

**Planning Obligation by Unilateral
Undertaking under Section 106 of the Town
& Country Planning Act 1990**

Relating to the development at Whitehill, Exeter Road

Given by:

- (1) Linden Limited
- (2) Frances Mary Hendy and Jane Elizabeth Barter

To:

- (3) Teignbridge District Council

Dated *9th November* 2016

Osborne Clarke LLP

2 Temple Back East
Temple Quay
Bristol
BS1 6EG

Tel: +44 117 917 3000
Fax: +44 117 917 3005

RPH/1052867/O31109909.4/JAB

This Deed is made and given on

2016

By:

- (1) **Linden Limited** (Company Registration Number 01108676) whose registered office is at Cowley Business Park, Cowley, Uxbridge, Middlesex, UB8 2AL ("**Developer**").
- (2) **Frances Mary Hendy** of Colesworthy Farm, Liverton, Newton Abbot, Devon TG12 6HT and **Jane Elizabeth Barter** of Hatherleigh Farm, Bovey Tracey, Newton Abbot, Devon, TQ12 9NP ("**Owner**").

To:

- (3) **Teignbridge District Council** of Forde House, Brunel Road, Newton Abbot, Devon, TQ12 4XX ("**Council**").

Background:

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- (B) The Owner is the registered freehold owner of the Site, registered with the Land Registry under title number DN564911.
- (C) The Developer has an option over the Site which can only be exercised upon the grant of the Planning Permission
- (D) Linden Homes South West Limited has submitted the 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.
- (E) By a notice of refusal dated 27th day of November 2015 the Council refused planning permission for the reasons set out therein and the Owner on 17th day of June 2016 submitted the Appeal and enters into this obligation to the intent that any objections of the Council to the grant of planning permission are overcome

It is agreed as follows:

Operative Part

1. **Definitions**

For the purposes of this Deed the following expressions shall have the following meanings:

"1980 Act" means the Highways Act 1980.

"Act" means the Town and Country Planning Act 1990.

"Affordable Dwelling" means each Dwelling to be disposed of either as Affordable Rented Dwellings or Intermediate Dwellings.

"Affordable Housing" means Affordable Dwellings provided to eligible households whose needs are not met by the market and which meets the needs of eligible households and which shall (subject to the provisions of this Agreement) remain at an affordable price for further eligible households.

"Affordable Housing Plan" means drawing number 1958 135 Rev C attached to this Agreement and which details the proposed location of the Affordable Dwellings.

"Affordable Housing Scheme" means a scheme for the provision of Affordable Housing which secures the provision by a Registered Provider of the Affordable Dwellings as determined in accordance with Schedule 3 such scheme to identify:

- The specification (which shall include those Affordable Dwellings which are to be constructed as wheelchair accessible) location layout and phasing of construction of the Affordable Dwellings;
- The mix of house types and anticipated tenure of the Affordable Dwellings;
- The exact location of the Affordable Housing Dwellings; and
- The identity of the Registered Provider

"Affordable Rent Dwelling" means an Affordable Dwelling let by a Registered Provider at a rent (including any service charges) not to exceed 80% of the rent that could be reasonably obtained for a similar dwelling not subject to any occupation restrictions on the open market.

"Allotments Contribution" means the sum of £20,909.00 (Twenty Thousand Nine Hundred and Nine Pounds Sterling) payable to the Council and to be used towards the provision of allotments within the remaining part of the Teignbridge Local Plan policy NA2 Whitehill, Newton Abbot, and/or towards improvements to the existing allotments provision at Highweek Village.

"Appeal" the appeal to the planning inspectorate against the refusal of the Application by the Council and given reference number APP/P1133/W/16/3148597 to be determined by the Planning Inspector/Secretary of State

"Application" means the application for planning permission submitted to the Council for the Development and allocated reference number 14/01797/MAJ.

"Chargee" means any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or charge or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925.

"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 other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and **"Commence Development"** shall be construed accordingly.

"Community Facilities Contribution" means the sum of £203,000.00 (Two Hundred and Three Thousand Pounds Sterling) payable to the Council to be used towards improvements to the existing community facility at Highweek Village Hall, and/or towards the provision of a new community facility within Teignbridge Local Plan policy NA1 Houghton Barton, Newton Abbot.

"Custom Build Dwelling" means 10 Dwellings to be either constructed or commissioned by the person or persons who will live in the said Dwelling in accordance with the definition of self-build housing set out in Regulation 54A of the Community Infrastructure Levy Regulations 2010 (as amended).

"Custom Build Plot" means the plot on the Development upon which the Custom Build Dwelling is to be constructed

"Development" means the Development of the Site with 203 dwellings, public open space and associated infrastructure as set out in the Application.

"Dwelling" means any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission.

"Ecological Contribution" means the sum of £25,000.00 (Twenty Five Thousand Pounds Sterling) payable to the Council and to be used towards off-site bat roosting in the vicinity of the Development.

"Employment Contribution" means the sum of £345,100.00 (Three Hundred and Forty-Five Thousand and One Hundred Pounds Sterling) payable to the Council and to be used towards provision of employment land within Teignbridge Local Plan policy NA1 Houghton Barton, Newton Abbot.

"Fully Serviced" means a Custom Build Plot to which all necessary service connections have been provided to the boundary, including road access and utility services.

"Highways Contribution" means the sum of £5,000.00 (Five Thousand Pounds) payable to the Council as agent for the Devon County Council to be used towards a Traffic Regulation Order for the off-site highway works required.

"Index" means BCIS All in Tender Price Index

"Indicative Affordable Housing Unit Mix" means the unit mix of Affordable Dwelling which is broadly in accordance with the mix set out in Schedule 5.

"Interest" means interest at 4% per cent above the base lending rate of The Bank of England from time to time.

"Intermediate Dwellings" means each Affordable Dwelling to be disposed of by way of a shared ownership lease (or such other mechanism for delivering intermediate housing as may be approved by the Council) granted by a Registered Provider pursuant to Schedule 4.

"Marketed Appropriately" means marketing the Custom Build Plots with a reputable estate agent at a price which the Council considers is realistic and achievable.

"Marketing Period" means a period of not less than 12 months in which the Custom Build Plots will be Marketed Appropriately, which will commence once the Custom Build Plots are Fully Serviced, accessible by road, have defined boundaries and are available for immediate purchase.

"Marketing Terms" means the Owner's terms and conditions of the sale of the Custom Build Plots which shall be no more restrictive or onerous as the Owner's terms and conditions for the sale of the Open Market Dwellings.

"Occupation" and **"Occupied"** means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and for the avoidance of doubt any sale of a Dwelling shall amount to permitting its Occupation for the purposes of the obligations in Schedule 2 of this Deed.

"Open Market Dwelling" means each Dwelling being offered for sale or rent on the open market without occupancy restriction and being all those Dwellings which are not Affordable Dwellings.

"Open Market Value" means the price that a willing purchaser would be willing to pay on the open market for the Dwelling if this Agreement has not been completed.

"Plan" means the plan attached to this Deed.

"Planning Inspector" means the planning inspector appointed by the Secretary of State to hear and determine/make recommendations to the Secretary of State in the Appeal

14 / 01797

TEIGNBRIDGE DISTRICT COUNCIL
PLANNING DEPARTMENT
18 JUN 2014
RECEIVED

A3
[Signature]
J. M. O'Hearty
J. E. Baird



Linden Homes South West
Tel: 01626 356666
Fax: 01626 331093
www.lindenhomes.co.uk
HONGKONG HOUSE
Silverhill Park
Newton Abbot
Devon TQ12 5YZ

Status
PLANNING APPLICATION

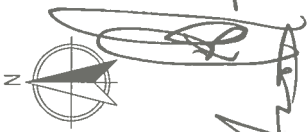
Job
Proposed Housing Development at
Whitehill, Newton Abbot.

Drawing Title
Application Site

Scale:	1:2500	Drawn	IB
Date:	June 14	Checked	JAN
Job No:	5106	Drawing No:	AL (0) 08
		Rev:	

	Date	16.10.15	Approved
	Drawing Status	APPROVAL	

Notes



Azad
J. M. Otterley
J. E. Butler

Rev.	Date	Description	By
1	16.10.15	Initial Design/Approval/Revision 1/2015	J.M.
2	13.11.15	REVISIONS ON APPROVAL	J.M.
3	23.08.16	REVISED PLAN	J.M.

Drawing File: T:\3300\3300\161015\161015_01.dwg
 Drawing Status: PLANNING

mitCHELL
 architects

Stone Davenport Building Centre, 5 Church Street, Stone, Warrington, Cheshire, WA10 1DT
 T 01753 606007 F 01753 606018 www.mitchechell.co.uk

Stone Davenport Building Centre, 5 Church Street, Stone, Warrington, Cheshire, WA10 1DT
 T 01753 606007 F 01753 606018 www.mitchechell.co.uk

Scale: 1:1000 @ A1

Project: Whitehill
 Client: Linden Homes



"Planning Permission" means the planning permission subject to conditions to be granted by the Council pursuant to the Appeal

"Protected Tenant" means any tenant who:

- 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 Dwelling; or
- has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling; or
- has been granted a lease of an Intermediate Dwelling and has subsequently purchased from the Registered Provider all the remaining equity so that the tenant owns the entire Intermediate Dwelling

"Registered Provider" means a social landlord registered in the register maintained by the HCA under Section 1 of the Housing Act 1996 or a non-profit provider of social housing registered pursuant to the Housing and Regeneration Act 2008 or such other body as may be approved by the Council.

"Secretary of State" means the Secretary of State for the Department of Communities and Local Government

"Site" means the land referred to in Schedule 1 and against which this Deed may be enforced as shown for identification purposes only edged red on the Plan.

"Strong Local Connection" means a strong local connection to the relevant area and in determining whether someone has a strong local connection the Registered Provider shall consider:

- family associations of such person or persons to people resident in the relevant area;
- any periods of ordinary residence of such person or persons in the relevant area not immediately before the date upon which any Affordable Dwelling becomes vacant and/or;
- whether such person or persons has permanent employment or the offer of permanent employment in the relevant area

"Sustainable Travel Contribution" means the sum of £60,900.00 (Sixty-Nine Thousand Pounds) payable to the Council and to be used towards the provision of sustainable travel vouchers to the occupiers of the Dwellings.

"Teignbridge Local Plan" means the Teignbridge Local Plan 2013 – 2033 adopted by the Council on 6 May 2014.

2. **Construction of this Deed**

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms 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 all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.6 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 the successors to their respective statutory functions.
- 2.7 The headings and contents list are for reference only and shall not affect construction.

3. Legal basis

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and the Localism Act 2011.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.
- 3.3 The covenants, restrictions and requirements on the part of the Owner under this Deed shall not apply and shall not be enforceable by the Council if the person appointed to determine the Appeal states clearly in the decision letter granting the Planning Permission that such obligations, or any of them, are unnecessary or otherwise fail to meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)

4. Conditionality

This Deed is conditional upon:

- (a) the grant of the Planning Permission; and
- (b) the Commencement of Development

save for the provisions of clauses 2, 3, 4, 6.1, 6.2, 6.8, 11, 12, 13 and 14 and paragraphs 1.13 and 1.14 of the Schedule 2 which shall come into effect immediately upon completion of this Deed.

5. The Owner's covenants

- 5.1 The Owner covenants with the Council as set out in Schedule 2, 3, 4, and 5.

6. Miscellaneous

- 6.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 6.2 This Deed shall be registrable as a local land charge by the Council.
- 6.3 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 on behalf of the Council by the Head of Development and Building Control and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

- 6.4 Insofar as any clause or clauses 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.
- 6.5 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 6.6 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 Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 6.7 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them save for any Dwelling that is Occupied in breach of the obligations preventing such Occupation in the Schedule 2 of this Deed.
- 6.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 6.9 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

7. **Waiver**

No waiver (whether expressed or implied) by the Council (or the Owner) 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 (or the Owner) from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

8. **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 Site 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 Site or unit of occupation purchased by reference to a plan.

9. **Indexation and Interest**

- 9.1 Any sum referred to in **Schedule 2** shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.
- 9.2 If any payment due to be paid by the Owner under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

10. **VAT**

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

11. **Dispute provisions**

- 11.1 In the event of any dispute or difference arising between 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.

- 11.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to clause 11.1 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.
- 11.3 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 28 working days after the conclusion of any hearing that takes place or 28 working days after he has received any file or written representation.
- 11.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within 10 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 10 working days.

12. Notices

Where any Notice is required to be served on the Council it shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate).

13. Notice of Commencement and Occupation

The Owner shall give the Council written Notice of Commencement of Development, first Occupation of any Dwelling and Occupation of the 49th and 99th Dwelling.

14. Jurisdiction

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.

15. Delivery

The provisions of this Deed (other than this clause and clause 4 which shall be of immediate effect) shall be of no effect until this Deed has been dated.

In witness whereof the parties hereto have executed this Deed on the day and year first before written.

Schedule 1

Details of the Owner's Title, and description of the Site

The freehold land being land to the west side of Exeter Road, Newton Abbot and registered with the Land Registry under title number DN564911 as more particularly shown edged in red on the Plan.

Schedule 2
Financial Contributions

Allotments Contribution

- 1.1 The Owner covenants to pay the Allotments Contribution to the Council prior to Occupation of the 100th Open Market Dwelling in the Development.
- 1.2 The Owner covenants not to Occupy more than 100 Open Market Dwellings in the Development until the Allotments Contribution has been paid to the Council.

Community Facilities Contribution

- 1.3 The Owner covenants to pay 50% of the Community Facilities Contribution to the Council prior to Occupation of the 50th Open Market Dwelling in the Development.
- 1.4 The Owner covenants not to Occupy more than 50 Open Market Dwellings in the Development until 50% of the Community Facilities Contribution has been paid to the Council.
- 1.5 The Owner covenants to pay the remaining 50% of the Community Facilities Contribution to the Council prior to Occupation of the 100th Open Market Dwelling in the Development.
- 1.6 The Owner covenants not to Occupy more than 100 Open Market Dwellings in the Development until the remaining 50% of the Community Facilities Contribution has been paid to the Council.

Ecological Contribution

- 1.7 The Owner covenants to pay the Ecological Contribution to the Council prior to Occupation of the 100th Open Market Dwelling in the Development.
- 1.8 The Owner covenants not to Occupy more than the 100 Open Market Dwellings in the Development until the Ecological Contribution has been paid to the Council.

Employment Contribution

- 1.9 The Owner covenants to pay 50% of the Employment Contribution to the Council prior to Occupation of the 50th Open Market Dwelling in the Development.
- 1.10 The Owner covenants not to Occupy more than 50 Open Market Dwellings in the Development until 50% of the Employment Contribution has been paid to the Council.
- 1.11 The Owner covenants to pay the remaining 50% of the Employment Contribution to the Council prior to Occupation of the 100th Open Market Dwelling in the Development.
- 1.12 The Owner covenants not to Occupy more than 100 Open Market Dwellings in the Development until the remaining 50% of the Employment Contribution has been paid to the Council.

Highways Contribution

- 1.13 The Owner covenants to pay the Highways Contribution to the Council prior to the Commencement of Development.
- 1.14 The Owner covenants not to Commence Development until the Highways Contribution has been paid to the Council.

Sustainable Travel Contribution

- 1.15 The Owner covenants to pay the Sustainable Travel Contribution to the Council prior to Occupation of the 100th Open Market Dwelling in the Development.
- 1.16 The Owner covenants not to Occupy more than 100 Open Market Dwellings in the Development until the Sustainable Travel Contribution has been paid to the Council.

Schedule 3

Affordable Housing

Part 1

1. The Owner hereby covenants with the Council:
 - 1.1 The Development (taken as a whole) shall deliver no less than 20% of the Dwellings as Affordable Dwellings of which 30% shall be Intermediate Dwellings and 70% shall be Affordable Rented Dwellings unless some other unit mix is agreed with the Council in writing, and which shall be delivered in general accordance with the Affordable Housing Plan unless otherwise agreed with the Council in writing.
 - 1.2 In each Phase:
 - (a) No more than 50% of the Open Market Dwellings in the relevant Phase shall be occupied prior to the completion and transfer to a Registered Provider of 50% of the Affordable Dwellings comprised in the relevant Phase;
 - (b) No more than 80% of the Open Market Dwellings in the relevant Phase shall be occupied prior to the completion and transfer to a Registered Provider of all of the Affordable Dwellings comprised in the relevant Phase.
2. The Affordable Dwellings shall at all times be occupied as the sole private residences of the occupiers and shall not be used as a second home or holiday home.
3. Prior to the Commencement of Development of each Phase the Owner shall submit an Affordable Housing Scheme relating to the relevant Phase to the Council.
4. Once the approval of the Council to the Affordable Housing Scheme in respect of a Phase has been received (such approval not to be unreasonably withheld or delayed) the Owner shall sell the Affordable Dwellings comprised in the relevant Phase to a Registered Provider.
5. Following the sale of the Affordable Dwellings to a Registered Provider the Registered Provider (as successor in title to the Owner) shall allocate each Affordable Dwelling to a person who is considered by the Registered Provider to be in need of such accommodation and who in the opinion of the Registered Provider is unable to afford other accommodation in the locality suitable to the needs of himself and his because of the relationship between housing costs and income and who immediately prior to such allocation has a Strong Local Connection with the Parish of Newton Abbot.
6. If the Registered Provider is unable to allocate any of the Affordable Dwellings in the manner referred to in paragraph 5 above then the Registered Provider shall allocate any such Affordable Dwelling to a person who is considered by the Registered Provider to be in need of such accommodation and who in the opinion of the Registered Provider is unable to afford other accommodation in the locality suitable to the needs of himself and his household because of the relationship between housing costs and income and who immediately prior to such allocation has a Strong Local Connection with the District.
7. If the Registered Provider is unable to allocate any of the Affordable Dwellings in the manner referred to in paragraphs 5 and 6 above then the Registered Provider shall allocate any such Affordable Dwelling to any other person who is considered by the Registered Provider to be in need of such accommodation and who in the opinion of the Registered Provider is unable to afford other accommodation in the locality suitable to the needs of himself and his household because of the relationship between housing costs and income.

8. Upon any disposal by the Registered Provider of the freehold reversion of any Intermediate Dwelling there shall be included in the transfer a covenant on the part of the purchaser in favour of the Registered Provider that the said purchaser will not dispose of the said Affordable Dwelling (other than by way of mortgage) without first offering to convey the Affordable Dwelling to the Registered Provider at Open Market Value.

Part 2 – Release

9. The provisions and restrictions contained or referred to in Part 1 of this Schedule shall not apply to:

- 9.1 A Protected Tenant; or

- 9.2 Any mortgagee or chargee of the Affordable Dwellings nor to any receiver appointed by any such mortgagee or chargee to the intent that any such mortgagee chargee or receiver may deal with or dispose of the Affordable Dwellings or any of them freed from the said provisions and restrictions and on the basis that any person deriving title through or under such mortgagee chargee or receiver shall not be bound by the restrictions contained in Part 1 of this Schedule provided that:

- (a) The mortgagee or receiver (as the case may be) first gives written notice to both the Council and the Registered Provider that it is seeking a purchase for the Affordable Dwelling concerned; and

- (b) After a period of three months from the date of such notice the Council or the Registered Provider has not exchanged contracts unconditionally with the mortgagee or receiver for the purchase of the Affordable Dwelling with a completion date no later than one month from exchange of contracts.

PROVIDED THAT for the avoidance of doubt the said chargee or mortgagee shall not be obligated to dispose of any of the Affordable Dwellings for any sum less than the monies outstanding pursuant to the said mortgage or charge including the principal sum, interest accrued, costs and all reasonable expenses permitted by the relevant charge document; or

- 9.3 A successor in title to those people listed in sub-paragraphs 9.1 and 9.2 (inclusive).

Schedule 4

Self-Build Plots

1. Custom Build Plots


- 1.1 The Owner shall provide a minimum of 5% of the total number of Dwellings as serviced Custom Build Plots. Where the total number of Custom Build Plots to be provided includes part of a whole number then the number of Custom Build Plots shall be rounded up where the part of the whole number is 0.5 or more and shall be rounded down where the part of the whole number is less than 0.5.
- 1.2 The Owner covenants not to Occupy more than 50% of the Open Market Dwellings on the site until the fully Serviced Plots are being Marketed Appropriately.
- 1.3 The Custom Build Plots shall be Marketed Appropriately for the Marketing Period and on the Marketing Terms. If at the end of the Marketing Period the Owner has been unable to sell the Custom Build Plots, in accordance with policy WE7 of the Teignbridge Local Plan the Owner may elect for the Custom Build Plots to remain on the open market or may offer the Custom Build Plots to the Council to purchase or to a housing association. Where the plots are affordable self build plots, the dwellings must remain as affordable dwellings.
- 1.4 If the Owner elects to offer the Custom Build Plots to the Council or to a housing association, the Owner shall make a written offer of the Custom Build Plots to the Council and/or a housing association and that offer shall specify the terms of the sale and that offer shall remain open for 21 days. Should the offer to purchase be accepted by the Council or a housing association then the parties have eight weeks in which to exchange binding contracts for the purchase of the Custom Build Plots.
- 1.5 If the Council or the housing association declines the offer to purchase the Custom Build Plots or the parties are unable to agree the terms of the purchase under clause 1.4 above, the Owner may apply to the Council, in writing, to be released from its obligations to provide these plots as Custom Build Plots. The Owner shall provide sufficient and suitable evidence that the Custom Build Plots have been Marketed Appropriately for the Marketing Period and on acceptable Marketing Terms.
- 1.6 The Council has 21 days, from the date of the request made in accordance with clause 1.5, above to decide whether or not to release the Owner from its obligations for the plots to be provided as Custom Build Plots.
- 1.7 Within those 21 days the Council may request further information from the Owner. In such circumstances the Council has a further seven days from receipt of that further information to give its decision.
- 1.8 The Council shall not unreasonably withhold or delay giving its consent to release the Owner from its obligations for the plots to be provided as Custom Build Plots. If the Council has not confirmed that the Owner is released from its obligations for the plots to be provided as Custom Build Plots within 21 days of the request of the Owner pursuant to paragraph 1.6 of this Schedule (or within such later time as provided by paragraph 1.7), the Council shall be deemed to have confirmed that the Owner is released from its obligations for the plots to be provided as Custom Build Plots.
- 1.9 Where the Council refuses to give its consent then it shall provide the owner with written reasons for that decision. In such circumstances the Owner may elect to refer the matter for expert determination under clause 11 of the Agreement.

Executed as a Deed by

Linden Limited)

Acting by:)

 Director

 Director/Secretary

Executed as a Deed by



Frances Mary Hendy) 
in the presence of:) 

Witness: CLIVE COTTAM

Occupation: RETIRED

Address 27 CHANTRY CLOSE TEIGNMOUTH TQ14 8PE

Executed as a Deed by

Jane Elizabeth Barter 
in the presence of: 

Witness: CLIVE COTTAM

Occupation: RETIRED

Address: 27 CHANTRY CLOSE TEIGNMOUTH TQ14 8PE

