

Dated

8^m March

2022

MID SUFFOLK DISTRICT COUNCIL
and
SUFFOLK COUNTY COUNCIL
and
KATHLEEN FRANCES HARMAN OVER
and
SUSTRANS

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

relating to land to the North and West of School Road Elmswell Suffolk

**Shared Legal Services
West Suffolk House
Western Way
Bury St Edmunds
IP33 3YU**

This Deed is made the 8th day of March 2022

Between:

1. **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House, 8 Russell Road, Ipswich Suffolk, IP1 2BX ("the District Council")
 2. **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk, IP1 2BX ("the County Council")
 3. **KATHLEEN FRANCES HARMAN OVER** of Elmswell Hall, Elmswell, Bury St. Edmunds, Suffolk, IP30 9EN ("the Owner")
 4. **SUSTRANS** a charitable company limited by guarantee, incorporated and registered in England and Wales with company number 1797726 and registered charity number 326550, whose registered office is at 2 Cathedral Square, College Green, Bristol BS1 5DD ("Sustrans")
- Together "the Parties"**

INTRODUCTION

- A. The District Council is the local planning authority for the purposes of the Act for the area in which the Land is situated and by whom the obligations contained in this Deed are enforceable
- B. The County Council is the local highway authority (except for trunk roads) and is the local education authority and is also a local planning authority for the purposes of the Act for the area in which the Land is situated and by whom the obligations contained in this Deed are enforceable
- C. The ownership and other interests in the Land are as set out in the First Schedule
- D. The Owner submitted the Application to the District Council for the Development and the District Council has resolved to grant planning permission for the Development pursuant to the Application subject to the prior completion of this Deed to regulate the Development and to secure the planning obligations contained in this Deed
- E. The District Council and the County Council enter into this Deed content that the requirements of the District Council's and the County Council's policies are met and that any objections by the District Council or the County Council to the grant of planning permission on the basis of those policies are overcome

- F. The District Council and the County Council consider and the Owner acknowledges that the Development should not take place until certain restrictions regulating the use of the Land are imposed in the manner hereinafter appearing and pursuant to Section 106 of the Act the Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed
- G. The District 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)

Definitions

"Act"	the Town and Country Planning Act 1990 (as amended)
"Affordable Housing"	Subsidised housing for sale or rent that will be available to persons who cannot afford to buy or rent housing generally available on the open market in accordance with Annex 2 of the NPPF.
"Affordable Housing Contribution"	a sum to be calculated in accordance with the District Council's affordable housing policies (if any) in place at the time to be paid by the Owner to the District Council to spend on Affordable Housing within the administrative district of the District Council in the event the Owner is unable to dispose of the Affordable Housing in accordance with the Second Schedule to a Registered Provider or to the District Council

<p>"Affordable Housing Nomination Agreement"</p>	<p>An agreement substantially in the form set out in the Sixth Schedule (subject to such amendments as may be reasonably required by the Registered Provider with a view to ensuring that the objectives of that agreement are met)</p> <p>dealing with the allocation of the Affordable Housing by a Registered Provider which shall apply to all of the Affordable Housing Units and "Nomination Agreement" shall have the same meaning</p>
<p>"Affordable Housing Scheme"</p>	<p>a written scheme approved by the District Council identifying the location, number of bedrooms, mix and tenure of each Affordable Housing Unit and satisfying all of the following requirements</p> <ul style="list-style-type: none"> (i) All Units shall be built to current Housing Standards Technical requirements March 2015 Level 1. (ii) All ground floor 1 bed flats to be fitted with level access showers, not baths. (iii) Adequate parking provision is made for the affordable housing units including cycle storage for all units.
<p>"Affordable Housing Unit"</p>	<p>means thirty five per cent (35%) of the Dwellings to be provided on the Land of which 75% shall be for housing for Affordable Rent and shall be Occupied by persons allocated in accordance with a Choice Based Letting Scheme to which the District Council is a party or otherwise nominated by the District Council pursuant to the deed of nomination rights as varied from time to time and 25% shall be for Other Affordable Routes to Home Ownership as approved by the District Council and shall be Occupied by</p>

	persons in accordance with the Government's Help to Buy Scheme (or any subsequent scheme)
"Affordable Rent"	means housing made available by a Registered Provider as low-cost rental accommodation (as defined by Section 69 of the Housing and Regeneration Act 2008) with a rent charged at a level up to 80% of the equivalent market rent including any service charges applicable or the local housing rate allowance;
"Application"	the planning application for outline permission for the Development validated by the District Council on 12 May 2018 and allocated reference DC/18/02146
"BCIS Index"	the All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation or (if that index shall cease to be published or is otherwise unavailable) such alternative basis of indexation as may be agreed between the District Council the County Council and the owner
"BCIS Indexed"	the increase in any sum referred to in the this Deed by an amount equivalent to the increase in the BCIS Index from the date hereof until the date on which such sum is payable to be calculated in accordance with Clause 9 of this Deed
"Bus Stop Improvements"	The provision of improvements to the existing bus stops serving the Development namely the bus stops to the south east of the Land identified as Old Schools Court (Stop ID: sufjpdmj) and Old Schools Court (Stop ID: sufjpdmt) and to a standard complying at a minimum with the specification shown on drawing number ET00765/DG/04 Revision A annexed to this Deed.

<p>“Chargee”</p>	<p>any mortgagee or chargee of the Registered Provider or the Successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 or housing administrator pursuant to section 101 of the Housing and Planning Act 2016</p>
<p>“Chargee’s Duty”</p>	<p>The tasks and duties set out in paragraph 4.2 of Part 1 of the Second Schedule</p>
<p>“Choice Based Lettings Scheme”</p>	<p>an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme (or such other scheme as may be agreed) relates to apply or a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the District Council is a party</p>
<p>“Commencement of Development”</p>	<p>the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 but disregarding for the purposes of this deed and for no other purpose, the following operations:</p> <ul style="list-style-type: none"> • demolition works; • land clearance; • ground investigations; • land survey works; • temporary access construction works; • archaeological investigation; and • erection of any fences and hoardings around the Land

	and "Commence" and "Commenced" and "Commencement Date" shall be construed accordingly
"Completion of the Development"	the date that the last Dwelling is first Occupied
"County Council Nominee"	any person company body or organisation that the County Council shall employ fund or work in partnership with in connection with the design construction commissioning running or maintenance of the Pre-School Facility AND FOR THE AVOIDANCE OF DOUBT the County Council's Nominee may include any providers of free state education or childcare of any type
"Development"	the erection of up to eighty six (86) dwellings including car parking early years provision public open space and supporting infrastructure and highways improvements as set out in the Application
"Dwelling"	a dwelling (including a house flat or bungalow and including both Market Housing Units and Affordable Housing Units) to be constructed pursuant to the Planning Permission and "Dwelling" and "Dwellings" shall be construed accordingly
"Early Years Contribution"	means the sum of £1,824.28 (one thousand eight hundred and twenty-four pounds and twenty-eight pence) BCIS Indexed per Dwelling permitted to be constructed pursuant to the Planning Permission (subject to any reserved matters application approved) towards the purpose of providing the Pre-School Facility

"Highways Agreement"	An agreement concluded with the County Council pursuant to Section 278 (or similar) of the Highways Act 1980 for delivery of the Junction and Highway Improvement Works.
"Homes England (HE)"	Homes England or such other organisation as may from time to time be the Regulator of Social Housing or such other body with statutory force charged with regulating Registered Providers
"Junction and Highway Improvement Works"	Means the works proposed to improve the junction between School Road and Church Road in Elmswell together with road widening and the footway/cycleway extending north to Elmswell and shown generally on drawing numbers A13438-0002, A13438-0003 and A13438-0004 appended hereto or such variations thereto as the District Council and County Council may agree
"Land"	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 together with the other land described in the First Schedule required to deliver the Junction and Highway Improvement Works and the Pedestrian/Cycle Link Land
"Late Payment Interest"	Interest at 4 per cent above the minimum lending rate of the Bank of England from time to time
"Management Company"	a company or body who will take over responsibility for the future maintenance of the Open Space and which definition may include a resident's association established for this purpose or a private limited company

<p>"Market Housing Unit"</p>	<p>any Dwelling which is for general market housing for sale or rent on the open market and which is not an Affordable Housing Unit and "Market Housing Units" shall be construed accordingly;</p>
<p>"Nominated Body"</p>	<p>means one or any of the following as determined by the Owner:</p> <ul style="list-style-type: none"> a) Elmwell Parish Council; b) the Management Company; or c) such other body as the District Council may elect and "Nominated Bodies" shall be construed accordingly
<p>"Notice of Actual Commencement"</p>	<p>notice in writing to advise of the actual Commencement Date</p>
<p>"Notice of Expected Commencement"</p>	<p>notice in writing to advise of the expected date of Commencement</p>
<p>"NPPF"</p>	<p>The National Planning Policy Framework published in July 2021 (as maybe amended from time to time or such other national policy that may from time to time replace or update this framework) or any successor policy thereto issued by HM Government</p>
<p>"Other Affordable Routes to Home Ownership"</p>	<p>has the meaning ascribed to it in paragraph d) of the definition of affordable housing at Annex 2 of the NPPF</p>
<p>"Occupation"</p>	<p>occupation of any Dwelling on the Land for the purposes permitted by the Planning Permission and Occupation would be deemed to have taken place when the District Council have evidence of the Occupation of any Dwelling on the Land but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to</p>

	security operations and "Occupy" and "Occupied" shall be construed accordingly;
"Open Space"	An area of space which is for informal or (if laid out) formal recreational use by the public and the area of open space shown indicatively on the Open Space Plan
"Open Space Plan"	A plan to be submitted to the District Council for approval indicating the location of the Open Space
"Open Space Specification"	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 District Council in line with the District Council's current policies and requirements in accordance with Part 3 of the Second Schedule
"Open Space Transfer"	<p>a transfer of the Open Space to be approved in writing by the District Council and which inter alia shall contain the following provisions:</p> <p>a) The Owner/Owners shall transfer the fee simple estate free from encumbrances save those set out in the title;</p> <p>b) All easements and rights necessary in relation to access for the benefit of the Open Space;</p> <p>c) Any exceptions and reservations in relation to drainage and services, support and access of light and air for the benefit of the Development;</p>

	<p>d) Restrictive covenants by the Nominated Body or the Nominated Bodies:</p> <p>(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;</p> <p>(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.</p>
"Pedestrian/Cycle Link Land"	Land to be dedicated by the Owner as highway and adopted by the County Council as highway maintainable at the public expense for use by pedestrians and cyclist in a location as shown indicatively as shown by orange dashes on Plan 2 with a width of 4 metres (save where a lesser width is agreed by the County Council) but otherwise in such location and to such layout as will be agreed between the Owner and County Council both parties acting reasonably (such agreement not to be unreasonably withheld or delayed)
"Plan"	the plan attached to this Deed
"Plan 2"	the plan attached to this Deed labelled as Plan 2
"Planning Permission"	the outline planning permission subject to conditions as may be granted by the District Council pursuant to the Application
"Practical Completion"	issue of a certificate of practical completion by the Owner/Owners' architect or project manager or in the event that the Development is constructed by a

	party other than the Owner/Owners the issue of a certificate of practical completion by that other party's architect or project manager
"Pre-School Facility"	A new pre-school facility for the education and care of pre-school children whether on the Pre-School Land or elsewhere but subject to the same being in a location that will reasonably serve the needs of pre-school children residing at the Development.
"Pre-School Land"	the area of land being a minimum of 0.1 hectares for the provision of a Pre-School Facility in a location to be as agreed in writing between the Owner and County Council in accordance with Part 5 of the Third Schedule
"Pre-School Land Transfer"	<p>a transfer of the Pre-School Land which shall contain the following provisions or such alternative provisions together with such other provisions as the Owner and County may reasonably agree (both acting reasonably):</p> <p>(a) The Owner shall transfer the fee simple estate free from encumbrances which would prevent the transfer to the County Council and use of the Pre-School Land for a Pre-School Facility and such ancillary uses as the Council may reasonably require.</p> <p>(b) All easements and rights necessary in relation to pedestrian cyclist and vehicular access via a road which is constructed or to be constructed and thereafter maintained by the Owner (or a person so authorised by them) to highway adoption standards at the cost of the Owner for the benefit of the Pre-School Land until such time as such road may be adopted by the County Council as a highway maintainable at the public expense.</p>

	<p>(c) clauses providing that the Pre-School Land shall be 0.1 hectare, flat, free of contamination and either fully serviced (meaning the installation of utility services (as set out below) to the boundary of the Pre-School Land) or to be fully serviced within a reasonably agreed timescale (dependant on the proposed date of transfer of the Pre-School Land and the extent to which the remainder of the Development has progressed) with full and free rights to the land boundary for the purposes of installing, providing and maintaining and using utility services including surface water drainage, foul sewer, water, electricity, gas, telephone, and superfast broadband for a pre-school of a stated capacity (provided that such superfast broadband is available within the locality at the time of installation of the services or such other broadband as is available in the event that it is not) and for the avoidance of doubt the Owner will bear the full costs of the installation of the above services;</p> <p>(d) The right to grant a lease of or dispose of the Pre-School Land in whole or in part to a County Council Nominee</p> <p>(e) That the Owner shall undertake reasonable archaeological investigations of the Pre-School Land prior to transfer and provide copies of these to the County Council</p> <p>(f) A requirement that the Pre-School Facility is commenced within a reasonable period following the transfer to the County Council or the County Nominee and in any event within 1 year from the date of transfer</p> <p>(g) The Pre-School Facility to be completed as soon as reasonably practicable following commencement</p>
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	<p>of the works to construct the same and in any event within 2 years of the date of such commencement</p> <p>(h) Obligations that the County Council will maintain the said land in a clean and tidy condition and for the completed Pre-School Facility to be likewise maintained</p>
"Primary Education Contribution"	<p>shall mean the sum of £4,618.55 (four thousand six hundred and eighteen pounds and fifty-five pence) BCIS Indexed per Dwelling permitted to be constructed pursuant to the Planning Permission (subject to any reserved matters application approved) to be paid to the County Council for the purpose of funding a new primary school at Wootpt or a new primary school at such other location that will serve children residing within the Development.</p>
"Protected Person"	<p>any person who:</p> <p>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;</p> <p>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;</p> <p>c) any person who has staircased the equity in their Shared Ownership Dwelling to 100%;</p> <p>d) any successor in title to paragraph a- c above</p>
"Public Rights of Way Contribution"	<p>means the sum of £20,000.00 (twenty thousand pounds) BCIS Indexed for the purpose of converting</p>

	Elmswell Public Footpath 14 to a bridleway including costs of design, the making of legal orders, resurfacing and widening of the footpath, payment potential compensation to affected landowners and all ancillary officer time.
"Red Book"	means the RICS Valuation – Global Standards 2020 or such other document amending consolidating or replacing it
"Registered Provider"	an organisation which is a Registered Provider of social housing as defined in section 80 (2) of the Housing and Regeneration Act 2008 and listed in the registers kept by Homes England pursuant to Chapter 3 of that Act and approved in writing by the District Council in accordance with the Second Schedule of this Deed. If another body is permitted to provide Affordable Housing by paragraph 2 of the Second Schedule then all references herein to a Registered Provider shall be to that body and which shall for the avoidance of doubt include the District Council itself;
"Rental Dwelling"	means an Affordable Housing Unit which is to be let at an Affordable Rent or social rent and is let on the Registered Provider's standard form of letting in accordance with the terms of this Deed by a Registered Provider and "Rental Dwellings" shall be construed accordingly;
"RPI Index"	the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics from time to time 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 reasonably agreed between the Parties
"RPI Indexed"	The increase in any sum referred to in this Deed as RPI Indexed by an amount equivalent to the increase in the RPI Index to be calculated in accordance with Clause 9 of this Deed

<p>"Secondary School Transport Contribution"</p>	<p>Means the sum of £980.81 (nine hundred and eighty pounds and eighty-one pence) RPI Indexed per Dwelling permitted to be constructed pursuant to the Planning Permission (subject to any reserved matters application approved) to be paid to the County Council for the purpose of transporting secondary school children from Elmswell to the nearest secondary school.</p>
<p>"Shared Ownership Dwelling"</p>	<p>Dwellings to be let on a Shared Ownership Lease to a household for which the household income does not exceed Eighty thousand pounds (£80,000) per annum or such other household income for the time being in force in accordance with the terms as set out in Capital Funding Guide published by Homes England and any other publication that supersedes it and "Shared Ownership Dwellings" shall be construed accordingly;</p>
<p>"Shared Ownership Lease"</p>	<p>Means a lease in a form approved by Homes England or where there is no such form in a form approved by the District Council such lease to provide for the following:</p> <ul style="list-style-type: none"> - not more than 70% and not less than 25% of the equity (or such other percentages the District Council may agree) shall be initially sold to the purchaser by the Registered Provider; - power to the purchaser to increase their ownership up to 100% if they so wish; - 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 as the District Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England
<p>"Stage 2 Safety Audit"</p>	<p>means the stage 2 safety audit of the details of the Junction and Highway Improvement Works issued</p>

	on the 26 th August 2021 by the County Council
"TCPA 1990"	Town and Country Planning Act 1990
"VAT"	value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax
"Working Days"	any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England

1. Interpretation

- 1.1. Where in this Deed reference is made to any clause, sub clause, schedule, paragraph, sub paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause, sub clause, schedule, paragraph, sub paragraph or recital in this Deed.
- 1.2. Headings are for reference only and shall not affect the interpretation of this Deed.
- 1.3. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.4. Words of the masculine gender include the feminine and neuter genders.
- 1.5. Words denoting actual persons include companies, corporations and firms and all such words shall be construed as interchangeable in that manner. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6. References to any party to this Deed shall include the successors in title to that party and to any party deriving title through or under that party and in the case of the District Council and the County Council's the successors to their respective statutory functions.
- 1.7. A reference to "writing" or "written" excludes fax and email.
- 1.8. Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

- 1.9. An obligation on a party not to do something includes an obligation not to allow that thing to be done by another person.
- 1.10. Any reference to an Act of Parliament or Statutory Instrument shall include any modification, extension or re-enactment of that Act or Instrument 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 Instrument or deriving validity from it.
- 1.11. References to a "Plan" or "Drawing" in this Deed shall be reference to the plans attached to this Deed bearing the relevant plan number of any amended plans as shall be agreed in writing between the Owner, the District Council
- 1.12. Where this Deed requires a plan, scheme, strategy or other document to be submitted to the District Council or the County Council for approval or agreement then upon written approval being given by the District Council or the County Council (as appropriate) it shall be deemed to have been incorporated into this Deed and the same shall apply to any provision requiring a review of any such plan, scheme, strategy or other document.
- 1.13. None of the covenants contained in this Deed on the part of the Owner (save those obligations restricting occupation of the Dwellings in part 1 of the Second Schedule) shall be enforceable against:
- 1.13.1 Those persons who purchase (including purchasers by way of a long lease) any Dwelling for occupation by themselves or their tenants or members of their household; or
- 1.13.2 Any statutory undertaker who acquires any part of the Land or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services.

2 Legal Basis

- 2.1 This agreement is a Deed and 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.
- 2.2 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 District Council and the County Council (as appropriate) as local planning authorities against the Owner and the Owner's successors

3. Consent(s) to Enter Deed

- 3.1 The Owner covenants and warrants to the District Council and the County Council that they have full power to enter into this Deed and there is no other person having a charge over or any other interest in the Land whose consent is necessary to make this Deed binding on the Land and all estates and interests therein.

4. Third Parties

No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 and any such rights that arise pursuant to the Contracts (Rights of Third Parties) Act 1999 are hereby excluded.

5. Conditionality

- 5.1 This Deed shall take effect on the date that it is completed but performance of the planning obligations contained in this Deed at Clause 6 and the Schedules apart from the obligations contained in the Second Schedule at 1.1, 1.2 and 1.3 of Part 1, 1.1, 1.2 and 1.3 of Part 3 in the Third Schedule at 1.1 of Part 1 and 1 and 2 of Part 5 and 1.1, 1.2 and 1.3 of Part 9 are conditional upon the grant of the Planning Permission and the Commencement of Development.

6. The Owner's and Sustrans' Covenants

- 6.1 The Owner hereby covenants with the District Council as set out in the Second Schedule so as to bind the Land and each and every part thereof together with land within her ownership as is required to deliver the Junction and Highway Improvement Works and to dedicate the Pedestrian/Cycle Link Land.
- 6.2 The Owner hereby covenants with the County Council as set out in the Third Schedule so as to bind the Land and every part thereof together with land within her ownership as is required to deliver the Junction and Highway Improvement Works and to dedicate the Pedestrian/Cycle Link Land.
- 6.3 Sustrans covenant with the District Council and the County Council to perform the covenants specified in paragraphs 1.3 and 1.4 of Part 4 of the Second Schedule so far as

the same relates to its land but shall otherwise have no liability under this Deed

7 The District Council's and the County Council's Covenants

7.1 The District Council covenants with the Owner as detailed in the Fourth Schedule

7.2 The County Council covenants with the Owner as detailed in the Fifth Schedule

8 Local Land Charge

8.1 This Deed is a local land charge and upon completion shall be registered by the District Council as such.

8.2 Following the performance and satisfaction of all the obligations contained in this Deed the District Council shall on the written request of the Owner or Sustrans (as it relates to the Sustrans obligations) mark accordingly all entries made in the Register of Local Land Charges in respect of this Deed

9 Indexation

Any sum referred to in this Deed (unless the context reads otherwise) shall be increased by an amount equivalent to the increase in the BCIS Index or RPI Index (as the context dictates) 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:

9.1 A is the sum payable under this Deed

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

9.1.2 C is the BCIS Index or RPI Index (as the context dictates) for the month 2 months before the date on which the sum is payable;

9.1.3 D is the BCIS Index or RPI Index (as the context dictates) for the month 2 months before the date of this Deed; and

9.1.4 C/D is greater than 1

10 Interest

If any payment due from the Owner under this Deed is paid late, Late Payment Interest will be payable on the sum due and shall accrue on a daily basis from the date the sum is due to the date of payment.

11 VAT

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

12 Changes of Ownership

The Owner agrees with the District Council and the County Council to give each of them independently written notice of any transfer in ownership of its freehold interest in the Land (save for disposals of individual Dwellings or to any statutory undertaker) occurring before all the obligations under this Deed have been discharged such notice to be served within twenty (20) Working Days' of such transfer quoting the reference given to the Application by the District Council 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 Land purchased by reference to a plan and a copy of the registered title and plan thereto.

13 Approvals

13.1 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the District Council or the County Council's under the terms of this Deed (including for the avoidance of doubt agreeing and concluding the Highways Agreement) 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 District Council by the head of the planning service or officer acting under his hand and on behalf of the County Council by the Executive Director of Growth, Highways and Infrastructure or officer acting under his hand and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

14 Right of Entry

14.1 At all times on not less than forty eight(48) hours' written notice (except in case of emergency) the Owner (and where appropriate Sustrans) shall allow any employee or agent of the District Council or the County Council entry to the Land for the purposes of inspection and monitoring compliance with the provisions of this Deed PROVIDED THAT:

14.1.1 Such employee or agent on arrival at the Land shall if requested by any person present who appears to be the Owner or manager or person in charge thereof produce evidence of identity (but entry may be made if there is or appears to be no such person on the Land);

14.1.2 Such entry shall be effected between 08:00 and 18:00 on any Working Day;

14.1.3 Such employee or agent may be accompanied by such other persons as may be reasonably necessary;

14.1.4 Such employee or agent may take photographs, measurements and levels;

14.1.5 Such employee or agent may not remain on the Land for longer than is reasonably necessary for carrying out a proper inspection;

14.1.6 Such employee or agent and any accompanying persons shall comply with the Owner's or the Owner's representative's reasonable directions and precautions in the interests of health and safety;

14.2 For the avoidance of doubt the provisions of this Clause 14 shall be in addition to and does not prejudice the powers conferred on the District Council and the County Councils by Sections 196A, 196B and 196C of the Act.

15 No Waiver

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

16 Indemnity

The Owner hereby indemnifies the District Council and the County Council for any expenses or liability arising to the District Council and/or the County Council for any breach by the Owner of any obligation contained herein save the extent that any act or omission of the District Council or the County Council their respective employees or agents has caused or contributed to such expenses or liability.

17 Confirmation of Discharge

On the written request of the Owner at any time after all of the obligations have been performed or otherwise discharged (and subject to the payment of the District Councils and the County Council's reasonable costs or charges) the District Council the County Council's and/or the County Council (as the case may be) are satisfied that the relevant agreement

obligation and covenant have been met and will then issue a written confirmation of such discharge and performance.

18 Release

No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed occurring after it has parted with its entire interest in the Land or part of the Land or any other land bound by this Deed to which the breach relates save for an interest arising only from the grant or reservation of an easement or similar right or the benefit of any restrictive covenant in the Land notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations in respect of it PROVIDED that the disposal shall not itself be contrary to the provisions of this Deed.

19 Determination

The obligations in this Deed (with the exception of Clause 25) shall cease to have effect insofar as it has not already been complied with if the Planning Permission:

(a) expires;

(b) is modified or revoked otherwise than at the request of the Owner; or

(c) is quashed following a successful legal challenge.

20 Severance

Insofar as any clause or other provision of this Deed is found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

21 Future Permissions

21.1 Subject to the remainder of this Clause 21 nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

21.2 In the event that any new planning applications are made in respect of the Development pursuant to Section 73 of the Act then with effect from the date that the new planning permission is granted pursuant to Section 73 of the Act:

21.2.1 the planning obligations in this Deed shall in addition to binding the Land in respect of the Planning Permission shall also bind the Land in respect of any planning

permission granted pursuant to Section 73 of the Act; and

the definitions of "Application", "Development" and "Planning Permission" shall be assumed to include references to any applications under Section 73 of the Act, the planning permissions granted thereunder and the development permitted by such subsequent planning permissions PROVIDED THAT nothing in this Clause 21 shall fetter the discretion of the District Council in determining any applications under Section 73 of the Act and the appropriate nature and/or quantum of planning 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).

22 No fetter of discretion

- 22.1 Nothing (contained or implied) in this deed shall fetter or restrict the District Council's or the County Council's statutory rights, powers, discretions and responsibilities in the exercise of their function as local authorities.
- 22.2 Nothing in this Deed constitutes a planning permission or any other approval, consent or permission required from either the District Council or the County Council in the exercise of any other statutory function or an obligation to grant the same.

23 Dispute Resolution Provisions

- 23.1 Any dispute or difference of any kind whatsoever arising between any or all of the Parties out of or in connection with this Deed (including without limitation any question regarding its existence validity or termination) shall be referred to an independent single Expert ("the Expert")
- 23.2 The Expert shall have no less than ten (10) years' experience of resolving disputes similar in nature to the one that is proposed to be referred pursuant under clause 23.1.
- 23.3 The Parties to the dispute shall jointly appoint the Expert not later than twenty (20) Working Days after service of a request in writing by any Party to the dispute to do so
- 23.4 If the Parties to the dispute are unable to agree within twenty (20) Working Days as to the appointment of such Expert then the Expert shall be appointed on the application of either of the Parties to the dispute as follows:
- 23.4.1 difference or question relates to the rights and liabilities of either party to the dispute or to the terms or conditions to be embodied in the Deed or document appertaining

to the Deed it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society; or

23.4.2 difference or question relates to highway works engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers; or

23.4.3 difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the Parties but in default of agreement appointed by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or

23.4.4 if such difference or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the Parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute.

23.5 In the event of a reference to an Expert the Parties to the dispute agree to:

23.5.1 prosecute any such reference expeditiously; and

23.5.2 do all things or take all steps reasonably necessary in order to enable the Expert to make a final determination as soon as reasonably practicable and in any event within one (1) month of his appointment PROVIDED THAT if the Expert fails to do so either Party to the dispute may apply to the President for the time being of the Institution of Law Society, Civil Engineers, Royal Institute of Chartered Surveyors or Royal Town Planning Institute (as appropriate) for a substitute to be appointed in which case the same procedure shall be repeated

23.6 The Expert shall invite written representations from each of the Parties.

23.7 The Expert will have the power to consolidate proceedings or hold concurrent proceedings.

23.8 The findings of the Expert shall be in writing signed by the Expert.

23.9 The findings of the Expert shall be final and binding both on the Parties to the dispute except in the case of manifest, material error.

23.10 The Expert shall act as an expert and not as an arbitrator.

23.11 The costs of the Expert shall be payable by the Parties in such proportion as may be determined by the Expert and failing such determination to be borne in equal shares by the Parties.

23.12 Unless this Deed has already been terminated each of the Parties to the dispute shall in every case continue to comply with its obligations under this Deed regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this clause 23 but without prejudice to the rights and obligations of the Parties to the dispute in relation to the termination of the Deed.

23.13 Nothing in the provisions of this clause 23 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Deed.

24 Notices

24.1 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of this Deed shall be deemed to have been validly served or given if delivered by hand or sent by first class recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing PROVIDED THAT the notice or other written communication is addressed and delivered or sent by first class recorded delivery post to the address of the party concerned as nominated in clause 24.2

24.2 The address for any notice of other written communication in the case of each party to this Deed shall be as follows:

The District Council	The Chief Planning Officer, Mid Suffolk District Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
The County Council	The Executive Director of Growth, Highways and Infrastructure, Suffolk County Council, Endeavour House, 8 Russell Road, Ipswich, IP1 2BX
The Owner	As shown at the start of this Deed

25 Legal Fees

- 25.1 The Owner shall on completion of this Deed pay to the District Council its reasonable legal costs together with any disbursements incurred in the negotiation, preparation, execution and completion of this Deed.
- 25.2 The Owner shall on completion of this Deed pay to the County Council its reasonable legal costs together with any disbursements incurred in the negotiation, preparation, execution and completion of this Deed.
- 25.3 The Owner covenants to pay to the County Council on or before completion of this Deed a contribution of £824.00 (eight hundred and twenty-four 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.

26 Governing Law

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.

27 Delivery

The provisions of this Deed (other than this clause which shall have 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
Mid Suffolk District Council
was hereunto affixed
in the presence of

)
)
)
)



.....
Authorised Signatory

65285



The Common Seal of
Suffolk County Council
was hereunto affixed
in the presence of

[Redacted signature]

Authorised Signatory

Executed as a Deed by
KATHLEEN FRANCES HARMAN OVER
in the presence of

[Redacted signature]

[Owner]

[Redacted signature]

[witness signature]

HAYLEY McCULLOCH

[witness full name]

BRKETTS LLP
PROVIDENCE HOUSE
141-145 PRINCES STREET.....
IPSWICH IP1 1QJ

[witness address]

FIRST SCHEDULE

Freehold interests

The Owner is the freehold owner of the Land the title to which is registered at the Land Registry with Title Absolute under Title Number SK273071 which title also includes the land required for the Junction and Highway Improvement Works and the land required to deliver the Pedestrian/Cycle Link Land.

Sustrans is the freehold owner of part of the land required for the Junction and Highway Improvement Works which land is registered at the Land Registry with Title Absolute under Title Number SK244505

Part 2

Description of the Land

Freehold land to the north and West of School Lane, Elmswell with registered title number SK273071 shown edged red for identification only on the Plan together with all other land that is comprised within title SK273071 and the Sustrans land adjoining School Road and comprised within title number SK244505 which is required for the Junction and Highway Improvement Works and the land required to deliver the Pedestrian/Cycle Link Land.

SECOND SCHEDULE

THE OWNER COVENANTS WITH THE DISTRICT COUNCIL

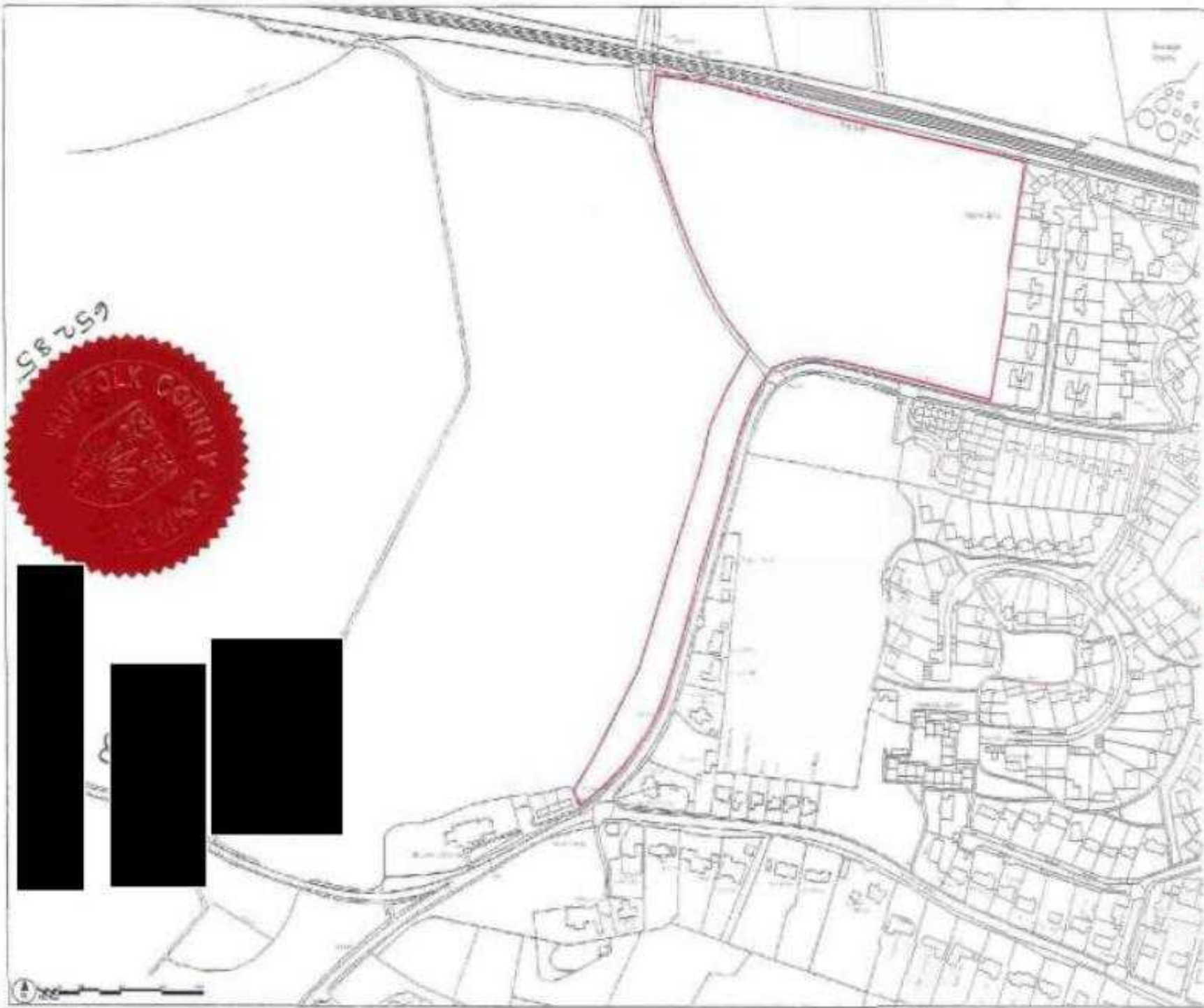
Part 1 Affordable Housing

1. Notices and Scheme

- 1.1 The Owner shall submit the Affordable Housing Scheme to the District Council with or before the first application for reserved matters approval
- 1.2 The Owner shall not commence development until the Affordable Housing Scheme has been approved in writing by the District Council such approval not to be unreasonably withheld or delayed
- 1.3 The Owner shall give the District Council Notice of Expected Commencement not less than seven (7) days before the date that the Owners expect Commencement of the Development to occur and the Owners shall give the District Council Notice of Actual Commencement within twenty-one (21) days of Commencement of Development in order to confirm Commencement has occurred
- 1.4 The Owner shall give the District Council not less than two (2) months' written notice of the anticipated date for the first Occupation of the first Dwelling to be Occupied
- 1.5 The Owner shall give to the District Council not less than seven (7) Days' written notice following
- 1.5.1 the date of Occupation of the first Dwelling; and
- 1.5.2 Completion of the Development

2. Owners obligation to construct Affordable Housing Units

- 2.1 Having given notice under paragraph 1 of Part 1 of this Second Schedule above unless the District Council is the Registered Provider the Owner shall nominate a Registered Provider. The Owner may Commence Development while this process is ongoing.
- 2.2 Unless the District Council is the Registered Provider or otherwise agreed in writing the Owner shall endeavour to agree with the District Council on the identity of the Registered



652851



The drawings in this project are hereby made subject to the following conditions:
 1. The drawings shall not be used for any other purpose without the written consent of the author.
 2. The drawings shall not be used for any other purpose without the written consent of the author.
 3. The drawings shall not be used for any other purpose without the written consent of the author.
 4. The drawings shall not be used for any other purpose without the written consent of the author.



Project Name	Site
Client Name	Site
PLANNING	
Planning Number	
Local Authority	
Date	
Scale	
Author	
Checker	
Drawn	
Checked	
Approved	
Project Name	Site
Client Name	Site
BMD	
Project Name	Site
Client Name	Site
CHRISTCHURCH LAND AND ESTATES, BISHAMPTON LIMITED	
Project Name	Site
Client Name	Site
LAND OFF SCHOOL ROAD, BISHAMPTON	
Project Name	Site
Client Name	Site
BIS BISHAMPTON	
Project Name	Site
Client Name	Site
BIS BISHAMPTON	

3m wide footway/cycleway
already offered alongside road
widening on School Lane

Additional 3m wide cycle path
requested to provide
alternative off-road route
(exact alignment will depend
on site levels)

Development Site

School Lane

School Lane

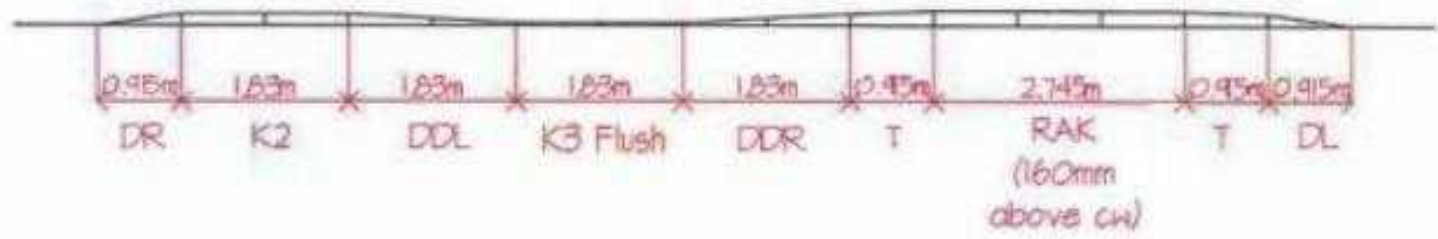
Church Road

St John's Church

Handover Housing

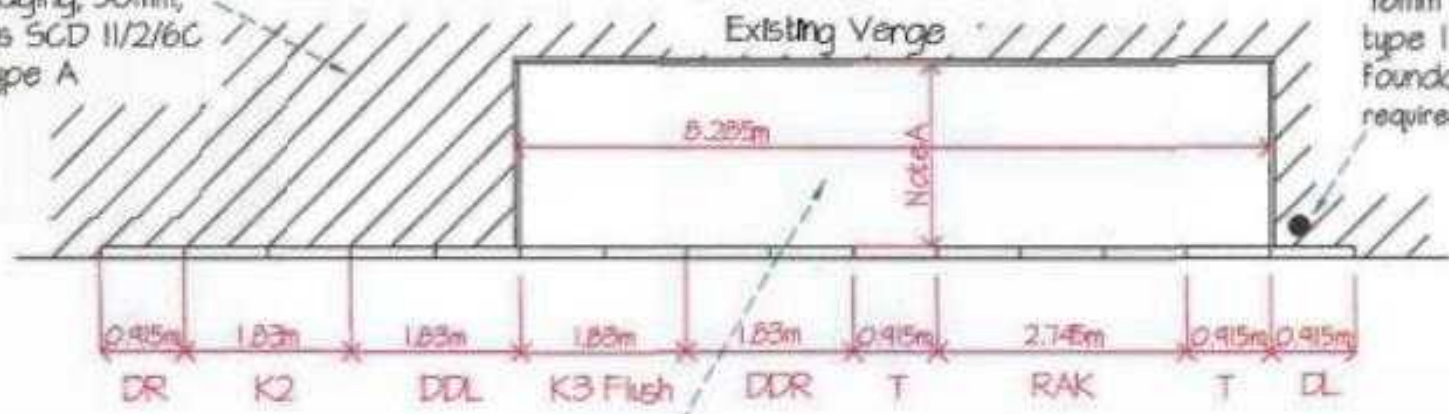
Pell Frischmann

Type D
Side View



Concrete edging, 50mm, as SCD 11/2/6C type A

Plan View



76mm post in type I foundation (if required)

Hard Standing as specified:
SCD 11/2/1J - PA (Flexible) or SCD 11/2/3F - RP (Rigid)

Note A

Width to be up to 2m wide depending on available space



Leighfield, Centre of Excellence Transport College Lane, Ipswich, Suffolk, IP1 3PL

APPROVED	CHECKED	PROJECT TITLE		Bus Stop Design Guide Drawings	
		AB	PH		
DESCRIPTION	DATE	SCALE	ORIGINAL DATE	DRAWING TITLE	
				AB	JP
				DATE	DRAWING NUMBER
				28/10/2009	ET00765 / 06 / 04
					REVISION
					A

Provider or other body to which the Affordable Housing Units are to be transferred prior to Commencement of Development but subject to the right to Commence Development.

- 2.3. The Owner shall construct the Affordable Housing Units in accordance with the Planning Permission.
- 2.4. The Owner shall not Occupy or permit Occupation of more than fifty percent (50%) of the Market Housing Units unless and until 50% of the Affordable Housing Units have been made ready for residential Occupation and have been transferred to the approved Registered Provider and written notification of such has been received by the District Council and the Owner shall not Occupy or permit Occupation of more than eighty percent (80%) of the Market Housing Units unless and until the remaining 50% of the Affordable Housing Units have been made ready for residential Occupation and have been transferred to the approved Registered Provider and written notification of such has been received by the District Council.
- 2.5. Unless the District Council is the Registered Provider to procure a covenant in the transfer(s) of the Affordable Housing Units that the Registered Provider(s) will enter into the Affordable Housing Nomination Agreement within three (3) months of the date of the transfer(s) to it of the Affordable Housing Units (or such other time period as is otherwise agreed in writing with the District Council).
- 2.6. The Owner covenants that the Shared Ownership Dwellings shall only be Occupied by persons allocated in accordance with the Government's eligibility requirements for Shared Ownership Dwellings and the Rental Dwellings shall only be Occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the Council is a party or chosen pursuant to the Affordable Housing Nomination Agreement which confers nomination rights on the District Council unless otherwise agreed by the District Council in writing or in accordance with the Government's Help to Buy Agency requirements.
- 2.7. From the date of Practical Completion the Affordable Housing Units shall not be used other than for Affordable Housing as set out herein save that this obligation shall not be binding on:
 - a) any Protected Person or any mortgagee or chargee of the Protected Person exercising the mortgagee protection provision within the Shared Ownership Lease or any person deriving title from a Protected Person or any successor in title thereto and their respective mortgagees and chargees; or
 - b) any Chargee PROVIDED THAT the Chargee shall have first complied with the

Chargee's Duty; or

- c) any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor; or
- d) any mortgagee of the Shared Ownership Dwelling lawfully exercising the mortgagee protection provisions in the Shared Ownership Lease or any person or body deriving title from any such person; or
- e) any successor in title of a)- d) above.

2.8. Unless the District Council is the Registered Provider, any Capital receipt received from a lessee purchasing further shares in the Shared Ownership Dwelling between 81% and 100% is to be retained by the Registered Provider and re-invested in affordable housing within the administrative district of the District Council subject to any contrary requirements within the Capital Funding Guide published by Homes England and any other publication that supersedes it. If after a period of five (5) years it has not been possible to spend the recycled funds within the administrative district of the District Council the funds may be spent elsewhere for the provision of affordable housing.

2.9. The Owner shall not occupy or permit occupation of any of the Affordable Housing Units for any purpose other than as Affordable Housing.

3. Future use of Affordable Housing Units

3.1. the Owner covenants that any transfer of the Affordable Housing Units to a Registered Provider shall be:

3.1.1 with vacant possession;

3.1.2 free from any incumbrance other than existing at the time of the disposition (save for any financial charge or the transfer of statutory apparatus by the Owner to any statutory undertaker);

3.1.3 Subject to a 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;

3.1.4 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;

3.1.5 subject to a covenant to enter into an Affordable Housing Nomination Agreement substantially in the form of the agreement contained in the Sixth Schedule with

the District Council within three (3) months of the date the Affordable Housing Units are transferred from the Owner to the Registered Provider;

- 3.1.6 subject to a covenant that the Registered Provider shall include a pre-emption provision in its own favour in any transfer of an Affordable Housing Unit from the said Registered Provider to the owner or tenant of an Affordable Housing Unit; and
 - 3.1.7 subject to a covenant that the Registered Provider shall use all capital receipts from the sale of Affordable Housing Units only for the purpose of providing Affordable Housing.
- 3.2. The obligations and restrictions contained in paragraph 3 of this Second Schedule shall not be binding on:
- 3.2.1 a Chargee who has complied with the provisions of paragraph 4 of this Schedule 3;
 - 3.2.2 Any Affordable Housing Unit purchased by a tenant through Social Homebuy funded pursuant to Section 19(3) Housing and Regeneration Act 2008 or a voluntary grant scheme pursuant to Section 21 Housing Act 1996 or any replacement of said schemes; or
 - 3.2.3 any person or body deriving title through or from any other parties mentioned in this paragraph 3.

4 Chargee's Duty in relation to Affordable Housing Units

- 4.1 Any Chargee of a Registered Provider shall prior to seeking to dispose of any Affordable Housing Unit pursuant to any default under the terms of its mortgage or charge shall first give written notice to the District Council of its intention to dispose.
- 4.2 if notice is given pursuant to paragraph 4.1 of this Schedule the following provisions shall apply:
 - 4.2.1 such Chargee shall first give written notice to the District Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three (3) months from the date of the written notice to complete a disposal of the Affordable Housing Units to another Registered Provider or to the District 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

4.22 If such disposal has not completed within the three month period referred to in clause 4.21 above, the Chargee shall be entitled to dispose of the Affordable Housing Units free from the restrictions set out in this deed regarding the provision of Affordable Housing on the Land restrictions in this Deed which provisions shall determine absolutely

PROVIDED that at all times the rights and obligations in this paragraph 4 shall not require the Chargee to act contrary to its duties under its mortgage or charge and the District Council must give consideration to protecting the interests of the Chargee of a Registered Provider in respect of monies, interest and costs outstanding under its mortgage or charge;

5. Affordable Housing Contribution

5.1 In the event that the Registered Provider (within two (2) months' of written invitation) is unable to make an acceptable offer to purchase the Affordable Housing Units or no longer wants to purchase the Affordable Housing Units to enable the Owner to transfer the Affordable Housing Units to the Registered Provider pursuant to paragraph 3 of this part of this Schedule the Owner shall:

5.1.1 notify the District Council not less than three (3) months' prior to the Practical Completion of the Affordable Housing Units to be transferred;

5.1.2 set out the reasons (together with any supporting evidence) in writing why an agreement for the transfer to the Registered Provider has not been entered into

5.1.3 submit any other information reasonably requested by the District Council to satisfy why the Owner has not been able to enter into an agreement to transfer with the Registered Provider

5.1.4 offer the Affordable Housing Units to the District Council to be purchased by the District Council as Affordable Housing

5.2 In the event the District Council make an acceptable offer to the Owner (within two (2) months' of written invitation) for the Affordable Housing Units then the Owner shall not occupy or permit occupation of more than twenty one (21) of the Market Housing Units until the Owner has provided the District Council with a freehold transfer document unconditionally released for completion.

5.3 In the event the District Council does not make an acceptable offer to the Owner (within two (2) months of written invitation) to purchase the Affordable Housing Units or the District

Council indicates that they do not want to purchase the Affordable Housing Units the Owner shall pay the Affordable Housing Contribution to the District Council within two (2) months of receipt of that written confirmation (such sum to be calculated in accordance with the District Council's policies as are applicable at the time of calculation) in lieu of the provision of Affordable Housing on the Land and the Owner shall not Occupy or permit Occupation of more than 85% of the Market Housing Units until the Owner has paid the Affordable Housing Contribution to the District Council

- 5.4 Upon the payment of the Affordable Housing Contribution to the District Council in accordance with paragraph 5.3 above the provisions detailed in paragraphs 2.3 and 4 of this Part 1 and Part 2 of the Second Schedule regarding the provision of Affordable Housing Units shall no longer be applicable and the Owner shall be free to dispose of the said Affordable Housing Units as Market Housing Units

Part 2

Housing Mix

In addition to the requirements of the Part 1 of this Schedule the housing mix for all of the dwellings in the development shall be as indicated in the table below unless agreed otherwise in writing with the District Council

House type	Affordable	Shared Ownership	Market	Total unit types:
4 bedroom house			17	17
3 bedroom house	4	3	17	24
2 bedroom house	8	5	13	26
2 bedroom bungalow	4		4	8
2 bedroom flat			3	3
1 bedroom flat	6		2	8
Total	22	8	56	

Part 3

Open Space

- 1.1 The Owner hereby covenants with the District Council that prior to Commencement of Development and in parallel with the relevant Reserved Matter application or discharge of

condition application for the Planning Permission to submit the Open Space Plan and the Open Space Specification to the District Council for approval.

- 1.2 If the District Council fails within twenty (20) Working Days of submission of the Open Space Plan and Open Space Specification to notify the Owner of its approval of the Open Space Plan and the Open Space Specification the Owner shall be entitled to assume deemed approval of the Open Space Plan and Open Space Specification.
- 1.3 The Owner covenants not to Commence the Development unless and until the Open Space Plan and the Open Space Specification have been approved by the District Council in writing such approval not to be unreasonably withheld or delayed and the Owner shall within 6 months of Commencement of Development elect whether to maintain the Open Space whether by itself or a Management Company or offer to Transfer the same another specified Nominated Body subject to such body accepting the offer of such transfer within 6 weeks of the offer being made.
- 1.4 Unless otherwise agreed in writing with the District Council (in the Open Space Specification or otherwise) the Owner hereby covenants with the District Council not to permit the Occupation of any more than 50% of the Dwellings until the Open Space has been provided in accordance with the approved Open Space Plan and the Open Space Specification.
- 1.5 The Owner further covenants with the District 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 paragraph 1.7 of this Part 3 of this Second Schedule has been completed and for the avoidance of doubt the Open Space can be transferred in full to the Nominated Body or if the Parties (acting reasonably) so agree in part to different Nominated Bodies.
- 1.6 The Owner covenants that following the District Council's written confirmation 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 of the Open Space as to whichever Nominated Body it has elected to transfer the same to and such transfer shall include such terms 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.

- 1.7 Subject to the requirements of paragraph 1.6 of this Part 3 of the Second Schedule the Owner shall transfer the Open Space to the Nominated Body in full or Nominated Bodies in part no later than eighteen (18) months of Occupation of the last Dwelling in accordance with the Open Space Transfer.

Part 4

Junction and Highway Improvement Works and Stage 2 Safety Audit

- 1.1 The Owner shall carry out the approved Junction and Highway Improvement Works under the terms of the Highways Agreement and in accordance with a timetable to be agreed with both the District and County Council and specified within the Highways Agreement.
- 1.2 Where the Owner undertakes the Junction and Highway Improvement Works it shall as part of the Highways Agreement dedicate as highway any land subject to the Junction and Highway Improvement Works which is required to deliver the said Junction and Highway Improvement Works which is not already highway land at the time of this Deed
- 1.3 Sustrans covenant with the Owner the District Council and the County Council that they will permit the Owner to carry out the Junction and Highway Improvement Works on the land owned by Sustrans and which are required for the purpose of constructing the Junction and Highway Improvement Works and further that they shall enter into the Highways Agreement specified in paragraph 1.3 to dedicate their land as is required to deliver the said Junction and Highway Improvement Works which is not already highway land at the time of this Deed
- 1.4 Sustrans further covenants that it will cooperate with the Owner the District Council and the County Council in agreeing changes required to the Junction and Highway Improvement Works and /or the Stage 2 Safety Audit following the date of this Deed.

THIRD SCHEDULE

THE OWNER COVENANTS WITH THE COUNTY COUNCIL

Part 1

Notification

1. The Owner shall serve the County Council with
 - 1.1 the Notice of Expected Commencement not less than five (5) Working Days' before the date that the Owner expects Commencement of Development to occur; and
 - 1.2 within fifteen (15) Working Days of Commencement of Development having occurred, the Notice of Actual Commencement in order to confirm that Commencement has occurred.
2. The Owner shall within fifteen (15) Working Days' give written notice to the County Council following:
 - 2.1 first Occupation of the first Dwelling;
 - 2.2 Completion of the Development.

Part 2

Bus Stop Improvement and Public Right of Way Contribution

1. Prior to the first Occupation of the first Dwelling to be constructed as part of the Development the Owner covenants to pay to the County Council the Public Rights of Way Contribution.
2. The Owner shall carry out the approved Bus Stop Improvements under the terms of an agreement concluded with the County Council pursuant to Section 278 (or similar) of the Highways Act 1980 (Highways Agreement) and in accordance with a timetable to be agreed with the County Council and specified within the Highways Agreement.

Part 3

Early Years Contribution

1. The Owner covenants with the County Council as follows:
 - 1.1 to pay fifty percent (50%) of the Early Years Contribution to the County Council on Commencement of Development; and

- 1.2 not to Commence the Development prior to payment of fifty percent (50%) of the Early Years Contribution to the County Council;
- 1.3 to pay the remaining fifty percent (50%) of the Early Years Contribution to the County Council prior to first Occupation of the first (1st) Dwelling; and
- 1.4 not to Occupy or permit first Occupation of any Dwellings unless and until the remaining fifty percent (50%) of the Early Years Contribution has been paid to the County Council

Part 4

Pedestrian/Cycle Link Land

- 1 The Owner covenants with the County Council as follows:
 - 1.1 Not to use the Pedestrian/Cycle Link Land for any purpose (within 10 years of the date of this Deed) that may render it unsuitable for its intended purpose under this Deed without the express consent of the County Council in writing (such consent not to be unreasonably withheld or delayed);
 - 1.2 AS soon as reasonably practicable following notice in writing served by the County Council upon the Owner that the Pedestrian/Cycle Link Land is required to enable the County Council to construct a pedestrian /cycle link on the Pedestrian/Cycle Link Land enter into an agreement with the County Council to dedicate the Pedestrian/Cycle Link Land as a high way for use by pedestrians and cyclists immediately prior to commencement of the works by the County Council such agreement to be at no cost to the County Council and in a form to be reasonably agreed by the County Council save that any notice must be served by the County Council and dedication completed under the agreement not later than 10 years from the date of this Deed.

Part 5

Pre-School Land

1. Provided the County Council has not previously served notice on the Owner that it does not require the Pre-School Land the Owner covenants to agree the location of the Pre-School Land with the County Council (both parties acting reasonably and agreement not to be unreasonably withheld) prior to or as part of the first reserved matters application submitted pursuant to the Planning Permission save that the location of the Pre-School Land can be altered with the agreement of the Owner and the County Council both acting reasonably.
2. Provided the County Council has not previously served notice on the Owner that it does not require the Pre-School Land the Owner covenants to reserve the Pre-School Land for a period of 10 years from the date that the County Council can first require the Pre-School Land to be transferred to it pursuant to paragraph 2.1 below ("Reservation Period") and to
 - 2.1 complete the Pre-School Land Transfer to the County Council or if so directed by the County Council to a County Council Nominee as soon as reasonably possible following receipt of a notice in writing from the County Council (which may be served at any time within the Reservation Period) but on condition that the County Council or the Council Nominee is in a position to commence development of the Pre-School Facility within a reasonable period (not exceeding one year) from the date of transfer and that the County Council cannot serve a notice for the purposes of this paragraph until the earlier of two years from the Commencement of Development or the Completion of the Development either of such dates being the date of commencement of the Reservation Period.
 - 2.2 transfer the Pre-School Land for a consideration not exceeding in total the sum of one pound (£1) sterling and otherwise on such reasonable terms consistent with the intended use as the Pre-School Facility as shall be agreed between the parties to that transfer and for the avoidance of doubt the Owner shall as a minimum transfer the Pre-School Land in the condition required by the Pre-School Land Transfer.
3. From the date of this Deed until the end of the Reservation Period and for the duration thereof the Owner hereby covenants not to use or allow or permit any works or activities to be carried out on the Pre-School Land that may render the Pre-School Land unsuitable for use as a Pre-School Facility in any way.
4. The Owner shall allow the County Council and of the County Council's Nominee or agents access to the Pre-School Land (once location agreed between the Owner and County Council in accordance with this Deed) or any alternative land identified by the Owner as being suitable to be the Pre-School Land with or without Vehicles plant and machinery for the purposes of investigation or Verification that the Pre-School Land is suitable for the Pre-

School Facility and to verify that the Owner has complied with its obligations to fully service the Pre-School Land PROVIDED THAT they comply at all times with the provisions set out in clause 14 (Rights of Entry) of this Deed.

5. In the event that the County Council spends the Early Years Education Contribution on a Pre-School Facility not located on the Land or makes a contractual commitment to do so the obligation to reserve and /or transfer the Pre-School Land to the County Council shall cease absolutely and in the event that the Pre-School Land has already been transferred to the County Council the same shall be transferred back to the Owner at the same consideration of One pound (£1.00) and free of restrictions as to future use.

Part 6

Primary Education Contribution

1. The Owner covenants with the County Council as follows:
 - 1.1 to pay fifty percent (50%) of the Primary Education Contribution to the County Council on Commencement of Development; and
 - 1.2 not to Commence the Development prior to payment of fifty percent (50%) of the Primary Education Contribution to the County Council;
 - 1.3 to pay the remaining fifty percent (50%) of the Primary School Education Contribution to the County Council prior to first Occupation of the first (1st) Dwelling; and
 - 1.4 not to Occupy or permit first Occupation of any Dwellings unless and until the remaining fifty percent (50%) of the Primary Education Contribution has been paid to the County Council.

Part 7

Secondary School Transport Contribution

The Owner covenants with the County Council as follows:

- 1.1 to pay fifty percent (50%) of the Secondary School Transport Contribution to the County Council on Commencement of Development; and
- 1.2 not to Commence the Development prior to payment of fifty percent (50%) of the Secondary School Transport Contribution to the County Council;
- 1.3 to pay the remaining fifty percent (50%) of the Secondary School Transport Contribution to the County Council prior to first Occupation of the first (1st) Dwelling; and

- 1.4 not to Occupy or permit first Occupation of any Dwellings unless and until the remaining fifty percent (50%) of the Secondary School Transport Contribution has been paid to the County Council

Part 8

Travel Plans

The Owner covenants to comply with the approved travel plans for the site as approved pursuant to conditions attached to the Planning Permission

Part 9

Junction and Highway Improvement Works

- 1.1 Prior to Occupation the Owner will enter into the Highways Agreement with the County Council for the Junction and Highway Improvement Works which will be constructed in general accordance with drawing numbers A13438-0002, A13438-0003 and A13438-0004 unless agreed otherwise in writing with the County Council following consultation with the District Council.
- 1.2 The Owner covenants not to Occupy any Dwelling prior to completion of the Highways Agreement
- 1.3 As part of the process of approving and concluding the Highways Agreement the Owner will require approval by the County Council of all technical details for the Junction and Highway Improvement Works which will include the Stage 2 Safety Audit and in relation to the Stage 2 Safety Audit only approval from the County Council (such approval to be sought no later than submission of the first reserved matters application) in consultation with the Council

FOURTH SCHEDULE

THE DISTRICT COUNCIL COVENANTS WITH THE OWNER

- 1.1 To use any Contribution paid under the terms of the Deed for its intended purposes under this Deed and for no other purposes
- 1.2 To account for interest at the base rate of the Bank of England from time to time on all the Commuted Sums or Contributions it receives under the terms of this Deed as if such sums or contributions were held in an interest bearing account.
- 1.3 In the event that any of the contributions or any part of them have not been committed (by an unconditional contract or by the expenditure of the monies) for the purposes for which they were paid under the terms of this Deed within 5 years from the date of payment to the District Council the District Council shall repay any unspent balance to the person who made such payments together with a sum equivalent to the interest accrued thereon and to provide the Owner with evidence of such expenditure or Commitment.
- 1.4 At the written request of the Owner the District Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

FIFTH SCHEDULE

THE COUNTY COUNCIL COVENANTS WITH THE OWNER

1. EARLY YEARS CONTRIBUTION

- 1.1 The County Council shall use the Early Years Contribution it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid
- 1.2 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 Early Years 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 Early Years 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

2. PEDESTRIAN/CYCLE LINK LAND

- 2.1 To adopt the Pedestrian/Cycle Link Land as highway maintainable at the public expense upon dedication of it as highway by the Owner in accordance with Part 4 of the Third Schedule to this Deed.
- 2.2 Where the Pedestrian/Cycle Link Land is reasonably agreed by the County Council to be unnecessary for the purpose of providing a highway link within 2 years of dedication the County Council shall agree to and at no cost to the County Council cooperate with the Owner in securing a stopping up order pursuant to Section 116 of the Highways Act 1980 in respect of the highway rights so created and for the avoidance of doubt this does not constitute a guarantee that any such application shall be successful nor does it place any obligation on the County Council to remove any works undertaken to provide the pedestrian/cycle link

3. PRE-SCHOOL LAND

- 3.1 Save where the Pre-School Land is not required by the County Council or the Pre-School Facility is not to be located on the Land or the Early Years Contribution has been spent or contractually committed to a Pre-School Facility off the Land the County Council shall not unreasonably withhold or delay agreement as to the location of the Pre-School Land if different to that shown in the Illustrative Masterplan or unreasonably withhold or delay

agreement and completion of the Pre-School Land Transfer and co-operate in transferring the same back to the Owner where required to do so under the terms of this Deed

4. PRIMARY EDUCATION CONTRIBUTION

- 4.1 The County Council shall use the Primary Education Contribution it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid
- 4.2 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 Primary Education 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
- 4.3 When the Primary Education 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

5. SECONDARY SCHOOL TRANSPORT CONTRIBUTION

- 5.1 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
- 5.2 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
- 5.3 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

6 PUBLIC RIGHTS OF WAY CONTRIBUTION

- 6.1 The County Council shall use the Public Rights of Way Contribution it receives under the terms of this Deed for the purposes specified in this Deed for which they are to be paid
- 6.2 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 Public Rights of Way 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
- 6.3 When the Public Rights Of Way 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.

SIXTH SCHEDULE

DRAFT

THIS DEED OF NOMINATION RIGHTS

is made the day of 20

BETWEEN:

- (1) XXXXXXXX whose registered address is XXXXXXXX XXXXXXXX
(the RP) and

- (2) MID SUFFOLK DISTRICT COUNCIL of Endeavour House, 1 Russell Road Ipswich
Suffolk, IP1 2BX (the Council)

1. Definitions

In this Deed:

- 1.1 'Affordable Housing' has the meaning given to it in Annex 2 of the National Planning Policy Framework published in February 2019 (as may be amended from time to time or such other national policy that may from time to time replace or update this framework) or any successor policy thereto issued by HM Government.

- 1.2 'Affordable Housing Unit' means the XX dwellings (35% of the Consented Dwellings) all or which shall be Affordable Housing to be provided on the Land of which XX Dwellings shall be Affordable Rent Dwellings (unless otherwise agreed by the Council as part of the Affordable Housing Scheme) which shall be let at an Affordable Rent and shall be occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the Council is a party or otherwise nominated by the Council pursuant to this Deed as varied from time to time and XX Dwellings shall be Shared Ownership Dwellings and shall be occupied by persons in accordance with the Government's Help to Buy Scheme (or other subsequent scheme) and Affordable Housing Units shall be construed accordingly.

- 1.3 'Affordable Housing Scheme' means the affordable housing scheme to reserved matters is not a planning application so have taken any reference out, as it still needs to be approved in writing by the DC be submitted to the District Council for its written approval for the provision of Affordable Housing as part of the Development detailing:
- i) the plots and location;
 - ii) bedroom numbers per Dwelling;
 - iii) Dwelling size; and
 - iv) tenure
- 1.4 'Affordable Rent' means rent charged at a level up to 80% of the equivalent Market Rent including any service charges applicable
- 1.5 'Affordable Rent Dwelling' means an Affordable Housing Unit made available by a Registered Provider as low-cost rent accommodation (as defined by the Housing and Regeneration Act 2008 Section 69) with a rent charged at a level up to 80% of the equivalent market rent (inclusive of any service charges applicable) for a dwelling of comparable size in the same location.
- 1.6 'Chargee' means any mortgagee or chargee of the RP who is in possession or any receiver or manager (including an administrative receiver) appointed by such a mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator.
- 1.7 'Chargee's Duties' means the tasks and duties set out in Clause 12.4 of this deed.
- 1.8 'Choice Based Lettings Scheme' means an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Lettings Scheme relates to apply for a selection of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the Council is a party.
- 1.9 'Dwelling' means a dwelling (including a house flat or bungalow and including both Market Housing Units and Affordable Housing Units) to be constructed pursuant to the Planning Permission and "Dwellings" shall be construed accordingly

- 1.10 'Gateway to Homechoice' means the Greater Haven Gateway sub-regional Choice Based Lettings Scheme (or any replacement or similar system in place at the time)
- 1.11 'Homes England' means Homes England or such other Organisation as may from time to time be the Regulator of Social Housing within the meaning of section 81 of the Housing and Regeneration Act 2008 or such other body with statutory force charged with regulating Registered Providers
- 1.12 'Initial Let' means the first tenancy of such newly constructed and previously unoccupied Affordable Rent dwelling
- 1.13 'Initial Purchase' means the first purchase of such newly constructed and previously unoccupied Shared Ownership Dwelling
- 1.14 'Local Connection Criteria' means an individual who immediately before taking up occupation of an Affordable Housing Unit
- 1.14.1 had his only or principal home in the district of Mid Suffolk for a continuous period of not less than two (2) years and in the event that there are no or insufficient individuals qualifying under this sub-paragraph then the choice of person shall default to (but with no preference in ranking order) to those individuals fulfilling the criteria set out in the following sub-paragraphs 1.14.2 to 1.14.4 inclusive.
- 1.14.2 has or a member of whose household has a parent adult child brother or sister whose only or principal home is and has been for a continuous period of not less than two (2) years in the district of Mid Suffolk and wishes to be near that relative or
- 1.14.3 is employed in the district of Mid Suffolk on the date of the consideration of the individual's entitlement for an Affordable Housing Unit and has been continuously so employed for two (2) years
- 1.14.4 who during the period commencing from the date on which an Affordable Housing Unit to which such individual is eligible pursuant to this sub-paragraph becomes available (for the purposes of this sub-paragraph called the "Availability Date") can provide satisfactory written evidence to the Council of his or her former residency in the district of Mid Suffolk for either (i) six (6) months out of the preceding twelve (12) months or (ii) three (3) years out of the preceding five years and in either case such

period of former residency shall end with the Availability Date

- 1.15 'Mutual Exchange' means the procedure by which a tenant may exchange their house with another council or housing association tenant
- 1.16 'Nomination List' means the Gateway to Homechoice Short List produced in accordance with the Gateway to Homechoice SLA
- 1.17 'Nominee' means a person named on the Gateway to Homechoice Short List who satisfies the Local Connection Criteria and is verified by the RP as best meeting the criteria for the category of Affordable Rent Dwelling in respect of which the RP is to select a person from the Nomination List and offer a Tenancy Agreement
- 1.18 'Practical Completion' means issue of a certificate of practical completion by the RP's surveyor or in the event that the Affordable Housing Units are constructed by a party other than the RP the issue of a certificate of practical completion by that other party's surveyor
- 1.19 'Protected Tenant' means any Nominee who has exercised the right to acquire pursuant to the Housing and Regeneration Act 2008 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
- 1.20 'Registered Provider' means a registered provider of social housing as defined in section 80(2) of the Housing and Regeneration Act 2008 and listed in the register kept by Homes England under Chapter III of that Act and for the avoidance of doubt this could include the Council
- 1.21 'Shared Ownership Dwelling' means an Affordable Housing Unit to be let on a Shared Ownership Lease in accordance with the terms as set out in the Capital Funding Guide the Capital Funding Guide published by Homes England and any other publication that supersedes it
- 1.22 '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:
- (a) not more than 70% and not less than 25% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider;

- (b) power to the purchaser to increase their ownership up to 100% if they so wish;
- (c) 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 as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of Homes England.

- 1.23 'Service Level Agreement' or 'SLA' means the Gateway to Homechoice service level agreement or such other service level agreement for the time being in force made between the Registered Provider (1) and the Council (2)
- 1.24 'Staircasing' means the acquisition after the date of the Initial Purchase of additional tranches of equity in the Shared Ownership Dwelling as set out in the Shared Ownership Lease for that Affordable Housing Unit and as detailed in the Capital Funding Guide published by Homes England and any other publication that supersedes it.
- 1.25 'Tenancy Agreement' means an assured tenancy agreement in a form prepared by the RP and containing terms which accord with the form of tenancy agreement being used by the RP from time to time for its general lettings
- 1.26 'Vacancy Notice' means a written notice (in a form to be agreed between the RP and given by the RP to the Council within five (5) weeks from the date of this Deed) the function of such notice being the notification to the Council by the RP of the expected date on which the construction and fitting out of the Affordable Rented Dwellings will be complete
- 1.27 'Void' means an Affordable Rent Dwelling which is vacant otherwise than as a result of the tenant having:
 - 1.27.1 moved to other accommodation either by transfer or decant provided by the RP
 - 1.27.2 moved to other accommodation under a reciprocal arrangement provided by another Registered Provider
 - 1.27.3 vacated and moved to other accommodation as a consequence of the tenant having accepted a mutual exchange which provides such tenant with accommodation elsewhere

1.28 'Void Notice' means a written notice given by the RP to the Council (in a form to be agreed between the RP and the Council within five (5) weeks from the date of this Deed) the function of such a notice being the notification to the Council of a void in respect of an Affordable Rent Dwelling

2 Enabling Provisions

This Deed is made pursuant to the Local Government Act 1972 Section 111, Section 1 of the Localism Act 2011 as amended and all other enabling powers.

3 Procedure

The parties agree that the Service Level Agreement procedure to which they are signatories and the Local Connection Criteria shall apply to the nomination of persons in respect of the Affordable Housing Units

4 Initial Lets/Initial Purchase

In relation to the Initial Lets and Initial Sale of any Affordable Housing Units the following provisions shall apply:

4.1.1 The RP shall give the Council not less than four (4) months' written notice of the date when all the Affordable Housing Units will be ready for occupation

4.1.2 The RP shall serve a Vacancy Notice upon the Council in respect of an Affordable Rent Dwelling not earlier than ten (10) weeks prior to an Affordable Rent Dwelling becoming available for occupation

5. Voids

Should any Affordable Rent Dwelling become a Void after the Initial Let or the RP has reasonable cause to believe it will become a Void then the Gateway to Homechoice SLA procedure shall apply in each case

6. Supplemental provisions relating to allocating Initial Lets and Voids

6.1 Where there are two or more applicants applying to occupy one of the Affordable Housing Units the Local Connection Criteria set out in clause 1.10 of this Deed and thereafter subject to clause 6.2 and 6.3 of this Deed, preference must be given to the applicant/s who have the highest housing need according to the Council's current allocations policy

6.2 In a case where a Nominee is fleeing domestic violence and has been accepted as

homeless by the Council in accordance with the Homeless Reduction Act 2018 the Local Connection Criteria set out in clause 1.10 of this Deed will not be applied. For the avoidance of doubt the remainder of the Council's allocation policy will continue to apply in determining the applicant with the highest housing need.

- 6.3 If any of the Affordable Housing Units are designed or adapted for people with disabilities or in need of level access then any such dwelling may be first offered to a person or persons with disabilities or level access needs who require such accommodation even where such person(s) have a lesser local connection under clause 1.10 of this deed than someone who does not have disabilities or level access need

7. RP covenants

The RP covenants with the Council to the intent that the Local Government (Miscellaneous Provisions) Act 1982 applies

- 7.1 To ensure the Affordable Housing Units comprised within the Development are used as Affordable Housing Units
- 7.2 To ensure that the Affordable Housing Units are let on the basis of a Tenancy Agreement at an Affordable Rent or as low-cost home ownership and they are all retained and managed by a Registered Provider in accordance with the objectives of such Registered Provider
- 7.3 To construct the Affordable Housing Units in accordance with Homes England requirements

8. Alteration of lists

- 8.1 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

9. 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

10. Transfer to other Registered Provider

The RP shall use reasonable endeavours to ensure that any Registered Provider to which the Affordable Housing Units are transferred otherwise than by direction of Homes England under its statutory powers shall enter into a similar deed mutatis mutandis with the Council and Gateway to Homechoice simultaneously on completing the transfer of the Affordable Housing Units

11 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

12 Agreements and declarations

The parties agree:

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

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

12.3 From the date of Practical Completion the Affordable Housing Units shall be let or purchased in accordance with the terms of this Deed save that the obligations and restrictions contained in this Deed shall not be binding on:

12.3.1 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 Chargees; or

12.3.2 any chargee and any successor in title to the Chargee PROVIDED THAT the Chargee shall have first complied with the Chargee's Duties; or

12.3.3 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.

12.4 The Chargee shall prior to seeking to dispose of the Affordable Housing Unit(s) pursuant to any default under the terms of its mortgage or charge give not less than two (2) months'

prior notice to the Council of its intention to dispose and

- 12.4.1 in the event that the Council responds within one (1) month from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit(s) can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to secure such transfer at a price and upon such terms as are reasonably acceptable to the Chargee
- 12.4.2 if the Council does not serve its response to the notice within the said period of one (1) month contained in clause 12.4.1 then the Chargee shall be entitled to dispose free of the restrictions set out in this Deed
- 12.4.3 if the Council or any other person cannot within two (2) months of the date of service of its response under clause 12.4.1 secure such transfer then provided that the Chargee shall have complied with its obligations under clause 12.4 the Chargee shall be entitled to dispose free of the restrictions set out in this deed 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 moneys outstanding under the charge or mortgage

13. Mutual Exchanges

The requirements of this Deed shall apply to all requests for Mutual Exchanges.

14. Shared Ownership Dwellings - Capital Receipts from Staircasing

Capital receipts received by the RP for shares sold between 81% and 100% must be recycled and reinvested in new Affordable Housing within the District of Mid Suffolk.

AS WITNESS whereof the parties have executed this instrument as a Deed hereto the day and year first above written.

Signatories:

District Council

Registered Provider