

DATED 15th March 2021

We hereby certify this to be
a true copy of the original.


DARLINGTON HARDCASTLES
Solicitors

STACKBOURNE LIMITED

to

ST ALBANS DISTRICT COUNCIL
and
HERTFORDSHIRE COUNTY COUNCIL

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28 Church Street
Rickmansworth WD3 1DD

Unilateral Planning Obligation by Deed

Under Section 106 of The Town And Country Planning Act 1990
and Section 111 Local Government Act 1972

Relating to the development of land at
Smallford Works,
Smallford Lane, Smallford, St Albans Herts (5/2019/3022)

DARLINGTON HARDCASTLES

28 Church Street, Rickmansworth, Herts WD3 1DD
(HDS S414-188/15 3 21/d16 LISA)

THIS DEED OF UNILATERAL OBLIGATION is made the 15th day of March 2021

BY **STACKBOURNE LIMITED** Company Registration Number 1414065) whose registered office is at Merritt House, Hill Avenue, Amersham, Bucks HP6 5BQ ("the Developer")

TO **ST ALBANS DISTRICT COUNCIL** of Civic Centre, St Peters Street, St Albans, Herts AL1 3JE ("the District Council") and

HERTFORDSHIRE COUNTY COUNCIL of County Hall, Pegs Lane, Herford, Herts SG13 8DE ("the County Council")

WHEREAS:-

- (1) The Council and the County Council are the local planning authorities for the area in which the land is situated and are the authorities entitled to take the benefit of this Deed and by whom the obligations in this Deed are enforceable
- (2) The Developer is the freehold owner of the Land
- (3) The Developer has submitted the Application to the Council
- (4) The Application was refused by the Council on 16th July 2020 and an appeal to be heard at a local enquiry was lodged with the Secretary of State on 2nd October 2020
- (5) The Developer has entered into this Deed pursuant to the provisions of the Operative Acts upon the terms and conditions hereinafter appearing with the intention that it shall be binding not only upon the parties to this Deed but also upon their successors in title and any persons claiming through under or in trust for them
- (6) The Developer considers that the obligations contained in this Deed serve planning purposes and are material to the Application and are relevant considerations to the Planning Permission being granted
- (7) The Developer and the Councils have negotiated the terms of a planning obligation by deed of agreement but despite the best efforts of all parties a few outstanding points remain to be agreed such that the final form will not be ready for signature by the date of the local enquiry recited in (4) above

IT IS AGREED:

1 Interpretation

- 1.1 In this Agreement unless the context otherwise requires the following terms shall have the following meanings:

1990 Act

means the Town and Country Planning Act 1990 (as amended);

Agreement

means this Deed of Unilateral Obligation;

Appeal

means the planning appeal lodged with the Secretary of State following the refusal of the Application by the Council under reference Ref: APP/B1930/W/20/3260479

Application

means the application for the Development submitted by or on behalf of the Developer to the Council to which the Council has allocated reference number 5/2019/3302;

HM Land Registry
Official copy of
title plan

Title number **HD131971**
Ordnance Survey map reference **TL1906NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Hertfordshire : St Albans**



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CIL Regulations

means the Community Infrastructure Levy Regulations 2010 (as amended);

Conditions Precedent

means the conditions contained in clause 4;

Decision Letter

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

Development

means the redevelopment of the Land and including demolition of existing buildings to provide up to 100 residential units in accordance with the Application;

Expert

means an independent and fit person holding professional qualifications appropriate in light of the subject matter of the dispute, to be appointed (in the absence of agreement) by the president (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications.

Implementation

means commencement of development pursuant to the Permission by the carrying out of a "material operation" (as defined in section 56(4) of the 1990 Act) save that for the purposes of this Agreement the term shall not include works of demolition, surveys, site clearance, works of archaeological or ground investigation or remediation, the erection of fencing or hoardings, the provision of security measures or lighting, the erection of temporary buildings or structures associated with the Development, the laying, removal or diversion of services, the provision of construction compounds, the temporary display of site notices or advertisements or piling works (and "Implement" and "Implemented" shall be construed accordingly);

Implementation Date

means the date the Development is Implemented

PUBSEC Index

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

Indexed

means increased in accordance with clause 15;

Land

means the freehold property situate at Smallford Works, Smallford Lane, Smallford, St Albans Herts land edged red on the Plan registered at HM Land Registry with title number HD131971,

Occupation

means occupation for the purposes permitted by the Permission but does not include occupation for the purposes of fitting out,

decoration, marketing, staff training or site security (and "Occupy" and "Occupying" shall be construed accordingly);

Permission

means outline planning permission (subject to conditions) to be granted pursuant to the Appeal by the Secretary of State or the Planning Inspector

Plan

means the plan attached to this Agreement being a copy of the Land Registry title plan HD131971;

Planning Inspector

means the inspector appointed by the Secretary of State to preside over the hearing in relation to the Appeal

Practical Completion

means the issue of a certificate of practical completion of the Development by the Developer's architect or in the event that the Development is constructed by a party other than the Developer the issue of a certificate of practical completion by that other party's architect that the Development has been constructed and is available for Occupation;

Residential Units

means the units of residential accommodation provided as part of the Development and "Residential Unit" shall be construed accordingly;

RPI Index

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

Secretary of State

means the Secretary of State for Communities and Local Government, or any other minister or authority for the time being entitled to exercise the powers under ss 74, 77 and 79 of the 1990 Act, and shall include any planning inspector appointed to exercise such function on his behalf;

SPONS INDEX

means index linked by reference to the price adjustment formula for constructions contracts in the monthly bulletin of indices published by Her Majesty's Stationery Office as collated into a single index known as the SPONS Construction Civil Engineering Cost index;

Working Day(s)

means a day other than a Saturday or Sunday or public holiday in England.

- 1.2 References in this Agreement to the "Developer" shall include its successors in title to the Land and its assigns.
- 1.3 References in this Agreement to the "Council" shall include any successor to its functions as local planning authority.
- 1.4 References in this Agreement to the "County Council" shall include any successor to its functions as local highway authority, social services authority and education authority.

- 1.5 References in this Agreement to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force and references to a statute include statutory instruments and regulations made pursuant to it.
- 1.6 The clause headings in this Agreement are for convenience only and do not form part of the Agreement.
- 1.7 References to clauses paragraphs schedules or recitals shall (unless the context otherwise requires) be references to clauses paragraphs and schedules or recitals in this Agreement.
- 1.8 References to the singular shall include the plural and vice versa.
- 1.9 Where any covenants in this Agreement are given by or for the benefit of more than one party they are given by or for the benefit of them jointly and severally.

2 Statutory powers

- 2.1 This Agreement entered into by Deed is a planning obligation for the purposes of s106 of the 1990 Act and is entered into pursuant to s106 of the 1990 Act and s111 of the Local Government Act 1972 and s 1 of the Localism Act 2011 and it is acknowledged by the Developer hereto that the obligations contained within it are binding on the Land and are enforceable by the Council and the County Council against the Developer as owner of the Land and against its successors in title and assigns in respect of its interests in each and every part of the Land.

3 Land bound

- 3.1 The Land is bound by the obligations in this Agreement.
- 3.2 Other than is referred to in Part F of Schedule 1 none of the obligations in this Agreement shall bind owners of any Residential Units provided they own such units for their own occupation nor any statutory undertaker or public authority which acquires any part of the Land or an interest in it for the purposes of its statutory functions.

4 Conditionality and enforceability

- 4.1 The obligations in this Agreement (save for the provisions of clause 7 which shall come into effect immediately upon completion of this Deed) are unless otherwise specified conditional upon:
- 4.1.1 the Appeal being allowed.
- 4.1.2 Implementation of the Permission.
- 4.2 If in determining the Appeal the Secretary of State or the Planning Inspector expressly states in the Decision Letter that any planning obligation contained in this Deed:
- 4.2.1 is not a material planning consideration; or
- 4.2.2 can be given no or little weight in determining the Appeal; or
- 4.2.3 does not constitute a reason for granting Planning Permission in accordance with Regulation 122 of the CIL Regulations;

then such planning obligation shall not be enforceable pursuant to this Deed and shall cease to have effect within this Deed save as set out in the Decision Letter.

5 Developer's covenants

The Developer covenants with the Council and the County Council that it will observe and perform the covenants on its part contained in Schedule 1.

6 Release and lapse

- 6.1 This Deed is entered into by the Developer on the basis that the Developer or its successors in title shall not be liable for a breach of any of its respective obligations under this Agreement, after it has parted with its interest in the Land or the part in respect of which the breach arises (as the case may be) other than in respect of any breach by it at the time when they held such an interest; and
- 6.2 this Agreement shall lapse and be of no further effect if:
- 6.2.1 the Permission shall expire without having been Implemented; or
- 6.2.2 the Permission shall be withdrawn, varied or revoked otherwise than with the consent of the Developer; or
- 6.2.3 the Permission is quashed following a successful legal challenge.
- 6.3 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this Agreement

7 Local land charge

- 7.1 This Agreement is a local land charge and the Developer agrees that Council shall register it as such as soon as practicable after the completion of this Agreement.
- 7.2 Following the performance and satisfaction of all the obligations contained in this agreement the Developer requires the Council to forthwith cancel all the entries made in the register of local land charges in respect of this Agreement.

8 No fetter on discretion

Nothing in this Agreement shall fetter or prejudice the Council's and the County Council's statutory rights powers discretions and responsibilities (save where legally or equitably permitted) under all statutes by-laws statutory instruments orders and regulations in the exercise of their statutory functions.

9 Severability

It is agreed that if any part of this Agreement is declared unlawful or invalid by a Court of competent jurisdiction then (to the extent possible) the offending provision(s) will be severed from the Agreement and the remainder of this Agreement shall continue in full force and effect.

10 Legal costs

- 10.1 If the Appeal is allowed and the Permission is Implemented the Developer will pay the Council £2,100.00 towards the Council's reasonable legal costs for implementation of this Agreement.
- 10.2 If the Appeal is allowed and the Permission is Implemented the Developer will pay the County Council £2,100.00 towards the County Council's reasonable legal costs for the implementation of this Agreement.

11 Contracts (Rights of Third Parties) Act 1999

Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 no part of this Agreement shall be enforceable by a third party who is not a party to the Agreement other than the Council and the County Council both of which may enforce its terms if the Appeal is allowed and the Permission is Implemented and the terms of the Agreement may be varied by a deed agreed between the parties without the consent of any third party being required.

12 Notices

12.1 Any notices required to be served by one party on another under this Agreement shall be in writing and served by first class special delivery, or by hand in the following manner:

12.1.1 on the Council at the address shown above marked 'For the attention of Head of Planning and Building Control, St Albans City and District Council, The Council Offices, Civic Centre, St Peter's Street, St Albans, Hertfordshire, AL1 3JE (5/2019/3022)';

12.1.2 on the County Council at the address shown above marked 'For the attention of The Chief Legal Officer, Hertfordshire County Council, County Hall, Pegs Lane, Hertford (ref:)00(); and

12.1.3 on the Developer at the address shown above marked 'For the attention of David M Norman'.

13 Indexation of financial contributions

13.1 The Library Contribution, the Secondary Education Contribution and the Youth Contribution shall each be index linked by reference to the PUBSEC Index figure of 175 to the figure applicable to the quarter in which the contribution is paid.

13.2 Where any sum is required to be index linked by reference to the PUBSEC Index that sum payable shall be increased in accordance with any change in the Department of Trade and Industry Tender Price Index of Public Sector Non-Housing (PUBSEC) Smoothed All-in Index by the application of the formula $A = B \times (C/D)$ where:-

A is the total amount to be paid;

B is the principal sum stated in this deed;

C is the PUBSEC Smoothed All-in Index for the date upon which the interim payment described below is actually paid and;

D is the figure of 175

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

13.4. The Travel Plan Evaluation and Support Contribution shall be index-linked by reference to the RPI Index figure of May 2014 to the finalised figure applicable to the quarter in which that sum is paid.

13.5 Where any sum to be paid to the County Council under the terms of this Deed is required to be indexed then an interim payment shall initially be made based on

the latest available forecast figure (or figures as the case may be) at the date of payment and any payment or payments by way of adjustment shall be made within ten (10) Working Days of written demand by the County Council or the Developer (as the case may be) once the relevant index/ indices have been finalized.

14 Interest on late payments

Any payment due from the Developer under this Agreement which is not paid on the due date shall be payable with interest calculated at the rate of four per cent above the base lending rate from time to time of Barclays Bank plc from the due date until date of payment.

15 VAT

All consideration set out in this Agreement is exclusive of VAT (unless the contrary is expressly stated).

16 Consent of mortgagee

Any future mortgagee of the Land shall have no liability under this Agreement unless it itself caused the breach of the Agreement whilst mortgagee in possession, in which case it too will be bound by the obligations as if it were a person deriving title in the Land from the Developer. Any future mortgagee of the Land shall in no circumstances be liable for any pre-existing breach. Any future mortgagee of the Land shall have no liability after they have discharged the security or disposed of the Land which is subject to their security, whether by sale or otherwise.

17 Dispute resolution

- 17.1 In the event of any dispute or difference arising between the parties arising out of this Agreement such dispute or difference may be referred to the Expert.
- 17.2 In the absence of agreement between the parties as to the appointment or suitability of the expert to be appointed pursuant to clause 17.1, or as to the appropriate professional body, within ten Working Days after any party has given to the other parties to the dispute a written request to concur in the professional qualifications of the expert to be appointed pursuant to clause 17.1 then that question shall be referred to a solicitor to be appointed by the President for the time being of the Law Society of England and Wales on the application of any party to the dispute or difference. Such solicitor shall act as an expert and his decision shall be final and binding on the parties save in the case of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute or difference in equal shares.
- 17.3 The Expert shall act as an expert and not as an arbitrator.
- 17.4 The Expert shall be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 46 Working Days from the date of his appointment to act.
- 17.5 The Expert shall be required to give notice to each of the said parties inviting them to submit to him within ten Working Days of his appointment written submissions and supporting material and shall afford to each of the said parties an opportunity to make counter submissions within a further 15 Working Days in respect of any such submission and material. The Expert's decision shall be given in writing within 20 Working Days from receipt of any counter submissions or in the event that there are no counter submissions within 21 Working Days of receipt of the written submissions and supporting material with

reasons and in the absence of manifest material error the Expert's decision shall be final and binding on the said parties.

17.6 The Expert may award the costs of the dispute resolution in such proportions as he sees fit but in the absence of an express award to this effect the costs of the dispute resolution shall be borne by the parties to the dispute in equal shares.

17.7 For the avoidance of doubt Developer agrees that the County Council shall not be required to submit to or be bound by the provisions of Clauses 17.1 to 17.6

18 Waiver

No waiver (whether expressed or implied) by any of the parties hereto of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the enforcement of any of the relevant terms or conditions or for acting upon any subsequent breach or default.

19 Change in ownership

The Developer agrees with the Council and the County Council to give the Council and the County Council written notice within 20 Working Days of any change in ownership of its interests in the Land occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) and of the area of land or unit of occupation purchased by reference to a plan.

20. If prior to the receipt of any of the Library Contribution the Secondary Education Contribution the Youth Contribution the Travel Plan Evaluation and Support Contribution and the Sustainable Transport Contribution the County Council incurs any expenditure in providing additional libraries, secondary schools, youth facilities, travel plan measures and sustainable transport measures as the case may be the need for which arises from or in anticipation of the Development then the County Council may be may immediately following receipt of relevant contribution deduct from that contribution such expenditure incurred.

This Agreement has been executed as a deed and delivered on the date stated at the beginning of this Agreement.

Schedule 1

Developer covenants

Part A: Notifications

- 1 The Developer covenants with the Council and the County Council to notify the Council and the County Council of the occurrence of the following:
 - 1.1 Implementation of Development no less than five (5) Working Days notice of the Implementation Date such notice to be given prior to the Implementation Date
 - 1.2 The provision of the County Council Contributions as set out in part B.
 - 1.3. The completion of the matters set out in part C.
 - 1.4 The payments set out in Part D.
 - 1.5 The provision of the Play Area referred to in Part E.
 - 1.6 The submission of the Affordable Housing Scheme as set out in Part F
 - 1.7 The Practical Completion of the Development
 - 1.8 Occupation of the Development
- such notice to be in writing using the proforma set out in Schedule 3 hereto

Part B: County Council Contributions

Definitions

County Council Contributions

means the Ecological Contribution, the Library Contribution, the Secondary Education Contribution, the Travel Plan Evaluation and Support Contribution, the Sustainable Transport Contribution and the Youth Contribution and 'County Council Contributions' shall be construed accordingly;

Ecological Contribution means: a financial contribution of £5,000 to the County Council prior to Occupation to facilitate the undertaking of improvements to public rights of way within the Local Wildlife Site situate adjacent to the Land which improvements at the discretion of the County Council may comprise (but shall not be limited to):

1. Staked signposts at regular intervals along the paths supplemented by 'finger signs' at key junctions, such as the start of the Footpath 11 and/or the junction of Footpaths 11 and 39 (to be implemented prior to occupation);
2. The addition of planings or other surfacing to sensitive points along the footpath (to be implemented prior to occupation); and
3. The production of an information pack for new residents (to be implemented prior to occupation).

Library Contribution: means the sum calculated in accordance with the table set out in Schedule 2 (index linked as hereinafter provided) as a contribution towards the enhancements of the children's area at Marshalswick Library

Secondary Education Contribution: means the sum calculated in accordance with the table set out in Schedule 2 (index linked as hereinafter provided) as a contribution towards the expansion of Samuel Ryder Secondary School by 1FE

Sustainable Transport Contribution: means the sum calculated in accordance with the table set out in Schedule 2 (index linked as hereinafter provided) as a contribution towards improving walking infrastructure within the area in which the Development is situated such as at the access Sleapshyde Lane in the form of dropped kerbs and tactile paving, and at the access of Sleapeross Gardens in the form of tactile paving.

Travel Plan Evaluation and Support Contribution: means the sum of six thousand pounds (£6,000) (Index Linked as hereinafter provided) based on five years' post Full Occupation as a contribution towards the cost of the County Council (1) administering and monitoring the objectives of the Travel Plan and of engaging in any Travel Plan Annual Review pursuant to this Deed and (2) administering and monitoring the objectives of, or engaging in any review of, a travel plan in relation to the development pursuant to the requirements of the Planning Permission to be paid to the County Council for evaluating administering and monitoring the objectives of the Travel Plan;

Youth Contribution: means the sum calculated in accordance with the table set out in Schedule 2 (index linked as hereinafter provided) as a

contribution towards increasing the capacity at Pioneer Young People's Centre

2. The Developer covenants with the County Council:

2.1 Ecological Contribution

- 2.1.1 To pay the Ecological Contribution to the County Council prior to the Implementation Date.
- 2.1.2 not to cause or permit the Implementation of the Development until the Ecological Contribution has been paid in accordance with paragraph 2.2.1 of this Schedule.
- 2.1.3 At its own cost and subject to the agreement of the County Council to provide Information Packs to new residents informing of the sensitivities of the said Local Wildlife Site and how to avoid adding pressures.

2.2 Library Contribution

- 2.2.1 To pay the Library Contribution to the County Council prior to the Implementation Date.
- 2.2.2 Not to cause or permit the Implementation of the Development until the Library Contribution has been paid in accordance with paragraph 2.2.1 of this Schedule.

2.3 Secondary Primary Education Contribution

- 2.3.1 To pay the Secondary Education Contribution to the County Council prior to the Implementation Date.
- 2.3.2 Not to cause or permit the Implementation of the Development until the Secondary Education Contribution has been paid in accordance with paragraph 2.3.1 of this Schedule.

2.4 Youth Contribution

- 2.4.1 To pay the Youth Contribution to the County Council prior to the Implementation Date.
- 2.4.2 Not to cause or permit the Implementation of the Development until the Youth Contribution has been paid in accordance with paragraph 2.4.1 of this Schedule.

2.5 Sustainable Transport Contribution

- 2.5.1 To pay the Sustainable Transport Contribution to the County Council prior to the Implementation Date.
- 2.5.2 Not to cause or permit the Implementation of the Development until the Sustainable Transport Contribution has been paid in accordance with paragraph 2.5.2 of this Schedule

2.6 Travel Plan Evaluation and Support Contribution

- 2.6.1 To pay the Travel Plan Evaluation and Support Contribution to the County Council prior to the Implementation Date.
- 2.6.2 Not to cause or permit the Implementation of the Development until the Travel Plan Evaluation and Support Contribution has been paid in accordance with paragraph 2.6.2 of this Schedule

Part C: County Council Obligations

1 Definitions

Highway Works

means the footpath improvement works at the access of Sleapshyde Lane in the form of dropped kerbs and tactile paving and the access of Sleapeross Gardens in the form of tactile paving;

Highway Works Plan *(Still awaited from the County Council)*

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

Director of Environment and Infrastructure: means the County Council's Director of Environment and Infrastructure for the time being and his agents and officers

Resident Travel Pack: means a welcome pack for occupants of the Dwellings containing all of the details of sustainable travel options in the local area

Travel Plan: means the travel plan to be submitted by the Developer pursuant to paragraph 3.1 below

Travel Plan Annual Review: means an annual data collection study reviewing and monitoring the provisions of the Travel Plan (as more fully set out therein) such annual study to be carried out from the date of first Occupation of the 30th Residential Unit and then annually in the corresponding calendar month for a period of 5 years

Travel Plan Co-ordinator: means a person appointed by the Developer and approved by the County Council who shall be responsible for managing on behalf of the Developer the implementation monitoring progression reporting and review of the Travel Plan and the day to day management of the steps identified in the Travel Plan in order to achieve its objectives and targets

Travel Plan Guidance: means the County Council's document entitled 'Travel Plan

Guidance" which can be found at <https://www.hertfordshire.gov.uk/media-library/documents/highways/development-management/travel-plan-guidance.pdf> or such version current as at the date of submission of the Travel Plan

Travel Plan Remedial Measures Notice: means a notice in writing served on the Developer via the Travel Plan Co-ordinator by the County Council where the Developer has failed to meet one or more of the targets identified in the Travel Plan specifying the remedial measures and/or actions required to be taken by the Developer to remedy the failed implementation towards the agreed targets with a reasonable time provision.

Sustainable Travel Voucher: means a voucher incentive tangible or web hosted for the value of fifty pounds (£50) per flat unit or one hundred pounds (£100) per house unit forming part of the Development (Index Linked) to be given to the residents of each Residential Unit to incentivise the uptake of public transport cycling or walking as appropriate to the Development;

Water Scheme: means either the proposal prepared by or approved by the water undertaker for the area pursuant to the Water Industry Act 1991 to provide mains water services for the Development whether by means of new mains or extension to

or diversion of existing services or apparatus OR where existing water services are to be used it shall mean the details of the residential dwellings and the water supply to them which shall be provided by the Owner for the written approval of the Fire and Rescue Service prior to Occupation of any Residential Unit to be constructed as part of the Development

2. Fire Hydrants

- 2.1 To ensure that the Water Scheme incorporates fire hydrants in accordance with BS750 (2012) as reasonably and properly required by the Fire and Rescue Service.
- 2.2 To prepare and submit the Water Scheme to the Fire and Rescue Service for its written approval prior to commencement of the construction of any residential dwelling to be constructed as part of the Development
- 2.3 To construct and provide at no cost to the Fire and Rescue Service of the County Council the fire hydrants reasonably and properly indicated in the Water Scheme and to advise the Fire and Rescue Service in writing of the date upon which each and every fire hydrant becomes operational and ready to be used for the purpose of fire fighting by the Fire and Rescue Service
- 2.4 Once operational to maintain the fire hydrants in good condition and repair such that they are suitable at all times for use by the Fire and Rescue Service until they are adopted by the Fire and Rescue Service which adoption shall take effect from the date of issue of a Certificate of Satisfaction by the Chief Fire Officer the issue of which shall not be unreasonably delayed PROVIDED THAT such certificate shall not be issued prior to the issue by the Director of Environment and Infrastructure of any certificate of maintenance for the highways in which the fire hydrants are located.
- 2.5 To ensure that each building forming part of the Development can be served by a fire hydrant which is operational and ready to be used for the purpose of fire-fighting by the Fire and Rescue Service prior to Occupation of any part of the Development.
- 2.6 Not to Occupy nor cause nor permit Occupation of any building forming part of the Development until such time as it is served by a fire hydrant which is operational and ready to be used for the purpose of fire fighting by the Fire and Rescue Service
- 2.7 To address any notice to be given to the Fire and Rescue Service to the Water Services Officer, Fire and Rescue Service, 9 Merchant Drive, Mead Lane, Hertford SG13 7BH Telephone 01992 507638.

3. HIGHWAY WORKS

Not to Occupy nor cause nor permit Occupation of any part of the Development (or not to Commence the Development) until such time as the Works have been completed by the Owner to the satisfaction of the County Council as evidenced by issue of a certificate of completion by the Director of Environment in respect of the Works in accordance with the Section 278 Agreement.

TRAVEL PLAN

- 3.1 The Developer covenants not to Occupy or permit the Land or any part of the Land to be Occupied for purposes pursuant to the Planning Permission until it has prepared and secured the written approval (which shall not be unreasonably withheld or delayed) of the County Council to a Travel Plan ("TP") in respect of the part or parts to be Occupied and each such TP shall contain as many of the provisions detailed in

the TP Guidance as are appropriate to the Land or the relevant part of the Land and further shall include provisions as to how the progress of the TP shall be monitored.

- 3.2 The Developer covenants that if it or its successors in title Occupy the Land or any part of the Land pursuant to the Development it or they will implement the TP approved pursuant to paragraph 3.1 of this Schedule relating to the Land or that part of the Land and shall use reasonable endeavours to achieve the targets set therein.
- 3.3 The Developer covenants that it will submit a draft Resident Travel Pack and the Sustainable Travel Voucher to the County Council for written approval by the County Council no less than three months prior to first Occupation.
- 3.4 The Developer covenants not to Occupy or permit or allow Occupation of any Dwelling until the draft Resident Travel Pack and Sustainable Travel Voucher have been approved in writing by the County Council.
- 3.5 The Developer covenants that it shall provide a Resident Travel Pack to each Dwelling forming part of the Development within one (1) month of the first Occupation of each Dwelling.
- 3.6 The Developer covenants that it shall provide a Sustainable Travel Voucher to each Dwelling forming part of the Development within one (1) month of the first Occupation of each Dwelling.
- 3.7 The Developer shall nominate a Travel Plan Coordinator for written approval of the County Council and obtain such approval and such nomination shall include contact details for the proposed Travel Plan Coordinator and the nature of their relationship with the Developer and shall appoint at its own expense the approved Travel Plan Coordinator prior to Occupation of the Development.
- 3.8 The Developer shall not Occupy nor cause nor permit the Occupation of the Development until such time as it has appointed an approved Travel Plan Coordinator.
- 3.9 The Developer shall at all times during Occupation of the Development:
 - 3.9.1 comply with the terms of the Travel Plan including but not limited to implementing any actions by the specified dates in the Travel Plan;
 - 3.9.2 promote and publicise the agreed Travel Plan to owners occupiers and visitors to the Development;
 - 3.9.3 implement the Travel Plan by the dates or within the time limits set out in the Action Plan section of the Travel Plan;
 - 3.9.4 carry out the Travel Plan Annual Review annually on the corresponding calendar month for a period of five years and submit a written report setting out the findings of such review to the County Council within three (3) calendar months from the date of each Travel Plan Annual Review, such report shall include (but shall not be limited to) recommendations for amendments or improvements to the approved Travel Plan whether or not the objectives of the Travel Plan have been achieved;
 - 3.9.5 comply with any variations or amendments to the Travel Plan permitted by this Deed which shall in addition include any reasonable amendments or improvements required by the County Council following review of the report submitted in sub-paragraph 3.9.4 above and notified in writing to the Developer within three (4 3) calendar months from the date of receipt of such report.

- 3.10 If a Travel Plan Remedial Measures Notice is served upon the Developer by the County Council the Developer shall carry out the measures and actions specified in the Travel Plan Remedial Measures Notice in accordance with the timescales set out within it.
- 3.11 If in the reasonable opinion of the County Council the Developer has failed to comply with the Travel Plan Remedial Measures Notice within the timescales specified therein the Developer acknowledges that they will be in breach of this Agreement and that the County Council may take such further action in respect of that breach or breaches as it considers appropriate without further recourse to the Developer.
- 3.12 The Travel Plan Coordinator shall be retained for a period of at least 5 years from Full Occupation of the Development

Part D: Health Contributions

Herts Valley CCG

means the Herts Valley Clinical Commissioning Group (CCG) of the Forum, Marlowes, Hemel Hempstead HP1 1DN and such expression shall include successors to the functions and powers Herts Valley CCG

Health Contributions

means (i) the sum to be calculated at £752 per Dwelling towards the provision of additional health facilities in the area and (ii) the sum to be calculated at £2187.69 per Dwelling for provision of acute care, £201.38 per Dwelling for the provision of mental health care and £182.03 per Dwelling for community services in the area or as otherwise decided by the Herts Valley CCG

The Developer covenants with the Council:

- 1.1 to pay the Health Contribution to the Council prior to the Implementation of the Development; and
- 1.2 not to cause or permit the Implementation of the Development until it has paid the Health Contribution to the Council in accordance with paragraph 1.1 above.

Part E: Play Area

1 Definitions

1.1 Play Areas

means *[insert details]* local equipped area of play (LEAP) (totalling up to X ha) [and *[insert details]* equipped area of play (NEAP) (totalling up to *[insert number]* ha) to be provided in accordance with the Play Area Scheme;

1.2 Residents Association

means an association or management company established by the *Developer* and sufficiently funded by the *Developer* or the occupiers of the Residential Units to enable it to ensure that on completion of the Play Area within the Development the Play Area shall be maintained by the residents association in perpetuity and that any transfer or lease of any Residential Unit shall include a provision requiring the appropriate contribution to be made on the part of each Residential Unit towards any service charge levied by any residents association for the upkeep of the Play Area and incorporating a restriction against transferring a freehold or leasehold interest in the Residential Unit without obtaining a direct covenant with the residents association in respect thereof from any such transferee or lease (on a "not for profit" basis) for management operation and maintenance of the Open Space;

1.3 Specification

means the agreed specification appended to this Agreement for delivery of the Play Area Scheme.

2 The Developer covenants with the Council

Play Area Scheme

- 2.1 Prior to Implementation of the Development to submit to the Council for approval the Play Area Scheme and not to Implement the Development until the Play Area Scheme has been approved by the Council.
- 2.2 To provide the Play Area within the Development in accordance with the Play Area Specification.

2.3 Occupation and Maintenance

- 2.3.1 No Residential Units within the Development shall be Occupied unless otherwise agreed until the Play Areas identified in the Play Area Scheme have been provided in accordance with the Specification unless otherwise agreed.
- 2.3.2 Subject to paragraph 2.3.1 of this Schedule (a) and unless otherwise agreed to maintain the Play Areas for a period of three years following completion of the Play Areas and (b) prior to the expiry of five years following completion of the Play Areas to transfer for nil consideration to the *[Resident Association]*.
- 2.3.3 The transfer shall be subject to the condition that the Play Area shall not be used otherwise than for those purposes.
- 2.3.4 To notify the Council in writing within 28 Working Days of the transfer of the Play Areas pursuant to paragraph 2.3.3 of this Schedule.

Part F: Affordable Housing

1 Definitions

Affordable Housing

means social rented, affordable rented and intermediate subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market;

Affordable Housing Scheme

means a scheme to be submitted by the Developer to the Council detailing the Affordable Housing Units to be provided as part of the Development which shall include a mix of residential units to be agreed;

Affordable Housing Units

means 40% of the Residential Units to be provided;

Affordable Rent

means a unit of Affordable Housing let by a local authority or private registered provider of social housing to households who are eligible for social rented housing in accordance with the definition of affordable rented housing contained in Annex 2 to the NPPF (or any subsequent replacement or modification thereof) but for the avoidance of doubt must be at an affordable rent which is subject to rent controls that require a rent of no more than 80% of the equivalent local market rent (including service charges, where applicable) for one and two bedroom units respectively and "Affordable Rent Units" shall be construed accordingly

A T

means an Assured Tenancy or an Assured Shorthold Tenancy within the meaning of the Housing Act 1988

Chargee

means any mortgagee or chargee of the Owner or Affordable Housing Provider or the successors in title to such mortgagee or charge or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925

Head of Housing

means the Council's Head of Housing for the time being and his agents

Housing Allocations Policy

means the housing allocation policy choice-based lettings of St Albans City & District Council dated December 2013 or any housing allocations policy or scheme as shall supersede the aforementioned policy after the date of this Deed

Local Connection

shall have the meaning given to it by the Housing Allocations Policy

Market Residential Units

means Dwellings which are not Affordable Housing Units

Qualifying Person

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

- (i) in the case of an Affordable Rented Unit a person accepted on to the St Albans Housing Register (from time to time) in accordance with the Housing Allocations Policy;
- (ii) in the case of a Shared Ownership Unit, a person who meets the eligibility criteria for shared ownership housing set by the Government from time to time and who is approved by the relevant Help to Buy Agency appointed by the Homes England for the area in which the Shared Ownership Unit is located

Registered Provider

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

Shared Ownership Lease

means a lease in the form of the Homes England's model shared ownership lease and on terms that permit part purchase of the open market value of the equity in a unit together with rent payable for the open market rack rental value of the un-purchased percentage of the equity in the unit up to a value which does not exceed the rent set by the Homes England from time to time (or such other rent or form of lease approved in writing by the Council)

Shared Ownership Unit

means a unit of Affordable Housing to be made available by an AHP under a Shared Ownership Lease

2. The Developer covenants with the Council:

- 2.1 As soon as practicable to submit the Affordable Housing Scheme to the Council for approval.
- 2.2 Not more than more than 50% of Market Residential Units shall be occupied unless otherwise agreed until the Affordable Housing Units have been constructed and made ready for occupation and transferred to a Registered Provider either freehold or leasehold for a term of not less than 125 years.
- 2.3 Subject to paragraph 2.7 below the Developer shall not Occupy or permit each Shared Ownership Unit to be Occupied unless and until in respect of that Shared Ownership Unit the AHP referred to in paragraph 2.2 above has entered into a Shared Ownership Lease to a Qualifying Person with a Local Connection.
- 2.4. Subject to paragraph 64 below:
 - (a) the Affordable Rent Units shall not be Occupied otherwise than using an AT (or other approved tenancy agreement as agreed in writing by the Council)
 - (b) the Developer agrees with the Council to use reasonable endeavours to ensure that within 12 weeks of practical completion of any Affordable Rent Unit or within 12 weeks of any Affordable Rent Unit becoming vacant (whatever the reason for the vacancy) ATs (or other approved tenancies) are completed with either existing tenants or persons that have been approved by the AHP or nominated by the Head of Housing
 - (c) if there are more applicants than Affordable Rent Units available, the available Affordable Rent Units will be allocated in accordance with the Housing Allocation Policy.

- 2.5. Any transfer of the Affordable Housing Units to a Registered Provider shall be free from incumbrances and free from any restrictions that would prevent their use as Affordable Housing but subject to the following restrictions:
- 2.5.1 not to use the Affordable Housing Units for any purpose other than for Affordable Housing;
 - 2.5.2 not to transfer the freehold or leasehold interest (other than a transfer of a freehold interest of an Affordable Housing Unit to an occupier of an Intermediate Unit who has acquired 100% of the freehold interest or an occupier of a Social Rented Unit and/or an Affordable Rented Unit who has exercised the right to acquire) to any person other than a Registered Provider; and
 - 2.5.3 to ensure that the Council is given an opportunity to nominate occupiers from its housing list for the Affordable Housing Units and to use reasonable endeavours to ensure that the Affordable Housing Units are occupied by such nominees of the Council.
- 2.6 From the date of completion of the Affordable Housing Units, not to use or permit the use of the Affordable Housing Units other than for Affordable Housing.
- 2.7. The restrictions contained in this Schedule affecting the Affordable Housing Units shall not be binding on:
- 2.7.1 any mortgagee or chargee of a Registered Provider from time to time or the successor in title to such mortgagee or chargee or any receiver appointed by such mortgagee or any person deriving title through any such mortgage or receiver PROVIDED THAT
 - (a) three months prior written notice shall be given to the Council (in the case of a mortgagee receiver or manager of an Registered Provider) of any intention to exercise any power of sale in respect of any of the Affordable Housing to provide the Council the opportunity to complete a transfer within such period of Affordable Housing in question to another Registered Provider in order to ensure that they continue to be used for the purpose of Affordable Housing; and
 - (b) if the Council is unable to complete such a transfer of the Affordable Housing within the said period of three months in accordance with clause 8.1(a) above, then the mortgagee receiver or manager shall be entitled to dispose of the Affordable Housing on the open market as if they were Market Residential Unit; and
 - 2.7.2 any occupant of an Affordable Housing Unit who has exercised a statutory right to acquire under the Housing Act 1996 or otherwise or any person other than a Registered Provider deriving title under that occupant;
 - 2.7.3 a freeholder who was previously the leaseholder of an Affordable Unit who has exercised their right to staircase ownership up to 100% ownership;
 - 2.7.4 a purchaser of a single Market Residential Unit(s) and his successors in title or his mortgagee.

Schedule 2

HCC planning obligations contributions table

Table 2: Hertfordshire County Council Services planning obligations contributions table

Bedrooms*	1	2	3	4	5+	1	2	3
	HOUSES					FLATS		
	Market & other					Market & other		
Secondary education	£263	£802	£2,561	£4,423	£5,662	£47	£444	£1,677
Youth facilities	£6	£16	£50	£82	£105	£3	£13	£41
Library facilities	£98	£147	£198	£241	£265	£77	£129	£164
	HOUSES					FLATS		
	Social Rent					Social Rent		
Secondary education	£62	£450	£1,676	£2,669	£2,405	£14	£261	£1,084
Youth facilities	£2	£8	£31	£51	£55	£1	£6	£21
Library facilities	£48	£91	£130	£156	£155	£38	£82	£107

*uses an assumed relationship between bedrooms and habitable rooms

All figures are subject to indexation and will be indexed using the PUBSEC index base figure 175

Sustainable Transport Contribution standard charges for residential development table

Number of bedrooms	1	2	3	4
Charge per Dwelling	£625	£750	£1125	£1,500

The Sustainable Transport Contribution shall be indexed using the SPONS index.

Schedule 3- Proforma

PURSUANT TO SECTION 106 AGREEMENT/UNILATERAL UNDERTAKING

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE

HCC DU REFERENCE

SITE ADDRESS

SITE OWNER DETAILS

Name

Contact name

Address

Telephone nos

Main

Mobile

E-mail

EVENTS BEING NOTIFIED

Commencement Date — date:

Occupation of Development (Number if relevant) — date:

Completion of Development — date:

COMPLIANCE WITH OBLIGATION(S)

Schedule

Paragraph

Details of obligation and compliance

PAYMENT OF S106 CONTRIBUTIONS

Payment Type	Amount	Interim Indexation	Final Indexation	Total	Payable to
Example Education (primary)	X £	Y £	Z £	X+ Y £	Herts County Council
I					

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

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

(Ref: DU
- b) To St Albans City and District Council
Civic Centre
St Peter's Street
St Albans
Hertfordshire
AL1 3JE (Ref: 5/2019/3022)

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

EXECUTED as a deed by
STACKBOURNE LIMITED
Acting by a director
in the presence of:


.....

WITNESS:

Signature:


Full name

Howard Schneider

Address:
Solicitor

Darlington Hardcastles

28 Church Street

Rickmansworth WD3 1DD