

AYLESBURY VALE DISTRICT COUNCIL
MEMO

To: Area Planning Officer (South)-
66 High St
Deeds Keeper - Legal
Senior Land Charges Clerk - FSQ
Enforcement Team Leader -
66 High Street

Your ref: SK/1002

From: Katherine Stubbs
Solicitor

Tel ext: 5029

Date: 20th April 2009

Our ref: SPF/KAS/DS11/3/1197

23 APR 2009

Land at Watermead, Aylesbury

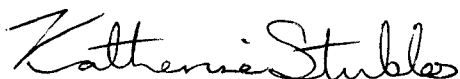
Subject: Planning Obligation Agreement

The Agreement in this matter made between AVDC (1) and Watermead Parish Council acting by its Chairman Susan Severn of 7 Pipit Walk, Watermead, Aylesbury, Bucks and its Clerk Glyndwr Russell Morgan Thomas of 1 Newville, Weedon, Bucks HP22 4NP (2) pursuant to (inter alia) Section 106 of the Town & Country Planning Act 1990 has now been completed and has been dated 20th April 2009. There was no monitoring charge payable under the terms of the Agreement as it was initially proposed several years ago and, in the circumstances of this case, our costs will be borne by this Council.

I attach a copy of the completed Agreement for the Senior Land Charges Clerk, the Enforcement Team Leader and the Accountancy Manager and two copies for the Area Planning Officer (one copy for your file and one copy to be placed on Part I of the Register of Planning Applications).

I should be grateful if the Senior Land Charges Clerk would register this Deed in the appropriate part of the Register and if the Deeds Keeper would index the original Deed in the usual way.

The Area Planning Officer and/or the Enforcement Team Leader will need to monitor the obligations in the Agreement to ensure compliance at the correct times. Please contact me if you require any assistance in dealing with any breaches that may arise.



Katherine Stubbs
Solicitor

Enc.

THIS DEED is made the 20th day of April Two Thousand and Nine
BETWEEN AYLESBURY VALE DISTRICT COUNCIL of Friars Square Offices 4 Great
Western Street Aylesbury in the County of Buckinghamshire (hereinafter called "the Council")
of the one part and WATERMEAD PARISH COUNCIL acting by it Chairman Susan Severn
of 7 Pipit Walk Watermead Aylesbury Buckinghamshire and Clerk Glyndwr Russell Morgan
Thomas of 1 Newville Weedon Buckinghamshire HP22 4NP (hereinafter called "the Owner")
of the other part

I INTERPRETATION

1. In this Deed the following words and expressions shall unless the context otherwise
requires have the following meanings:-

WORDS AND EXPRESSIONS

MEANINGS

"the 1990 Act"

the Town and Country Planning Act 1990 (as
amended)

"the Drawing"

the Drawing No. JM/W/56 annexed hereto

"the Green Spaces Team"

the Officers in the Council's Leisure Services
Division's Green Spaces Team or their
successors

"the HOP"

the Council's Head of Planning/Development
Control Manager

"the Land"

the land at Watermead Aylesbury
Buckinghamshire shown for identification
purposes edged red on the Drawing

"the Plan"

the Plan No JM/W/58 annexed hereto

2. **In the interpretation of this Deed**

2.1 Words in this Deed importing the singular meaning shall where the context so admits
include the plural meaning and vice-versa

2.2 Words in this Deed of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting natural persons shall include corporations and vice versa

2.3 References in this Deed to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

2.4 Where there is a requirement in this Deed that works are to be carried out and completed to the satisfaction of the Council or any officer(s) of the Council then this means carried out in accordance with the reasonable satisfaction of the Council or the officer(s) of the Council

2.5 Where the agreement consent approval or satisfaction of the Council or an officer of the Council is required under the terms of this Deed such agreement consent approval or satisfaction shall not be unreasonably withheld or delayed

2.6 For the avoidance of doubt references to "this Deed" include the Schedules hereto

2.7 The term "the Council" shall include any officer employed by the Council who is authorised to act on its behalf

3. Covenants made hereunder

3.1 if made by more than one person are made jointly and severally and

3.2 are made to the intent that the same shall bind whomsoever shall become a successor or successors in title to the Land and

3.3 are made to the intent that the same shall operate as a land charge on the Land and shall be registered in the Register of Local Land Charges and

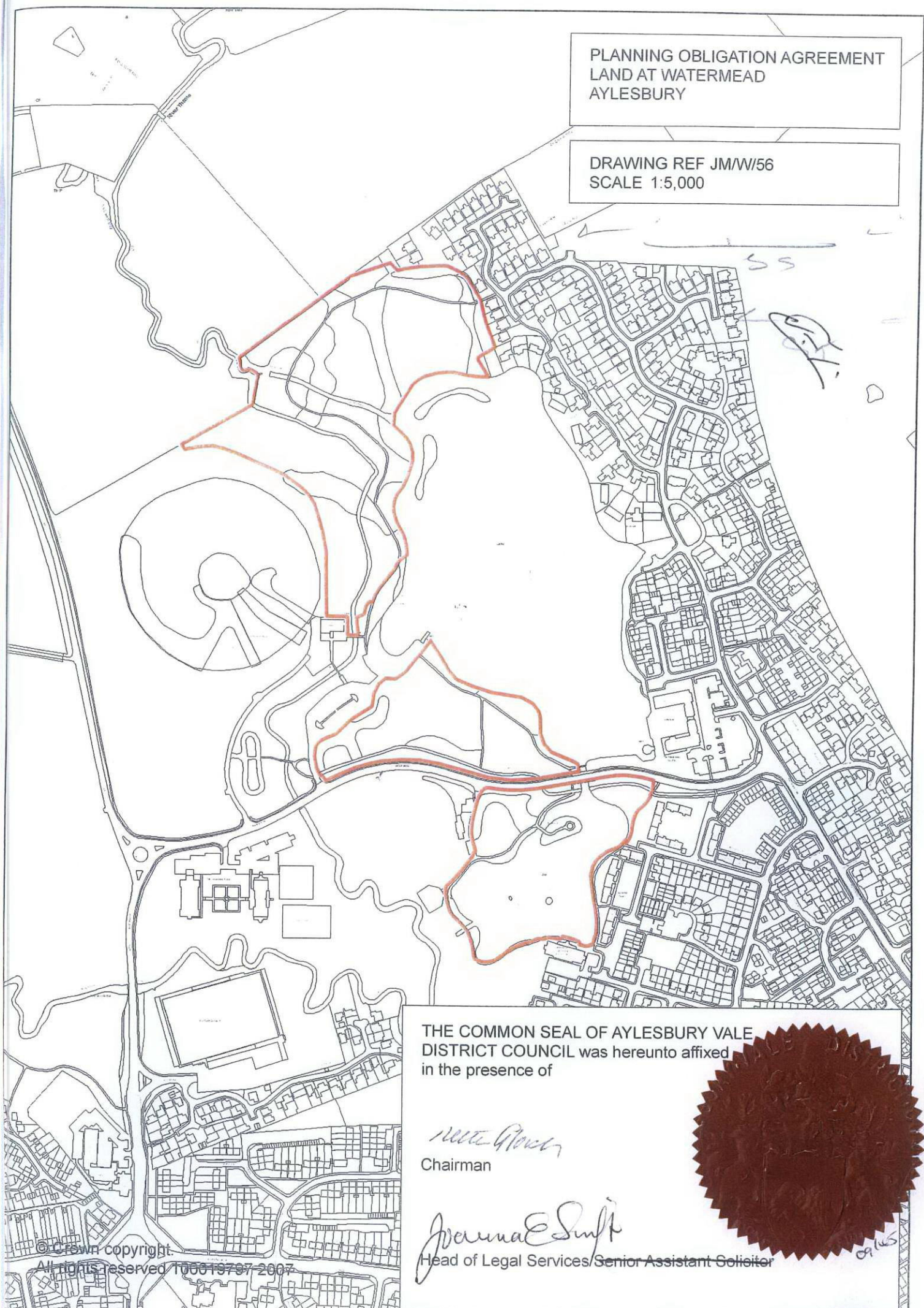
3.4 are made to the intent that each of the same shall be a planning obligation for the purposes of Section 106 of the 1990 Act

II RECITALS

(1) The Council is the Local Planning Authority for the purposes of this Deed

PLANNING OBLIGATION AGREEMENT
LAND AT WATERMEAD
AYLESBURY

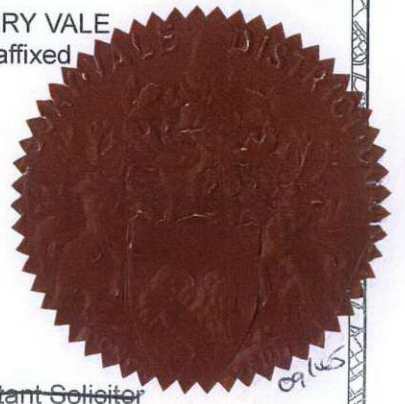
DRAWING REF JMW/56
SCALE 1:5,000

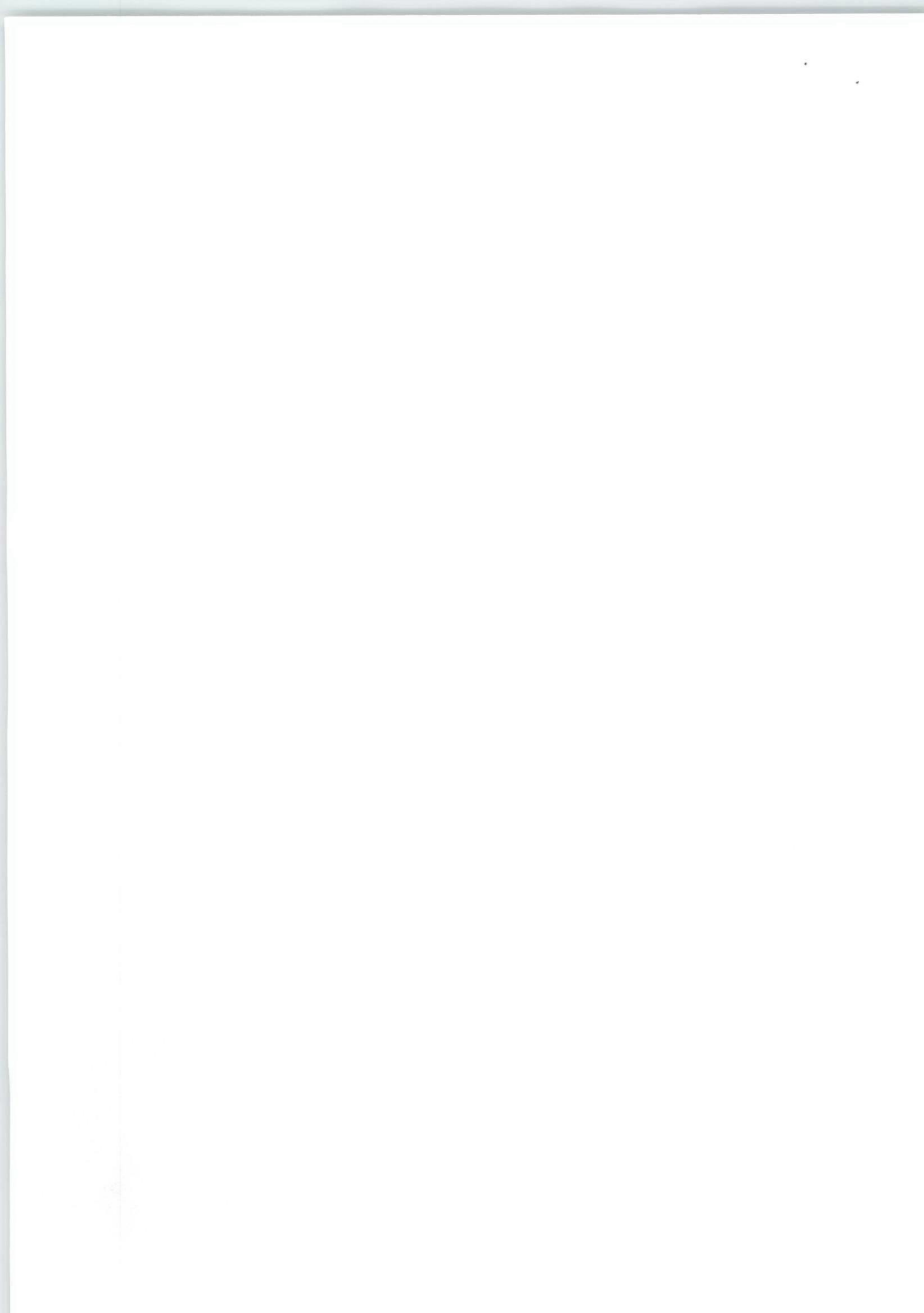


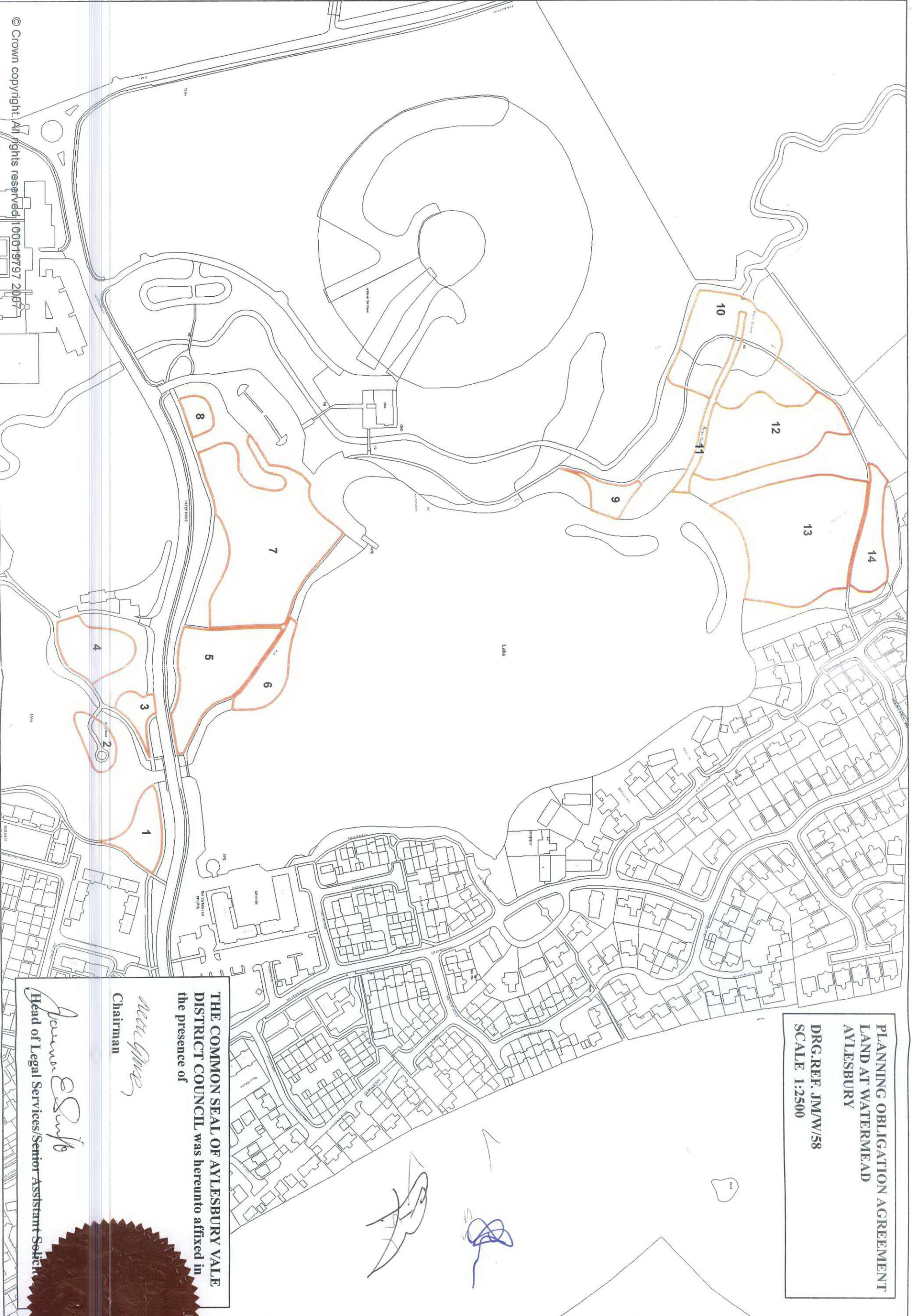
THE COMMON SEAL OF AYLESBURY VALE
DISTRICT COUNCIL was hereunto affixed
in the presence of

Steve Glover
Chairman

Jemma Swift
Head of Legal Services / Senior Assistant Solicitor







PLANNING OBLIGATION AGREEMENT
LAND AT WATERMEAD
AYLESBURY
 DRG. REF. JM/W/58
 SCALE 1:2500

THE COMMON SEAL OF AYLESBURY VALE
DISTRICT COUNCIL was herunto affixed in
 the presence of

Neil Jones
 Chairman

Joanna Swift
 Head of Legal Services/Senior Assistant Solicitor



(2) The Owner is registered at HM Land Registry with freehold Title Absolute under Title No BM205843 in respect of the Land

(3) The Council previously has entered into the following Deeds relating to various parts of the Land with the parties listed below:-

<u>Date of Deed</u>	<u>Other Parties</u>
4 th September 1986	T.B. Brown and J.E. Brown (1) and Royco Corporation Limited (2)
4 th September 1986	Royco Corporation Limited (1) and Royco Leisure Parks Limited (2)
4 th September 1986	T.B. Brown and J.E. Brown
13 th June 1988	Royco Corporation Limited (1) and Royco Leisure Parks Limited (2)
14 th January 1994	T.B. Brown and J.E. Brown (1) and Royco PLC (2)

and these Deeds are hereinafter referred to as "the Principal Deeds"

(4) The HOP has delegated authority to authorise the Council to enter into an Agreement under the 1990 Act for the purpose of making acceptable arrangements to restrict the use and development of the Land

(5) The parties hereto have accordingly agreed to enter into this Deed pursuant to the provisions of the 1990 Act upon the terms and conditions hereinafter appearing with the intent that it should be binding not only upon the said parties but also upon any person deriving title from them as provided by Section 106 of the 1990 Act and any persons claiming through under or in trust for them

III NOW THIS DEED WITNESSETH as follows:-

1. This Deed is entered into and completed pursuant to the 1990 Act and the obligations entered into by the Owner and hereinafter contained shall be ones to which the provisions of

Section 106 of the 1990 Act shall apply and shall be binding and enforceable against the Owner and any person deriving title therefrom as provided by Section 106 of the 1990 Act

2. Each of the obligations created by this Deed constitutes a planning obligation for the purposes of Section 106 of the 1990 Act and shall be enforceable by the Council as such in the manner hereinbefore referred to

3. The provisions of this Deed shall become binding on the parties hereto upon the date hereof

4. Subject as hereinafter provided the Owner hereby for itself and for any person deriving title to the Land undertakes agrees declares and covenants with the Council that it shall carry out perform and be bound by the obligations set out in this Deed and that the Land shall be subject to the obligations as to the manner of carrying out the Development and otherwise contained in this Deed but so that the Owner shall not be liable in respect of any breach occurring after it shall have parted with all interest in the Land or the part of it in respect of which such breach occurs

IT IS HEREBY AGREED AND DECLARED between the parties hereto that:-

5.1 Nothing contained or implied in this Deed shall prejudice or affect the rights powers and duties of the Council in the exercise of their functions as Local Planning Authority and their rights powers and duties under all public and private statutes byelaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Deed

5.2 If any provision in this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired

5.3 Nothing in this Deed shall be held to impose any duty or liability on the Council in connection with any use being made of the Land whether in accordance with this Deed or otherwise

6. No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner

7. The parties to this Deed hereby agree and declare that the provisions of the Contracts (Rights of Third Parties) Act 1999 (hereinafter called "the 1999 Act") shall not apply to this Deed FOR THE AVOIDANCE OF DOUBT it is further agreed that any future successors in title to any of the parties to this Deed shall not be deemed to constitute third parties for the purposes of the 1999 Act

8. The Council hereby covenants that the Council will not seek to enforce any of the obligations relating to any part of the Land (as defined herein) contained in any of the Principal Deeds

THE FIRST SCHEDULE

The Obligations

The Owner hereby covenants with the Council as follows:-

1. Not to cause permit or suffer the Land to be used for any purpose other than as a recreation or amenity area to which the public shall have access at all times without the need to make payment (subject to the provisions of paragraph 2 of this Schedule) but FOR THE AVOIDANCE OF DOUBT:

- (a) permitted development rights pursuant to the Town and Country Planning (General Permitted Development) Order 1995 may be exercised thereon and ancillary features and structures as are normally associated with such open space recreation use may be placed thereon
- (b) nothing in this Deed should be read or construed as permitting overnight camping on any part of the Land

- (c) The provisions of this Deed shall not be read and construed so as to prevent the Owner :
- (i) charging any company firm body or individual for the right to erect any stall amusement or entertainment or related parking in connection with a community event concert celebration or entertainment in accordance with the provisions of sub-paragraph 2 (b) (ii) of this Schedule nor
 - (ii) charging any firm body individual unincorporated body club or association a reasonable fee for use of a designated area of the Land or any buildings or facilities thereon for a prearranged activity where the Owner is responsible for maintaining or repairing that area building or facility
- (d) should the Owner in pursuit of its powers functions or duties seek to use any part of the Land for the provision of allotments it shall first seek the approval of the Council but nothing contained in this Deed should be read or construed as preventing such provision

2. To carry out the management and maintenance of the Land to the satisfaction of the Council in accordance with the Habitat Management Scheme set out in Appendix A hereto or such amended Habit Management Scheme as may from time to time be agreed in advance in writing by the Council AND FOR THE AVOIDANCE OF DOUBT:

- (a) public access to the Land can be restricted during periods when planting and/or maintenance work is being carried out to the relevant part of the Land which in the reasonable opinion of the Council is likely to create a source of danger to the public or is likely to be impaired or harmed to a significant degree by continued public access provided the Council's prior written agreement to such restriction is obtained and

(b) the Owner may grant a licence or enter into such agreement as it may reasonably determine with any company firm body or individual to:

(i) use that part of the Land shown edged red and numbered "7" on the Plan for the inflation and taking off of hot air ballons and

(ii) restrict public access on no more than 5 occasions per year to such area(s) of the Land as it shall reasonably determine to facilitate the holding of a community event concert or celebration to which the public may or may not be admitted upon payment of a charge or otherwise PROVIDED THAT each such occasion shall be notified to the Council in writing no less than 1 month in advance of the same and shall not take place without the Council's prior written approval of the area to which public access shall be so restricted and the length of time of such restriction and each occasion shall take place in accordance with the relevant approval of the Council

(c) The Owner may notwithstanding the provisions of this Deed prohibit all or any of the following on the Land:

(i) overnight fishing

(ii) camping

(iii) the use of the whole or any part of the Land for commercial use

(iv) the carrying out of activities which in the reasonable opinion of the Owner are dangerous noisy noisome or likely to cause a nuisance or annoyance to adjoining or nearby owners

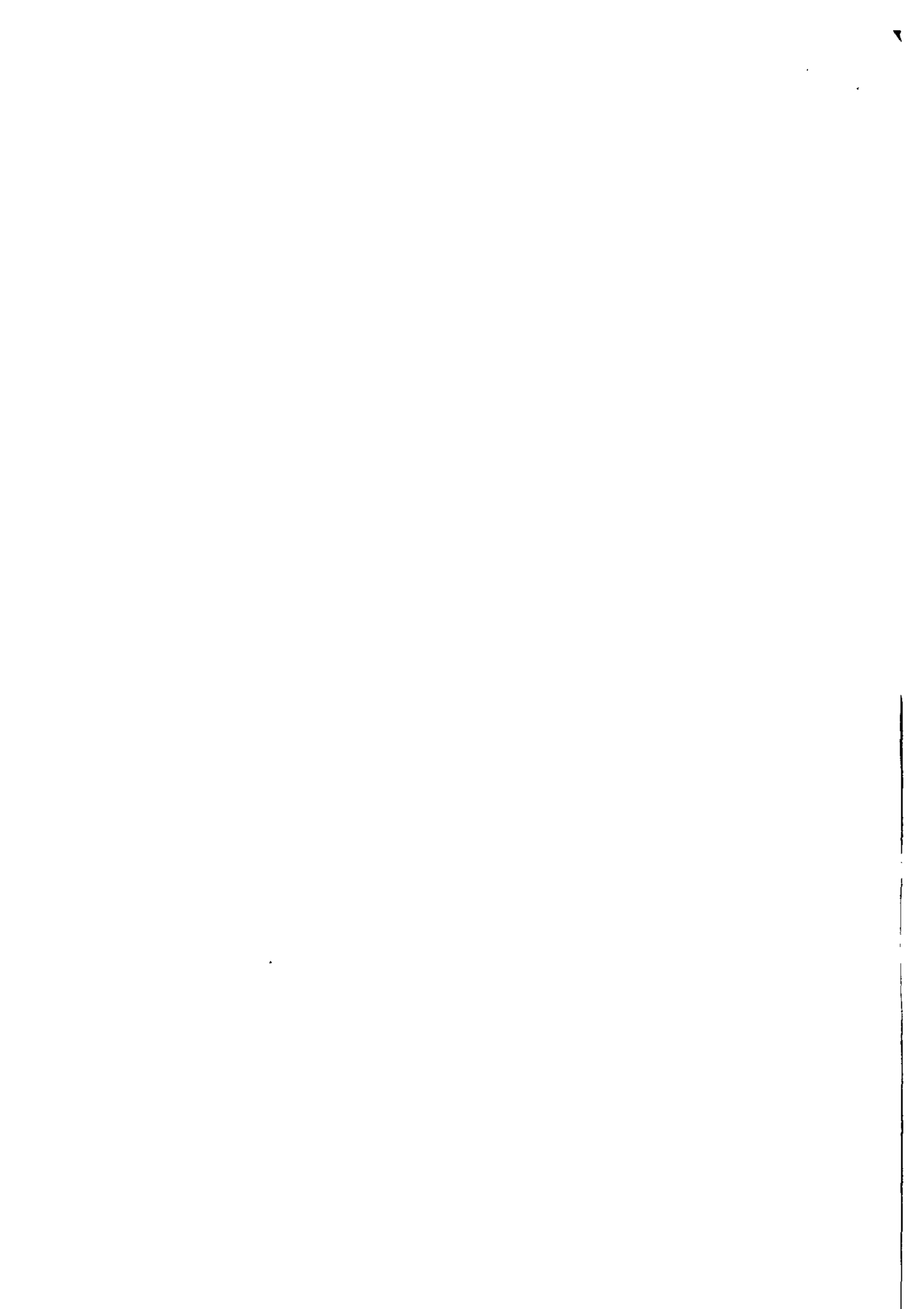
(v) any activity which in the reasonable opinion of the Owner may cause damage to the Land

(vi) the lighting of fires and the holding of barbecues other than in designated areas

(vii) the releasing of any new species of flora or fauna on to the Land

(viii) the dumping of rubbish

(ix) the driving or leaving on the Land of any vehicles

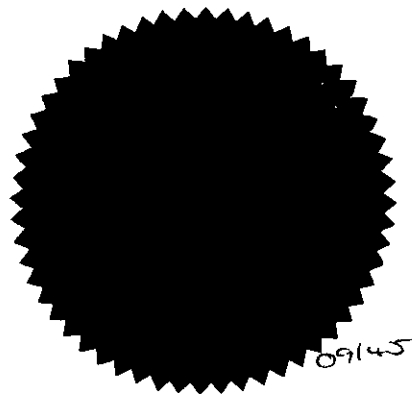


IN WITNESS whereof the Council and the Owner have executed this instrument as a Deed in the presence of the person(s) mentioned below the day and year first before written

THE COMMON SEAL of AYLESBURY)

VALE DISTRICT COUNCIL was)

hereunto affixed in the presence of :-)



[Handwritten signature]

Chairman

[Handwritten signature]
Head of Legal Services

SIGNED as a Deed by the said)

SUSAN SEVERN as Chairman)

of WATERMEAD PARISH COUNCIL)

in the presence of:- *[Handwritten signature]*)

Witness
Signature
Name (Please Print) *ANGELA MARY THOMAS*
NEWMIKE WREDDON
AYLESBURY
HP22 4NP. *[Handwritten mark]*

SIGNED as a Deed by the said)

GLYNDWR RUSSELL MORGAN)

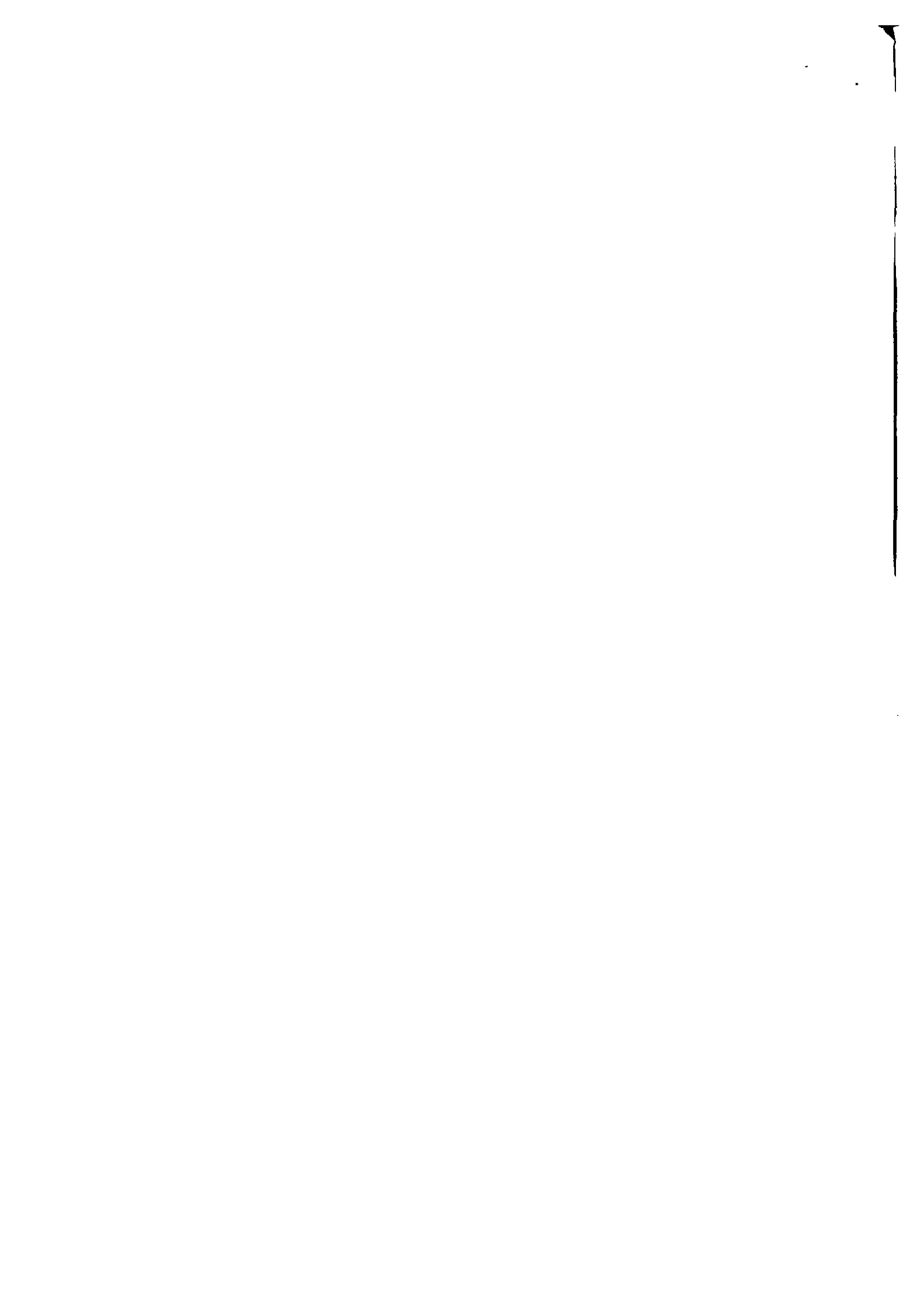
THOMAS as Clerk to WATERMEAD)

PARISH COUNCIL in the presence of :-)

Witness
Signature
Name (Please Print) *G. SEVERN*
[Handwritten mark]
[Handwritten mark]
19 Curlew
Watermead
Aylesbury
Bucks
HP19 0WY

[Handwritten signature]

[Handwritten signature]



APPENDIX A

Habitat Management Scheme for the Land at Watermead

Area on the Plan	Description of Relevant Area	Works Required
1.	Land adjacent to the flats on the smaller lake	Between 6 and 12 grass cuts annually throughout each year to maintain the sward
2.	Island on the smaller lake	Between 6 and 12 grass cuts annually to maintain the sward. Plant 3 willow trees from cuttings of existing trees at least 3 metres apart from each other annually around the water's edge. Seek guidance from the Green Spaces Team prior to planting these and plant them in accordance with that guidance.
3.	Smaller lake access area	Between 6 and 12 grass cuts annually to maintain the sward.
4.	Picnic area adjacent to the nursery	Between 6 and 12 grass cuts annually to maintain the sward. Pollard the avenue of willows overhanging the nursery car park in the winter of 2008 to 2009. Seek guidance from the Green Spaces Team prior to pollarding and pollard the willow trees in accordance with that guidance.
5.	Fisherman's meadow	Between 6 and 12 grass cuts annually to maintain the sward.
6.	Woodland strip and marginal vegetation area on the larger lake	Restrict access to water's edge by creating a natural barrier of planted native trees and habitat piles of cut material from trees felled at Watermead only. Plant 20 native trees within 5 years of the date of this Deed. Species, location and management of the trees to be approved by the Green Spaces Team prior to planting and planting to be carried out in accordance with that approval.
7.	Balloon meadow	Between 6 and 12 grass cuts annually to maintain the sward.
8.	Maintenance and storage area	Maintain as an area to store and dispose of cuttings from the rest of the Land. Dispose of material by mulching, creating habitat piles with the cut wood and controlled burning.
9.	Woodland strip leading to water meadows	Thin out wood by cutting 10% of standing trees within 3 years of the date of this Deed. Chip all cut branches and use as mulch on paths around the lake. Leave all cut trunks (which must be at least 2 metres in length to prevent their removal) in area 12 as habitat piles for invertebrates and fungi. Seek guidance from the Green

		Spaces Team prior to commencing this work and carry it out in accordance with that guidance.
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Area on the Plan	Description of Relevant Area	Works Required
10.	Water meadows	Cut and clear sedge beds and remove any encroaching woody material ("scrub") within 1 year of the date of this Deed and thereafter every 5 years. Seek guidance from the Green Spaces Team prior to commencing this work and carry it out in accordance with that guidance.
11.	Channel from the brook	Within 6 months seek guidance from the Environment Agency on channel clearance to maintain the flow into the lakes and carry out the works as soon as reasonably practicable thereafter in accordance with that guidance.
12.	Water meadows	Cut and clear material from sedge beds and remove any encroaching scrub within 1 year of the date of this Deed and thereafter every 5 years. Seek guidance from the Green Spaces Team prior to commencing this work and carry it out in accordance with that guidance.
13.	Water meadows	Cut and clear any encroaching scrub within 1 year of the date of this Deed and thereafter every 3 years. Seek guidance from the Green Spaces Team prior to commencing this work and carry it out in accordance with that guidance.
14.	Water meadows	Cut and clear material from sedge beds and remove any encroaching scrub within 1 year of the date of this Deed and thereafter every 5 years. Seek guidance from the Green Spaces Team prior to commencing this work and carry it out in accordance with that guidance.

DATED 20th April 2009

AYLESBURY VALE DISTRICT COUNCIL (1)

and

WATERMEAD PARISH COUNCIL (2)

DEED

relating to land at Watermead

Aylesbury

Buckinghamshire

Joanna E Swift BA Solicitor
Head of Legal Services
Aylesbury Vale District Council
Friars Square Offices
4 Great Western Street
Aylesbury
Buckinghamshire HP20 2TW

Ref: SPF/KAS/DS11/3/1139

SEC106-AG-DS11/3/1139
(Planning)