

DATED

31 August

2012

HAMPSHIRE PRIMARY CARE TRUST (1)

and

PMC CONSTRUCTION AND DEVELOPMENT SERVICES LIMITED (2)

and

THE GUINNESS PARTNERSHIP LIMITED (3)

and

THE COUNCIL OF THE BOROUGH OF HAVANT (4)

DEED

Pursuant to (inter alia)

Section 106 of the Town and Country Planning Act 1990

Relating to land at Mary Rose House, Malmesbury Lawn, Leigh Park, Havant
Hampshire

Mrs J Barden-Hernandez
Solicitor to the Council
Havant Borough Council
Civic Offices
Civic Centre Road
Havant, Hampshire
PO9 2AX

THIS DEED is made the 31st day of August 2012
BETWEEN

- (1) HAMPSHIRE PRIMARY CARE TRUST of Headquarters, Omega House, 112 Southampton Road, Eastleigh Hampshire So50 5PB ("the Owner")
- (2) PMC CONSTRUCTION AND DEVELOPMENT SERVICES LIMITED whose registered office is at 106 Queens Road Portsmouth Hampshire PO2 7NE (company registration number 01675790) ("the Developer")
- (3) THE GUINNESS PARTNERSHIP LIMITED (Industrial and Provident Act Number IP31693R) of 17 Mendy Street High Wycombe, Buckinghamshire HP11 2NZ ("the Association")
- (4) THE COUNCIL OF THE BOROUGH OF HAVANT OF Civic Offices Civic Centre Road Havant Hampshire PO9 2AX ("the Council") and

WHEREAS:

- (1) The Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 for the area within which the Land is situate
- (2) The Owner is the freehold owner of the Land and a certificate from the Solicitor to the Owner has been produced to the Council that the Owner is immediately entitled to possession and subject only to the mortgage (if any) no other person having an interest therein at law or in equity.
- (3) The Developer has entered into a conditional contract with the Owner for the purchase of the Land, such contract conditional upon the grant of satisfactory planning permission as defined therein.
- (4) The Council is the Local Authority for the purpose of Section 111 of the Local Government Act 1972 and is satisfied that the arrangements made in this Deed will facilitate be conducive and incidental to the Council's functions
- (5) The Association intends to acquire the Land for the provision of Affordable Housing.
- (6) The Association has submitted the Application for the Development to the Council and the Council being desirous of improving the area and general locality of the Land and wishing to restrict and regulate the development and use of the Land is minded to grant planning permission pursuant to the Application in a form containing the conditions set out in the draft permission annexed hereto

NOW THIS DEED WITNESSETH as follows:

1. Statutory Powers

This Deed is made pursuant to:

- 1.1 Section 106 of the Town and Country Planning Act 1990
- 1.2 Section 111 of the Local Government Act 1972 to the intent that (save as provided by Clause 17) it shall bind the Owner/Mortgagee and the successors in title to each and every part of the Land and its assigns

2. Interpretation

- 2.1 Reference in this Agreement to a Clause Schedule or Recital shall mean a Clause Schedule or Recital to this Agreement
- 2.2 Headings in this Agreement are for ease of reference only and shall not affect construction or interpretation of any of the provisions of this Agreement
- 2.3 In this Agreement where the context so admits:
 - 2.3.1 words importing one gender shall include all other genders
 - 2.3.2 words importing the singular shall include the plural and vice versa

3. Planning Obligations

The obligations contained in this Deed are planning obligations for the purposes of Section 106 of the Town and Country Planning Act 1990 and are enforceable by the Council

4. Covenants Binding on Commencement

- 4.1 The covenants, undertakings, obligations and restrictions in this Agreement shall become binding on the parties to this Agreement upon Commencement in respect of the Development.

5. Definitions

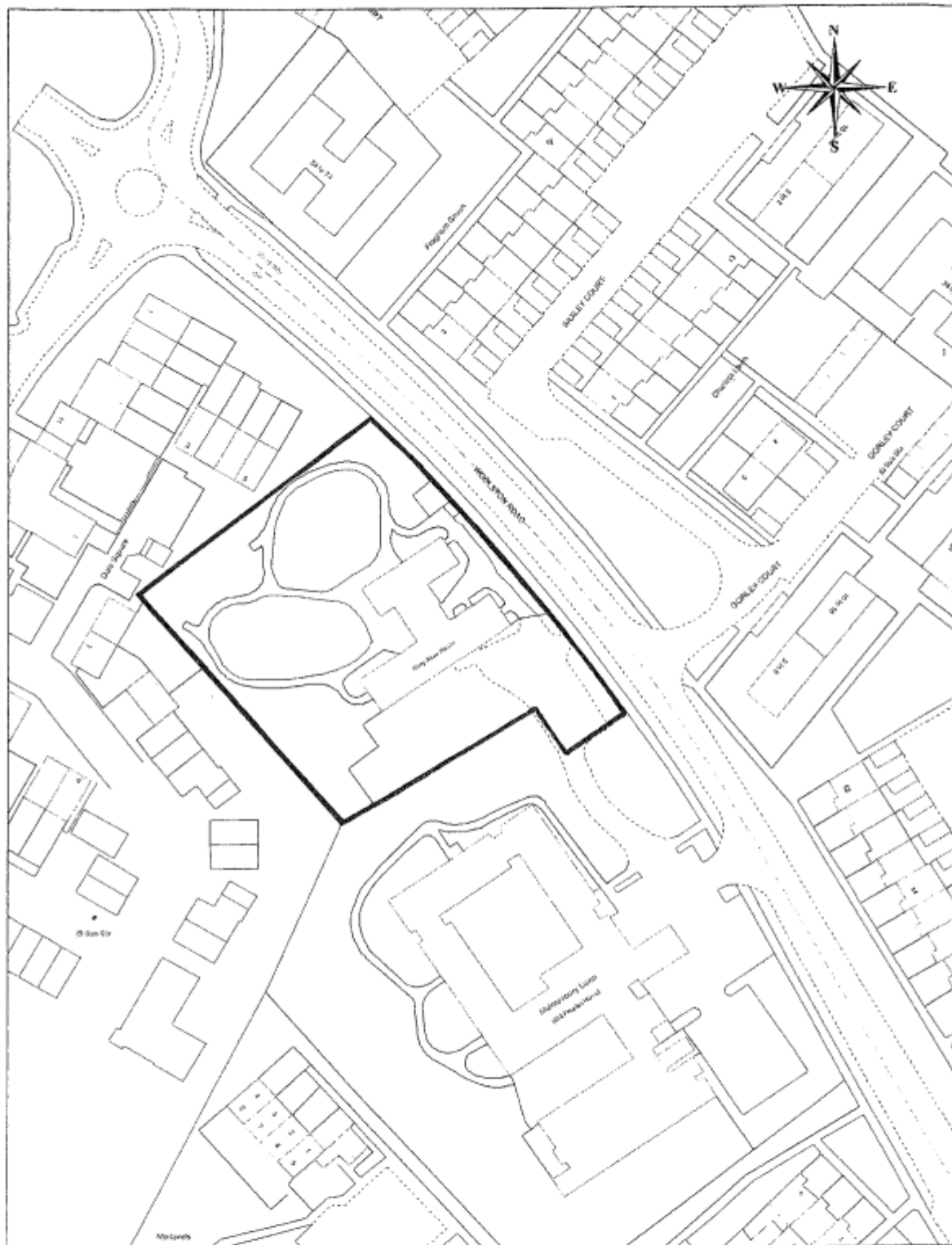
In this Agreement the following expressions shall unless the context shall otherwise require have the following meanings:

"The Act"	Means the Town and Country Planning Act 1990 as amended.
"Affordable Housing"	Means subsidised housing which is rented or sold (including an equity share in whole or part) provided for persons whose needs are not met by the housing market and such dwellings shall meet the needs of eligible households including availability at a cost

	low enough for them to afford determined with regard to local incomes and local house prices
"Affordable Housing Land"	Means that part of the Land shown as Plots 1,2,6,7,11,15,16 and 17 shown coloured on the Block Plan
"Affordable Housing Units"	8 units comprising 2no 1 bedroom flats, 2no 2 bedroom flats and 4no 3 bedroom houses being 6 units of Affordable Rented and 2 units shared ownership unless otherwise agreed in writing with the Council which are to be made available by the Owner for Affordable Housing on the Affordable Housing Land as herein provided
"Affordable Rent"	means the letting of the Affordable Housing Units to an Eligible Person at a rent level of up to 80% of the local market rents (inclusive of service charge) and in accordance with the guidance issued by the Homes and Communities Agency in 2011
"Affordable Rented Accommodation"	means in relation to the Affordable Housing Units housing for rent available to persons who cannot afford to rent or buy houses generally available on the open market with the rent being at a Affordable Rent
"Alternative Affordable Housing Provider"	means any organisation or body operating as a private landlord who is not an Registered Provider but who has entered into a management contract with an Registered Provider for the management of the Affordable Housing Units to ensure the Affordable Rented Housing Units are retained for future Eligible Persons and to ensure the recycling of any grant
"the Application"	means the application submitted to the Council by the Association given reference number APP/12/00545 for the Development

"the Block Plan"	Means the plan annexed hereto titled Block Plan – Affordable Housing drawing number 11256/RM/07
"Commence Development"	means the carrying out of a material operation as defined by section 56(4) of the Act save that for the purposes of this Undertaking and no other the following operations shall not be deemed to be a material operation namely; archaeological investigation demolition site clearance site preparation diversion and laying of services the erection of fences and hoardings and construction of access or service roads and the expressions "Commence" "Commencement" and "Commenced" shall be construed accordingly
"the Development"	Means development authorised by the Planning Permission consisting of Demolition of existing Mary Rose House. Construction of 25 dwellings consisting of 15 No. 3 bed houses, 4No. 1 bed flats and 6No. 2 bed flats and including amenity space, parking and bin stores. New vehicular access from Woolston Road.
"Eligible Person"	means persons who are unable to afford housing accommodation on the open market (whether by renting or purchasing) within the administrative area of the Council and who are on those registers retained or referred to by the Council from time to time in the discharge of its housing function and the expression "Eligible Persons" shall be construed accordingly
"the Hampshire County Council Transport Contribution"	means the sum of Twenty Thousand Nine Hundred And Thirteen Pounds (£20,913.00) (Indexed) being a contribution (being applied at such time and in such manner as

PLAN A.



Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

tel 023 9247 4174 fax 023 9248 0263
www.havant.gov.uk



Title

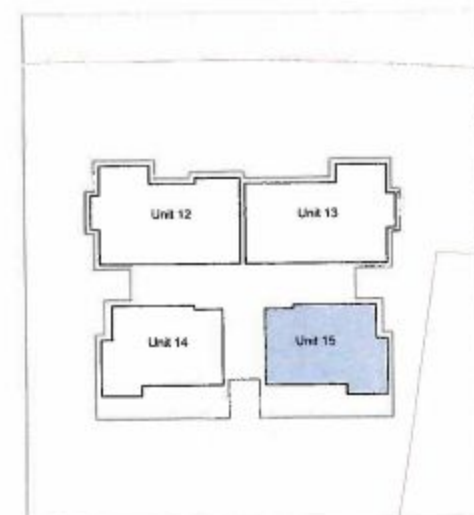
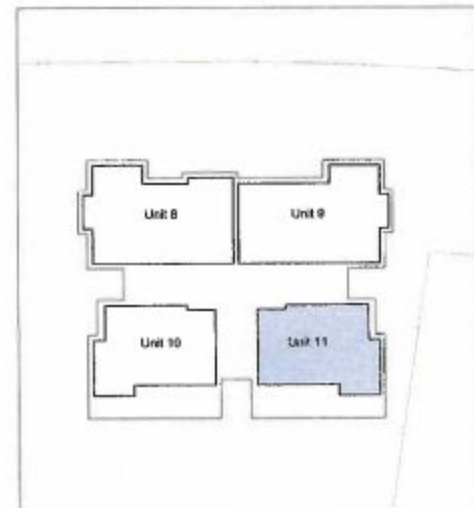
Town & Country Planning Act 1990
S106 Legal Agreement
Mary Rose House, Woolston Road
Havant
Ref: APP/12/00545

Drawn By

Scale
1:1250

Drawing No.
PC44/0493

Cleaner, Safer, More Prosperous



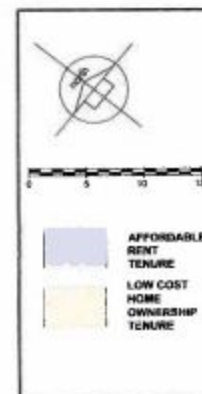
As a result, the thickness on the end and any discrepancy sufficient to cause a Rapid Group member's dimensions are to be used in preference to welded dimensions.

This drawing is the property of The Martin-Rohrer Group and should not be reproduced, in part or whole, or derived therefrom, without their permission.

It is intended that prior to commencement and during construction works, the contractor review the drawings and specifications and discuss them with the producer any uncertainties, omissions, discrepancies, variations between or in other contracts.

The full printing and construction packages (Structural, Mechanical and Electrical Engineering drawings, calculations and data) are to be taken precedence over the printed drawings. Any discrepancies are to be brought to the immediate attention of The Martin-Rohrer Group.

NOTE:
 (1) Aggregate stock plan only.
 (2) Refer to Schedule 14C for more information.



INSTRUMENTS	DATE
A PLANNING APPLICATION FEE	15.00

CLERK
 Planning Commission and Development Services Ltd
 100 Quince Road
 Vancouver, British Columbia
 V6C 2K6

PROJECT
 Mary Hill Estate
 4500-16th Road
 Lough Park, Fraser
 Highlands
 BC
 V0C 1A2

COUSINGS TOTAL
 Book Plan allowing Information Units
 (4 Units - No Platting)

DATE
 18.05.2011

SCALE
 1:300 @ A1

INSTRUMENT
 11256 / RM / 07

RECEIVED
 A

THE
MARTIN RALPH
 studio GROUP
 1000 10th Avenue
 Vancouver, BC
 V6H 1A1
 Tel: 604.681.1111
 Fax: 604.681.1112
 Email: info@martinralph.com
 Website: www.martinralph.com

"Homebuy Agent"	Hampshire County Council shall in its reasonable discretion determine) to the costs to be incurred by the Council or Hampshire County Council in the provision, improvement and maintenance of Havant Borough Council's sustainable transport list. means the body nominated by the Homes and Communities Agency to be responsible for low cost home ownership nominations within the administrative area of the Council or in the event that nobody has been nominated such other body or organisation as the Council shall first approve in writing.
"Homes and Communities Agency"	means the body corporate charged under the Housing and Regeneration Act 2008 with the functions of regulating the provision of Affordable Housing within the Council's administrative area by any Registered Provider or if such body ceases to exist or is superseded the equivalent body
"Indexed"	Means in respect of the Hampshire County Council Transport Contribution such sum to be index linked in accordance with the All Items Index of Retail Prices (RPI) published by the Office of National Statistics or any replacement thereof from the date hereof until the date of payment and such indexation shall only be applied in circumstances where the RPI at the date of payment stands at a higher level than it did at 1 April 2012
"the Land"	Means the Land at Mary Rose House, Malmesbury Lawn, Leigh Park, Havant PO9 4JZ shown for identification purposes only edged by heavy black line on the Plan
"Low Cost Home Ownership"	means homebuy products as defined by the Homes and Communities Agency including Shared Ownership and "Low Cost Home

	Ownership Units" shall be defined accordingly.
"Mortgage"	means the mortgage or charge (if any)
"Mortgagee"	means the mortgagee or chargee (if any)
"Obligations" and "OBLIGATIONS"	means those planning obligations (being restrictions requirements covenants agreements obligations or any of the foregoing) enforceable at law and in particular (but without prejudice to the availability to any enforcing authority of any power which may be available to it for the purposes of the enforcement of this Deed) under the authority of the statutory provision referred to in this Deed.
"Occupation" and "Occupied"	shall mean occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations
"Open Market Housing Units"	Means the Residential Units available for sale on the open market but excluding the Affordable Housing Units
"the Owner"	Means the owner and in the case of two or more owners each or all of them as owners of any or all parts of the Land and as parties to this Deed of Agreement acting and being obliged by this Agreement jointly and severally who is (or are) described in recital 2 of this Agreement being a person or persons identified in accordance with Section 106 (9)(c) of the Act.
"Plan"	Means the plan reference PC44/0493 annexed hereto marked "A"
"the Planning Permission"	means the grant of planning permission

made in response to the Application including where appropriate any grant of approval in respect of matters reserved by the said grant of planning permission or any subsequent grant of planning permission for the Development or for such other development on the Land as is not materially different from the Development (the determination of materiality being solely at the discretion of the Council) in the form annexed hereto.

"the Playing Space Contribution"	Means the sum of Twenty Six Thousand Six Hundred And Thirty One Pounds And Fifty Pence (£26,631.50) being a contribution (being applied at such time and in such manner as the Council shall in its reasonable discretion determine) to the costs to be incurred by the Council in the provision, improvement and maintenance of playing space to meet the needs of residents of new housing developments
"Registered Provider"	means a Registered Provider of Social Housing registered under the provisions of Section 111 of the Housing and Regeneration Act 2008
"Residential Units"	Means residential dwellings whether individually or in groups and whether divided vertically or horizontally
"Shared Ownership"	means plots 1 and 2 being affordable housing leased to a lessee who purchases a percentage of the equity of the intermediate housing unit and pays a rent in relation to the share of the equity retained by the Registered Provider/Alternative Affordable Housing Provider.
"Solicitor"	means the solicitor giving the certificate at clause 22 of this Deed
"Staircasing Receipts"	means monies received by a Registered

Provider or an Alternative Affordable Housing Provider arising from the sale (net of reasonable evidenced sale costs) of any further share of the equity or ownership of a Shared Ownership Unit following the first acquisition by that occupier of an interest in that Affordable Housing Unit provided that such a receipt shall be excluded from this definition to the extent to which the Registered Provider or Alternative Affordable Housing Provider is required to pay that receipt to the Homes and Communities Agency or any other person or body pursuant to an arrangement for grant funding in relation to the provision of Affordable Housing Units on the Land

"Unit" means a residential unit contained within the Development

- 6 With the intention and so as permanently to bind the Land and all parts thereof so far as lawfully may be effected and into whomsoever hands the same may come and so that the Obligations hereby created shall be enforceable both against the Owner and the Mortgagee (if any) and their respective successors the Owner and the Mortgagee (should it or they take possession of any part of the Land or exercise powers of sale under its security) HEREBY SEVERALLY COVENANT AND UNDERTAKE AS A PLANNING OBLIGATION TO COMPLY FULLY WITH THE OBLIGATIONS PROVIDED that no person shall be liable for a breach of the Obligations after parting with all its interest in the Land, except in respect of a breach subsisting prior to parting with such interest.
7. This instrument or document hereby expresses itself as executed as a Deed.
8. The Owner (and each of them acting in concert in the case of more than one joint owner) has produced at clause 22 a certificate of title with the intention that the Council may and shall rely upon the truth of the matters therein certified namely that the Owner is immediately entitled to possession and occupation of a freehold estate in the Land no other person having an interest therein at law or (to the best of the Owner's knowledge and belief) in equity other than the Developer and the Association by mere reason of the entering into conditional contracts to acquire the Land.

9. This Deed is made pursuant to Section 106 of the Act with the intent that it shall bind the Owner's interest in the Land and be enforceable against them and the persons deriving title under them and shall be a planning obligation for the purposes of the Act PROVIDED that no person shall be liable for a breach of the Obligations after parting with all its interest in the Land except in respect of a breach subsisting prior to parting with such interest.
10. This Deed shall have effect indefinitely from the time the Permission is granted save as provided for in Clause 4 and Clause 16.
11. In the event of any difference between the description of the Development in this Deed and the terms of the grant of permission issued by the Council in response to the Application the text of the grant of planning permission only shall be deemed to express the permission granted by the Council in response to the Application.
12. The obtaining consequent upon the provisions of this Deed of expressions of acceptance or satisfaction on the part of the Council with things done in discharge of Obligations or determinations of materiality for the purposes of this Deed shall be ineffective and not relied upon by any person unless in writing by the Council's Executive Head for Planning and the Built Environment for the time being or such other officer who may be identified in writing by the Council for this purpose.
13. In the event that any provision of this Deed is held to be invalid or unenforceable the remaining provisions of this Deed shall remain in full force and effect.
14. Nothing in this Deed shall be construed as prohibiting or limiting any right to develop any part of the Land in accordance with a planning permission granted by the Council or by the First Secretary of State on appeal or reference to him after the date of this Deed
15. No person or company shall be liable for any breach of this Deed unless he or it holds an interest in the part of the Land in respect of which such breach occurs or held such an interest at the date of the breach
16. If the Permission expires within the meaning of section 91 of the 1990 Act or is revoked quashed or otherwise withdrawn or modified by any statutory or judicial procedure without the consent of the Owners or its successors in title this Deed shall cease to have effect
17. This Deed is a local land charge and shall be registered as such pursuant to

the provisions of the Local Land Charges Act 1975 and section 106(11) of the Act,

Obligations

18 Affordable Housing

- 18.1 The Owner shall prior to Occupation of 7 Residential Units carry out the Development to form the Affordable Housing Units comprising part of the Development for use as Affordable Rented Accommodation and Shared Ownership
- 18.2 All Affordable Housing Units on the Land will be integrated and compatible with the design of the Open Market Units.
- 18.3 That the Affordable Housing Units will be constructed to at least the minimum standard required by the Homes and Communities Agency (or such other successor body's standards) Design and Quality Standards (2007) and the Code for Sustainable Homes published by the Government (or such replacement guidance) or other similar standard as may be reasonably required by the Council.
- 18.4 Where Affordable Housing Funding has not been secured despite the use of reasonable endeavours so to do the Owner will notify the Council in writing that it has not been successful in securing Affordable Housing Funding The Council will then where it is reasonably satisfied that the Owner has complied with the obligations to use reasonable endeavours in all material aspects issue a written notice to the Owner confirming that in accordance with this Clause 18 authorising the Owner to adjust the proportion of Affordable Rented Housing Accommodation to a figure to be agreed with the Council subject to:
- (a) the level of any Affordable Housing Funding available
 - (b) the Homes and Communities Agency's "Economic Assessment Tool" or any such other economic assessment tool submitted by the Owner and agreed by the Council to evaluate the portion of Affordable Rented Housing Units to be provided with the level of Affordable Housing Funding available and
 - (c) the results of any financial viability assessment carried out by the Owner

18.5 No Market Housing Units within the Development will be Occupied until either:

- (a) the Owner has entered into a binding contract or an agreement for lease with a Registered Provider or an Alternative Affordable Housing Provider for the transfer of the freehold or a long lease of no less than 125 years of the Affordable Housing Units to include the construction of the Affordable Housing Units (and has informed the Council to whom the Affordable Housing Units have been transferred) or
- (b) the Affordable Housing Units have been transferred fully provided with services to a Registered Provider or an Alternative Affordable Housing Provider and written evidence of compliance in respect of the above has been supplied to the Council to its satisfaction

18.6 Where the Owner intends to provide Affordable Housing Units in association with an Alternative Affordable Housing Provider or a Registered Provider they shall only be used if the Registered Provider and/or the Alternative Affordable Housing Provider can demonstrate to the Council:

- (a) A good judgement by the Home and Communities Agency or successor body; and
- (b) acceptable sustainable management arrangements and community development policies.

18.7 The transfer to the Registered Provider or Alternative Affordable Housing Provider of the Affordable Housing Land shall contain a covenant not to use the Affordable Housing Units otherwise than in accordance with the provision of this Deed.

18.8 The Low Cost Home Ownership Units (including Shared Ownership) shall be let to persons nominated by the Homebuy Agent

18.9 The Owner for itself and its successors in title covenants as follows:

- (a) not to use the Affordable Housing Units otherwise than for the provision of Affordable Housing;
- (b) not to dispose of any of the Affordable Housing Units other than by way of sale for Shared Ownership and Affordable Rent to the intent that all Affordable Rented Housing Units shall be

used for the purpose of providing Affordable Housing to Eligible Persons;

- (c) to require the Registered Provider or the Alternative Affordable Housing Provider to enter into an agreement with the Council granting the Council the right to nominate 100 per cent of the Occupiers of the Affordable Rented Units when initially let and all subsequent true voids; and
- (d) to manage all Staircasing Receipts of Affordable Housing Units which are grant funded in accordance with Housing Corporation or Homes and Communities Agency regulations.

- 18.10 The covenants set out in clause 18.9 shall not be binding or enforceable against any purchaser who purchases from the Registered Provider or Alternative Affordable Housing Provider the entire freehold to an Affordable Housing Unit or a long leasehold interest pursuant to an equity share arrangement nor shall such covenants be binding or enforceable against such a purchaser's successors in title
- 18.11 Where the Owner intends to provide management services for the Affordable Housing Units in association with a Registered Provider or an Alternative Affordable Housing Provider they shall only be used if the provider can demonstrate to the Council that they are approved and regulated for such activities by the Home and Communities Agency or any successor body.
- 18.12 The Affordable Rented Accommodation shall only be occupied by Eligible Persons
- 18.13 In the event that the Open Market Units are transferred to a Registered Provider or to an Alternative Affordable Housing Provider, the Registered Provider or Alternative Affordable Housing Provider may, at its sole discretion, use the Open Market Units for the purpose of providing Affordable Housing to Eligible Persons.
- 18.14 For the avoidance of doubt, in the event of the Open Market Units being used for Affordable Housing in accordance with clause 18.13 above, the Affordable Housing restrictions contained in this clause 18 shall not apply to the Open Market Units so used.
- 18.15 In the event of any Mortgagee of the Affordable Housing Units wishes to enforce its security by way of sale (whether as mortgagee or through a receiver) then, subject to the mortgagee or receiver having complied with the requirements contained in clauses 18.15.1 to 18.15.3, it may do so, after

which the Affordable Housing Units (or the relevant part the mortgagee wishes to sell) may be used free from the covenants set out in this clause 18 of the Schedule PROVIDED THAT the Mortgagee shall first follow the procedures set forth below:

- 18.15.1 The Mortgagee or receiver shall serve a notice in writing on the Council ("the Offer Notice") stating that it wishes to exercise its statutory power of sale, the price at which it intends to sell the Affordable Housing Units (or the relevant part) which shall be no greater than the open market value of the Affordable Housing Units (or the relevant part)
- 18.15.2 The Council shall be permitted 30 days in which to accept the offer of sale set out in the Offer Notice or to nominate an alternative Registered Provider;
- 18.15.3 If the sale pursuant to clause 18.15.2 has not been completed by the date 60 days after the date of the Offer Notice ("the Expiry Date") the mortgagee or receiver having been ready willing and able to complete then the mortgagee or receiver may sell the Affordable Housing Units (or the relevant part thereof) by private treaty or otherwise and the Affordable Housing Units (or the relevant part thereof) will no longer be bound by the covenants in this clause 18;
- 18.16 The Affordable Housing Units provided on the Land will be monitored in order to ensure compliance with the obligations in this clause 18 the Owner or its successors in title shall at such dates to be agreed by the parties make written returns to the Council detailing:
- the affordable housing provision including
 - -the type of dwelling,
 - -the tenure of the dwelling,
 - -the net internal floor area of the dwelling
 - -details of the occupiers
 - -the grant funding provided for the dwelling
 - -technical information in relation to the Code for Sustainable Homes
 - -the location of the Affordable Housing Units
 - any other information on the Affordable Housing Units as reasonably required by the Council.
- 18.17 None of the provisions in this clause 18 shall have effect in respect of the tenant or leaseholder of any individual Unit (or its mortgagee)

19. Commencement

- 19.1 The Owners will notify the Council in writing at least 14 days before Commencement of the Development

20 The Playing Space Contribution

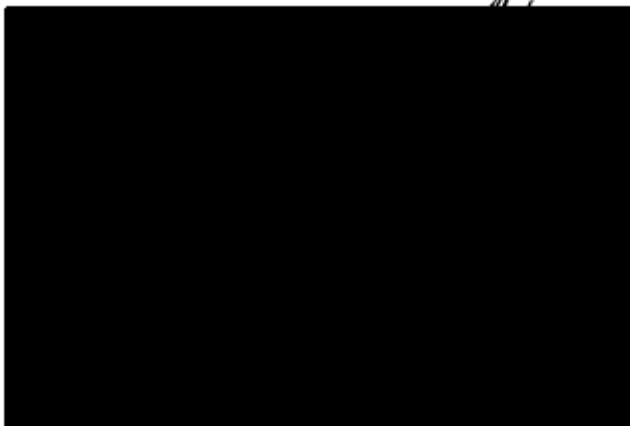
- 20.1 The Owner covenants not to Commence Development or introduce or cause permit or suffer the Commencement of the Development permitted by the Permission at any time before the Owner shall have paid to the Council or caused to be paid to the Council the Playing Space Contribution

21. The Hampshire County Council Transport Contribution

- 21.1 The Owner covenants not to Commence Development or introduce or cause permit or suffer the Commencement of the Development permitted by the Permission at any time before the Owner shall have paid to Hampshire County Council or caused to be paid to Hampshire County Council the Hampshire County Council Transport Contribution (Indexed)

22. Certificate of Title.

As Solicitor for the Owner we hereby certify that on the date of this Deed what is set out in recitals (2) and (3) to this Deed is true.



23. Council Discretion

Nothing in this Deed shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Town and Country Planning Act 1990 or under any other Act PROVIDED ALWAYS THAT this Deed shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may or have been at any time issued by the Council or any other appropriate person pursuant to the provisions of the said

Act

24. Disputes

Any dispute or difference between the parties in connection with this Agreement (which shall include any matter hereunder which the Council has the discretion to agree or approve but does not do so) shall be referred to and determined by a single arbitrator to be appointed by agreement by the parties to the dispute or in default of agreement to be either an independent and duly qualified surveyor to be appointed by the President for the time being of the Royal Institution of Chartered Surveyors or a member of any other appropriate professional body as may be agreed between the parties and any person appointed shall act as arbitrator under the Arbitration Act 1996. Such arbitrator's decision (including without limitation as to the payment of costs of the arbitration) shall be final and binding upon the parties save in respect of any decision which is founded upon error in law or legal interpretation by such arbitrator.

25. No Waiver

No waiver (whether expressed or implied) by the Council of any breach or default by the Owner in performing or observing any of the terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing at any time any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner.

26. Costs

The Owner hereby agrees to pay the Council's reasonable legal and other costs in connection with the preparation and stamping of this Deed such costs to be paid on completion of this Deed.

27. Successors

The expression "the Owner" and "the Mortgagee" shall include their respective successors in title and assigns.

28. Council Successors

The expression "the Council" shall include successors to its functions as Local Planning Authority for the purposes of the Town and Country Planning Act 1990.

29. Enforcement

It is hereby agreed and declared that the provisions of this Deed shall not bind nor be enforceable against (1) any Mortgagee or Chargee of the Affordable Housing Land or part thereof nor any person or persons who shall directly or indirectly derive Title to the Affordable Housing Land or any part or parts thereof from such Mortgagee or Chargee or any Receiver appointed by such Mortgagee or Chargee AND (2) any person or persons acquiring any of the Affordable Housing Units under a Voluntary Right to Acquire or a Statutory Right to Buy pursuant to the Housing Act 1985 the Housing Act 1988 or the Housing Act 1996 or any statutory re-enactment or modification thereof and all successors in title to such person or persons AND (3) any lessee pursuant to a shared ownership lease whether or not such lessee has staircased to 100% ownership and such lessee mortgagee and successors in title

30. Notices

Save where particular clauses specify otherwise all notices to be served and notifications to be given for the Council shall be marked for the attention of the Executive Head of Planning and Built Environment.

31. Third Parties

The Contracts Rights of Third Parties Act 1999 shall not apply to this Agreement.

32. Liability

- (1) No person shall be liable for breach of a covenant contained in this Agreement after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest
- (2) If the planning permission shall expire before Commencement or shall at any time be revoked quashed modified or otherwise withdrawn then this Agreement shall immediately determine and cease to have further effect but in ceasing to have further effect shall not prejudice any express or implied rights accrued or accruing to the Owner by virtue of anything by the covenant in connection with or arising from the terms of this Agreement
- (3) On the written request of the Owner (or in the alternative the party responsible for the performance of any particular covenant contained herein) at any time after each or all of the Obligations have been

performed or otherwise been discharged the Council will issue written confirmation of such performance or discharge.

- (4) The Council will on the written request of the Owner at any time after the obligations of the Owner under this Agreement have been fulfilled issue written confirmation of it and cancel all related entries in the Register of Local Land Charges
- (5) This Agreement is a local land charge and shall be registered as such

33. Covenants given by the Council.

- (1) The Council covenants with the Owner to pay the Playing Space Contribution into a separately identified interest-bearing section of the Council's combined accounts as soon as reasonably practicable.
- (2) The Council covenants with the Owner not to use any part of the Playing Space Contribution other than for the purposes for which it was paid (whether by the Council or another party)

IN WITNESS whether the parties hereto have executed these presence as the day and year first before written

Executed as a DEED by)
Affixing the COMMON SEAL of)
Hampshire Primary Care Trust)
in the presence of:)

Authorised Signator

Authorised Signator

Executed as a DEED by P.M.C. Construction and Development Services Limited acting by a Director in the presence of:-

Signature

Name:

Address

EXECUTED as a DEED by affixing the Common Seal of)
THE GUINNESS PARTNERSHIP LIMITED)
in the presence of)
Authorised Signatory)

Authorised Signatory



EXECUTED as a DEED by affixing
THE COMMON SEAL of)
THE COUNCIL OF THE BOROUGH)
OF HAVANT)
in the presence of:



Solicitor to the Council



12731



Havant
BOROUGH COUNCIL

Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

T 023 9247 4174
F 023 9248 0263
DX 50005 Havant

www.havant.gov.uk

Mr Olafsson
The Martin Ralph Group
11 Dragoon House, Hussar Court
Brambles Business Park
Waterlooville
PO7 7SF

For: Mr Frazer

**The Town and Country Planning (Development Management Procedure) (England) Order
2010
Grant of Planning Permission**

Application Number: APP/12/00545

Site Address: Mary Rose House, Woolston Road, Havant, PO9 4JZ

Proposal: Demolition of existing Mary Rose House. Construction of 25 dwellings consisting of 15No. 3 bed houses, 4No. 1 bed flats and 6No. 2 bed flats and including amenity space, parking and bin stores. New vehicular access from Woolston Road.

Further to your application received on 28 May 2012 (which was valid from 01 June 2012) Havant Borough Council, as Local Planning Authority **Grants Planning Permission** for the above proposal in accordance with the submitted plans and particulars as detailed below.

This permission is subject to compliance with:

- (i) The plans and other documents submitted with your application, (as amended by plans and documents received on 26 July 2012 and 14 August 2012); and
- (ii) The following conditions:

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date on which this planning permission was granted.
Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 No development hereby permitted shall commence until plans and particulars specifying the layout, depth and capacity of all foul and surface water drains and sewers proposed to serve the same, and details of any other proposed ancillary drainage works/plant (e.g. pumping stations) have been submitted to and approved in writing by the Local Planning Authority. Unless agreed otherwise in writing by the Local Planning Authority, the development hereby permitted shall not be brought into use prior to the completion of the implementation of all such drainage provision in full accordance with such plans and particulars as are thus approved by the Authority.
Reason: To safeguard the amenities of the locality and ensure that all such drainage provision is constructed to an appropriate standard and quality and having due regard to policies and proposals CS16 and DM10 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework, and National Planning Policy Framework, March 2012.

- 3 Construction of the buildings hereby permitted shall not commence until samples and details of all external facing and roofing materials shall be submitted to and approved by the Local Planning Authority. Thereafter only such approved materials and finishes shall be used in carrying out the development.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11 and CS16 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and National Planning Policy Framework, March 2012.

- 4 The buildings hereby permitted shall not be occupied until the soft landscaping has been fully completed, in accordance with the approved details set out in:

Landscape Proposal - Drawing No.HAV/Hs/557.1: received 28 May 2012

Landscape Management Plan & Specification: received 28 May 2012

Planting Proposals for Malmesbury Lawn - Drawing No.HAV/Hs/557.1: received 14 August 2012

Any tree or shrub planted or retained as part of such approved landscaping scheme which dies or is otherwise removed within the first 5 years shall be replaced with another of the same species and size in the same position during the first available planting season.

Reason: To ensure the appearance of the development is satisfactory and having due regard to policies CS11, CS16 and DM8 of the Havant Borough Local Plan (Core Strategy) 2011 which form part of the Local Development Framework and National Planning Policy Framework, March 2012.

- 5 No development hereby permitted shall commence until a specification of the materials to be used for the surfacing of all open parts of the site proposed to be hardsurfaced has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the implementation of all such hardsurfacing has been completed in full accordance with that specification.

Reason: In the interests of the amenities of the locality and having due regard to policies CS11, CS16, and DM8 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and National Planning Policy Framework, March 2012.

- 6 The proposed works must be carried out in accordance with the following documents and plans:

Arboricultural Method Statement

Tree Survey Schedule (BH1)

Tree Root Protection Area Schedule (BH2)

Tree Constraints Plan (BH3)

Pre Development Facilitation Tree Works Schedule (BH4)

Tree Protection Plan (BH5)

BS 5837:2005 Extracts (BH6)

Tree Survey Plan (BH.01)

prepared by Bernie Harverson, received by the Planning Authority on 28 May 2012.

Reason To ensure the trees are not adversely affected by the construction of the development and having regard to policies CS11 and DM8 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and National Planning Policy Framework, March 2012.

- 7 The development hereby permitted shall not be occupied until the boundary treatment shown on Drawing No.11256/RM/06 REV A, submitted to the Local Planning Authority on 28 May 2012 has been installed in full. At all times thereafter, all of that screening provision shall be retained in a wholly sound and effective condition.

Reason: To safeguard the amenities of the locality and occupiers of neighbouring property and having due regard to policy CS16 of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and National Planning Policy Framework, March 2012.

- 8 No development hereby permitted nor any related site clearance shall commence until a plan and particulars specifying the provision to be made within the site and/or on other land nearby for the parking (throughout the clearance and construction period) of construction vehicles and of other vehicles delivering/removing materials and other items to/from the development site have been submitted to and approved in writing by the Local Planning Authority. Thereafter, throughout such site clearance and implementation of the development hereby permitted, all such temporary parking provision shall be provided and used only as such.
Reason: To safeguard the amenities of the locality and in the interests of traffic safety and having due regard to policies CS16, DM10 and DM13 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework.
- 9 No development hereby permitted nor any related site clearance shall commence until plans and particulars specifying the provision to be made for a material storage compound within the site have been submitted to and approved in writing by the Local Planning Authority. The approved compound shall be available prior to the commencement of any building works and throughout the contract period and no materials shall be stored anywhere else on the site.
Reason: To safeguard the amenities of the locality and in the interests of traffic safety and having due regard to policies CS16 and DM10 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework.
- 10 Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order, no extension, building or structure permitted by Part 1, Classes A, D and E of Schedule 2 of the 1995 Order (as amended), shall be erected within the curtilage of the site without the prior written approval of the Local Planning Authority.
Reason: In the interests of residential and visual amenity and to prevent overdevelopment of the site and having due regard to policy DM13 of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and National Planning Policy Framework, March 2012.
- 11 The buildings shall not be occupied until space for the loading, unloading and parking of vehicles has been provided within the site, surfaced and marked out in accordance with the approved details as shown on Drawing No.11256/RM/05 REV H received on 26 July 2012. Such areas shall thereafter be retained and used solely for those purposes.
Reason: In the interests of highway safety and having due regard to policy DM13 of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and National Planning Policy Framework, March 2012.
- 12 The garages hereby permitted for flat units 6 - 15 shall be retained and kept available for the parking of cars at all times and shall not be converted to living accommodation without the prior written approval of the Local Planning Authority.
Reason: To ensure the retention of adequate on-site car parking and to discourage parking on the adjoining highway in the interests of highway safety and local amenity and having due regard to policy DM13 of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework and National Planning Policy Framework, March 2012.
- 13 The development hereby permitted shall not be commenced until an Interim Certificate of Compliance with the Code for Sustainable Homes has been submitted to and approved in writing by the Local Planning Authority. The Certificate shall demonstrate that the development will attain a minimum standard of Level 3 in accordance with the Code. The development shall be carried out only in accordance

with the details the subject of the Certificate.

Reason: To ensure that the development is carried out in accordance with Policy CS14 of the Havant Borough Core Strategy 2011 which form part of the Local Development Framework and National Planning Policy Framework, March 2012.

- 14 The development hereby permitted shall be carried out in accordance with the following approved plans:

Design and Access Statement

Site Plan/Block Plan as Existing - Drawing No.11256/RM/01 Rev A

Location Plan - Drawing No. 11256/RM/02 Rev A

Site Plan as Proposed - Drawing No.11256/RM/05 Rev H

Site Plan showing Boundary Treatment as Proposed - Drawing No.11256/RM/06 Rev A

Landscape Proposals - Drawing No.HAV/Hs/557.1

Planting Proposals for Malmesbury Lawn - Drawing No.HAV/Hs/557.1

House Type A - Indicative floor plans as Proposed - Drawing No.11256/RM/10 Rev E

House Type B - Indicative floor plans as Proposed - Drawing No.11256/RM/11 Rev E

House Type C - Indicative floor plans as Proposed - Drawing No.11256/RM/12 Rev D

House Type D - Indicative floor plans as Proposed - Drawing No.11256/RM/13 Rev B

House Type E - Indicative floor plans as Proposed - Drawing No.11256/RM/14 Rev B

Flats - Ground Floor plan as Proposed - Drawing No.11256/RM/15 Rev D

Flats - First Floor plan as Proposed - Drawing No.11256/RM/16 Rev G

Flats - Second Floor plan as Proposed - Drawing No.11256/RM/17 Rev F

Flats - Elevations as Proposed - Drawing No.11256/RM/20 Rev G

Houses: Units 16 - 25 Elevations as Proposed - Drawing No.11256/RM/21 Rev C

Houses: Units 1 - 25 Front and Rear Elevations and typical cross section as Proposed - Drawing No.11256/RM/22 Rev B

Indicative Site Sections East/West and Woolston Road Streetscene as Existing - Drawing No.11256/RM/30 Rev B

Indicative Site Sections West/East and Woolston Road Streetscene as Proposed - Drawing No.11256/RM/35 Rev D

Site Sections: Rear elevation of houses and flats and entrance area as Proposed - Drawing No.11256/RM/36 Rev B

Survey Drawing - Drawing No.13123:S1

Code for Sustainable Houses Ecological Assessment dated May 2012

Code for Sustainable Homes Pre-Assessment Estimate Report

Arboricultural Method Statement with associated appendices and schedules prepared by Bernie Harverson received 28 May 2012

Extended Phase 1 Habitat Survey

Landscape Management Plan & Specification

Transport Statement prepared by Paul Denyer dated 22 May 2012

Interpretive Report on Site Investigation prepared by PMC Construction & Development Services Limited dated March 2012

Reason: - To ensure provision of a satisfactory development.

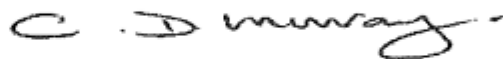
Other Important Information:

In reaching its decision the Council has had regard to policies of the Havant Borough Core Strategy 2011 which forms part of the Local Development Framework: and The National Planning Policy Framework, March 2012.

CS11	Protecting and Enhancing the Special Environment and Heritage of Havant Borough
CS14	Efficient Use of Resources
CS16	High Quality Design
CS17	Concentration and Distribution of Development within the Urban Areas
CS21	Developer Requirements
CS9	Housing
DM10	Pollution
DM13	Car and Cycle Parking on Residential Development
DM2	Protection of Existing Community Facilities and Shops
DM8	Conservation, Protection and Enhancement of Existing Natural Features

The Council considers, having regard to the objectives of these policies and The National Planning Policy Framework, March 2012, that the principle of the development is acceptable in this case, and also that the impact of the development is acceptable in terms of impact upon the streetscene, residential amenity, impact on trees and provision of affordable housing. Having taken into account the requirements of Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and all other material considerations, the Council has determined that planning permission should be granted for the development.

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6573.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to the Planning Inspectorate, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council. See www.planningportal.gov.uk/pcs.
- (3) Any failure to adhere to the details of the approved plans, and other documents or to comply with any conditions listed above may lead to enforcement action being taken by the Council. If you wish to depart from the approved details or conditions in any way you should contact the Planning and Development service at the Civic Offices or by telephoning 023 9244 6015.



Mr Chris Murray
Service Manager (Planning Development)

15 August 2012

