

DATED 28 June 2013

BROADLAND DISTRICT COUNCIL

- and -

NORFOLK COUNTY COUNCIL

- and -

BRUNDALL PARISH COUNCIL

- and -

CHRISTOPHER CHARLES MACK and JANE ANN MACK

- and -

BEAZER HOMES LIMITED

AGREEMENT UNDER SECTION 106
OF THE TOWN AND COUNTRY PLANNING
ACT 1990

relating to the development of land
to the west of Cucumber Lane Brundall

THIS AGREEMENT is made the 28th day of June 2013

BETWEEN:

1. BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road
Norwich NR7 0DU (the "Council")
2. NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich
NR1 2DH (the "County Council")
3. BRUNDALL PARISH COUNCIL of Brundall Parish Council PO Box 1196
Blofield Norwich NR13 4WR (the "Parish Council")
4. CHRISTOPHER CHARLES MACK and JANE ANN MACK both of Bartles
Lodge Church Street Elsing Norwich Norfolk NR20 3EA ("the Owner")
5. BEAZER HOMES LIMITED (Company Number 00361750) whose
registered address is situate at Persimmon House Fulford York YO19 4FE
and care of Hatch Brenner LLP 4 Theatre Street Norwich Norfolk NR2
1QY ("Developer")

WHEREAS:-

- A. The Council is the Local Planning Authority for the purposes of the Act for the
area within which the Site is situated and the County Council is the relevant
Education Authority and Library Service Provider and is also a Local Planning
Authority for the purposes of the Act
- B. The Owner is the freehold owner of the Site
- C. The Developer has the benefit of option agreements to purchase the Site

- D. ~~The Developer~~ has submitted the Application to the Council and the parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement

1. INTERPRETATION AND DEFINITIONS

- 1.1 In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:-

"Act"	the Town and Country Planning Act 1990 (as amended)
"Affordable Housing"	housing provided in accordance with the requirements of Schedule 2 to this Agreement which is available to meet the needs of those who cannot afford to rent or buy dwellings generally available on the open market
"Affordable Housing Provider ("AHP")"	either: (i) a registered provider as defined by S.80 of the Housing and Regeneration Act 2008; or (ii) another body whose object is or contains the provision and/or operation of affordable housing and which has been approved by the Council for the provision and/or operation of affordable housing within the administrative area of Broadland or has otherwise been approved by the Council for the purposes of this Agreement
"Affordable Housing Provision"	the provision of 33% (thirty three per cent) of the total number of Dwellings permitted by the Planning Permission to be provided as Affordable Housing Units .

HB = HATCH BRENNER LLP FOR AND ON BEHALF OF THE DEVELOPER 25/6/13
AND WITH AUTHORITY OF THE OWNERS

"Affordable Housing Scheme"	a detailed scheme submitted to and approved by the Council for the provision of Affordable Housing on the Site which complies with the requirements of Schedule 2 and includes a timetable and programme for it's implementation, or such amended or replacement Affordable Housing Scheme as the Council approves in writing from time to time
"Affordable Housing Units"	individual units of residential accommodation constructed or provided as part of the Development as Affordable Housing
"Affordable Rental Units "	Affordable Housing Units to be constructed or provided as part of the Development pursuant to the Affordable Housing Scheme and to be let for a rent by or on behalf of an AHP in accordance with the requirements of Schedule 2 and the Affordable Housing Scheme
"Application"	the application for full planning permission that was declared valid on 19 November 2012 and bearing reference number 20121638 for the development of the erection of 150 dwellings, vehicular access, open space and associated works
"Code"	the "Code for Sustainable Homes" published by the Department for Communities and Local Government dated December 2006
"Commencement Date"	the date of initiation of the Development by the carrying out on the Site pursuant to the Planning Permission of a Material Operation and "Commence" and "Commencement" shall be interpreted in accordance with this definition

"Community Infrastructure Levy ("CIL")	a levy of that name or called by any other name charged by a competent authority under the Planning Act 2008 or other statutory powers on any person in respect of the development of land to fund the provision of infrastructure to support the development of an area
"Development"	the development of the Site permitted by the Planning Permission
"Director"	the Council's Chief Executive or other officers of the Council acting under his hand
"Dwelling"	any unit of residential occupation being a self-contained house maisonette bungalow or flat constructed as part of the Development and "Dwelling" shall be construed accordingly
"Education Contribution"	the sum of the High School Contribution and Sixth Form Contribution as set out in Schedule 1 Part 3 such sums to be Index-Linked
"HCA Standards"	the "Housing Quality Indicators" and "Design & Quality Standards" specified by the Homes and Communities Agency
"Implementation"	the carrying out on the Site pursuant to the Planning Permission of a Material Operation amounting to the Commencement of the Development and "Implement" and "Implemented" shall be construed accordingly
"Index Linked"	Index-linked from February 2013 until such time that payment is made such index linking to be equivalent to any increase in such sums in proportion to the increase in the Royal Institution of Chartered Surveyors Building Cost Information Service All in Tender Price Index in relation to

	the Education Contribution the Library Contribution (or if such indices cease to be published such other comparable indices as the County Council shall reasonably determine).
"Inflation Provision"	an increase in the sum required to be paid by this agreement proportionate to the increase (if any) in the Department for Business Innovation and Skills (BIS) Output Price Index for New Construction: all new construction between February 2013 and the date upon which a payment is made
"Library Contribution"	the sum of Sixty Pounds (£60) per Dwelling Unit and payable under Part 2 Schedule 1 to this Agreement such sum to be Index Linked
"Local Lettings Policy"	the order in which the Affordable Housing Units are to be allocated and which is set out under the title "Local Lettings Policy" in Schedule 2 to this Agreement as amended from time to time
"Management Company"	a company or companies established (or identified by the Owners) for the purposes of managing and maintaining the Open Space and/or such other areas as shall be agreed between the Owners and/or the management company and the Council
"Market Rent"	the estimated price or premiums for which a property or space within a property should lease on the date of valuation between a willing lessor and a willing lessee on appropriate lease terms in an arm's length transaction after proper marketing where the parties had acted knowledgeably prudently and without compulsion
"Material Operation"	a material operation as defined in Section 56(4) of the Act save that for the purposes of this Agreement the following shall not constitute a material operation:-

- (a) site clearance
- (b) demolition of existing buildings
- (c) archaeological investigation
- (d) assessment of contamination
- (e) remedial works
- (f) the erection of fences or other means of enclosure for site security
- (g) the diversion and laying of services
- (h) the erection of a site compound or site office or temporary buildings or structures
- (i) temporary display of notices or advertisements

"Occupation"	occupation of a building as a Dwelling (but not including occupation by contractors or for construction or fitting out purposes or as a showroom or sales office) and "Occupy" and "Occupied" shall be construed accordingly
"Off-Site Recreation Contribution"	the sums as set out in Part 4 of Schedule 1 to this Agreement such sum to be subject to the Inflation Provision
"Open Market Dwellings"	Dwellings forming part of the Development other than Affordable Housing Units
"Open Market Value"	the best price at which the sale of an interest in a Dwelling (other than an Affordable Housing Unit) would have been completed unconditionally for cash consideration on the date of valuation assuming (i) a willing buyer and a willing seller, (ii) any restrictions imposed on a Dwelling by this Agreement are disregarded (iii) there has been a reasonable period to completion within which to negotiate the sale (iv) the Dwelling has been freely exposed to the market (v) both the buyer and the seller acted knowledgeably prudently and without compulsion

"Open Spaces"	that part of the Site identified in a plan approved by the Council for that purpose as being set out or provided as public open space
"Open Space Maintenance"	the maintenance of the Open Space or parts thereof by the Management Company
"Plan"	the plans annexed to this Agreement
"Planning Permission"	the full planning permission to be granted pursuant to the Application in the form of the attached draft
"Play Area"	areas provided within the Site to be laid out and equipped in accordance with plans agreed in writing prior to Implementation of the Development with the Director for recreational use for children
"Qualifying Occupiers"	in relation to any person housed in an Affordable Housing Unit, any person who meets the qualifying criteria as having a total household income at a level which prevents them from obtaining on the open market housing accommodation locally which is reasonably adequate for their needs contained in the Council's policies relating to housing allocation (as amended from time to time and as formulated pursuant to the provisions of the Housing Acts 1985, 1996 and 2004 and the Homelessness Act 2002) or where such persons have been exhausted any person as nominated by the Council on the Housing Register that the Registered Provider owning or managing the Affordable Housing Units on the Site is entitled to house within its rules
"Shared Equity Dwellings"	Affordable Housing Units to be constructed or provided as part of the Development pursuant to the Affordable Housing

	Scheme and to be for sale by or on behalf of an AHP in accordance with the requirements of Schedule 2 and the Affordable Housing Scheme at a price which is 25% less than the Open Market Value of such unit unless the Council agrees that a lower percentage deduction may be applied to such price taking into consideration inter alia housing prices in the vicinity and the viability of the Development
"Site"	the land to the west of Cucumber Lane Brundall NR13 5QR which is shown for the purposes of identification only edged red on the Plan
"Supplementary Off-Site Recreational Contribution"	the sums as set out in Part 4 of Schedule 1 to this Agreement

1.2 In this Agreement unless the context otherwise requires:

- a) references to any party shall include the successors in title and assigns of that party
- b) covenants given or made by any party which includes more than one person (whether natural or artificial) shall be deemed to be given or made jointly and severally
- c) references to clauses and schedules are references to clauses in and schedules to this Agreement
- d) any mention herein of any Act or of any Section Regulation or Statutory Instrument shall be deemed to refer to the same source as at any time amended and where such Act Section Regulation or Statutory Instrument has been replaced consolidated or re-enacted with or without amendment such mention shall be deemed to refer to the

relevant provision of the updating consolidating or re-enacting Act or Section or Regulation or Statutory Instrument

- e) headings in this Agreement shall not form part of or affect its construction

2. GENERAL PROVISIONS APPLICABLE TO THIS AGREEMENT

- 2.1 This Agreement is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 Section 2 of the Local Government Act 2000 and any other enabling powers
- 2.2 The covenants, restrictions, requirements and obligations arising hereunder are planning obligations pursuant to Section 106 of the Act and are enforceable by the Council and the County Council against the Owner and the Developer and their respective successors in title and assigns
- 2.3 The provisions of this Agreement are conditional upon the grant of the Planning Permission and the Commencement of Development
- 2.4 This Agreement shall cease to have effect if the Planning Permission shall be quashed revoked or otherwise withdrawn
- 2.5 This Agreement shall be registered as a charge in the Council's Register of Local Land Charges
- 2.6 In the event that this Agreement comes to an end the Council if so requested by the Owner will execute a deed of release (or partial release) from the relevant provisions of this Agreement and procure that a note thereof shall be registered on the Council's Register of Local Land Charges

3. AGREEMENTS AND DECLARATIONS

IT IS HEREBY AGREED AND DECLARED as follows:

3.1 No Fetter of Discretion

Save insofar as legally permitted nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council or the County Council in the exercise of their functions as Local Planning Authority and Highway Authority and the rights powers duties and obligations under all public and private bylaws and regulations may be as fully and effectively exercised as if the Council or the County Council were not a party to this Agreement

3.2 Invalidity or Unenforceability of any of the Terms of this Agreement

If any provision in this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired

3.3 No Waiver

No waiver (whether express or implied) by the Council or the County Council of any breach or default by the Owner in performing or observing any of the covenants in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof

3.4 No party shall be liable under this Agreement for any breach of the covenants restrictions or obligations contained in this Agreement after that party has parted with its interest in the Site or the part of the Site in respect of which

such breach occurs provided that liability will still remain for any subsisting breach occurring prior to the parting with such person's interest in the Site or any part thereof in respect of which any such breach has taken place

3.5 The covenants, restrictions and requirements contained in this Agreement, save those in relation to use or occupation of Affordable Housing shall not be enforceable against:

3.5.1 An AHP, individual purchasers or lessees of Dwellings constructed on the Site pursuant to the Planning Permission or any of their mortgagees; or

3.5.2 service authorities or utility companies which acquire an interest in the Site in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Site.

4. Notices

4.1 Any notice document or other correspondence required to be served or given under the provisions of this Agreement shall be in writing and delivered personally or sent by pre-paid letter or facsimile

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

The Parish Council	PO Box 1196 Blofield Norwich NR13 4WR
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The Council	The Chief Executive Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich NR7 0DU
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The County Council	The Chief Executive Norfolk County Council County Hall Martineau Lane Norwich NR1 2DH
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The Owner Christopher Charles Mack and Jane Ann Mack
Bartles Lodge
Church Street
Elsing
Norwich
Norfolk
NR20 3EA

The Developer Beazer Homes Limited
The Land Director
Persimmon House
Colville Road Works
Oulton Broad
Lowestoft
NR33 9QS

4.3 Any notice or other written communication to be given by the Owner, Developer, Parish Council or County Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Owner, Developer, Parish Council or County Council by a duly authorised officer or agent

5. Third parties

5.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person who is not a party to this Agreement (other than a successor in title to one of the original parties) shall be entitled in that person's own right to enforce any provisions of this Agreement pursuant to the provisions of the said Act

6. Costs

6.1 The Developer shall on completion of this Agreement pay the Council's and the County Council's reasonable legal and administrative costs incurred in the preparation negotiation and completion of this Agreement in the aggregate inclusive sum of £3,000.

7. Payment of Interest

7.1 The Owner shall pay interest at the rate of 4% above HSBC Bank base rate for the time being in force on any monies due under the provisions of this Agreement in the event of late payment for the period from the date the monies should have been paid to the date the money is received

8. VAT

8.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable

8.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement, then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

9. Jurisdiction

9.1 This Agreement is to be governed by and interpreted in accordance with the law of England and Wales

10. Title Warranty

10.1 The Owner hereby warrants to the Council and to the County Council that they are the freehold owners of the Site which is registered at the Land Registry under title number NK318183 and have full power to enter in to this Agreement and that the Site is free from all mortgages charges or other encumbrances and that there is no person having any interest in the Site other than as notified in writing to the Council's and the County Council's Head of Law prior to the date hereof

11. Disputes

- 11.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 11.2 If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution (“ADR”) procedure as recommended to the parties by the Centre for Effective Dispute Resolution
- 11.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR Procedure the dispute may be referred by either party to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Royal Town Planning Institute who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties.
- 11.4 Nothing in Clauses 11.1, 11.2 and 11.3 shall apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

12. Covenants

- 12.1 The Owner hereby covenants with the Council to carry out and comply with the obligations and restrictions on its part set out in this Agreement and set out in Schedule 1 and Schedule 2 hereto which are expressed to be given to or to be for the benefit of the Council and as a separate covenant with the County Council to carry out and comply with the obligations and restrictions on its part set out in this Agreement and set out in Schedule 1 hereto which are expressed to be given to or to be for the benefit of the County Council and as a separate covenant with the Parish Council to carry out and comply with the obligations and restrictions on its part set out in this Agreement and set out in Schedule 1

12.2 The County Council covenants with the Owners in the terms set out in Schedule 1

12.3 The Council covenants with the Owners in the terms as set out in Schedule 1 and Schedule 2

12.4 The Council covenants to issue the Planning Permission ~~as soon as~~ ^{immediately} ~~reasonably practicable~~ following completion of this agreement

13. Owners Indemnity

13.1 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 this Agreement are hereby waived

16. Issue of Approvals

16.1 Where any approval, consent, agreement or the like is required to be given by the Council or the County Council pursuant to the terms of this Agreement it shall be in writing and shall not be unreasonably withheld or delayed

17. Statutory Undertakers and Consortium Consent

17.1 the obligations and restrictions in this Agreement shall not be enforceable against any statutory undertaker which acquires any part of the Site for the purposes of its statutory undertaking or function

17.2 The Developer hereby consents to the Site being bound by the provisions of this Agreement provided that the Developer shall have no liability under this Agreement unless and until it shall have acquired a legal interest in the Site whether pursuant to the option agreements referred to at recital C or otherwise

18. Community Infrastructure Levy

Where:

- (a) CIL is brought into effect in respect of the area in which the Development is located and
- (b) CIL becomes payable in respect of the Development and
- (c) CIL is paid by the Owner to the Council in respect of the Development; and
- (d) all sums due under this Agreement have been properly paid

the Council shall immediately re-pay to the Owner an amount equal to the amount paid to the Council in respect of CIL paid in respect of the Development together with any accrued interest

19. Notification

- 19.1 The Owner agrees to notify the County Council and the Council of the reaching of any of the occupation or completion thresholds relating to obligations contained in this Agreement such notification to be given within 14 days of reaching such threshold

SCHEDULE 1

PART 1

- 1 the Owner shall notify the Council, Parish Council and County Council within 14 days of reaching:-

- 1.1 Commencement of the Development
- 1.2 first Occupation of a Dwelling
- 1.3 any other occupation or completion threshold contained within this Deed

PART 2

Library Contribution

The Owner covenants with the County Council as set out in this part of Schedule 1:

1. The Owner shall pay the Library Contribution to the County Council in a single lump sum payment prior to the Occupation of the 1st Dwelling comprised in the Development

The County Council covenants with the Owner as follows:

2. to hold the Library Contribution in an interest bearing account and apply it and any interest accrued only towards the provision of library facilities serving the Development
3. in the event that the Library Contribution or any part of it has not been committed (by way of a contract to provide additional library facilities or by the expenditure of the monies) to the provision of the additional library facilities referred to in paragraph 2 above within five years of completion of the Development then the County Council will repay to the Owner who paid the Library Contribution so much of the Library Contribution as shall remain uncommitted together with any accrued interest thereon

PART 3
Education Contribution

The Owner covenants with the County Council as set out in this part of Schedule 1:

1. The Owner shall pay the Education Contribution to the County Council in two lump sum payments as follows:
 - 1.1 50% of the Education Contribution prior to Occupation of 25% of the Dwellings comprised in the Development
 - 1.2 the balance of the Education Contribution prior to Occupation of 75% of the Dwellings comprised in the Development
2. The calculation for such contribution to be based on the following:
 - 2.1 High School Contribution is £350,920 index linked
 - 2.2 Sixth Form Contribution is £76,116 index linked

The County Council covenants with the Owner as follows:

3. to hold the Education Contribution in an interest bearing account and apply it and any interest accrued upon it only towards the improvement of education facilities serving the Development
4. In the event that the Education Contribution (or any part of it) has not been committed (by way of a contract to provide increased educational capacity or by the expenditure of the monies) to the improvement of the educational facilities referred to in paragraph 2 above within 5 years of completion of the Development then the County Council shall repay to the Owner who paid the Education Contribution so much of the Education Contribution as shall remain uncommitted together with any accrued interest thereon

PART 4
Recreational Contribution

The Owner covenants with the Council and the Parish Council as set out in this part of Schedule 1

1. The Owner shall prior to the Occupation of the first of the Open Market Dwellings on the Site pay to the Council the Off-Site Recreational Contribution in the sum of £415,230.17
2. Upon the commencement of development, the owner shall pay to the Parish Council the Supplementary Off-Site Recreational Contribution the sum of £200,000. Payment of up to of £50,000 towards to the Parish Council's legal fees incurred shall be made on submission to the Owner of copies of the invoices related to the Parish Council's purchase of further land for the provision of recreational facilities or amenity space for use by the general public.

The Council covenants with the Owner as follows:

3. To hold the Off-Site Recreational Contribution in an interest bearing account and apply it and any interest accrued only towards the provision of the purchase of land, laying out and maintenance of recreational facilities in the Parish of Brundall
4. In the event that the Off-Site Recreational Contribution or any part of it has not been committed to the provision of the additional off-site recreational space and sport facilities in Brundall towards the purchase of land, laying out and maintenance of such facilities referred to in Part 4 paragraph 1 above within ten years of completion of the Development then the Council will repay to the Owner who paid the Off-Site Recreational Contribution so much of the Off-Site Recreational Contribution as shall remain uncommitted together with any accrued interest thereon

SCHEDULE 2

PART 1

1. AFFORDABLE HOUSING

- 1.1 Not to Commence Development on the Site pursuant to the Planning Permission until a scheme for the provision of the Affordable Housing Units has been submitted and approved (such approval not to be unreasonably withheld or delayed) by the Director ("the Affordable Housing Scheme") which Scheme for the avoidance of doubt shall deal with and include the timing of the Development and the location of the Affordable Housing within the Site as detailed on the Plan [drawing no. SL02] and in accordance with the Affordable Housing Provision and upon approval such scheme shall be deemed to be incorporated into the provisions of this Agreement and for the avoidance of doubt such Scheme shall provide for 30 Affordable Rental Units and 20 Shared Equity Dwellings to be transferred to one or more AHPs
- 1.2 To enter into any supplementary agreements reasonably required by the Council in giving approval to the Affordable Housing Scheme and to be responsible for the Council's reasonable costs in negotiating and approving any such agreements
- 1.2 Upon approval of the Affordable Housing Scheme by the Council to implement the Affordable Housing Scheme as approved and in accordance with the provisions contained in the Affordable Housing Scheme
- 1.3 Not to Occupy more than 40 Open Market Dwellings on the Site pursuant to the Planning Permission until all the Affordable Housing Units have been constructed and are ready for Occupation.
- 1.6 Not to construct or procure the construction of the Affordable Rental Units otherwise than in accordance with the Planning Permission and the Code to

HCA Standards or such other standard as requested by the AHP such request to be approved by the Director

- 1.7 Not to occupy or permit to be occupied the Affordable Rental Units other than in accordance with the Local Letting Policy is set out as follows:
 - 1.7.1. Up to one third (or other such amount as the Council shall reasonably require) of the Affordable Rental Units (as chosen by the Council) will be let out on first occupation in accordance with the local lettings policy set out below:
 - 1.7.2 first allocations will be made to people living in the parish of Brundall
 - 1.7.3 if there is no suitable person in paragraph 1.1 allocations will be made to people who work in the parish of Brundall
 - 1.7.4 if there are no suitable persons in paragraphs 1.1 and 1.2 allocations will be made to people who need to move to the parish of Brundall to give/receive support to/from close family/relatives
 - 1.7.5 if there are no suitable persons in paragraphs 1.1 to 1.3 allocations will be made to people who live within the Broadland District
- 1.8 Not to use allow or permit the Affordable Housing Units to be occupied for any purpose other than as Affordable Housing Units
- 1.9 The Affordable Housing Units shall not be occupied other than by Qualifying Occupiers
- 1.10 The Owner shall not dispose of its freehold interest in the Affordable Housing Units other than to one or more AHP
- 1.11 To ensure that in any transfer to an AHP it is provided that the AHP shall not dispose of its interest in the freehold of the Affordable Rental Units or any part

thereof (except by way of mortgage) other than to any other ^{AHP}~~APH~~ or to a purchaser pursuant to any statutory right to buy HB

1.12 To ensure that in any transfer to an AHP it is provided that the AHP shall not dispose of its interest in the freehold of the Shared Equity Dwellings other than to any other ~~APH~~^{AHP} other than as set out in clause 1.13 below HB

1.13 To ensure than in any transfer by an ~~APH~~^{AHP} of a Shared Equity Dwelling to a Qualifying Occupier that a Restriction relating to the Shared Equity Provision is entered on the Land Register and to require the Qualifying Occupier to covenant not to dispose of his/her interest other than in accordance with the terms of the Shared Equity Provision HB

1.14 Paragraphs 1.7 and 1.8 and 1.9 and 1.10 and 1.11 and 1.12 and 1.13 above shall not be binding upon ^{the following or their successors in title:} HB

(a) any mortgagee in possession¹ of the Affordable Housing Units or part thereof nor (or utilising it's power of sale) HB

(b) any receiver or manager (including an administrative receiver) for such mortgagee HB

(c) any former tenant of an Affordable Rental Unit who purchases under the Right to Buy or the Right to Acquire or similar statutory rights in favour of tenants of Registered Providers PART 2

Play Area and Open Spaces

The Owner covenants with the Council

1. Prior to the Commencement of Development to submit to the Council for approval

(a) a scheme ("the Play Area Scheme") for the provision, laying out, equipping and future maintenance of the Play Area and to include timings for the completion and availability of the Play Area

- (b) a scheme ("the Open Spaces Scheme") for the provision, laying out and future maintenance of Open Spaces within the Site and to include timings for the completion and availability of the Open Spaces
2. Prior to the Commencement of Development to submit to the Council for approval a scheme ("the Transfer Scheme") for the transfer to and future management of the Play Area and the Open Spaces by the Management Company and to include provision for the timing of the transfer of the freehold interest in the Play Area and Open Spaces to the Management Company
 3. Not to Commence Development until the Council has approved in writing both the Play Area Scheme and the Open Spaces Scheme in accordance with the requirements of paragraph 1(a) and 1(b) above.
 4. Not to Commence Development until the Council has approved the Transfer scheme in accordance with the requirements of paragraph 2 above
 5. Not later than the date specified in respectively the Play Area Scheme and the Open Spaces Scheme to carry out and complete to the reasonable satisfaction of the Council any works required respectively by the Play Area Scheme and the Open Spaces Scheme and in entire accordance with the requirements of the Play Area Scheme and the Open Spaces Scheme
 6. On the completion to the reasonable satisfaction of the Council of any works required by the Play Area Scheme and the Open Spaces Scheme, the Owner shall transfer its freehold interest in the Play Areas or Open Space (as the case may be) to the Management Company in accordance with the Transfer scheme and the Open Spaces Act 1906 (or any statutory modification or re-enactment thereof) who shall thereafter maintain the same
 7. For the avoidance of doubt, the Owner will maintain the Play Area and the Open Spaces in accordance with the requirements of the Play Area Scheme and the Open Spaces Scheme once any works required by the Play Area Scheme or the Open Spaces Scheme are complete until such time as the Play

Area or Open Spaces (or parts thereof) have been transferred to the Management Company whereupon the Owner shall have no further liability for the maintenance of those parts transferred

Generally

8. Any transfer referred to in paragraph 6 above shall be upon the following terms:
 - (a) the sum of £1.00 (for each area to be transferred) to be paid by the Management Company to the Owner;
 - (b) a covenant by the Management Company not to use or permit to be used the land transferred otherwise than in accordance with the Open Spaces Act 1906;
 - (b) vacant possession shall be given upon completion;
 - (c) for an estate in fee simple in possession;
 - (d) with full title guarantee;
 - (e) subject to the matters specified in the Property and Charges Registers of the registered title of the land to be transferred (other than entries securing monies) and the terms of this Agreement so far as the same relate to and affect the said land but otherwise (save as mentioned herein) free of encumbrances and the Management Company shall covenant by way of indemnity only to observe and perform such matters and indemnify the Owner in relation to all costs losses claims and liabilities in relation to any future breaches of such matters;
 - (f) with all necessary rights of access and necessary services;

- (g) subject to any wayleaves covenants and rights over on or under or in respect of the said land as may exist at the date of the transfer or as may reasonably be required by the Owner to be contained or referred to in the transfer of the said Play Area or Open Spaces;
- (h) there shall be excepted and reserved out of the transfer of the said land the right of the Owner and/or all statutory and other undertakers to lay erect and maintain in under upon and over the said Play Area or Open Spaces such Services as shall be reasonably necessary or proper to service the Development or any part or parts thereof, any person or persons exercising such rights shall make good any damage caused thereby; and
- (i) the transfer of the Play Area or Open Spaces shall contain such covenants on the part of the Management Company as may be reasonably and properly required by any statutory authority or service company in respect of the services

Annexure 1
Draft Planning Permission



www.broadland.gov.uk

Application Number
20121638

Cornerstone Planning Limited
FAO: Mr Alan Presslee
6 Nightingale Drive
Cringleford
Norwich
NR4 7LR



M. T. Muel

Amended as appropriate
Date Of Decision : 27 February 2013
Development : Erection of 150 Dwellings, Vehicular Access, Open Space and Associated Works
Location : Land to west of Cucumber Lane, Brundall, NR13 5QR
Applicant : Persimmon Homes Ltd

Town & Country Planning Act 1990

The Council in pursuance of powers under this Act **GRANTS PLANNING PERMISSION** for the development referred to above in accordance with the details on the application form and subject to the following **conditions**:-

- 1 The development to which this permission relates must be begun not later than THREE years beginning with the date on which this permission is granted.
- 2 The development hereby permitted shall not be carried out otherwise than in accordance with the plans and documents listed below:

Drawing number 6540 S01 - Site Location Plan - received on 19 November 2012
Drawing number 6540 SL01 Rev.S - Site Layout - received on 25 February 2013
Drawing number 6540MS01 Rev.A - Site Layout and Materials Schedule - received on 19 November 2012 insofar as it relates to the materials schedule only
Drawing number 6540 RS01 - Proposed Refuse Strategy Plan - received on 27 November 2012
Drawing number 6540 EL01 Rev.D - Proposed Front Elevations - received on 19 November 2012
Drawing number 6540 G01 - Proposed Garage Types - received on 19 November 2012
Drawing number 6540 G02 - Proposed Garage Types - received on 19 November 2012
Drawing number 6540 G03 - Proposed Garage Types - received on 19 November 2012
Drawing number 6540 01 - A88B & A81B House Type Proposed Plans and Elevations - received on 19 November 2012
Drawing number 6540 02 - P1098, C1160 and P767 House Type Proposed Plans and Elevations - received on 19 November 2012
Drawing number 6540 03 - P657, A83S, A85S and P1408 House Type Proposed Plans and Elevations - received on 19 November 2012
Drawing number 6540 04 - C1123 and C1585 House Type Proposed Plans and

Elevations - received on 19 November 2012

Drawing number 6540 05 - S59H, S76H and S121H House Type Proposed Plans and Elevations - received on 19 November 2012

Drawing number 6540 06 - S76H and S88H House Type Proposed Plans and Elevations - received on 19 November 2012

Drawing number 6540 07 - S88H, S59H and S76H House Type Proposed Plans and Elevations - received on 19 November 2012

Drawing number 6540 08 - S88H and S76H House Type Proposed Plans and Elevations - received on 19 November 2012

Drawing number 6540 09 - S80MB and S87MB House Type Proposed Plans and Elevations - received on 19 November 2012

Figure 3.3 - Landscape Masterplan reflecting TPO 2013 No.1 - received on 12 February 2013 insofar as it relates to the trees to be retained and removed at the application site only

- 3 No development shall take place until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all non-domestic landscape areas has been submitted to the Local Planning Authority for its written approval. The development shall then be carried out in accordance with the approved details and the management of the landscaping shall commence immediately after planting in accordance with the agreed details.
- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to the Local Planning Authority for its written approval. These details shall include:-
 - " details of the proposed acoustic bund along the northern edge of the development;
 - " details of the informal open space to be provided on site;
 - " proposed finished levels or contours;
 - " means of enclosure;
 - " hard surfacing materials;
 - " play equipment to be provided on site;
 - " structures (e.g. furniture, signs, etc.);

Soft landscaping works shall include:

- " plans identifying all proposed planting;
- " written specifications (including cultivation and other operations associated with plant and grass establishment);
- " schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- " implementation programme.

The works shall then take place in accordance with the approved details.

If within a period of FIVE years from the date of planting, any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, (or becomes in the opinion of the Local Planning Authority, seriously damaged or defective) another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

- 5 Occupation of the 100th dwelling on site shall not take place until the play equipment

and areas of public open space shown on the attached hatched plan have been provided. The remaining public open space adjacent to the eastern boundary of the site shall be provided upon occupation of the 150th dwelling.

- 6 No works or development shall take place until a scheme for the protection of the retained trees to comply with the relevant sections of BS5837:2012 - Trees in relation to design, demolition and construction - Recommendations (section 5.5 the Tree Protection Plan) has been agreed in writing with the LPA. This scheme shall include:-
- (a) a plan that shows the position, crown spread and Root Protection Area (para. 4.6.1) of every retained tree on site and on neighbouring ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
 - (b) the details of each retained tree as required at para. 4.4.2.5 in a separate schedule.
 - (c) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 6.2).
 - (d) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 6.2 para 6.2.2 and Figure 2), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
 - (e) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 6.2).
 - (f) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (para. 4.6.1) of any retained tree, including those on neighbouring or nearby ground.
 - (g) the details of any special engineering required to accommodate the protection of retained trees (Annex A General advice for other interested parties), (e.g. in connection with foundations, bridging, water features, surfacing)
 - (h) the details of the working methods to be employed for the installation of drives and paths within the RPAs of retained trees in accordance with the principles of "No-Dig" construction.

In the event that any tree(s) become damaged during construction, the Local Planning Authority shall be notified and remedial action agreed and implemented. In the event that any tree(s) dies or is removed without the prior approval of the Local Planning Authority, it shall be replaced within the first available planting season, in accordance with details to be agreed with the Local Planning Authority.

- 7 No development shall take place until details of existing and proposed ground levels and ground floor slab levels of the buildings on Plots 3, 4, 7, 8, 9, 10, 11, 12, 13, 93, 94 and 97 relative to Ordnance Datum Newlyn have been submitted to and approved in writing by the local planning authority. The development shall be carried out in

accordance with the approved details.

- 8 The dwellings on Plots 3, 4, 7, 8, 9, 12, 13, 93, 94 and 97 shall be of single storey construction and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended or any Order amending, revoking or re-enacting that Order with or without modification, no dormer windows or other openings shall be inserted in the south elevations above ground floor level.
- 9 Noise levels at all residential properties shall comply with the following criteria:-
 - " A maximum of 55 dB(A) 16 hour LAeq 07:00 - 23:00 hours within all outdoor living areas.
 - " A maximum of 40 dB(A) 16 hour LAeq 07:00 - 23:00 hours within indoor living areas with windows shut.
 - " A maximum of 35 dB(A) 8 hour LAeq 23:00 - 07:00 hours within bedrooms with windows shut.
- 10 No development shall take place until details of water efficiency measures to comply with the Code for Sustainable Homes level 4 for water have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 11 At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of the National Planning Policy Framework 2012). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority before works commences on site. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 12 None of the dwellings shall be occupied until the development hereby permitted has incorporated the provision of water hydrants for the purposes of fire fighting.
- 13 No development shall take place until a detailed lighting strategy for the development has been submitted to and approved by the Local Planning Authority. The strategy shall include details of the lighting to be used during the construction and operational phases of the development. The strategy shall then be implemented in accordance with the approved details.
- 14 A surface water drainage scheme incorporating sustainable drainage principals shall be implemented and completed before any dwelling is first occupied. The said scheme shall be implemented and completed in accordance with the Flood Risk Assessment and associated appendices (A to G inclusive) undertaken by ASD Consultants and received on 19 November 2012, the letter from ASD Engineering (referenced 1107/110113/EA/001) to the Environment Agency dated 11 January 2013 and revised Microdrainage calculations, and subject to any changes required by Anglian Water or the adopting SUDS body in order to secure adoption. The said scheme will include the following requirements:-
 - " It shall ensure that surface water outfall into the Anglian Water surface water sewer does not exceed 14 l/s.
 - " It shall ensure that storage shall be provided on the development site for the

volume of surface water produced up to the 1% annual probability of occurrence rainfall event (including allowances for climate change as stated in Table 5 of NPPF Technical Guidance).

" It shall ensure that the depths of surface water flooding on the access roads allow safe access and egress for the future inhabitants and will not flood any buildings or flow offsite.

" It shall allow for overland surface water flows from one hectare of greenfield land to the south east of the development site to be contained within the surface water system.

- 15 No dwelling shall be occupied until details of who shall adopt and maintain the surface water system for the lifetime of the proposed development are submitted to the Local Planning Authority for its written approval.
- 16 No development shall take place until written confirmation has been provided to the Local Planning Authority on which of the foul water strategies set out in the Pre-Planning Addendum Report prepared by Anglian Water and dated 14 February 2013 is to be implemented or written details provided on any alternative foul water strategy which must be agreed in writing. Unless otherwise agreed in writing, no dwellings shall be occupied until the works has been carried out.
- 17 No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and 1) The programme and methodology of site investigation and recording, 2) The programme for post investigation assessment, 3) Provision to be made for analysis of the site investigation and recording, 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, 5) Provision to be made for archive deposition of the analysis and records of the site investigation and 6) Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation.

No development shall take place other than in accordance with the written scheme of investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

In this case the programme of archaeological mitigatory work should commence with targeted archaeological trial trenching in accordance with a brief to be issued by Norfolk County Council Historic Environment Service.

- 18 No development shall take place until details of ecological mitigation have been submitted to the Local Planning Authority for its written approval. This shall include details of the position, number and type of ecological mitigation measures to be used. The works shall then be carried out in accordance with the approved details.
- 19 The clearance of any shrubs and trees that form breeding bird habitat should avoid the breeding season; March to July inclusive. If clearance during this period is

unavoidable it should be preceded by an inspection of all vegetation by an ornithologist, and should indications of nesting be noted, a safeguarding zone of radius 10m shall be erected around each nest site until the young have fledged.

- 20 Works requiring the removal of boundary vegetation (including grass/ruderal) should be preceded by management work to ensure reptiles are able to safely leave. Management work should only take place in warm weather (on sunny days with light/no wind or rain and temperatures ideally above 15°C.) during the period April to October inclusive, and following an initial inspection by an ecologist. Directional strimming shall be employed to reduce the height in stages to ground level, and the area should then be left for a period of 24 hours to provide sufficient time for any reptiles to disperse. Cut material should be removed and relocated off site.
- 21 No works shall commence on the site until such time as detailed plans of the roads, footways, cycleways, foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. All construction works shall be carried out in accordance with the approved plans.
- 22 No works shall be carried out on roads, footways, cycleways, foul and surface water sewers otherwise than in accordance with the specifications of the Local Planning Authority in consultation with the Highway Authority.
- 23 Before any dwelling is first occupied the roads and footways shall be constructed to binder course surfacing level from the dwelling to the adjoining County road in accordance with details to be approved in writing by the Local Planning Authority in consultation with the Highway Authority.
- 24 Prior to the first occupation of the development hereby permitted, a visibility splay measuring 2.4 metres x 59 metres shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.
- 25 Development shall not commence until a scheme detailing provision for on site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.
- 26 No works shall commence on site until details of wheel cleaning facilities for all traffic associated with the construction of the development have been submitted to and approved in writing by the Local Planning Authority. The approved wheel cleaning facilities shall then be used for the duration of the construction period.
- 27 No works shall commence on the site until the Traffic Regulation Order for the extension of the 30mph speed limit on Cucumber Lane has been promoted by the Highway Authority.

The reasons for the conditions are:-

- 1 The time limit is imposed in compliance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans and documents.
- 3 To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policy of the Broadland District Local Plan (Replacement) 2006.
- 4 To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policy GS3 of the Broadland District Local Plan (Replacement) 2006.
- 5 In order to secure a satisfactory form of development in accordance with Policies GS3 and GS4 of the Broadland District Local Plan (Replacement) 2006.
- 6 To avoid damage to health of existing trees and hedgerows in accordance with Policies GS3 and ENV5 of the Broadland District Local Plan (Replacement) 2006.
- 7 To ensure the satisfactory development of the site in accordance with Policy GS3 of the Broadland District Local Plan (Replacement) 2006.
- 8 To prevent overlooking to the detriment of the amenities of the adjacent properties in accordance with Policy GS3 of the Broadland District Local Plan (Replacement) 2006.
- 9 To safeguard the amenities of the adjacent residential properties in accordance with the criteria specified in Policies GS3 and CS14 of the Broadland District Local Plan (Replacement) 2006.
- 10 To ensure the development is constructed to an appropriate standard in accordance with Policy 3 of the Joint Core Strategy for Broadland, Norwich and South Norfolk: 2011.
- 11 To ensure the development is constructed to an appropriate standard in accordance with Policy 3 of the Joint Core Strategy for Broadland, Norwich and South Norfolk: 2011.
- 12 In order to secure a satisfactory form of development in accordance with Policies GS3 and GS4 of the Broadland District Local Plan (Replacement) 2006.
- 13 To ensure the satisfactory development of the site in accordance with Policy GS3 of the Broadland District Local Plan (Replacement) 2006.
- 14 To prevent flooding and to ensure satisfactory arrangements for surface water drainage are provided for within the scheme for the lifetime of the proposed development in accordance with Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011.
- 15 To prevent flooding and to ensure satisfactory arrangements for surface water drainage are provided for within the scheme for the lifetime of the proposed development in accordance with Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011.
- 16 To ensure the satisfactory development of the site in accordance with Policy GS3 of the Broadland District Local Plan (Replacement) 2006.

- 17 To enable Norfolk County Council Historic Environment Service to keep a watching brief on the site in accordance with Policy ENV20 of the Broadland District Local Plan (Replacement) 2006.
- 18 To ensure appropriate ecological mitigation in accordance with Policies GS3 and ENV5 of the Broadland District Local Plan (Replacement) 2006.
- 19 To adequately protect any protected species that may be present in accordance with Policies GS3 and ENV5 of the Broadland District Local Plan (Replacement) 2006.
- 20 To adequately protect any protected species that may be present in accordance with Policies GS3 and ENV5 of the Broadland District Local Plan (Replacement) 2006.
- 21 To ensure satisfactory development of the site and a satisfactory standard of highway design and construction as required by policies GS3, GS4 and CS2 of the Broadland Local Plan (Replacement) 2006.
- 22 To ensure satisfactory development of the site and to ensure that the estate roads are constructed to a standard suitable for adoption as public highway in accordance with Policies GS3, GS4 and TRA14 of the Broadland District Local Plan (Replacement) 2006.
- 23 To ensure the satisfactory development of the site without prejudice to the amenity of the site or to road safety in accordance with Policies GS3 and TRA14 of the Broadland District Local Plan (Replacement) 2006.
- 24 In the interests of highway safety in accordance with Policies GS3 and TRA14 of the Broadland District Local Plan (Replacement) 2006.
- 25 To ensure adequate off street parking during construction in the interests of highway safety in accordance with Policies GS3 and TRA14 of the Broadland District Local Plan (Replacement) 2006.
- 26 To prevent extraneous material being deposited on the highway and in the interests of highway safety in accordance with Policies GS3 and TRA14 of the Broadland District Local Plan (Replacement) 2006.
- 27 In the interests of highway safety in accordance with Policies GS3 and TRA14 of the Broadland District Local Plan (Replacement) 2006.

The reasons for the decision are:-

The main issues to be taken into consideration in the determination of this application are an assessment of the proposal against Development Plan policies and national planning guidance. In particular, regard must be given to whether the proposal accords with Policies 1, 2, 3, 4, 6, 7, 8, 9, 14 and 18 of the Joint Core Strategy and Policies GS1, GS3, GS4, ENV2, ENV3, ENV5, ENV20, ENV23, HOU1, HOU6, HOU7, TRA2, TRA3, TRA4, TRA8, TRA14, RL5, RL7 and CS14 of the Broadland District Local Plan (Replacement) 2006. The Parking Standards and Recreational Open Space Supplementary Planning Documents are also relevant as is the National Planning Policy Framework (NPPF), The Planning System: General Principles, Written Ministerial Statement for Growth (March 2011) and Community Infrastructure Levy Regulations.

The application site is outside but adjacent to the settlement limit that has been defined for

Brundall and therefore there is a presumption against development proposals unless they comply with a specific allocation and/or policy of the Local Plan. The Local Plan has not allocated any sites for housing at Brundall and Policy HOU1 explains that that estate scale development will be restricted to the Norwich fringe parishes and Aylsham. Elsewhere, estate scale development will not be permitted unless identified on the Local Plan proposals map. The application is therefore contrary to Policy HOU1 of the Local Plan. However, regard must be given to the more up to date policies set out in the NPPF and the JCS (both in their remitted and adopted form).

Policy 14 of the JCS identifies Brundall as a key service centre within the Norwich Policy Area (NPA) capable of accommodating a minimum of 50 dwellings. However, as the settlement is located within the NPA, it may be considered for additional development to help meet the total housing provision target.

It is acknowledged that there is not a supply of deliverable sites sufficient to provide five years housing supply in the Norwich Policy Area as required by Paragraph 47 of the NPPF. Paragraph 49 of the NPPF sets out that relevant policies for the supply of housing should not be considered up to date if a five year supply of deliverable housing sites cannot be demonstrated. In this regard, Policy HOU1 of the Local Plan must be considered out of date. The contribution that this proposal would make towards meeting the need for housing in a reasonably sustainable location for new development in the NPA would be a measurable benefit, helping to meet housing targets while also increasing the amount of affordable housing available and the choice of housing. Regard has also been given to paragraph 14 of the NPPF in reaching this view.

Other potential benefits associated with the development including the potential employment opportunities that works at the site will generate, there being more residents to support existing services and facilities, contributions to improve formal recreation provision within the village and that the application benefits from the support of the Parish Council. For these reasons and those given in the paragraph above, it is considered that the application will not result in demonstrable adverse impacts that will outweigh the benefits.

As this planning application has been submitted in advance of the Site Allocations DPD being adopted, its consideration is premature. However, given the early stage of preparation at which the Site Allocations DPD is at and that it will not be adopted until late-2014 at the earliest, it is considered that a refusal cannot be justified on these grounds alone. Another site for 50 dwellings has been proposed elsewhere in Brundall and it is acknowledged that in approving this planning application in advance of the Site Allocations DPD, it may pre-empt the consideration of the alternative site. However, it is considered that the benefits associated with this application outweigh the fact this granting planning permission may prejudice the consideration of another smaller site.

Despite the concerns of the Local Planning Authority's Conservation Officer (Design), the layout, scale and design of the development are considered to be acceptable and strike the right balance between using land efficiently and taking account of the form and character of the surrounding area.

Given that views of the site from public vantage points are generally localised, it is considered that any visual impact will be local and that the development will have a neutral impact on the character and appearance of the wider area.

It is considered that appropriate regard has been given to the layout of the site, the type and position of properties throughout the site, the position of windows and noise mitigation from the A47 trunk road. In taking account of these items, it is considered that the

development will have a neutral impact on the residential amenity of existing residents to the south and east and that future residents will benefit from appropriate levels of amenity.

Norfolk County Council's Highways department did not object to the application on the grounds of highway safety or the satisfactory functioning of the highway network subject to the imposition of appropriate conditions.

The Highways Agency not raised any objections to the application.

Subject to the use of appropriate conditions, Anglian Water and the Environment Agency have not objected to the application on the grounds of flood risk.

Informal open space will be provided in four areas at the site and an equipped play area will be provided as part of one of these areas in a roughly central location within the site. The play area and amount and type of informal open space being proposed is considered to be appropriate for a development of this scale and if delivered and managed in the fashion being proposed, it is also considered that these spaces will be beneficial to residents.

In addition to the on-site informal open space and equipped children's play area, the applicant is prepared to contribute towards providing formal recreation provision off site in accordance with the requirements of Policies RL5 and RL7 of the Broadland District Local Plan (Replacement) and the Recreational Open Space SPD. The supplementary amount on offer to assist the Parish Council in its aspirations for providing recreation space in the village has been given no weight in deciding this application as it does not meet the three Community Infrastructure Levy tests.

A Tree Preservation Order exists at the site that protects a number of trees around the boundaries. Despite this, the removal of three trees to allow for the vehicular accesses into the site from Cucumber Lane is not considered to significantly affect the character and appearance of the area, particularly when an opportunity exists to mitigate the loss by planting new landscaping elsewhere along the site frontage. Matters relating to trees and landscaping have been dealt with by way of an appropriate condition.

An ecological appraisal was submitted with the application and appropriate conditions have been used to deal with ecological mitigation and enhancement.

Norfolk County Council's Historic Environment Service has recommended the use of an appropriate condition to deal with further archaeological matters.

Matters relating to affordable housing, on and off-site recreation and open space provision, education and library provision and improvements to transport infrastructure will be the subject of a Section 106 Agreement.

Despite a small number of objections and concerns raised by local residents and the fact that the site is outside of a defined settlement limit, it is considered that this application will not have a detrimental impact on the character and appearance of the area, residential amenity or on heritage assets. Subject to the use of appropriate conditions, it is also considered that it will not result in increased flood risk.

Account must also be given to other material considerations: Brundall is a reasonably sustainable location for new development; there is not a five year supply of land for housing in the NPA and this development will contribute towards the shortfall in supply while also providing affordable housing; contributions towards off-site recreational space in

accordance with the Local Planning Authority's Recreational Open Space SPD will meet the policy requirement and arguably, will ultimately result in a wider community benefit. It is considered that all of these items are sufficient enough to justify granting planning permission for the application.

The Local Planning Authority has taken a proactive and positive approach to decision taking in accordance with the requirements of paragraphs 186-187 of the National Planning Policy Framework.

Informatives

1. The site is subject to a related agreement under Section 106 of the Town And Country Planning Act 1990.
2. If this development involves any works of a building or engineering nature, please note that before any such works are commenced it is the applicant's responsibility to ensure that, in addition to planning permission, any necessary consent under the Building Regulations is also obtained. Advice in respect of Buildings Regulations can be obtained from CNC Building Control Consultancy who provide the Building Control service to Broadland District Council. Their telephone number is 01603 430100 or enquiries@cncbuildingcontrol.gov.uk and the website www.cncbuildingcontrol.gov.uk
3. It is an OFFENCE to carry out any works within the Public Highway, which includes a Public Right of Way, without the permission of the Highway Authority. This development involves work to the public highway that can only be undertaken within the scope of a legal agreement between the applicant and the County Council. Please note that it is the applicant's responsibility to ensure that, in addition to planning permission, any necessary Agreements under the Highways Act 1980 are also obtained. Advice on this matter can be obtained from the County Council's Highways Development Control Group based at County Hall in Norwich.

Public Utility apparatus may be affected by this proposal. Contact the appropriate utility service to reach agreement on any necessary alterations, which have to be carried out at the expense of the developer.

If required, street furniture will need to be repositioned at the applicants own expense.

Signed



Mr P Courtier
Head of Planning
Broadland District Council, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich,
NR7 0DU

Information relating to appeals against the decision of the Local Planning Authority.

If you are aggrieved by this decision 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.

Any appeal must be made within **6 months** of the date of this notice unless an enforcement notice has been served for the same or substantially the same development within the period of two years before this application was made, or subsequently, then the period within which an appeal can be lodged is reduced to **28 days** from the date of this decision or 28 days from the serving of the enforcement notice, whichever is the later.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The Secretary of State need not consider an appeal if it seems to him 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.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the District Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

AMENDED PLAN

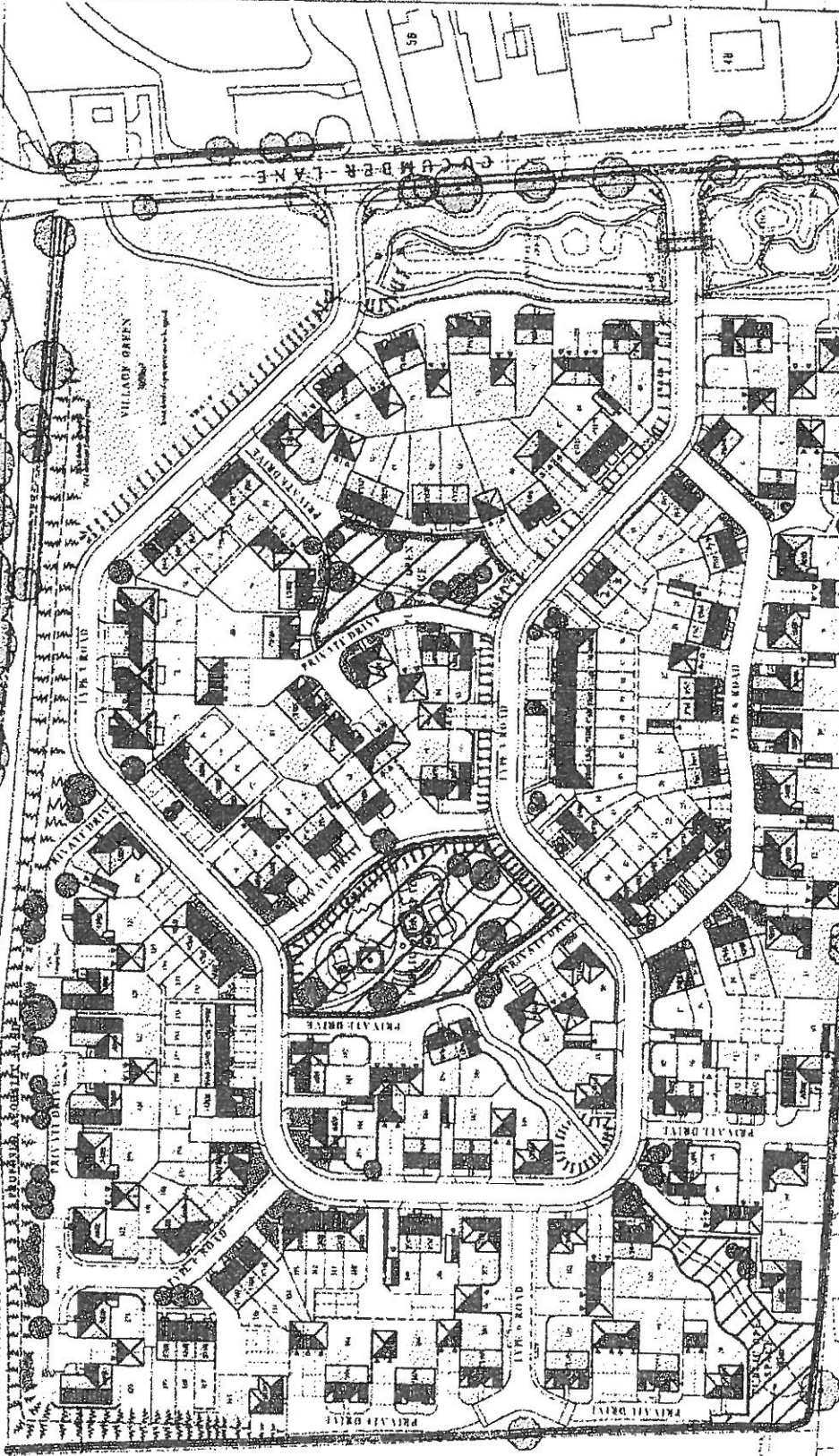


SCALE BAR
0 100 200 300 400 500 600

A 47

KEY
Re: Condition No. 5

PROPOSED
RESIDENTIAL DEVELOPMENT
CUCUMBER LANE, BRUNDALL



RESIDENTIAL DEVELOPMENT
CUCUMBER LANE, BRUNDALL

NO.	AREA	TYPE	NO.	AREA	TYPE
1	100	1	1	100	1
2	200	2	2	200	2
3	300	3	3	300	3
4	400	4	4	400	4
5	500	5	5	500	5
6	600	6	6	600	6
7	700	7	7	700	7
8	800	8	8	800	8
9	900	9	9	900	9
10	1000	10	10	1000	10

PROPOSED
RESIDENTIAL DEVELOPMENT
CUCUMBER LANE, BRUNDALL

PROPOSED
RESIDENTIAL DEVELOPMENT
CUCUMBER LANE, BRUNDALL

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CUCUMBER LANE, BRUNDALL

PROPOSED
RESIDENTIAL DEVELOPMENT
CUCUMBER LANE, BRUNDALL

EXECUTED by the parties hereto as a deed on the date written above

THE COMMON SEAL of)
BROADLAND DISTRICT COUNCIL)
was hereunto affixed)
in the presence of)



7247

M. Mue

Head of Democratic Services and Monitoring Officer

THE COMMON SEAL of)
NORFOLK COUNTY COUNCIL)
was hereunto affixed)
in the presence of)



35640

authorised to sign
on behalf of: *[Signature]*

Authorised Signatory

Signed as a deed by **MARTIN DAVIES** on behalf of
BRUNDALL PARISH COUNCIL in the presence of:

Martin Davies

Witness:

Signature: *[Signature]*.....

Full Name: *SHARON ELAINE SMYTH*.....

Address: *5 PARKER CLOSE, BRUNDALL*
NORWICH, NORFOLK NR13 5GT

Signed as a deed by **IAN WALTERS** on behalf of
BRUNDALL PARISH COUNCIL in the presence of:

I. S. Walters

Witness:

Signature: *Stacey*

Full Name: *STACEY CLAINESMYTH*

Address: *SPARKER CLOSE, BRUNDALL,*
NORWICH, NORFOLK NR13 5QT

Signed as a deed by **CHRISTOPHER CHARLES**
MACK in the presence of:

Witness:

Signature: *[Signature]*

C. Mack

Full Name: *ANNE GLOWETT*

Address: *Birkett's LLP, Kingfisher House, 1 Gilders Way*
Norwich NR3 1UB

Signed as a deed by **JANE ANN MACK** in the
presence of:

Witness:

Signature: *[Signature]*

JANE

Full Name: *ANNE GLOWETT*

Address: *Birkett's LLP, Kingfisher House, 1 Gilders Way*
Norwich, NR3 1UB

EXECUTED AS A DEED by)
BEAZER HOMES LIMITED)
acting by its attorneys)
ANDREW EDWARD FULLER)
and MARTIN CHARLES DAVIDSON)
in the presence of:)

Attorney

Attorney

Witness Signature: A. Keiley

Witness Name: A. KEILEY

Witness Address: 10. PERSIMMON HOUSE, COLVILLE ROAD WORK
OULTON BROAD, NR33 9QS.

Witness Occupation: ADMINISTRATION MANAGER