

**Planning Obligation by Deed of  
Agreement under Section 106 of the  
Town and Country Planning Act 1990**

relating to Land North of The Street,  
Kettleburgh Woodbridge IP13 7JP

Dated:

16<sup>th</sup> March

2023

**(1) EAST SUFFOLK COUNCIL**

**(2) SUFFOLK COUNTY COUNCIL**

**(3) BY GEORGE HOMES LIMITED**

Ref JB/DC/21/0757/FUL

DATE 16<sup>th</sup> March

#### PARTIES

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House, Riduna Park, Station Road, Melton IP12 1RT ("the Council")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX ("the County Council")
- (3) **BY GEORGE HOMES LIMITED** (Co.Regn. No. 0889442) of Old Bank House, Market Place, Saxmundham, IP17 1EL ("the Owners")

#### INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.
- 2 The County Council is the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated
- 3 The Owner is the freehold owner of the Site under Land Registry title number SK227490
- 4 The Councils South Planning Committee resolved on 24 May 2022 to grant the Planning Permission subject to conditions and the completion of this Deed for the provision of Affordable Housing and the payment of certain financial contributions set out herein.
- 5 The Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meets the test set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES AS FOLLOWS:

#### OPERATIVE PART

**DEFINITIONS**

For the purposes of this Deed the following expressions shall have the following meanings and shall be read in conjunction with the definitions set out in the Third Schedule:

"Act"	the Town and Country Planning Act 1990 as amended.
"Application"	the application for full planning permission validated by the Council on the 16 <sup>th</sup> February 2021 for the Development and allocated reference number DC/21/0757/FUL
"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 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.
"Development"	Construction of 16no. dwellings including 5no. affordable homes, with new shared vehicular access driveways cartlodes and garages
"Dwelling"	any dwelling (including a house bungalow flat or maisonette and including both Affordable Dwellings and Market Housing Units) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly.

"Index"	All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation;
"Retail Price Index"	the "All Items" index figure of the Index of Retail Prices (RPI All Items Index) published by the Office for National Statistics;
"Index Linked"	means the increase in any sum referred to in the Third and Fourth Schedule by an amount equivalent to the increase in the Index or the Retail Prices Index (as the context dictates) from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 10 of this Deed;
"Interest"	interest at 4 per cent above the minimum lending rate of the Bank of England from time to time.
"Local Plan"	the East Suffolk Council – Suffolk Coastal Local Plan adopted 23 September 2020
"Occupation" and "Occupied"	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.
"Plan"	the plan attached to this Deed.
"Planning Permission"	the full planning permission subject to conditions to be granted by the Council pursuant to the Application substantially as set out in the draft annexed to the Second Schedule and any planning permission granted pursuant to s.73 of the act subsequently granted.
"Primary School Transport Service"	



Contribution"	means the sum of £16,870 (Sixteen Thousand Eight Hundred and Seventy Pounds) Index Linked to the Retail Prices Index;
"Secondary School Transport Service Contribution"	means the sum of £18,075 (Eighteen Thousand and Seventy-Five Pounds) Index Linked to the Retail Prices Index;
"Section 106 Officer"	The officer so designated by the Council and any notice required to be served on the Section 106 Officer must be sent or delivered to the Council at the address aforesaid marked for the attention of the Section 106 Officer
"Site"	the land described in the First Schedule against which this Deed may be enforced as shown edged red for identification purposes only on the Plan.

## **2 CONSTRUCTION OF THIS DEED**

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule 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 interchangeable in that manner.
- 2.4 Wherever there is 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 or Directive of the European Union shall include any modification, extension or re-enactment of that Act or Directive 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 Directive or deriving validity from it

- 2.6 Any references to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory functions.
- 2.7 The headings are for reference only and shall not affect construction.
- 2.8 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation to use all reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 2.9 Any notices required to be given under the terms of this Deed may (in addition to any other valid method of service) be given or served by sending the same by recorded delivery post addressed to the party to or upon whom it is to be given or served at the address for that party given in this Deed or such other address in the United Kingdom as that party may by notice to the other parties hereto or their solicitors stipulate as that party's address for service of notice pursuant to this Deed or if not such address is given or stipulated at that party's last known address and any notice so given or served shall be deemed to be received and the date on which it is given or served shall be deemed to be 48 hours after posting

### **3 LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authorities against the Owner and their successors in title.

### **4 CONDITIONALITY**

The obligations set out in the Third Schedule and the Fourth Schedule are conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for clauses 7.14, 7.15, 7.16 and 15 which shall come into effect immediately upon completion of this Deed.



**5 THE OWNER'S COVENANTS**

- 5.1 The Owner hereby covenants with the Council as set out in the Third Schedule so as to bind the Site and each and every part thereof
- 5.2 The Owner hereby covenants with the County Council as set out in the Fourth Schedule so as to bind the Site and each and every part thereof
- 5.2 The Owner warrants that she is the freehold owner of the Site and has full power and capacity to enter into this Deed and that no other party has a legal interest in the Site which would require them to be a party to this Deed

**6 THE COUNCIL COVENANTS**

- 6.1 The Council hereby covenant with the Owner as set out in the Fifth Schedule.

**7. THE COUNTY COUNCIL COVENANTS**

- 7.1 The County Council hereby covenant with the Owner as set out in the Sixth Schedule

**8 MISCELLANEOUS**

- 8.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 8.2 This Deed shall be registrable as a local land charge by the Council.
- 8.3 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Planning Services (or the officer of the Council fulfilling such functions) and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party) or officer acting under his or her hand;
- 8.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith on the written request of the Owner mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
- 7.5 Insofar as any clause or clauses of this Deed are 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.
- 7.6 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 (without the consent of the Owner) it is modified by

any statutory procedure or expires prior to the Commencement of Development.

- 7.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 7.8 This Deed shall not be enforceable against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission (except in respect of paragraph 3 of the Third Schedule) and against those deriving title from them
- 7.9 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.
- 7.10 In the event that any new planning applications are made in respect of the Development pursuant to section 73 of the Act then with effect from the date that such new planning permission is granted pursuant to section 73 of the Act;
- 7.10.1 the obligations in this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of any planning permission granted pursuant to section 73 of the Act; and
- 7.10.2 the definitions of Development Application and Planning Permission shall be assumed to include references to any applications under section 73 of the Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any applications under section 73 of the Act and the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under section 73 of the Act whether by way of a new deed or supplemental deed pursuant to section 106 of the Act or a modification pursuant to section 106A of the Act.
- 7.11 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 7.12 The Owner covenants from the date that this Deed takes effect to allow the Council, and their respectively duly authorised officers or agents at all reasonable times to enter into and upon the Site for the purposes of monitoring compliance with the provisions of this Deed



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Year	Country	Population (millions)	Population growth rate (%)	Population density (per sq km)	Population density (per sq mile)
1950	USA	150	1.2	26	67
1950	USSR	160	1.2	16	41
1950	China	550	1.2	120	310
1950	India	360	1.2	170	440
1950	Japan	90	1.2	330	850
1950	UK	55	1.2	260	670
1950	France	45	1.2	100	260
1950	Germany	50	1.2	230	590
1950	Italy	45	1.2	190	490
1950	Canada	10	1.2	3	8
1950	Australia	7	1.2	2	5
1950	South Africa	4	1.2	3	8
1950	Argentina	15	1.2	1	3
1950	Brazil	70	1.2	0.5	1.3
1950	India	360	1.2	170	440
1950	China	550	1.2	120	310
1950	USSR	160	1.2	16	41
1950	USA	150	1.2	26	67

**peterwellsarchitects**

www.peterwellsarchitects.com 802.475.1841 1770 S. 1st St. 4001-1000, Rutland, VT 05757

Project	17 Elm Drawings, Land North of The Street, Rutland VT 05757				
Client	St. Dominic Military				
Project Name	Proposed Site Plan & Location Plan		Architect	Planning	
Start	Sept 2010	Arch	1/2011	Architect	PWILLIAMS
			1/2011		1

- 7.13 The Owner hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Deed are hereby waived
- 7.14 The Owner covenants to pay the Council's reasonable legal costs incurred in the preparation and negotiation of this Deed on completion of this Deed
- 7.15 The Owner covenants to pay the Council's monitoring fee of £1335 on completion of this Deed
- 7.16 The Owner covenants to pay the County Council's monitoring fee of £476 on completion of this Deed

## **8 WAIVER**

No waiver (whether expressed or implied) by the Council 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 Council 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 Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice quoting the Council's reference DC/21/0757/FUL 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 purchased by reference to a plan and the title number or numbers thereof.

- 9.1 For the avoidance of doubt, the Owner shall not be obliged by this obligation to notify the Council of every plot or Dwelling disposal, but only if it disposes of all its freehold interest in the site.



## **10 INDEXATION**

Any sum referred to in the Third and Fourth Schedule (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the Index or the Retail Prices Index (as the context dictates and unless the context reads otherwise) 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:

- 10.1 A is the sum payable under this Deed;
- 10.2 B is the original sum calculated as the sum payable;
- 10.3 C is the Index (or Retail Prices Index (as the context dictates) for the month 2 months before the date on which the sum is payable;
- 10.4 D is the Index (or Retail Prices Index (as the context dictates) for the month 2 months before the date of this Deed; and
- 10.5  $C/D$  is greater than 1

## **11 INTEREST**

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

## **12 VAT**

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

## **13 DISPUTE PROVISIONS**

- 13.1 In the event of any dispute or difference arising between any of the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.
- 13.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 13.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall



be final and binding on all parties in the absence of manifest error and his 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 to the dispute in equal shares.

- 13.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 13.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.
- 13.5 The provisions of this clause shall not affect the ability of the 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.

#### **14 JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

#### **15 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.

## **FIRST SCHEDULE**

### **Details of the Owner's Title, and description of the Site**

Land North of The Street, The Street, Kettleburgh, Woodbridge IP13 7JP shown  
on the Plan



**EASTSUFFOLK**  
COUNCIL

Mr Peter Wells  
Peter Wells Architects Ltd  
Office Farm  
Letheringham  
Woodbridge  
Suffolk  
IP13 7RA

## Planning Permission

Town and Country Planning Act 1990

The Town and Country Planning (Development Management Procedure) (England) Order 2015

Our reference	DC/21/0757/FUL
Date valid	16 February 2021
Site	Land North Of The Street, The Street, Kettleburgh
Parish	Kettleburgh
Proposal	Construction of 16no. new dwellings including 5no. affordable homes, with new shared vehicular access, driveways, cartlo dges and garages.

Permission is hereby **granted** by East Suffolk Council as local planning authority for the purposes of the Town and Country Planning Act 1990, for development in complete accordance with the application shown above, the plan(s) and information contained in the application, and subject to compliance with the following conditions as set out below. Your further attention is drawn to any informatives that may have been included.

In determining the application, the council has given due weight to all material planning considerations including policies within the development plan as follows:

National Planning Policy Framework 2021

SCLP3.1-Strategy for Growth (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

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SCLP3.2 - Settlement Hierarchy (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP3.3 - Settlement Boundaries (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP3.5 - Infrastructure Provision (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP5.2 - Housing Development in Small Villages (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP7.1 - Sustainable Transport (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP7.2 - Parking Proposals and Standards (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP9.2 - Sustainable Construction (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP9.5 - Flood Risk (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP9.6 - Sustainable Drainage Systems (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP10.1 - Biodiversity and Geodiversity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP10.4 - Landscape Character (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.1 - Design Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.2 - Residential Amenity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP11.7 - Archaeology (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP12.53 - Land North of the Street, Kettleburgh (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

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**Conditions:**

1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.  
Reason: This condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall not be carried out other than in complete accordance with the following:

Received 17 May 2022:

- o PW1111\_PL01 Rev M
- o PW1111\_PL03 Rev D
- o PW1111\_PL04 Rev E
- o PW1111\_PL05 Rev E
- o PW1111\_PL06 Rev E
- o PW1111\_PL12 Rev D

Received 23 March 2022:

- o 104/2020/o3/P5 received

Received 03 March 2022:

- o 104-2020-03-Rev P4
- o 104-2020-04-Rev P4
- o 104-2020-05-Rev P5
- o 104-2020-06-Rev P2

Received 12 July 2021:

- o PW1111\_PL02-Rev D
- o PW1111\_PL07-Rev C
- o PW1111\_PL08-Rev C
- o PW1111\_PL09-Rev C
- o PW1111\_PL10-Rev C

Reason: For avoidance of doubt as to what has been considered and approved.

3. Notwithstanding the submitted details, no development shall commence until details of the roof, wall materials and finishes to be used have been submitted to and approved by the local planning authority.  
Reason: To ensure satisfactory appearance of the development in the interests of visual amenity.
4. No development shall commence until details of the means of enclosure (i.e. hedgerows, fences, gates etc) for the boundaries between plots, and the external boundaries have been

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submitted to and approved by the Local Planning Authority. Each section of the approved means of enclosure shall be erected prior to the occupation of the dwelling to which they specifically relate. The approved means of enclosure shall thereafter be retained in their approved form.

Reason: In the interests of visual and residential amenity.

5. No development shall commence until a detailed Construction Method Strategy has been submitted to and approved by the Local Planning Authority. This statement shall set out hours of construction/activity on site, delivery hours for materials and equipment to the site before and during construction, access and parking arrangements for contractors vehicles and delivery vehicles (locations and times) and a methodology for avoiding soil from the site tracking onto the highway together with a strategy for remedy of this should it occur. Thereafter the approved construction statement shall be adhered to throughout the construction of the development.

Reason: In the interest of highway safety to avoid the hazard caused by mud on the highway and to ensure minimal adverse impact on the public highway and neighbouring amenity during the construction phase.

6. Prior to the commencement of development, a scheme for the provision of fire hydrants shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in its entirety prior to the first occupation of the dwellings. It shall thereafter be retained and maintained in its improved form.

Reason: In the interests of the safety of the future occupants of the hereby approved development.

7. No development shall take place within the area indicated [the whole site] until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of

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archaeological assets affected by this development, in accordance with Policy SCLP11.7 of Suffolk Coastal Local Plan (2020) and the National Planning Policy Framework (2019).

8. No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 7 and the provision made for analysis, publication and dissemination of results and archive deposition.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SCLP11.7 of Suffolk Coastal Local Plan (2020) and the National Planning Policy Framework (2019).

9. Prior to occupation, evidence of the energy performance and water efficiency standards shall be submitted to, and approved in writing by, the local planning authority. The dwelling(s) within the hereby approved development must achieve the optional technical standard in terms of water efficiency of 110 litres/person/ day in Policy SCLP9.2 or any future document/policy replacing this, as measured in accordance with a methodology approved by Building Regulations Approved Document G.

Reason: To ensure that the finished dwelling(s) comply with Policy SCLP9.2 of the East Suffolk Council - Suffolk Coastal Local Plan (2020) and to ensure Building Control Officers and Independent Building Inspectors are aware of the water efficiency standard for the dwelling(s).

10. Prior to first occupation of the hereby approved development details of all the measures in the approved Energy Statement that have been completed shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the finished development implements the approved sustainable measures to comply with Planning Policy SCLP9.2.

11. Prior to first occupation and/or use of the hereby permitted development a British Research Establishment Environmental Assessment Method New Build Post Construction Stage (PCS) final rating and certificate of assessment demonstrating the development achieved the 'Very Good' standard or equivalent shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development complies with Planning Policy SCLP9.2.

12. The following dwellings shall be constructed to meet the Requirements of M4(2) of Part M of the Building Regulations for accessible and adaptable dwellings and therefore retained in their approved form:
- o Plot 3
  - o Plot 4

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- o Plot 5
- o Plot 6
- o Plot 7
- o Plot 8
- o Plot 9
- o Plot 10

Reason: To ensure the development complies with Planning Policy SCLPS.8.

13. Development must be undertaken in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified within the Preliminary Ecological Appraisal (PEA) (Liz Lord Ecology, December 2020) as submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that ecological receptors are adequately protected and enhanced as part of the development.

14. No removal of hedgerows, trees or shrub shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that nesting birds are protected.

15. No external lighting shall be installed unless a "lighting design strategy for biodiversity" has been submitted to and approved in writing by the local planning authority. The strategy shall:

1. identify those area features on site that are particularly sensitive for biodiversity likely to be impacted by lighting and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
2. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To ensure that impacts on ecological receptors from external lighting are prevented.

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16. Prior to any works above slab level an Ecological Enhancement Strategy, addressing how ecological enhancements will be achieved on site, will be submitted to and approved in writing by the local planning authority. Ecological enhancement measures will be delivered and retained in accordance with the approved Strategy.

Reason: To ensure that the development delivers ecological enhancements.

17. A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior first occupation of the development. The content of the LEMP shall include the following:

- o Description and evaluation of features to be managed.
- o Ecological trends and constraints on site that might influence management.
- o Aims and objectives of management.

Appropriate management options for achieving aims and objectives.

- o Prescriptions for management action.
- o Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- o Details of the body or organisation responsible for implementation of the plan.
- o Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To ensure that the long-term ecological value of the site is maintained and enhanced.

18. Within 3 month(s) of commencement of development, precise details of a scheme of landscape works which shall include tree and shrub planting, grass, earthworks, driveway construction, parking areas, patios, hard surfaces etc, and other operations as appropriate) at a scale not less than 1:200 shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that there is a well laid out landscaping scheme in the interest of visual amenity.

19. The approved landscaping scheme shall be implemented not later than the first planting season following commencement of the development (or within such extended period as the

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local planning authority may allow) and shall thereafter be retained and maintained for a period of 5 years. Any plant material removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season and shall be retained and maintained.

Reason: To ensure the submission and implementation of a well-laid out scheme of landscaping in the interest of visual amenity.

20. No development shall commence, or any materials, plant or machinery be brought on to the site until full details showing the position of fencing to protect all trees and hedgerows, shown to be retained on the approved plans, have been submitted to and approved in writing by the Local Planning Authority. The protective fencing shall comply with BS.5837 and be retained throughout the period of construction unless otherwise agreed in writing by the local planning authority.

Reason: To protect the trees/hedgerow during the course of development in the interest of visual amenity.

21. No development shall commence until a method for construction for the proposed cart lodge for plot 16 has been submitted to and approved in writing by the local planning authority. Thereafter the method of construction shall be adhered to and implemented in its entirety unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the roots of the trees/hedging are not damaged during construction.

22. In the event that contamination which has not already been identified to the Local Planning Authority (LPA) is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority. No further development (including any construction, demolition, site clearance removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety. An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS 10175:2011+ A2: 2017 and LCRM) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. Where remediation is necessary a detailed remediation method statement (RMS) must be prepared, and is subject to the approval in writing of the Local Planning Authority. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works. Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the LPA.

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Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23. No other part of the development hereby permitted shall be commenced until the new access has been laid out and completed in all respects in accordance with drawing no. 104/2020/03/P5. Thereafter it shall be retained in its approved form.

Reason: To ensure the access is laid out and completed to an acceptable design in the interests of the safety of persons using the access and users of the highway.

24. Before the access is first used visibility splays shall be provided as shown on Drawing No. 104/2020/03/P5 and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction to visibility shall be erected, constructed, planted or permitted to grow over 0.6 metres high within the areas of the visibility splays.

Reason: To ensure drivers of vehicles entering the highway have sufficient visibility to manoeuvre safely including giving way to approaching users of the highway without them having to take avoiding action and to ensure drivers of vehicles on the public highway have sufficient warning of a vehicle emerging in order to take avoiding action, if necessary.

25. The [hedge, fence, wall or other means of frontage enclosure] along the highway frontage of the site shall be reduced to 0.6m metres above the level of the adjacent carriageway or set back at least 0.5m from edge of carriageway/ footway before occupation of the development. Notwithstanding the provisions of the Town & Country (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) it shall be retained thereafter at or below that height.

Reason: In the interests of highway safety by providing and maintaining intervisibility between highway users.

26. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway including any system to dispose of the water. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.

Reason: To prevent hazards caused by flowing water or ice on the highway.

27. No development shall commence until details of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority (LPA).

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Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure that the proposed development can be adequately drained

28. No development shall commence until details of the implementation, maintenance and management of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the LPA. The strategy shall be implemented and thereafter managed and maintained in accordance with the approved details.

Reason: To ensure clear arrangements are in place for ongoing operation and maintenance of the disposal of surface water drainage.

29. Within 28 days of practical completion of the last dwelling or unit, surface water drainage verification report shall be submitted to the Local Planning Authority, detailing and verifying that the surface water drainage system has been inspected and has been built and functions in accordance with the approved designs and drawings. The report shall include details of all SuDS components and piped networks in an agreed form, for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.

Reason: To ensure that the surface water drainage system has been built in accordance with the approved drawings and is fit to be put into operation and to ensure that the Sustainable Drainage System has been implemented as permitted and that all flood risk assets and their owners are recorded onto the LLFA's statutory flood risk asset register as required under s21 of the Flood and Water Management Act 2010 in order to enable the proper management of flood risk with the county of Suffolk.

<https://www.suffolk.gov.uk/roads-and-transport/flooding-and-drainage/flood-risk-asset-register/>

30. No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the LPA. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP shall include:

Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include:-

- i. Temporary drainage systems
- ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses
- iii. Measures for managing any on or offsite flood risk associated with construction

Reason: To ensure the development does not cause increased flood risk, or pollution of watercourses or groundwater

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31. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking or re-enacting the said Order] no development of any kind specified in Part 1, Classes A, AA, B, C, D, E, F and Part 2 Class A of Schedule 2 of the said Order shall be carried out unless otherwise agreed with the local planning authority.

Reason: In order that the local planning authority may retain control over this particular form of development in the interests of amenity and the protection of the local environment and the amenity of adjoining residents.

#### Informatives:

1. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.
2. The applicant is advised that the proposed development may require the naming of new street(s) and numbering of properties/businesses within those streets and/or the numbering of new properties/businesses within an existing street. This is only required with the creation of a new dwelling or business premises. For details of the address charges please see our website [www.eastsuffolk.gov.uk/planning/street-naming-and-numbering](http://www.eastsuffolk.gov.uk/planning/street-naming-and-numbering) or email [llp@eastsuffolk.gov.uk](mailto:llp@eastsuffolk.gov.uk).
3. Note: It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the Highway Authority.

Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by the County Council or its agents at the applicant's expense.

The County Council's East Area Manager must be contacted on Telephone: 01728 652400. Further information can be found at: [www.suffolk.gov.uk/environment-and-transport/highways/dropped-kerbs-vehicular-accesses/](http://www.suffolk.gov.uk/environment-and-transport/highways/dropped-kerbs-vehicular-accesses/)

A fee is payable to the Highway Authority for the assessment and inspection of both new vehicular crossing access works and improvements deemed necessary to existing vehicular crossings due to proposed development.

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4. The submitted scheme of archaeological investigation shall be in accordance with a brief procured beforehand by the developer from Suffolk County Council Archaeological Service, Conservation Team.
5. Any works to a watercourse may require consent under section 23 of the Land Drainage Act 1991
6. Any discharge to a watercourse or groundwater needs to comply with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
7. Any discharge of surface water to a watercourse that drains into an Internal Drainage Board district catchment is subject to payment of a surface water developer contribution
8. 1. PROW are divided into the following classifications:
  - o Public Footpath - only for use on foot or with a mobility vehicle
  - o Public Bridleway - use as per a public footpath, and on horseback or by bicycle
  - o Restricted Byway - use as per a bridleway, and by a 'non-motorised vehicle', e.g. a horse and carriage
  - o Byway Open to All Traffic (BOAT) - can be used by all vehicles, in addition to people on foot, mobility vehicle, horseback and bicycle

All currently recorded PROW are shown on the Definitive Map and described in the Definitive Statement (together forming the legal record of all currently recorded PROW). There may be other PROW that exist which have not been registered on the Definitive Map. These paths are either historical paths that were not claimed under the National Parks and Access to the Countryside Act 1949 or since, or paths that have been created by years of public use. To check for any unrecorded rights or anomalies, please contact [DefinitiveMaps@suffolk.gov.uk](mailto:DefinitiveMaps@suffolk.gov.uk).

2. The applicant, and any future owners, residents etc, must have private rights to take motorised vehicles over a PROW other than a BOAT. To do so without lawful authority is an offence under the Road Traffic Act 1988. Any damage to a PROW resulting from works must be made good by the applicant. Suffolk County Council is not responsible for the maintenance and repair of PROW beyond the wear and tear of normal use for its classification and will seek to recover the costs of any such damage it is required to remedy. We do not keep records of private rights and suggest that a solicitor is contacted.

3. The granting of planning permission IS SEPARATE to any consents that may be required in relation to PROW. It DOES NOT give authorisation for structures such as gates to be erected on a PROW, or the temporary or permanent closure or diversion of a PROW. Nothing may be done to close, alter the alignment, width, surface or condition of a PROW, or to create a structure such as a gate upon a PROW, without the due legal process being followed, and permission being granted from the Rights of Way & Access Team as appropriate. Permission may or may not be granted depending on all the circumstances. To apply for permission from Suffolk County Council (as the highway authority for Suffolk) please see below:

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oTo apply for permission to carry out work on a PROW, or seek a temporary closure - <https://www.suffolk.gov.uk/roads-and-transport/public-rights-of-way-in-suffolk/rights-and-responsibilities/> or telephone 0345606 6071. PLEASE NOTE that any damage to a PROW resulting from works must be made good by the applicant. Suffolk County Council is not responsible for the maintenance and repair of PROW beyond the wear and tear of normal use for its classification and will seek to recover the costs of any such damage it is required to remedy.

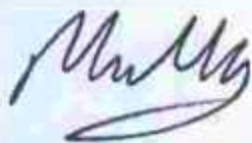
oTo discuss applying for permission for structures such as gates to be constructed on a PROW - contact the relevant Area Rights of Way Team <https://www.suffolk.gov.uk/roads-and-transport/public-rights-of-way-in-suffolk/public-rights-of-way-contacts/> or telephone 0345 606 6071.

4.To apply for permission for a PROW to be stopped up or diverted within a development site, the officer at the appropriate borough or district council should be contacted at as early an opportunity as possible to discuss the making of an order under s257 of the Town and Country Planning Act 1990- <https://www.suffolk.gov.uk/roads-and-transport/public-rights-of-way-in-suffolk/public-rights-of-way-contacts/> PLEASE NOTE that nothing may be done to stop up or divert the legal alignment of a PROW until the due legal process has been completed and the order has come into force.

5.Under Section 167 of the Highways Act 1980 any structural retaining wall within 3.66 metres of a PROW with a retained height in excess of 1.37 metres, must not be constructed without the prior written approval of drawings and specifications by Suffolk County Council. The process to be followed to gain approval will depend on the nature and complexity of the proposals. Construction of any retaining wall or structure that supports a PROW or is likely to affect the stability of the PROW may also need prior approval at the discretion of Suffolk County Council. Applicants are strongly encouraged to discuss preliminary proposals at an early stage.

In the experience of the County Council, early contact with the relevant PROW officer avoids problems later on, when they may be more time consuming and expensive for the applicant to address. More information about Public Rights of Way can be found at [www.suffolk.gov.uk/roads-andtransport/public-rights-of-way-in-suffolk/](http://www.suffolk.gov.uk/roads-andtransport/public-rights-of-way-in-suffolk/)

Yours sincerely,



**Philip Ridley BSc (Hons) MRTPI | Head of Planning & Coastal Management**  
East Suffolk Council

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Date:

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Please note the content of the following pages in respect of the community infrastructure levy which may affect your development, Building Regulations and appeals against decisions.

## Community Infrastructure Levy

East Suffolk Council is a Community Infrastructure Levy (CIL) Charging Authority.

The proposed development referred to in this planning permission may be chargeable development liable to pay Community Infrastructure Levy (CIL) under Part 11 of the Planning Act 2008 and the CIL Regulations 2010 (as amended). For more information and CIL forms please see:

[About the Community Infrastructure Levy](#) | [Community Infrastructure Levy](#) | [Planning Portal](#)

[Community Infrastructure Levy \(CIL\)» East Suffolk Council](#)

If your development is for the erection of a new building, annex or extension or the change of use of a building over 100sqm in internal area or the creation of a new dwelling, holiday let of any size or convenience retail, your development may be liable to pay CIL and you must submit a CIL Form 2 (Assumption of Liability) and CIL Form 1 (CIL Questions) form as soon as possible to [CIL@east Suffolk.gov.uk](mailto:CIL@east Suffolk.gov.uk)

A CIL commencement Notice (CIL Form 6) must be submitted at least 24 hours prior to the commencement date. The consequences of not submitting CIL Forms can result in the loss of payment by instalments, surcharges and other CIL enforcement action.

## Building Regulations

Most work, including change of use, has to comply with Building Regulations. Have you made an application or given notice before work is commenced?

## Appeals to the Secretary of State

Notification to be sent to an applicant when a local planning authority refuse planning permission or grant it subject to conditions

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Planning applications: Sections 78 Town & Country Planning Act 1990

Listed Building applications: Section 20 Planning (Listed Buildings and Conservation Areas) Act 1990.

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Advertisement applications: Section 78, Town and Country Planning Act 1990 Regulation 15, Town & Country Planning (Control of Advertisements) Regulations 2007.

- Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice.
- If an enforcement notice has been/is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- Appeals can be made online at: <http://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

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## SECOND SCHEDULE

### Brief details of the Application

Application Number:	DC/21/0757/FUL
Application Type:	Full
Date Validated:	16 <sup>th</sup> February 2021
Location:	Land north of The Street, Kettleburgh, Woodbridge IP13 7JP
Proposal:	Construction of 16no. new dwellings including 5no. affordable homes with new shared access driveways cartlodes and garages
Applicant:	By George Homes Ltd

### THIRD SCHEDULE

#### The Owner's Covenants with the Council

##### 1. Definitions

**"100% Staircaser"**

means a lessee of a Shared Ownership Dwelling under a Shared Ownership Lease who has exercised their right under that lease to purchase 100% of the equity in the Shared Ownership Dwelling

**"Additional First Homes Contribution"**

means in circumstance where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 1.7, 3.8 and 3.9 of this Third Schedule, the lower of the following two amounts:

(a) 30% of the proceeds of sale; and

(b) the proceeds of sale less the amount due and outstanding to any Mortgagee of the relevant First Home under relevant security documentation which for this purpose shall include all accrued principal monies, interest and reasonable costs and expenses that are payable by the First Homes Owner to the Mortgagee under the terms of any mortgage but for the avoidance of doubt shall not include other costs or expenses incurred by the First Homes Owner in connection with the sale of the First Home

And which for the avoidance of doubt shall in each case be paid following the deduction of any SDLT payable by the First Home Owner as a result of the disposal of the First Home than as a First Home

**"Affordable Dwellings"**

means 5 Dwellings to be made available



as Affordable Housing comprising of 2 x Affordable Dwellings for Rent and 2 Shared Ownership Dwellings and 1 x First Home the exact number, location, tenure and mix of Affordable Dwelling as set out in the Affordable Housing Table

**"Affordable Dwellings for Rent"**

means Affordable Housing let by a Registered Provider to Eligible Persons where the rent level is capped at 80% of the local market rent (including any service charges, where applicable) within local housing allowance rates, or as otherwise agreed with the Council in writing;

**"Affordable Housing"**

means housing that will be available to eligible households and as defined in Annex 2 of the National Planning Policy Framework (2021) or any amending or subsequent national planning policy that may be published by the Government whose needs are not met by the market and eligibility is determined with regard to local incomes and local house prices (unless otherwise agreed in writing with the Council);

**"Affordable Housing Table"**

means the table in the Third Schedule indicating the house types and tenure types of the Affordable Dwellings unless otherwise agreed in writing with the Council

**"Allocation Policy"**

means the policy and procedure adopted by the Council to determine the eligibility and priority for allocation of the Affordable Dwellings for Rent

**"Armed Services Member"**

means a member of the Royal Navy the Royal Marines the British Army or the Royal Air Force or a former member

who was a member within the five (5) years prior to the purchase of the First Home, a divorced or separated spouse or civil partner of a member or a spouse or civil partner of a deceased member or former member whose death was caused wholly or partly by their service

**"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;

**"Compliance Certificate"**

means the certificate issued by the Council confirming that a Dwelling is being Disposed of as a First Home to a purchaser meeting the Eligibility Criteria (National) and under paragraph 3.2 applies the Eligible Criteria (Local)

**"Discount Market Price"**

means a sum which is the Market Value of a First Home discounted by at least 30%

**"Disposal"**

means a transfer of the freehold (or in the case of a flat only) the grant or assignment of a leasehold interest other than;

(a) a letting or sub-letting in accordance with paragraph 3

(b) a transfer of the freehold interest in a First Home or land on which a First Home is to be provided before that First Home is made available for Occupation except where the transfer is to a First Homes Owner

(c) an Exempt Disposal

And "Dispose" and "Disposed" and "Disposing" shall be construed



accordingly

**"Eligibility Criteria (Local)"**

means local criteria met in respect of a purchase of a First Home if;

(a) a purchaser meets the criteria in the Local Connections Cascade (or in the case of a joint purchase at least one of the joint purchasers meets the Local Connections Cascade); and

(b) the purchaser meets any further local criteria in effect at the date of the relevant Disposal of a First Home

It being acknowledged that at the date of this Deed the Council has only prescribed Eligibility Criteria (Local) in respect of (a)

**"Eligibility Criteria (National)"**

means criteria which are met in respect of a purchase of a First Home if;

(a) the purchaser is a First Time Buyer (or in the case of a joint purchaser is a First Time Buyer); and

(b) the purchaser's annual gross income (or in the case of a joint purchase, the joint purchasers' joint annual gross income) does not exceed £80,000 or such other sum as may be published for this purpose from time to time by the Secretary of State and is in force at the time of the relevant Disposal of the First Home

**"Eligible Person"**

A person or persons on the housing register maintained by the Council or who is otherwise approved by the Council as being in need of separate or alternative accommodation and unable to buy housing generally available on the open market;

**"Exempt Disposal"**

means the Disposal of a First Home in

one of the following circumstances:

(a) a Disposal to a spouse or civil partner upon the death of the First Homes Owner

(b) a Disposal to a named beneficiary under the terms of a will or under the rules of intestacy following the death of the First Homes Owner

(c) Disposal to a former spouse or former civil partner of a First Homes Owner in accordance with the terms of a court order, divorce settlement or other legal agreement or order upon divorce, annulment or dissolution of the marriage or civil partnership or the making of a nullity, separation or presumption of death order

(d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt clause 1.7 shall apply to such sale)

Provided that in each case other than (d) the person to whom the disposal is made complies with the terms of Paragraph 3

**"First Home"**

means a Dwelling which may be Disposed of as a freehold or (in the case of flats only) as a leasehold property to a First Time Buyer at the Discount Market Price and which on its first Disposal does not exceed the Price Cap

**"First Homes Owner"**

means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than:

(a) a Developer

(b) another developer or other entity to which the freehold interest or leasehold interest in a First Home or in the land



on which a First Home is to be provided has been transferred before that First Home is made available and is Disposed of for Occupation as a First Home; or

(c) the freehold a tenant or sub-tenant of a permitted letting under paragraph 3

**"First Time Buyer"**

means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003

**"Habitat Mitigation Contribution"**

means a contribution of Three Hundred and Twenty One Pounds and Twenty Two Pence (£321.22) per Dwelling to be paid on or before Commencement of Development and Index Linked payable to the Council in accordance with this Third Schedule towards the cost of mitigating the impact of additional visitors upon European Protected Sites as a result of the Development pursuant to Council's Local Plan Policies and the Appropriate Assessments of the Local Plans, and the Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document;

**"Homes England"**

The non-departmental public body responsible for creating thriving communities and affordable homes in England and which is the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body that may replace it in either function

**"Local Connection Cascade"**

The local connections criteria to be applied to each and every let or sale of an Affordable Dwelling as set out in

## Appendix B

### **"Market Dwellings"**

means that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing

### **"Market Value"**

means the open market value as assessed by a Valuer of a Dwelling and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account any discount in the valuation

### **"Mortgagee"**

means any financial institution or other entity regulated by the Prudential Regulation Authority and the Financial Conduct Authority to provide facilities to a person to enable that person to acquire an Affordable Dwelling including all such regulated entities which provide Shari'ah compliant finance for the purpose of acquiring an Affordable Dwelling

### **"Nomination Agreement"**

the agreement to be entered into by the Council and the Registered Provider in respect of rights for the Council to nominate Eligible Persons for the Affordable Dwellings for Rent in the form provided by the Council a draft of which is appended to this Deed at Appendix A;

### **"Practical Completion"**

means the stage reached when the construction of a Dwelling is sufficiently complete that, where necessary, a certificate of practical completion can be issued and it can be Occupied;



**"Price Cap"**

means the amount for which the First Home is sold after the application of the Discount Market Price which on its first Disposal shall not exceed Two Hundred and Fifty Thousand Pounds (£250,000) or such other amount as may be set locally or published from time to time by the Secretary of State;

**"Protected Person"**

means any person who:

a) has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right or equivalent voluntary scheme of disposal) in respect of a particular Affordable Dwelling

b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right or equivalent voluntary scheme of disposal) in respect of a particular Affordable Dwelling

c) a 100% Staircaser

d) any successor in title to a Chargee or Mortgagee of the persons named in a)-c) above

(e) any Mortgagee of a Shared Ownership Dwelling lawfully exercising the mortgage protection provisions within that Shared Ownership Lease

**"Qualifying Persons"**

means a person or persons unable to buy housing generally available on the

open market and whose household income is below £80,000 (or such other amount agreed in writing with the Council in accordance with government policy)

**"Reasonable Consideration"**

means offer prices from Registered Providers which give the Owner a reasonable consideration having regard to current market conditions in the Disposal of Affordable Housing of a similar type and location by Registered Providers on a grant free basis via Section 106 Agreements

**"Registered Provider"**

or "RP"

For the purposes of this Deed means either:-

- a body registered as a social landlord pursuant to the provisions of the Housing Act 1996 or a housing association within the meaning of the Housing Associations Act 1985 or;
- any person or body or entity which is registered as a provider or social housing in accordance with Section 80(2) and Chapter 3 of the Housing and Regeneration Act 2008 or;
- any body, organisation or company which is registered charity with the Charity



Commissioners for England and Wales and approved by Homes England or any other body organisation or company approved by the Council and which has objects demonstrably similar to or compatible with or promoting those of a registered social landlord;

to be approved in writing by the Council

**"SDLT"**

means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect

**"Secretary of State"**

means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function

**"Shared Ownership Dwelling"**

means those Dwellings purchased on a Shared Ownership Lease

**"Shared Ownership Lease"**

means a lease in a form approved by Homes England or where there is no such form in a form approved by the Council, such lease to provide for the following:

- not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the

Registered Provider;

- power to the purchaser to increase their ownership up to 100%;
- an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England;

**"Valuer"**

means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer acting in an independent capacity

#### **AFFORDABLE HOUSING**

- 1.1 The Owner covenants that no more than 40% of the Market Dwellings shall be occupied (save unless other agreed with the Council) until the Council has been notified of the name and registration number of the proposed Registered Provider for the Affordable Dwellings (save for any Affordable Dwellings to be sold directly by the Owner)
- 1.2 The Owner covenants that no more than 40% of the Market Dwellings shall be Occupied (save unless other agreed with the Council) until a contract has



been entered into with a Registered Provider for transfer of all the Affordable Dwellings (save for any Affordable Dwelling to be sold directly by the Owner) unless otherwise agreed in writing with the Council

1.3 The Owner covenants that no more than 60% of the Market Dwellings shall be Occupied until all of the Affordable Dwellings have been constructed in accordance with the Planning Permission made ready for residential Occupation and transferred to the Registered Provider or marketed for sale to First Time Buyers <sup>or Qualifying Persons</sup> in accordance with this Deed and written notification of such has been received by the Council.

1.4 The Owner covenants that from the date of Practical Completion the Affordable Dwellings shall not be used other than for the purposes of Affordable Housing for Eligible Persons or <sup>Qualifying Persons or</sup> First Time Buyers subject however to the provisions herein.

1.5 In the event that a Registered Provider cannot be found for any of the Affordable Dwellings (save for any Affordable Dwellings to be sold directly by the Owner subject to the Sales Procedure) throughout England despite the Owner's reasonable endeavours to do so the Owner will be required to prove to the Council's satisfaction (the Council at all times acting reasonably) that demand from Registered Providers has not been forthcoming for Reasonable Consideration.

- i. If the Council is satisfied that demand from Registered Providers has not been forthcoming for Reasonable Consideration the 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.
- ii. If after three calendar months of handover of the Affordable Dwellings to the Registered Provider there remains any Affordable Dwellings not leased or sold and the Registered Provider can provide evidence to the Council's satisfaction there are no prospective occupants the Registered Provider shall be free to seek written agreement of the Council to convert those Affordable Dwellings to an alternative form of Affordable Housing defined within Annex 2 to the National Planning Policy Framework (February 2019) (or any amended or subsequent national planning policy that may be published by the Government from time to time).

1.6 Nothing in this Schedule shall be binding on a Protected Person or any Mortgagee or chargee of a Protected Person or any receiver appointed by such Mortgagee or Chargee or any person deriving title from any such person.

1.7 The Affordable Housing obligations in this Third Schedule shall not apply to any Mortgagee or Chargee (or any receiver (including any receiver (including an administrative receiver appointed by such Mortgagee or Chargee) or any other person appointed under any security documentation to enable such Mortgagee or Chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each of Receiver)) of the whole or any part of the Affordable Dwellings or any individual First Home or any persons or bodies deriving title through such Chargee Mortgagee or Receiver PROVIDED THAT:

- i. such Chargee or Receiver of an Affordable Dwelling for Rent or Shared Ownership Dwelling shall first give written notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- ii. if such Disposal of the Affordable Dwelling(s) for Rent or Shared Ownership Dwelling(s) has not completed within the three month period, the Chargee or Receiver shall be entitled to dispose of the Affordable Dwelling(s) for Rent or Shared Ownership Dwelling(s) free from the Affordable Housing provisions in this Deed which provisions shall determine absolutely
- iii. such Mortgagee or Receiver of a First Home shall first give written notice to the Council of its intention to Dispose of the relevant Dwelling; and
- iv. once notice of intention to Dispose of the relevant First Home has been given by the Mortgagee or Receiver to the Council the Mortgagee or Receiver shall be free to sell that First Home subject only to paragraph 1.7iii at its full Market Value
- v. following the Disposal of the relevant First Home the Mortgagee or Receiver shall following the deduction of the amount due and outstanding under the relevant security documentation including all accrued principals monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution



- vi. following receipt of notification of the Disposal of the relevant First Home the Council shall:
- forthwith issue a completed application to the purchaser of that Dwelling to enable the removal of the restriction on the title set out in paragraph 3.5; and
  - apply all such monies received towards the provision of Affordable Housing in East Suffolk

#### **Affordable Housing Table**

House Type	Tenure	Number	Plot Number
1 bed flat	Affordable Dwelling for Rent	2	Plots 1 & 2
2 bed house	Shared Ownership Dwelling	2	Plots 3 & 4
2 bed house	First Home	1	Plot 5

#### **2. Affordable Dwellings for Rent and Shared Ownership Dwellings**

- The Registered Provider shall enter into a Nomination Agreement with the Council and shall not let Dispose or otherwise permit the Occupation of any of the Affordable Dwellings for Rent until such Nominations Agreement has been entered into
- The Owner will notify the Council within 28 days of the transfer of any Affordable Dwellings to a Registered Provider of the plot number, street address, house type, size and tenure of each dwelling and date of transfer
- On the first and any subsequent letting of an Affordable Dwelling for Rent the Council will (unless otherwise agreed in writing) nominate eligible applicants in accordance with the Allocation Policy and Nomination Agreement (Priority will go to applicants who have a Local Connection in accordance with the Local Connections Cascade provided at Appendix B).
- The Registered Provider shall not Dispose of any interest in any of the Affordable Dwellings for Rent other than by way of an assured tenancy or an assured shorthold tenancy under the Housing Act 1988 (or any form of residential tenancy prescribed by statute in substitution for or in addition to those) PROVIDED THAT nothing in this paragraph shall be deemed to prohibit the sale of the Affordable Dwellings individually or together (in any numerical

combination) as one transaction (whether or not subject to any tenancy) to a Registered Provider nor prevent any Registered Provider from charging the Affordable Dwellings in whole or part.

2.5 In the event that 100% of the Shared Ownership Dwelling is purchased

2.5.1 the net proceeds from the final sale of the Shared Ownership Dwelling are to be ringfenced by the Registered Provider for 5 years for the provision of Affordable Housing within the East Suffolk District, and should the owner of the Shared Ownership Dwelling wish to sell it he must notify the Registered Provider and allow the Registered Provider to purchase the Shared Ownership Dwelling back in the first instance at Market Value;

2.5.2 in the event the Registered Provider purchases the Shared Ownership Dwelling in accordance with clause 0, the Shared Ownership Dwelling will be marketed as such subject to the terms of this Deed; and

2.5.3 in the event the Registered Provider declines to purchase the Shared Ownership Dwelling or fails to notify the owner of the Shared Ownership Dwelling of its intention to make an offer to purchase the dwelling within twenty-eight days of the notification as specified in clause 2.5.1 then the owner of the Shared Ownership Dwelling may sell it on the open market free from the terms of this Deed

### 3 First Homes

3.1 The First Homes shall be marketed for sale and shall only be sold (whether on a first or any subsequent sale) as First Homes to a person or person(s) meeting;

(a) the Eligibility Criteria (National); and

(b) the Eligibility Criteria (Local)

3.2 If after a First Home has been actively marketed for 3 months (such period to expire no earlier than three (3) months prior to Practical Completion) it has not been possible to find a willing purchaser who meets the Eligibility Criteria (Local) (if any) paragraph 3.1b shall cease to apply

3.3 Subject to paragraphs 3.6 to 3.10, no First Home shall be Disposed of (whether on a first or any subsequent sale) unless not less than 50% of the purchase price is funded by a first mortgage or other home purchase plan with a Mortgagee

3.4 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until the Council has been provided with evidence that:



3.4.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 3.2 applies meets the Eligibility Criteria (Local) (if any)

3.4.2 the Dwelling is being Disposed of as a First Home at the Discount Market Price and

3.4.3 the transfer of the First Home includes:

(a) a definition of the "Council" which shall be East Suffolk Council

(b) a definition of "First Homes Provisions" in the following terms:

"means the provisions set out in clause(s) [ ] of the [Supplemental] S106 Agreement a copy of which is attached hereto as the Annexure"

(c) a definition of "[Supplemental] S106 Agreement" means the [supplemental] agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated [ ] made between (1) the Council [and] (2) and (3)

(d) a provision that the First Home is sold subject to and with the benefit of the First Homes Provisions and the Transferee acknowledges that it may not transfer or otherwise Dispose of the First Home or any part of it other than in accordance with the First Homes Provisions

(e) a copy of the First Homes Provisions in an Annexure

3.4.4 The Council has issued the Compliance Certificate and the Council hereby covenants that it shall issue the Compliance Certificate within twenty-eight (28) days of being provided with evidence sufficient to satisfy it that the requirements of paragraphs 3.3 and 3.4.1 have been met

3.5 On the first Disposal of each and every First Home to apply to the Chief Land Registrar pursuant to Rule 91 of and Schedule 4 to the Land Registration Rules 2003 for the entry on the register of the title of that First Home of the following restriction:

"No disposition of the registered estates (other than a charge) by the proprietor of the registered estates or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by East Suffolk Council of East Suffolk House, Riduna Park, Station Road, Melton, Woodbridge IP12 1RT or their conveyancer that the provisions of this clause XX (the First Homes Provision) of the Transfer dated [date] referred to in the Charges Register have been complied with or that they do not apply to the disposition"

3.6 The owner of a First Home may apply to the Council to Dispose of it other than as a First Home on the grounds that either:

3.6.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clause 3.1 and 3.2 (and in the case of a first Disposal the six (6) months shall be calculated from a date no earlier than six (6) months prior to Practical Completion) and all reasonable endeavours have been made to Dispose of the Dwelling as a First Home but it has not been possible to Dispose of that Dwelling as a First Home in accordance with paragraphs 3.3 to 3.4.1; or

3.6.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraphs 3.6.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Home Owner undue hardship

3.7 Upon receipt of an application served in accordance with paragraph 3.6 the Council shall have the right (but shall not be required) to direct that the relevant Dwelling is disposed of to it at the Discount Market Price

3.8 If the Council is satisfied that either of the grounds in paragraph 3.6 above have been made out it shall confirm in writing within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.6 that the relevant Dwelling may be Disposed of:

3.8.1 to the Council at the Discount Market Price; or

3.8.2 (if the Council confirms that it does not wish to acquire the relevant Dwelling) other than as a First Home

and on the issue of that written confirmation the obligations in this Deed which apply to First Homes shall cease to bind and shall no longer affect that Dwelling apart from paragraph 3.10 which shall cease to apply on receipt of payment by the Council where the relevant Dwelling is disposed of other than as a First Home

3.9 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 3.6 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 3.6 serve notice on the owner setting out the further steps it requires the owner to take to secure the Disposal of a Dwelling as a First Home and the timescale (which shall be no longer than six (6) months). If at the end of that period the owner has been unable to Dispose of the Dwelling as a First Home he may serve notice on the Council in accordance with paragraph 3.6 following which the Council must within 28 days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home



- 3.10 Where a Dwelling is Disposed of other than as a First Home or to the Council at the Discount Market Price in accordance with paragraphs 3.8 or 3.9 above the owner of the First Home shall pay to the Council forthwith upon receipt of the proceeds of sale the Additional First Homes Contribution
- 3.11 Upon receipt of the Additional First Homes Contribution the Council shall:
1. within 28 working days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 3.5 where such restriction has previously been registered against the relevant title
  2. apply all monies received towards the provision of Affordable Housing
- 3.12 Any person who purchases a First Home free of the restrictions in <sup>on 5 March</sup> schedule ~~1~~ <sup>1</sup> of this Deed pursuant to the provisions in paragraphs 3.9 and 3.10 shall not be liable to pay the Additional First Homes Contribution to the Council
- 3.13 Each First Home shall be used only as the main residence of the First Homes Owner and shall not be let, sub-let or otherwise Disposed of other than in accordance with the terms of this Deed PROVIDED THAT letting or sub-letting shall be permitted in accordance with paragraphs 3.14–3.17 below.
- 3.14 A First Homes Owner may let or sub-let their First Home for a fixed term of no more than two (2) years, provided that the First Homes Owner notifies the Council in writing before the First Home is Occupied by the prospective tenant or sub-tenant. A First Homes Owner may let or sub-let their First Home pursuant to this paragraph more than once during that First Homes Owner's period of ownership, but the aggregate of such lettings or sub-lettings during a First Homes Owner's period of ownership may not exceed two (2) years.
- 3.15 A First Homes Owner may let or sub-let their First Home for any period provided that the First Homes Owner notifies the Council and the Council consents in writing to the proposed letting or sub-letting. The Council covenants not to unreasonably withhold or delay giving such consent and not to withhold such consent in any of circumstances (a) – (f) below:

- a. the First Homes Owner is required to live in accommodation other than their First Home for the duration of the letting or sub-letting for the purposes of employment;
- b. the First Homes Owner is an active Armed Services Member and is to be deployed elsewhere for the for the duration of the letting or sub-letting;
- c. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to escape a risk of harm;
- d. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of relationship breakdown;
- e. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting as a result of redundancy; and
- f. the First Homes Owner reasonably requires to live elsewhere for the duration of the letting or sub-letting in order to provide care or assistance to any person.

- 3.16 A letting or sub-letting permitted pursuant to paragraph 3.14 or 3.15 must be by way of a written lease or sub-lease (as the case may be) of the whole of the First Home on terms which expressly prohibit any further sub-letting.
- 3.17 Nothing in this paragraph 3 prevents a First Homes Owner from renting a room within their First Home or from renting their First Home as temporary sleeping accommodation (except where other local policy restrictions apply) provided that the First Home remains at all times the First Home Owner's main residence.
- 3.18 The Owner shall provide the S.106 Officer at the Council with written notification within fourteen days of:
- 2.18.1 The Commencement of Development
  - 2.18.2 Occupation of the first Market Dwelling
  - 2.18.3 Occupation of 40% of the Market Dwellings



#### 2.18.4 Occupation of 60% of the Market Dwellings

#### **4. HABITAT MITIGATION CONTRIBUTION**

- 4.1 The Owner covenants to pay the Habitat Mitigation Contribution to the Council prior to Commencement of Development
- 4.2 The Owner covenants not to Commence or permit the Commencement of Development until the Habitat Mitigation Contribution has been paid to the Council

#### **FOURTH SCHEDULE**

##### **The Owner's Covenants with the County Council**

#### **1. PRIMARY SCHOOL TRANSPORT SERVICE CONTRIBUTION**

- 1.1 The Owner covenants to pay to the County Council the Primary School Transport Contribution prior to first occupation of the first (1<sup>st</sup>) Dwelling and held for 10 years from first occupation of the Final Dwelling.
- 1.2 The Owner hereby covenants not to Occupy or permit Occupation of any Dwellings until the Primary School Transport Contribution has been paid to the County Council.

#### **2. SECONDARY SCHOOL TRANSPORT SERVICE CONTRIBUTION**

- 2.1 The Owner covenants to pay to the County Council the Secondary School Transport Contribution prior to first occupation of the first (1<sup>st</sup>) Dwelling and held for 10 years from first occupation of the Final Dwelling.
- 2.2 The Owner hereby covenants not to Occupy or permit Occupation of any Dwellings until the Secondary School Transport Contribution has been paid to the County Council.

#### **FIFTH SCHEDULE**

##### **Council's Covenants**

##### **Covenants by the Council**

##### **Discharge of obligations**

- 1. At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.
- 1.2 The Council shall pay the Habitat Mitigation Contribution when received into a separate account use the Habitat Mitigation Contribution for the purposes set out in the Deed within ten (10) years from receipt PROVIDED THAT nothing shall prevent the Council from paying any part of the Habitat Mitigation



Contribution to a person, body or company that may be responsible for the carrying out of the work as set out in this Deed.

- 1.3 In the event that the Habitat Mitigation Contribution has not been spent or committed for its specified purpose within 10 years of receipt of the Habitat Mitigation Contribution the Council shall repay such monies which have not been spent or committed together with any interest accrued to the person who paid the Habitat Mitigation Contribution.

## **SIXTH SCHEDULE**

### **COUNTY COUNCIL COVENANTS**

#### **Primary School Transport Service Contribution**

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1. The County Council to use the Primary School Transport Service Contribution for the provision of Primary School Transport.
2. The County Council shall if requested to do so in writing after the expiry of ten (10) years from first occupation of the Final Dwelling within a further period of one (1) year pay to any person such amount of the Primary School Transport Service Contribution paid by that person in accordance with the provisions of this Deed which has not been committed or expended by the County Council in accordance with the provisions of this Deed, less any deduction for the County Council's reasonable administrative costs associated with holding administering and refunding any part of the Primary School Transport Service Contribution, such payment to be made within twenty eight (28) Working Days of such request.

#### **Secondary School Transport Service Contribution**

1. The County Council to use the Secondary School Transport Service Contribution for the provision of Secondary School Transport.
2. The County Council shall if requested to do so in writing after the expiry of ten (10) years from first occupation of the Final Dwelling within a further period of one (1) year pay to any person such amount of the Secondary School Transport Service Contribution paid by that person in accordance with the provisions of this Deed which has not been committed or expended by the County Council in accordance with the provisions of this Deed, less any deduction for the County Council's reasonable administrative costs associated with holding administering and refunding any part of the Secondary School Transport Service Contribution, such payment to be made within twenty eight (28) Working Days of such request.



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



990



..... Authorised Officer

PLANNING LEAD  
LAWYER

65710

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



Anna Mutholland

..... Authorised Officer

..... Authorised Officer

EXECUTED AS A DEED

By **BY GEORGE HOMES LIMITED**

Acting by a Director

in the presence of

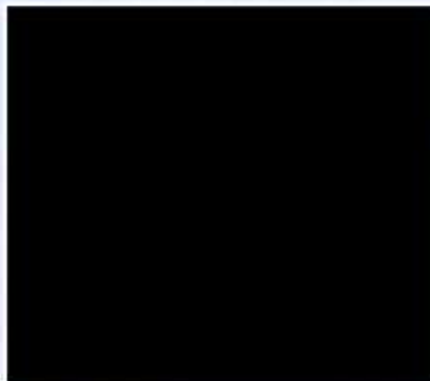
Signature

  
DOMINIC WITHEY

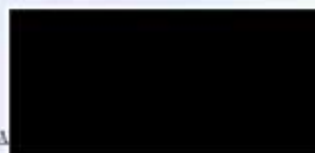
Witness name

James Roberts

Witness address



Witness Signature





(name) (1)

and

EAST SUFFOLK CO UN(CIL(2)

## NOMINATION AGREEMENT

Relating to Affordable Dwelling(s) for Rent

At

(name of scheme)

**BETWEEN:**

- 1) .....of registered in England by the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 (Register Number XXX) (the Registered provider) [or such other Registered Provider as may be approved by East Suffolk Council]

and

- 2) **EAST SUFFOLK COUNCIL** of East Suffolk House, Riduna Park, Station Road, Melton, Woodbridge, IP12 1RT ('the Council')

**1. Definitions**

In this Deed:

"Affordable Dwelling(s) for Rent" means Dwellings on the Development to be made available as Affordable Housing let at a monthly or weekly rental figure that does not exceed:-

- (a) 80% of the local market rent inclusive of service charges; or
- (b) (if lower) the local housing allowance rate; or
- (c) with rent increases during the term of any individual tenancy being limited to increases in the Consumer Price Index from the date of this Nomination Agreement plus 1% or any subsequent relevant limit placed upon Registered Providers by the Regulator or Central Government;

"Affordable Housing" means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market

"Allocation Policy" means the policy and procedure that the Council has adopted to determine eligibility and priority for Affordable Dwellings for Rent

"Chargee" means any mortgagee or charge of a Registered Provider or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 by such mortgagee or chargee or any other person appointed by a mortgagee or chargee under its security documentation for the purpose of enforcing its mortgage or charge or any administrator (howsoever appointed) including a housing administrator



"Choice Based Lettings" - means the process used to advertise Affordable Dwellings for Rent in the Council area or any system that replaces it.

"Development" means the Development as defined in the Section 106 Agreement to which this Nominations Agreement is appended

"Effective Date" means the date that the application form is received by the Partner Organisation (PO), except in the following situations:

- i. When an applicant is moved from one band to a higher band, their new effective date will be the date that their circumstances changed or when the PO is advised of this;
- ii. Where an applicant receives priority on medical or welfare grounds, their effective date will be the date that they the application for the award is received by the PO;
- iii. Where an applicant has been accepted as homeless their effective date will be the date that they applied as homeless unless they already qualify for Band B with an earlier date;
- iv. Where a woman is pregnant and the baby will make her eligible for a larger property, her effective date for the larger property will be the date that the baby is born

"Initial Let" means the first tenancy or lease of a newly constructed and previously unoccupied Affordable Dwelling(s) for Rent in accordance with Section 199 of the Housing Act 1996 as amended by Section 315 of the Housing and Regeneration Act 2008

"Landlord(s)" means a person or persons who are required to use the Council's Choice Based Lettings process

"Nominee" or "Nominees" means a person named in the Shortlist nominated by the Council to the Registered Provider who qualify for a tenancy in accordance with the Registered Provider's letting criteria (details of which have been provided to the Council prior to the date of such nominations) to be the tenant of an Affordable Dwelling(s) for Rent.

"Partner Organisation" or "PO" means each of the eight District and Borough Councils participating in the current Choice Based Lettings scheme

"Property" means the land [ ] shown edged red on the plan attached hereto

"Registered Provider" or "RP" means a Registered Provider of social housing within the meaning of Section 80(1) of the Housing and Regeneration Act 2008 and listed in the register kept by the Regulator under Chapter 3 of that Act

"Regulator" – Homes England (formerly the Homes and Communities Agency) or any body that replaces its role as regulator of Registered Providers

"Section 106 Agreement" means the Section 106 Agreement to which this Nominations Agreement is appended

"Shortlist" means the list of applicants (as may be updated from time to time) to be supplied by the Council in line with the Allocation Policy and procedures giving the names of person(s) who the Council considers to be eligible for this size of property and have a local connection as set out in the Section 106 Agreement.

"Tenancy Agreement" means an introductory/probationary tenancy, assured shorthold, assured or secure tenancy agreement in a form prepared by the Registered Provider and in line with an approved policy that meets the requirements of the Regulator.

"Vacancy Notice" means a written notice given by the Registered Provider to the Council the function of such notice being the notification to the Council by the Registered Provider that the construction and fitting out of the Affordable Dwelling(s) for Rent is completed and the Affordable Dwelling(s) for Rent is ready to be advertised through choice based letting or let through any subsequent agreed letting procedure. The notice shall be in a form agreed by the parties.

"Void" means an Affordable Dwelling(s) for Rent which is vacant otherwise than as a result of the tenant having

(a) Moved to other accommodation either by transfer or decant provided by the Registered Provider; or

(b) Moved to other accommodation under a reciprocal arrangement provided by another Registered Provider registered with the Regulator under the Housing Act 1996 or Housing and Regeneration Act 2008

"Void Notice" means a written notice given by the Registered Provider to the Council the function of such notice being the notification to the Council by the Registered Provider that the Affordable Dwelling(s) for Rent is available to be advertised through Choice Based Lettings or let through any subsequent agreed letting procedure. The notice shall be in a form agreed by the parties.



## **2 Enabling Provisions**

This Agreement is made pursuant to Section 111 of the Local Government Act 1972 Section 33 (1)(b) of the Local Government (Miscellaneous Provisions) Act 1982 and Section 1 of the Localism Act 2011 and all other enabling powers

## **3 Procedure**

The parties agree that the Registered Provider shall give the Council nomination rights for each and every Initial Let and Void and the following procedure shall apply to the nomination of persons in respect of the Affordable Dwellings(s) for Rent.

### **3.1 Initial lets**

- 3.1.1 The Registered Provider shall give the Council not less than 4 months' written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation
- 3.1.2 The Registered Provider shall serve a Vacancy Notice on the Choice Based Lettings system detailing the date available for Occupation in respect of the Affordable Dwelling(s) for Rent at the point when it wishes the Affordable Dwelling(s) for Rent to be advertised. This will be in line with agreed advertising cycles which form part of the Allocation Policy.
- 3.1.3 The Council shall arrange for the Affordable Dwelling(s) for Rent to be advertised. Within 2 Working Days of the bidding cycle closing the Council shall serve upon the Registered Provider a Shortlist. The Nominees will be prioritised in line with their housing need and banding priority and effective date. The Council may agree to delegate the shortlisting to the Registered Provider and as required, verification of relevant applicant information.
- 3.1.4 The Shortlist to be served by the Council under clause 3.1.3 shall:
  - i. Specify the appropriate category of Affordable Dwelling(s) for Rent, and
  - ii. Indicate the priority for the housing of the persons named and any other relevant information using a standard pro-forma document via a generic e-mail address to the Council's Choice Based Lettings scheme
- 3.1.5 Upon the properties being ready to let the Registered Provider shall within five (5) Working Days of the date of receipt of the Shortlist select a Nominee from the Shortlist taking into account the priority in the order given for housing indicated by the Council and shall use its reasonable endeavours to arrange a viewing of the Affordable Dwelling(s) for Rent and offer a Tenancy Agreement to such selected Nominee subject

to any final checks as agreed in line with the Council's Allocation Policy and the Registered Provider's letting criteria

- 3.1.6 If the selected Nominee fails to accept the offer of a tenancy within one (1) Working Day of receipt of the Registered Provider's offer such selected Nominee shall be deemed to have rejected the Registered Provider's offer and the Registered Provider shall select and make an offer to another Nominee by repeating the procedure set out in clause 3.1.5
- 3.1.7 If the second selected Nominee fails to enter into a Tenancy Agreement within one (1) Working Day of receipt of the Registered Provider's offer then such second selected Nominee shall be deemed to have rejected the Registered Provider's offer and the Registered Provider shall select and make an offer to a third Nominee by repeating the procedure set out in clause 3.1.5
- 3.1.8 If such third selected Nominee fails to enter into a Tenancy Agreement within one (1) Working Day of receipt of the Registered Provider's offer then the Registered Provider will request a further Shortlist from the District Council and the District Council will supply this within three (3) Working Days.
- 3.1.9 If the District Council is unable to supply any further Nominees the Registered Provider will request that the Affordable Dwelling(s) for Rent is re-advertised and the procedures set out in 3.1.3–3.1.8 are complied with

#### **4. Voids**

- 4.1 Should an Affordable Dwelling(s) for Rent become a Void after the Initial Let or the Registered Provider has reasonable cause to believe it will become a Void then and in each case the procedures set out in 3.1.2 – 3.1.9 shall apply except 3.1.2 which shall refer to Void Notice rather than Vacancy Notice in addition to 4.1.1:
- 4.1.1 The Registered Provider shall give the Council not less than 1 months written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation

#### **5. Provision of information and alteration of lists**

- 5.1 The Registered Provider shall give notification to the Council of the following events within (2) Working Days of their occurrence:
- i. a Nominee failing to view an Affordable Dwelling(s) for Rent when a viewing has been arranged



- ii. a Nominee failing to accept the offer of a Tenancy Agreement within the time limit prescribed by this Nomination Agreement
- iii. a Nominee accepting an offer of a Tenancy Agreement
- iv. Registered Provider rejecting a Nominee in accordance with Clause 5.3

5.2 Arrangements for notification to the Council will be set out in the Council's approved Allocation Policy

5.3 The Registered Provider shall have the right to interview and make enquiries of each Nominee and by serving written notice upon the Council to that effect to reject any Nominee if in the opinion of the Registered Provider the grant of an assured tenancy to such Nominee would be in contravention of the Registered Provider's registered rules or its letting criteria. The Registered Provider is required to make decisions without influence from third parties.

5.4 The Council shall notify the Registered Provider in writing of any Nominee that is withdrawn from the Shortlist

5.5 The Registered Provider must ensure that they handle all information in line with the current Data Protection Act 1998 and future general data protection regulations and procedures and the requirements of the Councils' Allocation Policy

5.6 The Council and the Registered Provider agree that the nominations rights contained in this Nomination Agreement may be varied from time to time by agreement in writing by the parties

## **6. Notices**

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above or such other address notified by one party to the other and any notice shall be deemed to have been served 2 Working Days after posting

## **7. Chargee**

### **Provisions**

The provisions in this Agreement shall not be binding on a Chargee PROVIDED THAT:

- a) The Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwelling(s) for Rent ("the RP Notice"); and
- b) if the Council provides written notice to the Chargee within four weeks of receipt of the RP Notice that acceptable arrangements can be made for the transfer of the

Affordable Dwelling(s) for Rent to either the Council or another Registered Provider within three calendar months of the date of the RP Notice the Chargee shall use reasonable endeavours over that period to complete a disposal of the Affordable Dwelling(s) for Rent to another Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies interest and costs and expenses

- c) if the Council does not serve the notice referred to in paragraph b) within the four week period referred to or if such disposal has not completed within the three month period the Chargee shall be entitled to dispose of the Affordable Dwelling(s) for Rent free of the restrictions set out in this Nomination Agreement

PROVIDED THAT at all times the rights and obligations in this clause shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council shall give full consideration to protecting the interest of the Chargee in respect of monies outstanding under the charge or mortgage.



## **8. Transfer to other Registered Providers**

- 8.1 The Registered Provider shall provide notice to the Council within five (5) Working Days of any transfer of the Affordable Dwelling(s) for Rent to a Registered Provider
- 8.2 The Registered Provider shall use its reasonable endeavours to procure that any Registered Provider to which the Affordable Dwelling(s) for Rent effected thereon are transferred otherwise than by direction of the Regulator under its statutory powers shall enter into a similar agreement mutatis mutandis with the Council simultaneously on completing the transfer of the Property

## **9. Disputes**

Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the determination of a single expert to be agreed between the parties or in default of agreement to be nominated by or on behalf of the President for the time being of the Chartered Institute of Housing on the application of either party

## **10. Costs**

The Registered Provider agrees with the Council to pay the reasonable legal costs which the Council incurs in preparing and entering into this Nomination Agreement and the Council's reasonable costs to cover the nominations procedure. Any changes to current charges will be negotiated with all landlords who are required to let their properties in line with the District Council's allocation and letting policy and procedures

## **11. Agreements and Declarations**

- 11.1 Nothing in this Nomination Agreement fetters or restricts the exercise by the District Council of any of its powers
- 11.2 The obligations contained in this Nomination Agreement are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 section 33

## **12. Third Party Rights**

No provisions of this Nomination Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

In witness whereof the parties have executed this Nomination Agreement on the day and year first before written

**THE COMMON SEAL of**

was affixed in the presence of:-

Director

Secretary

**THE COMMON SEAL of EAST SUFFOLK  
COUNCIL**

was affixed

In the presence of:-

Authorised signatory

DRAFT



## Appendix A

### Nomination Agreement

## Appendix B

### Local Connections Cascade

#### **1. Affordable Dwellings for Rent**

- 1.1 The Affordable Dwellings for Rent are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it to be in need of such accommodation and unable to compete in the normal open market for property. Before nominating an applicant the Council will be satisfied that the applicant
- (a) Has continuously lived in Kettleburgh for the preceding 5 years, OR
  - (b) Has continuously had a place of work in Kettleburgh for the preceding 5 years OR
  - (c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in Kettleburgh for the preceding 5 years, OR
  - (d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from Kettleburgh
- 1.2 If there are no persons who qualify under paragraph 1.1 the Affordable Dwellings for Rent shall be allocated to person nominated by the Council who:
- (a) Has continuously lived within 10 miles of the Site for the preceding 5 years, OR
  - (b) Has continuously had a place of work within 10 miles of the Site for the preceding 5 years OR
  - (c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within 10 miles of the Site for the preceding 5 years, OR
  - (d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from within 10 miles of the Site
- 1.3 If there are no persons who qualify under paragraphs 1.1 and 1.2 above the Affordable Dwelling shall be re-advertised to the East Suffolk District and where after re-advertising there are no persons who qualify under the paragraphs above the Affordable Dwelling shall be allocated to a person nominated by the Council who is considered by it to be in need of such accommodation and who is unable to compete in the normal open market for property in East Suffolk
- 1.4 Where there is a mutual exchange the Registered Provider may let the Affordable Dwelling to any incoming tenant who satisfies the local connection criteria at paragraph 1.1 to 1.3 above



**2. Affordable Dwellings for sale**

2.1 On advertising each and every sale of a Shared Ownership Dwelling or First Home the Dwelling shall be marketed for sale for the first 3 months to persons who:

- (a) Have continuously lived within Kettleburgh for the preceding 5 years, or
- (b) Have continuously had a principal place of work within Kettleburgh for the preceding 5 years, or
- (c) Have parents or close family (i.e mother, father, son or daughter) who are over 18 and who have lived within Kettleburgh for the preceding 5 years, or
- (d) Due to the lack of suitable accommodation were forced within the preceding 5 years to move away from Kettleburgh

PROVIDED THAT if after 2 months of marketing no offer has been received from person who comply with 2.1a-d the Dwelling may be sold to person who comply with 2.2a-d

2.2 On advertising subsequent Disposals of a Shared Ownership or First Home the Dwelling shall be marketed for sale for the first 3 months to persons who:

- (a) Have continuously lived within the East Suffolk District for the preceding 5 years, or
- (b) Have continuously had a principal place of work within the East Suffolk District for the preceding 5 years, or
- (c) Have parents or close family (i.e mother, father, son or daughter) who are over 18 and who have lived within the East Suffolk District for the preceding 5 years, or
- (d) Due to the lack of suitable accommodation were forced within the preceding 5 years to move away from the East Suffolk District

2.3 If there are no purchasers who qualify under paragraph 2.1 and 2.2 above within 3 months of marketing the Affordable Dwelling it may be sold free of Local Connections restrictions