

DATE:

21st November

2018

CANTERBURY CITY COUNCIL

and

THE KENT COUNTY COUNCIL

and

HNC DEVELOPMENTS LLP

and

JAMES MURREY PRESTON and MARGARET JEAN HAVELOCK PRESTON trading as THE MHP PARTNERSHIP
and WOODLAND DEVELOPMENTS LIMITED

PLANNING OBLIGATION BY DEED OF AGREEMENT

Under Section 106 of the Town and Country

Planning Act 1990 (as amended)

Land to the South of Island Road (A28) at the former Chislet Colliery Site Hersden Westbere in the County of Kent

THIS DEED is made the 21st day of November 2018

PARTIES

- (1) CANTERBURY CITY COUNCIL whose address is Military Road Canterbury Kent CT1 1YW ("**the Council**")
- (2) THE KENT COUNTY COUNCIL whose address is County Hall Maidstone Kent ME14 1XQ ("**the County Council**")
- (3) HNC DEVELOPMENTS LLP a Company registered in England and Wales with LLP Registration Number (OC399718) whose registered office is at 30 City Road London EC1Y 2AB ("**the Owner**")
- (4) JAMES MURREY PRESTON and MARGARET JEAN HAVELOCK PRESTON trading as THE MHP PARTNERSHIP and WOODLAND DEVELOPMENTS LIMITED (Co. Reg. No. 2499493) all of Seefeld Trent Road Stone ST15 8LE ("**the Mortgagee**")

RECITALS

- 1 The Owner is the freehold owner of the Land registered under the Title with title absolute at HM Land Registry.
- 2 The Council is the Local Planning Authority for the purposes of the Act for the area in which the Land is situated and is also the Housing Authority with responsibility for identifying allocating and bringing forward sufficient housing land to meet the strategic housing requirements as they relate to it's District and for facilitating the provision of Affordable Housing.
- 3 The County Council is also a Local Planning Authority for the purposes of the Act and is the local highway authority and is responsible for education services social services and libraries
- 4 The Mortgagee has an interest in the Land by virtue of being the proprietor of a charge dated 4 September 2015 over the Land registered under the Title
- 5 The Planning Application has been submitted by the Owner to the Council seeking permission to undertake the Development and the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed the need for which would not be generated but for the Development.
- 6 The contributions are required in order to mitigate the impact of the Development, to meet the increased demand for facilities which will be caused by the Development. The contributions need to be indexed in order to retain their value. Affordable Housing is required in order to provide housing for those who are not able to rent or buy on the open market.
- 7 The Council resolved on 5 December 2017 to grant planning permission for the Development subject to the prior completion of this Deed and the conditions to which the Planning Permission is expressed to be subject.
- 8 The Owner and the Mortgagee enter into this Deed with the intention that the obligations contained within bind the Land and may be enforced by the Council and County Council against the Owner and the Mortgagee and their respective successors in title.

NOW THIS DEED WITNESSETH as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following words and phrases shall have the following meanings:

"the Act"	means the Town and Country Planning Act 1990 as amended
"Affordable Home Ownership"	means Affordable Housing provided by a Registered Provider on a part equity part sale basis whereby an initial portion between 25% and 75% of the equity in the Affordable housing unit is sold to a purchaser with the option for such purchaser to purchase additional equity up to 100% and a rent is charged by the Registered Provider in respect of its retained equity pursuant to a lease drafted in accordance with the Homes England guidelines issued from time to time and "Affordable Home Ownership" shall be construed accordingly
"Affordable Housing"	shall have the meaning ascribed to it in paragraphs (a) and (d) of the Glossary as shown in Annex 2 of the National Planning Policy Framework document published by MDCLG in July 2018 (or as subsequently amended or replaced) in accordance with the Council's Housing Strategy adopted 2012 (or as subsequently amended or replaced)
"Affordable Housing Unit"	means those Dwellings forming part of the Development comprising Affordable Housing the details of which are to be set out in the Affordable Housing Scheme the mix of house types to reflect the Affordable Housing Tenure Mix with not less than 30% of the total number of Dwellings to be constructed on the

	Land to be Affordable Housing Units
"Affordable Housing Scheme"	<p>means a written scheme together with all relevant plans drawings and other supporting information detailing the Affordable Housing Units to be provided in any Phase of the Development and including:-</p> <ul style="list-style-type: none"> (a) the quantum; (b) the location and distribution; (c) the tenure (which shall comply with the Affordable Housing Tenure Mix); (d) the mix; (e) the type (including the provision of 7 wheelchair adaptable Affordable Housing Units) and unit size; and (f) the proportion and level of the car parking provision
	of the said Affordable Housing Units
"Affordable Housing Land"	means the area or areas of land within each Phase upon which the Affordable Housing Units are to be constructed pursuant to the approved Affordable Housing Scheme
"Affordable Housing Tenure Mix"	means the Affordable Housing within the Development shall be provided as 70% Affordable Rented Housing Units and 30% Affordable Home Ownership Units unless otherwise agreed between the Owner and the Council
"Affordable Rented Units"	means Dwellings to be made available as Affordable Housing Units which are let at a monthly or weekly rental figure that does not exceed

80% of the market rent inclusive of service charges or 100% of the local housing allowance rent or at such other rent as may be agreed in writing by the Council with rent increases during the terms of any individual tenancy being limited to increases in the Index from the date of the Deed plus 1% or to the latest local housing allowance or any subsequent limit placed upon Registered Providers by Homes England or any successor body from time to time

"Approved Publicly Accessible Open Space Management and Maintenance Plan" means the Publicly Accessible Open Space Management and Maintenance Plan approved by the Council pursuant to paragraph 1.2 of the Fourth Schedule

"Approved Landscape Strategy" means the Landscape Strategy approved by the Council pursuant to paragraph 1.5(a) of the Fourth Schedule

"the Council's Costs" means the sum of £3,600 (three thousand six hundred pounds) being the agreed contribution to the Council's proper and reasonable costs in the preparation execution and registration of this Deed

"the County Council Costs" means the sum of (£4,228.60) four thousand two hundred and twenty eight pounds and sixty pence being the reasonable and proper costs in the preparation and execution of this Deed

"Commencement of the Development" means commencement of the Development on the Land by the carrying out of a material operation pursuant to the Planning Application within the meaning of section 56(4) of

the Act save that for the purposes of this Deed and for no other purpose operations consisting of

- (a) site clearance
- (b) demolition work
- (c) archaeological investigations
- (d) investigations for the purpose of assessing ground conditions
- (e) remedial work in respect of any contamination or other adverse ground conditions
- (f) diversion and laying of services
- (g) erection of temporary means of enclosure
- (h) the temporary display of site notices or advertisements
- (i) construction of access or highway works (including drainage and media)
- (j) any other preparatory works agreed in writing with the Council

shall not amount to commencement and all references to commencement shall be construed accordingly

“Commencement Notice”

the written notice served on the Council by the Owner setting out the date of Commencement of the Development and thereafter the date of Commencement on each Phase pursuant to clause 5.2.1

“Community Learning Skills Contribution”

means the sum of £13,449.50 (thirteen thousand four hundred and forty nine pounds and fifty pence payable by the Owner to the County Council in accordance with the provisions of paragraph 1.1 of the

Seventh Schedule

"the Development"

the development of the Land by provision of a mixed use development of up to 370 dwellings local centre open space community ecological park hard and soft landscaping and access from a new roundabout on Island Road in accordance with and for the use in the manner as set out in the Planning Application

"the Disputes Resolution Procedure"

means the procedure referred to in clause 12 and set out in the Tenth Schedule hereto

"Dwelling"

means any house maisonette or apartment to be erected on the land pursuant to the Planning Permission and Dwellings shall be construed accordingly

"Ecology Mitigation Measures"

means such details to be provided as part of the a Landscape and Ecological Mitigation Plan (LEMP) that include:

- a) details of the procedure for identification agreement and implementation of contingencies and/or remedial actions where the monitoring results shows the objectives set out in the LEMP are not being met; and
- b) details of the bodies responsible together with legal and funding mechanisms necessary to ensure the long term implementation of the Landscape and Ecological Mitigation Plan submitted pursuant to condition 24 of the Planning Permission or any variation thereto and

to be submitted by the Owner to the Council in accordance with the Fifth Schedule

"Homes England"

means Homes England (as successor body to the Homes and Communities Agency) or any successor body from time to time

"the Index"

means:

- (a) the "All Items Index of Retail Prices" issued by the Office for National Statistics or such other index as the Council may reasonably nominate in the event that the Index shall no longer be published or its name or methodology be materially altered
- (b) In relation to the Primary Education Contribution, Primary Education Land Contribution and Secondary Education Contribution shall be the General Building Costs Index as published by the BCIS on the behalf of the RICS or such other index as the County Council may reasonably nominate in the event that the Index shall no longer be published or its name or methodology be materially altered
- (c) In relation to the Off Site Highways Contributions shall be the All-in Tender Price Index (as published by the Building Costs Information Service on behalf of the Royal Institution of Chartered Surveyors) or such other index as the County Council may reasonably nominate in the event that the Index shall no longer be published or its name or methodology be materially altered

"Interest"

Interest at 2 points above the base rate of the Bank of England from time to time

"the Land"

means the land to the South of Island Road (A28) at the former Chislet Colliery Site Hersden Westbere Kent

against which this Deed may be enforced as shown more particularly delineated edged red on the attached Plan

"Landscape and Ecological Mitigation Plan (LEMP)" The Landscape and Ecological Mitigation Plan submitted pursuant to condition 24 of the Planning Permission or any variation thereto

"Library Contribution" means the sum of £47,356.30 (forty seven thousand three hundred and fifty six pounds and thirty pence) payable by the Owner to the County Council in accordance with the provisions of paragraph 1.3 of the Seventh Schedule

"Landscape Strategy" means detailed drawings and supporting documentation to describe the specification, timing for implementation and method of construction of the Publicly Accessible Open Space Land; details of hard and soft landscaping works

"Market Housing Units" means those Dwellings that are not designated as Affordable Housing Units in an agreed Affordable Housing Scheme

"NHS Contribution" A contribution of £306,468 (three hundred and six thousand four hundred and sixty eight pounds) payable by the Owner to the Council in accordance with the provisions of the Sixth Schedule to be spent on the provision of a new GP surgery on the neighbouring Hoplands Farm development

"Nomination Agreement" means an agreement entered into by the Council and the Registered Provider of Affordable Housing (as may be agreed by the Council) in

	respect of rights for the Council to nominate persons for the Affordable Housing Units from the Council's housing register
"Off Site Highways Contribution"	means the sum of Three Million Six Hundred Thousand Pounds £3,600,000 payable by the Owner to the County Council in accordance with the provisions of paragraph 1.7 of the Seventh Schedule
"Occupation"	means occupation for any purpose permitted by the Planning Permission but does not include occupation by personnel engaged in the construction fitting-out or decoration or occupation for marketing or display or occupation in relation to security operations of any part of the Development and for the avoidance of doubt in the case of a sale of a freehold or long leasehold interest to a third party Occupation commences the date of legal completion of the sale rather than exchange of contracts
"Occupation Notice"	the written notice served on the Council by the Owner stating relevant dates of Occupation in accordance with the provisions of Clause 5.2.2 of this Deed
"Outdoor Sports Contribution"	means the sum of Two Hundred and Forty Two Thousand Two Hundred and Eighty One Pounds and Eighty Eight Pence (£242,281.88) towards improving outdoor sports provision in Hersden and to include a new pavilion and payable by the Owner to the Council in accordance with the

	provisions of the Second Schedule
"Phase"	means a phase of the Development
"the Plan"	means the plan annexed to this Deed
"the Planning Application"	means the application for outline planning permission to carry out the Development on the Land and given the Council's reference number CA/16/00673/OUT
"the Planning Permission"	means the outline planning permission to be granted for the Development by the Council pursuant to the Planning Application
"Primary Education Contribution"	means the sum of £884,547.43 (Eight Hundred and Eighty Four Thousand Five Hundred and Forty Seven pounds and forty three pence payable by the Owner to the County Council in accordance with the provisions of paragraph 1.4 (1) of the Seventh Schedule towards the expansion of Hersden Village Primary School and towards the construction of a new primary school within the area referred to as land at Sturry /Broad Oak in Canterbury District Local Plan adopted 2017
"Primary Education Land Contribution"	means the sum of £692,020,96 (Six Hundred and Ninety Two Thousand and Twenty Pounds and Ninety Six pence) payable by the Owner to the County Council in accordance with the provisions of paragraph 1.4 (2) of the Seventh Schedule toward the costs of acquiring land to enable the expansion of Hersden Village Primary School and the provision of a new primary school within the area referred to as land at Sturry/Broad Oak in Canterbury District Local Plan



KEY
 SITE LOCATION

[Handwritten signature]

THE COMMON SEAL OF THE KENT
 COUNTY COUNCIL WAS HEREUNTO
 AFFIXED IN THE PRESENCE OF:-
SARAH WA

Authorised Signatory



11/7-2018

Say Ngin
 TAREK NAQIB
 M.D. H. PROSTON

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 Pegasus
 Design

FORMER CHISLET COLLIERY, HERSDEN - SITE LOCATION PLAN

REVISION A - 18.01.2016
 RED LINE BOUNDARY UPDATED.
 REVISION B - 15.03.2016
 RED LINE BOUNDARY AMENDED.
 REVISION C - 10.03.2016
 BLUE LINE PART REPLACED RED LINE.
 REVISION D - 24.01.2018
 RED LINE BOUNDARY UPDATED.
 REVISION E - 15.05.18
 RED LINE BOUNDARY UPDATED.
 REVISION F - 11.10.18
 REMOVE BLUE LINE & AREAS

adopted 2017

"Practical Completion"

means complete such that it is fit for its intended purpose and is for all practical purposes sufficiently complete to be put into use and "Practically Complete" shall be construed accordingly

"Publicly Accessible Open Space Land"

means the areas of public open space within the Development as identified on Plan over which the public have the right of passage, enjoyment and unrestricted access in perpetuity

"Publicly Accessible Open Space Management and Maintenance Plan"

means details of a scheme for the future intended ownership, terms of governance, financial arrangements for the funding maintenance/insurance costs and ownership responsibilities to ensure the future implementation (including timelines) maintenance and management of the Publicly Accessible Open Space Land in perpetuity and details of a schedule for the timing of annual/seasonal/regular maintenance works including boundary treatment, furniture, lighting, seating, dog/litter bins and collection, painting/varnishing/repairs or other regular treatment of furniture/fixtures, signs (and their replacement as may be required), approach to security, resolving vandalism, fly tipping and details of maintenance contracts agreements/standards

"Registered Provider or RP"

means an organisation which is a Registered Provider of social housing registered in accordance with the provisions of Chapter 3 Part 2 of the

	<p>Housing and Regeneration Act 2008 and who has been approved by the Council and is on an approved list completed or maintained by the Council or already has an interest in other Affordable Housing in the Council's administrative area</p>
"SAMM contribution"	<p>means the financial contribution required by the Council's Strategic Access Management Mitigation Plan in accordance with the Conservation of Habitats and Species Regulations 2017 towards the Canterbury section of the Thanet Coast and Sandwich Bay Special Protection Area calculated in accordance with the SAMM Contribution Formula payable on a Phase by Phase basis in accordance with the Third Schedule</p>
"SAMM contribution formula"	<p>the number and types of Dwellings to be erected on the Land multiplied by the rates specified herein:</p> <p>£355 (three hundred and fifty-five pounds) per 1 bedroom flat;</p> <p>£498 (four hundred and ninety-eight pounds) per 2 bedroom house or flat;</p> <p>£670 (six hundred and seventy pounds) per 3 bedroom house;</p> <p>£848 (eight hundred and forty-eight pounds) per 4+ bedroom house</p>
"Secondary Education Contribution"	<p>means the sum of Six Hundred and Ninety Six Thousand One Hundred and Forty One Pounds (£696,141.00) payable by the Owner to the County Council in accordance with the provisions of paragraph 1.5 of the Seventh Schedule</p>
"Social Care Contribution"	<p>means the sum of £26,984.10</p>

(Twenty Six Thousand Nine Hundred and Eighty Four Pounds and Ten Pence payable by the Owner to the County Council in accordance with the provisions of paragraph 1.6 of the Seventh Schedule

“the Title”

means the Land is registered at the HM Land Registry under title number TT41564

“Transferred”

means in respect of the Affordable Housing Units and the Affordable Housing Land the transfer of the freehold interest or a grant of a lease for a term of at least one hundred and twenty five years to a Registered Provider on terms that accord with relevant Homes England funding requirements current at the date of construction of the Affordable Housing Units and which contain (inter alia) the following provisions:

- the Affordable Housing Units shall be demised or transferred to the Registered Provider with full title guarantee and with vacant possession
- the Owner shall grant to and may reserve from the Registered Provider reasonable pedestrian and vehicular access to and egress from the Affordable Housing Units via the roads, footways and footpaths within the Development;
- the Affordable Housing Units shall benefit from full and free rights for the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Units all such services to be connected to

the mains

- the disposal shall be free of all financial charges and of any restrictive covenants or other third party rights which would prevent the use of the Affordable Housing Units for the purpose for which it is transferred
- the Affordable Housing Land shall be (or have been) cleared, levelled and remediated at the Owner's cost so as to ensure that the Affordable Housing Land is free from any contamination which would otherwise prejudice its use and occupation as Affordable Housing Units in accordance with the requirements of the Planning Permission;

and the term "Transfer" shall be construed accordingly

"Youth Service Contribution"

means the sum of £5,960.70 (Five Thousand Nine Hundred and Sixty Pounds and Seven Pence payable by the Owner to the County Council in accordance with the provisions of paragraph 1.2 of the Seventh Schedule

2. CONSTRUCTION OF THIS DEED

- 2.1 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and the County Council the successors to their statutory functions.
- 2.2 In the absence of any contrary provision any reference to a statute shall include any statutory extension modification or re-enactment for the time being in force and shall include all statutory instruments directions orders regulations plans permissions or byelaws for the time being made issued or given under the statute or deriving validity from it.
- 2.3 Words importing the masculine gender shall include the feminine and neuter gender and vice versa.
- 2.4 Words importing persons include companies' corporations and firms and vice versa.
- 2.5 Unless the context otherwise requires words importing the singular shall include the plural and vice versa.
- 2.6 Headings are for ease of reference only and shall not be construed as part of this Deed.

- 2.7 Reference to any recital clause schedule or paragraph (or any part of them) shall (unless the context otherwise requires) be reference to a recital clause schedule or paragraph (or any part of them) in this Deed.
- 2.8 Wherever there is more than one person named as a party or where more than one party undertakes an obligation all their obligations shall be enforceable against all of them jointly and/or against each individually unless there is an express provision otherwise.
- 2.9 Any covenant by a party to this Deed not to do an act or thing shall be deemed to include an obligation not to permit or knowingly suffer such act or thing to be done by any other person.

3 STATUTORY PROVISIONS AND ENFORCEABILITY

- 3.1 This Deed is entered into under section 106 of the Act for the purposes of creating planning obligations in respect of the Land and all the restrictions covenants and undertakings in this Deed are planning obligations for the purposes of Section 106 and are (subject to the terms of this Deed) enforceable by the Council or the County Council not only against the Owner and the Mortgagee but also against any successors in title to the interest of the Owner and the Mortgagee and their assigns
- 3.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the Act they are entered into by the Council and the County Council pursuant to the powers contained in section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011
- 3.3 This Deed shall not bind or be enforceable against the following:-
- 3.3.1 any person after it has disposed of all of its interest in the Land (or in the event of a disposal of part) against the part disposed of but without prejudice to the liability of any such person for any subsisting breach of this Deed prior to parting with its interest;
- 3.3.2 individual owners and occupiers or tenants of Dwellings or their mortgagees and all of those persons successors in title except in respect of the obligations in the First Schedule which shall remain enforceable against owners occupiers or tenants of Affordable Housing Units save where an owner occupier or tenant of an Affordable Housing Unit has exercised a right to buy or acquire that property under any statutory provision (or any equivalent contractual right) or any successor or mortgagee or Chargee to such owner occupier or tenant;
- 3.3.3 any person who has purchased 100 per cent of the equity in an Affordable Housing Unit pursuant to an affordable home ownership housing arrangement and any mortgagee and successors or other persons deriving title from such a person;
- 3.3.4 Any mortgagee or Chargee of the Registered Provider (or any receiver (including an administrative receiver appointed under any security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver) provided that any mortgagee, Chargee or receiver shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge give not less than two months' prior notice to the Council of its intention to dispose of the Affordable Housing and:
- (a) in the event that the Council responds within two months from the receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard

them as Affordable Housing then the mortgagee, Chargee or receiver shall (subject to the same being reasonable) co-operate with such arrangements and use its reasonable endeavours to secure such transfer; or

(b) if the Council has failed to serve notice under clause 3.3.4 (a) or has served notice stating that no transfer can be made in such a way as to safeguard them as Affordable Housing or if the Council has served notice that alternative arrangements can be made within one month of the date of service of its response under clause 3.3.4 (a) but no such transfer has been secured within that month then the mortgagee, Chargee or receiver shall be entitled to dispose free of the restriction set out in this First Schedule which shall from the time of completion of the disposal cease to apply to the Affordable Housing Unit in perpetuity

PROVIDED ALSO THAT at all times the rights and obligations in this Clause 3.3.4 shall not require the mortgagee, Chargee or receiver to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest costs and expenses of the mortgagee, Chargee or receiver in respect of moneys outstanding under the charge or mortgage

3.3.5 any statutory undertaker or other person with any interest in any part of the Land for the purpose of the supply of electricity gas water drainage telecommunication services or public transport services

4 CONDITIONALITY

This Deed is conditional on:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of clauses 5.2.1, 5.2.4, 7, 8, 11, 12, 13 and 14 which shall come into effect immediately upon the completion of this Deed.

5 THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council and the County Council to observe the restrictions and perform the obligations set out in the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth Schedules to this Deed

5.2 The Owner covenants with the Council and the County Council:

- 5.2.1 to give notice to the Council and the County Council of the date of the Commencement of the Development not less than 14 (fourteen) days before such date occurs ("the Commencement Notice").
- 5.2.2 to give notice to the Council and the County Council of the date of the first Occupation of any part of the Development not less than 14 (fourteen) days before such date occurs ("the Occupation Notice").
- 5.2.3 To retain such records and information and within 14 (fourteen) days of a written request by the Council and/or the County Council to provide the Council and/or the County Council with such records and information as the Council and/or the County Council request to enable the Council and/or the County Council to satisfy itself that the Owner is complying with all its obligations under this Deed.
- 5.2.4 To pay the Council and the County Council's Costs on the completion of this Deed.

6 THE COUNCIL AND COUNTY COUNCIL COVENANTS

The Council and the County Council covenant with the Owner to perform the obligations set out in the Eighth Schedule

7 MISCELLANEOUS

- 7.1 This Deed shall determine and cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed revoked or modified by the Council pursuant to the Act without the written consent of the Owner or if the Planning Permission expires or is otherwise withdrawn prior to the Commencement of Development.
- 7.2 Any notice consent or approval to be given under this Deed shall be in writing and shall be deemed to be served if delivered personally or sent by pre-paid first class recorded delivery or registered post to the address of the relevant party as described in this Deed or such other address as shall have been notified in writing to the party giving the notice consent or approval and in the case of a notice to be served on the Council it should be addressed to the Head of Planning quoting reference CA/16/00673/OUT.
- 7.3 Where any approval consent directions action or authority is required to be given by any of the parties hereto such approval consent directions action or authority shall (unless otherwise stated) not be unreasonably delayed or withheld and shall only be effective if given in writing signed by or on behalf of the relevant party and given for the purposes of this Deed.
- 7.4 If any provision in this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed thereby to be affected or impaired.
- 7.5 This Deed is a Local Land Charge and shall be registered as such by the Council.
- 7.6 Nothing contained or implied in this Deed shall fetter prejudice or affect the rights discretions powers duties and obligations of the Council and/or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.7 No variation or modification of this Deed shall be valid unless made by Deed and executed by all the parties or their respective successors.
- 7.8 This Deed does not intend to confer any rights or benefit on a third party pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 7.9 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.
- 7.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

8 WAIVER

No waiver (whether express or implied) by the Council the County Council or the Owner of any breach or default by another party in performing or observing any of the covenants and terms and conditions 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 said terms or conditions which they are entitled to enforce or from acting upon any subsequent breach or default in respect thereto by that party.

9. INDEXATION

9.1 Any sum which becomes payable under this Deed other than the contributions set out in clause 9.2 (below) and the Council and County Council's Costs shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which the sum is payable.

9.2 The Community Learning Skills Contribution, Library Contribution, Primary Education Contribution, Primary Education Land Contribution, Secondary Education Contribution, Social Care Contribution and Youth Services Contribution shall be increased by an amount equivalent to the increase in the Index from October 2016 until the date on which the sum is payable.

10 OVERDUE PAYMENT

In the event of any delay in making payment required under this Deed Interest shall be payable on the amount payable from the date that the relevant payment falls due to the date of actual payment.

11 MORTGAGEE CONSENT

The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Land shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Land shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

12 CHANGE IN OWNERSHIP

The Owner agrees with the Council and the County Council to give the Council and the County Council immediate written notice of any change in ownership of any of its interests in the Land (save for transfers to purchasers of individual Dwellings or as otherwise specified in clauses 3.3.5 and 3.3.8) occurring before all the obligations under this Deed 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) together with the area of the Land or unit of occupation purchased by reference to a scale plan.

13 DISPUTE RESOLUTION

13.1 Any dispute between the parties under the terms of this Deed may be referred to an expert under the Dispute Resolution Procedure set out in the Eleventh Schedule.

- 13.2 The decision of an expert appointed under the Dispute Resolution Procedure shall be final and binding on all of the parties to the dispute.

14 JURISDICTION

This Deed is governed by and interpreted in accordance with the laws of England.

IN WITNESS whereof this Agreement has been duly executed as a Deed by the Parties the day and year first before written

FIRST SCHEDULE

COVENANTS WITH THE COUNCIL

The Owner for themselves and their successors in title covenant with the Council as follows:

1. Affordable Housing Provision

- 1.1. The Owner shall provide no less than 30 percent of the total number of Dwellings on the Land as Affordable Housing Units in accordance with the Affordable Housing Scheme approved by the Council pursuant to paragraph 1.2 of this Schedule
- 1.2. The Owner covenants not to Commence Development of any Phase unless and until the Owner has submitted an Affordable Housing Scheme for that Phase to the Council and the Council has approved the Affordable Housing Scheme for that Phase in writing
- 1.3. The Owner shall provide the Affordable Housing Units comprised in a Phase in accordance with the Affordable Housing Scheme for that Phase as approved by the Council
- 1.4. The Owner covenants not to permit:-
 - (a) Occupation of more than 50% of the Market Housing Units in any Phase unless and until it has entered into a binding contract with a Registered Provider (evidence of which is to be produced to the Council) for the Transfer of the Affordable Housing Units within that Phase;
 - (b) Occupation of more than 75% of the Market Housing Units in any Phase until the Affordable Housing Units for that Phase are Practically Complete and have been transferred to an Registered Provider (evidence of which is to be produced to the Council).
 - (c) Subject to the provisions of this Deed (and Clause 3.3.4) not to allow the Occupation of any of the Affordable Housing Units for any purpose other than as Affordable Housing (where necessary and unless otherwise agreed by the Council) not to all Occupation of any Affordable Housing Unit until such time as a Nominations Agreement has been entered into with the Council in respect of the Affordable Housing Units

SECOND SCHEDULE

OUTDOOR SPORTS CONTRIBUTION

1. The Owner covenants with the Council as follows:-
 - 1.1 To pay the Outdoor Sports Contribution to the Council prior to Occupation of the 50th Market Housing Unit
 - 1.2 Not to Occupy or permit the Occupation of any more than 50 Market Housing Units until the Outdoor Sports Contribution has been paid to the Council

THIRD SCHEDULE

SAMM CONTRIBUTION

1. The Owner covenants with the Council as follows:
 - 1.1 To pay the SAMM Contribution to the Council calculated in accordance with the SAMM Contribution Formula for the number and size of Dwellings approved for any Phase prior to Commencement of the said Phase.
 - 1.2 Not to Commence any Phase until the SAMM Contribution in respect of the Phase has been paid to the Council

FOURTH SCHEDULE

PUBLICLY ACCESSIBLE OPEN SPACE PROVISIONS

1.3 The Owner shall not Commence Development unless and until it has submitted:-

- (a) the Landscape Strategy; and
- (b) the Publicly Accessible Open Space Management and Maintenance Plan

to the Council and the Council has approved the same in writing and such approval not be unreasonably withheld.

1.4 The Owner shall keep the Publicly Accessible Open Space open and available for access by the public in perpetuity in accordance with the Approved Publicly Accessible Open Space Management Plan save as provided for in this Deed or as may be approved by the Council in writing or in the following circumstances:

- (a) in the case of Force Majeure;
- (b) where there is a need to carry out maintenance, cleaning, renewal and necessary required works including works associated with the landscaping to be provided within the Publicly Accessible Open Space or structural or none structural alteration, provided that any works under this sub-paragraph shall only be undertaken with the prior approval of the Council and such work shall be carried out in a timely manner in accordance with timescales provided by the Council so as to cause minimum disruption to the public; and
- (c) the Owner shall not erect or allow to be erected any structure on or in the Publicly Accessible Open Space Land without consent of the Council.

1.5 The Owner shall keep the Publicly Accessible Open Space Land adequately and properly insured providing evidence of such insurance to the Council when requested and in the event of damage pay out any insurance payments on making good such damage.

1.6 The Owner shall review the terms of the Publicly Accessible Open Space Provision and Management and Maintenance Plan in such manner as the Publicly Accessible Open Space Provision and Management and Maintenance Plan may provide and in any event at least every 12 months after first Occupation of any dwelling so as to ensure that the Publicly Accessible Open Space Land remains high quality Publicly Accessible Open Space.

1.7 The Owner shall:-

- (a) Commence the Approved Landscaping Strategy within one year after the date of Commencement of Development or the next following planting season; and
- (b) Implement the Approved Landscaping Strategy in full in accordance with the timing of delivery within the said Approved Landscaping Strategy

- (c) Implement the Approved Publicly Accessible Open Space Management and Maintenance Plan in accordance with the timelines set out in the said Approved Plan and thereafter comply with the review provisions set out in paragraph 1.1 above
- (d) Not to occupy any of the Dwellings until implementation of the Approved Publicly Accessible Open Space Management Plan has taken place in accordance with the timelines set out therein and either;
 - (i) an external management company has been appointed to manage the Open Space; or
 - (ii) the Owner has entered into an agreement to transfer the freehold of the Open Space to an external management company.

save as otherwise agreed by the Council (evidence of (d)(i) and (d)(ii) to be provided to the Council)

FIFTH SCHEDULE

ECOLOGY MITIGATION MEASURES

- 1.1 The Owner shall not allow Occupation of any Dwelling unless and until it has submitted the Ecology Mitigation Measures to the Council and the Council has approved the same in writing and such approval not be unreasonably withheld.
- 1.2 The Owner shall thereafter implement the approved Ecology Mitigations Measures in accordance with the timelines set out therein and shall subsequently manage and maintain the completed works that implement the LEMP works required by condition 24 of the Planning Permission or any variation thereto to include setting up or appointing a Management Company to manage and maintain the same
- 1.3 Not Occupy more than 50 Market Housing Units unless and until the approved Ecology Mitigation Measures has been implemented in full (save for any ongoing monitoring) to the satisfaction of the Council

SIXTH SCHEDULE

NHS CONTRIBUTION

1. The Owner covenants with the Council to pay the NHS Contribution to the Council prior to Occupation of any Dwelling and not to allow occupation of any Dwelling until the NHS Contribution has been paid

SEVENTH SCHEDULE

THE OWNER'S COVENANTS WITH THE COUNTY COUNCIL

The Owner covenants with the County Council as follows:

- 1.1 To pay the Community Learning Skills Contribution to the County Council on Occupation of the 100th Dwelling for the purpose of providing outreach services in Hersden and for no other purpose
- 1.2 To pay the Youth Service Contribution to the County Council on Occupation of the 100th Dwelling for the purpose of youth work provision in Hersden and for no other purpose
- 1.3 To pay the Library Contribution to the County Council on Occupation of the 100th Dwelling for the purpose of providing new book stock for the Hersden Library and for no other purpose
- 1.4
 1. To pay 50% (fifty percent) of the Primary Education Contribution to the County Council on Occupation of the 100th Dwelling and to pay the remainder 50% to the County Council on Occupation of the 200th Dwelling for the purpose of expanding the Hersden Village Primary School and towards the construction of a new primary school within the area referred to as land at Sturry/Broad Oak in the Canterbury District Local Plan adopted 2017
 2. To pay the Primary Education Land Contribution to the County Council on first Occupation of the Dwellings.
- 1.5 To pay 50% (Fifty percent) of the Secondary Education Contribution to the County Council on Occupation of the 100th Dwelling and to pay the remainder 50% to the County Council on Occupation of the 200th Dwelling for the purpose of expanding the Spires Academy, Sturry and for no other purpose
- 1.6 To pay the Social Care Contribution to the County Council on Occupation of the 100th Dwelling for the purpose of expanding local facilities and for no other purpose
- 1.7 To pay the Off Site Highways Contribution to the County Council in three tranches on or before the following dates:
 - (a) One Million Two Hundred Thousand Pounds (£1,200,000.00) not later than ten days of the first anniversary of the Commencement Date
 - (b) One Million Two Hundred Thousand Pounds (£1,200,000.00) not later than ten days of the second anniversary of the Commencement Date
 - (c) One Million Two Hundred Thousand Pounds (£1,200,000.00) not later than ten day of the third anniversary of the Commencement Date
- 1.7.1 The Off Site Highways Contribution is for the purposes of improving highway capacity along the A28 corridor including the following works:

(a) Vauxhall Road/Broad Oak Road Roundabout

(b) extension and promotion of Sturry Road Park and Ride

(c) Sturry Road A28 capacity improvements between and including the Vauxhall Roundabout and the Military Road Roundabout

(d) Hersden to Canterbury cycle route

(e) Sturry Village highway environmental improvements

AND FOR THE AVOIDANCE OF DOUBT it is agreed that the said instalments may be used by the County Council as interim forward planning for the planning, design and construction of the Sturry Relief Road.

EIGHTH SCHEDULE

THE COUNCIL'S AND COUNTY COUNCIL'S COVENANTS

1. The Council and the County Council covenant with the Owner as follows:
 - 1.1 To co-operate insofar as is reasonable with the Owner in the performance of their obligations under this Deed
 - 1.2 To use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid
 - 1.3 At the Owners or payee's request the Council and/or the County Council will return any part of the sums aforesaid which shall not have been used for the purposes set out above within a period of 10 years from the date of the payment of the contribution together with simple interest at the base rate prevailing from time to time of the Bank of England calculated from the date of receipt of the relevant sum by the Council and/or the County Council as evidenced by the Council and/or the County Council's official receipt provided that the Council and/or the County Council shall not be obliged to return any part of any contribution which has been spent or irrevocably contractually committed prior to the date of the request and to provide the Owner or payee with reasonable evidence when requested that the contributions have been spent or committed and the purpose for which they were spent or committed.
 - 1.4 At the written request of the Owner or the payee of the relevant contribution the Council and/or the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed when the Council and/or the County Council is satisfied that such obligations have been performed

NINTH SCHEDULE
DRAFT PLANNING PERMISSION

DRAFT DECISION NOTICE

Application No:	CA/16/00673/OUT
Proposal:	Outline planning application (all matters reserved) for a mixed-use development of up to 370 dwellings, local centre, open space, community ecological park, hard and soft landscaping and associated infrastructure with access from a new roundabout on Island Road.
Location:	Land to the south of Island Road (A28), former Chislet Colliery, Hersden, Westbere
Case Officer:	Ceri Williams
Expiry Date:	20 June 2016
Extn of Time:	30 November 2016
Officer Recommendation:	GRANT with conditions
Final Decision:	

CONDITIONS/REASONS:

- 1 Details of the layout, scale and appearance of any buildings to be erected and the landscaping of the site, (hereinafter called 'the reserved matters') shall be submitted and approved by the Local Planning Authority in writing before any development is commenced.

REASON: No such details have been submitted and these items have been reserved for future consideration.

- 2 Any application for approval of the reserved matters for the first phase shall be made to the local planning authority not later than the expiration of three years beginning with the date of the grant of outline planning permission.

REASON: In pursuance 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).

- 3 The final application for the approval of the reserved matters for the final phase of the development (in accordance with the phasing plan approved under condition 6) shall be submitted to the local planning authority not later than 5 years from the date of this permission. Each phase of development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the final reserved matters to be approved for that phase.

REASON: In pursuance of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 4 The development hereby approved shall be carried out in accordance with the submitted drawings:

- Site location plan- BIR.4980_7_1C
- Parameter Plan- 4980_21_1
- Visibility Splay and Forward Visibility 1 of 3- A092551-1-002 Rev A
- Visibility Splay and Forward Visibility 2 of 3- A092551-1-003 Rev A
- Visibility Splay and Forward Visibility 3 of 3- A092551-1-004 Rev A
- A28 Roundabout Forward Visibility- A092551-1-005 Rev A

REASON: To secure the proper development of the area.

- 5 The development hereby approved shall comprise:

- A maximum of 370 dwellings
- No less than 370sqm of retail (A1) floor space

REASON: In the interests of certainty as to what is permitted.

- 6 No development shall take place until a Phasing Plan, which shall include justification for the proposed Phases, demonstrate the timescale for the delivery of the development and include the order of the delivery of the proposed phases, has been submitted to and approved in writing by the local planning authority. The phasing of the development shall not be carried out otherwise than in accordance with the approved plan.

All reserved matters submissions shall accord with the Phasing Plan as approved by the Local Planning Authority. Any references to a Phase of the development within this permission shall be taken to be a reference to phases as identified on the approved Phasing Plan submitted under this condition.

REASON: In the interests of the proper development of the area and to achieve sustainable development.

- 7 No development shall take place until a Masterplan for the entire application site, which shall broadly be in accordance with the Parameters Plan drawing no. BIR.4980_21_1, has been submitted to and approved in writing by the Local Planning Authority. This shall include the following:

- Principles of the proposed layout design that demonstrate how the

surrounding urban and rural context have been taken into account

- Principles of land form topography as existing and proposed
- Land use plan showing the location of the residential development, local centre, formal and informal open space and ecology park including densities of development.
- Movement corridors within the site (including principal roads, public transport corridors, footpaths, cycleways and green corridors) and demonstrating how these relate to existing movement networks in the wider area
- Key infrastructure including SUDs, significant utility provision
- Landscape corridors and open space network
- Public open space

REASON: To ensure high quality design and coordinated development against which to assess reserved matters applications and to ensure a satisfactory appearance to the development.

- 8 Prior to the submission of any application for the approval of any reserved matters for any phase approved under Condition 6 design code parameters for that phase shall be submitted to and approved in writing by the Local Planning Authority.

The design code parameters shall be in accordance with the principles and parameters established by the Design and Access Statement, the approved parameter plans set out in Condition 4, the Masterplan approved under Condition 7, Open Space Strategy approved under condition 10 and shall include, but not be limited to:

- A masterplan showing the relationship of built development and open space, including:
- Principles of the proposed layout design that demonstrate how the surrounding urban and rural context have been taken into account
- Principles of land form topography as existing and proposed
- Land use plan showing the location of the residential development, employment floorspace, open space, community provision, including densities of development
- Movement corridors within the site (including public transport corridors, footpaths, cycleways and green corridors) and demonstrating how these relate to existing movement networks in the wider area
- Key infrastructure (including SUDs, significant utility provision)
- Landscape corridors and open space network
- Public open space
- The character, mix of uses and heights, as established through the approved parameter plans.
- The street hierarchy, including the principles and extent of the proposed adoptable highway, along with traffic calming measures.
- How the design of the streets takes into account the mobility and

- accessibility of users, and promotes active travel.
- Typical street cross-sections which will include details of tree planting, tree species, and on street parking.
- Block principles to establish density and building typologies. In addition, design principles including primary frontages, pedestrian access points, fronts and backs and threshold definition shall be provided;
- Building typologies should include information about height, scale, form, level of enclosure, building materials and design features;
- Details of the approach to vehicular parking across the entire site including levels of provision, the location and layout of parking for people with disabilities and for each building type;
- Measures to demonstrate how the design can maximise resource efficiency and climate change adaptation through external, passive means, such as landscaping, orientation, massing, and external building features;
- Details of measures to minimise opportunities for crime;
- Measures to show how design and orientation will address/minimise the impact of traffic noise etc. on future residents.
- Measures to show how design, orientation and the use of materials will mitigate the landscape and visual impact of the development.

REASON: To ensure a high quality design and coordinated development against which to assess reserved matters applications and to ensure a satisfactory appearance to the development.

- 9 Each Reserved Matters application shall be accompanied, as appropriate, by the following documents and/or information:
 - A Design Statement that demonstrates how the proposals accord with the approved parameter plans and Design Code and in the case of any variation explain the reason for that change and the explain the nature of the change.
 - In relation to the matter of access: details (including specifications) of the access to the sub-phase and within the sub-phase for vehicles, cycles and pedestrians (including Access for All standards).
 - In relation to the matter of layout a Reserved Matters application shall include:
 - Details of the siting and orientation of the proposed buildings and any relevant roads, as well as the location of any landscaped or open space areas;
 - Details of any necessary temporary layout associated with boundary treatment and condition between the sub-phases
 - Details of parking areas in accordance with the standards set out in the Kent Design Guide Interim Guidance Note 3, servicing areas, and plant areas
 - Details of cycle parking in accordance with the standards set out in the Kent Design Guide Interim Guidance Note 3
 - Details of any public rights of way affected by the proposal
 - Details and specification (including cross sections if necessary) of proposed earth modelling, mounding, re-grading or changes of level to be carried out including spot levels
 - Where relevant, details of storing commercial refuse, including recyclable material and point of collection.
 - In relation to scale and appearance a Reserved Matters application shall include:
 - Details of building heights and massing

- Details of housing mix including the mix and location of affordable housing, which shall meet the local housing needs, as set out in the Council's Housing Strategy
- Details of the internal layout of buildings with space standards indicated
- Details of the external treatment and design of the buildings
- Details of finished floor levels
- In relation to the matter of landscaping a Reserved Matters application shall include:
 - Plans, drawings, sections, and specifications to explain full details of the hard and soft landscaping treatment and works including; materials (size, type and colour), proposed drainage arrangements, children's play equipment, street furniture, lighting columns/brackets, private and communal areas, opens spaces, edges, boundary treatments, public rights of way and roads in accordance with the overarching Open Space Strategy approved under Condition 10
- Tree planting details and specification of all planting in hard and soft landscaped areas
- Details of the programme for implementing and completing the planting
- In relation to the matter of access a Reserved Matters application shall include:
 - The highway details to be provided shall comprise:
 - a) the width and configuration of proposed carriageway layouts including any footways and verges;
 - b) the width and configuration of any footpaths and cycleways;
 - c) the details of any PROW closure or diversion, including route and time period
 - d) the layout and configuration of junctions and roundabouts within the site;
 - e) the layout of street lighting;
 - f) the layout and configuration of surface water sewers, drains and outfalls serving the highway;
 - g) the layout and configuration of retaining walls and highway supporting structures;
 - h) the layout of service routes and corridors within highways;
 - i) identification of any vehicle overhang margins, embankments, visibility splays, property accesses, carriageway gradients, driveway gradients, car parking and street furniture.
- The gradient of vehicular accesses shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.
- Before their first use the surface of vehicular accesses shall be a bound surface for the first five (5.0) metres of the access from the edge of the

highway and this surface shall be permanently maintained thereafter.

REASON: In order that the Reserved Matters Applications can be properly considered and assessed against the approved Parameter Plans and Design Code and in the interests of proper planning.

- 10 Prior to the commencement of development within each phase a detailed Open Space Strategy for that phase shall be submitted to and approved in writing by the local planning authority. The Open Space Strategy shall be in accordance with the Masterplan approved under condition 7 and shall:

- Identify the approximate location of the main areas of formal and informal open space to be provided within the development and shall include a proposed programme for its delivery.
- Set out (i) a proposed programme for delivery of the area of proposed allotments linked to the development phases, and (ii) proposals for future management of the allotment area.
- Demonstrate that the public open space will be planted, established and accessible prior to the first occupation of the relevant phase of the proposed development

Development and delivery of open spaces within each phase shall be carried out in accordance with the approved Open Space Strategy for each phase.

REASON: In the interests of achieving sustainable development, in accordance with the principles within the National Planning Policy Framework.

- 11 No development shall commence within each phase of development approved under condition 6 unless and until an Energy Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. Details shall include the strategy to increase energy efficiency, reduce energy consumption and carbon emissions. The development shall be carried out in full accordance with the approved Energy Strategy for each phase.

REASON: In the interests of achieving sustainable development in accordance with and the principles within the National Planning Policy Framework.

- 12 No development within any phase approved under Condition 6 shall take place until details of the means of surface water disposal, including a detailed sustainable surface water scheme for the phase have been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based upon the Flood Risk Assessment by Hydrock (Ref. R/C151664/001.6 dated July 2016) and shall be compliant with the non-statutory technical standards for sustainable drainage. It shall demonstrate the surface water run off generated up to and including the 100yr critical storm (including allowance for climate change) will not exceed run off from the undeveloped site following the corresponding rainfall event, and so as not to increase the risk of flooding both on and off-site. It shall also include the provision of measures to prevent the discharge of surface water onto the highway. The development shall be carried out in accordance with the approved details and thereafter

maintained.

REASON: To ensure adequate drainage provision and to prevent pollution, in accordance with policies DBE3, CC11, CC12, CC13 and QL12 of the Canterbury District Local Plan 2017 and the National Planning Policy Framework.

- 13 No building within any phase approved under Condition 6 hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme for that phase have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- A timetable for its implementation, and
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

REASON: To ensure adequate drainage provision and to prevent pollution, in accordance with policies CC11, CC12, CC13 and QL12 of the Canterbury District Local Plan 2017 and the National Planning Policy Framework.

- 14 No development shall commence until details of the proposed means of foul sewerage disposal have been submitted to and approved by the Local Planning Authority, in consultation with Southern Water. The development shall not be carried out other than in accordance with the details as approved.

REASON: To prevent pollution, in accordance with policies CC11, CC12, CC13 and QL12 of the Canterbury District Local Plan 2017 and the advice contained within the National Planning Policy Framework.

- 15 Prior to the commencement of development within a Phase, details of measures to divert or protect the public foul sewer within that Phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: To prevent pollution in accordance with the advice contained within the National Planning Policy Framework.

- 16 No infiltration of surface water drainage into the ground at this site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

REASON: To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

- 17 No habitable rooms shall be located within 15m to the boundary of the proposed

or existing pumping station site.

REASON: To safeguard the amenities of future occupiers with particular regard to vibration, noise and odour, in accordance with policy DBE3 of the Canterbury District Local Plan 2017 and the National Planning Policy Framework.

- 18 No development within a Phase as approved under Condition 6 shall commence until a remediation strategy for that phase that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

REASON: To ensure that the proposed site investigation, remediation and development will not cause harm to human health or pollution of the environment, in accordance policy QL12 of the Canterbury District Local Plan 2017 and with the National Planning Policy Framework.

- 19 If, during the course of construction of the approved development, contamination not previously identified on the site is found to be present the occurrence shall be reported immediately to the local planning authority. Development on that part of the site affected shall be suspended. A risk assessment shall be carried out and submitted for the written approval of the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted for the written approval of the local planning authority. No development or relevant phase of development shall be resumed or continued until the risk assessment and, if required, remediation and verification schemes have been approved by the local planning authority and the schemes carried out in full accordance with the approved details.

REASON: To prevent harm to human health and pollution of the environment, in accordance policy QL12 of the Canterbury District Local Plan 2017 and with the National Planning Policy Framework.

- 20 No development shall take place within a Phase until the method of piling foundations within that Phase has been submitted to and agreed in writing by the Local Planning Authority. Any such piling shall thereafter be undertaken in accordance with the agreed details.

REASON: To prevent harm to human health and pollution of the environment, in accordance policy QL12 of the Canterbury District Local Plan 2017 and with the National Planning Policy Framework.

- 21 Prior to the commencement of development within any Phase, a Construction Environmental Management Plan (CEMP) shall be submitted for that Phase, which shall include the following details:

- Routing of construction and delivery vehicles to/from site
- Parking and turning areas for construction and delivery vehicles and site personnel
- Timing of deliveries
- Details of site access point(s) for construction
- Dust control measures
- Site operation times between 0730 – 1800 Monday to Friday, 0800 – 1300 Saturday and at no time on a Sunday or Bank Holiday unless in association with an emergency
- Demolition and construction waste - storage and removal
- Temporary traffic management/signage
- Details of wheel washing facilities prior to commencement of spoil removal on site and for the duration of spoil removal
- A scheme for the protection of areas of ecological interest and for mitigation of any possible harm to such areas including Stodmarsh European Protected sites. The mitigation measures as set out within the Volume 1 Chapter 15 of the Environmental Statement (March 2016).

The development shall not commence until the CEMP for that Phase has been approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: To ensure pollution prevention measures are in place for all potentially polluting activities during construction in accordance policy QL12 of the Canterbury District Local Plan 2017, the National Planning Policy Framework and in the interests of highway safety.

- 22 Prior to the commencement of development within a development phase pursuant to condition 6, full details of the measures set out within paragraph 4.2 and 4.3 of the Air Quality Technical Note received 2nd August 2018 shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to the first occupation of any dwelling and the local centre within a development phase and thereafter

REASON: To ensure pollution prevention measures are in place in accordance policies DBE3 and QL12 of the Canterbury District Local Plan 2017, the National Planning Policy Framework and in the interests of highway safety.

- 23 Prior to the commencement of development (including any groundworks and site clearance) an Ecology Mitigation Strategy shall be submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:

- a. Updated ecological walkover survey and review of the existing specific species surveys
- b. Updated specific species surveys where necessary to inform the ecological mitigation
- c. Purpose and objectives for the proposed works
- d. Detailed design(s) and/ or working method(s) necessary to achieve the stated objectives;
- e. Extent and location of proposed works, shown on appropriate scale maps and plans;
- f. Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- g. Persons responsible for implementing the works, including times during construction when specialist ecologists need to be present on the site to undertake/ oversee works;
- h. Use of protective fences, exclusion barriers and warning signs;
- i. Initial aftercare and long term maintenance (where relevant);
- j. Disposal of any wastes for implementing work.

The works shall be carried out in accordance with the approved details and shall thereafter be maintained as such.

REASON: In the interest of preserving protected species and their habitats in accordance with policy LB9 of the Canterbury District Local Plan and the National Planning Policy Framework.

- 24 Prior to the first occupation of any dwelling or local centre being brought into use, a Landscape and Ecological Mitigation Plan (LEMP) covering the Phase shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall reflect the information submitted within the Ecology Park Management Plan (Aspect Ecology October 2016) and shall include:

Description and evaluation of features to be managed;

- k. Ecological trends and constraints on site that might influence management;
- l. Aims and objectives of management;
- m. Appropriate management options for achieving aims and objectives;
- n. Preparations for management actions, together with a plan of management compartments;
- o. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period);
- p. Details of site inspections to ensure the management plan has been implemented and identify any ongoing repairs;
- q. Dates of ongoing monitoring and management plan review;

- r. Details of the body or organisation responsible for implementation of the plan;
- s. Ongoing monitoring or remedial works.

The approved plans shall be carried out in accordance with the approved details.

REASON: In the interest of preserving protected species and their habitats in accordance with policy LB9 of the Canterbury District Local Plan and the National Planning Policy Framework.

- 25 No development within a Phase under Condition 6 shall commence until a lighting design strategy for that Phase has been submitted to and approved in writing by the local planning authority. The strategy shall be in accordance with the approved ecological mitigation strategy and shall:

- Identify those areas/features on site that are particularly sensitive for bats, including those created as mitigation / enhancement measures; and
- Principles of how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting within the Phase shall be installed in accordance with the approved strategy.

REASON: In the interest of preserving protected species and their habitats in accordance with policy LB9 of the Canterbury District Local Plan and the National Planning Policy Framework.

- 26 Not to commence the development on any Phase approved under Condition 6 until such time as a Landscape Management Plan and Specification for that Phase has been submitted to and approved by the Local Planning Authority detailing:

- The precise location and boundaries of the areas of formal and informal open space to be provided within the Phase and timetable for their delivery which shall be substantially in accordance with the approved Masterplan and its Open Space Strategy;
- A Landscape Management Plan for those areas including long term design objectives, details of who is to have ongoing management responsibilities for the area and how those arrangements will be secured in perpetuity and maintenance schedules for all landscaped, open space and play areas;
- A detailed specification for any equipped play areas to be provided within the Phase in accordance with the Masterplan.
- A detailed scheme of native tree planting across the site.

The Landscape Management Plan and Specification shall be implemented and adhered to as approved subject to any minor revisions thereto as may be approved in writing by the Local Planning Authority. The public open spaces shall be laid out and implemented in accordance with the agreed timetable and shall be permanently retained thereafter in accordance with the management plan and used for public amenity purposes only.

REASON: In the interests of the visual amenities of the area and to adequately integrate the development into the environment, and provide local play space, in accordance with guidance within the National Planning Policy Framework

- 27 Pursuant to condition 1 all hard and soft landscape works shall be carried out in accordance with the approved Landscape Management Plan and Specification for that Phase. The works shall be carried out prior to the occupation of any part of the phase of the development to which it relates, or in accordance with a programme of works to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives any written consent to any variation.

REASON: In the interests of the visual amenities of the area and the interests of biodiversity and ecological potential, and to adequately integrate the development into the environment, in accordance with the National Planning Policy Framework.

- 28 No development shall take place until suitably qualified and experienced person has carried out a full investigation and assessment to determine the stability of the land and determine whether the development of the site can be carried out without causing instability of adjoining land or structures, and a written report of the findings/assessment including any recommendations has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in full accordance with any such recommendations set out within the aforementioned report, that have been approved in writing by the Local Planning Authority.

REASON: To ensure that the site can be developed without compromising the stability of adjoining land or buildings in accordance with the National Planning Policy Framework.

- 29 No development shall take place within 25m from the edge of the mine shaft unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the site can be developed without compromising the stability of adjoining land or buildings in accordance with the National Planning Policy Framework.

- 30 Prior to the first use of development hereby granted the access (including bus stop improvements) shown on submitted plan A092551-001-B shall be completed and thereafter maintained.

REASON: In the interests of highway safety.

- 31 Prior to the occupation of development hereby granted the improvements to the

Lakesview Business Park Access/ Claremont Way roundabout junction shown on submitted plan A092551-008 A shall be completed and thereafter maintained.

REASON: In the interests of highway safety.

- 32 Prior to the occupation of development hereby granted the improvements to the A28/ Babs Oak Hill junction shown on submitted plan A092551-1_SK_003 C shall be completed and thereafter maintained.

REASON: In the interests of highway safety.

- 33 If planning permission granted under reference no. CA/16/00404/OUT at Hoplands Farm is not implemented, prior to the occupation of development hereby granted the improvements to the Blackthorn Road roundabout junction on submitted plan A092552-1-006 shall be completed and thereafter maintained.

REASON: In the interests of highway safety.

- 34 Prior to the first occupation of any part of the development a Residential and Employment Travel Plan and programme for implementation shall be submitted to an approved in writing by the Local Planning Authority.

REASON: In the interests of highway safety and to facilitate the use of alternative means of transport in accordance with policy T17 of the Canterbury District Local Plan 2017.

- 35 The development shall, in respect of the mix of housing unit sizes, accord with the Councils Housing Strategy. Details of the housing mix for each phase (as approved under condition number 7) of the development shall be submitted concurrently with or prior to the submission of any Reserved Matters application relating to that phase.

REASON: To ensure that the development will meet the identified housing need for the District in accordance with Policy SP2 of the Canterbury District Local Plan 2017

- 36 Prior to the commencement of development within each Phase, details for the installation of fixed telecommunication infrastructure and High Speed Broadband for that Phase shall be submitted to and approved in writing by the Local Planning Authority. Details shall include with connections to multi-point destinations and all buildings including residential, commercial and community to provide sufficient capacity, including duct sizing, to cater for all future phases of the development with sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process. High Speed Fibre Optic Broadband shall be installed into the buildings before they are occupied.

REASON: To ensure access to high speed broadband infrastructure in the interests of sustainability and in pursuance to paragraph 42 of the National Planning Policy Framework.

INFORMATIVES:

TENTH SCHEDULE

DISPUTE RESOLUTION PROCEDURE

- 1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to paragraph 1 of this Schedule or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.
- 5 The provisions of this clause shall not affect the ability of the Council or the County Council to apply for and be granted any of the following: declaratory relief, injunction, and specific performance, payment of any sum, damages, and any other means of enforcing this Deed and consequential and interim orders and relief.

THE COMMON SEAL of

CANTERBURY CITY COUNCIL

was hereunto affixed in
the presence of:



Authorised Signatory



THE COMMON SEAL of THE

KENT COUNTY COUNCIL

was hereunto affixed in
the presence of:

Sarah Watson

Authorised Signatory



Signed as a Deed by

JAMES MURREY PRESTON

(trading as THE MHP PARTNERSHIP)

As witnessed by:

Signature:

Name:

Address:

Occupation

Signed as a Deed by

MARGARET JEAN HAVELOCK PRESTON

(trading as THE MHP PARTNERSHIP)

As witnessed by:

Signature:

Name:

Address:

Occupation

Signed as a Deed by
WOODLAND DEVELOPMENTS LIMITED
Acting by a Director in the presence of :-

As witnessed by:

Signature:

Name:

Address:

Occupation:

Signed as a Deed by

HNC DEVELOPMENTS LLP

by a Member in the presence of:

As witnessed by:

Signature:

Name:

Address: