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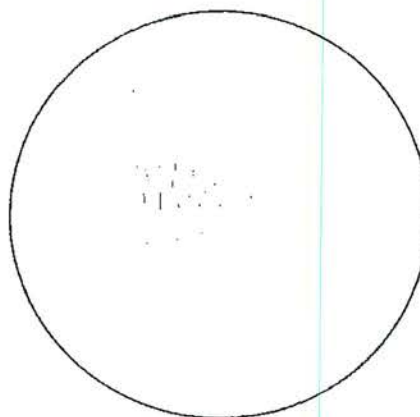
Land Register Extract

SECTION 75 AGREEMENT

Title Number: LAN12084

Registered on: 23 December 2014

Issuing Officer: Vivien Walker



TERMS OF ISSUE

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MINUTE OF AGREEMENT

between

SOUTH LANARKSHIRE COUNCIL, established by the Local Government etc (Scotland) Act 1994 and having its principal offices at Council Offices, Almada Street, Hamilton, ML3 0AA (who and whose successors as Planning Authority are hereinafter referred to as "the Council")

and

Henry Jardine Paterson and Jean Watson Paterson, both residing at East Dykes Farm, Strathaven, (who as heritable proprietors of the Agreement Subjects 1 are hereinafter referred to as the "Initial Owners")

with the consent of

the said SOUTH LANARKSHIRE COUNCIL (who as heritable proprietors of the Agreement Subjects 2 and Agreement Subjects 3 are hereinafter referred to as "SLC")

Considering:-

- (One) that the Council are in terms of Section 1 of the 1997 Act the planning authority for the Whole Agreement Subjects;
- (Two) that the Planning Application has been made to the Council by the Initial Owners;
- (Three) that the Council on 27 March 2012 resolved to grant planning permission for the Planning Application subject to various conditions and the entering into of this planning obligation by agreement in terms of Section 75 of the 1997 Act;
- (Four) that the Initial Owners are the heritable proprietors of the Agreement Subjects 1;
- (Five) that under Section 75 of the 1997 Act a person may enter into an obligation with a planning authority restricting or regulating the development or use of

the land either permanently or during such period as may be specified in the instrument by which the obligation is entered into and that this agreement is a relevant instrument for that purpose;

(Six) that any such instrument may, inter alia, contain such incidental and consequential provisions as appear to the planning authority to be necessary or expedient for the purposes of the agreement and it appears to the Council to be necessary or expedient that this Agreement contains such incidental and consequential provisions; and

(Seven) That the Initial Owners have lodged the Master Plan with the Council in connection with the Planning Application and the Council, and the Initial Owners intend that this Agreement be read with reference to the implementation of the Master Plan and the Master Plan as Amended.

NOW THEREFORE the Council, the Initial Owners agree and SLC consent as follows:-

1. Definitions

1.1 In this Agreement (including the foregoing preamble) where the context so permits the following expressions shall have the following meanings:

1997 Act means the Town and Country Planning (Scotland) Act 1997;

Access Road means the access road the approximate line of which is indicated hatched blue and referred to as "Route 1" on Plan 3 and the precise line of which may be varied by the Access Road Owner with the consent of the SLC and their successors as landowner of Agreement Subjects 2;

Access Road Site means the part or parts of the Whole Agreement Subjects on which the Access Road will be situated;

Access Road Owner means the Owner who is the heritable proprietor of the Access Road Site on the date on which the Deed

of Servitude is completed in terms of the Access Road Contract and their successors in title to the Access Road Site;

Access Road Contract	means the binding written contract, substantially in the form of the Missives between the Council and the Access Road Owner as set out in Part 5 of the Schedule;
Agreement	means this Minute of Agreement together with the Schedule;
Agreement Subjects 1	means the subjects more particularly described in paragraph 1 of Part 12 of the Schedule and delineated red on Plan 1;
Agreement Subjects 2	means the subjects more particularly described in paragraph 2 of Part 12 of the Schedule and delineated blue and hatched black on Plan 1;
Agreement Subjects 3	means the subjects more particularly described in paragraph 3 of Part 12 of the Schedule and delineated green on Plan 1;
Cessation Procedure	means the procedure set out in Part 9 of the Schedule;
Commencement Date	means the first date on which a Material Operation is carried out on the Whole Agreement Subjects;
Committee Minute	means the minute of the Council's Planning Committee decision of 27 March 2012 and forming Part 1 of the Schedule;
Completion	means, in respect of each Residential Unit, completion to the standard in respect of which an application for approval of a completion certificate

has been granted by the Council and the terms "Complete" and "Completed" will be construed accordingly;

Consent	means the Initial Consent and all Further Consents relative to the Initial Consent;
Council	means South Lanarkshire Council, established by the Local Government etc (Scotland) Act 1994 and having its principal offices at Council Offices, Almada Street, Hamilton, ML3 0AA and their statutory successors;
Developer	means the Initial Owner or in substitution therefor a Permitted Developer, (but excluding the Site A Developer);
Developer's Obligations	means the obligations set out in Parts 3, 4, 5 and 6 of the Schedule and Clauses 3, 4 and 5;
Development	means the development of any part or parts of the Whole Agreement Subjects, as set out in the Consent;
Effective Date	means the last of the dates on which the Agreement is signed;
Financial Payment	means each monetary payment due and payable by any party to the Council in terms of this Agreement;
Further Consent	means the planning permission or permissions to be granted pursuant to any Further Planning Application;
Further Planning Application	means any planning applications affecting any part or parts of the Whole Agreement Subjects submitted (i) after the Effective Date and amending the Initial

Consent and (ii) any Further Consents granted in relation to the Master Plan or the Master Plan as Amended ;

Initial Consent	means the planning permission to be issued pursuant to the Planning Application;
Late Payment Procedure	means the procedure set out in Part 8 of the Schedule;
Market Residential Unit	means a Residential Unit which is not an Affordable Housing Unit;
Master Plan	means the Master Plan named "East Overton Concept Masterplan" and lodged in connection with the Planning Application;
Master Plan as Amended	means the Master Plan as amended by the Developer, the Site A Developer or a Phase Developer from time to time and approved in writing by the Council;
Material Operation	means an operation in accordance with Section 27(4) of the 1997 Act;
Owner	means (i) the Initial Owners and their successors in title to the Agreement Subjects 1 as defined by Section 75 of the 1997 Act and (ii) the successors in title of SLC to Agreement Subjects 2 and 3 as defined by Section 75 of the 1997 Act but excluding as an Owner (a) SLC, (b) Prior Owners and (c) Ultimate Owners;
Owner's Obligations	means compliance with the terms of Clauses 3.3, 3.5, 3.8 and 3.13 in respect of a Permitted Developer;

Parties means the Owner, the Developer, the Council and SLC

Permitted Developer means any party or parties carrying out any part of the Development on the Whole Agreement Subjects or any part thereof and who has or have delivered an Undertaking to the Council;

Permitted Infrastructure Works means works including but not restricted to the construction of roads, footpaths, drainage and sewerage and the installation of media pipes and cables where such works are located in subjects owned by SLC, for which SLC, acting reasonably, will issue a letter of permission; for the avoidance of doubt, a letter of permission is in addition to any Consent and Consent is deemed not to be a letter of permission;

Phase means each part of the Development as indicated on the Phasing Plan and in respect of which a Further Planning Application is made;

Phase 1 means that part of the Whole Agreement Subjects on which the first 180 Market Residential Units are to be constructed;

Phase Detailed Planning Permission means in respect of each Phase, the detailed Planning Permission or Permissions granted for that Phase of the Development ;

Phase Developer means in respect of each Phase the party or parties carrying out the Development of any part or parts of that Phase;

Phase Commencement Date	means the date on which the first Material Operation is carried out in respect of each Phase following the grant of the relevant Phase Detailed Planning Permission;
Phase Owner	means the Owner of any part or parts of any Phase;
Phasing Plan	means the phasing of the Development as indicated on the Phasing Drawing Proposed Phasing Design and Access Plan PPP-103 forming Part 16 of the Schedule, declaring that (i) the phasing relates to the time frame in which the Development is intended to be built and does not relate to land or landownership and (ii) on which Phase 1 is shown delineated by a broken red line, Phase 2 is shown hatched pale green, Phase 3 is shown partly hatched pink and on which pink hatching an area of Phase 3 is outlined bright green and Phase 4 is shown hatched blue;
Phasing Plan as Amended	means the Phasing Plan as amended by the Developer or a Phase Developer from time to time and approved in writing by the Council;
Plan 1	means the plan forming Part 13 of the Schedule;
Plan 2	means the plan forming Part 14 of the Schedule;
Plan 3	means the plan forming Part 15 of the Schedule;
Planning Application	means the planning application submitted by the Initial Owner and allocated application reference EK/12/003 by the Council;
Planning Obligations	means the Initial Owner's Obligations, the Owner's Obligations, the Site A Obligations, the Site A Developer's Obligations and the Developer's Obligations;

Prior Owner	has the meaning ascribed to it in Part 11 of the Schedule;
Procurement	means the taking of such steps and procedures in relation to the award of public works contracts, public supply contracts and public services contracts as are necessary to comply with and be in accordance with the provisions of (1) the applicable European Union Treaties (2) the applicable Directives of the European Parliament and the Council of the European Union (3) such applicable United Kingdom and Scottish legislation and regulations in force from time to time and (4) the Council's Standing Orders on Contracts applicable at the relevant time;
Registration Date	means the last date of receipt of the Keeper's acknowledgement, which relates to any part of the Whole Agreement Subjects of the Council's application for registration of this Agreement in the Land Register of Scotland or the recording of this Agreement in the relevant Division of the General Register of Sasines (as appropriate);
Residential Unit	means a single dwelling of any kind to be constructed on the Whole Agreement Subjects;
Section 75C Procedure	means the procedure set out in Part 11 of the Schedule;
Schedule	means the schedule in 17 Parts annexed and executed as relative hereto;
Site A	means that part of Agreement Subjects 1 shown outlined purple on Plan 2;
Site A Developer	means the party or parties carrying out the

Development on Site A;

Site A Obligations

means the planning obligations set out in Part 2 of the Schedule which are and will be the only planning obligations on the Site A Developer in respect of Site A;

Site A Owner

means the Owner of any part or parts of Site A;

Site A Payments

means (i) the Site A Strathaven Heritage Fund Payment, (ii) the Site A Affordable Housing Commuted Sum Obligation (iii) the Education Contribution and (iv) the Strathaven Community and Sports Contribution, all as defined in Part 2 of the Schedule;

Ultimate Owner

means the first registered purchaser of each Residential Unit and his, her or their respective successors in ownership of that Residential Unit ;

Undertaking

means a unilateral undertaking by a Developer, a Phase Developer or a Site A Developer substantially in the style forming Part 10 of the Schedule and registered against the Whole Agreement Subjects or any part or parts thereof in the Land Register of Scotland or the relevant Division of the General Register of Sasines as the case may be, to the effect that the Developer, the Phase Developer or the Site A Developer, as the case may be, shall be bound by and shall comply with the terms of this Agreement;

Value Added Tax

means value added tax or any other similar tax replacing the same or in addition thereto at the rate

prevailing from time to time;

Whole Agreement Subjects means Agreement Subjects 1, Agreement Subjects 2 and Agreement Subjects 3;

Working Day means any day, excluding Saturdays, Sundays and the Council public holidays, during which the Scottish clearing banks in Glasgow are open for business;

1.2 In this Agreement (unless the context otherwise requires):-

1.2.1 The words "including" and "include" and words of similar effect shall not be deemed to limit the general effect of the words which precede them;

1.2.2 Reference to any agreement, contract, document or deed shall be construed as a reference to it as varied, supplemented or novated;

1.2.3 Obligations undertaken by a party which comprises more than one person shall be deemed to be made by them jointly and severally;

1.2.4 Words importing personal shall include firms, companies and bodies corporate and vice versa;

1.2.5 Words importing the singular shall be construed as importing the plural and vice versa;

1.2.6 Words importing one gender shall be construed as importing any other gender;

1.2.7 Words denoting an obligation on a party to do any act, or thing includes an obligation to procure that it be done and any words placing a party under a restriction include an obligation not to cause or permit or suffer any infringement of that restriction;

1.2.8 Construction of this Agreement shall ignore any headings and front/backing sheet (each of which is for reference only);

1.2.9 Reference to a numbered clause, schedule or paragraph are references to the clause, schedule or paragraph of or to this Agreement so numbered;

1.2.10 Any reference to any legislative provision shall be deemed to include any subsequent re-enactment or amending provision; and

1.2.11 Reference to any party shall include the successors in title of that party.

2. General Provisions

2.1 The purpose of this Agreement is to ensure the appropriate financial contributions are made and affordable housing obligations are met at appropriate times during the phased development on the Whole Agreement Subjects and to ensure that the Planning Obligations are complied with by the Developer, the Site A Developer and the Owner in respect of the Whole Agreement Subjects.

2.2 Nothing in this Agreement shall fetter, prejudice or affect the Council's powers to enforce any specific obligation or term or condition in this Agreement nor shall anything contained in this Agreement fetter, prejudice or affect any provisions, rights, powers, duties and/or obligations of the Council in the exercise of its functions as planning authority for the purposes of the 1997 Act or otherwise as a local authority.

2.3 Nothing in this Agreement shall confer regulatory approval for any matter in particular to carry out any building engineering or other operations in, on, over or under the Whole Agreement Subjects.

2.4 No waiver (whether express or implied) by the Council of any breach or default of any other party to this Agreement or their agents, servants or successors (including their assignees) in performing or observing any of the provisions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from subsequently enforcing any such provision or from acting on any subsequent breach thereof.

2.5 If any provision in this Agreement shall in whole or in part be held to be invalid or unenforceable under any enactment or rule of law such provision shall to that extent

be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

3. Planning Obligations

- 3.1 The Planning Obligations contained in this Agreement are made under Section 75 of the 1997 Act and are planning obligations for the purposes of the 1997 Act.
- 3.2 The Developer, the Site A Developer and the Owner agree that the Planning Obligations are reasonable, necessary and relevant in respect of the tests and guidance set out in Scottish Government Circular 3/2012 Planning Obligations and Good Neighbour Agreements and reflect the whole Planning Obligations requisite in respect of the Development.
- 3.3 The Planning Obligations, excluding the Site A Obligations, are undertaken by and are binding on the Developer and the Owner and are enforceable by the Council provided that the Consent is issued.
- 3.4 The Site A Obligations are undertaken by and are binding on the Site A Developer and the Site A Owner and are enforceable by the Council provided that the Consent is issued.
- 3.5 Only a Developer will implement the Consent and/or carry out any Development on any part of the Whole Agreement Subjects, In the event that a party who is not a Developer implements the Consent and/or carries out any Development on any part of the Whole Agreement Subject, the Owner of that part or parts of the Whole Agreement Subjects will comply with the Developer Obligations.
- 3.6 Only the Site A Developer will implement the Consent and/or carry out any Development on any part of Site A. In the event that a party who is not a Site A Developer implements the Consent and/or carries out any Development on any part of Site A, the Site A Owner will comply with the Site A Obligations.
- 3.7 The Developer will comply with the Developer's Obligations, and to Clause 3.12 hereof,
- 3.8 The Owner will comply with the Owner's Obligations.

- 3.9 The Initial Owner will comply with the Initial Owner's Obligations.
- 3.10 The Site A Owner will comply with the Owner's Obligations in so far as they relate to Site A, only.
- 3.11 The Section 75C Procedure will apply to the Owner.
- 3.12 The Developer will carry out the Development in accordance with:-
- (i) the Master Plan, until amended, and thereafter,
 - (ii) the Master Plan as Amended,
 - (iii) the Phasing Plan until amended and thereafter,
 - (iv) the Phasing Plan as Amended.
- 3.13 It is an essential condition of this Instrument and a planning obligation on the Developer and Owner that there will be no Development other than Permitted Infrastructure Works, on any part of the Whole Agreement Subjects other than Site A before the Site A Payments are made to the Council by the Site A Owner or the Site A Developer. In the event of a breach of this Clause 3.12 hereof the Council will be entitled to apply the Cessation Procedure
4. Issue of Consent
- 4.1 The Initial Owner agrees that the Council will undertake the registration and /or recording of this Agreement in the Land Register of Scotland and/or the relevant Division of the General Register of Sasines (as appropriate) in terms of either Clause 4.3 or 4.4 hereof.
- 4.2 The Initial Owner shall pay the whole reasonable and properly incurred legal expenses and outlays of the Council up to a maximum of £7,500.00 in connection with this Agreement and the recording and/or registration dues in relation to the registration and/or recording thereof together with the cost of obtaining 2 extracts.
- 4.3 Subject to payment by the Initial Owner of the Council's legal costs and outlays reasonably and properly incurred as specified in 4.2 hereof, the Council, within ten (10) Working Days of the date of receipt of this Agreement by the Council properly and validly executed by the Initial Developer and the Initial Owner will, if the date of

receipt occurs before 1 December 2014, register this Agreement in the Land Register of Scotland and/or record this Agreement in the relevant Division of the General Register of Sasines (as appropriate) against the Whole Agreement Subjects and if so registered or recorded the following will apply:-

- 4.3.1 The Council will issue the Initial Consent EK/12/0003 as soon as reasonably practicable and in any event within 5 Working Days of the date of the registration date as defined by Section 4 of the Land Registration (Scotland) Act 1979 .
- 4.3.2 The Developer, the Site A Developer and/or the Owner undertake that, in the event that the Keeper of the Registers of Scotland requests that the Council will provide documentation, information or actions of any kind whatsoever to allow the registration/recording to complete to the issue by the Keeper of a fully registered and/or recorded Agreement, they will deliver such documentation and information to the Council and carry out such action promptly to allow the Keeper to issue the registered and/or recorded Agreement.
- 4.3.3 In the event that the Keeper of the Registers of Scotland refuses or is unable to issue the registered Agreement by virtue of the Developer's, the Site A Developer's and/or the Owner's failure to comply with Clause 4.3.2 hereof, the Council, acting reasonably, are entitled, but not obliged, to revoke the Consent in terms of Section 65 of the 1997 Act and the Developer and/or the Owner both agree that they or either of them will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from the Council.
- 4.3.4 The Initial Owner confirms that at the date on which they sign this Agreement they are not subject to or under threat or warning of an Insolvency Event and will not take steps to enter into any voluntary Insolvency arrangements the effect of which will be an Insolvency Event between the date on which they sign this Agreement and date of issue by the Keeper of a fully registered and/or recorded Agreement.
- 4.3.5 In the event that the Keeper of the Registers of Scotland refuses or is unable to issue the registered Agreement by reason of an Insolvency Event, the Council, acting reasonably, are entitled, but not obliged, to revoke the Consent in terms of Section 65 of the 1997 Act and the Developer and/or the Owner both agree that they or either of them will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from the Council. The Developer and the Owner

hereby notify the Council, under section 67 (1) (b) that they do not object to such Revocation Order.

- 4.3.6 The Council undertake that before taking steps to revoke the Consent in terms of these Clauses, the Council will serve written notice on the Developer and Owner of their intention to revoke the Consent and will allow the Developer and Owner a reasonable opportunity to comply with the requirements of the Keeper of the Registers of Scotland to enable the Agreement to be registered or recorded.
- 4.4 Subject to payment by the Initial Owner of the Council's legal costs and outlays reasonably and properly incurred as specified in 4.2 hereof, the Council, within ten (10) Working Days of the date of receipt of this Agreement by the Council properly and validly executed by the Initial Developer and the Initial Owner, will, if the date of receipt occurs after 1 December 2014, apply to register this Agreement in the Land Register of Scotland and/or will record this Agreement in the relevant Division of the General Register of Sasines (as appropriate) against the Whole Agreement Subjects and, if so registered and/or recorded, the following will apply:-
- 4.4.1 The Council will issue the Initial Consent EK/12/0003 as soon as reasonably practicable and in any event within 5 Working Days of the registration date as defined by Section 37 of the Land Registration etc. (Scotland) Act 2012 .
- 4.4.2 In the event that the Keeper of the Registers of Scotland rejects the application to register referred to in Clause 4.4 and, that as a result of that rejection, the Council requests the Developer, the Site A Developer and/or the Owner to provide documentation, information or carry out actions of any kind whatsoever to allow the Council to resubmit a fresh application for registration to complete to the issue by the Keeper of a fully registered and/or recorded Agreement, the Developer, the Site A Developer and/or the Owner will deliver such documentation and information to the Council and carry out such action promptly to allow the Council to resubmit the said fresh application and to the issue by the Keeper to the registered and/or recorded Agreement.
- 4.4.3 In the event that the Council is unable to resubmit the said fresh application by reason of the Developer's, the Site A Developer's and/or the Owner's failure to comply with Clause 4.5 hereof, the Council, acting reasonably, are entitled, but not obliged, to revoke the Consent in terms of Section 65 of the 1997 Act and the

Developer, the Site A Developer and/or the Owner both agree that they or either of them will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from the Council.

4.4.4 The Initial Owner confirms that at the date on which they sign this Agreement they are not subject to or under threat or warning of an Insolvency Event and will not take steps to enter into any voluntary Insolvency arrangements the effect of which will be an Insolvency Event between the date on which they sign this Agreement and date of issue by the Keeper of a fully registered and/or recorded Agreement.

4.4.5 In the event that the Keeper of the Registers of Scotland rejects the Council's application by reason of an Insolvency Event, the Council, acting reasonably, are entitled, but not obliged, to revoke the Consent in terms of Section 65 of the 1997 Act and the Developer and/or the Owner both agree that they or either of them will not (i) oppose such revocation in terms of Section 66 of the 1997 Act nor (ii) seek compensation or expenses from the Council. The Developer and the Owner hereby notify the Council, under section 67 (1) (b) that they do not object to such Revocation Order.

4.4.6 The Council undertake that before taking steps to revoke the Consent in terms of these Clauses, the Council will serve written notice on the Developer and Owner of their intention to revoke the Consent and will allow the Developer and Owner a reasonable opportunity to comply with the requirements of the Keeper of the Registers of Scotland to enable the Agreement to be registered or recorded.

4.5 The Council agree that this Clause 4 is only applicable and enforceable until the Agreement is registered by the Keeper of the Registers of Scotland and that, on receipt of the registered Agreement, the Council will grant a formal written discharge of this Clause 4.

4.6 In the event of the Initial Consent being revoked prior to the Commencement Date, then the present obligations shall fall and be deemed *pro non scripto* from the date of such revocation (without prejudice to the Council's rights and remedies in respect of the antecedent of any obligations).

5. Commencement of Development

- 5.1 The Developer and the Site A Developer will not carry out any Material Operations on the Whole Agreement Subjects and the Owner will not permit any Material Operations on the Whole Agreement Subjects prior to the issue of the Initial Consent by the Council.
- 5.2 The Initial Owner, and thereafter each Owner, each Developer and Site A Developer will notify the Council in writing of the identity of any party or parties to whom they transfer (i) their title or their interest in the Whole Agreement Subjects and (ii) of their right to develop in terms of the Consent.
- 5.3 Within 28 Working Days of each Phase Commencement Date, the Phase Developer of each Phase will notify the Council in writing of the relevant Phase Commencement Date.
- 5.4 The Council will treat the earliest of the dates notified to them in terms of Clause 4.3 as the Commencement Date and will make this date known on that part of the Council's website which contains information on the Planning Application.
6. Late Payment
Unless otherwise agreed in writing with the Council, the Late Payment Procedure will apply to all Financial Payments due and payable in terms of this Agreement.
7. Review of Financial Payments
Unless otherwise agreed in writing with the Council, the Financial Payment Review Procedure will apply to all Financial Payments due and payable in terms of this Agreement.
8. Cessation Procedure
The Council are entitled to apply the Cessation Procedure in the event of a breach of the Planning Obligations.
9. Procurement
Where the Council procures or acquires public works, public supply and/or public services in connection with the performance of this Agreement or any part or parts of it, the Parties agree that the Council will do so in accordance with Procurement and in accordance with the provisions of Part 1 of the Local Government in Scotland Act 2003.

10. Notice

10.1 All notices which require to be given in terms of this Agreement shall be in writing and shall be deemed to be sufficiently served if signed by or on behalf of the party issuing the notice and either: (i) delivered personally, or (ii) sent by pre-paid recorded delivery or registered post, or (iii) sent by facsimile, to the following address (es) as the case may be:-

10.1.1 In the cases of the Developer, the Site A Developer or the Owner to (i) if a company, its Registered or Head office in the United Kingdom or (ii) if an individual, to the last known address in the United Kingdom or (iii) if a partnership, to the partnership and any one or more of the partners thereof at its last known principal places of business in the United Kingdom or (iv) to such other address as may have been notified previously in writing to the Council;

10.1.2 In the case of the Council to the Head of Planning and Building Standards Services, Council Offices, Almada Street, Hamilton, ML3 0AA, or to such other officer and address as the Council may have notified to the Parties;

10.2 In proving service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to the Council or the Developer or the Site A Developer or the Owner, as the case may be, in accordance with this Clause 10 and posted to the place to which it was so addressed (unless returned through the post).

11. Registration of Agreement

The Initial Owner hereby undertake that prior to the registration of these presents in the Land Register they shall not convey, dispose of, sell, burden, or lease or otherwise grant any party an interest in their title to the Agreement Subjects 1 or any part thereof except in so far as the same may be specifically agreed in writing by the Council.

12. VAT

Any sums paid in accordance with the terms of this Agreement shall be exclusive of any Value Added Tax properly payable which shall be payable in addition.

13. Laws of Scotland

This Agreement shall be construed in accordance with the Laws of Scotland.

14. Duration

This Agreement will come into effect on the Effective Date and will endure until it is formally discharged in terms of Section 75A of the 1997 Act.

15. Registration

The parties hereto consent to registration hereof for preservation and execution: IN WITNESS WHEREOF these presents typewritten on this and 18 preceding pages together with the Schedule annexed are executed as follows:-

And they are subscribed by the Initial Owner by:-

Print name HENRY JARDINE PATERSON

Sign [Signature]

At Motherwell on the Sixteenth day of December 2014

Before this witness:-

Sign [Signature]

Print name ALAN McCULLOCH

Address 70 BRANDON PARADE EAST

MOTHERWELL

ML1 1LY

JEAN WATSON PATERSON

Jean Paterson

And they are sealed with the Common Seal of South Lanarkshire Council and are subscribed for and on their behalf by:-

Proper Officer MARGARET MARY CAIRNS

Sign Margaret Mary Cairns

At Hamilton on the 17th day of DECEMBER 2014

And they are sealed with the Common Seal of South Lanarkshire Council and are subscribed for and on their behalf by:-

Proper Officer MARGARET MARY CAIRNS

Sign Margaret Mary Cairns

At Hamilton on the 17th day of DECEMBER 2014

This is the Schedule in 17 Parts referred to in the foregoing Minute of Agreement between South Lanarkshire Council, Henry Jardine Paterson and Jean Watson Paterson with the consent of South Lanarkshire Council

Schedule

Part 1

Committee Minute

5 Application EK/12/0003 - Residential Masterplan, Leisure, Business Use and Vehicular Access from Glassford Road, Phased Over 20 Years (Planning Permission in Principle) at Land Known as East Overton, Glassford Road, Strathaven

A report dated 20 March 2012 by the Executive Director (Community and Enterprise Resources) was submitted on planning application EK/12/0003 by Paterson Partners for a residential masterplan, leisure, business use and vehicular access from Glassford Road, phased over 20 years (planning permission in principle) at land known as East Overton, Glassford Road, Strathaven.

The Committee decided:

that planning application EK/12/0003 by Paterson Partners for a residential masterplan, leisure, business use and vehicular access from Glassford Road, phased over 20 years (planning permission in principle) at land known as East Overton, Glassford Road, Strathaven be granted subject to:-

- ♦ the conditions specified in the Executive Director's report
- ♦ prior conclusion of a Section 75 Obligation and/or other appropriate agreement between the Council and the applicant or site owner to ensure that appropriate financial contributions were made at appropriate times during the phased development towards the following:-
 - ♦ residential development of up to 480 units in 4, 5 year phases, with 33% of the units to meet affordable housing needs
 - ♦ emphasis on sustainable development principles
 - ♦ such extensions to primary school provision as would be required by the development
 - ♦ investment in drainage infrastructure
 - ♦ such improvements to sustainable modes of transport as identified in a Transportation Assessment/green travel plan agreed with the Council
 - ♦ amenity open space and play provision
- ♦ provision of the following in the first phase of the scheme:-
 - ♦ 80 general needs units for sale
 - ♦ 40 affordable housing units
 - ♦ landscape mitigation measures that would be managed as a community woodland/carbon sequestration scheme and include an interpretation facility
 - ♦ an indoor multi-purpose pitch and associated changing facilities
 - ♦ developer's contribution of £1000 (index linked) per general needs unit for improvement and protection of listed buildings in Strathaven Town Centre
 - ♦ access to adjacent Council land to the west of East Overton Farm
 - ♦ infrastructure for the extension to the Hamilton Road Industrial Estate
 - ♦ off-site road improvements
 - ♦ regular monitoring of traffic volumes generated by the development

- ♦ a requirement for the masterplan to show the phasing of the scheme and be guaranteed by legal agreement
- ♦ the applicant meeting the Council's legal costs associated with the Section 75 Obligation and other related agreements

Schedule

Part 2

The Site A Obligations

Part 2.1 – The Site A Strathaven Heritage Fund Payments

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 2.1 of the Schedule:-

First Instalment means Ninety Thousand Pounds (£90, 000.00);

Fund means the Strathaven Heritage Fund as defined in Clause 1 of Part 3 of the Schedule ;

Second Instalment Means Ninety Thousand Pounds (£90,000.00);

Site A Strathaven Heritage Fund Payment means the sum of One hundred and Eighty Thousand Pounds (£180,000.00) being the First Instalment and the Second Instalment;

Site A Strathaven Heritage Fund Actual Payment means the £ X,
where $X = Y$ multiplied by the Unit Payment
and $Y =$ the Site A Unit Total;

Site A Strathaven Heritage Fund Carry Forward Sum means the £180, 000.00 less £ X,
where $X = Y$ multiplied by the Unit Payment

and Y = the Site A Unit Total;

Site A Completion Date means the date on which the Council gives written notice to the Site A Developer that Site A is complete in respect of the number of Market Residential Units which are to be built on Site A, which notice will specify the Site A Unit Total ;

Site A Unit Total Means the number of Market Residential Units which the Council agree have been completed on Site A at Site A Completion;

Unit Payment means ONE THOUSAND POUNDS (£1,000.00);

2. The Site A Strathaven Heritage Fund Payment is a Planning Obligation on the Site A Developer which endures from the Effective Date until the Site A Completion Date. The Site A Developer will comply with this Planning Obligation by making payment to the Council in accordance with this Part 2 .1 of the Schedule.
3. For the avoidance of doubt, the Unit Payment does not apply to Site A.
4. The First Instalment will be paid to the Council by the Site A Developer on or before Completion of the 25th Market Residential Unit on Site A and no more than 25 Market Residential Units will be completed on the Whole Agreement Subjects until the First Instalment is paid.
5. The Second Instalment will be paid to the Council by the Site A Developer on or before Completion of the 100th Market Residential Unit on Site A and no more than 100 Market Residential Units will be completed on the Whole Agreement Subjects until the Second Instalment is paid.
6. The Council will ensure that the Site A Strathaven Heritage Fund Payment is credited to the Fund, which Fund will be administered and utilised by the Council in consultation with the Initial Owner and in the terms set out at Schedule Part 3 at Clause 5.

7. If in the sole opinion of the Council, acting reasonably the Site A Developer fails or delays to comply with this Part 2.1 of the Schedule, the Council will be entitled to take action in terms of the Cessation Procedure.
8. The Parties agree that the Site A Strathaven Heritage Fund Payment has been calculated on the basis that 180 Market Residential Units will be built on Site A. In the event that less than 180 Market Residential Units are constructed on Site A, the Council will apply the Site A Strathaven Heritage Fund Carry Forward Sum to the Annual Payments as more particularly described in Part 3 of the Schedule. For the avoidance of doubt, the Site A Strathaven Heritage Fund Carry Forward Sum will not be refunded to any party.

Schedule

Part 2

The Site A Obligations continued

Part 2.2 The Site A Affordable Housing Obligation

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement and Part 4 of the Schedule, The Affordable Housing Obligations, the following definitions will apply to this Part 2.2 of the Schedule:-

Instalment One Means Three Hundred Thousand Pounds (£300,000.00);

Instalment Two Means FOUR HUNDRED AND FIFTY THREE THOUSAND TWO HUNDRED AND SIXTY FIVE POUNDS (£453,265.00) STERLING;

Site A Affordable Housing Carry Forward Sum Means the Site A Affordable Housing Commuted Sum Obligation less the Site A Affordable Housing Actual Commuted Sum

Site A Affordable Housing Commuted Sum Obligation Means the Commuted Sum of SEVEN HUNDRED AND FIFTY THREE THOUSAND TWO HUNDRED AND SIXTY FIVE POUNDS (£753,265) STERLING;

Site A Affordable Housing Actual Commuted Sum means £ X,

where $X = Y$ multiplied by £4,184.80

and $Y =$ the Site A Unit Total;

Site A Completion Date

means the date on which the Council gives written notice to the Site A Developer that Site A is complete in respect of the number of Market Residential Units which are to be built on Site A, which notice will specify the Site A Unit Total ;

Site A Unit Total

Means the number of Market Residential Units which the Council agree have been completed on Site A at Site A Completion;

2. The Site A Affordable Housing Commuted Sum Obligation is a Planning Obligation on the Site A Developer which endures from the Effective Date until the Site A Completion Date. The Site A Developer will comply with this Planning Obligation by making payment to the Council in accordance with this Part 2.2 of the Schedule.
3. Instalment One will be paid to the Council on or before Completion of the 25th Market Residential Unit on Site A and no more than 25 Market Residential Units will be completed on the Whole Agreement Subjects until Instalment One is paid.
4. Instalment Two will be paid to the Council on or before Completion of the 100th Market Residential Unit on Site A and no more than 100 Market Residential Units will be completed on the Whole Agreement Subjects until Instalment Two is paid.
5. If in the sole opinion of the Council, the Site A Developer fails or delays to comply with this Part 2.2 of the Schedule, the Council will be entitled to take action in terms of the Cessation Procedure.
6. The Parties agree that the Site A Affordable Housing Obligation has been calculated on the basis that 180 Market Residential Units will be built on Site A. In the event that less than 180 Market Residential Units are completed on Site A, the Council will apply the Site A Affordable Housing Carry Forward Sum to the Affordable Housing Obligation as more particularly described in Part 4 of the Schedule. For the avoidance of doubt, the Site A Affordable Housing Carry Forward Sum will not be refunded to any party.
7. The Site A Affordable Housing Commuted Sum Obligation having been calculated in accordance with the terms of the District Valuer's Report dated 4th February 2012 (Case

No 1497043) taking into account only the Development Obligations specified in this Agreement, any other items eligible to be deducted in assessing future Developer Contributions in terms of the said District Valuer's Report and/or in terms of PAN2/2010 or otherwise, will be taken into account in calculating and in reconciling the Affordable Housing Commuted Sum Obligation due in respect of the Phase 1 180 Market Residential Units, any such payment then being calculated to be refundable will be deducted from future phase Affordable Housing Commuted Sum Obligation payments any further Developer Contributions in subsequent phases of development of the Whole Agreement Subjects on the basis of actual figures becoming available and which figures will be made available to SLC on an open book basis.

Schedule

Part 2

The Site A Obligations - continued

Part 2.3 The Site A Strathaven Community and Sports Facilities Obligation

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 2.3 of the Schedule:-

Strathaven Community Sports and Facilities Contribution means the sum of EIGHTHUNDRED AND SIXTY ONE THOUSAND SEVEN HUNDRED AND NINETY FIVE POUNDS (£861,795.00) STERLING;

Instalment One means the sum of SIX HUNDRED AND TEN THOUSAND POUNDS (£610,000.00) STERLING;

Instalment Two means the sum of TWO HUNDRED AND FIFTY ONE THOUSAND SEVEN HUNDRED AND NINETY FIVE POUNDS (£251,795.00) STERLING;

Strathaven Community and Sports Facilities Fund means the moneys held or to be held by the Council in accordance with this Part 2.3 of the Schedule;

1. The Site A Strathaven Community and Sports Facilities Obligation is a Planning Obligation on the Site A Developer which endures from the Effective Date until the Site A Completion Date. The Site A Developer will comply with this Planning Obligation by making payment to the Council in accordance with this Part 2.3 of the Schedule.

2. Instalment One will be paid to the Council by the Site A Developer on or before Completion of the 8th Market Residential Unit on Site A and no more than 8 Market Residential Unit will be completed on the Whole Agreement Subjects until Instalment One is paid.
3. Instalment Two will be paid to the Council by the Site A Developer on or before Completion of the 100th Market Residential Unit on Site A and no more than 100 Market Residential Units will be completed on the Whole Agreement Subjects until Instalment Two is paid.
4. The Parties agree that the Strathaven Community and Sports Facilities Contribution will be paid in lieu of the multi-purpose pitch, associated changing facilities and interpretation facility as narrated in the South Lanarkshire Local Plan.
5. The Strathaven Community and Sports Facilities Contribution will be credited by the Council to the Strathaven Community and Sports Facilities Fund which fund shall be separate from the Council's other funds.
6. The Strathaven Community and Sports Facilities Fund will be administered and used by the Council in consultation with the Initial Owner .
7. On the understanding that the Strathaven Community and Sports Facilities Fund has been calculated on the basis of 480 Market Residential Units being completed by the Developer, in the event that the Council has not expended the Strathaven Community and Sports Facilities Fund or any part thereof within 8 years of the date of the Completion of the 480th Market Residential Unit, such unexpended part of the Strathaven Community and Sports Facilities Fund together with any interest accrued thereon shall be repaid to the Initial Owner within three months of the expiry of the date of the lastmentioned date..
8. The Strathaven Community and Sports Facilities Fund has been agreed as the full payment in respect of the 480 Market Residential Units to be completed on the Whole Agreement Subjects, although said Strathaven Community and Sports Facilities Fund is payable as aforesaid during the construction of Site A.
9. If in the sole opinion of the Council, the Site A Developer fails or delays to comply with this Part 2.3 of the Schedule, the Council will be entitled to take action in terms of the Cessation Procedure.

Schedule

Part 2

The Site A Obligations- Continued

Part 2.4 The Site A Education Contribution Obligation

1. **Definitions**

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 2.4 of the Schedule:-

Education Contribution means the sum of ONE HUNDRED AND NINETY NINE THOUSAND SEVEN HUNDRED AND THIRTY FOUR POUNDS [£199,734.00] STERLING;

Instalment One means ONE HUNDRED AND TWO THOUSAND SIX HUNDRED POUNDS [£102,600.00];

Instalment Two means NINETY SEVEN THOUSAND ONE HUNDRED AND THIRTY FOUR POUNDS [£97,134.00] STERLING

2. The Site A Education Contribution is a Planning Obligation on the Site A Developer which endures from the Effective Date until the Site A Completion Date. The Site A Developer will comply with this Planning Obligation by making payment to the Council in accordance with this Part 2.4 of the Schedule.
3. Instalment One will be paid to the Council by the Site A Developer on or before Completion of the 1st Market Residential Unit on Site A and no more than 1 Market Residential Unit will be completed on the Whole Agreement Subjects until Instalment One is paid.
4. Instalment Two will be paid to the Council by the Developer on or before Completion of the 100th Market Residential Unit on Site A and no more than 100 Market

Residential Units will be completed on the Whole Agreement Subjects until Instalment Two is paid.

5. If in the sole opinion of the Council, acting reasonably the Site A Developer fails or delays to comply with this Part 2.4 of the Schedule, the Council will be entitled to take action in terms of the Cessation Procedure.
6. The Education Contribution has been agreed as the full payment in respect of the 480 Market Residential Units to be completed on the Whole Agreement Subjects, although said Education Contribution (having been brought forward from the SLC request for payment of the second instalment on or before Completion of the 240th Market Residential unit) is payable as aforesaid during the construction of Site A.

Schedule

Part 3

Strathaven Heritage Fund

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 3 of the Schedule:-

Annual Payment

means the sum to be paid for each Phase other than that part of Phase 1 which is Site A and calculated by the following formula

$$P = A \times B,$$

where

P = Annual Payment

A = the Unit Payment; and

B = the number of Market Residential Units on that Phase meeting Completion in the Relevant Year;

Annual Statement

means the statement in the form of Annexure 2 of this Part 3 of the Schedule to be submitted each Year by each Phase Developer of the number of Market Residential Units (including the addresses of those Market Residential Units) on that Phase Developer's Phase meeting Completion for the Relevant Year and the calculation of the Annual Payment payable by that Phase Developer based on that number;

Developer Contribution Obligation	means the planning obligation offered by the Initial Owners and binding on the Developer to contribute to the cost of the conservation, improvement and protection of buildings within Strathaven Conservation Area as defined in the South Lanarkshire Local Plan and any other Strathaven town improvements, such as graveyard and War Memorial repairs and improvements considered to be worthwhile by the Council acting reasonably in consultation with the Initial Owner;
Calculation Date	means 1 April in each year;
Completion Records	means all documents or records kept by each Phase Developer for the purposes of ascertaining and verifying that Phase Developer's Annual Payment;
Expiry Date	means the last date on which all of the Annual Payments payable by the Developer and any financial penalties due thereon in terms of the Late Payment Procedure is paid by the Developer to the Council;
Final Annual Payment Date	means the date on which last of the Annual Payments is paid to the Council;
First Annual Statement	means the first of the Annual Statements submitted to the Council;

First Year	means the period from and including the Effective Date to and including the next occurring 31 March;
Full Year	means a consecutive period of 12 months commencing from and including a Calculation Date and ending on and including the following 31 March;
Fund	means the moneys held or to be held by the Council in accordance with this Part 3 of the Schedule;
Last Date	means the date on which the last Market Residential Unit permitted by the Consent meets Completion;
Last Year	means the period from and including the Relevant Calculation Date to and including the Last Date;
Payment Date	means the date 10 Working Days following the Relevant Calculation Date;
Year	means either (1) the First Year; or (2) a Full Year or (3) the Last Year as the case may be;
Relevant Calculation Date	means in respect of (1) the First Year, the Calculation Date falling immediately after the Effective Date (2) each Full Year, the Calculation Date in that Full Year and (3) the Last Year, the Last Date;
Relevant Year	means the Year prior to the Relevant Calculation Date;

Unit Payment means ONE THOUSAND POUNDS (£1,000.00);

2. Developer Contribution Obligation

The Developer Contribution Obligation is a Planning Obligation on the Developer which endures from the Effective Date until the Expiry Date. The Developer will comply with the Developer Contribution Obligation by making payment to the Council in accordance with this Part 3 of the Schedule.

3. Annual Payments

- 3.1 Each Phase Developer (other than the Site A Developer) will pay the Annual Payment for their Phase to the Council on the Payment Date.
- 3.2 Each Phase Developer (other than the Site A Developer) will submit the Annual Statement for their Phase to the Council along with their Annual Payment on the Payment Date.
- 3.3 Each Phase Developer (other than the Site A Developer) will maintain the Completion Records for their Phase fully and accurately throughout each Year.
- 3.4 If requested by the Council, each Phase Developer (other than the Site A Developer) will, within 28 Working Days of the date of the request, provide the Council with the Completion Records for their Phase relating to the then current and the [three] immediately preceding Years.
- 3.5 If it is established by a request under Clause 3.4 of this Part 3 of the Schedule that the Annual Payment for any Year has been understated in any Annual Statement then, without prejudice to any other rights or remedies available to the Council under this Agreement, the Annual Payment for the Relevant Year will be recalculated and the amount underpaid will be paid by the relevant Phase Developer to the Council on demand. The Late Payment Procedure will apply to the amount underpaid from the date on which the underpayment would, but for the understated Annual Statement have fallen due, until paid.

4. Site A Strathaven Heritage Fund Carry Forward Sum

- 4.1 The Council will deduct the Site A Strathaven Heritage Fund Carry Forward Sum from the First Annual Statement. In the event that the first Annual Statement amount is less than the Site A Strathaven Heritage Fund Carry Forward Sum, Council will deduct the difference between the Site A Strathaven Heritage Fund Carry Forward Sum and the First Annual Statement amount from each succeeding Annual Statement until the balance of the Site A Strathaven Heritage Fund Carry Forward Sum is nil and the Parties agree that the Council will have sole discretion in respect of which further Annual Statements the Council makes these deductions.

5. Fund

- 5.1 The Council will ensure that each Annual Payment is credited to the Fund.
- 5.2 The Council will hold the Annual Payments in an account separate from the Council's other funds. All interest (under deduction of tax as required by law) which accrues on the account will be retained in the account and become part of the Fund for the purposes of this Agreement.
- 5.3 The Strathaven Heritage Fund will be administered and used by the Council in consultation with the Initial Owner.
- 5.4 In the event that the Fund or any part thereof has not been identified for expenditure on the date falling 8 years after the Final Annual Payment Date such unexpended part of the Fund together with any interest accrued thereon shall be repaid to the Initial Owner and that within three months of the expiry of the said period of 8 years.

6. Cessation Procedure

If in the sole opinion of the Council, acting reasonably the Initial Owner or any Phase Developer fails or delays to comply with this Part 3 of the Schedule, the Council will be entitled to take action in terms of the Cessation Procedure.

Part 3

Annexure 1

Annual Statement

[Addressed to Council]

[] Annual Statement for Year Ending 31 March 20XX

Phase and Phase Developer Details

Phase []

Phase Developer []

Phase Owner []

If change of Phase Developer from last Annual Statement (or Effective Date if this is the first Annual Statement), date of change []

If change of Phase Owner from last Annual Statement (or Effective Date if this is the first Annual Statement), date of change []

Annual Payment Calculation

Number of Market Residential Units meeting Completion from (Effective Date or 1 April 20XY) to 31 March 20XX

Unit Payment applied £1,000.00 (One Thousand Pounds Sterling)

Annual Payment []

Payment Details

Phase Developer's Bank Details []

Date Annual Payment scheduled to be paid to Council []

Market Residential Unit Addresses

List

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Schedule

Part 4

Affordable Housing

2. Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 4 of the Schedule:-

Affordable Housing means housing, whether subsidised and/or unsubsidised of the type referred to in Paragraph 6 of PAN 2/2010.

Affordable Housing Contracts means a contract or contracts entered into by the Phase Developer (other than the Site A Developer) and/or Phase Owner (other than the Site A Owner) for sale or lease of Affordable Housing Units to persons who are in housing need and who would not be able to purchase a property on the open market in the Housing Market Area;

Affordable Housing Commuted Sum means, in respect of each Phase other than the Phase on which Site A is situated, either (i) the financial sum or sums equal to the Market Value of the Affordable Housing Site less the Affordable Housing Price or (ii) such other sum as is agreed between the Council and the Phase Owner or the Phase Developer;

Affordable Housing Site means the area or areas of Serviced Land (the Council or nominated RSL allocated or identified to meet the Affordable Housing Obligation; building on site)

Affordable Housing Missives means the binding written contract between the Phase Owner and the Council or their

nominee substantially in the form of the Missives forming Annexure 1 of this Part 4 of the Schedule;

Affordable Housing Obligation

means the provision by the Developer of the Affordable Housing Requirement and/or the Affordable Housing Site and/or the Affordable Housing Commuted Sum ;

Affordable Housing Options

means the Council's entitlement to the following:-

- (i) To require the Phase Developer to provide the Affordable Housing Requirement on site or
- (ii) To receive the Affordable Housing Commuted Sum or
- (iii) To acquire a part of the Affordable Housing Site and receive a proportion of the Affordable Housing Commuted Sum;

Affordable Housing Price

means, as at the Phase Market Value Date, the percentage of the Phase Market Value of the Affordable Housing Site as determined by the District Valuer whose decision will be final and binding on the Parties;

Affordable Housing Requirement

means the provision by the Developer of Affordable Housing Residential Units the number of which units equates to 33% of all Residential Units constructed or to be constructed on the Whole Agreement Subjects;

Affordable Housing Residential Units

means Residential Units to be used for Affordable Housing the ownership of which is regulated by an Affordable Housing

Contract to ensure that, so far as possible, the Residential Units remain as Affordable Housing in all time coming and which are held on any of the following tenure types:-

- (i) Residential Units provided at an affordable rent and managed by the Council or an RSL;
- (ii) low cost Residential Units sold by the Developer to an Ultimate Owner the ownership of which is regulated by legal agreement to ensure as far as possible that the Residential Units remain as Affordable Housing;
- (iii) Residential Units provided by shared ownership between the Ultimate Owner and the Council or an RSL, with both parties making payment of the price of the Residential Unit and in respect of which the Ultimate Owner pays an occupancy payment to the Council or RSL; and
- (iv) Residential Units provided by shared equity ownership between the Ultimate Owner and the Council, or an RSL or the Developer, with both parties making payment of the price of the Residential Unit and in respect of which no occupancy payment is made by the Ultimate Owner;

First Commuted Sum

means the first of the Affordable Housing Commuted Sums to be paid to the Council in terms of this Part 4 of the Schedule;

Housing Market Area

means the East Kilbride Housing Market Area;

Phase Market Value	means in respect of each Phase, other than Phase 1, (the price (exclusive of VAT) at the Phase Market Value Date as defined in the RICS Appraisal and Valuation Manual which is current as at that date and approved by the District Valuer following the joint referral by the Phase Developer for that Phase and the Council;
Phase Market Value Date	means in respect of each Phase, other than Phase 1, the date on which the Phase Market Value is higher between either (i) the Phase Commencement Date or (ii) such other date as agreed between the Phase Developer and the Council;
PAN 2/2010	means the Scottish Government Planning Advice Note 2 of 2010, entitled "Affordable Housing and Housing Land Audits";
Phase	has the meaning ascribed to in Part 16 of the Schedule;
RSL	means a registered social landlord, being a body currently registered under Chapter 1 of Part 3 of the Housing (Scotland) Act 2001 and which continues to meet the criteria for registration as a registered social landlord and is approved by the Council, or such other social housing provider as may be agreed, in writing by the Council;
Serviced Land	means land which is capable of being developed within the Whole Agreement Subjects and (i) which has available infrastructure and mains services appropriate to a residential development and either (ii)

which does not require contamination remediation, flood prevention treatments, abnormal works or abnormal foundations to facilitate their development; or (iii) where contamination remediation, flood prevention treatments, abnormal works or abnormal foundations are required to facilitate development, the cost of such is not borne by the Council or their nominee;

2. The Affordable Housing Obligation will apply to each Phase on which Residential Units are or will be built and will be complied with by the Developer and the Owner in accordance with Part 4 of the Schedule.
3. The Phase Developers and the Phase Owners agree that:-
 - (i) In respect of all Phases other than Phase 1, the Council are entitled to exercise the Affordable Housing Options at their sole discretion and the Phase Developer and the Phase Owner are obliged to implement the Council's Affordable Housing Options accordingly and
 - (ii) no Material Operations will be carried out on each Phase until the Council have exercised the Affordable Housing Option.
- 3.2 Notwithstanding the foregoing generality the Council will use all reasonable endeavours to exercise the Affordable Housing Options in the following order of preference:-
 - 3.2.1 Firstly, to receive the Affordable Housing Commuted Sum;
 - 3.2.2 Secondly, to acquire a part of the Affordable Housing Site and receive a proportion of the Affordable Housing Commuted Sum in which event the Phase Owner will transfer the title of the relevant part of the Affordable Housing Site to the Council or their nominated RSL in accordance with the Affordable Housing Missives and at the Affordable Housing Price and pay a proportion of the Affordable Housing Commuted Sum prior to the relevant Phase Commencement Date ;
 - 3.2.3 Thirdly, to acquire the Affordable Housing Site in which event the Phase Owner will transfer the title of the Affordable Housing Site to the Council or their nominated RSL in accordance with the Affordable Housing Missives and

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at the Affordable Housing Price prior to the relevant Phase Commencement Date ;

3.2.4 Fourthly, to require the Phase Developer to provide the Affordable Housing Requirement on site;

4. Payment of the Affordable Housing Commuted Sum

4.1 In respect of each phase, other than Phase 1, for which the Council opts to receive an the Affordable Housing Commuted Sum:-

- (i) unless otherwise agreed by the Council, the relevant the Affordable Housing Commuted Sum will be paid to the Council by the relevant Phase Developer before the Phase Commencement Date and
- (ii) there will be no Material Operation on that Phase until the Affordable Housing Commuted Sum is paid to the Council.

4.2 The Site A Affordable Housing Carry Forward Sum, if any, will be deducted from the First Commuted Sum and the relevant Phase Developer will pay the First Commuted Sum less Site A Affordable Housing Carry Forward Sum to the Council.

4.3 In the event that the First Commuted Sum is less than the Site A Affordable Housing Carry Forward Sum, the difference between the Site A Affordable Housing Carry Forward Sum and the First Commuted Sum will be deducted from each succeeding Affordable Housing Commuted Sum until the balance of the Site A Affordable Housing Carry Forward Sum is nil.

5. Cessation Procedure

If in the sole opinion of the Council, acting reasonably the Initial Owner or any Phase Developer fails or delays to comply with this Part 4 of the Schedule, the Council will be entitled to take action in terms of the Cessation Procedure.

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Part 4

Annexure 1

1. Definitions

In this Part of the Schedule, the following terms shall have the following meanings:-

Completion Date means the Date of Entry or, if later, the date when the transfer of the Affordable Housing Site is completed in terms of this Part of the Schedule;

Date of Entry means [];

Disposition means the disposition of the Affordable Housing Site in favour of the Council [in terms of a draft to be agreed between the Affordable Housing Site Affordable Housing Site Owner and the Council , each acting reasonably] ;

Affordable Housing Site means the area shown outlined in red on the Plan being part and portion of ALL and WHOLE [];

Retained Land means [eg the relevant Phase] under exception of the Affordable Housing Site;

Servitude Rights means the following rights in favour of the Affordable Housing Site to be imposed as servitudes and/or real burdens on the Retained Land and contained or to be contained in the Disposition or a deed of servitude by the Affordable Housing Site Affordable Housing Site Owner in favour of the Council at no cost to the Council, granting:-

(First) a heritable and irredeemable servitude right of access to and egress from the Affordable Housing Site to the Council from the public roads known as [e.g.Glassford Road, Strathaven] and that over land

including the roads, verges and footpaths formed or to be formed on the relevant Phase/Whole Agreement Subjects and that in all time coming for pedestrian and vehicular traffic (but specifically excluding construction and heavy traffic) together with the right to inspect, maintain, repair and renew such roads, verges and footpaths; and

(Second) a heritable and irredeemable servitude right to lay, use, inspect, maintain, repair, renew, replace and connect into the mains services at no additional cost to the Council for such connection and any other services or utilities within the relevant Phase/Whole Agreement Subjects in connection with the Council's use of the Affordable Housing Site together with a heritable and irredeemable pedestrian and vehicular (but specifically excluding heavy vehicles) right of access to exercise the foregoing rights;

Title Deeds means [].

2. Entry

Entry to and vacant possession of the Affordable Housing Site will be given on the Date of Entry.

3. Title

So far as the Affordable Housing Site Owner is aware there are no servitudes, rights of way or similar rights affecting the Affordable Housing Site other than as referred to in the Title Deeds.

4. Title conditions

The Affordable Housing Site is sold with and under the real burdens, reservations, restrictions, and servitudes affecting the Affordable Housing Site.

5. Minerals

The minerals are included in the sale to the extent to which the Affordable Housing Site Owner has any right to them.

6. Outstanding Disputes

During the period of the Affordable Housing Site Owner's Affordable Housing Site Ownership of the Affordable Housing Site, there have been no disputes which remain outstanding with neighbouring proprietors or third parties about items common to the Affordable Housing Site and adjacent premises, access to or from the Affordable Housing Site, the title to the Affordable Housing Site or similar matters.

7. Land Registration

The Affordable Housing Site Owner will deliver to the Council, on demand from time to time and at its expense, such documents and evidence including a plan as the Council may require to enable (i) the Council to apply to the Keeper of the Land Register of Scotland for registration of the Affordable Housing Site under the Land Registration (Scotland) Act 2012 and (ii) the Keeper Register of Scotland to complete that registration to the satisfaction of the Council.

8. Date of Entry

At the Date of Entry the Affordable Housing Site Owner will deliver to the Council:

- 8.1 the Disposition duly executed by the Affordable Housing Site Owner.
- 8.2 the Title Deeds
- 8.3 all necessary links in title evidencing the Affordable Housing Site Owner's exclusive Affordable Housing Site Ownership of the Affordable Housing Site;
- 8.4 [Form 12 Reports brought down to a date as near as practicable to Date of Entry and showing no entries adverse to the Affordable Housing Site Owner's interest in the Affordable Housing Site], the cost of the Reports and Search being the responsibility of the Affordable Housing Site Owner;

- 8.5 [Search in the Register of Community Interests in Land brought down as near as practicable to Date of Entry showing nothing prejudicial to the ability of the Affordable Housing Site Owner validly to transfer title to the Affordable Housing Site to the Council], the cost of the Reports and Search being the responsibility of the Affordable Housing Site Owner;
- 8.6 Searches in the Register of Charges and Company File of the Affordable Housing Site Owner [(including a Search to identify the directors and the secretary of the Affordable Housing Site Owner as at the date of signing the Disposition)] from the date of its incorporation or the date of inception of the Register (whichever is the later) brought down:-
- 8.6.1 as near as practicable to Date of Entry; and
- 8.6.2 within 3 months following Date of Entry, to a date at least thirty six days after Date of Entry
- in both cases disclosing no entry prejudicial to the Council's interest.
- 8.7 a letter of obligation from the Affordable Housing Site Owner's Solicitors in the appropriate form published by The Property Standardisation Group (www.psglegal.co.uk).
- 8.8 Where the Affordable Housing Site is encumbered by a standard security, a discharge/deed of restriction duly executed by the heritable creditor in any standard security affecting the Affordable Housing Site together with completed and signed application forms for recording/registration and payment for the correct amount of recording/registration dues.]
- 8.9 Where the Affordable Housing Site Owner is a company and has granted a floating charge over its property and assets, a letter of consent and non-crystallisation in the holder's usual form (releasing the Affordable Housing Site from the charge or otherwise in terms that confer a valid title on the Council subject to compliance with any reasonable time limit for registration of the Council's title) in respect of the transaction envisaged by the this Part of the Schedule from each holder of a floating charge granted by the Affordable Housing Site Owner.];

9. Servitude Rights and title provisions

9.1 The Affordable Housing Site will be conveyed by the Affordable Housing Site Owner to the Council with the benefit of the Servitude Rights.

9.2 The Affordable Housing Site Owner warrants that it has not entered into and shall not prior to the Date of Entry enter into any Disposal Contracts in relation to the Affordable Housing Site nor grant any servitudes, wayleaves, or similar rights nor grant or agree to any deed of real burdens or deed of conditions affecting the Affordable Housing Site without the prior written consent of the Council.

10. Maintenance of Affordable Housing Site and consequences of damage or destruction

10.1 The Affordable Housing Site will be maintained by the Affordable Housing Site Owner in substantially its existing condition from the Effective Date until the Date of Entry.

10.2 The Affordable Housing Site Owner will not place and will not permit any building, structure or other erection to be placed in, on or under the Affordable Housing Site from the Effective Date until Completion.

10.3 The Affordable Housing Site Owner will not remove or permit the removal of any material, soil, or subsoil on the Affordable Housing Site from the Effective Date until Completion.

10.4 The Affordable Housing Site Owner will not place or permit the placement of any material, soil, or subsoil on the Affordable Housing Site from the Effective Date until Completion.

10.5 Risk of damage to or destruction of the Affordable Housing Site will not pass to the Council until Completion.

10.6 If prior to Completion, the Affordable Housing Site sustains damage, flooding or contamination (whether insured or otherwise) the Affordable Housing Site Owner will make good the damage to the Affordable Housing Site prior to Completion.

11. Statutory Matters

- 11.1 The Affordable Housing Site Owner shall exhibit a Property Enquiry Report and a Coal Authority Report to the Council prior to Completion. In the event of either Report disclosing any matter materially prejudicial to the Council's acquisition of the Affordable Housing Site which was not disclosed in the previous report dated [] and [] respectively [Affordable Housing Site Owner to exhibit reports once plan agreed], the Affordable Housing Site Owner shall be responsible for remedying the matter at the Affordable Housing Site Owner's sole expense..
- 11.2 Any local authority statutory repairs affecting the Affordable Housing Site which are issued prior to Completion will as between the Council and the Affordable Housing Site Owner be the responsibility of the Affordable Housing Site Owner. Liability under this paragraph 11 will subsist until met and will not be avoided by the issue of a fresh notice.

12. Supersession

The provisions of this Part of the Schedule (other than paragraphs [] which will remain in full force and effect until implemented) in so far as not implemented by the granting and delivery of the Disposition and others, will remain in full force and effect until the earlier of:-

- 12.1 the date when such provisions have been implemented; and
- 12.2 [two years] after the Date of Entry except in so far as they are founded on in any court proceedings which have commenced within such [two year] period.

13. Costs

Affordable Housing Site Owner shall bear its own and the Council's costs in connection with the implementation of this Part of the Schedule.

Schedule

Part 5

Access Road & Hamilton Road Footpath

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 5 of the Schedule:-

Access Road	means the road and footpath to be constructed as part of Phase 3 of the development of the Whole Agreement Subjects along a route to be agreed between the Council and the Access Road Owner, all in terms of the detailed planning application to be lodged in respect of Access Road Site and Agreement Subjects 2, all parties acting reasonably, the route of which Access Road and footpath will commence at the westmost boundary of the Access Road Site and will terminate at the eastmost boundary of Agreement Subjects 2;
Access Road Contract	means the missives to be entered into between the Access Road Owner and the Council to ensure fulfilment of the Access Road Obligation and which will contain inter alia the Access Road Heads of Terms;
Access Road Heads of Terms	means the terms and conditions set out in Annexure 1 to this Part 5;
Access Road Obligation	means (i) the construction by or on behalf of the Access Road Owner of the Access Road and (ii) thereafter the grant of a heritable and irredeemable servitude right of access and egress over the Access Road for the benefit of Agreement Subjects 2 for the purpose of future development on Agreement Subjects 2 and that at nil cost to SLC and their successors in title to Agreement Subjects 2 in respect of the construction costs of said Access Road but subject to SLC and their successors being liable for a proportionate share of

the costs of maintenance, repair and renewal of said Access Road and any other roads and footpaths over which servitude rights of access are to be granted in favour of SLC and their successors in order to connect the Agreement Subjects 2 to the public roadway network and that according to user;

Hamilton Road Footpath Obligation means the construction by the Phase 3 Developer as part of Phase 3 of the development of the Whole Agreement Subjects or earlier at the Phase 3 Developer's sole discretion of a footpath for pedestrian traffic only and services to link the Whole Agreement Subjects to Hamilton Road, Strathaven over the Hamilton Road Footpath Area;

Hamilton Road Footpath Area means the subjects shown hatched green and referred to as "Route 2" on Plan 3;

Phase 3 has the meaning ascribed to on the Phasing Plan, Part 16 of the Schedule ;

Phase 3 Developer means the party or parties carrying out development on part or parts of Phase 3.

2. The Developer will not carry out any Material Operation on the Access Road Site until such time as the Access Road Owner, and SLC or their successors in title to Agreement Subjects 2 have agreed the extent, precise route and boundaries of the Access Road
3. The Access Road Owner will comply with the Access Road Obligation (i) in accordance with the Access Road Contract and (ii) will conclude the Access Road Contract with the Council prior to any Material Operations being carried out on the Access Road Site.
4. The Access Road Site Owner will not enter into any contracts, grant any servitudes or carry out any operations which would prejudice, restrict or prevent the performance of the Access Road Obligation.

- 5.1 SLC or their successors as proprietors of the Hamilton Road Footpath Area, will grant in favour of the Phase 3 Developer at nil cost to the Phase 3 Developer heritable and irredeemable servitude rights to construct, repair, renew and maintain a footpath and services through and/or over the Hamilton Road Footpath Area and rights to use the same and to connect the footpaths and services in the Whole Agreement Subjects or any part thereof to Hamilton Road, Strathaven and any services located therein or in the Hamilton Road Footpath Area in all time coming, the terms of said servitude rights to be in terms of a draft to be agreed between SLC and the Phase 3 Developer each acting reasonably;
- 5.2 Said servitude rights will be incorporated into a deed of servitude to be granted by SLC or their successors in favour of the Phase 3 Developer to be granted simultaneously with the granting by the Access Road Owner of the servitude rights in favour of SLC or their successors over the Access Road Site.
- 5.3 SLC and their successors will not grant or any enter into any contracts, grant any servitudes or carry out any operations which would prejudice, restrict or prevent the performance of the Hamilton Road Footpath Obligation. SLC and the Phase 3 Developer will bear their own costs in connection with the grant of the said servitude rights by SLC in favour of the Phase 3 Developer.

Part 5

Annexure 1

The following are the Heads of Terms for the Access Road Contract. For the avoidance of doubt, definitions referred to in this Annexure are those narrated in this Part 5 of the Schedule and/or Clause 1 of the Agreement:-

1. Servitude Rights

means the following rights in favour of Agreement Subjects 2 to be imposed as servitudes and/or real burdens on the Access Road Site under exception of the Access Road and contained or to be contained in a grant of servitude by the Access Road Owner in favour of the SLC or their successors in title to Agreement Subjects 2 at no cost to the SLC or their successors in title to Agreement Subjects 2, granting:-

(First) a heritable and irredeemable servitude right of access to and egress from Phase 3 to SLC or their successors in title to Agreement Subjects 2 from the Whole Agreement Subjects and that over land including the roads, verges and footpaths formed or to be formed on the Access Road Site and that in all time coming for pedestrian and vehicular traffic but excluding construction and heavy traffic which will access through the Industrial Estate as the approximate route of which construction traffic access is to be agreed between SLC and the Access Road Site Owner together with the right to inspect, maintain, repair and renew such roads, verges and footpaths; but subject to the real burden that the SLC

and their successors will be responsible for a proportional share of the costs of maintenance, repair and renewal of the Access Road based on user and

(Second) a heritable and irredeemable servitude right to lay, use, inspect, maintain, repair, renew, replace and connect into the mains services at no additional cost to the SLC or their successors in title to Agreement Subjects 2 for such connection and any other services or utilities within the Access Road Site in connection with the SLC's or that of their successors in title to Agreement Subjects 2 use of the Access Road together with a heritable and irredeemable pedestrian and vehicular (excluding heavy and construction traffic) right of access to exercise the foregoing rights but subject to the real condition that the SLC and their successors will be responsible for a proportional share of the costs of maintenance, repair and renewal of the said mains services based on user, and subject to sufficient infrastructure capacity being available, in particular and without prejudice to the foregoing generality sewerage infrastructure capacity (there being no obligation on the Access Road Site Owner to upgrade services to accommodate the development of Agreement Subjects 2).

2. Land Registration

The Access Road Site Owner will deliver to the Council, on demand from time to time and at its expense, such documents and evidence including a plan as the Council may require to enable (i) the Council to apply to the Keeper of the Land Register of Scotland for registration of the grant of servitude under the Land Registration (Scotland) Act 2012 and (ii) the Keeper Register of Scotland to complete that registration to the satisfaction of the Council.

The Access Road Owner will deliver to SLC or their successors in title to Agreement Subjects 2:

- (i) the Grant of Servitude duly executed by the Access Road Owner;
- (ii) copies of the Title Deeds;
- (iii) all necessary links in title evidencing the Access Road Owner's exclusive ownership of the Access Road;
- (iv) all Legal Reports as required by SLC, acting reasonably

3. Costs

Access Road Owner and SLC or their successors in title to Agreement Subjects 2 shall each bear their own costs in connection with the implementation of this Part of the Schedule.

Schedule

Part 6

Hamilton Road Industrial Estate

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 6 of the Schedule:-

Industrial Estate means Hamilton Road Industrial Estate;

Industrial Estate Access Road means the road and footpath to be constructed along the Route for the purpose of construction traffic for the purposes of the Development only;

Industrial Estate Access Road Obligation means the construction by the Developer of the Industrial Estate Access Road at nil cost to the Council;

Route means the route of the Industrial Estate Access Road indicatively shown hatched red and referred to as "Route 3" on Plan 3

2. The Developer will comply with the Industrial Estate Access Road Obligation to the satisfaction of the Council prior to Completion of the 281st Market Residential Unit on the Whole Agreement Subjects and no more than 281 Market Residential Units will be completed on the Whole Agreement Subjects until the Industrial Estate Access Road Obligation is complied with to the satisfaction of the Council.

3. The Council will grant in favour of the Developer all necessary heritable and irredeemable servitude rights in order to facilitate the linkage of the Industrial Estate Access Road and the infrastructure within the Whole Agreement Subjects to the existing Industrial Estate roads and infrastructure at nil cost to the Developer and including servitude rights to construct, inspect, maintain, repair, renew or replace

LC

said linkages of the Industrial Estate Access Road and infrastructure to the existing Industrial Estate roads, footpaths and infrastructure services including drainage. Said servitude rights will be granted prior to construction of the said Industrial Estate Access Road.

Schedule

Part 7

Drainage Infrastructure

The Council acknowledges the terms of the letter from Scottish Water dated 11th January 2012 and annexed to this Part 7 of the Schedule.

Schedule Part T
Annexe

11th January 2012



**Scottish
Water**
Always serving Scotland

South Lanarkshire Council
Planning & Building Standards 4th Floor Brandon Gate
Leechlee Road
Hamilton
ML3 0XB

SCOTTISH WATER

Customer Connections
419 Balmore Road
Glasgow
G22 6NU

Dear Planning Officer

Customer Support Team
T: 0141 355 5511
F: 0141 355 5386
W: www.scottishwater.co.uk
E: connections@scottishwater.co.uk

PLANNING APPLICATION NUMBER: EK/12/0003
DEVELOPMENT: East Overton Glassford Road Strathaven
OUR REFERENCE: 600029
PROPOSAL: Residential master plan, leisure, employment and vehicular access from Glassford Road. Phased over 20 years

Please quote our reference in all future correspondence

Scottish Water has no objection to this planning application. Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk.

Scottish Water has no objection to this planning application. However we are unable to reserve capacity at our water and wastewater treatment works in advance of formal agreement made with us. In view of this, the information provided in this letter will need to be reviewed if this proposal progresses to full planning approval.

Due to the size of this proposed development it is necessary for Scottish Water to assess the impact this new demand will have on our existing infrastructure. With Any development of 10 or more housing units, or equivalent, there is a requirement to submit a fully completed Development Impact Assessment form. Development Impact Assessment forms can be found at www.scottishwater.co.uk.

Camps Water Treatment Works currently has capacity to service this proposed development.

Strathaven Waste Water Treatment Works currently has capacity to service this proposed development.

In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will be required to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

These proposals may involve the discharge of trade effluent to the public sewer and may be subject to control as defined in Part II of the Trade Effluent Control and Charging Scheme. No substance may be discharged to the public sewerage system that is likely to interfere with the free

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flow of its content, have detriment to treatment / disposal of their contents, or be prejudicial to health.

Appropriately sized grease traps must be installed on all drainage outlets from food preparation areas. No substance may be discharged to the public sewerage system that is likely to interfere with the free flow of its content, have detriment to treatment / disposal of their contents, or be prejudicial to health.

Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements installed, subject to compliance with the current water byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address.

An appropriate water storage system Water storage equivalent to 24 hours usage is recommended for commercial premises. Details of such storage installations must be forwarded can be discussed to Scottish Water's Customers Connections department at the above address.

If the connection to public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s). This should be done through a deed of servitude.

It is possible this proposed development may involve building over or obstruct access to existing Scottish Water infrastructure. On receipt of an application Scottish Water will provide advice that advice that will require to be implemented by the developer to protect our existing apparatus.

Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

If the developer requires any further assistance or information on our response, please contact me on the above number or alternatively additional information is available on our website:
www.scottishwater.co.uk.

Yours faithfully

Laura Coyle
Customer Connections Administrator
Tel: 0141 355 5511
Laura.Coyle@scottishwater.co.uk

Schedule

Part 8

Late Payment Penalty

1

Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 8 of the Schedule:-

Date Paid means the date on which the Financial Payment and any interest accrued thereon is paid in full;

Due Date means the date on which the Financial Payment is due;

Interest Rate means 4% above the base lending rate of The Royal Bank of Scotland plc applicable at the Due Date and as varied from time to time until the Date Paid

2. Interest at the Interest Rate will accrue on all Financial Payments or any part thereof unpaid on the Due Date and will accrue from the Due Date until the Date Paid.
3. In the event that any Financial Payment or part thereof is not paid within 10 Working Days of the Due Date, the Council will be entitled to apply the Cessation Procedure.

Schedule

Part 9

Cessation Procedure

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement of which this Schedule forms part, the following definitions will apply to this Part 9 of the Schedule:-

Cessation Date means a date not earlier than 28 Working Days after the date on the Cessation Notice

Cessation Notice means a written notice in terms of the draft forming Annexure 1 of this Part 9 Schedule

Operations Means the works carried out or to be carried out on the Agreement Subjects by the Developer

2. Without prejudice to the Council's statutory rights of enforcement in terms of the 1997 Act, in the event that a Phase Developer or the Site A Developer is in breach of this Agreement or fails to comply with a Planning Obligation in respect of that Phase or Site A as applicable the Council will be entitled to serve a Cessation Notice on the Phase Developer or the Site A Developer specifying the Cessation Date and the Phase Developer or the Site A Developer as applicable must comply with it in full and cease Operations from the Cessation Date (unless the Phase Developer or the Site A Developer as applicable has complied to the satisfaction of the Council with the terms of the Cessation Notice within the period of the Notice) until the Council confirms in writing to the Phase Developer or the Site A Developer that (i) the breach has been remedied or (ii) the Planning Obligation has been complied with or (iii) the Cessation Notice has been withdrawn.

3. The Council will have no liability whatsoever for any loss or losses sustained by the Phase Developer or the Site A Developer and/or the Owner as a result or consequence of or attributable to the service of a Cessation Notice.

T.L.

Part 9 - Annexure 1

CESSATION NOTICE

[Addressed to (Phase/Site A) Developer]

Dear Sirs,

[]

In this Notice the following definitions shall apply:-

- Agreement means Section 75 Agreement between the Council and [] registered in the Land Register of Scotland [or recorded in the relevant Division of the General Register of Sasines (as appropriate) on [];
- Council means South Lanarkshire Council established under the Local Government etc (Scotland) Act 1994 and having our main office at Council Offices, Almada Street, Hamilton;
- Phase/Site A means [];
- Phase/Site A Developer means [name of Phase/Site A Developer];
- Operations means all works and activities of any kind being carried out on the Phase/Site A;

CONSIDERING THAT

The Phase/Site A Developer is bound to comply with terms of the Agreement and that in the opinion of the Council the Phase/Site A Developer is in breach of the Agreement as detailed in the Schedule annexed, the Council, in terms of the Agreement, hereby orders and notifies the Phase/Site A Developer to CEASE Operations on the Agreement Subjects on and from [DATE] until the Council withdraws this Notice in writing.

Signed

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THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING CESSATION NOTICE
DATED [] BY SOUTH LANARKSHIRE COUNCIL TO []

The Breach to which this Notice relates is:-

Schedule

Part 10

Style Undertaking

UNILATERAL VOLUNTARY OBLIGATION
under section 75 of the Town and Country
Planning (Scotland) Act 1997

BY

TO

SOUTH LANARKSHIRE COUNCIL

Site:

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UNILATERAL OBLIGATION
under section 75 of the Town and Country
Planning (Scotland) Act 1997

By

to

SOUTH LANARKSHIRE COUNCIL, incorporated
by and acting under the Local Government etc
(Scotland) Act 1994 as the planning authority for
the district of South Lanarkshire in terms of the
Town and Country Planning (Scotland) Act 1997,
(who and whose statutory successors are
hereinafter referred to as the "Council")

WHEREAS:

- A the Council is the planning authority in terms of the after defined 1997 Act for the district within which the Development is situated;
- B Section 75 of the 1997 Act enables a person (natural or legal) to unilaterally undertake to restrict or regulate the development or use of land by empowering that person to enter into obligations, which, when specified in a relevant instrument (such as this deed) that has been executed by that person in self-proving form and delivered to the relevant local planning authority, are enforceable by that authority at its instance in the event of any subsequent breach of those obligations by that person;
- C the after defined Planning Permission was granted by the Council following the registration of the Section 75 Agreement in the Land Register of Scotland;
- D Clause [] of the Section 75 Agreement provides that in the event that the Development is proposed to be operated by any party other than the said shall be obliged prior to either the date of commencement of the development or (in the event that such development has commenced) the first date on which the other party proposes to operate the Development, to procure that that other party delivers to the

Council inter alia written confirmation that it proposes to operate the Development and be bound by the obligations imposed on the operator of the Development in terms of the Section 75 Agreement;

B. the said has agreed to assign its interest in the

F. following such assignment [] proposes to [] in accordance with the terms of the Planning Permission and the Section 75 Agreement, and

G. [] wishes to provide written confirmation (in terms of Clause [] of the Section 75 Agreement) that it will become the Operator in form of a unilateral obligation made under and in terms of Section 75 (1) of the 1997 Act,

NOW THEREFORE, [] HEREBY UNILATERALLY UNDERTAKES to the Council as follows:

1. DEFINITIONS

In this instrument, being the instrument by which the undertakings comprising the obligation made under Section 75 of the 1997 Act is entered into ("this instrument"), the following words have the meanings ascribed to them as follows:

"1997 Act"

means the Town and Country Planning (Scotland) Act 1997;

"Planning Permission"

means the planning permission for the [] granted by the Council on [] 2011 [] under application number [];

"Section 75 Agreement"

means the planning agreement made under and in terms of Section 75 of the 1997 Act amongst

"Development"

means the development described in the Planning Permission.

"Effective Date"

means the date of execution of this instrument;

2. INTERPRETATIONS

2.1 Words importing the singular shall include the plural and vice versa.

- 2.2 The construction of this Instrument shall ignore headings and the front sheet (all of which are for reference only).
- 2.3 Any reference to any statutory provision shall be deemed to include any subsequent re-enactment or amending provision.
- 2.4 Save where otherwise specified words and expressions contained in the Section 75 Agreement shall have the same meanings within this Instrument.
- 2.5 An undertaking in this Instrument to do something shall be deemed to include an undertaking to procure that it be done.
- 2.6 An undertaking in this Instrument not to do something shall be deemed to include an undertaking not to allow it to be done.
- 2.7 If any provision in this Instrument is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Instrument shall be unaffected.

3. ENFORCEMENT

For the purposes of Clause [] of the Section 75 Agreement,, following the delivery of this Instrument, validly executed by [], to the Council [] confirm that the undernoted unilateral obligations and, consequently, the obligations undertaken by the Developer in terms of the Section 75 Agreement, are enforceable by the Council against [] as the Developer from the Effective Date.

4. THE DEVELOPER'S OBLIGATIONS

- 4.1 [] undertakes to the Council from the Effective Date to be the Developer as defined in the Section 75 Agreement and as such from the Effective Date bound by the terms of the Section 75 Agreement.
- 4.2 The Developer undertakes to the Council forthwith following receipt of the relevant invoice to pay the sum of [] towards the costs incurred by the Council in considering and consenting to the terms of this Instrument and of obtaining [] extracts thereof.

5. GENERAL DECLARATION

Nothing contained or implied in this Instrument shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of its functions as local authority and its rights powers, duties, and obligations under all public and private statutes bye-laws and regulations may be as fully and effectually exercised as if the Council had not received this Instrument.

6. DISCHARGE OR VARIATION OF OBLIGATION

In the event of [] seeking a discharge or variation of the terms of this Instrument, the provisions of Section 75A of the 1997 Act shall apply.

6. CONSENT TO REGISTRATION

[] consents to the registration of this Instrument in the Books of the Lords of Council and Session for preservation IN WITNESS WHEREOF these presents on this and the preceding two pages are executed as follows:

Subscribed for and on behalf of:

at.....

.....

(Place of signing)

on.....

..... (Director/Company Secretary/Authorised
(Date of signing) Signatory*)

.....

..... (Director/Company Secretary/Authorised
(Print name) Signatory/Witness*)

Schedule

Part 11

Section 75C Procedure

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement of which this Schedule forms part, the following definitions will apply to this Part 11 of the Schedule

Section 75C Completion Notice means a notice served by a Landowner on the Council within 28 days of, and as specified in, the Section 75C Permission;

Section 75C Permission means a written notice in terms of the draft forming Annexure 1 of this Part 11 Schedule to be issued by the Council pursuant to a Section 75C Notification;

Section 75C Notification means the written notice by any Owner to the Council that they intend to sell their interest in the part of the Whole Agreement Subjects to a third party which notice shall provide details of the proposed completion date of the sale and the name and address of the proposed purchaser;

Initial Section 75C Notification means a written statement from the Council as to whether the Planning Obligations in this Agreement have been complied with by the Owner as at the date of issue of such Initial Section 75C Notification;

Prior Owner means an Owner of the whole or any part of the Whole Agreement Subjects who has served a Section 75C Notification, received a Section 75C Permission to that Section 75C Notification and thereafter served a timeous Section 75C Completion

Notice pursuant to that Section 75C Permission;

Refusal Notice means the written notice issued by the Council pursuant to the Section 75C Notification that the terms of Section 75C of the 1997 Act shall not be disappplied in respect of the proposed sale by the Owner;

2. Disposal
- 2.1 Any Owner shall be entitled to request an Initial Section 75 Notification from the Council at any time and the Council shall issue the same within three weeks of the date of receipt of written request for the same.
- 2.2 The Owner shall be entitled to serve a Section 75 Notification on the Council at any time up to four weeks prior to the proposed date of disposal notified in the Section 75 Notification, and the Council shall within three (3) weeks of receipt of the same, issue either the Section 75 Permission or a Refusal Notice.
- 2.3 The Council shall not unreasonably withhold or delay the issue of a Section 75 Permission if: (i) the proposed disposal is for the transfer of the whole of the Agreement Subjects, and (ii) the Owner has complied in full with the terms of this Agreement at the date on which the Section 75 Notification is submitted to the Council.
- 2.4 Unless otherwise agreed with the Council, the Owner shall pay the whole legal expenses of the Council in connection with this Part 11 of the Schedule

Schedule
Part 11 - Annexure 1

[Addressed to Applicant of Section 75 Notification]

Dear Sirs,

Sale of Land at []

In this letter the following definitions shall apply:-

Agreement means Section 75 Agreement between the Council and [] registered in the Land Register of Scotland [or recorded in the relevant Division of the General Register of Sasines (as appropriate) on [], against the Whole Agreement Subjects:

Whole Agreement Subjects means [] as [registered in the Land Register of Scotland under title Number LAN [] or recorded in the relevant Division of the General Register of Sasines (as appropriate);

Completion Notice means written evidence from Registers of Scotland that the New Owner is the registered heritable proprietor of [] part of the Whole Agreement Subjects from the Disposal Date;

The Council means South Lanarkshire Council established under the Local Government etc (Scotland) Act 1994 and having our main office at Council Offices, Almada Street, Hamilton;

Disposal Date means [insert date specified in Section 75 Notification] or such earlier date as may be specified in the Completion Notice;

Owner means [insert applicant of Disposal Notification]

New Owner means [insert proposed Owner in Disposal Notification]

Section 75C means Section 75 C of the Town and Country Planning (Scotland) Act 1997;


Section 75 Notification means the Section 75 Notification annexed and signed as relative hereto;

CONSIDERING THAT the Agreement provides inter alia that Section 75C may be disapplied in certain circumstances with the consent of the Council;

FURTHER CONSIDERING that the Owner has served the Section 75 Notice on the Council and has requested that they are released from any liability under Section 75C from the Disposal Date;

NOW THEREFORE the Council confirms that on receipt of the Completion Notice within twenty eight (28) days of the Disposal Date, the Owner shall be released from the provisions of Section 75C from and after the Disposal Date, save in respect of any antecedent breach, and will have no continuing liability for any obligations incumbent under the Agreement from the Disposal Date;

Yours faithfully



Schedule

Part 12

Agreement Subjects 1

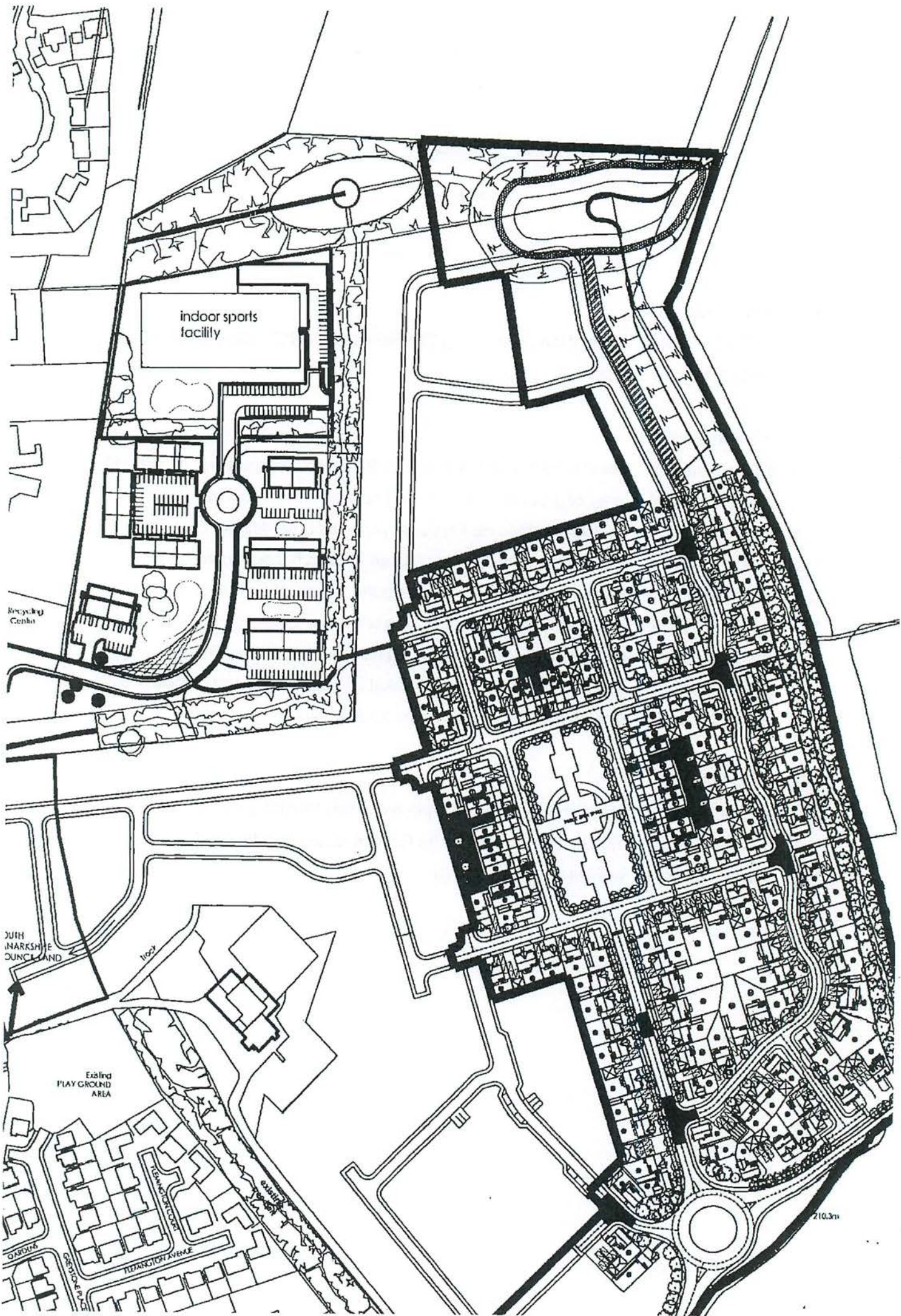
ALL and WHOLE those areas of land comprising Title Numbers LAN154969 and LAN12084 shown delineated red on Plan 1

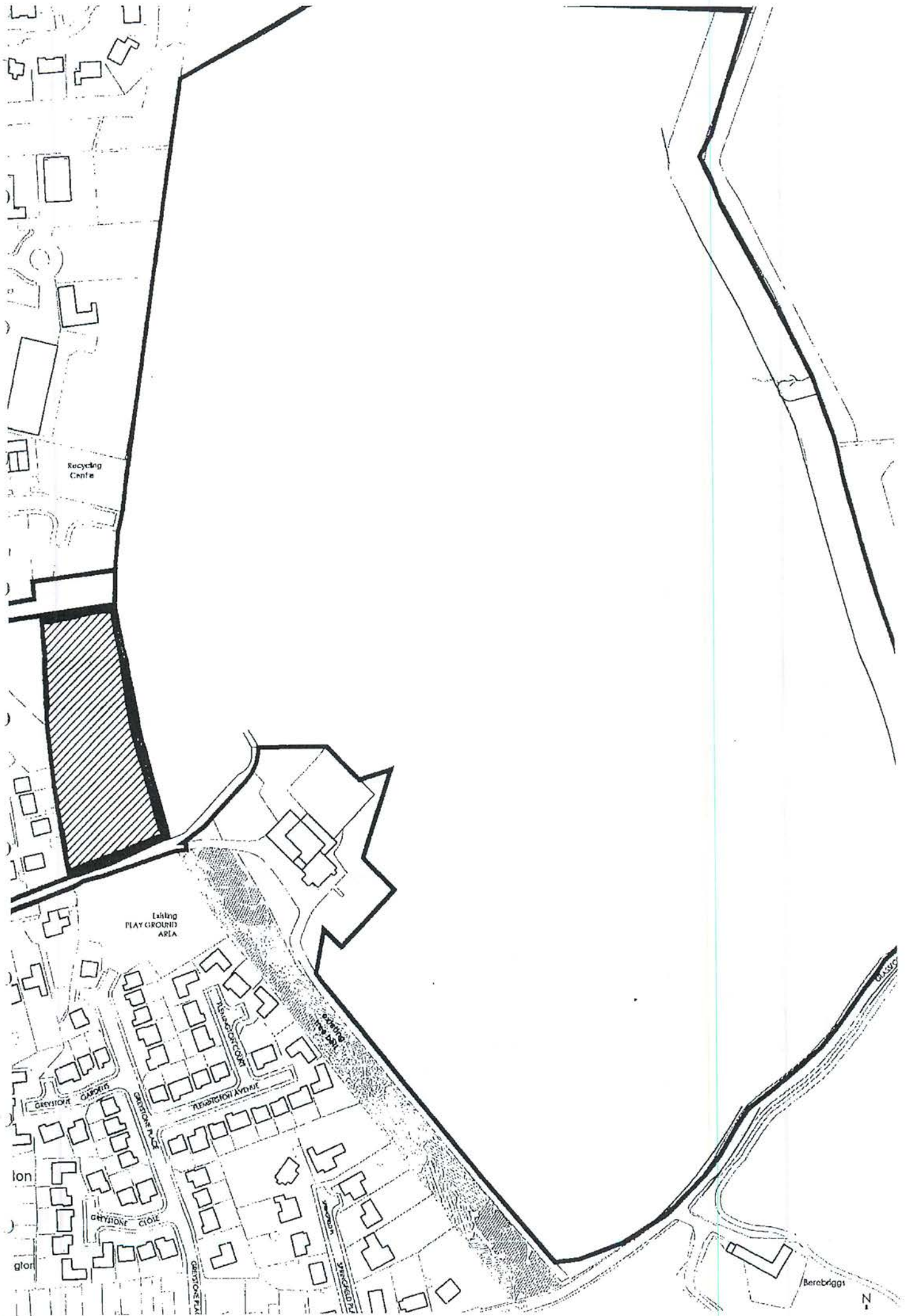
Agreement Subjects 2

All and Whole the area of land shown delineated blue on Plan 1 forming part and portion of (i) All and Whole the plot or area of ground extending to 4 hectares and 735 square metres being the subjects more particularly described in Conveyance by Emily Miriam Semple Mackinnon in favour of East Kilbride District Council dated 23 March and recorded in the Division of the General Register of Sasines applicable to the County of Lanark on 25 April both months 1977 and (ii) All and Whole the plot or area of ground extending to 1.2 hectares being the subjects more particularly described in Disposition by Emily Miriam Semple Mackinnon in favour of East Kilbride District Council dated 25 March 1980 and recorded in the said Division of the General Register of Sasines on 20 July 1981

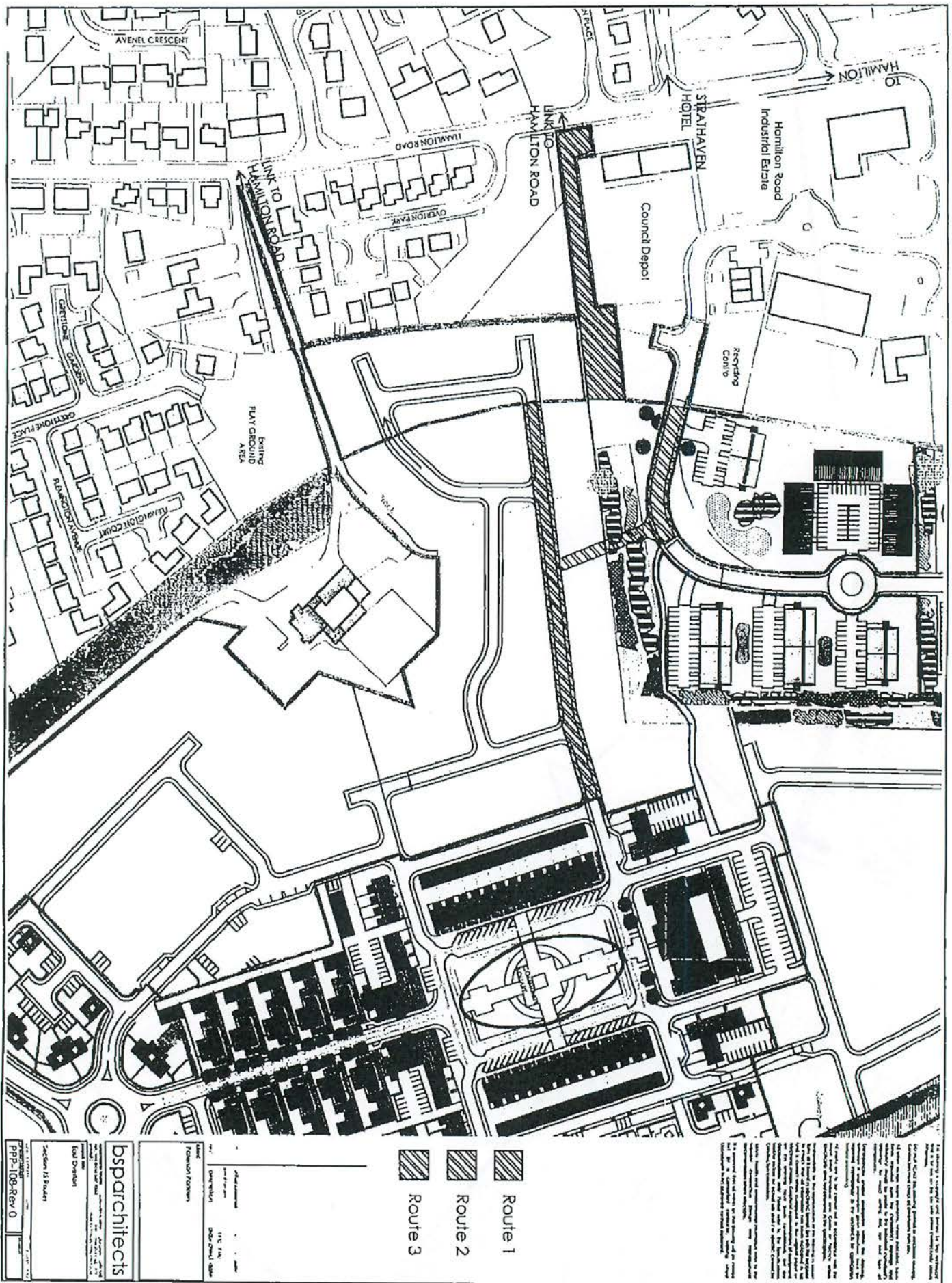
Agreement Subjects 3

All and Whole the area of land shown delineated green on Plan 1 forming part and portion of the subjects of Notice of Title by South Lanarkshire Council recorded in the said Division of the General Register of Sasines on 29 June 1999





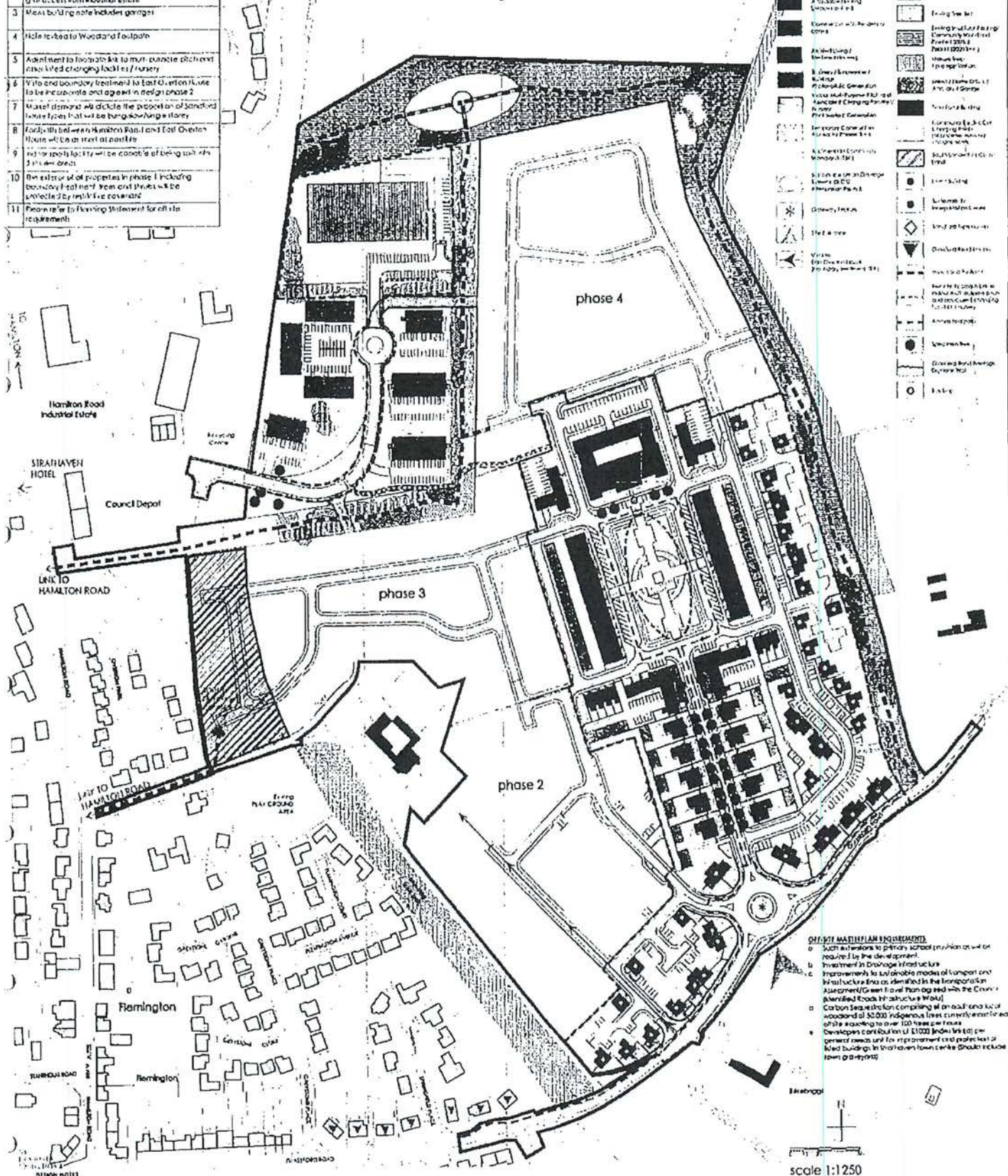
Schedule Part 15



MODIFICATION TO PLAN FURTHER TO PAN PAC PROCESS

1. Description of the site and its context.
2. Areas to be developed in phase 1 and 2, and the proposed phasing design and access to give access to individual plots.
3. Main building footprints and garages.
4. Main building footprints and garages.
5. Main building footprints and garages.
6. Main building footprints and garages.
7. Main building footprints and garages.
8. Main building footprints and garages.
9. Main building footprints and garages.
10. Main building footprints and garages.
11. Main building footprints and garages.

EAST OVERTON RES 3 : Residential Masterplan Planning Permission in Principle Proposed Phasing Design and Access 3



OVERTON MASTERPLAN REQUIREMENTS

1. Such as to provide a primary school provision as well as required by the development.
2. Investment in drainage infrastructure improvements to and suitable modes of transport and infrastructure to be identified in the Transportation Assessment/Travel Plan and with the Council's (Borough) Road Infrastructure Plan.
3. Carbon footprint calculation complying with the Council's (Borough) Carbon Footprint Policy.
4. Carbon footprint calculation complying with the Council's (Borough) Carbon Footprint Policy.
5. Carbon footprint calculation complying with the Council's (Borough) Carbon Footprint Policy.

scale 1:1250

Sense of Place

A sense of place can be considered as the character or atmosphere of a place and the connection felt by people with that place. A positive sense of place is fundamental to a richer and more fulfilling environment. It comes largely from creating a strong relationship between the street and the buildings and spaces that frame it.

Overton Phasing Plan				
Year	Phase	Total	Comments	
Year 1-5	1	180	The first phase of the development, which includes the first school and the first primary school.	
Year 6-10	2	100	The second phase of the development, which includes the second school and the second primary school.	
Year 11-15	3	100	The third phase of the development, which includes the third school and the third primary school.	
Year 16-20	4	100	The fourth phase of the development, which includes the fourth school and the fourth primary school.	
Total		480		

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Schedule

Part 17

Financial Payment Review

1. Definitions

In addition to the Definitions in Clause 1 of the Agreement, the following definitions will apply to this Part 17 of the Schedule:-

Dispute means any dispute or difference concerning the Review;

Increased Amount means, in respect of each Financial Payment, the amount attributed to it in the table forming part of paragraph 2 hereof;

Review means the increase of each Financial Payment as narrated in paragraph 2 hereof;

Review Date means the date falling two years after the Effective Date;

2. Review of Financial Payments

- 2.1 The Developer and the Council agree that, in the event that the Commencement Date is a date falling two years after the Effective Date, each Financial Payment will be increased by 5% of its value.

2.2 In the event of a Review, on the Review Date, the Financial Payments will increase in accordance with the undernoted Table:-

Financial Payment	Increased Amount	Date Due
Affordable Housing	315,000	25 th Unit on Site A
	475,928	100 th Unit on Site A
Education	107,730	1 st Unit on Site A
	101,990	100 th Unit on Site A
Community	640,500	8 th Unit on Site A
	264,385	100 th Unit on Site A
Heritage Fund	94,500	25 th Unit on Site A
	94,500	100 th Unit on Site A
	1,050	Per Unit on all Units excluding Site A

2.3 In the event of a Review, on the Review Date, each Financial Payment as narrated in Schedule 2 will be substituted by the relevant Increased Amount.

W Lin Jean Peterson Patersons

Margaret Mary Cairns SLC

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