

DATED 24<sup>th</sup> March

2021

**EAST SUFFOLK COUNCIL (1)**

-and-

**SUFFOLK COUNTY COUNCIL (2)**

-and-

**FPC (RENDLESHAM) LIMITED (3)**

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

Relating to the Former Rendlesham Sports Centre, Walnut Tree Avenue,  
Rendlesham Suffolk IP12 2GF

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 **HOWES  
PERCIVAL**

3 The Osiers Business Centre  
Leicester  
LE19 1DX  
CAM/229516.3

THIS AGREEMENT is made on

24<sup>th</sup> March

2021

**BETWEEN:**

- 1 **EAST SUFFOLK COUNCIL** of East Suffolk House, Station Road, Melton IP12 1RT ("the Council"); and
- 2 **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX ("the County Council")
- 3 **FPC (RENDELESHAM) LIMITED** (Comp. Regn. No 11769335) of 73 Cornhill, London, EC3V 3QQ ("the Owner"); and

**INTRODUCTION**

- 1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated
- 2 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
- 3 The Owner is the leasehold owner of the Site pursuant to a lease of a term of 999 years dated 20 May 2019 between the Owner and Walnut Tree Property Limited which is pending registration at the Land Registry against Freehold Title SK192688
- 4 The Council consider and the Owner acknowledges that 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.
- 5 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).

**NOW THIS DEED WITNESSETH AS FOLLOWS:**

1 **DEFINITIONS**

- 1.1 For the purposes of this Deed the following expressions shall have the following meanings and there are additional definitions set out in the Third Schedule:

**"100% Staircaser"** means a lessee of a Shared Ownership Dwelling under a Shared Ownership Lease who has exercised their right under that lease to purchase 100% of the equity in the Shared Ownership Dwelling

**"Act"** the Town and Country Planning Act 1990 as amended

<b>“Affordable Housing”</b>	subsidised housing that will be available to persons whose needs are not met by the market and eligibility is determined with regard to local incomes and local house prices who cannot afford to buy or rent housing generally available on the open market which shall be a mix of Affordable Rental Units and Shared Ownership Dwellings in accordance with the provisions of this Deed or otherwise as agreed in writing between the Owner and the Council
<b>“Affordable Housing Units”</b>	The eleven (11) Dwellings to be provided on the Site as Affordable Housing to be delivered in accordance with Schedule 3
<b>“Affordable Rental Units”</b>	The eight (8) Affordable Housing Units comprising four (4) x one bedroom two people units, two (2) x two bedroom four people units one (1) three bed 5 people unit and one (1) four bedroom six people unit (or other mix agreed in writing with the Council) to be let by a Registered Provider with an appropriate agreement with Homes England for the provision of affordable rents being controls that limit the rent to no more than 80 per cent of local market rents including any service charges and shall not exceed the local housing allowance or as otherwise agreed with the Council in writing
<b>“Allocation Policy”</b>	means the Local Lettings Cascade adopted by the Council to determine the eligibility and priority for allocation of the Affordable Rental Units and Shared Ownership Units
<b>“Application”</b>	the application for full planning permission for the Development made by the Owner to the Council and allocated reference number DC/20/1035/FUL or any subsequent variation granted by the Council pursuant to s73 of the Act
<b>“Chargee”</b>	any mortgagee or chargee of the Registered Provider or any receiver or manager (including an

administrative receiver) appointed pursuant to the Law of Property Act 1925 or any other person appointed by a mortgagee or chargee under its security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator

**“Commencement”**

the date on which any material operation (as defined in Section 56(a) of the Act) 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 work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, erection of hoardings, the temporary display of site notices or advertisements and “Commenced” and “Commence” shall be construed accordingly

**“Development”**

the development of the Site of a new convenience store, two shop units and associated car parking, service yard and pedestrian way, eleven affordable houses and associated car parking and ancillary works that is the subject of the Application

**“Dwelling”**

a dwelling (including a house, flat, bungalow or maisonette) to be constructed pursuant to the Planning Permission and ‘Dwellings’ shall be construed accordingly

**“East Suffolk District”**

The administrative area of East Suffolk Council

**“Eligible Person”**

a person or persons on the housing waiting list maintained by the Council or who is otherwise approved by the Council as being in need of separate or alternative accommodation and unable to rent or buy housing generally available on the open market

<b>"Homes England"</b>	the non-departmental public body responsible for creating thriving communities and affordable homes in England and which is the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body that may replace it in either function
<b>"Index"</b>	The All in Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation
<b>"Index Linked"</b>	means any sum referred to in Part 1 of Schedule 3 shall be increased by an amount equivalent to the Index to be calculated in accordance with Clause 12 of this Deed
<b>"Interest"</b>	interest at 4% per cent above the base lending rate of the Bank of England from time to time
<b>"Local Lettings Cascade"</b>	The list of categories of Eligible Persons for Affordable Housing in priority order used by the Council to allocate the Affordable Dwellings for Rent and Shared Ownership Dwellings set out in Schedule 5
<b>"Nomination Agreement: Affordable Rental Units"</b>	means an agreement relating to the Affordable Rental Units to be entered into between: (i) the Registered Provider and /or the Owner (in the event that all the Affordable Housing Units have not been disposed of to a Registered Provider); and (ii) the Council, which shall be substantially in the form of the Agreements which are appended at Appendix 1 to this Deed.
<b>"Nomination Agreement: Shared Ownership Units"</b>	means an agreement relating to the Shared Ownership Units to be entered into between: (i) the Registered Provider and /or the Owner (in the event that all the Affordable Housing Units have not been disposed of to a Registered Provider); and (ii) the Council, which shall be substantially in the form of the Agreements which are appended at Appendix 2 to this Deed.

<b>"Open Market Value"</b>	A figure agreed in writing between the Owner and the Council based on the average of three independent valuations estimating the value for which the relevant Dwelling could reasonably be expected to sell for in the open market on the date of valuation between a willing buyer and a willing seller
<b>"Planning Permission"</b>	the full planning permission subject to conditions to be granted by the Council pursuant to the Application substantially as set out in draft in Schedule 2
<b>"Protected Person"</b>	<p>means any person who:</p> <ul style="list-style-type: none"> <li>a) 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;</li> <li>b) has exercised any statutory right to buy or preserved right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;</li> <li>c) a person who has staircased to acquire a 100% interest in the leasehold or the freehold interest in a Shared Ownership Dwelling or</li> <li>d) any mortgagee or chargee deriving title from any parties referred to in clauses a) to c) above or</li> <li>e) any successors in title to any parties referred to in clauses a) to d) above</li> </ul>
<b>"Registered Provider" or "RP"</b>	an organisation which is a private Registered Provider of social housing or other provider registered in accordance with the provisions of chapter 3 of the Housing and Regeneration Act 2008 and who has been approved by the Council in writing
<b>"RPI Index"</b>	The Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to

be published such other index the County Council shall reasonably determine)

**“RPI Index Linked”**

means the School Transport Contribution shall be increased by an amount equivalent to the RPI Index to be calculated in accordance with Clause 12 of this Deed

**“School Transport Contribution”**

means the sum of £9,600 RPI Index Linked to be paid towards the provision of funding the school transport provision for a minimum of 5 years for secondary age pupils

**“Section 73 Consent”**

means a planning permission granted pursuant to Section 73 of the TCPA 1990 which varies and/or removes any condition(s) subject to which the Planning Permission and/or any subsequent planning permission pursuant to Section 73 of the TCPA 1990 was granted

**“Shared Ownership Dwelling”**

the three (3) Affordable Housing Units comprising two (2) two bedroom four people units and one (1) three bedroom five person unit (or other mix agreed in writing with the Council) to be let on a Shared Ownership Lease in accordance with the terms as set out in the Homes England capital funding guide or any other such guidance as shall replace it

**“Shared Ownership Lease”**

A lease in a form approved by Homes England or where there is no such form in a form approved by the Council such lease to provide for the following:

- such percentage shares as are permitted by Homes England under the Capital Funding Guide current at the time of sale shall be initially sold to the purchaser by the Registered Provider;

- power to the purchaser to increase their ownership up to '100% at some future date or dates and shall include a pre-emption provision in favour of the Registered Provider arising on each disposal of the

Shared Ownership Dwelling after the Shared Ownership

- an initial rent not exceeding 2.75% of the value of the equity retained by the Registered Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England

**"Shared Ownership Lessee"** means the lessee for the time being of a Shared Ownership Lease

**"Site"** the land against which this Deed may be enforced as shown for indicative purposes only edged red on the Site Plan

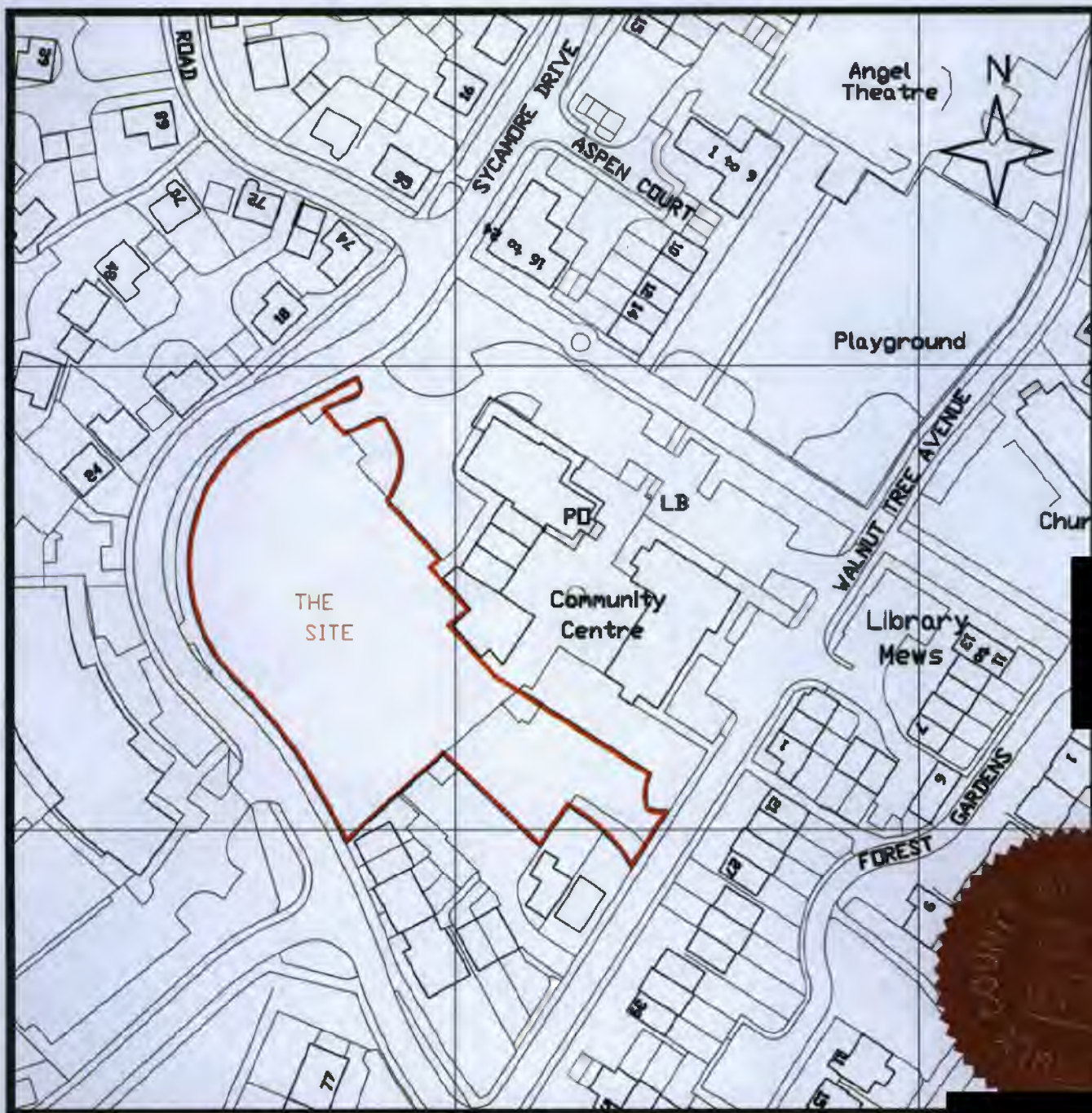
**"Site Plan"** means the plan attached to this Deed and labelled "Site Plan"

**"Working Days"** Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays in England

## 2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph, schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph, schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.5 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.





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6 Octagon Business Park,  
Hospital Road, Little Plumstead,  
Norwich, NR13 5FH  
tel: 01603 397057

planning

client:  
Sheppard Developments

location:  
Walnut Tree Avenue  
Rendlesham Suff

title:  
Site Location Plan

scale @ A4:  
1:1250  
date:  
Sept 2019

project no:  
7641

drawn by:  
BH  
approved:  
BH

dwg no:  
25

revision:

rev:	date:	description:	by:

- 2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successor to its statutory function.

### **3 LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972, 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 Council and County Council as local planning authorities against the Owner in respect of its ownership of the Site and their respective successors in title.

### **4 CONDITIONALITY**

- 4.1 This Deed is conditional upon the grant of the Planning Permission save for provisions of this Clause and Clauses 8.1, 8.2, 16, and 17 (legal costs, jurisdiction and delivery clauses) which shall come into effect immediately upon completion of this Deed
- 4.2 The covenants given in Part 1 of Schedule 3 and Schedules 4, 5 and 6 of this Deed are conditional upon the Commencement of Development

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

- 5.1 The Owner covenants with the Council and County Council as set out in the Schedule 3

### **6 THE COUNCIL'S COVENANTS**

- 6.1 The Council covenants with the Owner as set out in the Schedule 5.

### **7 THE COUNTY COUNCIL'S COVENANTS**

- 7.1 The County Council covenants with the Owner as set out in the Schedule 6

### **8 MISCELLANEOUS**

- 8.1 The Owner shall pay to the Council on completion of this Deed the legal costs of the Council reasonably incurred in the negotiation, preparation and execution of this Deed.
- 8.2 The Owner shall pay to the County Council on completion of this Deed the legal costs of the County Council reasonably incurred in the negotiation, preparation and execution of this Deed together with a monitoring fee of £412 (Four hundred and twelve pounds).
- 8.3 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 8.4 This Deed shall be registerable as a local land charge by the Council.
- 8.5 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 8.6 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall on written request effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

- 8.8 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 that part of the Site in respect of which such breach occurs) but without prejudice to liability for any subsisting breach arising prior to parting with such interest AND FOR THE AVOIDANCE OF DOUBT neither the reservation of any rights or the inclusion of any covenants or restrictions over the Site in any transfer of the Site (or any part or parts of the Site) shall constitute an interest for the purpose of this Clause.
- 8.9 This Deed shall be enforceable (in respect of any restriction on occupation and use only) against owner-occupiers or tenants of Dwellings constructed pursuant to the Planning Permission and against those deriving title from them.
- 8.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 8.11 The covenants, restrictions and requirements contained in this Deed shall not be enforceable against any statutory undertaker or other person who acquires any part of the Site or any interest in it for the purposes of the supply of electricity, gas, water, telecommunications or highways in connection with the Development of the Site.
- 8.12 Unless otherwise agreed between the Parties if a Section 73 Consent is granted by the Council (or the Secretary of State) in relation to the Development, then with effect from the date each such Section 73 Consent is granted
- 8.12.1 the obligations in this Deed shall (in addition to continuing to bind the Site in respect of the Planning Permission) relate to and bind all subsequent Section 73 Consents and the Site itself with any further act by the Parties
- 8.12.2 the definitions of Development, Application and Planning Permission in this Deed shall be construed to include references to any application under Section 73 of the Act, the Section 73 Consent granted pursuant to any such application and the development permitted by such Section 73 Consent

PROVIDED THAT

- (i) nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the Act; and
- (ii) to the extent that any of the obligation in this Deed have already been discharged at the date that any Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent
- (iii) if the Council considers that the obligations contained in this Deed shall be varied or amended it is agreed and acknowledged that the Council retain the right to refuse such application unless and until a deed of variation or alternative agreement has been entered into the secure the appropriate obligations

9 TITLE

The Owner hereby covenants that they are the owners of the Site as set out in the recitals to this Deed and have full power to enter into this Deed and that the Site is free from any other

mortgages, charges or other encumbrances that would prevent the entry into this Deed and that there is no person having any interest in the Site other than as set out in the recitals or as notified in writing to the Council to the date hereof.

10 **WAIVER**

No waiver (whether expressed or implied) by the Council or the Owner of any breach or default in performing or observing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council the Owner from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

11 **CHANGE IN OWNERSHIP**

The Owner covenants with the Council to give the Council written notice of any change in ownership of any of its interest in the Site (save for the disposal of an individual Dwelling) within 5 Working Days of the same occurring before all the obligations under this Deed have been discharged such notice 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 or transferred by reference to a plan

12 **INDEXING LINKING**

Any sum referred to in this Deed shall be increased by an amount equivalent to the Index or in the case of the School Transport Contribution the RPI 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:

A = is the sum payable under this Deed;

B = is the original sum calculated as the sum payable;

C = is the Index or RPI Index as appropriate for the month 2 months before the date on which the sum is payable;

D = is the Index or RPI Index as appropriate for the month 2 months before the date of this Deed; and

Where C/D is less than 1 it shall be deemed to be 1

13 **INTEREST**

13.1 If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

14 **DISPUTE RESOLUTION**

14.1 In the event of any dispute or difference arising between the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.

- 14.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 14.1 or as to the appropriateness of the professional body within twenty (20) Working Days' from the date a party requests confirmation of the person to be appointed pursuant to Clause 14.1 then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.
- 14.3 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-five (25) Working Days' after the conclusion of any hearing that takes place or twenty-five (25) Working Days' after he has received any file or written representation.
- 14.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten (10) Working Days' of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten (10) Working Days'.

15 **VAT**

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

16 **JURISDICTION**

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

17 **DELIVERY**

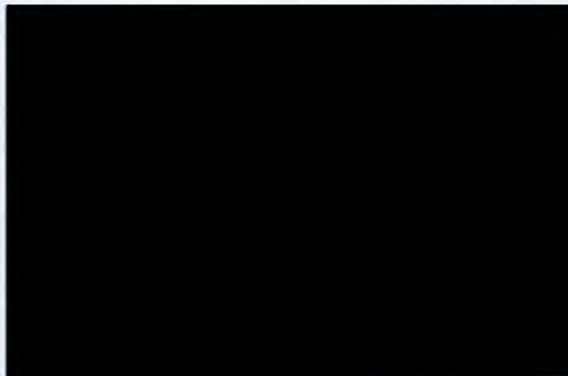
The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

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

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

Authorised Signatory

Authorised Signatory



443

EXECUTED as a deed by  
**FPC (Rendlesham) Limited**  
acting by a Director:

Name of Director:

Witnessed by:

Witness Name:

Address:

Occupation

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

Authorised Signatory:



## **SCHEDULE 1**

### **DETAILS OF THE OWNER'S TITLE AND DESCRIPTION OF THE SITE**

All that piece or parcel of land situated at the Former Sports Centre, Sycamore Drive, Rendlesham, Suffolk IP12 2GF that is the property which is the subject of the lease of a term of 999 years dated 30 My 2019 made between the Owner and Walnut Tree Property Limited, the freehold owner of the property



**EASTSUFFOLK**  
COUNCIL

PlanSurv Ltd  
76 Broad Street  
Ely  
Cambridgeshire  
CB7 4BE

## Planning Permission

### Town and Country Planning Act 1990

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

<b>Our reference</b>	DC/20/1035/FUL
<b>Date valid</b>	3 March 2020
<b>Site</b>	Former Rendlesham Sports Centre Site , Walnut Tree Avenue, Rendlesham
<b>Parish</b>	Rendlesham
<b>Proposal</b>	New convenience store, two shop units and associated car parking, service yard and pedestrian way, eleven affordable houses and associated car parking and ancillary works (Resubmission of previous application DC/19/3881/FUL)

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

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

National Planning Policy Framework 2019

SCLP3.2 - Settlement Hierarchy (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

SCLP3.3 - Settlement Boundaries (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

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

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



- SCLP3.5 - Infrastructure Provision (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP4.12 - District and Local Centres and Local Shops (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP5.1 - Housing Development in Large Villages (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP5.8 - Housing Mix (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP5.10 - Affordable Housing on Residential Developments (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP7.1 - Sustainable Transport (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP7.2 - Parking Proposals and Standards (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP8.1 - Community Facilities and Assets (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP9.2 - Sustainable Construction (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP9.5 - Flood Risk (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP9.6 - Sustainable Drainage Systems (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP10.1 - Biodiversity and Geodiversity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP11.1 - Design Quality (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)
- SCLP11.2 - Residential Amenity (East Suffolk Council - Suffolk Coastal Local Plan, Adopted September 2020)

**Conditions:**

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

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

1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.  
Reason: This condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990 (as amended).
2. The development hereby permitted shall be completed in all respects strictly in accordance with Drawing Nos. 7641 24B and 7641 25, Planning Statement, Design and Access Statement and Preliminary Ecological Appraisal received 3 March 2020, Ground Investigation Reports received 17 March 2020, Flood Risk Assessment received 16 April 2020, Drawing Nos. 7641 21B, 23D and SLSP/15/0002 Rev 2 received 22 May 2020, External Timber Bin Storage received 9 July, 7641 20P received 24 August 2020, Air Quality Report received 14 September 2020 and Ground Investigation Report reference TEB/ABS/17.347A and DJM/17.347/ADD for which permission is hereby granted or which are subsequently submitted to and approved by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.  
Reason: For the avoidance of doubt as to what has been considered and approved.
3. The materials and finishes shall be as indicated within the submitted application and thereafter retained as such, unless otherwise agreed in writing with the local planning authority.  
Reason: To ensure the satisfactory appearance of the development in the interests of visual amenity.
4. The construction of Plots 1 to 5 shall not be commenced until the new Sycamore Drive vehicular access, located to the east of Plots 1 to 5, has been laid out and completed in all respects in accordance with the Site Access Strategy Drawing No.SLS P/15/0002 Rev 2; with clear visibility at a height of 0.6 metres above the carriageway level cleared and thereafter permanently maintained in that area between the nearside edge of the metalled carriageway and a line 2.4 metres from the nearside edge of the metalled carriageway at the centre line of the access point (X dimension) and a distance of 41.4 metres in each direction along the edge of the metalled carriageway from the centre of the access (Y1 dimension), and with clear visibility at a height of 0.6 metres above the footway/cycle track level cleared and thereafter permanently maintained in that area between the back of the footway/cycle track and a line 2.4 metres from the back of the footway/cycle track at the centre line of the access point (X2 dimension) and a distance of 15.8 metres in each direction along the back edging of the footway/cycle track from the centre of the access (Y2 dimension). Thereafter the access shall be retained in the specified form.  
Reason: To ensure that the access is designed and constructed to an appropriate specification. Site Specific Reason: Due to the locational relationship between the building line, the access centreline, the curved kerb and edging lines and the HV cable easement areas, this condition is required to ensure that the building frontage of Plots 1 to 5 does not conflict with the required minimum visibility splays that are to be formed with Y dimensions measured along the relatively tight radius carriageway and back of cycle track edge lines.
5. Within 3 months of the commencement of development, details of the areas to be provided for residents and employees', secure covered cycle storage shall be submitted to and

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

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

approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.

Reason: To ensure the provision of long term cycle storage in accordance with Suffolk Guidance for Parking (2019).

6. Within 3 months of the commencement of development, details of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.  
Reason: To ensure the provision of electric vehicle charging points in accordance with Suffolk Guidance for Parking (2019).
7. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.  
Reason: To prevent hazards caused by flowing water or ice on the highway.
8. The use shall not commence until the areas within the site shown on Drawing Number 7641-20-REV-P for the purposes of loading, unloading, manoeuvring and parking of vehicles, and retail element visitor cycle parking, has been provided and thereafter that area(s) shall be retained and used for no other purposes.  
Reason: To ensure the provision and long term maintenance of adequate on-site space for the parking and manoeuvring of vehicles, and retail visitor cycle parking, in accordance with Suffolk Guidance for Parking (2015) where on-street parking and manoeuvring would be detrimental to highway safety.
9. The areas to be provided for storage of Refuse/Recycling bins as shown on drawing number 7641-20-REV-P shall be provided in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.  
Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.
10. Before any of the commercial units are occupied, a Service Management Plan (SMP) regarding the commercial units shall be submitted to and approved in writing by the Local Planning Authority. The Service Management Plan (SMP) shall describe the means of servicing and times of deliveries and means provision for servicing/delivery vehicles. The SMP should identify exactly how and what types of vehicles are anticipated for the commercial uses and their delivery times should also be detailed to demonstrate that the proposed system would work. Any measures described in the SMP shall be implemented within the time period identified and adhered to thereafter.  
Reason: In the interests of highway safety, the SMP is required to ensure that the impact from commercial unit service and delivery traffic operations on existing users of Walnut Tree Avenue is minimised.

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11. Prior to commencement of any residential dwelling hereby approved, a Traffic Regulation Order (TRO) shall be progressed that seeks to extend the existing on street waiting prohibition to prevent parking on the inside bend of Sycamore Drive obstructing the western visibility splay of the new access east of Plots 1-5. Prior to the commencement of development, the developer shall deposit a sum of £15,000.00 to cover Suffolk County Council's costs and fees associated with progressing and implementing the TRO. Five years after the development's formal completion date, any balance of the £15,000.00 remaining shall be returned to the developer.  
Reason: In line with MfS guidance the development is such that a TRO is required to ensure that parked vehicles would not interrupt visibility splays in order to make the application acceptable.
12. No development shall commence until details of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority.  
Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure that the proposed development can be adequately drained.
13. No development shall commence until details of the implementation, maintenance and management of the strategy for the disposal of surface water on the site have been submitted to and approved in writing by the local planning authority. The strategy shall be implemented and thereafter managed and maintained in accordance with the approved details.  
Reason: To ensure clear arrangements are in place for ongoing operation and maintenance of the disposal of surface water drainage.
14. Within 28 days of completion of the last dwelling/building become erected details of all Sustainable Drainage System components and piped networks have been submitted, in an approved form, to and approved in writing by the Local Planning Authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.  
Reason: To ensure that the Sustainable Drainage System has been implemented as permitted and that all flood risk assets and their owners are recorded onto the LLFA's statutory flood risk asset register as per s21 of the Flood and Water Management Act 2010 in order to enable the proper management of flood risk with the county of Suffolk.
15. No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) by a qualified principle site contractor, detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:
  - a. Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include :-
    - i. Temporary drainage systems

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ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses

iii. Measures for managing any on or offsite flood risk associated with construction  
Reason: To ensure the development does not cause increased flood risk, or pollution of watercourses or groundwater. This condition is a pre commencement planning condition and requires details to be agreed prior to the commencement of development to ensure flooding risk as a result of both construction and use of the site is minimised and does not result in environmental harm or even risk to life.

16. Development must be undertaken in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified within the Preliminary Ecological Appraisal (PEA) (Practical Ecology, January 2020).

Reason: To ensure that ecological receptors are adequately protected and enhanced as part of the development.

17. Prior to occupation, a "lighting design strategy for biodiversity" for the site shall be submitted to and approved in writing by the local planning authority. The strategy shall:  
a) identify those areas/features on site that are particularly sensitive for biodiversity likely to be impacted by lighting and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and  
b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To ensure that impacts on ecological receptors from external lighting are prevented.

18. Prior to commencement an Ecological Enhancement Strategy, addressing how ecological enhancements will be achieved on site, will be submitted to and approved in writing by the local planning authority. Ecological enhancements measures will be delivered in accordance with the approved Strategy.

Reason: To ensure that the development delivers ecological enhancements.

19. No development (including any construction, demolition, site clearance or removal of underground tanks and relic structures) approved by this planning permission, shall take place until a detailed remediation method statement (RMS) has been submitted to, and approved in writing by, the LPA. The RMS must include, but is not limited to:  
- details of all works to be undertaken including proposed methodologies, drawings and plans, materials, specifications and site management procedures;  
- an explanation, including justification, for the selection of the proposed remediation methodology(ies);

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- proposed remediation objectives and remediation criteria; and
- proposals for validating the remediation and, where appropriate, for future maintenance and monitoring.

The RMS must be prepared by a competent person and conform to current guidance and best practice, including CLR11.

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

20. Prior to any occupation or use of the approved development the RMS approved under condition 19 must be completed in its entirety. The LPA must be given two weeks written notification prior to the commencement of the remedial works.

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

21. A validation report must be submitted to and approved in writing by the LPA prior to any occupation or use of the approved development. The validation report must include, but is not limited to:

- results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met;
- evidence that any RMS approved in pursuance of conditions appended to this consent has been carried out competently, effectively and in its entirety; and
- evidence that remediation has been effective and that, as a minimum, the site will not qualify as contaminated land as defined by Part 2A of the Environmental Protection Act 1990.

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

22. In the event that contamination which has not already been identified to the Local Planning Authority (LPA) is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority.

Unless agreed in writing by the LPA no further development (including any construction, demolition, site clearance, removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety.

An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS10175:2011+A1:2013 and CLR11) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

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Where remediation is necessary a detailed remediation method statement (RMS) must be prepared and is subject to the approval in writing of the Local Planning Authority. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works.

Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the LPA.

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

23. Prior to commencement of development, a noise survey shall be undertaken and a report submitted. The survey shall be undertaken by a competent person and shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on BS8233-Guidance on sound insulation and noise reduction for buildings, given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in daytime: 50 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAMax)
- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAMax)

The report shall also consider noise from existing and proposed fixed plant or machinery (e.g. heat pumps, compressors, extractor systems, fans, pumps, air conditioning plant or refrigeration plant) can be annoying and disruptive. This is particularly the case when noise is impulsive or has tonal characteristics. A noise assessment should therefore be submitted to include all proposed plant and machinery and be based on BS4142:2014. A rating level (LAeq) of at least 5dB below the typical background (LA90) should be achieved. Where the rating level cannot be achieved, the noise mitigation measures considered should be explained and the achievable noise level should be identified and justified. This shall be based on BS4142:2014 Methods for rating and assessing industrial and commercial sound. All detail and appropriate consequential noise mitigation measures shall have been agreed, in writing, by the Local Planning Authority and shall be implemented prior to occupation of any building on the site and shall be maintained as agreed thereafter.

Reason: To ensure that noise from the commercial development is not detrimental to the residential amenity of neighbouring residents.

24. No piling operations shall be undertaken unless the details and method of piling is previously agreed in writing with the Local Planning Authority.

Reason: In the interest of amenity and protection of the local environment.

25. Prior to the commencement of development, a Construction Management Plan, to identify how the potential for nuisance from demolition/construction site dust, noise and light will be controlled, shall be submitted to and approved in writing by the local planning authority. This

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should include site working times and should be agreed and approved by the LPA prior to any work on site taking place. All construction works shall be carried out in accordance with the approved Construction Management Plan.

Reason: In the interests of amenity, highway safety and protection of the local environment.

26. There shall be no burning of any material on site.

Reason: In the interest of residential amenity.

27. Prior to occupation of any of the properties (residential or commercial) hereby permitted, a management plan for maintenance of the communal areas to include, but not limited to, the access road, parking and turning areas and the landscaped areas shall have been submitted to and approved in writing by the local planning authority. The maintenance plan should include long term design objectives, management responsibilities and a scheme of maintenance for both the hard and soft landscaped areas for a period of at least 20 years. The schedule should include details of the arrangements for its implementation. The development shall be carried out in accordance with the approved management plan.

Reason: To ensure the communal areas are properly maintained in the interest of visual amenity.

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

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

29. The approved landscaping scheme shall be implemented not later than the first planting season following commencement of the development (or within such extended period as the local planning authority may allow) and shall thereafter be retained and maintained for a period of 5 years. Any plant material removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season and shall be retained and maintained.

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

30. Within 6 months of the commencement of development, precise details of all of the means of enclosure (i.e. hedgerows, fences, gates, walls etc.) shall have been submitted to and approved by the Local Planning Authority. Prior to occupation of any of the dwellings or commercial units hereby approved, all boundary treatments shall The approved means of enclosure shall thereafter be retained in their approved form.

Reason: In the interests of visual and residential amenity.

31. Prior to occupation of the 5th dwelling hereby permitted, all three of the commercial units shall have been completed and be made ready for occupation.

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Reason: To ensure that the commercial units are delivered in a timely manner ensuring the supply of community infrastructure within the District Centre.

32. Prior to the use commencing, details of an external lighting scheme shall be submitted to and approved by the Local Planning Authority. This scheme shall thereafter be implemented and retained in its approved form.

Reason: In the interests of amenity, and protection of the local rural environment, including the ecological environment.

33. The three commercial units hereby permitted shall be used for purposes within Class E as set out in The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

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

#### **Informatives:**

1. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.
2. East Suffolk Council is a Community Infrastructure Levy (CIL) Charging Authority.

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

If your development is for the erection of a new building, annex or extension or the change of use of a building over 100sqm in internal area or the creation of a new dwelling, holiday let of any size or convenience retail, your development may be liable to pay CIL and you must submit a CIL Form 2 (Assumption of Liability) and CIL Form 1 (CIL Questions) form as soon as possible to [CIL@eastsoffolk.gov.uk](mailto:CIL@eastsoffolk.gov.uk)

A CIL commencement Notice (CIL Form 6) must be submitted at least 24 hours prior to the commencement date. The consequences of not submitting CIL Forms can result in the loss of payment by instalments, surcharges and other CIL enforcement action.

CIL forms can be downloaded direct from the planning portal:

[https://www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy/5](https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5)

Guidance is viewable at: <https://www.gov.uk/guidance/community-infrastructure-levy>

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3. The applicant is advised that the proposed development may require the naming of new street(s) and numbering of properties/businesses within those streets and/or the numbering of new properties/businesses within an existing street. This is only required with the creation of a new dwelling or business premises. For details of the address charges please see our website [www.eastsuffolk.gov.uk/planning/street-naming-and-numbering](http://www.eastsuffolk.gov.uk/planning/street-naming-and-numbering) or email [llpg@eastsuffolk.gov.uk](mailto:llpg@eastsuffolk.gov.uk)
4. In relation to Condition 5, details of cycle storage sheds are not yet provided. Sheds are usually located in private secure gardens. Residential Long term Cycle Storage in Communal Areas needs appropriate security measures Sheffield stands are suitable for short term customer/visitor parking but not for longer term employee cycle parking.
5. In relation to Condition 10, the Transport Statement has suggested timings of delivery windows and maximum service vehicle types and sizes (Rigid 10.5m or 12m length).
6. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the Highway Authority.  
Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by the County Council or its agents at the applicant's expense.  
The works within the public highway will be required to be designed and constructed in accordance with the County Council's specification.  
The applicant will also be required to enter into a legal agreement under the provisions of Section 278 of the Highways Act 1980 relating to the construction and subsequent adoption of the highway improvements. Amongst other things the Agreement will cover the specification of the highway works, safety audit procedures, construction and supervision and inspection of the works, bonding arrangements, indemnity of the County Council regarding noise insulation and land compensation claims, commuted sums, and changes to the existing street lighting and signing.
7. The infiltration rate used for design purposes is (21.39mm/hr), a figure obtained through a soakage test undertaken at Trial Pit Number SA05. The soakage test was undertaken at a depth of 5.0mBGL, whereas the invert level of the soakaway is proposed at 4.1mBGL, presenting concerns as to whether the proposed infiltration rate is a realistic representation of the actual infiltration rate at the depth of the soakaway. It is noted that the proposed 4.1mBGL invert level is situated on the border of the clay and sand layers identified within the borehole associated with SA05.

It is recommended that further infiltration testing, in accordance with BRE 365, is undertaken at the location of the proposed soakaway. The depth of the soakage test should be in accordance with the invert level of the proposed soakaway to provide an accurate representation of the infiltration capacity at the proposed soakaway location. The additional soakaway tests would also demonstrate whether the clay layer close to the proposed invert level would have an adverse impact on the achievable infiltration rate.

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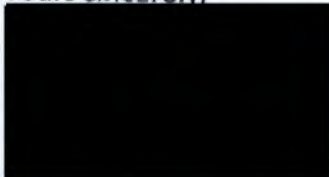
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The half empty time of the soakaway design is 13,634 minutes (227.23 hours), significantly above the maximum 24 hours requirement. The design should ensure there is sufficient storage for both the 1:100 +40% and 1:10 +40% event combined as the half drain times are insufficient.

It would be useful to understand where the pollution mitigation incidencies associated with the proposed Polypipe Permaceptor Diffuser derive from as this information does not appear to be present within table 26.4 of the CIRIA SuDs Manual as suggested within the Drainage Strategy.

8. Suffolk Fire and Rescue Service recommends that proper consideration be given to the potential life safety, economic, environmental and social benefits derived from the provision of an automatic fire sprinkler system.
9. The applicant's attention is drawn to the comments from the Designing Out Crime Officer and it is encouraged that as many of these suggestions are incorporated into the scheme to help achieve a safe environment.

Yours sincerely,



 | **Head of Planning & Coastal Management**  
**East Suffolk Council**

Date:

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**Please read notes below**

**Note**

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

**Town and Country Planning Act 1990**

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

**Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Planning applications: Sections 78 Town & Country Planning Act 1990

Listed Building applications: Section 20 Planning (Listed Buildings and Conservation Areas) Act 1990.

Advertisement applications: Section 78, Town and Country Planning Act 1990 Regulation 15, Town & Country Planning (Control of Advertisements) Regulations 2007.

- Notice of appeal in the case of applications for advertisement consent must be served within eight weeks of receipt of this notice. Notice of Householder and Minor Commercial Appeals must be served within 12 weeks, in all other cases, notice of appeal must be served within six months of this notice.
- If an enforcement notice has been/is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

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- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

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**SCHEDULE 2**  
**DRAFT PLANNING PERMISSION**

## SCHEDULE 3

### THE OWNER'S COVENANTS

#### 1 PART 1 – AFFORDABLE HOUSING

- 1.1 Subject to the provisions of this paragraph 1 from the date of Practical Completion of the Affordable Housing Units they shall not be used other than for the purposes of Affordable Housing.
- 1.2 Following Practical Completion of the Affordable Housing Units the Owner shall transfer the Affordable Housing Units to a Registered Provider and such transfer shall be
  - 1.2.1 with vacant possession;
  - 1.2.2 free from any encumbrance other than existing at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owners to any statutory undertaker);
  - 1.2.3 subject to grant by the Owners to the Registered Provider of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units; and
  - 1.2.4 subject to a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purpose of the construction, operation, use, maintenance and management of the Development;
  - 1.2.5 a requirement to enter into both the Nomination Agreement: Affordable Rented Units a and the Nomination Agreement: Shared Ownership Dwellings with the Council.
- 1.3 The Affordable Rental Units will be let to applicants selected via the Gateway to Home Choice with priority being given to applicants in accordance with the Local Letting's Cascade and the provisions of the Nomination Agreement Affordable Rental Units
- 1.4 The Shared Ownership Units shall be advertised via the Help to Buy website and sold to applicants nominated by the Help to Buy Agent and in accordance with the Nomination Agreement Shared Ownership
- 1.5 The affordable housing provisions in this Schedule 3 of this Deed shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:
  - such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

- if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the affordable housing provisions in this Schedule 3 of this Deed which provisions shall determine absolutely

## **2 PART 2 – SCHOOL TRANSPORT CONTRIBUTION**

- 2.1 The Owner covenants with the County Council to pay the School Transport Contribution to the County Council prior to Commencement of Development
- 2.2 The Owner covenants with the County Council not to commence the Development until the School Transport Contribution has been paid



## **SCHEDULE 4**

### **LOCAL LETTINGS CASCADE**

The Council is to allocate each of the Affordable Housing units to a person nominated by the Council in line with its Allocation policy who is considered by them to be in need of such accommodation and unable to compete in the normal open market for property. Before nominating an applicant the Council will be satisfied that the applicant:

- 1 Has continuously lived in the East Suffolk District for the preceding 3 years; or
- 2 has continuously had a place of work in the East Suffolk District for the preceding 3 years; or
- 3 has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in the East Suffolk District for preceding 5 years; or
- 4 due to a lack of suitable accommodation was forced within the preceding 3 years to move away from the East Suffolk District

## **SCHEDULE 5**

### **THE COUNCIL'S COVENANTS**

The Council covenants with the Owner as follows:

- 1 The Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

## **SCHEDULE 5**

### **THE COUNCIL'S COVENANTS**

The Council covenants with the Owner as follows:

- 1 The Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

## SCHEDULE 6

### COUNTY COUNCIL COVENANTS

The County Council covenants with the Owner as follows:

1. To use the School Transport Contribution for the provision of funding school transport for secondary age pupils for a minimum of 5 years
2. If requested to do so in writing after the expiry of ten (10) years from first Occupation of the final Dwelling within a further period of one (1) year to pay to the Payee such amount of the School Transport Contribution paid by the Payee which has not been committed or expended by the County Council in accordance with the provisions of this Deed
3. When the School Transport 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 and/or Payee after the expiry of ten (10) years from first Occupation of the final Dwelling within a further period of one (1) year notify the Owner and/or Payee (as appropriate) 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

**APPENDIX 1**

**DATED**

**2020**

**[        ] (1)**

**and**

**EAST SUFFOLK COUNCIL (2)**

**NOMINATION AGREEMENT**

**Relating to Affordable Dwelling(s) for Rent**

**At**

**THIS NOMINATION AGREEMENT is made the day of 2020**

**BETWEEN:-**

- 1 **[ ]** (the Registered provider) or such other Registered Provider as may be approved by East Suffolk Council
- 2 **EAST SUFFOLK COUNCIL** of East Suffolk House, Station Road, Melton, Woodbridge, IP12 1RT ('the Council')

1 **Definitions**

In this Deed:

"Affordable Dwelling(s) for Rent" means Dwellings on the Development to be made available as Affordable Housing let at a monthly or weekly rental figure that does not exceed:-

- (a) 80% of the local market rent inclusive of service charges; or
- (b) (if lower) the local housing allowance rate; or
- (c) with rent increases during the terms of any individual tenancy being limited to increases in the consumer price Index from the date of this Nomination Agreement plus 1% or any subsequent relevant limit placed upon Registered providers by the Homes England or Central Government

"Affordable Housing" means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market

"Allocation Policy" means the policy and procedure that the council has adopted to determine eligibility and priority for Affordable Dwellings for Rent through the Local Lettings Cascade as defined in the Section 106 Agreement for the property

"Chargee" means any mortgagee or charge of a Registered provider or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of property Act 1925 by such mortgagee or chargee or any other person appointed by a mortgagee or chargee under its security documentation for the purpose of enforcing its mortgage or charge or any administrator (howsoever appointed) including a housing administrator

"Choice Based Lettings" - means the process used to advertise Affordable Dwellings for Rent in the Council area or any system that replaces it

"Development" means the Development as defined in the section 106 Agreement to which this Nominations Agreement is appended

"Effective Date" means the date that the application form is received by the partner Organisation (PO), except in the following situations:

- i. When an applicant is moved from one band to a higher band, their new effective date will be the date that their circumstances changed or when the PO is advised of this;
- ii. where an applicant receives priority on medical or welfare grounds, their effective date will be the date that they the application for the award is received by the PO;

- iii. Where an applicant has been accepted as homeless their effective date will be the date that they applied as homeless unless they already qualify for Band B with an earlier date:
- iv. Where a woman is pregnant and the baby will make her eligible for a larger property, her effective date for the larger property will be the date that the baby is born

"Initial Let" means the first tenancy or lease of a newly constructed and previously unoccupied Affordable Dwelling(s) for Rent in accordance with section 1gg of the Housing Act 1996 as amended by section 31s of the Housing and Regeneration Act 2008

"Landlord(s)" means a person or persons who are required to use the council's choice Based Lettings process

"Nominee" or "Nominees" means a person named in the shortlist nominated by the council to the Registered Provider who qualify for a tenancy in accordance with the Registered Provider's letting criteria (details of which have been provided to the council prior to the date of such nominations) to be the tenant of an Affordable Dwelling(s) for Rent

"Partner Organisation" or "PO" means each of the eight District and Borough councils participating in the current Choice Based Lettings scheme

"Property" means the land at the [ ] shown edged red on the plan attached hereto

"Registered Provider" or "RP" means a Registered provider of social housing within the meaning of section 80(1) of the Housing and Regeneration Act 2008 and listed in the register kept by Homes England under Chapter 3 of that Act

"Regulator" Homes England or any body that replaces its role as regulator of Registered Providers

"Shortlist" means the list of applicants (as may be updated from time to time) to be supplied by the Council in line with the Allocation policy and procedures giving the names of person(s) who the council considers to be eligible for this size of property and have a local connection (as determined by the council) and who has been assessed as being in housing priority

"Tenancy Agreement" means an introductory/probationary tenancy, assured shorthold, assured or secure tenancy agreement in a form prepared by the Registered provider and in line with an approved policy that meets the requirements of the Regulator

"Vacancy Notice" means a written notice given by the Registered provider to the council the function of such notice being the notification to the council by the Registered Provider that the construction and fitting out of the Affordable Dwelling(s) for Rent is completed and the Affordable Dwelling(s) for Rent is ready to be advertised through choice Based Letting or let through any subsequent agreed letting procedure. The notice shall be in a form agreed by the parties

"Void" means an Affordable Dwelling(s) for Rent which is vacant otherwise than as a result of the tenant having

- (a) Moved to other accommodation either by transfer or decant provided by the Registered Provider: or
- (b) Moved to other accommodation under a reciprocal arrangement provided by another Registered Provider registered with Homes England under the Housing Act 1996 or Housing and Regeneration Act 2008

"Void Notice" means a written notice given by the Registered provider to the council the function of such notice being the notification to the council by the Registered provider that the Affordable Dwelling(s) for Rent is available to be advertised through Choice Based Lettings or let through any subsequent agreed letting procedure. The notice shall be in a form agreed by the parties.

"Working Day" means Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays in England

## **2 Enabling Provisions**

This Agreement is made pursuant to Section 111 of the Local Government Act 1972 Section 33 (1) (b) of Local Government (Miscellaneous provisions) Act 19e2 and section 1 of the Localism Act 2011 and all other enabling powers

## **3 Procedure**

The parties agree that the following procedure shall apply to the nomination of persons respect of the Affordable Dwellings(s) for Rent-

### **3.1 Initial lets**

- 3.1.1 The Registered Provider shall give the council not less than 4 months' written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation
- 3.1.2 The Registered Provider shall serve a Vacancy Notice on the Choice Based Lettings system detailing the date available for Occupation in respect of the Affordable Dwelling(s) for Rent at the point when it wishes the Affordable Dwelling(s) for Rent to be advertised. This will be in line with agreed advertising cycles which form part of the Allocation Policy.
- 3.1.3 The Council shall arrange for the Affordable Dwelling(s) to be advertised. Within two (2) Working Days' of the bidding cycle closing the Council shall serve upon the Registered Provider a shortlist. The Nominees will be prioritised in line with their housing need and banding priority and effective date. The Council may agree to delegate the shortlisting to the Registered Provider and as required, verification of relevant applicant information
- 3.1.4 The Shortlist to be served by the Council under clause 3.1.3 shall:
  - (i) Specify the appropriate category of Affordable Dwelling(s) for Rent, and
  - (ii) indicate the priority for the housing of the persons named and any other relevant information using a standard pro-forma document via a generic e-mail address to the Council's Choice Based Lettings scheme
- 3.1.5 Upon the properties being ready to let the Registered provider shall within five (5) Working Days' of the date of receipt of the Shortlist select a Nominee from the Shortlist taking into account the priority in the order given for housing indicated by the council and shall use its reasonable endeavours to manage a viewing of the Affordable Dwelling(s) for Rent and offer a Tenancy Agreement to such selected Nominee subject to any final checks as agreed in line with the council's Allocation policy and the Registered Provider's letting criteria
- 3.1.6 If the selected Nominee fails to accept the offer of a tenancy within one (1 ) working Day of receipt of the Registered Provider's offer such selected Nominee shall be deemed to have rejected the Registered Provider's offer and the



Registered provider shall select and make an offer to another Nominee by repeating the procedure set out in clause 3.1.5

- 3.1.7 If the second selected Nominee fails to accept the offer of a Tenancy Agreement within one (1) working Day of receipt of the Registered provider's offer then such second selected Nominee shall be deemed to have rejected the Registered provider's offer and the Registered Provider shall select and make an offer to a third Nominee by repeating the procedure set out in clause 3.1.5
- 3.1.8 If such third selected Nominee fails to accept the offer of a Tenancy Agreement within one (1) working Day of receipt of the Registered provider's offer then the Registered Provider will request a further shortlist from the council and the council will supply this within three (3) Working Days
- 3.1.9 If the council is unable to supply any further Nominees the Registered provider will request that the Affordable Dwelling(s) for Rent is re-advertised and the procedures set out in 3.1.3 – 3.1.8 are complied with

#### **4 Voids**

- 4.1 Should an Affordable Dwelling(s) for Rent become a void after the Initial Let or the Registered Provider has reasonable cause to believe it will become a void then and in each case the procedures set out in 3.1.2 - 3.1.9 shall apply except 3.1.2 which shall refer to Void Notice rather than Vacancy Notice in addition to 4.1.1:
  - 4.1.1 The Registered Provider shall give the council not less than one (1) months written notice of the date when the Affordable Dwelling(s) for Rent will be ready for Occupation

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

- 5.1 The Registered Provider shall give notification to the council of the following events within (2) Working Days' of their occurrence:
  - (i) a Nominee failing to view an Affordable Dwelling(s) for Rent when a viewing has been arranged
  - (ii) a Nominee failing to accept the offer of a Tenancy Agreement within the time limit prescribed by this Nomination Agreement
  - (iii) a Nominee accepting an offer of a Tenancy Agreement
  - (iv) Registered Provider rejecting a Nominee in accordance with Clause 5.3
- 5.2 Arrangements for notification to the council will be set out in the council's approved Allocation Policy
- 5.3 The Registered Provider shall have the right to interview and make enquiries of each Nominee and by serving written notice upon the Council to that effect to reject any Nominee if in the opinion of the Registered provider the grant of an assured tenancy to such Nominee would be in contravention of the Registered provider's registered rules or its letting criteria. The Registered provider is required to make decisions without influence from third parties.
- 5.4 The council shall notify the Registered provider in writing of any Nominee that is withdrawn from the Shortlist

5.5 The Registered Provider must ensure that they handle all information in line with the current Data Protection Act 2018 and future general data protection regulations and procedures and the requirements of the Councils' Allocation policy

5.6 The Council and the Registered provider agree that the nominations rights contained in this Nomination Agreement may be varied from time to time by agreement in writing by the parties

## 6 Notices

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

## 7 Chargee Provisions

7.1 The affordable housing provisions in this Agreement shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the affordable housing provisions in this Agreement which provisions shall determine absolutely

## 8 Transfer to other Registered Providers

8.1 The Registered Provider shall provide notice to the council within five (5) working Days' of any transfer of the Affordable Dwelling(s) for Rent to a Registered provider

8.2 The Registered Provider shall use its reasonable endeavours to procure that any Registered Provider to which the Affordable Dwelling(s) for Rent erected thereon are transferred otherwise than by direction of Homes England under its statutory powers shall enter into a similar agreement mutatis mutandis with the council simultaneously on completing the transfer of the property

## 9 Disputes

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

## 10 Agreements and Declaration

10.1 Nothing in this Nomination Agreement fetters or restricts the exercise by the council of any of its powers

10.2 The obligations contained in this Nomination Agreement are covenants for the purpose of the Local Government (Miscellaneous provisions) Act 1982 section 33

**11 Third Party Rights**

No provisions of this Nomination Agreement shall be enforceable under the contracts (Rights of Third Parties) Act 1999

In witness whereof the parties have executed this Nomination Agreement on the day and year first before written

**THE COMMON SEAL of**

was affixed in the presence of:-

Director

Secretary

**THE COMMON SEAL of EAST SUFFOLK**

**COUNCIL**

was affixed

in the presence of:-

Authorised Signatory

Authorised Signatory

Appendix 2

**DATED**

**2021**

**(NAME) (1)**

**and**

**EAST SUFFOLK COUNCIL (2)**

**NOMINATION AGREEMENT**

**Relating to Shared Ownership Housing**

**At**

**(name of scheme)**

**THIS NOMINATION AGREEMENT is made the day of 2021**

**BETWEEN:-**

- 1 .....of/ registered in England by the Financial Conduct Authority under the Co-operative and Community Benefit Societies Act 2014 (Register Number 32427R) (the Registered Provider) [or such other Registered Provider as may be approved by East Suffolk Council
- 2 EAST SUFFOLK COUNCIL of East Suffolk House, , Station Road, Melton, Woodbridge, IP12 1RT ('the Council')

**1 Definitions**

In this Deed:-

"Affordable Housing" means subsidised housing that will be available to persons who cannot afford to rent or buy housing generally available on the open market.

"Affordable Housing Unit" means three dwellings all of which shall be Affordable Housing to be provided on the Property and which dwellings shall be used as Shared Ownership Dwellings and sold subject to a Shared Ownership Lease as approved by the Regulator or any regulatory body that replaces them and as approved by the Council, to a person nominated-by the Council pursuant to this deed of nomination rights as varied from time to time. The definition of Shared Ownership shall be as set out in the Section 106 Agreement.

"Chargee" means any mortgagee or charge of a Registered Provider or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 by such mortgagee or chargee or any other person appointed by a mortgagee or chargee under its security documentation for the purpose of enforcing its mortgage or charge or any administrator (howsoever appointed) including a housing administrator.

"Help to Buy website" means the website approved by the Regulator to advertise Shared Ownership properties or any other mechanism or system that is set up to replace it.

"Housing register" means the list maintained by the Council of people who have been assessed as eligible for affordable housing (under part VI of the Housing Act 1 996) or any system that replaces it in accordance with the Local Lettings Cascade as defined in the Section 106 Agreement.

"Initial Sale" means the first sale of the newly constructed and previously unoccupied Affordable Housing Unit by the RP by way of a Shared Ownership Lease.

"Practical Completion" the completion of a Dwelling to a standard which is wind and water tight and fit for habitation in terms of heating, plumbing, electrics and sanitation.

"Property" means the land [ ] showed edged red on the plan attached hereto.

"Protected Tenant" means:

- a) a lessee under a Shared Ownership Lease of a particular Affordable Housing Unit and.
- b) a person who has staircased to acquire a 100% interest in the leasehold or the freehold interest in a Shared Ownership Dwelling

"Registered Provider" or "RP" means a Registered Provider of social housing within the meaning of Section 80(1) of the Housing and Regeneration Act 2008 and listed in the register kept by the Regulator under Chapter 3 of that Act.

"Regulator"- Homes England (formerly the Homes and Communities Agency) or any body that replaces its role as regulator of Registered Providers.

"Section 106 Agreement" means the agreement dated [ ] under section 106 of the Town and Country Planning Act 1990 between [ ].

"Shared Ownership Lease" means a lease of the Affordable Housing Unit where the lessee purchases an initial share of the equity in the Affordable Housing Unit for a premium and rents the remainder and is entitled to acquire further shares of the equity up to 100% and shall include a pre-emption and mandatory buyback provision in favour of the RP arising on each disposal of the Affordable Housing Unit after the Shared Ownership Lessee has staircased beyond 80% of the equitable interest in the Shared Ownership dwelling.

"Shared Ownership Lessee" means the lessee for the time being of a Shared Ownership Lease.

## 2 **Enabling Provisions**

This Agreement is made pursuant to Section 111 of the Local Government Act 1972 Section 33(1)(b) of the Local Government (Miscellaneous Provisions) Act 1982 and Section 1 of the Localism Act 2011 and all other enabling powers.

## 3 **Procedure**

The Parties agree that the Affordable Housing Unit will be sold on a Shared Ownership Lease basis and the purchaser shall be selected in accordance with the procedure detailed in the clause 3.1 below

### 3.1 **Initial Sales**

In relation to the Initial Sales of the Affordable Housing Units the following provisions shall apply:-

- 3.1.1 The RP shall give the Council not less than 8 weeks written notice of the date when all the Affordable Housing Units will be ready for Occupation
- 3.1.2 The RP shall upload details of the Affordable Housing Units onto the Help to Buy website and advertise the Affordable Housing Units on the basis of a Shared ownership Lease and priority will be given to applicants who meet the local lettings cascade as set out in schedule 4 of the section 106 agreement.
- 3.1.3 The RP shall only consider applicants who have been assessed and meet the criteria for shared ownership as set out by the Regulator
- 3.1.4 The RP shall ensure that the Help to Buy Agent assesses and initially verifies applicants in line with any processes set out by the Regulator
- 3.1.5 The RP shall verify all applicants to ensure that such applicants have met the criteria set out in Clause 3.1.3 to 3.1.6
- 3.1.6 The RP shall provide the following information to the council within 10 days of applicants having been assessed and verified by the RP and/or help to buy agent:

- (i) the names of all applicants for the affordable housing units provided to the RP by the Help to Buy Agent
- (ii) the name of the successful applicant and proof of the purchasers local connection to the local lettings cascade

### 3.2 Re-Sales

3.2.1 Should any Affordable Housing Units become available for re-sales after the initial Sale the RP agrees that when the Shared Ownership Lessee approaches the RP for a request to nominate a purchaser pursuant to the Shared Ownership Lease then the RP will upload onto the Help to Buy website details of the Affordable Housing Unit and advertise that the Shared Ownership Unit is for sale on the basis of a Shared Ownership Lease to applicants and at the same time the RP shall notify the Council that the Affordable Housing Unit is for sale and the Council may also at its discretion alert applicants who have expressed an interest to low cost home ownership that the units are becoming available and advise them to contact the RP or direct them to the Help to Buy Website

### 4 RP Covenants

The RP covenants with the Council to the intent that the Local Government (Miscellaneous Provisions) Act 1982 applies to ensure the Affordable Housing Units comprised within the Property are used as Affordable Housing Units

### 5 Variation of Nomination Rights

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

### 6 Notices

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

### 7 Chargee Provisions

7.1 The affordable housing provisions in this Agreement shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a **Receiver**)) of the whole or any part of the Affordable Housing Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

- such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the

affordable housing provisions in this Agreement which provisions shall determine absolutely

**8 Transfer to the Registered Provider**

The RP shall use its reasonable endeavours to procure that any Registered Provider to which the Property and Affordable Housing Unit erected thereon are transferred otherwise than by direction of the Regulator under its statutory powers shall enter in to a similar Deed mutatis mutandis with the Council simultaneously on completing the transfer of the Property

**9 Disputes**

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

**10 Agreements and Declarations**

The parties agree:-

10.1 Nothing in this Deed fetters or restricts the exercise by the Council of any of its powers

10.2 The obligations and covenants contained in this deed are covenants for the purpose of the Local Government (Miscellaneous Provisions) Act 1982 Section 33

10.3 From the date of Practical Completion the Affordable Housing Unit shall be leased in accordance with the terms of this deed save that the obligations and restrictions contained in this deed shall not be binding on:-

- (i) any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from a Protected Tenant or any successor in title thereto and their respective mortgagees and charges; or
- (ii) any Chargee and any successor in title to the Chargee
- (iii) any mortgagee and any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor and any successor in title to either of them

IN WITNESS whereof the parties have executed this Nomination Agreement on the day and year first before written

**THE COMMON SEAL of**

was affixed in the presence of:-

Director

Secretary



**THE COMMON SEAL of EAST SUFFOLK  
COUNCIL**

was affixed

in the presence of:-

Authorised Signatory

Authorised Signatory