

DATED

22 December

2006

EASTLEIGH BOROUGH COUNCIL
and
ATLANTIC HOUSING LIMITED
and
PRUDENTIAL TRUSTEE COMPANY LIMITED

AGREEMENT

(in relation to Land at Bodmin Road, Bishopstoke)

Pursuant to Section 106 of the Town & Country Planning Act 1990 and
Section 111 of the Local Government Act 1972

Richard Ward
Eastleigh Borough Council
Civic Offices
Leigh Road
Eastleigh S050 9YN
KLB/6/13/661

THIS DEED OF AGREEMENT is made the 22 day of
December Two thousand and Six

1. Parties

- 1.1 'The Council' Eastleigh Borough Council Civic Offices Leigh Road Eastleigh Hampshire SO50 9YN
- 1.2 'The Owner' Atlantic Housing Limited (IP28183R) Charlotte Yonge House Tollgate Chandlers Ford Eastleigh Hampshire SO53 3YP
- 1.3 'The Mortgagee' Prudential Trustee Company Limited (Co. No. 1863305) Laurence Pountney Hill London EC4R OHH

2. Definitions and Interpretation

2.1 In this Agreement

2.1.1. "1990 Act" means the Town and Country Planning Act 1990 as amended

2.1.2. "Agreement" means this Deed of Agreement

2.1.3. "Application" means the application reference number F/06/57836 for planning permission to develop the Site by the demolition of existing dwellings and construction of 79 dwelling units with associated parking landscaping bin and cycle storage and highway works

2.1.4. "Development" means the development permitted by the Permission

2.1.5. "Permission" means the conditional planning permission granted pursuant to the Application

2.1.6. "Site" means the land situate at Bodmin Road Bishopstoke Eastleigh SO50 6GH shown edged red on the Plan

2.1.7. "The Plan" means the plan annexed to this Agreement

2.1.8. "Affordable Housing" means low cost housing for rent or a shared ownership or shared equity scheme

2.1.9. "Affordable Housing Units" means a minimum of 72 units for Affordable Housing on the Site

2.1.10 "The Area" means the area of Bishopstoke Fair Oak and Horton Heath

2.1.11 "The Index Linking" means the index linking referred to in Clause 7 of this Agreement

2.2 In this Agreement where the context so requires:

2.2.1 the singular includes the plural

2.2.2 where a party includes more than one person any obligations of that party shall be joint and several

2.2.3 references to clauses are references to clauses in this Agreement

2.2.4 a reference to an Act of Parliament refers to the Act as it applies at the date of this Agreement and any later amendment or re-enactment of it

2.3 The Council and the Owner and the Mortgagee shall include their respective successors in title and assigns and this Agreement shall operate so as to bind each and every part of the Site into whosoever hands the same shall come and shall enure for the benefit of the Council

3. Recitals

3.1 The Owner is the registered proprietor of the freehold of the Site which is registered at HM Land Registry under Title No HP 517326 subject to a charge dated in favour of the Mortgagee and registered on the 18 April 2005 as Entry Number 13 in the Charges Register of the said Title Number HP 517326

3.2 The Council is the local planning authority for the purposes of this Agreement within the meaning of Part 111 of the 1990 Act for the area within which the Site is situate by whom the obligations herein entered into are enforceable

3.3 The Owner has made the Application to the Council

3.4 The Council is satisfied that the Development is such as may be approved by the Council under the 1990 Act subject to conditions and subject to this Agreement being entered into prior to the granting of the Permission

3.5 The Owner and the Council have agreed to enter into this Agreement which is made in pursuance of Section 106 of the 1990 Act and Section 111 of the Local Government Act 1972

4. Legal Effect

4.1 This Agreement is made pursuant to Section 106 of the 1990 Act and Section 111 of the Local Government Act 1972 to the intent that it shall bind the Owner and its successors in title of each and every part of the Site as provided in those Sections and the covenants contained in clause 5 are planning obligations for the purposes of Section 106 of the 1990 Act

4.2 This Agreement shall come into effect upon the grant of the Permission but the obligations in clause 5.1 shall become effective only on and after the commencement of the Development in accordance with Section 56 of the 1990 Act and the obligations in clause 5.2 shall take effect prior to commencement of the Development

5. Covenants on the part of the Owner

The Owner hereby Covenants with the Council:

5.1 That the Affordable Housing Units constructed on the Site will not be used for any purpose other than as Affordable Housing (save that such an obligation shall not apply to be binding on:-

- (i) A mortgage or chargee receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 ("the Chargee") of the Affordable Housing or any part thereof who is in possession or is exercising a power of sale in respect thereof or (on any part thereof) or;
- (ii) On any successor in title to such chargee or;

- (iii) On a sale to a tenant exercising a right to acquire or purchase under a statutory power or;
- (iv) To a shared ownership or shared equity owner acquiring such percentage that will take their ownership to 100% if a property subject to a shared ownership or shared equity lease)

5.2 The Owner covenants with the Council to pay to the Council prior to commencement of development

5.2.1 as a contribution to the provision of social and recreational facilities in the Area the sum of Six Thousand Eight Hundred and Sixty Pounds (£6,860) plus Index Linking

5.2.2 as a contribution to the provisions of off-site Public Open Space in the Area of the sum of Twenty-nine Thousand Three Hundred and Seventy Pounds (£29,370) plus Index Linking

5.2.3 as a contribution in pursuance of the Road Traffic Reduction Act in respect of integrated road transportation improvements in the Area the sum of Twenty-one Thousand Five Hundred and Sixty-nine Pounds (£21,569) plus Index Linking

6. Consent

THE Mortgagee hereby consents to the Owner entering into this Agreement and acknowledges that the restrictions and obligations in this Agreement bind the Site from the date hereof

7. Indexing

7.1 THE payments to be made by the Owner pursuant to Clause 5.2.1 and 5.2.2 hereof shall be increased by multiplying the same by the figure shown in the Retail Price Index excluding Mortgages (RPIx) maintained by the Department of Trade and Industry or any Index maintained by HM Government in substitution thereof at the date of payment of the said sum divided by the figure shown in that Index at the 1st April 2005

7.2 THE payment to be made by the Owner pursuant to Clause 5.2.3 hereof shall be increased by multiplying the same by the figure shown in the Retail Price Index (RPI) maintained by the Department of Trade and Industry or any Index maintained by HM

Government in substitution thereof at the date of payment of the said sum divided by the figure shown in that Index at the 1st April 2005

8. Costs

The Owner hereby agrees with the Council to pay the Councils legal costs and disbursements incurred by the Council in preparing and entering into this Agreement

9. The parties agree:

9.1 nothing in this Agreement constitutes planning permission

9.2 nothing in this Agreement fetters or restricts the exercise by the Council of any of powers

9.3 this Agreement constitutes a Deed

9.4 No person or parties shall be liable for a breach of any covenant contained in this Agreement after he or she has parted with all interest in the Site or part of the Site in respect of which such breach occurs but without prejudice for any liability for any subsisting breach of covenant prior to parting with such interest.

10. Third Parties

For the avoidance of doubt none of the provisions of the Contracts (Rights of Third Parties) Act 1999 shall apply to this Agreement

11. Notices

11.1 Any notice or other written communication to be served or given by any party upon or to any other party under the terms of this Agreement shall be deemed to have been validly served or given if delivered by hand or sent by registered or recorded delivery post to the party upon whom it is served or to whom it is to be given as specified in clause

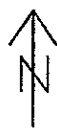
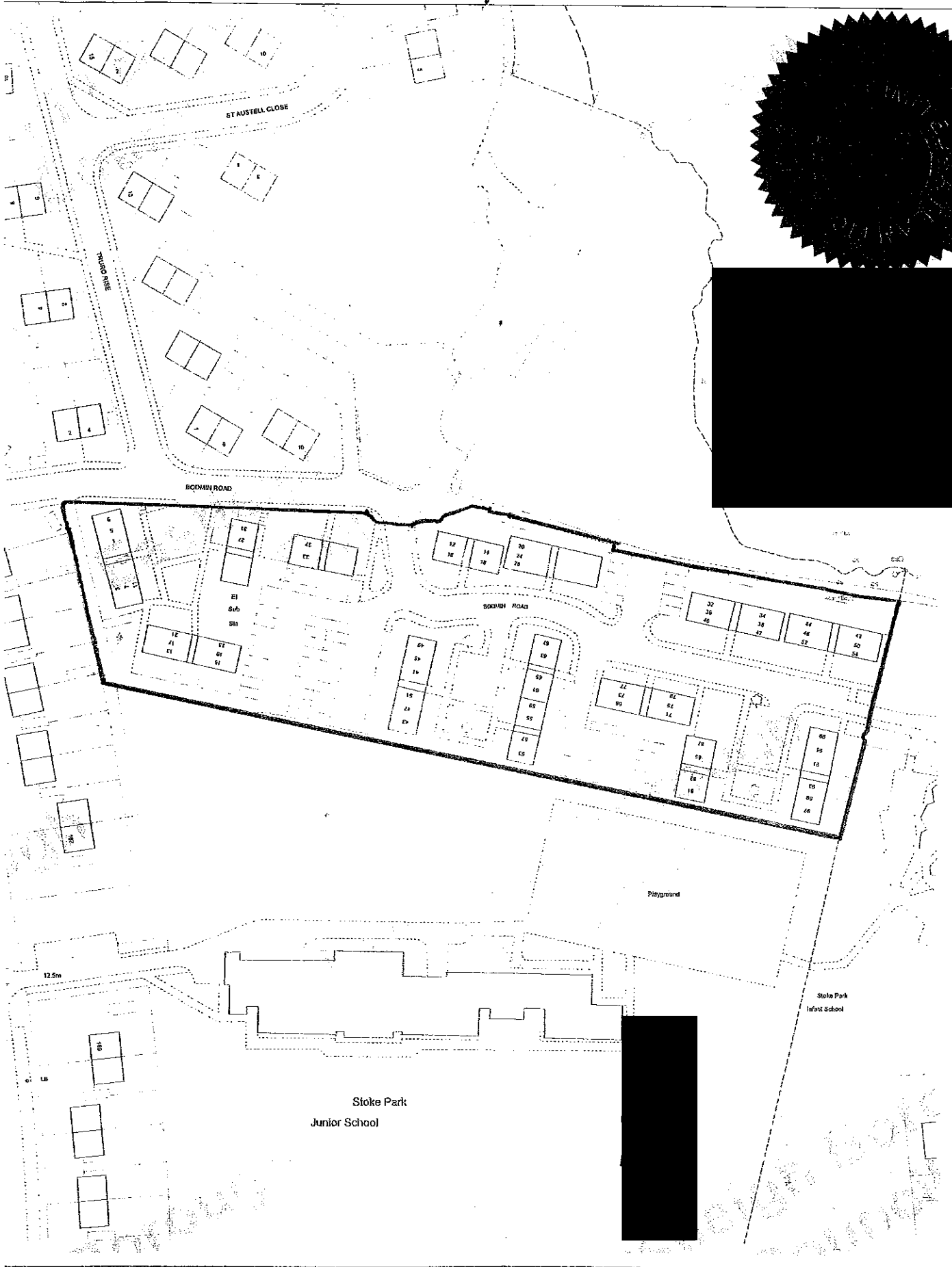
11.2

11.2 as otherwise notified for the purpose of notice in writing

11.3 The address for any notice or other written communication

11.3.1 The Council as specified above

11.3.2 The Owner as specified above



11.3.3 The Mortgagee as specified above

12 Land Charge

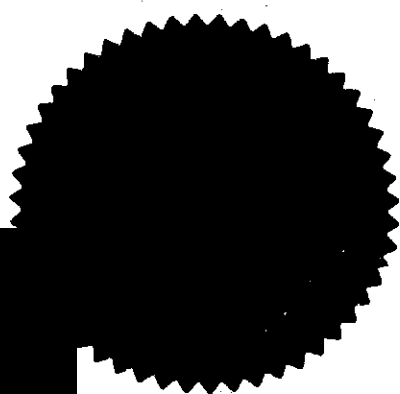
THIS Agreement shall be registered in the Council's Register of Local Land Charges immediately on completion hereof

EXECUTED and delivered as a Deed by the parties on the date of this Agreement

THE COMMON SEAL of EASTLEIGH)

BOROUGH COUNCIL was hereunto)

affixed in the presence of:-



Legal and Democratic Services

THE COMMON SEAL of ATLANTIC)

HOUSING LIMITED)

was hereunto affixed in the presence of:-)

Board Member

Secretary/Director

EXECUTED AS A DEED by affixing the)

Common Seal of PRUDENTIAL TRUSTEE)

COMPANY LIMITED in the presence of: -)

Sealing Officer