


**Planning Obligation by Deed of Agreement  
under Section 106 and Section 106 A of the  
Town and Country Planning Act 1990**  
relating to land at Garden Centre, Cumberland  
Street, Woodbridge IP12 4AF

Dated: 13<sup>th</sup> January

20  
2018 

**EAST SUFFOLK COUNCIL (1)  
SUFFOLK COUNTY COUNCIL (2)  
NOTCUTTS LIMITED (3)**

Mrs. H. J. Slater,  
Solicitor, Head of Legal and Democratic Services,  
East Suffolk Council,  
Riverside  
4 Canning road  
Lowestoft  
Suffolk  
NR33 0EQ

Ref JB/DC/17/0236/FUL

DATE 13<sup>th</sup> January

2019 

#### PARTIES

- (1) **EAST SUFFOLK COUNCIL** of Riverside, 4 Canning Road, Lowestoft, Suffolk, NR33 0EQ ("the Council").
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX ("the County Council")
- (3) **NOTCUTTS LIMITED** (company registration number 393104) whose registered office is at The Nursery, Cumberland Street, Woodbridge, Suffolk IP12 4AF ("the Owner").

the "PARTIES"

#### INTRODUCTION

- 1 The Council is the local planning authority for the purposes of the 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 the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated
- 3 The Owner is the freehold owner of the Site and has submitted the Additional Application to the Council
- 4 On 21 December 2005 the Council, the County Council and the Owner entered into an agreement pursuant to s106 of the Act relating to land at Ipswich Road, Woodbridge, Suffolk relating to the Application as defined within the Existing Section 106 Agreement
- 5 On 22 February 2018 the Council, the County Council and the Owner entered into the Deed of Variation which varied the Existing Section 106 Agreement
- 6 The Council's Planning Committee resolved on 16 November 2017 to grant the Planning Permission subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations contained in the Deed.

- 7 The Council and the Owner acknowledges 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.
- 8 Save as provided under this Deed the Parties confirm and intend that the terms of the Existing Section 106 Agreement and the Deed of Variation shall remain in full force and effect
- 9 The County Council is party to this Deed as obligations contained in the Existing Section 106 Agreement and the Deed of Variation are to be removed
- 10 The Council in resolving to approve the Additional Application is satisfied that the planning obligations sought under the provisions of this Deed meets the test set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES AS FOLLOWS:

#### **OPERATIVE PART**

##### **1 DEFINITIONS**

For the purposes of this Deed the following expressions shall have the following meanings and shall be read in conjunction with the definitions set out in the Third Schedule:

"Ac:"	the Town and Country Planning Act 1990 as amended;
"Additional Application"	the application for full planning permission validated by the Council on the 23 January 2017 and allocated reference number DC/17/0236/FUL;
"Application Site Plan"	the plan attached to this Deed entitled "Application Site Plan";
"Commencement of Development"	the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried

out on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of 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, the temporary display of site notices or advertisements or the erection of temporary fences and "Commence Development" shall be construed accordingly;

"Deed of Variation"

the Deed of Variation to the Existing S106 Agreement between the Owner, the Council and the County Council to vary the Agreement for Lease of Public Open Space dated 22 February 2018

"Development"

the development of the Site for the demolition of existing buildings associated with a landscape yard and erection of 24 flats with associated parking and amenity space pursuant to the Additional Application

"Dwelling"

any dwelling (including a house bungalow flat or maisonette) to be constructed pursuant to the Planning Permission

"Existing Section 106 Agreement"

the Section 106 Agreement dated 21 December 2005 between the Council (1) the County Council (2) and the Owner (3) entered into as part of the Outline Planning Permission to provide on-site affordable housing units, education contribution, on site open space and management and medical contract

"Extension of Time Application"	the application to extend the approval time for reserved matters C08/0136 submitted to the Council and allocated reference number C11/1087/FUL and approved on 22 July 2011
"Final Reserved Matters Application"	the application submitted to the Council for the erection of one block of 24 one and two bed flats with associated parking, bin and cycle stores (submission of details under outline planning permission C04/1823) and allocated reference number C08/0136/ARM
"Occupation" and "Occupied"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, internal and external refurbishment, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations;
"Outline Planning Permission"	the outline planning permission granted on the Site allocated reference number C04/1823 and approved 21 December 2005 part of which has been developed under the Reserved Matters Applications except the Final Reserved Matters Application"
"Planning Permission"	the full planning permission subject to conditions to be granted by the Council pursuant to the Additional Application substantially as set out in the draft as set out in the Second Schedule Part One;
"Reserved Matters Application"	the reserved matters applications submitted pursuant to the Outline Planning Permission as listed at Second Schedule Part Two – Reserved Matters Applications

"Section 106 Officer"	the officer so designated by the Council and any notice required to be served on the Section 106 Officer must be sent or delivered to the Council at the address aforesaid marked for the attention of the Section 106 Officer (unless otherwise agreed with the Council);
"Site"	the land described in the First Schedule against which this Deed may be enforced as shown edged red for identification purposes only on the Application Site Plan;
"Working Days"	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, 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.
- 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 Council and the County Council the successors to their respective statutory functions.
- 2.7 The headings are for reference only and shall not affect construction.
- 2.8 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.
- 2.9 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 and 106A of the Act and to the extent that it does not contain planning obligations 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 that are planning obligations pursuant to Section 106 of the Act are enforceable by the Council and the County Council as the local planning authorities against the Owner and their successors in title.
- 3.3 None of the covenants in this Deed on the part of the Owner shall be binding on those persons who purchase (including purchasers by way of long lease) any Dwelling for Occupation by themselves or their lessees tenants or individuals of the Dwellings or any successor in title to such persons
- 3.4 Any variation of this Deed is to be by way of a formal variation by deed between all the Parties unless there is express provision in this Deed otherwise.

#### **4 CONDITIONALITY**

The provisions set out in this Deed are conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of this Clause and Clauses 8.12, 12 and 13 which shall take effect immediately upon completion of this Deed.

#### **5 THE OWNER'S COVENANTS**

5.1 The Owner hereby covenants with the Council as set out in the Third Schedule and Fourth Schedule so as to bind the Site and each and every part thereof.

5.2 The Owner warrants that they are the freehold owner of the Site and have full power and capacity to enter into this Deed and that there is no other party or person having a charge or any other interest in or over the Site whose consent is necessary to make this Deed binding on the Site and all estates and interests therein.

#### **6. COUNCIL'S COVENANTS**

6.1 The Council hereby covenants with the Owner as set out in the Fifth Schedule and where relevant covenants with the Owner in respect of obligations on the Council in the Fourth Schedule

#### **7 VARIATION**

7.1 The Parties agree that the Existing Section 106 Agreement shall be further varied in accordance with the provisions of the Third Schedule, and that other than as varied by this Deed, the Existing Section 106 Agreement as varied by the Deed of Variation shall continue in full force and effect.

#### **8 MISCELLANEOUS**

8.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

8.2 This Deed shall be registrable as a local land charge by the Council.

8.3 Where the agreement, approval, consent or expression of satisfaction is required or requested by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be



unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Planning Services (or the officer of the Council fulfilling such functions) and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

- 8.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith on the written request of the Owner mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.5 Insofar as any clause or clauses of this Deed are 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.
- 8.6 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 (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 8.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site (or that part of the Site in respect of which such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest AND FOR THE AVOIDANCE OF DOUBT neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site (or any part or parts of the Site) shall constitute an interest for the purposes of this Clause.
- 8.8 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
- 8.9 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.
- 8.10 The Owner covenants from the date that this Deed takes effect to allow the Council and County Council, and its respectively duly authorised officers or agents at all reasonable times following at least three days' prior notice to enter into and upon the Site for the purposes of monitoring compliance with the provisions of this Deed.

- 8.11 The Owner hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Deed are hereby waived.
- 8.12 The Owner covenants to pay the Council's reasonable legal costs incurred in the preparation and negotiation of this Deed on completion of this Deed.
- 8.13 The Owner covenants to pay to the County Council its reasonable legal costs incurred in the preparation and negotiation of this Deed on completion of this Deed.

**9 WAIVER**

No waiver (whether expressed or implied) by the Council or 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 Council or the Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

**10 CHANGE IN OWNERSHIP**

The Owner agrees with the Council to give the Council written notice within 10 Working Days of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice quoting the Council's reference DC/17/0236/FUL 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 purchased by reference to a plan and the title number or numbers thereof PROVIDED THAT this obligation shall not apply to any disposal to any of the statutory utilities for their operational purposes or to any mortgagee or chargee of the Site AND FOR THE AVOIDANCE OF DOUBT the Owner shall not be obligated by this obligation to notify the Council of the Disposal of individual Dwellings to individual private owners.

**11 DISPUTE PROVISIONS**

- 11.1 In the event of any dispute or difference arising between any of the Parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with

such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the Parties in the absence of manifest error and any costs shall be payable by the Parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the Parties to the dispute in equal shares.

- 11.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 11.1 or as to the appropriateness of the professional body within twenty (20) Working Days from the date a party requests confirmation of the person to be appointed pursuant to Clause 11.1 then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all Parties in the absence of manifest error and his costs shall be payable by the Parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the Parties to the dispute in equal shares.
- 11.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant Parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty (20) Working Days after the conclusion of any hearing that takes place or twenty (20) Working Days after he has received any file or written representation.
- 11.4 The expert shall be required to give notice to each of the said Parties to the dispute requiring them to submit to him within ten (10) Working Days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) Working Days.
- 11.5 The provisions of this clause shall not affect the ability of the Council 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.

## 12 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the Parties submit to the non-exclusive jurisdiction of the courts of England.

**13 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.

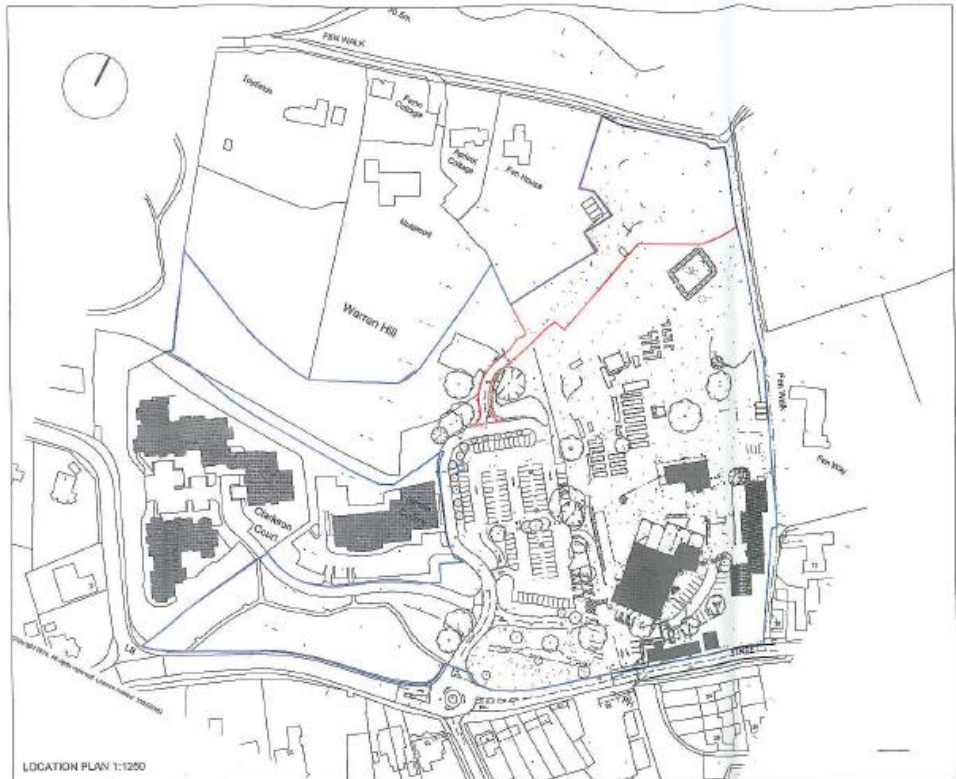
IN WITNESS whereof the Parties hereto have executed this Deed on the day and year first before written.

## **FIRST SCHEDULE**

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

Freehold land at Notcutts Garden Centre, Cumberland Street, Woodbridge IP12 4AF within registered title number SK390731 shown edged red for identification only on the Application Site Plan

THIS DOCUMENT IS THE PROPERTY OF STANLEY BRAGG ARCHITECTS. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. WITHOUT THE WRITTEN PERMISSION OF STANLEY BRAGG ARCHITECTS.



24292



— RED LINE BOUNDARY  
— NOTCUTTS OWNERSHIP

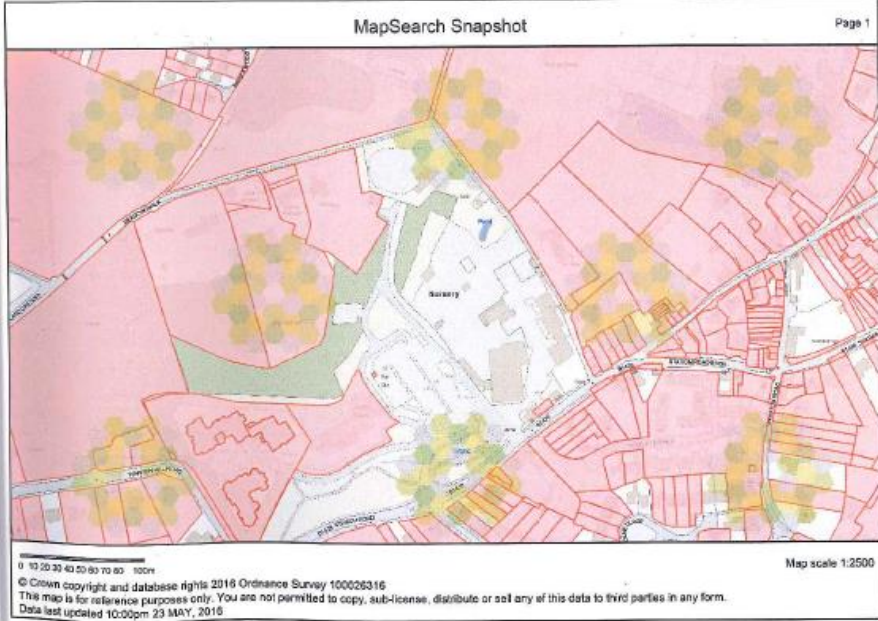
A. PLANNING PERMISSION	DS 27/16
REV. DATE	DSN DATE

DESIGN	SKETCHES
PRELIMINARY	TRACES
APPROVAL	CONSTRUCTION
S. PLANNING	AS BUILT

**Stanley Bragg**  
ARCHITECTS

15 VALLEY MILL ROAD, WOODBRIDGE, ESSEX, S.S.17 7JG  
TEL: 01206 811111 FAX: 01206 811112  
WWW.STANLEYBRAGGARCHITECTS.CO.UK

CLIENT	NOTCUTTS
PROJECT	WOODBRIDGE RESIDENTIAL
DRAWING	BLOCK PLAN
SCALE	1:1250 @ A1
DATE	OCTOBER 2016
PROJECT NUMBER	6423/1164
ISSUED	TV
REVISION	GR
APPROVED	A





**DRAFT**

Robert Pomery  
Pomery Planning Consultants Ltd  
Pappus House  
Tollgate West  
Stanway  
Colchester  
CO2 7DF

## Planning Permission

**Town and Country Planning Act 1990**

**The Town and Country Planning (Development Management Procedure) (England) Order 2015**

<b>Our reference</b>	DC/17/0236/FUL
<b>Date valid</b>	23 January 2017
<b>Site</b>	Garden Centre , Cumberland Street, Woodbridge
<b>Parish</b>	Woodbridge
<b>Proposal</b>	Demolition of existing Buildings associated with a Landscape Yard and Erection of 24 Flats with associated Parking and Amenity Space

Permission is hereby **granted** by East Suffolk Council as local planning authority for the purposes of the Town and Country Planning Act 1990, for development in complete accordance with the application shown above, the plan(s) and information contained in the application, and subject to compliance with the following conditions as set out below. Your further attention is drawn to any informatives that may have been included.

In determining the application, the council has given due weight to all material planning considerations including policies within the development plan as follows:

**DRAFT**

### Conditions:

1. The development hereby permitted shall be begun within a period of three years beginning with the date of this permission.

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall be completed in all respects strictly in accordance with drawings 6423/1302 Rev A; /1301; /1102 Rev B; /1103 Rev A; /1105 Rev A; /1201 Rev A; /1202 Rev A; /1204 Rev A; Surface Water Drainage Strategy ref 3218 dated June 2017; SUDS Plan 3214/1 Rev 0; Phase 1 Ecological Survey dated 17/10/16; the Badger Survey dated 17/11/16; Preliminary Investigation Report dated November 2016; submitted tree survey; submitted Arboricultural Impact Assessment; and the submitted Archaeological Desk Based Assessment, for which permission is hereby granted or which are subsequently submitted to and approved by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

Reason: For the avoidance of doubt as to what has been considered and approved.

3. None of the trees or hedges shown to be retained on the approved plan shall be lopped, topped, pruned, uprooted, felled, wilfully damaged or in any other way destroyed or removed without the prior written consent of the local planning authority. Any trees or hedges removed, dying, being severely damaged or becoming seriously diseased within five years of the completion of the development shall be replaced during the first available planting season, with trees or hedges of a size and species, which shall previously have been agreed in writing by the local planning authority.

Reason: To safeguard the contribution to the character of the locality provided by the trees and hedgerow.

4. The tree protection measure set out in the submitted Arboricultural Impact Assessment shall be implemented in full. Unless otherwise agreed in writing with the local planning authority at no time during the development shall there be any materials, plant or equipment stored, or building or excavation works of any kind undertaken, beneath the canopies of the trees and hedges, and all fencing shall be retained and maintained until the development is complete.

Reason: To ensure adequate protection of the existing trees to ensure their retention in the interests of visual amenity

5. Within 3 month(s) of commencement of development, precise details of a scheme of landscape works (which term shall include tree and shrub planting, grass, earthworks, driveway construction, parking areas patios, hard surfaces etc, and other operations as appropriate) at a scale not less than 1:200 shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that there is a well laid out landscaping scheme in the interest of visual amenity.

6. The approved landscaping scheme shall be implemented not later than the first planting season following commencement of the development (or within such extended period as the

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT

DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ

DX: 41220 Lowestoft



local planning authority may allow) and shall thereafter be retained and maintained for a period of 5 years. Any plant material removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season and shall be retained and maintained.

Reason: To ensure the submission and implementation of a well-laid out scheme of landscaping in the interest of visual amenity.

7. Details of all external facing and roofing materials shall be submitted to and approved by the Local Planning Authority before development commences. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory external appearance of the development.

8. Before occupation of the building a pedestrian link to Fen Walk shall have been laid out and completed in accordance with details that have previously been submitted to and agreed in writing with the local planning authority. Thereafter the link shall be retained in the specified form.

Reason: To ensure that the development has a dedicated pedestrian access to promote sustainable travel.

9. The use shall not commence until the area(s) within the site shown on Drawing No. 6423/1102 Rev B for the purposes of [LOADING, UNLOADING,] manoeuvring and parking of vehicles 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.

10. Before the development is commenced details of the area to be provided for 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 ensure the provision and long term maintenance of adequate on-site space for the storage of cycles to promote sustainable travel.

11. No development shall commence until details of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority.

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure that the proposed development can be adequately drained

12. No development shall commence until details of the implementation, maintenance and management of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority. The strategy shall be implemented and thereafter managed and maintained in accordance with the approved details.

Reason: To ensure clear arrangements are in place for ongoing operation and maintenance of the disposal of surface water drainage.

13. No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

14. The recommendations of the submitted Ecology surveys shall be implemented in full  
Reason: In the interests of protecting the biodiversity of the site and ensuring protected species and their habitat are not harmed.

15. Prior to the commencement of development, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

19. Prior to the occupation of any flats adequate provision shall be made for the provision of fire hydrants on site in accordance with details that have previously been agreed in writing with the local planning authority.  
Reason: In the interests of fire safety.
20. No development shall commence until, full details of the position of all services (including drains, cables and pipes) and their means of installation shall be submitted to and approved in writing to the Local Planning Authority. All services shall be installed and retained in such approved positions.  
Reason: To protect the trees during the course of development in the interests of visual amenity.
21. No development shall commence until a plan has been submitted to and approved in writing by the local planning authority showing finished floor, eaves and ridge heights of the building hereby permitted relative to Fen House and Fen Meadow Walk. The development should be carried out strictly in accordance with the approved plans.  
Reason: In the interest of visual and residential amenity.
22. No external lighting shall be installed unless provided in accordance with details that have previously been submitted to and agreed in writing with the local planning authority.  
Reason: In the interests of visual amenity, and to avoid unnecessary light pollution.

**Informatives:**

1. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.
2. Planning Act 2008 (Part 11) and the Community Infrastructure Levy Regulations 2010 (as amended)

The proposed development referred to in this planning permission is a chargeable development liable to pay Community Infrastructure Levy (CIL) under Part 11 of the Planning Act 2008 and the CIL Regulations 2010 (as amended).

Please note: the Council will issue a Liability Notice for the development once liability has been assumed. Liability must be assumed prior to the commencement of development. Failure to comply with the correct process as detailed in the regulations may result in surcharges and enforcement action and the liable party will lose the right to pay by instalments. Full details of the process for the payment of CIL can be found at <http://www.eastsuffolk.gov.uk/planning/community-infrastructure-levy/>

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

3. This permission is subject to the completion of a Section 106 legal agreement for the provision of affordable housing contribution..

Yours sincerely,



**DRAFT**

**Philip Ridley BSc (Hons) MRTPI | Head of Planning & Coastal Management**  
East Suffolk Council

Date:

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

Please read notes below

#### Note

Most work, including change of use, has to comply with Building Regulations. Have you made an application or given notice before work is commenced?

#### Town and Country Planning Act 1990

**Notification to be sent to an applicant when a local planning authority refuse planning permission or grant it subject to conditions**

#### Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.  
Planning applications: Sections 78 and 79 Town & Country Planning Act 1990  
  
Listed Building applications: Section 20, 21 and 22 Planning (Listed Buildings and Conservation Areas) Act 1990.  
  
Advertisement applications: Section 220 and 221, Town and Country Planning Act 1990  
Regulation 15 Town & Country Planning (Control of Advertisements) Regulations 1989.
- If an enforcement notice has been/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 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- As this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

***DRAFT***

---

LEGAL ADDRESS East Suffolk House, Station Road, Melton, Woodbridge IP12 1RT  
DX: 41400 Woodbridge

POSTAL ADDRESS Riverside, 4 Canning Road, Lowestoft NR33 0EQ  
DX: 41220 Lowestoft

## SECOND SCHEDULE - PART 2

### Reserved Matters Applications

Application Number	Proposal
C05/1380/ARM	Erection of doctors surgery with associated car parking (Part submission of Reserved Matters under Outline Planning Permission C04/1823/OUT)
C06/0011/ARM	Part submission of reserved matters under outline planning permission C04/1823/OUT (relating to refurbishment & extension of garden centre, erection of medical centre & housing with access, parking, public open space & landscaping) - construction of roads
C06/1748/ARM	Proposed development of 69 sheltered apartments (category II accommodation), house managers apartment, communal facilities, landscaping & associated car parking.
C07/0632/ARM	Construction of part internal road system & footpaths, parking area, external lighting & structural landscaping (part submission of details under C04/1823)
C08/0136/ARM	Erection of one block of 24 one and two bed flats with associated parking, bin and cycle stores (submission of details under outline planning permission C04/1823)
C08/1601/ARM	Construction of car park, installation of external lighting and provision of surface water disposal (part submission of details under outline planning permission C04/1823)
C08/2212/ARM	Refurbishment and extension of garden centre (part submission of reserved matters under outline planning permission C04/1823)

For the avoidance of doubt the Extension of Time Application can no longer be implemented as it has expired



## THIRD SCHEDULE

### Variations to the Existing Section 106 Agreement

1. Insert after Clause 3.7 of the Existing Section 106 Agreement the following *"None of the covenants in this Deed on the part of the Owner shall be binding on those persons who purchase (including purchasers by way of long lease) any Dwelling for Occupation by themselves or their lessees tenants or individuals of the Dwellings"*
2. Clause 4 – Covenants (Affordable Housing) of the Existing Section 106 Agreement shall be deleted
3. Clause 5 – Owner's Covenants (Education Contribution) of the Existing Section 106 Agreement shall be deleted
4. Clause 6 – County Council's Obligations (Education Contribution) of the Existing Section 106 Agreement shall be deleted

## FOURTH SCHEDULE

### Owner's Covenants

#### New Obligations for the Additional Application

##### 1. Affordable Housing Contribution and Overage Clause

<b>Affordable Housing</b>	means subsidised housing that will be available to persons who cannot afford to buy or rent housing generally available on the open market
<b>Affordable Housing Uplift</b>	means the sum of 50% of the Profit Margin calculated by deducting the Development Costs from the Gross Sale Receipts and not exceeding the Affordable Housing Uplift Cap
<b>Affordable Housing Uplift Cap</b>	means the amount which is £217,000 (Two Hundred and Seventeen Thousand Pounds)
<b>Affordable Housing Uplift Calculation</b>	means the calculation of the Affordable Housing Uplift required to be submitted to be set out substantially in the form as attached at Appendix 1
<b>Affordable Housing Uplift Contribution</b>	means the amount payable if the Affordable Housing Uplift is greater than zero but subject to a maximum equivalent to the Affordable Housing Uplift Cap
<b>Development Costs</b>	means the Off Site Affordable Housing Contribution together with the full costs reasonably and properly incurred by the Owner associated with the construction of the Development and disposal of the Dwellings and for the avoidance of doubt shall include all items as detailed in Appendix 1
<b>Disposal</b>	means the unconditional and completed sale of a freehold or leasehold interest for a premium in a dwelling
<b>Final Affordable Housing Uplift Contribution</b>	means the amount payable after the Affordable Housing Uplift Calculation has been re-calculated upon the sale of the last

	Market Housing Unit provided that the Affordable Housing Uplift is greater than zero after deducting the Intermediate Affordable Uplift Contribution but subject to a maximum when combined with the Intermediate Affordable Housing Uplift Contribution equivalent to the Affordable Housing Uplift Cap
<b>Gross Sales Receipts</b>	As calculated by:  ( <u>Sale Receipt</u> / GIA of the first 20 Market Housing Units sold) X GIA of the total Market Housing Units on the development
<b>GIA</b>	the total area to the internal face of the perimeter walls of each Market Housing Unit measured in accordance with the RICS Guidance Note on Code of Measuring Practice measured in square metres
<b>Housing Market Area</b>	as set out in the Suffolk Coastal Local Plan Core Strategy & Development Management Policies – Development Plan Document July 2013.
<b>Interest</b>	interest at 4 per cent above the base lending rate of the Bank of England from time to time
<b>Intermediate Affordable Housing Uplift Contribution</b>	means the amount payable after the Affordable Housing Uplift Calculation has been calculated prior to the disposal of the 21 <sup>st</sup> Market Housing Unit provided that the Affordable Housing Uplift is greater than zero but subject to a maximum equivalent to the Affordable Housing Uplift Cap
<b>Market Housing Units</b>	means that part of the Development which is general market housing for sale on the open market
<b>Off-Site Affordable Housing Contribution</b>	means the sum of £416,500 (Four Hundred and Sixteen Thousand Five Hundred Pounds) to be made in lieu of on site Affordable Housing to be spent towards the provision of

and their expenses will be split equally between the Parties

- 1.1 The Owner covenants with the Council that no more than ten (10) of the Market Housing Units shall be Occupied before the Off-Site Affordable Housing Contribution has been paid to the Council
- 1.2 The Owner covenants with the Council that prior to the disposal of the twenty first (21<sup>st</sup>) Market Housing Unit the Affordable Housing Uplift Calculation is submitted to the Council for approval
- 1.3 The Owner covenants to keep full and accurate records of the sale price of each Market Housing Unit and shall promptly supply to the Council copies of such records if requested
- 1.4 Within 20 Working Days' of receipt of the Affordable Housing Uplift Calculation and all relevant supporting information, the Council shall notify the Owner in writing that it agrees or disagrees with the Affordable Housing Uplift Calculation.
- 1.5 If the Council fails to notify the Owner of its response within 20 Working Days of receipt of the Owner's submission of the Affordable Housing Uplift Calculation the Council shall be deemed to approve the Affordable Housing Uplift Calculation unless an extension of time is mutually agreed in writing by the Parties prior to the end of the 20 Working Days' period referred to above
- 1.6 The Owner covenants that if an Intermediate Affordable Housing Uplift Contribution is payable, that payment will be made prior to disposal of the twenty second (22<sup>nd</sup>) Market Housing Unit
- 1.7
  - 1.7.1 If more than ten (10) Market Housing Units but less than twenty (20) Market Housing Units remain unsold within 24 months' of the Commencement of the Development; or the Council does not reasonably agree with the Affordable Housing Uplift Calculation submitted in accordance with paragraph 1.4 of this Schedule, the Council and the Owner will jointly appoint the Valuer at the sole cost to the Owner to calculate the Intermediate Affordable Housing Uplift Contribution based on the Open Book Analysis including relying on Projected Sales Receipts where less than twenty (20) Market Housing Units have been sold.
  - 1.7.2 The Owner shall provide to the Valuer such further information and evidence as he deems necessary to verify the accuracy or appropriateness of any information contained within any Open Book Analysis within 14 days of demand

## FIFTH SCHEDULE

### Councils Covenants

1. At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed
2. On receipt of the Affordable Housing Uplift Calculation the Council will return confirmation to the Owner whether an Affordable Housing Uplift Contribution is payable within thirty (30) Working Days' of receipt in accordance with paragraph 1.4 and 1.7.7 of the Fourth Schedule
3. On receipt of the Off-Site Affordable Housing Contribution the Council will deposit the payment into an interest bearing account
4. The Off-Site Affordable Housing Contribution will be used towards the provision of Affordable Housing within the Housing Market Area in which the Site is located within 5 years from the date of receipt of the Affordable Housing Contribution
5. At the written request of the Owner following five years from the date of receipt of the Off-Site Affordable Housing Contribution the Council will provide written confirmation of the expenditure of the Off-Site Affordable Housing Contribution. If any of the Off-Site Affordable Housing Contribution remains unspent or uncommitted at the time of the written request following 5 years from the date of receipt the Council on written request shall refund any unspent or uncommitted Off-Site Affordable Housing Contribution together with any Interest accrued to the payee
6. On receipt of the Intermediate Affordable Housing Uplift Contribution and Final Affordable Housing Uplift Contribution (if payable) the Council will deposit the payment into an interest bearing account
7. The Intermediate Affordable Housing Uplift Contribution and Final Affordable Housing Uplift Contribution (if payable) will be used towards the provision of Affordable Housing within the Housing Market Area in which the Site is located within 5 years from the date of submission of the final calculation due under paragraph 1.7.5 SUBJECT TO the provisions of paragraph 1.7.6 of Schedule 4 above
8. At the written request of the Owner following five years from the date of receipt of the Final Affordable Housing Uplift Contribution the Council will provide written confirmation of the expenditure of the Affordable Housing Uplift Contribution. If any of the Affordable Housing Uplift Contribution remains unspent or uncommitted at the time of the written request following 5 years from the date of receipt the Council on written request shall refund any unspent or uncommitted Affordable Housing Uplift Contribution together with any Interest accrued to the payee

THE COMMON SEAL OF  
EAST SUFFOLK COUNCIL  
was affixed in the presence of:



167



Authorised Officer

Authorised Officer

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



24292



..... Authorised Officer



..... Authorised Officer

Executed as a deed by  
**NOTCUTTS LIMITED**  
acting by a director

)  
)  
)

Signature of Director:

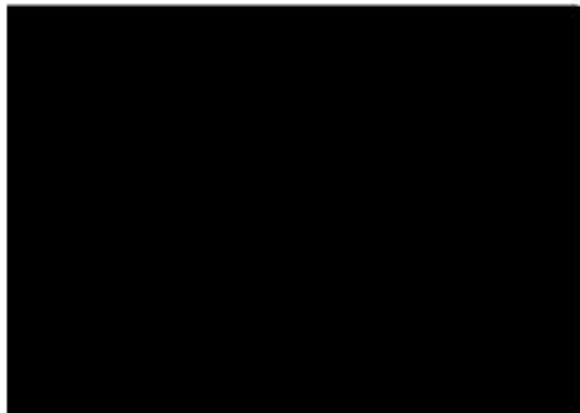


In the presence of:

Signature of Witness:

Name of Witness:

Address of Witness:



APPENDIX 1

Notcutts Woodbridge – Affordable Housing Uplift Calculation

1. CALCULATION OF GROSS SALE RECEIPTS

Open Marker Houses for Sale:

Plot	Description	GIA SqM	GIA sqft	£/SqM	£/sqft	£/Unit	GDV £
<b>Sales Receipts</b>							
1	1 bed	51	549				
2	2 bed	61	657				
3	2 bed	61	657				
4	2 bed	61	657				
5	2 bed	61	657				
6	2 bed	61	657				
7	2 bed	61	657				
8	2 bed	61	657				
9	1 bed	51	549				
10	2 bed	61	657				
11	2 bed	61	657				
12	2 bed	61	657				
13	2 bed	61	657				
14	2 bed	61	657				
15	2 bed	61	657				
16	2 bed	61	657				
17	1 bed	51	549				
18	2 bed	61	657				
19	2 bed	61	657				
20	2 bed	61	657				

Projected Sales Receipts							
21	2 bed	61	657				
22	2 bed	61	657				
23	2 bed	61	657				
24	2 bed	61	657				
<b>Totals</b>		<b>1434</b>	<b>15436</b>				*

Appraisal Value of Affordable Homes:

Plot	Description	GIA SqM	GIA sqft	£/SqM	£/sqft	£/Unit	GDV £
		0	0	0	0	0	0

<b>GROSS SALE RECEIPTS</b>	*
----------------------------	---

\* Same value

LESS

**2. DEVELOPMENT COSTS:**

				TOTAL
Residential & Commercial – Design & Build Costs (inc Abnormals)	1672sqm**	@	£ SqM	£
CIL Contributions	1672sqm**	@	£ SqM	£ ***
S106 Contributions	7	@	£59,500	£416,000
Marketing and Sales – Affordables				£0.00
Marketing and Sales - Open	£600 legals per Open Market	Plus 2% of GDV Agent Fee on		£



Market	House	Open Market Houses		
Site Acquisition Costs	(SDLT, Agents Fees 1% & Legal Fees 1%)			£
Overheads & Profit - Affordables	(6% on GDV)			£0.00
Overheads & Profit – Open Market	(20% on GDV)			£
Finance Costs	Calculated @ 6.5% over the Development Period from the acquisition of the site to Sale of the last unit			£
Target Land Value	0.46 hectares	@£950,000per hectare		£437,000
<b>DEVELOPMENT COSTS</b>				£

\*\* Gross Internal Area including common parts / circulation areas etc

\*\*\* Actual amount paid

#### PROFIT MARGIN:

1. Gross Sale Receipts = £ XXXXXX

LESS

2. Development Costs = £ YYYYYY

Equals "Profit Margin": £ ZZZZZ

#### AFFORDABLE HOUSING UPLIFT:

50% x £ ZZZZZ = \*\*

\*\* Check not greater than £217,000