

**LOCATION:** LAND SOUTH OF BEACH HOUSE, WOODLANDS LANE, WINDLESHAM, GU20 6AP

**PROPOSAL:** Outline application for the erection of 15 affordable dwellings (six for affordable rent and nine for affordable shared ownership) with access off Broadley Green. Access only with all other matters reserved.

**TYPE:** Outline

**APPLICANT:** Lavignac Securities

**OFFICER:** Ross Cahalane

**RECOMMENDATION: GRANT subject to a legal agreement and conditions**

**1.0 SUMMARY**

- 1.1 This application seeks outline planning permission for the erection of 15 affordable dwellings (six for affordable rent and nine for affordable shared ownership) with access off Broadley Green. Outline approval is only being sought in respect of establishing the principle of the proposed development and the means of access, with all other matters in respect of appearance, landscaping, layout and scale being reserved.
- 1.2 Policy DM5 of the Surrey Heath Core Strategy and Development Management Policies (CSDMP) permits 100% affordable housing within the Green Belt provided that there is a local need. The proposal is presented as a rural exception site, with the proposed tenure mix of affordable rented and shared ownership affordable dwellings to meet the definition of affordable housing as outlined in the National Planning Policy Framework. There is a proven local need for this mix of affordable housing adjoining the settlement of Windlesham. On this basis, the proposal is not inappropriate development in the Green Belt.
- 1.3 The proposed site access is identical to the extant approval (17/0526). There is also no objection to the indicative layout. The proposal is therefore recommended for approval subject to conditions and a legal agreement to control the implementation and occupation of the affordable housing.

**2.0 SITE DESCRIPTION**

- 2.1 The application site comprises of approximately 0.9 ha area of open undeveloped land to the south of Woodlands Lane and its junction with Broadley Green. The land currently contains a mobile field shelter used to keep one horse on site, with part of the application site being the rear garden of Anfield House, Woodlands Lane. The site has an even gradient and falls 1m from north to south and is virtually level from west to east. It is enclosed by wooden access gates with closeboard fencing at either side utilising an existing dropped kerb off Broadley Green, and post and rail fencing along the other site boundaries.

- 2.2 The site is almost entirely within the Green Belt but adjacent to the defined settlement of Windlesham, with the proposed vehicular access junction with Broadley Green located within the garden curtilage of 'Anfield House', Woodlands Lane - which is within the settlement boundary. The adjacent settlement area along Broadley Green and Woodlands Lane comprises a number of semi-detached and detached two storey and bungalow properties of varying age and architectural style, with open land to the south, east and west.

### 3.0 RELEVANT PLANNING HISTORY

- 3.1 13/0092 Change of Use of Anfield House, Woodlands Lane from (C3) dwelling house to mixed use with Veterinary Practice (Sui Generis) at ground floor and residential (C3) above following the erection of a single storey side and rear extension and raising of the roof to provide accommodation in the roof space.  
*Granted 10 May 2013 (not implemented – permission now expired)*
- 3.2 16/1048 Outline application for the erection of 15 dwellings comprising houses for the over 55s (Class C3) and houses for the Windlesham Trust Community Home (Class Cc) with access off Broadley Green. Access only with all other matters reserved.  
Application withdrawn
- 3.3 17/0526 Outline Application for the erection of 15 affordable dwellings (all social rented) with access off Broadley Green. Access only with all other matters reserved.  
Decision: Granted (not implemented)
- 3.4 17/0533 Outline application for the erection of 15 affordable dwellings (six managed by the Windlesham Community Homes Trust and nine intermediate affordable dwellings) with access off Broadley Green. Access only with all other matters reserved.  
Decision: Refused for the following summarised reasons:  
*1. Failure to demonstrate a proven local need within the Parish of Windlesham for the proposed intermediate housing, for sale below market levels but above social rent costs, to people with a local connection to the area. As such the proposal represents inappropriate and harmful development in the Green Belt. By association, the proposal would cause significant harm to the openness of the Green Belt and the purposes for including land within it.*  
*2. The absence of a payment or a completed legal agreement for a SAMM payment.*

## **4.0 THE PROPOSAL**

- 4.1 Outline planning permission is sought for the erection of 15 affordable dwellings (six for affordable rent and nine for affordable shared ownership). Outline approval is only being sought in respect of establishing the principle of the proposed development and the means of access, with all other matters in respect of appearance, landscaping, layout and scale being reserved.
- 4.2 The current proposal is identical to the previous outline proposals (See Section 3 above) in terms of its access and indicative layout, scale and amount. The site plan indicates that the dwellings would all be detached and single storey, consisting of nine two bedrooms units and six three bed units, all with their own private rear amenity areas and some with their own off-street parking areas. An area of public amenity space would appear to be provided within the centre of the site, with a further area of open land along the west of the entrance road adjacent to No. 1 Broadley Green. Vehicular access would be off Broadley Green, between No. 1 and the rear of Anfield House, where an existing field gate leads to the application site.
- 4.3 In support of the application the following documents have also been submitted:
- Design and Access Statement
  - Report – “The Requirement for Shared Ownership Housing in Windlesham Parish”
  - Access Statement
  - Sustainability and Energy Statement
  - Tree Report
  - Landscape Appraisal
  - Ecology Report and Bat Survey
  - Flood Risk and Drainage Review.

## **5.0 CONSULTATION RESPONSES**

- 5.1 County Highways Authority No objections raised on safety, capacity or policy grounds, subject to conditions *[See Section 7.4 below]*.
- 5.2 Surrey Wildlife Trust No objection, subject to conditions *[See Section 7.8]*.
- 5.3 Windlesham Parish Council No objections raised.

## 6.0 REPRESENTATION

6.1 At the time of preparation of this report, 21 objections have been received from 14 neighbouring properties, raising the following concerns:

### Green Belt [*Officer comment: See Sections 7.4 and 7.6*]

- Application is same as previous submission which was refused
- Land not allocated in Windlesham Plan
- No evidence of need for affordable housing
- Why is application submitted for intermediate housing, when approval for affordable housing has already been granted?
- Proposal is not for affordable homes
- Inappropriate development in the Green Belt
- Applicant has failed to demonstrate very special circumstances
- All other alternatives options should be exhausted
- Windlesham has already more than met its quota for new houses – with no increase in facilities such as public transport, school places, parking or medical facilities – doctor's surgery has closed.

### Character [*Officer comment: Refer to Section 7.5*]

- Harm to rural character of the area.

### Highway safety [*Officer comment: Refer to Section 7.6*]

- Vehicular access is neither safe or practical– Broadley Green is narrow with extensive on-street parking
- Vehicular access from Broadley Green also unsafe - due to bend in road and no footpath on one side of Woodlands Lane
- Traffic increase – area already congested - Windlesham already used as a rat-run
- Public transport provision is insufficient
- Existing parking provision is at a premium –insufficient provision along Broadley Green and for Woodlands Lane bungalows
- Impact on use of disabled parking bay near to access
- Parked vehicles already cause problems for residents
- HGVs turning, reversing and loading – safety concern on narrow road – damage to cars

- Where will contractors park vehicles?
- Timetable within Access Statement not correct.

Amenity *[Officer comment: See Section 7.7]*

- Increased pollution and noise from road traffic and HGVs
- Occupiers will be subject to M3 pollution.

Ecology *[Officer comment: Refer to Section 7.8]*

- Negative impact on local environment, natural habitats and wildlife – Important habitat for many species - including legally protected species, birds and hedgehogs (Amazing Grace campaign).

Other matters

- Proposal is commercial enterprise for financial gain

*[Officer comment: Refer to Section 7.4 for the relevant in-principle considerations]*

- Application site includes land in third party ownership

*[Officer comment: The applicant has completed Certificate B on the application form to confirm that third party owners have been notified in respect of the proposed access.]*

## **7.0 PLANNING CONSIDERATION**

- 7.1 This outline application, seeks to establish the principle of the proposed development and the means of access only. Policies CP1, CP2, CP5, CP6, CP12, CP14, DM5 and DM11 within the Surrey Heath Core Strategy and Development Management Policies Document 2012 (CSDMP) are relevant. Regard must also be had to the Residential Design Guide (RDG) SPD 2017.
- 7.2 Since the determination of the outline schemes in November 2017, the local and national policy context has changed with the adoption of the Windlesham Neighbourhood Plan (WNP) in June 2019 and the revised National Planning Policy Framework (NPPF) in February 2019. The WNP is now part of the Statutory Local Strategic Development Plan (in this specific case, the CSDMP). All the above will also be referred to where appropriate.

7.3 The main issues to be considered in this outline application are:

- Principle and appropriateness of development in the Green Belt;
- Impact upon the character of the area;
- Means of access and highway impacts;
- Impact on residential amenities;
- Impact on ecology;
- Impact on local infrastructure and the Thames Basin Heaths SPA; and,
- Other matters.

#### **7.4 Principle and appropriateness of development in the Green Belt**

7.4.1 The Government attaches great importance to Green Belts, stating that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence (Paragraph 133 of the NPPF refers). Paragraph 145 of the NPPF also states that the local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, but lists exceptions to this. The applicant contends that this proposal falls under one of the listed exceptions – i.e.: Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites). The applicant also makes reference to Paras 77 and 78 of the NPPF, which supports opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs.

7.4.2 Policy DM5 (Rural Exception Sites) of the CSDMP sets out the approach to affordable housing in the Green Belt and states:

*Development consisting of 100% affordable housing within the countryside or Green Belt will be permitted where:*

- (i) There is a proven local need for affordable housing for people with a local connection to the area; and*
- (ii) The need cannot be met within the settlement boundary; and*
- (iii) The development will provide affordable housing for local people in perpetuity; and*
- (iv) The development site immediately adjoins an existing settlement and is accessible to public transport, walking or cycling and services sufficient to support the daily needs of new residents.*

7.4.3 It was initially proposed that all dwellings would be intermediate affordable housing, in the form of shared ownership. However, the applicant was advised by the case officer that in light of the Council's Housing Register figures (see Para 7.4.7 below), the provision of shared ownership housing only would not meet with the requirements for a Rural Exception Site as set out under Policy DM5.

7.4.4 In light of this and the subsequent revision of the NFFP, the applicant now proposes six dwellings as affordable rented housing (run by a Registered Provider), with the remaining nine dwellings comprising affordable shared ownership, comprising part-buy/part-rented dwellings where an eligible purchaser could buy a percentage equity and pay rent on the remaining percentage.

All proposed dwellings would comply with the current criteria in the NPPF Affordable Housing definition.

7.4.5 The subtext (para 6.32) to Policy DM5 of the CSDMP advises that the intention of the policy is to help provide accommodation for local people, who often have a local connection through employment or from growing up in the area and still have family who reside in the locality. Para 6.33 adds that the Council recognises there is limited opportunities to provide housing within these settlements at a scale which will deliver significant levels of affordable housing. It is therefore necessary to consider the Policy DM5 criteria in turn:

(i) Whether there is a proven local need and (ii) Whether this need can be met within the settlement boundary

7.4.6 The applicant has provided a report entitled “The Requirement for Shared Ownership Housing in Windlesham Parish” to seek to demonstrate that there is a current need for both social rented housing and affordable shared ownership housing in Windlesham Parish. The report’s authors (Wessex Economics) also prepared the Strategic Housing Market Assessment 2016 (SHMA) relied upon by the Council in assessing future overall housing requirements for the Borough. The same methodology as the SHMA has been used (including Census data) to indicate what the existing and projected demand for shared ownership, with the addition of localised household income data. The conclusion is that there appears to be a current need for around 78 low cost home ownership dwellings in Windlesham Parish, and an annual future requirement for around 30 such dwellings in Windlesham Parish.

7.4.7 In assessing whether the proposal would meet a truly local need, the Council’s Housing Manager provides the following comments and figures:

- Demand on the Housing Register from people living in Windlesham parish requiring rented housing is as follows:

One bedroom	27 households
Two bedroom	37 households
Three bedroom	10 households
Four bedroom	0 households

- Since September 2017, this represents an increase in demand of over double for two beds and nearly 50% for 3 beds.
- There have been no new affordable units delivered in Windlesham parish since 2011/12 - this means that all social housing lettings come from turnover in the existing stock. In 2016/17 this equated to:

One bedroom	14 units
Two bedroom	9 units
Three bedroom	0 units
Sheltered housing	5 bedsits

- In the last three years 20 households have made homeless applications to the Council from Windlesham Parish.

7.4.8 Having regard to the above, the Council's Housing Manager strongly supports the delivery of 2/3 bedroom rented housing at this site, but has also commented that whilst the applicant has submitted a report in support of delivering only low cost home ownership, the social housing need identified above demonstrates the requirement for a mixed development. This view is also informed by recent evidence from recent developments elsewhere in the Borough, whereby the delivery of a number of shared ownership units at the same time lead to providers being unable to sell to people with a village connection and as such, had to extend the connection criteria outside of the Borough. The Council's Housing Manager has advised that the current proposal must be underpinned by a legal agreement that does not allow a cascade - meaning units can only be sold to residents with the agreed Parish connection, and in perpetuity.

7.4.9 In light of the above comments and Housing Register figures, read alongside the Wessex Economics report commissioned by the applicant, it is now considered that there is a need for a mixture of affordable rented and shared ownership housing in Windlesham Parish that has not been met within the settlement boundary. A review of the Council's most recent Five Year Housing Land Supply Paper (2017-2022) does not indicate that there are any other sites which are available and/or deliverable to meet this need and on this basis, criterion (ii) would also be met.

7.4.10 The affordable dwellings will be offered as 6 units for social rent (and retained as such in perpetuity) and 9 units for shared ownership sale, with all dwellings provided to those eligible persons with a local connection to the Parish of Windlesham (including Bagshot and Lightwater). The applicant is willing to provide the affordable housing as a whole subject to a local lettings policy agreed with the Council and secured by a S106 agreement.

(iii) Whether the development will provide affordable housing for local people in perpetuity

7.4.11 It is accepted that the DM5 (iii) requirement could be met by a s106 agreement providing and maintaining the affordable housing as suggested in Para 7.4.10 above.



(iv) Whether the development site immediately adjoins an existing settlement and is accessible to services sufficient to support the daily needs of new residents

7.4.12 The application site lies in the Green Belt and abuts the settlement boundary of Windlesham to its north and west. However, concern has been raised in respect of Windlesham village not having sufficient amenities and services to support future residents of the proposed affordable housing. Windlesham village has been designated as a settlement area under the CSDMP and therefore a sustainable location. Furthermore, in allowing the 15/0590 Heathpark Wood appeal, the Inspector accepted that Windlesham offers only very limited employment opportunities and other facilities (including schools, larger shops and supermarkets, doctors' and dentists', and leisure and entertainment venues) too far away for most people to walk or cycle, with public transport only a realistic option for some journey purposes. However, relative to many other rural settlements it was considered that Windlesham has a reasonably good range of local facilities which an increase in its population is likely to help to sustain. The Inspector thus felt able to attach sufficient weight to the benefits of the appeal scheme, including up to 56 affordable homes, to allow the proposal. Having regard to the Inspector's comments, the application site, adjoining the settlement boundary of Windlesham and within 0.8km by foot from the village shops, is considered to be within a sustainable location.

Conclusion

7.4.13 It is considered that there is an identified local need within the Parish of Windlesham for the current proposed mixed tenure of 2 and 3 bedroom affordable shared ownership and social rented dwellings. The proposal is therefore considered to not be inappropriate development in the Green Belt and therefore acceptable in terms of Para 145 of the NPPF, along with the local need requirements of Policy DM5 of the CSDMP and Policy WNP1.2 of the WNP (which prioritise 2 and 3 bed dwellings). As such, no additional assessment of impact on Green Belt openness is necessary. However, due to the Green Belt location and the fact the proposal is only acceptable in Green Belt terms because it is considered to be a rural exception site, it is considered that further development should be strictly controlled through a condition removing permitted development rights.

**7.5 Impact upon the character of the area**

- 7.5.1 Policy DM9 of the CSDMP requires a high quality design that also respects and enhances the local, natural or historic character of the environment, be it in an urban or rural setting. Principle 6.6 of the RDG advises that new residential development will be expected to respond to the size, shape and rhythm of surrounding plot layouts. Principle 7.4 of the RDG advises that new development should reflect the spacings, height and building footprints of existing buildings.
- 7.5.2 Policy WNP2.1 (New Housing Development Features and Compatibility Proposals) of the WNP states that proposals for new housing development shall be supported if they respond positively to and protect the built and natural

character features of their setting within Windlesham village. Planning applications shall be supported if they:

- Maintain the established density including number of residential units and ratio of building footprint to open space development in the surrounding area;
- Maintain the general scale of development in the surrounding area without creating any overbearing presence; and
- Maintain the style and pattern of separation between buildings and widths of building frontages.

7.5.3 Although no elevation plans have been provided at this outline stage, the supporting Design and Access Statement (DAS) advises that the proposed dwellings would be entirely single storey and the site layout plan indicates that they would each consist of two or three bedrooms. The proposed residential parcel would have a density of approx. 18 dwellings per hectare, and would sit behind detached dwellings facing Woodlands Lane to the north and semi-detached dwellings of Broadley Green to the west. Given the garden sizes, plot ratios and building rhythms of these neighbours, it is envisaged that the density and indicative site plan layout would be capable of achieving accordance with this surrounding context.

7.5.4 The proposed single storey form of the buildings, including landscaping provision along the three site boundaries facing neighbouring open land, would also assist in integrating within its rural context. As such, it is not envisaged that the proposed form of development would lead to an overbearing presence or be out of character with the surrounding area. The specific dwelling styles, pattern of separation between buildings and widths of building frontages will be considered at reserved matters stage. The indicative site plan and layout is also identical to the extant 17/0526 outline scheme.

7.5.5 Principle 6.7 of the RDG advises that parking layouts should be high quality and designed to, inter alia, reflect the strong heathland and sylvan identity of the borough and ensure developments are not functionally and visually dominated by cars. Principle 6.8 further advises that where front of plot parking is proposed, this should be enclosed with soft landscaping and not dominate the appearance of the plot or the street scene with extensive hard surfacing. The indicative site plan layout shows the parking spaces interspersed with landscaping to avoid any long expanses of hard standing. As such, the outline scheme is considered capable of achieving the above RDG objectives.

7.5.6 In light of all the above, it is considered that the indicative layout would integrate into its context, as it would successfully respond to the characteristics of the surrounding area and its rural edge location. The proposed development would therefore comply with the design requirements of Policy DM9 of the CSDMP, the WNP, the RDG and the NPPF.

## **7.6 Means of access and highway impacts**

7.6.1 Policy DM11 (Traffic Management and Highway Safety) states that development which would adversely impact the safe and efficient flow of traffic movement on

the highway network will not be permitted unless it can be demonstrated that measures to reduce and mitigate such impacts to acceptable levels can be implemented.

- 7.6.2 The proposed means of access is identical to that of the extant 17/0526 scheme also for up to 15 affordable dwellings. The Access Statement Technical Note, supported by car track swept path analysis plans, explains how the site can be safely accessed by all road users (including refuse vehicles) and pedestrians, and that there is sufficient space within the site to utilise the proposed on-site parking. The County Highway Authority has again raised no objections on safety, capacity or policy grounds, subject to compliance with conditions relating to the provision of sufficient visibility zones; parking layout and turning space within the site; a Construction Transport Management Plan, and; an uncontrolled pedestrian crossing including tactile paving across Broadley Green.
- 7.6.3 Concern has been raised in respect of the impact upon the existing off-street parking along Broadley Green, including two marked disabled parking bays towards the Woodlands Lane junction. The proposed access point is on a bend with a grass verge between this bend and the footpath, where it has been observed that cars park on the northern side. However, it is considered undesirable for vehicles to park on this part of Broadley Green to assist with passage and visibility around the bend. It is noted that the supported bungalows of 16-24 (evens) Woodlands Lane adjacent the Broadley Green entrance have no off-street parking. However, it appears that space for three off-street spaces would still be achievable, including the existing marked disabled spaces. Although the existing vehicular access to No. 1 Broadley Green would be lost to facilitate the proposed access, it has a paved area further across the front and a replacement vehicular access could be installed without planning permission under permitted development.
- 7.6.4 Policy WNP4.1 (New Residential Developments Parking Space Design) of the WNP states that parking facilities should be designed to match the character of the development, and that vehicle parking facilities other than garages should have a minimum dimension of 2.9m by 5.5m. Policy WNP4.2 (Residential Developments Parking Space Standards) states that new residential developments should, where space permits, provide parking spaces within the boundaries of the development for: 2 vehicles for 1 and 2-bedroom dwellings; and 3 vehicles for 3+ bedroom or larger dwellings.
- 7.6.5 The outline scheme consists of nine two bedrooms units and six three bed units. The supporting plans indicate that a total of 35 vehicle parking spaces would be provided including two visitor spaces. This includes the singular accesses to Plots 5, 6 and 9 marked with three spaces, which although may not be practical for everyday use, could still provide for visitor parking. Policy WNP4.2 of the WNP would now require 36 spaces and additionally, the indicative parking space dimensions do not meet the larger requirements of Policy WNP4.1. However, given the outline nature of the application with layout as a reserved matter, it is envisaged that the site could satisfactorily accommodate the above additional WNP space requirements. An informative will therefore be added advising the applicant to ensure that the final layout complies with the aims of the above WNP policies.

7.6.6 In light of the above, it is considered that subject to conditions the proposed development would not prejudice highway safety nor cause inconvenience to other highway users, in compliance with Policy DM11.

## **7.7 Impact on residential amenities**

7.7.1 Policy DM9 of the CSDMP states that the amenities of the occupiers of the neighbouring properties and uses should be respected by proposed development. Principle 8.3 of the RDG advises that developments which have a significant adverse effect on the privacy of neighbouring properties will be resisted. Developments should not result in occupants of neighbouring dwellings suffering from a material loss of daylight and sun access.

7.7.2 The applicant has chosen not to formally consider appearance, layout and scale matters under this outline application, and such matters may affect residential amenity. However, given the significant separation distances to neighbouring boundaries and private amenity areas as indicated on the submitted site plan, it is considered that the proposed accommodation could be designed in such a manner so as to provide sufficient light, outlook and private amenity space for future occupiers, whilst sufficiently respecting the amenities of neighbours in terms of loss of light, outlook, privacy or overbearing effects. It is not considered that the proposed vehicular access off Broadley Green would lead to adverse impact upon the amenity of surrounding neighbours in terms of additional noise and disturbance.

7.7.3 The indicative outdoor private amenity spaces for all proposed units would meet the respective minimum sizes advised under Principle 8.4 of the RDG. The indicative floor plans for the 2/3 bed units would meet the requirements as set out in the national minimum space standards, and it is also envisaged that future occupiers would be afforded with sufficient outlook.

7.7.4 Concern has been raised in respect of increased pollution and noise from road traffic and HGVs and that future occupiers will be subject to M3 pollution. It is noted that the nearby Heathpark Wood outline scheme for up to 140 dwellings included noise and air quality reports which concluded that no significant impact would arise. It was determined that it was not necessary to designate the area within or surrounding the site as an Air Quality Management Area (with the current AQMA boundary remaining within the M3 motorway), and the increase in local noise levels associated with traffic from this development would be imperceptible. The Heathpark Wood outline scheme does however include a condition requiring compliance with the proposed sound attenuation measures (standard double-glazed windows with trickle ventilation). As such, it is considered necessary to impose a pre-commencement condition requiring submission of a noise survey to clarify the appropriate noise mitigation levels for the current proposal.

7.7.5 In light of all the above, it is envisaged that the provision of 15 units at this site would not lead to adverse impact upon the amenities of neighbouring properties and of future occupiers.

## **7.8 Impact on ecology**

- 7.8.1 An extended Phase 1 Ecological Survey has been provided, which found a low-moderate probability of birds nesting on the current proposal site during the nesting season (1st March to 31st July). It is therefore advised that before clearing any scrub on site in the nesting season the scrub should be checked first for nests. A bat activity survey and supporting letter has also been provided.
- 7.8.2 Surrey Wildlife Trust has recommended that the LPA secure a Landscape and Ecology Management Plan (LEMP) for this development, to include appropriate detail relating to how badger access to foraging areas and resource are to be maintained as a result of development, including provision of measures to ensure permeability for badgers across the site and habitat planting and management measures to ensure foraging opportunities are maintained. The LEMP should also include details of how bat foraging resource and commuting flightlines are to be maintained and enhanced as a result of development, in line with the report recommendations. The Trust has also requested an appropriate Sensitive Lighting Management Plan. The above mitigation measures can be secured by pre-commencement planning conditions.
- 7.8.3 On this basis, it is considered that the proposal would not adversely impact upon biodiversity or legally protected species, thereby complying with Policy CP14 of the CSDMP.

## **7.9 Impact on local infrastructure and the Thames Basin Heaths SPA**

- 7.9.1 Development including new Class C3 dwellings would normally be CIL (Community Infrastructure Levy) liable. This levy also includes contributions towards Suitable Alternative Natural Green Space (SANGS). However, the proposed scheme is exempt from CIL as it would deliver 100% affordable housing which is not CIL liable (subject to the completion of the necessary CIL forms).
- 7.9.2 All of Surrey Heath lies within 5km of the Thames Basin Heaths Special Protection Area (SPA). The application site is approx. 1.1km from the SPA boundary to the northeast. Policy NRM6 of the SEP seeks to protect the ecological integrity of the SPA from recreational pressure, through increased dog walking and an increase in general recreational use, which occurs from the provision of new (net) residential development. Policy CP14 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the Thames Basin Heaths Special Protection Area Avoidance Strategy SPD 2012 builds on this approach. The SPD identifies that the impact on the SPA from residential development can be mitigated by the provision of Suitable Alternative Natural Green Space (SANGS) on site (for larger proposals) or for smaller proposals such as this one, provided that sufficient SANG is available and can be allocated to the development. There is currently sufficient SANG available.
- 7.9.3 Policy CP14 of the Surrey Heath Core Strategy and Development Management Policies 2012 also requires a contribution towards the Strategic Access Management and Monitoring (SAMM) measures, which supports the on-site protection of the SPA.

As this is not included with the CIL scheme, a separate contribution of £9,555 is required. This contribution is required under a legal agreement, a draft of which has been agreed submitted to the Council.

## **7.10 Other matters**

- 7.10.1 There are no Tree Preservation Orders within or adjacent to the proposal site. A Tree Report has been provided, which concludes that up to six mature trees are proposed to be removed to facilitate the development, subject to future monitoring of their condition. However, all of these are rated as being of low amenity value. This report is identical to that provided under the previous outline applications that are identical in terms of its access, indicative layout, scale and amount. Although the applicant has chosen not to formally consider landscape matters under this outline application, the Council's Arboricultural Officer raised no objection under the previous outline schemes, subject to planning conditions in respect of tree protection and a landscape management plan outlining mitigation of the proposed tree loss.
- 7.10.2 The site is located within Flood Zone 1 and an area of low risk from surface water flooding. A Flood Risk and Drainage Review was provided with the previous outline applications, and indicated that surface water run-off will be dealt with on site and will discharge to infiltration trenches or soakaways. Additionally, water efficiency measures were proposed. Surrey County Council as the Lead Local Flood Authority raised no objection, subject to conditions, which will be re-imposed. On this basis, it is considered that the proposed development would not give rise to a material increase in flood risk within or around the site.
- 7.10.3 Any development proposal for new residential development attracting New Homes Bonus payments as set out in Section 70 of the Town and Country Planning Act (as amended by Section 143 of the Localism Act) is a local financial consideration which must be taken into account, as far as they are material to an application, in reaching a decision. It has however been concluded this proposal accords with the Development Plan and whilst the implementation and completion of the development will result in a local financial benefit this is not a matter that needs to be given significant weight in the determination of this application.

## **8.0 CONCLUSION**

- 8.1 The proposal is presented as a rural exception site and it is considered there is a local need for affordable housing to justify the grant of planning permission for 15 dwellings in the Green Belt adjoining the settlement area of Windlesham. The County Highway Authority has raised no objections on safety, capacity or policy grounds, subject to conditions. The impact on character and residential amenity will have to be fully considered at the reserved matters stage, but no concerns are raised at this outline stage. The proposal is therefore recommended for approval.

## **9.0 WORKING IN A POSITIVE/PROACTIVE MANNER**

9.1 In assessing this application, officers have worked with the applicant in a positive and proactive manner consistent with the requirements of paragraphs 38-41 of the NPPF. This included:

- a) Provided or made available pre application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development;
- b) Provided feedback through the validation process including information on the website, to correct identified problems to ensure that the application was correct and could be registered.
- c) Have negotiated and accepted amendments to the scheme to resolve identified problems with the proposal and to seek to foster sustainable development.

## **10.0 RECOMMENDATION**

The Executive Head of Regulatory to be authorised to GRANT permission subject a legal agreement to secure the following:

- 9 units to be provided and maintained as shared ownership affordable housing
- 6 units to be provided and maintained as social rented affordable housing in perpetuity;
- the Shared Ownership Dwellings will only be sold to persons with a local connection to the Parish of Windlesham
- the Affordable Rent Dwellings shall only be let in accordance with a local lettings policy to persons with a local connection to the Parish of Windlesham;
- the financial contribution towards SAMM

and subject to the following conditions:

GRANT subject to the following conditions:-

1. Approval of the details of the scale appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
  - (a) Application for approval of the reserved matters shall be made to the Local Planning Authority within three years of the date of this permission.

(b) The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To prevent an accumulation of unimplemented planning permissions and to comply with Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (or any order revoking and re-enacting that Order) and Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 (2) of the Planning and the Compulsory Purchase Act 2004.

2. The development hereby approved shall not be occupied unless and until the proposed vehicular access to Broadley Green has been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1.05 m highway.

Reason: The above conditions are required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and to satisfy policies CP11 and DM11 of the Surrey Heath Core Strategy and Development Policies Document (2012) and to meet the aims and objectives of the National Planning Policy Framework.

3. The development hereby approved shall not be first occupied unless and until an uncontrolled pedestrian crossing including tactile paving across Broadley Green has been provided as part of the construction of the vehicular access in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: The above conditions are required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and to satisfy policies CP11 and DM11 of the Surrey Heath Core Strategy and Development Policies Document (2012) and to meet the aims and objectives of the National Planning Policy Framework.

4. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking/turning area shall be retained and maintained for their designated purpose.

Reason: The above conditions are required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and to satisfy policies CP11 and DM11 of the Surrey Heath Core Strategy and Development Policies Document (2012) and to meet the aims and objectives of the National Planning Policy Framework.



5. No development shall commence until a Construction Transport Management Plan, to include details of:
  - a. parking for vehicles of site personnel, operatives and visitors
  - b. loading and unloading of plant and materials
  - c. storage of plant and materials
  - d. measures to prevent the deposit of materials on the highway

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason: The above conditions are required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users and to satisfy policies CP11 and DM11 of the Surrey Heath Core Strategy and Development Policies Document (2012) and to meet the aims and objectives of the National Planning Policy Framework.

6. The development hereby permitted shall be carried out wholly in accordance with the submitted Arboricultural Report prepared by MJC Tree Services [Mark Carter] and dated 05 October 2016. No development shall commence until photographs have been provided by the retained Consultant and forwarded to and approved by the Council's Arboricultural Officer. This should record all aspects of tree and ground protection measures having been implemented in accordance with the Arboricultural Report. The tree protection measures shall be retained until completion of all works hereby permitted.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

7.
  1. No development shall take place until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved, and implemented prior to first occupation. The submitted details should also include an indication of all level alterations, hard surfaces, walls, fences, access features, the existing trees and hedges to be retained, together with the new planting to be carried out to mitigate the tree loss within the site, and shall build upon the aims and objectives of the supplied **BS5837:2012 – Trees in Relation to Design, Demolition and Construction** Arboricultural Method Statement [AMS].
  2. All hard and soft landscaping works shall be carried out in accordance with the approved details. All plant material shall conform to **BS3936:1992 Parts 1 – 5: Specification for Nursery Stock**. Handling, planting and establishment of trees shall be in accordance with **BS 8545:2014 Trees: from nursery to independence in the landscape**

3. A landscape management plan including maintenance schedules for all landscape areas other than small, privately-owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority before first occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The schedule shall include details of the arrangements for its implementation. The landscape areas shall be managed and maintained thereafter in accordance with the agreed landscape management plan for a minimum period of five years.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

8. All hard and soft landscaping works shall be carried out in accordance with the approved details. Arboricultural work to existing trees shall be carried out prior to the commencement of any other development; otherwise all remaining landscaping work and new planting shall be carried out prior to the occupation of the development or in accordance with a timetable agreed in writing with the Local Planning Authority. Any trees or plants, which within a period of five years of commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased shall be replaced as soon as practicable with others of similar size and species, following consultation with the Local Planning Authority, unless the Local Planning Authority gives written consent to any variation.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

9. No development shall take place until details of the following SuDS/Drainage matters have been submitted to and agreed upon in writing by the Local Planning Authority:
  - a) Detailed drawings of all the SuDS/Drainage elements and layout
  - b) Full drainage calculations showing that all storm events up to the 1 in 30 year storm event are contained within the drainage system and that the 1 in 100 year + CC storm event is suitably managed on site.
  - c) Confirmation of the proposed storage on site and details of what the base line water level will be within the pond and how much storage volume will remain.
  - d) Results from the undertaken infiltration testing.
  - e) Details of where any exceedance flows (ie rainfall greater than design or flows following blockages) would run to avoiding risks to people and property
  - f) Details of construction phasing, ie how drainage will be dealt with during works including pollution prevention

- g) Details of the required maintenance regime for the SuDS elements and who will be responsible for maintenance
- h) Details of how the applicant will prevent the outlet from blocking

Reason: To ensure the drainage design meets the technical standards and to accord with Policies CP2 and DM10 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

10. Prior to the first occupation of the development hereby approved, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority to demonstrate that the Sustainable Drainage System has been constructed as per the agreed scheme.

Reason: To ensure the drainage design meets the technical standards and to accord with Policies CP2 and DM10 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

11. No development shall take place until a noise impact assessment carried out by a suitably qualified person has been submitted to and agreed upon in writing by the Local Planning Authority. The noise impact assessment must refer to the British Standard 8233: 2014 - 'Guidance on sound insulation and noise reduction for buildings' and other relevant noise policy, to inform the type and level of noise attenuation required to mitigate any identified impacts upon the proposed development from road traffic noise, or other surrounding sources of noise as identified in the assessment.

Reason: In the interests of the amenities enjoyed by future occupiers of the proposed development and to accord with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

12. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP should include details of the following:

i) How badger access to foraging areas and resource are to be supported as a result of the development., including provision of measures to ensure permeability for badgers across the site and habitat planting and management measures to ensure foraging opportunities are maintained, and

ii) Details of how bat foraging resource and commuting flight lines are to be maintained and enhanced as a result of development, in line with the recommendations of Section 7.2 of the submitted 'Bat Activity Surveys' report (dated September 2017 and received on 13 August 2018).

Reason: To secure the appropriate long term management of the site in order to preserve and enhance the visual amenities of the locality and biodiversity, in accordance with Policies CP14B, DM9 and DM16 of the Surrey Heath Core Strategy and Development Management Policies Document 2012 and the National Planning Policy Framework.

13. No development shall commence unless and until a Sensitive Lighting Management Plan (SLMP) has been submitted to and approved in writing by the Local Planning Authority. The SLMP should include details of how the development will result in no net increase in external artificial lighting upon the existing bat flight lines as identified within the submitted 'Bat Activity Surveys' report (dated September 2017 and received on 13 August 2018).

Reason: To secure the appropriate long term management of the site in order to preserve and enhance the visual amenities of the locality and biodiversity, in accordance with Policies CP14B, DM9 and DM16 of the Surrey Heath Core Strategy and Development Management Policies Document 2012 and the National Planning Framework.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) no further extensions to the dwellings hereby approved or additions to their roofs shall be erected under Schedule 2, Part 1, Class A or Class B of that Order; and no buildings, enclosures, pools or containers incidental to the enjoyment of a dwelling house shall be erected under Schedule 2, Part 1, Class E of that order; without the prior approval in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over the enlargement, improvement or other alterations to the development in the interests of visual and residential amenity and to preserve the openness of the Green Belt, to accord with Policies CP1, DM1 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

#### Informative(s)

1. Exemption Informative CIL5
2. The permission hereby granted shall not be construed as authority to carry out any works on the highway or any works that may affect a drainage channel/culvert or water course. The applicant is advised that a permit and, potentially, a Mini Section 278 agreement must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All works on the highway will require a permit and an application will need to be submitted to the County Council's Street Works Team up to 3 months in advance of the intended start date, depending on the scale of the works

proposed and the classification of the road. Please see <http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/the-traffic-management-permit-scheme>.

The applicant is also advised that Consent may be required under Section 23 of the Land Drainage Act 1991. Please see [www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/flooding-advice](http://www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/flooding-advice).

3. Details of the highway requirements necessary for inclusion in any application seeking approval of reserved matters may be obtained from the Transport Development Planning Division of Surrey County Council.
4. The permission hereby granted shall not be construed as authority to obstruct the public highway by the erection of scaffolding, hoarding or any other device or apparatus for which a licence must be sought from the Highway Authority Local Highways Service.
5. The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).
6. A pedestrian inter-visibility splay of 2m by 2m shall be provided on each side of the access, the depth measured from the back of the footway and the widths outwards from the edges of the access. No fence, wall or other obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays.
7. The applicant is advised that under the Control of Pollution Act 1974 construction work which will be audible at the site boundary will be restricted to the following hours: 8am to 6 pm Monday to Friday; 8am to 1pm Saturday; and, not at all on Sundays and Public Holidays. For the avoidance of doubt 'Public Holidays' include New Years Day, Good Friday, Easter Monday, May Day, all Bank Holidays, Christmas Day and Boxing Day.
8. The applicant is advised to ensure that the final layout complies with the aims of Policies WNP4.1 (New Residential Developments Parking Space Design) and WNP4.2 (Residential Developments Parking Space Standards) of the Windlesham Neighbourhood Plan 2019.

**In the event that a satisfactory legal agreement has not been completed by 13 September 2019, the Executive Head of Regulatory be authorised to REFUSE for the following reasons:**

- The proposal fails to provide a satisfactory legal agreement to secure the dwellinghouses as affordable housing. The proposal would therefore constitute inappropriate development in the Green Belt which would undermine the purposes of including land in and would result in countryside encroachment, and would significantly harm its openness and otherwise undeveloped and rural character. The proposal does not satisfactorily address the requirements of Policy DM5 of the Surrey Heath Core Strategy and Development Management Policies 2012 and cannot be considered to be a rural exception site or as an exception to para 89 of the NPPF.
- In the absence of a payment or a completed legal agreement under section 106 of the Town and Country Planning Act 1990, the applicant has failed to comply with Policy CP14B (vi) (European Sites) of the Surrey Heath Core Strategy and Development Management Policies Document 2012 and Policy NRM6 (Thames Basin Heath Special Protection Area) of the South East Plan in relation to the provision of contribution towards strategic access management and monitoring (SAMM) measures, in accordance with the requirements of the Surrey Heath Borough Council's Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (Adopted January 2012).

Dated

9<sup>th</sup> June

2019/2020 *AMM*

**Lavignac Securities Limited  
(Applicant)**

**Paul James Cartwright and Kerrie Lee Dalley  
(1<sup>st</sup> Owner)**

**Paul James Cartwright  
(2<sup>nd</sup> Owner)**

**James Frank Newington and Nina Newington  
(3<sup>rd</sup> Owner)**

given to

**Surrey Heath Borough Council**

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**Unilateral Undertaking**

**Pursuant to Section 106 of the Town and Country Planning Act 1990**

**relating to Land South of Beach House, Woodlands Lane, Windlesham, Surrey,  
GU20 6AP**

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**Surrey Heath Borough Council  
Surrey Heath House  
Knoll Road  
Camberley  
GU15 3HD**

Council's Planning Reference: SU/18/0734  
Council's Legal Reference: BE-026-GJ-0475

**This Unilateral Undertaking is Dated  
and**

9<sup>th</sup> June PC 2019/20 *[Signature]*

**Given by**

- (1) LAVIGNAC SECURITES LIMITED (Co. Reg. No. 08162968) whose registered office is situate at Titchfield House, 2<sup>nd</sup> Floor, 69-85 Tabernacle Street, London, EC2V 4RR ("the Applicant")
- (2) PAUL JAMES CARTWRIGHT and KERRIE LEE DALLEY of Anfield House, Woodlands Lane, Windlesham, Surrey GU20 6AP ("1<sup>st</sup> Owner")
- (3) PAUL JAMES CARTWRIGHT of Anfield House, Woodlands Lane, Windlesham, Surrey, GU20 6AP ("2<sup>nd</sup> Owner")
- (4) JAMES FRANK NEWINGTON and NINA NEWINGTON of 1 Broadley Green, Windlesham, Surrey, GU20 6AJ ("3<sup>rd</sup> Owner")

**To**

- (5) SURREY HEATH BOROUGH COUNCIL Surrey Heath House Knoll Road Camberley GU15 3HD ("the Council")

**Introduction**

1. The Council is the local planning authority for the purposes of Section 106 of the Act for the area within which the Land is situated
2. The 1<sup>st</sup> Owner is registered as freehold owner of that part of the Land with title absolute at HM Land Registry under title numbers SY768008 and SY81344
3. The 2<sup>nd</sup> Owner is registered as freehold owner of that part of the Land with title absolute at HM Land Registry under title number SY663862
4. The First Chargee has a charge registered against that part of the Land registered under title number SY663862
5. The 3<sup>rd</sup> Owner is registered as freehold owner of that part of the Land with title absolute at HM Land Registry under title number SY612942
6. The Second Chargee has a charge registered against that part of the Land registered under title number SY612942



7. The Applicant has submitted the Application to the Council to develop the Land
8. The Applicant and the Owners have entered into this Deed in order to secure the planning obligations contained in it in accordance with the Council's "Special Protection Area Avoidance Strategy Policy" so that it may be taken into account as a material consideration in the determination of the Application by the Council
9. The Applicant and the Owners have further entered into this Deed to secure the provision of affordable housing in accordance with the Council's Core Strategy & Development Management Policies 2012, policy DM5 *Rural Exception Sites* and any related supplementary guidance.

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1 Definitions**

For the purposes of this Deed the following expressions shall have the following meanings:

- "Act"** means the Town and Country Planning Act 1990 (as amended).
- "Affordable Housing"** means social rented, affordable rented and shared ownership housing, consistent with the glossary definition of affordable housing in NPPF (2019) provided to eligible households whose needs are not met by the market, in conformity with Policy CP5 Affordable Housing of the Council's Core Strategy & Development Management Policies 2012. Affordable Housing should meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices and should include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision
- "Affordable Rented Housing"** means Dwellings that are rented housing let by Registered Providers of social housing households to person(s) who are eligible for social rented housing at rent including service charge of no more than 80% of the local market rent;
- "Affordable Shared Ownership Housing"** means shared ownership homes that are part-buy/part-rented that enables the purchaser to buy a percentage of the newly built property from a Registered Social Housing provider, and pay rent on the remaining percentage. After one year of ownership, the purchaser will be able to buy additional shares up to a maximum of 90%
- "Application"** means the application for outline planning permission allocated reference number SU/17/0526 submitted by the Applicant to the Council for the Development
- "Chargees"** means both the First Chargee and the Second Chargee
- "Commencement of**

<b>Development</b>	means Commencement of Development as defined by section 56 of the Act and shall not include site clearance works, site inspection works, demolition, remediation works and archaeological investigations, laying of services, erection of temporary fences or site compounds and "Commence Development" shall be construed accordingly
<b>"Commencement Notice"</b>	means written notice given on behalf the Applicant/ Owners to the Council giving 5 working days advance notice that Commencement of Development is about to take place and specifying the date of intended Commencement of Development
<b>"Development"</b>	means the development of the Land with the erection of 15 Affordable Housing dwellings with access off Broadley Green
<b>"Dwellings"</b>	means any dwelling to be constructed pursuant to the Planning Permission
<b>"First Chargee"</b>	means Santander UK Plc (Co. Reg. No. 2294747) of Deeds Services, 101 Midsummer Boulevard, Milton Keynes, MK9 1AA
<b>"Indexation"</b>	<p>means the recalculation of any payment specified in this Deed by applying the following formula:</p> $\frac{A \times B}{C} = D$ <p>Where:</p> <p>A = the payment specified in this Deed in pounds sterling  B = the figure shown in the RPIX for the month last published prior to the date of the payment to be made under this Deed  C = the figure shown in the RPIX for the month immediately prior to the date of this Deed  D = the recalculation sum in pounds sterling payable under this Deed or if the RPIX shall cease to be compiled or the formula shall otherwise be incapable of operation then such other equivalent means as shall be proposed by the Applicant/ Owners to recalculate such payment with the intent that it shall have like effect and be approved by the Council</p>
<b>"Index-Linked/Linking"</b>	means the adjustment of the SAMM Contribution referred to in this Deed by Indexation from the last day of the month immediately prior to the date of this Deed to the date of actual payment
<b>"Interest"</b>	means the rate of interest being 5% above the base lending rate of the Nat West Bank PLC from time to time in force such interest to be apportioned on a daily basis
<b>"Land"</b>	means the land situate South of Beach House, Woodlands Lane, Windlesham, Surrey, GU20 6AP shown edged red on the attached Plan
<b>"Local Connection"</b>	<p>Means a person who meets any of the following criteria in order of descending priority:-</p> <ol style="list-style-type: none"> <li>I. Been ordinarily resident in the parish (for a minimum of 12 months); or</li> </ol>

- II. Previously lived in the parish and continues to have a strong family connection to the parish (father, mother, brother, sister or adult children who have lived in the parish for 5 years); or,
- III. A demonstrable need by virtue of their employment to live in the parish; or,
- IV. A demonstrable need to live within the parish either to care and support or be cared for and supported by a family member; or,
- V. A demonstrable special requirement or need to live in the parish evidenced to and accepted by Surrey Heath Borough Council's Housing Services Manager
- VI. is and has been a resident in Surrey Heath District Council's administrative area for the preceding 12 (twelve) months; or
- VII. has been resident in Surrey Heath District Council's administrative area for 3 (three) years out of the preceding 5 (five) years; or
- VIII. has been resident in Surrey Heath District Council's administrative area for 5 (five) years out of the preceding 10 (ten) years; or
- IX. is permanently employed or has an offer of permanent employment in Surrey Heath District Council's administrative area; or
- X. is temporarily employed or has an offer for temporary employment, in a contract of not less than 12 months in Surrey Heath District Council's administrative area; or
- XI. has a Close Relative currently resident in Surrey Heath District Council's administrative area; or
- XII. is and has been a resident in any parish in Surrey for the preceding 12 (twelve) months; or
- XIII. has been a resident in respect of any parish in Surrey for 3 (three) years out of the preceding 5 (five) years; or
- XIV. has been a resident in respect of any parish in Surrey for 5 (five) years out of the preceding 10 (ten) years; or
- XV. is permanently employed or has an offer of permanent employment in respect of any parish in Surrey; or
- XVI. is temporarily employed or has an offer for temporary employment, in a contract of not less than 12 months in respect of any parish in Surrey; or
- XVII. has a Close Relative currently resident in any parish in Surrey; or
- XVIII. any other person;

<b>"Owners"</b>	means collectively the 1 <sup>st</sup> Owner, the 2 <sup>nd</sup> Owner and the 3 <sup>rd</sup> Owner
<b>"Payment Notice"</b>	means the notice of payment found annexed to this Deed in Schedule 3
<b>"Plan"</b>	means the plan annexed at Schedule 1
<b>"Planning Permission"</b>	means a planning permission for the Development granted pursuant to the Application
<b>"RPIX"</b>	means the definition afforded from time to time by the Office for National Statistics and for the avoidance of doubt is the figure shown as the Retail Prices Index Excluding Mortgage Interest Payments (RPIX) published by the Office for National Statistics every month

- “SAMM Contribution”** means the contribution of £9,555 (Nine Thousand Five Hundred and Fifty Five Pounds) due towards the costs of Strategic Access Management and Monitoring within the Council's Borough boundaries or as otherwise required by the Council's SANGS Strategy
- “Second Chargee”** means Barclays Bank Plc (Co. Reg. No. 1026167) of PO Box 187, Leeds, LS11 1AN
- “Specified Date”** means the date upon which any obligation arising under this Deed is due to be performed according to the terms of this Deed

- 1.2. Words in this Undertaking importing the singular meaning shall where the context so admits include the plural meaning and vice versa
- 1.3. Words in this Undertaking of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting natural persons shall include corporations and vice versa
- 1.4. References in this Undertaking to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force
- 1.5. Covenants given hereunder if made by more than one person are given jointly and severally

## **2. LEGAL EFFECT**

- 2.1. This Undertaking is given pursuant to Section 106 of the Town and Country Planning Act 1990 as amended Section 111 of the Local Government Act 1972 and all other powers so enabling
- 2.2. This Undertaking is a planning obligation for the purposes of the said Section 106 which is enforceable by the Council and which binds each and every part of the Land
- 2.3. The terms of this Undertaking come into effect on the date of this Undertaking other than Clause 3.1.1 which will come into effect upon the grant of the Planning Permission
- 2.4. Nothing contained or implied in this Undertaking shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of their functions as Local Planning Authority and their rights, powers, duties and obligations under all public and private statutes, byelaws and regulations may be as fully and effectually exercise
- 2.5. If any provision in this Undertaking shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired
- 2.6. No waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants, terms or conditions of this Undertaking shall

constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default

- 2.7 Nothing in this Undertaking shall be construed as a grant of planning permission
- 2.8. The covenants in this Undertaking shall be enforceable without any limit of time against the owner and any successors in title and assigns of the owner or any person claiming title through or under the Parties to the Land or any part thereof as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person **PROVIDED THAT** no person shall be liable for any breach of the covenants restrictions or obligations contained in this Undertaking occurring after he has parted with the whole of his interest in the Land or the part in respect of which such breach occurs **AND PROVIDED FURTHER THAT** the covenants and restrictions and obligations contained in this Undertaking shall not be enforceable against any statutory undertaker
- 2.9. In accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999 it is hereby declared that none of the terms of this Deed shall in the absence of any express provision to the contrary be construed as being enforceable by any third party
- 2.10 This Undertaking shall be determined and have no further effect other than Clause 3.1.2 if the Planning Permission expires before the Commencement of Development; is varied or revoked other than at the request of the Applicant or is quashed following a successful legal challenge

### **3. THE APPLICANT AND THE OWNERS' COVENANTS**

- 3.1 The Applicant and the Owners covenant to the Council as follows:-
- 3.1.1 to observe and perform and cause to be observed and performed the undertakings covenants and restrictions contained in Schedule 2;
- 3.1.2 to pay on the execution hereof the Council's legal costs of £1,000 for the preparation and settlement of this Deed
- 3.2 The Applicant and the Owners warrant to the Council that they have full power to enter into this Deed and that there is no person other than the Chargees having an interest in the Land whose consent is necessary to make this Deed binding on the Land and all estates and interests therein

### **4. PAYMENTS**

- 4.1 The Applicant and the Owners confirm that
- 4.1.1 the SAMM Contribution payable under this Deed shall be Index-Linked
- 4.1.2 the payment of any contribution under this Deed shall be taken to include the actual contribution payable including any amount for Index-Linking and also if due of any Interest

- 4.2 In the event that the SAMM Contribution or part thereof is not paid by the Specified Date then Interest shall be due on the sum outstanding and will be apportioned on a daily basis from the Specified Date to date of actual payment
- 4.3 Interest paid will not form part of the Infrastructure Contribution due and will belong to the Council
- 4.5 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable
- 4.6 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT has not been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

## **5. LOCAL LAND CHARGES**

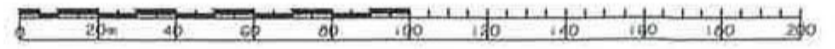
The Applicant and the Owners recognise that this Unilateral Undertaking shall be registered as a Local Land Charge in the Register of Local Land Charges maintained by the Council

## **6. GENERAL**

- 6.1 This Unilateral Undertaking:
- 6.1.1 is given by the Applicant and the Owners to the Council
- 6.1.2 is made pursuant to the provisions of s106 of the Act
- 6.1.3 is a planning obligation for the purposes of that s106 of the Act
- 6.1.4 is given with the intent to bind the Owners' interests in the Land
- 6.1.5 shall be enforceable by the Council as local planning authority
- 6.1.6 is signed by the Applicant and the Owners as a Deed
- 6.1.7 may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

In Witness whereof the Applicant, the Owners and the Chargees have executed this Deed on the day and year first before written

Windlesham



1:1250



## Schedule 2 – Planning Obligations

### Notices

- 1.1 The Applicant and the Owners covenant to give the Council the Commencement Notice
- 1.2 In the event the Commencement Notice has not been served and there has been Commencement of Development **THEN** the Applicant and the Owners confirm that the Council shall have the right to determine the date of Commencement of Development and the references to Specified Date shall be construed accordingly

### Affordable Housing

- 1.3 The Applicant and the Owners covenant that 9 Dwellings shall be provided and maintained as Shared Ownership
- 1.4 The Applicant and the Owners covenant that 6 Dwellings shall be provided and maintained in perpetuity as Affordable Rent Dwellings provided that this obligation shall not apply where the owner or occupier of an Affordable Rent Dwelling has exercised their right to buy or right to acquire.
- 1.5 Subject to the provisos in paragraph 4 above the Applicant and the Owners further covenant that the Shared Ownership Dwellings will only be sold to persons with a Local Connection and the Affordable Rent Dwellings shall only be let in accordance with a local lettings policy to persons with a local connection to the Parish of Windlesham.
- 1.6 The planning obligations in paragraphs 1.3, 1.4 and 1.5 of this Schedule 2 shall not be binding or enforceable against:
  - 1.6.1 Any mortgagee or chargee of a tenant exercising its right to buy or any person deriving title from that person(s) or any successor in title thereto and their respective mortgagees and chargees;
  - 1.5.2 Any purchaser from a mortgagee of an individual Affordable Shared Ownership Housing unit pursuant to any default by the individual mortgagor; or
  - 1.5.3 Any mortgagee or chargee of any owner of the Affordable Shared Ownership Housing who have first complied with clause 1.7 below or its successors in title or any person deriving title therefrom.
- 1.7 The planning obligations in paragraphs 1.3, 1.4 and 1.5 of this Schedule 2 shall not be binding or enforceable against:
  - 1.7.1 any mortgagee or chargee of the Affordable Shared Ownership Housing; or
  - 1.7.2 any receiver including an administrative receiver appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator of the whole or any part of the Affordable Shared Ownership Housing or any persons or bodies deriving title through such mortgagee or chargee or receiver  
PROVIDED THAT:
    - 1.7.2.1 such mortgagee or chargee or receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Shared Ownership Housing to a registered provider or to the

Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

- 1.7.2.2 if such a disposal has not completed within the three month period then provided that the owner of the Affordable Shared Ownership Housing mortgagee or chargee or receiver's shall have fully complied with its obligations above the mortgagee or chargee or receiver shall be entitled to dispose of the Affordable Shared Ownership Housing free from the obligations in paragraphs 1.3 and 1.4 of this Schedule 2 which provisions shall determine absolutely PROVIDED THAT the rights and obligations in this clause shall not require the the owner of the Affordable Shared Ownership Housing mortgagee or chargee to act contrary to its legal duties under the charge or mortgage;

#### **SAMM Contribution**

- 1.8 The Applicant and the Owners covenant to pay the Council the SAMM Contribution on or before Commencement of Development
- 1.9 The Applicant and the Owners covenant to the Council that there shall be no Occupation of any Dwelling until the SAMM Contribution has been paid in full to the Council FOR THE AVOIDANCE OF DOUBT paid in full would include the payment of any Interest and Indexation that may be due

#### **General**

The Applicant and the Owners covenant that payment of the SAMM Contribution shall be accompanied by a Payment Notice

- 1.10 The Applicant and the Owners confirm and accept that the contribution paid pursuant to this Undertaking will be expended and applied to both the actual costs of provision along with the professional costs fees and disbursements associated with delivering the specific objective of the SAMM Contribution

#### **Chargee**

- 1.11 The Applicant and the Owners undertake not to Commence Development until either:
- 1.11.1 the charge dated 7<sup>th</sup> March 2008 granted by the 2<sup>nd</sup> Owner in favour of the First Chargee over that parcel of the Land registered under title number SY663862 and the charge dated 30<sup>th</sup> December 2014 granted by the 3<sup>rd</sup> Owner in favour of the Second Chargee over that parcel of the Land registered under title number SY612942 have been discharged and a copy of the DS1s and/or DS3s provided to the Council; or
- 1.11.2 a deed substantially in the form of this Deed has been completed by all chargees or mortgagees who have a charge or a mortgage over the Land or part thereof as at the date of Commencement of Development confirming to the Council that such mortgagee/chargee acknowledges their interest in the Land is bound by the terms of this Deed and that the security of their mortgage or charge over the Land shall take effect subject to this Deed and that they shall be liable to observe and perform the provisions and obligations contained in this Deed in the event that they become a mortgagee/chargee in possession; and where such a deed is so required to meet the Council's reasonable and proper legal costs for the preparation and completion of such deed.

**Schedule 3 - Payment Notice**

**Payment Notice**

To be send to Surrey Heath Borough Council  
Sc 106 Monitoring Officer, Development Control  
Planning, Development & Homes  
Surrey Heath House, Knoll Road, Camberley, Surrey GU15 3HD  
Ref: (SU/18/0734)

**Payment of monies due under a Unilateral Undertaking**

Please answer all the questions.

1. Payment made by/on behalf of:  
.....
2. Land at: .....
3. Deed Dated: .....
4. Obligation in Deed:
  - a. Clause no: .....
  - b. Contribution toward .....
  - c. Amount of contribution due:.....
  - d. ....
  - e. Date upon which contribution is due.....
  - f. Indexation completed and added state  
Amount: .....
  - g. Interest added because payment late and state amount:
  - h. Amount of Contribution enclosed:.....

Official Use:	
Date R'cd:	Confirmation of R'ct out:
Notifications out:	
Interest/ Indexation Outstanding:	

EXECUTED AS A DEED BY)  
**Lavignac Securities Limited)**

Acting by:

*TEDE A. WIDOTH*

Director.....  ..... (Please Sign)

in the presence of:

 ..... (Witness)

Name & Address & Occupation of Witness:

*CLARY MILLER CATERERS  
COMPANY DIRECTOR  
1 THAMES SIDE WINDSOR SL4 1QN*

EXECUTED AS A DEED by:

**Paul James Cartwright**

.....  .....

in the presence of:  
(Witness Name, Address and Occupation)

*MR. A. J. LONG  
6 WEY HOUSE  
PRYFORD ROAD  
WEST BYFLEET  
SURREY  
KT 14 6SH*

EXECUTED AS A DEED by:

**Kerrie Lee Dalley**

.....  .....

in the presence of:  
(Witness Name, Address and Occupation)

*MR. A. J. LONG  
6 WEY HOUSE  
PRYFORD ROAD  
WEST BYFLEET  
SURREY  
KT 14 6SH*

EXECUTED AS A DEED by:

**James Frank Newington**



in the presence of:  
(Witness Name, Address and Occupation)

JAMES JOHNSON  
DINGLEY DELL MUSEUMS  
LINDLEHAM ROAD  
CHOBHAM, SURREY GU24 8SP  
BRIEFCHTER

EXECUTED AS A DEED by:

**Nina Newington**



in the presence of:  
(Witness Name, Address and Occupation)

SAMANTHA CANNON  
17 ROUNDWAY, QUISINK  
NURSERY NURSE