

Dated 15 November 2019

**BABERGH DISTRICT COUNCIL**

and

**SUFFOLK COUNTY COUNCIL**

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

relating to site at the Former Angel Court Care Home Angel Street Hadleigh Ipswich,  
Suffolk, IP7 5HA

Planning Reference: DC/18/04812

THIS DEED is dated 15 November

2019

**PARTIES:**

(1) **Babergh District Council** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (referred to respectively as the context requires as **"the District Council"** and until such time as it ceases to have an interest in the Site, **"the Owner"**)

(2) **Suffolk County Council** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (referred to as **"the County Council"**)

together referred to as **"the Parties"**

**INTRODUCTION**

(A) The District Council is the local planning authority for the purposes of the Act for the area within which the Site is situated

(B) The County Council is the local planning authority for the purposes of the Act and because the District Council is not the Owner of the Site the County Council is entering into this Deed to act as an Enforcing Authority of the obligations contained in this Deed

(C) The District Council has applied for Permission under planning reference DC/18/04812 (**"the Planning Application"**)

(D) On 23 January 2019 the District Council resolved to grant Permission for the Development subject to conditions and subject to the prior completion of this Deed

(E) The District Council is the freehold owner of Land free from encumbrances which includes the Site

(F) The District Council and the County Council consider 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 Act the Parties have agreed to enter into

this Deed in order to secure the planning obligations contained in this Deed

(G) The District Council and the County Council (as appropriate) are 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)

conditions, diversion and laying of services, erection of any temporary means of enclosure, ground surveys, erection of temporary fences, temporary display of site notices and/or advertisements and 'Commence' and 'Commenced' will be construed accordingly

Completion of Development	Means the date that the last Dwelling is first Occupied.
Development	The Development of the Site to include the erection of twenty one (21) affordable dwellings following demolition of the existing former Care Home in accordance with the Permission
Dwelling	Means a dwelling (including a house flat or bungalow and including both Market Housing Units and Affordable Housing Units) to be built on the Site as part of the Development
Enforcing Authority	Means the County Council until such time the District Council ceases to have an interest in the Site after which time it means the District Council
"Habitats Sites"	those sites on the Suffolk Coast which will be included within the definition of "European site" provided in regulation 8 of the Conservation of Habitats and Species Regulations 2017 (as amended) for the purpose of those regulations
"Habitats Sites Mitigation Contribution"	the sum of up to £4,200 (four thousand two hundred pounds) to be calculated using the Habitat Mitigation Contribution Calculation to be paid to the District Council as a contribution towards the impact of development on the Habitats Sites
"Habitats Sites Mitigation Contribution Calculation"	the sum of £200 (two hundred pounds) multiplied by the total number of Dwellings proposed pursuant to the Planning

Permission to calculate the Habitats Sites Mitigation Contribution

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

Index means the All-in Tender Price Index published by the Building Costs Informative Service from time to time

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

Nominated body A management company or residents association established for the purpose of managing and maintain the public open space on the site or such other body as the District Council may elect

Occupation occupation of any Dwelling on the Site for the purposes permitted by the Permission and occupation would be deemed to have taken place when the District Council have evidence of the occupation of any Dwelling on the Site 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

Permission	The planning permission subject to conditions as may be granted by the District Council pursuant to the Planning Application 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 or if the District 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
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: <ul style="list-style-type: none"> <li>(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.</li> <li>(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;</li> <li>(c) Any person who has staircased the equity in their Shared Ownership Dwelling to 100%;</li> <li>(d) Any successor in title to paragraph a-c above.</li> </ul>
Registered Provider	means a registered provider of social housing as defined in Section 80(2) of the Housing and Regeneration Act 2008 and listed in the registers kept by the HE under Chapter 3 of that Act and approved in writing by the District Council in accordance with The Second Schedule of this Deed. If another body is permitted to

provide Affordable Housing by paragraph 3.1 of this The Second Schedule then all references herein to a Registered Provider shall be to that body and which shall for the avoidance of doubt shall include the District Council itself.

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 as 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.

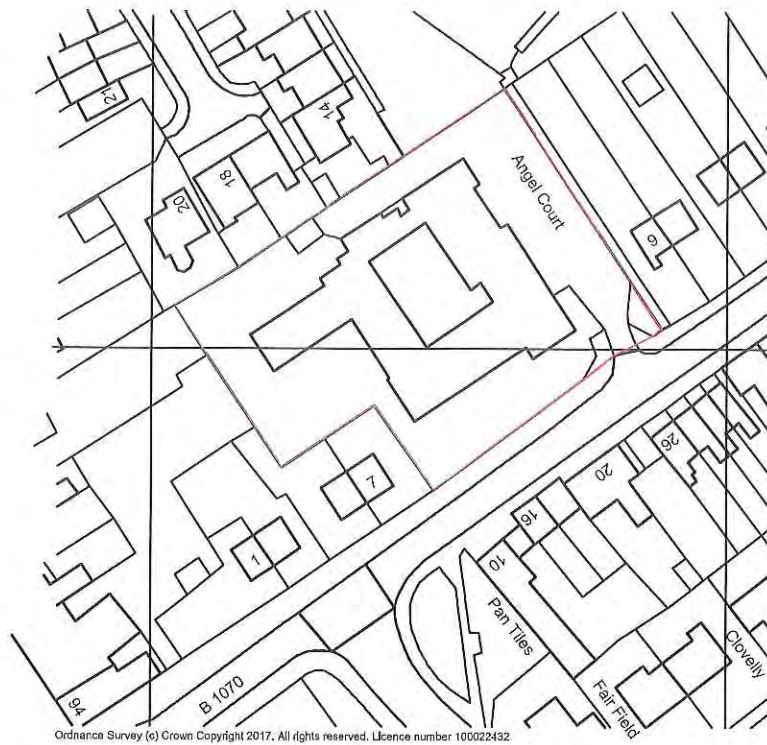
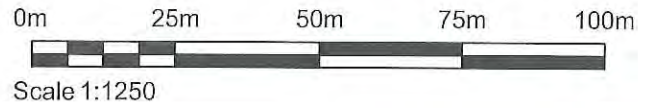
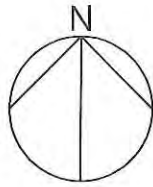
Site

	the Site described in the First Schedule against which this Deed may be enforced as shown edged red for identification purposes only on the Site Plan;
Site Plan	the plan attached to this Deed
Social Rent	Social Rent is low cost rental accommodation that is typically made available at rent levels that are set in accordance with the rent component of the Social Housing Regulator's tenancy standard. Rent levels should be calculated according to a formula based on relative property values and relative local earnings
Social Rental Unit	Means a Dwelling which is subject to Social Rent
Working Days	Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England.
Trigger	means the date of Commencement 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

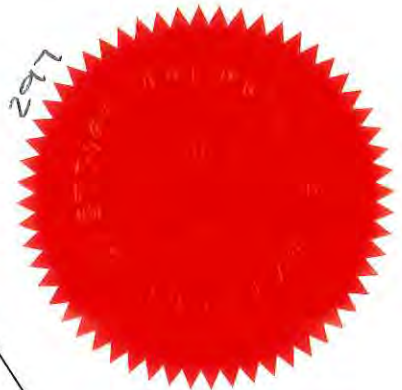
## **2 CONSTRUCTION OF THIS DEED**

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.





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24236



Project: Angel Court Angel Street Hadleigh Suffolk	Title: Location Plan		
	Drawing Number: ICANGC - IW - XX - XX - DR - A - 1000		
Client: Iceni Homes	Status: S2	Purpose of Issue: Review & Comment	Revision: P01

<b>Ingleton Wood</b>	Property and Construction Consultants
	Issuing office: Colchester
	T: 01206 224270
	www.ingletonwood.co.uk

Vision, form and function



- 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 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 severally 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 Any references to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the District Council and County Council the successors to its respective statutory functions.
- 2.7 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.
- 2.8 The headings are for reference only and shall not affect construction.
- 2.9 Any covenant by the Owner not to do an act or thing shall be deemed to include an obligation to use all reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 2.10 Any notices required to be given under the terms of this Deed may (in addition to any other valid method of service) be given or served by sending the same by recorded delivery post addressed to the party to or upon whom it is to be given or served at the address for that party given in this Deed or such other address in the United Kingdom as that party may by notice to the other parties hereto or their agent stipulate as that party's address for service of notice pursuant to this Deed or if not such address is given or stipulated at that party's last known address and any notice so given or served shall be deemed to be received and the date on which it is given or served shall be deemed to be 48 hours after posting.

### **3. LEGAL BASIS**

- 3.1 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 Enforcing Authority
- 3.2 Covenants given by more than one party can be enforced against them individually or jointly
- 3.3 A reference to an act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that act, and reference to a gender or person includes all genders or classes of person
- 3.4 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 3.5 This Deed is governed by and interpreted in accordance with the law of England

### **4. COVENANTS**

- 4.1 The District Council covenants with the Enforcing Authority so as to bind itself and its successors in title to observe and perform the obligations and stipulations contained in this Deed
- 4.2 The Enforcing Authority covenants with the District Council to comply with its obligations contained in this Deed up to and until such time as the District Council continues to have an interest in the Site.
- 4.3 Upon the District Council having disposed of its interest in the Site, it shall then become the Enforcing Authority for the purposes of this agreement and immediately releasing the County Council of its covenants under this deed.

### **5. OTHER PROVISIONS**

- 5.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site or that part of the Site in respect of which such breach occurs (unless the breach occurred before he disposed of his interest)
- 5.2 The Owner confirms that it is the owner of the Site with full power to enter into this Deed and that there is no person or body whose consent is necessary to make this Deed binding on all interests in the Site
- 5.3 Save for the obligations contained in the Third Schedule which shall continue to be binding and enforceable against individual purchasers owners occupiers lessees or their mortgagees of Affordable Dwellings subject to the provisions contained therein the covenants, restrictions and requirements contained in this Deed shall not be enforceable against:
- 5.3.1 individual purchasers or lessees of Dwellings constructed on the Site pursuant to the Permission or their mortgagees where (in relation to a breach) that breach occurs after that individual purchaser or lessee has completed the purchase or lease of the Dwelling or has entered into a binding contract for such purchase or lease
- 5.3.2 any statutory undertaker or other person who acquires any part of the Site or the Site or an interest in it for the purposes of the supply of electricity gas water telecommunications highways or any other services in connection with the Development of the Site.
- 5.4 On completion of this Deed the District Council will pay the County Council's reasonable legal costs in connection with this Deed up to a maximum sum of £500 whether or not the matter proceeds to completion. If legal costs exceed £500 the County Council will notify the District Council and require a further undertaking to meet these legal costs.
- 5.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

- 5.6 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 5.7 No waiver, express or implied, by the Enforcing Authority constitutes a continuing waiver, nor prevents the Enforcing Authority from enforcing any of the provisions in this Deed
- 5.8 This Deed shall be registerable as a local land charge by the District Council

#### INDEMNITY

the District Council shall indemnify the County Council against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the County Council arising out of or in connection with:

- (a) the District Councils breach or negligent performance or non-performance of this agreement;
- (b) the enforcement of this agreement;

#### 6. DISPUTES

- 6.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by a single Expert (the "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
- 6.2 Nothing in this Clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

#### 7. INTEREST AND VAT

- 7.1 If any payment due to the Enforcing Authority 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

7.2 All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid

## 8. NOTIFICATIONS

8.1 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 nominated in clause 8.2

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

The District Council/the Owner	The Chief Planning Officer (or a duly appointed successor) Babergh District Council, Endeavour House, 8 Russell Road, Ipswich IP1 2BX
The County Council	The Executive Director of Growth, Highways and Infrastructure (or a duly appointed successor) Endeavour House, 8 Russell Road, Ipswich IP1 2BX

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

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

EXECUTED AS A DEED by affixing  
The COMMON SEAL of  
BABERGH DISTRICT COUNCIL  
In the presence of:



[Redacted]  
Authorised Signatory

EXECUTED AS A DEED by affixing  
The COMMON SEAL of  
SUFFOLK COUNTY COUNCIL  
In the presence of:



[Redacted]  
Authorised Officer



## **FIRST SCHEDULE**

Details of the Owner's Title, and description of the Site

Freehold land being, Ipswich, IP6 8BB which forms the Site registered at the Site Registry under title number SK309545 shown edged red for identification only on the Site Plan.

**SECOND SCHEDULE**

**DRAFT PERMISSION**

**Philip Isbell – Chief Planning Officer**  
**Sustainable Communities**

**Babergh District Council**  
Endeavour House, 8 Russell Road, Ipswich IP21 2BX

Website: [www.babergh.gov.uk](http://www.babergh.gov.uk)

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## **PLANNING PERMISSION**

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

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**Correspondence Address:**

Ingleton Wood LLP  
8 Whiting Road  
Norwich Business Park  
Norwich  
NR4 6DN

**Applicant:**

Babergh District Council  
Endeavour House  
8 Russell Road  
Ipswich  
IP1 2BX

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**Date Application Received:** 01-Nov-18

**Application Reference:** DC/18/04812

**Date Registered:** 05-Nov-18

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**Proposal & Location of Development:**

Demolition of existing building and erection of 21 Affordable flats (use class C3) and associated works.

Former Angel Court Care Home, Angel Street, Hadleigh, Ipswich Suffolk IP7 5HA

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**Section A – Plans & Documents:**

This decision refers to drawing no./entitled 1000P1 received 06/11/2018 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:

Defined Red Line Plan 1000 P1 - Received 06/11/2018  
Site Plan 2006 P5 - Received 13/11/2018  
Floor Plan - Existing Ground floor plan 2100 P1 - Received 06/11/2018  
Floor Plan - Existing First floor plan 2101 P1 - Received 06/11/2018  
Floor Plan - Existing Second floor plan 2102 P1 - Received 06/11/2018  
Roof Plan - Existing 2103 P1 - Received 06/11/2018  
Elevations - Proposed 2200 P1 - Received 06/11/2018  
Elevations - Proposed 2201 P1 - Received 06/11/2018  
Street Scene - Proposed 2202 P1 - Received 06/11/2018  
Street Scene - Proposed 2203 P2 - Received 22/01/2019

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**Section B:**

Babergh District Council as Local Planning Authority, hereby give notice that **PLANNING PERMISSION**

1. ACTION REQUIRED IN ACCORDANCE WITH A SPECIFIC TIMETABLE:  
COMMENCEMENT TIME LIMIT

The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 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: MATERIALS TO BE AGREED PRIOR TO CONSTRUCTION

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4. ACTION REQUIRED: CONSTRUCTION AND DEMOLITION METHOD STATEMENT TO BE AGREED

No relevant works shall take place, including any demolition, until a Method Statement produced to give detail of either the demolition phase or construction phase, or both, has been submitted to and approved, in writing, by the Local Planning Authority. The approved Method Statement(s) shall be adhered to throughout the relevant demolition and construction period and shall provide details for:

the parking of vehicles of site operatives and visitors;

hours of deliveries and hours of work;

loading and unloading of plant and materials;

storage of plant and materials used in constructing the development;

the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

wheel washing facilities;

measures to control the emission of dust and dirt during construction; and

a scheme for recycling/disposing of waste resulting from construction works.

Reason: In order to ensure that the construction and demolition takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

5. ACTION REQUIRED PRIOR TO FIRST OCCUPATIONAL USE OF THE ACCESS.

Before the access is first used visibility splays shall be provided with an X dimension of 2.4m and a Y dimension of 90m (or to the nearest junction, whichever is closer to the access) and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (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: To ensure that sufficient sight lines are provided such that vehicles entering and exiting the site can do so in a safe and controlled manner in the interests of ensuring the safety of other users of the public highway.

6. ACTION REQUIRED DETAIL TO BE AGREED PRIOR TO FIRST OCCUPATION OF THE DEVELOPMENT

Before the development is first occupied 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

7. ACTION REQUIRED DETAILS OF PARKING REQUIRED PRIOR TO OCUPATION

The residential use shall not commence until the areas within the site shown on drawing number ICANGC-IW-DR-A-2006-S3-P4 for the purposes of loading, unloading, manoeuvring and parking of vehicles, with additional details including the provision of electric vehicle charging points and detail of secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority has been provided and thereafter that area(s) shall be retained and used for no other purposes.

Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.

8. REFUSE AND RECYCLING FACILITIES TO BE PROVIDED

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

9. ACTION REQUIRED PRIOR TO INSTALLATION OF WINDOWS AND DOORS:  
JOINERY DETAILS AGREED PRIOR TO CONSTRUCTION

Notwithstanding the detail shown within the approved plans, additional drawings detailing in elevation and section the proposed fenestration and doors and doorcases, at an appropriate scale, shall be submitted to and agreed in writing with the local planning authority prior to the installation of any new fenestration, door or doorcase within the building hereby approved.

Thereafter, the development shall be brought forward in full conformity with these approved details.

Reason: In order to preserve and enhance the character of the conservation area as well as the setting of the nearby listed buildings.

10. ACTION REQUIRED PRIOR TO WORKS: SAFEGUARDING PROTECTED TREES

No works shall take place until all trees, shrubs and other natural features not scheduled for removal on the approved plans have been safeguarded behind protective fencing to a standard that will have previously been submitted to and agreed, in writing, by the Local Planning Authority. All agreed protective fencing shall thereafter be maintained during the course of all works on site and no access, works or placement of materials or soil shall take place within the protected area(s) without prior written consent from the Local Planning Authority.

All retained existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed, fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority.

Reason: To safeguard existing trees, shrubs and other natural features within and adjoining the site in the interest of amenity.

11. NO SPECIFIC ACTION REQUIRED

No burning or storage of materials shall take place where damage could be caused to any tree, shrub or other natural feature to be retained on the site or on adjoining land (see BS 5837).

Reason: To protect the health of trees, shrubs and other natural features to be retained in the interest of amenity.

12. ACTION REQUIRED PRIOR TO DEMOLITION: EPSL FOR BATS TO BE PROCURED

Prior to the demolition of the building, a copy of the required European Protected Species Licence for bats, issued by Natural England shall be presented to the local planning authority. Should this document not be required, confirmation of this from Natural England should be produced instead.

Reason: In order for the demolition of the building to proceed in a lawful manner and to give certainty to the local planning authority as to the ecological impacts of demolition on this European Protected Species.

13. ACTION REQUIRED: LOCATION OF BAT AND BIRD BOXES TO BE INCLUDED WITHIN THE DEVELOPMENT

Prior to the first occupation of the development hereby agreed, the location of at least four built-in bat boxes or bat bricks provided at least 4m above ground level and the location of at least two house martin nest boxes provided at least 2m above ground level, shall be submitted and agreed in writing with the local planning authority. The scheme shall then be built out in accordance with the approved details.

Reason: In order to secure the ecological enhancement of the site.

14. NO ACTION REQUIRED: EXTERNAL ILLUMINATION DETAILS

No external lighting fixtures shall be constructed, installed or illuminated at any time unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: To ensure that there are no undesirable effects of light pollution

15. ACTION REQUIRED PRIOR TO CONSTRUCTION: DETAILS OF REAR BOUNDARY TREATMENT

Notwithstanding the details shown on the approved documents, additional details of the rear boundary treatment to the properties on Meadows Way shall be submitted to and approved in writing with the local planning authority prior to the construction of the required rear boundary treatment. These details shall include, layout and elevational plans at appropriate scales showing, the rear boundary treatment, materials for the boundary treatment, its height, likely levels of sunlight to reach the rear gardens of properties along Meadows Way as well as additional details on the cycle store and pergolas shown close to this boundary, including their height and location relative to the boundary treatment.

The rear boundary treatment shall then be installed on site as agreed and shown within the approved plans prior to any occupation of the building hereby approved.

Reason: In order to improve the security of these properties while maintaining an acceptable level of amenity for current and future residents.

**SUMMARY OF POLICIES WHICH ARE RELEVANT TO THE DECISION:**

- NPPF - National Planning Policy Framework
- CS01 - Applying the presumption in Favour of Sustainable Development in Babergh
- CS02 - Settlement Pattern Policy
- CS06 - Hadleigh
- CS12 - Design and Construction Standards
- CS13 - Renewable / Low Carbon Energy
- CS19 - Affordable Homes
- EN22 - Light Pollution - Outdoor Lighting
- CN01 - Design Standards
- CN06 - Listed Buildings - Alteration/Ext/COU
- CN08 - Development in/near conservation areas

**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. **Highways Note**

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. Unless otherwise agreed in writing all works within the public highway shall be carried out by the County Council or its agents at the applicant's expense. The County Council's West Area Manager should be contacted at West Suffolk House, Western Way, Bury St Edmunds, IP33 3YU. Telephone 01284 758868.

3. The granting of planning permission is separate to any consents that may be required in relation to Public Rights of Way, including the authorisation of gates. These consents are to be obtained from the Public Rights of Way & Access Team at Suffolk County Council, as the Highway Authority.

To apply to carry out work on the Public Right of Way or seek a temporary closure, visit <http://www.suffolkpublicrightsofway.org.uk/home/temporary-closure-of-a-public-right-of-way/> or telephone 0345 606 6071.

To apply for structures, such as gates, on a Public Rights of Way, visit <http://www.suffolkpublicrightsofway.org.uk/home/land-manager-information/> or telephone 0345 6066071.

4. 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.

5. PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

6. **BATS & TREES - European Protected Species**



**All species of bats are protected under the Conservation of Habitats and Species Regulations 2017, which implements the EU Directive in the UK. It is an offence to damage or destroy a breeding site or resting place of a European Protected Species or deliberately disturb any such animal.**

As it is possible that bats might be disturbed during works to trees, a visual inspection should be carried out according to the Bat Conservation Trust's publication "Bat Survey - Good Practice Guidelines". All the trees identified for felling or surgery need to be assessed for features e.g. hollow branch cavities and cracks/splits which give them potential to support bat roosts. Trees can then be assigned to different categories of potential and the mitigation required can be identified.

It is helpful if tree surgeons are trained to check for bats when trees are climbed and inspected. Ideally they need to carry out a detailed, off the ground visual assessment of features that can be used by bats. This information can then be used to provide a best expert judgement on the potential use of suitable cavities, based on the habitat preferences of bats.

With field evidence of the presence of bats in trees, a bat consultant will be required to carry out dusk and dawn surveys to establish more accurately the presence, species, numbers & type of roost present and to inform the mitigation requirements. A list of suitably qualified consultants can be supplied plus further information re specification for this survey work.

If trees with confirmed roosts need to be felled, this will require a Habitat Regulations licence, sought on health and safety grounds from Natural England. This must be held by the owner of the tree (NOT the bat consultant) and he/she will need to ensure any required mitigation is implemented e.g. the installation of equivalent habitats as a replacement. Felling must be undertaken using reasonable avoidance measures such as "soft felling" to minimise the risk of harm to individual bats.

Any confirmed bat roosts in trees which are not identified for felling should be protected and ensure they do not become isolated from other trees. Ideally a buffer ring of trees and understorey should be retained around roosts to maintain a wooded corridor.

Trees with potential but no confirmed roosts for bats can be felled without a licence. However this should be done preferably in September/October using reasonable avoidance measures e.g. lowering and cushioning techniques to reduce the impact of felling limbs which have still have bats within cavities. An expert opinion on the safety of these trees should inform the decision as to whether or not the work can be delayed until this time of year (when bats are not breeding or hibernating).

Trees which have been earmarked for dead wooding should also be surveyed to ensure arboricultural work will not affect bats.

The maximum penalty for breaches by companies, individuals and the employing organisations has been raised to £5000 and/or a 6 month custodial sentence. As the courts will decide whether the offence could reasonably have been avoided, assessment for the potential of bats in trees is essential before work is carried out.

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](mailto:infrastructure@baberghmidsuffolk.gov.uk)

This relates to document reference: DC/18/04812

**Signed: Philip Isbell**

**Dated:**

**Chief Planning Officer  
Sustainable Communities**

## 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 practice 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.

## **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.

**THIRD SCHEDULE**  
**COVENANTS FROM THE OWNER TO THE DISTRICT COUNCIL**

**Part 1**  
**AFFORDABLE HOUSING**

**1. Notices**

- 1.1. The Owner shall give to the District Council and to the County Council written notice of the Commencement of the Development within seven (7) days of Commencement.
- 1.2. The Owner shall give to the District Council and to the County Council not less than two (2) months' written notice of the anticipated date for the first Occupation of the first Dwelling to be Occupied.
- 1.3. The Owner shall give to the District Council and to the County Council not less than seven (7) days' written notice following:
  - 1.3.1. the date of the first Dwelling to be Occupied or is Occupied for the first time; and
  - 1.3.2. the Completion of the Development.

**2. Owner's obligation to construct Affordable Housing Units**

- 2.1. Having given notice under paragraph 1.1 of this Schedule the Owner shall nominate a Registered Provider. The Owner may Commence Development while this process is ongoing. In the event that the Owner retains the affordable units directly, it will do so in its capacity as a Registered Provider.
- 2.2. Unless the District Council is the Registered Provider or otherwise agreed in writing the Owner shall endeavor to agree with the District Council on the identity of the Registered Provider to which the Affordable Housing Units are to be transferred prior to Commencement of Development.

2.3. The Owner shall construct the Affordable Housing Units in accordance with the Permission, to a standard of construction which meets the Nationally Described Space Standard

2.4. Unless otherwise agreed in writing by the District Council as part of the Affordable Housing Scheme the mix and tenure of the Affordable Housing Units shall be as follows for Affordable Rental Units:

3 x 1 bed 2-person flats @ minimum 50sqm

And for Social Rental Units:

4 x 1 bed 2-person flats @ minimum 50 sqm

2 x 2 bed 4-person flats @ minimum 70 sqm

And for Shared Ownership Dwellings the mix shall be as follows:

7 x 1 bed 2-person flats @ minimum 50sqm

5 x 2 bed 4-person flats @ minimum 70sqm

2.5 All ground floor 1 bed flats for shared ownership and affordable rent to be fitted with level access showers in accordance with Building Regulations Part M (4) Category 2.

2.6 Unless the District Council is the Registered Provider and retains the Dwellings, to procure a covenant in the transfer(s) of the Affordable Housing Units that the Registered Provider(s) will enter into the Affordable Housing Nomination Agreement within one (1) month of the date of the transfer(s) to it of the Affordable Housing Units (or such other time period as is otherwise agreed in writing with the District Council)

2.7 The Owner covenants that the Affordable Housing Units 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 Nominations Agreement which confers nomination rights on the District Council unless otherwise agreed by the District Council in writing or in accordance with the Government's Help to Buy Agency requirements.

2.8 From the date of Practical Completion the Affordable Housing Units shall not be used other than for Affordable Housing as set out herein save that this obligation shall not be binding on:

2.8.1 Any Protected Person or any mortgagee or charge of the Protected Person exercising the mortgagee protection provision within the Shared Ownership Lease or any person deriving title from a Protected Person or any successor in title thereto and their respective mortgagees and charges; or

2.8.2 Any Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duty;

2.8.3 Any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor; or

2.8.4 Any mortgagee of the Shared Ownership Dwelling lawfully exercising the mortgagee protection provisions in the Shared Ownership Lease or any person or body deriving title from any such person.

2.9 Unless the District Council is the Registered Provider, 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 Babergh 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 Babergh District the funds may be spent elsewhere for the provision of affordable housing.

2.10 The Owner shall not Occupy or permit Occupation of any of the Affordable Housing Units for any purpose other than as Affordable Housing.

### **3 Future use of Affordable Housing Units**

3.1 The Owner covenants that any transfer of land on which any of the Affordable Housing Units has been constructed to a Registered Provider shall be:

3.1.1 with vacant possession;

3.1.2 free from any encumbrance other than existing at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner to any statutory undertaker);

3.1.3 subject to a grant by the Owner to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;

3.1.4 subject to a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the construction, operation use, maintenance and management of the Development;

3.1.5 subject to a covenant to enter into an Affordable Housing Nomination Agreement substantially in the form of the agreement contained in the Fifth Schedule with the District Council within three (3) months the date of the Site is transferred from the Owner to the Registered Provider unless the District Council retains the affordable units;

3.1.6 subject to a covenant that the Registered Provider shall include a pre-emption provision in its own favour in any transfer of an Affordable Housing Unit from the said Registered Provider to the owner or tenant of an Affordable Housing Unit; and

3.1.17 subject to a covenant that the Registered Provider shall use all capital receipts from the sale of Affordable Housing Units only for the purpose of providing Affordable Housing.

3.2 The obligations and restrictions contained in paragraph 3 of this Third Schedule shall not bind:

3.8.1 3.2.1 a Chargee who has complied with the provisions of paragraph 4 of this Third Schedule;

3.2.2 any Affordable Housing Unit purchased by a tenant through Social Homebuy funded pursuant to Section 19(3) Housing and Regeneration Act 2008 or a voluntary grant scheme pursuant to Section 21 Housing Act 1996 or any replacement of said schemes;  
or



3.2.3 any person or body deriving title through or from any other parties mentioned in this paragraph 3.2.

#### **4 Chargee's Duty in relation to Affordable Housing Units**

4.1 Any Chargee shall prior to seeking to dispose of any Affordable Housing Unit pursuant to any default under the terms of its mortgage or charge give prior written notice to the District Council and to the County Council of its intention to dispose.

4.2 If notice is given pursuant to paragraph 4.1 of this Schedule the following provisions shall apply:

4.2.1 In the event that the District Council and/or the County Council responds within three (3) months from receipt of a notice given pursuant to paragraph 4.1 and indicates that (a) arrangements for the transfer of any of the Affordable Housing Units can be made in such a way as to safeguard it/them as Affordable Housing Units and (b) that such a transfer would take place within six (6) months from the District Council's and/or the County Council's response under this sub-paragraph then the Chargee shall co-operate with the District Council and shall make reasonable arrangements and use reasonable endeavours to secure such a transfer.

4.2.2 If neither the District Council nor the County Council responds to a notice given pursuant to paragraph 4.1 within three (3) months then the Chargee shall be entitled to dispose of any of the Affordable Housing Units free from the restrictions set out in clauses 2 and 3 of this The Third Schedule which shall cease to apply to any of the Affordable Housing Units concerned from the time the disposal completes.

4.2.3 If the District Council or the County Council has responded in accordance with paragraph 4.2.2 but cannot secure the transfer therein described within two (2) months of its response then provided the Chargee has complied with its obligations in this Schedule the Chargee shall be entitled to dispose of any of the Affordable Housing Units free of the restrictions set out in clauses 2 and 3 which shall cease

to apply to any of the Affordable Housing Units from the time the disposal completes.

- 4.3 For the avoidance of doubt the rights and obligations in paragraphs 4.1 and 4.2 shall not require a Chargee to act contrary to its duties and rights under the charge or mortgage and the District Council must give reasonable consideration to protecting the interests of the Chargee in respect of monies outstanding under the charge or mortgage.

## **Part 2**

### **PUBLIC OPEN SPACE**

5.1 The Owner covenants with the Enforcing Authority to provide Public Open Space on the Site in accordance with the Permission and in accordance with any further details which the District Council as local planning authority has required and the Owner has supplied prior to the Commencement of Development

5.2 The District Council shall retain ownership of the land to be used as public open space in accordance with 5.1 above unless such land is transferred to an appropriate Nominated Body such transfer to include a covenant that the land shall be retained and maintained as open space for the benefit of all residents of the Development

## **Part 3**

### **HABITATS SITES MITIGATION CONTRIBUTION**

6.1 The Owner covenants to pay the Habitats Sites Mitigation Contribution to the Enforcing Authority prior to occupation of the first dwelling

6.2 The Owner covenants not to cause or permit Occupation of any dwelling on the Site until the Habitats Sites Mitigation Contribution has first been paid in full to the Enforcing Authority

6.3 In the event that the Habitats Sites Mitigation Contribution remains unpaid after 28 days of Commencement of Development Interest will be payable from the date that the sum fell due until the date of actual payment

#### **FOURTH SCHEDULE**

##### **Enforcing Authority Obligations**

###### **Part 1**

###### **Covenants by the County Council acting as Enforcing Authority**

The County Council covenants with the Owner as follows:

In the event that any financial contribution payable under this Deed is paid to the County Council in its capacity as Enforcing Authority it will hold those contributions in an interest-bearing account;

###### **Part 2**

###### **Covenants by the District Council with the County Council**

The District Council covenants with the County Council as follows:

1. to indemnify the County Council against all costs claims and demands in connection with its obligations in this Deed as Enforcing Authority including but not limited to monitoring compliance where requested and enforcement of any obligations breached
2. to accept payment of any financial contribution and deposit the same into an interest-bearing account.
3. to apply the financial contributions and any interest accrued in accordance with the obligations contained in this Deed

## FIFTH SCHEDULE

### DRAFT NOMINATION AGREEMENT

LAND AT FORMER ANGEL COURT CARE HOME ANGEL STREET HADLEIGH IPSWICH, IP7 5HA

THIS DEED OF NOMINATION RIGHTS is made on the                      day of XX month of 20XX

BETWEEN:

(1)            (name of registered provider) [company number (number)] whose registered address is at (address) ('the RP') and

(2)            BABERGH DISTRICT COUNCIL of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX ('the District Council)

#### 1. DEFINITIONS

In this Deed:

- 1.1            'Initial Let' means the first tenancy or lease of a newly constructed and previously unoccupied Rented Unit
- 1.2            'Local Connection' means in relation to an individual such individual who:
- 1.2.1           immediately before taking up occupation of a Rented Unit had his only or principal home in the district of Mid Suffolk for a continuous period of not less than two (2) years or
- 1.2.2           has or a member of whose household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less than two (2) years in the district of Babergh and he wishes to be near that relative or
- 1.2.3           is and has been permanently employed in the district of Babergh or a continuous period of not less than two (2) years
- 1.3            'Nomination List' means the list (as may be updated from time to time in accordance with clause 3.3.3) to be supplied by the District Council giving the names of persons whom the District Council considers to have a Local Connection
- 1.4            'Nominee' means a person named in the Nomination List who satisfies the Local Connection and is specified by the District Council as being suitable for the category of Rented Unit in respect of which the RP is in accordance with this Deed to select a person from the Nomination List to offer a Tenancy Agreement
- 1.5            'Property' means the Site shown edged red on the attached plan in Angel Street, Hadleigh, Suffolk
- 1.6            'Rented Units' means the dwellings consisting of nine (9) dwellings
- 1.7            ('S106 Agreement' means the S106 agreement (dated                      ) relating to the development of land at the.
- 1.10           'Subsequent Nominee' means a Nominee to be offered a Tenancy Agreement pursuant to clause 3.2.3
- 1.11           'Tenancy Agreement' [means an assured tenancy agreement or other form of tenancy agreement in a form prepared by the RP and containing terms which accord with the form of tenancy agreement being used by the RP from time to time for its general lettings]

- 1.12 'Vacancy Notice' means a written notice given by the RP to the District Council [in the form of the draft annexed (or) (in a form to be agreed between the RP and the District Council within five (5) weeks from the date of this Deed)] the function of such notice being the notification to the District Council by the RP that the construction and fitting out of the Rented Unit is completed
- 1.13 'Void' means a Rented Unit which is vacant as a result of the tenant vacating but for the avoidance of doubt shall not include temporary decamps in the event the Rented Unit needs repairs or in the event of a mutual exchange
- 1.14 'Void Notice' means a written notice given by the RP to the District Council [in the form of the draft annexed (or) (in a form to be agreed between the RP and the District Council within five (5) weeks from the date of this Deed)] the function of such a notice being the notification to the District Council of a Void

## **2. ENABLING PROVISIONS**

This Agreement is made pursuant to the Local Government Act 1972 Section 111 and all other enabling powers and the Local Government (Miscellaneous Provisions) Act 1982 Section 33

## **3. PROCEDURE**

The parties agree that the following nomination procedure shall apply to the nomination of persons in respect of the Rented Units

### **3.1 Initial Lets**

The Association hereby grants the Council Nomination rights for 100% of the initial lets and thereafter 100% for voids in relation to the Affordable Rented Dwellings. In relation to the Initial Lets of the Affordable Housing Units the following provisions shall apply: -

- 3.1.1 The RP shall give the District Council not less than two (2) months written notice of the anticipated date when the Rented Units will be ready for occupation
- 3.1.2 The RP shall serve Vacancy Notices in respect of the Rented Units not less than one (1) month prior to such newly constructed and previously unoccupied Rented Units becoming available for occupation
- 3.1.3 The District Council shall within five (5) Working Days of receipt of a Vacancy Notice serve upon the RP a Nomination List for rented dwellings
- 3.1.4 The Nomination List to be served by the District Council under clause 3.1.3 shall:
- 3.1.4.1 specify the appropriate category of Rented Unit; and
  - 3.1.4.2 indicate the priority for the housing of the persons named
- 3.1.5 The RP shall have the right to grant the Initial Let in respect of the Rented Units to persons of its own choosing in the event of the District Council's failure to serve the Nomination List within the period of 5 Working Days of receipt of the Vacancy Notice
- 3.1.6 The RP shall within ten (10) Working Days of the date of receipt of the Nomination List select a Nominee from the Nomination List taking into account the priority for housing indicated by the District Council and shall use its reasonable endeavours to arrange a viewing of the relevant Rented Unit and offer a Tenancy Agreement to such selected Nominee
- 3.1.7 If the selected Nominee fails to enter into a Tenancy Agreement within five (5) Working Days of receipt of the RP's offer such selected Nominee shall be deemed to have rejected the RP's offer and the

RP shall select and make an offer to another Nominee by repeating the procedure set out in clause 3.1.6

3.1.8 If the second selected Nominee fails to enter into a Tenancy Agreement within five (5) Working Days of receipt of the RP's offer then such second selected Nominee shall be deemed to have rejected the RP's offer and the RP shall select and make an offer to a third Nominee by repeating the procedure set out in clause

3.1.9 If such third selected Nominee fails to enter into a Tenancy Agreement within five (5) Working Days of receipt of the RP's offer then the RP shall not be bound to make any further offers of accommodation to Nominees in respect of such vacancy of the Rented Unit but shall be entitled to let the Rented Unit to a tenant of its own choosing

3.1.10 The RP's obligations under clauses 3.1.6-3.1.8 shall cease when all of the Rented Units have been offered to Nominees in accordance with clauses 3.1.6-3.1.8

### **3.2 Voids**

3.2.1 Should a Rented Unit become a Void after the Initial Let or the RP has reasonable cause to believe it will become a Void then and in each case:

3.2.1.1 the RP shall serve a Void Notice in respect of the relevant vacant Rented Unit and

3.2.1.2 within 5 Working Days of receipt of the said notice the District Council shall serve upon the RP a Nomination List which shall contain the information referred to in clause 3.1.4

3.2.2 The RP shall have the right to let the relevant vacant Rented Unit to a person of its own choosing in the event of the District Council's failure to serve the Nomination List within 5 Working Days of receipt of the Void Notice

3.2.3 Upon receipt of the Nomination List the RP shall follow the procedure set out in clauses 3.1.6-3.1.8 mutatis mutandis

3.2.4 The RP shall not be obliged to follow the procedure set out in clauses 3.2.1 and 3.2.3 if it would result in the number of Rented Units occupied by Subsequent Nominees exceeding 75% of the Rented Units available after the initial Let

### **3.3 Provision of information and alteration of lists**

3.3.1 The RP shall give notification to the District Council of the occurrence of the following events within five (5) Working Days of their occurrence:

3.3.1.1 a Nominee failing to view a Rented Unit when a viewing has been arranged

3.3.1.2 a Nominee failing to accept the offer of a Tenancy Agreement within the time limit prescribed by this Agreement

3.3.1.3 a Nominee accepting an offer of a Tenancy Agreement

3.3.1.4 a person accepting an offer of a tenancy from the RP

3.3.1.5 the RP rejecting a Nominee in accordance with clause 3.3.7

3.3.2 In the event of a notice being served pursuant to clause 3.3.1 then the name of any such Nominee shall be removed from the Nomination List

3.3.3 Within five (5) Working Days of the District Council receiving notice served in accordance with clause 3.3.1 save for notice under clause 3.3.1.4 the District Council shall serve upon the RP the name and

address of a Nominee to add to the Nomination List such notice to include the information set out in clause 3.1.4

3.3.4 If the District Council shall within the period mentioned in clause 3.3.3 notify the RP that the District Council then has no suitable Nominee the District Council shall advise the RP of a suitable replacement Nominee as soon as reasonably practicable

3.3.5 The RP shall have the right to let a Rented Unit to a person of its choosing if the District Council's failure to provide a Nominee creates a Void in respect of that Rented Unit

3.3.6 On 1st January 1st April 1st July and 1st October in each year the RP shall serve the District Council with details of the letting activities of the Rented Units in a format to be agreed between the RP and the District Council

3.3.7 The RP shall have the right to interview and make enquiries of each Nominee and by serving written notice upon the District Council to that effect to reject any Nominee if in the opinion of the RP the grant of an assured tenancy to such Nominee would be in contravention of the RP's registered rules or its' letting criteria

3.3.8 The District Council shall immediately notify the RP in writing if any Nominee is withdrawn from the Nomination List

3.3.9 When calculating percentages for the purposes of this Deed percentages in excess of 0.5 shall be rounded up and percentages equal to or less than 0.5 shall be rounded down

3.3.10 The District Council and the RP agree that the nomination rights contained in this Deed may be varied from time to time by agreement in writing by the parties

#### **4. NOTICES**

Any notice required to be served hereunder shall be sufficiently served on the parties at the address indicated above or such other address notified by one party to the other and any notice shall be deemed to have been served two (2) Working Days after posting

#### **5. TRANSFERS TO OTHER REGISTERED PROVIDERS**

The RP shall ensure that any registered provider to which the Property and Rented Units erected thereon are transferred otherwise than by direction of Homes England under its statutory powers shall enter into a similar agreement mutatis mutandis with the District Council

#### **6. DISPUTES**

Where any matters fail to be agreed between the parties or any dispute or difference occurs the question shall be referred on the application of either party for the determination of a single expert to be agreed between the parties or in default of agreement to be nominated by or on behalf of the President for the time being of the Chartered Institute of Housing on the application of either party

#### **7. COSTS**

The RP agrees with the District Council to pay the legal costs which the District Council incurs in preparing and entering into this deed

#### **8. AGREEMENTS AND DECLARATIONS**

The parties agree that:

8.1 nothing in this Deed fetters or restricts the exercise by the District Council of any of its powers

8.2 the obligations contained in this Deed are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 Section 33

#### **9. EXCLUSION CLAUSE**

The provisions of this deed shall not be binding upon or enforceable against:

- 1.1 any person exercising a statutory right to buy or acquire any affordable housing unit their successors in title and any mortgagee of that unit
- 1.2 Any mortgagee or chargee (or any receiver appointed by such mortgagee or charge) of an RP (provided that such mortgagee charge or receiver shall have first complied with the procedure in [paragraph 1.5] of the Third Schedule of the S106 Agreement) and their successors in title

SIGNED AS A DEED BY [RP ]

In the presence of:

Witness' signature:

Name

Address

Occupation

EXECUTED AS A DEED by affixing

The COMMON SEAL of

**BABERGH DISTRICT COUNCIL**

In the presence of:

Authorised Signatory





