

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

relating to Land at Redwald Road, Rendlesham,  
Suffolk.

Dated 11<sup>th</sup> February 2022

**EAST SUFFOLK COUNCIL (1)**

**SUFFOLK COUNTY COUNCIL (2)**

**LILIAS MULGRAVE SHEEPHANKS, ANDREW MICHAEL  
ALEXANDER SKRINE, DAVID RICHARD SHEEPHANKS,  
RICHARD JOHN SHEEPHANKS (3)**

**CHRISTCHURCH LAND & ESTATES (RENDLESHAM) LTD (4)**

DATE

11<sup>th</sup> February

2022

## **PARTIES**

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House Station Road Melton Suffolk IP12 1RT ("the Council")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the County Council")
- (3) **LILIAS MULGRAVE SHEEPSHANKS, ANDREW MICHAEL ALEXANDER SKRINE, DAVID RICHARD SHEEPSHANKS and RICHARD JOHN SHEEPSHANKS** of The Rookery, Eyke, Woodbridge, Suffolk IP12 2DR ("the Owners")
- (4) **CHRISTCHURCH LAND & ESTATES (RENDLESHAM) LTD** whose registered office is at 24 Fore Street, Ipswich, Suffolk, England, IP4 1JU (Company Registration Number **10430577**) ("the Developer")

Together "the Parties"

## **INTRODUCTION**

1. The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable.
2. The County Council is the local highway authority (except for trunk roads), the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable.
3. The Owners are the freehold owner of the Site registered at the Land Registry under title number SK137675 and also of the land over which the Footpath Routes are to be created under title number SK225051.
4. The Developer has the benefit of a promotion agreement registered at the Land Registry under title number SK137675.
5. The Site lies within the area to which the Local Plan applies.

6. The Council, the County Council, the Owners and the Developer acknowledge that the Development should not take place until certain restrictions regulating the use of the Site are imposed in the manner hereafter appearing and pursuant to section 106 of the Act the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
7. It is a material consideration in the Council's planning policies that in any proposals for residential development in Key Service Centres consisting of three or more new dwellings a proportion of 33% (one in three) of the new dwellings should be provided for Affordable Housing purposes.

NOW THIS DEED WITNESSES AS FOLLOWS:

## **OPERATIVE PART**

### **1 DEFINITIONS**

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

<b>"Act"</b>	the Town and Country Planning Act 1990 (as amended)
<b>"Allotments"</b>	means the areas to be used as community Allotments shown indicatively on the Plan
<b>" Allotment Scheme"</b>	means a scheme to be agreed with the Council for the provision of Allotments at the Site, including details of the proposed future management of the Allotments to be agreed in writing with the Council in accordance with Part 5 of the Third Schedule.

**“Application”**

the application for outline planning permission validated by the Council on the 30 September 2020 for the Development and allocated reference number **DC/20/3890/OUT**

**“Bus Stop Improvement Contribution”**

means the sum of £15,000 (fifteen thousand pounds) Index Linked for use towards the provision of improving the existing bus stops serving the Development.

**“Commencement of Development”**

the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out on the Site (or where explicitly referred to as a trigger point within this Deed a material operation forming part of the Development is carried out on the Site other than (for the purposes of this Deed and for no other purpose) operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “Commence Development” and “Commencement” shall be construed accordingly

**“Completion of the Development”**

the date that the last Dwelling is first Occupied

**“Creation Agreement”**

shall mean an agreement entered into by the Owners with the County Council pursuant to section 25 of the Highways Act 1980

**“Development”**

the development of 75 houses , with associated open space, including allotments, play space and integrated public rights of way as set out in the Application

**“Dwelling”**

any dwelling (including a house bungalow flat or maisonette) and including both Market Housing Units and Affordable Dwellings to be constructed pursuant to the Planning Permission and “Dwellings” shall be construed accordingly

**“Footpath Routes”**

means those pedestrian rights of way within the Woodland and beyond which will link to public rights of way or other informal routes (whether existing or proposed) and having a pedestrian connection to Redwald Road and shown between points D-E, E-I and E-M on drawing number 38878/4 appended hereto save for any part of that indicatively shown footpath that is already the subject of a completed Creation Agreement in connection with any other development of land or has otherwise already been delivered and dedicated as highway to the County Council’s satisfaction

**“Footpath Scheme“**

means a scheme, including creation agreement funding, to be agreed with the Council for the provision of the Footpath Routes through the Woodland on the eastern side of the B1069 and beyond, the purpose of which is to create part of a wider footpath network to the north east that will create recreational routes that link to other footpaths whether formal or not and whether proposed or existing and to create a connection to Redwald Road

**“Highways Contribution“**

means the sum of £12,500.00 (twelve thousand and five hundred pounds) Index Linked towards the provision of a 40 mph speed limit extension.

**“Index“**

the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the District Council the County Council and the Owners

**“Index Linked“**

the increase in any sum referred to in the Third Schedule and the Fourth Schedule by an amount equivalent to the increase in the Index to be calculated in accordance with Clause 11 of this Deed.



**“Interest”**

Interest at four (4) per cent above the base lending rate of the Bank of England from time to time.

**“Local Plan”**

the East Suffolk Council – Suffolk Coastal Local Plan adopted 23 September 2020 and the Rendlesham Neighbourhood Plan January 2015

**“Management Company”**

a company or body who will take over responsibility for the future ownership and maintenance of the Open Space in perpetuity and which definition may include a resident’s association established for this purpose, a private limited company or a community interest company or other organisation primarily for the benefit of the general public in the location of the Site

**“Monitoring Fee”**

The sum of two thousand and forty pounds (£2,040) being £408 per obligation payable to the Council on completion of this Deed

**“Occupation” and “Occupied”**

occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.

**“Open Space”**

the areas of Open Space shown indicatively on the Open Space Plan

**“Open Space Plan”**

a plan to be submitted to the Council for approval indicating the location of the Open Space

**“Open Space Specification”**

means the specification for delivery of the Open Space including the specifications plans and drawings showing but not limited to the layout and design of the Open Space, the phasing and timing of the delivery of the Open Space including details of any landscaping, paths and access arrangements together with details of the proposed future management regime for the Open Space to be agreed in writing with the Council in accordance with Part 4 of the Third Schedule

**“Open Space Transfers”**

transfers of the Open Space or any part thereof to be approved in writing by the Council and which inter alia shall contain the following provisions:

- a) The Owners shall transfer the fee simple estate free from encumbrances save those set out in the title;
- b) All easements and rights necessary in relation to access for the benefit of the Open Space;
- c) Any exceptions and reservations in relation to drainage and services, support and access of light and air for the benefit of the Development;
- d) Restrictive covenants by the Management Company:



(i) Not to use or permit the Open Space to be used for any purpose other than for the provision of recreational facilities or amenity land for use by the general public as open space as defined in this Deed and shown on the Open Space Plan;

(ii) Not to use or permit the Open Space to be used in a manner which may be or become a nuisance (whether or not amounting to a legal nuisance), annoyance, disturbance or cause damage to the rest of the Development

**“Path Specification”**

the specification for the Footpath Routes as shown on drawing number 38878/4 or any variation thereto agreed in writing between the Owners and the County Council within the Creation Agreement to enable the Owners to deliver a footpath that is a minimum of two meters wide with a surface that is level, firm, free draining and fit for use by walkers at all times of year

**“Plan”**

the plan attached to this Deed

**“Planning Permission”**

the outline planning permission subject to conditions which may be granted by the Council pursuant to the Application.

**“Public Footpath”**

means the Footpath Routes that will become a public footpath by virtue of the Creation Agreement

**“Public Footpath Contribution”**

means the sum of £5,000 (five thousand pounds) to be used towards the administrative and legal costs of creating the Public Footpath by way of a Creation Agreement

**“Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution**

means the sum of up to (£24,140.10) twenty four thousand one hundred and forty pounds and ten pence (Index Linked) calculated using the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution Calculation applicable to the final form of the Development authorised at reserved matters stage to be paid by the Owners to the Council towards the cost of mitigating the impact of additional visitors upon European Protected Sites as a result of the Development pursuant to the Habitats Regulation Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Council – Technical Report dated 23 May 2019

**“Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution Calculation”**

the sum of £321.22 (three hundred and twenty one pounds and twenty two pence) multiplied by the total number of new Dwellings proposed pursuant to the Planning Permission and the approval of reserved matters to calculate the Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution

**“Section 106 Officer”**

the officer so designated by the Council and any notice required to be served on the Council must be sent or delivered to the Council at the address aforesaid marked for the attention of the Section 106 Officer

**“Secondary  
Contribution”**

**School**

**Transport**

means the sum of £84,350.00 (Eighty four thousand three hundred and fifty pounds) for the purposes of funding school transport provision for a minimum of five years for secondary-age pupils residing on the Development.

**“Site”**

the land described in the First Schedule against which this Deed may be enforced as shown edged red for identification purposes only on the Plan

**“Woodland”**

means all that existing woodland which is shown edged green on the Plan

**“Working Days”**

Monday to Friday (inclusive) except Good Friday, Christmas Day and public or bank holidays from time to time in England.

## **2 CONSTRUCTION OF THIS DEED**

- 2.1 Where in this Deed reference is made to any clause, sub-clause, paragraph, sub-paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, sub-clause, paragraph, sub-paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

- 2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally unless there is an express provision otherwise.
- 2.5 Any reference to an Act of Parliament or Directive of the European Union shall include any modification, extension or re-enactment of that Act or Directive for the time being in force (subject to its application in England) and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or Directive or deriving validity from it
- 2.6 Any references to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to its statutory functions.
- 2.7 The headings are for reference only and shall not effect construction.
- 2.8 Any covenant by the Council, County Council Owners or the Developer not to do an act or thing shall be deemed to include an obligation to use all reasonable endeavours not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred
- 2.9 Any notices required to be given under the terms of this Deed may (in addition to any other valid method of service) be given or served by sending the same by recorded delivery post addressed to the party as set out below
- Council: as given in this Deed for the attention of the Section 106 Officer
- County Council: as given in this Deed
- Owners: as given in this Deed
- Developer: as given in this Deed

### **3 LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owners and the Developer 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 authority against the Owners and the Developer and their successors in title.
- 3.3 Insofar as any of the covenants contained in this Agreement are not planning obligations within Section 106 of the Act they are entered into pursuant to the

powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.

- 3.4 The covenants, restrictions and requirements contained in this Deed shall only be capable of being varied by a supplemental deed between the Parties hereto or their respective successors in title or assigns made under Section 106A of the Act.

#### **4 CONDITIONALITY**

- 4.1 The obligations set out in the Third Schedule and Fourth Schedule are conditional upon:

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

and the rest of the provisions set out in this Deed shall take effect immediately upon completion of this Deed.

#### **5 THE OWNERS' COVENANTS**

- 5.1 The Owners hereby covenant with the Council as set out in the Third Schedule so as to bind the Site and each and every part thereof

- 5.2 The Owners hereby covenant with the County Council as set out in the Fourth Schedule so as to bind the Site and each and every part thereof

- 5.3 The Owners covenant and warrant to the Council and the County Council that the Owners are the freehold owners of their respective parts of the Site and have full power and capacity to enter into this Deed and that no other party has any charge over or any other interest in the Site which would require them to be a party to this Deed or whose consent is required to make this Deed binding on the Site and all estates and interests therein

- 5.4 The Developer consents to and confirms the terms of this Deed

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

- 6.1 The Council hereby covenants with the Owners and the Developer as set out in the Fifth Schedule.

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

- 7.1 The County Council hereby covenants with the Owners and the Developer as set out in the Sixth Schedule.



**8 MISCELLANEOUS**

- 8.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 8.2 This Deed shall be registrable as a local land charge by the Council.
- 8.3 Where the agreement, approval, consent or expression of satisfaction is required by the Owners or the Developer from the Council or the County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Head of Planning Services (or the officer of the Council fulfilling such functions) and shall be given on behalf of the County Council by the Executive Director of Growth, Highways and Infrastructure and any notices shall be deemed to have been properly served if sent in accordance with clause 2.9.
- 8.4 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith on the written request of the Owners or the Developer mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 8.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Developer) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 8.7 In the event that any new planning applications are made in respect of the Development pursuant to section 73 of the Act with effect from the date that such new planning permission is granted pursuant to section 73 of the Act:
- 8.7.1 the obligations in this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of any planning permission granted pursuant to section 73 of the Act; and



- 8.7.2 the definition of Development, Application and Planning Permission shall be assumed to include reference to any applications under section 73 of the Act, the planning permission granted thereunder and the development permitted by such subsequent planning permission PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any applications under section 73 of the Act and the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under section 73 of the Act whether by way of a new deed or supplemental deed pursuant to section 106 of the Act or a modification pursuant to section 106A of the Act.
- 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 any part in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 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 Save as provided for in clause 8.7 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 after the date of this Deed.
- 8.11 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, functions, powers, duties and obligations of the Council and the County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.
- 8.12 The Owners and the Developer covenant from the date that this Deed takes effect to allow upon a minimum of 48 hours' notice and an explanation as to which provisions of the Deed are in question the Council, the County Council and its respectively duly authorised officers or agents at all reasonable times to enter into and upon the Site for the purposes of monitoring compliance with the provisions of this Deed
- 8.13 The Owner hereby agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Agreement are hereby waived

- 8.14 Save as otherwise provided in this Deed all works and activities to be carried out under the terms of this Deed (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressly provided otherwise) to be at the sole expense of the Owners and at no cost to the Council or County Council
- 8.15 The Developer covenants to pay the Council's and County Council's on or before completion of this Deed the reasonable legal costs incurred in the preparation and negotiation and completion of this Deed.
- 8.16 The Developer covenants to pay to the County Council on or before completion a contribution of £1,236.00 (one thousand two hundred and thirty-six pounds) (no VAT) towards the County Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Owner is required to observe and perform pursuant to the terms of this Deed.
- 8.17 The Developer covenants to pay the Councils Monitoring Fee on completion of this Deed

## **9 WAIVER**

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

## **10 CHANGE IN OWNERSHIP**

- 10.1 The Owners agree with the Council and the County Council as soon as practicable to give the Council and the County Council written notice of any change in ownership of any of their interests in the Site occurring before all the obligations under this Deed have been discharged such notice quoting the Council's reference DC/20/3890/OUT to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site purchased by reference to a plan and the title number or numbers thereof PROVIDED THAT this obligation shall not apply to transfers of individual Dwellings within the Development or the transfer or grant of leases of electricity sub-stations, gas governors, or pumping stations or the like

## **11 INDEXATION**

11.1 Any sums referred to in the Third and Fourth Schedules (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the Index (unless the context reads otherwise) from the date hereof until the date on which such sum is payable using the application of the formula  $A = B \times C/D$  where:

11.1.1 A is the sum payable under this Deed;

11.1.2 B is the original sum specified in this deed;

11.1.3 C is the Index for the month 2 months before the date on which the sum is payable;

11.1.4 D is the Index for the month 2 months before the date of this Deed; and

11.1.5 C/D is greater than 1

## **12 INTEREST**

12.1 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.

## **13 VAT**

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

## **14 DISPUTE PROVISIONS**

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

- 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 then such question may be referred by either party to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an Expert and his decision shall be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties to the dispute in equal shares.
- 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-eight working days after the conclusion of any hearing that takes place or twenty-eight 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 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 working days.
- 14.5 The provisions of this clause shall not affect the ability of the Council, County Council and/or the Owners to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief

## **15 JURISDICTION**

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

## **16 DELIVERY**

- 16.1 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  
before written.



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

[Redacted signature area]

.....Authorised Officer

JACQUI BULLEN FCILEY

[Redacted signature area]

.....Authorised Officer

MARIE CLARK SOLICITOR

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



[Redacted signature area]

.....Authorised Officer

SIGNED AS A DEED by  
LILIAS MULGRAVE SHEEPHANKS  
In the presence of:

[Redacted signature area]

Witness KATHERINE A BODGEN

[Redacted signature area]

Address

Occupation ESCATE SECRETARY

## FIRST SCHEDULE

### Details of the Owners' Title, and description of the Site

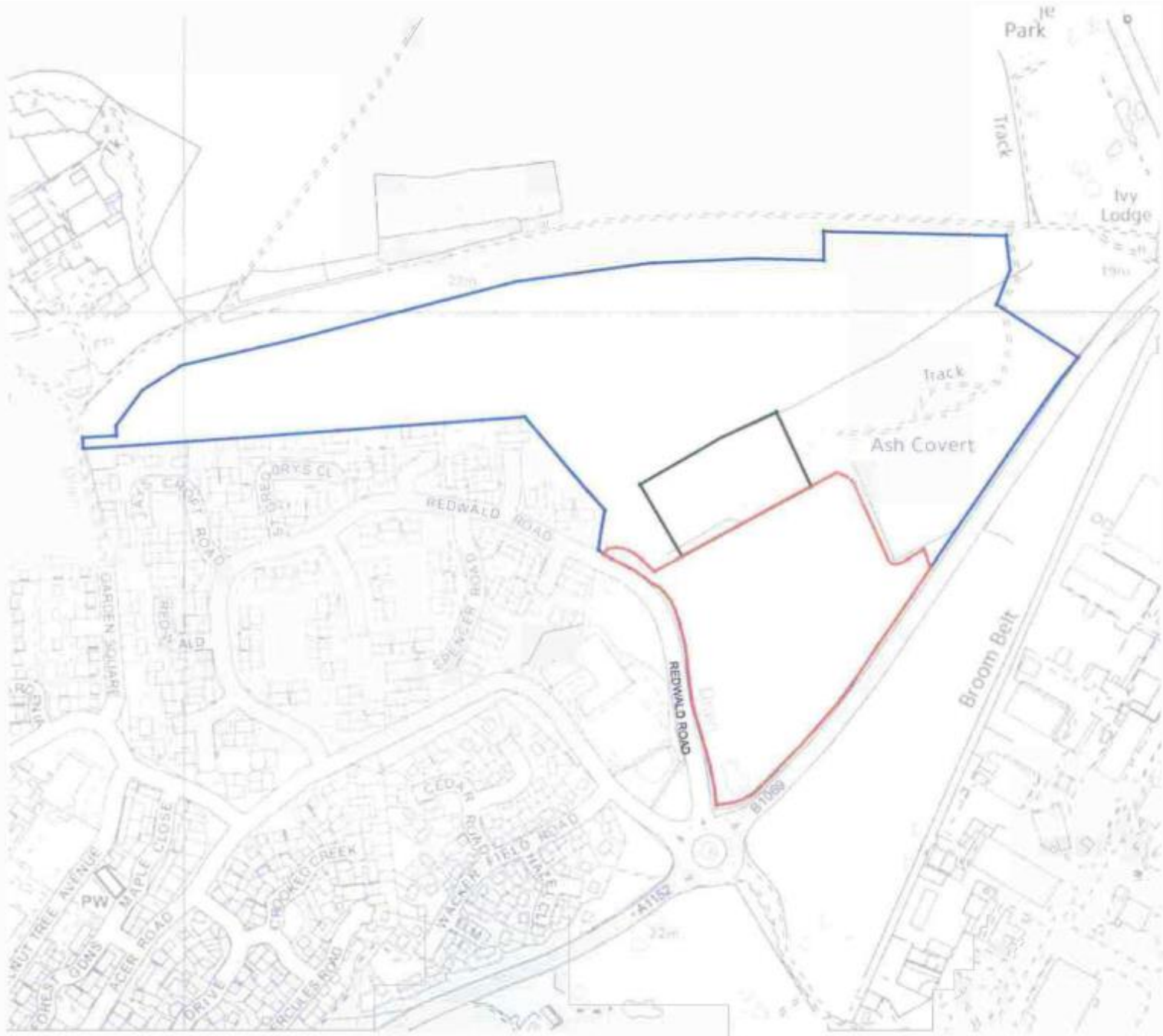
The freehold land lying to the east of Redwald Road, Rendlesham, Suffolk registered at the Land Registry under title number SK137675 (being the land shown edged red on the Plan).



## SECOND SCHEDULE

### Brief details of the Application

Application Number	DC/20/3890/OUT
Application Type	Outline
Date Validated	30 September 2020
Location	Land at Redwald Road, Rendlesham Suffolk
Proposal	A development of 75 Dwellings, with associated open space, including allotments, play space and integrated public rights of way.
Applicant	Christchurch Land & Estates (Rendlesham) Ltd



- KEY**
- Site boundary (4.00 ha)
  - Woodland (1 ha)
  - Remaining land ownership including Ash covert (12.5 ha)



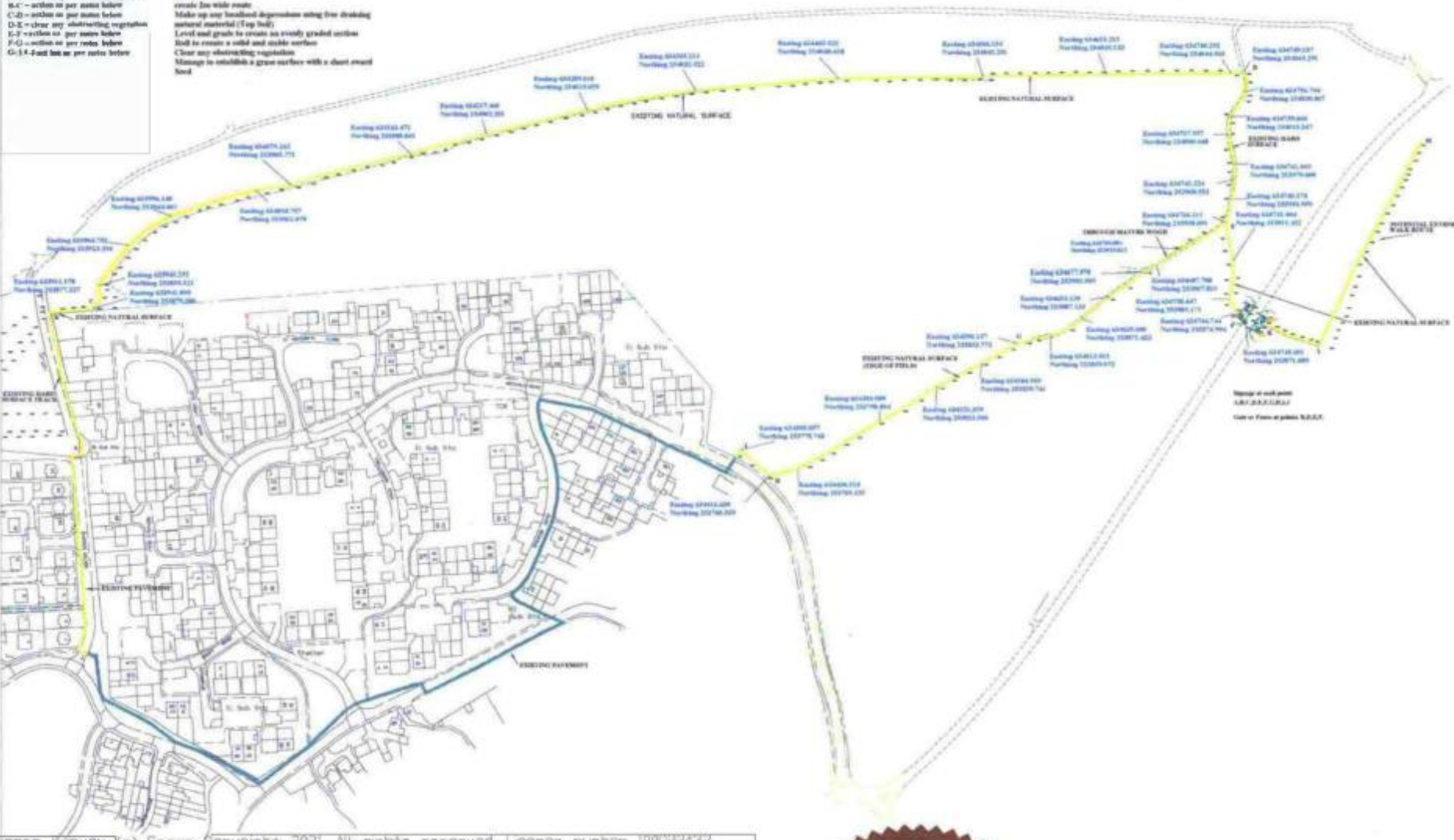
**CH**  
LAND ACQUISITION & DEVELOPMENT

**PLAN TO SHOW POTENTIAL ALLOTMENT LAND  
REDWALD ROAD, RENDLESHAM**

Date: 02/02/21  
Scale: 1:500 @ A2  
Draw: RR-2021-02A  
Client: Christchurch Property Co

A-R-clear any obstructing vegetation  
 B-C-action as per notes below  
 C-D-clear any obstructing vegetation  
 D-E-clear any obstructing vegetation  
 E-F-action as per notes below  
 F-G-action as per notes below  
 G-H-Fast lanes as per notes below

**NOTES**  
 create 2m wide route  
 Make up any localized depressions using fine draining  
 natural material (top soil)  
 Level and grade to create an evenly graded surface  
 20L to create a solid and stable surface  
 Clear any obstructing vegetation  
 Manure to establish a grass surface with a short sward seed



**NOTES**

DATE: 15/11/2021

BY: [Signature]

FOR: [Signature]

**REVISIONS**

No.	Description	Date
1	Issue for client	15/11/2021
2	Issue for client	15/11/2021
3	Issue for client	15/11/2021

**PROPERTIES**

Property	Address	Area
1	15/11/2021	15/11/2021
2	15/11/2021	15/11/2021
3	15/11/2021	15/11/2021

**LEGEND**

Symbol	Description
(Symbol)	Proposed Natural Reserve
(Symbol)	Existing Natural Surface
(Symbol)	Existing Pavement
(Symbol)	Existing Highway

**UTILITY NOTES**

once Survey (c) Crown Copyright 2021. All rights reserved. Licence number 100022432



**MIDLAND SURVEY LTD**

15/11/2021

15/11/2021

15/11/2021

15/11/2021

15/11/2021

15/11/2021



## THIRD SCHEDULE

### 1 Definitions

<b>“Affordable Dwellings”</b>	that part of the Development comprising twelve (12) Affordable Rent Units and six (6) Shared Ownership Dwellings and seven (7) Discounted Market Sales Housing Units as shown on the Affordable Housing Locations Plan and detailed in the Affordable Housing Table
<b>“Affordable Housing”</b>	Housing that will be available to eligible households and as defined in Annex 2 of the National Planning Policy Framework (2021) or any amending or subsequent national planning policy that may be published by the Government whose needs are not met by the market and eligibility is determined with regard to local incomes and local house prices (unless otherwise agreed in writing with the Council);
<b>“Affordable Housing Locations Plan”</b>	the plan to be submitted by the Owners to the Council for its approval showing the location and types of the Affordable Dwellings
<b>“Affordable Rent Units”</b>	Affordable Housing let by a Registered Provider to Eligible Persons where the rent level is capped at 80% of the local market rent (including any service charges, where applicable) and within local housing allowance rates, or as otherwise agreed with the Council in writing;
<b>“Allocation Policy”</b>	Means the policy and procedure adopted by the Council to determine the eligibility and priority for allocation of the Affordable Rent Units;
<b>“Discounted Market Sales Housing Units”</b>	Means Affordable Dwellings sold at a discount of at least 20% below Market Value to Qualifying Persons and subject to a binding covenant securing the discount in perpetuity;
<b>“Eligible Person”</b>	A person or persons on the housing register maintained by the Council or who is otherwise approved by the Council as being in need of separate or alternative accommodation and unable to 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 might replace it in either function

<b>“Local Connection Cascade”</b>	means the cascade as set out in Appendix A
<b>“Market Value”</b>	Means the best price at which the sale of an interest in a Dwelling would have been completed unconditionally for cash consideration on the date of valuation assuming (i) a willing seller and a willing buyer in an arm’s-length transaction (ii) any restrictions imposed on a Dwelling by this Agreement (iii) there has been a reasonable period to completion within which to negotiate the sale (iv) the Dwelling has been freely exposed to the market (v) both the buyer and seller acted knowledgeably prudently and without compulsion
<b>“Market Housing Units”</b>	that part of the Development comprising 50 Dwellings which is general market housing for sale on the open market and which is not Affordable Housing
<b>“Nominated Person”</b>	means a person or persons nominated by either the Registered Provider or the Council from their respective housing registers or the Home buy Agent to be offered an Affordable Dwelling
<b>“Nomination Agreement”</b>	means an agreement to be entered into between: (i) the Registered Provider and (ii) the Council, which shall be substantially in the form of the agreement which is appended at Appendix B to this Deed
<b>“Practical Completion”</b>	issue of a certificate of practical completion by the Owners’ architect or if the Development is constructed by a party other than the Owners the issue of a certificate of practical completion by that other party’s architect;
<b>“Protected Person”</b>	means any person who: <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 Dwelling; or</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 Dwelling</li> <li>(c) a 100% Staircaser</li> </ul>

- (d) any successor in title to a chargee or mortgagee of the persons named in (a) to (c) above
- (e) any mortgagee of a Shared Ownership Dwelling lawfully exercising the mortgagee protection provisions within that Shared Ownership Lease

**“Qualifying Persons”**

Means a person or persons unable to buy housing generally available on the open market and whose household income is below £80,000 (or such other amount agreed in writing with the Council in accordance with government policy);

**“Reasonable Consideration”**

means offer prices from Registered Providers which gives the Owners a reasonable consideration having regard to current market conditions in the disposal of the Affordable Rent Units of a similar type and location by Registered Providers on a grant free basis via Section 106 Agreements

**“Registered Provider” or “RP”**

shall mean either:

- (a) a body registered as a social landlord pursuant to the provisions of the Housing Act 1996 or a housing association within the meaning of the Housing Associations Act 1985; or
- (b) any person or body or entity which is registered as a provider of social housing in accordance with section 80(2) and chapter 3 of the Housing and Regeneration Act 2008

to be approved by the Council such approval not to be unreasonably withheld or delayed

**“Sales Procedure”**

Means the procedure to be approved in writing by the Council to verify the eligibility of purchasers in relation to Discounted Market Sales Housing Units;

**“Shared Ownership Dwelling”**

Means those Dwellings purchased on a Shared Ownership Lease

**“Shared Ownership Lease”**

Means 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:

- i. not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider;
- ii. power to the purchaser to increase their ownership up to 100%;



iii. 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;

## **PART 1**

### **Affordable Housing**

#### **The Owners Covenant with the Council**

##### **General**

1. Not to use the Affordable Dwellings for Eligible Persons or Qualifying Persons (as appropriate) for any purpose other than in accordance with this Deed unless otherwise agreed in writing with the Registered Provider and the Council and the Registered Provider shall enter a Nominations Agreement shown indicatively at Appendix B prior to Occupation of any of the Affordable Rent Units
2. The Council or Registered Provider will (unless otherwise agreed in writing) consider only eligible applicants in accordance with the Allocation Policy and Nomination Agreement. The Council will nominate Eligible Persons for the Affordable Rent Units 100% at first let. Second and subsequent lets the Council will nominate 75% of the Eligible Households for the Affordable Rent Units. The Registered Provider will nominate 25% of the names provided the Nominated Persons meet the Council's Allocation Policy. The Council will accept nominations from the Registered Provider in exceptional circumstances as direct lets Priority will go to applicants who have a local connection in accordance with the Local Connection Cascade and who have been assessed as being a housing priority in line with the Council's Allocation Policy

##### **Affordable Rent Units and Shared Ownership Dwellings**

3. From the date of Practical Completion the Affordable Rent Units shall only be used for the purposes of Affordable Rent Units thereafter let to an Eligible Household

unless otherwise agreed in writing with the Council and the Shared Ownership Dwellings shall only be let on Shared Ownership Leases.

4. The Owners covenant not to Occupy or permit Occupation of more than 50% of the Market Housing Units unless and until the Affordable Rent Units are Practically Complete and transferred to a Registered Provider unless otherwise agreed in writing by the Council
5. In the event that the Developer is not eligible to become a Registered Provider and a suitable Registered Provider cannot be found for the Affordable Rent Units within twelve months from the date of Practical Completion of the Affordable Housing despite the Owners' reasonable endeavours to do so the Owners will provide written notification of such to the Council's satisfaction (the Council at all times acting reasonably) that demand from a Registered Provider has not been forthcoming for Reasonable Consideration
6. If the Council is satisfied that demand from Registered Providers has not been forthcoming for Reasonable Consideration the Council will enter into written negotiations with the Owners to seek an agreed way forward that does not disadvantage or fetter the Owners' ability to continue construction or occupation of the Development
7. The provisions hereof shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any 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 Rent Units or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT it has first complied with the following:
  - (a) such mortgagee or chargee or Receiver shall first given written notice to the Council of its intention to dispose of the Affordable Rent 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 Rent 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
  - (b) If such disposal has not been completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Rent

Units free from the affordable housing provisions in this Deed which provisions shall determine absolutely

8. In the event 100% of a Shared Ownership Dwelling is purchased:
  - (a) the proceeds from the final sale of the Shared Ownership Dwelling are to be ringfenced by the RP and used for the provision of Affordable Housing within the East Suffolk District, and should the owner of the Shared Ownership Dwelling wish to sell it he must notify the RP and allow the RP to purchase the Shared Ownership Dwelling back in the first instance at Market Value
  - (b) in the event the RP purchases the Shared Ownership Dwelling in accordance with this clause at 8(a), the Shared Ownership Dwelling will be marketed as such subject to the terms of this Deed; and
  - (c) in the event the RP declines to purchase the Shared Ownership Dwelling or fails to notify the owner of the Shared Ownership Dwelling of its intention to make an offer to purchase the dwelling within twenty-eight days of the notification as specified in this clause 8(a), then the owner of the Shared Ownership Dwelling may sell it on the open market from the terms of this Deed

#### **Discounted Market Sales Housing Units**

8. The Discounted Market Sales Housing Units shall only be disposed of (which term shall include a freehold sale or sale of a registrable lease) on the terms specified herein:
9. The maximum price payable to the Owners in respect of the disposal of a Discounted Market Sales Housing Unit shall not exceed 80% of the Market Value (for sale or leasehold purposes) as certified by an independent valuer or surveyor who practices within a 15 mile radius of the Site in accordance with the Royal Institution of Chartered Surveyors red book valuation guidance for new build homes.
10. The Discount Market Sales Housing Units shall only be disposed of (which term shall include a freehold sale or sale of registereable lease) to a Qualifying Person in accordance with the Local Connections Cascade and on the terms specified herein PROVIDED that in the event they are transferred to a RP the following clauses of this Schedule shall not apply
11. The Owner covenants to agree the Sales Procedure with the Council no less than 8 weeks prior to marketing the Discounted Market Sales Housing Unit for its first sale

12. No less than 8 weeks prior to marketing the Discounted Market Sales Housing Units for its first sale the Owner shall notify the Council of the proposed Market Value
13. The Council must notify the Owner within 14 days of receipt of the notice served pursuant to paragraph 12 above if the Council considers the price proposed exceeds 80% of the Market Value
14. Any dispute over the Market Value is to be determined by an independent expert who is a chartered surveyor of not less than 10 years standing who is experienced in the field of valuing and selling residential property such as the Discounted Market Sales Housing Units.
15. Where the freehold or a registrable leasehold interest in Discounted Market Sales Housing Unit is transferred such transfer and all such subsequent transfers shall contain a covenant binding the transferee and all subsequent transferees that no transfer shall take place save for a disposal of the freehold or registrable leasehold interest in the Discounted Market Sales Housing Units at a price or premium which does not exceed 80% of the Market Value of the said unit at the date of disposal as certified by an independent valuer or surveyor in the manner described in paragraph 9 above.
16. No purchaser of a Discounted Market Sales Housing Unit shall sub-let or otherwise rent out such Discounted Market Sales Housing Unit.

The transfer to a Discounted Market Sales Housing Unit to a Qualifying Person shall contain a covenant binding on the transferee and all subsequent transferees from the date of the first transfer by the Owners that the transferee and any future transferees of the Discounted Market Sales Housing Unit will on each transfer of the said units apply for the following restriction (or a restriction in similar terms) to be entered in the register of the title of the property "No transfer, assent or other dealing by the Proprietor of the property is to be registered without the transferee's solicitor producing to the Land Registry a Certificate confirming that the purchase price for the property does not exceed 80% of the market value as determined in accordance with a Section 106 Agreement dated (the date hereof to be inserted) and made under Section 106 Agreement given under the Town and County Planning Act 1990 between (the parties hereto to be inserted)".

17. Nothing in the transfer shall operate to restrict delay limit or prevent the immediate occupation or disposal of any Discounted Market Sales Housing Units to or by a person and those living with him where such occupation or disposal arises as a result



of a court order or any other statutory provision or presumption or will or intestacy but subject always to the strict compliance by any transferee of the legal estate with the provisions of this paragraph before any further disposal for value of the legal estate takes place.

18. In the event the Owner is unable to find a suitable buyer for a Discounted Market Sales Housing Unit despite marketing the Dwelling for at least 6 months in total and all reasonable steps have been taken to sell the property (including, where appropriate, reducing the asking price) the Council may agree in writing to allow the sale of the dwelling on the open market and to remove the title restriction set out in paragraph 16 PROVIDED THAT

(a) the Council has agreed in writing it is satisfied the Owner is unable to find a suitable buyer

(b) a sum is paid to the Council equal to 20% of the purchase price of the Discounted Market Sales Housing Unit (or, as much as possible of that once the value of all lending against the property has been cleared) net of any additional Stamp Duty liability incurred towards the provision of Affordable Housing within the East Suffolk District

19. Nothing in this Third Schedule Part 1 shall be binding on a Protected Person or any mortgagee or charge of a Protected Person or any receiver appointed by such mortgagee or charge or any deriving title from any such person

Affordable Housing Table

Unit type	Affordable Rent	Shared Ownership	Discounted Market Sale
1 bedroom	4	2	2
2 bedroom	4	3	4
3 bedroom	3	1	1
4 bedroom	1		
<b>Totals</b>	<b>12</b>	<b>6</b>	<b>7</b>

## PART 2

### **Rights of Way**

The Owners covenant with the Council that they shall:

1. Prior to the Commencement of Development submit to the Council the Footpath Scheme for approval;
2. Prior to the first occupation of the first Dwelling on the Site make available for public access and use the Footpath Routes approved pursuant to the Footpath Scheme.
3. The rights of the occupiers of the Development and the wider public to use of the Woodland will be limited to passage along the Footpath Routes established pursuant to the Footpath Scheme and not beyond those Footpath Routes unless otherwise agreed with the Council.
4. The Owner further covenants to allow the footpath routes to become public rights of way pursuant to the Creation Agreement whereupon responsibility for maintenance and the upkeep of the Footpath Routes will pass to the Council or to the County Council as highway authority. The maintenance and upkeep of the Woodland save for any obstructions or overgrowing of the Footpath Routes will remain the responsibility of the Owner.
5. The rights established under these provisions shall be without prejudice to any right for the Owner (subject to planning permission) to construct and thereafter allow use of a highway, whether to be adopted or not linking the Site to the land lying to the north of the Woodland edged in blue on the Plan (and to allow for a vehicular link to Redwald Road) and to lay and thereafter use and maintain all associated drainage, cables, conduits and the like and to lay and maintain and use all services and service media associated with the potential further development of any land including the land which is edged blue.
6. The rights of the Owner in accordance with paragraph 5 above shall be without prejudice to the continued use so far as is practicable of the Footpath Routes by the public. Further any road, drainage and services constructed pursuant to paragraph 5 shall be without prejudice to retaining (albeit in an altered form) the continued Footpath Routes through the Woodland to and from Redwald Road and to and from any adjoining land and wider footpath network existing or to be created.



### Part 3

#### **Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Contribution**

1. Prior to Commencement of Development the Owners shall pay to the Council the Recreational Disturbance Avoidance and Mitigation Strategy Contribution calculated by reference to the Recreational Disturbance Avoidance and Mitigation Strategy Contribution Calculation.
2. The Owners covenant not to cause or permit Commencement of Development until the Recreational Disturbance Avoidance and Mitigation Strategy Contribution has first been paid to the Council.

### PART4

#### **Open Space**

1. The Owners hereby covenant with the Council that prior to Commencement of Development to submit the Open Space Plan and the Open Space Specification to the Council for approval.
2. The Owners covenant not to Commence the Development unless and until the Open Space Plan and the Open Space Specification have been approved by the Council in writing such approval not to be unreasonably withheld or delayed. The Open Space Specification will account for planting seasons extending beyond the provision triggers points in 1.4,1.5 and 1.6.
3. If the Council fails within twenty (20) Working Days' of submission of the Open Space Plan and Open Space Specification to notify the Owners of its approval of the Open Space Plan and the Open Space Specification the Owners shall be entitled to assume deemed approval of the Open Space Plan and Open Space Specification.
4. The Owners hereby covenant with the Council not to permit the Occupation of any more than seventy percent (50%) of the Dwellings until the Open Space has been

provided in accordance with the approved Open Space Plan and the Open Space Specification or as otherwise agreed in writing with the Council.

5. The Owners further covenant with the Council at their own cost to maintain and manage the Open Space strictly in accordance with the Open Space Plan the Open Space Specification and the Planning Permission until the date of the Open Space Transfer described in paragraphs 1.8 and 1.9 of this Part 4 of this Third Schedule has been completed.
6. The Owners covenant that following the Council's written confirmation (not to be unreasonably withheld or delayed) that the Open Space has been laid out in accordance with the Open Space Plan and Open Space Specification to transfer the freehold or part thereof the Open Space as agreed in writing by the Council to the Management Company (in accordance with the provisions of paragraph 1.9) and such transfer to include such items as necessary and outlined in the Open Space Transfer and shall for the avoidance of doubt include a covenant that the Open Space shall thereafter be retained and maintained in accordance with the Open Space Plan the Open Space Specification and the Planning Permission for the benefit of the public
7. The Owner shall use all reasonable endeavours to transfer the Open Space to the Management Company within twelve (12) months of Occupation of the last Dwelling of Phase 3 in accordance with the Open Space Transfer for the sum of One Pound (£1.00).

## PART 5

### **Allotments**

The Owners covenant with the Council that they shall:

1. Prior to the Commencement of Development submit to the Council the Allotment Scheme for approval.
2. If the Council fails within twenty (20) Working Days' of submission of the Allotment Scheme to notify the Owners of its approval of the Allotment Scheme, the Owners shall be entitled to assume deemed approval of the Allotment Scheme.
3. The Owners agree not to permit the Occupation of more than twenty (20) Dwellings until the Allotments have been provided in accordance with the Allotment Scheme.

4. The Owners agree that they shall provide (for the better use and enjoyment of the Allotments):
  - 4.1 good drainage, to be established through appropriate site and environmental analysis and provide corrective action if required;
  - 4.2 parking at a ratio of 1 space per 5 plots;
  - 4.3 pedestrian access routes to plots wide enough for wheelbarrows and suitably surfaced;
  - 4.4 a water supply;
  - 4.5 plot markers that are sturdy and clear

#### **FOURTH SCHEDULE**

##### **Part 1 Notification**

The Owners covenants with the County Council as follows:

1. The Owners shall within fifteen (15) Working Days' give written notice to the County Council following:
  - 1.1 Commencement of Development
  - 1.2 first Occupation of the first (1<sup>st</sup>) Dwelling;
  - 1.3 first Occupation of the thirty-fourth (34<sup>th</sup>) Dwelling
  - 1.4 Completion of the Development.

##### **Part 2**

##### **Bus Stop Improvement Contribution**

2. The Owners covenants with the County Council as follows:

2.1 to pay the Bus Stop Improvement Contribution to the County Council prior to first Occupation of the first (1<sup>st</sup>) Dwelling; and

2.2 not to Occupy or permit first Occupation of any Dwellings unless and until the Bus Stop Improvement Contribution has been paid in full to the County Council.

**Part 3**

**Highways Contribution**

3. The Owners covenants with the County Council as follows:

3.1 to pay the Highways Contribution to the County Council on Commencement of Development; and

3.2 not to Commence Development unless and until the Highways Contribution has been paid in full to the County Council.

**Part 4**

**Secondary School Transport Contribution**

The Owners covenants with the County Council as follows:

4.1 to pay to the County Council fifty percent (50%) of the Secondary School Transport Contribution prior to the first Occupation of the first (1<sup>st</sup>) Dwelling.

4.2 not to Occupy or permit Occupation of any Dwellings until fifty percent (50%) of the Secondary School Transport Contribution has been paid to the County Council.

4.3 to pay to the County Council the remaining fifty percent (50%) of the Secondary School Transport Contribution prior to the first Occupation of the thirty fifth (35<sup>th</sup>) Dwelling.

4.4 to Occupy or permit Occupation of more than thirty-four (34) Dwellings until the full Secondary School Transport Contribution has been paid to the County Council.

**Part 5**

**Public Footpath Contribution**

5.1 The Owners covenant to pay to the County Council the Public Footpath Contribution upon Commencement of the Development.

5.2 The Owners covenant to engage fully with the process of entering into a public path Creation Agreement pursuant to section 25 of the Highways Act 1980 with the County Council.

5.3 The Owners covenant to deliver the Public Footpath to the agreed Path Specification and the Creation Agreement with the County Council.

5.4 The Owners covenant not to Occupy or permit Occupation of any Dwellings unless and until the Public Footpath has been created and can be used by the public in accordance with the Path Specification or as agreed by the County Council.

## **FIFTH SCHEDULE**

### **Council's Covenant with the Owners**

#### **Discharge of obligations**

1. At the written request of the Owners or the Developer the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

#### **Recreational Disturbance Avoidance and Mitigation Strategy Contribution**

2. The Council shall deposit the Recreational Disturbance Avoidance and Mitigation Strategy Contribution into an interest bearing account and will apply the capital and any interest accrued wholly and exclusively for the purposes set out in this Deed to alleviate the impact of the Development in accordance with the RAMS Strategy published evidence July 2019.
3. If the Recreational Disturbance Avoidance and Mitigation Strategy Contribution and interest accrued thereon has not been committed (by way of contract or expenditure of the monies) within five (5) years of receipt of payment the Council will refund any uncommitted balance of the Recreational Disturbance Avoidance and Mitigation Strategy Contribution to the payer together with any accrued interest.



## SIXTH SCHEDULE

### County Council's Covenants with the Owners

#### Part 1

##### Bus Stop Improvement Contribution

1. The County Council shall use the Bus Stop Improvement Contribution it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid unless specified otherwise in this Deed.
- 1.2 If requested to do so in writing after the expiry of five (5) years of the Completion of the Development within a further period of one (1) year to pay to any person such amount of the Bus Stop Improvement Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable.
- 1.3 When the Bus Stop Improvement Contribution paid to the County Council pursuant to this Deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of five (5) years of the Completion of the Development within a further period of one (1) year notify the Owner that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to

#### Part 2

##### Highways Contribution

2. The County Council shall use the Highways Contribution it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid unless specified otherwise in this Deed.
- 2.1 If requested to do so in writing after the expiry of five (5) years of the Completion of the Development within a further period of one (1) year to pay to any person such amount of the Highways Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable.
- 2.2 When the Highways Contribution paid to the County Council pursuant to this Deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of five (5) years of the Completion of the Development within a further

period of one (1) year notify the Owner that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to

### Part 3

#### Secondary School Transport Contribution

3. The County Council shall use the Secondary School Transport Contribution it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid unless specified otherwise in this Deed.
- 3.1 If requested to do so in writing after the expiry of ten (10) years of the Completion of the Development within a further period of one (1) year to pay to any person such amount of the Secondary School Transport Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable.
- 3.2 When the Secondary 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 after the expiry of ten (10) years of the Completion of the Development within a further period of one (1) year notify the Owner that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to.

### Part 4

#### Public Footpath Contribution

4. Upon receipt of the Public Footpath Contribution the County Council covenants to take all steps that are reasonably necessary to process and enter into a Creation Agreement with the Owners.
- 4.1 The County Council covenants to use reasonable endeavours to enter into a Creation Agreement with the Owners.
- 4.2 The County Council covenants to use the Public Footpath Contribution towards the legal process involved in creating the Public Footpath and any associated costs, including officer time that may arise due to the creation of the footpath.
- 4.3 If requested to do so in writing after the expiry of five (5) years of payment of the Public Footpath Contribution within a further period of one (1) year to pay to any person such amount of the Public Footpath Contribution paid by that person which has not been committed or expended by the County Council in accordance with the provisions of this Deed together with any interest accrued at the Bank of

England Base Rate minus 2 basis points, compounding annually at financial year end PROVIDED THAT if for any period the Bank of England Base Rate is at or below 0.02% then no interest shall be payable.

- 4.4 When the Public Footpath Contribution paid to the County Council pursuant to this Deed has been spent or committed the County Council shall upon written request by the Owner after the expiry of five (5) years of the Completion of the Development within a further period of one (1) year notify the Owner that such monies have been spent or committed such notice to include full details of what the said monies were spent on or committed to.

**Appendix A**  
**Local Connection Cascade**

1 The Affordable Rental Units are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it 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:

- a) Has continuously lived in Rendlesham for the preceding 5 years, OR
- b) Has continuously had a place of work in Rendlesham for the preceding 5 years, OR
- c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in Rendlesham for the preceding 5 years, OR
- d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from Rendlesham

1.2 If there are no persons who qualify under paragraph 1 above the Affordable Rental Unit shall be allocated to person nominated by the Council who

- a) Has continuously lived within 15 miles of the Site for the preceding 5 years, OR
- b) Has continuously had a place of work within 15 miles of the Site for the preceding 5 years, OR
- c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within 15 miles of the Site for the preceding 5 years, OR
- d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from within 15 miles of the Site.

1.3 If there are no persons who qualify under paragraphs 1 and 2 above the Affordable Rental Unit shall be re-advertised to the district of East Suffolk and where after re-advertising there are no persons who qualify under the paragraphs above the Affordable Housing Unit shall be allocated to a person nominated by the Council who is considered by it to be in need of such accommodation and who is unable to compete in the normal open market for property in East Suffolk.

1.4 Where there is a mutual exchange the Registered Provider may let the Affordable Dwelling to any incoming tenant who satisfies the local criteria at paragraph 1.3 above

2. Discounted Market Sales Housing Unit

2.1 On advertising each and every sale of the Shared Ownership or Discounted Market Sales Housing Unit the Dwelling shall be marketed for sale for the first 3 months to persons who:

- a. Have continuously lived within the District of East Suffolk for the preceding 5 years, OR
- b. Have continuously had a principal place of work within the District of East Suffolk for the preceding 5 years OR
- c. Have parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived within the District of East Suffolk for the preceding 5 years, OR
- d. Due to a lack of suitable accommodation were forced within the preceding 5 years to move away from the District of East Suffolk.

2.2 If there are no purchasers who qualify under paragraph 2.1 above within 3 months of marketing the Affordable Dwelling it be sold to any Qualifying Person



**Appendix B**  
**Nomination Agreement**

**DATED**

**20**

**(name) (1)**

**and**

**EAST SUFFOLK COUNCIL (2)**

**NOMINATION AGREEMENT**

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

**At**

**(name of scheme)**

THIS NOMINATION AGREEMENT is made the                    day of                    202

**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 registered with and regulated by the Regulator of Social Housing; and
- 2) **EAST SUFFOLK COUNCIL** of East Suffolk House, Riduna Park, 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 term 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 Regulator 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

"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

“Housing Market Area” means the relevant Housing Market Area for the Property as defined in the Suffolk Coastal Local Plan Core Strategy & Development Management Policies July 2013

“Initial Let” means the first tenancy or lease of a newly constructed and previously unoccupied Affordable Dwelling(s) for Rent in accordance with Section 199 of the Housing Act 1996 as amended by Section 315 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 [ ] 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 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

“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) to the local Housing Market Area. Where there are no suitable applicants with a specific local connection, the Council will consider including other applicants who have a local connection to the wider district of East Suffolk in line with their priorities and the Allocation Policy 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 the Regulator 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.

## **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 Registered Provider shall give the Council nomination rights for each and every Initial Let and Void and the following procedure shall apply to the nomination of persons in 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) for Rent to be advertised. Within 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 arrange 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 enter into 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 enter into 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 District Council and the District Council will supply this within three (3) Working Days.

3.1.9 If the District 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 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 1998 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 2 Working Days after posting

**7. Chargee Provisions**

The provisions in this Agreement shall not be binding on a Chargee PROVIDED THAT:

- a) The Chargee shall first give written notice to the Council of its intention to dispose of the Affordable Dwelling(s) for Rent ("the RP Notice"); and
- b) if the Council provides written notice to the Chargee within four weeks of receipt of the RP Notice that acceptable arrangements can be made for the transfer of the Affordable Dwelling(s) for Rent to either the Council or another Registered Provider within three calendar months of the date of the RP Notice the Chargee shall use reasonable endeavours over that period to complete a disposal of the Affordable Dwelling(s) for Rent 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
- c) if the Council does not serve the notice referred to in paragraph b) within the four week period referred to or if such disposal has not completed within the three month period the Chargee shall be entitled to dispose of the Affordable Dwelling(s) for Rent free of the restrictions set out in this Nomination Agreement

PROVIDED THAT at all times the rights and obligations in this clause shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council shall give full consideration to protecting the interest of the Chargee in respect of monies outstanding under the charge or mortgage.



**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 the Regulator 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. Costs**

The Registered Provider agrees with the Council to pay the reasonable legal costs which the Council incurs in preparing and entering into this Nomination Agreement and the Council's reasonable costs to cover the nominations procedure. Any changes to current charges will be negotiated with all landlords who are required to let their properties in line with the District Council's allocation and letting policy and procedures

**11. Agreements and Declarations**

11.1 Nothing in this Nomination Agreement fetters or restricts the exercise by the District Council of any of its powers

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

**12 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**

**DISTRICT COUNCIL**

was affixed

In the presence of:-

Authorised signatory

## Appendix B

### Local Connections Cascade

#### **1. Affordable Dwellings for Rent**

1.1 The Affordable Dwellings for Rent are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it 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

(a) Has continuously lived in Charsfield for the preceding 5 years, OR

(b) Has continuously had a place of work in Charsfield for the preceding 5 years OR

(c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in Charsfield for the preceding 5 years, OR

(d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from Charsfield

1.2. If there are no persons who qualify under paragraph 1 the Affordable Rental Dwellings are to be allocated to a person nominated by the Council in line with its Allocation Policy who is considered by them or it 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

(a) Has continuously lived in a Neighbouring Parish for the preceding 5 years, OR

(b) Has continuously had a place of work in a Neighbouring Parish for the preceding 5 years OR

(c) Has parents or close family (i.e. mother, father, son or daughter) who are over 18 and who have lived in a Neighbouring Parish for the preceding 5 years, OR

(d) Due to a lack of suitable accommodation was forced within the preceding 5 years to move away from a Neighbouring Parish

1.3. If there are no persons who qualify under paragraphs 1 and 2 above the Affordable Dwelling shall be re-advertised to the district of East Suffolk and where after re-advertising there are no persons who qualify under the paragraphs above the Affordable Dwelling shall be allocated to a person nominated by the Council who is considered by it to be in need of such accommodation and who is unable to compete in the normal open market for property in East Suffolk