

**Planning Obligation by Deed under Section 106 of the
Town and Country Planning Act 1990 relating to the
development of land south of Stowmarket Road Woolpit
Suffolk (Phase 2)**

Dated: Ten July 2022

MID SUFFOLK DISTRICT COUNCIL (1)

SUFFOLK COUNTY COUNCIL (2)

**ROBERT MICHAEL JACKSON, AUDREY PATRICIA LASHLY AND MICHAEL
STANLEY PRYKE (3)**

DATE 9th day of July 2022

PARTIES

- (1) **MID SUFFOLK DISTRICT COUNCIL** of Council Offices Endeavour House, 8 Russell Rd, Ipswich IP1 2BX (hereinafter called "the District Council")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX ("hereinafter called "the County Council")
- (3) **ROBERT MICHAEL JACKSON** of Gudgeons Prentice, Buttermarket, Stowmarket, Suffolk, IP14 1ED, **AUDREY PATRICIA LASHLY** OF 1 Commonside, Emsworth, Hampshire PO10 8TA and **MICHAEL STANLEY PRYKE** of 15 Roman Fields, Woolpit, Bury St. Edmunds IP30 9RX as executors of the estate of **JOHN VINCENT LOBB** deceased ("the Owner")

INTRODUCTION

- 1 The District Council is a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable.
- 2 The County Council is the local education authority and local highway authority (except for trunk roads), and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable.
- 3 The Owner is the freehold owner of the Site registered with the Land Registry under Title Number SK371726 and the Owner has the authority as executor by virtue of the grant of probate dated 17 December 2021 of the said John Vincent Lobb deceased to deal with the Site.
- 4 The Application has been submitted to the District Council and the District Council resolved on 12 May 2021 to grant planning permission for the Development pursuant to the Application subject to the prior completion of

this Deed intended to regulate the Development and to secure the planning obligations contained in this Deed.

- 5 The District Council and the County Council enter into this Deed to the intent that the requirements of the District Council's and the County Council's policies are met and that any objections by the District Council or the County Council to the grant of planning permission on the basis of those policies are overcome.

- 6 The District Council and the County Council consider and the Owner acknowledges that the Development should not take place until certain restrictions regulating the use of the Site are imposed in the manner hereafter appearing and pursuant to Section 106 of the Act the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

- 7 The District Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

- | | |
|------------------------|--|
| "Act" | the Town and Country Planning Act 1990 (as amended); |
| "Affordable Dwellings" | the Dwellings to be constructed on the Site to the Nationally Described Space Standard (unless otherwise agreed in writing through the Affordable Housing Scheme) and agreed with the District Council as Affordable Housing and |

"Affordable Dwelling" shall be construed accordingly;

"Affordable Housing" the Affordable Dwellings that will be available to persons who cannot afford to rent or buy housing generally available on the open market as defined in Annex 2 of the National Planning Policy Framework 2021;

"Affordable Housing Contribution" means the total sum calculated in accordance with Annex 3 to this Deed (unless otherwise agreed in writing) as increased by the BCIS Index from the date of this Deed payable to the District Council in the circumstances set out in paragraph 2.14 of the Third Schedule which is to be used to provide off-site Affordable Housing which for the avoidance of doubt may include the purchase of land and/or existing properties for such use;

"Affordable Housing Nomination Agreement" an agreement substantially in the form set out in the Seventh Schedule dealing with the allocation of the Affordable Dwellings by a Registered Provider which shall apply to all of the Affordable Housing Units and "Nomination Agreement" shall have the same meaning;

"Affordable Housing Scheme" means a document detailing the location proposed layout specification mix of the Affordable Housing Units (initially dependent on the number of Affordable Housing Units remaining at 14 Dwellings) with the below table

Tenure	Number	Size/ Type	Minimum Gross Internal
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			Floor Area (m2)
Affordable Rent (71% of Affordable Dwellings)	40%	1b2p Flat	50
	40%	2b4p House	79
	20%	3b5p House	93
Shared Ownership (29% of Affordable Dwellings)	50%	2b4p House	79
	50%	3b5p House	93

and such other information reasonably requested by the District Council (or such other mix as the District Council may agree in writing)

“Affordable Housing Units”

means thirty-five (35%) per cent (to be rounded up to the nearest whole Dwelling) of the total of the Dwellings to be provided on the Site of which 71% (seventy one percent) are Affordable Rented Dwellings and 29% (twenty nine percent) are Shared Ownership Units (unless otherwise agreed in writing by the District Council) pursuant to the Planning Permission which are to be Occupied as Affordable Housing in accordance with the approved Affordable Housing Scheme (unless otherwise agreed in writing with the District Council, approval not to be unreasonably withheld);

“Affordable Rented Dwelling”

means housing made available by a Registered Provider as low-cost rental accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of the equivalent market rent inclusive of any service charges applicable (unless otherwise agreed in writing);

"Application"

the application for outline planning permission with all matters reserved for the Development of the Site in accordance with the application plans and other materials deposited with the District Council and validated by the District Council on 4 June 2019 bearing the District Council's reference number DC/19/02656 and for the provision of land for the extension of Woolpit Primary Academy School, erection of up to 40 dwellings, associated works and infrastructure;

"BCIS Index"

the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the District Council the County Council and the Owner

"Chargee"

any mortgagee or chargee of the Registered Provider or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;

"Chargee's Duty"

the tasks and duties set out in paragraph 2.16 of the Second Schedule;

"Choice Based Lettings Scheme"

an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the District Council's Choice Based Letting Scheme

relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the District Council is a party unless otherwise agreed in writing with the District Council;

"Commencement of Development"

the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly (save that for the purposes of this clause the definition of Development shall only include development of the Site);


"Completion of Development"

the date that the last Dwelling is Occupied;

"Cycle Link Contribution"

means the sum of Eight Hundred and Fifty Pounds (£850) per Dwelling BCIS Indexed towards the provision of a safe cycle link between Elmswell and Woolpit;

"Development"	the development of the Site comprising the provision of land for the extension of Woolpit Primary Academy School erection of up to forty (40) dwellings, and other associated works and infrastructure as set out in the Application;
"Dwelling"	A dwelling to be built on the Site as part of the Development
"Early Years Education Contribution"	means the sum of Two Thousand and Fifty Pounds and Eighty Pence (£2,050.80) pounds BCIS Indexed per Dwelling to be used towards the provision of a new pre-school facility in Woolpit;
"HE"	Homes England or such other organisation as may from time to time be the Regulator of Social Housing within the meaning of Section 80A Housing and Regeneration Act 2008 or such other body with statutory force charged with regulating Registered Providers;
"Late Payment Interest"	interest at four (4) per cent above the base lending rate of the Bank of England from time to time;
"Management Company"	A company set up for the purposes of managing and maintaining the Open Space in perpetuity;
"Market Housing Units"	those Dwellings which are general market housing for sale or rent on the open market and which are not Affordable Housing Units;
"Notice of Actual Commencement"	notice in writing to advise of the actual Commencement of Development;

"Occupation"	first occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupied" and "Occupy" shall be construed accordingly;
"Open Space"	means an area of informal open space to be provided within the Site in accordance with the Planning Permission (unless otherwise agreed in writing with the District Council);
"Open Space Scheme"	a scheme for the provision of on-site Open Space for use by members of the public comprising details of the layout location and design of the Open Space including details of any proposed equipment landscaping drainage features access arrangements and fencing;
"Planning Permission"	the outline planning permission subject to conditions as may be granted by the District Council pursuant to the Application such planning permission to be substantially in the form of the draft as set out in the Second Schedule; 
"Practical Completion"	means the issue of a certified of practical completion by the Owner's architect or other suitable body and " <i>Practically Complete</i> " and " <i>Practically Completed</i> " shall be construed accordingly;

"Primary Education Contribution"	means the sum of four thousand nine hundred and five pounds and forty five pence (£4,905.45) BCIS Indexed per Dwelling to be used towards the cost of the building of the new Primary School in Woolpit;
"Primary School Extension"	means an extension and/or expansion of Woolpit Primary Academy for additional education facility for early years education or any variant thereof to be provided on the Primary School Extension Site to comprise both indoor and outdoor facilities for education and/or childcare and/or sports and/or community use including a library;
"Primary School Extension Site"	means the site allocated for the Primary School Extension shown for identification purposes shaded purple and marked "Proposed School Extension Site" on the School Plan;
"Protected Tenant"	<p>any tenant who:</p> <ul style="list-style-type: none"> (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit; or (c) has been granted a shared ownership lease by a Registered Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) by the Registered Provider in respect of a particular

Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

"Registered Provider"

means a registered provider of social housing as defined in Section 80(2) of the Housing and Regeneration Act 2008 and listed in the registers kept by HE under Chapter 3 of Part 2 of that Act (unless otherwise agreed in writing);

"Reserved Matters Application"

means a reserved matters application submitted pursuant to the Planning Permission;

"Shared Ownership Unit"

Affordable Dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed Eighty thousand pounds (£80,000) per annum or such other household income for the time in force in accordance with the terms as set out in the HE's capital funding guide unless otherwise agreed in writing with the District Council;

"Shared Ownership Lease"

a lease or sub-lease of Shared Ownership Units granted at a premium whereby up to 75% (seventy five percent) and a minimum of 10% (ten percent) on first purchase of the equitable interest in the Shared Ownership Unit is paid by the tenant upon completion of such lease and/or raised by mortgage or charge from a bank or building society and which lease shall include arrangements enabling the tenant to acquire up to 100% (100 percent) of the legal and equitable interest in the Shared Ownership Dwelling at some future date or dates and which lease shall

allow a rent to be charged on the remainder of the equitable interest not purchased such rent not to exceed an annual sum calculated at 2.75% of the value of the equity retained by the Registered Provider at the date of the grant of the Shared Ownership Lease or such other figure permitted by HE from time to time. Where a leaseholder acquires 80% of the equity, the capital receipt received between 81% and 100% to be recycled by the Registered Provider for new affordable housing in the districts of Mid Suffolk and Babergh for a period of five (5) years from the date of receipt and if not spent within 5 years the Registered Provider will be able to expend such sums for Affordable Housing elsewhere or as otherwise in accordance with the terms of the Nomination Agreement or otherwise agreed in writing).

“Site”

the land against which this Deed may be enforced and as shown edged red for identification purposes only on the Site Plan annexed to this Deed save that this definition shall exclude the Primary School Extension Site (and this Deed shall not be enforceable against the Primary School Extension Site save for the provisions of Part 1 of the Fourth Schedule) (or as otherwise agreed in writing between the Parties);

“School Plan”

means the plan reference 017-033-302 P3 attached to this Deed at Annex 2;

"Secondary School Transport Contribution"	£903.75 per Dwelling for the provision of secondary school transport provision for a minimum of five years serving the Development;
"Site Plan"	the plan marked "Site Plan" and numbered 017-033-003 Rev P2 attached to this Deed at Annex 1;
"Woolpit Primary Academy"	Woolpit Primary Academy of Heath Road, Woolpit, Bury Saint Edmunds IP30 9RU;
"Working Days"	Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England.

2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause sub-clause schedule paragraph sub-paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause sub-clause schedule paragraph sub-paragraph or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies corporations and firms and all such words shall be construed as interchangeable in that manner.
- 2.4 Wherever more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all

instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

- 2.6 References to any party to this Deed shall include the successors in title to that party and to any party deriving title through or under that party and in the case of the District Council and or the County Council their successors to their respective statutory functions.
- 2.7 Where this Deed requires a plan or strategy or other document to be submitted to the District Council or the County Council for approval or agreement then upon approval of the same it shall be deemed to have been incorporated into this Deed and the same shall apply to any provision requiring a review of any such plan or strategy or other document.
- 2.8 References to a "Plan" or "Drawing" in this Deed shall be references to the plans attached to this Deed bearing the relevant plan number or any amended plans as shall be agreed between the Owner the District Council and the County Council.
- 2.9 Save for the provisions of paragraph 2.12, none of the covenants contained in this Deed on the part of the Owner shall be enforceable against owner-occupiers or tenants of the Dwellings nor against those deriving title from them (save for any owner-occupiers or tenants of the Affordable Housing Units who will continue to be bound by the terms of this Deed in relation to the Affordable Housing obligations contained hereto).
- 2.10 None of the covenants in this Deed shall be enforceable against any statutory undertaker who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services.
- 2.11 The headings are for reference only and shall not affect construction.
- 2.12 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants restrictions and requirements imposed upon the Owner of the Site under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the District Council and the County Council as local planning authorities against the Owner or their successors in title.
- 3.3 This Deed is a deed and may be modified or discharged in part or in total at any time after the date of this Deed by deed between the parties in the form of a deed.

4 CONDITIONALITY

- 4.1 This Deed is conditional upon:
- (i) the grant of the Planning Permission; and
 - (ii) the Commencement of Development

save for the provisions of clauses 7.3 7.4 9 12 14 15 18 19 and 20 (legal costs change in ownership right of entry notices dispute resolution notices jurisdiction and delivery) which shall come into effect immediately upon completion of this Deed.

5. THE OWNER'S COVENANTS

- 5.1 The Owner covenants with the District Council as set out in the Third Schedule.
- 5.2 The Owner covenants with the County Council as set out in the Fourth Schedule SAVE THAT the obligations in paragraphs (2) (3) and (4) of Part 1 of the Fourth Schedule shall only be binding upon the Primary School Extension Site and its owner and successors in title.
- 5.3 The Owner District Council and the County Council agree that all of the Owner's obligations in this Deed shall be binding on the Owner of that part of the Site that

excludes the Primary School Extension Site save for the provisions of paragraphs (2) (3) and (4) of Part 1 of the Fourth Schedule which shall only be enforceable against the Owner of the Primary School Extension Site.

6 THE DISTRICT COUNCIL'S AND THE COUNTY COUNCIL'S COVENANTS

6.1 The District Council covenants with the Owner as set out in the Fifth Schedule.

6.2 The County Council covenants with the Owner as set out in the Sixth Schedule.

7 MISCELLANEOUS

7.1 The Owner shall act in good faith and shall co-operate both with the District Council and the County Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests either of the District Council and or the County Council and their duly authorised officers or agents to have access to any part or all of the Site or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.

7.2 The Owner agrees declares and covenants both with the District Council and the County Council that they shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Deed.

7.3 To pay to the District Council on completion of this Deed the proper and reasonable legal costs of the District Council incurred in the negotiation preparation and execution and completion of this Deed.

7.4 To pay to the County Council within 10 Working Day of completion the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this Deed.

- 7.5 To pay to the County Council on completion of this agreement a monitoring fee of £1648.00
- 7.6 No provision of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 7.7 This Deed shall be registerable as a local land charge by the District Council.
- 7.8 Where an approval consent or expression of satisfaction or a subsequent deed is required by the Owner from either the District Council or County Council under the terms of this Deed such approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such consent approval or expression of satisfaction shall be given on behalf of the District Council by the Corporate Manager - Growth and Sustainable Planning and on behalf of the County Council by the Executive Director Growth, Highways and Infrastructure or officer acting under his hand.
- 7.9 Following the performance and satisfaction of all the obligations contained in this Deed the District Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.10 Insofar as any clause or other provision of this Deed is found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 7.11 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or expires by effluxion of time for the Commencement of the Development or is modified (without the consent of the Owner) and the District Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this Deed.
- 7.12 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have parted with their entire interest in the Site (or the part where such breach occurs) but without prejudice to liability

for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations in respect of it.

- 7.13 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 7.14 The Owner agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of the Deed are hereby waived.
- 7.15 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner and at no cost to either the District Council or the County Council.
- 7.16 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the District Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.17 The Owner covenants and warrants to the District Council and the County Council that they have full power to enter into this Deed and there is no other person having a charge over or any other interest in the Site whose consent is necessary to make this Deed binding on the Site and all estates and interests therein.

8. WAIVER

No waiver (whether expressed or implied) by the District Council the County Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver

and no such waiver shall prevent the District Council the County Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9. CHANGE IN OWNERSHIP

The Owner agrees with the District Council and the County Council to give each of them independently written notice of any transfer in ownership of any of its freehold interests in the Site occurring before all the positive obligations under this Deed have been discharged such notice to be served within twenty one (21) days of such transfer and to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation transferred by reference to a plan PROVIDED THAT this obligation shall not apply to transfers of individual Dwellings within the Development or the transfer or grant of leases of electricity sub-stations or gas governors or the like.

10. INDEXATION

Any sum referred to in the Third Schedule and the Fourth Schedule (including for the avoidance of doubt the sums referred to in paragraph 3.1 of Part 1 of the Fourth Schedule) and Annex 3 (unless the context reads or it is stated otherwise) shall be increased by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable using the application of the formula $A = B \times (C/D)$ where:

A is the sum payable under this Deed;

B is the original sum calculated as the sum payable;

C is the BCIS Index for the month two (2) months before the date on which the sum is payable;

D is the BCIS Index for the month two (2) months before 12 May 2021; and

C/D is greater than 1.

11. INTEREST

If any payment due to the District Council and/or the County Council under this Deed is not paid on the due date Late Payment Interest will be payable from the due date to the date payment is received.

12. RIGHT OF ENTRY

12.1 At all times on not less than forty-eight (48) hours written notice except in case of emergency with or without notice the Owner shall allow any employee or agent of either or both of the District Council or the County Council entry to the Site for the purposes of inspection and monitoring compliance with the provisions of this Deed PROVIDED THAT:

12.1.1 such employee or agent on arrival at the Site shall if requested by any person present who appears to be the Owner the manager or person in charge thereof produce evidence of identity (but entry may be made if there is or appears to be no such person on the Site);

12.1.2 such entry shall be effected between 08.00 and 17.00 on any day;

12.1.3 such employee or agent may be accompanied by such other persons as may be reasonably necessary;

12.1.4 such employee or agent may take photographs measurements and levels;

12.1.5 such employee or agent may not remain on the Site for longer than is reasonably necessary for carrying out a proper inspection; and

12.1.6 such employee or agent and any other accompanying persons shall comply with the Owner's or the Owner's representative's reasonable direction and comply with all health and safety regulations during the visit.

13. VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

14. NOTICES

14.1 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this Deed shall be deemed to have been validly served or given if delivered by hand or sent by first class recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing PROVIDED THAT the notice or other written communication is addressed and delivered or sent by first class recorded delivery post to the address of the party concerned as nominated in clause 14.2.

14.2 The address for any notice or other written communication in the case of each party to this Deed shall be as follows:-

The District Council	The Corporate Manager – Growth and Sustainable Planning Endeavour House 8 Russell Road Ipswich IP1 2BX
The County Council	The Executive Director of Growth, Highways and Infrastructure (or duly appointed successor) Constantine House 5 Constantine Road Ipswich Suffolk IP1 2DH
The Owner	As per the address provided at the beginning of this Deed or such other address as the Owner may notify from time to time

- 14.3 Any notice or other written communication to be given by either the District Council or the County Council shall be deemed to be valid and effective if on its face it is signed on behalf of the District Council or the County Council by a duly authorised officer of the District Council or the County Council as appropriate.

15. DISPUTE RESOLUTION

- 15.1 Any dispute or difference of any kind whatsoever arising between any or all of the parties out of or in connection with this Deed (including without limitation any question regarding its existence validity or termination) which cannot be resolved by prior agreement between the parties to the dispute or difference ("the Dispute Parties") shall be referred to arbitration before a single Expert (the "Expert")
- 15.2 The Dispute Parties shall jointly appoint the Expert not later than twenty-eight (28) days after service of a request in writing by any Dispute Party to do so
- 15.3 If the Dispute Parties are unable to agree within twenty-eight (28) days as to the appointment of such Expert then the Expert shall be appointed on the application of either of the parties as follows:
- 15.3.1 if the difference or question relates to the rights and liabilities of any Dispute Party or to the terms or conditions to be embodied in the Deed or document appertaining to the Deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society; or
 - 15.3.2 if the difference or question relates to highway works engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers; or
 - 15.3.3 if the difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Dispute Parties but in default of agreement appointed at the request of

any Dispute Party by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or

15.3.4 if such difference or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Dispute Parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute

15.4 In the event of a reference to arbitration the Dispute Parties agree to:

15.4.1 prosecute any such reference expeditiously; and

15.4.2 do all things or take all steps reasonably necessary in order to enable the Expert to deliver any award (interim, final or otherwise) as soon as reasonably practicable.

15.5 The Expert will have the power to consolidate proceedings or hold concurrent proceedings and to order on a provisional basis any relief which he would have power to grant on a final award.

15.6 The award shall be in writing signed by the Expert and shall be finalised within fourteen (14) days of the hearing.

15.7 The award shall be final and binding in the absence of manifest error both on the parties and on any persons claiming through or under them and judgment upon the award may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be and the Expert's costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

15.8 Unless this Deed has already been terminated the Parties shall in every case continue to comply with their obligations under this Deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for

resolution pursuant to this Clause 15 but without prejudice to the rights and obligations of any of the Parties in relation to the termination of the Deed).

- 15.9 Nothing in this clause 15 shall affect the ability of the District Council or County Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

16 SATISFACTION OF ANY OF THE PROVISIONS OF THIS DEED

Where in the opinion of the Owner any of the provisions of this Deed have been satisfied the Owner shall be entitled to apply to the District Council or the County Council for a certificate to that effect and upon the District Council or County Council being reasonably satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied the District Council or the County Council shall forthwith issue a certificate to such effect.

17 APPROVALS

Where any details, programmes, plans, strategies, reports, matters or materials are approved by the District Council under the terms of this Deed further or amended details programmes plans strategies reports matters or materials may be submitted from time to time and if approved by the District Council shall replace those previously approved.

18 NOTICES

The Owner covenant to inform the County Council no less than ten (10) Working Days following the:

- 18.1 Commencement of Development;
- 18.2 Occupation of the first (1st) Dwelling;
- 18.3 Occupation of 50% of the Dwellings; and

18.4 Completion of the Development.

19 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

20 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

**IN WITNESS WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS DEED
ON THE DAY AND YEAR FIRST BEFORE WRITTEN**

THE COMMON SEAL OF
MID SUFFOLK DISTRICT COUNCIL
was affixed in the presence of:

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)
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Authorized Officer



THE COMMON SEAL OF
SUFFOLK COUNTY COUNCIL
was affixed in the presence of:

)
)
)



Authorized Officer



SIGNED by the said
ROBERT MICHAEL JACKSON as a
Deed in the presence of:

)
)
)



[Redacted Signature]

Signature of Witness

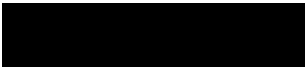
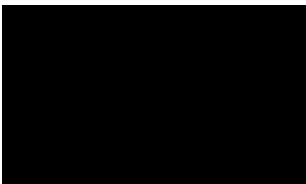
[Redacted Name]

Name of Witness

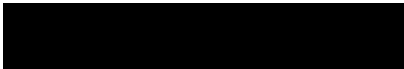
[Redacted Address]

SIGNED by the said
AUDREY PATRICIA LASHLY as a
Deed in the presence of:

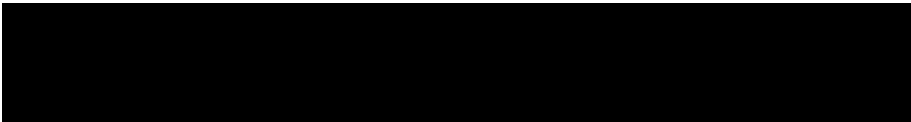
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Signature of Witness

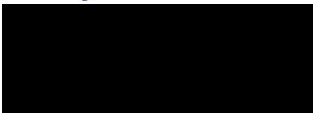
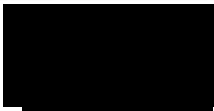


Name of Witness



SIGNED by the said
MICHAEL STANLEY PRYKE as a
Deed in the presence of:

)
)
)



Signature of Witness



Name of Witness



**FIRST SCHEDULE
OWNERSHIP DETAILS**

A. FREEHOLD INTERESTS

The Owner is the registered proprietor with absolute title of the Site shown edged red for identification purposes only on the Site Plan enclosed at Annex 1 and which is registered at the Land Registry under Title Number SK371726.

SECOND SCHEDULE

DRAFT PLANNING PERMISSION

THIRD SCHEDULE
THE OWNER'S COVENANTS WITH THE DISTRICT COUNCIL

1. NOTICES – COMMENCEMENT

- 1.1 The Owner shall give the District Council Notice of Actual Commencement within 10 working days of Commencement in order to confirm Commencement has occurred.
- 1.2 The Owner shall give the District Council no less than 10 working days written notice following Occupation of the first Dwelling.

2. AFFORDABLE HOUSING

- 2.1 With the first Reserved Matters Application the Owner shall submit the Affordable Housing Scheme for the written approval of the District Council and for the avoidance of any doubt the Owner shall not Commence Development until the Affordable Housing Scheme has been agreed with the Council in writing.
- 2.2 The Owner shall endeavour to agree with the District Council on the identity of the Registered Provider to which the Affordable Housing Units are to be transferred prior to Commencement of Development. The Owner may Commence the Development whilst that process is ongoing but shall not Occupy or permit Occupation of any Market Housing Units until the identity of the Registered Provider has been confirmed to the District Council (unless otherwise agreed in writing) but if no agreement has been reached at the expiration of the period of four (4) months' following the Commencement of the Development the District Council shall be entitled to nominate a Registered Provider or other approved body for the purpose. Any transfer to a Registered Provider shall contain the following provisions (unless otherwise agreed in writing with the District Council):

- 2.2.1 the grant in the transfer of the Affordable Housing Units of full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Units; and
- 2.2.2 the grant in the transfer of the Affordable Housing Units of full and free rights to the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Units with all such services to be connected to the mains; and
- 2.2.3 a covenant in the transfer of the Affordable Housing Units that the Registered Provider will enter into a Nomination Agreement with the District Council substantially in the form contained in the Seventh Schedule and completed between the District Council and the Registered Provider within three (3) months of the date of the transfer to the Registered Provider of the Affordable Housing Units and prior to the Occupation of any of the Affordable Housing Units (unless otherwise agreed in writing); and
- 2.2.4 within twenty one (21) days of completion of the agreement with the Registered Provider and within twenty one (21) days of the completion of the transfer of the Affordable Housing Units to the Registered Provider as referred in paragraph 2.8 of this Third Schedule to produce to the District Council a certified copy of such agreement and transfer by way of a verification of compliance with all requirements set out in paragraph 2.3 of this Third Schedule.
- 2.3 To notify the District Council in writing when that stage of the Development specified in paragraph 2.8 of this Third Schedule is expected to be reached.
- 2.4 Any Affordable Rented Dwelling shall be retained and managed by a Registered Provider in accordance with the objectives of the Registered Provider.
- 2.5 Any Shared Ownership Unit shall be sold rented and managed by a Registered Provider in accordance with the objectives of the Registered Provider.

- 2.6 Not to use or Occupy the Affordable Housing Units otherwise than in accordance with the approved Affordable Housing Scheme the Planning Permission and the Approval of Reserved Matters Application.
- 2.7 To produce to the District Council on request the form of tenancy agreement relating to the letting of an Affordable Rent unit and such information as the District Council might reasonably request in respect of the terms of occupation of the Shared Ownership Units.
- 2.8 Not to Occupy or permit Occupation of more than 50% Market Housing Units until 50% of the Affordable Housing Units have been constructed in accordance with the Planning Permission and this Third Schedule and has been made ready for residential Occupation and those Affordable Housing Units have been transferred to a Registered Provider and written notification of such has been received by the District Council.
- 2.9 Not to Occupy or permit Occupation of more than 80% Market Housing Units until all the Affordable Housing Units have been constructed in accordance with the Planning Permission and this Third Schedule and has been made ready for residential Occupation and the Affordable Housing Units have been transferred to a Registered Provider and written notification of such has been received by the District Council.
- 2.10 To construct the Affordable Housing Unit in the positions indicated by the Affordable Housing Scheme and in no other positions without the prior written approval of the District Council;
- 2.11 To construct the Affordable Housing Units to a standard of construction which meets with HE's approval.
- 2.12 The Affordable Housing Units shall only be Occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the District Council is a party or chosen pursuant to the deed of nomination rights made pursuant to paragraph 2.2.3 of this Third Schedule which confers nomination

rights on the District Council unless otherwise agreed by the District Council in writing.

- 2.13 If within three months of the Owner offering any Affordable Housing Unit(s) to the Registered Provider the District Council is satisfied that demand from a Registered Provider has not been forthcoming the District Council will enter into written negotiations with the Owner to seek an agreed way forward that does not disadvantage the Owner whilst maximising the provision of Affordable Housing.
- 2.14 The obligations in Paragraph 2.2 to 2.13 of this Third Schedule shall not apply (and the obligations in this Paragraph shall apply instead) in the event:
- a) the Owner has used all reasonable endeavours to reach agreement in principle with a Registered Provider (at the Owner's election or a Registered Provider nominated by the District Council pursuant to paragraph 2.2) for the transfer of the Affordable Housing Units; and
 - b) upon reaching agreement with any Registered Provider pursuant to paragraph 2.14 (a) the Owner has used all reasonable endeavours to transfer the relevant Affordable Housing Units ready for Occupation to a Registered Provider as soon as reasonably practicable and substantially in the form of the terms of the agreement in principle; save that
 - c) if no agreement in principle has been reached with a Registered Provider at the expiration of three months from the date that the Owner first approaches the Registered Provider pursuant to paragraph 2.14 (a) or if the transfer is not completed three months from the agreement in principle and if the Owner has served notice upon the District Council confirming the same; then
 - d) the Owner may instead dispose of the Affordable Housing Units as Market Housing Units free from restrictions and the Owner shall within twenty-eight days of completion of any sale of an Affordable Housing Unit pay to the District Council the Affordable Housing Contribution which can

FOR THE AVOIDANCE OF DOUBT include the purchase of land and existing properties

2.15 From the date of Practical Completion the Affordable Housing Units shall not be used other than for Affordable Housing save that this obligation shall not be binding on:

a) any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from a Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or

b) any Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty; or

c) any purchaser from a mortgagee of the Affordable Housing Unit pursuant to any default by the individual mortgagor.

2.16 The Chargee shall prior to seeking to dispose of any of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge comply with the requirements under Part 2 of Chapter 4 of the Housing and Regeneration Act 2008 (or such other requirements as may be agreed with the District Council) PROVIDED THAT at all times the rights and obligations in this paragraph 2.16 shall not require the Chargee to act contrary to its duties under its charge or mortgage and that the District Council shall give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under its charge or mortgage.

3 OPEN SPACE

3.1 The Owner covenants not to Occupy any Dwelling until the Open Space Scheme has been submitted to and approved by the District Council in writing.

3.2 The Owner covenants not to allow Occupation of more than 20 Market Housing Units on the Site until the Open Space has been provided and laid out in accordance with the approved Open Space Scheme.

- 3.3 The Owner covenants that following the District Council's written confirmation the Open Space has been laid out in accordance with the Open Space Scheme to transfer the freehold thereof to a Management Company whose members shall be the owners from time to time of the Market Housing Units and such transfer shall for the avoidance of doubt include a covenant that the Open Space shall thereafter be retained and maintained in accordance with the Open Space Scheme and the Planning Permission for the benefit of all residents of the Development and allow public access at all times.
- 3.4 The Owner covenants at his own cost to maintain and manage the Open Space strictly in accordance with the Open Space Scheme and the Planning Permission until such time as it has been transferred to the Management Company.

FOURTH SCHEDULE
THE OWNER'S COVENANTS WITH THE COUNTY COUNCIL

PART 1

PRIMARY EDUCATION CONTRIBUTION AND EXTENSION SITE

1. Not to Occupy more than 50% of the Dwellings until the Primary Education Contribution has been paid to the County Council.
2. In the event that the County Council serves written notice on the Owner requesting a transfer of the Primary School Extension Site within a period of 10 years from the first Occupation of the 25th Dwelling ("**the Option Period**") the Owner shall transfer the freehold estate of the Primary School Extension Site to the County Council or a third party if nominated in writing by the County Council such transfer shall be in such final form as may be agreed by the Owner and the County Council (both acting reasonably) and in accordance with those terms below (unless otherwise agreed in writing between the Owner and the County Council):
 - 2.1. for consideration of £100,000 per acre (£173,000 as per the extent of the Primary School Extension Site identified on the School Plan) plus the sum of the Primary Education Contribution already paid by the Owner pursuant to paragraph 1;
 - 2.2. with vacant possession and clear of rubbish building materials soil compaction and encampments (unless it is agreed that site compounds or equivalent provision reasonably required for the construction of the Development may remain for a temporary period as may be agreed);
 - 2.3. unencumbered of any covenants easements exceptions restrictions and charges (which would prevent the use of the Primary School Extension Site as an educational facility);
 - 2.4. any remediation identified in reports or surveys as part of the Application or submitted pursuant to the Planning Permission in respect of contamination having been carried out in accordance with the recommendations in those reports;

- 2.5. fully serviced up to the boundary of the Primary School Extension Site (being gas electricity foul and surface water discharge telecommunications and broadband) based on the stated long term capacity of the Woolpit Primary Academy;
 - 2.6. with the benefit of all highway visibility requirements having been fulfilled on the Development;
 - 2.7. with the benefit of highway access to adoption standard having been constructed by the Owner's entirely at the Owner's expense;
 - 2.8. with the benefit of an archaeological investigation having been completed (if required pursuant to the Planning Permission and in respect of the Primary School Extension Site only) by the Owner entirely at the Owner's expense the results of which will have been shared with the County Council;
3. In the event that the transfer of the Primary School Extension Site is not transferred to the County Council or its nominated third party in accordance with the provisions of this Part 4 during the Option Period then all of the Owner's obligations in this Deed concerning the Primary School Extension Site shall cease and have no further force nor effect (unless otherwise agreed in writing between the Owner and the County Council).

PART 2

EARLY YEARS EDUCATION CONTRIBUTION

1. The Owner hereby agrees and covenants to pay the Early Years Education Contribution to the County Council prior to Occupation of fifty per cent (50%) of the Dwellings.
2. The Owner covenants not to permit occupation of more than 49% of the Dwellings until the Owner has paid the Early Years Education Contribution.

PART3
THE CYCLE LINK CONTRIBUTION

1. The Owner hereby agrees and covenants to pay the Cycle Link Contribution to the County Council prior to first Occupation of the first Dwelling.
2. The Owner covenants not to permit first occupation of the first Dwelling until the Owner has paid the Cycle Link Contribution.

PART4
SECONDARY SCHOOL CONTRIBUTION

1. The Owner hereby agrees and covenants to pay the Secondary School Transport Contribution to the County Council prior to Occupation of 50% of the Dwellings.
2. The Owner covenants not to permit occupation of more than 49% of the Dwellings until the Owner has paid the Secondary School Transport Contribution.

FIFTH SCHEDULE
DISTRICT COUNCIL'S COVENANTS

1. The Planning Permission

The District Council will issue the Planning Permission on or within five (5) Working Days of the date of this Deed

2. Repayment of Contributions

In the event that any contribution paid under this Deed or any part of it has not been committed (by way of a contract or by the expenditure of the monies) for the purposes set out in this Deed within ten (10) years from payment then the District Council shall repay any unspent balance to the person who made the payment with any interest accrued thereon.

SIXTH SCHEDULE
COUNTY COUNCIL'S COVENANTS

1. Early Years Education Contribution

- 1.1 To use the Early Years Education Contribution for their intended purposes under this Deed and for no other purpose
- 1.2 To provide to the Owner, on the Owner's written request, information regarding the expenditure of the Early Years Education Contribution PROVIDED THAT such request is made within eleven (11) years of Completion of Development.
- 1.3 The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date of Completion of Development, within a further period of one (1) year, either confirm that the Early Years Education Contribution was committed or expended by the County Council in accordance with the provisions of this Deed or if they were not so committed or expended in that period pay the Early Years Education Contribution (or any part not committed or expended) back to the person who paid it, such payment to be made within twenty (20) Working Days' of such request.

2. Primary Education Contribution

- 2.1 In the event that the Primary Education Contribution is not returned to the Owner as part of the transfer of the Primary School Extension Site pursuant to Part 1 of the Fourth Schedule to use the Primary Education Contribution for their intended purposes under this Deed and for no other purpose
- 2.2 To provide to the Owner, on the Owner's written request, information regarding the expenditure of the Primary Education Contribution PROVIDED THAT such request is made within eleven (11) years of Completion of Development.

- 2.3 The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date of Completion of Development, within a further period of one (1) year, either confirm that the Primary Education Contribution was committed or expended by the County Council in accordance with the provisions of this Deed or if they were not so committed or expended in that period pay the Primary Education Contribution (or any part not committed or expended) back to the person who paid it, such payment to be made within twenty (20) Working Days' of such request.

3. Secondary School Transport Contribution

- 3.1 To use the Secondary School Transport Contribution for their intended purposes under this Deed and for no other purpose
- 3.2 To provide to the Owner, on the Owner's written request, information regarding the expenditure of the Secondary School Transport Contribution PROVIDED THAT such request is made within eleven (11) years of Completion of Development.
- 3.3 The County Council shall if requested to do so in writing after the expiry of ten (10) years of the date of Completion of Development, within a further period of one (1) year, either confirm that the Secondary School Transport Contribution was committed or expended by the County Council in accordance with the provisions of this Deed or if they were not so committed or expended in that period pay the Secondary School Transport Contribution (or any part not committed or expended) back to the person who paid it, such payment to be made within twenty (20) Working Days' of such request