

SCHEDULE 7

Affordable Housing

1 Overall Provision

1.1 In accordance within the provisions of this Schedule 7 the Owner shall procure that a minimum of 25% of the Dwellings in the Development shall be Provided on the Site as Affordable Dwellings in accordance with the following:

- (a) the Affordable Housing Delivery Plan;
- (b) the relevant Phase Specific Affordable Housing Delivery Plan; and
- (c) the further provisions of this Schedule 7;

or any amendment to them as may be agreed with the Borough Council.

Table 1 - Affordable Housing Size/Type Mix

Type	Intermediate		Affordable Rent	
	Number	%	Number	%
1 bed 2 person Flat	0	0	81	9.0
1 bed 2 person Extra Care Flat	0	0	20	2.2
1 bed 2 person Bungalow	0	0	15	1.7
2 bed 3 person Bungalow	0	0	15	1.7
2 bed 3 person Flat	34	15	135	15
2 bed 3 person Extra Care Flat	0	0	40	4.4
2 bed 4 person House	101	45	279	31
3 bed 4 person House	90	40	0	0
3 bed 5 person House	0	0	243	27
4 bed 6 person House	0	0	72	8
Total	225	100	900	100

Note: tolerance for each row +/- 5 units save in relation to Bungalows.

- 1.2 The Owner shall not submit any Reserved Matters Application that makes provision for Dwellings until the Affordable Housing Delivery Plan has been submitted to the Borough Council for approval and shall not commence construction of any Dwelling until the Affordable Housing Delivery Plan has been approved by the Borough Council.
- 1.3 The Affordable Dwellings shall be constructed in accordance with the Building Regulations.
- 1.4 Unless otherwise agreed by the Owner and the Borough Council:
 - (a) the Owner shall not Occupy or permit Occupation of more than 463 Market Dwellings until at least 112 Affordable Dwellings have been Provided;

- (b) the Owner shall not Occupy or permit Occupation of more than 1,383 Market Dwellings until at least 342 Affordable Dwellings have been Provided;
- (c) the Owner shall not Occupy or permit Occupation of more than 2,133 Market Dwellings until at least 592 Affordable Dwellings have been Provided;
- (d) the Owner shall not Occupy or permit Occupation of more than 2,833 Market Dwellings until at least 892 Affordable Dwellings have been Provided; and
- (e) the Owner shall not Occupy or permit Occupation of more than 3,375 Market Dwellings until at least 1,125 Affordable Dwellings have been Provided.

2 Detailed Provision

- 2.1 The Owner shall not submit any Reserved Matters Application that makes provision for Dwellings in a Phase, unless a Phase Specific Affordable Housing Delivery Plan has been submitted to the Borough Council for approval in respect of that Phase and shall not commence construction of any Dwelling in that Phase until a Phase Specific Affordable Housing Delivery Plan for the Phase in question has been approved by the Borough Council.
- 2.2 The specific locations of the Affordable Dwellings shall be established by Reserved Matters Approvals and the Owner shall submit to the Borough Council an Affordable Housing Statement with each Reserved Matters Application that incorporates any Affordable Dwellings for approval by the Borough Council at the time of determining the relevant Reserved Matters Application. For the avoidance of doubt the Affordable Dwellings across any Phase or within any Reserved Matters Approval shall:
- (a) comply and be Provided in accordance with any relevant approved Phase Specific Affordable Housing Delivery Plan and any relevant approved Affordable Housing Statement;
 - (b) unless otherwise agreed with the Borough Council be Tenure Blind;
 - (c) unless otherwise agreed by the Borough Council by approval of a relevant Phase Specific Affordable Housing Delivery Plan or by separate agreement in writing, be in clusters of no more than 20 Dwellings or Flats PROVIDED THAT such requirements shall not apply to the Extra Care Units; and
 - (d) unless otherwise agreed by the Borough Council in writing not result in less than 15% of the total Dwellings comprised in a Phase being identified as Affordable Dwellings (for the avoidance of doubt this is subject always to paragraph 1.5 and the remaining provisions of this Schedule 7).

3 Extra Care Dwellings

- 3.1 No construction of any Dwelling shall commence until the Extra Care Scheme Specification and the Extra Care Scheme Marketing Strategy have been submitted to and approved by the Borough Council.
- 3.2 The Owner shall give the Borough Council no less than 3 months' notice of its intention to commence marketing the Extra Care Scheme in accordance with the approved Extra Care Scheme Marketing Strategy and shall for a period of not less than 12 months market the Extra Care Scheme and use Reasonable Endeavours to agree terms with a Registered Provider and enter into an Extra Care Scheme Agreement.
- 3.3 The Owner shall provide reports on progress as to the marketing of the Extra Care Scheme to the Borough Council every 2 months or at such other intervals as may be agreed with the Borough Council following the implementation of the Extra Care Scheme Marketing Strategy.

- 3.4 Forthwith upon agreement of terms with a Registered Provider for construction of the Extra Care Scheme in accordance with the Extra Care Scheme Specification the Owner shall use Reasonable Endeavours to enter into an Extra Care Scheme Agreement with a Registered Provider. Upon entry into an Extra Care Scheme Agreement with a Registered Provider the Owner shall serve notice accordingly on the Borough Council and shall accompany such notice with the material details of such agreement.
- 3.5 If the Owner has been unable to enter into an Extra Care Scheme Agreement after marketing the Extra Care Scheme in accordance with the approved Extra Care Marketing Strategy the Owner may at any time after the end of the 12 month period referred to in paragraph 3.2 (or such shorter period as the Borough Council may approve in its absolute discretion following a request from the Owner) above serve notice on the Borough Council requesting that it be discharged from its obligation to provide the Extra Care Scheme and seeking its approval to provide the Extra Care Replacement Dwellings instead.
- 3.6 The Owner shall accompany its notice under paragraph 3.5 above with the following:
- (a) evidence demonstrating that it has marketed the Extra Care Scheme in accordance with the approved Extra Care Scheme Marketing Strategy and the dates between which the marketing was carried out;
 - (b) confirmation of the proposed tenure mix for the Extra Care Replacement Dwellings which shall ensure that the tenure mix for the Affordable Housing within the Development shall remain in accordance with the Affordable Housing Tenure Mix (which for the avoidance of doubt shall reflect the fact that the 60 Extra Care Dwellings were all Affordable Rent Dwellings, with the consequence that at least 60 of the Flats (being a proportionate split between 1 and 2 bed Flats) comprised within the Extra Care Replacement Dwellings shall be Affordable Rent, with the additional 30 Flats comprised within the Extra Care Replacement Dwellings being split 80% Affordable Rent and 20% Intermediate Dwellings (unless otherwise approved by the Borough Council); and
 - (c) such amendments as may be proposed by the Owner to the approved Affordable Housing Delivery Plan and to any relevant approved Phase Specific Affordable Housing Delivery Plan to reflect delivery of the Extra Care Replacement Dwellings in place of the Extra Care Scheme within the Development in the event that the Owner is released from the obligation to provide the Extra Care Scheme.
- 3.7 The Borough Council shall give notice in writing in response to the Owner's notice served pursuant to paragraph 3.5 above within 20 Business Days of receipt and if the Borough Council confirms in writing that it is satisfied:
- (a) that the Owner has marketed the Extra Care Scheme in accordance with the approved Extra Care Scheme Marketing Strategy and used Reasonable Endeavours to enter into an Extra Care Scheme Agreement for a period of no less than 12 months (save where a shorter period has been approved by the Borough Council pursuant to paragraph 3.5); and
 - (b) with the Owner's proposed amendments to the approved Affordable Housing Delivery Plan and any relevant approved Phase Specific Affordable Housing Delivery Plan; and
 - (c) that there is no reasonable prospect of the Owner being able to agree terms and enter into an Extra Care Scheme Agreement within a further 3 months
- the Owner shall be discharged from its obligation to provide the Extra Care Scheme and shall instead be required to provide the Extra Care Replacement Dwellings.

- 3.8 If the Borough Council is not satisfied that the Owner has marketed the Extra Care Scheme in accordance with the approved Extra Care Scheme Marketing Strategy and used Reasonable Endeavours to enter into an Extra Care Scheme Agreement for a period of no less than 12 months or it is not satisfied with the Owner's proposed amendments to the approved Affordable Housing Delivery Plan and any relevant Phase Specific Affordable Housing Delivery Plan, or both, the Borough Council shall give notice in writing of its conclusion and specify the steps it considers the Owner should take in order to satisfy the Borough Council's requirements in regard to the same PROVIDED THAT if the Borough Council requires the Owner to market the Extra Care Scheme for an additional period of time the Borough Council may not require the Owner to do so for an additional period in excess of 3 months. This procedure may be repeated until such time as the Borough Council agrees or (as the case may be) the Specialist determines that the Owner shall be released from its obligations to provide the Extra Care Scheme.
- 3.9 Alternatively if the Borough Council considers that there is a reasonable prospect of the Owner being able to agree terms and enter into an Extra Care Scheme Agreement within a further 3 months then the Borough Council may serve notice on the Owner requiring the Owner to continue to market the Extra Care Scheme in accordance with the approved Extra Care Scheme Marketing Strategy and to continue to use Reasonable Endeavours to enter into an Extra Care Scheme Agreement for an additional period of up to 3 months.
- 3.10 Following issue of a Borough Council's notice pursuant to either paragraph 3.8 or (as applicable) paragraph 3.9 above the Owner shall comply with the requirements set out in the Borough Council's notice provided that if the Owner disagrees with any of the requirements set out in such Borough Council's notice the Owner shall advise the Borough Council within 10 Business Days of receipt of the Borough Council's notice and if the Owner and the Borough Council have not between them resolved the issues in dispute within a further 20 Business Day either Party may refer the matters in dispute to a Specialist for determination under the Dispute Resolution Procedure. The Owner shall continue to comply with the requirements set out in the relevant Borough Council's notice during the period of time within which the matters in dispute are being determined by the Specialist (the "Determination Period") and in the event that the Specialist shall determine that the Owner shall be required to comply with the requirements set out in the relevant Borough Council's notice for an additional period of time (which for the avoidance of doubt may be no longer than 3 months), the length of the Determination Period shall be deducted from that additional period of time.
- 3.11 Pursuant to the Borough Council confirming it is satisfied as to the matters set out in paragraph 3.7(a) to (c) or (as the case may be) determination of the same by a Specialist) the Owner shall be released from its obligation to provide the Extra Care Dwellings within the Development and shall instead provide the Extra Care Replacement Dwellings in accordance with the approved amended Affordable Housing Delivery Plan and any amended Phase Specific Affordable Housing Delivery Plans so approved.
- 3.12 If the Owner markets the Extra Care Scheme in accordance with the approved Extra Care Scheme Marketing Strategy for a further period of time in accordance with a Borough Council's notice served pursuant to paragraph 3.9 above and is still unable to enter into an Extra Care Scheme Agreement despite having marketed the Extra Care Scheme and used its Reasonable Endeavours to enter into an Extra Care Scheme Agreement for the specified additional period of time the Owner shall then be released from its obligation to provide the Extra Care Scheme and shall instead provide the Extra Care Replacement Dwellings in accordance with the approved amended Affordable Housing Delivery Plan and any amended Phase Specific Affordable Housing Delivery Plans approved by the Borough Council.

4 Restrictions on Occupation

4.1 The Owner shall not Occupy or permit Occupation of:

- (a) more than 50% of the Market Dwellings in a Phase until 50% of the Affordable Dwellings in that part of Phase have been Provided; and
- (b) more than 85% of the Market Dwellings in a Phase until all the Affordable Dwellings in that Phase have been Provided,

PROVIDED ALWAYS THAT the Owner must also comply with the requirements of paragraph 1.4 of this Schedule 7.

4.2 From the date of Completion of any Affordable Dwellings such Affordable Dwelling shall not be used or Occupied other than as Affordable Dwellings in accordance with the tenure for which it has been Provided or such other tenure as the Borough Council may agree and in accordance with the terms of this Schedule 7 PROVIDED ALWAYS THAT such restrictions shall not be binding or enforceable against the following:

- (a) any mortgagees of a Registered Provider exercising a power of sale or any receiver appointed by such mortgagees;
- (b) a person who is a successor in title to or derives title through or under any mortgagees referred to in paragraph 4.2(a) of this Schedule or the Registered Provider at the direction or requirement of any such mortgagees or receiver appointed by such mortgagees;
- (c) any mortgagees exercising a power of sale of a residential tenant or person to whom a Registered Provider grants a Shared Ownership Lease or transfer or any receiver appointed by such mortgagees;
- (d) a person who is a successor in title to or derives title through or under or at the direction or requirement of any such mortgagees referred to in paragraph 4.2(c) or receiver appointed by any such mortgagee;
- (e) any tenant and successor who 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;
- (f) any tenant and successor who has exercised any statutory right to buy (or any equivalent contractual or statutory right) in respect of a particular Affordable Dwelling; and
- (g) any tenant who has progressed to ownership of 100% of the equity of a Shared Ownership Dwelling pursuant to a Shared Ownership Lease or any person deriving title through or under such tenant or any successor in title thereto and their respective mortgagees,

PROVIDED THAT IN the case of sub-paragraphs (a), (b), (c) and (d) above the following requirements must have been satisfied:

- (i) for the period of 4 months or such lesser period as may be agreed in writing by the Borough Council such mortgagee, chargee, receiver or manager has used Reasonable Endeavours to secure the continued availability of the Affordable Dwelling in question through the involvement of a Registered Provider pursuant to the provisions of the Housing Act 1996 but if after the expiry of the aforesaid period of 4 months or lesser period agreed it has been unsuccessful the mortgagee, charge, receiver or manager or Registered Provider may apply to the Borough Council for itself and its successors in title to be released from the

terms of this Deed and shall provide to the Borough Council such evidence as they may reasonably require to satisfy the Borough Council that all reasonable attempts to secure the continued provision of the Affordable Dwellings as Affordable Housing have been carried out such evidence to include details of any communications with the HCA and guidance received, a list of which other Registered Providers have been approached, details of any terms or conditions which have been applied and the consideration requested; and

- (ii) without prejudice to the generality of the above, such mortgagee, chargee, receiver or manager shall in writing give the Borough Council and the Registered Provider (as appropriate) at least 12 weeks' prior notice of its intention to exercise any power of sale in respect of any Affordable Dwellings and to provide the Borough Council or the Registered Provider the opportunity to complete a transfer of the Affordable Dwellings in question in order to ensure that they continue to be used for the purposes of Affordable Housing;

AND FURTHER PROVIDED THAT in the case of sub-paragraphs (e), (f) and (g) above the Owner and any relevant Registered Provider shall, unless the legislation otherwise requires, use or procure the use of the net proceeds of sale as defined in section 24(3) of the Housing Act 1996 (and any amendment, re-enactment or successor provision) to fund the provision of further Affordable Housing and use Reasonable Endeavours to make such provision in the district of the Borough Council.

- 4.3 The Affordable Dwellings shall only be Occupied by Qualifying Persons ; and
 - (a) The Affordable Rent Dwellings shall be assessed in accordance with the Housing Allocations Scheme; and
 - (b) The Intermediate Dwellings shall be assessed in accordance with the HomeBuy Agents criteria (or relevant successor criteria).
- 4.4 No Affordable Dwelling shall be Occupied or shall be deemed to have been Provided in a particular Phase until such time as a roadway or roadways to base course and associated street lighting constructed where it is intended that the roadway is to be adopted as a highway maintainable at public expense has been constructed to a standard suitable for adoption as highway maintainable at the public expense or where it is not intended that the roadway be adopted as a highway maintainable at public expense to a standard which the Borough Council reasonably considers acceptable has been constructed up to the Affordable Dwellings in the relevant Phase from the public highway and pipes wires cables and conduits have been laid to a point or points adjacent to the Affordable Dwellings for the supply of gas water electricity telephone and other utility services.
- 4.5 In relation to the transfer of the Affordable Dwellings the Owner shall;
 - (a) procure that the transfer of each Affordable Dwelling shall be free from financial encumbrances and any other encumbrances save as referred to in the further provisions of this paragraph 4.5;
 - (b) procure that the transfer of each Affordable Dwelling shall be with full title guarantee of a freehold estate. The Owner may Transfer a Flat (being an Affordable Dwelling) by way of leasehold transfer with a minimum term of 125 years subject to the Owner first demonstrating to the Council's satisfaction (as confirmed in writing) that the Transfer relates to a Flat or Flats which are Affordable Dwellings within a block which will contain both Flats that are Affordable Dwellings and Flats that are Market Dwellings, that a Registered Provider is willing and able to accept such a transfer and that the leasehold estate shall be for a minimum of 125 years;

- (c) procure that the transfer of each of the Affordable Dwellings shall contain:
- (i) an exception and reservation of such easements and rights and privileges to the transferor or its successor in title and assigns as may reasonably be required for the satisfactory development or redevelopment of the Site;
 - (ii) a covenant by the transferor to complete the construction of the roadway or roadways referred to above (including all footways verges and planning and lighting) to adoptable standards no later than the Completion of 95% of the Dwellings comprised within the relevant Phase in the Development on the Site;
 - (iii) a grant of such rights of access, easements, other rights and privileges to the transferee or its successor in title and assigns as may reasonably be required for the satisfactory use and development or redevelopment of the Affordable Dwellings and for the beneficial enjoyment of the Affordable Dwellings;
 - (iv) provide access and foul and surface water sewers, and water, gas, electricity and telecommunications service systems for each Affordable Dwelling linking in each case to the estate roads and service systems to be constructed and laid as part of the remainder of the Development and connected ultimately to highways and sewers maintainable at the public expense;
 - (v) a covenant by the transferee with the transferor and the Borough Council not to use the Affordable Dwellings for any purpose other than use for Affordable Dwellings in accordance with the tenure for which it has been Provided or such other tenure as the Borough Council may agree and in accordance with the terms of this Schedule 7 (such covenant to be subject always to the exclusions in paragraph 4.2 above) and on the disposal of the Affordable Dwellings (subject to the provisions of paragraph 4.2 where applicable) to obtain an identical covenant from the disponee; and
 - (vi) covenants by the transferee in favour of the Owner and Borough Council to reflect the obligations under 4.6 below.

4.6 In relation to Occupation of the Affordable Dwellings the Owner shall:

- (a) procure that any Registered Provider shall offer to the Borough Council the ability to nominate Occupiers for 100% of all first lettings and 75% of all subsequent lettings of the Affordable Rent Dwellings;
- (b) procure that any Registered Provider shall ensure that the Affordable Dwellings are Occupied by Qualifying Persons and that all Affordable Rent Dwellings are Occupied in accordance with the Borough Council's Housing Allocations Scheme and all Intermediate Dwellings are Occupied in accordance with the HomeBuy Agents criteria (or successor criteria);
- (c) procure that any service charge and any subsequent revision to the said service charge per Affordable Dwelling shall be set at a fair and reasonable proportion of the costs relating to the services provided to that Affordable Dwelling and for the avoidance of doubt the affordable rent for Affordable Rent Dwellings shall be inclusive of any service charge;
- (d) in the event that a tenant or other occupier of an Affordable Dwelling exercises the right to acquire under applicable legislation in force at the relevant time or in the case of a Shared Ownership Lease staircases up to 100% procure that any Registered Provider shall unless the legislation otherwise requires use or procure the use of the net proceeds of sale as defined in section 24(3) of the Housing Act 1996 (and any amendment, re-

enactment or successor provision) to fund the provision of further Affordable Housing and use reasonable endeavours to make such provision in the district of the Borough Council (unless otherwise approved by the Borough Council); and

- (e) procure that any Registered Provider shall ensure that the Intermediate Affordable Housing is marketed through the HomeBuy Agent for the region.