

[07/01/92]

THIS AGREEMENT dated Sth August 1993

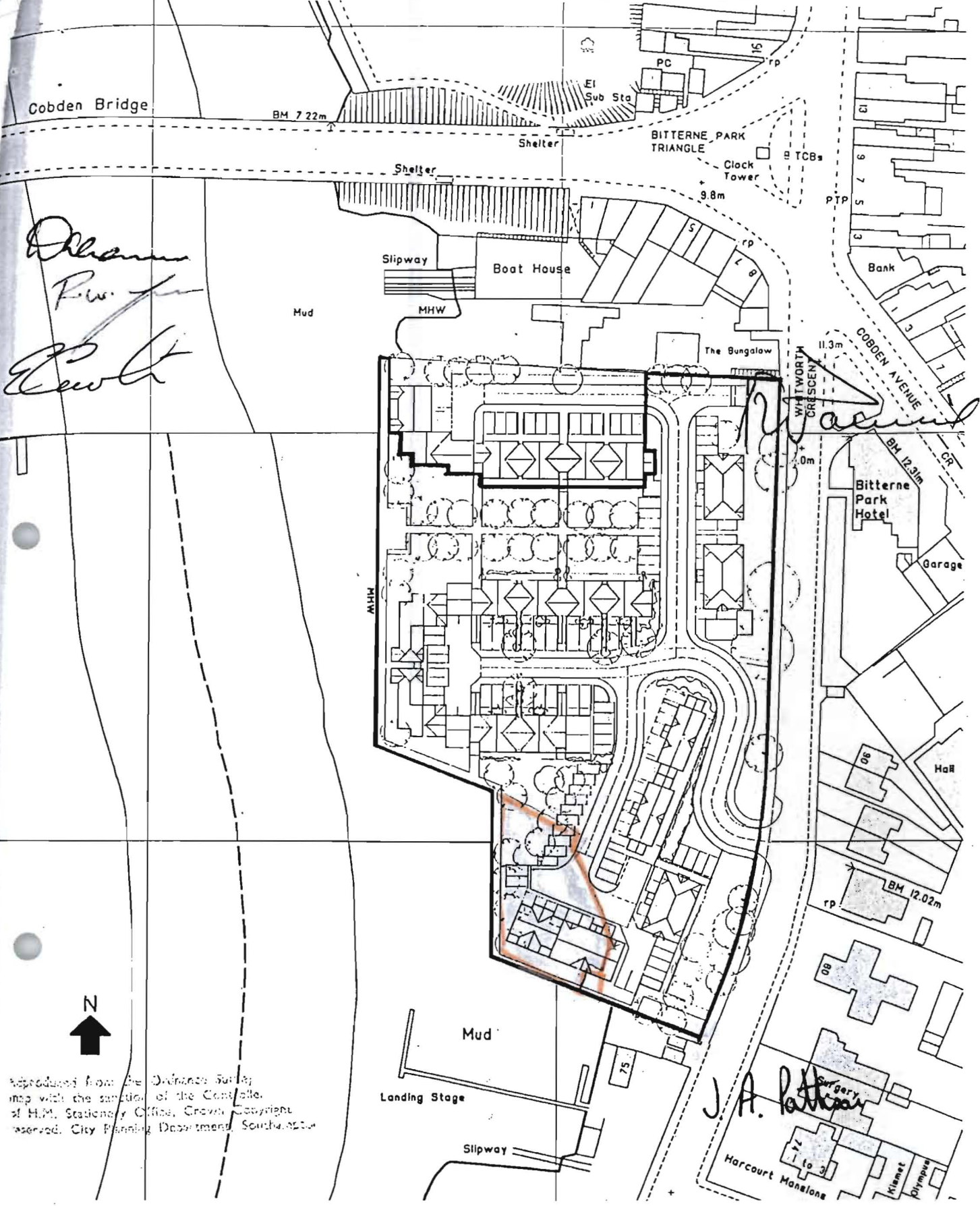
is made between

- |     |                     |   |
|-----|---------------------|---|
| (1) | 'the Council'       | SOUTHAMPTON CITY COUNCIL of Civic Centre Southampton  |
| (2) | 'the Owner'         | BELLWINCH HOMES LIMITED of Malcolm House Empire Way Wembley Middlesex HA9 OLV   |
| (3) | 'Her Majesty'       | The Queen's Most Excellent Majesty  |
| (4) | 'the Commissioners' | The Crown Estate Commissioners on behalf of Her Majesty acting in exercise of the powers of the Crown Estate Act 1961 |
| (5) | 'the Mortgagee'     | The Midland Bank Plc of 122 Wembley Park Drive Wembley Middlesex HA9 8HT.   |

PARTICULARS

- |        |                      |   |
|--------|----------------------|---|
| Part 1 | the Site             | ALL THAT land known as Dell Wharf Whitworth Crescent Southampton more particularly delineated and edged red on the Plan 'A' attached hereto   |
| Part 2 | Planning Application | Planning Application Reference Number 910905/4297/E for redevelopment of the site by the erection of 7 No blocks of 82 apartments (11 x 1-bed 71 x 2-bed) and 2 x 4-bed houses and associated car parking |
| Part 3 | the Development      | The redevelopment of the Site in the manner and for the uses specified in the Planning Application  |
| Part 4 | Planning Permission  | Draft Planning Permission being Annex 1 attached hereto in respect of the Planning Application (which shall be subject to such conditions as may from time to time be in force)                           |
| Part 5 | The Act              | The Town and Country Planning Act 1990  |

SC18/21/194



*Oliver  
P. W. J.  
C. W. H.*

*J.A. Pather*

*J.A. Pather*



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D. I. Wark MRTPI ARIBA  
 Director of Strategy and Development  
 Southampton City Council  
 Civic Centre  
 Southampton SO9 4WY  
 Tel: 0703 223855

Plan No. 7355  
 Scale 1:1250  
 Date JUNE 92  
 Drawn SB

SECTION 106 AGREEMENT  
 PLAN A  
 LAND AT DELL WHARF,  
 WHITWORTH CRES,  
 PLAN 'A'



WHEREAS

- (1) The Council is the local planning authority for the purposes of the Act for the area within which the Site is situated
- (2) Where the expression "the Council" "the Owner" "Her Majesty" "the Commissioners" and "the Mortgagee" appear they shall include its and their successors in title and assigns
- (3) The Owner is the owner in fee simple of that part of the Site which is uncoloured on Plan 'A' subject to the entries registered at H M Land Registry under Title Numbers HP202485 and HP130554 and the present leaseholder of that part of the Site that is coloured yellow on Plan 'A' by virtue of a lease ("the Lease") dated *5th August* 1993 between
  - (1) Her Majesty
  - (2) the Commissioners
  - (3) the Ownerfor the residue of a term of 125 years commencing on the *5th* day of *August* 1993 and expiring on the day of *4th August* 2118 and Her Majesty is seized of the reversion of the Lease
- (4) "So long as the reversion aforesaid to the part of the Site coloured yellow on Plan 'A' attached hereto forms part of the Crown Estate, the Commissioners or any other person charged with the management of the Crown Estate enter into this document for and on behalf of Her Majesty under and by virtue of the powers of management and otherwise contained within the Crown Estate Act 1961"
- (5) The Site is the subject of a mortgage in favour of the Mortgagee
- (6) The Planning Application was made to the Council for the Development by the Owner
- (7) The Council has resolved that the Planning Permission be granted subject to the restrictions and provisions regulating the Development contained within this Agreement

NOW THIS DEED WITNESSETH as follows:

- 1 This Agreement is made pursuant to Section 106 of the Act (and is a planning obligation for the purposes of that Section) and the Council is the Local Planning Authority by which the provisions of this Agreement are intended to be enforceable under Section 111 of the Local Government Act 1972 and Section 33 of the Local Government (Miscellaneous Provisions) Act 1982
- 2 This Agreement shall come into effect upon the grant of the Planning Permission

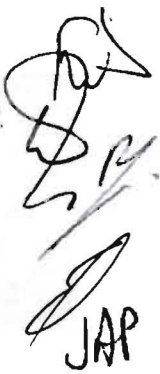
- 3 The Owner shall pay the Council's costs for the preparation and completion of this Agreement
- 4 The covenants on the part of the Owner hereinafter contained are covenants to which the said Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 apply
- 5 This Agreement shall run with the Site and shall bind the Council and the Owner and the other parties hereto in respect of each and every part of the Site but only insofar as they are interested in such parts of the Site and their respective successors in title and assigns subject to the provisional clause 12 below.
- 6 The Site shall be permanently subject to the restrictions and provisions regulating the Development contained in this Agreement
- 7 Without prejudice to any other statutory provision in that behalf the Owner shall permit the Council and its duly authorised agents and officers to enter upon the Site at all reasonable times to inspect the Site and any works thereon take any measurements or other steps considered by the Council to be necessary to determine whether or not the covenants terms and conditions of this Agreement or the Planning Permission are being complied with
- 8 The covenants contained in the Schedule hereto shall be fulfilled by the Owner at the Owner's own expense and further that the Owner hereby waives any right to compensation from the Council which otherwise might be claimed to arise from the terms of this Agreement
- 9 Nothing contained in this Agreement shall prejudice or affect the Council's rights powers duties and obligations in the exercise of their functions as a Local Authority and the rights powers duties and obligations of the Council under all public and private statutes byelaws and regulations
- 10 THE OWNER covenants with the other parties hereto as set out in the Schedule below and indemnifies them against all liabilities actions proceedings damages costs expenses claims and demands arising directly or indirectly from any breach thereof
- 11 The Owner hereby grants for a term expiring simultaneously with the term granted by the Lease a right of passage and repassage at all times over the Land coloured yellow on plan B attached hereto to the public at large and the freeholder and the Commissioners give their consent thereto. For the avoidance of doubt, such use is only permitted by virtue of the rights granted hereby and will not be exercised by the public as of right.



12 THE MORTGAGEE hereby consents to the completion of this Agreement and acknowledges that from the date hereof the Site shall be bound by the restrictions and obligations contained herein provided always that the parties hereto (including the Council) agree that for so long as the Mortgagee's only interest in the Site is as a mortgagee who does not hold an interest in possession of the Site (or any part) the Mortgagee shall not have any liability in respect of the covenants on the part of the Owner contained in this Agreement and shall cease to be liable under the terms of this Agreement for breaches thereof occurring after the Mortgagee has parted with the whole of his interest in the Site (and every part of the Site).

~~13 HER MAJESTY hereby consents to the completion of this Agreement and acknowledges that from the date hereof the Site shall be bound by the restrictions and obligations contained herein provided always that the parties hereto (including the Council) agree that for so long as Her Majesty does not hold an interest in possession of the Site (or any part) Her Majesty shall not have any liability in respect of the covenants on the part of the Owner contained in this Agreement.~~

13 The Commissioners hereby consent to the completion of this agreement and acknowledge that from the date hereof the Site shall be bound by the restrictions and obligations contained herein provide always that the parties hereto (including the Council) agree that for so long as the Commissioners do not hold an interest in possession of the Site (or any part) the Commissioners shall not have any liability in respect of the covenants on the part of the Owner contained in this Agreement so far as they relate to the yellow land on Plan 'A' attached hereto



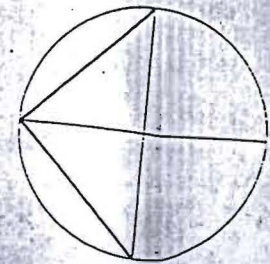
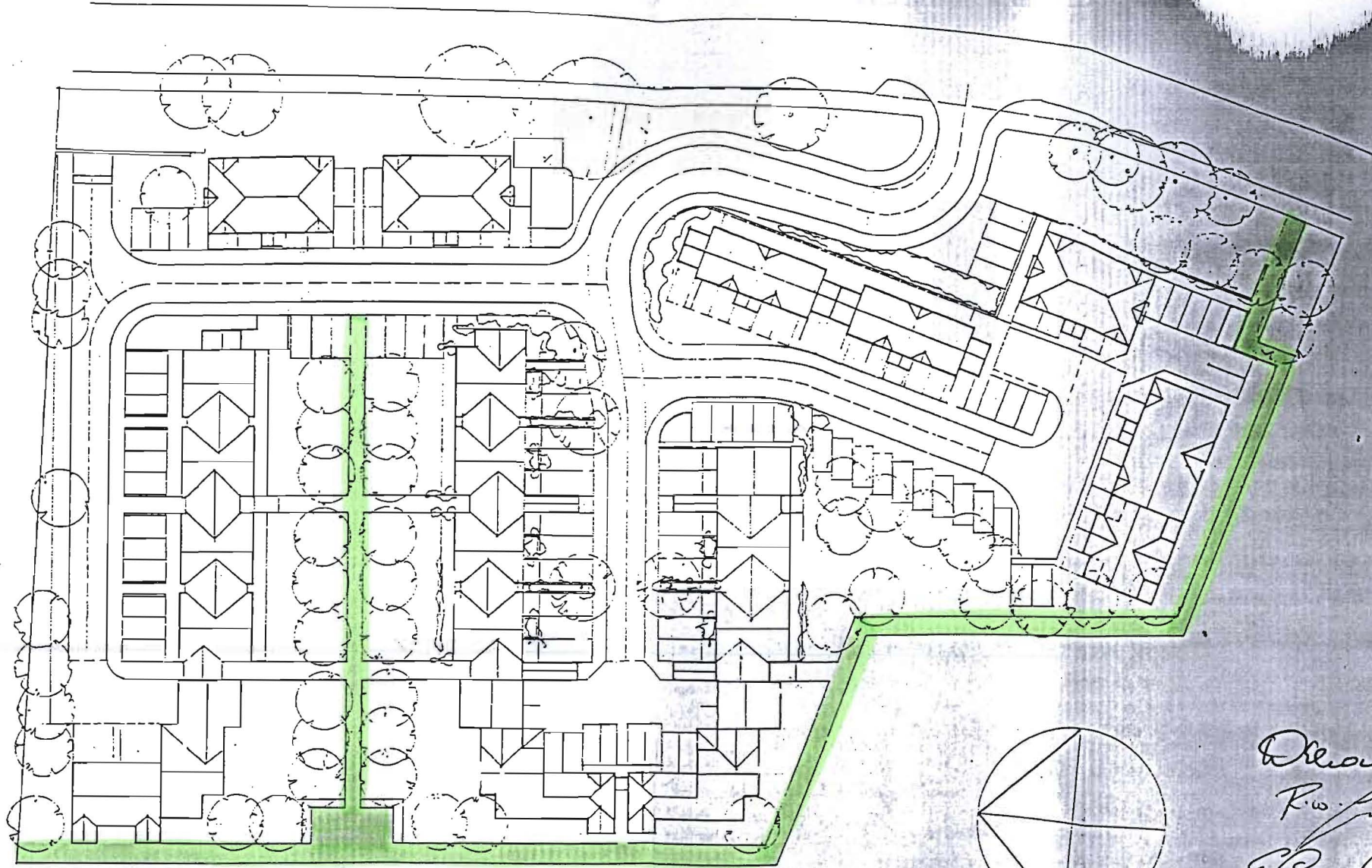
Handwritten signatures and initials on the right side of the page, including a large signature and the initials 'JAP'.

EXECUTED AS A DEED

**THE SCHEDULE**  
(general covenants as to the Development)

- 1.1 To carry out the Development strictly in accordance with the plans and specifications submitted with the Planning Application and the provisions of this Agreement
- 1.2 To use the Site only in accordance with the Planning Permission and the provisions of this Agreement and not otherwise
- 1.3 The yellow land shown on Plan B attached hereto shall be paved and maintained at all times to the satisfaction of the Council





*Drawn  
Rev.  
JA Pattison*

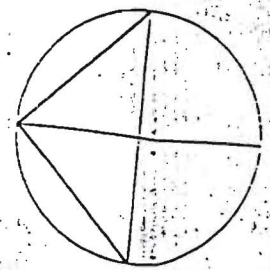
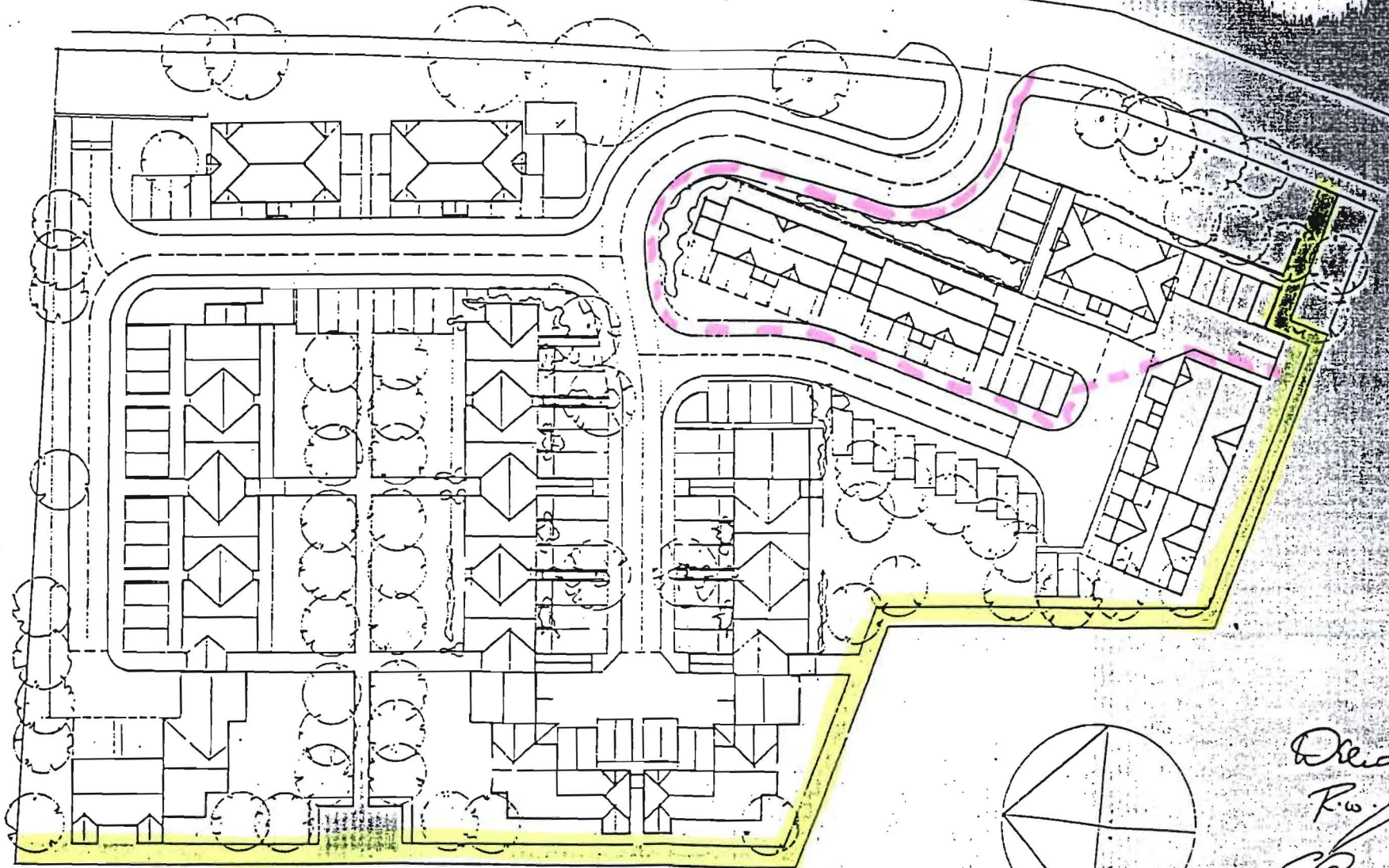
PLAN 'B'

  
**SOUTHAMPTON CITY**  
 D. I. Wark MATPI ARIBA  
 Director of Strategy and Development  
 Southampton City Council  
 Civic Centre  
 Southampton SO9 4WY  
 Tel: 0703 223855

Plan No. 7355  
 Scale 1:1250  
 Date JUNE 92  
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**SECTION 106 AGREEMENT**  
**PLAN B**  
**LAND AT DELL WHARF,**  
**WHITWORTH CRES,**





*Drawn*  
*R.W.*  
*E. C. W.*  
 JA Patton

  
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