

Dated 18th September

2015

Broadland District Council

-and-

Norfolk County Council

-and-

Wickerhouse Limited

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

relating to land at Former Hamper People, 31 Norwich Road,
Strumpshaw, NR13 4AG

THIS DEED is dated

18th September

2015

PARTIES:

- (1) BROADLAND DISTRICT COUNCIL of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, 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")
- (2) WICKERHOUSE LIMITED (Co. Regn. No. 08458779) of The Red House, Orford Road, Tunstall, Woodbridge, IP12 2JN (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) The County Council is a local planning authority for the purposes of the Act and the local highway authority for the area in which the Site is situated
- (c) The Owner has applied for the Permission and the Council has resolved to grant the Permission provided the Parties enter into this Deed
- (D) The Owner owns the freehold of the Site
- (E) The Parties agree that the S106 Agreement dated 25th July 2011 and Deed of Variation dated 2nd July 2014 are no longer enforceable due to the expiry of the original planning permission reference 20120751 and therefore the parties have agreed to enter into a new S106 Agreement
- (F) The Parties agree that for the avoidance of any doubt the combined effect of the Permission and Extant Permission will be to authorise the erection of thirteen (13) residential dwellings on the Site.

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

Act	The Town and Country Planning Act 1990
Commencement	<p>The date on which a material operation as defined in Section 56(4) of the Act is first carried out, except operations consisting of:</p> <ul style="list-style-type: none"> site clearance demolition archaeological investigations ground surveys removal of contamination erection of temporary fences <p>and 'Commence' and 'Commenced' will be construed accordingly</p>
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
Extant Permission	The planning permission granted by the Council for part redevelopment of commercial site to provide 3 No. Dwellings and allocated reference number 20140426 shown edged dark blue on the Plan.
Nominated Officer	The Council's Chief Executive or other officer of the Council notified to the Owner
Inflation provision	<p>The increase (if any) in the Royal Institute of Chartered Surveyors Build Cost Information Service; All Construction TPI: All New Construction. Between January 2015 and the date upon which a payment of the Open Space provision / Maintenance Contribution</p>

is made pursuant to this Agreement.

Occupation

Occupation of the Site, or any part of it, for any purpose authorised by the Permission, but excluding occupation for the purposes of:
construction
internal and external refurbishment
decoration
fitting-out
marketing
and 'Occupy' and 'Occupied' will be construed accordingly

Permission

The planning permission to be granted by the Council for part redevelopment of commercial site to provide 10 No. Dwellings and allocated reference number 20150188 (shown edged light blue on the Plan) 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 Development

Plan

The plan attached to this Deed.

Site

The land known as Former Hamper People, 31 Norwich Road, Strumpshaw, NR13 4AG and registered at H M Land Registry under title number NK409939, shown edged red on the Plan

Trigger

means the Commencement date and any trigger or threshold in this Deed linked to the taking of specified steps, payment of money, or linked to the prohibition of a specified action

NOTES:



M. Anne
Head of Democratic Services and
Monitoring Officer

NO. DATE REVISION

John Jenkins

architectural designs limited
Company No. 680276

CLIENT Wickhouse Ltd

JOB Proposed redevelopment of the Hampden
People's Site, Stroud, Gloucestershire, for housing

TITLE Site plan for 106 apartments

DATE July 2015 REV

DRAWING NO. 609/16

Scale: 1:500 @ A1

Telephone 01534 504825
Fax 01534 504826
www.jenkinsad.com

The Trustees, Stroud Housing Partnership
Newnham Road, Stroud, Glos, GL8 1JG



7559

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 the 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 Owner covenants with the Council and the County Council for himself and his successors in title to observe and perform the obligations and stipulations contained in this Deed
- 3.2 The Council and County Council covenant with the Owner to comply with their respective obligations 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 (unless the breach occurred before he disposed of his

interest)

- 4.2 The Owner confirms that he is the owner of the Site with full power to enter into this Deed and that there is no person or body with an interest in the Site whose consent is necessary to make this Deed binding on all interests in the Site
- 4.3 This Deed will not bind anyone who acquires an interest in part of the Site for the purpose of the supply of utility services
- 4.4 On completion the Owner will pay the Council's and County Council's reasonable legal costs in connection with this Deed
- 4.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 4.6 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 4.7 No waiver, express or implied, by the Council or the County Council constitutes a continuing waiver, nor prevents the Council or the County Council from enforcing any of the provisions in this Deed

5. DISPUTES

- 5.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding
- 5.2 Nothing in this Clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

6. INTEREST AND VAT

- 6.1 If any payment due to the Council or the County is paid late interest will be added from the date payment is due to the date of payment at the rate of 4% above the base lending rate of the Bank of England from time to time
- 6.2 All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid

7. NOTIFICATIONS

- 7.1 Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received
- 7.2 The Owner will notify the Nominated Officer [and the County] in writing of the relevant
- 7.2.1 anticipated Triggers seven days in advance of each anticipated date
 - 7.2.2 actual Triggers within seven days of each actual date
- 7.3 If the Owner disposes of his interest in all or part of the Site he will notify the 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

FIRST SCHEDULE

The Plan

SECOND SCHEDULE

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 to Design & Quality Standards on the Site as Affordable Housing and "Affordable Dwelling" shall be construed accordingly
"Affordable Housing"		means the Rented Housing to be provided to Eligible Households whose needs are not met by the market
"Affordable Housing Mix"		Means Affordable Rented Dwellings including 2 x 1 bedroom flats, 1 x 3 bedroom house and 1 x 2 bedroom bungalow (or as otherwise agreed by the Council in its absolute discretion)
"Affordable Provision"	Housing	the construction and provision of Affordable Dwellings on the Site equating to 33 per cent 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 Scheme"	Housing	<p>A scheme securing the Affordable Housing Provision and specifying:</p> <ul style="list-style-type: none">- The timescale and programme for implementation of the Affordable Housing Scheme and construction of the Affordable Dwellings;- The identity of the Provider or such details as the Council requires to satisfy itself that the Affordable Dwellings will be secured as Affordable Housing in perpetuity; <p>AND, where the parties agree any amendment or alteration to the Affordable Housing Mix or the Affordable Housing Provision:</p> <ul style="list-style-type: none">- The number, location, type and size of Affordable Dwellings to be constructed on the Site;- 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 Rented Housing;

- such other information as the Council may reasonably require to enable approval of the Affordable Housing Scheme

"Affordable Dwellings"	Rented	Dwellings to be let by a Registered Provider with an appropriate agreement with the Homes & Communities Agency 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 as approved by the Council
"Approved Housing Scheme"	Affordable	the Affordable Housing Scheme as approved by the Council including any amendment, revision or substitution approved by the Council in writing
"Design & Standards"	Quality	the Design and Quality Standards as specified by the Homes and Communities Agency or its successor or such other construction standards as the Council may specify
"Eligible Household"		A person or persons in need of accommodation who are unable to rent or buy on the open market nominated by the Council in accordance with the Third Schedule and determined in accordance with the Council's housing allocation policy or as otherwise approved by the Council
"Practically Complete"		the point at which a Dwelling has been completed to Design & Quality Standards (if an Affordable Dwelling), is capable of occupation and a certificate of practical completion has been issued.
"Provider"		either: (i) a Registered Provider; or (ii) another organisation that owns the Affordable Dwellings and has been approved in writing by the Council
"Public Subsidy"		funding provided by the Council, the Homes and Communities Agency or any other public body or successor body towards the provision of Affordable Housing
"Registered Provider"		Is as defined in the Housing and Regeneration Act 2008

“Rented Housing” one or more of Affordable Rented Dwellings

- 1 The Owner hereby covenants with the Council as follows:
 - 1.1 Not to Commence the Development until the Affordable Housing Scheme has been submitted to and has been approved by the Council in writing.
 - 1.2 Not to construct the Affordable Dwellings otherwise than in accordance with the Approved Affordable Housing Scheme and the timescales set out therein.
 - 1.3 Not to Occupy more than 75% of the Open Market Dwellings unless and until all of the Affordable Dwellings to be provided under the Approved Affordable Housing Scheme are Practically Complete and have been transferred to the approved Provider in accordance with and subject to the following:
 - 1.3.1 any transfer shall be for a consideration at a level which ensures that no Public Subsidy is required to enable the transaction to be completed or to enable (where appropriate) Affordable Rented Dwellings to be let or Intermediate Dwellings to be let or sold at a cost low enough for Eligible Households to afford.
 - 1.3.2 the transfer shall contain terms to secure any conditions and requirements of the Approved Affordable Housing Scheme.
 - 1.3.3 to ensure that all of the Affordable Rented Dwellings are let in accordance with the local lettings policy set out in the Third Schedule.
 - 1.4 Not to use or allow the Affordable Dwellings to be used for any purpose other than Affordable Housing in accordance with the Approved Affordable

Housing Scheme other than:

- 1.4.1 by a person acquiring an interest in an Affordable Dwelling under a statutory right to buy or acquire or any mortgagee or chargee of such person or any person deriving title from such person or any successor thereto and their respective mortgagees and chargees;
- 1.4.2 by a mortgagee exercising its power of sale in respect of any Affordable Dwelling or any receiver or administrator of that mortgagee PROVIDED THAT it has first complied with the following:
 - a) in relation to a mortgagee of Registered Provider owned land, the restrictions and obligations contained in Sections 144 to 159 of the Housing and Regeneration Act 2008 and provided copies of all notices served and any proposals received together with updates as to progress to the Council
 - b) where no proposals are agreed under a) above or where the provisions do not apply or have lapsed to give the Council the option to purchase the relevant Affordable Dwellings, or nominate another Provider or Eligible Household to purchase the relevant Affordable Dwelling or Dwellings exercisable within a period of two calendar months commencing on the date upon which the option is first communicated to the Council in writing ("Mortgagee Notice Period") and if the Council (or its nominated Provider or Eligible Household) elects to acquire the relevant Affordable Dwellings to allow one calendar month following expiry of the Mortgage Notice Period to complete the purchase PROVIDED THAT a mortgagee shall not be required to act in a way which is detrimental to its security or contrary to the terms of any charge
 - c) if, having used best endeavours, the relevant Affordable Dwellings are not transferred in accordance with b) above then the

Affordable Housing Mortgagee shall be entitled to dispose of the Affordable Dwellings free of the restrictions set out in this Deed PROVIDED THAT the parties may agree to extend the period for transfer in writing

THIRD SCHEDULE

Affordable Housing

Local Letting Policy: Local Connection Eligibility Criteria

- 1 Unless otherwise agreed in writing up to one third 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:
 - 1.1 first allocations shall be made to people living in the Parish of Strumpshaw.
 - 1.2 if there is no suitable person in paragraph 1.1 allocations will be made to people who work in the Parish of Strumpshaw.; and
 - 1.3 if there are no suitable persons in paragraphs 1.1 and 1.2 allocations will be made to people who need to move to the Parish of Strumpshaw to give/receive support to/from close family.
 - 1.4 If there are no suitable persons in paragraph 1.1 and/or 1.2 and/or 1.3 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
- 2 Administrative Procedure for Nominations
 - 2.1 To grant to the Council nomination rights to 100% of the Affordable Housing Rental Units unless otherwise agreed in writing.
 - 2.2 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 Owner shall agree between them.

FOURTH SCHEDULE

Open Space

1. In this Schedule the following expressions have the following meanings:

Off-site Open Space Contributions A financial contribution (if any) to be used for the acquisition, layout and maintenance of Open Space in the parish of Strumpshaw and where appropriate the Norwich Policy Area calculated in accordance with the Councils standard charges as attached subject to inflation. The final amounts will be determined by the final housing mix.

Standard open space charges

Table 1 – Cost per dwelling for Open Space land purchase (where required)

Property	Cost per dwelling
1 bed	£927
2 bed	£1,236
3 bed	£1,545
4 bed	£1,854
5+ bed	£2,163

Table 2 – Cost per dwelling for equipping open space (where required)

Equipping					
Property	Sports	Play	Green Infrastructure	allotments	Total
1 bed	£289	£89	£429	£15	£822
2 bed	£385	£119	£572	£19	£1,095
3 bed	£481	£149	£715	£24	£1,369
4 bed	£577	£178	£858	£29	£1,642
5+ bed	£673	£208	£1001	£34	£1,916

Table 3 – Cost per dwelling for maintenance of open space (where required)

Maintenance				
Property	Sports	Play	Green infrastructure	Total
1 bed	£303	£30	£253	£586
2 bed	£404	£41	£338	£783
3 bed	£505	£51	£422	£978
4 bed	£606	£61	£506	£1,173
5+ bed	£707	£71	£591	£1,369

The Owner covenants with the Council as follows:

1. Open Space Contributions

Not to occupy or allow occupation of any dwelling on site unless or until the Off-Site Open Space Contribution has been paid to the council.

FIFTH SCHEDULE

Council Covenants

The Council covenants with the Owner as follows:

1. The Council hereby covenants with the Owner that it will deposit the Off-site Open Space Contribution into an interest bearing account and will apply the capital and any interest accrued wholly and exclusively towards the provision and maintenance of open space.
2. In the event that the Off-Site Open Space contribution has not been committed (by way of contract or expenditure of monies) within 10 years of receipt of payment to refund any unspent balance of the contribution to the payer together with any interest accrued.

SIXTH SCHEDULE

Highways

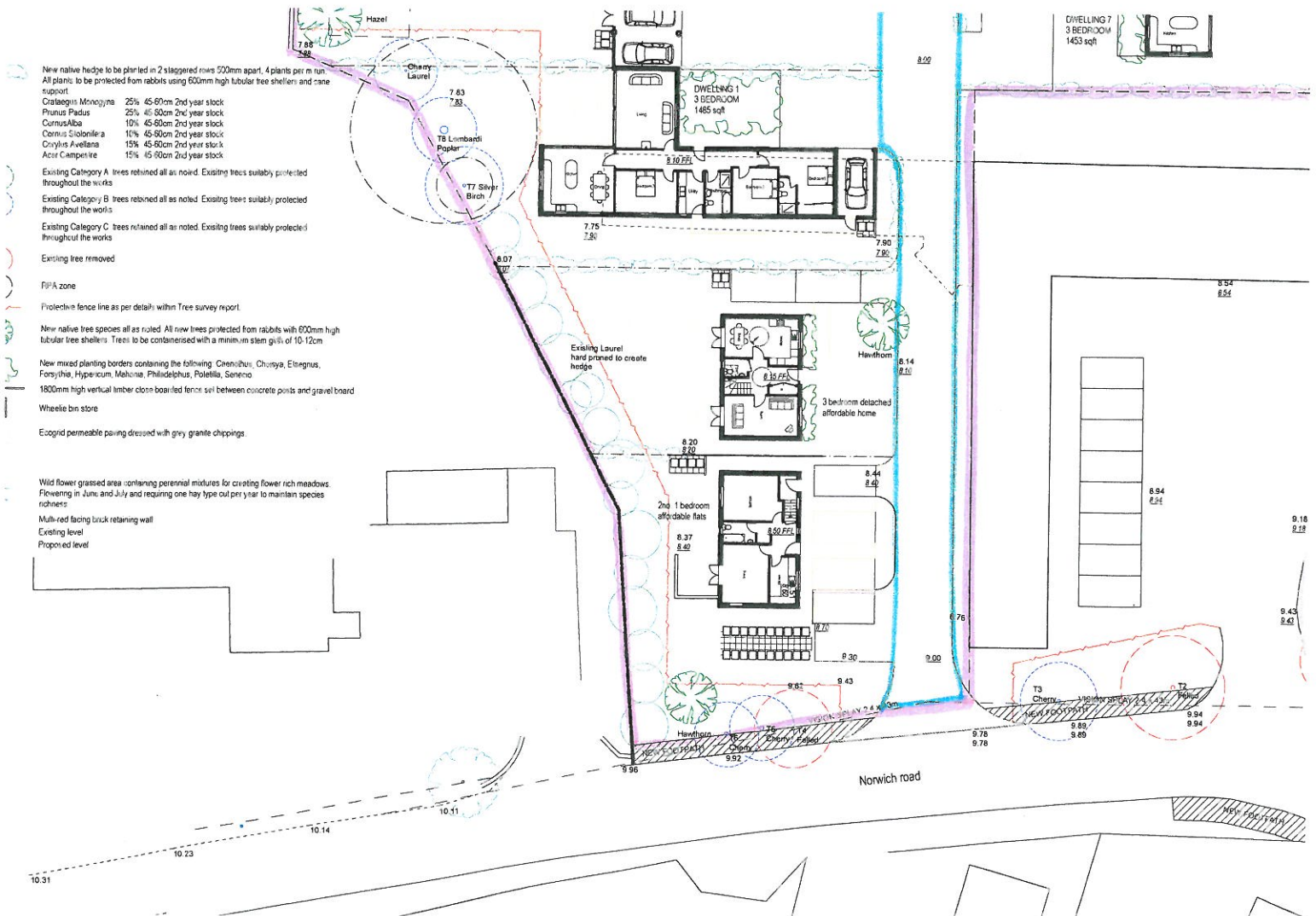
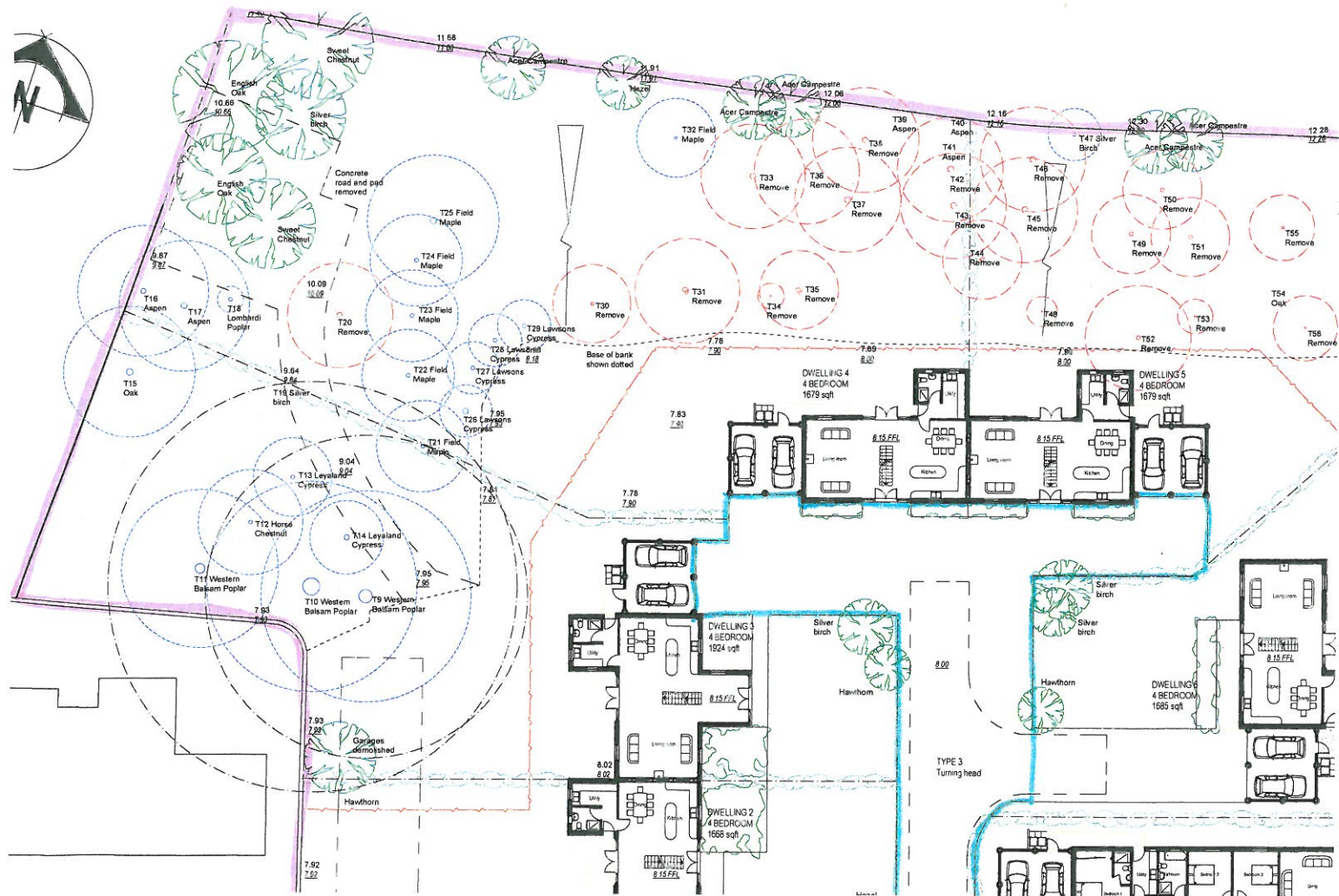
In this Schedule (and elsewhere in this Deed where the context permits) the following words and phrases shall have the following meaning:

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

“Highway Land” Means the land shown coloured blue on the Proposed Landscape Plan

“Proposed Landscape Plan” Means the land shown edged blue.

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



NOTES:



authorised to sign
on behalf of HEAD OF LAW

- D 30.04.15 Revised footpath added and trees revised
- C 13.04.15 Tree notation updated
- B 17.03.15 2 bedroom houses revised to 1 bedroom flats
- A 6.11.12 Updated following planning officer comments
- NO. DATE REVISION

architectural designs limited

Company no: 6003278

CLIENT The Hamper People Ltd

JOB Proposed redevelopment of the 'Hamper People' site Strumpshaw, for housing

TITLE Proposed Landscape plan

DATE May 2012

REV D

DRAWING NO. 609/13

Scale: Plans 1:250

Telephone 01508 568935

Mobile 07919 854438

FAX 01508 568935

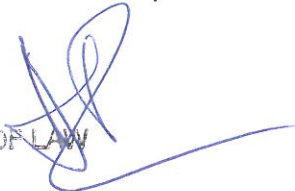
email: architecturaldesigns@openworld.com

IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

THE COMMON SEAL of
NORFOLK COUNTY COUNCIL
Was hereunto affixed in the presence of:-

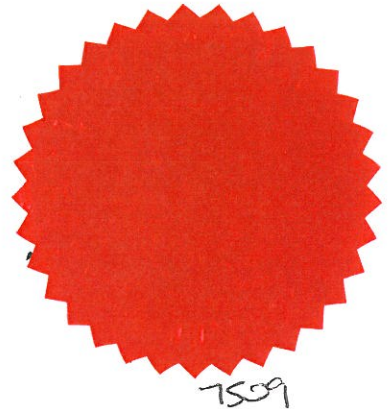
on behalf of: HEAD OF LAW

Head of Law



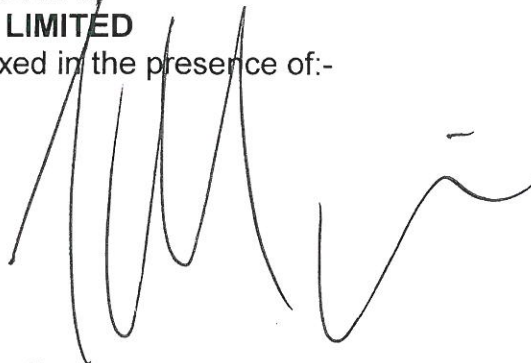
THE COMMON SEAL of
BROADLAND DISTRICT COUNCIL
Was hereunto affixed in the presence of:-

Head of Corporate Services
and Monitoring Officer



THE COMMON SEAL of
WICKERHOUSE LIMITED
was hereunto affixed in the presence of:-

Director



Secretary


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