

Dated

15 July

2016

Norfolk County Council

-and-

Trevor John Holmes & Paul Victor Holmes

-and-

Tredwell Developments Limited

-and-

Castle Well Developments Limited

**DEED OF PLANNING OBLIGATION  
UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**  
relating to land at South Hill Road, Thorpe St Andrew

THIS DEED is dated

15 July

2016

**PARTIES:**

- (1) **NORFOLK COUNTY COUNCIL** of County Hall, Martineau Lane, Norwich, Norfolk NR1 2DH (referred to as "the County")
- (2) **TREVOR JOHN HOLMES** and **PAUL VICTOR HOLMES** of 5a Cotman Road, Norwich, Norfolk, NR1 4AH ("the Owners")
- (3) **TREDWELL DEVELOPMENTS LIMITED** (Company number 09117855), whose registered office is at Mobbs Way, Lowestoft, Suffolk, NR32 3AL ("the Developer")
- (4) **CASTLE WELL DEVELOPMENTS LIMITED** (Company number 09117855), whose registered office is at Tredwell Developments Ltd Mobbs Way, Lowestoft, Suffolk, NR32 3AL ("the Beneficiary")

together referred to as 'the Parties'

**INTRODUCTION**

- (A) The County is a local planning authority and the local highway authority for the County of Norfolk
- (B) The Developer has applied to Broadland District Council (District Council) for the (reference 20150506) Permission and the District Council has resolved to grant the Permission provided the Parties enter into this Deed
- (C) The Owners own the freehold of the Site
- (D) The Beneficiary has the benefit of an agreement with the Owners for the sale of the land dated 28 August 2015

**1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

Act	The Town and Country Planning Act 1990
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> </ul> <p>and 'Commence' and 'Commenced' will be construed accordingly</p>
Development	The Development of the Site in accordance with the Permission
Occupation	<p>Occupation of the Site, or any part of it, for any purpose authorised by the Permission, but excluding occupation for the purposes of:</p> <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> </ul> <p>and 'Occupy' and 'Occupied' will be construed accordingly</p>
Permission	<p>The planning permission to be granted by the Council for the construction of 17 residential dwellings and allocated reference number 20150506 or if the Council agrees (in its absolute discretion) in writing another planning permission for the Development</p>

granted pursuant to section 73 of the Act or a replacement permission for the Development

Plan	The plan attached to this Deed reference 5288/111 P2
Site	The land known as South Hill Road, Thorpe St Andrew and registered at H M Land Registry under title number NK427095 shown edged pink on the 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 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 County
- 2.2 Covenants given by more than one party can be enforced against them individually or jointly
- 2.3 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
- 2.4 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 2.5 This Deed is governed by and interpreted in accordance with the law of England



6 All private drainage to be laid to levels shown using flexibly jointed pipes, either uPVC to BS 4660 and BS5481 or vitrified clayware to BS EN 295.

7 All private drainage works to be carried out in accordance with the provisions laid down in BS EN 752 & The Building Regulations, Part H. Generally FW Pipes to be 100mm Ø laid @ 1:80 & SW Pipes to be 100mm Ø laid @ 1:100 unless otherwise state.

Generally pipes to have granular Bed & surround in accordance with manufacturers recommendations and adequate protection with respect to depth and

Drainage to be constructed in accordance with all other Anglian Water standards for

dwg and or .dxf files  
Additional information.  
Dimensions or

County Council

mc

vr

01.07.15

Description

By

Chk.

Date

**barter hill**

Consulting Structural  
& Civil Engineers

### Barter Hill Partnership Limited

Wynters Farm Barn  
Magdalen Laver  
Ongar  
Essex CM5 0EW

t: 01279 430888  
f: 01279 429007  
e: mail@barterhill.co.uk

15 Meridian Way  
Meridian Business Park  
Norwich NR7 0TA

t: 01603 300360  
f: 01603 438854  
e: mail@barterhill.co.uk

Client

**Castle Well Limited**

Project

**South Hill Road, Thorpe St Andrew  
Norwich, Norfolk**

Drawing Title

**Section 106 Maintenance Plan**

Designed by  
**JR**

Drawn by  
**MEC**

Checked by  
**VR**

Scale @ A1  
**1:200**

Date  
**June 2015**

Drawing No.  
**5288/111**

Revision  
**P2**

Job Ref  
**5288**

Status

**PRELIMINARY ISSUE**

Cad file

Contact Office  
**Norwich Office**

authorised to sign  
on behalf of: **HEAD OF LAW**

### **3. COVENANTS**

- 3.1 The Owner covenants with the County for himself and his successors in title to observe and perform the obligations and stipulations contained in Schedule 1 of this Deed

### **4. OTHER PROVISIONS**

- 4.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site (unless the breach occurred before he disposed of his interest)
- 4.2 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
- 4.3 This Deed will not bind anyone who acquires an interest in part of the Site for the purpose of the supply of utility services
- 4.4 On completion the Developer will pay the County's reasonable legal costs in connection with this Deed
- 4.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 4.6 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 4.7 No waiver, express or implied, by the County constitutes a continuing waiver, nor prevents the County from enforcing any of the provisions in this Deed

### **5. DISPUTES**

5.1 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

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

## **6. INTEREST AND VAT**

6.1 If any payment due to the County 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

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

## **7. NOTIFICATIONS**

7.1 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

7.2 The Owner will notify the County in writing of the relevant

7.2.1 anticipated Triggers seven days in advance of each anticipated date

7.2.2 actual Triggers within seven days of each actual date

7.3 If the Owner disposes of his interest in all or part of the Site he will notify the the County within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site



## **Schedule 1**

### **Non-Adoption Obligations**

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

"Highway" Means a road to be constructed on the Highway Land to provide access to and egress from the Development to the reasonable satisfaction of the County

"Highway Land" Means the land shown coloured blue on the Plan

The Owner covenants with the County:

1. Not to Occupy the Development until the Highway has been constructed to binder course level and is suitable for use by pedestrians and vehicular traffic
2. Not to allow final Occupation of the Development until the Highway has been completed to surface course level to the reasonable satisfaction of the County and is available and suitable for use by all traffic
3. To thereafter maintain the Highway for use by all traffic to the satisfaction of the County Council
4. Not to use the Highway as an access or egress for the Development unless the Owner has incorporated and kept in existence a limited company having among its objects the obligation to maintain the Highway in accordance with paragraph 3 above.
5. Not to require or procure by any means that the Highway shall become a highway maintainable at public expense



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  
NORFOLK COUNTY COUNCIL  
was affixed in the presence of:

Head of Law

)  
(  
authorised to sign  
on behalf of: HEAD OF LAW



41547

EXECUTED as a DEED by  
TREVOR JOHN HOLMES  
In the presence of:

)  
(  
[Signature]

Witness Name: MICHAEL DREVERY

Signature: [Signature]

Address: 4 MULBERRY TREE CLOSE  
FILBY  
NORFOLK NR29 3HD

EXECUTED as a DEED by  
PAUL VICTOR HOLMES  
In the presence of:

)  
(  
[Signature]

Witness Name:

Jonathan Holmes

Signature:

[Signature]

Address:

43 Garrick Green  
Old Catton 8  
Norwich  
NR6 7AN

EXECUTED as a DEED by  
**TREDWELL DEVELOPMENTS LIMITED**  
in the presence of:

)  
)



Director:

Director/~~Secretary~~:



EXECUTED AS A DEED by  
**CASTLE WELL DEVELOPMENTS LIMITED**  
in the presence of:

)  
)



Director:

Director/~~Secretary~~:











