

DATED

22nd February

2013

BROADLAND DISTRICT COUNCIL

- AND -

WHERRY HOUSING ASSOCIATION LIMITED

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

Relating to the development of land adjacent to 1 Bilney Lane, Felthorpe, Norfolk

Broadland District Council
Thorpe Lodge
1 Yarmouth Road
Norwich
NR7 0DU

THIS DEED is made the 22nd day of February 2013

BETWEEN:

BROADLAND DISTRICT COUNCIL of Thorpe Lodge 1 Yarmouth Road Thorpe St Andrew Norwich Norfolk and WHERRY HOUSING ASSOCIATION LIMITED of Circle Anglia House 1-3 Highbury Station Road, London N1 1SE ("the Owner")

1. INTERPRETATION AND DEFINITIONS

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

"Act" the Town and Country Planning Act 1990 (as amended)

"Affordable Housing" housing which is available to meet the needs of those who cannot afford to rent or buy dwellings generally available on the open market to be owned and/or managed by an AHP

"Affordable Housing Unit" Dwellings to be provided as Affordable Housing in accordance with Schedule 1 and consisting of the Affordable Rental Units and Affordable Housing Units shall be construed accordingly

"Affordable Rental Units" A minimum of two Affordable Housing Units to be constructed or provided as part of the Development and to be let for a rent by or on behalf of an AHP

"Affordable Housing Provider" "(AHP) "	(i) a registered provider as defined by S80 of the Housing and Regeneration Act 2008; or (ii) another body whose object is or contains the provision and/or operation of affordable housing and which has been approved by the Council for the provision and/or operation of affordable housing within the administrative area of Broadland or has otherwise been approved by the Council for the purposes of this Deed
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"Application"	the detailed planning application validated on the 04 September 2012 for the erection of 2 semi-detached houses and associated works under reference number 20121237
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"Code"	the "Code for Sustainable Homes" published by the Department for Communities and Local Government dated December 2006
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"Commencement Date"	the initiation of the Development by the carrying out on the Site pursuant to the Planning Permission of a material operation within the meaning of Section 56 (4) of the Act (but not operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, the temporary display of site notices
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or advertisements) and "Commence" shall be interpreted in accordance with this definition

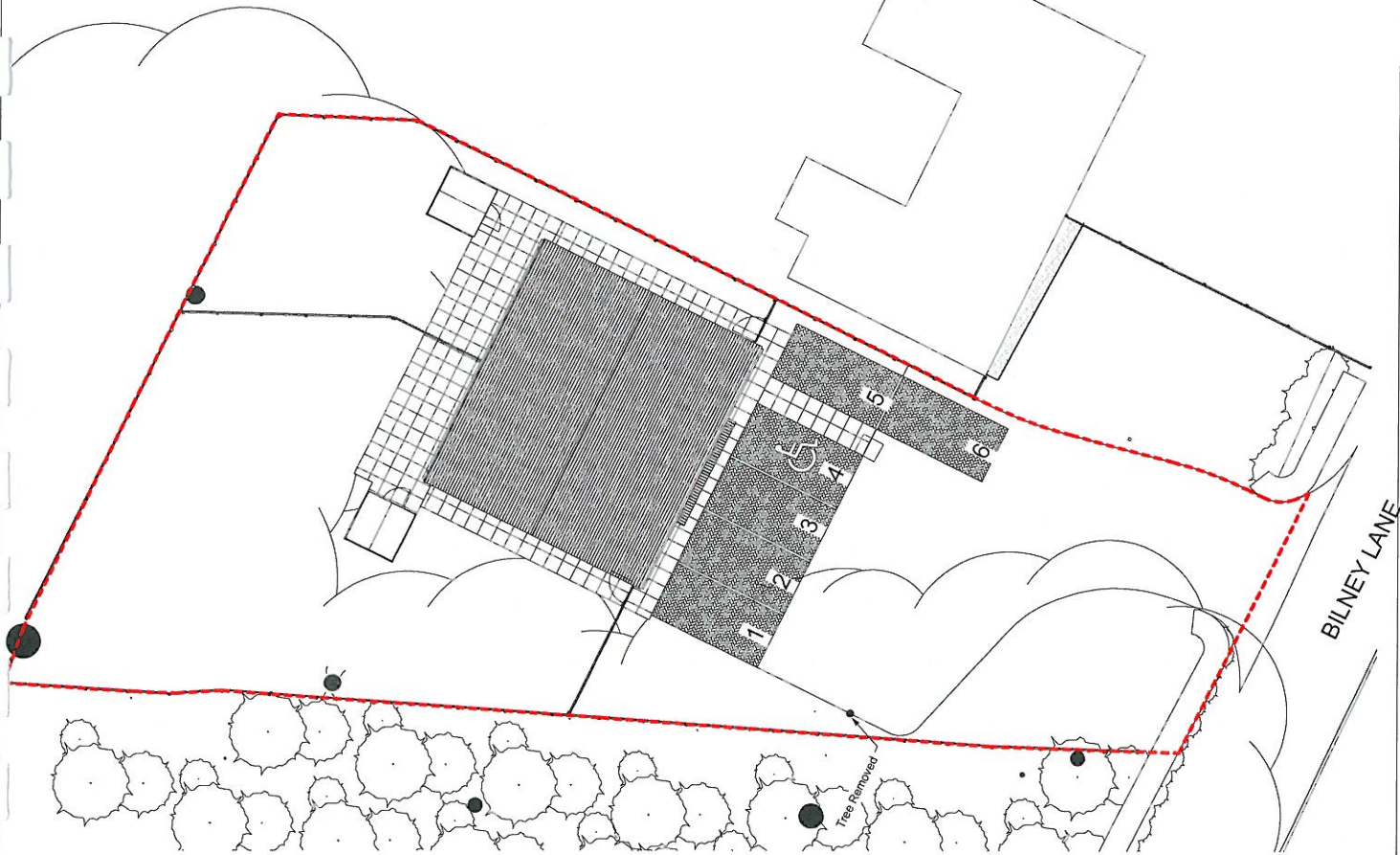
"Development"	the development permitted by the Planning Permission being the erection of 2 semi-detached houses and associated works
"Director"	the District Council's Chief Executive or other officers of the Council acting under his hand
"Dwelling"	any unit of residential occupation being a self-contained house or bungalow constructed as part of the Development
"HCA Standards"	the "Housing Quality Indicators" and "Design and Quality Standards specified by the Homes and Communities Agency
"Local Lettings Policy"	the order in which the Affordable Rental Units are to be allocated is set out under the title "Local Lettings Policy" at Schedule 2 to this Deed as amended from time to time
"Occupation and Occupied"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations
"Plan"	the plan annexed to this Deed
"Planning Obligations"	the planning obligations set out in clause 12 hereof

"Planning Permission"	the planning permission to be granted pursuant to the Application
"Qualifying Occupiers"	in relation to any person housed in an Affordable Housing Unit, any person who meets the qualifying criteria as having a total household income at a level which prevents them from obtaining on the open market housing accommodation locally which is reasonably adequate for their needs contained in the Council's policies relating to housing allocation (as amended from time to time and as formulated pursuant to the provisions of the Housing Acts 1985, 1996 and 2004 and the Homelessness Act 2002)
"Site"	the land known as Land adjacent to 1 Bilney Lane Felthorpe Norfolk which is shown for the purposes of identification only edged red on the Plan

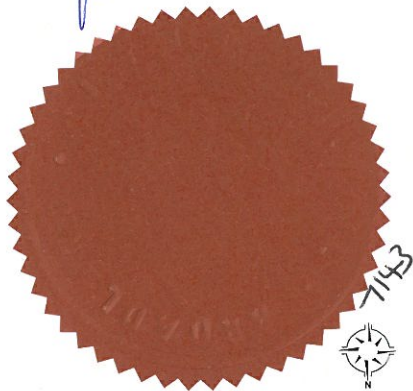
In this Deed unless the context otherwise requires:

- (i) references to any party shall include the successors in title and assigns of that party
- (ii) references to clauses and schedules are references to clauses in and schedules to this Deed except where otherwise specified
- (iii) any mention herein of any Act or of any Section Regulation or Statutory Instrument shall be deemed to refer to the same source as at any time amended and where such Act Section Regulation or Statutory Instrument has been replaced consolidated or re-enacted with or

THIS DRAWING HAS BEEN PRODUCED BY ELECTRONIC MEANS. SHOULD THE SCALE MEASUREMENTS BE TAKEN BY MEANS OTHER THAN ELECTRONIC (e.g. FROM A PRINTED COPY), THE FOLLOWING MUST BE TAKEN INTO CONSIDERATION BEFORE SCALING IS UNDERTAKEN:
 1. THE DRAWING MUST BE PRINTED ON A WHITE BACKGROUND.
 2. MEASURE THAT AN ADEQUATE ALLOWANCE (EXCEEDING THE TOLERANCE) IS MADE FOR THE TOLERANCE OF THE SCALE.
 3. MARKED CRITICAL DIMENSIONS ARE TO BE PROVIDED AS DIMENSIONS PRECEDING THE TOLERANCE VALUE.



CHIEF EXECUTIVE



[Signature]

Authorised Signatory

[Signature]

Authorised Signatory

[Signature]



BROADLAND
DISTRICT COUNCIL
15 Nov 2012
20121237 AP
PLANNING CONTROL

AMENDED
PLAN

REVISION	DATE	BY	CHKD
1	15/11/12	BS	CR
2	17/11/12	BS	CR
3	21/11/12	BS	CR
4	21/11/12	BS	CR
5	21/11/12	BS	CR
6	21/11/12	BS	CR
7	21/11/12	BS	CR
8	21/11/12	BS	CR
9	21/11/12	BS	CR
10	21/11/12	BS	CR

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8	21/11/12	BS	CR
9	21/11/12	BS	CR
10	21/11/12	BS	CR

calfordseaden
construction & property consultants

Project:
South Anglia Housing Group
Bilney Lane, Felthorpe, Norwich, NR10
Proposed Site Layout
Scale: 1:100
Date: June 2012
Drawn by: BS
Checked by: CR
Project No: K11/0731
Revision: H
www.calfordseaden.co.uk



without amendment such mention shall be deemed to refer to the relevant provision of the updating consolidating or re-enacting Act or Section or Regulation or Statutory Instrument

(iv) headings in this Deed shall not form part of or affect its construction

W H E R E A S:

- A. The Council is the Local Planning Authority for the purposes of the Act for the area within which the Site is situated
- B. The Owner is the freehold owner of the Site registered with the Land Registry under title number NK88775
- C. Circle Housing Group have submitted the Application
- D. The Council has resolved to approve the Application subject to the completion of this Deed

2. GENERAL PROVISIONS APPLICABLE TO THIS DEED

- 2.1 This Deed is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 and any other enabling powers
- 2.2 The obligations of the Owner hereunder are planning obligations for the purposes of the Act and enforceable by the Council against the Owner and its successors in title and assigns
- 2.3 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed occurring after he has parted with the interest in the Site or the part of the Site in respect of which such breach occurs but without prejudice to liability for any subsisting breach which occurs prior to parting with such interest in the Site or any part thereof in respect of which any such breach has taken place

2.4 The provisions of this Deed shall have immediate effect upon completion of this Deed with the exception of the Planning Obligations which shall not come into effect until both the grant of the Planning Permission and the Commencement Date

2.5 This Deed shall cease to have effect if:

2.5.1 the Planning Permission shall be quashed revoked or otherwise withdrawn

2.5.2 the Planning Permission shall expire prior to the Commencement Date

2.6 This Deed shall be registered as a charge in the Council's Register of Local Land Charges

3. AGREEMENTS AND DECLARATIONS

IT IS HEREBY AGREED AND DECLARED as follows:

3.1 No Fetter of Discretion

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

3.2 Invalidity or Unenforceability of any of the terms of this Deed

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

3.3 NO WAIVER

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

4. NOTICES

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

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

The Council

The Chief Executive Broadland District
Council Thorpe Lodge 1 Yarmouth Road
Thorpe St Andrew Norwich Norfolk
NR7 0DU

The Owners

The Managing Director Wherry Housing
Association Limited Anglia House 6
Central Avenue Norwich Norfolk NR7
0HR

9.2 If the matter is not resolved through negotiations the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre of Dispute Resolution

9.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR procedure the dispute may be referred by either party to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties

9.4 Nothing in Clause 9.1 and 9.2 shall prevent the parties from commencing or continuing court proceedings

10. TITLE WARRANTY

10.1 The Owner hereby warrants that it is the freehold owner of the Site and has full power to enter into this Deed

11. NOTIFICATION

11.1 The Owner shall notify the Council of the Commencement Date and upon first occupation of the first Affordable Housing Unit

12. PLANNING OBLIGATIONS

The Owner hereby covenants with the Council as follows:

12.1 to carry out and comply with the obligations and restrictions set out in Schedule 1 to this Deed

SCHEDULE 1

1. AFFORDABLE HOUSING

- 1.1 Not to construct or procure the construction of the Affordable Housing Units otherwise than in accordance with the Planning Permission and the Code and to HCA standards
- 1.2 Not to use allow or permit the Affordable Housing Units to be occupied for any purpose other than as Affordable Rental Units
- 1.3 The Affordable Housing Units shall not be occupied other than by Qualifying Occupiers
- 1.4 All of the Affordable Housing Units will be subject to the Local Lettings Policy
- 1.5 The Owner shall not dispose of its freehold interest in the Affordable Housing Units other than to an AHP
- 1.6 Paragraphs 1.2 and 1.3 and 1.5 above shall not be binding upon:
 - (a) any mortgagee in possession of the Affordable Housing Units or part thereof or successors in title to the mortgagee in possession nor
 - (b) any receiver or manager (including an administrative receiver) for such mortgagee
 - (c) any individual owner or occupier of the Affordable Housing Units who has purchased the Affordable Housing Unit pursuant to a right to buy claim under Part V of the Housing Act 1985 or Section 16 of the Housing Act 1996 or any similar or substitute right applicable

SCHEDULE 2

LOCAL LETTINGS POLICY

1. Allocations will be made to applicants on the Housing List managed and maintained by Broadland District Council on the following priority basis:
 - 1.1 Residents of Felthorpe who have lived in the Parish for a total of at least 3 of the last 10 years.
 - 1.2 Former residents of Felthorpe who have had their main home in the Parish for 3 of the last 10 years.
 - 1.3 Households who need to move to the parish of Felthorpe to give/receive support from family/relatives.
 - 1.4 Residents of the adjacent parishes of Attlebridge, Drayton, Haveringland, Hevingham, Horsford, Stratton Strawless, Swannington and Taverham who have lived in these parishes for the last three years.
 - 1.5 People working in the parish of Felthorpe who have done so for a year or more.
 - 1.6 Residents of Felthorpe who have lived in the parish for less than three years.
 - 1.7 Residents of the adjacent parishes of Attlebridge, Drayton, Haveringland, Hevingham, Horsford, Stratton Strawless, Swannington and Taverham who have lived in these parishes for less than 3 years.
 - 1.8 Residents of the adjacent parishes of Brandiston, Buxton with Lammas, Cawston, Gt & Little Witchingham, Hainford, Hellesdon, Horsham & Newton St

Faiths, Marsham, Morton on the Hill, and Ringland who have lived in these parishes for the last three years.

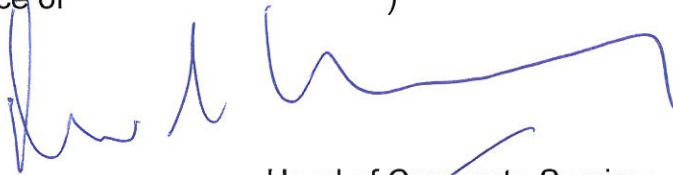
1.9 Residents of the adjacent parishes of Brandiston, Buxton with Lammas, Cawston, Gt & Little Witchingham, Hainford, Hellesdon, Horsham & Newton St Faiths, Marsham, Morton on the Hill, and Ringland who have lived in these parishes for less than 3 years.

1.10 Residents of Broadland District.

1.11 Any other person.

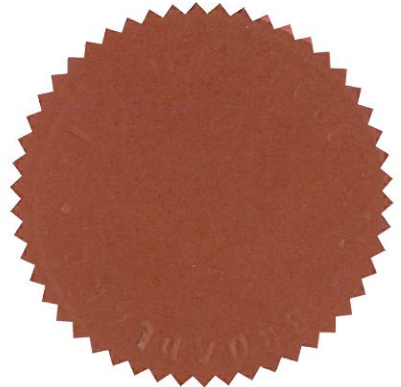
EXECUTED by the parties hereto as a deed on the date written above

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



Head of Corporate Services
and Monitoring Officer

Chief Executive



7143

THE COMMON SEAL of)
WHERRY HOUSING ASSOCIATION LIMITED))
was hereunto affixed)
in the presence of)



Authorised Signatory



Authorised Signatory



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