

DATE

29 August

2019

Planning Obligation by Deed under Section 106 of the Town and Country Planning Act 1990 relating to the development of land at Warren Farm, The Street, Badwell Ash, Suffolk.

- (1) MID SUFFOLK DISTRICT COUNCIL
- (2) SUFFOLK COUNTY COUNCIL
- (3) ELAINE LYN TAGUE

Dated: 29 day of August 2019

PARTIES

- (1) MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX (**"the District Council"**)
- (2) SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX (hereafter called "the County Council");
- (3) ELAINE LYN TAGUE** of [REDACTED] (**"the Owner"**)

INTRODUCTION

1. The District Council is a local planning authority for the purposes of the 1990 Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable
2. The County Council is a local education authority a local planning authority and local highway authority for the purposes of the Act for the area in which the Site is situated and by whom the covenants and obligations contained in this Deed are enforceable in relation to it
3. The Owner is the freehold owner of the Site registered with the Land Registry under title number SK203394
4. The District Council have resolved to grant planning permission for the Development pursuant to the Application subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations contained in this Deed
5. The District Council enters into this Deed to the intent that the requirements of the District Council's policies are met and that any objections by the District Council to the grant of planning permission on the basis of those policies are overcome
6. The District Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) The District Council confirms that in relation to any infrastructure (other than 'relevant infrastructure' as defined by Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended)) which is provided for or funded by this Deed since 6 April 2010 no more than four obligations pursuant to Section 106 of the 1990 Act

have been entered into which provide for any such infrastructure project or type of infrastructure.

7. The District Council considers and the Owners acknowledge that the Development should not take place until certain restrictions regulating the use of the Site are imposed in the manner hereafter appearing and pursuant to section 106 of the 1990 Act the District Council and the County Council and the Owner agree to enter into this Deed in order to secure the planning obligations contained in this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"1990 Act" means the Town and Country Planning Act 1990 (as amended)

"2008 Act" means the Housing and Regeneration Act 2008

"Affordable Housing" has the meaning given to it in Annex 2 of the National Planning Policy Framework dated February 2019) as may be varied from time to time or supplemental guidance policy or by law issued thereof

"Affordable Housing Nomination Agreement" means an agreement substantially in the form set out in the Seventh Schedule subject to such amendments as are necessary to reflect the Affordable Housing Scheme Affordable Housing tenures and/or as may be reasonably required by the Registered Provider with a view to ensuring that the objectives of that agreement are met dealing with the allocation of the Affordable Housing by a Registered Provider which shall apply to all of the Affordable Housing Units and "Nomination Agreement" shall have the same meaning

"Affordable Housing Units" 35% of the Dwellings to be provided as Affordable Housing of which 75% shall be Rental Dwellings and the remaining 25% of which shall be Shared Ownership Dwellings to be constructed in accordance with the Affordable Housing Scheme (unless otherwise agreed in writing with the District Council)

"Affordable Housing Scheme" means a scheme for the provision of the Affordable Housing Units specifying:

- i. the types location and size of the Affordable Housing Units to be constructed on the Site;
- ii. the identity of the Registered Provider (or such details as the District Council requires to satisfy itself that the Affordable Housing Units will be secured as Affordable Housing in perpetuity); and
- iii. such other information and reasonable requirements as the District Council may require to enable approval of the scheme including details of how any recycling of sales receipts obligation will be complied with and secured.

"Affordable Rent" means housing made available by a Registered Provider as low-cost rental accommodation (as defined in Section 69 of the 2008 Act) with a rent charged at a level up to 80% of the equivalent market rent (inclusive of any service charges applicable) for a dwelling of comparable size in the same location or the local housing allowance rate

"Application" means the Outline application (including plans and associated material) requesting planning permission for the Development and which outline application bears the District Council's planning application reference number DC/19/01356

"BCIS Index" means the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the District Council and the County Council and the Owner

"BCIS Indexed" means the increase in any sum referred to in this Deed by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 10 of this Deed

"Chargee" means any mortgagee or chargee of the Registered Provider who is in possession or any receiver or manager (including an administrative receiver) appointed by such a mortgagee or chargee or any other person appointed under such security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator

"Chargee's Duty" means the tasks and duties set out in paragraph 1.8 of the Third Schedule

"Choice Based Lettings Scheme" means an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the District Council is a party

"Commencement of Development" means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out by or on behalf of the Owner on the Site pursuant to the Planning Permission other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, and the temporary display of site notices or advertisements and **"Commence"** **"Commencement"** and **"Commence Development"** shall be construed accordingly

"Completion of Development" means the date that the last Dwelling is first Occupied

"Development" means the development of the Site for the erection of up to twenty one (21) number dwellings (including seven (7) affordable dwellings) including new access (resubmission of withdrawn application DC/18/05331) as set out in the Application (all matters reserved) in accordance with the Planning Permission or any variation thereof

"Homes England" Homes England or such other organisation as may from time to time be the Regulator of Social Housing within the meaning of Section 81 of the 2008 Act or such other body with statutory force charged with regulating Registered Providers

"Late Payment Interest" means interest at four (4) per cent above the base lending rate of the Bank of England from time to time

"Market Housing Units" means those Dwellings which are general market housing for sale or rent on the open market and which are not Affordable Housing Units

“Notice of Actual Commencement” means notice in writing to advise of the actual Commencement date

“Notice of Expected Commencement” means notice in writing to advise of the expected Commencement date

“Occupation” means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and **“Occupied”** and **“Occupy”** shall be construed accordingly

“Planning Permission” means the outline planning permission to be granted by the District Council pursuant to the Application subject to such conditions as may be imposed on the grant of planning permission or on appeal by the planning inspectorate such planning permission to be substantially in the form of the draft as set out in the Second Schedule

“Practical Completion” means the completion of a Dwelling to a standard which is wind and watertight and fit for habitation in terms of heating, plumbing, electrics and sanitation and **“Practically Complete”** shall be construed accordingly

“Protected Person” means any person who:

(a) has exercised the right to acquire pursuant to the 2008 Act or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;

(b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;

(c) any person who has staircased the equity in their Shared Ownership Dwelling to 100%;

(d) any successor in title to paragraph a-c above.

“Public Footpath Contribution” means seven thousand pounds (£7,000) to create, upgrade and improve footpaths in the vicinity of the Development which shall include officer time and legal costs incurred

“Registered Provider” means a registered provider of social housing as defined in Section 80(2) of the 2008 Act and listed in the registers kept by Homes England under Chapter 3 of that 2008 Act and for the avoidance of doubt this could include the District Council

“School Transport Contribution” means twenty six thousand pounds and eight hundred and eighty pounds (£26,880) towards primary age pupils school transportation and fourteen thousand and four hundred pounds (£14,400) towards secondary age pupils school transportation

“Shared Ownership Dwelling” means Dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed eighty thousand pounds (£80,000) per annum or such other household income for the time in force in accordance with the terms at set out in Homes England’s capital funding guide

“Shared Ownership Lease” means a lease in a form approved by Homes England or where there is no such form in a form approved by the District Council such lease to provide for the following:

- (a) not more than 70% and not less than 25% of the equity (or such other percentages the District Council may agree) shall be initially sold to the purchaser by the Registered 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 Registered 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 District Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England.

“Site” means the land described in the First Schedule against which this Deed may be enforced and as shown edged red for identification purposes on the Site Plan

“Site Plan” means the plan showing the Site edged in red attached to this Deed

“Working Days” means Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England

2. CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, schedule, paragraph, subparagraph or recital such reference (unless the context otherwise requires) is a reference to a clause, sub-clause, schedule, paragraph, subparagraph or recital in this Deed

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed as interchangeable in that manner

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually insofar as such obligation relates to land within such party's ownership unless there is an express provision otherwise

2.5 Any reference to an Act of Parliament or Directive of the European Union shall include any modification, extension or re-enactment of that Act or Directive for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or Directive or deriving validity from it

2.6 References to any party to this Deed shall include the successors in title to that party and to any party deriving title through or under that party and in the case of the District Council the successors to its statutory function

2.7 Where this Deed requires a plan or strategy or other document to be submitted to the District Council for approval or agreement then upon approval of the same it shall be deemed to have been incorporated into this Deed and the same shall apply to any provision requiring a review of any such plan or strategy or other document

2.8 References to a **“Plan”** in this Deed shall be references to the plans attached to this Deed or any amended plans as shall be agreed between all parties

2.9 None of the covenants contained in this Deed on the part of the Owner shall be enforceable against: -

2.9.1 those persons who purchase (including purchasers by way of long lease) any Dwelling for occupation by themselves or their lessee's tenants or individuals of the Dwellings; or

2.9.2 any statutory undertaker who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services.

2.10 The headings are for reference only and shall not affect construction

2.11 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation not to knowingly permit or suffer such act or thing to be done by another person

3. LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the 1990 Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers

3.2 The covenants restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the 1990 Act and are enforceable by the District Council as local planning authority against the Owner and the successors in title

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

3.4 This Deed is a local land charge and upon completion shall be registered by the District Council as such

4. CONDITIONALITY

4.1 This Deed is conditional upon:

4.1.1 the grant of the Planning Permission; and

4.1.2 the Commencement of Development

save for the provisions of Clauses 9, 12, 15, 18.2 18.3 18.6, 21 and 22 (change in ownership right of entry dispute resolution legal costs compliance fees jurisdiction and delivery) and any other relevant provisions which shall come into effect immediately upon completion of this Deed

4.2 Where the Planning Permission is the subject of any judicial review proceedings or other legal challenge:

4.2.1 until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Deed will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development PROVIDED THAT the Owner shall not undertake any further works to implement the Planning Permission following the issue of such proceedings;

4.2.2 if following the conclusion of such proceedings or challenge the Planning Permission is quashed and is not superseded by a subsequent planning permission accepted by the Owner this Deed will cease to have any further effect; and

4.2.3 if following the conclusion of such proceedings or challenge the Planning Permission remains valid and fully enforceable all of the terms and provisions of this Deed will apply in full

5. CHALLENGE

Wherever in this Deed reference is made to a date on which "legal proceedings or challenge in relation to the Planning Permission are concluded" (or cognate expressions are used) the following provisions will apply:

5.1 proceedings by way of judicial review are concluded:

5.1.1 when permission to apply for judicial review has been refused and no further application can be made;

5.1.2 when the court has given judgement in the matter and the time for making an appeal expires without any appeal having been made or permission to appeal is refused; or

5.1.3 when any appeal(s) is or are finally determined

5.1.4 proceedings under Section 288 of the 1990 Act are concluded:

5.1.4.1 when the court has given judgement in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or

5.1.4.2 when any appeal(s) is or are finally determined

6. THE OWNER'S COVENANTS

The Owner covenants with the District Council as set out in the Third Schedule

7. THE DISTRICT COUNCIL'S COVENANTS

The District Council covenants with the Owners as set out in the Fifth Schedule

8. THE OWNER'S COVENANTS

The Owner covenants with the County Council as set out in the Fourth Schedule

9. THE COUNTY COUNCIL'S COVENANTS

The County Council covenants with the Owner as set out in the Sixth Schedule

8. WAIVER

No waiver (whether expressed or implied) by the District Council or by the County Council or by the Owner of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council or the County Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default

9. CHANGE IN OWNERSHIP

The Owner agrees with the District Council and the County Council to give written notice of any transfer in ownership of any of freehold interests in the Site occurring before all the obligations under this Deed have been discharged such notice to be served within fifteen (15) Working Days of such transfer and to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan and a copy of the registered title and plan thereto PROVIDED THAT this obligation shall not apply to transfers of individual Dwellings within the Development or the transfer or grant of leases of electricity sub-stations or gas governors or the like

10. INDEXATION

10.1 Any sum referred to in this Deed (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable using the application of the formula $A = B \times (C/D)$ where:

- 10.1.1 A is the sum payable under this Deed;
- 10.1.2 B is the original sum calculated as the sum payable;
- 10.1.3 C is the BCIS Index for the month 2 months before the date on which the sum is payable;
- 10.1.4 D is the BCIS Index for the month 2 months before the date of this Deed
- 10.1.5 C/D is greater than 1.

10.2 All consideration given in accordance with the terms of this deed shall be exclusive of any value added tax properly payable.

10.3 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the District Council or County Council (as appropriate) shall advise the Owner in writing.

11 INTEREST

If any payment due under this Deed is paid Late Payment Interest will be payable from the date payment is due to the date of payment

12 RIGHT OF ENTRY

At all times on not less than twenty-four (24) hours written notice except in case of emergency with or without notice the Owner shall allow any employee or agent of either or both of the District Council and the County Council entry to the Site for the purposes of inspection and monitoring compliance with the provisions of this Deed PROVIDED THAT:

12.1 such employee or agent on arrival at the Site shall if requested by any person present who appears to be the Owner or the manager of the Site or a person in charge thereof produce evidence of identity and their authority to act on behalf of the District Council and the County Council in respect of the monitoring of compliance of Section 106 Agreements (but entry may be made if there is or appears to be no such person on the Site)

12.2 such entry shall be affected between 08.00 and 17.00 on any Working Day

12.3 such employee or agent may be accompanied by such other persons as may be reasonably necessary

12.4 such employee or agent may take photographs measurements and levels

12.5 such employee or agent may not remain on the Site for no longer than is reasonably necessary for carrying out a proper inspection

12.6 such employee or agent and any other accompanying persons shall comply with the Owner or the Owner's representative's reasonable directions and precautions in the interests of safety

13 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable

14 NOTICES

14.1 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 Deed shall be deemed to have been validly served or given if delivered by hand or sent by first class 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 and delivered or sent by first class recorded delivery post to the address of the party concerned as set out below

14.2 The address for any notice or other written communication in the case of each party to this Deed shall be as follows: -

- | | | |
|-----|--------------------|--|
| i | District Council | The Infrastructure Officer, Mid Suffolk District Council,
Endeavour House, 8 Russell Road, Ipswich, IPI 2BX |
| ii | The County Council | The Director of Growth, Highways and Infrastructure (or a duly
appointed successor) Endeavour House, 8 Russell Road,
Ipswich IP1 2BX |
| iii | The Owner | As detailed at page 1 of this Deed |

or such other address as the receiving party may have nominated in writing from time to time

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

15 DISPUTE RESOLUTION

15.1 Any dispute or difference of any kind whatsoever arising between the Owners and the District Council and the County Council ("the Parties") out of or in connection with this Deed (including without limitation any question regarding its existence validity or termination) shall be referred to arbitration before a single expert (the "Expert")

15.2 The Parties to the dispute shall jointly appoint the Expert not later than twenty-eight (28) days after service (on all other Parties to the dispute) of a request in writing by any of the Parties to the dispute to do so

15.3 If the Parties to the dispute are unable to agree within twenty-eight (28) days as to the appointment of such Expert then the Expert shall be appointed on the application of either of the Parties as follows:

15.3.1 difference or question relates to the rights and liabilities of either of the Parties or to the terms or conditions to be embodied in the Deed or document appertaining to the Deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society; or

15.3.2 difference or question relates to highway works engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers; or

15.3.3 difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Parties but in default of agreement appointed at the request of either of the Parties by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or

15.3.4 if such difference or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Parties in dispute but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute

15.4 In the event of a reference to arbitration the Parties in dispute agree to:

15.4.1 prosecute any such reference expeditiously; and

15.4.2 do all things or take all steps reasonably necessary in order to enable the Expert to deliver any award (interim, final or otherwise) as soon as reasonably practicable

15.5 The Expert will have the power to consolidate proceedings or hold concurrent proceedings and to order on a provisional basis any relief which he would have power to grant on a final award

15.6 The award shall be in writing signed by the Expert and shall be finalised within fourteen (14) days of the hearing

15.7 The award shall be final and binding both on the Parties to the dispute and on any persons claiming through or under them and judgment upon the award may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be

15.8 Unless this Deed has already been terminated each of the Parties to the dispute shall in every case continue to comply with its obligations under this Deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this Clause 15 but without prejudice to the rights and obligations of the Parties in relation to the termination of the Deed and other methods of enforcement

15.9 The provisions of this clause shall not affect the ability of any of the Parties to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

16 SATISFACTION OF ANY OF THE PROVISIONS OF THIS DEED

Where in the opinion of the Owners any of the provisions of this Deed have been satisfied the Owners shall be entitled to apply to the District Council and the County Council as applicable for a certificate to that effect and upon the District Council and the County Council being satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied the District Council and the County Council shall forthwith issue a certificate to such effect

17 APPROVALS

Where any details, programmes, plans, strategies, reports, matters or materials are approved by the District Council and the County Council under the terms of this Deed further or amended details programmes plans strategies reports matters or materials may be submitted from time to time and if approved by the District Council and the County Council shall replace those previously approved

18 MISCELLANEOUS

18.1 The District Council and the County Council and the Owner shall act in good faith and shall co-operate to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the District Council and the County Council to have access to any part of the Site or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein

18.2 The Owner agrees declare and covenant with the District Council and the County Council to observe and perform the conditions restrictions and all other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Deed and further shall indemnify the District Council and the County Council for any expenses or liability arising to the District Council and the County Council in respect of breach by the Owner or any obligation contained herein save to the extent that any act or omission of the District Council and the County Council its employees or agents has caused or contributed to such expenses or liability

18.3 The Owner agrees to pay to the District Council and the County Council on completion of this Deed the proper and reasonable legal costs of the District Council and the County Council as applicable incurred in the negotiation preparation execution and completion of this Deed

18.4 No provision of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any party who is not a party to this Deed

18.5 Where an approval consent or expression of satisfaction is required by the Owner from the District Council and the County Council under the terms of this Deed such approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such consent approval or expression of satisfaction shall be given on behalf of the District Council by the Acting Chief Planning Officer or by a duly authorised officer of the District Council and on behalf of the County Council by the Director of Growth Highways and Infrastructure or by a duly authorised officer of the County Council

18.6 Following the performance and satisfaction of all the obligations contained in this Deed the District Council and the County Council shall forthwith affect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed

18.7 Insofar as any clause or other provision of this Deed is found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed

18.8 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or expires by effluxion of time before the Commencement of Development or is modified (without the consent of the Owner) and the District Council and the County Council will affect cancellation of all entries in the Register of Local Land Charges in respect of this Deed

18.9 No person shall be liable for any breach of any of the planning obligations or other obligations of this Deed after it shall have parted with its entire interest (save for an interest arising only from the grant or reservation of an easement or similar right or the benefit of any restrictive covenant) in such part of the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest

18.10 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 Planning Permission) granted (whether or not on appeal) after the date of this Deed

18.11 In the event that any new planning applications are made in respect of the Development pursuant to section 73 of the 1990 Act then with effect from the date that the new planning permission is granted pursuant to section 73 of the 1990 Act

18.11.1 the obligations in this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of any planning permission granted pursuant to Section 73 of the 1990 Act and

18.11.2 the definitions of Application Development and Planning Permission shall be assumed to include references to any applications under section 73 of the 1990 Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this clause shall fetter the discretion of the District Council in determining any applications under section 73 of the 1990 Act and the appropriate nature and and/or quantum of section 106 obligations in so far as they are materially different to those contained in this deed and required pursuant to a determination under section 73 of the 1990 Act whether by way of a new deed or supplemental deed pursuant to section 106 of the 1990 Act or a modification pursuant to section 106A of the 1990 Act

18.12 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 Deed are hereby waived

18.13 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (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 and at no cost to either the District Council or the County Council

18.14 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the District Council and of the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority

18.15 The Owner covenants and warrant to the District Council and the County Council that they have full power to enter into this Deed and there is no other person having a charge over or any other interest in the Site (other than the Owner) whose consent is necessary to make this Deed binding on the Site and all estates and interests therein

19. COMMUNITY INFRASTRUCTURE LEVY

The District Council and the County Council and the Owner agrees that for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) the obligations imposed in this Deed are (a) necessary to make the Development acceptable in planning terms; (b) directly relate to the Development; and (c) fairly and reasonably relate in scale and kind to the Development

20. JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England

21. DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

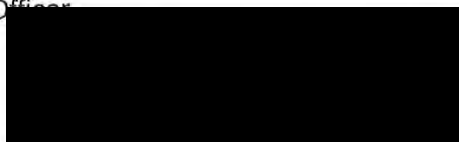
This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS INSTRUMENT AS A DEED ON THE DAY AND YEAR FIRST BEFORE WRITTEN

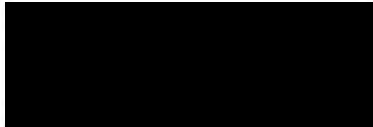
**THE COMMON SEAL OF
MID SUFFOLK DISTRICT COUNCIL** was
affixed in the presence of:

Authorised Officer

Signature:



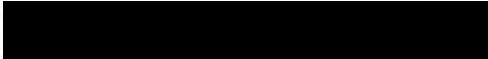
EXECUTED as a DEED by)
ELAINE LYN TAGUE)



Full name of witness:



Witness Signature:



Occupation:



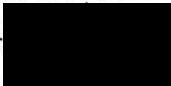
Address:

THE COMMON SEAL OF
SUFFOLK COUNTY COUNCIL was
affixed in the presence



Authorised Officer

Signature



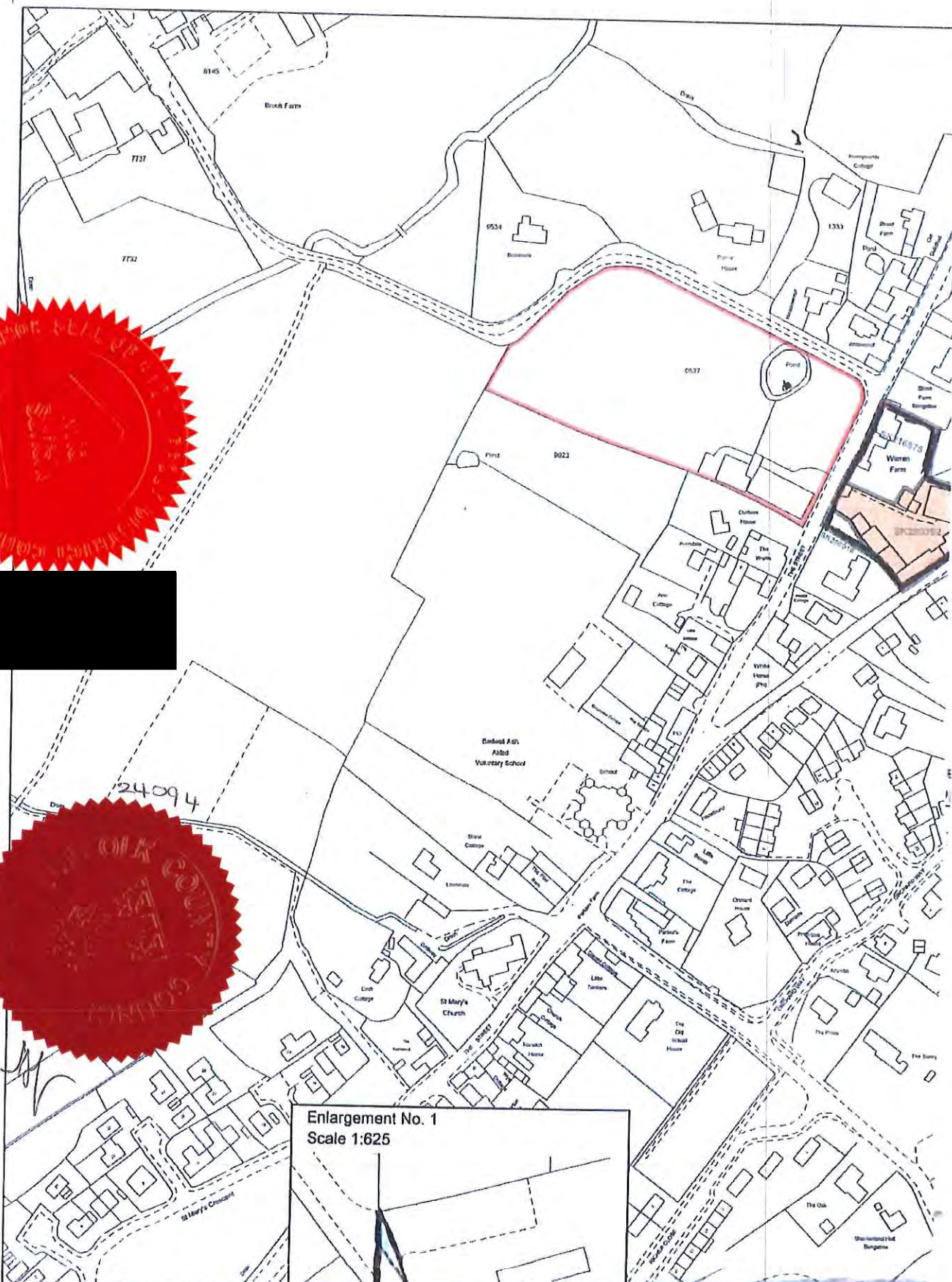
**FIRST SCHEDULE
OWNERSHIP DETAILS**

FREEHOLD INTERESTS

The Owner is the registered proprietor with absolute title of the Site shown edged red for identification purposes only on the Site Plan known as:



Enlargement No. 1
Scale 1:625

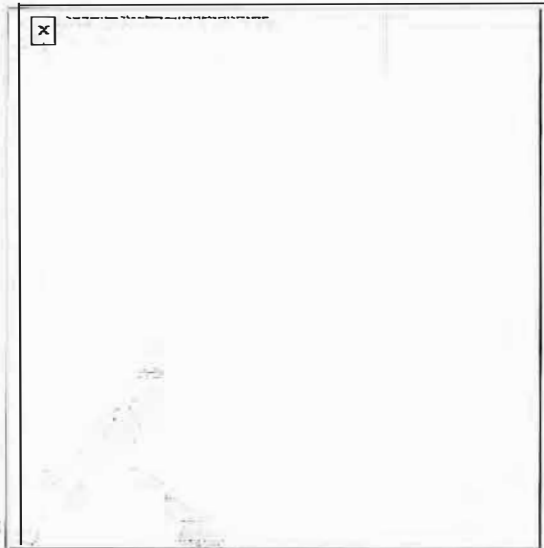


**SECOND SCHEDULE
DRAFT PLANNING PERMISSION**

Philip Isbell - Corporate Manager
Growth & Sustainable Planning

Mid Suffolk District Council
Endeavour House, 8 Russell Road, Ipswich IP21 2BX

Website: www.midsuffolk.gov.uk



OUTLINE PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015

Correspondence Address:

Mrs Elaine Tague
Kings Head
Manningtree Road
Stutton
Ipswich
Suffolk
IP9 2SW

Applicant:

Mrs Elaine Tague
Kings Head
Manningtree Road
Stutton
Ipswich
Suffolk
IP9 2SW

Date Application Received: 18-Mar-19

Application Reference: DC/19/01356

Date Registered: 19-Mar-19

Proposal & Location of Development:

Outline Planning Application (all matters reserved) - Erection of up to 21 No dwellings including new access (re-submission of withdrawn application DC/18/05331).

Land At Warren Farm, The Street, Badwell Ash, Suffolk

Section A – Plans & Documents:

This decision refers to drawing no./entitled as the defined red line plan with the site shown edged red. Any other drawing showing land edged red whether as part of another document or as a separate plan/drawing has not been accepted or treated as the defined application site for the purposes of this decision.

The plans and documents recorded below are those upon which this decision has been reached:

Section B:

Mid Suffolk District Council as Local Planning Authority, hereby give notice that OUTLINE PLANNING PERMISSION

1. ACTION REQUIRED IN ACCORDANCE WITH A SPECIFIC TIMETABLE: TIME LIMIT FOR RESERVED MATTERS APPLICATION

Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matter to be approved.

Reason - Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. APPROVED PLANS & DOCUMENTS

The development hereby permitted shall be carried out in accordance with the drawings/documents listed under Section A above and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non material amendment following an application in that regard.

Reason - For the avoidance of doubt and in the interests of proper planning of the development.

3. ACTION REQUIRED PRIOR TO COMMENCEMENT OF WORKS: PRE-COMMENCEMENT CONDITION: APPROVAL OF PHASING OF DEVELOPMENT

Before any development is commenced, and concurrently with the submission of reserved matters referred to in Condition 01 above, a scheme for the carrying out of the development in successive phases shall be submitted to the Local Planning Authority for approval. No development forming part of any phase other than the first, of any scheme subsequently approved in writing, shall be commenced until 75% of the development in the preceding phase has been occupied.

Reason - To enable the Local Planning Authority to secure an orderly and well designed development provided in appropriate phases to ensure minimal detriment to residential amenity, the environment and highway safety prior to the commencement of such development.

4. ACTION REQUIRED PRIOR TO THE COMMENCEMENT OF DEVELOPMENT - ARCHAEOLOGICAL WORKS

No development shall take place on site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation shall include an assessment of significance and

research questions; and: a. The programme and methodology of site investigation and recording. b. The programme for post investigation assessment. c. Provision to be made for analysis of the site investigation and recording. d. Provision to be made for publication and dissemination of the analysis and records of the site investigation. e. Provision to be made for archive deposition of the analysis and records of the site investigation. f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation. g. Timetable for the site investigation to be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

Reason - To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development. This condition is required to be agreed prior to the commencement of any development to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of loss and damage to archaeological and historic assets.

5. ACTION REQUIRED PRIOR TO THE FIRST OCCUPATION OF DEVELOPMENT - ARCHAEOLOGICAL WORKS

No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted to and approved, in writing, by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation as may be agreed by the Local Planning Authority. Provision shall be made for analysis, publication and dissemination of results and archive deposition.

Reason - To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development.

6. ACTION REQUIRED PRIOR TO THE COMMENCEMENT OF DEVELOPMENT: CONSTRUCTION MANAGEMENT TO BE AGREED

Prior to the commencement of development details of the construction methodology shall be submitted to and approved in writing by the Local Planning Authority and shall incorporate the following information:-

Noise

a) Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days. The contractor shall provide the Local Authority with as much warning as possible of any emergency work that is necessary to conduct outside of the permitted working hours.

b) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency).

c) All vehicles and mechanical plant used for the purpose of the works shall be fitted with effective exhaust silencers and shall be maintained in good and efficient working order. All compressors and generators shall be "sound reduced" models fitted with properly lined and sealed acoustic covers which shall be kept closed whenever the machines are in use,

and all ancillary pneumatic percussive tools shall be fitted with mufflers or suppressers of the type recommended by the manufacturers and shall be kept in a good state of repair. Full use should be made of acoustic screens where necessary.

d) Machines in intermittent use shall be shut down in the intervening periods between work or where this is impracticable, throttled down to a minimum.

e) Where practicable, plant with directional noise characteristics shall be positioned to minimise noise at adjacent properties. Static machines shall be sited as far as is practicable from inhabited buildings.

Vibration

f) The Developer or their Contractor shall comply with BS 6472: 1992 Evaluations of Human Exposure to Vibration in Buildings (1Hz-80Hz). Any vibration monitoring carried out shall also be in compliance with BS 6472: 1992.

Dust & Smoke

g) The Developer or their Contractor shall not be permitted to burn any materials on Site.

h) Machinery with obvious defects, e.g. plant which emits an unreasonable amount of noise or exhaust smoke, shall be withdrawn from service without delay.

i) The Developer or their Contractor shall take all reasonable measures which shall include the provision and use of adequate water spraying equipment to minimise dust nuisance and to damp down areas where activities are likely to create dust. Measures shall include the spraying by pressure hoses to suppress dust and the provision of bowsers where appropriate, and ensuring that stockpiles shall be covered to prevent the generation of dust.

j) The Developer or their Contractor shall take all measures necessary to prevent spillage onto roads adjoining the Site and in wet weather shall prevent mud from the site being carried onto the highway.

Reason - To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

7. Before the access is first used visibility splays shall be provided with an X dimension of 2.4m and a Y dimension of 90m and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

Reason - In the interests of highway safety.

8. Before the development is commenced, details of the access and associated works, (including layout, levels, gradients, surfacing and means of surface water drainage), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads/footways are constructed to an acceptable standard.

9. Before any dwelling is first occupied, the developer shall construct a footway link to existing footway network. Design and Construction details shall first be submitted to and approved by the Local Planning Authority.

Reason: To ensure that suitable footways are provided to access the application site and to connect the sites with adjacent footways and bus stops.

10. Before the development is commenced, details of the estate roads and footpaths, (including layout, levels, gradients, surfacing and means of surface water drainage), shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that roads/footways are constructed to an acceptable standard.

11. No dwelling shall be occupied until the carriageways and footways serving that dwelling have been constructed to at least Binder course level or better in accordance with the approved details except with the written agreement of the Local Planning Authority.

Reason: To ensure that satisfactory access is provided for the safety of residents and the public.

12. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.

Reason: To prevent hazards caused by flowing water or ice on the highway.

13. Before the development is commenced details of the areas to be provided for the [LOADING, UNLOADING,] manoeuvring and parking of vehicles including electric vehicle charging points and secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.

Reason: To enable vehicles to enter and exit the public highway in forward gear in the interests of highway safety.

14. Before the development is commenced details of the areas to be provided for storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

15. **ACTION REQUIRED: AGREEMENT OF MEASURES TO IMPROVE SUSTAINABILITY OF DEVELOPMENT**

No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures, during the operational phases of the development shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include a clear timetable for the implementation of the measures in relation to the occupancy of the development. The scheme shall be constructed and the measures provided and made available for use in accordance with such timetable as may be agreed.

Reason - To enhance the sustainability of the development through better use of water, energy and resources reduce harm to the environment and result in wider public benefit in accordance with the NPPF.

SUMMARY OF POLICIES WHICH ARE RELEVANT TO THE DECISION:

NPPF - National Planning Policy Framework
FC01 - Presumption In Favour Of Sustainable Development
FC01_1 - Mid Suffolk Approach To Delivering Sustainable Development
FC02 - Provision And Distribution Of Housing
CS01 - Settlement Hierarchy
CS02 - Development in the Countryside & Countryside Villages
CS04 - Adapting to Climate Change
CS05 - Mid Suffolk's Environment
CS06 - Services and Infrastructure
CS07 - Brown Field Target
CS09 - Density and Mix
SB02 - Development appropriate to its setting
SB03 - Retaining visually important open spaces
GP01 - Design and layout of development
HB01 - Protection of historic buildings
H03 - Housing development in villages
H04- Proportion of Affordable Housing
H07 - Restricting housing development unrelated to needs of countryside
H13 - Design and layout of housing development
H14 - A range of house types to meet different accommodation needs
H15 - Development to reflect local characteristics
H16 - Protecting existing residential amenity
CL02 - Development within special landscape areas
T09 - Parking Standards
T10 - Highway Considerations in Development
RT04 - Amenity open space and play areas within residential development

NOTES:

1. **Statement of positive and proactive working in line with the National Planning Policy Framework (NPPF)**

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations. The NPPF encourages a positive and proactive approach to decision taking, delivery of sustainable development, achievement of high quality development and working proactively to secure developments that improve the economic, social and environmental conditions of the area. In this case the applicant took advantage of the Council's pre-application service prior to making the application. The opportunity to discuss a proposal prior to making an application allows potential issues to be raised and addressed pro-actively at an early stage, potentially allowing the Council to make a favourable determination for a greater proportion of applications than if no such service was available.

2. The Local Planning Authority recommends that developers of housing estates should enter into formal agreement with the Highway Authority under Section 38 of the Highways Act 1980 relating to the construction and subsequent adoption of Estate Roads.
3. The works within the public highway will be required to be designed and constructed in accordance with the County Council's specification. The applicant will also be required to enter into a legal agreement under the provisions of Section 278 of the Highways Act 1980 relating to the construction and subsequent adoption of the highway improvements. Amongst other things the Agreement will cover the specification of the highway works, safety audit procedures, construction and supervision and inspection of the works, bonding arrangements, indemnity of the County Council regarding noise insulation and land compensation claims, commuted sums, and changes to the existing street lighting and signing.
4. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the Highway Authority. Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. These works will need to be applied for and agreed with Suffolk County Council as the Local Highway Authority. Application form under Section 278 of the Highways Act 1980 can be found at the following webpage:
www.suffolk.gov.uk/planning-waste-and-environment/planning-and-development-advice/
5. The submitted scheme of archaeological investigation shall be in accordance with a brief procured beforehand by the developer from Suffolk County Council Archaeological Service Conservation Team. The applicant can find further details on the SCC Archaeology advisory services and charges online at
<http://www.suffolk.gov.uk/archaeology>
6. There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.
7. The foul drainage from this development is in the catchment of Badwell Ash Water Recycling Centre that will have available capacity for these flows
8. The sewerage system at present has available capacity for these flows via a gravity discharge regime only. If the developer wishes to connect to the Anglian Water sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will advise them of the most suitable point of connection. Should the developer require a pumped solution, further consultation will be required with Anglian Water. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of

the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact its Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

9. **Condition Precedent Note**

This permission / consent includes a condition precedent. Your development is potentially at risk of enforcement if you do not comply with the terms of any condition which requires you to do something before you commence development / start work. Development which is commenced in breach of a condition is normally unlawful and may not constitute a valid implementation of the permission. We strongly advise you to allow reasonable time for the preparation, and consideration of, any conditional matters before the time limit on this applications expires.

Environmental Health at the District Councils should be contacted in the event of unexpected ground conditions / contamination being encountered during construction. The developer should be aware that the responsibility for the safe development of the site lies with them at all times.

Section 106 Agreement Note

10.

This planning permission has been granted having regard to a related Section 106 planning obligation. Reference should be made to that planning obligation in conjunction with this decision notice.

11.

Babergh and Mid Suffolk District Councils have adopted Community Infrastructure Levy (CIL) charging which affects planning permissions granted on or after 11th April 2016 and permitted development commenced on or after 11th April 2016. If your development is for the erection of a new building, annex or extension or the change of use of a building over 100sqm in internal area or the creation of a new dwelling or holiday let of any size your development may be liable to pay CIL and you must submit relevant documents to our Infrastructure Team telling us more about your development, who will pay CIL and when the development will start. You will receive advice on the amount you have to pay and what you have to do and you can find more information about CIL on our websites here:

[CIL in Babergh](#) and [CIL in Mid Suffolk](#) or by contacting the Infrastructure Team on: infrastructure@baberghmidsuffolk.gov.uk

This relates to document reference: DC/19/01356

Signed: **Philip Isbell**

Dated:

**Corporate Manager
Growth & Sustainable Planning**

Important Notes to be read in conjunction with your Decision Notice

Please read carefully

This decision notice refers only to the decision made by the Local Planning Authority under the Town and Country Planning Acts and DOES NOT include any other consent or approval required under enactment, bylaw, order or regulation.

Please note: depending upon what conditions have been attached to the decision, action may be required on your part before you can begin your development. Planning conditions usually require that you write to the Local Planning Authority and obtain confirmation that you have discharged your obligations. You should read your decision notice in detail and make a note of the requirements placed on you by any conditions. **If you proceed with your development without complying with these conditions you may invalidate your permission and put your development at risk.**

Discharging your obligations under a condition:

You should formally apply to discharge your conditions and the relevant application forms are available on the Council's website. The Local Planning Authority has 8 weeks to write to you after you submit the details to discharge your conditions. You should always account for this time in your schedule as the Local Planning Authority cannot guarantee that conditions can be discharged quicker than this. A fee is applicable for the discharge of planning conditions.

Building Control:

You are reminded that the carrying out of building works requires approval under the Building Regulations in many cases as well as a grant of planning permission. If you are in doubt as to whether or not the work, the subject of this planning permission, requires such approval, then you are invited to contact the Building Control Section of Babergh and Mid Suffolk District Councils.

Appeals to the Secretary of State

1. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or consent, or to grant permission or consent subject to condition, they may appeal to the Secretary of State for Communities and Local Government. The applicant's right of appeal is in accordance with the appropriate statutory provisions which follow:

Planning Applications: Section 78 Town and Country Planning Act 1990

Listed Building Applications: Section 20 Planning (Listed Buildings and Conservation Areas) Act 1990

Advertisement Applications: Section 78 Town and Country Planning Act 1990
Regulation 15

Town and Country Planning (Control of Advertisements) Regulations 2007

Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within six months of the date of this notice, whichever period expires earlier.

Appeals must be made on a form which is obtainable from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or online at <https://www.gov.uk/government/publications/modelnotification-notice-to-be-sent-to-an-applicant-when-permission-is-refused>

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he/she will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him/her that permission for the proposed development could not have been granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by it, having regard to the statutory requirements*, to the provisions of the Development Order, and to any directions given under the Order. The Secretary of State does not in practise refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him/her.

2. If permission or consent to develop land or carry out works is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State and the owner of the land claims that the land has become incapable of reasonable beneficial use by the carrying out of any development or works which has been or would be permitted they may serve on the Council of the district in which the land is situated, a purchase notice requiring the Council to purchase his interest in the land in accordance with the provisions of Section 137 of the Town and Country Planning Act 1990 or Section 32 Planning (Listed Buildings and Conservation Areas) Act 1990.

*The statutory requirements are those set out in Section 79(6) of the Town and Country Planning Act 1990, namely Sections 70 and 72(1) of the Act.

THIRD SCHEDULE
THE OWNER'S COVENANTS WITH THE DISTRICT COUNCIL

PART 1

NOTICES

The Owner covenant to inform the District Council by way of written notice within seven (7) Working Days following:

- 1 Commencement of Development;
- 2 Occupation of the 1st Dwelling
- 3 Occupation of the 12th Market Dwelling;
- 4 The date of each of the transfers of the Affordable Housing Units to the Registered Provider;
- 5 The date of Completion of the Development

PART 2

AFFORDABLE HOUSING

- 1 The Owner shall endeavour to agree with the District Council the identity of the Registered Provider to which the Affordable Housing Units are to be transferred such agreement not to be unreasonably withheld or delayed.
- 2 The Owner may Commence the Development whilst that process is ongoing but shall not Occupy or permit Occupation of any Dwellings until the identity of the Registered Provider has been agreed with the District Council
- 3 Not to Commence the Development until an Affordable Housing Scheme has been submitted to and approved by the District Council in writing PROVIDED THAT a revised Affordable Housing Scheme may be submitted to and approved by the District Council following the Commencement of Development
- 4 Not to Occupy or permit Occupation of more than 50% of the Market Housing Units until written notice has been given to the District Council that 50% of the Affordable Housing Units to be located on the Development have been:
 - 4.1 constructed in accordance with the Planning Permission;
 - 4.2 made ready for residential occupation; and
 - 4.3 transferred to the Registered Provider (or where it is agreed in the Affordable Housing Scheme that no transfer is required their on-going provision has been secured).

- 5 Not to Occupy or permit Occupation of more than 80% of the Market Housing Units until written notice has been given to the District Council that all of the Affordable Housing Units to be located on the Development have been:
 - 5.1 constructed in accordance with the Planning Permission;
 - 5.2 made ready for residential occupation; and
 - 5.3 transferred to the Registered Provider (or where it is agreed in the Affordable Housing Scheme that no transfer is required their on-going provision has been secured).

- 6 To construct the Affordable Housing Units in the positions agreed in writing by the District Council and built to current Housing Standards Technical requirements of March 2015

- 7 In the event that the approved Affordable Housing Scheme requires the Affordable Housing Units to be transferred to a Registered Provider to procure a covenant in the transfer(s) of these Affordable Housing Units that the Registered Provider will enter into an Affordable Housing Nomination Agreement with the District Council and for this document to be completed between the District Council and the Registered Provider within three (3) months of the date of the transfer(s) to it of the Affordable Housing Units and covenants from the Registered Provider substantially in the form set out in the remainder of this Schedule. Those covenants bind the Registered Provider, not the Owner (save that Paragraph 8 of this Part 1 of the Second Schedule binds the Owner until they dispose of the Affordable Housing to the Registered Provider). The Affordable Housing Nomination Agreement and the covenants in this Schedule shall be subject to such amendments as may be reasonably required by the Registered Provider with a view to ensuring that the objectives of this Deed are met

- 8 The Affordable Housing Units which are Shared Ownership Dwellings shall only be Occupied by persons allocated in accordance with the Government's Help to Buy Scheme (or any subsequent scheme) and the Rental Dwellings shall only be Occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the District Council is a party or chosen pursuant to the Affordable Housing Nomination Agreement made pursuant to this Part 1 to the Second Schedule which confers nomination rights on the District Council unless otherwise agreed by the District Council in writing

- 9 From the date of Practical Completion the Affordable Housing Units shall not be used other than for Affordable Housing save that this obligation shall not be binding on:
- a) any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from a Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
 - b) any Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty; or
 - c) any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor
 - d) a person acquiring an interest in an Affordable Housing Unit under a statutory right to buy or acquire;
 - e) an owner-occupier of an Affordable Housing Unit who has staircased under a Shared Ownership Lease to acquire 100% of the leasehold or freehold interest by or a person who has acquired 100% of a Shared Ownership or other Intermediate Housing tenure
 - f) all persons or bodies deriving title under or through any persons or bodies referred to in this paragraph 8 (including their successors in title)
- 10 The Chargee shall prior to seeking to dispose of any of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge comply with the requirements under Part 2 of Chapter 4 of the Housing and Regeneration Act 2008
- 11 Any capital receipt received from a lessee purchasing further shares in the Shared Ownership Dwelling between 81% and 100% is to be retained by the RP and re-invested in affordable housing within the Mid Suffolk District subject to any contrary requirements within the Homes England's Capital Funding Guide. If after a period of five (5) years it has not been possible to spend the recycled funds within the Mid Suffolk District the funds may be spent elsewhere for the provision of affordable housing

FOURTH SCHEDULE

THE OWNER'S COVENANTS WITH THE COUNTY COUNCIL

1 NOTICES

- 1.1 The Owner shall give the County Council Notice of Actual Commencement within seven (7) days of Commencement in order to confirm Commencement has occurred
- 1.2 The Owner shall give the County Council written notice of the first Occupation of the twenty first (21st) Dwelling within seven (7) days of Occupation in order to confirm Occupation has occurred

2. SCHOOL TRANSPORT CONTRIBUTION

- 2.1 The Owner shall pay the School Transport Contribution to the County Council prior to first Occupation of the first (1st) Dwelling
- 2.2 The Owner shall not Occupy or permit or allow first Occupation of Dwellings until the School Transport Contribution has been paid to the County Council

3 FOOTPATH IMPROVEMENTS

- 3.1 The Owner shall pay the Public Footpath Contribution to the County Council prior to first Occupation of the first (1st) Dwelling
- 3.2 The Owner shall not Occupy or permit or allow first Occupation of Dwellings until the Public Footpath Contribution has been paid to the County Council.

FIFTH SCHEDULE

DISTRICT COUNCIL'S COVENANTS

The District Council hereby covenants with the Owner as follows:

1. The District Council will issue the completed Planning Permission on or within seven (7) Working Days of the date of this Deed
2. At the written request of the Owners the District Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.
3. Following the performance and satisfaction of all the obligations contained in this Deed the District Council shall forthwith on the written request of the Owners mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
4. The District Council will hold any sums payable under this Deed in an interest-bearing account and at the end of ten years from the date of receiving the payment the District Council shall return to the party who made the payment all money in that account which has not been spent on the intended purpose as specified in this Deed
5. The District Council shall use reasonable endeavours to respond to the Owner's submission of the Open Space Specification within 21 Working Days of receipt

SIXTH SCHEDULE
COUNTY COUNCIL'S COVENANTS

1. At the written request of the Owner after the expiry of ten (10) years of the Completion of Development within a further period of one (1) year the County Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

2. If requested to do so in writing after the expiry of ten (10) years of the Completion of Development within a further period of one (1) year to pay to any person such amount of the School Transport Contribution and Public Footpath Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued.