

DATED

27th October

2022

EASTLEIGH BOROUGH COUNCIL

and

HAMPSHIRE COUNTY COUNCIL

and

VISTRY HOMES LIMITED

A G R E E M E N T

Pursuant to Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 relating to Phase 3 Land on the south east side of Allington Lane Fair Oak SO50 7DB Hampshire

Legal Services Manager
Eastleigh Borough Council
Eastleigh House
Upper Market Street
EASTLEIGH
SO50 9YN

52425994.18

THIS DEED is made on

27th October

2022

BETWEEN

- (1) EASTLEIGH BOROUGH COUNCIL of Eastleigh House Upper Market Street
Eastleigh Hampshire SO50 9YN ("the Council")
- (2) HAMPSHIRE COUNTY COUNCIL of The Castle Winchester Hampshire SO23
8UJ ("the County Council")
- (3) VISTRY HOMES LIMITED a company incorporated in England and Wales
(company number 00397634) whose registered office is at 11 Tower View, Kings
Hill, West Malling, Kent, England, ME19 4UY ("the Owner")

RECITALS

- (1) The Council is the local planning authority for the purposes of the Act for the area
within which the Site is situated
- (2) The Owner is the freehold registered proprietor of the Site under title numbers
HP849781 and HP264846 free from any financial charge.
- (3) The County Council is the Highway Authority and Education Authority for
Hampshire and is also a local planning authority for the purposes of the Act for
the area within which the Site is situated
- (4) The Owner has by written application numbered F/21/91132 and dated 9 July
2021 applied to the Council for Planning Permission for the Development of the
Site
- (5) The Council is desirous of granting planning permission for the Development of
the Site subject to the conditions contained in the Planning Permission and
subject to the Owner entering into this Deed

(Definitions)

1. In this Deed in addition to the defined expressions herein referred to the following
expressions shall have the following meanings:

"the Act"	means the Town and Country Planning Act 1990 as amended
"Affordable Housing"	means low cost housing which shall be offered for sale or rent including shared equity or shared ownership schemes
"Affordable Housing Dwellings"	means those Dwellings to be provided for Affordable Housing in accordance with Schedule Six
"Affordable Housing Land"	means the land to be provided for 35% Affordable Housing in accordance with the provisions of paragraph 1 of Schedule Six
"Affordable Housing Plan"	means the plan attached hereto and given reference 20031/P109 Revision A
"Affordable Housing Provider"	means a registered provider in accordance with Part 1 of the Housing Act 1996 and/or registered or eligible for registration under Chapter 3 of Part 2 of the Housing and Regeneration Act 2008 who is registered with the Homes England or such other body as may be agreed with the Council (such agreement not to be unreasonably withheld or delayed)
"Approved Specification"	means the details approved by the Council for the Public Areas
"Commencement of Development"	means the carrying out in relation to the Development of any material operation as defined by section 56 (4) of the Act but disregarding for the purposes of this deed and for no other purposes, the following operations: - Demolition - Site clearance

- Site preparation;
- Archaeological investigations and evaluation;
- Ecology surveys and works
- Evaluation and investigation for the purposes of assessing contamination and any remedial action in respect of any contamination;
- Erection of any temporary means of enclosures, temporary display of advertisements

and the expressions “commenced”, “commence”, “commencing” and “commences” shall be construed accordingly

“Community Infrastructure Contribution”

means a contribution in the sum of forty seven thousand, two hundred and eighty pounds (£47,280.00) index linked from and including 1 January 2008 in accordance with clause 11 of this Deed and to be used towards the Bishopstoke Memorial Hall Project (refurbishment or rebuild).

"Council's Contribution Payments"

means the payments to be made by the Owner to the Council in respect of:

- (i) the Community Infrastructure Contribution
- (ii) the Public Open Space and Play Area Contribution
- (iii) the Public Art Contribution
- (v) the Health Infrastructure Contribution

all index linked in accordance with clause 11 of this Deed

"County Council Monitoring Fee"	means the sum of Two Thousand Five Hundred Pounds (£2,500)
"Default Interest Rate"	means interest at four percent (4%) above the base lending rate of Barclays Bank Plc from time to time
"Development"	means the development described in Schedule Two
"Dwellings"	means those dwellings to be constructed on the Site by the carrying out of the Development and the expression "Dwelling" shall be construed accordingly
"Education Contribution"	means a contribution in the sum of one hundred thousand pounds (£100,00.00) index linked from 4 th Quarter 2018 in accordance with clause 11.2 of this Deed to be used towards improvements to facilities at Fair Oak Infant School, Fair Oak Junior School and Wyvern College
"Health Infrastructure Contribution"	means a contribution in the sum of seven thousand pounds (£7,000.00) index linked from and including the date of this agreement in accordance with clause 11 of this Deed and to be used towards providing additional capacity within existing GP surgeries within the Local Area
"Local Area"	means the area of Fair Oak and Horton Heath
"Nominations Agreement"	means an agreement where no existing agreement is in place to be entered into with the Council by the Affordable Housing Provider in respect of rights for the Council to nominate persons for the Affordable Housing Dwellings from the Council's Housing Register

"Occupation and Occupied"	means occupation or occupied by residents and reference to "Occupy" shall be construed accordingly
"Owner"	means the Owner and his respective successors in title to the Site
"Planning Permission"	means planning permission for the development of the Site numbered F/21/91132
"Public Areas"	means an area of privately maintained land comprising shared spaces outside of private curtilages to be provided in accordance with the terms of Schedule Five of this Deed and as shown on the Public Areas Plan
"Public Areas Plan"	means the Plan ref 20031 SK12 and attached hereto showing the Public Areas
"Public Art Contribution"	means a contribution in the sum of ten thousand and five hundred pounds (£10,500.00) index linked from and including 1 November 2007 in accordance with clause 11 of this Deed towards Eastleigh's Public Art Strategy 2015-2019
"S73 Permission"	means a permission granted pursuant to section 73 of the Act
"Public Open Space and Play Area Contribution"	means a contribution in the sum of twenty five thousand three hundred and seventy eight pounds and sixteen pence (£25,378.16.00) index linked from and including 1 January 2008 in accordance with clause 11 of this Deed towards the provision, maintenance and supervision of public open space and play areas in the Local Area including a

	recreational footpath and improvements through Quobleigh Woods
"Section 106 Monitoring Contribution"	means the cost of the Council's Planning Obligations Administrator and Enforcement Officer for monitoring compliance with the terms of this Deed in the sum of £3,000
"Services"	means pipes wires sewers drain cables and other works including (if applicable) any underground on line storage facilities and other works
"Site"	means the land described in Schedule One
"Site Plan"	means the plan numbered 20031 P101 Revision J and annexed hereto
"Sustainable Integrated Transport Contribution"	means a contribution in the sum of one hundred and thirty seven thousand, seven hundred and sixty four pounds (£137,764.00) index linked from 1st April 2009 in accordance with clause 11.1 of this Deed in respect of sustainable transport measures to be used towards • sustainable transport improvements in the Local Area to include footways cycleways and public transport infrastructure • junction improvements to the Eastleigh corridor between the Site and Eastleigh Town Centre
"TRO Contribution"	means a traffic regulation order ("TRO") contribution to be paid to the County

Council in the sum of six thousand pounds (£6,000.00) index linked from 1st February 2012 in accordance with Clause 11.1 of this Deed to be used towards parking restrictions on the access junction to the site and along the frontage of Allington Lane and internal to the site upon either adoption by HCC or agreement with the land owner

OPERATIVE PROVISIONS :-

1. This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other enabling powers and in consideration of the covenants contained in this Deed.
2. The obligations by the Owner in this Deed are deemed to be planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council and the County Council.
3. The Owner for themselves and their respective successors in title hereby covenant with the Council, and separately covenant with the County Council, with the intent of binding the Site so that such covenants shall be enforceable against successors in title and any person claiming through or under them to observe the restrictions and to perform the obligations contained in Schedule Three to Schedule Six inclusive.
4. The Council and the County Council hereby agree that the Owner shall not be liable for any breach of the restrictions and obligations on its part set out in this

Deed where such breach arises after the Owner shall have parted with its entire interest in the Site or the part of the Site where such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

5. This Deed shall come into effect immediately upon completion SAVE the restrictions and obligations contained in Schedules Three to Six shall be conditional upon the grant of Planning Permission.
6. The parties hereby agree that where under the terms of this Deed the consent or approval or confirmation of the Council or the County Council or their respective officers is required then such consent or approval or confirmation shall not be unreasonably withheld or delayed and the parties shall use their respective reasonable endeavours to raise and answer any queries arising from submission for consents or approvals or confirmations as promptly as reasonably practicable to enable the Council or the County Council to make the relevant decision on an informed basis.
7. The performance of the obligations by the Owner aforesaid shall be subject to the provisos (if any) contained in Schedules Three to Six (inclusive).
8. This Deed is a local land charge and will be registered by the Council as such.
9. The Owner shall pay the Council's and the County Council's reasonable and proper legal costs and disbursements and other costs in connection with the preparation, negotiation and completion of this Deed on completion of this Deed together with the Council's Section 106 Monitoring Contribution and the County Council's Monitoring Fee.

10. Save in respect of any provision requiring any disagreement or dispute between the parties to be referred to arbitration, if any dispute or difference shall arise between the parties then the following provisions shall apply
 - 10.1. the dispute or difference may on written notice by any party at any time and served on the other parts (the "Determination Notice") be referred to and determined by an independent person (the "Independent Person") who shall have been qualified in respect of the general subject matter of the dispute or difference for not less than ten (10) years and who shall be a specialist in relation to such subject matter
 - 10.2. the Independent Person shall be appointed by agreement between the relevant parties (if within 10 working days after service of the Determination Notice they have been unable to agree) on the application of any relevant party by the President for the time being of the Law Society or his or her duly appointed deputy or any other person authorised by him or her to make appointments on his or her behalf
 - 10.3. the Independent Person to be appointed under this clause shall act as an expert and the following provisions shall have effect:
 - 10.3.1. the Independent Person shall act as an expert and not as an arbitrator and his or her decision shall be final and binding upon the parties to the dispute or disagreement (save in the case of manifest error)
 - 10.3.2. the Independent person shall consider (inter alia) any written representations made on behalf of any party (if made reasonably promptly) but shall not be bound by them
 - 10.3.3. the parties to the dispute or disagreement shall use all reasonable endeavours to procure that the Independent Person shall give his or her decision as speedily as possible;
 - 10.3.4. the cost of appointing the Independent Person and his or her costs and disbursements in connection with his or her duties

under this agreement shall be shared between the parties to the dispute or disagreement in such proportions as the Independent Person shall determine, or in the absence of such determination equally between such parties; and

10.3.5. if the Independent Person shall be or become unable or unwilling to act then the above procedure for the appointment of an expert may be repeated as often as necessary until a decision is obtained.

11. It is agreed between the parties that:

11.1. the Sustainable Integrated Transportation Contribution and the TRO Contribution to be paid to the County Council by the Owner hereunder is required to be index linked and each relevant payment shall be increased by reference to the Retail Price Index ("RPI") published by the Office for National Statistics (or amendment or replacement thereof) from and including the base date referred to in the definition of such contributions to the date that the payment is received by the County Council

11.2. the Education Contribution to be paid to the County Council by the Owner hereunder is required to be index linked and each relevant payment shall be increased by reference to the Building Cost Information Service All-in Tender Price Index (BCIS All-in TPI") published by the Office for National Statistics (or amendment or replacement thereof) from and including the relevant base date referred to in the definition of such contributions to the date that the payment is received by the County Council

11.3. the Council's Contribution Payments to be paid to the Council by the Owner under the terms of this Deed are required to be index linked and in this respect each relevant payment shall be increased by the percentage by which the Retail Prices Index (excluding mortgages) ("RPIX") published by the Office for National Statistics (or amendment or replacement thereof)

increased from and including the relevant base date referred to in the definition of such contributions to the date the relevant payment is received by the Council.

12. If any sum or amount has not been paid to the Council or County Council by the date it is due, the Owner shall pay the Council or County Council interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the due date and including the date of payment.
13. If prior to receipt of any contributions payable pursuant to the terms of this Deed the Council and/or County Council incurs any expenditure in providing facilities to which it was intended to apply any such contribution (or in consequence of arranging the provision thereof) by the letting of a contract or otherwise including any design costs whether in anticipation of or as a result of the Development then the Council and/or County Council may immediately following receipt of such contribution deduct therefrom a sum equivalent to such expenditure incurred and for the avoidance of doubt it is hereby further agreed that such a proportion of any such contribution shall not be the subject of any requirement to repay or account for it or any interest accrued thereon pursuant to the terms of this Deed and that such monies shall be and remain the property of the Council and/or County Council and shall not be bound by the terms of this Deed. For the further avoidance of doubt any such expenditure shall not result in an increase of the contributions identified in this Deed.
14. Nothing (contained or implied) in this deed shall fetter or restrict the Council's or County Council's statutory rights, powers, discretions and responsibilities.

15. No failure or delay by the Council or the County Council to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
16. Nothing in this agreement shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission.
17. The parties agree that:
 - 17.1. Nothing in this deed constitutes a planning permission or an obligation to grant planning permission; and
 - 17.2. Nothing in this deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.
18. Any person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term under this Deed.
19. The Owner agrees with the Council and the County Council to give the Council and the County Council immediate written notice of any change of ownership of any of its interest in the Site occurring before all the obligations under this Deed have been discharged by the Council and the County Council and such notice shall give details of the transferees full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation acquired by the transferee by reference to a plan provided that this shall not apply to the transfer of an individual unit.

20. The Owner warrants that no person other than the Owner has any legal interest in the Site.

21. In this Deed:

21.1. the masculine and the feminine and neuter gender include each of the other genders and the singular includes the plural and vice versa and references to persons include firms corporations and unincorporated associations;

21.2. a reference to a statute refers to the statute as it applies at the date of this Deed and any later amendment or re-enhancement of it and any regulations or statutory instrument made under it; and

21.3. a reference to a clause or schedule is a reference to a clause or schedule contained in this Deed.

22. ENFORCEABILITY

22.1. The obligations in this Deed shall not be binding or enforceable against:

(a) individual owner occupiers or tenants of any of the Dwellings constructed pursuant to the Planning Permission nor against their mortgagees nor receivers appointed by such mortgagees or any person deriving title through any such mortgagee or receiver or;

(b) any statutory undertaker or authority who requires any part of the Site or interest in it for the operational purposes of its statutory undertaking or functions or;

(c) any occupant of the Affordable Housing Dwellings which shall include any occupant exercising a right to acquire pursuant to the Housing Act 1996 or any statutory amendment modification or enactment thereof or otherwise acquiring 100% of the equity of an

Affordable Housing Dwelling or any person deriving title from that person

(d) save for the provisions of Schedules Five and Six any Affordable Housing Provider who acquires the Affordable Housing Dwellings

23. Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
24. No party shall be liable for any obligation in this Deed once it has parted with its interest except for any subsisting breach arising prior to any such disposition .
25. This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
26. If a S73 Permission is granted by the Council in relation to the Development then with effect from the date that such permission is granted the definitions and the obligations in this Deed shall in addition to continuing to bind the Site in respect of the Planning Permission relate to and bind all subsequent S73 Permissions (PROVIDED ALWAYS THAT there is no intention on the Council to double-count any planning obligations in any other Deed relating to the Site) and the Site itself without any further act by the parties PROVIDED THAT nothing in this clause shall:
 - (a) restrict the ability of the Owner to request a variation to the terms of this Deed in connection with the grant of any S73 Permissions (which request the Council shall consider in light of all the circumstances); or
 - (b) fetter the discretion of the Council in determining:

- (i) any application(s) under S73 of the Act; or
- (ii) the appropriate nature and/or quantum of section 106 obligations insofar as they are materially different to those contained in this Deed and required pursuant to a determination under S73 of the Act whether by way of a new deed or supplemental deed pursuant to section 106 of the Act or a modification agreement pursuant to section 106A of the Act.

27. This Deed is to be governed by and interpreted in accordance with the law of England and is enforceable in the Courts of England and Wales and shall take effect on the date upon which it is made.

INDEX OF SCHEDULES

Schedule One	Description
Schedule Two	Proposed Development of the Site
Schedule Three	Notification
Schedule Four	Contribution Payments
Schedule Five	Public Areas
Schedule Six	Affordable Housing

INDEX OF PLANS

Affordable Housing Plan	Plan 1 – Affordable Housing Layout
Public Areas Plan	Plan 2 – Landscape Masterplan
Site Plan	Plan 3 – Amended Proposed Site Layout

SCHEDULE ONE
(Description of Site)

The freehold land at Phase 3 Land on the south east side of Allington Lane, Fair Oak shown for the purpose of identification only edged red on the Plan as the same is registered at the Land Registry with freehold titles absolute under Title Numbers HP264846 and HP849781

SCHEDULE TWO
(Proposed Development of Site)

Demolition of all existing buildings on site and erection of 35 residential dwellings with vehicular access from Allington Lane and associated infrastructure, hard and soft landscaping, open space and drainage

SCHEDULE THREE

(Notification)

1. The Owner shall notify the Council and the County Council in writing or procure that they are so notified each of the following events within 21 days of such event occurring:
 - 1.1. Commencement of Development
 - 1.2. Occupation of the 1st Dwelling
 - 1.3. Occupation of the 15th Dwelling
 - 1.4. Occupation of the 20th Dwelling
 - 1.5. Occupation of the 30th Dwelling
 - 1.6. Occupation of the 34th (Penultimate) Dwelling

SCHEDULE FOUR
(The Contribution Payments)

Owner's Covenants

The Owner Covenants with the Council:

1. To pay 50% of the Community Infrastructure Contribution on the first Occupation of a Dwelling on the Development and the remaining 50% on the Occupation of the 30th Dwelling on the Development.
2. To pay 50% of the Health Infrastructure Contribution on the first Occupation of a Dwelling on the Development and the remaining 50% on the Occupation of the 30th Dwelling on the Development.
3. To pay the Public Art Contribution on the Occupation of the 30th Dwelling on the Development.
4. To pay 50% of the Public Open Space and Play Area Contribution on the first Occupation of a Dwelling on the Development and the remaining 50% on the Occupation of the 30th Dwelling on the Development.
5. To not permit or cause to be permitted Occupation of the Development beyond what is permitted by this Schedule until such time as the required Council Contributions Payments (or relevant percentage of such contributions as detailed in this Schedule) have been paid.

The Owner Covenants with the County Council:

6. To pay the TRO Contribution prior to first Occupation of any Dwelling on the Development.
7. To pay 50% of the Education Contribution on the first Occupation of a Dwelling on the Development and the remaining 50% on the Occupation of the 20th Dwelling on the Development.
8. To pay 50% of the Sustainable Integrated Transport Contribution on the first Occupation of a Dwelling on the Development and the remaining 50% on the Occupation of the 20th Dwelling on the Development.

Council and County Council Covenants

9. The Council and the County Council hereby covenants with the Owner to use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid or for such other purposes for the benefit of the Development as the Owner and the Council and the County Council (as relevant) shall agree both parties acting reasonably.
10. The Council and the County Council covenants with the Owner that it will pay to the party who made the payment such amount of any payment made by the Owner to the Council or the County Council under this Deed which has not been expended and/or committed in accordance with the provisions of this Deed within ten years of the date of receipt by the Council or the County Council (as relevant) of such payment.

SCHEDULE FIVE

(Public Areas)

1. Prior to the Commencement of the Development the Owner shall submit in writing to the Council for the Council's approval a specification for the Public Areas detailing
 - i) Soft and hard landscaping, footway and road surfacing and street furniture details
 - ii) Long term management and maintenance details for all unadopted roads, street furniture, trees, ecology areas, SuDS areas and shared spaces outside of private curtilages. To include replacement of any planting that fails in first 10 years
 - iii) Contact details of any management company
2. The Council shall notify the Owner in writing within 6 (six) weeks of its approval of the specification and such approval shall be known as the Approved Specifications.
3. In the event that the Council does not approve the specification it shall notify the Owner of the reasons for not approving the specification and the Owner shall take such steps as are required to rectify the situation and resubmit an amended specification for the Council's written approval within four (4) weeks of being notified that the specification has not been approved.
4. The process outlined in paragraphs 1, 2 and 3 above shall continue until such time as the Council notifies the Owner of its agreement to the Approved Specifications.

5. Until such time as the Approved Specifications are issued by the Council the Owner shall not Occupy nor permit Occupation of any Dwelling.
6. The Owner shall provide the Public Areas relating to the land adjoining the first 20 Dwellings to be developed in accordance with the Approved Specification prior to the Occupation of the 20th Dwelling.
7. The Owner shall not permit the Occupation of nor cause to be permitted the Occupation of more than 20 Dwellings unless and until such time as the Public Areas envisaged by paragraph 6 of this Schedule have been provided in accordance with the Approved Specification.
8. The Owner shall provide the Public Areas relating to the remainder of the Development in accordance with Approved Specification by no later than Occupation of penultimate Dwelling.
9. The Owner shall not permit nor cause to be permitted Occupation of the penultimate Dwelling until such time as the Public Areas relating to the remainder of the Development have been provided in accordance with Approved Specification.
10. The Owner shall permit unencumbered public use of the Public Areas in perpetuity, including access from any highway and footpath either within or bordering the Site.
11. The Owner shall maintain and manage the Public Areas in accordance with approved details for the lifetime of the Development.
12. The Owner shall provide details of all Public Areas and their intended public use in relevant marketing literature.

13. The Owner shall provide in any transfer to a management company a restriction in the transfer to not use the Public Areas for any purpose other than Public Areas in accordance with this Deed.

SCHEDULE SIX
(Affordable Housing)

1. The Owner hereby covenants that:
 - 1.1. prior to Occupation of any Dwelling on the Site to provide the land for no less than 35% of the overall number of Dwellings constructed on the Site for Affordable Housing (and if the Development proceeds in phases to ensure that each phase has land provided for a minimum of 35% Affordable Housing Dwellings out of the total number of housing units constructed or to be constructed on the relevant phase).
 - 1.2. The Affordable Housing Dwellings provided will be:
Rent: 65% (8 units)
Shared Ownership: 35% (4 units)
in accordance with the Affordable Housing Plan.
 - 1.3. The Affordable Housing Dwellings must be developed to lifetime homes standards (Building Regulations Part M4 (2)) (and in respect of the 2 x ground floor flats also Building Regulations Part M4 (3)) and in accordance with the current Homes England Design and Quality Standards or such other standards that shall be in force at the date of the contract being entered into in addition to any specific requirements of the Affordable Housing Provider.
 - 1.4. That when constructed the Affordable Housing Dwellings shall be transferred to the Affordable Housing Provider on the basis of a calculation of free serviced land and reasonable build cost or as otherwise agreed between the Owner and the Affordable Housing Provider and should a dispute arise the provisions of clause 10 of the Operative Provisions of this Deed shall apply.

1.5. subject to Paragraph 1.6 of this Schedule the land that is to comprise the 35% Affordable Housing Dwellings shall be transferred to the Affordable Housing Provider:

- 1.5.1. for an estate in fee simple in possession
- 1.5.2. with full title guarantee but subject to modifications as the Owner reasonably requires
- 1.5.3. subject to the matters specified in the Property and Charges Registers of Title Numbers HP264846 and HP849781 (other than entries securing monies) and the terms of this agreement so far as the same relate to and affect the land to be transferred but otherwise free from encumbrances
- 1.5.4. with all main services (which shall include gas, electric, water, main drainage and telephone services) provided into the transferred land
- 1.5.5. with vehicular and pedestrian access and all necessary rights of way to the boundary of the transferred land together with and subject to such other rights covenants restrictions declarations agreements and other matters reasonably required by the Owner to be included in any transfer of the Affordable Housing Land and which are reasonably necessary having regard to the Owner's development of the remainder of the Site

1.6. That the Affordable Housing Dwellings constructed on the Affordable Housing Land will not be used for any purpose other than as Affordable Housing to rent and/or Affordable Housing subject to a shared ownership or shared equity scheme. The obligations and provisions contained in this Deed shall not be binding upon:

- 1.6.1. Any mortgagee or chargee or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security

documentation to enable such mortgagee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a 'Receiver') of the whole or any part of the Affordable Housing Dwellings or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- 1.6.1.1. Such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Dwellings and shall have used reasonable endeavours over a period of 3 months from the date of the written notice to complete a disposal of the Affordable Housing Dwellings to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all principle monies, interest, cost and expenses; and
- 1.6.1.2. If such disposal is not completed within the 3 month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Dwellings free from the provisions and obligations contained in this Deed which shall determine absolutely.
- 1.6.1.3. Any tenant exercising their right to acquire or purchase under a statutory power or to a shared ownership or shared equity owner acquiring such percentage that will take their ownership to 100% of a

property subject to a shared ownership or shared equity lease, or to their successors in title

- 1.7. In the event of an agreement not being reached with the Affordable Housing Provider with regard to the construction costs of the Affordable Housing Dwellings to transfer the interest in the Site upon which the Affordable Housing Dwellings would have been constructed to a further Affordable Housing Provider as the Council nominates in writing within 28 days of written request from the Owner requesting the Council to so nominate and in the event after a further period of three months of the Affordable Housing Land being made available no agreement has been reached with regard to the construction costs of the Affordable Housing Dwellings the Owner shall be at liberty to transfer the interest in the Affordable Housing Land to any Affordable Housing Provider as the Owner shall determine at nil cost.
- 1.8. That when constructed the Owner shall procure that the Affordable Housing Dwellings are constructed in clusters (such clusters not to exceed 10-15 units or such other numbers as is approved by the Council) and to agree the location of each cluster with the Council prior to Commencement of Development of each phase of the Site the Council's agreement to the same not to be unreasonably withheld or delayed.
- 1.9. Not to Occupy or permit Occupation of any of the private residential Dwellings constructed on the Site (being residential dwellings other than the Affordable Housing Dwellings) until such time as the Nominations Agreement where no such nomination rights currently exist, has been entered into by the Affordable Housing Provider with the Council and such Nominations Agreement shall be in the terms approved by the Council such approval not to be unreasonably withheld or delayed and unless such

Occupation is in accordance with the following provisions of Paragraph 1.10 of this Schedule hereto.

- 1.10. The Owner shall not Occupy more than 15 private Dwellings (being any dwelling which is not an Affordable Housing Dwelling) until the Affordable Housing Dwellings have been constructed and transferred to an Affordable Housing Provider.
- 1.11. If the Owner constructs more Dwellings on the Site for which planning permission is obtained under the Planning Permission then additional Affordable Housing Dwellings shall be provided on the basis of providing the required 35% out of the total number to be constructed and the above provisions of this Schedule shall so far as applicable apply to the Affordable Housing Dwellings (if any) provided pursuant to this paragraph.

In Witness whereof the parties hereto have today executed and delivered this agreement
as a Deed

EXECUTED as a DEED by affixing)
THE COMMON SEAL of EASTLEIGH)
BOROUGH COUNCIL in the)
presence of: *HELEN DEVEREUX*)

Authorised Signatory

Position

LEGAL SERVICES MANAGER



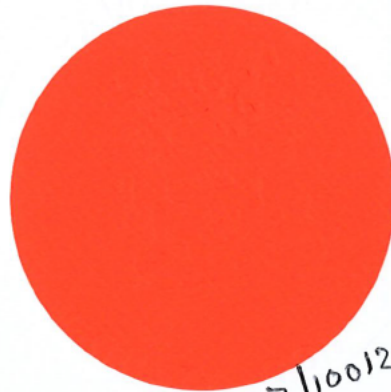
11794

EXECUTED as a DEED by affixing)
THE COMMON SEAL of HAMPSHIRE)
COUNTY COUNCIL in the presence of:)

Authorised Signatory

Name *ADRIAN OWEN*

Position *AUTHORISED OFFICER*



37/100128

Executed as a deed by VISTRY HOMES LIMITED acting by [CHRIS ADAMS]
and [MARTYN FLOOD] as attorneys for and on behalf of VISTRY HOMES
LIMITED under a power of attorney dated [1st September 2022]

[print name]

Attorney

CHRIS ADAMS

[print name]

Attorney

Plan 1



Planning

REV	DATE	REVISIONS:	BY	REV	DATE	REVISIONS:	BY	STATUS:
A	21/02/22	Updated to suit layout P101J						

Planning

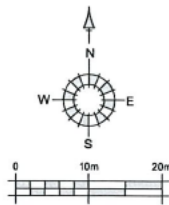
CLIENT: Vistry Southern		PROJECT: Treetops Nurseries Site Allington Lane, Fair Oak	
SCALE: 1:500 (A1 ORIGINAL)		DRAWING: Affordable Housing Layout	
DRAWN: RP	20031	P109	A
DATE: 18.01.22			



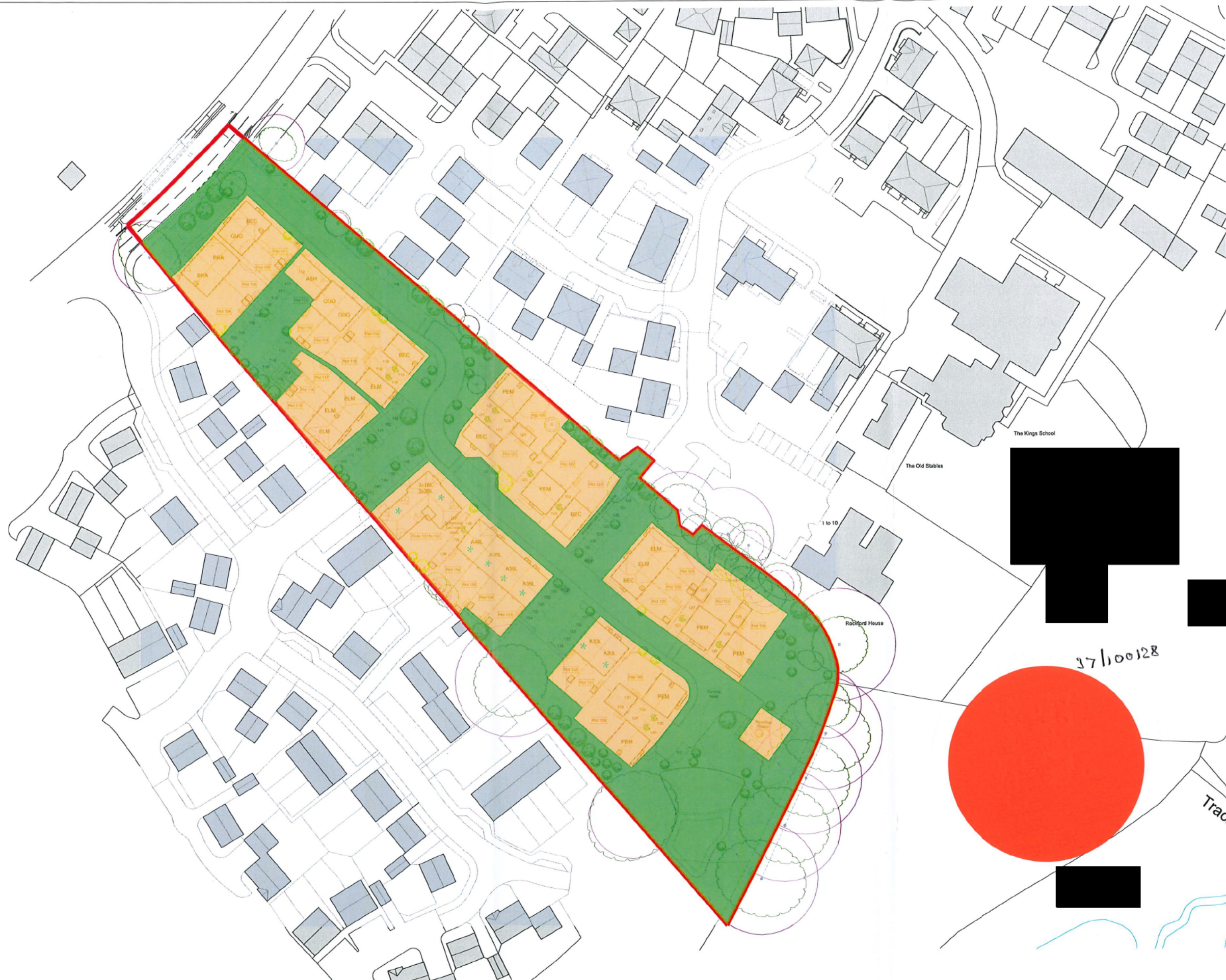
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Plan 2



Public Areas
Private Areas

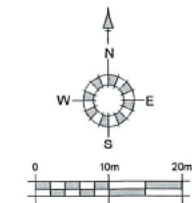


REV	DATE	REVISIONS	BY	REV	DATE	REVISIONS	BY	REV	DATE	REVISIONS	BY	STATUS

CLIENT:	Vistry Southern	PROJECT:	Treetops Nurseries Site Allington Lane, Fair Oak
SCALE:	1:500 (A1 ORIGINAL)	DRAWING:	Public Areas Plan
DRAWN:	AL	20031	SK12
DATE:	12.08.22		A

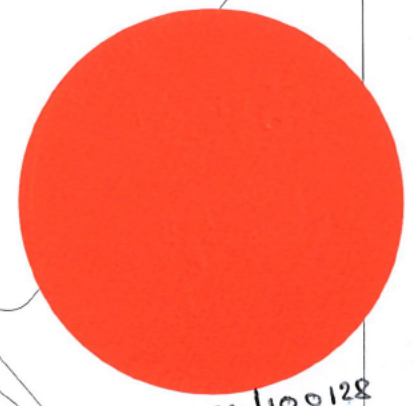

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Plan 3



Site Plan Legend
Site Area 1.282Ha (3.16 Acres)

- Application Site Boundary Line
- Existing Trees/Hedgerow
- Proposed Trees
Indicative locations
(see Landscape Architects Drawing V1910207-11)
- Proposed Hedging
Indicative locations
(see Landscape Architects Drawing V1910207-11)
- Trees/Hedges Removed
(see Landscape Architects Information)
- PEM Dwelling Reference
Example shown
- Plot 00 Plot Number
- 1 Allocated Parking
2.5m x 5m
- V-1 Visitor Parking
2.5m x 5m
- 1.8m Brick Wall
- 1.8m Timber Fence
- Shed/Cycle Store
- RCP Refuse Collection Point
- Bin Store
- Attenuation Pond
- Garage
3m x 6m internal
- Car Charging Point



Planning

REV	DATE	REVISIONS	BY	REV	DATE	REVISIONS	BY	STATUS

CLIENT:	Vistry Southern	PROJECT:	Treetops Nurseries Site Allington Lane, Fair Oak
SCALE:	1:500 (A1 ORIGINAL)	DRAWING:	Site Layout
DRAWN:	RDB	20031	P101
DATE:	24.10.21		J


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