

DATED

17th November

2021

- (1) DSJ HOMES LIMITED
- (2) MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED
- (3) EAST SUFFOLK COUNCIL
- (4) SUFFOLK COUNTY COUNCIL

**Planning obligation under section 106 of the Town and Country
Planning Act 1990 relating to Land East And West Of The Square
Martlesham Heath, Martlesham, Suffolk**

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Ref: MCC.33.3106

THIS AGREEMENT is made the 17th day of November 2021

BETWEEN:-

- (1) **DSJ HOMES LIMITED** : incorporated and registered in England and Wales with company number 04955962 whose registered office is at 555-557 Cranbrook Road, Ilford, IG2 6HE
("the Owner")
- (2) **MCCARTHY & STONE RETIREMENT LIFESTYLES LIMITED** : incorporated and registered in England and Wales with company number 06622231 whose registered office is at 4th Floor, 100 Holdenhurst Road, Bournemouth, BH8 8AQ
("the Developer")
- (3) **EAST SUFFOLK COUNCIL** : of East Suffolk House, Riduna Park, Station Road, Melton IP12 1RT
("the Council")
- (4) **SUFFOLK COUNTY COUNCIL** : of Endeavour House, 8 Russell Road Ipswich Suffolk IP1 2BX
("the County Council")

BACKGROUND

- (1) The Council is the local planning authority for the purposes of Section 106 of the Act for the area within which the Land is located and the local planning authority by whom the planning obligations in this Agreement are enforceable.
- (2) The County Council is the local highway authority (save in respect of trunk roads and special roads) for the area within which the Land is situated and by whom the planning obligations in this Agreement are enforceable.
- (3) The Owner is the freehold owner with title absolute of the Land.
- (4) The Developer has entered into a conditional contract to purchase the Land from the Owner, dated 23 October 2019.
- (5) The Developer submitted the Application to the Council for permission to develop the Land in the manner and for the uses set out in the Application and in the plans specifications and particulars deposited with the Council and forming part of the Application.
- (6) The Council has resolved to grant the Planning Permission for the Development subject to prior completion of this Agreement.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

In this Agreement:

- 1.1 the following words and expressions shall have the following meanings unless otherwise stated:

- “Access Road”** : means the road shaded purple on the Public Spaces Plan
- “Act”** : means the Town and Country Planning Act 1990 (as amended)
- “Adoptable Areas”** : means the relevant cycleways, footways and highway as shown in yellow on the Adoptable Areas Plan or such other areas agreed between the Owner and the County Council during the negotiation of the Highway Works Agreement.
- “Adoptable Areas Plan”** : means the plan annexed to this Agreement at Annex 2.
- “Agreement”** : means this document, including the schedules
- “Application”** : the application for full planning permission validated by the Council on 9 July 2021 for the Development and allocated reference number DC/21/3305/FUL
- “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 pursuant to the Planning Permission granted in respect of the Planning Application other than (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, works to remove the existing substation, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” and “Commenced Development” shall be construed accordingly

- “Commuted Sum”** : means the sum of twenty two thousand pounds £22,000 towards the maintenance of the Public Car Park following the Public Car Park Transfer (including reasonable legal costs).
- “Completion Certificate Standard”** : means either:
1. a certificate has been issued by the County Council (in its capacity as Highway Authority) pursuant to the Highway Agreement to denote completion of the Highways Works to the satisfaction of the County Council; or
 2. if the Highway Works are completed by the County Council in its capacity as Owner then confirmation in writing by the County Council (in its capacity as Highway Authority) that the works have been completed and Highway rights have come into existence
- “Council Section 106 Monitoring Fee”** : means the sum of four hundred and eight pounds (£408 per obligation) towards the Council's costs of monitoring compliance with this Agreement.
- “Development”** : the construction of retirement apartments for the elderly, a new public car park, access, landscaping and ancillary development as set out in the Application and pursuant to the Planning Permission
- “Dwelling”** : any dwelling to be constructed pursuant to the Planning Permission (including a house flat or maisonette) and “Dwellings” shall be construed accordingly
- “Expert”** : means such expert as may from time to time be appointed for the purposes of resolving a relevant dispute in relation to this Agreement and/or the Development as follows:
- (a) if the dispute relates to any building within the Development or any similar matter, a chartered surveyor (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors;

- (b) if the dispute relates to financial matters or matters of accounting usually and properly within the knowledge of a chartered accountant, a chartered accountant (having not less than 10 years' relevant experience) agreed by the parties to the dispute but in default of agreement appointed at the request of either party by or on behalf of the President from time to time of the Royal Institute of Chartered Accountants in England and Wales; and
- (c) if the parties to the dispute fail to agree upon the nature of difference in question then it should be referred to a solicitor or barrister of at least 15 years' standing agreed by the parties but in default of agreement appointed at the request of either party by or on behalf of the President for the time being of the Law Society

"Habitat Mitigation Contribution"

: means the sum of £321.22 Index Linked per Dwelling payable to the Council towards the cost of mitigating the impact of additional visitors upon European Protected Sites as a result of the Development pursuant to the Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough Council, Babergh District, Mid Suffolk District and East Suffolk Council – Technical Report dated 23 May 2019

"Highway Works"

: means:

- (a) the provision of frontage cycle track linking USRN38680534 (Cycle Track: Eagle Way to Valiant Road) and USRN38606516 (Cycle track Eagle Way to Gloster Road); and
- (b) the provision of raised table footway/cycleway crossing where cycle and footpath routes cross Eagle Way to be delivered via Section 278 Agreement

and, where relevant, maintenance of roads footways and cycle ways for adoption

Highway Works Agreement

: means an agreement pursuant to Section 278 and Section 38 of the Highways Act 1980 to be entered into by the Owner with the County

- Council in respect of the carrying out of the Highway Works
- “Highway Works Specification”** : means the specifications and plans for the Highway Works to be submitted to and approved in writing by the County Council in respect of the Highway Works Agreement
- “Index”** : means for the purposes of any sum referred to in Schedule 1 the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation
- “Index Linked”** : means the increase in any sum referred to in Schedule 1 by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 18 of this Agreement
- “Interest”** : interest at 4 percent above the minimum lending rate of the Bank of England from time to time
- “Land”** : means part of the land lying to the east and west of The Square, Martlesham Heath, Martlesham, Suffolk registered at the Land Registry under title number SK397775 and shown for the purposes of identification edged red on the Plan
- “MHHL”** : means Martlesham Heath Householders Limited (Company number 01216678) whose registered office address is The Control Tower Deben Avenue, Martlesham Heath, Ipswich, Suffolk, IP5 3QR
- “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 and Occupy shall be construed accordingly
- “Parish Council”** : means Martlesham Parish Council of Parish Rooms Felixstowe Road, Woodbridge IP12 4PB
- “Plan”** : means the plan annexed to this Agreement at Annex 1

- “Planning Permission”** : means the full planning permission subject to conditions to be granted by the Council pursuant to the Application and any permission granted pursuant to s.73 of the Act subsequently granted
- “Public Car Park”** : means that area of Land shaded orange on the Public Spaces Plan being the former runway site to be designated as an area of accessible community parking for business needs that supports the vitality of the local centre and as public open space for community amenity when not in use as a car park
- “Public Car Park Transfer ”** : a transfer of the Public Car Park to include the provisions set out in Schedule 3 Paragraph 1.1.4
- “Public Open Space”** : means that area of the Land shaded green on the Public Spaces Plan to be designated as public open space
- “Public Open Space Transfer”** : a transfer of the Public Open Space into include the form attached to this Agreement at Annex provisions set out in Schedule 3 Paragraph 2.1.4
- “Public Spaces Management Plans”** : means the management plans setting out how the Public Open Space and Public Car Park will be laid out, managed and maintained to be agreed with the Council prior to Commencement of Development submitted pursuant to the relevant conditions attached to the Planning Permission
- “Public Spaces Plan”** : means the plan attached to this Agreement at Annex 3.
- “RPI Index”** : the “All Items” index figure of the Index of Retail Prices published by the Office for National Statistics from time to time or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be reasonably agreed between the County Council, the Developer and the Owner
- “RPI Indexed”** : the increase in any sum referred to in Schedule 2 of this Agreement as RPI Indexed by an amount equivalent to the increase in the RPI Index to be calculated in accordance with clause 19 of this Agreement

“Traffic Monitoring and Regulation Contribution” : means the sum of fifteen thousand pounds (£15,000) RPI Indexed to be paid to the County Council as security for the monitoring of local parking issues and progress if necessary any necessary TRO to prevent adjacent on-street parking (including on Eagle Way) to address any harm from any localised on-street parking that might arise as a result of the Development

“Working Day” : means any day from Monday to Friday (inclusive) that is not Christmas Day, Good Friday or a statutory Bank Holiday

2. CONSTRUCTION OF THIS AGREEMENT

- 2.1 Where in this Agreement reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Agreement.
- 2.2 Clause headings shall not affect the interpretation of this Agreement.
- 2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.4 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.5 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.6 An obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 2.7 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.
- 2.8 References to any party to this Agreement shall (subject to clause 5.1 and 5.2) include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council and the County Council the successors to their respective statutory functions.

3. THE PLANNING OBLIGATIONS

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

- 3.2 The obligations set out in Schedules 1, 2 and 3 of this Agreement constitute planning obligations for the purpose of section 106 of the Act and the planning obligations are to be discharged by the Owner and are enforceable against them and any person deriving title from them (subject to clause 5.1 and 5.2).
- 3.3 This Agreement shall come into effect upon the grant of the Planning Permission with the exception of the obligations contained in clause 4.1, 4.2, 4.3, 4.8 and 4.9 and within schedules 1, 2 and 3 which shall not come into effect until Commencement of Development and clauses 8, 9 and 15 which shall come into effect on the date of this Agreement.

4. COVENANTS TO AND BY THE OWNER, COUNCIL, COUNTY COUNCIL

- 4.1 The Owner warrants that subject to the matters set out in official copies for title number SK397775 they are the freehold owner of the Site and has full power and capacity to enter into this Agreement and that no other party has a legal interest in the Site which would require them to be a party to this Agreement.
- 4.2 The Owner covenants with the Council to observe and perform the covenants and obligations on their part contained within Schedules 1 and Schedule 3.
- 4.3 The Owner covenants with the County Council to observe and perform the covenants and obligations on their part contained within Schedule 2.
- 4.4 The Developer covenants to pay the Council's reasonable legal costs incurred in the preparation and negotiation of this Agreement on completion of this Agreement.
- 4.5 The Developer covenants to pay the Council's Section 106 Monitoring Fee on completion of this Agreement.
- 4.6 The Developer covenants to pay the County Council legal costs on completion of this Agreement.
- 4.7 The Developer covenants to pay to the County Council on or before completion of this Agreement a contribution of £412.00 (four hundred and twelve pounds) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owner is required to observe and perform pursuant to the terms of this Agreement.
- 4.8 The Council covenants with the Owner to observe and perform the covenants and obligations on its part contained within Schedule 4.
- 4.9 The County Council covenants with the Owner to observe and perform the covenants and obligations on its part contained within Schedule 5.

5. ENFORCEABILITY

- 5.1 No person shall be liable for breach of a covenant, restriction or obligation contained in this Agreement after parting with its interest in the Land except in respect of any breach subsisting prior to parting with such interest and neither the reservation of any rights or the inclusion of any covenants or restrictions

over the Land in any transfer of the Land will constitute the retention of an interest for the purposes of this clause.

5.2 This Agreement shall not be enforceable against:

5.2.1. the owner-occupier, tenant or mortgagee of a Dwelling to be constructed pursuant to the Planning Permission; or

5.2.2. a statutory undertaker (within the meaning of section 262 of the Act) who acquires any interest in the Land.

6. DEVELOPER CONSENT

The Developer consents to the completion of this Agreement and declares that its interest in the Land shall be bound by the terms of this Agreement PROVIDED THAT the Developer shall not be personally liable for any breach of the obligations unless or until the transfer of the Land to the Developer pursuant to the conditional contract dated 23 October 2019 referenced in recital 4 of this Agreement has been completed."_t

7. DETERMINATION OF AGREEMENT

7.1 The obligations in this Agreement shall cease to have effect (insofar only as it has already been complied with) if prior to the Commencement of Development, the Planning Permission:

7.1.1. expires;

7.1.2. is varied or revoked other than at the request of the Owner;

7.1.3. is quashed or otherwise withdrawn; or

7.1.4. an alternative planning permission is granted in respect of the Land and that planning permission is implemented by the carrying out of a material operation pursuant to section 56(4) of the Act.

8. LOCAL LAND CHARGE

8.1 This Agreement is a local land charge and shall be registered as such by the Council.

8.2 Following the performance and satisfaction of all the obligations contained in this Agreement the Council shall forthwith upon written request effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Agreement.

9. ISSUE OF PLANNING PERMISSION

The Council hereby covenants with the Owner to issue the Planning Permission within 5 days of the date of this Agreement.

10. LEGAL CHALLENGE

10.1 Where the Permission is the subject of any judicial review proceedings or other legal challenge:

10.1.1. until such time as such proceedings or challenge including any appeal have finally been resolved the terms and provisions of this Agreement will remain without operative effect notwithstanding the grant of the Planning Permission unless the Development has been Commenced;

10.1.2. if following the conclusion of such proceedings or challenge the Planning Permission is quashed then this Agreement will cease to have any further effect as from the date upon which the Planning Permission is quashed.

10.2 Wherever in this Agreement reference is made to a date on which "legal proceedings or challenge in relation to the Planning Permission are concluded" (or cognate expressions are used), the following provisions have application:

10.2.1. Proceedings by way of judicial review are concluded:

- (a) when permission to apply for judicial review has been refused and no further application may be made; or
- (b) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (c) when any appeal is finally determined.

10.2.2. Proceedings under section 288 of the Act or in respect of any other legal challenge are concluded:

- (a) when permission to apply for statutory review has been refused and no further application may be made; or
- (b) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (c) when any appeal is finally determined.

11. FUTURE PERMISSIONS

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

11.2 In the event that any new planning applications are made in respect of the Development pursuant to section 73 of the Act then with effect from the date that such new planning permission is granted pursuant to section 73 of the Act:

- 11.2.1. the obligations in this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of any planning permission granted pursuant to section 73 of the Act.
- 11.2.2. the definitions of Development Application and Planning Permission shall be assumed to include references to any applications under section 73 of the Act, the planning permission granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any applications under section 73 of the Act and the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under section 73 of the Act whether by way of a new deed or supplemental deed pursuant to section 106 of the Act or a modification pursuant to section 106a of the Act.

12. NOTICES

- 12.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first class post or recorded delivery or by commercial courier, to any person required to receive the notice or communication at its address or as otherwise specified by the relevant person by notice in writing to each other person.
- 12.2 Any notice shall be deemed to have been duly received:
 - 12.2.1. if delivered personally, when left at the address set out in this Agreement;
 - 12.2.2. if sent by pre-paid first class post or recorded delivery, on the second Working Day after posting; or
 - 12.2.3. if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

13. DISPUTE RESOLUTION

- 13.1 In the event of any dispute or difference between the parties or any of them arising out of this Agreement (other than a dispute or difference relating to a question of law or in relation to the interpretation of the Agreement) the parties agree that the matter in dispute will on the application of either of them be referred to the Expert and it is further agreed that:
 - 13.1.1. the determination of the Expert shall be final and binding on the parties save in the case of manifest error;
 - 13.1.2. the parties shall be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct;

13.1.3. the Expert's costs shall be borne in such proportions as he/she may direct failing which the parties shall each bear their own costs of the reference and determination and the Expert's costs calculated by dividing the Expert's costs by the number of sides to the reference; and

13.1.4. the Expert may be replaced by a fresh appointee in the event of his/her becoming at any time unable or unwilling for any reason to proceed to discharge his/her function and such fresh appointee shall be appointed in the same manner as the Expert.

14. MISCELLANEOUS

Nothing contained or implied in this Agreement shall prejudice or affect the rights discretions powers duties and obligations of the Council and the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

15. CHANGE OF OWNERSHIP

The Owner covenants to give the Council and the County Council written notice within 10 days of any change in ownership of any of its freehold interest in the Land occurring before all the obligations under this Agreement have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan save for the transfer of any individual Dwelling.

16. THIRD PARTY RIGHTS

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

17. SEVERANCE

Insofar as any clause or clauses of this Agreement 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 Agreement.

18. INDEXATION OF COUNCIL CONTRIBUTIONS

18.1 Any sum referred to in Schedule 1 shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable using the application of the formula $A = B \times C/D$:

18.1.1. A is the sum payable under this Agreement;

18.1.2. B is the original sum calculated as the sum payable;

18.1.3. C is the Index for the month 2 months before the date on which the sum is payable;

18.1.4. D is the Index for the month 2 months before the date of this Agreement; and

18.1.5. C/D is greater than 1.

19. INDEXATION OF COUNTY COUNCIL CONTRIBUTIONS

19.1 The Traffic Monitoring and Regulation Contribution referred to in Schedule 2 (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the RPI Index from the date hereof until the date on which such sum is payable using the formula $A = B \times C/D$ where:

19.1.1. A is the sum payable under this Deed;

19.1.2. B is the original sum calculated as the sum payable;

19.1.3. C is the RPI Index for the month two (2) months before the date on which the sum is payable;

19.1.4. D is the RPI Index for the month two (2) months before the date of this Agreement; and

19.1.5. C/D is greater than 1.

19. INTEREST

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

20. VAT

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

21. JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

22. DELIVERY

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

IN WITNESS whereof the parties hereto have executed this Agreement as a deed on the day and the year first before written.

SCHEDULE 1 – OWNER COVENANTS WITH THE COUNCIL

The Owner covenants with the Council as follows:

1. HABITAT MITIGATION CONTRIBUTION

- 1.1 Prior to Commencement of Development the Owner will pay the Habitat Mitigation Contribution to the Council.
- 1.2 The Owner will not Commence or permit Commencement of Development until the Habitat Mitigation Contribution has been paid to the Council.

2. PUBLIC SPACES

- 2.1 The Owner covenants with the Council not Occupy or permit the Occupation of the first Dwelling unless and until the Public Open Space and Public Car Park have been laid out constructed and equipped in accordance with the Public Spaces Management Plan.

3. NOTIFICATIONS

To notify the Council with written notification within fourteen days of:

- 3.1 the Commencement of Development;
- 3.2 the first Occupation of the first Dwelling; and
- 3.3 Completion of the Development.

SCHEDULE 2 – OWNER COVENANTS WITH THE COUNTY COUNCIL

PART 1

TRAFFIC MONITORING AND REGULATION CONTRIBUTION

The Owner covenants with the County Council as follows:

- 1.1 Prior to first Occupation of the first (1st) Dwelling to pay the Traffic Monitoring and Regulation Contribution to the County Council.
- 1.2 Not to Occupy or permit first Occupation of any Dwelling until the whole of the Traffic Monitoring and Regulation Contribution has been paid to the County Council.

PART 2

HIGHWAY WORKS AGREEMENT

The Owner covenants with the County Council as follows:

- 2.1 to enter into the Highway Works Agreement with the County Council for the Highway Works as per the approved Highway Works Specification prior to first Occupation of the first (1st) Dwelling.
- 2.2 such Highway Works Agreement shall include provision for the adoption by the County Council as highway authority of the Adoptable Areas.
- 2.3 to carry out and complete the Highway Works at their own expense and in a good and workmanlike manner to Completion Certificate Standard in accordance with the Highway Works Agreement.

PART 3

NOTIFICATION

The Owner covenants with the County Council as follows:

- 3.1 The Owner shall within fifteen (15) Working Days' give written notice to the County Council following:
 - 3.1.1 Commencement of Development;
 - 3.1.2 first Occupation of the first (1st) Dwelling; and
 - 3.1.3 first Occupation of the final Dwelling.

SCHEDULE 3 – OWNER COVENANTS WITH THE PARISH COUNCIL

PUBLIC OPEN SPACE AND PUBLIC CAR PARK OBLIGATIONS

The Owner undertake to the Council and Parish Council (as appropriate) as follows:

1. PUBLIC CAR PARK TRANSFER

1.1 Unless otherwise agreed in writing with the Council, not to Occupy nor permit the Occupation of the 1st Dwelling unless and until:

1.1.1. until the Public Car Park has been laid out constructed and equipped in accordance with the Public Spaces Management Plan; and

1.1.2. The Owner has offered to transfer the freehold interest in the Public Car Park to the Parish Council by executing and sending a Public Car Park Transfer to the Parish Council and releasing the same to the Parish Council for completion PROVIDED THAT such offer shall not be made prior to the laying out of the Public Car Park pursuant to paragraph 1.1.1 above.

1.2 In the event that the Parish Council do not execute the Public Car Park Transfer within 93 days of receipt the Owner shall have complied with their obligation in paragraph 1.1.2 above and shall be under no further obligation to offer the Public Car Park Transfer to the Parish Council.

1.3 To include in the Public Car Park Transfer:

(a) covenants in favour of the remainder of the Land restricting the use of the Public Car Park for the purposes of community parking of motor vehicles for business needs that supports the vitality of the local centre and as public open space for community amenity when not in use as a car park

(b) covenants and easements for the benefit for the remainder of the Land so as to ensure future unfettered access for owner occupiers of the Dwellings to the Land (including the Public Car Park) in perpetuity;

(c) covenants in favour of the remainder of the Land reserving sufficient rights to install renew repair replace and/or remove services and the right pass in on over or under the Public Car Park for the purposes of inspection renewal maintenance repair and reinstatement of the Services;

(d) covenants in favour of the Public Car Park permitting access for the public to use the Access Road with or without vehicles for the purposes of access and egress to the Public Car Park for

parking SUBJECT TO the Parish Council paying reasonable maintenance costs associated with the upkeep of the Access Road.

- 1.4 To pay the Commuted Sum to the Parish Council within 5 working days of completion of the Public Car Park Transfer.

2. PUBLIC OPEN SPACE TRANSFER

- 2.1 Unless otherwise agreed in writing with the Council, not to Occupy nor permit the Occupation of the 10th Dwelling unless and until:

- 2.1.1. until the Public Open Space has been laid out constructed and equipped in accordance with the Public Spaces Management Plan; and

- 2.1.2. The Owner has offered to transfer the freehold interest in the Public Open Space to MHHL or such other party agreed in writing with the Parish Council (including the Parish Council itself) by executing and sending a Public Open Space Transfer to MHHL (or other party as agreed in writing) and releasing the same to MHHL (or that other party) for completion PROVIDED THAT such offer shall not be made prior to the laying out of the Public Open Space pursuant to paragraph 1.1.1 above.

- 2.1.3 In the event that MHHL (or such other party agreed in writing with the Parish Council) do not execute the Public Open Space Transfer within 3 months of receipt the Owner shall have complied with their obligation in paragraph 2.1.2 above and shall be under no further obligation to offer the Open Space Transfer to MHHL (or any other party as agreed)

- 2.1.4 To include in the Public Open Space Transfer:

- (a) covenants in favour of the remainder of the Land restricting the use of the Public Open Space for the purpose of public recreation only;

- (b) covenants so as to ensure future access for owner occupiers of the Dwellings and the public to the Public Open Space in perpetuity;

- (c) covenants and easements for the benefit for the remainder of the Land so as to ensure future unfettered access for owner occupiers of the Dwellings to the Land (including the Public Open Space) in perpetuity.

SCHEDULE 4 – THE COUNCIL'S COVENANTS

1. REPAYMENT OF CONTRIBUTIONS

- 1.1 The Council hereby covenants with the Owner to use all sums received within the borough in which it operates and for the purposes specified in this Agreement.
- 1.2 The Council hereby covenants with the Owner to commit all sums received in respect of the Habitat Mitigation Contribution within 5 years of receiving it and to repay any monies which have not been committed for use after 5 years to the party that paid the relevant contribution together with accrued interest from the date of receipt until and including the date of repayment.
- 1.3 The Council shall provide the Owner with such evidence as the Owner shall reasonably require in order to confirm the expenditure of the sums paid under this Agreement.

2. DISCHARGE OF OBLIGATIONS

At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

SCHEDULE 5 – THE COUNTY COUNCIL'S COVENANTS

1. REPAYMENT OF CONTRIBUTIONS

- 1.1 The County Council hereby covenants with the Owner to use all sums received within the administrative area in which it operates and for the purposes specified in this Agreement.
- 1.2 If requested to do so in writing after the expiry of ten (10) years of the from the first (1st) Occupation of the final Dwelling within a further period of one (1) year to pay to any person such amount of the Traffic Monitoring and Regulation Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable.
- 1.3 When the Traffic Monitoring and Regulation Contribution paid to the County Council pursuant to this Deed has been spent or committed the County Council shall upon written request by the Developer after the expiry of ten (10) years from the first (1st) Occupation of the final Dwelling within a further period of one (1) year notify the Owner that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to.

2. DISCHARGE OF OBLIGATIONS

At the written request of the Owner the County Council shall provide written confirmation of the discharge of the obligations contained in this Agreement when satisfied that such obligations have been performed.

EXECUTED as a deed by **DSJ HOMES**)
LIMITED acting by one director in the)
presence of)



) Director

Witness Signature


Witness Name:



Witness Address:

A H PAGE SOLICITORS
640 CRANBROOK ROAD
ILFORD
IG6 1HQ

Witness Occupation: SOLICITOR

EXECUTED as a deed by)
~~MEMBER OF A GROUP~~)
 as attorney for)
MCCARTHY & STONE RETIREMENT)
LIFESTYLES LIMITED under a power)
of attorney dated 13 June 2016 in the)
presence of)

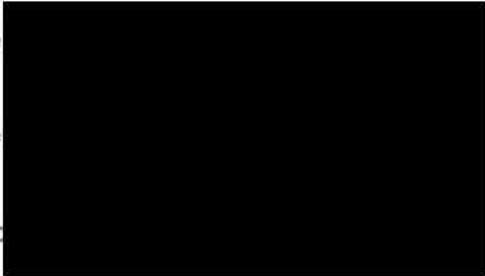


) Attorney



Witness Signature

Witness Name



Witness Address

Witness Occupation

EXECUTED as a deed by affixing the)
COMMON SEAL OF EAST SUFFOLK)
COUNCIL in the presence of)
)



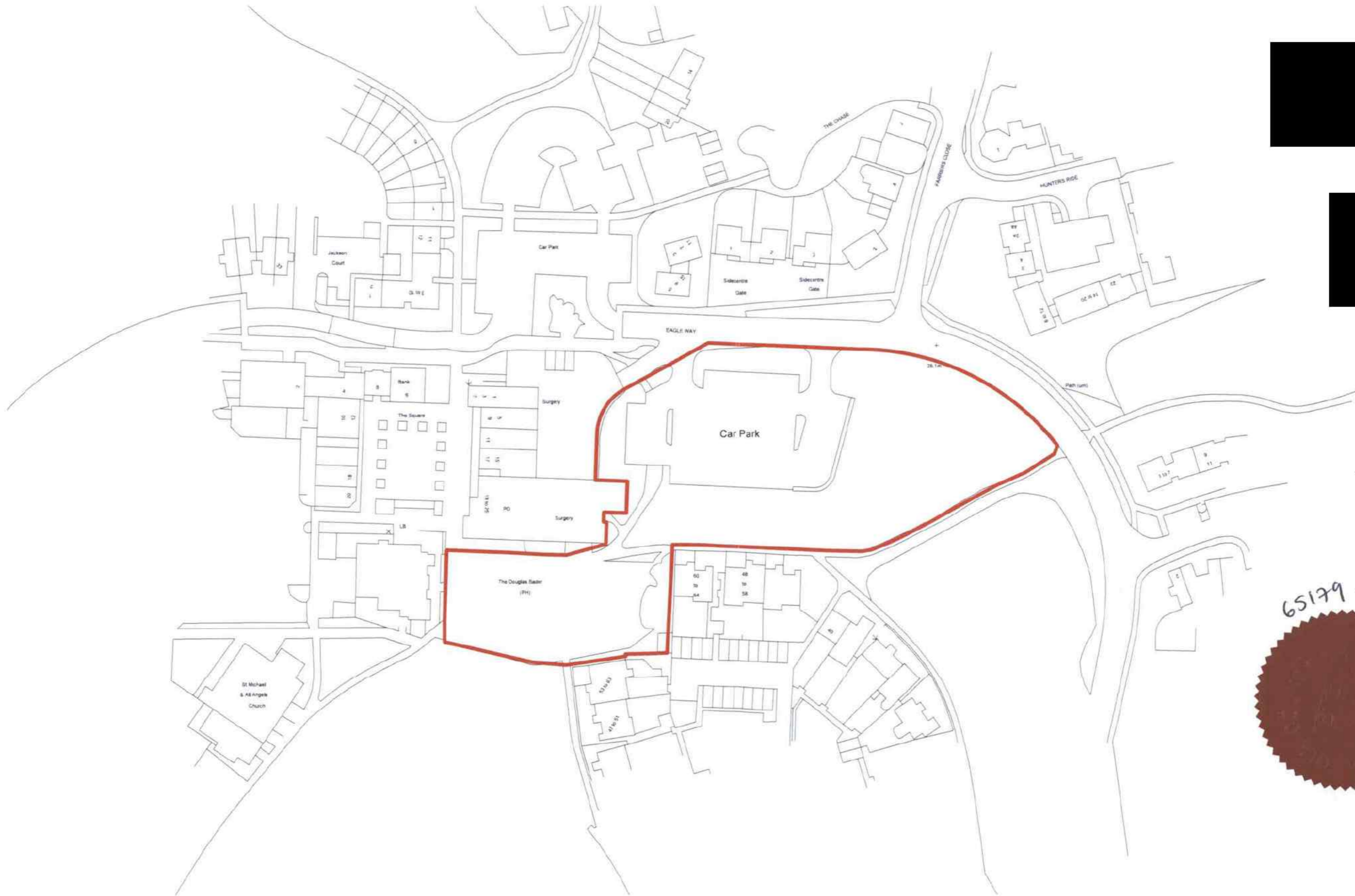
The COMMON SEAL OF
SUFFOLK COUNTY COUNCIL

was affixed in the presence of:



Authorised Officer

ANNEX 1 – The Plan



REV	DATE	CHK	AMENDMENTS	REF	HEALTH AND SAFETY INFORMATION - CONSTRUCTION RISKS	NOTES
P00	27.02.2020	ES	Planning Issue			
P01	29.08.2020	DT	Issued alongside amended planning submission	XXX		XXX

Feilden + Mawson
 25 St James's Street London W1N 2PG
 1 Ferry Road Norwich NR1 1SQ
 6 Colton Court Cambridge CB1 1BN
 Email: info@feildensmawson.com
 www.feildensmawson.com

tel: 020 7647 1990
 tel: 01603 420670
 tel: 01223 300880

DRAWING
Location Plan

CLIENT
McCarthy + Stone
 JOB
**Eagle Way,
 Martlesham Heath**

PRELIMINARY			
SCALE 1:500/1000	PAPER	A1/A3	DATE Feb 20
JOB	DWG	REV	
	9158	000	P01

ALL DIMENSIONS TO BE CONFIRMED ON SITE BY THE CONTRACTOR PRIOR TO CONSTRUCTION

\\feildensmawson.com\Projects\9158 Martlesham Heath\9158-01-01 Location Plan.dwg (1:500) - 28 Feb 2020 11:23:25 AM

ANNEX 2 – Adoptable Areas Plan



GENERAL NOTES

- 1.1. THIS DRAWING IS COPYRIGHT AND SHOULD NOT BE REPRODUCED IN WHOLE OR PART WITHOUT THE WRITTEN CONSENT OF PPCE GROUP LTD.
- 1.2. DO NOT SCALE FROM THIS DRAWING.
- 1.3. ALL DIMENSIONS TO BE CHECKED ON SITE AND CO-ORDINATE WITH RELEVANT ARCHITECT'S DRAWINGS. ANY DISCREPANCIES TO BE REPORTED TO THE ENGINEER PRIOR TO CONSTRUCTION.
- 1.4. ALL DIMENSIONS IN METERS UNLESS NOTED OTHERWISE.
- 1.5. ALL LEVELS IN METERS.
- 1.6. SEES HEREON SHALL NOT BE MODIFIED WITHOUT THE WRITTEN APPROVAL OF THE ENGINEER.
- 1.7. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT ENGINEERS DRAWINGS & SPECIFICATIONS.

KEY

- SITE BOUNDARY
- AREA OF FUTURE S278 WORKS
- AREA OF FUTURE S38 WORKS
- PRIVATE ROAD CARRIAGEWAY TO BE ACCESSIBLE TO FACILITATE USE OF THE PUBLIC CAR PARK
- PRIVATE CAR PARK AND SURROUNDING WORKS TO BE FOR PUBLIC USE

ALL OTHER HIGHWAY INFRASTRUCTURE WITHIN THE DEVELOPMENT BOUNDARY THAT IS NOT HATCHED TO REMAIN UNDER PRIVATE OWNERSHIP.

PLAN ONLY SHOWS AREAS WHERE S278 AND S38 WORKS WILL BE REQUIRED. FUTURE DETAILED PACKAGES REQUIRED FOR LOCAL HIGHWAYS AUTHORITY TECHNICAL APPROVAL.

ALL WORKS IN EXISTING HIGHWAY ARE SUBJECT TO TECHNICAL APPROVAL WITH THE LOCAL HIGHWAY AUTHORITY.

REV	DATE	BY	CHK BY	DATE	APP BY	DATE
P2	10.11.21	DGW		10.11.21	DGW	10.11.21
P1	09.11.21	SWJ		09.11.21	MT	09.11.21

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Project: **MARTLESHAM AVENUE, IPSWICH**

Drawing: **ADOPTABLE AREAS AND S278 PLAN**

Scale: 1:250 At original size: A1

Drawn: DGW Date: 09.11.21 Checked: DGW

Status: **PRELIMINARY**

Drawing No: **B21057-220** Rev: **P2**



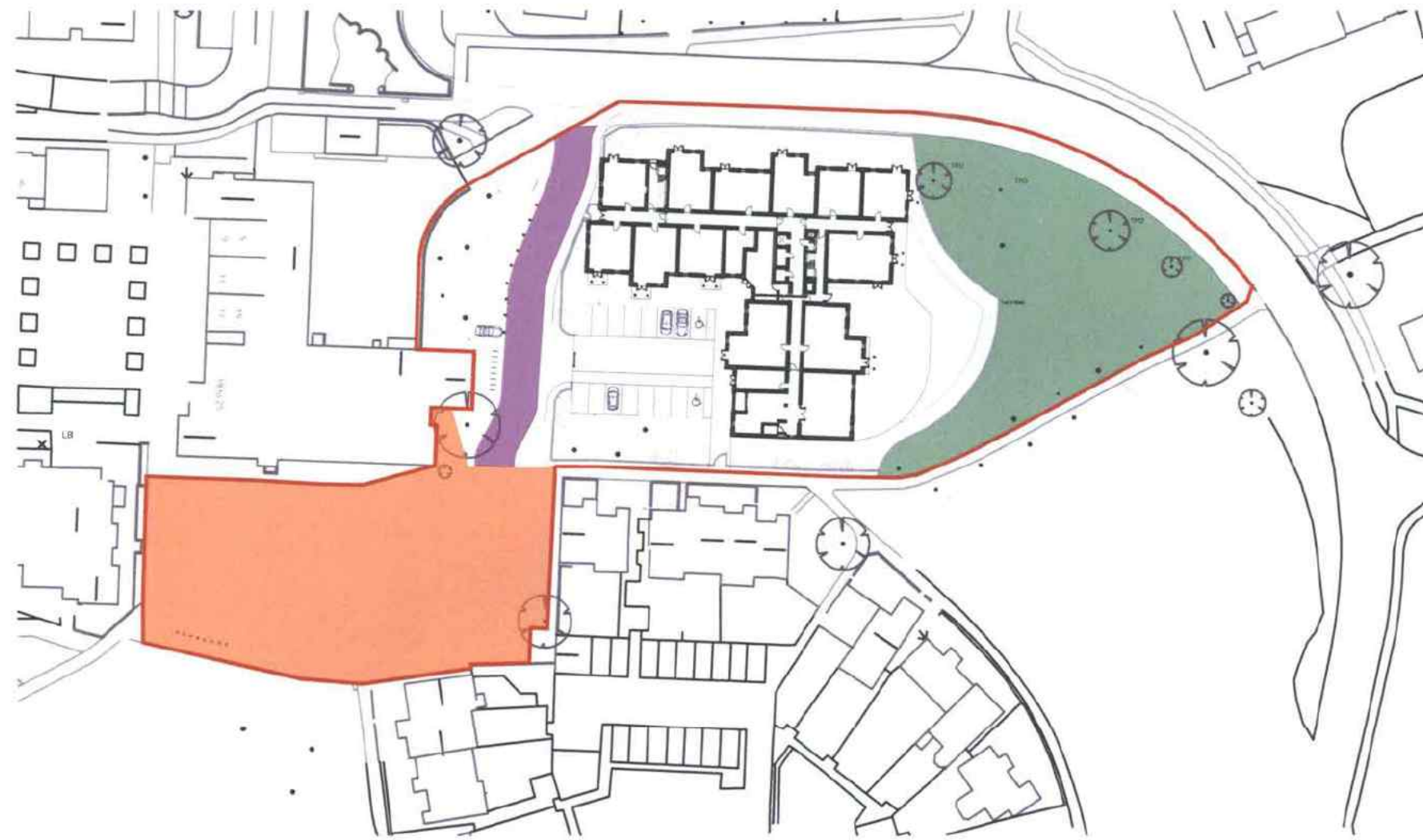
Scale 1:250

65179

ANNEX 3 – Public Spaces Plan



Rev. No.	Amendment	Date
A	Redline amended as per Planning Layout.	09.11.21




-  Public Open Space
-  Public Car Park
-  Extent of Road for Public Access to Public Car park



Scale Bar 1:1250



LEGAL PLAN		Client	Drawing Title
Bedford House 74a Bedford Street Leamington Spa CV32 5DT t: 01924 470500 e: mol@esdesign.co.uk w: www.esdesign.co.uk		McCarthy and Stone	Public Spaces Plan
		Project Eagle Way, Marleham Heath M1-2666	Scale 1:1250 @ A4
		Project Number 20.1320.M&S	Drawing Number 1001
		Drawn By CM	Checked By ESP
			Revision A