DATED 20th August 2024

between

WILTSHIRE COUNCIL

and

DENNIS WALKER

and

[redacted]

LPP
ASPIRE LIMITED

Deed under Section 106 of the Town and Country Planning Act 1990
and all other enabling powers
relating to Land at Longleaze Lane, Melksham, Wiltshire, SN12 6QJ
PLANNING APPLICATION NUMBER: PL/2023/06725

Wiltshire Council

Solicitor to the Council
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire BA14 8JN
Ref: Iken 151993

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ANNEX A: PLAN .....

THIS DEED is dated 20th August 2024

(1) **WILTSHIRE COUNCIL** of County Hall Bythesea Road Trowbridge Wiltshire BA14 8JN (**Council**).

(2) **DENNIS WALKER** of Bowerhill Lodge, 382 Longleaze Lane, Melksham SN12 6QJ (**Owner**). [redacted]

LAP

(3) **ASPIRE LIMITED** of (Co. Regn.No.12186152) of Third Floor, 45 London Road, Reigate, Surrey RH2 9PY (**Developer**).

BACKGROUND

(A) The Owner is the freehold owner of the Land registered at the Land Registry under title number WT429166 shown for the purposes of identification only edged red on the Plan

(B) The Developer has an unregistered option to buy the Land

(C) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated

(D) The Developer has submitted the Planning Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed without which the Planning Permission would not be granted

(E) On 17th April 2024 the Council resolved to grant planning permission for the Development subject to conditions and the prior completion of this Deed in the interests of the proper planning of the area.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. Definitions

The definitions and rules of interpretation in this clause apply in this deed:

"the Act"	The Town and Country Planning Act 1990
"CIL Regulations"	means the Community Infrastructure Levy Regulations 2010

"**Commencement of Development**"	the date on which any material operation as defined in section 56(4) of the Act forming part of the Development begins to be carried out and in the context of a Residential Unit or Residential Units the material building operation or development in accordance with Section 56 of the Act shall refer to that Residential Unit or Residential Units and Commence and Commenced shall be construed accordingly
"**Development**"	any development permitted by the Planning Permission
"**Director**"	the Corporate Director, Growth, Investment and Place or his appointed representative for the time being of the Council
"Healthcare Contribution"	means the sum of thirty seven thousand and sixty two pounds (£37,062) to be used towards the capital cost of delivering additional primary care floorspace at Spa Medical Centre and/or Giffords Surgery to serve residents of the new development
"index"	a. the All In Tender Price Index published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors in relation to the Contribution unless otherwise stated in this Deed
"Index Linked"	increased in accordance with the following formula: Amount payable = the Contribution x (A/B) where:

	A = the figure for the Index that applied immediately preceding the date of actual payment and B = the figure for the Index that applied when the Index was last published prior to the date of this Deed
"Interest"	Interest at the rate of 4% above the base lending rate of the HSBC Bank Plc from time to time
"**Land**"	the land at Longleaze Lane, Melksham, Wiltshire, SN12 6QJ shown edged red on the Plan (Option Plan ASP-CH-034-OP001)
"Land Compensation Acts"	In relation to clause 14 means the Land Clauses Consolidation Act 1845 the Land Compensation Act 1961 the Compulsory Purchase Act 1965 the Land Compensation Act 1973 and the Planning and Compensation Act 1991 and includes the Human Rights Act 1998 and any variation or enactment of the said acts on a date on or after the date of execution of this Deed which confers a right of compensation for the compulsory acquisition of land and/or the diminution in value of land as a result of the carrying out of or the use of public works
"Occupation" and **"Occupied"**	Occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction and "Occupied" and "Occupy" shall be construed accordingly

"**Plan**"	the plan or drawing attached to this Deed and referenced ASP-CH-034-OP001 which plan is for the purposes of identification only and for the avoidance of doubt is not the full plan used in PL/2023/06725
"**Planning Application**"	the planning application for full planning permission for construction of elderly care home (Use Class C2) with associated access works, landscaping and drainage; improvements to site access and Longleaze Lane/Snowberry Lane junction and allocated reference number PL/2023/06725
"**Planning Permission**"	the planning permission for the Development that may be granted pursuant to the Planning Application
"Section 73 Permission"	means a planning permission granted by the Council pursuant to an application made under section 73 of the 1990 Act to vary the Planning Permission
"Section 73A Permission"	means a planning permission granted by the Council pursuant to an application made under section 73A of the 1990 Act to vary the Planning Permission
"**Working Day(s)**"	days on which clearing banks in the City of London are open to the public and for the avoidance of doubt such days shall not include any Saturday or Sunday

New Year's Day Good Friday Easter Monday May Day Christmas Day and Boxing Day

2. Construction of this Deed

2.1. Words importing the masculine include the feminine and neuter gender and vice versa

2.2. Words importing the singular include the plural and vice versa

2.3. Words importing persons include companies corporations and vice versa and all such words shall be construed interchangeable in that manner

2.4. Wherever there is more than one person named as a party and where more than one party undertakes an obligation (including by becoming a successor in title) all their obligations can be enforced against all of them jointly and against each individually

2.5. Insofar as different parts of or interests in the Land are owned by different persons each person Covenants with the Council and with one another to co-operate insofar as they are able to ensure that the covenants herein on behalf of "the Owner/ Developer" are fulfilled as expeditiously as possible

2.6. The headings throughout this Deed are for convenience only and shall not be taken into account in the construction and interpretation of this Deed

2.7. Any reference to a clause paragraph schedule or plan is to one in to or attached to this Deed and any reference to this Deed includes any schedule, plan, annexure or other attachment to this Deed

2.8. In the absence of contrary provision any reference to a Council document to be completed which is annexed or referred to in this Deed shall be the Council document which is current and in force at the date of its completion

2.9. In the absence of contrary provision any reference to a statute or statutory instrument includes any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force and reference to a statute includes any statutory instrument direction or specification made or issued under the statute or deriving validity from it

2.10. References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and successors to any statutory functions of the Council

2.11. Covenants to do or not to do an action shall include respectively a covenant to permit or not to permit that action to be done

3. Statutory provisions

3.1. This Deed is made pursuant to the following:

Section 106 of the Act
Section 111 of the Local Government Act 1972
Section 93 Local Government Act 2003
Section 1 Localism Act 2011
and all other enabling powers

and has been entered into by the Council pursuant to those powers

3.2. The covenants restrictions and requirements created by this Deed are planning obligations for the purposes of Section 106 of the Act to the intent that it shall bind the parties and their respective successors in title to each and every part of the Land and are enforceable by the Council as local planning authority

3.3. It is acknowledged that the obligations contained in this Deed are:

3.3.1. necessary to make the Development acceptable in planning terms;

3.3.2. directly related to the Development; and

3.3.3. fairly and reasonably related in scale and kind to the Development

in accordance with the requirements of Regulation 122 of the CIL Regulations

4. Commencement

4.1. This Deed shall come into force on the date hereof save for the obligations contained in the Schedules hereto which shall come into effect upon the Commencement of Development

4.2. The Owner shall notify the Council of the Commencement of Development and the date of Occupation of the first unit and the Owner agrees that no time shall run to the detriment of the Council if and so long as the Owner have failed to serve notice

4.3. If the Owner and Developer have not provided the information referred to in clause 4.2 above within 20 Working Days of its becoming available the Council shall have the right to obtain this information by other reasonable means and to charge the Owner and Developer its costs in obtaining this information subject to a maximum of one

thousand pounds (£1,000) per time **PROVIDED THAT** the information is in fact obtained as aforesaid and reasonable evidence of this is provided by the Council to the Owner and Developer

5. The Owner's Covenants

The Owner will observe and perform the obligations set out in this Deed and Schedule 1

6. The Council's Covenants

The Council covenants with the Owner as set out in Schedule 2

7. General

The parties agree that:

7.1. Nothing in this Deed constitutes an obligation to grant planning permission or any other approval consent or permission required from the Council in the exercise of any other statutory function and nothing in this Deed constitutes such approval, consent or permission.

7.2. This Deed does not and is not intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999 (other than any replacement body of the Council)

7.3. No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land or that part of the Land in relation to which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest

7.4. Insofar as any clause or clauses or any part thereof of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed

7.5. If before Commencement of Development the Planning Permission:

a) expires within the meaning of Sections 91 92 or 93 of the Act; or

b) is revoked, quashed or modified without the consent of the Owner;

this Deed shall cease to have effect

7.6. The Owner shall pay to the Council: its proper and reasonable legal costs incurred in negotiating preparing and entering into this Deed upon completion of this Deed and in relation to any transaction arising therefrom upon completion of the same

7.7. This Deed shall be registerable as a local land charge by the Council

7.8. Where the agreement approval consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement consent approval or expression of satisfaction shall be given in writing on behalf of the Council by the Engineer or Director as appropriate

7.9. 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

7.10. Nothing contained or implied in this Deed shall prejudice affect fetter or restrict the rights powers duties and obligations of the Council in the exercise of its functions as Local Planning Authority or any other statutory function rights duties powers and obligations under all public and private statutes byelaws and regulations

7.11. This Deed shall apply to any Section 73 Permission or Section 73A Permission in the same way as it applies to the Planning Permission provided that for the avoidance of doubt where the Council or deem it appropriate the Council may require a further Deed under sections 106 and 106A of the 1990 Act to secure obligations concerning the Section 73 Permission or Section 73A Permission.

7.12. This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the Courts of England and Wales.

8. Notices

Any notice or other communication given or made under this Deed shall be in writing and (unless otherwise herein provided) shall be deemed to be sufficiently served if sent by pre-paid first class post or other next working day delivery service to the address of the party specified in this Deed or to such other address (in substitution thereof) as may be notified in writing by that party from time to time for this purpose and in the case of the Council shall be addressed to the Head of Legal Services and quote reference Iken 151993 and copied to the Section 106 and Community Infrastructure Levy Officer

9. Waiver

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

10. Change in Ownership

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Land occurring before all the obligations under this Deed have been discharged. Such notice to give details of the transferee's name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation transferred by reference to a plan PROVIDED THAT this clause shall not apply to the disposal of an individual Residential Unit

11. Indexation

All financial contributions payable to the Council under this Deed shall be Index Linked

12. Interest

If any payment due under this Deed is paid late Interest will be payable from the date payment is due to the date of actual payment compounded annually.

13. VAT

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

13.2. If at any time VAT becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

14. Indemnity

14.1. The Owner hereby undertakes and agrees with the Council that in the event of any claim or claims being made against the Council for any one or more of the following payments:

a) Compensation (including any claim arising under the Land Compensation Acts)
b) Damages
c) Costs
d) Charges
e) any other payment

such claim arising in connection with or incidental to or in consequence of any failure on the part of the Owner to comply with its obligations under this Deed the Owner will hold the Council fully indemnified from and against each and every said claim

14.2. The Owner shall not be liable under this clause to indemnify the Council in respect of any claim only insofar as and to the extent that the said claim is found to have resulted from the negligent act or omission of the Council or its servants or agents save that for the purpose of this clause the Owner or persons acting on behalf of the Owner shall not be regarded as servants or agents of the Council

15. Delivery

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

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

SCHEDULE 1 – COVENANTS TO THE COUNCIL

Payment of the Healthcare Contribution

1. The Owner covenants to pay the Healthcare Contribution to the Council prior to the first Occupation of the Development (the receipt of which is acknowledged by the Council's signing of this Deed) and
2. The Owner covenants not to Occupy the Development until the Healthcare Contribution has been provided.

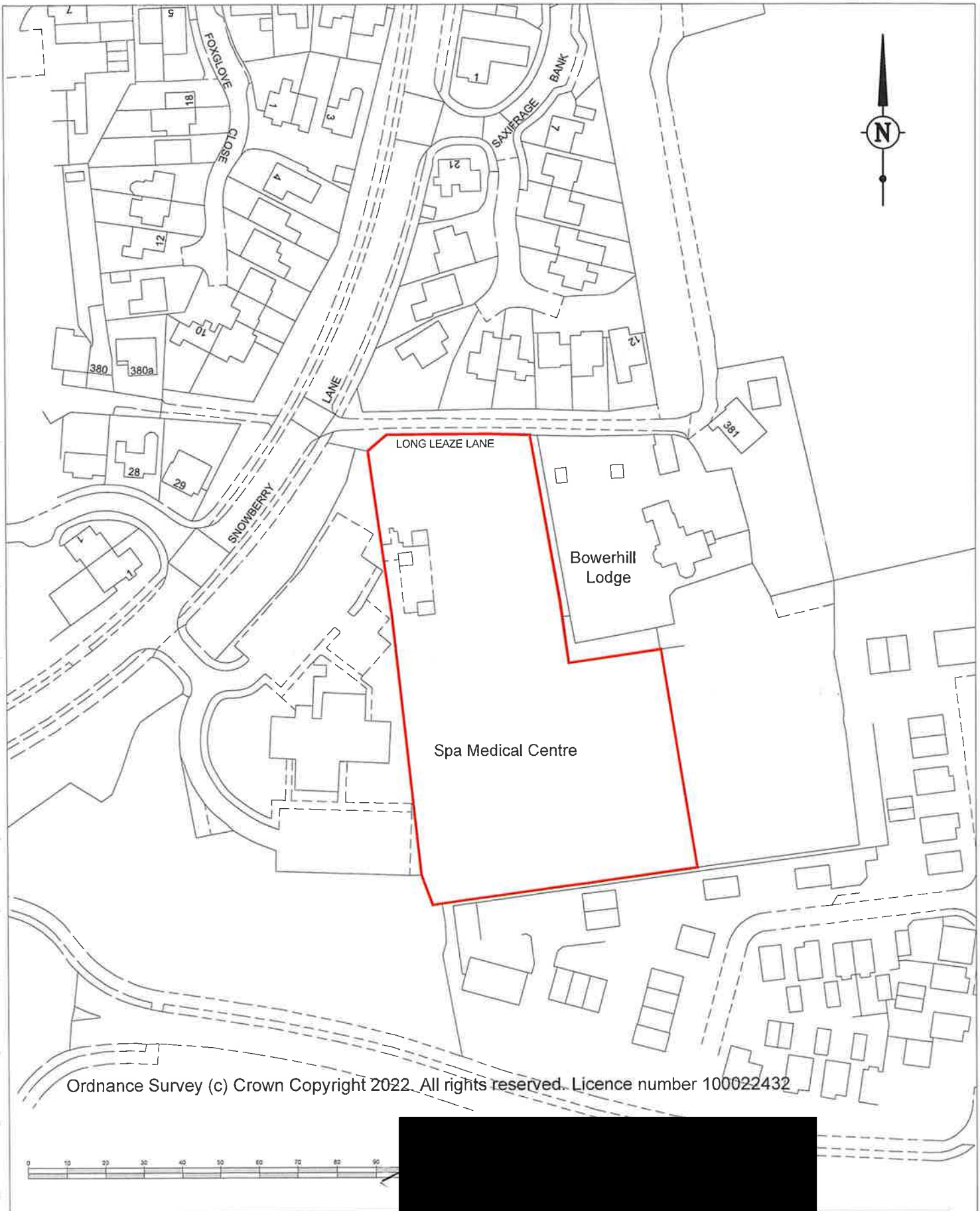
Schedule 2 – COVENANTS BY THE COUNCIL

The Council covenants with the Owner

1 To provide the Healthcare Contribution to the Council's nominee, the National Health Service (England) ("NHSE") and the Wiltshire Commissioning Group **("NHSE")**, to be expended for the purposes specified in this Deed

2 To pay to the paying party such amount of any payment made by the Owner to the Council under this Deed which has not been expended or committed in accordance with the provisions of this Deed within (10) years of the date of receipt by the Council of such payment on receipt of a written request from the Owner or Developer to do so

ANNEX A: PLAN



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[redacted]

ASPIRE
LAND | PLANNING | PROPERTY

Aspire LPP
Castle Court,
41 London Road,
Reigate, Surrey,
RH2 9RJ

Tel: 01737 735005

CLIENT

PROJECT
LAND AT:
382 LONGLEAZE LANE
MELKSHAM
SN12 6QJ

DRAWING TITLE
OPTION PLAN

Do not scale from this drawing, except for planning purposes.
All dimensions to be checked by the Contractor prior to commencement of works on site. Any discrepancy or suggested modification to be reported to Aspire LPP immediately.

CHECKED PROPOSAL	APPROVED PROPOSAL	CLIENT APPROVED	ENGINEER APPROVED	DRG STATUS: PLANNING
DRAWN BY: GF	SCALE 1:1250 A4	JOB REFERENCE: ASP-CH-034		DRG No: OP-001 REV:



Executed as a deed by affixing The common seal of WILTSHIRE COUNCIL in the presence of:

Authorised signatory

Authorised Signator
Wiltshire Council

[redacted]

Signed as a deed by DENNIS WALKER in the presence of:

[redacted]

SIGNATURE OF WITNESS

NAME KIERAN MICHAEL KANAGASU

ADDRESS 41 WHITELEY ROAD POTTERNE DEVIZES SN10 5QY

OCCUPATION OF WITNESS LAND AGENT.

SIGNATURE OF OWNER

[redacted]

Executed as a deed by ASPIRE LAP LIMITED acting by MICHAEL LUCAS

NAME OF DIRECTOR, a director, in the presence of:

[redacted]

SIGNATURE OF DIRECTOR

Director

SIGNATURE OF WITNESS

NAME Eliot Sauregui

ADDRESS 14 Conks Hill Road, Redhill, RH1 6LZ

OCCUPATION OF WITNESS

Associate Land Director