

DATED

21ST day of february

2024

(1) BARRY NORMAN MATHER AND TANYA JANE MATHER

(2) STOCKPLACE INVESTMENTS LIMITED

PLANNING OBLIGATION BY WAY OF A UNILATERAL UNDERTAKING

under section 106 Town and Country Planning Act 1990 (as amended)
relating to land known as Land off Chelmsford Road, Hartford End, Chelmsford, Essex

THIS AGREEMENT is made on 21st day of february 2024

- 1) BETWEEN: **BARRY NORMAN MATHER** and **TANYA JANE MATHER** of [REDACTED] [REDACTED] the "Owner")
- 2) **STOCKPLACE INVESTMENTS LIMITED** incorporated and registered in England and Wales with company number 05053069 whose registered office is at Mill House Barn, Hartford End, Chelmsford, Essex CM3 1JZ (the "**Applicant**")

and is given in favour of:

- 3) **UTTLESFORD DISTRICT COUNCIL** of Council Offices London Road Saffron Walden Essex CB11 4ER (the "**Council**"); and
- 4) **ESSEX COUNTY COUNCIL** of County Hall Market Road Chelmsford Essex CM1 1QH (the "**County Council**")

BACKGROUND

- (A) For the purposes of the 1990 Act (as defined herein), the Council and the County Council are the local planning authorities for the area within which the Site (as defined herein) is located and are the authorities who are entitled to enforce the obligations contained in this Agreement.
- (B) The County Council is also the local authority for statutory age education and school transportation for the area in which the Site is located.
- (C) The Owner is the freehold owner of the Site title to which is registered at the Land Registry with the Title Numbers EX765382 and AA19516.
- (D) The Planning Application (as defined herein) was submitted to the Planning Inspectorate under Section 62A. of the Town and Country Planning Act 1990 which allows applications for planning permission and reserved matters consent to be made directly to the Secretary of State where the Local Planning Authority for the area has been designated for this purpose. Designations are made by the Secretary of State.
- (E) The Council considers it expedient in the interests of the proper planning of its area that provision should be made for regulating and facilitating the Development in the event that the Planning Permission (as defined herein) is granted by the Inspector pursuant to the Planning Application.

- (F) The Owner is satisfied that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms; are directly related to the Development and are fairly and reasonably related in scale and kind to the Development..

OPERATIVE PROVISIONS

1. **INTERPRETATION**

- 1.1 In this Agreement, the following words and expressions have the following meanings:

“1990 Act” means the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004

“Commencement Date” means the date that Commencement of Development occurs;

“Commencement of Development” means, subject to clause 3.2, the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act and **“Commence the Development”** and **“Commenced”** shall be construed accordingly;

“Completion” means the completion of all construction works (including plastering, painting and fitting out) with all Drainage Systems and Service Installations connected such that the building to which the definition relates is capable of being Occupied for its intended purpose and **“Complete”** shall be construed accordingly;

“Development” means the construction of up to 50 dwellings (Use Class C3) and associated access and bus stops with all matters reserved apart from access on the Site

“Drainage Systems” means any sewers drains pipes manholes culverts soakaways channels watercourses and other conduits and systems necessary for the

	disposal of foul and surface water and all ancillary apparatus and equipment;
“Dwelling”	means a house or self-contained flat or bungalow constructed as part of the Development;
“Index”	means the “All Items” index figure of the Index of Retail Prices published by the Office for National Statistics or any such alternative index or comparable measure of price inflation as the Council reasonably requires
“Index Linked”	means increased to reflect any increase in the Index during the period from and including the date of this Agreement to and including the date of actual payment;
“Notice of Commencement”	means the written notice advising of the proposed Commencement Date;
“Occupation”	means beneficial occupation for the purposes permitted by the Planning Permission and shall not include occupation for the construction of the Development or in so far as such uses are ancillary to the construction of the Development the use of finished buildings for sales or purposes for use as temporary offices or for show homes or for the storage of plant and materials or in relation to security operations and “Occupy” and “Occupied” and “Occupancy” shall mutatis mutandis be construed accordingly;
“Planning Application”	means the planning application which the Planning Inspectorate has given the reference S62A/2023/0028 requesting outline planning permission with all matters reserved except for

access for the Development and for the avoidance of doubt for the purposes of this Agreement the term "Planning Application" shall (subject to the written confirmation of the Council to be given prior to the determination of any planning applications that may follow) include any application(s) for reserved matters approval or to vary a condition on the Planning Permission provided that such application(s) shall not increase the number of Dwellings and shall relate substantially to the same development of the Site as is proposed under the aforementioned application reference number;

"Planning Permission"

means the planning permission for the Development granted in pursuance of the Planning Application;

"Reserved Matters"

means the matters reserved by the Planning Permission (such as landscaping appearance, layout and scale) to be approved by the Council before Commencement of Development;

"Services"

means the supply of water gas electricity telephone telecommunications and all other appropriate services other than Drainage;

"Service Installations"

means all apparatus and other ancillary equipment for the conduct of Services;

"Seven Day LIBID Rate"

means an assessment of the rate of interest the Council and/or the County Council can expect to earn on investments through the money market, the rate used being the average interest rate at which banks are willing to borrow eurocurrency deposits or such other rate as

approved by the Council or the County Council as appropriate;

“Site”

means the land known as Land off Chelmsford Road, Hartford End, Chelmsford, Essex and which land is shown for the purposes of identification only edged in red on the Site Plan;

“Site Plan”

means the drawing numbered SPD306.001.01 and dated 25.10.23, a copy of which is annexed hereto;

“Working Days”

any day(s) upon which banks in the City of London are open to the general public.

1.2 In this Agreement:

1.2.1 the clause or Schedule headings do not affect its interpretation;

1.2.2 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a part or paragraph are to a part or paragraph of that Schedule;

1.2.3 references to any statute or statutory provision include references to:

1.2.3.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Agreement as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and

1.2.3.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;

1.2.4 references to the Site include any part of it;

1.2.5 references to any party in this Agreement shall include the successors in title of that party. In addition, references to the Council shall include any successor local planning authority exercising planning powers under the 1990 Act and references to the County Council shall include any successor to its functions;

1.2.6 “including” means “including, without limitation”;

- 1.2.7 any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.8 words importing the singular meaning where the context so admits shall include the plural meaning and vice versa;
- 1.2.9 words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies corporations and firms and all such words shall be construed interchangeably in that manner;
- 1.2.10 words denoting an obligation on a party to do any act matter or thing shall include an obligation to procure that it be done and words placing a party under a restriction shall include an obligation not to cause permit or allow infringement of the restriction;
- 1.3 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it and any rights that arise under the said Act of 1999 are hereby excluded.

2. EFFECT OF THIS AGREEMENT

- 2.1 This Agreement is made pursuant to Section 106 of the 1990 Act. To the extent that they fall within the terms of Section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council and the County Council (as appropriate)
- 2.2 To the extent that any of the other terms and conditions contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 2.3 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council or the County Council of any of their statutory powers, functions or discretions in relation to the Site or otherwise.
- 2.4 The obligations in this Agreement will not be enforceable against a statutory undertaker after the transfer of statutory apparatus (and any land upon or in which the statutory apparatus is situated) by the Owner to that statutory undertaker.

- 2.5 Nothing in this Agreement prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than the Planning Permission, granted after the date of this Agreement.
- 2.6 Subject always to paragraph 7.1 of Part One of Schedule 5 in respect of the Affordable Housing Dwellings, a mortgagee of all or any of the Site will not incur any liability for any breach of the obligations contained in this Agreement unless and until it becomes a mortgagee in possession of the Site or appoints a receiver or administrative receiver under a security.
- 2.7 The obligations in this Agreement will not be enforceable against the individual owners, lessees or occupiers of any Dwellings constructed on the Site pursuant to the Planning Permission or any mortgagee or chargee of such owner, lessee or occupier nor any receiver appointed by a mortgagee or chargee or any person deriving title from them.

3. COMMENCEMENT DATE

- 3.1. Save in respect of Clause 7 and this clause 3.1 (which will become operative on the date of this Agreement) and in respect of obligations expressly in this Agreement requiring compliance prior to the Commencement Date and which will become operative on the issue of the Planning Permission this Agreement will come into effect on the Commencement Date.
- 3.2 The Commencement Date and Commencement of Development will not be triggered by any of the following operations:
- 3.2.1 archaeological or site investigations or surveys;
 - 3.2.2 site or soil surveys or site decontamination;
 - 3.2.3 the clearance or demolition of existing buildings on the Site;
 - 3.2.4 works connected with groundworks;
 - 3.2.5 works for the provision of drainage or mains services to prepare the Site for development;
 - 3.2.6 erection of fencing or boarding;

3.2.7 erection of boards advertising the Development (including the erection of advertising hoardings);

3.2.8 the construction of a temporary site compound or temporary marketing suite that does not form a structure or part of a structure that will become a Dwelling after its use as a temporary marketing suite; and

3.2.9 works to the existing public highways and the provision of site access and temporary internal roads.

4. OBLIGATIONS OF THE PARTIES

- 4.1 The Owner so as to bind the Site covenants with the Council and the County Council (as appropriate) to comply with the obligations set out in the Schedules to this Agreement.
- 4.2 The Owner covenants with the Council and the County Council to provide a Notice of Commencement to the Council and the County Council not less than 10 Working Days prior to the Commencement Date.
- 4.3 The Owner covenants with the Council and the County Council to provide not less than 10 Working Days notice in writing of the intended first Occupation of the first Dwelling on the Site.
- 4.4 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation to use reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 4.5 Any obligation that prohibits the Owner from allowing or limiting Occupation of the Site until certain events occur shall also be an obligation on the Owner to positively carry out those certain events by no later than the number of occupations set out therein unless the context otherwise requires.
- 4.6 No person will be liable for any breach of the terms of this Agreement occurring after the date on which they part with their interest in the Site or the part of the Site in respect of which such breach occurs but they will remain liable for any breaches of this Agreement occurring before that date. For the further avoidance of doubt neither the reservation of any rights or the inclusion of any covenants or restrictions over the

Site or part of the Site in any transfer of the Site will constitute an interest for the purposes of this Clause 4.9

- 4.7 No compensation shall be payable by the Council or the County Council to any party to this Agreement or their successors in title and assigns arising from the terms of this Agreement and unless specified otherwise in this Agreement all works and activities to be executed hereunder (including such as are of a preparatory ancillary or maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner and at no cost to the Council or the County Council.
- 4.8 Representatives of the Council and the County Council may enter upon the Site at any reasonable time on reasonable prior written notice given at least 3 working days before such entry is required (unless otherwise agreed with the Owner) (and immediately in the event of an emergency provided that the County and County Council will give as much notice as they reasonably can) to ascertain whether the terms of this Agreement and of the Planning Permission are or have been complied with subject to complying with all health and safety and security requirements required by the Owner provided that this right shall cease and determine as follows:
- 4.8.1 in relation to any Dwelling, on first Occupation of that Dwelling; and
- 4.8.2 in relation to all other parts of the Site, on the first Occupation of the last Dwelling on the Site to be Occupied.
- 4.9 Any agreement obligation covenant or Agreement contained herein by any of the parties which comprise more than one person or entity shall be joint and several and where any agreement obligation covenant or Agreement is made with or undertaken towards more than one person it shall be construed as having been made with or undertaken towards each such person separately.
- 4.10 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of this Agreement without illegality provided that any party may seek the consent of the other or others to the termination of this Agreement on such terms as may in all the circumstances be reasonable if the effect of the foregoing provisions would be to defeat the original intention of this Agreement.

- 4.11 The failure by any party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.
- 4.12 If at any time Value Added Tax ("VAT") is or becomes chargeable in respect of any supply made in accordance with the provisions of this Agreement then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.
- 4.13 This Agreement shall be registered as a local land charge by the Council against the Site in accordance with s 106 (11) of the 1990 Act. Following the performance of all of the obligations contained in the Agreement the Owner shall apply to the Council to effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.
- 4.14 That in the event that the Owner fails to serve any of the notices that they are required by the provisions of this Agreement to serve then the Council and/or the County Council shall be entitled to payment of the various Contributions contained in this Agreement at any time following them becoming aware that an event or a level of Occupancy of Dwellings has occurred that would trigger the payment of a Contribution and the time period for the return of a Contribution shall be extended accordingly.

5. TERMINATION OF THIS AGREEMENT

- 5.1 This Agreement will come to an end if the Planning Permission is quashed, revoked or otherwise withdrawn or otherwise modified without the consent of the Owner before the Commencement Date or the time for implementation of the Planning Permission expires without the Commencement Date having occurred so as to render this Agreement or any part of it irrelevant, impractical or unviable; or the Planning Permission expires.

6. NOTICES

- 6.1 Any notice, demand or any other communication served under this Agreement will be effective only if in writing and delivered by hand or sent by first class post, pre-paid or recorded delivery and is to be sent to the following or to such other

address as one party may notify in writing to the others at any time as its address for service:

6.1.1 for the Owner as set out above;

6.1.2 for the Council it shall be marked for the attention of the Director of Planning at the Council's address previously stated and quoting the reference S62A/2023/0028;

6.1.3 for the County Council relating to the Education Contribution it shall be marked for the attention of the S106 Officer Strategic Development (EGD) and sent to County Hall, Chelmsford, CM1 1QH.

6.2 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:

6.2.1 if delivered by hand, at the time of delivery;

6.2.2 if sent by post, on the second Working Day after posting; or

6.2.3 if sent by recorded delivery, at the time delivery was signed for.

6.3 If a notice, demand or any other communication is served after 4.00 pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.

6.4 Otherwise than in relation to individual purchasers, occupiers and mortgagees of Dwellings and their successors in title the Owner shall give to the Council and the County Council within one month of the Owner disposing of any part of the Site written notice of the name and address of the person or persons to whom the Site or part thereof has been transferred provided that this obligation shall cease and determine on the first Occupation of the last Dwelling at the Site.

7. COSTS OF THIS AGREEMENT

7.1 Upon completion of this Agreement the Owner covenants to pay:

7.1.1 the Council's and County Council's reasonable legal fees and administration costs of monitoring the performance of the planning obligations that the Owner is required to observe and perform pursuant to the terms of this Undertaking.

8. DETERMINATION OF DISPUTES

- 8.1 Subject to clause 8.7, if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other written notice requiring the dispute to be determined under this clause 8. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 8.2 For the purposes of this clause 8 a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.
- 8.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute) who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under clause 8.4.
- 8.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President for the time being of the Chartered Institute of Arbitrators (or other appropriate President of a professional institute with expertise in the relevant discipline as agreed between the parties in dispute).
- 8.5 The Specialist is to act as an independent expert and:
- 8.5.1 each party may make written representations within ten Working Days of his appointment and will copy the written representations to the other party;

8.5.2 each party is to have a further ten Working Days to make written comments on the other's representations and will copy the written comments to the other party;

8.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;

8.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;

8.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision and

8.5.6 the Specialist is to use all reasonable endeavours to publish his decision within 30 Working Days of his appointment.

8.6 Responsibility for the costs of referring a dispute to a Specialist under this clause 8, including costs connected with the appointment of the Specialist and the Specialist's own costs will be decided by the Specialist.

8.7 The decision of the Specialist shall be final and binding on the parties in respect of all matters referred to him (save in the case of manifest error)

8.8 This clause 8 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts of England.

9. JURISDICTION

This Agreement is to be governed by and interpreted in accordance with the law of England and Wales; and the courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement.

10. EXECUTION

The parties have executed this Agreement as a deed and it is delivered on the date set out above.

SCHEDULE 1

Education Contribution

1. In this Schedule 1 unless the context requires otherwise the following words and expressions shall have the following meanings:

“Early Years and Childcare Contribution”; means the Early Years Pupil Product multiplied by the cost generator of £19,425.00 (nineteen thousand, four hundred and twenty five pounds)

“Early Years and Childcare Purposes” means the use of the Early Years and Childcare Contribution towards the provision of facilities for the education and/or care of children between the ages of 0 to 5 (both inclusive)

“Early Years Pupil Product” means the multiplier of 4.23 or the relevant multiplier advised by the County Council at that time for the number of Qualifying Dwellings.

“Education Contribution” means the total sum of the Early Years and Childcare Contribution, the Primary Education Contribution and the School Transport Contribution to which sums the Relevant Education Indexation shall be added;

“Education Index” means the Department for Business Innovation and Skills Tender Price Index of Public Sector Building Non-housing (PUBSEC Index) or in the event that the PUBSEC Index is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council;

“Education Index Point” means a point on the most recently published edition of the Education Index at the time of use;

“Education Purposes” means the Early Years and Childcare Purposes, the Primary Education Purposes and the School Transport Purposes;

“Primary Education Contribution” means the Primary Pupil Product multiplied by the cost generator of £19,425.00 (nineteen thousand, four hundred and twenty five pounds)

“Primary Education Purposes” means the use of the Primary Education Contribution towards the provision and/or improvement of facilities for the education and/or care of children between the ages of 5 to 11 (both inclusive)

“Primary Pupil Product” means the multiplier of 14.10 or the relevant multiplier advised by the County Council at that time for the number of Qualifying Dwellings.

“Primary School Transport Contribution” means the Primary Pupil Product multiplied by the cost generator of Nineteen pounds and Eighty Eight pence sterling (£19.88) multiplied by one hundred and ninety (190) being the average days in an academic year multiplied by seven (7) (being the number of years a pupil attends a secondary school);

“Qualifying Dwellings” means the number of Dwellings that shall be constructed on the Site as determined by an application for Reserved Matters;

“Relevant Education Indexation” means the amount that the Owner shall pay with and in addition to each part of the Education Contribution paid that shall in each case equal a sum calculated by taking the amount of the Education Contribution being paid and multiplying this amount by the percentage change shown in the Education Index between the Index Point pertaining to January 2024 and the Index Point pertaining to the date the payment is due to be made to the County Council;

“School Transport Contribution” means the Secondary School Transport Contribution and the Primary School Transport Contribution;

“School Transport Purposes” means the transportation of children generated by the Development to and from primary school and secondary school;

“Secondary Pupil Product” means the multiplier of 9.40 or the relevant multiplier advised by the County Council at that time for the number of Qualifying Dwellings

“Secondary School Transport Contribution” means the Secondary Pupil Product multiplied by the cost generator of Six pounds and Twenty Six pence sterling (£6.26) multiplied by one hundred and ninety (190) being the average days in an academic year multiplied by five (5) (being the number of years a pupil attends a secondary school);

“Unit Mix” means the number of Qualifying Dwellings and the number of Dwellings that by definition shall not be counted as Qualifying Dwellings.

2. The Owner hereby covenants with the County Council:

2.1 to serve on the County Council not less than three (3) months prior to Commencement of Development a notice stating the expected date Commencement will take place and the Unit Mix of the Development and in the event that the Unit Mix constructed or to be constructed as the Development should at any time differ from the Unit Mix notified to the County Council then the Owner shall serve on the County Council a further notice stating the revised Unit Mix within fourteen (14) days of the revised Unit Mix being decided

2.2 to serve on the County Council a notice on first Occupation of a Dwelling within one (1) month thereof and on a six (6) monthly basis thereafter indicating the Unit Mix of Occupied Dwellings the Unit Mix of Dwellings that are completed but not Occupied the Unit Mix of Dwellings that are under construction and the Unit Mix of Dwellings where construction work has yet to start at the time the notice is served

2.3 not to Commence the Development prior to depositing fifty per cent (50%) of the Education Contribution with the County Council and to pay fifty per cent (50%) of the Education Contribution to the County Council prior to the Commencement of Development

2.4 not to Occupy (or allow, cause or permit the Occupation of) any of the Dwellings prior to depositing the remaining fifty per cent (50%) of the Education Contribution with the County Council and to pay the remaining fifty per cent (50%) of the Education Contribution to the County Council prior to the Occupation of any of the Dwellings

3. It is hereby agreed and declared:

3.1 In the event that the Owner fails to serve notice as set out in Paragraph 2.1 then the County Council may calculate the amount of the Education Contribution based on an estimate of the Unit Mix as it sees fit acting reasonably and demand and enforce payment of the Education Contribution at any time thereafter

3.2 In the event that the Unit Mix to be constructed as the Development does not match the Unit Mix on which the Education Contribution paid was based the Owner shall pay to the County Council as soon as the change in Unit Mix becomes apparent any additional amount pertaining to the difference between the Education Contribution paid and the Education Contribution pertaining to the Unit Mix to be constructed as part of the Development and any such additional amount shall from the date payment is received by the County Council form part of the Education Contribution

3.3 In the event that the Education Contribution or part thereof is paid later than the date(s) required by this Schedule 1 then the amount of the Education Contribution or part thereof payable by the Owner shall in addition include either an amount equal to any percentage increase in build costs shown by the Education Index between the Education Index Point prevailing at the date(s) payment is due and the Education Index Point prevailing at the date of payment multiplied by the Education Contribution or part thereof due or if greater an amount pertaining to interest on the Education Contribution or part thereof due calculated at the Seven Day LIBID Rate from the date(s) payment is due until the date payment of the amount due is received by the County Council

3.4 In addition to the requirement of 3.3 above in the event that any sum due to be paid by the Owner to the County pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owner hereby covenants to pay to the County Council within ten Working Days of receiving a written request all reasonable costs that the County Council has incurred as a result of or in pursuance of such late payment including the sum of fifty pounds sterling (£50) plus Relevant Education Indexation for each and every letter sent to the Owner pursuant to the debt

3.5 In the event that the Education Contribution is overpaid by the Owner then the County Council shall be under no obligation to return any such overpaid sum in whole or in part if in good faith the County Council have spent the Education Contribution or have entered into a legally binding contract or obligation to spend the Education Contribution

3.6 Any dispute in relation to how the Education Contribution has been spent must be raised in writing by the Owner and received by the County Council within one month of receipt by the Owner of the County Council's statement referred to in Paragraph 2.4 and shall clearly state the grounds on which the expenditure is disputed

3.7 In the event that no written request is received by the County Council from the Owner pursuant to Paragraph 2.3 or no valid dispute is raised by the Owner pursuant to Paragraph 3.6 above the Owner shall accept that the Education Contribution has been spent in full on Education Purposes

SCHEDULE 2

Library Services Contribution

In this Schedule 2 unless the context requires otherwise the following words and expressions shall have the following meanings:

“Library Services

Contribution”

means the sum of the Library Services Calculation Index Linked

“Library Services Calculation”

means the calculation which shall be the total of the number of Dwellings constructed at the Site multiplied by Seventy Seven pounds and Eight pence (£77.80)

“Library Services

Contribution Purposes”

means the improvement, enhancement and extension of the facilities and services provided at Great Dunmow Library and to expand the reach of the mobile library and outreach services

1. The Owner hereby covenants with the Council:
 - 1.1 not to Occupy or allow, cause or permit the Occupation of any Dwelling on the Site prior to:
 - 1.1.1 providing details of the Library Services Calculation to the Council; and
 - 1.1.2 depositing the Library Services Contribution with the Council

SCHEDULE 3

Public Open Space

In this Schedule 3 unless the context requires otherwise the following words and expressions shall have the following meanings:

"Chartered Landscape Architect"	means a chartered member of the Institute of Landscape Architects;
"Management Company"	means a private limited company established for inter alia the purpose of managing some or all of the Open Space
"Open Space"	means the area(s) of land (including any swale in connection with SUDs drainage) within the Site (such area(s) of land to be agreed with the Council but which is/are shown indicatively on the Site Plan) together with informal and casual open space all of which shall be laid out in accordance with the approved Open Space Specification;
"Open Space Certificate"	means a certificate or certificates in writing relating to the Open Space issued by a Chartered Landscape Architect that confirms that the Open Space has been laid out in accordance with the approved Open Space Plan and the Open Space Specification;
"Open Space Plan"	means a Land Registry compliant plan showing the precise location of the Open Space;
"Open Space Specification"	means a specification and maintenance regime to be approved in writing by the Council for the laying out and future maintenance of the Open Space.

1. The Owner hereby covenants with the Council that not later than the submission to the Council of the first application for approval of Reserved Matters it shall:

1.1 prepare the Open Space Plan and the Open Space Specification; and

1.2 submit the Open Space Plan and the Open Space Specification to the Council for approval.

2. The Owner covenants not to Commence Development unless and until the Open Space Plan and the Open Space Specification have been approved in writing by the Council PROVIDED THAT where the Council fails to comment on and/or require amendments to the Open Space Plan and/or the Open Space Specification the same will be deemed to be approved on expiry of the three month period.

3. The Owner hereby covenants with the Council not to Occupy or allow, cause or permit the Occupation of more than fifty percent (50%) of the Dwellings unless and until the Open Space has been provided in accordance with the approved Open Space Plan and the Open Space Specification respectively and the Council has received the Open Space Certificate.

4. The Owner further covenants with the Council to maintain the Open Space until the date upon which the transfer required by paragraph 5 has been completed.

5. The Owner covenants with the Council not to Occupy or allow, cause or permit the Occupation of more than ninety percent (90%) of the Dwellings unless and until the Owner has transferred the Open Space to the Management Company.

6. The Owner further covenants with the Council to include in the transfer of the Open Space to the Management Company:

6.1 a covenant not to allow the Open Space to be used for any purpose other than by the public as open space land for recreational purposes in accordance with this Agreement;

6.2 a covenant to maintain the Open Space in accordance with the approved Open Space Specification in perpetuity;

6.3 such other covenants as the Owner may reasonably require;

6.4 all other necessary rights and reservations in respect of any services or other conducting media installed on over or under the Open Space during the course of development and their subsequent use as the Owner may reasonable require.

6.5 a covenant not to transfer the Open Space into the individual ownership of the owners of the Dwellings; and

7. The Owner shall furnish a copy of the completed transfer in relation to the Open Space to the Council and shall inform the Council in writing of the contact details of any Management Company.

8. The Owner shall include in each transfer or lease of a Dwelling an obligation to contribute an annual amount to the Management Company which together with fair

contributions from other purchasers or lessees of the Dwellings shall be sufficient to enable the Management Company to discharge its obligations under this Agreement in relation to the Open Space.

SCHEDULE 4

Healthcare Contribution

In this Schedule 4 unless the context requires otherwise the following words and expressions shall have the following meanings:

“Healthcare Contribution” means such sum as calculated in the Healthcare Contribution Calculation to which the relevant Healthcare Contribution index shall be added.

“Healthcare Contribution Calculation” means the number of Dwellings approved by the Council after determination of all applications for Reserved Matters multiplied by One Thousand Two Hundred and Ninety Two pounds (£1,292.00) Index Linked.

“Healthcare Contribution Purposes” means improvements to capacity by way of refurbishment or extension of existing premises for the benefit of the patients at The Felsted Surgery Felsted Essex

“NHS England” means the national commissioning authority for health services in England or its successor body

1. The Owner hereby covenants with the Council not to occupy or allow, cause or permit the occupation of more than ten (10) Dwellings prior to depositing the Healthcare Contribution with the Council to be used by NHS England for Healthcare Contribution Purposes only.
2. The Owner acknowledges that the Council shall not be responsible for how the Healthcare Contribution is utilised once it has been transferred to NHS England

SCHEDULE 5

Affordable Housing

In this Schedule 5 unless the context requires otherwise the following words and expressions shall have the following meanings:

- “Affordable Housing”** means housing provided to a Person in Housing Need whose needs are not met by the market with eligibility determined with regard to local incomes and local house prices with provision for the housing to remain at an affordable price for future Persons in Housing Need and for any subsidy received to be recycled for alternative affordable housing provision and includes Affordable Housing For Rent and Other Affordable Routes To Home Ownership
- “Affordable Housing Dwellings”** means 40% of the total number of Dwellings approved by the Council after determination of all applications for Reserved Matters (but for the avoidance of any doubt if when the 40% is applied to the total number of Dwellings approved it produces a part dwelling then the number of Affordable Housing Dwellings shall be rounded down to the nearest whole number if 0.1 – 0.4 or up to the nearest whole number if 0.5 – 0.9 in accordance with the Affordable Housing Scheme all provided without reliance on public subsidy and in accordance with the NDSS at the date of the Commencement of Development with any ground floor flats and all houses being Cat 2 Dwellings
- ;
- “Affordable Housing Scheme”** means a scheme to identify: (a) the precise number and size of the Affordable Housing Dwellings to be provided on the Site; (b) the exact Affordable Housing Tenure mix; (c) the

	location of the Affordable Housing Dwellings; and (d) the identity of the Approved Body;
“Affordable Housing Tenure”	means Affordable Housing For Rent, Shared Ownership and First Homes;
“Affordable Housing For Rent”	has the meaning ascribed to it in paragraph (a) of the definition of affordable housing at Annex 2 of the NPPF
“Approved Body”	means a provider of social housing registered with Homes England under the provisions of the 2008 Act or any body organisation or company which is a registered charity with the Charity Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by the Council and which has objects demonstrably similar to or compatible with or promoting those of a housing association;
“Cat 2 Dwellings”	Dwellings that comply with Part M4 Category 2 Building Regulations 2015
“Chargee”	means any mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed by such mortgagee or chargee or any administrator (howsoever appointed) or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any Housing Administrator of the whole or any part of the Affordable Housing Dwellings that have been transferred to an Approved Body

“Construction Certificate”	means a certificate issued by a person who is qualified and approved to issue certificates under the Building Regulations 2015 to certify that the Cat 2 Dwellings have been constructed to comply with Building Regulations 2015 Part M4 Category 2
“Design Certificate”	means a certificate issued by a person who is qualified and approved to issue certificates under the Building Regulations 2015 to certify that the Cat 2 Dwellings have been designed to comply with Part M4 Category 2 Building Regulations 2015
“First Homes”	means one type of Other Affordable Routes To Home Ownership where Affordable Housing is provided as a Dwelling delivered at a discount of 30% below market value and at or below a price cap of £250,000 after the discount has been applied;
“Homes England”	means the public body set up to fund and regulate the provision of Affordable Housing in England and any successor body;
“Housing Administrator”	has the meaning ascribed to it in Section 101 of the Housing and Planning Act 2016
“Housing Needs Register”	means the register maintained by the Council or its nominee for Persons in Housing Need;
“Market Dwelling”	means a Dwelling(s) constructed on the Site that is not an Affordable Housing Dwelling;
“NDSS”	means the Nationally Described Space Standard for housing as set out in the statutory guidance entitled “Technical housing standards – nationally described space standard” issued

by the Ministry of Housing Communities and Local Government on 27th March 2015 as amended

“Nomination Rights”

the ability for the Council to nominate one hundred percent (100%) of the occupants on the first letting of the Affordable Housing For Rent and (unless otherwise agreed with the Council) one hundred percent (100%) of the occupants of subsequent lettings of Affordable Housing For Rent

“NPPF”

means the National Planning Policy Framework 2023 (or any successor policy thereto) issued by H M Government

“Other Affordable Routes To Home Ownership”

has the meaning ascribed to it in paragraph (d) of the definition of affordable housing at Annex 2 of the NPPF

“Persons In Housing Need”

means a person or persons registered on the Council’s Housing Needs Register or a person or persons on similar registers held by the Approved Body to which the Affordable Housing Dwellings have been transferred;

“Protected Tenant”

means any tenant who:

(a) has exercised the right to acquire pursuant to the 2008 Act or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Dwelling

(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Dwelling

(c) has been granted a shared ownership lease by the Approved Body and has become a 100% Staircaser

“Shared Ownership”

means one type of Other Affordable Routes To Home Ownership where Affordable Housing is provided as shared ownership units for sale under a lease as regulated by Homes England

“100% Staircaser”

means a lessee of an Affordable Housing Dwelling under a shared ownership or shared equity arrangement who has acquired 100% of the equity in the said Affordable Housing Dwelling;

“2008 Act”

means the Housing and Regeneration Act 2008.

The Owner hereby covenants with the Council as follows:

1. At least thirty (30) Working Days prior to the Commencement of Development to submit to the Council:
 - 1.1 the Affordable Housing Scheme
 - 1.2 the Design Certificate
2. Not to Commence Development unless and until the Affordable Housing Scheme has been approved in writing by the Council or the detail of the Affordable Housing Scheme has been determined pursuant to the disputes determination procedure set out in Clause 8 of this Agreement and the Design Certificate has been submitted to the Council.
3. To construct the Affordable Housing Dwellings in accordance with the Affordable Housing Scheme.
4. For the purposes of this Development the Affordable Housing Dwellings to be provided as Other Affordable Routes To Home Ownership are to be provided as:

- 4.1 Shared Ownership dwellings being five percent (5%) of the total of Affordable Housing Dwellings; and
- 4.2 First Homes being twenty five percent (25%) of the total of Affordable Housing Dwellings.
5. Not to Occupy (or allow, cause or permit the Occupation of) more than fifty percent (50%) of the Market Dwellings until such time as the Affordable Housing Dwellings have been:
 - 5.1 constructed and are available for Occupation; and
 - 5.2 transferred to an Approved Body and for the purposes of this Schedule 5 only the expression "transfer" or "transferred" shall mean a transfer of the freehold or grant of a leasehold with a term of not less than 125 years of the Affordable Housing Dwellings or an agreement for sale agreed with the Approved Body that has been unconditionally released for completion by the Owner Provided Always that:
 - 5.2.1 any proceeds received by the Approved Body in respect of the disposal of subsequent shares (other than the first share and net of any repayment of mortgage) on the disposal of any of the Shared Ownership Dwellings shall be recycled and used for the provision of further Affordable Housing within the Council's area so that such new housing shall be provided within 4 years of the date of receipt of the said proceeds by the Approved Body unless otherwise agreed in writing with the Council and on a 6 monthly basis the Approved Body shall provide to the Council information in writing as to the amount of such proceeds received; and
 - 5.2.2 any transfer to the Approved Body shall be subject to the provisions of Part 2 of this Schedule 5; and
 - 5.3 the Construction Certificate has been submitted to the Council
6. That the Affordable Housing Dwellings shall be Occupied for no purpose other than as Affordable Housing (but subject to the provisions of paragraph 9 of this Schedule 5 below).
7. That the Affordable Housing Dwellings provided as Affordable Housing For Rent shall be allocated and Occupied in accordance with the Nomination Rights

8. To serve on the Council notice in writing not less than ten (10) Working Days after the first Occupation of forty five percent (45%) of the Market Dwellings.
9. It is Hereby Agreed and Declared
 - 9.1 The obligations and restrictions contained in this Schedule 5 shall not bind:
 - 9.1.1 a Chargee or any receiver appointed by such Chargee who has first complied with the provisions of paragraph 9.2 of this Schedule 5
 - 9.1.2 a Protected Tenant
 - 9.1.3 any 100% Staircaser
 - 9.1.4 any mortgagee or chargee of an occupier of an Affordable Housing Dwelling lawfully exercising the mortgagee protection provision within a lease
 - 9.1.5 any person or body deriving title through or from any of the parties mentioned in paragraphs 9.1.1 – 9.1.4 of this Schedule 5 above.
 - 9.2 Any Chargee claiming the protection granted by paragraph 9.1 of this Schedule 5 above must first:
 - 9.2.1 give written notice to the Council of its intention to dispose of the Affordable Dwelling,
 - 9.2.2 use reasonable endeavours over a period of twelve weeks from the date of the written notice to dispose of the Affordable Dwelling to another Approved Body or to the Council for a consideration not less than the amount due and outstanding to the Chargee under the terms of the mortgage or charge including all accrued principal monies, interest and costs and expenses incurred by the Chargee in respect of the mortgage or charge
 - 9.2.3 If such disposal has not taken place within the twelve week period the Chargee shall be entitled to dispose of the Affordable Dwellings free from the affordable housing provisions contained in this Agreement which shall determine absolutely.

PROVIDED THAT at all times the rights and obligations in this paragraph shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage.

Part Two

- A The transfer of the Affordable Housing Dwellings to the Approved Body shall be with vacant possession.
- B. The transfer deed for the transfer of the Affordable Housing Dwellings to the Approved Body shall be prepared by the Owner at no cost to the Approved Body and shall contain:
1. a restriction requiring each Affordable Housing Dwelling to be occupied by a Person In Housing Need
 2. a restriction preventing the Affordable Housing Dwellings from being used for any purpose other than as Affordable Housing (subject to the provisions in paragraph 9 of Part One to this Schedule)
 3. a covenant requiring the Affordable Housing Dwellings provided as Affordable Housing For Rent to be occupied in accordance with the Nomination Rights
 4. a grant by the Owner to the Approved Body of all rights of access and passage of services and all other rights reasonably necessary for the beneficial use and enjoyment of the Affordable Housing Dwellings
 5. a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development
 6. a provision requiring that an appropriate contribution(s) be made in relation to each Affordable Housing Dwelling to the Management Company (as defined in Schedule 3 herein) in the event that the upkeep of the Open Space (as defined in Schedule 3 herein) is the responsibility of the Management Company along with a provision that such requirement is to be passed on to successors in title to any of the Affordable Housing Dwellings
 7. a requirement that any proceeds received by the Approved Body in respect of the disposal of subsequent shares (other than the first share and net of any repayment of mortgage) on the disposal of any dwellings provided as Shared Ownership shall be used for the further provision of further Affordable Housing within the Council's administrative area so that such new housing shall be provided within four years of the date of receipt of the proceeds by the Approved Body unless otherwise agreed in writing with the Council and on a six monthly basis the Approved

Body shall provide the Council information in writing as to the amount of such proceeds received

8. such other covenants as the Owner may reasonably require for the maintenance of the Development once it is completed and the preservation of the appearance thereof

SCHEDULE 6

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy

In this Schedule 6 unless the context requires otherwise the following words and expressions shall have the following meanings:

“RAMS”	means Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy
“RAMS Contribution”	means the sum of the RAMS Calculation Index Linked
“RAMS Calculation”	means the calculation which shall be the total of the number of Dwellings constructed at the Site multiplied by One Hundred and Fifty Six pounds and Seventy Six pence (£156.76)
“RAMS Purposes”	means habitat mitigation projects (“Habitat Mitigation Measures”) identified by the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) in particular to mitigate any increased use at Blackwater SPA and Ramsar and Essex Estuaries SAC

1. The Owner hereby covenants with the Council not to Commence the Development:
 - 1.1 prior to providing details of the RAMS Calculation to the Council; and
 - 1.2 prior to depositing the RAMS Contribution with the Council and to pay the RAMS Contribution to the Council prior to the Commencement of Development to be used for RAMS Purposes only.

SCHEDULE 7

Biodiversity Net Gain Measures

In this Schedule 6 unless the context requires otherwise the following words and expressions shall have the following meanings:

- “Biodiversity Enhancement”** means habitat mitigation works to enable neutral grassland to be created as identified in the Preliminary Ecological Appraisal as well as detailed measures for the creation and maintenance of the works
- “Biodiversity Land”** means land of approximately 0.42ha situated to the west of the site and edged blue on the Site Plan
- “Biodiversity Purposes”** means Biodiversity Enhancement protection and maintenance
- “Preliminary Ecological Appraisal”** means the Preliminary Ecological Appraisal by Plumb Associates dated September 2023 submitted as part of the Planning Application

1. The Owner hereby covenants with the Council:
 - 1.1 not to Commence the Development prior to providing details of the Biodiversity Enhancement works
 - 1.2 to keep the Biodiversity Land for Biodiversity Purposes

SCHEDULE 8

Bus Provision and Travel Plan

In this Schedule 8 unless the context requires otherwise the following words and expressions shall have the following meanings:

- “Bus Provision Contribution”** means the sum of One Hundred and Thirty Thousand pounds (£130,000) Index Linked to be used by the County Council for Bus Provision Purposes
- “Bus Provision Purposes”** means provision of bus services on the B1417 Chelmsford Road and the Bus Stop Works
- “Bus Stop Works”** means provision of two new bus stops including shelters, electrical connection signs flags timetables raised kerbs and road markings as detailed in the Planning Application and to the requirements of the County Council
- “Residential Travel Information Pack”** means a plan developed by the Owner to include all measures to ensure sustainable means of travel are available to residents of the Development

1. The Owner hereby covenants with the Council:
 - 1.1 not to commence the Development prior to depositing the Bus Provision Contribution with the County Council and to pay the Bus Provision Contribution to the County Council prior to the Commencement of Development to be used for Bus Provision Purposes only
 - 1.2 prior to Occupation of the Development to submit the Residential Travel Information Pack to the County Council for approval and furthermore not to cause or allow Occupation prior to the Residential Travel Information Pack being approved in writing by the County Council.
 - 1.3 within twenty working days of receipt of reasonable comments or amendments which the County Council requires to be made to the Residential Travel Information Pack the Owner is to submit a revised Residential Travel Information Pack to the County

Council taking into account such reasonable comments or amendments. If the County Council does not provide written approval of the Residential Travel Information Pack or any revision thereof or provide any comments or required amendments within three months of submission by the Owner then such approval is deemed to be given.

Annex A

Site Plan

The copyright in all designs, drawings, schedules, specifications and any other documentation prepared by Sustainable Planning Design Studio Ltd (SPD Studio) in relation to this project shall remain the property of Sustainable Planning Design Studio Ltd and must not be reused, loaned or copied without prior written consent.

This drawing is to be read in conjunction with all architectural drawings, schedules and specifications, and all relevant consultants' information relating to the project. Refer any found discrepancies to Sustainable Planning Design Studio Ltd.



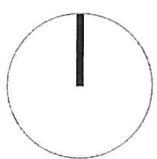
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 Date: 25/10/2023
 File: 230600101_1250@A3_25.10.2023



RESIDENTIAL DEVELOPMENT

1250 @ A3
 STOCK: NOT REVISIONS
 LAND: 1250 @ A3
 HARTFORD END

230600101_1250@A3_25.10.2023
 WWW.SPDSSTUDIO.CO.UK

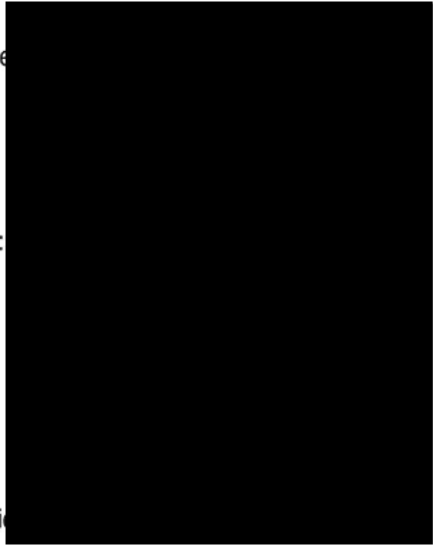


EXISTING SITE LOCATION PLAN

SIGNED as a DEED by **BARRY NORMAN MATHER** in the presence of:



Witness Signature:



Witness Name:

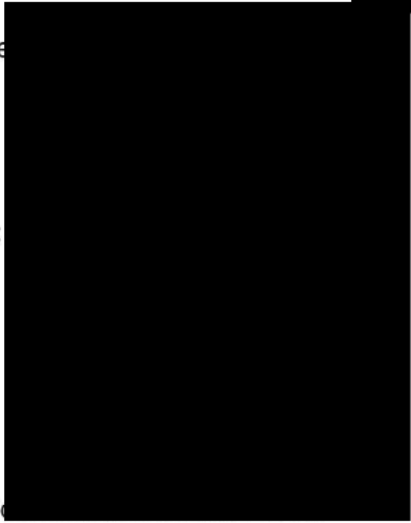
Witness Address:

Witness Occupation:

SIGNED as a DEED by **TANYA JANE MATHER** in the presence of:



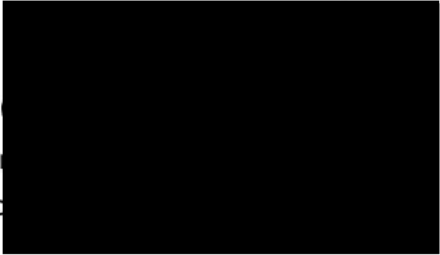
Witness Signature:



Witness Name:

Witness Address:

Witness Occupation:



SIGNED AS A DEED by BARRY MATHER as a Director
For **Stockplace Investments Limited** in the presence of:

Witness Signature:



Witness Name:

Witness Address

Witness Occupat

