

DATED 2025

between

WILTSHIRE COUNCIL

and

1215 HERITAGE HOMES LIMITED

**Deed under Section 106 of the Town and Country Planning Act 1990
and all other enabling powers
relating to Land to the East of Wagtails Southampton Road Alderbury Wiltshire
SP5 3AF**



**Solicitor to the Council
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire BA14 8JN
Ref: Iken 154226**

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THIS DEED is dated [DATE]

- (1) **WILTSHIRE COUNCIL** of County Hall Bythesea Road Trowbridge Wiltshire BA14 8JN (**Council**).
- (2) **1215 HERITAGE HOMES LIMITED** incorporated and registered in England and Wales with company number 09614081 whose registered office is at 13 Hellesden Park Road Drayton High Road Norwich Norfolk NR6 5DR (**Owner**).

BACKGROUND

- (A) The Owner is the freehold owner of the Land registered at the Land Registry under title number WT434350 shown for the purposes of identification only edged red on the Plan
- (B) The Council is the local planning authority for the purposes of the Act, the education authority and the housing authority for the area in which the Land is situated
- (C) The Owner 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
- (D) On 12 September 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:

“Adapted Units”

means an Affordable Housing Unit constructed to meet the Adapted Units Standards and as set out in the Affordable Housing Mix

“Adapted Units Standards”

means part M4(2) of the Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings) current at the

[time of the relevant reserved matters approval/the date of this Deed or any guidance, regulation or circular that replaces the part M4(2) standard]

“Affordable Housing”

means

- (1) Social Rented Housing;
- (2) Affordable Rented Housing; and
- (3) Intermediate Housing

provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable Housing should include provision to remain at an affordable price for future eligible households or for the Subsidy to be recycled for alternative Affordable Housing provision

“Affordable Housing Consideration”

means the price to be paid for the Affordable Housing Units by the Transferee which shall be the price at which the Transferee can afford to pay for the Affordable Housing Units on a Nil Subsidy basis and for the avoidance of doubt this consideration shall not preclude any agreement being reached between the Transferee and the Owner which enables an additional consideration to be paid for the Affordable Housing Units if it is of a higher quality or standard than that envisaged by paragraph 4 of Schedule 1

“Affordable Housing Contract”

means a contract to be entered into between the Owner and the Transferee

for the construction of the Affordable Housing Units and the transfer to the Transferee for the Affordable Housing Consideration

“Affordable Housing Mix”

means the mix of Affordable Housing Units set out in Schedule 3

“Affordable Housing Plan”

means the plan, to be submitted to the Council indicating the location of the Affordable Housing Units on the Land

“Affordable Housing Unit(s)”

means the Residential Unit(s) to be provided as Affordable Housing in accordance with Schedule 1

“Affordable Rented Housing”

means rented housing let by a Transferee to a Qualifying Person who is eligible to obtain Social Rented Housing and which is subject to rent controls that require a rent of no more than 80% of local Market Rent (including service charges, where applicable) at the time of letting which may be increased by no more than the Consumer Price Index plus 1% annually or other such amount as prescribed by the Regulator of Social Housing

“Affordable Rented Unit(s)”

means the Affordable Housing Unit(s) that are only available to be used and Occupied as Affordable Rented Housing

“Allocations Policy”

means the Council’s policy for allocating Affordable Housing Units for all tenures

(for the avoidance of doubt including Shared Ownership Housing) in the administrative area of Wiltshire (as amended from time to time)

“the Act”

means the Town and Country Planning Act 1990

“Biodiversity Mitigation Scheme Contribution”

means the sum of seventy five thousand nine hundred pounds (£75,900) towards the cost of funding the Biodiversity Mitigation Scheme

“Biodiversity Mitigation Scheme”

means a scheme undertaken by the Council for the permanent removal of an intensively managed dairy farm at Roundbarrow Farm, Pitton and the conversion of this land to a nature reserve with the allocation of 2.53 habitat units for this development or such alternative scheme designed by the Council to achieve the same level of biodiversity mitigation

“Biological Mitigation Natural Areas”

means an area for biological mitigation within the Land to be kept for ecological mitigation in perpetuity and which is shown indicatively on the Site Layout Plan the final details of which shall be agreed in writing between the Owner and the Council through the submission of the Reserved Matters Application

“Cluster”

means a group of Affordable Housing Units which does not have contiguous

boundaries with another group of
Affordable Housing Units

“CIL Regulations”

means the Community Infrastructure
Levy Regulations 2010 (as amended)

**“Commencement of
Development”**

means 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 but for the
purposes of this Deed only (and for no
other purpose) shall not include:

- (a) site clearance and preparation
including shrub clearance
- (b) archaeological investigation;
- (c) investigations for the purposes
of assessing contamination;
- (d) other ground and site
surveying;
- (e) construction of temporary
access and temporary internal
roads for construction purposes
only;
- (f) remediation works associated
with decontamination;
- (g) erection of a temporary means
of enclosure, including fences
and hoardings, for the
purposes of site security;
- (h) provision of temporary
accommodation reasonably
required for construction
purposes only;

- (i) preliminary landscaping works including tree protection s;
- (j) diversion of utility undertakers equipment/apparatus including laying of new services and drainage and any new sub-station; and
- (k) temporary site notices and temporary advertisements;

and Commence and Commenced shall be construed accordingly

“Completion”

means the date of issue of building regulation completion certificate to the Owner’s architect or other authorised agent of the Owner or in the event that the Development is constructed by a party other than the Owner the date of issue of the building regulation completion certificate to the other party’s architect or other authorised agent (whether by the local authority or an approved inspector) and “Complete” shall be construed accordingly

“Contribution”

means each financial contribution payable under this Deed

“Development”

means any development permitted by the Planning Permission

“DPC Level”

means damp proof course level

“Director”	means the Corporate Director, Growth, Investment and Place or his appointed representative for the time being of the Council
“Disposal”	means a transfer of the freehold or (in the case of a flat only) the grant of a leasehold interest in an Affordable Housing Unit and “Disposed” and “Disposing” shall be construed accordingly
“Early Years Contribution”	means the sum of fifty two thousand five hundred and sixty six pounds (£52,566) towards the cost of the provision of appropriate early years education infrastructure in the vicinity of the Land
“Head of Housing”	means the manager for the time being of the Housing Enabling Team or such other person as the Council may appoint to perform the functions of the Head of Housing under this Deed
“Homes England (HE)”	means Homes England which is the trading name of the Homes and Communities Agency established by Section 1 of the Housing and Regeneration Act 2008 or such other body replacing it in function

**“Homes England’s
Fundamental Clauses”**

means clauses as defined by Homes England’s Affordable Homes Capital Funding Guide produced by the Homes and Communities Agency and current at the date of this Deed (or such document as shall succeed or replace it)

“Homes England Target Rent”

means the maximum weekly rent that may be charged by a Transferee for Social Rented Housing in Wiltshire as determined through the National Rent Regime

“Index”

means:

- 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
- b. All Items Index of Retail Prices issued by the Office for National Statistics in relation to the Open Space Contribution, the Youth and Adult Leisure Contribution, the Biodiversity Mitigation Scheme Contribution and the New Forest Contribution

and in the event that such indices shall have changed the Council shall select a reasonable alternative index

“Index Linked”

means 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"

means interest at the rate of 4% above the base lending rate of the HSBC Bank Plc from time to time

“Intermediate Housing”

means Affordable Housing homes for sale and rent provided at a cost above Social Rented Housing but below open market levels the form of which shall be agreed with the Council at its absolute discretion but may include shared equity (Shared Ownership Housing and equity loans) other low cost homes for sale and Intermediate Rent but not Affordable Rented Housing (or as set out in Schedule 3 (the Affordable Housing Mix)

“Intermediate Rent”

means the Intermediate Housing let by a Transferee to a Qualifying Person and which is subject to rent controls that require a rent of no more than 80% of local Market Rent (including service charges, where applicable) at the time of letting which may be increased by no

more than the Consumer Price Index plus 1% annually or such other amount as prescribed by the Regulator of Social Housing from time to time

“Land”

means the land to the East of Wagtails Southampton Road Alderbury Wiltshire SP5 3AF shown edged red on the Plan

“Land Compensation Act”

In relation to clause 16 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 Land Compensation 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

“Landscape and Ecology Management Plan”

means the plan to be submitted to the Council for approval under the relevant planning condition in the Planning Permission

“Management Company”

means the private limited company to be established if applicable by the Owner (and registered at Companies House) the purpose of which will be (amongst other things) to manage and maintain

the Biological Mitigation Landscape Area

“Market Housing Units”

means the units constructed and identified as part of the Development as general housing for sale or rent on the open market and which are not Affordable Housing Units

“Market Rent”

means the estimated amount for which an interest in real property should be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm’s length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion, as defined in the International Valuation Standards (IVS) 104 Paragraph 40.1 of the Royal Institution of Chartered Surveyors Red Book Global Standards 2021 or any subsequent document which amends or replaces it

“Market Value”

means the market value as assessed by a Valuer of the Residential Unit and assessed in accordance with the RICS Valuation Standards (November 2021 or any such replacement guidance issued by RICS)

“National Rent Regime”

means the rent policy set out for Social Rent within the Rent Standard Guidance as published by the Ministry of Housing Communities and Local Government

and the Regulator of Social Housing in April 2020 and updated in December 2020 and any other guidance issued by the Regulator of Social Housing or its successors in relation to this document

“New Forest Contribution”

means the sum of eighteen thousand pounds (£18,360) towards the delivery of the mitigation measures set out in the New Forest Strategic Access Management and Monitoring Strategy (October 2023, as may be amended from time to time) to mitigate the effect of the Development on the New Forest Protected Sites (New Forest Special Area of Conservation, Special Protection Area and Ramsar site)

“NDSS”

means the Technical Housing Standards Nationally Described Space Standard published by the Department for Communities and Local Government in March 2015 and current at the Date of this Deed (or such document as shall succeed or replace it) as set out in Schedule 4

“Nil Subsidy”

means without the input of any other grant funding from the Council, Homes England, the Transferee's Recycled Capital Grant Fund, the Private Finance Initiative or any other form of state aid or grant or subsidy

“Nomination Rights”	means the right of the Council to nominate tenants of the Affordable Housing Units as set out in Schedule 2
“Occupation” and “Occupied”	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction and “Occupy” shall be construed accordingly
“Open Space Contribution”	means the sum of twenty one thousand two hundred and seventy pounds and seventy pence (£21,270.70) towards the provision or upgrading of open space and/or play facilities at Alderbury Recreation Ground on Southampton Road or within the vicinity of the Development
“Plan”	means the plan or drawing attached to this Deed and referenced 1215_01 Rev 01 which plan is for the purposes of identification only
“Planning Application”	means the planning application for outline planning permission for up to 30 dwellings with all matters reserved registered by the Council on 9 May 2022 and allocated reference number PL/2022/03103
“Planning Permission”	means the planning permission for the Development that may be granted pursuant to the Planning Application
"Practical Completion"	means the issue of a certificate of practical completion by the Owner's

architect or in the event that the Development is constructed by a party other than the Owner the issue of a certificate of practical completion by the other party's architect

“Protected Tenant”

means any person who:

- a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;
- c) has purchased from the Transferee all of the shares so that they own the entire Affordable Housing Unit

“Qualifying Person”

means an individual who meets the requirements of the Allocations Policy and who is unable to compete in the open housing market from time to time as the financial resources of his household are too low to facilitate the purchase at Market Value or rent of a house in the area at Market Rent and who is considered by the Council to be a person whom it is proper to be allocated accommodation in an Affordable Housing Unit

“Registered Provider”	means a Registered Provider as defined by Section 80 of the Housing and Regeneration Act 2008 from the Council’s list of preferred development partners or as otherwise agreed in writing by the Council such approval not to be unreasonably withheld or delayed
“Regulator of Social Housing”	means the Regulator of Social Housing as referred to in s80A Housing and Regeneration Act 2008
“Rent Charge/Management Charge”	means the perpetual yearly variable estate management charge to be imposed on each Residential Unit to cover the annual costs of the Management Company complying with the obligations of Schedule 1 of this Deed. With regards to the Management Charge on the Affordable Rented Units the Owner and the Registered Provider or Transferee shall reach an agreement on a reasonable figure to be imposed on each Affordable Rented Unit
“Reptile Mitigation Enhancement Strategy”	means the Reptile Mitigation Enhancement Strategy to be submitted to the Council for approval by virtue of the relevant planning condition attached to the Planning Permission
“Reserved Matters Application”	means the reserved matters application submitted for the Development pursuant to the Planning Permission
“Residential Unit(s)”	means all residential units forming part of the Development including Market

	Housing Units and Affordable Housing Units
“Secondary School Contribution”	means the sum of one hundred and thirty seven thousand six hundred and forty pounds (£137,640) towards the cost of the provision of appropriate secondary education infrastructure in the vicinity of the Land
“Section 73 Permission”	means a planning permission granted by the Council pursuant to an application made under Section 73 of the 1990 Act or Section 73A of the 1990 Act in respect of the Planning Permission.
“Service Head – Natural and Historic Environment”	means the head of the service with responsibility for adoption of biological mitigation natural areas or such replacement head of service as determined by the Council or his appointed representative for the time being of the Council
“Shared Ownership Housing”	means the Affordable Housing to be managed by a Transferee and to be disposed of in accordance with the Allocations Policy to a Qualifying Person on a lease which includes Homes England’s Fundamental Clauses
“Shared Ownership Unit(s)”	means the Affordable Housing Unit(s) that are only available to be used and Occupied exclusively as Shared Ownership Housing

“Site Layout Plan”	means the plan or drawing attached to this Deed at Annex A and referenced “Site Layout” which plan is for the purposes of identification only
“Social Rented Housing”	means the housing owned and managed by a Transferee for which guideline target rents are determined through the National Rent Regime
“Social Rented Unit(s)”	means the Affordable Housing Unit(s) that are only available to be used and Occupied exclusively as Social Rented Housing
“Staircased”	means the acquisition by a Shared Ownership lessee of additional equity in a Shared Ownership Unit up to a maximum of 100% (one hundred per cent) equity subject to the confirmation of a Designated Protected Area waiver by Homes England to allow staircasing to 100% and "Staircased" shall be construed accordingly;
“Standards”	means the size standards promoted by Homes England as at the date of this Deed/ the time of the relevant reserved matters approval being at least 85% NDSS
“Subsidy”	means any grant funding from the Council Homes England the Transferee’s Recycled Capital Grant

Fund the Private Finance Initiative or other form of state aid or grant subsidy

“Transferee”

means the Registered Provider the Council in its capacity as local housing authority (at the Council’s absolute discretion) and/or a third party which meets the requirements of the Council to own and manage Affordable Housing Units such approval not to be unreasonably withheld or delayed

“Waste and Recycling Contribution”

means the sum of three thousand four hundred and fifty pounds (£3,450) as a contribution towards the provision of waste and recycling equipment for the Residential Units

“Working Day(s)”

means 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

“Youth and Adult Contribution”

means the sum of twenty one thousand nine hundred and sixty pounds (£21,960) towards [] or within the vicinity of the Development

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 takes effect on the grant of the Planning Permission

4.2 The Owner shall notify the Council of the Commencement of Development, of first Occupation of the Development and the date of Occupation of 50% of the Market Housing Units and the Owner agrees that no time shall run to the detriment of the Council if and so long as the Owner has failed to serve notice

- 4.3 If the Owner has 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 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

5. The Owner's Covenants

The Owner will observe and perform the obligations set out in this Deed and the Schedules 1 to 7

6. The Council's Covenants

The Council covenants with the Owner as set out in Schedule 8

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 and 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 Developer;

this Deed shall cease to have effect

7.6 In the event the Council grants a subsequent Section 73 Permission or if a Section 73 Permission is granted following an appeal under Section 78 of the Act, any such Section 73 Permission shall be deemed to be granted subject to the covenants and provisions of this Deed and to apply in equal terms to it save that where the Council in its determination of the application for a Section 73 Permission requires consequential amendments to this Deed to reflect the impact of the application for a Section 73 Permission in such circumstances a separate deed pursuant to section 106 of the Act will be required to secure relevant planning obligations relating to the Section 73 Permission.

7.7 The Owner shall pay to the Council:

7.7.1 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

7.7.2 the sum of seven thousand seven hundred and thirty four pounds and fifteen pence (£7,734.15) as a contribution towards the Council's costs of monitoring the implementation of this Deed prior to Commencement of Development.

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

7.9 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 Director

- 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
- 7.11 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
- 7.12 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.
- 7.13 The provision of this Deed shall not bind any statutory undertakers in respect of land held for their operational purposes and as a consequence of the release given in this clause this Deed may be modified varied or released without the consent or approval of any such person without them being a party to any document or deed required to effect such modification variation or release but such document or deed shall take effect as if they had been a party to such document or deed.
- 7.14 Any future lender whose interest in the Land is bound by the terms of this Deed shall not be personally liable for any breach of the obligations in this Deed unless committed or continuing at a time when the lender is in possession of all or any part of the Land

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 154226 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. Statutory Undertakers

The provision of this Deed shall not bind any statutory undertakers in respect of land held for their operational purposes and as a consequence of the release given in this clause this Deed may be modified varied or released without the consent or approval of any such person without them being a party to any document or deed required to effect such modification variation or release but such document or deed shall take effect as if they had been a party to such document or deed.

16. 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.

SCHEDULES

SCHEDULE 1 – Covenants to the Council

Affordable Housing

The Owner covenants with the Council that it shall:

General

- 1 provide the Affordable Housing Units in accordance with the Affordable Housing Plan and the Affordable Housing Mix unless otherwise agreed in writing with the Council;
- 2 not submit any Reserved Matters Application without simultaneously submitting the Affordable Housing Plan and details of the Affordable Housing Mix to the Council (a copy of which shall be provided at the same time by the Owner to the Head of Housing) for the Affordable Housing Units contained within the relevant Reserved Matters Application and not to Commence Development of any such area until the Affordable Housing Plan and the Affordable Housing Mix relating to that area have been approved by the Council;
- 3 provide:
 - 3.1 at least 40% of the Residential Units as Affordable Housing at Nil Subsidy
 - 3.2 60% of the Affordable Housing Units shall be Affordable Rented Units and 40% shall be Shared Ownership Units unless otherwise agreed in writing with the Council;
 - 3.3 10% of the Affordable Housing Units as Adapted Units unless otherwise agreed in writing with the Council;

Design of Affordable Housing Units

- 4 construct all of the Affordable Housing Units to the Standards unless otherwise agreed in writing with the Council;

Affordable Housing Contract

- 5 not Commence the Development until the Owner and the Transferee have entered into the Affordable Housing Contract unless otherwise agreed in writing with the Council and to provide to the Council on demand documentary evidence of the existence of the Affordable Housing Contract;

Transfer of Affordable Housing Units to Transferee

- 6 transfer the completed Affordable Housing Units to the Transferee for the Affordable Housing Consideration and such transfer shall include a restriction that in the event that any of the Affordable Housing Units are sold the proceeds of sale shall be recycled into the provision of further Affordable Housing Units in Wiltshire EXCEPT FOR any Affordable Housing Unit which is a Shared Ownership Unit where the tenant has Staircased to one hundred percent (100%) in equity of that Shared Ownership Unit where this does not apply.
- 7 not Occupy more than 50% of the Market Housing Units until the Affordable Housing Units have been completed in accordance with the Planning Permission and made available for Occupation and transferred to the Transferee in accordance with paragraph 6 of this Schedule 1 and to provide to the Council on demand documentary evidence of the existence of the transfer(s) of the Affordable Housing Units;

Affordable Housing Transfer Terms

- 8 ensure that each transfer of an Affordable Housing Unit shall:
 - 8.1 be with full title guarantee of either a freehold interest or a leasehold estate for a minimum of 125 years;
 - 8.2 provide, without additional cost to the Transferee, vehicular access and foul and surface water sewers and water, gas, electricity and telecommunications service systems for the Affordable Housing Unit linking in each case to the estate roads and service systems to be constructed and laid as part of the remainder of the Development and connected to highways and sewers that serve the area;

Allocations Policy/Nominations Rights

- 9 procure that on transfer of the Affordable Housing Units to the Transferee the Transferee will operate in accordance with the Allocations Policy and the Nomination Rights in respect of the Affordable Housing Units unless otherwise agreed in writing with the Council

Homes England's Target Rent

- 10 ensure that the:

- 10.1. equity share of the Shared Ownership Units which is retained by the Transferee is only let at a rent that is no more than 2.75% per annum of the value of the share retained by the Transferee or in line with Homes England guidelines applicable at the time of sale of the Shared Ownership Units;
- 10.2. Affordable Rented Units are let at a rent of no more than 80% of local Market Rent (including service charges where applicable at the time of letting which may be increased by no more than the Consumer Price Index plus 1% annually or such other amount as prescribed by Homes England);

Distribution and Design of Affordable Housing Units

11. not Commence the Development until the Owner has agreed with the Council the distribution of the Affordable Housing Units across the Development
- 11.1 ensure that the Affordable Housing Units are materially indistinguishable (in terms of outlook design and appearance) from the Market Housing Units of similar size (other than to accommodate any differences required as a result of paragraph 4 of this Schedule 1 and shall ensure that the Affordable Housing Units are integrated with the Market Housing Units .

Use of Affordable Housing Units

12. ensure that the Affordable Housing Units are at all times owned and managed by the Transferee and used and Occupied in accordance with paragraph 3 of this Schedule as:
 - 12.1. Affordable Rented Units let by way of tenancy agreements in line with the Regulator of Social Housing's regulatory standards or such other form of tenancy agreement as shall be agreed in writing with the Council; and
 - 12.2. Shared Ownership Units which are owned and occupied in accordance with a lease that includes Homes England's Fundamental Clauses;
 - 12.3. or such other tenancy agreement or shared ownership lease as shall be agreed in writing with the Council and for the avoidance of doubt the operation of this paragraph does not prevent staircasing to 100%;
 - 12.4. subject to the provisions of paragraphs 16 and 17 of this Schedule not cause, allow or permit to use the Affordable Housing Units from the date of Practical Completion other than for Affordable Housing;

Qualifying Persons

13. ensure unless otherwise agreed in writing with the Council that the Affordable Housing Units are occupied and let to a person(s) who satisfies the following conditions:
 - 13.1. is a Qualifying Person whom it is proper for the Transferee to house in accordance with its rules; and
 - 13.2. has a local connection as set out in the Allocations Policy

Mortgagee Provisions – rented and shared ownership

14. The Affordable Housing provisions of this Deed and the Nomination Rights contained in Schedule 2 shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
 - 14.1 such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a Disposal of the Affordable Housing Units to another Transferee for a consideration of not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
 - 14.2 if such Disposal has not completed within the three (3) month period the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely
 - 14.3 The Affordable Housing provisions contained in this Schedule and the Nomination Rights contained in Schedule 2 shall not be binding on or enforceable against any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees

Management Charge

15. The Owner shall enter into negotiations with the Registered Provider or Transferee and agree a reasonable figure for the Management Charge to be levied on occupants of the Affordable Rented Units

SCHEDULE 2 – Nomination Rights

1. Pursuant to paragraph 9 of Schedule 1, as between the Transferee and the Council the following provisions shall govern the nominations/allocations of Occupation of the Affordable Housing Units in line with the Allocations Policy and the nominations procedures for each type of tenure;
2. The Transferee shall notify the Council in writing from time to time of any Affordable Housing Unit that shall be vacant and available for Occupation;
3. The Transferee will liaise with the Council as necessary with regard to local housing need generally and the list of Qualifying Persons;
4. The Council and the Transferee shall have the following nomination rights in respect of the Affordable Housing Units:

	<u>Nominations</u>
The initial allocation of each Residential Unit:	the Council 100%
Thereafter:	the Council 75%
	the Transferee 25%

SCHEDULE 3 – Affordable Housing Mix

An indicative mix only – details will need to be reviewed/confirmed at time of any Reserved Matters Planning Application to ensure still in line with the current demonstrable need:

Affordable Rented (7)

2 x 1 bed 2 person flats

3 x 2 bed 4 person houses

2 x 3 bed 5 person houses

Shared Ownership (5)

3 x 2 bed 4 person houses

2 x 3 bed 5 person houses

SCHEDULE 4 - NDSS and 85% NDSS

Number of bedrooms	Number of bed spaces	NDSS			Minimum 85% NDSS		
		1 storey (sqm)	2 storey (sqm)	3 storey (sqm)	1 storey (sqm)	2 storey (sqm)	3 storey (sqm)
Studio	1p	39 (37)*			34 (32)*		
1b	2p	50	58		43(F)	50	
2b	3p	61	70		52	60	
	4p	70	79		60(B)	68(H)	
3b	4p	74	84	90	63	72	77
	5p	86	93	99	74	80	85
	6p	95	102	108	81	87	92
4b	5p	90	97	103	77	83	88
	6p	99	106	112	85	91	96
	7p	108	115	121	92	98	103
	8p	117	124	130	100	106	111
5b	6p	103	110	116	88	94	99
	7p	112	119	125	96	102	107
	8p	121	128	134	103	109	114
6b	7p	116	123	129	99	105	110
	8p	125	132	138	107	113	118

*Where a one person flat has a shower room rather than a bathroom the floorspace may be reduced from 39 sqm to 37 sqm (NDSS) or from 34 sqm to 32 sqm (85% NDSS).

(F=Flat) (B=Bungalow) (H=House)

SCHEDULE 5 –Contributions

The Owner covenants with the Council:

Secondary School Contribution

1. to pay to the Council in its capacity as local education authority the Secondary School Contribution prior to the Commencement of Development and not to Commence the Development, until the Secondary School Contribution has been paid to the Council in its capacity as local education authority

Early Years Contribution

2. to pay to the Council in its capacity as local education authority the Early Years Contribution prior to the Commencement of Development and not to Commence the Development until the Early Years Contribution has been paid to the Council in its capacity as local education authority

Biodiversity Mitigation Scheme Contribution

3. to pay to the Council the Biodiversity Mitigation Scheme Contribution prior to the Commencement of Development and not to Commence the Development until the Biodiversity Mitigation Scheme Contribution has been paid to the Council

New Forest Contribution

4. to pay to the Council the New Forest Contribution prior to the Commencement of Development and not to Commence the Development until the New Forest Contribution has been paid to the Council

Open Space Contribution

5. to pay to the Council the Open Space Contribution prior to the Commencement of Development (excluding construction up to DPC Level) and not to Commence the Development, other than construction up to DPC Level, until the Open Space Contribution has been paid to the Council

Youth and Adult Leisure Contribution

6. to pay to the Council the Youth and Adult Leisure Contribution prior to the Commencement of Development (excluding construction up to DPC Level) and not to Commence the Development, other than construction up to DPC Level, until the Youth and Adult Leisure Contribution has been paid to the Council

SCHEDULE 6 – Waste and Recycling

The Owner covenants with the Council:

1. to pay to the Council the Waste and Recycling Contribution 50% prior to the Commencement of Development and 50% prior to the Occupation of the Development and not to Commence the Development until 50% of the Waste and Recycling Contribution has been paid to the Council and payment has been acknowledged in writing by the Council and not to Occupy the Development until the other 50% has been paid
2. prior to Occupation of Development to provide details of their designated contact for liaison regarding the waste and recycling and to provide update of their designated contact following any change of personnel
3. The Owner hereby undertakes and agrees with the Council that the Indemnity provisions in Clauses 16.1 - 16.2 of this Deed shall be applicable to any claim or claims made against the Council and such claim arising in connection with or incidental to or in consequence of the Council carrying out its duties of waste and recycling during the course of the Development on the Land and the Owner will hold the Council fully indemnified from and against each and every said claim
4. 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

SCHEDULE 7 – Biological Mitigation Natural Areas (Management Company)

The Owner undertakes:-

1. Not to use or allow the Biological Mitigation Natural Area to be used for any other purpose other than as Biological Mitigation Natural Area in perpetuity unless such adjustment has been agreed in writing with the Service Head – Natural and Historic Environment.
2. To insure and maintain or procure the maintenance of the Biological Mitigation Natural Area in accordance with the approved Landscape and Ecology Management Plan and the Reptile Mitigation Enhancement Strategy to the satisfaction of the Service Head – Natural and Historic Environment until completion of its transfer to the Management Company.
3. Not to allow more than 90% of the Residential Units to be Occupied until the Biological Mitigation Natural Area has been transferred to the Management Company and the Biological Mitigation Natural Area shall thereafter be maintained in perpetuity in accordance with the approved Landscape and Ecology Management Plan and the Reptile Mitigation Enhancement Strategy (unless otherwise agreed in writing with the Council).

Management Company Provisions

4. Not to use or Occupy or cause or suffer or permit the use or Occupation of any of the Residential Units until such time as the Owner has at its own expense:
 - 4.1 if applicable set up and registered the Management Company as a private limited company incorporated and registered in England at Companies House.
 - 4.2 ensured that the Management Company has at least two named persons as Directors and one Company Secretary that are eligible to be appointed and (if required) removed and replaced by the Members of the Management Company;
 - 4.3 procured that the Management Company appoints a named manager ("**the MC Manager**") responsible for liaising with the Council and owners and occupiers of the Residential Units.

- 4.4 procured through the Management Company documentation (as set out in paragraph 12 below) that the Management Company will hold at least one (1) public meeting per year.
- 4.5 Procure that the Management Company is responsible for the upkeep and on-going maintenance of Not to use or Occupy or cause or suffer or permit the use or Occupation of any of the Residential Units in accordance with the approved Landscape and Ecology Management Plan and the Construction and Environmental Management Plan and the obligations under this Deed.

Management Company Documents

5. Not to use or Occupy or cause or suffer or permit the use or Occupation of any of the Residential Units until such time as the Owner has provided the Council with the following information and documents relating to the Management Company:
- 5.1 a copy of the company Certificate of Incorporation and Articles of Memorandum;
- 5.2 a copy of its Rules (including the holding of at least one (1) public meeting per year and the giving of a minimum of seven (7) days written notice of each meeting to the Council and all Company Members and any other interested parties and to provide suitable facilities for the meetings of the Management Company) and Regulations and operational manuals;
- 5.3 any other relevant documentation relating to the Biological Mitigation Natural Area;
- 5.4 details of the names and addresses of all Directors, Members and the Company Secretary;
- 5.5 full and sufficient details of the financial resources available to the Management Company including evidence that there are adequate resources in place to undertake the maintenance of the Biological Mitigation Natural Area in perpetuity in accordance with the approved Landscape and Ecology Management Plan and the approved Construction and Environmental Management Plan.

Operation of the Management Company

6. The Owner hereby covenants to;

- 6.1 ensure that upon the transfer of any Residential Units that all freehold and registrable leasehold owners of the Residential Units are Members of the Management Company and eligible to vote at any Annual General and Special Company Meetings;
- 6.2 ensure that the Registered Provider is a Member of the Management Company;
- 6.3 that the MC Manager will ensure that their contact details including his name address and telephone number are regularly updated and distributed to the owners and occupiers of all of the Residential Units
- 6.4 ensure that the **Management charge/Rent charge** is secured on the first transfer or disposal of any Residential Units and that covenants are contained on the transfer to procure that on any subsequent transfer or disposal the Management Charge/Rent charge is secured in favour of the Management Company

SCHEDULE 8 - Covenants by the Council

Repayment of Contributions

The Council covenants with the Owner:

1. 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
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 ten (10) years of the date of receipt by the Council of such payment on receipt of a written request from the Owner to do so

ANNEXES

ANNEX A – Plan



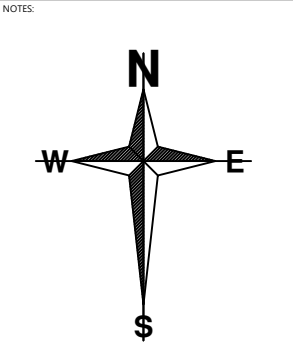
 THE SITE



CONSTRUCTION (DESIGN & MANAGEMENT) REGULATIONS 2015

Design Risk Assessment are carried out through the design stage of this project, in accordance with the company procedures, in the Health and Safety manual and the Acco Managing Health and safety in Construction. Where reasonably possible, all areas applicable to the design have been identified and noted for action on Risk Assessment Sheets specific to this project. This drawing should be read in conjunction with the Risk Assessments. This information is to be provided to the Principal Designer to be included in the Health and Safety plan.

- GENERAL NOTES:
1. No dimensions to be scaled from this drawing.
 2. All dimensions to be checked on site.
 3. The contractor must verify all figured dimensions on site before commencing any work or making any shop drawings.
 4. This drawing is the sole copyright of 1215 Heritage Homes Limited and no part may be reproduced without written consent.



REVISION:
STATUS:
000

CLIENT:
1215HERITAGEHOMES
—
—
—

PROJECT:
MAINLAND_DEVELOPMENT
—
—
—

DRAWING TITLE:
SITE_LOCATION
—
—
—

TWELVE FIFTEEN
HERITAGE
HOMES

DATE: 21.11.19	SCALE: 1:1250 @ A3
DRAWN BY: CF	CHECKED BY: —
DRAWING NUMBER: 1215_01	REVISION: 01

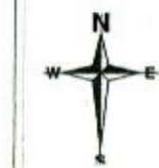
ANNEX B – Affordable Housing Plan



CONSTRUCTION (DESIGN & MANAGEMENT) REGULATIONS 2015
 Design Risk Assessment is carried out through the design stages of this project, in accordance with the company procedure in the Health and Safety manual and the Acceptable Health and Safety in Construction. When reasonably possible all areas applicable to the design have been identified and noted for action on this Assessment Sheet specific to this project. This drawing should be read in conjunction with the Risk Assessment. This information is to be provided to the Principal Designer to be included in the Health and Safety plan.

- GENERAL NOTES:
1. All dimensions to be scaled from this drawing.
 2. All dimensions to be checked on site.
 3. The contractor must verify all ground dimensions on site before commencing any work or making any deep drawings.
 4. This drawing is the sole copyright of 1215 Heritage Homes Limited and no part may be reproduced without written consent.

NOTES:



PRIVATE DWELLINGS
 2 BED - X 2 DWELLINGS
 3 BED - X 8 DWELLINGS
 4 BED - X 3 DWELLINGS
 5 BED - X 5 DWELLINGS
TOTAL = 18 DWELLINGS

AFFORDABLE/SHARED DWELLINGS *

1 BED - X2 DWELLINGS
 2 BED - X6 DWELLINGS
 3 BED - X 4 DWELLINGS
TOTAL = 12 DWELLINGS

PARKING SCHEDULE

1 Bed 1 Parking Space
 2 Bed 2 parking Space
 3 Bed 2 Parking Space + Garage
 4 Bed 2/3 Parking Space + Garage
 5 Bed 2/3 Parking Space + Garage
 8 No Visitor Spaces 0.27/Dwelling

Garages 6x3m internally

Landscaping
 Biological Mitigation/ Natural Area 1223sqm

B/S Bin/Cycle Store

Note: Plots 11 & 12 have been deleted from the site plan numbered 1215_01

HERITAGE HOMES

1215HERITAGEHOMES

MAINLAND DEVELOPMENT
 FINAL

SITE LAYOUT

1215_01

1:500
 0 10m 20m 30m 40m 50m

EXECUTED as a **DEED** by affixing
The **COMMON SEAL** of
WILTSHIRE COUNCIL
in the presence of:

.....
Authorised signatory

EXECUTED as a **DEED** by
1215 HERITAGE HOMES LIMITED,
acting by a director, in the presence of:
.

.....
SIGNATURE OF DIRECTOR
Director

.....
SIGNATURE OF WITNESS
NAME, ADDRESS AND
OCCUPATION OF WITNESS

.....
.....
.....