

Dated

17<sup>th</sup> June

2015

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## **PLANNING OBLIGATION AGREEMENT**

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Pursuant to Section 106  
of the Town & Country Planning Act 1990

relating to land at  
Briar Tor, Yelverton  
in the County of Devon

- (1) Dartmoor National Park Authority**
- (2) Karl Eugene Dennis Howell**
- (3) Devon County Council**
- (4) West Devon Borough Council**
- (5) Yelverton Community Projects**

Ref: 0675/14

Legal & Democratic Services  
Dartmoor National Park Authority  
Parke, Bovey Tracey  
Devon TQ13 9JQ

**THIS DEED** is made the

17<sup>th</sup>

day of

June

2015

**BETWEEN:**

- (1) **Dartmoor National Park Authority** of Parke, Bovey Tracey, Newton Abbot, Devon TQ13 9JQ ("the Authority")
- (2) **Karl Eugene Dennis Howell** of Hillsborough, Harrowbeer Lane, Yelverton Devon ("the Owner")
- (3) **Devon County Council** of County Hall, Topsham Road, Exeter, Devon ("the County Council")
- (4) **West Devon Borough Council** of Kilworthy Park Drake Road Tavistock Devon PL19 0BZ ("the Borough Council")
- (5) The charity trustees of **Yelverton Community Projects** also known as **Yelvercare** a registered charity in England and Wales (number 1071448) whose principal office is at Woodcroft Yelverton PL20 6HY ("YCP")

**WHEREAS:**

1. The Authority is the Local Planning Authority for the purposes of the Town & Country Planning Act 1990 for the area that includes the Land and by whom the Obligations imposed by this Deed shall be enforceable.
2. The Owner is the registered proprietor of the freehold interest in the Land with Title Absolute under Title Number DN367980.
3. The County Council is the local education authority and the highway authority for the area that includes the Land.
4. The Borough Council is the housing authority responsible for Affordable Housing in the area that includes the Land.
5. YCP is a registered charity that provides assistance to residents in Yelverton and on whose behalf the Playground is held by the Official Custodian for Charities.
6. The Owner proposes to:
  - i) Construct 28 houses and 4 flats on the Land, of which 7 houses and 4 flats will be affordable dwellings for occupation by local people in housing need pursuant to Schedule 1;
  - ii) Pay to the County Council a contribution of £16,007.50 (sixteen thousand and seven pounds and fifty pence) payable towards school transport costs to the County Council as local education authority associated with the Development pursuant to Schedule 2;

- iii) Create, manage and maintain an area of open space, pursuant to Schedule 3;
  - iv) Carry out works to install new footpaths as set out in Schedule 4;
  - v) Ensure the phased implementation of the Development, as set out in Schedule 5;
  - (vi) Pay to YCP a contribution of £14,040 (fourteen thousand and forty pounds) for the provision and maintenance of play equipment as set out in Schedule 6; and
  - (vii) Pay an additional commuted lump sum of £190,000 (one hundred and ninety thousand pounds) to the Borough Council towards the provision of affordable housing for local people in housing need if by the date that is three years after the date of the Planning Permission at least sixteen Dwellings are not substantially completed, as described in Schedule 7.
7. The Authority in exercise of its powers under the 1990 Act has resolved to grant Planning Permission for the Development, subject to satisfactory completion of this Deed.

## **THIS DEED NOW PROVIDES AS FOLLOWS:**

### **1 General Definitions**

In this Deed the following definitions shall apply:

<b>Affordable Dwelling</b>	each of the eleven (11) Dwellings to be erected on the Land pursuant to the Planning Permission and let by a Registered Provider of social housing for occupation by an Eligible Household, as more particularly identified shaded blue on drawing 1836-015 Rev A marked "Plan B" attached to this Deed
<b>Application</b>	the application for full planning permission registered by the Authority under reference 0675/14 to develop the Land by the erection of 32 Dwellings
<b>Commencement of Development</b>	the carrying out of a material operation on the Land within the meaning of Section 56(4) of the 1990 Act forming part of the Development, excepting any archaeological investigation, site clearance, ground investigation including site surveys, ecological mitigation, erection of temporary boundary fences and temporary hoardings and the construction of any temporary access.

<b>Dartmoor National Park</b>	means all that land designated as Dartmoor National Park under the Dartmoor National Park (Designation) Order 1951 as amended by the Dartmoor National Park (Designation) Variation Order 1990
<b>Development</b>	the development of the Land in accordance with the Application and the Planning Permission
<b>Dwelling</b>	Each of the 32 dwellings (whether a house flat or maisonette) to be constructed on the Land pursuant to the Planning Permission (and for the avoidance of doubt this shall include Affordable Dwellings)
<b>Interest Rate</b>	The Law Society Interest Rate calculated on a day to day basis
<b>Land</b>	land at Briar Tor, Yelverton in the county of Devon as shown edged red on the Site Plan, which land is registered at the Land Registry under title number DN367980
<b>Mortgagee</b>	any mortgagee or chargee, or any receiver appointed by a mortgagee or chargee
<b>Obligations</b>	the planning obligations described in the Schedules to this Deed
<b>Site Plan</b>	the drawing 1836-003 Rev P marked "Plan A" attached to this Deed
<b>Planning Permission</b>	such planning permission as may be granted by the Authority in respect of the Application
<b>1990 Act</b>	the Town & Country Planning Act 1990 (as amended)

## **2 Interpretation**

In this Deed, except where the context clearly requires otherwise:

- 2.1 The singular includes the plural, the masculine includes the feminine and vice versa.
- 2.2 References to clauses and schedules are to the clauses in and schedules to this Deed.
- 2.3 Any reference to any party having an interest in the Land shall include any successor in title to that party to the Land or any part of it or any assign deriving title from or under him.
- 2.4 Any reference to any party having a statutory function referred to in this Deed shall include any successor to that statutory function.

2.5 Reference to any Act or Statutory Instrument shall include any subsequent amendment or re-enactment of it.

2.6 Where an Obligation applies to more than one person, their liabilities shall be joint and several.

### **3 The Land shall be subject to the Obligations**

3.1 Subject to clause 4, the Owner covenants with the Authority and separately with the County Council and separately with the Borough Council to observe and perform the Obligations which shall bind the Land (and every part of it) as planning obligations under Section 106 of the 1990 Act.

3.2 The Obligations shall take effect upon the Commencement of Development, unless and except as otherwise provided in this Deed.

3.3 The Obligations shall be enforceable by the Authority and as regards Schedule 2, by the County Council and as regards Schedule 7, the Borough Council.

3.4 Save by any operation of clauses 2.3 or 2.4, none of the provisions of this Deed are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on a person who is not named as a party to this Deed.

3.5 The Obligations are Local Land Charges and shall be registered as such by the Authority.

3.6 No person shall be liable for any breach of an Obligation occurring after he has parted with all interest in the Land but without prejudice to liability for any subsisting breach of covenant or Obligation prior to parting with such interest.

### **4 Miscellaneous Provisions**

4.1 Nothing in this Deed is or amounts to or shall be construed as a planning permission within the meaning of Section 336 of the 1990 Act.

4.2 If the Planning Permission should expire before the Commencement of Development or shall at any time be revoked, this Deed shall forthwith determine and cease to have effect with the exception of clause 4.5 of this Deed.

4.3 Nothing in this Deed 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 Deed.

4.4 The County Court in whose district the Land is situated shall have full jurisdiction to hear and determine proceedings arising from or relating to this Deed or for the enforcement of all or any of its terms.

- 4.5 Prior to completion of this Deed, the Owner shall pay the reasonable legal fees of the Authority and the County Council and the Borough Council in respect of the preparation, execution and completion of this Deed.
- 4.6 Within two weeks of receiving a written request from the Authority, the Owner shall supply all such information as the Authority may reasonably require, to enable the Authority to monitor compliance with this Deed.
- 4.7 Save as lawfully permitted, nothing in this Deed shall prejudice or affect the Authority's rights, powers, duties and obligations in the exercise of its functions as a National Park Authority and Local Planning Authority, or the Borough Council's rights, powers, duties and obligations as the housing authority or the or the County Council's rights, powers, duties and obligations in the exercise of its functions as a County Council, highways authority and local education authority and the rights, powers, duties and obligations of the Authority and County Council under all public and private statutes, byelaws, orders and regulations may be as fully and effectively exercised in relation to the Land as if this Deed had not been executed by the Authority and the Borough Council and County Council.
- 4.8 If any clause, schedule or paragraph of this Deed is found to be invalid or unenforceable, such finding shall have no effect in relation to any other clause, schedule or paragraph of this Deed.

# SCHEDULE 1

## Affordable Housing

### Part 1

#### 1. Definitions of Words and Phrases used in this Schedule

In this Schedule, the definitions in the body of the Deed shall apply with the following additional definitions:

<b>Adjacent Rural Parish</b>	the parishes of Horrabridge, Meavy, Walkhampton & Whitchurch
<b>Affordable Rent</b>	a monthly or weekly rent that does not exceed 80% of the prevailing market rate (including service charges, where applicable) for a property providing equivalent accommodation within the locality
<b>Disposal</b>	a disposition within the meaning of section 27(2) of the Land Registration Act 2002 or the grant of any tenancy (including but not limited to an assured tenancy or a starter tenancy)
<b>Eligible Household</b>	<p>a person (together with their spouse or partner, children or dependants) shall be deemed to be an Eligible Household for the purposes of this Schedule and this Deed if that person:</p> <ul style="list-style-type: none"><li>(a) is in need of suitable permanent housing; <b>and</b></li><li>(b) is unable to afford market rents or the open market price for reasonably suitable permanent housing; <b>and</b></li><li>(c) either<ul style="list-style-type: none"><li>(i) is living in the Parish of Provision or an Adjacent Rural Parish, having done so for a continuous period of not less than five years; or</li><li>(ii) lived previously in the Parish of Provision or the Adjacent Rural Parish for a continuous period of not less than five years, but moved away within the past three years; or</li><li>(iii) has a strong local connection with the Parish of Provision or the Adjacent Rural Parish by reason of, for example, upbringing or employment</li></ul></li></ul>

and for the avoidance of doubt these categories (i) to (iii) are not set out in any preference or priority order.

- Initial Period (Rental)**
- (i) on the first rental of the Affordable Dwelling, the period of eight (8) weeks from the date the Affordable Dwelling is substantially completed or advertised for rent, whichever is the later;
  - (ii) on all subsequent rentals, the period of eight (8) weeks from the date the Affordable Dwelling is advertised for rent;

**Local Housing Authority** West Devon Borough Council

**Parish of Provision** the parish of Buckland Monachorum

**Registered Provider** means a Registered Provider of Social Housing as defined in section 80(2) of the Housing & Regeneration Act 2008

## **2. The Owners' Obligations**

The Owner covenants as follows:

- 2.1 To manage and deal with the Land at all times in accordance with the Obligations set out in this Schedule.
- 2.2 Not to permit or otherwise allow the commencement of the construction of any Dwelling on the Land above ground floor slab level until the Owner has entered into a binding contract for the purchase of all of the Affordable Dwellings by a Registered Provider
- 2.3 To transfer all of the Affordable Dwellings with full title guarantee to the Registered Provider free from any encumbrances with the benefit of full and free rights of access both pedestrian and vehicular over any relevant access road to be built to a standard capable of adoption by the County Council in its capacity as highway authority from the boundary of each Affordable Dwelling to any relevant adopted highway (and vice versa) and free and unrestricted rights for all services and conducting media and drains or sewers to be laid and constructed to each Affordable Dwelling to a standard capable of adoption by the relevant service providers and upon such further terms as may be agreed with the Registered Provider

## **3. Persons who may occupy an Affordable Dwelling**

- 3.1 Subject to the following sub-paragraphs, no person shall occupy or be permitted to occupy an Affordable Dwelling other than by way of letting as rented accommodation at an Affordable Rent.



3.2 No person shall occupy or be permitted to occupy an Affordable Dwelling unless that person is a member of an Eligible Household who is occupying the Affordable Dwelling as their principal or main residence.

3.3 For the avoidance of doubt, no person shall occupy, use or let an Affordable Dwelling as a holiday home, second home, or for use as short let holiday accommodation.

3.4 Nothing in this clause 3 shall prevent an Eligible Household from permitting any person to occupy a room in an Affordable Dwelling as a guest, or as a lodger.

#### **4 No Eligible Household can be Found**

4.1 If an Affordable Dwelling shall become vacant and upon the expiry of the Initial Period (Rental) no Eligible Household has signed a tenancy agreement for the Affordable Dwelling, the definition of Eligible Household shall be extended to include a person who is in housing need; and either

- (a) is living in Dartmoor National Park; or
- (b) has a local connection with Dartmoor National Park by, for example:
  - (i) having a main source of employment or work in that area; or
  - (ii) having previously lived in that area for at least five years and now wishing to return to live in that area; or
  - (iii) is owed a statutory duty to be re-housed by the Local Housing Authority

and any such person shall be conclusively presumed for the purposes of this Deed to be a Eligible Household for the duration of their occupation of the Affordable Dwelling.

4.2 If upon the expiry of a period of thirty (30) days after the expiry of the Initial Period (Rental), a tenancy agreement has not been concluded, the definition of Eligible Household shall be further extended to include any person to whom the Affordable Dwelling is rented at an Affordable Rent and any such person shall be conclusively presumed for the purposes of this Deed to be a Eligible Household for the duration of their occupation of the Affordable Dwelling.

#### **5 Disposal and dealings in the Land restricted**

Subject to paragraph 6 (below) no estate or interest in an Affordable Dwelling (other than a tenancy, a mortgage or a charge) shall be Disposed of except:

- (a) to a Registered Provider; or
- (b) pursuant to any statutory authority; or
- (c) pursuant to any Order of the Court

## **6 Mortgagee in Possession**

- 6.1 If a Mortgagee shall come into possession of an Affordable Dwelling, the provisions of this paragraph shall apply.
- 6.2 The Mortgagee shall give notice to the Authority and the Local Housing Authority that it is in possession of the Affordable Dwelling and wishes to Dispose of the Affordable Dwelling
- 6.3 For a period of three months from the date of such written notice, no Disposal shall be made except to a Registered Provider.
- 6.4 The purchase price payable by a Registered Provider to the Mortgagee for an Affordable Dwelling shall not exceed the higher of:
  - (a) the amount required to redeem the borrowing secured on the Affordable Dwelling, together with all interest and charges accrued thereon, up to a maximum amount being the unrestricted open market value of the Affordable Dwelling; or
  - (b) the restricted market value of the Affordable Dwelling, taking due account of the Obligations
- 6.5 If on the expiry of the period of three months specified in 6.3 above no Disposal has been made to a Registered Provider, provided that the conditions in clause 6.3 below are met the Mortgagee shall be free to Dispose of the Affordable Dwelling to any person PROVIDED that any Disposal under this clause 6 is conditional upon the purchaser entering into a binding legal covenant with the Authority to secure that all owners and occupiers of the Affordable Dwelling will be bound to observe the restrictions and perform the Obligations contained in this Deed.

## Part 2 - Deed of Covenant

THIS DEED OF COVENANT is made the ... day of ..... 20....

### BETWEEN :

- (1) Dartmoor National Park Authority of Parke, Bovey Tracey, Newton Abbot, Devon TQ13 9JQ ("the Authority"); and
- (2) ..... ("the New Owner")

### WHEREAS :

- (i) By a Deed pursuant to Section 106 of the Town and Country Planning Act 1990 dated the ..... day of ..... 20.... ("the Agreement") and made between the Authority and ..... ("the Initial Owner") in relation to land at ..... ("the Land") the Initial Owner covenanted to observe the restrictions and perform the obligations contained within the Agreement and more particularly defined in the Schedules to the Agreement.
- (ii) The Initial Owner further covenanted within the Agreement not to transfer or dispose of any estate or interest in the Land without ensuring that all persons acquiring that estate or interest concurrently enter into a Deed of Covenant with the Authority in the terms of this Deed of Covenant.
- (iii) For the purposes of this Deed of Covenant unless stated otherwise all words shall have the same meaning as defined in the Agreement.

### NOW THIS DEED PROVIDES AS FOLLOWS :

- 1 The New Owner covenants with the Authority in all respects to observe and perform all covenants and other obligations contained in the Agreement and more particularly defined in the Schedules to the Agreement.
- 2 The New Owner further covenants with the Authority in all respects to observe and perform all covenants and other obligations contained in this Deed of Covenant.
- 3 The New Owner hereby gives irrevocable consent for the Authority to apply to the Chief Land Registrar for the entry of a Restriction embodying the terms of this Deed on the Proprietorship Register against the title to the Land in the following form:

*No disposition of the registered estate (other than a charge) by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be completed by registration without a certificate signed on behalf of the Dartmoor national Park Authority of Parke, Bovey Tracey, Devon TQ13 9JQ by its Chief Executive (National Park Officer, Head of Legal Services or Solicitor, that the provisions of the Planning Obligation Agreement dated [ ] in respect of the Land have been complied with, or that they do not apply to the disposition.*

IN WITNESS of which the parties hereto have executed this document as a Deed the day and year first before written.

# SCHEDULE 2

## Education Contribution

### 1. Definitions

In this Schedule, the definitions in the body of the Deed shall apply with the following additional definition:

**Education Contribution:** the total sum of £16,007.50 (sixteen thousand and seven pounds and fifty pence) in respect of school transport costs required as a result of the Development

### 2. The Owner's Obligations

The Owner covenants with the County Council to pay the Education Contribution to the County Council before the first residential occupation of any Dwelling on the Land **PROVIDED THAT** unless the Education Contribution is paid on or before the date of this Deed, at the date that the Education Contribution is paid it shall be increased in accordance with the following formula:-

$$C = \frac{E \times A}{B}$$

where: C is the contribution to be paid

E is the amount of the Education Contribution

A is the value of the BCIS All In Tender Price Index ("the BCIS Index") last published before the said contribution is paid; and

B is the value of the BCIS Index last published before the date hereof

### 3. The County Council's Obligations

The County Council covenants:

- (a) To apply the Education Contribution towards school transport costs required as a result of the Development and for no other purpose;
- (b) That in the event that the Education Contribution is not spent or committed to be spent by the County Council within 10 years from the date of actual receipt of it by the County Council, the County Council shall repay the balance which is unspent or uncommitted to the Owner together with interest on that unspent or uncommitted balance at one per cent below the base rate from time to time of Barclays Bank plc.

### 4. Interest

In the event of the Owner failing to settle any account or accounts that may be properly and duly rendered to the Owner by the County Council, within fourteen days of despatch to the Owner, the sum due shall accrue interest at the Interest Rate.

# SCHEDULE 3

## Open Space

### 1 Definitions

In this Schedule, the definitions in the body of this Deed shall apply with the following additional definition:

**Open Space:** that part of the Land shown edged and hatched green on drawing 1836-015 Rev.A marked "Plan B" attached to this Deed

### 2. The Obligations

The Owner covenants as follows:

- 2.1 Within three (3) months of the Commencement of the Development, to submit to the Authority for approval in writing a scheme for the enclosure, planting and landscaping of the Open Space.
- 2.2 Not to sell, transfer or otherwise dispose of or allow occupation of more than 30 Dwellings on the Land, until such time as the Open Space has been laid out, landscaped and planted in accordance with the approved scheme
- 2.3 To permit the Open Space to be open to the general public and used as communal open space for the benefit of all occupiers for the time being of the Development
- 2.4 To make good and sufficient arrangements to ensure the proper care and future maintenance of the Open Space and in particular that:
  - (i) any grass shall be kept cut to a reasonable length; and
  - (ii) any weeds, brambles, nettles and the like shall be kept under control; and
  - (iii) any litter or rubbish shall be removed regularly
  - (iv) any surface water drainage infrastructure under the Open Space shall be properly maintained and kept in a good condition, so as to avoid flooding or excessive run offso that the Open Space shall not become overgrown, untidy or a detriment to residential amenity.
- 2.5 That the Open Space shall remain permanently open without any buildings or structures of any kind being erected or permitted thereon

## **SCHEDULE 4**

### **Footpath Works**

**1. Definitions**

In this Schedule, the definitions in the body of the Deed shall apply with the following additional definitions:

**Footpaths:** the new footpaths to be constructed on the land as shown marked in red and annotated "A", "B" & "C" on the plan marked "Plan C" attached to this Deed

**Footpath Works:** works to construct the Footpaths

**2. The Owner's Obligations**

The Owner covenants to substantially complete the Footpath Works at his own expense to the reasonable satisfaction of the Authority, not later than the date of the substantial completion of the 16<sup>th</sup> Dwelling on the Land

## **SCHEDULE 5**

### **Phasing of Development**

**1. Definitions**

In this Schedule, the definitions in the body of the Deed and in Schedule 1 shall apply.

**2. The Owner's Obligations**

The Owner covenants not to sell, transfer or otherwise Dispose of or allow occupation of more than 10 Dwellings which are not Affordable Dwellings, until such time as all 11 Affordable Dwellings are substantially completed.

# SCHEDULE 6

## Playground Contribution

### 1. Definitions

In this Schedule, the definitions in the body of the Deed shall apply with the following additional definitions:

**Playground Contribution:** the total sum of £14,040 (fourteen thousand and forty pounds) in respect of the provision and maintenance of new play equipment on the Playground

**Playground:** land at Leg O Mutton, Yelverton in the county of Devon as shown edged red on the plan marked "Plan D" attached to this Deed

### 2. The Owner's Obligations

The Owner covenants to pay the Playground Contribution to YCP before the first residential occupation of any Dwelling on the Land

### 3. YCP's Obligations

YCP covenants:

- (a) To apply the Playground Contribution towards the provision and maintenance of new play equipment on the Playground and for no other purpose; and
- (b) That in the event that the Playground Contribution is not spent or committed in full by YCP within 10 years from the date of actual receipt of it by YCP, YCP shall repay the balance which is unspent or uncommitted to the Owner.

### 4. Interest

In the event of the Owner failing to settle any account or accounts that may be properly and duly rendered to the Owner within fourteen days of despatch to the Owner the sum due shall accrue interest at the Interest Rate.

# SCHEDULE 7

## Delay & future viability

1. In this Schedule, the definitions in the body of the Deed and in the preceding Schedules shall apply with the following additional definitions:

**Affordable Housing SPD:** the supplementary planning document on Affordable Housing adopted by the Authority on 4 April 2014

**Commuted Sum:** the sum of £190,000 (one hundred and ninety thousand pounds)

**Review Assessment:** the independent review of a Viability Assessment, commissioned by the Authority

**Third Anniversary:** the date that is three calendar years from the date of the Planning Permission

**Viability Assessment:** a detailed written appraisal of the financial viability of the Development carried out by a suitable professional

2. If on the Third Anniversary at least sixteen Dwellings are not substantially completed, in the reasonable opinion of the Authority, the Owner shall be liable to pay the Commuted Sum to the Borough Council.
3. Upon receipt of written notification from the Authority under clause 2 above, that in its opinion at least sixteen Dwellings were not substantially completed on or before the Third Anniversary, the Owner shall within 30 days of that notification either:
  - (a) submit to the Authority in writing the evidence and representations upon which it relies to show that at least sixteen Dwellings were substantially completed and in a condition suitable for residential occupation on the Third Anniversary; OR
  - (b) pay to the Borough Council the Commuted Sum; OR
  - (c) submit to the Authority a Viability Assessment in accordance with the Affordable Housing SPD together with all such other information as may be reasonably required by the Authority for the purpose of testing the accuracy of the Viability Appraisal AND pay on demand the Authority's reasonable costs incurred in appointing an independent person to carry out a Review Assessment of the Commuted Sum.

### Decision on Substantial Completion

4. If pursuant to clause 3(a) above the Owner disputes the Authority's opinion that at least sixteen Dwellings were not substantially completed on the Third Anniversary, the Authority shall, at the Owner's sole expense, commission an independent person with suitable qualifications and experience to determine whether, on the balance of probabilities, at least sixteen Dwellings were substantially completed on the Third Anniversary.



5. If the independent person determines that at least sixteen Dwellings were substantially completed on the Third Anniversary, no Commuted Sum shall be payable and the Authority shall refund to the Owner the costs of that independent person's report.
6. If the independent person determines that at least sixteen Dwellings were not substantially completed on the Third Anniversary, the Owner shall pay the Commuted Sum to the Borough Council within 30 days of that determination and pay the full costs of the independent person's report.

#### **Procedure for Review Assessment**

7. If pursuant to clause 3(c) above the Owner accepts that at least sixteen Dwellings were not substantially completed on the Third Anniversary, but seeks a review of the Commuted Sum, the Owner shall submit a Viability Assessment within 30 days of the written notification from the Authority under clause 2 above.
8. Upon receipt of the Owner's Viability Assessment, the Authority shall, at the Owner's sole expense, commission an independent person with suitable qualifications and experience to carry out a Review Assessment to determine whether all or part of the Commuted Sum should be paid.
9. The independent person shall determine that either:
  - (a) the Commuted Sum should be paid in full, together with the basis for that decision; or
  - (b) a revised (lesser) Commuted Sum should be paid ("Revised Commuted Sum"), together with the basis of calculation of that lesser sum; or
  - (c) no Commuted Sum should be paid
10. For the avoidance of doubt, a Review Assessment shall not be capable of increasing the Commuted Sum.
11. If the independent person fails to determine the Review Assessment by the date that is 90 days from the date of the submission of the Viability Assessment, no Commuted Sum shall be payable.
12. If the independent person determines that the Commuted Sum or a Revised Commuted Sum should be paid, the Owner shall pay that sum to the Borough Council within 30 days of the date of that determination and shall pay the full costs of the independent person's report.
13. If the independent person determines that no Commuted Sum or Revised Commuted Sum should be paid, the Authority shall refund to the Owner the costs of that independent person's report within 30 days of the date of that determination.
14. Any failure after the Third Anniversary by the Owner to perform any of the obligations or observe any of the time limits in this Schedule, shall have the effect of rendering the Commuted Sum immediately payable in full to the Borough Council.

## **Covenants by the Borough Council**

### **15. The Borough Council covenants:**

- (a) to apply the Commuted Sum or Revised Commuted Sum (as appropriate) towards the provision of affordable housing and for no other purpose in the following priority order:
  - (i) within the parish of Buckland Monachorum;
  - (ii) within the parishes of Horrabridge, Meavy, Walkhampton and Whitchurch;
  - (iii) within Dartmoor National Park;
  - (iv) within the area of West Devon Borough Council
- (b) that in the event that the Commuted Sum or Revised Commuted Sum is not spent in full or committed to be spent by the Borough Council within 10 years from the date of receipt, the Borough Council shall repay the balance which is unspent or uncommitted to the Owner together with interest on that unspent or uncommitted balance at one per cent below the base rate from time to time of Barclays Bank plc.

### **Interest**

- 16.** In the event of the Owner failing to settle any account or accounts that may be properly and duly rendered to the Owner by the Borough Council within fourteen days of despatch to the Owner the sum due shall accrue interest at the Interest Rate.

**IN WITNESS** of which the parties hereto have executed this Deed the day and year first before written

The Common Seal of )  
Devon County Council )  
was affixed in execution )  
as a Deed in the presence of )  
**A Duly Authorised Officer**



Document no. 46205

The Common Seal of )  
West Devon Borough )  
Council was affixed )  
in execution as a Deed )  
in the presence of )

*Sue Wrightingale*

SOLICITOR  
Document no.

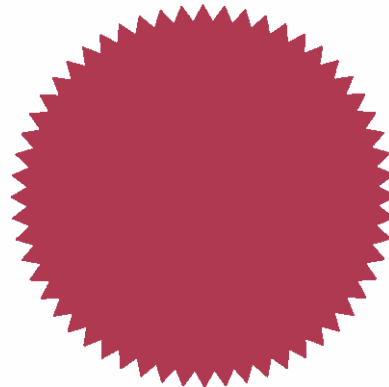


The Common Seal of )  
Dartmoor National Park )  
Authority was affixed )  
in execution as a Deed )  
in the presence of : )

*K. Bishop*

Chief Executive (National Park Officer)

Document no. 615



Signed as a deed by **Karl Eugene Dennis Howell** .....

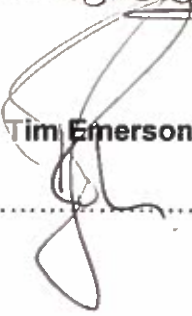


in the presence of: .....



Susan Coles  
The Grand, 25 Elliott Street, Plymouth  
PL1 2BA.

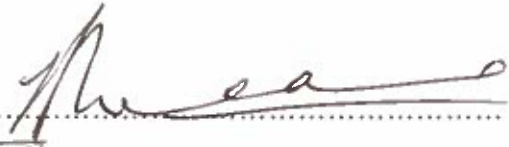
Signed as a deed by **Tim Emerson** .....



T.E. Emerson

in the presence of: .....

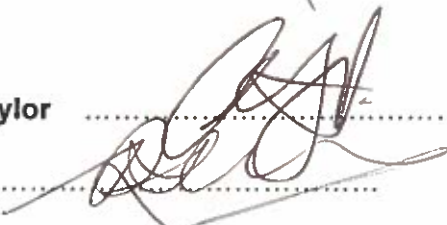
Signed as a deed by **Brian Medhurst** .....



in the presence of: .....

Vivienne Thompson

Signed as a deed by **Chris Taylor** .....



in the presence of: .....

Signed as a deed by **Captain Don Read** .....



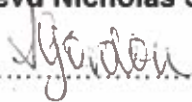
in the presence of: .....



Signed as a deed by **Revd Nicholas Stephen Shutt** .....



in the presence of: .....



Signed as a deed by **Margaret Garton** .....

M.P. Garton (w)

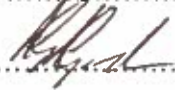
in the presence of: .....



Signed as a deed by **Kirsty Winter** .....

K.W. Winter

in the presence of: .....



Signed as a deed by **Victoria Hutchins** .....



in the presence of: .....









# PLAN A3 B

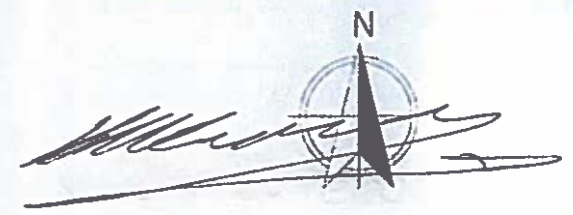
0675/14

<input checked="" type="checkbox"/> Q M <input checked="" type="checkbox"/> S V ISO 9001 REGISTERED FIRM	Date 25th July 2014	Approved
	Drawing Status APPROVAL	

Notes

KEY

<span style="display:inline-block; width:15px; height:15px; background-color:yellow; border:1px solid black;"></span>	Open Market
<span style="display:inline-block; width:15px; height:15px; background-color:blue; border:1px solid black;"></span>	Affordable



*Handwritten signature*

24 NOV 2014



A	25.07.14	Issue location to match Vendor Analysis Plot 6 from A3/possible	TM
By			
Drawing File			
Drawing Status	PLANNING		

**mitchell** architect

Stoke Damerel Business Centre, 5 Church Street, Stoke, Plymouth, PL3 4 D  
 T 01752 606007 F 01752 606078 info@mitchellarchitect.co.uk www.mitchellarchitect.co.uk

Scale 1:500 @ A3

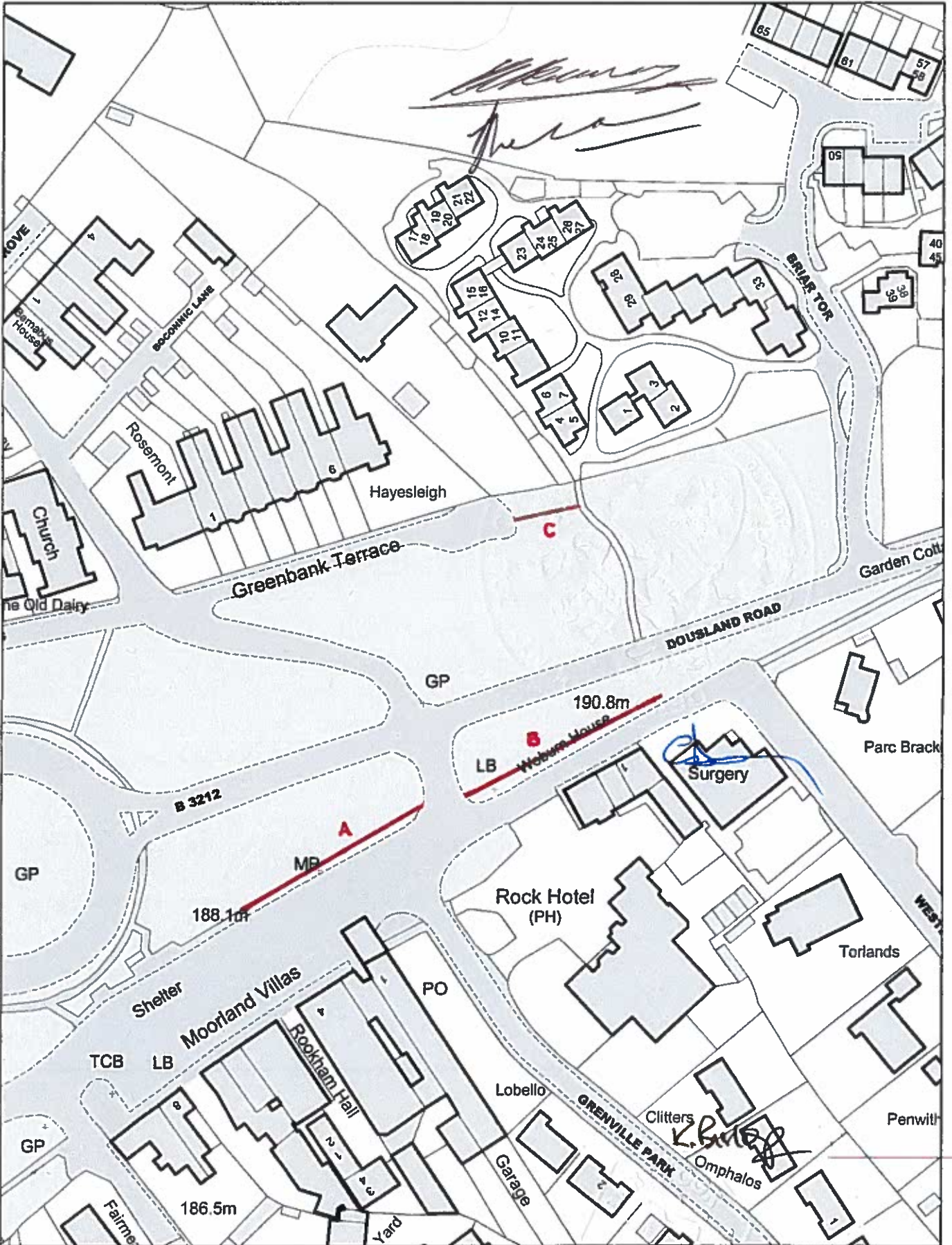
Project Briar Tor *K. G. G. G.*



Client TRAND UK Ltd.

Title Tenure Mix

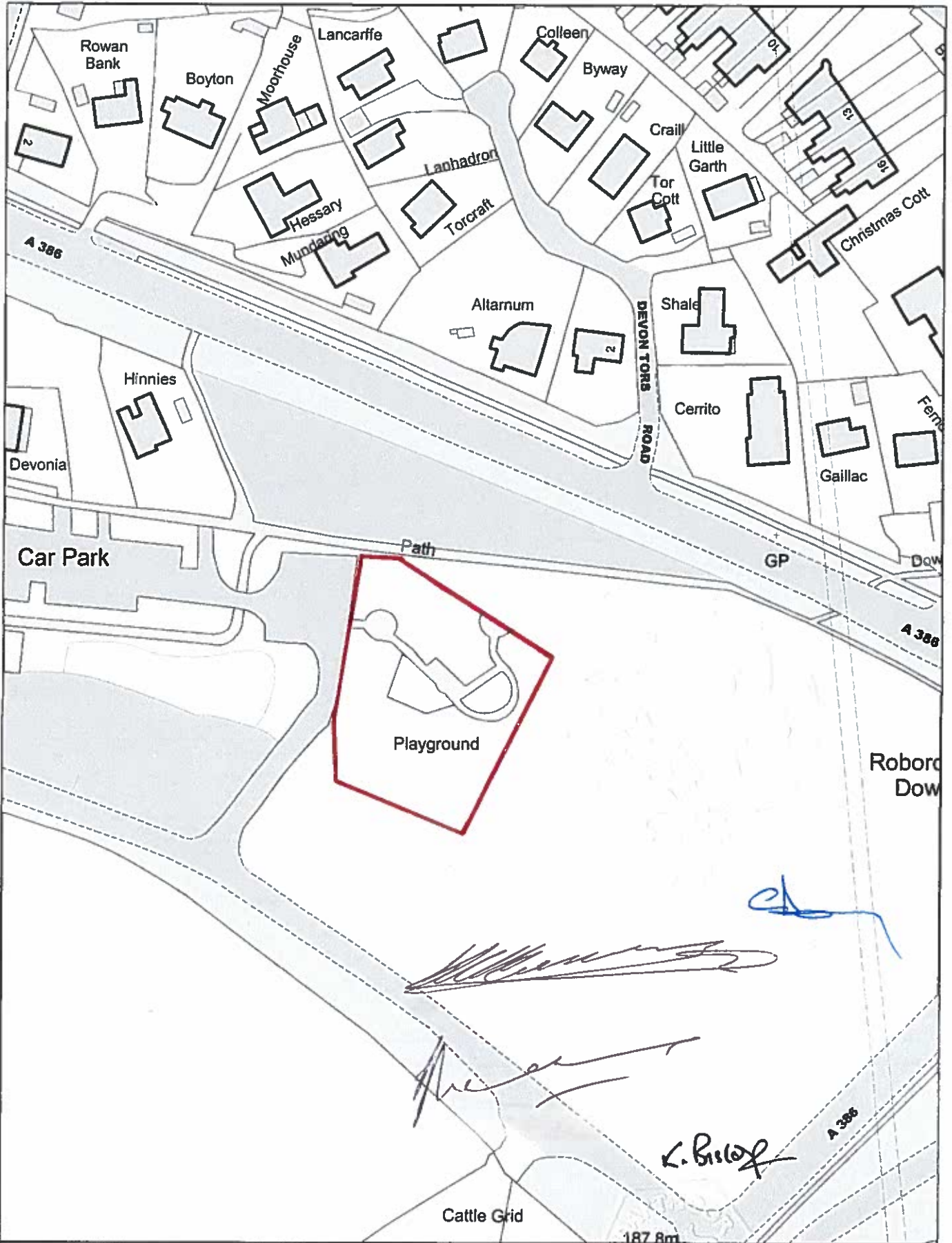
Drawn	DS	Drawing No.	Revision.
Checked		1836 - 015	A






 <p>Dartmoor National Park Authority Parke Bovey Tracey Newton Abbot TQ13 9JQ</p>	<p>Proposed Pathways s106 agreement</p>	<p>Scale: 1:1289 Date: 26 Feb 2015 CentreX 252216.343 CentreY 67916.682</p>
	<p>Author: C Hart</p> <p>© Crown copyright and database rights 2013 Ordnance Survey 100024842</p>	





 <p>Dartmoor National Park Authority Parke Bovey Tracey Newton Abbot TQ13 9JQ</p>	<p>Leg O'Mutton Play Park s106 Agreement</p>	<p>Scale: 1:1289 Date: 18 Feb 2015 CentreX 251921.132 CentreY 67891.893</p>
	<p>Author: C Hart</p>	<p>© Crown copyright and database rights 2013 Ordnance Survey 100024842</p>