

DATE

19<sup>th</sup> february

2025

**(1) EAST SUFFOLK COUNCIL**

**and**

**(2) SUFFOLK COUNTY COUNCIL**

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

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relating to

**Land at Seaman Avenue, Saxmundham, Suffolk, IP17 1DZ  
(Planning Application: DC/22/2465/FUL)**

Suffolk County Council  
Endeavour House  
8 Russell Road  
Ipswich  
IP1 2BX

DATE

19<sup>th</sup> February

2025

**PARTIES:**

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House, Station Road, Melton, Woodbridge, Suffolk, IP12 1RT (the "**Council**")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (the "**Owner**" and, if and when it has parted with all interests in the Site, the "**County Council**")

hereinafter collectively known as "the Parties"

**INTRODUCTION**

1. The Council is a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable and because the County Council is also the Owner of the Site is entering into this Deed to act as Enforcing Authority of the obligations contained in this Deed until such time as the County Council parts with all interests in the Site.
2. The Owner is the freehold owner of the Site which is registered at HM Land Registry under title number SK305772. The ownership and other interests in the Site are as set out in the First Schedule.
3. The Owner has submitted the Application to the Council for the Development and the Council has resolved to grant planning permission for the Development pursuant to the Application subject to the prior completion of this Agreement intended to regulate the Development and to secure the planning obligations contained in this Agreement

4. The Owner warrants to the Council that it has full power to enter into this Agreement, and that there is no other person having a charge or an interest in the Site of Development

5. The Owner (as County Council) is also the local planning authority, and the local education authority for Suffolk and by whom the obligations contained in this Agreement relating to those matters shall be enforceable if and when it parts with all interests in the Site.

6. The Council enters into this Agreement content that the requirements of the Council's policies are met and that any objections by the Council to the grant of planning permission on the basis of those policies are overcome.

7. The Council considers, and the Owner acknowledges that the Development should not proceed unless certain requirements regulating the use of the Site imposed in the matter hereinafter appearing and pursuant to Section 106 of the 1990 Act the Parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement.

8. The Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)

#### **NOW THIS DEED WITNESSES AS FOLLOWS:**

##### **1. DEFINITIONS**

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

"Act"	the Town and Country Planning Act 1990 (as amended)
"Application"	the application for planning permission to develop the Site validated by the Council on 4 <sup>th</sup> October 2022 and bearing the Council's reference number DC/22/2465/FUL
"BCIS Index"	the All In Tender Price Index published by the Building Cost Information Service or any successor organisation or (if that index shall

"BCIS Indexed"	<p>cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Parties hereto</p> <p>the increase in any sum referred to in the Second Schedule and the Third Schedule by an amount equivalent to the increase in the BCIS Index to be calculated in accordance with Clause 11 of this Deed</p>
"Chargee"	<p>any mortgagee or chargee of the Registered Provider or the owner of the Affordable Housing Units or any receiver or manager (including 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 (however appointed) including a housing administrator</p>
"Commencement of Development"	<p>the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance demolition work archaeological investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and lay of services erection of any temporary means of enclosure the temporary display of site notices or advertisements and "Commenced" and "Commence Development" shall be construed accordingly</p>
"Completion of Development"	<p>the date that the last Dwelling is first Occupied</p>
"County Council Contributions"	<p>the Early Years Contribution, the Primary School Contribution, the Primary School Land Contribution, and the Secondary School Transport Contribution a"</p>
"Development"	<p>the development of the Site in accordance with the Planning Permission</p>

"Dwelling"	a dwelling (including a house flat or bungalow and including both Market Dwellings and Affordable Dwellings to be constructed pursuant to the Planning Permission and "Dwelling" and "Dwellings" shall be construed accordingly
"Early Years Contribution"	sixty nine thousand nine hundred and ninety two pounds (£69,992) BCIS Indexed
"Enforcing Authority"	Means the Council until such time as the County Council ceases to have any ownership in the Site after which it means the Council and the County Council;
"Late Payment Interest"	interest at four (4) per cent above the base lending rate of the Bank of England from time to time
"Occupation"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupied and "Occupy" shall be construed accordingly
"Market Dwellings"	those Dwellings on the Outline Phase that are not Affordable Housing Units
"Outline Phase"	the phase of the Planning Permission granted outline consent for 17 Dwellings
"Planning Permission"	the hybrid planning permission subject to conditions as may be granted by the Council pursuant to the Application and subsequent planning permissions for the Development granted pursuant to Section 73 of the Act
"Primary School Contribution"	One hundred and thirty nine thousand, nine hundred and eighty four pounds (£139,984) BCIS Indexed
"Primary School Land Contribution"	Five thousand, one hundred and seventy-six pounds (£5176) RPI Indexed

"RPI Index"	means the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics from time to time or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be reasonably agreed between the Parties
"RPI Indexed"	the increase in any sum referred to in the Second Schedule and the Third Schedule by an amount equivalent to the increase in the RPI Index to be calculated in accordance with Clause 11 of this Deed
"Secondary School Transport Contribution"	Fourteen thousand and fifty pounds (£14,050) RPI Indexed
"Site"	the land forming part of land registered with the Land Registry under title number SK 305772 shown edged red on the Site Plan
"Site Plan"	the plan attached to the First Schedule of this Deed
"Working Days"	Monday to Friday (inclusive) except Good Friday Christmas Day and public or bank holidays from time to time in England

## **2. CONSTRUCTION OF THIS DEED**

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



- 2.5 Any reference to an Act of Parliament shall include any modification extension or re-enactment of that Act for the time being in force and shall include all instruments orders plans regulations permissions and directions for the time being made issued or given under that Act or deriving validity from it
- 2.6 References to any party to this Deed shall include the successors in title to that party the personal representatives of that party and any party deriving title through or under that party and in the case of the Council and or the County Council the successors to their respective statutory functions
- 2.7 Where this Deed requires a plan or strategy or other document to be submitted to the Council or the County Council for approval or agreement then upon approval of the same it shall be deemed to have been incorporated into this Deed and the same shall apply to any provision requiring a review of any such plan or strategy or other document
- 2.8 The headings are for reference only and shall not affect construction
- 2.9 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation not to knowingly permit or suffer such act or thing to be done by another person

### **3. LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers
- 3.2 The covenants restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council and the County Council as local planning authorities against the Owner and their successors in title
- 3.3 This Deed shall only be capable of being varied by a supplemental deed between the Parties hereto or their respective successors in title or assigns made under section 106A of the Act

### **4. CONDITIONALITY**

- 4.1 This Deed is conditional upon:
- 4.1.1 the grant of the Planning Permission and
- 4.1.2 the Commencement of Development

SAVE FOR the provisions of this clause and clauses 8.3 8.4 8.5 8.6 8.10 10 13 14 15 19 and 20 and any other relevant provisions which shall come into effect immediately upon completion of this Deed

4.2 Where the Planning Permission is the subject of any judicial review proceedings or other legal challenge:

4.2.1 until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Deed will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development PROVIDED THAT the Owner shall not undertake any further works to implement the Planning Permission following the issue of such proceedings

4.2.2 if following the conclusion of such proceedings or challenge the Planning Permission is quashed and is not superseded by a subsequent planning permission accepted by the Owner this Deed will cease to have any further effect and

4.2.3 if following the conclusion of such proceedings or challenge the Planning Permission remains valid and fully enforceable all of the terms and provisions of this Deed will apply in full

4.3 Wherever in this Deed reference is made to a date on which "legal proceedings or challenge in relation to the Planning Permission are concluded" (or cognate expressions are used) the following provisions will apply:

4.3.1 proceedings by way of judicial review are concluded:

4.3.1.1 when permission to apply for judicial review has been refused and no further application can be made

4.3.1.2 when the court has given judgement in the matter and the time for making an appeal expires without any appeal having been made or permission to appeal is refused or

4.3.1.3 when any appeal(s) is or are finally determined

4.3.2 proceedings under Section 288 of the Act are concluded:

4.3.2.1 when the court has given judgement in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused or

4.3.2.2 when any appeal(s) is or are finally determined



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**5. THE OWNER'S COVENANTS**

- 5.1 The Owner covenants with the Enforcing Authority as set out in the Second Schedule so as to bind the Site and each and every part thereof.

**6. THE COUNCIL AND COUNTY COUNCIL'S COVENANTS**

- 6.1 The Council covenants with the Owner as set out in the Fourth Schedule
- 6.2 The County Council covenants with the Owner as set out in the Fifth Schedule
- 6.3 The County Council covenants with the Enforcing Authority so as to bind itself and its successors in title to observe and perform the obligations contained in this Deed.

**7. THE ENFORCING AUTHORITY COVENANTS**

- 7.1 The Enforcing Authority covenants with the County Council to comply with its obligations contained in this Deed.

**8. MISCELLANEOUS**

- 8.1 The Owner shall act in good faith and shall co-operate both with the Council and the County Council (when acting as Enforcing Authority pursuant to the terms of this Agreement) to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests either of the Council and or the County Council and their duly authorised officers or agents to have access to any part or all of the Site or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein
- 8.2 The Owner agrees declares and covenants both with the Council and the County Council that they shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this agreement and further shall indemnify the Council and the County Council (when acting as Enforcing Authority pursuant to the terms of this Agreement) for any expenses or liability arising to the Council and the County Council in respect of breach by the Owner of any obligation contained herein save to the extent that any act or omission of the Council or the County Council its employees or agents has caused or contributed to such expenses or liability

- 8.3 The Owner agrees declares and covenants to pay to the Council on completion of this Deed the proper and reasonable legal costs of the Council incurred in the negotiation preparation and execution of this Deed on or before completion of this Deed
- 8.4 The Owner further agrees declares and covenants to pay to the Council One Thousand Seven Hundred and Eighty pounds (£1780) and to pay the County Council five hundred and nineteen pounds (£519) on or before completion of this Deed towards the costs of reporting and monitoring the obligations contained in this Deed
- 8.5 No provision of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 8.6 This Deed shall be registered as a local land charge by the Council
- 8.7 Where an approval consent or expression of satisfaction or a subsequent deed is required by the Owner from either the Council or County Council under the terms of this Deed such approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such consent approval or expression of satisfaction shall be given on behalf of the Council by Head of Planning, Building Control and Coastal Management or officer acting under his/her hand and on behalf of the County Council by the Executive Director of Growth Highways and Infrastructure or duly appointed successor or officer acting under his/her hand
- 8.8 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.9 Insofar as any clause or other provision of this Deed is found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed
- 8.10 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or expires by effluxion of time for the Commencement of the Development or is modified (without the consent of the Owner) and the Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this Deed
- 8.11 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 (or part where such breach occurs) but without prejudice to liability for any subsisting breach arising prior

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

- 8.12 Save for the obligations contained within paragraph 2 to the Second Schedule of this Deed which shall continue to be binding and enforceable against individual purchasers, owners, occupiers, lessees or their mortgagees of the Affordable Dwellings subject to the provisions contained therein the covenants, restriction and requirements contained in this Deed shall not be enforceable against:

8.12.1 Individual purchasers or lessees of Dwellings constructed on the Site pursuant to the Planning Permission or their mortgagees (except in respect of First Homes in Paragraph 2 of the Second Schedule) where (in relation to a breach) that breach occurs after that individual purchaser or lessee has completed the purchase or lease of the Dwelling or has entered into a binding contract for such purchase or lease; and

8.12.2 Any statutory undertaker or other person who acquires any part of the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications or highways in connection with the Development of the Site

- 8.13 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed

- 8.13 The Owner agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of the Deed are hereby waived

- 8.14 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner and at no cost to either the Council or the County Council

- 8.14 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions functions powers duties and obligations of the Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority

- 8.15 The Owner covenants and warrants to the Council and the County Council that they have full power to enter into this Deed and there is no other person having a charge over or any other interest in the Site whose consent is necessary to make this Deed binding on the Site and all estates and interests therein

- 8.16 If and when the County Council parts with all interests in the Site the County Council shall be the Enforcing Authority in respect of the County Council Contributions and any payments due in respect of the County Council Contributions shall be payable to the County Council.
- 8.17 The Council shall transfer any of the County Council Contributions or part thereof together with any Late Payment Interest that it receives pursuant to this Agreement to the County Council within reasonable delay.
- 8.18 In the event that any new planning applications are made in respect of the Development pursuant to section 73 or section 73B (as inserted into the Act by s110(2) of the Levelling-up and Regeneration Act 2023 in the event that it comes into force) of the Act then with effect from the date that such new planning permission is granted pursuant to section 73 or section 73B of the Act ("Section 73 Consent")
- 8.19 The obligations of this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of the Section 73 Consent; and
- 8.20 The definitions of Development Application and Planning Permission shall be assumed to include references to any applications made pursuant to sections 73 or 73B 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 applications under sections 73 or 73B 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 sections 73 or 73B 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; and
- 8.21 To the extent that any of the obligations in this Deed have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent

## **9. WAIVER**

No waiver (whether expressed or implied) by the Council the County Council or the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council the County Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

## **10. CHANGE IN OWNERSHIP**



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

## **11. INDEXATION**

All sums referred to in the Second Schedule and the Third Schedule (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the BCIS Index or RPI Index (as the context applies) 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:

- 11.1 A is the sum payable under this Deed
- 11.2 B is the original sum calculated as the sum payable
- 11.3 C is the BCIS Index or RPI Index (as relevant) for the month two (2) months before the date on which the sum is payable
- 11.4 D is the BCIS Index or RPI Index (as relevant) for the month two (2) months before the date of this Deed and
- 11.5 C/D is greater than 1

## **12. INTEREST**

If any payment due under this Deed is not paid on time Late Payment Interest will be payable from the date payment is due to the date of payment

## **13. VAT**

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

## **14. NOTICES**

- 14.1 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this Deed shall be deemed to have been validly served or given if delivered by

hand or sent by first class recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing PROVIDED THAT the notice or other written communication is addressed and delivered or sent by first class recorded delivery post to the address of the party concerned as nominated in clause 14.2.

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

The Council	Head of Planning, Building Control and Coastal Management, East Suffolk House Station Road Melton Woodbridge Suffolk IP12 1RT
The County Council/The Owner	The Executive Director of Growth Highways and Infrastructure (or a duly appointed successor) Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX

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

- 14.4 The Owner covenants to inform the Council and the County Council by way of written notice within seven (7) Working Days following:

- 4.4.1 Commencement of Development
- 4.4.2 Occupation of the first (1st) Dwelling
- 4.4.3 Occupation of tenth (10th) Dwelling
- 4.4.4 Completion of Development

## **15. DISPUTE RESOLUTION**

- 15.1 Any dispute or difference of any kind whatsoever arising between any or all of the Parties out of or in connection with this Deed (including without limitation any question regarding its existence validity or termination) which cannot be resolved by prior agreement between the parties to the dispute ("the Dispute Parties") shall be referred to arbitration before a single Expert (the "Expert")



- 15.2 The Dispute Parties shall jointly appoint the Expert not later than twenty-eight (28) days after service of a request in writing by either Party to do so
- 15.3 If the Dispute Parties are unable to agree within twenty-eight (28) days as to the appointment of such Expert then the Expert shall be appointed on the application of any of the Dispute Parties as follows:
- 15.3.1 if the difference or question relates to the rights and liabilities of any Dispute Party or to the terms or conditions to be embodied in the Deed or document appertaining to the Deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society
- 15.3.2 if the difference or question relates to highway works engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers
- 15.3.3 if the difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Dispute Parties but in default of agreement appointed at the request of any Dispute Party by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors or
- 15.3.4 if such difference or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Dispute Parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute
- 15.4 In the event of a reference to arbitration the Dispute Parties agree to:
- 15.4.1 prosecute any such reference expeditiously and
- 15.4.2 do all things or take all steps reasonably necessary in order to enable the Expert to deliver any award (interim, final or otherwise) as soon as reasonably practicable
- 15.4.3 The Expert will have the power to consolidate proceedings or hold concurrent proceedings and to order on a provisional basis any relief which he would have power to grant on a final award
- 15.5 The award shall be in writing signed by the Expert and shall be finalised within fourteen (14) days of the hearing
- 15.6 The award shall be final and binding both on the Dispute Parties and on any persons claiming through or under them and judgment upon the award may be entered in any court having jurisdiction or

application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be

15.4 Unless this Deed has already been terminated the Parties shall in every case continue to comply with their obligations under this Deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this clause but without prejudice to the rights and obligations of the Parties in relation to the termination of the Deed

15.7 The provisions of this clause shall not affect the ability of the Council or County Council to apply for and be granted any of the following: declaratory relief injunction specific performance payment of any sum damages and any other means of enforcing this Deed and consequential and interim orders and relief

## **16. SATISFACTION OF ANY OF THE PROVISIONS OF THIS DEED**

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

## **17. APPROVALS**

Where any matters are approved by the Council under the terms of this Deed further amendments thereof if approved by the Council shall replace those previously approved

## **18. COMMUNITY INFRASTRUCTURE LEVY**

The Parties to this Deed agree that for the purposes of the Community Infrastructure Levy Regulations 2010 the obligations imposed in this Deed are (a) necessary to make the Development permitted pursuant to the Application acceptable in planning terms (b) directly relate to the Development permitted pursuant to the Application and (c) fairly and reasonably relate in scale and kind to the Development permitted pursuant to the Application

## **19. LAND OUTSIDE THE OWNER'S CONTROL**

Nothing in this Agreement shall require the performance of any obligation whatsoever in, over or under land outside the ownership and control of any Party to this Agreement.

## **20. JURISDICTION**

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

**21. DELIVERY**

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

**In witness whereof the Parties hereto have executed this deed on the day and year first before written**

THE COMMON SEAL of  
**EAST SUFFOLK COUNCIL**  
was hereunto affixed to this deed  
in the presence of:

[Redacted Signature]

Authorised Signatory

[Redacted Name]



**COMMON SEAL OF  
SUFFOLK COUNTY COUNCIL**

was affixed in the presence of:

Authorised Officer

[Redacted Signature]



## **FIRST SCHEDULE**

The Land shown for identification purposes edged red on the Site Plan comprising the Owner's land forming part of land registered with the Land Registry under title number SK305772

## **SITE PLAN**



## Location plan

**Project:**

Proposed Development,  
Seaman Avenue, Saxmundham

**Client:**

Onwell Housing Association

**Drwg:** 201682 Loc

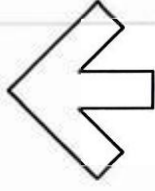
**Revision:**

**Date:** March 2022

**Scale:** 1:1250 @A4

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NORTH



The Studio  
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Bury St Edmunds  
Suffolk IP32 7AR

Tel: 01284 756166

Email: [rp@reespryer.co.uk](mailto:rp@reespryer.co.uk)

**Rees  
Pryer**

ARCHITECTS





## SECOND SCHEDULE

### THE OWNER COVENANTS WITH THE COUNCIL:

#### AFFORDABLE HOUSING UNITS

##### 1. Definitions

**"100% Staircaser"** Means a lessee of a Shared Ownership Dwelling or a under a Shared Ownership Lease who has exercised their right under that lease to purchase 100% of the equity in the Shared Ownership Dwelling or the owner of a Shared Equity Dwelling who has exercised their right to purchase the remaining equity;

**"Additional First Homes Contribution"** means in circumstances where a sale of a First Home other than as a First Home has taken place in accordance with paragraphs 2.9, 2.23 or 2.24 of this 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 Homes Owner as a result of the Disposal of the First Home other than as a First Home;

**"Affordable Dwellings"** Means 1 in 3 of the Dwellings on the Outline Phase to be made available as Affordable Housing and in accordance with the Affordable Housing Mix;

<b>"Affordable Dwellings for Rent"</b>	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) and within local housing allowance rates, or as otherwise agreed with the Council in writing;
<b>"Affordable Housing"</b>	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);
<b>"Affordable Housing Contribution"</b>	means a proportionate sum (BCIS Indexed) calculated in accordance with the Affordable Housing Commuted Payment Schedule appended to this Deed at Appendix 2 as a contribution in lieu of the full policy requirement for onsite Affordable Housing where there is a shortfall of a fraction of an Affordable Dwelling to be used towards the provision of Affordable Housing through the acquisition of land or the construction or development of new properties or the purchase or refurbishment of existing market properties in East Suffolk;
<b>"Affordable Housing Mix"</b>	Means the mix of house types and tenures which shall comprise 50% Affordable Dwellings for Rent, 25% Shared Ownership Dwellings and 25% First Homes unless otherwise agreed with the Council
<b>"Affordable Housing Scheme"</b>	<p>A scheme to be submitted for the provision of the Affordable Dwellings generally in accordance with the Affordable Housing Mix unless otherwise agreed with the Council such Affordable Housing Scheme shall include details of;</p> <ul style="list-style-type: none"> <li>- the timescale and programme for implementation of the Affordable Housing Scheme and construction of the Affordable Dwellings;</li> <li>- the name and registration number of the Registered Provider, where known;</li> </ul>

- a plan and schedule indicating the number, location, tenure, plot numbers, type and size (including number of occupants each dwelling can house) of Affordable Dwellings allocated to the Affordable Housing Scheme;
- full details of the Affordable Housing mix (such proposal to reflect the Council's up to date strategic housing market assessment and specific local needs as determined and agreed by the Council);
- such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme;

**"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;

**"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 unless paragraph 2.17 applies the Eligibility 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 of a First Home in accordance with paragraphs 2.16 - 2.32

(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

**"Eligibility Criteria  
(Local)"**

(c) an Exempt Disposal

and "Dispose" and "Disposed" and "Disposing" shall be construed accordingly;

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

(a) the 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/or

(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 purchase each 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; 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;

**"Eligible Person"**

**"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

	<p>(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</p> <p>(d) Disposal to a trustee in bankruptcy prior to sale of the relevant Dwelling (and for the avoidance of doubt paragraph 2.18 shall apply to such sale)</p> <p>Provided that in each case other than (d) the person to whom the Disposal is made complies with the terms of paragraph 2;</p>
<b>"First Home"</b>	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;
<b>"First Homes Owner"</b>	<p>means the person or persons having the freehold or leasehold interest (as applicable) in a First Home other than:</p> <p>(a) a 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</p> <p>(b) the freehold a tenant or sub-tenant of a permitted letting under paragraph 2</p>
<b>"First Time Buyer"</b>	means a first time buyer as defined by paragraph 6 of Schedule 6ZA to the Finance Act 2003;
<b>"Homes England"</b>	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;



<b>"Local Connections Cascade"</b>	The local connections criteria to be applied to each and every let or sale of an Affordable Dwelling as set out in Appendix 1;
<b>"Market Value"</b>	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;
<b>"Mortgagee"</b>	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;
<b>"Nomination Agreement"</b>	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 B;
<b>"Occupation" and "Occupied"</b>	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;
<b>"Price Cap"</b>	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;
<b>"Protected Person"</b>	Means any person who: <ul style="list-style-type: none"> <li>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) in respect of a particular Affordable Dwelling;</li> <li>b) has exercised any statutory right to buy or preserved right to buy (or any equivalent</li> </ul>



	contractual right) 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 mortgagee protection provisions within that Shared Ownership Lease;
<b>"Qualifying Persons"</b>	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);
<b>"Reasonable Consideration"</b>	Offer prices from Registered Providers which give the Owners 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;
<b>"Registered Provider" or "RP"</b>	For the purposes of this Deed means either: - <ul style="list-style-type: none"> <li>- 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;</li> <li>- 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;</li> <li>- 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;</li> </ul>

<b>"Sales Procedure"</b>	to be approved in writing by the Council; Means the procedure to be approved in writing by the Council to verify the Market Value and eligibility of purchasers in relation to the Shared Equity Dwellings and Discount Market Sale Dwellings;
<b>"SDLT"</b>	means Stamp Duty Land Tax as defined by the Finance Act 2003 or any tax replacing it of like effect;
<b>"Secretary of State"</b>	means the Secretary of State for Levelling Up, Housing and Communities from time to time appointed and includes any successor in function;
<b>"Shared Ownership Dwellings"</b>	Means those Dwellings purchased on a Shared Ownership Lease;
<b>"Shared Ownership Lease"</b>	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: <ul style="list-style-type: none"> <li>i. 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;</li> <li>i. power to the purchaser to increase their ownership up to 100%;</li> <li>i. an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Consumer Prices Index (CPI) published by the Office for National Statistics (or if such index ceases to be published such other index the Council shall reasonably determine) plus 1% or such other rent as complies with the requirements from time to time of Homes England;</li> </ul>
<b>"Valuer"</b>	means a Member or Fellow of the Royal Institution of Chartered Surveyors being a Registered Valuer acting in an independent capacity;

## 2. AFFORDABLE HOUSING

- 2.1 The Owner covenants not to Commence Development of the Outline Phase until the Affordable Housing Scheme has been agreed in writing with the Council.
- 2.2 The Owner covenants that no more than 40% of the Market Dwellings shall be Occupied until the Affordable Housing Contribution (if payable) has been paid to the Council.
- 2.3 The Owner covenants that no more than 40% of the Market Dwellings shall be Occupied (save unless otherwise 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).
- 2.4 The Owner covenants that no more than 40% of the Market Dwellings shall be Occupied (save unless otherwise 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 Dwellings to be sold directly by the Owner) unless otherwise agreed in writing with the Council.
- 2.5 The Owner covenants that no more than 60% of the Market Dwellings shall be Occupied until the Affordable Dwellings have been constructed in accordance with the Planning Permission made ready for residential Occupation and either transferred to a Registered Provider or marketed for sale to First Time Buyers in accordance with the terms of this Deed.
- 2.6 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 Qualifying Persons or First Time Buyers in accordance with the Affordable Housing Scheme subject however to the provisions herein.
- 2.7 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.

- 2.8 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.
- 2.9 If after three calendar months of handover of the Affordable Dwellings to the RP there remains any Affordable Dwellings not leased or sold and the RP can provide evidence to the Council's satisfaction there are no prospective occupants the RP 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 (July 2021) (or any amended or subsequent national planning policy that may be published by the Government from time to time).
- 2.10 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.
- 2.11 The Affordable Housing obligations in this Schedule X shall not apply to any Mortgagee or Chargee (or 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 a 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:
- 2.11.1 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 Dwelling[s] 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

- 2.11.2 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
- 2.11.3 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
- 2.11.4 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 2.11.5 at its full Market Value
- 2.11.5 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 principal monies, interest and reasonable costs and expenses pay to the Council the Additional First Homes Contribution

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

- 2.12 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 Nomination Agreement has been entered into.
- 2.13 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 at Appendix 1).
- 2.14 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.

- 2.15 In the event 100% of a Shared Ownership Dwelling is purchased:
- 2.15.1 the net proceeds from the final sale of the Shared Ownership Dwelling are to be ringfenced by the RP 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 RP and allow the RP to purchase the Shared Ownership Dwelling back in the first instance at Market Value;
  - 2.15.2 in the event the RP purchases the Shared Ownership Dwelling in accordance with this clause at 2.15.1, the Shared Ownership Dwelling will be marketed as such subject to the terms of this Deed; and
  - 2.15.3 in the event the RP 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 this clause at 2.15.1, then the owner of the Shared Ownership Dwelling may sell it on the open market free from the terms of this Deed.

### **First Homes**

- 2.16 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).
- 2.17 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), paragraph 2.16 b shall cease to apply.
- 2.18 Subject to paragraphs 2.21 to 2.25, 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.



2.19 No First Home shall be Disposed of (whether on a first or any subsequent sale) unless and until:

2.19.1 the Council has been provided with evidence that:

2.19.1.1 the intended purchaser meets the Eligibility Criteria (National) and unless paragraph 2.17 applies meets the Eligibility Criteria (Local) (if any)

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

2.19.1.3 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 S106 Agreement a copy of which is attached hereto as the Annexure."

c. A definition of "S106 Agreement" means the agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated 2025 made between (1) the Council and (2) Suffolk County Council

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.

2.19.2 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 2.18 and 2.19.1 have been met.

2.20 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 estate (other than a charge) by the proprietor of the registered estate 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 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"*

2.21 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:

2.21.1 the Dwelling has been actively marketed as a First Home for six (6) months in accordance with Clauses 2.16 and 2.17 (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 2.18 and 2.19.1; or

2.21.2 requiring the First Homes Owner to undertake active marketing for the period specified in paragraph 2.21.1 before being able to Dispose of the Dwelling other than as a First Home would be likely to cause the First Homes Owner undue hardship

2.22 Upon receipt of an application served in accordance with paragraph 2.21 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.

2.23 If the Council is satisfied that either of the grounds in paragraph 2.21 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 2.21 that the relevant Dwelling may be Disposed of:

2.23.1 to the Council at the Discount Market Price; or

2.23.2 (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 2.25 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.

- 2.24 If the Council does not wish to acquire the relevant Dwelling itself and is not satisfied that either of the grounds in paragraph 2.21 above have been made out then it shall within twenty eight (28) days of receipt of the written request made in accordance with paragraph 2.20 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 2.20 following which the Council must within twenty-eight (28) days issue confirmation in writing that the Dwelling may be Disposed of other than as a First Home.
- 2.25 Where a Dwelling is Disposed of other than as a First Home in accordance with paragraphs 2.22 and 2.23 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.
- 2.26 Upon receipt of the Additional First Homes Contribution the Council shall:
- 2.26.1 within twenty-eight (28) Working Days of such receipt, provide a completed application to enable the removal of the restriction on the title set out in paragraph 2.19 where such restriction has previously been registered against the relevant title
  - 2.26.2 apply all monies received towards the provision of Affordable Housing.
- 2.27 Any person who purchases a First Home free of the restrictions in the Second Schedule of this Deed pursuant to the provisions in paragraphs 2.23 and 2.24 shall not be liable to pay the Additional First Homes Contribution to the Council.
- 2.28 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 2.29-2.32 below.
- 2.29 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.

2.30 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 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.

2.31 A letting or sub-letting permitted pursuant to paragraph 2.29 or 2.30 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.

2.32 Nothing in this paragraph 2 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.

- 2.33 An application fee will be payable on each and every application for a First Home in line with the Councils set charges for such applications

### **Part 3**

#### **HABITATS REGULATIONS MITIGATION**

##### **1. Definitions**

**“Habitats Regulations  
Mitigation Contribution”**

means the sum of Six Thousand Three Hundred and Sixty Two Pounds and 93 pence (£6,362.93) (BCIS Indexed) calculated using the Habitat Regulations Mitigation Contribution Calculation to be paid by the Owner to the Council 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

**“Habitats Regulations  
Mitigation Contribution  
Calculation”**

the sum of three hundred and seventy four pounds and twenty nine pence (£374.29) multiplied by the total number of new Dwellings proposed pursuant to the Planning Permission to calculate the Habitat Regulations Mitigation Contribution



1. The Owner covenants on or before Commencement of Development to pay to the Council the Habitats Regulations Mitigation Contribution
2. The Owner covenants not to Commence Development or cause or permit Commencement of Development until the Habitats Regulations Mitigation Contribution has been paid to the Council

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### **THIRD SCHEDULE**

#### **THE OWNER COVENANTS WITH THE COUNTY COUNCIL**

##### **1. COUNTY COUNCIL CONTRIBUTIONS**

- 2.1 To pay to the County Council the County Council Contributions prior to the tenth (10th) Occupation of the Dwellings
- 2.2 Not to Occupy or permit Occupation of more than nine (9) of the Dwellings until the County Council Contributions have all been paid to the County Council

## **FOURTH SCHEDULE**

### **THE COUNCIL COVENANTS WITH THE OWNER:**

The Council hereby covenants with the Owner as follows:

**1. ISSUE OF PLANNING PERMISSION**

- 1.1 The Council shall use reasonable endeavours to issue the Planning Permission within ten (10) Working Days following completion of this Deed

**2. DISCHARGE OF OBLIGATIONS**

- 2.1 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

**3. HABITATS REGULATIONS MITIGATION CONTRIBUTION**

- 3.1 The Council shall pay the Habitat Regulations Mitigation Contribution ('the Contribution') when received into an account and use the 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 Contribution to a person, body or company that might be responsible for the carrying out of the work as set out in this Deed
- 3.2 The Council shall if requested to do so in writing after the expiry of TEN (10) years of the date of receiving the final payment of the contribution within ONE (1) year pay to any such person such amount of the Contribution paid by that person in accordance with the provisions of this Deed which have not been committed or expended by the Council, such payment to be made within TWENTY EIGHT (28) working days of such a request together with any interest thereon.

## **FIFTH SCHEDULE**

### **THE COUNTY COUNCIL COVENANTS WITH THE OWNER:**

#### **1. EDUCATION CONTRIBUTIONS**

- 1.1 To use the Early Years Contribution for the improvement and enhancement of early years provision serving the Development including any such provision that has been forward funded by the County Council
- 1.2 To use the Primary School Contribution for the improvement and enhancement of the catchment primary schools including any such provision that has been forward funded by the County Council
- 1.3 To use the Primary School Land Contribution towards the acquisition of land for the purposes of primary school provision serving the Development including any such provision that has been forward funded by the County Council
- 1.4 To use the Secondary School Transport Contribution towards the provision of transport of secondary school pupils to and from the Development
- 1.5 If requested to do so in writing after the expiry of ten (10) years of the Completion of Development within a further period of one (1) year to pay within one month of such request to any person such amount of the County Council Contributions paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable
- 1.6 When the County Council Contributions paid to the County Council pursuant to this Deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of ten (10) years of the payment of that sum within a further period of one (1) year notify the Owner that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to

## **Appendix 1 – Local Connections Cascade**

### **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 Saxmundham for the preceding 5 years, OR
  - b. Has continuously had a principal place of work in Saxmundham 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 Saxmundham for the preceding 5 years
- 1.2 If there are no persons who qualify under paragraph 1.1 above the Affordable Dwelling shall be allocated to person nominated by the Council who:
  - a. Has continuously lived within 10 miles of Saxmundham for the preceding 5 years, OR
  - b. Has continuously had a principal place of work within 10 miles of Saxmundham 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 Saxmundham for the preceding 5 years
- 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 paragraphs 1.1 to 1.3 above

### **2. Affordable Dwellings for sale**

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



- 
- a. Has continuously lived in Saxmundham for the preceding 5 years, OR
  - b. Has continuously had a principal place of work in Saxmundham 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 Saxmundham for the preceding 5 years

PROVIDING THAT if after 2 months of marketing no offer has been received from persons who comply with 2.1 a-c the dwelling may be sold to persons who comply with 2.2 a-c.

2.2 On advertising subsequent Disposals 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 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

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

