traffic Calming Works
"Traffic Calming Contribution Agreement"	Means the Agreement entered into between the Council, the County Council and the Owner to secure the payment of a traffic calming contribution dated 4 May 2016
"Traffic Calming Works"	Means traffic calming and associated works along Blundells Road and Post Hill between Heathcoat Way and Putsons Lane as shown indicatively on Plan 5
"Traffic Calming Works Phase 1"	Means the traffic calming and associated works on Blundells Road from Tidcombe Lane to Heathcoat Way as shown indicatively as phase 1 on Plan 5
"Traffic Calming Works Phase 2"	Means the traffic calming and associated works from Tidcombe Lane to Putsons Lane on Blundells road and Post Hill as shown indicatively as phase 2 on Plan 5 but excluding any works required to that part of the Land fronting onto Blundells Road required as part of the Development
"Travel Plan"	Means a travel plan to be agreed in writing with the County Council which shall, inter alia, make provision for the funding of the appointment of a suitably qualified firm or individual who shall be responsible for securing the implementation of the Travel Plan and managing and monitoring the steps contained therein in order to promote and encourage contractors employees and residents of the Development to travel to and from the Development using sustainable travel modes of transport.
"Travel Information Pack"	Means a package of travel information produced and provided to the first purchaser(s) of each Dwelling by the Owner aimed at encouraging residents of the Development to use sustainable modes of transport including a location plan of bus

stops near the Land, a bus timetable and bus route plan cycle route map and any other information which the County Council (acting reasonably) considers reasonable and appropriate in promoting sustainable transport objectives.

"Working Day"

Means any Monday to Friday (other than any statutory or bank or public holidays or a day on which clearing banks are not open for normal business and does not include the days between 23 December and the immediately following 2 January in each year);

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall (unless otherwise stated) include that party's personal representatives, successors or permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.9 References to clauses, plans, schedules and appendices are to the clauses, plans, schedules and appendices of this Deed.
- 1.10 An obligation in this Deed on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.12 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually PROVIDED THAT the Northern Landowner shall not be liable for any obligations enforceable against the Southern Landowner and vice versa.

2 Statutory Provisions

- 2.1 This Deed has been entered into pursuant to section 106 of the Act, section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011.
- 2.2 The covenants, restrictions and obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner with the intention that:
- 2.2.1 the covenants, restrictions and obligations on the part of the Northern Landowner bind the interests held by those persons in the Northern Land and their respective successors and assigns; and
- 2.2.2 the covenants, restrictions and obligations on the part of the Southern Landowner bind the interests held by those persons in the Southern Land and their respective successors and assigns;
- 2.3 The covenants, restrictions and obligations contained in this Deed are enforceable by the Council and the County Council in accordance with section 106 of the Act.
- 2.4 This Deed is a local land charge and shall be registered as such by the Council.

3 Conditionality

This Deed is conditional upon:

- 3.1 the grant of the Planning Permission; and
- 3.2 the Commencement of Development

save for clauses 1 to 3 (inclusive) and 7 to 18 (inclusive) and paragraphs 1, 2 and 3 (in their entirety) of Schedule 2 which shall come into effect on the grant of the Planning Permission only.

4 Covenants to the Council and County Council

- 4.1 The Owner in its capacity as Northern Landowner covenants with the Council and the County Council so as to bind the Northern Land to:
- (a) observe and perform the covenants, restrictions and obligations contained in the Schedules hereto in so far as they relate to the Northern Land
- (b) give at least ten Working Days written notice to the Council and the County Council of the intended Commencement Date on the Northern Land
- (c) Notify the Council and the County Council in writing of the actual Commencement Date on the Northern Land within 10 Working Days of its occurrence
- 4.2 The Owner in its capacity as Southern Landowner covenants with the Council and the County Council so as to bind the Southern Land to

- (a) observe and perform the covenants, restrictions and obligations contained in the Schedules hereto in so far as they relate to the Southern Land
- (b) give at least ten Working Days written notice to the Council and the County Council of the intended Commencement Date on the Southern Land
- (c) Notify the Council and the County Council in writing of the actual Commencement Date on the Southern Land within 10 Working Days of its occurrence

5 Covenants by the Council and County Council

The Council and the County Council covenant with each other and the Owner to observe and perform the covenants, restrictions and obligations on them contained in the Schedules hereto.

6 Bank's Consent

The Bank acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained herein PROVIDED THAT the Bank will not incur any liability for any breach of the obligations contained in this Agreement unless and until it becomes a mortgagee in possession of the Land

7 Discharge of the Traffic Calming Contribution Agreement

7.1 As from the date of this Agreement coming into force the Parties hereto agree that:

7.1.1 the Traffic Calming Contribution Agreement shall be discharged and replaced by this Agreement;

7.1.2 the Traffic Calming Contribution Agreement shall cease and determine absolutely

8 Indexation

8.1 All financial contributions payable to the Council and the County Council pursuant to this Deed shall be Index Linked.

8.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as may be agreed in writing between the Council and the Owner.

9 Scope of the obligations

9.1 No person shall be liable for any breach of a covenant, restriction or obligation contained in this Deed after parting with its Ownership Interest in that part of the Land in respect of which the breach occurs, except in respect of any breach subsisting prior to parting with such Ownership Interest

- 9.2 No person shall be liable for the breach of a covenant, restriction or obligation contained in this Deed which occurs on any part of the Land in respect of which that person has no Ownership Interest
- 9.3 This Agreement shall cease to have effect if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) is modified by any statutory procedure or expires prior to the Commencement of Development on the relevant part of the Land.
- 9.4 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with any planning permission (other than the Planning Permission) granted after the date of the Planning Permission.
- 9.5 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement
- 9.6 This Deed shall not be binding on nor enforceable against:
- 9.6.1 any statutory undertaker or other person who acquires any part of the Land or any interest in it for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services; and/or
- 9.6.2 any residential owner or Occupier of an individual Open Market Dwelling; and/or
- 9.6.3 (save for the provisions of Schedule 1 which relate to Affordable Housing) any residential owner or Occupier of an individual Affordable Dwelling

10 Financial Matters

- 10.1 The Owner agrees to pay upon completion of this Deed the reasonable legal costs of the Council and the County Council in respect of the negotiation, preparation, execution and completion of this Deed to a limit of £2,600 and £8,000 respectively.
- 10.2 Where any sum or amount has not been paid to the Council or the County Council by the date on which it is due the Owner shall pay the Council or the County Council interest at the Default Interest Rate on that amount for the period from the due date to the date of payment.

11 Ownership

- 11.1 Until the covenants, restrictions and obligations in the Schedules hereto have been complied with the Owner will give to the Council within ten Working Days the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Land:
- (a) the name and address of the person to whom the disposition was made; and
- (b) the nature and extent of the interest disposed of.

12 Reasonableness

Any approval, consent, direction, authority, agreement or action to be given by the Council or the County Council under this Deed shall not be unreasonably withheld or delayed.

13 Cancellation of entries

13.1 On the written request of the Owner at any time after each or all of the obligations have been performed or otherwise discharged the Council will issue a written confirmation of such performance or discharge.

13.2 Following the performance and full satisfaction of all the terms of this Deed or if this Deed is determined pursuant to clause 7.2 the Council will on the written request of the Owner cancel all entries made in the local land charges register in respect of this Deed.

14 No fetter of discretion

Nothing (contained or implied) in this Deed shall fetter or restrict the Council's or the County Council's statutory rights, powers, discretions and responsibilities.

15 Waiver

No waiver (whether express or implied) by the Council the County Council or the Owner of any breach or default by another party to this Deed in performing or observing any of the covenants, restrictions or obligations of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council the County Council or the Owner from enforcing any of the relevant terms or conditions contained in this Deed or acting on any subsequent breach or default of this Deed.

16 Notices

16.1 Any notice required to be given under this Deed shall be in writing (which shall not include fax or e-mail) and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to any person required to receive the notice at its address as set out in the Parties section to this Deed or as otherwise notified to each other person in writing.

16.2 Any notice shall be deemed to have been duly received:

- (a) if delivered personally, when left at the address and for the contact referred to in this clause;
- (b) if sent by pre-paid first class post or recorded delivery, on the second Working Day after posting; or
- (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

17 Third Party Rights

No person other than a party to this Deed, and their respective successors and permitted assigns, shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

18 Governing Law

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England

This document has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1

Covenants to the Council and the County Council

Part 1

Covenants with the Council

1 Affordable Housing

- 1.1 Unless agreed otherwise in writing with the Council to provide 22.5% (twenty two and a half percent) of the Dwellings as Affordable Housing Units with any fraction of a number being half or above rounded-up to the next whole number which shall be delivered in accordance with the following tenure mix:
- 1.1.1 60% Affordable Rent Units; and
 - 1.1.2 40% Intermediate Units
- 1.2 Not to Commence Development of a Phase (not including any Phase which does not contain any Dwellings) unless and until the Owner has submitted and the Council has approved in writing an Affordable Housing Scheme relating to the relevant Phase.
- 1.3 To construct and provide the Affordable Housing Units in accordance with the Affordable Housing Scheme approved in writing by the Council.
- 1.4 Unless agreed otherwise in writing with the Council not more than 50% of the Open Market Dwellings comprised in any Phase shall be Occupied until 50% of the Affordable Housing Units comprised in that Phase have been constructed and are ready for Occupation in accordance with the Affordable Housing Scheme and (save for any Discount Market Units) have been transferred to the Affordable Housing Provider
- 1.5 Unless agreed otherwise in writing with the Council not more than 80% of the Open Market Dwellings comprised in any Phase shall be Occupied until 100% of the Affordable Housing Units comprised in that Phase have been constructed and are ready for Occupation in accordance with the Affordable Housing Scheme and (save for any Discount Market Units) have been transferred to the Affordable Housing Provider
- 1.6 It is expressly **HEREBY AGREED** and **DECLARED** that after an Affordable Housing Unit has been transferred to an AHP paragraph 1 of this Schedule shall not bind or be enforceable against:
- 1.6.1 any Chargee of one or more Affordable Housing Units (or any part thereof as may be affected) and the provisions of this Agreement shall in the event of a Chargee enforcing its security over the Affordable Housing Unit(s) cease to apply to the said Affordable Housing Unit(s) and the Chargee shall be entitled to dispose of the said Affordable Housing Unit(s) free from the provisions of this Agreement which shall determine absolutely;

- 1.6.2 The AHP or any tenant in circumstances where the tenant exercises a right to buy or a right to acquire under the Housing Act 1985 or the Housing Act 1996 or 2004 or any similar or substitute right applicable (or any equivalent contractual right); or
- 1.6.3 A tenant who has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- 1.6.4 A tenant who has been granted a shared ownership lease by an AHP (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the AHP) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Affordable Housing Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;
- 1.6.5 A tenant who has acquired an Affordable Housing Unit through Social Homebuy funded pursuant to s.19(3) of the Housing and Regeneration Act 2008 or pursuant to a voluntary grant scheme under s.21 of the Housing Act 1996 or any amendment or replacement thereof;
- 1.6.6 Any Chargee of or purchaser or successor in title to any person specified in clauses 1.6.1 to 1.6.5 (inclusive) above

2 Community Facilities Contribution

- 2.1 Subject to paragraph 3.3 below to either pay the Community Facilities Cash Contribution or the Community Facilities (With Land) Contribution to the Council in the following instalments:
 - 2.1.1 33% prior to the Occupation of the 230th Dwelling
 - 2.1.2 A further 33% prior to the Occupation of the 460th Dwelling
 - 2.1.3 The balance prior to the Occupation of the 600th Dwelling

3 Community Centre Land

Requirement for Community Centre Land

- 3.1 Within 6 months of the Commencement of Development the Council shall serve notice on the Owner to confirm whether the Council intends to acquire the Community Centre Land pursuant to this Agreement.
- 3.2 In the event that the Council confirms that it does not intend to acquire the Community Centre Land the Owner shall pay the Community Facilities Cash Contribution in accordance with paragraph 2 above and the Owner shall be free to deal with the Community Centre Land as it sees fit free from the constraints of this Agreement
- 3.3 In the event that either:
 - 3.3.1 the Council confirms that it intends to acquire the Community Centre Land; or

3.3.2 the Council fails to serve notice on the Owner to confirm whether the Council intends to acquire the Community Centre Land within 6 months of the date of the Commencement of Development

the Owner shall pay the Community Facilities (With Land) Contribution in accordance with paragraph 2 above and shall transfer the Community Centre Land to the Council in accordance with paragraphs 3.5 to 3.10 (inclusive below)

Location

3.4 As from the date of this Agreement the Owner shall permit the Council to have access to the Community Centre Land at all reasonable times for the purposes of undertaking surveys and soil surveys and any other surveys reasonably required to enable the Council to determine whether or not the Community Centre Land is suitable for its requirements PROVIDED THAT the Council shall make good any damage caused in the exercise of its rights pursuant to this paragraph (or otherwise) to the reasonable satisfaction of the Owner within 20 Working Days AND FURTHER PROVIDED THAT the rights granted to the Council pursuant to this provision shall terminate on the earlier of:

3.4.1 12 months from the date of this Agreement;

3.4.2 the date on which the Council serves its notice on the Owner pursuant to paragraph 3.1 above

3.5 Within 12 months of the date of this Agreement the Council shall submit a plan for the approval of the Owner (such approval not to be unreasonably withheld or delayed) showing the exact proposed boundaries of the Community Centre Land together with any proposed points of access and the proposed layout of the Community Centre development PROVIDED THAT it shall be reasonable for the Owner to withhold approval of the said plan in the event that the location of the Community Centre Land or the proposed points of access, when considered in isolation or in connection with the School Land would harm or reduce the development potential of the surrounding Land

3.6 In the event that the Owner (acting reasonably) notifies the Council in writing that it does not approve the details submitted pursuant to paragraph 3.5 above, the Owner and the Council shall use reasonable endeavours to agree an alternative plan showing the exact proposed boundaries of the Community Centre Land together with any proposed points of access and the proposed layout of the Community Centre development PROVIDED THAT if no agreement has been reached within 20 Working Days of the Owner notifying the Council that it does not approve the details submitted pursuant to paragraph 3.5 above the dispute shall be referred to determination by an Expert pursuant to Schedule 6

3.7 Unless the Council confirms that it does not intend to acquire the Community Centre Land (pursuant to paragraph 3.2 above) the Council shall submit an application for the Necessary Consents in accordance with the plan and details approved pursuant to paragraph 3.5 within 10 years of the date of the Planning Permission.

Transfer

- 3.8 The Owner shall transfer the Community Centre Land to the Council or its nominated body within 20 Working Days of the date on which the details submitted pursuant to paragraph 3.5 have been agreed by both the Owner and the Council or determined through Expert Determination ("the Transfer Date") PROVIDED THAT the Owner shall not be required to transfer the Community Centre Land to the Council unless and until the Commencement Date has passed
- 3.9 In the event that the Transfer Date occurs before the Commencement Date has passed the Council may serve a notice on the Owner requiring the Community Centre Land to be transferred within 20 Working Days of the Transfer Date provided that:
- 3.9.1 the Council shall pay to the Owner on the date of the transfer the sum of £731,579 (Index Linked); and
- 3.9.2 the Owner shall pay the Council the Community Facilities Cash Contribution in accordance with paragraph 2 of this Schedule
- 3.10 The transfer of the Community Centre Land shall include the grant of such rights over the Land as are necessary for the use of the Community Centre and may be subject to such reasonable restrictions and reservations as the Owner may require to enable the proper functioning of the Development and to ensure that the development and use of the Community Centre Land shall not cause nuisance, annoyance or disturbance to the Occupiers of the Development PROVIDED THAT in the event of a dispute regarding the restrictions and reservations required by the Owner either party may serve a written notice on the other party to commence the following procedure:
- 3.10.1 the Owner and the Council shall use reasonable endeavours to reach agreement on the matters in dispute for a period of 20 Working Days starting on the date of the notice
- 3.10.2 in the event that no agreement is reached within the 20 Working Day period provided for pursuant to paragraph 3.10.1 above the matters in dispute shall be referred to Expert Determination in accordance with Schedule 6

4 District Heating Network

- 4.1 In the event that a District Heating Network is constructed to the boundary of the Development prior to the Commencement of Development to connect each Dwelling to the District Heating Network UNLESS the Owner can demonstrate to the reasonable satisfaction of the Council that connecting each Dwelling would not be viable or feasible or would unreasonably delay the construction of the Development having regard to all of the circumstances including (but not limited to) the following factors:
- (a) The availability of a District Heating Network (together with associated infrastructure capable of providing a constant supply of hot water and space heating services to the boundary of the Development) having regard to the anticipated build programme of the Development;

- (b) The terms and conditions to which a connection to any available District Heating Facility is subject
- 4.2 In which case the Owner shall not be required to connect the Dwellings within that phase to a District Heating Facility

Part 2

Covenants with the County Council

Education

5 School Land

Location

- 5.1 As from the date of this Agreement the Owner shall permit the County Council to have access to the School Land at all reasonable times for the purposes of undertaking surveys and soil surveys and any other surveys reasonably required to enable the County Council to determine whether or not the School Land is suitable for its requirements PROVIDED THAT the County Council shall make good any damage caused in the exercise of its rights pursuant to this paragraph (or otherwise) to the reasonable satisfaction of the Owner within 20 Working Days AND FURTHER PROVIDED THAT the rights granted to the County Council pursuant to this provision shall terminate on the earlier of:
 - 5.1.1 12 months from the date of this Agreement;
 - 5.1.2 the date on which the County Council serves its notice on the Owner pursuant to paragraph 5.5 below
- 5.2 Within 12 months of the date of this Agreement the County Council shall submit a plan showing the exact proposed boundaries of the School Land agreed with the Council, together with any points of access and the proposed layout of the School development to the Owner (copied to the Owner's Agent) and the Owner and the County Council shall use reasonable endeavours to agree the exact boundaries of the School Land and the layout of the proposed development PROVIDED THAT:
 - 5.2.1 it shall be reasonable for the Owner to withhold approval of the said plan in the event that the location of the School Land or the proposed points of access either have not been agreed with the Council, or when considered in isolation or in connection with the location or likely location of the Community Centre Land would harm or reduce the development potential of the surrounding Land; and
 - 5.2.2 in the event that the Owner does not notify the County Council in writing that it does not approve the details submitted pursuant to paragraph 5.2 above within 60 Working Days the Owner's approval shall be deemed
- 5.3 In the event that the Owner (acting reasonably) notifies the County Council in writing that it does not approve the details submitted pursuant to paragraph 5.2 above, the County Council and the Owner shall use reasonable endeavours to agree an alternative plan showing the

exact proposed boundaries of the School Land together with any proposed points of access and the proposed layout of the School Land development PROVIDED THAT if no agreement has been reached within 20 Working Days the dispute shall be referred to determination by an Expert pursuant to Schedule 6

Value

- 5.4 Within 1 month of the agreement of the plans and details pursuant to paragraph 5.2 or 5.3 hereof the Owner shall serve written notice on the County Council containing its calculation of the School Land Market Value (the "Owner's Notice")
- 5.5 Within 3 months of receipt of the Owner's Notice, the County Council shall serve written notice on the Owner (the "County Council's Notice") confirming whether it accepts the Owner's calculation of the School Land Market Value or whether the County Council:
 - 5.5.1 Does not wish to acquire the School Land; or
 - 5.5.2 Disputes the School Land Market Value as set out in the Owner's Notice in which case the County Council's Notice shall contain full details of the County Council's calculation of the School Land Market Value
- 5.6 In the event that either:
 - 5.6.1 the County Council has not served the County Council's Notice within 3 months of receipt by the County Council of the Owner's Notice; or
 - 5.6.2 the County Council responds to the Owner's Notice within 3 months of receipt by the County Council to confirm that it does not wish to acquire the School Landthe Owner shall:
 - 5.6.3 pay the Education Land Contribution to the County Council or its Nominee on 200 Occupations or, if later, within 12 months of the County Council confirming that it does not wish to take a transfer of the School Land; and
 - 5.6.4 be free to deal with the School Land as it sees fit free from the constraints of this Agreement
- 5.7 In the event that the County Council responds to the Owner's Notice to dispute the School Land Market Value the Owner and the County Council shall use reasonable endeavours to agree the School Land Market Value for a period of 20 Working Days following the receipt of the County Council's Notice by the Owner (or such other period of time as the Owner and the County Council may agree)
- 5.8 If the County Council and the Owner have not been able to agree School Land Market Value following the expiration of a period of 20 Working Days following the receipt of the County Council's Notice by the Owner (or such other period of time as the Owner and the County Council may agree) the matter shall be referred to Expert Determination in accordance with Schedule 6

- 5.9 The County Council and/or its Nominee shall submit an application for the Necessary Consents for the School in accordance with the plan and details agreed pursuant to paragraph 5.2 or 5.3 within 3 months of the date on which the School Land Market Value is agreed or determined

Transfer

- 5.10 Provided that:

5.10.1 The School Land Market Value has been agreed by both the Owner and the County Council or determined through Expert Determination; and

5.10.2 The County Council and/or its Nominee has obtained all Necessary Consents for the School in accordance with the plan and details approved by the Owner pursuant to paragraph 5.2 or 5.3 above; and

5.10.3 The County Council has served a notice on the Owner requesting the transfer of the School Land

the Owner shall transfer the School Land to the County Council or its Nominee within 20 Working Days of the occurrence of the latest of above events and:

(a) In the event that the transfer takes place after the Commencement Date the total sum of the Primary School Contribution and the Secondary School Contribution payable by the Owner shall be reduced by a sum equivalent to 55% of the School Land Market Value as agreed between the Owner and the County Council or determined through Expert Determination (as appropriate) and the Owner and the County Council shall agree in writing amended instalment payments for the payment of the reduced sum of the Primary School Contribution and the Secondary School Contribution; or

(b) In the event that the transfer takes place before the Commencement Date the County Council shall pay to the Owner on the date of the transfer a sum equivalent to 55% of the School Land Market Value and paragraph 5.11 shall cease to apply

- 5.11 In the event that the School Land Market Value exceeds the sum of the Primary School Contribution and the Secondary School Contribution to be paid by the Owner the County Council shall on the date of the transfer of the School Land pay to the Owner a sum equivalent to the amount by which the School Land Market Value exceeds the sum of the Primary School Contribution and the Secondary School Contribution such payment to be in instalments to be agreed in writing between the Owner and the County Council

- 5.12 The transfer of the School Land shall include the grant of such rights over the Land as are necessary for the School Use and may be subject to such reasonable restrictions and reservations as the Owner may require to enable the proper functioning of the Development and to ensure that the development and use of the School Land shall not cause nuisance, annoyance or disturbance to the Occupiers of the Development including:

- 5.12.1 A covenant on the County Council or its Nominee (if appropriate) not to use the School Land in a manner which may cause nuisance, annoyance or disturbance for the occupiers of the Development save that use of the School Land for the construction and subsequent use as a School and all associated uses shall not be a breach of this covenant
- 5.12.2 Rights for the benefit of the Land to use all conduits in, on, under or over the School Land for the passage of Services to and from the Development together with the right to cleanse, maintain and repair any such conduits the Owner making good any damage caused to the reasonable satisfaction of the County Council or its Nominee (if appropriate) and complying with all reasonable requirements of the County Council or its Nominee (if appropriate) relating to the health, safety and welfare of pupils and staff attending the school situated on the School Land
- 5.12.3 Rights for the benefit of the School Land to use all conduits in, on, under or over the Land for the passage of Services to and from the School Land as may be required for the purposes of the School Use together with the right to cleanse, maintain and repair any such conduits
- 5.12.4 Rights to enter onto the School Land for the purposes of maintaining the Development or any Services, conduits, Service media or infrastructure associated therewith (including, without limitation, drainage infrastructure) where such works cannot reasonably be carried out from within the Land excluding the School Land subject to the Owner complying with all reasonable requirements of the County Council or its Nominee (if appropriate) relating to the health, safety and welfare of pupils and staff attending the school situated on the School Land
- 5.12.5 Rights of support
- 5.12.6 A covenant on the County Council or its Nominee (if appropriate) to maintain the School Land to a reasonable standard

6 Primary School Contribution and Secondary School Contribution

- 6.1 Due to existing capacity at local schools, the County Council hereby acknowledges that:
- 6.1.1 No Primary School Contribution is payable in respect of 12 Family Dwellings
- 6.1.2 No Secondary School Contribution is payable in respect of 194 Family Dwellings
- 6.2 The Owners hereby covenant with the County Council:
- 6.2.1 Once 12 Family Dwellings have been Occupied, any additional Family Dwellings ("the Extra Family Dwellings") shall be required to pay the Primary School Contribution in accordance with the following provisions:
- (a) No more than 25% of the Extra Family Dwellings comprised in a particular Phase may be Occupied unless and until 50% of the Primary School Contribution relating to the Extra Family Dwellings comprised in the relevant Phase has been paid to the County Council or its Nominee; and

- (b) not to cause or permit the Occupation of more than 50% of the Extra Family Dwellings comprised in a particular Phase unless and until all of the Primary School Contribution relating to the Extra Family Dwellings comprised in the relevant Phase has been paid to the County Council or its Nominee

6.2.2 Once 194 Family Dwellings have been Occupied, any additional Family Dwellings ("the Additional Family Dwellings") shall be required to pay the Secondary School Contribution in accordance with the following provisions:

- (a) No more than 25% of the Additional Family Dwellings comprised in a particular Phase may be Occupied unless and until 50% of the Secondary School Contribution relating to the Additional Family Dwellings comprised in the relevant Phase has been paid to the County Council or its Nominee; and
- (b) not to cause or permit the Occupation of more than 50% of the Additional Family Dwellings comprised in a particular Phase unless and until all of the Secondary School Contribution relating to the Additional Family Dwellings comprised in the relevant Phase has been paid to the County Council or its Nominee

PROVIDED THAT if the Owner and the County Council have agreed alternative instalment payments under Paragraph 5.10.3(a) of this Part 2 to Schedule 1 of this Deed then the relevant part or parts of the Primary School Contribution and/or the Secondary School Contribution shall be paid in accordance with the said agreed alternative instalment payments and no sums shall be payable by the Owner to the County Council or its Nominee under this Paragraph 6

Schedule 2

Highways and Transport

1 The Owner covenants with the Council and the County Council and the Council and the County Council covenant with each other and the Owner as follows:

2 Link Road

2.1 In this Schedule the following terms have the following meanings:

2.1.1 **"A361 Junction Contribution"** means a financial contribution in the sum of £1,000,000 (one million pounds) plus the A361 Junction Loan Applicable Interest Rate (calculated to the date on which the Owner pays the A361 Junction Contribution to the Council) towards the cost to the Council of part forward funding the cost of the County Council delivering the A361 LILO Junction

2.1.2 **"A361 Junction Loan"** means the loan to be taken out by the Council to forward fund the cost of the County Council delivering the A361 LILO Junction taken out with the Public Works Loan Board as a New Loan Fixed Rate loan over a term of over 9 ½ years and not over 10 years

2.1.3 **"A361 Junction Loan Applicable Interest Rate"** means the interest rate to be applied to the A361 Junction Loan as notified to the Owner pursuant to paragraph 2.6 below and confirmed to the Owner pursuant to paragraph 2.7 below plus an additional 1% towards the Council's costs of taking out and servicing the loan over its term

2.1.4 **"Cost Limit"** means £3,684,211 (three million six hundred and eighty four thousand two hundred and eleven pounds) of which only £2,684,211 (two million six hundred and eighty four thousand two hundred and eleven pounds) shall be Index Linked and the Index Linking shall apply from the date of this Agreement to the date that contracts have been let for the construction of the Link Road by the Owner

2.1.5 **"Disposal"** means disposal (by way of sale or long lease) of such part or parts of the Land as are necessary to generate cumulative total net proceeds of more than the Target Figure following the deduction of any costs related to the sale(s) and/or tax

2.1.6 **"District Level Obligation"** means obligations given to and for the benefit of the Council pursuant to this Agreement

2.1.7 **"Target Figure"** means £3,684,211 (three million six hundred and eighty four thousand two hundred and eleven pounds) (Index Linked from the date of this Agreement to the date of the Disposal) less the A361 Junction Contribution

2.1.8 **"Total Cost Trigger Date"** means the date of the completion of the Link Road

2.1.9 **"Total Cost"** means the aggregate cost to the Owner of:

- (a) delivering the Link Road comprising the actual bona fide cost to the Owner of designing carrying out and completing the said works to an adoptable

standard (including without limitation any finance costs and the cost of obtaining any necessary consents, licences, agreements or other approvals required in order to carry out and complete the Link Road) as certified by an independent third party to be agreed by the parties; together with

(b) the A361 Junction Contribution

2.2 The Owner shall notify the Council and the County Council in writing of the date of the Disposal;

2.3 The Owner shall procure the completion of the Link Road so that it is open to all traffic by the occurrence of the earlier of the following events:

2.3.1 the expiration of a period of 12 months (or such other period as may be agreed with the Council in writing) commencing on the date of the Disposal; or

2.3.2 the Occupation of the first Dwelling

2.4 The Owner shall enter into an agreement with the County Council in relation to the Link Road under s38 or s278 of the Highway Act 1980 or otherwise as reasonably required by the County Council and such agreement shall be completed prior to commencing construction of the Link Road

2.5 (Subject to paragraph 3 of this Schedule) the Owner shall pay the A361 Junction Contribution to the Council no later than the occurrence of the earlier of the following events:

2.5.1 10 years from the date the County Council receives from the Council the sum comprising the A361 Junction Contribution; or

2.5.2 The Occupation of the 500th Dwelling

2.6 No less than 10 Working Days before the Council enters into any loan agreement or other similar binding arrangement relating to the A361 Junction Loan it shall confirm the applicable interest rate to the Owner in writing

2.7 Within 10 Working Days of the completion of the documentation necessary to effect the A361 Junction Loan the Council shall confirm to the Owner in writing the interest rate applicable to the A361 Junction Loan

2.8 The Council covenants with the Owner and the County Council that it will pay £1,000,000 (one million pounds) to the County Council to forward fund the cost of the County Council delivering the A361 LILO Junction at a time to be agreed by the Council and the County Council

3 Cost Balancing Provision

3.1 It is hereby acknowledged by the Council and the County Council that the Total Cost should not exceed the Cost Limit

3.2 Within 30 Working Days of the Total Cost Trigger Date the Owner shall notify the Council and the County Council of the Total Cost

- 3.3 In the event that the Total Cost exceeds the Cost Limit the Council (having first consulted with and having due regard to the statutory functions of the County Council) shall reduce one or more contributions which have not at that date been paid pursuant to this Agreement to create a total reduction to those sums equivalent to or no less than the sum calculated in accordance with the formula below:

(Total Cost minus the Cost Limit) minus any reduction in cost already received pursuant to paragraph 3.7 below = sum by which the contributions shall be reduced

PROVIDED THAT:

- 3.3.1 the Council and/or the County Council may instead elect to pay to the Owner a sum equivalent to or no less than the sum calculated in accordance with the formula above; and/or
- 3.3.2 the Council may agree a reduction or alteration in the quantum, tenure or mix of the Affordable Housing Units to be delivered pursuant to this Agreement to reduce the cost of delivering the Affordable Housing Units by a sum equivalent to or no less than the sum calculated in accordance with the formula above
- 3.4 The Council and the County Council hereby covenant with the Owner that any payment or reduction in cost pursuant to subparagraph 3.3 above shall be made within a period of 60 Working Days of the Total Cost Trigger Date
- 3.5 In the event that the Total Cost is less than the Cost Limit the Owner shall within 60 Working Days of the Total Cost Trigger Date pay a contribution to the County Council calculated in accordance with the following formula:
- Cost Limit minus (Total Cost minus any reduction in cost already received pursuant to paragraph 3.7 below) = contribution payable to the County Council ("the Cost Balancing Contribution")
- PROVIDED THAT in the event that a reduction in cost had already been received pursuant to paragraph 3.7 below the County Council shall (unless otherwise agreed in writing with the Council) pay to the Council such part of the Cost Balancing Contribution which is equivalent to the value of the total cost reduction attributable to any District Level Obligations
- 3.6 If at any point prior to the Total Cost Trigger Date it appears in the reasonable opinion of the Owner that the Total Cost will exceed the Cost Limit the Owner may notify the Council and the County Council in writing of the anticipated sum by which the Total Cost is likely to exceed the Cost Limit ("the Cost Notice")
- 3.7 The Owner, the Council and the County Council shall thereafter use reasonable endeavours for a period of 60 Working Days (following verification of the anticipated Total Cost by an independent third party to be agreed by the parties) to agree to:
- 3.7.1 reduce one or more contributions which have not at that date been paid pursuant to this Agreement to create a total reduction to those sums equivalent to or no less than the anticipated sum by which the Total Cost is likely to exceed the Cost Limit; and/or

3.7.2 reduce or alter the quantum, tenure or mix of the Affordable Housing Units to be delivered pursuant to this Agreement to reduce the cost of delivering the Affordable Housing Units by a sum equivalent to or no less than the anticipated sum by which the Total Cost is likely to exceed the Cost Limit

3.8 The Council and the County Council hereby covenant with the Owner that any payment or reduction in cost agreed pursuant to subparagraph 3.7 above shall be made within a period of 100 Working Days from the date of the Cost Notice

3.9 For the avoidance of doubt, should the procedure in paragraphs 3.6 to 3.8 be invoked it will be in addition to the procedure at paragraphs 3.3 to 3.5 not in substitution therefor

3.10 In the event that any reductions or alterations are agreed pursuant to paragraph 3.3 or 3.7 of this Schedule, the obligations contained in this Agreement which have been reduced or altered shall be deemed to have been varied and shall take effect subject to any such reductions or alterations as have been agreed

4 Public Transport and Cycle Improvements Contribution and Roundabout Works Contribution

4.1 To pay the Public Transport and Cycle Improvements Contribution to the County Council in the following instalments:

4.1.1 50% prior to first Occupation of the 200th Dwelling, and

4.1.2 The balance prior to first Occupation of the 300th Dwelling

4.1.3 not to allow cause or permit the Occupation of more than 200 Dwellings unless and until 50% of the Public Transport and Cycle Improvement Contribution has been paid to the County Council; and

4.1.4 not to cause or permit the Occupation of more than 300 Dwellings unless and until the balance of the Public Transport and Cycle Improvement Contribution has been paid to the County Council

4.2 To pay the Roundabout Works Contribution prior to the first Occupation of the 200th Dwelling

4.3 Not to allow cause or permit the Occupation of more than 200 Dwellings unless or until the Roundabout Works Contribution has been paid to the Council

5 Traffic Calming Contribution

5.1 To pay the Traffic Calming Contribution to the County Council in the following instalments:

5.1.1 £400,000 prior to Commencement of Development; and

5.1.2 to pay the balance of the contribution prior to the first Occupation of the 200th Dwelling

5.1.3 not to cause or permit Commencement of Development unless or until the first instalment of the Traffic Calming Contribution (as set out in Paragraph 5.1.1 above) has been paid to the County Council

- 5.1.4 not to cause or permit the first Occupation of more than 200 Dwellings or Commence Development of any part of the residential development on the Southern Land until all of the Traffic Calming Contribution (as set out in Paragraph 5.1.3 above) has been paid to the County Council

6 Sustainable travel pack

- 6.1 Within 12 months of Commencement of Development or prior to Occupation of the first Dwelling (whichever event is the later) to obtain the County Council's written approval to the form and content of the Sustainable Travel Pack.
- 6.2 Not to Occupy or permit or suffer the Occupation of any Dwelling unless or until the first Occupiers of that Dwelling have been provided with a Sustainable Travel Pack.

7 Travel Plan

- 7.1 Prior to the Occupation of any Dwelling or Commercial Unit in a Phase the Owner shall agree a Travel Plan relating to that Phase with the County Council which shall include the appointment of a Travel Plan co-ordinator PROVIDED THAT nothing herein prevents the Owner from agreeing a Travel Plan with the County Council that relates to more than one Phase.
- 7.2 To implement manage and monitor the Travel Plan approved in writing by the County Council (in so far as it relates to the relevant Phase) in accordance with the programme contained therein which shall include the funding of the Travel Plan co-ordinator to promote sustainable travel and to provide information to residents of the Development in accordance with the Travel Plan.
- 7.3 Except as otherwise agreed in writing by the County Council the Owner covenants not to Occupy or permit the Occupation of any Dwelling or Commercial Unit contained in a particular Phase other than in accordance with the approved Travel Plan relating to that Phase or any revisions thereof approved by the County Council.

Schedule 3

A361 Junction

1 Definitions

1.1 In this Schedule the following definitions shall apply (in addition to the general definitions):

1.1.1 **“Land North of A361”** means the land shown coloured light green and dark green on Plan 2 the exact location and boundaries of which shall be agreed between the County Council and the Owner as part of the Details

1.1.2 **“Land South of A361”** means the land shown coloured light pink and dark pink on Plan 2 the exact location and boundaries of which shall be agreed between the County Council and the Owner as part of the Details

1.1.3 **“Highway Works”** means the works to construct the A361 LILO Junction excluding the Link Road

1.1.4 **“A361 Junction Land”** means the land shown coloured dark green and dark pink on Plan 2 or as otherwise agreed pursuant to this Schedule

1.1.5 **“A361 Junction Easement Land”** means the land shown coloured yellow on Plan 2 (being the existing drainage ditch) or as otherwise agreed between the County Council and the Owner

1.1.6 **“A361 Junction Planning Permission”** means planning permission reference 14/01168/MFUL as varied by planning permission reference 16/01757/FULL

1.1.7 **“Certificate of Completion”** means a certificate to be issued by the County Council upon satisfactory completion of the A361 LILO Junction and/or the A361 Junction Northern Side

1.1.8 **“Details”** means a detailed design of the A361 LILO Junction and/or the A361 Junction Northern Side including engineering drawings and details of the exact position of any position of any spurs or roundabouts which detailed design shall be generally in accordance with Plan 6

1.1.9 **“Licence”** means a licence relating to the relevant area of land which would enable the County Council to construct the relevant part of the A361 LILO Junction and/or the A361 Junction Northern Side

1.1.10 **“Services”** means such services as the Owner shall reasonably require to facilitate the construction of the Development

2 Timing of Licences

2.1 The County Council and the Owner shall use reasonable endeavours to enter into a Licence for the following areas of the Land as soon as reasonably practicable but in any event within the following timescales:

2.1.1 The Licence relating to the Land North of A361 by no later than 10 years from the date of this Deed

2.1.2 The Licence relating to the Land South of A361 by no later than 1 July 2017

3 Agreement of Details

3.1 Prior to the letting of contracts for the A361 LILO Junction the County Council shall:

3.1.1 submit the Details in draft to the Owner and;

3.1.2 use reasonable endeavours to agree the Details with the Owner (such agreement not to be unreasonably withheld or delayed)

3.2 Prior to the letting of contracts for the A361 Junction Northern Side the County Council shall:

3.2.1 submit the Details in draft to the Owner and;

3.2.2 use reasonable endeavours to agree the Details with the Owner (such agreement not to be unreasonably withheld or delayed)

3.3 The County Council shall not cause or permit the construction of the A361 LILO Junction or the A361 Junction Northern Side other than in accordance with the Details agreed with the Owner pursuant to paragraph 3.1 or 3.2 (as appropriate) above PROVIDED THAT

3.3.1 any revisions to those details which fall within the red line as shown on the site location plan submitted and approved in connection with the A361 Junction Planning Permission that do not impede or hinder delivery of the Development will not require Owner consent; and

3.3.2 Any works that fall outside the red line of the site location plan submitted and approved in connection with the LILO Planning Permission, or any significant changes in the alignment of the road or works that impact the of the delivery or viability of the Development must first be agreed in writing between the Owner and the County Council

3.4 The County Council hereby covenants to use reasonable endeavours where practicable in designing and constructing the A361 LILO Junction to accommodate such Services as may be required for the Development but for the avoidance of doubt should such Services be provided any additional cost above that of the tendered contract will be met by the Owner or their successors in title.

3.5 Within 3 months of this Agreement, the County Council shall submit to the Owners for approval in writing a timetable for the construction and completion of the A361 LILO Junction and the A361 Junction Northern Side which shall include target dates for phased completion (if available in the case of the A361 Junction Northern Side) and shall thereafter:

3.5.1 use reasonable endeavours to construct and complete the A361 LILO Junction in accordance with the approved timetable; and

- 3.5.2 in any event construct and complete the A361 LILO Junction to adoptable standards;
and
- 3.5.3 procure the adoption of the A361 LILO Junction as highway maintainable at public expense within 10 Working Days of the issue of the Part 2 Certificate for the Link Road
- 3.5.4 in the event that the Link Road is constructed open the A361 LILO Junction to traffic within 2 years of the commencement of construction of the A361 LILO Junction

4 Construction of Junction

5 The County Council shall notify the Owners within 10 Working Days the occurrence of the following events:

- 5.1 Letting a contract for the construction of the A361 LILO Junction
- 5.2 Letting a contract for the construction of the A361 Junction Northern Side
- 5.3 Commencement of construction of the A361 LILO Junction
- 5.4 Commencement of construction of the A361 Junction Northern Side
- 5.5 Completion of construction of the A361 LILO Junction to binder course level
- 5.6 Completion of construction of the A361 Junction Northern Side to binder course level
- 5.7 Issue of Certificate of Completion for the A361 LILO Junction
- 5.8 Issue of Certificate of Completion for the A361 Junction Northern Side
- 5.9 The opening of the A361 LILO Junction to all traffic as a public highway
- 5.10 The opening of the A361 Junction Northern Side to all traffic as a public highway

Safeguarding the A361 Junction Land

- 6 Unless otherwise agreed by the County Council, until such date as a Licence relating to the relevant part of the A361 LILO Junction and/or the A361 Junction Northern Side has been completed the Owner shall:
- 6.1 not build, erect or place any structures on the A361 Junction Land unless otherwise agreed in writing by the County Council
 - 6.2 not encumber the A361 Junction Land or permit or allow any other person to use or occupy or acquire any rights over the A361 Junction Land PROVIDED THAT unless otherwise agreed with the Owner in writing this covenant shall cease on the earlier of the date that the A361 LILO Junction and/or the A361 Junction Northern Side (as appropriate) is first built and opens to traffic or the date upon which a Certificate of Completion has been issued by the County Council

Transfer of the A361 Junction LILO Land

- 7 Within 20 Working Days of issue of the Certificate of Completion in relation to the A361 LILO Junction the Owner shall transfer to the County Council for nil consideration the freehold interest in any part of the Land comprised the A361 LILO Junction to the County Council PROVIDED THAT:
- 7.1 the land required for the A361 LILO Junction may include any footways or areas of highway verge which are necessary for the proper functioning of the A361 LILO Junction and which are adopted as (or will be adopted as) public highway; and
 - 7.2 the final route and width of the A361 LILO Junction does not differ materially from the details approved pursuant to paragraph 3.1 of this Schedule (unless otherwise agreed in writing); and
 - 7.3 nothing contained herein shall prevent either the Owner from transferring any part of land within its ownership as public highway at an earlier stage should it choose to do so; and
 - 7.4 any land so transferred shall already be highway maintainable at public expense or shall become highway maintainable at public expense on the date of the transfer
- 8 Following the transfer of the relevant part of the Land to the County Council pursuant to this paragraph 7 the transferred area of Land shall be released from the obligations contained in this Agreement save for the obligations contained in this Schedule 3

9 Transfer of the A361 Junction Northern Side

- 9.1 Within 20 Working Days of issue of the Certificate of Completion in relation to the A361 Junction Northern Side the Owner shall transfer to the County Council for nil consideration the freehold interest in any part of the Land comprised the A361 Junction Northern Side to the County Council (which land shall have the status of public highway) PROVIDED THAT:
- 9.1.1 the land required for the A361 Junction Northern Side may include any footways or areas of highway verge which are necessary for the proper functioning of the A361 Junction Northern Side and which are adopted as (or will be adopted as) public highway; and
 - 9.1.2 the final route and width of the A361 Junction Northern Side does not differ materially from the details approved pursuant to paragraph 3.2 of this Schedule (unless otherwise agreed in writing); and
 - 9.1.3 nothing contained herein shall prevent either the Owner from transferring any part of land within its ownership as public highway at an earlier stage should it choose to do so; and
 - 9.1.4 any land so transferred shall already be highway maintainable at public expense or shall become highway maintainable at public expense on the date of the transfer

10 Following the transfer of the relevant part of the Land to the County Council pursuant to this paragraph 8 the transferred area of Land shall be released from the obligations contained in this Agreement save for the obligations contained in this Schedule 3

11 Grant of Easement

11.1 Within 20 Working Days of issue of the Certificate of Completion in relation to the A361 Junction Northern Side the Owner shall grant an easement to the County Council to enable the County Council to maintain the A361 Junction Easement Land and to discharge surface water through and/or across the A361 Junction Easement Land subject to such reasonable restrictions and conditions as are reasonably necessary for the proper agricultural functioning of their land including an obligation on the County Council to make good any damage to the reasonable satisfaction of the Owner

Further Covenants on the part of the County Council

12 Unless otherwise agreed by the Owner in writing the County Council shall:

12.1 use reasonable endeavours to complete the A361 LILO Junction to the stage where it is open to traffic in accordance with the timetable agreed with the Owner and in any event within a period of 24 months from the date of commencement of the Highway Works

12.2 use reasonable endeavours to procure the adoption of any Services within the A361 LILO Junction as soon as reasonably practicable

12.3 indemnify the Owner against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Owner arising out of or in connection with:

12.3.1 the design, construction or operation of the A361 LILO Junction and/or the A361 Junction Northern Side; and

12.3.2 the exercise of any rights granted to the County Council pursuant to this Agreement

Schedule 4

Discount Market Housing Units

- 1 In this Schedule the following terms shall have the following meanings:
 - 1.1 **"Commence Marketing"** means the formal release of a Discount Market Housing Unit for build and the release of the asking prices of the units to the public and **"Commencement of Marketing"** shall be construed accordingly;
 - 1.2 **"Estate Agent"** means an independent estate agents who are either Members of the Royal Institution of Chartered Surveyors or the National Association of Estate Agents
 - 1.3 **"Market Value"** means the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion;
- 2 The Owner covenants with the Council as follows:-
 - 2.1 The Owner shall not dispose of a Discount Market Housing Unit unless and until the Owner has:
 - 2.1.1 given not less than 14 Working Days prior written notice to the Council of their intention to market the Discount Market Housing Unit(s) for sale PROVIDED THAT on the first disposal of a Discount Market Housing Unit the earliest date upon which the said notice may be validly served shall be two calendar months following commencement of construction of the relevant Discount Market Housing Unit(s) and FURTHER PROVIDED THAT commencement of construction shall have been notified to the Council in writing within 5 Working Days
 - 2.1.2 provided 2 Market Value valuations of the Discount Market Housing Units from Estate Agents; and
 - 2.1.3 provided the name of the first Estate Agents instructed
 - 2.2 The Owner shall Commence Marketing within 10 Working Days of receipt of written approval from the Council of the 2 Market Value valuations referred to in paragraph 2.1 above (in the event that the Council does not respond to the Market Valuations referred to in paragraph 2.1 above within 10 Working Days their approval shall be deemed)
 - 2.3 The selling price of the Discount Market Housing Units shall be the average of the Market Value from the 2 Market Value valuations referred to in paragraph 2.1 of this Schedule with a 20% discount from the average figure
 - 2.4 The price at which the Discount Market Housing Units shall be sold shall be no more than 80% of Market Value in perpetuity

- 2.5 The Owner shall use its reasonable endeavours to sell the Discount Market Housing Units to a Designated Person nominated by the Council
- 2.6 If no Designated Person has purchased the Discount Market Housing Unit pursuant to paragraph 2.5 within 4 months of the Commencement of Marketing the owner of the relevant Discount Market Housing Unit shall use reasonable endeavours to sell the Discount Market Housing Unit(s) at no more than 80% of Market Value to an AHP and/or the Council
- 2.7 If the Owner has not exchanged contracts for the sale of the Discount Market Housing Unit with an AHP and/or the Council within 6 months of the Commencement of Marketing the Owner shall notify the Council in writing that it has not exchanged contracts for the sale of the Discount Market Housing Unit and shall request written consent from the Council the Owner shall be free to sell the Discount Market Housing Unit at no more than 80% of Market Value to any person PROVIDED THAT the provisions of this Schedule shall (unless otherwise agreed in writing by the Council) apply in full in respect of any subsequent disposals of the said Discount Market Housing Unit
- 2.8 Prior to exchange of any sale contract the Owner shall provide the Council with evidence that the proposed purchaser of the Discount Market Housing Unit meets the criteria set out in paragraphs 2.5 to 2.7 (inclusive) above
- 2.9 The transfer of each Discount Market Housing Unit (save for any transfer made to the Council or an AHP pursuant to paragraph 2.6 above) shall contain the following covenants and provisions:
- 2.9.1 Not to let the whole or part of the dwelling for a period in excess of six months in any period of ownership and not without the prior written consent of the Council (such consent not to be unreasonably withheld or delayed but for the avoidance of doubt it shall be reasonable for the Council to refuse to give consent if the proposed rent payable does not reflect the discounted sale price of the dwelling)
- 2.9.2 On any sale and all subsequent resales of the Discount Market Housing Unit(s) the owner of the Discount Market Housing Unit ("the Seller") covenants:-
- (a) Not to transfer the dwelling at a price greater than 80% of the Market Value of the dwelling in perpetuity
- (b) Not to let the whole or part of the dwelling for a period of in excess of six months in any period of ownership and not without the prior written consent of the Council (such consent not to be unreasonably withheld or delayed but for the avoidance of doubt it shall be reasonable for the Council to refuse to give consent if the proposed rent payable does not reflect the discounted sale price of the dwelling)

- (c) to notify the Council in writing of the intention to sell and to provide the Council with two independent valuations from Estate Agents for the Market Value of the dwelling. The selling price for the dwelling will be the average of the Market Value from the two valuations with a 20% discount from the average figure.
 - (d) to contract to sell only to those persons and in the timescales set out in Paragraphs 2.5 to 2.7 (inclusive) of Schedule 3 of the Section 106 Agreement entered into between (1) the Council (2) the County Council and (3) the Owner and (4) the Bank dated the day of 2017 and prior to exchange of contracts to supply to the Council with evidence of the proposed purchaser's residence, employment and income provided that if a person cannot be identified who satisfies the requirements of the said paragraphs within four months from first marketing the dwelling the seller may ask the Council in writing to consent to the sale of the Discount Market Housing Unit on such other terms as may be proposed by the seller (such consent not to be unreasonably withheld)
- 2.10 The Council shall within 10 Working Days of receipt of such notification referred to in paragraph 2.9.2(c) of this Schedule confirm to the seller:
- 2.10.1 the agreed Market Value valuation for the dwelling (being the average of the two valuations referred to in paragraph 2.9.2(c)); and
 - 2.10.2 the discount to be applied
- 2.11 On completion of the sale of the Discount Market Housing Unit a fee of £50 shall be payable to the Council by the person selling the Dwelling to cover reasonable administration costs incurred by the Council such sum to be reviewed every five years from the date of this Deed in line with inflation

Schedule 5

Covenants by the Council and County Council

Part 1

Covenants by the Council

The Council hereby covenants with the Owner as follows:

Repayment of Financial Contributions

- 1 If any financial contribution or any part thereof has not been spent or committed by the Council within 10 years from the date it was paid towards the purpose of which it was paid then the Council shall refund the relevant financial contribution or uncommitted part thereof together with all interest accrued thereon to the Owner (in this case meaning the Chettiscombe Trust not including any successors in title).
- 2 To enable the Owner or the person by whom the payment was made to ascertain whether a financial contribution has been spent or committed the Council shall upon the written request of the Owner or said person make available such information as the Owner or the said person might reasonably request and if the Council is unable to provide that information the financial contribution shall be repaid.
- 3 To ensure any financial contribution paid to the Council pursuant to this Deed is used solely towards funding the use or works for which it was paid.

Part 2

Covenants by the County Council

The County Council hereby covenants with the Owner as follows:

Repayment of Financial Contributions

- 1 If any financial contribution or any part thereof has not been spent or committed by the County Council or its Nominee within 10 years from the date it was paid towards the purpose of which it was paid then the County Council shall refund the relevant financial contribution or uncommitted part thereof together with all interest accrued thereon to the Owner (in this case meaning the Chettiscombe Trust not including any successors in title).
- 2 To enable the Owner or the person by whom the payment was made to ascertain whether a financial contribution has been spent or committed the County Council or its Nominee shall upon the written request of the Owner or said person make available such information as the Owner or the said person might reasonably request and if the County Council is unable to provide that information the financial contribution shall be repaid.
- 3 To ensure any financial contribution paid to the County Council or its Nominee pursuant to this Deed is used solely towards funding the use or works for which it was paid.

Schedule 6

Expert Determination Procedure

- 1 The following provisions shall apply in the event that a dispute is referred to an expert for determination
 - 1.1 If the parties fail to agree upon the identity of the person to be appointed as the expert within 20 Working Days then either party may apply to the President of the Royal Institution of Chartered Surveyors or such other body as may more appropriate depending on the nature of the dispute (the 'Appointing Authority') to appoint a person to act as an expert to determine the matters in dispute requesting that the appointment be made within 10 Working Days of receipt of the request by the Appointing Authority
 - 1.2 The person identified to act as an expert shall confirm within 10 Working Days whether or not he is willing and able to accept the appointment
 - 1.3 In the event that the expert so appointed does not confirm his availability to act within 10 Working Days then either party may request the Appointing Authority to suggest an alternative appointment until a person so identified confirms that he is willing and able to accept the appointment
 - 1.4 No person shall be appointed to act as an expert under this agreement unless he is qualified by education, experience and training to determine the matter in dispute
 - 1.5 The following provisions shall apply to the appointment of the expert:
 - 1.5.1 Each party shall bear their own costs in connection with the reference of a dispute to an expert and the costs of the expert will be paid by the parties to the dispute in equal proportions
 - 1.5.2 The expert shall give the parties to the dispute an opportunity to make representations to him before making his decision
 - 1.5.3 Save for submissions made orally to the expert at a meeting at which all parties are present, any other communications between any party and the expert shall be made in writing and a copy thereof shall be provided simultaneously to all other parties. For the avoidance of doubt, no meeting between the expert and a party shall take place unless all parties have had notice of such meeting and have been offered a reasonable opportunity to attend such meeting
 - 1.5.4 The expert shall make his decision within the range of any representations made by the parties to the dispute
 - 1.5.5 The expert shall comply with any time limit or other directions agreed by the parties to the dispute on or before his appointment

Save in the case of fraud or manifest error the determination of the expert shall be binding on both parties

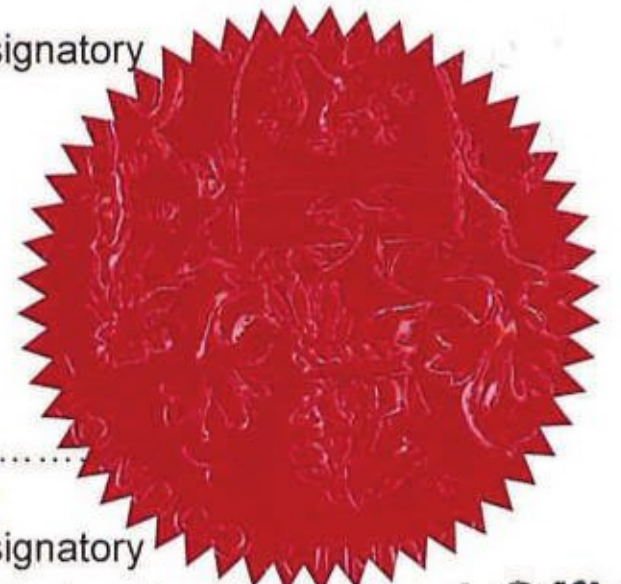
Seal no:
10677

The common seal of **MID DEVON COUNCIL**)
was affixed to this Deed in the presence of:)



Authorised signatory

EXECUTED as a **DEED**)
by affixing the common seal of **DEVON**)
COUNTY COUNCIL)
was affixed to this Deed in the presence of:)



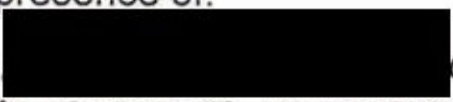
MEGAN CRONIN

Authorised signatory

DOCUMENT No. 48132

SIGNED as a **DEED** by)
SIR IAN HEATHCOAT AMORY)
in the presence of:)

A Duly Authorised Office



*CAROLINE WALKER (SOLICITOR)
110 CLARKE WILLMOTT, BLACKBROOK GATE,
BLACKBROOK PARK AVENUE, TAUNTON*

SIGNED as a **DEED** by)
FRANCES LOUISE LADY HEATHCOAT)
AMORY acting by her duly authorised attorney)
in the presence of:)



*For and on behalf of Clarke Willmott Trust
Cooperation limited.*



ALEXANDRA MCGILL

*CLARKE WILLMOTT, BLACKBROOK
GATE, TAUNTON*

EXECUTED as a **DEED** by)
NATIONAL WESTMINSTER BANK PLC,)
acting by its duly authorised attorney)
in the presence of:)



Signed and Delivered as a Deed
For and on behalf of
National Westminster Bank Plc
By a duly authorised Attorney

In the presence of **DAVID FOSTER**



Martyn Freeman

DOCUMENTOR
CREDIT DOCUMENTATION
REF 4494150 / MDS

Witness' Signature-Bank employee