

Dated 22 December 2020

MID SUFFOLK DISTRICT COUNCIL	(1)
SUFFOLK COUNTY COUNCIL	(2)
SIR GEORGE ANTHONY AGNEW	(3)
BLOOR HOMES LIMITED	(4)

S106 AGREEMENT

**In relation to
Land South West of Beyton Road, Thurston,
Suffolk**

THIS AGREEMENT made the 22nd day of December 2020

BETWEEN:

- (1) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX (the "District Council");
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich IP1 2BX (the "County Council")
- (3) **SIR GEORGE ANTHONY AGNEW** of Rougham Estate Office, Ipswich Road, Rougham, Bury St Edmunds IP30 9LZ (the "Owner") and
- (4) **BLOOR HOMES LIMITED** (Co Regn No 02162561) of Ashby Road, Measham, Swadlincote, Derbyshire DE12 7JP (the "Developer").

INTRODUCTION:

- (A) The District Council is a local planning authority for the purposes of the 1990 Act for the area in which the Site is situated and by whom the obligations contained in this Agreement are enforceable.
- (B) The County Council is the local highway authority (except for trunk roads), the local education authority and 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 Agreement are enforceable.
- (C) The ownership details in respect of the Site are as set out in Schedule 1.
- (D) The Developer entered into an option agreement with the Owner on 1st August 2017 and has submitted the Application to the District Council for the Development and the Developer consents to the Owner entering into the obligations.
- (E) The District Council has resolved to grant planning permission for the Development pursuant to the Application subject to the prior completion of this Agreement to regulate the Development and to secure the planning obligations contained in this Agreement.

- (F) The District Council enters into this Agreement to the intent that the requirements of the District Council's policies are met and that any objections by the District Council to the grant of planning permission on the basis of those policies are overcome.
- (G) The District Council in resolving to approve the Application and is satisfied that the planning obligations sought under the provisions of this Agreement meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
- (H) The District Council and the County Council consider and the Owner and the Developer acknowledge that the Development should not take place until certain restrictions regulating the use of the Site are imposed in the manner hereafter appearing and pursuant to section 106 of the Act the District Council and the County Council and the Owner and the Developer agree to enter into this Agreement in order to secure the planning obligations contained in this Agreement.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following terms have the following meanings:

1972 Act	means the Local Government Act 1972;
1990 Act	means the Town & Country Planning Act 1990 as amended;
1999 Act	means the Contracts (Rights of Third Parties) Act 1999;
2011 Act	means the Localism Act 2011;
Affordable Housing	subsidised housing that will be available to persons who cannot afford to buy or rent housing generally available on the open market in accordance with Annexe 2 of the National Planning Policy Framework 2019 (as amended)
Affordable Housing Contribution	the sum calculated in accordance with the District Council's affordable housing policies to be paid to the District Council to spend on Affordable Housing within the administrative area of the District Council in the event that the Owner is unable to

dispose of the Affordable Housing in accordance with Schedule 4

**Affordable Housing
Nominations Agreement**

an agreement substantially in the form set out in Schedule 8 (subject to such amendments as are necessary to reflect the Affordable Housing tenures and/or any amendments as may be reasonably required by the Registered Provider with a view to ensuring that the objectives of that agreement are met) dealing with the allocation of the Affordable Housing by a Registered Provider which shall apply to all of the Affordable Housing Units and "Nomination Agreement" shall have the same meaning;

"Affordable Housing Scheme" a written scheme approved by the District Council as part of the Reserved Matters application or the written approval of the District Council identifying the location number of bedrooms, mix and tenure of each Affordable Housing Unit in accordance with the Tenure Mix (unless otherwise agreed in writing with the District Council)

Affordable Housing Units

means 35% of the Dwellings (but not exceeding 73 of the total number of Dwellings), which shall be comprised of 70% Affordable Rented Units and 30% Shared Ownership Units, constructed in accordance with the Affordable Housing Scheme set out in Schedule 2 (unless otherwise agreed in writing with the District Council) and adjusted pro rata in accordance with the number of Dwelling constructed and "Affordable Housing Unit" shall be construed accordingly.

Affordable Rented Units

means housing made available by a Registered Provider as low cost rental accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of equivalent market rent inclusive of service charges or the local housing allowance rate, and shall be Occupied by persons allocated in accordance with a Choice Based Letting Scheme to which the District Council is a party or otherwise nominated by the District Council

pursuant to the Affordable Housing Nomination Agreement as varied from time to time;

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 District Council and the Owner;

BCIS Indexed

the increase in any sum referred to in Schedule 4 and Schedule 5 by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable to be calculated in accordance with this Agreement;

Car Club

means a pay-as-you-drive car club offering members access to a vehicle without ownership and which is designed to reduce the levels of car ownership by residents and occupiers of the Development and in the vicinity of the Development;

Choice Based Letting Scheme

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

Development

means the development of the Site to provide up to 210 dwellings, means of access, open space and associated infrastructure, including junction improvements

Electric Vehicle Charging Point Contribution

the sum of £3,000 (three thousand pounds) to be paid to the District Council for the provision of an electric vehicle

charging point within the Parish of Thurston in the event that a public charging point is not provided on site;

Farmland Bird Mitigation Scheme

a scheme which provides for the provision of mitigation measures in respect of grey partridge habitats to include details of the provision of a buffer strip and the proposed methodology, location and persons responsible for implementation thereof;

Fishwick Corner Improvement Works

The creation of a staggered junction at the land known as Fishwick Corner

Help to Buy Agent

the zone agent keeping a register of persons seeking shared ownership dwellings for the relevant area;

Highways Agreement

means an agreement or agreements entered into under section 278 and/or section 38 of the Highways Act (and all other relevant enabling powers that the County Council may reasonably require to be used) to regulate the nature of the carrying out, the dedication of and the adoption of the Offsite Highway Works and these agreement(s) shall include but not be limited to;

- (a) the securing of a bond to ensure that third party funds are available to complete the Highway Works to the satisfaction of the County Council in the event that the Owner fails to do so;
- (b) the payment of the works inspection fees maintenance fees, special orders fees, supervision fees and any other such reasonable fees as the County Council shall require;

- (c) the payment of the legal and other fees associated with the drafting negotiating and completion of the Highways Agreement;
- (d) the preparation and advance approval of works drawings and traffic management measures;
- (e) the certification and maintenance of the Offsite Highway Works;
- (f) the regulating of the issue of the works licence to enable the Offsite Highway Works to be carried out;
- (g) the securing of a bond relating to both Land Compensation Act 1973 matters and Noise Insulation Regulations 1975 as amended by the Noise Insulation (Amendment) Regulations 1988 (SI 1988/2000) and any other indemnity and bonds for liability issues as the County Council shall require;
- (h) clauses dealing with dedication of land as public highway; and
- (i) the standards and procedures for carrying out the Offsite Highway Works

Homes England

Homes England or such other organisation as may from time to time be the Regulator of Social Housing or such other body with statutory force charged with regulating Registered Providers;

Implementation

the implementation of the Permission by the carrying out of any material operation (as defined by s.56(4) of the 1990 Act)

pursuant to the Permission PROVIDED ALWAYS for the purposes of this Agreement the following shall be excluded:

- (a) site surveys (including intrusive ground investigations);
- (b) site clearance and/or demolition;
- (c) ecological survey;
- (d) archaeological survey;
- (e) remediation;
- (f) the diversion or laying of services;
- (g) erection of fences or hoardings,
- (h) the temporary display of site notices or advertisements; and

"Implement" and **"Implemented"** shall be construed accordingly;

Implementation Date

the date on which the Permission is Implemented;

Late Payment Interest

interest at 4% above the base lending rate of the Bank of England from time to time;

"Notice of Commencement"

notice in writing sent to the District Council and County Council to advise the actual date of the Implementation of the Development;

Occupation

the first occupation of a building constructed as part of the Development for the purposes permitted by the Permission but shall not include occupation by workmen involved in the construction, fit out or decoration of the buildings, the use of finished buildings for sales, marketing or security purposes, for use as temporary offices or for the temporary storage of

plant and material and "**Occupy**" shall be construed accordingly;

Offsite Highway Works

- (a) Junction improvements at Pokeriage Corner;
- (b) Junction Improvements at Beyton Road/Barton Road;
- (c) Widening of footway under the railway bridge and realignment of the carriageway; together with alterations to the Station Road/Barton Road roundabout to account for realignment; and
- (d) Traffic calming measures on Beyton Road

Offsite Highway Works Phasing Plan

A written scheme which details the timing of the provision of the Offsite Highway Works in relation to the Occupation of the Development

Open Market Housing Units

the dwellings to be constructed in accordance with the Permission which are not Affordable Housing Units;

Permission

the planning permission granted by the District Council pursuant to the Planning Application;

Plan 1

the plan entitled "Plan 1" at Schedule 3;

Planning Application

the application for planning permission in respect of the Development submitted by or on behalf of the Developer and registered by the District Council on 23 July 2019 and given reference number DC/19/03486

Practical Completion

the issue of a CML Certificate by the Owner's architect or project manager or in the event that the Development is constructed by someone other than the Owner the issue of a

CML Certificate by that other party's architect or project manager

Primary Education Contribution

the sum of £1,215,182 (one million, two hundred and fifteen thousand, one hundred and eighty-two pounds) comprising:

- (a) £875,108 (eight hundred and seventy-five thousand, one hundred and eight pounds) in respect of the new primary school build cost; and
- (b) £340,074 (three hundred and forty thousand and seventy four pounds) in respect of the new early years build cost

as a financial contribution towards the provision of primary school facilities with the early years facilities on land to the north of Norton Road, Thurston,.

Primary School Land Contribution

the sum of £67,288 (sixty-seven thousand, two hundred and eighty-eight pounds) towards the total primary school land acquisition cost for the land to the north of Norton Road, Thurston

Protected Tenant

means either:

- (a) a leaseholder of a Shared Ownership Dwelling who has staircased to 100% Ownership or any mortgagee or chargee of such leaseholder or any successor in title thereto and their respective mortgagees and charges
- (b) a tenant of an Affordable Rented Unit who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit, or any mortgagee or chargee of such tenant or any successor in title thereto and their respective mortgagees and chargees; or
- (c) a person who has exercised any statutory or voluntary right to buy (or equivalent contractual right) in respect of a particular Affordable Housing Unit, or any mortgagee or chargee of such tenant or any successor

in title thereto and their respective mortgagees and chargees;

Registered Provider

means a registered provider of social housing as defined in Section 80(2) of the Housing and Regeneration Act 2008 and listed in the registers kept by Homes England pursuant to Chapter 3 of that Act and for the avoidance of doubt this could include the Council;

Reserved Matters

An application for reserved matters approval pursuant to the Permission, showing inter alia the detail of the provision of the Affordable Housing Units in accordance with the Affordable Housing Scheme

Residential Dwelling

a unit of accommodation constructed on the Site in accordance with the Permission;

RTA Purchaser

shall mean a right to acquire purchaser pursuant to the provisions in the Housing and Regeneration Act 2008

Shared Ownership Dwelling

Dwellings to be let on a Shared Ownership Lease to a household for a which the household income does not exceed Eighty thousand pounds (£80,000) per annum or such other household income for the time being in force in accordance with the terms as set out in the Home England's capital funding guide and "Shared Ownership Dwellings" shall be construed accordingly;

Shared Ownership Lease

means a long lease (over 99 years) of a Shared Ownership Dwelling granted at a premium whereby no less than 25% (twenty five percent) and no more than 70% (seventy percent) on first purchase of the equitable interest in the Shared Ownership Dwelling is paid by a lessee upon completion of such lease and/or raised by mortgage or charge from a bank or building society and which lease shall include arrangements enabling the lessee to acquire up to 100% (one hundred percent) of the legal and equitable interest in

the Shared Ownership Dwelling at some future date or dates such lease to be substantially in the form of the model shared ownership lease provided by the Regulator of Social Housing whose registered office is Level 1A City Tower Piccadilly Plaza Manchester M1 4BT or any statutory successor thereof (or other government body with the function of regulating social housing development). Any capital receipt received from staircasing between 81% and 100% shall be retained by the Registered Provider and re-invested in Affordable Housing within the District of Mid-Suffolk subject to any contrary requirements within the HE's capital funding guide

Site	the land at Beyton Road, Thurston shown edged red on Plan 1;
Station Platform Improvement Contribution	the sum of £30,000 (thirty thousand pounds) payable to the District Council to be used towards a feasibility and design study for improvements to the platforms at Thurston Station
Sustainable Transport Contribution	the sum of £50,000 payable to the District Council towards a sustainable transport project in the event that a Car Club is not established as part of the Development
Tenure Mix	the mix of tenures to be constructed as set out at Schedule 2 of this Agreement
Travel Plan	the travel plan to be submitted to and approved by the County Council pursuant to the relevant condition of the Permission
Travel Plan Evaluation and Support Contribution	the sum of £1,000 (one thousand pounds) subject to BCIS Index per annum payable in accordance with Schedule 5 of this Deed towards the monitoring and support by the County Council of the Travel Plan.
Working Day	means any day other than Saturdays, Sundays, public holidays in England and Wales or any days between Christmas Day and New Year's Day.

- 1.2 Where in this Agreement reference is made to any clause, schedule, paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause, schedule, paragraph or recital in this Agreement.
- 1.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.4 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.
- 1.5 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually insofar as such obligation relates to land within such party's ownership unless there is an express provision otherwise.
- 1.6 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.
- 1.7 References to any party to this Agreement shall include the successors in title to that party and to any party deriving title through or under that party and in the case of the District Council and the County Council the successors to its statutory functions.
- 1.8 Where this Agreement requires a plan or strategy or other document to be submitted to the District Council or the County Council for approval or agreement then upon approval of the same it shall be deemed to have been incorporated into this Agreement and the same shall apply to any provision requiring a review of any such plan or strategy or other document.
- 1.9 References to a "Plan" in this Agreement shall be references to the plans attached to this Agreement bearing the relevant plan number or any amended plans as shall be agreed between all parties.
- 1.10 The headings in this Agreement do not affect its interpretation.
- 1.11 Any covenant not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person.

2 ENABLING POWERS AND OBLIGATIONS

- 2.1 This Agreement is entered into pursuant to Section 106 of the 1990 Act, Section 111 of the 1972 Act and Section 1 of the 2011 Act and all other enabling powers.
- 2.2 The covenants restrictions and requirements imposed upon the Owner under this Agreement create planning obligations pursuant to Section 106 of the 1990 Act and are enforceable by the District Council and County Council as local planning authorities against the Owner and their successors in title.
- 2.3 This Agreement is a deed and may be modified or discharged in part or in total at any time after the date of this Agreement by deed between the parties in the form of a deed.
- 2.4 This Agreement is a local land charge and upon completion, shall be registered by the District Council as such.
- 2.5 The parties agree that this Agreement shall, unless any relevant party shall reasonably object, apply to any planning permission granted by the District Council in relation to the Site following an application submitted by the Owner or the Developer under section 73 of the 1990 Act.

3 CONDITIONALITY

- 3.1 This obligations in this Agreement are conditional upon:

- (a) the grant of the Permission; and
- (b) Implementation

save for the provisions of clauses 1,2,3,4,7,8,11,12,13,14,15,16,18,19 and 20 which shall come into effect immediately upon completion of this Agreement and any other relevant provisions which shall come into effect immediately upon completion of this Agreement.

- 3.2 In the event that the Planning Application is refused or (subject to clause 2.2) the Permission is not Implemented and expires, the obligations contained in this Agreement shall absolutely cease and determine without further obligation upon the Owner, Developer or their successors in title.

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

- (a) until such time as such proceedings or challenge including any appeal have been finally resolved the terms and provisions of this Agreement will remain without operative effect notwithstanding the issue of the Permission and the occurrence of the Implementation Date PROVIDED THAT the Owner shall not undertake any further works to implement the Permission following the issue of such proceedings;
- (b) if following the conclusion of such proceedings or challenge the Permission is quashed and is not superseded by a subsequent planning permission accepted by the Owner this Agreement will cease to have any further effect; and
- (c) if following the conclusion of such proceedings or challenge the Permission remains valid and fully enforceable all of the terms and provisions of this Agreement will apply in full.

4 LIABILITY AND CONSENT

4.1 The Developer acknowledges and declares that it has entered into this Agreement with the consent of the Owner with intention that its interest in the Site shall be bound and subject to the terms of this Agreement and that it consents to this Agreement being entered into by the Owner.

4.2 For the avoidance of doubt in the event that the Developer acquires ownership of the Site (or part thereof) after the date of this Agreement the Developer shall be a successor in title to the Owner and shall be bound by this Agreement as if references to the Owner were references to the Developer in respect of the Site (or relevant part thereof).

4.3 The liability of the Owner and/or any subsequent mortgagee under this Agreement shall cease once it has parted with its interest in the Site or any relevant part thereof (in which event the obligations of the Owner and any subsequent mortgagee under this Agreement shall cease only in relation to that part or those parts of the Site which is or are transferred by them) but not so as to release such party from liability for any breaches hereof arising prior to the transfer.

4.4 This Agreement and the planning obligations within it shall not be binding upon or enforceable against any:

- (a) individual owner, tenant or occupier of any Residential Dwelling, nor their respective mortgagee or chargee in relation to such Residential Dwelling; or

- (b) any statutory undertaker who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services.
- (c) any Approved Body (other than the obligations in relation to Affordable Housing Units which shall be binding)

4.5 The obligations contained in this Agreement shall absolutely cease and determine without further obligation upon the Owner or Developer or its successors in title if the Permission is revoked, quashed, is modified without the consent of the Owner or Developer, expires, or (subject to clause 2.2) if a separate planning permission is subsequently granted and implemented which is incompatible with the Permission.

5 OBLIGATIONS UNDERTAKEN BY THE OWNER AND THE DEVELOPER

With the intent that the Site shall be subject to the obligations and restrictions contained in this Agreement for the purpose of restricting or regulating the Development and use of the Site so that the provisions of this Agreement shall be enforceable against the Owner and any subsequent mortgagee and their successors in title the Owner hereby covenants with the District Council and the County Council to observe and comply with the obligations and covenants contained in Schedule 4 and Schedule 5.

6 OBLIGATIONS UNDERTAKEN BY THE DISTRICT COUNCIL AND THE COUNTY COUNCIL

- 6.1 The District Council covenants with the Owner and the Developer to observe and comply with the obligations contained in Schedule 6
- 6.2 The County Council covenants with the Owner and the Developer to observe and comply with the obligations contained in Schedule 7.

7 NOTICES OF EVENTS

- 7.1 The Owner or the Developer (as relevant) will give the District Council and the County Council not less than ten (10) Working Days' prior written notice of its intention to Implement the Permission specifying the intended Implementation Date.
- 7.2 The Owner or the Developer (as relevant) will within ten (10) Working Days' of Implementation serve the Notice of Commencement

7.3 The Owner or the Developer (as relevant) covenants to inform the District Council by way of written notice within 10 Working Days of the following:

- (a) Occupation of the first (1st) Residential Dwelling;
- (b) Occupation of the one hundredth (100th) Dwelling; and
- (c) Occupation of the final Residential Dwelling;

7.4 The Owner or the Developer (as relevant) covenants to inform the County Council by way of written notice within 10 Working Days of the following:

- (a) Occupation of the first (1st) Residential Dwelling;
- (b) Occupation of the fiftieth (50th) Residential Dwelling;
- (c) Occupation of the 100th Residential Dwelling; and
- (d) Occupation of the final Residential Dwelling

8 NOTICES

8.1 Any notices required to be served on or any document to be supplied or submitted to any of the parties hereto shall be sent or delivered to the address stated in this Agreement as the address for the receiving party or such other address as shall from time to time be notified by a party to this Agreement as an address at which service of notices shall be accepted or (in the case of a limited company) at its registered office.

8.2 Any notices to be served or documents to be supplied or submitted or applications for approval under the terms of this Agreement to be made which are addressed to the District Council shall be addressed to The Corporate Manager, Growth and Sustainable Planning, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX.

8.3 Any notices to be served or documents to be supplied or submitted or applications for approval under the terms of this Agreement to be made which are addressed to the County Council shall be addressed to The Executive Director of Growth, Highways and Infrastructure, Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX

9 INDEXATION

9.1 Any sum referred to in Schedule 4 and Schedule 5 (unless the context reads otherwise) shall be increased or decreased by an amount equivalent to the increase or decrease (as appropriate) 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:

- (a) A is the sum payable under this Agreement;
- (b) B is the original sum calculated as the sum payable;
- (c) C is the BCIS Index for the month 2 (two) months before the date on which the sum is payable; and
- (d) D is the BCIS Index for the month 2 (two) months before the date of this Agreement and
- (e) C/D is greater than 1 (one)

10 INTEREST

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

11 DISPUTE RESOLUTION

11.1 Any dispute or difference of any kind whatsoever arising between the Owner the Developer the District Council or the County Council (the "**Parties**") out of or in connection with this Agreement (including without limitation any question regarding its existence validity or termination) shall be referred to expert determination before a single expert (the "**Expert**").

11.2 The Parties to the dispute shall jointly appoint the Expert not later than 20 (twenty) Working Days after service (on all other Parties to the dispute) of a request in writing by any Party to the dispute to do so.

11.3 If the Parties to the dispute are unable to agree within 20 (twenty) Working Days as to the appointment of such Expert then the Expert shall be appointed on the application of either of the Parties as follows:

- (a) difference or question relates to the rights and liabilities of either Party or to the terms or conditions to be embodied in the Agreement or document appertaining to the Agreement 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;
- (b) 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;
- (c) difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Parties but in default of agreement appointed at the request of either Party by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or
- (d) if such difference or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Parties in dispute but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute.

11.4 In the event of a reference to expert determination the Parties in dispute agree to:

- (a) prosecute any such reference expeditiously; and
- (b) 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.

11.5 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.

11.6 The award shall be in writing and signed by the Expert.

11.7 The award shall be final and binding both on the Parties to the dispute and on any persons claiming through or under them and judgment upon the award may be entered in any court

having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement as the case may be.

11.8 Unless this Agreement has already been terminated each of the Parties to the dispute shall in every case continue to comply with its obligations under this Agreement 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 Agreement and other methods of enforcement.

11.9 The provisions of this clause shall not affect the ability of a party 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 Agreement and consequential and interim orders and relief.

12 SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT

12.1 Where in the opinion of the Owner or Developer any of the provisions of this Agreement have been satisfied the Owner or the Developer shall be entitled to apply to the District Council and/or the County Council for a certificate to that effect and upon the District Council and/or the County Council being satisfied that the relevant agreement obligation and covenant as the case may be has been satisfied the District Council and/or the County Council shall forthwith issue a certificate to such effect.

12.2 Following the performance and satisfaction of all the obligations contained in this Agreement the District Council shall forthwith effect the cancellation of all entries made In the Register of Local Land Charges in respect of this Agreement.

13 APPROVALS

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

13.2 All approvals, consents, expressions of satisfaction, agreement and similar matters required to be given by any party to this Agreement shall not be unreasonably withheld or delayed.

14 COMMUNITY INFRASTRUCTURE LEVY

14.1 The Parties agree that for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended) the obligations imposed in this Agreement 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 but for the avoidance of doubt.

15 LEGAL COSTS

On or prior to the completion of this Agreement the Developer will pay to the District Council and the County Council the reasonable and properly incurred legal costs of the District Council and the County Council in relation to the negotiation, preparation, execution and completion of this Agreement.

16 VAT

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

17 RIGHT OF ENTRY

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

- (a) such employee or agent on arrival at the Site shall if requested by any person present who appears to be the Owner the manager or person in charge thereof produce evidence of identity (but entry may be made if there is or appears to be no such person on the Site);
- (b) such entry shall be effected between 8:00 am and 5:00 pm on any Working Day;

- (c) such employee or agent may be accompanied by such other persons as may be reasonably necessary;
- (d) such employee or agent may take photographs measurements and levels;
- (e) such employee or agent may not remain on the Site for no longer than is reasonably necessary for carrying out a proper inspection; and
- (f) such employee or agent and any other accompanying persons shall comply with the Owner or the Owner representative's reasonable directions and precautions in the interests of safety.

18 MISCELLANEOUS

- 18.1 No provision of this Agreement shall be interpreted so as to affect contrary to law the rights powers duties and obligations of the District Council and the County Council in the exercise of any of their statutory functions or otherwise.
- 18.2 If any provision of this Agreement shall be held to be unlawful or unenforceable in whole or in part under any enactment or rule of law such provision shall to that extent be deemed not to form part of this agreement and the enforceability of the remainder of this agreement shall not be affected.
- 18.3 No waiver (whether expressed or implied) by the District Council or the County Council or the Owner or Developer of any breach or default in performing or observing any of the covenants terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent the District Council or the County Council or the Owner or the Developer from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.
- 18.4 Save as specifically provided in this Agreement, nothing in this Agreement shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Permission).
- 18.5 For the purposes of the 1999 Act it is agreed that nothing in this Agreement shall confer on any third party any right to enforce or any benefit of any term of this Agreement.

- 18.6 The parties to this Agreement shall act in good faith and shall co-operate with each other to facilitate the discharge and performance of all obligations contained herein and the Owner and Developer shall comply with any reasonable requests of the District Council and/or the County Council to have access to any part of the Site or any reasonable requests to provide documentation within the Owner or the Developer's possession (at their own expense) for the purposes of monitoring compliance with the obligations contained herein.
- 18.7 The Owner and Developer agree declare and covenant with the District Council and the County Council to observe and perform the conditions restrictions and all other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the District Council and the County Council for any expenses or liability arising to the District Council or the County Council in respect of breach by the Owner or the Developer of any obligation contained herein, save to the extent that any act or omission of the District Council or the County Council, or their employees or agents has caused or contributed to such expenses or liability.
- 18.8 The Owner on completion of this Agreement shall pay the reasonable fee incurred by the County Council for monitoring compliance with the obligations within this Agreement in the sum of £1,236 (one thousand, two hundred and thirty-six pounds).

19 ENTIRE AGREEMENT

This Agreement the schedules and the plans and documents annexed hereto or otherwise referred to herein contain the whole agreement between the Parties relating to the subject matter hereof and supersede all prior agreements arrangements and understandings between the Parties relating to that subject matter.

20 JURISDICTION

This Agreement is governed and should be interpreted in accordance with the laws of England.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as a **DEED** the day and year before written

The **COMMON SEAL** of
MID SUFFOLK DISTRICT COUNCIL
was hereunto affixed in the presence of:

Authorised Signatory



The **COMMON SEAL** of
SUFFOLK COUNTY COUNCIL
was hereunto affixed in the presence of:

Authorised Signatory



EXECUTED as a **DEED** BY
SIR GEORGE ANTHONY AGNEW
In the presence of-



Witness



Witness Name *NEWID COCKEDGE*

Witness Address *ESTATE OFFICE
ROGHAM
IP30 9LZ*

**EXECUTED as a DEED BY
BLOOR HOMES LIMITED**
acting by its attorneys:-

AUTHORISED SIGNATORY
A. LOWE

Attorney



Witness

Witness Name

Amber Ratcliffe
Trainee Accounts Assistant
Bloor Homes Limited
Ashby Road
Measham
Swadincole
Derbyshire DE12 7JP

Witness Address

Attorney



Witness

Witness Name

Amber Ratcliffe
Trainee Accounts Assistant
Bloor Homes Limited
Ashby Road
Measham
Swadincole
Derbyshire DE12 7JP

Witness Address