

DATED 13th June 2025

- (1) EASTLEIGH BOROUGH COUNCIL
- (2) HAMPSHIRE COUNTY COUNCIL
- (3) BELLWAY HOMES LIMITED
- (4) MILLER HOMES LIMITED
- (5) HALEBOURNE CARE GROUP LIMITED

PLANNING OBLIGATION BY AGREEMENT

**relating to land at White Stork Road, Boorley
Gardens adjacent to the roundabout with
Winchester Road**



Pinsent Masons

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THIS DEED OF AGREEMENT is made on

13th June

2025

BETWEEN:-

- (1) **EASTLEIGH BOROUGH COUNCIL** of Eastleigh House, Upper Market Street, Eastleigh SO50 9YN (the "Council");
- (2) **HAMPSHIRE COUNTY COUNCIL** of The Castle, Upper High Street, Winchester SO23 8UJ (the "County Council")
- (3) **BELLWAY HOMES LIMITED** (No 00670176) whose registered office is at Woolsington House, Woolsington, Newcastle Upon Tyne, England, NE13 8BF ("**Bellway**");
- (4) **MILLER HOMES LIMITED** (No SC255429) whose registered office is at Miller House, 2 Lochside View, Edinburgh Park, Edinburgh, EH12 9DH ("**Miller**"); and
- (5) **HALEBOURNE CARE GROUP LIMITED** (No 13587320) whose registered office is at Ground Floor, 4 Tanners Yard, London Road, Bagshot, GU19 5HD (the "**Developer**").

WHEREAS:-

- (A) The Council is the local planning authority for the Site and can enforce the obligations contained in this Deed. The County Council enters into this Deed for the purpose of release of any previous planning obligations including the Outline S106 Agreements in relation to the Site as set out in clauses 7.1 and 7.2 of this Deed.
- (B) The Owner is the freehold owner of the Site.
- (C) The Developer is the beneficiary of a contract entitling it to purchase the freehold interest in the Site in the future and, having submitted the Application to the Council, enters into this Deed for the purpose of securing the covenant at clause 11 (Legal Costs) hereof.
- (D) The Council considers it expedient in the interests of the proper planning of its area that provision should be made for regulating or facilitating the Development as set out in this Deed. For the purposes of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) the Council is satisfied that the restrictions and provisions contained in this Deed are necessary to make the Development acceptable in planning terms, that they are directly related to the Development and are fairly and reasonably related in scale and kind to the Development.
- (E) The Owner and the Council enter into this Deed to secure the planning obligations contained in it in relation to the Site and to enable the Council to grant the Planning Permission.
- (F) In addition, the Owner and the Council and County Council agree that it is necessary, reasonable and appropriate for any previous planning obligations, including the Outline S106 Agreements, to be discharged in respect of the Site in order to reflect the revised proposals for the Site now set out in the Application.

IT IS AGREED as follows:-

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed (which includes the Recitals, Schedules and Appendices to it) the following words and expressions have the following meanings:-

- "1990 Act"** means the Town and Country Planning Act 1990
- "Application"** means the application for full planning permission for the Development validated by the Council on 11 January 2024 and allocated reference number F/23/96629
- "Community Hub Building"** means the community hub which is joined and linked to the care home forming part of the Development and shown on the drawing titled 'Proposed Ground Floor Plan' with reference H2161-ADG-ZZ-GF-DR-A/0001 rev 15 which is attached at Appendix 1, and which will include:
- a sheltered entrance lobby;
 - 75sqm of multi-function hall space;
 - storage facilities to a minimum size of 18 square metres and accessible from inside the Community Hub Building;
 - a fully functioning kitchen; and
 - three WCs' including one for disabled use.
- "Community Hub Building Management Plan"** means a document that sets out the following:
- Opening hours including days and times during which the Community Hub Building will be solely available for hire and use by the general public, including times when the Community Hub Building would be solely available for use by local residents and not for business/commercial hire.
 - Details of the hire charges for business/commercial hire and confirmation that there will be no hire charge for local residents to use the Community Hub Building.
 - Proposed advertising of the availability to hire the Community Hub Building provided that this shall be focussed within the Boorley Gardens area as the Community Hub Building is being provided as a space for the local community's needs.
 - Specifying that any proposed uses of the Community Hub Building must be considerate of the impact on both the care home residents and adjacent residential residents and that the Owner may refuse to hire the facility to any users or for any uses that may have a negative impact on such residents for example no functions with amplified noise beyond 18:00 hours.
 - Details of the insurances that must be in place prior to and in relation to the use and operation of the Community Hub Building namely buildings insurance, public liability insurance and employers liability insurance

- Details of a management liaison committee to include one elected Member from the Council, one officer from the Council, a representative of Botley Parish Council, and a representative of the care home. Details to include frequency of meetings.

“Completion of the Development”

means practical completion of the Development or if earlier practical completion of the Community Hub Building alone as evidenced by the issue of a certificate of practical completion issued by an appropriately experienced and specialist architect surveyor engineer or other relevant professional advisor (as applicable in the relevant circumstances) appointed by the Owner or in the event that the relevant construction is by a party other than the Owner the issue of such a certificate by that other party's appropriately qualified and specialist architect surveyor engineer or other relevant professional advisor (as applicable in the relevant circumstances) and its service on the Council in accordance with Clause 13.1.3 and “**Complete**” and “**Completed**” shall be construed accordingly

“Comply”

means comply, perform, fulfil and/or discharge or procure compliance, performance, fulfilment and/or discharge, and “**Compliance**” shall be construed accordingly

“Deed”

means this Deed made under section 106 of the 1990 Act and all other enabling powers

“Development”

means the erection of a 70-bed C2 care home incorporating an ancillary community hub with new vehicular access to White Stork Road as more fully described in the Application

“Expert”

means an independent person of at least 10 years standing in the area of expertise relevant to the dispute to be agreed between the Parties or, failing agreement, to be nominated at the request and option of any of them, at their joint expense, by or on behalf of the President for the time being of the Law Society

“Implementation”

means to initiate the Development by carrying out a material operation as defined in section 56(4) of the 1990 Act and the terms “**Implement**” and “**Implemented**” shall be construed accordingly

“Location Plan”

Means the plan attached to this Deed numbered H.21.61 (9-) 1 and titled “Existing Site Location Plan”

“Occupied” and “Occupation”

means first occupation of any care bedroom forming part of the Development by a care facility resident.

“Original Outline Planning Permission”

means the planning permission given reference O/15/75953 by the Council and granted on appeal with reference APP/W1715/W/15/3130073 and any subsequent reserved matters non-material amendments and further planning permissions granted pursuant to section 73 of the 1990 Act to vary said planning permission (and to vary subsequent variation permissions)

"Outline S106 Agreements"	means the following agreements made pursuant to section 106 and 106A of the 1990 Act: (a) agreement between the Council, Hampshire County Council, Messrs P, T and C Browning, Mrs J Hooper, Mrs V Saunders, Mrs I Wilton-Combes, Mr P Snook, Mr R Poore, Mrs J Parr, Mrs R Roderigo, Mrs G Shorney, Gleeson Developments Limited, Miller, Welbeck Strategic Land LLP and MF Strategic Land Limited entered into on 16 June 2016 in relation to the Original Outline Planning Permission ("Original S106"); (b) variation to the Original S106 dated 7 December 2018; (c) variation to the Original S106 dated 22 May 2020; (d) variation to the Original S106 dated 21 December 2022; and (e) variation to the Original S106 dated 9 August 2023
"Owner"	means together Bellway and Miller
"Parties"	means the parties to this Deed and " Party " shall mean any one of the parties to this Deed as the context so requires
"Planning Permission"	means the planning permission to be granted pursuant to the Application for the Development
"Public Art"	means the provision of art for the public benefit in accordance with the adopted Public Art Strategy
"Public Art Contribution"	means the sum of fourteen thousand pounds (£14,000.00) index linked by increasing this amount 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 1 November 2007 to the date the relevant payment is received by the Council to be used towards the provision, maintenance and supervision of off-site Public Art on the Wider Site and within Boorley Green and payable in accordance with Schedule 3 of this Deed
"Public Art Strategy"	means the Eastleigh Public Art Strategy 2023 - 2028
"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 three thousand, four hundred and fifty pounds (£3,450.00)
"Site"	means the land described in Schedule 1 to this Deed and shown edged red on the Location Plan at Appendix 1

"Utilities"	means mains services including gas, electricity, portable water, telecommunications
"Wider Site"	means the land to which the Outline S106 Agreements and Original Outline Planning Permission relate and which is shown edged red on the Wider Site Plan but for the purpose of this Deed excludes the Site
"Wider Site Plan"	means the plan entitled Wider Site Plan dated 5 January 2015 with drawing number SLP01 and attached at Appendix 1
"Working Day"	means a day other than a Saturday or Sunday or public holiday in England

1.2 In this Deed, unless otherwise indicated, reference to any:-

- 1.2.1 recital, Clause, sub-Clause, paragraph number, Schedule, Appendix or plan is a reference to a Recital, Clause or sub-Clause of, paragraph number of, Schedule to, Appendix to or plan annexed to this Deed;
- 1.2.2 words importing the singular meaning include the plural meaning and vice versa;
- 1.2.3 words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, other corporate bodies, firms or legal entities and all such words shall be construed interchangeably in that manner; and
- 1.2.4 Act of Parliament shall include any amendment, modification, extension, consolidation or re-enactment of that Act for the time being in force and in each case shall include all statutory instruments, orders, regulations and directions for the time being made, issued or given under that Act or deriving validity from it.

1.3 Headings where they are included are for convenience only and are not intended to influence the construction and interpretation of this Deed.

1.4 Any notice, notification, consent, approval, agreement, request or statement or details to be made, given or submitted under or in connection with this Deed shall be made or confirmed in writing.

1.5 Wherever an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually unless there is an express provision otherwise.

1.6 Each of the Parties to this Deed shall Act in good faith and shall co-operate with each of the other Parties to facilitate the discharge and performance of all obligations on them contained in this Deed and the Owner shall Comply with any reasonable requests of the Council to provide documentation within its possession (such documentation to be provided by the Owner at its own expense) for the purposes of monitoring Compliance with the obligations contained in this Deed.

2. **LEGAL BASIS**

2.1 This Deed is made under:-

- 2.1.1 section 106 of the 1990 Act; and

- 2.1.2 section 1 of the Localism Act 2011 and section 111 of the Local Government Act 1972 and all other enabling powers that may be relevant to the enforcement of the obligations contained in this Deed.
- 2.2 The obligations, covenants and undertakings on the part of the Owner in this Deed are planning obligations for the purposes of section 106 of the 1990 Act and so bind the Owner's interest in the Site. Subject to Clause 8, the obligations, covenants and undertakings on the part of the Owner are entered into with the intent that they are enforceable not only against the Owner but also against any successors in title or assigns of the Owner and any person claiming through or under the Owner an interest or estate in the Site or any part of it as if that person had been the original covenanting party in respect of the interest for the time being held by it.
- 2.3 Insofar as any obligations, covenants and undertakings in Clause 2.2 are not capable of falling within section 106 of the 1990 Act they are entered into in pursuance of the relevant powers referred to in Clause 2.1.2.
- 2.4 So far as the obligations, covenants and undertakings in this Deed are given by or to the Council, they are entered into under the relevant powers referred to in Clause 2.1 and those obligations, covenants and undertakings are enforceable by or against the Council.
- 2.5 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council nor County Council of any of their statutory powers, duties, functions or discretions in relation to the Site or otherwise.
3. **CONDITIONAL ENTRY INTO FORCE**
- 3.1 Subject to sub-Clauses 3.2 and 3.3, this Deed comes into effect on the date of this Deed.
- 3.2 Clause 5 (Owner's Covenants with the Council) and Schedule 2 (Community Hub Building) and Schedule 3 (Public Art Contribution) are conditional upon and will not take effect until Planning Permission has been granted and the Development has been Implemented.
- 3.3 Clause 7 (Release of Previous Planning Obligations) is conditional upon and will not take effect until Planning Permission has been granted and Completion of the Development has occurred.
4. **DURATION**
- 4.1 The obligations contained within this Deed will end (to the extent they have not already been complied with), if the Planning Permission:-
- 4.1.1 is quashed, revoked or otherwise withdrawn at any time so as to render this Deed or any part of it irrelevant, impractical or unviable; or
- 4.1.2 is modified by any statutory procedure without the consent of the Owner; or
- 4.1.3 expires before Implementation.
- 4.2 Where the obligations contained within this Deed end in the circumstances set out in Clause 4.1 the Council must update all entries made in the Register of Local Land Charges in respect of this Deed to reflect the fact that those Schedules are of no further effect.
5. **OWNER'S COVENANTS WITH THE COUNCIL**
- 5.1 Subject to Clause 3 the Owner, on behalf of itself and its successors in title to its interest in the Site, covenants with the Council to Comply with each obligation, covenant and undertaking in Schedule 2 and Schedule 3 of this Deed.

6. THE COUNCIL'S COVENANTS

6.1 The Council covenants with the Owner and the Developer:

- 6.1.1 to Comply with any Council covenants contained in the Schedules to this Deed; and
- 6.1.2 following a written request from the Owner or the Developer, made at any time after any obligation under this Deed has been fulfilled and which contains appropriate evidence that it has been fulfilled, provided that the Council agrees that the obligation has been fulfilled to issue a letter of release in respect of that obligation within 20 Working Days after the date on which it receives the request. Where this Deed or any document referred to herein provides for any agreement, consent, approval or direction on the part of the Council, the Council agrees that such agreement, consent, approval or direction shall not be unreasonably withheld or delayed.

7. RELEASE OF PREVIOUS PLANNING OBLIGATIONS

- 7.1 The Council and the County Council agrees with the Owner that upon Completion of the Development all previous planning obligations in respect of the Site made under section 106 and section 106A of the 1990 Act or similar predecessor enactments, including the Outline S106 Agreements, shall be discharged and released.
- 7.2 The Council and the County Council agrees with the Owner that upon Completion of the Development the Wider Site shall be released from the obligations set out in Schedule 4 paragraphs 1, 7 and 22 in entirety, Schedule 4 paragraph 21.1 in relation to reference to "paragraph 1", Schedule 4 paragraph 21.3 in relation to reference to "paragraph 7", Schedule 11 "Community Building" and Schedule 12 "Other Obligations" paragraphs 1.1 and 1.2 in entirety and consequentially the definitions of "Community Building" and "Community Infrastructure Contribution" in clause 1 and references thereto throughout the Outline s106 Agreements and these obligations shall be treated as discharged such that it can no longer be enforced against the Wider Site.
- 7.3 The Council and the County Council shall cancel all entries made in the Register of Local Land Charges concerning the Site in relation to any planning obligation to which sub-Clause 7.1 relates and also cancel all entries concerning the Wider Site in relation to the obligations in Schedule 4 paragraphs 1, 7 and 22, Schedule 4 paragraph 21.1 in relation to reference to "paragraph 1", Schedule 4 paragraph 21.3 in relation to reference to "paragraph 7", Schedule 11 "Community Building" and the definitions of "Community Building" and "Community Infrastructure Contribution" in clause 1 and references thereto throughout of the Outline s106 Agreements to which sub-clause 7.2 applies as soon as possible following Completion of the Development.

8. SUCCESSORS IN TITLE AND RELEASE

- 8.1 References in this Deed to the Council and County Council include the successors to their respective statutory functions and include persons deriving title through or under them.
- 8.2 Subject to Clauses 8.3 and 8.4, references to the Owner or any other person include its heirs, assigns, successors in title and persons deriving title through or under them.
- 8.3 The obligations in this Deed are not binding on or enforceable against:
 - 8.3.1 any individual owner, lessee, tenant or occupier of an individual care bedroom forming part of the Development or their mortgagee or chargee or any person deriving title from them;
 - 8.3.2 any statutory undertaker or other person who acquires any part of the Site or any interest in it for the purposes of supplying Utilities or public transport services;

- 8.3.3 anyone whose only interest in the Site or any part of it is in the nature of the benefit of an easement or covenant, or as the owner of the sub-soil of any highway within the Site; or
- 8.3.4 any chargee or mortgagee (or any receiver (including an administrative receiver)) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) who has the benefit of a charge on all or part of the Site from time to time save for any breach committed whilst that chargee or mortgagee is in actual possession of the Site.
- 8.4 If the Owner or any person disposes of its entire interest in the Site or in any part of it, that Owner or person will be released from its obligations in this Deed which will no longer be enforceable against that Owner or person in relation to the Site or that part of the Site disposed of, except to the extent that disposal is the grant of an easement, restriction, restrictive covenant or similar.
- 8.5 The release of the Owner or any person under Clause 8.4 is without prejudice to any subsisting liability for any antecedent breach or antecedent failure to Comply with its obligations arising before parting with that interest.
- 8.6 Nothing in this Deed will prevent Compliance with any obligation under it before that obligation comes into effect and early Compliance will not amount to a waiver of the effect of this Clause 8.
9. **OTHER DEVELOPMENT**
- Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
10. **DISPUTE RESOLUTION**
- 10.1 In the event of any dispute arising between the Parties in respect of any matter contained in this Deed the same may be referred to the Expert by any Party notifying the other Party of such intention (the "Notice").
- 10.2 The Notice must specify:-
- 10.2.1 the nature, basis and a brief description of the dispute;
- 10.2.2 the Clause of this Deed or paragraph of a Schedule of this Deed to which the dispute has arisen; and
- 10.2.3 the proposed Expert.
- 10.3 The Expert will Act as an expert and not as an arbitrator. His decision shall be final and binding on the Parties.
- 10.4 Each Party will bear its own costs and the Expert's costs will be paid as determined by him.
- 10.5 The Expert will be appointed subject to an express requirement that he must reach his decision and communicate it to the Parties within the minimum practical timescale allowing for the nature and complexity of the dispute, and in any event not more than 40 Working Days from the date of his appointment to act. His decision will be given in writing with reasons and in the absence of manifest error will be binding on the Parties.
- 10.6 The Expert will be required to give notice to each of the Parties, inviting each of them to submit to him within 20 Working Days written submissions and supporting material and will afford to the Parties an opportunity to make counter submissions within a further 10 Working Days in respect of any such

submission and material. The Expert shall consider (inter alia) any written representations made on behalf of any Party but shall not be bound by them.

- 10.7 If the Expert 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. LEGAL COSTS

- 11.1 As soon as practicable following completion of this Deed the Developer will pay to the Council the fair and reasonable legal costs and disbursements and other costs incurred in the negotiation, preparation and execution of this Deed together with the Section 106 Monitoring Contribution.
- 11.2 As soon as practicable following completion of this Deed the Developer will pay to the County Council the fair and reasonable legal costs and disbursements and other costs incurred in the negotiation, preparation and execution of this Deed

12. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Nothing in this Deed will create any rights in favour of or be enforceable by any person who is not a Party to this Deed under the Contracts (Rights of Third Parties) Act 1999.

13. NOTICES

- 13.1 The Owner will notify the Council and the County Council of:-

13.1.1 the date of Implementation; and

13.1.2 the first Occupation of the Development

13.1.3 Completion of the Development

within 10 Working Days of the occurrence of the relevant event.

- 13.2 Any notice or other written communication to be served on a Party or given by one Party to any other under the provisions of this Deed will be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the Party on whom it is to be served or to whom it is to be given and will conclusively be deemed to have been received on:-

13.2.1 if delivered by hand, the next Working Day after the day of delivery;

13.2.2 if sent by post, the day two Working Days after the date of posting; or

13.2.3 if sent by recorded delivery, at the time delivery was signed for.

- 13.3 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.

- 13.4 The address for any notice or other written communication shall be within the United Kingdom.

- 13.5 Where proceedings have been issued in the Courts of England the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

- 13.6 A notice or communication will be served or given:-

13.6.1 on the Owner at their respective registered offices from time to time, or such other address as notified in writing to the Council and County Council from time to time, marked for the

attention of Rory Baxter in relation to Bellway and for the attention of Daniel McDonagh in relation to Miller (or such equivalent post holders);

- 13.6.2 on the Developer at its registered office from time to time, or such other address as notified in writing to the Council and County Council from time to time, marked for the attention of Craig Griffin (or such equivalent post holder) Principal CEO of the Developer;
 - 13.6.3 on the Council at Eastleigh House, Upper Market Street, Eastleigh SO50 9YN or such other address notified in writing to the Owner from time to time, marked for the attention of the Executive Head of Planning and Economy or such equivalent post holder;
 - 13.6.4 on the County Council at The Castle, Upper High Street, Winchester SO23 8UJ quoting reference EDOC/0094 and marked for the attention of the Assistant Director for Legal Services and the Monitoring Officer or such equivalent post holder and
 - 13.6.5 on any successor in title to the Owner at that successor in title's last known address.
- 13.7 Any notice or other written communication to be given by the Council will be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.

14. **LOCAL LAND CHARGE AND LAND REGISTRY REGISTRATION**

- 14.1 The Council must register this Deed as a local land charge immediately after the date of this Deed.
- 14.2 The Council must cancel all entries made in the Register of Local Land Charges relating to this Deed as soon as all obligations under this Deed have been satisfied.

15. **VAT**

- 15.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.
- 15.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT had not previously been charged in respect of the supply the person making the supply shall have the right to issue an invoice to the person to whom the supply was made and VAT shall be paid accordingly.

16. **SECTION 73 VARIATION**

- 16.1 In the event that an application is made pursuant to section 73 of the Act for an amendment to the Planning Permission (or to a subsequent section 73 permission that is granted in respect of the Planning Permission) and a section 73 permission is granted ("**Section 73 Permission**");
 - 16.1.1 this Deed shall (unless the Council determines in writing that revised planning obligations are required as a result of such amendment or unless otherwise agreed in writing between the Parties) with effect from the date that the Section 73 Permission is granted apply to the development pursuant to the Section 73 Permission as well as to the Development pursuant to the Planning Permission without the need for a further agreement to be entered into pursuant to section 106 of the Act; and
 - 16.1.2 the definitions of "Application", "Development" and "Planning Permission" in this Deed shall be construed to include references to any applications under section 73 of the Act and the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s) **PROVIDED THAT:**

- (a) any obligation that has been previously discharged pursuant to this Deed (as varied) shall be deemed to have been discharged in respect of the Section 73 Permission;
- (b) where the provisions of clause 7 of this Deed have taken effect as a result of the Implementation of the Planning Permission then it will be deemed that the provisions of that clause will also have taken effect in relation to the Section 73 Permission as at the date the Section 73 Permission is granted; and
- (c) no obligation pursuant to this Deed shall as a result of these provisions be required to be performed more than once.

17. JURISDICTION AND LEGAL EFFECT

- 17.1 This Deed will be governed by and interpreted in accordance with English Law.
- 17.2 If any provision of this Deed is found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability will not affect the validity or enforceability of the remaining provisions of this Deed.
- 17.3 No waiver (whether expressed or implied) by the Council of any breach or default by the Owner in Complying with any obligation, covenant or undertaking in this Deed will constitute a continuing waiver and no waiver will prevent the Council from enforcing any obligation, covenant or undertaking or from acting upon any subsequent breach or default of any obligation, covenant or undertaking by the Owner.

18. DELIVERY

- 18.1 This Deed shall be deemed not delivered despite being executed by the parties until such time as it is dated.

EXECUTED AS A DEED by the Parties on the date which first appears in this Deed.

SCHEDULE 1

LAND AND TITLE(S) BOUND BY THE OBLIGATIONS IN THIS DEED

Description of Site	Title Number
The freehold land on the West side of Winchester Road Boorley Southampton shown more particularly delineated in red on the Location Plan and being part of the land registered under the Title Number	HP859764

SCHEDULE 2

COMMUNITY HUB BUILDING

1. The Owner shall construct the Community Hub Building as part of the Development in accordance with the Planning Permission and shall ensure it is available for use in perpetuity from the date the rest of the Development is first Occupied. The Owner shall maintain the Community Hub Building in good repair and make it available for hire in accordance with the approved Community Hub Building Management Plan.
2. Prior to Occupation of the Development the Owner shall submit the Community Hub Building Management Plan to the Council for approval and no Occupation of the Development shall be permitted until the Community Hub Building Management Plan has been approved by the Council.
3. Following approval of the Community Hub Building Management Plan pursuant to paragraph 2 above, the Owner may at any time submit in writing to the Council for approval variations as the Owner deems necessary to the Community Hub Building Management Plan.
4. From first Occupation and in perpetuity, the Owner shall implement the approved Community Hub Building Management Plan (and any variations that may be approved from time to time)
5. The Council may at any time (but not more frequently than once per calendar year) review the Community Hub Building Management Plan and on 6 months' prior written notice (or such earlier date as the parties may agree) require the Owner to make and implement such amendments to the Community Hub Building Management Plan as the Council considers necessary (at all times acting reasonably) and in the public interest PROVIDED THAT
 - 5.1 where any amendments are required to be made in respect of the insurances for the use and operation of the Community Hub Building as referred to in the definition of Community Hub Building Management Plan that these shall be subject to the amendments being within what are commercially reasonable, acceptable and generally available terms at commercially reasonable rates for operators of community centre buildings of the same footprint, type and operational use as the Community Hub Building and where such amendments comply with the said pre-requisites in this sub-paragraph 5.1 then the Owner shall not be obliged to seek to vary or take out new insurance to address the amendments until the next insurance renewal date AND further where the Owner considers the pre-requisites have not been met it shall advise the Council in writing of this as soon as practicably possible after receipt of the written notification from the Council setting out the proposed amendments sought by the Council and .

In relation to any amendments that the Council seek to require the Owner to make pursuant to this paragraph 5 (including paragraph 5.1 above) should there be any matter which the Owner does not agree with and after having first made reasonable efforts to seek to resolve the matter with the Council either Party may refer the matter in dispute to expert determination in accordance with the provisions of clause 10.
6. The storage facilities forming part of the Community Hub Building shall remain accessible from inside the Community Hub Building in perpetuity.

SCHEDULE 3- THE PUBLIC ART CONTRIBUTION

1. The Owners shall pay to the Council the Public Art Contribution prior to first Occupation of the Development
2. The Owners covenant not to Occupy or permit Occupation of any part of the Development until the Public Art Contribution has been paid to the Council.
3. The Council covenants with the Owner to use the Public Art Contribution solely towards the provision of Public Art by the Council and if any part of the Public Art Contribution has not been applied or contractually committed for that purpose within 10 (ten) years from the date of its receipt by the Council to repay to the party that paid the Public Art Contribution to the Council any part of the contribution that has not been so expended or committed along with any interest accrued thereon.

APPENDIX 1-PLANS

Proposed Ground Floor Plan' with reference H2161-ADG-ZZ-GF-DR-A/0001 rev 15

Location Plan with drawing number H.21.61 (9-) 1

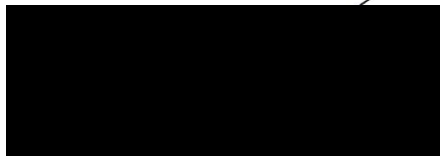
Wider Site Plan with drawing number SLP01



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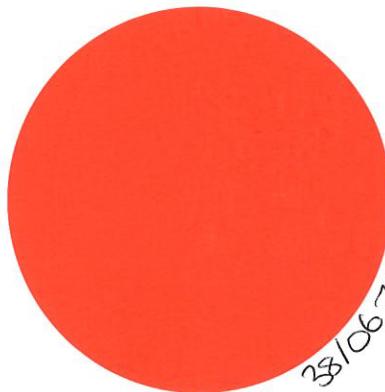
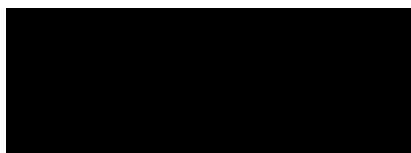


EXECUTED as a Deed by affixing
The COMMON SEAL of
EASTLEIGH BOROUGH COUNCIL
In the presence of:-



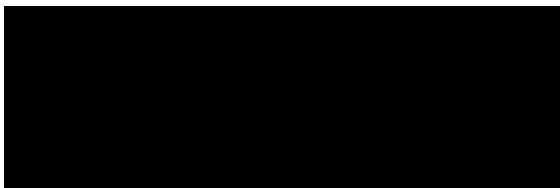
11288

EXECUTED as a Deed by affixing
The COMMON SEAL of
HAMPSHIRE COUNTY COUNCIL
In the presence of:-



38/0672

EXECUTED as a deed by
MILLER HOMES LIMITED
acting by a Director

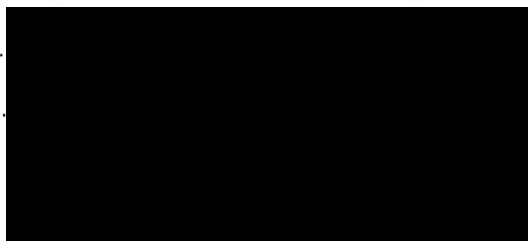


in the presence of:

Witness Signature ..

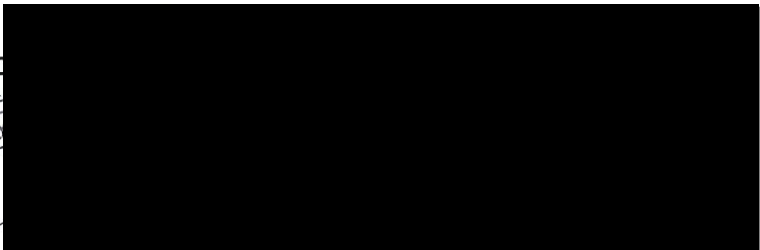
Witness Name.....

Witness Address:



Witness Occupation..... *PA*

EXECUTED as a deed by
BELLWAY HOMES LIMITED
acting by a Director *Attorney*
Pursuant to Power of Attorney
dated 24 February 2025
in the presence of:



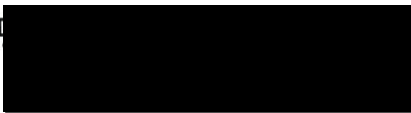
Witness Signature *ROBERT DALE ARMSTRONG*

Witness Name Nigel Clasby

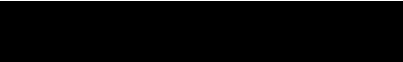
Witness Address: Group Head of Legal
Bellway Homes Limited
Woolsington House
Woolsington

Witness Occupation Newcastle upon Tyne
NE13 8BF

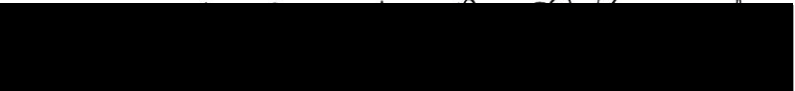
EXECUTED as a Deed by
HALEBOURNE CARE GROUP LIMITED
acting by a Director



in the presence of:

Witness Signature 

Witness Name *SUSAN CONNINGHAM*

Witness Address: 

Witness Occupation *Accountant*