(1) **BRIAN WILKINSON AND MICHELLE LORRAINE WILKINSON**

(2) **MARCEL LOUIS HOAD AND ALISON HELEN HOAD**

(3) **OLIVER BENBOW MARTIN**

(4) **ANTHONY MARTIN**

(5) **LYNDA JANE MARTIN**

(6) **LAURA NATALIE HAYTER**

(7) **HORSHAM DISTRICT COUNCIL**

# AGREEMENT

Pursuant to section 106 of the Town and Country Planning Act 1990 in respect of

**Angell Sandpit, Washington Road, Storrington, West Sussex RH20 4DE described at HM Land Registry as Land and buildings on the north side of Washington Road, Storrington, Pulborough (RH20 4DE)**

Lauren Kelly – Head of Legal and Democratic Services
Horsham District Council
Parkside
Chart Way
Horsham
West Sussex
RH12 1RL

Legal ref: CB/11834Planning ref: DC/23/2144

**THIS AGREEMENT** is made as a deed and dated 12th August 2024

Between:

(1) **BRIAN WILKINSON AND MICHELLE LORRAINE WILKINSON** of 2 Angell Sands, Storrington, Pulborough, West Sussex RH20 4FL **("the Owners")**;

(2) **MARCEL LOUIS HOAD AND ALISON HELEN HOAD** of Birch Corner, Fern Road, Storrington, West Sussex RH20 4LW **("the Chargees")**

(3) **OLIVER BENBOW MARTIN** of 92 Aldsworth Avenue, Goring-By-Sea, Worthing BN12 4XE **("Offsetting Site Owner 1")**

(4) **ANTHONY MARTIN** of Danefold House, Littleworth Lane, Partridge Green, Horsham RH13 8NA **("Offsetting Site Owner 2")**

(5) **LYNDA JANE MARTIN** of Danefold House, Littleworth Lane, Partiridge Green Horsham RH13 8NA **("Offsetting Site Owner 3")**

(6) **LAURA NATALIE HAYTER** of Hogwood Farm House, The Forestry Road, Plaistow, Billingshurst RH14 0PA **("the Offsetting Site Owner 4")**

(7) **HORSHAM DISTRICT COUNCIL** of Parkside, Chart Way, Horsham, West Sussex RH12 1RL **("the Council")**

together "the Parties"

## 1. BACKGROUND & RECITALS

Whereas

1.1 The Owners are the registered proprietors with Title Absolute of land registered at HM Land Registry under title number [redacted] being land at Angell Sandpit, Washington Road, Storrington, West Sussex RH20 4DE.

1.2 The Chargees entered into an Option Agreement with the Owners dated 6 April 2023 to acquire land comprising part of the Application Site which is registered at HM Land Registry under title number [redacted] at paragraphs 11 and 12 of the Charges Register.

1.3 Offsetting Site Owners 1, 2, 3 and 4 (together **"the Offsetting Site Owners"**) are the registered proprietors with Title Absolute of the land comprising the Offsetting Site that is registered at HM Land Registry as follows:

| Title Number | Description | Offsetting Site Plan depiction |
|---|---|---|
| [redacted] | land at Lancasters Farm, Littleworth Lane, Partridge Green, Horsham | Hatched in blue |
| [redacted] | land on the south-east side of Littleworth Lane, Partridge Green, Horsham | Hatched in blue |
| [redacted] | Denmans Farm, West Grinstead | Hatched in green |

1.4 The Council is the local planning authority as defined in the Act for the area within which the Application Site is situated for the purposes of this Agreement and for the purposes of section 106 of the Act and is entitled to enforce the planning obligations it contains.

1.5 The Owners submitted the Application to the Council which was validated on 24 November 2023.

1.6 The Parties have agreed to enter into this Agreement to secure the necessary planning obligations contained in this Agreement.

1.7 The Council's administrative area is situated in an area of serious water stress as identified by the Environment Agency's Water Stressed Areas Classification.

1.8 The water statutory undertaker, Southern Water, supplies drinking water to the Council's administrative area from the SNWSZ.

1.9 In September 2021 Natural England released the Position Statement which requires that any new development within the SNWSZ must be Water Neutral. The Parties agree that the Development must be Water Neutral and have entered into this Agreement to secure the required mitigation and Offsetting Measures and bind the Application Site and the Offsetting Site.

1.10 The Parties are willing to enter into, be bound by the obligations and be subject to the restrictions in this Agreement on the terms set out herein.

1.11 The Parties are satisfied that the provisions of this Agreement comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and, accordingly, that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms, are directly related to the Development and fairly and reasonably relate in scale and kind to the Development.

**NOW THIS AGREEMENT WITNESSES** as follows:

## 2. INTERPRETATION

In this Agreement:

2.1 Words importing the one gender include reference to all the genders.

2.2 Words importing the singular include the plural and vice versa.

2.3 Words importing persons include companies and corporations and vice versa.

2.4 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those.

2.5 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.

2.6 Any reference to a clause, schedule, paragraph or plan is to a clause, schedule, paragraph or plan in, to or attached to this Agreement, unless expressly stated otherwise.

2.7 Any reference to a colour or letter is to a colour or letter on the plans attached to this Agreement.

2.8 In the absence of contrary provision, any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it.

2.9 A reference to writing or written excludes fax and email.

2.10 An obligation on a party not to do something includes an obligation not to allow that thing to be done.

2.11 References to any party to this Agreement shall include the successors in title to that party and to any person deriving title through or under that party and, in the case of the Council, the successors to their functions as local planning authority.

2.12 The headings are for reference only and shall not affect construction.

## 3. DEFINITIONS

It is hereby agreed between the Parties set out in this Agreement that the following expressions have the following meanings:

| | |
|---|---|
| **"Act"** | the Town and Country Planning Act 1990 (as amended). |
| **"Application"** | the application ascribed reference number DC/23/2144 and described as: "Variation of condition 1 of previously approved application reference DC/21/0057 (A phased development for the erection of 6no detached houses with associated landscaping, drainage and access improvements to Heather Way at Angell Sandpit, Storrington) to allow the submission of water neutrality information, revised plans in respect of plots 1-3 and revised construction access details. Approval of conditions 3, 5, 6, 10, 12, 13, 16, 17, 18 and 19". |
| **"Application Site"** | all that land known as Angell Sandpit, Washington Road, Storrington, Pulborough, West Sussex RH20 4DE shown for identification purposes edged red on the Application Site Plan and to which the Application relates. |
| **"Application Site Plan"** | the plan of the Application Site entitled "Location Plan" with drawing number 6545 001 dated 18.12.17 Rev. P2 at Schedule 1 of this Agreement. |
| **"Commencement of Development"** | the carrying out of a material operation as defined in section 56(4) of the Act in respect of the Development but excluding (for the purposes of this Agreement and for no other purpose) any operation relating to works of investigations in respect of land contamination or remedial action in respect thereof, enabling works demolition, site clearance works, earthworks, archaeological investigations and digs, exploratory boreholes, operations permitted by the Town and Country Planning (General Permitted Development) Order 2015, the erection of hoardings and fencing, temporary diversion of services and signage (including the formation of temporary construction accesses) and "**Commence Development**" shall be construed accordingly. |
| **"Commencement Date"** | the date on which the Commencement of the Development occurs. |
| **"Commencement Notice"** | the written notice confirming the Commencement Date referred to in clause 7.1.1 and served in accordance with Clause 7.3. |
| **"Development** | the development of the Application Site pursuant to the Planning Permission. |
| **"Double Counting"** | the practise of using the same Water Credit Unit to achieve Water Neutrality at more than one development at any one time. |

**"Monitoring Fee"** the fee [redacted] for monitoring obligations in the Agreement payable to the Council on or before completion of this Agreement.

**"Occupation"** occupation for any purpose for which the Planning Permission has been granted by the Council other than occupation for the purposes of construction or fitting out or occupation for security, marketing or display and "**Occupy**" and "**Occupied**" shall be construed accordingly.

**"Occupation Date"** the date on which the Development is first Occupied.

**"Occupation Notice"** the written notice confirming the Occupation Date referred to in clause 7.1.2 to be served in accordance with clause 7.3 of this Agreement.

**"Offsetting Measures"** the detailed water saving measures that are to be implemented on the Offsetting Site to make the Development Water Neutral set out in the Water Neutrality Statement.

**"Offsetting Site"** the following parcels of land:

| Title Number | Description on title |
|---|---|
| [redacted] | land at Lancaster Farm, Littleworth Lane, Partridge Green, Horsham |
| [redacted] | land known as the South East side of Littleworth Lane |
| [redacted] | Denmans Farm, West Grinstead |

being land that falls within the Council's administrative area and upon which the Offsetting Measures are to be implemented, maintained and managed for the lifetime of the Development and which is identified edged red on the Offsetting Site Land Plan.

**"Offsetting Site Management and Monitoring Plan"** a detailed written scheme jointly prepared by the Owner and the Offsetting Site Owners (and approved in writing by the Council) which includes details of the provision of the Offsetting Measures and a programme for the ongoing management and maintenance of the Offsetting Site and the Offsetting Measures for the lifetime of the development and which shall include the following:

(a) a plan showing the boundaries of the Offsetting Site and the agreed layout of the Offsetting Measures;

(b) confirmation of the approximate location and details of any apparatus to be installed on the Offsetting Site in order to implement the Offsetting Measures;

(d) frequency of maintenance of the Offsetting Measures;

(e) standard of maintenance and repair to be achieved and maintained;

(g) how the costs of the maintenance shall be funded over the lifetime of the Development;

(h) the person who shall be the point of contact for anyone wishing to raise issues regarding the management or maintenance of the Offsetting Site and confirmation that the Offsetting Site Owner(s) will notify the Council in writing within 7 days of the date of the change of the point of contact;

| | |
|---|---|
| **"Offsetting Site Monitoring Report"** | means a written report to be submitted to the Council via Planning.Obligations@horsham.gov.uk on an annual basis for the first 5 (five) years on each anniversary of the date that the Offsetting Site Management and Monitoring Plan took effect, setting out the results of the review of the operation and effectiveness of the Offsetting Site Management and Monitoring plan and any remedies or measures that are required to be implemented to meet the requirements of the Offsetting Site Management and Monitoring Plan. |
| **"Offsetting Site Plan"** | the plan of the Offsetting Site entitled "Plan 2" produced by Land App, on May 20, 2024 at Schedule 2 of this Agreement. |
| **"Planning Permission"** | the planning permission to be granted by the Council pursuant to the Application. |
| **"Position Statement"** | the statement dated 14 September 2021 received by the Council from Natural England which shows that water abstraction for drinking water supplies in the SNWSZ is having a negative impact on the wildlife sites in the Arun Valley. |
| **"Sale or Transfer"** | the sale or transfer of a Water Credit Unit and "**Sold or Transferred"** shall be construed accordingly. |
| **"Section 73 Consent"** | any planning permission granted pursuant to section 73 of the Act to vary and/ or remove any planning condition(s) subject to which the Planning Permission was granted and/ or subsequent planning permission was granted pursuant to section 73 of the Act. |
| **"SNWSZ"** | the Sussex North Water Supply Zone from where Southern Water supplies drinking water. |
| **"Southern Water"** | the statutory undertaker responsible for the supply of water to the Development or any successor organisation which replaces it. |
| **"Water Credit Scheme"** | means the scheme which is to be operated by or on behalf of the Offsetting Site Owners to reduce mains water consumption at the Offsetting Site by 12,367 (twelve thousand three hundred and sixty-seven) litres per day as a result of the implementation, management and retention of Offsetting Measures so that the resulting Water Credit Units may be sold to the Owners or to a third party to render development within the SNWSZ Water Neutral. |

| | |
|---|---|
| **"Water Credit Unit"** | 1 (one) litre of water per day saved by implementation of the Offsetting Measures at the Offsetting Site which may be Sold or Transferred to the Owners to offset water consumption arising from the Development or to a third party in respect of development within the SNWSZ to ensure that it is Water Neutral. |
| **"Water Neutral"** | the use of water in the SNWSZ after the Development has taken place is the same or lower than it was before the Development so as to accord with the Position Statement and "**Water Neutrality**" shall be construed accordingly. |
| **"Water Neutrality Statement"** | the statement prepared by Phil Allen MCIWEM C.WEM of Motion, 84 North Street, Guildford GU1 4AU dated 25th August 2023 on behalf of the Owners and agreed with the Council to demonstrate and ensure that the Development is considered and delivered as Water Neutral and in accordance with the Position Statement by setting out key mitigation measures to achieve Water Neutrality and which appears at Schedule 3 of this Agreement. |
| **"Water Neutrality Strategy"** | the strategy submitted to and approved by the Council as part of the conditions of the Planning Permission setting out the precise Offsetting Measures to be undertaken on the Offsetting Sites to achieve the water reduction targets set out in the Water Neutrality Statement. |
| **"Water Stressed Areas Classification"** | the Environment Agency's report dated 1 July 2021 setting out the results of the Environment Agency's determination of areas of water stress in England and any subsequent report. |
| **"Working Day"** | Monday to Friday inclusive but excluding any day that is a bank holiday, public holiday or statutory holiday in England. |

## 4. ENABLING PROVISIONS

4.1 This Agreement is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.

## 5. CONDITIONS PRECEDENT

5.1 This Agreement shall come into effect upon the date it is dated but the provisions in paragraph 6 of Schedule 4, and paragraphs 1 to 12 (inclusive) of Schedule 5 shall only take effect upon the Commencement of Development unless explicitly stated otherwise.

## 6. COVENANTS

6.1 Subject to clause 5.1:

6.1.1 The Owners covenant with the Council to comply fully with and to perform the obligations contained herein and in Schedule 4 of this Agreement in accordance with the requirements and timescales set out;

6.1.2 The Owners covenant with the Council that the Development and use of the Application Site shall be in strict accordance with this Agreement;

6.1.3 The Offsetting Site Owners covenant with the Council to comply fully with and to perform the obligations contained herein and in Schedule 5 of this Agreement in accordance with the requirements and timescales set out and not to encumber or otherwise deal with their interest in the Offsetting Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and/ or undertakings imposed by this Agreement are rendered impossible to carry out.

## 7. NOTICES

7.1 The Owners covenant with the Council as follows:

7.1.1 to give the Commencement Notice to the Council not less than 14 (fourteen) days before the anticipated Commencement Date; and

7.1.2 to give the Occupation Notice to the Council not less than 14 (fourteen) days before the anticipated Occupation Date.

7.2 The Parties to this Agreement agree that if the Owners fail to give the notice required by clause 7.1.1 and clause 7.1.2 above then the Council shall be entitled in its absolute discretion to determine the Commencement Date and Occupation Date and shall give notice to the Owners of the Council's determination.

7.3 Any notice, certificate or other communication required or permitted to be given under this Agreement shall be given in writing to the relevant party at the relevant address referred to at the start of this Agreement or such other address as may be notified in writing to the other party and must be served personally or by first class registered or first class recorded delivery post and, in the case of the Council,

the relevant party shall address any notice to the Head of Legal and Democratic Services of the Council.

7.4 Any notice, certificate or other communication sent by post shall be deemed (in the absence of evidence of receipt) to have been delivered 2 (two) Working Days after despatch and in proving the fact of despatch it shall be sufficient to show that the envelope was properly addressed and posted.

7.5 Any notice, certificate or other communication delivered personally shall be deemed to have been delivered at the time it is received provided it is received between 09:00hrs and 17:00hrs on a Working Day but otherwise it shall be deemed to have been received on the next Working Day.

## 8. COSTS

8.1 The Owners have undertaken to pay on or before the date hereof the Council's reasonable legal costs incurred in preparing and entering into this Agreement and the Monitoring Fee.

## 9. CHARGEES' CONSENT/ LIABILITY

9.1 The Chargees consent to the completion of this Agreement and declare that their interest in the Application Site shall be bound by the terms of this Agreement as if it had been executed and registered as a land charge prior to the creation of the Chargees' interest in the Application Site.

9.2 The Chargees or any future chargee shall not be liable for any breach of the obligations in this Agreement unless committed or continuing at a time when it is in possession of all or any part of the Application Site in which case it will be bound by the obligations in this Agreement as if it were a person deriving title from the Owners.

9.3 Any mortgagee shall not be liable for any breach of the obligations in this Agreement unless committed or continuing at a time when it is in possession of all or any part of the Application Site in which case it will be bound by the obligations in this Agreement as if it were a person deriving title from the Owner.

## 10. GENERAL

The Parties undertake that:

10.1 this Agreement constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

10.2 this Agreement constitutes a deed.

10.3 this Agreement is enforceable by the Council in accordance with section 106 of the Act.

10.4 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999.

10.5 It is hereby agreed by the Owners and the Offsetting Site Owners that failure by the Council at any time to enforce the provisions of this Agreement or to require performance strictly or otherwise by the Owners and the Offsetting Site Owners of any of the conditions, covenants, agreements or obligations of this Agreement or any failure or delay by the Council to exercise any act, right or remedy shall not be construed as a creating an estoppel in connection with any such condition, covenant, agreement or obligation and shall not affect the validity of this Agreement or any part thereof or the right of the Council to enforce any provision and any variation of this Agreement shall not vitiate the remainder of the Agreement which shall remain in full force and effect subject to such amendment or amendments.

10.6 The Owners and the Offsetting Site Owners hereby undertake that:

10.6.1 this Agreement supersedes and replaces all previous negotiations whether oral or written;

10.6.2 the Owners have not relied on any express or implied statement warranty representation or undertaking given by or on behalf of the Council; and

10.6.3 nothing herein contained excludes the liability of any party in relation to fraud.

10.7 The Owners and the Offsetting Site Owners acknowledge that this Agreement will be registered as a local land charge.

10.8 The Owners hereby give consent for the Development Site Plan to be reproduced by the Council.

10.9 If any provision in this Agreement shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.

10.10 This Agreement shall be governed by and interpreted in accordance with laws of England and the Parties submit to the exclusive jurisdiction of the courts of England.

10.11 The obligations in this Agreement (with the exception of clause 8.) shall cease to have effect (insofar only as it has not already been complied with) if, before the Commencement of Development, the Planning Permission:

10.11.1 expires; or

10.11.2 is varied or revoked other than at the request of the Owners; or

10.11.3 is quashed following a successful legal challenge,

but will remain in full force and effect so far as any subsisting Section 73 Consent is concerned.

10.12 The Owners (or any person deriving title to Application Site from the Owners) shall not be liable for any breach of the restrictions and obligations set out in this Agreement where such breach arises after the Owners have parted with their interest in the Application Site or part of Application Site to which such breach relates save in respect of liability for antecedent breach of this Agreement.

10.13 The Offsetting Site Owners (or any person deriving title to the Offsetting Site from the Offsetting Site Owners) shall not be liable for any breach of the restrictions and obligations set out in this Agreement where such breach arises after the Offsetting Site Owners have parted with their interest in the Offsetting Site or such part of the Offsetting Site to which such breach relates save in respect of liability for antecedent breach of this Agreement.

10.14 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 applies to the covenants in this agreement.

10.15 References to the Application Site and Offsetting Site include any part of it.

10.16 Any covenant by the Owners or Offsetting Site Owners not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.

10.17 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or any modification variation or amendment thereof) granted after the date of the Planning Permission.

10.18 Subject to the proviso to this clause if any Section 73 Consent is granted after the date of this Agreement:

10.18.1 the obligations in this Agreement shall relate to and bind such Section 73 Consent; and

10.18.2 the definitions of Application, Development and Planning Permission (other than for the purposes of clause 1) shall be construed to include reference to (respectively) the planning application for the Section 73 Consent, the development permitted by the Section 73 Consent and the Section 73 Consent itself.

10.18.3 nothing in this clause shall fetter the discretion of the Council in determining any planning application for a Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same.

PROVIDED THAT:

10.18.4 to the extent that any of the obligations in this Agreement have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent; and

10.18.5 the Council reserves the right to insist upon the completion of a separate planning obligation by deed of agreement in connection with any Section 73 Consent if the Council (acting reasonably) considers it desirable to do so.

## 11. DISPUTE RESOLUTION

11.1 Should a dispute or difference arise between the Owners or the Offsetting Site Owners and the Council concerning anything herein then the provisions of this clause 11 shall apply.

11.2 All differences and disputes which may arise between the Parties concerning this Agreement shall be referred to the determination (as an expert and not as an arbitrator) of an independent leading conveyancing/planning counsel agreed upon by the Parties but in default of such agreement appointed by the President of the Law Society of England and Wales on the application of any of the Parties.

11.3 Any expert appointed pursuant to clause 11.2 shall:

11.3.1 on his appointment serve written notice thereof on the parties in dispute;

11.3.2 consider any written representations by or on behalf of those parties which are received by him within 20 (twenty) Working Days of such service and immediately forward a copy of the written representation of one party to the other party;

11.3.3 allow the parties to the dispute an opportunity of commenting in writing on the other party's representations within 20 (twenty) working days of receipt by the other party thereof;

11.3.4 have an unfettered discretion to determine the reference to him;

11.3.5 serve notice of his determination as soon as he has made it;

11.3.6 give full and clear reasons for his decision; and

11.3.7 be paid his proper fee and expenses in connection with such reference by the Parties in dispute in equal shares or in such shares as he may determine and his determination shall be final and binding on the parties in dispute (save in the case of manifest error) PROVIDED THAT if any such expert shall die, become insolvent or of unsound mind or if any of the parties in dispute shall serve on him written notice in their opinion he has unreasonably delayed making his determination he shall be ipso facto discharged and be entitled only to his reasonable expenses prior to such discharge and another person shall be appointed in his place as such expert.

11.4 The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, and any other means of enforcing this Agreement and consequential and interim orders and relief.

## 12. OWNERSHIP

12.1 The Owners warrant that no person other than the Owners have any legal or equitable interest in the Application Site.

12.2 The Offsetting Site Owners warrant that no person other than the Offsetting Site Owners has any legal or equitable interest in the Offsetting Site.

12.3 The Owners and the Offsetting Site Owners undertake to the Council to give the Council immediate written notice of any change in the ownership of any of their respective interests in the Application Site and/ or the Offsetting Site occurring before all the obligations under this Agreement 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 Application Site and/or the Offsetting Site purchased by reference to a plan.

## 13. ACKNOWLEDGEMENT

13.1 In the event that an alternative water supply, that does not have a negative impact on the wildlife sites in the Arun Valley, entirely replaces the supply to the Development, or that the Water Neutrality Strategy is no longer required to be delivered on the Offsetting Site to achieve Water Neutrality in respect of the Development, consideration will be given by the Council to variation or discharge of this deed upon receipt of an appropriate application

**IN WITNESS** whereof this Agreement has been duly executed the day and year first hereinbefore mentioned

**SIGNED** as a **DEED** by **BRIAN WILKINSON**

[redacted] ..... Signature

In the presence of:

W [redacted] ..... Signature
I KEITH WHITTINGTON ..... Print name
T LANGEH SANDS ..... Address 1
N STORRINGTON ..... Address 2
E ..... Address 3
S RH20 4FL ..... Post code
S DIRECTOR ..... Occupation

**SIGNED** as a **DEED** by **MICHELLE LORRAINE WILKINSON**

[redacted] ..... Signature

In the presence of:

W [redacted] Signature

I Susan WHITTINGTON Print name

T 1 Angel Sands Address 1

N Storrington Address 2

E West Sussex Address 3

S RH20 4FL Post code

S Director Occupation

**SIGNED** as a **DEED** by **MARCEL LOUIS HOAD**

[redacted] ..... Signature

In the presence of:

W [redacted] ..... Signature

I CAROLINE CUMBER ..... Print name

T 5 GUILDFORD CLOSE ..... Address 1

N JARVING ..... Address 2

E WORTHING, WEST SUSSEX ..... Address 3

S BN14 7LR ..... Post code

S ESTATE AGENT ..... Occupation

**SIGNED** as a **DEED** by **ALISON HELEN HOAD**

[redacted] ..... Signature

In the presence of:

[redacted]

W ..... Signature

I PAUL ROLFE ..... Print name

T 22, SHIRLEY DRIVE ..... Address 1

N WORTHING ..... Address 2

E WEST SUSSEX ..... Address 3

S BN14 9AX ..... Post code

S ESTATE AGENT ..... Occupation

**SIGNED** as a **DEED** by **OLIVER BENBOW MARTIN**

[redacted] ..... Signature

In the presence of:

[redacted] ..... Signature

I ..... Print name

T ..... Address 1

N ..... Address 2

E ..... Address 3

S ..... Post code

S ..... Occupation

Anthony Cooke
192 St Leonards Road
Horsham
RH13 6AU
RETIRED

**EXECUTED** as a **DEED** by **ANTHONY MARTIN**

..... [redacted] ..... Signature

In the presence of:

W [redacted] ..... Signature

I ..... Print name

T ..... Address 1

N ..... Address 2

E ..... Address 3

S ..... Post code

S ..... Occupation

Anthony Cooke
192 St Leonards Road
Horsham
RH13 6AU
RETIRED

**EXECUTED** as a **DEED** by **LYNDA JANE MARTIN**

..... [redacted] ..... Signature

In the presence of:

W [redacted] ..... Signature

I ..... *Print name*

T ..... Address 1

N ..... Address 2

E ..... Address 3

S ..... Post code

Anthony Cooke
192 St Leonards Road
Horsham
RH13 6AU
RETIRED

S ..... Retired ..... Occupation

**EXECUTED** as a **DEED** by **LAURA NATALIE HAYTER**

..... [redacted] ..... Signature

In the presence of:

W [redacted] ..... Signature

I ..... Anthony Cooke ..... Print name

T ..... 192 St Leonards Road ..... Address 1

N ..... Horsham ..... Address 2

E ..... RH13 6AU ..... Address 3

S ..... Post code

S ..... Retired ..... Occupation

**SEALED WITH THE COMMON SEAL** of
**HORSHAM DISTRICT COUNCIL**
in the presence of:

[redacted]

Authorised Officer

17901 X7

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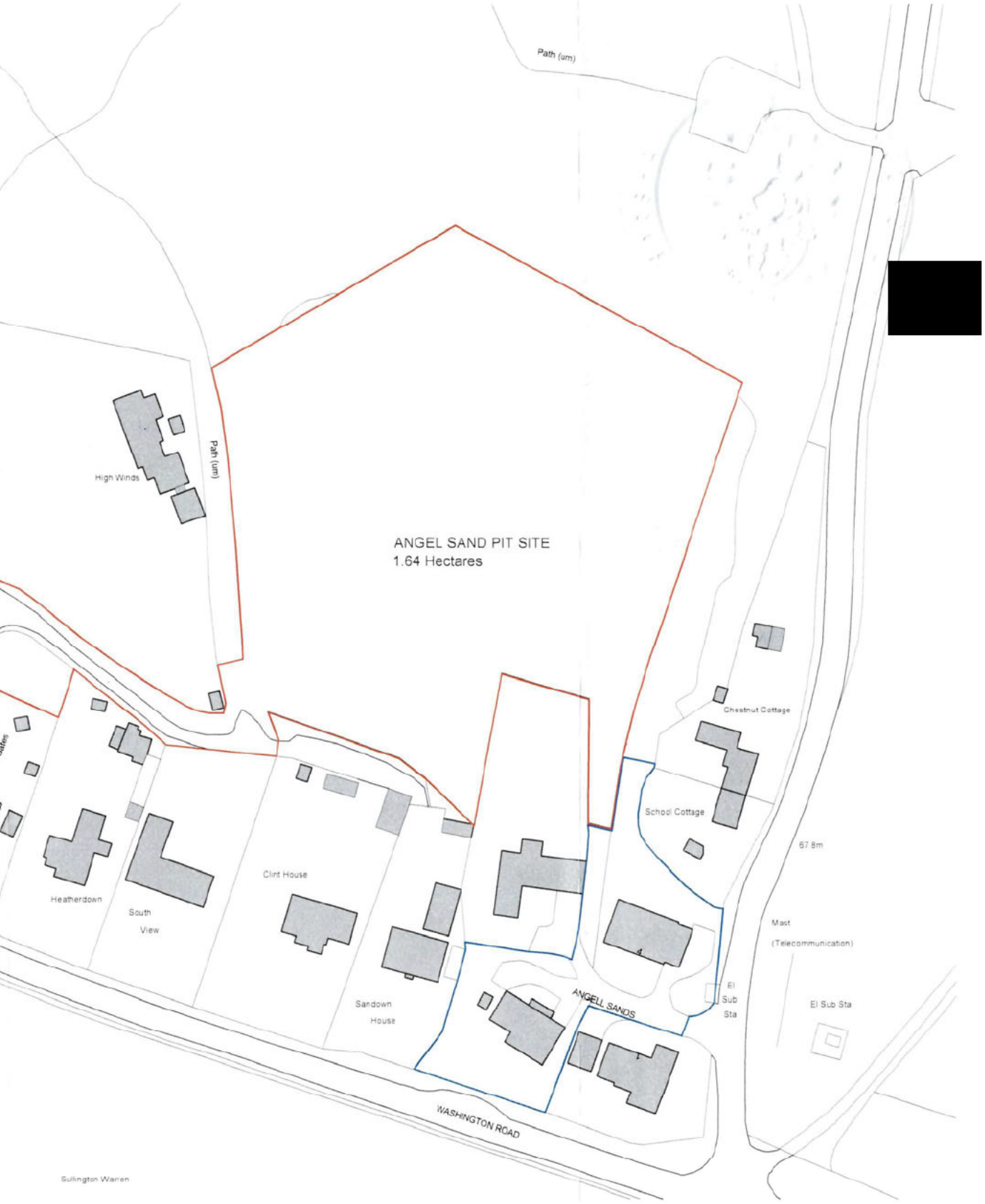
## Schedule 1

## The Application Site Plan

CDM 2015 Health & Safety Information:

This information relates only to 'Significant Hazards' identified on this drawing and is to be read in conjunction with the Designer's Hazard Register




| Rev | Date | Revision Details | Dr | Ch |
|---|---|---|---|---|
| P2 | 16.06.20 | BLUE LINE ADDED | JT | MG |
| P1 | 28.07.18 | ISSUED FOR PLANNING | EM | MG |

Client's Name: MIBRI Limited

Drawing Title: Location plan

| Drawn | Checked | Date |
|---|---|---|
| EM | MN | 18.12.17 |

| Job No | Drawing No | Rev |
|---|---|---|
| 6545 | 001 | P2 |

Job Title: Angel Sandpit

Scale: 1:1250 @ A3

metres 10 20 30 40 50

Status: APPROVAL


**ECE Architecture**
www.ecearchitecture.com

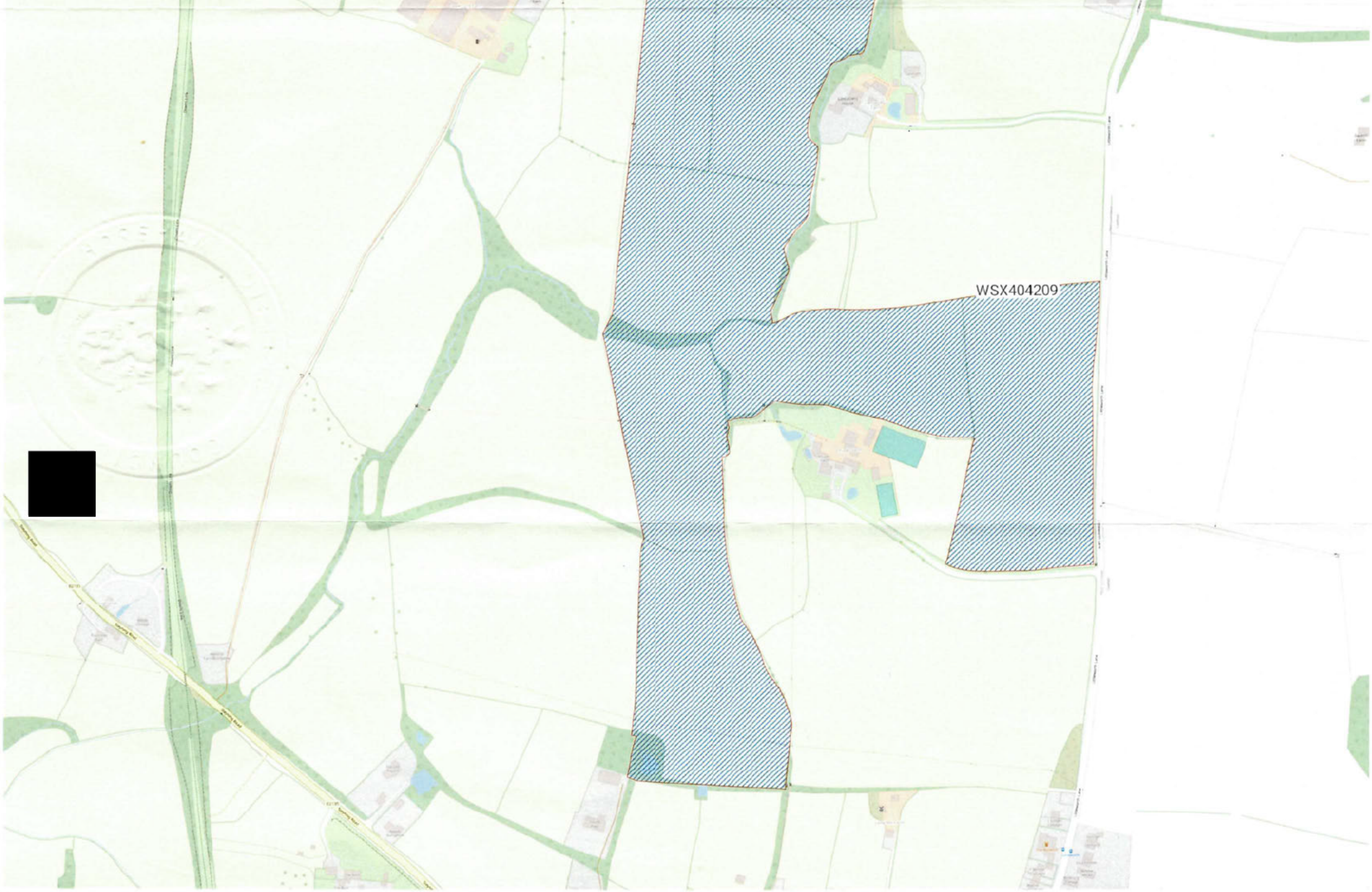
**London:** 76 Great Suffolk Street, London, SE1 0BL
T 0207 928 2773 E london@ecearchitecture.com

**Sussex:** Brooklyn Chambers, 11 Goring Road, Worthing, West Sussex, BN12 4AP
T 01903 248777 E sussex@ecearchitecture.com

**Bristol:** Westworks, Colston Tower, Colston Street, Bristol, BS1 4XE
T 0117 314 1101 E bristol@ecewestworks.com

## Schedule 2

## Offsetting Site Plan

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100 m
Scale 1:2500 (at A1)

N

## Schedule 3

## Water Neutrality Statement

# Technical Note 1: Water Neutrality Statement

Site: Angel Sand Pit, Washington Road, Storrington
Prepared by: Phil Allen MCIWEM C.WEM
Approved by: Neil Jaques
Date: 25th August 2023

84 North Street
Guildford
GU1 4AU

Tel: 01483 531300
www.motion.co.uk

## 1.0 Introduction

1.1 This Water Neutrality Statement (WNS) has been prepared to demonstrate how the proposed residential development at Angel Sand Pit, Storrington, West Sussex plans to achieve water neutrality. This former sand quarry, which is now covered with shrubs and grassland, has received planning consent to build six one and two storey dwellings that will provide a mixture of two, three and four-bedroomed properties. The location of Angel Sand Pit can be seen in **Appendix A** and the layout of the proposed development can be seen in **Appendix B**.

1.2 Following the issue of Natural England's (NE's) Position Statement on Water Neutrality within the Sussex North Water Supply Zone (SNWSZ) all new, reserved matters, conditions discharge and Section 73 planning applications within the SNWSZ must demonstrate that the development can be water neutral. The SNWSZ covers part of Horsham District Council (HDC), as well as parts of the neighbouring Chichester, Arun and Crawley Districts. A plan showing the supply area can be found in **Appendix C** and NE's Position Statement can be found in full within **Appendix D**.

1.3 Because Angel Sand Pit is within the SNWSZ, HDC as the Local Planning Authority (LPA) wish to know the how much the increase in demand of mains water the development will require and that the proposed development can be water neutral within the SNWSZ.

1.4 Therefore, to satisfy NE's and HDC's requirements on water neutrality, this WNS will set out the following:

- The baseline, existing water demand for Angel Sand Pit;
- The increases in water demand that will occur as a result of the proposed development;
- What water demand reduction measures, such as the fitting of water efficient fixtures and fittings, will be used;
- Whether the proposed development will be water neutral, and;
- Whether any rainwater recycling or offsetting measures are required.

## 2.0 Existing Baseline Water Demand

2.1 The existing site is currently unused and does not draw from the mains water supply. As such the baseline water demand of the site is zero.

## 3.0 Future Water Demand

3.1 The average water consumption in the SNWSZ is 135 litres per person per day. Building Regulations currently requires all new developments to achieve 125 litres per person per day and there is an optional requirement of 110 litres per person per day. Also, the Sussex North Water Neutrality Study Part C – Mitigation Strategy report recommends a target of mains water consumption figure of 85 litres per person per day. This low water consumption figure can be achieved using water efficient fixtures and fittings, including dual flush toilets and, where necessary, flow restrictors.

3.2 To show how a water consumption of 85 litres per person per day can be achieved, a calculation in accordance with Buildings Regulations Part G has been carried out. This confirms that the proposed development will achieve a water consumption of only 84.66 litres per person per day. A copy of the Part G calculation can be

found in **Appendix E** and is summarised in Table 3.1 on the next page. Examples of the proposed fixtures and fittings are shown in **Appendix F**.

3.3 The following table sets out the proposed water consumption figures per person per day for the development in Angel Sand Pit, as set out in the aforementioned Part G calculation:

*Table 3.1 – Proposed Water Use in Accordance with Part G of Building Regulations*

| Fitting | Water Consumption (l/p/day) |
|---|---|
| WC (full flush) | 5.84 |
| WC (part flush) | 5.92 |
| Taps (Excluding Kitchen) | 5.85 |
| Bath | 14.30 |
| Shower | 21.85 |
| Kitchen Taps | 12.12 |
| Washing Machine | 17.16 |
| Dishwasher | 4.50 |
| **Total** | 87.53 |
| Normalisation Factor | 0.91 |
| **Total** | 79.66 |
| External Water Use | 5.00 |
| **Total** | 84.66 |

3.4 To determine the overall anticipated water use across the proposed development, average occupancy levels for each dwelling size have been used. These average occupancy levels are based on local census data, as recommended by HDC, to ensure that there is consistency across the district. These occupancy levels are summarised in Table 3.2 below.

*Table 3.2 – Census Data for Average Occupancy per Dwelling Size*

| 2-bedroom | 3-bedroom | 4-bedroom |
|---|---|---|
| 1.88 | 2.47 | 2.86 |

3.5 There is proposed to be 1no. two-bed, 1no. three-bed and 4no. four-bed properties. Therefore, using these plot sizes and the census occupancy data outlined above, the population of the proposed development will be 15.79 (1 x 1.88 + 1 x 2.47 + 4 x 2.86). This will be rounded up to 16.

3.6 Using the Part G water consumption figure of 84.66 litres per person per day and a population size of 16 it is estimated that the total water usage per day for the proposed development is 1,354.56 litres per day.

3.7 Therefore, given that the current 'baseline' water usage figures are zero, the proposed development represents an increase in mains water demand for the site of 1,354.56 litres per day, or 494,414.40 litres per year.

3.8 This means that the development will not be water neutral unless offsetting is carried out to make sure that the proposed development does not result in an increase in water demand within the SNWSZ. These are discussed, below.

## 4.0 Offsetting Measures

4.1 As discussed in the introduction to this WNS, the SNWSZ and the WNS requirement applies not only to Horsham District, but also parts of Chichester District Arun District, Crawley Borough and South Downs National Park. Therefore, an offsetting scheme within the SNWSZ that is in one District/Borough can benefit a development in another District/Borough, as this benefits the entire zone.

4.2 This approach has been accepted and approved by Natural England with regards to a specific offsetting scheme at Danefold Farm, Littleworth Lane, Horsham. During Kingham Homes' application at Stable Field in Chichester District (planning ref.: 22/00618/FUL), Natural England supported the approach of Danefold Farm using a rainwater harvesting and recycling scheme to supply their livestock farming activities, which would significantly reduce the mains water demand within the SNWSZ and would allow proposed developments to use this saving to offset their proposed mains water demand. Natural England's acceptance of this approach can be seen, in writing, in **Appendix G** of this WNS.

4.3 The amount of rainwater harvesting proposed by Danefold Farm at the time of the Kingham Homes development has been increased. This enables further developments that cannot achieve water neutrality to come forward and use the mains water offsetting scheme at Danefold Farm. The full details of the mains water offsetting scheme at Danefold Farm as it currently stands can be seen in **Appendix H** of this report, but is summarised for ease of reference, below.

4.4 Danefold Farm is on a metered supply, and it also draws two additional supplies from a neighbouring property (Lancasters Farm, Littleworth Lane, Partridge Green, Horsham, RH13 8EJ). Both supplies from the neighbouring property are metered before entering Danefold Farm and are fed from the Southern Water mains supply to Lancasters Farm. Therefore, all mains water use within Danefold Farm is measurable and has been metered.

4.5 Danefold Farm is a livestock farm with up to 300 head of cattle over 80ha of land. The metered water bills show that Danefold Farm consumes 13.2m$^3$ (13,200 litres) of water per day. Typically, the cattle consume 9m$^3$ of water per day, with the remaining mains water use of 4.2m$^3$ being used either for washing down or is lost through leakage (because the water supply pipes run above ground these are frequently damaged by cattle and farm vehicles with leaks largely going undetected).

4.6 It is proposed to move the water supply at Danefold Farm from the mains supply to a rainwater harvested and recycled system. It is proposed to construct a new storage pond, which will accept surface water falling directly upon it, as well as surface water runoff and roof water from a cattle shed and barn that have a combined roof area of 1,193m$^2$. The pond will be 2,696m$^3$ in volume and, in combination with other ponds on site, a total rainwater recycling volume of 5,948m$^3$ will be present at Danefold Farm.

4.7 The ponds, barn and cowshed have a total surface area of 7,544m$^2$. Southern Water's long-term annual average rainfall figure (782mm p.a.) has been applied to this surface area, which provides a total rainwater yield of 5,899,408 litres per annum. To employ a precautionary principle, a 20% reduction in this figure has been applied to account for losses, leaving a usable rainwater yield of 4,721,337 litres per annum, or 4,721.3m$^3$. This equates to 12,935 litres per day. It should be noted that these figures exclude runoff from the surrounding clay soils, which could be significant, thus the actual yield could be higher.

4.8 The farm's existing water use is 13.2m$^3$ per day. It is the intention to offset as much of this using the recycled rainwater as possible.

4.9 There is also a farmhouse Danefold Farm and a two-bed holiday cottage. These properties will maintain their consumption of and connection to the mains water supply. The mains water consumption of these two properties is 296m$^3$ per annum, which, when deducted from Danefold Farm's annual mains water consumption of 4,810m$^3$, leaves 4,514m$^3$ per annum (or 12,367 litres per day) to be supplied by rainwater harvesting, with a surplus yield of 567 litres per day.

4.10 Therefore, if the water requirement of the livestock farming activities at Danefold Farm are being supplied by recycled rainwater, this reduces the mains water demand in the SNWSZ by 12,367 litres per day, with a surplus of 567 litres per day.

### Offsetting Mains Water Demand of the Proposed Development

4.11 It is detailed in Section 3 and Paragraph 3.7 that the proposed development at Angel Sand Pit will require a mains water supply of 1,354.56 litres per day.

4.12 The rainwater harvesting and recycling scheme at Danefold Farm is making up to 12,367 litres per day available for developments to offset their mains water consumption. These can be purchased as a system of credits, with one credit being equal to one litre of water per day. The water credit scheme at Danefold Farm is being overseen by Nicholls Countryside Construction (NCC) and these have been marketed to developers by NCC on the landowner's behalf.

4.13 NCC maintains a record of the credits allocated from each offsetting scheme and ensures the available credits are not exceeded. A list of the allocations is included in the details in **Appendix H**. This includes details of the planning application reference so that case officers can cross reference and ensure the allocated credits are available.

4.14 MiBRi Ltd, the developer of the Angel Sand Pit scheme, are one of four developers that have access to the credits made available of the mains water offsetting scheme created by Danefold farm. MiBRi Ltd have a contract for the use of 1,424 credits. A copy of this contract can be seen in **Appendix I**.

4.15 The proposed development at Angel Sand Pit, requires 1,354.56 litres per day, thus the credit allocation of 1,424 will cover the development's requirements. This means that the proposed development at Angel Sand Pit is water neutral.

## 5.0 Summary and Conclusion

5.1 This technical note has provided a water neutrality statement for the proposed development at Angel Sand Pit, Storrington.

5.2 This water neutrality statement has provided the baseline water use of the Angel Sand Pit site, which is zero. It has also outlined the increase in water demand that the proposed development will precipitate. This increase in water demand has been minimised by achieving a target mains water consumption figure of less than 85 litres per person per day, which is in accordance with the recommendations of the Sussex North Water Neutrality Study Part C – Mitigation Strategy report. The low water consumption figure can be achieved using water efficient fixtures and fittings, including dual flush toilets and, where necessary, flow restrictors.

5.3 MiBRi Ltd. and the proposed development at Angel Sand Pit has been contractually allocated with 1,424 credits as part of the significant mains water offsetting scheme at Danefold Farm. The mains water demand of the development is 1,354.56 litres per day. This, therefore, has been fully offset through the credits scheme and those allocated to MiBri Ltd and there is no additional mains water requirement within the SNWSZ as a result of the development at Angel Sand Pit. This approach has been fully accepted by Natural England, as confirmed by the information in **Appendix G** of this report.

5.4 In conclusion, the development at Angel Sand Pit is water neutral within the SNWSZ and Water Neutrality cannot be an impediment to the progress of this application, as it is using an offsetting scheme approved by and with a precedent set by Natural England.

# Appendix A

Site Location Plan

# Appendix B

Proposed Site Layout




Ordnance Survey, (c) Crown Copyright 2017. All rights reserved. Licence number 100022432

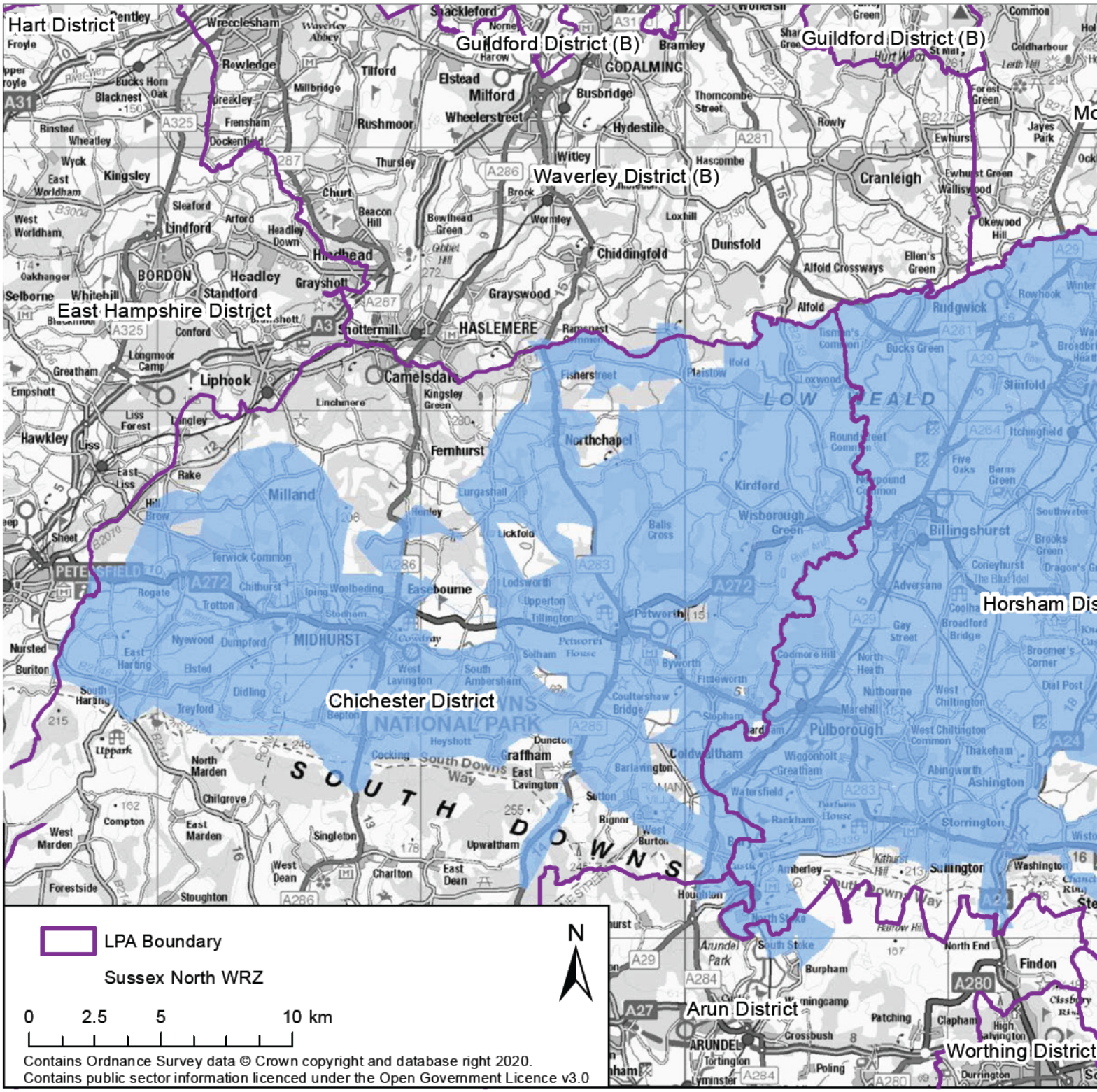
# LOCATION PLAN

N

© ECE Architecture Limited. No dimensions to be scaled from drawing except for the purposes of Planning Applications. The contractor should check all dimensions on site. It is the contractors respons bility to ensure compliance with Building Regulations.

# Appendix C

Sussex North Water Supply Zone


Hart District
Guildford District (B)
Guildford District (B)
Waverley District (B)
East Hampshire District
Chichester District
Horsham Dis
Arun District
Worthing District
LPA Boundary
Sussex North WRZ
N
0 2.5 5 10 km
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Contains public sector information licenced under the Open Government Licence v3.0

# Appendix D

Natural England Position Statement

**Natural England's Position Statement for Applications within the Sussex North Water Supply Zone**

**September 2021 – Interim Approach**

Please take the following as Natural England's substantive advice for all applications which fall within Sussex North's Water Supply Zone.

## Sussex North Water Supply Zone

Arun Valley SPA, SAC and Ramsar Site- Sussex North Water Supply Zone

The Sussex North Water Supply Zone includes supplies from a groundwater abstraction which cannot, with certainty, conclude no adverse effect on the integrity of;

- Arun Valley Special Area Conservation (SAC)
- Arun Valley Special Protection Area (SPA)
- Arun Valley Ramsar Site.

As it cannot be concluded that the existing abstraction within Sussex North Water Supply Zone is not having an impact on the Arun Valley site, we advise that developments within this zone must not add to this impact. This is required by recent caselaw, Case C-323/17 People over wind and Sweetman. Ruling of CJEU (often referred to as sweetman II) and Coöperatie Mobilisation for the Environment and Vereniging Leefmilieu Case C-293/17 (often referred to as the Dutch Nitrogen cases).

Between them these cases require Plans and Projects affecting sites where an existing adverse effect is known (i.e. the site is failing its conservation objectives), to demonstrate certainty that they will not contribute further to the existing adverse effect or go through to the latter stages of the Regulations (no alternatives IROPI etc).

Developments within Sussex North must therefore must not add to this impact and one way of achieving this is to demonstrate water neutrality.

In addition, the Gatwick Sub regional Water Cycle Study concluded that water neutrality is required for Sussex North to enable sufficient water to be available to the region.

The definition of water neutrality is the use of water in the supply area before the development is the same or lower after the development is in place.

**Strategic approach**

Natural England has advised that this matter should be resolved in partnership through Local Plans across the affected authorities, where policy and assessment can be agreed and secured to ensure water use is offset for all new developments within Sussex North. To achieve this Natural England is working in partnership with all the relevant authorities to secure water neutrality collectively through a water neutrality strategy.

Whilst the strategy is evolving, Natural England advises that decisions on planning applications should await its completion. However, if there are applications which a planning authority deems critical to proceed in the absence of the strategy, then Natural England advises that any application needs to demonstrate water neutrality. We have provided the following agreed interim approach for demonstrating water neutrality;

**Minimising water use of new builds.**

- Complete a water budget (based on occupancy)
- All new builds to demonstrate that they can achieve strict water targets (e.g., 85L/pp/day*)

  This can be achieved by measures such as:

- Grey water recycling (advantage of being reliable in hot dry weather);
- Rainwater harvesting;
- Water efficient fixings (such as shower aerators) to demonstrably reduce demand-this would need to be suitably certain.

**In addition, water offsetting is required**

- One way to achieve this is retrofitting of council owned properties/commercial buildings-located within Sussex North. Examples include:

- Grey water recycling- (for example there are clear opportunities for commercial properties).
- Rainwater harvesting of commercial settings;
- Installation of water reduction fittings in Council-owned buildings.

These measures need to be implemented until such time as a more sustainable water supply has been secured.

It will also need to be ensured that measures are not already proposed (for example in Southern Water's Management Plan) to avoid double-counting.

Any mitigation must be suitably certain in order to comply with the Habitats Regulations and Caselaw.

If the application cannot demonstrate, through an appropriate assessment, the required water neutrality, we advise that it is either revised to achieve this in line with the above or awaits completion of the strategic approach.

The securing of water neutrality is a matter which needs to be resolved at a strategic level and Natural England is working with the relevant authorities and the water company to achieve this. In light of this, Natural England will not be engaging with individual planning applications whilst the strategy is evolving.

***This this is the reasonably achievable figure with the above measures based on the early data from the strategic solution and may be subject to change as the strategic solution evolves.**

# Appendix E

Part G Calculation

**Proposed Water Usage - Part G Calculation**

| Fixture | Capacity/Flow Rate | Use Factor | Fixed Use | litres/person/ day |
|---|---|---|---|---|
| WC (Single Flush) | | 4.42 | | 0.00 |
| WC (Dual Flush) | 4 | 1.46 | | 5.84 |
| WC (Dual Flush) Part | 2 | 2.96 | | 5.92 |
| Taps (excluding kitchen) | 2.7 | 1.58 | 1.58 | 5.85 |
| Bath (where shower present) | 130 | 0.11 | | 14.30 |
| Shower (where bath present) | 5 | 4.37 | | 21.85 |
| Bath Only | | 0.5 | | 0.00 |
| Shower Only | | 5.6 | | 0.00 |
| Kitchen Sink | 4 | 0.44 | 10.36 | 12.12 |
| Washing Machine | 8.17 | 2.1 | | 17.16 |
| Dishwasher | 1.25 | 3.6 | | 4.50 |
| | Total calculated use (litres/person/day) | | | 87.53 |
| Normalisation Factor | | | | 0.91 |
| **Total Water Consumption (CSH) (litres/person/day)** | | | | 79.66 |
| External Water Use | | | | 5.00 |
| **Total Water Consumption (Part G) (litres/person/day)** | | | | 84.66 |

| | | |
|---|---|---|
| **Mains Water** | 84.66 | litres/person/day |
| **Total** | 84.66 | litres/person/day |

# Appendix F

Example Fixtures and Fittings

# Proposed Fixtures and Fittings Specification

Roca - Dual Flush Toilet

Roca

REF: A34173C000



THE GAP

**Dual flush 4/2L WC cistern with bottom inlet for compact back to wall Rimless toilet**

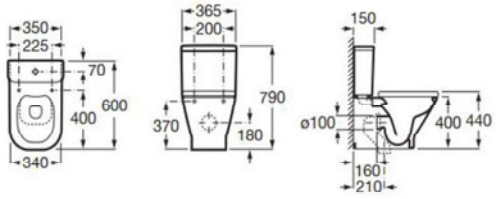
DIMENSIONS

| | |
|---|---|
| Length | 365 mm |
| Width | 140 mm |
| Height | 405 mm |

COLOURS AND FINISHES

00 White

TECHNICAL DRAWINGS




Hansgrohe Talis S - Basin Taps

**Product image**



**Description**

**product features**

- ComfortZone 100 provides space for greater freedom of movement
- spout 93 mm long
- spout height: 98 mm
- free-standing installation
- Maximum flow rate (at 3 bar): 2.7 l/min
- ceramic cartridge
- QuickClean technology for easy limescale removal
- WRAS 1609018 - WRAS 1609018 approval letter
- WRAS 2110027

Simplicity Water Saving Bath

## Simplicity Water Saving Steel bath 170cm x 70cm 2 Tapholes With Handgrips & Anti-slip* (130 Litres)

| ILLUSTRATED | |
|---|---|
| **E8188** | Simplicity water saving 170cm x 70cm standard gauge steel bath with chrome plated grips, 2 tapholes and anti-slip* (only 130 Litres) |
| **B1151** | Calista dual control two hole bath filler |
| **S0915** | Bath flat front panel |
| **S0916** | Bath flat end panel |
| **S9365** | Bath panel plastic corner edge strip |
| **S8970** | Trap 1½" plastic P with 75mm seal, multi-purpose outlet suitable for plastic and BS copper pipe |
| **S8840** | 1 1/2" combination bath waste & trap with overflow and domed clicker |
| **A5901** | TMV thermostatic mixing valve, 22mm |



Flow Limiter for Shower

BRISTAN

## 5 Litres Per Minute Shower Outlet Flow Limiter

ECO SHW 05

- Suitable for all bristan showers
- Between shower hose and handset
- All limiters accurate +/-10%
- Operating pressure range min-1.0 bar max 5.0 bar
- Simply screw in place



Caple Single Lever Deluxe Tap – Kitchen Tap



SPECIFICATION

## KEY SPECIFICATION

**DIMENSIONS:** Worktop Cut Out 35mm required

**FINISHES:** Polished Chrome

INSTALLATION DIAGRAM

**FEATURES**

- Single lever design
- Minimum bar pressure required : 0.3
- Single lever ceramic valve
- Single flow
- WRAS approved
- The SLD2/CH has been designed to you conform to Water efficiency requirements, it has a flow rate of less than 4 litres per minute at 3 bar

# Appendix G

Natural England Acceptance of Scheme

Date: 24 March 2023
Our ref: 423617
Your ref: 22/00618/FUL

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Chichester District Council
1 East Pallant
Chichester
PO19 1TY

**BY EMAIL ONLY**

Dear Mr Thomas,

**Planning consultation:** **HRA/AA** Erection of 8 no. dwellings with associated vehicular and pedestrian access, infra-structure, car parking, landscaping and open space.
**Location:** Land At Stable Field Kirdford Road Wisborough Green West Sussex

Thank you for your consultation on the above dated 22 February 2023 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**SUMMARY OF NATURAL ENGLAND'S ADVICE**

**NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site, as well as The Mens and Ebernoe Common SAC *https://designatedsites.naturalengland.org.uk/*.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Delivery, management and maintenance of measures identified in the Water Neutrality Statement (V3.0) to achieve water neutrality.
- Implementation of the avoidance, mitigation and compensation measures outlined in the Preliminary Ecological Appraisal in relation to bat impacts.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

## Further Advice on Mitigation

### Water Neutrality

The proposed development falls within the Sussex North water supply zone; As set out in Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone, the existing water supply in the Sussex North water supply zone cannot be ruled out as contributing to the declines in wildlife within internationally protected sites in the Arun Valley SPA, SAC and Ramsar site. Achieving water neutrality is recognised as a suitable method to rule out potential adverse effects on the integrity of these sites arising from development.

### Habitats Regulations Assessment (HRA)

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in relation to Water Neutrality, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process. Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. You, as the competent authority, should ensure conditions are sufficiently robust to ensure that the mitigation measures can be fully implemented and are enforceable in perpetuity and therefore provide a sufficient degree of certainty to pass the Habitats Regulations.

### Other Advice

In addition, Natural England would advise on the following issues.

### The Mens and Ebernoe Common SACs

The proposal is located within the 6.5km zone for both above mentioned designated sites, designated for their species of Barbastelle and Bechstein's bat. It is noted that the submitted Preliminary Ecological Appraisal has outlined a package of avoidance and mitigation measures (retaining hedgerows, sensitive lighting), as well as enhancement opportunities, to prevent impact to the designated sites.

Natural England can confirm that it is satisfied with the mitigation proposed, however we recommend that the information is captured within a Habitats Regulations Assessment and secured in perpetuity.

### Final Comments

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me on [redacted]

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission.

Should the proposal change, please consult us again.

Yours faithfully

Sophie Moore
Lead Advisor- Sustainable Development Team

## Annex A – Additional advice

Natural England offers the following additional advice:

### Landscape

Paragraph 174 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance.

### Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on Gov.uk website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying *Good Practice Guide for Handling Soils in Mineral Workings*.

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

### Protected Species

Natural England has produced standing advice[1] to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and179 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be

[1] https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals

found here[2]. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

**Ancient woodland, ancient and veteran trees**
You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

**Environmental gains**
Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. Development also provides opportunities to secure wider environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120,174, 175 and 180). We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

Natural England's Biodiversity Metric 3.1 may be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the Small Sites Metric may be used. This is a simplified version of Biodiversity Metric 3.1 and is designed for use where certain criteria are met. It is available as a beta test version.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

[2] http://webarchive.nationalarchives.gov.uk/20140711133551/http:/www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx

Natural England's Environmental Benefits from Nature tool may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside Biodiversity Metric 3.1 and is available as a beta test version.

**Access and Recreation**
Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

**Rights of Way, Access land, Coastal access and National Trails**
Paragraphs 100 and 174 of the NPPF highlight the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

**Biodiversity duty**
Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available here.

# Appendix H

Offsetting Scheme Detail

# PROPOSED WATER OFFSETTING SCHEME FOR ANGELL SAND PIT WASHINGTON ROAD STORRINGTON WEST SUSSEX DC/21/0057

This statement has been prepared for the Applicants by Nicholls Licencing and Consulting Ltd who are offering a water offsetting scheme at Danefold Farm ("The Farm"), Danefold House, Littleworth Lane, Horsham RH13 8NA. The statement forms part of the Developer's Water Neutrality Report and addresses the offsetting measures proposed.

The Developer is participating in the scheme alongside 3 other developers and has been allocated 1,424 credits in the scheme based on their offsetting requirement for this application and or others. The number of credits required for this application are set out in the preceding water budget. One credit is equivalent to offsetting 1 litre of water per day. The table below lists all four developers and their allocation together with any planning reference to which the credits have already been applied.

| Developer | Planning Reference if Available | Credits |
|---|---|---|
| Norfolk Square Limited | CDC - 22/00618/FUL | 1,632 |
| Brent Dowson | HDC - TBC | 489 |
| Earlswood homes holdings limited | HDC - DC/22/1428 | 1,379 |
| Earlswood homes holdings limited | TBC | 4,741 |
| Michael Lowdell | HDC - Crescent Place, Storrington Road | 244 |
| Marcel Hoad et al | HDC - DC/21/0057 | 1,424 |
| Laura Christian | TBC | 207 |
| **Martin Grant Homes** | **TBC** | **2,251** |
| | TOTAL CURRENTLY ALLOCATED | 12,367 |
| | REMAINING CREDITS (SURPLUS) | 1 |

The principles of this offsetting scheme have already been accepted by Natural England under CDC application number 22/00618/FUL (see Appendix C).

## FARM BACKGROUND

The Farm is located within the Sussex North Water Resource Zone and is on a metered supply. For logistical reasons it also draws two additional supplies from a neighbouring property (Lancasters Farm, Littleworth Lane, Partridge Green, Horsham, RH13 8EJ). Both supplies from the neighbouring property are metered before entering the Farm and are fed from the SW mains supply to Lancasters. Details of meter readings form the 3 supplies are shown below and evidence provided in Appendix A together with prove of the mains supply to Lancasters Farm.

| Current Water Consumption | | m3 |
|---|---|---|
| Meter 1 (Southern Water Meter Number 09118780) | | |
| | Installed 23/03/2021 | 0 |
| | Read 15/12/2022 | 7,999 |
| | Number of days between readings 632 | 7,999 |
| | Average daily consumption | 12.66 |
| Private Meter A (Metered supply from neighbouring property which is supplied by SW) | | |
| | Read 16/05/2020 | 2 |
| | Read 04/02/2023 | 504 |
| | Number of days between readings 994 | 502 |
| | Average daily consumption | 0.51 |
| Private Meter B (Metered supply from neighbouring property which is supplied by SW) | | |
| | Read 16/05/2020 | 15 |

| | |
|---|---|
| Read 04/02/2023 | 31 |
| Number of days between readings 994 | 16 |
| Average daily consumption | 0.02 |
| TOTAL Average daily consumption | 13.2 |
| TOTAL Average annual consumption | 4,810 |

The Farm supply also feeds the main house with two current occupants and a 2-bedroom holiday cottage constructed in the last 3 years for which we have conservatively used a 100% occupancy of 4 people.

For the main house and holiday cottage the regional average consumption rate of 135 l/p/d has been used to calculate consumption. Photographs of the existing fittings in the Main House have been included in Appendix B to demonstrate that these are in good working order and modern. Arguably a figure of 110 l/p/d could have been used for the holiday cottage as it would have been required to meet the 110 l/p/d building regulations requirement when it was constructed. The Farm only consumption based on the readings from the 3 meters is calculated in the table below by deducting the consumption of the two residential units.

| | |
|---|---|
| Average consumption per day m3 | 13.2 |
| Average consumption per annum m3 | 4,810 |
| Non-Farm Consumption Deductions | |
| Main house consumption p.a (2 people @ region average 135 Lppd) | 99 |
| 2 Bed holiday cottage 100% occupancy (4 people @ 135 Lppd) | 197 |
| Farm consumption available for offsetting p.a. (m3) | 4,514 |
| Farm consumption available for offsetting p.d. (L) i.e. Credits available | 12,368 |

While the consumption of the Farm is based on deducting estimates of the main house and holiday cottage from the meter reading, even were these higher the current allocation of credits leaves a surplus of 335 l/d which is equivalent to the consumption of 2.5 more occupants.

## Proposed Offsetting Scheme

As stated above, the principles of this offsetting scheme have already been accepted by Natural England under CDC application number 22/00618/FUL (see Appendix C). That application was for a smaller capacity and provided the potential to save 1,343m3 per year of which 22/00618/FUL required 596m3 p.a. leaving a surplus saving of 747m3 p.a. This proposal increases the capacity of the original scheme using the same rainwater harvesting methods to 4,514 m3 p.a. or 12,368 l/d (Credits).

The offsetting scheme can serve multiple developments achieving planning over several months and even years. Guidance is required from Natural England and the relevant LPA's as to whether the full water saving can be "turned on" as soon as the measures are completed for the first development or whether they need to be turned on gradually as each development benefitting from the scheme requires it. Logic would say that for the benefit of protecting the habitats of concern the sooner the measures are implemented the better, but guarantees would be required from the relevant authorities to protect the credits.

The original offsetting scheme (under 22/00618/FUL) set out a new rainwater harvesting system on existing barns and cattle sheds including a new 30m3 storage tank to replace an existing defunct tank, new and upgraded guttering, a 1,000 m3 storage and collection pond of 800m2 collectable area and associated pumps, filters and pipes.

This increased capacity proposal includes all the elements above with the following additions:

1. Storage pond capacity and collectible area increased.
2. Inclusion of 4 further existing ponds into the scheme to further increase storage and rain water/surface runoff collection area

3. Replacement of the existing above ground trough supply system with buried pipes to prevent cattle damage and leakage.
4. Solar powered pumps to transfer water to the main storage pond and supply the trough network.
5. Sensitive dredging of existing ponds where necessary.
6. Reduction in the size of the storage tank at the barns to 20m3 and connecting it to the storage pond to utilise the greater capacity available there.
7. Relocating the storage pond and providing a wetland zone around it to improve biodiversity.

The ongoing maintenance of the rainwater harvesting system or other subsequent water reduction measures will be in the direct interest of the farm given the money saving involved and therefore will be the responsibility of the farmer. It is anticipated that these measures will be required until Southern Water have implemented an alternative water supply source (see paragraphs 28 and 29 of Sussex North Water Neutrality Study: Part C Mitigation Strategy as endorsed by NE see Appendix D). For the purposes of this statement, we assume this will be for the plan period up to 2038/2039 as per the NE endorsed Part C report.

## Farm Background

The Farm is some 80 Ha and cattle numbers vary throughout the farming year up to around 300. Appendix H shows the current snapshot of cattle numbers logged at DEFRA as 246 and these will be supplemented in the coming weeks with 30-40 finishing stock. The cattle are split approximately 50/50 between young and mature. Typically, non-dairy mature cattle will consume 40 litres of water per day and young cattle 20 litres per day. The cattle consume some 9m3 per day with the remaining consumption of 4m3 being used for washing down and leakage. As discussed below, due the water supply pipes running over land these are frequently damaged by cattle with leaks going undetected.

The Farm has a cattle shed and adjacent barn with a combined roof area of 1,193m2. The shed is used to house cattle over the winter months from October to March. Currently, water for watering is sourced from the mains supply. The farm has an existing, defunct rainwater harvesting system comprising a small galvanised tank and a currently cracked and defunct plastic tank of about 25,000l capacity that was once used for trough filling. The guttering on the shed and barn are inadequate and in a poor state of repair.

A network of cattle toughs is supplied from the mains (either the farm's direct mains supply or via two metered connections from a neighbouring farm) to water cattle in the fields or in the sheds.

The pipe network supplying watering troughs is above ground and prone to damage by cattle and farm vehicles. As a result, the Farm suffers significant leakage problems.

## Proposed Scheme

The proposed scheme extends the one accepted by Natural England under CDC application 22/00618/FUL by extending the rainwater collection and storage capacity by connecting to an existing network of ponds. This also has the benefit of significantly increasing drought resilience of the system.

As in the original scheme, a new storage pond will be constructed the surface area of which will be increased to 2,247m2 with a subsequent volume increase to 2,696m3. The pond has been relocated to allow greater field run-off, to accommodate the increased size and to provide a better opportunity for landscape improvement and biodiversity.

The pond will be constructed with advice from The Sussex Wildlife Trust with whom the farm has a strong working relationship. It will include a wetland buffer zone and appropriately graded banks to encourage biodiversity and make it an attractive addition to the landscape.

The pond will be for "reasonable agricultural purposes" (the watering of livestock and reducing the farm business's overheads) and therefore does not require planning permission or prior consent (see Appendix E).

Solar pumps will be used to transfer water from 4 other existing supply ponds to the storage pond. If required, the existing ponds will be sensitively dredged as part of the works and as part of an ongoing maintenance programme to ensure capacity is maintained.

Unlike the previous scheme, the existing surface run pipework supplying watering troughs will be replaced with underground pipes. Significantly reducing leakage which is currently a major consumer of water.

A network of trough hydrants (see Appendix F) will be installed which will allow the farmer to use drag troughs that can be readily moved around fields and plugged into different hydrants. These offer advantages for a herd that is entirely grass fed. In a traditional fixed trough system damage is done to the grass around them. Moveable troughs all but eliminate this and maintain the health of the pasture.

A solar powered pump at the storage pond will supply the hydrant network.

As in the original scheme the storage pond will also be fed from the tank overflow that takes water from the shed and barn guttering. It's likely that this tank will be reduced in size from 30,000l to 20,000l as it's only used in winter and there will be a return connection from the storage pond that can be used to top it up if necessary. The works will replace and upgrade the guttering of the barns and install filtering and UV light treatment for the tank stored water.

## Sizing of the Rainwater Harvesting System

Meter readings show that the farm currently consumes an average of 12.38 m3 per day. To account for 35 drought days a minimum storage capacity of 433m3 is required. The water collection and storage of the proposed system is set out below.

Southern Water's Long Term Average Rainfall Table (Appendix G) shows the long-term average rainfall in the region. This is more accurate than the generic figure for the south east as it is specific to the supply area. It also provides a monthly breakdown allowing separate figures to be used for summer and winter periods providing a more accurate model.

| Water Collection | m2 | m3 |
|---|---|---|
| Barn and Cowshed Roof Area (m2) | 1,193 | |
| New Storage Pond (m2) | 2,247 | 2,696 |
| Pond 1 (m2) | 106 | 53 |
| Pond 2 (m2) | 455 | 364 |
| Pond 3 (m2) | 993 | 794 |
| Pond 4 (m2) | 2,550 | 2,040 |
| Total Collection and Storage | 7,544 | 5,948 |
| Southern water long term average p.a. (mm) | 782 | |
| Collectable rainwater p.a. discounted by 20% for losses (L) | 4,721,337 | |
| Potential Rainwater that could be used for offsetting L/d | 12,935 | |
| Surplus water collected l/d | 567 | |
| Storage Volume All Ponds m3 | | 5,948 |

The figures above exclude surface run-off which on clay soil would be significant. The ponds are also fed by a network of ditches used to drain the surrounding land and carry excess water from a number of other ponds. The additional flows into the pond will offset any additional losses to evaporation.

The total storage capacity of the system is significantly higher than the 35-day drought requirement and would theoretically provide 1.3 years of water.

The proposed system produces a daily surplus over and above the existing farm consumption and means that the farm can become independent of mains supply although this will remain connected to continue supplying the residential units and as an emergency backup in case of temporary pump failure.

Replacing the existing surface run pipework with underground pipes will significantly reduce leakage and further increase the surplus capacity of the system. Any emergency use of mains supply will be more than offset by the leakage reduction and the surplus collection.

## SUMMARY

The proposed offsetting scheme is based at a farm in the water supply zone with a proven average consumption of 12,368l per day derived from the mains supplies. The offsetting scheme will reduce mains demand by 12,368 l per day equivalent to 4,514m3 annually. The supporting figures have significant robustness and a storage capacity well in excess of a standard 35-day drought period.

By utilising existing natural features, the scheme removes the need for extensive construction and also provides additional benefits in reducing surface water run-off, biodiversity gains (wetland) and money savings for the farmer.

The methods used to implement the rainwater harvesting have already been accepted by NE.

APPENDIX A – EVIDENCE OF EXISTING CONSUMPTION




Meter Reading 15/12/2022. Meter Number 09118780

A redacted Southern Water estimate bill (shown overleaf) for meter number 09118780 confirming the installation date of 21/03/2021 and that the meter had a zero reading on that date. The estimated readings on the bill are completely inaccurate. A non-redacted bill has been provided to CDC under separate confidential cover.

WATER for LIFE

Southern Water

Visit our website for live chat or to log into your account
southernwater.co.uk/help

0330 303 0277
Weekdays - 8am to 7pm
Saturday - 8.30am to 2pm

[redacted]

Your customer number

Your payment reference

Dear [redacted]

Here's your latest bill based on the meter reading we estimated on 10 March 2022. You currently pay by Direct Debit, so you don't need to do anything – your payments will be taken automatically.

[redacted]

## Water

Period: 18 September 2021 to 10 March 2022

[redacted]

## Wastewater

Southern Water only supplies your water – we don't take wastewater away from your property.

So, you don't receive any wastewater charges from us.

**Standing Charge:**
This covers essential service costs such as sending bills, collecting payments and dealing with enquiries.

| Meter number | | Latest reading | | Previous reading | | Water used |
|---|---|---|---|---|---|---|
| Old | 88084327 | 6,912.80 | Estimated 22 Mar 2021 | 6,912.20 | Estimated 16 Mar 2021 | 0.60 m³ |
| New | 9118780 | 20.80 | Estimated 17 Sep 2021 | 0.00 | Read 23 Mar 2021 | 20.80 m³ |

IGNORE ESTIMATES AS NOT CORRECT

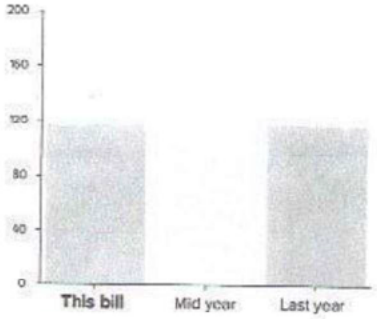
## Your account summary

[redacted]

## Your water use

Over the last six months your household used an average of [redacted] litres a day

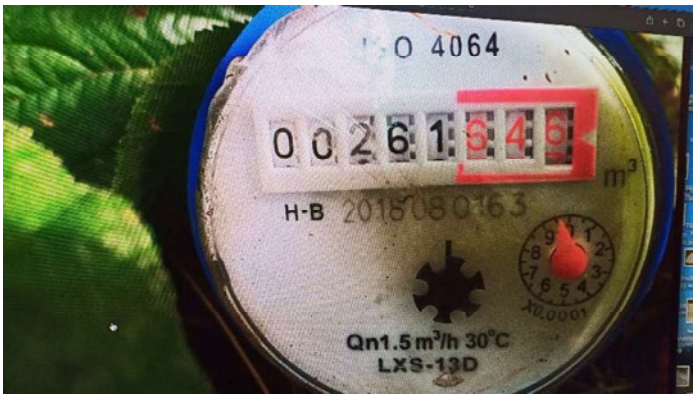
You're using [redacted] of water a day on average.



METERS SUPPLIED VIA LANCASTERS FARM'S




Meter Reading 16/5/2020 Private Meter A




Meter Reading 04/02/2023 Private Meter A




Meter Reading 16/5/2020
Private Meter B

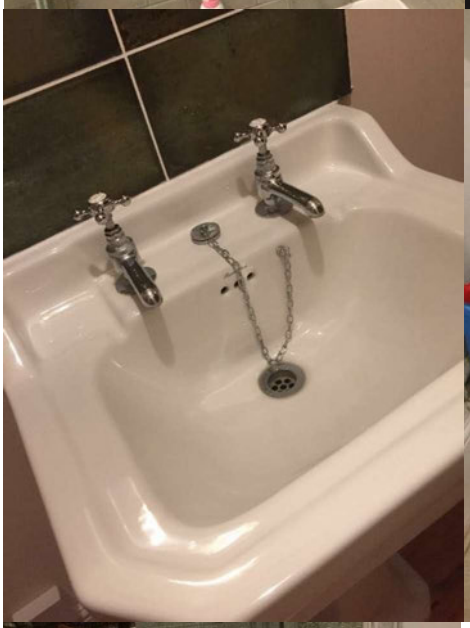


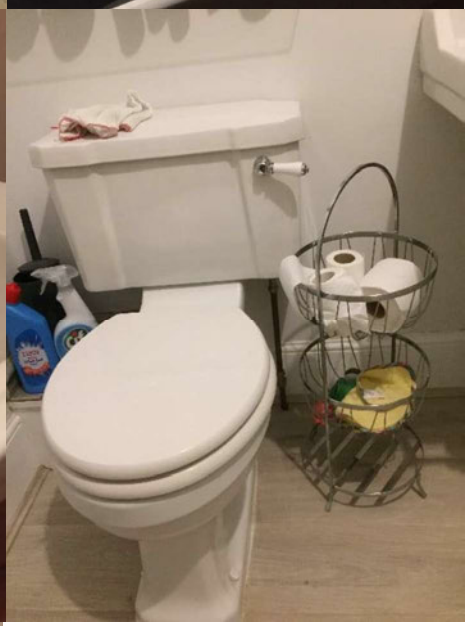

Meter Reading 04/02/2023
Private Meter B

APPENDIX B – MAIN HOUSE WATER FITTINGS











Date: 24 March 2023
Our ref: 423617
Your ref: 22/00618/FUL

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Chichester District Council
1 East Pallant
Chichester
PO19 1TY

**BY EMAIL ONLY**

Dear Mr Thomas,

**Planning consultation:** **HRA/AA** Erection of 8 no. dwellings with associated vehicular and pedestrian access, infra-structure, car parking, landscaping and open space.
**Location:** Land At Stable Field Kirdford Road Wisborough Green West Sussex

Thank you for your consultation on the above dated 22 February 2023 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**SUMMARY OF NATURAL ENGLAND'S ADVICE**

**NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site, as well as The Mens and Ebernoe Common SAC *https://designatedsites.naturalengland.org.uk/*.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Delivery, management and maintenance of measures identified in the Water Neutrality Statement (V3.0) to achieve water neutrality.
- Implementation of the avoidance, mitigation and compensation measures outlined in the Preliminary Ecological Appraisal in relation to bat impacts.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

## Further Advice on Mitigation

### Water Neutrality

The proposed development falls within the Sussex North water supply zone; As set out in Natural England's Advice Note regarding Water Neutrality within the Sussex North Water Supply Zone, the existing water supply in the Sussex North water supply zone cannot be ruled out as contributing to the declines in wildlife within internationally protected sites in the Arun Valley SPA, SAC and Ramsar site. Achieving water neutrality is recognised as a suitable method to rule out potential adverse effects on the integrity of these sites arising from development.

### Habitats Regulations Assessment (HRA)

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in relation to Water Neutrality, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process. Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given. You, as the competent authority, should ensure conditions are sufficiently robust to ensure that the mitigation measures can be fully implemented and are enforceable in perpetuity and therefore provide a sufficient degree of certainty to pass the Habitats Regulations.

### Other Advice

In addition, Natural England would advise on the following issues.

### The Mens and Ebernoe Common SACs

The proposal is located within the 6.5km zone for both above mentioned designated sites, designated for their species of Barbastelle and Bechstein's bat. It is noted that the submitted Preliminary Ecological Appraisal has outlined a package of avoidance and mitigation measures (retaining hedgerows, sensitive lighting), as well as enhancement opportunities, to prevent impact to the designated sites.

Natural England can confirm that it is satisfied with the mitigation proposed, however we recommend that the information is captured within a Habitats Regulations Assessment and secured in perpetuity.

### Final Comments

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me on [redacted]

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission.

Should the proposal change, please consult us again.

Yours faithfully

Sophie Moore
Lead Advisor- Sustainable Development Team

**Natural England's endorsement of Sussex North Water Neutrality Study: Part C – Mitigation Strategy, Final Report, 23 November 2022**

Natural England endorses the mitigation strategy described in the above report. Natural England has previously advised the relevant Local Planning Authorities (LPAs) that development in the area served by the Pulborough abstraction must not add to potential adverse impact on habitat at Amberley Wild Brooks Site of Special Scientific Interest (SSSI), Pulborough Brooks SSSI and Arun Valley Special Protection Area (SPA), Arun Valley Special Area of Conservation (SAC) and Arun Valley Ramsar site by requiring increased abstraction. As described within the report, one way in which this can be achieved is by making development within the impacted area water neutral, the definition of this term is laid out below:

***"For every new development, total water use in the region after the development must be equal to or less than the total water-use in the region before the new development."***

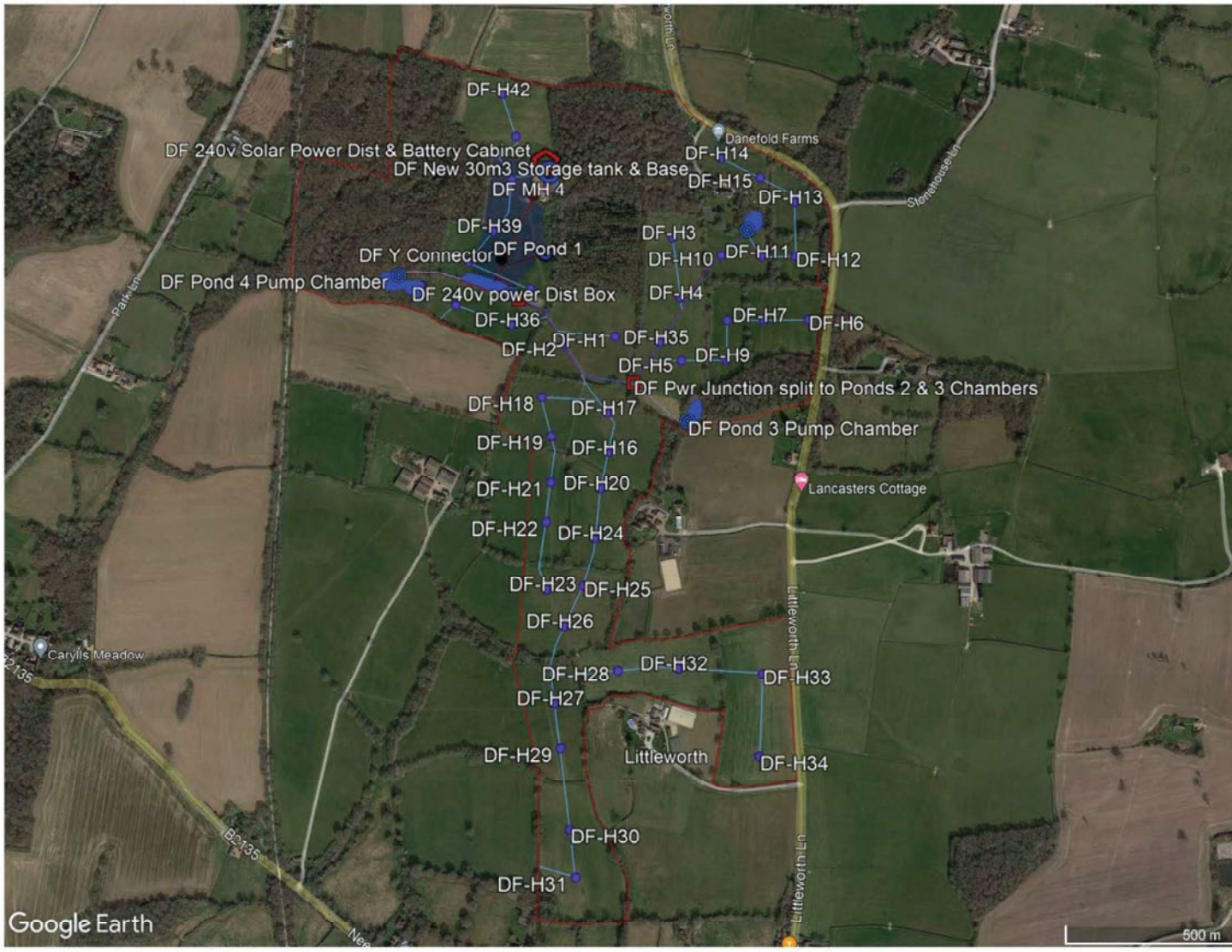
The proposals put forward by the mitigation strategy are: reducing water demand through defined water efficiency requirements for new development, water company demand management delivery and an LPA-led offsetting scheme.

If properly implemented, these proposals can provide sufficient certainty that those developments which would potentially place additional demands on existing water use in the area served by the Pulborough abstraction, collectively identified in the respective Local Plans, will be water neutral and will therefore not add to the potential adverse effects on the habitats of the Arun Valley in this respect, either alone or in combination.

APPENDIX E – SDNP GUIDANCE TO FARMS – PERMITTED DEVELOPMENT RIGHTS

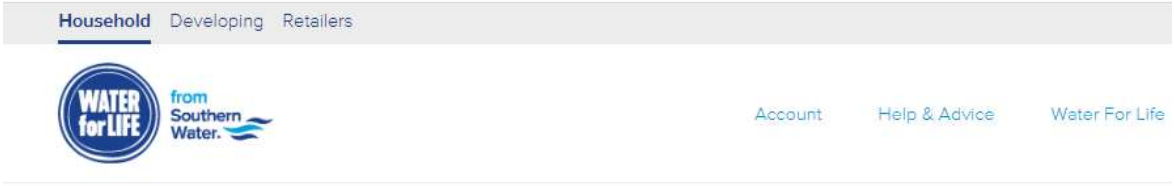
[INSERT PDF]

APPENDIX F – PROVISIONAL LAYOUT INCLUDING TROUGH NETWORK



## APPENDIX G – LONG TERM AVERAGE RAINFALL IN THE REGION

The table below is available on Southern Water's website (https://www.southernwater.co.uk/water-for-life/regional-rainfall) and shows the long-term average rainfall in the region. This is more accurate than the generic figure for the SE as it is specific to the supply area. It also provides a monthly breakdown allowing separate figures to be used for summer and winter months providing a more accurate model.




### Rainfall per month

| Month | Long term average | Actual rainfall |
|---|---|---|
| January 2021 | 84.2 mm | 112.3 mm |
| February 2021 | 79.1 mm | 62.9 mm |
| March 2021 | 54.7 mm | 39.6 mm |
| April 2021 | 56.2 mm | 5.4 mm |
| May 2021 | 52.0 mm | 96.1 mm |
| June 2021 | 52.8 mm | 98.9 mm |
| July 2021 | 50.4 mm | 77.8 mm |
| August 2021 | 49.5 mm | 53.0 mm |
| September 2021 | 56.0 mm | 42.1 mm |
| October 2021 | 62.2 mm | 157.9 mm |
| November 2021 | 96.1 mm | 15.1 mm |
| December 2021 | 89.1 mm | 44.7 mm |
| January 2022 | 84.2 mm | 27.2 mm |
| February2022 | 79.1 mm | 60.4 mm |
| March 2022 | 54.7 mm | 42.7 mm |

## APPENDIX H – SNAPSHOT OF CATTLE NUMBERS CURRENTLY REGISTERED AT DEFRA

Current User

[redacted] DANEFOLD HOUSE

To see your full address and any 'CTS location links' and temporary holdings you're using, click on the underlined holding above.

Cattle On Holding

**Cattle by sex and breed**

Click on any number to see the list of animals

| | M | F | Total |
|---|---|---|---|
| Total | 87 | 159 | 246 |

Show Breeds

**Recorded Events**

| | Births | Moves ON | Moves OFF | Deaths | Imports |
|---|---|---|---|---|---|
| Last 6 months | 32 | 16 | 46 | 6 | 0 |
| Submitted but not yet processed | 0 | 0 | 0 | 0 | |

**Problem Status**

0 Problems you can help with

0 Problems you have responded to

Click here to see problems and information provided

To download the list of cattle on your holding, queried animals and queried movements click here

# Appendix I

Credit Allocation Contract with Danefold Farm

# WATER CREDIT CONTRACT

WATER CREDIT CONTRACT

AGREEMENT DATE:

| | |
|---|---|
| Developer | [redacted] |
| Developer's address | 2 Angel Sands, Storrington West Sussex RH20 4FL |
| Water Credit Reseller | NICHOLLS COUNTRYSIDE CONSTRUCTION LIMITED (No. 04576707) |
| Water Credit Reseller address | Brownings Barn, Glasshouse Lane, Kirdford, RH14 0LW [redacted] |
| Number of Water Credits | 898 |
| Reservation Fee | [redacted] |
| Water Credit Fee | [redacted] |
| Water Credit Supplier | Farmgates Services Limited (No.05441226) |
| Signed on behalf of the Developer<br>Name, Title, Signature<br>Date of Signature: | [redacted]<br>MR BRIAN WILKINSON / MIDRI LTD.<br>31/7/25 |
| Signed on behalf of Water Credit Reseller<br>Name, Title, Signature<br>Date of signature: | |

By signing above, each party agrees to be bound by the Contract Details above and the Terms and Conditions below.

Terms and Conditions

1. Interpretation

1.1 Definitions:

**Decision Notice:** a decision letter issued by the Local Planning Authority or, in respect of an appeal, issued by the inspector appointed by the Secretary of State, granting Planning Approval.

**Developer Water Credit:** each Water Credit referenced in a Planning Approval.

**Deduction Amount:** in respect of each Water Credit, any amounts withheld by the Water Credit Supplier and agreed with the Water Credit Reseller in respect of administration an scheme costs already incurred, will be deducted from the fees

received. Any residual mounts will be shared proportionately with between Developers participating in this scheme and agreement.

**Water Credit Supplier:** the party to the Water Credit Supplier Agreement which is not Water Credit Reseller.

**Water Credit Supplier Agreement**: the agreement in respect of Water Credits between Water Credit Reseller and a third party dated [insert date] 2023.

**Net Water Credit Fee:** in relation to each Planning Approval, the difference between the Water Credit Fee payable in respect of the applicable Developer Water Credits and the same percentage of the Reservation Fee as those Developer Water Credits bear to the Number of Water Credits.

**Planning Application**: any planning application made by the Developer in respect of land in the SNWRZ requiring an Undertaking which utilises Developer Water Credits.

**Planning Approval**: any planning approval granted pursuant to a Planning Application.

**Proprietors:** the owners of Danefold Farm' Danefold House, Littleworth Lane, Horsham, RH13 8NA. ("The Farm")

**Reservation Fee:** Monies paid to the Water Credit Reseller, by the Developer, to secure a specific allocation of Water Credits. Paid at time of allocation.

SNWRZ: the Sussex North Water Resource Zone.

**Undertaking**: any unilateral undertaking, section 111, section 33 agreement or section 106 agreements, as amended or superseded, that maybe required by the Local Authority, Natural England or their successor, and any other supporting documentation that the Water Credit Reseller (or its appointed Nominee) is required to provide to the applicable Local Planning Authority to meet any relevant conditions of Planning Approval.

**Water Credit**: one litre of water per day attributable to The Farm and qualifying as a 'Water Credit' for the purposes of the Planning Approval achieving water neutrality requirements in the SNWRZ as specified by Natural England and the Local Planning Authority and either using the term 'Water Credit' or 'litres per day to be offset' or similar term.

1.2 **Interpretation**:

(a) A reference to legislation or a legislative provision:

(i) is a reference to it as it is in force as at the date of this agreement; and

(ii) shall include all subordinate legislation made as at the date of this agreement under that legislation or legislative provision.

(b) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(c) A reference to **writing** or **written** includes email.

## 2. Commencement and term

This agreement shall commence on the Agreement Date and shall continue, unless terminated earlier in accordance with its terms, until expiry of the last Undertaking to which the Developer Water Credits relate.

## 3. Water Credit Reseller Obligations

3.1 In consideration of the sums due under this agreement, on grant of each Planning Approval in the two years following the Agreement Date and subject to the provisions of clause 5.1, Water Credit Reseller undertakes to allocate a sufficient number of Water Credits to be Developer Water Credits to meet the requirements of that Planning Approval provided that the aggregate number of Developer Water Credits shall not exceed the Number of Water Credits (reduced pro-rata to any reduction in the Number of Water Credits under this Water Credit Supplier Agreement).

3.2 Water Credit Reseller agrees to be party (and to use its best endeavours to procure that any relevant third party be party) to an Undertaking if the relevant local Planning Authority so requires in relation to The Water Credit Suppliers and The Proprietors proposed scheme of mitigation. For the avoidance of doubt neither Water Credit Supplier nor Water Credit Reseller will be responsible for the ongoing maintenance of the Measures.

## 4. Developer obligations

4.1 The Developer shall:

(a) co-operate with Water Credit Reseller, the Water Credit Supplier and the Proprietors in all matters relating to the Developer Water Credits;

(b) provide, in a timely manner, such information as Water Credit Reseller may require, and ensure that it is accurate and complete in all material respects.

(c) at all times, represent fairly and accurately the form and number of Water Credits purchased from the Water Credit Reseller when fulfilling any and all associated obligations required under the relevant Planning Approval and associated Developer Water Credit allocation.

## 5. Charges and payment

5.1 The Developer shall pay the following amounts to Water Credit Reseller in accordance with this clause 5:

(a) On signature of this agreement, the Reservation Fee; and

(b) On receipt of a Decision Notice in relation to the first Planning Approval, the Net Credit Fee in respect of the Water Credits referred to in the Undertaking associated with that Planning Approval; and as required

(c) On receipt of a Decision Notice in relation to the second Planning Approval, the Net Water Credit Fee in respect of the Water Credits referred to in the Undertaking associated with that Planning Approval; and as required

(d) On receipt of a Decision Notice in relation to the third Planning Approval, the Net Water Credit Fee in respect of the Number of Water Credits less the Water Credits allocation to the first and second Planning Approvals.

For the avoidance of doubt, all Developer Water Credits allocated under this agreement, will be paid for in full by the Developer following Planning Approval, full payment shall not exceeding three Decision Notices. If Developer Water Credits still available under this agreement exceed the number required for the third Decision Notice, the Developer shall pay the Water Credit Reseller all remaining Fees.

5.2 All amounts payable under this agreement exclude amounts in respect of value added tax (**VAT**), which the relevant party shall additionally be liable to pay at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

5.3 If a party fails to make any payment due under this agreement by the due date for payment, then it shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5.4 All amounts due under this agreement from the Developer to Water Credit Reseller shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5.5 The Reservation Fee shall only be refundable to the extent expressly provided in this agreement.

## 6. Limitation of liability

6.1 Nothing in this agreement limits any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

6.2 Subject to clause 6.1, Water Credit Reseller's total liability to the Developer shall not exceed an amount equal to the total Water Credit Fees paid by the Developer less the aggregate of the Deduction Amounts in respect of the Developer Water Credits .

6.3 Subject to clause 6.1, Water Credit Reseller shall not be responsible for any indirect or consequential loss incurred by the Developer.

## 7. Termination

7.1 Without affecting any other right or remedy available to it, Water Credit Reseller may terminate this agreement with immediate effect by giving written notice to the Developer if:

(a) the Developer commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified in writing to do so and for the purposes of this clause, a failure to pay on the due date without legitimate cause or without prior agreement with Water Credit Reseller shall be a material breach;

(b) the Developer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

(c) the Developer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the Water Credit Supplier Agreement is terminated.

7.2 Without affecting any other right or remedy available to it, the Developer may terminate Water Credit Reseller's participation in this agreement with immediate effect by giving written notice to Water Credit Reseller if:

(a) Water Credit Reseller commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified in writing to do so;

(b) Water Credit Reseller takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business.

(c) Water Credit Reseller suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

7.3 On termination:

(a) of this agreement by Water Credit Reseller, the Developer shall immediately pay to Water Credit Reseller all sums due and outstanding to Water Credit Reseller and shall have no further rights in respect of the Water Credits other than the Developer Water Credits. Subject to clause 7.3(b), Water Credit

Reseller shall be under no obligation to refund any amount paid by the Developer to Water Credit Reseller;

(b) on termination by Water Credit Reseller pursuant to clause 7.1(d), Water Credit Reseller will pay an amount equal to the total Water Credit Fees paid by the Developer less the aggregate of the Deduction Amounts in respect of the Developer Water Credits; and

(c) any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

7.4 Termination or expiry of this agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this agreement which existed at or before the date of termination or expiry.

## 8. General

**8.1 Force majeure**. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.

**8.2 Assignment and other dealings**.

(a) Subject to clause 8.2(b), neither party shall assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the other parties' prior written consent, such consent not to be unreasonably withheld or delayed.

(b) The Developer may assign purchased Developer Water Credits to a third party provided that should the assignment be greater in value than the Water Credit Fee any excess shall be distributed equally between the parties to this agreement and will notify, in writing, the Water Credit Reseller of each assignment within seven days of that assignment.

**8.3 Confidentiality.**

(a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or supplier of another party or of any member of the group to which another party belongs, except as permitted by clause 8.3. For the purposes of this clause 8.3, **group** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 8.3; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under this agreement.

**8.4 Entire agreement.**

(a) This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party acknowledges that in entering into this agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

**8.5 Variation.** No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**8.6 Waiver.**

(a) A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

(b) A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**8.7 Severance.** If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 8.7 shall not affect the validity and enforceability of the rest of this agreement.

**8.8 Notices.**

(a) Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

(i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(ii) sent by email to the address specified in in the Contract Details.

(b) Any notice or communication shall be deemed to have been received:

(i) if delivered by hand, at the time the notice is left at the proper address;

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second business day after posting; or

(iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 8.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

(c) This clause 8.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

8.9 **Third party rights.** Other than the right of the Water Credit Supplier and the Proprietors to enforce clause 4.1(a), this agreement does not give rise to any rights under this agreements (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

**8.10 Governing law.** This agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.

**8.11 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

## Schedule 1 Maintenance requirements

The text below is extracted from the Universal Undertaking required under planning application DC202607 granted on appeal. It sets out the anticipated wording for the Maintenance Period.

### FARM'S COVENANTS RESTRICTIONS AND OBLIGATIONS TO THE COUNCIL

The Farm covenants with the Council so as to bind its interest in the Water Neutrality Land as follows:

1. Subject to paragraph 2 below:
   1.1. to implement the Offsite Water Neutrality Measures set out in Water Neutrality Scheme on the Water Neutrality Land;
   1.2. to manage and maintain at all times the Offsite Water Neutrality Measures set out in the Water Neutrality Scheme (subject to any minor amendments as may be agreed between the Owner and Council in writing from time to time) for the lifetime of the Development; and
   1.3. afford the Council (and its agent) access to the Water Neutrality Land to inspect and assess whether or not the Offsite Water Neutrality Measures set out in the Water Neutrality Scheme have been implemented on the Water Neutrality Land and are being maintained in accordance with the Water Neutrality Scheme provided always that:
      1.3.1. the Council, and its agent shall comply fully with the Farm's site rules and regulations applicable as at the time of access throughout the duration of such inspection and with health and safety legislation, policy and best practice; and
      1.3.2. the Council and its agents shall at all times be accompanied by the Farm or its agent.
2. In the event that the Council approves in writing that the Water Neutrality Scheme is no longer required to be delivered on the Water Neutrality Land to achieve Water Neutrality then the obligations in this Schedule 5 shall determine and cease to have legal effect and the Water Neutrality Land shall no longer be bound by the terms of this deed.

**WATER CREDIT CONTRACT**

**AGREEMENT DATE:**

| | |
|---|---|
| **Developer** | Nicholls Water Credit Reseller Keith and Susan Whittington |
| **Developer's address** | 1 Angel Sands , Storrington West Sussex RH20 4FL |
| **Water Credit Reseller** | NICHOLLS COUNTRYSIDE CONSTRUCTION LIMITED (No. 04576707) |
| **Water Credit Reseller address** | Brownings Barn, Glasshouse Lane, Kirdford, RH14 0LW<br>enquiries@nichollslc.co.uk |
| **Number of Water Credits** | 263 |
| **Reservation Fee** | [redacted] |
| **Water Credit Fee** | [redacted] |
| **Water Credit Supplier** | Farnagates Services Limited (No 05441226) |
| **Signed on behalf of the Developer**<br>**Name, Title, Signature**<br>**Date of Signature:** | [redacted] |
| **Signed on behalf of Water Credit Reseller**<br>**Name, Title, Signature**<br>**Date of signature:** | |

By signing above, each party agrees to be bound by the Contract Details above and the Terms and Conditions below.

## Terms and Conditions

**1. Interpretation**

**1.1 Definitions:**

**Decision Notice:** a decision letter issued by the Local Planning Authority or, in respect of an appeal, issued by the inspector appointed by the Secretary of State, granting Planning Approval.

**Developer Water Credit:** each Water Credit referenced in a Planning Approval.

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**Deduction Amount:** in respect of each Water Credit, any amounts withheld by the Water Credit Supplier and agreed with the Water Credit Reseller in respect of administration an scheme costs already incurred, will be deducted from the fees received. Any residual mounts will be shared proportionately with between Developers participating in this scheme and agreement.

**Water Credit Supplier:** the party to the Water Credit Supplier Agreement which is not Water Credit Reseller.

**Water Credit Supplier Agreement**: the agreement in respect of Water Credits between Water Credit Reseller and a third party dated [insert date] 2023.

**Net Water Credit Fee:** in relation to each Planning Approval, the difference between the Water Credit Fee payable in respect of the applicable Developer Water Credits and the same percentage of the Reservation Fee as those Developer Water Credits bear to the Number of Water Credits.

**Planning Application:** any planning application made by the Developer in respect of land in the SNWRZ requiring an Undertaking which utilises Developer Water Credits.

**Planning Approval**: any planning approval granted pursuant to a Planning Application.

**Proprietors:** the owners of Danefold Farm' Danefold House, Littleworth Lane, Horsham, RH13 8NA. ("The Farm")

**Reservation Fee:** Monies paid to the Water Credit Reseller, by the Developer, to secure a specific allocation of Water Credits. Paid at time of allocation.

SNWRZ: the Sussex North Water Resource Zone.

**Undertaking**: any unilateral undertaking, section 111, section 33 agreement or section 106 agreements, as amended or superseded, that maybe required by the Local Authority, Natural England or their successor, and any other supporting documentation that the Water Credit Reseller (or its appointed Nominee) is required to provide to the applicable Local Planning Authority to meet any relevant conditions of Planning Approval.

**Water Credit**: one litre of water per day attributable to The Farm and qualifying as a 'Water Credit' for the purposes of the Planning Approval achieving water neutrality requirements in the SNWRZ as specified by Natural England and the Local Planning Authority and either using the term 'Water Credit' or 'litres per day to be offset' or similar term.

1.2 **Interpretation**:

(a) A reference to legislation or a legislative provision:

(i) is a reference to it as it is in force as at the date of this agreement; and

(ii) shall include all subordinate legislation made as at the date of this agreement under that legislation or legislative provision.

(b) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(c) A reference to **writing** or **written** includes email.

## 2. Commencement and term

This agreement shall commence on the Agreement Date and shall continue, unless terminated earlier in accordance with its terms, until expiry of the last Undertaking to which the Developer Water Credits relate.

## 3. Water Credit Reseller Obligations

3.1 In consideration of the sums due under this agreement, on grant of each Planning Approval in the two years following the Agreement Date and subject to the provisions of clause 5.1, Water Credit Reseller undertakes to allocate a sufficient number of Water Credits to be Developer Water Credits to meet the requirements of that Planning Approval provided that the aggregate number of Developer Water Credits shall not exceed the Number of Water Credits (reduced pro-rata to any reduction in the Number of Water Credits under this Water Credit Supplier Agreement).

3.2 Water Credit Reseller agrees to be party (and to use its best endeavours to procure that any relevant third party be party) to an Undertaking if the relevant local Planning Authority so requires in relation to The Water Credit Suppliers and The Proprietors proposed scheme of mitigation. For the avoidance of doubt neither Water Credit Supplier nor Water Credit Reseller will be responsible for the ongoing maintenance of the Measures.

## 4. Developer obligations

4.1 The Developer shall:

(a) co-operate with Water Credit Reseller, the Water Credit Supplier and the Proprietors in all matters relating to the Developer Water Credits;

(b) provide, in a timely manner, such information as Water Credit Reseller may require, and ensure that it is accurate and complete in all material respects.

(c) at all times, represent fairly and accurately the form and number of Water Credits purchased from the Water Credit Reseller when fulfilling any and all associated obligations required under the relevant Planning Approval and associated Developer Water Credit allocation.

## 5. Charges and payment

5.1 The Developer shall pay the following amounts to Water Credit Reseller in accordance with this clause 5:

(a) On signature of this agreement, the Reservation Fee; and

(b) On receipt of a Decision Notice in relation to the first Planning Approval, the Net Credit Fee in respect of the Water Credits referred to in the Undertaking associated with that Planning Approval; and as required

(c) On receipt of a Decision Notice in relation to the second Planning Approval, the Net Water Credit Fee in respect of the Water Credits referred to in the Undertaking associated with that Planning Approval; and as required

(d) On receipt of a Decision Notice in relation to the third Planning Approval, the Net Water Credit Fee in respect of the Number of Water Credits less the Water Credits allocation to the first and second Planning Approvals.

For the avoidance of doubt, all Developer Water Credits allocated under this agreement, will be paid for in full by the Developer following Planning Approval, full payment shall not exceeding three Decision Notices. If Developer Water Credits still available under this agreement exceed the number required for the third Decision Notice, the Developer shall pay the Water Credit Reseller all remaining Fees.

5.2 All amounts payable under this agreement exclude amounts in respect of value added tax (**VAT**), which the relevant party shall additionally be liable to pay at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

5.3 If a party fails to make any payment due under this agreement by the due date for payment, then it shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5.4 All amounts due under this agreement from the Developer to Water Credit Reseller shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5.5 The Reservation Fee shall only be refundable to the extent expressly provided in this agreement.

## 6. Limitation of liability

6.1 Nothing in this agreement limits any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

6.2 Subject to clause 6.1, Water Credit Reseller's total liability to the Developer shall not exceed an amount equal to the total Water Credit Fees paid by the Developer less the aggregate of the Deduction Amounts in respect of the Developer Water Credits .

6.3 Subject to clause 6.1, Water Credit Reseller shall not be responsible for any indirect or consequential loss incurred by the Developer.

## 7. Termination

7.1 Without affecting any other right or remedy available to it, Water Credit Reseller may terminate this agreement with immediate effect by giving written notice to the Developer if:

(a) the Developer commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified in writing to do so and for the purposes of this clause, a failure to pay on the due date without legitimate cause or without prior agreement with Water Credit Reseller shall be a material breach;

(b) the Developer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

(c) the Developer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the Water Credit Supplier Agreement is terminated.

7.2 Without affecting any other right or remedy available to it, the Developer may terminate Water Credit Reseller's participation in this agreement with immediate effect by giving written notice to Water Credit Reseller if:

(a) Water Credit Reseller commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified in writing to do so;

(b) Water Credit Reseller takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business.

(c) Water Credit Reseller suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

7.3 On termination:

(a) of this agreement by Water Credit Reseller, the Developer shall immediately pay to Water Credit Reseller all sums due and outstanding to Water Credit Reseller and shall have no further rights in respect of the Water Credits other than the Developer Water Credits. Subject to clause 7.3(b), Water Credit Reseller shall be under no obligation to refund any amount paid by the Developer to Water Credit Reseller;

(b) on termination by Water Credit Reseller pursuant to clause 7.1(d), Water Credit Reseller will pay an amount equal to the total Water Credit Fees paid by the Developer less the aggregate of the Deduction Amounts in respect of the Developer Water Credits; and

(c) any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

7.4 Termination or expiry of this agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this agreement which existed at or before the date of termination or expiry.

## 8. General

8.1 **Force majeure**. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.

8.2 **Assignment and other dealings**.

(a) Subject to clause 8.2(b), neither party shall assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the other parties' prior written consent, such consent not to be unreasonably withheld or delayed.

(b) The Developer may assign purchased Developer Water Credits to a third party provided that should the assignment be greater in value than the Water Credit Fee any excess shall be distributed equally between the parties to this agreement and will notify, in writing, the Water Credit Reseller of each assignment within seven days of that assignment.

8.3 **Confidentiality.**

(a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or supplier of another party or of any member of the group to which another party

belongs, except as permitted by clause 8.3. For the purposes of this clause 8.3, **group** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 8.3; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under this agreement.

**8.4 Entire agreement.**

(a) This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party acknowledges that in entering into this agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

**8.5 Variation.** No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**8.6 Waiver.**

(a) A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

(b) A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**8.7 Severance.** If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary

to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 8.7 shall not affect the validity and enforceability of the rest of this agreement.

**8.8 Notices.**

(a) Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

(i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(ii) sent by email to the address specified in in the Contract Details.

(b) Any notice or communication shall be deemed to have been received:

(i) if delivered by hand, at the time the notice is left at the proper address;

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second business day after posting; or

(iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 8.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

(c) This clause 8.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

8.9 **Third party rights.** Other than the right of the Water Credit Supplier and the Proprietors to enforce clause 4.1(a), this agreement does not give rise to any rights under this agreements (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

**8.10 Governing law.** This agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.

**8.11 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

## Schedule 1 Maintenance requirements

The text below is extracted from the Universal Undertaking required under planning application DC202607 granted on appeal. It sets out the anticipated wording for the Maintenance Period.

### FARM'S COVENANTS RESTRICTIONS AND OBLIGATIONS TO THE COUNCIL

The Farm covenants with the Council so as to bind its interest in the Water Neutrality Land as follows:

1. Subject to paragraph 2 below:
   1.1. to implement the Offsite Water Neutrality Measures set out in Water Neutrality Scheme on the Water Neutrality Land;
   1.2. to manage and maintain at all times the Offsite Water Neutrality Measures set out in the Water Neutrality Scheme (subject to any minor amendments as may be agreed between the Owner and Council in writing from time to time) for the lifetime of the Development; and
   1.3. afford the Council (and its agent) access to the Water Neutrality Land to inspect and assess whether or not the Offsite Water Neutrality Measures set out in the Water Neutrality Scheme have been implemented on the Water Neutrality Land and are being maintained in accordance with the Water Neutrality Scheme provided always that:
      1.3.1. the Council, and its agent shall comply fully with the Farm's site rules and regulations applicable as at the time of access throughout the duration of such inspection and with health and safety legislation, policy and best practice; and
      1.3.2. the Council and its agents shall at all times be accompanied by the Farm or its agent.
2. In the event that the Council approves in writing that the Water Neutrality Scheme is no longer required to be delivered on the Water Neutrality Land to achieve Water Neutrality then the obligations in this Schedule 5 shall determine and cease to have legal effect and the Water Neutrality Land shall no longer be bound by the terms of this deed.

**WATER CREDIT CONTRACT**

**AGREEMENT DATE:**

| | |
|---|---|
| **Developer** | Marcel and Alison Hoad |
| **Developer's address** | Birch Corner , Fern Road, Storrington , West Sussex RH204LW |
| **Water Credit Reseller** | NICHOLLS COUNTRYSIDE CONSTRUCTION LIMITED (No. 04576707) |
| **Water Credit Reseller address** | Brownings Barn, Glasshouse Lane, Kirdford, RH14 0LW<br>enquiries@nichollslc.co.uk |
| **Number of Water Credits** | 263 |
| **Reservation Fee** | [redacted] |
| **Water Credit Fee** | [redacted] |
| **Water Credit Supplier** | Farnagates Services Limited (No.05441226) |
| **Signed on behalf of the Developer**<br>**Name, Title, Signature**<br>**Date of Signature:** | [redacted]<br>31/7/2023 |
| **Signed on behalf of Water Credit Reseller**<br>**Name, Title, Signature**<br>**Date of signature:** | |

By signing above, each party agrees to be bound by the Contract Details above and the Terms and Conditions below.

## Terms and Conditions

**1. Interpretation**

**1.1 Definitions:**

**Decision Notice:** a decision letter issued by the Local Planning Authority or, in respect of an appeal, issued by the inspector appointed by the Secretary of State, granting Planning Approval.

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COUNTRYSIDE CONSTRUCTION

**Developer Water Credit:** each Water Credit referenced in a Planning Approval.

**Deduction Amount:** in respect of each Water Credit, any amounts withheld by the Water Credit Supplier and agreed with the Water Credit Reseller in respect of administration an scheme costs already incurred, will be deducted from the fees received. Any residual mounts will be shared proportionately with between Developers participating in this scheme and agreement.

**Water Credit Supplier:** the party to the Water Credit Supplier Agreement which is not Water Credit Reseller.

**Water Credit Supplier Agreement**: the agreement in respect of Water Credits between Water Credit Reseller and a third party dated [insert date] 2023.

**Net Water Credit Fee:** in relation to each Planning Approval, the difference between the Water Credit Fee payable in respect of the applicable Developer Water Credits and the same percentage of the Reservation Fee as those Developer Water Credits bear to the Number of Water Credits.

**Planning Application**: any planning application made by the Developer in respect of land in the SNWRZ requiring an Undertaking which utilises Developer Water Credits.

**Planning Approval**: any planning approval granted pursuant to a Planning Application.

**Proprietors:** the owners of Danefold Farm' Danefold House, Littleworth Lane, Horsham, RH13 8NA. ("The Farm")

**Reservation Fee:** Monies paid to the Water Credit Reseller by the Developer, to secure a specific allocation of Water Credits. Paid at time of allocation.

SNWRZ: the Sussex North Water Resource Zone.

**Undertaking**: any unilateral undertaking, section 111, section 33 agreement or section 106 agreements, as amended or superseded, that maybe required by the Local Authority, Natural England or their successor, and any other supporting documentation that the Water Credit Reseller (or its appointed Nominee) is required to provide to the applicable Local Planning Authority to meet any relevant conditions of Planning Approval.

**Water Credit**: one litre of water per day attributable to The Farm and qualifying as a 'Water Credit' for the purposes of the Planning Approval achieving water neutrality requirements in the SNWRZ as specified by Natural England and the Local Planning Authority and either using the term 'Water Credit' or 'litres per day to be offset' or similar term.

**1.2 Interpretation**:

(a) A reference to legislation or a legislative provision:

(i) is a reference to it as it is in force as at the date of this agreement; and

(ii) shall include all subordinate legislation made as at the date of this agreement under that legislation or legislative provision.

(b) Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(c) A reference to **writing** or **written** includes email.

## 2. Commencement and term

This agreement shall commence on the Agreement Date and shall continue, unless terminated earlier in accordance with its terms, until expiry of the last Undertaking to which the Developer Water Credits relate.

## 3. Water Credit Reseller Obligations

3.1 In consideration of the sums due under this agreement, on grant of each Planning Approval in the two years following the Agreement Date and subject to the provisions of clause 5.1, Water Credit Reseller undertakes to allocate a sufficient number of Water Credits to be Developer Water Credits to meet the requirements of that Planning Approval provided that the aggregate number of Developer Water Credits shall not exceed the Number of Water Credits (reduced pro-rata to any reduction in the Number of Water Credits under this Water Credit Supplier Agreement).

3.2 Water Credit Reseller agrees to be party (and to use its best endeavours to procure that any relevant third party be party) to an Undertaking if the relevant local Planning Authority so requires in relation to The Water Credit Suppliers and The Proprietors proposed scheme of mitigation. For the avoidance of doubt neither Water Credit Supplier nor Water Credit Reseller will be responsible for the ongoing maintenance of the Measures.

## 4. Developer obligations

4.1 The Developer shall:

(a) co-operate with Water Credit Reseller, the Water Credit Supplier and the Proprietors in all matters relating to the Developer Water Credits;

(b) provide, in a timely manner, such information as Water Credit Reseller may require, and ensure that it is accurate and complete in all material respects.

(c) at all times, represent fairly and accurately the form and number of Water Credits purchased from the Water Credit Reseller when fulfilling any and all associated obligations required under the relevant Planning Approval and associated Developer Water Credit allocation.

## 5. Charges and payment

5.1 The Developer shall pay the following amounts to Water Credit Reseller in accordance with this clause 5:

(a) On signature of this agreement, the Reservation Fee; and

(b) On receipt of a Decision Notice in relation to the first Planning Approval, the Net Credit Fee in respect of the Water Credits referred to in the Undertaking associated with that Planning Approval; and as required

(c) On receipt of a Decision Notice in relation to the second Planning Approval, the Net Water Credit Fee in respect of the Water Credits referred to in the Undertaking associated with that Planning Approval; and as required

(d) On receipt of a Decision Notice in relation to the third Planning Approval, the Net Water Credit Fee in respect of the Number of Water Credits less the Water Credits allocation to the first and second Planning Approvals.

For the avoidance of doubt, all Developer Water Credits allocated under this agreement, will be paid for in full by the Developer following Planning Approval, full payment shall not exceeding three Decision Notices. If Developer Water Credits still available under this agreement exceed the number required for the third Decision Notice, the Developer shall pay the Water Credit Reseller all remaining Fees.

5.2 All amounts payable under this agreement exclude amounts in respect of value added tax (**VAT**), which the relevant party shall additionally be liable to pay at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

5.3 If a party fails to make any payment due under this agreement by the due date for payment, then it shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5.4 All amounts due under this agreement from the Developer to Water Credit Reseller shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5.5 The Reservation Fee shall only be refundable to the extent expressly provided in this agreement.

## 6. Limitation of liability

6.1 Nothing in this agreement limits any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

6.2 Subject to clause 6.1, Water Credit Reseller's total liability to the Developer shall not exceed an amount equal to the total Water Credit Fees paid by the Developer less the aggregate of the Deduction Amounts in respect of the Developer Water Credits .

6.3 Subject to clause 6.1, Water Credit Reseller shall not be responsible for any indirect or consequential loss incurred by the Developer.

## 7. Termination

7.1 Without affecting any other right or remedy available to it, Water Credit Reseller may terminate this agreement with immediate effect by giving written notice to the Developer if:

(a) the Developer commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified in writing to do so and for the purposes of this clause, a failure to pay on the due date without legitimate cause or without prior agreement with Water Credit Reseller shall be a material breach;

(b) the Developer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

(c) the Developer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

(d) the Water Credit Supplier Agreement is terminated.

7.2 Without affecting any other right or remedy available to it, the Developer may terminate Water Credit Reseller's participation in this agreement with immediate effect by giving written notice to Water Credit Reseller if:

(a) Water Credit Reseller commits a material breach of any term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified in writing to do so;

(b) Water Credit Reseller takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business.

(c) Water Credit Reseller suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

7.3 On termination:

(a) of this agreement by Water Credit Reseller, the Developer shall immediately pay to Water Credit Reseller all sums due and outstanding to Water Credit Reseller and shall have no further rights in respect of the Water Credits other than the Developer Water Credits. Subject to clause 7.3(b), Water Credit Reseller shall be under no obligation to refund any amount paid by the Developer to Water Credit Reseller;

(b) on termination by Water Credit Reseller pursuant to clause 7.1(d), Water Credit Reseller will pay an amount equal to the total Water Credit Fees paid by the Developer less the aggregate of the Deduction Amounts in respect of the Developer Water Credits; and

(c) any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

7.4 Termination or expiry of this agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this agreement which existed at or before the date of termination or expiry.

## 8. General

**8.1 Force majeure**. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.

**8.2 Assignment and other dealings**.

(a) Subject to clause 8.2(b), neither party shall assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without the other parties' prior written consent, such consent not to be unreasonably withheld or delayed.

(b) The Developer may assign purchased Developer Water Credits to a third party provided that should the assignment be greater in value than the Water Credit Fee any excess shall be distributed equally between the parties to this agreement and will notify, in writing, the Water Credit Reseller of each assignment within seven days of that assignment.

**8.3 Confidentiality.**

(a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or supplier of another party or of any member of the group to which another party

belongs, except as permitted by clause 8.3. For the purposes of this clause 8.3, **group** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 8.3; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under this agreement.

**8.4 Entire agreement.**

(a) This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party acknowledges that in entering into this agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

**8.5 Variation.** No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**8.6 Waiver.**

(a) A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

(b) A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**8.7 Severance.** If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary

to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 8.7 shall not affect the validity and enforceability of the rest of this agreement.

**8.8 Notices.**

(a) Any notice or other communication given to a party under or in connection with this agreement shall be in writing and shall be:

(i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(ii) sent by email to the address specified in in the Contract Details.

(b) Any notice or communication shall be deemed to have been received:

(i) if delivered by hand, at the time the notice is left at the proper address;

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second business day after posting; or

(iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 8.8(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

(c) This clause 8.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

8.9 **Third party rights.** Other than the right of the Water Credit Supplier and the Proprietors to enforce clause 4.1(a), this agreement does not give rise to any rights under this agreements (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

**8.10 Governing law.** This agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of England and Wales.

**8.11 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

## Schedule 1 Maintenance requirements

The text below is extracted from the Universal Undertaking required under planning application DC202607 granted on appeal. It sets out the anticipated wording for the Maintenance Period.

### FARM'S COVENANTS RESTRICTIONS AND OBLIGATIONS TO THE COUNCIL

The Farm covenants with the Council so as to bind its interest in the Water Neutrality Land as follows:

1. Subject to paragraph 2 below:

   1.1. to implement the Offsite Water Neutrality Measures set out in Water Neutrality Scheme on the Water Neutrality Land;

   1.2. to manage and maintain at all times the Offsite Water Neutrality Measures set out in the Water Neutrality Scheme (subject to any minor amendments as may be agreed between the Owner and Council in writing from time to time) for the lifetime of the Development; and

   1.3. afford the Council (and its agent) access to the Water Neutrality Land to inspect and assess whether or not the Offsite Water Neutrality Measures set out in the Water Neutrality Scheme have been implemented on the Water Neutrality Land and are being maintained in accordance with the Water Neutrality Scheme provided always that:

      1.3.1. the Council, and its agent shall comply fully with the Farm's site rules and regulations applicable as at the time of access throughout the duration of such inspection and with health and safety legislation, policy and best practice; and

      1.3.2. the Council and its agents shall at all times be accompanied by the Farm or its agent.

2. In the event that the Council approves in writing that the Water Neutrality Scheme is no longer required to be delivered on the Water Neutrality Land to achieve Water Neutrality then the obligations in this Schedule 5 shall determine and cease to have legal effect and the Water Neutrality Land shall no longer be bound by the terms of this deed.

## Schedule 4

## The Owners' Covenants to the Council

With the intention of binding the Application Site, and for the purpose of allowing Development to be delivered and to remain Water Neutral for the lifetime of the development, the Owners covenant with the Council as follows:

Monitoring Fee

1. To pay the Monitoring Fee to the Council on or prior to completion of this Agreement.
2. Not to Commence the Development unless and until the Monitoring Fee has been paid in full to the Council.

Water Neutrality

1. Prior to Occupation of the Development, to submit evidence in writing to the Council that the Offsetting Measures in the approved Water Neutrality Strategy have been implemented in full at the Offsetting Site, the evidence to include the specifications and photographs of the installed measures and a Part G water calculator (or equivalent) detailing the resultant surveyed water consumption of the Offsetting Site.
2. Not to Occupy the Development until the Council has confirmed in writing that the Offsetting Measures in the approved Water Neutrality Strategy have been implemented in full at the Offsetting Site and the Council agrees to use best endeavours to issue the written confirmation under this paragraph within 40 (forty) Working Days of the date of receipt of the evidence submitted under paragraph 1 above.
3. To purchase 1,355 (one thousand three hundred and fifty-five) Water Credit Units from the Water Credit Scheme and to provide evidence in writing of the purchase to the Council prior to Occupation of the Development.
4. Not to Occupy the Development until it has purchased 1,355 (one thousand three hundred and fifty-five) Water Credit Units from the Water Credit Scheme and has provided evidence in writing of the purchase of the Water Credit Units to the Council.
5. To apply the Water Credit Units to the Development so that it is delivered as Water Neutral.
6. Not to apply the Water Credit Units to offset water use at any other development within the SNWSZ, whether or not the development falls within the Council's administrative area.
7. Not to Occupy the Development until the Offsetting Site Management and Monitoring Plan has been submitted to the Council and approved in writing pursuant to paragraph 1 of Schedule 5.
8. Not to Occupy the Development until the Council have received evidence in writing that the Offsetting Site Measures are operational and that the management and

maintenance arrangements are in place at the Offsetting Site in accordance with the Offsetting Site Management and Monitoring Plan.

9. Not to Occupy the Development until the record prepared by the Offsetting Owners pursuant to paragraph 7 of Schedule 5, has been received and approved in writing by the Council.

## Schedule 5

### The Offsetting Site Owners covenants to the Council

The Offsetting Site Owners covenant with the Council so as to bind their interest in the Offsetting Site and for the purposes of ensuring that the Development can be delivered as Water Neutral as follows:

1. To submit an Offsetting Site Management and Monitoring Plan for approval by the Council.

2. To implement the Offsetting Measures at the Offsetting Site in accordance with the Water Neutrality Strategy contained in Appendix H of the Water Neutrality Statement at Schedule 3.

3. To retain the Offsetting Measures for the lifetime of the Development and not to remove or replace them other than with those which meet an equivalent or more efficient water standard.

4. To maintain and keep in good repair the Offsetting Measures installed on the Offsetting Site and operate the Water Credit Scheme in accordance with the Water Neutrality Strategy and the Offsetting Site Management and Monitoring Plan and this Agreement at all times.

5. To allow the Council to enter the Offsetting Site for the purpose of inspecting the Offsetting Measures between the hours of 0900 and 1700 on a Working Day or such hours as are agreed between the Council and the Offsetting Site Owners beforehand and ensuring that the measures are operated, retained and maintained as required provided that the Council gives not less than 1 (one) Working Days' notice in writing of its intention to inspect the Offsetting Measures provided always that:

   5.1 the Council and its agent shall comply fully with the Offsetting Site Owners reasonable site rules and regulations applicable as at the time of access throughout the duration of such inspection and with health and safety legislation, policy and best practice;

   5.2 the Council and its agents shall at all times be accompanied by the Offsetting Site Owners or their agent.

6. That, in the event that the Offsetting Site or any part of it is transferred, the Offsetting Site Owners shall enter into a direct covenant with the transferee such that the transferee is obliged:

   i. to comply with the restrictions and obligations set out in this Agreement;

   ii. to maintain and keep in good repair the Offsetting Measures installed on the Offsetting Site in accordance with the Water Neutrality Strategy and this Agreement;

   iii. to consent to the entering of the following restriction on the transferee's title to the Offsetting Land at HM Land Registry following the registration of the transfer and shall provide the transferor with all necessary assistance and/or documentation to permit entry of the restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the proprietor for the time being of the estate registered under titled number [ ] or their conveyancer that the provisions of clause XX of [Details of the Transfer] have been complied with".

7. To notify the Council of any Sale or Transfer of a Water Credit Unit generated as a result of the Offsetting Measures implemented at the Offsetting Site within 14 days of the date of any such Sale or Transfer.

8. To provide the Council prior to Occupation of the Development and then annually for the first five years post Occupation of the Development (and at the Council's request acting reasonably thereafter) with a statement setting out the total number of Water Credit Units that are available through the operation of the Water Credit Scheme (being 12,367 (twelve thousand three hundred and sixty-seven) Water Credit Units), all Water Credit Units which have been Sold or Transferred and specifying to whom they have been Sold or Transferred and development within in the SNWSZ to which they have been applied whether the development falls within the Council's administrative area or otherwise and the balance of Water Credit Units that remain unsold.

9. Not to permit the Sale or Transfer of a Water Credit Unit which has already been Sold or Transferred or permit any form of Double Counting.

10. To provide the Council with the Offsetting Site Monitoring Report on an annual basis for the first five years post Occupation and at the Council's request acting reasonably thereafter.

11. To review each Offsetting Site Monitoring Report with the Council and if the Council is of the view that the Offsetting Site Monitoring Report indicates that the Offsetting Site Management and Monitoring Plan is not being complied with it shall inform the Offsetting Site Owners to that effect setting out its reasons for holding such an opinion as soon as practicable after the Review and in any event within 8 weeks of the Review.

12. Following receipt of any written notice from the Council pursuant to paragraph 11 of this Schedule to submit Offsetting Site remedial measures that are designed to ensure the aims of the Offsetting Site Management and Monitoring Plan can be met to the Council for approval including such further revisions as are reasonably required by the Council until such times as the Offsetting Site remedial measures are approved in writing by the Council PROVIDED THAT the Offsetting Site Owners shall implement the approval remedial measures as soon as reasonably practicable after they have been approved by the Council.

13. To maintain a record of all Water Credit Units that have been Sold or Transferred specifying to whom they have been Sold or Transferred and the development within the SNWSZ to which they have been applied (whether or not the development is within the Council's administrative area) and to provide a copy of that record to the Council prior to Commencement of the Development.

14. To grant the Council permission free and unimpeded access to data concerning water useage at the Offsetting Site from third parties.