

## **SCHEDULE 6**

### **Estate Management and Maintenance**

#### **1 The Trust**

- 1.1 For the purposes of this Deed the Development or such part thereof as may be specified in the relevant provision shall be retained by the Owners until such time as the Trust has been constituted to manage and maintain those elements of the Development that are specified to be managed and maintained by the Trust or such element(s) shall be transferred to the Trust for the purpose of managing and maintaining those elements subject however to the Borough Council confirming that they are satisfied that the Trust possesses the necessary funds and /or will do so to meet their obligations .
- 1.2 The relevant elements of the Development to which the Estate Plan relates shall be managed and maintained in perpetuity in accordance with the Estate Plan to be approved by the Borough Council in accordance with this Schedule 6 and the Development shall not be carried out or Occupied other than in accordance with the approved Estate Plan and the provisions of this Schedule 6.
- 1.3 The Trust must be legally constituted prior to the Occupation of any Dwelling.

#### **2 Detailed Provisions**

- 2.1 The Owners shall not Occupy the first Dwelling until they have submitted to and received the Borough Council's approval in writing of the Estate Plan for all relevant parts of the whole Development, the Estate Plan shall include but not be limited to:
  - (a) details of the Trust to be responsible for managing and maintaining the Development or such specified parts thereof with monies received by the Trust used for the purposes of management and maintenance in accordance with the Estate Plan;
  - (b) a fully costed finances and resources plan, to include an assessment of the lifecycle costs, including income, expenditure, cash flow, resources, staffing and budgeting and arrangements to ensure the permanent funding of the Trust which may include one or more of the following and which will place particular emphasis on funding arrangements in the earlier stages of the Development prior to substantial funding from individual Dwelling purchasers being available to the Trust:
    - (i) commuted sums for investment for the benefit of the Trust;
    - (ii) the creation of an estate rent charge or other service charge arrangements;
    - (iii) endowing the Trust so approved with income generating assets; and

- (iv) appropriate arrangements for provision of security for the funding.
- (c) ongoing review and monitoring arrangements to demonstrate that the Trust is being adequately funded in accordance with the approved arrangements (including, where applicable, until any estate rent charge or service charge arrangement becomes self sufficient) and will be adequately funded in the long term, to include an obligation on the Owners (prior to transfer of responsibility in accordance with the provisions below) to top up funding and/ or provide security in the event that the Borough Council confirms that monitoring reveals the Trust has or is likely to have inadequate funding to meet its obligations under the Estate Plan for any period of time.
- (d) any contracting of management or other activities to persons or bodies having relevant and proven expertise in the relevant area;
- (e) details of the proposed constitution of the Trust;
- (f) confirmation and mechanism to ensure that the Trust will be required to comply with the provisions of this Schedule 6 and Schedule 5 as appropriate so far as they relate to future management and maintenance obligations such obligations to be directly enforceable by the Borough Council against the Trust;
- (g) management and maintenance standards to be implemented and retained in perpetuity;
- (h) public access arrangements in perpetuity and on-going community engagement and liaison;
- (i) triggers for the Transfer (where relevant) of relevant parts of the Development to the Trust which are to be subject to the Estate Plan, such triggers to have regard to the need for a reasonable period of successful monitoring pursuant to (c) above before responsibility is transferred PROVIDED THAT where the Owners wish to transfer part of the Development to the Trust earlier and prior to the monitoring under (c) above, the Owner shall first demonstrate to the Borough Council's reasonable satisfaction (as confirmed in writing) that the funding arrangements for the purposes of (b) above are sufficient and enforceable by the Borough Council and the Borough Council may as a condition of its approval where considered appropriate require the Owner to first provide adequate security for performance, which the Borough Council may agree to be subsequently released following a reasonable period of successful monitoring.
- (j) Demonstration of achievement of garden town principles as set out on Policy CS20

2.2 The Owners shall procure that the Development shall not be carried out or Occupied other than in accordance with the approved Estate Plan and that the those parts of the Site to which the Estate Plan relates are



managed and maintained in perpetuity in accordance with the Estate Plan.

2.3 Prior to Occupation of 80% of Dwellings within a relevant Phase or Development Parcel containing land to be managed and maintained in accordance with the provisions of the approved Estate Plan and in any event prior to Occupation of 80% of the Dwellings comprised in the Development as a whole (or prior to such other Trigger Event as may be set out in the relevant Estate Plan for the Transfer of relevant parts of the Development to the Trust) the Owners shall:

- (a) grant all rights necessary for the management and maintenance of the Development or relevant part thereof in accordance with the Estate Plan;
- (b) prior to any Transfer to the Trust demonstrate to the Council's reasonable satisfaction (as confirmed in writing) adequate short and long term funding for the Trust in accordance with the Estate Plan (including the requirements of paragraphs 2.1(b), (c) and (i) above) and, where necessary (for example where any estate charge has not at that time become self sufficient), provide such financial sums (or other means of funding) and/ or reasonable security for performance as are necessary to enable the Trust to manage and maintain the Development or relevant part thereof in accordance with the approved Estate Plan;
- (c) procure that the Borough Council has the benefit of directly enforceable covenants for the purposes of paragraph 2.1(f) above and step-in rights in the event of default; and
- (d) Transfer the relevant land to be managed pursuant to the Estate Plan to the Trust.

and following written approval from the Borough Council (acting reasonably and without undue delay) of the same the responsibility for the management and maintenance shall pass to the Trust in accordance with the approved Estate Plan. For the avoidance of doubt the Borough Council may enforce against the Owners in the event of default by the Trust subject however to the Borough Council having first used Reasonable Endeavours to remedy such default and such default having a material impact on the delivery of key objectives within the Estate Plan.

2.4 The Owners shall manage and maintain the Development or the relevant part of the Development at its own expense until responsibility for its management and maintenance has been transferred in accordance with the approved Estate Plan and paragraph 2.3 above.

2.5 In the event that the Trust becomes insolvent and no alternative arrangements for the effective management and maintenance requirements in respect of the Estate Plan are put in place to the satisfaction of the Borough Council the Borough Council may itself receive all payments from individual freehold and leasehold owners that would otherwise be paid to the Trust including all rent charges subject to the Borough Council using all such monies for the purposes of meeting with said management and maintenance obligations or

appointing its own management vehicle to do so and such rights will be reserved to the Borough Council via provisions in the TP1 transfer document for each individual freehold or leasehold owner such provisions to be first approved by the Borough Council.

### **3 Owners Funding**

- 3.1 Notwithstanding the general obligations of the Owners in paragraphs 1 and 2 of this Schedule 6 (and without prejudice to the same) the Owners will pay to the Trust the following sums to enable the Trust to discharge its obligations herein under the Estate Plan in relation to the Green Infrastructure Elements
- (a) The sum of Four Hundred Thousand Pounds (£400,000.00) on Commencement;
  - (b) The sum of Four Hundred Thousand Pounds (£400,000.00) on each of the following trigger points being reached:
    - (i) The first Occupation of 250<sup>th</sup> Dwelling;
    - (ii) the first Occupation of 500<sup>th</sup> Dwelling;
    - (iii) the first Occupation of 750<sup>th</sup> Dwelling.
- 3.2 The Owners shall further pay to the Trust on its constitution the sum of Eight Hundred and Nine Thousand Nine Hundred and Forty Two Pounds (£809,942.00) in two equal instalments, the first to be paid immediately on constitution of the Trust and the second to be paid prior to the Occupation of 100 Dwellings to fund the early years work that the Trust is required to undertake in respect of the management and maintenance of community elements of the Development and administrative and other reasonable costs and expenses.