DATED 25th November 2002

HUNTINGDONSHIRE DISTRICT COUNCIL

- and -

CAMBRIDGESHIRE COUNTY COUNCIL

-and-

TWIGDEN HOMES LIMITED

A G R E E M E N T

under Section 106 of the Town and Country
Planning Act 1990 in relation to
Residential development on
land to rear of Huntingdon Forensic Science Laboratory
Hinchingbrooke Park Road
Huntingdon

C Meadowcroft
Head of Legal and Estates
Huntingdonshire District Council
Pathfinder House
St Mary's Street
Huntingdon
Cambridgeshire
PE29 3TN

(CenS.CM.jaw.L/PO 56)

THIS AGREEMENT is made the 25th day of November Two thousand and two

B E T W E E N the **HUNTINGDONSHIRE DISTRICT COUNCIL** of Pathfinder House St Mary's Street Huntingdon in the County of Cambridgeshire (hereinafter called "the Council") of the first part and **CAMBRIDGESHIRE COUNTY COUNCIL** of Shire Hall Castle Hill Cambridge CB03 0AP (hereinafter called "the Owner") of the second part and **TWIGDEN HOMES LIMITED** whose registered office is at The Shrubbery Church Street St Neots Cambridgeshire PE19 2BY (hereinafter called "the Developer") of the third part

D E F I N I T I O N S :

In this Agreement the following expressions shall have the following meanings :-

"the Act" means the Town & Country Planning Act 1990 (as amended)

"Affordable Housing" means housing affordable to those people who cannot afford to rent or buy houses generally available on the open market including the following types of scheme or any one or combination thereof (it being expressly agreed and declared that this definition is not intended to be exhaustive)

(i) a dwelling let as an assured tenancy as defined by Section 1 of the Housing Act 1988 (or any statutory extension re-enactment or modification thereof) through the involvement of a Social Landlord at a level of rent not above the Housing Corporations Rent Restructuring Regime prevailing at the time the Affordable Housing Site (or relevant part thereof) is transferred to a Social Landlord or the Council in accordance with paragraph 1 to the Schedule or such other guidelines as may be approved by the Council

(ii) a dwelling for sale on a shared ownership basis (with a restriction but not a prohibition on the right of the lessee to acquire full ownership) or

(iii) Any other scheme approved by the Council which addresses its housing need and secures the provision of housing to be available in perpetuity (where legally permissible) for occupation by persons who by reason of their limited income and/or resources or of some other circumstances have need of such housing

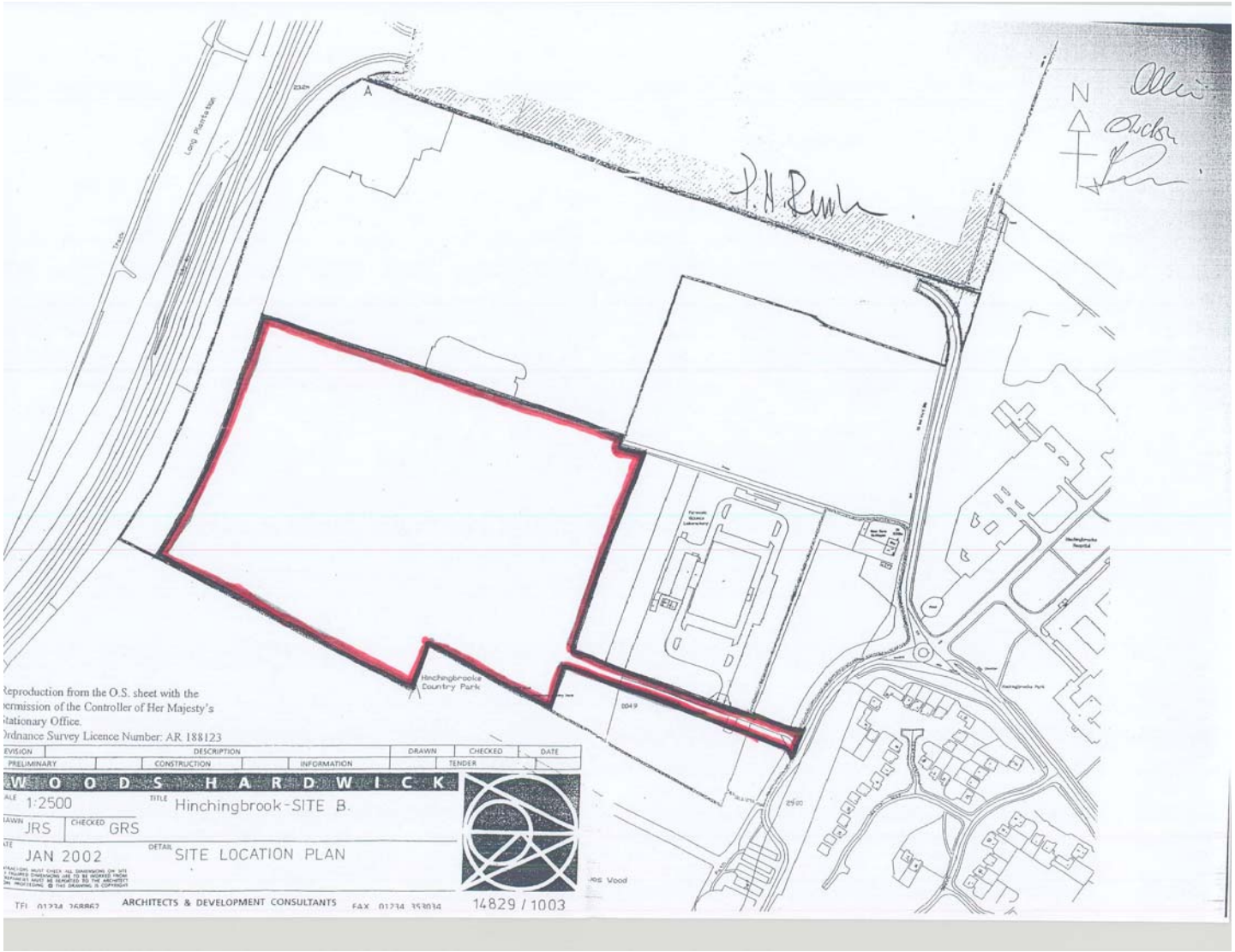
"Affordable Housing Scheme" means a scheme for securing the provision of a number of unit of Affordable Housing equal to 29% of the Housing Development comprising 3 phases each providing similar numbers of units of Affordable Housing (hereinafter referred to as "Phase 1" "Phase 2" and "Phase 3") such scheme to identify and/or specify :-

(i) the location of each Phase of the Affordable Housing Scheme and extent of the Affordable Housing Site

(ii) the type of accommodation

(iii) the persons or categories of person for which the Affordable Housing will be provided particular regard being made to the categories of person referred to in the notes following Policy H6 of the Huntingdonshire Local Plan adopted December 1995 (as may subsequently be amended or varied by any alteration to or replacement of the Local Plan)

(iv) the Social Landlord(s) to be involved in or responsible for operating the scheme; and


Long Plantation
A
N
Hinchingbrooke Country Park
Reproduction from the O.S. sheet with the permission of the Controller of Her Majesty's Stationary Office.
Ordnance Survey Licence Number: AR 188123
REVISION | DESCRIPTION | DRAWN | CHECKED | DATE
PRELIMINARY | CONSTRUCTION | INFORMATION | TENDER
WOODS HARDWICK
SCALE 1:2500
TITLE Hinchingbrook - SITE B.
DRAWN JRS
CHECKED GRS
DATE JAN 2002
DETAIL SITE LOCATION PLAN
ARCHITECTS & DEVELOPMENT CONSULTANTS
14829 / 1003

	(v) such other information as the Head of Planning may request
"Affordable Housing Site"	means the part or parts of the Land within the Application sufficient for the provision of Affordable Housing in accordance with the Affordable Housing Scheme
"Affordable Housing Site Terms"	means the terms for the transfer of the Affordable Housing Site as set out in paragraph 1.5 to the Schedule
"the Application"	means the planning application registered on the 5th day of March 2002 under application number 02/00443/OUT
"Commence Development/ Commencement of Development"	means the implementation of the Planning Permission by the carrying out of a material operation as defined by Section 56(4) of the Act
"the Development"	means the carrying out of residential and ancillary development on the Land in accordance with the Planning Permission
"the Head of Planning"	means the Head of Planning Services for the time being of the Council or such other officer as the Council may specify
"Housing Development"	means the total number of Open Market Dwellings and units of Affordable Housing constructed on the Land
"the Land"	means land situate at the rear of Huntingdon Forensic Science Laboratories Hinchingbrooke Park Road Huntingdon comprising approximately 8.15 hectares and shown edged red on the Plan
"Maintenance Period"	means a period of 12 months after the Open Space has been laid out in accordance with the Planning Permission the Specification and paragraph 2 to the Schedule
"Off Site Highway Works"	means the signalisation of the junction of Hinchingbrooke Park Road with Brampton Road

"On-Site Facilities"	means 1 no. combined LEAP/NEAP comprising 11 items of play equipment to an approximate value of £50000 and 3 no. LAPs comprising 3 items of play equipment to an approximate total value of £30000 (or such other number of play areas and/or combination of play equipment of equivalent value as may be specified by the Head of Planning) to be provided on the Open Space in accordance with the Specification and the NPFA's 6 Acre Standard (1992) or any successor document or standard current at the time the On Site Facilities are provided (the aforementioned values to be increased by 5% per annum calculated on a daily basis and compounded annually from the date of this Agreement to the date on which the On Site Facilities are provided in accordance with paragraph 2 to the Schedule to this Agreement)
"On-Site Facilities Maintenance Contribution"	means the sum of £27000 (increased by 5% per annum calculated on a daily basis and compounded annually from the date of this Agreement to the date of payment of the On Site Facilities Contribution) to be used for the maintenance and other work required for the upkeep of the On-Site Facilities
"Open Market Dwelling(s)"	means the dwelling houses and/or flats erected on the Land in accordance with the Planning Permission excluding any Affordable Housing
"Open Space"	means part of or parts of the Land to be laid out in accordance with the Planning Permission and paragraph 2 to the Schedule as childrens' casual and equipped play space (encompassing the On Site Facilities) and as youth play

	space the area of such to be calculated in accordance with the requirements of Policy R7 of the Huntingdonshire Local Plan (or any amendments to or variation thereof) together with general amenity areas serving the development
"Open Space Contribution"	means the sum calculated on the basis of £37k per hectare (increased by 5% per annum calculated on a daily basis and compounded annually from the date of this Agreement to the date of payment of the Open Space Contribution) for the upkeep of associated grass and landscaping on the Open Space
"the Plan"	means the plan annexed hereto and marked "Site Location Plan"
"the Planning Obligations"	means the planning obligations specified in the Schedule hereto
"the Planning Permission"	means permission for the Development granted by the Council pursuant to the Application and includes any approval of reserved matters pursuant to an outline permission or any agreed amendments to the Planning Permission in the form of the draft annexed to this Agreement
"Purchase Price"	means the sum of £1
"Scheme Development Standards"	means the essential items referred to in the published requirements and recommendations of the Housing Corporation for quality of housing probity and procurement and procedural compliance as described in the Housing Corporation Publication "Scheme Development Standards" (4th Edition) published in August 2000) or any amendment thereto or replacement thereof which is current at the date

	the Affordable Housing Site (or relevant part thereof) is transferred to a Social Landlord or the Council in accordance with paragraph 1 to the Schedule
"Social Landlord"	means a registered social landlord within the meaning of Part 1 of the Housing Act 1996
"the Specification"	means the specification annexed hereto and marked "Huntingdonshire District Council Standard Specification for the Construction and Maintenance of Landscaped Areas for Adoption by the District Council" dated March 2001
"Town Council"	means Huntingdon Town Council

WHEREAS:

(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 situated

(2) The Owner is seised of the Land registered as to part with title absolute at H M Land Registry under title number CB104044 and as to the remainder seised in fee simple in possession free from incumbrances

(3) The Owner and the Developer have entered into a contract dated 18th November 2002 for the Developer to acquire the Land conditional upon the grant of the Planning Permission

(5) The Developer has submitted the Application to the Council for Planning Permission for the Development

(6) In accordance with the requirements of the development plan (and the emerging Huntingdonshire Local Plan Alteration) for the area within which the Land is situated the County Council in its capacity as education authority and as highways and transportation authority has made the appropriate financial provision for the education requirements generated by the Development and has ring fenced the sum of £420,000.00 for use towards the Huntingdon Transport Strategy

(7) The Council is satisfied that the Development is such as may be permitted by the Council under the Act subject to conditions and subject also to the prior execution of this Deed into which the parties hereto have agreed to enter

NOW THIS DEED which is a Planning Obligation made in pursuance of Section 106 of the Act and all other powers the parties hereto enabling

WITNESSETH as follows :

1. **THE** Planning Obligations are planning obligations for the purposes of Section 106 of the Act
2. The Planning Obligations in the Schedule hereto are enforceable by the Council
3. The Owner and the Developer hereby covenant with the Council

3.1 to observe and perform the Planning Obligations

3.2 to comply with all other provisions covenants and other stipulations contained in this Agreement not being Planning Obligations

3.3 within 21 days of the date of any disposition of any legal interest in the Land or any part thereof to give the Council written notice thereof including details of the name and address of the person or persons to whom such interest was transferred **PROVIDED ALWAYS** that this shall not apply to a disposal of any interest by way of mortgage or legal charge or to the freehold sale or long lease to a bona fide purchaser of a single Open Market Dwelling comprised in the Development or the disposal of any land to a public utility provider for operational purposes

3.4 to notify the Council in writing within 14 days thereof of the Commencement of Development

4. **IT** is agreed and declared

4.1 The expressions "the Council" "the Owner" and "the Developer" shall include their successors in title and assigns subject to the provisions of clause 4.10 of this Agreement

4.2 Wherever the expression "the Owner" or "the Developer" includes more than one person then the covenants on the part of the Owner and/or the Developer herein contained shall be deemed to be joint and several

4.3 If the Planning Permission shall expire before the Commencement of Development or is revoked or otherwise withdrawn without the consent of the Owner this Agreement shall thereupon cease to have effect and at the written request of the Owner the Council shall cancel any entry made in any Land Charges or Land Registry register

4.4 The Developer shall pay to the Council on the execution of this Deed the reasonable legal costs properly incurred by the Council in drafting negotiating and completing this Agreement

4.5 Nothing herein contained shall prejudice fetter or affect any of the statutory rights powers duties and obligations for the time being vested in the Council as Local Authority and/or Local Planning Authority

4.6 The Owner and Developer shall permit any person duly authorised by the Council to enter the Land at any reasonable hour to ascertain whether there is or has been any breach of the Planning Obligations herein contained

4.7 That in the event of any delay in making any payment required under this Agreement interest shall be payable on the amount payable at the rate of three per cent per annum above National Westminster Bank Plc base lending rate from time to time in force from the date that the relevant payment falls due to the date of actual payment

4.8 Any bona fide purchaser and/or occupier of a single Open Market Dwelling erected on the Land and the provider of any public utility service shall not be bound by Planning Obligations

4.9 Except as expressly provided to the contrary any approval or consent required under the terms of this Agreement shall not be unreasonably withheld or delayed

4.10 No person or body shall be liable for any breach of the covenants restrictions or obligations contained in this Deed occurring after he or it has parted with his or its interest in the Land or the part in respect of which such breach occurs

4.11 In the event of a dispute between the parties arising in connection with this Agreement (other than a dispute relating to a matter of law or in relation to the interpretation of this Deed) the parties agree that the matter in dispute will on the application of either of them be referred to a Surveyor acting as an expert (hereinafter referred to as the "Expert") (being a member of the Planning Division of the RICS with not less than ten years' recent experience in the field of town and country planning and development) whose identity will be agreed between the parties or in default of agreement appointed by or on behalf of the President for the time being of the RICS on the application of either party and it is further agreed that –

(a) the determination of the Expert will be final and binding on the parties save in the case of manifest error

(b) the parties will be entitled to make representations and counter-representations in accordance with such timetable as the Expert shall direct and

(c) the Expert's costs will be borne in such proportions as he may direct failing which each party will bear its own costs of the reference and determination and one-half each of the Experts' costs.

4.12 With the exception of clause 4.4 the Developer shall not be liable under this Deed unless and until it completes the purchase of the Land or any part thereof

IN WITNESS whereof the parties hereto have caused this Deed to be executed the day and year first before mentioned

THE SCHEDULE

(Section 106 Planning Obligations)

1 Affordable Housing

1.1 Not to Commence Development until the Affordable Housing Scheme has been submitted to and approved in writing by the Head of Planning

1.2 The Affordable Housing shall not be occupied other than in accordance with the approved Affordable Housing Scheme or such other scheme as may subsequently be approved by the Head of Planning

1.3 The Affordable Housing shall comply with the Scheme Development Standards

1.4 The Affordable Housing Site for each Phase of the Affordable Housing Scheme shall be transferred as hereinafter specified to the Council (or to a Social Landlord nominated by the Council) on the Affordable Housing Site Terms :-

1.4.1 The Affordable Housing Site for Phase 1 of the Affordable Housing Scheme shall be transferred within 3 months from the Commencement of Development or prior to occupation of the first Open Market Dwelling whichever shall be earlier

1.4.2 The Affordable Housing Site for Phase 2 of the Affordable Housing Scheme shall be transferred within 15 months from the Commencement of Development or prior to occupation of not more than 25% of Open Market Dwellings whichever shall be earlier

1.4.3 The Affordable Housing Site for Phase 3 of the Affordable Housing Scheme shall be transferred within 27 months from the Commencement of Development or prior to occupation of not more than 50% of the Open Market Dwellings whichever shall be earlier

1.5 The Affordable Housing Site for each Phase shall be:-

1.5.1 transferred in consideration of the Purchase Price

1.5.2 accessible from the time of transfer to enable the construction of the Affordable Housing

1.5.3 at the date of the relevant transfer provided up to the boundary of the Affordable Housing Site with:-

1.5.3.1 an adoptable road access subject to an Agreement under Section 38 of the Highways Act 1980; and

1.5.3.2 adoptable public sewers and drains subject to an Agreement under Section 104 of the Water Industry Act 1991; and

1.5.3.3 access to electricity gas telephone and other common services

1.5.3.4 PROVIDED THAT if it has not been possible to complete such Agreement or Agreements as specified in paragraphs 1.5.3.1 and 1.5.3.2 by the time of such transfer then the Owner covenants to use all reasonable endeavours to enter into such Agreements as soon as possible thereafter

1.5.4 be sufficient in extent for the erection of the Affordable Housing in each Phase of the Affordable Housing Scheme including (without prejudice to the generality of the foregoing) adequate curtilage parking spaces walkways gardens and other normal domestic facilities

1.6 The obligations contained in this Schedule shall not be binding against

1.6.1 a person acquiring a Unit of Affordable Housing pursuant to any form of statutory right to acquire then binding upon the owner of the Affordable Housing Site; or

1.6.2 a lessee of a Unit of Affordable Housing under a shared ownership lease (if any) who has taken a transfer of the freehold reversion of that lease or a purchaser from or a Mortgagee of the lessee of that unit

2 Open Space

2.1 Commencement of Development shall not take place until a plan showing the Open Space (including the On Site Facilities) has been submitted to and approved by the Head of Planning in writing

2.2 Not more than 50% of the Open Market Dwellings shall be occupied until the Open Space and On Site Facilities have been laid out and available for use in accordance with the plan approved under clause 2.1 to this Schedule and in accordance with the relevant parts of the Specification to the satisfaction of the Council

2.3 After the Open Space and On Site Facilities have been laid out in accordance with 2.2 to this Schedule they shall thereafter be maintained by the Owner for the Maintenance Period to the satisfaction of the Council

2.4 Not earlier than two months prior to the expiry of the Maintenance Period the owner shall request the Council in writing to inspect the Open Space and On Site Facilities and shall

following such inspection carry out such remedial works to the Open Space (including the replacement of any dead or dying trees or shrubs) and the On Site Facilities as are required by the Council by the expiration of the Maintenance Period

2.5 At the expiration of the Maintenance Period the Owner shall offer to transfer the Open Space including the On Site Facilities to the Council for a consideration of One Pound together with all rights and easements necessary for the maintenance and public use thereof and shall without delay use its best endeavours to effect such transfer

2.6 Not later than the transfer of the Open Space and the On Site Facilities in accordance with the preceding paragraph the Owner shall pay to the Council the Open Space Contribution and the On Site Facilities Maintenance Contribution to cover the future costs of maintaining the Open Space and On Site Facilities

2.7 If the Council shall so direct the Owner shall transfer the Open Space and On Site Facilities under paragraph 2.5 of this Schedule and shall pay the Open Space Contribution and the On Site Facilities Contribution payable under paragraph 2.6 of this Schedule to the Town Council

2.8 Subject to the owner complying with paragraphs 2.1 to 2.6 to this Schedule the Council agrees to accept the transfer of the Open Space and On Site Facilities (or secure their acceptance by the Town Council) on the terms and conditions herein contained **PROVIDED** always that the Open Space so transferred shall not be used for a purpose other than public open space/amenity land/play area

3. OFF SITE HIGHWAY WORKS

3.1 None of the Housing development shall be occupied until the Head of Planning has certified in writing that the Off Site Highway Works have been completed to his satisfaction

THE COMMON SEAL of the **HUNTINGDONSHIRE DISTRICT COUNCIL** was affixed to this Deed in the presence of :-

Executive Director of Central Services



THE COMMON SEAL of the **CAMBRIDGESHIRE COUNTY COUNCIL** was affixed to this Deed in the Presence of :-

~~Director~~

SENIOR SOLICITOR

~~Secretary~~



SIGNED as a Deed and **DELIVERED** by the said **TWIGDEN HOMES LIMITED** acting by a Director and its Secretary:

Director

Secretary