

DATED 26th September 2013

COTSWOLD DISTRICT COUNCIL

-and-

TENENS EDE TETBURY LIMITED

-and-

TETBURY STEEL LIMITED

-and-

TETBURY STRUCTURES LIMITED

-and-

GLOUCESTERSHIRE COUNTY COUNCIL

-and-

BANK OF SCOTLAND PLC

-and-

MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED

-and-

BARCLAYS BANK PLC

PLANNING OBLIGATION

(By Agreement)

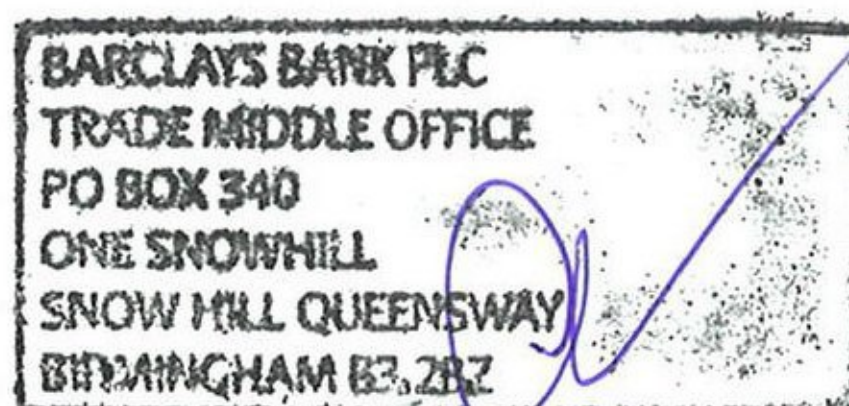
Under Section 106 of the Town and Country
Planning Act 1990 relating to land at Quercus Road, Tetbury, Gloucestershire

MRGI 55033958

THIS PLANNING AGREEMENT is made the 26th day of September
Two thousand and Thirteen

BETWEEN:-

- (1) COTSWOLD DISTRICT COUNCIL of Trinity Road Cirencester Gloucestershire GL7 1PX ("the Council") and
- (2) TENENS EDE (TETBURY) LIMITED (Co Regn No 04682899) whose registered office is situate at Tenens House Kingfisher Business Park London Road Thrupp Stroud Gloucestershire GL5 2BY ("the First Owner")
- (3) TETBURY STEEL LIMITED (Co Regn No 05914810) whose registered office is situate at Care of Graham Wood Structural Limited Chartwell Road Lancing Business Park Lancing West Sussex BN15 8TY ("the Second Owner")
- (4) TETBURY STRUCTURES LIMITED (Co Regn No 5903724) whose registered office is situate at Care of Graham Wood Structural Limited Chartwell Road Lancing Business Park Lancing West Sussex BN15 8TY ("the Third Owner")
- (5) GLOUCESTERSHIRE COUNTY COUNCIL of Shire Hall in the City of Gloucester ("the County Council")
- (6) BANK OF SCOTLAND PLC (Co Regn No SC327000) of The Mound Edinburgh EH1 1YZ ("the Mortgagee")
- (7) MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED of Homelife House 26-32 Oxford Road Bournemouth Dorset BH8 8EZ ("McCarthy & Stone")
- (8) BARCLAYS BANK PLC of (Co Regn No 01026167) whose registered office is situate at Barclays Bank Plc 1 Churchill Place London E14 5HP ("the Bondsman")



WHEREAS:

- (1) The Council is the Local Planning Authority for the purposes of the Act for the District of Cotswold in the County of Gloucester
- (2) The First Owner is the registered proprietor at the Land Registry with freehold title absolute under Title Number GR158793 of part of the Land
- (3) The Second Owner is the registered proprietor at the Land Registry with freehold title absolute of part of the Land being part of the land included within Title Numbers GR18666 and GR315431
- (4) The Third Owner is the registered proprietor at the Land Registry with freehold title absolute of part of the Land being part of the land included within Title Number GR299369
- (5) The Mortgagee has charges dated 7 September 2006, 14 February 2007, 12 November 2007 and 13 March 2009 over the Second Owner's and Third Owner's respective interests in the Land
- (6) McCarthy & Stone has entered into a conditional contract dated 1 March 2013 to purchase the Sheltered Housing Land from the First Owner
- (7) On the 23 April 2012 the Owners submitted the Planning Application to the Council for the Development
- (8) The Owners are willing to enter into this Agreement with the Council in the terms and subject to the conditions hereinafter appearing
- (9) The Council is willing to grant the Planning Permission for the Development provided the Owners covenant in the manner hereinafter provided
- (10) The County Council is:
 - (a) a local planning authority as defined in the Act and the local planning authority for the purposes of planning obligations imposed pursuant to the provisions of Section 106 of the Act; and

- (b) the highway authority for Gloucestershire and is of the opinion that the Highway Contribution is necessary to address the consequences of the Development; and is
 - (c) the Library Authority for the County of Gloucestershire and is of the opinion that the Library Contribution is necessary to address the consequences of the Development; and is
 - (d) satisfied that entry into this agreement is of benefit to the public
- (11) The Bondsman has agreed that in the event of default by the Owners it will provide certain funds in the manner hereinafter appearing.

NOW THIS DEED WITNESSES AND IT IS HEREBY AGREED BETWEEN THE PARTIES as follows:-

1. DEFINITIONS

In this Planning Agreement the following words and expressions shall where the context so requires or admits have the following meaning:

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| 1.1 | "the Act" | means the Town and Country Planning Act 1990 as amended or any other statutory re-enactment or amendment thereto |
| 1.2 | "Affordable Housing Units" | means housing irrespective of tenure or financial arrangements the design and specification of such housing to comply with the Homes and Communities Agency's current Design and Quality Standards or any superseding standards set by the Homes and Communities Agency in force at the date of this Agreement or 12 months before the date of the commencement of construction whichever is |

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| | | the later and "Affordable Housing Unit" shall be construed accordingly |
| 1.3 | "the Appointed RP" | means a Registered Provider (or Registered Providers) which is (or are) willing and able to acquire the Affordable Housing Unit at the Price |
| 1.4 | "the Care Home / Extra Care Land" | means the land shown edged in green on the Care Home / Extra Care Plan |
| 1.5 | "the Care Home / Extra Care Plan" | means the plan attached at Schedule 6 and showing the Care Home / Extra Care Land |
| 1.6 | "the Council" | shall include its successors in function as local planning authority |
| 1.7 | "the Development" | means the development described in the Planning Application |
| 1.8 | "the Director" | means the Commissioning Director, Communities & Infrastructure or such other Chief Officer as shall from time to time be responsible for the highway and transportation function of the Council |
| 1.9 | "the Director(Lib)" | means the Commissioning Director: Children and Families or such other officer as shall from time to time be responsible for the libraries function of the County Council |
| 1.10 | "Dwelling" | means the 124 (or such other number as is approved pursuant to reserved matters) residential units (being those in Class C3 of the Town and Country Planning (Use Classes) Order 1987) that may be built on the Site as |

- part of the Development but excluding for the avoidance of doubt any residential unit constructed on the Sheltered Housing Land (being those in Class C2 of the Town and Country Planning (Use Classes) Order 1987)
- 1.11 "First Occupied" means the date when a Dwelling becomes liable for Council Tax or any replacement thereof and "First Occupy" and "First Occupation" shall be construed accordingly
- 1.12 "the Highway Contribution" means the sum of twenty four thousand eight hundred and thirty pounds (£24,830) to be used to support public transport routes within 400m of the Land providing links to Tetbury, Kemble and Cirencester
- 1.13 "Implementation" means the date on which any material operation (as defined in section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements

- 1.14 "the Index" means in relation to the Library Contribution the Retail Prices Index (All Items) and in relation to the Travel Plan Contribution means the Retail Prices Index (Motoring)
- 1.15 "Interest" means a rate calculated on a daily basis and compounded quarterly from the due date until payment at 5 (five) percent per annum over HSBC Bank plc base rate from time to time in force
- 1.16 "the Land" means the land at Quercus Road, Tetbury shown for the purposes of identification only edged red on the Plan
- 1.17 "the Library Contribution" means the sum of Twenty Four Thousand Three Hundred and Four pounds (£24,304) to be used towards improving local library provision at Tetbury Library in terms of any of the following:
- Capital works,
 - Extending opening hours,
 - Increasing stock,
 - Computer resources,
 - New furniture
- 1.18 "the Local Connection" means (not in order of priority):
- (a) persons who have or persons whose partners have for a continuous period of three years immediately prior to their occupation of an Affordable Housing Unit had their only or

principal home in the Parish or in the Surrounding Area or in the Cotswold District

(b) persons who have or persons whose partners have previously had their only or principal home in the Parish or in the Surrounding Area or in the Cotswold District for a continuous period of five years

(c) persons who have or whose partners have for a period of twelve months immediately prior to their occupation of an Affordable Housing Unit had their principal place of work in the Parish or in the Surrounding Area or in the Cotswold District

(d) persons who have had or persons whose partners have had immediately prior to their occupation of an Affordable Housing Unit one or more of their parents grandparents children or siblings living within the Parish or in the Surrounding Area or in the Cotswold District for a continuous period of five years

(e) person who in the opinion of the Council need to live within the Parish or Surrounding Area in order to perform employment which provides a benefit to the economy or social well-being of the community

1.19 "Modal Share Target"

means the target modal share in the Travel Plan

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| 1.20 | "Notice" | means a notice as defined within the Land Registration Act 2003 |
| 1.21 | "the Owners" | means together the First Owner, the Second Owner and the Third Owner, and the phrases "the Owner" and "the Owners" shall include their respective successors in title to the Land |
| 1.22 | "the Town" | means the town of Tetbury |
| 1.23 | "Plan" | the plan attached to this Agreement at Schedule 4 |
| 1.24 | "the Planning Application" | means the outline application dated the 23 April 2012 and submitted by the Owners to the Council under reference number 12/01792/OUT for residential development comprising approximately 124 Dwellings and 50 sheltered units, the erection of a 60 bedroom care home and 50 extra care apartments, with associated public open space, car parking and access, and in relation to the Dwellings 31% of which (rounded up to the nearest whole number of Dwellings) are to be Affordable Housing Units |
| 1.25 | "the Planning Permission" | means the planning permission in the form of draft annexed hereto at Schedule Nine for the Development pursuant to the Planning Application |
| 1.26 | "the Price" | means the sum to be paid by the Appointed RP to the Owner for the Affordable Housing Units |

- 1.27 "the Public Access Areas" means an area to be provided within the Land as part of the Dwellings element of the Development as set out in Schedule 1
- 1.28 "the Qualifying Criteria" means where a person is in housing need such need to be defined in accordance with the application criteria for the Council's Housing Register and the criteria applied by the Appointed RP
- 1.29 "Registered Provider" means a Housing Association or other body either of which is registered with the Homes and Communities Agency as a social landlord
- 1.30 "Repayment Interest" means interest repaid at the London Interbank seven day rate (as compiled by the British Bankers Association) then subsisting calculated annually at the end of each financial year to ascertain the simple average interest rate for that year and then compounded annually calculated from the date of payment until repayment (net of tax if such deduction is required by the guidance in respect thereof issued by Her Majesty's Government at the date of such refund)
- 1.31 "Sheltered Housing Land" means the land shown edged in blue on the Sheltered Housing Plan
- 1.32 "Sheltered Housing Plan" means the plan attached at Schedule 5 and showing the Sheltered Housing Land
- 1.33 "the Surrounding Area" means the parishes of Tetbury Upton, Long

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| | | Newton and Shipton Moyne |
| 1.34 | "the Tetbury Community Contribution" | means the sum of £359,466 (three hundred and fifty nine thousand four hundred and sixty six pounds) payable by the Owners and to be used for the purpose of improvements to Tetbury Community Hall in Tetbury, Gloucestershire |
| 1.35 | "Travel Plan" | means a plan to deliver a modal shift away from the private car in favour of public transport and other means of travel including walking and cycling in respect of the Land and drawn up in accordance with the Travel Plan Framework (as approved in writing by the Director) in accordance with paragraph 4.1.2 of the First Schedule hereto and the definition includes any amendment or variation of the same pursuant to the provisions of this Agreement |
| 1.36 | "Travel Plan Co-ordinator" | means a person or organisation appointed at the expense of the Owners and approved in writing by the County Council to co-ordinate and implement the Travel Plan |
| 1.37 | "the Travel Plan Contribution" | means the sum of £36,400 (thirty six thousand four hundred pounds) to be paid by the Owners and to be used for the purposes of set out in Schedule 1 |
| 1.38 | "Travel Plan Framework" | means as set out in the Seventh Schedule hereto |
| 1.39 | "Travel Plan Monitoring" | means the sum of five thousand pounds |

- Fee" (£5,000) to be used by the County Council for the purpose of monitoring the Travel Plan
- 1.40 "Travel Plan Targets" means targets set within the Travel Plan to demonstrate the satisfactory performance of the Travel Plan
- 1.41 "VAT" means the tax referred to in the Value Added Tax Act 1994 or any tax of a similar nature which is introduced in substitution for or as an addition to such tax from time to time

2. STATUTORY PROVISIONS

2.1 This Agreement is entered into pursuant to Section 106 of the Act and Section 111 of Local Government Act 1972 and the relevant clauses herein shall be deemed to be planning obligations ("Planning Obligations") in respect of the Land for the purposes of those sections but without prejudice to all or any other means of enforcing them at law in equity or by statute and shall be registered as a local land charge

2.2 Nothing in this Agreement shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or any other powers vested in the Council under the statute byelaw statutory instruments orders and regulations (already or in the future to be passed) or any government department public or competent authority or Court of competent jurisdiction

2.3 No failure or delay by the Council to exercise any right power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or of some other right power or remedy by the Council

2.4 If the Council requires to carry out all or any part of the Planning Obligations the Owners irrevocably authorise the Council and anyone appointed on its behalf (on

giving reasonable notice except in cases of emergency) to enter any part of the Land reasonably required for that purpose

2.5 The Owners warrant in relation to their respective interests in the Land that they have the power to carry out the Planning Obligations and the Development

2.6 The Owners confirm that apart from the parties to this Agreement there are no other persons with any interest (legal or equitable) in the Land or any part thereof

2.7 Until the Planning Obligations enforceable by the Council and County Council have been complied with the Owners will furnish the Council and County Council with full details (including a plan if appropriate) of any conveyance transfer lease assignment mortgage or other disposition of all or any part of their respective interests in the Land including the name and address of the person to whom the disposition was made and the nature and extent of the interest disposed of to them within fourteen days of such disposal SAVE THAT in the event of a disposition of any individual Dwelling (or other unit of sheltered accommodation or extra care) comprising part of the Development this obligation will apply only if the information is specifically requested by the Council and PROVIDED THAT nothing in this clause 2.7 shall oblige the Owners to do anything which would put them in breach of data protection or similar legislation

2.8 The Owners shall give to the Council and County Council seven days written notice of any intention to commence the Development and shall confirm in writing within seven days following commencement that the Development has commenced PROVIDED THAT failure to provide either of the said notifications shall not render this Agreement inoperative

2.9 If the Owner fails to give the County Council a notice of commencement as required by clause 2.8 then the County Council may confirm in writing a date which it considers (acting reasonably) to be the date of commencement of the Development and which shall then apply for the purposes of obligations owed to the County Council under this Agreement

2.10 If any individual clause sub-clause or schedule in this Agreement is subsequently held to be unenforceable by a Court the parties agree that the offending clause sub-clause or schedule shall cease to be binding and will be severed from the Agreement PROVIDED THAT the severing of such a clause sub-clause or schedule shall not affect the continuing enforceability of the remainder of the Agreement

2.11 The Owners shall pay to the Council its proper and reasonable legal costs incurred in connection with this Agreement and shall pay to the County Council upon execution of this Agreement

- a) its reasonable and proper legal charges of £3,343.12;
- b) its reasonable and proper Highway & Transportation technical fees of not more than £500; and
- c) its reasonable and proper Library technical fees of not more than £100

2.12 If the Planning Permission expires without commencement of the Development or is quashed revoked or otherwise withdrawn by any statutory procedure without the consent of the Developer this Deed shall cease to have effect except this clause 2.12 and (to the extent that any obligations remain outstanding under it) clause 2.11

2.13 The Owners and the County Council hereby agree that:

- (a) the obligations on the part of the Owners which are owed or made to the County Council hereinafter contained are planning obligations imposed pursuant to the provisions of Section 106 of the Act which are enforceable by the County Council; and
- (b) inter alia this is an agreement pursuant to Section 278 of the Highways Act 1980, Public Libraries and Museums Act 1964 and Section 1 of the Localism Act 2012

2.14 All payments required in accordance with the terms of this Agreement shall be exclusive of any VAT payable in respect thereof.

2.15 Any phrase introduced by the terms 'including' 'include' 'towards' 'in particular' 'support' 'supporting' or any similar expression shall be construed as illustrative and shall not limit the sense of the words following those terms

3. ENFORCING AUTHORITY

3.1 The Council is the Local Planning Authority for the purposes of Section 1(b) of the Act by which the covenants and obligations created by this Agreement and stated to be owed to it are enforceable

3.2 The County Council is also a Local Planning Authority for the purposes of Section 1(b) of the Act by which the covenants and obligations created by this Agreement and stated to be owed to it are enforceable

4. CONDITIONALITY OF PLANNING OBLIGATIONS

Clause 5 and the Schedules to this Agreement are strictly conditional upon the commencement of works as defined by Section 56(4) of the Act for the construction of a Dwelling pursuant to the Planning Permission

5. OBLIGATION

5.1 Subject to the provisions of this Agreement the Owners hereby covenant with:

5.1.1 the Council in the terms of Schedule One so far as the Owners owe obligations to it; and

5.1.2 the County Council in the terms of Schedule One so far as the Owners owe obligations to it

5.2 For the avoidance of doubt it is agreed that the obligations in clause 5.1 and Schedule One are not enforceable against McCarthy & Stone (and including their successors in title to the Sheltered Housing Land) nor the owner or occupier for the time being of the Care Home / Extra Care Land

6. REVOCATION

This Agreement shall cease to have any force and effect in respect of any then outstanding obligations in the event of the Planning Permission being revoked withdrawn or relinquished

7. LIABILITY

7.1 No person or body shall be liable for any breach of this Agreement unless they hold any interest in that part of the Land in respect of which such breach occurs or held such an interest at the date of the breach

8. NOTICES

8.1 Any notice or consent required to be given or permitted under this Agreement shall be in writing and shall be sent by pre-paid first class registered post hand delivery or facsimile transmission. There shall be no right to serve such notices by e mail but if a party chooses to do so (and the receiving party agrees) e mail may be used

8.2 The address for service of any such notice or consent shall be the addresses given in the definition of the parties hereto or such other address for service as shall have been previously notified in writing to the other party and in the case of the County Council must be marked for the attention of the relevant Director or Head of Legal (as is relevant to the substance of the particular notice)

8.3 A notice or consent under this Agreement shall be deemed to have been served as follows:

8.3.1 if personally delivered at the time of delivery

8.3.2 if posted on the first working day after the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom

8.3.3 if sent by facsimile transmission or e mail at the time of successful transmission

and in proving service it shall be sufficient to prove that the envelope containing such notice or consent was properly addressed and delivered or posted to the addresses specified in Clause 8.2 of this Agreement or that the facsimile or e mail was properly addressed and transmitted to the numbers or addresses specified in Clause 8.2 of this Agreement

9. ARBITRATION

9.1 Any party to any dispute or difference may apply for the appointment of an umpire in accordance with clause 9.2 hereof whenever it thinks fit after such dispute or difference shall have arisen

9.2 Any dispute or difference arising between the parties hereto with regard to their respective rights and obligations as to any matter in any way arising out of or connected with this Agreement shall except as otherwise provided be referred to the decision of a single arbitrator being a Chartered Surveyor of not less than 10 years relevant qualified experience in the relevant matter to be agreed between the parties (whose decision shall be final and binding on both parties) to be agreed by the parties or failing agreement between them to be nominated on the application of either party by the President for the time being of the Royal Institution of Chartered Surveyors or such other institution should the parties so agree as the case may be and such reference shall be deemed to be submission to arbitration within the meaning of the Arbitration Act 1996

10. REGISTRATION

The Owners acknowledge that this Agreement will be registered as a local land charge in the Register of Local Land Charges maintained by the Council and as a Notice on Title Numbers GR 315431, GR18666, GR299369 and GR158793

11. WAIVER

11.1 The Council may waive or release all or any parts of the obligations or restrictions contained in this Agreement given by the Owners to the Council in respect of all or any part of the Land without having to obtain the consent of any of the owners from time to time of any part of the Land except for the part thereof in respect of which the variation waiver or release is made PROVIDED THAT such variation waiver or release shall not impose any additional obligations or restrictions on any other part of the Land or on any owner or occupier thereof who shall not have given his consent

11.2 It is hereby agreed by the parties hereto that failure by the County Council or the Director at any time to enforce the provisions of this Agreement or to require performance strictly or otherwise by the Owners of any of the conditions covenants agreements or obligations of this Agreement or any failure or delay by the County Council or the Director to exercise any act right or remedy shall not be construed as a waiver of or as creating an estoppel in connection with any such condition covenant agreement or obligation and shall not affect the validity of this Agreement or any part thereof or the right of the County Council to enforce any provision and any variation of this Agreement agreed between the Owners and the County Council which does not affect the liability of the Bondsman shall not vitiate the remainder of the Agreement which shall remain in full force and effect subject to such amendments or amendments agreed

12. INTERPRETATION

In this Agreement:

12.1 words importing the masculine gender include the feminine and the neuter and vice versa

12.2 words importing the singular include the plural and vice versa

- 12.3 references to persons include bodies corporate and vice versa
- 12.4 save where the context otherwise requires all obligations given or undertaken by more than one person in the same capacity are given or undertaken by them jointly and severally so as to apply and be enforceable against all both or any of such persons and their and each of their personal representatives
- 12.5 the clause headings shall not affect the construction of this Agreement
- 12.6 save where otherwise stated any reference to a numbered clause or schedule means the clause or schedule in this Agreement which is so numbered
- 12.7 every reference to any statute or any section of any statute shall be read and construed as including a reference to any statutory amendment modification or re-enactment thereof for the time being in force and to every instrument order direction regulation bye-law permission licence consent condition scheme or other such matter made in pursuance of such statute

13 APPOINTMENT OF REGISTERED PROVIDER

13.1 In the event of the Council (acting reasonably) considering that the Appointed RP is unreasonably delaying or not using proper or sufficient endeavours to secure a binding contract with the Owners for the purchase of the Affordable Housing Units the Council shall be at liberty to serve notice in writing on the Appointed RP ("the Initial Notice") requiring it to (unconditionally) exchange contracts with the Owner within 28 days of such notice in default of which and for a period of 7 days thereafter the Council shall be entitled to withdraw in writing its approval of the Appointed RP ("the Final Notice") and in which case the Owners shall follow the procedure in Schedule One relating to the selection of the Appointed RP.

13.2 In the event of the Council not serving the Final Notice in accordance with the provisions of this clause the Council shall not be entitled to seek withdrawal of its approval of the Appointed RP other than by re-serving an Initial Notice.

13.3 For the avoidance of doubt the Owners shall only be entitled to dispose of the Affordable Housing Units to an Appointed RP.

14. DEVELOPMENT COMMENCEMENT

The Development shall be deemed to be commenced on the date on which any material operation as defined by Section 56(4) of the Act is carried out pursuant to the Planning Permission

15. AFFORDABLE HOUSING UNITS MORTGAGEES

None of the provisions of this Agreement relating to any of the Affordable Housing Units shall be binding upon a mortgagee in possession of one or more of the Affordable Housing Units which said mortgagee in possession may sell and dispose of any Affordable Housing Unit free from the terms of this Agreement and upon such sale as aforesaid this Agreement shall become null and void in respect of that Affordable Housing Unit and nor shall the terms of this Agreement be binding upon any receiver appointed by such mortgagee in possession of any Affordable Housing Unit SUBJECT TO the said mortgagee in possession first using its reasonable endeavours for a period of 3 (three) months to sell and transfer the Affordable Housing Unit to an alternative Registered Provider first approved in writing by the Council's Strategic Director of Planning and Community Services such approval not to be unreasonably withheld or delayed PROVIDED ALSO that the said mortgagee shall not be obliged to sell or convey to an alternative Registered Provider under this clause for a consideration less than that which the mortgagee requires to either (i) redeem its borrowing upon the Affordable Housing Unit plus provide for its reasonable costs or (ii) that which the mortgagee could obtain on the open market whichever is the greater

16. The Owners shall notify the Council's Strategic Director of Planning and Community Services in writing within seven days of receipt of actual notice of any breach or alleged breach of any term contained in any mortgage or legal charge of all or any of the Affordable Housing Units affecting the Land

17. THIRD PARTIES

17.1 Nothing in this Agreement confers any right on any third party to enforce any of the obligations rights or covenants on the part of the Council or the Owners under this Agreement whether in accordance with the Contracts (Rights of Third Parties) Act 1999 or otherwise (save for the purposes of this clause 17 any individual house or flat buyer or occupier who shall buy or occupy a Dwelling and save for any mortgagees of any Affordable Housing Units)

18. COUNCIL'S AND COUNTY COUNCIL'S COVENANTS

The Council and the County Council covenant with the Owners to comply with their respective obligations in Schedule Two

19. MORTGAGEE

19.1 The Mortgagee acknowledges and declares that this Agreement has been entered into by the Second Owner and the Third Owner with its consent and that that part of the Land over which the Mortgagee has a charge shall be bound by the obligations contained in this Agreement provided that it is agreed that the Mortgagee shall have no liability under this Agreement unless and until it takes possession of the Land pursuant to the terms of the charge in which case it too shall be bound by the obligations as if it were a person deriving title from the Second Owner and / or the Third Owner (as applicable).

20. INTEREST

If any sum payable to the County Council under the terms of this Agreement is not paid at the time specified herein the Owners shall pay to the County Council Interest on such sum calculated on a daily basis and compounded quarterly from the due date until payment at the rate of 5% per annum over HSBC Bank plc base rate from time to time in force

IN WITNESS whereof the parties hereto have set their hands or caused their Common Seals to be hereunto affixed the day and year first before written

SCHEDULE ONE

Planning Obligations

1. Affordable Housing

- 1.1 Of the Dwellings permitted by the Planning Permission (including any relevant reserved matters approvals) for erection upon the Land 69% shall be Dwellings for sale on the open market ("Non Affordable Housing") and 31% (rounded up to the nearest whole number of Dwellings) shall be Affordable Housing Units.
- 1.2 The Affordable Housing Units' location tenure mix size cost standard and level of servicing shall be:
 - 1.2.1 in accordance with that set out in Schedule Three (unless otherwise approved in writing by the Council) and to the extent that Schedule Three does not set out those details shall be in accordance with the Council's Affordable Housing – Supplementary Planning Document; or
 - 1.2.2 if the total number of Dwellings or the types or sizes of Dwellings to be constructed on the Land is different to that anticipated in Schedule Three then the Affordable Housing Units' tenure mix and size shall be in similar proportions to that set out in Schedule Three such numbers to be agreed in writing by the Council and generally the Affordable Housing Units shall be provided in accordance with the Council's Affordable Housing – Supplementary Planning Document
- 1.3 Not to Implement any part of the Development involving Dwellings until a programme and timetable for the provision of the Affordable Housing Units and the location tenure size cost standard and level of servicing of the same has been submitted to and approved by the Council in writing
- 1.4 The Owners shall not occupy or allow more than 85% of the Non Affordable Housing Units to be occupied until 100% of the Affordable Housing Units

have been constructed (and for the avoidance of doubt construction of the Affordable Housing Units shall not be achieved unless all services are connected and operating and the Affordable Housing Units are accessible by both vehicles and pedestrians) and they are ready for occupation by a person or persons satisfying the Qualifying Criteria

- 1.5 Upon completion of the construction of the Affordable Housing Units in accordance with Clause 1.4 above the Owners shall transfer the Affordable Housing Units to the Appointed RP an interest equivalent to that owned by the Owners. For the avoidance of doubt this shall be construed as a transfer of a freehold interest in the case of a house or a term of years certain of at least 125 years in the case of flats and apartments
2. The Owners shall serve notice in writing on the Council that they require the Council to approve the Appointed RP at least three months prior to the Implementation of any part of the Development involving Dwellings and the Owners shall include in the notice the name of the Registered Provider which it proposes to contract with ("the Proposed RP")
 - 2.1 Upon the Council approving in writing to the Owners the identity of the Appointed RP (which the Council shall do within one month of the written request and which if it is not the Proposed RP the Council shall give reasons for its decision) the Owners shall use reasonable endeavours to exchange contracts with the Appointed RP for the purchase of the Affordable Housing Units at the Price within 2 months of such notice
 - 2.2 The Owners shall not Implement any part of the Development involving Dwellings until such time as they have exchanged contracts with the Appointed RP for the purchase of the Affordable Housing Units at the Price and produced to the Solicitor to the Council a certified copy of the contract and memorandum of exchange.

- 2.3 In the event of a first disposal of any Affordable Housing Unit to an individual meeting the Qualifying Criteria or to any other individual body of persons group or association approved by the Council then any future disposals thereof (be they by way of sale lease or other means of disposal) shall also:
- (a) be to an individual meeting the Qualifying Criteria or such other prospective purchaser to which the Council has given prior approval (such approval not to be unreasonably withheld or delayed)
 - (b) in perpetuity so as to ensure that the Affordable Housing Units remain as such but for the avoidance of doubt this provision shall not apply to any disposal by a Registered Provider
- 2.4 In the event of a disposal of an Affordable Housing Unit by the Appointed RP of an Affordable Housing Unit the Appointed RP shall provide to the Council details of such disposal within seven days of the same, such details to include:-
- (1) the relevant Local Connection
 - (2) the identity of the Affordable Housing Unit
 - (3) the terms of the disposal including the current rent
- 2.5 No Affordable Housing Unit being the subject of Clause 2.4 shall be occupied unless and until a disposal thereof meeting the criteria under this Clause 2 has taken place
- 2.6 The Owner shall in any Transfer document to the appointed Registered Provider require a covenant obliging the Registered Provider to reinvest any net capital receipts (for the avoidance of doubt net receipt shall be the amount received by the Registered Provider after deduction of all legal and other costs reasonably incurred in connection with the transaction that release the equity and any sums to be repaid to a grant or mortgage provider) from future release of equity in the Affordable Housing Units such reinvestment shall be

in the provision of other affordable housing in the Town Surrounding Area or the Cotswold District

3. TETBURY COMMUNITY CONTRIBUTION

- 3.1 To pay to the Council 25% of the Tetbury Community Contribution prior to first occupation of the twenty-fifth Dwelling.
- 3.1 To pay to the Council 25% of the Tetbury Community Contribution prior to first occupation of the fiftieth Dwelling.
- 3.1 To pay to the Council 50% of the Tetbury Community Contribution prior to first occupation of the one hundredth Dwelling.

4. TRAVEL PLAN PROVISIONS

4.1 The Travel Plan

The Owners hereby agree with the County Council that they will:

- 4.1.1 upon First Occupation pay the Travel Plan Contribution and the Travel Plan Monitoring Fee to the County Council ; and
- 4.1.2 prior to First Occupation the Owners will submit to the Director the Travel Plan for his written approval (such approval not to be unreasonably withheld or delayed) such plan to include the Travel Plan Targets and set at intervals of:-
 - (a) three years;
 - (b) five years; and
 - (c) ten yearsall timed from the date of First Occupation
- 4.1.3 the Director shall provide his written comments on the documents submitted in accordance with the above paragraph 4.1.2 within 28 days of receipt of the same and confirm in so doing that it is approved (with or without amendment)

or not approved and in the absence of a response in that period the document in question shall be deemed approved

- 4.1.4 prior to the First Occupation the Owners shall appoint the Travel Plan Co-ordinator and provide the name and contact details of the appointed person to the County Council in writing within seven (7) days of such appointment
- 4.1.5 within one calendar month of a change of the Travel Plan Co-ordinator the Owners shall notify the County Council in writing of that change and provide the County Council with the name and contact details of the new Travel Plan Co-ordinator
- 4.1.6 the Owners shall not First Occupy or allow or permit the First Occupation of any Dwelling prior to the implementation of those measures identified in the Travel Plan as are capable of being implemented at that time (at the absolute discretion of the Director)
- 4.1.7 without prejudice to paragraph 4.1.6 above the Owners shall fully implement the measures identified in the Travel Plan in accordance with the implementation timetable contained therein and shall maintain the same for as long as any of the Dwellings within the Development are occupied
- 4.1.8 the Owners shall use all reasonable endeavours (including funding of the Travel Plan) to achieve the Modal Share Target
- 4.1.9 the Owners shall implement monitor and review the Travel Plan at their own cost in accordance with the monitoring strategy as approved and shall procure that all owners and/or occupiers of the Development shall implement the same and co-ordinate with the Travel Plan Co-ordinator to enable him to liaise with the Director
- 4.1.10 the County Council hereby agrees with the Owners that within twenty eight (28) days of receiving (to the Director's satisfaction) such evidence as the Director shall reasonably require of the achievement of each of the Travel Plan Targets the Director will repay to the Owners (or their nominee) a

proportion of the Travel Plan Contribution calculated in accordance with the table set out in the Eighth Schedule hereto together with Interest on the amount repaid on a daily basis from the date of payment until the date of repayment (net of tax if such deduction is required by the guidance in respect thereof issued by Her Majesty's Government at the date of such refund)

4.2 Fixed Bond

4.2.1 The Bondsman hereby agrees with the County Council that in the event of the Owners at any time failing to carry out or observe any of the terms conditions and obligations on their part contained within this paragraph 4 (such failure being sufficiently proved for the purposes of this paragraph upon the issue of a certificate to that effect by the Director) moreover the Bondsman will on demand pay to the County Council any such sum of money as may be required by the County Council to discharge the liability on the part of the Owners hereunder PROVIDED that the sum payable by the Bondsman shall not exceed 130% of the Travel Plan Contribution and the Travel Plan Monitoring Fee

4.2.2 if there shall be any bona fide dispute difference or question between the County Council and the Bondsman as to the amount payable hereunder or with respect to the construction or effect of the provisions of this paragraph or if any event shall happen whereby it becomes impossible or impracticable to implement the provisions for calculating the amount payable hereinbefore contained then and in any such case such dispute difference or question as the case may be as to the amount payable shall be referred for determination by a single arbitrator in accordance with the provisions of the Arbitration Act 1996 or any statutory enactment in that behalf for the time being in force

4.2.3 the County Council hereby agrees with the Owners and the Bondsman that upon receipt of a written request so to do the Director shall review the sum payable under the terms of this paragraph and may thereafter notify the

Owners and the Bondsman of any reduction in such sum as he may in his absolute discretion determine

4.2.4 The obligations of the Bondsman hereunder shall be released and discharged absolutely on the date upon which the Director of Law and Administration confirms in writing to the Bondsman that the obligations of the Owners under this paragraph 4.1 have been satisfied in full which the County Council shall do within 28 days of it being satisfied that the obligations have been discharged in full

4.2.5 If at any time the Owners procure the provision of another bond in the same form as this paragraph 4.2 in favour of the County Council (having provided to the County Council a draft for the County Council's review in advance of such bond being completed) then following the County Council's approval in writing of such bond (which shall be deemed to be given if the replacement bond is in exactly the same terms as this paragraph 4.2) by a company or person approved by the County Council (such approval not to be unreasonably withheld or delayed) then on completion of such new bond the liability of the Bondsman shall be released and discharged absolutely on the date of such new bond and the person providing such new bond to the County Council shall be read as from that date as being "the Bondsman" under this paragraph 4.2

5. LIBRARY CONTRIBUTION

5.1 The Contribution

The Owners hereby agree and covenant with the County Council that they will pay to the County Council the Library Contribution (together with any payment of indexation pursuant to paragraph 5.2 below and with any payment of Interest pursuant to clause 20) prior to First Occupation

5.2 Indexation

There shall be added to the payment to be made pursuant to paragraph 5.1 a sum based on that payment and calculated by reference to any percentage increase in the Index and calculated from the March 2013 index and the date upon which the Library Contribution is actually paid to the County Council

5.3 Review

The County Council and the Owners hereby agree that:

- (a) within one (1) month of the date of the payment to be made pursuant to paragraph 5.1 above the Owner shall carry out and submit to the County Council in writing a review of the final number of Dwellings which have been approved pursuant to reserved matters approvals issued pursuant to the Planning Permission together with documentary evidence (such as a copy of the relevant reserved matters approval);
- (b) if that final number varies from the presently proposed 124 Dwellings then the Library Contribution will be reviewed on the basis of One Hundred and Ninety Six Pounds (£196) per Dwelling;
- (c) if the amount actually paid is less than the amount determined under the review then the Owner shall pay the excess to the County Council within twenty eight (28) days of the date of the submission of the review;
- (d) if the amount actually paid is more than the amount determined under the review then the County Council shall pay the amount overpaid to the Owners (or their nominee) within twenty eight (28) days of the submission of the review.

5.4 Repayment

In the event that all or part of the Library Contribution is unspent or uncommitted within five (5) years from the date of the last payment the County Council shall return to the Owners (or their nominee) any such

unexpended or uncommitted sum together with Repayment Interest from the date of payment until repayment on the amount repaid

5.5 Fixed Bond

5.5.1 The Bondsman hereby agrees with the County Council that in the event of the Owners at any time failing to carry out or observe any of the terms conditions and obligations on their part herein contained (such failure being sufficiently proved for the purposes of this paragraph upon the issue of a certificate to that effect by the Director(Lib)) the Bondsman will on demand pay to the County Council any such sum of money as may be required by the County Council to discharge the liability on the part of the Owner hereunder PROVIDED that the sum payable by the Bondsman shall not exceed the Library Contribution

5.5.2 If there shall be any bona fide dispute difference or question between the County Council and the Bondsman as to the amount payable hereunder or with respect to the construction or effect of the provisions of this paragraph or if any event shall happen whereby it becomes impossible or impracticable to implement the provisions for calculating the amount payable hereinbefore contained then and in any such case such dispute difference or question as the case may be as to the amount payable shall be referred for determination by a single arbitrator in accordance with the provisions of the Arbitration Act 1996 or any statutory enactment in that behalf for the time being in force

5.5.3 the County Council hereby agrees with the Owners and the Bondsman that upon receipt of a written request so to do the Director(Lib) shall review the sum payable under the terms of this paragraph and may thereafter notify the Owner and the Bondsman of any reduction in such sum as he may in his absolute discretion determine

5.5.4 the obligations of the Bondsman hereunder shall be released and discharged absolutely on the date upon which the Director (Lib) confirms in writing to the

Bondsman that the obligations of the Owners under this paragraphs 5.1 to 5.3 have been satisfied in full which the County Council shall do within 28 days of it being satisfied that the obligations have been discharged in full

- 5.5.5 If at any time the Owners procure the provision of another bond in the same form as this paragraph 5.5 in favour of the County Council (having provided to the County Council a draft for the County Council's review in advance of such bond being completed) then following the County Council's approval in writing of such bond (which shall be deemed to be given if the replacement bond is in exactly the same terms as this paragraph 5.5) by a company or person approved by the County Council (such approval not to be unreasonably withheld or delayed) then on completion of such new bond the liability of the Bondsman shall be released and discharged absolutely on the date of such new bond and the person providing such new bond to the County Council shall be read as from that date as being "the Bondsman" under this paragraph 5.5

6. THE HIGHWAYS CONTRIBUTION

- 6.1 The Owners hereby agree and covenant with the County Council that they will pay the Highway Contribution (together with any payment of indexation pursuant to paragraph 6.2 below and with any payment of Interest pursuant to clause 20) to the County Council on First Occupation

6.2 Indexation

There shall be added to the payment made under paragraph 6.1 a sum calculated by reference to any percentage increase in the Index between the publication immediately before the date hereof and the date upon which the payments are actually paid to the Council

6.2 Fixed Bond – Highways Contribution

- (a) The Bondsman hereby agrees with the County Council that in the event of the Owners at any time failing to carry out or observe any of the terms, conditions and obligations on its part contained within this paragraph 7 (such failure being sufficiently proved for the purposes of this paragraph upon the issue of a certificate to that effect by the Director) the Bondsman will on demand pay to the County Council any such sum of money as may be estimated ("the Estimate") by the County Council to discharge the liability on the part of the Owners hereunder PROVIDED that the sum payable by the Bondsman shall not exceed the sum of thirty two thousand two hundred and seventy nine pounds (£32,279) ("the Basic Sum")
- (b) if there shall be any bona fide dispute difference or question between the County Council and the Bondsman as to the amount payable under this paragraph 7 or with respect to the construction or effect of the provisions of this paragraph or if any event shall happen whereby it becomes impossible or impracticable to implement the provisions for calculating the amount payable hereinbefore contained then and in any such case such dispute difference or question as the case may be as to the amount payable shall be referred for determination by a single arbitrator in accordance with the provisions of the Arbitration Act 1996 or any statutory enactment in that behalf for the time being in force
- (c) the County Council hereby agrees with the Owners and the Bondsman that upon receipt of a written request so to do the Director shall review the sum payable under the terms of this paragraph and may thereafter notify the Owners and the Bondsman of any reduction in such sum as he may in his absolute discretion determine

- (d) in the event of the sum payable under the terms of this paragraph being reduced in accordance with sub-paragraph (c) of this paragraph then for the purposes of this paragraph from the date of such notification the reduced sum specified shall be substituted for the Basic Sum and the date of notification shall be substituted for the date specified in sub-paragraph (a) of this paragraph
- (e) The obligations of the Bondsman hereunder shall be released and discharged absolutely on the date upon which the Director of Law and Administration confirms in writing to the Bondsman that the obligations of the Owners under paragraph 6.1 have been satisfied in full which the County Council shall do within 28 days of it being satisfied that the obligations have been discharged in full
- (f) If at any time the Owners procure the provision of another bond in the same form as this paragraph 6.2 in favour of the County Council (having provided to the County Council a draft for the County Council's review in advance of such bond being completed) then following the County Council's approval in writing of such bond (which shall be deemed to be given if the replacement bond is in exactly the same terms as this paragraph 6.2) by a company or person approved by the County Council (such approval not to be unreasonably withheld or delayed) then on completion of such new bond the liability of the Bondsman shall be released and discharged absolutely on the date of such new bond and the person providing such new bond to the County Council shall be read as from that date as being "the Bondsman" under this paragraph 6.2

7. PUBLIC OPEN SPACE

- 7.1 To submit with any application for approval of reserved matters relating to the Dwellings the proposed areas to comprise the Public Access Areas within the area of the Development relating to the Dwellings
- 7.2 Not to Implement the Dwellings until the areas to comprise the Public Access Areas within the Development have been approved in writing by the Council (which for the avoidance of doubt may be through the approval of the relevant reserved matters application)
- 7.3 Not to bring into use or allow Occupation of the Dwellings until the Public Access Areas within or relevant to that part of the Dwellings development have been laid out and landscaped in accordance with details and specifications first submitted to and approved in writing by the Council (such approval not to be unreasonably withheld or delayed)
- 7.4 To thereafter retain repair maintain and clean the Public Access Areas in accordance with the principles of good estate management
- 7.5 Following the bringing into use of each area of the Dwellings to make the Public Access Areas within and / or relevant to that part of the Dwellings available for public use at all times and not to close the Public Access Areas at any time except:
- 7.5.1 having first obtained the Council's consent in writing (such consent not to be unreasonably withheld or delayed) save in the case of repairs, maintenance or emergency;
 - 7.5.2 the Owners may exclude members of the public who in the reasonable opinion of the Owners should be excluded in the interest of safety peace or security; or
 - 7.5.4 that the Public Access Areas may be fully closed for one full day in each calendar year
- 7.6 It is acknowledged that the Dwellings may be brought forward in phases and in that event the Public Access Areas can be phased in line with the phasing of the Dwellings

SCHEDULE TWO

The Council's and the County Council's Obligations

- 1 The Council covenants:
 - 1.1 To place any contributions received pursuant to this Agreement in an interest bearing account or in separate interest bearing accounts as the Council shall in its discretion decide
 - 1.2 Not to apply any contributions for any purpose otherwise than for the respective purposes set out in this Agreement within the Council's area.
 - 1.3 That in the event any contribution or any part of parts thereof are not expended within two years of the date of payment then the sum or sums not expended plus interest accrued will be repaid to the Owners or their nominee

- 2 The County Council covenants:
 - 2.1 To place any contributions received pursuant to this Agreement in an interest bearing account or in separate interest bearing accounts as the County Council shall in its discretion decide
 - 2.2 Not to apply any contributions for any purpose otherwise than for the respective purposes set out in this Agreement within the County Council's area.
 - 2.3 That in the event any contribution or any part of parts thereof are not expended or committed within five years of the date of payment then the sum or sums not expended or committed plus Repayment Interest accrued will be repaid to the Owners or their nominee

SCHEDULE THREE

AFFORDABLE HOUSING TENURE MIX AND SIZE

Affordable Units – Rented:

8 Nr. shall be one bedroom 2 persons flats of not less than 45 sq. metres (Affordable Rented)

9 Nr. shall be two bedroom 4 persons houses of not less than 75 sq. metres (Affordable Rented)

6 Nr. shall be three bedroom 5 persons houses of not less than 85 sq. metres (Affordable Rented)

3 Nr. shall be four bedroom 6 persons houses of not less than 95 sq. Metres (Social Rented)

Total – 26 dwellings

Affordable Units – Shared Ownership:

4 Nr. shall be two bedroom 3 persons flats of not less than 55 sq. metres

5 Nr. shall be two bedroom 4 persons houses of not less than 75 sq. metres

4 Nr. shall be three bedroom 5 persons houses of not less than 85 sq. metres

Total – 13 dwellings

Grand Total – 39 dwellings

SCHEDULE SEVEN
(Travel Plan Framework)

to include:-

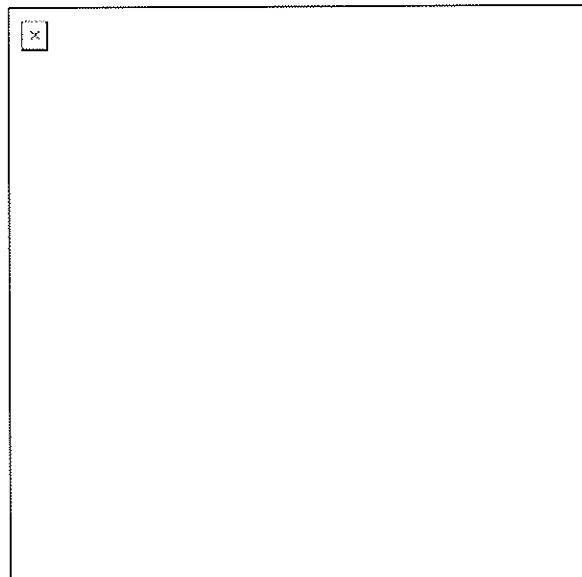
- (a) the proposed Modal Share Target
- (b) immediate continuing and long term measures to achieve the Modal Share Target by promoting and encouraging alternatives to single occupancy car use
- (c) the implementation timetable
- (d) the responsibilities of the Travel Plan Co-ordinator
- (e) a monitoring strategy for the Travel Plan including the submission of an annual monitoring report to the County Council

SCHEDULE EIGHT

(Travel Plan Contribution repayments)

| Target Date | % of Travel Plan Contribution to be returned |
|--------------------------------|--|
| 3 years from First Occupation | 20 |
| 5 years from First Occupation | 20 |
| 10 years from First Occupation | 60 |

SCHEDULE NINE
(Draft Planning Permission)



TOWN AND COUNTRY PLANNING ACT 1990

OUTLINE PLANNING PERMISSION

Agent
LPC (Trull) Ltd
Trull
Tetbury
Gloucestershire
GL8 8SQ

Applicant
Tetbury Steel Ltd, Tetbury Structures
Ltd & Tenens Ede
c/o Agents

DRAFT

Outline application for residential development comprising approximately 124 dwellings and 50 sheltered units, the erection of a 60 bedroom care home and 50 extra care apartments, with associated public open space, car parking and access at Land Parcel South Of Quercus Road Quercus Road Tetbury Gloucestershire

APPLICATION REF: 12/01792/OUT
FILE REF: CT.7558/K

DATE OF DECISION: 14th May 2013

DECISION NOTICE

In pursuance of their powers under the above Act, and in accordance with the requirements of the Town and Country (Development Management Procedure) (England) Order 2010, the development has been fully considered and assessed to comply with the relevant policy(ies) contained within the Development Plan as detailed in the section called **"Relevant Policies"**, on this certificate.

The Council therefore **PERMITS** the above development in accordance with the details given on the application form and submitted plans which are subject to the following conditions:

1 The development shall be started either by five years from the date of this decision notice or before the end of 2 years from the date that the last of the reserved matters is approved, whichever is the later.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

2 The development shall be started by 2 years from the date that the last of the reserved matters is approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

3 The development hereby approved shall be implemented in accordance with the following drawing number(s): 3456/001 Rev. A.

Reason: For purposes of clarity and for the avoidance of doubt, in accordance with the guidance provided by Circular 11/95.

4 The development shall not be started before approval of the details relating to means of access, layout, scale, appearance and landscaping have been given in writing by the Local Planning Authority.

Reason: These are "reserved matters" and were listed in the application for later approval. This is only an outline planning permission and these matters require further consideration by the Local Planning Authority. This condition is imposed to comply with the requirements of the Town and Country Planning Act 1990 as amended.

5 Notwithstanding any other approved plans shown on any outline planning permission, any reserved matters application shall show the existing and proposed ground levels on the site and on neighbouring land, the slab level(s) of the proposed building(s) and the slab level of adjacent buildings. Such details shall be agreed in writing and any works shall only be carried out in accordance with the agreed details.

Reason: It is important to clarify the height of the development in relation to existing levels and structures both on and off the site. The information is necessary to allow the impact of the development to be accurately assessed.

6 Each dwelling hereby permitted shall be constructed to achieve a minimum standard of Level 3 of the Code for Sustainable Homes in accordance with the requirements of the Code for Sustainable Homes Technical Guide Nov 2010 (or such national measure of sustainability for house design that replaces that scheme). Each new dwelling shall not be occupied until an authorised assessor has demonstrated confirmation with the required level.

Reason: To ensure a sustainable form of development, in accordance with the National Planning Policy Framework.

7 Notwithstanding the details of the submitted Design and Access Statement, no dwellings (including the sheltered housing) shall exceed two and a half storeys in height. Unless otherwise approved in writing by the Local Planning Authority, the plan depth of any dwelling shall not exceed 7.00 metres.

Reason: To ensure an appropriate form of development, in accordance with the design provisions of the NPPF and Cotswold District Local Plan Policy 42.

8 Notwithstanding the submitted details and prior to the commencement of the development, a Waste Minimisation Statement in accordance with the County Council's 'Waste Minimisation in Development Projects Supplementary Planning Document' (September 2006) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved Statement.

Reason: To ensure that waste generated during the development and subsequent occupation is to be sustainably managed, in accordance with the provisions of the NPPF.

9 For purposes of clarity and the avoidance of doubt, the care home and extra care accommodation hereby permitted shall be used only for C2 (Residential Institutions) use, and for no other purpose, including any other purpose in Class C3 (Dwelling Houses), of the Schedule to the Town and Country Planning (Use Classes) Order 2010 or the equivalent to that Class in any statutory instrument amending or replacing the 2010 Order or any other change of use permitted by the Town and Country Planning (General Permitted Development) Order 1995.

Reason: It is essential that the Local Planning Authority retains control over the use of the development because of its rural location on allocated employment land, in accordance with Cotswold District Local Plan Policy 32 and the NPPF.

10 For purposes of clarity and for the avoidance of doubt, the 50 units of Sheltered Housing hereby permitted shall be occupied solely by persons of a minimum age of 55 and any immediate dependants.

Reason: The Sheltered Housing has not been included within the Affordable Housing provision and therefore it is necessary to restrict unrestricted occupancy of the dwellings, in accordance with Cotswold District Local Plan policies 18 and 21, and the NPPF.

11 Any proposed vehicular access from London Road, submitted within future Reserved Matters application(s), shall not be brought into use until visibility splay lines have been provided in accordance with the submitted details (Figure 4.1 Rev A of Technical Note WB02524) with the area in advance of the splay lines so defined cleared of all obstructions to visibility and thereafter similarly maintained.

Reason: To ensure that adequate visibility is provided for the duration of the use and maintained in the interests of highway safety, in accordance with Cotswold District Local Plan Policy 38 and the NPPF.

12 No phase(s) of the development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority for that phase. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:-

- i. The parking of vehicles of site operatives and visitors;
- ii. Loading and unloading of plant and materials;
- iii. Storage of plant and materials used in constructing the development;
- iv. Wheel washing facilities;
- v. Access routes to the site;

Reason: To provide safe access to site during the construction period, in accordance with Cotswold District Local Plan Policy 38 and the NPPF.

13 Prior to first occupation of the development hereby permitted or any part of it, two red and white no entry signs (Sign No. 616 of the Traffic Sign Regulations & General Directions 2002 or any superseding document) shall be erected in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with Cotswold District Local Plan Policy 38 and the NPPF.

14 The development hereby permitted or any part of it shall be served by an access road (or roads) laid out and constructed in accordance with details (including street lighting and surface water drainage) to be submitted to and approved in writing by the Local Planning Authority, and no part of the development shall be occupied until the road (including vehicular turning head, street lighting, and footways where proposed) providing access from the nearest public road to that part of the development has been completed to at least basecourse (binder course) level in accordance with the details so approved. The road shall be completed no later than [6 months] after first occupation of any part of the development served and shall be similarly retained thereafter until and unless adopted as highway maintainable at public expense.

Reason: To ensure that there is a satisfactory means of access for occupants of the development, in the interests of highway/public safety, in accordance with Cotswold District Local Plan Policy 38 and the NPPF.

15 Prior to commencement of the development or any part of it a Pedestrian Environment Reviews (PERS) audit from the site to the superstore (currently known as Tesco's), including side road junction crossings, shall be undertaken and submitted to the Local Planning Authority and any resulting works shall be implemented in accordance with details to be agreed with the Local Planning Authority prior to beneficial occupation of the development.

Reason: To ensure adequate access is provided for pedestrians, in accordance with Cotswold District Local Plan Policy 38 and the NPPF.

16 Prior to first occupation of the development hereby permitted or any part of it, details of secure and sheltered cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the agreed details and thereafter maintained.

Reason: To assist in promoting sustainable forms of transport, in accordance with Cotswold District Local Plan Policy 39 and the NPPF.

17 No works shall commence on site on any part of the development hereby permitted until details of vehicular parking and manoeuvring facilities serving that part of the development have been submitted to and approved by the Local Planning Authority. The parking and manoeuvring facilities shall then be completed in all respects in accordance with those details before that part of the development is brought into use and shall be permanently maintained as such thereafter.

Reason: In the interests of highway safety, in accordance with Cotswold District Local Plan Policy 38 and the NPPF.

18 No development shall take place until the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:-

- i) A preliminary risk assessment which has identified;
 - a) all previous uses;
 - b) potential contaminants associated with those uses;
 - c) a conceptual model of the site indicating sources, pathways and receptors;
 - d) potentially unacceptable risks arising from contamination at the site.
- ii). A site investigation scheme, based on i) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii) The results of the site investigation and detailed risk assessment referred to in ii) above and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in iii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure any contamination of the site is identified and appropriately remediated in accordance with Cotswold District Local Plan Policy 5 and the NPPF. National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

19 There shall be no occupation of any part of the permitted development until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for that part of the site has been submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

Reason: To ensure any contamination of the site is identified and appropriately remediated in accordance with Cotswold District Local Plan Policy 5 and the NPPF.

20 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall immediately be reported in writing to the Local Planning Authority. An investigation and risk assessment shall then be undertaken in accordance with the requirements of the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11, and where remediation is necessary, a remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and which is subject to the approval in writing of the Local Planning Authority.

Reason: To prevent pollution of the environment in the interests of the amenity, in accordance with Cotswold District Local Plan Policy 5 and the NPPF.

21 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason: Whilst there is some consideration of strategies for drainage from the residential area, there is no information on drainage from the proposed commercial area. Potential re-mobilisation of contaminants from drainage needs to be considered and therefore a risk assessment is required considering this issue for both the residential and commercial areas.

22 No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include details of how the scheme shall be maintained and managed after completion.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system, in accordance with Cotswold District Local Plan policies 9 and 5, and the provisions of the NPPF.

23 Prior to the commencement of the development or any part of it, a foul and surface water drainage strategy shall be submitted to and approved in writing by the Local Planning Authority and the relevant Water Company (currently Wessex Water). The drainage scheme for the development, or part thereof, shall be completed in accordance with the approved details and to a timetable agreed with the Local Planning Authority.

Reason: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property, in accordance with Cotswold District Local Plan Policy 5 and the provisions of the NPPF.

24 Prior to the commencement on site of the development or any part thereof, a five year Ecological Management Plan, showing how the nature conservation mitigation, compensation and enhancements, as outlined in section six of The Ecological Appraisal, dated March 2012, by AD Ecology Ltd, will be achieved and by whom, shall be submitted to and approved in writing by the Local Planning Authority. The management and enhancement of the areas identified in the illustrative Masterplan (ref. 3456/017 Rev. E) as grassland and hedgerows shall also be included within the Management Plan.

Reason: To ensure that Great Crested Newts, bats, birds and the biodiversity of the site is protected and enhanced in accordance with Part 3 of the Natural Environment and Rural Communities Act 2000, the Wildlife and Countryside Act 1981 as amended, NPPF para 118, The Conservation of Habitats & Species Regulations 2010 and Cotswold District Local Plan Policy 9.

25 Prior to the commencement of any works on site (including demolition and site clearance), the tree protection as detailed in the two documents entitled 'Pre-construction Arboricultural Survey and Report & Method Statement' and the associated Addendum all by Cotswold Tree Surgeons, dated January 2011, 26 July 2012 and 19th July 2012, shall be installed in accordance with the specifications set out within the plan and BS5837:2012 'Trees in relation to design, demolition and construction - recommendations' and shall remain in place until the completion of the construction process. No part of the protection shall be removed or altered without prior written approval of the Local Planning Authority. Fires on site should be avoided if possible. Where they are unavoidable, they should not be lit in a position where heat could affect foliage or branches. The potential size of the fire and the wind direction should be taken into account when determining its location, and it should be attended at all times until safe enough to leave. Materials that would contaminate the soil such as cement or diesel must not be discharged within 10m of the tree stem. Existing ground levels shall remain the same within the Construction Exclusion Zone and no building materials or surplus soil shall be stored therein. All service runs shall fall outside the Construction Exclusion Zone unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the retained/protected tree/s in accordance with Cotswold District Local Plan Policies 10 and 45.

26 The works shall be completed in accordance with the arboricultural recommendations laid out in the consultancy report 'Pre-construction Arboricultural Survey and Report & Method Statement' and Addendum by Cotswold Tree Surgeons, dated July 2012 and January 2011 respectively. All of the recommendations shall be implemented in full according to any timescales laid out in the recommendations, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the retained/protected tree/s in accordance with Cotswold District Local Plan Policies 10 and 45.

27 Notwithstanding Condition 25 of this Decision Notice, no service runs or groundworks shall be within the Root Protection Areas (RPAs) of any tree protected by a Tree Preservation Order (TPO) trees and there shall be no changes in existing site levels within the RPA of any TPO tree. Additionally, No fires shall be lit within 30m of any part of the TPO trees.

Reason: To safeguard the retained/protected tree/s in accordance with Cotswold District Local Plan Policies 10 and 45.

28 Unless otherwise agreed in writing by the Local Planning Authority, in accordance with the submitted illustrative layout, there shall be a minimum provision of an area or areas of public open space of no less than 0.49 ha within the application site.

Reason: To ensure an adequate quantum of public open space, in accordance with Cotswold District Local Plan policies 18, 34 and 35 and the NPPF.

29 Construction work shall not begin on any part of the development hereby permitted until a scheme for protecting the occupants of the buildings within that part of the development from noise from the nearby industrial land and road noise from the A433 has been submitted to and approved by the Local Planning Authority. All works which form part of the scheme shall be completed before the said buildings are occupied. These measures may include orientation of dwellings and soundproofing of windows to protect against traffic noise on the A433 and acoustic fences to the boundary with Tetbury Industrial Estate.

Reason: To protect those living in the dwellings from traffic or other external noise sources in accordance with Cotswold District Local Plan Policy 5 and the provisions of the NPPF.

30 Prior to the development being brought into use, surface water attenuation/storage works for the extension/dwelling hereby permitted shall be provided by the installation of a functioning water butt (minimum capacity 200 litres) in the position agreed on the approved plans/in a position to be agreed. The water butt shall thereafter be permanently maintained in working order in the agreed position unless an alternative siting is approved in writing by the Local Planning Authority.

Reason: To enhance water conservation and as a precautionary measure to reduce the possible increased risks of flooding associated with water runoff in accordance with the NPPF.

INFORMATIVES :-

1 This permission is subject to, and must be read in conjunction with, a legal agreement under Section 106 of the Town and Country Planning Act (1990) as amended.

RELEVANT POLICIES & GUIDANCE :-

The following policies contained within the Development Plan and guidance from National Policies were taken into consideration in the assessment of this proposal:

NPPF National Planning Policy Framework
LPR05 Pollution and Safety
LPR09 Biodiversity, Geology and Geomorphology
LPR10 Trees, Woodlands and Hedgerows
LPR17 Protection of Established Uses
LPR18 Develop within Development Boundaries
LPR21 Affordable Housing
LPR24 Employment Uses
LPR32 Community Facilities
LPR38 Accessibility to & within New Developments
LPR39 Parking Provision
LPR42 Cotswold Design Code
LPR46 Privacy & Gardens in Residential Developments
LPR49 Planning Obligations & Conditions
TET1 Former Metbro site
NHE04 Natural and Historic Env. Policy

Statement in respect of the positive and proactive approach undertaken by the Local Planning Authority

In accordance with the requirements of paragraphs 186 and 187 of the NPPF, the Local Planning Authority has worked with the applicant(s) in a positive and proactive manner in order to secure sustainable development which will improve the economic, social and environmental conditions of the area.

Your attention is drawn to the NOTES overleaf.

No signature.

Kevin Field
Planning and Development Manager on behalf of Cotswold District Council

DRAFT

THE COMMON SEAL of COTSWOLD
DISTRICT COUNCIL was hereunto
affixed in the presence of:-

)
)
)



Head of Legal and Property Services

THE COMMON SEAL of
GLOUCESTERSHIRE COUNTY
COUNCIL was hereunto affixed in the
presence of:-

)
)
)
)



for Head of Legal Services

Signed as a deed and delivered by
TENENS EDE (TETBURY) LIMITED
acting by two directors or by a director and
its secretary

)
) Director
)
)
) Director/Secretary

Signed as a deed and delivered by
TETBURY STEEL LIMITED
acting by two directors or by a director and
its secretary

) Director
)
)
) Director/Secretary

Signed as a deed and delivered by
TETBURY STRUCTURES LIMITED
acting by two directors or by a director and
its secretary

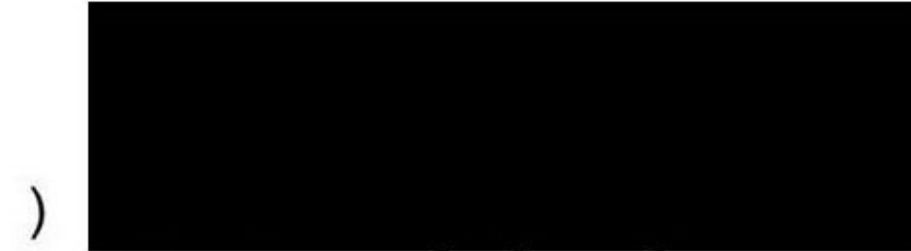
)
) Director
)
)
) Director/

Signed as a deed and delivered by
BANK OF SCOTLAND PLC
acting by

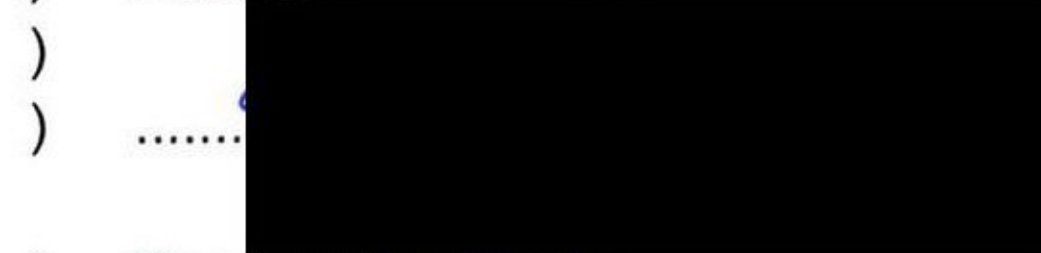


) Authorised signatory / signatories

Signed as a deed and delivered by
MCCARTHY & STONE RETIREMENT
LIFESTYLES LIMITED
acting by two directors or by a director and
its secretary



) Director



) Director/Secretary

Signed as a deed and delivered by
BARCLAYS BANK PLC
acting by

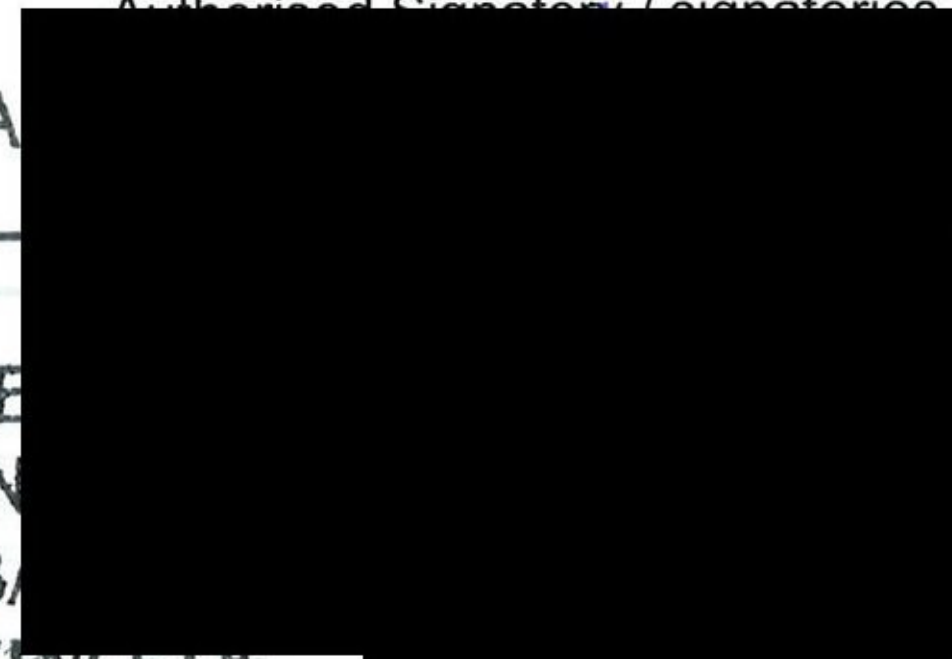
)

)

)

Authorised Signatory / signatories

SIGNED AS A
BY _____



AS ATTORNEY
FOR AND ON
BARCLAYS BANK
IN THE PRESENCE OF



NAME

SIGNATURE

