

title DN624307 and subject to the Legal Charges (as defined hereinafter and set out in the said title) but otherwise free from encumbrances (save for that land which is within the public highway)

4. By an option agreement dated 20 June 2013 and by an option agreement dated 31 October 2012 (as varied by a deed of variation dated 14 October 2013)- the Developer has an option to purchase the Land (save for that land which is within the public highway)
5. The Council is the Local Planning Authority for that part of the Borough of West Devon not contained within the Dartmoor National Park and within which the Land is situate and by whom the obligations set out herein are enforceable and the County is the highway authority and education authority and county planning authority for the purposes of the Act and by whom the obligations set out herein are enforceable.
6. The Mortgagee is the proprietor of the Legal Charges and hereby consents to the Owner entering into the Agreement and consents to the Land being bound by the Agreement
7. The Owner and the Developer wish to develop the Land for residential, employment and medical centre uses to include the provision of Affordable Dwellings and has submitted the Application to the Council
8. The Application provides for 61 Dwellings on the Land and the Owner has agreed that 24 of those Dwellings shall be Affordable Dwellings
9. The Owner and the Developer are willing to enter into this planning obligation to mitigate the effects of the Development on the locality in which the Land is situated.
10. The Owner and the Developer request that this planning obligation be taken into account as a material consideration in determining the Application for the satisfactory development of the Land.

DEFINITIONS

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

1990 Act	The Town & Country Planning Act 1990 (as amended)
Affordable Dwellings	40% of the Dwellings forming the Development being the Dwellings comprising Affordable Rent Dwellings and Discounted Market Affordable Housing described in the Affordable Housing Table and as set out in the First Schedule to be constructed on the Land in

accordance with the Planning Permission and Building Regulations and "Affordable Dwelling" shall mean any one of them.

Affordable Housing Table

The table annexed to the First Schedule setting out the location, design, size, and tenure of the Affordable Dwellings.

Affordable Rent Dwelling

An Affordable Dwelling built to the Homes and Communities Agency's Design and Quality Standards which may only be occupied in accordance with the Affordable Rent Tenancy

Affordable Rent Tenancy

A Tenancy granted by a local authority or an RP or the Owner to households who are eligible for social rented housing subject to rent controls (not subject to the national rent regime of the HCA) that require it to be offered to eligible households at a rent of up to 80 per cent of the local market rents (including service charges) or such other affordable rent tenure that may replace it that level not to exceed the local housing allowance applicable to the area including (for the avoidance of doubt) service charges

Allotment Preparation Works

the provision of the Allotments Site with a water supply to a single tap on the boundary of the Allotments and provision of the hard surfaced parking spaces as shown on Plan 1 ready for future preparation by the users of those Allotments for the cultivation of fruit and vegetables but shall not include any requirement to improve the soil or drainage of the Allotments.

Allotments

Those 9 allotments to be constructed on the Allotments Site

Allotments Site

That part of the Site coloured purple on Plan 1 for Allotments or an alternative land use. Any alternative land use to be subject to a separate planning application to be considered by the Council.

Application

The hybrid planning application relating to the Development comprising a full planning application for 61 residential dwellings with associated roads, footways, parking, landscaping, drainage open space and allotments; and an outline planning application (all matters reserved) for 0.876 ha of land for employment use and medical centre, such application having been submitted by the Developer to the Council and registered under reference

01037/2013 on 21st October 2013.

Approved Details	Any details approved by the Council in respect of submissions of details requiring Council approval pursuant to the Planning Permission
Approved Registered Provider	A provider of affordable housing (or as many such providers as the Owner may propose) operating in the area of the Council and authorised to grant Affordable Rent Tenancies which has sufficient resources to acquire the Affordable Dwellings or any of them in accordance with this Agreement
Area Local Connection	<p>A connection with the Primary Area or the Borough (as appropriate) and demonstrated by that person or a member of their Household to the reasonable satisfaction of the Council as follows:</p> <ul style="list-style-type: none">(i) The person has lived in the parish/town for 3 (three) out of the 5 (five) years preceding the allocation;(ii) The person has immediately prior to the allocation lived in the parish/town for 6 (six) out of the 12 (twelve) months preceding the allocation;(iii) Immediate family have lived in the Primary Area or the Borough (as appropriate) themselves for 5 years preceding the allocation. For the avoidance of doubt the Local Government Association guidelines define immediate family as parents, siblings and non-dependent children;(iv) The person has permanent employment in the Primary Area or the Borough with a minimum contract of 16 (sixteen) hours per week which has continued for the 6 (six months preceding the allocation without a break in employment of more than 3 (three) months such employment to include self employment. This should not include employment of a casual nature;(v) Any periods of (ordinary) residence of the person in the Primary Area or the Borough.
Available for Occupation	In respect of any Affordable Dwelling means that the Dwelling and its curtilage is complete and connected to services and fit for

occupation

Borough

The administrative area of the Council

Building Regulations

The regulations under the Building Act 1984 in effect at the date of the service of an initial notice governing the minimum standards required for the construction of new Dwellings which for the avoidance of doubt shall include compliance with Approved Document L1A 2010 Edition.

Children's Play Areas Contribution

The sum of £52,080.00 payable towards the improvement and maintenance of the children's play areas in North Tawton such payment to be made in accordance with the eighth Schedule

Commencement of Development

The carrying out of any material operation as defined by section 56(4) of the 1990 Act in connection with the Development other than (for the purposes of this Deed and for no other purpose):

- (a) operations consisting of site clearance;
- (b) demolition work;
- (c) archaeological investigations;
- (d) investigations for the purpose of assessing ground conditions;
- (e) remedial work in respect of any contamination or other adverse ground conditions;
- (f) erection of any temporary means of enclosure;
- (g) the temporary display of site notices or advertisements; and

"Commence" "Commencement of Development" and "Commence Development" shall be construed accordingly

Common Housing Register

in the case of Affordable Rent Dwellings the register or list of applicants maintained by "Devon Home Choice" and in the case of the Intermediate Affordable Dwellings the register or list of applicants maintained by South West Homes or other Regional Homebuy Agent or any such Body replacing or amending the same

Community Facilities Contribution

The sum of £27,750.00 comprised of £750 per Open Market Dwelling payable in respect of community facilities in North

	Tawton such payment to be made in accordance with the Tenth Schedule
Contribution	Any of the De Bathe Cross Signage Works Contribution, Education Contribution, the Public Art Contribution, the Refuse and Recycling Contribution, the Children's Play Areas Contribution, the Playing Fields Contribution, the Street Cleansing Contribution, Traffic Regulation Order Contribution, or the Community Facilities Contribution
Council, County, Developer Owner and Mortgagee	Respectively includes their successors in title and assigns and in the case of the Council and County includes any statutory successors
De Bathe Cross Signage Works Contribution	A contribution towards the cost of providing or improving signage at De Bathe Cross in the sum of £1,000.00 (one thousand pounds) payable in accordance with the 14 th Schedule
Development	Development of the Land by the erection of 61 dwellings with associated roads, sewers, landscaping, parking and garages, play space, allotments and employment use and medical centre development in accordance with the Planning Permission.
Discounted Market Affordable Dwelling	Affordable Housing disposed of and occupied in accordance with Paragraph 11 of Schedule 1
Discounted Sale or lease	A freehold sale or lease granted for a period of not less than 99 years where the premium on first sale does not exceed the Initial Sale Price and which contains a restriction preventing any future sale prices exceeding 80% of the Open Market Value of the Affordable Dwelling (assuming that the dwelling could be sold without any restriction as to price or occupier) at the time of the future sale
Dwelling	a building or part of a building designed for residential occupation by a single household forming part of the Development being either an Affordable Dwelling or an Open Market Dwelling.
Education Contribution	A contribution which shall comprise the Primary Education Contribution and the Secondary Education Contribution.

Employment Site Means pursuant to the approval of Reserved Matters that part of the Site (or part of a building) coloured turquoise on Plan 1 for the construction of 0.33 ha of employment floorspace for Employment Use or an alternative land use. Any alternative land use to be subject to a separate planning application to be considered by the Council.

Employment Site Works means the preparation of a serviced Employment Site to a standard suitable for development and the construction of an access to a highway or proposed highway up to the boundary of the Site

Employment Use use for any purpose which provides employment uses falling within Use Class B1 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provisions equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order with or without modification) or is sui generis (including any part of a Live Work Unit set aside for employment use) and which creates one or more jobs (whether full or part time and whether on an employed self-employed or other basis).

Enhanced Standards any standard to which the Owner is required to construct an Affordable Dwelling in excess of the requirements for compliance with Code for Sustainable Homes Level 3 above that required by Building Regulations

Enhancement Cost any additional costs incurred by the Owner in constructing any Affordable Dwelling to Enhanced Standards

the Expert means a person having appropriate qualifications and local knowledge and experience in the matters in dispute as agreed by the Relevant Parties or failing agreement such person as is nominated by the President for the time being of the Royal Institution of Chartered Surveyors on the application of the Relevant Parties

Head of Housing The officer holding that post or such post as may subsequently be designated to carry out the Council's housing functions

Homebuy Agent	The body responsible for determining eligibility for Discounted Market Affordable Dwellings
Homes and Communities Agency	The body of that name for the time being having or being responsible for providing financial assistance to bodies including Registered Providers of Social Housing for the purpose of improving the supply and quality of housing in England now conferred on such body under the Housing and Regeneration Act 2008 or any legislation replacing or amending the same
Housing Need	being homeless or threatened with homelessness or living in accommodation which in the opinion of the Council is insecure or unsuitable and/or being unable to purchase or rent reasonably suitable accommodation in the open market for property in the locality where the affordable dwelling is situated taking into account the person's income and capital and other financial circumstances. Accommodation may be unsuitable on the grounds of cost, overcrowding, unfitness, lack of basic amenities or because of a person's infirmity, physical or mental disability or specific social or care needs
Initial Sale Price	The sum which represents 80% of the Open Market Value of the Affordable Dwelling (assuming that the dwelling could be sold without any restriction as to price or occupier) at the time of the sale
Interest	means 4% above the Barclays Bank base rate calculated on a day to day basis from time to time in force
Land	Land at Batheway Fields, North Tawton, Devon shown edged red on Plan 1.
Legal Charges	The two legal charges dated 10 th April 2008 and 15 th June 2012 in favour of the Mortgagee in respect of that part of the Land held under title number DN624307 and that part of the Land held under title number DN620740 is also affected by the legal charge dated 10 th April 2008 in favour of the Mortgagee
Management Body	A body established by the Owner or the Developer for the purpose

	of managing and maintaining the Allotments Site, Open Space Land, SUDS, unadopted roadways (except where these are included within a plot transfer) and the Employment Site and Medical Centre Site in the event of those Sites not being transferred to new ownership
Maximum Weekly Rent	a rent in accordance with the Regulator's Tenancy Standard
Medical Centre Site	means pursuant to the approval of Reserved Matters that part of Phase 2 (or part of a building) coloured red on plan 1 for Medical Centre Use or an alternative land use. Any alternative land use to be subject to a separate planning application to be considered by the Council.
Medical Centre Site Works	means the preparation of the serviced Medical Centre Site to a standard suitable for development and the construction of an access to a highway or proposed highway up to the boundary of the Site
Medical Centre Use	Use for any purpose which provides health centre facilities falling within Use Class D1 or a pharmacy within Use Class A1 of the Town and Country Planning (use Classes) Order 1987 (as amended) or in any provisions equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order with or without modification
Monitoring Fee	The sum of £2000 which the Developer shall pay to the Council as a contribution to the costs the Council incurs in monitoring the Owners compliance with this Deed.
NHS England	Means NHS England of PO Box 16738 Redditch B97 9PT or any statutory successor body
Nomination Programme	A programme for nominations as set out in the Second Schedule
North Tawton	The civil Parish of North Tawton
Occupation and Occupied	use of any Dwelling or part of a Dwelling for residential occupation and 'Occupy' shall be construed accordingly

Open Market Dwellings	means the housing to be constructed on the Land other than the Affordable Dwellings
Open Market Value	Means the price which 100% of the freehold or long leasehold interest in the relevant Affordable Dwelling would fetch if sold on the open market by a willing vendor and disregarding the obligation and restrictions contained in this Deed
Open Space Land	means the land shown coloured pink on Plan 2
Open Space Works	the works to be carried out on the Open Space Land for the construction and equipping of the Open Space Land in accordance with the provisions of paragraph 1 of The Third Schedule to this Agreement
Owner	The First Owner and the Second Owner together and including their successors in title to the Land and any person deriving title through them or under them including an owner who is a Registered Provider other than the owner of an individual dwelling or a statutory undertaker and for the avoidance of doubt includes the Management Company
PCT Contribution	Means the sum of £16,418.07 (sixteen thousand four hundred and eighteen pounds and seven pence) payable in accordance with the Sixteenth Schedule and required towards the provision of health facilities for North Tawton as a result of the Development
Phase 1	That part of the land shown coloured blue on plan 3
Phase 2	That part of the land shown coloured green on plan 3
Plan 1, 2,3	The plans appended to this Agreement and respectively titled:- Plan 1: The Affordable Dwellings and the Phase 1 and Phase 2 Employment Sites and the Land Plan 2 Open Space Plan 3 Phasing
Planning Permission	the planning permission granted by the Council pursuant to the Application and the expression Planning Permission shall include

THE FIRST SCHEDULE
AFFORDABLE DWELLINGS

1. The Affordable Dwellings shall comprise 24 Dwellings as described in the Affordable Housing Table.

The 19 dwellings described as "Affordable Rent" in column 7 of that table shall subject to paragraph 8 below be Affordable Rent Dwellings and those 5 dwellings described as "Discounted Market Affordable Dwellings" shall be Discounted Market Affordable Dwellings.

2. The Owner shall upon the completion of each Phase of the Development and at all times subsequently dispose of the Discounted Market Affordable Dwellings as Discounted Market Affordable Dwellings and shall let the Affordable Rent Dwellings under Affordable Rent Tenancies

3. The Owner shall not (other than with the written approval of the Council):-

3.1. occupy more than 20 Open Market Dwellings on the Land until the Affordable Dwellings in Phase 1 have been issued with an NHBC CML notice confirming the Affordable Dwellings are fit for occupation nor

(i) occupy more than 30 of the Open Market Dwellings on the Land until all the Affordable Dwellings in Phase 2 have been issued with an NHBC CML notice confirming the Affordable Dwellings are fit for occupation and in relation to all the Affordable Dwellings in each phase shall either have

3.2. entered into a contract to sell the Affordable Rent Dwellings in that Phase to an Approved Registered Provider for a consideration that does not exceed the Registered Provider Sale Price

OR if paragraph 8 below applies

3.3. made the Affordable Dwellings in that Phase Available for Occupation by Qualifying Persons .

4. The Affordable Dwellings shall be occupied (or permitted to be occupied) in perpetuity by the Owner ONLY as Affordable Dwellings and in accordance with this Schedule and shall not be let or disposed of other than to a Qualifying Person.

5. The Owner shall procure that an Approved Registered Provider ("the Provider") shall enter into a Nomination Agreement with the Council to allow the Council or Provider to nominate from the Common Housing Register Qualifying Persons for up to 100%

of the Affordable Dwellings provided that the Nomination Agreement shall provide that the Council or Provider will first nominate Qualifying Persons with an Area Local Connection.

6. The Owner shall prior to the **commencement of the construction** of the Affordable Dwellings in each Phase offer the Affordable Rent Dwellings and may offer the Discounted Market Affordable Dwellings in that Phase for sale to one or more Approved Registered Providers at the Registered Provider Sale Price and at the same time shall provide the Council's Head of Housing with a copy of the offer letter(s)
7. If within 3 months of the offer of the Affordable Dwellings to a Registered Provider or Registered Providers under paragraph 6 above no Registered Provider has contracted to purchase all of the Affordable Rent Dwellings and enter into a Nomination Agreement the Owner shall prior to the **completion of the construction** of the Affordable Dwellings in each Phase offer (either before or after the commencement of construction of that Phase) the Affordable Rent Dwellings and may offer the Discounted Market Affordable Dwellings in that Phase for sale to one or more Approved Registered Providers at the Registered Provider Sale Price and at the same time shall provide the Council's Head of Housing with a copy of the offer letter(s).
8. If at any time after six months of the offer of the Affordable Rent Dwellings in each Phase to at least three Approved Registered Providers no Approved Registered Provider has confirmed in writing to the Owner that it is able and willing to purchase the Affordable Rent Dwellings and enter into a Nomination Agreement or if an Approved Registered Provider who has accepted an offer fails to exchange contracts for the purchase within four months of the offer then paragraph 9 below shall apply to the provision of those dwellings as Discounted Market Affordable Dwellings.