

THIS DEED OF AGREEMENT is made the 14th day of May 2002
BETWEEN

- (1) THE OWNER
- (2) THE MORTGAGEE (if any)
- (3) THE COUNCIL.

1. In this Agreement:

1.1 "the Act" means the Town and Country Planning Act 1990 as amended

1.2 "Application" means the application for planning permission in respect of the Land given a reference number which is set out in paragraph Five of the Schedule which Application to carry out the Development has been made to the Council as appropriate local planning authority.

1.3 "the Council" means the Council of the Borough of Havant being the local planning authority by whom the within written Obligations are enforceable

1.4 "the Development" means the development described in paragraph Six of the Schedule

1.5 "the Land" means the land described at paragraph One of the Schedule and any buildings structures or erections at any time thereon

1.6 "the Mortgage" means the mortgage or charge (if any) described at paragraph Four of the Schedule and all of them if more than one

1.7 "the Mortgagee" means the mortgagee or chargee (if any) and in the case of more than one all of them described at paragraph Three of the Schedule

1.8 "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 Agreement) under the authority of those statutory provisions referred to in clause 5 of this Agreement and which are set out in paragraph Eight of the Schedule

1.9 "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 at paragraph Two of the Schedule being a person or persons identified in accordance with Section 106(9)(c) of the Act

1.10 "the 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

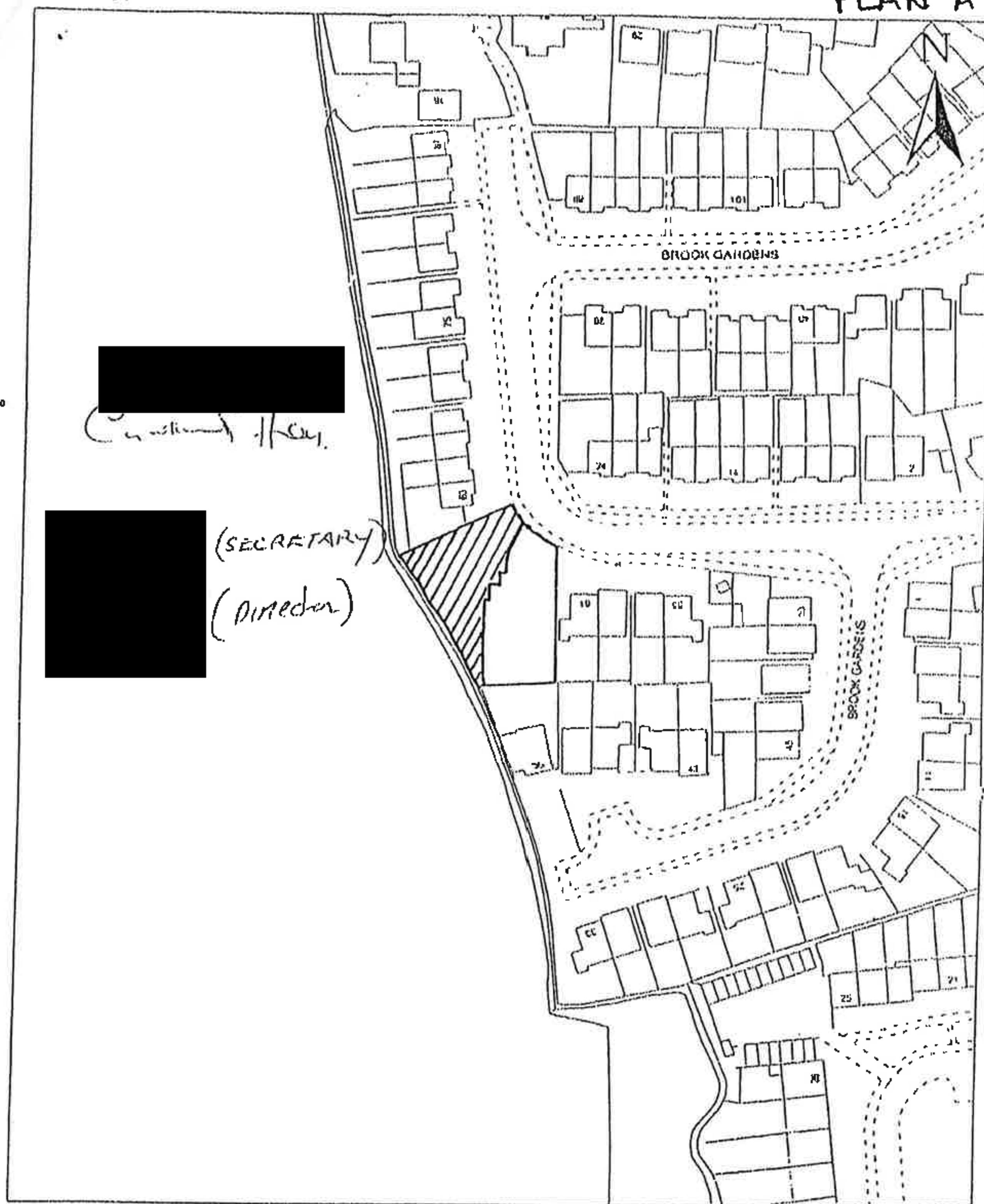
materially different from the Development (the determination of materiality being solely at the discretion of the Council)

- 1.11 "the Plan" means the plan attached to this Agreement
- 1.12 "the Schedule" means the Schedule to this Agreement being an integral part of this Agreement
- 1.13 "the Solicitor" means the solicitor giving the certificate at paragraph Seven of the Schedule
- 2.1 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 Obligations hereby imposed shall be enforceable both against the Owner and the Mortgagee (if any) and their respective successors the Owner and the Mortgagee (but only if the Mortgagee should take possession of the Land under its security)
HEREBY SEVERALLY COVENANT AND AGREE with the Council AS A
PLANNING OBLIGATION TO COMPLY FULLY WITH THE OBLIGATIONS
PROVIDED THAT IT IS HEREBY AGREED THAT the liabilities of those persons together identified as "the Owner" hereunder and their successors shall be only in respect of those Obligations created by this agreement (which may be all of them) but so that no liability shall attach to the Owner or the Mortgagee after they shall have parted with all interest in the Land
- 2.2 This instrument or document hereby expresses itself as executed as a Deed
3. The Owner (and each of them acting in concert in the case of more than one joint owner) has produced a certificate of the Solicitor upon which Certificate the Council relies that the Owner is immediately entitled to possession and occupation of a freehold estate in the Land subject only to the Mortgage (if any) no other person having an interest therein at law or (to the best of the Owner's knowledge and belief) in equity
4. In the case that the Land is subject to any mortgage the Mortgage (or in the case of more than one each of them) is described at item Four of the Schedule and the Owner (and each of them severally if more than one) state and the Solicitor certifies with the intent that the Council shall rely upon the statement and certificate respectively that no other mortgage or charge has been concluded which affects the Land other than the Mortgage and in the event that none is so described that there is no such mortgage or charge AND THAT no person other than the Owner or Mortgagee (if any is identified in the Schedule) has an interest either vested or contingent in the Land

473800

473900

PLAN 'A'



(Countryside) H.C.

(SECRETARY)
(DIRECTOR)

This copy has been produced specifically for Map Return Scheme purposes only. No further copies may be made.

D Kingsby, ARCS Dip.Tp MRTPL
Head of Planning &
Development.
Town Offices, 101 Centre Rd,
Havant, Hants PO9 2AN.
Havant, 01705, 474174.



Havant
Borough
Council

Title:

Section 106 Planning Obligation
Land between 61 & 63 Brook
Gardens Emsworth
99/63010/1
///// = Landscape amenity area

Drawn By:

Kirsty Oliver

Scale:

1:1250

Drawing No.:

PC44/77

Date:

11/01/00

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5. This Agreement is entered into pursuant to Section 111 of the Local Government Act 1972 and Section 106 of the Act and all other appropriate statutory authority with the intent that it shall bind the Owner and Mortgagee (if any) and be enforceable against them and the persons deriving title under them but not so as to render them liable after they have parted with all interest in the Land and shall be a planning obligation for the purposes of the Act
6. The restrictions requirements covenants agreement and obligations contained within this Agreement shall have effect indefinitely from the time the Permission is granted
7. In the event of any difference between the description of the Development in this Agreement 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
8. The obtaining under this Agreement 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 clause 1.10 shall be ineffective and not relied upon by any person unless in writing by the Council's Head of Planning and Development for the time being or such other officer who may be identified in writing by the Council for this purpose
9. In the event that any provision of this Agreement is held to be invalid or unenforceable the remaining provisions of this Agreement shall remain in full force and effect
10. The parties hereby agree and declare that no application for the modification or discharge of any obligation herein contained shall be made in respect of this Agreement
11. The Owner agrees to reimburse upon completion of this Deed the costs of the Council in settling and preparing the text of this Deed and in effecting its registration according to law
12. The underlined paragraph headings in the Schedule do not form part of this Agreement and shall not be construed as such

THE SCHEDULE

1. (See clause 1.5) the Land
Land between 61 and 63 Brook Gardens Emsworth in Hampshire shown edged with a heavy black line on plan A annexed hereto part of which includes an area of land to be landscaped as an amenity area ("the Amenity Area") shown hatched black on the said plan
2. (See clause 1.9) the Owner(s):
COOMBS PROPERTY DEVELOPMENTS LIMITED of Salterns House Salterns Lane Selsmore Hayling Island Hampshire
3. (See clause 1.7) the Mortgagee(s) (if any):
Southsea Investment Services Limited 10 South Street Havant Hampshire
4. (See clause 1.6) the Mortgage(s) (if any):
Two Legal Charges both dated 21st December 2001 a Legal Charge dated 20th February 2002 and a Legal Charge dated 22nd March 2002 all made between Barry John Searle (1) Southsea Investment Services Limited (2)
A Legal Charge dated 23rd April 2002 made between Coombs Property Developments Limited (1) Southsea Investment Services Limited (2)
5. (See clause 1.2) the Council's planning application reference number:
99/63010/1
6. (See clause 1.4) the Development
Construction of a pair of three-bedroom semi-detached dwellinghouses and garages with new access onto Brook Gardens and landscaped amenity area
7. (See clauses 1.13, 2 and 4) Solicitors' Certificate
Certificate of Title

As Solicitor for the Owner we hereby certify that on the date of this Agreement what is set out in clauses 3 and 4 and paragraph 2, 3 and 4 of the Schedule to this Agreement is true


Hughes way

8. See clause 1.8) the Obligations

1 Not to use or occupy or cause permit or suffer the use or occupation of the Development before the Amenity Area has been landscaped in accordance with a landscaping scheme to be agreed in writing between the Owner and the Council and thereafter not at any time to occupy or cause permit or suffer the occupation of that one of the said pair of semi detached dwelling houses identified as House 2 on Plan 'B' annexed hereto unless the Amenity Area is being fully and properly maintained in accordance with the obligations hereunder in respect of those three different parts of the Amenity Area as are shown annotated A, B and C on Plan 'B' annexed hereto as follows:

(a) Area 'A'

The grass shall be cut so as to ensure that its height does not exceed 75 mm (equating to approximately twelve times per annum) and kept clear from all items of litter and rubbish

(b) Area 'B'

(i) The post and rail fence around the perimeter of this area shall be maintained in good and substantial repair and condition to the satisfaction of the Development Control Manager for the time being of the Council ("the Development Control Manager") for a period of ten years following its erection in accordance with the requirements of the said landscaping scheme aforesaid

(ii) All weeds shall be cleared twice annually for the first two years following the completion of the planting and landscaping pursuant to the said landscaping scheme and annually thereafter

(iii) All rubbish and litter shall be cleared twice annually

(iv) All trees and shrubs shall be trimmed and appropriate replanting undertaken in accordance with details to be submitted by the Owner to the Council and approved by the Development Control Manager five years from completion of the planting and landscaping pursuant to the said landscaping scheme and every five years thereafter

(c) Area 'C'

(i) the requirements contained in (i) to (iv) of (b) above shall also be carried out in respect of Area C

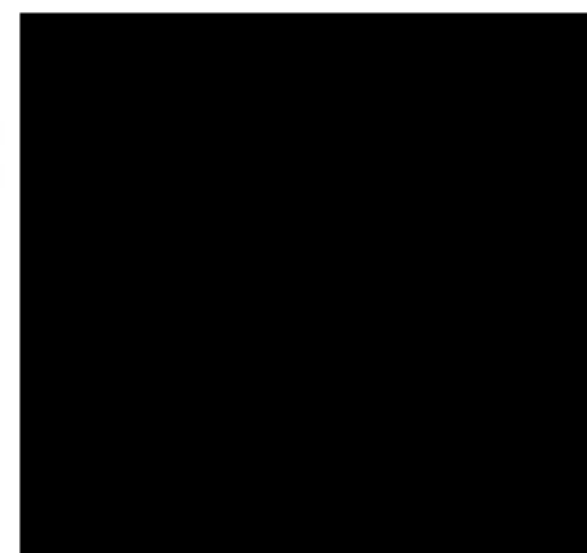
(ii) All stakes and ties attached to the standard/heavy standard

planting undertaken pursuant to the said landscaping scheme shall be checked and adjusted annually in accordance with good tree management for the first five years following the planting/landscaping undertaken pursuant to the said landscaping scheme. Thereafter all stakes and ties shall be removed from the trees and the Land

- 2 If at any time following satisfactory completion of the landscaping scheme referred to in paragraph 8.1 above the Owner of the semi-detached dwellinghouse identified as House 2 on plan B annexed hereto shall by default of the obligation to keep the Amenity Area fully and properly maintained in accordance with the obligations in paragraph 8.1 above the Council may enter upon and carry out all such maintenance as may be required to the Amenity Area according to the obligations set out in paragraph 8.1 and all costs in respect thereof (including administrative costs) shall be recoverable by the Council from the Owner for the time being of the said semi-detached dwellinghouse

IN WITNESS whereof the parties hereto have executed this instrument or document as a Deed

SIGNED and DELIVERED AS A)
DEED by COOMBS PROPERTY)
DEVELOPMENTS LIMITED)
acting by:)



Director

Secretary

Director/Secretary

THE COMMON SEAL of SOUTHSEA)
INVESTMENT SERVICES LTD was)
hereunto affixed in the presence of:)



(Signature)

Authorised Signatory

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



of Legal and Administration

Other Important Information:

- (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 Department for Transport Local Government and the Regions, 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.
- (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 Directorate of Environmental Services at the Civic Offices or by telephoning 023 9244 6581/2.
- (4) If it is proposed to fill, divert, obstruct or culvert a watercourse, the Applicant requires prior written approval of the Environment Agency under Section 23 of the Land Drainage Act 1991. The Agency has a presumption against the culverting of watercourses and would not normally consent such works except for access crossings of minimum width.
- (5) The applicant's attention is drawn to the wildlife and Countryside Act 1981 (as amended) which relates to protection of wildlife and its provisions should be considered before any part of the application site is cleared.
- (6) This permission was granted subject to a planning obligation agreement made under Section 106 of the Town & Country Planning Act 1990 dated 14/05/2002 which requires the provision of the landscaped amenity area and its maintenance thereafter.



Mrs J A Batchelor
Head of Development Control

30 May 2002