HDC 116

HDC

DATED 10 May 1994

Between

(1) The First Owner: John Mowlem Homes Ltd.

(2) The Second Owner: Persimmon Homes (South East) Ltd.

(3) The Third Owner: Higgs and Hill Homes Ltd.

(4) The Fourth Owner: Southwater Properties Ltd.

(5) The First Applicant: John Mowlem Homes Ltd. and Persimmon Homes (South East) Ltd.

(6) The Second Applicant: Higgs and Hill Homes Ltd.

(7) The First Mortgagee: Southwater Properties Ltd.

(8) The Second Mortgagee: The Governor and Company of the Bank of Ireland

(9) The Third Mortgagee: John Mowlem Homes Ltd.

(10) The Fourth Mortgagee: Persimmon Homes (South East) Ltd.

(11) Local Planning Authority: Horsham District Council

AGREEMENT

under the Town and Country Planning Act 1990 Section 106 and other powers

Land at and adjoining Swabey's Yard Worthing Road and Southwater Street Southwater Horsham West Sussex

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I. R. Davison, M.A.
Chief Solicitor
Horsham District Council
Park House, North Street
Horsham, West Sussex, RH12 1RL
DX 57609 Horsham
Ref: IRD/P(AGT)/315

Article 8.8 of the Scheme of Delegation to Officers

WP ref: L\legal/Swabeys

AGREEMENT dated 10th May 1994 between

(1) The First Owner: JOHN MOWLEM HOMES LIMITED whose registered office is at 33 London Road Reigate Surrey RH2 9HZ and whoever for the time being is the freeholder of the Green Land and any part of it

(2) The Second Owner: PERSIMMON HOMES (SOUTH EAST) LIMITED whose registered office is at Fulford House Fulford York YO1 4RE and whoever for the time being is the freeholder of the Purple Land and any part of it

(3) The Third Owner: HIGGS AND HILL HOMES LIMITED whose registered office is at Crown House Kingston Road New Malden Surrey KT3 3ST and whoever for the time being is the freeholder of the Blue Land or any part of it

(4) The Fourth Owner: SOUTHWATER PROPERTIES LIMITED whose registered office is at Second Floor Barclays Bank Building 1 Chapel Road Worthing West Sussex BN11 1SA and whoever for the time being is the freeholder of the Brown Land or any part of it

(5) The First Applicant: JOHN MOWLEM HOMES LIMITED whose registered office is at 33 London Road Reigate Surrey RH2 9HZ and PERSIMMON HOMES (SOUTH EAST) LIMITED whose registered office is at Fulford House Fulford York YO1 4RE who have applied to the Local Planning Authority for the approval of reserved matters and for planning permission as mentioned in Recital 3 in respect of the Yellow Land

(6) The Second Applicant: HIGGS AND HILL HOMES LIMITED whose registered office is at Crown House Kingston Road New Malden Surrey KT3 3ST who has applied to the Local Planning Authority for the planning permissions as mentioned in Recital 4 in respect of Blue Land

(7) The First Mortgagee: SOUTHWATER PROPERTIES LIMITED and whoever is the first mortgagee of the Yellow Land and any part of it

(8) The Second Mortgagee: THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND whose address for service is at 22 Cumberland Place Southampton SO ..... and whoever is the first mortgagee of the Brown Land

(9) The Third Mortgagee: JOHN MOWLEM HOMES LIMITED and whoever is the second mortgagee ranking in priority to the charge created by this Agreement of the Purple Land or any part of it

(10) The Fourth Mortgagee: PERSIMMON HOMES (SOUTH EAST) LIMITED and whoever is the second mortgagee ranking in priority to the charge created by this Agreement of the Green Land or any part of it

(11) The Local Planning Authority: HORSHAM DISTRICT COUNCIL of Park House North Street Horsham West Sussex RH12 1RL

Recitals

1. The Red Land is not allocated for development in the Development Plan comprising the West Sussex Structure Plan 1993 and the North Horsham District Local Plan 1991
2. Pursuant to the Southwater Planning Strategy (dated September 1991) the Outline Planning Permission was granted on 23rd February 1993 in respect of land of which the Yellow Land forms part
3. The First Applicant has submitted the First and Second Applications
4. The Second Applicant has submitted the Third and Fourth Applications
5. The Horsham District Local Plan (Deposit Draft) approved to have effect from 25th March 1994 allocates the Blue Land and adjoining land for residential development subject to (among other matters) requirements concerning the provisions of a roundabout on Worthing Road Southwater of sufficient standard to access the Blue Land and the Yellow Land and the construction to the eastern boundary of the Blue Land of an access road of adequate width to provide access to the Yellow Land and the Pink Land for the purpose of achieving the development envisaged by the Outline Planning Permission
6. The Local Planning Authority is concerned to ensure that the Red Land is developed comprehensively and is adequately serviced

1. **Definitions**

In this Agreement:

1.1 Whenever 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

1.2 A reference to an Act of Parliament refers to the Act as it applies at the date of this Agreement and any later amendment or re-enactment of it

1.3 'agreed' or 'approved' means in writing

1.4 'the First Application' means the application (reference SQ/115/93) made by the First Applicant concerning the Yellow Land for the approval of reserved matters pursuant to the Outline Planning Permission (reference SQ/91/92) in respect of the erection of 270 dwellings garages estate roads footpaths and public open space

1.5 'the Second Application' means the application (reference SQ/118/93) made by the First Applicant concerning amongst other land the Brown Land for planning permission to construct a new roundabout at Hop Oast and a link road to the Yellow Land

1.6 'the Third Application' means the application (reference SQ/5/94) made by the Second Applicant concerning that part of the Blue Land hatched blue for planning permission to construct 60 dwelling units garages parking spaces

estate roads new access to Worthing Road and associated landscaping open space drainage and ancillary works

1.7 'the Fourth Application' means the application (reference SQ/4/94) made by the Second Applicant concerning the Blue Land for planning permission to construct 75 houses garages parking spaces access and landscaping

1.8 'Balancing Facility' means the dry area of open space referred to in Clause 14

1.9 'Default Notice' means a notice served pursuant to Clause 4.5 and 5.6

1.10 'the Development' means the development of the Red Land permitted by planning permissions granted pursuant to the Outline Planning Permission and the First and Second Applications or the Third and Fourth Applications or carried out substantially in accordance with such permissions

1.11 'the Blue Land' means the land at Worthing Road Southwater Horsham West Sussex shown for identification purposes only edged blue on Plan No. 1

1.12 'the Brown Land' means the land at Southwater Horsham West Sussex shown for purposes of identification only edged brown on Plan No. 1

1.13 'the Green Land' means the land at Southwater Horsham West Sussex shown for identification purposes only edged and hatched green on Plan No. 1

1.14 'the Orange Land' means the land shown for identification purposes only coloured orange on Plan No. 1

1.15 'the Pink Land' means the land at Southwater Horsham West Sussex owned by Horsham District Council shown for identification purposes only coloured pink on Plan No. 1 and extended by the inclusion of that part of the Yellow Land cross hatched green

1.16 'the Purple Land' means the land at Southwater Horsham West Sussex shown for purposes of identification only edged purple on the Plan

1.17 'the Red Land' means the land at Southwater Horsham West Sussex shown for identification purposes only edged red on Plan No. 1

1.18 'the Yellow Land' means the land at Southwater Street Southwater Horsham West Sussex shown for identification purposes only edged yellow on Plan No. 1

1.19 'the Land Agreement' means an Agreement dated 22nd December 1992 between (1) Southwater Properties Limited Ghyll Properties Limited Neil Douglas Phillips Beatrice Joan Primrose Phillips E B S Pensioneer Trustees Limited (2) the Local Planning Authority and (3) National Westminster Bank plc

1.20 'the New Lane Wood Road' means a road to be constructed between points E-D-C on Plan No. 1

1.21 'the Outline Planning Permission' means the planning permission (reference SQ/91/92) granted for the erection of 350 dwellings 2 hectares of social

housing 32,500 m² commercial development public open space land for primary school estate roads and access in respect of the Yellow Land and other land

1.22 'Plan No. 1' means the plan numbered 1 attached to this Agreement

1.23 'Plan No. 2' means the plan numbered 2 attached to this Agreement

1.24 'Plan No. 3' means the plan numbered 3 attached to this Agreement

1.25 'the First Planning Agreement' means a planning agreement dated 22nd December 1992 and made between (1) Southwater Properties Limited (2) the Local Planning Authority and (3) National Westminster Bank plc in respect of the Yellow Land and other land

1.26 'the Primary School Site' means that part of the Orange Land hatched purple having an area of approximately 1.2 hectares

1.27 'Social Housing Land' means land for Social Housing Units to be provided on the Blue Land [redacted]

1.28 'Social Housing Site A' means that part of the Orange Land hatched green having an area of approximately 1.2 hectares intended for social housing

1.29 'Social Housing Site B' means that part of the unhatched Orange Land having an area of approximately 0.8 hectare

1.30 'Social Housing Units' means dwellings for social housing purposes provided as part of Development and referred to in Clause 15

1.31 'the Swabeys Yard Road' means a road to be constructed between points A-B-C on Plan No. 1

2. **Enabling provisions**

THIS Agreement is made pursuant to the Town and County Planning Act 1990 Section 106 the Local Government Act 1972 Section 111 and all other enabling powers and has been entered into pursuant to Article 8.8 of the Scheme of Delegation to Officers

3. **Commencement**

THIS Agreement shall come into effect upon the grant of all of the First to Fourth Applications whichever shall be last

4. **Provision of Swabeys Yard Road on the Yellow Land**

The First Owner and the Second Owner agree with the Local Planning Authority and the Third Owner

4.1 within one month of the date of this Agreement to submit or to secure the submission to the Local Planning Authority of plans showing the construction of the Swabeys Yard Road from points B to C having a standard width of not less than 5.5 metres and to a standard acceptable to the local highway authority as a highway maintainable at public expense

4.2 to complete or to secure the completion of the construction of that part of the Swabeys Yard Road between points B and C at their own expense by no later than 30th November 1994 to at least base course level and to make the same available to serve the Pink Land and the Yellow Land for all purposes by no later than that date

4.3 to grant to the Third Owner and the Local Planning Authority and to their respective successors in title a right of way on foot and with vehicles over and along the Swabeys Yard Road and estate roads and footpaths to be constructed on the Yellow Land within a period of 80 years from the date of this Agreement until such time as the same become highways maintainable at public expense and subject to the person's exercising such right paying a fair proportion of any expenses of maintenance and repair and damage caused and subject to not causing any interference or obstruction of the same or causing or permitting the deposit of mud or other debris

4.4 to secure that that part of the Swabeys Yard Road between points B and C shall be adopted as a highway maintainable at public expense by the local highway authority and shall use best endeavours to secure that all necessary agreements for the purpose are entered into within six months of the date of this Agreement and certified copies provided free of charge to the other parties

4.5 in the event that that part the Swabeys Yard Road shall not have been completed between points B and C in accordance with Clause 4.2 the Local Planning Authority and any successor in title to the Pink Land

4.5.1 may by not less than one month's notice served at any time after 30th November 1994 ('Default Notice') require that all or such part as the Local Planning Authority shall consider appropriate of the works shall cease or if such works have not been begun shall not commence

4.5.2 upon expiry of the Default Notice enter the Yellow Land and construct that part of the Swabeys Yard Road between points B and C to such standard and in accordance with such timetable as the Local Planning Authority considers appropriate at the cost of the First Owner and the Second Owner and use the Swabeys Yard Road for all purposes connected with the Pink Land

4.5.3 recover the costs incurred in the exercise of the powers given by 4.5.2 as a debt against the First Owner and the Second Owner and charge the Yellow Land by way of a charge binding on successive owners

4.6 not to allow the residential occupation of more than 10 houses on the Yellow Land before Swabeys Yard Road shall have been completed between points A and C in accordance with Clause 4.2 unless the New Lane Wood Road shall

have been completed to at least base course level first and is available to serve the Yellow Land and the Pink Land

4.7 that the restriction on the number of dwellings in Clause 4.6 shall always be subject to the restrictions on phasing set out in Clause 10

4.8 not to cause or allow the Swabeys Yard Road between points A and B to be used by construction traffic serving the Yellow Land at any time after 30th November 1995 or the completion in accordance with Clause 6.3 of the New Lane Wood Road (whichever is the earlier)

5. **Provision of Swabeys Yard Road on the Blue Land**

The Third Owner agrees with the Local Planning Authority the First Owner and the Second Owner

5.1 within one month of the date of this Agreement to submit or to secure the submission to the Local Planning Authority of plans showing the construction of a roundabout in Worthing Road and that part of the Swabeys Yard Road between points A and B having a standard width of not less than 5.5 metres (or such width as the local highway authority may require) and to a standard acceptable to the local highway authority as a highway maintainable at public expense

5.2 subject to Clause 5.7 to complete or to secure the completion of the construction of that part of the Swabeys Yard Road between points A and B at their own expense by no later than 30th September 1994 to at least base course level and to make the same available to serve the Blue Land the Pink Land and the Yellow Land for all purposes by no later than that date

5.3 to grant to the First Owner and the Second Owner and the Local Planning Authority and their respective successors in title a right of way on foot and with vehicles over and along the Swabeys Yard Road and estate roads and footpaths to be constructed on the Blue Land within a period of 80 years from the date of this Agreement until such time as the same become highways maintainable at public expense and subject to the person's exercising such right paying a fair proportion of any expenses of maintenance and repair and damage caused and subject to not causing any interference or obstruction of the same or causing or permitting the deposit of mud or other debris

5.4 to secure that the Swabeys Yard Road shall be adopted as a highway maintainable at public expense by the local highway authority and shall use best endeavours to secure that all necessary agreements for the purpose are entered into within six months of the date of this Agreement and certified copies provided free of charge to the other parties

5.5 in the event that the Swabeys Yard Road shall not have been completed in accordance with Clause 5.2 the Local Planning Authority and the First Owner and the Second Owner and any successors in title to the Yellow Land

5.5.1 may by not less than one month's notice served at any time after 30th September 1994 ('Default Notice') require that all or such part as the Local Planning Authority shall consider appropriate of the works shall cease or if such works have not been begun shall not commence

5.5.2 upon expiry of the Default Notice enter the Blue Land and construct that part of the Swabeys Yard Road between points A and B to such standard and in accordance with such timetable as the person exercising such right considers appropriate at the cost of the Third Owner and use the Swabeys Yard Road for all purposes connected with the Pink Land and the Yellow Land

5.5.3 recover the costs incurred in the exercise of the powers given by 5.5.2 as a debt against the Third Owner and charge the Blue Land by way of a charge binding on successive owners

5.6 not to cause or allow the Swabeys Yard Road to be used by construction traffic serving the Yellow Land at any time after 30th September 1995 or the completion in accordance with Clause 6.3 of the New Lane Wood Road (whichever is the earlier)

5.7 not to allow the residential occupation of any dwelling on the Blue Land before the Swabeys Yard Road shall have been completed between points A and B in accordance with Clause 5.2

6. **Provision of New Lane Wood Road - Yellow Land**

The First Owner and the Second Owner agree with the Local Planning Authority

6.1 within one month of the date of this Agreement to submit or secure the submission to the Local Planning Authority of plans showing the construction of the New Lane Wood Road between points D and C having a standard width of not less than 5.5 metres (or such width as the local highway authority may require) and to a standard acceptable to the local highway authority as a highway maintainable at public expense

6.2 before commencing or causing or allowing the commencement of any work on the New Lane Wood Road between points D and C to submit to the Local Planning Authority a scheme for the construction and routing of construction traffic in connection with such work and to comply with the arrangements approved by the Local Planning Authority throughout the carrying out of the work

6.3 to complete or to secure the completion of the New Lane Wood Road at their own expense between points D and C by no later than 30th September 1995 to at least base course level and to make the same available to serve the Pink Land and the Yellow Land by no later than 30th September 1995

6.4 that in the event that the New Lane Wood Road shall have been completed and available in accordance with Clause 6.3 before the Swabeys Yard Road shall have been completed and available in accordance with Clauses 4 and 5 not to allow the residential occupation of more than 110 dwellings on the Yellow Land of which not more than 10 may be accessed directly from Southwater Street and 50 dwellings on the Pink Land

6.5 that the restriction on numbers of dwellings in Clause 6.4 shall always be subject to the restrictions on phasing set out in Clause 10

7. **Provision of New Lane Wood Road - Brown Land**

The Fourth Owner agrees with the Local Planning Authority and the First Owner and Second Owner

7.1 within one month of the date of this Agreement to submit or secure the submission to the Local Planning Authority of plans showing the construction of the New Lane Wood Road between points E and D having a standard width of not less than 5.3 metres (or such width as the local highway authority may require) and to a standard acceptable to the local highway authority as a highway maintainable at public expense

7.2 before commencing or causing or allowing the commencement of any work on the New Lane Wood Road to submit to the Local Planning Authority a scheme for the construction and routing of construction traffic in connection with such work and to comply with the arrangements approved by the Local Planning Authority throughout the carrying out of the work

7.3 to complete or to secure the completion of the New Lane Wood Road at their own expense between points E and D by no later than 30th June 1995 to at least base course level and to make the same available to serve the Yellow Land by no later than 30th June 1995

7.4 to grant to the Local Planning Authority the First Owner and the Second Owner and their respective successors in title a right of way on foot and with vehicles over and along the New Lane Wood Road until such time as the same becomes a highway maintainable at public expense and subject to the person's exercising such right paying a fair proportion of any expenses of maintenance and repair and damage caused and subject to not causing any interference or obstruction of the same or causing or permitting the deposit of mud or other debris

7.5 that the requirements concerning the timing of the construction of the New Lane Wood Road appearing in Clause 8.4(ii) of the Land Agreement and the Schedule of Personal covenants on the title to the Pink Land shall be released by the Local Planning Authority and for this purpose the parties shall enter into the deed of release appearing at form 'A'

8. **Restrictions of access from Southwater Street**

The First Owner and the Second Owner agree with the Local Planning Authority

8.1 not to construct or allow the construction on the Yellow Land of more than 10 dwellings with permanent direct vehicular access to Southwater Street

8.2 subject to Clause 8.3 not to achieve or allow to be achieved access to the Yellow Land or egress from the Yellow Land directly onto Southwater Street for the purposes of constructing any dwellings on the Yellow Land after 30th September 1994 except for the construction of no more than 10 dwellings intended to be served by direct vehicular access to Southwater Street

8.3 that the timetable in Clause 8.2 may be extended by agreement with the Local Planning Authority in the event that the Local Planning Authority the First Owner and the Second Owner exercise the right to carry out works in default granted by Clause 5.5

9. **Restrictions on access from Castlewood Road**

The First Owner and the Second Owner agree with the Local Planning Authority not to cause or allow the provision of access to the Yellow Land or egress from the Yellow Land onto Castlewood Road except to the extent as may be allowed by the Local Planning Authority and required by the local highway authority for the purposes of emergency access to the Pink Land

10. **Phasing of Development**

The First Owner the Second Owner the Third Owner and the Fourth Owner agree with the Local Planning Authority

10.1 Clause 5.3 of the First Planning Agreement (phasing) shall cease to have effect from the date of this Agreement

10.2 that the covenants (except entry No.2 paragraph 1 restriction to 80 dwellings) appearing on the Title to the Pink Land and such similar covenants as may appear on the title of the Yellow Land giving effect to the restrictions in Clause 5.3 of the First Planning Agreement and Clause 8.3 of the Land Agreement shall cease to have effect from the date of this Agreement and for this purpose the parties shall enter on the date of this Agreement into the deed of release appearing at form 'A' appended and the Local Planning Authority shall enter into such further deed of release (if necessary) to give effect to the release in respect of the Yellow Land

10.3 that the following restrictions on the occupation of any dwellings erected on the Blue Land the Yellow Land shall apply

10.3.1 not to allow the first residential occupation of more than 40 dwellings on the Blue Land together in any year commencing on the date of this Agreement and each subsequent anniversary

10.3.2 not to allow the first residential occupation of more than 100 dwellings on the Yellow Land in any year commencing on the date of this Agreement and each subsequent anniversary

10.4 that the Local Planning Authority shall not allow the first residential occupation of more than 40 dwellings on the Pink Land in any year commencing on the date of this Agreement and each subsequent anniversary

10.5 that in the event that the number of dwellings occupied falls short of those permitted by Clauses 10.3 and 10.4 the shortfall in respect of each parcel may be carried over to the next succeeding year

10.6 that the timetable concerning the provision of services set out in paragraph 2 of the Schedule of Personal Covenants to the title to the Pink Land and binding on the First Owner and the Second Owner shall be varied to accord with provision of the Swabeys Yard Road on the Yellow Land in accordance with Clause 4 that is to say that the period of 12 months from 4th June 1993 shall now be substituted by "by no later than 30th November 1994"

11. **Traffic calming and management measures in Southwater Street**

11.1 The First Owner and the Second Owner agree with the Local Planning Authority to pay to the Local Planning Authority within one month of the date of this Agreement the total sum of [redacted] towards the provision of traffic calming measures in Southwater Street and the Local Planning Authority shall provide a written receipt of the same

11.2 The Local Planning Authority agrees with the First Owner and the Second Owner to formulate in conjunction with the local highway authority proposals for traffic calming measures in Southwater Street and to implement the same subject to the agreement of the local highway authority and the conclusion of all necessary agreements within three years of the commencement of the Development so far as it is carried out on the Yellow Land

11.3 The Local Planning Authority agrees with the First Owner and the Second Owner in the event that the traffic calming measures shall not have been commenced as required by Clause 11.2 to refund to each in equal shares the sum of [redacted] upon written demand

11.4 The Local Planning Authority agrees with the First Owner and the Second Owner to release the First Owner and the Second Owner from the requirement imposed by Condition 27 of the Outline Planning Permission in connection with

the construction of the roundabout at the junction of Southwater Street and Worthing Road

12. **Transfer of Primary School Site and Social Housing Sites A and B**

12.1 The First Owner agrees with the Local Planning Authority further to Clause 4.1.2 (ii) of the Land Agreement within one month of the date of this Agreement to transfer to the Local Planning Authority the Social Housing Site A in the form 'B1' appended to this Agreement

12.2 The Second Owner agrees with the Local Planning Authority further to Clause 4.1.2(ii) of the Land Agreement and to Clause 10 of the First Planning Agreement within one month of the date of this Agreement to transfer to the Local Planning Authority the Primary School Site and the Social Housing Site B in the form 'B2' appended to this Agreement

13. **Provision of Open Space on Yellow Land**

The First Owner and the Second Owner agree with the Local Planning Authority with respect to the Yellow Land

Balancing Pond

13.1 to lay out the area coloured green on Plan No. 2 (the Balancing Pond) for use as public open space in accordance with condition 17 of the Outline Planning Permission and Clause 9 of the First Planning Agreement and plans approved by the Local Planning Authority and to the Local Planning Authority's reasonable satisfaction

13.2 within two months of the completion of the Balancing Pond pursuant to Clause 13.1 to transfer the same to the Local Planning Authority or such other body as it may nominate and the Local Planning Authority shall accept the same or procure acceptance of the same substantially in the form 'C' attached although the Balancing Pond may by agreement with the Local Planning Authority be handed over to the Local Planning Authority or other nominated body for public use and for maintenance purposes in advance of the transfer

Children's play areas

13.3 to provide layout and equip four children's play areas substantially in the positions coloured green hatched black on Plan No. 2 in accordance with a specification approved by the Local Planning Authority and to the Local Planning Authority's reasonable satisfaction

13.4 to ensure that there is easy public access to the play areas mentioned in Clause 13.3

13.5 to complete one children's play area in accordance with Clause 13.3 and to make the same available for use by the public before the completion of the 100th dwelling on the Yellow Land similarly to provide a second play area

before the completion of the 150th dwelling and a third before the completion of the 200th dwelling and a fourth before the completion of the last dwelling

13.6 within two months of completion of each play area in accordance with Clauses 13.3 and 13.5 to transfer the same to the Local Planning Authority or to such other body as it may nominate and the Local Planning Authority shall accept the same or procure acceptance of the same substantially in the form 'C' attached although the children's play areas may by agreement with the Local Planning Authority be handed over to the Local Planning Authority or other nominated body for public use and for maintenance purposes in advance of the transfer

Other area(s) of open space

13.7 to lay out an area or (if the Local Planning Authority so agrees) areas amounting in total to not less than 1.43 hectares for use as public open space to satisfy the requirement of Clause 9 of the First Planning Agreement in accordance with plans approved by the Local Planning Authority and to the Local Planning Authority's reasonable satisfaction

13.8 within two months of the completion of the works in respect of the whole where there is one area of open space or each parcel where two or more areas are provided to transfer the same to the Local Planning Authority or such other body as it may nominate and the Local Planning Authority shall accept the same or procure acceptance of the same substantially in the form 'C' attached although such area or areas of open space may by agreement be handed over to the Local Planning Authority or other nominated body for public use and for maintenance purposes in advance of the transfer

Buffer Zone 1

13.9 further to and notwithstanding any provision to the contrary in Clause 8 of the First Planning Agreement to complete the construction and planting of the Buffer Zone 1 on the Yellow Land by no later than 31st March 1995

14. **Provision of Open Space on the Blue Land**

The Third Owner agrees with the Local Planning Authority with respect to the Blue Land

14.1 to lay out the area coloured green hatched black on Plan No. 3 (the Balancing Facility and adjoining open space) for use as public open space in accordance with plans approved by the Local Planning Authority and to the Local Planning Authority's satisfaction

14.2 within two months of the completion of the Balancing Facility and adjoining open space pursuant to Clause 14.1 to transfer the same to the Local Planning Authority or such other body as it may nominate and the Local Planning Authority shall accept the same or procure acceptance of the same substantially

in the form 'C' attached although the Balancing Facility and adjoining open space may by agreement with the Local Planning Authority be handed over to the Local Planning Authority or other nominated body for public use and for maintenance purposes in advance of the transfer

14.3 upon the handover or transfer referred to in Clause 14.2 (whichever is the earlier) to pay to the Local Planning Authority or other nominated body the sum of [redacted] by way of a commuted sum for future maintenance of the Balancing Facility and adjoining open space

14.4 if within a period of 12 years from the date of completion of the Balancing Facility the area does not fulfil the purpose for which it was designed as a dry balancing facility to undertake such remedial works in accordance with a programme as may be agreed with the Local Planning Authority

14.5 upon the date of this Agreement to pay to the Local Planning Authority or other nominated body the sum of [redacted] as a contribution to recreational facilities in Southwater in lieu of the provision of a children's play area on the Blue Land

15. **Provision of social housing on the Blue Land**

The Third Owner agrees with the Local Planning Authority that in the event of the Third Application's and/or the Fourth Application's being granted

15.1 to provide within the Blue Land in such location or locations as may be approved by the Local Planning Authority for the construction of in the case of the implementation of the Third Application nine and in the case of the implementation of the Fourth Application ten social housing units of such size and type as shall be approved by the Local Planning Authority

15.2 to provide a vehicular access foul and surface water sewers and water gas electricity and telecommunication service systems for the Social Housing Units linking in each case to the estate roads sewers and service systems to be constructed and laid as part of the remainder of the development of the Blue Land and connected ultimately to highways and sewers maintainable at the public expense

15.3 to endeavour to agree with the Local Planning Authority on the identity of the Housing Association or other body to which the Social Housing Land is to be transferred within the period of three years from the date of this Agreement

15.4 within three years of the date of this Agreement to complete the transfer of the Social Housing Land with or without the Social Housing Units having been constructed as may be agreed between the Third Owner and the Housing Association to the Housing Association or other body agreed in accordance with Clause 15.3 free from encumbrances except those imposed by this Agreement and those normally imposed on estate developments and at the

purchase price in respect of the land alone calculated in accordance with Clause 15.5

15.5 that the purchase price for the Social Housing Land shall be 13.3% of the costs and expenses actually incurred by the Third Owner or the Third Owner's reasonable estimate of all costs and expenses to be incurred in respect of the construction and provision of roads including the Swabeys Yard Road between points A and B sewers drainage works and water gas electricity and telecommunication service systems forming part of or required to serve the development of the Blue Land together with the actual costs of constructing the Social Housing Units and in both cases an additional 15% for contractor's profit

15.6 not to dispose of or cause or allow the disposal of any individual Social Housing Unit built on the Social Housing Land other than by way of or in accordance with or by means of a shared ownership lease or trust for sale or an assured tenancy agreement in a form containing terms which accord with the Guidance on Housing Management issued by the Housing Corporation pursuant to the Housing Act 1985 Section 36A or such other form of weekly tenancy agreement approved by the Local Planning Authority and to a person who satisfies the following conditions:

15.6.1 is an individual and

15.6.2 is considered by the Housing Association in accordance with its rules to be in need of the accommodation provided by the Social Housing Unit and

15.6.3 is not able easily to compete in the open market for housing accommodation in the district of Horsham and has a local connection within the meaning of Clause 15.7 and

15.6.4 before taking up occupation of the dwelling unit has never owned the freehold or a lease exceeding three years within the last 12 months and

15.6.5 intends to occupy and subsequently occupies the dwelling unit as his only or principal home and

15.6.6 was nominated by the Local Planning Authority and

15.6.7 is not a person to whom the Local Planning Authority would refrain from offering a tenancy

15.7 for the purposes of Clause 15.6 local connection means in relation to an individual that

15.7.1 such individual

15.7.1.1 immediately before taking up occupation of a social housing dwelling unit had his only or principal home in the parishes of Southwater Broadbridge Heath North Horsham or Town of Horsham for a continuous period of not less than three years or

15.7.1.2 he or a member of his household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less that three years in the parishes of Southwater Broadbridge Heath North Horsham or Town of Horsham and he wishes to be near that relative or

15.7.1.3 he is and has been permanently employed in the parishes of Southwater Broadbridge Heath North Horsham or Town of Horsham for a continuous period of not less than three years

15.7.2 where no person or insufficient persons have a connection with the parishes or areas described in Clause 15.7.1 then the district of Horsham shall be substituted for the parishes or area mentioned in Clause 15.7.1

15.8 that the following nomination procedure shall apply to the nomination of persons in accordance with Clause 15.6.5:-

15.8.1 the Local Planning Authority shall make

15.8.1.1 its initial nomination not later than six weeks before practical completion of the Dwelling Unit and

15.8.1.2 in respect of the subsequent lettings its nomination not later than seven days after receipt by the Local Planning Authority written notice of a void

and to enable the Local Planning Authority to comply with Clause 15.8.1.1 the Housing Association shall give to the Local Planning Authority not less than 12 weeks' notice of the anticipated date of practical completion

15.8.2 the Housing Association shall have the right to interview and to make enquiry concerning and ultimately to reject the person nominated in accordance with the Housing Association's normal persons selection criteria

15.8.3 any person nominated by the Local Planning Authority and accepted by the Housing Association shall be required to enter a form of tenancy agreement which complies with Clause 15.6.

15.8.4 the Housing Association shall have the final right to approve a person nominated by the Local Planning Authority in the event of approval being withheld the Housing Association shall immediately inform the Local Planning Authority of the decision and of the reason and shall invite a further nomination such further nomination to be made within seven days of receipt of such invitation

15.9 to take all reasonable and prudent steps to avert the repossession of the Social Housing Land or any Social Housing Unit by any chargee or mortgagee or the exercise by any chargee or mortgagee of a power of sale and for these purposes in the event of default under a security or likely default to co-operate

fully with the Local Planning Authority and the Housing Corporation to arrange a transfer of the Social Housing Land with sitting tenants to another housing association registered under the Housing Associations Act 1985 and in particular shall inform the Local Planning Authority immediately in the event of the Third Owner receiving notification from such chargee or mortgagee of any breach or alleged breach by the Third Owner of any of its obligations under its security

15.10 that in the event of a default under any security referred to in Clause 15.9 or in other circumstances warranting the intervention of the Housing Corporation Clause 15.6 shall not prevent the transfer of the freehold of the Social Housing Land or any part to another housing association registered under the Housing Associations Act 1985

15.11 that in the event of a default under any security referred to in Clause 15.9 Clause 15.6 shall not prevent the sale of freehold of the Social Housing Land or of any dwelling by the chargee or mortgagee in the exercise of its power of sale provided that the chargee or mortgagee shall have first followed the procedure set out in Clause 15.12

15.12 that the procedure referred to in Clause 15.11 shall be as follows:

15.12.1 the chargee or mortgagee shall give not less than three months' prior notice to the Local Planning Authority of its intention to exercise its power of sale to enable the Local Planning Authority to secure the transfer of the Social Housing Land to another housing association

15.12.2 in the event that the Local Planning Authority responds to the notice given pursuant to Clause 15.12.1 indicating that arrangements for the transfer of the Social Housing Land can be made in such a way as to safeguard the social housing character of the Social Housing Land and of any Social Housing Units then the chargee or mortgagee shall co-operate in any such transfer and use its best endeavours to secure such transfer

15.13 that for the avoidance of doubt

15.13.1 the chargee or mortgagee shall not exercise its power of sale unless and until it shall have followed the procedure set out in this Clause 15

15.13.2 if the Local Planning Authority does not serve its response to the notice served under Clause 15.12.1 within the three months then the chargee or mortgagee shall be entitled to exercise its power of sale free of the restrictions set out in Clauses 15.6 to 15.8 inclusive

15.13.3 if the chargee or mortgagee does not wish to exercise its power of sale at any time after the giving of notice under Clause 15.12.1 or the Local Planning Authority does not wish to continue with the exercise of its powers under Clause 15.3.2 after the giving of its response under Clause 15.12.2 that

party shall give to the other not less than seven days' written notice of its intention to discontinue

15.14 in the event that the transfer referred to in Clause 15.4 shall not have been completed as required by that Clause the Local Planning Authority shall be entitled by written notice:

15.14.1 to nominate a housing association or other appropriate body for the purposes of Clause 15.4 or

15.14.2 to call for the transfer of the Social Housing Land to the Local Planning Authority

15.15 in the event that the Local Planning Authority gives notice for the purposes of Clause 15.14.1 to complete the transfer to the nominated housing association or other body within two months of the date of the notice and Clauses 15.5 to 15.13 inclusive shall apply

15.16 in the event that the Local Planning Authority gives notice for the purposes of Clause 15.14.2 to complete the transfer to the Local Planning Authority within two months of the date of the notice free from encumbrances at the price calculated in accordance with Clause 15.5

16. **Housing mix on the Blue Land**

The Third Owner agrees with the Local Planning Authority that in the event of the Third Application's being granted and implemented nine and in the event of the Fourth Application's being granted and implemented ten of the dwellings (other than those referred to in Clause 15) shall have not more than two bedrooms

17. **Miscellaneous provisions concerning development of the Pink Land**

17.1 The Local Planning Authority agrees with the First Owner and the Second Owner that in the event of the Pink Land's being residentially developed at least 12 units shall have not more than two bedrooms

17.2 The First Owner and the Second Owner agree with the Local Planning Authority within 21 days of the date of this Agreement in order to give full effect to Clause 8 of the Land Agreement and for purposes connected with the development of the Pink Land and the Yellow Land to complete the transfer to the Local Planning Authority of that part of the Yellow Land hatched black in the form 'D' attached

18. **Advertisement control**

18.1 The First Owner the Second Owner the Third Owner agree with the Local Planning Authority further to Clause 12 of the First Planning Agreement

18.1.1 except to the extent permitted by the Town and Country Planning (Control of Advertisements) Regulations 1992 not to display or allow

to be displayed any advertisement on or in connection with the Blue Land and the Yellow Land

18.1.2 Within one month of the date of this Agreement to submit to the Local Planning Authority a comprehensive advertising scheme in connection with the development of the Blue Land and the Yellow Land (and should the Local Planning Authority so require the Pink Land) and to the extent that the scheme approved by the Local Planning Authority is implemented in accordance with its requirements and timetable the restrictions in Clause 18.1.1 shall not apply

18.2 The Third Owner agrees with the First Owner and the Second Owner in order to give effect to Clause 18.1.2 to give full and free access and right to the First Owner and the Second Owner to erect and maintain for the duration of the Development in conjunction with the Third Owner advertisement boards on site at the junction of Worthing Road and the Blue Land in such position to be agreed between the parties and to access the same

19. **Withdrawal of Appeal**

The Third Owner agrees with the Local Planning Authority immediately on the date of this Agreement to withdraw its appeal against the deemed refusal by the Local Planning Authority to grant planning permission pursuant to application reference SQ/105/93 in respect of the Blue Land without any cost to the Local Planning Authority

20. **Withdrawal of Application**

The First Applicant agrees with the Local Planning Authority immediately upon the grant of the First and the Second Applications to withdraw the application (reference SQ/29/94) for approval of reserved matters pursuant to the Outline Planning Permission

21. **Costs**

The First Owner Second Owner and the Third Owner agree with the Local Planning Authority to pay in equal shares the reasonable legal costs not exceeding [redacted] which the Local Planning Authority incurs in preparing and entering into his Agreement and the Local Planning Authority shall provide a written receipt of such sum

22. **Mortgagee's Consent**

The First Mortgagee with respect to the First Owner and the Second Owner and the Yellow Land the Second Mortgagee with respect to the Fourth Owner and the Brown Land the Third Mortgagee with respect to the Second Owner and the Purple Land and the Fourth Mortgagee with respect to the First Owner and the Green Land consent to the mortgagors entering into this Agreement and acknowledge that this Agreement binds the land

23. **Agreements and declarations**

The parties agree:

23.1 nothing in this Agreement constitutes planning permission

23.2 nothing in this Agreement fetters or restricts the exercise by the Local Planning Authority of any of its powers

23.3 the obligations contained in Clauses 4 to 19 inclusive are planning obligations for the purpose of the Town and Country Planning Act 1990 Section 106

23.4 this Agreement constitutes a deed

23.5 this Agreement is enforceable by the Local Planning Authority

23.6 except so far as this Agreement specifically modifies the First Planning Agreement nothing in this Agreement affects the First Planning Agreement to the extent that the obligations and restrictions contained in that Agreement continue and are capable of enforcement

23.7 the obligation on the part of the Fourth Owner shall not bind the Fourth Owner personally (without prejudice to the Local Planning Authority's powers to enforce the obligations against successors in title of the Fourth Owner) in respect of any breaches that occur at any such time as and when the Fourth Owner shall not have any legal or equitable interest in the Brown Land

Sealed with the Corporate Seal of John)
Mowlem Homes Ltd. in the presence of)

[redacted]

~~Secretary~~/Authorised signatory

Sealed with
Persimmon
the presence

[redacted]

Director/Secretary

Sealed with the Corporate Seal of)
Higgs and Hill Homes Ltd. in the presence of)

[redacted]

Sealed with the Corporate Seal of Southwater)
Properties Ltd. in the presence of)

[redacted]

Director

Secretary

[redacted]

Sealed with the Common Seal of)
the Governor and Company of the Bank of)
Ireland in the presence of:)

[redacted]

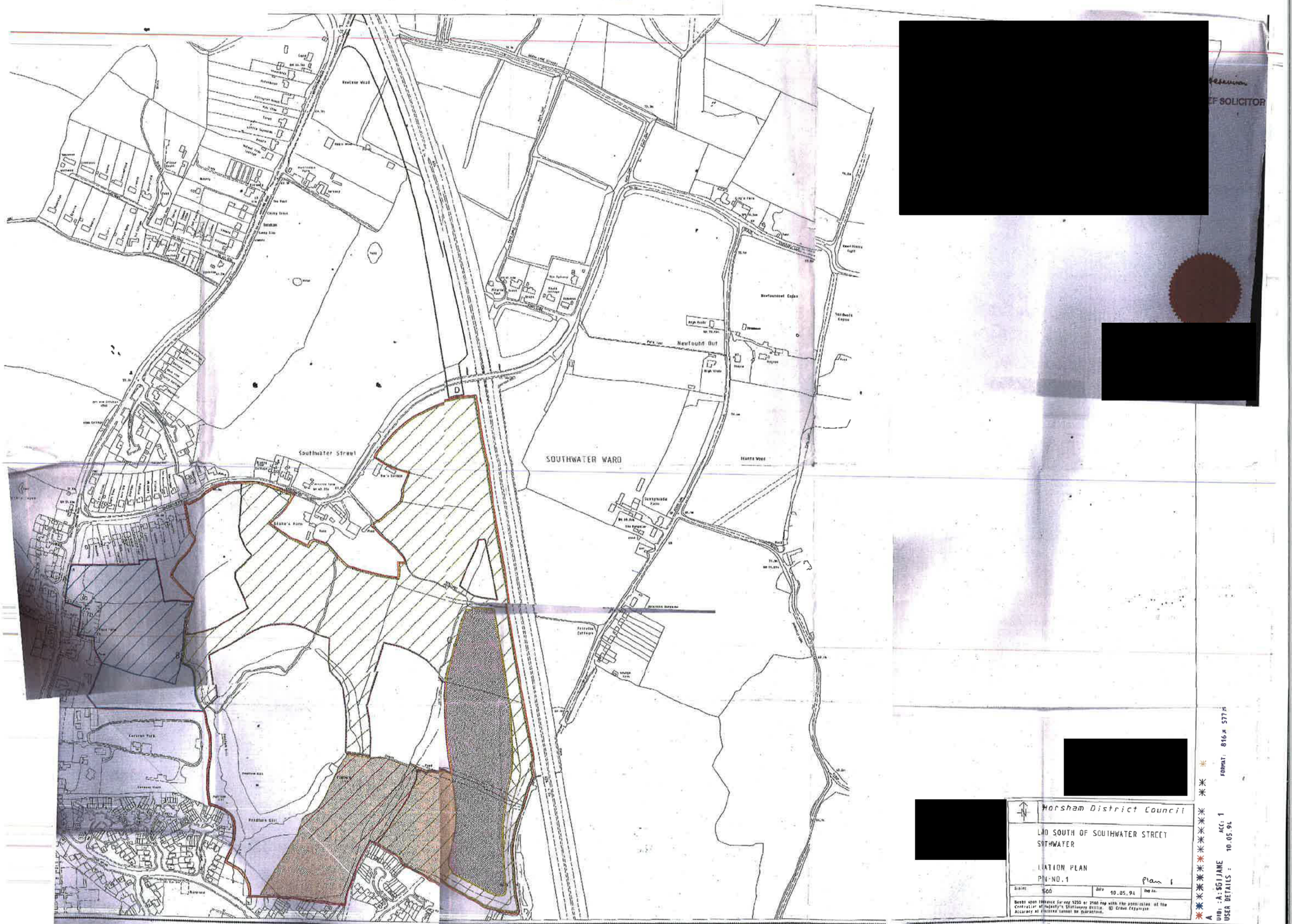
Authorised Sealing Officer

Sealed with the Common Seal of Horsham)
District Council in the presence of)

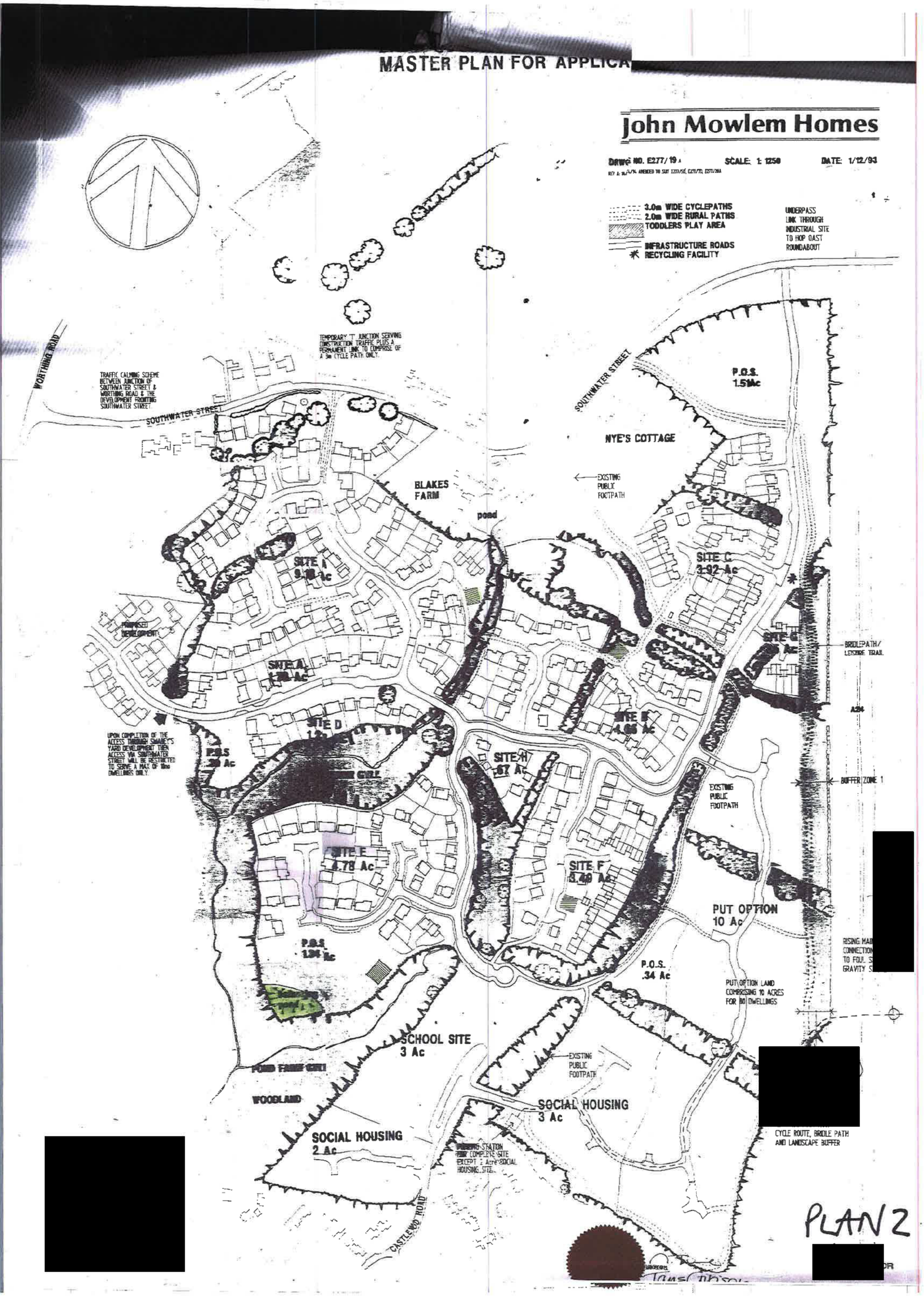
[redacted]

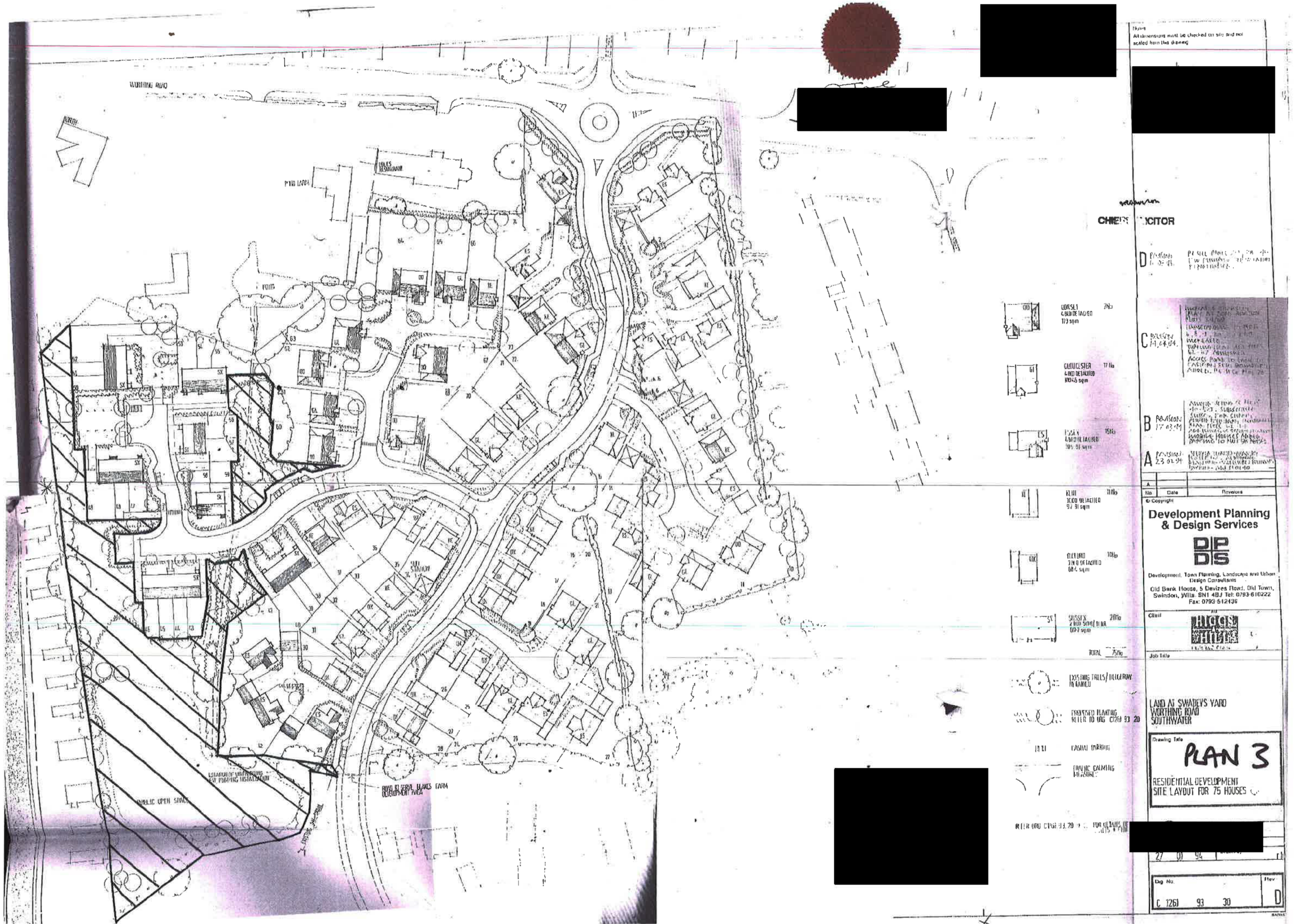
Director of Planning and Law/
Chief Solicitor

9153



Southwater Street
SOUTHWATER WARD
Newfound Out
Newfoundout Copse
Horsham District Council
LAND SOUTH OF SOUTHWATER STREET
SOUTHWATER
LOCATION PLAN
PLAN NO.1
Plan 1
Scale: 1:500
Date: 10.05.94
Reg. No.
Based upon Ordnance Survey 1250 or 2500 map with the permission of the Controller of Majesty's Stationery Office. © Crown Copyright. Accuracy of Ordnance cannot be guaranteed.
A
USER DETAILS : 10.05.94
FORMAT: 816 x 577 m


MASTER PLAN FOR APPLICA
John Mowlem Homes
DRWG NO. E277/19
SCALE: 1: 1250
DATE: 1/12/93
3.0m WIDE CYCLEPATHS
2.0m WIDE RURAL PATHS
TODDLERS PLAY AREA
INFRASTRUCTURE ROADS
RECYCLING FACILITY
UNDERPASS LINK THROUGH INDUSTRIAL SITE TO HOP OAST ROUNDABOUT
TEMPORARY 'T' JUNCTION SERVING CONSTRUCTION TRAFFIC PLUS A PERMANENT LINK TO COMPRISE OF A 3m CYCLE PATH ONLY.
WORTHING ROAD
TRAFFIC CALMING SCHEME BETWEEN JUNCTION OF SOUTHWATER STREET & WORTHING ROAD & THE DEVELOPMENT FRONTING SOUTHWATER STREET
SOUTHWATER STREET
SOUTHWATER STREET
P.O.S. 1.51Ac
NYE'S COTTAGE
EXISTING PUBLIC FOOTPATH
BLAKES FARM
pond
SITE A
SITE C 3.92 Ac
SITE G
BRIDLEPATH/ LEISURE TRAIL
A24
SITE D
SITE B
SITE H .67 Ac
UPON COMPLETION OF THE ACCESS THROUGH SWABEY'S YARD DEVELOPMENT THEN ACCESS VIA SOUTHWATER STREET WILL BE RESTRICTED TO SERVE A MAX OF 10no DWELLINGS ONLY.
P.O.S
BUFFER ZONE 1
EXISTING PUBLIC FOOTPATH
SITE E 4.78 Ac
SITE F 3.49 Ac
PUT OPTION 10 Ac
P.O.S. 1.34 Ac
P.O.S. .34 Ac
PUT OPTION LAND COMPRISING 10 ACRES FOR 80 DWELLINGS
SCHOOL SITE 3 Ac
EXISTING PUBLIC FOOTPATH
WOODLAND
SOCIAL HOUSING 3 Ac
SOCIAL HOUSING 2 Ac
CYCLE ROUTE, BRIDLE PATH AND LANDSCAPE BUFFER
CASTLEWOOD ROAD
PLAN 2



[redacted]

[redacted]

[redacted]

[redacted]

Notes
All dimensions must be checked on site and not scaled from this drawing

CHIEF ARCHITECT

D Revision 6.05.94

C Revision 14.04.94

B Revision 17.03.94

A Revision 23.02.94

No	Date	Revisions
A		

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Development Planning & Design Services

DPDS

Development, Town Planning, Landscape and Urban Design Consultants
Old Bank House, 5 Devizes Road, Old Town, Swindon, Wilts. SN1 4BJ Tel: 0793-610222
Fax: 0793-512436

Client

HIGGS HILLS

Job Title

LAND AT SWABEYS YARD
WORTHING ROAD
SOUTHWATER

Drawing Title

PLAN 3

RESIDENTIAL DEVELOPMENT
SITE LAYOUT FOR 75 HOUSES

[redacted]

27 01 94

Dwg No. C 1261 93 30

Rev D

FORM A DEED OF RELEASE

H M LAND REGISTRY

LAND REGISTRATION ACTS 1925 TO 1986

DEED OF RELEASE

County & District	:	West Sussex - Horsham
Title Number	:	WSX179224
Property	:	Land on west side of Reeds Lane
Southwater		

Date

1994

1. Definitions

In this Deed:

1.1 'the Council' means Horsham District Council of Park House North Street Horsham West Sussex RH12 1RL

1.2 'the Company' means Southwater Properties Limited whose registered office is at Second Floor Barclays Bank Building 1 Chapel Road Worthing West Sussex BN11 1SA

1.3 'John Mowlem' means John Mowlem Homes Limited whose registered office is at 33 London Road Reigate Surrey RH2 9HZ

1.4 'Persimmon' means Persimmon Homes (South East) Limited whose registered office is at Fulford House Fulford York YO1 4RE

2. In consideration of the release given by the Council to the Company in Clause 3 the Company John Mowlem and Persimmon release the Council from the restrictions except No 1 contained in entry number 2 of the Charges Register of the above Title

3. The Council hereby releases the Company from the timetable imposed by the paragraphs 1 and 2 of the fifth schedule to the transfer dated 4th June 1993 and referred to in the schedule of personal covenants to the above title and also releases John Mowlem and Persimmon from such covenants as may appear as part of the title to their adjoining land

Sealed as a Deed with the
Corporate Seal of the
Company in the presence of

Director

Sealed as a Deed with the
Common Seal of the John Mowlem
Homes Limited in the presence of

Director

Secretary

Sealed as a Deed with the
Common Seal of Persimmon Homes
Limited in the presence of

Director

Secretary

Secretary

Sealed as a Deed with the
Common Seal of the Council
in the presence of

Chief Solicitor/Director of Planning & Law

FORM B1 TRANSFER (SOCIAL HOUSING SITE A)
H M LAND REGISTRY
LAND REGISTRATION ACTS 1925-1986

COUNTY AND DISTRICT	:	WEST SUSSEX: HORSHAM
TITLE NO.	:	
PROPERTY	:	LAND AT SOUTHWATER
DATE	:	

1. In this transfer

1.1 'the Conducting Media' means all sewers channels drains pipes wires cables and other conducting media or apparatus for the supply or disposal of the Services

1.2 'the Council' means Horsham District Council of Park House North Street Horsham West Sussex RH12 1RL

1.3 'the Design Brief' shall have the meaning ascribed to that term in the Planning Agreement

1.4 'the Land Agreement' means an Agreement dated 22nd December 1992 between (1) Southwater Properties Limited Ghyll Properties Limited Neil Douglas Phillips Beatrice Joan Primrose Phillips E B S Pensioneer Trustees Limited (2) the Council and (3) National Westminster Bank plc

1.5 'the Owner' means John Mowlem (Homes) Limited whose registered office is at 33 London Road Reigate Surrey RH2 9HZ

1.6 'the Perpetuity Period' means the period of 80 years from the date of this transfer

1.7 'the Plan' means the plan attached to this transfer

1.8 'the Planning Agreement' means an Agreement dated 22nd December 1992 and made between (1) Southwater Properties Limited (2) Horsham District Council and (3) National Westminster Bank plc

1.9 'Property' means the Social Housing Site A which is shown edged red on the Plan

1.10 'the Retained Land' means the land shown edged in blue on the Plan

1.11 'the Services' means water soil gas electricity telephone communication signals sewage drainage and surface water

2. Pursuant to the Local Government Act 1972 Section 120 to Clause 4.1.2 (ii) of the Land Agreement and to Clause 10 of the Planning Agreement and in consideration of one pound (£1.00) receipt of which is acknowledged the Owner as beneficial owner transfers to the Council the Property

3. The Property is transferred subject to and with the benefit of the matters contained or referred to

3.1 in a Conveyance dated 17th August 1977 made between Jarglade Limited (1) and Southwater Properties Limited (2) and

3.2 a deed of mutual easements dated 15th April 1994 and made between Persimmon Homes (South East) Limited and the Owner in so far as these affect the Property and are still subsisting and capable of being performed

4. The Property is transferred subject to the rights set out in the First Schedule and with the benefit of the rights set out in the Second Schedule

5. The Owner covenants with the Council:

5.1 to procure the cancellation of a caution registered on 20th December 1993 in respect of Caution Title WSX184476

5.2 immediately to procure the removal of the restrictions imposed by a transfer dated 15th April 1994 and made between (1) Southwater Properties Limited and (2) the Owner

6. The parties agree that nothing in this transfer affects the obligations of the Owner under the Land Agreement and the Planning Agreement to the extent that those obligations remain to be performed by the Owner at the date of this transfer

FIRST SCHEDULE
RIGHTS RESERVED

The following rights are excepted and reserved for the Owner and their successors in title to the Retained Land and each and every part of the same over the Property:

1. The full and free right to connect tie into and use for the passage of Services the Conducting Media now laid or during the Perpetuity Period to be laid through over upon or under the Property

2. The full and free right to lay construct and use Conducting Media together with the free and uninterrupted passage of services through such Conducting Media now laid or within the Perpetuity Period to be laid in through over upon or under the Property and to gain access with or without workmen plant or equipment to maintain inspect cleanse replace and renew such Conducting Media such rights

2.1 shall only be exercisable insofar as the exercise shall be necessary to serve the Retained Land and shall not extend to any residential buildings on the Property

2.2 shall be subject to the Owner's obtaining the necessary consents from the appropriate authorities or undertakers and subject to obtaining the Council's prior written approval to the location and capacity of any such connections services or Conducting Media

2.3 subject to the person's exercising these rights giving except in the case of emergency as much notice as possible and in any event at least seven days'

written notice of intention to enter causing as little inconvenience as possible and making good any damage caused to the satisfaction of the Council

3. The right to enter the Property to carry out work under or in relation to the Planning Agreement or to comply with any statutory requirements subject to the restrictions set out in paragraph 2 to this Schedule

SECOND SCHEDULE

RIGHTS AND EASEMENTS GRANTED

The following rights and easements are granted to the Council and its successors in title to the Property and each and every part

1. The full and free right to connect tie into and use for the passage of Services the Conducting Media now or during the Perpetuity Period to be located in through over upon or under the Retained Land

2. The full and free right to lay construct and use Conducting Media together with the free and uninterrupted passage of Services through such Conducting Media now laid or to be laid within the Perpetuity Period in through over upon or under the Retained Land such rights

   2.1 shall only be exercisable insofar as the exercise shall be necessary to serve the development of the Property and shall not extend to any residential buildings on the Retained Land

   2.2 shall be subject to the Council's obtaining the necessary consents from the appropriate authorities or undertakers and subject to obtaining the Owner's prior written approval to the location of any such connections services and Conducting Media such approval not to be unreasonably withheld or delayed

   2.3 shall be subject to the persons exercising those rights causing as little inconvenience as possible and making good any damage caused

3. A right of way over and along the estate roads and footpaths to be constructed on the Retained Land within the Perpetuity Period until such time as the same become maintainable at public expense highways and subject to the person's exercising such right paying a fair proportion of any expenses of maintenance and repair and damage caused and subject to not causing any interference or obstruction of the estate roads of footpaths or causing or permitting the deposit of mud or other debris

Sealed with the COMMON SEAL of)
)
in the presence of:)

Director

Director

Sealed with the COMMON SEAL of)
HORSHAM DISTRICT COUNCIL in)
the presence of:)

Chief Executive/Director of Planning and Law

FORM B2 TRANSFER (PRIMARY SCHOOL SITE AND SOCIAL HOUSING SITE B)

H M LAND REGISTRY

LAND REGISTRATION ACTS 1925-1986

COUNTY AND DISTRICT	:	WEST SUSSEX: HORSHAM
TITLE NO.	:	
PROPERTY	:	LAND AT SOUTHWATER
DATE	:	

1. In this transfer

1.1 'the Conducting Media' means all sewers channels drains pipes wires cables and other conducting media or apparatus for the supply or disposal of the Services

1.2 'the Council' means Horsham District Council of Park House North Street Horsham West Sussex RH12 1RL

1.3 'the Design Brief' shall have the meaning ascribed to that term in the Planning Agreement

1.4 'the Land Agreement' means an Agreement dated 22nd December 1992 between (1) Southwater Properties Limited Ghyll Properties Limited Neil Douglas Phillips Beatrice Joan Primrose Phillips E B S Pensioneer Trustees Limited (2) the Council and (3) National Westminster Bank plc

1.5 'the Owner' means Persimmon Homes (South East) Limited whose registered office is at Fulford House Fulford York YO1 4RE

1.6 'the Perpetuity Period' means the period of 80 years from the date of this transfer

1.7 'the Plan' means the plan attached to this transfer

1.8 'the Planning Agreement' means an Agreement dated 22nd December 1992 and made between (1) Southwater Properties Limited (2) Horsham District Council and (3) National Westminster Bank plc

1.9 'Property' means the Primary School Site and the Social Housing Site B which together are shown edged red on the Plan

1.10 'the Retained Land' means the land shown edged in blue on the Plan

1.11 'the Services' means water soil gas electricity telephone communication signals sewage drainage and surface water

2. Pursuant to the Local Government Act 1972 Section 120 to Clause 4.1.2 (ii) of the Land Agreement and to Clause 10 of the Planning Agreement and in consideration of one pound (£1.00) receipt of which is acknowledged the Owner as beneficial owner transfers to the Council the Property free from encumbrances except to the extent set out in this transfer

3. The Property is transferred subject to and with the benefit of the matters contained or referred to in a

3.1 Conveyance dated 17th August 1977 made between Jarglade Limited (1) and Southwater Properties Limited (2) and

3.2 a deed of mutual easements dated 15th April 1994 and made between the Owner and John Mowlem Homes Limited in so far as these affect the Property and are still subsisting and capable of being performed

4. The Property is transferred subject to the rights set out in the First Schedule and with the benefits of the rights set out in the Second Schedule

5. The Council covenants with the Owner that the Council and its successors in title will observe and perform the covenants and conditions set out in the Third Schedule and will indemnify and keep indemnified the Owner against all actions proceedings costs claims and expenses which may be suffered or incurred by the Owner in the future breach or non-observance

6. The Owner covenants with the Council:

6.1 to procure the cancellation of a caution registered on 20th December 1993 in respect of Caution title WSX 184476

6.2 immediately to procure the removal of the restriction imposed by a transfer dated 15th April 1994 and made between (1) Southwater Properties Ltd. and (2) the Owner

7. The parties agree that nothing in this transfer affects the obligations of the Owner under the Land Agreement and the Planning Agreement to the extent that those obligations remain to be performed by the Owner at the date of this transfer

FIRST SCHEDULE
RIGHTS RESERVED

The following rights are excepted and reserved for the Owner and their successors in title to the Retained Land and each and every part of the same over the Property:

1. The full and free right to connect tie into and use for the passage of Services the Conducting Media now laid or during the Perpetuity Period to be laid through over upon or under the Property

2. The full and free right to lay construct and use Conducting Media together with the free and uninterrupted passage of services through such Conducting Media now laid or within the Perpetuity Period to be laid in through over upon or under the Property and to gain access with or without workmen plant or equipment to maintain inspect cleanse replace and renew such Conducting Media such rights

2.1 shall only be exercisable insofar as the exercise shall be necessary to serve the Retained Land and shall not extend to any School Building on the Property or any residential building on the Property

2.2 shall be subject to the Owner's obtaining the necessary consents from the appropriate authorities or undertakers and subject to obtaining the Council's prior written approval to the location and capacity of any such connections services or Conducting Media

2.3 subject to the person's exercising these rights giving except in the case of emergency as much notice as possible and in any event at least seven days' written notice of intention to enter causing as little inconvenience as possible and making good any damage caused to the satisfaction of the Council

3. The right to enter the Property to carry out work under or in relation to the Planning Agreement or to comply with any statutory requirements subject to the restrictions set out in paragraph 2 to this Schedule

SECOND SCHEDULE

RIGHTS AND EASEMENTS GRANTED

The following rights and easements are granted to the Council and its successors in title to the Property and each and every part

1. The full and free right to connect tie into and use for the passage of Services the Conducting Media now or during the Perpetuity Period to be located in through over upon or under the Retained Land
2. The full and free right to lay construct and use Conducting Media together with the free and uninterrupted passage of Services through such Conducting Media now laid or to be laid within the Perpetuity Period in through over upon or under the Retained Land such rights

   2.1 shall only be exercisable insofar as the exercise shall be necessary to serve the development of the Property and shall not extend to any residential building on the Retained Land

   2.2 shall be subject to the Council's obtaining the necessary consents from the appropriate authorities or undertakers and subject to obtaining the Owner's prior written approval to the location of any such connections services and Conducting Media such approval not to be unreasonably withheld or delayed

   2.3 shall be subject to the persons exercising those rights causing as little inconvenience as possible and making good any damage caused
3. A right of way over and along the estate roads and footpaths to be constructed on the Retained Land within the Perpetuity Period until such time as the same become maintainable at public expense highways and subject to the person's exercising such right paying a fair proportion of any expenses of maintenance and repair and damage caused and subject to not causing any interference or obstruction of the estate roads of footpaths or causing or permitting the deposit of mud or other debris

THIRD SCHEDULE

COVENANTS BY THE COUNCIL

1. Not to use the Primary School Site being that part of the Property having an area of 1.2 hectares for any use other than as a site for a primary school and associated playing fields
2. Pending the construction of the Primary School to keep the Property clear and tidy and fenced 1.8 metres high so as to prevent any unlawful occupation and any unauthorised deposit of rubbish debris or other materials

Sealed with the COMMON SEAL of)
)
in the presence of:)

Director

Director

Sealed with the COMMON SEAL of)
HORSHAM DISTRICT COUNCIL in)
the presence of:)

Chief Executive/Director of Planning and Law

FORM C TRANSFER (OPEN SPACE)
HM LAND REGISTRY
LAND REGISTRATION ACTS 1925 TO 1986

County and district	:	West Sussex, Horsham
Title Number	:	
Property	:	
DATE		199

1 In this transfer:

1.1 `the Vendor' means
of

1.2 `the Council' means HORSHAM DISTRICT COUNCIL of Park House

North Street Horsham West Sussex RH12 1RL

1.3 `the Vendor's Land' means the land comprised in the above title

1.4 `the Property' means the part of the Vendor's Land edged red on the attached plan known as

1.5 `the Retained Land' means the remainder of the Vendor's Land coloured pink and brown on the attached plan known as

2. Pursuant to the Town and Country Planning Act 1990 Section 227 and in consideration of one pound (£1) receipt of which is acknowledged the Vendor as beneficial owner transfers the Property free from encumbrances to the Council

3. The Vendor grants to the Council its employees agents and contractors the right at all times with or without vehicles to pass and repass over that part of the Retained Land coloured brown and on and over all estate roads now or to be built within the period of 80 years from the date of this transfer until such roads shall have been adopted by the local highway authority as highways maintainable at public expense for all purposes connected with the Property

4. The Council covenants with the Vendor for the benefit of the whole and every part of the Retained Land not to use the Property for any purpose other than as open space as defined in the Town and Country Planning Act 1990 Section 336

5. The Council shall not be bound by and shall not be required to comply with the covenants referred to in the entries in the charges register of the title to the Property

6. The Vendor covenants with the Council:

6.1 to procure the cancellation of a caution registered on 20th December 1993 in respect of Caution title WSX 184476

6.2 immediately to procure the removal of the restriction imposed by a transfer dated 15th April 1994 and made between (1) Southwater Properties Limited and (2) the Vendor

7. IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds [redacted]

Sealed with the Corporate
Seal of

in the presence of:

Director

Secretary

Sealed with the Common Seal
of HORSHAM DISTRICT
COUNCIL in the presence
of:

Chief Solicitor/Director of Planning and Law

FORM D TRANSFER
H M LAND REGISTRY
LAND REGISTRATION ACTS 1925-1986

COUNTY AND DISTRICT	:	WEST SUSSEX: HORSHAM
TITLE NO.	:	WSX and WSX 179924
PROPERTY	:	LAND AT SOUTHWATER
DATE	:	

1. In this transfer

1.1 'the Conducting Media' means all sewers channels drains pipes wires cables and other conducting media or apparatus for the supply or disposal of the Services

1.2 'the Council' means Horsham District Council of Park House North Street Horsham West Sussex RH12 1RL

1.3 'the Council's Land' means the land coloured pink on the Plan and comprised within Title No. WSX 179924

1.4 'the Design Brief' shall have the meaning ascribed to that term in the Planning Agreement

1.5 'the Perpetuity Period' means the period of 80 years from the date of this transfer

1.6 'the Plan' means the plan attached to this transfer

1.7 'the First Planning Agreement' means an Agreement dated 22nd December 1992 and made between (1) Southwater Properties Limited (2) Horsham District Council and (3) National Westminster Bank plc

1.8 'the Second Planning Agreement' means an Agreement of even date and made between (1) John Mowlem Homes Limited (2) Persimmon Homes Limited (3) Higgs and Hill Homes Limited (4) Southwater Properties Limited (5) John Mowlem Homes Limited and Persimmon Homes (South East) Limited (6) Higgs and Hill Homes Limited (7) Southwater Properties Limited (8) Bank of Ireland (9) John Mowlem Homes Limited (10) Persimmon Homes (South East) Limited (11) Horsham District Council

1.9 'Property' means the land which is shown edged red on the Plan

1.10 'the Services' means water soil gas electricity telephone communication signals sewage drainage and surface water

1.11 'the Transferor' means

1.12 'the Transferor's Retained Land' means the land shown edged in blue on the Plan and comprised within Title No. WSX

2. Pursuant to the Local Government Act 1972 Sections 120 and 123 and to Clause 17 of the Second Planning Agreement and in consideration of the rights

granted and release given in this transfer the Transferor as beneficial owner transfers to the Council the Property

3. The Property is transferred subject to and with the benefit of the matters contained or referred to in a

   3.1 Conveyance dated 17th August 1977 made between Jarglade Limited (1) and Southwater Properties Limited (2) and

   3.2 a deed of mutual easements dated 15th April 1994 and made between Persimmon Homes (South East) Ltd and John Mowlem Homes Ltd in so far as these affect the Property and are still subsisting and capable of being performed

4. The Property is transferred subject to the rights set out in the First Schedule and with the benefit of the rights set out in the Second Schedule

5. The Council grants the rights and easements set out in the Third Schedule to burden the Council's Land and to benefit the Transferor's Retained Land

6. The Council releases the Transferor from the covenant set out in the Fourth Schedule in consideration of the payment to the Council of [redacted] and the grant of a new right set out in the Fifth Schedule

7. The Transferor covenants with the Council:

   7.1 to procure the cancellation of a caution registered on 20th December 1993 in respect of Caution title WSX 184476

   7.2 immediately to procure the removal of the restriction imposed by a transfer dated 15th April 1994 and made between (1) Southwater Properties Limited and (2) the Transferor

8. IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds £60,000

FIRST SCHEDULE

RIGHTS RESERVED BY TRANSFEROR

The following rights are excepted and reserved for the Transferor and its successors in title to the Transferor's Retained Land and each and every part of the same over the Property:

1. The full and free right to connect tie into and use for the passage of Services the Conducting Media now during the Perpetuity Period to be located through over upon or under the Property

2. The full and free right to lay construct and use Conducting Media together with the free and uninterrupted passage of services through such Conducting Media now laid or within the Perpetuity Period to be laid in through over upon or under the Property and to gain access with or without workmen plant or

equipment to maintain inspect cleanse replace and renew such Conducting Media such rights

2.1 shall only be exercisable insofar as the exercise shall be necessary to serve the Retained Land and shall not extend to any building on the Property

2.2 shall be subject to the Transferor's obtaining the necessary consents from the appropriate authorities or undertakers and subject to obtaining the Council's prior written approval to the location of any such connections services or Conducting Media

2.3 subject to the person's exercising these rights giving except in the case of emergency as much notice as possible and in any event at least seven days' written notice of intention to enter causing as little inconvenience as possible and making good any damage caused to the satisfaction of the Council

3. The right to enter the Property to carry out work under or in relation to the First and Second Planning Agreements or to comply with any statutory requirements subject to the restrictions set out in paragraph 2 of this Schedule

SECOND SCHEDULE

RIGHTS AND EASEMENTS GRANTED WITH THE PROPERTY BY TRANSFEROR

The following rights and easements are granted to the Council and its successors in title to the Property and each and every part

1. The full and free right to connect tie into and use for the passage of Services the Conducting Media now or during the Perpetuity Period to be located in through over upon or under the Transferor's Retained Land

2. The full and free right to lay construct and use Conducting Media together with the free and uninterrupted passage of Services through such Conducting Media now laid or to be laid within the Perpetuity Period in through over upon or under the Transferor's Retained Land and to gain access with or without workmen plant or equipment to maintain inspect cleanse replace and renew such Conducting Media such rights

2.1 shall only be exercisable insofar as the exercise shall be necessary to serve the development of the Property

2.2 shall be subject to the Council's obtaining the necessary consents from the appropriate authorities or undertakers and subject to obtaining the Transferor's prior written approval to the location of any such connections services and Conducting Media such approval not to be unreasonably withheld or delayed

2.3 shall be subject to the person's exercising those rights causing as little inconvenience as possible and making good any damage caused

3. A right of way over and along the estate roads and footpaths to be constructed on the Transferor's Retained Land within the Perpetuity Period until such time as the same become highways maintainable at public expense and subject to the person's exercising such right paying a fair proportion of any expenses of maintenance and repair and damage caused and subject to not causing any interference or obstruction of the estate roads of footpaths or causing or permitting the deposit of mud or other debris

THIRD SCHEDULE

RIGHTS AND EASEMENTS GRANTED BY THE COUNCIL

The following rights and easements are granted to the Transferor and its successors in title to the Transferor's Retained Land and each and every part

1. The full and free right to connect tie into and use for the passage of Services the Conducting Media now during the Perpetuity Period to be located in through over upon or under the Council's land

2. The full and free right to lay construct and use Conducting Media together with the free and uninterrupted passage of Services through such Conducting Media now laid or to be laid within the Perpetuity Period in through over upon or under the Council's Land and to gain access with or without workmen plant or equipment to maintain inspect cleanse replace and renew such Conducting Media such rights

   2.1 shall only be exercisable insofar as the exercise shall be necessary to serve the development of the Transferor's Retained Land and shall not extend to any building

   2.2 shall be subject to the Transferor's obtaining the necessary consents from the appropriate authorities or undertakers and subject to the Council's prior written approval to the location of such connections services and Conducting Media

   2.3 shall be subject to the person's exercising those rights giving except in the case of emergency as much notice as possible and in any event seven days' written notice of intention to enter causing as little inconvenience as possible and making good any damage caused to the satisfaction of the Council

3. The right to enter the Council's Land to carry out work under or in relation to the First and Second Planning Agreements or to comply with any statutory requirements subject to the restrictions set out in paragraph 2 of this Schedule

FOURTH SCHEDULE

COVENANT RELEASED BY THE COUNCIL

The covenant contained in Clause 7 of and the Fifth Schedule to a transfer dated 4th June 1993 and made between (1) Southwater Properties Limited (2) the Council and appearing in the Schedule of personal covenanting in the title to the Council's Land

and given separately by the Transferor by a deed of covenant dated 15th April 1994 to the following extent to construct on the Transferor' Retained Land the Service Installations comprising a sewer or other medium for the disposal of surface water from the Council's Land

FIFTH SCHEDULE
ADDITIONAL RIGHT FOR THE COUNCIL'S LAND GRANTED BY TRANSFEROR

The following rights are granted to the Council and its successors in title to the Council's Land and each and every part

1. The right to enter upon the Transferor's Retained Land and to construct a surface water sewer to drain the Council's Land
2. The right to enter upon the Transferor's Retained Land on giving reasonable notice to the occupier of the land entered (save in the case of emergency) for the inspecting maintaining repairing and renewing the sewer referred to in 1 doing as little damage as possible to the land entered and making good without undue delay to the reasonable satisfaction of the Transferor and the occupier of the land entered any damage caused or occasioned by or during the exercise of such right

Sealed with the COMMON SEAL of)
)
in the presence of:)

Director

Director

Sealed with the COMMON SEAL of)
HORSHAM DISTRICT COUNCIL in)
the presence of:)

Chief Executive/Director of Planning and Law