

statutory instruments orders and regulations in the exercise of their functions as a local authority.

- 7.14 The Owner covenants and warrants to the Council and the County Council that they have full power to enter into this Deed and there is no other person having a charge over or any other legal interest in the Site whose consent is necessary to make this Deed binding on the registered freehold estate in the Site.
- 7.15 In the event that that the Council shall at any time hereafter grant a planning permission pursuant to an application under Section 73 of the Act in respect of the conditions relating the Planning Permission (and for no other purpose whatsoever) or a non-material amendment is made pursuant to Section 96A of the Act, references in this Deed to the Application and the Development shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid in this Deed shall henceforth take effect and be read and construed accordingly so that the planning obligations in this Deed shall apply to development under such subsequent planning permissions.
- 7.16 The Owner agrees declares and covenants to pay to the Council on the date of this Deed the sum of two thousand pounds (£2,000.00) for the Council's reasonable costs in reporting and monitoring compliance with the obligations within this Deed.
- 7.17 The Owner agrees, declares and covenants to pay to the County Council on the date of this Deed the sum of two thousand pounds (£2,000.00) for the County Council's reasonable costs incurred in monitoring compliance with the obligations within this Deed.

8. WAIVER

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

9. CHANGE IN OWNERSHIP

The Owner agrees with the Council and the County Council to give each of them independently written notice of any transfer in ownership of any freehold interests in the Site occurring before all the positive obligations under this Deed have been discharged such notice to be served within twenty one (21) days of such transfer and

to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan PROVIDED THAT this obligation shall not apply to transfers of individual Dwellings within the Development or the transfer or grant of leases of electricity sub-stations or gas governors or the like.

10. INDEXATION

All sums referred to in the Second Schedule and the Third Schedule shall be increased by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable using the application of the formula $A = B \times (C/D)$ where:

- 10.1 A is the sum payable under this Deed
- 10.2 B is the original sum calculated as the sum payable
- 10.3 C is the BCIS Index for the quarter most recently published before the date on which the sum is payable
- 10.4 D is the BCIS Index for the quarter most recently published before the date of this Deed and
- 10.5 C/D is greater than 1

11. INTEREST

If any payment due to the Council and/or the County Council under this Deed is not paid on the due date, Late Payment Interest will be payable by the Owners from the due date to the date payment is received.

12. VAT

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

13. NOTICES

- 13.1 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 13.2 or as otherwise notified in writing from time to time.

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

The Council	The Assistant Director of Growth District Offices College Heath Road Mildenhall Suffolk IP28 7EY
The County Council	The Executive Director of Growth, Highways and Infrastructure (or duly appointed successor) Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX
The Owner	Countryside House The Drive Brentwood Essex CM13 3AT

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

- 13.4 The Owner covenants to inform the Council and the County Council by way of written notice within seven (7) days following:

- 13.4.1 Commencement of Development
- 13.4.2 Occupation of the first (1st) Dwelling
- 13.4.3 Occupation of one hundred and forty-six (146) Dwellings
- 13.4.4 Occupation of two hundred and fifty (250) Dwellings
- 13.4.5 Occupation of two hundred and ninety (290) Dwellings
- 13.4.6 Completion of Development

14. DISPUTE RESOLUTION

- 14.1 Any dispute or difference of any kind whatsoever arising between any or all of the Parties out of or in connection with this Deed (including without limitation any question regarding its existence validity or termination) which cannot be resolved by prior agreement between the parties to the dispute or difference ("the Dispute Parties" shall be referred to determination before a single expert (the "Expert") acting as an expert and not as an arbitrator.

- 14.2 The Dispute Parties shall jointly appoint the Expert not later than twenty eight (28) days after service of a request in writing by any Dispute Party to do so.
- 14.3 If the Dispute Parties are unable to agree within twenty eight (28) days as to the appointment of such Expert then the Expert shall be appointed on the application of any of the Dispute Parties as follows:
- 14.3.1 where the difference or question relates to the rights and liabilities of any Dispute Party or to the terms or conditions embodied in the Deed or document appertaining to the Deed, it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society;
- 14.3.2 where the difference or question relates to highway works, engineering, demolition, building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers;
- 14.3.3 where the difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Dispute Parties but in default of agreement appointed at the request of either Party by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or
- 14.3.4 if such difference or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Dispute Parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute.
- 14.4 In the event of a reference to determination by expert the Dispute Parties agree to:
- 14.4.1 prosecute any such reference expeditiously; and
- 14.4.2 do all things or take all steps reasonably necessary in order to enable the Expert to deliver any award (interim final or otherwise) as soon as reasonably practicable.
- 14.5 The award shall be in writing signed by the Expert and shall be finalised within fourteen (14) days of the conclusion of the exchange of written submissions or hearing (if necessary).
- 14.6 The award shall be final and binding on the Dispute Parties and on any persons claiming through or under them and in the absence of

manifest error and any costs shall be payable by the Dispute Parties in such proportion as the Expert shall determine and failing such determination shall be borne by the Dispute Parties in equal shares.

- 14.7 Unless this Deed has already been terminated the Parties shall in every case continue to comply with their obligations under this Deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to Clause 14 but without prejudice to the rights and obligations of any of the Parties in relation to the termination of the Deed.
- 14.8 The provisions of this clause shall not affect the ability of the Council or County Council to apply for and be granted any of the following:
- 14.8.1 declaratory relief;
 - 14.8.2 injunction;
 - 14.8.3 specific performance;
 - 14.8.4 payment of any sum of damages; and
 - 14.8.5 any other means of enforcing this Deed and consequential and interim orders and relief.

15. SATISFACTION OF ANY OF THE PROVISIONS OF THIS DEED

Where in the opinion of the Owner any of the provisions of this Deed have been satisfied the Owner shall be entitled to apply to the Council or the County Council for confirmation to that effect and upon the Council or County Council being satisfied that the relevant obligation and covenant as the case may be has been satisfied, the Council or the County Council shall forthwith issue confirmation to such effect.

16. APPROVALS

Where any plans or documents are approved by the Council or the County Council under the terms of this Deed, further or amended plans or documents may be submitted from time to time and, if approved by the Council or the County Council, shall replace those previously approved.

17. COMMUNITY INFRASTRUCTURE LEVY

- 17.1 The Parties to this Deed agree that for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) all of the obligations imposed in this Deed:

17.1.1 are necessary to make the Development permitted pursuant to the Application acceptable in planning terms;

17.1.2 directly relate to the Development permitted pursuant to the Application; and

17.1.3 fairly and reasonably relate in scale and kind to the Development permitted pursuant to the Application.

18. OVERLAPPING PLANNING PERMISSIONS

18.1 The Owner covenants that from the date of Implementation of the Development it will not carry out on the Site any development permitted by the 2014 Permission.

18.2 The Council and the County Council agree and declare that from the date on which the Development is Implemented the Site shall be released from the obligations contained in the 2014 S106 and that the 2014 S106 shall be of no further effect in relation to the Site.

19. JURISDICTION

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

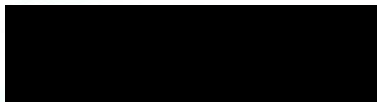
20. DELIVERY

The provisions of this Deed 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

**THE COMMON SEAL OF
WEST SUFFOLK COUNCIL**

was affixed in the presence of:

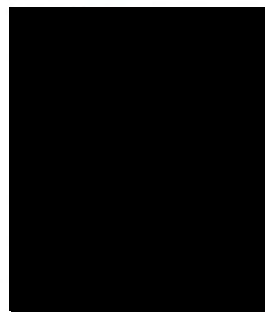


Authorised Officer



**THE COMMON SEAL OF
SUFFOLK COUNTY COUNCIL**

was affixed in the presence of:



Authorised Officer



24409

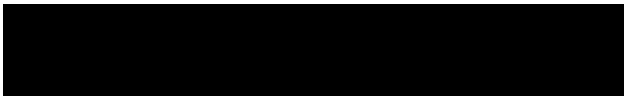
EXECUTED AS A DEED BY

COUNTRYSIDE PROPERTIES (UK) LIMITED

in the presence of:


Director

Director / Company Secretary



Witnessed by:

Name: T M Warren

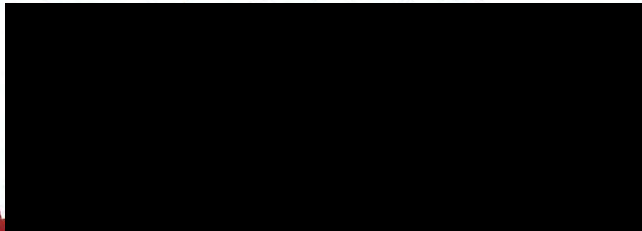
Address: The Mole Hill, Hollow Road, Molehill Green,
Nr. Felsted, Great Dunmow, Essex CM6 3JF

Occupation: Chartered Secretary

FIRST SCHEDULE

The Land shown for identification purposes edged red in the Site Plan comprising part of the Owners land registered with the Land Registry under title number SK370757.

Site Plan



24409

SECOND SCHEDULE

THE OWNER COVENANTS WITH THE COUNCIL:

1. AFFORDABLE HOUSING UNITS

- 1.1 To construct fifty per cent (50%) of the Affordable Housing Units agreed and approved for each Relevant RM and transfer all freehold or leasehold interest in those Affordable Housing Units to a Registered Provider prior to the Occupation of forty per cent (40%) of the Open Market Dwellings within the Relevant RM in which those Affordable Housing Units are located
- 1.2 Not to Occupy or permit Occupation of more than thirty-nine percent (39%) of the Open Market Dwellings within a Relevant RM unless and until fifty per cent (50%) of the Affordable Housing Units agreed and approved for that Relevant RM have been constructed and the Owner has transferred all freehold or leasehold interest in those Affordable Housing Units to a Registered Provider
- 1.3 To construct all of the Affordable Housing Units agreed and approved for each Relevant RM and transfer all freehold or leasehold interest in those Affordable Housing Units to a Registered Provider prior to the Occupation of eighty per cent (80%) of the Open Market Dwellings within the Relevant RM in which those Affordable Housing Units are located
- 1.4 Not to Occupy or permit Occupation of more than seventy-nine per cent (79%) of the Open Market Dwellings within a Relevant RM unless and until all of the Affordable Housing Units agreed and approved for that Relevant RM have been constructed and the Owner has transferred all freehold or leasehold interest in those Affordable Housing Units to a Registered Provider
- 1.5 To ensure the transfer referred to in Paragraph 1.6 of this Second Schedule to the Registered Provider will contain a covenant requiring the Register Provider to enter into a Nomination Agreement with the Council for those Affordable Housing Units agreed and approved within a Relevant RM prior to Occupation of those Affordable Housing Units within that Relevant RM
- 1.6 To ensure the conditions on which the Affordable Housing Units shall be transferred shall include but not be limited to the following:

1.6.1 the land on which the Affordable Housing Units are situated is to be remediated so that the land is fit for the proposed use

1.6.2 be on terms that at the date of the transfer the following are (unless otherwise agreed by the Registered Provider) provided up to a point immediately adjacent to the boundary of the Affordable Housing Units:

1.6.2.1 an adoptable road constructed to base course;

1.6.2.2 adoptable public sewers and drains;

1.6.2.3 gas, water, electricity and telecommunications infrastructure with sufficient capacity to serve each Affordable Housing Unit; and

1.6.2.4 such necessary rights as the Owner may reasonably require to be reserved.

1.7 Subject to Clause 2.9 to ensure the Affordable Housing Units shall not be used for any purpose other than as Affordable Housing Units

2 COMMUNITY HALL CONTRIBUTION

2.1 To pay to the Council the Community Hall Contribution on or prior to the first Occupation of the Dwellings

2.2 Not to Occupy or permit Occupation of the Dwellings unless and until the Community Hall Contribution has been paid in full to the Council

3 NHS CONTRIBUTION

3.1 To pay to the Council the NHS Contribution on or prior to the first Occupation of the Dwellings

3.2 Not to Occupy or permit Occupation of the Dwellings unless and until the NHS Contribution has been paid in full to the Council

THIRD SCHEDULE

THE OWNER COVENANTS WITH THE COUNTY COUNCIL:

1 HIGHWAYS CONTRIBUTION

- 1.1 To pay to the County Council the Highways Contribution on or prior to the first Occupation of the Dwellings
- 1.2 Not to Occupy or permit Occupation of the Dwellings unless and until the Highways Contribution has been paid in full to the County Council

2 LIBRARY CONTRIBUTION

- 2.1 To pay to the County Council the Library Contribution on or prior to the Occupation of one hundred and forty-seven (147) Dwellings
- 2.2 Not to Occupy or permit Occupation of more than one hundred and forty-six (146) Dwellings unless and until the Library Contribution has been paid in full to the County Council

3 PRE SCHOOL CONTRIBUTION

- 3.1 To pay to the County Council the Pre School Contribution on or prior to the Occupation of two hundred and ninety-one (291) Dwellings
- 3.2 Not to Occupy or permit Occupation of two hundred and ninety (290) Dwellings unless and until the Pre School Contribution has been paid in full to the County Council

4 SECONDARY AND SIXTH FORM EDUCATION CONTRIBUTIONS

- 4.1 To pay to the County Council the First Secondary and Sixth Form Education Contribution on or prior to the Occupation of one hundred and forty-seven (147) Dwellings.
- 4.2 Not to Occupy or permit Occupation of more than one hundred and forty-six (146) Dwellings unless and until the First Secondary and Sixth Form Education Contribution has been paid in full to the County Council
- 4.4 To pay to the County Council the Second Secondary and Sixth Form Education Contribution on or prior to the Occupation of two hundred and fifty-one (251) Dwellings
- 4.5 Not to Occupy or permit Occupation of more than two hundred and fifty (250) Dwellings unless and until the Second Secondary and Sixth Form Education Contribution has been paid in full to the County Council

4.6 To pay to the County Council the Third Secondary and Sixth Form Education Contribution on or prior to the Occupation of two hundred and ninety-one (291) Dwellings

4.7 Not to Occupy or permit Occupation of more than two hundred and ninety (290) Dwellings unless and until the Third Secondary and Sixth Form Education Contribution has been paid in full to the County Council

5 PRIMARY EDUCATION CONTRIBUTION

5.1 To pay to the County Council the First Primary School Contribution on or prior to the Occupation of two hundred and fifty-one (251) Dwellings

5.2 Not to Occupy or permit Occupation of more than two hundred and fifty (250) Dwellings unless and until the First Primary School Contribution has been in full to the County Council

5.3 To pay to the County Council the Second Primary School Contribution on or prior to the Occupation of two hundred and ninety-one (291) Dwellings

5.4 Not to Occupy or permit Occupation of more than two hundred and ninety (290) Dwellings unless and until the Second Primary School Contribution has been paid in full to the County Council

6 WASTE CONTRIBUTION

6.1 To pay to the County Council the Waste Contribution on or prior to the Occupation of one hundred and forty-seven (147) Dwellings

6.2 Not to Occupy or permit Occupation of more than one hundred and forty-six (146) Dwellings unless the Waste Contribution has been paid in full to the County Council

FOURTH SCHEDULE

THE COUNCIL COVENANTS WITH THE OWNER:

1 COMMUNITY HALL CONTRIBUTION

- 1.1 To use the Community Hall Contribution towards the provision of a community facility within the Bury St. Edmunds area
- 1.2 If requested to do so in writing after the expiry of ten (10) years from the date that the Community Hall Contribution was received in full, to pay (with any interest accrued) to the person who paid the Community Hall Contribution to the Council such amount of the Community Hall Contribution which has not been committed or expended by the Council in accordance with the provisions of this Deed such payment to be made within twenty eight (28) Working Days of such request

2 NHS CONTRIBUTION

- 2.1 To use the NHS Contribution towards the provision of public health services serving the occupants of the Development
- 2.2 If requested to do so in writing after the expiry of ten (10) years from the date that the NHS Contribution was received in full, to pay (with any interest accrued) to the person who paid the NHS Contribution to the Council such amount of the NHS Contribution which has not been committed or expended by the Council in accordance with the provisions of this Deed such payment to be made within twenty eight (28) Working Days of such request
- 2.3 If requested to do so in writing by the Owner after the expiry of ten (10) years of Completion of Development, the Council shall notify the Owners that the NHS Contribution has been spent or committed in accordance with the provisions of this Deed such notification to include details of how the NHS Contribution has been spent or committed

FIFTH SCHEDULE

THE COUNTY COUNCIL COVENANTS WITH THE OWNER:

1 HIGHWAYS CONTRIBUTION

- 1.1 To use the Highways Contribution by spending twenty thousand pounds (£20,000.00) plus indexation to create a new public footpath link across third party adjacent land in agricultural use to improve pedestrian connectivity between the Development and Fornham All Saints and spending fifty-two thousand and five hundred pounds (£52,500.00) plus any indexation to create a new pedestrian/cycle link along the A1101 Mildenhall Road from Marham Park to join with the existing footway/cycleway network
- 1.2 If requested to do so in writing by the Owner after the expiry of ten (10) years of the date of Completion of Development within a further period of one (1) year the County Council shall repay (together with any interest accrued) any part of the Highways Contribution that has not been spent or committed by the County Council in accordance with the provisions of this Deed to the person who paid the contribution

2 LIBRARY CONTRIBUTION

- 2.1 To use the Library Contribution for the provision of library lending services in Bury St. Edmunds serving the occupants of the Development
- 2.2 If requested to do so in writing by the Owner after the expiry of ten (10) years of the date of Completion of Development within a further period of one (1) year, the County Council shall repay (together with any interest accrued) any part of the Library Contribution that has not been spent or committed by the County Council in accordance with the provisions of this Deed to the person who paid that part of the Library Contribution
- 2.3 If requested to do so in writing by the Owner after the expiry of ten (10) years of Completion of Development within a further period of one (1) year, the County Council shall notify the Owners that the Library Contribution has been spent or committed in accordance with the provisions of this Deed such notification to include details of how the Library Contribution has been spent or committed