

DATED *2nd May* 1997

W. Tudgey

LESLIE WILLIAM TUDGEY SOUTHALL
JOYCE IRENE SOUTHALL

- and -

HART DISTRICT COUNCIL

A G R E E M E N T
Under Section 106 of the Town and
Country Planning Act, 1990
TUDGEYS NURSERY
CROOKHAM VILLAGE
IN HAMPSHIRE

C.C. Herbert
Solicitor
Civic Offices
Harlington Way
Fleet, Hants

LEGALDOCS/DC.4.224Shell



THIS AGREEMENT is made the 15 day of JANUARY 1999

BETWEEN HART HOUSING ASSOCIATION LIMITED whose registered office is Situate at Lismoyne House Church Road Fleet in Hampshire (hereinafter called 'the Association which term shall include its successors in title') of the one part and HART DISTRICT COUNCIL of Civic Offices Harlington Way Fleet in Hampshire GU13 8AE (hereinafter called 'the Council') of the other part

WHEREAS

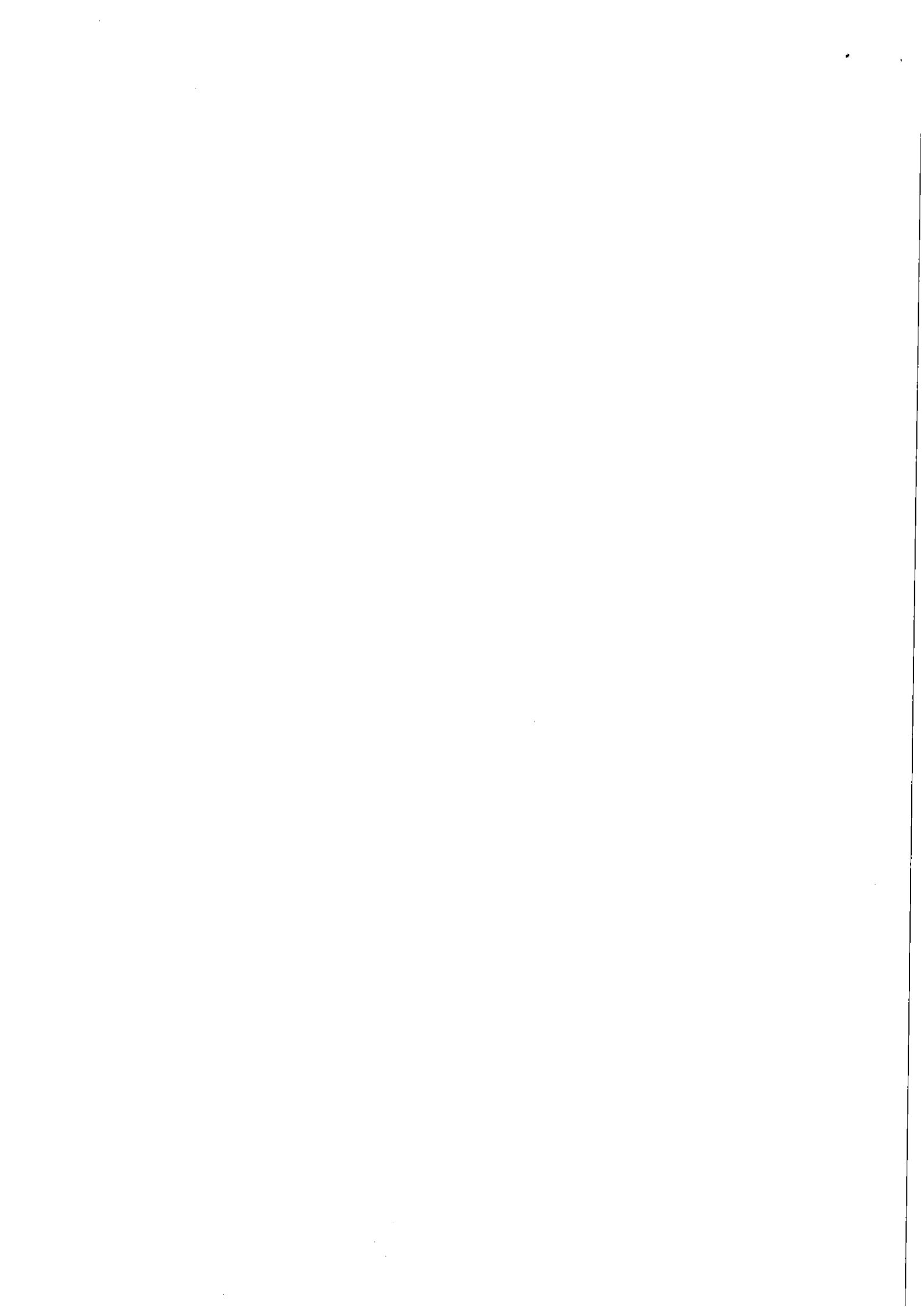
- (1) This Agreement is supplemental to an agreement made under the Section 106 of The Town and Country Planning Act 1990 dated 2nd May 1997 and made between **The Association (1)** and **The Council (2)** ('the Principal Agreement') relating to Tudgey's Nursery Crookham Village in Hampshire
- (2) The Council and The Association are desirous of amending the Principal Agreement

THIS DEED WITNESSETH -

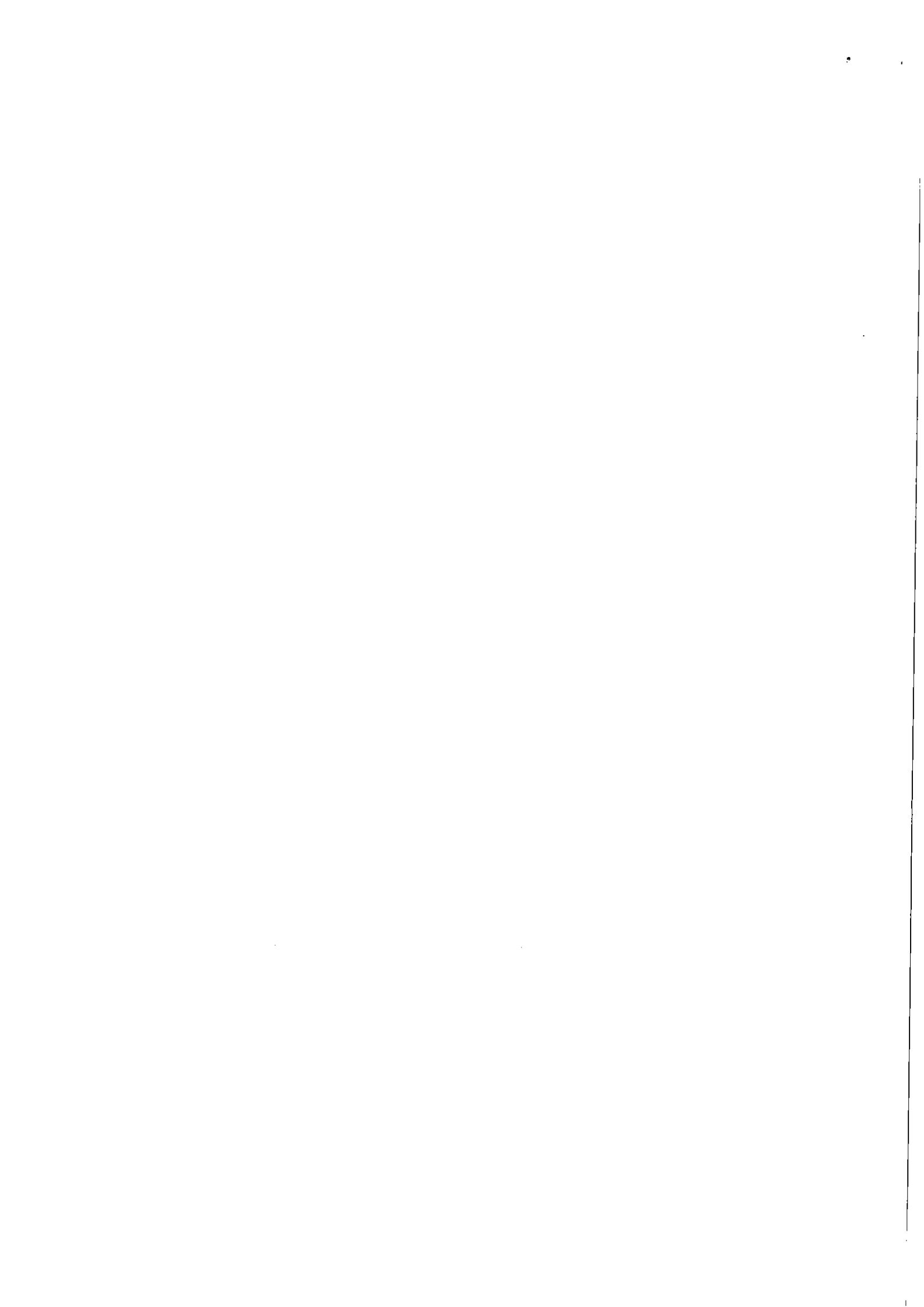
1.0 Defined Terms

The following terms in this Agreement shall have the following meanings unless the context requires otherwise :-

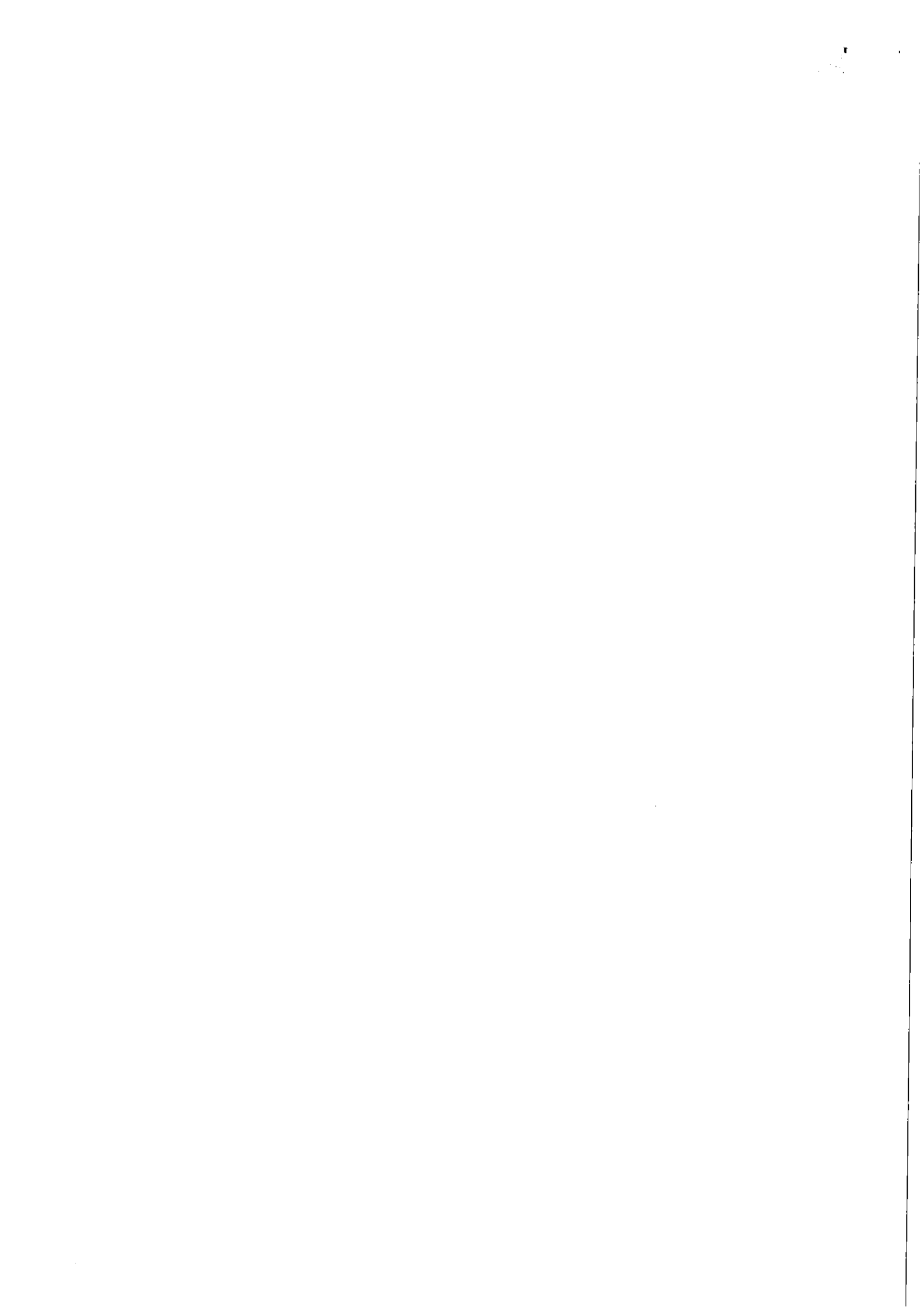
- 1.1 'Building Contract' means a contract to be entered into by the Association for the carrying out of the Development to a standard acceptable to the National Housebuilders Confederation
- 1.2 'Building Contractor' means the person employed under the Building Contract
- 1.3 'Building Works' means the building works to be carried out under the Building Contract
- 1.4 'Practical Completion' means the practical completion of the Building Works or of any block of Units in accordance with the Building Contract and references to 'the date of Practical Completion' are to the date on which the certificate of Practical Completion is issued by the Employer's Agent in accordance with the terms of the Building Contract
- 1.5 'the Property' means the land at Tudgeys Nursery Crookham Village in Hampshire shown edged red on the annexed plan
- 1.6 'Requisite Consents' has the meaning assigned to it by Clause 6.3
- 1.7 'Unit' shall mean a unit of housing accommodation constituting a separate unit within the Development together with its curtilage and any parking space
- 1.8 'Perpetuity Period' means the period of 80 years commencing with the date hereof



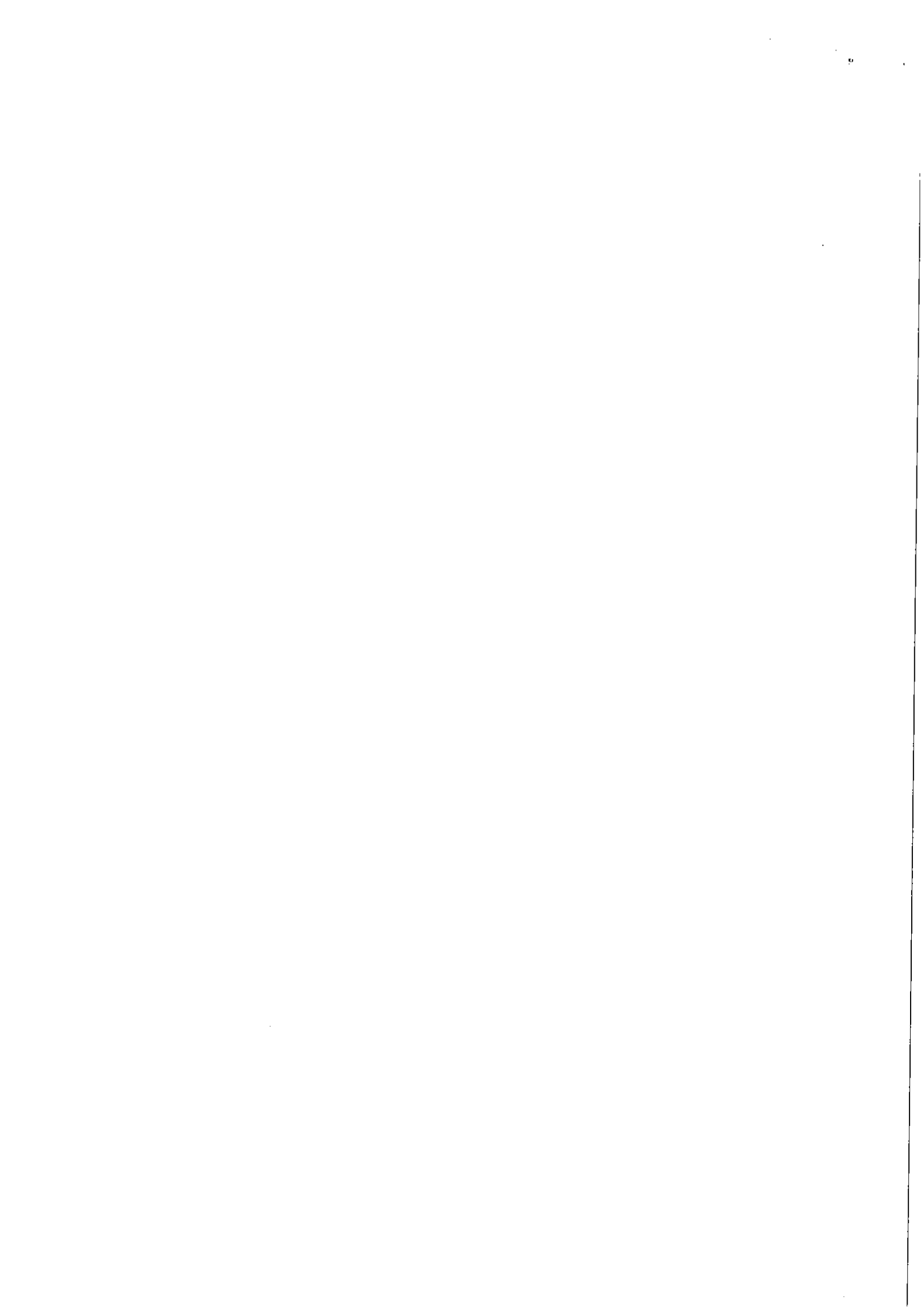
- 1.9 'Housing Service Manager' means the person employed by the Council under that title or such other person as may from time to time undertake the role of housing manager
- 2.0 Interpretation
- 2.1 Reference to a clause are references where the context so admits to a clause in this agreement
- 2.2 The clause headings in this agreement are for ease of reference only and shall not be taken into account in the construction or interpretation of the clause to which they refer
- 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 natural persons include corporations and firms and all such words shall be construed interchangeable in that manner
- 2.5 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to permit infringements of that restriction
- 2.6 All references to legislation are to that legislation as from time to time amended or re-enacted
- 3.0 This agreement constitutes a Planning Obligation for the purposes of Section 106 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and it is a Planning Obligation enforceable by the Council entered into in respect of the Property by the Association whose interest in the Property is detailed above



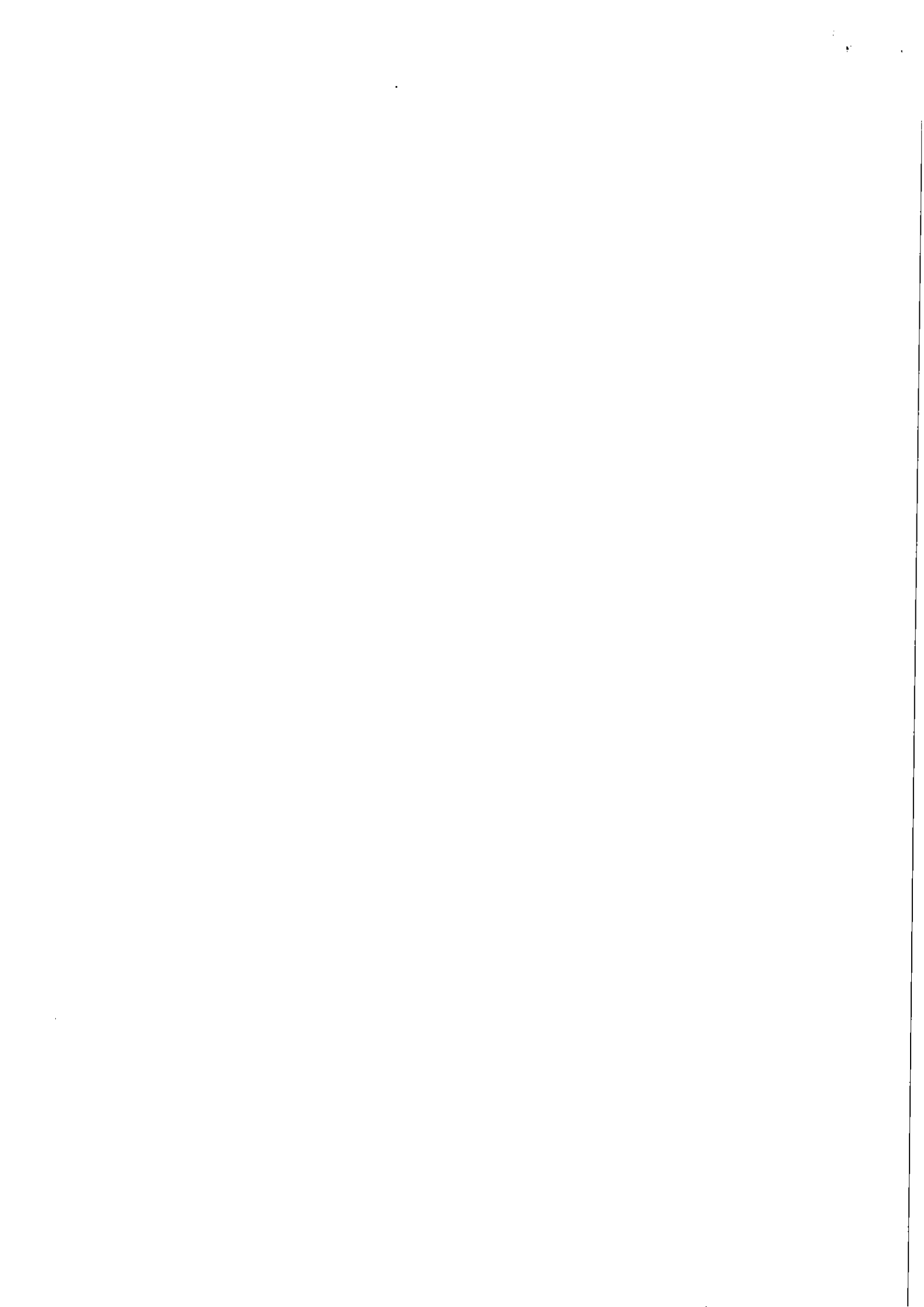
- 4.0 This agreement is made pursuant to Section 106 of the Act (as amended) Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 111 of the Local Government Act 1972
- 5.0 The Association hereby covenants with the Council not to permit the occupation of any part of the Development otherwise than strictly in accordance with the procedures set out in the following clauses
- 6.0 Development of the Site
- 6.1 The Association shall as soon as practicable after the date hereof and subject to all Requisite Consents being obtained enter into the Building Contract and endeavour to procure Practical Completion of all the Units within two years of the date of this agreement subject to this period being extended commensurately with any extension of time granted to the Building Contractor under the Building Contract
- 6.2 The Association will apply for and use all reasonable endeavours to obtain all Requisite Consents
- 6.3 The Requisite Consents are those permissions consents approvals licences certificates and permits in legally effectual form as may be necessary lawfully to commence carry out maintain and complete the Development including (but without limitation) :-
- 6.3.1 planning permission and approval of reserved matters and any further details
 - 6.3.2 building regulations consent and byelaw approval
 - 6.3.3 the requirements of all competent authorities regulating the Development



- 6.3.4 the consents of all persons having interests or rights in or over the Site who by the lawful exercise of their powers in the absence of such a consent could prevent or impede the carrying out or progress of the Development
- 6.4 The Association will keep the Council informed of :-
- 6.4.1 all material measures taken and stages reached by the Association in performing its obligations
- 6.4.2 the progress of the Building Works
- 6.4.3 any material problems or delays affecting the Building Works
- 6.5 The Association will enforce the defects liability provisions in the Building Contract and/or as appropriate under the NHBC Scheme
- 7.0 Maintenance of the Property
- 7.1 The Association shall provide a boundary enclosure around the Property as provided for by the conditions to any planning consent and thereafter shall maintain the same at the expense of the Association
- 8.0 Designation of Units
- The Association will give to the Council not less than six weeks prior written notice of the Practical Completion of each Unit such notice to be addressed to the Housing Services Manager
- 9.0 Use of Assured Tenancy Units
- This clause shall apply to fifteen (15) units
- 9.1 The Association and the Council hereby mutually agree as follows :-
- (A) that the Units shall at all times be let and managed by and in accordance with the objects of the Association and its current published housing waiting list and allocation system or by and in accordance with similar objects and published documents of any other registered Housing Association
- (B) that the Association shall upon completion of the Development and at all times thereafter allocate each Unit



- comprised therein to a person -
- (i) who is considered by the Association to be in need of such accommodation and to be unable to afford housing accommodation on the open market (whether by renting or purchasing) within the Parishes of Crookham Village and Dogmersfield
 - (ii) who has a strong local connection with the said Parishes of Crookham Village and Dogmersfield and for the purposes of this Deed a person shall be taken to have a strong local connection with those Parishes if -
 - (a) he was ordinarily resident there for a continuous period of not less than ten (10) years ending with the date of his application to the Association for housing accommodation; or
 - (b) he has resided there for not less than ten (10) years prior to the date of such application being made and another member of his family actually resides there at that date; or
 - (c) he has a readily demonstrable need to reside there by reason of his current employment there PROVIDED THAT such employment has been continuous for a period of not less than five (5) years ending with the date of such application; or
 - (d) he has a demonstrable need to reside there either to support or to be supported by another member of his family who has resided there for a continuous period of not less than ten (10) years ending with the date of such application
- (C) That if within a reasonable time of any Unit comprised in the Development becoming available for occupation whether

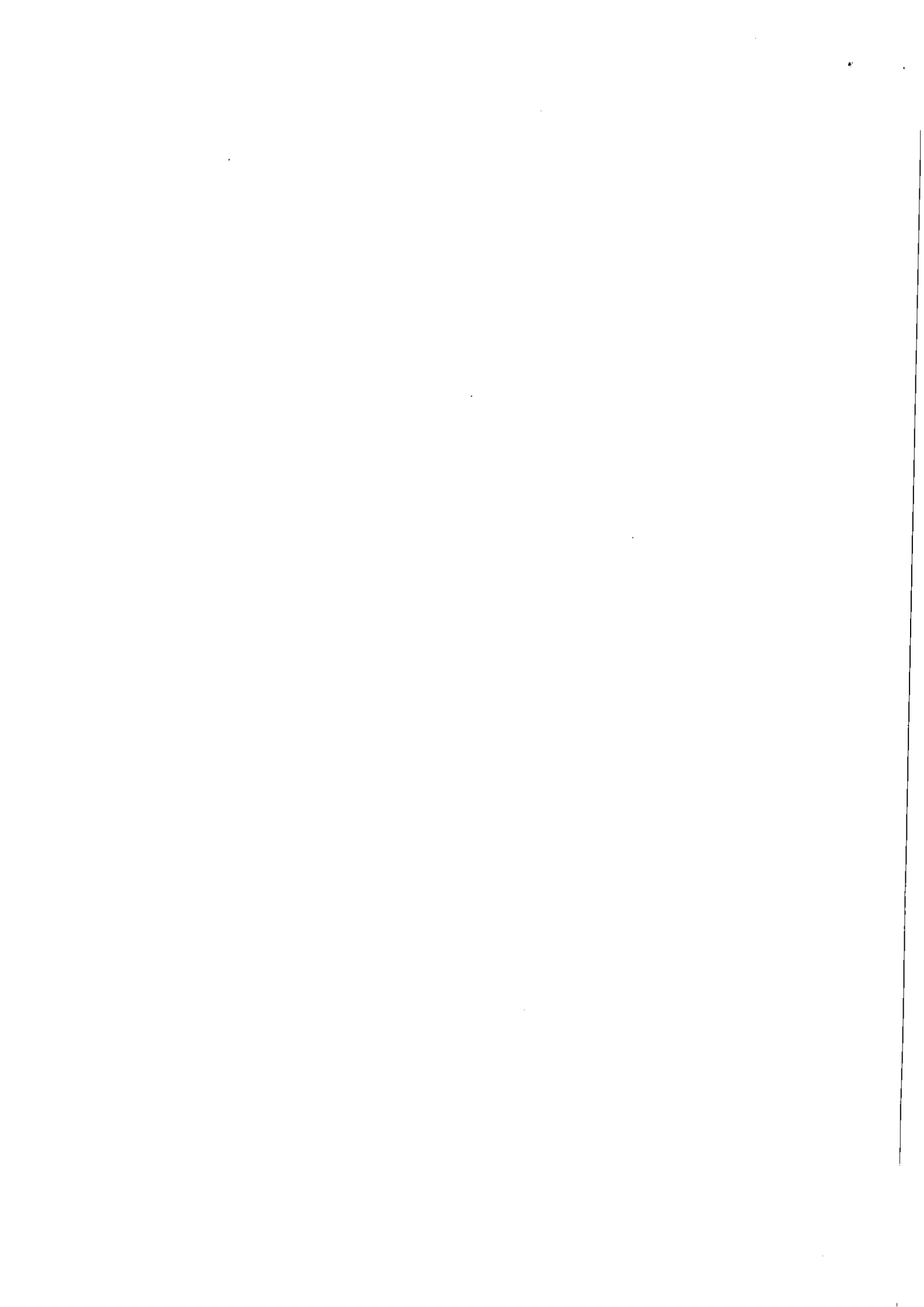


upon practical completion of the development or at any time thereafter the Association (having first consulted the Housing Services Manager for the time being) is unable to fill any such vacancy arising in accordance with paragraph (B) of this clause then the Association shall allocate (but only with the prior written approval of the Housing Service Manager) any such vacant Unit to a person who falls within the criteria set out in sub-paragraph (i) of paragraph (B) of this clause and who has a close association with the Parishes of Crookham Village and Dogmersfield even though that person does not satisfy the criteria set out in sub-paragraph (ii) of paragraph (B) hereof

(D) That if within a reasonable time of any Unit comprised in the Development becoming available for occupation whether on practical completion of the Development or at any time thereafter the Association (having first consulted the Housing Services Manager for the time being) is unable to fill any such vacancy arising in accordance with paragraphs (B) or (C) of this clause then the Association shall allocate any such vacant Unit to a person -

(i) who is considered by the Association to be in need of such accommodation and to be unable to afford housing accommodation on the open market (whether by renting or purchasing) within the Parishes of Odiham Winchfield and Crondall (being Parishes within the administrative area of the Council) and

(ii) who has a strong local connection with any of those Parishes and for the purposes of this Deed a person shall be taken to have a strong local connection with the said Parishes if he satisfies the criteria set out at (a) to (d) inclusive of sub-paragraph (ii) of paragraph (B) hereof except that

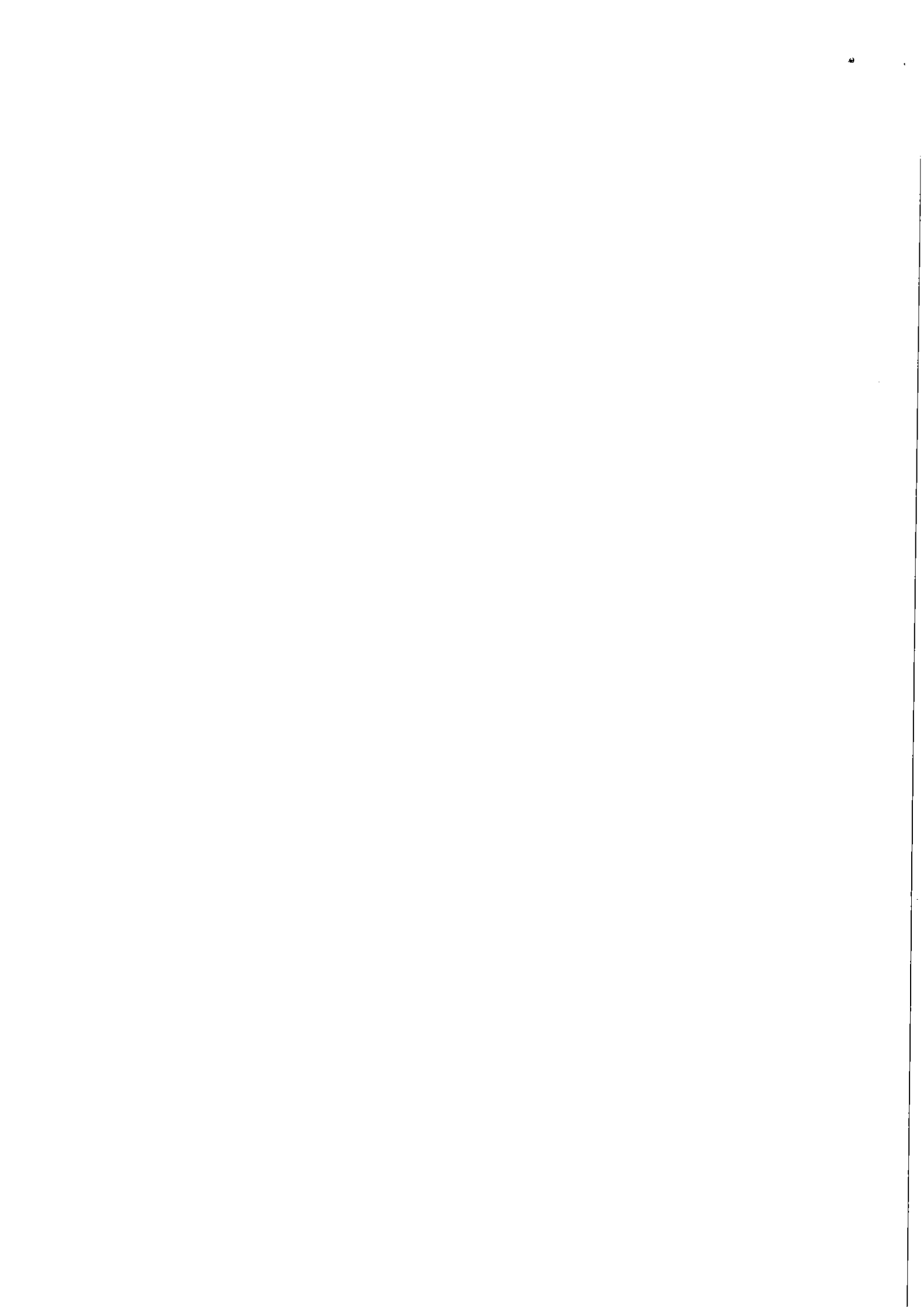


references therein to the Parish of Crondall shall be read and construed shall be read and construed as references to the Parishes of Odham Winchfield and Crondall

(E) That if within a reasonable time of any Unit comprised in the Development becoming available for occupation whether on practical completion of the Development or at any time thereafter the Association (having first consulted the Council's Housing Services Manager for the time being) is unable to fill any such vacancy arising in accordance with paragraphs (B) (C) or (D) hereof then the Association may with the consent of the Council (such consent not to be unreasonably withheld) allocate any such vacant Unit to any person who satisfies the criteria set out in sub-paragraph (i) of paragraph (B) or sub-paragraph (i) of paragraph (D) of this clause hereof SAVE THAT preference shall be given by the Association to such person ordinarily resident within the administrative area of the Council

9.2 Any vacancy arising for any reason whatsoever shall be notified by the Association to the Housing Services Manager and the Chairmen for the time being of the Parishes of Crookham Village and Dogmersfield in writing as soon as reasonably practicable and in any event within fourteen days of the vacancy arising. In the event of there being more than one potential occupant fulfilling the criteria set out in this Agreement for the vacancy then the Council together with the Association shall determine which potential occupant should be offered the vacant Unit such determination to be made on the basis of greatest need

9.3 IT IS FURTHER MUTUALLY HEREBY AGREED by and between the parties hereto that for the purposes of clause 9.1 hereof a person shall be a member of another's family if he or she (as the case may be) is the spouse mother father sister brother daughter son or grandparent of



such person and that the period of ten (10) years where referred to in Clause 9.1 may be such lesser period as the Housing Service Manager may agree in respect of a particular person

10.0 Notices and Notifications

Any notice to be given by one part to the other under this agreement shall be made in writing by letter or facsimile and if by first class post shall be deemed to be received two business days after posting and if by facsimile shall be deemed to be received when sent

11.0 Assignment of a Party's Interest in this Agreement

No party shall assign or dispose of its interest under this agreement without the written consent of the other party such consent not to be unreasonably withheld or delayed PROVIDED THAT such consent shall not be required in the case of a mortgage or charge of the Property or any part thereof or to any disposal by a mortgagee exercising its power of sale

12.0 Agreement not to Constitute a Partnership

This agreement shall not constitute or be deemed to constitute a partnership in any manner whatsoever

13.0 Council not to be Guarantor for Association

13.1 The Council shall not be deemed by virtue of its being a party to this agreement to be a guarantor for the performance or observance of any obligations entered into by the Association with third parties in pursuance of this agreement

13.2 Subject as aforesaid each party shall make advice and assistance available to the other to facilitate the objects and performance of this agreement without prejudice to or limitation of the Council's powers duties rights and obligations statutory contractual or otherwise

14.0 Dispute

14.1 Where any dispute arises between the parties as to the interpretation or operation of the provisions of this agreement such dispute shall be submitted for determination by an expert

14.2 The expert shall be appointed by the parties jointly or if they cannot or do not agree on the appointment by the President (or other acting senior officer for the time being) of the Royal Institution of Chartered Surveyors on the request of either party

14.3 A person appointed shall act as an expert and not as an arbitrator

14.4 The expert so appointed shall afford the parties the opportunity to make written representations to him

14.5 The expert's decision shall be final and binding

14.6 The fees and expenses of the expert including the cost of his appointment and the parties' own costs with respect to the determination of the issue by the expert shall be borne between the parties as the expert may determine

15.0 Interest

All sums payable under the terms of this Agreement not paid to the Council within fourteen days of the due date shall be subject to interest at a rate of four per cent over the National Westminster Bank PLC base lending rate from time to time calculated from the date payment is due to the date payment is received by the Council on a daily basis with quarterly rests

16.0 Costs

16.1 The Association will on completion of this agreement pay the Council's costs in connection therewith not exceeding Four Hundred Pounds (£400.00) plus VAT

IN WITNESS whereof the Council and the Association have caused their respective Common Seals to be affixed to this Deed the day and year first before written

THE COMMON SEAL of
HART HOUSING ASSOCIATION
LIMITED was hereunto affixed
in the presence of :-

A. M. Edge

V. M. S.



Authorised Signatory(s)

THE COMMON SEAL of
HART DISTRICT COUNCIL
was hereunto affixed in
the presence of :-

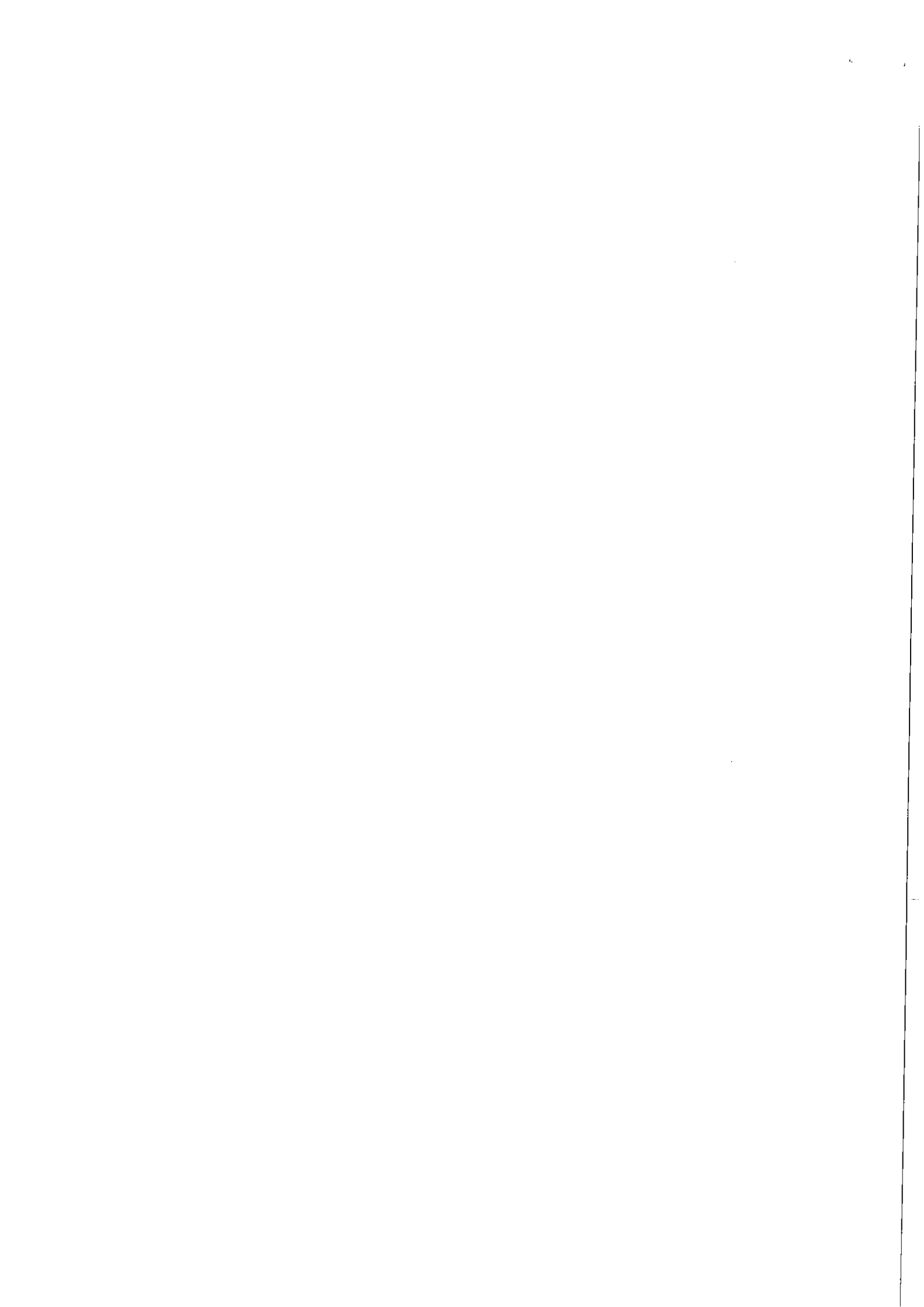
Rh. Shroombert

Member of the Council

L. R. S. M. G.

Chief Executive





DATED

2nd May

1997

HART HOUSING ASSOCIATION LIMITED

AND

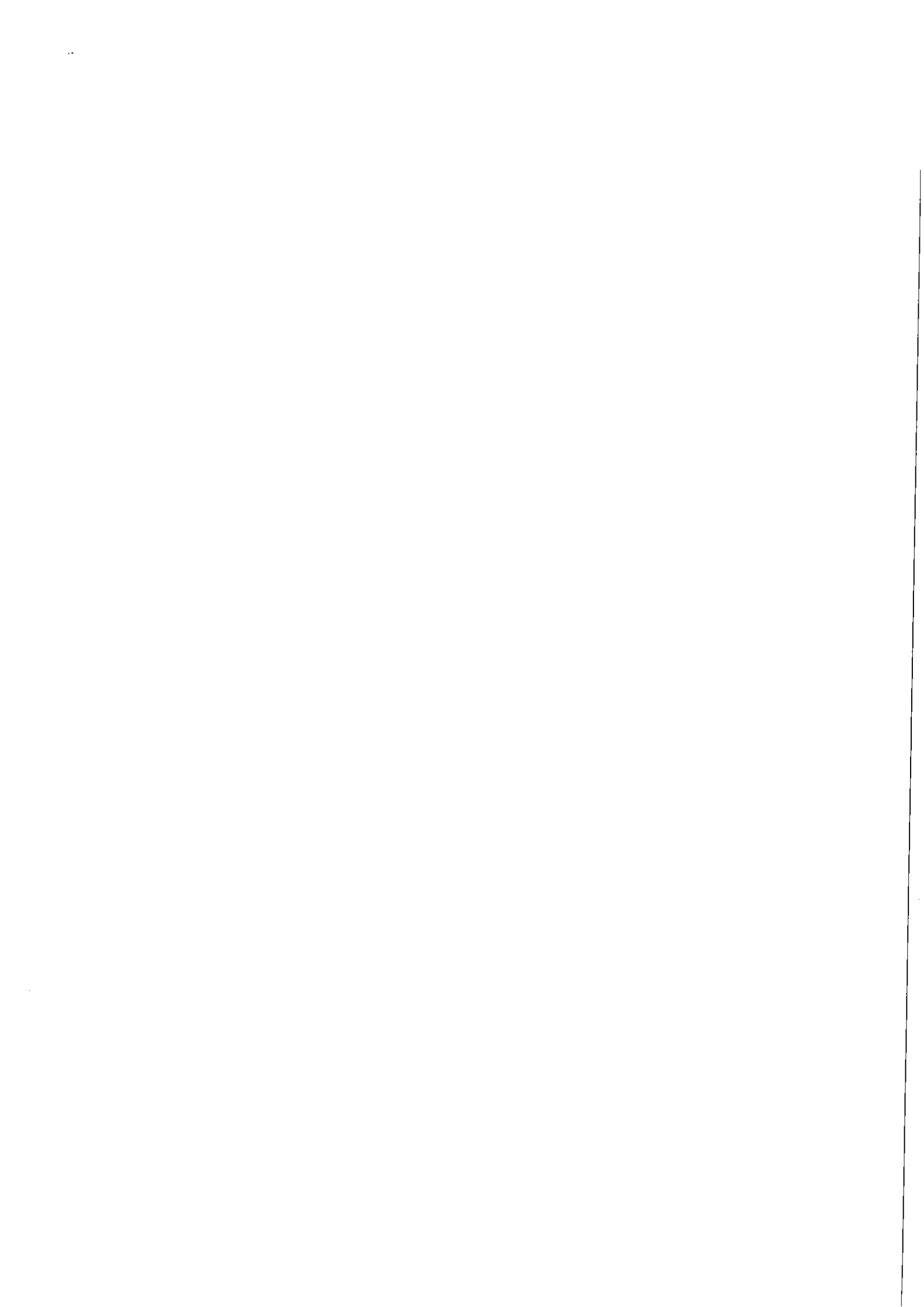
HART DISTRICT COUNCIL

A G R E E M E N T

Section 106
Town and Country Planning Act, 1990
Land at Tudgeys Nursery
Crookham Village
in Hampshire

Mr. C.C. Herbert
Civic Offices
Harlington Way
Fleet
Hants. GU13 8AE

LEGALDOCS/dc.4.224



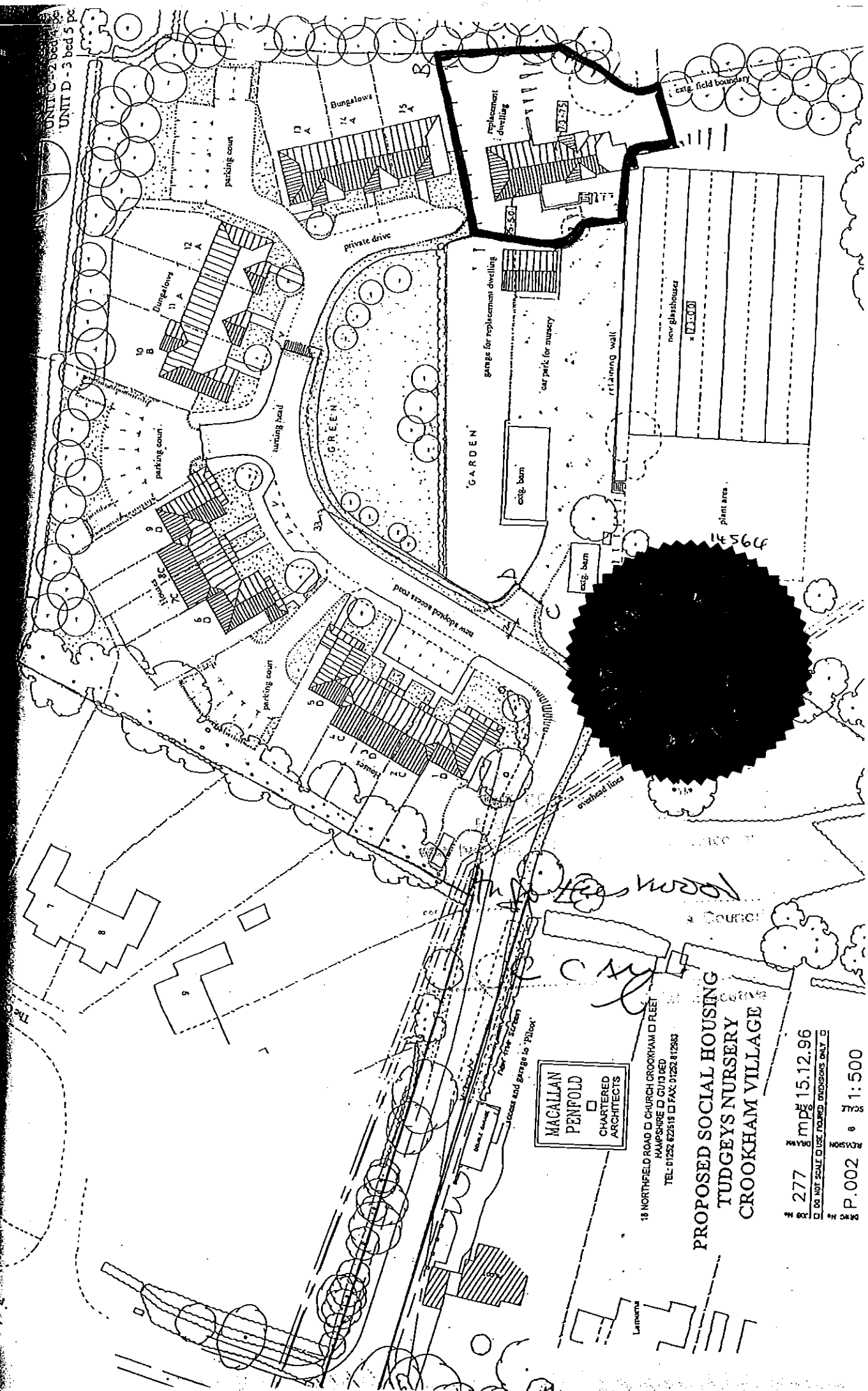
THIS AGREEMENT is made the *2nd* day of *May* One thousand nine hundred and ninety seven BETWEEN LESLIE WILLIAM TUDGEY SOUTHALL and JOYCE IRENE SOUTHALL of Tudgeys Nursery Crookham Village in Hampshire (hereinafter called "the Owner") of the first part and HART DISTRICT COUNCIL of Civic Offices Harlington Way Fleet in the County of Hampshire (hereinafter called "the Council") of the second part
WHEREAS

- (1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 (hereinafter called "the 1990 Act") for the area within which the property described in the First Schedule hereto is situated (hereinafter called "the Property")
- (2) The Owner is the beneficial owner in fee simple in possession of the property free from incumbrances
- (3) Hart Housing Association has by a written application registered by the Council under reference 96/1150/FUL (hereinafter called "the Application") applied to the Council for permission to develop the property and other land in the manner described in the Second Schedule hereto (hereinafter called "the Development") and more particularly described in the Application
- (4) The Council and the Owner are desirous of permanently restricting and regulating the development and use of the property in manner hereinafter appearing and subject thereto the Council is satisfied that the Development described by the Application is such as may be approved by the Council under the 1990 Act.

NOW THIS DEED WITNESSETH as follows:-

1. This Agreement is made in pursuance of Section 106 of the 1990 Act which is hereby expressed to apply to this Agreement as far as lawfully possible and all other enabling legislation and in consideration of the covenants by the Owner hereinafter contained which covenants shall be ones to which the aforesaid provisions of the 1990 Act shall apply.
2. The Owner hereby WARRANTS that he is the beneficial owner in fee simple in possession of the property free from all incumbrances.
3. The Owner HEREBY COVENANTS with the Council not to use or cause or permit the Property to be used OTHERWISE THAN in accordance with the restrictions and provisions regulating the development and use thereof specified in the Third Schedule hereto and FURTHER COVENANTS that the said property and the Development shall not be disposed of OTHERWISE than subject to the said restrictions and provisions and subject also to a covenant in similar terms to this further covenant.
4. The Agreement made the 3rd day of June 1980 and made between Tudgey and Company Limited and Hart District Council under Section 52 of the Town and Country Planning Act 1971 shall be revoked on the development of the property being begun
5. The expressions "the Council" and "the Owner shall include their respective successors in title and assigns and where two or more persons are included within the expression "the Owner" any warranty or covenant herein contained shall be treated as being given jointly and severally

UNIT C - 2 bed
UNIT D - 3 bed 5 pc



MACALLAN
PENFOLD
CHARTERED
ARCHITECTS

18 NORTHFIELD ROAD □ CHURCH CROOKHAM □ RLEET
HANTS □ GU10 0ED
TEL: 01253 62819 □ FAX: 01253 81293

**PROPOSED SOCIAL HOUSING
TUDGEYS NURSERY
CROOKHAM VILLAGE**

277
15.12.96
SCALE 1:500
P.002

6. The Owner shall be responsible for the Council's reasonable legal costs in this matter together with any Value Added Tax Payable thereon.

IN WITNESS whereof the Council has hereunto affixed its respective Common Seal and The Owner has executed this document as a deed the day and year first before written.

FIRST SCHEDULE

Tudgeys Nursery Crookham Village in Hampshire as the same is shown edged red on the plan annexed hereto

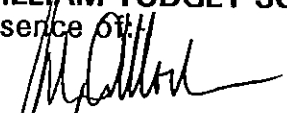
SECOND SCHEDULE

A dwelling and annex

THIRD SCHEDULE

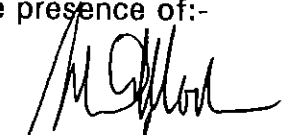
The dwelling to be constructed on the property including its annex shall not be occupied other than as a single dwelling.

SIGNED and DELIVERED
by the said
LESLIE WILLIAM TUDGEY SOUTHALL
in the presence of:


Witness: [Signature] Read this



SIGNED and DELIVERED
by the said
JOYCE IRENE SOUTHALL
in the presence of:-


Witness: [Signature] as above

Joyce Southall

—

6. The Owner shall be responsible for the Council's reasonable legal costs in this matter together with any Value Added Tax Payable thereon.

IN WITNESS whereof the Council has hereunto affixed its respective Common Seal and The Owner has executed this document as a deed the day and year first before written.

FIRST SCHEDULE

Tudgeys Nursery Crookham Village in Hampshire as the same is shown edged red on the plan annexed hereto

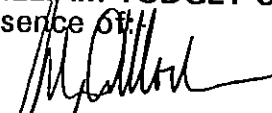
SECOND SCHEDULE

A dwelling and annex

THIRD SCHEDULE

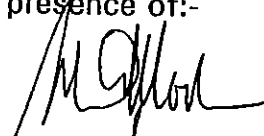
The dwelling to be constructed on the property including its annex shall not be occupied other than as a single dwelling.

SIGNED and DELIVERED
by the said
LESLIE WILLIAM TUDGEY SOUTHALL
in the presence of:


Witness as above



SIGNED and DELIVERED
by the said
JOYCE IRENE SOUTHALL
in the presence of:-


Witness as above

Joyce Southall

THE COMMON SEAL of
HART DISTRICT COUNCIL
was hereunto affixed
in the presence of:-

Ango Eastwood
Member of the Council

[Signature]
Chief Executive



DATED 15 January 1999

HART HOUSING ASSOCIATION LTD.,

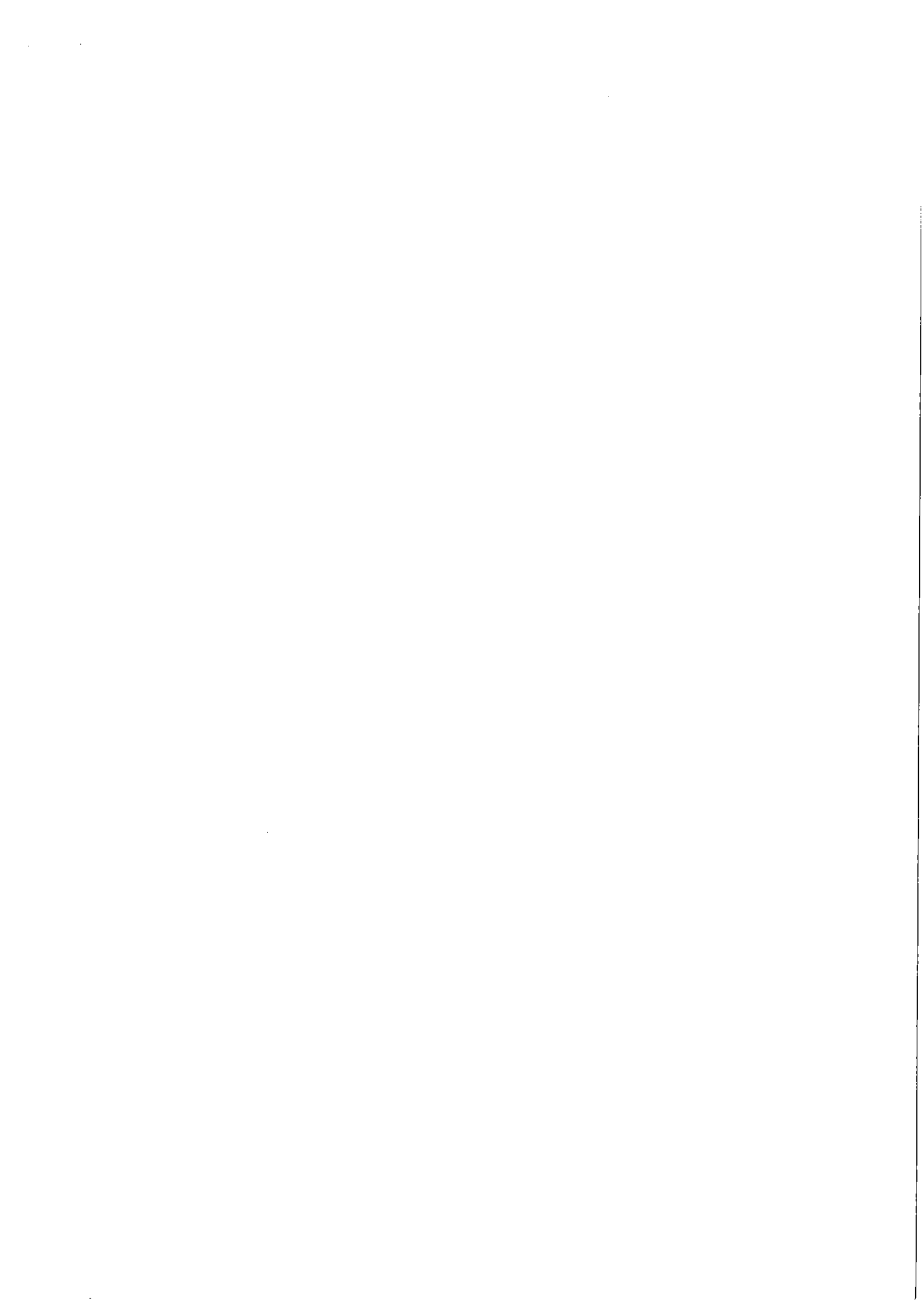
And

HART DISTRICT COUNCIL

Deed of Variation

Tudgey's Nursery
Crookham Village
Hampshire

Hart District Council
Civic Offices
Harlington Way
Fleet
Hampshire
GU13 8AE



NOW THIS DEED WITNESSETH as follows

The Council and The Association hereby agree that the Principal Agreement shall be amended by the addition of a further clause as follows :-

9 1 (B) (iii)

The Association shall consult the Chairman for the time being of the Parishes of Crookham Village or Dogmersfield in respect of the local connection of any person to be allocated a Unit.

And that subject to the above the Principal Agreement shall remain in full force and effect.

IN WITNESS whereof The Association and The Council have hereunto caused their respective common seals to be affixed as their Deed the day and year first before written

The Common Seal of **HART HOUSING ASSOCIATION LIMITED**
Was hereunto affixed in the presence of

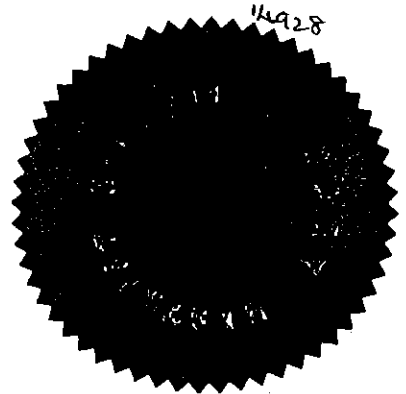
R. Z. Hussein.
Authorised Signatory

Authorised Signatory *P. M.*



The Common Seal of **HART DISTRICT COUNCIL**
Was hereunto affixed in the presence of

Sarah M. Wallis
Member of the Council
G. R. Sell
Chief Executive





B

THIS AGREEMENT is made the 2nd day of May One thousand nine hundred and ninety-seven

B E T W E E N HART HOUSING ASSOCIATION LIMITED whose registered office is situate at Lisrnoyne House Church Road Fleet in Hampshire (hereinafter called 'the Association which term shall include its successors in title') of the one part and **HART DISTRICT COUNCIL** of Civic Offices Harlington Way Fleet in Hampshire GU13 8AE (hereinafter called 'the Council') of the other part

W H E R E A S

- (1) The Association is a housing association registered with the Registrar of Friendly Societies pursuant to the Industrial and Provident Societies Act 1965 under Number 27163R and is the beneficial owner in fee simple of the Property free from encumbrances
- (2) The Council is in respect of the Property the District Planning Authority for the purposes of the Town and Country Planning Act 1990 as amended (hereinafter called 'the Act')
- (3) The Council has adopted the local plan which (inter alia) provides that in certain circumstances the development of housing to meet particular long term local needs may be permitted
- (4) The Association is desirous of erecting upon the Property fifteen (15) units more particularly described in Planning Application 96/01150/FUL (hereinafter called 'the Development') and the Council is disposed to grant planning permission provided that the Development is regulated in the manner hereinafter appearing

