

Dated 11<sup>th</sup> September 2018

Norfolk County Council

-and-

Newbury Developments (Rackheath) LLP

- and -

Zorin Finance Limited

-and-

P2P Global Investments PLC

- and -

~~Daisybox Limited~~ Frogmore Capital Ltd <sup>RA</sup>

- and -

Orbit Group Limited

- and -

Orbit South Housing Association  
Limited

**DEED OF PLANNING OBLIGATION  
UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**  
relating to land off Salhouse Road, Rackheath

**THIS DEED** is dated

11<sup>th</sup> September

2018

**PARTIES:**

- (1) NORFOLK COUNTY COUNCIL, County Hall, Martineau Lane, Norwich, Norfolk NR1 2DH (referred to as "the County")
- (2) NEWBURY DEVELOPMENTS (RACKHEATH) LLP (LLP Regn. No. OC397142) OF Second Floor, 16 D'Arblay Street, London, W1F 8EA (referred to as "the First Owner")
- (3) ZORIN FINANCE LIMITED (Co. Regn. No. 07514913) of 124 Sloane Street, London SW1X 9BW and P2P GLOBAL INVESTMENTS PLC (Co. Regn. No. 08805459) of First Floor, 40 Dukes Place, London, EC3A 7NH (referred to as "the First Mortgagee")
- (4) ~~DAISYBOX LIMITED~~ *FROGMORE CAPITAL LTD<sup>RS</sup>* (Co. Regn. No. 09293989) of 11/15 Wigmore Street, London, W1A 2JZ (referred to as "the Second Mortgagee")
- (5) ORBIT GROUP LIMITED (Registered Society No. 28503R) of Garden Court, Binley Business Park, Harry Weston Road, Coventry, CV3 2SU (referred to as "the Second Owner")
- (6) ORBIT SOUTH HOUSING ASSOCIATION LIMITED (Registered Society No. 2780R) of Garden Court, Binley Business Park, Harry Weston Road, Coventry CV3 2SU (referred to as "the Third Owner")

together referred to as 'the Parties'

**INTRODUCTION**

- (A) : The County is the local highway authority for the County of Norfolk
- (B) The First Owner has applied for the Permission and Broadland District Council has granted the Permission dated 10<sup>th</sup> April 2017
- (C) The First Owner owns the freehold of part of the Site under Land Registry title

NK446301, the Second Owner owns the freehold of part of the Site under Land Registry title NK456950 and the Third Owner owns the freehold of part of the Site under Land Registry title NK456949 and NK475333

- (D) The First and Second Mortgagee (together "the Mortgagee's) have a charge over the First Owner's part of 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> <p>site clearance</p> <p>demolition</p> <p>archaeological investigations</p> <p>ground surveys</p> <p>removal of contamination</p> <p>erection of temporary fences</p> <p>and 'Commence' and 'Commenced' will be construed accordingly</p> |
| Development       | The Development of the Site in accordance with the Permission  |
| Nominated Officer | The senior officer of the Council responsible for development management or other officer of the Council notified to the, First Owner ,Second Owner and Third Owner  |
| 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 granted by the Council for residential development and allocated reference number 20151591 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 off Salhouse Road, Rackheath, which is registered at H M Land Registry under title numbers NK446301, NK456950, NK456949 and NK475333 shown edged pink on the Plan  |
| Triggers   | 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   |

## **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 County

- 2.2 It is agreed by the Parties that any obligation contained within this Deed which sets out how a planning obligation will be performed will not amount to more than one planning obligation per Schedule for the purposes of Regulation 123 of the Community Infrastructure Levy Regulations 2010, as amended
- 2.3 Covenants given by more than one party will be enforced against them individually
- 2.4 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
- 2.5 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 2.6 This Deed is governed by and interpreted in accordance with the law of England

### **3. COVENANTS**

- 3.1 The First Owner, Second Owner and Third Owner covenant with the County for himself and his successors in title to observe and perform the obligations and stipulations contained in this Deed
- 3.2 The County covenant with the First Owner, Second Owner and Third Owner to comply with their respective requirements 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 First Owner, Second Owner and Third Owner confirm that they are the owners of the Site with full power to enter into this Deed and that there is no person or body (other than the Mortgagee's) 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 First Owner will pay the County'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 County constitutes a continuing waiver, nor prevents the County 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 from the First Owner to 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 First Owner will notify 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 First Owner, Second Owner or Third Owner transfers his interest in all or part of the Highway Land he will notify the County within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site

## **8. MORTGAGEE'S CONSENT**

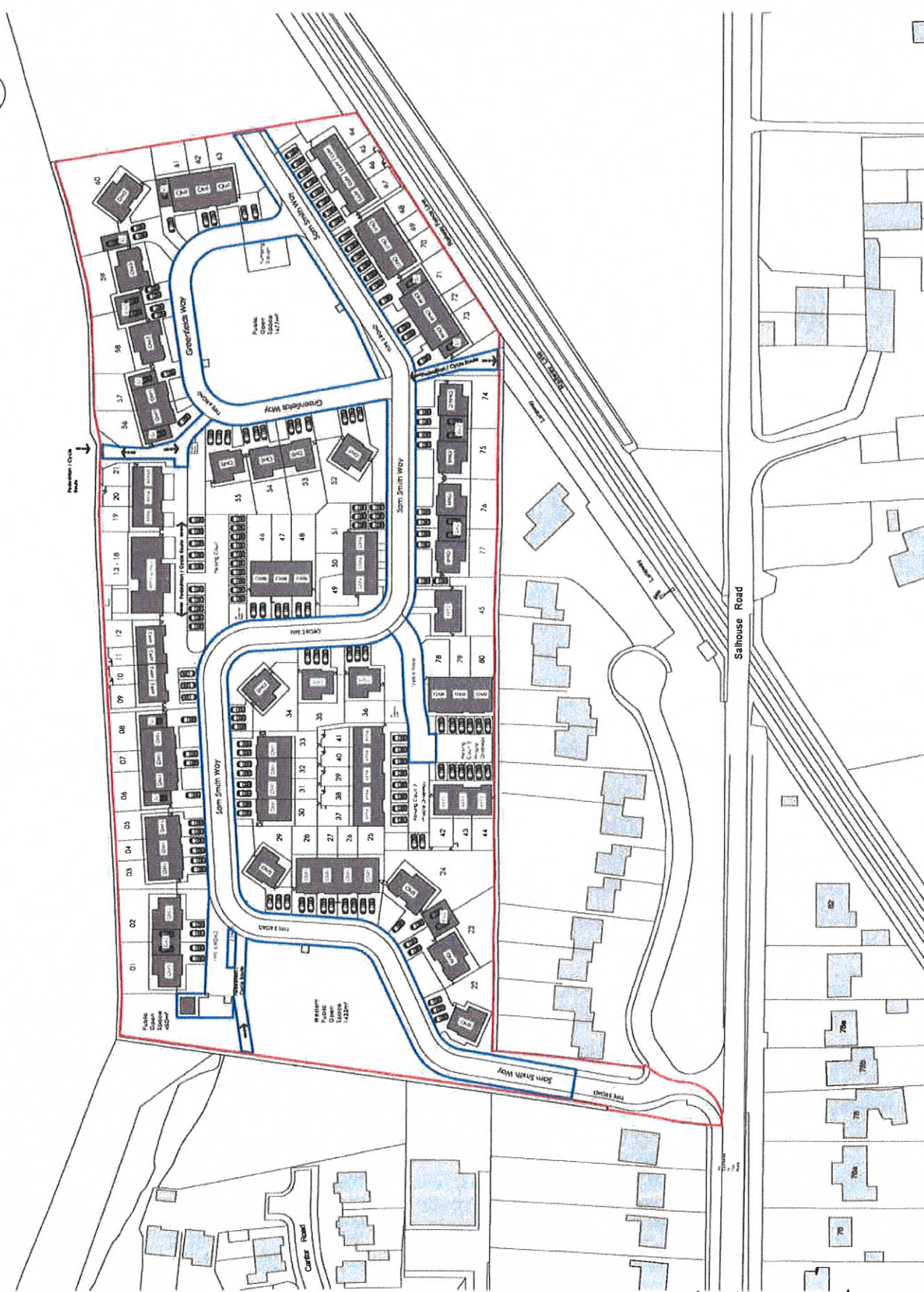
The Mortgagee's consent to this Deed so that its interest in the Site is bound by the obligations contained in this Deed and agrees that its security over the Site takes effect subject to the provisions of this Deed PROVIDED THAT the Mortgagee is not required to observe or perform the obligations in this Deed unless it takes possession of the Site. (For the avoidance of doubt any person acquiring title to all or part of the Site as a result of the Mortgagee's enforcing its

security will be bound by the terms of this Deed.)

**9. COUNTERPART**

This Deed may be executed in any number of counterparts and by the Parties hereto in separate counterparts each of which when executed and delivered shall be an original but all the counterparts shall together constitute one and the same instrument





Development Site Boundary  
Roads, footpaths and cycle  
paths not being recorded

|  |
|--|
| Land off Salhouse Road<br>Rackheath<br>Norfolk |
| Newbury New Homes                              |
| Non-Adoption Plan                              |
| RACKHT-IW-SA-XX-DR-A-3051                      |
| P5   |

**SCHEDULE 1**

**The Plan**



## **Schedule 2**

### **Non-Adoption Obligations**

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 edged blue on the Plan  |
| "Management Company" | Means a company set up for the purposes of managing and maintaining the Highway Land   |

#### **Part 1**

1. The First Owner, covenants with the County as follows:
  - 1.1 To construct the Highway on the Highway Land
  - 1.2 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
  - 1.3 Not to allow final Occupation of that part of the Development owned by the First Owner 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 and the Highway Land has been transferred to the Management Company
  - 1.4 To thereafter maintain the Highway for use by all traffic to the satisfaction of the County Council



- 1.5 Not to use the Highway as an access or egress for the Development unless the First Owner has incorporated and kept in existence a limited company having among its objects the obligation to maintain the Highway in accordance with paragraph 1.4
- 1.6 Not to require or procure by any means that the Highway shall become a highway maintainable at public expense

## Part 2

2. The Second Owner and Third Owner covenants with the County as follows:
  - 2.1 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
  - 2.2 Not to allow final Occupation of that part of the Development owned by the Second Owner and the Third Owner 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 and the Highway Land has been transferred to the Management Company
  - 2.3 Not to use the Highway as an access or egress for the Development unless the First Owner has incorporated and kept in existence a limited company having among its objects the obligation to maintain the Highway in accordance with paragraph 1.4 above
  - 2.4 Not to require or procure by any means that the Highway shall become a highway maintainable at public expense

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 affixed in the presence of:



Chief Legal Officer

*JK Lmley*

43033

Authorised to sign on behalf of Chief Legal Officer

EXECUTED AS A DEED by  
Newbury Developments (Rackheath) LLP

in the presence of:

)  
)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Zorin Finance Limited

in the presence of:

)  
)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
P2P Global Investments PLC

in the presence of:

)  
)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Daisybox Limited

)

in the presence of:

)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Affixing the Common Seal of

ORBIT GROUP LIMITED

)

in the presence of:

)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Affixing the Common Seal of

ORBIT SOUTH HOUSING ASSOCIATION LIMITED

)

in the presence of:

)

Director:

Director/Secretary:



EXECUTED AS A DEED by  
Dalsybox Limited

in the presence of:

)

)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Affixing the Common Seal of

ORBIT GROUP LIMITED (EXEMPT CHARITY)

in the presence of:

)

)

Director:

Director/Secretary:



EXECUTED AS A DEED by  
Affixing the Common Seal of

ORBIT SOUTH HOUSING ASSOCIATION LIMITED

(EXEMPT CHARITY)

in the presence of:

)

)

Director:

Director/Secretary:



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 affixed in the presence of:

)  
)

Chief Legal Officer

EXECUTED AS A DEED by  
Newbury Developments (Rackheath) LLP  
in the presence of:

)  
)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Zorin Finance Limited  
in the presence of:

)  
)

Director: LUKE TOWNSEND

*Aminah Malik*

Director/Secretary: *Witness Name: AMINAH MALIK*

*Address: 1 KNIGHTSBRIDGE GREEN, LONDON, SW1X 7NE*

*Occupation: CREDIT RISK*

EXECUTED AS A DEED by ~~PSC EAGLEWOOD EUROPE LLP~~ acting as attorney for  
P2P Global Investments PLC

in the presence of:

)

*[Signature]*

Director:

*E. Everitt*

Director/Secretary: *Witness Name: EMMA EVERITT*

*Address: 8 HANOVER STREET LONDON*

*Occupation: 12 PA W1S 1YQ*





EXECUTED AS A DEED by  
Daisybox Limited

in the presence of:

)

)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Affixing the Common Seal of

ORBIT GROUP LIMITED (Exempt Charity)

in the presence of:

)

)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
Affixing the Common Seal of

ORBIT SOUTH HOUSING ASSOCIATION LIMITED

in the presence of:

(Exempt Charity)

)

)

Director:

Director/Secretary:

*[Handwritten signature]*

*[Handwritten signature]*







EXECUTED AS A DEED by  
~~Deleybox Limited~~ TC )  
Frogmore Capital Limited. )  
in the presence of: )  
Chakalyn Dennis  
6 Brookside Close Totton Solon  
SO4085R  
Director: R. L. C. C.  
Director/Secretary:

EXECUTED AS A DEED by  
Affixing the Common Seal of  
ORBIT GROUP LIMITED )  
in the presence of: )  
Director:  
Director/Secretary:

EXECUTED AS A DEED by  
Affixing the Common Seal of  
ORBIT SOUTH HOUSING ASSOCIATION LIMITED )  
in the presence of: )  
Director:  
Director/Secretary:



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 affixed in the presence of:

)  
)

Chief Legal Officer

EXECUTED AS A DEED by  
Newbury Developments (Rackheath) LLP  
*acting by a member*  
in the presence of:

)  
)



*witness signature:*

*name :*

*address:*

*occupation:*



Serena Shalson  
Flat 18, 35-37 Grosvenor Square  
London W1K 2HN  
Office Manager

EXECUTED AS A DEED by  
Zorin Finance Limited  
in the presence of:

)  
)

Director:

Director/Secretary:

EXECUTED AS A DEED by  
P2P Global Investments PLC  
in the presence of:

)  
)

Director:

Director/Secretary:



