

DATED 16TH AUGUST 2007

BROADLAND DISTRICT COUNCIL

- AND -

NORFOLK COUNTY COUNCIL

- AND -

SINDALL EASTERN LIMITED

AGREEMENT UNDER SECTION 106
OF THE TOWN AND COUNTRY PLANNING
ACT 1990

relating to the development of land
at Foundry Close Foulsham Norfolk

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

THIS AGREEMENT is made the 16th day of August 2007
BETWEEN:

BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road Thorpe St
Andrew Norwich Norfolk NR7 0DU (hereinafter called "The Council") of the first
part and NORFOLK COUNTY COUNCIL (hereinafter called "The County Council") of
County Hall Martineau Lane Norwich NR1 2DH of the second part and SINDALL
EASTERN LIMITED of 77 Newman Street London W1P 3LA(hereinafter called "the
Owner") of the third part

1. INTERPRETATION AND DEFINITIONS

In this Agreement 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 a Registered Social Landlord
"Affordable Housing Units"	bungalows flats and houses to be constructed or provided on the Site as part of the Development

"Affordable Rental Units "	Affordable Housing Units to be constructed or provided on the Site as part of the Development and to be let for a rent upon either a weekly basis or monthly tenancy basis not exceeding housing corporation target rents (or if such targets cease to be set such other measure of affordable rents as the Council shall reasonably determine) and to be let by or on behalf of a Registered Social Landlord
"Application"	the application for planning permission dated 3 July 2006 for ten Affordable Housing Units highway and associated site works in accordance with the plans deposited with the Council bearing reference number 20061072
"Development"	the development permitted by the Planning Permission
"Director"	the Council's Strategic Director and Chief Planner (Community Services) or other officers of the Council acting under his hand
"Inflation Provision"	the increase (if any) in the DTI Output Price Index for Public Works between 30 September 2006 and the date upon which a payment of the Open Space Contribution is made pursuant to this Agreement

"Local Lettings Policy"	the order in which the Affordable Housing Units are to be allocated and which is set out under the title "Local Lettings Policy" at Appendix 1 to this Agreement as amended from time to time
"Open Space Contribution"	the sum of £10,450.26 increased in accordance with the Inflation Provision
"the Plan"	the plan annexed to this Agreement bearing reference number 2123 08P
"Planning Permission"	the detailed planning permission to be granted pursuant to the Application
"Public Open Space"	the area shown outlined in yellow on the Plan which area is to be a public recreational facility
"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) and ranked in accordance with the Local Lettings Policy or where such persons have been exhausted any person as nominated by the Council on the Broadland Housing Register that the Registered

	Social Landlord owning or managing the Affordable Housing Units on the Site is entitled to house within its rules
"Registered Social Landlord"	a registered social landlord in the register kept by the Housing Corporation under Part 1 of the Housing Act 1996 (or any statutory re-enactment or modification thereof) as approved by the Council
"Shared Ownership Dwellings"	Affordable Housing Units to be let on a Shared Ownership Lease to be provided on the Site as part of the Development
"Shared Ownership Lease"	a lease of a Shared Ownership Dwelling granted at a premium whereby up to a maximum of 50% (fifty per cent) on first purchase of the equitable interest in the Shared Ownership Dwelling is paid by the tenant upon completion of such lease or raised by mortgage or charge from a bank or building society and which lease shall include arrangements enabling the lessee to acquire up to 80% (eighty per cent) of the legal and equitable interest in the Shared Ownership Dwelling at some future date or dates and shall allow a rental premium to be charged on the remainder of the equitable interest not exceeding housing corporation target rents (or if such targets cease to be set such other measures of affordable rents as the relevant District Council shall reasonably determine)

"TRO Estimated Costs"	the sum of £3,000 being the estimated costs to be incurred by the County Council in drafting making and advertising the TRO and if the said TRO is confirmed of carrying out works in furtherance of the TRO
"Site"	the land at Foundry Close Foulsham Norfolk shown for the purposes of identification only edged red on the Plan
"TRO"	a Traffic Regulation Order to extend the existing 20 m.p.h. zone and provide signing on Station Road in accordance with the drawing no CPO 18 attached hereto

In this Agreement 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 Agreement
- (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 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 Agreement shall not form part of or affect its construction

WHEREAS:

- A. The Council is the Local Planning Authority for the purposes of the Act for the area within which the Site is situated and the County Council is the relevant Highway Authority and is also a Local Planning Authority for the purposes of the Act
- B. The Owner is the freehold owner of the Site part of which is registered at Land Registry with Title No. NK253147
- C. The Owner submitted the Application and the Council has resolved to grant the Planning Permission subject to the entering into of this Agreement

2. GENERAL PROVISIONS APPLICABLE TO THIS AGREEMENT

- 2.1 This Agreement 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 enforceable by the Council and the County Council against the Owner and its successors in title and assigns
- 2.3 The provisions of this Agreement shall have immediate effect upon completion of this Agreement save for clauses 13, 14 and 15 and Schedules 1, 2 and 3 which shall be conditional upon the grant and implementation of the Planning Permission
- 2.4 This Agreement shall cease to have effect if the Planning Permission shall be quashed revoked or otherwise withdrawn
- 2.5 This Agreement shall be registered as a charge in the Council's Register of Local Land Charges

Play area
DK 1/1/1

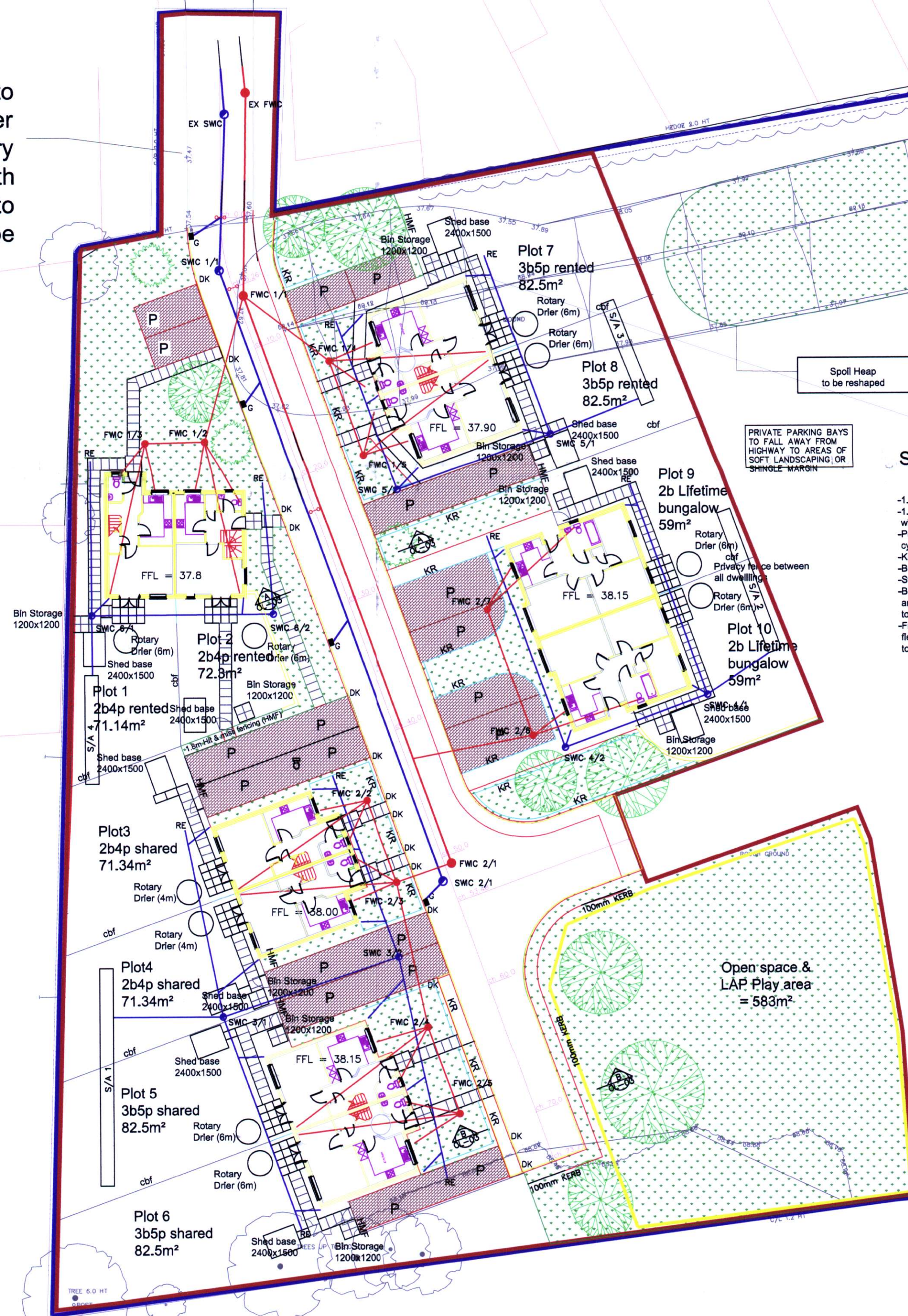
Victor M
HEAD OF LAW

Proposed Application to
reduce Speed Limit to 20mph,
Signs to be Moved

HEAD OF CORPORATE SERVICES
& MONITORING OFFICER

5831

Road type to
be as per
Foundry
Close with
transision to
new type



Secured by Design requirements

- 1.8m close boarded fence (cbf) boundary all dwellings
- 1.8m HB and miss fencing (HMF) parking bays to houses with 1.8m lookable gates either padlock or key mortice locks.
- Provide prickly planting to reshaped spill heap to deter cycles or use as play area.
- Knee rails to front of houses (KR)
- Bulkhead lighting required to front and back doors
- Street Lights required subject to Parish Council approval.
- Bollard light to car park of plot 2. Lights to side of house are to cover car parks (PIR's) Plots 9 and 10 to have light to car park area if street lights not available.
- Front garden to plot 6 beside drive to playing field to have 300 high trellis above 1.8 fencing total height 2100mm.

P	15-11-06	A.D.R	Incorpo
N	18-10-06	A.D.R	Change
M			
L	07-09-06	A.D.R	Change
REVISION	DATE	DRAWN	DESCRIP
CLIENT	Lovells		
PROJECT NAME	Foundry Close, Foulsham		
DRAWING TITLE	Proposed Site Layout		
DRAWING SCALE @1:250			
© All Rights Reserved. DO NOT SCALE. CHECK ALL DIMENSIONS			
REYNOLDS JURY ARCHITECTURE LTD, ORCHARD FIGHTLE, THWA			
REGISTERED IN ENGLAND. REGISTRATION NO. 5219628 DIRECT			

AMENDED PLAN



Notes:

This drawing shows the proposed extension of the current twenty miles per hour zone from its position shown to the North of the Foundry Close entrance to the new position adjacent to No 42 Station Road.

The Current two sided signs (30mph on one side & 20mph on the other) will be relocated to the new position. The Gateway band across the road with the contrasting colour and the painted 20mph on the road will also be relocated. a new smaller repeater sign (20mph) will be placed where the existing gateway is.

This proposed traffic calming solution was arrived at in consultation with Norfolk County Highways Department who have agreed in principle that they will carry out the work if the proposal is included within the 106 agreement;

Do Not Scale: All figured dimensions to be checked on site and Lovell Partnership Ltd notified of any variation		This drawing is the Copyright of Lovell Partnership Ltd and should not be Reproduced without Prior Consent	
Rev	Description	Drawing Title:	Drawing No:
—	—	Proposed Traffic Calming Measures	N/A
—	—	Project Title:	Drawn:
—	—	Foundry Close Foulsham	CWP
—	—	For: N/A	Scale:
—	—		1:500
—	—		Checked:
—	—		N/A
—	—		Date:
—	—		18/08/06
—	—		Rev:
—	—		N/A
—	—		Approved:
—	—		N/A
—	—		Job No:
—	—		CP018

LOVELL

Lovell Partnership Ltd
40-42 Thorne Road, Norwich
Norfolk, NR1 1TA

TEL: 01603 847660 FAX: 01603 844114

HEAD OF LAW

- 2.6 In the event that this Agreement comes to an end the Council if so requested by the Owner will execute a deed of release (or partial release) from the relevant provisions of this Agreement and procure that a note thereof shall be registered on 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 Agreement shall prejudice or affect the rights powers duties and obligations of the Council or the County Council in the exercise of their functions as Local Planning Authority and Highway 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 or the County Council were not a party to this Agreement

3.2 Invalidity or Unenforceability of any of the Terms of this Agreement

If any provision in this Agreement 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 or the County Council of any breach or default by the Owner in performing or observing any of the covenants in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof

3.4 No party shall be liable under this Agreement for any breach of the covenants contained in this Agreement after that party has parted with its interest in the Site or the part of the Site in respect of which such breach occurs provided that liability will still remain for any breach occurring prior to the parting of any person's interest in the Site or any part thereof in respect of which any such breach has taken place

4. NOTICES

4.1 Any notice document or other correspondence required to be served or given under the provisions of this Agreement 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 Agreement shall be as follows:-

The Council	The Strategic Director and Chief Planner (Community Services) Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich NR7 0DU
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The Owner	Sindall Eastern Limited 77 Newman Street London W1P 3LA
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The County Council	Head of Law County Hall Martineau Lane Norwich NR1 2DH
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4.3 Any notice or other written communication to be given by the Council or County Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Council or County Council by a duly authorised officer

5. THIRD PARTIES

- 5.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person who is not a party to this Agreement (other than a successor in title to one of the original parties) shall be entitled in that person's own right to enforce any provisions of this Agreement pursuant to the provisions of the said Act

6. COSTS

- 6.1 The Owner shall on completion of this Agreement pay the Council's and the County Council's legal and administrative costs incurred in the preparation negotiation and completion of this Agreement

7. PAYMENT OF INTEREST

- 7.1 The Owner shall pay interest at the rate of 4% above HSBC Bank base rate for the time being in force on any monies due under the provisions of this Agreement in the event of late payment for the period from the date the monies should have been paid to the date the money is received

8. VAT

- 8.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable
- 8.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement, then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

9. JURISDICTION

9.1 This Agreement is to be governed by and interpreted in accordance with the law of England and Wales

10. The Owner agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of the Agreement are hereby waived

11. TITLE WARRANTY

The Owner hereby warrants that it is the freehold owner of the Site and has full power to enter in to this Agreement and that the Site is free from all mortgages charges or other encumbrances and that there is no person having any interest in the Site other than as notified in writing to the Council's and the County Council's Head of Law prior to the date hereof

12. DISPUTES

12.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same

12.2 If the matter is not resolved through negotiation 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 for Dispute Resolution

12.3 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.

- 12.4 Nothing in Clauses 12.1 and 12.2 shall apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

13. PLANNING OBLIGATIONS

- 13.1 The Owner hereby covenants with the Council to carry out and comply with the obligations and restrictions set out in Schedules 1 2 and 3 to this Agreement

- 13.2 The Owner hereby covenants with the County Council and the Council to carry out and comply with the obligations and restrictions set out in Schedule 4 to this Agreement

14. It is hereby agreed between the Owner and the Council that the Public Open Space area shall not be used otherwise than for the provision of amenity open space or for play space

15. The County Council hereby confirms that subject to receipt of the TRO Estimated Costs it shall (with reasonable speed and diligence) take such steps as are necessary to make and publish the TRO and if the TRO shall be confirmed, to carry out the works in furtherance of the TRO

16. The County Council shall repay to the Owner any amount by which the TRO Estimated Costs exceeds the actual costs associated with making advertising and confirming the TRO and carrying out and completing the works in furtherance of the TRO

SCHEDULE 1

1. AFFORDABLE HOUSING

- 1.1 Not to construct or procure the construction of the Affordable Housing Units otherwise than in accordance with current applicable NHBC standards and building regulations in force at the time of building and to the reasonable satisfaction of the Council
- 1.2 Not to use allow or permit the Affordable Housing Units to be occupied for any purpose other than as Affordable Rental Units and/or Shared Ownership Dwellings
- 1.3 The Affordable Housing Units shall not be occupied other than by Qualifying Occupiers
- 1.4 The Owner shall not dispose of its interest in the freehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to any other Registered Social Landlord
- 1.5 Paragraphs 1.2 1.3 and 1.4 above shall not be binding upon any mortgagee in possession of the Affordable Housing Units or part thereof nor any receiver or manager (including an administrative receiver) for such mortgagee and shall cease to apply to any of the Affordable Housing Units where the Owner shall be required to dispose of such Units pursuant to a right to buy under Part 5 of the Housing Act 1985 or Section 16 of the Housing Act 1996 or any similar or substitute right applicable

SCHEDULE 2

2. OPEN SPACE CONTRIBUTION

- 2.1 Prior to the occupation of any Affordable Housing Unit on the Site the Open Space Contribution as increased by the Inflation Provision shall be paid by the Owner (or its successors in title) to the Council

SCHEDULE 3

3. PUBLIC OPEN SPACE

- 3.1 not to occupy or allow to be occupied any Affordable Housing Units on the Site until the Public Open Space has been laid out to the reasonable satisfaction of the Council in accordance with detailed plans and a scheme to be submitted to and approved by the Council (such approval not to be unreasonably withheld or delayed)
- 3.2 to maintain the Public Open Space to the reasonable satisfaction of the Council until the said Public Open Space is transferred to the Council
- 3.3 not earlier than two months but not later than three months following the laying out of the Public Open Space to serve notice on the Council (the Public Open Space Notice) offering to transfer the Public Open Space to the Council on the terms and conditions which shall include those set out in Appendix 2
- 3.4 Upon any transfer of the Public Open Space or any part thereof to the Council such transfer shall be in a form acceptable to and approved by the parties thereto and shall contain (inter alia) the provisions contained in Appendix 2
- 3.5 neither the Owner nor the Council shall unreasonably delay prevent the completion of or unreasonably refuse to complete a deed of Transfer of the

Public Open Space to the Council following the service of the Public Open Space Notice

SCHEDULE 4

- 4. The Owner shall pay to the County Council the TRO Estimated Costs prior to the commencement of the Development
- 4.1 Within 14 days of receiving written confirmation of the actual costs of the TRO the Owner shall pay to the County Council any amount by which the actual costs associated with making advertising and confirming the TRO and carrying out and completing the works in furtherance of the TRO exceed the TRO Estimated Costs

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



5831

Local Lettings Policy for Foundry Close, Foulsham

1. The Policy will apply to all categories of properties on the basis of 100% of all lettings for the first 80 years.
2. The Council and the Association are both committed to eradicating double scrutiny of nominated households for general needs accommodation. They are also agreed on the move away from a pool nomination system to a direct nomination system where a maximum of 2 households will be nominated in priority order for any letting other than those designated as hard to let where a maximum of 3 households will be nominated.
3. Allocations will be made to applicants on the Common Housing Register managed and maintained by Broadland District Council on the following priority basis :

1. Residents of Foulsham who have lived in the parish for a total of at least 3 of the last 10 years.

2. Former residents of Foulsham who have had their main home in the parish for 3 of the last 10 years.

3. Households who need to move to Foulsham to give/receive support from close family/relatives.

4. Residents of the adjacent parishes of Guestwick, Wood Dalling, Themelthorpe and Reepham who have lived in these parishes for the last three years.

5. People who have lived or worked in the parish of Foulsham for less than 3 years.

6. Residents of Guestwick, Themelthorpe, Wood Dalling and Reepham who have lived in these parishes for less than 3 years

7. Residents of Broadland District

8. Any other person

3. Administrative Procedure for nominations
The administrative procedure for nominations shall be in accordance with the operational procedures of the Common Housing Register as amended from time to time or in accordance with such alternative procedures as the Council and the Association shall agree between them.

APPENDIX 2

(Provisions to be contained (inter alia) in the public open space transfer)

- Consideration - £1.00
- Full Title Guarantee
- Transferee to be given rights of way with or without vehicles to connect Property to the public highway
- The costs of the preparation of the transfer shall be borne by the Transferor

EXECUTED AS A DEED by)
SINDALL EASTERN LIMITED)
acting by)

Director

DK Mullaly

Secretary/~~Director~~

Ray W. Chip

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



Victor M.

Head of Law