

- (1) LICHFIELD DISTRICT COUNCIL**
- (2) STAFFORDSHIRE COUNTY COUNCIL**
- (3) SUMMIX BLT DEVELOPMENTS LIMITED**

**PLANNING OBLIGATION BY DEED OF
AGREEMENT**

**pursuant to Section 106 of the Town and Country
Planning Act 1990 (as amended) and other powers
enabling relating to Land North of Browns Lane
Tamworth Staffordshire**

**Application Reference Number: 18/00840/OUTMEI
Appeal Reference Number: APP/K3415/W/24/3340089**

THIS DEED is made on

2024

BETWEEN:-

- (1) **LICHFIELD DISTRICT COUNCIL** of District Council House, Frog Lane, Lichfield, Staffordshire WS13 6YU (the "**District Council**"); and
- (2) **STAFFORDSHIRE COUNTY COUNCIL** of Staffordshire Place 1, Tipping Street, Stafford, ST16 2DH (the "**County Council**")
- (3) **SUMMIX BLT DEVELOPMENTS LIMITED** (Co. Regn. No. 10451631) of 30 City Road, London EC1Y 2AB. ("**the Owner**")

together knowns as the "**Parties**".

WHEREAS:-

- (A) The District Council is the local planning authority for the purposes of the Act for that area of the Site in which the Obligation Land is situated.
- (B) Tamworth Borough Council is the local planning authority for the purposes of the Act for that area of the Site in which the Tamworth Land is situated.
- (C) The County Council is the local education authority for the purposes of the Education Act 1996 and the local highway authority for the purposes of the Highways Act 1980 for the area in which the Site is situated.
- (D) The Owner is the freehold owner of the Obligation Land registered at the Land Registry under title number SF518404.
- (E) The Owner submitted the Application to the District Council and District Council via its planning committee resolved on 27 November 2023 to refuse the Planning Permission. The Owner subsequently submitted the Appeal to the Planning Inspectorate.
- (F) The Owner submitted the Tamworth Application to Tamworth Borough Council and Tamworth Borough Council via its planning committee resolved on 5 December 2023 to refuse the Tamworth Application. The Owner subsequently submitted an appeal against Tamworth Borough Council's refusal to the Planning Inspectorate. Since only the access to the Development falls within Tamworth Borough Council's administrative area Tamworth Borough Council has confirmed that the Planning Obligations in this Agreement can be secured by binding the Obligation Land and therefore that it does not wish to be a party to the Agreement. For that reason this Agreement binds only that part of the Site within the administrative area of the District Council being defined herein as the Obligation Land.
- (G) The Parties have agreed to enter into this Deed in order to bind the Obligation Land with the planning obligations in this Deed, subject to the outcome of the Appeal.
- (H) The Owner enters into this Deed with the intention that the planning obligations contained in this Deed shall be enforced by the District Council and the County Council against the Owner and their successors in title and assigns SAVE THAT the Owner shall not be bound by any obligation which the Inspector determines is not compliant with Regulation 122 of the Community Infrastructure Levy Regulation 2010 in accordance with Clause 3.5 of this Deed in the event that the Inspector allows the Appeal.

IT IS AGREED as follows:-

1. DEFINITIONS

1.1 In this Deed:-

"Act"	means the Town and Country Planning Act 1990 (as amended)
"Appeal"	means the appeal lodged by the Owner on 5 March 2024 in respect of the Application having PINS reference: APP/K3415/W/24/3340089
"Appeal Decision"	means the decision letter published by the Inspector which grants Planning Permission pursuant to the Appeal
"Application"	means the planning application submitted to the District Council (and allocated reference 18/00840/OUTMEI for outline planning permission for up to 210 dwellings, public open space, landscaping, sustainable urban drainage, access, and associated infrastructure (all matters reserved except access)
"Commencement"	means the carrying out of a 'material operation' (as defined in section 56(4) of the Act) in connection with the Development 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, ecological assessment and mitigation works, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of temporary means of enclosure, the temporary display of site notices or advertisements and "Commence" and "Commenced" shall be construed accordingly
"County Council Monitoring Fee"	means the sum of £920 (Nine Hundred and Twenty Pounds) payable to the County Council towards the costs of monitoring the obligations contained in this Deed
"Development"	means the development of the Obligation Land pursuant to the Planning Permission
"Dwelling"	means any residential unit to be constructed on the Development pursuant to the Planning Permission and "Dwellings" shall be construed accordingly;
"Education Contribution"	means the Primary Education Contribution and the Secondary Education Contribution
"Healthcare Contribution"	means the sum of £650.00 (Six Hundred and Fifty Pounds) per Dwelling up to a maximum of £136,498.00 (One Hundred and Thirty Six Thousand and Four Hundred and Ninety Eight Pounds) which shall be used towards the expansion of Aldergate Medical Practice, Laurel House Surgery, Hollies Medical Centre and Peel Medical Practice
"Highway Contribution"	means the sum of £47,900.00 (Forty-Seven Thousand and Nine Hundred Pounds) to be used towards an improvement scheme at the A513/ GillwayLane/Comberford Road/Coton Lane junction.
"Index Linked 1"	means increased (if applicable) in proportion to movements in the Retail Prices Index (All Items Group) between the date hereof and the date the relevant contribution fee or other payment is paid provided that during any period where no such index exists the

	index which replaces the same or is the nearest equivalent thereto which shall be agreed by the parties shall be used
"Index Linked 2"	means increased (if applicable) in proportion to movements in the Retail Prices Index (All Items Group) between the 29 th of April 2024 and the date the relevant contribution fee or other payment is paid provided that during any period where no such index exists the index which replaces the same or is the nearest equivalent thereto which shall be agreed by the parties shall be used
"Inspector"	means the planning inspector appointed by the Secretary of State for Levelling Up Housing and Communities to determine the Appeal
"Monitoring Fee"	means the sum of £ [] ([]) Index Linked to be paid to the District Council for the purpose of monitoring the obligations contained within this Deed
"Obligation Land"	means that part of the Site within the administrative boundary of the District Council shown shaded blue on the Plan being the land within the ownership of the Owner to which the Planning Obligations in this Agreement relate
"Occupation"	means the occupation of the Development or any part thereof for use as authorised by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and Occupy and Occupied shall be construed accordingly
"Parameters Plan"	means the plan attached hereto at Appendix 2
"Plan"	means the plan attached hereto at Appendix 1
"Planning Obligations"	means the planning obligations contained in this Deed
"Planning Permission"	means the planning permission granted pursuant to the Appeal
"Primary Education Contribution"	<p>means such sum as shall be calculated as follows:-</p> <p>$C \times \text{£}5,874.12$ (Five Thousand Eight Hundred and Seventy Four Pounds and Twelve Pence) Index Linked 2</p> <p>Where C = the Number of Dwellings with two (2) or more bedrooms</p> <p>Up to a maximum sum of $\text{£}1,174,824$ (One Million One Hundred and Seventy Four Thousand and Eight Hundred and Twenty Four Pounds) which shall be used for the purpose of providing 63 (Sixty Three) primary school places in the Tamworth 5 Primary planning area</p>
"Reserved Matters Application"	means a reserved matters application made pursuant to the Planning Permission
"Secondary Education Contribution"	means such sum as shall be calculated as follows:-

C x £3,847.50 (Three Thousand Eight Hundred and Forty Seven Pounds and Fifty Pence) Index Linked 2

Where C = the number of Dwellings with two (2) or more bedrooms

Up to a maximum sum of £769,440 (Seven Hundred and Sixty Nine Thousand and Four Hundred and Forty Pounds) which shall be used for the purpose of providing 30 (Thirty) high school places in the Tamworth High North Secondary planning area

“Site”	means the land to which the Application and the Tamworth Application relates shown edged red on the Plan for the purposes of identification only known as Land North of Browns Lane Tamworth Staffordshire
“Tamworth Application”	means the planning application submitted to Tamworth Borough Council (and allocated reference 0241/2018) for outline planning permission for up to 210 dwellings public open space, landscaping, sustainable urban drainage, access, and associated infrastructure (all matters reserved except access)
“Tamworth Land”	means that part of the Site within the administrative boundary of Tamworth Borough Council shown shaded yellow on the Plan which for the avoidance is not subject to the Planning Obligations in this Agreement
“Travel Plan”	means the Residential Travel Plan (<i>dated 20/10/2021</i>) submitted as part of the Application
“Travel Plan Monitoring Fees”	means the sum of £7,000.00 (seven thousand pounds) Index Linked 1 to be used for the monitoring and review of the Travel Plan
“Working Day”	means any day except Saturday, Sunday and any bank or public holiday

2. INTERPRETATION

- 2.1 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.
- 2.2 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all words shall be construed interchangeable in that manner.
- 2.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.4 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.5 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and the County Council, the successors to their respective statutory functions.
- 2.6 References to a “party” shall mean any one of the parties.

- 2.7 The headings and contents list are for reference only and shall not affect construction.
- 2.8 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.9 Any reference in this Deed to a requirement for an approval from one of the parties shall be deemed to be a reference to an approval in writing.

3. **STATUTORY AUTHORITY AND LEGAL EFFECT**

- 3.1 This Deed is given pursuant to section 106 of the Act, and all other enabling powers and enactments which may be relevant for the purposes of giving validity to this Deed.
- 3.2 To the extent that any of the Planning Obligations contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to powers contained in Section 111 of the Local Government Act 1972 and Sections 1 to 8 of the Localism Act 2011.
- 3.3 The undertakings, covenants, restrictions and requirements imposed upon the Owner under this Deed are planning obligations for the purpose of section 106 of the Act and are enforceable by the District Council as the local planning authority and the County Council as the local education authority and the local highway authority against the Owner and any person deriving title in the Obligation Land or any part of it from the Owner.
- 3.4 Having regard to the provisions of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) the Owner acknowledges that the planning obligations contained in this Deed are necessary to make the Development acceptable in planning terms, are directly related to the Development and are fairly and reasonably related in scale and kind to the Development.
- 3.5 If the Inspector determines in the Appeal Decision that any obligation (or any part of an obligation) contained within this Deed is not:
- 3.5.1 necessary to make the Development acceptable in planning terms; and/or
 - 3.5.2 directly related to the Development; and/or
 - 3.5.3 fairly and reasonably related in scale and kind to the Development; and/or
 - 3.5.4 compliant in all other aspects with Regulation 122 of the Community Infrastructure Levy Regulation 2010 as amended

then the Owner shall not be bound by such obligation (or relevant part of such obligation) and the relevant obligation shall immediately (without any further act by the parties to this Deed) cease to have any effect and the Deed shall be read as if such planning obligation were not included.

4. **CONDITIONALITY**

- 4.1 This Deed is conditional upon the grant of the Planning Permission and the Commencement of Development thereunder **SAVE FOR** the provisions of clauses 1, 2, 3, 4, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and Schedule 1 which shall come into effect immediately upon completion of this Deed.

5. **THE OWNER'S COVENANTS**

- 5.1 The Owner covenants with the District Council that they will observe and perform all of the covenants set out in Schedule 1 Paragraphs 1 and 2 and Schedules 2, 3 and 4 of this Deed and that the provisions of this Deed shall be enforceable against the Owner and its successors in title.
- 5.2 The Owner covenants with the District Council and the County Council that they will observe and perform all of the covenants set out in Schedule 1 Paragraphs 3 and 4 and Schedules 5 - 7 of this Deed and that the provisions of this Deed shall be enforceable against the Owner and its successors in title.

6. THE DISTRICT COUNCIL'S AND THE COUNTY COUNCIL'S COVENANTS

6.1 The District Council covenants with the Owner that they will observe and perform all of the covenants set out in Schedule 8 of this Deed.

6.2 The County Council covenants with the Owner that they will observe and perform all of the covenants set out in Schedule 9 of this Deed.

7. LOCAL LAND CHARGE

7.1 This Deed is a local land charge and shall be registered as such by the District Council.

7.2 Upon the full satisfaction of all the terms of this Deed, the Owner may request that the District Council procure that all entries in the register of local land charges relating to it other than those obligations which are of continuing effect be removed.

8. NO FETTER ON DISCRETION OR WAIVER

8.1 Nothing contained or implied in this Deed shall prejudice or affect or operate so as to fetter the rights, discretions, powers, duties, remedies and obligations of the District Council or the County Council under all statutes, by-laws, statutory instruments, orders and regulations in the exercise of their functions as a local authority.

8.2 No waiver (whether expressed or implied) by the District Council or the County Council of any breach or default in performing or observing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council or the County Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

9. INDEXATION

9.1 Save for the Education Contribution all contributions and other monies payable under this Deed shall be index linked in accordance with Index Linked 1 and the Education Contribution shall be index linked in accordance with Index Linked 2

9.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the District Council following consultation with the County Council shall advise the Owner in writing.

10. INTERESTS ON LATE PAYMENT

10.1 The Owner shall pay interest at four per centum (4%) above the Bank of England Base Rate on any contribution fees or other monies due under the provisions of this Deed which have not been paid on the due date for payment such interest to be calculated over the period from the date the contribution fees or other monies should have been paid to the date the same shall be received by the District Council or the County Council.

11. WARRANTY AS TO TITLE

11.1 The Owner hereby warrants to the District Council that no person other than the parties to this Deed has any legal interest in the Obligation Land.

12. SEVERABILITY

12.1 If a clause or sub-clause of this Deed shall be deemed to be unenforceable or ultra vires the remainder of this Deed shall remain in full force and effect provided severance from this Deed is possible.

13. **NOTIFICATION OF COMMENCEMENT/OCCUPATION**

13.1 The Owner covenants with the District Council and the County Council that they will:

13.1.1 To give to the District Council and the County Council notice in writing, no later than seven days prior to the anticipated Commencement of Development;

13.1.2 To give to the District Council and the County Council notice in writing of the Commencement of Development no later than seven days following the occurrence of the same;

13.1.3 To give to the District Council and the County Council notice in writing, no later than seven days prior to the first Occupation of the Development; and

13.1.4 To give to the District Council and the County Council notice in writing of the first Occupation of the Development no later than seven days following the occurrence of the same.

14. **RELEASE FROM THIS DEED**

14.1 No person shall be bound by any obligations or restrictions contained in this Deed and/or be liable for any breach of a covenant and/or obligation contained in this Deed after it shall have parted with its interest in the Obligation Land or part of the Obligation Land where the breach relates **PROVIDED THAT** in either case such party shall remain liable for any subsisting breach of covenant which shall have arisen prior to it parting with such interest.

14.2 The obligations contained in Schedules 2 - 4, being the obligations in sole favour of and enforceable by the District Council shall not be enforceable against:-

14.2.1 any individual owner, lessee, tenant or occupier of an individual Unit or their mortgagee or chargee or any person deriving title from them SAVE THAT the obligation in Schedule 2 Paragraph 2.6 shall bind an individual owner, lessee, tenant or occupier of an Affordable Housing Unit or an Additionality Unit subject always to Schedule 2 Paragraph 2.9; and

14.2.2 a statutory undertaker carrying out its statutory functions and/or after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker.

14.3 The obligations contained in Schedules 5 - 7, being the obligations in favour of both the District Council and the County Council and enforceable by both the District Council and the County Council shall not be enforceable against:-

14.3.1 a statutory undertaker carrying out its statutory functions and/or after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker.

15. **CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999**

15.1 No term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed or expressed to be a beneficiary of this Deed SAVE THAT it is acknowledged that Tamworth Borough Council have rights to nominate occupiers of the Social Rented Housing Units in accordance with Schedule 2 of this Deed.

16. **NOTICES**

16.1 Any notice to be given under or in connection with this Deed must be in writing and shall be sufficiently served if personally delivered or sent by recorded delivery service addressed to [], in the case of the District Council or addressed to John Tradewell, Director for Corporate Services in the case of the County Council, unless otherwise stated herein to the Owner at the address given herein

- 16.2 Any notice required under this Deed shall be deemed to have been served as follows:-
- 16.2.1 if personally delivered at the time of delivery; or
 - 16.2.2 if posted by recorded delivery at the expiration of 48 hours after the envelope has been posted unless otherwise shown to the contrary.
- 16.3 The provisions of this clause 16 do not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17. **CHANGE IN OWNERSHIP**

The Owner covenants to the District Council and the County Council that they will give the District Council and the County Council written notice within 7 Working Days of any change in ownership of its interests in the Obligation Land or any part or parts of it occurring before all of the obligations contained within this Deed are discharged, such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Obligation Land or unit of occupation purchase by reference to a plan PROVIDED THAT the requirement to notify the District Council and the County Council shall not apply to any change in ownership to an individual purchaser of a Dwelling.

18. **DETERMINATION OF THIS DEED**

- 18.1 This Deed shall cease to have effect (insofar as it has not already been complied with) if:-
- 18.1.1 the Planning Permission shall have lapsed or expired prior to the date specified therein for the Commencement of Development without the Development having Commenced;
 - 18.1.2 the Planning Permission is revoked or modified by statutory procedure without the consent of the Owner; or
 - 18.1.3 legal proceedings to challenge the Planning Permission have been brought and at the conclusion of such legal proceedings (including any appeals) the Planning Permission shall have been quashed or in the event of any re-determination of the Application the Application is refused planning permission.

19. **VAT**

- 19.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.
- 19.2 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.

20. **SECTION 73 VARIATION**

- 20.1 In the event that an application is made pursuant to Section 73 of the Act for an amendment to the Planning Permission and a Section 73 permission is granted:
- 20.1.1 this Deed shall (unless the District Council determines 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 development pursuant to the Section 73 permission as well as to 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
 - 20.1.2 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).

21. DISPUTE RESOLUTION

- 21.1 Subject to clause 21.10 below, in the event of any dispute or difference arising between the Owner and the District Council concerning any matter or thing arising out of this Deed the parties will attempt to resolve that dispute amicably including holding a meeting attended by at least one representative of appropriate seniority from each party in dispute within ten (10) Working Days of a request from one party to convene the meeting.
- 21.2 If the Owner and the District Council are unable to resolve the dispute amicably pursuant to clause 21.1 following the meeting (or if sooner, the expiry of ten (10) Working Days following the request for a meeting) pursuant to clause 21.1 such dispute or difference shall be referred to an expert to be appointed by agreement between the Owner and the District Council. In the event of a dispute arising in respect of the quantum of a sum which is payable under this Deed, the expert must be one which is sufficiently qualified with suitable experience in the relevant industry to which the said quantum relates and is able to demonstrate the ability to critically assess cost schedules and to act as an independent cost consultant.
- 21.3 If an expert is to be appointed and the Owner and the District Council to the dispute are unable to agree on the expert to be appointed within twenty (20) Working Days of the request for a meeting referred to in clause 21.1:
- 21.3.1 any dispute as to the type of expert appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior officer available of the Law Society who will have the power to determine the appropriate type of expert (with regard to clause 21.2, if applicable);
- 21.3.2 any dispute over the identity of the expert is to be referred at the request of either party to the President or other most senior officer available of the organisation generally recognised as being responsible for the relevant type of expert who will have the power to determine and nominate the appropriate expert with regard to clause 21.2 if applicable (and if no such organisation exists, the expert shall be nominated by the President or next most senior officer available of the Law Society).
- 21.3.3 If an expert nominated or appointed pursuant to this clause 21 shall die or decline to act another expert may be appointed in his place in accordance with the provisions of clause 21.3.
- 21.4 The expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the Owner and the District Council within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days from the date of his appointment.
- 21.5 Notice in writing of the appointment of an expert pursuant to this clause 21 shall be given by the expert to the Owner and the District Council and he shall invite each of them to submit to him within ten (10) Working Days written submissions and supporting material and will afford to each of the said parties an opportunity to make counter submissions within a further five (5) Working Days in respect of any such submission and material. For the avoidance of doubt the expert must still reach his decision and communicate it to the Owner and the District Council within not more than twenty (20) Working Days from the date of his appointment.
- 21.6 The expert shall act as an expert and not as an arbitrator. He shall consider any written representation submitted to him within the period specified in this clause 21 and shall not be in any way limited or fettered thereby and shall determine the dispute in accordance with his own professional judgement.
- 21.7 The expert shall give notice of his decision in writing and his decision will be final and binding on the Owner and the District Council hereto save in the case of fraud or manifest error.

- 21.8 If for any reason the expert fails to make a decision and give notice thereof in accordance with this clause 21 the party or parties may apply to the President of the Law Society for a substitute to be appointed in his place (which procedure may be repeated as many times as necessary).
- 21.9 The expert's costs shall be in the expert's award or in the event that he makes no determination, such costs will be borne by the Owner and the District Council to the dispute in equal shares.
- 21.10 Nothing in this clause 21 shall be taken to fetter the parties' ability to seek legal redress in the Courts (or otherwise) for any breach of the obligations in this Deed.

22. **JURISDICTION AND GOVERNING LAW**

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England. This parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

23. **DELIVERY**

This Deed is for the purposes of the Regulatory Reform (Execution of Deeds and Documents) Order 2005 a deed and for the avoidance of doubt the Deed shall be deemed not delivered despite being executed by the parties until such time as it is dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written

Draft

SCHEDULE 1

FEES

The Owner covenants with the District Council that they will:-

1. Pay to the District Council its reasonable and proper legal costs relating to the negotiation preparation, execution and completion of this Deed upon completion of this Deed; and
2. Pay the Monitoring Fee prior to the Commencement of Development.

The Owner covenants with the County Council that they will:-

3. Pay to the County Council its reasonable and proper legal costs and disbursements of and incidental to the negotiation, preparation, execution and completion of this Deed upon the signing of this Deed; and
4. Pay to the County Council the County Council Monitoring Fee prior to the Commencement of Development.

Draft

SCHEDULE 2

AFFORDABLE HOUSING

1 DEFINED TERMS

In this Part 1, the following words and expressions have the following meanings:

- Additionality Units** any Dwelling which is not an Affordable Housing Unit but which shall (unless otherwise agreed in writing by the District Council) be occupied as a Social Rented Unit or as an Intermediate Unit in accordance with the restrictions in this Deed;
- Affordable Home** a home defined as affordable housing in Annex 2: Glossary of the National Planning Policy Framework December 2023 or as permitted by subsequent legislation or national guidance brought in after the date of this Deed;
- Affordable Housing and Additionality Units Scheme** a scheme to be submitted as part of the Reserved Matters Application pursuant to the Planning Permission (such scheme to be approved by the District Council in consultation with Tamworth Borough Council), which shall:
- (a) include confirmation of the types and tenures and details of the locations of the Affordable Housing Units and the Additionality Units in accordance with the terms of Schedule 2;
 - (b) include the design of the Affordable Housing Units and the Additionality Units;
 - (c) provide for the construction of the Affordable Housing Units and the Additionality Units;
 - (d) secure nomination rights for Tamworth Borough Council for 50% of the Social Rented Housing Units (comprised in the Affordable Housing Units and the Additionality Units) and which shall secure

nomination rights for Lichfield District Council in accordance with the Allocations Scheme for the remaining 50% of the Social Rented Housing Units (comprised in the Affordable Housing Units and the Additionality Units);

- (e) detail the transfer of the Affordable Housing Units and the Additionality Units to a Registered Provider approved by the District Council and arrangements to ensure they remain Affordable Housing in perpetuity subject to the provisions of this Deed;

Affordable Housing Unit any Social Rented Housing Unit or Intermediate Unit as defined in this Part 1 of Schedule 2 and reference to "**Affordable Housing Units**" shall be construed accordingly;

Allocations Scheme the Lichfield District Council Allocation Scheme last revised by the District Council in July 2023 or any allocation scheme which revises or supersedes this scheme;

Homes England means Homes England of 110 Buckingham Palace Road, Victoria, London, SW1W 9SW or its statutory successors or agent;

- Intermediate Units**
- (a) any Shared Ownership Housing Unit(s) ; or
 - (b) any Rent to Buy Housing Unit(s); or
 - (c) such other form of housing product as may be agreed in writing by the District Council and the Owner from time to time;

Registered Provider means a Registered Provider of social housing within the meaning of the Housing and Regeneration Act 2008 or other entity providing Affordable Housing under equivalent rental or

lease arrangements to Registered Providers approved or accredited by Homes England;

Relevant Criteria

the criteria set out in the Allocations Scheme which shall include the requirement that the person shall have a local connection to the District Council;

Rent to Buy Housing Unit(s)

means subsidised housing provided to tenants who are otherwise unable to save for a deposit to purchase a home. The homes will be let by a Registered Provider for an initial period of a minimum of 5 years, at a rent level equivalent to intermediate/affordable rent following which the tenant is then given the option to convert the home into a new shared ownership purchase arrangement or the Registered Provider may choose to retain as affordable rent;

Shared Ownership Housing Unit(s)

means subsidised housing provided by a Registered Provider for sale by way of a standard Homes England model shared ownership lease applicable to shared ownership accommodation granted on a premium payable on completion or raised by mortgage or charge under which the initial purchaser acquires an initial share of the equity in that unit and pays a rent element if required;

Social Rented Housing Unit(s)

a Dwelling which shall be let by a Registered Provider to a person allocated that Dwelling in accordance with the District Council's Allocations Scheme or Tamworth Borough Council's nomination procedure whichever is relevant, and for which guideline target rents are determined through the national rent regime, and which meets the criteria set out in (a) of the definition of "Affordable Housing for rent" in Annex 2: Glossary of the National Planning Policy Framework (20 December 2023) or its successor.

2 The Owner covenants with the District Council:

2.1 To ensure that:-

- (a) a minimum of 40% of the Dwellings are provided as Affordable Housing Units and the remaining 60% (or such lower percentages taking into account the number of Affordable Housing Units provided) as Additionality Units and
- (b) a minimum of 65% (rounded up or down to the nearest whole number) of the Affordable Housing Units are provided as Social Rented Units with the remaining 35% of the Affordable Housing Units (or such lower percentages taking into account the number of Affordable Housing Units provided) as Intermediate Units
- (c) the Additionality Units are provided in accordance with the tenure split set out below or any other tenure mix to be agreed in writing with the District Council:
 - (i) 9.5% (rounded up or down to the nearest whole number) are to be provided as Social Rented Housing Units
 - (ii) 52% (rounded up or down to the nearest whole number) are to be provided as Shared Ownership Housing Units
 - (iii) 38% (rounded up or down to the nearest whole number) are to be provided as Rent to Buy Housing Units
- (d) the Affordable Housing Units are provided in accordance with the mix set out below or any other mix to be agreed in writing with the District Council:

1 Bed	12%
2 Bed	29%
3 bed	37%
4 bed	23%

- (e) the Additionality Units are provided in accordance with the mix set out below or any other mix to be agreed in writing with the District Council

1 Bed	0
2 Bed	50%
3 bed	45%
4 bed	5%

- (f) the Additionality Units and the Affordable Housing Units are provided in accordance with the Affordable Housing and Additionality Units Scheme PROVIDED ALWAYS that the Affordable Housing and Additionality Units Scheme may be amended at any time with the written consent of the District Council.
- 2.2 Prior to Commencement of Development to submit an Affordable Housing and Additionality Units Scheme to the District Council for approval (such approval not to be unreasonably withheld or delayed).
- 2.3 Not to Commence Development until the Affordable Housing and Additionality Units Scheme has been submitted to and approved in writing by the District Council.
- 2.4 To provide the Affordable Housing Units and the Additionality Units in accordance with the Affordable Housing and Additionality Units Scheme; and subject to the provisions of this Schedule, to transfer the Affordable Housing Units to and the Additionality Units to a Registered Provider that is approved by the District Council (such approval not to be unreasonably withheld or delayed).
- 2.5 Where transferred to a Registered Provider to ensure that the Affordable Housing Units and Additionality Units shall at all times be Occupied and managed in accordance with the objectives of a Registered Provider and the Affordable Housing and Additionality Units Scheme.
- 2.6 The restrictions upon the use of the Affordable Housing Units and the Additionality Units shall cease and not apply upon:
- (a) the purchase of an Affordable Housing Unit or an Additionality Unit pursuant to the exercise of any statutory right to buy or acquire; or
 - (b) the acquisition by an occupier of the whole of the interest in a shared ownership lease.
- 2.7 The affordable housing provisions in this Deed shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Units and/or the Additionality Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- (a) such mortgagee or chargee or Receiver shall first give written notice to the District Council of its intention to dispose of the Affordable Housing Units and/or the Additionality Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units and/or the Additionality Units to another registered provider or to the District Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- (b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the affordable dwellings free from the affordable housing provisions in this Deed which provisions shall determine absolutely.

Draft

SCHEDULE 3
PUBLIC OPEN SPACE

1 DEFINITIONS

POS the public open space to be provided in accordance with the POS Scheme;

POS Certificate of Final Completion a certificate to be issued by the District Council confirming that the POS has been completed to its satisfaction and in accordance with the POS Scheme and has been maintained by the Owner for a period of 12 months from the date of the POS Certificate of Practical Completion;

POS Certificate of Practical Completion a certificate to be issued by the District Council confirming that the POS has been completed to its satisfaction and in accordance with the POS Scheme;

POS Scheme a scheme of works for the POS to include details of:

- (a) location of the POS which shall be largely in accordance with the Parameters Plan;
- (b) materials to be used;
- (c) methods of installation;
- (d) details for the construction of the works; and
- (e) the timetable for delivery of the works;

The Owner covenants with the District Council so as to bind the Obligation Land:

- 1.1 To submit the POS Scheme to the District Council for its written approval on submission of the Reserved Matters Application and to provide and lay out the POS in accordance with the approved POS Scheme.
- 1.2 Not to permit more than 75% of the Dwellings to be substantially completed until the POS has been laid out in accordance with the POS Scheme.

- 1.3 Upon the completion of the laying out of the POS the Owner shall invite the District Council in writing to inspect the POS with a view to issuing a POS Certificate of Practical Completion and shall provide the District Council with a RoSPA (Royal Society for the Prevention of Accidents) or equivalent inspection report in respect of the POS and the District Council may inspect that area within 40 Working Days of receipt of the invitation and may issue a notice to the Owner within 20 Working Days of such an inspection confirming whether or not the POS has been laid out in accordance with the POS Scheme.
- 1.4 If the District Council issues a notice in accordance with paragraph 3 above which states that the POS has not been laid out in accordance with the POS Scheme and which details the work reasonably required to reach that standard the Owner shall complete the works specified in the notice and invite the District Council to re-inspect the POS.
- 1.5 The procedure set out in paragraphs 1.3 and 1.4 shall be repeated in respect of the POS until such time as the District Council either:
- (a) issues a POS Certificate of Practical Completion in relation to the POS; or
 - (b) fails to inspect the POS within 40 Working Days of receipt of a written invitation to inspect in which case the POS Certificate of Practical Completion shall be deemed to have been issued in respect of the POS 40 Working Days following receipt of the relevant invitation; or
 - (c) fails to serve within 10 Working Days of their inspection notice detailing any further works to be carried out in order for the POS to be laid out in accordance with the POS Scheme to the District Council's reasonable satisfaction in which case a POS Certificate of Practical Completion shall be deemed to have been issued in respect of the POS 10 Working Days following receipt of the relevant invitation.
- 1.6 The Owner covenants to maintain the POS for 12 months from the date of the POS Certificate of Practical Completion.
- 1.7 Upon the completion of the 12-month maintenance period referred to in paragraph 6 above the Owner shall invite the District Council in writing to inspect the POS with a view to issuing a POS Certificate of Final Completion and the District Council may inspect that area within 40 Working Days of receipt of the invitation and may issue a notice to the Owner within 20 Working Days of such an inspection confirming whether or not the POS has been maintained in accordance with the POS Scheme.

- 1.8 If the District Council issues a notice in accordance with paragraph 7 above which states that the POS has not been maintained in accordance with the POS Scheme and which details the work reasonably required to reach that standard the Owner shall complete the works specified in the notice and invite the District Council to re-inspect the POS.
- 1.9 The procedure set out in paragraphs 1.7 and 1.8 shall be repeated in respect of the POS until such time as the District Council either:
- (a) issues a POS Certificate of Final Completion in relation to the POS; or
 - (b) fails to inspect the POS within 40 Working Days of receipt of a written invitation to inspect in which case the POS Certificate of Final Completion shall be deemed to have been issued in respect of the POS 40 Working Days following receipt of the relevant invitation; or
 - (c) fails to serve within five Working Days of their inspection notice detailing any further works to be carried out in order for the POS to be laid out in accordance with the POS Scheme to the District Council's reasonable satisfaction in which case a POS Certificate of Final Completion shall be deemed to have been issued in respect of the POS five Working Days following receipt of the relevant invitation.
- 1.10 The Owner covenants:
- (a) to maintain the POS in strict accordance with the POS Scheme;
 - (b) from the date the POS Certificate of Practical Completion is issued or deemed issued to allow free unrestricted use and access of the POS for the general public at all times of the day and night PROVIDED THAT use and access may be restricted in the following circumstances:
 - (i) in the event of emergency such that access and use by the general public should be prevented by reasons of health and safety;
 - (ii) in the event that any works to the POS need to be undertaken which would necessitate, as a direct result of the said works, access and use by the general public being prevented PROVIDED THAT if any such closure is to last longer than seven Working Days or for more than 10 Working Days in any three-month period then the Owner shall first obtain the District Council's prior written approval to the closure.

Draft

SCHEDULE 4

THE HEALTHCARE CONTRIBUTION

1. The Owners covenants with the District Council to pay the Healthcare Contribution to the District Council as follows:-
 - 1.1 25% on the Occupation of the first Dwelling
 - 1.2 25% on the Occupation of 25% of the Dwelling
 - 1.3 25% on the Occupation of 50% of the Dwellings
 - 1.4 the final 25% on the Occupation of 85% of the Dwellings

Draft

SCHEDULE 5

TRAVEL PLAN

1. The Owner covenants with the District Council and the County Council with the intent that these are planning obligations for the purposes of section 106 of the Act as follows:-
 - 1.1 Not to Commence the Development without having first paid the Travel Plan Monitoring Fees to the County Council and further to notify the District Council that such payment has been made within 14 days of such payment.

Draft

SCHEDULE 6

EDUCATION CONTRIBUTION

1. The Owner covenants with the District Council and the County Council with the intent that these are planning obligations for the purposes of section 106 of the Act as follows:-
 - 1.1 To pay 30% of the Education Contribution to the County Council on or before the Commencement of the Development and no further development of any kind on any part of the Obligation Land shall be carried out, commenced and/or continued until the first 30% of the Education Contribution has been paid to the County Council.
 - 1.2 To pay 30% of the Education Contribution to the County Council on or before Commencement in relation to the second 30% of the Dwellings and no further development of any kind on any part of the Obligation Land over 30% of the Dwellings shall occur until the second 30% of the Education Contribution has been paid to the County Council.
 - 1.3 To pay 40% of the Education Contribution to the County Council on or before Commencement in relation to the final 60% of the Dwellings and no further development of any kind on any part of the Obligation Land over 60% of the Dwellings shall occur until the final 40% of the Education Contribution has been paid to the County Council.

Draft

SCHEDULE 7

HIGHWAY CONTRIBUTION

1. The Owner covenants with the District Council and the County Council with the intent that these are planning obligations for the purposes of section 106 of the Act as follows:-
 - 1.1 To pay the Highway Contribution to the County Council on or before the Occupation of the first Dwelling and no further Occupations above the first Dwelling shall occur until the Highway Contribution has been paid to the County Council.

Draft

SCHEDULE 8

DISTRICT COUNCIL'S COVENANTS

1. The District Council covenants with the Owner as follows:-
 - 1.1 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.
 - 1.2 that, upon written request by the Owner it will pay to the Owner such amount of any payment made by the Owner to the District Council under this Deed which has not been expended or committed in accordance with the provisions of this Deed within 10 years of the date of receipt by the District Council.
 - 1.3 At the written request of the Owner, the District Council shall provide written confirmation (or otherwise) of the discharge of the obligations contained in this Deed.

Draft

SCHEDULE 9

THE COUNTY COUNCIL'S COVENANTS

1. The County Council covenants with the Owner as follows:-

- 1.1 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.
- 1.2 That, upon written request by the Owner it will repay to the person who paid the Education Contribution such amount of any payment made by the Owner to the County Council under this Deed in respect thereof which has not been expended or committed in accordance with the provisions of this Deed within 10 years of the date of receipt in full thereof by the County Council together with interest credited at the Local Authority 7 day Offer Rate in force from time to time (as published in the Financial Times) such interest to be calculated from the date of receipt of the payment by the County Council to the date of its repayment
- 1.3 That, upon written request by the Owner it will repay to the person who paid the Highway Contribution such amount of any payment made by the Owner to the County Council under this Deed which has not been expended or committed in accordance with the provisions of this Deed in respect thereof within 5 years of the date of receipt in full thereof by the County Council together with interest credited at the Local Authority 7 day Offer Rate in force from time to time (as published in the Financial Times) such interest to be calculated from the date of receipt of the payment by the County Council to the date of its repayment
- 1.4 For the purposes of paragraph 1.2 above and in relation to the Education Contribution:
 - 1.4.1 The County Council shall be deemed to have expended the Education Contribution (or any part thereof) if it has incurred and met expenditure for the purpose for which the Education Contribution is to be used prior to that amount actually being received or due under this Deed; and
 - 1.4.2 Any part of the Education Contribution which has not yet been paid out by the County Council but has been committed to be paid by a contract prior to the expiry of the 10 year period shall be deemed to have been expended.
 - 1.4.3 At the written request of the Owner, the County Council shall provide written confirmation (or otherwise) of the discharge of the obligations contained in this Deed.

THE COMMON SEAL of)
LICHFIELD DISTRICT COUNCIL)
was affixed in the presence of:)

Authorised Signatory

THE COMMON SEAL of)
STAFFORDSHIRE COUNTY COUNCIL)
was affixed to this Deed in the presence of:)

Authorised Signatory

EXECUTED AS A DEED by **ANGEL**)
SUMMIX BLT DEVELOPMENTS LIMITED)
acting by a Director and its Secretary)
or two Directors)

Director

Director/Secretary

Draft

APPENDIX 1

PLAN 1

APPENDIX 2

PARAMETERS PLAN

Draft