

Dated

6<sup>th</sup> June

2018

Broadland District Council

-and-

Samuel Justin Francis Meath Baker and

James Barnabas Burke Mayhew

**DEED OF PLANNING OBLIGATION  
UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**  
relating to land at Racecourse Plantation

**THIS DEED** is dated

2018

**PARTIES:**

- (1) BROADLAND DISTRICT COUNCIL of 1 Yarmouth Road, Thorpe Road, NR7 0DH (referred to as “the Council”)
- (2) SAMUEL JUSTIN FRANCIS MEATH BAKER of Hasfield Court, Gloucester and JAMES BARNABAS BURKE MAYHEW of Twysden, Kilndown, Cransbrook, Kent (referred to as “the Owner”)

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) SCC Norwich LLP and the Thorpe & Felthorpe Trust have applied for the Permission and the Council refused the application for the Permission which is now subject to the Appeal
- (C) The Owner owns the freehold of the Site as trustees of the Thorpe & Felthorpe Trust

**1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

Act	The Town and Country Planning Act 1990
Appeal	The appeal submitted to the Planning Inspectorate and bearing reference number APP/K2610/W/17/3188235
Commencement	The date on which a material operation as defined in Section 56(4) of the Act is first carried out, except

operations consisting of:  
site clearance  
demolition  
archaeological investigations  
ground and site surveys  
removal of contamination  
erection of temporary fences  
and 'Commence' and 'Commenced' will be construed accordingly

Development	The Development of the Site in accordance with the Permission
Dwelling	A dwelling to be built on the Site as part of the Development
"Market Dwelling"	A dwelling to be built on the Site as part of the Development which is not an Affordable Dwelling
Nominated Officer	The senior officer of the Council responsible for development management or other officer of the Council notified to the Owner
Occupation	occupation of 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 interpreted accordingly
Permission	The planning permission to be granted pursuant to the Appeal for Erection of up to 300 new homes and the creation of a new Community Woodland Park and allocated reference number 2016/1896



Plan 1	The plan attached to this Deed at Schedule 1 and labeled "Plan SCC2/23 Land Ownership Plan"
Plan 2	The plan attached to this Deed at Schedule 1 and labeled "Plan SCC2/18 Open Space Strategy and Title Plan Red Line"
Site	The land known as Racecourse Plantation shown edged red on Plan 1, which forms part of the land registered at H M Land Registry under title number P183427
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 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 ("CIL Regulations), 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 shall come into effect on the Commencement of the Permission and the obligations shall be enforceable upon confirmation from the Secretary of State for Housing, Community and Local Government's Inspector in his decision letter on the Appeal that the obligations in this Deed are to take effect. Insofar as the Inspector considers that any obligation contained in this Deed **fails the tests contained in CIL Regulations 122 or 123**, it shall be struck from this Deed and clause 4.7 will apply
- 2.7 This Deed is governed by and interpreted in accordance with the law of England
- 2.8 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise
- 2.9 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed
- 2.10 Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 2.11 Unless the context requires otherwise references to any party to this Deed shall include the 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

2.12 The headings and contents list are for reference only and shall not affect construction

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

### **3. COVENANTS**

3.1 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

3.2 The Council covenants with the Owner to comply with its respective requirements contained in 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 or the part thereof where the breach occurs (unless the breach occurred before he disposed of his interest)

4.2 The Owner confirms for themselves that they are the owners of the Site as Trustees of the Thorpe and Felthorpe Trust, and that they have obtained full power and authority from the Thorpe and Felthorpe Trust to enter into this Deed and that there is no other person or body apart from the beneficiaries of the Thorpe and Felthorpe Trust 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 Other than any obligation requiring the owners and occupiers of Dwellings to contribute towards the maintenance of the Open Space and/or the Community Woodland Park, no planning obligations contained in this Deed shall be binding on any freehold or leasehold owner or occupier of Dwellings or their respective mortgagees.
- 4.5 Other than the provisions of Schedule 2, no planning obligations contained in this Deed shall be binding on any Provider, owner or occupier of Affordable Housing or their respective chargees, assignees or mortgagees.
- 4.6 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 4.7 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions.
- 4.8 No waiver, express or implied, by the Council constitutes a continuing waiver, nor prevents the Council from enforcing any of the provisions in this Deed.
- 4.9 Where any consent or approval is required under this Deed, such consent is not to be unreasonably withheld or delayed.
- 4.10 Any legal charge entered into in respect of the Site or any part of the Site after this Deed has been completed shall take effect subject to this Deed PROVIDED THAT the mortgagee under such a legal charge shall have no liability under this Deed unless it causes the breach after it becomes a mortgagee in possession of the land comprised in the legal charge and the mortgagee shall not be liable for any breach of this Deed that occurs prior to the mortgagee taking possession of that land
- 4.11 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. DISPUTES**

- 5.1 The parties shall attempt in good faith to resolve any dispute or claim arising out of or relating to this Deed promptly through negotiations between the respective senior executives of the parties who have authority to settle the same.
- 5.2 If the matter is not resolved through negotiation the parties may 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.
- 5.3 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 to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 5.4 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 5.3 or as to the appropriateness of the professional body then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

- 5.5 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 28 working days after the conclusion of any hearing that takes place or 28 working days after he has received any file or written representation.
- 5.6 The expert shall be required to give notice to each of the said parties requiring them to submit to him within 10 working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further 10 working days.
- 5.7 The provisions of this clause shall not affect the ability of the Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

## **6. INTEREST AND VAT**

- 6.1 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
- 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

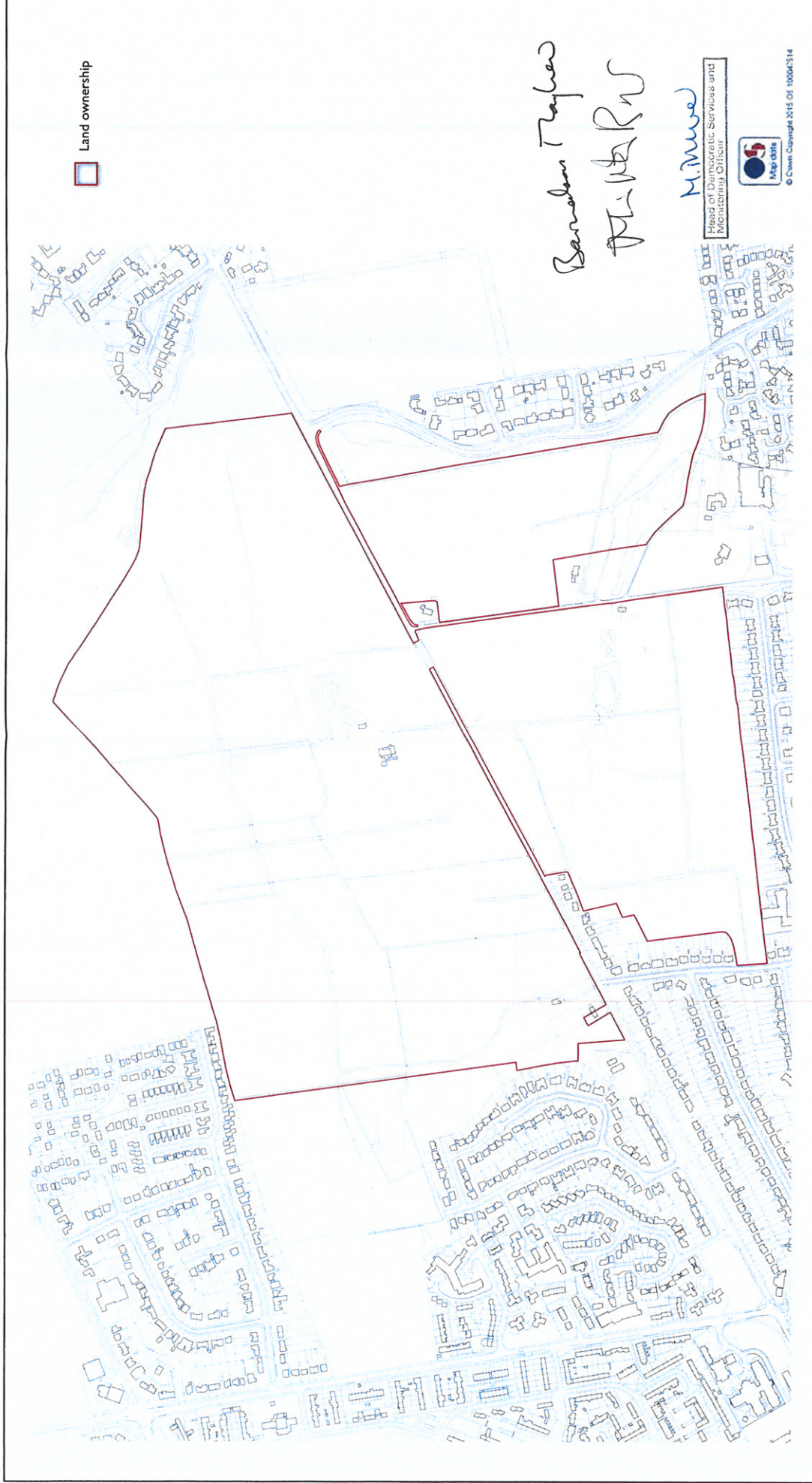
- 7.2 The Owner will notify the Nominated Officer in writing of the relevant
  - 7.2.1 anticipated Triggers seven days in advance of each anticipated date
  - 7.2.2 actual Triggers within seven days of each actual date
- 7.3 If the Owner disposes of his interest in all or part of the Site he will notify the 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 this provision shall not apply to the transfer by way of sale of (or the grant of a leasehold interest in) an individual Dwelling to an owner-occupier



**SCHEDULE 1**  
**The Plans**

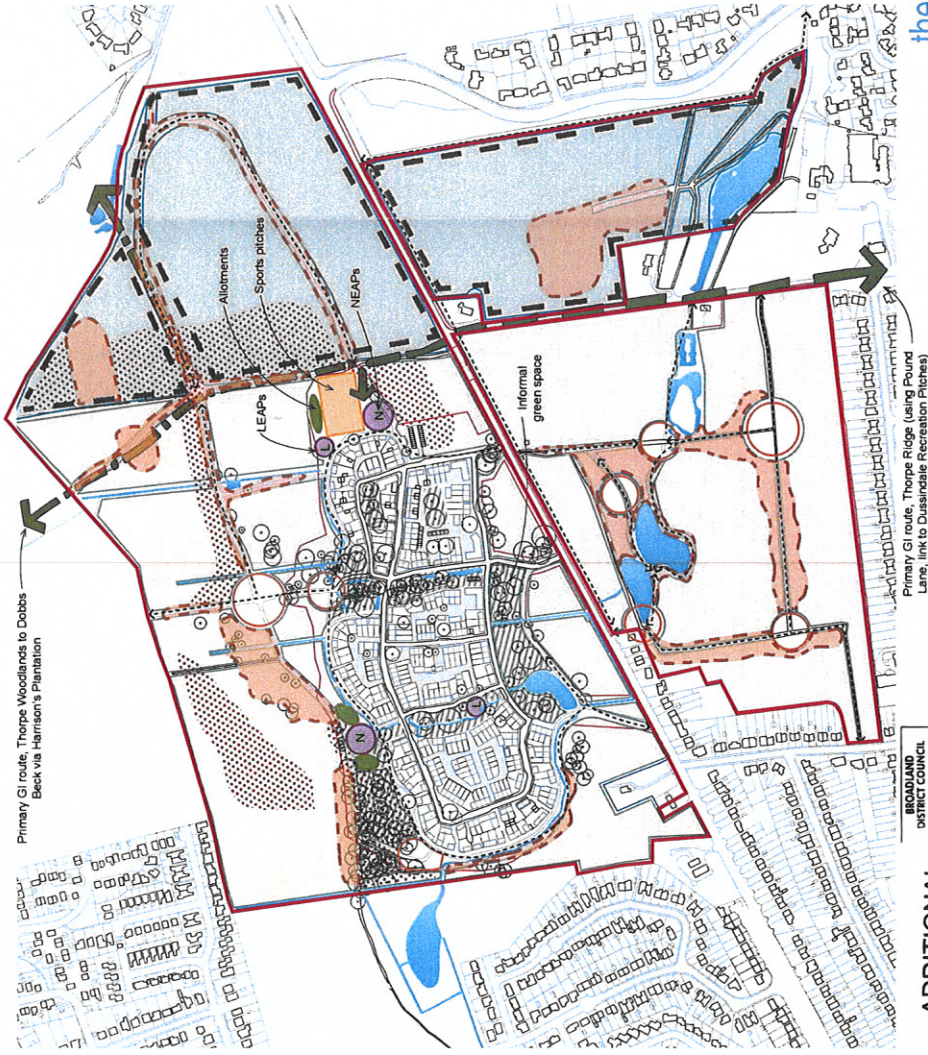


## PLAN SCC2/23 LAND OWNERSHIP PLAN





# PLAN SCC2/18 OPEN SPACE STRATEGY AND TITLE PLAN RED LINE



**Key**

Development residential capacity estimated at 780 people.  
Open space requirements according to the Broadland District Council's Development Management Development Planning Document (DMPD):

- Primary GI route: DMPD requires 4ha (40,000m<sup>2</sup>) informal recreation per 1,000 population. Based on 780 people - 31,200m<sup>2</sup>
- Current proposals achieve 516,350m<sup>2</sup> of informal recreation
- Informal recreation nodes: ponds, natural place, 'sculptural' trail along tracks / trails and in clearings
- Informal green spaces as 'green fingers' through the development and at its entrance
- Alcortments
- Policy ENS of the DMPD requires 0.16ha (1,600m<sup>2</sup>) of alcortment per 1,000 population. Based on 780 people - 1,250m<sup>2</sup>
- Current proposals achieve 1,272m<sup>2</sup> of alcortments
- Children's Play
- Policy RL1 of the DMPD requires 0.24ha (2,400m<sup>2</sup>) children's play per 1,000 population. Based on 780 people - 1,872m<sup>2</sup>
- Current proposals achieve 2,800m<sup>2</sup> of children's play
- Sports Provision
- Policy RL1 of the DMPD requires 1.68ha (16,800m<sup>2</sup>) sports provision per 1,000 population. Based on 780 people - 10,450m<sup>2</sup>
- Current proposals achieve FA standards for 2 pitches for any soccer pitches with 3m runoff and 200m pitch
- Woodland Reserve with Restricted Access
- Open Heathland Creation (mainly in existing conifer plantation)
- Significant Tree Thinning: <1.50% canopy reduction, subject to future tree survey findings. Retaining only notable mature trees of ecological value or trees of landscape / visual importance
- Primary GI Corridor
- Secondary GI Corridor
- Trail / Footpath / Cycle Way: woodland tail as part of links to wider green infrastructure routes & settlement informal recreation
- Racecourse Plantations
- Open Space / Recreation Strategy

Project: 18336-TLP-01  
Drawn: NTS/SLG  
Check: LH  
Date: 21/10/2017

Scale: 1:1000  
North Arrow

**BROADLAND DISTRICT COUNCIL**  
5 May 2017  
2264596  
**PLANNING CONTROL**

**the landscapepartnership**

*Randall Taylor*  
*the landscapepartnership*

*H.M.W.*  
Head of Democratic Services and Monitoring Officer



## 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 Rented Housing to be provided to Eligible Households whose needs are not met by the market
"Affordable Housing Mix"	85% Rented Housing and 15% Intermediate Housing (or as otherwise agreed by the Council in its absolute discretion)
"Affordable Housing Provision"	the construction and provision of Affordable Dwellings on the Site equating to 33% of the total number of Dwellings (or such other percentage as the Council may agree in its absolute discretion) in accordance with the Affordable Housing Mix
"Affordable Housing Scheme"	<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></ul>
	<ul style="list-style-type: none"><li>- full details of the design of the Affordable Dwellings</li><li>- 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></ul>

	<p>- 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 Rented Housing;</p> <p>- such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme including details of how the Recycling Obligation will be complied with and secured</p>
"Affordable Rented Dwellings"	Dwellings to be let by a Registered Provider with an appropriate agreement with Homes England or any successor body for the time being 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 or as otherwise agreed with the Council in writing and subject to nominations by the Council in accordance with Part 2 of this Schedule
"Approved Affordable Housing Scheme"	the Affordable Housing Scheme approved by the Council in accordance with paragraph 1.1 of this Schedule including any amendment, revision or substitution approved by the Council in writing
"Complete"	a stage of construction such that a Dwelling has a complete roof and all windows and external doors installed and where further works do not ordinarily amount to "development" for the purposes of section 55(1) of the Act and "Complete" and "Completed" shall be construed accordingly.
"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 and determined in accordance with the Council's housing allocation policy or as otherwise approved by the Council <b>AND FOR THE</b>



	<b>AVOIDANCE OF DOUBT</b> no national or local prioritisation criteria shall apply in respect of a Shared Ownership Dwelling where it is intended to be included in Homes England's National Affordable Housing Programme (or any successor programme approved by the Council in writing) and those provisions would prevent its inclusion
"Homes England"	the Homes and Communities Agency or any successor body for the time being (including Homes England or the Regulator of Social Housing or their successor bodies) or other appropriate body as the Council may nominate
"Intermediate Dwellings"	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
"Intermediate Housing"	one or more of Intermediate Dwellings Shared Equity Dwellings Shared Ownership Dwellings and Intermediate Rented Dwellings as agreed by the Council
"Intermediate Rented Dwellings"	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 determined by the Council
"Open Market Dwelling"	Any Dwelling 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"	<p>either:</p> <p>(i) a Registered Provider; or</p> <p>(ii) another organisation that owns the Affordable Dwellings and has been approved in writing by the Council</p>
"Public Subsidy"	funding provided by the Council, Homes England 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 and Intermediate Rented Dwellings as agreed with the Council
"Shared Equity Dwellings"	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"	Dwellings purchased on a Shared Ownership Lease



“Shared Ownership Lease”	<p>a lease in a form approved by Homes England or where there is no such form in a form approved by the Council such lease to provide for the following:</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 the Homes England</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 Homes England or any subsequent replacement or where there is no such replacement at a rent determined by the Council

The Owner hereby covenants with the Council as follows:

1.1 Not to Commence the Development unless:

1.1.1 The Affordable Housing Scheme (save for the identity of the Provider and timetable for provision of the Affordable Dwellings) has been submitted as part of the application for reserved matters approval related to the Permission and has been approved by the Council in writing.

1.1.2 The identity of the Provider and the timetable for provision of the Affordable Dwellings has been approved by the Council as part of the Approved Affordable Housing Scheme.

- 1.2 Not to Occupy the first Open Market Dwelling until an exchanged unconditional contract for the sale of the Affordable Dwellings to a Provider has been supplied to the Council SAVE THAT where the Council agrees that the Affordable Dwellings are not to be transferred this obligation shall not apply.
- 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 offer for sale any Intermediate Dwelling (other than a Shared Ownership Dwelling or a Shared Equity Dwelling) without the prior written consent of the Council to the maximum selling price of those Intermediate Dwellings.
- 1.5 Not to Occupy or allow Occupation of more than:
  - 1.5.1 30% of the Open Market Dwellings until 33% all of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme are Complete and have been transferred to the approved Provider (or where no transfer is required their ongoing provision has been secured);
  - 1.5.2 50% of the Open Market Dwellings until 66% of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme are Complete and have been transferred to the approved Provider (or where no transfer is required their ongoing provision has been secured); and
  - 1.5.3 75% of the Open Market Dwellings until all of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme are Complete and have been transferred to the approved Provider (or where no transfer is required their ongoing provision has been secured).
- 1.5.4 The transfers required under Clause 1.5 shall be in accordance with and subject to the following terms:
  - a) for a consideration at a level which ensures that no Public Subsidy is required to enable the transaction to be completed;
  - b) free from all financial charges, adverse rights, restrictions or other encumbrances which would interfere with the use of the Affordable Dwellings as Affordable Housing;
  - c) with the benefit of all necessary easements, rights and utilities; and



- d) 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.

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 Registered Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest, 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).

## Part 2

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

1. Unless otherwise agreed in writing 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:
  - a) first allocations shall be made to people living in the Parish of Thorpe St Andrew.
  - b) If there is no suitable person in paragraph (a) allocations will be made to people who work in the Parish of Thorpe St Andrew; and
  - c) If there are no suitable persons in paragraphs (a) and (b) allocations will be made to people who need to move to the Parish of Thorpe St Andrew to give/receive support to/from close family.
  - d) If there are no suitable persons in paragraph (a) and/or (b) and/or (c) above, allocations will be made to households living in the Broadland District in accordance with the Council's policies relating to housing allocation or where no such persons are available to an Eligible Household.

#### Administrative Procedure for Nominations

2. To grant to the Council nomination rights to 100% of the Affordable Rented Dwellings unless otherwise agreed in writing.
3. The administrative procedure for nominations shall be in accordance with the Council's housing allocations policy as amended from time to time or in accordance with alternative procedures as the Council and the Owner shall agree between them.



## **SCHEDULE 3**

### **Open Space**

#### **Part 1 Owner Obligations**

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

<b>"Approved Open Space Scheme"</b>	The Open Space Scheme as approved by the Nominated Officer including any amendment or substitution agreed by the Nominated Officer in writing
<b>"Inflation Provision"</b>	The increase (if any) in the Royal Institute of Chartered Surveyors Build Cost Information Service All in Tender Price Index between January 2015 and the date upon which payment is made pursuant to this Deed (or if such index ceases to be published such other index as the Council shall reasonably determine)
<b>"Management Company"</b>	a company to be set up for the purposes of managing and maintaining the Open Space in perpetuity
<b>"Nominated Body"</b>	one of the following, as agreed by the Council, such agreement not to be unreasonably withheld or delayed: 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 approve as being responsible for maintenance of the Open Space
<b>"Off-Site Open Space Contribution"</b>	A sum calculated in accordance with paragraph 1 of part 3 of this Schedule and increased in line with the Inflation Provision and applied towards the provision of sports facilities within the parishes of Thorpe St Andrew and Great and Little Plumstead
<b>"Open Space"</b>	Land to be set aside (for the avoidance of doubt this shall exclude the Land shown in the Key as informal recreation and woodland reserve with restricted access on Plan 2) and used as public open space

which may include areas for sports, play, allotments, green infrastructure and other recreational facilities in line with Open Space Policies (SAVE FOR the acknowledged deficiency in formal sports provision for which an Off-Site Open Space Contribution shall be paid) as shown for indicative purposes on Plan 2

“Open Space Maintenance Contribution”

A financial contribution towards the repair and maintenance of the Open Space within the Site to be calculated in accordance with paragraph 2 of part 3 of this Schedule and increased in line with the Inflation Provision

“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 or such replacement policies or documents as the Council may specify (or any amendment or revision therefore) 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 calculated in accordance with Part 4 of this Schedule (SAVE for the acknowledged deficiency in formal sports provision for which an Off-Site Open Space Contribution shall be paid) and containing:

- full details of the amount of sport (including under 8's mini soccer pitches and associated parking), play (including LEAPS (Local Equipped Area for Play) and NEAPS (Neighbourhood Equipped Area for Play), allotment and green infrastructure provision to be provided in line with the Open Space Policies
- the extent, location and boundaries of the Open Space
- details of the design and layout of the Open Space 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 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 Owner

**“Unencumbered”**

Means free from all adverse rights, easements, restrictions or other encumbrances which would interfere with the use of the Open Space Land 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 Owner hereby covenants with the Council as follows:

**1. OPEN SPACE**

- 1.1 Not to Commence the Development until the Open Space Scheme has been submitted to and approved in writing by the Nominated Officer
- 1.2 Where the Nominated Officer has agreed to a deficiency in the amount of Open Space within the Site to pay the Off-Site Open Space Contribution prior to first Occupation of any Dwelling

## 2. ON-SITE OPEN SPACE

Where Open Space is to be provided within the Site under the Approved Open Space Scheme:

- 2.1 To layout and provide the Open Space in accordance with the Approved Open Space Scheme to the written satisfaction of the Council
- 2.2 Not to Occupy any Dwellings otherwise than in accordance with and subject to the timetable contained within the Approved Open Space Scheme and the planning conditions imposed by the Planning Permission
- 2.3 to thereafter maintain the Open Space Unencumbered to a standard suitable for use by members of the public as approved by the Nominated Officer and not to use the Open Space for any purpose other than public recreation and amenity land for the general public
- 2.4 Not to Occupy 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 reasonable 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 such approval not to be unreasonably withheld or delayed; and
  - b) the Open Space has been provided in accordance with the Approved Open Space Scheme and transferred to the Nominated Body subject to the Standard Terms; and
  - c) the Open Space Maintenance Contribution has been paid to the Council PROVIDED THAT the Nominated Body shall not be required to accept the transfer of the Open Space unless it has been provided and maintained in strict accordance with the Approved Open Space Scheme.

## Part 2

### Council Obligations

The Council covenants with the Owner as follows:

- 1 The Council shall upon approval of the Open Space Scheme confirm the Nominated Body.



- 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 Schedule 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

### Part 3

1. The Off Site Open Space Contribution (in pounds sterling) shall be calculated as follows:

$$((A \times 843) + (B \times 1,125) + (C \times 1,405) + (D \times 1,686) + (E \times 1,969)) \times (F \div G)$$

Where:

A = the number of 1 bed Dwellings

B = the number of 2 bed Dwellings

C = the number of 3 bed Dwellings

D = the number of 4 bed Dwellings

E = the number of 5 or more bed Dwellings

F = the deficiency in on site sports provision calculated by deducting the actual amount of sports provision to be provided on site from G.

G = the total requirement for sports provision generated by the Development using the table below:

Number of Bedrooms	Sports Facilities m <sup>2</sup>
1 bed	25.2
2 bed	33.6
3 bed	42.0
4 bed	50.4
5+ bed	58.8

2. The On Site Open Space Maintenance Contribution (in pounds sterling) shall be calculated as follows:

$$((A \times 586) + (B \times 783) + (C \times 977) + (D \times 1,172) + (E \times 1,370)) - F$$

Where:

A = the number of 1 bed Dwellings

B = the number of 2 bed Dwellings

C = the number of 3 bed Dwellings

D = the number of 4 bed Dwellings

E = the number of 5 or more bed Dwellings

F = the Off Site Open Space Contribution

## Part 4

Extract from Open Space Policies detailing the Area (Sq mtrs) required per dwelling  
for the provision of on-site Open Space

<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 Infrastructur e 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	10.5	50.4	4.8	120
5+ bed	11.9	58.8	5.6	140



## SCHEDULE 4

### **Community Woodland Park**

#### **Part 1**

#### **Owner Obligations**

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

"Approved Community Woodland Park Scheme"	The Community Woodland Park Scheme as approved by the Nominated Officer including any amendment or substitution agreed by the Nominated Officer in writing
"Community Woodland Park"	the Land shown in the Key as informal recreation and woodland reserve with restricted access on Plan 2, the uses of which are to be subject to the provisions of this Deed
"Community Woodland Park Maintenance Contribution"	An ongoing (as necessary) financial contribution towards the management, repair and maintenance of the Community Woodland Park in perpetuity such sum calculated on a per Market Dwelling basis from the detail contained in the Approved Community Woodland Park Scheme and agreed between the Parties and increased in line with the Inflation Provision to be provided by the Owners with the Owners assuming responsibility for the contribution for all Market Dwellings until such time as they part with their interest in the individual Market Dwellings and from that point onwards to be provided by the individual Market Dwelling owners in line with the Maintenance Covenant with the Owners responsible for all remaining unoccupied Dwellings until they too are disposed of
"Community Woodland Park Scheme"	<p>A scheme securing the provision and maintenance of the Community Woodland Park and containing all of the following elements:</p> <ol style="list-style-type: none"><li>1. the extent, location and boundaries of the Community Woodland Park and Restricted Access Area;</li><li>2. details of the design and layout of the Community Woodland Park;</li></ol>

3. all equipment, drainage features, access arrangements, street furniture, fencing and landscaping for the Community Woodland Park together with appropriate plans drawings and specifications
4. details of the Ecological Enhancement Strategy including nature conservation, protection of existing habitats and creation of new habitats, planting schedule and mix of species and existing site ecology together with appropriate plans, specifications and reports;
5. Details of the Management Plan including its annual budget, governance arrangements, and arrangements for the involvement of local organisations in the management of the Community Woodland Park, all designed to deliver the stated aims and objectives of the condition of the Permission requiring a Landscape and Ecological Management Plan;
- 6) the baseline and future ecological condition of the Community Woodland Park;
7. Provision for monitoring, including the establishment of a steering group whose membership shall include a representative of the Council and which shall be responsible for monitoring delivery of the scheme in perpetuity;
8. details of the ongoing management and maintenance of the Community Woodland Park including managing public access, the details for the Maintenance Covenant and whether a Management Company is proposed as the Nominated Body;
9. the phasing of the implementation and future maintenance of the CWP until the Nominated Body takes over the management and maintenance of the CWP;
10. such other information as the Council may reasonably require to enable approval of the Community Woodland Park Scheme.

**“Inflation Provision”**

The increase (if any) in the Retail Prices Index from the date of agreement of the initial Community Woodland Park Scheme (or if such index ceases to be published such other index as the Council shall



reasonably determine)

"Maintenance  
Covenant"

means the covenant in the transfers of the title or leasing of the individual Market Dwellings (except for the Affordable Dwellings which shall have no liability under this Schedule) which requires the owners and occupiers annually to pay a fee to the Nominated Body which will be sufficient to enable the ongoing management and maintenance of the Community Woodland Park; the details of which will be agreed between the parties under the Community Woodland Park Scheme and will include:

- a) mechanisms to ensure the Maintenance Covenants are enforceable by the Nominated Body or other legally binding arrangements to enforce the same on behalf of the Nominated Body together with arrangements for the same to be paid to the Nominated Body; and
- b) terms of the Maintenance Covenants. ; and
- c) a mechanism to ensure that the Community Woodland Park Maintenance Contribution is paid to the Nominated Body annually

"Management  
Company"

a company or trust to be set up for the purposes of managing and maintaining the Community Woodland Park in order to deliver its aims and objectives of the condition of the Permission requiring a Landscape and Ecological Management Plan in perpetuity.

"Nominated Body"

one of the following, as agreed by the Council, such agreement not to be unreasonably withheld or delayed:

- a) the Management Company; or
- b) such other body as the Council may approve as being responsible for maintenance of the Community Woodland Park

"Restricted Access  
Area"

that part of the Community Woodland Park which shall not be accessible to the public

The Owner hereby covenants with the Council as follows:



**1. COMMUNITY WOODLAND PARK SCHEME**

- 1.1 Not to Commence the Development until the Community Woodland Park Scheme has been submitted to and approved in writing by the Nominated Officer

**2. COMMUNITY WOODLAND PARK INCLUDING RESTRICTED ACCESS AREA**

- 2.1 To layout and provide the Community Woodland Park in accordance with the Approved Community Woodland Park Scheme to the written and reasonable satisfaction of the Council
- 2.2 Not to Occupy any Dwellings otherwise than in accordance with and subject to the timetable contained within the Approved Community Woodland Park Scheme and the planning conditions imposed by the Planning Permission
- 2.3 To maintain and manage the Community Woodland Park to a standard suitable for use by members of the public (wherever public access is permitted) in accordance with the approved Community Woodland Park Scheme and as approved by the Nominated Officer and not to use or permit the use of those parts of the Community Woodland Park to which the public are permitted access for any purpose other than informal public recreation
- 2.4 To use reasonable endeavors to prevent members of the public accessing the Restricted Access Area, and to maintain and manage the Restricted Access Area in accordance with the Approved Community Park Scheme
- 2.5 Not to Occupy 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 or other documentation as necessary and the form of transfer of the Community Woodland Park to the Management Company has been submitted to the Nominated Officer for approval and has been approved by the Council; and
  - b) the Community Woodland Park has been provided in accordance with the Approved Community Woodland Park Scheme and transferred to the Nominated Body subject to the Standard Terms

PROVIDED THAT the Nominated Body shall not be required to accept the

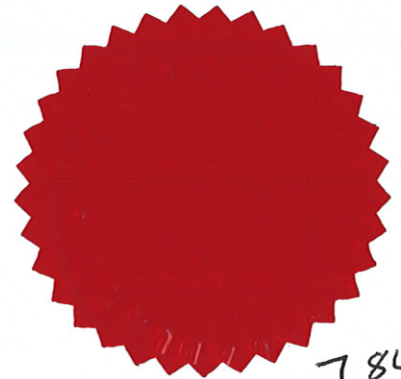


transfer of the Community Woodland Park unless it has been provided and maintained in strict accordance with the Approved Community Woodland Park Scheme and the first Community Woodland Park Maintenance Contribution has been paid and is sufficient to enable the Community Woodland Park to be maintained for a year from the date of transfer of the Community Woodland Park

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:

M. Mue

Head of Democratic Services and  
Monitoring Officer

7847

Executed as a DEED by

**SAMUEL JUSTIN FRANCIS MEATH BAKER** )

in the presence of:

NELL DOUGLAS MILLER

Name of Witness

THE OLD RECTORY

HASPLEY, GLOS, GL19 4L9

Address

COUNSELLOR

Occupation



Executed as a DEED by

**JAMES BARNABAS BURKE MAYHEW)**

*Barnabas Mayhew*

in the presence of:

*Maddie Gill*

MADDIE GILL

Name of Witness

IRWIN MITCHELL LLP, 40 HOLBORN VIADUCT, EC1N 2PZ

Address

TRAINEE SOLICITOR.

Occupation