



# Title Information: FFE95286

## Search summary

Date/Time of search	22-03-2022 16:49:36
---------------------	---------------------

Transaction number	SCO-10748574
--------------------	--------------

User Reference	
----------------	--

# Section A

**FFE95286**

## Property

<b>Date of first registration</b>	06-02-1997
<b>Date title sheet updated to</b>	26-04-2019
<b>Hectarage Code</b>	0
<b>Real Right</b>	OWNERSHIP
<b>Map Reference</b>	NT1286
<b>Title Number</b>	FFE95286
<b>Cadastral Unit</b>	FFE95286
<b>Sasine Search</b>	
<b>Property address</b>	26 TARMACHAN CLOSE, DUNFERMLINE KY118LD
<b>Description</b>	Subjects within the land edged red on the Title Plan being 26 TARMACHAN CLOSE, DUNFERMLINE KY11 8LD tinted pink on the said plan; Together with (one) a one third pro indiviso share in and to the area tinted blue on the said plan and (two) the servitude rights and rights common, mutual and sole and otherwise effeiring to the subjects in this Title as specified in the Deeds of Declaration of Conditions in Entries 3 and 5 of the Burdens Section and the subsisting rights to real burdens specified in the Schedule below.

### Schedule of Particulars Relative to Subsisting Rights to Real Burdens

<b>Entry No</b>	<b>Benefited Property</b>	<b>Real Burdens</b>	<b>Burdened Property</b>
1	subjects in this Title and other subjects	Deed of Declaration of Conditions by Miller Homes Limited and Miller (Duloch 1) Limited, registered 22 Dec. 2005, in Entry 3 of the Burdens Section	Development known as Site P4 Duloch Park, Dunfermline, edged red on the Title Plan
2	subjects in this Title and other subjects	Deed of Declaration of Conditions by Miller Homes Limited, registered 13 Jun. 2007, in Entry 5 of the Burdens Section.	Subjects edged blue on the Title Plan.

This is a Copy which reflects the position at the date the Title Sheet was last updated.

© Crown copyright 2022



Section B

FFE95286

Proprietorship

PAUL HENRY MCDAID and JACQUELINE SHEILA MCDAID spouses, 26 Tarmachan Close, Dunfermline, KY11 8LD equally between them.

Entry number	1
Date of registration	14-01-2010
Date of Entry	12-01-2010
Consideration	£300,000

This is a Copy which reflects the position at the date the Title Sheet was last updated.  
© Crown copyright 2022

Section C

FFE95286

Securities

Entry number	1
Specification	Standard Security by said PAUL HENRY MCDAID and JACQUELINE SHEILA MCDAID to COVENTRY BUILDING SOCIETY incorporated under the Building Society Acts, Registered Office at Economic House, P.O. Box 9, High Street, Coventry CV1 5QN.
Date of registration	10-04-2019

This is a Copy which reflects the position at the date the Title Sheet was last updated.  
© Crown copyright 2022

## Section D

**FFE95286**

### Burdens

Number of Burdens: 5

#### **Burden 1**

Disposition by Wilcon Homes Scotland Limited, with consent of Taylor Woodrow Developments Limited (hereinafter referred to as the "Consenters") to Miller Homes Limited and their successors and assignees, registered 30 Dec. 2004, of the subjects known as Site P4, Duloch Park, Dunfermline, edged red on the Title Plan (hereinafter referred to as the "Property"), contains the following real burdens and servitudes:

The Property is disposed with and under the following real burdens in favour of and for the benefit of all other land at Duloch Park, aforesaid in the ownership of the said Wilcon Homes Scotland Limited or the Consenters and their respective successors and registered under Title Numbers FFE15353, FFE14408, FFE16405 and FFE23929 (hereinafter referred to as the "Benefited Subjects") and enforceable by the said Wilcon Homes Scotland Limited or the Consenters and their successors in ownership of the Benefited Subjects or any part or parts thereof (hereinafter referred to as "the Benefited Subjects Owners") namely:

(first) The Property shall be used only for the purposes of construction of and use as a residential Development and for no other purpose whatsoever without the prior written approval of the Benefited Subjects Owners;

(second) in order to protect the viability and efficient operation of any surface water drainage arrangements installed or to be installed by the Benefited Subjects Owners, and in order to comply with the arrangements for Sustainable Urban Drainage Systems and surface water drainage relating to inter alia the Property and agreed between the said Wilcon Homes Scotland Limited, Fife Council, Scottish Water and SEPA (which comprise the Dunfermline Eastern Expansion Strategic Surface Water Conveyance and Treatment Systems Drawing reference 35201/107-L) and other surface water drainage arrangements already agreed with or required by SEPA, no construction work of any nature shall commence upon the Property until such time as the said Miller Homes Limited and their successors in ownership of the Property or any part or parts thereof (hereinafter referred to as the "Owners") have installed sacrificial filter strips and sumps along the perimeters of the Property, to the requirements of SEPA and to the reasonable satisfaction of the Benefited Subjects Owners;

(third) after installation, the Owners shall maintain such filters and sumps in a good and sufficient operating condition to the reasonable satisfaction of the Benefited Subjects Owners and SEPA, and if they fail to do so, the Benefited Subjects Owners shall have all necessary rights to carry out any necessary inspection, maintenance, repair, replacement or renewal in order to put and maintain such filters and sumps in such condition, all at the cost of the Owners;

(fourth) if the Owners fail to satisfactorily install and maintain such filters and sumps and the Benefited Subjects Owners incur increased costs in the operation or provision of any surface

water drainage arrangements in consequence, the Owners shall pay and make good to the Benefited Subjects Owners all such increased costs within 10 working days of demand;

(fifth) any potentially adoptable roads or footpaths to be constructed on the Property by the Owners shall be designed and constructed in accordance with all statutory and Local Authority requirements; and

(sixth) In order to protect the amenity of the Benefited Subjects the Owners shall be obliged to put and keep all areas of the Property to be landscaped in accordance with any reserved matters approval or detailed planning permission for the development of the Property or any part thereof in good, planted and neatly tended condition, to the reasonable satisfaction of the Benefited Subjects Owners and in accordance with any timescale for the same set out in any such reserved matters approval or detailed planning permission and to maintain them in that condition in all time coming, and in the event of the Owners failing to so put, keep and maintain after a reasonable period of notice from the Benefited Subjects Owners, the Benefited Subjects Owners shall be entitled to take entry to the Property or the relevant part or parts thereof and to carry out any remedial or planting or maintenance works necessary to achieve compliance with this requirement, all at the cost of the Owners; and the Property is so disposed ALSO WITH AND UNDER the following servitude right over the Property in favour of and for the benefit of the Benefited Subjects or any part or parts thereof and exercisable by the Benefited Subjects Owners and all contractors or workmen authorised by them and any Local or Statutory Authorities or Utilities Providers having any interest therein, namely a servitude right of pedestrian and vehicular access for all purposes over the route of any potentially adoptable roads or footpaths to be constructed on the Property together with the right to construct such roads or footpaths and to lay and take connections into all services therein for the purposes of access to and the development and servicing of the Benefited Subjects or any part or parts thereof, together with a right of access thereto for the purposes of inspection, maintenance, repair and renewal thereof, subject to making good all damage thereby occasioned.

## **Burden 2**

Disposition by Miller Homes Limited to Miller (Duloch 1) Limited and their successors and assignees, registered 6 Jul. 2005, of the subjects known as Phase 1, Duloch Park, Dunfermline, registered under Title Number FFE74845, contains inter alia the following real burdens and servitudes:

In this Entry the following definitions are used:

"Disposed Property" means the subjects at Phase 1, Duloch Park, Dunfermline, registered under Title Number FFE74845

"Retained Property" means subjects at Duloch Park, of which the subjects in this Title form part

"Services" means sewers, drains, wires, meters, pipes, lines, cables, transmitters, tanks, ducts and other service media including any associated apparatus and plant.

## **PART 1**

## Description of Subjects

### The Disposed Property

#### PART 2

#### New Servitudes benefiting the Disposed Property

The following servitudes are imposed on the Retained Property in favour of and for the benefit of the Disposed Property:-

1. servitude rights of pedestrian (and vehicular access for construction traffic) over the route of any roads, paths or other routes formed or to be formed on the Retained Property and in particular to and from the Public Road known as Aberdour Road, for all reasonable purposes;
2. servitude rights to lay, install, enlarge, inspect, clear, maintain, repair, renew and connect into the Services located or to be located in, on, over or under the Retained Property, and any service strips or ducts adjacent thereto; together with all necessary rights of access thereto for the purposes of laying, installing, enlarging, inspecting, clearing, maintaining, repairing, renewing or connecting into the Services or any of them;

Any person exercising any of the rights contained in this part of Part 2 of the Schedule shall procure that (a) all damage caused in the exercise of such rights shall be made good as soon as reasonably practicable thereafter, (b) the rights are exercised in such a way as to cause the least reasonably practicable disturbance and inconvenience to any owners or occupiers of the Retained Property or any part thereof.

The proprietor of the Retained Property, or the relevant part thereof, shall be entitled at any time to vary the route and location of the roads, paths or other routes and/or the Services provided that the alternative route and location are suitable and no lesser utility or amenity.

#### Part 4

#### New real burdens benefiting the Disposed Property

The following real burdens are imposed on the retained property in favour of the disposed property

1. The Proprietors of the Retained Property shall be responsible for a fair and equitable contribution towards the proper and reasonable costs incurred by the Proprietor of the Disposed Property of maintaining, repairing and renewing (but not the initial creation) of any public open space and landscaping and amenity areas and any common infrastructure used in common between the Retained Property and the Disposed Property formed or to be formed within the Disposed Property (such fair and equitable contribution to be based initially on one share per unit within the Retained Property). Such sums shall be paid by the Proprietor of the Retained Property within 14 days of written demand.

We and, by their acceptance hereof, our disponees agree that neither party shall make an application to the Lands Tribunal for Scotland under Section 90(1)(a)(i) and 91(1) of the Title



conditions (Scotland) Act 2003 in respect of the title conditions created in this disposition for a period of five years after the registration of this deed in the Land Register to vary, waive, amend or alter the terms of the said title conditions.

### **Burden 3**

Deed of Declaration of Conditions, registered 22 Dec. 2005, by (First) Miller Homes Limited, proprietors of part of Site P4 Duloch Park, Dunfermline, and (Second) Miller (Duloch 1) Limited, Proprietor of remainder of Site P4 aforesaid, both areas together being called "the Subjects" edged red on the Title Plan, sets forth and declares servitudes and real burdens &c in the following terms:

CONSIDERING that we intend to transfer further areas of ground within the Subjects and that there shall be erected a residential development consisting of dwellinghouses (including detached dwellinghouses and flatted dwellinghouses) with relative parking spaces, services and others (which development on the Subjects is hereinafter called "the Development"), and that the said dwellinghouses (hereinafter together with any garden ground, garage or other structure pertaining thereto respectively called "houses") and the flatted dwellinghouses (each hereinafter referred to as a "Flat") shall be disposed in the future and that it is proper and expedient to set forth and declare the various real burdens, and servitudes under which the said plots and the buildings thereon shall be held and the rights and obligations of us and the proprietors now therefore, without prejudice to any real burdens and others already affecting the Development or to the addition or inclusion in specific titles to be granted as aforesaid of any real burdens, reservations, conditions and others, We the said Miller Homes Limited and We the said Miller (Duloch 1) Limited do hereby set forth and declare, with immediate effect from the registration of these presents in the Land Register for Scotland, the following videlicet:-

#### **1. INTERPRETATION**

In these presents words importing the masculine gender shall include the feminine; words importing the singular number only shall, where the context so admits, include the plural number and vice versa; and the words:-

1.1 "Amenity Area" means the area of ground shown shaded green on the plan annexed hereto (hereinafter referred to as "the Plan") and including all retaining structures;

1.2 "Common Parts" means:-

1.2.1 the Roads;

1.2.2 the Amenity Area and all other landscaped, open amenity areas, tree belts and structural planting within the Subjects (including play equipment (if any situated on any such area));

1.2.3 the boundary walls, fences and other enclosures of the Development not otherwise allocated to any Plot;

1.2.4 all lamp standards/lighting columns and the like lighting the Roads, and/or the Amenity Area;

1.2.5 all Utilities and others within, under and over the Subjects not pertaining exclusively to an individual Plot or more than one Plot in common;

1.2.6 the Service Strips;

1.2.7 the SUDS Facility;

1.2.8 all other items, parts and pertinents, mutual to and for the benefit of all of the Proprietors

1.3 "maintenance" shall include repair, restoration, renewal, payment of any common charges, upkeep, cleaning and painting;

1.4 "Plot" shall mean a Flat and/or a house;

1.5 "Proprietor" means the owner or any number of joint owners of one Plot and their successors and assignees;

1.6 "Roads" means all roads, pavements, footpaths and cycleways formed or to be formed within the Development, including those shaded blue on the Plan;

1.7 "Service Strip" means an area or conduit normally two meters wide under or through which a Utility is lead;

1.8 "Statutory Undertaker" means any Local Authority or other public authority, statutory undertaker, utility provider, or other relevant person or entity;

1.9 "the Substation" means the electricity substation erected or to be erected on that part of the Subjects shown shaded pink on the Plan;

1.10 "SUDS Facility" means those two surface water attenuation structures shown shaded light blue on the Plan and all associated pipes, soakaways and drains;

1.11 "Utilities" means the surface water and foul drainage pipes, water supply pipes, cables, pipes, wires, drains, drainage apparatus, sewers, tanks, water mains, transmitters, meters, ducts and other service media including inspection chambers, any associated apparatus and plant serving the same, any appurtenances thereof and any underground works required in connection with services to all or any part of the Development; and

1.12 "Visibility Splays" means an area along the line of a road required to provide a line of sight for any user of that road.

## 2. SERVITUDES: UTILITIES

2.1 The following servitude rights are reserved (and granted as appropriate) over the Subjects in favour of the Plots, the Substation and all other parts of the Subjects and the proprietors thereof from time to time:

2.1.1 a non exclusive servitude right to use, inspect, maintain, repair, renew, upgrade and improve Utilities together with rights of entry upon the Subjects and any part or parts thereof as and when required for the purpose of inspection, maintenance, repair, renewal, upgrading and improving of such Utilities together with the right to connect into and to use, inspect, maintain, repair, renew, upgrade and improve the Utilities and as may exist now or in the future in, subject always (i) to making good any damage caused to the Common Parts or any Plot in the exercise thereof as soon as reasonably practicable and (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable;

2.1.2 a non-exclusive servitude right to connect into, lay, form, construct and install Utilities reasonably required for the service of the Development, subject always (i) to the route or routes of such Utilities (so far as lying outwith the Common parts) being approved by the proprietors affected by such rights, acting reasonably and without delay, (ii) to making good as soon as reasonably practicable any damage caused to the Common Parts or any Plot in the exercise thereof, (iii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable and causing the minimum practicable inconvenience to the proprietors affected; and

2.1.3 a non-exclusive servitude right to use, inspect, maintain, repair, renew, upgrade, improve, connect and discharge into, the SUDS Facility;

but with no right to enter in or under any dwelling house or flat.

### 3. SERVITUDES: ACCESS

3.1 The following servitude rights are reserved (and granted as appropriate) over the Subjects in favour of the Plots, the Substation and all other parts of the Subjects and the proprietors thereof from time to time:-

3.1.1 a non-exclusive servitude right of access and egress in all time coming for pedestrian and vehicular traffic (including construction traffic) along and over the Roads, as also for the right to inspect, maintain, repair, renew, upgrade and improve such Roads as are reasonably required to serve the Development or any part or parts thereof and the full use and enjoyment thereof; subject to (i) making good as soon as reasonably practicable all damage caused to the Common Parts or any Plot by the exercise of the foregoing rights and (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable;

3.1.2 a non-exclusive servitude right to connect into, lay, form, construct and install the Roads reasonably required for the construction and subsequent service of the Development, subject always (i) making good as soon as reasonably practicable all damage caused to the Common Parts or any Plot by the exercise of the foregoing rights and (ii) to such rights being exercised at all times so as to cause as little disruption as is reasonably practicable;

3.1.3 a servitude right of access to the Substation any Plot or other part of the Subjects for the purpose of carrying out maintenance of any structures erected on the Substation or any Plot; Declaring that the said right shall be subject to any damage, loss or injury occasioned thereby or resulting therefrom being made good by the party exercising the right of access, and that the said right shall only be exercised (i) where reasonably necessary and (ii) at reasonable times and upon reasonable notice;

3.1.4 servitude rights to enter onto the Subjects (i) to plant trees and/or shrubs on the Subjects as necessary to comply with the requirements of the Planning Authority (together with any necessary fencing or other protective measures to safeguard the said trees and/or shrubs) (ii) together with a servitude right to erect scaffolding on any part of the Subjects, when necessary in connection with the erection of any of the dwellinghouses within the Development, until the sale of the last of the Plots is complete and (iii) for any necessary purposes in connection with statutory consents pertaining to the Development.

3.1.5 Non-exclusive servitude rights of access over the Amenity Area and all other landscaped, open amenity areas, tree belts and structural planting within the Subjects and servitude rights to use the same as public open space, and other purposes ancillary to the construction and use of the Development.

but with no right to enter in or under any dwelling house or flat.

#### 4. COMMON PARTS: MAINTENANCE AND USE

4.1 The Proprietors shall be jointly bound to uphold and maintain, renew and replace and light the Common Parts in good order and repair and in a neat and tidy condition in all time coming and in particular, but without prejudice to the foregoing generality, to maintain the Amenity Area and all other landscaped areas within the Common Parts in accordance with the scheme therefor approved by the local planning authority pursuant to the planning consents permitting the Development (and which maintenance of the landscaped areas will include the replacement of trees and shrubs, the cutting of grass and other normal operations), and to insure the Common Parts, except always to the extent that any parts of the Common Parts are adopted or otherwise taken over for maintenance by the local or other authority or organisation;

4.2 The Proprietors shall each contribute an equal share towards the expense of the maintenance and lighting of the Common Parts, and declaring that if there are no separate meters in respect of the supply of electricity for the said lighting, the allocation of the cost of said lighting amongst the various proprietors shall be determined by the Managing Agents;

4.3 Declaring that when a majority of Proprietors consider it advisable to have any works of maintenance executed to the Common Parts they shall have the power to instruct the same to be done, and the whole Proprietors whether consentors or not shall be bound to pay their respective shares of the expense thereof. The Proprietors shall be bound to afford access to and over all parts of the Development including the Common Parts to the Statutory Undertakers for the purposes stated in Conditions 2 and 3 hereof;

4.4 The Amenity Area and all other landscaped, open amenity areas, tree belts and structural planting within the Subjects (including any play equipment thereon) shall be used only as an Amenity Area and Public Open Space and other recreational purposes;

4.5 The Roads shall be kept free from obstruction;

4.6 The Proprietors shall be bound to concur in any application to have the Common Parts or any part thereof taken over by the relevant Statutory Undertaker and the obligations for maintenance of any such items specified herein shall cease only if and when these are taken

over for maintenance purposes by the relevant Statutory Undertaker and insofar as these may not be taken over the said obligations shall remain in force in all time coming.

## 5. SERVICES

The expense of maintaining and keeping in repair the division walls, fences, railings, driveways, Utilities and all other parts common or mutual to an individual Plot and any other Plot or Plots shall be borne by the respective Proprietors having an interest therein in equal proportions.

## 6. SERVICE STRIPS

6.1 The planting of trees, shrubs or other items within a Service Strip is prohibited and the said Service Strip shall be maintained by the Proprietor of the Plot in which the Service Strip is situated or of the immediately adjacent Plot where the Service Strip is ex adverso a Plot, as appropriate, or the Proprietors generally if there is no such immediately adjacent Plot, in at least the condition required by both the local authority and/or the Managing Agents; and

6.2 Each Proprietor and any proprietor of any other part of the Subjects shall have a heritable and irredeemable servitude right of pedestrian (and, where appropriate, vehicular) access and egress to, from and over any Service Strip for all purposes connected with the inspection, maintenance, alteration of levels or upgrading of the Utilities within the Service Strip.

## 7. VISIBILITY SPLAYS

7.1 Nothing shall be planted or allowed to grow (other than grass seed or turf) on any Visibility Splay; and

7.2 No building or other structure shall be erected on a Visibility Splay.

## 8. STATUTORY UNDERTAKERS

8.1 There is reserved to the Statutory Undertakers rights to lay such Utilities within or through the Development (but not any buildings thereon) as they consider necessary and to make and maintain connection to any existing Utilities together with all necessary rights of access for these purposes and for the purposes of the maintenance of the same; and

8.2 In the event of any contravention of the provisions of this deed relating to the maintenance of any Visibility Splay, there is reserved to the statutory Undertakers the right to remove any structure, item, tree, shrub or plant within the Visibility Splay with a right of access over the area of ground concerned with all necessary equipment for the purposes of exercising said right.

## 9. PROPRIETORS ASSOCIATION, MANAGEMENT COMMITTEE AND MANAGING AGENTS

9.1 The Proprietors shall elect a committee of at least four Proprietors to represent the interest of all the Proprietors, which committee shall be the Management Committee of the Proprietors' Association (hereinafter referred to as "the Management Committee") and the said Proprietors' Association shall comprise as members all Proprietors (hereinafter referred to as "the Association"); Any five members of the Association shall have power at any time to call a meeting of the Management Committee, which shall have the power at any time to call a

meeting of the Association. Such meeting or meetings shall be held at such reasonably convenient time and place as the convenor of the meeting may determine and of which time and place of meeting at least fourteen days' notice in writing shall be given by or on behalf of the convenor of the meeting to the other Proprietors concerned and at any meeting so convened any of the Proprietors may be represented by a mandatory. The quorum of a meeting of the Association shall be 60% of the Proprietors or their mandatories and each Proprietor or mandatory will be entitled to one vote for each Plot owned by him or his principal (declaring for the avoidance of doubt that in the event of any Plot being owned by two or more persons only one of such owners shall be counted in ascertaining a quorum and only one shall be entitled to vote);

9.2 It shall be competent at any relevant meeting of the Association by a majority of the votes of those present and entitled to vote:-

9.2.1 to order to be executed any common or mutual operations, maintenance, planting, gardening, decoration, etc to the Common Parts;

9.2.2 to make any regulations in conformity with these presents which may be considered necessary with regard to preservation, cleaning, use or enjoyment of the Common Parts;

9.2.3 to appoint any one qualified person or firm or company (herein called "the Managing Agents") to have charge and perform the various functions in relation to (i) the maintenance, lighting and management of the Common Parts including, without prejudice to the foregoing generality, the maintenance and management of any trees and landscaped areas/or the Common Parts in accordance with the scheme therefor approved by the local planning authority as aforesaid:-

(a) DECLARING however that so long as we, the said Miller Homes Limited, are Proprietors of any part of the Development we shall have the sole right to appoint the Managing Agents and to fix the duration of their appointment provided that the period of said appointment does not extend beyond the period of five years commencing from the date of registration hereof in the Land Register of Scotland (hereinafter referred to as "the five year period") and we have appointed as the Managing Agents, [ ] whose appointment shall run until the date occurring two years after the granting of the last Disposition by us of a house in the Development and annually thereafter (unless terminated by a vote at a meeting of the Association as hereinbefore provided); provided that such appointment if not previously terminated by such a vote at a meeting of the Association and even if the said two year period after the granting of the last Disposition by us of a house in the Development has not expired, shall terminate on the date occurring at the expiry of the five year period; and

(b) AND FURTHER DECLARING that the Proprietors shall be bound (i) as at the expiry of the aforesaid five year period to either (a) re-appoint the aforesaid Managing Agents or (b) appoint other Managing Agents in their place and (ii) to have Managing Agents at all times;

9.2.4 (subject to what is above written regarding our appointment of Managing Agents) to fix the duration of the Managing Agents' appointment and to appoint other Managing Agents in their place;



9.2.5 to delegate to the Managing Agents the whole rights and powers exercisable by a majority vote at any relevant meetings, including without prejudice to the foregoing generality the right to collect from each proprietor (a) the share referable to the proprietor concerned of the remuneration of the Managing Agents (b) the appropriate share referable to the Proprietor concerned of the cost of maintenance and lighting of the Common Parts and (c) the appropriate, proportionate and/or equal share in common with any other Proprietors concerned of any other remunerations, outlays, charges (including, without prejudice to the foregoing generality, cleaning and lighting charges), expenses and fees for work done or undertaken or services rendered and any other sums for which the Proprietors or any of them may become liable in terms of or in furtherance of the provisions herein contained or the provisions of the said Dispositions and the Managing Agents shall be entitled to make payment of the said premiums, remunerations, outlays, charges, expenses, fees or other sums to whomsoever is entitled to receive payment therefor;

9.3 The Managing Agents, unless otherwise determined at such a meeting, shall be entitled during the continuance of their appointment to exercise the whole rights and powers which may be competently exercised by a majority of those present at a quorate meeting of the Proprietors; and without prejudice to the generality of the foregoing:

9.3.1 the Managing Agents shall be entitled to charge their usual professional remunerations for their services and all expenses and charges incurred for any work done or undertaken or services performed in terms of or in furtherance of the provisions herein contained or the provisions contained in the said Dispositions and the remuneration of the Managing Agents shall be payable by the respective Proprietors whether consentors thereto or not in equal proportions in the same way as if their consent had been obtained. In the event of any Proprietor so liable failing to pay his or their proportion thereof within one month of each payment being demanded, the Managing Agents shall (without prejudice to the other rights and remedies of the Proprietors) be entitled to sue for and recover the same in their own name from the Proprietor so failing together with all expenses incurred by the Managing Agents provided always that it shall be in the option of the Managing Agents before or after taking any action to call a meeting of the Proprietors to decide if and to what extent such action should be pursued and that in the event of failure to recover such payments and/or the expense of any action then such sums will fall to be paid in equal shares by the other Proprietors responsible;

9.3.2 the Managing Agents shall have a management fund for the execution and payment of necessary and reasonable maintenance and cleaning and lighting charges, insurance premiums, management expenses and fees, and each of the Proprietors shall deposit in the event of the first sale of a Plot, with us or our successors, at or prior to entry, for onward transmission to the Managing Agents and in the event of a subsequent sale, with the Managing Agents within one month of their entry to a Plot, the sum of ONE HUNDRED POUNDS (£100) STERLING in relation to the Common Parts or such greater sum as may be required for the foresaid purposes and fixed by the Managing Agents or at a meeting of the Proprietors held as hereinbefore provided and the sums so collected by the Managing Agents shall be held by them in trust for behoof of the Proprietors for the foresaid purposes. In the event of a Proprietor selling the Plot in his ownership, such Proprietor shall be entitled to recover the sum deposited with the Managing Agents under deduction of any proportion of the Charges etc due in respect of his Plot, always provided that the person to whom such house is sold deposits with the Managing Agents the sum of ONE HUNDRED POUNDS (£100) STERLING in relation to the Common Parts or such greater sum as may be fixed as aforesaid. For the avoidance of doubt,

no interest shall be payable on such part of any deposit which may be refunded as aforesaid; and

9.3.3 the Managing Agents shall have a sinking fund and each of the Proprietors shall pay to the Managing Agents a quarterly sum as may be required for the following purposes and to be fixed by the Managing Agents acting reasonably as a contribution in advance towards the cost of establishing and maintaining financial reserves to meet the future costs (as from time to time established by the Managing Agents acting reasonably) of repair, maintenance, reconstruction, renewal and replacement in respect of the Common Parts or any part or parts thereof, where such cost is not of a constant and quarterly recurring nature. Prior to fixing the aforesaid quarterly sum, the Managing Agents require the prior written consent of the Management Committee to the said quarterly sum.

9.4 The decision of any meeting of the Residents' Association convened as aforesaid and having the requisite quorum shall bind all the Proprietors, whether they are consentors or not;

9.5 The Managing Agents shall in questions with the Proprietors have full power and authority to instruct and have executed from time to time, such works for the maintenance, cleaning and lighting of the Common Parts as they in their judgement shall consider necessary to implement their obligations and duties in terms hereof, and to engage tradesmen and others for that purpose, provided always and that in the case of a major work (being a work the cost of which is estimated by the Managing Agents to exceed a sum equal to TWO HUNDRED AND FIFTY POUNDS (£250) STERLING multiplied by the number of Plots concerned, or such greater amount as may from time to time be fixed by the Association), the Managing Agents shall, before instructing the same, report the matter to the Association (or, as the case may be a meeting of the Proprietors) and, subject always to the obligations of the Proprietors in terms hereof, such work shall be undertaken only if it is authorised by the Association (or, as the case may be, a majority of the Proprietors), whose decision shall be final and binding on the Managing Agents and on all the Proprietors. Notwithstanding the foregoing provisions, in the event of an emergency the Managing Agents shall be entitled forthwith to instruct and have executed such work which shall include a major work as they consider necessary for the interim protection or safety of the Development or any part thereof.

9.6 Where necessary or appropriate, the Managing Agents shall have authority to require that the Proprietors concerned make payment in advance of the respective shares of the cost of any major work referred to in the paragraph above.

## 10. APPOINTMENT OF CONTRACTORS

10.1 Each Proprietor will be bound to concur in the appointment of a gardening and landscaping contractor through the Managing Agents for the regular care and maintenance of the Amenity Area and any other planted and landscaped areas situated within the Common Parts and each Proprietor will be bound to make payments to the Managing Agents of a share of the cost (or the appropriate parts of the costs) of same in terms hereof.

10.2 For the avoidance of doubt, where in Condition 10.1 above, the concurrence of each Proprietor is required to the appointment of the foregoing contractors, in the absence of verbal or written concurrence, silence shall be deemed to be concurrence.



## 11. ARBITRATION

Except as expressly stated to the contrary in any deed to follow hereon in favour of the proprietors any dispute or difference between or among proprietors arising out of any of the conditions of this deed or any deed to follow hereon shall, failing agreement between or among the proprietors concerned, be referred to a single arbiter mutually chosen or appointed, failing agreement, by the President of the Law Society of Scotland, the position of such arbiter being final and binding on the proprietors, the operation of Section 3 of the Administration of Justice (Scotland) Act 1972 being expressly excluded. The expense of the reference and of the Arbiter's fee and of any other expense or work incidental to the reference shall be in the discretion of the arbiter who shall have power to fix the same and discern therefor; Declaring that any proprietor desiring to refer any such question to arbitration shall be bound to intimate his intention of so doing to the other proprietors concerned in writing, failing which his right to arbitration shall be lost.

## 12. REAL BURDENS AND SERVITUDES THE COMMUNITY

It is hereby declared that:

12.1 The real burdens contained in this Deed of Conditions, including for the avoidance of doubt Conditions 4, 5, 6, 7, 8.1, 9, 10, 11, 10 and 11 (other than Condition 9.2.3(a) are imposed on the Subjects, in favour of the Subjects, and which real burdens are intended to constitute Community Burdens (the Community being the Subjects) and which shall be enforceable by the owner for the time being of any Plot, the Substation and any other part of the Subjects.

12.2 The burden in favour of ourselves the said Miller Homes Limited in Condition 9.2.3(a) to appoint a manager is declared to be a manager burden.

12.3 The servitudes contained in Conditions 2, and 3, 6.2 and 8.2 are imposed on the Subjects in favour of the Plots, the Substation and any other parts of the Subjects;

12.4 The foregoing community burdens may be varied or discharged by a deed of variation or discharge under section 33 of the Title Conditions (Scotland) Act 2003 granted by or on behalf of 60% of the Proprietors.

12.5 Subject to paragraph 12.4 above, the Title Conditions (Scotland) Act 2003 shall apply to this Deed with the effect that no application to the Lands Tribunal will be competent under Section 90(1)(a)(i) or 91(1) of that Act for the period of five years from the date of registration of this Deed in the Land Register for Scotland.

## 13. LIABILITY

13.1 Save in the case of negligence on our part, in no circumstances shall we be responsible or liable for any loss, damage or injury suffered by any Proprietor, or those deriving title from any Proprietor or any invitees in respect of the state or condition of the Common Parts or any other part of the Subjects or the existence, state or condition of any services located within the Subjects or in respect of the bursting, leakage or failure of any services or the choking, stoppage or overflow thereof or of any other failure, fusing or breakdown of the services or from any other cause or source whatever.

## 14. SEVERABILITY

14.1 Each provision in this deed of conditions shall, unless the context otherwise requires, be read and construed independently of every other provision of this deed of conditions to the intent that, if any provision of this deed of conditions is held to be invalid or unenforceable for any reason, then the remaining provisions of this deed of conditions shall, to the extent that they are not held to be invalid, remain in full force and effect; and if any provision of this deed of conditions is held to be void or unenforceable but would if some part there was deleted or amended, be valid and enforceable, then such provision shall apply with such deletion or amendment as may be necessary to make it valid and enforceable.

Note: A copy of the plan annexed to the above Deed of Declaration of Conditions is included in this Title Sheet as Supplementary Plan 1 to the Title Plan.

## Burden 4

Disposition by Miller Homes Limited to Stewart Milne Group Limited and their successors and assignees, registered 23 Jan. 2006, of subjects at Duloch Park, Dunfermline, registered under Title Number FFE78175 (hereinafter referred to as the "Conveyed Property"), contains the following real burdens and servitudes:

### PART 1

#### Interpretation

In this Entry:-

"Conveyed Property" means the subjects registered under Title Number FFE78175;

"Plan" means the Title Plan;

"Retained Property" is the subjects registered under Title Number FFE72026, of which the subjects edged blue on the Title Plan form part;

"Sign Location Area" means those two areas within the Retained Property each shown hatched blue on the Plan.

### PART 2

#### Servitudes affecting the Retained Property

The following servitudes are imposed on the Retained Property in favour of the Conveyed Property:-

1. A servitude right to install and display signs on the Sign Location Area. Such signs shall (a) wherever possible be part of a common signage arrangement within the Sign Location Area (b) not interfere with the visibility splays or sight lines on the Retained Property and (c) subject

always to the prior written approval of the proprietors of that part of the Retained Property, such approval not to be unreasonably withheld or delayed.

### PART 3

No application to the Lands Tribunal for Scotland under Section 90(1)(a)(i) of the Title Conditions (Scotland) Act 2003 in respect of the servitudes set out in Parts 2 of the Schedule for a period of five years after the registration of this disposition in the Land Register of Scotland.

## Burden 5

Deed of Declaration of Conditions, registered 13 Jun. 2007, by Miller Homes Limited, Proprietor of ground on north side of Aberdour Road, Dunfermline edged blue on the Title Plan (hereinafter called "the Subjects"), contains real burdens, servitudes &c in the following terms:

CONSIDERING that we intend to divide the Subjects into separate plots on which have been or shall be erected a residential development consisting of dwellinghouses (including detached dwellinghouses and flatted dwellinghouses) with relative parking spaces, services and others (which development on the Subjects is hereinafter called the "Development"), and that we, Miller Homes Limited, intend to dispose the said dwellinghouses (hereinafter together with any garden ground, garage or other structure pertaining thereto respectively called "Houses") and the said flatted dwellinghouses (each hereinafter referred to as a "Flat") together with suitable rights of common property to various purchasers and that it is proper and expedient to set forth and declare the various reservations, real burdens, servitudes and others under which the Subjects, the Houses and the Flats thereon are to be held under in terms of Section 4 of the Title Conditions (Scotland) Act 2003, NOW THEREFORE, without prejudice to any real burdens and others already affecting the Development or to the addition or inclusion in specific titles to be granted as aforesaid of any real burdens, reservations, conditions and others, DO HEREBY SET FORTH AND DECLARE, with immediate effect from the registration of these presents in the Land Register for Scotland, the following videlicet:-

### 1. INTERPRETATION

In these presents words importing the masculine gender shall include the feminine; words importing the singular number only shall, where the context so admits, include the plural number and vice versa; and the words:

1.1 "Allocated Car Parking Spaces" means the car parking spaces shown on the Plan and numbered 1 to 18 and 136 to 153 on the Plan;

1.2 "Amenity Area" means the area of ground shown shaded green on the Plan and including all retaining structures;

1.3 "Common Access Routes" means those roads, paths, pavements, car parking spaces, areas of hardstanding and other areas shown shaded blue on the Plan, including all associated lighting, gutters, drains and others;

1.4 "Common Parts" means, so far as within the Subjects:

1.4.1 the Roads;

1.4.2 the Amenity Area and all other landscaped, open amenity areas, tree belts and structural planting within the Subjects (including play equipment (if any situated on any such area) ;

1.4.3 the boundary walls, fences and other enclosures of the Development not otherwise allocated to any dwelling;

1.4.4 all lamp standards/lighting columns and the like lighting the Roads, and/or the Amenity Area;

1.4.5 all Utilities and others within, under and over the Subjects not pertaining exclusively to an individual dwelling or more than one dwelling in common;

1.4.6 the Service Strips;

1.4.7 all other items, parts and pertinents, mutual to and for the benefit of all of the Proprietors;

1.5 "Block" means either, any or all, or any combination of Block 1-18, and Block 136-153;

1.6 "Block 1-18" means that area shown outlined in red and marked "1-18" on the Plan together with the block of Flats erected or to be erected thereon;

1.7 "Block 136-153" means that area shown outlined in red and marked "136-153" on the Plan together with the block of Flats erected or to be erected thereon;

1.9 "Block Common Parts" means in relation to the Block:

1.9.1 the solum of the Block;

1.9.2 the foundations, outside walls, load bearing walls, gables, roof, roof trusses, roof void the hatchway or hatchways leading to the roof, structural floors, and any decorative railings on the external walls of the Block;

1.9.3 the surface water and foul drainage pipes, rhones, gutters, the water supply pipes, drains, wires, meters, pipes, lines, cables, transmitters, tanks, ducts and other service media including any associated apparatus and plant serving exclusively the Block;

1.9.4 the common television and radio aerial(s) and all associated cables and apparatus;

1.9.5 the roads, yards, paths and car parking areas pertaining to the Block and shown shaded purple on the Plan;

1.9.6 the areas of open space and other areas shown shaded olive green on the Plan pertaining to each Block;

1.9.7 any bin storage areas or facilities corresponding to each Block;

1.9.8 all other parts of the Block common to the Proprietors of Flats within the Block;

1.10 "the Car Parking Spaces" means the Allocated Car Parking Spaces and the Visitor Car Parking Spaces;

1.11 "dwelling" shall mean a Flat and/or a house;

1.12 "maintenance" shall include repair, restoration, renewal, payment of any common charges, upkeep, cleaning and painting;

1.13 "Master Deed of Conditions" means the Deed of Conditions by Miller Homes Limited and by Miller (Duloch 1) Limited in Entry 3;

1.14 "Mutual Access Drive" means those driveways shared between two or more Proprietors of dwellings as may be designated by the said Miller Homes Limited as mutual access drives, whether such designation is in a disposition of a dwelling or otherwise;

1.15 "Plan" means the plan annexed hereto;

1.16 "proprietor" shall mean the owner or any number of joint owners of one house or Flat and their successors and assignee;

1.17 "Roads" means all roads, car parking spaces, pavements, footpaths and cycleways formed or to be formed within the Development, all as the same are shown shaded blue on the Plan;

1.18 "Service Strip" means an area or conduit normally two meters wide under or through which a Utility is lead;

1.19 "the Stair Common Parts" means

1.19.1 the common entrances and entrance doors, entrance halls, the service and electricity and gas meter cupboards and the fittings thereof, staircases, stairs, stair railings, landings, passages and circulation areas, the walls and ceilings enclosing the same, the stair windows (including glass, casings and frames), the common lighting (but declaring for the avoidance of doubt that any doors serving any flats exclusively shall belong solely to the Proprietor of the relevant flat);

1.19.2 the whole furnishings, wall and floor coverings and fittings in any Common Parts;

1.19.3 any security or entry phone systems and all associated cables and apparatus (but excluding the handset located in each flat, which shall be the sole responsibility of the Proprietor of each flat);

1.20 "Utilities" means all cables, pipes, wires, drains, drainage apparatus, sewers, tanks, water mains, transmitters and appurtenances thereof and any underground works required in connection with services;

1.21 "Visitor Car Parking Spaces" means, subject to the provisions of Condition 5 the car parking spaces, shown on the Plan and marked "V" and forming part of the Block Common Parts.

## 2. SERVITUDES: DEVELOPMENT RIGHTS

2.1 The following servitude rights are reserved over the dwellings, and the Common Parts, and in favour of us the said Miller Homes Limited and our successors and any other party deriving the right therefrom as proprietors of the dwellings, and any other part or parts of the Subjects:

2.1.1 servitude rights to enter onto the Development (i) to plant trees and/or shrubs on the Development as necessary to comply with the requirements of the Planning Authority (together with any necessary fencing or other protective measures to safeguard the said trees and/or shrubs (ii) together with a servitude right to erect scaffolding on any part of the Development, when necessary in connection with the erection of any of the houses, and their subsequent maintenance, repair, renewal and replacement and (iii) for any necessary purposes in connection with compliance with statutory consents.

2.1.2 servitude rights of access at all reasonable times over and through any part of the Subjects and the Development necessary or desirable to enable the carrying out of any maintenance of the Common Parts, and of the Subjects and of the Development and the dwellings and the undertaking by the Managing Agents of the duties imposed on them in terms of the various provisions herein contained. The said rights of access may be exercised by the Managing Agents and by tradesmen and contractors employed by the Managing Agents on behalf of the proprietors.

2.2 There are reserved to us and our successors as owners of any unsold parts of the Development a heritable and irredeemable servitude right of access thereto for the purpose of maintenance of the said unsold parts or any other necessary purpose.

IT IS HEREBY PROVIDED AND DECLARED (i) that the foregoing rights and servitudes and all servitudes specified in these presents shall apply ipso facto to the dwellings without any specific mention thereof being required in the individual Dispositions or other conveyances to be hereafter granted and (ii) that in so far as within our control the exerciser or exercisers of any of the foregoing rights and servitudes shall be liable for and bound to make good any damage, loss or injury occasioned thereby or resulting therefrom to the proprietors' property, but only in so far as applicable to their own actings, unless such damage, loss or injury arises as a result of negligence on the part of the proprietors concerned or their tradesmen, tenants, servants or agents, and the foresaid rights shall be exercised at reasonable times and upon reasonable notice to the proprietors concerned except in the case of emergency.

## 3. COMMON PARTS: MAINTENANCE AND USE

3.1 Subject always to and without prejudice to the provision of the Master Deed of Conditions and save to the extent that the provisions of Condition 15 below do not apply the Proprietors shall be jointly bound to uphold and maintain, renew and replace and light the Common Parts in good order and repair and in a neat and tidy condition in all time coming and in particular, and without prejudice to the foregoing generality, to maintain the Amenity Area and all other landscaped areas within the Common Parts in accordance with the scheme therefor approved



by the local planning authority pursuant to the planning consents permitting the Development (and which maintenance of the landscaped areas will include the replacement of trees and shrubs, the cutting of grass and other normal operations), and to insure the Common Parts, except always to the extent that any parts of the Common Parts are adopted or otherwise taken over for maintenance by the local or other authority or organisation.

3.2 The Proprietors shall each contribute an equal share towards the expense of the maintenance and lighting of the Common Parts, and declaring that if there are no separate meters in respect of the supply of electricity for the said lighting, the allocation of the cost of said lighting amongst the various proprietors shall be determined by the Managing Agents;

3.3 Declaring that when a majority of Proprietors consider it advisable to have any works of maintenance executed to the Common Parts they shall have the power to instruct the same to be done, and the whole Proprietors whether consentors or not shall be bound to pay their respective shares of the expense thereof. The Proprietors shall be bound to afford access to and over all parts of the Development including the Common Parts to the Statutory Undertakers for the purposes stated in Conditions 2 and 3 hereof.

3.4 The Amenity Area and all other landscaped, open amenity areas, tree belts and structural planting within the Subjects (including any play equipment thereon) shall be used only as an amenity area and public open space and other recreational purposes.

3.5 The Roads shall be kept free from obstruction.

3.6 The Proprietors shall be bound to concur in any application to have the Common Parts or any part thereof taken over by the relevant Statutory Undertaker and the obligations for maintenance of any such items specified herein shall cease only if and when these are taken over for maintenance purposes by the relevant Statutory Undertaker and insofar as these may not be taken over the said obligations shall remain in force in all time coming.

#### 4. BLOCK COMMON PARTS AND STAIR COMMON PARTS

4.1 The Proprietors from time to time of each of the Flats shall possess a right of common property with each and every Proprietor in the Block of which his Flat forms part in and to the Block Common Parts.

4.2 The Proprietors from time to time shall possess a right of common property with each and every other Proprietor in the stairwell in which their Flat is located in and to the Stair Common Parts pertaining to their stairwell.

4.3 Each Flat shall be held by the Proprietor thereof in all time coming under the burden of upholding and maintaining, renewing and rebuilding in good order and repair jointly with the Proprietors of all the other Flats in the Block, the Block Common Parts and/or the Stair Common Parts as the case may be. Subject to the terms of Condition 6 hereof, each Proprietor in the Block shall contribute an equal share in common with the other Proprietors concerned towards the expense of maintenance of all Block Common Parts for their respective Block and the Proprietors shall each contribute an equal share in common towards the expense of maintenance of the Stair Common Parts in relation to the stairwell in which their Flat is located and shall in addition contribute an equal share in common with the other Proprietors in the

stairwell concerned of the cost of electricity consumed in connection with internal common stair lighting, any external security lighting, any intercom equipment and any common television amplifier. In respect of those items of the Stair Common Parts, which fall to be painted or treated according to normal customary practice, the Proprietors in the Block shall be obliged to have such items painted or treated as appropriate at least once every four years or such lesser period as may be reasonably deemed necessary by the Managing Agents and also to comply with the scheme of uniformity of finish throughout the Blocks within the Development.

4.4 When a majority of the Proprietors of a Block consider that it is advisable to have any maintenance executed to any of the Block Common Parts they shall have power to instruct the same to be done, and the whole Proprietors of Flats within that Block, whether consentors or not, shall be bound to pay their respective equal share of the expense thereof, The Proprietors responsible for the maintenance of the Block Common Parts shall have a right of access at all reasonable times through adjoining Flats, the Stair Common Parts and the Block Common Parts as the case may be for the purpose of maintenance of the Block Common Parts, declaring that the right hereby conferred shall not be exercisable by the Proprietors as individuals but shall be exercisable on their behalf by the Managing Agent or by tradesmen and contractors employed by the Managing Agents on behalf of the Proprietors.

4.5 When a majority of the Proprietors of Flats in any stairwell consider that it is advisable to have any maintenance executed to any of the Stair Common Parts they shall have power to instruct the same to be done, and the whole Proprietors of Flats in such stairwell, whether consentors or not, shall be bound to pay their respective equal share of the expense thereof. The Proprietors responsible for the maintenance of the Stair Common Parts shall have a right of access at all reasonable times through adjoining Flats and the Stair Common Parts as the case may be for the purpose of maintenance of the Stair Common Parts, declaring that the right hereby conferred shall not be exercisable by the Proprietors as individuals but shall be exercisable on their behalf by the Managing Agents or by tradesmen and contractors employed by the Managing Agents on behalf of the Proprietors.

4.6 The Proprietors in the Block shall be bound to give free access to the roof of the Block by the passageways, landings, stairways, hatchways and rooflights leading to the roof for the purpose of maintenance of the roof and roof gutters for all necessary purposes on the roof.

## 5. CAR PARKING

5.1 The Car Parking Spaces shall be burdened by the servitude right in favour of the Proprietors of the Flats (in common with the other Proprietors of Flats and visitors to the Flats) to use the Visitor Car Parking Spaces, subject to the provisions of Condition 5.4, for the parking of fully licensed private cars only.

5.2 The Car Parking Spaces shall, subject as aftermentioned, be burdened by the servitude right in favour of each Proprietor of the Flats to have the exclusive right to use the Allocated Car Parking Space corresponding to the relevant Flat (the car parking space numbered 1 on the Plan, corresponding to Flat 1, the car parking space numbered 136 on the Plan, corresponding to Flat 136 and so forth) for the parking of fully licensed private cars only and the other Proprietors shall be prohibited from parking any vehicle of any nature on any Allocated Car Parking Spaces other than those allocated to their respective Flats, declaring that we the said Miller Homes Limited shall be entitled to alter the allocation of the Car Parking Spaces in



relation to each Flat, prior to the first disposal of each Flat, and to alter the allocation and location of any Visitor Car Parking Spaces.

5.3 The Proprietors shall be prohibited from obstructing access to the Car Parking Spaces, and each Proprietor shall keep the Car Parking Spaces unobstructed and open at all times.

5.4 The Proprietor of any houses shall have no right to use any of the Car Parking Spaces.

## 6. OBLIGATION TO MAINTAIN

6.1 Each proprietor within the Development shall be bound to uphold and maintain in all time coming his respective property in good order and in a good state of repair and decoration and take all appropriate steps either by himself or in conjunction with other proprietors having an interest therein to prevent damage to the fabric thereof or any other property on the Development and which may prejudice the stability thereof or create a nuisance to other proprietors and, in particular, but without prejudice to the foregoing generality, by control of vermin and immediate treatment of any dry rot or other form of rot or infestation which may be detected and the repair of any drainage water or other service, cables, pipes, wires or others and any proprietor shall in the event of failure to take timeous and adequate measures to prevent and repair such damage or such defect, including notification to adjoining proprietors whose premises may be affected with a view to safeguarding their property, be liable for and bound to make good any damage, loss or injury occasioned thereby or resulting therefrom. Without prejudice to the generality of the foregoing each Proprietor of a Flat shall be prohibited from removing any sound insulation within their Flat.

## 7. GARDEN ENCLOSURES AND BOUNDARY FEATURES

7.1 Considering that for the benefit of the amenity of the whole present and future development of the Development it is intended that the appropriate garden ground or ground attached to each of the dwellings or other buildings erected or to be erected on the Development shall be separated and divided from those adjoining with such walls, posts, fences, concrete kerbs, timber edgings or any other enclosures or identification markers (if any) as we may decide, we hereby provide and declare that the proprietors shall be bound to keep and maintain the same in all time coming in the same style and pattern and when necessary renew the same. With the exception of such walls, fencing or others (if any) erected by us or by our predecessors in title or by the aforementioned adjoining proprietors or their predecessors in title, the said garden ground will not be enclosed by the erection of walls, fences, hedges (including closely planted conifers) or gates but will be kept open in all time coming, except with our prior written consent.

7.2 Where a boundary wall or fence lies (i) adjacent to an amenity area or undeveloped area within the Development, it shall be maintained at the sole expense of the proprietor(s) concerned, so far as it is adjacent to his property (ii) adjacent to subjects adjoining the Development, the expense of the maintenance of such wall or fence shall be apportioned between the proprietors of the respective dwellings and the proprietors of the respective adjoining subjects, where applicable, in accordance with the provisions of the title deeds thereof and (iii) wholly within the Development it shall be maintained at the sole expense of each proprietor concerned so far as it is adjacent to or within his property.

## 8. EAVES

Where the eaves of a house overhang an adjoining dwelling, the air space occupied by those eaves shall be deemed to be excluded from the said adjoining dwelling.

## 9. SERVITUDES: PROPERTIES

The following servitude rights are reserved (or granted as appropriate) over the Common Parts, and the houses, and the Flats in favour of us and our successors and any other party deriving the rights therefrom as proprietors of the houses, the Flats and any other parts of the Development:

9.1 Each proprietor of any property within the Development shall have a servitude right of access to and egress from their respective house, Flat or other property by the roads, footpaths, cycleway (if any) and other routes forming the Common Parts.

9.2 Each proprietor within the Development shall have a servitude right of access to adjoining property within the Development for the purpose of carrying out maintenance: Declaring that the said right shall be subject to any damage, loss or injury occasioned thereby or resulting therefrom being made good by the responsible party concerned, and that the said right shall be exercised at reasonable times and upon reasonable notice.

9.3 Each Proprietor shall have a non-exclusive servitude right to use the Block Common Parts (of the Block of which each Flat forms part) and the respective Stair Common Parts so far as required for the beneficial occupation and use of the Flats, subject to such regulations as the Residents Association may pass from time to time, including a right of access to and egress from their respective Flats by the respective paths, steps, paved areas, hall, stairways, landings and passageways and others leading thereto and forming part of the respective Block Common Parts.

## 10. RESTRICTIONS ON USE

10.1 No part of the Development shall be used for the carrying on of any trade, business or profession without the written consent of us or our successors or for any purpose whatsoever which may in the opinion of the Managing Agents be deemed a nuisance or likely to injure the present or future amenity of the Development.

10.2 No dwellinghouse, Flat, garage or other building or any part thereof or any ground attached thereto shall ever be used for the sale of any wine, spirits or excisable liquor or for the making or manufacturing of any goods for sale.

10.3 No poultry, ducks, pigeons, bees, reptiles or other livestock shall be kept in the Development nor any domestic animals which shall prove a nuisance to the other proprietors of the Development and the Managing Agents shall be the sole judge of what shall constitute a nuisance and it is hereby expressly provided that all dogs shall be kept under control within the Common Parts and shall at no time be allowed to run unfettered.

10.4 Each house and Flat shall be used solely for private residential purposes only and for no other purpose whatsoever and shall not be sub-divided, but nothing contained herein shall prevent the use of any garage or house as a showhome, with the consent of the proprietor thereof from time to time.

10.5 The Common Parts shall be used in connection with the Development and for no other purpose whatsoever and the Common Parts shall be kept in a neat and tidy condition in all time coming. No building of any description shall be erected on the Common Parts.

10.6 No power boats, marine craft, caravans, motor caravans, trailers, commercial vehicles used for the transportation of goods or other vehicles shall be parked or stored in the open on any part of the Development, other than for the parking of private registered vehicles in driveways or other areas designed for that purpose.

10.7 Any garden ground pertaining to a house or Flat shall be kept in a neat and tidy condition in all time coming and the garden ground lying to the front and to the side of any house or Flat shall only be used as ornamental garden ground and shall not be used for the drying of clothes.

10.8 Any common access roadways, accesses and turning spaces shall not be obstructed or used for the parking of any vehicles whatsoever.

10.9 Each proprietor is prohibited from erecting on the outside walls and roof of his property any apparatus (including without prejudice to the foregoing generality any dish or antennae for the reception of satellite television) without (i) the prior written consent of the Managing Agents and (ii) obtaining any necessary Local Authority permission in connection therewith.

10.10 No windows and/or window frames in the houses shall be replaced by the proprietors without (i) complying with the scheme of uniformity, design and finish (including paintwork) as exists throughout the Development and (ii) the prior written consent of us and our successors.

10.11 No alterations or additions shall be made on or to the buildings erected or to be erected by us and no additional buildings of any description shall be erected on said plots of ground without (i) the prior written consent of us or our successors (or once we have ceased to own any part of the Development, the Managing Agents) and ii) obtaining any necessary Local Authority permissions in connection therewith.

10.12 No clothes poles or clothes lines shall be erected on any part of the Common Parts, nor shall they be attached or suspended from any window or from any walls or interior common passage or stairs.

10.13 No business nameplate or board or advertisement (other than "For Sale/To Let" notices) will be affixed on or adhibited to the exterior of any of the houses or placed or affixed on or to any part of the Development without the prior written consent of the Managing Agents (declaring for the avoidance of doubt that the provisions of this sub-clause 10.13 do not apply to use or our successors as developers of the Development relative to the marketing of the houses in which connection we and our foresaids shall be entitled to have "For Sale" notices affixed on or to any part of the Development until the sale of the last of the houses is complete).

10.14 the proprietors will never place any walls or buildings or other permanent erections on the ground where any trees and/or shrubs (as referred to in Condition 2.1.1) are to be planted.

10.15 The proprietors will never place any walls or buildings or other permanent erections over the routes of the Utilities or on any ground within the Common Parts where any trees and/or shrubs are to be or have been planted.

10.16 No garage, car parking space or other offices shall be sold separately from the dwelling to which they relate.

10.17 No dustbins or other refuse containers or any other articles of any nature shall be left or deposited on the plot so as to be obtrusive or to cause a nuisance and otherwise than in accordance with the regulations and requirements of the appropriate local authority.

10.18 No fires (including barbeques) will be permitted or caused for any reason whatsoever on any part of the Common Parts including any landscaped areas pertaining to the Development.

10.19 Where any houses (including any garages pertaining thereto) are bounded by a mutual gable wall, such mutual gable wall shall be mutual and owned in common between the houses, and each Proprietor interested therein shall pay an equal share of the cost of upholding, maintaining, repairing and renewing the same.

## 11. INSURANCE - HOUSES AND COMMON PARTS

11.1 Each proprietor of a house shall be bound and obliged always to keep his house constantly insured against loss by fire and all other risks normally covered by a Comprehensive Household Buildings Insurance Policy with an Insurance Company of good standing for the full replacement value from time to time of the said house and others and in the event of any building or buildings thus covered being destroyed or damaged by fire or otherwise the proprietor concerned shall be bound to repair and restore the same as far as practicable on the same site and to the same building value and conforming as far as practicable with the existing style and that within a period of two years from such destruction or damage.

11.2 The proprietors of each dwelling shall be bound notwithstanding any insurance which he may effect of his own accord, to concur with each and every other proprietor in keeping the Common Parts constantly insured. The above mentioned obligation to insure must be by way of a common insurance policy or policies to be arranged by the Managing Agents with a reputable Insurance Company against all risks normally covered by a Property Owners Liability Insurance Policy and covering (if applicable), without prejudice to the said generality the risks of property owners' liability, fire, explosion, lightning, storm or tempest, flood and bursting or overflowing water pipes. The said proprietors shall be liable inter se for payment of the annual premium or premiums of the said common insurance policy or policies and each proprietor shall be bound to pay to the Managing Agents the share referable to his house of the annual premium or premiums necessarily for keeping such insurance in force. In the event of any claim or claims being made under the said policy or policies in respect of damage to or destruction of the whole or any part of the Common Parts any proceeds therefrom shall be held in trust by the Managing Agents on behalf of the Proprietors having an interest therein and shall be used and applied by the Managing Agents as appropriate in respect of such claim and the Common Parts.

## 12. INSURANCE - FLATS

12.1 Each Proprietor of a Flat shall be bound notwithstanding any insurance which he may effect of his own accord, to concur with each and every other Proprietor in keeping the Flats and the Block of which the Flats form part including the Block Common Parts and the Stair Common Parts constantly insured. The above mentioned obligation to insure must be by way of a common insurance policy or policies to be arranged by the Managing Agents with a reputable

Insurance Company against all risks normally covered by a Comprehensive Common Household Buildings Insurance Policy for full reinstatement value and covering, without prejudice to the said generality the risks of property owners' liability, fire, explosion, lightning, storm or tempest, flood and bursting or overflowing water pipes. The said Proprietors shall be liable inter se for payment of the annual premium or premiums of the said common insurance policy or policies and each Proprietor shall be bound to pay to the Managing Agents the share referable to his Flat of the annual premium or premiums necessary for keeping such insurance in force.

12.2 In the event of all or any of the Flats or the Block including the Block Common Parts and the Stair Common Parts or any part thereof being destroyed or damaged by fire or any other risk covered by the insurance hereinbefore referred to the whole sums received from the insurance company or so much thereof as may be necessary shall be expended in reinstating the same and that within a period of two years from such destruction or damage and conform as far as practicable with the present design, dimensions and specifications and such reinstatement shall be carried out by such person or persons and at such cost including Architect's and Surveyor's fees as may be determined or approved at a meeting of the relevant Proprietors to be convened and held as herein provided, and in the event of the cost of any reinstatement works including fees and others exceeding the sums recovered from the insurance company any further sum required to meet the said costs shall be paid by the Proprietors concerned in their due proportions and shall be recoverable if necessary by an Action at the instance of any of the Proprietors concerned or of the Managing Agents, each and all of whom shall have the authority to sue for and recover all such proportions as far as unpaid for or on behalf of all persons having an interest in the said works or any part thereof. In the event of any claim or claims being made under the said policy or policies in respect of damage to or destruction of the whole or any part of the Flats or the Block or any of the foresaid areas within the Development any proceeds therefrom shall be held in trust by the Managing Agents on behalf of the Proprietors having an interest therein and shall be used and applied towards reinstatement as aforesaid.

### 13. BLOCK AND STAIR COMMON PARTS: PROPRIETORS ASSOCIATION, MANAGEMENT COMMITTEE AND MANAGING AGENTS

13.1 The proprietors of each Flat shall elect a committee of at least four proprietors to represent the interest of all the proprietors within the Block, which committee shall be the Management Committee of the Proprietors' Association (hereinafter referred to as "the Management Committee") and the said Proprietors' Association shall comprise as members all proprietors within the Block (hereinafter referred to as "the Association"); Any five members of the Association shall have power at any time to call a meeting of the Management Committee, which shall have the power at any time to call a meeting of the Association. Such meeting or meetings shall be held at such reasonably convenient time and place as the convenor of the meeting may determine and of which time and place of meeting at least fourteen days' notice in writing shall be given by or on behalf of the convenor of the meeting to the other proprietors concerned and at any meeting so convened any of the proprietors may be represented by a mandatory. The quorum of a meeting of the Association shall be 60% of the proprietors of the Flats within the Block or their mandatories and each proprietor or mandatory will be entitled to one vote for each Flat owned by him or his principal (declaring for the avoidance of doubt that in the event of any of the houses being owned by two or more persons only one of such owners shall be counted in ascertaining a quorum and only one shall be entitled to vote). Where a



meeting of the Association is convened to deal with issues relating to specific stairwells, the quorum of such a meeting shall be 60% of the Proprietors or their mandatories of each of the stairwell(s) concerned and each Proprietor or mandatory will be entitled to one vote for each Flat owned by him or his principal (declaring for the avoidance of doubt that in the event of any of the Flats being owned by two or more persons only one of such owners shall be counted in ascertaining a quorum and only one shall be entitled to vote).

13.2 It shall be competent at any relevant meeting of the Association by a majority of the votes of those present and entitled to vote -

13.2.1 to order to be executed any common or mutual operations, maintenance, planting, gardening, decoration, etc to the Block Common Parts and the Stair Common Parts.

13.2.2 to make any regulations in conformity with these presents which may be considered necessary with regard to preservation, cleaning, use or enjoyment of the Block Common Parts and the Stair Common Parts;

13.2.3 to appoint any one qualified person or firm or company (herein called "the Managing Agents") to have charge and perform the various functions in relation to (i) the maintenance, lighting and management of the common parts and the Block Common Parts and the Stair Common Parts including, without prejudice to the foregoing generality, the maintenance and management of any trees and landscaped areas within the Block Common Parts in accordance with the scheme therefor approved by the local planning authority as aforesaid;

(a) DECLARING however that so long as we, the said Miller Homes Limited, are proprietors of any part of the Block we shall have the sole right to appoint the Managing Agents and to fix the duration of their appointment provided that the period of said appointment does not extend beyond the period of five years commencing from the date of registration hereof in the Land Register of Scotland (hereinafter referred to as "the five year period") and we have appointed as the Managing Agents, Hacking and Paterson whose appointment shall run until the date occurring two years after the granting of the last Disposition by us of a Flat in the Block and annually thereafter (unless terminated by a vote at a meeting of the Association as hereinbefore provided); provided that such appointment if not previously terminated by such a vote at a meeting of the Association and even if the said two year period after the granting of the last Disposition by us of a Flat in the Block has not expired, shall be terminated on the date occurring at the expiry of the five year period,

(b) AND FURTHER DECLARING that the proprietors shall be bound (i) as at the expiry of the aforesaid five year period to either (a) re-appoint the aforesaid Managing Agents or (b) appoint other Managing Agents in their place and (ii) to have Managing Agents at all times;

13.2.4 (subject to what is above written regarding our appointment of Managing Agents) to fix the duration of the Managing Agents' appointment and to appoint other Managing Agents in their place;

13.2.5 to delegate to the Managing Agents the whole rights and powers exercisable by a majority vote at any relevant meetings, including without prejudice to the foregoing generality the right to collect from each proprietor (a) the share referable to the proprietor concerned of the insurance premiums in respect of the common insurance policy or policies referred to in

Conditions 11, 12 and 13 hereof, (b) the share referable to the proprietor concerned of the remuneration of the Managing Agents (c) the appropriate share referable to the proprietor concerned of the cost of maintenance and lighting of the Block Common Parts and the Stair Common Parts and the cost of maintenance of all other common items as may be specified in the Dispositions of individual Flats and (d) the appropriate, proportionate and/or equal share in common with any other proprietors concerned of any other remunerations, outlays, charges (including, without prejudice to the foregoing generality, cleaning and lighting charges), expenses and fees for work done or undertaken or services rendered and any other sums for which the proprietors or any of them may become liable in terms of or in furtherance of the provisions herein contained or the provisions of the said Dispositions and the Managing Agents shall be entitled to make payment of the said premiums, remunerations, outlays, charges, expenses, fees or other sums to whomsoever is entitled to receive payment therefor.

13.3 The Management Agents, unless otherwise determined at such a meeting, shall be entitled during the continuance of their appointment to exercise the whole rights and powers which may be competently exercised by a majority of those present at a quorate meeting of the proprietors; and without prejudice to the generality of the foregoing:

13.3.1 the Managing Agents shall be entitled to charge their usual professional remuneration for their services and all expenses and charges incurred for any work done or undertaken or services performed in terms of or in furtherance of the provisions herein contained or the provisions contained in the said Dispositions and the remuneration of the Managing Agents shall be payable by the respective proprietors whether consentors thereto or not in equal proportions in the same way as if their consent had been obtained. In the event of any proprietor(s) so liable failing to pay his or their proportion thereof within one month of each payment being demanded, the Managing Agents shall (without prejudice to the other rights and remedies of the proprietors) be entitled to sue for and recover the same in their own name from the proprietor(s) so failing together with all expenses incurred by the Managing Agents provided always that it shall be in the option of the Managing Agents before or after taking any action to call a meeting of the proprietors to decide if and to what extent such action should be pursued and that in the event of failure to recover such payments and/or the expense of any action then such sums will fall to be paid in equal shares by the other proprietors responsible;

13.3.2 the Managing Agents shall have a management fund for the execution and payment of necessary and reasonable maintenance and cleaning and lighting charges, insurance premiums, management expenses and fees, and each of the proprietors shall deposit in the event of the first sale of a Flat with us or our successors at or prior to entry for onward transmission to the Managing Agents and in the event of a subsequent sale with the Managing Agents within one month of their entry to a Flat the sum of ONE HUNDRED POUNDS (£100) STERLING in relation to the Block Common Parts and the Stair Common Parts or such greater sum as may be required for the foresaid purposes and fixed by the Managing Agents or at a meeting of all the proprietors (or the relevant proprietors in relation to the Stair Common Parts) held as hereinbefore provided and the sums so collected by the Managing Agents shall be held by them in trust for behoof of the proprietors for the foresaid purposes. In the event of a proprietor selling a Flat in his ownership, such proprietor shall be entitled to recover the sum deposited with the Managing Agents under deduction of any proportion of the Charges etc due in respect of his Flat, always provided that the person to whom such Flat is sold deposits with the Managing Agents the sum of ONE HUNDRED POUNDS (£100) STERLING in relation to the Block Common Parts and the Stair Common Parts or in each case such greater sum as

may be fixed as aforesaid. For the avoidance of doubt, no interest shall be payable on such part of any deposit which may be refunded as aforesaid; and

13.3.3 the Managing Agents shall have a sinking fund and each of the proprietors shall pay to the Managing Agents a quarterly sum as may be required for the following purposes and to be fixed by the Managing Agents acting reasonably as a contribution in advance towards the cost of establishing and maintaining financial reserves to meet the future costs (as from time to time established by the Managing Agents acting reasonably) of repair, maintenance, reconstruction, renewal and replacement in respect of the common parts or any part(s) thereof and the Block Common Parts and the Stair Common Parts (as appropriate) or any part(s) thereof where such cost is not of a constant and quarterly recurring nature. Prior to fixing the aforesaid quarterly sum, the Managing Agents require the prior written consent of the Managing Committee to the said quarterly sum.

13.4 The decision of any meeting of the Residents' Association convened as aforesaid and having the requisite quorum shall bind all the proprietors in the Block and/or the Stair, whether they are consentors or not.

13.5 The Managing Agents shall in questions with the proprietors have full power and authority to instruct and have executed from time to time, such works for the maintenance, cleaning and lighting of the Block Common Parts and the Stair Common Parts as they in their judgement shall consider necessary to implement their obligations and duties in terms hereof, and to engage tradesmen and others for that purpose, provided always and that in the case of a major work (being a work the cost of which is estimated by the Managing Agents to exceed a sum equal to TWO HUNDRED AND FIFTY POUNDS (£250) STERLING multiplied by the number of Flats concerned, or such greater amount as may from time to time be fixed by the Association), the Managing Agents shall, before instructing the same, report the matter to the Association (or, as the case may be a meeting of the proprietors of the Flats) and, subject always to the obligations of the proprietors in terms hereof, such work shall be undertaken only if it is authorised by the Association (or, as the case may be, a majority of the proprietors of the houses), whose decision shall be final and binding on the Managing Agents and on all the proprietors concerned. Notwithstanding the foregoing provisions, in the event of an emergency the Managing Agents shall be entitled forthwith to instruct and have executed such work which shall include a major work as they consider necessary for the interim protection or safety of the Block or any part thereof.

13.6 Where necessary or appropriate, the Managing Agents shall have authority to require that the proprietors concerned make payment in advance of the respective shares of the cost of any major work referred to in the paragraph above.

#### 14. APPOINTMENT OF CONTRACTORS

14.1 Each Proprietor will be bound to concur in the appointment of a cleaning contractor through the Managing Agents for regular cleaning and maintenance of the Common Parts and the Block Common Parts, and shall be bound to make payment to the Managing Agents of his share of the cost (or the appropriate parts of the costs) of the same in terms hereof,

For the avoidance of doubt, where in Condition 14.1 above, the concurrence of each Proprietor is required to the appointment of the foregoing contractors, in the absence of verbal or written



concurrence, silence shall be deemed to be concurrence.

## 15. AMENITY AREAS: ALTERNATIVE MAINTENANCE PROVISIONS

15.1 Where and to the extent that title to the Amenity Area is transferred to Greenbelt Group Limited or its successors, or an alternative maintenance company (hereinafter referred to as "GG") the following provisions shall apply:

15.1.1 The provisions set out in paragraphs I and II of the Schedule annexed and executed as relative hereto, which are declared to be real burdens, shall apply in respect of such Amenity Area: and

15.1.2 The servitudes set out in paragraphs III and IV of the said Schedule shall have effect;

And that in both cases with effect from the date of registration in the Land Register of Scotland of a Disposition in favour of GG in respect of such Amenity Area subsequent to the date of registration of this Deed in the said land Register, PROVIDED THAT nothing contained herein shall prevent or restrict us from transferring responsibility for management and maintenance of part or parts of the Amenity Area to GG in terms hereof prior to the eventual conveyance of the Amenity Area, and in which case, from the date of such transfer of responsibility, all proprietors will be bound to pay the Annual Management Charge applicable to such part or parts of the Amenity Area and GG shall be entitled to enforce the real burdens imposed in terms of paragraph 2 of the said Schedule.

15.2 For the purpose of this Condition 15, and the Schedule the term "Amenity Area" shall mean the Amenity Area as defined in this Deed of Condition and shall also mean the "Amenity Area" as defined in the Deed of Conditions by Miller Homes Limited and Miller Homes Limited in Entry 3.

## 16. MUTUAL ACCESS DRIVES

16.1 Each Proprietor of any houses served by a Mutual Access Drive in common with other houses shall have a right in common to that Mutual Access Drive;

16.2 Any such Mutual Access Drive shall be maintained in all time coming at the joint equal expense of such Proprietors;

16.3 Parking of vehicles of any nature is prohibited on any Mutual Access Drive

## 17. PUT OPTION: COMMON PARTS

17.1 Miller Homes Limited and their successors and assignees shall be entitled at any time to require each proprietor of a house to accept, and to register in the Land Register, a Disposition (or Dispositions) of a pro indiviso share (as determined by the said Miller Homes Limited and/or their foresaids) of all or any part of the Common Parts and that all subject to such reservations, real burdens or conditions as the said Miller Homes Limited and/or their foresaids may reasonably require. No consideration will be payable in relation to such a Disposition and no searches in the Land Register, or in the Personal or Company Registers will be exhibited.

17.2 In the event of default by any proprietor or any house of any of the obligations imposed upon them in relation to the Common Parts in terms of these presents, the said Miller Homes Limited and/or their foresaids shall be entitled to carry out or to procure the carrying out of any works required to remedy such default and to recover all expenses properly incurred thereby but only if there has first been given to the relevant proprietor(s) written notice of the breach and a reasonable period in which to remedy the defect, and the relevant proprietor has not remedied the breach to the satisfaction of the said Miller Homes Limited.

## 18. ARBITRATION

Except as expressly stated to the contrary in any deed to follow hereon in favour of the proprietors any dispute or difference between or among proprietors arising out of any of the conditions of this deed or any deed to follow hereon shall, failing agreement between or among the proprietors concerned, be referred to a single arbiter mutually chosen or appointed, failing agreement, by the President of the Law Society of Scotland, the position of such arbiter being final and binding on the proprietors, the operation of Section 3 of the Administration of Justice (Scotland) Act 1972 being expressly excluded. The expense of the reference and of the Arbiter's fee and of any other expense or work incidental to the reference shall be in the discretion of the Arbiter who shall have power to fix the same and discern therefor; Declaring that any proprietor desiring to refer any such question to arbitration shall be bound to intimate his intention of so doing to the other proprietors concerned in writing, failing which his right to arbitration shall be lost.

## 19. REAL BURDENS AND SERVITUDES THE COMMUNITY

It is hereby declared that:

19.1 The real burdens contained in this deed of conditions, including for the avoidance of doubt Conditions 3, 4, 5.3, 5.4, 6, 7, 8, 10, 11, 12, 13, 14, 15 (including the schedule referred to therein), 16, 17 and 18 (other than Condition 13.2.3(a) are imposed on the Subjects, in favour of the Subjects, and which real burdens are intended to constitute community burdens (the community being the Subjects) and which shall be enforceable by the owner for the time being of any dwelling, including any house, or any Flat retained by us but shall not take effect, with respect to any house, or any Flat until the date of registration in the Land Register of a disposition of that house in which the conditions of this Deed of Conditions are stated to apply.

19.2 The servitudes contained in Conditions 2.5.1, 5.2, and 9 are imposed on the Subjects in favour of the houses, and the Flats and any other parts of the Subjects;

19.3 We, the said Miller Homes Limited, reserve to ourselves and any successors as developers of the Development the right to vary the layout and composition of the Development and to vary the terms hereof as regards our future development of any part thereof.

19.4 Subject to paragraph 19.3 above, the Title Conditions (Scotland) Act 2003 shall apply to this Deed with the effect that no application to the Lands Tribunal will be competent under Section 90(1)(a)(i) or 91(1) of that Act for the period of five years from the date of registration of this Deed in the Land Register for Scotland.

## 20. LIABILITY

20.1 Save in the case of negligence on our part, in no circumstances shall we be responsible or liable for any loss, damage or injury suffered by any Proprietor, or those deriving title from any Proprietor or any invitees in respect of the state or condition of the Common Parts, the Block Common Parts, the Stair Common Parts or any other part of the Subjects or the existence, state or condition of any services located within the Subjects or in respect of the bursting, leakage or failure of any services or the choking, stoppage or overflow thereof or of any other failure, fusing or breakdown of the services or from any other cause or source whatever.

## 21. SEVERABILITY

21.1 Each provision in this deed of conditions shall, unless the context otherwise requires, be read and construed independently of every other provision of this deed of conditions to the intent that, if any provision of this deed of conditions is held to be invalid or unenforceable for any reason, then the remaining provisions of this deed of conditions shall, to the extent that they are not held to be invalid, remain in full force and effect; and if any provision of this deed of conditions is held to be void or unenforceable but would if some part thereof was deleted or amended, be valid and enforceable, then such provision shall apply with such deletion or amendment as may be necessary to make it valid and enforceable.

### I Real Burdens affecting the Amenity Area

In this Clause:

"Benefited Property" means the Subjects under exception of the Amenity Area.

"Benefited Proprietors" means Miller Homes Limited and their successors as heritable or registered proprietors of the Benefited Property.

"Burdened Property" means the Amenity Area.

"Burdened Proprietors" means GG.

"Management Operations" means all works and others comprised in the management, maintenance and where necessary renewal of the Amenity Area in accordance with the generally prevailing principles of sound silvicultural practice.

The following real burden is imposed on the Burdened Property in favour of the Benefited Property:

The Burdened Proprietors shall carry out the Management Operations provided that:

(i) the foregoing obligation shall cease to have effect at such time as the Subjects shall have ceased substantially to be used as a residential housing development; and

(ii) notwithstanding the foregoing, the Burdened Proprietors shall be entitled, at all times, to use the Amenity Area for such purposes as they in their sole discretion, consider are necessary or appropriate as being ancillary to the maintenance and/or management of the Amenity Area but acting at all times in accordance with generally prevailing principles of sound silvicultural practice.

## II Real Burdens affecting each House and Flatted Dwellinghouse

In this Clause:

"Burdened Property" means the Subjects under exception of the Amenity Area.

"Benefited Property" means the Amenity Area.

"the Adjacent Property" means ALL and WHOLE that area or piece of ground comprising part of Site P4, Duloch Park, Dunfermline being the subjects registered in the Land Register for Scotland under title number FFE74845.

"Annual Management Charge" means the pro rata share applicable to each dwelling of the total annual costs incurred by GG in effecting the Management Operations, together with reasonable estate management remuneration, insurance premiums and charges (plus all Value Added Tax exigible thereon) for the relevant year, which pro rata share shall in the case of each dwelling be calculated by reference to the total number of dwellings constructed or permitted to be constructed upon the Subjects and the Adjacent Property with each dwelling on the Subjects bearing annually a proportion of the said costs, remuneration, premiums and charges (and so that and by way of illustrative example only, if the said total number of dwellings amounts to one hundred (100), each dwelling shall bear a one-hundredth share of the said costs, remuneration, premiums and charges annually).

The following real burdens are imposed on the Burdened Property in favour of the Amenity Area:

1. All Proprietors are hereby taken bound and obliged in all time coming to pay the Annual Management Charge applicable from time to time to each Dwelling and which sum shall be payable in all time coming annually in advance by the Proprietor of each Dwelling to GG.
2. Subject to the proviso aftermentioned, the costs of effecting the Management Operations shall not be permitted to increase in any relevant year by a margin or amount which exceeds the relevant increase for that year in the rate of inflation as measured by the UK Index of Retail Prices provided always that the limit of increase shall not apply in respect of the increase in the said costs applicable at the end of the fifth year following the date of registration of this Deed of Conditions and every fifth year following in perpetuity so as to ensure that at the end of such relevant period of five years the pro rata share applicable to each dwelling for the succeeding year reflects any actual increase in the costs of the Management Operations.
3. If a majority of the proprietors in terms of this Deed of Conditions agree that they wish any amendment to be made to the Management and Maintenance Specification, then the proprietors or relevant majority will require to agree with GG the appropriate variation in the said costs which is appropriate having regard to the proposed variation in the Management and Maintenance Specification and if the proprietors, or the relevant majority, and GG are unable, after a period of three months following intimation of a proposed amendment by the proprietors to GG, to agree upon the variation of said costs, then the question of the costs of the variation (but not any other matter) may, on the application of either of the parties be referred for determination by an Independent Expert experienced in landscape architecture and management to be appointed, failing agreement between GG and the Proprietors or relevant

majority, by the Chairman or other senior official of the Royal Institution of Chartered Surveyors in Scotland, on the application of GG or the relevant proprietors, and the decision of such expert in respect of any variation in costs arising out of the proposed variation to the Management and Maintenance Specification, but not any other matter affected by this Clause, shall (save in the case of manifest error) be conclusive and binding upon GG and all proprietors, who shall all co-operate in the execution and registration of a Deed of Variation of this Deed of Conditions to effect the agreed or determined variation of the Management and Maintenance Specification and any relevant agreed or determined variation in the said costs.

4. All proprietors are hereby bound and obliged not to deposit refuse upon or otherwise exercise any rights which they may have over the Amenity Area in such a manner as to cause nuisance or prejudice to the Amenity Area or any part thereof or to prejudice or adversely effect the efficient and economic carrying out by GG of any part of the Management Operations. For the avoidance of doubt the whole costs incurred by GG in the removal from the Amenity Area of any such refuse or other fly tipping or other costs incurred as a result of such nuisance or prejudice shall be recoverable from the Proprietors in addition to the Annual Management Charge.

5. No dog must be allowed to foul any part of the Amenity Area and no dog is permitted on the Amenity Area unless it is:

5.1 kept on a lead; and

5.2 accompanied by a responsible person.

6. For the purpose of enabling GG always to be in a position to commence the carrying out of its said functions the proprietors of each Dwelling shall, if so required on settlement of their purchase transaction, pay at the time of settlement, the sum nominated and determined by GG and agreed with us as a contribution towards the initial costs incurred by GG in the initial carrying out of the Management Operations. Declaring for the avoidance of doubt that the said sum if paid is not refundable.

7. In the event of any proprietor or proprietors so liable failing to pay his, her or their proportion of the Annual Management Charge within one month of such payment being demanded GG shall (without prejudice to the other rights and remedies of the other proprietors) be entitled to sue for and to recover the same in its own name from the proprietor or proprietors so failing together with all the expenses incurred by GG provided always that it shall be in the option of GG before or after taking any action to call a meeting of the proprietors to decide if, and to what extent, such action should be pursued and that in the event of failure to recover such payments and/or the expenses of any action the remaining proprietors shall be bound pro rata as aforesaid to reimburse GG for any payment or expenses that GG may have incurred.

8. Prior to the date of completion of the sale or other transfer of ownership of any dwelling, the relevant proprietor is bound and obliged to provide written notice to GG of the full names of the proposed transferee and failing such intimation as aforesaid GG shall be entitled to continue to recover the Annual Management Charge applicable to such dwelling until such intimation is given to GG.

9. The servitude rights set out in paragraph 4 of this Schedule shall be exercised (i) in such manner as to cause the least practicable interference with the lawful and permitted activities and operations of GG on the Amenity Area (ii) in accordance with reasonable prior written notice to and consultations with GG and (iii) subject to the party exercising such rights being responsible at all times for making good all damage caused to the Amenity Area or to any trees, buildings or other structures or property in or upon the Amenity Area to the extent that such damage arises out of the exercise of the said rights.

### III Servitudes affecting the Subjects

The following servitude is imposed on the Subjects in favour of the Amenity Area, namely:

A servitude right of access to and egress from the Amenity Area from and to the public road and footpath for pedestrians and all manner of vehicles over and through the roads, lanes and footpaths comprised or to be comprised in the Subjects;

### IV Servitudes affecting the Amenity Area

The following servitude is imposed on the Amenity Area in favour of the Subjects;

All necessary servitude rights of access reasonably required through the Amenity Area for the purpose of laying and thereafter maintaining, using and if necessary renewing sewers, pipes and other necessary utility conduits required to serve the residential housing development constructed or to be constructed on the Subjects and for all works properly and necessarily associated therewith as required by statutory authority from time to time.

Note 1: The effectiveness of the real burdens in the foregoing Deed of Declaration of Conditions was postponed, in respect of any house or any Flat, until the date of registration of a disposition of that house in which the conditions of this Deed of Conditions were stated to apply. The real burdens have been made effective in respect of the subjects in this Title.

Note 2: A copy of the plan annexed to the above Deed of Declaration of Conditions is included in this Title Sheet as Supplementary Plan 2 to the Title Plan.

Note 3: Title Number FFE74845 originally comprised the area tinted yellow on the Title Plan.

This is a Copy which reflects the position at the date the Title Sheet was last updated.

© Crown copyright 2022



LAND REGISTER  
OF SCOTLAND

Officer's ID/Date

2777  
13/7/2011

Title Number

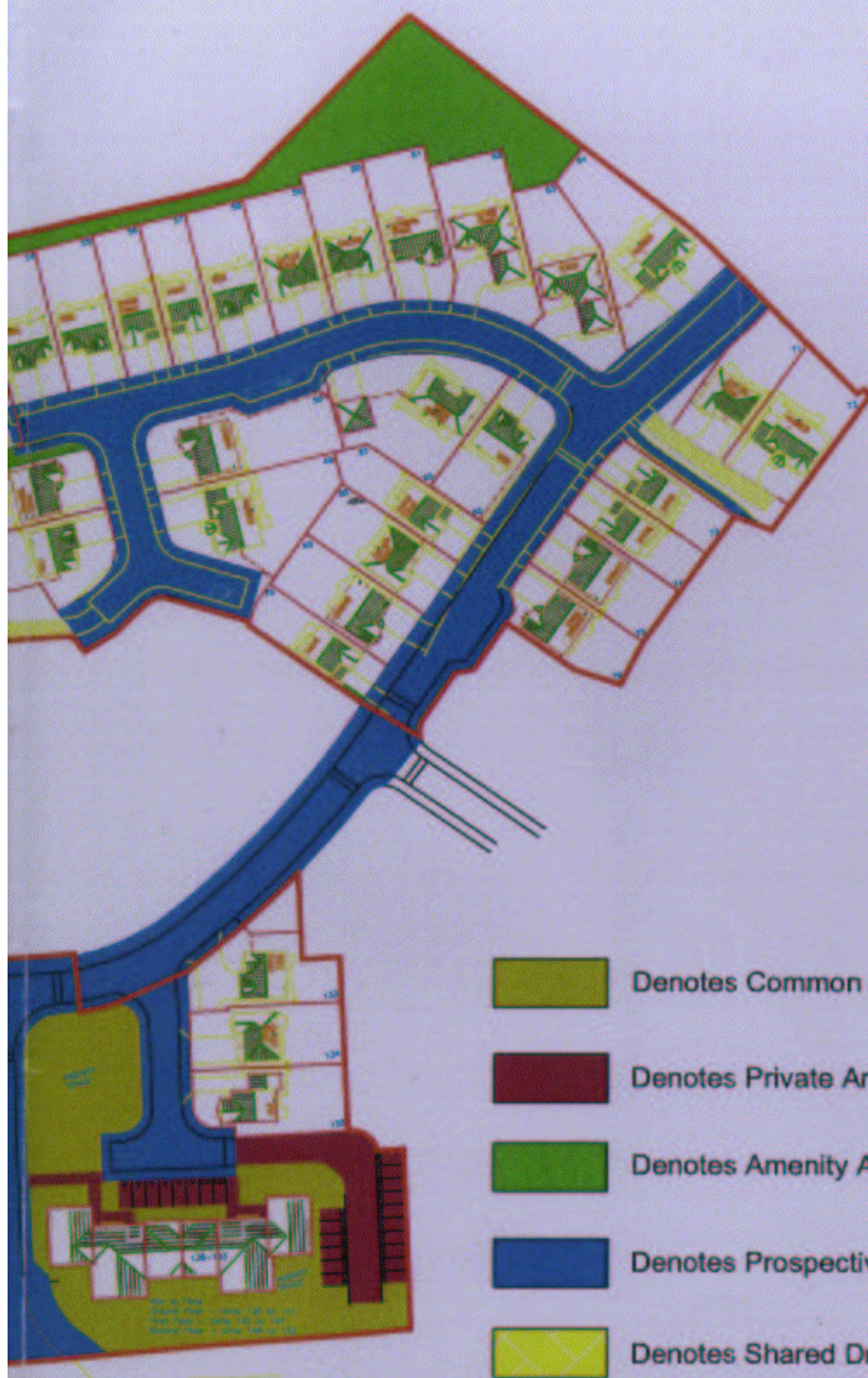
FFE95286



NOTE: This copy is a reduction  
of the original plan.

SUPPLEMENTARY PLAN 2  
TO THE TITLE PLAN




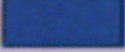





This is the plan  
referred to in the  
foregoing deed of  
conditions

*Am Biffa*

*A. Piddle*

-  Denotes Common Area
-  Denotes Private Area
-  Denotes Amenity Area
-  Denotes Prospectively Adoptable Roads and Footpaths
-  Denotes Shared Driveway

'B' Boundary Line of sale of land to Stewart, 07/06/07 SM  
Milne, changed to reflect original agreement.

**miller homes**

Miller Homes Ltd.

Miller House, 2 Lochside View, Edinburgh Park,  
EDINBURGH, EH12 9DH

Tel: 0870 336 5000 Fax: 0870 336 5160  
www.millerhomes.co.uk

Scale: 1:1250

Title: MASTER FEU PLAN

Date: 3.5.7

Author: MREB

Title:

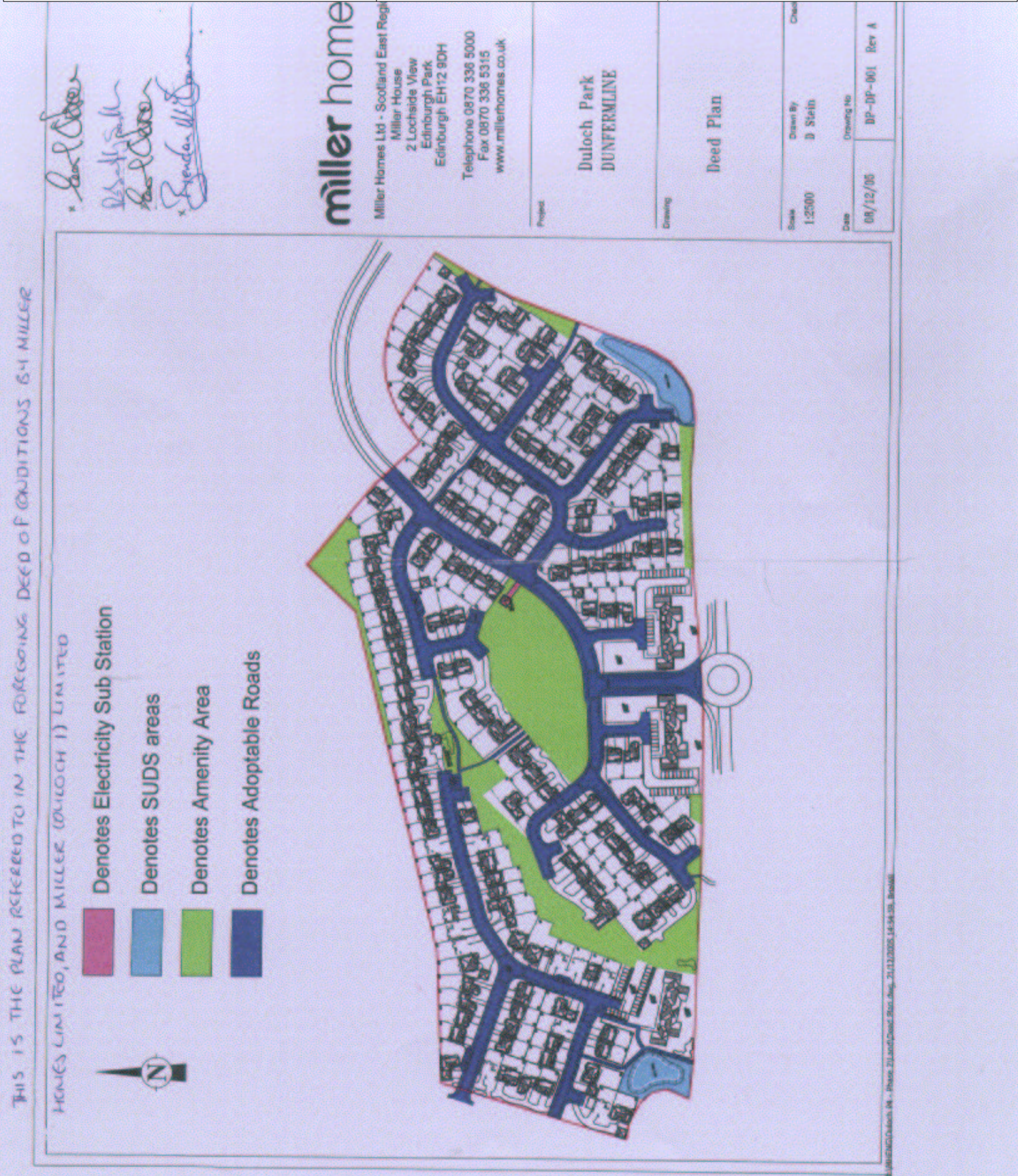
Drawing No. DP2-FEU/01

Duloch

☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☒ ☐



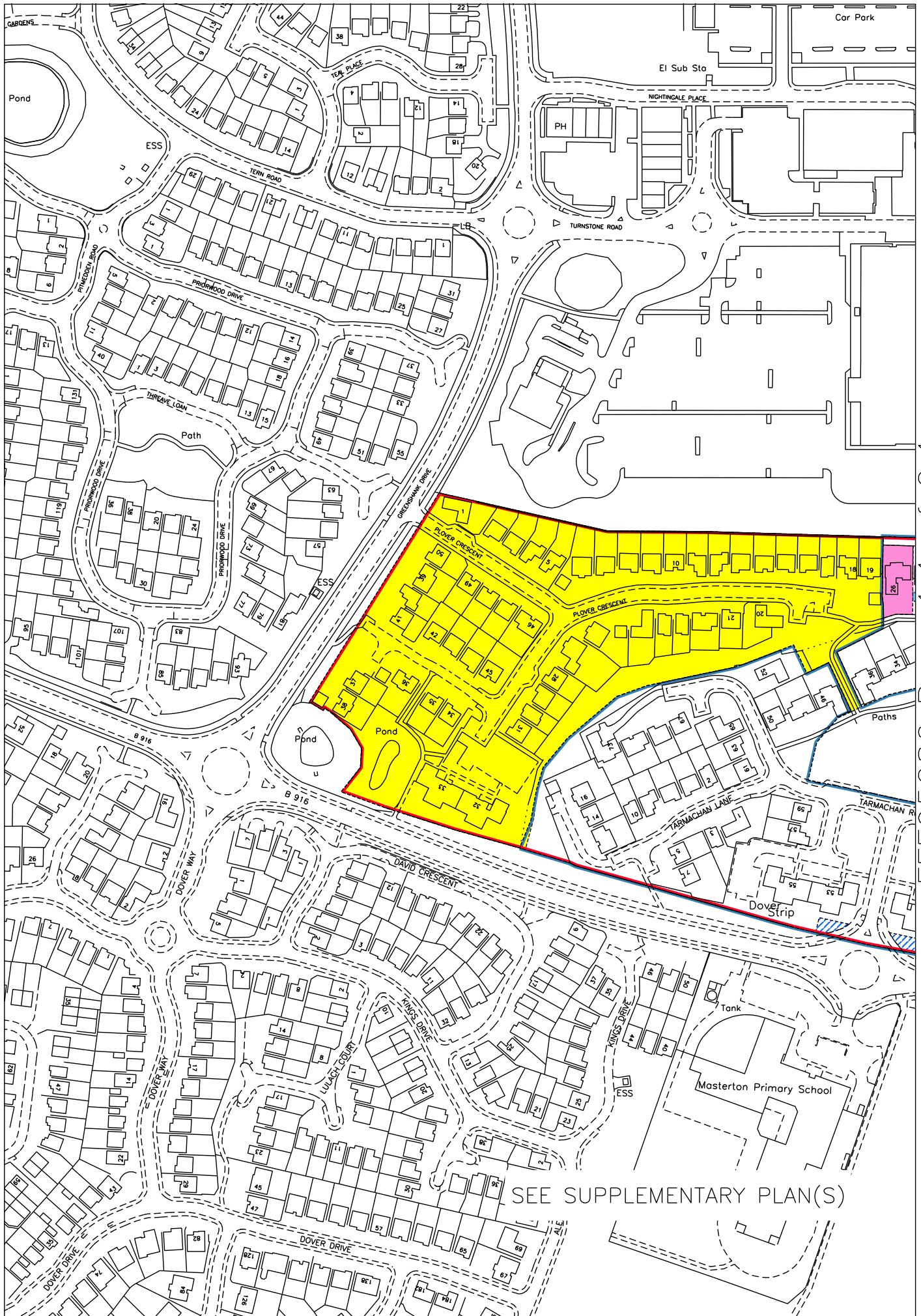
LAND REGISTER OF SCOTLAND	Officer's ID/Date	Title      Number
	2777 13/7/2011	FFE95286





NOTE: This copy is a reduction of the original plan.

SUPPLEMENTARY PLAN 1  
TO THE TITLE PLAN





SEE SUPPLEMENTARY PLAN(S)

<div></div> <div>LAND REGISTER OF SCOTLAND</div>		Officer's ID / Date	TITLE NUMBER
		2777 13/7/2011	<b>FFE95286</b>
<div></div>	ORDNANCE SURVEY NATIONAL GRID REFERENCE		<div><div></div><div>140m</div><div></div></div>
NT1285 NT1385 NT1286 NT1386			Survey Scale
			1/2500

CROWN COPYRIGHT © – This copy has been produced from the ROS Digital Mapping System on 23/03/2021 with the authority of Ordnance Survey under Section 47 of the Copyright, Designs and Patents Act 1988. Unless there is a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner. OS Licence no 100041182.

