

DATE **28th July** 2020

(1) WEST SUFFOLK COUNCIL

(2) SUFFOLK COUNTY COUNCIL

**Planning Obligation by Deed under Section 106
of the Town and Country Planning Act 1990**

relating to

**Land at the former Post Office building 17 – 18 Cornhill
Bury St. Edmunds Suffolk**

West Suffolk Council
West Suffolk House
Western Way
Bury St. Edmunds
Suffolk

DATE 28th July

2020

PARTIES:

- (1) **WEST SUFFOLK COUNCIL** of West Suffolk House Western Way Bury St. Edmunds Suffolk IP33 3YU (hereinafter called the "**Council**")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (hereinafter called the "**County Council**")

INTRODUCTION

- A The Council is a local planning authority for the purposes of the Act for the area in which the Site is situated
- B The County Council is the local education authority the local library authority and is also a 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
- C The Council is the freehold owner of the Site which is registered at HM Land Registry under title number SK273026 (hereinafter also referred to as the "**Owner**" until such time as it ceases to have an interest in the site)
- D The Owner has submitted the Application and the Council has resolved to grant planning permission for the Development pursuant to the Application subject to the prior completion of this Deed intended to regulate the Development and to secure the planning obligations contained in this Deed
- E The Council and the County Council enter into this Deed to the intent that the requirements of the Council's and the County Council's policies are met and that any objections by the Council or the County Council to the grant of planning permission on the basis of those policies are overcome
- F The 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 Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)
- H The County Council will be the enforcing authority for the purposes of enforcing the Owner`s obligations to pay the Financial Contributions
- I Within this Deed references to the "Council" are made where the function of the Council acting as the local planning authority are concerned and references to the council as the "Owner" of the Site are used where the owner of the Site has obligations to perform to either the Council or County Council

NOW THIS DEED WITNESSES AS FOLLOWS:

1. DEFINITIONS

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

"Act"	the Town and Country Planning Act 1990 (as amended)
"Affordable Housing Contribution"	Four hundred and fifty-four thousand pounds (£454,000.00) BCIS Indexed
"Application"	the full application for planning permission to develop the Site in accordance with the application bearing the Council's reference number DC/19/1623/FUL
"BCIS Index"	the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the Parties hereto

"BCIS Indexed"	the increase in any sum referred to in the Second Schedule and the Third Schedule by an amount equivalent to the increase in the BCIS Index to be calculated in accordance with Clause 10 of this Deed
"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 site clearance demolition works archaeological investigations investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and lay of services erection of any temporary means of enclosure the temporary display of site notices or advertisements and "Commenced" and "Commence Development" shall be construed accordingly
"Completion of Development"	the date that the last Dwelling is first Occupied
"Development"	the development of the Site in accordance with the Planning Permission
"Dwelling"	a dwelling (including a house flat or bungalow) to be constructed pursuant to the Planning Permission and "Dwelling" and "Dwellings" shall be construed accordingly
"Enforcing Authority"	Means the County Council until such time the Council ceases to have an interest in the Site after which time it means the Council in respect of the Affordable Housing Contribution and the County Council in respect of the other Financial Contributions
"Financial Contributions"	the Affordable Housing Contribution and the Library Contribution and the Pre-School Contribution and the Primary School

Contribution

"Late Payment Interest"	interest at four (4) per cent above the base lending rate of the Bank of England from time to time
"Library Contribution"	one hundred and ninety-two pounds (£192.00) BCIS Indexed
"Occupation"	occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupied and "Occupy" shall be construed accordingly
"Payee"	the original payee of any financial contributions required under this Deed
"Planning Permission"	the full planning permission subject to conditions as may be granted by the Council pursuant to the Application or a subsequent planning permission for the Development granted pursuant to Section 73 or the Act
"Pre-School Contribution"	sixteen thousand five hundred and ninety-five pounds (£16,595.00) BCIS Indexed
"Primary School Contribution"	thirty-three thousand one hundred and ninety-two pounds (£33,192.00) BCIS Indexed
"Site"	the land described in the First Schedule against which this Deed may be enforced and as shown edged red for identification purposes only on the Site Plan
"Site Plan"	the plan marked "Site Plan" attached to this Deed
"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 sub-clause schedule paragraph sub-paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause sub-clause schedule paragraph sub-paragraph or recital in this Deed
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies corporations and firms and all such words shall be construed as interchangeable in that manner
- 2.4 Any reference to an Act of Parliament shall include any modification extension or re-enactment of that Act 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 deriving validity from it
- 2.5 References to any party to this Deed shall include the successors in title to that party the personal representatives of that party and any party deriving title through or under that party and in the case of the Council and or the County Council the successors to their respective statutory functions
- 2.6 The obligations in this Deed shall not be enforceable against:
- 2.6.1 any individual person who is the owner and/or an occupier for residential purposes of a Dwelling or any mortgagee of such a Dwelling
- 2.6.2 any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunications services or public transport services
- 2.6.3 a tenant exercising any right to acquire under a purchase grant scheme or right to buy or similar right conferred by statute or any successor in title to such person
- 2.7 The headings are for reference only and shall not affect construction

3. LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers
- 3.2 The covenants restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the County Council as a local planning authority against the Owner and their successors in title
- 3.3 This Deed shall only be capable of being varied by a supplemental deed between the Parties hereto or their respective successors in title or assigns made under section 106A of the Act

4. CONDITIONALITY

- 4.1 This Deed is conditional upon:

- 4.1.1 the grant of the Planning Permission and
- 4.1.2 the Commencement of Development

SAVE FOR the provisions of this clause and clauses 7.1 7.2 7.3 7.6 9 12 13 14 17 and 18 (related to legal costs change in ownership right of entry dispute resolution jurisdiction and delivery) and any other relevant provisions which shall come into effect immediately upon completion of this Deed

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

- 4.2.1 until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Deed will remain without operative effect notwithstanding the issue of the Planning Permission and the Commencement of Development PROVIDED THAT the Owner shall not undertake any further works to implement the Planning Permission following the issue of such proceedings
- 4.2.2 if following the conclusion of such proceedings or challenge the Planning Permission is quashed and is not superseded by a subsequent planning permission accepted by the Owner this Deed will cease to have any further effect and
- 4.2.3 if following the conclusion of such proceedings or challenge the Planning Permission remains valid and fully enforceable all of the terms and provisions of this Deed will apply in full

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

4.3.1 proceedings by way of judicial review are concluded:

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

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

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

4.3.2 proceedings under Section 288 of the Act are concluded:

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

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

5. THE OWNER`S COVENANTS

5.1 The Owner covenants with the Council as set out in the Second Schedule

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

6. THE COUNCIL AND THE COUNTY COUNCIL`S COVENANTS

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

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

6.3 The Council as the Owner 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 the Deed

6.4 The Enforcing Authority covenants with the Owner to comply with its obligations contained in this Deed

6.5 Upon the Council having disposed of its interest in the Site, it shall then become the Enforcing Authority for the purpose of this agreement and immediately releasing the County Council of its covenants under this deed in respect of any obligations or enforcement of the Affordable Housing Contribution

7. MISCELLANEOUS

- 7.1 The Council agrees declares and covenants on completion of this Deed to pay to the County Council the proper and reasonable legal costs of the County Council incurred in the negotiation preparation and execution and completion of this Deed and to pay to the County Council five hundred pounds (£500) towards reporting and monitoring the s106 obligations
- 7.2 The Owner agrees declares and covenants on completion of this Deed to pay to the Council the proper and reasonable legal costs of the Council incurred in the negotiation preparation and execution and completion of this Deed and to pay to the Council five hundred pounds (£500) towards reporting and monitoring the s106 obligations
- 7.3 No provision of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 7.4 This Deed shall be registered as a local land charge by the Council
- 7.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith affect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed
- 7.6 Insofar as any clause or other provision of this Deed is found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed
- 7.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or expires by effluxion of time for the Commencement of the Development or is modified SAVE FOR modification in a permission granted pursuant to Section 73 of the Act and the Council will effect cancellation of all entries in the Register of Local Land Charges in respect of this Deed
- 7.8 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 part where such breach occurs)

but without prejudice to liability for any subsisting breach arising prior to parting with such interest and for the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants restrictions or reservations in respect of it

- 7.9 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
- 7.10 The Owner agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of the Deed are hereby waived
- 7.11 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owner and at no cost to either the Council or the County Council
- 7.12 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions functions powers duties and obligations of the Council or the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority
- 7.13 The Council shall indemnify the County Council against all liability, 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 Council's breach or negligent performance or non-performance of this agreement
 - b) the enforcement of this agreement whilst the County Council is the sole Enforcing Authority

8. WAIVER

No waiver (whether expressed or implied) by the Council the County Council 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 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 to give the County Council written notice of any transfer in ownership of any 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 shall be increased by an amount equivalent to the increase in the BCIS Index (unless the context reads otherwise) 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 month two (2) months before the date on which the sum is payable
- 10.4 D is the BCIS Index for the month two (2) months before the date of this Deed and
- 10.5 C/D is greater than 1

11. INTEREST

If any payment due under this Deed is not paid on time Late Payment Interest will be payable from the date payment is due to the date of payment

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

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

The Council	The Assistant Director of Growth West Suffolk House Western Way Bury St. Edmunds Suffolk IP33 3YU
The County Council	The Executive Director of Growth Highways and Infrastructure (or a duly appointed successor) Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX

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 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 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 ("the Dispute Parties") shall be referred to arbitration before a single Expert (the "Expert")

- 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 either 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 if the difference or question relates to the rights and liabilities of any Dispute Party or to the terms or conditions to be embodied in the Deed or document appertaining to the Deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society
 - 14.3.2 if 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 if 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 any Dispute 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 arbitration 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 Expert will have the power to consolidate proceedings or hold concurrent proceedings and to order on a provisional basis any relief which he would have power to grant on a final award
- 14.6 The award shall be in writing signed by the Expert and shall be finalised within fourteen (14) days of the hearing
- 14.7 The award shall be final and binding both on the Dispute Parties and on any persons claiming through or under them and judgment upon the award may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be
- 14.8 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 this Clause but without prejudice to the rights and obligations of the Parties in relation to the termination of the Deed
- 14.9 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: declaratory relief injunction specific performance payment of any sum damages and 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 any of the provisions of this Deed have been satisfied the Parties 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 Deed 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. COMMUNITY INFRASTRUCTURE LEVY

The Parties to this Deed agree that for the purposes of the Community Infrastructure Levy Regulations 2010 the obligations imposed in this Deed are (a) necessary to make the Development permitted pursuant to the Application acceptable in planning terms (b) directly relate to the Development permitted pursuant to the Application and (c) fairly and reasonably relate in scale and kind to the Development permitted pursuant to the Application

17. JURISDICTION

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

18. 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

**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:



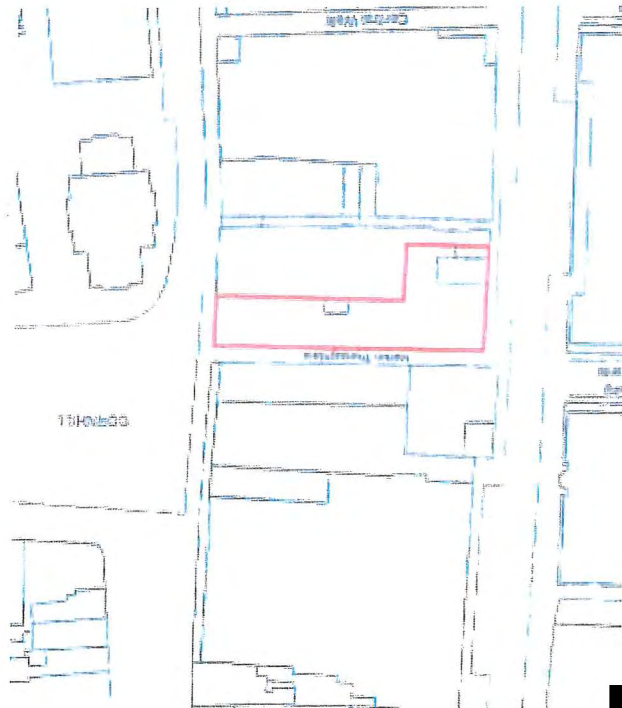
Authorised Officer



FIRST SCHEDULE

The Land shown for identification purposes edged red in the Site Plan comprising of the Councils land forming part of land registered with the Land Registry under title numbers SK273026

SITE PLAN



SECOND SCHEDULE

THE OWNER COVENANTS WITH THE COUNCIL:

1. AFFORDABLE HOUSING CONTRIBUTION

- 1.1 To pay the Affordable Housing Contribution to the Council upon 50% of the Dwellings being occupied
- 1.2 Not to Occupy or permit any Occupation of the further 50% of the Dwellings unless and until the Affordable Housing Contribution has been paid to the Council

THIRD SCHEDULE

THE OWNER COVENANTS WITH THE COUNTY COUNCIL:

1. LIBRARY CONTRIBUTION -

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

2. Pre-School Contribution

- 2.1 To pay the Pre-School Contribution to the County Council prior to the first Occupation of the Dwellings
- 2.2 Not to Occupy or permit any Occupation of the Dwellings unless and until the Pre-School Contribution has been paid to the County Council

3. Primary School Contribution

- 3.1 To pay the Primary School Contribution to the County Council prior to the first Occupation of the Dwellings
- 3.2 Not to Occupy or permit any Occupation of the Dwellings unless and until the Primary School Contribution has been paid to the County Council

FOURTH SCHEDULE

THE COUNCIL COVENANTS WITH THE OWNER:

1. AFFORDABLE HOUSING CONTRIBUTION

- 1.1 To use the Affordable Housing Contribution for the provision of affordable housing within the district of West Suffolk Council
- 1.2 After the expiry of ten (10) years from the date that the Affordable Housing Contribution was received to pay to the Payee such amount of the Affordable Housing Contribution which has not been committed or expended by the Council in accordance with the provisions of this Deed

FIFTH SCHEDULE

THE COUNTY COUNCIL COVENANTS WITH THE OWNER:

1 LIBRARY CONTRIBUTION

- 1.1 To use the Library Contribution towards the provision of lending stock and associated materials
- 1.2 If requested to do so in writing after the expiry of ten (10) years of the Completion of Development within a further period of one (1) year to pay to any person such amount of the Library Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable
- 1.3 When the Library Contribution paid to the County Council pursuant to this Deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of ten (10) years of the Completion of Development within a further period of one (1) year notify the Owner that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to

2 PRE-SCHOOL CONTRIBUTION

- 2.1 To use the Pre-School Contribution for the improvement and enhancement (including increasing the number of places) provision of pre-school places serving the Development
- 2.2 If requested to do so in writing after the expiry of ten (10) years from the date of first Occupation of the final dwelling within a further period of one (1) year the County Council shall repay to pay to any person such amount of the Pre-School Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable
- 2.3 At the written request of the Owner after the expiry of ten (10) years from first Occupation of the final Dwelling within a further

period of one (1) year the County Council shall notify the Owner that such monies from the Pre-School Contribution have been spent or committed such notice to include full details of what the said monies were spent on or committed to

3 PRIMARY SCHOOL CONTRIBUTION

- 3.1 To use the Primary School Contribution for the improvement and enhancement (including increasing the pupil admission number) of primary school provision at the catchment primary schools
- 3.2 If requested to do so in writing after the expiry of ten (10) years from the date of first Occupation of the final dwelling within a further period of one (1) year the County Council shall repay to any person such amount of the Primary School Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable
- 3.3 At the written request of the Owner after the expiry of ten (10) years from first Occupation of the final Dwelling within a further period of one (1) year the County Council shall notify the Owner that such monies from the Primary School Contribution have been spent or committed such notice to include full details of what the said monies were spent on or committed to