

DATED 26 APRIL

2019

(1) THE COUNCIL OF THE BOROUGH OF HAVANT

and

(2) SYLVIA ANN FAULKNER & LOUISE BOWDITCH

and

(3) MARK BRIAN SALE

SECTION 106 AGREEMENT

relating to land adjoining 15 Billett Avenue, Waterloooville

THIS AGREEMENT is made on

26 APRIL

2019

BETWEEN:

1. **THE COUNCIL OF THE BOROUGH OF HAVANT** of Public Service Plaza Civic Centre Road Havant PO9 2AX (**Council**);
2. **SYLVIA ANN FAULKNER** of [REDACTED] and **LOUISE BOWDITCH** of [REDACTED] (**Owner**); and
3. **MARK BRIAN SALE** of [REDACTED] (**Reptile Receptor Site Owner**).

BACKGROUND

- (A) For the purposes of the Act, the Council is the local planning authority for the area within which the Land is situated.
- (B) The Owner is the freehold owner of the whole of the Land.
- (C) The Application has been submitted to the Council for permission to develop the Land in accordance with the Planning Permission.
- (D) The Owner enters into this Agreement in anticipation of the grant of Planning Permission being made subject to the Owner and the Reptile Receptor Site Owner entering into this Agreement which makes provision for regulating the Development and securing the matters referred to in this Agreement.
- (E) The Reptile Receptor Site Owner is the freehold owner of the Reptile Receptor Site and has agreed to enter into this Agreement to provide the Reptile Receptor Site to enable reptiles to be moved from the Land to the Reptile Receptor Site prior to re-development of the Land in accordance with the Planning Permission.
- (F) The parties have agreed to enter into this Agreement with the intention that the obligations contained in this Agreement may be enforced by the Council against the Owner and the Reptile Receptor Site Owner and their successors in title.

The parties agree as follows:

1 DEFINITIONS

From the date of this Agreement unless the context otherwise requires, the following definitions apply:

"the Act"	the Town and Country Planning Act 1990
"Agreement"	this deed of Agreement
"Application"	the application submitted by the Owner to the Council for planning permission to carry out the Development and given the Council's reference number APP/18/00109

"Bond"	means a bond issued by a Surety in the form annexed at Appendix 4 to this Agreement (or such other form as the Council shall approve) for the Bond Amount
"Bond Amount"	10% of the open book construction costs for the SuDs as approved in accordance with para 2 of Schedule 1
"Commencement of Development"	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development is begun other than (for the purposes of this Agreement and for no other purpose) operations consisting of, site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, reptile removal, tree felling and "Commence" and similar expressions shall be construed accordingly
"Cash Deposit"	means a lump sum payment in cash of a sum being 10% of the open book construction costs for the SuDs as approved in accordance with paragraph 2 of Schedule 1
"Common Parts"	the parts of the Land which do not comprise a Dwelling or the curtilage of a Dwelling and which are intended to benefit the occupiers of the Dwellings as a whole or to enhance their occupation and shall without prejudice to the generality thereof include the unadopted roads, communal parking areas, footways, footpaths, landscaped areas, street lighting, underground service media, amenity spaces and drainage features
"Development"	the erection of four dwellings with associated vehicular and pedestrian access, landscaping and replacement culvert in accordance with the Planning Permission
"Ecology Report"	the Ecology Report prepared by Sam Lunn of The Ecology Co-op Environmental Consultants and dated 17 th October 2018 and annexed at Appendix 3 of this Agreement.
"Index Linked"	increased in accordance with the following formula: Amount payable = the payment specified in this deed x (A/B) where: A. = the last figure published for the Consumer Prices Index that applied immediately preceding the date that payment was due B= the last figure published for the Consumer Prices Index that applied immediately prior to the date of this Agreement
"Interest"	means interest at 4% above the base lending rate of the Barclays Bank PLC from time to time
"Land"	means the freehold property being land adjacent to 15 Billett Avenue, Waterloooville registered at the Land Registry with

title numbers SH10625, SH10626 and SH12767 and shown edged red on Plan 1.

"Management Agreement"

an agreement made between the Owner and the Management Company setting out the terms of appointment of the Management Company with respect to the Development, including the Management Company's responsibilities in implementing and performing the obligations as contained within the Management Plan

"Management Company"

a company limited by guarantee or by shares and established in accordance with the provisions of the Schedule to be charged with the management of the Common Parts and SuDs

"Management Plan"

a plan for the maintenance and management of the Common Parts and SuDs for the lifetime of the Development to be proposed by the Owner and approved by the Council in accordance with the provisions of Schedule 1

"Monitoring Fee"

the sum of £2228.80 as a contribution towards the costs incurred by the Council in the provision of a suitably qualified and experienced person(s) whose function is to monitor, coordinate and enforce the obligations contained within this Agreement

"Plan 1"

the plan with drawing number 16A_071 008 annexed at Appendix 1 to this Agreement

"Plan 2"

the plan annexed at Appendix 2 to this Agreement

"Planning Permission"

the conditional planning permission that may be granted in pursuance of the Application

"Reptile Receptor Site"

means the land forming part of Furzeley Golf Course, Furzeley Road, Denmead, Waterlooville PO7 6TX show coloured orange on Plan 2 and contained within the conveyance dated 22 November 1961 made between (1) Eva Sardinia Borthwick-Norton and (2) Mark Brian Sale, provided as a new reptile receptor site to mitigate against the impact of the Development

"SRMS Contribution"

means the sum of £3145.80 as a contribution towards measures to mitigate against the impact of the Development to the Solent Special Protection Areas in accordance with the Solent Recreation Mitigation Strategy adopted by the Solent Recreation Mitigation Partnership in December 2017

*Witnessed
on behalf
of the Owner
and Mr Sale.*

"SuDs"

means a sustainable drainage system for the Development in accordance with the specification agreed in writing by the Council

"Surety"	means a bank or other financial institution as may be nominated by the Owner and approved by the Council
"Working Day"	a day other than a Saturday or Sunday or public holiday in England.

2 INTERPRETATION

- 2.1 The clause headings in this Agreement are for reference only and do not affect its construction or interpretation.
- 2.2 References to clauses and Schedules are to the clauses and Schedules of this Agreement, unless stated otherwise.
- 2.3 A reference to a paragraph is to the paragraph of the Schedule in which the reference is made, unless stated otherwise.
- 2.4 Words importing one gender include any other genders and words importing the singular include the plural and vice versa.
- 2.5 A reference to a person includes a reference to a firm, company, authority, board, department or other body and vice versa.
- 2.6 Unless this Agreement states otherwise, any reference to any legislation (whether specifically named or not) includes any modification, extension, amendment or re-enactment of that legislation for the time being in force and all instruments, orders, notices, regulations, directions, byelaws, permissions and plans for the time being made, issued or given under that legislation or deriving validity from it.
- 2.7 References to the Land include any part of it.
- 2.8 References to any party in this Agreement include the successors in title of that party and any references to the Council include any successor local planning authority exercising planning powers under the Act.
- 2.9 References to "including" mean "including, without limitation".
- 2.10 Any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 2.11 Where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them all jointly or against each of them individually.
- 2.12 If any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement shall be unaffected.

3 STATUTORY PROVISIONS

- 3.1 This Agreement is made by deed pursuant to sections 106 of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011.
- 3.2 To the extent that they fall within the terms of section 106 of the Act, the obligations contained in this Agreement are planning obligations for the purposes of those sections of the Act and are enforceable by the Council.

3.3 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.

3.4 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Land or otherwise.

4 COMMENCEMENT

This Agreement shall have effect from the date hereof.

5 OWNER COVENANTS

The Owner covenants with the Council to comply, observe and perform the obligations as set out in this Agreement.

6 REGISTRATION

This Agreement shall be registered by the Council as a Local Land Charge in the Register of Local Land Charges maintained by the Council.

7 RELEASE

7.1 No party shall be liable for any breach of a covenant, restriction or obligation contained in this Agreement after parting with all of its interest in the Land except in respect of any breach subsisting prior to parting with such interest.

7.2 Clause 7.1 shall not apply to the Reptile Receptor Site unless the Reptile Receptor Site Owner has prior to parting with all its interest in the Reptile Receptor Site first procured that the disponent enters into a deed of covenant containing obligations to comply with the covenant at paragraph 4.2 of Schedule 2.

7.3 No planning obligations contained in this Agreement shall be binding on any land held by any of the statutory utilities for their operational purposes.

7.4 The parties agree that any mortgagee or chargee from time to time will only be liable for any breach of the provisions of this Agreement:

7.4.1 to the extent that such breach affects a part of the Land in which the mortgagee or chargee has a legal interest; and

7.4.2 arising during such period as it is a mortgagee or chargee in possession of the whole or any part of the Land.

7.5 Paragraph 4 of Schedule 2 shall not be binding on any freehold or leaseholder owners or occupiers of any individual dwelling, constructed pursuant to the Planning Permission (or their respective mortgagees) or their successors in title.

8 NOTICES

8.1 The Owner agrees with the Council to give the Council immediate written notice of any change in Ownership of any of its interests in the Land occurring before all the obligations under this Agreement have been discharged and such notice shall give details of the transferee's full name and

- 8.1.1 registered office where the transferee Owner is a company
- 8.1.2 usual address where the transferee is not a company
- together with details of the area of the Land transferred by reference to a plan
- 8.2 Any notice, demand or any other communication to be given under or in connection with this Agreement shall be in writing and will be effective only if delivered by hand or sent by recorded delivery to the party due to receive the notice, demand or communication.
- 8.3 Any notice, demand or any other communication served shall be sent to the address of the relevant party set out at the beginning of this Agreement or to such other address as one party may notify in writing to the others at any time as its address for service and in the case of service upon the Council and the County Council shall be marked for the attention of the Head of Legal.
- 8.4 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means shall be treated as having been served:
- 8.4.1 if delivered by hand, at the time of delivery; or
- 8.4.2 if sent by recorded delivery, at the time delivery was signed for.
- 8.5 If a notice, demand or any other communication is served after 4.00pm on a Working Day, or on a day that is not a Working Day, it shall be treated as having been served on the next Working Day.
- 8.6 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connections with those proceedings.
- 9 COSTS OF THIS AGREEMENT**
- 9.1 Upon completion of this Agreement the Owner shall pay to the Council their reasonable and proper legal costs in connection with the preparation, negotiation and completion of this Agreement.
- 10 DETERMINATION OF DISPUTES**
- 10.1 If any dispute arises out of this Agreement the dispute shall be referred to an arbitrator appointed jointly by the parties if the parties cannot agree on the arbitrator's identity the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors.
- 10.2 The arbitrator shall act in accordance with the Arbitration Act 1996 and the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction then equally).
- 11 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**
- 11.1 For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Agreement is not made for the benefit of nor shall any of its provisions be enforceable by any person other than the parties to his Agreement and their successors in title.
- 12 INDEXATION**

- 12.1 All financial contributions payable to the Council shall be Index Linked.
- 12.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

13 INTEREST

If any financial contribution due under this Agreement is paid late Interest will be payable from the date payment is due until the date of payment.

14 TERMINATION

- 14.1 The obligations in this Agreement (with the exception of clause 9) shall cease to have effect if before the Commencement of Development, the Planning Permission:

14.1.1 expires;

14.1.2 is varied or revoked other than at the request of the Owner; or

14.1.3 is quashed following a successful legal challenge.

15 FUTURE PERMISSIONS

- 15.1 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Agreement.

- 15.2 This Agreement shall apply to any planning permission subsequently granted under section 73 or 73A of the Act which permits non-compliance with any of the conditions attached to the Planning Permission (a "**Subsequent Permission**") and the Planning Permission shall be construed to include the development as stated in the Subsequent Permission unless otherwise required by the Council or the circumstances in clause 14.1.2 arise.

16 WAIVER

No failure or delay by the Council to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver (whether express or implied) for any breach or default by the Owner in performing or observing any of the covenants, restrictions or obligations contained in this Agreement. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

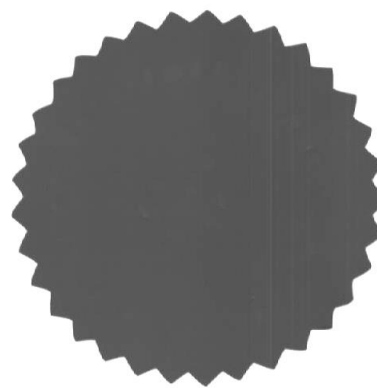
17 JURISDICTION

- 17.1 This Agreement shall be governed by and interpreted in accordance with the laws of England.
- 17.2 The Courts of England shall have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement.

IN WITNESS of which this document has been duly executed as a deed and delivered on the date stated at the beginning of this document.

EXECUTED as a DEED by affixing

THE COMMON SEAL of the COUNCIL OF THE
BOROUGH OF HAVANT



13388

in the presence of:

[Redacted Signature]

Authorised Signatory

Executed as a Deed by SYLVIA ANN)

FAULKNER in the presence of :)

Witness

Name: *Pema Chalmeris*

Address: [Redacted]

Occupation: *Graphic Designer*

[Redacted Signature]

OWNER

[Redacted Signature]

WITNESS

Executed as a Deed by LOUISE)

BOWDITCH in the presence of :)

Witness

Name: *Pema Chalmeris*

Address: [Redacted]

[Redacted Signature]

OWNER

[Redacted Signature]

WITNESS

Occupation: *Graphic Designer*

Executed as a Deed by **MARK**)

BRIAN SALE in the presence of :)

)

)

OWNER

Witness

Name: *MR G.D. PAYNE*

Address:

WITNESS

Occupati

RETIRED

SCHEDULE 1

Common Parts and SuDs Management

The Owner (and the Council where relevant) covenants:

1. Management Company

- 1.1 not to Commence Development until the Council has approved in writing the Owner's proposal for the formation of the Management Company and such proposal shall include full details of the proposed structure and voting rights of the Management Company
- 1.2 the Council shall notify the Owner that it either approves or rejects the proposals referred to in paragraph 1.1 within two months of receipt. If notification is not received within that time, the proposal/s will be deemed to be approved. If notification of a refusal is received by the Owner within the aforementioned time period, the Owner shall continue to comply with the obligation at paragraph 1.1 above until such time as the Council approves the proposal or deemed approval applies.
- 1.3 not later than three months from Commencement of Development the Owner shall take all necessary steps to secure the formation and registration of the Management Company at Companies House (taking into account any modifications reasonably required by the Council) and to notify the Council accordingly within ten Working Days of the completion of the registration of the Company

2. Management Plan

- 2.1 not later than three months following Commencement of Development to submit to the Council for its approval the Owner's proposal for the Management Plan which shall include details of how the costs of maintenance and management shall be met by owner-occupiers of the Dwellings
- 2.2 the Council shall notify the Owner that it either approves or rejects the proposals referred to in paragraph 2.1 within two months of receipt. If notification is not received within that time, the proposal/s will be deemed to be approved. If notification of a refusal is received by the Owner within the aforementioned time period, the Owner shall submit a further proposal or proposals until such time as the Council approves the proposal or deemed approval applies.
- 2.3 not to allow or permit Occupation of any Dwelling until:
 - 2.3.1 the Management Company has been formed in accordance with the approved proposal; and
 - 2.3.2 the Management Plan has been approved in writing by the Council.

3. Management of Common Parts and SuDs

- 3.1 to secure the proper maintenance of the Common Parts and SuDs to the reasonable satisfaction of the Council until such time as:
 - 3.1.1 the Management Company is registered and the Management Plan has been approved by the Council; and

- 3.1.2 the maintenance arrangements for the Common Parts and SuDs in accordance with the Management Plan have been fully implemented; and
- 3.1.3 the transfer of the Common Parts and the transmission of ownership and maintenance responsibilities for the SuDs to the Management Company is completed;
- 3.2 that if the Management Company ceases to exist as a company or if the Management Company at any time defaults in the performance of any of its covenants or obligations on its part as contained in the Management Plan and/or Management Agreement then the Owner shall (without prejudice to any other right or remedy of the Owner against the Management Company or any other person) perform the said covenants and obligations until the appointment by the Owner of a successor to the Management Company

4. SuDs

- 4.1 not less than two months prior to Commencement of Development to submit to the Council for its approval a bill of quantities detailing the open book construction costs for the SuDs
- 4.2 the Council shall within ten Working Days notify the Owner that it either approves the bill of quantities as submitted or proposes such reasonable amendments as are considered necessary. In the event that the Council fails to respond to the bill of quantities within ten Working Days of receipt, the bill of quantities as submitted are to be deemed approved
- 4.3 where reasonable amendments to the bill of quantities for the SuDs are proposed by the Council, the Owner shall not more than ten Working Days after receiving the Council's proposed amendments revise the bill of quantities in accordance with the proposed amendments
- 4.4 on or before Commencement of Development to:
 - 4.4.1 provide to the Council a Bond for the Bond Amount; or
 - 4.4.2 pay the Cash Deposit.
- 4.5 the Bond shall endure, or the Cash Deposit shall be retained by the Council until:
 - 4.5.1 the SuDs is transferred to a Management Company; or
 - 4.5.2 if earlier the date of completion of construction of the SuDs to the satisfaction of the Council.
- 4.6 If:
 - i) the Owner fails to construct the SuDs in accordance with the details as approved by the Council in writing; or
 - ii) prior to completion of the SuDs the Owner is adjudicated bankrupt or goes into liquidation voluntarily or otherwise; or
 - iii) has executed a deed of assignment for the benefit of or otherwise compound with its creditors (except for the purpose of reconstruction or amalgamation)

the Council may (without prejudice to the Council's other rights remedies and powers against the Owner):

- by written notice require the Surety to pay for; or
- the Cash Deposit may be applied to:

any expenditure (including legal costs) which the Council may incur in carrying out the construction of the SuDs to its own design or the Owner's design to return the Land to the level of hydrological response as existed before the Commencement of Development.

SCHEDULE 2

Miscellaneous covenants

The Owner covenants with the Council:

1. Commencement

to give to the Council not less than ten Working Days written notice of their intention to Commence Development

2. Contributions

2.1 not later than Commencement of Development to pay to the Council the Monitoring Fee and the SRMS Contribution

2.2 not to Commence or permit Commencement of Development until the Monitoring Fee and SRMS Contribution has been paid

3. Submission of Documents

to provide when submitting documents or details to the Council pursuant to the Schedules of this Agreement a reference to the Planning Permission, the date and parties to this Agreement, and the paragraph and Schedule under which approval is sought, together with a statement of the date by which a decision must be given by the Council

4. Reptile Receptor Site

4.1 not to Commence or permit Commencement of Development until the Reptile Receptor Site has been provided in accordance with the Ecology Report

4.2 The Owner and the Receptor Site Owner covenant that it shall following the laying out and construction of the Reptile Receptor Site manage and maintain the Reptile Receptor Site in perpetuity and in accordance with the Ecology Report

APPENDIX 1

PLAN 1

This drawing has been prepared for the purpose of Planning and Building Regulations approval only, and is not to be used for any other purpose.

All dimensions to be checked on site and any discrepancy notified to The Martin Ralph Group, whose dimensions are to be used in preference to scaled dimensions.

The drawings are the property of The Martin Ralph Group and must not be reproduced, in part or whole, or modified, loan, without prior permission.

A red circular seal with a serrated edge, featuring the text '1358' and '140'.

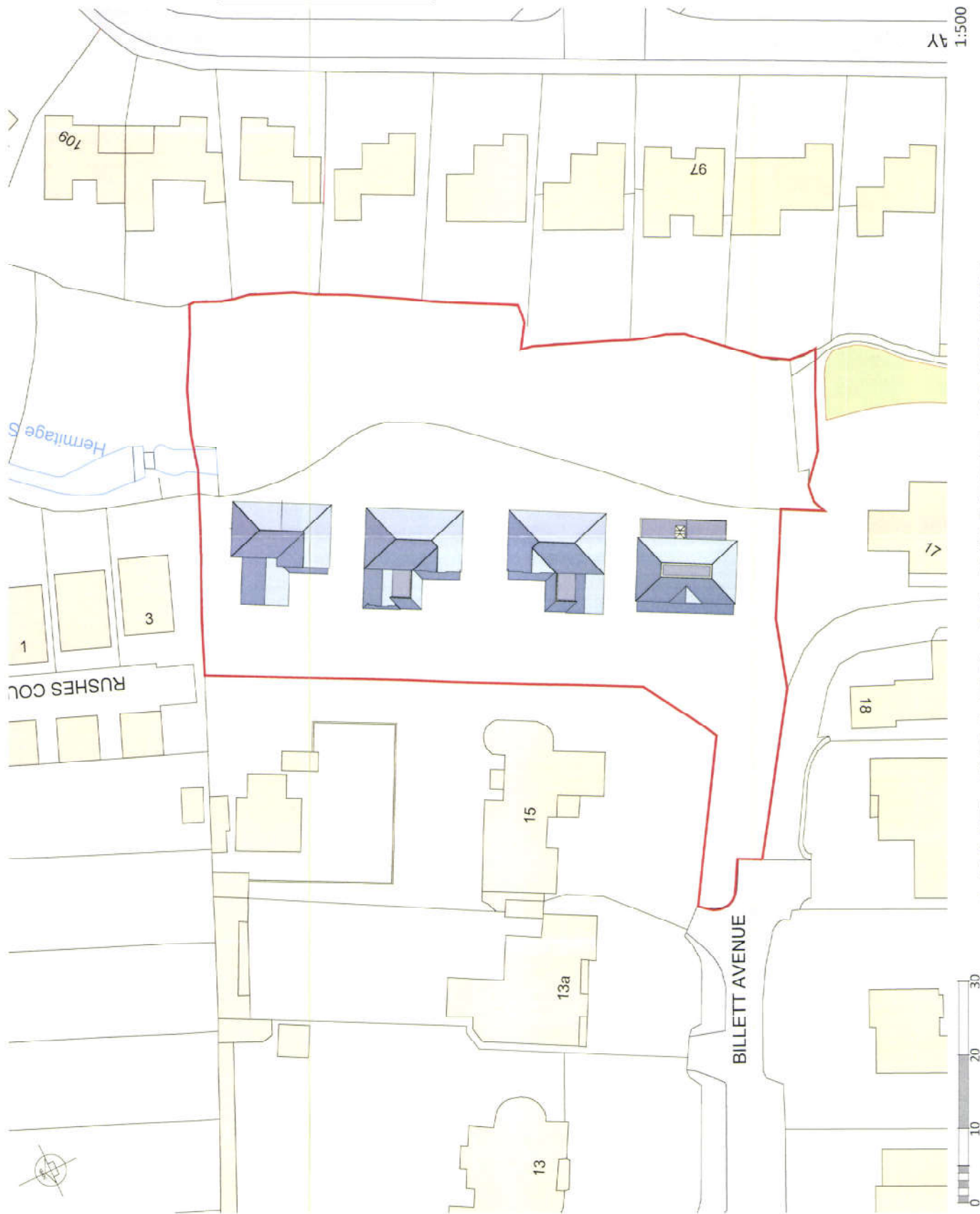
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Journal of Management Education

MARTIN RALPH

David THE MARTIN LUTHER GROUP

11 Diggins House
Foxhall Court
Barnes, London SW13 9JH
Tel: 020 8498 7777
Fax: 020 8498 7772
www.mindforprofit.co.uk
info@mindforprofit.co.uk



LAND ADJ TO 15 BILLET AVENUE

APPENDIX 2

PLAN 2



Figure 1. The orange areas highlighted indicate the areas to be used as receptor areas at Furzeley Golf Course for reptiles translocated from 15 Billett Avenue in Waterloooville. The measurements in black are for each area and in total equal = $11,200\text{m}^2$ or 1.12ha . Each area is connected to the others via grass verges and boundary hedgerows.

APPENDIX 3
ECOLOGY REPORT



The Ecology Co-op

ENVIRONMENTAL CONSULTANTS

Unit 4 Langham Stables, Langham Lane, Lodsworth, West Sussex, GU28 9BU

Tel: 01798 861 800, E-Mail: info@ecologyco-op.co.uk

17th October 2018

Dear Sir/Madam,

R.e. Reptile receptor survey at Furzeley Golf Course for development on Land adj 15 Billett Avenue, Waterlooville, PO7 7SZ – APP/18/00109

This letter details the evaluation of an area of land within Furzeley Golf Course and subsequent reptile survey results after it was identified as a potential receptor site for a small population of slow worms found at the proposed development site located at 15 Billett Avenue, Waterlooville, Hampshire.

The initial presence/absence survey of the donor site detailed in the Ecology Co-op Reptile survey report¹ identified a peak count of one slow worm suggesting a low population to be present. As the entire grass area within the development site will be lost, an off-site receptor site needed to be identified that was close to the Billett Avenue site and is ideally within the same local planning authority.

Furzeley Golf Course is located approximately 2 miles west of 15 Billett Avenue and contains many areas of rough semi-improved grassland in between the well-manicured fairways that make up Furzeley golf course. The golf course is divided into two sections, the first nine holes (1-9) and the last nine holes (10-18) and it is the land area containing the last nine holes that has been surveyed as a potential receptor site.

The last nine holes of Furzeley Golf Course measure approximately 22 Ha however only a small proportion of that area is suitable rough grassland for reptiles (approximately 2.4 Ha) and only those rough grassland areas that were close to the boundary hedgerows were surveyed to be used as potential receptor areas due to their more favourable connectivity.

These areas of rough grassland remain undisturbed by management and the golfing public which means that they can be enhanced for reptiles through the addition of three new hibernacula and through potential new management practices. These hibernacula will be positioned in areas that are away from potential interference by golfers/members of the public.

The reptile presence / absence survey of the potential receptor site (Furzeley Golf Course) was carried out by Sophie Bradshaw BSc between 10th July and 5th October 2018. The survey was carried out by placing artificial refugia across the site in areas of suitable habitat for reptiles, which heat up in the sun and provide cover. 32 bitumen reptile refugia sheets were set out on the 21st June 2018 and left for a

¹ P2310.P2 24.05.17 Reptile Survey Billett Avenue, Waterlooville. The Ecology Co-op.

minimum of ten days to 'bed in' before the commencement of the survey process. Although difficult to calculate exactly, the rough areas targeted by the survey equate to approximately 2.4Ha in area which is just over ten sheets per hectare in accordance with survey guidelines. There are other areas of rough grassland within the centre of the golf course; however, not all were surveyed as they were not as well connected to those along the boundaries. Figure 1 shows the areas surveyed using reptile mats and the areas where reptiles were found indicated by a red star.



Figure 1. Orange areas highlighted illustrate areas surveyed with reptile sheets all of which are connected via hedgerow boundaries and rough grassland areas. Red star indicates areas where reptiles were identified.

Reptiles are attracted to these refugia to warm up in the mornings and late afternoon to regulate their temperature and a suitably qualified surveyor is able to count the number and in some cases the sex of each species present. A total of seven surveys are undertaken and the highest count of reptiles from these visits is used to estimate the population of each reptile species on the site as low, good or exceptional according to Froglife advice sheet 10². Surveys must be undertaken when the air temperature is between 9°C. and 18°C and is lower than the temperature of the reptile sheets placed on the ground.

Surveying has been difficult this year due to temperatures rarely dropping below 18°C and therefore the final three surveys were conducted in late September / early October when temperatures were more regularly within suitable temperature parameters on a regular basis. Afternoon checks were attempted on several occasions however the temperature rarely dropped below 18 until close to sunset.

A peak count of 5 common lizards, one grass snake and a single female adult slow worm have been identified during the survey illustrating that the site supports low populations of these species. The results can be found in Appendix 1.

² Froglife (1999) Reptile survey: an introduction to planning, conducting and interpreting surveys for snake and lizard conservation. Froglife Advice Sheet 10. Froglife, Halesworth.

The areas of rough grassland that have been surveyed clearly appear to be suitable to support a low population of translocated slow worms, given that the habitats are of good value for slow worms providing shelter and foraging habitat and can be improved through the construction of new hibernacula and through improved management (outlined below). In addition, the site is larger in size than the donor site at Billett Avenue with suitable connectivity to other high value habitats and the population from Billett Avenue is very low. The Billett Avenue site measures approximately 0.5Ha whilst the combined areas connected around the golf course boundaries equal roughly 2.4Ha.

Receptor Area Design

Five areas of rough grassland have been identified that will act in combination as the receptor site at Furzeley Golf Course. The five areas are connected via boundary hedgerow and a grassland edge that runs parallel with the hedgerow (See Figure 2). The total area in m² of the five grassland sections equal 11,200m² or 1.12Ha which is twice the size of the Billett Avenue site (0.5Ha). A larger version of Figure 2 can be found in Appendix 2.



Figure 2. The orange areas highlighted indicate the areas to be used as receptor areas at Furzeley Golf Course for reptiles translocated from 15 Billett Avenue in Waterloooville. The measurements in black are for each area and in total equal 11,200m² or 1.12ha. Each area is connected to the others via grass verges and boundary hedgerows shown in green.

Receptor Site Enhancements

Habitat enhancements will be created within three of the grassland areas in the form of three hibernacula (one per area as detailed in figure 2). The hibernacula are to be constructed by digging a 1m by 1m hole approximately 30cm deep. Logs of various lengths not exceeding 1m should then be placed into the hole until the top of the structure exceeds 30cm above ground level. Soil from the excavation of the hole should then be placed on top of the logs followed by grass cutting or turf to facilitate the hibernacula blend into its surroundings. The cracks and crevices created by the logs provide a safe and warm shelter for reptiles and amphibians through the winter and as the logs decay they will attract a wide variety of invertebrates which in turn will provide a food source for reptiles.

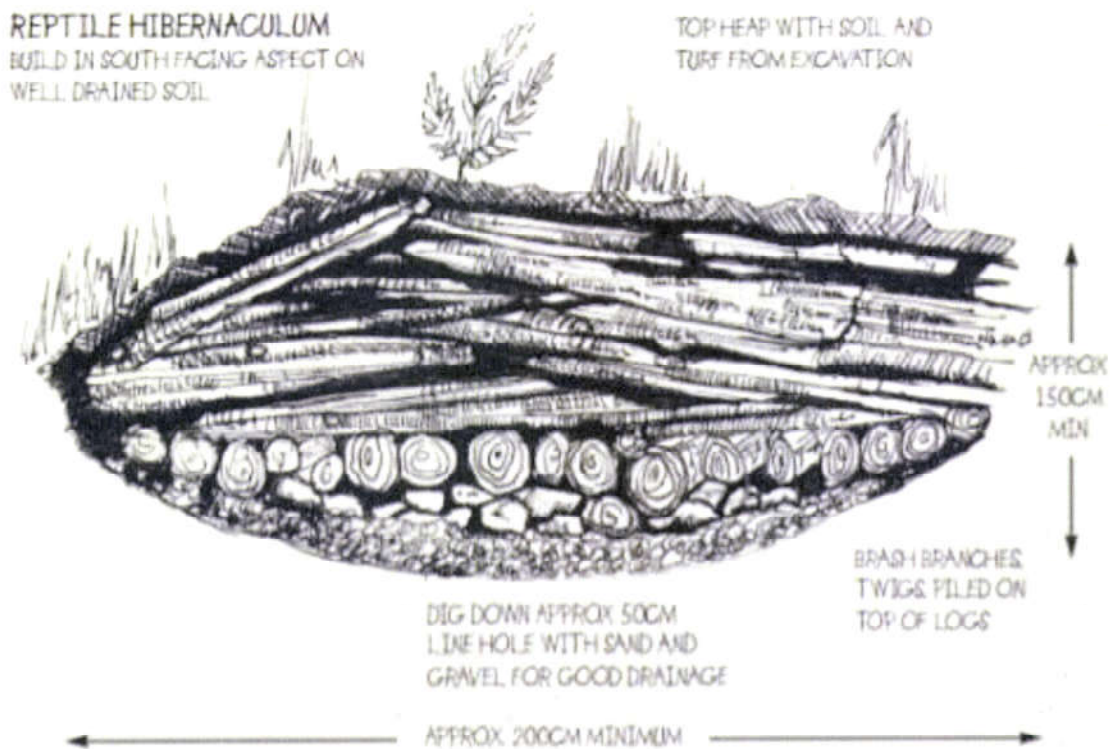


Figure 3. Illustration on how to build a hibernacula. Image taken from the 'Reptile Habitat Management Guidelines' by Herefordshire Amphibian and Reptile Team and the Herefordshire Nature Trust.

Future Management

It is important for the receptor site to be managed for reptiles in perpetuity. This means leaving the designated areas of reptile habitat undisturbed during the active season, and safeguarding features suitable for hibernation, and crucially not disturbing them in winter. The grasslands should be allowed to grow tall and should not be frequently mown. If mowing is required, such as to prevent scrub establishment, then this should be done in late autumn/winter months and never below 10cm height. Where possible only 50% of the total receptor area should be cut at any time. Machinery with a low ground pressure should always be used and no other vehicles should be allowed to enter suitable reptile habitat.

Kind regards

Sam Lunn
Ecologist
MSc, ACIEEM

Appendix 1 – Reptile survey results at Furzeley Golf Course.

Table 1: Results of reptile presence / absence survey undertaken at Staunton Country Park. SW – Slow worm, GS – Grass snake, CL – Common Lizard, Juv – Juvenile, SA – Sub adult, F- Female, M – Male.

Date	Visit number	Start Time of Survey	Air Temp/Refugia Temp °C	Weather Notes, cc = Cloud cover	Species Total
10.07.18	1	08:45	18/30	05% cc, light breeze	None
17.07.18	2	08:45	18/26	20% cc, light breeze	None
31.07.18	3	08:40	18/24	80% cc, light breeze	1 CL, 1GS
29.08.18	4	09:00	16/20	80% cc, light breeze	5 CL, 1 SASW
26.09.18	5	09:45	16/23	0% cc, still	None
03.10.18	6	10:15	16/25	0% cc, light breeze	1 CL, FSW
05.10.18	7	10:15	16/26	0% cc, still	None

Appendix 2 – Receptor Area Design



APPENDIX 4

Form of Bond

The Guarantee Bond is made as a deed between the following parties whose names and addresses are set out in the Schedule to this Bond (the 'Schedule'):-

- (1) The 'Contractor' as principal
- (2) The 'Guarantor' as guarantor, and
- (3) The 'Employer'

Whereas

- (1) By a contract (the 'Contract') entered into or to be entered into between the Employer and the Contractor particulars of which are set out in the Schedule the Contractor has agreed with the Employer to execute works (the 'Works') upon and subject to the terms and conditions therein set out.
- (2) The Guarantor has agreed with the Employer at the request of the Contractor to guarantee the performance of the obligations of the Contractor under the Contract upon the terms and conditions of this Guarantee Bond subject to the limitation set out in clause 2.

Now this deed witnesses as follows:-

- 1 The Guarantor guarantees to the Employer that in the event of a breach of the Contract by the Contractor the Guarantor shall subject to the provisions of this Guarantee Bond satisfy and discharge any damages sustained by the Employer ("the Damages") which relate to the obligation to carry out the works.
- 2 The maximum aggregate liability of the Guarantor and the Contractor under this Guarantee Bond shall not exceed the sum set out in the Schedule (the 'Bond Amount') but subject to such limitation and to clause 4 the liability of the Guarantor to pay the Bond Amount shall be co-extensive with the liability of the Contractor to pay the Damages under the Contract.
- 3 The Guarantor shall not be discharged or released by any alteration of any of the terms conditions and provisions of the Contract or in the extent or nature of the Works and no allowance of time by the Employer under or in respect of the Contract or the Works shall in any way release reduce or affect the liability of the Guarantor under this Guarantee Bond.
- 4 Whether or not this Guarantee Bond shall be returned to the Guarantor the obligations of the Guarantor under this Guarantee Bond shall be released and discharged absolutely upon Expiry (as defined in the Schedule) save in respect of any breach of the Contract which has occurred and in respect of which a claim in writing containing particulars of such breach and stating that the amount being demanded has been established and ascertained pursuant to and in accordance with the provisions of or by reference to the Contract and takes into account all sums due or to become due to the Contractor has been made upon and received by the Guarantor before Expiry.
- 5 The Contractor having requested the execution of this Guarantee Bond by the Guarantor undertakes to the Guarantor (without limitation of any other rights and remedies of the Employer

6 The Guarantee Bond and the benefit thereof shall not be transferred or assigned without the prior written consent of the Guarantor and the Contractor.

7 The parties to this Guarantee Bond do not intend that any of its terms will be enforceable, by virtue of The Contracts (Rights of Third Parties) Act 1999 or otherwise, by any person not a party to it.

8 This Guarantee Bond shall be governed by and construed in accordance with the laws of England and Wales and only the courts of England and Wales shall have jurisdiction hereunder.

The Contractor:	Developer's details
The Guarantor:	Bank's details
The Employer:	THE COUNCIL OF THE BOROUGH OF HAVANT of Public Service Plaza Civic Centre Road Havant Hampshire PO9 2AX
The Contract:	details of the Section 106 Agreement
The Works	the construction of a Sustainable Drainage System in accordance with paragraphs xxx of Schedule xxxxx to the Contract
The Bond Amount:	The sum of (£xxxxxxx) xxxxxxxx pounds sterling only
The Expiry Date:	This Bond will expire for receipt of demands upon the Issue of a certificate of Practical Completion by the Council upon presentation to the Guarantor, by the Contractor of a certified true and correct copy of the Practical Completion Certificate purporting to have been signed under the Contract which shall be conclusive for the purposes of this Guarantee Bond

EXECUTED as a DEED by

in the presence of:-

Director/Secretary

EXECUTED as a DEED by affixing the)
COMMON SEAL of xxxxxxxxxx)
BANK)
in the presence of:-)

Director

Director/Secretary