

Dated 19th December 2018

BROADLAND DISTRICT COUNCIL (1)

-and-

NORFOLK COUNTY COUNCIL (2)

-and-

SALLY ANN JACOBS AND DAVID WILLIAM JACOBS (3)

-and-

FRANCIS DANIEL FEILDEN AND JANET MARGARET ELIZABETH FEILDEN (4)

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

relating to land North of Smee Lane, Great Plumstead
Planning Application Reference 20180193 and 20180194

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**Winckworth
Sherwood**

**Solicitors and
Parliamentary Agents**

THIS DEED is dated

19th December

2018

PARTIES:

- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, 1 Yarmouth Road, Norwich, NR7 0DU (referred to as *the Council*)
- (2) **NORFOLK COUNTY COUNCIL** of County Hall Martineau Lane Norwich Norfolk NR1 2DH (referred to as *the County Council*)
- (3) **SALLY ANN JACOBS** and **DAVID WILLIAM JACOBS** of The Nurseries, Smee Lane, Great Plumstead, Norfolk, NR13 5AX (referred to as *the First Owner*)
- (4) **FRANCIS DANIEL FEILDEN** and **JANET MARGARET ELIZABETH FEILDEN** of 1 Church Road, Worthing, Dereham, Norfolk, NR20 5HR (referred to as *the Second Owner*)

INTRODUCTION

- (A) The Council is the local planning authority for the area within which the Site is situated
- (B) The County Council is the Highways Authority, Education Authority and Library Service provider for the area within which the Site is situated
- (C) The Council has resolved to grant the Permission and the Self Build Permission provided the Parties enter into this Deed
- (D) The First Owner owns the freehold of title number NK374720 ("the First Property") and the Second Owner owns the freehold of title number NK348985 ("the Second Property") and which together form the Site (including the Self Build Land)
- (E) The obligations contained in this Deed are planning obligations for the purposes of Section 106 of the Act
- (F) The Council is satisfied the restrictions and provisions contained in the Deed are necessary to make the Development and the Self Build Development acceptable in planning terms directly relating to the Development and the Self Build Development (as relevant) and fairly and reasonably related in kind to the Development and the Self Build Development (as relevant)

1. DEFINITIONS AND INTERPRETATION

In this Deed the following expressions have the following meanings:

Act means the Town and Country Planning Act 1990

Commencement means the date on which a material operation as defined in Section 56(4) of the Act is first carried out in respect of each of the Permission and the Self Build Permission, except operations consisting of:

- (a) site clearance
- (b) demolition
- (c) archaeological investigations
- (d) ground investigation and site surveys works
- (e) removal of contamination/remediation
- (f) erection of temporary fences and facilities for security
- (g) laying and direction of service media
- (h) construction of temporary access and/or highway works

and 'Commence' and 'Commenced' will be construed accordingly PROVIDED ALWAYS THAT Commencement of the Development and the Self Build Development shall be construed separately and shall be construed in accordance with the Permission and the Self Build Permission respectively

Deed means this deed of agreement as entered into between the Parties

Development means demolition of existing buildings and associated hard stand plus development of up to 272 (two hundred and seventy two) residential dwellings (mixed of 1, 2, 3 and 4 bedrooms) a 2ha site for a 2 Form Entry Primary School, community uses (Use Class D), public open space and associated infrastructure

<i>Dwelling</i>	means a dwelling to be built on the Site as part of the Development (excluding for the avoidance of doubt the Self Build Dwellings)
<i>Nominated Officer</i>	means the senior officer of the Council responsible for development management or other officer of the Council notified to the Owners
<i>Occupation</i>	<p>means the Occupation of the Site, or any part of it, for any purpose authorised by the Permission (in respect of the Site other than the Self Build Land) and Self Build Permission (in respect of the Self Build Land), but excluding occupation for the purposes of:</p> <ul style="list-style-type: none"> (a) construction (b) internal and external refurbishment (c) decoration (d) fitting-out (e) marketing or display or repair for security operations <p>and 'Occupy' 'Occupied' and 'Occupier' will be construed accordingly</p>
<i>Open Market Dwellings</i>	any Dwelling constructed as part of the Development which is not Affordable Housing
<i>Owners</i>	The First Owner and Second Owner together
<i>Parties</i>	means the Council, the County Council, the First Owner and the Second Owner
<i>Planning Application</i>	means the planning application reference number 2018 0193 the subject of the Permission
<i>Permission</i>	means the outline planning permission to be granted by the Council for the demolition of existing buildings and associated hard stand, development up to 272 (two hundred and seventy two) residential dwellings, a 2ha site for a 2 Form Entry Primary School, community uses (Use Class D), public open space and associated infrastructure and

allocated reference number 20180193 or if the Council agrees (in its absolute discretion) in writing another planning permission/s for the Development granted pursuant to section 73 of the Act or a replacement permission/s for the Development

Phase means a phase of the Development as shown on the Phasing Plan attached at Schedule 1 to this Deed which is marked 'Phasing Plan'

Phasing Plan means the plan attached at Schedule 1 to this Deed showing (for illustrative purposes only) the Phases of the Development which is marked 'Phasing Plan'

Self Build Development means the development of the Self Build Land in accordance with the Self Build Permission

Self Build Dwellings means the eleven residential units to be provided on the Site as part of the Self Build Development in accordance with the Self Build Permission

Self Build Land means the eleven plots of land comprising part of the Site to be provided as Serviced Plots of Land for Self Build Dwellings in accordance with Schedule 6 of this Agreement and shown edged blue on the Site Plan

Self Build Permission means the outline planning permission to be granted by the Council for the development of 11 self-build residential plots and associated access and infrastructure and allocated reference number 20180194 on the Self Build Land 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 or a replacement permission for the Self Build Development

Self Build Phase means a phase of the Self Build Development as set out (for illustrative purposes only) on the Self Build Phasing Plan

Self Build Phasing Plan means the plan attached at Schedule 1 to this Deed showing (for illustrative purposes only) the Self Build Phases of the Self Build Development and marked 'Self Build Phasing Plan'

Self Build Planning Application means the planning application reference number 20180194 the subject of the Self Build Permission

Self Build Plot means any one of the eleven self-build residential plots on the Self Build Land

Self Build Register means a register of persons seeking to acquire land to build a home maintained by the Council in accordance with the requirements of the Self-Build and Custom Housebuilding Act 2015 and the Self-Build and Custom Housebuilding Regulations 2016 or successor legislation

Serviced Plot of Land has the meaning given in the Self-Build and Custom Housebuilding Act 2015 as amended by the Self-Build and Custom Housebuilding Regulations 2016 (or any successor legislation) which at the date of this Deed means a plot of land that:

(a) has access to a public highway and has connections for electricity water and waste water or

(b) can be provided with those things before the Permissions expire

and Serviced Plots of Land shall be construed accordingly

Site means the land North of Smee Lane, Great Plumstead and registered at the Land Registry under title numbers NK348985 and NK374720 shown edged red and blue respectively on the Site Plan attached at Schedule 1 to this Deed

Site Plan	means the plan attached to this Deed at Schedule 1 and marked 'Site Plan'
Trigger	means the date of Commencement 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
Working Day	means Mondays to Fridays excluding bank holidays

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 and County Council
- 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

3. COVENANTS

- 3.1 The Owners covenant with the Council and County Council that they and their successors in title will observe and perform the obligations and stipulations contained in this Deed
- 3.2 The Council covenants with the Owners to comply with its respective requirements contained in this Deed
- 3.3 The County Council covenants with the Owners to comply with its respective requirements contained in this Deed

4. OTHER PROVISIONS

- 4.1 The Parties agree that the planning obligations contained in this Deed relate to the planning obligations for the Permission and the Self Build Permission and have been assessed and calculated on 283 Dwellings and the obligations will all be delivered within the red line boundaries of the Permission and the Self Build Permission (save in relation to the Highways Agreement).
- 4.2 No person will be liable for any breach of this Deed if he no longer has an interest in the Site or any part of it to which the breach relates (unless the breach occurred before he disposed of his interest)
- 4.3 The First Owner confirms that they are the owners of that part of the Site which is shown coloured blue on the Site Plan with full power to enter into this Deed and that there is no person or body with an interest in that part of the Site whose consent is necessary to make this Deed binding on all interests in that part of the Site
- 4.4 The Second Owner confirms that they are the owners of that part of the Site which is shown coloured red on the Site Plan with full power to enter into this Deed and that there is no person or body with an interest in that part of the Site whose consent is necessary to make this Deed binding on all interests in that part of the Site
- 4.5 On completion the Owners will pay the Council and the County Council's reasonable legal costs in connection with this Deed
- 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 under this Deed any notice, consideration, confirmation, approval, consent, certificate, direction, authority, agreement, action or expression of satisfaction is required to be given or reached or taken by any party or any response is requested any such notice, consideration, confirmation, approval, consent, certificate, direction, authority, agreement, action or expression of satisfaction or response shall not be unreasonable or unreasonably withheld or delayed and in writing

- 4.10 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its interest in the Site or any part thereof but without prejudice to liability for any subsisting breach arising prior to parting with such interest. Neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site or part thereof will constitute the retention of an interest for the purposes of this paragraph
- 4.11 Save for the obligations in Schedule 2 relating to Affordable Housing the obligations contained in this Deed shall not be binding upon or enforceable against owner(s) occupiers or their mortgagees or tenants of Dwellings or Self Build Dwellings constructed pursuant to the Permission or the Self Build Permission respectively nor against those deriving title from them
- 4.12 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 and/or Self Build Permission) granted (whether or not on appeal) after the date of this Deed but this Deed shall apply to any planning permission granted under Section 73 and/or Section 73A of the Act

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 in the absence of fraud and 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
- 5.2 Any expert howsoever appointed shall be subject to the express requirement that a decision is 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 twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received the last file or written representation
- 5.3 The expert shall be required to give notice to each of the said Parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter submission within a further ten working days

- 5.4 Nothing in this clause will apply to the recovery of liquidated sums or prevent the Parties from commencing or continuing court proceedings

6. CONDITIONALITY

- 6.1 This Deed is conditional on:

6.1.1 the grant and issue of the Permission and Commencement of the Permission in respect of the obligations set out within Schedules 2, 3, 4, and 5

6.1.2 the grant and issue of the Self Build Permission and the Commencement of the Self Build Permission in respect of the obligations set out within Schedule 6

- 6.2 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Permission and/or the Self Build Permission shall be quashed revoked or otherwise withdrawn or expires prior to Commencement of Development and/or the Self Build Development and in the event of only one of the Permission and/or the Self Build Permission being so quashed revoked or otherwise withdrawn or expiring prior to Commencement of the Permission and/or the Self Build Permission (whichever is relevant) then the provisions of this Deed shall continue to have effect only in respect of whichever of the Permission and/or the Self Build Permission has not been so quashed revoked or otherwise withdrawn and has not expired prior to Commencement.

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) properly payable

8. NOTIFICATIONS

- 8.1 Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received
- 8.2 The First Owner will notify the Nominated Officer and the Second Owner in writing of the relevant
- 8.2.1 anticipated Triggers seven days in advance of each anticipated date
- 8.2.2 actual Triggers within seven days after each actual date

insofar as they relate to the First Property.

- 8.3 The Second Owner will notify the Nominated Officer and the First Owner in writing of the relevant:-

8.3.1 anticipated Triggers seven days in advance of each anticipated date

8.3.2 actual Triggers within seven days after each actual date.

insofar as they relate to the Second Property

- 8.4 If the Owners dispose of their interest in all or part of the Site they will notify the Nominated Officer within twenty eight days of the name and address of the new owner and sufficient details to identify the Site or part of the Site BUT FOR THE AVOIDANCE OF DOUBT this does not apply to disposal of a Dwelling or a Self Build Dwelling or a Self Build Plot

Schedule 1

1. Site Plan
 2. Phasing Plan
 3. Self Build Phasing Plan
 4. Open Space Plan
-
5. Education Land Plan

Notes:

Do not scale from this drawing.
All contractors must visit the site and be responsible for taking and checking dimensions.
All construction information should be taken from figured dimensions only.
Any discrepancies between drawings, specifications and site conditions must be brought to the attention of the supervising officer.
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Key

- Application Boundary
- Ownership Boundary
- Phase 1 - Self/custom- build phase
- Phase 2
- Phase 3
- Phase 4
- Phase 5
- Main vehicular access
- Proposed onward connection to GT22
- Indicative primary vehicular route

S.A. Jacobs
M.M.Wood
J. Leeder
D. Tarrant
A.D.

P3	05.11.18	Primary road added	VB	GP
P2	24.09.18	Drawing title amended	VB	GP
P1	01.02.18	First issue	VB	GP

Rev	Date	Description	Drawn	Chkd
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FOR APPROVAL

Client
Landform Norwich Ltd



Project
Green Lane Orchard
East Norwich

Drawing Title
Phasing Plan

Scale @ A3 1:2500
Job Ref. 010007
Drawing No. 010007_S_07
Revision P3
Scale Bar 0 20 40 60m

Notes:
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Key

Application Boundary
(0.96ha/ 2.38 acres)

Self build phases

[Signature]

J. Leaden

S.A. Jacobs

[Signature]

[Signature]
M. W. W. W.

P4	24.09.18	Key and drawing title amended	V8	GP
P3	01.02.18	Red line boundary amended	V8	GP
P2	14.12.17	Key amended	V8	GP
P1	11.12.17	First issue	V8	GP

Rev	Date	Description	Drawn	Chkd
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Drawing Status

Client

Landform Norwich Ltd



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London, EC1V 0DN
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Project
Green Lane Orchard
East Norwich

Drawing Title
Self Build Phasing Plan

Scale @ A3 1:2500


Job Ref. 01007

Drawing No. 01007_S_05

Revision P4

Scale Bar

0 20 40 60m



Schedule 2

Part 1

Affordable Housing

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 means the Intermediate Housing and Rented Housing to be provided to Eligible Households whose needs are not met by the market

Affordable Housing Mix means 60% Rented Housing and 40% Intermediate Housing (or as otherwise agreed by the Council in the Council's absolute discretion)

Affordable Housing Provision the construction and provision of Affordable Dwellings on the Site equating to 33% of the total number of Dwellings and Self Build Dwellings (or such other percentage as the Council may agree in its absolute discretion) in accordance with the Affordable Housing Mix

Affordable Housing Scheme means a scheme or schemes securing the Affordable Housing Provision and specifying:

- (a) the timescale and programme for implementation of the Affordable Housing Scheme and construction of the Affordable Dwellings in that Phase;
- (b) the full details of the design of the Affordable Dwellings
- (c) the identity of the Provider or such details as the Council requires to satisfy itself that the Affordable

Housing will be secured as Affordable Housing in perpetuity;

- (d) the number, location, type and size of Affordable Housing to be constructed in that Phase;
- (e) 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.

Affordable Rented Dwellings means 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 or as otherwise agreed with the Council in writing

Approved Affordable Housing Scheme the Affordable Housing Scheme approved by the Council in accordance with paragraph 2.1 of this Schedule including any amendment, revision or substitution approved by the Council in writing

Eligible Household means 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 means Homes England or the successor body or other appropriate body as the Council may nominate

Intermediate Housing one or more of Shared Equity Dwellings and/or Shared Ownership Dwellings as agreed by the Council

Intermediate Dwellings	Rented	means 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
Practically Complete		means completion of the construction of the Affordable Housing 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 Housing and which it would be reasonable to include in a schedule of minor snagging items and as evidenced by the issue of a certificate of practical completion by the Owner's architect, employers' agent or other suitably qualified person, and "Practically Completed" shall be construed accordingly
Provider		either: <ul style="list-style-type: none"> (a) a Registered Provider; or (b) another organisation that owns the Affordable Dwellings and has been approved in writing by the Council
Public Subsidy		funding provided by the Council, the 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		means as defined in the Housing and Regeneration Act 2008

<i>Rented Housing</i>	means one or more of Affordable Rented Dwellings and Intermediate Rented Dwellings and Social Rented Dwellings as agreed with the Council
<i>Shared Equity Dwellings</i>	<p>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)</p>
<i>Shared Ownership Dwellings</i>	means Dwellings purchased on a Shared Ownership Lease
<i>Shared Ownership Lease</i>	<p>means a lease in a form approved by the 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"> (a) 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 (b) power to the purchaser to increase their ownership up to 100% if they so wish (c) 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 HE

Social Rented Dwellings means Dwellings owned or managed by a Provider let at rents not exceeding the Target Rent

Target Rent means 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

- 1 The Parties agree that the Affordable Housing Provision is the Affordable Housing for the Permission and the Self Build Permission which equates to 33% (thirty three percent) of the cumulative total of the Dwellings and Self Build Dwellings within the Development and the Self Build Development
- 2 The First Owner hereby covenants with the Council insofar as the covenants relate to the First Property and the Second Owner hereby covenants with the Council insofar as those covenants relate to the Second Property as follows:
 - 2.1 Not to Commence the Development on any Phase unless:
 - 2.1.1 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 and has been approved by the Council in writing for that Phase
 - 2.1.2 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 for that Phase
 - 2.2 Not to Occupy or allow Occupation of the first Open Market Dwelling in any Phase until an exchanged unconditional contract for the sale of the Affordable Dwellings in that Phase 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
 - 2.3 Not to construct the Affordable Dwellings otherwise than in accordance with the Approved Affordable Housing Scheme and the timescales and details set out therein.

- 2.4 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
- 2.5 Not to Occupy more than 50% of the Open Market Dwellings in a Phase until all of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme for that phase are Practically Complete and 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:
-
- 2.5.1 for a consideration at a level which ensures that no Public Subsidy is required to enable the transaction to be completed;
- 2.5.2 free from all financial charges, adverse rights, restrictions or other encumbrances which would interfere with the use of the Affordable Dwellings as Affordable Housing;
- 2.5.3 with the benefit of all necessary easements, rights and utilities; and
- 2.5.4 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
- 2.6 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:
- 2.6.1 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;
- 2.6.2 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;

2.6.3 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
- c) all persons or bodies deriving title under or through any persons or bodies referred to in this paragraph 2.6 (including their successors in title)

Part 2

Local Lettings Policy – Great and Little Plumstead

- 3 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:
 - 3.1 first allocations shall be made to people living in the parishes of Great and Little Plumstead (including Thorpe End)
 - 3.2 if there is no suitable person in paragraph 3.1 allocations will be made to people who work in the parishes of Great and Little Plumstead (including Thorpe End); and

3.3 if there are no suitable persons in paragraphs 3.1 and 3.2 allocations will be made to people who need to move to the parishes of Great and Little Plumstead (including Thorpe End) to give/receive support to/from close family.

3.4 If there are no suitable persons in paragraph 3.1 and/or 3.2 and/or 3.3 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 as approved by the Council

4 Administrative Procedure for Nominations

4.1 To grant to the Council nomination rights to 100% of the Affordable Rented Dwellings unless otherwise agreed in writing.

4.2 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 Owners shall agree between them.

Schedule 3
Open Space

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
Inflation Provision	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 Agreement (or if such index ceases to be published such other index as the Council shall reasonably determine)
Management Company	a company to be set up for the purposes of managing and maintaining the Open Space in perpetuity
Open Space	land to be set aside 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
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 and containing:

- full details of the amount of sport, play, allotment and green infrastructure provision to be provided in line with the Permission and Self Build Permission

- 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 in perpetuity

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

Sports Facilities and Allotments Contribution

a sum in lieu of any deficiency in the amount of sports facilities and allotments Open Space provided in the relevant Phase of the development compared to that required in accordance with the Council's current Open Space Policies at the date of this Deed such sum to be calculated in accordance with Part 3 of this Schedule in respect of the relevant Phase and increased in line with the Inflation Provision and applied towards the provision of sports facilities and allotments serving the Development in the parish of Great and Little Plumstead (including Thorpe End)

Standard Terms

in accordance with the reasonable requirements of the Council in consultation with the Management Company 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 Management Company'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 Land as public open space and all encumbrances which might result in additional cost or liability to the Management Company not normally associated with the use of the Open Space

The First Owner hereby covenants with the Council insofar as they relate to the First Property and the Second Owner covenants with the Council insofar as they relate to the Second Property as follows:

1. Open Space

1.1 Not to Commence the Development on any Phase until the Open Space Scheme has been submitted to and approved in writing by the Nominated Officer in relation to that Phase

1.2 To submit a calculation of the Sports Facilities and Allotments Contribution to the Council in respect of each Phase as part of the reserved matters application for that Phase.

1.3 To pay the Sports Facilities and Allotments Contribution calculated for a Phase in accordance with paragraph 1.2 above on or prior to first Occupation of any Dwelling in that Phase

2. **On-Site Open Space**

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

- 2.1 To lay out and provide the Open Space within each Phase 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 Permission for each Phase
-
- 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 the first Phase of the Development and then not to Occupy each Phase thereafter unless:
 - 2.4.1 the Management Company has been created to the satisfaction of the Council; and
 - 2.4.2 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
 - 2.5 Where Open Space is to be provided in any Phase not to Occupy more than 80% of the Dwellings in any Phase unless and until the Open Space for that Phase has been provided in accordance with the Approved Open Space Scheme and transferred to the Management Company subject to the Standard Terms

Part 2

Council Obligations

The Council covenants with the Owners as follows:

1. 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

Extract from Open Space Policies detailing the cost per dwelling for the Provision and Maintenance of Open Space as at January 2015

Contribution towards purchase of land

Land purchase					
Property	Sports	Play	Allotments	Green Infrastructure	Total
1 bed	£252	£51	£24	£600	£927
2 bed	£336	£68	£32	£800	£1,236
3 bed	£420	£85	£40	£1,000	£1,545
4 bed	£504	£102	£48	£1,200	£1,854
5 + bed	£588	£119	£56	£1,400	£2,163

Equipping of Off Site Open Space

Equipping					
Property	Sports	Play	Allotments	Green Infrastructure	Total
1 bed	£288	£89	£15	£429	£821
2 bed	£385	£119	£19	£572	£1,095
3 bed	£481	£148	£24	£715	£1,368
4 bed	£577	£178	£29	£858	£1,642
5+ bed	£674	£207	£34	£1,001	£1,916

Maintenance of Off-Site and On-Site Open Space

Maintenance				
Property	Sports	Play	Green infrastructure	Total
1 bed	£303	£30	£253	£586
2 bed	£404	£41	£338	£783
3 bed	£504	£51	£422	£977
4 bed	£605	£61	£506	£1,172
5+ bed	£707	£72	£591	£1,370

Part 4

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

Number of bedrooms	Children's play spaces m ²	Sports facilities m ²	Allotments m ²	Green Infrastructure m ²
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

Education

In this Schedule the following expressions have the following meanings:

Education Formula	$X = \frac{(C \times 100)}{420}$ <p>X being the percentage of the Education Land to be provided to the County Council free of charge for the purposes of the Valuation</p> <p>Where:</p> $C = \frac{(A \times B)}{100}$ <p>C being the number of primary age children generated by the Permission and the Self Build Permission</p> <p>Where:</p> <p>A = the number of Qualifying Dwellings (one bedroom Dwellings not counted and flats counted at 50%)</p> <p>B = the child yield calculated in accordance with the County Council's Planning Obligations Standards Document dated April 2018 (being 26.1^{children} per 100^{sq} homes in respect of primary education)</p>
Education Land	<p>means up to 2ha of land to be provided as part of the Development shown on the Education Land Plan attached at Schedule 1 of this Deed for the provision of a 2 Form^{sq} Entry Primary School, community uses (Use Class D)</p>
Education Land Notice	<p>means a notice served by the Owners on the County Council confirming that the Education Land is ready for transfer in accordance with paragraph 5 and 6 of this Schedule and requesting the County Council to confirm whether the Education Land is still required for a 2 Form Entry Primary School, community uses (Use Class D)</p>

	01007-S-012 Rev p1
Education Land Plan	means the parameter plan 01007-PP-01 Rev P8 showing the location of the 2 Form Entry Primary School, community uses (Use Class D) attached at Schedule 1 to this Deed
Qualifying Dwelling	means a Dwelling comprising two or more bedrooms on the Development and the Self Build Development
Valuation	means the valuation amount of the Education Land at the market rate for Class D2 use pursuant to The Town and Country Planning (Use Classes) Order 1987 (as amended) as agreed by the Parties or by a district valuer if there is any dispute between the Parties as to the valuation amount pursuant to clause 5 of this Deed

1. The First Owner covenant with the County Council to reserve the Education Land
2. On or before Occupation of 150 (one hundred and fifty) Open Market Dwellings on the Development the First Owner covenants to serve the Education Land Notice on the County Council and not to Occupy more than 150 (one hundred and fifty) Open Market Dwellings on the Development until the Education Land Notice has been served on the County Council
3. Within 3 (three) months of the service of the Education Land Notice pursuant to paragraph 2 above the County Council shall:-
 - 3.1 confirm to the First Owner in writing that the Education Land is still required for the provision of the 2 Form Entry Primary School; or
 - 3.2 confirm that the County Council no longer requires the Education Land for the provision of a 2 Form Entry Primary School

PROVIDED ALWAYS THAT if the County Council fails to notify the First Owner within 2 (two) months of service then it is deemed that the County Council no longer requires the Education Land for the provision of the 2 Form Entry Primary School

4. Within 6 (six) months of receipt of the written notification from the County Council pursuant to paragraph 3.1 above that the Education Land is still required the First Owner will transfer the Education Land to the County Council
5. The First Owner will transfer the Education Land pursuant to paragraph 4 above as follows:-
 - 5.1 all structures removed/demolished and Site levels in accordance with condition 11
 - 5.2 decontaminated/remediated
 - 5.3 vacant possession
 - 5.4 with services including drainage provided to the perimeter/boundary of the Education Land
 - 5.5 access road/vehicular access to include bus access
 - 5.6 fencing/hoarding at the boundary
6. The First Owner and the Council and the County Council agree that Education Land will be transferred to the County Council pursuant to paragraph 4 and 5 above for a consideration calculated in accordance with the Valuation and the Education Formula as agreed between the aforementioned parties but in the event the proposed dwelling mix changes by way of approval of reserved matters approvals then the percentage of the Valuation to be paid by the First Owner will be recalculated in accordance with the Education Formula at the time of the transfer of the Education Land pursuant to paragraph 4 and 5 of this Schedule AND FOR THE AVOIDANCE OF DOUBT any dispute between the Parties in relation to the Valuation shall be referred to dispute resolution pursuant to clause 5 of this Deed
7. In the event that the Education Land is transferred to the County Council and within 5 (five) years of the date of the transfer the County Council has:-
 - 7.1 not entered into a contract or contracts to deliver a 2 Form Entry Primary School on the Education Land; or
 - 7.2 not built a 2 Form Entry Primary School on the Education Land

then the County Council shall transfer to the First Owner the Education Land AND FOR THE AVOIDANCE OF DOUBT the County Council shall transfer the Education Land to the First Owner at the agreed Valuation at the date of the transfer of the Education Land to the County Council pursuant to paragraph 6 of this Schedule

8. In the event that the County Council transfers the Education Land back to the First Owner pursuant to paragraph 7 of this Schedule or it notifies the First Owner that it no longer requires the Education Land pursuant to 3.2 of this Schedule then the Education Land shall no longer be bound by the obligations contained in this Schedule 4 of this Deed and the Owners may apply for planning permission for an alternative use.
9. The Parties agree that the education provision in this Schedule relate to the Permission and the Self Build Permission

Schedule 5

Highway Works

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

GT21 Site	means the site allocated for residential-led mixed-use redevelopment in the Council's local plan as at the date of this Deed and given reference number GT21 (and as described in the Council's Old Catton, Sprowston, Rackheath & Thorpe St Andrew Growth Triangle Area Action Plan dated July 2016 (<i>the AAP</i>))
Spine Road	means the road the indicative route of which is shown for illustrative purposes only dashed blue on the Phasing Plan
Spine Road Phase 1	means that part of the Spine Road which runs between the points marked for the purposes of illustration only 'A' and 'B' on the Phasing Plan
Spine Road Phase 1 S38 Agreement	means an agreement under Section 38 of the Highways Act 1980 for the adoption of Spine Road Phase 1
Spine Road Phase 2	means that part of the Spine Road which runs between the points marked for the purposes of illustration only 'B' and 'C' on the Phasing Plan
Spine Road Phase 2 S38 Agreement	means an agreement pursuant to Section 38 of the Highways Act 1980 for the adoption of Spine Road Phase 2
Spine Road Connection Notice	means a notice to be served by the County Council upon the Owners in accordance with the provisions of [paragraph 3] of this Schedule 5 and which shall confirm that the County Council will adopt Spine Road Phase 2

1. The Owners hereby covenant with the County Council to:
 - 1.1 construct Spine Road up to the northern boundary of the Site in accordance with the Phasing Plan prior to first Occupation of more than 220 Dwellings; and
 - 1.2 offer Spine Road Phase 1 for adoption by the County Council prior to the first Occupation of more than 220 Dwellings and to use reasonable endeavours to enter into the Spine Road Phase 1 S38 Agreement as soon as reasonably

practicable in the event that the County Council agrees to adopt Spine Road Phase 1

2. In the event that the County Council agrees to adopt Spine Road Phase 1 pursuant to the provisions of Paragraph 1.2 above then the County Council shall use reasonable endeavours to enter into the Spine Road Phase 1 S38 Agreement as soon as reasonably practicable thereafter.
3. In the event that:
 - 3.1 the County Council has completed the Spine Road Phase 1 S38 Agreement; and
 - 3.2 the GT21 Site obtains planning permission for residential-led mixed-use development; and
 - 3.3 that planning permission and or section 106 agreement pursuant to that planning permission provides for a highway suitable for adoption which permits the passage of all vehicles including motor cars from the public highway (other than the Spine Road) through the GT21 Site to connect to the Spine Road at the northern boundary of the Site and a mechanism for its adoption.

then the County Council may serve the Spine Road Connection Notice upon the Owners PROVIDED ALWAYS THAT the County Council shall not serve such notice before the requirements of paragraphs 3.1-3.3 above have been satisfied

4. In the event that the County Council serves the Spine Road Connection Notice upon the Owners pursuant to paragraph 3 above then the County Council and the Owners shall as soon as reasonably practicable enter into the Spine Road Phase 2 S38 Agreement and the Owners shall provide access to the whole of the Spine Road from the northern boundary of the Site with the GT21 Site PROVIDED ALWAYS THAT the Owners shall not be required to provide access to the Spine Road from the northern boundary of the Site with the GT21 Site until the County Council has adopted the whole of the Spine Road.

Schedule 6
Self Build Development

The Owners hereby covenant with the Council in respect of the Self Build Development on the Self Build Land as follows:

1. not to Commence any Self Build Phase until the Council has approved in writing the layout of the Self Build Dwelling for that Self Build Phase;
2. that the Self Build Phases shall be made available to purchasers as Serviced Plots of Land to persons included on the Council's Self Build Register;
3. that the Self Build Dwellings to be provided on the Serviced Plots of Land shall not be Occupied initially except by the person who commissioned or built or completed the Self Build Dwelling on the Serviced Plot of Land;
4. not to Occupy more than eight (8) of the Self Build Dwellings unless and until the Council has approved the Affordable Housing Scheme in respect of the first Phase of the Development pursuant to Paragraph 2.1.1 of Part 1 of Schedule 2 of this Deed.

IN WITNESS WHEREOF the Parties hereto have executed this Deed the day and year first before written

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



M. Mue

Authorised Signatory:

Head of Democratic Services and
Monitoring Officer

MARTIN THROWER

THE COMMON SEAL of)
NORFOLK COUNTY)
COUNCIL)
was affixed in the presence of)



*HUGH
FERGUSON*

Authorised to sign on behalf of Chief Legal Officer


Chief Legal Officer:

43256

EXECUTED AS A DEED by
FRANCIS DANIEL FEILDEN
in the presence of:

)
)
) 

Witness Name:


DENIS COSTELLO

Witness Address:

1 St James Court
Norwich

Witness Signature:

EXECUTED AS A DEED by
**JANET MARGARET
ELIZABETH FEILDEN**
In the presence of:

)
)
)
) 

Witness Name:

DENIS COSTELLO

Witness Address:

1 St James Court
Norwich

Witness Signature:



EXECUTED AS A DEED by

SALLY ANN JACOBS

In the presence of:

) S.A. Jacobs

)

)

Witness Name:

William Ruff

Witness Address:

74 The Churn
Nun

Witness Signature:

Solicitor



EXECUTED AS A DEED by

DAVID WILLIAM JACOBS

In the presence of:

)

)

)

Witness Name:

William Ruff

Witness Address:

74 The Churn
Nun

Witness Signature:

