

DATE: 31<sup>ST</sup> AUGUST 2018

(1) MEDWAY COUNCIL

and

(2) REDROW HOMES LIMITED

AGREEMENT  
Town and Country Planning Act 1990  
Section 106

Land at Temple Waterfront, Roman Way, Strood Kent

Perry Holmes  
Assistant Director Corporate Services  
Gun Wharf  
Dock Road  
Chatham  
ME4 4TR

Ref: JH/MPL003721  
MC/17/4034

THIS DEED is made the 31<sup>ST</sup> day of AUGUST 2018

## 1 PARTIES

- 1.1 **MEDWAY COUNCIL** ("the Council") whose address is Gun Wharf Dock Road Chatham ME4 4TR ("the Council")
- 1.2 **REDROW HOMES LIMITED** (Company Registration No 01990710) whose address is Prince Regent House Quayside, Chatham Kent, ME4 4QZ ("the Owner")  
together ("the Parties")

## 2 DEFINITIONS AND INTERPRETATION

- 2.1 In this Deed the following words and phrases shall have the following meanings:

"Affordable Housing"	means Housing Units including Affordable Rented Housing and Shared Ownership Units which are provided to meet the needs of eligible households whose needs are not met by the market
"the Affordable Housing Land"	means those parts of the Site as identified on the Approved Affordable Housing Plan on which the Affordable Housing Units, associated garden areas and parking spaces are to be provided
"Affordable Housing Plan"	means an outline plan (drawing number 1507-205 rev. 04.02.16 dated January 2015) and scheme (dated 16 February 2016) attached to this Deed at Annex 2 relating to the provision of the Affordable Housing Units within the Development
"the Affordable Housing Price"	means the sum payable to the Owner by the Registered Provider for the Affordable Housing Land which sum shall be calculated as follows: <ol style="list-style-type: none"><li>a) The transfer or lease of the Affordable Housing Land at nil cost; or</li><li>b) The Owner having at its own cost:<ol style="list-style-type: none"><li>i. remediated the Affordable Housing Land in accordance</li></ol></li></ol>

- with all necessary consents and statutory requirements so that the land is suitable for its intended use
- ii. cleared and levelled the Affordable Housing Land
- iii. provided the Affordable Housing Land with all necessary service media for gas telecommunications water foul and surface water drainage highways and electricity to render the said land for use (once developed) for residential purposes and without requiring plant or equipment to provide services; or
- c) the Registered Provider paying for the construction and all associated costs of any Affordable Housing Units which are constructed on the Affordable Housing Land; or
- d) any other reasonable sum as agreed by the Owner and the Registered Provider

“Affordable Housing Units”

means 34 of the Housing Units to be constructed on the Affordable Housing Land as Affordable Housing which shall be more particularly detailed in the Approved Affordable Housing Plan

“Affordable Rented Housing”

means rented housing let by a Registered Provider to households who are eligible for Affordable Housing and which shall be let at up to 80 percent of local market rents including service charge where applicable

“the Approved Affordable Housing Plan”

means the Affordable Housing Plan for the Development approved pursuant to paragraph 1

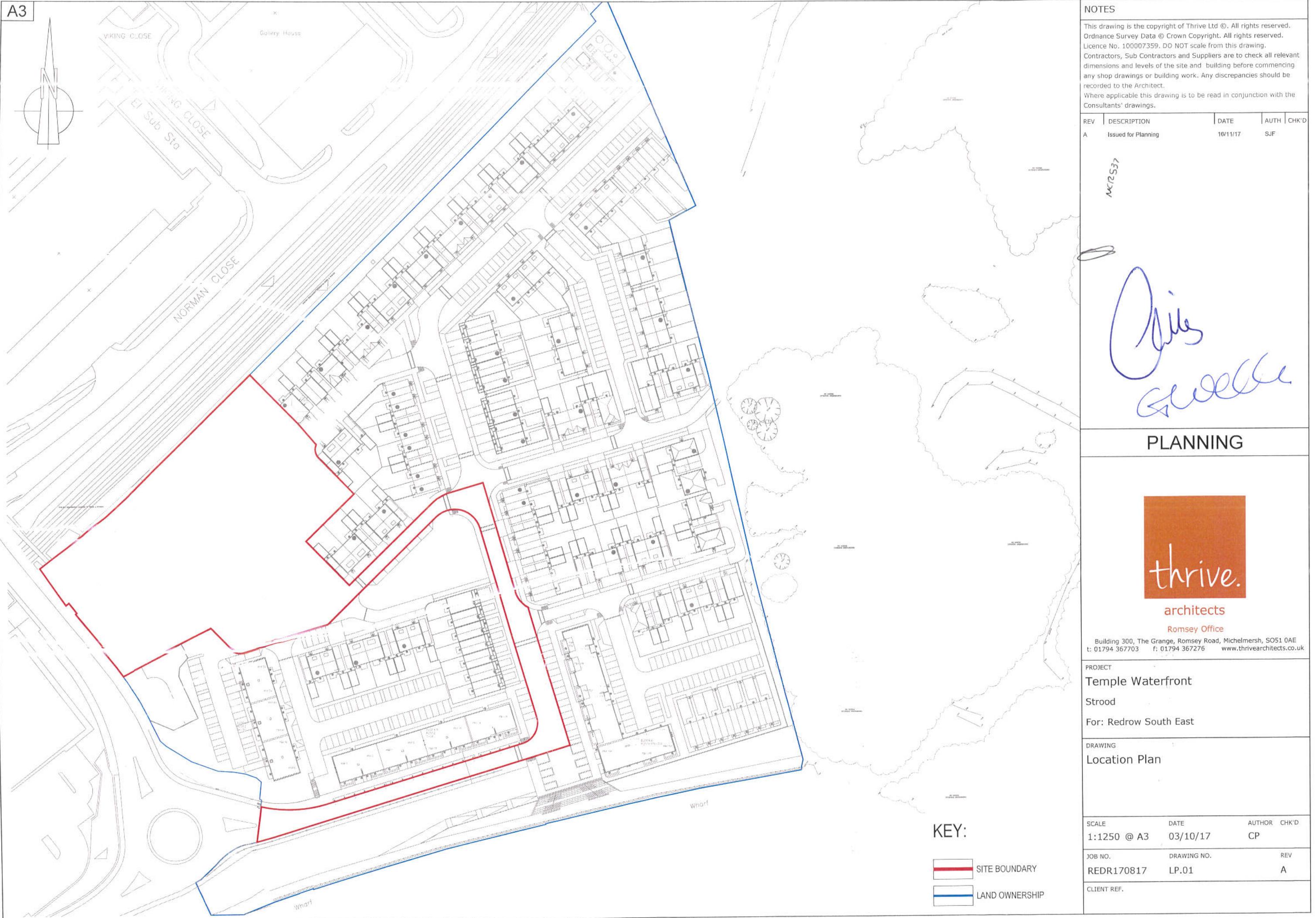
	of the Second Schedule subject to any amendments which may subsequently be approved by the Council subject to paragraph 3 of the Second Schedule
"the Associated Planning Permission"	planning permission issued by the Council pursuant to application MC/16/0600
"the Council's Costs"	means the sum of £2,000 with no VAT being payable being the agreed contribution to the Council's proper and reasonable costs in the preparation execution and registration of this Deed
"Commencement Date"	means the date on which the Commencement of Development occurs
"Commencement of the Development"	means commencement of the Development on the Site by the carrying out of a material operation within the meaning of S56 (4) of the Planning Act but for the purpose of this definition the carrying out of any works of demolition, works of site clearance, ground investigation and site survey works, construction of boundary fencing or hoardings, construction of temporary accesses and/or highway works, archaeological investigation, site decontamination or remediation works landscaping works, laying of sewers and other services creation of site compounds and noise attenuation works shall not be deemed to be the carrying out of a material operation.
"Commencement Notice"	means a notice in the form which is attached to this Deed at Annex 1
"the Contributions"	means the financial contributions set out in the First Schedule
"the Development"	means the development of the Site in accordance with the Planning Permission by construction of four 4-bedroomed dwellings and seven 3-bedroomed dwellings and one four storey apartment block and

	one three storey apartment block comprising twelve 1-bedroomed flats and sixteen 2-bedroomed flats with associated parking, access, landscaping and infrastructure works
“the Disputes Resolution Procedure”	means the procedure referred to and set out in the Fourth Schedule hereto
“the Draft Conditions”	means the draft conditions to be attached to the Permission set out in the Fifth Schedule to this Deed
“First S106 Agreement”	the agreement dated 5 <sup>th</sup> December 2011 made between the (1) Council the (2) Blue Circle Developments Limited (3) Morgan and Company (Strood) Limited in relation to the Original Permission and as varied by deed on the 23 <sup>rd</sup> June 2017 and made between (1) Medway Council (2) Redrow Homes Limited (3) Morgan and Company (Strood) Limited related to the Associated Planning Permission
“Housing Unit”	means a residential dwelling (including any flat) erected on the Site pursuant to the Permission and shall include an Affordable Housing Unit; and “ <b>Housing Units</b> ” shall be construed accordingly
“HRA 2008”	means the Housing and Regeneration Act 2008
“Indexation”	means the increase of any sum in accordance with the formula set out in clause 6.11
“the Inflation Index”	means the “all items” index figure of the Index of Retail Prices published by the Office for National Statistics or such other index as the Council may reasonably nominate in the event that the Index of Retail Prices shall no longer be published or its name or methodology be materially altered
“Monitoring Officer Costs”	means the sum of £7,500.00 being the agreed contribution on the

	Council's proper and reasonable costs in monitoring compliance with the obligations and requirements contained in this Deed to be paid in accordance with clause 5.1.5
"Nominations Agreement"	means the agreement between the Council and the Registered Provider by which the occupation of the Affordable Housing Units is approved by the Council which shall be in a form approved by the Council such approval not to be unreasonably withheld or delayed
"Occupation"	means physical occupation for the intended beneficial purpose but does not include occupation for the purposes of construction fitting-out decoration landscaping marketing sales security or management of any part of the Development and for the avoidance of doubt in the case of a sale of a freehold or a long leasehold interest to a third party Occupation commences on the date of legal completion of the sale rather than exchange of contracts and "Occupy" "Occupier" "Occupiers" and "Occupied" shall be construed accordingly
"Original Planning Permission"	means the Outline Permission reference MC/09/0417
"the Permission"	means the planning permission granted by the Council pursuant to the Planning Application
"the Plan"	means the plan annexed to this Deed
"the Planning Act"	means the Town and Country Planning Act 1990 as amended
"the Planning Application"	means the application for planning permission to carry out the Development on the Site and given reference MC/17/4034
"the Property"	means the Site and the land shown edged blue on the Plan and which is defined as the First Owner Land under the First S106 Agreement

"Private Housing Units"	means the Housing Units forming part of the Development but excluding the Affordable Housing Units
"Registered Provider"	means any body or company accredited by the Homes England; or any person or body or entity which is registered as a provider of social housing in accordance with section 80(2) and chapter 3 of the HRA 2008
"Reserved Matters"	means any permission granted pursuant to matters reserved under the Original Permission
"the Secretary of State"	means the Secretary of State for Communities and Local Government or other minister or other authority for the time being having or entitled to exercise the powers conferred on the Secretary of State for Communities and Local Government by the Planning Act.
"Shared Ownership Unit"	means Affordable Housing Units within the Development which are occupied by persons under shared ownership arrangements as defined by Section 70 (4) of the HRA 2008 where those persons have the opportunity to purchase all or substantially all the equity in the Housing Units at a later date or such other equity sharing or retention terms from time to time approved by the Council
"the Site"	means the land known as Temple Waterfront, Roman Way Strood Kent and more particularly delineated edged red on the attached Plan
"Statutory Undertaker"	has the meaning given such term in the Planning Act and for the avoidance of doubt, shall include any public gas transporter water or sewerage undertaker electricity supplier or public telecommunications operator

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	“Trigger Date”	means each date upon which an event occurs that triggers the payment of any Contribution by the Owner and/or the coming into effect of any other obligation under this Deed
	“Wheelchair Accessible Housing”	means homes built to meet the standards set out in the Second Edition of the Wheelchair Housing Design Guide by Stephen Thorpe and Habinteg Housing Association Limited
2.2	References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council to the body or bodies (as appropriate) having statutory responsibility for the relevant function in replacement for the Council	
2.3	In the absence of any contrary provision any reference to a statute shall include any statutory extension modification or re-enactment of it and any statutory instrument direction order regulation or byelaw made or issued under the statute or deriving validity from it	
2.4	Words importing the masculine gender shall include the feminine gender and the neuter and visa versa	
2.5	Words importing persons include companies, partnerships and corporations and vice versa	
2.6	Unless the context otherwise requires words importing the singular shall include the plural and vice versa	
2.7	Headings are for ease of reference only and shall not be construed as part of this Deed	
2.8	Reference to any recital clause schedule or paragraph or any part thereof shall unless the context otherwise requires be reference to any recital clause schedule or paragraph or any part thereof in this Deed	
2.9	Wherever there is more than one person named as a party or where more than one party undertakes an obligation all their obligations shall be enforceable against all of them jointly and or against each individually	
2.10	Any covenant by a party to this Deed not to do an act or thing shall be deemed to include an obligation not to permit or knowingly suffer such act or thing to be done by any other person	
2.11	The provisions contained in the First Schedule and the Second Schedule shall not bind nor be enforceable against any Statutory Undertaker which acquires an interest in the Site for the purpose of undertaking its statutory functions	

- 2.12 The Affordable Housing provisions in this Agreement shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each hereinafter referred to as "a Receiver")) of the whole of any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
- 2.12.1 Such mortgagee chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses and
- 2.12.2 If such disposal has not completed within the three month period the mortgagee chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the Affordable Housing provisions in this Agreement which provisions shall determine absolutely in relation to those Affordable Housing Units only

### **3 RECITALS**

- 3.1 The Council is the Local Planning Authority for the purpose of the Planning Act for the area in which the Site is situated
- 3.2 The Owner is the freehold owner of the Site and is registered as registered proprietor with title absolute of the Site at the Land Registry under title number TT39637
- 3.3 The Owner hereby declares that as at the date hereof no other person holds a legal interest in the Site.
- 3.4 The Planning Application has been submitted to the Council in relation to the Development
- 3.5 The Council resolved by way of delegated authority to grant the Permission for the Development subject to the completion of this Deed without which the Planning Application would have been refused
- 3.6 The Parties to this Agreement have agreed to enter into it for the purpose of facilitating and regulating the Development and use of the Site
- 3.7 The Site (together with other land) forms part of a larger development site subject of the Original Planning Permission in relation to which the parties entered into the First S106 Agreement. That First S106 Agreement contains planning obligations some of which are duplicated in this Deed and as such obligations performed in pursuance of this Deed shall not be required to be performed as duplicated in the First S106 Agreement in so far as they affect the Property neither shall the obligations performed in pursuance of the First S106 Agreement be required to be performed as

duplicated in this Deed. Provided also that the First S106 Agreement shall apply and have full effect as though this Deed did not exist in the event that the Permission is not implemented by way of Commencement of Development.

#### **4 STATUTORY PROVISIONS**

- 4.1 This Deed is made pursuant to Section 106 of the Planning Act section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and to all other enabling powers to the intent that this Deed shall bind the parties and their heirs and successors assigns and persons claiming through or under them, except as expressly provided for by this Deed
- 4.2 The covenants restrictions and obligations imposed on the Owner contained in this Deed are all planning obligations for the purposes of Section 106 of the Planning Act and are enforceable by the Council as Local Planning Authority against the Owner
- 4.3 The Council's Costs are payable pursuant to Section 106 (1) (d) of the Planning Act
- 4.4 The Owner and the Council agree the need for the planning obligations contained in this Deed both for the benefit of the Development and in the interest of proper planning of the area.
- 4.5 Nothing in this Deed shall be construed as prohibiting limiting or affecting any right to develop any part of the Site in accordance with a planning permission (other than the Permission) granted by the Council or the Secretary of State after the date of this Deed and for the avoidance of doubt any operations works or development in accordance with such a planning permission shall not constitute Commencement of the Development under the terms of this Deed.

#### **5 COVENANTS**

##### **5.1 The Owner's Covenants**

The Owner covenants with the Council:

- 5.1.1 To observe the restrictions and perform the obligations set out in the First Schedule and the Second Schedule
- 5.1.2 To serve a separate Commencement Notice on the Council in relation to and in accordance with each of the following provisions in respect of each phase of the Development:
  - 5.1.2.1 At least 28 days before the Commencement Date, to serve notice of the proposed occurrence of the same
  - 5.1.2.2 Within 14 days of the Commencement of Development to serve notice of the actual Commencement Date of the Commencement of Development
  - 5.1.2.3 Within 14 days of the occurrence of a Trigger Date to serve notice of the date of the relevant Trigger Date and details of the relevant event

5.1.3 To retain such records and information and within 14 days of receipt of a written request by the Council to provide the Council with such records and information as the Council may reasonably request to enable the Council to satisfy itself (acting reasonably) that the Owner is complying with all of its obligations under this Deed and the conditions attached to the Permission

5.1.4 To pay the Council's Costs on completion of this Deed

5.1.5 To pay the Monitoring Officers Costs on completion of this Deed

5.2 The Council's Covenants

The Council covenants with the Owner to perform the obligations set out in the Third Schedule

## 6 DECLARATIONS AND AGREEMENTS

6.1 Effective Date

The covenants contained in this Deed shall take effect on the date of this Deed other than those contained in the First Schedule and paragraphs 3 to 4 inclusive under the heading "General Obligations" of the Third Schedule which shall take effect on the Commencement of Development or as otherwise stated in the aforementioned Schedules

6.2 Liability for Breach

6.2.1 No person shall be liable for a breach of a covenant contained in this Deed after that person has parted with all their interest in the Site or in the part of the Site in respect of which such breach occurs but without prejudice to any subsisting breach of covenant prior to parting with such interest and for the avoidance of doubt neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site as part of any disposal of the Site will constitute an interest for the purposes of this Clause.

6.2.2 No person shall be liable for a breach of a covenant contained in this Deed in so far as the person's interest in the Site is solely comprised in a Housing Unit constructed on the Site which is in private occupation or is a statutory undertaker which has acquired the part of the Application Site for the purpose of constructing or operating facilities which serve the Development or part of it.

6.3 Revocation Modification or Expiry of the Permission

This Deed shall determine and cease to have any further effect if the Permission is revoked or modified by the Council pursuant to the Planning Act or by any Court without the written consent of the Owner or if the Permission expires before the Commencement of Development

6.4 Notices

6.4.1 Any Commencement Notice required under clause 5.1.2 shall be in the form attached to this Deed at Annex 1 and shall be deemed to be served if sent electronically to the address provided on the Commencement Notice or if delivered personally or sent by pre-paid first class recorded delivery or registered post to the address of the Council provided on the Commencement Notice

- 6.4.2 Any other notice consent or approval to be given under this Deed shall be in writing and shall be deemed to be served if delivered personally or sent by pre-paid first class recorded delivery or registered post to the address of the relevant party as described in clause 1 or such other address as shall have been notified in writing to the party giving the notice consent or approval and in the case of a notice to be served on the Council addressed to the Head of Planning quoting reference MC/17/4034
- 6.5 Approvals  
Where any approval consent direction action or authority is required to be given by any of the parties hereto such approval consent direction action or authority shall not be unreasonably delayed or withheld and shall only be effective if given for the purposes of this Deed
- 6.6 Severance  
If any provision in this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed thereby to be affected or impaired
- 6.7 Waiver by the Council  
No waiver (whether express or implied) by the Council of any breach or default by another party in performing or observing any of the terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions which they are entitled to enforce or from acting upon any subsequent breach or default in respect thereto by that party
- 6.8 Registration as a Local Land Charge  
This Deed is a Local Land Charge and shall be registered as such by the Council
- 6.9 Disputes Resolution
- 6.9.1 Any dispute between the parties under the terms of this Deed may be referred to an expert under the Disputes Resolution Procedure
- 6.9.2 The decision of any expert appointed under the Disputes Resolution Procedure shall be final and binding on all of the parties to the dispute except in the case of manifest error
- 6.10 Overdue Payment
- 6.10.1 Payments required to be made under the terms of this Deed shall for the purposes of this clause be deemed to fall due and to be payable on the date specified for payment in the relevant clause or if no date is specified in the relevant clause then such payment shall fall due 21 days after the occurrence of the relevant Trigger Date (in either case the "**Due Date**")
- 6.10.2 In the event of any delay in making the payment required under this Deed interest shall be payable on the amount payable at the rate of four percent above the National Westminster Bank plc base lending rate from time to time in force from the date that the relevant payment falls due to the date of actual payment

**6.11 Indexation and VAT**

6.11.1 Any sums which become payable under this Deed on a date more than twelve months after the date of this Deed by the Owner to the Council other than the Council's Costs and the Monitoring Officer Costs shall be subject to Indexation

6.11.2 Where a sum is subject to Indexation the actual sum due to the Council ("the Indexed Sum") shall be calculated in accordance with the formula:

$$\text{Indexed Sum} = \text{Initial sum} \times \frac{\text{Inflation Index at Due Date}}{\text{Inflation Index at Base Date}}$$

Where:

6.11.2.1 "the Initial Sum" is the original sum specified in this Deed; and

6.11.2.2 "the Base Date" is the date twelve months after the date of this Deed

PROVIDED THAT where payment is not made on the Due Date the provisions of clause 6.10.2 will have effect in relation to the Indexed Sum except where the inflation index at the due date is less than the inflation index at the base date when the sum in question shall not be subject to indexation

6.11.3 All sums due under this Deed are exclusive of VAT and the Owner shall pay to the Council in addition to any such sums any VAT properly payable in respect thereof

**6.12 No Fettering of Discretion**

Except in so far as is legally or equitably permitted nothing in this Deed shall not fetter prejudice or affect the exercise of any statutory or regulatory power duty or discretion of the Council

**6.13 Variation**

No variation or modification of this Deed shall be valid unless made by Deed and executed by the parties or their respective successors

**6.14 Receipt**

The Council acknowledges receipt of the Council's Costs

**6.15 Contracts (Rights of Third Parties) Act 1999**

This Deed is not intended to confer any rights or benefit on a third party pursuant to the Contracts (Rights of Third Parties) Act 1999

**6.16 Planning Permission**

Nothing in this Deed is or amounts to or shall be construed as a planning permission or approval.

**6.17 First S106 Agreement and Original Planning Permission**

It is hereby acknowledged and agreed that:

6.17.1 insofar as the obligations in this Deed are replicated in the First S106 Agreement nothing in this Deed shall require the Parties to perform or otherwise comply with the obligations within this

Deed to the extent that they have been performed or otherwise complied with pursuant to the First S106 Agreement; and

6.17.2 provided that:

6.17.2.1 notice has been given to the Council of the commencement of development under the First S106 Agreement; and

6.17.2.2 notice has not been given to the Council of the Commencement of Development under this Deed

there shall be no Commencement of Development for the purposes of this Deed where works are undertaken expressly and solely in reliance on the Original Planning Permission and/or subsequent Reserved Matters permissions granted even if such works would constitute Commencement of Development under this Deed and the Council acknowledges that no obligations under this Deed shall be enforceable due to the carrying out of such works and for the avoidance of doubt the First S106 Agreement shall continue will full effect

6.17.3 Where notice of Commencement of Development under this Deed has been given in relation to the Permission the above mentioned duplicate obligations shall be required to be performed in accordance with this Deed. The obligations contained in the First S106 Agreement **in respect of the Property only** shall be adjusted accordingly and remain in force only in so far as it relates to the Original Permission and any other Reserved Matters granted thereunder.

6.17.4 **Affordable Housing**

Where notice of Commencement of Development under this Deed has been given in relation to the Permission it is acknowledged that:

6.17.4.1 the Affordable Housing Units provided for under this Deed (being a total of 34 Affordable Housing Units) together with 24 Affordable Housing Units being provided pursuant to the First s106 Agreement shall make up the total requirement of 25% of the Housing Units under the First S106 Agreement and permitted to be constructed on the Property pursuant to the Original Planning Permission and Permission

6.17.4.2 Subject to the exchange of contracts with the Registered Provider for the sale of the Affordable Housing Units under this Deed and the 24 Affordable Housing Units to be constructed on the Property under the First S106 Agreement the Affordable Housing obligation within the First S106 Agreement shall be adjusted to take account of the numbers of Affordable Housing provided herein and for the avoidance of doubt the obligation to provide further Affordable Housing Units under the First S106 Agreement in respect of the Property and this Deed shall be discharged. Any subsequent Reserved Matters Applications under the

Original Permission shall be determined and/or take effect subject to this compliance.

6.17.5

**Financial Contributions**

Where notice of Commencement of Development under this Deed has been given in relation to the Permission it is agreed that the quantum of the financial obligations contained within the First Schedule shall only be assessed in relation to nineteen of the thirty nine Housing Units to be constructed under the Permission. The remaining twenty Housing Units will be subject to the financial obligations contained within the First s.106 Agreement save for the Affordable Housing provisions in the Second Schedule which will be applicable to all thirty four Affordable Housing Units

**IN WITNESS** whereof this Deed has been duly executed as a Deed by the parties the day and year first before written

## FIRST SCHEDULE

The Owner for himself and his successors in title covenants with the Council as follows:

1. To pay the sum of NINE THOUSAND FIVE HUNDRED AND FIFTY TWO POUNDS AND THIRTY ONE PENCE (£9,552.30) to the Council towards Educational facilities to be divided as follows:
  - 1.1 The sum of £1,886.80 towards improving nursery facilities and accessibility at Gordons Primary School
  - 1.2 The sum of £1,925.50 towards improving primary school facilities and accessibility at Gordons Primary School
  - 1.3 The sum of £5,740.00 towards improving sports facilities and accessibility at Strood Academy and/or Sir Joseph Williamson's Mathematical School

In the following instalments:

  - 1.4 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - 1.5 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development
  - 1.6 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development

2. To pay the sum of ONE HUNDRED AND SIXTY EIGHT POUNDS AND EIGHTY SIX PENCE (£168.86) per Housing Unit to the Council towards the provision of waste containment on the Site and residential bins and information to the households in the following instalments:
  - 2.1 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - 2.2 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development
  - 2.3 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development
3. To pay the sum of SIX HUNDRED AND SEVENTEEN POUNDS AND FIVE PENCE (£617.05) per Housing Unit to the Council towards the provision and improvement of health and GP facilities at St Marys Medical Centre Strood in line with their action plan to accommodate new patients in the following instalments:
  - 3.1 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - 3.2 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development
  - 3.3 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development
4. To pay the sum of TWO HUNDRED AND SEVENTY SEVEN POUNDS AND EIGHTY PENCE (£277.80) per Housing Unit to the Council towards Heritage improvements to improve access, signage and the grounds at Temple Manor in the following instalments:
  - 4.1 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - 4.2 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development

- 4.3 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development
5. To pay the sum of ONE HUNDRED AND SEVENTY EIGHT POUNDS AND EIGHTY PENCE (£178.80) per Housing Unit to the Council towards the provision of a new Community Facility and Local Centre in the Strood area in the following instalments:
  - 5.1 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - 5.2 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development
  - 5.3 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development
6. To pay the sum of ONE HUNDRED AND SIXTY ONE POUNDS AND FIFTEEN PENCE (£161.15) per Housing Unit to the Council towards Library facilities within the vicinity of the Site in the following instalments:
  - 6.1 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - 6.2 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development
  - 6.3 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development
7. To pay the sum of TWO THOUSAND FOUR HUNDRED AND EIGHTY NINE POUNDS AND SEVENTY THREE PENCE (£2,489.73) per Housing Unit to the Council towards the creation, maintenance and management of Public Open Space facilities within the Site in the following instalments:
  - a. 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - b. 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development
  - c. 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development
8. To pay the sum of TWO HUNDRED AND THIRTY SEVEN POUNDS AND FIFTY EIGHT PENCE (£237.58) per Housing Unit to the Council towards Sports facilities at Strood Sports Centre in the following instalments:
  - a. 25% of the total sum on or before the first Occupation of 25% of the Housing Units within the Development
  - b. 25% of the total sum on or before the first Occupation of 50% of the Housing Units within the Development
  - c. 50% of the total sum on or before the first Occupation of 75% of the Housing Units within the Development
9. To pay the sum of TWO HUNDRED AND THIRTY NINE POUNDS AND SIXTY ONE PENCE (£239.61) per Housing Unit to the Council towards the provision of migrating bird disturbance mitigation measures within the Strategic Access Management and Monitoring Strategy (SAMMS) prior to the Commencement of Development

## **SECOND SCHEDULE**

### **Affordable Housing**

The Owner covenants with the Council as follows:

1. Prior to the date hereof the Council approved the Affordable Housing Plan which was submitted by the Owner.
2. Prior to the date hereof the Owner has submitted a statement which was approved by the Council detailing how Affordable Housing will be provided in compliance with the Affordable Housing Plan and the Owner shall provide the Affordable Housing in accordance with the statement approved by the Council
3. The Owner may from time to time submit to the Council for its prior written approval revisions to the Approved Affordable Housing Plan.
4. Not to use the Affordable Housing Land except for the provision of the Affordable Housing except that prior to the transfer of the Affordable Housing Land to a Registered Provider in accordance with the terms of this Schedule the Affordable Housing Land may be used as a temporary site compound or landscaping reserve land
5. Not cause or permit the Occupation of any of the Private Housing Units until either
  - a. The Council approves in writing a Registered Provider to undertake the management of the Affordable Housing Units; or
  - b. the Owner informs the Council in writing that a Registered Provider will not undertake the management of the Affordable Housing Units in which case the provisions of Clause 11 of this Schedule shall then apply
6. Where a Registered Provider will undertake the management of the Affordable Housing Units to use reasonable endeavours to enter into a contract with the Registered Provider for the transfer of the Affordable Housing Land at a price equivalent to the Affordable Housing Price
7. To impose an obligation upon the Registered Provider that the Registered Provider shall enter into a Nominations Agreement with the Council
8. Any transfer of the Affordable Housing Land to a Registered Provider shall be with full title guarantee and vacant possession
9. Not to cause or permit the Occupation of more than 60% of the Private Housing Units until either
  - a. a contract for sale has been exchanged with the Registered Provider of the Affordable Housing Land/Affordable Housing Units; or
  - b. where the Owner intends to undertake the long term management of the Affordable Housing Units that party has:
    - i. become a Registered Provider under current procedures pursuant to the Homes England Scheme and produced evidence of this to the Council, and
    - ii. if applicable, entered into a funding agreement with Homes England and provided a copy of the agreement to the Council (if appropriate), and

- iii. entered into a Nominations Agreement with the Council
10. To use reasonable endeavours to procure that of the total number of Affordable Housing Units to be constructed on the Affordable Housing Land shall be as follows:
- |             | Rented Housing | Shared Ownership Units | Total |
|-------------|----------------|------------------------|-------|
| 1 bed flat  | 5              | 6                      | 11    |
| 2 bed flat  | 9              | 8                      | 17    |
| 3 bed house | 2              | 4                      | 6     |
| total       |                |                        |       |
11. Any transfer of the Affordable Housing Land and/or Affordable Housing Units shall ensure that the Affordable Housing Land and/or Affordable Housing Units shall only be used for the purposes of Affordable Housing and in the case of Shared Ownership Units for as long as they remain under shared ownership arrangements and shall contain the following provisions (unless evidence is produced to the Council, to its reasonable satisfaction, that the Registered Provider has agreed otherwise and the Council agrees in writing to the omission):
- a grant to and may reserve from the Registered Provider reasonable pedestrian and vehicle access for ingress to and egress from the Affordable Housing Land together with rights for all necessary services
  - an agreement that all parties shall bear their own costs in relation to the transfer
  - the disposal shall be free of all financial charges and of any restrictive covenants or other third party rights which would prevent the use of the Affordable Housing Land and/or the Affordable Housing Units for the purpose for which it is transferred
  - the disposal shall be subject to the Standard Conditions of Sale (Fifth Edition) or the Standard Commercial Property Conditions (Second Edition) except insofar as they are incompatible with the provisions of this clause or any other express provision of this Deed
  - the transfer shall contain a covenant by the Registered Provider not to use the Affordable Housing Land otherwise than for the purposes of Affordable Housing
- PROVIDED THAT for the avoidance of doubt the Owner may transfer the Affordable Housing to more than one Registered Provider
12. For the purposes of this Second Schedule "transfer" shall include the grant of a long lease for a term of not less than 125 years and in the case of such a leasehold grant to a Registered Provider:
- no ground rent shall therein be reserved other than at the rate of one peppercorn per annum unless the Affordable Housing is in occupation as Shared Ownership Units
  - any service charge payable under the lease shall be no more than a fair and reasonable proportion of the following costs:

- i. repair maintenance and decoration of the structure the exterior or the internal common parts of the building in which the Affordable Housing Units are situate (including any equipment in the common parts such as fire and safety equipment)
  - ii. insurance of the building in which the Affordable Housing Units are situate
  - iii. maintenance of any garden roads access ways footpaths car parks bins stores fences gates and other boundary structures serving the relevant Affordable Housing Units in common with other properties in the vicinity of the relevant Affordable Housing Units
  - iv. other services to be provided by the landlord of the building in which the Affordable Housing Units are situate and which are agreed in writing by the Registered Provider
13. In the event that a Registered Provider has not accepted a commercially viable offer made by the Owner in respect of a transfer of the Affordable Housing Land by no later than one month following occupation of 25% of the Private Housing Units then:
- 13.1 The Owner shall inform in writing the Council of the situation and the Council shall then for a further period of three months use reasonable endeavours to try and resolve the matter and find and recommend a Registered Provider to the Owner PROVIDED ALWAYS that the Council may nominate more than one Registered Provider throughout this period following which the provisions contained in Clause 13.2 shall then apply.
  - 13.2 At the end of the period contained in clause 13.1 if the Council has been able to recommend a Registered Provider or more than one Registered Provider to the Owner then unless a Registered Provider has accepted a commercially viable offer made by the Owner in respect of the transfer of the Affordable Housing Land within one month from the date of the Council's notification to the Owner then the obligations set within this Second Schedule shall no longer apply to the Affordable Housing Land and the Owner will be able to dispose of any Housing Units constructed or to be constructed upon the said land at open market value free from all Affordable Housing obligations.

## **THIRD SCHEDULE**

### **The Council's Covenants General Obligations**

1. To co-operate insofar as is reasonable with the Owner in the performance of the Owners obligations under this Deed
2. Not to use any Contribution other than for the purpose specified in this Deed in relation to that Contribution without the prior written consent of the Owner
3. At the Owner's request to return any part of the Contributions aforesaid which shall not have been used for the purposes set out above within a period of 10 years from the date of the payment of the relevant Contribution together with interest at the base rate prevailing from time to time of the National Westminster Bank plc calculated from the date of receipt of the relevant sum by the Council as evidenced by the Council's official receipt provided that the Council shall not be obliged to return any part of any Contribution which has been spent or contractually committed prior to the date of the Owner request
4. Upon receipt of any Contributions in the First Schedule hereto the Council shall if requested to do so supply (a) its written receipt for the aforesaid Contributions and (b) written confirmation that the relevant obligation(s) for a particular phase of the Development has been satisfied.

## FOURTH SCHEDULE

### Dispute Resolution Procedure

1. General  
All differences and questions that arise between the parties arising out of or connected with this Deed shall be referred to an expert
2. Choice of Expert
  - 2.1 If the difference or question relates to the construction of rights and liabilities of any party or to the terms or conditions to be embodied in any deed or document appertaining thereto it shall be referred to a solicitor or barrister agreed upon by the parties but in default of agreement appointed at the request of any party by or on behalf of the Chairman from time to time of the Bar or any person in an equivalent subsequent role.
  - 2.2 If the difference or question relates to the occupancy of any dwelling it shall be referred to a chartered surveyor agreed upon by the parties but in default of agreement appointed at the request of any party by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors or any person in an equivalent subsequent role.
3. No Further Submissions  
After delivery of counter submissions or (if none) after submission of written submissions no party shall be entitled to make any further submissions and the expert shall forthwith deliberate and deliver to every party to the dispute their decision in writing within a reasonable time of closing submissions or counter submissions
4. Restriction on Terms of Decision  
The expert shall be restricted in settling the dispute to choosing between one of the proposals submitted by the parties or elements compatible with one another from the submissions of different parties to the dispute

## **FIFTH SCHEDULE**

### **The Draft Conditions to be attached to the Permission**

The imposition of the conditions as set out in the draft Planning Decision Reference MC/17/4034 attached to this Deed

## **DRAFT Decision Notice**

MC/17/4034



Mr T Davies  
Planning Potential Ltd.  
Magdalen House  
148 Tooley Street  
London  
SE1 2TU

**Applicant Name:**  
Mr Maskew

Planning Service  
Physical & Cultural Regeneration  
Regeneration, Culture, Environment &  
Transformation  
Gun Wharf  
Dock Road  
Chatham  
Kent  
ME4 4TR  
01634 331700  
01634 331195

[Planning.representations@medway.gov.uk](mailto:Planning.representations@medway.gov.uk)

### **Town and Country Planning Act 1990**

**Location:** Temple Waterfront, Roman Way, Strood, Kent,

**Proposal:** Construction of four 4-bedroomed and seven 3-bedroomed dwellings, one four storey apartment block and one three storey apartment block comprising a total of twelve 1-bedroomed and sixteen 2-bedroomed flats with associated parking, hard and soft landscaping and open space

### **Notification of Grant of Planning Permission to Develop Land.**

Take Notice that the Medway Council in pursuance of its powers under the above Act HAS GRANTED PERMISSION for the development of land as described above in accordance with your application for planning permission received complete on 22 November 2017.

### **SUBJECT TO THE CONDITIONS SPECIFIED HEREUNDER:**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing numbers: FB-A.e1 REV D; FB-A.p1 REV B; FB-A-p2 REV A; FB-B.e1 REV C; FB-B.p1 REV A; FB-B.p2 REV A; BCS.01.pe REV B; BCS.02.pe REV

B; GAR.01.pe REV A; GAR.02.pe REV A; HT.CAMB.pe REV A; HT.DART.pe REV A;  
HT.STRA.pe REV A; HT.WARW.pe REV A; P.29-32.e REV A; P.29-32.p REV A;  
LP.01 REV A; BDML.01 REV A; DML.01 REC C; SE.01 REV B; SL.01 REV D;  
Temple Waterfront Landscape proposals Rev C; DAS-01 201117; amended  
condition letter dated 2nd August 2018.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 No development shall take place until a scheme showing details of the disposal of surface water and foul water, based on sustainable drainage principles, including details of the design, implementation, maintenance and management of the surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:
  - i. a timetable for its implementation, and
  - ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The development shall be implemented in accordance with the approved details and shall thereafter be retained.

Reason: Required before commencement of the development in order to manage surface water during and post construction and for the lifetime of the development in accordance with Paragraph 163 of the NPPF.

- 4 Prior to the first occupation of the development herein approved, full details of both hard and soft landscape works together with a landscape management plan, shall be submitted to and approved in writing by the Local Planning Authority. Soft landscape works shall include details of planting plans, written specifications (including cultivation and other operations associated with grass and plant establishment, aftercare and maintenance); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The development shall be implemented in accordance with the approved details and any trees or plants which within 5 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

The Landscape Management Plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for implementation. The development shall thereafter be implemented in accordance with the approved details.

Reason: To ensure a satisfactory external appearance and provision for landscaping in accordance with Policies BNE1 and BNE6 of the Medway Local Plan 2003.

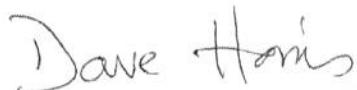
- 5 Prior to the installation of any external lighting on the site, details of such lighting shall be submitted to and approved in writing by the Local Planning Authority. Details shall include height, position, external appearance, any shielding, light intensity, colour, spillage (such as light contour or lux level plans showing the existing and proposed levels) and hours of use together with a report to demonstrate its effect on nearby residential properties, bats (including reference to the recommendations of the Bat Conservation Trust) and of how this effect has been minimised. Any external lighting shall be implemented in accordance with the approved details.

Reason: In order to limit the impact of the lighting on the nearby residents and wildlife and with regard to Policies BNE1, BNE2, BNE5 and BNE39) of the Medway Local Plan 2003.

- 6 Prior to the first occupation of any dwelling and/or building herein approved details of the refuse storage arrangements for the dwelling(s) and/or building(s), including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling and/or building shall be occupied until the approved refuse storage arrangements for that dwelling and/or building are in place and all approved storage arrangements shall thereafter be retained.

Reason: In the interests of visual amenity and to ensure a satisfactory provision for refuse and recycling in accordance with Policy BNE2 of the Medway Local Plan 2003.

**Your attention is drawn to the following informative(s) :-**



David Harris  
Head of Planning  
Date of Notice

**ANNEX 1**  
**Commencement Notice**

To : Medway Council, Section 106/CIL Officer, The Planning Service, Dock Road,  
Chatham, ME4 4TR

Planning application number : MC/ / [to be completed in full]

Section 106 dated: [to be completed in full]

Development Site Address : [to be completed in full]

In accordance with the terms of the above section 106 Agreement, I **GIVE YOU**  
**NOTICE** that the following event has been reached (*please complete as appropriate*)

EITHER:

PRIOR TO COMMENCEMENT OF WORKS ON THE DEVELOPMENT ON SITE (1)

Work is expected to commence on the Development Site on [insert date]

(1) *this notification should be sent at least 28 days prior to commencement of works on the Development Site as required under Clause 5.1.2 of the Section 106 Agreement*

OR

WORKS HAVE COMMENCED ON SITE (2)

Work commenced on the Development Site on [insert date]

(2) *this notification should be sent within 14 days after commencement of works on the Development Site as required under Clause 5.1.2 of the Section 106 Agreement*

OR

A TRIGGER DATE(S) HAS OCCURRED (3)

Obligation type: (insert each obligation)  
e.g. *Education Contribution*

Trigger Date: (insert the date that each obligation was due to be paid or was due to come into effect)

e.g. *1 March 2013*

(3) *this notification should be sent within 14 days after trigger date occurred as required under Clause 5.1.2 of the Section 106 Agreement*

From :

Company :

Address (*required for invoicing*) :

Email address :

*Please send this notification to :*

By email :S106@medway.gov.uk(preferred option)

By post : Section 106/CIL Officer

The Planning Service

Medway Council

Dock Road

Chatham

ME4 4TR

**THE COMMON SEAL of MEDWAY )  
COUNCIL was hereunto affixed to )  
This Deed in the presence of )**

### Authorised Signatory

— 1 —

V. N. WOOD



SIGNED as a DEED by *Chris Liley*  
as attorney for  
**REDROW HOMES LIMITED**  
in the presence of:- .....

as attorney for REDROW HOMES  
LIMITED

Signature of witness .....

*John*  
John Deppes

Name (in BLOCK CAPITALS)

Address..... Prince Regent House, Chatham  
..... Kent ME4 4QZ

SIGNED as a DEED by  
John Weller as attorney for  
REDROW HOMES LIMITED  
in the presence of:-

as attorney for **REDROW HOMES  
LIMITED**

Signature of witness .....

Name (in BLOCK CAPITALS) .....

Address..... **Prince Regent House, Chatham**  
..... **Kent ME4 4QZ**