

**Planning Obligation by Deed of Agreement
under Section 106 of the Town and Country
Planning Act 1990**

relating to the development of land at Trem
Echni, Rhoose Point, Rhoose Vale of
Glamorgan

Dated

15th May.

2014

Vale of Glamorgan Council (1)

Cofton Land and Property (Cardiff) Limited (in administration) (2)

Cofton Land and Property (Projects) Limited (in administration) (3)

Taylor Wimpey UK Limited (4)

John Charles Reid and Dominic Lee Zoong Wong (5)

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DATE 15th May

2014

PARTIES

- (1) **Vale of Glamorgan Council** of Civic Offices, Holton Road, Barry CF63 4RU ("Council"); and
- (2) **Cofton Land and Property (Cardiff) Limited** (in administration) (company number 026040504) whose registered office is at c/o Deloitte LLP, 4 Brindley Place, Birmingham, B1 2HZ ("the First Owner") acting by the Administrators;
- (3) **Cofton Land and Property (Projects) Limited** (in administration) (company number 026040504) whose registered office is at c/o Deloitte LLP, 4 Brindley Place, Birmingham, B1 2HZ ("the Second Owner") acting by the Administrators;
- (4) **Taylor Wimpey UK Limited** (registered number 01392762) whose registered office is at Gate House, Turnpike Road, High Wycombe ("the Developer")
- (5) **John Charles Reid and Dominic Lee Zoong Wong, insolvency practitioners, of Deloitte LLP, 4 Brindley Place, Birmingham B1 2HZ** ("the Administrators")

INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- 2 The First Owner is the freehold owner of the Site registered with HM Land Registry with Title no. CYM14398.
- 3 The Second Owner is the freehold owner of the Site registered with HM Land Registry with Title no. WA980018.
- 4 The Developer has entered into a sale agreement with the First Owner and the Second Owner to buy the Site subject to conditions including the grant of Planning Permission and expiry of the period within which a judicial review challenge could be made.
- 5 The Developer has submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

6 The Council resolved on 2nd May 2013 to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

"Acceptable Cost Guidance" means the published list of acceptable costs per dwelling according to the relevant dwelling type in question determined by the Welsh Government from time to time (or a subsequent alternative list of costs used or published at the relevant time and having the same effect as that which was published by the Welsh Government at the date of this Deed).

"Act" means the Town and Country Planning Act 1990

"Administration Fee" means the costs of the Council (excluding any legal costs) incurred in negotiating and monitoring the implementation of the obligations contained in this Agreement in the sum of twelve thousand three hundred and sixty three pounds and ninety pence (£12,363.90)

"Affordable Housing" means housing where there are secure mechanisms in place to ensure that it is accessible to those who cannot afford housing at open market values, including without limitation Social Rented Housing and Intermediate Housing, and where there is provision for the home to remain affordable for future eligible households or where staircasing to full ownership takes place, any subsequent capital receipts should be recycled to provide replacement affordable housing

"Affordable Housing Contribution" means an amount to be calculated in accordance with the following formula: $0.58 \times \text{Acceptable Cost Guidance}$ in respect of the Social Rented Housing Units and $0.30 \times \text{the Market Value of the Intermediate Housing}$ in respect of the Intermediate Housing Units which the parties shall use their reasonable endeavours to agree (with the Owner to provide as comparable pricing details of similar housetypes to the Intermediate Housing plots on the Development on request) but if not so agreed within 10 Working Days the Market Value shall be determined in accordance with the dispute resolution procedure set out at Clause 9;

	to be spent on the provision of Affordable Housing to meet housing need in the Vale of Glamorgan.
"Affordable Housing Units"	means those Dwellings to be built and thereafter occupied as Affordable Housing comprising 26 of the total number of Dwellings to be built on the Site pursuant to the Planning Permission of which 21 shall be Social Rented Housing and 5 shall be Intermediate Housing;
"Affordable Rent"	means (in cases where the relevant landlord is not a Local Authority) a rent payable for an affordable rented housing unit which is equal to or less than the benchmark rent levels for the Vale of Glamorgan area as determined by the Welsh Government from time to time or (in cases where the relevant Landlord is a Local Authority) a rent payable for an affordable rented housing unit determined by the Welsh Government from time to time and calculated using statistical information provided by individual local authorities.
"Application"	means the application for full planning permission registered by the Council on 28 August 2012 submitted to the Council for the Development and allocated reference number 2012/00937/FUL
"Build Cost"	means the agreed price for which the contractor is prepared to do the work and which the Owner is prepared to pay for the work to construct the buildings pursuant to the Planning Permission which for the avoidance of doubt excludes any professional and statutory fees which could be included within it under a design and build form contract and shall also exclude the costs of fitting out any buildings
"Chargee"	means any mortgagee or chargee of the RSL or of an Affordable Housing Unit following any transfer or grant of a lease of an Affordable Housing Unit by the RSL only or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925
"Chargee's Duty"	means the tasks and duties set out in paragraph 1.11 of Part 2 of the Third Schedule
"Commencement of Development"	means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development is first carried out on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, site

preparation including earth works, any tree or hedge clearance, investigations for the purpose of assessing ground conditions, remedial works in respect of any contamination or other adverse ground conditions, works connected with the diversion and laying of services, the erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.

"Community Facilities"	means the provision of facilities (a building or structure) or services within Rhoose, which meet local community needs and are publicly available
"Community Facilities Contribution"	means the sum of Eighty Five Thousand Nine Hundred and Ninety Nine Pounds (£85,999), payable to the Council to provide or improve Community Facilities
"Development"	means the development of the Site for the construction of 87 dwellings with associated open space, landscaping and the creation of two access points as set out in the Application
"Disposal"	means either the sale of a Freehold interest or the grant of a Leasehold interest for a term in excess of 99 years and the expression "Disposed" shall be construed accordingly
"Dwelling"	means any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission
"Education Contribution"	means the sum of Three Hundred and Forty Three Thousand One Hundred and Ninety Six Pounds (£343,196) payable to the Council to provide or enhance primary and nursery educational facilities likely to be used by future occupiers of the Development
"Environmental Mitigation Scheme"	means an off site scheme to be approved and managed by the Council for the provision of management for Lepidoptera and reptiles including the creation of an area of habitat for moths and reptiles
"Environmental Mitigation Contribution"	means the sum of Fifteen Thousand Pounds (£15,000) payable to the Council to contribute to the future maintenance of the Environmental Mitigation Scheme.
"Expert"	means a single Expert qualified to deal with the subject matter of the dispute, disagreement or difference who shall either be jointly nominated by the parties within a period of 10 working days following a failure of the parties to resolve the dispute, disagreement or difference pursuant to Clause 9 or

failing agreement on such nomination, the Expert shall be nominated by the President for the time being of the Law Society.

"Highway Works"

means the provision of a bus layby between the proposed vehicular access points into the Site together with a combined cycle/footpath fronting Trem Echni.

"Highway Works Costs"

means the cost of construction of the Highway Works over and above the cost of providing a standard 2 metre wide footway between the proposed vehicular access points into the Site to adoptable standards.

"Index"

means the All Items Index of Retail Prices issued by the Office for National Statistics or in the event that the index ceases to be published or if the basis on which it is calculated is altered to a material extent such other index which most closely resembles it to be agreed between the parties hereto.

"Interest"

Interest at 4 per cent above the base lending rate of Barclays Bank Plc from time to time.

"Intermediate Housing"

means housing (including equity sharing schemes) where capital prices or rents are above those of Social Rented Housing but below open market housing prices or rents and PROVIDED FURTHER THAT this does not include low cost market housing which the Welsh Government does not consider to be Affordable Housing for the purpose of the land use planning system.

"Key events"

means Commencement of Development, and the date of the first Occupation of any new building constructed pursuant to the Planning Permission.

"Market Housing Units"

means that part of the Development which is general market housing for sale on the open market and which are not Affordable Housing

"Market Value"

means the value having regard to the market definition and the guidance set out in the current edition of the RICS Valuation Standards in place from time to on the basis of a willing buyer and a willing seller in an arms length and unconditional transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion excluding hope value of alternative development or any additional bid by a purchaser with a special interest

"Notice Period"

means 3 months from the date of receipt by the RSL of the Sale Notice.

"Occupation" and "Occupied"	means beneficial occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.
"Open Space Maintenance Contribution"	means the sum of fifty eight thousand and thirty eight pounds (£58,038) to cover the future maintenance of the Public Open Space Land if transferred to the Council
"Owner"	means the First Owner and the Second Owner
"Plan"	means the plan attached to this Deed
"Planning Permission"	means the full planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in draft form in the First Schedule.
"Practical Completion"	means the date on which a Dwelling is certified as having been completed in accordance with the requirements of the National House Building Council (or like regulatory body) so as to enable immediate occupation.
"Public Art"	Art that is the original work of a living professional artist and is created for a particular place, commissioned by or working in collaboration with others such as architects, landscape designers, planners, developers, arts officers and community representatives or the provision of facilities which enable the creation or display of art (including any art displayed in such facilities)
"Public Art Contribution"	means the sum of forty one thousand one hundred and thirty nine pounds (£41,139) or a sum equivalent to 1% of the Build Costs, whichever is the greater payable as a contribution to the Council's Public Art Fund
"Public Art Fund"	means the Council's fund for Public Art derived through financial contributions for Public Art, where Public Art has not been provided on Development Sites to the value of 1% of the Build Costs, which is held in an interest bearing account until such time as sufficient funds are available to cover the costs of an alternative work of art or until a suitable alternative site is found.
"Public Open Space"	means land laid out as public garden, or used for the purpose of public recreation, or open space of public value including land or areas of water which offer opportunities for sport, recreation and tourism and children's playgrounds

"Public Open Space Scheme"	means a scheme to be implemented in accordance with the specification set out in Drawing 1432A301 Rev A annexed hereto in respect of the provision of Public Open Space on the Site.
"Public Open Space Land"	means the area of open space land to be laid out in accordance with the Public Open Space Scheme
"Restriction"	means the following words: "No transfer or other dealing with the whole or any part of the property shall be registered unless a certificate signed by the Head of Planning and Transportation or the Director of Legal Services of the Vale of Glamorgan Council or such other authorised officer for the time being has been lodged with the Land Registry confirming that the land has been transferred as an Affordable Housing Unit in accordance with the provisions of agreement dated <i>15th May 2014</i> and made between (1) Vale of Glamorgan Council (2) Cofton Land and Property (Cardiff) Limited (in administration) (3) Cofton Land and Property (Projects) Limited (in administration) and (4) Taylor Wimpey UK Limited
"RSL"	means a registered social landlord as defined in Part 1 of the Housing Act 1996 who is registered with the Welsh Government pursuant to Section 3 of that Act and has not been removed from the register pursuant to Section 4 of that Act and who is approved by the Council (such approval not to be unreasonably withheld or delayed) and is zoned by the Welsh Government to develop in the Vale of Glamorgan
"Sale Notice"	means a notice served by the Owner on the RSL which informs the RSL that the construction of an Affordable Housing Unit(s) has been completed and is available for Transfer to an RSL and offering to sell those Affordable Housing Unit(s) to the RSL at a price equal to 42% of the Acceptable Cost Guidance in respect of the Social Rented Housing and at a price equal to 70% of the Market Value in respect of the Intermediate Housing to reflect its designation as an Affordable Housing Unit(s)
"Shared Ownership Lessee"	means a person entering a lease with an RSL which allows a purchaser to buy a share in the equity of the Affordable Housing under a form of shared equity lease and "Shared Ownership Lease" shall be construed accordingly
"Site"	means the land against which this Deed may be enforced as shown edged red on the Plan.
"Social Rented Housing"	means housing provided by a local authority or RSL where rent levels have regard to Affordable Rents and where there are secure mechanisms in place to

ensure that it is accessible to those who cannot afford housing at open market values and reference to Social Rented Housing Unit(s) shall be construed accordingly.

"Substantial Completion" means the date upon which the 80th Dwelling becomes capable of being Occupied for its intended purpose

"Sustainable Transport Contribution" means the sum of One Hundred and Seventy Four Thousand Pounds (£174,000) less the Highway Works Costs approved by the Council pursuant to paragraph 5.3 of the Second Schedule payable to the Council to be used by the Council to provide or improve Sustainable Transport Facilities serving the Development

"Sustainable Transport Facilities" means information, facilities or infrastructure which provides or improves access for pedestrians, cyclists, public transport users, motor cycles, taxis or car shares.

"Transfer" A deed setting out the terms of the transfer of the Affordable Housing Units to an RSL or to the Council as appropriate which terms shall be agreed between the parties to the deed and providing for the sale of the Affordable Housing Units at a sale price which shall be no less than 42% of the Acceptable Cost Guidance in respect of Social Rented Housing and no less than 70% of the Market Value in respect of the Intermediate Housing and "Transferred" shall be construed accordingly

"Working Day" Any day of the week other than a Saturday, Sunday or Bank Holiday

2 CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph Schedule, Appendix or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, Appendix, Schedule or recital in this Deed.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council or the successors to its statutory functions.

2.7 Headings where they are included are for convenience only and are not intended to influence the interpretation of this Deed.

3 LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000.

3.2 The covenants, restrictions and requirements imposed upon the Owner and the Developer under this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as local planning authority against the relevant covenanting party.

3.3 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in section 111 Local Government Act 1972, Section 1 Localism Act 2011 and all other enabling powers.

4 CONDITIONALITY

This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of Clauses 1-4, 7-9 and 11-17 which shall come into effect immediately upon completion of this Deed.

5 THE OWNER AND DEVELOPER'S COVENANTS

5.1 The Owner and the Developer covenants with the Council as set out in the Second and Third Schedule.

5.2 The Administrators are acting as agents of the Owner and shall have no personal liability under or in connection with this Agreement or under any document signed or executed under or in connection with this Agreement and the Council expressly waives any charge on any assets in the administration of the Owner and any right to any priority payment from those assets arising under Paragraph 99 of Schedule B1 of the Insolvency Act 1986 or otherwise (including any right to rank as an expense of the administration under paragraph 2.67 of the Insolvency Rules).

5.3 The Administrators are a party to this Agreement solely to receive the benefit of the exclusion of liability and obligations to them in this Agreement.

6 THE COUNCIL'S COVENANTS

6.1 The Council covenants with the Owner and the Developer as set out in the Fourth Schedule.

7 THE DEVELOPER'S CONSENT

7.1 The Developer consents to its interest being bound by the terms of this Deed PROVIDED THAT it shall not be liable for performing or observing any of the obligations in this Deed unless and until it acquires either a leasehold or freehold interest in the Site.

8 MISCELLANEOUS

8.1 The Developer shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed together with the Administration Fee.

- 8.2 Nothing in this Deed shall create any rights in favour of any person not a party to it pursuant to the Contracts (Rights of Third Parties) Act 1999
- 8.3 This Deed shall be registrable as a local land charge by the Council.
- 8.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 8.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 8.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site or the part of the Site in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest for which it shall continue to be liable. Neither the reservation of any rights nor the inclusion of any covenants or restrictions over the Site in any transfer of the Site will constitute an interest for the purposes of this clause 8.7
- 8.8 The parties agree with one another to act reasonably and in good faith in the fulfilment of the objectives of this Deed.
- 8.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 8.10 The obligations in this Deed will not be enforceable against:
- (a) the buyers of an individual Dwelling; or
 - (b) a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owner to that statutory undertaker; or
 - (c) the Developer until the Developer acquires the freehold or a leasehold interest in the Site
- 8.11 The Council agrees with the Developer and the Owner to act reasonably, properly and diligently in exercising its discretion and discharging its functions under this Deed. In particular, where any notice, consent, approval, authorisation, agreement or other similar affirmation is required under the terms of this Deed, the Council will not unreasonably withhold or delay such notice, consent, approval, authorisation, agreement or other similar affirmation.

9. **DISPUTES**

- 9.1 Where the Owner, the Developer and the Council are in dispute or disagreement or have any differences relating to any matter the subject of or connected with this Deed or its meaning or construction, then the parties shall use their reasonable endeavours to resolve the same within 20 working days of the dispute, disagreement or difference arising
- 9.2 Failing the resolution of any such dispute, disagreement or difference within the said 20 working days the disputes, disagreement or difference shall be referred for determination in accordance

with the provisions of this Clause 9 on the reference of any of the parties to the dispute, disagreement or difference.

- 9.3 The dispute, disagreement or difference shall be referred to the decision of an Expert.
- 9.4 The determination of the Expert (including any determination as to the responsibility for payment of his own costs and those of the parties) shall be final and binding upon the parties.
- 9.5 The terms of reference of any Expert appointed to determine a dispute, disagreement or difference shall include the following:-
- a. He shall call for representations from all parties within 10 working days of a reference to him under this Deed and shall require the parties to exchange representations within this period;
 - b. He shall allow the parties 10 working days from the expiry of the 10 working days period referred to in sub-clause (a) above to make counter representations;
 - c. Any representations or counter representations received out of time shall be disregarded by the Expert;
 - d. He shall provide the party with a written decision (including his reasons within 10 working days of the last date for receipt of counter representations);
 - e. He shall be entitled to call for such independent Expert advice as he shall think fit;
 - f. His costs and the costs of any independent Expert advice called for by the Expert shall be included in his award.
- 9.6 Unless the Expert shall decide otherwise the costs of any reference to the Expert shall be borne equally by the parties to the dispute, disagreement or difference in question

10 NOTICES

- 10.1 Any notice or other written communication to be served upon or given by one party to any other party under the terms of this Deed shall be deemed to have been validly served or given in the following circumstances
- a. if transmitted by facsimile (and confirmed by facsimile confirmation slip) when dispatched;
 - b. if delivered by hand upon delivery at the address of the relevant party; or
 - c. if sent by post or recorded delivery post to the party upon whom it is to be served or to whom it is to be given within 2 Working Days after the date of posting

PROVIDED THAT if in accordance with the above provision any notice or other written communication would otherwise be deemed to be served or given after 17.00 hours such notice or other written communication shall be deemed to be served or given at 09.00 hours on the next Working Day.

- 10.2 The address for any notice of other written communication shall only be within the United Kingdom and is:
- a. for the Council: The Vale of Glamorgan Council, Dock Office, Subway Road, Barry Docks, Barry, CF63 4RT marked for the attention of The Head of Planning and Transportation (facsimile number: 01446 704847)
 - b. for the First Owner: Cofton Land and Property (Cardiff) Limited (in administration) c/o Deloitte LLP, 4 Brindley Place, Birmingham, B1 2HZ

c. for the Second Owner: Cofton Land and Property (Projects) Limited (in administration) c/o Deloitte LLP, 4 Brindley Place, Birmingham B1 2HZ

d. for the Developer: Taylor Wimpey South Wales FAO Gareth Hawke, Land Director, Eastern Business Park, Building 2, St Mellons, Cardiff, CF3 5EA.

or such other address as any party may notify to the others at its address of service from time to time.

10.3 In the event that the parties decide that the recipients of any notice or other written communication should change from the individuals referred to in clauses 10.2(a), 10.2(b) or 10.2(c) above the parties shall notify each other in writing giving details of the replacement individual(s).

10.4 Any notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council by an officer or duly authorised signatory.

10.5 The Developer and the Owner agrees to give to the Council notice in writing within 10 Working Days of the Developer becoming aware of the Key Events as they each occur.

11 WAIVER

No waiver (whether expressed or implied) by the Council, Developer or Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council, Developer or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

12 CHANGE IN OWNERSHIP

The Owner and the Developer agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

13 INDEXATION

Any sum referred to in Schedules 2 and 3 shall if there is any increase in the Index be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

14 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

15 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

16 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales as they apply in Wales.

17

DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

FIRST SCHEDULE
Form of draft Planning Permission

2012/00937/FUL

THE VALE OF GLAMORGAN COUNCIL

Town and Country Planning Act 1990
Planning and Compulsory Purchase Act 2004
The Town and Country Planning (Development Management Procedure) (Wales)
Order 2012

FULL PLANNING PERMISSION

Agent:
Savills,
12, Windsor Place,
Cardiff,
Vale of Glamorgan.
CF10 3BY

Applicant:
Taylor Wimpey

Proposed development of 87 No. residential units with associated public open space, landscaping, the creation of two new access points into the site from Trem Echni and diversion of the Public Right of Way at Land South of the Railway Line, Trem Echni, Rhoose Point, Rhoose

The Council in pursuance of its powers under the above mentioned Act and Order hereby **GRANTS PERMISSION** for the carrying out of the proposed development as described above and in accordance with the application and plans registered by the Council on 28 August 2012 subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason:

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. This consent shall relate to the plans registered on 28 August 2012 other than where amended by plans reference 0460-102 C, 103A, 104-1 A, 104-2 A, 104-3 A, 106 B, 107 B, 108 A, 109 A, 151 B, 152 A, 302-1 B, 302-2, 320 A, 460-1000, Housetype booklet Issue 2 A3L received on 2 April 2013 and amended by plans reference 0460-102 D and 107 C (solely in relation to Plots No's. 52 and 63) received on 24 April 2013.

Reason:

To ensure a satisfactory form of development and for the avoidance of doubt as to the approved plans.

3. Each new dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1

credit under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of Code for Sustainable Homes: Technical Guide November 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.

Reason:

To ensure the development attains the sustainable building standards required by Planning Policy Wales and TAN22 - Planning for Sustainable Buildings.

4. Construction of any dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

Reason:

To ensure the development attains the sustainable building standards required by Planning Policy Wales and TAN22 - Planning for Sustainable Buildings.

5. Prior to the occupation of the individual dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

Reason:

To ensure the completed development attains the sustainable building standards required by Planning Policy Wales and TAN22 - Planning for Sustainable Buildings.

6. Prior to the first beneficial occupation of the development hereby approved, a Travel Plan shall be prepared to include a package of measures tailored to the needs of the site and its future users, which aims to widen travel choices by all modes of transport, encourage sustainable transport and cut unnecessary car use. The Travel Plan shall thereafter be implemented in accordance with the approved details.

Reason:

To ensure the development accords with sustainability principles and that site is accessible by a range of modes of transport in accordance with

2012/00937/FUL

Unitary Development Plan Policies 2, 8 and ENV27 - Design of New Developments.

7. Notwithstanding the submitted details, and prior to the commencement of the construction of any of the dwellings, full details of the finished levels of the site and dwellings, in relation to existing ground levels, features and adjacent existing dwellings, shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in full accordance with the approved details.

Reason:

To ensure that the visual amenity of the area is safeguarded, and to ensure the development accords with Policy ENV27 of the Unitary Development Plan.

8. Notwithstanding the submitted drawings and prior to the commencement of any works on site, full engineering drawings of internal road layout and the Trem Echni highway frontage (to include sections, street lighting and surface water) shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure the provision on safe access into site to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

9. The dwellings hereby permitted shall not be brought into beneficial use until such time as the roads have been constructed to the satisfactory standard inclusive of street lighting and drainage in accordance with the details agreed under Condition No. 8.

Reason:

In the interests of highway safety and to ensure compliance with the terms of Unitary Development Plan Policies ENV27 and HOUS8.

10. No dwelling hereby approved shall be brought into beneficial use until such time as the parking areas, including all associated access and turning areas to serve that dwelling, have been laid out in full accordance with the details shown on the approved plans and the parking, access and turning areas shall thereafter be so retained at all times to serve the development hereby approved.

Reason:

To ensure the provision on site of parking and turning facilities to serve the development in the interests of highway safety, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

11. No development shall take place on site until a hydraulic modelling assessment (HMA) has been undertaken on the public sewerage system to assess the capacity of the sewerage network to accept the flows generated by the proposed development. Any necessary improvements identified in the HMA shall be funded by the developer and implemented in full, prior to the first occupation of any of the dwellings hereby approved at the site and written confirmation of the completion of the necessary improvements shall be submitted to and approved by the Local Planning Authority.

Reason:

To protect the integrity of the existing public sewerage system and prevent pollution of the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

12. No development shall commence on site until full details of discharge of the new foul drainage system to a point of adequacy on the public sewerage system have been submitted to and approved in writing by the Local Planning Authority, where the point of discharge shall be determined by the hydraulic modelling assessment. Thereafter no foul water connection from the development hereby approved to the public sewerage system shall take place until this exercise has been completed and approved in writing by the Local Planning Authority.

Reason:

To protect the integrity of the existing public sewerage system and prevent pollution of the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

13. No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage (to include details of oil and petrol separators) will be dealt with shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of drainage shall be fully implemented prior to the occupation of any of the dwellings on site.

Reason:

To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system and to ensure compliance with the terms of Policies ENV7 and ENV27 of the Unitary Development Plan.

14. The submitted scheme for the drainage of the site shall ensure that all foul and surface water discharge separately from the site and that all land drainage / surface water run-off shall not discharge, either directly or indirectly, into the public sewerage system.

Reason:

To prevent hydraulic overloading of the public sewerage system, pollution of the environment and to protect the health and safety of existing residents and ensure no detriment to the environment and to comply with the terms of Policy ENV27 of the Unitary Development Plan.

15. In connection with Condition No. 13, the detailed scheme for drainage shall identify all existing land drainage ditches within the site and demonstrate that they are still utilised for their intended use, or alternative provisions made.

Reason:

To ensure that the developer of the site is fully aware of the need to accommodate all existing land drainage runs through the site and to comply with the terms of Policy ENV27 of the Unitary Development Plan.

16. In connection with Condition No. 13, the detailed scheme for drainage shall identify the location of the carrier drain which passes near the northern boundary of the site (which takes land drainage / surface water run-off from land to north of railway), and no surface water or any other form of connection shall be made to this carrier drain.

Reason:

To ensure that the developer of the site is fully aware of the need to protect the integrity and operation of the carrier drain and to comply with the terms of Policy ENV27 of the Unitary Development Plan.

17. Prior to any site clearance works, a detailed Method Statement for the protection of reptiles, before and during site works shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include, but not be limited to: methodology for site clearance, identification of receptor site, survey of receptor site and an outline post development monitoring strategy. The site clearance shall be undertaken in strict accordance with the agreed details.

Reason:

To demonstrate Local Authority compliance with S40 of the NERC Act 2006 and to ensure compliance with Policies ENV16 and ENV27 of the Unitary Development Plan.

18. Development works to which this consent applies (including demolition and vegetation clearance), shall not take place between 1 March and 31 August, unless it can be demonstrated that nesting birds are absent in a report prepared by a qualified ecologist (immediately prior to development commencing) or a method statement for works is submitted to and

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approved in writing by the Local Planning Authority and where a method statement is agreed that it is fully implemented.

Reason:

To comply with Unitary Development Plan Policy ENV16 to secure the long-term protection of the species and to demonstrate Local Authority compliance with S40 of the NERC Act 2006.

19. Prior to commencement of development, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority, detailing all areas of landscaping, tree planting and the areas of hard and soft landscaping forming part of the Public Open Space, which shall take into account the elevated coastal position of the site. The landscaping scheme shall also include indications of all existing trees on the land and details of any to be retained, together with measures for their protection in the course of development.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

20. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason:

To ensure satisfactory maintenance of the landscaped area to ensure compliance with Policies ENV11 and ENV27 of the Unitary Development Plan.

21. Prior to the commencement of development, full details of the laying out and means of construction of all areas of open space within the site, including full details, specifications and costings of all play equipment within the area of Public Open Space (including any facilities for seating and other associated features such as lighting) to be sited within these areas shall be submitted to and approved in writing by the Local Planning Authority .

Reason:

In order to fully consider the acceptability of the provision and layout of open space and areas of play and to ensure compliance with Policies ENV27, HOUS8 and REC3 of the Unitary Development Plan.

22. No more than 50 of the dwellings hereby approved shall be brought into beneficial use until the play areas as agreed under Condition No. 21 have been constructed on site and capable of use by the future occupiers of the development.

Reason:

To ensure the recreational facilities are delivered in a timely manner to meet the needs of the future occupiers of the development in accordance with Policies REC3 and REC6 of the Unitary Development Plan.

23. The clearance of the site shall be undertaken in full accordance with the Geo-technical and Geo-environmental report completed by Terra Firma (Wales) Limited January 2012.

Reason:

In order to ensure that risks from land contamination are managed and to protect future users of the land and to ensure compliance with Policies ENV7, ENV26 and ENV27 of the Unitary Development Plan.

24. If during construction / site clearance works, any unforeseen contamination encountered during development, then the Local Planning Authority shall be notified as soon as is practicable, and an appropriate ground investigation and/or remediation strategy shall be undertaken and submitted to the Local Planning Authority for approval, prior to the occupation of any dwelling. On the completion of the development a Completion/Validation Report, confirming the remediation has being carried out shall be submitted to the Local Planning Authority.

Reason:

In order to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and to ensure compliance with Policies ENV7 and ENV27 of the Unitary Development Plan.

25. No construction work (including any deliveries to the site) associated with the development hereby approved shall take place on the site on any Sunday or Bank Holiday or on any other day except between the following hours:

Monday to Friday	0800 – 1800
Saturday	0800 – 1300

Nor at any time on Sundays, Bank or Public holidays, unless otherwise agreed in writing by the Local Planning Authority and includes deliveries to site.

Reason:

To safeguard the amenities of local residents, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

26. No Development shall take place until there has been submitted to, approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP). The CEMP shall include details of how noise, lighting, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated and shall include pollution risk on water quality. The CEMP will utilise the Considerate Constructors Scheme (www.considerateconstructorsscheme.org.uk). The CEMP will include a system for the management of complaints from local residents which will incorporate a reporting system. The construction of the Development shall be completed in accordance with the approved Plan unless otherwise agreed in writing with the Local Planning Authority.

Reason:

To ensure that the construction of the development is undertaken in a neighbourly manner and in the interests of the protection of amenity and the environment and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

27. Prior to their use in the construction of the development hereby approved, a schedule of the proposed materials to be used, including samples, shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason:

To ensure a satisfactory standard of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

28. Notwithstanding the submitted plans, all means of enclosure associated with the development hereby approved shall be in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development, and the means of enclosure shall be implemented in accordance with the approved details prior to the development being put into beneficial use.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

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29. Prior to their erection on site, full details of the proposed sheds / stores in relation to their siting and elevations which are shown to serve the affordable houses as set out on plan ref. 0460-102, shall be submitted to and agreed in writing by the Local Planning Authority.

Reason:

To safeguard local visual amenities, and to ensure compliance with the terms of Policy ENV27 of the Unitary Development Plan.

30. Prior to the first beneficial occupation of any dwelling hereby approved, full details of the public art to be provided on the site, shall be submitted and approved in writing by the Local Planning Authority. The Public Art shall thereafter be implemented on the site in accordance with the approved details no later than 12 months following the substantial completion of the development.

Reason:

To ensure the delivery of Public Art on the site in accordance with the Council's Public Art Supplementary Planning Guidance.

31. The garages hereby approved shall only be used for the parking of private vehicles and for purposes incidental to the enjoyment of the dwellinghouse as such, and shall not be used for any business or commercial use and shall not physically altered or converted without first obtaining the formal consent of the Local Planning Authority.

Reason:

To ensure the satisfactory development of the site and that adequate off-street parking provision and garaging facilities are retained and in accordance with Policies TRAN 10 and ENV27 of the Vale of Glamorgan Unitary Development Plan.

32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order, 1995 (or any Order revoking and re-enacting that Order with or without modification) the dwelling(s) hereby approved shall not be extended or altered in any way without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no building, structure or enclosure required for a

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purpose incidental to the enjoyment of a dwelling-house shall be constructed, erected, or placed within the curtilage of the dwellings hereby approved without the prior written consent of the Local Planning Authority.

Reason:

To enable the Local Planning Authority to control the scale of development, and to ensure compliance with Policy ENV27 of the Unitary Development Plan.

34. Prior to the sale of any individual plot or conveyance of any area of land identified falling within plots 9-41 inclusive (as shown on the approved layout plan), or any revised plot numbers that include the land drain shown on the approved drainage strategy plan, the developer shall submit to the Local Planning Authority for approval in writing, an example of the covenant and the steps to be taken to ensure that the plot owners are made fully aware of the responsibilities passed to them in respect of the carrier drain. The responsibilities to be conveyed shall be not to obstruct the drain, not to tamper with it, not to put permanent structures over it, and to maintain it in good order over their demise. The agreed wording of the covenant shall thereafter be contained in all legal land transfer documents relating to the above identified plots.

Reason :

To ensure that any future homeowners are fully aware of the need to protect the integrity and operation of the carrier drain and to comply with the terms of Policy ENV27 of the Unitary Development Plan.

Reason for Granting Planning Permission

The decision to recommend planning permission has been taken in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Vale of Glamorgan Adopted Unitary Development Plan 1996-2011.

Having regard to Strategic Policies: 1, 2, 3, 4, 5 & 11 and Policies ENV6, ENV16, ENV17, ENV26, ENV27, ENV29, HOUS2, HOUS8, HOUS12, EMP 1, EMP4, TRAN9, TRAN10, REC3, REC6, REC7 & REC12 of the Vale of Glamorgan Adopted Unitary Development Plan 1996 – 2011, National guidance contained in Planning Policy Wales 5th Edition (November 2012) and the associated Technical Advice Notes, it is concluded that the development of the site for 87 dwellings, when taking into account the other material considerations as detailed in the Officer's report, would be sufficient to outweigh the current presumption against such development found in the Unitary Development Plan, subject to conditions

and a Section 106 Legal Agreement requiring contributions to mitigate the impacts of the development.

NOTE:

- 1. Any future owners / occupiers of the dwellings which adjoin the railway line shall be made aware that a carrier drain (which takes land drainage / surface water run-off from land to north of railway) runs through the curtilage (back gardens of the dwellings) and a number of vehicle parking areas which serve these properties.**
- 2. The attention of the applicant is drawn to the fact that a public sewer runs through the site and may be affected by the development and that no structure shall be sited a minimum distance of 3 metres from the centreline of the pipe.**
- 3. Please note that a legal agreement / planning obligation has been entered into in respect of the site referred to in this planning consent. Should you require clarification of any particular aspect of the legal agreement/planning obligation please do not hesitate to contact the Local Planning Authority.**
- 4. You are advised that there are species protected under the Wildlife and Countryside Act, 1981 within the site and thus account must be taken of protecting their habitats in any detailed plans. For specific advice it would be advisable to contact: The Countryside Council for Wales, 7 Castleton Court, Fortran Road, Cardiff; telephone number 02920 772400.**
- 5. It is an offence under the Wildlife and Countryside Act 1981 (Section 1) to take, damage or destroy the nest of any wild bird. Therefore, it is advised that the felling of any trees in association with the residential development hereby approved shall only be undertaken outside the nesting season, which is generally recognised as being from March to August inclusive.**
- 6. The attention of the applicant is brought to the fact that a public right of way is affected by the proposal and that a diversion is required in the eastern part of the site. The grant of planning permission does not entitle one to obstruct, stop or divert a public right of way. Development, in so far as it affects a right of way, must not be commenced until the necessary legal procedures have been completed and confirmed for the diversion or extinguishment of the right of way.**
- 7. This consent does not convey any authorisation that may be required to gain access onto/under land not within your ownership or control.**

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Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.

Dated: DRAFT

Director of Development Services

**IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES
ATTACHED TO THIS FORM.**

SECOND SCHEDULE

The Owner and Developer's Covenants with the Council

1. EDUCATION

- 1.1 To pay to the Council 50% of the Education Contribution within 30 days of the Commencement of Development, and to pay the balance of 50% upon Substantial Completion

2. PUBLIC OPEN SPACE

- 2.1 Prior to the Commencement of Development to submit to the Council for its approval details of a fully costed Public Open Space Scheme to provide the Public Open Space Land on the Site including a schedule for its implementation and future maintenance (such approval not to be unreasonably withheld or delayed).
- 2.3 The scheme approved pursuant to paragraph 2.1 above shall be implemented in accordance with the approved details and be maintained to adoptable standards for at least 20 years after implementation unless the Public Open Space Land is transferred to the Council pursuant to paragraph 2.4 below in which case paragraph 2.5 shall apply.
- 2.4 If the Owner and the Council so agree, the Public Open Space Land shall be transferred to the Council for the sum of £1.
- 2.5 In the event that the Public Open Space Land is transferred to the Council pursuant to paragraph 2.4 to pay to the Council the Open Space Maintenance Contribution to the Council for the future maintenance of the Public Open Space Land for a 20 year period.

3. COMMUNITY FACILITIES

- 3.1 To pay to the Council the Community Facilities Contribution prior to first Occupation of the Development

4. PUBLIC ART

- 4.1 On or before Commencement of Development, I to submit a schedule of Build Costs to the Council in order to calculate the value of the Public Art Contribution and submit to the Council for its approval details of costed schemes for the provision of Public Art on the Site including a schedule for its implementation
- 4.2 The scheme approved pursuant to paragraph 4.1 above shall be implemented in accordance with the approved details and in any event no later than 12 months following Substantial Completion of the Development.

4.3 In the event that the cost of implementing the approved scheme is less than the Public Art Contribution, prior to first Occupation of the Development to pay the difference to the Council as a contribution towards its Public Art Fund

5 SUSTAINABLE TRANSPORT and HIGHWAY WORKS

5.1 No Dwelling shall be occupied until the Highway Works are completed to adoptable standard in accordance with the details approved by the Council pursuant to paragraph 5.2 below

5.2 Before commencing the Highway Works to enter into an Agreement with the Council pursuant to Section 278/38 of the Highways Act 1980 on the Council's standard terms applicable from time to time in respect of these works (subject to the prior approval of those terms, such approval not to be unreasonably withheld or delayed)

5.3 Within 30 days following completion of the Highway Works, to provide a detailed breakdown of Highway Works Costs for the Council's approval.

5.4 To pay the Sustainable Transport Contribution to the Council prior to first Occupation of the Development

6 ENVIRONMENTAL

6.1 Prior to the Commencement of Development to submit to the Council for its approval a report detailing costed management proposals for the proposed Environmental Mitigation Scheme.

6.2 To pay the Environmental Mitigation Contribution to the Council prior to first Occupation of the Development.

THIRD SCHEDULE
Affordable Housing Covenants

PART 1

- 1.1 To construct or procure the construction of the Affordable Housing Units:
- (a) in accordance with the Planning Permission;
 - (b) in the case of the 21 Social Rented Houses to a standard which satisfies the Welsh Housing Quality Standards and Lifetimes Homes Standard or such other mandatory standards as are set by Welsh Government at the time of construction;

and use all reasonable endeavours to transfer the Affordable Housing Units to a RSL

- 1.2 To procure that, from the date of Practical Completion of each Affordable Housing Unit it shall not be used other than for Affordable Housing and the Transfer of each Affordable Housing Unit in accordance with the provisions at Paragraphs 1.3 to 1.8 below shall contain a restriction in similar form to the Restriction which shall be registrable in the proprietorship register of the title to the Affordable Housing Unit with the intention that it shall remain as an Affordable Housing Unit in perpetuity PROVIDED THAT the covenants affecting the Affordable Housing Units under the foregoing provisions of this Paragraph 1.2 shall not:

(a) from the date of completion of the relevant transaction:-

- (i) apply to any Affordable Housing Units which an RSL or the Council shall be required to dispose of pursuant to a right to acquire under Part V of the Housing Act 1985 or Section 16 of the Housing Act 1996 or any substitute right applicable or shall be required to sell to a tenant with the benefit of a voluntary purchaser grant provided under Sections 20 and 21 of the Housing Act 1996 (or any similar provision in any subsequent legislation);
- (ii) apply to any Affordable Housing Unit demised by way of a shared ownership lease where the Shared Ownership Lessee or any assignee of such lease has staircased his interest in that unit such that he acquires one hundred per cent (100%) of the equity in that unit and either takes a transfer of the freehold reversion or directs that the freehold reversion is transferred to a third party or (in the case of a flat) acquires a one hundred per cent (100%) equity share in the lease of the flat and takes a new non-Affordable Housing lease of the flat or retains the existing lease;
- (iii) until the date of resale referred to below apply to any Affordable Housing Unit demised by way of a shared ownership lease where the lessee wanting to transfer his shared ownership interest has complied with the nomination provisions (if any) of such lease and has first offered to sell his shared ownership interest to a nominee of the RSL but the RSL has been unable or unwilling to provide a nominee within the time period specified in such lease or such nominee has not exchanged contracts to acquire or not acquired the

lessee's interest within the time period specified within such lease PROVIDED THAT when the same Affordable Housing Unit next becomes available for re-sale the covenants in this Paragraph 1.2 shall again apply and the Council shall be entitled to exercise its nomination rights in respect of the same pursuant to the relevant nomination agreement;

(b) be binding on any Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty

1.3 No more than 50% of the Market Housing Units shall be Occupied until 50% of the Affordable Housing Units have been Transferred to the RSL or constructed by the Owner and the Owner has acted in accordance with 1.3(a) and 1.3(b) below. No more than 80% of the Market Housing Units shall be Occupied until 100% of the Affordable Housing Units have been Transferred to the RSL or constructed by the Owner and the Owner has acted in accordance with 1.3(a) and 1.3(b) below

(a) the Owner has served a Sale Notice on an RSL and offered to sell the Affordable Housing Units to the RSL pursuant to the provisions of this Agreement; and

(b) the Owner has served a copy of the Sale Notice on the Council's Head of Housing at The Alps, Alps Quarry Road, Wenvoe, Vale of Glamorgan CF5 6AA

1.4 The RSL may accept the offer referred to in paragraph 1.3 above by signing and returning a copy of the Sale Notice to the person who served it upon them within the Notice Period

1.5 To use reasonable endeavours to ensure that the Transfer of the Affordable Housing Units to the RSL shall be completed upon the terms set out in this Third Schedule within three months of the date of the Sale Notice or if later within 10 working days after Practical Completion of such Affordable Housing Units

1.6 If having accepted the offer in accordance with 1.4 an RSL is unable to complete its purchase within the period set out in paragraph 1.5 then the Owner shall serve written notice on the Council within one month of the end of the period referred to in Paragraph 1.5 giving the Council three months within which to complete the purchase of the Affordable Housing Units(s) itself or procure the purchase of it by an RSL.

1.7 If the Council or an RSL fails to complete the purchase within the three month period set out in paragraph 1.6 then each relevant Affordable Housing Unit may be disposed of free from the obligations set out in this Third Schedule and the Affordable Housing Contribution shall be paid to the Council within 28 days of the completion of the sale of each relevant Affordable Housing Unit on the open market.

1.8 On completion of the transfer or lease of each Affordable Housing Unit to procure that an NHBC (or other new homes warranty provider that is approved by the Council of Mortgage Lenders) certificate is issued to the purchaser.

1.9 Except where paragraph 1.7 applies, the party disposing of any Affordable Housing Unit shall procure that the Affordable Housing Unit shall benefit from the following:-

(a) a covenant to construct roads and footpaths to serve the Affordable Housing Units

- (b) full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Unit.
- (c) a covenant to construct drains and sewers to serve the Affordable Housing Unit
- (d) full and free rights to the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Unit all such services to be connected to the mains.
- (e) such other rights or covenants as may reasonably be required to be provided that such rights or covenants are (unless necessary for the proper development of the Site) no more onerous than the covenants imposed by the transfers of the Market Housing.

PART 2

Chargee's Duty

1.11 The Chargee prior to seeking to dispose of any Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge shall give not less than 3 months prior notice in writing to the Council of its intention to dispose and:

- (a) In the event that the Council responds within 3 months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer.
- (b) If the Council or any other person cannot within 3 months of the date of service of its response under paragraph 1.11 (a) secure such transfer then provided that the Chargee shall have complied with its obligations under this part the Chargee shall be entitled to dispose of the Affordable Housing Unit(s) as Market Housing Units for Market Housing free of the restrictions set out in Part 1 of this Third Schedule and the Chargee shall Provide That if there are sufficient sums remaining from the proceeds of sale following the redemption of the legal charge plus interest accrued and all associated fees then the Chargee shall pay to the Council the Affordable Housing Contribution in respect of each Affordable Housing Unit(s) being the subject of any Disposal by the Chargee and in the event that there are insufficient funds remaining from the proceeds of sale as aforesaid to pay the full amount of the Affordable Housing Contribution due the Chargee shall pay to the Council the balance of the proceeds of sale remaining following the redemption of the legal charge amount plus interest together with all associated fees

PROVIDED THAT at all times the rights and obligations in this clause 1.11 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage.

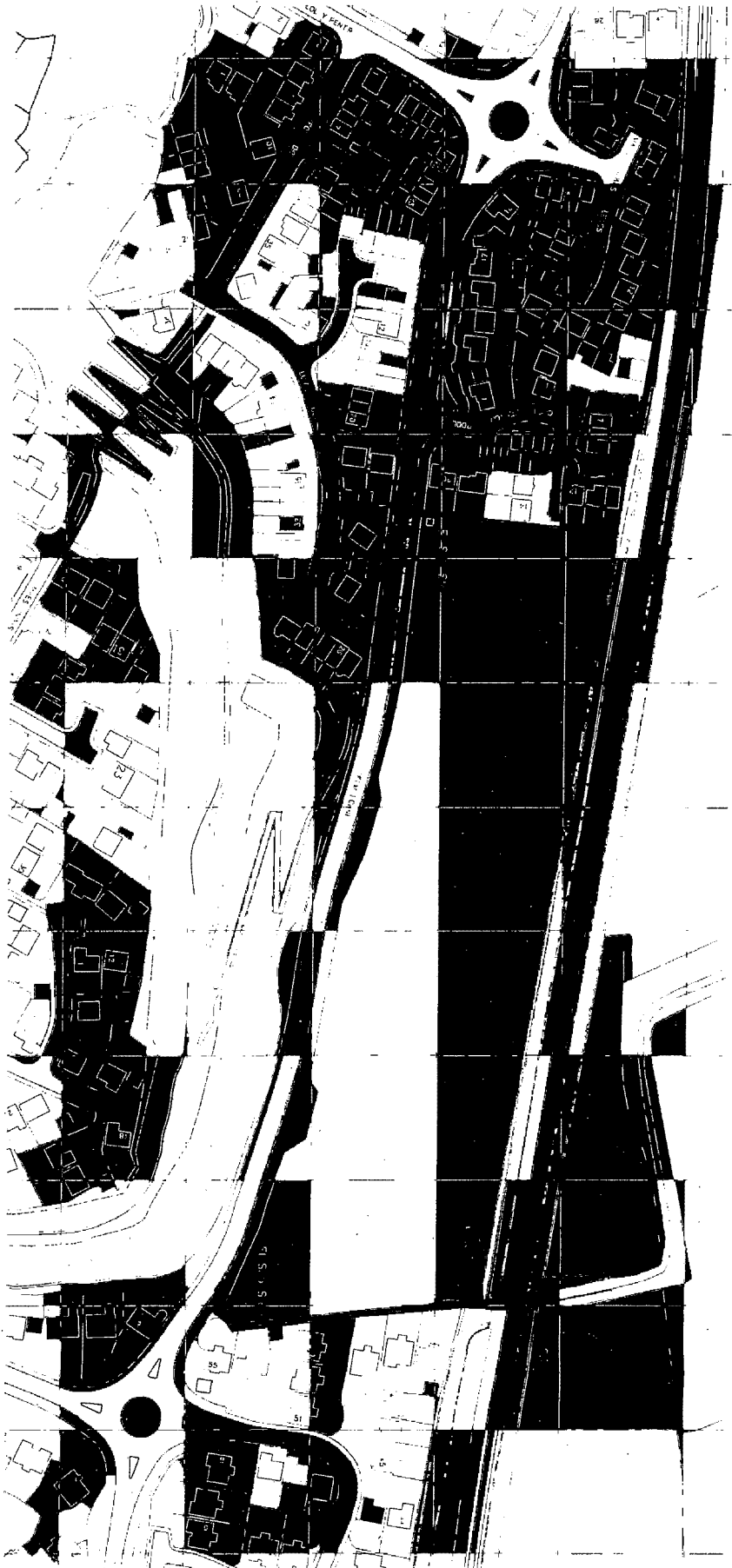
FOURTH SCHEDULE

The Council's Covenants

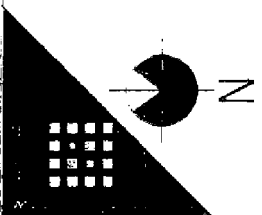
1. The Council hereby covenants with the Owner and the Developer, to use all sums received from the Owner or the Developer under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.

2. The Council covenants with the Owner and the Developer, that it will pay to the payee, such amount of any payment made to the Council under this Deed which has not been expended in accordance with the provisions of this Deed within five years (or ten years in respect of the Affordable Housing Contribution or 20 years in respect of the Environmental Mitigation Contribution and the Open Space Maintenance Contribution) of the date of receipt by the Council of such payment together with any Interest accrued thereon for the period from the date of payment to the date of refund such repayment to be made within 10 working days of a written request for repayment being made by the Owner or his successor or the payee to the Council.

3. The Council covenants with the Owner and the Developer that it will grant to the Owner all necessary consents to enable the Owner to undertake works to the receptor site within Rhoose Point Nature Reserve pursuant to the Environmental Mitigation Scheme which is approved by the Council pursuant to paragraph 6.1 of Schedule 2 of this Agreement.



LOCATION PLAN

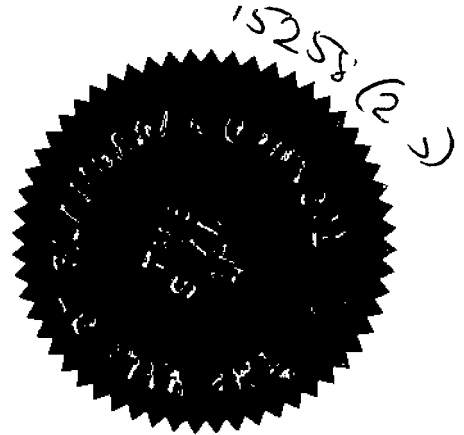


Ordnance

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written

Executed as a DEED on behalf of the Vale of Glamorgan Council
By the affixing of its seal in the presence of

DEBBIE MARLES/~~VICTORIA DAVIDSON~~
Head of Legal Services/~~Operational Manager Legal Services~~
DM [Redacted]



IN THE PRESENCE OF:

WITNESS

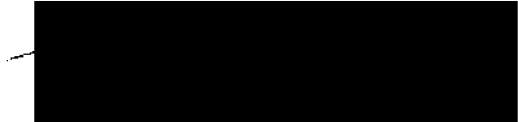
NAME

ADDRESS

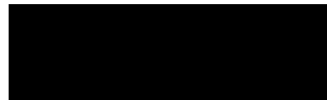
DM

DM OCCUPATION

EXECUTED as a Deed (but not delivered until the date hereof)
by Cofton Land and Property (Cardiff) Limited (In Administration)
acting by [[Redacted]]
one of the Administrators in the presence of.



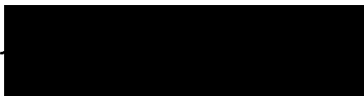
Witness:




Address: *SALTIRE COURT, 20 CASTLE TERRACE
EDINBURGH, EH1 2DB*

Occupation: *CHARTERED ACCOUNTANT*

EXECUTED as a Deed (but not delivered until the date hereof)
by Cofton Land and Property (Projects) Limited (In Administration)

acting by [SUREID] 
one of the Administrators in the presence of:

Witness: DAVID JAMES MCINTOSH 

Address: SALTIRE COURT, 20 CASTLE TERRACE
EDINBURGH EH1 2DB

Occupation: CHARTERED ACCOUNTANT

Executed as a Deed by

DIANA Cumming, 


And 

JAMES BALL

Authorised attorneys of

TAYLOR WIMPEY UK LIMITED

In the presence of:

Signature of witness: 

Name in capitals WENDY HILL

Address 600 Park Avenue
A24ec West
15n st 1
6552950

ANNEXURE

Drawing no. 1432A301 Rev A

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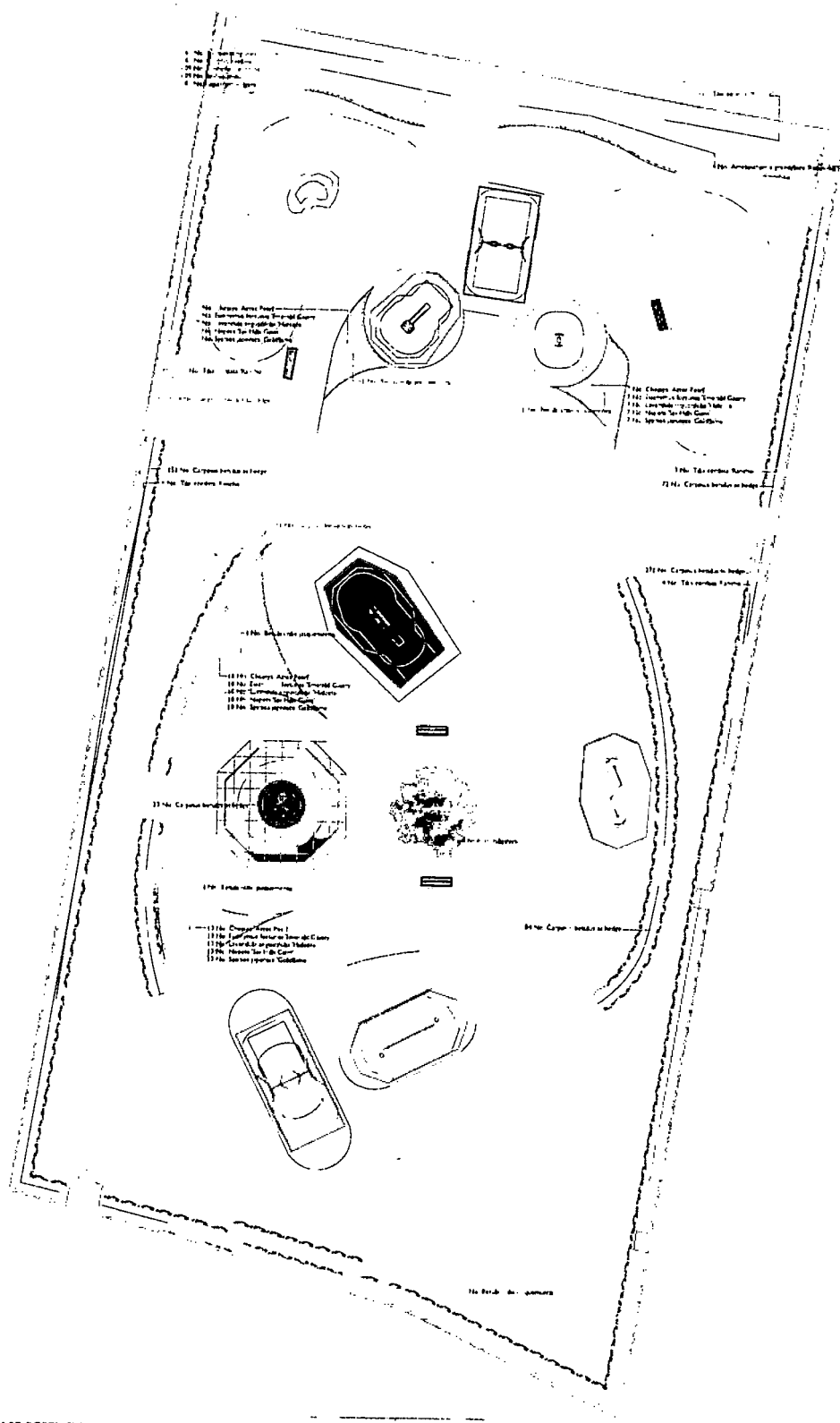
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PLEASE REFER TO ENGINEERING ARCHITECTS LAYOUT FOR FINISHED LEVELS
 PATHS TO BE GRADED NO STEEPER THAN 1:20 SAFETY SURFACE AREAS
 SURROUNDING EQUIPMENT TO FOLLOW GRADIENT SPECIFIED AS PER
 MANUFACTURERS INSTALLATION GUIDE

