DATED 8th April 2004

BROADLAND DISTRICT COUNCIL

- AND -

NORFOLK COUNTY COUNCIL

- AND -

JS BLOOR (SUDBURY) LIMITED

AGREEMENT

Made pursuant to Section 106 of the Town and Country Planning Act (as amended) 1990 and any other enabling power relating to the development of land off Dog Lane Horsford Norfolk

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steeles(law) llp
2 The Norwich Business Park
Whiting Road
Norwich NR4 6DJ

RAM 4349-1257-0

23575

THIS AGREEMENT is made the eighth day of April Two thousand and four

BETWEEN

1. BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich in the County of Norfolk (hereinafter called "The Council")

2. NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich Norfolk (hereinafter called "the County")

3. J S BLOOR (SUDBURY) LIMITED of Ashby Road Measham Swadlincote Derbyshire DE12 company registration no 2147387 (hereinafter called the Owner")

RECITALS

(A) (1) In this Agreement unless the context otherwise requires the following words shall have the following meanings:-

"Affordable Dwellings"	shall mean six Dwellings to be constructed on the Land by or on behalf of a Housing Association or the Council or any other party approved by the Council (such approval not to be unreasonably withheld or delayed) and "Affordable Dwelling" shall mean any one of the Affordable Dwellings
" Affordable Housing"	housing of a type which having regard to its rent or other consideration is suitable for occupation by people who are in Housing Need
"Application"	the application for full planning permission to develop the Land and dated 13th November 2002 submitted to the Council in accordance with the Application plans and other materials

	deposited with the Council and bearing reference no 20021685
"Commencement Date"	the date upon which the Development shall be commenced by the carrying out on the Land pursuant to the Planning Permission of a material operation specified in Section 56(2) of the Act
"Development"	the development permitted by the Permission
" Dwelling"	a dwelling forming part of the Development
"Education Contribution	the sum of Forty Three Thousand Eight Hundred and Fifty Four Pounds (£43 854) as increased by the Inflation Provision
"Housing Association"	a housing association within the meaning of the Housing Associations Act 1985 or a social landlord within the meaning of the Housing Act 1996 registered with the Housing Corporation pursuant to those Act
"Housing Need"	A person has a housing need if they meet the criteria contained in the Council's policies relating to housing allocation (as amended from time to time) as formulated pursuant to the provisions of the Housing Acts 1985 and 1996
"Inflation Provision"	the increase (if any) in the RICS Building Cost Information Service All In Tender Price Index between the date of this Agreement and the date upon which a payment of money is made or

	play equipment provided in accordance with the requirements of the provisions of this Agreement
"Library Contribution"	the sum of One Thousand One Hundred Pounds (£1 100) as increased by the Inflation Provision
"Occupation"	when a Completion Certificate is issued by the NHBC
"the Owner"	the owner for the time being of the Land
"Permission"	the planning permission granted pursuant to the Application together with any renewal or modification thereof
"Play Area"	the area hatched pink on the Plan
"Scheme"	means a scheme for the provision of the Affordable Housing and containing the details of the agreement between the Owner and an Housing Association whereby the Affordable Dwellings will be provided on the Land
" Tree Belt"	means the area edged blue on the Plan
"1990 Act"	means the Town and Country Planning Act 1990 (as amended)

(2) In this Agreement unless the context otherwise requires:

(i) words importing the masculine gender shall where appropriate include the feminine gender and the neuter gender or vice versa as the case may be and words importing the singular number shall where appropriate include the plural number and vice versa.

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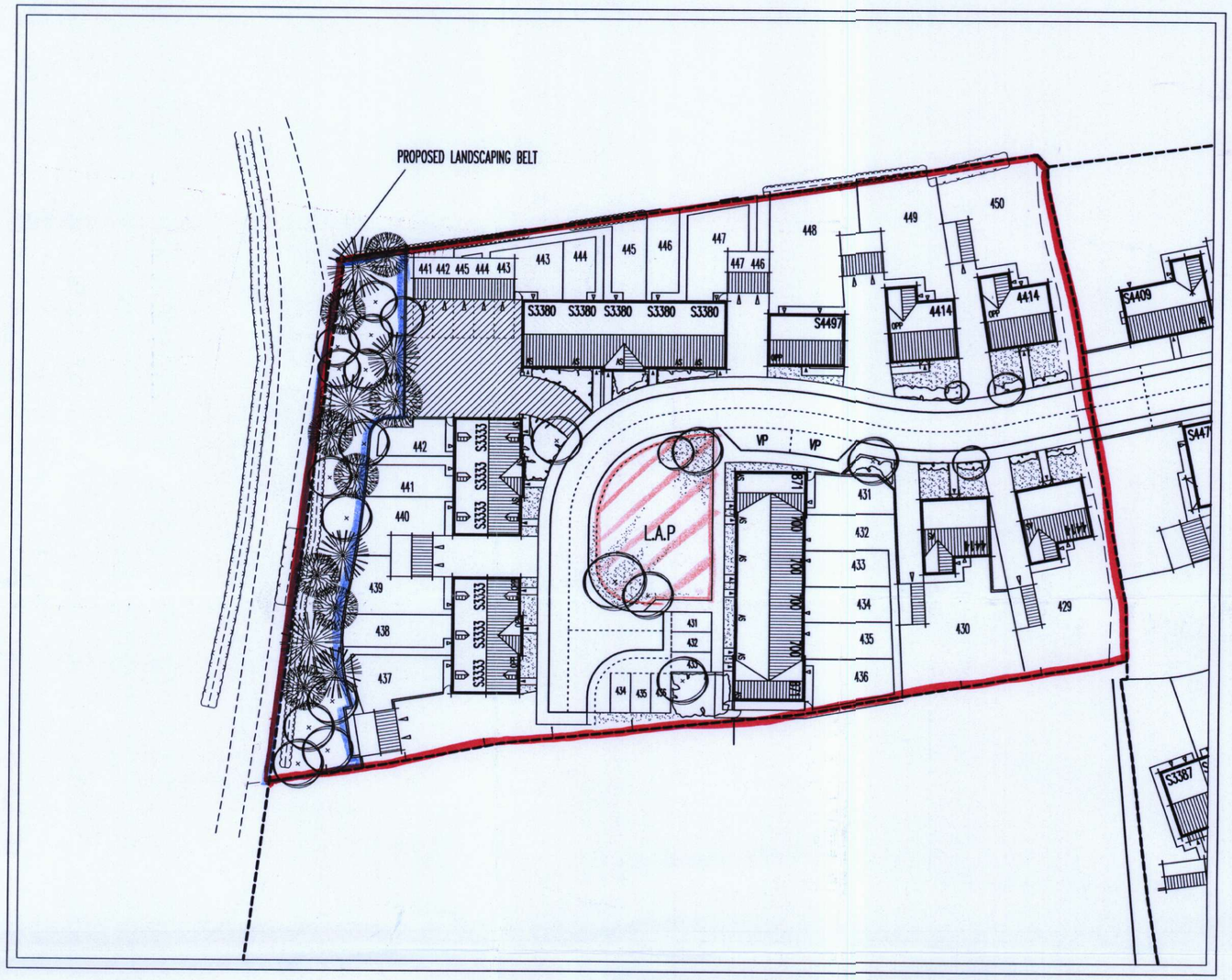

Horsford ~ Phase 5

HOUSE TYPE SCHEDULE

S4414	WOLVERLEY	4 No.
S4497	DOVERCOURT	1 No.
4 BED DETACHED HOUSES		**5 No.**
S3333	HAMPTON	6 No.
S3380	CRANWORTH	5 No.
3 BED DETACHED/TERRACE HOUSES		**11 No.**
HA700	2 BED HOUSE	4 No.
HA871	3 BED HOUSE	2 No.
AFFORDABLE HOUSING		**6 No.**
SITE TOTAL		

SITE AREAS

TOTAL SITE AREA

LEGEND

1.8m HIGH SCREEN BRICK WALL

1.8m CLOSE BOARD FENCING

INDICATES TREE,SHRUB AND HEDGE PLANTING TOGETHER WITH TURFED AREAS SHOWN INDICATIVE

DENOTES SHARED AREAS OF PRIVATE DRIVEWAYS

HEAD OF CORPORATE SERVICES & MONITORING OFFICER

A	06/08/03	FOOTPATH FRONTING PLOTS 431-436INC. AMENDED.

REVISIONS

JOB
Phase 5
Beckside
Horsford.

DRAWING
PLANNING LAYOUT

SCALE: 1:500

DATE: 03:04:03 DRAWN:

BLOOR HOMES

J.S.BLOOR (SERVICES) LIMITED,
ASHBY ROAD, OSMASTON, ASHBOURNE, DERBYSHIRE DE6 1NP
TELEPHONE 01335 370111 FACSIMILE 01335 370111

DRAWING No: S179_01

(ii) "party" or "parties" means a party or parties to this Agreement.

(iii) references to any party shall include the successors in title and assigns of that party or a successor in statutory function.

(iv) where a party includes more than one person any obligations of that party shall be joint and several.

(v) headings in this Agreement shall not form part of or affect its construction.

(v) references to clauses and schedule are references to clauses in and schedules to this Agreement.

(vi) where a party or any officer or employee is required to give its consent approval or agreement in any specific provision in this Agreement such approval or agreement shall not be unreasonably withheld or delayed.

(vii) 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.

(B) The Council and the County are Local Planning Authorities for the purposes of the 1990 Act for the area within which the Land is situated.

(C) The Owner is the freehold owner of the land (hereinafter called "the Land") shown for the purpose of identification only edged red on the

Plan annexed hereto as the same is

(D) Having regard to the Development Plan and other material considerations the Council consider it expedient in the interests of the proper planning of their area that provision should be made for regulating or facilitating the Development of the Land in the manner hereinafter appearing and the Council is satisfied the Permission can only be granted subject to and upon completion of this Agreement.

NOW THIS DEED WITNESSETH as follows:-

1. GENERAL

1.1 This Agreement and the covenants that appear hereinafter are made pursuant to Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 and any other enabling power.

1.2 The covenants that appear hereinafter are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council and the County.

1.3 This Agreement is a Deed and may be modified or discharged in part or in total at any time after the date of this Agreement by agreement between the parties in the form of a Deed.

1.4 This Agreement is a local land charge and upon completion shall be registered by the Council as such.

1.5 No waiver (whether express or implied) by the Council or the County 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 from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof.

1.6 Any provision of this Agreement which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Agreement.

1.7 This Agreement shall be governed by the laws of England.

1.8 No party shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement after that party has parted with its interest in the Land or the part of the Land in respect of which such breach occurs provided that liability will still remain for any breach occurring prior to the parting of any party's interest in the Land or any part thereof in respect of which any such breach has taken place PROVIDED THAT neither the exception or reservation of a right nor the benefit of a restrictive covenant amounts to an interest in the Land

1.9 The covenants in this Deed shall only come into effect on the Commencement Date unless otherwise specifically indicated in this Deed or to construe otherwise would be inconsistent with the requirements of any such covenants

1.10 The covenants in this Agreement shall bind the Land and each and every part thereof into whomsoever hands the same may come and shall (subject to this clause and clause 1.11) be enforceable against all persons with an interest in the Land [see Rider] PAO .

1.11 This Agreement shall cease to have effect if the Permission is quashed revoked or otherwise withdrawn

1.12 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this Agreement shall be deemed to have been validly served or given if received by facsimile, delivered by hand or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is addressed

RIDER

PROVIDED THAT the provisions of clause 8.1 of this Agreement will not be binding against any owner or lessee of an individual Dwelling or any person deriving title from them or a mortgagee or chargee in possession of Dwellings affected by clause 8.1 exercising a power of sale in respect of a default by the then owner of that Dwelling or against any person deriving title from such mortgagee or chargee PROVIDED THAT the mortgagee or chargee has:

(a) previously given notice to the Council of its intention to dispose of the Dwelling ("the Sale Notice");

(b) for a continuous period of two (2) calendar months ("the RSL Period") from the date of the Sale Notice has offered to sell the Dwelling to a registered social landlord;

(c) provided that no registered social landlord has completed the purchase of the Dwelling during the RSL Period has offered to sell the Dwelling to the Council for a continuous period of one (1) month immediately following the RSL Period.

and delivered or sent by facsimile or by recorded delivery post to the address of the party concerned as nominated in clause 1.13.

1.13 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 of Community Services Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich
The County	County Hall Martineau Lane Norwich Norfolk
The Owner	Ashby Road Measham Swadlincote Derbyshire DE12

1.13 Any notice or other written communication to be given by the Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Council by a duly authorised officer.

1.13.1 Whenever the consent or approval of the Council the County is required such consent or approval shall not be unreasonable withheld or delayed

2. FINANCE

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

2.2 All works and activities to be carried out under the terms of this Agreement (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner (subject to completion of the Contract) or the Owner and at no cost to the Council or the County.

2.3 All consideration given and payments made in accordance with the provisions of this Agreement shall be exclusive of any VAT properly payable in respect

thereof and in the event of VAT becoming chargeable at any time in respect of any supply made in accordance with the terms of this Agreement then to the extent that VAT had not presently been charged in respect of that supply the person making the supply shall raise a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly.

2.4 The Owner shall pay the County's reasonable legal costs on this Agreement

3. ARBITRATION

3.1 Any dispute or difference arising between the parties as a result of this Agreement shall be referred to the arbitration of a single arbitrator to be agreed upon between the parties, or failing agreement within fourteen (14) days after any of the parties has given to the other parties a written request requiring the appointment of an Arbitrator, to a person to be appointed at the request of any of the parties by the President of The Institution of Civil Engineers for the time being.

3.2 Any reference to arbitration shall be undertaken in accordance with and subject to the provisions of the Arbitration Act 1996 save as follows:-

3.2.1 the seat of the arbitration shall be at the Council's offices in Norwich;

3.2.2 where appropriate the Arbitrator may consolidate arbitral proceedings; and

3.3.3 with the parties agreement the Arbitrator may appoint experts or legal advisers.

3.4 Any of the parties mentioned in clause 3.2 concerned in any such dispute or difference arising from this Agreement wishing to refer any such dispute or difference to arbitration shall notify the other parties in writing of such intention without delay.

3.5 The Arbitrator shall act as a referee and not as an expert except in any case where the parties to a dispute or difference agree on the Arbitrator when such parties may also agree that such Arbitrator shall act as an expert.

3.6 Subject to Sections 67, 68 and 69 of the Arbitration Act 1996, the parties agree to be bound by the decision of the Arbitrator.

3.7 The Arbitrator shall give the parties an opportunity to make representations to him and to comment upon each others representation before making his decision and will make his decision within the parameters of the parties representations

3.8 The Arbitrator shall be entitled to obtain opinions from others if he so wishes but shall give the parties an opportunity to comment upon any opinion so obtained

3.9 The Arbitrator shall make his determination within one month of his appointment or such longer period as shall be agreed between the parties and shall give reasons for his decisions and his costs shall be in his award

4. RIGHTS OF THIRD PARTIES

4.1 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.

5. COVENANTS

The Owner

5.1 The Owner hereby covenants and undertakes with the Council and the County so as to bind the Land and each and every part thereof to carry out and comply with the obligations on its part set out in this Agreement

6 PLAY AREA

6.1 The Owner shall prior to the Commencement Date submit to the Council for approval a plan and specification for the laying out of the Play Area together with a detailed programme for the implementation of such works and upon approval the plan specification and phased programme shall be deemed to be incorporated in the terms of this Agreement as if the same had been fully set out herein.

6.2 The Owner shall commence and thereafter complete in accordance with the plan specification and programme the works for the completion of the Play Area.

6.3 The Owner shall complete the works to provide the Play Area and maintain them for a period of twelve (12) months after completion to the satisfaction of the Council who when so satisfied shall issue a certificate ("the Certificate") accordingly.

6.4 Within twenty eight (28) days of receipt of written application from the Owner for the issue of the Certificate pursuant to this Agreement the Council shall inspect the works and where necessary provide the Owner with a definitive list in writing of any remedial works required to be carried out before the issue of the Certificate. Any remedial works shall be subject to the same inspection procedure detailed herein until such time as they shall be completed to the reasonable satisfaction of the Council who within twenty eight (28) days thereafter shall issue the Certificate.

6.5 Forthwith upon issue of the Certificate the Owner will transfer to the Council (and the Council will accept such transfer) the freehold of all the Play Area with full title guarantee subject to the matters contained or referred to in the Owners title together with all necessary rights and easement for the consideration of the covenants given by the Council not to use the land otherwise than as a Play Area to the Owner and the Owner shall pay to the Council all reasonable and proper legal costs involved in the transfer.

6.6 The Owner shall pay to the Council upon transfer of the Play Area to it in accordance with the above clause the sum of Two Thousand One Hundred and Three Pounds and forty four pence (£2 103.44) as increased by the Inflation Provision by way of a commuted sum towards the maintenance of play area which sum is to be applied by the Council towards the expenses it will incur in respect of the subsequent maintenance of the Play Area.

7. TREE BELT

7.1 The Owner shall prior to the Commencement Date submit to the Council for approval a plan and specification together with a detailed programme for the maintenance of the Tree Belt and upon approval the plan specification and phased programme shall be deemed to be incorporated in the terms of this Agreement as if the same had been fully set out herein.

7.2 The Owner shall commence and thereafter complete in accordance with the plan specification and programme the works for the maintenance of the Tree Belt

7.3 The Owner shall complete the works to provide the Tree Belt and maintain it for a period of twelve (12) months after completion to the satisfaction of the Council who when so satisfied shall issue a certificate ("the Certificate") accordingly.

7.4 Within twenty eight (28) days of receipt of written application from the Owner for the issue of the Certificate pursuant to this Agreement the Council shall inspect the works and where necessary provide the Owner with a definitive list in writing of any remedial works required to be carried out before the issue of the Certificate. Any remedial works shall be subject to the same inspection procedure detailed herein until such time as they shall be completed to the reasonable satisfaction of the Council who within twenty eight (28) days thereafter shall issue the Certificate.

7.5 Forthwith upon issue of the Certificate the Owner will transfer to the Council (and the Council will accept such transfer) the freehold of all of the Tree Belt with full title guarantee subject to the matters contained or referred to in the Owners title together with all necessary rights and easement for the consideration of the covenants given by the Council not to use the land otherwise than as a Tree Belt to the Owner and the Owner shall pay to the Council all reasonable and proper legal costs involved in the transfer.

7.6 The Owner shall pay to the Council upon transfer of the Tree Belt to it in accordance with the above clause the sum of Six Thousand Two Hundred and Seventy Nine Pounds (£6 279) as increased by the Inflation Provision by way of a commuted sum towards the maintenance of tree belts or other open space area which sum is to be applied by the Council towards the expenses it will incur in respect of the subsequent maintenance of the Tree Belt.

8. AFFORDABLE HOUSING OBLIGATIONS

8.1 Not to permit the Occupation of more than seven Dwellings (or such other number as shall be approved in writing by the Council) on the Land without first having submitted to and received approval from the Strategic Director (Community Services) of the Council the Scheme and upon approval the Scheme shall be deemed to be incorporated in the provisions of this Agreement

8.2 The Owner shall keep the Council informed of the progress of the negotiation of the Scheme including details of the Housing Association purchaser

9 EDUCATION OBLIGATIONS

9.1 The Owner hereby covenants with the County that prior to the Occupation of any Dwellings on the Land the Owner shall pay to the County the Education Contribution as increased by the Inflation Provision in respect of the provision of education facilities in accordance with the requirements of the County

9.2 The Owner covenants with the County to pay interest at 4 % above the base rate of the Co-operative Bank plc for the time being in force on any part of the

Education Contribution not paid within fourteen days of the date when it becomes due in accordance with clause 9.1 above (whether formally demanded or not)

10. COUNTY'S COVENANTS

10.1 The County covenants with the Owner to deposit the Education Contribution in a bank account and to the extent the Education Contribution is not used within 5 years of its payment for a purpose relating to the improvement of education facilities in the locality of the Development to repay that part of the Education Contribution to the person who made the payment together with whatever interest has accrued

11. LIBRARY OBLIGATION

11.1 The Owner hereby covenants with the County that prior to the Occupation of any Dwellings on the Land the Owner shall pay the Library Contribution in respect of the provision of library facilities in accordance with the requirements of the County.

11.2 The Owner covenants with the County to pay interest at 4 % above the base rate of the Co-operative Bank plc for the time being in force on any part of the Library Contribution not paid within fourteen days of the date when it becomes due in accordance with clause 11.1 above (whether formally demanded or not)

IN WITNESS whereof this Agreement has been executed and delivered as a Deed on the date first written above

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

HEAD OF CORPORATE SERVICES
& MONITORING OFFICER

BROADLAND DISTRICT COUNCIL

5471

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

Head Of Law

THE COMMON SEAL of)
JS BLOOR (SUDBURY) LIMITED)
was hereunto affixed in the presence of)

AUTHORISED SIGNATORY

AUTHORISED SIGNATORY