

Dated

28<sup>th</sup> September

2018

Broadland District Council

-and-

David John Draper and Richard Eric Betts

-and-

ESCO Developments Ltd

**DEED OF PLANNING OBLIGATION  
UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**  
relating to land off Beech Avenue, Taverham

THIS DEED is dated

28<sup>th</sup> September

2018

**PARTIES:**

- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU (referred to as "the Council")
- (2) **DAVID JOHN DRAPER** of Red Lodge, Cock Street, Barford, Norwich NR8 6TE and **RICHARD ERIC BETTS** of 13 The Close, Norwich, Norfolk NR1 4DS (referred to as "the Owners")
- (3) **ESCO DEVELOPMENTS LTD** (Co. Regn. No.: 07167738) whose registered office is situated at 55 Baker Street, London W1U 7EU (referred to as "the Developer")

together referred to as 'the Parties'

**INTRODUCTION**

- (A) The Council is a local planning authority for the area within which the Site is located
- (B) The Owners and the Developer have applied for the Permission and the Council has resolved to grant the Permission provided the Parties enter into this Deed
- (C) The Owners own the Site which is part of the land registered at the Land Registry under title number NK355987

**1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

Act                                      The Town and Country Planning Act 1990

Application                            The outline planning application submitted to the

	Council and allocated reference 20172148 for the erection of 93 dwellings with associated access, parking and open space
Commencement	<p>The date on which a material operation as defined in Section 56(4) of the Act is first carried out, except operations consisting of:</p> <ul style="list-style-type: none"> <li>site clearance</li> <li>demolition</li> <li>archaeological investigations</li> <li>ground surveys</li> <li>removal of contamination</li> <li>erection of temporary fences</li> <li>temporary display of site notices and/or advertisements</li> <li>any works carried out in connection with the construction of the off-site highway improvement works to be carried out pursuant to condition 18 of the Permission</li> </ul> <p>and 'Commence' and 'Commenced' will be construed accordingly</p>
Development	The Development of the Site in accordance with the Permission
Dwelling	Any dwelling to be built on the Site as part of the Development and "Dwellings" shall be construed accordingly
Nominated Officer	The senior officer of the Council responsible for development management or other officer of the Council notified to the Owners



Index Linked	Index linked from 1 January 2017 until the date any payment referred to in this Deed is made, such index linking being equivalent to any change in the RICS Building Cost Information Service All In Tender Index (or if such index ceases to be published, another index notified to the Owners by the Nominated Officer)
Location Plan	The plan attached to this Deed (ref: 16 065)
Occupation	Occupation of the Site, or any part of it, for any purpose authorised by the Permission, but excluding occupation for the purposes of: <ul style="list-style-type: none"> <li>construction</li> <li>internal and external refurbishment</li> <li>decoration</li> <li>fitting-out</li> <li>marketing</li> <li>security operations</li> </ul> and 'Occupy' and 'Occupied' will be construed accordingly
Permission	The planning permission to be granted by the Council pursuant to the Application or if the Council agrees (in its absolute discretion) in writing another planning permission for the Development granted pursuant to section 73 of the Act
Site	The land off Beech Avenue, Taverham which is part of the land registered at H M Land Registry under title number NK355987 shown edged red for identification purposes only on the Location Plan
Trigger	Means the Commencement date and any trigger or



threshold in this Deed linked to the taking of specified steps, payment of money, or linked to the prohibition of a specified action

## **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 Section 111 of the Local Government Act 1972 and all other enabling powers and the covenants and obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act enforceable by the Council
- 2.2 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 Levy Regulations 2010, as amended
- 2.3 Covenants given by more than one party can be enforced against them individually or jointly
- 2.4 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
- 2.5 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 2.6 This Deed is governed by and interpreted in accordance with the law of England
- 2.7 References to any party to this Deed shall include successors in title to that party and any person deriving title through or under that party and in the case of the Council the successors to its statutory functions

### **3. CONDITIONALITY**

This Deed is conditional upon:

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

save for the provisions of this Clause and Clauses 5.1, 5.2, 5.3, 5.5, 5.8, 5.9, 5.10, 5.11, 5.12, 6, 9 and 10 which shall come into effect immediately upon the completion of this Deed

### **4. COVENANTS**

- 4.1 The Owners covenant with the Council for themselves and their successors in title to observe and perform the obligations and stipulations contained in this Deed
- 4.2 The Council covenant with the Owners to comply with their respective requirements contained in this Deed

### **5. OTHER PROVISIONS**

- 5.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site or that part of the Site in respect of which such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest AND FOR THE AVOIDANCE OF DOUBT neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site (or any part or parts of the Site) shall constitute an interest for the purposes of this Clause
- 5.2 The Owners confirm that they are the owners 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
- 5.3 Save for the obligations contained in Schedule 2 which shall continue to be binding and enforceable against individual purchasers owners occupiers



lessees or their mortgagees of Affordable Dwellings subject to the provisions contained therein the covenants, restrictions and requirements contained in this Deed shall not be enforceable against:

5.3.1 individual purchasers, owners, occupiers or lessees of any Dwellings constructed on the Site pursuant to the Permission or their mortgagees or chargees where (in relation to a breach) that breach occurs after that individual purchaser or lessee has completed the purchase or lease of the Dwelling or has entered into a binding contract for such purchase or lease; or

5.3.2 any statutory undertaker or other authorised 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 or any other services in connection with the Development of the Site

5.4 No waiver, express or implied, by the Council or the Owners of any breach or default in performing or observing any of the covenants terms or conditions on this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the Owners (as appropriate) from enforcing any of the relevant provisions in this Deed or for acting upon any subsequent breach or default

5.5 This Deed shall be registrable as a local land charge by the Council

5.6 Following the performance of all of the obligations contained in the Deed (or should this Deed cease to have effect) the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed

5.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Permission is quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires before the Commencement of Development

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

5.9 Where an agreement approval consent or expression of satisfaction or a



subsequent deed is required or sought by the Owners from the Council under the terms of this Deed such agreement approval or consent or expression of satisfaction or a subsequent deed shall not be unreasonably withheld or delayed

5.10 On completion the Developer will pay the Council's reasonable legal costs in connection with this Deed

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

5.12 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions

## **6. DISPUTES**

6.1 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

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

## **7. INTEREST AND VAT**

7.1 If any payment due to the Council is paid late interest will be added from the date payment is due to the date of payment at the rate of 4% above the base lending rate of the Bank of England from time to time

7.2 All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid

## **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 and the Developer hereby gives notice pursuant to this Clause that its address for service of notices is Howes Percival LLP, Flint Buildings, 1 Bedding Lane, Norwich NR3 1RG (ref: PJW/JZC/227722.2).
- 8.2 The Owners will notify the Nominated Officer in writing of the relevant
- 8.2.1 anticipated Triggers three days in advance of each anticipated date
  - 8.2.2 actual Triggers within fourteen days of each actual date
- 8.3 If the Owners dispose of their interest in all or part of the Site they 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 PROVIDED THAT the Owners shall not be required to give such notice when disposing of any of the Dwellings for their occupation as a residential dwelling constructed pursuant to the Permission

## **9. JURISDICTION**

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

## **10. DELIVERY**

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

## **SCHEDULE 1**

### **Location Plan**



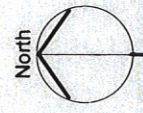
This drawing is unapproved. Only signed documents to be used for planning.

*[Signature]*

CHIEF EXECUTIVE

*[Signature]*

**BROADLAND  
DISTRICT COUNCIL**  
11 Dec 2017  
20172148  
**PLANNING CONTROL**



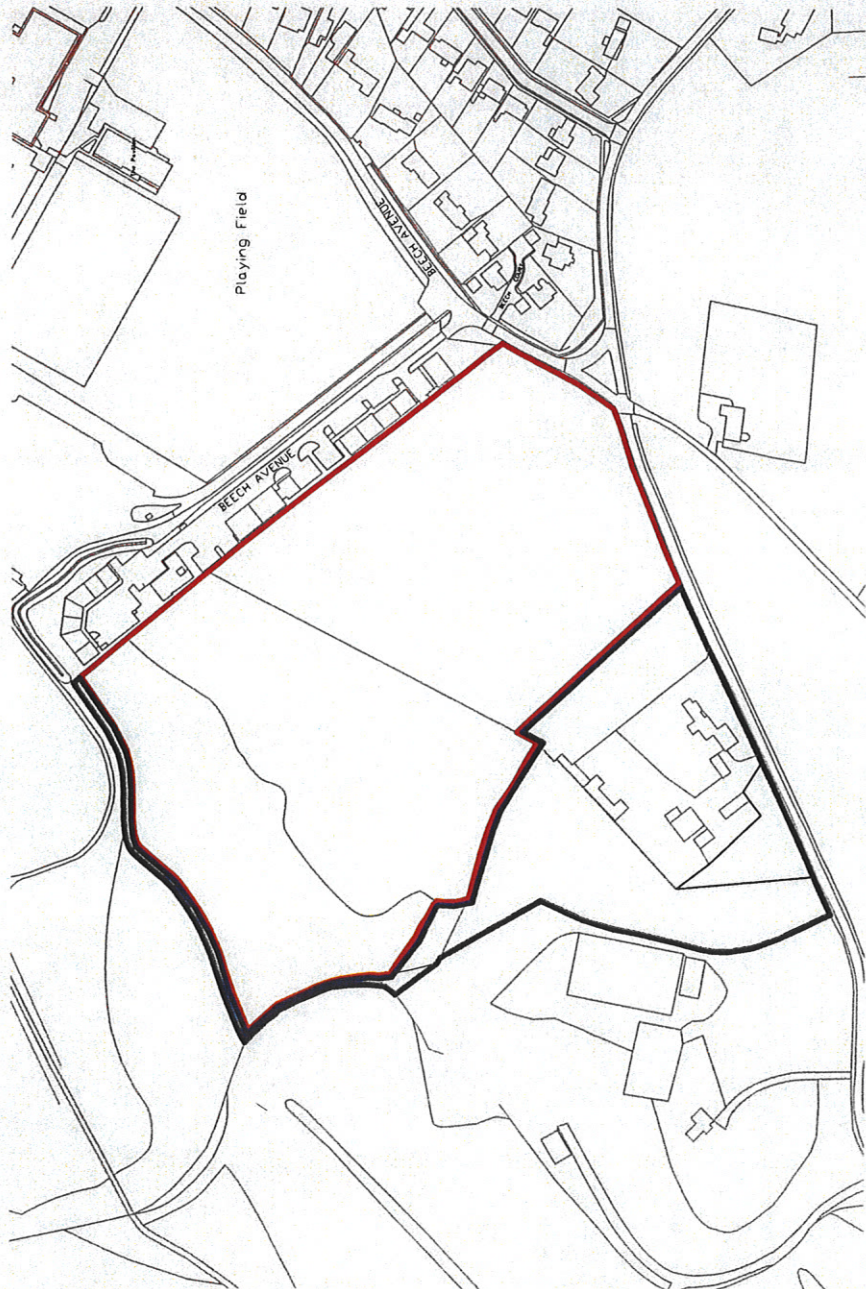
Issue Status: Planning Application  
20m 0 20 40 60 80 100 120  
1:2500

**Esco Developments**  
Land off Beech Avenue  
Taverham

**Red Line boundary**

date: 08/12 scale: 1:2500 sheet: A3  
drawn by: checked by:

**BROWN & CO**  
**ARCHITECTURE + PLANNING**  
Brown & Co. The Mill, 31 George's Street, Norwich, NR3 3AR.  
Phone: 01603 451111, 01603 451112, 01603 451113.  
Email: info@brownandco.co.uk, sales@brownandco.co.uk, planning@brownandco.co.uk





## SCHEDULE 2

### Affordable Housing

#### Part 1

In this Schedule (and elsewhere in this Deed where the context permits) the following words and expressions shall have the following meanings:

"Affordable Dwellings"	the Dwellings to be constructed on the Site to a standard agreed with the Council as Affordable Housing and "Affordable Dwelling" shall be construed accordingly
"Affordable Housing"	the Intermediate Housing and Affordable Rented Dwellings to be provided to Eligible Households whose needs are not met by the market (unless otherwise agreed in writing with the Council)
"Affordable Housing Mix"	60% Affordable Rented Dwellings and 40% Intermediate Housing (or as otherwise agreed by the Council in writing)
"Affordable Housing Provision"	the construction and provision of Affordable Dwellings on the Site equating to 36% of the total number of Dwellings (which for the avoidance of doubt shall equate to 33 Affordable Dwellings if the Development to be carried out on the Site is comprised of 93 Dwellings) (or such other percentage as the Council may agree in its absolute discretion) in accordance with the Affordable Housing Mix

<p>"Affordable Housing Scheme"</p>	<p>A scheme securing the Affordable Housing Provision and specifying:</p> <ul style="list-style-type: none"> <li>- The timescale and programme for implementation of the Affordable Housing Scheme and construction of the Affordable Dwellings;</li> <li>- The identity of the proposed Provider or such details as the Council requires to satisfy itself that the Affordable Dwellings will be secured as Affordable Housing in perpetuity;</li> <li>- The number, location, type and size of Affordable Dwellings to be constructed on the Site;</li> <li>- full details of the Affordable Housing Mix (such proposal to reflect the Council's up to date strategic housing market assessment and specific local needs as determined and agreed by the Council) including the types of Intermediate Housing and Affordable Rented Dwellings;</li> <li>- such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme including if required by the Council details of how the Recycling Obligation will be complied with and secured</li> </ul>
<p>"Affordable Rented Dwellings"</p>	<p>Affordable Dwellings to be let by a Provider with an appropriate agreement with HE for the provision of affordable rents being controls that limit the rent to no more than 80 per cent of local market rents including any service charges and shall not exceed the local housing allowance for that area and subject to nominations by the Council in accordance with Part 2 of this Schedule or as otherwise agreed with</p>



	the Council in writing
"Approved Affordable Housing Scheme"	the Affordable Housing Scheme approved by the Council in accordance with paragraph 1.1 of this Schedule 2 including any amendment, revision or substitution approved by the Council in writing
"Eligible Household"	A person or persons in need of accommodation who are unable to rent or buy on the local open market nominated by the Council in accordance with Part 2 of this Schedule 2 and determined in accordance with the Council's housing allocation policy or as otherwise approved by the Council
"HE"	Homes England or such other organisation as may from time to time be the Regulator of Social Housing within the meaning of Section 81 of the Housing and Regeneration Act 2008 or such other body with statutory force charged with regulating Registered Providers
"Intermediate Dwellings"	Affordable Dwellings for sale at prices below local market price that Eligible Households can afford as determined by the Council acting reasonably including low cost homes (but not including low cost market housing), shared ownership, shared equity and equity loan products as approved by the Council in writing

"Intermediate Housing"	one or more of Intermediate Dwellings, Shared Ownership Dwellings, Shared Equity Dwellings and Intermediate Rented Dwellings or as agreed by the Council (unless otherwise agreed by the Council in writing)
"Intermediate Rented Dwellings"	Affordable Dwellings at rents above those of social rented dwellings but below local market rents that Eligible Households can afford (which shall be no more than 80% of local market rents including any service charges and shall not exceed the local housing allowance for that area) as reasonably determined by the Council
"Open Market Dwelling"	Any Dwelling constructed as part of the Development which is not an Affordable Dwelling
"Practically Complete"	Means completion of the construction of the Affordable Dwellings in accordance with this Deed subject only to the existence of minor defects and / or omissions at the time of inspection which are capable of being made good without materially interfering with the beneficial use and enjoyment of the Affordable Dwellings and which it would be reasonable to include in a schedule of minor snagging items and "Practically Completed" shall be construed accordingly
"Provider"	either:  (i) a Registered Provider; or



	(ii) another organisation or individual that has been approved in writing by the Council
"Public Subsidy"	funding provided by the Council, HE or any other public body or successor body towards the provision of Affordable Housing
"Recycling Obligation"	an obligation to use the net proceeds from the acquisition of any share or interest in an Affordable Dwelling by an Eligible Household towards alternative Affordable Housing provision
"Registered Provider"	Is as defined in the Housing and Regeneration Act 2008
"Rented Housing"	one or more of Affordable Rented Dwellings and Social Rented Dwellings as agreed with the Council
"Shared Equity Dwellings"	Affordable Dwellings purchased on a shared equity basis whereby not more than 75% of the equity is sold to the purchaser with power to increase their percentage of ownership up to 100% after five years of acquisition of the initial share and upon a payment equating to the additional equity being purchased payable to the Council or the Provider as the case may be (or such other body as the Council may elect). Such payment to be based on the actual market value as at the date of acquisition of the additional equity such scheme to be secured by a mechanism and in a form agreed with and



	approved by the Council (or such other body as the Council may elect)
"Shared Ownership Dwellings"	Affordable Dwellings purchased on a Shared Ownership Lease
"Shared Ownership Lease"	<p>a lease in a form approved by HE or where there is no such form in a form approved by the Council such lease to provide for the following:</p> <ul style="list-style-type: none"> <li>- not more than 75% and not less than 25% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Provider</li> <li>- power to the purchaser to increase their ownership up to 100% if they so wish</li> <li>- an initial rent not exceeding 2.75% of the value of the equity retained by the Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of HE</li> </ul>
"Social Rented Dwellings"	Dwellings owned or managed by a Provider let at rents not exceeding the Target Rent
"Target Rent"	the rent for Social Rented Dwellings as determined by the national rent regime published by HE or any

	subsequent replacement or where there is no such replacement at a rent determined by the Council
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The Owners hereby covenant with the Council as follows:

- 1.1 Not to Commence the Development until an Affordable Housing Scheme has been submitted to and approved by the Council in writing
- 1.2 Not to Occupy the first Open Market Dwelling until an exchanged contract for the sale of the Affordable Dwellings to a Provider has been supplied to the Council SAVE THAT where the Council agrees that any Affordable Dwellings are not to be transferred to a Provider this obligation shall not apply in relation to those Affordable Dwellings
- 1.3 Not to construct the Affordable Dwellings otherwise than in accordance with the Approved Affordable Housing Scheme and the timescales and details set out therein
- 1.4 Not to Occupy more than 50% of the Open Market Dwellings until 50% of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme are Practically Complete and the following requirements are met:
  - (a) any Affordable Rented Dwellings and Shared Ownership Dwellings have been transferred to the approved Provider (or individual plot owners where appropriate, or where no transfer is required their ongoing provision has been secured) in accordance with and subject to the following terms:
    - i) for a consideration at a level which ensures that no Public Subsidy is required to enable the transaction to be completed;
    - ii) free from all financial charges, adverse rights, restrictions or other encumbrances which would interfere with the use of the Affordable Dwellings as Affordable Housing;
    - iii) with the benefit of all necessary easements, rights and utilities;



- iv) any other terms to secure any conditions and requirements of the Approved Affordable Housing Scheme including where specifically requested by the Council, the registration of a restriction to secure compliance with the Recycling Obligation
  - (b) any other Intermediate Housing has been made available for sale in accordance with the Approved Affordable Housing Scheme
- 1.5 Not to Occupy more than 75% of the Open Market Dwellings until all of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme are Practically Complete and the following requirements are met:
- (a) any Affordable Rented Dwellings and Shared Ownership Dwellings have been transferred to the approved Provider (or individual plot owners where appropriate, or where no transfer is required their ongoing provision has been secured) in accordance with and subject to the following terms:
    - i) for a consideration at a level which ensures that no Public Subsidy is required to enable the transaction to be completed;
    - ii) free from all financial charges, adverse rights, restrictions or other encumbrances which would interfere with the use of the Affordable Dwellings as Affordable Housing;
    - iii) with the benefit of all necessary easements, rights and utilities; and
    - iv) any other terms to secure any conditions and requirements of the Approved Affordable Housing Scheme including where specifically requested by the Council, the registration of a restriction to secure compliance with the Recycling Obligation
  - (b) any other Intermediate Housing has been made available for sale in accordance with the Approved Affordable Housing Scheme
- 1.6 Not to use the Affordable Dwellings for any purpose other than Affordable Housing in accordance with the Approved Affordable Housing Scheme PROVIDED THAT the obligations contained in this Schedule shall not be

binding upon:

- 1.6.1 a person acquiring an interest in an Affordable Dwelling under a statutory right to buy or acquire or a voluntary right to buy scheme under the Housing and Planning Act 2016;
- 1.6.2 an Eligible Household who has staircased under a Shared Ownership Lease to acquire 100% of the leasehold or freehold interest or by a person who has acquired 100% of a Shared Equity Dwelling;
- 1.6.3 a mortgagee or chargee (or any receiver (including an administrative receiver or administrator) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security (each a "Receiver") of the whole or any part of the Affordable Dwelling or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT it has first complied with the following
  - a) such mortgagee or chargee or Receiver shall first give notice to the Council of its intention to dispose of the Affordable Dwellings and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest, costs and expenses; and
  - b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Dwellings free from the obligations contained in this Schedule which provisions shall determine absolutely in relation to the affected Affordable Dwellings
- 1.6.4 all persons or bodies deriving title under or through any persons or bodies referred to in this paragraph 1.6 (including their successors in title)



- 1.7 Not to offer for sale any Intermediate Dwelling (other than a Shared Ownership Dwelling) without the prior written consent of the Council to the maximum selling price of those Intermediate Dwellings

## Part 2

### **Local Letting Policy: Local Connection Eligibility Criteria**

1. Up to one third (or such other amount as the Council shall reasonably require) of the Affordable Rented Dwellings (as chosen by the Council) shall be let on first Occupation in accordance with the local lettings policy set out below:
  - 1.1 First allocations shall be made to people living in the Parish of Taverham.
  - 1.2 If there is no suitable person in paragraph 1.1 allocations will be made to  
  
people who work in the Parish of Taverham; and
  - 1.3 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 to give/receive support to/from close family.
  - 1.4 If there are no suitable persons in paragraph 1.1 and/or 1.2 and/or 1.3 above, allocations will be made to households living in the Broadland District in accordance with the Council's policies relating to housing allocations.

#### **Administrative Procedure for Nominations**

- 1 To grant to the Council nomination rights to 100% of the Affordable Rented Dwellings unless otherwise agreed in writing.
- 2 The administrative procedure for nominations shall be in accordance with the Council's Housing (Options) Allocations Policy as amended from time to time, or in accordance with alternative procedures as the Council and the Owners shall agree between them



### **SCHEDULE 3**

#### **OPEN SPACE**

##### **Part 1**

In this Schedule (and elsewhere in this Deed where the context permits) the following words and expressions shall have the following meanings:

"Approved Open Space Scheme"	the Open Space Scheme as approved by the Nominated Officer including any amendment or substitution agreed by the Nominated Officer in writing
"Management Company"	a company to be set up or engaged for the purposes of managing and maintaining the Open Space in perpetuity
"Nominated Body"	one of the following as proposed by the Owners and approved by the Council:  a) the Council;  b) the town or parish council for the area within which the Site is located;  c) the Management Company; or  d) such other body as the Council may elect as being responsible for maintenance of the Open Space
"Off Site Open Space Contribution"	a sum in lieu of any deficiency in the amount or type of Open Space being provided as part of the Development compared to that required in accordance with the Council's Open Space Policies such sum to be calculated in accordance with Part 2 of this Schedule 3 and Index Linked and applied in the Council's absolute discretion towards the provision of Open Space serving the

## Development in the parish of Taverham

### “Open Space”

land to be set aside and used as public open space as part of the Development in accordance with the Permission which may include areas for formal recreation, play, allotments and green infrastructure in line with current Open Space Policies and Part 3 of this Schedule 3 BUT FOR THE AVOIDANCE OF DOUBT IT IS AGREED that any deficiency of Open Space to be provided on the Site as part of the Development may be met by way of a payment of Off Site Open Space Contribution in lieu of such deficiency PROVIDED THAT in any event the Open Space to be provided on the Site as part of the Development shall include a minimum aggregate of 2.21 hectares of green infrastructure

### “Open Maintenance Contribution”

Space a financial contribution Index Linked towards the repair, management and maintenance of the Open Space to be calculated in accordance with Part 2 of this Schedule and as appropriate

### “Open Space Policies”

means the policies contained in the Council's Development Management Development Plan Document including policy EN1 biodiversity & habitats, EN3 green infrastructure & RL1 provision of formal recreation space relating to the provision of open space, recreation, sport, allotments, green infrastructure and other similar types of amenity land and facilities

### “Open Space Scheme”

a scheme securing the provision of Open Space containing:

- full details of the amount of recreation, play,



allotment and green infrastructure provision to be provided on the Site as part of the Development;

- full details of any deficiency in the amount of recreation, play, allotment and green infrastructure to be provided on the Site as part of the Development by reference to the table at Part 3 of this Schedule 3;

- the extent, location and boundaries of the Open Space to be provided on the Site as part of the Development;

- details of the design and layout of the Open Space to be provided on the Site as part of the Development including all equipment, drainage features, access arrangements, street furniture, fencing and landscaping together with appropriate plans drawings and specifications;

- details of the ongoing management and maintenance of the Open Space to be provided on the Site as part of the Development including whether a Management Company is proposed as the Nominated Body;

- such other information as the Council may reasonably require to enable approval of the Open Space Scheme

**"Standard Terms"**

in accordance with the reasonable requirements of the Council in consultation with the Nominated Body to include:

- the transfer of the freehold estate of the Open Space Unencumbered with full title guarantee;

- for a sum not exceeding £1 (one pound);

- with the benefit of all necessary rights and easements and with vacant possession;
- subject to a restriction on the future use of the Open Space for recreational and amenity purposes by the general public;
- an obligation to maintain the Open Space to a standard suitable for use by members of the public;
- a requirement that the Nominated Body's conveyancing fees and disbursements are paid for by the Owners

**"Unencumbered"**

means free from all adverse rights, easements, restrictions or other encumbrances which would interfere with the use of the Open Space as public open space and all encumbrances which might result in additional cost or liability to the Nominated Body not normally associated with the use of the Open Space

The Owners hereby covenant with the Council as follows:

**1. OPEN SPACE**

- 1.1 Not to Commence or allow Commencement of the Development until the Open Space Scheme has been submitted to and approved in writing by the Nominated Officer
- 1.2 In the event there is a deficiency in the amount of Open Space within the Development not to Occupy or allow Occupation of more than 60% of the Dwellings until any Off Site Open Space Contribution has been paid to the Council

**2. ON-SITE OPEN SPACE**

Where Open Space is to be provided on the Site as part of the Development under the Approved Open Space Scheme:



- 2.1 Not to Occupy or allow Occupation of any Dwellings otherwise than in accordance with and subject to any timetable contained within the Approved Open Space Scheme
- 2.2 Not to Occupy or allow Occupation of more than 75% of the Dwellings until the Open Space to be provided on the Site as part of the Development and set out in the Approved Open Space Scheme has been laid out and provided in accordance with the Approved Open Space Scheme to the written satisfaction of the Council
- 2.3 Thereafter to maintain the Open Space Unencumbered provided on the Site as part of the Development to a standard suitable for use by members of the public as approved by the Nominated Officer and not to use the Open Space on the Site as part of the Development for any purpose other than public recreation and amenity land for the general public
- 2.4 Not to Occupy or allow Occupation of more than 80% of the Dwellings unless:
- a) Where the Management Company is the Nominated Body:
    - i) the Management Company has been created to the satisfaction of the Council; and
    - ii) the memorandum and articles of association and the form of transfer of the Open Space to the Management Company has been submitted to the Nominated Officer for approval and has been approved by the Council; and
  - b) the Open Space provided in accordance with the Approved Open Space Scheme has been transferred to the Nominated Body subject to the Standard Terms; and
  - c) subject to the proviso below the Open Space Maintenance Contribution has been paid to the Council

PROVIDED FIRSTLY THAT the Nominated Body shall not be required to accept the transfer of the Open Space which is located on the Site as part of the Development unless it has been provided and maintained in strict accordance with the Approved Open Space Scheme AND SECONDLY THAT

there shall be no obligation to pay the Open Space Maintenance Contribution where the Nominated Body is not the Council, the town or parish council for the area within which the Site is located or such other body funded by the Council



## Part 2

### Cost per Dwelling for Provision and Maintenance of Open Space

#### Purchase of Off Site Open Space

<b>A. Property</b>	<b>Sports</b>	<b>Play</b>	<b>Allotments</b>	<b>Green Infrastructure</b>	<b>Total</b>
1 bed	£266	£54	£25	£633	<b>£978</b>
2 bed	£355	£72	£34	£844	<b>£1,305</b>
3 bed	£443	£90	£42	£1,056	<b>£1,631</b>
4 bed	£532	£108	£51	£1,267	<b>£1,958</b>
5 bed +	£621	£126	£59	£1,478	<b>£2,284</b>

#### Equipping of Off Site Open Space

<b>B. Property</b>	<b>Sports</b>	<b>Play</b>	<b>Allotments</b>	<b>Green Infrastructure</b>	<b>Total</b>
1 bed	£304	£94	£16	£453	<b>£867</b>
2 bed	£406	£126	£20	£604	<b>£1,156</b>
3 bed	£508	£156	£25	£755	<b>£1,444</b>
4 bed	£609	£188	£31	£906	<b>£1,734</b>
5 bed +	£711	£218	£36	£1,066	<b>£2,031</b>

#### Maintenance of Off Site and On Site Open Space

<b>C. Property</b>	<b>Sports</b>	<b>Play</b>		<b>Green infrastructure</b>	<b>Total</b>
1 bed	£320	£32		£267	<b>£619</b>
2 bed	£426	£43		£357	<b>£826</b>
3 bed	£532	£54		£445	<b>£1,031</b>
4 bed	£639	£64		£534	<b>£1,237</b>
5 bed +	£746	£76		£624	<b>£1,446</b>

## Part 3

### Open Space requirement per Dwelling

<b>Number of bedrooms</b>	<b>Children's play spaces m<sup>2</sup></b>	<b>Sports facilities m<sup>2</sup></b>	<b>Allotments m<sup>2</sup></b>	<b>Green Infrastructure m<sup>2</sup></b>
1 bed	5.1	25.2	2.4	60
2 bed	6.8	33.6	3.2	80
3 bed	8.5	42.0	4	100
4 bed	10.2	50.4	4.8	120
5 bed +	11.9	58.8	5.6	140

## **SCHEDULE 4**

### **The Council's covenants**

The Council hereby covenants with the Owners and Developer as follows:

- 1 The Council shall confirm whether an Affordable Housing Scheme and/or Open Space Scheme (as appropriate) is approved within 30 working days of receipt
- 2 To pay the Open Space Maintenance Contribution to the Nominated Body within 28 days of receipt
- 3 To hold any contribution received under this Deed in an interest bearing account and apply the same (together with any interest accrued) towards the purposes for which they were paid and in the event that the contributions have not been committed (by way of contract or expenditure of the monies) within 5 years of receipt of the total amount of the relevant contribution to repay the unspent balance to the payer together with any interest accrued
- 4 At the written request of the Owners the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed

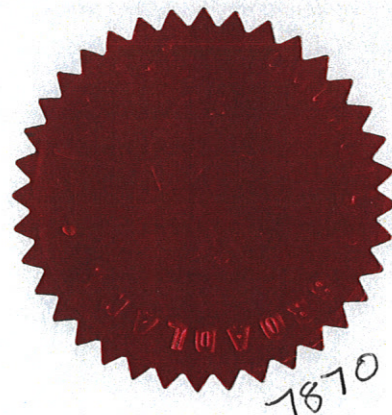


IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

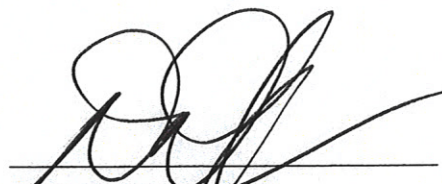
THE COMMON SEAL OF **BROADLAND DISTRICT COUNCIL** )  
was affixed in the presence of: )

Authorised Signatory:

  
**CHIEF EXECUTIVE**



EXECUTED AS A DEED by )  
**DAVID JOHN DRAPER** in the presence of: )

  
**David John Draper**

Witness Name: JAMIE CHILDS

Witness Address: PLINT BUILDINGS

1 BEDDING LANE

NORWICH NR3 1RG

Witness Signature: 

EXECUTED AS A DEED by )  
RICHARD ERIC BETTS in the presence of: )

  
Richard Eric Betts

Witness Name: JAMIE CHILDS

Witness Address: FLINT BUILDINGS  
1 BEDDING LANE  
NORWICH NR3 1RG

Witness Signature: 



EXECUTED AS A DEED by

**ESCO DEVELOPMENTS LTD**

Acting by a director in the presence of:

)  
)  
) 

Director: Steven Rademaker  
Director

Witness Name: Maria Kendall  
Witness Address: 1/18 Lorne Parade  
Mont Albert

Witness Signature: 