

DATE: 16th JUNE 2023

SECTION 106 AGREEMENT

In relation to land at 69 - 75 Brighton Road,
Shoreham-By-Sea, West Sussex BN43 6RE

PARTIES:

- [1] Adur District Council
- [2] West Sussex County Council
- [3] Frosts (Cars) Limited
- DJ ~~[4] HSBC UK Bank PLC~~
- [5] Shoreham Brighton Road
Limited

File Ref: 10896.13/SRH

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AGREEMENT

Dated 16th JUNE

2023

PARTIES

- (1) **Adur District Council** of Adur Town Hall, Chapel Road, Worthing, West Sussex BN11 6PR (the **Council**);
- (2) **West Sussex County Council** of County Hall, West Street, Chichester, West Sussex PO19 1RQ (the **County Council**);
- (3) **Frosts (Cars) Limited** (company registration number 00511284) whose registered office is at 69-75 Brighton Road, Shoreham by Sea, West Sussex BN43 6RT (the **Owner**);
- DJ ~~(4) **HSBC UK Bank PLC** (company registration number 9928412) whose registered office is at 1 Centenary Square, Birmingham B1 1HQ (the **Mortgagee**); and~~
- (5) **Shoreham Brighton Road Limited** (company registration number 12472188) whose registered office is at Unit 4 Limes Court, Conduit Lane, Hoddesdon, Hertfordshire EN11 8EP (the **Developer**)

Introduction

- (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 County Council is the local highway authority, the county planning authority and the education authority for the area in which the Site is situated.
- (C) The Owner is the freehold owner of the Site registered at the Land Registry under title numbers WSX182548 and WSX60561.
- DJ ~~(D) **The Mortgagee has the benefit of two registered charges, one dated 14 October 2004 and the other dated 18 January 2010 against the Owner's interests in the Site and registered at the Land Registry under title numbers WSX182548 and WSX60561 respectively.**~~
- (E) The Developer has the benefit of an option agreement dated 29 May 2020 with the Owner.
- (F) The Developer has submitted the Application to the Council and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.
- (G) The Council resolved on 20 March 2023 to grant the Planning Permission subject to the prior completion of this Agreement.

Agreed terms

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

For the purposes of this Agreement the following expressions shall have the following meanings in addition to the definitions set out in the Schedules hereto:

Act means the Town and Country Planning Act 1990;

All-In Tender Price Index means the All-In Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors or (if such index is at the relevant time no longer published) such other comparable index or basis for indexation as the County Council may specify;

Application means the application for outline planning permission submitted to the Council for the Development and allocated reference number AWDM/2039/22;

Commencement of Development means the date on which the first 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 Agreement and for no other purpose) operations consisting of site clearance, 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, replacement of the river wall and retaining wall, excavation and levelling works, piling for river moorings, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and **Commence** and **Commence Development** shall be construed accordingly;

Council Contributions means all contributions payable to the Council in accordance with this Agreement;

County Council Contributions means all contributions payable to the County Council in accordance with this Agreement;

Council Monitoring Contribution means the total sum of £2,700 payable to the Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Agreement over the lifetime of the Development;

County Council Monitoring Contribution means the total sum of £2,800 payable to the County Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Agreement over the lifetime of the Development;

Development means the demolition of existing buildings, construction of 176no. 1 and 2 bedroom residential apartments and commercial development over 4 blocks between 5 and 9 levels, basement parking and raised deck, new highway access, flood defences, drainage infrastructure, landscaping and ancillary development as set out in the Application;

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

Interest means interest at 4% above the base lending rate of the Bank of England applicable at the actual date of payment;

Occupy 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 **Occupied and Occupation** shall be construed accordingly;

Plan means the plan of the Site attached to this Agreement at Appendix 1;

Planning Permission means the planning permission subject to conditions to be granted by the Council pursuant to the Application;

Practical Completion means depending on the context of the Agreement the substantial completion of any part or the whole of the Development as appropriate such that it is fit for its intended purpose (and, in the case of any highway works, physically completed and available for use by the public) and, free from defects other than minor snagging as confirmed by a certificate of practical completion or sectional practical completion issued by the Owner's architect or other suitably qualified professional and **Practically Complete** and **Practically Completed** shall be construed accordingly;

Qualifying Trigger means any trigger contained within this Agreement that attracts the Council Monitoring Contribution and/or the County Council Monitoring Contribution (as appropriate) because its implementation and/or adherence requires monitoring by the Council and/or the County Council (as appropriate);

Site means the land as indicatively shown on the Plan;

Specified Date means the date on which any payment under this Agreement becomes due;

Schedules means Schedules 1 to 5 contained in this Agreement; and

Working Days means any day from Monday to Friday (inclusive) which is not Christmas Day Good Friday or a statutory Bank Holiday and **Working Day** shall be construed accordingly.

1.2. Interpretation

- 1.2.1 Where in this Agreement 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 Agreement.
- 1.2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.2.3 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.
- 1.2.4 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.
- 1.2.5 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.

- 1.2.6 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.
- 1.2.7 The headings and contents list are for reference only and shall not affect construction.
- 1.2.8 The words **including** and **include** shall be deemed to be followed by the words **without limitation**.
- 1.2.9 References in this Agreement to **development** shall have the meaning given to it by section 55 of the Act.

2. LEGAL BASIS

- 2.1. This Agreement is made pursuant to section 106 of the Act and to the extent that they fall within the terms of section 106 of the Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the Act and are enforceable by the Council and the County Council in respect of the Site.
- 2.2. To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in section 111 Local Government Act 1972, section 1 Localism Act 2011 and all other enabling powers.
- 2.3. The Owner enters into the obligations (for themselves and their successors in title and persons deriving title from the Owner) with the Council and the County Council with the intent that the obligations contained in this Agreement shall be enforceable not only against the Owner but also against their successors in title and any person claiming through or under the Owner an interest or estate in the Site or any part thereof.

3. CONDITIONALITY

- 3.1 This Agreement shall come into immediate effect save for the obligations in the Schedules which are conditional upon the grant of the Planning Permission and Commencement of the Development.

4. THE OWNER'S COVENANTS

- 4.1. The Owner covenants:
 - 4.1.1 with the Council in respect of the Owner's covenants as set out in Schedules 1, 2 and 4; and
 - 4.1.2 with the County Council in respect of the Owner's covenants as set out in Schedules 3 and 4.

5. THE COUNCIL'S COVENANTS

5.1. The Council covenants with the Owner as set out in Schedule 5.

6. THE COUNTY COUNCIL'S COVENANTS

6.1. The County Council covenants with the Owner as set out in Schedule 5.

7. MISCELLANEOUS

7.1 The Owner shall pay to the Council and County Council on completion of this Agreement the reasonable legal costs of the Council and County Council incurred in the negotiation, preparation and execution of this Agreement in respect of the Council's costs and the County Council's costs.

7.2 The Owner covenants to pay the Council Monitoring Contribution to the Council prior to Commencement of Development

7.3 The Owner covenants to pay the County Council Monitoring Contribution to the County Council on completion of this Agreement

7.4 No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third parties) Act 1999 nor does it confer or purport to confer any right to enforce any of the terms and provisions of this Agreement to any person who is not a party or successor in title or statutory successor to a party hereto.

7.5 This Agreement shall be registrable as a local land charge by the Council.

7.6 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or County Council under the terms of this Agreement such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed 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.

7.7 Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall following a request from the Owner effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

7.8 Insofar as any clause or clauses of this Agreement 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 Agreement.

7.9 This Agreement 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.

- 7.10 No person shall be liable for any breach of any of the planning obligations or other provisions of this Agreement after it shall have parted with its entire interest in the Site (or where they have parted with only part thereof, any breaches in respect of that part in which they no longer have an interest) but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.11 This Agreement shall not be enforceable against any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services and any management company.
- 7.12 Nothing in this Agreement 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 Agreement.
- 7.13 Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the Council and County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.14 The Owner warrants to the Council and the County Council that apart from the parties to this Agreement there are no other persons with any interest (legal or equitable) in the Site or any part of it.
- 7.15 This obligations in this Agreement will not bind nor be enforceable against:
- 7.15.1 A Registered Provider (or their chargee) who acquires the Affordable Housing Units (or their mortgagees, chargees or Receivers or any persons deriving title through such parties save for the provisions of Schedule 1, paragraph 2.2 of Schedule 2 and paragraphs 1.1.13 and 1.1.14 of Schedule 4 provided that this exemption shall no apply to any Registered Provider who has a legal interest in any Market Housing Unit
 - 7.15.2 An individual owner, tenant or occupier of a completed Dwelling (which is not an Affordable Housing Unit) or their mortgagees or charges
 - 7.15.3 With the exception of Schedule 1, the individual owner, tenant or occupier of a completed Affordable Housing Unit or their mortgagees or chargees
 - 7.15.4 A statutory undertaker

~~8. THE MORTGAGEE AND THE OWNER~~

DJ

~~The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of its charge over the Site shall take effect subject to this Agreement provided that the Mortgagee shall otherwise have no liability under this Agreement unless it takes possession of the Site (or part thereof) in which case it too will be bound by the obligations in this Agreement that bind the Site as if it were a person deriving title from the Owner.~~

9. FUTURE MORTGAGEES

It is acknowledged and declared by the parties that this Agreement has been entered into by the Owner with their consent and that the Site shall be bound by the obligations contained in this Agreement and that the security of any mortgage or charge over the Site (or any part thereof) shall take effect subject to this Agreement **provided that** any mortgagee or chargee shall otherwise have no liability under this Agreement unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

10. WAIVER

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

11. CHANGE IN OWNERSHIP

The Owner agrees with the Council and the County Council to give the Council and County Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Agreement 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 **provided that** the Owner shall not be required to give notice to the Council or the County Council of any change of ownership affecting a completed Dwelling.

12. INDEX LINKED

12.1 In relation to Council Contributions the Owner agrees with the Council that any sum payable by the Owner pursuant to this Agreement shall be increased by the application of the following formulae:

$$A = (B \times C) \text{ divided by } D$$

Where A is the sum actually payable;

B is the original sum mentioned in this Agreement;

C is the All-In Tender Price Index for the quarter preceding the Specified Date;

D is the All-In Tender Price Index for the quarter preceding 30 June 2022;

C/D is equal to or greater than 1.

12.2 In relation to County Council Contributions the Owner agrees with the County Council that any sum payable by the Owner pursuant to this Agreement shall be increased by the application of the following formulae:

$$A = (B \times C) \text{ divided by } D$$

Where A is the sum actually payable;

- B is the original sum mentioned in this Agreement;
C is the All-In Tender Price Index for the quarter preceding the Specified Date;
D is the All-In Tender Price Index for the quarter preceding 21 October 2021
C/D is equal to or greater than 1.

13. INTEREST

If any payment due under this Agreement is paid late, Interest will be payable from the date payment is due to the date of payment.

14. VAT

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

15. DISPUTE PROVISIONS

Any dispute or difference arising between the parties hereto shall be dealt with as follows:

15.1 in the case of any difference or dispute arising out of the provisions of Schedule 1 (**Affordable Housing**) the same shall be referred to an independent Chartered Surveyor of at least ten years standing who shall be nominated in default of agreement between the Owner and the Council by the President for the time being of the Royal Institution of Chartered Surveyors or his deputy;

15.2 in the case of any legal requirement or interpretation or other matter regarding this Agreement the same shall be referred to Counsel of at least ten years' experience in such matters who shall be appointed in default of agreement between the Owner and the Council or the County Council (as the case may be) by the President of the Bar or his deputy; and

15.3 any matter referred to an independent Chartered Surveyor or Counsel shall be decided by such person as an expert (and not as an arbitrator) who shall permit one representation and one counter-representation (each in writing) by each party to the dispute and his determination shall be in writing and final and binding on the parties and the costs of such determination shall be paid as the expert shall direct but if he does not direct shall be borne equally between the Owner and the Council or the County Council (as the case may be) provided that in all cases the expert shall direct the costs be borne by the Owner where the expert considers the Council or the County Council's case (as the case may be) is reasonable.

16 JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England.

17 DELIVERY

The provisions of this Agreement (other than this clause 17 which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

18 **PLANNING CONSENTS GRANTED PURSUANT TO S73 OF THE ACT**

18.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the Act (as amended) and unless otherwise agreed between the parties, with effect from the date that the any new planning permission is granted pursuant to Section 73 of the Act (as amended):

18.1.1 the obligations in this Agreement shall (in addition to continuing to bind the Site in respect of the Planning Permission) relate to and bind all subsequent planning permission(s) in respect of the Site granted pursuant to Section 73 of the Act and the Site itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the Act;

18.1.2 the definitions of Application, Development and Planning Permission in this Agreement shall be construed to include references to any applications under Section 73 of the Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s); and

18.1.3 this Agreement shall be endorsed with the following words in respect of any future Section 73 application:

"The obligations in this Agreement relate to and bind the Site in respect of which a new planning permission referenced [] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

provided that nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the Act or the appropriate nature and/or quantum of Section 106 obligations in so far as they are materially different to those contained in this Agreement and required pursuant to a determination under Section 73 of the Act whether by way of a new deed or supplemental deed pursuant to S106 of the Act

This Agreement has been executed on the date stated at the beginning of it.

SCHEDULE 1
Affordable Housing

1. Definitions

1.1 In this Schedule 1, the following terms have the following meanings unless inconsistent with the context:

Adur District means the administrative area of the Council;

Affordable Housing means Affordable Rented Housing and Intermediate Housing provided to eligible households whose needs are not met on the open market;

Affordable Housing Plan means a plan showing the location, sizes and tenure of the Affordable Housing Units to be agreed in writing between the Council and Owner pursuant to this Schedule;

Affordable Housing Units means at least fifty three (53) Dwellings to be provided as Affordable Housing to be constructed pursuant to the Planning Permission in accordance with the Affordable Housing Plan and the Agreed Mix;

Affordable Rented Housing means affordable housing to be made available by a Registered Provider to households with a Local Connection whose needs are not adequately served by the commercial housing market at rents which shall not exceed the Local Housing Allowance (including service charges where applicable) and **Affordable Rented Units** and **Affordable Rent** shall be construed accordingly;

Agreed Mix means the mix of Affordable Housing Units set out at Paragraph 2.3 of this Schedule 1, or such other size tenure and mix of Affordable Housing Units approved by the Council in writing and which shall be determined having regard to the identified housing needs within the Council's administrative area;

Intermediate Housing means Affordable Rented Housing and/or Shared Ownership Housing or such other tenure that may be agreed in writing by the Council and the Owner provided that such other tenure is in accordance with the definition of 'Other Affordable Routes to Home Ownership' in Annex 2 of the NPPF and **Intermediate Housing Units** shall be construed accordingly;

Local Connection means a person that lives or works in the Adur District or in a district or borough adjoining Adur District;

Local Housing Allowance means the local housing allowance provided by the Valuation Office Agency as published from time to time;

Market Housing Units means a Dwelling that is not an Affordable Housing Unit;

Market Rent means the estimated amount for which the relevant Dwelling should lease (let) on the date of valuation between a willing lessor and willing lessee on appropriate lease terms in an arms length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion;

Market Value means the price at which the whole interest in the Affordable Housing Unit would be expected to command if sold by a willing seller to a willing purchaser for residential purposes free of the restrictions and obligations contained in this Agreement;

NPPF means the National Planning Policy Framework (July 2021) as may be updated from time to time;

Nominations Agreement means an agreement substantially in the form appended to this Agreement at Appendix 4 to be entered into between the Council and the Owner setting out the Nomination Rights;

Nomination Rights means that the Council will have the right to nominate the occupier of the Affordable Rented Units and Social Rented Units in accordance with the Nominations Agreement;

Registered Provider means a registered provider of social housing as defined in the Housing and Regeneration Act 2008 who is registered with Regulator pursuant to that Act;

Regulator means Homes England as the Regulator of Social Housing established pursuant to Part 2 of the Housing and Regeneration Act 2008 or any similar future authority (including any statutory successor) carrying on substantially the same regulatory or supervisory functions;

Retained Equity means the proportion of the Market Value in a Shared Ownership Housing Unit represented by such share of unsold equity;

Shared Ownership Housing means a form of tenure granted by lease by a Registered Provider to be disposed pursuant to shared ownership arrangements within the meaning of section 70(4) Housing and Regeneration Act 2008 whereby a purchaser is able to purchase a share of the equity in an Affordable Housing Dwelling from 25% to a maximum of 75% initially (at the option of the buyer) and pay an annual rent of up to 2.75% on the Retained Equity with no limitation in the aggregate equity that can be subsequently acquired by the lessee and such form of lease shall comply with Homes England's model lease for shared ownership housing (as varied from time to time) or such other form of lease as maybe agreed in writing by the Council and Shared Ownership Housing Unit(s) and Shared Ownership Lease shall be interpreted accordingly;

Social Rented Housing means affordable housing which is managed by local authorities and/or Registered Providers where the rent is no higher than Target Rent and **Social Rented Units** and **Social Rent** shall be construed accordingly;

Staircasing means the purchase by the owner of an individual Dwelling of additional equity in a Shared Ownership Unit;

Target Rent means target rent for Social Rented Housing as determined through the National Rent Regime and published from time to time by the Regulator (or such other body as may replace the Regulator, having responsibility for setting target rents for social housing);

Transfer means the transfer of the freehold or grant of a lease for a term of at least 125 years unless otherwise agreed in writing with the Council and **Transferred** shall be construed accordingly;

Wheelchair User Homes means an Affordable Housing Unit which is fully adapted and accessible for wheelchair users in accordance with M4(3)(2)(b) of Approved Document M pursuant to the Building Regulations 2010.

The Owner covenants with the Council as follows:

2. Affordable Housing Provisions

2.1 To provide the Affordable Housing Units within the Development in accordance with this Schedule 1.

2.2 To submit an Affordable Housing Plan to the Council for approval prior to Commencement of Development.

2.3 Unless otherwise agreed in writing by the Council, the Affordable Housing Units shall comprise:

2.3.1 Thirteen (13) Intermediate Housing Units (5 x 1 bed and 8 x 2 bed); and

2.3.2 Forty (40) Affordable Rented Housing Units or Social Rented Units (17 x 1 bed and 23 x 2 bed); and

2.3.3 Up to four (4) but no less than two (2) of the Affordable Rented Housing Units or Social Rented Units delivered in accordance with paragraph 2.3.2 above shall comprise Wheelchair User Homes.

2.4 Not to Commence Development until the Affordable Housing Plan has been approved in writing by the Council (the **Approved Affordable Housing Plan**) provided that such approval by the Council shall not be unreasonably withheld or delayed .

2.5 To construct and provide the Affordable Housing Units in accordance with the Approved Affordable Housing Plan (unless otherwise agreed in writing by the Council).

3. Transfer

3.1 Unless the Owner is a Registered Provider to Transfer the Affordable Housing Units to a Registered Provider.

3.2 Unless otherwise agreed in writing with the Council not to cause or allow the Occupation of more than 50% of the Market Housing Units of the Development unless and until all of the Affordable Housing Units have been provided in accordance with paragraph 2.5 and the Affordable Housing Plan and those Affordable Housing Units have been transferred to a Registered Provider (unless the Owner is a Registered Provider).

4. Occupation

- 4.1 Subject to paragraph 5 of this Schedule 1 not to Occupy or permit Occupation of the Affordable Housing Units other than as Affordable Housing.
- 4.2 Not to Occupy or permit the Occupation of the Affordable Rented Units and/or Social Rented Units unless and until a Nominations Agreement has been entered into with the Council granting the Council Nomination Rights in respect of the Affordable Rented Units and/or Social Rented Units provided pursuant to paragraph 2.3.2 above.
5. **Exclusions**
- 5.1 The affordable housing provisions in Schedule 1 of this Agreement 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:**
- 5.1.1 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 months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Registered Provider or to the Council for a consideration 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
- 5.1.2 if such disposal has not completed within the three-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 Agreement which provisions shall determine absolutely.
- 5.2 The provisions of this Schedule 1 shall:
- 5.2.1 cease to apply to any part or parts of the Site which are disposed of in accordance with paragraph 5.1.2;
- 5.2.2 cease to apply to any completed Affordable Housing Units where the Registered Provider shall be required to dispose of the same pursuant to a right to buy under Part V Housing Act 1985 as amended by the Housing (Preservation of Right to Buy) Regulations 1993 or pursuant to a right to acquire under section 180 Housing and Regeneration Act 2008 or any similar or substitute right applicable;
- 5.2.3 cease to apply to any completed Affordable Housing Units where a Registered Provider sells to a tenant through Social Homebuy funded pursuant to section 19(3) Housing and Regeneration Act 2008 or any amendment or replacement thereof;
- 5.2.4 cease to apply to any Shared Ownership Housing Unit where the tenant has Staircased up to 100% in accordance with the terms of such Shared Ownership Housing lease.

5.3 For the avoidance of doubt, the provisions of this Schedule 1 shall not apply to any successors in title purchasing an interest in part of the Site where provisions of this Schedule 1 have ceased to apply pursuant to paragraph 5.2.

SCHEDULE 2
Other Covenants with the Council

1. Definitions

1.1 In this Schedule 2, the following terms have the following meanings unless inconsistent with the context:

ADC Tenure Report means a report to be submitted by the Owner to the Council for approval prior to Commencement which shall certify, with evidence, the number of Discretionary Social Rent Units to be provided as part of the Development;

Adjusted First Health Contribution means 50% of the Adjusted Total Health Contribution

Adjusted Second Health Contribution means 50% of the Adjusted Total Health Contribution

Adjusted Total Health Contribution means a sum to be calculated in accordance with the following formula:

$$X = £206,366 - (£1,677 \times Y), \text{ all indexed}$$

X is the amount of the sum payable (£)

Y is the number of Discretionary Social Rent Units to be provided as part of the Development as per the ADC Tenure Report

PROVIDED THAT the Adjusted Total Health Contribution shall not exceed £206,366

Air Quality Contribution means the sum of up to seventeen thousand four hundred and eighty three pounds (£17,483.00) as determined in the Air Quality Mitigation Plan to be used by the Council towards air quality monitoring and mitigation measures necessary as a result of the Development in the Shoreham Town Centre Air Quality Management Area and/or on Brighton Road within the Council's administrative area;

Air Quality Mitigation Plan means the plan to be submitted to and approved in writing by the Council in accordance with the Planning Permission which shall:

- (a) set out in full the proposed operational phase air quality mitigation measures, including on-site mitigation measures, to be implemented as part of the Development;
- (b) confirm the value of the on-site mitigation measures and the extent to which it is less than the sum of £17,483.00 the balance shall be paid as the Air Quality Contribution in accordance with this Schedule;

Car Club means a car club operated by a Car Club Operator for which residents may join and which makes cars available for hire to members;

Car Club Membership means, in respect of the first Occupier of each Dwelling, free membership to a Car Club for a period of 2 (two) years commencing on the date when that Occupier first Occupies the Dwelling including an initial one-off credit of £50 (fifty pounds) for each membership **PROVIDED THAT** free membership shall only be offered to one Occupier per Dwelling;

Car Club Operator means a company that is accredited by CoMoUK to operate Car Clubs, or such other company operating a Car Club as is agreed with the Council in writing;

Car Park Management Plan means a document to be submitted to and approved in writing by the Council in accordance with the Planning Permission setting out how the Owner will manage arrangements for car parking areas within the Development which shall include (but not limited to) measures to ensure that the car parking is used efficiently and effectively;

CoMoUK means the national charity promoting responsible car use;

Discretionary Social Rent Units means Market Dwellings which the Owner may elect at its absolute discretion to provide as Social Rented Units;

Employment and Skills Plan means a plan setting out how the Owner will include provisions for working with local learning, skills and employment group(s) and/or colleges and/or training establishments, in order to procure local labour and arrange apprenticeship(s) and skills training during the construction phase of the Development;

First Health Contribution means the sum of one hundred and three thousand one hundred and eighty three pounds (£103,183) to be paid to the Council towards either the refurbishment, improvement, replacement or expansion of Harbour View GP Surgery (Shoreham Health Centre) or at another location within Adur District, as may be first agreed between the Council and the Owner;

Flood Escape Routes means the escape routes from the Site in the event of a flood the location of which are shown by orange dashed lines on the plan at Appendix 2;

Footpaths means the Flood Escape Routes, Internal Footpaths, Riverside Footpath and Footpath Connection Points;

Footpath Connection Points means those points at which the Footpath shall link at a consistent level and in an unobstructed manner with (i) footpaths within the adjoining Free Wharf development; (ii) the Riverside Footpath Network; and (iii) the footpath on Brighton Road (A259), as shown at the points marked A, B, C, D, E1 and E2 on the plan at Appendix 2;

Footpath Management Plan means a plan (which may be amended from time to time with the written agreement of the Council) securing the management and maintenance of the Footpaths to (i) provide accessibility for members of the public on foot or by cycle 24 hours per day 364 days a year and (ii) to ensure that the Footpaths are managed and maintained in such a way to provide an unobstructed link into the Riverside Footpath Network as shown at points C and D on the plan at Appendix 2 **PROVIDED THAT** the obligation to provide public access to the Footpaths and the link into the Riverside Footpath Network shall not be deemed to be breached in the case of any Permitted Closure;

Internal Footpaths means the footpaths to be laid out as part of the Development within the Site boundary as shown on the plan at Appendix 2;

Open Space Contribution means the sum of three hundred and twenty eight thousand seven hundred and fifty pounds (£328,750) to be used by the Council towards the provision and/or improvement of off site public open space and/or recreation facilities within Adur District;

Open Space Maintenance Contribution means the sum of sixty thousand pounds fifty seven thousand seven hundred and twenty pounds (£57,720) to be used by the Council towards

the ongoing maintenance of off site public open space and/or recreation facilities which are to be provided using the Open Space Contribution;

Permitted Closure means temporary closure or obstruction of the Footpath or any part thereof (as applicable) in the following circumstances:

- (a) in the case of emergency where such closure is necessary in the interests of public safety or otherwise for reasons of public safety or at the request of the police or fire service;
- (b) for a maximum of one day per year to assert rights of proprietorship preventing public rights from coming into being by means of prescription or any process of law PROVIDED THAT: (i) the Owner provides the Council with prior notification of any such closure; (ii) no such closure shall occur on a weekend; and (iii) there shall be no such closure if the entire Footpath has been closed for an entire day or more for any of the reasons pursuant to (d) of this definition during the preceding year;
- (c) in the interests of public safety generally or for the purposes of maintenance, repair, cleansing, renewal or resurfacing works; and
- (d) with the prior written approval of the Council, for any other reasonable and proper purpose;

PROVIDED THAT the Owner shall (i) take reasonable steps to minimise the duration and extent of any such closures and (ii) re-open the Footpath as soon as is reasonably practicable;

Public Art Plan means a plan to be submitted by the Owner to the Council for its written approval setting out proposals for the delivery of public art as part of the Development and the cost of any such proposal shall be a minimum of [£17,000];

Riverside Footpath means that part of the Footpath shaded brown between points C and D on the plan at Appendix 2 which forms part of the Riverside Footpath Network;

Riverside Footpath Network means a contiguous length of footway which will run alongside the River Adur the approximate location of which is shown on the plan at Appendix 3;

Second Health Contribution means the sum of one hundred and three thousand one hundred and eighty three pounds (£103,183) to be paid to the Council towards either the refurbishment, improvement, replacement or expansion of Harbour View GP Surgery (Shoreham Health Centre) or at another location within Adur District, as may be first agreed between the Council and the Owner;

Site Management Plan means a plan to be submitted by the Owner to the Council for its written approval detailing maintenance provisions in respect of the following matters to be provided in accordance with the Planning Permission and this Agreement:

- (a) Car Park Management Plan;

- (b) Site Servicing Plan;
- (c) The secure cycle stores;
- (d) All common areas, including but not limited to watering and pruning;
- (e) All landscaped areas and play areas, including but not limited to watering and pruning;
- (f) Sustainable drainage and end of life replacement;
- (g) Green roofs and other landscaped areas on the buildings;
- (h) On site heating system;
- (i) Bin stores and litter bins;
- (j) A flood defence and escape plan along with details of how any such plan shall be distributed and reviewed; and
- (k) Any noise mitigation and ventilation measures including but not limited to acoustic fenestration and ventilation and any mechanical ventilation and mechanical ventilation measures as may be required

Site Servicing Plan means the document to be submitted to and approved in writing by the Council in accordance with the Planning Permission setting out how the Owner will manage deliveries, service and emergency vehicles at the Site;

Social Rented Units shall have the meaning given to it in Schedule 1.

The Owner covenants with the Council as follows:

2. Car Club

2.1 To use reasonable endeavours to enter into a contract with a Car Club Operator to provide for a minimum of five years from the date of Occupation of the Development:

2.1.1. Two Car Club vehicles on the Site within two months of first Occupation of any Dwelling (unless otherwise agreed in writing with the Council) and to provide a copy to the Council of any such contract that has been entered into with a Car Club Operator;

- 2.1.2. An additional four Car Club vehicles on the Site on or prior to Occupation of 90% of the Dwellings (unless otherwise agreed in writing with the Council) (“the Monitoring Date”);
- 2.1.3. To monitor uptake of the Car Club and to submit a written report to the Council (for the attention of the Head of Planning) and the County Council on an annual basis for a period of 5 years from the Monitoring Date and if following receipt of the annual monitoring report the Council or the County Council so require, to provide an additional two Car Club vehicles on the Site in the timeframe stipulated by the Council or the County Council (as appropriate) ;
- 2.2 To offer Car Club Membership to the first household to Occupy each Dwelling for a minimum period of two years and a £50 drive time credit to the first Occupier of each Dwelling;
- 2.3 Not to Occupy the Dwellings (or any part of them) unless and until written evidence has been provided to the Council to demonstrate that paragraph 2.1.1 within this Schedule has been complied with (insofar as it can be complied with at the date of Occupation) and not to Occupy 90% of the Dwellings (or any part of them) unless and until written evidence has been provided to the Council to demonstrate that paragraph 2.1.2 within this Schedule has been complied with (insofar as it can be complied with at the date of Occupation); and
- 2.4 Unless otherwise agreed in writing with the Council, to retain and maintain the car parking spaces within the Development provided pursuant to the Planning Permission for sole use by Car Club vehicles.
- 3. Footpath**
- 3.1 Prior to commencement of construction of the Development above the first floor podium slab, to submit to the Council for written approval:
 - 3.1.1 Details of the timetable for construction of the Footpaths in accordance with the Planning Permission (the “Footpath Delivery Timetable”). The Footpath Delivery Timetable shall be prepared having regard to the proposed construction programme and the need to ensure that relevant parts of the Development are served by the Footpaths at an appropriate time; and
 - 3.1.2 The Footpath Management Plan.
- 3.2 Not to commence construction of the Development above the first floor podium slab until the Council has approved in writing the Footpath Delivery Timetable and the Footpath Management Plan.
- 3.3 To carry out and complete the Footpaths in accordance with the approved Footpath Delivery Timetable and to observe and perform any restrictions on Development or Occupation as may be specified in the approved Footpath Delivery Timetable and in any event not to Occupy or cause or permit Occupation of 90% of the Dwellings until the Footpaths have been laid out and completed.

3.4 To manage and maintain the Footpaths in accordance with the approved Footpath Management Plan for the lifetime of the Development.

4. Health Contribution

4.1 To submit the ADC Tenure Report to the Council prior to Commencement of Development and not to cause or permit Commencement of Development until the ADC Tenure Report has been submitted to the Council.

4.2 In the event that the ADC Tenure Report confirms that no Discretionary Social Rented Units are to be provided as part of the Development, the Developer shall pay to the Council:

4.2.1 the First Health Contribution prior to Occupation of the Dwellings; and

4.2.2 the Second Health Contribution prior to Occupation of more than 50% of the Dwellings, and the Developer covenants not to Occupy or cause or permit Occupation of the Dwellings until the First Health Contribution has been paid to the Council and not to occupy or cause or permit Occupation of more than 50% of the Dwellings until the Second Health Contribution has been paid to the Council.

4.3 In the event that the ADC Tenure Report confirms that Discretionary Social Rented Units are to be provided as part of the Development, the Developer shall pay to the Council:

4.3.1 The Adjusted First Health Contribution prior to Occupation of the Dwellings; and

4.3.2 The Adjusted Second Health Contribution prior to Occupation of more than 50% of the Dwellings, and the Developer covenants not to Occupy or cause or permit Occupation of the Dwellings until the Adjusted First Health Contribution has been paid to the Council and not to occupy or cause or permit Occupation of more than 50% of the Dwellings until the Adjusted Second Health Contribution has been paid to the Council

5. Open Space Contributions

5.1 to pay 50% of the Open Space Contribution and 50% of the Open Space Maintenance Contribution to the Council prior to first Occupation of the Dwellings;

5.2 not to Occupy the Dwellings until the payments have been made pursuant to paragraph 6.1;

5.3 to pay the remaining 50% of the Open Space Contribution and the remaining 50% of the Open Space Maintenance Contribution to the Council prior to Occupation of more than 50% of the Dwellings; and

5.4 not to Occupy more than 50% of the Dwellings until the payments have been made pursuant to paragraph 5.3.

6. Air Quality Mitigation

6.1 To submit the Air Quality Mitigation Plan to the Council prior to Commencement of Development;

6.2 Not to Commence or permit Commencement of Development until the Air Quality Mitigation Plan has been approved in writing by the Council;

6.3 To pay the Air Quality Contribution (if payable) to the Council prior to Occupation of the Dwellings;

6.4 Not to Occupy the Dwellings until the payment has been made pursuant to paragraph 6.3;

7. Public Art

7.1 To submit the Public Art Plan to the Council for approval prior to Development taking place above ground level (or within such other timeframe as may be agreed in writing by the Council);

7.2 Not to cause or permit Development to take place above ground level (or within such other timeframe as may be agreed in writing by the Council) until the Council has approved in writing the Public Art Plan;

7.3 To carry out the works contained in the Public Art Plan prior to Occupation of 90% of the Dwellings, or such other period as may be agreed in writing by the Council.

8. Site Management Plan

8.1 To submit the Site Management Plan to the Council for approval prior to Occupation of the Development.

8.2 Not to Occupy the Development until the Site Management Plan has been approved by the Council in writing.

8.3 To comply with the approved Site Management Plan for the lifetime of the Development (as may be amended from time to time with the Council's written approval)

9. Local Procurement and Skills

9.1 To submit the Employment and Skills Plan to the Council for approval prior to Commencement of Development.

9.2 Not to Commence Development until the Employment and Skills Plan has been approved by the Council in writing.

9.3 To comply with the Employment and Skills Plan for the lifetime of the Development (as may be amended from time to time with the Council's written approval) in liaison with the Council's Economy and Skills Officer.

SCHEDULE 3
Covenants with the County Council

1. Definitions

1.1 In this Schedule 3, the following terms have the following meanings unless inconsistent with the context:

Adjusted Education Contribution means a sum to be calculated for the Education (Primary) Contribution, the Education (Secondary) Contribution and the Education (Sixth Form) Contribution together following receipt of a Tenure Notice which identifies some Discretionary Social Rent Units to be provided to be calculated in accordance with the following formula:

$$(DfE \text{ figure (Primary)} \times TPR = \text{Primary Education Contribution}) + (DfE \text{ figure (Secondary)} \times TPR = \text{Secondary Education Contribution}) + (DfE \text{ figure (Further Secondary)} \times TPR = \text{Further Secondary Education Contribution}) = \text{Education Contribution where:}$$

Note: x = "multiplied by ..."

DfE Figure = Department for Education (DfE) Primary/Secondary/Further Secondary school building costs per pupil place as adjusted for the West Sussex area applicable at the date when the Education Contribution is paid (which currently for the financial year 2023/2024 is £20,567 for Primary, £30,989 for Secondary, £33,608 for Further Secondary), updated as necessary by the Royal Institute of Chartered Surveyors Building Costs Information Service All-In Tender Price Index.

TPR (Total Places Required) (number of school places the Development will generate) = Average Child Product (ACP) x Year Groups

ACP = The estimated additional number of school age children likely to be generated by the Development calculated by reference to the total number of Housing Units/Dwellings, less any allowance for affordable dwellings (which for Adur District is 100% for social rented/affordable rent but for all other forms of affordable tenure no discount is applied.) The County Council use the latest published occupancy rates from the census statistics published by the Office for National Statistics. The current occupancy rates are given below as a guideline only:

	Dwelling Size	Occupancy	
		House	Flat
	1 bed	= 1.5	1.3
	2 bed	= 1.9	1.9
	3 bed	= 2.5	2.4
	4+ bed	= 3.0	2.8

To determine an overall population increase the following factors are applied.

There are 14 persons per 1000 population in each school year group for houses and 5 persons per 1000 population in each school year group for flats (2001 Census data).

Year Groups = There are 7 year groups for Primary (years R to 6) and 5 for Secondary (years 7 to 11). For Sixth Form there are two year groups (years 12 and 13) but a factor of 0.54 is applied to the TPR figure as this is the average percentage of year 11 school leavers who continue into Sixth Form education in West Sussex.

PROVIDED THAT the Adjusted Education Contribution shall not exceed the Education Contribution Index Linked;

Adjusted Fire and Rescue Service Contribution means a sum to be calculated for the Fire and Rescue Service Contribution following receipt of a Tenure Notice which identifies some Discretionary Social Rent Units to be provided to be calculated in accordance with the following formula:

$Y \times Z$ = Fire and Rescue Service Contribution where:

Note: x = "multiplied by"

Y = The estimated adjusted increase in population generated by the Development, calculated by reference to the total number of Housing Units, less any allowance for affordable dwellings (which for Adur District is 100% for social rented/affordable rent but for all other forms of affordable tenure no discount is applied). The County Council use the latest published occupancy rates from census statistics published by the Office for National Statistics. The current occupancy rates are given below as a guideline only:

	Dwelling Size	Occupancy	
		House	Flat
1 bed	=	1.5	1.3
2 bed	=	1.9	1.9
3 bed	=	2.5	2.4
4+ bed	=	3.0	2.8

Z = the estimated costs of providing additional Fire and Rescue Infrastructure per head in the Southern Service Division of West Sussex at the time of payment (which, for information, for 2023/2024 is £18 for Southern Division).

PROVIDED THAT the Adjusted Fire and Rescue Service Contribution shall not exceed the Fire and Rescue Service Contribution Index Linked;

Adjusted Libraries Contribution means a sum to be calculated for the Libraries Contribution following receipt of a Tenure Notice which identifies some Discretionary Social Rent Units to be provided to be calculated in accordance with the following formula:

$L/1000 \times AP = \text{Library Contribution where:}$

Note: x = multiplied by.

$L/1000 = \text{Extra library space in sq.m per 1,000 population} \times \text{the library cost multiplier applicable at the date the Libraries Contribution is paid (which currently for the financial year 2023/2024 are 35 sq.m and £6,027 per sq.m respectively)}.$

AP (Adjusted Population) = The estimated number of additional persons generated by the Development calculated by reference to the total number of Housing Units/Dwellings, less any allowance for affordable dwellings (which for Adur District is 100% for social rented/affordable rent but for all other forms of tenure no discount is applied).

The County Council use the latest published occupancy rates from census statistics published by the Office for National Statistics. The current occupancy rates are given below as a guideline only:

	Dwelling Size	Occupancy	
		House	Flat
1 bed	=	1.5	1.3
2 bed	=	1.9	1.9
3 bed	=	2.5	2.4
4+ bed	=	3.0	2.8

PROVIDED THAT the Adjusted Libraries Contribution shall not exceed the Libraries Contribution Index Linked.

Cycle Path Contribution the sum of £63,830.12 (sixty three thousand eight hundred and thirty pounds and twelve pence) for the provision by the County Council of a roadside cycle path along the Site frontage at the A259 Brighton Road using the Safeguarded Land;

Discretionary Social Rent Units means the discretionary social rent units that may be provided by the Owner as part of the Development over and above the policy compliant requirement for Affordable Housing;

Education Contribution means the Education (Primary) Contribution, the Education (Secondary) Contribution and the Education (Sixth Form) Contribution together;

Education (Primary) Contribution means the sum of £105,313 (one hundred and five thousand three hundred and thirteen pounds) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with paragraph 2 of this Schedule being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for primary education services that would be generated by the Development and

to be used towards the expansion of existing primary schools within the district of Adur or innovative solutions to address the need within Adur;

Education (Secondary) Contribution means the sum of £113,342 (one hundred and thirteen thousand three hundred and forty two pounds) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with paragraph 2 of this Schedule being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for secondary education services that would be generated by the Development and to be used towards additional facilities at Shoreham Academy;

Education (Sixth Form) Contribution means the sum of £26,551 (twenty six thousand five hundred and fifty one pounds) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with paragraph 2 of this Schedule being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for sixth form education services that would be generated by the Development and to be used towards Shoreham Academy Sixth Form;

Fire and Rescue Service Contribution means the sum of £4,014 (four thousand and fourteen pounds) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with paragraph 4 of this Schedule being a contribution towards the provision of fire service infrastructure (excluding fire hydrants) in the vicinity of the Land to serve the additional needs of the community generated by the Development and to be used towards the supply and installation of additional fire safety equipment to vulnerable person's homes in West Sussex Fire Rescue Services Southern Area serving Shoreham and Southwick;

Highway Improvement Contribution means the sum of five hundred and fifty eight thousand and ninety seven pounds (£558,097) with £420,805 (four hundred and twenty thousand eight hundred and five pounds) to be used towards measures included within the JAAP and £137,292 (one hundred and thirty seven thousand two hundred and ninety two pounds) to be used towards Local Plan measures;

JAAP means the Shoreham Harbour Joint Area Action Plan adopted by the Council and the County Council in October 2019;

Libraries Contribution means the sum of £47,041 (forty seven thousand and forty one pounds) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with paragraph 3 of this Schedule being a financial contribution towards the costs of providing the additional library infrastructure required to accommodate the extra demands for library services that would be generated by the Development and to be used towards additional facilities at the new library for Shoreham;

Tenure Notice means a written notice to be served on the County Council prior to Commencement of Development confirming the number of Discretionary Social Rent Units to be provided as part of the Development;

Traffic Regulation Order Contribution means the sum of £8,322 (eight thousand three hundred and twenty two pounds) to be used towards the promotion and advertisement of a Traffic Regulation Order to install a loading bay on Brighton Road;

Travel Plan means the travel plan to be submitted to the County Council for approval pursuant to paragraph 6.1 of this Agreement;

Travel Plan Coordinator means the person appointed by the Owner pursuant to the Travel Plan who will be responsible for securing the implementation of the Travel Plan;

Travel Plan Auditing Fee means the sum of £3,500 (three thousand five hundred pounds) payable to the County Council for monitoring the Travel Plan and/or wider travel plan promotion within Shoreham Harbour;

The Owner covenants with the County Council as follows:

2. Education Contribution

2.1 To submit the Tenure Notice to the County Council prior to Commencement of Development and not to cause or permit Commencement of Development until the Tenure Notice has been submitted to the County Council.

2.2 In the event that the Tenure Notice confirms that no Discretionary Social Rented Units are to be provided as part of the Development, the Owner shall:

2.2.1 Pay to the County Council the Education Contribution Index Linked on or before Occupation of the first Dwelling.

2.2.2 Not Occupy or cause or permit the Occupation of the first Dwelling to occur before payment to the County Council of the Education Contribution Index Linked has been made.

2.3 If the Education Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Education Contribution

2.4 In the event that the Tenure Notice confirms that Discretionary Social Rented Units are to be provided as part of the Development:

2.4.1 The Owner shall pay to the County Council the Adjusted Education Contribution prior to Occupation of the Dwellings; and

2.4.2 The Owner covenants not to Occupy or cause or permit Occupation of the Dwellings until the Adjusted Education Contribution has been paid to the County Council

3 Libraries Contribution

3.1 In the event that the Tenure Notice confirms that no Discretionary Social Rented Units are to be provided as part of the Development, the Owner shall:

3.1.1 Pay to the County Council the Libraries Contribution Index Linked on or before Occupation of the first Dwelling.

3.1.2 Not Occupy or cause or permit Occupation of the first Dwelling to occur before payment to the County Council of the Libraries Contribution Index Linked has been made.

3.2 If the Libraries Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Libraries Contribution

3.3 In the event that the Tenure Notice confirms that Discretionary Social Rented Units are to be provided as part of the Development:

3.3.1 The Owner shall pay to the County Council the Adjusted Libraries Contribution prior to Occupation of the Dwellings; and

3.3.2 The Owner covenants not to Occupy or cause or permit Occupation of the Dwellings until the Adjusted Libraries Contribution has been paid to the County Council.

4 Fire and Rescue Contribution

4.1 In the event that the Tenure Notice confirms that no Discretionary Social Rented Units are to be provided as part of the Development, the Owner shall:

4.1.1 Pay to the County Council the Fire and Rescue Service Contribution Index Linked on or before Occupation of the first Dwelling.

4.1.2 Not Occupy or cause or permit the Occupation of the first Dwelling to occur before payment to the County Council of the Fire and Rescue Service Contribution Index Linked has been made.

4.2 If the Fire and Rescue Service Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Fire and Rescue Service Contribution

4.3 In the event that the Tenure Notice confirms that Discretionary Social Rented Units are to be provided as part of the Development:

4.3.1 The Owner shall pay to the County Council the Adjusted Fire and Rescue Service Contribution prior to Occupation of the Dwellings; and

4.3.2 The Owner covenants not to Occupy or cause or permit Occupation of the Dwellings until the Adjusted Fire and Rescue Service Contribution has been paid to the County Council.

5 Highway Improvements Contribution and Cycle Path Contribution

5.1 To pay the Highway Improvement Contribution and the Cycle Path Contribution both Index Linked prior to Commencement of Development;

5.2 Not to Commence Development until the Highway Improvement Contribution and the Cycle Path Contribution have been paid to the County Council;

6 Travel Plan

- 6.1 To submit the Travel Plan to the County Council for approval prior to Commencement of Development;
- 6.2 Once approved to ensure the approved Travel Plan is implemented in full;
- 6.3 To appoint a Travel Plan Coordinator for a period of 5 (five) years from the date of Commencement of Development;
- 6.4 To pay the Travel Plan Monitoring Fee prior to Commencement of Development;

7. Safeguarded Land

- 7.1 Prior to Commencement of Development to maintain the Land within the Owner's control to be dedicated as additional highway land shown outlined in blue on Plan "New Built Mixed-Use Development Land Ownership" and numbered PL00 ("the Safeguarded Land")
- 7.2 the Safeguarded Land shall be maintained for 10 years from First Occupation and offered to the County Council to be made into a cycle path either when called upon by the County Council during the 10 year period or at the end of the 10 year period and the County Council shall either accept such offer without immediate delay or refuse the offer.
- 7.3 Not to cause or allow the Development to be Commenced until the provisions of paragraph 7.1 have been complied with

8. TRO Contribution

- 8.1 To pay the TRO Contribution Index Linked prior to Commencement of Development
- 8.2 Not to Commence Development until the TRO Contributions has been paid to the County Council

SCHEDULE 4
Notices

The Owner covenants with the Council and County Council :

- 1.1 To serve notice of the following on the Council and County Council:
- 1.1.1 twenty Working Days prior notice of the anticipated Commencement Date of the Development;
 - 1.1.2 Notice of the actual Commencement Date of the Development within ten Working Days of such occurring;
 - 1.1.3 twenty Working Days prior notice of the anticipated date of commencement of construction above ground level;
 - 1.1.4 Notice of the actual date of commencement of construction above ground level;
 - 1.1.5 twenty Working Days prior notice of the anticipated date of commencement of construction of the Development above the first floor podium slab;
 - 1.1.6 Notice of the actual date of the commencement of construction of the Development above the first floor podium slab;
 - 1.1.7 twenty Working Days prior notice of the anticipated date when the first Dwelling will be Occupied;
 - 1.1.8 Notice of the actual date on which the first Dwelling was Occupied within ten Working Days of such occurring;
 - 1.1.9 twenty Working Days prior notice of the anticipated date when 50% of the Dwellings will be Occupied;
 - 1.1.10 Notice of the actual date on which 51% of the Dwellings were Occupied within ten Working Days of such occurring;
 - 1.1.11 twenty Working Days prior notice of the anticipated date when 50% of the Market Housing Units will be Occupied;
 - 1.1.12 Notice of the actual date on which 51% of the Market Housing Units were Occupied within ten Working Days of such occurring;
 - 1.1.13 twenty Working Days prior notice of the anticipated date when the first Affordable Rented Unit and/or the first Social Rented Unit will be Occupied;
 - 1.1.14 Notice of the actual date on which the first Affordable Rented Unit and/or the first Social Rented Unit will be Occupied;
 - 1.1.15 twenty Working Days prior notice of the anticipated date when the 159th Dwelling (90%) will be Occupied; and
 - 1.1.16 Notice of the actual date on which the 159th Dwelling (90%) was Occupied within ten Working Days of such occurring.

- 1.2 When serving notices pursuant to this Schedule, to provide a report detailing the number of Dwellings in Occupation at that date and confirming which obligations have been triggered and whether or not they have been complied with.
- 1.3 For a period of three years following Occupation of the 159th Dwelling, to provide annual updates to the Council and County Council confirming compliance with any obligations within Schedules 2 to 3 of this Agreement where performance of such obligation occurs post Occupation of the Dwellings.

SCHEDULE 5
The Council and County Council Covenants

1. Definitions

1.1 The terms used within this Schedule shall have the same meaning as per the relevant definitions within the Schedules to this Agreement.

1.2 In this Schedule the following term shall have the following meaning unless inconsistent with the context:

County Council Contributions means all contributions payable to the County Council in accordance with this Agreement.

Part 1 The Council's Covenants

2. Discharge of Obligations

2.1 The Council covenants with the Owner that following written request of the Owner the Council shall provide within ten Working Days written confirmation of the discharge of obligations contained in this Agreement when satisfied that the obligations have been performed.

3. Repayment of Contributions by the Council

The Council covenants with the Owner as follows:

3.1 to use all sums received under this Agreement for the purposes specified for which they are paid;

3.2 to provide the Owner with such evidence as they may reasonable require in order to confirm the expenditure of sums paid by the Owner under this Agreement; and

3.3 to repay to the person who made the payment such amount paid to the Council under this Agreement which has not been expended or contractually committed in accordance with the provisions of this Agreement within ten (10) years of the relevant date of payment

Part 2 – The County Council's Covenants

4. Discharge of Obligations

The County Council covenants with the Owner that following written request of the Owner the County Council shall provide within ten Working Days written confirmation of the discharge of obligations contained in this Agreement when satisfied that the obligations have been performed.

5. Repayment of Contributions by the County Council

The County Council covenants with the Owner as follows:

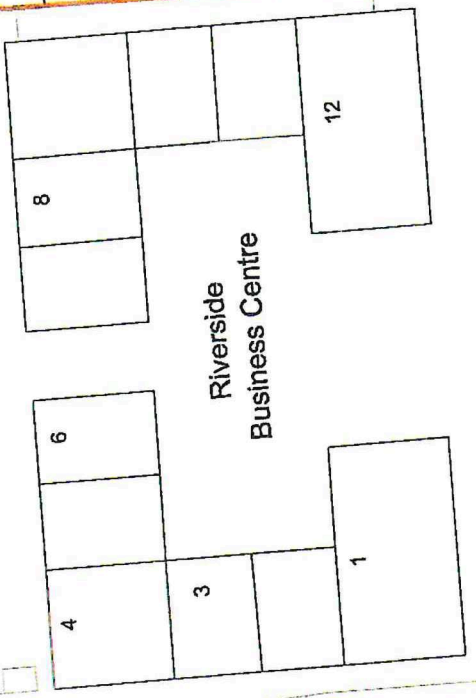
- 5.1 upon receipt of the County Council Contributions (or any part thereof) as paid to the County Council under this Agreement it will hold them in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purposes specified in this Agreement;
- 5.2 upon written request on or after 10 years of the date of receipt of the County Council Contributions (or any part thereof) to issue to the party that paid the said contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the County Council Contributions (or any part thereof) has been expended by the County Council;
- 5.3 if or to the extent that the County Council Contributions (or any parts thereof) shall not have been spent by the County Council by the end of the period referred to in paragraph 5.2 above the County Council shall on such date refund to the party that paid the County Council Contributions, (or any part thereof) any unexpended part of the County Council Contributions (or any part thereof) together with compound interest on the unexpended part from the date of receipt by the County Council Contributions (or any part thereof) to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis;
- 5.4 if at the end of the period referred to in paragraph 5.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the County Council Contributions, or part thereof for the purposes specified then the County Council shall not be required to refund any part of the County Council Contributions required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the County Council Contributions (or any part thereof) in the manner set out in paragraph 5.2 of this Schedule and refund any unexpended part of the County Council Contributions (or any part thereof) in the manner set out in paragraph 5.3 of this Schedule .
- 5.5 At the written request of either of the Owner the County Council shall provide within 10 Working Days written confirmation of the discharge of obligations contained in this Agreement when satisfied that the obligations have been performed.

APPENDIX 1 - PLAN

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Free Wharf Development (under construction)



382
384
380
372
368
6

BRIGHTON ROAD

63-67

A

B

C

Riverside Business Centre

8

12

4

6

3

1

waller planning

Dr: 3617002 A
Scale: 1:500 @ A3
Date: May 2023

10 metres

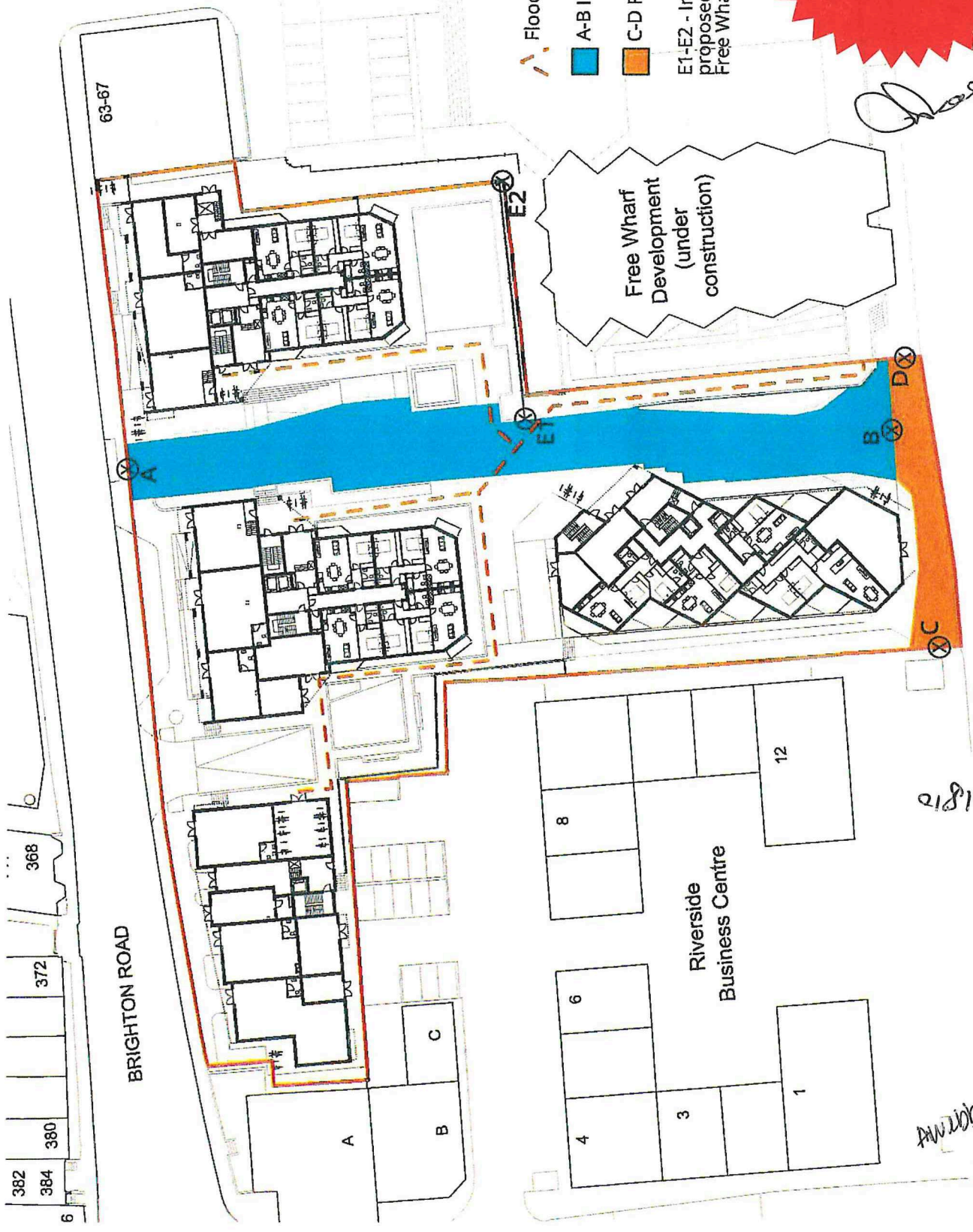


Handwritten: Riverside
Site Plan

Land at 69-75 Brighton Road, Shoreham-By-Sea

19-25 Salisbury Square, Old Hatfield, Herts, AL9 5BT | wallerplanning.com | info@wallerplanning.com | © Waller Planning Ltd, 2023

APPENDIX 2 – PLAN SHOWING LOCATION OF THE FOOTPATHS



- Flood Escape Route
- A-B Internal Footpath
- C-D Riverside Footpath
- E1-E2 - Internal footpath, proposed to connect to Free Wharf



Drwg: 361/001
Scale: 1:500 @ A3
Date: May 2023
10 metres

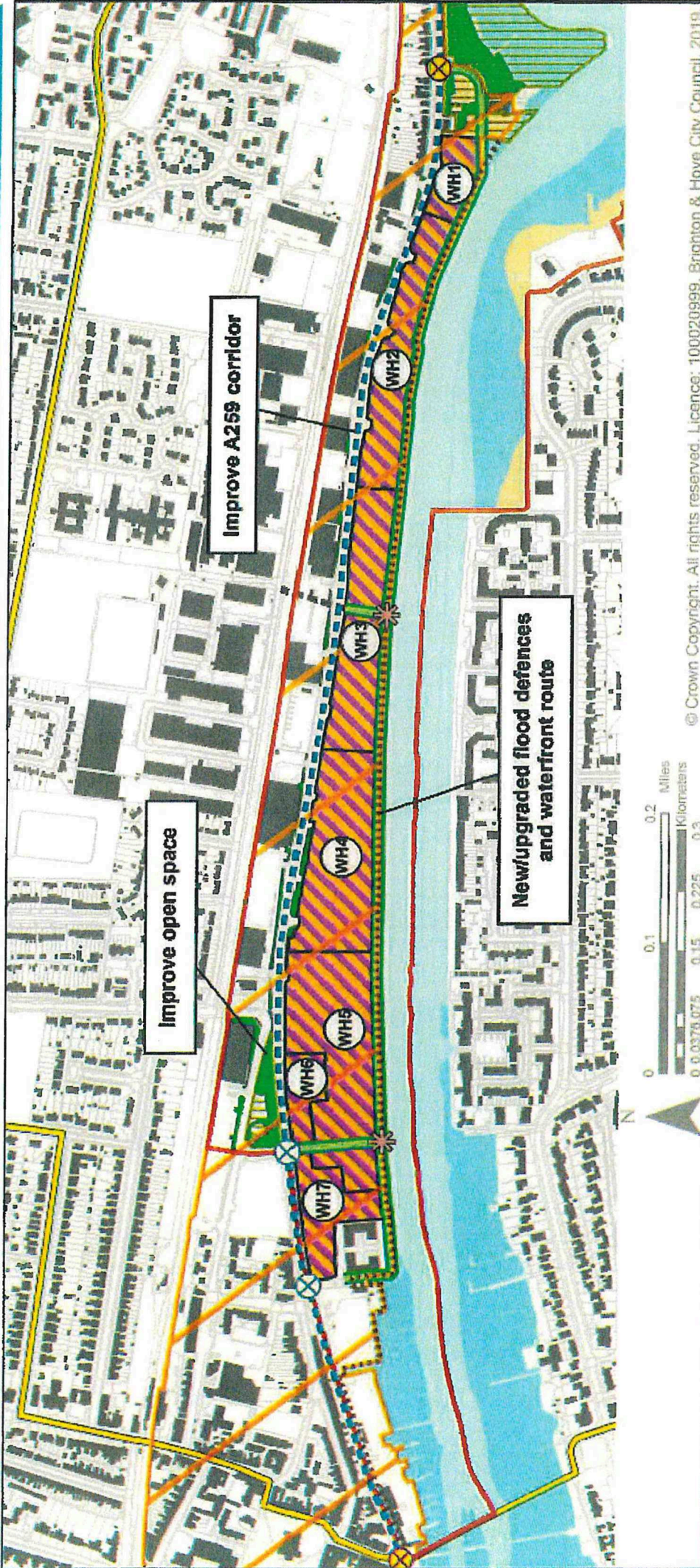
Land Registry Boundaries and Footpaths Plan

Land at 69-75 Brighton Road, Shoreham-By-Sea

19-25 Salisbury Square, Old Hatfield, Herts, AL9 5BT | info@wallerplanning.com | wallerplanning.com | © Waller Planning Ltd, 2023

Handwritten notes:
A1210
2181

APPENDIX 3 – PLAN SHOWING RIVERSIDE FOOTPATH NETWORK



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	Shoreham Harbour Regeneration Area		Village Green		Pedestrian/cyclist gateway
	Allocation		New/upgraded flood defences (proposed)		Junction improvements
	Residential (proposed)		Priority corridor (transport/public realm)		Public art opportunity (indicative)
	Employment (proposed)		Waterfront route (indicative)		
	Shoreham Heat Network Area		National Cycle Route No2		
	Green corridor (proposed)		Potential pedestrian cyclist bridge		

3/25/19/60/1/2/2023

[Handwritten signature]

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116

APPENDIX 4 – DRAFT NOMINATIONS AGREEMENT

DATED

201[]

[]

and

[]

NOMINATIONS AGREEMENT

FOR

AFFORDABLE RENTED UNITS

LAND AT

[]

Legal Services

Ref:

THIS Deed is made the day of 201[]]

BETWEEN

(1) [] an industrial and provident society with registration number [] whose registered office is at [] (“the Registered Provider”)

and

(2) [] of [Insert address] (“the Council”)

BACKGROUND

- A The Council is the Local Housing Authority for the purposes of Part 1 of the Housing Act 1985 and the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (as amended) and by whom the terms, provisions and obligations created under this Deed are enforceable
- B The Registered Provider is a registered provider within the meaning of Section 80 of the Housing and Regeneration Act 2008 and National Planning Policy Framework (NPPF) and is registered under the Industrial and Provident Societies Act 1965 with the registered number []
- C [*The Registered Provider is the leasehold owner of the Land and applied to the Local Planning Authority to develop the Land pursuant to the Planning Permission*]. [*The Registered Provider is the freehold owner of the Land and applied to the Local Planning Authority to develop the Land pursuant to the Planning Permission*] [delete/amend as appropriate]. On [date] the Council's Planning Committee resolved to grant the Planning Permission subject to the completion of an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended).

D On [] the agreement under Section 106 of the Town and Country Planning Act 1990 was entered into by the Registered Provider and the Council. The agreement required, inter alia, the provision of 100% of the Units on the Land be provided as Affordable Housing with the further detailed provisions to be agreed.

D The Registered Provider and Council now wish to enter into this Deed for the purpose of agreeing further detailed provisions of the Affordable Housing.

E The Registered Provider and Council will also enter a separate deed in respect of nominations rights for the supported housing units at the Development at [] pursuant to obligation to provide Affordable Housing on the Land as stated above at E.

NOW IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 In this Deed:

“Affordable Housing” means subsidised housing available through a registered provider of social housing as defined in Section 80 of the Housing and Regeneration Act 2008 (or other social landlord as the Deputy Chief Executive and Corporate Director of Resident Services shall have approved in writing beforehand) to persons who cannot afford to rent or buy houses generally available on the open market;

“Choice Based Lettings Procedure” means the procedure agreed between the Council and the Registered Provider to administer lettings

Schemes in the Council's area and set out in Schedule 2;

“the Council” means the Council or any authority which may succeed its functions of enforcing the terms, provisions and obligations created under this Deed

“Development” means the development of the Land in accordance with the Planning Permission;

Chief Executive or Director for Communities means the Council's Deputy Chief Executive and person as the Council designates as undertaking this role;

“Homes England” means the non-departmental government body that funds new affordable housing or such other successor body charged with similar functions

“Initial Lets” means the first letting of each Rented Unit in accordance with the provisions of this Deed

“the Land” means [] which is registered at the Land Registry under title number [] and is shown for identification purposes only outlined in red on the Plan

“Homemove Procedure” means the procedure agreed with the [Council] and the Registered Provider to administer lettings schemes in Adur and Worthing and set out in Schedule 2;

“Nominated Contact”	means the Accommodation Team or such person as the Council designates as undertaking this role in relation to the Rented Units;
“Nomination List”	means a list prepared by the Council’s Accommodation Team and sent to the Registered Provider of eligible persons wishing to take social tenancies of the Rented Units
“Nomination Notice”	means a written notice given by the Council to the Registered Provider which shall include the name and address of the Nominee for a Rented Unit and where available, the Nominee’s contact telephone number
“Nomination Period”	means the period of 60 years from the date of either the Initial Let of the last of the Rented Units
“Nominations Procedure”	means the procedure for nominations of the Rented Units set out in Schedule 2 and Schedule 4 of this Deed
“Nomination Rights”	shall mean the rights granted by the Registered Provider to the Council to nominate tenants to the Rented Units as set out in this Deed
“Nominee”	means a person named in either a Nomination Notice or a Nomination List
“Occupation”	means the occupation of the individual Unit referred to in the relevant clause 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 "Occupy" and "Occupied" shall be construed accordingly;

"Plan" means the plan attached to this Deed at Annex 1

"Planning Permission" means the permission granted by the Council to develop the Land on [date] and given reference number []

"Practical Completion" means a certificate or statement by the Surveyor appointed by the Registered Provider for that purpose that all Rented Units comprised within the development are completed and ready for residential Occupation

"Property" means the land edged in red on the plan attached hereto owned by the Registered Provider

"the Registered Provider" means XXXX Housing Limited which is a registered provider of social housing as defined in Section 80 of the Housing & Regeneration Act 2008 and registered under the Industrial and Provident Societies Act 1965 and includes its successors in title and is the owner of the Land;

"Rented Units" means the units which shall be provided by the Registered Provider as Affordable Housing rented to a Nominee at no more than 80% of the local market rent inclusive of service charge or other level as determined by the Local Housing Allowance - whichever is the lowest in accordance with Schedules 1 and 2 and the provisions of this Deed;

“Scheme”	means the development on the Land of the pursuant to the Planning Permission and the subsequent management and administration by the Registered Provider of the development
“Tenancy Agreement”	means a starter tenancy followed by a tenancy outlined in the Registered Provider’s tenancy policy in a form prepared by the Registered Provider and containing terms which accord with relevant law and the guidance on housing management issued from time to time by Adur and Worthing Councils and Homes England (and which for the avoidance of doubt shall include a demoted tenancy under the Anti-Social Behaviour Act 2003 or any amended or substituted legislation) and “Tenant” means a tenant under such an agreement;
“Units”	means the [] units of Affordable Housing being provided in accordance with Planning Permission comprising of, [] rented units
“Void Notification”	means a written notice given by the Registered Provider to the Council giving the address of the Rented Unit and the date it will be available for letting, such written notice to be given in the form attached at Schedule 3
“Void”	means a Rented Unit which is vacant as a result of a void defined in Part I of Schedule 5 but excluding one therein defined under the heading “Definition of Non-True Void” in Part II of Schedule 5

“Working Day” means any day Monday to Friday (inclusive) other than Christmas Day, Good Friday and any statutory bank or public holiday

“Data Protection Legislation” means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); [and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party].

“UK Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

- 1.2 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships
- 1.3 References in this Deed to any statute or statutory provision shall be construed as a reference to the same as it may from time to time be amended, extended, modified, consolidated or re-enacted whether before or at the date of this Deed
- 1.4 Unless the context otherwise requires, reference to any clause, paragraph, sub-clause or schedule or appendix is a reference to a clause, paragraph, sub-clause, schedule or appendix of or to this Deed.
- 1.5 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Deed.

- 1.6 Where a party includes more than one person named as a party any obligations of that party shall be joint and several unless there is an express provision otherwise.
- 1.7 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 in the case of the Council the successors to the Council's respective functions
- 1.8 Where the agreement, approval, consent or an expression of satisfaction is required by the Registered Provider under the terms of this Deed from the Council that agreement, approval, consent or satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.
- 1.9 Without prejudice to the terms of any other provision contained in this Deed the Registered Provider shall pay all costs charges and expenses (including without prejudice to legal costs and Surveyor's fees) reasonably incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Registered Provider arising under this Deed.

2. Statutory Provisions

- 2.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000, to the intent that it will bind the Registered Provider and their successors in title to the Land.
- 2.2 The covenants, restrictions and requirements imposed upon the Registered Provider under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as the Local Planning Authority against the Owner without limit of time

3. The Registered Provider Obligations

- 3.1 The Registered Provider undertakes that it will provide for the Nomination Period the Units in accordance with the scheme details as set out in Schedule 1.
- 3.2 Subject to the terms of this Deed, the Registered Provider shall provide the Units only to Nominees with the intention of providing low cost housing accommodation pursuant to the terms of this Deed.
- 3.3 The Registered Provider shall minimise periods where the Rented Units are Void and advise the Nominated Contact of forthcoming Voids without delay using the Void Notification

4. Nomination Rights

- 4.1 The Registered Providers shall for the duration of the Nomination Period in accordance with Schedule 1 grant to the Council the right to nominate:
- 4.1.1. the Tenants of 100% of the Rented Units on Initial Lets; and
 - 4.1.2. the tenants of 75% of all Rented Units on subsequent lets.
- 4.2 The Registered Provider shall on the Initial Lets rent each of the Rented Units under a Tenancy Agreement to a Nominee of the Council.

5. The Council's Nominations for Rented Units

- 5.1 The parties agree that the Choice Based Lettings as attached at Schedule 2 or any subsequent Allocations and Letting Policy shall apply to the nomination of persons in respect of the Rented Units. In the event that the Choice Based Lettings Procedure is abolished at any time in the future or otherwise both parties agree in writing the following nomination procedure shall apply:

- 5.1.1 Upon each Rented Unit becoming vacant and in the event the Council has the right to nominate the occupant in accordance with this Deed the Registered Provider shall serve on the Council a Void Notification.
- 5.1.2 Within three (3) Working Days of receipt of the Void Notification referred to in clause 5.1.1 the Council shall provide the Registered Provider with Nomination Notices in respect of up to five (5) Nominees it considers suitable in relation to each Rented Unit.
- 5.1.3 Upon receipt of the Nomination Notices referred to in clause 5.1.2 the Registered Provider shall offer a Tenancy Agreement to the named Nominees in such priority order as the Council may specify, save for those nominees who are excluded from being offered a tenancy agreement, as outlined in the Registered Provider's lettings policy. Such offer shall be made as soon as soon as possible acting reasonably, properly and without delay.
- 5.2 If by default a Nominee fails to respond to an offer letter or fails to sign a Tenancy Agreement within three (3) Working Days of viewing the relevant Rented Unit or being offered a Tenancy Agreement (whichever is the later) such Nominee shall be deemed to have rejected the Registered Provider's offer .
- 5.3 If a Nominee fails to respond to an offer letter or fails to sign a Tenancy Agreement in accordance with clause 5.2 then the Registered Provider shall offer the Rented Unit to the Nominee next in the priority list provided by the Council in accordance with 5.1.2 and if all of the Nominees reject the Registered Provider's offer the Registered Provider shall seek further Nominees for the Rented Unit using the process set out in 5.1.

6. The Council's Obligations

The Council agrees with the Registered Provider that it will use all reasonable efforts including without limitation sending where required a Nomination List to the Registered Provider and will comply with the Nominations Procedure to enable the Registered Provider to comply with its obligations hereunder

7. Voids

7.1 The Registered Provider shall monitor the number of Voids during each financial year (1st April to 31 March) commencing from the date of the last vacant Rented Unit being fully let in order to ensure that it complies with obligations under clause 4 and shall advise the Council in quarterly intervals of such progress

8.2 Upon receiving notice of a Void the Registered Provider shall determine whether a Tenancy Agreement of the relevant Rented Unit should be offered to a Nominee having regard to the Registered Provider's obligations under clause 4 and the provisions of clause 5 will be followed in respect of such Rented Unit in the event that the Registered Provider so determines

9. Details of Tenancy Agreements

9.1 The Registered Provider shall supply to the Council in writing within 5 Working Days of an offer of a Rented Unit being accepted or rejected by a Nominee:-

9.1.1 full details of the offer of a Tenancy Agreement made by the Registered Provider to a Nominee; and

9.1.2 full details of the reason for not making any offer if applicable; and

9.1.3 full details of whether and when any such offer has been accepted or rejected by a Nominee and if the offer is rejected the reason given by the Nominee for rejection

9.1.4 full details of the Registered Provider's response to complaints or inquiries made by a Nominee as to why they have not been made an offer or have been rejected by the Registered Provider

10. Assessment of Prospective Tenants

10.1 The Registered Provider shall not be obliged to offer a Tenancy Agreement to a Nominee unless satisfied that the Nominee is a person who falls within the category of persons it is appropriate for the Registered Provider to house in accordance with relevant legislation in force from time to time and for the

avoidance of doubt the Registered Provider shall be entitled to reject a Nominee in circumstances including:

10.1.1 the Rented Unit is unsuitable for the Nominee on medical grounds.

10.1.2 the Rented Unit is too small or too large for the Nominee and his/her family

10.2 For the avoidance of doubt, if the Registered Provider considers that a Nominee would not normally be housed under its letting and allocations policy, such policy being compliant with all relevant laws; it shall advise the Nominated Contact of its decision and the reason for the decision and seek further Nominees in accordance with clause 5 as soon as possible

11. The Registered Provider's Covenants

11.1 The Registered Provider covenants with the Council:

11.1.1 Upon completion of this Deed to supply to the Council full details of its lettings and allocations policy and shall consult with the Council of in relation to any proposed changes in such lettings and allocations policy.

11.1.2 at all times to use reasonable endeavours to ensure that the rents for the Rented Units are within the financial reach of low income households and others in housing need provided that rents in accordance with Adur and Worthing Councils and the Regulator of Social Housing guidelines will not be a breach of this covenant.

12. Fitness for Occupation

12.1 In the event that any or all of the Units are rendered unfit for occupation and use by any reason the Registered Provider may serve notice upon the Council stating:

12.1.1 the address of the Unit considered unfit for occupation; and

12.1.2 the detailed reason why the Unit is considered unfit for occupation; and

12.1.3 the date the Unit shall again be available for occupation by a Nominee

12.2 The Registered Provider shall use reasonable endeavours to promptly render fit for occupation and use all Units.

12.3 For the avoidance of doubt no damage or destruction of the Units or any part shall affect the liability of the Registered Provider to comply with its obligations under this Deed PROVIDED HOWEVER the obligations of the Registered Provider under this Deed shall be suspended for the period commencing the date of the damage or destruction and ending on the date the Units are rendered fit for occupation and use.

13. Assignments of Obligations

13.1 The Registered Provider may assign its obligations hereunder ("the Assignment") in respect of all or any number of the Rented Units to a registered provider of social housing registered with the GLA and the Regulator of Social Housing under the Housing Act 1996 (as amended) or a non profit registered provider of social housing pursuant to the Housing and Regeneration Act 2008 and also a signatory to the Council's Compact with approved registered social landlords and (provided that written notice has been given to the Council within twenty Working Days of the Assignment and the assignee has entered into a direct covenant with the Council to comply with the provisions of this Deed in respect of the Rented Units to which the Assignment relates) the Registered Provider shall be released from its obligations to the Council under this Deed with effect from the date of the Assignment in respect of those Rented Units which are the subject of the Assignment.

13.2 For the avoidance of doubt any such Assignment made pursuant to the provisions of clause 13.1 above must be for all intents and purposes to an

organisation which shall have an established track record of managing properties effectively and is acceptable and suitable to the Council acting reasonably and properly and without delay in so far as the organisation's ability to manage properties within the Borough is in evidence at the time of Assignment.

14. Service of Notices

Any notice required to be served hereunder shall be sufficiently served on the parties if sent by pre-paid first class post to the address of the parties indicated above or such other address notified in writing by one party to the other as being the address for service of the relevant party for the purposes of this Deed and any notice shall have been deemed to have been served two Working Days after posting

15. Arbitration

In the case of dispute or difference on any matter under this Deed or as to the construction of this Deed (but excluding any dispute arising between the parties in relation to the nomination procedure set out in Schedule 4 which shall be dealt with in accordance with paragraph 6 of Schedule 4) any such dispute or difference shall be referred to a single arbitrator to be agreed between the parties or in default of agreement to be nominated by the President for the time being of the Chartered Institute of Housing in accordance with and subject to the provisions of the Arbitration Act 1950 and 1996, or any statutory re-enactment modification for the time being in force. The decision of the arbitrator shall be final and binding on the parties to this Deed.

16. Disposal of the Units

Save as provided for in clauses 13.1 and 17 in respect of the Rented Units the Registered Provider shall not during the Nomination Period:

- 16.1 sell or otherwise dispose (except by way of legal charge or mortgage) of the Rented Units; or

16.2 materially limit its ability to perform its obligations under this Deed by dealing except by way of legal charge or mortgage with the Land (other than by letting Rented Units to individual tenants under a Tenancy Agreement); or

16.3 make any application to the Homes England and GLA for approval to sell or dispose of (except by way of legal charge or mortgage) any part of the Rented Units

17. Deed Ceasing to Apply

For the avoidance of doubt the Nomination Rights and the obligations contained herein shall cease to apply to any part of the Rented Units where the Registered Provider shall be required to:

17.1 dispose of any Units pursuant to a right to buy under Part V of the Housing Act 1985 or Section 16 of the Housing Act 1996 or any similar or substitute right applicable or

17.2 sell to a tenant any Units with the benefit of a voluntary purchase grant provided under Sections 20 and 21 of the Housing Act 1996 or any similar provisions in any subsequent legislation

18. Non-Enforceability of Deed

The obligations contained in this Deed shall not be binding on or be enforceable against:-

18.1 a mortgagee or chargee or receiver appointed by a mortgagee or chargee of a registered provider of social housing or any manager (including an administrative receiver) appointed by such mortgagee or chargee or any person deriving title directly or indirectly therefrom or any successors in title therefrom and such mortgagee or chargee or its receiver or manager shall be entitled to dispose of the Land or relevant part thereof the subject of the mortgage or charge discharged from the provisions of this Deed which shall forever be extinguished.

- 18.2 a tenant of a Rented Unit who has exercised a right to buy under Part V of the Housing Act 1985 or a right to acquire under Section 16 of the Housing Act 1996 or any similar or substitute right applicable.
- 18.3 a tenant of a Rented Unit who has exercised the benefit of a voluntary purchase grant provided under Sections 20 and 21 of the Housing Act 1996 or any similar provisions in any subsequent legislation.
- 18.4 the individual owners or occupiers of the Units and in all cases all successors in title and assignees of and persons deriving title from such persons in 18.1, 18.2 or 18.3 above.

19. Ceasing to be Liable

No person shall be liable for any breaches of the obligations contained in this Deed after having parted with its interest in the relevant Unit(s) but without prejudice to any liability of such person for any breach prior to parting with such interest.

20. Termination

The Registered Provider's obligations under this Deed shall otherwise cease upon the expiry of the Nomination Period.

21. Contracts (Rights of Third Parties) Act 1999

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed.

22. Costs

The Registered Provider hereby covenants with the Council that on execution of this Deed it will pay the Council's costs incurred in the negotiation, preparation and execution of this Deed in the sum of [£].

23. DATA PROTECTION

23.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause [23.1] is in addition to, and does not relieve, remove or

replace, a party's obligations or rights under the Data Protection Legislation. In this Clause, Applicable Laws means (for so long as and to the extent that they apply to the Provider) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.

IN WITNESS WHEREOF the parties hereto have executed this Deed the day and
year first before written

EXECUTED AS A DEED BY
affixing the **COMMON SEAL** of
[]
in the presence of:

Member of the Council

Authorised Officer

EXECUTED AS A DEED BY)
affixing the **COMMON SEAL** of)
[])
in the presence of:)

.....
Authorised Signatory

.....
Authorised Signatory

SCHEDULE 1
SCHEME DETAILS

Size and Tenure of Units

No. of units	1 bed	2 bed	3 bed	4 bed	5 bed	Total
Affordable Rent						
Flexible Home Ownership						
Total						

Nominations Rights Required

Tenure	Rented Units	Rent to Homebuy/Shared Ownership	Other (specify)
Initial Lets %			
Subsequent Lets %			

SCHEDULE 2
CHOICE BASED LETTINGS PROCEDURE

Procedure for Registered Provider nominations through the Choice Based Lettings Procedure and Sussex Homemove Advertising and Bidding website

The Registered Provider prepares the advert. The Registered Provider will provide information regarding any unique selling points in order to make the void advert as informative as possible for bidders such as level access/sustainability for adaptations, proximity to shops, transport, schools, large rooms, new build etc.

At least six weeks before anticipated handover the Registered Provider will place the advert on **Homemove website (or any subsequent systems that replaces Homemove)** under the appropriate authority banner - either Adur or Worthing - to be published in accordance with the following deadlines. The adverts are currently issued fortnightly and can be downloaded from the **Homemove** website. The deadline for inclusion in the free sheet is 12 p.m. every other Tuesday and the advert will appear the following Thursday. Shortlists are normally available 24hours after bidding closes

Provided the information supplied by the Registered Provider is accurate, a void property will need to be advertised once; on an occasional basis, in consultation with the Registered Provider, a property that is not let may be re-advertised. The Council will send a shortlist of verified Nominees to the Registered Provider who will contact the Nominees and arrange viewings. If there are no bidders or if the property is incurring a void loss the Council will provide a direct nomination or re-advertise.

If the Council fails to provide a direct nomination within 5 working days the Registered Provider may take back the unit (and *not* owe the Council), Where a Council is enforcing an offer, the void will not have to be held for longer than 5 Working Days after the Registered Provider has notified the Council of a refusal.

With respect to verification of the Nominees, the Registered Provider shall request verifications from the Council for any Nominees and the Council shall within three (3) Working Days verify such Nominees by confirming that the Nominees are appropriate for the relevant Rented Unit and that their rent accounts are up-to-date..

If offers or invitations to view the Rented Units is sent out before such verification of the Nominees has been completed then any such offer letter to the Nominee in respect of the Rented Units shall contain a clear and unequivocal statement that the offer is subject to the Nominee satisfying the Registered Provider's and the Council's verification procedure.

If the Nominee has not been verified by the Council (as per the above procedure) after three (3) Working Days then the Nominee can be rejected by the Registered Provider and advised to contact the Council. The Registered Provider will not accept Nominees without first having been properly verified and the Registered Provider may re-let the Rented Units outside of this arrangement if such verification of any Nominee is not provided within the said three (3) Working Days.

If the first Nominee refuses, the Registered Provider will work their way down the shortlist until the Rented Unit is accepted. The Council must provide verifications upon written request within 72 hours of asking for the verification as per **Homemove** guidelines. In cases where the Registered Provider will incur a void loss due to hard to let Rented Units the Council will provide a direct nomination to speed up the allocation.

The Registered Provider must inform the Council of proposed tenancy commencement dates not later than 5 Working Day from the sign up.

The Registered Provider shall provide a copy of the first lets report to the council.

The Registered Provider shall provide a list of residents occupying the Registered Providers Rented Units under the scheme, who have Protected Characteristics as defined by the Equality Act 2011.

SCHEDULE 3

PART I

Definition of a True Void

1. Voids within new build/newly rehabilitated schemes or newly acquired properties
2. Voids created through tenant transfer to another borough or a district Council where no reciprocal arrangements exist
3. Voids created through tenant moves to other landlords property where no reciprocal arrangement exist
4. Voids created by the death of a tenant where there is no statutory right to succession
5. Voids created by tenants buying their own property in the private sector
6. Voids created by eviction or abandonment of property
7. Voids created by a permanent decant returning to former home

PART II

Definition of a Non-True Void

1. Voids created by a temporary decant moving to a temporary home
2. Voids created through tenant transfer within the Registered Provider stock
3. Voids created through rehousing via the Registered Provider "HOMES" Scheme
4. Voids created through tenant transfer to another borough or district where reciprocal arrangements exist
5. Voids created through tenant moves to other landlords property where reciprocal arrangements exist

SCHEDULE 4

VOID NOTIFICATION TO [Council]

Please complete this form fully

NAME OF REGISTERED PROVIDER	
Property address & post code	
Void date	
Ready to view date	
Date returned from repairs	
Comments:	

PROPERTY SOURCE		PROPERTY TYPE	
New build		A. House	
Rehab		B. Flat/Studio	
New Let		C. Maisonette	
Relet		D. Bungalow	
Homebuy		E. Over 50 flat	
Conversion		H. Sheltered flat	
		W. Wheelchair	
		X. Mobility	

3)PROPERTY DETAILS		4) ADDITIONAL PROPERTY DETAILS	
No. of single bedrooms (50-69.9 sq ft):		Does the property have any of the following features?	
No. of double bedrooms (70 sq ft +)		<i>If yes please complete the list below</i>	
Total number of bedrooms:		Level access to the front door or a ramp	
Max Person Occupancy:		Level access shower	
Floor property on		Closomat WC	
Lift available		Adapted kitchen	
Number of internal steps in dwelling		Ceiling/wall track hoist	
Number of external steps to front door (excluding steps accessed by lift)		Disabled entry phone	
Shops within 500 metres		Other substantial adaptations	
Heating Type: Central/Storage		Stairlift	
Garden Type: Private/Shared/Communal		Through floor lift	
Parking: private/on street/none		Comments/ further information (e.g. Special Characteristics and suitability)	
Pets Allowed			
Net Rent (per week)			
Additional Charges (per week)			

Form sent by:

Date:

Name of contact for further information

Phone No:

ANNEX 1
THE PLAN

IN WITNESS WHEREOF the parties hereto have executed this Deed the day and
year first before written

EXECUTED AS A DEED BY
affixing the COMMON SEAL of

in the presence of:

Member of the Council.....

Authorised Officer.....

SIGNED AS A DEED BY)
affixing the COMMON SEAL of)
)
in the presence of:)

.....
Authorised Signatory

.....
Authorised Signatory

APPENDIX 5 – Safeguarded land plan

NOTES

- LAND WITHIN THE APPLICANTS CONTROL
- LAND WITHIN THE APPLICANTS CONTROL, TO BE DEDICATED AS ADDITIONAL HIGHWAY LAND
- HIGHWAY LAND
- APPLICATION SITE BOUNDARY



Revision: A3 Date: 06/05/2023
Drawn by: [Signature]

PLANNING



bryant + moore
ARCHITECTS
16-18 Seabrook Square
Old Trafford, M16 9BT
Tel: 0161 275 2412
Email: info@bryantmoore.co.uk
Web: www.bryantmoore.co.uk

Client:

Address: 89-75 BRIGHTON ROAD
SHOREHAM-BY-SEA
BN43 6RE

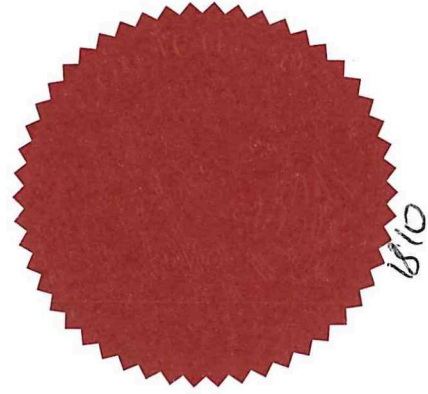
Title: NEW BUILT MIXED-USE DEVELOPMENT

LAND OWNERSHIP

Scale: 1:500@A3
Project No: 19_400
Drawing No: PLOO
Revision No: -



Executed as a Deed by affixing the)
Common Seal of Adur District Council)
In the presence of:



Authorised Signatory *A Webb*
Anna Webb - Assistant
lawyer

Executed as a Deed by affixing the)
Common Seal of West Sussex County Council)
In the presence of:



Authorised Signatory

Executed as a Deed by Frosts (Cars) Limited

acting by one director in the
presence of a witness:

Director

Neil Gunner
Witness name: NEIL GUNNER

Witness address: *2 DOLPHIN COURT*
CANTERBURY ROAD
WORTHING BN13 1AF

~~Executed as a Deed by HSBC UK Bank PLC~~

DJ

~~acting by one director in the
presence of a witness:~~

Director

[Handwritten signature]

Witness name: ~~GEORGE DAVEN~~

DJ Witness address: ~~FLAT 1, 1A SHELLEY ROAD, HOVE, BN3 5FQ~~

Executed as a Deed by Shoreham (Brighton Road) Limited

acting by one director in the presence of a witness:

M. A. Nwa

Director

R. L. White

Witness name: *Paul Wilson - Smith*

Witness address:

GOFFS OAK HOUSE
617 GOFFS LANE
GOFFS OAK
HERTS EN7 5HG