

DATED 13 July 2022

(1) HODSON DEVELOPMENTS (ASHFORD) LIMITED and others

and

(2) ASHFORD BOROUGH COUNCIL

and

(3) THE KENT COUNTY COUNCIL

DEED OF VARIATION OF
A SECTION 106 AGREEMENT DATED 27 FEBRUARY 2017

made pursuant to Section 106 and S106A
of the Town & Country Planning Act 1990
relating to residential development at
land at Chilmington Green, Ashford Road, Great Chart
12/00400/AS

File ref: KEN002:000871

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THIS DEED is made the 13th day of JULY

2022

BETWEEN

- (1) **HODSON DEVELOPMENTS (ASHFORD) LIMITED** (company registration number 07468189) whose registered office is at Office Suite 9, 55 Park Lane, London, W1K 1NA ("Hodson")
- (2) **CHILMINGTON GREEN DEVELOPMENTS LIMITED** (company registration number 09286703) whose registered office is at Office Suite 9, 55 Park Lane, London, W1K 1NA ("Chilmington Green Developments")
- (3) **HODSON DEVELOPMENTS (CG ONE) LIMITED** (company registration number 10392676) whose registered office is at Office Suite 9, 55 Park Lane, London, W1K 1NA ("Hodson CG One")
- (4) **HODSON DEVELOPMENTS (CG TWO) LIMITED** (company registration number 10392663) whose registered office is at Office Suite 9, 55 Park Lane, London, W1K 1NA ("Hodson CG Two")
- (5) **HODSON DEVELOPMENTS (CG THREE) LIMITED** (company registration number 10982329) of Office Suite 9, 55 Park Lane, London, W1K 1NA ("Hodson CG Three")
- (6) **CHELMDEN LIMITED** (company registration number 10321428) whose registered office is at Baythorne Park House Baythorne End Halstead Birdbrook Essex England CO9 4AG ("Chelmden")
- (7) **MALCOLM COLIN JOHN JARVIS** of Great Chilmington Farmhouse, Great Chart, Ashford, Kent TN23 3OP ("Mr Jarvis")
- (8) **BEVERLEY JUNE JARVIS** of Great Chilmington Farmhouse, Great Chart, Ashford, Kent TN23 3DP ("Mrs Jarvis")
- (9) **MALCOLM JARVIS HOMES LIMITED** (company registration number 04470416) whose registered office is at Great Chilmington Farmhouse, Great Chart, Ashford, Kent TN23 3OP ("Jarvis Homes")
- (10) **PENTLAND HOMES LIMITED** (company registration number 01031651) whose registered office is at The Estate Office, Canterbury Road, Etchinghill, Folkestone, CT18 8FA ("Pentland Homes")
- (11) **BDW TRADING LIMITED** (company registration number 03018173) whose registered office is at Barratt House, Cartwright Way, Forest Business Park, Bardon Hill, Coalville, Leicestershire, LE67 1 UF ("BDW")
- (12) **HOMES AND COMMUNITIES AGENCY** (trading as Homes England) whose registered office is at Homes and Communities Agency, One Friargate, Coventry CV1 2GN ("HCA")
- (13) **ZORIN AVENUE LENDCO 1 DESIGNATED ACTIVITY COMPANY** (incorporated in Eire under company registration number 669458) whose registered office address is 2nd Floor, Palmerston House, Fenian Street, Dublin 2, Eire, D02 WD37 and whose principal office in England is 8th floor 100 Bishopsgate London United Kingdom EC2N 4AG ("Zorin")
- (14) **CLOSE BROTHERS LIMITED** (company registration number 195626) whose registered office is at 10 Crown Place London EC2A 4FT ("Close Brothers")
- (15) **PARAGON DEVELOPMENT FINANCE LIMITED** (company registration number 03901943) whose registered office is at Paragon house, 51 Homer Road, Solihull B91 3QJ ("Paragon")
- (16) **LLOYDS BANK PLC** (company registration number 2065) whose registered office is at 25 Gresham Street, London EC2V 7HN ("Lloyds")

- (17) **BROOKWORTH HOMES (HOLDINGS) LIMITED** (company registration number 07700878) whose registered office is at Brookworth House, 99 Bell Street, Reigate, Surrey RH2 7AN ("Brookworth")
- (18) **JARVIS (GREAT CHILMINGTON) LIMITED** (company registration number 10668177) whose registered office is at Great Chilmington Farmhouse, Chilmington Green, Great Chart, Ashford, Kent TN23 3DP ("JGCL")
- (19) **ASHFORD BOROUGH COUNCIL** of Civic Centre Tannery Lane Ashford Kent TN23 1PL ("the Council")
- (20) **THE KENT COUNTY COUNCIL** of Sessions House County Hall Maidstone ME14 1XQ ("the County Council")

RECITALS

Whereas

- A. The Owners agreed planning obligations with the Council and the County Council pursuant inter alia to section 106 of the Planning Act by a deed dated 27 February 2017 ('the Original Agreement') in which various planning obligations were entered into in relation to the Development of the Site as described in the Planning Permission
- B. Hodson remains the freehold owner of the part of the Site registered under title K720599 (now TT62844 - land adjoining New Street Farm Ashford TN23 3DH) and the part of the Site registered under title K448700 (now TT36322 - land on the south-west side of Chilmington Green Road Great Chart Ashford) both subject to charges dated 27 February 2017 to the HCA and as such is an Owner and is entitled to modify obligations entered into in the Original Agreement
- C. Hodson remains the freehold owner of part of the part of the Site registered under title K631376 (now TT62839 - land on the west side of Coulter Road Kingsnorth Ashford) (subject to a charge dated 27 February 2017 to the HCA) with the remaining part disposed to a statutory undertaker since the date of the Original Agreement. The obligations contained in the Original Agreement are not binding upon any interest in this part of the Site held by the statutory undertaker (clause 2.8). Hodson is entitled to modify obligations in the Original Agreement
- D. Hodson remains the freehold owner of part of the part of the Site registered under title TT35024 (land on the north side of Mock Lane Great Chart Ashford) (subject to a charge dated 27 February 2017 to the HCA). The remaining part has since the date of the Original Agreement been acquired by Hodson CG One now registered under a separate title TT62837 (land on the south side of Ashford Road Great Chart Ashford) (subject to a charge dated 27 February 2017 to Paragon and a charge dated 27 February 2017 to the HCA). Since the date of the Original Agreement parts of titles TT35024 and TT62837 have been acquired by Brookworth Homes (Holdings) Limited now registered under a separate title TT131094 (land on the north side of Mock Lane Great Chart Ashford). Brookworth is entitled to modify obligations in the Original Agreement. Parts of the titles have been disposed of to various private individuals who have purchased completed Dwellings. Part of the titles have been disposed to a statutory undertaker since the date of the Original Agreement. The obligations contained in the Original Agreement are not binding upon any interest in this part of the Site held by those private individuals (clause 2.4 and 2.5) or statutory undertaker (clause 2.8). Hodson and Hodson CG One is entitled to modify obligations in the Original Agreement
- E. Hodson CG Two has since the date of the Original Agreement acquired the freehold ownership of part of the part of the Site from Chilmington Green Developments Limited registered under title K725773 (land on the south side of Mock Lane Great Chart Ashford) (now merged with title TT36322 under new title TT62830 - Land on the south-west side of Mock Lane Great Chart Ashford - see recital G below) (subject to a charge dated 27 February 2017 to Close Brothers and a charge dated 27 February 2017 to

the HCA). Hodson CG Two is entitled to modify obligations entered into in the Original Agreement as a successor in title to Hodson. Chilmington Green Developments Limited remains the freehold owner of the remaining part of this part of the Site under title K725773 (subject to a charge dated 27 February 2017 to the HCA) and is entitled to modify obligations in the Original Agreement

- F. Hodson CG Two remains the freehold owner of the parts of the Site formerly registered under title numbers K514398, K518531, K114296, K440838, K683893, K111341 and K343699 (now TT62458 - land at Chilmington Green Great Chart Ashford TN23 3DP) (subject to a charge dated 27 February 2017 to Close Brothers and a charge dated 27 February 2017 to the HCA) and remains the freehold owner of the part of the Site formerly registered under title TT35024 (now TT62834 - land on the north side of Mock Lane Great Chart Ashford) subject to a charge dated 27 February 2017 to Close Brothers and a charge dated 27 February 2017 to the HCA) and remains the freehold owner of the part of the Site formerly registered under title K725773 and TT36322 (now TT62830 - land on the south-west side of Mock Lane Great Chart Ashford) (subject to a charge dated 27 February 2017 to Close Brothers and a charge dated 27 February 2017 to HCA) and as such is entitled to modify the obligations in the Original Agreement
- G. Mr Jarvis and Mrs Jarvis remain the freehold owner of part of the part of the Site registered under title K851181 (part of Great Chilmington Farm Chilmington Green Great Chart Ashford TN23 3DP) with the remaining part disposed to a statutory undertaker since the date of the Original Agreement. Since the date of the Original Agreement part of title K851181 has been acquired by JGCL and is pending registration at the Land Registry with title number TT132790 (part of Great Chilmington Farm, Chilmington Green, Great Chart, Ashford TN23 3DP). JGCL is entitled to modify obligations in the Original Agreement. Parts of the title have been disposed of to various private individuals who have purchased completed Dwellings. The obligations contained in the Original Agreement are not binding upon any interest in this part of the Site held by those private individuals (clause 2.4 and 2.5) or the the statutory undertaker (clause 2.8). Mr Jarvis and Mrs Jarvis are entitled to modify the obligations in the Original Agreement
- H. Jarvis Homes remains the freehold owner of the part of the Site registered under title K965776 (land on the northern side of Chilmington Green Road Great Chart Ashford) (subject to a charge dated 1 October 2020 to Lloyds) and as such is the Owner and is entitled to modify obligations entered into and declarations made by the Owner in the Original Agreement. Parts of the title have been disposed of to various private individuals who have purchased completed Dwellings
- I. Hodson CG Three has since the date of the Original Agreement acquired the freehold ownership of the part of the Site registered under title number TT31992 (land on the north side of Mock Lane Great Chart Ashford) from Pentland Kent (who no longer has any interest in that part of the part of the Site) (subject to a charge dated 13 November 2020 to Zorin) and as the freehold owner thereof is entitled to confirm and modify obligations entered into and declarations made by the Owner in relation to this part of the part of the Site. Hodson CG Three has since the date of the Original Agreement disposed part of its interest in this part of the part of the Site to various private individuals who have purchased completed Dwellings. The obligations contained in the Original Agreement are not binding upon any interest in this part of the Site held by those private individuals (clause 2.4 and 2.5)
- J. Hodson CG Three has since the date of the Original Agreement acquired the freehold ownership of the part of the Site formerly registered under title TT42532 (now TT106382 - land lying to the east of Ashford Road Great Chart Ashford) from Pentland Homes (who no longer has any interest in that part of the part of the Site) and as the freehold owner thereof is entitled to modify obligations contained in the Original Agreement
- K. Pentland Homes remains the freehold owner of the part of the Site registered under title TT42532 (land adjoining New Street Farm Great Chart Ashford TN23 3DH) (subject to a charge dated 23 August 2016 to Lloyds Bank and which is subject to a sale contract dated 20 December 2017 made between Pentland

Homes (1), Hodson CG Three (2) and Hodson(3)) and as such is entitled to modify obligations in the Original Agreement

- L. Chelmden remains the freehold owner of the parts of the Site formerly registered under title K720599 (now TT58460 - land lying to the south-east of Ashford Road Great Chart Ashford) and under title K934218 (land lying to the south east of Ashford Road, Great Chart, Ashford) and as such is the Owner and is entitled to modify obligations entered into and declarations made by the Owner in the Original Agreement
- M. BDW remains the freehold owner of the part of the Site registered under title TT62668 (land at Chilmington Green Great Chart Ashford TN23 3DP) and as the freehold owner thereof is entitled to modify obligations in the Original Agreement. BDW has since the date of the Original Agreement disposed part of its interest in this part of the part of the Site to various private individuals who have purchased completed Dwellings. The obligations contained in the Original Agreement are not binding upon any interest in this part of the Site held by those private individuals (clause 2.4 and 2.5)
- N. The registered charge upon the part of the Site registered under title TT35024 referred to in recitals C and N of the Original Agreement has been redeemed and Titlestone no longer has any interest in that part of the Site
- O. The County Council remains the freehold owner of the parts of the Site registered under title numbers K86052 and K956029. The obligations contained in the Original Agreement are not binding upon any interest in these parts of the Site held by the County Council (clause 2.9.2)
- P. The County Council has since the date of the Original Agreement acquired the freehold ownership of part of the Site registered under title TT103372 (land on the south side of Mock Lane Great Chart Ashford) constituting the PS1 Site. The obligations contained in the Original Agreement are not binding upon any interest in this part of the Site pursuant to clause 2.9.2
- Q. The County Council has since the date of the Original Agreement acquired the freehold ownership of part of the Site registered under title TT62844 from Hodson and is awaiting registration by the Land Registry of the transfer of part constituting the Secondary School Site and allocated title number TT123939 (land adjacent New Street Farm Great Chart Ashford) by the Land Registry. Whilst a Transfer of the Secondary School Site has taken place pursuant to schedule 15 of the Original Agreement, several obligations in the Original Agreement have not been complied with or only complied with in part. An Ensured Access to the Secondary School Site has not been transferred in full compliance with the KCC General Site Transfer Requirements set out at Schedule 15A to the Original Agreement. The County Council, the Owners and the Paying Owners agree a forward funding arrangement by the County Council on the terms set out in schedule 2 to this deed to allow the Owners and/or the Paying Owners to comply with the aforementioned planning obligations in the Original Agreement
- R. The parties have agreed to vary the terms of the Original Agreement in the manner set out in this deed and the Paying Owners have in addition agreed to be bound by the schedule 2 provisions in this deed
- S. The Council and the County Council remain the local planning authorities for the purposes of the Planning Act for the area within which the Site is situated and by whom the planning obligations contained in the Original Agreement are enforceable. As set out in clause 2.17.1 of the Original Agreement, all covenants on behalf of the Owners contained in the Original Agreement (this including those in schedule 15 thereto) are enforceable by the Council
- T. The parties have agreed to enter into this deed pursuant to section 106 and section 106A of the Planning Act (and all other enabling powers) but the Council enters into this deed for the sole purpose of agreeing to the variations to schedule 15 to the Original Agreement which are set out in schedule 1

NOW THIS DEED WITNESSES as follows:-

1.1 In this deed unless the context otherwise requires:-

- 1.1.1 any term defined in the Original Agreement shall have the same meaning and for the avoidance of doubt where the definition of a term in the Original Agreement is modified by this deed that term shall have the modified meaning in this deed (unless and to the extent otherwise stated);
- 1.1.2 words importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies, corporations and other artificial persons;
- 1.1.3 words importing persons include firms, companies, other corporate bodies or legal entities and vice versa;
- 1.1.4 any reference to a specific statute shall include any regulation, order or other secondary legislation made under such statute, as well as any legislative application, extension, modification amendment or re-enactment of such statute and secondary legislation save where specifically provided to the contrary by this deed;
- 1.1.5 references in this deed to any clause, sub-clause or schedule without further designation shall be construed as a reference to the clause, sub-clause or schedule to this deed so numbered;
- 1.1.6 the clause and schedule headings do not form part of this deed and shall not be taken into account in its construction or interpretation;
- 1.1.7 the Interpretation Act 1978 shall apply.

2. STATUTORY POWERS

- 2.1 In so far as any covenants fall wholly or partly outside the scope of sections 106 and 106A of the Planning Act they are (to the extent permissible in law) entered into under section 111 of the Local Government Act 1972, the Localism Act 2011, section 33 of the Local Government (Miscellaneous Provisions) Act 1982, and all other powers enabling the Council and the County Council to enforce them against the Owners/Paying Owners (as appropriate) and the covenants restrictions and requirements of the Owners/Paying Owners as provided in this deed shall be ones to which the provisions of section 106 of the Planning Act shall apply and shall be binding and enforceable as planning obligations against the Owners/Paying Owners (as appropriate) (including all persons deriving title to any part of the Site from or under them and successors in title to their respective interests in the Site or any part thereof) by the Council and the County Council as local planning authorities to extent provided by and in accordance with this clause 2 (subject to clause 3.1).

3. LEGAL EFFECT

- 3.1 This deed is made pursuant to sections 106 and 106A of the Planning Act and contains planning obligations binding the Site which are enforceable by the Council and the County Council **SAVE THAT** the Council is not involved in and neither assents to nor dissents from, the provisions of schedule 2, which provisions and anything implied in or by them are not enforceable by or against the Council and do not bind or commit the Council in any way. The Council remains fully and effectually able to exercise unfettered all of its statutory and other legal powers rights and responsibilities (including in respect of any proposed and/or actual Section 73 Application or other application made pursuant to section 73 or 96A of the Planning Act which may be contemplated and/or made whether or not in pursuance of schedule 2) as if it were not a party to this deed)
- 3.2 Subject to the amendments made by the terms of this deed, the planning obligations in the Original Agreement remain in full force and effect from the dates thereof and nothing in this

deed affects the date on which those obligations were entered into. Any terms defined in the Original Agreement that are not amended by this deed remain in full force and effect.

- 3.3 This deed will be registered in the register of local land charges maintained by the Council.
- 3.4 The planning obligations in the Original Agreement as amended by this deed are and remain enforceable by the Council and the County Council against the Owners and Zorin, HCA, Lloyds Bank, Close Brothers and Paragon and no part of this deed shall or may be construed as creating any rights enforceable by a third party as defined by the Contracts (Rights of Third Parties) Act 1999.

4. CONDITIONALITY

This deed shall become effective upon the date hereof.

5. PRINCIPLES OF MODIFICATION

- 5.1 From the date of this deed, the parties agree that the Original Agreement shall operate as amended by schedule 1 to this deed and shall apply to the Development as permitted by the Planning Permission and any reserved matter approvals.
- 5.2 The Paying Owners agree with the County Council to be bound by the provisions in schedule 2 to this deed from the date hereof.
- 5.3 The parties agree to the insertion of a new 'Schedule 15AB' immediately after 'Schedule 15A' in the terms as set out in schedule 2 to this deed.
- 5.4 The parties agree to the insertion of the following words to the end of clause 2.17.1 in the Original Agreement - "save for those covenants in Schedule 15AB which shall be enforceable by the County Council alone".
- 5.5 The parties agree to the insertion of the following new sub-clause 9.2 in the Original Agreement:-

"9.2 The Council is not involved in, and neither assents to nor dissents from, the provisions of schedule 15AB, which provisions and anything implied in or by them are not enforceable by or against the Council and do not bind or commit the Council in any way. The Council shall remain fully and effectually able to exercise unfettered all of its statutory and other legal powers rights and responsibilities (including in respect of any proposed and/or actual application made under section 73 or section 96A of the Planning Act which may be contemplated and/or made whether or not in pursuance of schedule 15AB) as if schedule 15AB were not part of this Deed".

6. INDEXATION

- 6.1 The sums in schedule 1 payable by the Paying Owners under this deed shall be Index Linked in accordance with clause 28.1 of the Original Agreement.

7. INTEREST

- 7.1 In respect of the sums due and payable to the County Council under the terms of schedule 1 to this deed, interest in accordance with clause 18 of the Original Agreement shall apply.

8. CHARGEHOLDER COVENANTS

- 8.1 The HCA acknowledges and declares that this deed is entered into by Hodson, Hodson CG One, Hodson CG Two and Chilmington Green Developments with its consent and that the parts of the Site referred to under recitals B, C, D, E and F is bound by the obligations contained in the Original Agreement as modified by this deed and that the security of its charges over those parts of the Site takes effect subject to the Original Agreement as modified by this deed provided that the HCA and any subsequent person or body with the benefit of a legal charge over those parts of the Site shall in that capacity have no liability under this deed unless it takes possession of a

part of the Site referred to in the recitals B, C, D, E and For part thereof or appoints a receiver in which case it too will be bound by the obligations as if it were a person deriving title from Hodson, Chilmington Green Developments, Hodson CG One and Hodson CG Two (as appropriate).

- 8.2 Paragon acknowledges and declares that this deed is entered into by Hodson CG One with its consent and that the parts of the Site referred to under recital E is bound by the obligations contained in the Original Agreement as modified by this deed and that the security of its charge over those parts of the Site takes effect subject to the Original Agreement as modified by this deed provided that Paragon and any subsequent person or body with the benefit of a legal charge over those parts of the Site shall in that capacity have no liability under this deed unless it takes possession of a part of the Site referred to in recital I or part thereof or appoints a receiver in which case it too will be bound by the obligations as if it were a person deriving title from Hodson CG One.
- 8.3 Close Brothers acknowledge and declare that this deed is entered into by Hodson CG Two with its consent and that the parts of the Site referred to under recitals E and F is bound by the obligations contained in the Original Agreement as modified by this deed and that the security of its charges over those parts of the Site takes effect subject to the Original Agreement as modified by this deed provided that Close Brothers and any subsequent person or body with the benefit of a legal charge over those parts of the Site shall in that capacity have no liability under this deed unless it takes possession of a part of the Site referred to in recitals E and F H or part thereof or appoints a receiver in which case it too will be bound by the obligations as if it were a person deriving title from Hodson CG Two.
- 8.4 Zorin acknowledge and declare that this deed is entered into by Hodson CG Three with its consent and that the parts of the Site referred to under recital I is bound by the obligations contained in the Original Agreement as modified by this deed and that the security of its charges over those parts of the Site takes effect subject to the Original Agreement as modified by this deed provided that Zorin and any subsequent person or body with the benefit of a legal charge over those parts of the Site shall in that capacity have no liability under this deed unless it takes possession of a part of the Site referred to in recital I or part thereof or appoints a receiver in which case it too will be bound by the obligations as if it were a person deriving title from Hodson CG Three.
- 8.5 Lloyds acknowledges and declares that this deed is entered into by Pentland Homes and Jarvis Homes with its consent and that the parts of the Site referred to under recitals H and K are bound by the obligations contained in the Original Agreement as modified by this deed and that the security of its charges over those parts of the Site takes effect subject to the Original Agreement as modified by this deed provided that Lloyds and any subsequent person or body with the benefit of a legal charge over those parts of the Site shall in that capacity have no liability under this deed unless it takes possession of a part of the Site referred to in the recitals H and K or part thereof or appoints a receiver in which case it too will be bound by the obligations as if it were a person deriving title from Pentland Homes or Jarvis Homes (as appropriate).

9. WARRANTY AS TO TITLE

- 9.1 The Owners hereby warrant to the Council and the County Council that the title details referred to in the recitals to this deed are complete and accurate in every respect and further that they have not leased mortgaged charged or otherwise created any interest in the Site save for those recited in this deed or which is an interest held by an individual or individuals in respect of a plot for a single dwelling or which is an interest held by a statutory undertaker.

10. EXECUTION

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts together shall constitute one agreement.

IN WITNESS whereof the parties have executed this deed the day and year first before written

SCHEDULE 1

Secondary School and The Delivery of Bonds and clause 1.1 (definitions)

1. The parties agree to paragraphs 37 to 41 of Schedule 15 (part 5 - Secondary School) to the Original Agreement to be deleted and replaced with the following:

“37. The Paying Owners shall:

(a) Pay the Stage One Secondary Contribution 1 to the County Council on or before Occupation of 1000 Dwellings on the Site or on or before 1 March 2026 whichever is the earlier date.

(b) Pay the Stage One Secondary Contribution 2 to the County Council within 12 months of the falling due date of the Stage One Secondary Contribution 1 or on or before 1 March 2027 whichever is the earlier date.

(c) Pay the Stage One Contribution 3 to the County Council within 24 months of the falling due date of the Stage One Secondary Contribution 1 or on or before 1 March 2028 whichever is the earlier date.

(d) Pay the Stage One Contribution 4 to the County Council within 36 months of the falling due date of the Stage One Secondary Contribution 1 or on or before 1 March 2029 whichever is the earlier date.

(e) Pay the Stage One Contribution 5 to the County Council within 48 months of the falling due date of the Stage One Secondary Contribution 1 or on or before 1 March 2030 whichever is the earlier date.

(f) Pay the Stage One Contribution 6 to the County Council within 60 months of the falling due date of the Stage One Secondary Contribution 1 or on or before 1 March 2031 whichever is the earlier date.

38. The Owners shall not Occupy or cause or permit Occupation of more than 1000 Dwellings unless and until the Stage One Secondary Contribution 1 has been paid.

39. If any of the sums due pursuant to paragraph 37 of this schedule 15 (part 5) are not paid when it falls due, the Paying Owners shall not Occupy or cause or permit Occupation of any further Dwellings from the date the applicable sum in paragraph 37 falls due until it is paid in full to the County Council.

40. If any of the sums due pursuant to paragraph 37 of this schedule 15 (part 5) is not paid when it falls due, the Council or the County Council may give notice to the Owners (other than the Paying Owners) of such a breach and from service of that notice the Owners (other than the Paying Owners) shall not Occupy or cause or permit the Occupation of any further Dwellings until such payment/s have been paid to the County Council in full.”

2. Paragraphs 42(a) to (b) of Schedule 15 (part 6 - The Delivery of Bonds) to the Original Agreement shall be deleted.
3. Delete from clause 1.1 of the Original Agreement the following six definitions: “Stage One Secondary Contribution 1” “Stage One Secondary Contribution 2” “Stage One Secondary Contribution 3” “Stage One Secondary Contribution 4” “Stage One Secondary Contribution 5” and “Stage One Secondary Contribution 6” and replace with the following:

“Stage One Secondary
Contribution 1”

£2,258,333 (two million two hundred and fifty eight thousand and three hundred and thirty three pounds) Index Linked;

**"Stage One Secondary
Contribution 2"**

£2,258,333 (two million two hundred and fifty eight thousand and three hundred and thirty three pounds) Index Linked;

**"Stage One Secondary
Contribution 3"**

£2,258,333 (two million two hundred and fifty eight thousand and three hundred and thirty three pounds) Index Linked;

**"Stage One Secondary
Contribution 4"**

£2,258,333 (two million two hundred and fifty eight thousand and three hundred and thirty three pounds) Index Linked;

**"Stage One Secondary
Contribution 5"**

£2,258,333 (two million two hundred and fifty eight thousand and three hundred and thirty three pounds) Index Linked;

**"Stage One Secondary
Contribution 6"**

£2,258,333 (two million two hundred and fifty eight thousand and three hundred and thirty three pounds) Index Linked;

SCHEDULE 2

Infrastructure and Forward Funding

"SCHEDULE 15AB

Infrastructure and Forward Funding

1. In this schedule the following words shall have the following meaning in addition to the definitions provided in clause 1.1 of the Original Agreement:

Access A	a new access A - the northern A28 roundabout to the Site shown on Drawing number 131065/A/01 Rev B approved pursuant to the Planning Permission (or such other scheme to substantially the same effect in highways terms previously approved in writing by the Council in consultation with the County Council)
Access C Roundabout	a new access C - the southern access roundabout shown on approved drawing 131065/A/02 Rev B approved pursuant to the Planning Permission (or such other scheme to substantially the same effect in highways terms previously approved in writing by the Council in consultation with the County Council)
Active Travel Route	the footpath across the Site to Chilmington Green Road along the route coloured brown shown on drawing TQ9740/3C
Amendment	an application pursuant to section 96A or section 73 of the Act to make an amendment to the Infrastructure Route to change the design of the junction of Chilmington Green Road/Chilmington Green Avenue Extension/Chilmington Avenue in a form approved by the County Council (acting reasonably) the location of which is indicatively shown on Drawing VD21443- VEC-00-XX-DR-D-103 Rev D
Chilmington Avenue Extension	indicatively shown on Drawing No. VD21443-VEC-00-XX-DR-D-103 Rev D outlined in red;
Contractor's Invoice	invoices from a Hodson, a contractor or members of Hodson's professional team for the Approved Infrastructure Works as provided for in paragraph 3 part 3 of this schedule

Department for Education	The Department for Education or any successor body;
Infrastructure Works	any works reasonably required by the County Council to facilitate the construction of pedestrian access to and from and the opening and operation of the Secondary School on the Secondary School Site which may include planning and design works, technical designs works, procurement of works and construction works relating to works to be carried out to the Chilmington Avenue Extension, the Active Travel Route and the Access C Roundabout
Infrastructure Costs	the sums to be applied towards the Infrastructure Works in accordance with this schedule up to a maximum of £3,100,000 (three million one hundred thousand pounds) in aggregate
Infrastructure Report	the report in respect of the Infrastructure Works as required pursuant to this schedule part 4
Infrastructure Route	an infrastructure route from Access C to Chilmington Green Road permitted under reference 21/00840/AS as amended pursuant to the Amendment
Interest 1	three percent (3%) above the Bank of England base rate
Section 73 Application	an application under section 73 of the Planning Act to vary conditions 27 and 29 of the Planning Permission
Wave Funding	any funding awarded by the Department for Education in respect of the Secondary School to be constructed on the Secondary School Site.

2. In this Schedule unless the context otherwise requires:-

- 2.1. words denoting an obligation on a person to do any act matter or thing include an obligation to procure that it be done;
- 2.2. words requiring a person not to do any act matter or thing ('negative requirement') or otherwise imposing a restriction or prohibition on the development, use or occupation of land include an obligation not to assist, facilitate, encourage, cause, permit or suffer any infringement of the negative requirement, restriction or prohibition.

PART 1 - Conditionality

The Paying Owners covenant with the County Council as set out in this schedule.

1. If Wave Funding is not granted:
 - 1.1. the County Council shall notify Hodson or one of the Paying Owners in writing; and
 - 1.2. unless the County Council has approved any Infrastructure Works under Part 3, paragraph 2, this Schedule shall not apply.
2. Where the County Council has approved any Infrastructure Works under Part 3, paragraph 2 before notification to Hodson or one of the Paying Owners that Wave Funding has not been granted:
 - 2.1. Part 2 shall not apply; and
 - 2.2. Parts 3, 4 and 5 shall continue to apply.

PART 2 - Section 73 Application

1. Hodson shall submit to the County Council for approval a programme for completion of the Infrastructure Works (such approval not to be unreasonably withheld or delayed) as soon as practicable following the date of this deed ("the **Programme**"). The County Council shall be reasonable in withholding its consent if the Programme does not demonstrate that the following will be completed on or before 31 May 2023:
 - 1.1. the Access C Roundabout;
 - 1.2. the Infrastructure Route; and
 - 1.3. the Chilmington Avenue Extension from Access A to Chilmington Green Roadtogether comprising "the Works")
2. The County Council and Hodson shall meet between 30 November 2022 and 31 December-2022 to assess the progress of the Infrastructure works pursuant to the Programme. If the County Council reasonably considers that the Works are unlikely to be completed by 31 May 2023 to:
 - 2.1. binder course in respect of any carriageway;
 - 2.2. highway drainage (including drainage situated outside of any highway) and all sustainable drainage systems (where this applies);
 - 2.3. all other drainage contained within any highway;
 - 2.4. clearance of vision splays;
 - 2.5. street lighting illuminated traffic signs and bollards (where appropriate);
 - 2.6. structures (where appropriate).
 - 2.7. crushed concrete in respect of any footways and cycleways; and
 - 2.8. topsoil for any verge,the County Council may request that Hodson prepares a draft Section 73 Application.
3. Hodson shall bring all footways and cycleways comprising the Chilmington Avenue Extension up to binder course in accordance with relevant conditions in the Planning Permission.

4. If the County Council requires the Section 73 Application to be prepared pursuant to paragraph 2, Hodson shall prepare the Section 73 Application for the County Council's approval as soon as reasonably practicable following such request and in any event within thirty (30) days. Hodson shall submit the Section 73 Application to the Council within seven (7) days of written approval from the County Council. The process set out in this paragraph shall be repeated until such time that a Section 73 Application has been approved by the Council.
5. If Hodson is in breach of its obligations in paragraph 3, the County Council may give notice to the Paying Owners of such a breach and from receipt of that notice the Paying Owners shall not Occupy or cause or permit the Occupation of any further Dwellings unless and until Hodson has submitted a valid Section 73 Application to the Council in the form approved by the County Council.
6. Nothing contained or implied in this deed shall be construed as fettering the Council's discretion in respect of any Section 73 Application submitted to the Council or prejudice or affect the rights powers duties and obligations of the Council both as the local planning authority and in the exercise of its functions rights powers duties and obligations of the Council under all public and private statutes bylaws orders and regulations may be fully and effectually exercised as if the Part 2 provisions were not included in this schedule 2.

PART 3 - Infrastructure Works and Amendment

1. Hodson shall prepare the Amendment for the County Council's approval as soon as practicable following the date of this deed and in any event within thirty (30) days. Hodson shall submit the application for Amendment to the Council within seven (7) days of written approval from the County Council. The process set out in this paragraph shall be repeated until such time that an Amendment has been approved by the Council.
2. Hodson shall submit to the County Council for approval a budget and schedule of works for completion of the Infrastructure Works (such approval not to be unreasonably withheld or delayed) as soon as practicable following the date of this deed ("the Budget"). The Budget shall include a breakdown of the costs to be incurred by the contractors and all members of the professional team.
3. At any time following the date of this deed, Hodson may make an application in writing to the County Council for approval of a part of the Infrastructure Works to be carried out. Such application shall be supported by a schedule of works that demonstrates such works fall within the Infrastructure Works and that the Infrastructure Costs are within the Budget.
4. The County Council shall approve an application under paragraph 2 within 10 days ("Approved Infrastructure Works").
5. Following completion of any Approved Infrastructure Works, Hodson may make an application in writing to the County Council for release of a part of the Infrastructure Costs. Such application shall be supported by:
 - 5.1. a statement confirming the Approved Infrastructure Works have been completed;
 - 5.2. a statement by a clerk of works appointed by the County Council confirming that such works accurately reflect the Approved Infrastructure Works; and
 - 5.3. a Contractor's Invoice.
6. The County Council shall act reasonably in considering any application received pursuant to paragraphs 2 and 4 (of this Part 3) and shall respond to approve or reject such application within ten (10) days

following receipt. If the application is rejected, the County Council shall provide substantive reasons behind its decision.

7. On approval by the County Council of an application for release of a part of the Infrastructure Costs, the County Council shall pay the approved amount to Hodson within ten (10) days of approval.
8. Hodson shall provide proof of payment of the Contractor's Invoice within ten (10) days of receipt of part of the Infrastructure Costs from the County Council.
9. Should Hodson fail to pay the Contractor's Invoice for which the County Council has released part of the Infrastructure Costs, the County Council may withhold any release of further Infrastructure Costs unless until satisfactory evidence of actual payment of previous Contractor's Invoices has been provided to the County Council.
10. A new paragraph shall be inserted in the definition of Relevant Dispute in the Original Agreement as follows:

"f) any dispute about the release of the Infrastructure Costs and/or whether any works proposed by Hodson are within the scope of the Infrastructure Works."
11. Interest 1 shall be payable by the Paying Owner in respect of any amount of the Infrastructure Costs. Such interest shall be payable from the date any part of the Infrastructure Costs is paid to the Paying Owners until the date of repayment to the County Council. The Paying Owners shall repay any Infrastructure Costs plus Interest 1 to the County Council on or before 1 March 2027.
12. The Paying Owners shall not Occupy or cause or permit Occupation of any further Dwellings after 1 March 2027 unless and until the Infrastructure Costs plus Interest 1 payable from the date any part of the Infrastructure Costs is paid to the Paying Owner until the date of repayment to the County Council have been paid to the County Council in full.
13. If Hodson fails to carry out or complete the Infrastructure Works in accordance with its obligations under this deed or fails to meet with the County Council pursuant to part 2, paragraph 2 of this schedule, the County Council after giving no less than twenty one (21) days written notice to Hodson, shall be entitled to carry out or complete the Infrastructure Works in default, using the County Council's own employees, or by contractors or otherwise and to recover from the Paying Owner the actual cost reasonably incurred in carrying out or completing the Infrastructure Works.

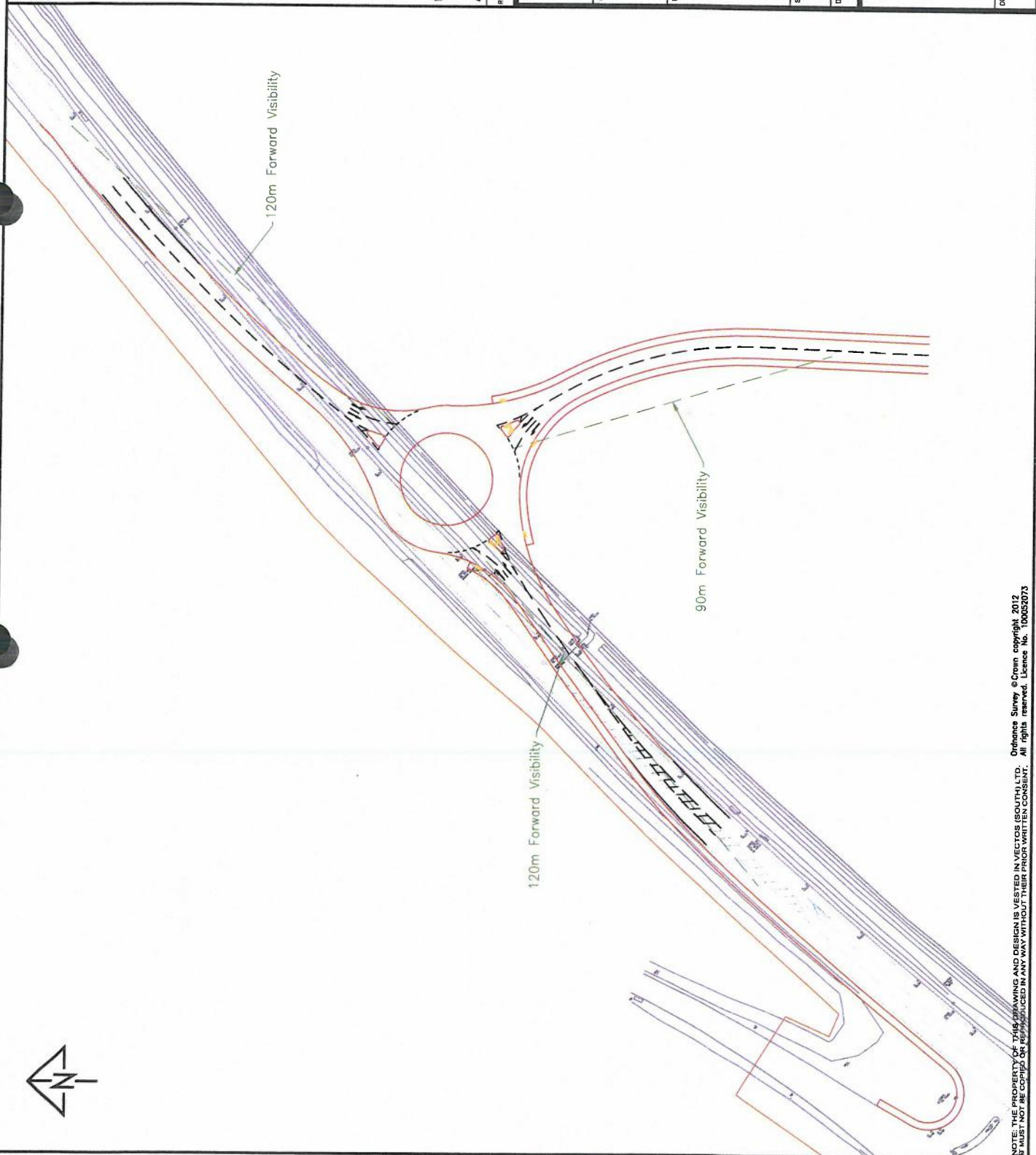
PART 4 - Infrastructure Reporting

1. Hodson shall submit an Infrastructure Report to the County Council on the 15th day of every month, commencing six (6) weeks after the date of this deed setting out:
 - 1.1. the items of Infrastructure Works that have been completed in the preceding month;
 - 1.2. which Infrastructure Works are scheduled to be completed in the following three (3) months;
 - 1.3. any matters that have led to or may lead to an unexpected variation in the Programme; and
 - 1.4. any matters that have led to or may lead to an unexpected variation in costs from the Budget.
2. Hodson and the County Council shall meet on request by either party as early as possible within ten (10) days of a request being received in writing to review the progress of the Infrastructure Works and/or any Infrastructure Report.

PART 5 - Forward Funding

1. The Paying Owners and the County Council agree that by the arrangements set out in this schedule 15AB, the County Council are forward funding infrastructure that the Paying Owners should have provided by virtue of the provisions in paragraph 33(a) of Schedule 15 and paragraphs 7 to 10 of Schedule 15A the Original Agreement. On repayment of the sums forward funded by the Paying Owners to the County Council set out in this Schedule, the County Council may credit the relevant repayment equal to the sum forward funded by the County Council (including interest received thereon) to its own resources.”

APPENDIX
Plans



Notes:

1. This is not a construction drawing and is intended for illustrative purposes only.
2. While lining is indicative only.

REV	DETAILS	DRAWN	CHECKED	DATE
B	Unnecessary footways & crossings removed. Kerblines mistakenly tied into road markings corrected.	JM	CS	10/09/2013
A	Round moved & tied into topo	JM	CS	27/08/2013

CLIENT

Chilmington Green Consortium

PROJECT

Chilmington Green

DRAWING TITLE

Access A
Northern A28 Roundabout
40m ICD

SCALES

1:1000 at A3

DRAWN	JM	CHECKED	CS	DATE
				12/08/2013



Network Building, 97 Tottenham Court Road, London W1T 4TP
t: 020 7580 7373
e: enquiries@vectos.co.uk

DRAWING NUMBER

131065/A/01

REVISION

B

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Notes:
 1. This is not a construction drawing and is intended for illustrative purposes only.
 2. White lining is indicative only.

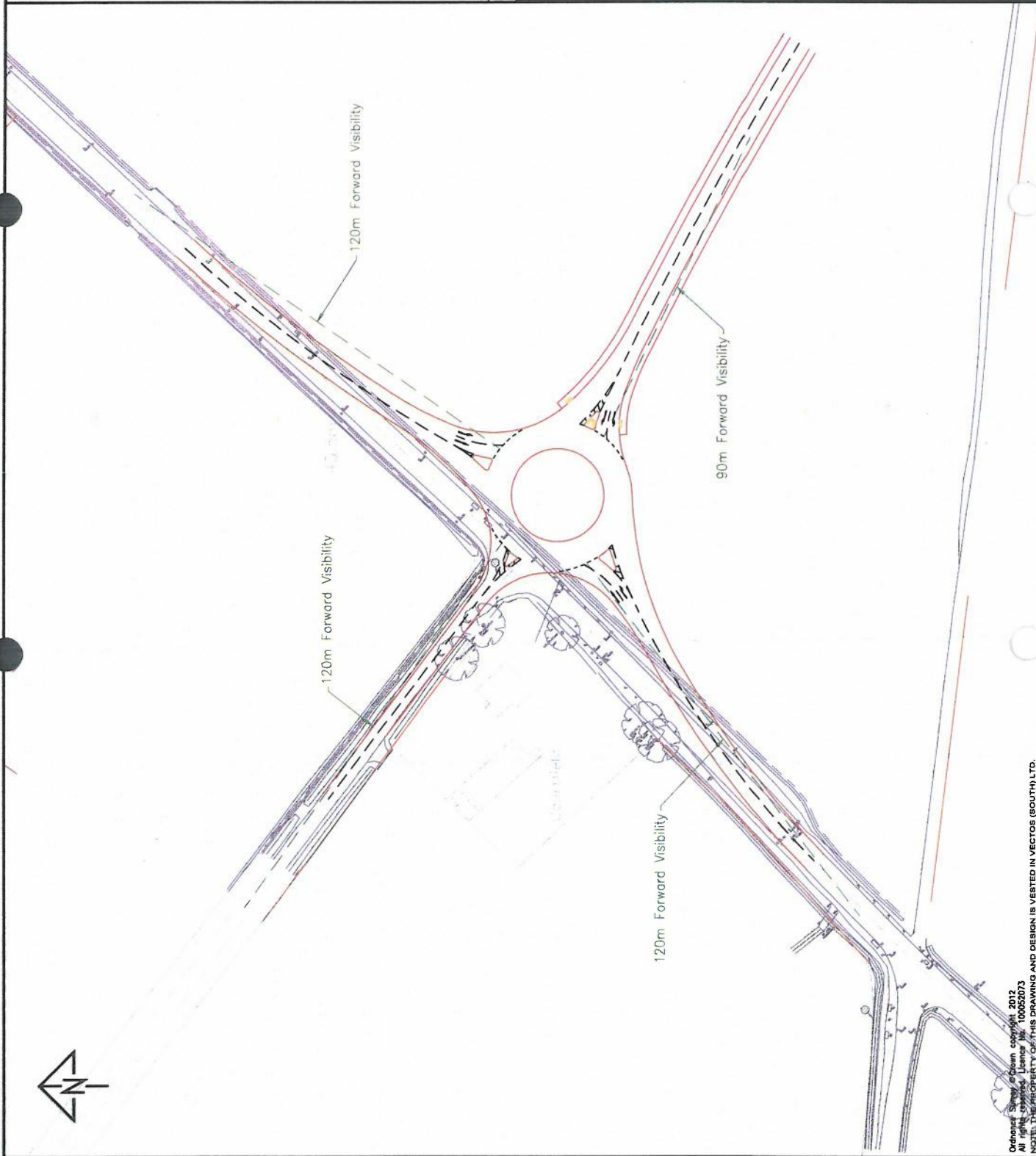
REV	DETAILS	DRAWN	CHECKED	DATE
B	Unnecessary footways & crossings removed	JM	CS	10/09/2013
A	Roadbed tied into topographical survey	JM	CS	27/08/2013

CLIENT	Chilmington Green Consortium				
PROJECT	Chilmington Green				
DRAWING TITLE	Access C Southern A28 Roundabout 40m ICD				
SCALES	1:1000 at A3				
DRAWN	JM	CHECKED	CS	DATE	15/08/2013

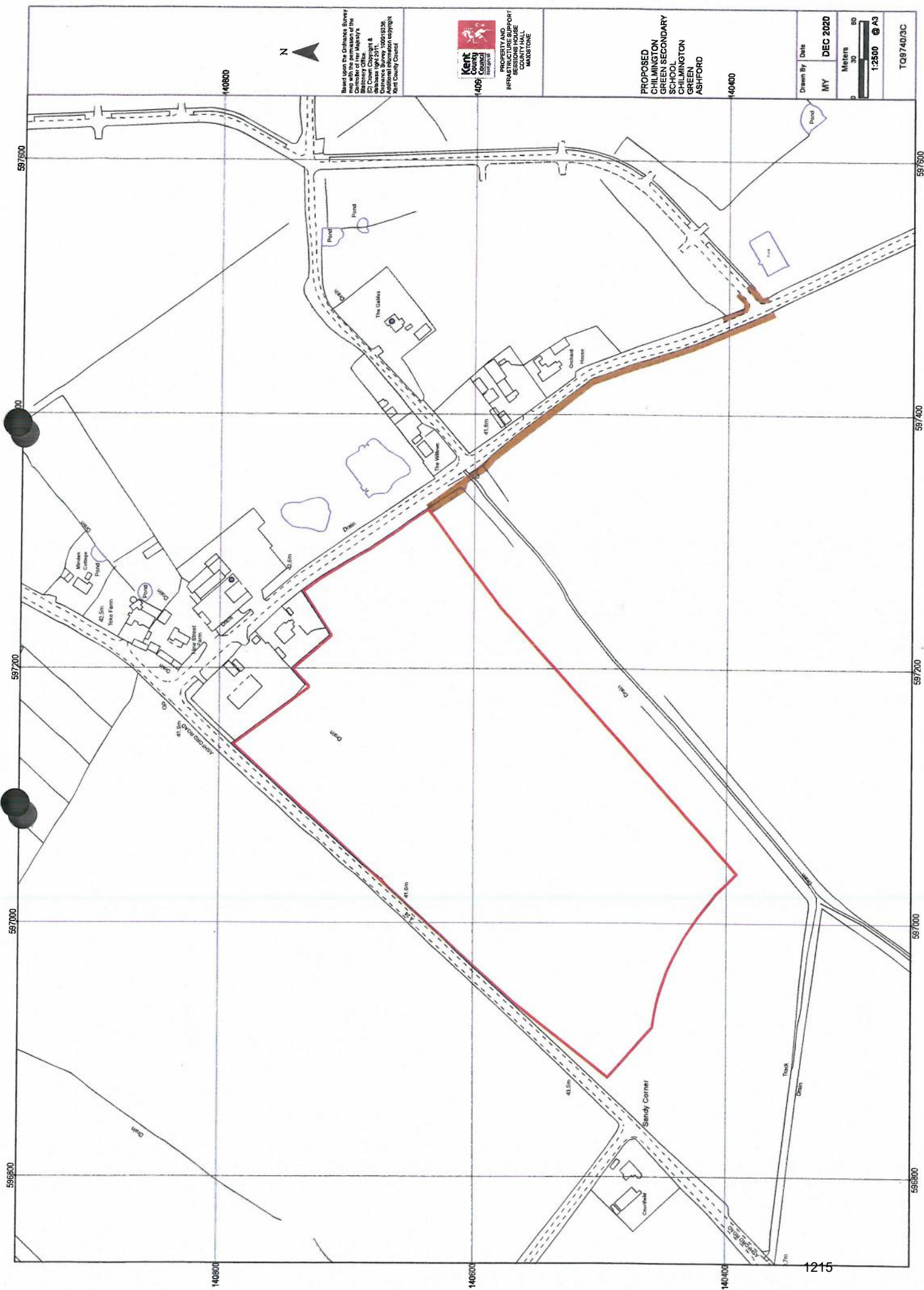


Network Building, 97 Tottenham Court Road, London W1T 4TP
 t: 020 7580 7373
 e: enquiries@vectors.co.uk

DRAWING NUMBER	131065/A/02	REVISION	B
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Additional information supplied by Kent County Council

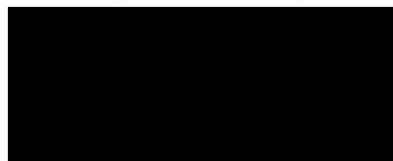


PROPERTY AND
INFRASTRUCTURE SUPPORT
SCHOOL SITE
COUNTY HALL
MAIDSTONE

PROPOSED
CHILMINGTON
GREEN SECONDARY
SCHOOL
CHILMINGTON
GREEN
ASHFORD

Drawn By	Date
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TQ9740/3C	

Executed as a Deed on behalf of Chelmden Limited
acting by a director in the presence of
a witness



Director: P.M. Pullen

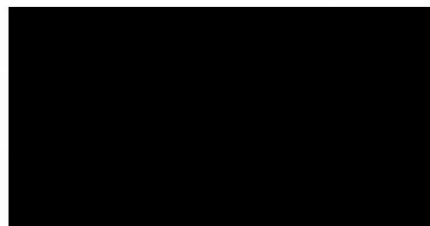
Witness signature: 

Witness name: Umarissa Kandjou

Witness address: 26 Green ham
South bretteon
Peterborough
PE3 9YR

HD

EXECUTED AS A DEED by
PARAGON DEVELOPMENT FINANCE LIMITED
Acting by ~~a director~~ its attorney
In the presence of a witness



Director:

Witness signature:



Witness name: Anna-Louise Timms

Witness address: No 1 St Pauls square, Liverpool, L3 9SJ.

)))))))

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.....

160 Aldersgate Street, London EC1A 4HT.
Secretary.

Secretary.

Executed as a Deed on behalf of Malcolm Jarvis Homes)
Limited acting by a director in the presence of)
a witness)

Director:..

Witness signature:.....

Witness name:TINA BROOKES

Witness address: 5 ACORN CLOSE
WILLESBOROUGH
TN24 0YW

Executed as a Deed by Malcolm Colin John Jarvis)
in the presence of)
a witness)

Malcolm Colin John Jarvis:

Witness signature:.....

Witness name:TINA BROOKES

Witness address: 5 ACORN CLOSE
WILLESBOROUGH TN24 0YW

Executed as a Deed by Beverley June Jarvis)
in the presence of)
a witness)

Beverley June Jarvis:..

Witness signature:.....

Witness name:TINA BROOKES

Witness address: 5 ACORN CLOSE
WILLESBOROUGH
TN24 0YW

Executed as a Deed by
As Authorised Signatory for Lloyds Bank plc


)
)
)

In the presence of a witness:

Witness signature:

Witness name:

Witness address:


EXECUTED AS A DEED	
BY CASE HANDLER as authorised signatory for Lloyds Bank plc	} Per Pro Lloyds Bank plc <i>Holly Burrows</i>
 e of witness)	
Witness: Mr. William [illegible] WY9 5LW	

Diane Elizabeth Shipley

THE COMMON SEAL OF
HOMES AND COMMUNITIES AGENCY

Was hereunto affixed

In the presence of


Authorised signatory

Print name: M. CLARKE

Address:
One Friargate
Coventry
CV1 2GN

Attn: Head of Portfolio Management



Executed as a deed by **ZORIN AVENUE LEND CO 1 DESIGNATED ACTIVITY COMPANY**, a company incorporated in the Republic of Ireland, acting by Luke Townsend who, in accordance with the laws of that territory, is acting under the authority of the company.

Signature in the name
Of the company:

ZORIN AVENUE LEND CO 1 DESIGNATED ACTIVITY COMPANY

A black rectangular redaction box covering the signature of the company.

Signature of
Authorised signatory

Luke Townsend

EXECUTED AS A DEED by
BROOKWORTH HOMES (HOLDINGS) LIMITED

Acti
In th

Dire

Witr

Witness name:

Math Infante

Witness address:

*6 Blenheim Close
Tongham
GU11 0BW*

Executed as a Deed on behalf of Pentland Homes)
Limited acting by a director in the presence of)
a witness)

Director:.....

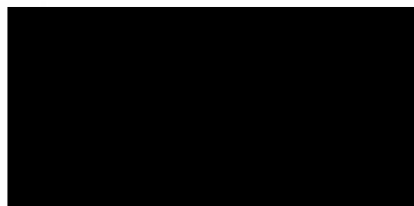
Witness signature:.....

Witness name:KEITH BEAVERS.....

Witness address: % THE ESTATE OFFICE
ETCHINGHILL GOLF
ETCHINGHILL
FOLKESTONE
KENT
CT18 8FX .

Executed as a Deed by
As Authorised Signatory for Lloyds Bank plc
(acting in its capacity as chargee for
Pentland Homes Limited)

)
)
)
)



In the presence of a witness:

Witness signature:...



Witness name: LINDA WILLIAMS

Witness address: 11 GARL GREN STREET
EDINBURGH
EH3 9BN

EXECUTED AS A DEED by
JARVIS (GREAT CHILMINGTON) LIMITED
Acting by a director
In the presence of a witness

Director:....

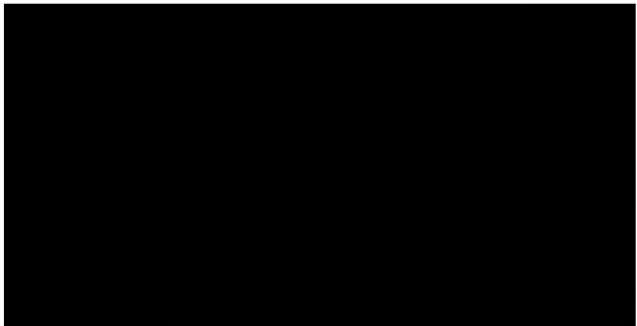
Witness signature:

Witness name: Tina D Brookes

Witness address: 5 Acorn Close
Willesborough
Ashford Kent
TN24 0YW

Executed as a Deed on behalf of
Hodson Development (Ashford) Limited
acting by a director in the presence of
a witness

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Director:



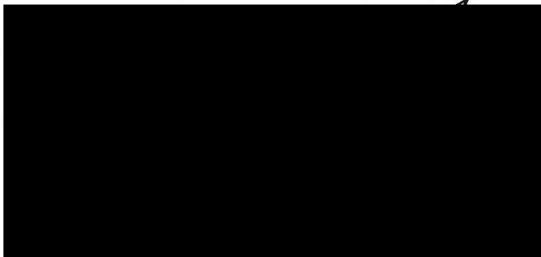
Witness signature:.....



Witness name:

Witness address:

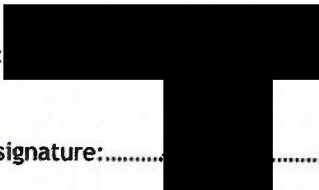
Rama Manian
24 Launton Close
Luton LU3 4BF



Executed as a Deed on behalf of
Hodson Development (CG One) Limited
acting by a director in the presence of
a witness

)
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)

Director:



Witness signature:.....

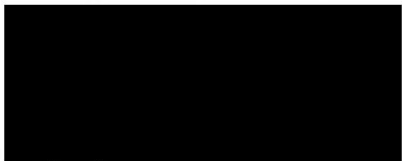
Witness name: Rama Manian

Witness address:

24 Launton Close
Luton LU3 4BF

Executed as a Deed on behalf of
Hodson Development (CG Two) Limited
acting by a director in the presence of
a witness

)
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)
)



Director:



Witness signature:.....

Witness name:

Witness address:

Rama Manian
24 Launton Close
Luton LU3 4BF
Accounts Director

Executed as a Deed on behalf of
Hodson Development (Three) Limited
acting by a director in the presence of
a witness

)
)
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)

Director:..

Witness signature:.....

Witness name: Rama Manian

Witness address: 24 Launton Close
Luton LU3 4BF
Accounts Director

Executed as a Deed on behalf of
Chilmington Green Developments Limited
acting by a director in the presence of
a witness

)
)
)
)

Director:..

Witness signature:.....

Witness name:

Witness address: Rama Manian
24 Launton Close
Luton LU3 4BF
Accounts Director

SIGNED AS A DEED by
and
as attorneys for BDW Trading Limited
under a power of attorney dated

June 2022

.....
SIGNATURE OF ATTORNEY (1)

as attorneys for BDW Trading Limited

in the presence of:

.....
Signature of Witness (1)

Name in block capitals

Address

BDW HOMES
WEALD HOUSE
88 MAIN ROAD
SUNDRIDGE
KENT
TN14 6ER

.....
SIGNATURE OF ATTORNEY (2)

as attorneys for BDW Trading Limited

.....
Signature of Witness (2)

Name in block capitals


Address

BDW HOMES
WEALD HOUSE
88 MAIN ROAD
SUNDRIDGE
KENT
TN14 6ER

THE COMMON SEAL OF
THE KENT COUNTY COUNCIL

Was hereunto affixed

In the presence of


Authorised officer



S62-2022

Executed as a Deed
By affixing the common seal of
Ashford Borough Council
In the presence of:-

Mayor



Solicitor

Case of urgency and no Member
Available to attest the seal
General Procedure Rules
Appendix 1 Section D(5)

