

THIRD SCHEDULE

The Owners' Covenants with the Council

1 Sustainable Urban Drainage Commuted Sum

- 1.1 Prior to Commencement of Development the Owners shall submit to the Council for approval (such approval not to be unreasonably withheld or delayed) detailed plans and specification together with a programme of works for the timing and completion of the Sustainable Urban Drainage System
- 1.2 The Owners shall construct the Sustainable Urban Drainage System in accordance with the detailed plans and specifications and in accordance with the programme of works approved pursuant to Paragraph 1.1 above
- 1.3 On completion of the construction of the Sustainable Urban Drainage System the Owners shall offer the transfer to the Council those elements of the Sustainable Urban Drainage System that the Council agree are to be adopted and maintained by the Council on terms to be agreed between the parties
- 1.4 On completion of the transfer referred to in Paragraph 1.3 above the Owners shall pay to the Council the Sustainable Urban Drainage System Commuted Sum

2 Open Space Obligations

- 2.1 To pay the MUGA Contribution prior to the occupation of 180 of the Dwellings or within 14 days of the Council demonstrating to the Owner that a contract has been let (or is about to be let) for the construction of the MUGA whichever is the sooner
- 2.2 To pay the Bakers Park Contribution as follows:
 - 2.2.1 25% of the Bakers Park Contribution prior to the occupation of 112 of the Dwellings;
 - 2.2.2 25% of the Bakers Park Contribution prior to the occupation of 180 of the Dwellings;
 - 2.2.3 25% of the Bakers Park Contribution prior to the occupation of 270 of the Dwellings; and
 - 2.2.4 25% of the Bakers Park Contribution prior to the occupation of 360 of the Dwellings

- 2.3 When making an application for Reserved Matters Approval the Owners shall if provision is to be made for Open Space within the land subject to that application identify the location and boundaries of the Open Space to be set aside for such uses on that land
- 2.4 Prior to the Commencement of Development of such part or parts of the Site benefiting from a Reserved Matters Approval the Owners shall submit a programme of works for approval by the Council for the completion of the Open Space identified in accordance with 2.3 above such programme to include detailed specification for the works required together with a timetable for completion of the LEAPs
- 2.5 The Owners shall complete the Open Space in accordance in any programme or programmes of works submitted to and approved by the Council in accordance with 2.4 above
- 2.6 On the completion of any Open Space to the reasonable satisfaction of the Council in accordance with any programme of works approved by the Council in 2.4 above the Owners shall offer the transfer of that Open Space to the Council subject to any rights and/or reservations required and necessary for the carrying out of the Development on terms to be agreed between the parties
- 2.7 On transfer of any area of Open Space the Owners shall pay to the Council such reasonable amount required by the Council towards the future maintenance of the Open Space provided that the total amount payable to the Council for all Open Space to be provided on the Development shall not exceed the Open Space Maintenance Commuted Sum
- 2.8 Prior to the occupation of 225 of the Dwellings the Owners shall pay to the Council the Off-Site Indoor Sports Contribution

3 Affordable Housing

- 3.1 Not to Commence Development until the Council has approved the Affordable Housing Tenure Plan (such approval not to be unreasonably withheld or delayed)

and once approved the Development shall proceed in accordance with the Affordable Housing Tenure Plan

- 3.2 40% of the Dwellings which shall be constructed by the Owners pursuant to the Planning Permission shall be provided as Affordable Dwellings and subject to the Owners securing Grant Funding they shall be constructed to the HCA's Scheme Development Standard and Level 3 of the Code for Sustainable Housing
- 3.3 50% of the Affordable Dwellings shall be let as Affordable Rented Housing with the remaining Affordable Dwellings being disposed of as Intermediate Housing PROVIDED THAT the percentage of Affordable Rented Housing will be increased (up to a maximum tenure split of 75% Affordable Rented Housing and 25% Intermediate Housing) if the Owners are able to secure sufficient Grant Funding to enable an increase in the tenure split by bridging the financial shortfall between the cost of Affordable Rented Housing and Intermediate Housing.
- 3.4 The Owners shall use reasonable endeavours to secure sufficient Grant Funding in accordance with paragraph 3.3 above and shall provide to the Council upon request evidence of such endeavours
- 3.5 Owners shall use all reasonable endeavours to secure sufficient Grant Funding with a view to enabling the provision of a maximum tenure split of 75% Affordable Rented Housing and 25% Intermediate Housing as set out in Paragraph 3.3 above. For the avoidance of doubt reasonable endeavours to secure sufficient Grant Funding shall include:
 - 3.5.1 early engagement with the HCA and any AHP indicating its interest in the Development
 - 3.5.2 research of the affordable housing market requirements prior to the preparation of any bid for Grant Funding
 - 3.5.3 assisting AHPs in the preparation of sound value for money bids to the HCA for Grant Funding
 - 3.5.4 ongoing and open engagement with the Council in the supply of information in relation to anything regulated by this Agreement
 - 3.5.5 working with AHPs to identify and secure alternative possible sources of public subsidy

- 3.6 Prior to the Occupation of 50% of the Open Market Dwellings on any part or parts of the Site benefiting from a Reserved Matters Approval the Owners shall have Provided and transferred 50% of the Affordable Rented Housing for that area to an Affordable Housing Provider on such terms and subject to existing encumbrances reservations and the imposition of such covenants as may be agreed between the Owners and the Affordable Housing Provider
- 3.7 Prior to occupation of 50% of the Open Market Dwellings on any part or parts of the Site benefiting from a Reserved Matters Approval the Owners shall have Provided 50% of the Intermediate Affordable Housing for that area
- 3.8 Prior to the occupation of 75% of the Open Market Dwellings on any part or parts of the Site benefiting from a Reserved Matters Approval the Owners shall have Provided and transferred 100% of the Affordable Rented Housing to an Affordable Housing Provider on such terms and subject to existing encumbrances reservations and the imposition of such covenants as may be agreed between the Owners and the Affordable Housing Provider
- 3.9 Prior to the occupation of 75% of the Open Market Dwellings on any part or parts of the Site benefiting from a Reserved Matters Approval the Owners shall have Provided 100% of the Intermediate Affordable Housing
- 3.10 The Owners shall upon completion of the transfer of the Affordable Dwellings and at all times subsequently Allocate each Affordable Dwelling to a person who is considered by the Owners to be in need of such accommodation and who in the opinion of the Owners is unable to afford other accommodation in the locality suitable to the needs of himself and his household and who:-
- i. has immediately prior to such allocation been resident within the Newton Abbot Sub Regional Centre; or
 - ii. has a strong local connection the Newton Abbot Sub Regional Centre;
- AND in seeking to allocate the Affordable Dwellings under this sub-paragraph the following shall (but without limiting wider discretion in this regard) consider:-
- (a) family associations of such person or persons in the Newton Abbot Sub Regional Centre;

- (b) any periods of ordinary residence of such person or persons in the Newton Abbot Sub Regional Centre not immediately before the date upon which any Affordable Dwelling becomes vacant and/or;
- (c) whether such person or persons has to have permanent employment in the Newton Abbot Sub Regional Centre

3.11 If the Owners are unable to Allocate within 7 days any of the Affordable Dwellings in the manner referred to in Paragraph 3.10 above then the Owners shall Allocate any such Affordable Dwelling by applying the procedures contained in Paragraph 3.10 above but in lieu of the reference therein to the Newton Abbot Sub Regional Centre there shall be substituted references to the district of Teignbridge

3.12 If the Owners are unable to Allocate within 28 days any of the Affordable Dwellings in the manner referred to in paragraphs 3.10 and 3.11 above then the Owners shall allocate any such Affordable Dwelling to a person or persons ("the nominee") nominated by the Service Lead for Housing for the time being of the Council from the Council's list of persons of priority housing need within its administrative area PROVIDED that the Owners shall have the right to reject an applicant if one of the following criteria is met :-

- 3.12.1 The nominee has no housing need as defined within the criteria for preference within the Housing Act 1996 (as amended by the Homelessness Act 2002)
- 3.12.2 The nominee is not a suitable tenant as defined within the criteria of the Owners' Allocations and Lettings Policy
- 3.12.3 In the case of an Affordable Dwelling to be let as Shared Ownership Housing the nominee does not have sufficient cash or income to purchase the required equity share.

AND the Owners have the right, whilst acting reasonably at all times, in respect of each nomination to reject the nominee by giving notice to the Council and such notice shall state reasons for the rejection and the Council shall have the right to nominate an alternative

3.13 In the circumstances set out in paragraph 3.14, the Owners shall be released from the obligation under paragraph 3.11 of this Schedule and shall be entitled to Allocate any vacant Affordable Dwelling to any person who is considered by the

Owners to be in need of such accommodation and who is resident in the district of Teignbridge or has a strong local connection with the district of Teignbridge or within the County of Devon

3.14 The circumstances set out in this paragraph shall be the following:-

3.14.1 If no nomination is made by the Service Lead for Housing within two weeks of notification by the Owners of a vacancy;

3.14.2 If a nomination has been made by the Service Lead for Housing and the nominee has failed either:

- (a) to exchange contracts for the grant of a Shared Ownership Lease within a six week period from Allocation; or
- (b) to complete a tenancy agreement or lease within a seven day period from Allocation;

3.15 Upon any disposal by the Owners of the freehold reversion of any Affordable Dwelling which is disposed of as Shared Ownership Housing there shall be included in the transfer a covenant on the part of the purchaser in favour of the Owners 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 Owners at Open Market Value

3.16 The planning obligations contained in paragraphs 3.1 to 3.14 and 3.17 of this Schedule shall not apply:

- (a) to any Chargee of the Affordable Dwellings or any of them provided that they shall have first complied with the Chargee's Duty set out in Paragraph 3.17 below; nor
- (b) to any tenant of any rented dwelling comprised in the Affordable Dwellings who exercises any right to acquire his or her dwelling (or any interest in it) or acquires the said rented dwelling pursuant to any voluntary sales policy of his or her landlord and nor to any person deriving title through or under such tenant; nor
- (c) save for the exception of Paragraph 3.15 above to any person holding a Shared Ownership Lease of any Affordable Dwelling from time to time in the event that such person exercises any right to staircase which may be included in such Shared Ownership Lease and such leaseholder acquires a

100% leasehold or freehold interest in the relevant dwelling and nor to any person deriving title through or under such leaseholder

3.17 The Chargee shall prior to seeking to dispose of the Affordable Dwellings pursuant to any default under the terms of its mortgage or charge give not less than three months' prior notice ("**Chargee's Notice**") to the Council of its intention to dispose and:

3.17.1 in the event that the Council responds within two months from receipt of the Chargee's Notice indicating that arrangements for the transfer of the Affordable Dwellings can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer;

3.17.2 if the Council does not serve its response to the Chargee's Notice served under Paragraph 3.17 within the two months then the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule;

3.17.3 if the Council or any other person cannot within three months of the date of service of its response secure such transfer then provided that the Chargee shall have complied with its obligations under Paragraph 3.17 the Chargee shall be entitled to dispose free of the restrictions set out in this Schedule

3.18 Any Grant Funding element of any capital receipts generated by the exercise of a right referred to in paragraph 3.16(b) and (c) shall be recycled in accordance with the procedure set out in the Housing Corporation Capital Funding Guide (or such similar guide as may exist from time to time) and the Affordable Housing Provider making such provision shall furnish the Council with such evidence as the Council shall reasonably require to show how that receipt has been spent.

3.19 Prior to the disposal of any Affordable Dwelling other than to an AHP the Owner shall provide the Council with such evidence to demonstrate the allocation of each Affordable Dwelling in accordance with paragraphs 3.8 to 3.14 of this Schedule to the reasonable satisfaction of the Council (such approval not to be unreasonably withheld or delayed

4 Late Payment

- 4.1 In the event of the Owners failing to settle any account or accounts that may be properly and duly rendered to the Owners within thirty days of despatch to the Owners the sum due shall accrue interest at the Interest Rate

5 Allotment Land

- 5.1 Prior to the Commencement of Development the Owners shall identify an area (or areas) of land forming part of the Development and totalling not more than 0.2 hectares to be set aside for Allotments
- 5.2 Prior to the occupation of 225 of the Dwellings to execute a transfer of the Allotment Land in favour of the Council upon such terms to be agreed between the parties and subject to existing encumbrances reservations and the imposition of such covenants as may be required by the Owners with the intention that the Allotment Land shall at all times be managed by the Council maintained in a neat and tidy condition and used for the purposes of allotment gardening

6 Community Facilities

- 6.1 The Owners shall pay to the Council such part or parts of the Community Facility Contribution within 14 days of the Council notifying the Owners, with written evidence that a contract or contracts have been let or are about to be let (including the amount requested) for the improvement of existing or new community facilities in the vicinity of the Development Provided That such request may only be made by the Council following the occupation of 50% of the Open Market Dwellings and is made no later than the period of 6 years following the Owner notifying the Council of the occupation of 50% of the Open Market Dwellings

7 Commercial Unit

- 7.1 As part of the Development but no later than the occupation of 225 of the Dwellings the Owners shall make provision of and for the Commercial Unit with an area not exceeding 0.3 acres
- 7.2 A leasehold interest for the Commercial Unit shall be marketed by the Owners with a reputable local agent for a period of 6 years following the Commencement of Development ("**the Marketing Period**")
- 7.3 If no tenant has been identified following the Owners using reasonable endeavours to market the Commercial Unit within the Marketing Period then the Owners shall be released from the provisions of this Paragraph 7

8 Notice

- 8.1 The Owners shall provide the Council with written Notice of the occupation of the 112th 180th 225th 270th 337th and 360th Dwellings