

DATED

8 July

2020

(1) THE COUNCIL OF THE BOROUGH OF HAVANT

and

(2) GREGORY COLLIER AND TINA COLLIER

and

(3) BARCLAYS BANK UK PLC

AGREEMENT

Under Section 106 Town and Country Planning Act 1990
relating to land at 1 Bacon Lane, Hayling Island, Hampshire, PO11 0DN

THIS AGREEMENT is made on

8 JULY

2020

BETWEEN:

1. **THE COUNCIL OF THE BOROUGH OF HAVANT** of Public Service Plaza Civic Centre Road Havant PO9 2AX (**Council**);
2. **GREGORY COLLIER AND TINA COLLIER** of 1 Bacon Lane, Hayling Island, Hampshire, PO11 0DN (**Owners**); and
3. **BARCLAYS BANK UK PLC** incorporated and registered in England and Wales with company number 9740322 whose registered office is at 1 Churchill Place, London, England, E14 5HP (**Mortgagee**).

BACKGROUND

- (A) For the purposes of the Act, the Council is the local planning authority for the area within which the Land is situated and is entitled to enforce the obligations contained in this Agreement.
- (B) The Owners are the freehold owners of the whole of the Land.
- (C) The Mortgagee is the proprietor of a registered charge dated 3 February 2006 referred to in entry number 3 of the charges register of title number HP179701 and has agreed to enter into this Agreement to give its consent to the terms of the Agreement.
- (D) The Application has been submitted to the Council by the Owners for permission to develop the Land in accordance with the Planning Permission.
- (E) The Owners and the Mortgagee enter into this Agreement in anticipation of the grant of Planning Permission being made subject to the Owners and Mortgagee entering into this Agreement which makes provision for regulating the Development and securing the matters referred to in this Agreement.
- (F) The Owners and Mortgagee 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 Owners and the Mortgagee 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:

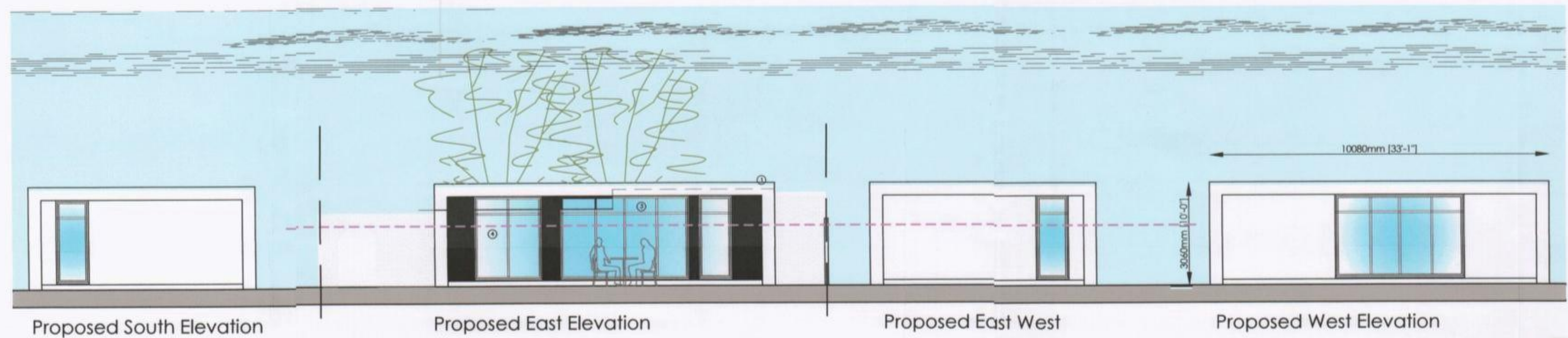
"the Act" means the Town and Country Planning Act 1990.

"the Application" means the application for planning permission submitted by the Owner to the Council for the Development and given the Council's reference number APP/19/00681.



Location Plan
SCALE 1:1250

01



Proposed Elevations
SCALE 1:100

03



Indicative CGI

Elevation Notes

- ① White aluminium exterior panels.
- ② Wood interior panels.
- ③ Sliding Aluminium double Glazing.
- ④ Anodized Aluminium blinds

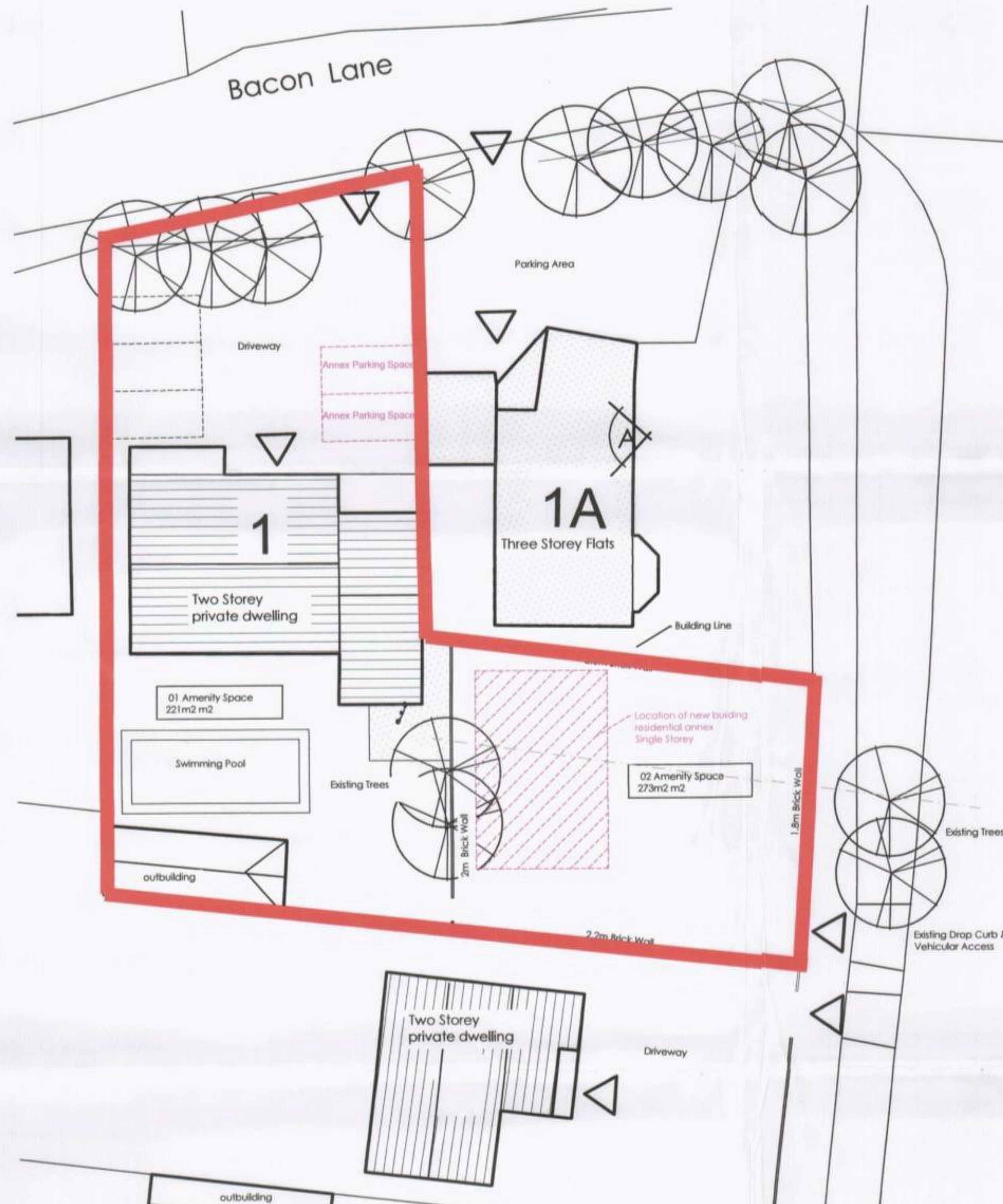
NB

(1) FIGURED DIMENSIONS MUST BE TAKEN IN PREFERENCE TO SCALED DIMENSIONS AND SITE DIMENSIONS ARE TO BE CHECKED BEFORE WORK IS PUT IN HAND.

(2) © THIS DRAWING IS THE COPYRIGHT OF MC ARCHITECTURAL DESIGN AND MUST NOT BE REPRODUCED OR USED WITHOUT THEIR WRITTEN PERMISSION.

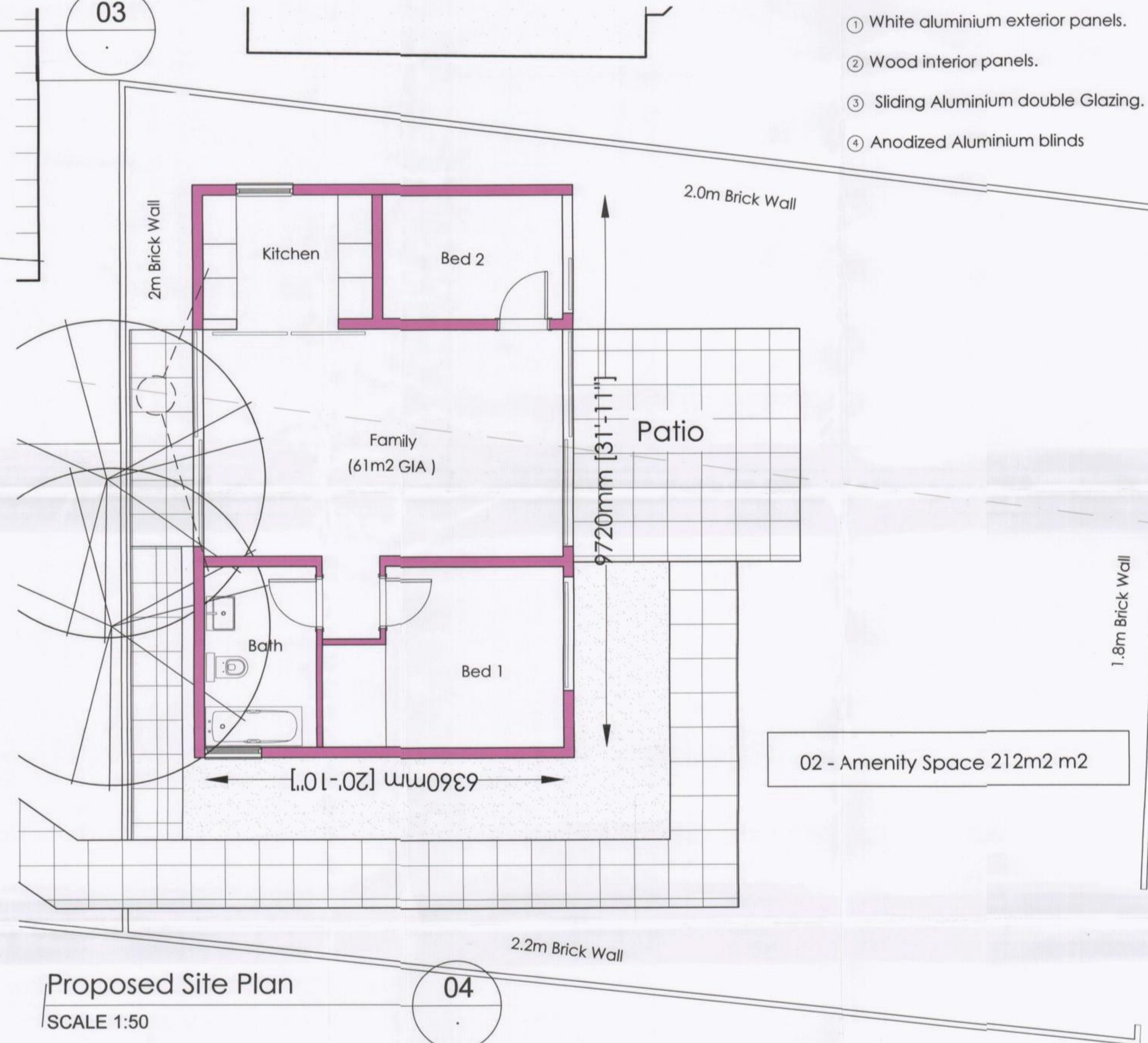
(3) IT IS THE SOLE RESPONSIBILITY OF THE BUILDING OWNER TO DRAW UP ALL LEGAL AGREEMENTS WITH ADJOINING PROPERTY OWNER TO COVER THE OVER HANGING OF ANY FASCIAS, GUTTERING, FOUNDATIONS OR ANY PART OF THE BUILDING. MC ARCHITECTURAL DESIGN CAN NOT BE HELD RESPONSIBLE IN ANY WAY WHATSOEVER FOR ANY LEGAL COSTS OR OTHER COSTS INCURRED THROUGH ANY NEIGHBOURHOOD DISPUTES.

(4) IT IS THE SOLE RESPONSIBILITY OF THE BUILDING OWNER TO COMPLY WITH THE PARTY WALL ACT 1996 MC ARCHITECTURAL DESIGN CAN NOT BE HELD RESPONSIBLE IN ANY WAY IF NON COMPLIANCE IS ADOPTED.



Existing Block Plan
SCALE 1:200

02



Proposed Site Plan
SCALE 1:50

04

Client:-
Mr G. Collier

Scale:-
1:100/200/1250 @A1

Drawn By:- **M@C** Checked By:-
Date:- **06-07-19** Date:-

Job No:- **1801** Drg No:- **01.01**

Title:-
New Annex

Project:-
**No 1 Bacon Road
Hayling Island
Hampshire**

Rev:-
P

Statement of use

The client is seeking permission to erect a single storey contemporary residential annex within the garden of the main dwelling.

A self-contained annex will be for the client youngest son's and his new family. This will enable them to live independently but have the security of being close to home for the support of their new grandson.

The Annex is proposed as a modular new building concept referred to as **"Smart Green House"** approximately 60m2 GIA. The modular pod offers sustainable living with low-maintenance design & materials. The SGH products have a high level of acoustic and thermal insulation thanks to its specially developed proprietary panel with a luxury interior finish.

The proposals for the residential annex is of good quality design and do not cause significant adverse impacts on the living conditions of adjoining occupiers. The Annex is within the garden of the main dwelling and will be in the same ownership. The existing amenity area calculates at 494m2 and the proposed unit at 60m2 leaving a good level of 434m2 amenity space. The existing property benefits from ample parking and the proposal include the additional parking for the occupants of the annex.

The annex would certainly preserve the character and appearance of the area and is considered to sit comfortably within the large plot.

02 - Amenity Space 212m2 m2

MICArchitectural design
Creativity - Imagination - Solutions
Residential Specialist

A 33 Sapphire Ridge Waterlooville Hampshire PO78NY
T 02392 98 47 88
M 07787 547 837
E info.mcadesign@gmail.com
W www.mca-design.co.uk

Signed for and on behalf of BARCLAYS
Donna Adamson
Barclays Mortgage Equity Release
P.O. Box 8575
Leicester LE18 9AW
Witness **EMILY MOSS**

"Commencement of Development"

means 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, and "Commence" and similar expressions shall be construed accordingly.

"Development"

means the construction of a single storey detached annex as shown on the Plan and labelled "proposed annex" on the Land and in accordance with the Planning Permission.

"Disposal"

means:

- (a) the creation of a legal term of years in respect of the Development or the Main Dwelling; and/or
- (b) the transfer of a freehold interest in respect of the Development or the Main Dwelling.

"Expert"

means an independent and suitable person holding appropriate professional qualifications and of at least 10 years' post qualification experience in the area of expertise relevant to the dispute and appointed in accordance with the provisions of clause 10, to determine a dispute.

"Land"

means the freehold property known as 1 Bacon Lane, Hayling Island, Hampshire, PO11 0DN and shown edged red on the Plan and registered at the Land Registry with title number HP179071.

"Main Dwelling"

means the main dwelling on the Land and more particularly shown on the Plan marked 1 and labelled "two storey private dwelling"

"Plan"

means the plan attached to this Agreement with drawing number 01.01. Revision P.

"Planning Permission"

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

"Working Day"

a day other than a Saturday, 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 Owners or Mortgagee 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 section 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 their statutory powers, functions or discretions in relation to the Land or otherwise.

4 COMMENCEMENT OF AGREEMENT

This Agreement shall have effect from the date hereof.

5 OWNERS COVENANTS

The Owners covenant with the Council to comply and perform their covenants, restrictions and obligations as set out within this Agreement.

6 MORTGAGEE'S CONSENT

- 6.1 The Mortgagee consents to the completion of this Agreement and declares that their interest in the Land shall be bound by the terms of this Agreement as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Land.
- 6.2 The Mortgagee shall not be personally liable for any breach of the obligations in this Agreement unless such breach is committed or continuing at a time when the Mortgagee is in possession of all or any part of the Land in which case the Mortgagee shall be bound by the obligations in this Agreement as if the Mortgagee had been the Owner at the time that it was executed.

7 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.

8 NOTICES

- 8.1 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.
- 8.2 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 shall be marked for the attention of the Head of Legal.
- 8.3 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:
- 8.3.1 if delivered by hand, at the time of delivery; or
 - 8.3.2 if sent by recorded delivery, at the time delivery was signed for.
- 8.4 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.
- 8.5 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

The Owners shall on or before completion of this Agreement pay to the Council its reasonable legal costs incurred in connection with the preparation, negotiation and completion of this Agreement.

10 DETERMINATION OF DISPUTES

- 10.1 Subject to clause 10.7, if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other not less than 10 Working Days written notice requiring the dispute to be determined under this clause 10. The notice shall propose an

appropriate Expert and specify the nature and substance of the dispute and the relief sought in relation to the dispute.

- 10.2 Any dispute over the appointment of the Expert appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society of England and Wales who will have the power, with the right to take such further advice as he may require, to determine the appropriate Expert and to arrange his nomination.

- 10.3 The Expert shall act as an independent expert and:

10.3.1 each party may make written representations within ten Working Days of his appointment and will copy the written representations to the other party;

10.3.2 each party shall have a further ten Working Days to make written comments on the other's representations and will copy the written comments to the other party;

10.3.3 the Expert shall be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;

10.3.4 the Expert shall not take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross examine each other;

10.3.5 the Expert shall have regard to all representations and evidence before him when making his decision, which shall be in writing, and shall give reasons for his decision; and

10.3.6 the Expert shall use all reasonable endeavours to publish his decision within 30 Working Days of his appointment.

- 10.4 Responsibility for the costs of referring a dispute to an Expert under this clause 10, including costs connected with the appointment of the Expert and the Expert's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Expert.

- 10.5 This clause 10 does not apply to disputes touching or concerning the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts.

- 10.6 The provisions of this clause 10 shall not affect the ability of the Borough Council, District Council or County Council to apply for and be granted declaratory relief injunction specific performance payment of any sum damages or any other means of enforcing this Agreement and consequential and interim orders and relief.

11 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

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 TERMINATION

- 12.1 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:

12.1.1 expires;

12.1.2 is revoked; or

12.1.3 is quashed following a successful legal challenge.

13 FUTURE PERMISSIONS

13.1 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.

13.2 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 or subsequent permission granted under such powers (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.

14 JURISDICTION

14.1 This Agreement shall be governed by and interpreted in accordance with the law of England and Wales.

14.2 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 Agreement has been duly executed as a deed and delivered on the date stated at the beginning of this document.

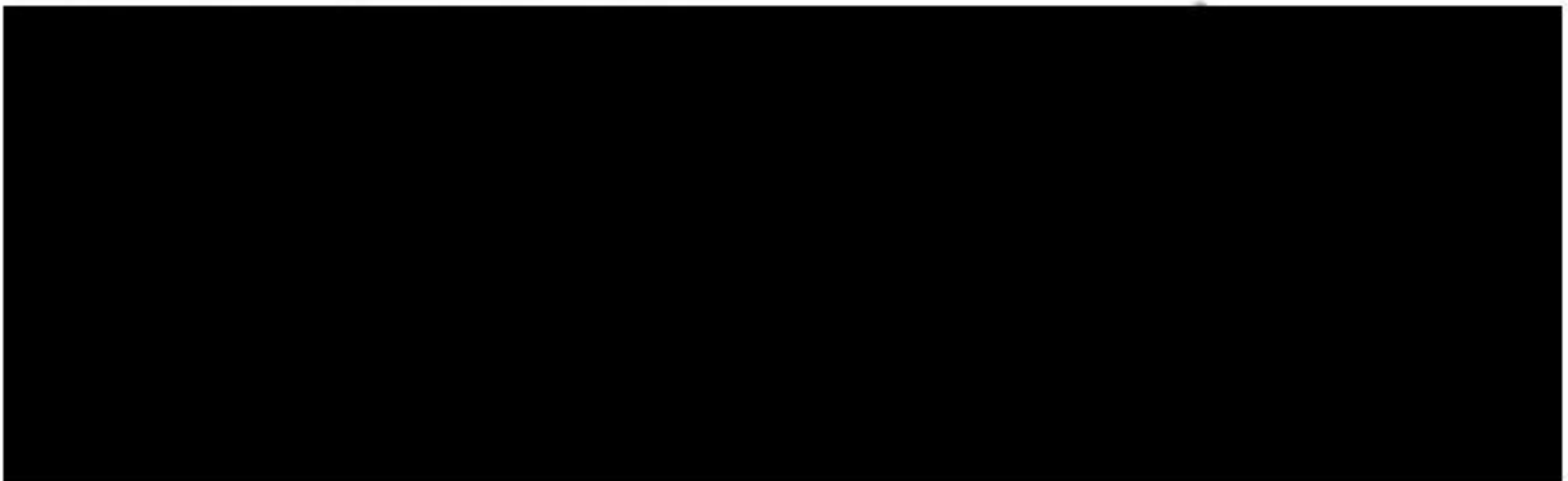
THE COMMON SEAL of
THE COUNCIL OF THE BOROUGH OF HAVANT
was hereunto affixed in the presence of:



.....


Authorised Signatory

Executed as a deed by GREGORY COLLIER



Executed as a deed by TINA COLLIER



Executed as a DEED by
attorney for and on behalf of
BARCLAYS BANK UK PLC

in the presence of:

Witness Signature:

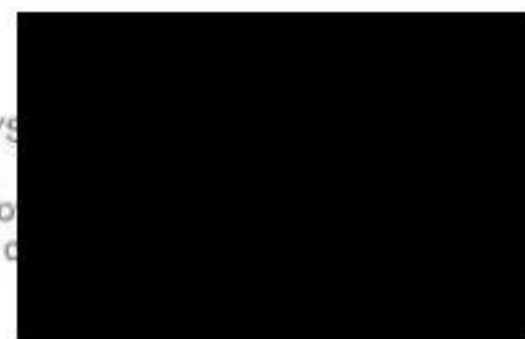
Witness Name:

Witness Address:

Signed for and on behalf of BARCLAYS
Donna Adamson
as duly appointed Attorney under a Po
dated 7/4/20 in the presence of
Witness

Emily Moss

Barclays Mortgages
P.O. Box 8575
Leicester LE18 9AW



SCHEDULE

Owners' covenants

The Owners covenant:

- 1.1 Not to use nor cause or permit or allow the use of the Development for any purpose other than as accommodation that is ancillary to the Main Dwelling.
- 1.2 Not to Dispose of the Development or any part of the Development or the Main Dwelling separately from each other.