

**Porter, Karen**

---

**From:** Simmonds, Angela  
**Sent:** 01 December 2017 11:53  
**To:** \_planningadvice  
**Subject:** FW: s.106 Malting Lane  
**Attachments:** s.106 Malting Lane completed agreement dated 29th Dec 17.pdf

Can you kindly scan the email and attached s.106 agreement to H04-0244-16

Thank you

Angela

---

**From:** Simmonds, Angela  
**Sent:** 01 December 2017 10:39  
**To:** Wilson, Catherine <[CWilson@sholland.gov.uk](mailto:CWilson@sholland.gov.uk)>  
**Subject:** s.106 Malting Lane

Dear Catherine

Hope you are well.

Please find attached the completed s.106 for Malting Lane for your kind attention.

Many thanks

Angela

DATED ~ 29<sup>th</sup> ~ November ~ 2017

1. SOUTH HOLLAND DISTRICT COUNCIL

AND

3. CEMEX UK OPERATIONS LIMITED

---

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

---

Relating to

land off Malting Lane, Donington, Spalding, Lincolnshire

SOUTH HOLLAND DISTRICT COUNCIL  
Council Offices  
Priory Road  
Spalding  
PE11 2XE

**SHDC Reference: AS / H04-0244-16**

Date ~ 29<sup>th</sup> ~ November ~ 2017

**BETWEEN**

- (1) **SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("the Council"); and
- (2) **CEMEX UK OPERATIONS LIMITED** (Company Registration No. 00658390) of Cemex House, Coldharbour Lane, Egham TW20 8TD ("the Owner")

**INTRODUCTION**

- (A) The Council is the local planning authority for the purposes of the Act for the area within which the Land is situated.
- (B) The Owner is the freehold owner of land registered under Title Number LL347792 free from incumbrances, which constitutes the Land.
- (C) The Owner applied to the Council for outline planning permission for the Land under reference H04-0244-16 for residential development up to 72 Dwellings.
- (D) The Council resolved on 1<sup>st</sup> March 2017 and 8<sup>th</sup> November 2017 at planning committee to grant Planning Permission for the Development in accordance with the Application subject to the Owner entering into this planning Agreement without which planning permission for this Development would be refused.
- (E) The Parties agree that the planning obligations contained in this Deed are necessary to comply with the requirements of regulation 122 of the community infrastructure levy regulations 2010 (as amended).

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. DEFINITIONS**

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

"Act"	means the Town and Country Planning Act 1990 as amended
"Affordable Dwellings"	means those Dwellings within the Development comprising Affordable Housing being a minimum of 25% of the total

	number of Dwellings to be provided as part of the Development
"Affordable Housing"	means affordable housing as described in Annex B of the National Planning Policy Framework dated March 2012, or any Planning Policy Statement, Guidance Notes or Circulars which may amend, supplement or supersede it
"Affordable Housing Provider"	means (a) a body whose function or aim is to provide and manage Affordable Housing (including Affordable Housing of the type and amount proposed within the Development) (b) a provider (pursuant to Part 2 of the Housing and Regeneration Act 2008) registered with the Homes and Communities Agency or (c) an alternative affordable housing provider (including but not limited to a housing trust or company, a community land trust or an almshouses society) which has been approved by the Council in writing (such approval not to be unreasonably withheld or delayed).
"Affordable Housing Scheme"	means a scheme to be submitted to and approved in writing by the Council consisting of Rented Housing and Intermediate Dwellings to meet local housing needs, based on 66.67% rent comprised of 4 x 1 beds, 4 x 2 beds and 4 x 3 beds and 33.33% intermediate comprised of 3 x 2 beds and 3 x 3 beds , the location and size of which to be agreed in writing with the Council such agreement not to be unreasonably withheld or delayed by the Council
"Affordable Rent Dwelling"	means an Affordable Dwelling rented to an Eligible Household by a local authority or an Affordable Housing Provider subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable) and



	where the rent and service charge must not exceed the local housing allowance for the relevant area which is reviewed annually and "Affordable Rent" shall be construed accordingly
"Application"	means the application for Planning Permission for the Development and allocated reference number H04-0244-16
"Chargee"	means any mortgage or chargee of the Affordable Housing Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;
"Commencement of Development"	means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out (other than for the purposes of this Deed and for no other purpose) operations consisting of access, site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse conditions the laying or diversion of services, the erection of hoardings or other temporary means of enclosure and the temporary display of site notices or advertisements and "Commence Development" and "Commence" shall be construed accordingly
"Commencement Notice"	means written notice to the Council of the intended date of Commencement of Development
"Development"	means the residential development of the Land , pursuant to the Planning Permission.

“District”	means the District of South Holland
“Dwelling”	means any unit of residential accommodation constructed pursuant to the Planning Permission.
“Education Authority”	is the county council acting as the Local Education Authority for the Council within which the Land is situated
“Education Contribution”	means a sum that shall be calculated per dwelling in line with the Education Formula as set out in Annex A to this deed which arises out of the need to provide primary school places the contribution of which shall be used towards the provision of an additional classroom at Donington Cowley Endowed Primary School.
“Eligible Household”	means a household whose housing needs are not met by the market at a cost low enough for them to afford. Determined with regard to local incomes and local house prices and who will be proposed as the owner and/or occupiers of an Affordable Dwelling in accordance with a Nomination Agreement
“Index”	means All in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or if such index no longer exists such other index as is agreed between the parties
“Indexation”	means indexed as set out in clause 10 of this Deed
“Interest”	means interest at the base rate of Barclays Bank PLC plus 4%
“Intermediate Dwellings”	means homes for sale or rent provided at a cost above social rent but below market levels to Eligible Households whose needs are not met by the market details of which to

	be agreed with the Council. These can include shared equity (shared ownership and equity loans) and Intermediate Rent Dwellings, but not Affordable Rent Dwellings.
“Intermediate Rent Dwelling”	means an Affordable Dwelling rented to an Eligible Household by a local authority or an Affordable Housing Provider subject to rent controls that require a rent of no more than 80% of the local market rent exclusive of any service charge and where the rent and service charge must not exceed the local housing allowance for the relevant area which is reviewed annually and “Intermediate Rent” shall be construed accordingly
“Land”	means the land as described in Schedule 1 against which this Deed may be enforced as shown edged red on the Plan
“Market Dwelling”	means a dwelling forming part of the Development which is general market housing for sale or rent on the open market and which is not Affordable Housing and “Market Dwellings” shall be construed accordingly
“Nomination Agreement”	means an agreement negotiated between the Council and the Affordable Housing Provider which guarantees the Affordable Rent Dwellings will be let on the council’s housing register.
“Occupation” and “Occupied”	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations

	and "Occupied" and "Occupy" shall be construed accordingly
"Planning Permission"	means the planning permission granted by the Council which is subject to this Deed and attached hereto at Schedule 2
"Practical Completion"	means the completion of a Dwelling to a standard which is wind and watertight and fit for its intended use in terms of heating, plumbing, electrics and sanitation and "Practically Complete" shall be construed accordingly and a completion certificate issued pursuant to the then current Building Regulations shall be conclusive that a Dwelling is practically complete.
"Protected Person"	<p>means a person who:</p> <ol style="list-style-type: none"> <li>1.1 has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Dwelling;</li> <li>1.2 has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Dwelling;</li> <li>1.3 has been granted a shared ownership lease by the Affordable Housing Provider (or similar arrangement where a share of the Affordable Dwelling is owned by the tenant and a share is owned by the Affordable Housing Provider or other body or organisation) in respect of a particular Affordable Dwelling and the tenant has subsequently purchased from the</li> </ol>



	Affordable Housing Provider all the remaining shares so that the tenant owns the entire freehold or leasehold of the Affordable Dwelling.
"Rented Housing"	means dwellings which are available to rent from a registered provider which will include either Affordable Rent Dwelling or Intermediate Rent Dwelling
"Working Days"	means any day other than a Saturday Sunday or public or bank holiday in England

**2. CONSTRUCTION OF THIS DEED**

- 2.1 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that act or deriving validity from it.
- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party to the Land or any part thereof and in the case of the Council, successors to its functions.

**3. LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 and Section 93 Local Government Act 2003 and s1 of the Localism Act 2001 and all other enabling powers with the intent that the covenants



and obligations shall run with the Land. The covenants, restrictions and obligations under this Deed are planning obligations pursuant to Section 106 of the Act and may be enforced by the Council.

#### **4. CONDITIONALITY**

4.1 The Deed is conditional upon

- (a) the grant of Planning Permission and;
- (b) the Commencement of Development

**SAVE FOR** the provisions of legal costs, local land charge and change of ownership clauses and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

#### **5. THE OWNER'S COVENANTS**

5.1 The Owner covenants with the Council as set out herein

#### **6. THE COUNCIL'S COVENANTS**

6.1 The Council covenants to comply with its obligations as set out herein.

#### **7. NOTICES AND RECORD KEEPING**

7.1 Any notices required to be served pursuant to this Deed shall be deemed to have been properly served if delivered by hand or sent by recorded or special delivery to the principal address or registered office (as appropriate) of the relevant party or other such other address as may be notified by one party to other from time to time.

7.2 The Owner shall serve the Commencement Notice upon the Council at least 20 Working Days prior to the Commencement of the Development.

#### **8. MISCELLANEOUS**

8.1 Nothing contained or implied in this Deed shall prejudice or effect the rights, discretions, powers and duties of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of the functions as a local authority.

8.2 On completion of this Deed, the Owner shall pay to the Council their reasonable legal costs that have been incurred in the negotiation and completion of this Deed

8.3 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

- 8.4 This Deed shall be registerable as a local land charge by the Council.
- 8.5 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed. Following the performance and satisfaction of all the obligations contained in this Deed the Council shall upon written request from the Owner cancel the relevant entry in the Register of Local Land Charges .
- 8.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 8.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) modified by any statutory procedure or expires prior to the Commencement of Development.
- 8.8 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have irrevocably parted with their entire interest in the Land or part of the Land but without prejudice to liability for any subsisting breach arising in relation to that part prior to parting with such interest.
- 8.9 This Deed shall not be enforceable against:
- 8.9.1 owners occupiers or tenants of Dwellings (other than Affordable Dwellings in respect of the obligations contained in paragraph 1 of Schedule 3) nor against those deriving title from them;
  - 8.9.2 any party solely as a result of such party possessing an interest in the Land relating to subsoil of land which has been adopted by the Council or any other relevant public body as maintainable at public expense;
  - 8.9.3 statutory undertakers acquiring an interest in the Land for the purposes of their undertaking;
- 8.10 Representatives of the Council may enter upon the Land at any reasonable time upon reasonable prior written notice to ascertain whether the terms of this Deed are being or have been complied with.
- 8.11 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

**9. WAIVER**

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

**10. INDEXATION**

10.1 The sums referred to in the Schedules shall be linked to the Index to the intent that the actual amounts to be paid shall be the amounts of the relevant payments as set out in Schedules Three to Five divided by the Index figure last published prior to 1 July 2015 multiplied by the Index figure last published before the due date for payment and "Indexation" shall be construed accordingly.

**11. INTEREST**

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

**12. VAT**

12.1 Any consideration given under this Deed shall be done in such a way that the VAT liability is borne by the Owner and not the Council.

**13. JURISDICTION**

13.1 This Deed is governed by and interpreted in accordance with the law of England

**14. CHANGE OF OWNERSHIP**

14.1 The Owner agrees with the Council to give the Council immediate written notice of any change in the ownership of any of its interest in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferees name and address together with details of the part of the Land disposed of

**15. DISPUTE RESOLUTION**

15.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed by agreement between the parties or in the absence of agreement as to the identity of the person by or on behalf of the president for the time

being of the professional body chiefly relevant in England with such matters as may be in dispute.

- 15.2 In the absence of agreement as to the appropriateness of the professional body then such question may be referred by any party to the president for the time being of the Royal Institution of Chartered Surveyors for him to determine the appropriate professional body.
- 15.3 Any person appointed pursuant to this clause shall act as an expert and his decision shall be final and binding on the parties in the absence of manifest error or fraud.
- 15.4 The expert's costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 15.5 Any expert shall be appointed subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than forty Working Days after appointment.
- 15.6 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten Working Days written submissions and supporting material and each party will be entitled to make a counter written submission on the other party's original submission within a further ten Working Days.

## **16. EXECUTION AND DELIVERY**

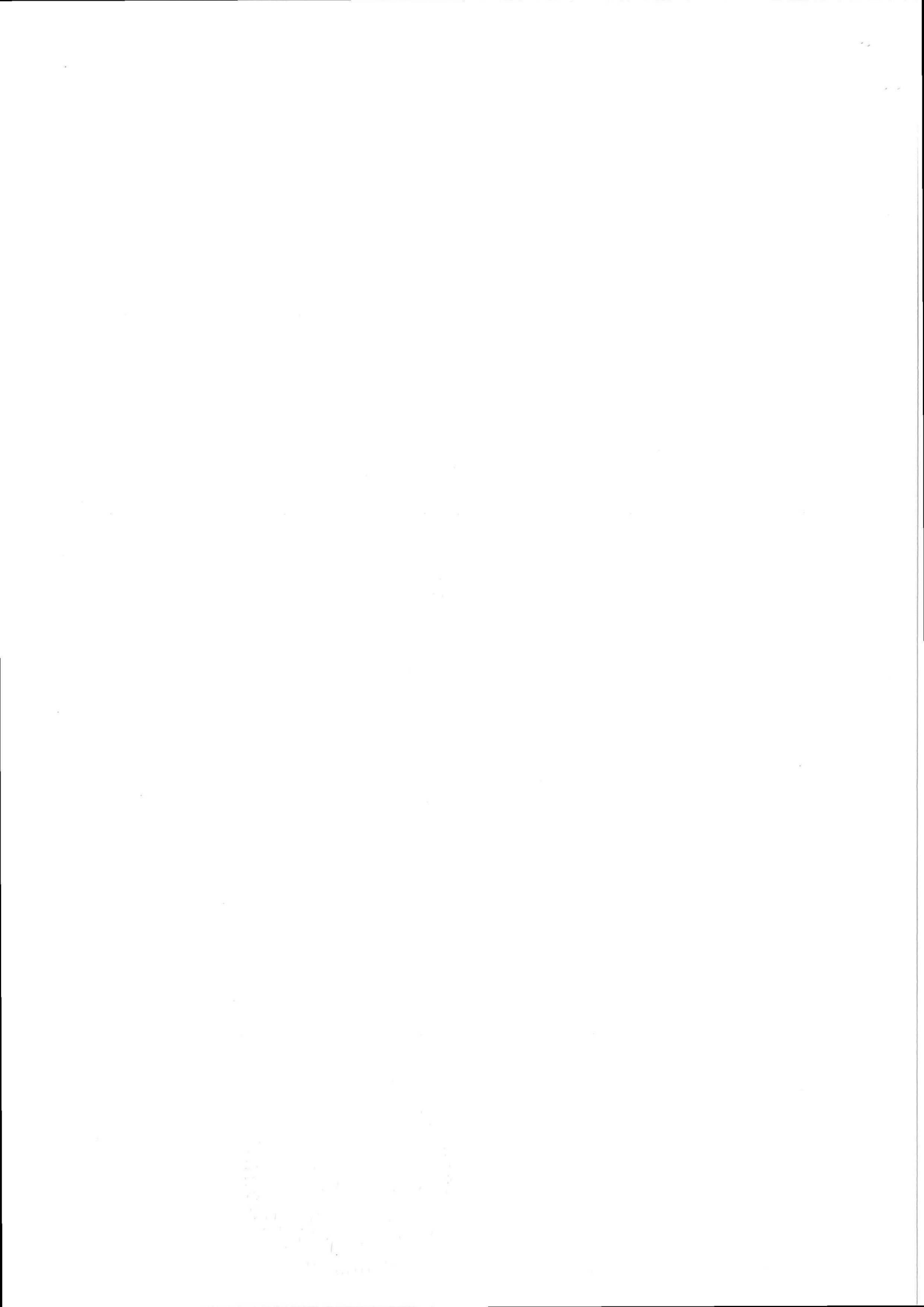
This Deed is executed as a deed by the parties and is delivered on the date first hereinbefore written

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









## **SCHEDULE 1**

### **DETAILS OF THE OWNER'S TITLE, AND DESCRIPTION OF THE LAND**

The Land shown, for identification purposes only, edged red on the Plan and known as land off Malting Lane, Donington, Lincolnshire falling within Title Number LL347792 which constitutes the Land.

**SCHEDULE 2**

**PLANNING PERMISSION**

Fisher German LLP  
St Helens Court  
North Street  
Ashby De La Zouch  
Leicestershire  
LE65 1HS

Council Offices  
Priory Road  
Spalding  
Lincolnshire  
PE11 2XE  
Admin 01775 764723  
DC Officers 01775 761161  
Facsimile 01775 762937  
planningadvice@sholland.gov.uk  
www.sholland.gov.uk

## TOWN AND COUNTRY PLANNING ACT 1990

### DRAFT

**Reference:** H04-0244-16 **Date of Decision:**

**Applicant:** Cemex UK Properties Ltd  
C/O Fisher German Llp  
St Helens Court  
North Street  
Ashby De La Zouch Leicestershire

**Location:** Land Off Malting Lane Donington

**Description:** Outline planning application for a residential development of approximately 73 dwellings (Class C3), all matters are reserved, except for access.

### South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

1 Application for approval of reserved matters must be made not later than three years beginning with the date of this permission, and the development must be begun before the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.  
Reason: As required by Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Amended Master Plan - Drwg No: 5752 LM\_ASP 2 Revision I and the Flood Risk Assessment (Prepared by Wallingford Hydrosolutions, submitted with the application).

Technical Note - Land off Malting Lane - Drainage Strategy for Revised Master Plan (prepared by Wallingford Hydrosolutions, submitted December 2016).

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The following matters are reserved for subsequent approval by the Local Planning Authority and no development to which these matters relate shall be carried out until these matters have been approved, viz:
- i) detailed drawings of the estate layout to a scale of not less than 1:500 and including road and plot layouts;
  - ii) detailed drawings to a scale of not less than 1:100 showing the siting, design and external appearance of each building, including a schedule of the materials to be used for external walls and roof;
  - iii) the means of foul and surface water disposal;
  - iv) details of landscaping and tree planting.
  - v) the existing and proposed site levels and floor levels of the buildings and hard surfaced areas.

Reason: The application was submitted in outline only and the above details are required to enable the Local Planning Authority to assess the detailed design, scale, appearance and layout of the development as well as ensure that appropriate access and services are provided to serve the development.

This Condition is imposed in accordance with Policies SG12, SG13, SG14 and SG18 of the South Holland Local Plan, 2006 and national guidance contained in Section 10 of the National Planning Policy Framework, 2012.

- 4 Before the commencement of the development hereby permitted beyond oversight a schedule of external materials of construction of buildings and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the materials so approved.

Reason: To ensure that the Local Planning Authority retains control over the external materials of construction of the development in the interests of the character and appearance of the development and the visual amenity of the area in which it is set.

This Condition is imposed in accordance with Policy SG14 of the South Holland Local Plan, 2006

- 5 Before each dwelling is occupied the roads and/or footways providing access to that dwelling, for the whole of its frontage, from an existing public highway, shall be constructed to a specification, to first be submitted to and approved by the Local Planning Authority, to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriageway and footway surface courses. The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.

Reason: To ensure safe access to the site and each dwelling/building in the interests of residential amenity, convenience and safety.

This Condition is imposed in accordance with Policies SG14 and SG15 of the South Holland Local Plan, 2006.

- 6 No dwellings shall be commenced before the first 50 metres of estate road from its junction with the public highway, including visibility splays, as shown on drawing number 5752 LM ASP 2 Revision I has been completed.



Reason: In the interests of safety of the users of the public highway and the safety of the users of the site and to enable calling vehicles to wait clear of the carriageway of Malting lane. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies SG14 and SG15 of the South Holland Local Plan, 2006.

- 7 Before any dwelling is commenced, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted and approved by the local planning authority.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies SG14 and SG15 of the South Holland Local Plan, 2006

- 8 Unless any parts of this condition are dispensed with in writing by the local planning authority, the development hereby permitted shall not be commenced until the following have been submitted to and approved in writing by the Local Planning Authority (LPA) and until the measures approved have been implemented:

i) a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing by the LPA.

ii) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.

Note

The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

The applicant's attention is also drawn to the document entitled "Developing Land Within Lincolnshire - A guide to submitting planning applications to develop land that may be contaminated", which can be obtained through the Local Environmental Health Department.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy SG13 of the South Holland Local

Plan, 2006.

- 9 No development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall:

- a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- b) Provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second per hectare;
- c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies SG11 and SG12 of the South Holland Local Plan, 2006 and national guidance contained in Section 10 of the National Planning Policy Framework, 2012.

- 10 The dwellings erected on plots hatched and identified specifically on plan 5752 PP \_ ASP3 Revision B dated Feb 2017 shall be single storey only and this shall be reflected in any subsequent application for approval of Reserved Matters.

Reason: In the interests of residential amenity.

This Condition is imposed in accordance with Policies SG14 and SG15 of the South Holland Local Plan, 2006.

- 11 Before development commences details of the design and positions of all external boxes for gas and electricity supplies and of any gas flues and soil vent pipes shall be submitted to and approved in writing by the Local Planning Authority and there shall be no variation from the details so approved.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the character and appearance of the development and the visual amenity of the area in which it is set.

This Condition is imposed in accordance with Policy SG14 of the South Holland Local Plan 2006.



- 12 A detailed scheme of Construction and Traffic Management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to and approved in writing by the Local Planning Authority before the development commences

The scheme shall include:

- parking for all vehicles associated with construction including employees cars;
- access for all construction traffic ;
- hours of working;
- measures to control dust, noise, vibration and smoke;
- measures to prevent mud and debris entering the public highways by construction traffic including wheel washing facilities.

Construction shall be carried out only in strict accordance with the approved details.

Reason: In the interests of the amenity of the area and to allow the Local planning Authority to retain control over the construction process.

This condition is imposed in accordance with policy SG17 of the South Holland Local Plan 2006.

- 13 Before the first occupation of the development hereby permitted the applicant shall submit to and have approved in writing by the Local Planning Authority details of the design and location of secure cycle storage for each dwelling on the site. No dwelling shall be occupied until the approved secure cycle storage has been provided and shall thereafter be retained.

Reason: To ensure that adequate secure facilities are provided for cyclists using the site, in order to encourage cycling as an alternative means of transport to the private car.

This Condition is imposed in accordance with Policy SG15 of The South Holland Local Plan 2006.

- 14 Before the commencement of the development hereby permitted, a noise and vibration report prepared by a suitably qualified consultant shall be submitted to and approved in writing by the Local Planning Authority. This report shall identify any measures or works necessary to ensure that there is no possible nuisance caused to the proposed residential properties from noise or vibration.

Those measures and works so approved by the Local Planning Authority shall be implemented in full before the development hereby granted is first brought into use.

Reason: To ensure that there is no noise nuisance to nearby residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy SG17 of the South Holland Local Plan, 2006.A

- 15 Details of the precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site during construction of the development shall be submitted to and approved in writing by the Local Planning Authority before the development

commences. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority. These precautions shall be made available before commencement of the construction of the development and be kept available and in full working order until such time as the Local Planning Authority agrees in writing to their withdrawal or the completion of the development.

Reason: In the interests of highway safety during the construction process. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies SG15 and SG17 of the South Holland Local Plan, 2006.

- 16 Before the commencement of the development hereby permitted, full details of the existing and proposed site levels and proposed floor levels of the buildings and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the details so approved.

Reason: To ensure that the Local Planning Authority retains control over the finished site and floor levels of the development, in the interests of the amenity of adjacent residents and its visual and architectural relationship with adjacent development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies SG14 and SG17 of the South Holland Local Plan, 2006.

- 17 No development shall commence until a scheme for the provision of infrastructure to ensure the availability of water supplies to the Fire Service in the event of an emergency, have been submitted to and approved in writing by the Local Planning Authority. The details as approved including timings shall be fully implemented before the development is first brought into use and shall be retained thereafter.

Reason: In the interests of fire safety

- 18 Before the commencement of the development hereby granted, details of the means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained and to avoid pollution.

This Condition is imposed in accordance with Policies SG12 and SG13 of the South Holland Local Plan 2006. .

- 19 Prior to any development commencing on site, details of the proposed boundary treatment, including a schedule of materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use.

Reason: In the interests of the character and appearance of the development and the

visual amenity of the area in which it is set.

This Condition is imposed in accordance with Policy SG14 of the South Holland Local Plan, 2006.

A handwritten signature in black ink, appearing to read 'Paul Jackson', with a stylized flourish at the end.

**Paul Jackson**  
**Place Manager**  
**South Holland District Council**

15th November 2017





### SCHEDULE 3

#### The Owner Covenants with the Council

1. **AFFORDABLE HOUSING**
- 1.1 Prior to Commencement of Development the Affordable Housing Scheme shall be submitted to the Council in writing for approval, such approval not to be unreasonably withheld or delayed.
- 1.2 Not to Occupy or permit the Occupation of more than 40% of the Market Dwellings until the construction of all Affordable Dwellings has been commenced in accordance with the Affordable Housing Scheme and written notification of that commencement has been received by the Council
- 1.3 Not to Occupy or permit the Occupation of more than 60% of the Market Dwellings until the construction of all Affordable Dwellings has been certified practically complete and has been transferred to the Affordable Housing Provider.
- 1.4 The transfer of Affordable Housing to the Affordable Housing Provider shall be in accordance with paragraph 1.5 below and the Affordable Housing Provider should be a provider (pursuant to Part 2 of the Housing and Regeneration Act 2008) registered with the Homes and Communities Agency on terms that accord with relevant funding requirements of the Homes and Communities Agency current at the date of construction of the Affordable Housing.
- 1.5 The transfer shall contain inter alia the following:
  - 1.5.1 a grant in favour of the Affordable Housing Provider of all rights of access passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Dwellings;
  - 1.5.2 reservation of all rights of access and passage of services and rights of entry and all usual covenants reasonably necessary or appropriate for the beneficial enjoyment of the retained parts of the Land;
  - 1.5.3 a covenant by the Affordable Housing Provider not to use the transferred Affordable Housing other than for the purposes of providing Affordable Housing in perpetuity but subject to the exemption clauses at paragraph 1.9 below.
- 1.6 All Affordable Housing must be constructed to meet or exceed the Design and Quality Standards in force at the time of Commencement of the Development or in

accordance with such other guidance as shall be issued by the Homes and Communities Agency or its successor and approved in writing by the Council however in the absence of such guidance or standards shall be constructed to a standard agreed in writing with the Council (such agreement not to be unreasonably withheld or delayed)

1.7 From the date of Practical Completion of the Affordable Dwellings they shall not be used other than for Affordable Housing save that this obligation shall not be binding on:

1.7.1 any Protected Person or any mortgagee of a Protected Person or any person deriving title from a Protected Person or any successor in title thereto and their respective mortgagees and chargees; or

1.7.2 any Chargee provided that the Chargee shall have first complied with the Chargee's Duty contained in paragraph 1.9 below and

1.7.3 any purchaser from a mortgagee of an individual Affordable Dwelling pursuant to any default by the individual mortgagor

1.8 The Chargee shall prior to seeking to dispose of the Affordable Dwellings pursuant to any default under the terms of its mortgage or charge give not less than three months prior notice to the Council of its intention to dispose and:

1.8.1 in the event that the Council responds within one month from receipt of the notice indicating that arrangements for the transfer of the Affordable Dwellings (on the basis the Chargee can recover or have the Affordable Housing Provider take responsibility for any outstanding debt) can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangement and use its best endeavours to secure such transfer

1.8.2 if the Council does not serve its response to the notice served under sub-paragraph 1.9.1 of this schedule within the one month then the Chargee shall be entitled to dispose of the Affordable Dwellings free of the restrictions set out in this schedule

1.8.3 if the Council or any other person cannot within two months of the date of service of its response under sub-paragraph 1.8.1 of this schedule secure such transfer then provided that the

Chargee shall have complied with its obligations under subparagraph 1.8.1 of this schedule the Chargee shall be entitled to dispose of the Affordable Dwellings free of the restrictions set out in this schedule PROVIDED ALWAYS that the chargee shall not be required to act contrary to the charge or in a way which means that the debt protected by the mortgage or charge shall not be repaid in full PROVIDED ALWAYS that the charge shall not be entitled protect a debt greater than the market value of the property valued as an Affordable Dwelling.

1.9 The Owner is as far as is reasonably practicable to re-invest any net capital receipts from the freehold disposal of any shared ownership affordable housing unit (except by way of a charge or mortgage or a disposal to a registered provider) in alternative Affordable Housing in the district of South Holland in liaison with the Council as housing authority PROVIDED THAT the repurchase of any staircased shared ownership affordable housing Unit or affordable rented housing unit sold under a statutory duty will comply with this provision.

1.10 All Affordable Dwellings shall be evenly integrated and indistinguishable from the Market Dwellings.

## **2. EDUCATION CONTRIBUTION**

The Owner covenants with the Council

2.1 Not to Occupy or permit the Occupation of more than 50% of the Dwellings unless and until the Education Contribution has been paid to the Council in full.



## **SCHEDULE 4**

### **COUNCIL'S COVENANTS**

The Council covenants with the Developer as follows

#### **1. AFFORDABLE HOUSING**

To co-operate with any Affordable Housing Provider and enter into expeditiously into any Nomination Agreement between the Affordable Housing Provider and the Council.

#### **2. EDUCATION CONTRIBUTION**

2.1 To notify the Education Authority within 10 Working Days of receipt of the Education Contribution that the Council is in receipt of the Education Contribution.

2.2 To pay the Education Contribution to the Education Authority upon receipt of a document from the Education Authority confirming that they will:

2.2.1 apply the Education Contribution towards the cost of providing an additional classroom at Donington Cowley Endowed Primary School, the need of which arises from the Development and for no other purposes whatsoever.

2.2.2 return any unspent part of the Education Contribution to the Council after the expiry of 5 years from the date of receipt of the Education Contribution.

2.3 to pay to the Owner any unspent monies received by them pursuant to 2.2.2 within 20 Working Days of receipt from the Education Authority.

#### **3. GENERAL**

3.1 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall as soon as practically possible effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

3.2 At the written request of the Owner the Council shall provide written confirmation of the full or partial discharge of the obligations given for the



benefit of the Council contained in this Deed when satisfied that such obligations have been performed.

The COMMON SEAL of SOUTH )  
HOLLAND DISTRICT COUNCIL )  
was hereunto affixed )  
in the presence of:- )



Executive Manager Governance/ Chief Executive/ Principal Solicitor

Signed by CEMEX UK OPERATIONS LIMITED )  
in the presence of: )

Name of Witness DAPHNE M MURRAY )

Signature of witness *D Murray* )

Address CEMEX House  
Occupation Coldharbour Lane  
Thorpe, Egham  
Surrey. TW20 8TD  
Asst. Co. Sec.

**Annex A**  
**Education Contribution Formula**

**Primary School Places**

Relevant PPR (Pupil Productivity Ratio)

***Please note the contributions will be calculated by working out the total number of each type of house proposed within the development ranging from 2 bedroom houses to 4+ bedroom houses which will then be multiplied by the PPR as set out below***

Number of homes in each category - 2 bedroom	0.09	<b>= Total number of primary places</b>
3 bedroom	0.17	
4+ bedroom	0.33	

Total number of Primary Places x **£12,257** (Primary Cost Multiplier\*) = £ Contribution

Contribution x **0.92** (Local Multiplier\*) = **Total Contribution to be paid for Primary places**

\* Multipliers are reviewed and the most current multiplier should be used at the time of payment of the contribution

\*\* the number of pupils is determined as a whole number so any pupil numbers are rounded down to the nearest whole number

