

DATED

29th February

2024

- (1) UTTLESFORD DISTRICT COUNCIL
- (2) ESSEX COUNTY COUNCIL
- (3) WESTON HOMES PLC
- (4) EUAN STEWART KENNEDY SHUNA MACKINNON  
DICKSON MARK KENNEDY WILLIAMS, ANDREW  
MACKINNON MORRIS AND MAXWELL STEWART  
KENNEDY
- (5) EUAN STEWART KENNEDY AND SHUNA  
MACKINNON DICKSON
- (6) HSBC CORPORATE TRUSTEE COMPANY  
(UK)LIMITED

## SECTION 106 AGREEMENT

RELATING TO LAND AT WARISH HALL FARM, NORTH OF JACKS LANE, SMITHS  
GREEN LANE, TAKELEY  
PLANNING APPLICATIONS REFERENCE 62A/2023/0027 (UTT/23/2682/PINS) AND  
UTT/22/3126/FUL

REFERENCE

**JB/762107.30**

**ReedSmith**

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THIS AGREEMENT is made on

29th February

2024

**BETWEEN:**

- (1) **Uttlesford District Council** of Council Offices, London Road, Saffron Walden, Essex CB11 4ER ('UDC')
- (2) **Essex County Council** of County Hall, Market Road, Chelmsford CM1 1QH ('the County Council')
- (3) **Weston Homes Plc** (company registration number 2133568) of Weston Group Business Centre, Parsonage Road, Takeley, Essex CM22 6PU (the 'Developer') and
- (4) **Euan Stewart Kennedy** [REDACTED] **Shuna Mackinnon Dickson** [REDACTED] **Mark Kennedy Williams** of [REDACTED] **Andrew Mackinnon Morris** of [REDACTED] and **Maxwell Stewart Kennedy** of [REDACTED] ('the First Verge Owner')
- (5) **Euan Stewart Kennedy** [REDACTED] **Shuna Mackinnon Dickson** [REDACTED] ('the Second Verge Owner')
- (6) **HSBC Corporate Trustee Company (UK) Limited** (company registration number 06447555) of Level 14, 8 Canada Square, London E14 5HQ ('the Mortgagee')

**1 DEFINITIONS**

- 1.1 'the Highways Act' shall mean the Highways Act 1980
- 1.2 'the 1972 Act' shall mean the Local Government Act 1972
- 1.3 'the 1990 Act' shall mean the Town and Country Planning Act 1990
- 1.4 'the 1999 Act' shall mean the Contracts (Rights of Third Parties) Act 1999
- 1.5 'the 2008 Act' shall mean the Housing and Regeneration Act 2008
- 1.6 'the 2011 Act' shall mean the Localism Act 2011
- 1.7 'Affordable Housing' shall mean subsidised housing within the definition of affordable housing contained in Annex 2 of the NPPF that will be available to persons who cannot afford to buy or rent housing generally available on the open market including but not limited to Affordable Rented Housing First Homes and Shared Ownership Housing
- 1.8 'Affordable Housing Land' shall mean the land on which the Affordable Housing Units will be constructed in accordance with the Permission as shown on the Affordable Housing Plan
- 1.9 'Affordable Housing Plan' shall mean the plan attached at Annex 3 (Plan WH202.WST.P1.ZZ.DR.PL.10.05 Rev B) identifying the number and location of the Affordable Housing Units included within the Development, the Affordable Housing Tenure Mix and the Affordable Housing Unit Mix or such other plan as may be agreed between UDC and the Developer
- 1.10 'Affordable Housing Tenure Mix' shall mean the different types of tenure of Affordable Housing to be provided within the Development and which shall (unless otherwise approved by UDC) comprise:
  - (a) Seventy percent (70%) Affordable Rented Housing Units
  - (b) Twenty five percent (25%) First Homes Units
  - (c) Five percent (5%) Shared Ownership Housing Units

in each case rounded up or down to the nearest whole number of units or such other tenures as may be agreed between UDC and the Developer

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- 1.11 **'Affordable Housing Unit Mix'** shall mean the different types and size of Affordable Housing Units to be provided as part of the Development as shown on the Affordable Housing Plan or such other types and sizes as may be agreed between UDC and the Developer
- 1.12 **'Affordable Housing Units'** shall mean the sixteen (16) units of accommodation shown on the Affordable Housing Plan to be constructed on the Affordable Housing Land
- 1.13 **'Affordable Rented Housing'** shall mean Affordable Housing provided by an Approved Body to households those in identified housing need where the rent level is capped at 80% of the local market rent (including any service charges, where applicable)
- 1.14 **'Affordable Rented Units'** shall mean the eleven (11) units of rented housing to be occupied as Affordable Rented Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.15 **'Allocations Policy'** shall mean UDC's Allocations Policy dated June 2021 attached at Annex 4 or any subsequent Allocations Policy replacing that policy
- 1.16 **'Approved Body'** shall mean any registered provider registered or eligible for registration with Homes England or successor organisation, 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 UDC and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord
- 1.17 **'Armed Services Member'** shall mean a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service
- 1.18 **'CIL Regulations'** shall mean the Community Infrastructure Levy Regulations 2010
- 1.19 **'Compliance Certificate'** means the certificate issued by UDC confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 1.2.3 of Part 2 of Schedule 1 applies the Eligibility Criteria (Local) in a form to be provided by UDC and approved by the Developer
- 1.20 **'the Councils'** shall mean UDC and the County Council
- 1.21 **'County Council Monitoring Fee'** shall mean a fee of £700 (Seven Hundred Pounds) per obligation due to the County Council under this Deed and for the avoidance of doubt this is a total of £7,000 (Seven Thousand Pounds) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed
- 1.22 **'Decision Letter'** shall mean the decision letter issued by the Planning Inspector on behalf of the Secretary of State confirming whether or not the Permission is granted
- 1.23 **'Designated Protected Area'** shall mean a rural area designated by the Secretary of State within the Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 as amended or any legislation that shall replace it with the aim of securing long term provision of Shared Ownership homes in rural areas
- 1.24 **'the Development'** shall mean the development authorised by the Permission for construction of 40 dwellings (Class C3), including open space, landscaping, and associated infrastructure
- 1.25 **'Development Standard'** means a standard to fully comply with the following:
- (a) 'Technical housing standards – nationally described space standards' published by the Department for Communities and Local Government in March 2015
  - (b) all national construction standards and planning policy relating to design which may be published by the Secretary of State or by the District Council from time to time

- (c) Approved Document Q: Security- Dwellings published by HM Government or any document which supersedes it
- (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings)

and the same may be amended by written agreement of the Parties

- 1.26 **'Discount Market Price'** shall mean a sum which is the Market Value discounted by at least 30%
- 1.27 **'Disposal'** shall mean a transfer of the freehold or (or in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than:
- (a) a letting or sub-letting in accordance with paragraph 1.17 of Part 2 Schedule 1
  - (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes owner
  - (c) an Exempt Disposal

and **'Disposed'** and **'Disposing'** shall be construed accordingly

- 1.28 **'DPA Waiver'** shall mean a waiver issued by Homes England (or any other body with power to issue such a waiver) which would have the effect of waiving Designated Protected Area grant funding conditions applied by Homes England in relation to staircasing ownership of Shared Ownership Units in respect of all or part of the Site
- 1.29 **'Dwelling'** shall mean any residential dwelling (including a house, flat, or maisonette) constructed as part of the Development or created by conversion of an existing building on the Land pursuant to the Permission
- 1.30 **'the County Council Contribution'** shall mean the Education Contribution, the Highway Contribution the Sustainable Transport Contribution and the Library Contribution
- 1.31 **'Eligibility Criteria (National)'** shall mean criteria which are met in respect of a purchase of a First Home if:
- (a) the purchaser is a First Time Buyer (and in the case of a joint purchase each joint purchaser is a First Time Buyer); and
  - (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National)
- 1.32 **'Eligibility Criteria (Local)'** shall mean in relation to the First Home(s) the criteria set out in Paragraphs 4.1 – 4.3 of the First Homes Planning Advice Notice
- 1.33 **'Eligible Person'** shall mean a person or persons on the Housing Register that meets the qualifying criteria within the Allocations Policy (unless otherwise agreed by UDC in writing)
- 1.34 **'Estate Service Charge'** shall mean an estate service charge or rent charge for the Land representing a fair and proper proportion of the expenditure applicable to the particular Dwelling payable annually to the Management Company in respect of its administration and of insuring, maintaining and repairing and as necessary renewing the Public Open Space, and in accordance with the Management Scheme
- 1.35 **'Exempt Disposal'** shall mean a disposal in one of the following circumstances:
- (a) a disposal to a spouse or civil partner upon the death of an owner;
  - (b) a disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of an owner;

- (c) a disposal to a former spouse or former civil partner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order;
  - (d) a disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling; and
  - (e) provided that in each case other than (d) the person to whom the disposal is made complies with the provisions relating to First Homes in this Deed;
- 1.36 **'Expert'** shall mean such expert as may from time to time be appointed for the purpose of resolving a relevant dispute being a barrister or solicitor or chartered surveyor or other person appropriately qualified to resolve the dispute (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of one of the parties by or on behalf of the President from time to time of the Bar Council or the Law Society or the Royal Institute of Chartered Surveyors
- 1.37 **'Final Certificate'** means a certificate to be issued by UDC on expiration of the Open Space Maintenance Period when the Open Space has been maintained to the reasonable satisfaction of UDC
- 1.38 **'First Homes Contribution'** shall mean in circumstances where a sale of a First Homes Unit other than as First Homes Housing has taken place in accordance with the provisions of this Deed, the lower of the following two amounts:
- (a) 30% of the proceeds of sale; and
  - (b) the proceeds of sale less the amount due and outstanding to any mortgagee of the relevant First Homes Unit under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the owner of the First Homes Unit to the mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the owner of the First Homes Unit in connection with the sale of the First Homes Unit and which for the avoidance of doubt shall in each case be paid following the deduction of any stamp duty land tax payable
- 1.39 **'First Homes Housing'** shall mean Dwellings which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap and 'First Home' shall be construed accordingly
- 1.40 **'First Homes Units'** shall mean the four (4) units to be occupied as First Homes Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.41 **'First Time Buyer'** shall mean a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
- 1.42 **'First Homes Planning Advice Notice'** means the First Homes Planning Advice Notice published by UDC and dated 2022 a copy of which is annexed to this Deed as Annex 5 or any subsequent replacement thereof
- 1.43 **'Health Care Contribution'** shall mean the sum of £51,680 to mitigate the impact of the Development to be used towards the provision of additional capacity to accommodate patient growth generated by the Development
- 1.44 **'Homes England'** shall mean the body set up by section 1 of the Housing and Regeneration Act 2008 or any successor organisation
- 1.45 **'Implementation'** shall mean the implementation of the Permission by the carrying out of any material operation (as defined by s. 56 of the 1990 Act) pursuant to the Permission but disregarding for the purposes of this Deed and for no other purpose the following operations:
- (a) site clearance

- (b) demolition
- (c) site survey
- (d) ecological survey
- (e) archaeological survey
- (f) remediation
- (g) erection of fences or hoardings

and Implement and Implemented shall mutatis mutandis be construed accordingly

- 1.46 **'Implementation Date'** shall mean the date of Implementation
- 1.47 **'Income Cap (Local)'** shall mean such local income cap as may be published from time to time by UDC and is in force at the time of the relevant Disposal of the First Home it being acknowledged that at the date of this Deed the Council has not set an Income Cap (Local)
- 1.48 **'Income Cap (National)'** shall mean on the first sale of the First Home eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home
- 1.49 **'Index'** shall mean the Index of Retail Prices compiled and published by Her Majesty's Government from time to time
- 1.50 **'Index Linked'** shall mean that the sum shall be changed by an amount equal to the change in the Index
- 1.51 **'Inspector'** shall mean the planning inspector appointed by the Planning Inspectorate/ Secretary of State in determination of the Planning Application
- 1.52 **'the Land'** shall mean the land at Warish Hall Farm Smiths Green Lane Takeley shown edged in red on the Plan
- 1.53 **'LAP'** shall mean the local area of play to be provided within the publicly accessible Public Open Space where the items of play equipment/features are suitable for use by toddlers designed and laid out to meet relevant safety standards for play facilities from a reputable supplier and installed and inspected in accordance with their guidelines and to be maintained and managed in accordance with the Public Open Space Management Scheme
- 1.54 **'Local Connection Criteria'** shall mean such local connection criteria as may be designated and published by UDC from time to time as its 'First Homes Local Connection Criteria' and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such criteria or replacement criteria in operation at the time of the relevant disposal of the First Home shall be the 'Local Connection Criteria' which shall apply to that Disposal
- 1.55 **'Maintenance Period'** shall mean a period of twelve (12) months or if longer until the Public Open Space has been transferred to the Management Company from the date the Public Open Space has been fully constructed, completed and available for safe and immediate public use
- 1.56 **'Management Company'** shall mean a company body or other entity responsible for the long-term management and maintenance of the Public Open Space
- 1.57 **'Management Company Responsibilities'** means the maintenance of the Public Open Space over the lifetime of the Development to a comparable standard achieved on the issue of the Final Certificate by diligently applying monies received by the Management Company for those purposes
- 1.58 **'Market Value'** shall mean the open market value as assessed by a Valuer as confirmed to UDC by the First Homes Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation

- 1.59 **'Nominated Persons'** shall mean a person or persons nominated by UDC from their housing register to be offered an Affordable Housing Unit by the Approved Body (unless otherwise agreed in writing by UDC)
- 1.60 **'NPPF'** shall mean the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government and dated July 2021 or any replacement statement guidance note or circular which may amend, supplement or supersede it
- 1.61 **'Occupation'** shall mean occupation of a building constructed as part of the Development of the Land pursuant to the Permission and shall not include daytime occupation by workmen involved in the construction of the buildings the use of finished buildings for sales purposes for use as temporary offices or for the storage of plant and material and 'Occupy' 'Occupancy' and 'Occupied' shall be construed accordingly
- 1.62 **'Open Market Housing Units'** shall mean the Dwellings to be constructed in accordance with the Permission which are not Affordable Housing Units
- 1.63 **'Owners'** shall mean together the Developer and the First Verge Owner and the Second Verge Owner
- 1.64 **'Parish Council'** shall mean Takeley Parish Council or its statutory successor
- 1.65 **'Permission'** shall mean the planning permission granted by the Inspector on behalf of the Secretary of State in respect of the Planning Application and any subsequent planning permission for the Development granted pursuant to Section 73 of the Act
- 1.66 **'Plan'** shall mean the plan attached at Annex 1 showing the Land
- 1.67 **'Planning Application'** shall mean the applications made by the Developer under reference number S62A/2023/0027 (UTT/23/2682/PINS) and UTT/22/3126/FUL for the erection of 40no. dwellings, including open space landscaping and associated infrastructure
- 1.68 **'Price Cap'** shall mean the amount for which a First Homes Unit is sold after the application of the Discount Market Price which on its first Disposal shall not exceed two hundred and fifty thousand pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State
- 1.69 **'Protected Tenant'** shall mean 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 (including a preserved right to buy) (or any equivalent contractual right including the voluntary Right to Buy agreed between the Government and the National Housing Federation in 2015 and any extension or amendment thereto) in respect of a particular Affordable Housing Unit
  - (b) has exercised any statutory right to buy purchase or acquire (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
  - (c) has been granted a shared ownership lease by the Approved Body and has (by virtue only of the grant of a DPA Waiver) become a 100% Staircaser
- 1.70 **'Provisional Certificate'** means a certificate or certificates which is/are issued by UDC when it is satisfied that the Public Open Space (or part thereof) has been provided laid out and landscaped in accordance with the Public Open Space Scheme
- 1.71 **'Public Open Space'** shall mean all landscaped areas not including private gardens or adopted roads
- 1.72 **'Public Open Space Commuted Sum'** means the sum for funding the maintenance and upkeep of the Public Open Space to demonstrate that the Public Open Space is able to be maintained by the Parish Council such sum to be agreed in writing between UDC and the Owners in accordance with this Deed

- 1.73 **'Public Open Space Scheme'** means a scheme:
- (a) detailing how the Public Open Space will be laid out and constructed;
  - (b) which sets out the detailed technical specification of all the works to be carried out on the Public Open Space; and
  - (c) phasing
- 1.74 **'Public Open Space Maintenance Period'** means a period of twelve months from the date of issue of the Provisional Certificate for the Public Open Space or such other period as may be agreed in writing by the Owners and UDC
- 1.75 **'Public Open Space Management Plan'** means a plan establishing the long term management and maintenance of the Public Open Space
- 1.76 **'Secretary of State'** shall mean the Secretary of State for Levelling Up, Housing and Communities or such other Minister of Her Majesty's Government for the time being having or discharging the functions of the Secretary of State for the purposes of the 1990 Act
- 1.77 **'Shared Ownership Housing'** shall mean housing which will be offered for shared ownership by the Developer/Approved Body to persons in need of affordable housing
- 1.78 **'Shared Ownership Unit'** shall mean the one (1) unit of Shared Ownership Housing
- 1.79 **'100% Staircaser'** shall mean a leaseholder of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the equity in the said Unit
- 1.80 **'UDC Monitoring Fee'** shall mean a fee due to UDC under this Deed totalling three thousand three hundred and twenty eight pounds sterling (£3328) (no VAT) towards UDC's reasonable and proper administration costs of monitoring and managing the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed or such lesser amount as the Inspector expressly states in the Decision Letter should be paid
- 1.81 **'Unit'** shall mean a house or self-contained flat or bungalow or any other Dwelling constructed as part of the Development and 'Units' shall be construed accordingly
- 1.82 **'Valuer'** shall mean a Member or Fellow of the Royal Institution of Chartered Surveyors being a registered valuer appointed by the owner of a First Homes Unit and acting in an independent capacity
- 1.83 **'Working Days'** shall mean any day from Monday to Friday inclusive which is not Christmas Day Good Friday a statutory bank holiday or a day between Christmas Day and New Year's Day

## 2 **RECITALS**

- 2.1 UDC is the local planning authority within the meaning of the 1990 Act for the District in which the Land is situated
- 2.2 the County Council is the local planning authority and the local authority for statutory age and pre-statutory age education and childcare and the local highway authority for the County within which the Land is situated (which includes some highway land)
- 2.3 The Developer is the proprietor of the freehold interest in the majority of Land registered at HM Land Registry under Title Number EX476530 and the leasehold proprietor of part of the Land (currently owned by the First Verge Owner) registered under title number EX978002 which contains an option to purchase the freehold of that part of the Land
- 2.4 The First Verge Owner is proprietor of the freehold interests in those parts of the Land along Smiths Green Lane being parts of the land registered at HM Land Registry under the Title Numbers EX645448 and EX826013. Euan Stewart Kennedy and Shuna MacKinnon Dickson are at the date of this Deed the registered proprietors of the said registered titles but which are currently subject to a transfer (TR5) dated 31 July 2023 from Euan Stewart Kennedy and Shuna MacKinnon Dickson (**'Transferors'**) to Mark Kennedy Williams, Andrew MacKinnon Morris and Maxwell Stewart Kennedy



("Transferees"). As the application for registration of the said transfer is still pending at Land Registry and legal ownership will not pass until the transfer has been registered the obligations in this Deed that are binding on the First Verge Owner shall be binding on the Transferors until the said transfer has been registered and upon completion of that registration the Transferor will be released from those obligations binding on the First Verge Owner. The Transferees are joining into this Deed to consent to these arrangements pursuant to its equitable interest in this part of the Land and that once the said transfer is registered at Land Registry the Transferee will be liable for the obligations binding on the First Verge Owner as successor in title subject to the terms of this Deed

- 2.5 The County Council owns a Lease registered at HM Land Registry under the Title Number EX977540 which is subject to a leasehold interest held by the Second Verge Owner registered at HM Land Registry under the Title Number EX834409 and consents to the Owners entering into this Deed.
- 2.6 The Mortgagee is the registered proprietor of the charge dated 25 September 2020 referred to in entry number 8 of the charges register of Title Number EX476530 and has agreed to enter into this Deed to give its consent to the terms of this Deed.
- 2.7 The Developer has made the Planning Application which has been submitted to UDC (under reference UTT/22/3126/FUL) and to the Planning Inspectorate (PINS) for determination under s62A of the 1990 Act (under reference 62A/2023/0027).
- 2.8 The Councils and the Owners have agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by UDC and or the County Council against them and their successors in title subject to the terms of this Deed
- 2.9 The Councils and the Owners are satisfied that the obligations in this Deed are compliant with the requirements of regulation 122(2) of the CIL Regulations in that they are
- (a) necessary to make the Development acceptable in planning terms
  - (b) directly related to the Development
  - (c) fairly and reasonably related in scale and kind to the Development

and that in accordance with regulation 122(2A) of the CIL Regulations any Monitoring Fee(s) to be paid fairly and reasonably relate in scale and kind to the Development and that the sums to be paid do not exceed the Councils' estimates of their costs of monitoring the Development over the lifetime of the obligations in this Deed

- 2.10 The Owners have agreed to enter into this Deed pursuant to the operative powers described in clause for the purpose of regulating the Development and use of the Land in the event that the Permission is granted pursuant to determination of the Planning Application

### **3 ENABLING POWERS AND OBLIGATIONS**

- 3.1 This Deed is entered into pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act, section 1 of the 2011 Act and all other enabling powers
- 3.2 Such of the covenants contained herein as are capable of being planning obligations within the meaning of section 106 of the 1990 Act are declared to be planning obligations and as such are enforceable by UDC and the County Council as hereinafter provided

### **4 OBLIGATIONS UNDERTAKEN BY THE OWNERS**

- 4.1 The Owners so as to bind the Land covenant with UDC and the County Council to comply with the obligations restrictions and covenants set out in this Deed and in the Schedules to this Deed
- 4.2 With the intent that the Land shall be subject to the obligations and restrictions contained in this deed for the purpose of restricting or regulating the Development and use of the Land so that the provisions of this deed shall be enforceable against the Owners and their successors in title the Owners hereby undertake to observe and comply with the obligations contained in the Schedules to this deed subject always to clause 4.2 hereof

4.3 In respect of the Planning Application the provisions and obligations contained in clause 9 and the Schedules of this deed shall only apply and shall be enforceable by UDC or the County Council in such circumstances that the Inspector or the Secretary of State states clearly in the Decision Letter that such obligations are necessary and meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and PROVIDED THAT if the Inspector or the Secretary of State in the Decision Letter concludes that any of the planning obligations set out in the Deed are incompatible with any one of the tests for planning obligations set out at Regulation 122 of the CIL Regulations and accordingly attaches no weight to that obligation in determining the Planning Application then the relevant obligation shall from the date of the Decision Letter cease to have effect and the Owners shall be under no obligation to comply with them

4.4 The liability of the Owners or any one or more of them under this Deed shall cease once they have parted with their relevant respective interest in the Land or any relevant part thereof (in which event the obligations of the Owners under this deed shall cease only in relation to that part or those parts of the Land which is or are transferred by them and for the avoidance of doubt once any of the Owners has transferred all parts of the Land owned by that owner, the obligations on that owner shall cease) but not so as to release any party from liability for any breaches hereof arising prior to the transfer and for the purposes of this deed any easement covenant or similar right shall not constitute an interest in the Land

4.5 The First Verge Owner shall have no liability pursuant to this Deed unless and until Implementation has occurred on the part of the Land owned by the First Verge Owner

4.6 The Second Verge Owner shall have no liability pursuant to this Deed unless and until Implementation has occurred on the part of the Land in which the Second Verge Owner has a leasehold interest.

## 5 OBLIGATIONS UNDERTAKEN BY UDC AND THE COUNTY COUNCIL

5.1 UDC covenants to observe and comply with the obligations on its part contained in Schedule 1 and the County Council covenants to observe and comply with the obligations on its part contained in Schedule 2

5.2 At the written request of the Developer UDC and the County Council shall provide written confirmation of the discharge of the obligations given to them respectively in this Deed when satisfied that such obligations have been performed

5.3 Representatives of UDC and the County Council may enter upon the Land at any reasonable time (and in the case of an emergency immediately) to ascertain whether the terms of this Deed and of the Permission are or have been complied with subject to complying with all health and safety requirements notified by the Developer

## 6 CONSENTS

6.1 The Mortgagee consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Land

6.2 The Mortgagee shall not be liable for any breach of the obligations in this Deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Land and continues with or carries out the Development itself

6.3 The County Council as leaseholder under title EX977540 consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed

6.4 The County Council shall not be liable for any breach of the obligations in this Deed in its capacity as leaseholder of part of the Land in relation to that part and the Owners and or Developer shall indemnify the County Council in its capacity as leaseholder of part of the Land in relation to that part from the performance of the obligations under this deed SAVE for if the County Council becomes successor in title of the Land.

**7 NOTICE OF IMPLEMENTATION**

7.1 The Developer will give the Councils not less than three months' notice of its intention to Implement the Permission specifying the intended Implementation Date and whether the Permission is being Implemented in respect of planning application reference 62A/2023/0027 or planning application reference UTT/22/3126/FUL

7.2 Forthwith upon Implementation the Developer will give the Councils notice of Implementation;

**8 PROVISOS AND INTERPRETATION**

8.1 No provision of this Deed shall be interpreted so as to take effect contrary to law or the rights powers duties and obligations of the Councils in the exercise of any of their statutory functions or otherwise

8.2 If any provision of this Deed shall be held to be unlawful or unenforceable in whole or in part under any enactment or rule of law, such provision shall to that extent be deemed not to form part of this deed and the enforceability of the remainder of this Deed shall not be affected

8.3 Where there is more than one person named as a party and where more than one party undertakes an obligation all their obligations may (unless there is an express provision in this Deed to the contrary) be enforced against them jointly and severally

8.4 No waiver (whether express or implied) by the Councils of any breach or default in performing or observing any of the obligations, covenants or terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Councils from enforcing any of the said obligations, covenants or terms and conditions or from acting upon any subsequent breach or default

8.5 Any provision contained in this deed requiring the consent or approval of any party hereto shall be deemed to incorporate a proviso that such consent or approval shall not be unreasonably withheld or delayed

8.6 The headings in this Deed do not affect its interpretation

8.7 Unless the context otherwise requires references to sub-clauses, clauses and schedules are to sub-clauses, clauses and schedules of this deed

8.8 Unless the context otherwise so requires:

8.8.1 references to parties include their respective permitted successors and assigns and in the cases of Councils shall include the successors to their statutory functions

8.8.2 references to statutory provisions include those statutory provisions as amended or re-enacted and

8.8.3 references to any gender include all genders and words importing the singular include the plural and vice versa.

**9 AGREEMENTS AND DECLARATIONS**

9.1 The obligations contained in the Schedules of this Deed shall take effect only upon the Implementation Date and in the event that the Permission is not granted or is granted but not Implemented and expires, the obligations contained in the Schedules shall absolutely cease and determine without further obligation upon the Owners or their successors in title

9.2 The obligations contained in the Schedules of this Deed shall absolutely cease and determine without further obligation upon the Owners or their successors in title if the Permission is revoked, quashed, is modified without the consent of the Developer expires or if a separate planning permission is subsequently granted and implemented which is incompatible with the Permission

9.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with any planning permission (other than the Permission as defined herein)

9.4 The obligations under this Deed shall not be enforceable against:

- 9.4.1 persons who purchase or take leases of Open Market Housing Units the successors in title mortgagees or chargees or receivers of such persons or
- 9.4.2 a Shared Ownership Leaseholder who has staircased to or otherwise acquired 100% ownership (by virtue only of the grant of a DPA Waiver) or a tenant of an Affordable Housing Unit who exercises the right to acquire or other statutory right or in each case their successors in title
- 9.4.3 in respect of any Affordable Housing Unit, a mortgagee or chargee or receiver who has first complied with its duty pursuant to paragraph 1.1 of Part 3 Schedule 1
- 9.4.4 any statutory undertaker/utility provider which acquires any part of the Land or an interest in it for the purposes of a statutory function
- 9.5 This Deed constitutes a Local Land Charge and shall be registered as such if the Permission is granted provided that UDC will upon the determination of this Deed howsoever determined procure the removal of any entry made on the Local Land Charges Register in respect of or related to this Deed
- 9.6 No variation to this Deed shall be effective unless made by deed and for the avoidance of doubt the consent, seal, signature, execution or approval of any tenant or occupier of the Development or their mortgagees shall not be required to vary any part of this Deed nor shall any other party who has no liability under this Deed or any interest in the Land
- 9.7 Save where it is expressly excluded, 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 Deed then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall issue a valid and appropriate VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

10 **MONITORING FEE**

Prior to Implementation the Developer shall pay the County Council Monitoring Fee to the County Council and the UDC Monitoring Fee

11 **EXCLUSION OF THE 1999 ACT**

For the purposes of the 1999 Act it is agreed that nothing in this Deed shall confer on any third party any right to enforce or any benefit of any term of this Deed

12 **NOTICES**

- 12.1 Any notices required to be served on or any document to be supplied or submitted to any of the parties hereto shall be sent or delivered to the address stated in this Deed as the address for the receiving party or such other address as shall from time to time be notified by a party to this Deed as an address at which service of notices shall be accepted or (in the case of a limited company) at its registered office
- 12.2 Any notices to be served or documents to be supplied or submitted or applications for approval under the terms of this Deed to be made which are addressed to UDC shall be addressed to the Assistant Director Planning of UDC and those which are addressed to the County Council shall be addressed to the S106 Officer Planning Service Place and Public Health County Hall Chelmsford CM1 1QH AND to [development.enquiry@essex.gov.uk](mailto:development.enquiry@essex.gov.uk)

13 **ENTIRE AGREEMENT**

This Deed the Schedules and the documents annexed hereto or otherwise referred to herein contain all the provisions between the parties relating to the subject matter hereof and supersede all prior agreements arrangements and understandings between the parties relating to that subject matter

**14 COSTS**

Upon the execution of this Deed the Developer will pay the reasonable legal costs incurred of both UDC and the County Council in connection with the negotiation preparation completion and registration thereof

**15 DISPUTE RESOLUTION**

15.1 Without prejudice to UDC's or the County Council's exercise of their statutory functions, in the event of any dispute or difference between the Developer and UDC and/or the County Council arising out of this Deed, or any delay, the parties will use their reasonable endeavours to resolve the same (including holding a meeting attended by at least one representative of appropriate seniority from each party within 10 Working Days of a request from one party to convene the meeting).and either party may, if the dispute or delay remains unresolved after 10 Working Days refer such dispute or difference to the Expert and it is further agreed that –

15.2 the determination of the Expert shall be final and binding on the parties save in the case of manifest error or fraud

15.3 the parties shall be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct

15.4 the Expert's costs shall be borne in such proportions as he/she may direct, failing which the Developer and UDC and/or the County Council shall each bear their own costs of the reference and determination and the Expert's costs shall be shared equally

15.5 the Expert shall be appointed subject to an express requirement that he/she reaches a decision and communicates it to the parties within the minimum practicable timescales allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days from the date of appointment to act and

15.6 the Expert may be replaced by a fresh appointee in the event he/she becomes at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee shall be appointed in the same manner as the Expert

**16 JURISDICTION**

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

**17 INDEXATION**

All Contributions payable to UDC shall be Index Linked.

**18 SECTION 73 VARIATION**

If UDC agrees in writing following an application under section 73 of the 1990 Act to vary or release any condition contained in the Permission or if a condition is varied or released following an appeal under section 78 of the 1990 Act, the covenants or provisions of this Deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless UDC in determining the application for the new planning permission indicate that consequential amendments are required to this Deed to reflect the impact of the section 73 application, in which case a separate Deed under section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission

**19 COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all counterparts shall together constitute one Deed

In witness whereof the parties hereto have executed this Deed as a deed the day and year before written

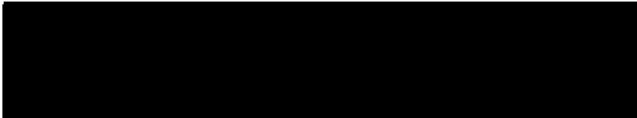
**The Common Seal of** )  
**Uttlesford District Council** )  
was hereunto affixed in the presence of )

Authorised Signatory

**The Common Seal of** )  
**Essex County Council** )  
(acting as planning and highway authority) )  
was hereunto affixed in the presence of )

Attesting Officer

**Executed as a deed by** )  
**Weston Homes Plc** )  
acting by a director and its )  
secretary or two directors )



Director Dawn wylie

Director/Secretary Steve Hatton

**Executed as a Deed** )  
**by HSBC Corporate Trustee** )  
**Company (UK) Limited** acting by )  
its attorney/director )



.....  
Attorney/Director

Name ..... [Redacted]

Witnessed by: ..... [Redacted]

Witness Name [Redacted]

Witness Address [Redacted]

.....

.....

**FOR THE FIRST VERGE OWNER:**

**Signed and delivered** by the said \_\_\_\_\_ )  
**Euan Stewart Kennedy** )  
as his deed in the presence of \_\_\_\_\_

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said \_\_\_\_\_ )  
**Shuna Mackinnon Dickson** )  
as her deed in the presence of \_\_\_\_\_

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said \_\_\_\_\_ )  
**Mark Kennedy Williams** )  
as his deed in the presence of \_\_\_\_\_

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said \_\_\_\_\_ )  
**Andrew Mackinnon Morris** )  
as his deed in the presence of \_\_\_\_\_

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said )  
**Maxwell Stewart Kennedy** )  
as his deed in the presence of [Redacted]

Signature of Witness ..... [Redacted]

Name ..... [Redacted]

Address ..... [Redacted]

..... [Redacted]

Occupation ..... [Redacted]

**FOR THE SECOND VERGE OWNER:**

**Signed and delivered** by the said )  
**Euan Stewart Kennedy** )  
as his deed in the presence of [Redacted]

Signature of Witness ..... [Redacted]

Name ..... [Redacted]

Address ..... [Redacted]

..... [Redacted]

Occupation ..... [Redacted]

**Signed and delivered** by the said )  
**Shuna Mackinnon Dickson** )  
as her deed in the presence of [Redacted]

Signature of Witness ..... [Redacted]

Name ..... [Redacted]

Address ..... [Redacted]

..... [Redacted]

Occupation ..... [Redacted]



**SCHEDULE 1  
OBLIGATIONS ENTERED INTO WITH UDC**

The Owners covenant with UDC as follows:

**PART 1  
AFFORDABLE HOUSING**

**1 GENERAL**

- 1.1 To construct the Affordable Housing Units on the Affordable Housing Land in accordance with the approved Affordable Housing Plan or such other plan as may be agreed with UDC from time to time
- 1.2 The Affordable Housing Units and First Homes Housing shall comprise not less than 40% of the total of all Dwellings constructed in accordance with the Permission PROVIDED THAT any fraction of a unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
- 1.3 That 5% of the Affordable Housing Units shall be wheelchair adaptable unless otherwise agreed in writing with UDC PROVIDED THAT any fraction of a Unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
- 1.4 Prior to the Occupation of the first (1st) Open Market Housing Unit the Owners shall:  
  
EITHER
  - (a) transfer the whole of the Affordable Rent Housing and Shared Ownership Housing as a freehold estate (proof of which is to be supplied to UDC if requested);OR
  - (b) complete a binding agreement with an Approved Body (documentary proof of which to be supplied to UDC if requested) for the completion of the Affordable Rent Housing and Shared Ownership Housing and the transfer of the Affordable Rent Housing and Shared Ownership Housing .
- 1.5 To procure that the terms of any transfer pursuant to paragraph 1.4 above shall include a covenant that the Approved Body shall comply with the terms of this Schedule 1 Part 1.
- 1.6 Prior to first Occupation of 75% of the Open Market Housing Units to be constructed in accordance with the Permission the Affordable Rent Housing and Shared Ownership Housing shall be substantially completed and ready for Occupation and transferred to an Approved Body as a freehold estate (if not already transferred in accordance with paragraph 1.4 above) and the First Homes Units shall be substantially completed and available for Occupation.
- 1.7 After the substantial completion of the Affordable Housing Units no Affordable Housing Unit (save for the First Homes) shall be Occupied unless in respect of the Affordable Housing Units concerned there is compliance with the following (which for the avoidance of any doubt does not apply to First Homes):
- 1.8 Upon completion of the Affordable Housing Units and thereafter the Approved Body will allocate each Affordable Housing Unit to a Nominated Person provided by the Council in accordance with the following provisions:
  - 1.8.1 Not later than twenty (20) Working Days from the date of completion of each Affordable Housing Unit or a notice from a tenant of an Affordable Rented Unit that he wishes to relinquish his tenancy or a leaseholder of a Shared Ownership Unit wishes to sell his interest of a Shared Ownership Unit the Approved Body will give notice thereof to the Council as regards the Affordable Housing Unit;
  - 1.8.2 Within twenty (20) Working Days or such other time as is agreed between the Approved Body and UDC of receiving the notice from the Approved Body under the provisions of paragraph 1.8.1 UDC will give details of the Nominated Person for each Affordable Housing Unit to the Approved Body

- 1.8.3 Upon receiving details of the Nominated Person from the Council the Approved Body will within twenty (20) Working Days or such other time as is agreed between the Approved Body and the Council offer to grant the tenancy of the Affordable Rented Unit to the Nominated Person or the transfer and lease of any Shared Ownership Unit to the Nominated Person
- 1.8.4 Thereafter the Approved Body shall comply with the requirements of UDC as to the transfer and lease of the Shared Ownership Unit to the Nominated Person.
- 1.9 If UDC fails to give details of a Nominated Person under the provisions of paragraph 1.8.2 the Approved Body shall have the right to grant an Affordable Rented Unit tenancy or a transfer and lease of a Shared Ownership Unit to any Eligible Person who is considered by the Approved Body to be in need of an Affordable Housing Unit
- 1.10 Where UDC fails to give details of a Nominated Person under the provisions of paragraph 1.8.2 and the Approved Body does not have notice or details of an Eligible Person who it can nominate or house pursuant to paragraph 1.9 above the Approved Body may grant a tenancy of an Affordable Rented Unit or a transfer and lease of a Shared Ownership Unit to any person who it considers to be in need of an Affordable Housing Unit and who complies with its letting policy and/or the Allocations Policy
- 1.11 In respect of any of the Affordable Rented Units becoming vacant after the initial allocation following the completion of the Affordable Housing Units UDC shall in accordance with paragraph 1.8. above be given the sole opportunity by the Approved Body to nominate the Nominated Persons up to a maximum of 75% (seventy-five per cent) of such vacant Affordable Rented Units
- 1.12 The terms of the tenancy agreements for the Affordable Rented Units and the terms of the transfers and leases of the Shared Ownership Units shall be in accordance with the regulations and guidance of Homes England
- 1.13 The Approved Body will not:
- 1.13.1 Subject to paragraph 1.13.2 below transfer the freehold or leasehold interest in the Land on which the Affordable Housing Units are constructed or any Affordable Housing Unit (save for a transfer of the freehold interest or long leasehold interest of an Affordable Housing Unit to an occupier of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the freehold interest or long leasehold interest or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right) to any person firm or company other than an Approved Body and the transfer to the Approved Body shall include a covenant that the Approved Body comply with the terms of this Deed;
- 1.13.2 Sell let or dispose (except by way of legal charge) of any Affordable Housing Unit or allow or permit or suffer any Affordable Housing Unit to be sold let or disposed of other than in accordance with paragraphs 1.8 to 1.12 of this Schedule.
- 1.14 The Approved Body will give UDC one month's written notice of the intended transfer of the freehold or leasehold interest in the Affordable Housing Land or of any Affordable Housing Unit to another Approved Body. For the avoidance of doubt this does not include the transfer of the freehold or leasehold interest in an Affordable Housing Unit to an occupier of a Shared Ownership Unit or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right.
- 1.15 If the Affordable Housing Units are vested or transferred to another provider pursuant to a proposal made by the Homes England pursuant to Section 152 of the Housing and Regeneration Act 2008 then the provisions of this Deed shall continue (notwithstanding paragraph 1.12 above) in respect of such other provider
- 1.16 For the purposes of this Schedule only the expression 'transfer' or 'transferred' shall mean a transfer of the freehold or grant of a lease with a term of not less than 125 years of the Affordable Housing Units or an agreement for sale or lease agreed with the Approved Body that has been unconditionally released for completion by the Owners (unless otherwise agreed with UDC)
- 1.17 For the purposes of this Schedule only Disposal shall not include an Exempt Disposal

- 1.18 That subject to the provisions of this Deed the Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing
- 1.19 To serve on UDC Notice not less than 15 Working Days after the first Occupation of 75% of the Open Market Housing Units
- 1.20 The transfers of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be with vacant possession
- 1.21 The transfer deeds for the transfer of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be prepared by the Owners and shall contain:
  - 1.21.1 a grant by the Owners 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 Units
  - 1.21.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development and the beneficial use and enjoyment of the remainder of the Land and
  - 1.21.3 such other covenants as the Owners may reasonably require for the maintenance of the Development once it is completed and the preservation of the appearance thereof

**PART 2  
FIRST HOMES**

**1 FIRST HOMES**

- 1.1 Four (4) of the Dwellings on the Land shall be identified reserved and set aside as the First Homes Units in accordance with the Affordable Housing Plan and shall be retained as First Homes Housing in perpetuity subject to the terms of this Schedule and shall not be visually distinguishable from the Open Market Housing Units based upon their external appearance or of an inferior internal specification to the Open Market Housing Units provided that variations to the internal specifications of the First Homes shall be permitted and further provided that the requirements of this paragraph shall not apply to a First Homes owner.
- 1.2 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:
  - 1.2.1 the Eligibility Criteria (National); and
  - 1.2.2 the Eligibility Criteria (Local);

Provided that if after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) paragraph 1.2.2 shall cease to apply;
- 1.3 Subject to paragraphs 1.6-1.13 no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a mortgagee.
- 1.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:
  - UDC has been provided with evidence that
    - (a) the intended purchaser meets the Eligibility Criteria (National) and meets the Eligibility Criteria (Local) (if applicable);
    - (b) the Dwelling is being Disposed of as a First Home at the Discount Market Price; and
    - (c) the transfer of the First Home includes:
      - (i) a definition of the 'Council' which shall be 'Uttlesford District Council';

- (ii) a definition of 'First Homes Provisions' in the following terms:

*'means the provisions set out in Schedule 1 Part 2 of the S106 Agreement a copy of which is attached hereto as the Annexure.*

- (iii) a definition of 'S106 Agreement' in the following terms:

*'the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [ ] between (1) Uttlesford District Council (2) Essex County Council (3) Weston Homes (4) Euan Stewart Kennedy, Shuna Mackinnon Dickson Mark Kennedy Williams, Andrew Mackinnon Morris and Maxwell Stewart Kennedy (5) Euan Stewart Kennedy, Shuna Mackinnon Dickson and (6) HSBC Corporate Trustee Company (UK) Limited '*

- (iv) a provision that the Land is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the Property or any part of it other than in accordance with the First Homes Provisions;

- (v) a copy of the First Homes Provisions in an Annexure and

UDC has issued the Compliance Certificate and UDC hereby covenants that it shall issue the Compliance Certificate within twenty (20) Working Days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 1.4 and 1.5 have been met.

- 1.5 On the first Disposal of a First Homes Unit to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

*'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by Uttlesford District Council of Council Offices, London Road, Saffron Walden CB11 4ER or their conveyancer that the provisions of clause XX (the First Homes Provisions) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition'*

- 1.6 The owner of a First Homes Unit (which for the purposes of this clause shall include the Developer) may apply to UDC to Dispose of it other than as First Homes Housing on the grounds that either:

- 1.6.1 the Dwelling has been actively marketed as First Homes Housing for six (6) months (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to practical completion) and all reasonable endeavours have been made to Dispose of the Dwelling as First Homes Housing but it has not been possible to Dispose of that Dwelling as First Homes Housing; or

- 1.6.2 requiring the owner of a First Homes Unit to undertake active marketing for the period specified in paragraph 1.6.1 before being able to Dispose of the Dwelling other than as First Homes Housing would be likely to cause the owner of the First Homes Unit undue hardship

- 1.7 Upon receipt of an application served in accordance with paragraph 1.6 UDC shall have the right (but shall not be required) to direct that the relevant Dwelling is Disposed of to it at the Discount Market Price

- 1.8 If UDC is satisfied that either of the grounds in paragraph 1.6 above have been made out it shall confirm in writing within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.6 that the relevant Dwelling may be Disposed of:

- 1.8.1 to UDC at the Discount Market Price; or

- 1.8.2 (if UDC confirms that it does not wish to acquire the relevant Dwelling) other than as a First Homes Unit

and if the Council fails to issue such confirmation then it shall be deemed to have confirmed that the relevant Dwelling may be disposed of other than as a First Homes Unit

- 1.9 and on the issue of that written confirmation or deemed issue thereof the obligations in this Deed which apply to First Homes Housing shall cease to bind and shall no longer affect that Dwelling apart from paragraph 1.12 which shall cease to apply on receipt of payment by UDC where the relevant Dwelling is Disposed of other than as a First Homes Unit
- 1.10 If UDC does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 1.6 above have been made out then it shall within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.6 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of the Dwelling as a First Homes Unit and the timescale (which shall be no longer than six (6) months)
- 1.11 If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Homes Unit he may serve notice on UDC following which UDC must within twenty (20) Working Days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Homes Unit
- 1.12 Where a Dwelling is Disposed of other than as a First Homes Unit or to UDC at the Discount Market Price the owner of the First Homes Unit shall pay to UDC forthwith upon receipt of the proceeds of sale the First Homes Contribution
- 1.13 Upon receipt of the First Homes Contribution UDC shall:
  - 1.13.1 within twenty (20) Working Days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 1.5 where such restriction has previously been registered against the relevant title
  - 1.13.2 apply all monies received towards the provision of Affordable Housing within the District
- 1.14 Any person who purchases a First Homes Unit free of the restrictions relating to First Homes Housing in this Deed pursuant to the provisions in paragraphs 1.6 to 1.12 shall not be liable to pay the Additional First Homes Contribution to UDC.
- 1.15 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 1.16-1.18 below.
- 1.16 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies UDC in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.
- 1.17 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies UDC and UDC consents in writing to the proposed letting or sub-letting. UDC covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below
  - (a) the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment or due to redundancy
  - (b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the for the duration of the letting or sub-letting;
  - (c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
  - (d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;

- (e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
  - (f) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person
- 1.18 A letting or sub-letting permitted pursuant to paragraph 1.16 or 1.17 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 1.19 Nothing in this Deed prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.
- 1.20 All First Homes shall:
- 1.20.1 be constructed to the Development Standard current at the time of the Planning Permission approval; and
- 1.20.2 no less than the standard applied to the Open Market Housing Units.

### PART 3 MORTGAGEES AND EXCLUSIONS

#### 1 MORTGAGEES

It is hereby agreed and declared

- 1.1 The affordable housing obligations and restrictions contained in this deed (including for the avoidance of doubt in this Part) shall not bind:
- 1.1.1 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 and/or the Affordable Housing Land or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT such mortgagee or chargee or Receiver has first complied with the provisions of paragraph 1.2 of this Part or
- 1.1.2 a Protected Tenant or
- 1.1.3 a 100% Staircaser or
- 1.1.4 any mortgagee or chargee or receiver of a 100% Staircaser or Protected Tenant or
- 1.1.5 any mortgagee or chargee or receiver of an occupier of an Affordable Housing Unit and
- 1.1.6 any person or body deriving title through or from any of the parties mentioned in paragraphs 1.1.1-1.1.5 above
- 1.2 Any mortgagee or chargee or Receiver claiming the protection granted by paragraph 1.1.1 above must first:
- 1.2.1 give written notice to UDC of its intention to dispose of the Affordable Housing Units and/or the Affordable Housing Land specified in the notice and thereafter shall give an opportunity
- 1.2.2 to another Approved Body (the name and address of which shall be given to UDC) for a period of one (1) month from the date of the written notice to purchase the specified Affordable Housing Units and/or the Affordable Housing Land and thereafter
- 1.2.3 to UDC for a further period of two (2) months to purchase the specified Affordable Housing Units and/or the Affordable Housing Land

in either case 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

- 1.2.4 if such disposal has not completed on the expiration of both periods referred to above (and for the avoidance of doubt totalling a three-month period from the date of the written notice), the mortgagee or chargee or Receiver shall be entitled to dispose of the specified Affordable Housing Units and/or the Affordable Housing Land free from the affordable housing provisions set out in this Part, which provisions shall determine absolutely
- 1.2.5 During the three-month period from the date of the written notice, the mortgagee or chargee or Receiver shall use reasonable endeavours to reply to enquiries raised by UDC or by an Approved Body in relation to the specified Affordable Housing Units and/or the Affordable Housing Land as expeditiously as possible so as to ensure the completion of any disposal within the said three-month period.
- 1.2.6 In respect of the First Homes Housing once notice in accordance with para 1.2.1 above has been given the mortgagee or chargee or Receiver shall be free to sell that First Home at its full Market Value Provided That it shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to UDC the First Homes Contribution and UDC shall within fifteen (15) Working Days of such receipt provide a completed application to enable the removal of the restriction on title set out at paragraph 1.5 of Part 2 above;

#### **PART 4 PUBLIC OPEN SPACE**

The Owners covenant with UDC as follows:

- 1.1 Prior to first Occupation of the Development to submit the Public Open Space Scheme and Public Open Space Management Plan to UDC for approval and not to allow or permit the first Occupation of the Development until the Public Open Space Scheme and Public Open Space Management Plan has been submitted to and approved in writing by UDC.
- 1.2 To provide the Public Open Space in accordance with the approved Public Open Space Scheme and Public Open Space Management Plan.
- 1.3 Prior to the Occupation of more than 70% of the Open Market Housing Units in any phase of the Development the Owners shall apply for the Provisional Certificate from UDC in that phase and shall not cause or permit Occupation of more than 70% of the Open Market Housing Units in that phase until a Provisional Certificate for all of the Public Open Space in that phase has been issued by UDC.

#### **PROVISIONAL CERTIFICATE**

- 2 After the Public Open Space (or part/phase thereof) has been provided laid out and landscaped in accordance with the Public Open Space Scheme to apply to UDC in writing requesting issue of the Provisional Certificate and for the avoidance of doubt Provisional Certificates may be issued for the whole of the Public Open Space or in relation to parts/phases of Public Open Space as they are provided and laid out.
- 3 Within twenty (20) Working Days after a first inspection of the Public Open Space (or part/phase thereof) by UDC if it considers that the Public Open Space (or part/phase thereof) has not been provided laid out and landscaped satisfactorily in accordance with the Public Open Space Scheme the UDC shall provide the Owners with details of any defects and the Owners shall at their own expense rectify any deficiencies and carry out such works or operations as may reasonably be required by UDC to bring the Open Space (or part/phase thereof) up to the standard required by the Public Open Space Scheme and the procedures referred to in paragraphs 2 and 3 of Part 4 of this Schedule shall be repeated as often as necessary until the Provisional Certificate is issued save that the UDC must report any defects within ten (10) Working Days of any subsequent inspection otherwise it shall be deemed that the Provisional Certificate is issued by the UDC and within ten (10) Working Days of deemed approval UDC shall provide the Provisional Certificate.
- 4 From the date of issue of the Provisional Certificate for the Public Open Space (or part/phase thereof) the Owners shall make the Public Open Space (or part/phase thereof) and all the facilities on the

Public Open Space (or part/phase thereof) available for use by the public as an open amenity or recreation area for the lifetime of the Development and shall allow the public to have unrestricted access at all times to the Public Open Space save for temporary or emergency closures for maintenance of the Public Open Space.

- 5 From the date of issue of the Provisional Certificate for the Public Open Space (or part/phase thereof) the Owners covenant:
  - 5.1 not to use or permit the use of the Public Open Space for any purpose other than as a public recreation or amenity area save the Owners may grant such rights to any statutory undertaker as the Owners consider necessary on under or over the Public Open Space; and
  - 5.2 to manage and maintain the Public Open Space during the Public Open Space Maintenance Period (including maintenance of all soft and hard landscaping built features lighting drainage and any other features on the Open Space) and to make good to the reasonable satisfaction of UDC any damage or defects in the Open Space arising during the Public Open Space Maintenance Period.

#### FINAL CERTIFICATE

- 6 At the expiration of the Public Open Space Maintenance Period to apply to UDC for the issue of the Final Certificate for the Public Open Space (or part/phase thereof).
- 7 If after inspection of the Public Open Space (or part/phase thereof) by UDC (acting reasonably) it considers that the Public Open Space (or part/phase thereof) has not been maintained satisfactorily in accordance with the Public Open Space Scheme and Public Open Space Management Plan the Owners shall at their own expense rectify any deficiencies and carry out such works or operations as may reasonably be required by UDC to bring the Public Open Space (or part/phase thereof) up to the standard required by the Public Open Space Scheme and Public Open Space Management Plan and this procedure shall be repeated as often as necessary until the Final Certificate is issued provided always that any dispute may be referred to the Expert in accordance with the provisions of cl 15.

#### TRANSFER OF THE OPEN SPACE

- 8 Three (3) months prior to completion of the Public Open Space Maintenance Period (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) the Owners shall provide to UDC its calculation of the Public Open Space Commuted Sum such calculation to be agreed between the Owners and UDC.
- 9 Following the agreement required by paragraph 8, the Owners shall offer to transfer the Public Open Space to the Parish Council at a sum to be proposed by the Owners (**"the Offer"**). The Owners shall make the Offer prior to completion of the Public Open Space Maintenance Period (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) and the Parish Council shall confirm in writing whether it accepts the Offer within 28 Working Days of receipt 'the Acceptance Period'.
- 10 If the Parish Council confirms in writing that it accepts the Offer within the Acceptance Period the Owners shall transfer to the Parish Council the Public Open Space (save for any parts of the Public Open Space required for access to the Land) within 3 (three) months of the issue of the Final Certificate (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) in accordance with the terms of this Deed and shall pay the Public Open Space Commuted Sum to the Parish Council upon completion of the transfer of the Public Open Space to the Parish Council.
- 11 If the Parish Council confirms in writing that it does not accept the Offer or fails to respond to the Offer within the Acceptance Period or if the Owners and UDC do not agree the Public Open Space Commuted Sum prior to the expiration of the Acceptance Period the Owners shall transfer the Public Open Space (save for any parts of the Public Open Space required for access to the Land) to the Management Company in accordance with the terms of this Deed and for the avoidance of doubt the Public Open Space Commuted Sum shall not be payable.
- 12 In the event that the circumstances pursuant to paragraph 11 of Part 5 of this Deed occur, the Owners shall prior to the transfer of the Public Open Space (save for any parts of the Public Open Space required for access to the Land) to a Management Company submit details of the Management



Company to UDC for approval in writing and shall not transfer the Public Open Space to the Management Company until the details of the Management Company have been approved by UDC in writing such approval or reasons why the approval is not given to be issued by UDC within twenty (20) Working Days of submission of the details and if the Council fails to respond within twenty (20) Working Days then such approval shall be deemed to have been given.

- 13 The details of any Management Company referred to in paragraph 12 above shall include (where applicable):
  - 13.1 its corporate structure
  - 13.2 its registered office and correspondence address
  - 13.3 its directors and officers (where known)
  - 13.4 The means of funding the Management Company in respect of the Public Open Space to demonstrate that the Public Open Space is able to be maintained by the Management Company in perpetuity including details of any service charge to be paid by residents of the Development.
  - 13.5 Details of insurances as shall be appropriate in respect of the use of the Public Open Space managed by the Management Company and against damage by those comprehensive risks as are reasonable to insure against.
- 14 After UDC has issued the Final Certificate for the Public Open Space to transfer the Public Open Space to the Management Company
- 15 Any transfer the Public Open Space to the Management Company or the Parish Council shall be free of incumbrances (other than as set out below) but for the avoidance of doubt the transfer shall:
  - 15.1 be a transfer of the entire freehold interest of the Public Open Space and LAP and the (SAVE FOR any part of the Public Open Space required by the Owners for access to any part of the Land at the Owners' absolute discretion);
  - 15.2 be free from any pre-emption or option agreement;
  - 15.3 be free from any mortgage, charge, lien or other such incumbrance;
  - 15.4 include all usual and necessary rights of way with or without vehicles;
  - 15.5 be subject to rights of access to the public in perpetuity;
  - 15.6 reserve any usual and necessary rights to use existing services and to lay and use new roads and services together with any rights of entry to inspect, repair, renew, cleanse and maintain the same along with rights of entry for maintenance and repair of adjoining land and premises;
  - 15.7 not require consideration in excess of one pound (£1) for either area;
  - 15.8 contain covenants in favour of UDC and pursuant to Section 33 of the Local Government (Miscellaneous provisions) Act 1982 to the effect that the Management Company or Parish Council as the case may be shall maintain, repair, replace as necessary and generally manage the Public Open Space and LAP in strict accordance with the Public Open Space Management Scheme and the principles of good estate management to the intent that the Public Open Space and LAP remains fit for purpose and available for safe use by the public in perpetuity;
  - 15.9 include provisions securing the sole use of the Public Open Space (including the LAP) for the recreational enjoyment of the public as amenity open space; and
  - 15.10 include a declaration that no area of the Public Open Space (including the LAP) is dedicated as public highway or public footpaths other than those public footpaths already existing that are been retained on the Land nor that any use by the public of any part of the Public Open Space (including the LAP) shall be taken in any way as an intention by the Owners to dedicate the same as highway.

- 16 The Owners further covenant that they shall continue to maintain the Public Open Space in a clean and tidy condition until the transfer to the Management Company or the Parish Council has been completed.
- 17 The Owners covenant as follows:
- 17.1 Prior to 90% Occupation of the Development or no more than 12 (twelve) months following the issue of the Final Certificate by UDC (whichever is the earliest):
- (a) the Owners shall transfer the Public Open Space to the Management Company; and
  - (b) not to cause or permit 90% Occupation of the Development until the earlier of the transfer of the Public Open Space to the Management Company or 12 months of the provision of the Final Certificate
- 17.2 To provide to UDC a copy of the transfer for the Public Open Space to the Management Company within 28 days following completion of the transfer.
- 18 The Owners further covenant:
- 18.1 Subject to sub-paragraphs 18.2 and 18.3 below the obligations under this Part 4 of Schedule 1 shall not be binding upon any owner occupier tenant or their mortgagees or chargees or any successor in title of the respective owner occupier tenant or their mortgagees or chargees of any of the Dwellings; and
- 18.2 Where the Public Open Space is transferred to the Management Company each owner occupier or of any Dwelling (or in the case of an Affordable Rented Unit and a Shared Ownership Unit the Registered Provider) or their mortgagees or chargees or their respective successors in title shall be liable for a proportionate sum of the total annual cost of carrying out the Management Company Responsibilities and associated costs which may be attributable to that residential plot (such proportionate amount to be calculated as a ratio of that residential plot area to the total aggregated residential plot areas permitted by the Permission); and
- 18.3 Pursuant to sub-paragraph 18.2 above to pay the proportionate sum of the total annual cost of carrying out the Management Company Responsibilities and associated costs which may be attributable to any Dwelling in respect of which a first sale or first occupation or first letting has not occurred following transfer of the Public Open Space to the Management Company (such proportionate amounts to be calculated as a ratio of such residential plot areas to the total aggregated residential plot areas permitted by the Permission); and
- 18.4 For the avoidance of doubt each liability of the Owners pursuant to sub-paragraph 18.3 above in respect of any Open Market Housing Unit that has not been subject to a first sale or first occupation or first letting following transfer of the Public Open Space to the Management Company shall cease absolutely upon the first sale or first occupation or first letting of each such residential plot; and
- 18.5 Procure that upon any sale lease or transfer of title of any Dwelling that a suitable covenant supported by restriction is entered on the Proprietorship Register at HMLR of every Dwelling to ensure that the obligation to contribute towards the Management Company Responsibilities can be enforced by the Management Company in perpetuity such as the following restriction (or such alternative wording as may be required by the Land Registry's standard form of restriction from time to time or as may otherwise be required by the Management Company):

*'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate without a certificate signed by [insert name of Management Company] or its conveyancer that the provisions of clause [ ] of the transfer dated [ ] and made between [ ] have been complied with'*

## **PART 5 HEALTH CARE CONTRIBUTION**

- 1
- 1.1 The Owners shall pay the Health Care Contribution to UDC in the following instalments:
- 1.1.1 50% of the Health Care Contribution prior to the Occupation of 50% of the Dwellings; and

- 1.1.2 the residual 50% of the Health Care Contribution prior to the Occupation of the final Dwelling.
- 1.2 The Owners shall not permit or allow the Occupation of more than 50% of the Dwellings until 50% of the Health Care Contribution has been paid to UDC and shall not permit or allow the Occupation of the final Dwelling until the residual 50% of the Health Care Contribution has been paid to UDC.

**PART 6  
OBLIGATIONS UNDERTAKEN BY UDC**

UDC hereby covenants with the Owners as follows:

- 1 To place the Healthcare Contribution in an interest bearing account on receipt and in the event of repayment UDC shall repay to the person who paid the Healthcare Contribution any part which remains unexpended together with any accrued interest thereon
- 2 To keep an up-to-date record of all payments from the Healthcare Contribution and if some or all of the monies are not used or committed for the specified purposes within five years of payment of those monies, to repay those unexpended or uncommitted monies to the person who paid the Healthcare Contribution along with any interest accrued thereon prior to the expiry of 42 days from the end of the five-year period referred to
- 3 UDC hereby covenants with the Owners to use all sums received within the administrative area in which it operates and for the purposes specified in this Agreement
- 4 UDC shall provide the Owners with such evidence as the Owners shall reasonably require in order to confirm the expenditure of the sums paid under this Agreement
- 5 At the written request of the Owners UDC shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed
- 6 If UDC refuses any request for approval under any of the provisions in this Agreement it shall simultaneously provide the reasons for that refusal in writing and shall set out the actions or works necessary to enable approval to be issued

## SCHEDULE 2

### OBLIGATIONS ENTERED INTO WITH THE COUNTY COUNCIL

1 In this Schedule the following words and expressions shall have the following meanings:

**'Approved Highway Works Scheme'** shall mean the Highway Works Scheme as approved by the County Council for the delivery and completion of the Highway Works and including the surfacing, kerbing, lining and drainage of the highways and any other works normally associated with the construction of a highway or required as a result of the County Council's inspections

**'Completion Notice'** means the notice served by the Owners on the County Council pursuant to paragraph 1.3 of Part 6 of this Schedule 2

**'Education Contribution'** means the sum of the Primary Education Contribution and the Secondary Education Contribution and the Secondary School Transport Contribution

**'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 relevant index at the time of use

**'Education Purposes'** means the Primary Education Purposes and the Secondary Education Purposes and the Secondary School Transport Purposes

**'Flat'** means a Dwelling that occupies a single floor and /or does not benefit from private open space for the exclusive use of the residents of the Dwelling and no other persons

**'House'** means a Dwelling that does not meet the definition of a Flat

**'Highway Index'** shall mean the Department for Business Innovation and Skills Price Adjustment Formulae Indices (Civil Engineering) Series 2 (BIS) or in the event that the BIS is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

**'Highway Index Point'** shall mean a point on the most recently published edition of the Highway Index at the time of use

**'Jacks Lane Commuted Sum'** shall mean the sum of £157,250 (one hundred and fifty seven thousand two hundred and fifty pounds) to which sum the Relevant Highway Indexation shall be added to be used towards the for maintenance of the improved surfacing, a commuted sum for maintenance of the new lighting scheme and including any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment and the provision of or alteration to street lighting road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of ECC's inspections

**'Highway Works'** shall mean the following:

- (a) shall mean the improvements to restricted Byway 48/25 (Jacks Lane from Burgattes Road to the point where it joins the proposed internal footway/cycle within the Development) as shown indicatively (subject to detailed design) on the Highway Works Plan to make it suitable for every day all weather use for pedestrians cyclists people with mobility impairment and equestrian use including, but not limited to, full depth construction, all weather surfacing, lighting, signing, alterations to statutory undertakers equipment, ditch crossing, infrastructure to stop use by motor vehicles, visibility splays and measures to prevent use by motor vehicles, appropriate ecological mitigation and any associated ancillary and/or incidental works including any lighting drainage or other infrastructure works and all future maintenance making good and repairs thereto;

- (b) Installation of associated lighting columns in accordance with the Approved Highway Works Scheme as shown in principle on the Highway Works Plan together with details of arrangements for the maintenance of vegetation around the new lighting columns to keep them clear of obstruction or interference;
- (c) The provision of two bus stops on the B1256 in the vicinity of the Takeley Business Centre (one westbound, one eastbound) which shall comprise (but not be limited to) the following facilities: raised kerbs, bus stop markings, flags, timetable casings

and including any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of the County Council's inspections

**'Highway Works Agreement(s)'** means an agreement or agreements entered into under section 38 and section 278 of the Highways Act (and all other relevant enabling powers that the County Council may reasonably require to be used) to regulate the carrying out of, the dedication of and the adoption of the Highway Works and these agreement(s) may include but not be limited to:

- (a) the securing of a bond to ensure that third party funds are available to complete the Highway Works to the satisfaction of the County Council in the event that the Owners fail to do so;
- (b) the payment of the works inspection fees, maintenance fees, special orders fees, supervision fees and any other such reasonable fees as Highways England and/or the County Council shall require;
- (c) the payment of the legal and other fees associated with the drafting negotiating and completion of the Highway Works Agreement;
- (d) the preparation and advance approval of works drawings and traffic management measures;
- (e) the certification and maintenance of the Highway Works;
- (f) the regulating of the issue of a works licence to enable the Highway Works to be carried out;
- (g) the securing of an indemnity or bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity or bond for liability issues as the County Council shall reasonably require;
- (h) clauses dealing with dedication of land as public highway;
- (i) the standards and procedures for carrying out the Highway Works; and
- (j) traffic regulation orders and statutory processes

**'Highway Works Plan'** shall mean the plans attached at **Annex 2** showing the indicative layout of the Highways Works (Plan WH202.WST.P1.ZZ.DR.PL.10.50 and Plan WH202.WST.P1.ZZ.DR.PK.10.51)

**'Highway Works Scheme'** shall mean a detailed scheme of Highway Works submitted in writing by the Owners to the County Council prior to Implementation of the Development for the written approval of the County Council detailing the Highway Works proposed to be completed and timetable for completion of such Highway Works

**'Library Contribution'** means the sum of seventy-seven pounds and eighty pence (£77.80) per Dwelling to which sum the Relevant Library Indexation shall be added

**'Library Contribution Purposes'** means the use of the Library Contribution towards the upgrading of existing facilities at local libraries to include, but not limited to, additional furniture, technology and stock

**'Library Index'** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**'Library Index Point'** means a point on the most recently published edition of the Library Index at the time of use

**'Notice of Implementation'** means the written notice served pursuant to paragraph 1.1 of Part 6 of this Schedule 2

**'Payment Notice'** means a written notice advising of a proposed payment served pursuant to paragraph 1.2 of Part 6 of this Schedule 2

**'Primary Education Contribution'** means the Primary Pupil Product multiplied by the cost generator of nineteen thousand four hundred and twenty-five pounds sterling (£19,425) to which the Relevant Education Indexation shall be added

**'Primary Education Purposes'** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or childcare of children between the ages of 4 to 11 (both inclusive) and including those with special educational needs within a 3 mile radius of the Development and or at a facility that in the opinion of the County Council serves the Development and including the reimbursement of capital funding for such provision made by the County Council and or the County Council's nominee in anticipation of the Primary Education Contribution

**'Primary Pupil Product'** means the sum of the Qualifying Flats multiplied by 0.15 plus the Qualifying Houses multiplied by 0.3

**'Qualifying Flats'** means the number of Flats that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms

**'Qualifying Houses'** means the number of Houses that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms

**'Qualifying Housing Units'** means the Qualifying Houses and Qualifying Flats

**'Relevant Education Indexation'** means:

- (a) In relation to the Secondary School Transport Contribution the amounts that the Owners shall pay with and/or agree 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 in the Education Index between the Education Index Point pertaining to April 2021 and Education Index Point pertaining to the date payment is made to the County Council; and
- (b) In relation to the Primary Education Contribution and the Secondary Education Contribution the amounts that the Owners shall pay with and/or agree 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 in the Education Index between the Education Index Point pertaining to January 2023 and Education Index Point pertaining to the date payment is made to the County Council

**'Relevant Highway Indexation'** means the amount that the Owners shall pay with and in addition to the Highway Contribution and in addition to the Jacks Lane Commuted Sum paid that shall equal a sum calculated by taking the amount of the Highway Contribution and the Jacks Lane Commuted Sum being paid and multiplying this amount by the percentage change shown in the Highway Index between the Highway Index Point pertaining to December 2023 and the Highway Index Point pertaining to the date the payment is made to the County Council

**'Relevant Library Indexation'** means the amount that the Owners shall pay with and in addition to the Library Contribution paid that shall in each case equal a sum calculated by taking the amount of the Library Contribution being paid and multiplying this amount by the percentage change shown in the Library Index between the Library Index Point pertaining to April 2020 and the date of the most

recent Library Index Point published in relation to the date the payment is due to be made to the County Council

**'Relevant Sustainable Transport Indexation'** means the amount that the Owners shall pay with and in addition to the Sustainable Transport Contribution paid that shall equal a sum calculated by taking the amount of the Sustainable Transport Contribution being paid and multiplying this amount by the percentage change shown in the Sustainable Transport Index between the Sustainable Transport Index Point pertaining to June 2023 and the Sustainable Transport Index Point pertaining to the date the payment is made to the County Council

**'Residential Travel Information Pack'** means a specific district or borough or city tailor-made booklet aimed at promoting the benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel and shall contain the following:

- (a) guidance and promotional material on the use of sustainable modes of travel;
- (b) details on walking, cycling, trains, buses, park & ride, taxis, car sharing, car clubs, electric vehicles, school transport and personalised journey planning services;
- (c) reference to travel websites, resources and support services for each mode of travel, information provided by the County Council and the Council;
- (d) details of local travel campaigns and networking/support groups; and
- (e) to include six one day travel vouchers for use with the relevant local public transport operator

**'Secondary Education Contribution'** means the Secondary Pupil Product multiplied by the cost generator of (insert amount) pounds sterling £26,717 (twenty-six thousand seven hundred and seventeen pounds sterling) to which sums the Relevant Education Indexation shall be added

**'Secondary Education Purposes'** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or childcare of children between the ages of 11 to 19 (both inclusive) and including those with special educational needs at Forest Hall School and or within a 3 mile radius of the Development and or at a facility that in the opinion of the County Council serves the Development and including the reimbursement of capital funding for such provision made by the County Council and or the County Council's nominee in anticipation of the Secondary Education Contribution

**'Secondary Pupil Product'** means the sum of the Qualifying Flats multiplied by 0.1 plus the Qualifying Houses multiplied by 0.2

**'Secondary School Transport Contribution'** means the Secondary Pupil Product multiplied by the cost generator of (five pounds) pounds sterling and (thirty pence) pence (£5.30) 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 is in secondary school) to which sums the Relevant Education Indexation shall be added

**'Secondary School Transport Purposes'** means the transportation of children generated by the Development to a secondary school with capacity

**'Sustainable Transport Contribution'** means the sum of £112,000 (one hundred and twelve thousand pounds sterling) payable to the County Council to which sum the Relevant Sustainable Transport Indexation shall be added

**'Sustainable Transport Contribution Purposes'** means the use of the towards improvements to enhance bus services between the Development and local centers including Bishops Stortford, local amenities and/or Stansted Airport improving the frequency, quality and/or geographical cover of bus routes that serve the site and/or local bus infrastructure and/or the design and implementation of a cycle route between Takeley and Stansted Airport and shall include the reimbursement of capital funding for such provision made by the County Council in anticipation of the receipt of the Sustainable Transport Contribution

**'Sustainable Transport Index'** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**'Sustainable Transport Index Point'** means a point shown on the Sustainable Transport Index indicating a relative cost at a point in time

**'Sustainable Travel Index'** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**'Index'** means the most recently published edition at the time of use of each index used under the terms of this Deed to calculate any amount to be paid with or in addition to a Contribution due under the terms of this Deed to add to or reduce the Contribution to reflect changes in cost over time

**'Sustainable Travel Index Point'** means a point shown on the relevant Index indicating a relative cost at a point in time

**'Notice of Implementation'** means the written notice served pursuant to paragraph 1.1 of Part 3 of this Schedule

**'Payment Notice'** means a written notice advising of a proposed payment served pursuant to paragraph 1.2 of Part 3 of this Schedule

**'SONIA Rate'** means the Sterling Overnight Index Average an assessment of the rate of interest the County Council can expect to earn on investments through the British sterling market, the rate used being the average interest rate at which banks are willing to borrow sterling overnight from other financial institutions and other institutional investors and SONIA Rate shall be construed accordingly

**'Travel Vouchers'** means tickets/passes/ vouchers or other means of accessing transport or journey planning information as agreed with the County including the following as a minimum (six scratchcard bus tickets per household OR season ticket voucher) and/or (incentives for rail travel with the local rail operator) for each eligible member of the household AND access to an online tool to generate personalised travel plans using a home and destination postcode to provide details of different travel modes/options travel routes/maps and timetable information)

**'Unit Mix'** means the number of Qualifying Flats and the number of Qualifying Houses and the number of Dwellings that by definition shall not be counted as Qualifying Flats or Qualifying Houses.

## **PART 1 HIGHWAYS**

### **1 HIGHWAYS IMPROVEMENTS**

#### **The Highway Works**

- 1.1 The Owners covenant with the County Council as follows:
- 1.2 To submit the Highways Works Scheme to the county Council in writing prior to Implementation of the Development and not to cause allow or permit Implementation of the Development unless and until the Highways Works Scheme has been submitted to the County Council for their written approval;
- 1.3 to enter into a Highway Works Agreement for the Approved Highway Works Scheme prior to commencement of such works or such other timescale as shall be agreed in writing with the County Council PROVIDED always that the Owners shall enter into the Highway Works Agreement for the Approved Highway Works Scheme prior to first Occupation of any Dwellings on the Development;
- 1.4 to undertake and complete the Approved Highway Works Scheme prior to first Occupation of any Dwellings on the Development and in accordance with the Highway Works Agreement;
- 1.5 and not to Occupy allow cause or permit to be Occupied any Dwellings unless and until the Highway Works have been properly completed in accordance with the Highway Works Agreement and the



relevant certificate confirming such completion has been issued under the provisions of the Highway Works Agreement;

- 1.6 to pay the Jacks Lane Commuted Sum in accordance with the relevant Highway Works Agreement and prior to first Occupation of any Dwellings on the Development and not to cause allow permit first Occupation of any Dwellings on the Development unless and until the Jacks Lane Commuted Sum has been paid to the County Council in full; and
- 1.7 to maintain in perpetuity the vegetation around the new lighting columns to be installed as part of the Highway Works (b) along the restricted Byway to ensure the lighting columns are clear of obstruction or interference
- 2 The County Council shall not unreasonably withhold and or delay approval of the Highway Work Scheme.

## **PART 2 SUSTAINABLE TRANSPORT CONTRIBUTION**

- 1 The Owners hereby covenant with the County Council as follows:
  - 1.1 to pay the Sustainable Transport Contribution to the County Council prior to first Occupation of any Dwellings on the Development and not to cause permit or allow first Occupation of any Dwellings on the Development unless and until the Sustainable Transport Contribution has been paid to the County Council in full (100%);
  - 1.2 In the event that the Sustainable Transport Contribution is paid later than dates set out in paragraph 1.1 above of this Schedule then the amount of the Sustainable Transport Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the Sustainable Transport Index between the Sustainable Transport Index Point prevailing at the date the payment is due and the Sustainable Transport Index Point prevailing at the date of actual payment to the County Council multiplied by the Sustainable Transport Contribution due or if greater an amount pertaining to interest on the Sustainable Transport Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Sustainable Transport Contribution is received by the County Council; and
  - 1.3 In addition to the requirement of paragraph 1.2 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Schedule should not be received by the County Council by the date that the sum is due then the Owners hereby covenants to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 2 The County Council hereby covenants with the Owners to:
  - 2.1 place the Sustainable Transport Contribution when received into an interest-bearing account with a clearing bank and to utilize the same for the Sustainable Transport Contribution Purposes;
  - 2.2 upon receipt of a request in writing to do so to be received by the County Council from the Owners no sooner than the tenth (10<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full and no later than the eleventh (11<sup>th</sup>) anniversary of the same to return to the party who deposited the Sustainable Transport Contribution or any part of the Sustainable Transport Contribution that remains unexpended when such request in writing is received (together with interest accrued on the unexpended part) Provided Always that where a legally binding contract or obligation has been entered into by the County Council prior to the tenth (10<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full to make a payment in respect of the Sustainable Transport Contribution Purposes the unexpended part of the Sustainable Transport Contribution shall not be repaid until such payment is made and the unexpended part of the Sustainable Transport Contribution to be repaid (if any) shall not include such payment; and
  - 2.3 That upon receipt of a written request from the Owners prior to the eleventh (11<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full the County Council shall provide the Owners with a statement confirming whether the Sustainable Transport Contribution has been spent and if

the Sustainable Transport Contribution has been spent in whole or in part outlining how the Sustainable Transport Contribution has in whole or in part been spent.

- 3 It is hereby agreed that:
- 3.1 Any dispute in relation to how the Sustainable Transport Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in 2.3 above and shall clearly state the grounds on which it is disputed;
- 3.2 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 2.2 above or no valid dispute is raised by the Owners the Developer pursuant to paragraph 3.1 the Owners shall accept the Highway Contribution has been spent in full on the Highway Contribution Purposes as appropriate;
- 3.3 The County Council may utilise up to two percent (2%) of the total amount of the Sustainable Transport Contribution due under this Deed to a maximum of Two Thousand Six Hundred and Forty Five Pounds (£2,645) plus the Relevant Sustainable Transport Indexation for the purposes of scheme validation, programming, commissioning of works, scheme monitoring including site visits and meetings, budget control, governance and for the avoidance of doubt such purposes are agreed by the Owners to form part of the definition of use of the Sustainable Transport Contribution Purposes;
- 3.4 In the event the Sustainable Transport Contribution that is overpaid by the Owners 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 Sustainable Transport Contribution or have entered into a legally binding contract or obligation to spend the Sustainable Transport Contribution otherwise the County Council shall upon the Occupation of the final Unit on the Land or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

### **PART 3 TRAVEL PACKS**

- 1 The Owners hereby covenant with the County Council:
- 1.1 to submit a draft Residential Travel Information Pack (including Travel Vouchers) to the County for written approval prior to first Occupation of a Dwelling and not to cause or allow first Occupation of a Dwelling prior to the Residential Travel Information Pack (including Travel Vouchers) being submitted to and approved in writing by the County Council;
- 1.2 to provide the first occupier of each Dwelling with an approved Residential Travel Information Pack and Travel Vouchers prior to Occupation of any Dwelling and not to cause or permit Occupation of any Dwellings on the Development unless and until the Owners have provided the first occupiers with an approved Residential Travel Information Pack and Travel Voucher at the expense of the Owners.

### **PART 4 EDUCATION CONTRIBUTION**

- 1 The Owners hereby covenant with the County Council so as to bind their interest in the Site as follows:
- 1.1 to pay one hundred percent (100%) of the Education Contribution to the County Council prior to Implementation of Development;
- 1.2 not to cause allow or permit Implementation of Development unless and until one hundred percent (100%) the Education Contribution has been paid to the County Council in full;
- 1.3 In the event that the Education Contribution is paid later than dates set out in paragraph 1.1 and 1.2 then the amount of the Education Contribution or part thereof payable by the Owners 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 of payment is due and the Education Index Point prevailing at the date of actual payment multiplied by the Education Contribution due or if greater an amount pertaining to interest on the Education Contribution or part thereof due calculated at the SONIA Rate from the date of payment is due until the date payment of the Education Contribution is received by the County Council; and

- 2 In addition to the requirement of paragraph 1.3 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owners hereby covenant to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 3 The Notice of Implementation shall in addition to that information stipulated in paragraph 1.1 of Part 6 of this Schedule 2 to this Deed state the Unit Mix and in the event that the Unit Mix constructed or to be constructed should at any time differ from the Unit Mix notified to the County Council then the Owners shall serve on the County Council a further notice stating the revised Unit Mix within ten (10) Working Days of the revised Unit Mix being decided and in the further event that the Owners fails to serve any notice set out in this Paragraph 3 of this Schedule 2 the County Council may estimate and determine the Unit Mix as it sees fit acting reasonably.
- 4 The Payment Notice stipulated in paragraph 1.2 of Part 6 of this Schedule 2 shall state the Unit Mix on which the payment is to be based.
- 5 The Completion Notice stipulated in paragraph 1.3 of Part 6 of this Schedule 2 shall state the final Unit Mix.
- 6 The County Council hereby covenants with the Owners as follows:
  - 6.1 To place the Education Contribution when received into an interest-bearing account and to utilise the same solely for the Education Purposes;
  - 6.2 If requested in writing by the Owners no sooner than the tenth (10th) anniversary of the date that the Education Contribution is paid to the County Council in full but no later than one (1) year thereafter the County Council shall return to the party that made the payment of the Education Contribution any part of the relevant Education Contribution that remains unexpended when the Education Contribution is paid to the County Council in full (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT if the County Council is legally obliged to make a payment in respect of any Education Purposes the unexpended part of the Education Contribution shall not be repaid until such payment is made and the unexpended part of the Education Contribution to be repaid shall not include such payment;
  - 6.3 Upon receipt of a written request from the Owners prior to the eleventh (11th) anniversary of the date of receipt of the Education Contribution in full the County Council shall provide the Owners with a statement confirming whether the Education Contribution have been spent and if the Education Contribution has been spent in whole or in part outlining how the Education Contribution have in whole or in part been spent.
- 7 It is hereby agreed and declared:
  - 7.1 In the event that the Unit Mix to be constructed on the Development does not match the Unit Mix on which the Education Contribution or part thereof paid was based the Owners hereby covenant to pay to the County Council as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Education Contribution paid and the amount of the Education Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by the County Council form part of the Education Contribution;
  - 7.2 Any dispute in relation to how the Education Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in paragraph 6.3 and shall clearly state the grounds on which the expenditure is disputed;

- 7.3 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 6.2 above or no valid dispute is raised by the Owners pursuant to paragraph 7.2 the Owners shall accept the Education Contribution has been spent in full; and
- 7.4 In the event that the Education Contribution is overpaid by the Owners 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 otherwise the County Council shall upon the Occupation of the final Dwelling on the Site or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

## **PART 5 LIBRARY CONTRIBUTION**

- 1 The Owners hereby covenants with the Council and the County Council so as to bind their interest in the Land as follows:
- 1.1 to pay the Library Contribution to the County Council prior to Implementation of the Development not to Implement or cause or allow or permit Implementation of the Development unless and until the Library Contribution has been paid to the County Council in full.
- 1.2 In the event that the Library Contribution is paid later than dates set out in paragraph 1.1 of this Part 5 of Schedule 2 then the amount of the Library Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the Library Index between the Library Index Point prevailing at the date the payment is due and the Library Index Point prevailing at the date of actual payment to the County Council multiplied by the Library Contribution due or if greater an amount pertaining to interest on the Library Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Library Contribution is received by the County Council; and
- 1.3 In addition to the requirement of paragraph 1.2 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owners hereby covenant to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 2 The County Council hereby covenants with the Owners as follows:
- 2.1 to place the Library Contribution when received into an interest-bearing account and to utilise the same for the Library Contribution Purposes;
- 2.2 If requested in writing by the Owners no sooner than the tenth (10th) anniversary of the date that the Library Contribution is paid to the County Council in full but no later than one (1) year thereafter the County Council shall return to the party that made the payment of the Library Contribution any part of the Library Contribution that remains unexpended when the Library Contribution is paid to the County Council in full (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT if the County Council is legally obliged to make a payment in respect of any Library Contribution Purposes the unexpended part of the Library Contribution shall not be repaid until such payment is made and the unexpended part of the Library Contribution to be repaid shall not include such payment
- 2.3 Upon receipt of a written request from the Owners prior to the eleventh (11th) anniversary of receipt of the Library Contribution in full the County Council shall provide the Owners with a statement confirming whether the Library Contribution have been spent and if the Library Contribution has been spent in whole or in part outlining how the Library Contribution have in whole or in part been spent.
- 3 It is hereby agreed and declared:
- 3.1 In the event that the Unit Mix to be constructed on the Development does not match the Unit Mix on which the Library Contribution or part thereof paid was based the Owners hereby covenant to pay to

the County Council as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Library Contribution paid and the amount of the Library Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by the County Council form part of the Library Contribution;

- 3.2 Any dispute in relation to how the Library Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in paragraph 2.3 and shall clearly state the grounds on which the expenditure is disputed;
- 3.3 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 2.2 above or no valid dispute is raised by the Owners pursuant to paragraph 3.2 the Owners shall accept the Library Contribution has been spent in full on the Library Contribution Purposes as appropriate; and
- 3.4 In the event that the Library Contribution is overpaid by the Owners 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 Library Contribution or have entered into a legally binding contract or obligation to spend the Library Contribution otherwise the County Council shall upon the Occupation of the final Dwelling on the Land or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

#### **PART 6 NOTICES**

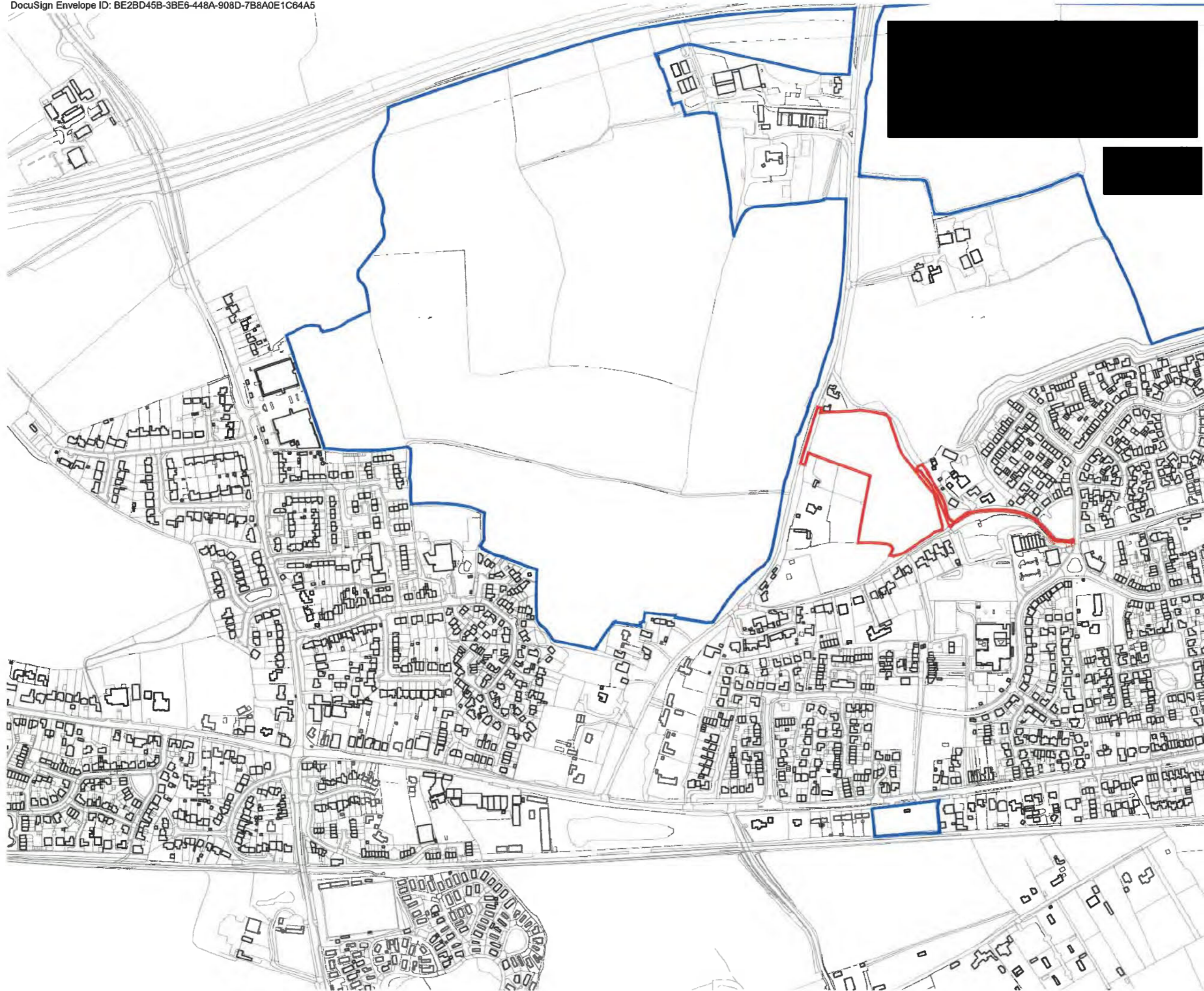
- 1 The Owners or the Developer shall serve on the County Council:
  - 1.1 the Notice of Implementation not less than three (3) months prior to Implementation stating the expected Implementation Date an estimate of the triggers and any further information stipulated in the Schedules to this Deed
  - 1.2 the Payment Notice between forty (40) and twenty (20) Working Days prior to the date that each and any payment is due to be made to the County Council under this Deed stating the date that such payment becomes due and any further information stipulated in the Schedules to this Deed
  - 1.3 the Completion Notice within 30 Working Days of all Dwellings being Occupied for the first time stating the date that the last Dwelling was Occupied for the first time and any further information stipulated in the Schedules to this Deed and for the avoidance of doubt any dispute regarding any notice to be served under this Deed may be resolved through the 2 mechanisms set out in Clause 15 of this Deed.
  - 1.4 to serve on the County Council notice of Occupation of the first Dwelling within 1 (one) month thereof and on a 6 (six) 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



**ANNEX 1**

**PLAN**





**Key:**  
 — APPLICATION BOUNDARY  
 — OWNERSHIP BOUNDARY

**Rev**



**PLANNING**

**Title**  
 SITE LOCATION PLAN JACKS PARCEL

**Site**  
 JACKS GREEN, TAKELEY

<b>Date</b> SEPT 23	<b>Drawn</b> DJK	<b>Checked</b> PMR
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**Scale**  
 1:5000@A3

<b>Drawing No.</b> WH202.WST.P1.ZZ.DR.PL.05.01	<b>Rev</b> A
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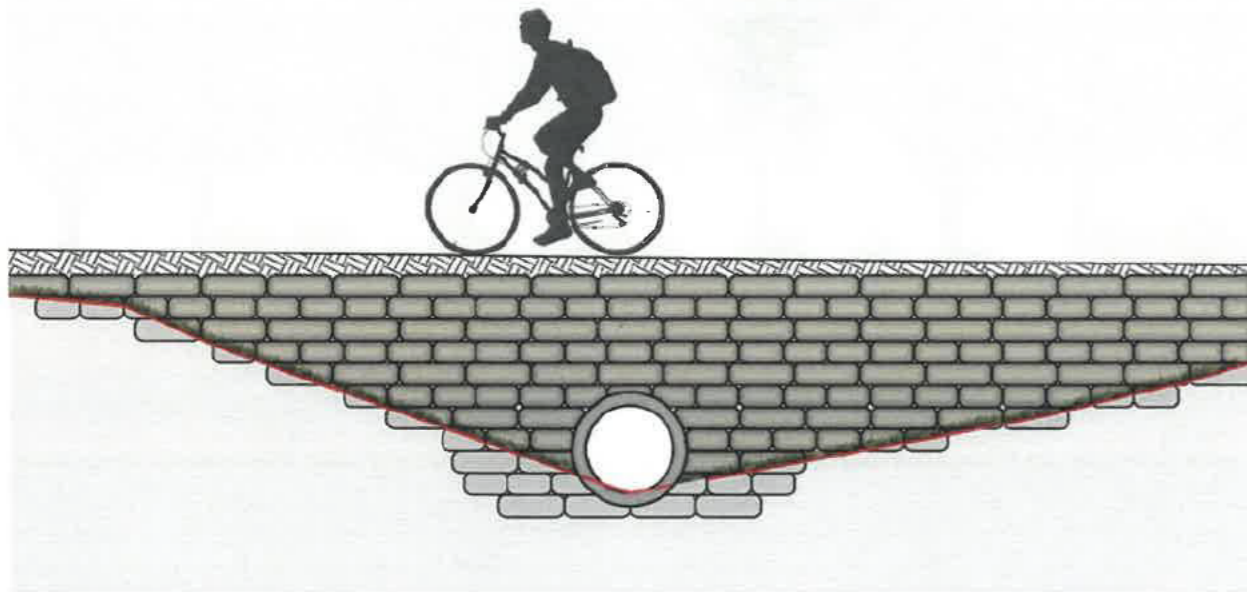
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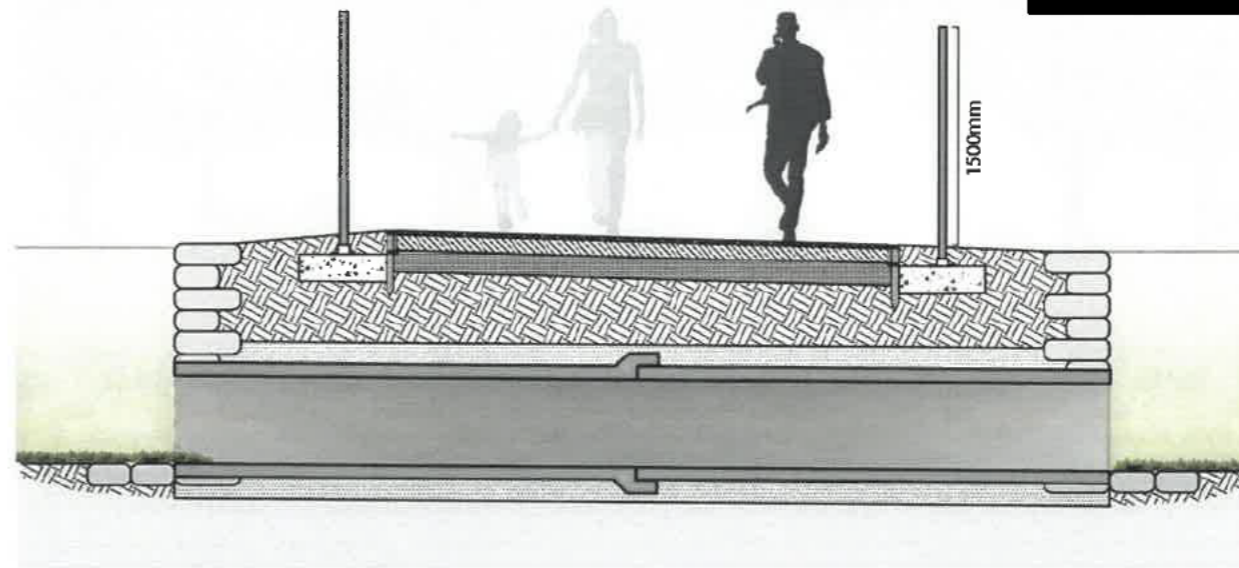
email: [info@weston-homes.com](mailto:info@weston-homes.com)



**ANNEX 2**  
**HIGHWAY WORKS PLAN**



**A** Proposed Byway Access Section



**C** Proposed Byway Access Section



**B** Proposed Byway Section

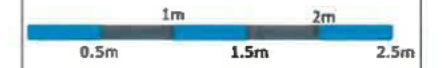


**D** Proposed Site Plan @1:2500

Notes:

Rev

01



**PLANNING**

Title  
JACKS PARCEL BYWAY SECTIONS

Site  
JACKS GREEN, TAKELEY

Date	Drawn	Checked
SEPT 23	DJK	PMR

Scale  
1:50@A3

Drawing No.  
WH202.WST.P1.ZZ.DR.PL.10.50



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---	--

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- Key**
- 1 Rumble Strip
  - 2 Block Paving
  - Site Boundary

**Notes:**

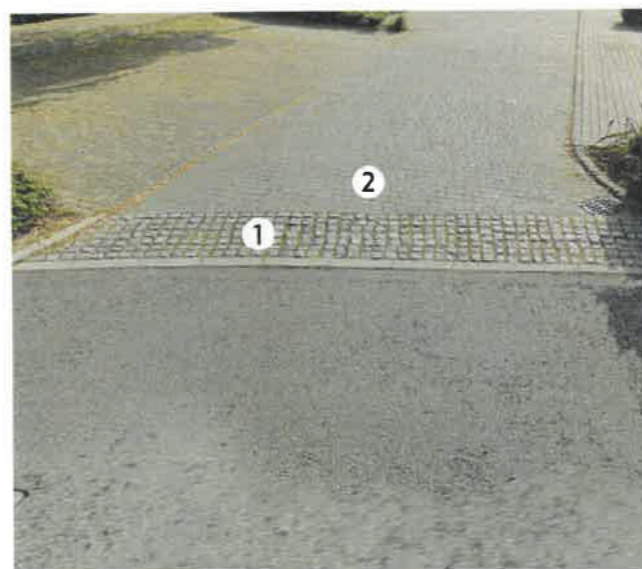
**Rev**  
D1



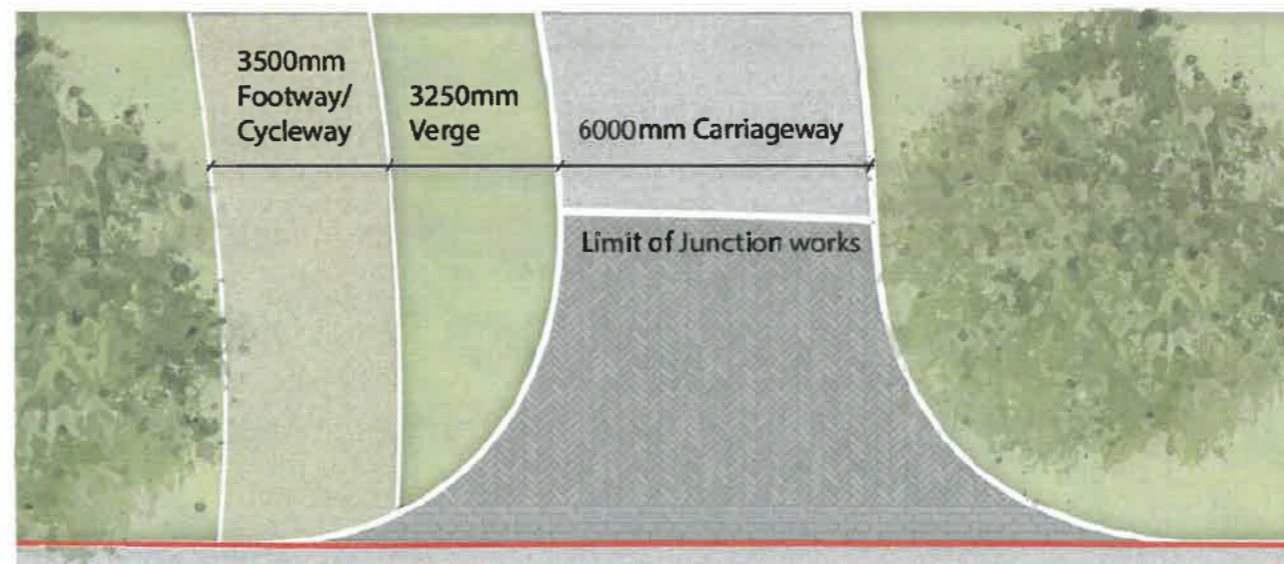
Proposed Entrance to Site 1:250@A2



No. 2 Maggotts Cottage



The Avenue Saffron Walden



Proposed Entrance to Site 1:100@A2

**PLANNING**

**Title**  
Jacks Green, Entrance Works

**Site**  
Jacks Green, Tokeley

<b>Date</b>	<b>Drawn</b>	<b>Checked</b>
Sept 23	DJK	PMR

**Scale**  
1:250@A2

**Drawing No.**  
WH202.WST.P1.22.DR.PK.10.51



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--	---

**ANNEX 3**  
**AFFORDABLE HOUSING PLAN**



E6 C50 M60 M5000M S6  
 C50 M60 T50 E6 C50 PS  
 D10 S4



AFFORDABLE HOUSING SCHEDULE		
PLOT	TYPE	TENURE
JG.12	2B	RENTAL
JG.13	2B	SHARED
JG.14	7B	FRST
JG.15	3B	RENTAL
JG.16	3B	FRST
JG.17	3B	FRST
JG.31	4C	RENTAL
JG.32	3B	FRST
JG.33	3B	RENTAL
JG.34	3B	RENTAL
JG.35	3B	RENTAL
JG.36	2C	RENTAL
JG.37	A1	RENTAL
JG.38	A1	RENTAL
JG.39	A1	RENTAL
JG.40	2C	RENTAL

**Key:**

- AFFORDABLE HOUSING ALLOCATION (RENTAL 11No.)
- AFFORDABLE HOUSING ALLOCATION (SHARED 1No.)
- AFFORDABLE HOUSING ALLOCATION (FRST HOMES 4No.)
- AFFORDABLE HOUSING PARKING ALLOCATION

**House Types - 1:1000**

- HT 1A: 1.5 Storey, 42sqm
- HT 1B: 1.5 Storey, 70sqm
- HT 2A: 2 Storey, 70sqm
- HT 2B: 2 Storey, 75sqm
- HT 3A: 3 Storey, 100sqm
- HT 3B: 3 Storey, 100sqm
- HT 3C: 3 Storey, 100sqm
- HT 4A: 2.5 Storey, 130sqm
- HT 4B: 2 Storey, 117sqm
- HT 4C: 2 Storey, 130sqm
- HT 4D: 2 Storey, 168sqm
- HT 4E: 2.5 Storey, 168sqm
- HT 4F: 2.5 Storey, 168sqm
- HT 5A: 2 Storey, 142sqm
- HT 5B: 2 Storey, 148sqm

**Note**  
 FOR MASTER PLAN - COLOURED PLEASE REFER TO DWG NO. WH202.WST.P1.ZZ.DR.PL.10.00  
 FOR ALL MASTER PLAN - STRATEGIES DRAWINGS PLEASE REFER TO DWG NO. WH202.WST.P1.ZZ.DR.PL.10.00 TO 10.10  
 FOR STREET SCENES PLEASE REFER TO DWG NO. WH202.WST.P1.ZZ.DR.PL.30.01 TO 30.02  
 Rev B - 26.06.23 - PBR Site layout amended to suit Council comments  
 Rev C - 15.08.23 - DJK Site layout amended to suit Council comments

**PLANNING**

**Title**  
 MASTER PLAN - JACKS PRICE AFFORDABLE HOUSING STRATEGY  
**Site**  
 JACKS GREEN, TAKELEY  
**Date**  
 SEPT 23  
**Drawn**  
 D.K.  
**Checked**  
 PBR  
**Scale**  
 1:500@A1  
**Drawing No.**  
 WH202.WST.P1.ZZ.DR.PL.10.05  
**Rev**  
 C

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**ANNEX 4**  
**UDC ALLOCATIONS POLICY**



# **UTTLESFORD DISTRICT COUNCIL**

## **HOUSING ALLOCATIONS SCHEME (ALLOCATIONS POLICY)**

## **Uttlesford District Council Housing**

# **Allocations Scheme**

### **1. Introduction**

- 1.1 The Council is required, by virtue of Section 168(1) of the Housing Act 1996 to have an allocations scheme for determining priorities and the procedure to be followed in allocating housing accommodation.
- 1.2 We have written and published this policy so everyone can be clear how:
- i. Council houses are allocated
  - ii. The homes we are offered by our Registered Providers (RP) are allocated
  - iii. Applicants on our housing register have some choice about the home they are offered;
  - iv. We meet the law's requirements about people whose housing needs we should consider.
  - v. We make best use of the available housing stock within the District
  - vi. We give preference to those applicants who have a local connection to the District
- 1.3 This Allocations Scheme has been formulated in accordance with the provisions of
- The Housing Act 1996, as amended by the Homelessness Act 2002
  - The Localism Act 2011
  - The Allocation of Accommodation: Choice Based Lettings Code of Guidance 2008
  - The Equality Act 2010
  - The Allocation of Accommodation: Guidance for Local Housing Authorities England 2012
  - Providing social housing for local people: Statutory Guidance December 2013
  - Other relevant legislation and Guidance
- 1.4 In operating the Allocations Scheme, the Council will have due regard to legislation which shall take precedence.

### **2. Choice Based Lettings**

- 2.1 The Council allocates accommodation through a Choice Based Lettings Scheme (CBL) called Home Option. The scheme enables applicants to



express an interest in available properties which are advertised in a fortnightly publication and on a website. All applicants are provided with detailed information explaining how the scheme operates.

2.2 Under the CBL Scheme, applicants are able to register their interest in properties which are suitable for their household size and needs in accordance with the terms of this Allocations Policy.

### 2.3 Direct Lets

2.3.1 Direct Lets will not be part of the choice based lettings scheme.

2.3.2 Direct Lets may apply in the following circumstances:

- i. Extra care properties
- ii. If a property is needed to house someone in council property temporarily
- iii. In cases of where someone has to be moved immediately a direct let may be made
- iv. In the case of a specially adapted property built for a specific person
- v. Decants – Council properties required to be vacated by the Council for a specific purpose
- vi. If a previously joint applicant qualifies to be offered the property of which they were previously a joint tenant we will make them an offer of that property
- vii. Where applicants owed the full homelessness duty by the Council under Section 193 of the Housing Act 1996 as amended who do not meet the Council's Allocation's Policy eligibility criteria.
- viii. In cases where a multi-agency team requests a planned move to resolve a serious management situation a direct let (one offer only to be made) may only be considered if the situation cannot be resolved by any other means and the tenant is either an existing Uttlesford tenant or the tenant of a RP property within Uttlesford and the subsequent vacancy would be allocated through the council's Choice Based Lettings Scheme
- ix. Exceptional cases where there is an evidenced risk of significant harm to a vulnerable household, where there are no other housing options available, and which is supported

by at least one other agency, for example social care. Cases to be agreed by the Asst. Director

### **3. The Allocations Scheme**

- 3.1 Allocation of accommodation will be through the Housing Register in accordance with the provisions of the Allocations Scheme.
- 3.2 The Council recognises that there may be some exceptional situations not covered by the Allocations Scheme. In such instances, Assistant Director of Housing and Environmental Health will have delegated authority to make decisions, as he/she considers appropriate and these will be fully documented.
- 3.3 The Scheme will apply to vacancies in the Council's own housing stock and to vacancies in accommodation in the District belonging to RPs for which the Council is required to make nominations.
- 3.4 The provisions of this Allocations Scheme will apply to applicants on the Council's Housing Register at the effective date of this Allocations Scheme, as well as those who apply after the effective date.
- 3.5 **The Allocations Scheme will not apply in the following cases;**
  - i. Where a tenant succeeds to a secure tenancy on the death of a tenant
  - ii. Where a tenancy is assigned to a person who would qualify to succeed to the secure tenant
  - iii. Where a tenancy is assigned by way of a mutual exchange to an existing secure tenant or RP assured tenant
  - iv. Where a tenancy is disposed through the courts (under matrimonial and family proceedings)
  - v. Where a priority transfer is agreed in urgent circumstances due to person's safety being at risk.
  - vi. Where a property has been identified as temporary accommodation
  - vii. Where the council needs to provide alternative accommodation for a council tenant in order to carry out repairs or improvements to their property.
  - viii. Where the council needs to provide accommodation to meet its duties under homelessness legislation

- ix. Where the council has a duty to re-house home owners following a compulsory purchase, provide suitable alternative accommodation under the Land Compensation Act 1973, s 39, or under the Rent Agricultural Act 1976. (If it is not possible to provide a permanent tenancy immediately, the applicant will be registered within band A of the scheme).
- x. Where the council grants a secure tenancy to a former owner of a defective home under the Housing Act 1985, s554 or s555

#### **4. The Housing Register**

- 4.1 The Council is not legally obliged to maintain a Housing Register but has chosen to do so.
- 4.2 The Housing Register will be maintained by Housing Services at the Council Offices in Saffron Walden.
- 4.3 The Housing Register will be open to all categories of person except those who are ineligible as defined at Paragraph 5.
- 4.4 The Housing Register will be open to;
  - i. homeseekers of 18 years of age and over
  - ii. current council or RP tenants
  - iii. 16 and 17 year olds owed a full housing duty by a local housing authority under homelessness legislation.
  - iv. 17yr 6mth old Care Leavers who were resident in Uttlesford at the time they were placed in Care or who are living in Uttlesford immediately prior to the time of leaving care
  - v. People with the capacity to understand and adhere to a tenancy agreement

#### **5. Eligibility categories**

##### **5.1 Eligibility**

- 5.1.1 The following categories of applicant may not be eligible for the Housing Register;
  - i. Persons subject to immigration control (except those in classes prescribed by the Secretary of State as being eligible for an allocation of housing)
  - ii. Persons not habitually resident in the Common Travel Area (i.e. the U.K., Channel Islands, Isle of Man and the Irish Republic)

- 5.1.2 Any person making an application who is identified as falling under the Asylum and Immigration Act 1996 will be assessed in accordance with the Act.
- 5.1.3 Eligibility for housing will be determined in accordance with the Allocation of accommodation: guidance for local authorities in England issued by the government under s169 of the Housing Act 1996 Part 6 as amended by the Localism Act 2011.
- 5.1.4 Any other persons the Secretary of State may by regulations prescribe as persons from abroad who are ineligible to be allocated housing by local authorities in England.

## **5.2 Local Connection Eligibility**

- 5.2.1 Any applicant who does not meet one or more of the following local connection eligibility criteria will not be eligible to join the housing register.
  - i. Have lived continuously in the Uttlesford District for the last 3 years (time spent away at University or college will count as living continuously within the district providing the applicant had previously lived in the district immediately prior to the start of their course.)
  - ii. Living outside of Uttlesford or within the District for less than 3 years but have immediate family members who have lived in Uttlesford for the last 5 years and from whom they are receiving or giving substantial ongoing support that cannot be provided from outside of the District
  - iii. Living outside of Uttlesford but have been permanently employed in the Uttlesford District for a minimum of 3 years and working at least 24 hours per week
  - iv. Applicants who meet the Right to Move criteria as set out in Appendix III.
  - v. Applicants who are owed a full homelessness duty by Uttlesford District Council under s.193 of Part VII of the Housing Act 1996, as amended and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally
  - vi. Applicants who have been assessed as falling within a reasonable preference category (under 166A (3) of Part 6 of the Housing Act 1996) and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally.

- vii. Applicants who are owed a prevention and/ or relief duty under The Homelessness Reduction Act 2017 and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally
- viii. Care leavers up to the age of 25 who were originally from Uttlesford but were accommodated outside of the district
- ix. Care Leavers who were placed in Uttlesford for at least 2 years including sometime before they reach the age of 16. They will retain a connection to Uttlesford until they reach the age of 21
- x. Other special reasons, to be agreed by two Senior Officers at their discretion, for example where an applicant has no safe connection to another area due to domestic abuse

**5.2.2 The following categories of person will be exempt from local connection criteria:-**

- i. Existing social housing tenants residing in the Uttlesford District
- ii. Applicants who are serving members of the regular forces or who have served in the regular forces, if the application is made within five years of their date of discharge.
- iii. Applicants who have recently ceased or will cease to be entitled to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where:-
  - the spouse or civil partner has served in the regular forces; and
  - their death was attributable (wholly or partly) to that service
  - Is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service and the application is made within five years of discharge.

### **5.3 Financial Eligibility**

- 5.3.1 Any homeseekers who in the opinion of the Council has sufficient funds including: annual income, residential property equity, savings, or other assets to enable them to meet their own housing costs by open market purchase or open market renting will be ineligible to join the housing register.**

- 5.3.2 Any lump sums received as compensation for injury or disability sustained on active service by either, members of the Armed Forces, former Service personnel, bereaved spouses and civil partners of members of the Regular Forces, or serving or former members of the Reserve Forces, will be disregarded from this criterion
- 5.3.3 Owner Occupiers, or other applicants who are financially ineligible to join the housing register, will be eligible to join if they qualify for sheltered housing.

#### **5.4 Housing Related Debt Eligibility**

- 5.4.1 Applicants with housing related debt will generally not be eligible to join the housing register if they are not addressing the debt. Housing related debt includes rent arrears to the Council, RP, other local authority or private landlord, also Council Tax and any monies given through the Councils Rent Deposit Guarantee Scheme.
- 5.4.2 When a financial assessment carried out by the Council shows that the debt cannot be cleared immediately then a realistic and affordable repayment arrangement should be agreed to clear the debt.
- 5.4.3 Applicants will become eligible to join the register if they have an agreed repayment plan in place and have made regular payments for at least 12 months or the debt has been cleared in full.
- 5.4.4 Council and RP tenants who have been accepted onto the housing register but have rent arrears on their current property will not be offered another tenancy until all rent arrears have been cleared in full.
- 5.4.5 Accepted homeless applicants who have rent arrears on their current temporary accommodation will not be offered accommodation that would discharge the Council's homelessness duty until the rent arrears are cleared in full.
- 5.4.6 Housing Associations may also hold their own policy on debt.
- 5.4.7 All cases of housing related debt will be considered on an individual basis taking account of all the information provided by all interested parties. All exceptions to the above Policy criteria on debt are to be agreed by two Senior Officers.

#### **5.5 Exclusions from the Housing Register**

5.5.1 The Council may exclude someone from the register if it considers it proportionate and reasonable to do so as a result of unacceptable behaviour. The Council will take into account all relevant factors such as health, dependants and the individual circumstances of the applicant when making these decisions. The decision to exclude someone from the housing register will in the first instance be made by the Housing Options Team Leader.

## **5.6 Unacceptable Behaviour**

5.6.1 “Unacceptable behaviour” “ is defined as behaviour, which would, if the person was either a secure tenant or a member of a secure tenants household, entitle a landlord to a possession order under any of grounds 1 to 7 of HA 1985 sch 2.”

5.6.2 If an applicant who has previously been refused an application onto the housing register because of unacceptable behaviour and considers that their unacceptable behaviour should no longer be held against them they can complete a new application from.

5.6.3 When making decisions regarding unacceptable behaviour Uttlesford District Council will consider:

- i. If the applicant (or a member of their household) has been guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant.
- ii. When the unacceptable behaviour took place. Consideration will be given to the length of time that has elapsed, this will be a minimum of two years and whether there has been any change in circumstances.
- iii. What action the landlord would have taken against the perpetrator of the unacceptable behaviour. The behaviour must be serious enough for the landlord to be granted a possession order as detailed above.
- iv. Whether the behaviour is serious enough to make the applicant unsuitable as a tenant.
- v. If the applicant or any member of their household is subject to an Anti-Social Behaviour Order an Acceptable Behaviour Contract or any similar penalty introduced by the ASB and Crime and Policing Act 2014 or any relevant legislation.

5.6.4 The Council may decide to exclude existing applicants from the register where they become aware of unacceptable behaviour that would make them unsuitable to be a tenant.

- 5.6.5 All decisions made by the Council in relation to excluding applicants from the housing register are subject to review if requested by the applicant (see 16).

## **5.7 Notifying an ineligible applicant**

- 5.7.1 Applications from ineligible applicants will not be registered. The applicant will be notified in writing of the decision and the reasons for the decision will be explained to them.

## **6. Application to the Housing Register**

### **6.1 Advice and Information**

- 6.1.1 The Council will ensure that advice and information is available free of charge to persons in the District about the right to make an application for housing.
- 6.1.2 The advice and information can be provided by the Council on the phone, by letter/e-mail or in person at the Council Offices. Applicants may also seek advice from other agencies such as the Citizens Advice Bureau.
- 6.1.3 Applicants will be required to complete an on-line application form for inclusion on the Housing Register and to provide supporting documentation as the Council deems appropriate to allow an assessment of their entitlement to housing accommodation to be made.

### **6.2 Joint Applicants**

- 6.2.1 Applicants may be a joint applicant with another person although for a joint application, both applicants must be eligible under this policy, except for the local connection criteria where only one of joint applicants needs to meet the criteria.

### **6.3 Definition of a household**

- 6.3.1 Applicants should only include persons on their application who are established members of their household and who will be occupying the accommodation as their only principal home.



6.3.2 Non-dependent adults will not be considered as part of the household. Unless they have had continuous recorded residence with the applicant, except whilst in further education.

6.3.3 Applicants with a shared residence order or staying contact for children are not automatically entitled to bedrooms for their children. The general principle is that a child needs one home of an adequate size, and that the council will not accept responsibility for providing a second home for children. The council will make an assessment based on the individual circumstances.

#### **6.4 Documents**

6.4.1 As part of the application process, applicants will be asked to provide the following documentation:

- i. Photographic proof of their identity or a full birth certificate for all those included on their application
- ii. Proof of immigration status for all those included on the application
- iii. Proof of current address
- iv. Proof of meeting the local connection residency criteria
- v. Proof of dependency responsibilities anyone living with them
- vi. Proof of income, including bank statements for all accounts held
- vii. Proof of savings for all accounts held
- viii. Details relating to previous accommodation where appropriate

6.4.2 We may require additional information according to an applicant's circumstances and may sometimes need to contact third parties to verify the information that the applicant has given us. By completing the application form applicants, as detailed on the form, are giving consent for us to do this.

6.4.3 If all the required supporting documents are not received within 28 days the application will be cancelled.

6.4.4 If assistance is needed in making an application to the Housing Register help will be available from the Housing Services Department.

## **6.5 User guide**

6.5.1 When an applicant has been found to be eligible to join the Register, we will assess their application and they will receive a letter of confirmation and access to an on-line Scheme User Guide which will tell them:

- i. Their HomeOption identification number;
- ii. The Band that their application has been placed in and the date from which this takes effect
- iii. The size of home for which they are eligible
- iv. Details of how they can register interest for a home under CBL

**6.5.2 If from an application form we have identified that an applicant may need assistance with using the Scheme we will add their name to a database of applicants for whom assistance with making expressions of interest is offered. Applicants can be added to this list at any time upon their request.**

6.5.3 A printed version of the User Guide can be provided on request.

## **6.6 Renewal of applications**

6.6.1 In order to keep the Housing Register up to date, applicants will be required to renew their application, this will normally be on the anniversary of their application. Applicants will be prompted to renew their application when they log on to the HomeOption website. They will also be sent an email to the email address supplied on their application or a letter to the address registered on the application.

6.6.2 If an applicant fails to renew their application within 28 days from the date they received a communication to say that renewal is due, they will be deleted from the Housing Register without further notification.

## **6.7 Cancelling an application**

6.7.1 We will only cancel an application if:

- i. The applicant has written to us to ask us to cancel it, or

- ii. The applicant has not responded to the renewal requests (see paragraph 6.6 above) or
- iii. The applicant has accepted an offer of accommodation through HomeOption.
- iv. The applicant has ceased to be eligible (see paragraph 5 above), or
- v. The applicant has made false or deliberately misleading statements in connection with their application (see paragraphs 18 below)
- vi. The applicant has not provided documentary proofs for their application within 28 days of completing the on-line form

## **7. Access to Information**

7.1 Upon written request, an applicant, will be able to;

- i. receive a copy of their details entered on the Housing Register free of charge
- ii. receive copies of documents provided by them
- iii. have access to their file in accordance with the provisions of the Data Protection Act 1998
- iv. ask for a formal review of any decisions about the facts of their case
- v. be informed in writing of any decision about the facts of their case and of their right to request a review of any such decision
- vi. receive general information to enable an applicant to assess;
  - how their application is likely to be treated
  - whether accommodation appropriate to their needs is likely to be available and, if so, when

## **8. Assessment of Housing Need and Allocation of Properties**

8.1 Assessing Housing Need

- 8.1.1 Applicants housing circumstances are assessed on their individual circumstances and their application placed in one of five Bands. These Bands ensure that we give greatest priority to those in the greatest housing need, so that we make the most effective use of available homes. The law also requires us to give preference to certain categories of housing need, and these have been included within the banding priority criteria.
- 8.1.2 Band A is considered the highest priority of housing need, Band B the next highest etc., with Band E being the lowest priority.
- 8.1.3 Within each Band, the applicant with the greatest priority is the applicant who has spent the longest time in that band.
- 8.1.4 Some allocations will be dealt with outside the scheme; these are explained in paragraphs 2.3 and 3.2.
- 8.1.5 Where an applicant or one of joint applicants is a tenant of the Council at the time of the application then the property subject to that tenancy will be inspected by the Council to ensure compliance with the terms of the tenancy agreement before the application is processed.
- 8.1.6 Further details of how each band has been assessed is provided below:

#### **The Band Criteria**

##### **8.1.6.1 BAND A**

Applicants meet at least one of the following criteria

- i. Accepted Homeless in severe need
- ii. Critical Medical/Welfare award – to include emergency situations
- iii. Relationship breakdowns in council properties where applicants are under-occupying but have been assessed as having housing need within Uttlesford
- iv. Successor tenants in council properties where applicants are under-occupying
- v. Releasing a property in need (council or RP property that the Council has nominations rights to) or where it prevents the Council making expensive alterations to a property

- vi. Those applicants within Uttlesford required to leave their homes as a result of an emergency prohibition order served in relation to the premises under the Housing Act 2004
- vii. Uttlesford Council tenants, or tenants in RP property where the Council will receive the nomination, who are currently in accommodation larger than their needs(Uttlesford tenants may be eligible for removal expenses grant see paragraph 9.21 below)
- viii. Multiple needs - If someone has two or more needs in band B they will be moved to band A (accepted homeless cases do not come under this category – if additional preference is needed for homeless cases they will be assessed as accepted homeless in severe need)

8.1.6.2 High welfare and multiple needs in band A would be expected to express an interest within 4 cycles of available properties otherwise priority may be reduced.

#### 8.1.6.3 **BAND B**

Applicants meet at least one of the following criteria

- i. Serious Medical/Welfare award (If after 6 months applicants have not expressed interest in all suitable advertised properties this award will be reviewed and applicants may be placed in a lower band)
- ii. Social housing tenants living in overcrowded permanent social housing within Uttlesford
- iii. Accepted homeless cases who meet the Allocation's Policy eligibility criteria
- iv. Applicants owed a relief duty under the Homelessness Reduction Act 2017 who are assessed by the council as likely to be in priority need and unintentionally homeless
- v. Nominations from supported housing schemes where the Council has agreed move-on arrangements and the applicant is ready to move on. These applicants will be able to use the CBL scheme for a period of 4 weeks from the date they are placed into this band to express interest in any suitable flatted accommodation. If they have not been successful

after the end of this period they will be made one offer of suitable flatted accommodation which may be either in the private or social sectors which if they refuse will result in them being down banded to a band that reflects their housing need.

- vi. A prohibition order or demolition order has been served, or is about to be served in relation to the applicant's dwelling. This indicates that the property contains one or more category 1 hazards that probably cannot be remedied.
- vii. An improvement notice has been, or is about to be, served in relation to the applicant's dwelling and :-
  - a. The remedies that are needed to reduce the hazard will require the property to be vacated for a significant period of time
  - b. The cost of the remedies are beyond the means of the applicant (where applicable)
  - c. The remedies will make the property unsuitable for occupation by the applicant
- viii. Multiple needs – Applicants with four or more needs in band C will move to band B

#### **8.1.6.4 BAND C**

Applicants meet at least one of the following criteria

- i. Moderate medical/welfare award
- ii. Notice of Seeking Possession due to expire within 56 days or assessed as being at risk of homelessness within 56 days
- iii. Applicants who are owed the relief duty under the Homelessness Reduction Act 2017 but who are assessed by the council as likely to not be in priority need
- iv. Applicants who are owed the relief duty under the Homelessness Reduction Act 2017 but who are likely to be intentionally homeless

- v. Applicants who following a homelessness application have been deemed by the council to be in priority need but intentionally homeless
- vi. No fixed abode
- vii. Overcrowded in private rented accommodation or social housing outside Uttlesford
- viii. Fixed term licensees
- ix. Shared facilities – not generally applicable for single applicants under 35yrs
- x. Lacking facilities
- xi. A hazard awareness notice has been served in relation to a category 1 or 2 hazard at the applicant's dwelling

and

the remedies that are needed to reduce the hazard will require the property to be vacated for a significant period of time;

or

the cost of the remedies are beyond the means of the applicant (where applicable);

or

the remedies will make the property unsuitable for occupation by the applicant

#### **8.1.6.5 BAND D**

- i. Applicants assessed as meeting Right to Move criteria who have been placed in one Band higher than their housing need.
- ii. Any applicant subject to the prevention (s.195 (2) or the relief duty (s189(2): S.193B(1).) under the Homelessness Reduction Act 2017 who fails to co-operate as stated in s193B and 193C of the Act will be placed in Band D.

#### 8.1.6.6 **BAND E**

Applicant meets at least one of the following criteria

- i. Caravan or mobile home but no housing need
- ii. Tied accommodation but no housing need
- iii. Applicants who live in a property that is adequate to meet their needs in terms of property type, size and facilities.
- iv. Applicants aged under 35 years who are sharing accommodation
- v. In prison
- vi. A suspended prohibition order or improvement notice has been or will be served by the Environmental Health Department in relation to the applicant's dwelling but the criteria leading to it becoming active are not met by the applicant.
- vii. A hazard awareness notice or improvement notice has been or will be served in relation to the applicant's dwelling but the specified remedies are low cost and straight-forward to achieve.

## 8.2 **Allocation of Properties**

8.2.1 With the exception of those allocations dealt with outside the scheme; these are explained in paragraphs 2.3 and 3.2 properties will be allocated to the applicant who expressed interest in the property, who is in the highest Band and with the earliest priority date within that Band.

8.2.2 At the time of the offer of a property applicants will be asked to provide proof that they continue to meet all eligibility criteria to be included on the housing register

8.2.3 Where two applicants have the same priority date in the Band the property will be allocated to the household who it is judged to have the family composition that makes best use of the accommodation. This will be decided by a Senior Manager and the reasons documented

8.2.4 **Houses** – Transfer applicants and homeseekers who are tenants of RP accommodation within Uttlesford, where UDC has the nomination rights, will be given priority for houses or general needs



bungalows with the same number of bedrooms as their current property ahead of other applicants, even if they are in a lower Band or have a lower priority date (which will be the date of application or date they have been a tenant of the flat for 2 years, whichever is the latter), providing they meet the following criteria:-

- Currently living in a flat or maisonette
- Have lived in the flat for more than 2 years
- Have conducted their current tenancy in a satisfactory manner

For properties larger than one bedroom this will only apply if there are children under 16 within the household.

## **9. Housing Priority**

### **9.1 Deciding who has priority on the register**

9.1.1 Applicants will be placed in the relevant Band defined by their specific circumstances and as assessed by the Housing Options Team with reference to the banding system set out in this policy

### **9.2 Overcrowding**

9.2.1 Homeless applicants placed in temporary accommodation by the council will not be assessed under the criteria for overcrowding.

9.2.2 Applicants will be placed in Band B if they are overcrowded, i.e. lacking one or more bedrooms and are tenants of a Council or Housing Association property where the Council has nomination rights to the RP.

9.2.3 Applicants will be placed in Band C if they are overcrowded in private rented accommodation or living with relatives or friends.

9.2.4 Overcrowded applicants with a local connection to Uttlesford, but living in Council or Housing Association properties outside the District will be in Band C.

9.2.5 Rooms which do not meet the standards for use as living accommodation for one person (the standards are given in the Housing Act 1985 Part X) will not be counted.

9.2.6 If applicants need an extra room for medical or welfare/hardship reasons they will not be considered overcrowded but will be assessed for medical or welfare priority.

9.2.7 Overcrowding priority will not be given if someone moved into the applicants' household making them overcrowded. This will be looked at on welfare grounds.

9.2.8 Where an applicant is pregnant and the birth of the child will mean that they are entitled to a larger property, the applicant will not receive overcrowding priority until the baby is born.

### **9.3 Children sharing bedrooms**

9.3.1 Two children of the same sex are expected to share a bedroom until one of them reaches the age of 16.

9.3.2 Two children of the opposite sex are expected to share a bedroom until the oldest is 10 years old.

### **9.4 Applicants without children**

9.4.1 Single applicants and couples without children who are living in overcrowded conditions will not be given priority for overcrowding unless they are in self-contained accommodation which is too small, for example a couple in a one person bed-sit. Young adults living with their parents or people temporarily sharing with friends will not get overcrowding priority.

### **9.5 Disrepair, poor design and lack of facilities**

9.5.1 Any complaint about poor repair within Council or RP properties must be reported to the applicant's landlord's Repairs service.

9.5.2 Applicants living in private sector accommodation in poor condition must be referred to the Council's Environmental Health Department who will assess the situation and then make their recommendations according to the Allocations Scheme.

9.5.3 If an applicant lacks facilities such as cooking facilities, washing facilities, toilet facilities or adequate heating they will be placed in Band C.

### **9.6 Sharing with another household**

9.6.1 Applicants will be placed in Band C if they share any of the following facilities with either people they are not related to or their family if they are wishing to live separately from them.

- i. living room

- ii. kitchen
- iii. bathroom or toilet.

9.6.2 Single applicants under the age of 35 who are sharing will generally be considered as adequately housed. Consideration will be given for applicants in special circumstances.

## **9.7 People living in mobile homes or caravans**

9.7.1 Applicants living in a caravan, mobile home or houseboat will be placed in band E if there is no other housing need, reflecting parity with other private sector applicants.

9.7.2 It does not matter if the caravan is on a site or not or if they own or rent the property.

9.7.3 If their accommodation lacks facilities or is in poor repair (see paragraph 9.5) they will be placed in band C.

## **9.8 Homelessness**

9.8.1 Accepted homeless households are applicants to whom:

- i. The Council has accepted a duty under Part VII of The Housing Act 1996, as amended by the Homelessness Act 2002 (the duty towards households who are in priority need and unintentionally homeless) and
- ii. the council accepts a duty to provide suitable accommodation.

9.8.2 In the first instance the Council will look to discharge its homelessness duty for all accepted homeless applicants within the private rented sector. The Council will ensure that any offer of private rented housing is appropriate to the needs of the household, that the length of any tenancy is a minimum of 12 months and that the property meets the Homelessness (Suitability of Accommodation) (England) Order 2012. An assessment will also be carried out to assess the affordability of the property, including the eligibility to receive Local Housing Allowance/Housing Benefit. The property may be outside the Uttlesford District.

9.8.3 When a private rented property becomes available it will be offered to the accepted homeless applicant for whom the property is suitable and if this is more than one applicant, it will be offered to the applicant with the earliest homelessness application date.

- 9.8.4 Any private rented tenancy that discharges the council's homelessness duty will be for a period of not less than 12 months. If within 2 years, beginning with the date on which the applicant accepts a private rented sector offer, the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and if the applicant is found to be homeless (from the date of the expiry of the termination notice) and did not become homeless intentionally from the private rented accommodation, the Council will accept a homelessness duty regardless of whether the applicant has a priority need.
- 9.8.5 Applicants who meet the Allocation's Policy eligibility criteria will be allowed to make expressions of interest on suitable properties advertised through the CBL system. If after a period of 2 cycles from when the applicant received their S.184 decision letter they have not been suitably accommodated, the Council will express interest on their behalf and make one final offer of suitable flatted accommodation. If this offer is refused, the Council's homelessness duty under the Housing Act 1996 to provide accommodation will be considered to have been discharged.
- 9.8.6 Homelessness applicants who do not meet the Allocation's Policy eligibility criteria but meet the criteria for a Direct Let will be made one final offer of suitable accommodation. If there is more than one homeless case waiting for a direct let then when a property is available it will be offered to the case for whom it is suitable and with the earliest homelessness application date.

## **9.9 Accepted homeless households in severe need**

9.9.1 These are applicants to whom:

- i. the council has accepted a duty under the Homelessness legislation and
- ii. they meet the Councils eligibility criteria
- iii. are elderly and vulnerable due to frailty\*or
- iv. have a terminal or long-term illness or
- v. have severe mental health problems, have been unable to cope in temporary accommodation, and have been 'sectioned' or are likely to be admitted under the Mental Health Act or
- vi. are permanent wheelchair users or

- vii. are council or RSL tenants who have an urgent need to transfer as they are suffering from violence or threats of violence and are considered to be at significant risk

9.9.2 Where the above circumstances apply these applicants will be placed in Band A.

9.9.3 The Council will decide who will be placed in Band A. Recommendations will be made by the Housing Officer dealing with the case because they have the most accurate and up-to-date information on the applicant, due to the investigations carried out before an applicant is accepted as homeless.

9.9.4 \*Elderly non-frail applicants may still be placed in Band A, however clear supporting evidence will be required to support their application.

### **9.11 Failure to Co-operate**

9.11.1 Any applicant subject to the prevention (s.195 (2) or the relief duty (s189(2): S.193B(1).) under the Homelessness Reduction Act 2017 who fails to co-operate as stated in s193B and 193C of the will be placed in Band D.

### **9.12 Assured shorthold tenants under notice**

9.12.1 Assured shorthold tenants who have received a 'Notice Requiring Possession'/ Notice to Quit from their landlord will be placed in Band C if there is 56 days or less before the notice expires.

9.12.2 All applicants will be offered advice regarding their housing options.

### **9.13 Lodger under notice**

9.13.1 This applies to applicants living in the same property as their landlord.

9.13.2 They must be renting a room that is for their own use only, and be paying a market rent.

9.13.3 Proof that notice has been served is required.

9.13.4 They will be placed in Band C if there is 56 days or before the notice expires.

9.13.5 The Council will then check to see whether the notice will be enforced.

#### **9.14 Tenants of tied accommodation under notice**

9.14.1 Tenants in tied accommodation with no need to move will be placed in Band E.

9.14.2 If they have received a legal notice requiring them to leave their accommodation in 56 days or less will be placed in Band C.

#### **9.15 Protected tenants with a possession order**

9.15.1 This applies to a tenant with a 'protected' tenancy (that is a tenancy with protection from eviction, but not an assured shorthold tenancy).

9.12.5 They must have been served with a court order for possession and then will be placed in Band C.

#### **9.16 Fixed-term licensee**

9.16.1 This applies to applicants living in supported housing schemes. Applicants in these schemes will be placed in Band C.

9.16.2 Applicants in supported housing schemes where the Council has agreed move-on arrangements will be placed in Band B if they are judged as ready to move on.

9.16.3 Applicants accepted by the Council as being owed the full homeless duty and in a specialist refuge for victims of domestic abuse will be placed in Band B

#### **9.17 Applicants with no fixed address**

9.17.1 This applies to applicants who have no fixed address.

9.17.2 They will be placed in Band C.

9.17.3 If they are in prison they will be placed in Band E.

#### **9.18 Medical, welfare, hardship and harassment**

9.18.1 Important: priority can only be awarded under **one** heading: medical, welfare, hardship or harassment.

9.18.2 Applicants can be assessed under all headings, but get awarded priority under only one heading.

9.18.3 Any medical or welfare priority can be reassessed if an applicant's circumstances change.

**9.19 Medical assessments.**

9.19.1 This applies if an applicant’s present housing is detrimental to their health, or if a move to more suitable accommodation would have a positive effect on their health.

9.19.2 Applicants may also be awarded priority if the applicant is asking to be rehoused so they can receive care or specialist support.

9.19.3 Extra information may be sought from private sector landlords, housing officers, GPs, health visitors and other parties.

9.19.4 The table below is used to act as a guide to priority:

Effect of housing on health	Medical Problem			
	Very Serious	Serious	Moderate	Low
Very Serious	Band A	Band B	Band C	No award
Serious	Band B	Band B	Band C	No award
Moderate	Band C	Band C	Band C	No award
Low	No award	No award	No award	No award

9.19.5 Assessments of medical priority of band B or above will be carried out by two senior officers in consultation with any officers with direct knowledge of the applicants and using all information available at the time and using the above guide.

9.19.6 Applicants accepted under Homelessness legislation will not be eligible for medical priority. If a homeless applicant’s temporary accommodation is unsuitable on medical grounds the Council will first look to see if alternative temporary accommodation can be found.

9.19.7 Homeless households can be considered through a medical assessment if an extra room is required on medical grounds.

**9.20 Welfare/Hardship/Harassment assessments**

9.20.1 This applies if at least one person in the household is vulnerable and less able to find settled or suitable accommodation.

9.20.2 These people will have a need to move but may not get medical priority because their present housing may be suitable for their needs.

9.20.3 The table below is used to act as a guide to priority:

Need for settled suitable accommodation	Level of Vulnerability		
	High	Medium	Low
High	Band A	Band B	Band C
Medium	Band B	Band B	Band C
Low	Band C	Band C	Band C

9.20.4 Welfare/Hardship/Harassment priority of band B or above will be carried out by two senior officers in consultation with any officers with direct knowledge of the applicants and using all information available at the time and using the above guide.

9.20.5 Homeless applicants will not be looked at under welfare issues. If a homeless applicant's temporary accommodation is unsuitable on welfare grounds the Council will first look to see if alternative temporary accommodation can be found.

9.20.6 If a homeless applicant or household is particularly vulnerable and they may be at significant risk in temporary accommodation the Council can consider the category of 'accepted homeless applicants in particular need' to increase them to band A (see paragraph 9.9).

## **9.21 Tenants with a home that is bigger than they need**

9.21.1 This applies to Uttlesford District Council secure tenants or tenants of RPs (where the Council has nomination rights), who are 'under-occupying' their homes and want to move to a smaller property. These applicants are given high priority because it enables a household with high need to move into the freed up larger home.

9.21.2 Applicants who are currently in property larger than their needs will be placed Band A.

9.21.3 Where an Uttlesford District Council tenant is downsizing to a Council or RSL property they may be eligible for a downsizing grant to help with removal costs. For further details please see the Council's Decant Policy.

## **9.22 Applicants offered housing because of the death of an Uttlesford Council secure tenant**

9.22.1 This applies if the applicant qualifies to 'succeed' to a tenancy when the tenant dies.

9.22.2 To be a 'successor tenant' the applicant has to meet certain rules – usually must be related to the tenant, or be their partner, and have



lived in the property a certain time. The rules for this are in the tenancy conditions for the property.

9.22.3 If the successor tenant does not need the property because of its size, or the adaptations or services in the property, they may be served a notice seeking possession under Schedule 2, Ground 16 of The Housing Act 1985. This will be served more than six months but less than twelve months after the tenant's death.

9.22.4 Where successor tenants are in a property larger than they need or with major adaptations they do not require they will be placed in band A. They are able to express an interest for suitable properties under the scheme. If they have not expressed an interest within six months of their application their case will be reviewed and the Council may reserve the right to express an interest for them on suitable properties.

### **9.23 Uttlesford Council secure tenants offered housing because of a Relationship breakdown**

9.23.1 This category applies to Uttlesford secure tenants only.

9.23.2 If a joint tenant ends the tenancy when moving out, the property is not automatically offered to the tenant remaining.

9.23.3 Applicants will be placed in Band A when there is a relationship breakdown and the joint tenant moves out and ends the tenancy and the other tenant qualifies to be offered a smaller property.

9.23.4 They will be able to express an interest for properties under the scheme but if they have not expressed an interest within six months of their application their case will be reviewed. The Council reserves the right to express an interest for them on suitable properties.

9.23.5 If a property is then subsequently refused they will have no right to remain in their current property and therefore action will be taken by the council to gain possession of the property.

9.23.6 If an applicant qualifies to be offered the same property we will make them a direct let offer of that property.

### **9.24 Transfers which will release a property that is needed**

9.24.1 Applicants will be placed in Band A of the scheme if they wish to move and

- i. the property they would leave is needed to meet the urgent housing needs of another household on the register which otherwise would not be met within a reasonable time or
- ii. where it prevents the Council making expensive alterations to the property and
- iii. there is not a serious shortage of the types of home they want to move to.

### **9.25 Applicants who have deliberately made their housing situation worse**

9.25.1 The Council will consider whether an applicant has deliberately made their housing situation worse to increase their housing need, and consequently improve their chances of re-housing through the register.

9.25.2 If it is decided that the applicant has made their housing situation worse, they will remain in the band that reflects their housing need in their previous accommodation.

9.25.3 If the applicant was not registered from their previous address, the assessment of housing need will be based on the accommodation occupied before their accommodation changed.

9.25.4 The assessment will be reviewed after 12 months, on request. If the restriction is removed, the application will be placed in the band that reflects current circumstances. Their effective date will be the date they moved to the new band.

### **9.26 Owner-occupiers**

9.26.1 Applicants who previously owned a property and have sold it will be asked to provide proof of the sale and evidence of any proceeds received.

9.26.2 Owner-occupiers will generally not be eligible to join the housing register unless they are able to demonstrate that they are unable to meet their housing needs through their own resources.

9.26.3 Property owners over 60 will be eligible to join the housing register if they can demonstrate a need for sheltered accommodation.

### **9.27 Applicants in 'tied' accommodation which is suitable for their needs**

9.27.1 Applicants are considered to be in tied accommodation if the occupation of their home is essential for the performance of their

duties as an employee. This includes applicants who are accommodated by HM Forces.

9.27.2 Applicants in 'tied' accommodation will be placed in band E. They will be moved to Band C if:

- i. they are six months away from retirement or
- ii. they have received a legally binding notice asking them to leave their accommodation.

## **9.28 Deciding the effective date**

9.28.1 Priority within bands relates to an applicant's effective date. The effective date is usually the date the application is received, except;

- i. Where an applicant is moved from one band to a higher band. Their new effective date will be the date their circumstances changed.
- ii. Where an applicant receives priority on medical or welfare grounds their effective date will be the date the Council receives the required supporting evidence to make this award.
- iii. Where an applicant has been accepted as Homeless their effective date will be the date a relief duty was accepted, unless they already qualify for Band B with an earlier date.

## **9.29 Armed Forces Priority**

9.29.1 Members of the Armed Forces, who are in urgent housing need who fall within one or more of the following criteria, will be placed in one Band higher than their housing need.

- i. Is serving in the regular forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service
- ii. Formerly served in the regular forces where the application is made within 5 years of their date of discharge
- iii. Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service or

- iv. Is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service

9.29.2 For this purpose "the regular forces" and the "reserve forces" have the meanings given by section 374 of the Armed Forces Act 2006(4)

### **9.30 By-passing applications that would otherwise meet eligibility criteria for an offer of accommodation**

The Council reserves the right to by-pass an offer of accommodation while shortlisting applicants in the following circumstances

- i. The property is not in accordance with an applicants assessed medical needs
- ii. Applicant has pets and the property is not suitable or pets are not permitted
- iii. Applicant has housing related debt where an agreed repayment plan has been breached (see 5.4)
- iv. Applicant is a Council or RP tenants with rent arrears (see 5.4)
- v. Council tenants where the condition of their current property is considered to be a breach of their Conditions of Tenancy
- vi. If the applicant does not meet the rules relating to age or household size by the RP advertising the property.
- vii. Other reasons where the Council deem that a sensitive allocation is necessary and this has been agreed by a Senior Manager .
- viii. If the applicant has been offered a property and have not yet refused that offer.
- ix. If the applicant is unable to view or accept the property within the required timescale.
- x. Where the applicant has not notified the Council of a change of circumstances material to their application.

### **9.31 Penalty for refusal of offers of accommodation**

Any applicant (except from existing Council or RP tenants who are under-occupying and wishing to move to smaller accommodation) who refuses 2 offers of accommodation, for properties on which they have expressed interest, within a 6 month period, will have their application e suspended for 12 months.

## **10. Types of Tenancies**

- 10.1 The type of tenancy an applicant will be offered will be in accordance with the Council's tenancy policy or the tenancy policy of the landlord of the property. Tenancy policies will be set having regard to the West Essex Tenancy Strategy.
- 10.2 The Council will offer joint tenancies to adult partners where there is a need for a long term commitment to a joint home, except where one of the prospective joint tenants is excluded from or ineligible to join the housing register.
- 10.3 Generally, homeless applicants residing at homeless accommodation (including the Council's managed short stay accommodation) or bed and breakfast accommodation, if offered Council accommodation, will be offered an Introductory Tenancy followed by secure or flexible tenancy in accordance with the Council's Introductory Tenancy Scheme and Tenancy Policy.

## **11. Tenancy Start Dates**

- 11.1 The Council will allow applicants 7 days to reach a decision whether to accept any Council accommodation they are offered, although we may allow longer having regard to personal circumstances.
- 11.2 Where possible the applicant will be given an opportunity to view the property they are being offered before they have to give the Council a decision.
- 11.3 If the applicant is interested in the tenancy they will either be advised by telephone when the property is ready for letting or receive a formal offer of the tenancy by first class post.
- 11.4 Generally, for properties becoming ready for letting on Friday, the tenancy start date will be the following Monday.

## **12. Redecoration Scheme**

Internal decorations to an Council property are the tenant's responsibility. However, if a property (excluding sheltered accommodation) offered to a housing applicant is, in the view of the inspecting officer, in need of redecoration, a voucher for the purchase of an appropriate amount of paint will be provided.

## **13. Designation of Property Type – Age restrictions**

- 13.1 To make best use of housing stock properties are designated as being either general needs or for older persons or people with disabilities.

13.2 Older person's properties, such as bungalows, will normally be allocated to the following categories of person:-

- i. Those aged 60 or over (55 for some RP accommodation)
- ii. Those under 60 with Band B medical assessment who require this type of accommodation. In these circumstances single people and couples will only be offered 1 bed bungalows and will not generally be able to express interest in general needs properties (unless they have a verified need for a 2-bedroom bungalow).

13.3 In areas of lower demand some bungalows may be advertised without an age restriction, however, in the first instance preference will still be given to applicants over 60 expressing interest.

13.4 General needs properties such as houses or flats will be allocated to persons under 60 unless there are special circumstances which indicate that a particular general needs property is suitable for and applicant who is 60 or over.

#### **14. Allocating Sheltered Housing**

14.1 When allocating sheltered housing the same general principles as for other property types are followed, apart from the following:

- i. An assessment of the applicants suitability and need for support must be completed before any tenancy is offered. If the applicant is considered unsuitable for sheltered accommodation, they will be advised and given advice on homes more suitable to their needs.
- ii. When assessing suitability for sheltered housing applicants will also be given advice about the allocation scheme and how to bid. If an applicant needs help with the process, this will be noted and appropriate arrangements made.
- iii. Applicants must generally be over 60 years of age to be eligible for sheltered housing (over 55 for some RP accommodation)

#### **15. Properties designed or adapted for people with physical disabilities**

15.1 If an applicant needs a home suitable for wheelchair users or needs other specialist adaptations we will usually require an assessment by an Occupational Therapist before an offer can be considered. (Please refer to the Council's Disabled Adaptations Policy)

15.2 Homes particularly designed for, or accessible to, people with disabilities will be advertised as such to help applicants with those needs identify them.

15.3 Properties which have been adapted to a very high standard may not be included in the scheme and may be directly allocated.

## **16. Reviews**

16.1 If an applicant considers they have been unfairly or unreasonably treated having regard to the provisions of the Allocations Scheme they have the right to request a review of their case within 28 days of the decision

16.2 In the first instance, they must appeal in writing to the Housing Options Team Leader and will receive a written response within 10 working days.

16.3 If, having received this response they wish to make a further appeal they can write to the Housing Strategy and Operations Manager who will then review the case.

## **17. Equal Opportunities**

17.1 The Council's allocation scheme will be operated strictly in accordance with Council policy irrespective of an applicant's ethnic origin, race, nationality, colour, religion, gender, sexual orientation, marital status, age or disability.

17.2 The Council will have regard to, and implement, the provisions of the Race Relations Code of Practice in Rented Housing, which it has adopted. The Council will also abide by the Race Relations Act 1976.

17.3 As an aid to ensuring that applicants are not discriminated against on the grounds of race, the Council will monitor the racial origin of:

- i. Applicants on the Housing Register
- ii. Applicants allocated housing
- iii. Applicants offered sheltered accommodation

17.4 The practices and procedures of Housing Services will be monitored by the Head of Service to ensure that they do not discriminate directly or indirectly. Changes will be made if it is established that practices or procedures may be contravening the Equalities Act 2010.

## **18. False and Withheld Information**

18.1 It is an offence for anyone seeking housing assistance from us to give false information or withhold information that may affect their application for housing.

18.2 This could result in:

- i. Criminal prosecution

- ii. Cancelling the applicant's housing register application (see paragraph 6.6 above)
- iii. Possession proceedings for any tenancy an applicant has obtained as a result of giving or withholding false information

18.3 The Council may seek possession of a property under Ground 5 of Schedule 2 of the Housing Act 1985 if a tenant has induced the Council to grant a tenancy by knowingly or recklessly making a false statement. The Council can prosecute and fine up to £5,000 if found guilty.

## **19. Information on the Allocations Scheme**

19.1 The Council will:-

- i. Publish a summary of its Allocations Scheme in a leaflet and provide copies free of charge on request to any member of the public
- ii. Provide copies of the Allocations Scheme free of charge at Housing Services, Council Offices, Saffron Walden
- iii. Enable copies of the Allocations Scheme to be downloaded on the Internet from the Council's web-site: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

19.2 Within a reasonable period of time, the Council will notify applicants on the Housing Register of an alteration to the Allocations Scheme reflecting a major change of policy, explaining in general terms the effect of the change.

## **20. Review of Allocations Scheme**

The Allocations Scheme will be reviewed periodically by the Council's Housing Board and any recommended changes agreed by the Council's Cabinet.

## **21. Consultation on Changes to the Allocations Scheme**

Before adopting a new Allocations Scheme or making an alteration reflecting a major change of policy in an existing Allocations Scheme, the Council will notify every RP with which it has nomination arrangements of the change, and all local Councils affording them a reasonable opportunity to comment on the proposals.

## **Data Protection Act**

The information you provide may be put on a computer system registered under the current Data Protection law. It may be checked with other information or data held by the Council. It may be disclosed for the purposes as described on the Register Entry



in the Council's Data Protection Register. We may also share data with other agencies for the prevention and detection of crime.

**IF YOU REQUIRE THIS INFORMATION LEAFLET IN AN ALTERNATIVE  
FORMAT AND OR LANGUAGE PLEASE CONTACT HOUSING SERVICES ON  
01799 510510**

Housing Services  
Uttlesford District Council  
Council Offices  
London Road  
Saffron Walden  
CB11 4 ER

Telephone: 01799 510510  
Email: [uconnect@uttlesford.gov.uk](mailto:uconnect@uttlesford.gov.uk)  
Website: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

## Appendix I

**For General Needs Accommodation, the number of bedrooms that working age applicants are eligible to express interest in, will be in line with the prevailing Housing Benefit Regulations on size criteria.**

### Size of Accommodation Allocated – working age applicants

Household Size	Number of rooms
1 adult	Bedsit/ 1 bedroom
2 adults living together as a couple	1 bedroom
1 adult (2 adults living together as a couple) expecting baby and the pregnancy is over 24 weeks	2 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 1 child* - 2 children* of different sexes where neither child is over 10 years of age - 2 children* of the same sex up until the eldest child is 16 years of age	2 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 2 children* of different sexes where the oldest child is over 10 years of age - 2 children* of the same sex where the eldest child is over 16 years of age - 3 children* - 4 children* regardless of sex up until the eldest child is 16 years of age	3 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 4 children* where 1 child is over 16 years of age - 5 or more children*	4 bedrooms

**\*Parents with 'staying access' to dependent children or shared residence orders** - Applicants with a shared residence order or staying access for children are not automatically entitled to bedrooms for their children. The general principle is that a child needs one home of an adequate size, and that the council will not accept responsibility for providing a second home for children. The council will make an assessment based on the individual circumstances.

**Single applicants or couples where one is over 60 years of age will be eligible to express interest in 1 or 2 bedroom designated older persons accommodation.**

## **Appendix II**

### **Local Lettings Plans**

A Local Letting Plan is an arrangement for the allocation of properties to meet the specific needs of a locality in response to results of a housing needs survey..

### **Rural Housing – Exception site**

When vacancies arise in properties that have been built in rural localities (rural exception sites) and a planning obligation specifies a local connection requirement, this takes precedence over the local connection eligibility in 5.2. This means that households wishing to apply for housing on an exception site who fulfil the local connection requirement set out in a planning obligation, but not the eligibility criteria in 5.2, will be eligible to join the housing register but **only** for this specific development site.

The local connection criteria for rural exception sites will be as follows and in the following order of priority

1. Persons who have been permanently resident in the specified parish for at least two years
2. Persons who are no longer resident in the specified parish but who have been resident for at least three years during the past five years
3. Persons who meet either of the following criteria
  - i. in permanent employment in the specified parish for a minimum of 2 years and working at least 24 hours per week
  - ii. having close relatives (i.e. parents, grandparents, children, brother or sister) living in the specified parish or parishes who have lived there for at least five years
4. If there are no persons meeting the criteria in 1 to 3 then the cascade above will be applied to any neighbouring parishes identified in relevant clauses in the planning agreement
5. In the event that it is still not possible to allocate a property to applicants who meet criteria 1 to 4 above then the property may be allocated to applicants who meet the local connection requirements who will under-occupy the property, providing that the under-occupancy created does not exceed one bedroom
6. In the event that it is still not possible to allocate a property to applicants who meet criteria 1 to 5 above then the property may be allocated to applicants who meet the Uttlesford eligibility criteria set out in Section 5.2.1

7. In the exceptional event that the council is unable to nominate any persons from its Housing Register who comply with 1 to 6 above, the Registered Provider would offer tenancies to Eligible Persons, the definition of which would be consistent with both the council's local connection criteria and the occupancy requirements. The priority when offering tenancies to Eligible Persons would mirror the council's policies on Allocation of Properties.

The council will select nominations which meet the criteria set out in 1 to 6 in the priority order of their local connection and then on the basis of their housing need and then the date that their housing need priority was awarded.

The age criteria (Section 13) may be waived for suitable properties to allow older people to remain in a village.

### **Rural Housing – Non exception site**

Requiring applicants to have a connection with the locality may also be considered by the Council, on a proportion of the affordable housing provision, on any site subject to the terms of a planning obligation where a local need can be demonstrated through a housing needs survey, no more than three years old at the time of the submission of the planning application.. To be eligible for an allocation on these sites applicants must be assessed as having a housing need by being in Bands A – D of the allocation policy.

### **Sustainable Communities**

In exceptional circumstances, the council may decide to let properties on a slightly different basis from normal, in the interests of building a strong and sustainable community or to deal with particular local issues. The decision to apply such criteria will be jointly made by the landlord of the property and the council.

On new developments, the Council and the landlord may consider widening the eligible bands for home types on first lettings, again taking equal opportunities and legal issues into account

## Appendix III

### Right to Move Guidance

The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015 states that local authorities cannot decide that a person does not qualify for an allocation of accommodation on the grounds that the applicant does not have a local connection with the area if the applicant is a tenant of social housing and who needs to move to take up a job or live closer to employment or training (including apprenticeships).

A local connection requirement must **not** be applied to existing social tenants seeking to transfer from another local authority district in England who:

- have reasonable preference under s.166(3)(e) because of a need to move to the local authority's district to avoid hardship, and
- need to move because the tenant works in the district, or
- need to move to take up an offer of work

The applicant must demonstrate that they **need**, rather than wish, to move, for work related reasons. In this regard the following factors will be taken into account:

- the distance and/or time taken to travel between work and home
- the availability and affordability of transport, taking into account level of earnings
- the nature of the work and whether similar opportunities are available closer to home
- other personal factors, such as medical conditions and child care, which would be affected if the tenant could not move
- the length of the work contract
- whether failure to move would result in the loss of an opportunity to improve their employment circumstances or prospects, for example, by taking up a better job, a promotion, or an apprenticeship

This is not an exhaustive list, other local circumstances may be taken into consideration.

### The following forms of work are excluded from the Right to Move

#### Short-term

In determining whether work is short-term the following factors will be taken into consideration

- whether the work is regular or intermittent
- the period of employment and whether or not work was intended to be short-term or long-term at the outset
- A contract of employment that was intended to last for less than 12 months could be considered to be short-term

### Marginal

In determining whether work is marginal the following factors will be taken into consideration

- the number of hours worked (employment of less than 16 hours a week could be considered to be marginal in nature)
- the level of earnings

However Uttlesford District Council may take into account, for example, if a tenant only works 15 hours a week but they can demonstrate that the work is regular and the remuneration is substantial.

### Ancillary

- If a person works occasionally in the local authority's district, even if the pattern of work is regular, but their main place of work is in a different local authority's district, the work is excluded from the regulations
- If the tenant is expected to return to work in the original local authority district. If a local authority has reason to believe this is the case, they should seek verification from the tenant's employer
- A person who seeks to move into a local authority to be closer to work in a neighbouring authority – for example, where the transport links are better in the first local authority's area – is also excluded from these regulations.

### Voluntary Work

- Voluntary work means work where no payment is received or the only payment is in respect of any expenses reasonably incurred

### Apprenticeship

- The term 'work' includes an apprenticeship. This is because an apprenticeship normally takes place under an apprenticeship agreement which is an employment contract (specifically a contract of service) *[Why are apprenticeships excluded?]*

### **Verification and evidence**

Uttlesford District Council will require proof that the work or job-offer is genuine and will need to see appropriate documentary evidence, which could include:

- a contract of employment
- wage/salary slips covering a certain period of time, or bank statements (this is likely to be particularly relevant in the case of zero-hours contracts)
- tax and benefits information – e.g. proof that the applicant is in receipt of working tax credit (if eligible)
- a formal offer letter
- additionally, the employer may be contacted to verify the position *[Do we need to write in that applicants may be required to sign an authority to enable the employers to provide information regarding employment?]*

**Uttlesford District Council may consider whether an applicant qualifies both at the time of the initial application and when considering making an allocation.**

A set quota which the Council feels appropriate for the proportion of properties that it expects to allocate each year to transferring tenants who need to move into their district for work related reasons is 1%. However this will be reviewed and revised as appropriate based upon supply and demand through monitoring channels.

**Applicants who meet the criteria for Right to Move will be placed in one and higher than their housing need.**





**ANNEX 5**  
**UDC FIRST HOMES PLANNING ADVICE NOTE**



**UTTLESFORD DISTRICT COUNCIL**

**FIRST HOMES  
PLANNING ADVICE  
NOTICE  
2022**



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## 1. BACKGROUND

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1.1 On 24th May 2021, the Government published a Written Ministerial Statement<sup>1</sup> that set out plans for delivery of a new type of affordable home ownership product called First Homes. To support the future development of First Homes, the Government also set out changes to national planning policy.<sup>2</sup>

1.2 First Homes are a specific kind of discounted market sale housing which must:

- be discounted by a minimum of 30% against the market value; and
- can only be sold to a person or persons meeting the First Homes eligibility criteria (see below); and
- after the discount has been applied, the first sale must be at a price no higher than £250,000 outside of London; and
- on the first sale, a First Home will have a restriction registered on the title of the property at HM Land Registry to ensure the discount (percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer.

1.3 This is the minimum criteria a First Home must meet and would be considered to meet the definition of 'affordable housing' for planning purposes.

1.4 The national eligibility criteria for purchasers of First Homes includes the following:

- a purchaser (or, if joint purchase, all the purchasers) of a First Home should be a first-time buyer<sup>3</sup>;
- and purchasers of First Homes, whether individuals, couples or group purchasers should have a combined annual household income not exceeding £80,000 in the tax year immediately preceding the year of purchase.
- and a purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic Law) to fund a minimum of 50% of the discounted purchase price.
- and the First Home must be the buyer's main residence with restrictions on lettings being applied.

1.5 The First Homes Written Ministerial Statement does give local authorities or neighbourhood planning groups discretion to:

- Require a higher minimum discount of either 40% or 50% if they can demonstrate a need for this.
- Set lower price caps if they can demonstrate a need for this.
- Apply time limited eligibility criteria in addition to the national criteria described above, for example a local connection test, or criteria based on employment status.

1.6 First Homes are the Government's preferred discounted market tenure and should account for a minimum 25% of affordable housing secured through planning obligations.

1.7 Uttlesford District Council requires the provision of 40% of the total number



of residential units to meet the national definition of 'affordable housing' within all new residential developments that comprise 15 or more residential units or a site of 0.5 hectares and above.

1.8 To meet housing need the 40% affordable housing policy requirement must incorporate 70% affordable housing for rent, provided as either social or affordable rented housing. The remaining 30% required to meet demand for affordable home ownership and comply with national planning policy, which requires that at least 10% of homes should be available for affordable homes ownership. It was assumed to be provided as shared ownership housing where buyers purchase a share in a home and pay a below market rent on the share that they do not own.

1.9 The First Homes Written Ministerial Statement also introduced a First Homes exceptions site policy to encourage First Homes-led development on land that is not currently allocated for housing, replacing the entry-level exception site policy.

1.10 First Homes exception sites should be on land which is not already allocated for housing and should:

- a) comprise First Homes (as defined in the Written Ministerial Statement); and
- b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework<sup>4</sup>, and comply with any local design policies and standards.

1.11 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion.





## 2. PURPOSE

2.1 The purpose of this advice note is to:

2.1.1. Clarify what a policy compliant affordable housing requirement on developments of 15 or more dwellings or a site of 0.5 hectares and above is following the implementation of the First Homes Written Ministerial Statement.

2.1.2 Set out the Council's position regarding those elements of the National criteria that can be amended by local authorities relating to the homes and purchasers of First Homes.

2.1.3 Clarify the Council's interpretation and position regarding the terms 'proportionate to the settlement' and 'small proportion of market homes' in relation to First Homes exceptions sites.

2.2 This Planning Advice Note will be reviewed in line with the review of the Local Plan, which is currently being undertaken to enable the new Local Plan to be adopted in 2024.

## 3. POLICY COMPLIANT AFFORDABLE HOUSING MIX

3.1 A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes, subject to the transitional arrangements (see below).

3.2 Once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the Local Plan.

3.3 The remainder of the affordable housing tenures should be delivered in line with the proportions set out in Local Plan policy.

3.4 The First Homes Planning Practice Guidance states that a policy compliant planning application should seek to capture the same amount of value as would be captured under a local authority's up-to-date published policy. It sets out that where a plan viability assessment shows the amount of value captured, this allows the total value captured under the policy to be calculated. This value can then be reallocated to a different affordable housing mix under the new policy<sup>5</sup>.

3.5 Currently the 40% affordable housing policy requirement consists of 70% affordable housing for rent and 30% affordable home ownership – assumed to be provided as shared ownership housing. As the 25% First Homes requirement can be accounted for within the 30% affordable home ownership element of the contribution,

The following affordable housing contribution will be considered policy compliant:



**70% of the affordable units on new residential developments of 15 or more residential units or on a site of 0.5 hectares and above will be required as affordable housing for rent.**

**25% of the affordable units on new residential developments of 15 or more residential units or with a site of 0.5 hectares or more will be required as First Homes.**

**5% of the affordable units on new residential developments of 15 or more residential units or with a site of 0.5 hectares or more will be required as Shared Ownership Housing to continue to meet demand for affordable home ownership homes and from purchasers that do not meet the qualification criteria applied to First Homes.**

3.6 To ensure a compliant planning application captures the same amount of value as would be captured under the Local Plan:

**First Homes will be required at the 30% discount against the market value and the national price cap of £250,000 will apply.**

## 4. LOCAL ELIGIBILITY CRITERIA

4.1 As part of planning obligations secured through section 106 agreements, local authorities can apply eligibility criteria to First Homes in addition to the national criteria described above.

In Uttlesford, the following additional local criteria will apply to all First Homes on initial sales and resales for a period of 3 months from when a home is first marketed:

**Households with an adult that at the time of marketing the First Home lives or works<sup>7</sup> in the Uttlesford district; or**

**Households with an adult that at the time of marketing the First Home is due to commence employment in the Uttlesford district: or**

**Households with an adult that at the time of marketing the First Home has a close family connection to the Uttlesford district (*parents, grandparents, children, siblings*)**

4.2 If a suitable buyer has not reserved a home after 3 months, the eligibility criteria will revert to the national criteria to widen the consumer base.<sup>6</sup>

4.3 In accordance with national Planning Practice Guidance, the local eligibility criteria will be disapplied for all active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the armed forces (if their



death was wholly or partly caused by their services) and veterans within 5 years of leaving the armed forces.

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## 5. FIRST HOMES EXCEPTIONS SITES

5.1 The First Homes Written Ministerial Statement and associated planning guidance allows for First Homes exceptions sites to come forward on unallocated land outside of a development plan so long as it meets the criteria set out above. As well as being adjacent to existing settlements, the criteria states that these sites must be 'proportionate in size' to the existing settlements.

5.2 National Planning Practice Guidance states that for decision making, what constitutes a proportionate development will vary depending on local circumstances and encourages local authorities to set policies which specify their approach to determining the proportionality of First Homes exceptions site proposals.

5.3 Uttlesford District Council will consider whether First Homes exceptions site proposals are 'proportionate' to an existing settlement as part of the assessment process for each First Homes exception site application which is submitted. In all instances this will not exceed 15 units or 0.5 hectares, and in smaller settlements<sup>7</sup> 15 units is likely to not be proportionate.

5.4 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion.

5.5 The starting point is that market homes are not required, especially given First Homes are not required to be discounted beyond the 30% minimum, however: Where it can be demonstrated to the satisfaction of the Council that market housing is essential to cross-subsidise the delivery of First Homes on First Homes exceptions sites: the proportion of market housing must not exceed 20% of the total number of homes; and the market and affordable homes must be indistinguishable in design and quality.

5.6 National Planning Policy Guidance allows small quantities of affordable housing products for one or more other form of affordable housing on a proposed First Homes exceptions site where evidence suggests that a significant local need exists. This evidence can be in the form of a local Housing Needs Assessment or the local authority Housing Register.

5.7 As Uttlesford District Council has significant local need for more affordable housing for rent to meet the needs of households on the Council's Housing Register, we expect **at least 25% of First Homes exceptions sites to provide affordable housing for rent to meet the needs of those households in the greatest housing need on the Council's Housing Register.**





## 6. TRANSITIONAL ARRANGEMENTS



6.1 National Planning Practice Guidance sets out that the First Homes policy requirement does not apply to decision making for the following:

- sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021;
- applications for full or outline planning permission where there has been significant preapplication engagement which are determined before 28 March 2022; and
- sites where neighbourhood plans are adopted/made under the transitional arrangements -submitted for examination before 28 June 2021 or have reached publication stage and subsequently submitted for examination by 28 December 2021.

6.2 These transitional arrangements also apply to permissions and applications for entry-level exception sites.

6.3 The First Homes requirement does not apply to applications made under section 73 of the Town and Country Planning Act 1990 to amend or vary an existing planning permission unless the amendment or variation in question relates to the proposed quantity or tenure mix of affordable housing for the development.

## 7. KEY DOCUMENTS

### **Uttlesford Local Plan (2005)**

7.1 Policies H9, H10 and H11 set out the affordable housing and rural exceptions site policies.

7.2 The Council is in the process of producing a new Local Plan for adoption in 2024.

### **Housing Strategy (2021-2026)**

7.4 The Council's Housing Strategy 2021-2026 establishes the key priorities relating to housing for the Uttlesford district and the actions to be taken to address these priorities.



DATED

29th February

2024

- (1) UTTLESFORD DISTRICT COUNCIL
- (2) ESSEX COUNTY COUNCIL
- (3) WESTON HOMES PLC
- (4) EUAN STEWART KENNEDY SHUNA MACKINNON  
DICKSON MARK KENNEDY WILLIAMS, ANDREW  
MACKINNON MORRIS AND MAXWELL STEWART  
KENNEDY
- (5) EUAN STEWART KENNEDY AND SHUNA  
MACKINNON DICKSON
- (6) HSBC CORPORATE TRUSTEE COMPANY  
(UK)LIMITED

## SECTION 106 AGREEMENT

RELATING TO LAND AT WARISH HALL FARM, NORTH OF JACKS LANE, SMITHS  
GREEN LANE, TAKELEY  
PLANNING APPLICATIONS REFERENCE 62A/2023/0027 (UTT/23/2682/PINS) AND  
UTT/22/3126/FUL

REFERENCE

JB/762107.30

**ReedSmith**

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reedsmith.com

DATED

29th February

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THIS AGREEMENT is made on

24th February

2024

**BETWEEN:**

- (1) **Uttlesford District Council** of Council Offices, London Road, Saffron Walden, Essex CB11 4ER ('UDC')
- (2) **Essex County Council** of County Hall, Market Road, Chelmsford CM1 1QH ('the County Council')
- (3) **Weston Homes Plc** (company registration number 2133568) of Weston Group Business Centre, Parsonage Road, Takeley, Essex CM22 6PU (the 'Developer') and
- (4) **Euan Stewart Kennedy** of [REDACTED] **Shuna Mackinnon Dickson** of [REDACTED] **Mark Kennedy Williams** of [REDACTED] **Andrew Mackinnon Morris** of [REDACTED] and **Maxwell Stewart Kennedy** of [REDACTED] (the First Verge Owner')
- (5) **Euan Stewart Kennedy** of [REDACTED] **Shuna Mackinnon Dickson** of [REDACTED] ('the Second Verge Owner')
- (6) **HSBC Corporate Trustee Company (UK) Limited** (company registration number 06447555) of Level 14, 8 Canada Square, London E14 5HQ ('the Mortgagee')

**1 DEFINITIONS**

- 1.1 'the Highways Act' shall mean the Highways Act 1980
- 1.2 'the 1972 Act' shall mean the Local Government Act 1972
- 1.3 'the 1990 Act' shall mean the Town and Country Planning Act 1990
- 1.4 'the 1999 Act' shall mean the Contracts (Rights of Third Parties) Act 1999
- 1.5 'the 2008 Act' shall mean the Housing and Regeneration Act 2008
- 1.6 'the 2011 Act' shall mean the Localism Act 2011
- 1.7 'Affordable Housing' shall mean subsidised housing within the definition of affordable housing contained in Annex 2 of the NPPF that will be available to persons who cannot afford to buy or rent housing generally available on the open market including but not limited to Affordable Rented Housing First Homes and Shared Ownership Housing
- 1.8 'Affordable Housing Land' shall mean the land on which the Affordable Housing Units will be constructed in accordance with the Permission as shown on the Affordable Housing Plan
- 1.9 'Affordable Housing Plan' shall mean the plan attached at Annex 3 (Plan WH202.WST.P1.ZZ.DR.PL.10.05 Rev B) identifying the number and location of the Affordable Housing Units included within the Development, the Affordable Housing Tenure Mix and the Affordable Housing Unit Mix or such other plan as may be agreed between UDC and the Developer
- 1.10 'Affordable Housing Tenure Mix' shall mean the different types of tenure of Affordable Housing to be provided within the Development and which shall (unless otherwise approved by UDC) comprise:
  - (a) Seventy percent (70%) Affordable Rented Housing Units
  - (b) Twenty five percent (25%) First Homes Units
  - (c) Five percent (5%) Shared Ownership Housing Units

in each case rounded up or down to the nearest whole number of units or such other tenures as may be agreed between UDC and the Developer

- 1.11 **'Affordable Housing Unit Mix'** shall mean the different types and size of Affordable Housing Units to be provided as part of the Development as shown on the Affordable Housing Plan or such other types and sizes as may be agreed between UDC and the Developer
- 1.12 **'Affordable Housing Units'** shall mean the sixteen (16) units of accommodation shown on the Affordable Housing Plan to be constructed on the Affordable Housing Land
- 1.13 **'Affordable Rented Housing'** shall mean Affordable Housing provided by an Approved Body to households those in identified housing need where the rent level is capped at 80% of the local market rent (including any service charges, where applicable)
- 1.14 **'Affordable Rented Units'** shall mean the eleven (11) units of rented housing to be occupied as Affordable Rented Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.15 **'Allocations Policy'** shall mean UDC's Allocations Policy dated June 2021 attached at Annex 4 or any subsequent Allocations Policy replacing that policy
- 1.16 **'Approved Body'** shall mean any registered provider registered or eligible for registration with Homes England or successor organisation, 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 UDC and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord
- 1.17 **'Armed Services Member'** shall mean a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service
- 1.18 **'CIL Regulations'** shall mean the Community Infrastructure Levy Regulations 2010
- 1.19 **'Compliance Certificate'** means the certificate issued by UDC confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 1.2.3 of Part 2 of Schedule 1 applies the Eligibility Criteria (Local) in a form to be provided by UDC and approved by the Developer
- 1.20 **'the Councils'** shall mean UDC and the County Council
- 1.21 **'County Council Monitoring Fee'** shall mean a fee of £700 (Seven Hundred Pounds) per obligation due to the County Council under this Deed and for the avoidance of doubt this is a total of £7,000 (Seven Thousand Pounds) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed
- 1.22 **'Decision Letter'** shall mean the decision letter issued by the Planning Inspector on behalf of the Secretary of State confirming whether or not the Permission is granted
- 1.23 **'Designated Protected Area'** shall mean a rural area designated by the Secretary of State within the Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 as amended or any legislation that shall replace it with the aim of securing long term provision of Shared Ownership homes in rural areas
- 1.24 **'the Development'** shall mean the development authorised by the Permission for construction of 40 dwellings (Class C3), including open space, landscaping, and associated infrastructure
- 1.25 **'Development Standard'** means a standard to fully comply with the following:
- (a) 'Technical housing standards – nationally described space standards' published by the Department for Communities and Local Government in March 2015
  - (b) all national construction standards and planning policy relating to design which may be published by the Secretary of State or by the District Council from time to time

- (c) Approved Document Q: Security- Dwellings published by HM Government or any document which supersedes it
- (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings)

and the same may be amended by written agreement of the Parties

- 1.26 **'Discount Market Price'** shall mean a sum which is the Market Value discounted by at least 30%
- 1.27 **'Disposal'** shall mean a transfer of the freehold or (or in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than:
- (a) a letting or sub-letting in accordance with paragraph 1.17 of Part 2 Schedule 1
  - (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes owner
  - (c) an Exempt Disposal

and **'Disposed'** and **'Disposing'** shall be construed accordingly

- 1.28 **'DPA Waiver'** shall mean a waiver issued by Homes England (or any other body with power to issue such a waiver) which would have the effect of waiving Designated Protected Area grant funding conditions applied by Homes England in relation to staircasing ownership of Shared Ownership Units in respect of all or part of the Site
- 1.29 **'Dwelling'** shall mean any residential dwelling (including a house, flat, or maisonette) constructed as part of the Development or created by conversion of an existing building on the Land pursuant to the Permission
- 1.30 **'the County Council Contribution'** shall mean the Education Contribution, the Highway Contribution the Sustainable Transport Contribution and the Library Contribution
- 1.31 **'Eligibility Criteria (National)'** shall mean criteria which are met in respect of a purchase of a First Home if:
- (a) the purchaser is a First Time Buyer (and in the case of a joint purchase each joint purchaser is a First Time Buyer); and
  - (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National)
- 1.32 **'Eligibility Criteria (Local)'** shall mean in relation to the First Home(s) the criteria set out in Paragraphs 4.1 – 4.3 of the First Homes Planning Advice Notice
- 1.33 **'Eligible Person'** shall mean a person or persons on the Housing Register that meets the qualifying criteria within the Allocations Policy (unless otherwise agreed by UDC in writing)
- 1.34 **'Estate Service Charge'** shall mean an estate service charge or rent charge for the Land representing a fair and proper proportion of the expenditure applicable to the particular Dwelling payable annually to the Management Company in respect of its administration and of insuring, maintaining and repairing and as necessary renewing the Public Open Space, and in accordance with the Management Scheme
- 1.35 **'Exempt Disposal'** shall mean a disposal in one of the following circumstances:
- (a) a disposal to a spouse or civil partner upon the death of an owner;
  - (b) a disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of an owner;



- (c) a disposal to a former spouse or former civil partner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order;
  - (d) a disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling; and
  - (e) provided that in each case other than (d) the person to whom the disposal is made complies with the provisions relating to First Homes in this Deed;
- 1.36 **'Expert'** shall mean such expert as may from time to time be appointed for the purpose of resolving a relevant dispute being a barrister or solicitor or chartered surveyor or other person appropriately qualified to resolve the dispute (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of one of the parties by or on behalf of the President from time to time of the Bar Council or the Law Society or the Royal Institute of Chartered Surveyors
- 1.37 **'Final Certificate'** means a certificate to be issued by UDC on expiration of the Open Space Maintenance Period when the Open Space has been maintained to the reasonable satisfaction of UDC
- 1.38 **'First Homes Contribution'** shall mean in circumstances where a sale of a First Homes Unit other than as First Homes Housing has taken place in accordance with the provisions of this Deed, the lower of the following two amounts:
- (a) 30% of the proceeds of sale; and
  - (b) the proceeds of sale less the amount due and outstanding to any mortgagee of the relevant First Homes Unit under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the owner of the First Homes Unit to the mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the owner of the First Homes Unit in connection with the sale of the First Homes Unit and which for the avoidance of doubt shall in each case be paid following the deduction of any stamp duty land tax payable
- 1.39 **'First Homes Housing'** shall mean Dwellings which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap and 'First Home' shall be construed accordingly
- 1.40 **'First Homes Units'** shall mean the four (4) units to be occupied as First Homes Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.41 **'First Time Buyer'** shall mean a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
- 1.42 **'First Homes Planning Advice Notice'** means the First Homes Planning Advice Notice published by UDC and dated 2022 a copy of which is annexed to this Deed as Annex 5 or any subsequent replacement thereof
- 1.43 **'Health Care Contribution'** shall mean the sum of £51,680 to mitigate the impact of the Development to be used towards the provision of additional capacity to accommodate patient growth generated by the Development
- 1.44 **'Homes England'** shall mean the body set up by section 1 of the Housing and Regeneration Act 2008 or any successor organisation
- 1.45 **'Implementation'** shall mean the implementation of the Permission by the carrying out of any material operation (as defined by s. 56 of the 1990 Act) pursuant to the Permission but disregarding for the purposes of this Deed and for no other purpose the following operations:
- (a) site clearance

- (b) demolition
- (c) site survey
- (d) ecological survey
- (e) archaeological survey
- (f) remediation
- (g) erection of fences or hoardings

and Implement and Implemented shall mutatis mutandis be construed accordingly

- 1.46 **'Implementation Date'** shall mean the date of Implementation
- 1.47 **'Income Cap (Local)'** shall mean such local income cap as may be published from time to time by UDC and is in force at the time of the relevant Disposal of the First Home it being acknowledged that at the date of this Deed the Council has not set an Income Cap (Local)
- 1.48 **'Income Cap (National)'** shall mean on the first sale of the First Home eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home
- 1.49 **'Index'** shall mean the Index of Retail Prices compiled and published by Her Majesty's Government from time to time
- 1.50 **'Index Linked'** shall mean that the sum shall be changed by an amount equal to the change in the Index
- 1.51 **'Inspector'** shall mean the planning inspector appointed by the Planning Inspectorate/ Secretary of State in determination of the Planning Application
- 1.52 **'the Land'** shall mean the land at Warish Hall Farm Smiths Green Lane Takeley shown edged in red on the Plan
- 1.53 **'LAP'** shall mean the local area of play to be provided within the publicly accessible Public Open Space where the items of play equipment/features are suitable for use by toddlers designed and laid out to meet relevant safety standards for play facilities from a reputable supplier and installed and inspected in accordance with their guidelines and to be maintained and managed in accordance with the Public Open Space Management Scheme
- 1.54 **'Local Connection Criteria'** shall mean such local connection criteria as may be designated and published by UDC from time to time as its 'First Homes Local Connection Criteria' and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such criteria or replacement criteria in operation at the time of the relevant disposal of the First Home shall be the 'Local Connection Criteria' which shall apply to that Disposal
- 1.55 **'Maintenance Period'** shall mean a period of twelve (12) months or if longer until the Public Open Space has been transferred to the Management Company from the date the Public Open Space has been fully constructed, completed and available for safe and immediate public use
- 1.56 **'Management Company'** shall mean a company body or other entity responsible for the long-term management and maintenance of the Public Open Space
- 1.57 **'Management Company Responsibilities'** means the maintenance of the Public Open Space over the lifetime of the Development to a comparable standard achieved on the issue of the Final Certificate by diligently applying monies received by the Management Company for those purposes
- 1.58 **'Market Value'** shall mean the open market value as assessed by a Valuer as confirmed to UDC by the First Homes Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation

- 1.59 **'Nominated Persons'** shall mean a person or persons nominated by UDC from their housing register to be offered an Affordable Housing Unit by the Approved Body (unless otherwise agreed in writing by UDC)
- 1.60 **'NPPF'** shall mean the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government and dated July 2021 or any replacement statement guidance note or circular which may amend, supplement or supersede it
- 1.61 **'Occupation'** shall mean occupation of a building constructed as part of the Development of the Land pursuant to the Permission and shall not include daytime occupation by workmen involved in the construction of the buildings the use of finished buildings for sales purposes for use as temporary offices or for the storage of plant and material and 'Occupy' 'Occupancy' and 'Occupied' shall be construed accordingly
- 1.62 **'Open Market Housing Units'** shall mean the Dwellings to be constructed in accordance with the Permission which are not Affordable Housing Units
- 1.63 **'Owners'** shall mean together the Developer and the First Verge Owner and the Second Verge Owner
- 1.64 **'Parish Council'** shall mean Takeley Parish Council or its statutory successor
- 1.65 **'Permission'** shall mean the planning permission granted by the Inspector on behalf of the Secretary of State in respect of the Planning Application and any subsequent planning permission for the Development granted pursuant to Section 73 of the Act
- 1.66 **'Plan'** shall mean the plan attached at Annex 1 showing the Land
- 1.67 **'Planning Application'** shall mean the applications made by the Developer under reference number S62A/2023/0027 (UTT/23/2682/PINS) and UTT/22/3126/FUL for the erection of 40no. dwellings, including open space landscaping and associated infrastructure
- 1.68 **'Price Cap'** shall mean the amount for which a First Homes Unit is sold after the application of the Discount Market Price which on its first Disposal shall not exceed two hundred and fifty thousand pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State
- 1.69 **'Protected Tenant'** shall mean 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 (including a preserved right to buy) (or any equivalent contractual right including the voluntary Right to Buy agreed between the Government and the National Housing Federation in 2015 and any extension or amendment thereto) in respect of a particular Affordable Housing Unit
  - (b) has exercised any statutory right to buy purchase or acquire (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
  - (c) has been granted a shared ownership lease by the Approved Body and has (by virtue only of the grant of a DPA Waiver) become a 100% Staircaser
- 1.70 **'Provisional Certificate'** means a certificate or certificates which is/are issued by UDC when it is satisfied that the Public Open Space (or part thereof) has been provided laid out and landscaped in accordance with the Public Open Space Scheme
- 1.71 **'Public Open Space'** shall mean all landscaped areas not including private gardens or adopted roads
- 1.72 **'Public Open Space Commuted Sum'** means the sum for funding the maintenance and upkeep of the Public Open Space to demonstrate that the Public Open Space is able to be maintained by the Parish Council such sum to be agreed in writing between UDC and the Owners in accordance with this Deed

- 1.73 **'Public Open Space Scheme'** means a scheme:
- (a) detailing how the Public Open Space will be laid out and constructed;
  - (b) which sets out the detailed technical specification of all the works to be carried out on the Public Open Space; and
  - (c) phasing
- 1.74 **'Public Open Space Maintenance Period'** means a period of twelve months from the date of issue of the Provisional Certificate for the Public Open Space or such other period as may be agreed in writing by the Owners and UDC
- 1.75 **'Public Open Space Management Plan'** means a plan establishing the long term management and maintenance of the Public Open Space
- 1.76 **'Secretary of State'** shall mean the Secretary of State for Levelling Up, Housing and Communities or such other Minister of Her Majesty's Government for the time being having or discharging the functions of the Secretary of State for the purposes of the 1990 Act
- 1.77 **'Shared Ownership Housing'** shall mean housing which will be offered for shared ownership by the Developer/Approved Body to persons in need of affordable housing
- 1.78 **'Shared Ownership Unit'** shall mean the one (1) unit of Shared Ownership Housing
- 1.79 **'100% Staircaser'** shall mean a leaseholder of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the equity in the said Unit
- 1.80 **'UDC Monitoring Fee'** shall mean a fee due to UDC under this Deed totalling three thousand three hundred and twenty eight pounds sterling (£3328) (no VAT) towards UDC's reasonable and proper administration costs of monitoring and managing the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed or such lesser amount as the Inspector expressly states in the Decision Letter should be paid
- 1.81 **'Unit'** shall mean a house or self-contained flat or bungalow or any other Dwelling constructed as part of the Development and 'Units' shall be construed accordingly
- 1.82 **'Valuer'** shall mean a Member or Fellow of the Royal Institution of Chartered Surveyors being a registered valuer appointed by the owner of a First Homes Unit and acting in an independent capacity
- 1.83 **'Working Days'** shall mean any day from Monday to Friday inclusive which is not Christmas Day Good Friday a statutory bank holiday or a day between Christmas Day and New Year's Day

## 2 RECITALS

- 2.1 UDC is the local planning authority within the meaning of the 1990 Act for the District in which the Land is situated
- 2.2 the County Council is the local planning authority and the local authority for statutory age and pre-statutory age education and childcare and the local highway authority for the County within which the Land is situated (which includes some highway land)
- 2.3 The Developer is the proprietor of the freehold interest in the majority of Land registered at HM Land Registry under Title Number EX476530 and the leasehold proprietor of part of the Land (currently owned by the First Verge Owner) registered under title number EX978002 which contains an option to purchase the freehold of that part of the Land
- 2.4 The First Verge Owner is proprietor of the freehold interests in those parts of the Land along Smiths Green Lane being parts of the land registered at HM Land Registry under the Title Numbers EX645448 and EX826013. Euan Stewart Kennedy and Shuna MacKinnon Dickson are at the date of this Deed the registered proprietors of the said registered titles but which are currently subject to a transfer (TR5) dated 31 July 2023 from Euan Stewart Kennedy and Shuna MacKinnon Dickson ('**Transferors**') to Mark Kennedy Williams, Andrew MacKinnon Morris and Maxwell Stewart Kennedy

("Transferees"). As the application for registration of the said transfer is still pending at Land Registry and legal ownership will not pass until the transfer has been registered the obligations in this Deed that are binding on the First Verge Owner shall be binding on the Transferors until the said transfer has been registered and upon completion of that registration the Transferor will be released from those obligations binding on the First Verge Owner. The Transferees are joining into this Deed to consent to these arrangements pursuant to its equitable interest in this part of the Land and that once the said transfer is registered at Land Registry the Transferee will be liable for the obligations binding on the First Verge Owner as successor in title subject to the terms of this Deed

- 2.5 The County Council owns a Lease registered at HM Land Registry under the Title Number EX977540 which is subject to a leasehold interest held by the Second Verge Owner registered at HM Land Registry under the Title Number EX834409 and consents to the Owners entering into this Deed.
- 2.6 The Mortgagee is the registered proprietor of the charge dated 25 September 2020 referred to in entry number 8 of the charges register of Title Number EX476530 and has agreed to enter into this Deed to give its consent to the terms of this Deed.
- 2.7 The Developer has made the Planning Application which has been submitted to UDC (under reference UTT/22/3126/FUL) and to the Planning Inspectorate (PINS) for determination under s62A of the 1990 Act (under reference 62A/2023/0027).
- 2.8 The Councils and the Owners have agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by UDC and or the County Council against them and their successors in title subject to the terms of this Deed
- 2.9 The Councils and the Owners are satisfied that the obligations in this Deed are compliant with the requirements of regulation 122(2) of the CIL Regulations in that they are
- (a) necessary to make the Development acceptable in planning terms
  - (b) directly related to the Development
  - (c) fairly and reasonably related in scale and kind to the Development

and that in accordance with regulation 122(2A) of the CIL Regulations any Monitoring Fee(s) to be paid fairly and reasonably relate in scale and kind to the Development and that the sums to be paid do not exceed the Councils' estimates of their costs of monitoring the Development over the lifetime of the obligations in this Deed

- 2.10 The Owners have agreed to enter into this Deed pursuant to the operative powers described in clause for the purpose of regulating the Development and use of the Land in the event that the Permission is granted pursuant to determination of the Planning Application

### **3 ENABLING POWERS AND OBLIGATIONS**

- 3.1 This Deed is entered into pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act, section 1 of the 2011 Act and all other enabling powers
- 3.2 Such of the covenants contained herein as are capable of being planning obligations within the meaning of section 106 of the 1990 Act are declared to be planning obligations and as such are enforceable by UDC and the County Council as hereinafter provided

### **4 OBLIGATIONS UNDERTAKEN BY THE OWNERS**

- 4.1 The Owners so as to bind the Land covenant with UDC and the County Council to comply with the obligations restrictions and covenants set out in this Deed and in the Schedules to this Deed
- 4.2 With the intent that the Land shall be subject to the obligations and restrictions contained in this deed for the purpose of restricting or regulating the Development and use of the Land so that the provisions of this deed shall be enforceable against the Owners and their successors in title the Owners hereby undertake to observe and comply with the obligations contained in the Schedules to this deed subject always to clause 4.2 hereof

4.3 In respect of the Planning Application the provisions and obligations contained in clause 9 and the Schedules of this deed shall only apply and shall be enforceable by UDC or the County Council in such circumstances that the Inspector or the Secretary of State states clearly in the Decision Letter that such obligations are necessary and meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and PROVIDED THAT if the Inspector or the Secretary of State in the Decision Letter concludes that any of the planning obligations set out in the Deed are incompatible with any one of the tests for planning obligations set out at Regulation 122 of the CIL Regulations and accordingly attaches no weight to that obligation in determining the Planning Application then the relevant obligation shall from the date of the Decision Letter cease to have effect and the Owners shall be under no obligation to comply with them

4.4 The liability of the Owners or any one or more of them under this Deed shall cease once they have parted with their relevant respective interest in the Land or any relevant part thereof (in which event the obligations of the Owners under this deed shall cease only in relation to that part or those parts of the Land which is or are transferred by them and for the avoidance of doubt once any of the Owners has transferred all parts of the Land owned by that owner, the obligations on that owner shall cease) but not so as to release any party from liability for any breaches hereof arising prior to the transfer and for the purposes of this deed any easement covenant or similar right shall not constitute an interest in the Land

4.5 The First Verge Owner shall have no liability pursuant to this Deed unless and until Implementation has occurred on the part of the Land owned by the First Verge Owner

4.6 The Second Verge Owner shall have no liability pursuant to this Deed unless and until Implementation has occurred on the part of the Land in which the Second Verge Owner has a leasehold interest.

## 5 OBLIGATIONS UNDERTAKEN BY UDC AND THE COUNTY COUNCIL

5.1 UDC covenants to observe and comply with the obligations on its part contained in Schedule 1 and the County Council covenants to observe and comply with the obligations on its part contained in Schedule 2

5.2 At the written request of the Developer UDC and the County Council shall provide written confirmation of the discharge of the obligations given to them respectively in this Deed when satisfied that such obligations have been performed

5.3 Representatives of UDC and the County Council may enter upon the Land at any reasonable time (and in the case of an emergency immediately) to ascertain whether the terms of this Deed and of the Permission are or have been complied with subject to complying with all health and safety requirements notified by the Developer

## 6 CONSENTS

6.1 The Mortgagee consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Land

6.2 The Mortgagee shall not be liable for any breach of the obligations in this Deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Land and continues with or carries out the Development itself

6.3 The County Council as leaseholder under title EX977540 consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed

6.4 The County Council shall not be liable for any breach of the obligations in this Deed in its capacity as leaseholder of part of the Land in relation to that part and the Owners and or Developer shall indemnify the County Council in its capacity as leaseholder of part of the Land in relation to that part from the performance of the obligations under this deed SAVE for if the County Council becomes successor in title of the Land.

7 **NOTICE OF IMPLEMENTATION**

7.1 The Developer will give the Councils not less than three months' notice of its intention to Implement the Permission specifying the intended Implementation Date and whether the Permission is being Implemented in respect of planning application reference 62A/2023/0027 or planning application reference UTT/22/3126/FUL

7.2 Forthwith upon Implementation the Developer will give the Councils notice of Implementation;

8 **PROVISOS AND INTERPRETATION**

8.1 No provision of this Deed shall be interpreted so as to take effect contrary to law or the rights powers duties and obligations of the Councils in the exercise of any of their statutory functions or otherwise

8.2 If any provision of this Deed shall be held to be unlawful or unenforceable in whole or in part under any enactment or rule of law, such provision shall to that extent be deemed not to form part of this deed and the enforceability of the remainder of this Deed shall not be affected

8.3 Where there is more than one person named as a party and where more than one party undertakes an obligation all their obligations may (unless there is an express provision in this Deed to the contrary) be enforced against them jointly and severally

8.4 No waiver (whether express or implied) by the Councils of any breach or default in performing or observing any of the obligations, covenants or terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Councils from enforcing any of the said obligations, covenants or terms and conditions or from acting upon any subsequent breach or default

8.5 Any provision contained in this deed requiring the consent or approval of any party hereto shall be deemed to incorporate a proviso that such consent or approval shall not be unreasonably withheld or delayed

8.6 The headings in this Deed do not affect its interpretation

8.7 Unless the context otherwise requires references to sub-clauses, clauses and schedules are to sub-clauses, clauses and schedules of this deed

8.8 Unless the context otherwise so requires:

8.8.1 references to parties include their respective permitted successors and assigns and in the cases of Councils shall include the successors to their statutory functions

8.8.2 references to statutory provisions include those statutory provisions as amended or re-enacted and

8.8.3 references to any gender include all genders and words importing the singular include the plural and vice versa.

9 **AGREEMENTS AND DECLARATIONS**

9.1 The obligations contained in the Schedules of this Deed shall take effect only upon the Implementation Date and in the event that the Permission is not granted or is granted but not Implemented and expires, the obligations contained in the Schedules shall absolutely cease and determine without further obligation upon the Owners or their successors in title

9.2 The obligations contained in the Schedules of this Deed shall absolutely cease and determine without further obligation upon the Owners or their successors in title if the Permission is revoked, quashed, is modified without the consent of the Developer expires or if a separate planning permission is subsequently granted and implemented which is incompatible with the Permission

9.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with any planning permission (other than the Permission as defined herein)

9.4 The obligations under this Deed shall not be enforceable against:

- 9.4.1 persons who purchase or take leases of Open Market Housing Units the successors in title mortgagees or chargees or receivers of such persons or
- 9.4.2 a Shared Ownership Leaseholder who has staircased to or otherwise acquired 100% ownership (by virtue only of the grant of a DPA Waiver) or a tenant of an Affordable Housing Unit who exercises the right to acquire or other statutory right or in each case their successors in title
- 9.4.3 in respect of any Affordable Housing Unit, a mortgagee or chargee or receiver who has first complied with its duty pursuant to paragraph 1.1 of Part 3 Schedule 1
- 9.4.4 any statutory undertaker/utility provider which acquires any part of the Land or an interest in it for the purposes of a statutory function
- 9.5 This Deed constitutes a Local Land Charge and shall be registered as such if the Permission is granted provided that UDC will upon the determination of this Deed howsoever determined procure the removal of any entry made on the Local Land Charges Register in respect of or related to this Deed
- 9.6 No variation to this Deed shall be effective unless made by deed and for the avoidance of doubt the consent, seal, signature, execution or approval of any tenant or occupier of the Development or their mortgagees shall not be required to vary any part of this Deed nor shall any other party who has no liability under this Deed or any interest in the Land
- 9.7 Save where it is expressly excluded, 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 Deed then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall issue a valid and appropriate VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

#### 10 **MONITORING FEE**

Prior to Implementation the Developer shall pay the County Council Monitoring Fee to the County Council and the UDC Monitoring Fee

#### 11 **EXCLUSION OF THE 1999 ACT**

For the purposes of the 1999 Act it is agreed that nothing in this Deed shall confer on any third party any right to enforce or any benefit of any term of this Deed

#### 12 **NOTICES**

12.1 Any notices required to be served on or any document to be supplied or submitted to any of the parties hereto shall be sent or delivered to the address stated in this Deed as the address for the receiving party or such other address as shall from time to time be notified by a party to this Deed as an address at which service of notices shall be accepted or (in the case of a limited company) at its registered office

12.2 Any notices to be served or documents to be supplied or submitted or applications for approval under the terms of this Deed to be made which are addressed to UDC shall be addressed to the Assistant Director Planning of UDC and those which are addressed to the County Council shall be addressed to the S106 Officer Planning Service Place and Public Health County Hall Chelmsford CM1 1QH AND to [development.enquiry@essex.gov.uk](mailto:development.enquiry@essex.gov.uk)

#### 13 **ENTIRE AGREEMENT**

This Deed the Schedules and the documents annexed hereto or otherwise referred to herein contain all the provisions between the parties relating to the subject matter hereof and supersede all prior agreements arrangements and understandings between the parties relating to that subject matter



14 **COSTS**

Upon the execution of this Deed the Developer will pay the reasonable legal costs incurred of both UDC and the County Council in connection with the negotiation preparation completion and registration thereof

15 **DISPUTE RESOLUTION**

15.1 Without prejudice to UDC's or the County Council's exercise of their statutory functions, in the event of any dispute or difference between the Developer and UDC and/or the County Council arising out of this Deed, or any delay, the parties will use their reasonable endeavours to resolve the same (including holding a meeting attended by at least one representative of appropriate seniority from each party within 10 Working Days of a request from one party to convene the meeting).and either party may, if the dispute or delay remains unresolved after 10 Working Days refer such dispute or difference to the Expert and it is further agreed that –

15.2 the determination of the Expert shall be final and binding on the parties save in the case of manifest error or fraud

15.3 the parties shall be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct

15.4 the Expert's costs shall be borne in such proportions as he/she may direct, failing which the Developer and UDC and/or the County Council shall each bear their own costs of the reference and determination and the Expert's costs shall be shared equally

15.5 the Expert shall be appointed subject to an express requirement that he/she reaches a decision and communicates it to the parties within the minimum practicable timescales allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days from the date of appointment to act and

15.6 the Expert may be replaced by a fresh appointee in the event he/she becomes at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee shall be appointed in the same manner as the Expert

16 **JURISDICTION**

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

17 **INDEXATION**

All Contributions payable to UDC shall be Index Linked.

18 **SECTION 73 VARIATION**

If UDC agrees in writing following an application under section 73 of the 1990 Act to vary or release any condition contained in the Permission or if a condition is varied or released following an appeal under section 78 of the 1990 Act, the covenants or provisions of this Deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless UDC in determining the application for the new planning permission indicate that consequential amendments are required to this Deed to reflect the impact of the section 73 application, in which case a separate Deed under section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission

19 **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all counterparts shall together constitute one Deed

In witness whereof the parties hereto have executed this Deed as a deed the day and year before written

The Common Seal of )  
Uttlesford District Council )  
was hereunto affixed in the presence of )



Authorised Signatory



The Common Seal of )  
Essex County Council )  
(acting as planning and highway authority) )  
was hereunto affixed in the presence of )

Attesting Officer

Executed as a deed by )  
Weston Homes Plc )  
acting by a director and its )  
secretary or two directors )

Director

Director/Secretary

Executed as a Deed )  
by HSBC Corporate Trustee )  
Company (UK) Limited acting by )  
its attorney/director )

.....  
Attorney/Director

Name .....

Witnessed by: .....

Witness Name: .....

Witness Address: .....

.....

.....

**FOR THE FIRST VERGE OWNER:**

**Signed and delivered** by the said )  
**Euan Stewart Kennedy** )  
as his deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said )  
**Shuna Mackinnon Dickson** )  
as her deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said )  
**Mark Kennedy Williams** )  
as his deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said )  
**Andrew Mackinnon Morris** )  
as his deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered by the said** )  
**Maxwell Stewart Kennedy** )  
as his deed in the presence of )

Signature of Witness .....

Name .....

Address .....

.....

Occupation .....

**FOR THE SECOND VERGE OWNER:**

**Signed and delivered by the said** )  
**Euan Stewart Kennedy** )  
as his deed in the presence of )

Signature of Witness .....

Name .....

Address .....

.....

Occupation .....

**Signed and delivered by the said** )  
**Shuna Mackinnon Dickson** )  
as her deed in the presence of )

Signature of Witness .....

Name .....

Address .....

.....

Occupation .....

**SCHEDULE 1  
OBLIGATIONS ENTERED INTO WITH UDC**

The Owners covenant with UDC as follows:

**PART 1  
AFFORDABLE HOUSING**

**1 GENERAL**

- 1.1 To construct the Affordable Housing Units on the Affordable Housing Land in accordance with the approved Affordable Housing Plan or such other plan as may be agreed with UDC from time to time
- 1.2 The Affordable Housing Units and First Homes Housing shall comprise not less than 40% of the total of all Dwellings constructed in accordance with the Permission PROVIDED THAT any fraction of a unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
- 1.3 That 5% of the Affordable Housing Units shall be wheelchair adaptable unless otherwise agreed in writing with UDC PROVIDED THAT any fraction of a Unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
- 1.4 Prior to the Occupation of the first (1st) Open Market Housing Unit the Owners shall:
- EITHER
- (a) transfer the whole of the Affordable Rent Housing and Shared Ownership Housing as a freehold estate (proof of which is to be supplied to UDC if requested);
- OR
- (b) complete a binding agreement with an Approved Body (documentary proof of which to be supplied to UDC if requested) for the completion of the Affordable Rent Housing and Shared Ownership Housing and the transfer of the Affordable Rent Housing and Shared Ownership Housing .
- 1.5 To procure that the terms of any transfer pursuant to paragraph 1.4 above shall include a covenant that the Approved Body shall comply with the terms of this Schedule 1 Part 1.
- 1.6 Prior to first Occupation of 75% of the Open Market Housing Units to be constructed in accordance with the Permission the Affordable Rent Housing and Shared Ownership Housing shall be substantially completed and ready for Occupation and transferred to an Approved Body as a freehold estate (if not already transferred in accordance with paragraph 1.4 above) and the First Homes Units shall be substantially completed and available for Occupation.
- 1.7 After the substantial completion of the Affordable Housing Units no Affordable Housing Unit (save for the First Homes) shall be Occupied unless in respect of the Affordable Housing Units concerned there is compliance with the following (which for the avoidance of any doubt does not apply to First Homes):
- 1.8 Upon completion of the Affordable Housing Units and thereafter the Approved Body will allocate each Affordable Housing Unit to a Nominated Person provided by the Council in accordance with the following provisions:
- 1.8.1 Not later than twenty (20) Working Days from the date of completion of each Affordable Housing Unit or a notice from a tenant of an Affordable Rented Unit that he wishes to relinquish his tenancy or a leaseholder of a Shared Ownership Unit wishes to sell his interest of a Shared Ownership Unit the Approved Body will give notice thereof to the Council as regards the Affordable Housing Unit;
- 1.8.2 Within twenty (20) Working Days or such other time as is agreed between the Approved Body and UDC of receiving the notice from the Approved Body under the provisions of paragraph 1.8.1 UDC will give details of the Nominated Person for each Affordable Housing Unit to the Approved Body

- 1.8.3 Upon receiving details of the Nominated Person from the Council the Approved Body will within twenty (20) Working Days or such other time as is agreed between the Approved Body and the Council offer to grant the tenancy of the Affordable Rented Unit to the Nominated Person or the transfer and lease of any Shared Ownership Unit to the Nominated Person
- 1.8.4 Thereafter the Approved Body shall comply with the requirements of UDC as to the transfer and lease of the Shared Ownership Unit to the Nominated Person.
- 1.9 If UDC fails to give details of a Nominated Person under the provisions of paragraph 1.8.2 the Approved Body shall have the right to grant an Affordable Rented Unit tenancy or a transfer and lease of a Shared Ownership Unit to any Eligible Person who is considered by the Approved Body to be in need of an Affordable Housing Unit
- 1.10 Where UDC fails to give details of a Nominated Person under the provisions of paragraph 1.8.2 and the Approved Body does not have notice or details of an Eligible Person who it can nominate or house pursuant to paragraph 1.9 above the Approved Body may grant a tenancy of an Affordable Rented Unit or a transfer and lease of a Shared Ownership Unit to any person who it considers to be in need of an Affordable Housing Unit and who complies with its letting policy and/or the Allocations Policy
- 1.11 In respect of any of the Affordable Rented Units becoming vacant after the initial allocation following the completion of the Affordable Housing Units UDC shall in accordance with paragraph 1.8. above be given the sole opportunity by the Approved Body to nominate the Nominated Persons up to a maximum of 75% (seventy-five per cent) of such vacant Affordable Rented Units
- 1.12 The terms of the tenancy agreements for the Affordable Rented Units and the terms of the transfers and leases of the Shared Ownership Units shall be in accordance with the regulations and guidance of Homes England
- 1.13 The Approved Body will not:
- 1.13.1 Subject to paragraph 1.13.2 below transfer the freehold or leasehold interest in the Land on which the Affordable Housing Units are constructed or any Affordable Housing Unit (save for a transfer of the freehold interest or long leasehold interest of an Affordable Housing Unit to an occupier of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the freehold interest or long leasehold interest or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right) to any person firm or company other than an Approved Body and the transfer to the Approved Body shall include a covenant that the Approved Body comply with the terms of this Deed;
- 1.13.2 Sell let or dispose (except by way of legal charge) of any Affordable Housing Unit or allow or permit or suffer any Affordable Housing Unit to be sold let or disposed of other than in accordance with paragraphs 1.8 to 1.12 of this Schedule.
- 1.14 The Approved Body will give UDC one month's written notice of the intended transfer of the freehold or leasehold interest in the Affordable Housing Land or of any Affordable Housing Unit to another Approved Body. For the avoidance of doubt this does not include the transfer of the freehold or leasehold interest in an Affordable Housing Unit to an occupier of a Shared Ownership Unit or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right.
- 1.15 If the Affordable Housing Units are vested or transferred to another provider pursuant to a proposal made by the Homes England pursuant to Section 152 of the Housing and Regeneration Act 2008 then the provisions of this Deed shall continue (notwithstanding paragraph 1.12 above) in respect of such other provider
- 1.16 For the purposes of this Schedule only the expression 'transfer' or 'transferred' shall mean a transfer of the freehold or grant of a lease with a term of not less than 125 years of the Affordable Housing Units or an agreement for sale or lease agreed with the Approved Body that has been unconditionally released for completion by the Owners (unless otherwise agreed with UDC)
- 1.17 For the purposes of this Schedule only Disposal shall not include an Exempt Disposal

- 1.18 That subject to the provisions of this Deed the Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing
- 1.19 To serve on UDC Notice not less than 15 Working Days after the first Occupation of 75% of the Open Market Housing Units
- 1.20 The transfers of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be with vacant possession
- 1.21 The transfer deeds for the transfer of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be prepared by the Owners and shall contain:
  - 1.21.1 a grant by the Owners 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 Units
  - 1.21.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development and the beneficial use and enjoyment of the remainder of the Land and
  - 1.21.3 such other covenants as the Owners may reasonably require for the maintenance of the Development once it is completed and the preservation of the appearance thereof

**PART 2  
FIRST HOMES**

**1 FIRST HOMES**

- 1.1 Four (4) of the Dwellings on the Land shall be identified reserved and set aside as the First Homes Units in accordance with the Affordable Housing Plan and shall be retained as First Homes Housing in perpetuity subject to the terms of this Schedule and shall not be visually distinguishable from the Open Market Housing Units based upon their external appearance or of an inferior internal specification to the Open Market Housing Units provided that variations to the internal specifications of the First Homes shall be permitted and further provided that the requirements of this paragraph shall not apply to a First Homes owner.
- 1.2 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:
  - 1.2.1 the Eligibility Criteria (National); and
  - 1.2.2 the Eligibility Criteria (Local);

Provided that if after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) paragraph 1.2.2 shall cease to apply;
- 1.3 Subject to paragraphs 1.6-1.13 no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a mortgagee.
- 1.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:
  - UDC has been provided with evidence that:
    - (a) the intended purchaser meets the Eligibility Criteria (National) and meets the Eligibility Criteria (Local) (if applicable);
    - (b) the Dwelling is being Disposed of as a First Home at the Discount Market Price; and
    - (c) the transfer of the First Home includes:
      - (i) a definition of the 'Council' which shall be 'Uttlesford District Council';

- (ii) a definition of 'First Homes Provisions' in the following terms:

*'means the provisions set out in Schedule 1 Part 2 of the S106 Agreement a copy of which is attached hereto as the Annexure.*

- (iii) a definition of 'S106 Agreement' in the following terms:

*'the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [ ] between (1) Uttlesford District Council (2) Essex County Council (3) Weston Homes (4) Euan Stewart Kennedy, Shuna Mackinnon Dickson Mark Kennedy Williams, Andrew Mackinnon Morris and Maxwell Stewart Kennedy (5) Euan Stewart Kennedy, Shuna Mackinnon Dickson and (6) HSBC Corporate Trustee Company (UK) Limited'*

- (iv) a provision that the Land is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the Property or any part of it other than in accordance with the First Homes Provisions;

- (v) a copy of the First Homes Provisions in an Annexure and

UDC has issued the Compliance Certificate and UDC hereby covenants that it shall issue the Compliance Certificate within twenty (20) Working Days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 1.4 and 1.5 have been met.

- 1.5 On the first Disposal of a First Homes Unit to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

*'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by Uttlesford District Council of Council Offices, London Road, Saffron Walden CB11 4ER or their conveyancer that the provisions of clause XX (the First Homes Provisions) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition'*

- 1.6 The owner of a First Homes Unit (which for the purposes of this clause shall include the Developer) may apply to UDC to Dispose of it other than as First Homes Housing on the grounds that either:

- 1.6.1 the Dwelling has been actively marketed as First Homes Housing for six (6) months (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to practical completion) and all reasonable endeavours have been made to Dispose of the Dwelling as First Homes Housing but it has not been possible to Dispose of that Dwelling as First Homes Housing; or

- 1.6.2 requiring the owner of a First Homes Unit to undertake active marketing for the period specified in paragraph 1.6.1 before being able to Dispose of the Dwelling other than as First Homes Housing would be likely to cause the owner of the First Homes Unit undue hardship

- 1.7 Upon receipt of an application served in accordance with paragraph 1.6 UDC shall have the right (but shall not be required) to direct that the relevant Dwelling is Disposed of to it at the Discount Market Price

- 1.8 If UDC is satisfied that either of the grounds in paragraph 1.6 above have been made out it shall confirm in writing within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.6 that the relevant Dwelling may be Disposed of:

- 1.8.1 to UDC at the Discount Market Price; or

- 1.8.2 (if UDC confirms that it does not wish to acquire the relevant Dwelling) other than as a First Homes Unit



and if the Council fails to issue such confirmation then it shall be deemed to have confirmed that the relevant Dwelling may be disposed of other than as a First Homes Unit

- 1.9 and on the issue of that written confirmation or deemed issue thereof the obligations in this Deed which apply to First Homes Housing shall cease to bind and shall no longer affect that Dwelling apart from paragraph 1.12 which shall cease to apply on receipt of payment by UDC where the relevant Dwelling is Disposed of other than as a First Homes Unit
- 1.10 If UDC does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 1.6 above have been made out then it shall within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.6 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of the Dwelling as a First Homes Unit and the timescale (which shall be no longer than six (6) months)
- 1.11 If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Homes Unit he may serve notice on UDC following which UDC must within twenty (20) Working Days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Homes Unit
- 1.12 Where a Dwelling is Disposed of other than as a First Homes Unit or to UDC at the Discount Market Price the owner of the First Homes Unit shall pay to UDC forthwith upon receipt of the proceeds of sale the First Homes Contribution
- 1.13 Upon receipt of the First Homes Contribution UDC shall:
  - 1.13.1 within twenty (20) Working Days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 1.5 where such restriction has previously been registered against the relevant title
  - 1.13.2 apply all monies received towards the provision of Affordable Housing within the District
- 1.14 Any person who purchases a First Homes Unit free of the restrictions relating to First Homes Housing in this Deed pursuant to the provisions in paragraphs 1.6 to 1.12 shall not be liable to pay the Additional First Homes Contribution to UDC.
- 1.15 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 1.16-1.18 below.
- 1.16 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies UDC in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.
- 1.17 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies UDC and UDC consents in writing to the proposed letting or sub-letting. UDC covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below
  - (a) the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment or due to redundancy
  - (b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the for the duration of the letting or sub-letting;
  - (c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
  - (d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;

- (e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
  - (f) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person
- 1.18 A letting or sub-letting permitted pursuant to paragraph 1.16 or 1.17 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 1.19 Nothing in this Deed prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.
- 1.20 All First Homes shall:
- 1.20.1 be constructed to the Development Standard current at the time of the Planning Permission approval; and
- 1.20.2 no less than the standard applied to the Open Market Housing Units.

### PART 3 MORTGAGEES AND EXCLUSIONS

#### 1 **MORTGAGEES**

It is hereby agreed and declared

- 1.1 The affordable housing obligations and restrictions contained in this deed (including for the avoidance of doubt in this Part) shall not bind:
- 1.1.1 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 and/or the Affordable Housing Land or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT such mortgagee or chargee or Receiver has first complied with the provisions of paragraph 1.2 of this Part or
- 1.1.2 a Protected Tenant or
- 1.1.3 a 100% Staircaser or
- 1.1.4 any mortgagee or chargee or receiver of a 100% Staircaser or Protected Tenant or
- 1.1.5 any mortgagee or chargee or receiver of an occupier of an Affordable Housing Unit and
- 1.1.6 any person or body deriving title through or from any of the parties mentioned in paragraphs 1.1.1-1.1.5 above
- 1.2 Any mortgagee or chargee or Receiver claiming the protection granted by paragraph 1.1.1 above must first:
- 1.2.1 give written notice to UDC of its intention to dispose of the Affordable Housing Units and/or the Affordable Housing Land specified in the notice and thereafter shall give an opportunity
- 1.2.2 to another Approved Body (the name and address of which shall be given to UDC) for a period of one (1) month from the date of the written notice to purchase the specified Affordable Housing Units and/or the Affordable Housing Land and thereafter
- 1.2.3 to UDC for a further period of two (2) months to purchase the specified Affordable Housing Units and/or the Affordable Housing Land

in either case 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

- 1.2.4 if such disposal has not completed on the expiration of both periods referred to above (and for the avoidance of doubt totalling a three-month period from the date of the written notice), the mortgagee or chargee or Receiver shall be entitled to dispose of the specified Affordable Housing Units and/or the Affordable Housing Land free from the affordable housing provisions set out in this Part, which provisions shall determine absolutely
- 1.2.5 During the three-month period from the date of the written notice, the mortgagee or chargee or Receiver shall use reasonable endeavours to reply to enquiries raised by UDC or by an Approved Body in relation to the specified Affordable Housing Units and/or the Affordable Housing Land as expeditiously as possible so as to ensure the completion of any disposal within the said three-month period.
- 1.2.6 In respect of the First Homes Housing once notice in accordance with para 1.2.1 above has been given the mortgagee or chargee or Receiver shall be free to sell that First Home at its full Market Value Provided That it shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to UDC the First Homes Contribution and UDC shall within fifteen (15) Working Days of such receipt provide a completed application to enable the removal of the restriction on title set out at paragraph 1.5 of Part 2 above;

#### **PART 4 PUBLIC OPEN SPACE**

The Owners covenant with UDC as follows:

- 1.1 Prior to first Occupation of the Development to submit the Public Open Space Scheme and Public Open Space Management Plan to UDC for approval and not to allow or permit the first Occupation of the Development until the Public Open Space Scheme and Public Open Space Management Plan has been submitted to and approved in writing by UDC.
- 1.2 To provide the Public Open Space in accordance with the approved Public Open Space Scheme and Public Open Space Management Plan.
- 1.3 Prior to the Occupation of more than 70% of the Open Market Housing Units in any phase of the Development the Owners shall apply for the Provisional Certificate from UDC in that phase and shall not cause or permit Occupation of more than 70% of the Open Market Housing Units in that phase until a Provisional Certificate for all of the Public Open Space in that phase has been issued by UDC.

#### **PROVISIONAL CERTIFICATE**

- 2 After the Public Open Space (or part/phase thereof) has been provided laid out and landscaped in accordance with the Public Open Space Scheme to apply to UDC in writing requesting issue of the Provisional Certificate and for the avoidance of doubt Provisional Certificates may be issued for the whole of the Public Open Space or in relation to parts/phases of Public Open Space as they are provided and laid out.
- 3 Within twenty (20) Working Days after a first inspection of the Public Open Space (or part/phase thereof) by UDC if it considers that the Public Open Space (or part/phase thereof) has not been provided laid out and landscaped satisfactorily in accordance with the Public Open Space Scheme the UDC shall provide the Owners with details of any defects and the Owners shall at their own expense rectify any deficiencies and carry out such works or operations as may reasonably be required by UDC to bring the Open Space (or part/phase thereof) up to the standard required by the Public Open Space Scheme and the procedures referred to in paragraphs 2 and 3 of Part 4 of this Schedule shall be repeated as often as necessary until the Provisional Certificate is issued save that the UDC must report any defects within ten (10) Working Days of any subsequent inspection otherwise it shall be deemed that the Provisional Certificate is issued by the UDC and within ten (10) Working Days of deemed approval UDC shall provide the Provisional Certificate.
- 4 From the date of issue of the Provisional Certificate for the Public Open Space (or part/phase thereof) the Owners shall make the Public Open Space (or part/phase thereof) and all the facilities on the

Public Open Space (or part/phase thereof) available for use by the public as an open amenity or recreation area for the lifetime of the Development and shall allow the public to have unrestricted access at all times to the Public Open Space save for temporary or emergency closures for maintenance of the Public Open Space.

- 5 From the date of issue of the Provisional Certificate for the Public Open Space (or part/phase thereof) the Owners covenant:
  - 5.1 not to use or permit the use of the Public Open Space for any purpose other than as a public recreation or amenity area save the Owners may grant such rights to any statutory undertaker as the Owners consider necessary on under or over the Public Open Space; and
  - 5.2 to manage and maintain the Public Open Space during the Public Open Space Maintenance Period (including maintenance of all soft and hard landscaping built features lighting drainage and any other features on the Open Space) and to make good to the reasonable satisfaction of UDC any damage or defects in the Open Space arising during the Public Open Space Maintenance Period.

#### **FINAL CERTIFICATE**

- 6 At the expiration of the Public Open Space Maintenance Period to apply to UDC for the issue of the Final Certificate for the Public Open Space (or part/phase thereof).
- 7 If after inspection of the Public Open Space (or part/phase thereof) by UDC (acting reasonably) it considers that the Public Open Space (or part/phase thereof) has not been maintained satisfactorily in accordance with the Public Open Space Scheme and Public Open Space Management Plan the Owners shall at their own expense rectify any deficiencies and carry out such works or operations as may reasonably be required by UDC to bring the Public Open Space (or part/phase thereof) up to the standard required by the Public Open Space Scheme and Public Open Space Management Plan and this procedure shall be repeated as often as necessary until the Final Certificate is issued provided always that any dispute may be referred to the Expert in accordance with the provisions of cl 15.

#### **TRANSFER OF THE OPEN SPACE**

- 8 Three (3) months prior to completion of the Public Open Space Maintenance Period (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) the Owners shall provide to UDC its calculation of the Public Open Space Commuted Sum such calculation to be agreed between the Owners and UDC.
- 9 Following the agreement required by paragraph 8, the Owners shall offer to transfer the Public Open Space to the Parish Council at a sum to be proposed by the Owners (**'the Offer'**). The Owners shall make the Offer prior to completion of the Public Open Space Maintenance Period (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) and the Parish Council shall confirm in writing whether it accepts the Offer within 28 Working Days of receipt 'the Acceptance Period'.
- 10 If the Parish Council confirms in writing that it accepts the Offer within the Acceptance Period the Owners shall transfer to the Parish Council the Public Open Space (save for any parts of the Public Open Space required for access to the Land) within 3 (three) months of the issue of the Final Certificate (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) in accordance with the terms of this Deed and shall pay the Public Open Space Commuted Sum to the Parish Council upon completion of the transfer of the Public Open Space to the Parish Council.
- 11 If the Parish Council confirms in writing that it does not accept the Offer or fails to respond to the Offer within the Acceptance Period or if the Owners and UDC do not agree the Public Open Space Commuted Sum prior to the expiration of the Acceptance Period the Owners shall transfer the Public Open Space (save for any parts of the Public Open Space required for access to the Land) to the Management Company in accordance with the terms of this Deed and for the avoidance of doubt the Public Open Space Commuted Sum shall not be payable.
- 12 In the event that the circumstances pursuant to paragraph 11 of Part 5 of this Deed occur, the Owners shall prior to the transfer of the Public Open Space (save for any parts of the Public Open Space required for access to the Land) to a Management Company submit details of the Management

Company to UDC for approval in writing and shall not transfer the Public Open Space to the Management Company until the details of the Management Company have been approved by UDC in writing such approval or reasons why the approval is not given to be issued by UDC within twenty (20) Working Days of submission of the details and if the Council fails to respond within twenty (20) Working Days then such approval shall be deemed to have been given.

- 13 The details of any Management Company referred to in paragraph 12 above shall include (where applicable):
  - 13.1 its corporate structure
  - 13.2 its registered office and correspondence address
  - 13.3 its directors and officers (where known)
  - 13.4 The means of funding the Management Company in respect of the Public Open Space to demonstrate that the Public Open Space is able to be maintained by the Management Company in perpetuity including details of any service charge to be paid by residents of the Development.
  - 13.5 Details of insurances as shall be appropriate in respect of the use of the Public Open Space managed by the Management Company and against damage by those comprehensive risks as are reasonable to insure against.
- 14 After UDC has issued the Final Certificate for the Public Open Space to transfer the Public Open Space to the Management Company
- 15 Any transfer the Public Open Space to the Management Company or the Parish Council shall be free of incumbrances (other than as set out below) but for the avoidance of doubt the transfer shall:
  - 15.1 be a transfer of the entire freehold interest of the Public Open Space and LAP and the (SAVE FOR any part of the Public Open Space required by the Owners for access to any part of the Land at the Owners' absolute discretion);
  - 15.2 be free from any pre-emption or option agreement;
  - 15.3 be free from any mortgage, charge, lien or other such incumbrance;
  - 15.4 include all usual and necessary rights of way with or without vehicles;
  - 15.5 be subject to rights of access to the public in perpetuity;
  - 15.6 reserve any usual and necessary rights to use existing services and to lay and use new roads and services together with any rights of entry to inspect, repair, renew, cleanse and maintain the same along with rights of entry for maintenance and repair of adjoining land and premises;
  - 15.7 not require consideration in excess of one pound (£1) for either area;
  - 15.8 contain covenants in favour of UDC and pursuant to Section 33 of the Local Government (Miscellaneous provisions) Act 1982 to the effect that the Management Company or Parish Council as the case may be shall maintain, repair, replace as necessary and generally manage the Public Open Space and LAP in strict accordance with the Public Open Space Management Scheme and the principles of good estate management to the intent that the Public Open Space and LAP remains fit for purpose and available for safe use by the public in perpetuity;
  - 15.9 include provisions securing the sole use of the Public Open Space (including the LAP) for the recreational enjoyment of the public as amenity open space; and
  - 15.10 include a declaration that no area of the Public Open Space (including the LAP) is dedicated as public highway or public footpaths other than those public footpaths already existing that are been retained on the Land nor that any use by the public of any part of the Public Open Space (including the LAP) shall be taken in any way as an intention by the Owners to dedicate the same as highway.

- 16 The Owners further covenant that they shall continue to maintain the Public Open Space in a clean and tidy condition until the transfer to the Management Company or the Parish Council has been completed.
- 17 The Owners covenant as follows:
- 17.1 Prior to 90% Occupation of the Development or no more than 12 (twelve) months following the issue of the Final Certificate by UDC (whichever is the earliest):
- (a) the Owners shall transfer the Public Open Space to the Management Company; and
  - (b) not to cause or permit 90% Occupation of the Development until the earlier of the transfer of the Public Open Space to the Management Company or 12 months of the provision of the Final Certificate
- 17.2 To provide to UDC a copy of the transfer for the Public Open Space to the Management Company within 28 days following completion of the transfer.
- 18 The Owners further covenant:
- 18.1 Subject to sub-paragraphs 18.2 and 18.3 below the obligations under this Part 4 of Schedule 1 shall not be binding upon any owner occupier tenant or their mortgagees or chargees or any successor in title of the respective owner occupier tenant or their mortgagees or chargees of any of the Dwellings; and
- 18.2 Where the Public Open Space is transferred to the Management Company each owner occupier or of any Dwelling (or in the case of an Affordable Rented Unit and a Shared Ownership Unit the Registered Provider) or their mortgagees or chargees or their respective successors in title shall be liable for a proportionate sum of the total annual cost of carrying out the Management Company Responsibilities and associated costs which may be attributable to that residential plot (such proportionate amount to be calculated as a ratio of that residential plot area to the total aggregated residential plot areas permitted by the Permission); and
- 18.3 Pursuant to sub-paragraph 18.2 above to pay the proportionate sum of the total annual cost of carrying out the Management Company Responsibilities and associated costs which may be attributable to any Dwelling in respect of which a first sale or first occupation or first letting has not occurred following transfer of the Public Open Space to the Management Company (such proportionate amounts to be calculated as a ratio of such residential plot areas to the total aggregated residential plot areas permitted by the Permission); and
- 18.4 For the avoidance of doubt each liability of the Owners pursuant to sub-paragraph 18.3 above in respect of any Open Market Housing Unit that has not been subject to a first sale or first occupation or first letting following transfer of the Public Open Space to the Management Company shall cease absolutely upon the first sale or first occupation or first letting of each such residential plot; and
- 18.5 Procure that upon any sale lease or transfer of title of any Dwelling that a suitable covenant supported by restriction is entered on the Proprietorship Register at HMLR of every Dwelling to ensure that the obligation to contribute towards the Management Company Responsibilities can be enforced by the Management Company in perpetuity such as the following restriction (or such alternative wording as may be required by the Land Registry's standard form of restriction from time to time or as may otherwise be required by the Management Company):

*'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate without a certificate signed by [insert name of Management Company] or its conveyancer that the provisions of clause [ ] of the transfer dated [ ] and made between [ ] have been complied with'*

## **PART 5 HEALTH CARE CONTRIBUTION**

- 1
- 1.1 The Owners shall pay the Health Care Contribution to UDC in the following instalments:
- 1.1.1 50% of the Health Care Contribution prior to the Occupation of 50% of the Dwellings; and

- 1.1.2 the residual 50% of the Health Care Contribution prior to the Occupation of the final Dwelling.
- 1.2 The Owners shall not permit or allow the Occupation of more than 50% of the Dwellings until 50% of the Health Care Contribution has been paid to UDC and shall not permit or allow the Occupation of the final Dwelling until the residual 50% of the Health Care Contribution has been paid to UDC.

**PART 6  
OBLIGATIONS UNDERTAKEN BY UDC**

UDC hereby covenants with the Owners as follows:

- 1 To place the Healthcare Contribution in an interest bearing account on receipt and in the event of repayment UDC shall repay to the person who paid the Healthcare Contribution any part which remains unexpended together with any accrued interest thereon
- 2 To keep an up-to-date record of all payments from the Healthcare Contribution and if some or all of the monies are not used or committed for the specified purposes within five years of payment of those monies, to repay those unexpended or uncommitted monies to the person who paid the Healthcare Contribution along with any interest accrued thereon prior to the expiry of 42 days from the end of the five-year period referred to
- 3 UDC hereby covenants with the Owners to use all sums received within the administrative area in which it operates and for the purposes specified in this Agreement
- 4 UDC shall provide the Owners with such evidence as the Owners shall reasonably require in order to confirm the expenditure of the sums paid under this Agreement
- 5 At the written request of the Owners UDC shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed
- 6 If UDC refuses any request for approval under any of the provisions in this Agreement it shall simultaneously provide the reasons for that refusal in writing and shall set out the actions or works necessary to enable approval to be issued

## SCHEDULE 2

### OBLIGATIONS ENTERED INTO WITH THE COUNTY COUNCIL

1 In this Schedule the following words and expressions shall have the following meanings:

**'Approved Highway Works Scheme'** shall mean the Highway Works Scheme as approved by the County Council for the delivery and completion of the Highway Works and including the surfacing, kerbing, lining and drainage of the highways and any other works normally associated with the construction of a highway or required as a result of the County Council's inspections

**'Completion Notice'** means the notice served by the Owners on the County Council pursuant to paragraph 1.3 of Part 6 of this Schedule 2

**'Education Contribution'** means the sum of the Primary Education Contribution and the Secondary Education Contribution and the Secondary School Transport Contribution

**'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 relevant index at the time of use

**'Education Purposes'** means the Primary Education Purposes and the Secondary Education Purposes and the Secondary School Transport Purposes

**'Flat'** means a Dwelling that occupies a single floor and /or does not benefit from private open space for the exclusive use of the residents of the Dwelling and no other persons

**'House'** means a Dwelling that does not meet the definition of a Flat

**'Highway Index'** shall mean the Department for Business Innovation and Skills Price Adjustment Formulae Indices (Civil Engineering) Series 2 (BIS) or in the event that the BIS is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

**'Highway Index Point'** shall mean a point on the most recently published edition of the Highway Index at the time of use

**'Jacks Lane Commuted Sum'** shall mean the sum of £157,250 (one hundred and fifty seven thousand two hundred and fifty pounds) to which sum the Relevant Highway Indexation shall be added to be used towards the for maintenance of the improved surfacing, a commuted sum for maintenance of the new lighting scheme and including any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment and the provision of or alteration to street lighting road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of ECC's inspections

**'Highway Works'** shall mean the following:

- (a) shall mean the improvements to restricted Byway 48/25 (Jacks Lane from Burgattes Road to the point where it joins the proposed internal footway/cycle within the Development) as shown indicatively (subject to detailed design) on the Highway Works Plan to make it suitable for every day all weather use for pedestrians cyclists people with mobility impairment and equestrian use including, but not limited to, full depth construction, all weather surfacing, lighting, signing, alterations to statutory undertakers equipment, ditch crossing, infrastructure to stop use by motor vehicles, visibility splays and measures to prevent use by motor vehicles, appropriate ecological mitigation and any associated ancillary and/or incidental works including any lighting drainage or other infrastructure works and all future maintenance making good and repairs thereto;



- (b) Installation of associated lighting columns in accordance with the Approved Highway Works Scheme as shown in principle on the Highway Works Plan together with details of arrangements for the maintenance of vegetation around the new lighting columns to keep them clear of obstruction or interference;
- (c) The provision of two bus stops on the B1256 in the vicinity of the Takeley Business Centre (one westbound, one eastbound) which shall comprise (but not be limited to) the following facilities: raised kerbs, bus stop markings, flags, timetable casings

and including any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of the County Council's inspections

**'Highway Works Agreement(s)'** means an agreement or agreements entered into under section 38 and section 278 of the Highways Act (and all other relevant enabling powers that the County Council may reasonably require to be used) to regulate the carrying out of, the dedication of and the adoption of the Highway Works and these agreement(s) may include but not be limited to:

- (a) the securing of a bond to ensure that third party funds are available to complete the Highway Works to the satisfaction of the County Council in the event that the Owners fail to do so;
- (b) the payment of the works inspection fees, maintenance fees, special orders fees, supervision fees and any other such reasonable fees as Highways England and/or the County Council shall require;
- (c) the payment of the legal and other fees associated with the drafting negotiating and completion of the Highway Works Agreement;
- (d) the preparation and advance approval of works drawings and traffic management measures;
- (e) the certification and maintenance of the Highway Works;
- (f) the regulating of the issue of a works licence to enable the Highway Works to be carried out;
- (g) the securing of an indemnity or bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity or bond for liability issues as the County Council shall reasonably require;
- (h) clauses dealing with dedication of land as public highway;
- (i) the standards and procedures for carrying out the Highway Works; and
- (j) traffic regulation orders and statutory processes

**'Highway Works Plan'** shall mean the plans attached at **Annex 2** showing the indicative layout of the Highways Works (Plan WH202.WST.P1.ZZ.DR.PL.10.50 and Plan WH202.WST.P1.ZZ.DR.PK.10.51)

**'Highway Works Scheme'** shall mean a detailed scheme of Highway Works submitted in writing by the Owners to the County Council prior to Implementation of the Development for the written approval of the County Council detailing the Highway Works proposed to be completed and timetable for completion of such Highway Works

**'Library Contribution'** means the sum of seventy-seven pounds and eighty pence (£77.80) per Dwelling to which sum the Relevant Library Indexation shall be added

**'Library Contribution Purposes'** means the use of the Library Contribution towards the upgrading of existing facilities at local libraries to include, but not limited to, additional furniture, technology and stock

**'Library Index'** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**'Library Index Point'** means a point on the most recently published edition of the Library Index at the time of use

**'Notice of Implementation'** means the written notice served pursuant to paragraph 1.1 of Part 6 of this Schedule 2

**'Payment Notice'** means a written notice advising of a proposed payment served pursuant to paragraph 1.2 of Part 6 of this Schedule 2

**'Primary Education Contribution'** means the Primary Pupil Product multiplied by the cost generator of nineteen thousand four hundred and twenty-five pounds sterling (£19,425) to which the Relevant Education Indexation shall be added

**'Primary Education Purposes'** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or childcare of children between the ages of 4 to 11 (both inclusive) and including those with special educational needs within a 3 mile radius of the Development and or at a facility that in the opinion of the County Council serves the Development and including the reimbursement of capital funding for such provision made by the County Council and or the County Council's nominee in anticipation of the Primary Education Contribution

**'Primary Pupil Product'** means the sum of the Qualifying Flats multiplied by 0.15 plus the Qualifying Houses multiplied by 0.3

**'Qualifying Flats'** means the number of Flats that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms

**'Qualifying Houses'** means the number of Houses that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms

**'Qualifying Housing Units'** means the Qualifying Houses and Qualifying Flats

**'Relevant Education Indexation'** means:

- (a) In relation to the Secondary School Transport Contribution the amounts that the Owners shall pay with and/or agree 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 in the Education Index between the Education Index Point pertaining to April 2021 and Education Index Point pertaining to the date payment is made to the County Council; and
- (b) In relation to the Primary Education Contribution and the Secondary Education Contribution the amounts that the Owners shall pay with and/or agree 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 in the Education Index between the Education Index Point pertaining to January 2023 and Education Index Point pertaining to the date payment is made to the County Council

**'Relevant Highway Indexation'** means the amount that the Owners shall pay with and in addition to the Highway Contribution and in addition to the Jacks Lane Commuted Sum paid that shall equal a sum calculated by taking the amount of the Highway Contribution and the Jacks Lane Commuted Sum being paid and multiplying this amount by the percentage change shown in the Highway Index between the Highway Index Point pertaining to December 2023 and the Highway Index Point pertaining to the date the payment is made to the County Council

**'Relevant Library Indexation'** means the amount that the Owners shall pay with and in addition to the Library Contribution paid that shall in each case equal a sum calculated by taking the amount of the Library Contribution being paid and multiplying this amount by the percentage change shown in the Library Index between the Library Index Point pertaining to April 2020 and the date of the most

recent Library Index Point published in relation to the date the payment is due to be made to the County Council

**'Relevant Sustainable Transport Indexation'** means the amount that the Owners shall pay with and in addition to the Sustainable Transport Contribution paid that shall equal a sum calculated by taking the amount of the Sustainable Transport Contribution being paid and multiplying this amount by the percentage change shown in the Sustainable Transport Index between the Sustainable Transport Index Point pertaining to June 2023 and the Sustainable Transport Index Point pertaining to the date the payment is made to the County Council

**'Residential Travel Information Pack'** means a specific district or borough or city tailor-made booklet aimed at promoting the benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel and shall contain the following:

- (a) guidance and promotional material on the use of sustainable modes of travel;
- (b) details on walking, cycling, trains, buses, park & ride, taxis, car sharing, car clubs, electric vehicles, school transport and personalised journey planning services;
- (c) reference to travel websites, resources and support services for each mode of travel, information provided by the County Council and the Council;
- (d) details of local travel campaigns and networking/support groups; and
- (e) to include six one day travel vouchers for use with the relevant local public transport operator

**'Secondary Education Contribution'** means the Secondary Pupil Product multiplied by the cost generator of (insert amount) pounds sterling £26,717 (twenty-six thousand seven hundred and seventeen pounds sterling) to which sums the Relevant Education Indexation shall be added

**'Secondary Education Purposes'** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or childcare of children between the ages of 11 to 19 (both inclusive) and including those with special educational needs at Forest Hall School and or within a 3 mile radius of the Development and or at a facility that in the opinion of the County Council serves the Development and including the reimbursement of capital funding for such provision made by the County Council and or the County Council's nominee in anticipation of the Secondary Education Contribution

**'Secondary Pupil Product'** means the sum of the Qualifying Flats multiplied by 0.1 plus the Qualifying Houses multiplied by 0.2

**'Secondary School Transport Contribution'** means the Secondary Pupil Product multiplied by the cost generator of (five pounds) pounds sterling and (thirty pence) pence (£5.30) 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 is in secondary school) to which sums the Relevant Education Indexation shall be added

**'Secondary School Transport Purposes'** means the transportation of children generated by the Development to a secondary school with capacity

**'Sustainable Transport Contribution'** means the sum of £112,000 (one hundred and twelve thousand pounds sterling) payable to the County Council to which sum the Relevant Sustainable Transport Indexation shall be added

**'Sustainable Transport Contribution Purposes'** means the use of the towards improvements to enhance bus services between the Development and local centers including Bishops Stortford , local amenities and/or Stansted Airport improving the frequency, quality and/or geographical cover of bus routes that serve the site and/or local bus infrastructure and/or the design and implementation of a cycle route between Takeley and Stansted Airport and shall include the reimbursement of capital funding for such provision made by the County Council in anticipation of the receipt of the Sustainable Transport Contribution

**‘Sustainable Transport Index’** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**‘Sustainable Transport Index Point’** means a point shown on the Sustainable Transport Index indicating a relative cost at a point in time

**‘Sustainable Travel Index’** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**‘Index’** means the most recently published edition at the time of use of each index used under the terms of this Deed to calculate any amount to be paid with or in addition to a Contribution due under the terms of this Deed to add to or reduce the Contribution to reflect changes in cost over time

**‘Sustainable Travel Index Point’** means a point shown on the relevant Index indicating a relative cost at a point in time

**‘Notice of Implementation’** means the written notice served pursuant to paragraph 1.1 of Part 3 of this Schedule

**‘Payment Notice’** means a written notice advising of a proposed payment served pursuant to paragraph 1.2 of Part 3 of this Schedule

**‘SONIA Rate’** means the Sterling Overnight Index Average an assessment of the rate of interest the County Council can expect to earn on investments through the British sterling market, the rate used being the average interest rate at which banks are willing to borrow sterling overnight from other financial institutions and other institutional investors and SONIA Rate shall be construed accordingly

**‘Travel Vouchers’** means tickets/passes/ vouchers or other means of accessing transport or journey planning information as agreed with the County including the following as a minimum (six scratchcard bus tickets per household OR season ticket voucher) and/or (incentives for rail travel with the local rail operator) for each eligible member of the household AND access to an online tool to generate personalised travel plans using a home and destination postcode to provide details of different travel modes/options travel routes/maps and timetable information)

**‘Unit Mix’** means the number of Qualifying Flats and the number of Qualifying Houses and the number of Dwellings that by definition shall not be counted as Qualifying Flats or Qualifying Houses.

## **PART 1 HIGHWAYS**

### **1 HIGHWAYS IMPROVEMENTS**

#### **The Highway Works**

- 1.1 The Owners covenant with the County Council as follows:
- 1.2 To submit the Highways Works Scheme to the county Council in writing prior to Implementation of the Development and not to cause allow or permit Implementation of the Development unless and until the Highways Works Scheme has been submitted to the County Council for their written approval;
- 1.3 to enter into a Highway Works Agreement for the Approved Highway Works Scheme prior to commencement of such works or such other timescale as shall be agreed in writing with the County Council PROVIDED always that the Owners shall enter into the Highway Works Agreement for the Approved Highway Works Scheme prior to first Occupation of any Dwellings on the Development;
- 1.4 to undertake and complete the Approved Highway Works Scheme prior to first Occupation of any Dwellings on the Development and in accordance with the Highway Works Agreement;
- 1.5 and not to Occupy allow cause or permit to be Occupied any Dwellings unless and until the Highway Works have been properly completed in accordance with the Highway Works Agreement and the

relevant certificate confirming such completion has been issued under the provisions of the Highway Works Agreement;

- 1.6 to pay the Jacks Lane Commuted Sum in accordance with the relevant Highway Works Agreement and prior to first Occupation of any Dwellings on the Development and not to cause allow permit first Occupation of any Dwellings on the Development unless and until the Jacks Lane Commuted Sum has been paid to the County Council in full; and
- 1.7 to maintain in perpetuity the vegetation around the new lighting columns to be installed as part of the Highway Works (b) along the restricted Byway to ensure the lighting columns are clear of obstruction or interference
- 2 The County Council shall not unreasonably withhold and or delay approval of the Highway Work Scheme.

## **PART 2 SUSTAINABLE TRANSPORT CONTRIBUTION**

- 1 The Owners hereby covenant with the County Council as follows:
  - 1.1 to pay the Sustainable Transport Contribution to the County Council prior to first Occupation of any Dwellings on the Development and not to cause permit or allow first Occupation of any Dwellings on the Development unless and until the Sustainable Transport Contribution has been paid to the County Council in full (100%);
  - 1.2 In the event that the Sustainable Transport Contribution is paid later than dates set out in paragraph 1.1 above of this Schedule then the amount of the Sustainable Transport Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the Sustainable Transport Index between the Sustainable Transport Index Point prevailing at the date the payment is due and the Sustainable Transport Index Point prevailing at the date of actual payment to the County Council multiplied by the Sustainable Transport Contribution due or if greater an amount pertaining to interest on the Sustainable Transport Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Sustainable Transport Contribution is received by the County Council; and
  - 1.3 In addition to the requirement of paragraph 1.2 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Schedule should not be received by the County Council by the date that the sum is due then the Owners hereby covenants to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 2 The County Council hereby covenants with the Owners to:
  - 2.1 place the Sustainable Transport Contribution when received into an interest-bearing account with a clearing bank and to utilize the same for the Sustainable Transport Contribution Purposes;
  - 2.2 upon receipt of a request in writing to do so to be received by the County Council from the Owners no sooner than the tenth (10<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full and no later than the eleventh (11<sup>th</sup>) anniversary of the same to return to the party who deposited the Sustainable Transport Contribution or any part of the Sustainable Transport Contribution that remains unexpended when such request in writing is received (together with interest accrued on the unexpended part) Provided Always that where a legally binding contract or obligation has been entered into by the County Council prior to the tenth (10<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full to make a payment in respect of the Sustainable Transport Contribution Purposes the unexpended part of the Sustainable Transport Contribution shall not be repaid until such payment is made and the unexpended part of the Sustainable Transport Contribution to be repaid (if any) shall not include such payment; and
  - 2.3 That upon receipt of a written request from the Owners prior to the eleventh (11<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full the County Council shall provide the Owners with a statement confirming whether the Sustainable Transport Contribution has been spent and if

the Sustainable Transport Contribution has been spent in whole or in part outlining how the Sustainable Transport Contribution has in whole or in part been spent.

3 It is hereby agreed that:

3.1 Any dispute in relation to how the Sustainable Transport Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in 2.3 above and shall clearly state the grounds on which it is disputed;

3.2 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 2.2 above or no valid dispute is raised by the Owners the Developer pursuant to paragraph 3.1 the Owners shall accept the Highway Contribution has been spent in full on the Highway Contribution Purposes as appropriate;

3.3 The County Council may utilise up to two percent (2%) of the total amount of the Sustainable Transport Contribution due under this Deed to a maximum of Two Thousand Six Hundred and Forty Five Pounds (£2,645) plus the Relevant Sustainable Transport Indexation for the purposes of scheme validation, programming, commissioning of works, scheme monitoring including site visits and meetings, budget control, governance and for the avoidance of doubt such purposes are agreed by the Owners to form part of the definition of use of the Sustainable Transport Contribution Purposes;

3.4 In the event the Sustainable Transport Contribution that is overpaid by the Owners 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 Sustainable Transport Contribution or have entered into a legally binding contract or obligation to spend the Sustainable Transport Contribution otherwise the County Council shall upon the Occupation of the final Unit on the Land or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

### **PART 3 TRAVEL PACKS**

1 The Owners hereby covenant with the County Council:

1.1 to submit a draft Residential Travel Information Pack (including Travel Vouchers) to the County for written approval prior to first Occupation of a Dwelling and not to cause or allow first Occupation of a Dwelling prior to the Residential Travel Information Pack (including Travel Vouchers) being submitted to and approved in writing by the County Council;

1.2 to provide the first occupier of each Dwelling with an approved Residential Travel Information Pack and Travel Vouchers prior to Occupation of any Dwelling and not to cause or permit Occupation of any Dwellings on the Development unless and until the Owners have provided the first occupiers with an approved Residential Travel Information Pack and Travel Voucher at the expense of the Owners.

### **PART 4 EDUCATION CONTRIBUTION**

1 The Owners hereby covenant with the County Council so as to bind their interest in the Site as follows:

1.1 to pay one hundred percent (100%) of the Education Contribution to the County Council prior to Implementation of Development;

1.2 not to cause allow or permit Implementation of Development unless and until one hundred percent (100%) the Education Contribution has been paid to the County Council in full;

1.3 In the event that the Education Contribution is paid later than dates set out in paragraph 1.1 and 1.2 then the amount of the Education Contribution or part thereof payable by the Owners 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 of payment is due and the Education Index Point prevailing at the date of actual payment multiplied by the Education Contribution due or if greater an amount pertaining to interest on the Education Contribution or part thereof due calculated at the SONIA Rate from the date of payment is due until the date payment of the Education Contribution is received by the County Council; and

- 2 In addition to the requirement of paragraph 1.3 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owners hereby covenant to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 3 The Notice of Implementation shall in addition to that information stipulated in paragraph 1.1 of Part 6 of this Schedule 2 to this Deed state the Unit Mix and in the event that the Unit Mix constructed or to be constructed should at any time differ from the Unit Mix notified to the County Council then the Owners shall serve on the County Council a further notice stating the revised Unit Mix within ten (10) Working Days of the revised Unit Mix being decided and in the further event that the Owners fails to serve any notice set out in this Paragraph 3 of this Schedule 2 the County Council may estimate and determine the Unit Mix as it sees fit acting reasonably.
- 4 The Payment Notice stipulated in paragraph 1.2 of Part 6 of this Schedule 2 shall state the Unit Mix on which the payment is to be based.
- 5 The Completion Notice stipulated in paragraph 1.3 of Part 6 of this Schedule 2 shall state the final Unit Mix.
- 6 The County Council hereby covenants with the Owners as follows:
  - 6.1 To place the Education Contribution when received into an interest-bearing account and to utilise the same solely for the Education Purposes;
  - 6.2 If requested in writing by the Owners no sooner than the tenth (10th) anniversary of the date that the Education Contribution is paid to the County Council in full but no later than one (1) year thereafter the County Council shall return to the party that made the payment of the Education Contribution any part of the relevant Education Contribution that remains unexpended when the Education Contribution is paid to the County Council in full (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT if the County Council is legally obliged to make a payment in respect of any Education Purposes the unexpended part of the Education Contribution shall not be repaid until such payment is made and the unexpended part of the Education Contribution to be repaid shall not include such payment;
  - 6.3 Upon receipt of a written request from the Owners prior to the eleventh (11th) anniversary of the date of receipt of the Education Contribution in full the County Council shall provide the Owners with a statement confirming whether the Education Contribution have been spent and if the Education Contribution has been spent in whole or in part outlining how the Education Contribution have in whole or in part been spent.
- 7 It is hereby agreed and declared:
  - 7.1 In the event that the Unit Mix to be constructed on the Development does not match the Unit Mix on which the Education Contribution or part thereof paid was based the Owners hereby covenant to pay to the County Council as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Education Contribution paid and the amount of the Education Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by the County Council form part of the Education Contribution;
  - 7.2 Any dispute in relation to how the Education Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in paragraph 6.3 and shall clearly state the grounds on which the expenditure is disputed;

- 7.3 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 6.2 above or no valid dispute is raised by the Owners pursuant to paragraph 7.2 the Owners shall accept the Education Contribution has been spent in full; and
- 7.4 In the event that the Education Contribution is overpaid by the Owners 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 otherwise the County Council shall upon the Occupation of the final Dwelling on the Site or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

## **PART 5 LIBRARY CONTRIBUTION**

- 1 The Owners hereby covenants with the Council and the County Council so as to bind their interest in the Land as follows:
- 1.1 to pay the Library Contribution to the County Council prior to Implementation of the Development not to Implement or cause or allow or permit Implementation of the Development unless and until the Library Contribution has been paid to the County Council in full.
- 1.2 In the event that the Library Contribution is paid later than dates set out in paragraph 1.1 of this Part 5 of Schedule 2 then the amount of the Library Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the Library Index between the Library Index Point prevailing at the date the payment is due and the Library Index Point prevailing at the date of actual payment to the County Council multiplied by the Library Contribution due or if greater an amount pertaining to interest on the Library Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Library Contribution is received by the County Council; and
- 1.3 In addition to the requirement of paragraph 1.2 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owners hereby covenant to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 2 The County Council hereby covenants with the Owners as follows:
- 2.1 to place the Library Contribution when received into an interest-bearing account and to utilise the same for the Library Contribution Purposes;
- 2.2 If requested in writing by the Owners no sooner than the tenth (10th) anniversary of the date that the Library Contribution is paid to the County Council in full but no later than one (1) year thereafter the County Council shall return to the party that made the payment of the Library Contribution any part of the Library Contribution that remains unexpended when the Library Contribution is paid to the County Council in full (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT if the County Council is legally obliged to make a payment in respect of any Library Contribution Purposes the unexpended part of the Library Contribution shall not be repaid until such payment is made and the unexpended part of the Library Contribution to be repaid shall not include such payment
- 2.3 Upon receipt of a written request from the Owners prior to the eleventh (11th) anniversary of receipt of the Library Contribution in full the County Council shall provide the Owners with a statement confirming whether the Library Contribution have been spent and if the Library Contribution has been spent in whole or in part outlining how the Library Contribution have in whole or in part been spent.
- 3 It is hereby agreed and declared:
- 3.1 In the event that the Unit Mix to be constructed on the Development does not match the Unit Mix on which the Library Contribution or part thereof paid was based the Owners hereby covenant to pay to



the County Council as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Library Contribution paid and the amount of the Library Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by the County Council form part of the Library Contribution;

- 3.2 Any dispute in relation to how the Library Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in paragraph 2.3 and shall clearly state the grounds on which the expenditure is disputed;
- 3.3 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 2.2 above or no valid dispute is raised by the Owners pursuant to paragraph 3.2 the Owners shall accept the Library Contribution has been spent in full on the Library Contribution Purposes as appropriate; and
- 3.4 In the event that the Library Contribution is overpaid by the Owners 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 Library Contribution or have entered into a legally binding contract or obligation to spend the Library Contribution otherwise the County Council shall upon the Occupation of the final Dwelling on the Land or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

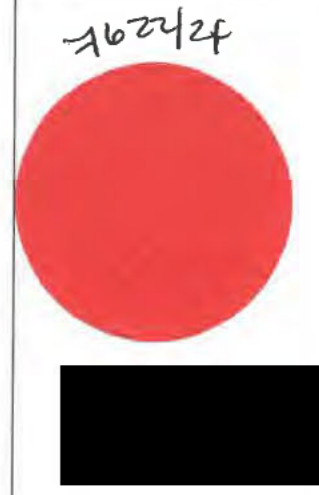
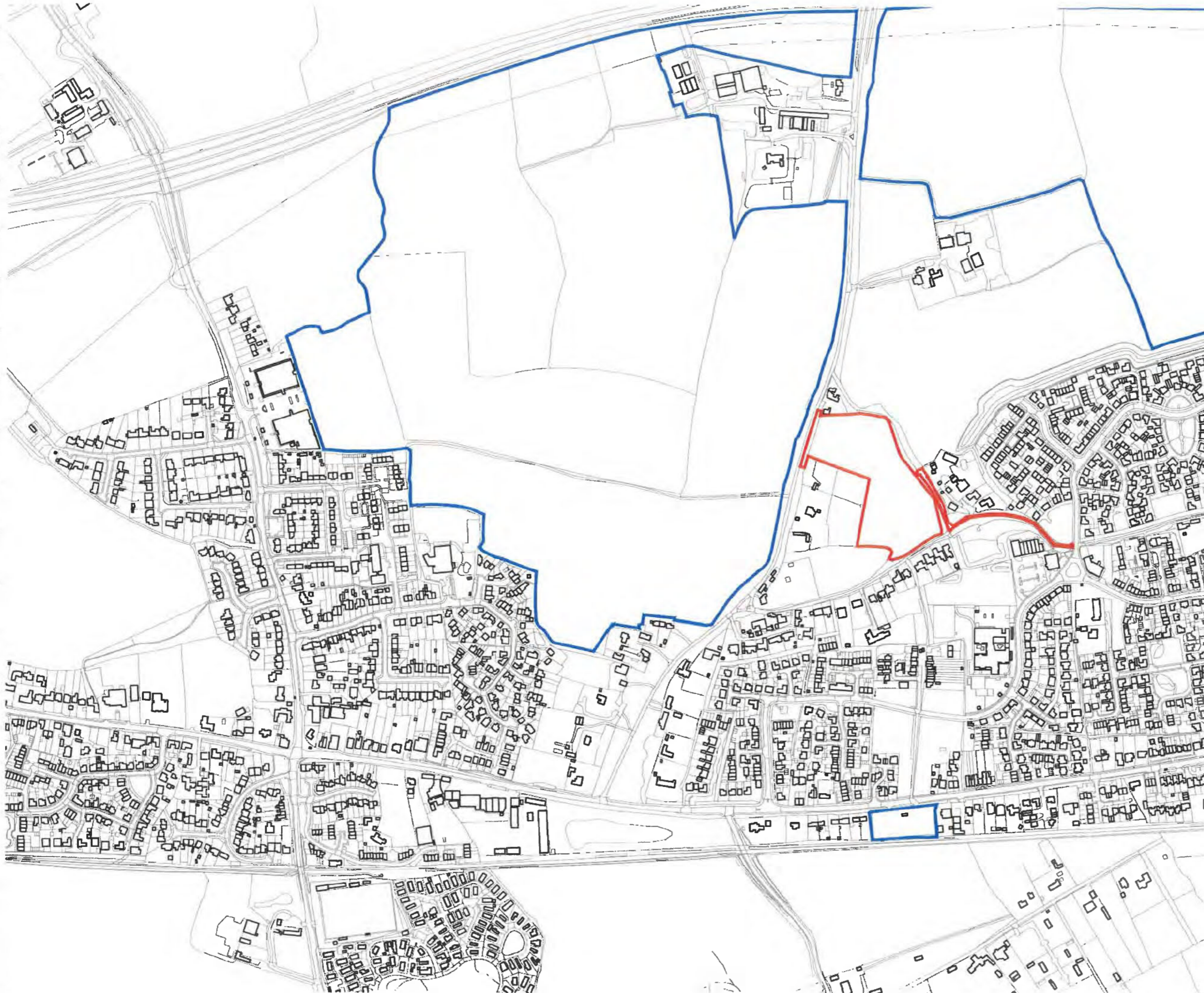
#### **PART 6 NOTICES**

- 1 The Owners or the Developer shall serve on the County Council:
  - 1.1 the Notice of Implementation not less than three (3) months prior to Implementation stating the expected Implementation Date an estimate of the triggers and any further information stipulated in the Schedules to this Deed
  - 1.2 the Payment Notice between forty (40) and twenty (20) Working Days prior to the date that each and any payment is due to be made to the County Council under this Deed stating the date that such payment becomes due and any further information stipulated in the Schedules to this Deed
  - 1.3 the Completion Notice within 30 Working Days of all Dwellings being Occupied for the first time stating the date that the last Dwelling was Occupied for the first time and any further information stipulated in the Schedules to this Deed and for the avoidance of doubt any dispute regarding any notice to be served under this Deed may be resolved through the 2 mechanisms set out in Clause 15 of this Deed.
  - 1.4 to serve on the County Council notice of Occupation of the first Dwelling within 1 (one) month thereof and on a 6 (six) 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

**ANNEX 1**

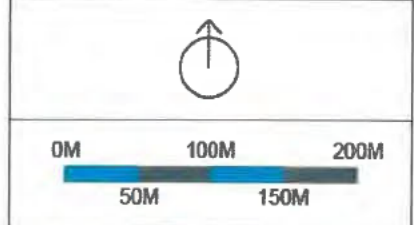
**PLAN**





**Key:**  
 APPLICATION BOUNDARY  
 OWNERSHIP BOUNDARY

**Rev**  
 -



**PLANNING**

**Title**  
 SITE LOCATION PLAN JACKS PARCEL

**Site**  
 JACKS GREEN, TAKELEY

<b>Date</b> SEPT 23	<b>Drawn</b> DJK	<b>Checked</b> PMR
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**Scale**  
 1:5000@A3

<b>Drawing No.</b> WH202.WST.P1.ZZ.DR.PL.05.01	<b>Rev</b> A
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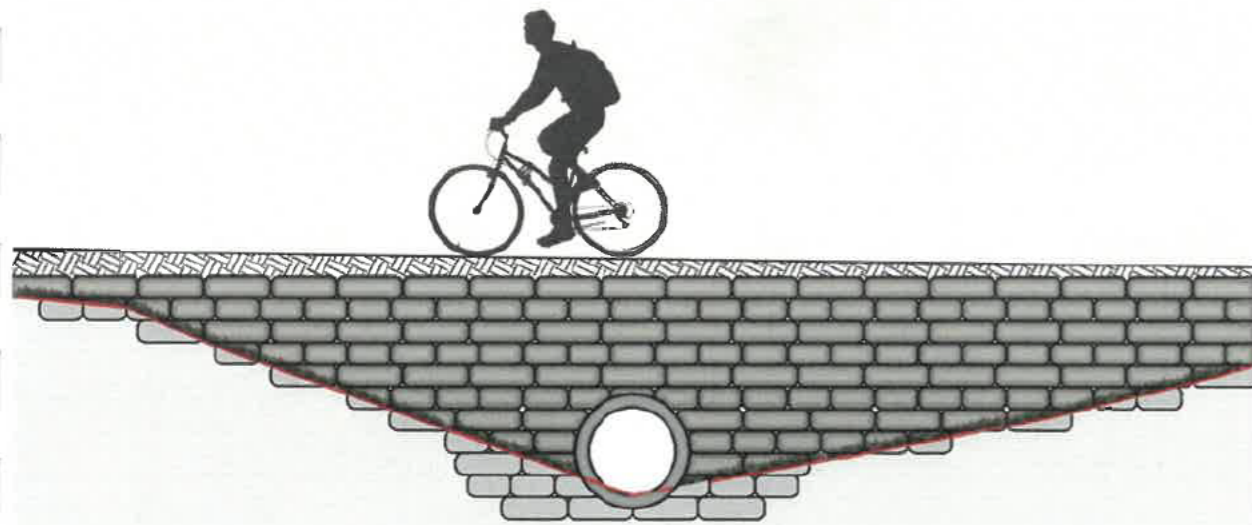
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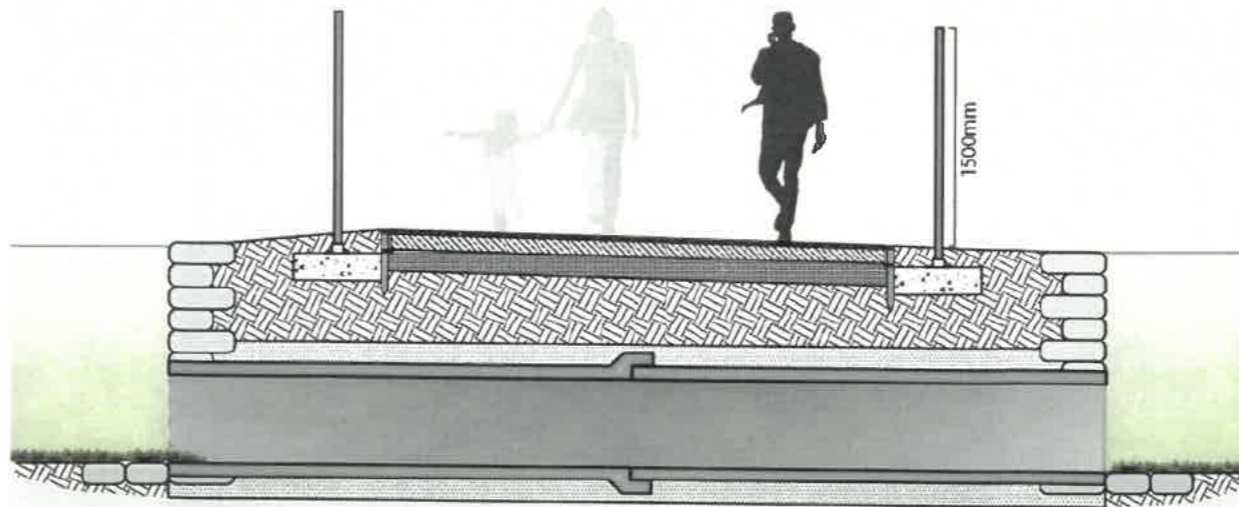
<b>Head Office</b> Weston Group Business Centre, Parsonage Road, Takeley, Essex. CM22 6PU. T: 01279 673333	<b>London Office</b> 10 Portman Square, London. W1H 6AZ T: 0203 096 7238 email: <a href="mailto:info@weston-homes.com">info@weston-homes.com</a>
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**ANNEX 2**  
**HIGHWAY WORKS PLAN**



**A** Proposed Byway Access Section



**C** Proposed Byway Access Section



**B** Proposed Byway Section

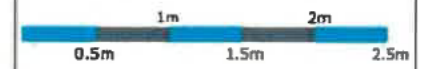


**D** Proposed Site Plan @ 1:2500

**Notes:**

Rev

01



**PLANNING**

**Title**  
JACKS PARCEL BYWAY SECTIONS

**Site**  
JACKS GREEN, TAKELEY

<b>Date</b>	<b>Drawn</b>	<b>Checked</b>
SEPT 23	DJK	PMR

**Scale**  
1:50@A3

**Drawing No.**  
WH202.WST.P1.ZZ.DR.PL.10.50



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email: info@weston-homes.com

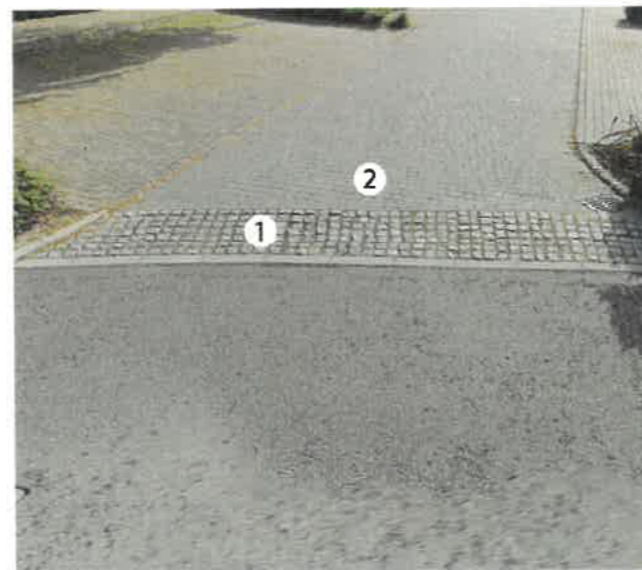




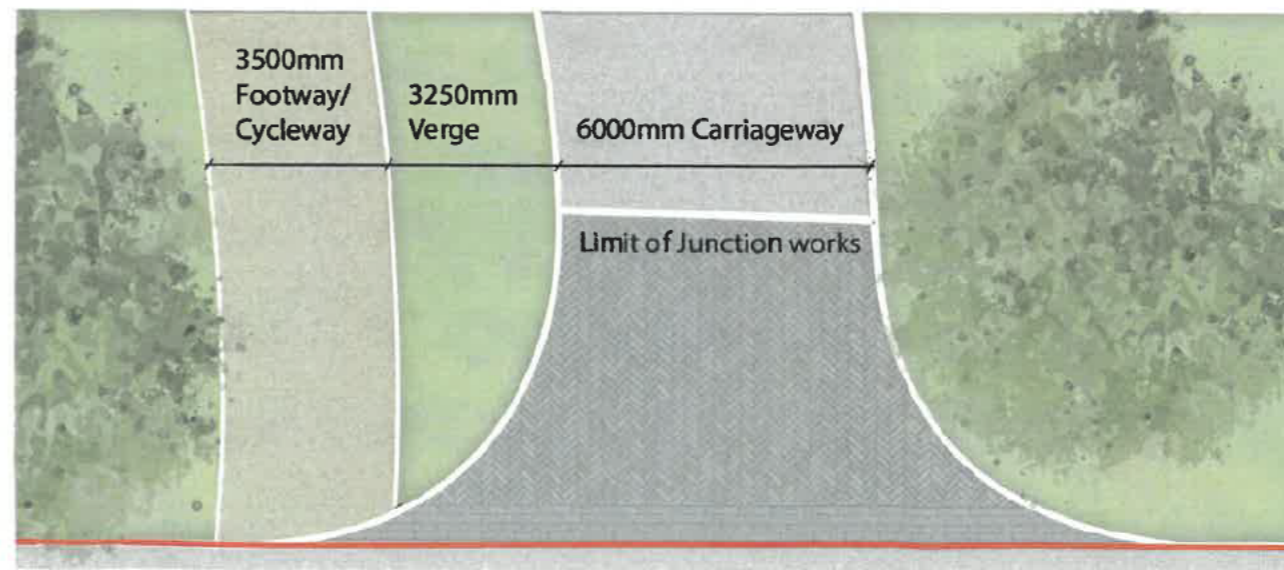
Proposed Entrance to Site 1:250@A2



No. 2 Maggotts Cottage



The Avenue Saffron Walden



Proposed Entrance to Site 1:100@A2

**Key**  
 1 Rumble Strip  
 2 Block Paving  
 - Site Boundary

**Notes:**

**Rev**

01



**PLANNING**

**Title**  
 Jacks Green, Entrance Works

**Site**  
 Jacks Green, Takeley

<b>Date</b> Sept 23	<b>Drawn</b> DJK	<b>Checked</b> PMR
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**Scale**  
 1:250@A2

**Drawing No.**  
 WH202.WST.P1.22.DR.PK.10.51



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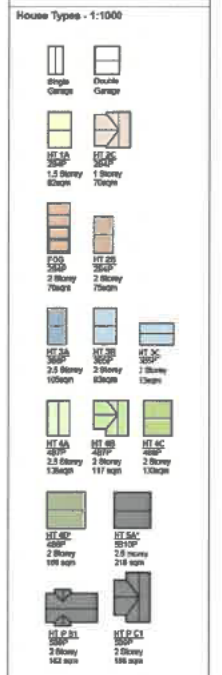
**ANNEX 3**  
**AFFORDABLE HOUSING PLAN**





FLOT	TYPE	TENURE
JG.12	25	RENTAL
JG.13	29	SHARED
JG.14	20	FIRST
JG.15	38	RENTAL
JG.16	36	FIRST
JG.17	36	FIRST
JG.31	4C	RENTAL
JG.32	38	FIRST
JG.33	36	RENTAL
JG.34	38	RENTAL
JG.35	39	RENTAL
JG.36	2C	RENTAL
JG.37	A1	RENTAL
JG.38	A1	RENTAL
JG.39	A1	RENTAL
JG.40	2C	RENTAL

- Key:**
- AFFORDABLE HOUSING ALLOCATION (RENTAL 11No.)
  - AFFORDABLE HOUSING ALLOCATION (SHARED 9No.)
  - AFFORDABLE HOUSING ALLOCATION (FIRST HOMES 4No.)
  - AFFORDABLE HOUSING PARKING ALLOCATION



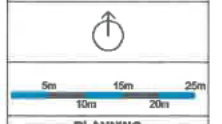
**Note**  
FOR MASTER PLAN - COLOURED PLEASE REFER TO DWG NO. WH002.WST.P1.ZZ.DR.PL.10.00

**FOR ALL MASTER PLAN - STRATEGIES DRAWINGS PLEASE REFER TO DWG NO. WH002.WST.P1.ZZ.DR.PL.10.02 TO 10.10**

**FOR STREET SCENES PLEASE REFER TO DWG NO. WH002.WST.P1.ZZ.DR.PL.30.01 TO 30.02**

Rev B - 26.06.23 - PMR  
Site layout amended to suit Council comments

Rev C - 16.09.23 - DJK  
Site layout amended to suit Council comments



**PLANNING**

Title  
MASTER PLAN - JACKS PARCEL  
AFFORDABLE HOUSING STRATEGY

Site  
JACKS GREEN, TAKELEY

Date	Drawn	Checked
SEPT 23	DJK	PMR

Scale  
1:500@A1

Drawing No.	Rev
WH002.WST.P1.ZZ.DR.PL.10.05	C

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**ANNEX 4**  
**UDC ALLOCATIONS POLICY**



# **UTTLESFORD DISTRICT COUNCIL**

## **HOUSING ALLOCATIONS SCHEME (ALLOCATIONS POLICY)**

June 2021

## **Uttlesford District Council Housing**

# **Allocations Scheme**

### **1. Introduction**

- 1.1 The Council is required, by virtue of Section 168(1) of the Housing Act 1996 to have an allocations scheme for determining priorities and the procedure to be followed in allocating housing accommodation.
- 1.2 We have written and published this policy so everyone can be clear how:
  - i. Council houses are allocated
  - ii. The homes we are offered by our Registered Providers (RP) are allocated
  - iii. Applicants on our housing register have some choice about the home they are offered;
  - iv. We meet the law's requirements about people whose housing needs we should consider.
  - v. We make best use of the available housing stock within the District
  - vi. We give preference to those applicants who have a local connection to the District
- 1.3 This Allocations Scheme has been formulated in accordance with the provisions of
  - The Housing Act 1996, as amended by the Homelessness Act 2002
  - The Localism Act 2011
  - The Allocation of Accommodation: Choice Based Lettings Code of Guidance 2008
  - The Equality Act 2010
  - The Allocation of Accommodation: Guidance for Local Housing Authorities England 2012
  - Providing social housing for local people: Statutory Guidance December 2013
  - Other relevant legislation and Guidance
- 1.4 In operating the Allocations Scheme, the Council will have due regard to legislation which shall take precedence.

### **2. Choice Based Lettings**

- 2.1 The Council allocates accommodation through a Choice Based Lettings Scheme (CBL) called Home Option. The scheme enables applicants to

express an interest in available properties which are advertised in a fortnightly publication and on a website. All applicants are provided with detailed information explaining how the scheme operates.

2.2 Under the CBL Scheme, applicants are able to register their interest in properties which are suitable for their household size and needs in accordance with the terms of this Allocations Policy.

### **2.3 Direct Lets**

2.3.1 Direct Lets will not be part of the choice based lettings scheme.

2.3.2 Direct Lets may apply in the following circumstances:

- i. Extra care properties
- ii. If a property is needed to house someone in council property temporarily
- iii. In cases of where someone has to be moved immediately a direct let may be made
- iv. In the case of a specially adapted property built for a specific person
- v. Decants – Council properties required to be vacated by the Council for a specific purpose
- vi. If a previously joint applicant qualifies to be offered the property of which they were previously a joint tenant we will make them an offer of that property
- vii. Where applicants owed the full homelessness duty by the Council under Section 193 of the Housing Act 1996 as amended who do not meet the Council's Allocation's Policy eligibility criteria.
- viii. In cases where a multi-agency team requests a planned move to resolve a serious management situation a direct let (one offer only to be made) may only be considered if the situation cannot be resolved by any other means and the tenant is either an existing Uttlesford tenant or the tenant of a RP property within Uttlesford and the subsequent vacancy would be allocated through the council's Choice Based Lettings Scheme
- ix. Exceptional cases where there is an evidenced risk of significant harm to a vulnerable household, where there are no other housing options available, and which is supported

by at least one other agency, for example social care. Cases to be agreed by the Asst. Director

### **3. The Allocations Scheme**

- 3.1 Allocation of accommodation will be through the Housing Register in accordance with the provisions of the Allocations Scheme.
- 3.2 The Council recognises that there may be some exceptional situations not covered by the Allocations Scheme. In such instances, Assistant Director of Housing and Environmental Health will have delegated authority to make decisions, as he/she considers appropriate and these will be fully documented.
- 3.3 The Scheme will apply to vacancies in the Council's own housing stock and to vacancies in accommodation in the District belonging to RPs for which the Council is required to make nominations.
- 3.4 The provisions of this Allocations Scheme will apply to applicants on the Council's Housing Register at the effective date of this Allocations Scheme, as well as those who apply after the effective date.
- 3.5 **The Allocations Scheme will not apply in the following cases;**
  - i. Where a tenant succeeds to a secure tenancy on the death of a tenant
  - ii. Where a tenancy is assigned to a person who would qualify to succeed to the secure tenant
  - iii. Where a tenancy is assigned by way of a mutual exchange to an existing secure tenant or RP assured tenant
  - iv. Where a tenancy is disposed through the courts (under matrimonial and family proceedings)
  - v. Where a priority transfer is agreed in urgent circumstances due to person's safety being at risk.
  - vi. Where a property has been identified as temporary accommodation
  - vii. Where the council needs to provide alternative accommodation for a council tenant in order to carry out repairs or improvements to their property.
  - viii. Where the council needs to provide accommodation to meet its duties under homelessness legislation

- ix. Where the council has a duty to re-house home owners following a compulsory purchase, provide suitable alternative accommodation under the Land Compensation Act 1973, s 39, or under the Rent Agricultural Act 1976. (If it is not possible to provide a permanent tenancy immediately, the applicant will be registered within band A of the scheme).
- x. Where the council grants a secure tenancy to a former owner of a defective home under the Housing Act 1985, s554 or s555

#### **4. The Housing Register**

- 4.1 The Council is not legally obliged to maintain a Housing Register but has chosen to do so.
- 4.2 The Housing Register will be maintained by Housing Services at the Council Offices in Saffron Walden.
- 4.3 The Housing Register will be open to all categories of person except those who are ineligible as defined at Paragraph 5.
- 4.4 The Housing Register will be open to;
  - i. homeseekers of 18 years of age and over
  - ii. current council or RP tenants
  - iii. 16 and 17 year olds owed a full housing duty by a local housing authority under homelessness legislation.
  - iv. 17yr 6mth old Care Leavers who were resident in Uttlesford at the time they were placed in Care or who are living in Uttlesford immediately prior to the time of leaving care
  - v. People with the capacity to understand and adhere to a tenancy agreement

#### **5. Eligibility categories**

##### **5.1 Eligibility**

- 5.1.1 The following categories of applicant may not be eligible for the Housing Register;
  - i. Persons subject to immigration control (except those in classes prescribed by the Secretary of State as being eligible for an allocation of housing)
  - ii. Persons not habitually resident in the Common Travel Area (i.e. the U.K., Channel Islands, Isle of Man and the Irish Republic)

- 5.1.2 Any person making an application who is identified as falling under the Asylum and Immigration Act 1996 will be assessed in accordance with the Act.
- 5.1.3 Eligibility for housing will be determined in accordance with the Allocation of accommodation: guidance for local authorities in England issued by the government under s169 of the Housing Act 1996 Part 6 as amended by the Localism Act 2011.
- 5.1.4 Any other persons the Secretary of State may by regulations prescribe as persons from abroad who are ineligible to be allocated housing by local authorities in England.

## **5.2 Local Connection Eligibility**

- 5.2.1 Any applicant who does not meet one or more of the following local connection eligibility criteria will not be eligible to join the housing register.
  - i. Have lived continuously in the Uttlesford District for the last 3 years (time spent away at University or college will count as living continuously within the district providing the applicant had previously lived in the district immediately prior to the start of their course.)
  - ii. Living outside of Uttlesford or within the District for less than 3 years but have immediate family members who have lived in Uttlesford for the last 5 years and from whom they are receiving or giving substantial ongoing support that cannot be provided from outside of the District
  - iii. Living outside of Uttlesford but have been permanently employed in the Uttlesford District for a minimum of 3 years and working at least 24 hours per week
  - iv. Applicants who meet the Right to Move criteria as set out in Appendix III.
  - v. Applicants who are owed a full homelessness duty by Uttlesford District Council under s.193 of Part VII of the Housing Act 1996, as amended and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally
  - vi. Applicants who have been assessed as falling within a reasonable preference category (under 166A (3) of Part 6 of the Housing Act 1996) and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally.



- vii. Applicants who are owed a prevention and/ or relief duty under The Homelessness Reduction Act 2017 and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally
- viii. Care leavers up to the age of 25 who were originally from Uttlesford but were accommodated outside of the district
- ix. Care Leavers who were placed in Uttlesford for at least 2 years including sometime before they reach the age of 16. They will retain a connection to Uttlesford until they reach the age of 21
- x. Other special reasons, to be agreed by two Senior Officers at their discretion, for example where an applicant has no safe connection to another area due to domestic abuse

5.2.2 The following categories of person will be exempt from local connection criteria:-

- i. Existing social housing tenants residing in the Uttlesford District
- ii. Applicants who are serving members of the regular forces or who have served in the regular forces, if the application is made within five years of their date of discharge.
- iii. Applicants who have recently ceased or will cease to be entitled to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where:-
  - the spouse or civil partner has served in the regular forces; and
  - their death was attributable (wholly or partly) to that service
  - Is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service and the application is made within five years of discharge.

### **5.3 Financial Eligibility**

- 5.3.1 Any homeseekers who in the opinion of the Council has sufficient funds including: annual income, residential property equity, savings, or other assets to enable them to meet their own housing costs by open market purchase or open market renting will be ineligible to join the housing register.

- 5.3.2 Any lump sums received as compensation for injury or disability sustained on active service by either, members of the Armed Forces, former Service personnel, bereaved spouses and civil partners of members of the Regular Forces, or serving or former members of the Reserve Forces, will be disregarded from this criterion
- 5.3.3 Owner Occupiers, or other applicants who are financially ineligible to join the housing register, will be eligible to join if they qualify for sheltered housing.

#### **5.4 Housing Related Debt Eligibility**

- 5.4.1 Applicants with housing related debt will generally not be eligible to join the housing register if they are not addressing the debt. Housing related debt includes rent arrears to the Council, RP, other local authority or private landlord, also Council Tax and any monies given through the Councils Rent Deposit Guarantee Scheme.
- 5.4.2 When a financial assessment carried out by the Council shows that the debt cannot be cleared immediately then a realistic and affordable repayment arrangement should be agreed to clear the debt.
- 5.4.3 Applicants will become eligible to join the register if they have an agreed repayment plan in place and have made regular payments for at least 12 months or the debt has been cleared in full.
- 5.4.4 Council and RP tenants who have been accepted onto the housing register but have rent arrears on their current property will not be offered another tenancy until all rent arrears have been cleared in full.
- 5.4.5 Accepted homeless applicants who have rent arrears on their current temporary accommodation will not be offered accommodation that would discharge the Council's homelessness duty until the rent arrears are cleared in full.
- 5.4.6 Housing Associations may also hold their own policy on debt.
- 5.4.7 All cases of housing related debt will be considered on an individual basis taking account of all the information provided by all interested parties. All exceptions to the above Policy criteria on debt are to be agreed by two Senior Officers.

#### **5.5 Exclusions from the Housing Register**

5.5.1 The Council may exclude someone from the register if it considers it proportionate and reasonable to do so as a result of unacceptable behaviour. The Council will take into account all relevant factors such as health, dependants and the individual circumstances of the applicant when making these decisions. The decision to exclude someone from the housing register will in the first instance be made by the Housing Options Team Leader.

## **5.6 Unacceptable Behaviour**

5.6.1 "Unacceptable behaviour" " is defined as behaviour, which would, if the person was either a secure tenant or a member of a secure tenants household, entitle a landlord to a possession order under any of grounds 1 to 7 of HA 1985 sch 2."

5.6.2 If an applicant who has previously been refused an application onto the housing register because of unacceptable behaviour and considers that their unacceptable behaviour should no longer be held against them they can complete a new application from.

5.6.3 When making decisions regarding unacceptable behaviour Uttlesford District Council will consider:

- i. If the applicant (or a member of their household) has been guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant.
- ii. When the unacceptable behaviour took place. Consideration will be given to the length of time that has elapsed, this will be a minimum of two years and whether there has been any change in circumstances.
- iii. What action the landlord would have taken against the perpetrator of the unacceptable behaviour. The behaviour must be serious enough for the landlord to be granted a possession order as detailed above.
- iv. Whether the behaviour is serious enough to make the applicant unsuitable as a tenant.
- v. If the applicant or any member of their household is subject to an Anti-Social Behaviour Order an Acceptable Behaviour Contract or any similar penalty introduced by the ASB and Crime and Policing Act 2014 or any relevant legislation.

5.6.4 The Council may decide to exclude existing applicants from the register where they become aware of unacceptable behaviour that would make them unsuitable to be a tenant.

- 5.6.5 All decisions made by the Council in relation to excluding applicants from the housing register are subject to review if requested by the applicant (see 16).

## **5.7 Notifying an ineligible applicant**

- 5.7.1 Applications from ineligible applicants will not be registered. The applicant will be notified in writing of the decision and the reasons for the decision will be explained to them.

## **6. Application to the Housing Register**

### **6.1 Advice and Information**

- 6.1.1 The Council will ensure that advice and information is available free of charge to persons in the District about the right to make an application for housing.
- 6.1.2 The advice and information can be provided by the Council on the phone, by letter/e-mail or in person at the Council Offices. Applicants may also seek advice from other agencies such as the Citizens Advice Bureau.
- 6.1.3 Applicants will be required to complete an on-line application form for inclusion on the Housing Register and to provide supporting documentation as the Council deems appropriate to allow an assessment of their entitlement to housing accommodation to be made.

### **6.2 Joint Applicants**

- 6.2.1 Applicants may be a joint applicant with another person although for a joint application, both applicants must be eligible under this policy, except for the local connection criteria where only one of joint applicants needs to meet the criteria.

### **6.3 Definition of a household**

- 6.3.1 Applicants should only include persons on their application who are established members of their household and who will be occupying the accommodation as their only principal home.

6.3.2 Non-dependent adults will not be considered as part of the household. Unless they have had continuous recorded residence with the applicant, except whilst in further education.

6.3.3 Applicants with a shared residence order or staying contact for children are not automatically entitled to bedrooms for their children. The general principle is that a child needs one home of an adequate size, and that the council will not accept responsibility for providing a second home for children. The council will make an assessment based on the individual circumstances.

#### **6.4 Documents**

6.4.1 As part of the application process, applicants will be asked to provide the following documentation:

- i. Photographic proof of their identity or a full birth certificate for all those included on their application
- ii. Proof of immigration status for all those included on the application
- iii. Proof of current address
- iv. Proof of meeting the local connection residency criteria
- v. Proof of dependency responsibilities anyone living with them
- vi. Proof of income, including bank statements for all accounts held
- vii. Proof of savings for all accounts held
- viii. Details relating to previous accommodation where appropriate

6.4.2 We may require additional information according to an applicant's circumstances and may sometimes need to contact third parties to verify the information that the applicant has given us. By completing the application form applicants, as detailed on the form, are giving consent for us to do this.

6.4.3 If all the required supporting documents are not received within 28 days the application will be cancelled.

6.4.4 If assistance is needed in making an application to the Housing Register help will be available from the Housing Services Department.

## **6.5 User guide**

6.5.1 When an applicant has been found to be eligible to join the Register, we will assess their application and they will receive a letter of confirmation and access to an on-line Scheme User Guide which will tell them:

- i. Their HomeOption identification number;
- ii. The Band that their application has been placed in and the date from which this takes effect
- iii. The size of home for which they are eligible
- iv. Details of how they can register interest for a home under CBL

**6.5.2 If from an application form we have identified that an applicant may need assistance with using the Scheme we will add their name to a database of applicants for whom assistance with making expressions of interest is offered. Applicants can be added to this list at any time upon their request.**

6.5.3 A printed version of the User Guide can be provided on request.

## **6.6 Renewal of applications**

6.6.1 In order to keep the Housing Register up to date, applicants will be required to renew their application, this will normally be on the anniversary of their application. Applicants will be prompted to renew their application when they log on to the HomeOption website. They will also be sent an email to the email address supplied on their application or a letter to the address registered on the application.

6.6.2 If an applicant fails to renew their application within 28 days from the date they received a communication to say that renewal is due, they will be deleted from the Housing Register without further notification.

## **6.7 Cancelling an application**

6.7.1 We will only cancel an application if:

- i. The applicant has written to us to ask us to cancel it, or

- ii. The applicant has not responded to the renewal requests (see paragraph 6.6 above) or
- iii. The applicant has accepted an offer of accommodation through HomeOption.
- iv. The applicant has ceased to be eligible (see paragraph 5 above), or
- v. The applicant has made false or deliberately misleading statements in connection with their application (see paragraphs 18 below)
- vi. The applicant has not provided documentary proofs for their application within 28 days of completing the on-line form

## **7. Access to Information**

7.1 Upon written request, an applicant, will be able to;

- i. receive a copy of their details entered on the Housing Register free of charge
- ii. receive copies of documents provided by them
- iii. have access to their file in accordance with the provisions of the Data Protection Act 1998
- iv. ask for a formal review of any decisions about the facts of their case
- v. be informed in writing of any decision about the facts of their case and of their right to request a review of any such decision
- vi. receive general information to enable an applicant to assess;
  - how their application is likely to be treated
  - whether accommodation appropriate to their needs is likely to be available and, if so, when

## **8. Assessment of Housing Need and Allocation of Properties**

8.1 Assessing Housing Need



- 8.1.1 Applicants housing circumstances are assessed on their individual circumstances and their application placed in one of five Bands. These Bands ensure that we give greatest priority to those in the greatest housing need, so that we make the most effective use of available homes. The law also requires us to give preference to certain categories of housing need, and these have been included within the banding priority criteria.
- 8.1.2 Band A is considered the highest priority of housing need, Band B the next highest etc., with Band E being the lowest priority.
- 8.1.3 Within each Band, the applicant with the greatest priority is the applicant who has spent the longest time in that band.
- 8.1.4 Some allocations will be dealt with outside the scheme; these are explained in paragraphs 2.3 and 3.2.
- 8.1.5 Where an applicant or one of joint applicants is a tenant of the Council at the time of the application then the property subject to that tenancy will be inspected by the Council to ensure compliance with the terms of the tenancy agreement before the application is processed.
- 8.1.6 Further details of how each band has been assessed is provided below:

### **The Band Criteria**

#### **8.1.6.1 BAND A**

Applicants meet at least one of the following criteria

- i. Accepted Homeless in severe need
- ii. Critical Medical/Welfare award – to include emergency situations
- iii. Relationship breakdowns in council properties where applicants are under-occupying but have been assessed as having housing need within Uttlesford
- iv. Successor tenants in council properties where applicants are under-occupying
- v. Releasing a property in need (council or RP property that the Council has nominations rights to) or where it prevents the Council making expensive alterations to a property

- vi. Those applicants within Uttlesford required to leave their homes as a result of an emergency prohibition order served in relation to the premises under the Housing Act 2004
- vii. Uttlesford Council tenants, or tenants in RP property where the Council will receive the nomination, who are currently in accommodation larger than their needs(Uttlesford tenants may be eligible for removal expenses grant see paragraph 9.21 below)
- viii. Multiple needs - If someone has two or more needs in band B they will be moved to band A (accepted homeless cases do not come under this category – if additional preference is needed for homeless cases they will be assessed as accepted homeless in severe need)

8.1.6.2 High welfare and multiple needs in band A would be expected to express an interest within 4 cycles of available properties otherwise priority may be reduced.

#### 8.1.6.3 **BAND B**

Applicants meet at least one of the following criteria

- i. Serious Medical/Welfare award (If after 6 months applicants have not expressed interest in all suitable advertised properties this award will be reviewed and applicants may be placed in a lower band)
- ii. Social housing tenants living in overcrowded permanent social housing within Uttlesford
- iii. Accepted homeless cases who meet the Allocation's Policy eligibility criteria
- iv. Applicants owed a relief duty under the Homelessness Reduction Act 2017 who are assessed by the council as likely to be in priority need and unintentionally homeless
- v. Nominations from supported housing schemes where the Council has agreed move-on arrangements and the applicant is ready to move on. These applicants will be able to use the CBL scheme for a period of 4 weeks from the date they are placed into this band to express interest in any suitable flatted accommodation. If they have not been successful

after the end of this period they will be made one offer of suitable flatted accommodation which may be either in the private or social sectors which if they refuse will result in them being down banded to a band that reflects their housing need.

- vi. A prohibition order or demolition order has been served, or is about to be served in relation to the applicant's dwelling. This indicates that the property contains one or more category 1 hazards that probably cannot be remedied.
- vii. An improvement notice has been, or is about to be, served in relation to the applicant's dwelling and :-
  - a. The remedies that are needed to reduce the hazard will require the property to be vacated for a significant period of time
  - b. The cost of the remedies are beyond the means of the applicant (where applicable)
  - c. The remedies will make the property unsuitable for occupation by the applicant
- viii. Multiple needs – Applicants with four or more needs in band C will move to band B

#### 8.1.6.4 **BAND C**

Applicants meet at least one of the following criteria

- i. Moderate medical/welfare award
- ii. Notice of Seeking Possession due to expire within 56 days or assessed as being at risk of homelessness within 56 days
- iii. Applicants who are owed the relief duty under the Homelessness Reduction Act 2017 but who are assessed by the council as likely to not be in priority need
- iv. Applicants who are owed the relief duty under the Homelessness Reduction Act 2017 but who are likely to be intentionally homeless

- v. Applicants who following a homelessness application have been deemed by the council to be in priority need but intentionally homeless
- vi. No fixed abode
- vii. Overcrowded in private rented accommodation or social housing outside Uttlesford
- viii. Fixed term licensees
- ix. Shared facilities – not generally applicable for single applicants under 35yrs
- x. Lacking facilities
- xi. A hazard awareness notice has been served in relation to a category 1 or 2 hazard at the applicant's dwelling

and

the remedies that are needed to reduce the hazard will require the property to be vacated for a significant period of time;

or

the cost of the remedies are beyond the means of the applicant (where applicable);

or

the remedies will make the property unsuitable for occupation by the applicant

#### 8.1.6.5 **BAND D**

- i. Applicants assessed as meeting Right to Move criteria who have been placed in one Band higher than their housing need.
- ii. Any applicant subject to the prevention (s.195 (2) or the relief duty (s189(2): S.193B(1).) under the Homelessness Reduction Act 2017 who fails to co-operate as stated in s193B and 193C of the Act will be placed in Band D.

#### 8.1.6.6 **BAND E**

Applicant meets at least one of the following criteria

- i. Caravan or mobile home but no housing need
- ii. Tied accommodation but no housing need
- iii. Applicants who live in a property that is adequate to meet their needs in terms of property type, size and facilities.
- iv. Applicants aged under 35 years who are sharing accommodation
- v. In prison
- vi. A suspended prohibition order or improvement notice has been or will be served by the Environmental Health Department in relation to the applicant's dwelling but the criteria leading to it becoming active are not met by the applicant.
- vii. A hazard awareness notice or improvement notice has been or will be served in relation to the applicant's dwelling but the specified remedies are low cost and straight-forward to achieve.

## 8.2 **Allocation of Properties**

8.2.1 With the exception of those allocations dealt with outside the scheme; these are explained in paragraphs 2.3 and 3.2 properties will be allocated to the applicant who expressed interest in the property, who is in the highest Band and with the earliest priority date within that Band.

8.2.2 At the time of the offer of a property applicants will be asked to provide proof that they continue to meet all eligibility criteria to be included on the housing register

8.2.3 Where two applicants have the same priority date in the Band the property will be allocated to the household who it is judged to have the family composition that makes best use of the accommodation. This will be decided by a Senior Manager and the reasons documented

8.2.4 **Houses** – Transfer applicants and homeseekers who are tenants of RP accommodation within Uttlesford, where UDC has the nomination rights, will be given priority for houses or general needs

bungalows with the same number of bedrooms as their current property ahead of other applicants, even if they are in a lower Band or have a lower priority date (which will be the date of application or date they have been a tenant of the flat for 2 years, whichever is the latter), providing they meet the following criteria:-

- Currently living in a flat or maisonette
- Have lived in the flat for more than 2 years
- Have conducted their current tenancy in a satisfactory manner

For properties larger than one bedroom this will only apply if there are children under 16 within the household.

## **9. Housing Priority**

### **9.1 Deciding who has priority on the register**

9.1.1 Applicants will be placed in the relevant Band defined by their specific circumstances and as assessed by the Housing Options Team with reference to the banding system set out in this policy

### **9.2 Overcrowding**

9.2.1 Homeless applicants placed in temporary accommodation by the council will not be assessed under the criteria for overcrowding.

9.2.2 Applicants will be placed in Band B if they are overcrowded, i.e. lacking one or more bedrooms and are tenants of a Council or Housing Association property where the Council has nomination rights to the RP.

9.2.3 Applicants will be placed in Band C if they are overcrowded in private rented accommodation or living with relatives or friends.

9.2.4 Overcrowded applicants with a local connection to Uttlesford, but living in Council or Housing Association properties outside the District will be in Band C.

9.2.5 Rooms which do not meet the standards for use as living accommodation for one person (the standards are given in the Housing Act 1985 Part X) will not be counted.

9.2.6 If applicants need an extra room for medical or welfare/hardship reasons they will not be considered overcrowded but will be assessed for medical or welfare priority.

- 9.2.7 Overcrowding priority will not be given if someone moved into the applicants' household making them overcrowded. This will be looked at on welfare grounds.
- 9.2.8 Where an applicant is pregnant and the birth of the child will mean that they are entitled to a larger property, the applicant will not receive overcrowding priority until the baby is born.

### **9.3 Children sharing bedrooms**

- 9.3.1 Two children of the same sex are expected to share a bedroom until one of them reaches the age of 16.
- 9.3.2 Two children of the opposite sex are expected to share a bedroom until the oldest is 10 years old.

### **9.4 Applicants without children**

- 9.4.1 Single applicants and couples without children who are living in overcrowded conditions will not be given priority for overcrowding unless they are in self-contained accommodation which is too small, for example a couple in a one person bed-sit. Young adults living with their parents or people temporarily sharing with friends will not get overcrowding priority.

### **9.5 Disrepair, poor design and lack of facilities**

- 9.5.1 Any complaint about poor repair within Council or RP properties must be reported to the applicant's landlord's Repairs service.
- 9.5.2 Applicants living in private sector accommodation in poor condition must be referred to the Council's Environmental Health Department who will assess the situation and then make their recommendations according to the Allocations Scheme.
- 9.5.3 If an applicant lacks facilities such as cooking facilities, washing facilities, toilet facilities or adequate heating they will be placed in Band C.

### **9.6 Sharing with another household**

- 9.6.1 Applicants will be placed in Band C if they share any of the following facilities with either people they are not related to or their family if they are wishing to live separately from them.
  - i. living room



- ii. kitchen
- iii. bathroom or toilet.

9.6.2 Single applicants under the age of 35 who are sharing will generally be considered as adequately housed. Consideration will be given for applicants in special circumstances.

## **9.7 People living in mobile homes or caravans**

9.7.1 Applicants living in a caravan, mobile home or houseboat will be placed in band E if there is no other housing need, reflecting parity with other private sector applicants.

9.7.2 It does not matter if the caravan is on a site or not or if they own or rent the property.

9.7.3 If their accommodation lacks facilities or is in poor repair (see paragraph 9.5) they will be placed in band C.

## **9.8 Homelessness**

9.8.1 Accepted homeless households are applicants to whom:

- i. The Council has accepted a duty under Part VII of The Housing Act 1996, as amended by the Homelessness Act 2002 (the duty towards households who are in priority need and unintentionally homeless) **and**
- ii. the council accepts a duty to provide suitable accommodation.

9.8.2 In the first instance the Council will look to discharge its homelessness duty for all accepted homeless applicants within the private rented sector. The Council will ensure that any offer of private rented housing is appropriate to the needs of the household, that the length of any tenancy is a minimum of 12 months and that the property meets the Homelessness (Suitability of Accommodation) (England) Order 2012. An assessment will also be carried out to assess the affordability of the property, including the eligibility to receive Local Housing Allowance/Housing Benefit. The property may be outside the Uttlesford District.

9.8.3 When a private rented property becomes available it will be offered to the accepted homeless applicant for whom the property is suitable and if this is more than one applicant, it will be offered to the applicant with the earliest homelessness application date.

- 9.8.4 Any private rented tenancy that discharges the council's homelessness duty will be for a period of not less than 12 months. If within 2 years, beginning with the date on which the applicant accepts a private rented sector offer, the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and if the applicant is found to be homeless (from the date of the expiry of the termination notice) and did not become homeless intentionally from the private rented accommodation, the Council will accept a homelessness duty regardless of whether the applicant has a priority need.
- 9.8.5 Applicants who meet the Allocation's Policy eligibility criteria will be allowed to make expressions of interest on suitable properties advertised through the CBL system. If after a period of 2 cycles from when the applicant received their S.184 decision letter they have not been suitably accommodated, the Council will express interest on their behalf and make one final offer of suitable flatted accommodation. If this offer is refused, the Council's homelessness duty under the Housing Act 1996 to provide accommodation will be considered to have been discharged.
- 9.8.6 Homelessness applicants who do not meet the Allocation's Policy eligibility criteria but meet the criteria for a Direct Let will be made one final offer of suitable accommodation. If there is more than one homeless case waiting for a direct let then when a property is available it will be offered to the case for whom it is suitable and with the earliest homelessness application date.

## **9.9 Accepted homeless households in severe need**

- 9.9.1 These are applicants to whom:
- i. the council has accepted a duty under the Homelessness legislation **and**
  - ii. they meet the Councils eligibility criteria
  - iii. are elderly and vulnerable due to frailty\***or**
  - iv. have a terminal or long-term illness **or**
  - v. have severe mental health problems, have been unable to cope in temporary accommodation, and have been 'sectioned' or are likely to be admitted under the Mental Health Act **or**
  - vi. are permanent wheelchair users **or**

- vii. are council or RSL tenants who have an urgent need to transfer as they are suffering from violence or threats of violence and are considered to be at significant risk

9.9.2 Where the above circumstances apply these applicants will be placed in Band A.

9.9.3 The Council will decide who will be placed in Band A. Recommendations will be made by the Housing Officer dealing with the case because they have the most accurate and up-to-date information on the applicant, due to the investigations carried out before an applicant is accepted as homeless.

9.9.4 \*Elderly non-frail applicants may still be placed in Band A, however clear supporting evidence will be required to support their application.

#### **9.11 Failure to Co-operate**

9.11.1 Any applicant subject to the prevention (s.195 (2) or the relief duty (s189(2): S.193B(1).) under the Homelessness Reduction Act 2017 who fails to co-operate as stated in s193B and 193C of the will be placed in Band D.

#### **9.12 Assured shorthold tenants under notice**

9.12.1 Assured shorthold tenants who have received a 'Notice Requiring Possession'/ Notice to Quit from their landlord will be placed in Band C if there is 56 days or less before the notice expires.

9.12.2 All applicants will be offered advice regarding their housing options.

#### **9.13 Lodger under notice**

9.13.1 This applies to applicants living in the same property as their landlord.

9.13.2 They must be renting a room that is for their own use only, and be paying a market rent.

9.13.3 Proof that notice has been served is required.

9.13.4 They will be placed in Band C if there is 56 days or before the notice expires.

9.13.5 The Council will then check to see whether the notice will be enforced.

#### **9.14 Tenants of tied accommodation under notice**

9.14.1 Tenants in tied accommodation with no need to move will be placed in Band E.

9.14.2 If they have received a legal notice requiring them to leave their accommodation in 56 days or less will be placed in Band C.

#### **9.15 Protected tenants with a possession order**

9.15.1 This applies to a tenant with a 'protected' tenancy (that is a tenancy with protection from eviction, but not an assured shorthold tenancy).

9.12.5 They must have been served with a court order for possession and then will be placed in Band C.

#### **9.16 Fixed-term licensee**

9.16.1 This applies to applicants living in supported housing schemes. Applicants in these schemes will be placed in Band C.

9.16.2 Applicants in supported housing schemes where the Council has agreed move-on arrangements will be placed in Band B if they are judged as ready to move on.

9.16.3 Applicants accepted by the Council as being owed the full homeless duty and in a specialist refuge for victims of domestic abuse will be placed in Band B

#### **9.17 Applicants with no fixed address**

9.17.1 This applies to applicants who have no fixed address.

9.17.2 They will be placed in Band C.

9.17.3 If they are in prison they will be placed in Band E.

#### **9.18 Medical, welfare, hardship and harassment**

9.18.1 Important: priority can only be awarded under **one** heading: medical, welfare, hardship or harassment.

9.18.2 Applicants can be assessed under all headings, but get awarded priority under only one heading.

9.18.3 Any medical or welfare priority can be reassessed if an applicant's circumstances change.

## 9.19 Medical assessments

- 9.19.1 This applies if an applicant's present housing is detrimental to their health, or if a move to more suitable accommodation would have a positive effect on their health.
- 9.19.2 Applicants may also be awarded priority if the applicant is asking to be rehoused so they can receive care or specialist support.
- 9.19.3 Extra information may be sought from private sector landlords, housing officers, GPs, health visitors and other parties.
- 9.19.4 The table below is used to act as a guide to priority:

Effect of housing on health	Medical Problem			
	Very Serious	Serious	Moderate	Low
Very Serious	Band A	Band B	Band C	No award
Serious	Band B	Band B	Band C	No award
Moderate	Band C	Band C	Band C	No award
Low	No award	No award	No award	No award

- 9.19.5 Assessments of medical priority of band B or above will be carried out by two senior officers in consultation with any officers with direct knowledge of the applicants and using all information available at the time and using the above guide.
- 9.19.6 Applicants accepted under Homelessness legislation will not be eligible for medical priority. If a homeless applicant's temporary accommodation is unsuitable on medical grounds the Council will first look to see if alternative temporary accommodation can be found.
- 9.19.7 Homeless households can be considered through a medical assessment if an extra room is required on medical grounds.

## 9.20 Welfare/Hardship/Harassment assessments

- 9.20.1 This applies if at least one person in the household is vulnerable and less able to find settled or suitable accommodation.
- 9.20.2 These people will have a need to move but may not get medical priority because their present housing may be suitable for their needs.
- 9.20.3 The table below is used to act as a guide to priority:

Need for settled suitable accommodation	Level of Vulnerability		
	High	Medium	Low
High	Band A	Band B	Band C
Medium	Band B	Band B	Band C
Low	Band C	Band C	Band C

9.20.4 Welfare/Hardship/Harassment priority of band B or above will be carried out by two senior officers in consultation with any officers with direct knowledge of the applicants and using all information available at the time and using the above guide.

9.20.5 Homeless applicants will not be looked at under welfare issues. If a homeless applicant's temporary accommodation is unsuitable on welfare grounds the Council will first look to see if alternative temporary accommodation can be found.

9.20.6 If a homeless applicant or household is particularly vulnerable and they may be at significant risk in temporary accommodation the Council can consider the category of 'accepted homeless applicants in particular need' to increase them to band A (see paragraph 9.9).

## **9.21 Tenants with a home that is bigger than they need**

9.21.1 This applies to Uttlesford District Council secure tenants or tenants of RPs (where the Council has nomination rights), who are 'under-occupying' their homes and want to move to a smaller property. These applicants are given high priority because it enables a household with high need to move into the freed up larger home.

9.21.2 Applicants who are currently in property larger than their needs will be placed Band A.

9.21.3 Where an Uttlesford District Council tenant is downsizing to a Council or RSL property they may be eligible for a downsizing grant to help with removal costs. For further details please see the Council's Decant Policy.

## **9.22 Applicants offered housing because of the death of an Uttlesford Council secure tenant**

9.22.1 This applies if the applicant qualifies to 'succeed' to a tenancy when the tenant dies.

9.22.2 To be a 'successor tenant' the applicant has to meet certain rules – usually must be related to the tenant, or be their partner, and have

lived in the property a certain time. The rules for this are in the tenancy conditions for the property.

9.22.3 If the successor tenant does not need the property because of its size, or the adaptations or services in the property, they may be served a notice seeking possession under Schedule 2, Ground 16 of The Housing Act 1985. This will be served more than six months but less than twelve months after the tenant's death.

9.22.4 Where successor tenants are in a property larger than they need or with major adaptations they do not require they will be placed in band A. They are able to express an interest for suitable properties under the scheme. If they have not expressed an interest within six months of their application their case will be reviewed and the Council may reserve the right to express an interest for them on suitable properties.

### **9.23 Uttlesford Council secure tenants offered housing because of a Relationship breakdown**

9.23.1 This category applies to Uttlesford secure tenants only.

9.23.2 If a joint tenant ends the tenancy when moving out, the property is not automatically offered to the tenant remaining.

9.23.3 Applicants will be placed in Band A when there is a relationship breakdown and the joint tenant moves out and ends the tenancy and the other tenant qualifies to be offered a smaller property.

9.23.4 They will be able to express an interest for properties under the scheme but if they have not expressed an interest within six months of their application their case will be reviewed. The Council reserves the right to express an interest for them on suitable properties.

9.23.5 If a property is then subsequently refused they will have no right to remain in their current property and therefore action will be taken by the council to gain possession of the property.

9.23.6 If an applicant qualifies to be offered the same property we will make them a direct let offer of that property.

### **9.24 Transfers which will release a property that is needed**

9.24.1 Applicants will be placed in Band A of the scheme if they wish to move **and**



- i. the property they would leave is needed to meet the urgent housing needs of another household on the register which otherwise would not be met within a reasonable time or
- ii. where it prevents the Council making expensive alterations to the property and
- iii. there is not a serious shortage of the types of home they want to move to.

### **9.25 Applicants who have deliberately made their housing situation worse**

9.25.1 The Council will consider whether an applicant has deliberately made their housing situation worse to increase their housing need, and consequently improve their chances of re-housing through the register.

9.25.2 If it is decided that the applicant has made their housing situation worse, they will remain in the band that reflects their housing need in their previous accommodation.

9.25.3 If the applicant was not registered from their previous address, the assessment of housing need will be based on the accommodation occupied before their accommodation changed.

9.25.4 The assessment will be reviewed after 12 months, on request. If the restriction is removed, the application will be placed in the band that reflects current circumstances. Their effective date will be the date they moved to the new band.

### **9.26 Owner-occupiers**

9.26.1 Applicants who previously owned a property and have sold it will be asked to provide proof of the sale and evidence of any proceeds received.

9.26.2 Owner-occupiers will generally not be eligible to join the housing register unless they are able to demonstrate that they are unable to meet their housing needs through their own resources.

9.26.3 Property owners over 60 will be eligible to join the housing register if they can demonstrate a need for sheltered accommodation.

### **9.27 Applicants in 'tied' accommodation which is suitable for their needs**

9.27.1 Applicants are considered to be in tied accommodation if the occupation of their home is essential for the performance of their

duties as an employee. This includes applicants who are accommodated by HM Forces.

9.27.2 Applicants in 'tied' accommodation will be placed in band E. They will be moved to Band C if:

- i. they are six months away from retirement **or**
- ii. they have received a legally binding notice asking them to leave their accommodation.

## **9.28 Deciding the effective date**

9.28.1 Priority within bands relates to an applicant's effective date. The effective date is usually the date the application is received, except;

- i. Where an applicant is moved from one band to a higher band. Their new effective date will be the date their circumstances changed.
- ii. Where an applicant receives priority on medical or welfare grounds their effective date will be the date the Council receives the required supporting evidence to make this award.
- iii. Where an applicant has been accepted as Homeless their effective date will be the date a relief duty was accepted, unless they already qualify for Band B with an earlier date.

## **9.29 Armed Forces Priority**

9.29.1 Members of the Armed Forces, who are in urgent housing need who fall within one or more of the following criteria, will be placed in one Band higher than their housing need.

- i. Is serving in the regular forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service
- ii. Formerly served in the regular forces where the application is made within 5 years of their date of discharge
- iii. Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service or

- iv. Is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service

9.29.2 For this purpose "the regular forces" and the "reserve forces" have the meanings given by section 374 of the Armed Forces Act 2006(4)

### **9.30 By-passing applications that would otherwise meet eligibility criteria for an offer of accommodation**

The Council reserves the right to by-pass an offer of accommodation while shortlisting applicants in the following circumstances

- i. The property is not in accordance with an applicant's assessed medical needs
- ii. Applicant has pets and the property is not suitable or pets are not permitted
- iii. Applicant has housing related debt where an agreed repayment plan has been breached (see 5.4)
- iv. Applicant is a Council or RP tenants with rent arrears (see 5.4)
- v. Council tenants where the condition of their current property is considered to be a breach of their Conditions of Tenancy
- vi. If the applicant does not meet the rules relating to age or household size by the RP advertising the property.
- vii. Other reasons where the Council deem that a sensitive allocation is necessary and this has been agreed by a Senior Manager .
- viii. If the applicant has been offered a property and have not yet refused that offer.
- ix. If the applicant is unable to view or accept the property within the required timescale.
- x. Where the applicant has not notified the Council of a change of circumstances material to their application.

### **9.31 Penalty for refusal of offers of accommodation**

Any applicant (except from existing Council or RP tenants who are under-occupying and wishing to move to smaller accommodation) who refuses 2 offers of accommodation, for properties on which they have expressed interest, within a 6 month period, will have their application suspended for 12 months.

## **10. Types of Tenancies**

- 10.1 The type of tenancy an applicant will be offered will be in accordance with the Council's tenancy policy or the tenancy policy of the landlord of the property. Tenancy policies will be set having regard to the West Essex Tenancy Strategy.
- 10.2 The Council will offer joint tenancies to adult partners where there is a need for a long term commitment to a joint home, except where one of the prospective joint tenants is excluded from or ineligible to join the housing register.
- 10.3 Generally, homeless applicants residing at homeless accommodation (including the Council's managed short stay accommodation) or bed and breakfast accommodation, if offered Council accommodation, will be offered an Introductory Tenancy followed by secure or flexible tenancy in accordance with the Council's Introductory Tenancy Scheme and Tenancy Policy.

## **11. Tenancy Start Dates**

- 11.1 The Council will allow applicants 7 days to reach a decision whether to accept any Council accommodation they are offered, although we may allow longer having regard to personal circumstances.
- 11.2 Where possible the applicant will be given an opportunity to view the property they are being offered before they have to give the Council a decision.
- 11.3 If the applicant is interested in the tenancy they will either be advised by telephone when the property is ready for letting or receive a formal offer of the tenancy by first class post.
- 11.4 Generally, for properties becoming ready for letting on Friday, the tenancy start date will be the following Monday.

## **12. Redecoration Scheme**

Internal decorations to an Council property are the tenant's responsibility. However, if a property (excluding sheltered accommodation) offered to a housing applicant is, in the view of the inspecting officer, in need of redecoration, a voucher for the purchase of an appropriate amount of paint will be provided.

## **13. Designation of Property Type – Age restrictions**

- 13.1 To make best use of housing stock properties are designated as being either general needs or for older persons or people with disabilities.

13.2 Older person's properties, such as bungalows, will normally be allocated to the following categories of person:-

- i. Those aged 60 or over (55 for some RP accommodation)
- ii. Those under 60 with Band B medical assessment who require this type of accommodation. In these circumstances single people and couples will only be offered 1 bed bungalows and will not generally be able to express interest in general needs properties (unless they have a verified need for a 2-bedroom bungalow).

13.3 In areas of lower demand some bungalows may be advertised without an age restriction, however, in the first instance preference will still be given to applicants over 60 expressing interest.

13.4 General needs properties such as houses or flats will be allocated to persons under 60 unless there are special circumstances which indicate that a particular general needs property is suitable for and applicant who is 60 or over.

#### **14. Allocating Sheltered Housing**

14.1 When allocating sheltered housing the same general principles as for other property types are followed, apart from the following:

- i. An assessment of the applicants suitability and need for support must be completed before any tenancy is offered. If the applicant is considered unsuitable for sheltered accommodation, they will be advised and given advice on homes more suitable to their needs.
- ii. When assessing suitability for sheltered housing applicants will also be given advice about the allocation scheme and how to bid. If an applicant needs help with the process, this will be noted and appropriate arrangements made.
- iii. Applicants must generally be over 60 years of age to be eligible for sheltered housing (over 55 for some RP accommodation)

#### **15. Properties designed or adapted for people with physical disabilities**

15.1 If an applicant needs a home suitable for wheelchair users or needs other specialist adaptations we will usually require an assessment by an Occupational Therapist before an offer can be considered. (Please refer to the Council's Disabled Adaptations Policy)

15.2 Homes particularly designed for, or accessible to, people with disabilities will be advertised as such to help applicants with those needs identify them.

15.3 Properties which have been adapted to a very high standard may not be included in the scheme and may be directly allocated.

## **16. Reviews**

16.1 If an applicant considers they have been unfairly or unreasonably treated having regard to the provisions of the Allocations Scheme they have the right to request a review of their case within 28 days of the decision

16.2 In the first instance, they must appeal in writing to the Housing Options Team Leader and will receive a written response within 10 working days.

16.3 If, having received this response they wish to make a further appeal they can write to the Housing Strategy and Operations Manager who will then review the case.

## **17. Equal Opportunities**

17.1 The Council's allocation scheme will be operated strictly in accordance with Council policy irrespective of an applicant's ethnic origin, race, nationality, colour, religion, gender, sexual orientation, marital status, age or disability.

17.2 The Council will have regard to, and implement, the provisions of the Race Relations Code of Practice in Rented Housing, which it has adopted. The Council will also abide by the Race Relations Act 1976.

17.3 As an aid to ensuring that applicants are not discriminated against on the grounds of race, the Council will monitor the racial origin of:

- i. Applicants on the Housing Register
- ii. Applicants allocated housing
- iii. Applicants offered sheltered accommodation

17.4 The practices and procedures of Housing Services will be monitored by the Head of Service to ensure that they do not discriminate directly or indirectly. Changes will be made if it is established that practices or procedures may be contravening the Equalities Act 2010.

## **18. False and Withheld Information**

18.1 It is an offence for anyone seeking housing assistance from us to give false information or withhold information that may affect their application for housing.

18.2 This could result in:

- i. Criminal prosecution

- ii. Cancelling the applicant's housing register application (see paragraph 6.6 above)
- iii. Possession proceedings for any tenancy an applicant has obtained as a result of giving or withholding false information

18.3 The Council may seek possession of a property under Ground 5 of Schedule 2 of the Housing Act 1985 if a tenant has induced the Council to grant a tenancy by knowingly or recklessly making a false statement. The Council can prosecute and fine up to £5,000 if found guilty.

## **19. Information on the Allocations Scheme**

19.1 The Council will:-

- i. Publish a summary of its Allocations Scheme in a leaflet and provide copies free of charge on request to any member of the public
- ii. Provide copies of the Allocations Scheme free of charge at Housing Services, Council Offices, Saffron Walden
- iii. Enable copies of the Allocations Scheme to be downloaded on the Internet from the Council's web-site: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

19.2 Within a reasonable period of time, the Council will notify applicants on the Housing Register of an alteration to the Allocations Scheme reflecting a major change of policy, explaining in general terms the effect of the change.

## **20. Review of Allocations Scheme**

The Allocations Scheme will be reviewed periodically by the Council's Housing Board and any recommended changes agreed by the Council's Cabinet.

## **21. Consultation on Changes to the Allocations Scheme**

Before adopting a new Allocations Scheme or making an alteration reflecting a major change of policy in an existing Allocations Scheme, the Council will notify every RP with which it has nomination arrangements of the change, and all local Councils affording them a reasonable opportunity to comment on the proposals.

## **Data Protection Act**

The information you provide may be put on a computer system registered under the current Data Protection law. It may be checked with other information or data held by the Council. It may be disclosed for the purposes as described on the Register Entry



in the Council's Data Protection Register. We may also share data with other agencies for the prevention and detection of crime.

**IF YOU REQUIRE THIS INFORMATION LEAFLET IN AN ALTERNATIVE  
FORMAT AND OR LANGUAGE PLEASE CONTACT HOUSING SERVICES ON  
01799 510510**

Housing Services  
Uttlesford District Council  
Council Offices  
London Road  
Saffron Walden  
CB11 4 ER

Telephone: 01799 510510  
Email: [uconnect@uttlesford.gov.uk](mailto:uconnect@uttlesford.gov.uk)  
Website: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

## Appendix I

**For General Needs Accommodation, the number of bedrooms that working age applicants are eligible to express interest in, will be in line with the prevailing Housing Benefit Regulations on size criteria.**

### Size of Accommodation Allocated – working age applicants

Household Size	Number of rooms
1 adult	Bedsit/ 1 bedroom
2 adults living together as a couple	1 bedroom
1 adult (2 adults living together as a couple) expecting baby and the pregnancy is over 24 weeks	2 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 1 child* - 2 children* of different sexes where neither child is over 10 years of age - 2 children* of the same sex up until the eldest child is 16 years of age	2 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 2 children* of different sexes where the oldest child is over 10 years of age - 2 children* of the same sex where the eldest child is over 16 years of age - 3 children* - 4 children* regardless of sex up until the eldest child is 16 years of age	3 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 4 children* where 1 child is over 16 years of age - 5 or more children*	4 bedrooms

**\*Parents with 'staying access' to dependent children or shared residence orders** - Applicants with a shared residence order or staying access for children are not automatically entitled to bedrooms for their children. The general principle is that a child needs one home of an adequate size, and that the council will not accept responsibility for providing a second home for children. The council will make an assessment based on the individual circumstances.

**Single applicants or couples where one is over 60 years of age will be eligible to express interest in 1 or 2 bedroom designated older persons accommodation.**

## Appendix II

### Local Lettings Plans

A Local Letting Plan is an arrangement for the allocation of properties to meet the specific needs of a locality in response to results of a housing needs survey..

### Rural Housing – Exception site

When vacancies arise in properties that have been built in rural localities (rural exception sites) and a planning obligation specifies a local connection requirement, this takes precedence over the local connection eligibility in 5.2. This means that households wishing to apply for housing on an exception site who fulfil the local connection requirement set out in a planning obligation, but not the eligibility criteria in 5.2, will be eligible to join the housing register but **only** for this specific development site.

The local connection criteria for rural exception sites will be as follows and in the following order of priority

1. Persons who have been permanently resident in the specified parish for at least two years
2. Persons who are no longer resident in the specified parish but who have been resident for at least three years during the past five years
3. Persons who meet either of the following criteria
  - i. in permanent employment in the specified parish for a minimum of 2 years and working at least 24 hours per week
  - ii. having close relatives (i.e. parents, grandparents, children, brother or sister) living in the specified parish or parishes who have lived there for at least five years
4. If there are no persons meeting the criteria in 1 to 3 then the cascade above will be applied to any neighbouring parishes identified in relevant clauses in the planning agreement
5. In the event that it is still not possible to allocate a property to applicants who meet criteria 1 to 4 above then the property may be allocated to applicants who meet the local connection requirements who will under-occupy the property, providing that the under-occupancy created does not exceed one bedroom
6. In the event that it is still not possible to allocate a property to applicants who meet criteria 1 to 5 above then the property may be allocated to applicants who meet the Uttlesford eligibility criteria set out in Section 5.2.1

7. In the exceptional event that the council is unable to nominate any persons from its Housing Register who comply with 1 to 6 above, the Registered Provider would offer tenancies to Eligible Persons, the definition of which would be consistent with both the council's local connection criteria and the occupancy requirements. The priority when offering tenancies to Eligible Persons would mirror the council's policies on Allocation of Properties.

The council will select nominations which meet the criteria set out in 1 to 6 in the priority order of their local connection and then on the basis of their housing need and then the date that their housing need priority was awarded.

The age criteria (Section 13) may be waived for suitable properties to allow older people to remain in a village.

### **Rural Housing – Non exception site**

Requiring applicants to have a connection with the locality may also be considered by the Council, on a proportion of the affordable housing provision, on any site subject to the terms of a planning obligation where a local need can be demonstrated through a housing needs survey, no more than three years old at the time of the submission of the planning application.. To be eligible for an allocation on these sites applicants must be assessed as having a housing need by being in Bands A – D of the allocation policy.

### **Sustainable Communities**

In exceptional circumstances, the council may decide to let properties on a slightly different basis from normal, in the interests of building a strong and sustainable community or to deal with particular local issues. The decision to apply such criteria will be jointly made by the landlord of the property and the council.

On new developments, the Council and the landlord may consider widening the eligible bands for home types on first lettings, again taking equal opportunities and legal issues into account

## Appendix III

### Right to Move Guidance

The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015 states that local authorities cannot decide that a person does not qualify for an allocation of accommodation on the grounds that the applicant does not have a local connection with the area if the applicant is a tenant of social housing and who needs to move to take up a job or live closer to employment or training (including apprenticeships).

A local connection requirement must **not** be applied to existing social tenants seeking to transfer from another local authority district in England who:

- have reasonable preference under s.166(3)(e) because of a need to move to the local authority's district to avoid hardship, and
- need to move because the tenant works in the district, or
- need to move to take up an offer of work

The applicant must demonstrate that they **need**, rather than wish, to move, for work related reasons. In this regard the following factors will be taken into account:

- the distance and/or time taken to travel between work and home
- the availability and affordability of transport, taking into account level of earnings
- the nature of the work and whether similar opportunities are available closer to home
- other personal factors, such as medical conditions and child care, which would be affected if the tenant could not move
- the length of the work contract
- whether failure to move would result in the loss of an opportunity to improve their employment circumstances or prospects, for example, by taking up a better job, a promotion, or an apprenticeship

This is not an exhaustive list, other local circumstances may be taken into consideration.

### The following forms of work are excluded from the Right to Move

#### Short-term

In determining whether work is short-term the following factors will be taken into consideration

- whether the work is regular or intermittent
- the period of employment and whether or not work was intended to be short-term or long-term at the outset
- A contract of employment that was intended to last for less than 12 months could be considered to be short-term

### Marginal

In determining whether work is marginal the following factors will be taken into consideration

- the number of hours worked (employment of less than 16 hours a week could be considered to be marginal in nature)
- the level of earnings

However Uttlesford District Council may take into account, for example, if a tenant only works 15 hours a week but they can demonstrate that the work is regular and the remuneration is substantial.

### Ancillary

- If a person works occasionally in the local authority's district, even if the pattern of work is regular, but their main place of work is in a different local authority's district, the work is excluded from the regulations
- If the tenant is expected to return to work in the original local authority district. If a local authority has reason to believe this is the case, they should seek verification from the tenant's employer
- A person who seeks to move into a local authority to be closer to work in a neighbouring authority – for example, where the transport links are better in the first local authority's area – is also excluded from these regulations.

### Voluntary Work

- Voluntary work means work where no payment is received or the only payment is in respect of any expenses reasonably incurred

### Apprenticeship

- The term 'work' includes an apprenticeship. This is because an apprenticeship normally takes place under an apprenticeship agreement which is an employment contract (specifically a contract of service) [*Why are apprenticeships excluded?*]

### **Verification and evidence**

Uttlesford District Council will require proof that the work or job-offer is genuine and will need to see appropriate documentary evidence, which could include:

- a contract of employment
- wage/salary slips covering a certain period of time, or bank statements (this is likely to be particularly relevant in the case of zero-hours contracts)
- tax and benefits information – e.g. proof that the applicant is in receipt of working tax credit (if eligible)
- a formal offer letter
- additionally, the employer may be contacted to verify the position [*Do we need to write in that applicants may be required to sign an authority to enable the employers to provide information regarding employment?*]

**Uttlesford District Council may consider whether an applicant qualifies both at the time of the initial application and when considering making an allocation.**

A set quota which the Council feels appropriate for the proportion of properties that it expects to allocate each year to transferring tenants who need to move into their district for work related reasons is 1%. However this will be reviewed and revised as appropriate based upon supply and demand through monitoring channels.

**Applicants who meet the criteria for Right to Move will be placed in one and higher than their housing need.**





**ANNEX 5**

**UDC FIRST HOMES PLANNING ADVICE NOTE**





**UTTLESFORD DISTRICT COUNCIL**

**FIRST HOMES  
PLANNING ADVICE  
NOTICE  
2022**



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## 1. BACKGROUND

1.1 On 24th May 2021, the Government published a Written Ministerial Statement<sup>1</sup> that set out plans for delivery of a new type of affordable home ownership product called First Homes. To support the future development of First Homes, the Government also set out changes to national planning policy.<sup>2</sup>

1.2 First Homes are a specific kind of discounted market sale housing which must:

- be discounted by a minimum of 30% against the market value; and
- can only be sold to a person or persons meeting the First Homes eligibility criteria (see below); and
- after the discount has been applied, the first sale must be at a price no higher than £250,000 outside of London; and
- on the first sale, a First Home will have a restriction registered on the title of the property at HM Land Registry to ensure the discount (percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer.

1.3 This is the minimum criteria a First Home must meet and would be considered to meet the definition of 'affordable housing' for planning purposes.

1.4 The national eligibility criteria for purchasers of First Homes includes the following:

- a purchaser (or, if joint purchase, all the purchasers) of a First Home should be a first-time buyer<sup>3</sup>;
- and purchasers of First Homes, whether individuals, couples or group purchasers should have a combined annual household income not exceeding £80,000 in the tax year immediately preceding the year of purchase.
- and a purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic Law) to fund a minimum of 50% of the discounted purchase price.
- and the First Home must be the buyer's main residence with restrictions on lettings being applied.

1.5 The First Homes Written Ministerial Statement does give local authorities or neighbourhood planning groups discretion to:

- Require a higher minimum discount of either 40% or 50% if they can demonstrate a need for this.
- Set lower price caps if they can demonstrate a need for this.
- Apply time limited eligibility criteria in addition to the national criteria described above, for example a local connection test, or criteria based on employment status.

1.6 First Homes are the Government's preferred discounted market tenure and should account for a minimum 25% of affordable housing secured through planning obligations.

1.7 Uttlesford District Council requires the provision of 40% of the total number

of residential units to meet the national definition of 'affordable housing' within all new residential developments that comprise 15 or more residential units or a site of 0.5 hectares and above.

1.8 To meet housing need the 40% affordable housing policy requirement must incorporate 70% affordable housing for rent, provided as either social or affordable rented housing. The remaining 30% required to meet demand for affordable home ownership and comply with national planning policy, which requires that at least 10% of homes should be available for affordable homes ownership. It was assumed to be provided as shared ownership housing where buyers purchase a share in a home and pay a below market rent on the share that they do not own.

1.9 The First Homes Written Ministerial Statement also introduced a First Homes exceptions site policy to encourage First Homes-led development on land that is not currently allocated for housing, replacing the entry-level exception site policy.

1.10 First Homes exception sites should be on land which is not already allocated for housing and should:

- a) comprise First Homes (as defined in the Written Ministerial Statement); and
- b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework<sup>4</sup>, and comply with any local design policies and standards.

1.11 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion.





## 2. PURPOSE

2.1 The purpose of this advice note is to:

2.1.1. Clarify what a policy compliant affordable housing requirement on developments of 15 or more dwellings or a site of 0.5 hectares and above is following the implementation of the First Homes Written Ministerial Statement.

2.1.2 Set out the Council's position regarding those elements of the National criteria that can be amended by local authorities relating to the homes and purchasers of First Homes.

2.1.3 Clarify the Council's interpretation and position regarding the terms 'proportionate to the settlement' and 'small proportion of market homes' in relation to First Homes exceptions sites.

2.2 This Planning Advice Note will be reviewed in line with the review of the Local Plan, which is currently being undertaken to enable the new Local Plan to be adopted in 2024.

## 3. POLICY COMPLIANT AFFORDABLE HOUSING MIX

3.1 A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes, subject to the transitional arrangements (see below).

3.2 Once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the Local Plan.

3.3 The remainder of the affordable housing tenures should be delivered in line with the proportions set out in Local Plan policy.

3.4 The First Homes Planning Practice Guidance states that a policy compliant planning application should seek to capture the same amount of value as would be captured under a local authority's up-to-date published policy. It sets out that where a plan viability assessment shows the amount of value captured, this allows the total value captured under the policy to be calculated. This value can then be reallocated to a different affordable housing mix under the new policy<sup>5</sup>.

3.5 Currently the 40% affordable housing policy requirement consists of 70% affordable housing for rent and 30% affordable home ownership – assumed to be provided as shared ownership housing. As the 25% First Homes requirement can be accounted for within the 30% affordable home ownership element of the contribution,

The following affordable housing contribution will be considered policy compliant:

**70% of the affordable units on new residential developments of 15 or more residential units or on a site of 0.5 hectares and above will be required as affordable housing for rent.**

**25% of the affordable units on new residential developments of 15 or more residential units or with a site of 0.5 hectares or more will be required as First Homes.**

**5% of the affordable units on new residential developments of 15 or more residential units or with a site of 0.5 hectares or more will be required as Shared Ownership Housing to continue to meet demand for affordable home ownership homes and from purchasers that do not meet the qualification criteria applied to First Homes.**

3.6 To ensure a compliant planning application captures the same amount of value as would be captured under the Local Plan:

**First Homes will be required at the 30% discount against the market value and the national price cap of £250,000 will apply.**

## 4. LOCAL ELIGIBILITY CRITERIA

4.1 As part of planning obligations secured through section 106 agreements, local authorities can apply eligibility criteria to First Homes in addition to the national criteria described above.

In Uttlesford, the following additional local criteria will apply to all First Homes on initial sales and resales for a period of 3 months from when a home is first marketed:

**Households with an adult that at the time of marketing the First Home lives or works<sup>7</sup> in the Uttlesford district; or**

**Households with an adult that at the time of marketing the First Home is due to commence employment in the Uttlesford district: or**

**Households with an adult that at the time of marketing the First Home has a close family connection to the Uttlesford district (*parents, grandparents, children, siblings*)**

4.2 If a suitable buyer has not reserved a home after 3 months, the eligibility criteria will revert to the national criteria to widen the consumer base.<sup>6</sup>

4.3 In accordance with national Planning Practice Guidance, the local eligibility criteria will be disapplied for all active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the armed forces (if their





death was wholly or partly caused by their services) and veterans within 5 years of leaving the armed forces.

## 5. FIRST HOMES EXCEPTIONS SITES

5.1 The First Homes Written Ministerial Statement and associated planning guidance allows for First Homes exceptions sites to come forward on unallocated land outside of a development plan so long as it meets the criteria set out above. As well as being adjacent to existing settlements, the criteria states that these sites must be 'proportionate in size' to the existing settlements.

5.2 National Planning Practice Guidance states that for decision making, what constitutes a proportionate development will vary depending on local circumstances and encourages local authorities to set policies which specify their approach to determining the proportionality of First Homes exceptions site proposals.

5.3 Uttlesford District Council will consider whether First Homes exceptions site proposals are 'proportionate' to an existing settlement as part of the assessment process for each First Homes exception site application which is submitted. In all instances this will not exceed 15 units or 0.5 hectares, and in smaller settlements<sup>7</sup> 15 units is likely to not be proportionate.

5.4 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion.

5.5 The starting point is that market homes are not required, especially given First Homes are not required to be discounted beyond the 30% minimum, however: Where it can be demonstrated to the satisfaction of the Council that market housing is essential to cross-subsidise the delivery of First Homes on First Homes exceptions sites: the proportion of market housing must not exceed 20% of the total number of homes; and the market and affordable homes must be indistinguishable in design and quality.

5.6 National Planning Policy Guidance allows small quantities of affordable housing products for one or more other form of affordable housing on a proposed First Homes exceptions site where evidence suggests that a significant local need exists. This evidence can be in the form of a local Housing Needs Assessment or the local authority Housing Register.

5.7 As Uttlesford District Council has significant local need for more affordable housing for rent to meet the needs of households on the Council's Housing Register, we expect **at least 25% of First Homes exceptions sites to provide affordable housing for rent to meet the needs of those households in the greatest housing need on the Council's Housing Register.**



## 6. TRANSITIONAL ARRANGEMENTS

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6.1 National Planning Practice Guidance sets out that the First Homes policy requirement does not apply to decision making for the following:

- sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021;
- applications for full or outline planning permission where there has been significant preapplication engagement which are determined before 28 March 2022; and
- sites where neighbourhood plans are adopted/made under the transitional arrangements -submitted for examination before 28 June 2021 or have reached publication stage and subsequently submitted for examination by 28 December 2021.

6.2 These transitional arrangements also apply to permissions and applications for entry-level exception sites.

6.3 The First Homes requirement does not apply to applications made under section 73 of the Town and Country Planning Act 1990 to amend or vary an existing planning permission unless the amendment or variation in question relates to the proposed quantity or tenure mix of affordable housing for the development.

## 7. KEY DOCUMENTS

### **Uttlesford Local Plan (2005)**

7.1 Policies H9, H10 and H11 set out the affordable housing and rural exceptions site policies.

7.2 The Council is in the process of producing a new Local Plan for adoption in 2024.

### **Housing Strategy (2021-2026)**

7.4 The Council's Housing Strategy 2021-2026 establishes the key priorities relating to housing for the Uttlesford district and the actions to be taken to address these priorities.



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THIS AGREEMENT is made on

29th February

2024

BETWEEN:

- (1) **Uttlesford District Council** of Council Offices, London Road, Saffron Walden, Essex CB11 4ER ('UDC')
- (2) **Essex County Council** of County Hall, Market Road, Chelmsford CM1 1QH ('the County Council')
- (3) **Weston Homes Plc** (company registration number 2133568) of Weston Group Business Centre, Parsonage Road, Takeley, Essex CM22 6PU (the 'Developer') and
- (4) **Euan Stewart Kennedy** of [REDACTED] **Shuna Mackinnon Dickson** of [REDACTED] **Mark Kennedy Williams** of [REDACTED], **Andrew Mackinnon Morris** of [REDACTED], and **Maxwell Stewart Kennedy** of [REDACTED] ('the First Verge Owner')
- (5) **Euan Stewart Kennedy** of [REDACTED] **Shuna Mackinnon Dickson** of [REDACTED] ('the Second Verge Owner')
- (6) **HSBC Corporate Trustee Company (UK) Limited** (company registration number 06447555) of Level 14, 8 Canada Square, London E14 5HQ ('the Mortgagee')

## 1 DEFINITIONS

- 1.1 'the Highways Act' shall mean the Highways Act 1980
- 1.2 'the 1972 Act' shall mean the Local Government Act 1972
- 1.3 'the 1990 Act' shall mean the Town and Country Planning Act 1990
- 1.4 'the 1999 Act' shall mean the Contracts (Rights of Third Parties) Act 1999
- 1.5 'the 2008 Act' shall mean the Housing and Regeneration Act 2008
- 1.6 'the 2011 Act' shall mean the Localism Act 2011
- 1.7 'Affordable Housing' shall mean subsidised housing within the definition of affordable housing contained in Annex 2 of the NPPF that will be available to persons who cannot afford to buy or rent housing generally available on the open market including but not limited to Affordable Rented Housing First Homes and Shared Ownership Housing
- 1.8 'Affordable Housing Land' shall mean the land on which the Affordable Housing Units will be constructed in accordance with the Permission as shown on the Affordable Housing Plan
- 1.9 'Affordable Housing Plan' shall mean the plan attached at Annex 3 (Plan WH202.WST.P1.ZZ.DR.PL.10.05 Rev B) identifying the number and location of the Affordable Housing Units included within the Development, the Affordable Housing Tenure Mix and the Affordable Housing Unit Mix or such other plan as may be agreed between UDC and the Developer
- 1.10 'Affordable Housing Tenure Mix' shall mean the different types of tenure of Affordable Housing to be provided within the Development and which shall (unless otherwise approved by UDC) comprise:
  - (a) Seventy percent (70%) Affordable Rented Housing Units
  - (b) Twenty five percent (25%) First Homes Units
  - (c) Five percent (5%) Shared Ownership Housing Units

in each case rounded up or down to the nearest whole number of units or such other tenures as may be agreed between UDC and the Developer

- 1.11 **'Affordable Housing Unit Mix'** shall mean the different types and size of Affordable Housing Units to be provided as part of the Development as shown on the Affordable Housing Plan or such other types and sizes as may be agreed between UDC and the Developer
- 1.12 **'Affordable Housing Units'** shall mean the sixteen (16) units of accommodation shown on the Affordable Housing Plan to be constructed on the Affordable Housing Land
- 1.13 **'Affordable Rented Housing'** shall mean Affordable Housing provided by an Approved Body to households those in identified housing need where the rent level is capped at 80% of the local market rent (including any service charges, where applicable)
- 1.14 **'Affordable Rented Units'** shall mean the eleven (11) units of rented housing to be occupied as Affordable Rented Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.15 **'Allocations Policy'** shall mean UDC's Allocations Policy dated June 2021 attached at Annex 4 or any subsequent Allocations Policy replacing that policy
- 1.16 **'Approved Body'** shall mean any registered provider registered or eligible for registration with Homes England or successor organisation, 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 UDC and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord
- 1.17 **'Armed Services Member'** shall mean a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service
- 1.18 **'CIL Regulations'** shall mean the Community Infrastructure Levy Regulations 2010
- 1.19 **'Compliance Certificate'** means the certificate issued by UDC confirming that a Dwelling is being disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and unless paragraph 1.2.3 of Part 2 of Schedule 1 applies the Eligibility Criteria (Local) in a form to be provided by UDC and approved by the Developer
- 1.20 **'the Councils'** shall mean UDC and the County Council
- 1.21 **'County Council Monitoring Fee'** shall mean a fee of £700 (Seven Hundred Pounds) per obligation due to the County Council under this Deed and for the avoidance of doubt this is a total of £7,000 (Seven Thousand Pounds) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed
- 1.22 **'Decision Letter'** shall mean the decision letter issued by the Planning Inspector on behalf of the Secretary of State confirming whether or not the Permission is granted
- 1.23 **'Designated Protected Area'** shall mean a rural area designated by the Secretary of State within the Housing (Right to Enfranchise) (Designated Protected Areas) (England) Order 2009 as amended or any legislation that shall replace it with the aim of securing long term provision of Shared Ownership homes in rural areas
- 1.24 **'the Development'** shall mean the development authorised by the Permission for construction of 40 dwellings (Class C3), including open space, landscaping, and associated infrastructure
- 1.25 **'Development Standard'** means a standard to fully comply with the following:
- (a) 'Technical housing standards – nationally described space standards' published by the Department for Communities and Local Government in March 2015
  - (b) all national construction standards and planning policy relating to design which may be published by the Secretary of State or by the District Council from time to time

- (c) Approved Document Q: Security- Dwellings published by HM Government or any document which supersedes it
- (d) Optional requirement M4(2) of Building Regulations 2010 (Part M) (Accessible and Adaptable Dwellings)

and the same may be amended by written agreement of the Parties

- 1.26 **'Discount Market Price'** shall mean a sum which is the Market Value discounted by at least 30%
- 1.27 **'Disposal'** shall mean a transfer of the freehold or (or in the case of a flat only) the grant or assignment of a leasehold interest in a First Home other than:
- (a) a letting or sub-letting in accordance with paragraph 1.17 of Part 2 Schedule 1
  - (b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for occupation except where the transfer is to a First Homes owner
  - (c) an Exempt Disposal

and **'Disposed'** and **'Disposing'** shall be construed accordingly

- 1.28 **'DPA Waiver'** shall mean a waiver issued by Homes England (or any other body with power to issue such a waiver) which would have the effect of waiving Designated Protected Area grant funding conditions applied by Homes England in relation to staircasing ownership of Shared Ownership Units in respect of all or part of the Site
- 1.29 **'Dwelling'** shall mean any residential dwelling (including a house, flat, or maisonette) constructed as part of the Development or created by conversion of an existing building on the Land pursuant to the Permission
- 1.30 **'the County Council Contribution'** shall mean the Education Contribution, the Highway Contribution the Sustainable Transport Contribution and the Library Contribution
- 1.31 **'Eligibility Criteria (National)'** shall mean criteria which are met in respect of a purchase of a First Home if:
- (a) the purchaser is a First Time Buyer (and in the case of a joint purchase each joint purchaser is a First Time Buyer); and
  - (b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed the Income Cap (National)
- 1.32 **'Eligibility Criteria (Local)'** shall mean in relation to the First Home(s) the criteria set out in Paragraphs 4.1 – 4.3 of the First Homes Planning Advice Notice
- 1.33 **'Eligible Person'** shall mean a person or persons on the Housing Register that meets the qualifying criteria within the Allocations Policy (unless otherwise agreed by UDC in writing)
- 1.34 **'Estate Service Charge'** shall mean an estate service charge or rent charge for the Land representing a fair and proper proportion of the expenditure applicable to the particular Dwelling payable annually to the Management Company in respect of its administration and of insuring, maintaining and repairing and as necessary renewing the Public Open Space, and in accordance with the Management Scheme
- 1.35 **'Exempt Disposal'** shall mean a disposal in one of the following circumstances:
- (a) a disposal to a spouse or civil partner upon the death of an owner;
  - (b) a disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of an owner;

- (c) a disposal to a former spouse or former civil partner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order;
  - (d) a disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling; and
  - (e) provided that in each case other than (d) the person to whom the disposal is made complies with the provisions relating to First Homes in this Deed;
- 1.36 **'Expert'** shall mean such expert as may from time to time be appointed for the purpose of resolving a relevant dispute being a barrister or solicitor or chartered surveyor or other person appropriately qualified to resolve the dispute (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of one of the parties by or on behalf of the President from time to time of the Bar Council or the Law Society or the Royal Institute of Chartered Surveyors
- 1.37 **'Final Certificate'** means a certificate to be issued by UDC on expiration of the Open Space Maintenance Period when the Open Space has been maintained to the reasonable satisfaction of UDC
- 1.38 **'First Homes Contribution'** shall mean in circumstances where a sale of a First Homes Unit other than as First Homes Housing has taken place in accordance with the provisions of this Deed, the lower of the following two amounts:
- (a) 30% of the proceeds of sale; and
  - (b) the proceeds of sale less the amount due and outstanding to any mortgagee of the relevant First Homes Unit under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the owner of the First Homes Unit to the mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the owner of the First Homes Unit in connection with the sale of the First Homes Unit and which for the avoidance of doubt shall in each case be paid following the deduction of any stamp duty land tax payable
- 1.39 **'First Homes Housing'** shall mean Dwellings which may be disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap and 'First Home' shall be construed accordingly
- 1.40 **'First Homes Units'** shall mean the four (4) units to be occupied as First Homes Housing in accordance with the terms of this Deed as shall be identified on the Affordable Housing Plan
- 1.41 **'First Time Buyer'** shall mean a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003
- 1.42 **'First Homes Planning Advice Notice'** means the First Homes Planning Advice Notice published by UDC and dated 2022 a copy of which is annexed to this Deed as Annex 5 or any subsequent replacement thereof
- 1.43 **'Health Care Contribution'** shall mean the sum of £51,680 to mitigate the impact of the Development to be used towards the provision of additional capacity to accommodate patient growth generated by the Development
- 1.44 **'Homes England'** shall mean the body set up by section 1 of the Housing and Regeneration Act 2008 or any successor organisation
- 1.45 **'Implementation'** shall mean the implementation of the Permission by the carrying out of any material operation (as defined by s. 56 of the 1990 Act) pursuant to the Permission but disregarding for the purposes of this Deed and for no other purpose the following operations:
- (a) site clearance



- (b) demolition
- (c) site survey
- (d) ecological survey
- (e) archaeological survey
- (f) remediation
- (g) erection of fences or hoardings

and Implement and Implemented shall mutatis mutandis be construed accordingly

- 1.46 **'Implementation Date'** shall mean the date of Implementation
- 1.47 **'Income Cap (Local)'** shall mean such local income cap as may be published from time to time by UDC and is in force at the time of the relevant Disposal of the First Home it being acknowledged that at the date of this Deed the Council has not set an Income Cap (Local)
- 1.48 **'Income Cap (National)'** shall mean on the first sale of the First Home eighty thousand pounds (£80,000) or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home
- 1.49 **'Index'** shall mean the Index of Retail Prices compiled and published by Her Majesty's Government from time to time
- 1.50 **'Index Linked'** shall mean that the sum shall be changed by an amount equal to the change in the Index
- 1.51 **'Inspector'** shall mean the planning inspector appointed by the Planning Inspectorate/ Secretary of State in determination of the Planning Application
- 1.52 **'the Land'** shall mean the land at Warish Hall Farm Smiths Green Lane Takeley shown edged in red on the Plan
- 1.53 **'LAP'** shall mean the local area of play to be provided within the publicly accessible Public Open Space where the items of play equipment/features are suitable for use by toddlers designed and laid out to meet relevant safety standards for play facilities from a reputable supplier and installed and inspected in accordance with their guidelines and to be maintained and managed in accordance with the Public Open Space Management Scheme
- 1.54 **'Local Connection Criteria'** shall mean such local connection criteria as may be designated and published by UDC from time to time as its 'First Homes Local Connection Criteria' and which is in operation at the time of the relevant disposal of the First Home and for the avoidance of doubt any such criteria or replacement criteria in operation at the time of the relevant disposal of the First Home shall be the 'Local Connection Criteria' which shall apply to that Disposal
- 1.55 **'Maintenance Period'** shall mean a period of twelve (12) months or if longer until the Public Open Space has been transferred to the Management Company from the date the Public Open Space has been fully constructed, completed and available for safe and immediate public use
- 1.56 **'Management Company'** shall mean a company body or other entity responsible for the long-term management and maintenance of the Public Open Space
- 1.57 **'Management Company Responsibilities'** means the maintenance of the Public Open Space over the lifetime of the Development to a comparable standard achieved on the issue of the Final Certificate by diligently applying monies received by the Management Company for those purposes
- 1.58 **'Market Value'** shall mean the open market value as assessed by a Valuer as confirmed to UDC by the First Homes Owner and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account the 30% discount in the valuation

- 1.59 **'Nominated Persons'** shall mean a person or persons nominated by UDC from their housing register to be offered an Affordable Housing Unit by the Approved Body (unless otherwise agreed in writing by UDC)
- 1.60 **'NPPF'** shall mean the National Planning Policy Framework issued by the Ministry of Housing, Communities and Local Government and dated July 2021 or any replacement statement guidance note or circular which may amend, supplement or supersede it
- 1.61 **'Occupation'** shall mean occupation of a building constructed as part of the Development of the Land pursuant to the Permission and shall not include daytime occupation by workmen involved in the construction of the buildings the use of finished buildings for sales purposes for use as temporary offices or for the storage of plant and material and 'Occupy' 'Occupancy' and 'Occupied' shall be construed accordingly
- 1.62 **'Open Market Housing Units'** shall mean the Dwellings to be constructed in accordance with the Permission which are not Affordable Housing Units
- 1.63 **'Owners'** shall mean together the Developer and the First Verge Owner and the Second Verge Owner
- 1.64 **'Parish Council'** shall mean Takeley Parish Council or its statutory successor
- 1.65 **'Permission'** shall mean the planning permission granted by the Inspector on behalf of the Secretary of State in respect of the Planning Application and any subsequent planning permission for the Development granted pursuant to Section 73 of the Act
- 1.66 **'Plan'** shall mean the plan attached at Annex 1 showing the Land
- 1.67 **'Planning Application'** shall mean the applications made by the Developer under reference number S62A/2023/0027 (UTT/23/2682/PINS) and UTT/22/3126/FUL for the erection of 40no. dwellings, including open space landscaping and associated infrastructure
- 1.68 **'Price Cap'** shall mean the amount for which a First Homes Unit is sold after the application of the Discount Market Price which on its first Disposal shall not exceed two hundred and fifty thousand pounds (£250,000) or such other amount as may be published from time to time by the Secretary of State
- 1.69 **'Protected Tenant'** shall mean 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 (including a preserved right to buy) (or any equivalent contractual right including the voluntary Right to Buy agreed between the Government and the National Housing Federation in 2015 and any extension or amendment thereto) in respect of a particular Affordable Housing Unit
  - (b) has exercised any statutory right to buy purchase or acquire (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
  - (c) has been granted a shared ownership lease by the Approved Body and has (by virtue only of the grant of a DPA Waiver) become a 100% Staircaser
- 1.70 **'Provisional Certificate'** means a certificate or certificates which is/are issued by UDC when it is satisfied that the Public Open Space (or part thereof) has been provided laid out and landscaped in accordance with the Public Open Space Scheme
- 1.71 **'Public Open Space'** shall mean all landscaped areas not including private gardens or adopted roads
- 1.72 **'Public Open Space Commuted Sum'** means the sum for funding the maintenance and upkeep of the Public Open Space to demonstrate that the Public Open Space is able to be maintained by the Parish Council such sum to be agreed in writing between UDC and the Owners in accordance with this Deed

- 1.73 **'Public Open Space Scheme'** means a scheme:
- (a) detailing how the Public Open Space will be laid out and constructed;
  - (b) which sets out the detailed technical specification of all the works to be carried out on the Public Open Space; and
  - (c) phasing
- 1.74 **'Public Open Space Maintenance Period'** means a period of twelve months from the date of issue of the Provisional Certificate for the Public Open Space or such other period as may be agreed in writing by the Owners and UDC
- 1.75 **'Public Open Space Management Plan'** means a plan establishing the long term management and maintenance of the Public Open Space
- 1.76 **'Secretary of State'** shall mean the Secretary of State for Levelling Up, Housing and Communities or such other Minister of Her Majesty's Government for the time being having or discharging the functions of the Secretary of State for the purposes of the 1990 Act
- 1.77 **'Shared Ownership Housing'** shall mean housing which will be offered for shared ownership by the Developer/Approved Body to persons in need of affordable housing
- 1.78 **'Shared Ownership Unit'** shall mean the one (1) unit of Shared Ownership Housing
- 1.79 **'100% Staircaser'** shall mean a leaseholder of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the equity in the said Unit
- 1.80 **'UDC Monitoring Fee'** shall mean a fee due to UDC under this Deed totalling three thousand three hundred and twenty eight pounds sterling (£3328) (no VAT) towards UDC's reasonable and proper administration costs of monitoring and managing the performance of the planning obligations that the Owners are required to observe and perform pursuant to the terms of this Deed or such lesser amount as the Inspector expressly states in the Decision Letter should be paid
- 1.81 **'Unit'** shall mean a house or self-contained flat or bungalow or any other Dwelling constructed as part of the Development and 'Units' shall be construed accordingly
- 1.82 **'Valuer'** shall mean a Member or Fellow of the Royal Institution of Chartered Surveyors being a registered valuer appointed by the owner of a First Homes Unit and acting in an independent capacity
- 1.83 **'Working Days'** shall mean any day from Monday to Friday inclusive which is not Christmas Day Good Friday a statutory bank holiday or a day between Christmas Day and New Year's Day

## 2 RECITALS

- 2.1 UDC is the local planning authority within the meaning of the 1990 Act for the District in which the Land is situated
- 2.2 the County Council is the local planning authority and the local authority for statutory age and pre-statutory age education and childcare and the local highway authority for the County within which the Land is situated (which includes some highway land)
- 2.3 The Developer is the proprietor of the freehold interest in the majority of Land registered at HM Land Registry under Title Number EX476530 and the leasehold proprietor of part of the Land (currently owned by the First Verge Owner) registered under title number EX978002 which contains an option to purchase the freehold of that part of the Land
- 2.4 The First Verge Owner is proprietor of the freehold interests in those parts of the Land along Smiths Green Lane being parts of the land registered at HM Land Registry under the Title Numbers EX645448 and EX826013. Euan Stewart Kennedy and Shuna MacKinnon Dickson are at the date of this Deed the registered proprietors of the said registered titles but which are currently subject to a transfer (TR5) dated 31 July 2023 from Euan Stewart Kennedy and Shuna MacKinnon Dickson (**'Transferors'**) to Mark Kennedy Williams, Andrew MacKinnon Morris and Maxwell Stewart Kennedy

('Transferees'). As the application for registration of the said transfer is still pending at Land Registry and legal ownership will not pass until the transfer has been registered the obligations in this Deed that are binding on the First Verge Owner shall be binding on the Transferors until the said transfer has been registered and upon completion of that registration the Transferor will be released from those obligations binding on the First Verge Owner. The Transferees are joining into this Deed to consent to these arrangements pursuant to its equitable interest in this part of the Land and that once the said transfer is registered at Land Registry the Transferee will be liable for the obligations binding on the First Verge Owner as successor in title subject to the terms of this Deed

- 2.5 The County Council owns a Lease registered at HM Land Registry under the Title Number EX977540 which is subject to a leasehold interest held by the Second Verge Owner registered at HM Land Registry under the Title Number EX834409 and consents to the Owners entering into this Deed.
- 2.6 The Mortgagee is the registered proprietor of the charge dated 25 September 2020 referred to in entry number 8 of the charges register of Title Number EX476530 and has agreed to enter into this Deed to give its consent to the terms of this Deed.
- 2.7 The Developer has made the Planning Application which has been submitted to UDC (under reference UTT/22/3126/FUL) and to the Planning Inspectorate (PINS) for determination under s62A of the 1990 Act (under reference 62A/2023/0027).
- 2.8 The Councils and the Owners have agreed to enter into this Deed with the intention that the obligations contained in this Deed may be enforced by UDC and or the County Council against them and their successors in title subject to the terms of this Deed
- 2.9 The Councils and the Owners are satisfied that the obligations in this Deed are compliant with the requirements of regulation 122(2) of the CIL Regulations in that they are
- (a) necessary to make the Development acceptable in planning terms
  - (b) directly related to the Development
  - (c) fairly and reasonably related in scale and kind to the Development

and that in accordance with regulation 122(2A) of the CIL Regulations any Monitoring Fee(s) to be paid fairly and reasonably relate in scale and kind to the Development and that the sums to be paid do not exceed the Councils' estimates of their costs of monitoring the Development over the lifetime of the obligations in this Deed

- 2.10 The Owners have agreed to enter into this Deed pursuant to the operative powers described in clause for the purpose of regulating the Development and use of the Land in the event that the Permission is granted pursuant to determination of the Planning Application

### **3 ENABLING POWERS AND OBLIGATIONS**

- 3.1 This Deed is entered into pursuant to section 106 of the 1990 Act, section 111 of the 1972 Act, section 1 of the 2011 Act and all other enabling powers
- 3.2 Such of the covenants contained herein as are capable of being planning obligations within the meaning of section 106 of the 1990 Act are declared to be planning obligations and as such are enforceable by UDC and the County Council as hereinafter provided

### **4 OBLIGATIONS UNDERTAKEN BY THE OWNERS**

- 4.1 The Owners so as to bind the Land covenant with UDC and the County Council to comply with the obligations restrictions and covenants set out in this Deed and in the Schedules to this Deed
- 4.2 With the intent that the Land shall be subject to the obligations and restrictions contained in this deed for the purpose of restricting or regulating the Development and use of the Land so that the provisions of this deed shall be enforceable against the Owners and their successors in title the Owners hereby undertake to observe and comply with the obligations contained in the Schedules to this deed subject always to clause 4.2 hereof

- 4.3 In respect of the Planning Application the provisions and obligations contained in clause 9 and the Schedules of this deed shall only apply and shall be enforceable by UDC or the County Council in such circumstances that the Inspector or the Secretary of State states clearly in the Decision Letter that such obligations are necessary and meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and PROVIDED THAT if the Inspector or the Secretary of State in the Decision Letter concludes that any of the planning obligations set out in the Deed are incompatible with any one of the tests for planning obligations set out at Regulation 122 of the CIL Regulations and accordingly attaches no weight to that obligation in determining the Planning Application then the relevant obligation shall from the date of the Decision Letter cease to have effect and the Owners shall be under no obligation to comply with them
- 4.4 The liability of the Owners or any one or more of them under this Deed shall cease once they have parted with their relevant respective interest in the Land or any relevant part thereof (in which event the obligations of the Owners under this deed shall cease only in relation to that part or those parts of the Land which is or are transferred by them and for the avoidance of doubt once any of the Owners has transferred all parts of the Land owned by that owner, the obligations on that owner shall cease) but not so as to release any party from liability for any breaches hereof arising prior to the transfer and for the purposes of this deed any easement covenant or similar right shall not constitute an interest in the Land
- 4.5 The First Verge Owner shall have no liability pursuant to this Deed unless and until Implementation has occurred on the part of the Land owned by the First Verge Owner
- 4.6 The Second Verge Owner shall have no liability pursuant to this Deed unless and until Implementation has occurred on the part of the Land in which the Second Verge Owner has a leasehold interest.

## **5 OBLIGATIONS UNDERTAKEN BY UDC AND THE COUNTY COUNCIL**

- 5.1 UDC covenants to observe and comply with the obligations on its part contained in Schedule 1 and the County Council covenants to observe and comply with the obligations on its part contained in Schedule 2
- 5.2 At the written request of the Developer UDC and the County Council shall provide written confirmation of the discharge of the obligations given to them respectively in this Deed when satisfied that such obligations have been performed
- 5.3 Representatives of UDC and the County Council may enter upon the Land at any reasonable time (and in the case of an emergency immediately) to ascertain whether the terms of this Deed and of the Permission are or have been complied with subject to complying with all health and safety requirements notified by the Developer

## **6 CONSENTS**

- 6.1 The Mortgagee consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Land
- 6.2 The Mortgagee shall not be liable for any breach of the obligations in this Deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Land and continues with or carries out the Development itself
- 6.3 The County Council as leaseholder under title EX977540 consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed
- 6.4 The County Council shall not be liable for any breach of the obligations in this Deed in its capacity as leaseholder of part of the Land in relation to that part and the Owners and or Developer shall indemnify the County Council in its capacity as leaseholder of part of the Land in relation to that part from the performance of the obligations under this deed SAVE for if the County Council becomes successor in title of the Land.

7 **NOTICE OF IMPLEMENTATION**

7.1 The Developer will give the Councils not less than three months' notice of its intention to Implement the Permission specifying the intended Implementation Date and whether the Permission is being Implemented in respect of planning application reference 62A/2023/0027 or planning application reference UTT/22/3126/FUL

7.2 Forthwith upon Implementation the Developer will give the Councils notice of Implementation;

8 **PROVISOS AND INTERPRETATION**

8.1 No provision of this Deed shall be interpreted so as to take effect contrary to law or the rights powers duties and obligations of the Councils in the exercise of any of their statutory functions or otherwise

8.2 If any provision of this Deed shall be held to be unlawful or unenforceable in whole or in part under any enactment or rule of law, such provision shall to that extent be deemed not to form part of this deed and the enforceability of the remainder of this Deed shall not be affected

8.3 Where there is more than one person named as a party and where more than one party undertakes an obligation all their obligations may (unless there is an express provision in this Deed to the contrary) be enforced against them jointly and severally

8.4 No waiver (whether express or implied) by the Councils of any breach or default in performing or observing any of the obligations, covenants or terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Councils from enforcing any of the said obligations, covenants or terms and conditions or from acting upon any subsequent breach or default

8.5 Any provision contained in this deed requiring the consent or approval of any party hereto shall be deemed to incorporate a proviso that such consent or approval shall not be unreasonably withheld or delayed

8.6 The headings in this Deed do not affect its interpretation

8.7 Unless the context otherwise requires references to sub-clauses, clauses and schedules are to sub-clauses, clauses and schedules of this deed

8.8 Unless the context otherwise so requires:

8.8.1 references to parties include their respective permitted successors and assigns and in the cases of Councils shall include the successors to their statutory functions

8.8.2 references to statutory provisions include those statutory provisions as amended or re-enacted and

8.8.3 references to any gender include all genders and words importing the singular include the plural and vice versa.

9 **AGREEMENTS AND DECLARATIONS**

9.1 The obligations contained in the Schedules of this Deed shall take effect only upon the Implementation Date and in the event that the Permission is not granted or is granted but not Implemented and expires, the obligations contained in the Schedules shall absolutely cease and determine without further obligation upon the Owners or their successors in title

9.2 The obligations contained in the Schedules of this Deed shall absolutely cease and determine without further obligation upon the Owners or their successors in title if the Permission is revoked, quashed, is modified without the consent of the Developer expires or if a separate planning permission is subsequently granted and implemented which is incompatible with the Permission

9.3 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with any planning permission (other than the Permission as defined herein)

9.4 The obligations under this Deed shall not be enforceable against:

- 9.4.1 persons who purchase or take leases of Open Market Housing Units the successors in title mortgagees or chargees or receivers of such persons or
- 9.4.2 a Shared Ownership Leaseholder who has staircased to or otherwise acquired 100% ownership (by virtue only of the grant of a DPA Waiver) or a tenant of an Affordable Housing Unit who exercises the right to acquire or other statutory right or in each case their successors in title
- 9.4.3 in respect of any Affordable Housing Unit, a mortgagee or chargee or receiver who has first complied with its duty pursuant to paragraph 1.1 of Part 3 Schedule 1
- 9.4.4 any statutory undertaker/utility provider which acquires any part of the Land or an interest in it for the purposes of a statutory function
- 9.5 This Deed constitutes a Local Land Charge and shall be registered as such if the Permission is granted provided that UDC will upon the determination of this Deed howsoever determined procure the removal of any entry made on the Local Land Charges Register in respect of or related to this Deed
- 9.6 No variation to this Deed shall be effective unless made by deed and for the avoidance of doubt the consent, seal, signature, execution or approval of any tenant or occupier of the Development or their mortgagees shall not be required to vary any part of this Deed nor shall any other party who has no liability under this Deed or any interest in the Land
- 9.7 Save where it is expressly excluded, 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 Deed then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall issue a valid and appropriate VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly
- 10 **MONITORING FEE**
- Prior to Implementation the Developer shall pay the County Council Monitoring Fee to the County Council and the UDC Monitoring Fee
- 11 **EXCLUSION OF THE 1999 ACT**
- For the purposes of the 1999 Act it is agreed that nothing in this Deed shall confer on any third party any right to enforce or any benefit of any term of this Deed
- 12 **NOTICES**
- 12.1 Any notices required to be served on or any document to be supplied or submitted to any of the parties hereto shall be sent or delivered to the address stated in this Deed as the address for the receiving party or such other address as shall from time to time be notified by a party to this Deed as an address at which service of notices shall be accepted or (in the case of a limited company) at its registered office
- 12.2 Any notices to be served or documents to be supplied or submitted or applications for approval under the terms of this Deed to be made which are addressed to UDC shall be addressed to the Assistant Director Planning of UDC and those which are addressed to the County Council shall be addressed to the S106 Officer Planning Service Place and Public Health County Hall Chelmsford CM1 1QH AND to [development.enquiry@essex.gov.uk](mailto:development.enquiry@essex.gov.uk)
- 13 **ENTIRE AGREEMENT**
- This Deed the Schedules and the documents annexed hereto or otherwise referred to herein contain all the provisions between the parties relating to the subject matter hereof and supersede all prior agreements arrangements and understandings between the parties relating to that subject matter

14 **COSTS**

Upon the execution of this Deed the Developer will pay the reasonable legal costs incurred of both UDC and the County Council in connection with the negotiation preparation completion and registration thereof

15 **DISPUTE RESOLUTION**

15.1 Without prejudice to UDC's or the County Council's exercise of their statutory functions, in the event of any dispute or difference between the Developer and UDC and/or the County Council arising out of this Deed, or any delay, the parties will use their reasonable endeavours to resolve the same (including holding a meeting attended by at least one representative of appropriate seniority from each party within 10 Working Days of a request from one party to convene the meeting).and either party may, if the dispute or delay remains unresolved after 10 Working Days refer such dispute or difference to the Expert and it is further agreed that –

15.2 the determination of the Expert shall be final and binding on the parties save in the case of manifest error or fraud

15.3 the parties shall be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct

15.4 the Expert's costs shall be borne in such proportions as he/she may direct, failing which the Developer and UDC and/or the County Council shall each bear their own costs of the reference and determination and the Expert's costs shall be shared equally

15.5 the Expert shall be appointed subject to an express requirement that he/she reaches a decision and communicates it to the parties within the minimum practicable timescales allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days from the date of appointment to act and

15.6 the Expert may be replaced by a fresh appointee in the event he/she becomes at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee shall be appointed in the same manner as the Expert

16 **JURISDICTION**

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

17 **INDEXATION**

All Contributions payable to UDC shall be Index Linked.

18 **SECTION 73 VARIATION**

If UDC agrees in writing following an application under section 73 of the 1990 Act to vary or release any condition contained in the Permission or if a condition is varied or released following an appeal under section 78 of the 1990 Act, the covenants or provisions of this Deed shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission unless UDC in determining the application for the new planning permission indicate that consequential amendments are required to this Deed to reflect the impact of the section 73 application, in which case a separate Deed under section 106 of the 1990 Act will be required to secure relevant planning obligations relating to the new planning permission

19 **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all counterparts shall together constitute one Deed



In witness whereof the parties hereto have executed this Deed as a deed the day and year before written

The Common Seal of )  
Uttlesford District Council )  
was hereunto affixed in the presence of )

Authorised Signatory

The Common Seal of )  
Essex County Council )  
(acting as planning and highway authority) )  
was [redacted] of )

Attesting Officer



Executed as a deed by )  
Weston Homes Plc )  
acting by a director and its )  
secretary or two directors )

Director

Director/Secretary

Executed as a Deed )  
by HSBC Corporate Trustee )  
Company (UK) Limited acting by )  
its attorney/director )

.....  
Attorney/Director

Name .....

Witnessed by: .....

Witness Name: .....

Witness Address: .....

.....

.....

**FOR THE FIRST VERGE OWNER:**

**Signed and delivered** by the said )  
**Euan Stewart Kennedy** )  
as his deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said )  
**Shuna Mackinnon Dickson** )  
as her deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said )  
**Mark Kennedy Williams** )  
as his deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered** by the said )  
**Andrew Mackinnon Morris** )  
as his deed in the presence of )

Signature of Witness .....  
Name .....  
Address .....  
.....  
Occupation .....

**Signed and delivered by the said** )  
**Maxwell Stewart Kennedy** )  
as his deed in the presence of )

Signature of Witness .....

Name .....

Address .....

.....

Occupation .....

**FOR THE SECOND VERGE OWNER:**

**Signed and delivered by the said** )  
**Euan Stewart Kennedy** )  
as his deed in the presence of )

Signature of Witness .....

Name .....

Address .....

.....

Occupation .....

**Signed and delivered by the said** )  
**Shuna Mackinnon Dickson** )  
as her deed in the presence of )

Signature of Witness .....

Name .....

Address .....

.....

Occupation .....

**SCHEDULE 1  
OBLIGATIONS ENTERED INTO WITH UDC**

The Owners covenant with UDC as follows:

**PART 1  
AFFORDABLE HOUSING**

**1 GENERAL**

- 1.1 To construct the Affordable Housing Units on the Affordable Housing Land in accordance with the approved Affordable Housing Plan or such other plan as may be agreed with UDC from time to time
- 1.2 The Affordable Housing Units and First Homes Housing shall comprise not less than 40% of the total of all Dwellings constructed in accordance with the Permission PROVIDED THAT any fraction of a unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
- 1.3 That 5% of the Affordable Housing Units shall be wheelchair adaptable unless otherwise agreed in writing with UDC PROVIDED THAT any fraction of a Unit produced by calculating the percentage shall be rounded up if 0.5% or over and shall be rounded down if under 0.5%
- 1.4 Prior to the Occupation of the first (1st) Open Market Housing Unit the Owners shall:
- EITHER
- (a) transfer the whole of the Affordable Rent Housing and Shared Ownership Housing as a freehold estate (proof of which is to be supplied to UDC if requested);
- OR
- (b) complete a binding agreement with an Approved Body (documentary proof of which to be supplied to UDC if requested) for the completion of the Affordable Rent Housing and Shared Ownership Housing and the transfer of the Affordable Rent Housing and Shared Ownership Housing .
- 1.5 To procure that the terms of any transfer pursuant to paragraph 1.4 above shall include a covenant that the Approved Body shall comply with the terms of this Schedule 1 Part 1.
- 1.6 Prior to first Occupation of 75% of the Open Market Housing Units to be constructed in accordance with the Permission the Affordable Rent Housing and Shared Ownership Housing shall be substantially completed and ready for Occupation and transferred to an Approved Body as a freehold estate (if not already transferred in accordance with paragraph 1.4 above) and the First Homes Units shall be substantially completed and available for Occupation.
- 1.7 After the substantial completion of the Affordable Housing Units no Affordable Housing Unit (save for the First Homes) shall be Occupied unless in respect of the Affordable Housing Units concerned there is compliance with the following (which for the avoidance of any doubt does not apply to First Homes):
- 1.8 Upon completion of the Affordable Housing Units and thereafter the Approved Body will allocate each Affordable Housing Unit to a Nominated Person provided by the Council in accordance with the following provisions:
- 1.8.1 Not later than twenty (20) Working Days from the date of completion of each Affordable Housing Unit or a notice from a tenant of an Affordable Rented Unit that he wishes to relinquish his tenancy or a leaseholder of a Shared Ownership Unit wishes to sell his interest of a Shared Ownership Unit the Approved Body will give notice thereof to the Council as regards the Affordable Housing Unit;
- 1.8.2 Within twenty (20) Working Days or such other time as is agreed between the Approved Body and UDC of receiving the notice from the Approved Body under the provisions of paragraph 1.8.1 UDC will give details of the Nominated Person for each Affordable Housing Unit to the Approved Body

- 1.8.3 Upon receiving details of the Nominated Person from the Council the Approved Body will within twenty (20) Working Days or such other time as is agreed between the Approved Body and the Council offer to grant the tenancy of the Affordable Rented Unit to the Nominated Person or the transfer and lease of any Shared Ownership Unit to the Nominated Person
- 1.8.4 Thereafter the Approved Body shall comply with the requirements of UDC as to the transfer and lease of the Shared Ownership Unit to the Nominated Person.
- 1.9 If UDC fails to give details of a Nominated Person under the provisions of paragraph 1.8.2 the Approved Body shall have the right to grant an Affordable Rented Unit tenancy or a transfer and lease of a Shared Ownership Unit to any Eligible Person who is considered by the Approved Body to be in need of an Affordable Housing Unit
- 1.10 Where UDC fails to give details of a Nominated Person under the provisions of paragraph 1.8.2 and the Approved Body does not have notice or details of an Eligible Person who it can nominate or house pursuant to paragraph 1.9 above the Approved Body may grant a tenancy of an Affordable Rented Unit or a transfer and lease of a Shared Ownership Unit to any person who it considers to be in need of an Affordable Housing Unit and who complies with its letting policy and/or the Allocations Policy
- 1.11 In respect of any of the Affordable Rented Units becoming vacant after the initial allocation following the completion of the Affordable Housing Units UDC shall in accordance with paragraph 1.8. above be given the sole opportunity by the Approved Body to nominate the Nominated Persons up to a maximum of 75% (seventy-five per cent) of such vacant Affordable Rented Units
- 1.12 The terms of the tenancy agreements for the Affordable Rented Units and the terms of the transfers and leases of the Shared Ownership Units shall be in accordance with the regulations and guidance of Homes England
- 1.13 The Approved Body will not:
- 1.13.1 Subject to paragraph 1.13.2 below transfer the freehold or leasehold interest in the Land on which the Affordable Housing Units are constructed or any Affordable Housing Unit (save for a transfer of the freehold interest or long leasehold interest of an Affordable Housing Unit to an occupier of a Shared Ownership Unit who has (by virtue only of the grant of a DPA Waiver) acquired 100% of the freehold interest or long leasehold interest or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right) to any person firm or company other than an Approved Body and the transfer to the Approved Body shall include a covenant that the Approved Body comply with the terms of this Deed;
- 1.13.2 Sell let or dispose (except by way of legal charge) of any Affordable Housing Unit or allow or permit or suffer any Affordable Housing Unit to be sold let or disposed of other than in accordance with paragraphs 1.8 to 1.12 of this Schedule.
- 1.14 The Approved Body will give UDC one month's written notice of the intended transfer of the freehold or leasehold interest in the Affordable Housing Land or of any Affordable Housing Unit to another Approved Body. For the avoidance of doubt this does not include the transfer of the freehold or leasehold interest in an Affordable Housing Unit to an occupier of a Shared Ownership Unit or an occupier of an Affordable Rented Unit who has exercised the right to acquire or other statutory right.
- 1.15 If the Affordable Housing Units are vested or transferred to another provider pursuant to a proposal made by the Homes England pursuant to Section 152 of the Housing and Regeneration Act 2008 then the provisions of this Deed shall continue (notwithstanding paragraph 1.12 above) in respect of such other provider
- 1.16 For the purposes of this Schedule only the expression 'transfer' or 'transferred' shall mean a transfer of the freehold or grant of a lease with a term of not less than 125 years of the Affordable Housing Units or an agreement for sale or lease agreed with the Approved Body that has been unconditionally released for completion by the Owners (unless otherwise agreed with UDC)
- 1.17 For the purposes of this Schedule only Disposal shall not include an Exempt Disposal

- 1.18 That subject to the provisions of this Deed the Affordable Housing Units shall be Occupied for no other purpose than as Affordable Housing
- 1.19 To serve on UDC Notice not less than 15 Working Days after the first Occupation of 75% of the Open Market Housing Units
- 1.20 The transfers of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be with vacant possession
- 1.21 The transfer deeds for the transfer of the Shared Ownership Unit and the Affordable Rented Units to the Approved Body shall be prepared by the Owners and shall contain:
  - 1.21.1 a grant by the Owners 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 Units
  - 1.21.2 a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the Development and the beneficial use and enjoyment of the remainder of the Land and
  - 1.21.3 such other covenants as the Owners may reasonably require for the maintenance of the Development once it is completed and the preservation of the appearance thereof

**PART 2  
FIRST HOMES**

**1 FIRST HOMES**

- 1.1 Four (4) of the Dwellings on the Land shall be identified reserved and set aside as the First Homes Units in accordance with the Affordable Housing Plan and shall be retained as First Homes Housing in perpetuity subject to the terms of this Schedule and shall not be visually distinguishable from the Open Market Housing Units based upon their external appearance or of an inferior internal specification to the Open Market Housing Units provided that variations to the internal specifications of the First Homes shall be permitted and further provided that the requirements of this paragraph shall not apply to a First Homes owner.
- 1.2 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting:
  - 1.2.1 the Eligibility Criteria (National); and
  - 1.2.2 the Eligibility Criteria (Local);

Provided that if after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) paragraph 1.2.2 shall cease to apply;
- 1.3 Subject to paragraphs 1.6-1.13 no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a mortgagee.
- 1.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:
  - UDC has been provided with evidence that:
    - (a) the intended purchaser meets the Eligibility Criteria (National) and meets the Eligibility Criteria (Local) (if applicable);
    - (b) the Dwelling is being Disposed of as a First Home at the Discount Market Price; and
    - (c) the transfer of the First Home includes:
      - (i) a definition of the 'Council' which shall be 'Uttlesford District Council';

- (ii) a definition of 'First Homes Provisions' in the following terms:

*'means the provisions set out in Schedule 1 Part 2 of the S106 Agreement a copy of which is attached hereto as the Annexure.*

- (iii) a definition of 'S106 Agreement' in the following terms:

*'the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [ ] between (1) Uttlesford District Council (2) Essex County Council (3) Weston Homes (4) Euan Stewart Kennedy, Shuna Mackinnon Dickson Mark Kennedy Williams, Andrew Mackinnon Morris and Maxwell Stewart Kennedy (5) Euan Stewart Kennedy, Shuna Mackinnon Dickson and (6) HSBC Corporate Trustee Company (UK) Limited'*

- (iv) a provision that the Land is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the Property or any part of it other than in accordance with the First Homes Provisions;

- (v) a copy of the First Homes Provisions in an Annexure and

UDC has issued the Compliance Certificate and UDC hereby covenants that it shall issue the Compliance Certificate within twenty (20) Working Days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 1.4 and 1.5 have been met.

- 1.5 On the first Disposal of a First Homes Unit to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

*'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by Uttlesford District Council of Council Offices, London Road, Saffron Walden CB11 4ER or their conveyancer that the provisions of clause XX (the First Homes Provisions) of the Transfer dated [Date] referred to in the Charges Register have been complied with or that they do not apply to the disposition'*

- 1.6 The owner of a First Homes Unit (which for the purposes of this clause shall include the Developer) may apply to UDC to Dispose of it other than as First Homes Housing on the grounds that either:

- 1.6.1 the Dwelling has been actively marketed as First Homes Housing for six (6) months (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to practical completion) and all reasonable endeavours have been made to Dispose of the Dwelling as First Homes Housing but it has not been possible to Dispose of that Dwelling as First Homes Housing; or

- 1.6.2 requiring the owner of a First Homes Unit to undertake active marketing for the period specified in paragraph 1.6.1 before being able to Dispose of the Dwelling other than as First Homes Housing would be likely to cause the owner of the First Homes Unit undue hardship

- 1.7 Upon receipt of an application served in accordance with paragraph 1.6 UDC shall have the right (but shall not be required) to direct that the relevant Dwelling is Disposed of to it at the Discount Market Price

- 1.8 If UDC is satisfied that either of the grounds in paragraph 1.6 above have been made out it shall confirm in writing within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.6 that the relevant Dwelling may be Disposed of:

- 1.8.1 to UDC at the Discount Market Price; or

- 1.8.2 (if UDC confirms that it does not wish to acquire the relevant Dwelling) other than as a First Homes Unit

and if the Council fails to issue such confirmation then it shall be deemed to have confirmed that the relevant Dwelling may be disposed of other than as a First Homes Unit

- 1.9 and on the issue of that written confirmation or deemed issue thereof the obligations in this Deed which apply to First Homes Housing shall cease to bind and shall no longer affect that Dwelling apart from paragraph 1.12 which shall cease to apply on receipt of payment by UDC where the relevant Dwelling is Disposed of other than as a First Homes Unit
- 1.10 If UDC does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 1.6 above have been made out then it shall within twenty (20) Working Days of receipt of the written request made in accordance with paragraph 1.6 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of the Dwelling as a First Homes Unit and the timescale (which shall be no longer than six (6) months)
- 1.11 If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Homes Unit he may serve notice on UDC following which UDC must within twenty (20) Working Days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Homes Unit
- 1.12 Where a Dwelling is Disposed of other than as a First Homes Unit or to UDC at the Discount Market Price the owner of the First Homes Unit shall pay to UDC forthwith upon receipt of the proceeds of sale the First Homes Contribution
- 1.13 Upon receipt of the First Homes Contribution UDC shall:
  - 1.13.1 within twenty (20) Working Days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 1.5 where such restriction has previously been registered against the relevant title
  - 1.13.2 apply all monies received towards the provision of Affordable Housing within the District
- 1.14 Any person who purchases a First Homes Unit free of the restrictions relating to First Homes Housing in this Deed pursuant to the provisions in paragraphs 1.6 to 1.12 shall not be liable to pay the Additional First Homes Contribution to UDC.
- 1.15 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 1.16-1.18 below.
- 1.16 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies UDC in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.
- 1.17 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies UDC and UDC consents in writing to the proposed letting or sub-letting. UDC covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below
  - (a) the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment or due to redundancy
  - (b) the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the for the duration of the letting or sub-letting;
  - (c) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
  - (d) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;



- (e) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
  - (f) the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person
- 1.18 A letting or sub-letting permitted pursuant to paragraph 1.16 or 1.17 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 1.19 Nothing in this Deed prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation provided that the First Home remains at all times the First Home Owner's main residence.
- 1.20 All First Homes shall:
- 1.20.1 be constructed to the Development Standard current at the time of the Planning Permission approval; and
  - 1.20.2 no less than the standard applied to the Open Market Housing Units.

### PART 3 MORTGAGEES AND EXCLUSIONS

#### 1 MORTGAGEES

It is hereby agreed and declared

- 1.1 The affordable housing obligations and restrictions contained in this deed (including for the avoidance of doubt in this Part) shall not bind:
  - 1.1.1 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 and/or the Affordable Housing Land or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT such mortgagee or chargee or Receiver has first complied with the provisions of paragraph 1.2 of this Part or
  - 1.1.2 a Protected Tenant or
  - 1.1.3 a 100% Staircaser or
  - 1.1.4 any mortgagee or chargee or receiver of a 100% Staircaser or Protected Tenant or
  - 1.1.5 any mortgagee or chargee or receiver of an occupier of an Affordable Housing Unit and
  - 1.1.6 any person or body deriving title through or from any of the parties mentioned in paragraphs 1.1.1-1.1.5 above
- 1.2 Any mortgagee or chargee or Receiver claiming the protection granted by paragraph 1.1.1 above must first:
  - 1.2.1 give written notice to UDC of its intention to dispose of the Affordable Housing Units and/or the Affordable Housing Land specified in the notice and thereafter shall give an opportunity
  - 1.2.2 to another Approved Body (the name and address of which shall be given to UDC) for a period of one (1) month from the date of the written notice to purchase the specified Affordable Housing Units and/or the Affordable Housing Land and thereafter
  - 1.2.3 to UDC for a further period of two (2) months to purchase the specified Affordable Housing Units and/or the Affordable Housing Land

in either case 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

- 1.2.4 if such disposal has not completed on the expiration of both periods referred to above (and for the avoidance of doubt totalling a three-month period from the date of the written notice), the mortgagee or chargee or Receiver shall be entitled to dispose of the specified Affordable Housing Units and/or the Affordable Housing Land free from the affordable housing provisions set out in this Part, which provisions shall determine absolutely
- 1.2.5 During the three-month period from the date of the written notice, the mortgagee or chargee or Receiver shall use reasonable endeavours to reply to enquiries raised by UDC or by an Approved Body in relation to the specified Affordable Housing Units and/or the Affordable Housing Land as expeditiously as possible so as to ensure the completion of any disposal within the said three-month period.
- 1.2.6 In respect of the First Homes Housing once notice in accordance with para 1.2.1 above has been given the mortgagee or chargee or Receiver shall be free to sell that First Home at its full Market Value Provided That it shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principal monies, interest and reasonable costs and expenses pay to UDC the First Homes Contribution and UDC shall within fifteen (15) Working Days of such receipt provide a completed application to enable the removal of the restriction on title set out at paragraph 1.5 of Part 2 above;

#### **PART 4 PUBLIC OPEN SPACE**

The Owners covenant with UDC as follows:

- 1.1 Prior to first Occupation of the Development to submit the Public Open Space Scheme and Public Open Space Management Plan to UDC for approval and not to allow or permit the first Occupation of the Development until the Public Open Space Scheme and Public Open Space Management Plan has been submitted to and approved in writing by UDC.
- 1.2 To provide the Public Open Space in accordance with the approved Public Open Space Scheme and Public Open Space Management Plan.
- 1.3 Prior to the Occupation of more than 70% of the Open Market Housing Units in any phase of the Development the Owners shall apply for the Provisional Certificate from UDC in that phase and shall not cause or permit Occupation of more than 70% of the Open Market Housing Units in that phase until a Provisional Certificate for all of the Public Open Space in that phase has been issued by UDC.

#### **PROVISIONAL CERTIFICATE**

- 2 After the Public Open Space (or part/phase thereof) has been provided laid out and landscaped in accordance with the Public Open Space Scheme to apply to UDC in writing requesting issue of the Provisional Certificate and for the avoidance of doubt Provisional Certificates may be issued for the whole of the Public Open Space or in relation to parts/phases of Public Open Space as they are provided and laid out.
- 3 Within twenty (20) Working Days after a first inspection of the Public Open Space (or part/phase thereof) by UDC if it considers that the Public Open Space (or part/phase thereof) has not been provided laid out and landscaped satisfactorily in accordance with the Public Open Space Scheme the UDC shall provide the Owners with details of any defects and the Owners shall at their own expense rectify any deficiencies and carry out such works or operations as may reasonably be required by UDC to bring the Open Space (or part/phase thereof) up to the standard required by the Public Open Space Scheme and the procedures referred to in paragraphs 2 and 3 of Part 4 of this Schedule shall be repeated as often as necessary until the Provisional Certificate is issued save that the UDC must report any defects within ten (10) Working Days of any subsequent inspection otherwise it shall be deemed that the Provisional Certificate is issued by the UDC and within ten (10) Working Days of deemed approval UDC shall provide the Provisional Certificate.
- 4 From the date of issue of the Provisional Certificate for the Public Open Space (or part/phase thereof) the Owners shall make the Public Open Space (or part/phase thereof) and all the facilities on the

Public Open Space (or part/phase thereof) available for use by the public as an open amenity or recreation area for the lifetime of the Development and shall allow the public to have unrestricted access at all times to the Public Open Space save for temporary or emergency closures for maintenance of the Public Open Space.

- 5 From the date of issue of the Provisional Certificate for the Public Open Space (or part/phase thereof) the Owners covenant:
  - 5.1 not to use or permit the use of the Public Open Space for any purpose other than as a public recreation or amenity area save the Owners may grant such rights to any statutory undertaker as the Owners consider necessary on under or over the Public Open Space; and
  - 5.2 to manage and maintain the Public Open Space during the Public Open Space Maintenance Period (including maintenance of all soft and hard landscaping built features lighting drainage and any other features on the Open Space) and to make good to the reasonable satisfaction of UDC any damage or defects in the Open Space arising during the Public Open Space Maintenance Period.

#### **FINAL CERTIFICATE**

- 6 At the expiration of the Public Open Space Maintenance Period to apply to UDC for the issue of the Final Certificate for the Public Open Space (or part/phase thereof).
- 7 If after inspection of the Public Open Space (or part/phase thereof) by UDC (acting reasonably) it considers that the Public Open Space (or part/phase thereof) has not been maintained satisfactorily in accordance with the Public Open Space Scheme and Public Open Space Management Plan the Owners shall at their own expense rectify any deficiencies and carry out such works or operations as may reasonably be required by UDC to bring the Public Open Space (or part/phase thereof) up to the standard required by the Public Open Space Scheme and Public Open Space Management Plan and this procedure shall be repeated as often as necessary until the Final Certificate is issued provided always that any dispute may be referred to the Expert in accordance with the provisions of cl 15.

#### **TRANSFER OF THE OPEN SPACE**

- 8 Three (3) months prior to completion of the Public Open Space Maintenance Period (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) the Owners shall provide to UDC its calculation of the Public Open Space Commuted Sum such calculation to be agreed between the Owners and UDC.
- 9 Following the agreement required by paragraph 8, the Owners shall offer to transfer the Public Open Space to the Parish Council at a sum to be proposed by the Owners (**'the Offer'**). The Owners shall make the Offer prior to completion of the Public Open Space Maintenance Period (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) and the Parish Council shall confirm in writing whether it accepts the Offer within 28 Working Days of receipt 'the Acceptance Period'.
- 10 If the Parish Council confirms in writing that it accepts the Offer within the Acceptance Period the Owners shall transfer to the Parish Council the Public Open Space (save for any parts of the Public Open Space required for access to the Land) within 3 (three) months of the issue of the Final Certificate (being the final Public Open Space Maintenance Period if the Public Open space is provided in parts or phases) in accordance with the terms of this Deed and shall pay the Public Open Space Commuted Sum to the Parish Council upon completion of the transfer of the Public Open Space to the Parish Council.
- 11 If the Parish Council confirms in writing that it does not accept the Offer or fails to respond to the Offer within the Acceptance Period or if the Owners and UDC do not agree the Public Open Space Commuted Sum prior to the expiration of the Acceptance Period the Owners shall transfer the Public Open Space (save for any parts of the Public Open Space required for access to the Land) to the Management Company in accordance with the terms of this Deed and for the avoidance of doubt the Public Open Space Commuted Sum shall not be payable.
- 12 In the event that the circumstances pursuant to paragraph 11 of Part 5 of this Deed occur, the Owners shall prior to the transfer of the Public Open Space (save for any parts of the Public Open Space required for access to the Land) to a Management Company submit details of the Management

Company to UDC for approval in writing and shall not transfer the Public Open Space to the Management Company until the details of the Management Company have been approved by UDC in writing such approval or reasons why the approval is not given to be issued by UDC within twenty (20) Working Days of submission of the details and if the Council fails to respond within twenty (20) Working Days then such approval shall be deemed to have been given.

- 13 The details of any Management Company referred to in paragraph 12 above shall include (where applicable):
  - 13.1 its corporate structure
  - 13.2 its registered office and correspondence address
  - 13.3 its directors and officers (where known)
  - 13.4 The means of funding the Management Company in respect of the Public Open Space to demonstrate that the Public Open Space is able to be maintained by the Management Company in perpetuity including details of any service charge to be paid by residents of the Development.
  - 13.5 Details of insurances as shall be appropriate in respect of the use of the Public Open Space managed by the Management Company and against damage by those comprehensive risks as are reasonable to insure against.
- 14 After UDC has issued the Final Certificate for the Public Open Space to transfer the Public Open Space to the Management Company
- 15 Any transfer the Public Open Space to the Management Company or the Parish Council shall be free of incumbrances (other than as set out below) but for the avoidance of doubt the transfer shall:
  - 15.1 be a transfer of the entire freehold interest of the Public Open Space and LAP and the (SAVE FOR any part of the Public Open Space required by the Owners for access to any part of the Land at the Owners' absolute discretion);
  - 15.2 be free from any pre-emption or option agreement;
  - 15.3 be free from any mortgage, charge, lien or other such incumbrance;
  - 15.4 include all usual and necessary rights of way with or without vehicles;
  - 15.5 be subject to rights of access to the public in perpetuity;
  - 15.6 reserve any usual and necessary rights to use existing services and to lay and use new roads and services together with any rights of entry to inspect, repair, renew, cleanse and maintain the same along with rights of entry for maintenance and repair of adjoining land and premises;
  - 15.7 not require consideration in excess of one pound (£1) for either area;
  - 15.8 contain covenants in favour of UDC and pursuant to Section 33 of the Local Government (Miscellaneous provisions) Act 1982 to the effect that the Management Company or Parish Council as the case may be shall maintain, repair, replace as necessary and generally manage the Public Open Space and LAP in strict accordance with the Public Open Space Management Scheme and the principles of good estate management to the intent that the Public Open Space and LAP remains fit for purpose and available for safe use by the public in perpetuity;
  - 15.9 include provisions securing the sole use of the Public Open Space (including the LAP) for the recreational enjoyment of the public as amenity open space; and
  - 15.10 include a declaration that no area of the Public Open Space (including the LAP) is dedicated as public highway or public footpaths other than those public footpaths already existing that are been retained on the Land nor that any use by the public of any part of the Public Open Space (including the LAP) shall be taken in any way as an intention by the Owners to dedicate the same as highway.

- 16 The Owners further covenant that they shall continue to maintain the Public Open Space in a clean and tidy condition until the transfer to the Management Company or the Parish Council has been completed.
- 17 The Owners covenant as follows:
- 17.1 Prior to 90% Occupation of the Development or no more than 12 (twelve) months following the issue of the Final Certificate by UDC (whichever is the earliest):
- (a) the Owners shall transfer the Public Open Space to the Management Company; and
  - (b) not to cause or permit 90% Occupation of the Development until the earlier of the transfer of the Public Open Space to the Management Company or 12 months of the provision of the Final Certificate
- 17.2 To provide to UDC a copy of the transfer for the Public Open Space to the Management Company within 28 days following completion of the transfer.
- 18 The Owners further covenant:
- 18.1 Subject to sub-paragraphs 18.2 and 18.3 below the obligations under this Part 4 of Schedule 1 shall not be binding upon any owner occupier tenant or their mortgagees or chargees or any successor in title of the respective owner occupier tenant or their mortgagees or chargees of any of the Dwellings; and
- 18.2 Where the Public Open Space is transferred to the Management Company each owner occupier or of any Dwelling (or in the case of an Affordable Rented Unit and a Shared Ownership Unit the Registered Provider) or their mortgagees or chargees or their respective successors in title shall be liable for a proportionate sum of the total annual cost of carrying out the Management Company Responsibilities and associated costs which may be attributable to that residential plot (such proportionate amount to be calculated as a ratio of that residential plot area to the total aggregated residential plot areas permitted by the Permission); and
- 18.3 Pursuant to sub-paragraph 18.2 above to pay the proportionate sum of the total annual cost of carrying out the Management Company Responsibilities and associated costs which may be attributable to any Dwelling in respect of which a first sale or first occupation or first letting has not occurred following transfer of the Public Open Space to the Management Company (such proportionate amounts to be calculated as a ratio of such residential plot areas to the total aggregated residential plot areas permitted by the Permission); and
- 18.4 For the avoidance of doubt each liability of the Owners pursuant to sub-paragraph 18.3 above in respect of any Open Market Housing Unit that has not been subject to a first sale or first occupation or first letting following transfer of the Public Open Space to the Management Company shall cease absolutely upon the first sale or first occupation or first letting of each such residential plot; and
- 18.5 Procure that upon any sale lease or transfer of title of any Dwelling that a suitable covenant supported by restriction is entered on the Proprietorship Register at HMLR of every Dwelling to ensure that the obligation to contribute towards the Management Company Responsibilities can be enforced by the Management Company in perpetuity such as the following restriction (or such alternative wording as may be required by the Land Registry's standard form of restriction from time to time or as may otherwise be required by the Management Company):

*'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate without a certificate signed by [insert name of Management Company] or its conveyancer that the provisions of clause [ ] of the transfer dated [ ] and made between [ ] have been complied with'*

## **PART 5 HEALTH CARE CONTRIBUTION**

- 1
- 1.1 The Owners shall pay the Health Care Contribution to UDC in the following instalments:
- 1.1.1 50% of the Health Care Contribution prior to the Occupation of 50% of the Dwellings; and

1.1.2 the residual 50% of the Health Care Contribution prior to the Occupation of the final Dwelling.

1.2 The Owners shall not permit or allow the Occupation of more than 50% of the Dwellings until 50% of the Health Care Contribution has been paid to UDC and shall not permit or allow the Occupation of the final Dwelling until the residual 50% of the Health Care Contribution has been paid to UDC.

**PART 6  
OBLIGATIONS UNDERTAKEN BY UDC**

UDC hereby covenants with the Owners as follows:

- 1 To place the Healthcare Contribution in an interest bearing account on receipt and in the event of repayment UDC shall repay to the person who paid the Healthcare Contribution any part which remains unexpended together with any accrued interest thereon
- 2 To keep an up-to-date record of all payments from the Healthcare Contribution and if some or all of the monies are not used or committed for the specified purposes within five years of payment of those monies, to repay those unexpended or uncommitted monies to the person who paid the Healthcare Contribution along with any interest accrued thereon prior to the expiry of 42 days from the end of the five-year period referred to
- 3 UDC hereby covenants with the Owners to use all sums received within the administrative area in which it operates and for the purposes specified in this Agreement
- 4 UDC shall provide the Owners with such evidence as the Owners shall reasonably require in order to confirm the expenditure of the sums paid under this Agreement
- 5 At the written request of the Owners UDC shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed
- 6 If UDC refuses any request for approval under any of the provisions in this Agreement it shall simultaneously provide the reasons for that refusal in writing and shall set out the actions or works necessary to enable approval to be issued

## SCHEDULE 2

### OBLIGATIONS ENTERED INTO WITH THE COUNTY COUNCIL

1 In this Schedule the following words and expressions shall have the following meanings:

**'Approved Highway Works Scheme'** shall mean the Highway Works Scheme as approved by the County Council for the delivery and completion of the Highway Works and including the surfacing, kerbing, lining and drainage of the highways and any other works normally associated with the construction of a highway or required as a result of the County Council's inspections

**'Completion Notice'** means the notice served by the Owners on the County Council pursuant to paragraph 1.3 of Part 6 of this Schedule 2

**'Education Contribution'** means the sum of the Primary Education Contribution and the Secondary Education Contribution and the Secondary School Transport Contribution

**'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 relevant index at the time of use

**'Education Purposes'** means the Primary Education Purposes and the Secondary Education Purposes and the Secondary School Transport Purposes

**'Flat'** means a Dwelling that occupies a single floor and /or does not benefit from private open space for the exclusive use of the residents of the Dwelling and no other persons

**'House'** means a Dwelling that does not meet the definition of a Flat

**'Highway Index'** shall mean the Department for Business Innovation and Skills Price Adjustment Formulae Indices (Civil Engineering) Series 2 (BIS) or in the event that the BIS is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by ECC

**'Highway Index Point'** shall mean a point on the most recently published edition of the Highway Index at the time of use

**'Jacks Lane Commuted Sum'** shall mean the sum of £157,250 (one hundred and fifty seven thousand two hundred and fifty pounds) to which sum the Relevant Highway Indexation shall be added to be used towards the for maintenance of the improved surfacing, a commuted sum for maintenance of the new lighting scheme and including any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment and the provision of or alteration to street lighting road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of ECC's inspections

**'Highway Works'** shall mean the following:

- (a) shall mean the improvements to restricted Byway 48/25 (Jacks Lane from Burgattes Road to the point where it joins the proposed internal footway/cycle within the Development) as shown indicatively (subject to detailed design) on the Highway Works Plan to make it suitable for every day all weather use for pedestrians cyclists people with mobility impairment and equestrian use including, but not limited to, full depth construction, all weather surfacing, lighting, signing, alterations to statutory undertakers equipment, ditch crossing, infrastructure to stop use by motor vehicles, visibility splays and measures to prevent use by motor vehicles, appropriate ecological mitigation and any associated ancillary and/or incidental works including any lighting drainage or other infrastructure works and all future maintenance making good and repairs thereto;

- (b) Installation of associated lighting columns in accordance with the Approved Highway Works Scheme as shown in principle on the Highway Works Plan together with details of arrangements for the maintenance of vegetation around the new lighting columns to keep them clear of obstruction or interference;
- (c) The provision of two bus stops on the B1256 in the vicinity of the Takeley Business Centre (one westbound, one eastbound) which shall comprise (but not be limited to) the following facilities: raised kerbs, bus stop markings, flags, timetable casings

and including any necessary alterations to and reinstatements of existing highways and statutory undertakers equipment road signs drainage structures traffic signals related accommodation and any other works normally associated with the construction of a highway or required as a result of the County Council's inspections

**'Highway Works Agreement(s)'** means an agreement or agreements entered into under section 38 and section 278 of the Highways Act (and all other relevant enabling powers that the County Council may reasonably require to be used) to regulate the carrying out of, the dedication of and the adoption of the Highway Works and these agreement(s) may include but not be limited to:

- (a) the securing of a bond to ensure that third party funds are available to complete the Highway Works to the satisfaction of the County Council in the event that the Owners fail to do so;
- (b) the payment of the works inspection fees, maintenance fees, special orders fees, supervision fees and any other such reasonable fees as Highways England and/or the County Council shall require;
- (c) the payment of the legal and other fees associated with the drafting negotiating and completion of the Highway Works Agreement;
- (d) the preparation and advance approval of works drawings and traffic management measures;
- (e) the certification and maintenance of the Highway Works;
- (f) the regulating of the issue of a works licence to enable the Highway Works to be carried out;
- (g) the securing of an indemnity or bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity or bond for liability issues as the County Council shall reasonably require;
- (h) clauses dealing with dedication of land as public highway;
- (i) the standards and procedures for carrying out the Highway Works; and
- (j) traffic regulation orders and statutory processes

**'Highway Works Plan'** shall mean the plans attached at **Annex 2** showing the indicative layout of the Highways Works (Plan WH202.WST.P1.ZZ.DR.PL.10.50 and Plan WH202.WST.P1.ZZ.DR.PK.10.51)

**'Highway Works Scheme'** shall mean a detailed scheme of Highway Works submitted in writing by the Owners to the County Council prior to Implementation of the Development for the written approval of the County Council detailing the Highway Works proposed to be completed and timetable for completion of such Highway Works

**'Library Contribution'** means the sum of seventy-seven pounds and eighty pence (£77.80) per Dwelling to which sum the Relevant Library Indexation shall be added

**'Library Contribution Purposes'** means the use of the Library Contribution towards the upgrading of existing facilities at local libraries to include, but not limited to, additional furniture, technology and stock



**'Library Index'** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**'Library Index Point'** means a point on the most recently published edition of the Library Index at the time of use

**'Notice of Implementation'** means the written notice served pursuant to paragraph 1.1 of Part 6 of this Schedule 2

**'Payment Notice'** means a written notice advising of a proposed payment served pursuant to paragraph 1.2 of Part 6 of this Schedule 2

**'Primary Education Contribution'** means the Primary Pupil Product multiplied by the cost generator of nineteen thousand four hundred and twenty-five pounds sterling (£19,425) to which the Relevant Education Indexation shall be added

**'Primary Education Purposes'** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or childcare of children between the ages of 4 to 11 (both inclusive) and including those with special educational needs within a 3 mile radius of the Development and or at a facility that in the opinion of the County Council serves the Development and including the reimbursement of capital funding for such provision made by the County Council and or the County Council's nominee in anticipation of the Primary Education Contribution

**'Primary Pupil Product'** means the sum of the Qualifying Flats multiplied by 0.15 plus the Qualifying Houses multiplied by 0.3

**'Qualifying Flats'** means the number of Flats that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms

**'Qualifying Houses'** means the number of Houses that shall be constructed on the Land that have two or more rooms that may by design be used as bedrooms

**'Qualifying Housing Units'** means the Qualifying Houses and Qualifying Flats

**'Relevant Education Indexation'** means:

- (a) In relation to the Secondary School Transport Contribution the amounts that the Owners shall pay with and/or agree 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 in the Education Index between the Education Index Point pertaining to April 2021 and Education Index Point pertaining to the date payment is made to the County Council; and
- (b) In relation to the Primary Education Contribution and the Secondary Education Contribution the amounts that the Owners shall pay with and/or agree 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 in the Education Index between the Education Index Point pertaining to January 2023 and Education Index Point pertaining to the date payment is made to the County Council

**'Relevant Highway Indexation'** means the amount that the Owners shall pay with and in addition to the Highway Contribution and in addition to the Jacks Lane Commuted Sum paid that shall equal a sum calculated by taking the amount of the Highway Contribution and the Jacks Lane Commuted Sum being paid and multiplying this amount by the percentage change shown in the Highway Index between the Highway Index Point pertaining to December 2023 and the Highway Index Point pertaining to the date the payment is made to the County Council

**'Relevant Library Indexation'** means the amount that the Owners shall pay with and in addition to the Library Contribution paid that shall in each case equal a sum calculated by taking the amount of the Library Contribution being paid and multiplying this amount by the percentage change shown in the Library Index between the Library Index Point pertaining to April 2020 and the date of the most

recent Library Index Point published in relation to the date the payment is due to be made to the County Council

**'Relevant Sustainable Transport Indexation'** means the amount that the Owners shall pay with and in addition to the Sustainable Transport Contribution paid that shall equal a sum calculated by taking the amount of the Sustainable Transport Contribution being paid and multiplying this amount by the percentage change shown in the Sustainable Transport Index between the Sustainable Transport Index Point pertaining to June 2023 and the Sustainable Transport Index Point pertaining to the date the payment is made to the County Council

**'Residential Travel Information Pack'** means a specific district or borough or city tailor-made booklet aimed at promoting the benefits of sustainable transport in support of the objective to secure a modal shift from the private car and increase the use of sustainable modes of travel and shall contain the following:

- (a) guidance and promotional material on the use of sustainable modes of travel;
- (b) details on walking, cycling, trains, buses, park & ride, taxis, car sharing, car clubs, electric vehicles, school transport and personalised journey planning services;
- (c) reference to travel websites, resources and support services for each mode of travel, information provided by the County Council and the Council;
- (d) details of local travel campaigns and networking/support groups; and
- (e) to include six one day travel vouchers for use with the relevant local public transport operator

**'Secondary Education Contribution'** means the Secondary Pupil Product multiplied by the cost generator of (insert amount) pounds sterling £26,717 (twenty-six thousand seven hundred and seventeen pounds sterling) to which sums the Relevant Education Indexation shall be added

**'Secondary Education Purposes'** means the design (including feasibility work) and or delivery and or provision of facilities for the education and/or childcare of children between the ages of 11 to 19 (both inclusive) and including those with special educational needs at Forest Hall School and or within a 3 mile radius of the Development and or at a facility that in the opinion of the County Council serves the Development and including the reimbursement of capital funding for such provision made by the County Council and or the County Council's nominee in anticipation of the Secondary Education Contribution

**'Secondary Pupil Product'** means the sum of the Qualifying Flats multiplied by 0.1 plus the Qualifying Houses multiplied by 0.2

**'Secondary School Transport Contribution'** means the Secondary Pupil Product multiplied by the cost generator of (five pounds) pounds sterling and (thirty pence) pence (£5.30) 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 is in secondary school) to which sums the Relevant Education Indexation shall be added

**'Secondary School Transport Purposes'** means the transportation of children generated by the Development to a secondary school with capacity

**'Sustainable Transport Contribution'** means the sum of £112,000 (one hundred and twelve thousand pounds sterling) payable to the County Council to which sum the Relevant Sustainable Transport Indexation shall be added

**'Sustainable Transport Contribution Purposes'** means the use of the towards improvements to enhance bus services between the Development and local centers including Bishops Stortford , local amenities and/or Stansted Airport improving the frequency, quality and/or geographical cover of bus routes that serve the site and/or local bus infrastructure and/or the design and implementation of a cycle route between Takeley and Stansted Airport and shall include the reimbursement of capital funding for such provision made by the County Council in anticipation of the receipt of the Sustainable Transport Contribution

**'Sustainable Transport Index'** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**'Sustainable Transport Index Point'** means a point shown on the Sustainable Transport Index indicating a relative cost at a point in time

**'Sustainable Travel Index'** means the Consumer Price Index (CPI) or in the event that the CPI is no longer published or the calculation method used is substantially altered then an appropriate alternative index nominated by the County Council

**'Index'** means the most recently published edition at the time of use of each index used under the terms of this Deed to calculate any amount to be paid with or in addition to a Contribution due under the terms of this Deed to add to or reduce the Contribution to reflect changes in cost over time

**'Sustainable Travel Index Point'** means a point shown on the relevant Index indicating a relative cost at a point in time

**'Notice of Implementation'** means the written notice served pursuant to paragraph 1.1 of Part 3 of this Schedule

**'Payment Notice'** means a written notice advising of a proposed payment served pursuant to paragraph 1.2 of Part 3 of this Schedule

**'SONIA Rate'** means the Sterling Overnight Index Average an assessment of the rate of interest the County Council can expect to earn on investments through the British sterling market, the rate used being the average interest rate at which banks are willing to borrow sterling overnight from other financial institutions and other institutional investors and SONIA Rate shall be construed accordingly

**'Travel Vouchers'** means tickets/passes/ vouchers or other means of accessing transport or journey planning information as agreed with the County including the following as a minimum (six scratchcard bus tickets per household OR season ticket voucher) and/or (incentives for rail travel with the local rail operator) for each eligible member of the household AND access to an online tool to generate personalised travel plans using a home and destination postcode to provide details of different travel modes/options travel routes/maps and timetable information)

**'Unit Mix'** means the number of Qualifying Flats and the number of Qualifying Houses and the number of Dwellings that by definition shall not be counted as Qualifying Flats or Qualifying Houses.

## **PART 1 HIGHWAYS**

### **1 HIGHWAYS IMPROVEMENTS**

#### **The Highway Works**

- 1.1 The Owners covenant with the County Council as follows:
- 1.2 To submit the Highways Works Scheme to the county Council in writing prior to Implementation of the Development and not to cause allow or permit Implementation of the Development unless and until the Highways Works Scheme has been submitted to the County Council for their written approval;
- 1.3 to enter into a Highway Works Agreement for the Approved Highway Works Scheme prior to commencement of such works or such other timescale as shall be agreed in writing with the County Council PROVIDED always that the Owners shall enter into the Highway Works Agreement for the Approved Highway Works Scheme prior to first Occupation of any Dwellings on the Development;
- 1.4 to undertake and complete the Approved Highway Works Scheme prior to first Occupation of any Dwellings on the Development and in accordance with the Highway Works Agreement;
- 1.5 and not to Occupy allow cause or permit to be Occupied any Dwellings unless and until the Highway Works have been properly completed in accordance with the Highway Works Agreement and the

relevant certificate confirming such completion has been issued under the provisions of the Highway Works Agreement;

- 1.6 to pay the Jacks Lane Commuted Sum in accordance with the relevant Highway Works Agreement and prior to first Occupation of any Dwellings on the Development and not to cause allow permit first Occupation of any Dwellings on the Development unless and until the Jacks Lane Commuted Sum has been paid to the County Council in full; and
- 1.7 to maintain in perpetuity the vegetation around the new lighting columns to be installed as part of the Highway Works (b) along the restricted Byway to ensure the lighting columns are clear of obstruction or interference
- 2 The County Council shall not unreasonably withhold and or delay approval of the Highway Work Scheme.

## **PART 2 SUSTAINABLE TRANSPORT CONTRIBUTION**

- 1 The Owners hereby covenant with the County Council as follows:
  - 1.1 to pay the Sustainable Transport Contribution to the County Council prior to first Occupation of any Dwellings on the Development and not to cause permit or allow first Occupation of any Dwellings on the Development unless and until the Sustainable Transport Contribution has been paid to the County Council in full (100%);
  - 1.2 In the event that the Sustainable Transport Contribution is paid later than dates set out in paragraph 1.1 above of this Schedule then the amount of the Sustainable Transport Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the Sustainable Transport Index between the Sustainable Transport Index Point prevailing at the date the payment is due and the Sustainable Transport Index Point prevailing at the date of actual payment to the County Council multiplied by the Sustainable Transport Contribution due or if greater an amount pertaining to interest on the Sustainable Transport Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Sustainable Transport Contribution is received by the County Council; and
  - 1.3 In addition to the requirement of paragraph 1.2 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Schedule should not be received by the County Council by the date that the sum is due then the Owners hereby covenants to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 2 The County Council hereby covenants with the Owners to:
  - 2.1 place the Sustainable Transport Contribution when received into an interest-bearing account with a clearing bank and to utilize the same for the Sustainable Transport Contribution Purposes;
  - 2.2 upon receipt of a request in writing to do so to be received by the County Council from the Owners no sooner than the tenth (10<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full and no later than the eleventh (11<sup>th</sup>) anniversary of the same to return to the party who deposited the Sustainable Transport Contribution or any part of the Sustainable Transport Contribution that remains unexpended when such request in writing is received (together with interest accrued on the unexpended part) Provided Always that where a legally binding contract or obligation has been entered into by the County Council prior to the tenth (10<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full to make a payment in respect of the Sustainable Transport Contribution Purposes the unexpended part of the Sustainable Transport Contribution shall not be repaid until such payment is made and the unexpended part of the Sustainable Transport Contribution to be repaid (if any) shall not include such payment; and
  - 2.3 That upon receipt of a written request from the Owners prior to the eleventh (11<sup>th</sup>) anniversary of receipt of the Sustainable Transport Contribution in full the County Council shall provide the Owners with a statement confirming whether the Sustainable Transport Contribution has been spent and if

the Sustainable Transport Contribution has been spent in whole or in part outlining how the Sustainable Transport Contribution has in whole or in part been spent.

3 It is hereby agreed that:

- 3.1 Any dispute in relation to how the Sustainable Transport Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in 2.3 above and shall clearly state the grounds on which it is disputed;
- 3.2 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 2.2 above or no valid dispute is raised by the Owners the Developer pursuant to paragraph 3.1 the Owners shall accept the Highway Contribution has been spent in full on the Highway Contribution Purposes as appropriate;
- 3.3 The County Council may utilise up to two percent (2%) of the total amount of the Sustainable Transport Contribution due under this Deed to a maximum of Two Thousand Six Hundred and Forty Five Pounds (£2,645) plus the Relevant Sustainable Transport Indexation for the purposes of scheme validation, programming, commissioning of works, scheme monitoring including site visits and meetings, budget control, governance and for the avoidance of doubt such purposes are agreed by the Owners to form part of the definition of use of the Sustainable Transport Contribution Purposes;
- 3.4 In the event the Sustainable Transport Contribution that is overpaid by the Owners 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 Sustainable Transport Contribution or have entered into a legally binding contract or obligation to spend the Sustainable Transport Contribution otherwise the County Council shall upon the Occupation of the final Unit on the Land or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (In excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

### **PART 3 TRAVEL PACKS**

1 The Owners hereby covenant with the County Council:

- 1.1 to submit a draft Residential Travel Information Pack (including Travel Vouchers) to the County for written approval prior to first Occupation of a Dwelling and not to cause or allow first Occupation of a Dwelling prior to the Residential Travel Information Pack (including Travel Vouchers) being submitted to and approved in writing by the County Council;
- 1.2 to provide the first occupier of each Dwelling with an approved Residential Travel Information Pack and Travel Vouchers prior to Occupation of any Dwelling and not to cause or permit Occupation of any Dwellings on the Development unless and until the Owners have provided the first occupiers with an approved Residential Travel Information Pack and Travel Voucher at the expense of the Owners.

### **PART 4 EDUCATION CONTRIBUTION**

1 The Owners hereby covenant with the County Council so as to bind their interest in the Site as follows:

- 1.1 to pay one hundred percent (100%) of the Education Contribution to the County Council prior to Implementation of Development;
- 1.2 not to cause allow or permit Implementation of Development unless and until one hundred percent (100%) the Education Contribution has been paid to the County Council in full;
- 1.3 In the event that the Education Contribution is paid later than dates set out in paragraph 1.1 and 1.2 then the amount of the Education Contribution or part thereof payable by the Owners 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 of payment is due and the Education Index Point prevailing at the date of actual payment multiplied by the Education Contribution due or if greater an amount pertaining to interest on the Education Contribution or part thereof due calculated at the SONIA Rate from the date of payment is due until the date payment of the Education Contribution is received by the County Council; and

- 2 In addition to the requirement of paragraph 1.3 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owners hereby covenant to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 3 The Notice of Implementation shall in addition to that information stipulated in paragraph 1.1 of Part 6 of this Schedule 2 to this Deed state the Unit Mix and in the event that the Unit Mix constructed or to be constructed should at any time differ from the Unit Mix notified to the County Council then the Owners shall serve on the County Council a further notice stating the revised Unit Mix within ten (10) Working Days of the revised Unit Mix being decided and in the further event that the Owners fails to serve any notice set out in this Paragraph 3 of this Schedule 2 the County Council may estimate and determine the Unit Mix as it sees fit acting reasonably.
- 4 The Payment Notice stipulated in paragraph 1.2 of Part 6 of this Schedule 2 shall state the Unit Mix on which the payment is to be based.
- 5 The Completion Notice stipulated in paragraph 1.3 of Part 6 of this Schedule 2 shall state the final Unit Mix.
- 6 The County Council hereby covenants with the Owners as follows:
  - 6.1 To place the Education Contribution when received into an interest-bearing account and to utilise the same solely for the Education Purposes;
  - 6.2 If requested in writing by the Owners no sooner than the tenth (10th) anniversary of the date that the Education Contribution is paid to the County Council in full but no later than one (1) year thereafter the County Council shall return to the party that made the payment of the Education Contribution any part of the relevant Education Contribution that remains unexpended when the Education Contribution is paid to the County Council in full (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT if the County Council is legally obliged to make a payment in respect of any Education Purposes the unexpended part of the Education Contribution shall not be repaid until such payment is made and the unexpended part of the Education Contribution to be repaid shall not include such payment;
  - 6.3 Upon receipt of a written request from the Owners prior to the eleventh (11th) anniversary of the date of receipt of the Education Contribution in full the County Council shall provide the Owners with a statement confirming whether the Education Contribution have been spent and if the Education Contribution has been spent in whole or in part outlining how the Education Contribution have in whole or in part been spent.
- 7 It is hereby agreed and declared:
  - 7.1 In the event that the Unit Mix to be constructed on the Development does not match the Unit Mix on which the Education Contribution or part thereof paid was based the Owners hereby covenant to pay to the County Council as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Education Contribution paid and the amount of the Education Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by the County Council form part of the Education Contribution;
  - 7.2 Any dispute in relation to how the Education Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in paragraph 6.3 and shall clearly state the grounds on which the expenditure is disputed;

- 7.3 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 6.2 above or no valid dispute is raised by the Owners pursuant to paragraph 7.2 the Owners shall accept the Education Contribution has been spent in full; and
- 7.4 In the event that the Education Contribution is overpaid by the Owners 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 otherwise the County Council shall upon the Occupation of the final Dwelling on the Site or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

## **PART 5 LIBRARY CONTRIBUTION**

- 1 The Owners hereby covenants with the Council and the County Council so as to bind their interest in the Land as follows:
- 1.1 to pay the Library Contribution to the County Council prior to Implementation of the Development not to Implement or cause or allow or permit Implementation of the Development unless and until the Library Contribution has been paid to the County Council in full.
- 1.2 In the event that the Library Contribution is paid later than dates set out in paragraph 1.1 of this Part 5 of Schedule 2 then the amount of the Library Contribution or part thereof payable by the Owners shall in addition include either an amount equal to any percentage increase in build costs shown by the Library Index between the Library Index Point prevailing at the date the payment is due and the Library Index Point prevailing at the date of actual payment to the County Council multiplied by the Library Contribution due or if greater an amount pertaining to interest on the Library Contribution (or the part thereof) due calculated at the SONIA Rate from the date that the payment is due until the date payment of the Library Contribution is received by the County Council; and
- 1.3 In addition to the requirement of paragraph 1.2 above in the event that any sum due to be paid by the Owners to the County Council pursuant to this Deed should not be received by the County Council by the date that the sum is due then the Owners hereby covenant to pay to 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) for each and every letter sent to the Owners pursuant to the debt.
- 2 The County Council hereby covenants with the Owners as follows:
- 2.1 to place the Library Contribution when received into an interest-bearing account and to utilise the same for the Library Contribution Purposes;
- 2.2 If requested in writing by the Owners no sooner than the tenth (10th) anniversary of the date that the Library Contribution is paid to the County Council in full but no later than one (1) year thereafter the County Council shall return to the party that made the payment of the Library Contribution any part of the Library Contribution that remains unexpended when the Library Contribution is paid to the County Council in full (together with interest accrued that relates to that unexpended part) PROVIDED ALWAYS THAT if the County Council is legally obliged to make a payment in respect of any Library Contribution Purposes the unexpended part of the Library Contribution shall not be repaid until such payment is made and the unexpended part of the Library Contribution to be repaid shall not include such payment
- 2.3 Upon receipt of a written request from the Owners prior to the eleventh (11th) anniversary of receipt of the Library Contribution in full the County Council shall provide the Owners with a statement confirming whether the Library Contribution have been spent and if the Library Contribution has been spent in whole or in part outlining how the Library Contribution have in whole or in part been spent.
- 3 It is hereby agreed and declared:
- 3.1 In the event that the Unit Mix to be constructed on the Development does not match the Unit Mix on which the Library Contribution or part thereof paid was based the Owners hereby covenant to pay to

the County Council as soon as the revised Unit Mix becomes apparent any additional amount pertaining to the difference between the amount of the Library Contribution paid and the amount of the Library Contribution that would have been payable using the revised Unit Mix and any such additional amount shall from the date payment is received by the County Council form part of the Library Contribution;

- 3.2 Any dispute in relation to how the Library Contribution has been spent must be raised in writing by the Owners and received by the County Council within twenty (20) Working Days of receipt by the Owners of the County Council's statement referred to in paragraph 2.3 and shall clearly state the grounds on which the expenditure is disputed;
- 3.3 In the event that no written request is received by the County Council from the Owners pursuant to paragraph 2.2 above or no valid dispute is raised by the Owners pursuant to paragraph 3.2 the Owners shall accept the Library Contribution has been spent in full on the Library Contribution Purposes as appropriate; and
- 3.4 In the event that the Library Contribution is overpaid by the Owners 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 Library Contribution or have entered into a legally binding contract or obligation to spend the Library Contribution otherwise the County Council shall upon the Occupation of the final Dwelling on the Land or at such earlier time as the County Council shall determine return any such overpaid sum or sums in whole or in part to the Owners (in excess of those sums calculated as due for payment under this Deed) together with interest calculated at the SONIA Rate within twenty (20) Working Days of the County Council being informed by the Owners of such overpayment.

#### **PART 6 NOTICES**

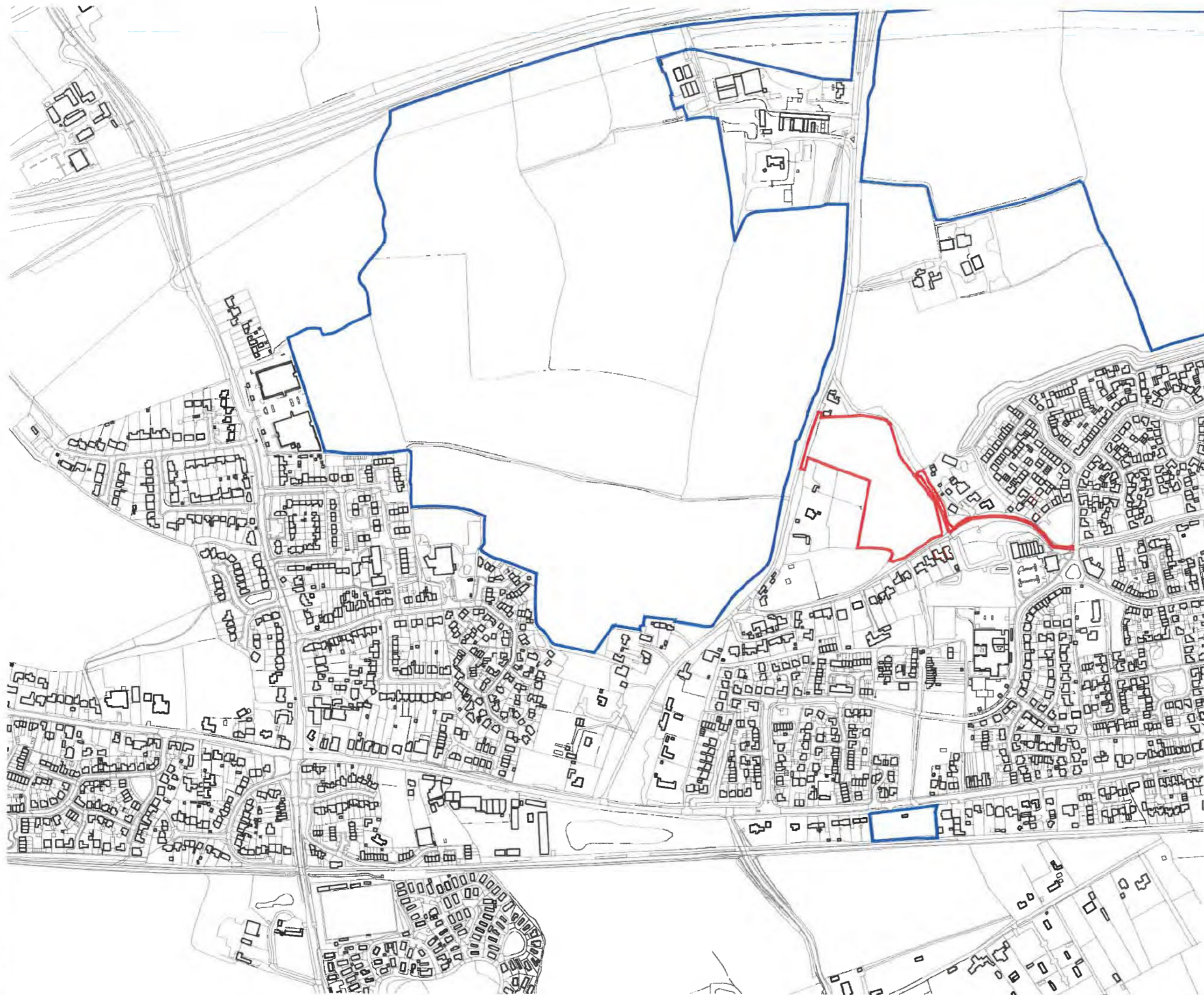
- 1 The Owners or the Developer shall serve on the County Council:
  - 1.1 the Notice of Implementation not less than three (3) months prior to Implementation stating the expected Implementation Date an estimate of the triggers and any further information stipulated in the Schedules to this Deed
  - 1.2 the Payment Notice between forty (40) and twenty (20) Working Days prior to the date that each and any payment is due to be made to the County Council under this Deed stating the date that such payment becomes due and any further information stipulated in the Schedules to this Deed
  - 1.3 the Completion Notice within 30 Working Days of all Dwellings being Occupied for the first time stating the date that the last Dwelling was Occupied for the first time and any further information stipulated in the Schedules to this Deed and for the avoidance of doubt any dispute regarding any notice to be served under this Deed may be resolved through the 2 mechanisms set out in Clause 15 of this Deed.
  - 1.4 to serve on the County Council notice of Occupation of the first Dwelling within 1 (one) month thereof and on a 6 (six) 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



**ANNEX 1**

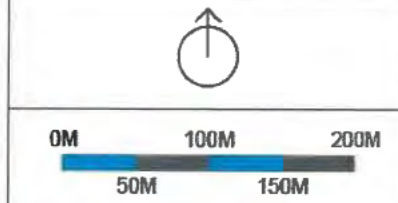
**PLAN**





**Key:**  
— APPLICATION BOUNDARY  
— OWNERSHIP BOUNDARY

**Rev**



**PLANNING**

**Title**  
 SITE LOCATION PLAN JACKS PARCEL

**Site**  
 JACKS GREEN, TAKELEY

<b>Date</b> SEPT 23	<b>Drawn</b> DJK	<b>Checked</b> PMR
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**Scale**  
 1:5000@A3

<b>Drawing No.</b> WH202.WST.P1.ZZ.DR.PL.05.01	<b>Rev</b> A
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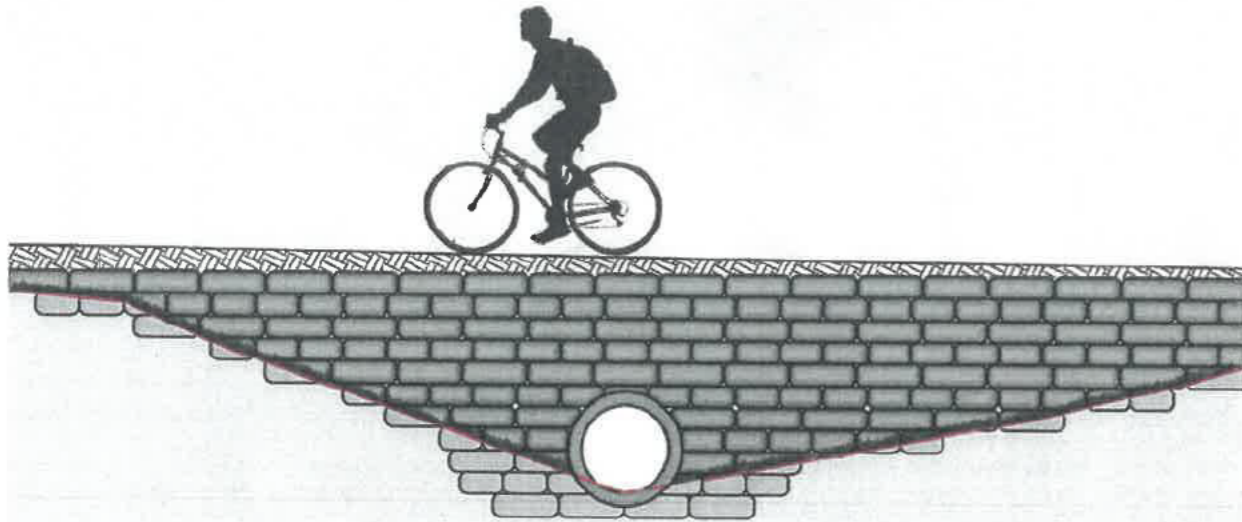
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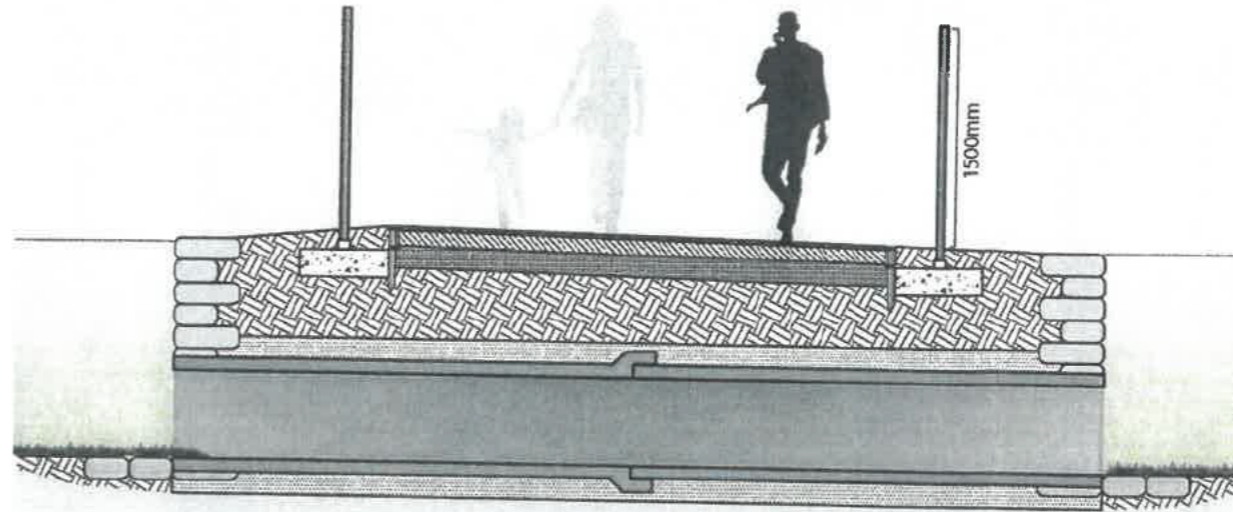
email: info@weston-homes.com



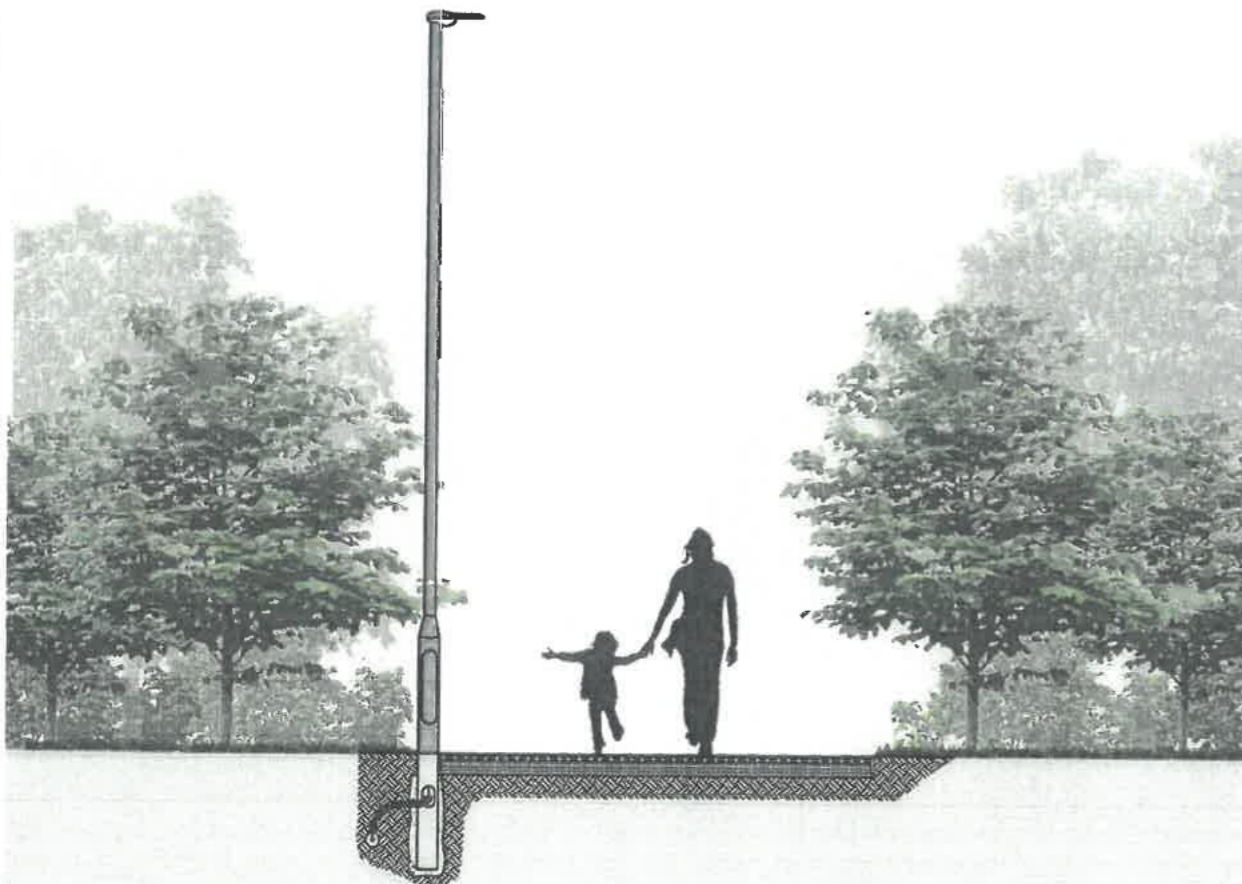
**ANNEX 2**  
**HIGHWAY WORKS PLAN**



**A** Proposed Byway Access Section



**C** Proposed Byway Access Section



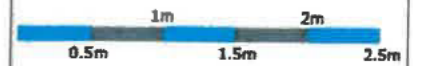
**B** Proposed Byway Section



**D** Proposed Site Plan @1:2500

Notes:

Rev  
01



**PLANNING**

Title  
JACKS PARCEL BYWAY SECTIONS

Site  
JACKS GREEN, TAKELEY

Date SEPT 23	Drawn DJK	Checked PMR
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Scale  
1:50@A3

Drawing No.  
WH202.WST.P1.ZZ.DR.PL.10.50



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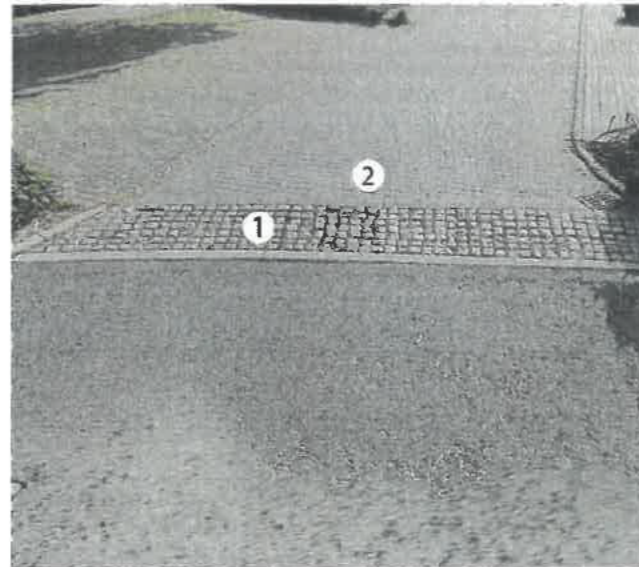




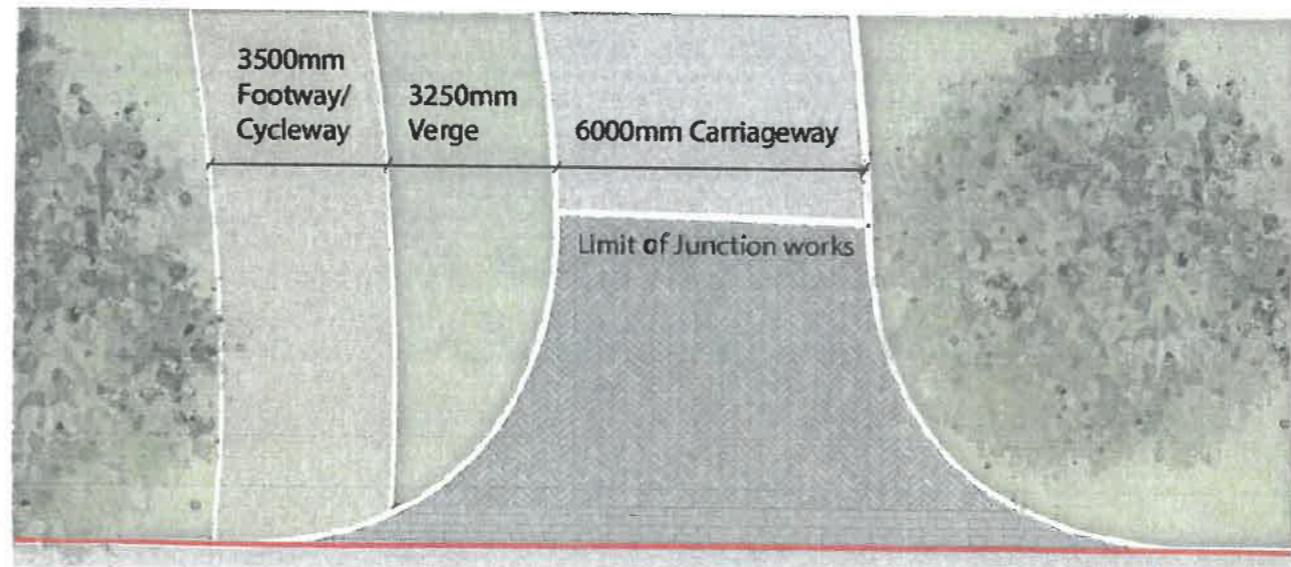
Proposed Entrance to Site 1:250@A2



No. 2 Maggotts Cottage



The Avenue Saffron Walden



Proposed Entrance to Site 1:100@A2

- Key**
- 1 Rumble Strip
  - 2 Block Paving
  - Site Boundary

**Notes:**

**Rev**

01



**PLANNING**

Title  
Jacks Green, Entrance Works

Site  
Jacks Green, Takeley

Date Sept 23	Drawn D.J.K	Checked P.M.R
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Scale  
1:250@A2

Drawing No.  
WH202.VST.P1.22.DR.PK.10.51



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**ANNEX 3**  
**AFFORDABLE HOUSING PLAN**

AFFORDABLE HOUSING SCHEDULE		
PLOT	TYPE	TENURE
JG.12	2B	RENTAL
JG.13	2B	SHARED
JG.14	2B	FIRST
JG.15	3B	RENTAL
JG.16	3B	FIRST
JG.17	3B	FIRST
JG.31	4C	RENTAL
JG.32	3B	FIRST
JG.33	3B	RENTAL
JG.34	3B	RENTAL
JG.35	3B	RENTAL
JG.36	2C	RENTAL
JG.37	A1	RENTAL
JG.38	A1	RENTAL
JG.39	A1	RENTAL
JG.40	2C	RENTAL

- Key:
- Affordable Housing Allocation (Rental 1No.)
  - Affordable Housing Allocation (Shared 1No.)
  - Affordable Housing Allocation (First Homes 4No.)
  - Affordable Housing Parking Allocation

House Types - 1:1000

Note  
 FOR MASTER PLAN - COLOURED  
 PLEASE REFER TO DWG NO.  
 WH202.WST.P1.ZZ.DR.PL.10.00

FOR ALL MASTER PLAN - STRATEGIES  
 DRAWINGS PLEASE REFER TO DWG  
 NO. WH202.WST.P1.ZZ.DR.PL.10.02 TO  
 10.10

FOR STREET SCENES PLEASE REFER  
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 WH202.WST.P1.ZZ.DR.PL.30.01 TO  
 30.02

Rev B - 26.06.23 - PMR  
 Site layout amended to suit Council  
 comments

Rev C - 15.09.23 - DJK  
 Site layout amended to suit Council  
 comments

PLANNING

TITLE  
 MASTER PLAN - JACKS PARCEL  
 AFFORDABLE HOUSING STRATEGY

Site  
 JACKS GREEN, TAKELEY

Date	Drawn	Checked
SEPT 23	DJK	PMR

Scale  
 1:500@A1

Drawing No.	Rev
WH202.WST.P1.ZZ.DR.PL.10.05	C



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**ANNEX 4**  
**UDC ALLOCATIONS POLICY**





# **UTTLESFORD DISTRICT COUNCIL**

## **HOUSING ALLOCATIONS SCHEME (ALLOCATIONS POLICY)**

June 2021

## **Uttlesford District Council Housing**

# **Allocations Scheme**

### **1. Introduction**

- 1.1 The Council is required, by virtue of Section 168(1) of the Housing Act 1996 to have an allocations scheme for determining priorities and the procedure to be followed in allocating housing accommodation.
- 1.2 We have written and published this policy so everyone can be clear how:
- i. Council houses are allocated
  - ii. The homes we are offered by our Registered Providers (RP) are allocated
  - iii. Applicants on our housing register have some choice about the home they are offered;
  - iv. We meet the law's requirements about people whose housing needs we should consider.
  - v. We make best use of the available housing stock within the District
  - vi. We give preference to those applicants who have a local connection to the District
- 1.3 This Allocations Scheme has been formulated in accordance with the provisions of
- The Housing Act 1996, as amended by the Homelessness Act 2002
  - The Localism Act 2011
  - The Allocation of Accommodation: Choice Based Lettings Code of Guidance 2008
  - The Equality Act 2010
  - The Allocation of Accommodation: Guidance for Local Housing Authorities England 2012
  - Providing social housing for local people: Statutory Guidance December 2013
  - Other relevant legislation and Guidance
- 1.4 In operating the Allocations Scheme, the Council will have due regard to legislation which shall take precedence.

### **2. Choice Based Lettings**

- 2.1 The Council allocates accommodation through a Choice Based Lettings Scheme (CBL) called Home Option. The scheme enables applicants to

express an interest in available properties which are advertised in a fortnightly publication and on a website. All applicants are provided with detailed information explaining how the scheme operates.

2.2 Under the CBL Scheme, applicants are able to register their interest in properties which are suitable for their household size and needs in accordance with the terms of this Allocations Policy.

### **2.3 Direct Lets**

2.3.1 Direct Lets will not be part of the choice based lettings scheme.

2.3.2 Direct Lets may apply in the following circumstances:

- i. Extra care properties
- ii. If a property is needed to house someone in council property temporarily
- iii. In cases of where someone has to be moved immediately a direct let may be made
- iv. In the case of a specially adapted property built for a specific person
- v. Decants – Council properties required to be vacated by the Council for a specific purpose
- vi. If a previously joint applicant qualifies to be offered the property of which they were previously a joint tenant we will make them an offer of that property
- vii. Where applicants owed the full homelessness duty by the Council under Section 193 of the Housing Act 1996 as amended who do not meet the Council's Allocation's Policy eligibility criteria.
- viii. In cases where a multi-agency team requests a planned move to resolve a serious management situation a direct let (one offer only to be made) may only be considered if the situation cannot be resolved by any other means and the tenant is either an existing Uttlesford tenant or the tenant of a RP property within Uttlesford and the subsequent vacancy would be allocated through the council's Choice Based Lettings Scheme
- ix. Exceptional cases where there is an evidenced risk of significant harm to a vulnerable household, where there are no other housing options available, and which is supported

by at least one other agency, for example social care. Cases to be agreed by the Asst. Director

### **3. The Allocations Scheme**

- 3.1 Allocation of accommodation will be through the Housing Register in accordance with the provisions of the Allocations Scheme.
- 3.2 The Council recognises that there may be some exceptional situations not covered by the Allocations Scheme. In such instances, Assistant Director of Housing and Environmental Health will have delegated authority to make decisions, as he/she considers appropriate and these will be fully documented.
- 3.3 The Scheme will apply to vacancies in the Council's own housing stock and to vacancies in accommodation in the District belonging to RPs for which the Council is required to make nominations.
- 3.4 The provisions of this Allocations Scheme will apply to applicants on the Council's Housing Register at the effective date of this Allocations Scheme, as well as those who apply after the effective date.
- 3.5 **The Allocations Scheme will not apply in the following cases;**
  - i. Where a tenant succeeds to a secure tenancy on the death of a tenant
  - ii. Where a tenancy is assigned to a person who would qualify to succeed to the secure tenant
  - iii. Where a tenancy is assigned by way of a mutual exchange to an existing secure tenant or RP assured tenant
  - iv. Where a tenancy is disposed through the courts (under matrimonial and family proceedings)
  - v. Where a priority transfer is agreed in urgent circumstances due to person's safety being at risk.
  - vi. Where a property has been identified as temporary accommodation
  - vii. Where the council needs to provide alternative accommodation for a council tenant in order to carry out repairs or improvements to their property.
  - viii. Where the council needs to provide accommodation to meet its duties under homelessness legislation

- ix. Where the council has a duty to re-house home owners following a compulsory purchase, provide suitable alternative accommodation under the Land Compensation Act 1973, s 39, or under the Rent Agricultural Act 1976. (If it is not possible to provide a permanent tenancy immediately, the applicant will be registered within band A of the scheme).
- x. Where the council grants a secure tenancy to a former owner of a defective home under the Housing Act 1985, s554 or s555

#### **4. The Housing Register**

- 4.1 The Council is not legally obliged to maintain a Housing Register but has chosen to do so.
- 4.2 The Housing Register will be maintained by Housing Services at the Council Offices in Saffron Walden.
- 4.3 The Housing Register will be open to all categories of person except those who are ineligible as defined at Paragraph 5.
- 4.4 The Housing Register will be open to;
  - i. homeseekers of 18 years of age and over
  - ii. current council or RP tenants
  - iii. 16 and 17 year olds owed a full housing duty by a local housing authority under homelessness legislation.
  - iv. 17yr 6mth old Care Leavers who were resident in Uttlesford at the time they were placed in Care or who are living in Uttlesford immediately prior to the time of leaving care
  - v. People with the capacity to understand and adhere to a tenancy agreement

#### **5. Eligibility categories**

##### **5.1 Eligibility**

- 5.1.1 The following categories of applicant may not be eligible for the Housing Register;
  - i. Persons subject to immigration control (except those in classes prescribed by the Secretary of State as being eligible for an allocation of housing)
  - ii. Persons not habitually resident in the Common Travel Area (i.e. the U.K., Channel Islands, Isle of Man and the Irish Republic)

- 5.1.2 Any person making an application who is identified as falling under the Asylum and Immigration Act 1996 will be assessed in accordance with the Act.
- 5.1.3 Eligibility for housing will be determined in accordance with the Allocation of accommodation: guidance for local authorities in England issued by the government under s169 of the Housing Act 1996 Part 6 as amended by the Localism Act 2011.
- 5.1.4 Any other persons the Secretary of State may by regulations prescribe as persons from abroad who are ineligible to be allocated housing by local authorities in England.

## **5.2 Local Connection Eligibility**

- 5.2.1 Any applicant who does not meet one or more of the following local connection eligibility criteria will not be eligible to join the housing register.
- i. Have lived continuously in the Uttlesford District for the last 3 years (time spent away at University or college will count as living continuously within the district providing the applicant had previously lived in the district immediately prior to the start of their course.)
  - ii. Living outside of Uttlesford or within the District for less than 3 years but have immediate family members who have lived in Uttlesford for the last 5 years and from whom they are receiving or giving substantial ongoing support that cannot be provided from outside of the District
  - iii. Living outside of Uttlesford but have been permanently employed in the Uttlesford District for a minimum of 3 years and working at least 24 hours per week
  - iv. Applicants who meet the Right to Move criteria as set out in Appendix III.
  - v. Applicants who are owed a full homelessness duty by Uttlesford District Council under s.193 of Part VII of the Housing Act 1996, as amended and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally
  - vi. Applicants who have been assessed as falling within a reasonable preference category (under 166A (3) of Part 6 of the Housing Act 1996) and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally.

- vii. Applicants who are owed a prevention and/ or relief duty under The Homelessness Reduction Act 2017 and where a Senior Officer has agreed exceptional circumstances resulting in the need for access to social housing locally
  - viii. Care leavers up to the age of 25 who were originally from Uttlesford but were accommodated outside of the district
  - ix. Care Leavers who were placed in Uttlesford for at least 2 years including sometime before they reach the age of 16. They will retain a connection to Uttlesford until they reach the age of 21
  - x. Other special reasons, to be agreed by two Senior Officers at their discretion, for example where an applicant has no safe connection to another area due to domestic abuse
- 5.2.2 The following categories of person will be exempt from local connection criteria:-
- i. Existing social housing tenants residing in the Uttlesford District
  - ii. Applicants who are serving members of the regular forces or who have served in the regular forces, if the application is made within five years of their date of discharge.
  - iii. Applicants who have recently ceased or will cease to be entitled to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where:-
    - the spouse or civil partner has served in the regular forces; and
    - their death was attributable (wholly or partly) to that service
    - Is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service and the application is made within five years of discharge.

### **5.3 Financial Eligibility**

- 5.3.1 Any homeseekers who in the opinion of the Council has sufficient funds including: annual income, residential property equity, savings, or other assets to enable them to meet their own housing costs by open market purchase or open market renting will be ineligible to join the housing register.



- 5.3.2 Any lump sums received as compensation for injury or disability sustained on active service by either, members of the Armed Forces, former Service personnel, bereaved spouses and civil partners of members of the Regular Forces, or serving or former members of the Reserve Forces, will be disregarded from this criterion
- 5.3.3 Owner Occupiers, or other applicants who are financially ineligible to join the housing register, will be eligible to join if they qualify for sheltered housing.

#### **5.4 Housing Related Debt Eligibility**

- 5.4.1 Applicants with housing related debt will generally not be eligible to join the housing register if they are not addressing the debt. Housing related debt includes rent arrears to the Council, RP, other local authority or private landlord, also Council Tax and any monies given through the Councils Rent Deposit Guarantee Scheme.
- 5.4.2 When a financial assessment carried out by the Council shows that the debt cannot be cleared immediately then a realistic and affordable repayment arrangement should be agreed to clear the debt.
- 5.4.3 Applicants will become eligible to join the register if they have an agreed repayment plan in place and have made regular payments for at least 12 months or the debt has been cleared in full.
- 5.4.4 Council and RP tenants who have been accepted onto the housing register but have rent arrears on their current property will not be offered another tenancy until all rent arrears have been cleared in full.
- 5.4.5 Accepted homeless applicants who have rent arrears on their current temporary accommodation will not be offered accommodation that would discharge the Council's homelessness duty until the rent arrears are cleared in full.
- 5.4.6 Housing Associations may also hold their own policy on debt.
- 5.4.7 All cases of housing related debt will be considered on an individual basis taking account of all the information provided by all interested parties. All exceptions to the above Policy criteria on debt are to be agreed by two Senior Officers.

#### **5.5 Exclusions from the Housing Register**

5.5.1 The Council may exclude someone from the register if it considers it proportionate and reasonable to do so as a result of unacceptable behaviour. The Council will take into account all relevant factors such as health, dependants and the individual circumstances of the applicant when making these decisions. The decision to exclude someone from the housing register will in the first instance be made by the Housing Options Team Leader.

## **5.6 Unacceptable Behaviour**

5.6.1 "Unacceptable behaviour" " is defined as behaviour, which would, if the person was either a secure tenant or a member of a secure tenants household, entitle a landlord to a possession order under any of grounds 1 to 7 of HA 1985 sch 2."

5.6.2 If an applicant who has previously been refused an application onto the housing register because of unacceptable behaviour and considers that their unacceptable behaviour should no longer be held against them they can complete a new application from.

5.6.3 When making decisions regarding unacceptable behaviour Uttlesford District Council will consider:

- i. If the applicant (or a member of their household) has been guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant.
- ii. When the unacceptable behaviour took place. Consideration will be given to the length of time that has elapsed, this will be a minimum of two years and whether there has been any change in circumstances.
- iii. What action the landlord would have taken against the perpetrator of the unacceptable behaviour. The behaviour must be serious enough for the landlord to be granted a possession order as detailed above.
- iv. Whether the behaviour is serious enough to make the applicant unsuitable as a tenant.
- v. If the applicant or any member of their household is subject to an Anti-Social Behaviour Order an Acceptable Behaviour Contract or any similar penalty introduced by the ASB and Crime and Policing Act 2014 or any relevant legislation.

5.6.4 The Council may decide to exclude existing applicants from the register where they become aware of unacceptable behaviour that would make them unsuitable to be a tenant.

5.6.5 All decisions made by the Council in relation to excluding applicants from the housing register are subject to review if requested by the applicant (see 16).

## **5.7 Notifying an ineligible applicant**

5.7.1 Applications from ineligible applicants will not be registered. The applicant will be notified in writing of the decision and the reasons for the decision will be explained to them.

## **6. Application to the Housing Register**

### **6.1 Advice and Information**

6.1.1 The Council will ensure that advice and information is available free of charge to persons in the District about the right to make an application for housing.

6.1.2 The advice and information can be provided by the Council on the phone, by letter/e-mail or in person at the Council Offices. Applicants may also seek advice from other agencies such as the Citizens Advice Bureau.

6.1.3 Applicants will be required to complete an on-line application form for inclusion on the Housing Register and to provide supporting documentation as the Council deems appropriate to allow an assessment of their entitlement to housing accommodation to be made.

### **6.2 Joint Applicants**

6.2.1 Applicants may be a joint applicant with another person although for a joint application, both applicants must be eligible under this policy, except for the local connection criteria where only one of joint applicants needs to meet the criteria.

### **6.3 Definition of a household**

6.3.1 Applicants should only include persons on their application who are established members of their household and who will be occupying the accommodation as their only principal home.

6.3.2 Non-dependent adults will not be considered as part of the household. Unless they have had continuous recorded residence with the applicant, except whilst in further education.

6.3.3 Applicants with a shared residence order or staying contact for children are not automatically entitled to bedrooms for their children. The general principle is that a child needs one home of an adequate size, and that the council will not accept responsibility for providing a second home for children. The council will make an assessment based on the individual circumstances.

#### **6.4 Documents**

6.4.1 As part of the application process, applicants will be asked to provide the following documentation:

- i. Photographic proof of their identity or a full birth certificate for all those included on their application
- ii. Proof of immigration status for all those included on the application
- iii. Proof of current address
- iv. Proof of meeting the local connection residency criteria
- v. Proof of dependency responsibilities anyone living with them
- vi. Proof of income, including bank statements for all accounts held
- vii. Proof of savings for all accounts held
- viii. Details relating to previous accommodation where appropriate

6.4.2 We may require additional information according to an applicant's circumstances and may sometimes need to contact third parties to verify the information that the applicant has given us. By completing the application form applicants, as detailed on the form, are giving consent for us to do this.

6.4.3 If all the required supporting documents are not received within 28 days the application will be cancelled.

6.4.4 If assistance is needed in making an application to the Housing Register help will be available from the Housing Services Department.

## 6.5 User guide

6.5.1 When an applicant has been found to be eligible to join the Register, we will assess their application and they will receive a letter of confirmation and access to an on-line Scheme User Guide which will tell them:

- i. Their HomeOption identification number;
- ii. The Band that their application has been placed in and the date from which this takes effect
- iii. The size of home for which they are eligible
- iv. Details of how they can register interest for a home under CBL

**6.5.2 If from an application form we have identified that an applicant may need assistance with using the Scheme we will add their name to a database of applicants for whom assistance with making expressions of interest is offered. Applicants can be added to this list at any time upon their request.**

6.5.3 A printed version of the User Guide can be provided on request.

## 6.6 Renewal of applications

6.6.1 In order to keep the Housing Register up to date, applicants will be required to renew their application, this will normally be on the anniversary of their application. Applicants will be prompted to renew their application when they log on to the HomeOption website. They will also be sent an email to the email address supplied on their application or a letter to the address registered on the application.

6.6.2 If an applicant fails to renew their application within 28 days from the date they received a communication to say that renewal is due, they will be deleted from the Housing Register without further notification.

## 6.7 Cancelling an application

6.7.1 We will only cancel an application if:

- i. The applicant has written to us to ask us to cancel it, or

- ii. The applicant has not responded to the renewal requests (see paragraph 6.6 above) or
- iii. The applicant has accepted an offer of accommodation through HomeOption.
- iv. The applicant has ceased to be eligible (see paragraph 5 above), or
- v. The applicant has made false or deliberately misleading statements in connection with their application (see paragraphs 18 below)
- vi. The applicant has not provided documentary proofs for their application within 28 days of completing the on-line form

## **7. Access to Information**

7.1 Upon written request, an applicant, will be able to;

- i. receive a copy of their details entered on the Housing Register free of charge
- ii. receive copies of documents provided by them
- iii. have access to their file in accordance with the provisions of the Data Protection Act 1998
- iv. ask for a formal review of any decisions about the facts of their case
- v. be informed in writing of any decision about the facts of their case and of their right to request a review of any such decision
- vi. receive general information to enable an applicant to assess;
  - how their application is likely to be treated
  - whether accommodation appropriate to their needs is likely to be available and, if so, when

## **8. Assessment of Housing Need and Allocation of Properties**

8.1 Assessing Housing Need

- 8.1.1 Applicants housing circumstances are assessed on their individual circumstances and their application placed in one of five Bands. These Bands ensure that we give greatest priority to those in the greatest housing need, so that we make the most effective use of available homes. The law also requires us to give preference to certain categories of housing need, and these have been included within the banding priority criteria.
- 8.1.2 Band A is considered the highest priority of housing need, Band B the next highest etc., with Band E being the lowest priority.
- 8.1.3 Within each Band, the applicant with the greatest priority is the applicant who has spent the longest time in that band.
- 8.1.4 Some allocations will be dealt with outside the scheme; these are explained in paragraphs 2.3 and 3.2.
- 8.1.5 Where an applicant or one of joint applicants is a tenant of the Council at the time of the application then the property subject to that tenancy will be inspected by the Council to ensure compliance with the terms of the tenancy agreement before the application is processed.
- 8.1.6 Further details of how each band has been assessed is provided below:

### **The Band Criteria**

#### **8.1.6.1 BAND A**

Applicants meet at least one of the following criteria

- i. Accepted Homeless in severe need
- ii. Critical Medical/Welfare award – to include emergency situations
- iii. Relationship breakdowns in council properties where applicants are under-occupying but have been assessed as having housing need within Uttlesford
- iv. Successor tenants in council properties where applicants are under-occupying
- v. Releasing a property in need (council or RP property that the Council has nominations rights to) or where it prevents the Council making expensive alterations to a property



- vi. Those applicants within Uttlesford required to leave their homes as a result of an emergency prohibition order served in relation to the premises under the Housing Act 2004
- vii. Uttlesford Council tenants, or tenants in RP property where the Council will receive the nomination, who are currently in accommodation larger than their needs(Uttlesford tenants may be eligible for removal expenses grant see paragraph 9.21 below)
- viii. Multiple needs - If someone has two or more needs in band B they will be moved to band A (accepted homeless cases do not come under this category – if additional preference is needed for homeless cases they will be assessed as accepted homeless in severe need)

8.1.6.2 High welfare and multiple needs in band A would be expected to express an interest within 4 cycles of available properties otherwise priority may be reduced.

#### 8.1.6.3 **BAND B**

Applicants meet at least one of the following criteria

- i. Serious Medical/Welfare award (If after 6 months applicants have not expressed interest in all suitable advertised properties this award will be reviewed and applicants may be placed in a lower band)
- ii. Social housing tenants living in overcrowded permanent social housing within Uttlesford
- iii. Accepted homeless cases who meet the Allocation's Policy eligibility criteria
- iv. Applicants owed a relief duty under the Homelessness Reduction Act 2017 who are assessed by the council as likely to be in priority need and unintentionally homeless
- v. Nominations from supported housing schemes where the Council has agreed move-on arrangements and the applicant is ready to move on. These applicants will be able to use the CBL scheme for a period of 4 weeks from the date they are placed into this band to express interest in any suitable flatted accommodation. If they have not been successful

after the end of this period they will be made one offer of suitable flatted accommodation which may be either in the private or social sectors which if they refuse will result in them being down banded to a band that reflects their housing need.

- vi. A prohibition order or demolition order has been served, or is about to be served in relation to the applicant's dwelling. This indicates that the property contains one or more category 1 hazards that probably cannot be remedied.
- vii. An improvement notice has been, or is about to be, served in relation to the applicant's dwelling and :-
  - a. The remedies that are needed to reduce the hazard will require the property to be vacated for a significant period of time
  - b. The cost of the remedies are beyond the means of the applicant (where applicable)
  - c. The remedies will make the property unsuitable for occupation by the applicant
- viii. Multiple needs – Applicants with four or more needs in band C will move to band B

#### 8.1.6.4 **BAND C**

Applicants meet at least one of the following criteria

- i. Moderate medical/welfare award
- ii. Notice of Seeking Possession due to expire within 56 days or assessed as being at risk of homelessness within 56 days
- iii. Applicants who are owed the relief duty under the Homelessness Reduction Act 2017 but who are assessed by the council as likely to not be in priority need
- iv. Applicants who are owed the relief duty under the Homelessness Reduction Act 2017 but who are likely to be intentionally homeless

- v. Applicants who following a homelessness application have been deemed by the council to be in priority need but intentionally homeless
- vi. No fixed abode
- vii. Overcrowded in private rented accommodation or social housing outside Uttlesford
- viii. Fixed term licensees
- ix. Shared facilities – not generally applicable for single applicants under 35yrs
- x. Lacking facilities
- xi. A hazard awareness notice has been served in relation to a category 1 or 2 hazard at the applicant's dwelling

and

the remedies that are needed to reduce the hazard will require the property to be vacated for a significant period of time;

or

the cost of the remedies are beyond the means of the applicant (where applicable);

or

the remedies will make the property unsuitable for occupation by the applicant

#### 8.1.6.5 **BAND D**

- i. Applicants assessed as meeting Right to Move criteria who have been placed in one Band higher than their housing need.
- ii. Any applicant subject to the prevention (s.195 (2) or the relief duty (s189(2): S.193B(1).) under the Homelessness Reduction Act 2017 who fails to co-operate as stated in s193B and 193C of the Act will be placed in Band D.

#### 8.1.6.6 **BAND E**

Applicant meets at least one of the following criteria

- i. Caravan or mobile home but no housing need
- ii. Tied accommodation but no housing need
- iii. Applicants who live in a property that is adequate to meet their needs in terms of property type, size and facilities.
- iv. Applicants aged under 35 years who are sharing accommodation
- v. In prison
- vi. A suspended prohibition order or improvement notice has been or will be served by the Environmental Health Department in relation to the applicant's dwelling but the criteria leading to it becoming active are not met by the applicant.
- vii. A hazard awareness notice or improvement notice has been or will be served in relation to the applicant's dwelling but the specified remedies are low cost and straight-forward to achieve.

## 8.2 **Allocation of Properties**

8.2.1 With the exception of those allocations dealt with outside the scheme; these are explained in paragraphs 2.3 and 3.2 properties will be allocated to the applicant who expressed interest in the property, who is in the highest Band and with the earliest priority date within that Band.

8.2.2 At the time of the offer of a property applicants will be asked to provide proof that they continue to meet all eligibility criteria to be included on the housing register

8.2.3 Where two applicants have the same priority date in the Band the property will be allocated to the household who it is judged to have the family composition that makes best use of the accommodation. This will be decided by a Senior Manager and the reasons documented

8.2.4 **Houses** – Transfer applicants and homeseekers who are tenants of RP accommodation within Uttlesford, where UDC has the nomination rights, will be given priority for houses or general needs

bungalows with the same number of bedrooms as their current property ahead of other applicants, even if they are in a lower Band or have a lower priority date (which will be the date of application or date they have been a tenant of the flat for 2 years, whichever is the latter), providing they meet the following criteria:-

- Currently living in a flat or maisonette
- Have lived in the flat for more than 2 years
- Have conducted their current tenancy in a satisfactory manner

For properties larger than one bedroom this will only apply if there are children under 16 within the household.

## **9. Housing Priority**

### **9.1 Deciding who has priority on the register**

9.1.1 Applicants will be placed in the relevant Band defined by their specific circumstances and as assessed by the Housing Options Team with reference to the banding system set out in this policy

### **9.2 Overcrowding**

9.2.1 Homeless applicants placed in temporary accommodation by the council will not be assessed under the criteria for overcrowding.

9.2.2 Applicants will be placed in Band B if they are overcrowded, i.e. lacking one or more bedrooms and are tenants of a Council or Housing Association property where the Council has nomination rights to the RP.

9.2.3 Applicants will be placed in Band C if they are overcrowded in private rented accommodation or living with relatives or friends.

9.2.4 Overcrowded applicants with a local connection to Uttlesford, but living in Council or Housing Association properties outside the District will be in Band C.

9.2.5 Rooms which do not meet the standards for use as living accommodation for one person (the standards are given in the Housing Act 1985 Part X) will not be counted.

9.2.6 If applicants need an extra room for medical or welfare/hardship reasons they will not be considered overcrowded but will be assessed for medical or welfare priority.

- 9.2.7 Overcrowding priority will not be given if someone moved into the applicants' household making them overcrowded. This will be looked at on welfare grounds.
- 9.2.8 Where an applicant is pregnant and the birth of the child will mean that they are entitled to a larger property, the applicant will not receive overcrowding priority until the baby is born.

### **9.3 Children sharing bedrooms**

- 9.3.1 Two children of the same sex are expected to share a bedroom until one of them reaches the age of 16.
- 9.3.2 Two children of the opposite sex are expected to share a bedroom until the oldest is 10 years old.

### **9.4 Applicants without children**

- 9.4.1 Single applicants and couples without children who are living in overcrowded conditions will not be given priority for overcrowding unless they are in self-contained accommodation which is too small, for example a couple in a one person bed-sit. Young adults living with their parents or people temporarily sharing with friends will not get overcrowding priority.

### **9.5 Disrepair, poor design and lack of facilities**

- 9.5.1 Any complaint about poor repair within Council or RP properties must be reported to the applicant's landlord's Repairs service.
- 9.5.2 Applicants living in private sector accommodation in poor condition must be referred to the Council's Environmental Health Department who will assess the situation and then make their recommendations according to the Allocations Scheme.
- 9.5.3 If an applicant lacks facilities such as cooking facilities, washing facilities, toilet facilities or adequate heating they will be placed in Band C.

### **9.6 Sharing with another household**

- 9.6.1 Applicants will be placed in Band C if they share any of the following facilities with either people they are not related to or their family if they are wishing to live separately from them.
- i. living room

- ii. kitchen
- iii. bathroom or toilet.

9.6.2 Single applicants under the age of 35 who are sharing will generally be considered as adequately housed. Consideration will be given for applicants in special circumstances.

## **9.7 People living in mobile homes or caravans**

9.7.1 Applicants living in a caravan, mobile home or houseboat will be placed in band E if there is no other housing need, reflecting parity with other private sector applicants.

9.7.2 It does not matter if the caravan is on a site or not or if they own or rent the property.

9.7.3 If their accommodation lacks facilities or is in poor repair (see paragraph 9.5) they will be placed in band C.

## **9.8 Homelessness**

9.8.1 Accepted homeless households are applicants to whom:

- i. The Council has accepted a duty under Part VII of The Housing Act 1996, as amended by the Homelessness Act 2002 (the duty towards households who are in priority need and unintentionally homeless) **and**
- ii. the council accepts a duty to provide suitable accommodation.

9.8.2 In the first instance the Council will look to discharge its homelessness duty for all accepted homeless applicants within the private rented sector. The Council will ensure that any offer of private rented housing is appropriate to the needs of the household, that the length of any tenancy is a minimum of 12 months and that the property meets the Homelessness (Suitability of Accommodation) (England) Order 2012. An assessment will also be carried out to assess the affordability of the property, including the eligibility to receive Local Housing Allowance/Housing Benefit. The property may be outside the Uttlesford District.

9.8.3 When a private rented property becomes available it will be offered to the accepted homeless applicant for whom the property is suitable and if this is more than one applicant, it will be offered to the applicant with the earliest homelessness application date.



- 9.8.4 Any private rented tenancy that discharges the council's homelessness duty will be for a period of not less than 12 months. If within 2 years, beginning with the date on which the applicant accepts a private rented sector offer, the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and if the applicant is found to be homeless (from the date of the expiry of the termination notice) and did not become homeless intentionally from the private rented accommodation, the Council will accept a homelessness duty regardless of whether the applicant has a priority need.
- 9.8.5 Applicants who meet the Allocation's Policy eligibility criteria will be allowed to make expressions of interest on suitable properties advertised through the CBL system. If after a period of 2 cycles from when the applicant received their S.184 decision letter they have not been suitably accommodated, the Council will express interest on their behalf and make one final offer of suitable flatted accommodation. If this offer is refused, the Council's homelessness duty under the Housing Act 1996 to provide accommodation will be considered to have been discharged.
- 9.8.6 Homelessness applicants who do not meet the Allocation's Policy eligibility criteria but meet the criteria for a Direct Let will be made one final offer of suitable accommodation. If there is more than one homeless case waiting for a direct let then when a property is available it will be offered to the case for whom it is suitable and with the earliest homelessness application date.

## **9.9 Accepted homeless households in severe need**

### **9.9.1 These are applicants to whom:**

- i. the council has accepted a duty under the Homelessness legislation **and**
- ii. they meet the Councils eligibility criteria
- iii. are elderly and vulnerable due to frailty\***or**
- iv. have a terminal or long-term illness **or**
- v. have severe mental health problems, have been unable to cope in temporary accommodation, and have been 'sectioned' or are likely to be admitted under the Mental Health Act **or**
- vi. are permanent wheelchair users **or**

- vii. are council or RSL tenants who have an urgent need to transfer as they are suffering from violence or threats of violence and are considered to be at significant risk

9.9.2 Where the above circumstances apply these applicants will be placed in Band A.

9.9.3 The Council will decide who will be placed in Band A. Recommendations will be made by the Housing Officer dealing with the case because they have the most accurate and up-to-date information on the applicant, due to the investigations carried out before an applicant is accepted as homeless.

9.9.4 \*Elderly non-frail applicants may still be placed in Band A, however clear supporting evidence will be required to support their application.

### **9.11 Failure to Co-operate**

9.11.1 Any applicant subject to the prevention (s.195 (2) or the relief duty (s189(2): S.193B(1).) under the Homelessness Reduction Act 2017 who fails to co-operate as stated in s193B and 193C of the will be placed in Band D.

### **9.12 Assured shorthold tenants under notice**

9.12.1 Assured shorthold tenants who have received a 'Notice Requiring Possession'/ Notice to Quit from their landlord will be placed in Band C if there is 56 days or less before the notice expires.

9.12.2 All applicants will be offered advice regarding their housing options.

### **9.13 Lodger under notice**

9.13.1 This applies to applicants living in the same property as their landlord.

9.13.2 They must be renting a room that is for their own use only, and be paying a market rent.

9.13.3 Proof that notice has been served is required.

9.13.4 They will be placed in Band C if there is 56 days or before the notice expires.

9.13.5 The Council will then check to see whether the notice will be enforced.

#### **9.14 Tenants of tied accommodation under notice**

9.14.1 Tenants in tied accommodation with no need to move will be placed in Band E.

9.14.2 If they have received a legal notice requiring them to leave their accommodation in 56 days or less will be placed in Band C.

#### **9.15 Protected tenants with a possession order**

9.15.1 This applies to a tenant with a 'protected' tenancy (that is a tenancy with protection from eviction, but not an assured shorthold tenancy).

9.12.5 They must have been served with a court order for possession and then will be placed in Band C.

#### **9.16 Fixed-term licensee**

9.16.1 This applies to applicants living in supported housing schemes. Applicants in these schemes will be placed in Band C.

9.16.2 Applicants in supported housing schemes where the Council has agreed move-on arrangements will be placed in Band B if they are judged as ready to move on.

9.16.3 Applicants accepted by the Council as being owed the full homeless duty and in a specialist refuge for victims of domestic abuse will be placed in Band B

#### **9.17 Applicants with no fixed address**

9.17.1 This applies to applicants who have no fixed address.

9.17.2 They will be placed in Band C.

9.17.3 If they are in prison they will be placed in Band E.

#### **9.18 Medical, welfare, hardship and harassment**

9.18.1 Important: priority can only be awarded under **one** heading: medical, welfare, hardship or harassment.

9.18.2 Applicants can be assessed under all headings, but get awarded priority under only one heading.

9.18.3 Any medical or welfare priority can be reassessed if an applicant's circumstances change.

## 9.19 Medical assessments

9.19.1 This applies if an applicant's present housing is detrimental to their health, or if a move to more suitable accommodation would have a positive effect on their health.

9.19.2 Applicants may also be awarded priority if the applicant is asking to be rehoused so they can receive care or specialist support.

9.19.3 Extra information may be sought from private sector landlords, housing officers, GPs, health visitors and other parties.

9.19.4 The table below is used to act as a guide to priority:

Effect of housing on health	Medical Problem			
	Very Serious	Serious	Moderate	Low
Very Serious	Band A	Band B	Band C	No award
Serious	Band B	Band B	Band C	No award
Moderate	Band C	Band C	Band C	No award
Low	No award	No award	No award	No award

9.19.5 Assessments of medical priority of band B or above will be carried out by two senior officers in consultation with any officers with direct knowledge of the applicants and using all information available at the time and using the above guide.

9.19.6 Applicants accepted under Homelessness legislation will not be eligible for medical priority. If a homeless applicant's temporary accommodation is unsuitable on medical grounds the Council will first look to see if alternative temporary accommodation can be found.

9.19.7 Homeless households can be considered through a medical assessment if an extra room is required on medical grounds.

## 9.20 Welfare/Hardship/Harassment assessments

9.20.1 This applies if at least one person in the household is vulnerable and less able to find settled or suitable accommodation.

9.20.2 These people will have a need to move but may not get medical priority because their present housing may be suitable for their needs.

9.20.3 The table below is used to act as a guide to priority:

Need for settled suitable accommodation	Level of Vulnerability		
	High	Medium	Low
High	Band A	Band B	Band C
Medium	Band B	Band B	Band C
Low	Band C	Band C	Band C

9.20.4 Welfare/Hardship/Harassment priority of band B or above will be carried out by two senior officers in consultation with any officers with direct knowledge of the applicants and using all information available at the time and using the above guide.

9.20.5 Homeless applicants will not be looked at under welfare issues. If a homeless applicant's temporary accommodation is unsuitable on welfare grounds the Council will first look to see if alternative temporary accommodation can be found.

9.20.6 If a homeless applicant or household is particularly vulnerable and they may be at significant risk in temporary accommodation the Council can consider the category of 'accepted homeless applicants in particular need' to increase them to band A (see paragraph 9.9).

## 9.21 Tenants with a home that is bigger than they need

9.21.1 This applies to Uttlesford District Council secure tenants or tenants of RPs (where the Council has nomination rights), who are 'under-occupying' their homes and want to move to a smaller property. These applicants are given high priority because it enables a household with high need to move into the freed up larger home.

9.21.2 Applicants who are currently in property larger than their needs will be placed Band A.

9.21.3 Where an Uttlesford District Council tenant is downsizing to a Council or RSL property they may be eligible for a downsizing grant to help with removal costs. For further details please see the Council's Decant Policy.

## 9.22 Applicants offered housing because of the death of an Uttlesford Council secure tenant

9.22.1 This applies if the applicant qualifies to 'succeed' to a tenancy when the tenant dies.

9.22.2 To be a 'successor tenant' the applicant has to meet certain rules – usually must be related to the tenant, or be their partner, and have

lived in the property a certain time. The rules for this are in the tenancy conditions for the property.

9.22.3 If the successor tenant does not need the property because of its size, or the adaptations or services in the property, they may be served a notice seeking possession under Schedule 2, Ground 16 of The Housing Act 1985. This will be served more than six months but less than twelve months after the tenant's death.

9.22.4 Where successor tenants are in a property larger than they need or with major adaptations they do not require they will be placed in band A. They are able to express an interest for suitable properties under the scheme. If they have not expressed an interest within six months of their application their case will be reviewed and the Council may reserve the right to express an interest for them on suitable properties.

### **9.23 Uttlesford Council secure tenants offered housing because of a Relationship breakdown**

9.23.1 This category applies to Uttlesford secure tenants only.

9.23.2 If a joint tenant ends the tenancy when moving out, the property is not automatically offered to the tenant remaining.

9.23.3 Applicants will be placed in Band A when there is a relationship breakdown and the joint tenant moves out and ends the tenancy and the other tenant qualifies to be offered a smaller property.

9.23.4 They will be able to express an interest for properties under the scheme but if they have not expressed an interest within six months of their application their case will be reviewed. The Council reserves the right to express an interest for them on suitable properties.

9.23.5 If a property is then subsequently refused they will have no right to remain in their current property and therefore action will be taken by the council to gain possession of the property.

9.23.6 If an applicant qualifies to be offered the same property we will make them a direct let offer of that property.

### **9.24 Transfers which will release a property that is needed**

9.24.1 Applicants will be placed in Band A of the scheme if they wish to move **and**

- i. the property they would leave is needed to meet the urgent housing needs of another household on the register which otherwise would not be met within a reasonable time **or**
- ii. where it prevents the Council making expensive alterations to the property **and**
- iii. there is not a serious shortage of the types of home they want to move to.

### **9.25 Applicants who have deliberately made their housing situation worse**

9.25.1 The Council will consider whether an applicant has deliberately made their housing situation worse to increase their housing need, and consequently improve their chances of re-housing through the register.

9.25.2 If it is decided that the applicant has made their housing situation worse, they will remain in the band that reflects their housing need in their previous accommodation.

9.25.3 If the applicant was not registered from their previous address, the assessment of housing need will be based on the accommodation occupied before their accommodation changed.

9.25.4 The assessment will be reviewed after 12 months, on request. If the restriction is removed, the application will be placed in the band that reflects current circumstances. Their effective date will be the date they moved to the new band.

### **9.26 Owner-occupiers**

9.26.1 Applicants who previously owned a property and have sold it will be asked to provide proof of the sale and evidence of any proceeds received.

9.26.2 Owner-occupiers will generally not be eligible to join the housing register unless they are able to demonstrate that they are unable to meet their housing needs through their own resources.

9.26.3 Property owners over 60 will be eligible to join the housing register if they can demonstrate a need for sheltered accommodation.

### **9.27 Applicants in 'tied' accommodation which is suitable for their needs**

9.27.1 Applicants are considered to be in tied accommodation if the occupation of their home is essential for the performance of their



duties as an employee. This includes applicants who are accommodated by HM Forces.

9.27.2 Applicants in 'tied' accommodation will be placed in band E. They will be moved to Band C if:

- i. they are six months away from retirement or
- ii. they have received a legally binding notice asking them to leave their accommodation.

## **9.28 Deciding the effective date**

9.28.1 Priority within bands relates to an applicant's effective date. The effective date is usually the date the application is received, except;

- i. Where an applicant is moved from one band to a higher band. Their new effective date will be the date their circumstances changed.
- ii. Where an applicant receives priority on medical or welfare grounds their effective date will be the date the Council receives the required supporting evidence to make this award.
- iii. Where an applicant has been accepted as Homeless their effective date will be the date a relief duty was accepted, unless they already qualify for Band B with an earlier date.

## **9.29 Armed Forces Priority**

9.29.1 Members of the Armed Forces, who are in urgent housing need who fall within one or more of the following criteria, will be placed in one Band higher than their housing need.

- i. Is serving in the regular forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service
- ii. Formerly served in the regular forces where the application is made within 5 years of their date of discharge
- iii. Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service or

- iv. Is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service

9.29.2 For this purpose "the regular forces" and the "reserve forces" have the meanings given by section 374 of the Armed Forces Act 2006(4)

### **9.30 By-passing applications that would otherwise meet eligibility criteria for an offer of accommodation**

The Council reserves the right to by-pass an offer of accommodation while shortlisting applicants in the following circumstances

- i. The property is not in accordance with an applicants assessed medical needs
- ii. Applicant has pets and the property is not suitable or pets are not permitted
- iii. Applicant has housing related debt where an agreed repayment plan has been breached (see 5.4)
- iv. Applicant is a Council or RP tenants with rent arrears (see 5.4)
- v. Council tenants where the condition of their current property is considered to be a breach of their Conditions of Tenancy
- vi. If the applicant does not meet the rules relating to age or household size by the RP advertising the property.
- vii. Other reasons where the Council deem that a sensitive allocation is necessary and this has been agreed by a Senior Manager .
- viii. If the applicant has been offered a property and have not yet refused that offer.
- ix. If the applicant is unable to view or accept the property within the required timescale.
- x. Where the applicant has not notified the Council of a change of circumstances material to their application.

### **9.31 Penalty for refusal of offers of accommodation**

Any applicant (except from existing Council or RP tenants who are under-occupying and wishing to move to smaller accommodation) who refuses 2 offers of accommodation, for properties on which they have expressed interest, within a 6 month period, will have their application e suspended for 12 months.

## **10. Types of Tenancies**

- 10.1 The type of tenancy an applicant will be offered will be in accordance with the Council's tenancy policy or the tenancy policy of the landlord of the property. Tenancy policies will be set having regard to the West Essex Tenancy Strategy.
- 10.2 The Council will offer joint tenancies to adult partners where there is a need for a long term commitment to a joint home, except where one of the prospective joint tenants is excluded from or ineligible to join the housing register.
- 10.3 Generally, homeless applicants residing at homeless accommodation (including the Council's managed short stay accommodation) or bed and breakfast accommodation, if offered Council accommodation, will be offered an Introductory Tenancy followed by secure or flexible tenancy in accordance with the Council's Introductory Tenancy Scheme and Tenancy Policy.

## **11. Tenancy Start Dates**

- 11.1 The Council will allow applicants 7 days to reach a decision whether to accept any Council accommodation they are offered, although we may allow longer having regard to personal circumstances.
- 11.2 Where possible the applicant will be given an opportunity to view the property they are being offered before they have to give the Council a decision.
- 11.3 If the applicant is interested in the tenancy they will either be advised by telephone when the property is ready for letting or receive a formal offer of the tenancy by first class post.
- 11.4 Generally, for properties becoming ready for letting on Friday, the tenancy start date will be the following Monday.

## **12. Redecoration Scheme**

Internal decorations to an Council property are the tenant's responsibility. However, if a property (excluding sheltered accommodation) offered to a housing applicant is, in the view of the inspecting officer, in need of redecoration, a voucher for the purchase of an appropriate amount of paint will be provided.

## **13. Designation of Property Type – Age restrictions**

- 13.1 To make best use of housing stock properties are designated as being either general needs or for older persons or people with disabilities.

13.2 Older person's properties, such as bungalows, will normally be allocated to the following categories of person:-

- i. Those aged 60 or over (55 for some RP accommodation)
- ii. Those under 60 with Band B medical assessment who require this type of accommodation. In these circumstances single people and couples will only be offered 1 bed bungalows and will not generally be able to express interest in general needs properties (unless they have a verified need for a 2-bedroom bungalow).

13.3 In areas of lower demand some bungalows may be advertised without an age restriction, however, in the first instance preference will still be given to applicants over 60 expressing interest.

13.4 General needs properties such as houses or flats will be allocated to persons under 60 unless there are special circumstances which indicate that a particular general needs property is suitable for and applicant who is 60 or over.

#### **14. Allocating Sheltered Housing**

14.1 When allocating sheltered housing the same general principles as for other property types are followed, apart from the following:

- i. An assessment of the applicants suitability and need for support must be completed before any tenancy is offered. If the applicant is considered unsuitable for sheltered accommodation, they will be advised and given advice on homes more suitable to their needs.
- ii. When assessing suitability for sheltered housing applicants will also be given advice about the allocation scheme and how to bid. If an applicant needs help with the process, this will be noted and appropriate arrangements made.
- iii. Applicants must generally be over 60 years of age to be eligible for sheltered housing (over 55 for some RP accommodation)

#### **15. Properties designed or adapted for people with physical disabilities**

15.1 If an applicant needs a home suitable for wheelchair users or needs other specialist adaptations we will usually require an assessment by an Occupational Therapist before an offer can be considered. (Please refer to the Council's Disabled Adaptations Policy)

15.2 Homes particularly designed for, or accessible to, people with disabilities will be advertised as such to help applicants with those needs identify them.

15.3 Properties which have been adapted to a very high standard may not be included in the scheme and may be directly allocated.

## **16. Reviews**

16.1 If an applicant considers they have been unfairly or unreasonably treated having regard to the provisions of the Allocations Scheme they have the right to request a review of their case within 28 days of the decision

16.2 In the first instance, they must appeal in writing to the Housing Options Team Leader and will receive a written response within 10 working days.

16.3 If, having received this response they wish to make a further appeal they can write to the Housing Strategy and Operations Manager who will then review the case.

## **17. Equal Opportunities**

17.1 The Council's allocation scheme will be operated strictly in accordance with Council policy irrespective of an applicant's ethnic origin, race, nationality, colour, religion, gender, sexual orientation, marital status, age or disability.

17.2 The Council will have regard to, and implement, the provisions of the Race Relations Code of Practice in Rented Housing, which it has adopted. The Council will also abide by the Race Relations Act 1976.

17.3 As an aid to ensuring that applicants are not discriminated against on the grounds of race, the Council will monitor the racial origin of:

- i. Applicants on the Housing Register
- ii. Applicants allocated housing
- iii. Applicants offered sheltered accommodation

17.4 The practices and procedures of Housing Services will be monitored by the Head of Service to ensure that they do not discriminate directly or indirectly. Changes will be made if it is established that practices or procedures may be contravening the Equalities Act 2010.

## **18. False and Withheld Information**

18.1 It is an offence for anyone seeking housing assistance from us to give false information or withhold information that may affect their application for housing.

18.2 This could result in:

- i. Criminal prosecution

- ii. Cancelling the applicant's housing register application (see paragraph 6.6 above)
- iii. Possession proceedings for any tenancy an applicant has obtained as a result of giving or withholding false information

18.3 The Council may seek possession of a property under Ground 5 of Schedule 2 of the Housing Act 1985 if a tenant has induced the Council to grant a tenancy by knowingly or recklessly making a false statement. The Council can prosecute and fine up to £5,000 if found guilty.

## **19. Information on the Allocations Scheme**

19.1 The Council will:-

- i. Publish a summary of its Allocations Scheme in a leaflet and provide copies free of charge on request to any member of the public
- ii. Provide copies of the Allocations Scheme free of charge at Housing Services, Council Offices, Saffron Walden
- iii. Enable copies of the Allocations Scheme to be downloaded on the Internet from the Council's web-site: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)

19.2 Within a reasonable period of time, the Council will notify applicants on the Housing Register of an alteration to the Allocations Scheme reflecting a major change of policy, explaining in general terms the effect of the change.

## **20. Review of Allocations Scheme**

The Allocations Scheme will be reviewed periodically by the Council's Housing Board and any recommended changes agreed by the Council's Cabinet.

## **21. Consultation on Changes to the Allocations Scheme**

Before adopting a new Allocations Scheme or making an alteration reflecting a major change of policy in an existing Allocations Scheme, the Council will notify every RP with which it has nomination arrangements of the change, and all local Councils affording them a reasonable opportunity to comment on the proposals.

## **Data Protection Act**

The information you provide may be put on a computer system registered under the current Data Protection law. It may be checked with other information or data held by the Council. It may be disclosed for the purposes as described on the Register Entry

in the Council's Data Protection Register. We may also share data with other agencies for the prevention and detection of crime.

**IF YOU REQUIRE THIS INFORMATION LEAFLET IN AN ALTERNATIVE  
FORMAT AND OR LANGUAGE PLEASE CONTACT HOUSING SERVICES ON  
01799 510510**

Housing Services  
Uttlesford District Council  
Council Offices  
London Road  
Saffron Walden  
CB11 4 ER

Telephone: 01799 510510  
Email: [uconnect@uttlesford.gov.uk](mailto:uconnect@uttlesford.gov.uk)  
Website: [www.uttlesford.gov.uk](http://www.uttlesford.gov.uk)



## Appendix I

**For General Needs Accommodation, the number of bedrooms that working age applicants are eligible to express interest in, will be in line with the prevailing Housing Benefit Regulations on size criteria.**

### Size of Accommodation Allocated – working age applicants

Household Size	Number of rooms
1 adult	Bedsit/ 1 bedroom
2 adults living together as a couple	1 bedroom
1 adult (2 adults living together as a couple) expecting baby and the pregnancy is over 24 weeks	2 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 1 child* - 2 children* of different sexes where neither child is over 10 years of age - 2 children* of the same sex up until the eldest child is 16 years of age	2 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 2 children* of different sexes where the oldest child is over 10 years of age - 2 children* of the same sex where the eldest child is over 16 years of age - 3 children* - 4 children* regardless of sex up until the eldest child is 16 years of age	3 bedrooms
1 adult (or 2 adults living together as a couple) with either: - 4 children* where 1 child is over 16 years of age - 5 or more children*	4 bedrooms

**\*Parents with 'staying access' to dependent children or shared residence orders** - Applicants with a shared residence order or staying access for children are not automatically entitled to bedrooms for their children. The general principle is that a child needs one home of an adequate size, and that the council will not accept responsibility for providing a second home for children. The council will make an assessment based on the individual circumstances.

**Single applicants or couples where one is over 60 years of age will be eligible to express interest in 1 or 2 bedroom designated older persons accommodation.**

## Appendix II

### Local Lettings Plans

A Local Letting Plan is an arrangement for the allocation of properties to meet the specific needs of a locality in response to results of a housing needs survey..

### Rural Housing – Exception site

When vacancies arise in properties that have been built in rural localities (rural exception sites) and a planning obligation specifies a local connection requirement, this takes precedence over the local connection eligibility in 5.2. This means that households wishing to apply for housing on an exception site who fulfil the local connection requirement set out in a planning obligation, but not the eligibility criteria in 5.2, will be eligible to join the housing register but **only** for this specific development site.

The local connection criteria for rural exception sites will be as follows and in the following order of priority

1. Persons who have been permanently resident in the specified parish for at least two years
2. Persons who are no longer resident in the specified parish but who have been resident for at least three years during the past five years
3. Persons who meet either of the following criteria
  - i. in permanent employment in the specified parish for a minimum of 2 years and working at least 24 hours per week
  - ii. having close relatives (i.e. parents, grandparents, children, brother or sister) living in the specified parish or parishes who have lived there for at least five years
4. If there are no persons meeting the criteria in 1 to 3 then the cascade above will be applied to any neighbouring parishes identified in relevant clauses in the planning agreement
5. In the event that it is still not possible to allocate a property to applicants who meet criteria 1 to 4 above then the property may be allocated to applicants who meet the local connection requirements who will under-occupy the property, providing that the under-occupancy created does not exceed one bedroom
6. In the event that it is still not possible to allocate a property to applicants who meet criteria 1 to 5 above then the property may be allocated to applicants who meet the Uttlesford eligibility criteria set out in Section 5.2.1

7. In the exceptional event that the council is unable to nominate any persons from its Housing Register who comply with 1 to 6 above, the Registered Provider would offer tenancies to Eligible Persons, the definition of which would be consistent with both the council's local connection criteria and the occupancy requirements. The priority when offering tenancies to Eligible Persons would mirror the council's policies on Allocation of Properties.

The council will select nominations which meet the criteria set out in 1 to 6 in the priority order of their local connection and then on the basis of their housing need and then the date that their housing need priority was awarded.

The age criteria (Section 13) may be waived for suitable properties to allow older people to remain in a village.

### **Rural Housing – Non exception site**

Requiring applicants to have a connection with the locality may also be considered by the Council, on a proportion of the affordable housing provision, on any site subject to the terms of a planning obligation where a local need can be demonstrated through a housing needs survey, no more than three years old at the time of the submission of the planning application.. To be eligible for an allocation on these sites applicants must be assessed as having a housing need by being in Bands A – D of the allocation policy.

### **Sustainable Communities**

In exceptional circumstances, the council may decide to let properties on a slightly different basis from normal, in the interests of building a strong and sustainable community or to deal with particular local issues. The decision to apply such criteria will be jointly made by the landlord of the property and the council.

On new developments, the Council and the landlord may consider widening the eligible bands for home types on first lettings, again taking equal opportunities and legal issues into account

## Appendix III

### Right to Move Guidance

The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015 states that local authorities cannot decide that a person does not qualify for an allocation of accommodation on the grounds that the applicant does not have a local connection with the area if the applicant is a tenant of social housing and who needs to move to take up a job or live closer to employment or training (including apprenticeships).

A local connection requirement must **not** be applied to existing social tenants seeking to transfer from another local authority district in England who:

- have reasonable preference under s.166(3)(e) because of a need to move to the local authority's district to avoid hardship, and
- need to move because the tenant works in the district, or
- need to move to take up an offer of work

The applicant must demonstrate that they **need**, rather than wish, to move, for work related reasons. In this regard the following factors will be taken into account:

- the distance and/or time taken to travel between work and home
- the availability and affordability of transport, taking into account level of earnings
- the nature of the work and whether similar opportunities are available closer to home
- other personal factors, such as medical conditions and child care, which would be affected if the tenant could not move
- the length of the work contract
- whether failure to move would result in the loss of an opportunity to improve their employment circumstances or prospects, for example, by taking up a better job, a promotion, or an apprenticeship

This is not an exhaustive list, other local circumstances may be taken into consideration.

### The following forms of work are excluded from the Right to Move

#### Short-term

In determining whether work is short-term the following factors will be taken into consideration

- whether the work is regular or intermittent
- the period of employment and whether or not work was intended to be short-term or long-term at the outset
- A contract of employment that was intended to last for less than 12 months could be considered to be short-term

## Marginal

In determining whether work is marginal the following factors will be taken into consideration

- the number of hours worked (employment of less than 16 hours a week could be considered to be marginal in nature)
- the level of earnings

However Uttlesford District Council may take into account, for example, if a tenant only works 15 hours a week but they can demonstrate that the work is regular and the remuneration is substantial.

## Ancillary

- If a person works occasionally in the local authority's district, even if the pattern of work is regular, but their main place of work is in a different local authority's district, the work is excluded from the regulations
- If the tenant is expected to return to work in the original local authority district. If a local authority has reason to believe this is the case, they should seek verification from the tenant's employer
- A person who seeks to move into a local authority to be closer to work in a neighbouring authority – for example, where the transport links are better in the first local authority's area – is also excluded from these regulations.

## Voluntary Work

- Voluntary work means work where no payment is received or the only payment is in respect of any expenses reasonably incurred

## Apprenticeship

- The term 'work' includes an apprenticeship. This is because an apprenticeship normally takes place under an apprenticeship agreement which is an employment contract (specifically a contract of service) *[Why are apprenticeships excluded?]*

## **Verification and evidence**

Uttlesford District Council will require proof that the work or job-offer is genuine and will need to see appropriate documentary evidence, which could include:

- a contract of employment
- wage/salary slips covering a certain period of time, or bank statements (this is likely to be particularly relevant in the case of zero-hours contracts)
- tax and benefits information – e.g. proof that the applicant is in receipt of working tax credit (if eligible)
- a formal offer letter
- additionally, the employer may be contacted to verify the position *[Do we need to write in that applicants may be required to sign an authority to enable the employers to provide information regarding employment?]*

**Uttlesford District Council may consider whether an applicant qualifies both at the time of the initial application and when considering making an allocation.**

A set quota which the Council feels appropriate for the proportion of properties that it expects to allocate each year to transferring tenants who need to move into their district for work related reasons is 1%. However this will be reviewed and revised as appropriate based upon supply and demand through monitoring channels.

**Applicants who meet the criteria for Right to Move will be placed in one and higher than their housing need.**

**ANNEX 5**

**UDC FIRST HOMES PLANNING ADVICE NOTE**





**UTTLESFORD DISTRICT COUNCIL**

**FIRST HOMES  
PLANNING ADVICE  
NOTICE  
2022**



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## 1. BACKGROUND

1.1 On 24th May 2021, the Government published a Written Ministerial Statement<sup>1</sup> that set out plans for delivery of a new type of affordable home ownership product called First Homes. To support the future development of First Homes, the Government also set out changes to national planning policy.<sup>2</sup>

1.2 First Homes are a specific kind of discounted market sale housing which must:

- be discounted by a minimum of 30% against the market value; and
- can only be sold to a person or persons meeting the First Homes eligibility criteria (see below); and
- after the discount has been applied, the first sale must be at a price no higher than £250,000 outside of London; and
- on the first sale, a First Home will have a restriction registered on the title of the property at HM Land Registry to ensure the discount (percentage of current market value) and certain other restrictions are passed on at each subsequent title transfer.

1.3 This is the minimum criteria a First Home must meet and would be considered to meet the definition of 'affordable housing' for planning purposes.

1.4 The national eligibility criteria for purchasers of First Homes includes the following:

- a purchaser (or, if joint purchase, all the purchasers) of a First Home should be a first-time buyer<sup>3</sup>;
- and purchasers of First Homes, whether individuals, couples or group purchasers should have a combined annual household income not exceeding £80,000 in the tax year immediately preceding the year of purchase.
- and a purchaser of a First Home should have a mortgage or home purchase plan (if required to comply with Islamic Law) to fund a minimum of 50% of the discounted purchase price.
- and the First Home must be the buyer's main residence with restrictions on lettings being applied.

1.5 The First Homes Written Ministerial Statement does give local authorities or neighbourhood planning groups discretion to:

- Require a higher minimum discount of either 40% or 50% if they can demonstrate a need for this.
- Set lower price caps if they can demonstrate a need for this.
- Apply time limited eligibility criteria in addition to the national criteria described above, for example a local connection test, or criteria based on employment status.

1.6 First Homes are the Government's preferred discounted market tenure and should account for a minimum 25% of affordable housing secured through planning obligations.

1.7 Uttlesford District Council requires the provision of 40% of the total number

of residential units to meet the national definition of 'affordable housing' within all new residential developments that comprise 15 or more residential units or a site of 0.5 hectares and above.

1.8 To meet housing need the 40% affordable housing policy requirement must incorporate 70% affordable housing for rent, provided as either social or affordable rented housing. The remaining 30% required to meet demand for affordable home ownership and comply with national planning policy, which requires that at least 10% of homes should be available for affordable homes ownership. It was assumed to be provided as shared ownership housing where buyers purchase a share in a home and pay a below market rent on the share that they do not own.

1.9 The First Homes Written Ministerial Statement also introduced a First Homes exceptions site policy to encourage First Homes-led development on land that is not currently allocated for housing, replacing the entry-level exception site policy.

1.10 First Homes exception sites should be on land which is not already allocated for housing and should:

- a) comprise First Homes (as defined in the Written Ministerial Statement); and
- b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework<sup>4</sup>, and comply with any local design policies and standards.

1.11 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion.





## 2. PURPOSE

2.1 The purpose of this advice note is to:

2.1.1. Clarify what a policy compliant affordable housing requirement on developments of 15 or more dwellings or a site of 0.5 hectares and above is following the implementation of the First Homes Written Ministerial Statement.

2.1.2 Set out the Council's position regarding those elements of the National criteria that can be amended by local authorities relating to the homes and purchasers of First Homes.

2.1.3 Clarify the Council's interpretation and position regarding the terms 'proportionate to the settlement' and 'small proportion of market homes' in relation to First Homes exceptions sites.

2.2 This Planning Advice Note will be reviewed in line with the review of the Local Plan, which is currently being undertaken to enable the new Local Plan to be adopted in 2024.

## 3. POLICY COMPLIANT AFFORDABLE HOUSING MIX

3.1 A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes, subject to the transitional arrangements (see below).

3.2 Once a minimum of 25% of First Homes has been accounted for, social rent should be delivered in the same percentage as set out in the Local Plan.

3.3 The remainder of the affordable housing tenures should be delivered in line with the proportions set out in Local Plan policy.

3.4 The First Homes Planning Practice Guidance states that a policy compliant planning application should seek to capture the same amount of value as would be captured under a local authority's up-to-date published policy. It sets out that where a plan viability assessment shows the amount of value captured, this allows the total value captured under the policy to be calculated. This value can then be reallocated to a different affordable housing mix under the new policy<sup>5</sup>.

3.5 Currently the 40% affordable housing policy requirement consists of 70% affordable housing for rent and 30% affordable home ownership – assumed to be provided as shared ownership housing. As the 25% First Homes requirement can be accounted for within the 30% affordable home ownership element of the contribution,

The following affordable housing contribution will be considered policy compliant:

**70% of the affordable units on new residential developments of 15 or more residential units or on a site of 0.5 hectares and above will be required as affordable housing for rent.**

**25% of the affordable units on new residential developments of 15 or more residential units or with a site of 0.5 hectares or more will be required as First Homes.**

**5% of the affordable units on new residential developments of 15 or more residential units or with a site of 0.5 hectares or more will be required as Shared Ownership Housing to continue to meet demand for affordable home ownership homes and from purchasers that do not meet the qualification criteria applied to First Homes.**

3.6 To ensure a compliant planning application captures the same amount of value as would be captured under the Local Plan:

**First Homes will be required at the 30% discount against the market value and the national price cap of £250,000 will apply.**

## 4. LOCAL ELIGIBILITY CRITERIA

4.1 As part of planning obligations secured through section 106 agreements, local authorities can apply eligibility criteria to First Homes in addition to the national criteria described above.

In Uttlesford, the following additional local criteria will apply to all First Homes on initial sales and resales for a period of 3 months from when a home is first marketed:

**Households with an adult that at the time of marketing the First Home lives or works<sup>7</sup> in the Uttlesford district; or**

**Households with an adult that at the time of marketing the First Home is due to commence employment in the Uttlesford district: or**

**Households with an adult that at the time of marketing the First Home has a close family connection to the Uttlesford district (*parents, grandparents, children, siblings*)**

4.2 If a suitable buyer has not reserved a home after 3 months, the eligibility criteria will revert to the national criteria to widen the consumer base.<sup>6</sup>

4.3 In accordance with national Planning Practice Guidance, the local eligibility criteria will be disapplied for all active members of the Armed Forces, divorced/separated spouses or civil partners of current members of the Armed Forces, spouses or civil partners of a deceased member of the armed forces (if their



death was wholly or partly caused by their services) and veterans within 5 years of leaving the armed forces.

## 5. FIRST HOMES EXCEPTIONS SITES

5.1 The First Homes Written Ministerial Statement and associated planning guidance allows for First Homes exceptions sites to come forward on unallocated land outside of a development plan so long as it meets the criteria set out above. As well as being adjacent to existing settlements, the criteria states that these sites must be 'proportionate in size' to the existing settlements.

5.2 National Planning Practice Guidance states that for decision making, what constitutes a proportionate development will vary depending on local circumstances and encourages local authorities to set policies which specify their approach to determining the proportionality of First Homes exceptions site proposals.

5.3 Uttlesford District Council will consider whether First Homes exceptions site proposals are 'proportionate' to an existing settlement as part of the assessment process for each First Homes exception site application which is submitted. In all instances this will not exceed 15 units or 0.5 hectares, and in smaller settlements<sup>7</sup> 15 units is likely to not be proportionate.

5.4 The First Homes exceptions site policy also allows a small proportion of market homes on the site at the local authority's discretion.

5.5 The starting point is that market homes are not required, especially given First Homes are not required to be discounted beyond the 30% minimum, however: Where it can be demonstrated to the satisfaction of the Council that market housing is essential to cross-subsidise the delivery of First Homes on First Homes exceptions sites: the proportion of market housing must not exceed 20% of the total number of homes; and the market and affordable homes must be indistinguishable in design and quality.

5.6 National Planning Policy Guidance allows small quantities of affordable housing products for one or more other form of affordable housing on a proposed First Homes exceptions site where evidence suggests that a significant local need exists. This evidence can be in the form of a local Housing Needs Assessment or the local authority Housing Register.

5.7 As Uttlesford District Council has significant local need for more affordable housing for rent to meet the needs of households on the Council's Housing Register, we expect **at least 25% of First Homes exceptions sites to provide affordable housing for rent to meet the needs of those households in the greatest housing need on the Council's Housing Register.**





## 6. TRANSITIONAL ARRANGEMENTS

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6.1 National Planning Practice Guidance sets out that the First Homes policy requirement does not apply to decision making for the following:

- sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021;
- applications for full or outline planning permission where there has been significant preapplication engagement which are determined before 28 March 2022; and
- sites where neighbourhood plans are adopted/made under the transitional arrangements -submitted for examination before 28 June 2021 or have reached publication stage and subsequently submitted for examination by 28 December 2021.

6.2 These transitional arrangements also apply to permissions and applications for entry-level exception sites.

6.3 The First Homes requirement does not apply to applications made under section 73 of the Town and Country Planning Act 1990 to amend or vary an existing planning permission unless the amendment or variation in question relates to the proposed quantity or tenure mix of affordable housing for the development.

## 7. KEY DOCUMENTS

### **Uttlesford Local Plan (2005)**

7.1 Policies H9, H10 and H11 set out the affordable housing and rural exceptions site policies.

7.2 The Council is in the process of producing a new Local Plan for adoption in 2024.

### **Housing Strategy (2021-2026)**

7.4 The Council's Housing Strategy 2021-2026 establishes the key priorities relating to housing for the Uttlesford district and the actions to be taken to address these priorities.

