

Dated 28<sup>th</sup> JUNE 2019

Broadland District Council (1)

-and-

Langley School (1960) Limited (2)

-and-

Fleur Developments Limited (3)

**DEED OF PLANNING OBLIGATION  
UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**

relating to land at Taverham Hall, Norwich, Norfolk, NR8 6HU

**PARTIES:**

- (1) **BROADLAND DISTRICT COUNCIL**, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 ODU (referred to as "the Council")
  - (2) **LANGLEY SCHOOL (1960) LIMITED** (company number 00656498) number whose registered office is at Langley Park, London, Norfolk, NR1 6BJ (referred to as "the Owner")
  - (3) **FLEUR DEVELOPMENTS LIMITED** (company number 06120954) whose registered office is at 80 Grove Lane, Holt, Norfolk, England, NR25 6ED ("the Developer")
- together referred to as 'the Parties'

**INTRODUCTION**

- (A) The Council is a local planning authority for the purposes of this Deed for the area within which the Site is located.
- (B) The Developer has applied for the Housing Development Permission and the Council has resolved to grant the Housing Development Permission provided the Parties enter into this Deed.
- (C) The Owner owns the freehold of the Site as set out in Schedule 1.
- (D) The Owner intends to use the Sale Profit to undertake the Taverham Hall School Improvement Works pursuant to the Heritage Permissions and the Approved Taverham Hall School Improvements Works Timetable.
- (E) The Developer is interested in the Housing Development Site by a contract dated 24 November 2016 and intends to build out the Housing Development once the Housing Development Site is disposed of to the Developer by the Owner and the Owner shall facilitate the spending of the proceeds of the sale towards the Taverham Hall School improvement Works pursuant to this Deed.

## 1. DEFINITIONS

In this Deed the following expressions have the following meanings:

Act	The Town and Country Planning Act 1990 as amended
Affordable Housing	the Intermediate Housing and Rented Housing to be provided to Eligible Households whose needs are not met by the market
Affordable Housing Contribution	<p>a payment to the Council in accordance with Schedule 2 Part 2 of this Deed towards the provision of off-site Affordable Housing within the administrative area of the Council which shall be equal to the lower of the following:</p> <ul style="list-style-type: none"><li>a) the Heritage Surplus; or</li><li>b) £128,000</li></ul>
Approved Taverham Hall School Improvement Works Timetable	the Taverham Hall School Improvement Works Timetable approved by the Council pursuant to paragraph 1.2.2 Part 1 of Schedule 2 or any revised Taverham Hall School Improvement Works Timetable agreed pursuant to paragraph 1.8 Part 1 of Schedule 2
Big School	that building identified as No. 2 on Plan 2 attached to this Deed
Commencement Date	<p>the date on which a material operation as defined in Section 56(4) of the Act is first carried out, except (for the purposes of this Deed only) operations consisting of:</p> <p>site clearance</p>

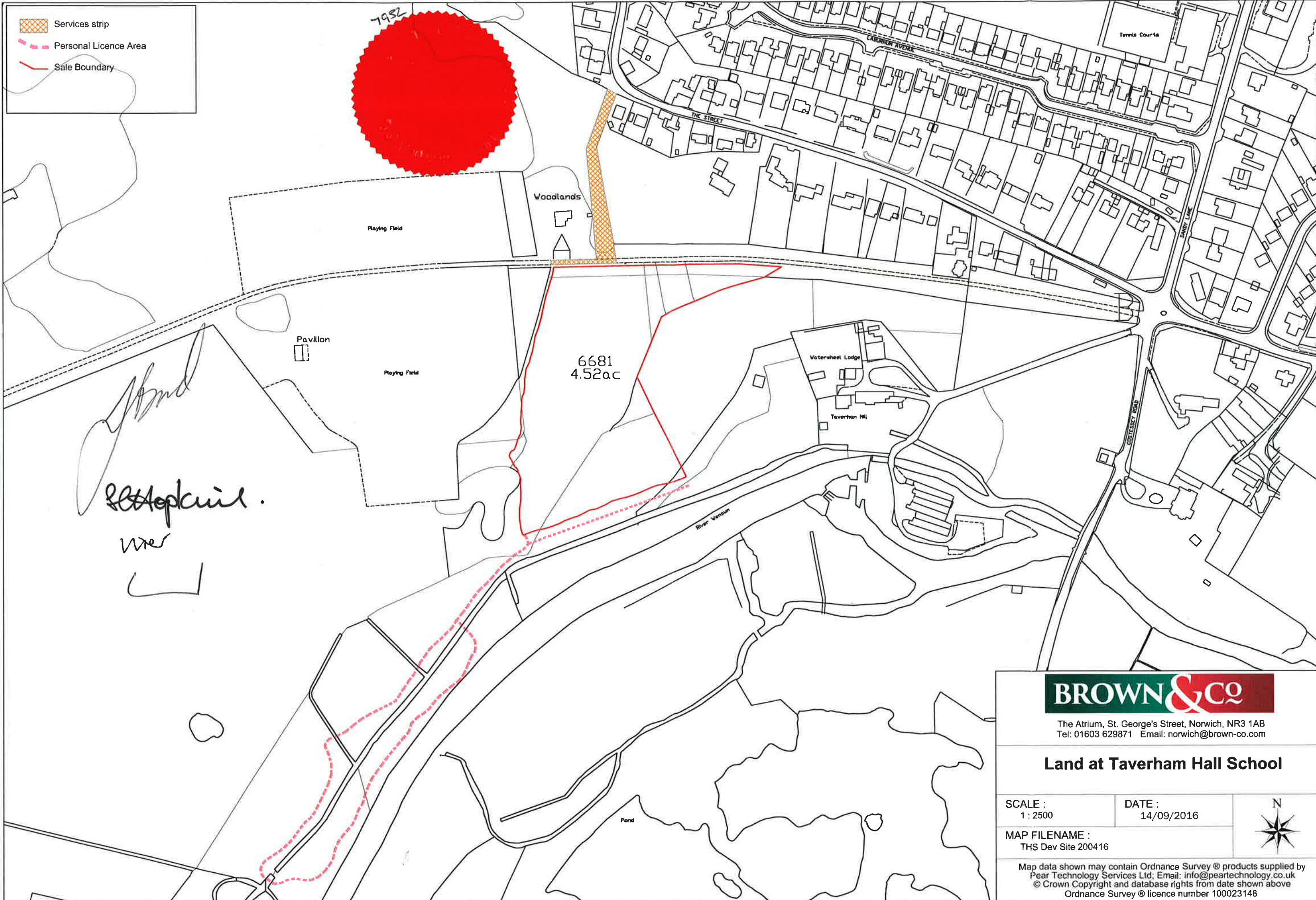
	demolition
	archaeological investigations
	ground surveys
	removal of contamination or other adverse ground conditions
	erection of temporary fences
	temporary display of site notices and/or advertisements
	and "Commence and Commenced" will be construed accordingly
Dwelling	any dwelling (including a house bungalow flat or maisonette) to be constructed pursuant to the Housing Development Permission
Eligible Households	person or persons in need of accommodation who are unable to rent or buy on the local open market and nominated by the Council and determined in accordance with the Council's housing allocation policy or as otherwise approved by the Council
Heritage Bank Account	a bank account opened by the Owner specifically for the purpose of meeting the objectives of this Deed
Heritage Surplus	any balance in the Heritage Bank Account following demolition of "Big School" and the completion of the Taverham Hall School Improvement Works
Heritage Permissions	the full planning permission and listed building consents granted by the Council for the Taverham Hall School Improvement Works under reference numbers 20180481, 20180525 and 20180540
Housing	the development of the Housing Development Site

Development	pursuant to the Housing Development Permission
Housing Development Permission	the planning permission for the erection of six residential dwellings with associated landscaping to be granted by the Council further to the application dated 11 <sup>th</sup> July 2018 reference number 20181142
Housing Development Site	the part of the Site shown edged red for identification purposes only on Plan 1
Nominated Officer	the senior officer of the Council responsible for development management or other officer of the Council notified to the Owner
Occupation	<p>occupation of the Site, or any part of it, for any purpose authorised by the Housing Development Permission, but excluding occupation for the purposes of:</p> <p>construction</p> <p>internal and external refurbishment</p> <p>decoration</p> <p>fitting-out</p> <p>marketing</p> <p>and "Occupy" and "Occupied" will be construed accordingly</p>
Plan1	the plan attached to this Deed with reference THS Dev Site 200416
Plan 2	the plan attached to this Deed named "Heritage Asset Works Plan" and dated 28 March 2019
Plan 3	the plan attached to this Deed marked "Plan 3"
Planning Costs	the reasonable costs to the Owner associated with obtaining the planning permission for the Housing

## Development and the Heritage Permissions

Priority Works Schedule	a list of the Taverham Hall School Improvement Works in priority order of how essential they are to be carried out which shall in any event include the demolition of Big School (and for the avoidance of doubt nothing in this Deed shall oblige Owner to spend any more on the Taverham Hall School Improvement Works and/or Priority Works than is received and notified to the Council as the Sale Profit) and "Priority Works" shall be construed accordingly
Professional Fees	the Owner's reasonable legal and professional costs associated with the sale of the Housing Development Site
Sale Price	the price at which the Housing Development Site is sold (being a price that reflects the Owner's duties as a charity to secure best consideration for the disposal of the Housing Development Site)
Sale Profit	the Sale Price less the Planning Costs and the Professional Fees
Site	the land known as land at Taverham Hall School, Norwich, Norfolk, NR8 6HU and registered at H M Land Registry under title number NK308411 shown edged red for identification purposes only on the Plan 3 PROVIDED THAT Schedule 2 shall only bind the Housing Development Site until the Owner has disposed of the Housing Development Site to the Developer and on the disposition of the Housing Development Site to the Developer this definition shall exclude the Housing Development Site





**BROWN & CO**

The Atrium, St. George's Street, Norwich, NR3 1AB  
Tel: 01603 629871 Email: norwich@brown-co.com

**Land at Taverham Hall School**

SCALE :  
1 : 2500

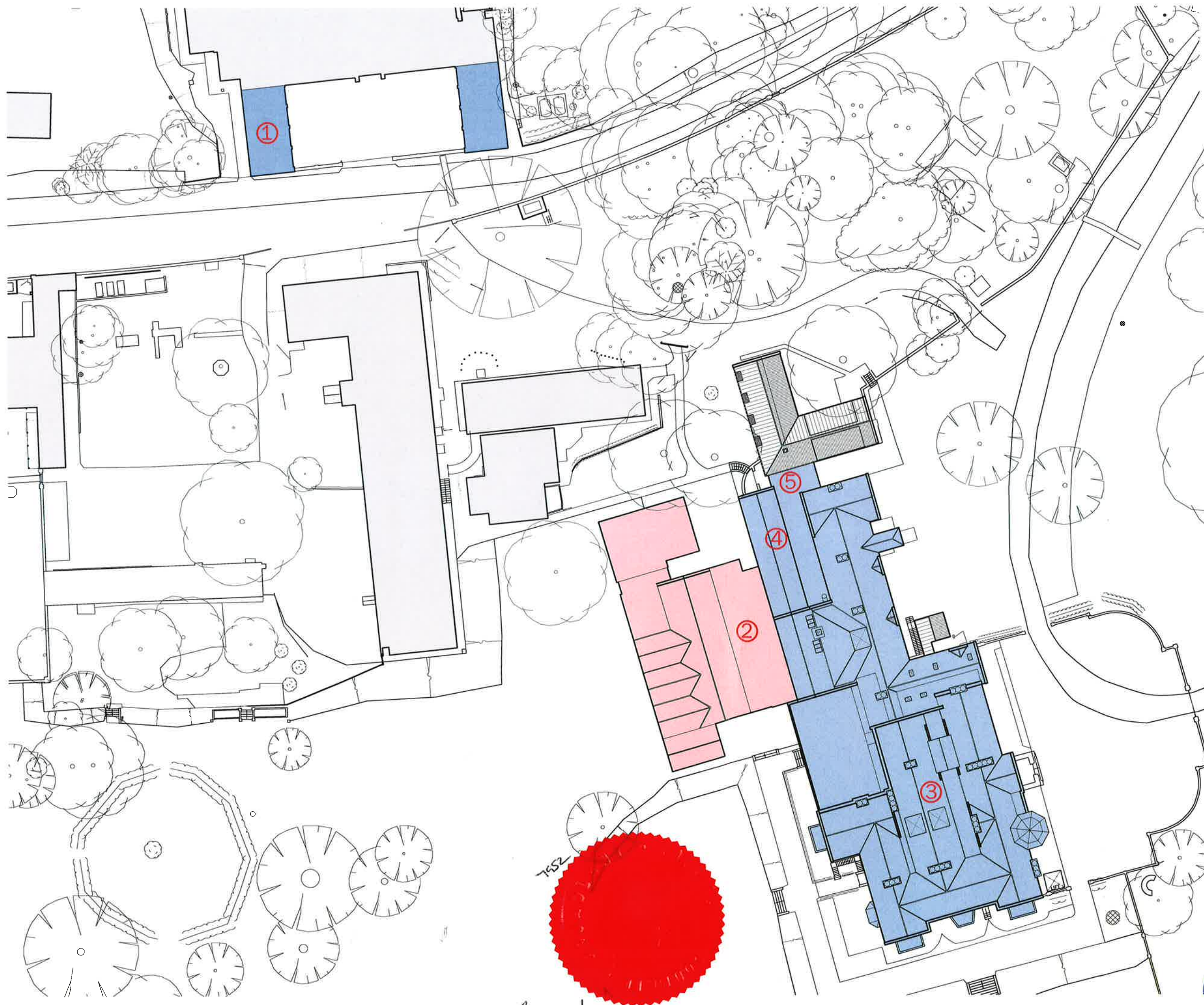
DATE :  
14/09/2016

MAP FILENAME :  
THS Dev Site 200416



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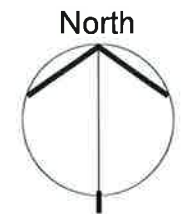


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Reason	Drawn	Check	Date

### Key *stopkins*

- 1) Internal & external renovations to changing room wings
- 2) Demolition of 1920's building
- 3) Roof repair and water system upgrade to main hall.
- 4) Internal reconfiguration of old stable building
- 5) New enclosed entrance canopy.



Issue Status: **Tender Issue**



client	Langley School at Taverham		
project	Proposed Main School Roof Repairs at; Langley School at Taverham		
drawing	Heritage Asset Works Plan		
date	28.03.19	scale	1:500 @ A3
drawn	DMW	check	FIH



Brown & Co. The Atrium, St George's Street, Norwich, NR3 1AB.  
T: 01603 629871. W: www.brown-co.com  
Brown & Co Registered Office: Grantham Hall, Finsbury Street, Grantham, Lincolnshire, NG31 6QZ.  
Registration no: 00302092. Registered in England & Wales.

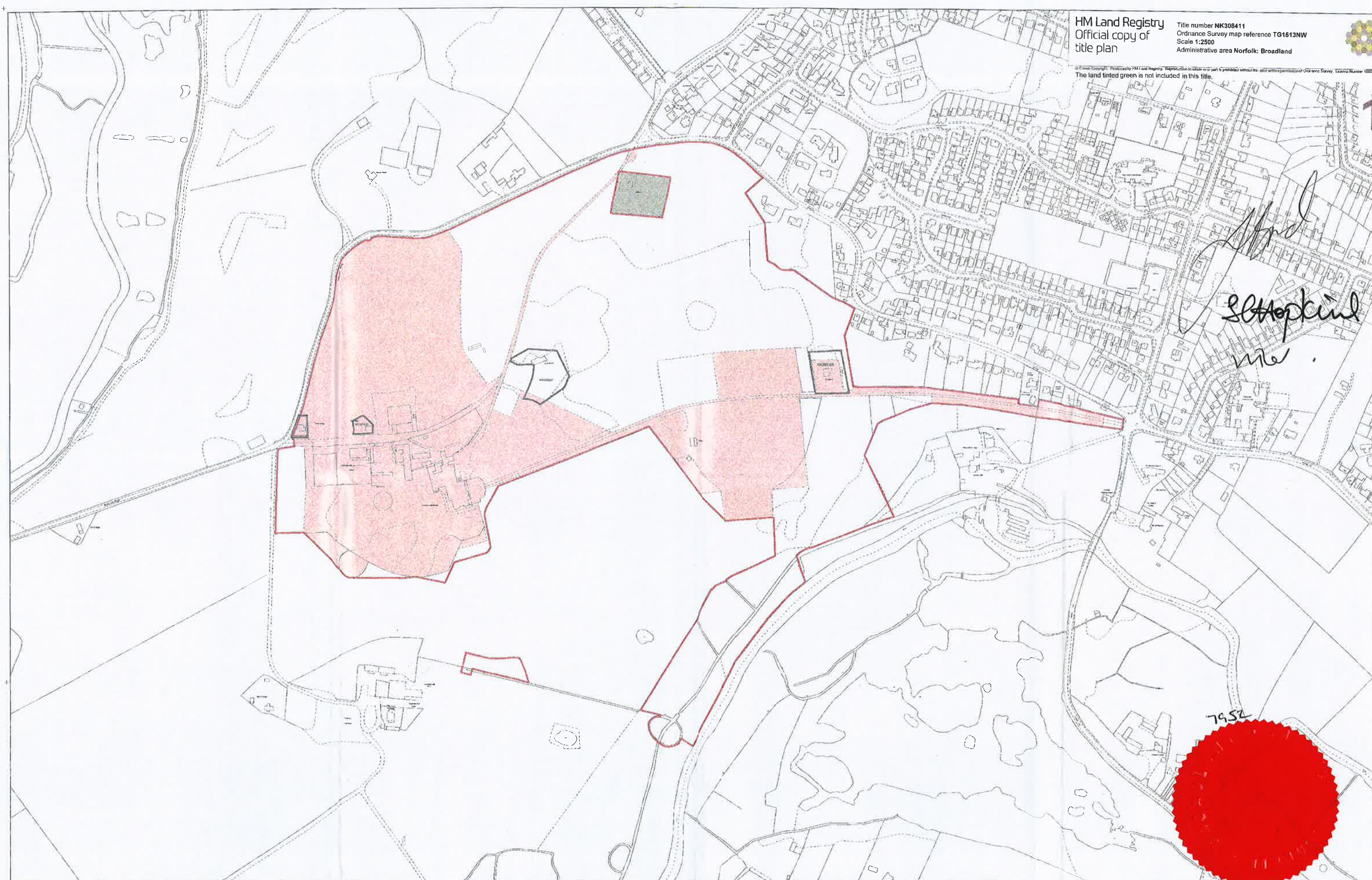


"Plan 3"

HM Land Registry  
Official copy of  
title plan

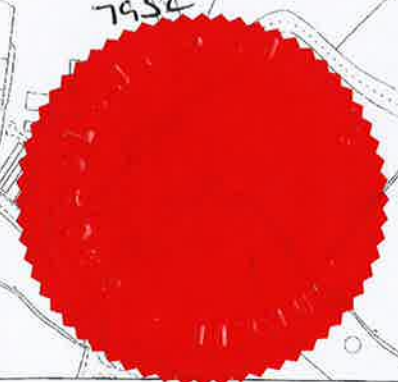
Title number NK308411  
Ordnance Survey map reference TG1613NW  
Scale 1:2500  
Administrative area Norfolk: Broadland

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The land tinted green is not included in this title.



*Handwritten signature*  
*stop kind me*

7952





Taverham Hall School the land shown for the purposes of identification only edged red on the Plan 3 excluding the Housing Development Site

Taverham Hall School Improvement Works works to repair, replace and/or improve the structure and fabric of Taverham Hall School as detailed in the Heritage Permissions to include the demolition of "Big School" (and for the avoidance of doubt nothing in this Deed shall oblige Owner to spend any more on the Taverham Hall School Improvement Works and/or Priority Works than is received and notified to the Council as the Sale Profit)

Taverham Hall School Improvement Works Timetable a timetable with details and proposed timings for the carrying out and completion of a programme of works for the Taverham Hall School Improvement Works to Taverham Hall School including the Priority Works Schedule (and for the avoidance of doubt nothing in this Deed shall oblige Owner to spend any more on the Taverham Hall School Improvement Works and/or Priority Works than is received and notified to the Council as the Sale Profit)

## **2. LEGAL BASIS**

- 2.1 This Deed is made pursuant to Section 106 of the Act and, to the extent that it does not contain planning obligations, under Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011, and all other enabling powers
- 2.2 The covenants and obligations contained in this Deed create planning obligations for the purposes of section 106 of the Act enforceable by the Council and relate to the Site

- 2.3 It is agreed by the Parties that any obligation contained within this Deed which sets out how a planning obligation will be performed will not amount to more than one planning obligation per Schedule for the purposes of Regulation 123 of the Community Infrastructure Regulations 2010 (as amended)
- 2.4 Covenants given by more than one party can be enforced against them individually or jointly
- 2.5 A reference to an Act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that Act, and reference to a gender or person includes all genders or classes of person
- 2.6 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 2.7 References to any party to this Deed shall include successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to its statutory functions
- 2.8 Representatives of the Council may enter the Site at any reasonable time to ascertain whether the terms of this Deed are being or have been complied with provided that:
- 2.8.1 they do not enter any individual Dwelling; and
- 2.8.2 they adhere to all reasonable health and safety requirements
- 2.9 It is AGREED that should the Developer purchase the Housing Development Site the Council shall only enforce the provisions agreed against the owner of the Site excluding the Housing Development Site (subject to Clause 6.1 of this Deed)

### **3. CONDITIONALITY**

Save for the provisions of this clause and clauses 6.2, 6.3, 7.1, 7.2, 8, 10, 11, 12 and 13 the obligations set out in this Deed are conditional upon;

- (i) the grant of the Housing Development Permission; and
- (ii) the sale of the Housing Development Site to the Developer



#### **4. COVENANTS**

- 4.1 The Owner covenants with the Council for themselves and their successors in title to observe and perform the obligations and stipulations contained in this Deed as set out in Schedule 2
- 4.2 The Owner covenants comply with their respective requirements contained in this Deed

#### **5. THE COUNCIL'S COVENANTS**

- 5.1 The Council hereby covenants with the Owner as set out in Schedule 2.
- 5.2 The Council covenants with the Owner to act promptly when dealing with requests for consent and/or approval under Schedule 2 and shall not unreasonably withhold or delay any such consents and/or approvals

#### **6. OTHER PROVISIONS**

- 6.1 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
- 6.2 The Owner confirms that it is the owner of the Site with full power to enter into this Deed and that there is no person or body with an interest in the Site whose consent is necessary to make this Deed binding on all interests in the Site
- 6.3 On completion the Developer will pay the Council's reasonable legal costs in connection with this Deed
- 6.4 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

- 6.5 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 6.6 No waiver, express or implied, by the Council of any breach or failure to perform or observe any of the covenants, terms or conditions of this Deed constitutes a continuing waiver, nor prevents the Council from enforcing any of the provisions in this Deed
- 6.7 If the Housing Development Permission is quashed revoked or expires before Commencement then, save for clause 6.3, this Deed will cease to have effect (insofar only as it has not already been complied with)
- 6.8 Subject to clause 6.10, nothing in this Deed prohibits or limits the right to develop any part of the Site in accordance with a planning permission (other than the Housing Development Permission) granted after the date of this Deed
- 6.9 If the Housing Development Permission is subject to an application under Section 73 of the Act for the removal or amendment of any condition attached to the Housing Development Permission then the obligations in this Deed shall also apply to the new planning permission resulting from such application if so agreed by the Council (acting in its absolute discretion)
- 6.10 This Deed is registrable as a local land charge
- 6.11 Following the performance and satisfaction of all the obligations contained in this Deed the Council will, upon the written request of the Owner, cancel all relevant entries contained in the Register of Local Land Charges
- 6.12 An agreement, approval, consent or expression of satisfaction required by the Owner from the Council under the terms of this Deed must be given in writing and shall not be unreasonably withheld or delayed
- 6.13 The provisions of this Deed (other than this clause which takes immediate effect) will be of no effect until this Deed has been dated
- 6.14 Nothing contained or implied in this Deed will fetter, prejudice or affect the rights, discretions, powers, duties and obligations of the Council in the exercise of any of its functions as local authority
- 6.15 The covenants, restrictions and requirements contained in this Deed shall not

be enforceable against:

6.15.1 individual purchasers lessees and/or occupiers of Dwellings constructed on the Housing Development Site pursuant to the Housing Development Permission or their mortgagees;

6.15.2 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 Housing Development and/or the Taverham Hall School Improvement Works

## **7. DISPUTES**

7.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding

7.2 The expert is to be replaced by a fresh appointee in the event that he becomes at any time unable or unwilling for any reason to proceed to discharge his functions. The fresh appointee is to be appointed in the manner prescribed in this clause

7.3 The expert is to make his decision within 6 weeks of being appointed

7.4 The costs of appointing the expert are to be shared equally by the parties to the dispute except where the expert takes the view that one party has acted unreasonably. In that case the expert has binding discretion as to apportionment of the costs

7.5 Nothing in this clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

## **8. NOTIFICATIONS**

8.1 Any notice or written communication given under this Deed is validly given if



hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received

8.2 The Owner will notify the Nominated Officer in writing of the relevant

8.2.1 anticipated Triggers seven days in advance of each anticipated date,

8.2.2 actual Triggers within seven days of each actual date

8.3 If the Owner disposes of his interest in all or part of the Site he will notify the

Nominated Officer within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site AND FOR THE AVOIDANCE OF DOUBT this Clause 8.3 shall not apply to the disposal of Dwellings pursuant to the Housing Development Permission to owner-occupiers

## **9. JURISDICTION**

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

## **SCHEDULE 1**

### **Details of the Owner's Title and Description of the Site**

1. The freehold land edged red on Plan 3 being land at Taverham Hall School, Norwich, Norfolk, NR8 6HU the title to which form land registered at the Land Registry under title number NK308411

## **SCHEDULE 2**

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

#### **Part 1**

#### **Taverham Hall School Improvement Works**

The Owner covenants to:

- 1.1 Notify the Council in writing at least 28 days in advance of the date of the intended disposal of the Housing Development Site, and of the anticipated Sale Profit (if known at this time).
- 1.2 Within 28 days of completion of the disposal of the Housing Development Site:
  - 1.2.1 notify the Council of the final amount of the Sale Profit, Sale Price, Planning Costs and Professional Fees PROVIDED THAT the Owner shall be under no obligation to give such notification if these amounts are not known at this time FURTHER PROVIDED THAT these amounts are notified to the Council before the Commencement of the Taverham Hall School Improvement Works;
  - 1.2.2 submit the Taverham Hall School Improvement Works Timetable to the Council for approval by the Council.
- 1.3 Not to carry out or Commence any part of the Taverham Hall School Improvement Works until the Council has approved the Taverham Hall School Improvement Works Timetable.
- 1.4 Not to permit the Housing Development to be Commenced until the Sale Price has been paid to the Owner.
- 1.5 On receipt of the Sale Price to promptly pay the Sale Profit into the Heritage Bank Account.
- 1.6 To carry out the Taverham Hall School Improvement Works in accordance with the Heritage Permissions and the Approved Taverham Hall School Improvement Works Timetable (which shall include the Priority Works Schedule) and the Owner shall use the funds in the Heritage Bank Account on



those works in the order of priority agreed with the Council in the Priority Works Schedule until such time as the Sale Profit is fully expended noting that there is no obligation on the Owner to spend any more on the Taverham Hall School Improvement Works than is received and notified to the Council as the Sale Profit.

- 1.7 Only use the Heritage Bank Account for the purpose of complying with paragraphs 1.6 or 1.8 of this Part 1 to Schedule 2.
- 1.8 To use reasonable endeavours to meet all timetables in the Approved Taverham Hall School Improvement Works Timetable and to notify the Council as soon as reasonably practicable if it is not possible to meet such timetables. If a timetable in the Approved Taverham Hall School Improvement Works Timetable is not met the Owner shall submit and seek the written approval of the Council of a revised Taverham Hall School Improvement Works Timetable which the Owner shall then implement. In the event that after six weeks an Approved Taverham Hall School Improvement Works Timetable has not been approved by the Council an Expert whose decision is binding will be appointed to determine a time frame within which the said works will be completed by the Owner.
- 1.9 Notify the Council promptly if it is likely that there will be a Heritage Surplus.
- 1.10 To notify the Council in writing within 7 days of Completion of the Taverham Hall School Improvement Works.
- 1.11 For the avoidance of doubt nothing in this Deed shall oblige the Owner to spend any more on the Taverham Hall School Improvement Works and/or Priority Woks than is received and notified to the Council as the Sale Profit.

## **Part 2**

### **Affordable Housing Contribution**

1. In the event that there is a Heritage Surplus following the completion of the Taverham Hall School Improvement Works in accordance with the Approved Taverham Hall School Improvement Works Timetable the following provision shall apply:
  - 1.1 To pay the Affordable Housing Contribution to the Council within 4 weeks of the completion of the Taverham Hall School Improvement Works in accordance with the Approved Taverham Hall School Improvement Works Timetable;
  - 1.2 In the event there is any balance in the Heritage Bank Account following the payment of the Affordable Housing Contribution the provisions of this Deed shall not restrict the use of that balance and that balance may be utilised free from the provisions of this Deed.

### **SCHEDULE 3**

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

The Council covenants to:

1. On receipt of any Affordable Housing Contribution the Council shall hold the Affordable Housing Contribution for use towards the provision of off-site Affordable Housing within the administrative area of the Council PROVIDED THAT nothing shall prevent the Council from paying all or part of the Affordable Housing Contribution to a person body partnership or company that shall be responsible for using the Affordable Housing Contribution towards the provision of offsite Affordable Housing within the administrative area of the Council (secured by covenant from that person body partnership or company) and in making such a payment the Council shall be deemed to have expended those monies for the purposes of this Schedule.
2. In the event that all or any part of the Affordable Housing Contribution paid to the Council has not been used for the purposes contained in paragraph 1 of this Schedule 3 above then such Affordable Housing Contribution or part thereof that has not been used for those purposes within 5 years from the date of payment shall be returned to the party who made the payment to the Council together with any interest thereon.
3. The Council shall within 28 days of written request provide to the Owner the details of the expenditure of any Affordable Housing Contribution.
4. At the written request of the Owner and/or the Developer the Council shall provide written confirmation of the discharge of any or all of the obligations (as appropriate) contained in this Deed when satisfied that such obligations have been performed.

IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

THE COMMON SEAL OF Broadland District Council )  
was affixed in the presence of )



Authorised Signatory:

  
CM MACKFORD  
Deputy Monitoring Officer

Executed as a Deed by

**LANGLEY SCHOOL (1960) LIMITED**

In the presence of:

Director:  (SHARON TURNER)

~~Director/Secretary/Witness:~~

Witness Name: STEVEN BELL

Witness Address: BIRKETTS SOLICITORS,  
KINGFISHER HOUSE, NORWICH

Witness Occupation: SOLICITOR

Executed as a Deed by

**FLEUR DEVELOPMENTS LIMITED**

In the presence of:

Director:



Director/Secretary/Witness:—



Witness Name: .....

Witness Address: .....

Witness Occupation: .....