

## **TR010037**

### **Application by Highways England for an Order Granting Development Consent for the A47/A11 Thickthorn Junction**

The Trustees of the Mackintosh Trust's response to the Examining Authority's Written Questions and Requests for Information (ExQ1), issued on 23 September 2021

#### **ExQ1 – GC.1.9**

The Trustees do not wish to make any additional comment at this stage but look forward to reviewing the responses from the Applicant and Relevant Highway Authority to these “questions” and to reading the Examining Authority’s opinion on those responses. The Trustees are ready to engage with the Applicant to deliver the best form of junction possible.

#### **ExQ1 – GC.1.10; GC.1.11; GC.1.12; GC.3.1; AQ.1.5; BIO.1.1; BIO.2.4; BIO.3.2; BIO.3.3; BIO.3.6; CC.1.1**

The Trustees do not wish to make any additional comment at this stage but look forward to reviewing the responses from the Applicant to these “questions” and to reading the Examining Authority’s opinion on those responses. The Trustees are ready to engage with the Applicant.

#### **ExQ1 – CI.1.3**

Please note that the property on which the land for both the Park and Ride Site expansion and Park and Ride Slip Road are sited belongs to The Trustees of the Mackintosh Trust, not The Trustees of the CM Watt Residual Trust.

The attached Section 106 Agreement for the Hethersett Development (South Norfolk Council Planning Permission Ref: 2011/1804/O) provides that the Developer should do various things including completion of the Lease for the Park and Ride Site and either the dedication or securing of the dedication of the Slip Road to enable full access to the Park and Ride Site. The Lease for the Park and Ride Site has been completed and on 13 February 2015 the land for the Slip Road (shown edged red on the attached drawing A.45,372) was transferred to Norfolk County Council (NCC) but we do not believe it has been dedicated. NCC, as the owners of the Slip Road land, are the only party that can affect dedication but we do not believe they will be able to comply with this obligation due to the Proposed Development. The Applicant should ensure that the Trust is indemnified for any liability under the current Section 106 Agreement arising from the inability to comply with the Section 106 Agreement or Planning Permission as a result of the Proposed Development.

The Slip Road land was transferred to NCC, specifically to enable them to deliver the Park and Ride extension. In the event that NCC changed their minds about wanting an extension, the parties also entered into an Option Agreement giving the Trust the right to call for the Slip Road land back. The Option is only capable of exercise for a period of one year from 13 February 2025 in the event that NCC have not commenced the works necessary to deliver the extension. Since this area of land is no longer capable of being used for the Slip Road:

- Either, the Slip Road land should be left in the ownership of NCC and it somehow ensured through the Applicant (and in agreement with NCC) that any compensation for land taken from the Slip Road land to deliver the Proposed Development should come to the Trust and not to NCC;
- Or, the Applicant should arrange and pay for a deed of variation (plus any additional legal documentation) of the Option Agreement so that the Option is capable of exercise now and not after 2025. The Option can then be exercised, and the Trust allowed to call for a transfer back of the Slip Road land. The compensation would then be due to the Trust although the Trust would need to be protected against a situation whereby, on becoming the owner of the Slip Road land once again, they would be in breach of the undeliverable obligation to dedicate said Slip Road.

The Trust has highlighted this matter to the Applicant and understands they are engaged in finding a solution but is yet to be provided with any details.

**ExQ1 – CI.1.8; CI.1.9; DCO.2.8; DCO.2.15; DCO.2.19; NV.1.1**

The Trustees do not wish to make any additional comment at this stage but look forward to reviewing the responses from the Applicant to these “questions” and to reading the Examining Authority’s opinion on those responses. The Trustees are ready to engage with the Applicant.

**ExQ1 – NV.1.4; NV.1.5**

The Trustees are deeply concerned about the impact which noise pollution and vibration may have on their property but do not wish to make any additional comment at this stage. The Trustees look forward to reviewing the responses from the Applicant to these “questions” and to reading the Examining Authority’s opinion on those responses. The Trustees are ready to engage with the Applicant.

**ExQ1 – TT.1.1**

The Trustees do not wish to make any additional comment at this stage but look forward to reviewing the responses from the Applicant to these “questions” and to reading the Examining Authority’s opinion on those responses. The Trustees are ready to engage with the Applicant.

8

DATED

20th May

2013/4

SOUTH NORFOLK DISTRICT COUNCIL

(1)

- and -

NORFOLK COUNTY COUNCIL

(2)

- and -

LLOYDS ~~BARCLAYS~~ BANK PLC

(3)

- and -

~~DAVID AGLOQUE & WILLIAM DAVID WINSLOW BARR,~~  
KATE ALICE PAUL & DAVID EDWARD BROWN

(4)

- and -

SIMON HENRY BACK

(5)

- and -

CARL ANDREW SOAMES BAKER & DAVID JOHN SOAMES BAKER

(6)

- and -

~~NICHOLAS~~  
~~GABRIELLE FRANCES~~ EVANS-LOMBE, GILES RICHARD LOVELL SPACKMAN  
& JAMES PETER NEEDHAM LEARMOND

(7) *us*

- and -

K B INTERESTS LIMITED

(8)

- and -

~~C. HOARE & CO~~

(9)

CHARLES JONATHAN WATT, THE RIGHT HONOURABLE JOHN  
CLIVE THIRD VISCOUNT MACKINTOSH OF HALIFAX, ~~HENRY~~  
~~DONALD WATT~~ & THE HONOURABLE GRAHAM CHARLES  
MACKINTOSH & SUSAN MARY  
SHENKMAN

(10)

**PLANNING OBLIGATION DEED**

Under (inter alia) Section 106 of the  
Town and County Planning Act 1990  
as amended by the  
Planning and Compensation Act 1991  
relating to land at Hethersett, Norfolk

Victoria McNeill  
Practice Director  
nplaw

Ref: SR-SNDC/37471

(Mackintosh Trust)

**PLANNING OBLIGATION DEED**

**SECTION 106 OF**

**THE TOWN AND COUNTRY PLANNING ACT 1990**

Date: 20th May 2011

**PARTIES:**

(1) **SOUTH NORFOLK DISTRICT COUNCIL** of South Norfolk House Swan Lane Long Stratton Norfolk NR15 2XE ("the District Council") and

(2) **NORFOLK COUNTY COUNCIL** of County Hall Martineau Lane Norwich Norfolk NR1 2DH ("the County Council") and

(3) <sup>LLOYDS</sup> ~~**BARCLAYS BANK PLC**~~ (Co Regn No 2065 of 9288 Perleford Securities 4026167) ~~acting through its UK Banking Service Centre PO Box 299 Birmingham B1 3PF~~ ("the Mortgagee")  
and <sup>Wobaston Road Wolverhampton WV9 5HZ</sup>

(4) ~~**DAVID AGLOQUE**~~ of the [redacted] and **WILLIAM DAVID WINSLOW BARR** of [redacted] (together referred to as "the First Owners") and <sup>KATE ALICE PAUL of [redacted] and DAVID EDWARD BROWN of [redacted]</sup>

(5) **SIMON HENRY BACK** of [redacted] ("the Second Owner") and

(6) **CARL ANDREW SOAMES BAKER** and **DAVID JOHN SOAMES BAKER** of [redacted] (together referred to as "the Third Owners") and

(7) <sup>NICHOLAS</sup> ~~**GABRIELLE FRANCES EVANS LOMBE**~~ of [redacted] <sup>GILES RICHARD LOVELL</sup> **SPACKMAN** of [redacted] and <sup>JAMES PETER</sup> **JAMES PETER NEEDHAM LEARMOND** of [redacted] (together referred to as "the Fourth Owners")



(8) **K B INTERESTS LIMITED** (Co Regn no. 7992442) of The St Botolph Building 138 Houndsditch London EC3A 7DH and of 2 Federic Mews Kinnerton Street Knightsbridge London SW1X 8EQ ("the Dedication Landowner") and

~~G. HOARE & CO~~ (Co Regn No 240822) of 37 Fleet Street London EC4P 4DQ ("the Dedication Mortgagee") and

**CHARLES JONATHAN WATT** of [REDACTED] and **THE RIGHT HONOURABLE JOHN CLIVE**

**THIRD VISCOUNT MACKINTOSH OF HALIFAX** of [REDACTED] and **HENRY DONALD WATT** of [REDACTED]

and **THE HONOURABLE GRAHAM CHARLES MACKINTOSH** of [REDACTED]

as trustees of the First Viscount Mackintosh of Halifax Will Trust, (together referred to as "the Park and Ride Owners")

and **SUSAN MARY SHEUKMAN** of [REDACTED]

## RECITALS

- A) The District Council is the local planning authority for the Land for the purposes of determining the Application
- B) The County Council is a local planning authority within the meaning of the 1990 Act and the library provider and both the education and highway authority for the area within which the Land is situated
- C) The First Owners are the registered proprietors of that part of the Land shown hatched green on the Site Plan which is registered at the Land Registry under title number NK338851 subject to the matters recorded on the register

- D) The Second Owner is the registered proprietor of that part of the Land shown hatched blue on the Site Plan which is registered at the Land Registry under title number NK326334 subject to the matters recorded on the register
- E) The Third Owners are the registered proprietors of that part of the Land shown hatched yellow on the Site Plan which is registered at the Land Registry under title number NK370404 subject to the Legal Charge in favour of the Mortgagee and the other matters recorded on the register
- F) The Fourth Owners are the registered proprietors of that part of the Land shown hatched brown on the Site Plan which is registered at the Land Registry under title number NK239419 subject to the matters recorded on the register
- G) The Dedication Landowner is the registered proprietor of the Dedication Land which is registered at the Land Registry under title number NK259979 subject to the ~~Dedication Legal Charge in favour of the Dedication Mortgagee and the other~~ matters recorded on the register and is entering into this Deed to give effect to the dedication
- H) The Park and Ride Owners are the registered proprietors of the Park and Ride Site and the Slip Road which are registered at the Land Registry under title number NK328721 subject to the matters recorded on the register
- I) The Landowners have submitted the Application to the District Council for planning permission for the Development
- J) By the Legal Charge that part of the Land shown hatched yellow on the Site Plan was charged by way of legal mortgage by the Third Owners to the Mortgagee to secure payment to the Mortgagee of the principal and of the moneys therein mentioned
- K) ~~By the Dedication Legal Charge the Dedication Land was charged by way of legal mortgage by the Dedication Landowner to the Dedication Mortgagee to~~

~~secure payment to the Dedication Mortgagee of the principal and other moneys therein mentioned~~

- L) The Mortgagee and the Dedication Mortgagee <sup>has</sup> ~~have~~ agreed to enter into this Deed in the manner hereinafter appearing and acknowledges that this Deed binds ~~their~~ <sup>its</sup> ~~respective~~ interests in that part of the Land shown hatched yellow on the Site Plan ~~and the Dedication Land~~ **PROVIDED ALWAYS THAT** the Mortgagee and the Dedication Mortgagee shall not be liable for any breach of this Deed unless ~~they~~ <sup>it</sup> shall ~~themselves~~ <sup>itself</sup> commit that breach or the Mortgagee ~~or the Dedication Mortgagee~~ has entered onto the Land as mortgagee in possession
- M) The County Council wishes to secure the payment of a sum to cover the cost of education library and highways facilities to serve the Development and is joining in the terms of this Deed to achieve this aim
- N) In order to implement the policies and proposals of the Local Plan and in order to serve the needs of the residents of the Dwelling Units a contribution of funds and/or land (amongst other things) is required to be made to secure the following community provision:
- (1) Funding for increased capacity of educational facilities and provision of school sites within the catchment area of the Development
  - (2) Funding for the improvement of the library service serving the Development
  - (3) Affordable Housing comprising at least 20% of the Dwelling Units as further set out in Part 4 of the Schedule to this Deed
  - (4) Provision of Play Area, Recreational Space and Amenity Areas within each Phase of the Development as further set out in Part 3 of the Schedule to this Deed

- (5) Funding towards the costs associated with the Travel Plan
- (6) Either the provision of the Community Pavilion on the Land as provided in Part 6 of the Schedule to this Deed or funding towards the provision of Community Facilities within the parish of Hethersett
- (7) A contribution to funding for the improvement of the highway infrastructure serving the Development and the surrounding area
- (8) Provision of the Woodland Area for outdoor recreation as further set out in Part 11 of the Schedule to this Deed
- (9) Provision of the Neighbourhood Centre Site as further set out in Part 8 of the Schedule to this Deed
- (10) Provision of the Allotments as further set out in Part 12 of the Schedule to this Deed

**NOW THIS DEED WITNESSETH as follows:**

## **DEFINITIONS**

1. In this Deed:

1.1 The following words have the following meanings unless in the context it would not be appropriate:

“the 1990 Act” means the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof

“Affordable Housing” means housing of a kind which (having

regard to its rent or other consideration) is suitable for occupation by people who are in need of such housing because of their limited means, and is to be built to the standards specified by the Homes and Communities Agency as the latest version of its Housing Quality Indicators at the time of its construction and shall achieve a minimum of Level 3 of the Code for Sustainable Homes

“the Affordable Housing Monitoring Fee”

means the sum of FIVE HUNDRED POUNDS (£500.00) in respect of each Phase (such sums to be Index-Linked) towards the monitoring of the payments pursuant to Paragraphs 7.1 and 7.2 of Part 4 of the Schedule to this Deed and shall be paid to the District Council prior to the Commencement of each Phase

“Affordable Housing Option”

means the option agreement to be entered into between the Developer and the District Council pursuant to the obligation at Paragraph 12 of Part 4 of the Schedule to this Deed as attached at Appendix A

“Affordable Housing Unit”

means a Dwelling Unit to be provided as Affordable Housing in accordance with Part 4 of the Schedule to this Deed and “Affordable Housing Units” shall be construed accordingly

“Affordable Rent”

means affordable rented housing as defined in Annex 2 to the Glossary of the National

"Allotments"

means the area of land of approximately 0.47 hectares shown for identification purposes only tinted pink and crosshatched on the drawing numbered 109 called "Open Space by Phase" annexed to this Deed together with a right of way on foot and with vehicles to and from the same

"Allotments Footpath"

means a strip of grassland approximately three metres wide extending from a point on the access road to the Allotments along the side of the Allotments with separate links to proposed estate roads the precise location of which will be determined in accordance with Paragraph 1 of Part 12 of the Schedule to this Deed

"Allotments Footpath Works"

means works for the laying out of a grass footpath on the Allotments Footpath the details of which will be determined in accordance with Paragraph 1 of Part 12 of the Schedule to this Deed

"Allotments Specification"

means a detailed allotments specification submitted to and approved in writing by the District Council for the laying out of the Allotments (including car park, fencing and sheds, the provision of a water and electricity supply and an access road linking the Allotments to the adopted public highway

network) in a form substantially in accordance with the outline allotments layout and specification shown on the drawing numbered 109 called 'Open Space by Phase' annexed to this Deed (with such amendments as may be agreed in writing between the District Council and the Developer)

"Amenity Areas"

means areas of landscape/open space to be provided within the Development shown on the drawing numbered 109 called 'Open Space by Phase' annexed to this Deed and which FOR THE AVOIDANCE OF DOUBT shall include the Community Gardens, the Informal Leisure Areas BUT DO NOT INCLUDE the Recreational Space, the Play Area, the Woodland Area and Woodland Buffer Area

"Anglian Water"

means Anglian Water Services Limited as sewerage undertakers

"the Application"

means the application dated 1 November 2011 as subsequently amended for outline planning permission for the Development in accordance with the forms plans and particulars deposited with the District Council and allocated reference number 2011/1804/O

"the Approved Travel Plan"

means the Travel Plan submitted to the County Council by the Developer under the

terms of the planning permission granted pursuant to the Application and approved by the County Council in writing

“the Bond Sum”

means the sum of FIVE HUNDRED POUNDS (£500.00) per Dwelling Unit being the cost of implementation of and compliance with the Approved Travel Plan

“the Commencement Date”

means the date of commencement of the Development by carrying out a material operation as defined in Section 56 (4) of the 1990 Act PROVIDED ALWAYS THAT the following shall not be taken to be a material operation and shall not amount to Commencement;

- a) clearance of the Land or demolition works
- b) decontamination or remediation
- c) archaeological investigation
- d) ground investigation or site survey work
- e) construction of boundary fencing or hoarding
- f) temporary works or erections including structures such as site offices
- g) construction of temporary highway accesses
- h) marking or pegging out operations
- i) display of advertisements



and "Commence" "Commencement"  
and "Commenced" shall be interpreted  
in accordance with this definition

"Community Facilities"

means facilities for the community for the use  
of the inhabitants of the parish of Hethersett  
and which shall include the construction of  
the Community Pavilion (if elected)

"Community Facilities  
Contribution"

means the sum of FOUR HUNDRED  
THOUSAND POUNDS (£400,000.00) Index  
Linked in respect of the provision of the  
Community Facilities (payable pursuant to  
Paragraph 1 of Part 5 of the Schedule to this  
Deed)

"Community Gardens"

means areas of landscape/garden space to  
be provided within the Development as part  
of the Amenity Areas shown on the drawing  
numbered 109 called 'Open Space by Phase'  
annexed to this Deed

"Community Pavilion"

means a pavilion of a minimum size of 300  
square metres (or such other size as shall be  
agreed by the Planning Officer having regard  
to the funding available and the requirements  
of the Parish Council) constructed on the  
Community Pavilion Land for the recreation  
and social use of the inhabitants of the parish  
of Hethersett including the occupiers of the  
Development

"Community Pavilion Land" means a site to be provided on the Land for the provision of the Community Pavilion (if elected) or otherwise to be provided as additional Recreational Space and which for the avoidance of doubt shall be of an adequate size capable of accommodating the premises and facilities required for a Community Pavilion of a minimum size of 300 square metres together with all necessary access, circulating and parking, landscaping and ancillary areas as shall be agreed in writing between the Developer and the Planning Officer prior to the Commencement Date in accordance with Part 6 of the Schedule to this Deed

"Completion of Dwelling Unit" means a stage of construction such that a Dwelling Unit has a complete roof all windows installed and the plastering has commenced and "Complete" and "Completed" and "Completion of X% of Dwelling Units" shall be construed accordingly

"Contingency Sites" means the Primary School Contingency Site A the Primary School Contingency Site B and the Secondary School Contingency Site

"Dedication Land" means the land to be dedicated and utilised for the Highways Scheme as shown coloured green on the plan numbered TR 0014 annexed hereto and belonging to the Dedication Landowner



“the Developer”

means the Landowners

~~“the Dedication Legal Charge”~~

~~means the legal charge dated 30 April 2012 made between the Dedication Landowner (1) and the Dedication Mortgagee (2) and registered against the Dedication Landowner’s title~~

“the Development”

means development carried out pursuant to the planning permission granted in accordance with the Application for a residential led mixed use development of 1196 Dwellings and associated uses including; Primary School; local services; (up to 1,850 square metres (GIA) of A1 A2 A3 A4 A5 D1 & B1 uses) comprising shops, small business units, community facilities/doctors surgeries, sports pitches, recreational spaces, equipped areas of play and informal recreation spaces; extension to the Thickthorn Park and Ride including a new dedicated slip road from the A11

“Dwelling Unit”

means a dwelling unit to be constructed on the Land as part of the Development and “Dwelling” shall be construed accordingly

“the End Point Market Sale Price”

means the actual price received for a completed Market Housing Unit fully fitted out and ready for immediate Occupation as at the date of completion of the conveyance transfer or lease of that Market Housing Unit

"Fully Serviced"	means with suitable access to the adopted highway and provided to the boundary of the site with surface water and foul water drainage and gas, water, electricity and telecommunication services of a sufficient capacity for the intended use of the site
"Further Education Contribution"	means the sum of FIVE THOUSAND FOUR HUNDRED AND FOURTEEN POUNDS (£5,414.00) Index Linked payable in relation to each Multi Bed Dwelling over and above 1196 Dwelling Units
"Highways Contribution"	means the sum of TWO HUNDRED AND FIFTY THOUSAND POUNDS (£250,000.00) Index Linked (payable pursuant to Paragraph 1 of Part 9 of the Schedule to this Deed) towards the Highways Scheme for the benefit of the Development such sum to be Index-Linked
"the Highways Scheme"	means the shared use footway/cycleway along Colney Lane from Braymeadow Lane towards the A47 overbridge and from Back Lane to Norwich Road
"Index-Linked"	means index-linked from 30 January 2013 until such time that payment of any sum specified in this Deed falls due such index linking to be equivalent to any increase in such sums in proportion to the increase in

the Royal Institution of Chartered Surveyors Building Cost Information Service All In Tender Index and in the case of the Community Facilities Contribution the Travel Plan Contribution and the Highways Contribution the Retail Price Index (All Items) published by the Office for National Statistics (or in the event that any index shall have ceased to be published at the date of the relevant payment then the closest equivalent index shall be used as agreed between the parties acting reasonably)

“Informal Leisure Areas”

means areas of landscape/open space to be provided within the Development as part of the Amenity Areas shown on the drawing numbered 109 called ‘Open Space by Phase’ annexed to this Deed

“Intermediate Rent”

means intermediate housing as defined in Annex 2 to the Glossary of the National Planning Policy Framework, March 2012 but limited to homes for rent and excluding homes for sale

“Joint Core Strategy”

means the Joint Core Strategy for Broadland Norwich and South Norfolk adopted by the District Council on 24 March 2011

“Laid Out”

means levelled constructed and laid out as football pitches and sports fields for use as playing fields to a specification approved by County Council

"the Land"	means the land at Hethersett Norfolk shown edged red for the purposes of identification only on the plan numbered SK07 Revision B annexed hereto and at Thickthorn Junction shown edged red for the purposes of identification only on the plan numbered TR_001 Rev F annexed hereto
"the Landowners"	means the First Owners the Second Owner the Third Owners and the Fourth Owners
"Lease"	means a lease securing the provision and use of the Park & Ride Site by the County Council in a form to be agreed between the Developer and the County and to conform to the heads of terms annexed to this Deed at Part 18 of the Schedule
"the Legal Charge"	means the legal charge dated 20 December 2007 made between the Third Owners (1) and the Mortgagee (2) and registered against the Third Owners' title as shown hatched yellow on the Site Plan
"Library Contribution"	means the sum of SIXTY POUNDS (£60.00) Index Linked per Dwelling Unit (payable under Paragraph 1 of Part 2 of the Schedule to this Deed) for the benefit of the Development
"the Local Plan"	means the saved policies of the statutory South Norfolk Local Plan adopted by the

District Council on 10 March 2003 and which have not been superseded by the adopted Joint Core Strategy

“Management Company” means a company (or companies) established or identified by the Developer for the purposes of managing and maintaining the Amenity Areas

“Management Company Arrangements” means the detailed arrangements submitted to and approved by the District Council for the carrying out of the management and maintenance of the Amenity Areas including arrangements for the recovery of the costs of such management and maintenance from freeholders leaseholders and occupiers of Dwelling Units and (for the avoidance of doubt) maintenance shall (where any item is beyond repair at reasonable cost or it is otherwise appropriate) include replacement and these arrangements shall provide for the Management Company's obligations for management and maintenance to continue for a period of not less than 10 years from the first Occupation of the final Dwelling Unit on the Development PROVIDED ALWAYS THAT such maintenance arrangements do not necessarily need to be tied to one Maintenance Company for the duration of the maintenance period

“Market Housing Units” means Dwelling Units within the Development which are sold on the open

market at Open Market Value

- “Market Sale Price” means the sale price which could be achieved on the open market for a completed Market Housing Unit fully fitted out and ready for immediate occupation of the type specified in this Deed on the Land
- “Modification Order” means the order made by the District Council under section 97 of the 1990 Act to modify the planning permission granted pursuant to the Application
- “Monitoring Fee” means the sum of NINE HUNDRED POUNDS (£900.00) Index-Linked payable to the County Council for the purpose of monitoring the Planning Obligations in this Deed.
- “Multi Bed Dwelling” means a Multi Bed Flat or Multi Bed House PROVIDED ALWAYS THAT two Multi Bed Flats shall equate to one Multi Bed Dwelling for the purposes of the Further Education Contribution
- “Multi Bed Flat” means a flat or apartment with more than one bedroom constructed on the Land
- “Multi Bed House” means a house bungalow or maisonette with more than one bedroom constructed on the Land



<p>“Neighbourhood Centre Site”</p>	<p>means a site of an area of two hectares or such greater area as the Developer shall specify to be provided within the Land for the erection of local facilities such as shops post office newsagent and doctors</p>
<p>“New Primary School”</p>	<p>means a one form entry capacity primary school to be constructed on the Primary School Site</p>
<p>“Occupation”</p>	<p>means occupation of a building as a residential dwelling (but not including occupation by contractors or for construction or fitting out purposes or as a showroom or sales office or occupation for marketing or display purposes or occupation in relation to security operations) and “Occupied” and “Occupy” shall be construed accordingly</p>
<p>“Open Market Value”</p>	<p>means market value as defined in the RICS Manual of Valuation Practice 6<sup>th</sup> Edition (otherwise known as the RICS Red Book)</p>
<p>“the Parish Council”</p>	<p>means Hethersett Parish Council</p>
<p>“the Park &amp; Ride Site”</p>	<p>means the land edged red on the plan numbered TR 001 F annexed hereto</p>
<p>“Phase”</p>	<p>means any of the five component sites of the Development shown for the purpose of identification only coloured blue, purple, yellow orange and brown respectively on the Phasing Plan (and for the avoidance of doubt</p>

no Phase is to exceed a total of 371 Dwelling Units)

“Phasing Plan”

means the indicative plan called ‘Landscape Strategy with Phasing’ annexed to this Deed or such amended plan(s) the final version of such to be approved in writing with the Planning Officer prior to the Commencement Date

“Planning Obligations”

means covenants contained in the Schedule to this Deed made with and enforceable by the District Council and the County Council pursuant to Section 106 of the 1990 Act (and to the extent to which the said covenants are capable of being enforced thereunder they shall constitute planning obligations for the purposes thereof)

“the Planning Officer”

means the Director of Growth and Localism of the District Council or the proper officer for the time being

“Play Area”

means sites being named “Formal Children’s Play” as shown on the drawing numbered 109 called “Open Space by Phase” annexed to this Deed provided within the Land and laid out and equipped in accordance with the plans to be submitted to and approved in writing prior to the Commencement Date by the Planning Officer and the Play & Amenities Technical Manager for recreational use for toddlers and children of

the parish of Hethersett including occupiers of the Development

“the Play & Amenities Technical Manager”

means the Play & Amenities Technical Manager employed by the District Council or the proper officer for the time being

“Primary School Contingency Site A”

means the initial site to be provided on the Land contiguous with the Primary School Site as shown labelled as PS1b on drawing numbered 110 annexed to this Deed at Part 19 of the Schedule to this Deed in accordance with Part 1 of the Schedule to this Deed

“Primary School Contingency Site B”

means an additional site to be provided on the Land contiguous with the Primary School Site and the Primary School Contingency Site B as shown labelled as PS1c on drawing numbered 110 annexed to this Deed at Part 19 of the Schedule to this Deed in accordance with Part 1 of the Schedule to this Deed

“Primary School Contribution”

means the sum of FOUR MILLION POUNDS (£4,000,000.00) Index Linked for the purpose of the construction of the New Primary School within the catchment area of the Development

“Primary School Option”

means the option agreement to be entered into between the Developer and the County Council prior to Commencement of the

Development in the form attached at Part 16 of the Schedule to this Deed

“Primary School Site”

means a site to be provided on the Land for the provision of the New Primary School as shown labelled as PS1a on drawing numbered 110 annexed to this Deed at Part 19 of the Schedule and in accordance with Part 1 of the Schedule to this Deed

“Recreational Space”

means the sites named “Public Open Space” and “Sport/Formal Recreation” as shown on the drawing numbered 109 called “Open Space by Phase” annexed to this Deed provided within the Land and laid out and equipped in accordance with plans to be submitted to and approved in writing prior to the Commencement Date by the Play & Amenities Technical Manager who shall consult with the Parish Council as appropriate (such approval not to be unreasonably withheld or delayed) for recreational use for adults and/or older children of the parish of Hethersett including occupiers of the Development

“Registered Provider”

means a provider of social housing registered in the register kept by the Regulator of Social Housing as provided for in Chapter 3 of the Housing and Regeneration Act 2008 (or any statutory re-enactment or modification thereof) or other such provider as agreed in writing by the

District Council

- “School Option Agreements” means the Primary School Option and the Secondary School Option
- “School Sites” means the Primary School Site and the Secondary School Site and “School Site” shall be construed accordingly
- “Secondary School Contribution” means the sum of ONE MILLION SEVEN HUNDRED AND FIFTY-FOUR THOUSAND SIX HUNDRED POUNDS (£1,754,600) Index-Linked for the purpose of enabling an extension to the Hethersett High School secondary school within the catchment area of the Development
- “Secondary School Contingency Site” means a site to be provided on the Land contiguous with the Secondary School Site in accordance with Part 1 of the Schedule to this Deed as shown on drawing numbered 110 annexed to this Deed
- “Secondary School Option” means the option agreement to be entered into between the Developer and the County Council prior to Commencement of the Development in the form attached at Part 17 of the Schedule to this Deed
- “Secondary School Site” means a site to be provided on the Land for the expansion of Hethersett High School in accordance with Part 1 of the Schedule to this Deed as shown on drawing numbered

110 annexed to this Deed at Part 19 of the Schedule

"the Section 38 Agreement" means any proposed agreement between the Developer and the Highway Authority pursuant to Section 38 of the Highways Act 1980 or any statutory modification or re-enactment thereof to ensure that the estate roads and footpaths on the Land are constructed to the required standard for adoption

"Services" means pipes wires sewers drains cables and other works including (if applicable) any underground on line storage facilities or other works

"Shared Equity" means an Affordable Housing Unit that is to be sold by the Developer for a sum not exceeding 75% of its Open Market Value (the remaining 25% equity to be sold to a Registered Provider) and for which the individual purchaser will pay the same sum for the same percentage of its market value for a lease of not less than 125 years and for which no rent will be charged and such individual purchaser shall be able to staircase to acquire 100% of the equity of the unit after having occupied the unit for a minimum period of five years

"Shared Ownership" means an Affordable Housing Unit that is to be sold to a Registered Provider for onward

sale to an individual purchaser whereby a maximum of 50% of the equity is to be acquired at first purchase and the annual rent is to be calculated as 2.75% of the value of the equity retained by the Registered Provider and the annual rent shall not be increased by more than the percentage increase in the Retail Price Index (or if such index ceases to be published such other index as the District Council shall reasonably determine) plus 0.5% of the current rent per annum and such individual purchaser shall be able to staircase to acquire 100% of the equity of the unit

“Site Plan”

means the land ownership plan labelled 'Plan A' annexed hereto

“Slip Road”

means an access slip road to the Park & Ride Site to be dedicated by the Park & Ride Owners the extent of which shall be agreed with the County Council in consultation with the Highways Agency as necessary for provision of proper access to the Park & Ride Site to the standards required by the Highways Agency

“the Starting Point Market Sale Price”

means the estimated sale price which could be achieved on the open market for a completed Market Sale Unit fully fitted out and ready for occupation as at the date of this Deed as set out in Paragraph 6 of Part 4 of the Schedule to this Deed

"Travel Plan"	means a framework of options/measures to enable and encourage people to travel more sustainably and reduce the need to travel altogether being site and people specific and compromising a range of "hard" (built) and "soft" (behavioural change) measures to mitigate the traffic effects of the Development on the road network in accordance with the Travel Plan Guidance
"Travel Plan Bond"	means a bond in the form annexed at Part 14 of the Schedule to this Deed
"Travel Plan Contribution"	means the sum of FIVE HUNDRED POUNDS (£500.00) Index Linked per Dwelling Unit towards the cost of implementation of a Travel Plan covering the Development (payable under Paragraph 1 of Part 5 of the Schedule to this Deed) such sum to be Index-Linked
"Travel Plan Guidance"	means the County Council document "Guidance Notes for the Submission of Travel Plans" and/or the Workplace Travel Plan Template generated from the Workplace Travel Plan Generator Tool at <a href="http://www.worktravelplan.net">www.worktravelplan.net</a>
"Travel Plan Review Fee"	means the annual sum of FIVE HUNDRED POUNDS (£500.00) payable in relation to each Travel Plan submitted and approved for each Phase of the Development towards the



review of the Approved Travel Plan such sums to be Index Linked

“Travel Plan Update”

means a staff and visitor Mode of Travel Survey prepared in consultation with the County Council detailing how the Approved Travel Plan has operated during the relevant period and its effectiveness

“Woodland Area”

means a site of a minimum of 2.80 hectares to be provided by the Developer within the Land as shown labelled as ‘Amenity Woodland’ on drawing numbered 109 called ‘Open Space by Phase’ annexed to this Deed for the outdoor informal recreation of the inhabitants of the parish of Hethersett including the occupiers of the Development and which FOR THE AVOIDANCE OF DOUBT does not include the Woodland Buffer Areas

“Woodland Buffer Areas”

means areas of landscape/open space to be provided within the Development as part of the Amenity Areas shown on the drawing numbered 109 called ‘Open Space by Phase’ annexed to this Deed

## **INTERPRETATION**

1.2 One gender includes all the others

1.3 The singular includes the plural and vice versa

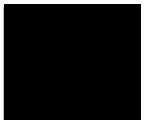
1.4 Planning Obligations imposed on more than one person are joint and several

- 1.5 The parties to this Deed include their respective successors in title and reference to the District Council includes any successor local planning authority exercising powers under the 1990 Act and any reference to the County Council includes any successor authority exercising powers under the 1990 Act or other enabling power
- 1.6 A covenant not to do something includes a covenant not to permit or suffer that thing to be done
- 1.7 Headings in this Deed are for ease of reference only and cannot be taken into account in its construction or interpretation
- 1.8 A reference to a Paragraph or Clause in the Schedule of this Deed is a reference to a Paragraph or Clause in that part of the Schedule
- 1.9 Reference to any statutory provision includes reference to Acts of Parliament and all other legislation having effect as directly or indirectly amended consolidated extended replaced or re-enacted by any subsequent legislation and any orders regulation instruments or other subordinate legislation made under that statute or provision

## **ENABLING POWERS**

2. This Deed and the covenants hereinafter contained are made with the District Council and the County Council (as the case may be) and (except for the covenants in Parts 1, 2, 5, 7, 9, 10, 13, 14, 15, 16, 17, 18 and 19 of the Schedule to this Deed which are enforceable by the County Council) are enforceable by the District Council pursuant to Section 106 of the 1990 Act (and to the extent to which the said covenants are capable of being entered into thereunder they shall constitute Planning Obligations for the purposes thereof) Sections 111 and 139 of the Local Government Act 1972 or any statutory modification or re-enactment thereof and any other powers thereby enabling

## DEVELOPER'S, DEDICATION LANDOWNER'S AND PARK AND RIDE OWNERS' OBLIGATIONS

- 3.1 The Developer with the full knowledge and consent of the Mortgagee as is evidenced by the Mortgagee being a party hereto covenants with the District Council and the County Council so as to bind the Land that they will observe and perform the Planning Obligations and that no development will be carried out except works which are in conformity with this Deed (except for development for which planning permission is granted or not required)
- 3.2 The Dedication Owner ~~with the full knowledge and consent of the Dedication Mortgagee as is evidenced by the Dedication Mortgagee being a party hereto~~  covenants and agrees with the County Council as set out in Part 13 of the Schedule to this Deed
- 3.3 The Park & Ride Owners hereby covenant with the County Council as set out in Part 15 of the Schedule to this Deed

## AGREEMENTS AND DECLARATIONS

4. The parties agree and declare as follows:
- 4.1 Nothing in this Deed shall be construed as restricting the exercise by the District Council or of any other competent authority of any powers exercisable by it or them under the 1990 Act or under any statute regulation or byelaws **PROVIDED ALWAYS** that this Deed shall remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been at any time issued by the District Council or by any other appropriate person or authority pursuant to the provisions of the 1990 Act

4.2 Subject only to the provisions of Section 106A of the 1990 Act and where otherwise expressly set out in this Deed the terms and conditions of this Deed made by the District Council or the County Council shall only be capable of being varied by a supplemental deed in writing or memorandum endorsed hereon and executed by or on behalf of the parties hereto or their successors in title

4.3 No waiver (whether express or implied) by the District Council or the County Council of any breach or default by the Developer in performing or observing any of the terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council and the County Council from enforcing any of the terms and conditions of this Deed or from acting upon any subsequent breach or default in respect thereof by the Developer

4.4 The Landowners the Dedication Landowner and the Park and Ride Owners hereby covenant that they are the freehold owners of the Land warrant that they have full power to enter into this Deed and that the Land is free from all mortgages charges or other encumbrances save for the Legal Charge ~~and the Dedication Legal Charge~~ and that there is to their knowledge no other person having any interest in the Land other than the parties to this Deed whose consent is necessary to make this Deed binding on the Land and all estates and interests in it




4.5 The Mortgagee ~~and the Dedication Mortgagee~~ <sup>has</sup> ~~have~~ agreed to enter into this Deed and acknowledge <sup>s</sup> that this Deed binds <sup>its</sup> ~~their respective~~ interests in the Land ~~and the Dedication Land~~ **PROVIDED ALWAYS THAT** the Mortgagee ~~and the Dedication Mortgagee~~ shall not be liable for any breach of this Deed unless ~~they~~ <sup>it</sup> shall ~~themselves~~ <sup>itself</sup> commit that breach or the Mortgagee ~~has entered onto that part of the Land shown hatched yellow on the Site Plan as mortgagee in possession or the Dedication Mortgagee has entered onto the Dedication Land as mortgagee in possession.~~

4.6 The Developer waives any right to claim compensation arising from any restriction on the use of the Land imposed by this Deed

4.7 This Deed shall cease to have effect if the planning permission granted pursuant to the Application shall be quashed revoked or otherwise withdrawn before the Commencement Date or if planning permission shall be granted subsequently and implemented for a different use incompatible with the Development

4.8 The covenants and the Planning Obligations in this Deed shall only come into effect on the Commencement Date (and subject to the Application and the Modification Order having been granted) unless otherwise specifically indicated in this Deed and to construe otherwise would be inconsistent with the requirements of any such covenants or the Planning Obligations

*Kate Alice Paul, David Edward Brown*

4.9 The said ~~David Aeloque~~, William David Winslow Barr, *Nicholas* Carl Andrew Soames Baker, David John Soames Baker, ~~Gabrielle Frances~~ Evans-Lombe, Giles Richard Lovell Spackman, James Peter Needham Learmond, K B Interests Limited, ~~G. Hoare and Co~~, Charles Jonathan Watt, The Right Honourable John Clive Third Viscount Mackintosh of Halifax, *Susan Mary Shenkman* ~~Henry Donald Watt~~ and The Honourable Graham Charles Mackintosh  not be liable for any breach of this Deed which first occurs after it or  shall have disposed of all or part of their respective titles and interests in  Land **PROVIDED ALWAYS THAT** the reservation of any rights or the inclusion of any covenants or restrictions over the Land in any transfer shall not constitute any title or interest in the Land for the purposes of this Clause 4.9

4.10 The Developer agrees to pay to the District Council and the County Council their respective reasonable legal fees incurred in connection with this Deed and the District Council and the County Council agree to provide a statement detailing the costs incurred and time spent on the consideration, negotiation and preparation of this Deed if requested in writing

- 4.11 Where approval or consent is required from any party to this Deed such approval or consent shall not be unreasonably withheld or delayed
- 4.12 Anything in this Deed which has to be done to the satisfaction of any other party to this Deed must be done to the reasonable satisfaction of that party
- 4.13 The District Council and the County Council shall not be liable to any person under this Deed after that person has parted with its interest in the Land but without prejudice to any liability arising prior thereto
- 4.14 The Developer agrees to notify the District Council and the County Council in writing of the reaching of any of the occupational or completion thresholds relating to Dwelling Units such notification to be given within 30 days of reaching such threshold
- 4.15 The District Council and the County Council agree to hold any monies received pursuant to obligations contained in this Deed in an interest bearing account
- 4.16 The Planning Obligations shall not be enforceable against:-
- 4.16.1 the buyers or occupiers or their mortgagees or chargees of any Market Housing Unit pursuant to the Planning Permission (save in respect of the provisions of Part 4 of the Schedule to this Deed);
  - 4.16.2 (save in respect of the provisions of Part 4 of the Schedule to this Deed) an Affordable Housing Unit;
  - 4.16.3 any statutory undertaker or other person 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;
  - 4.16.4 any mortgagee or chargee of a Registered Provider or any receiver appointed by any such mortgagee (or any successor in title);
  - 4.16.5 any person who shall at any time acquire any legal interest in any Affordable Housing Unit pursuant to any statutory right of

acquisition from time to time in force and any successors or other persons deriving title from him; and

4.16.6 any person who has acquired any Affordable Housing Unit as grantee or assignee of a Shared Equity or Shared Ownership arrangement and who has purchased 100 per cent of the equity in that Affordable Housing Unit and any successors or other persons deriving title from him

4.17 This Deed may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original but all the counterparts shall together constitute the one agreement

#### **DISTRICT COUNCIL AND COUNTY COUNCIL OBLIGATIONS**

5.1 The District Council and the County Council hereby covenant with the Developer to observe and perform their respective obligations contained in the Schedule of this Deed

5.2 The District Council and the County Council (as the case may be) hereby jointly and severally covenant with the Developer that they shall (if requested by the Developer in writing) produce to the Developer within 28 days of such request a written statement of account as to how the sums payable for any part or parts thereof under this Deed shall have been applied

5.3 The District Council and the County Council (as the case may be) will (upon the written request of the Developer) at any time after any of the Planning Obligations have been performed or otherwise discharged forthwith issue written confirmation thereof such confirmation not to be unreasonably withheld or delayed and thereafter the covenants containing such obligations shall not be enforceable against the Developer

## **RANSOM STRIPS**

- 6.1 Any person who is or becomes obliged under this Deed or the Section 38 Agreement to construct or improve a road or cycle-track on the Land within ten metres of the boundaries of the Land must construct or improve the road or cycle-track up to the boundary of that part of the Land in his ownership or control
- 6.2 Any person who is or becomes obliged under this Deed or any agreement reached with Anglian Water to construct or improve a sewer on the Land within ten metres of the boundaries of the Land must construct or improve the sewer up to the boundary of that part of the Land in his ownership or control
- 6.3 The intention of Clauses 6.1 and 6.2 of this Deed is to prevent the creation of ransom strips and thereby to facilitate the development of the Land as a whole and of other land which may at the time of implementation of planning permission be allocated for development in the Local Plan or equivalent for the time being

PROVIDED ALWAYS THAT nothing in this Clause 6 shall prevent the Developer from requiring a neighbouring landowner to contribute a fair and reasonable proportion of the costs of connecting to such road cycle-track or sewer or of the maintenance thereof

## **DISPUTES**

- 7.1 In the event of any dispute or difference arising out of this Deed other than a dispute or difference relating to a question of law or upon the interpretation of this Deed but including the withholding or the giving upon terms of any consent or the exercise of any planning discretion by the District Council or the County Council any parties to such dispute or difference may agree to have the matter referred to the determination of an expert planning and development surveyor ("the Appointed Expert") having not less than 10 years



relevant experience in the field of the matter in dispute and being a member of the Royal Institution of Chartered Surveyors the identity of such person in default of agreement being an appointment made on the application of any party to such dispute at any time by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors

7.2 The Appointed Expert shall:

- 7.2.1 stipulate the period of time for the making of his decision on the matter in dispute
- 7.2.2 afford to each of the parties to the dispute an opportunity to make representations to him in writing and if he so directs submissions upon one another's representations;
- 7.2.3 be entitled to stipulate the periods of time for the making of such representations as is reasonable in the circumstances;
- 7.2.4 be bound to have regard to such representations;
- 7.2.5 have the power of making directions as to the responsibility for costs of his award;
- 7.2.6 in the making of his award not be liable save to the extent in law provided in relation to the decisions of an expert;
- 7.2.7 make awards which are final and conclusive as between the parties to such dispute save in the case of manifest error (except that such awards shall not remove the parties' rights of appeal on matters of law);
- 7.2.8 be replaced by a fresh appointee in the event of his becoming at any time unable or unwilling for any reason to proceed to discharge his

function such fresh appointee to be appointed in the manner prescribed in Clause 7.1 above

- 7.3 Nothing in this Clause 7 shall apply to the recovery of a liquidated sum or prevent the parties from commencing or continuing court proceedings

#### **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

8. No person shall derive any benefit or have any right entitlement or claim in relation to this Deed by virtue of the Contracts (Rights of Third Parties) Act 1999

#### **VAT**

- 9.1 All payments made in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof
- 9.2 If the performance of any obligation under this Deed by the Developer (including any payment to be made) constitutes a taxable supply of goods or services by the Developer to the District Council or the County Council and the Developer issues a VAT invoice in the requisite amount to the District Council or the County Council then the District Council or the County Council shall pay to the Developer all amounts of VAT specified in the VAT invoice within 28 days of receipt of such invoice
- 9.3 If the performance of any obligation under this Deed by the District Council or the County Council (including any payment to be made) constitutes a taxable supply of goods or services by the District Council or the County Council to the Developer and the District Council or the County Council issues a VAT invoice in the requisite amount to the Developer then the Developer shall pay to the District Council or the County Council all amounts of VAT specified in the VAT invoice within 28 days of receipt of such invoice

## **NOTICES**

10. Any notice or 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 registered or recorded delivery to the party upon whom it is to be served or to whom it is to be given at:

10.1 its address given in this Deed; or

10.2 such other address for a party as may be notified by that party to all other parties in writing from time to time for the purpose of this Deed

## **JURISDICTION**

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

## **ENFORCABILITY**

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

**IN WITNESS** whereof the parties hereto have executed this instrument as a deed and it is the parties' intention that this deed be delivered and it is hereby delivered on the date first before written

## THE SCHEDULE

### PART 1

#### EDUCATION

##### Part 1A – General

Prior to the Commencement Date the Developer shall agree the location and extent of the School Sites with the County Council AND FOR THE AVOIDANCE OF DOUBT:-

1. The Primary School Site shall be:-
  - 1.1 1.1 hectares in area; and
  - 1.2 capable of accommodating the premises and facilities required for a one form entry primary school with a grass team game playing field of 4,200 square metres in area
  
2. The Primary School Contingency Site A shall be:-
  - 2.1 0.4 hectares in area;
  - 2.2 contiguous with the Primary School Site; and
  - 2.3 (when taken together with the Primary School Site) capable of accommodating the premises and facilities required for a one and a half form entry primary school with a grass team game playing field of 6,300 square metres in area
  
3. The Primary School Contingency Site B shall be:-
  - 3.1 0.5 hectares in area;
  - 3.2 contiguous with the Primary School Site and the Primary School Contingency Site A; and

- 3.3 (when taken together with the Primary School Site and the Primary School Contingency Site A) capable of accommodating the premises and facilities required for a two form entry primary school with a grass team game playing field of 8,400 square metres in area
4. The Secondary School Site shall be:-
- 4.1 2 hectares in area; and
- 4.2 (when taken together with Hethersett High School) capable of accommodating the premises and facilities required for a seven form entry secondary school with a grass team game playing field of up to 46,750 square metres in area
5. The Secondary School Contingency Site shall be:-
- 5.1 1.6 hectares in area;
- 5.2 contiguous with the Secondary School Site; and
- 5.3 (when taken together with the Secondary School Site) capable of accommodating the premises and facilities required for a eight form entry secondary school with a grass team game playing field of up to 52,000 square metres in area
6. The School Sites and the Contingency Sites shall be clear and unencumbered with the benefit of all necessary rights and easements for the economical and viable use as a school to a reasonable level and capable of being accessible throughout without the necessity of undue land reformation or engineering where:-
- 6.1 "clear" means a site that is free of any physical hazards or impediments to building, both above and below ground (including but not limited to land contamination electricity pylons Japanese Knotweed asbestos allotments and problems with site access); and
- 6.2 "unencumbered" means a site that is free of any legal constraint to transfer (including but not limited to: trust covenants charity law

formal or informal lease agreements charges and written or unwritten assurances to other bodies or individuals.)

PROVIDED ALWAYS THAT the Contingency Sites shall be subject to the terms of the School Option Agreements and in the event of any conflict between the provisions of this Agreement and the School Option Agreements, the provisions of this Agreement shall prevail

7. In the event that more than 1196 Dwelling Units are to be constructed on the Land the Developer shall pay the Further Education Contribution prior to Occupation of 75% of the additional Dwelling Units
8. Upon the Commencement Date the Developer shall provide immediate access to the School Sites and the Contingency Sites for the purposes of inspection, survey and all necessary purposes for the preparation of the site for the uses intended
9. The Developer hereby covenants with the County Council not to Commence or allow Commencement of the Development unless and until the School Option Agreements are in place PROVIDED ALWAYS THAT the County Council and Developer will work together in good faith and each acting reasonably to complete the School Option Agreements as soon as is reasonably practicable following the completion of this Deed AND FOR THE AVOIDANCE OF DOUBT if the School Option Agreements have not been completed within six months following the completion of this Deed due to the fault of the County Council then the Developer shall be entitled to Commence the Development AND IT IS ACKNOWLEDGED THAT the obligation to enter into the School Option Agreements shall continue regardless of Commencement taking place.

## **Part 1B – Primary School**

- 10.1 Prior to the Occupation of 100 Dwelling Units the Developer shall transfer the Primary School Site Fully Serviced to the County Council for a consideration of ONE POUND (£1.00) in accordance with the terms set out in this Deed
- 10.2 Upon the transfer of the Primary School Site the Developer shall pay to the County Council ONE HUNDRED THOUSAND POUNDS (£100,000.00) being the first instalment of the Primary School Contribution Index Linked
- 10.3 Prior to Occupation of 100 Dwelling Units the Developer shall pay to the County Council 50% of the balance of the Primary School Contribution being ONE MILLION NINE HUNDRED AND FIFTY THOUSAND POUNDS (£1,950,000.00) Index Linked
- 10.4 Prior to the Occupation of 200 Dwelling Units to pay to the County Council the balance of the Primary School Contribution being ONE MILLION NINE HUNDRED AND FIFTY THOUSAND POUNDS (£1,950,000.00) Index Linked

## **Part 1C – Secondary School**

- 11.1 Prior to the Occupation of 300 Dwelling Units to transfer the Secondary School Site Fully Serviced and Laid Out to the County Council in accordance with the terms set out in this Deed for use as a school playing field with associated structures and facilities PROVIDED ALWAYS THAT no structures shall be constructed during the construction of the Development on the Secondary School Site unless the same are agreed in writing by the Developer, such agreement not to be unreasonably withheld or delayed AND FOR THE AVOIDANCE OF DOUBT no such consent shall be required following final Occupation of the Development
- 11.2 Within 15 working days of the transfer of the Secondary School Site to pay to the County Council ONE HUNDRED THOUSAND POUNDS (£100,000.00) Index Linked being the first instalment of the Secondary School Contribution

11.3 Prior to the Occupation of 300 Dwelling Units to pay to the County Council 50% of the balance of the Secondary School Contribution being EIGHT HUNDRED AND TWENTY SEVEN THOUSAND THREE HUNDRED POUNDS (£827,300.00) Index Linked

11.4 Prior to the Occupation of 900 Dwelling Units to pay to the County Council the balance of the Secondary School Contribution being EIGHT HUNDRED AND TWENTY SEVEN THOUSAND THREE HUNDRED POUNDS (£827,300.00) Index Linked

#### **Part 1D – County Council Obligations**

**The County Council hereby covenants with the Developer as set out in this part of the Schedule:**

12. In the event that the Primary School Contribution and/or the Secondary School Contribution and/or the Further Education Contribution (as the case may be) has not been committed in whole or in part (by way of contract or expenditure of the monies) for the uses set out within this Agreement within five years of the date of final Occupation of the Development then the County Council will repay to the Developer so much of the Primary School Contribution and/or the Secondary School Contribution and/or the Further Education Contribution as shall remain uncommitted together with any interest accrued

13 If at the later to occur of the following dates:-

- a) five years of the Occupation of the 100th Dwelling; or
- b) five years from transfer of the relevant School Site

either

i) the County Council has not entered into a contract or contracts relating to the relevant School Site; or



ii) the School Site has become surplus to the County Council's requirements as education authority

then the County Council shall transfer the relevant School Site to the Developer for the sum of ONE POUND (£1.00) and on the equivalent terms as set out in Part 10 of this Schedule, except that the covenant referred to at Paragraph 4 of Part 10 shall lapse and shall not apply

## **PART 2**

### **LIBRARY CONTRIBUTION**

**The Developer covenants with the County Council as set out in this part of the Schedule:**

1. The Developer shall pay the Library Contribution relating to each Phase to the County Council prior to the Commencement of that Phase
2. The Developer shall pay interest at 4% above the base rate of the Co-operative Bank plc for the time being in force on any part of the Library Contribution not paid within 28 days of the date upon which it becomes due in accordance with Paragraph 1 above (whether formally demanded or not) such interest to be calculated on a daily basis from the due date for payment until the date of payment
3. The County Council undertakes with the Developer to apply the Library Contribution only towards the provision and extension of additional library facilities for the library service which serves the Development
4. The County Council hereby covenants with the Developer that in the event that the Library Contribution or any part of it has not been committed (by way of a contract to provide additional library facilities or by the expenditure of the monies) to the provision and extension of the additional library facilities within

5 years from the final Occupation of the Development then the County Council will repay to the Developer so much of the Library Contribution as shall remain uncommitted together with any accrued interest thereon

### **PART 3**

#### **PLAY AREA, RECREATIONAL SPACE AND AMENITY AREAS**

**The Developer covenants with the District Council as set out in this part of the Schedule:**

1. To provide lay out and equip the Play Area within each Phase of the Land in accordance with the plans which have been submitted to and agreed in writing with the Play & Amenities Technical Manager prior to the Commencement of the relevant Phase such provision laying out and equipping to be completed at a Phase or Phases of the Development to coincide with the Completion of the Dwelling Units adjoining and adjacent to the same to the reasonable satisfaction of the Play & Amenities Technical Manager and open for public and residents use prior to the Occupation of 80% of the Dwelling Units of that Phase
2. To agree in writing with the Planning Officer and the Play & Amenities Technical Manager a scheme for the future management of the Play Area prior to the Commencement of the relevant Phase
3. In the event that more than 1196 Dwelling Units are constructed then the Developer shall provide and lay out and equip a further 17.5 square metres of Play Area for every additional Multi Bed Dwelling constructed in excess of the 1196 Dwelling Units before the Commencement of the additional Multi Bed Dwellings or at a time or stage of the additional development to be

agreed in writing by the Planning Officer

4. To provide lay out and equip the Recreational Space within each Phase of the Land in accordance with the plans which have been submitted to and agreed in writing with the Play & Amenities Technical Manager prior to the Commencement of the relevant Phase such provision laying out and equipping to be completed to the reasonable satisfaction of the Play & Amenities Technical Manager and open for public and residents use prior to the Occupation of 80% of the Dwelling Units of that Phase unless otherwise agreed in writing with the Planning Officer
5. To agree in writing with the Planning Officer and the Play & Amenities Technical Manager a scheme for the future management of the Recreational Space prior to the Commencement Date
6. In the event that more than 1196 Dwelling Units are constructed then the Developer shall provide and lay out and equip a further 42.5 square metres of Recreational Space for every additional Multi Bed Dwelling constructed in excess 1196 Dwelling Units before the Commencement of the additional Multi Bed Dwellings or at a time or stage of the additional development to be agreed in writing by the Planning Officer
7. To provide lay out landscape and plant the Amenity Areas within each Phase of the Land in accordance with the plans which have been submitted to and agreed in writing with the Planning Officer prior to the Commencement of the relevant Phase such provision laying out landscaping and planting prior to the Occupation of 80% of the Dwelling Units of that Phase unless otherwise agreed in writing with the Planning Officer
8. On completion in accordance with the plans and specifications (as set out in Paragraphs 1-7 of this Part 3) the Developer shall (at the Developer's sole discretion and election) either:

8.1 offer to transfer any of the Play Area and the Recreational Space to the District Council or the Parish Council (as directed by the District Council) in accordance with the Open Spaces Act 1906 (or any statutory modification or re-enactment thereof) who shall thereafter maintain the same subject to the payment of the Agreed Commuted Sum as provided in Paragraph 9 of this Part 3; or

8.2 maintain any of the Play Area the Recreational Space together with the Amenity Areas in perpetuity; or

8.3 appoint a Management Company to manage the Play Area the Recreational Space and the Amenity Areas in perpetuity in accordance with the Management Company Arrangements

**AND FOR THE AVOIDANCE OF DOUBT** the Developer shall not be obliged to make such payment as referred to in Paragraph 8.1 of this Part 3 to the District Council or the Parish Council (as the case may be) where it has elected to secure the maintenance of any of the Play Area and the Recreational Space under Paragraph 8.2 or 8.3 of this Part 3.

9. On the completion of any transfer referred to in Paragraph 8 of this Part 3 the Developer shall pay to the District Council or the Parish Council (as the case may be) a capital payment for the maintenance of any land transferred calculated on the District Council's basic unit rates of maintenance subsisting at that time and multiplied by 10 (plus an additional percentage for inflation) to cover the number of years over which the maintenance work will be carried out and to include a payment for the replacement of all play equipment (including for the avoidance of doubt ancillary equipment) ("the Agreed Commuted Sum")
10. The Agreed Commuted Sum shall be paid to the District Council or the Parish Council (as the case may be) at the date of transfer
11. Any transfer referred to in Paragraph 8 of this Part 3 above shall be upon the terms set out in Part 10 to this Schedule and shall be in consideration of the

sum of £1.00 to be paid by the District Council or the Parish Council (as the case may be) to the Developer and shall contain a covenant by the District Council or the Parish Council (as the case may be) not to use or suffer or permit to be used the land transferred otherwise than in accordance with the Open Spaces Act 1906;

## **PART 4**

### **AFFORDABLE HOUSING**

#### **1A The Developer covenants with the District Council as set out in this part of the Schedule:**

1. Not to Commence any Phase of the Development until the location of the Affordable Housing within the Phase has been agreed in writing with the Planning Officer and the Affordable Housing Monitoring Fee for that Phase has been paid to the District Council
  
2. Not to Complete (or allow to be Completed) more than:-
  - 2.1 30% of the total number of Market Housing Units comprised in each Phase of the Development (AND FOR THE AVOIDANCE OF DOUBT no Phase is to exceed a total of 371 Dwelling Units) until there have been built and completed ready for Occupation 30% of the Affordable Housing Units for that Phase;
  
  - 2.2 60% of the total number of Market Housing Units comprised in each Phase of the Development until there have been built and completed ready for Occupation 66% of the Affordable Housing Units for that Phase;
  
  - 2.3 85% of the total number of Market Housing Units comprised in each Phase of the Development until there have been built and completed ready for Occupation 100% of the Affordable Housing Units for that Phase;

pursuant to an Agreement to have been entered into with the District Council under Section 106 of the 1990 Act in the form annexed and marked "Draft Affordable Housing Agreement"

**PROVIDED ALWAYS THAT:-**

- (a) for the avoidance of doubt each of the five Phases of the Development shall include a number of Affordable Housing Units which equates to 20% of the total Dwelling Units to be constructed in that Phase of the Development at any and all times; and
  - (b) the Affordable Housing is to be in clusters each of which shall have no more than 27 Affordable Housing Units unless otherwise agreed in writing with the Planning Officer AND FOR THE AVOIDANCE OF DOUBT the land set aside for purchase by the District Council shall be considered to be a single cluster.
3. Unless otherwise agreed in writing with the Planning Officer the Affordable Housing provision within each Phase of the Development shall comprise of a minimum of 20% one bedroom Affordable Housing Units and a minimum of 15% 2 bedroom 4 person houses for rent as defined in the abbreviations below
4. Unless otherwise agreed in writing with the Planning Officer the Affordable Housing within each Phase of the Development shall comprise the Affordable Housing Units as indicated in the table set out below (AND FOR THE AVOIDANCE OF DOUBT the word flat shall incorporate a maisonette):

<b>AFFORDABLE HOUSING UNIT TYPE AND TENURE</b>	<b>TOTAL NUMBER OF AFFORDABLE HOUSING UNITS</b>
2 bedroom 4 person flat – S/O or S/E	5%
1 bedroom 2 person house – S/O or S/E	4%

<b>AFFORDABLE HOUSING UNIT TYPE AND TENURE</b>	<b>TOTAL NUMBER OF AFFORDABLE HOUSING UNITS</b>
2 bedroom 4 person house – S/O or S/E	17%
3 bedroom 5 person house – S/O or S/E	4%
1 bedroom 2 person flat – rent	6%
1 bedroom 2 person house – rent	27%
2 bedroom 4 person flat – rent	3%
2 bedroom 4 person house - rent	23%
3 bedroom 5 person house – rent	9%

AND FOR THE AVOIDANCE OF DOUBT the first 350 total Dwelling Units shall also include one five bedroom eight person house as an Affordable Housing Unit for rent

AND FOR THE AVOIDANCE OF DOUBT the first 800 total Dwelling Units shall also include five four bedroom six person houses as Affordable Housing Units for rent

**ABBREVIATIONS FOR THE TABLE SET OUT ABOVE:**

- S/O = for Shared Ownership
- S/E = for Shared Equity
- rent = for a rent of a type to be agreed in writing with the District Council and charged by a Registered Provider (and which can include Affordable Rent and Intermediate Rent) but not exceeding the Affordable Rent or any other form of rent which may supersede Affordable Rent or Intermediate Rent

FOR THE AVOIDANCE OF DOUBT any one of the Affordable Housing Units in lines 2-5 of the above table may be for Shared Ownership or Shared Equity

5. In addition to Paragraph 2 of this Part 4 there shall be a further provision for Affordable Housing by means of a financial contribution to the District Council as housing authority linked to and contingent upon rises in the Market Sales Price of completed Market Housing Units specified as a proportion thereof, and paid into an account on the occasion of specified sales of Market Housing Units as set out in Paragraphs 4 to 9 of this Part 4

6. Starting Point Market Sale Price:

<b>Market Housing Unit Type</b>	<b>Number of Bedrooms</b>	<b>Size in square feet</b>	<b>Starting Point Market Sales Price (£)</b>
Apartment/Maisonette	1	Any	120,000
Apartment/Maisonette	2	Any	130,000
Apartment/Maisonette	3	Any	150,000
House	1	Any	140,000
House	2	<650 sq ft	155,000
House	2	>651 sq ft	165,000
House	3	<800 sq ft	175,000
House	3	>801 sq ft	210,000
House	4	>1,000 sq ft	225,000
House	4	1,001-1,200	250,000
House	4	1,201-1,400	275,000
House	4	1,401-1,600	300,000
House	4	>1,601 sq ft	350,000
House	5	Any	400,000
Bungalow	1	<650 sq ft	150,000
Bungalow	2	>651 sq ft	175,000
Bungalow	3+	>801 sq ft	200,000

7. Subject to Paragraph 8 below:

7.1 after the sale of 25 Dwelling Units and multiples thereof (or part thereof if applicable) in each Phase (AND FOR THE AVOIDANCE OF DOUBT notwithstanding that the final number of Dwelling Units completed and eligible for valuation in each Phase may not be a multiple of 25) the Developer shall calculate for each of the relevant 25 (or fewer if applicable) Dwelling Units sold the difference between the End Point Market Price and



the Starting Point Market Price and shall pay to the District Council 40% of the amount by which the End Point Market Sales Price exceeds the Starting Point Market Sale Price (if any) for each Dwelling Unit sold PROVIDED ALWAYS THAT if this calculation results in a negative figure then the District Council shall not be obliged to make any repayment

- 7.2 such payments under Paragraphs 7.1 above shall be made by direct credit transfer into a bank account of the District Council details of which (and of any changed details in relation to which from time to time) shall have been notified to the Developer in writing by the District Council in each case at least one month before the relevant payment date

No further payments shall be made to the District Council by the Developer after the total amount paid to the District Council under Paragraphs 7.1 and 7.2 of this Part 4 (disregarding interest earned) shall have reached the sum of <sup>ONE</sup> ~~TWO~~ MILLION <sup>SIX</sup> ~~SEVEN~~ HUNDRED AND ~~FIFTY~~ THOUSAND POUNDS  
~~(£2,750,000.00)~~ (£1,600,000.00)

9. The District Council shall hold each payment under Paragraphs 7.1 and 7.2 above in an interest bearing account and apply each such payment within 5 years from the date of payment solely to the provision of Affordable Housing within the district of South Norfolk. Any payment or part thereof not so applied within such time period shall be returned by the District Council to the Developer together with any accrued interest thereon
10. On the date of the completion of the first conveyance transfer or lease of the 25<sup>th</sup> Market Housing Unit in each Phase and of every multiple of 25 (or part thereof if applicable) thereafter the Developer shall notify the District Council in writing of the addresses and sale prices for the immediately preceding 25 Market Housing Units set out for each category of housing set out in the table at Paragraph 6 of this Part 4 and for the avoidance of doubt this shall be set out in a table comprising the following headings:
- 10.1 postal address
- 10.2 plot number

10.3 Starting Point Market Sale Price

10.4 End Point Market Sale Price

10.5 the difference between the Starting Point Market Sale Price and the  
End Point Market Sale Price

10.6 the % to the District Council

10.7 the amount to be paid to the District Council

11. Not to continue with the Développement of the relevant Phase or any works relating thereto at any time when payments having fallen due under Paragraphs 7.1 and 7.2 of this Part 4 or addresses and sale prices requiring to be supplied under Paragraph 8 of this Part 4 have not within 28 days of having fallen due or having been required to be supplied been so paid or so supplied in relation to the relevant Phase **PROVIDED ALWAYS THAT** that this Paragraph shall not prevent in any circumstances the Occupation and use or continued Occupation and use of Market Housing Units which have prior to the expiry of the said 28 days already been completed
12. The Developer covenants to enter into the Affordable Housing Option with the District Council on the same date as this Deed and to perform the obligations set out within it

## **PART 5**

### **THE TRAVEL PLAN CONTRIBUTION OBLIGATIONS**

**The Developer covenants with the County Council as set out in this part of the Schedule:**

1. Not to Commence or allow Commencement of Development on any Phase unless and until the Developer has in relation to that Phase elected to pay the Travel Plan Contribution under Paragraph 2 of this Part 5 OR to carry out

and comply with the obligations at Paragraph 3 of this Part 5 AND FOR THE AVOIDANCE OF DOUBT once the Developer has elected whether to comply with the obligations under either Paragraph 2 or Paragraph 3 of this Part 5 below in relation to a Phase the obligations in the other paragraph shall not apply in relation to that Phase

**The Developer hereby further covenants with the County Council that following the election under paragraph 1 of this Part 5 they shall either:**

- 2 where the Developer has elected to pay the Travel Plan Contribution it shall pay the Travel Plan Contribution to the County Council as follows:
  - a) FIFTY THOUSAND POUNDS (£50,000.00) prior to the Commencement Date of each Phase and for each Phase of the Development;
  - b) the balance of the Travel Plan Contribution attributable to the relevant Phase shall be paid prior to Occupation of the 100<sup>th</sup> Dwelling within that Phase;

OR

- 3.1 Where the Developer has elected to prepare and review the Approved Travel Plan it will carry out and comply with the following:
  - a) not to Commence or allow Commencement of each Phase of the Development unless and until an Approved Travel Plan is in place in relation to that Phase
  - b) to submit a Travel Plan Update in relation to each Approved Travel Plan to the County Council on the 12 (twelve) month anniversary after the date of first Occupation of the relevant Phase of the Development and on subsequent anniversaries or such other date as may be agreed with the County Council such monitoring to continue each year until the second anniversary of final Occupation of each Phase of the Development

c) not allow first Occupation of any Dwelling within any Phase of the Development unless and until it has complied with paragraphs c) (i) or c) (ii) below as follows in relation to that Phase:

i) obtained and provided to the County Council a Travel Plan Bond with a Surety approved by the County Council for the Bond Sum ("the Approved Travel Plan Bond") to cover the relevant Phase;

OR

(ii) deposit the Bond Sum with the County Council ("the Travel Plan Deposit") covering the relevant Phase

3.2 Prior to first Occupation of the relevant Phase and on every anniversary of the date of first Occupation thereafter it will pay to the County Council the Travel Plan Review Fee in relation to each Travel Plan for each Phase such payment to continue to be made until the second anniversary of final Occupation of each Phase of the Development; and

**The County Council covenants with the Developer as follows:**

4. In the event that the Developer fails in the reasonable opinion of the County Council to perform the obligations and deliver the requirements of the Approved Travel Plan in relation to each relevant Phase the County Council shall serve notice on the Developer of that Phase confirming the actions required by the Developer to comply with the obligations contained in the Approved Travel Plan ("the Performance Notice")
5. If after a period of 28 days the Developer has failed in the reasonable opinion of the County Council to comply with the Performance Notice in relation to the relevant Phase the County Council may call in the Approved Travel Plan Bond in relation to that Phase and carry out the requirements of the Approved Travel Plan for that Phase without further recourse to the Developer

6. Subject to the Developer complying with the Approved Travel Plan for the relevant Phase the County Council on the first anniversary of first Occupation of that Phase will reduce the Bond Sum by an amount proportionate to the number of Dwelling Units Occupied within that Phase at that time and thereafter by a further proportionate amount on a yearly basis (for example if 20% of the Dwelling Units have been Occupied, the Bond Sum shall be reduced by 20%)
7. On reduction of the Bond Sum in accordance with Paragraph 2.6 above, the County Council shall within 28 days return such reduced amount of the Travel Plan Deposit for the relevant Phase to the Developer, or confirm in writing to the Surety that such proportion of the Approved Travel Plan Bond for that Phase is released
8. In the event the Developer has opted to make a payment to the County Council of the Travel Plan Contribution in accordance with Paragraph 1.1 above, the County Council covenants with the Developer to hold the Travel Plan Contribution in an interest bearing account and to apply it and any interest accrued upon it to the provision, implementation and monitoring of a Travel Plan for the Development
9. The County Council shall hold the Travel Plan Contribution in an interest bearing account and shall apply the capital and any interest earned towards the implementation of the Travel Plan
10. Any part of the Travel Plan Contribution that has not been applied towards the implementation of the Travel Plan within five years after the date of Completion of the relevant Phase shall be returned by the County Council to the Developer along with any interest accrued thereon

**PART 6**  
**COMMUNITY PAVILION**

**The Developer covenants with the District Council as set out in this part of the Schedule:**

1. Prior to the Commencement Date the Developer shall agree in writing the location of the Community Pavilion Land with the Planning Officer
  
2. The Community Pavilion Land shall be:
  - 2.1 of an adequate size and capable of accommodating the premises and facilities required for the Community Pavilion which for the avoidance of doubt shall be a building of 300 square metres together with all necessary access, circulating and parking, landscaping and ancillary areas as shall be agreed in writing between the Developer and the Planning Officer prior to the Commencement Date
  
  - 2.2 clear and unencumbered with the benefit of all necessary rights and easements for the use as a Community Pavilion reasonably level and capable of being accessible throughout without the necessity of undue land reformation or engineering where:
    - 2.2.1 "clear" means a site that is free of any physical hazards or impediments to building both above and below ground (including, but not limited to land contamination electricity pylons Japanese Knotweed asbestos allotments and problems with site access);  
and
  
    - 2.2.2 "unencumbered" means a site that is free of any legal constraint to transfer (including but not limited to: trust covenants charity law formal or informal lease agreements charges and written or unwritten assurances to other bodies or individuals)

3. If the provision of the Community Pavilion is elected by the Parish Council the Developer shall:
  - 3.1 prior to the Occupation of 40% of the Dwelling Units within the Phase it is located in provide access to the Community Pavilion Land for the purposes of inspection, survey and all necessary purposes for the preparation of the site for use as the Community Pavilion;
  - 3.2 Prior to the Occupation of 80% of the Dwelling Units within the Phase it is located in unless otherwise agreed with the Council the Developer shall transfer the Community Pavilion Land Fully Serviced to either the Parish Council or the District Council for a consideration of ONE POUND (£1.00)
4. If the provision of the Community Pavilion is not elected by the Parish Council the Developer shall:
  - 4.1 prior to the Occupation of 40% of the Dwelling Units within the Phase it is located in provide access to the Community Pavilion Land for the purposes of inspection, survey and all necessary purposes for the preparation of the site for use as additional Recreational Space to a specification to be agreed with the District Council;
  - 4.2 upon receipt of a written notice from the Planning Officer or prior to the Occupation of 80% of the Dwelling Units within the Phase it is located in (whichever is the earlier) the Developer shall transfer the Community Pavilion Land to either the Parish Council or the District Council for a consideration of ONE POUND (£1.00)
5. The Developer shall pay the Community Facilities Contribution to the District Council by a single lump sum payment immediately prior to the transfer of the Community Pavilion Land or prior to Occupation of 80% of the Dwelling Units of the Phase in which it is located (whichever is the earlier) unless otherwise agreed with the Council

6 The Developer shall pay interest at 4% above the base rate of the Co-operative Bank plc for the time being in force on any part of the Community Facilities Contribution not paid within 28 days of the date upon which it becomes due in accordance with paragraph 2.1 above (whether formally demanded or not) such interest to be calculated on a daily basis from the due date for payment until the date of payment

7. In the event of reserved matters approval granted for the Development being granted for numbers of Dwelling Units additional to 1196 Dwelling Units the following paragraphs shall take effect:

7.1 the Developer shall pay to the District Council by a single lump sum payment the amount of £335.00 (THREE HUNDRED AND THIRTY-FIVE POUNDS) per Dwelling Unit (Index-Linked as for the Community Facilities Contribution) in respect of each such additional Dwelling Unit (but for the avoidance of doubt payment shall not in any circumstances be required twice for the same Dwelling Unit) not later than Commencement of any development of any of the additional Dwelling Units permitted by the relevant reserved matters approval pursuant to which such development is carried out

7.2 the money so paid to the District Council shall be allocated and held for either the provision of the Community Pavilion or the provision of Community Facilities

**The District Council hereby covenants with the Developer as follows:**

8. To consult with the Parish Council and determine (given that the Parish Council may have to supplement the Community Facilities Contribution with funds of its own or obtained by itself) whether the provision of the Community Pavilion is to be elected (such determination not to be unreasonably delayed or withheld) and notify the Developer in writing of such determination within six months after the Commencement Date



9. To hold the Community Facilities Contribution in an interest bearing account and either pay it all or in part to the Parish Council (in accordance with paragraph 10 of this Part 6) on trust for the provision of Community Facilities in the parish of Hethersett (including use for meetings lectures and classes and/or other forms of recreation and leisure time occupation)
10. The District Council covenants with the Developer that any payment or part payment of the Community Facilities Contribution made to the Parish Council in accordance with paragraph 9 of this Part 6 will be made on the following terms and conditions:
  - 10.1 no payments can be made until an agreement with a contractor for providing the Community Facilities has been entered into ("the Contract") (and for the avoidance of doubt there can be more than one Contract)
  - 10.2 the District Council may pay the Community Facilities Contribution in instalments
  - 10.3 no instalment will be paid until the District Council is reasonably satisfied that the money is required or will shortly be required to pay the contractor under the terms of the Contract
  - 10.4 any interest earned on the Community Facilities Contribution will be rolled up and paid together with the final instalment
11. The District Council covenants with the Developer to use the Community Facilities Contribution solely for the provision of Community Facilities in accordance with the trust set out in paragraph 9 above
12. The District Council covenants with the Developer that in the event that the Community Facilities Contribution or any part of it has not been spent or committed (by way of a contract to provide Community Facilities or by the

expenditure of the monies) within 7 years of the date of receipt of the balance of the Community Facilities Contribution then the District Council will repay to the Developer so much of the Community Facilities Contribution as shall remain uncommitted together with any accrued interest thereon

## **PART 7**

### **MONITORING FEE**

**The Developer covenants with the County Council as set out in this part of the Schedule:**

To pay to the County Council the Monitoring Fee on Commencement of the Development

## **PART 8**

### **NEIGHBOURHOOD CENTRE SITE**

**The Developer covenants with the District Council as set out in this part of the Schedule:**

1. Not later than the Commencement Date to identify and reserve the Neighbourhood Centre Site in a location to be identified and submitted by the Developer to the Planning Officer (who shall consult with the District Council's Property Manager and Valuer or the proper officer for the time being) for approval (such approval not to be unreasonably delayed or withheld) for the erection of local facilities such as shops, post office, newsagent and doctors or similar facilities (which for the avoidance of doubt shall not include the site of any new school proposed to be built within the Land)

2. During the period between the Completion of the 1<sup>st</sup> Dwelling Unit and the Completion of the 769<sup>th</sup> Dwelling Unit:

2.1 to offer for sale for development as set out in Paragraph 1 above the Neighbourhood Centre Site in its entirety and with vacant possession at an Open Market Value to be proposed by the Developer and approved by the District Council's Property Manager and Valuer or the proper officer for the time being (such approval not to be unreasonably delayed or withheld); and

2.2 to market it in a manner to be approved in writing by the District Council's Property Manager and Valuer or the proper officer for the time being (such approval not to be unreasonably delayed or withheld)

3. If on the expiry of such period:

3.1 the Neighbourhood Centre Site has not been developed or sold for development as set out in Paragraph 1 of this Part 8; and

3.2 the District Council is reasonably satisfied that the Developer has complied with its obligations under Paragraph 2 of this Part 8

the District Council shall (if requested to do so in writing by the Developer) release the Developer from its obligations under Paragraph 2 of this Part 8

## PART 9

### HIGHWAYS

The Developer covenants with the County Council as set out in this part of the Schedule:

1. No Dwelling Unit shall be Occupied until the Developer has paid the Highways Contribution to the County Council
2. No Dwelling Unit shall be Occupied until the Developer has carried out the following:
  - 2.1 provided up to date title to the Park & Ride Site to the County Council
  - 2.2 submitted the Lease to the County Council
  - 2.3 the Lease in a form approved by the County Council has been entered into by all those with an interest in the Park and Ride Site and dated and all necessary consents required under any restrictions on the title to the Park & Ride Site have been acquired so as to enable registration of the Lease
  - 2.4. to complete any required stamp duty land tax return and pay any tax due within 14 working days of completion of the Lease
  - 2.5 to register the Lease at the Land Registry and for noting against all affected titles at the Land Registry at the Developers own cost within 28 days of completion of the Lease and submit copies of the completed registration to the County Council for its records
  - 2.6 to dedicate or secure the dedication of the Slip Road as highway to enable full access to the Park & Ride Site in accordance with the County Council's requirements

## PART 10

### TERMS AND CONDITIONS FOR LAND TRANSFERS TO THE COUNTY COUNCIL THE DISTRICT COUNCIL OR THE PARISH COUNCIL

1. Completion of the transfer of any land required by this Deed to be transferred to either the County Council or the District Council or the Parish Council (as the case may be) shall take place on such date as shall be agreed in writing between the County Council or the District Council or the Parish Council (as the case may be) and the Developer or in default of such agreement upon such date as shall be specified in a notice in writing given by the County Council or the District Council or the Parish Council (as the case may be) to the Developer or by the Developer to the County Council or the District Council or the Parish Council (as the case may be) such notice to be given not later than 28 days before the date specified in the notice for completion.
2. The land shall be transferred with full title guarantee and with vacant possession and be free from encumbrances
3. The transfer shall contain all such rights and easements whatsoever (including without prejudice to the generality of the foregoing the provision of all rights of access of Services and service installations thereto) as are required to facilitate the use of the land transferred for the purpose it is being transferred.
4. The transfer will if so required by the Developer and agreed by the County Council or the District Council or the Parish Council (as the case may be) contain a covenant by the County Council or the District Council or the Parish Council (as the case may be) restricting the use of the land transferred to the purpose for which it is transferred and for no other use whatsoever
5. The standard conditions of sale (4<sup>th</sup> edition) shall apply to any transfer to the County Council or the District Council or the Parish Council (as the case may be) required by this Deed so far as they are applicable to a sale by

private treaty and are not varied by or inconsistent with the express terms of this Deed

6. All costs incurred in connection with any transfer of land to the County Council or the District Council or the Parish Council (as the case may be) including but not limited to legal fees and Land Registry disbursements shall be paid by the Developer

## **PART 11**

### **WOODLAND AREA**

**The Developer covenants with the District Council as set out in this part of the Schedule:**

1. To commence the provision of the Woodland Area in the location shown tinted green on the drawing numbered 109 and called "Open Space by Phase" annexed to this Deed prior to the Completion of 60% of the Dwelling Units of the Phase in which it is located in accordance with details to be agreed in writing with the Planning Officer and which shall include:
  - 1.1 a maximum construction cost for providing the Woodland Area to the Developer of FIFTY THOUSAND POUNDS (£50,000.00) Index-Linked
  - 1.2 the Woodland Area land use works and landscaping
  - 1.3 access arrangements for the public which shall include appropriate protection for vulnerable habitats and flora and fauna
  - 1.4 provision for the future maintenance and management of the Woodland Area

2. Not to Occupy more than 95% of the Dwelling Units for the Phase in which it is located until the Woodland Area has been provided in accordance with the details agreed under Paragraph 1 of this Part 11 unless those details have been otherwise agreed in writing by the Planning Officer

## **PART 12 ALLOTMENTS**

**The Developer covenants with the District Council as set out in this part of the Schedule:**

1. Prior to the Commencement of any Dwelling Unit in the Phase in which the Allotments are located the Developer shall make an application to the District Council for the approval of reserved matters pursuant to the planning permission granted in respect of the Application in respect of the location of the Allotments Footpath and the Allotments Footpath Works
2. The Allotments Footpath Works shall be completed prior to the Completion of 80% of the Dwelling Units in the Phase in which the Allotments are located unless otherwise agreed in writing with the Planning Officer
3. With effect from the date on which the Allotments Footpath Works are completed the Developer shall permit the public to use (for the purpose of access) the Allotments Footpath PROVIDED ALWAYS THAT the Developer shall be entitled to close the whole or any part of the Allotments Footpath (but for no longer than is reasonably necessary) for the purpose of carrying out any works of repair or maintenance, for other good reasons of estate management, on grounds of safety, for reasons of security, or in case of emergency AND PROVIDED FURTHER THAT the District Council and the Developer hereby further agree and declare that nothing in this Paragraph or in the use made by the public of the Allotments Footpath shall amount to an

express or implied dedication by the Developer of the Allotments Footpath as a public footpath or other way which has the status of a public highway but the same shall remain in the ownership of the Developer free of any dedication

4. The Developer or its appointed Management Company shall tend and maintain the Allotments Footpath Works on the Allotments Footpath for a period of 10 years from the first Occupation of the final Dwelling Unit
5. Not to Occupy or permit the Occupation of more than 25% of the Dwelling Units in the Phase in which the Allotments are located until the Allotments Specification has been approved by the District Council
6. Prior to the Occupation of 40% of the Dwelling Units in the Phase in which the Allotments are located the Developer shall lay and carry out the works set out in the Allotments Specification
7. The Developer and the District Council hereby agree that in consideration of the sum of ONE POUND (£1.00) (the receipt of which the Developer hereby acknowledges) the Owners shall transfer the Allotments to the Parish Council (and the Parish Council shall accept a transfer of the Allotments or the District Council shall direct the Owners to transfer the Allotments to such other body as the District Council shall nominate) and such transfer shall be completed within 42 days of the practical completion of the Allotments and otherwise on the terms and conditions set out below
8. Completion of the transfer of the Allotments shall take place by one transfer
9. Completion of the transfer of the Allotments shall take place as provided for in Paragraph 3 of this Part 12 (or on such other date as shall be agreed in writing between the Developer and the Planning Officer)
10. The Allotments shall be transferred with such title as the Developer has and such incumbrances as affect the land at the date hereof



11. The Allotments shall be transferred with vacant possession and for the avoidance of doubt shall not be transferred as arable or ploughed land or grassland which has been used for grazing by pigs
12. The transfer of the Allotments shall contain all such rights and easements as are necessary for the proper enjoyment of the Allotments for its authorised use subject to the ability of the Developer to grant the same without prejudicing their ability to develop their retained land
13. The transfer of the Allotments will contain a covenant by the Parish Council or other such transferee not to use or occupy the Allotments other than as for allotments and not to erect any buildings or structures thereon other than such limited temporary buildings and structures as are normally associated with allotments
14. The standard conditions of sale (4<sup>th</sup> edition) shall apply to the transfer of the Allotments made pursuant to this Deed so far as they are applicable to a sale by private treaty and are not varied by or inconsistent with the express terms of this Deed
15. All reasonable costs incurred in connection with the transfer of the Allotments including but not limited to legal fees and Land Registry disbursements shall be paid by the Developer

**PART 13**  
**DEDICATION LAND**

The Dedication Landowner covenants with the County Council as set out in this part of the Schedule:

1. the Dedication Landowner hereby dedicates and gives up the Dedication Land as highway
- ~~2. the Dedication Mortgagee hereby consents to the dedication of the Dedication Land~~
- <sup>2</sup>/~~3~~. the Dedication Landowner ~~the Dedication Mortgagee~~ and the County Council agree and declare that the Dedication Land shall become highway maintainable at the public expense on the date of completion of the Highways Scheme to the satisfaction of the County Council

**PART 14**

**TRAVEL PLAN BOND**

In this BOND OF SURETY the following persons are named:-

The Developer is  
Whose registered office is situate at

The Surety is \_\_\_\_\_ whose registered office is

The County Council is THE NORFOLK COUNTY COUNCIL of County Hall  
Martineau Lane Norwich Norfolk

BY THIS BOND the Developer and the Surety are held and firmly bound to the County Council in the sum of (£ ) to be paid to the County Council for which payment we jointly and severally bind ourselves and our successors and assigns by these presents

SEALED WITH OUR SEALS this                      day of                      20

WHEREAS by an Agreement dated                      and made between the County Council and the Developer the Developer undertook in accordance with Clause of the said Agreement to enter into a bond with an Assurance Company guarantee society bank or like body in favour of the County Council of the sum of £

AND WHEREAS the Surety at the request of the Developer and with the approval of the County Council has agreed to become the surety for the Developer and will pay to the County Council the Bond Sum upon demand

NOW THE CONDITIONS of the above written Bond are such that if the Developer shall duly perform and observe all the terms provisions conditions and stipulations of the said Agreement on the Developers part to be performed and observed or if on default by the Developer the Surety shall satisfy and discharge the damages sustained by the County Council (including without prejudice to the generality thereof any costs actually incurred by the County Council pursuant to the said Agreement) thereby up to the amount of this Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect but no alteration in the terms of the said Agreement made by agreement between the County Council and the Developer or in the extent or nature of the works to be performed thereunder and no allowance of time by or on behalf of the County Council under the said Agreement nor any forbearance or forgiveness in or in respect of any matter or thing concerning the said Agreement on the part of the County Council shall in any way release the Surety from any liability under this Bond

AND IT IS AGREED THAT subject to the Developer performing the obligations and delivering the requirements of the Approved Travel Plan (as defined in the Agreement) upon receipt of written confirmation from the County Council (such confirmation not to be unreasonably withheld or delayed) this Bond may be reduced by an amount proportionate to the number of Residential Units then Occupied and thereafter upon receipt of the County Council's written confirmation on each subsequent anniversary of the first occupation by a further proportionate amount taking into account the number of Residential Units then Occupied

NO PARTY who is not a party to this Bond shall be entitled to enforce any of its terms for his own benefit and the application of the Contracts (Rights of Third Parties) Act 1999 to the terms of this Bond are hereby expressly excluded

THE COMMON SEAL of  
the Developer was hereunto  
affixed in the presence of:-

DIRECTOR

SECRETARY

SIGNED as a Deed by  
the Surety acting by:-

AUTHORISED SEALING OFFICER

## **PART 15**

### **PARK & RIDE OWNERS OBLIGATIONS**

The Park & Ride Site Owners hereby covenant and agree:-

1. To assist the Developer to carry out and comply with the obligations contained in Paragraph 2 of Part 9 of this Schedule and to enter into negotiations with the County Council to enable agreement and completion of the Lease
2. To agree the extent of the Slip Road with the County Council and provide evidence of title to the same
3. At the request of the County Council to dedicate the agreed Slip Road as public highway

**PART 16**  
**The Primary School Option**

DATED

201[ ]

KATE ALICE PAUL and DAVID EDWARD BROWN  
(1) ~~DAVID AGLOQUE~~ and WILLIAM DAVID WINSLOW BARR

AND

(2) NORFOLK COUNTY COUNCIL

---

OPTION AGREEMENT  
relating to land at North Hethersett, Norfolk

*[Primary School]*

---

Ref: JDM/32773.2/RDF

---

Minerva House  
5 Montague Close  
London SE1 9BB  
DX: 156810 London Bridge 6

**Winckworth**  
Sherwood

Solicitors and  
Parliamentary Agents

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THIS OPTION AGREEMENT is made

BETWEEN

KATE ALICE PAUL whose address for service is at [REDACTED] and DAVID EDWARD BROWN whose address for service is at [REDACTED]

- (1) ~~DAVID ACLOQUE~~ whose address for service is at [REDACTED] and WILLIAM DAVID WINSLOW BARR whose address for service is at 1 St James Court, Norwich, Norfolk, NR3 1RJ (together "Seller"); and
- (2) NORFOLK COUNTY COUNCIL whose address is at County Hall Martineau Lane Norwich Norfolk NR1 2DH ("Buyer").

It is agreed:

## 1 DEFINITIONS

In this agreement the following expressions shall have the following meanings:

- "Actual Completion" means the date on which Completion actually takes place;
- "Base Figure" means the figure in the Index for the month immediately preceding the date of this agreement;
- "Base Price" means two hundred thousand pounds (£200,000) per acre relating to the Second Option Land only;
- "Buyer's Solicitors" [ ] (ref: [ ]);
- "Completion" means the completion of the sale of a Property pursuant to this agreement;
- "Completion Date" means the date 28 Working Days from and including the date of an Option Notice;
- "Contract Terms" means the terms of the sale and purchase of a Property incorporated into this agreement at Schedule 1 and



which shall become effective on Exercise but not otherwise;

"Current Figure"

means the figure in the Index for the month immediately preceding the relevant Completion Date;

"Exercise"

means the giving of an Option Notice;

"First Option Land"

means the land shown [coloured [ ] on the plan attached to this agreement] [and registered at the Land Registry under title number [ ] in the name of the Seller];

"First Price"

means the sum of £1;

"Index"

means the Consumer Prices Index or any official index replacing it;

"Interest Rate"

means four per centum above the published base rate from time to time of Lloyds Bank Plc;

"Option Fee"

means £10.00;

"Option Notice"

means written notice served by the Buyer (or by the Buyer's Solicitors on behalf of the Buyer) on the Seller (or on the Seller's Solicitors on behalf of the Seller) within the Option Period and requiring the sale to the Buyer of either:

(a) the First Option Land; or

(b) the First Option Land and the Second Option Land;

"Option Period"

means a period of 5 years commencing on the date of this agreement the commencement of development (such date to be notified in writing to the Buyer);

"Plan" means the plan attached to this agreement;

"Property" means the land the subject of an Option Notice and being either the First Option Land or the First Option Land and the Second Option Land together;

"Second Option Land" means the land shown [coloured [ ] on the plan attached to this agreement] [and registered at the Land Registry under title number [ ] in the name of the Seller];

"Second Price" means the sum calculated in accordance with clause 7;

"Seller" includes the Seller's successors in title and assigns;

"Seller's Solicitors" means [ ] of [ ] (Ref: [ ]);

"Standard Conditions" means the Standard Commercial Property Conditions of Sale (Second Edition);

"Title Matters" means all matters affecting the Option Land referred to in Schedule 1 or in the documents specified therein;

"Title" means the relevant Land Registry Title Number for a Property as referred to in Schedule 3;

"Transfer" means the transfer of the Property to the Buyer;

"VAT Act" means the Value Added Tax Act 1994;

"VAT" means value added tax and includes any similar tax whether in substitution for or in addition to value added tax and any reference to VAT "on" a supply or sum means VAT chargeable in respect of or by reference to or as a result of such supply or sum and the amount of

the Price or other sum specified in the provisions of the Contract Terms shall unless expressly stated to the contrary be deemed to be exclusive of any VAT;

"Working Day"

means a day other than Saturday, Sunday or a day on which banks are authorised to close in London for general banking business.

## 2 INTERPRETATION

- 2.1 References in this agreement to any clause sub-clause or schedule without further designation shall be construed as a reference to a clause sub-clause in or schedule to this agreement.
- 2.2 The clause sub-clause and paragraph headings do not form part of this agreement and shall not be taken into account in their construction or interpretation.
- 2.3 In this agreement unless the context otherwise requires:
- 2.3.1 any obligation by a party comprising more than one person is joint and several;
  - 2.3.2 any word importing an individual includes a company and vice versa;
  - 2.3.3 words importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa;
  - 2.3.4 any obligation on a party not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done; and
  - 2.3.5 any reference to a statute or statutory instrument (whether specifically named or not) includes any amendment or re-enactment thereof for the time being in force and any instrument order notice regulation bye-law direct consent or permission for the time being issued made or given thereunder or deriving validity therefrom (and for the avoidance of doubt in the case of

VAT Act this shall include any directives and regulations adopted by the Council of the European Community and which relate to VAT).

2.4 The Interpretation Act 1978 shall apply as if the provisions hereof were contained in an Act of Parliament.

2.5 This agreement shall be governed by and construed in all respects in accordance with the laws of England and the Courts of England shall have exclusive jurisdiction in connection with any dispute arising hereunder.

### **3 GRANT OF OPTION**

3.1 In consideration of the Option Fee paid by the Buyer to the Seller (receipt of which the Seller hereby acknowledges) the Seller hereby grants to the Buyer the options, exercised by the Buyer serving an Option Notice on the Seller, to make the Contract Terms effective and binding between the parties hereto in respect of:

3.1.1 the First Option Land; and

3.1.2 the Second Option Land.

3.2 The Buyer shall be entitled (but not obliged) to serve an Option Notice during the Option Period in respect of the First Option Land. Time shall be of the essence for the service of an Option Notice in the Option Period.

3.3 The Buyer shall only be entitled (but not obliged) to serve an Option Notice during the Option Period in respect of the Second Option Land if:

3.3.1 it simultaneously serves an Option Notice in respect of the First Option Land; or

3.3.2 it has already served an Option Notice in respect of the First Option Land.

3.4 Notwithstanding the provisions of the Contract Terms, the Seller shall not be obliged to complete the transfer to the Buyer of the Second Option Land, if the

Buyer has not already completed the transfer of the First Option Land or simultaneously completes the transfer of the First Option Land.

3.5 An Option Notice shall only be valid if it:

3.5.1 is served upon the Seller or the Seller's Solicitors at their offices specified above; and

3.5.2 is served on and received by the Seller or the Seller's Solicitors within the relevant Option Period (time being of the essence).

3.6 Without limiting any other method of service an Option Notice shall be deemed to have been received by the Seller or the Seller's Solicitors if and when it is actually delivered to the relevant one of their offices specified above.

3.7 The Option Fee shall not form part of either the First Price or the Second Price payable under the Contract Terms.

#### **4 MISCELLANEOUS**

The Seller will (and will instruct the Seller's Solicitors to) reply properly to:

4.1 any reasonable preliminary enquiries relating to the Property which the Buyer's Solicitors may raise before service of an Option Notice (in so far as such enquiries have not been raised and answered before service of such Option Notice); and

4.2 reasonable requisitions on title relating to the Property which the Buyer's Solicitors may raise after service of an Option Notice.

#### **5 DEALINGS**

The Buyer shall not be entitled to assign, transfer or charge the benefit of this agreement.

**6 LAPSE OF OPTION**

If the Buyer does not serve an Option Notice within the Option Period (time being of the essence), the Buyer's right in clause 3.1 shall cease and the Buyer shall promptly cancel any entry which it may have made in respect of the Option Land at The Land Registry and the Buyer hereby gives authority to the Seller to do so on its behalf.

**7 PRICE**

The Price for the Second Option Land shall be calculated at the Completion Date by using the following formula:

$$FP = Ax \left( \frac{CF}{BF} x BP \right)$$

where:

A = the size of the Property in acres (to the nearest two decimal places);

FP = the Price

BF = Base Figure;

CF = Current Figure; and

BP = Base Price per acre.

**8 BUYBACK OPTION**

8.1 Subject to and in consideration of Buyer exercising the Option to purchase the Property, if the Buyer does not use the Property for the purposes of education use within 3 years of the Completion Date, the Seller shall serve written notice on the Buyer within 12 months of the expiry of such 3 year period to make the Contract Terms (subject to clause 8.3) effective and binding between the parties hereto in respect of the re-purchasing the Property.

8.2 The Seller's written notice as referred to in clause 8.1 shall only be valid if it:

8.2.1 is served upon the Buyer or the Buyer's Solicitors at their offices specified above; and

8.2.2 is served on and received by the Buyer or the Buyer's Solicitors within [6] months of the expiry of the 3 year period referred to in clause 8.1 (time being of the essence).

8.3 Where the Seller exercises the option contained in clause 8.1, the Contract Terms shall apply save that all references in the Schedule 1:

8.3.1 to the "Buyer" shall be construed as references to the Seller; and

8.3.2 to the "Seller" shall be construed as references to the Buyer.

8.4 If the Seller shall not exercise the option contained in clause 8.1 the Seller hereby agrees to release the Buyer from the restriction set out in subclause 7.1.1 of the Schedule should the Buyer wish to dispose of the Land to a third party

## **9 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

9.1 Unless the right of the enforcement is expressly provided it is not intended that a third party should have the right to enforce any term of this agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act.

9.2 The parties may by agreement rescind or vary this agreement without the consent of a third party to whom the rights of enforcements of any of its terms has been expressly provided.

## **10 NOTICES**

Subject to the provisions of clauses 3.4 and 3.5:

10.1 all notices and proceedings under or related to this agreement may be validly served on the Buyer if delivered to the Buyer's address set out in the agreement or such other address in England as shall from time to time be notified in writing to the Seller or the Seller's Solicitors; and

10.2 all notices under this agreement may be validly served on the Seller or the Buyer if delivered or sent by facsimile transmission to the Seller's Solicitors or the Buyer's Solicitors respectively.

## **11 CONFIDENTIALITY**

Neither the Buyer nor the Seller shall without the written consent of the other may cause or permit to be made any press or public announcement in relation to the sale hereby effected save as may be required by law or by any requirement of the Stock Exchange.

## **12 NON-MERGER**

The provisions of this agreement shall remain in full force and effect (notwithstanding completion of a Transfer) to the extent that they remain to be complied with.

## **13 ENTIRE CONTRACT**

13.1 The parties acknowledge that this contract and any document annexed to it contain all the express terms of the contract between them for the sale and purchase of the Property.

13.2 The Buyer acknowledges that:

13.2.1 except for the written replies made by the Seller's Solicitors to the formal written pre-contract enquiries made by the Buyer's Solicitors, it has not relied on or taken into account any statement or representation made by or on behalf of the Seller, whether written or oral (and including any made negligently) in deciding to enter into this contract; and



13.2.2 it shall not be entitled to make any requisition or claim in respect of the state of repair or condition of the Property or the compliance or non-compliance of the Property or its use with any legislation.

13.3 Condition 9.1.1 is varied to read, "If any plan or statement in the contract or in the written replies made by the Seller's Solicitors to any formal written enquiry made by the Buyer's Solicitors before the date of this contract is or was misleading or inaccurate due to any error or omission the remedies (including any remedy based on negligence) available are as follows".

13.4 Nothing in this clause 13 will operate to limit or exclude any liability for fraud.

This agreement has been entered into on the date stated at the beginning of it.

SIGNED and DELIVERED by )  
the said [ ] as his )  
Deed in the presence of: )

THE COMMON SEAL of )  
NORFOLK COUNTY )  
COUNCIL was hereunto affixed )  
to this Deed in the presence of: )

---

**SCHEDULE 1**  
**(Contract Terms)**

**1 SALE AND PRICE**

The Seller shall sell [(or procure the sale of)] and the Buyer shall purchase the Property at the Price.

**2 BALANCE OF PRICE**

The Price shall be paid on Completion in sterling.

**3 TITLE**

3.1 In the Transfer to the Buyer the Seller shall be expressed to transfer the Property subject to the Title Matters.

3.2 The Seller's title has been deduced prior to the date hereof and no objection or requisition shall be made or raised in respect of such title.

3.3 [On completion the Buyer shall discharge and release the Seller from the Legal Charge.]

**4 MATTERS AFFECTING THE PROPERTY**

The Property is sold subject to and (where appropriate) with the benefit of:

4.1 the Title Matters;

4.2 all local land charges and matters capable of registration as local land charges (whether so registered or not) and all development plans, town planning and other schemes proposals resolutions orders or requirements affecting the same in any way whatsoever and any notices given by any local or other competent authority;

4.3 copies of the Title Matters (or such other evidence thereof which the Seller may have) having been with the Buyer or the Buyer's Solicitors prior to the signing hereof (as the Buyer hereby admits) the Buyer shall be deemed to purchase with full knowledge thereof and shall raise no objection or requisition in respect thereof or in respect of any matters revealed therein.

## **5 POSSESSION**

The Property is sold with vacant possession on Completion.

## **6 COMPLETION**

6.1 Completion shall take place prior to 12.00 p.m. on the Completion Date.

6.2 The Seller shall not be obliged to complete the purchase of the Property at any time whilst the Buyer is in material breach of any of its obligations hereunder.

6.3 If the Seller shall agree to Completion by post then Completion shall be at the Buyer's expense and risk in all respects and unless otherwise requested by and at the cost of the Buyer the Seller's Solicitors shall be entitled to post any documents to the Buyer's Solicitors by unregistered post and uninsured or through a document exchange of which the Buyer's Solicitors are members and provided the same were properly addressed neither the Seller nor the Seller's Solicitors shall be liable for their subsequent loss in transit.

6.4 The amount payable on Completion is the Price plus or minus any other sum due from either party to the other under the provisions hereof.

## **7 TRANSFER**

7.1 The Transfer to the Buyer shall include a covenant by the Buyer with the Seller that the Buyer will at all times thereafter:

7.1.1 not for a period of 50 years from the date of transfer to use the Property other than as a primary school (or other uses associated with use for education purposes);

7.1.2 (by way of indemnity only) duly perform all the covenants conditions and obligations binding upon the Seller and arising under or referred to in the Title Matters;

7.1.3 save harmless and keep indemnified the Seller and the Seller's estate and effects from and against all actions proceedings costs claims demands or liabilities in respect of any future breach non-observance or non-performance of the said covenants conditions and obligations or any of them.

7.2 The Transfer shall at the cost of the Buyer be engrossed and executed in duplicate and the duplicate copy shall be delivered to the Seller's Solicitors within 15 Working Days of Actual Completion for retention by the Seller.

## **8 REGISTRATION**

The Buyer shall not be entitled to note this agreement against the Seller's title other than by unilateral notice and shall not without the consent of the Seller send this agreement or a copy of it to the Land Registry.

## **9 ACKNOWLEDGEMENTS**

9.1 The Seller and the Buyer respectively acknowledge that this agreement (together with any document or documents:

9.1.1 signed by or on behalf of the parties hereto;

9.1.2 expressed to be supplemental to this agreement; and

9.1.3 exchanged or made simultaneously with the exchange or making of this agreement),

shall constitute and form the entire contract between the Seller and the Buyer to the exclusion of any antecedent statement or representation whether oral written or implied or whether contained in any advertisement particulars or other matters issued or in any correspondence entered into by the Seller or the Seller's servants

or agents and the Buyer hereby acknowledges that the Buyer has not entered into this agreement in reliance upon any such statement or representation other than those (if any) which may have been given by the Seller's Solicitors in any written reply to any enquiry made by the Buyer's Solicitors prior to the signing hereof.

9.2 The Property is sold in its present state of repair and condition and the Buyer shall be deemed to have full notice and knowledge thereof and shall raise no objections or requisitions in respect thereof and shall take the Property as it stands. The parties agree that all risks associated directly or indirectly with the Property or the state and condition of the Property pass to the Buyer on the date of this agreement.

9.3 The Buyer acknowledges that it has inspected the Property, has had the opportunity (and the Seller's permission) to undertake its own investigations and surveys into the state and condition of the Property (both above and below ground) and has satisfied itself as to the state and condition of the Property and has formed its own view as to the suitability of the Property for the Buyer's purposes.

9.4 The parties agree that the Seller shall not, under any circumstances, be liable for:

9.4.1 the state and condition of the Property, nor

9.4.2 any loss or damage or injury of any kind whatsoever arising from:

(a) the state and condition of the Property, or

(b) any defect in the Property, or

(c) the presence of any substances or materials in, on or under the Property or the escape from the Property at any time of any substances or materials.

9.5 The parties agree that all warranties, conditions and stipulations whatsoever on the part of the Seller as to the state and condition of the Property are excluded and the Buyer accepts full responsibility for its state and condition.

## 10 INSURANCE

The risk of damage to or destruction of the Property shall be the same as set out in the agreement.

## **11 STANDARD CONDITIONS**

11.1 The Standard Conditions shall be deemed to be incorporated herein and shall apply to the sale (in so far as they are applicable to a sale of a leasehold interest by private treaty and are not modified by inconsistent with or superseded by the terms of these Contract Terms in which case the latter shall prevail).

11.2 The "contract rate" of interest shall be the Interest Rate.

11.3 Standard Conditions 1.5, 2.2.1, 2.2.2, 5.2, 6.3.3, 6.4 and 6.7 shall not apply to this sale.

## **12 [VALUE ADDED TAX**

The Seller may charge VAT on the Price (where applicable) provided that on Completion the Seller delivers a valid VAT invoice to the Buyer.]

**SCHEDULE 2**  
**(Title Matters)**

- 1 All entries in the Property Register of the Title as at [ ]
- 2 All entries in the Charges Register of the Title as at [ ]





**PART 17**  
**The Secondary School Option**

(Page not used)

DATED

201[ ]

KATE ALICE PAUL and DAVID EDWARD BROWN  
(1) ~~DAVID AGLOQUE~~ and WILLIAM DAVID WINSLOW BA

AND

(2) NORFOLK COUNTY COUNCIL

---

OPTION AGREEMENT  
relating to land at North Hethersett, Norfolk

*[Secondary School]*

---

Ref: JDM/32773.2/RDF

Minerva House  
5 Montague Close  
London SE1 9BB  
DX: 156810 London Bridge 6

**Winckworth**  
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SCHEDULE 1 (Contract Terms)	12
SCHEDULE 2 (Title Matters)	17

THIS OPTION AGREEMENT is made

**BETWEEN**

KATE ALICE PAUL whose address for service is at [REDACTED] and DAVID EDWARD BROWN whose address for service is at [REDACTED]

- (1) ~~DAVID AGLOQUE~~ and WILLIAM DAVID WINSLOW BARR whose address for service is at [REDACTED] ("Seller"); and
- (2) NORFOLK COUNTY COUNCIL whose address is at County Hall, Martineau Lane Norwich, Norfolk NR1 2 DH ("Buyer").

It is agreed:

**1 DEFINITIONS**

In this agreement the following expressions shall have the following meanings:

"Actual Completion" means the date on which Completion actually takes place;

"Base Figure" means the figure in the Index for the month immediately preceding the date of this agreement;

"Base Price" means two hundred thousand pounds (£200,000) per acre;

"Buyer's Solicitors" [ ] (ref: [ ]);

"Completion" means the completion of the sale of a Property pursuant to this agreement;

"Completion Date" means the date 28 Working Days from and including the date of an Option Notice;

"Contract Terms" means the terms of the sale and purchase of a Property incorporated into this agreement at Schedule 1 and

which shall become effective on Exercise but not otherwise;

"Current Figure"

means the figure in the Index for the month immediately preceding the relevant Completion Date;

"Exercise"

means the giving of an Option Notice;

"Index"

means the Consumer Prices Index or any official index replacing it;

"Interest Rate"

means four per centum above the published base rate from time to time of Lloyds Bank Plc;

"Option Fee"

means £10.00;

"Option Land"

means the land shown [coloured purple on the plan attached to this agreement] [and registered at the Land Registry under title number [ ] in the name of the Seller] such land to be used as a school playing field with associated structures and facilities in accordance with Paragraph 11.1 of Part 1 of the Schedule to the S106 Agreement;

"Option Notice"

means written notice served by the Buyer (or by the Buyer's Solicitors on behalf of the Buyer) on the Seller (or on the Seller's Solicitors on behalf of the Seller) within the Option Period and requiring the sale to the Buyer of the whole or such part of the Option Land as the Buyer shall (subject to the provisions of clause 3.3) elect;

"Option Period"

means a period of 5 years commencing on the date of the commencement of development (such date to be notified in writing to the Buyer);

"Price"	means the price for the Property as calculated in accordance with the provisions of clause 7;
"Plan"	means the plan attached to this agreement;
"Property"	means that part of the Option Land the subject of an Option Notice;
"S106 Agreement"	means an agreement entered into pursuant to section 106 of the Town and Country Planning Act 1990 made between [(1) South Norfolk District Council (2) Norfolk County Council (3) Barclays Bank Plc (4) D Acloque and WDW Barr (5) SH Back (6) CAS Baker and DJS Baker (7) GF Evans-Lombe, GRL Spackman and JPN Learmond (8) C Hoare & Co (9) CJ Watt, JC Mackintosh, HD Watt and GC Mackintosh and dated [ ] 2013];
"Seller"	includes the Seller's successors in title and assigns;
"Seller's Solicitors"	means [ ] of [ ] (Ref: [ ]);
"Standard Conditions"	means the Standard Commercial Property Conditions of Sale (Second Edition);
"Title Matters"	means all matters affecting the Option Land referred to in Schedule 1 or in the documents specified therein;
"Title"	means the relevant Land Registry Title Number for a Property as referred to in Schedule 3;
"Transfer"	means the transfer of the Property to the Buyer;
"VAT Act"	means the Value Added Tax Act 1994;



"VAT"

means value added tax and includes any similar tax whether in substitution for or in addition to value added tax and any reference to VAT "on" a supply or sum means VAT chargeable in respect of or by reference to or as a result of such supply or sum and the amount of the Price or other sum specified in the provisions of the Contract Terms shall unless expressly stated to the contrary be deemed to be exclusive of any VAT;

"Working Day"

means a day other than Saturday, Sunday or a day on which banks are authorised to close in London for general banking business.

## 2 INTERPRETATION

- 2.1 References in this agreement to any clause sub-clause or schedule without further designation shall be construed as a reference to a clause sub-clause in or schedule to this agreement.
- 2.2 The clause sub-clause and paragraph headings do not form part of this agreement and shall not be taken into account in their construction or interpretation.
- 2.3 In this agreement unless the context otherwise requires:
  - 2.3.1 any obligation by a party comprising more than one person is joint and several;
  - 2.3.2 any word importing an individual includes a company and vice versa;
  - 2.3.3 words importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa;
  - 2.3.4 any obligation on a party not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done; and

2.3.5 any reference to a statute or statutory instrument (whether specifically named or not) includes any amendment or re-enactment thereof for the time being in force and any instrument order notice regulation bye-law direct consent or permission for the time being issued made or given thereunder or deriving validity therefrom (and for the avoidance of doubt in the case of VAT Act this shall include any directives and regulations adopted by the Council of the European Community and which relate to VAT).

2.4 The Interpretation Act 1978 shall apply as if the provisions hereof were contained in an Act of Parliament.

2.5 This agreement shall be governed by and construed in all respects in accordance with the laws of England and the Courts of England shall have exclusive jurisdiction in connection with any dispute arising hereunder.

### **3 GRANT OF OPTION**

3.1 In consideration of the Option Fee paid by the Buyer to the Seller (receipt of which the Seller hereby acknowledges) the Seller hereby grants to the Buyer the option, exercised by the Buyer serving an Option Notice on the Seller, to make the Contract Terms effective and binding between the parties hereto in respect of the Option Land (or such part of it as the Buyer wishes to purchase).

3.2 The Buyer shall be entitled (but not obliged) to serve an Option Notice during the Option Period. Time shall be of the essence for the service of an Option Notice in the Option Period.

3.3 The Option Notice shall state how much of the Option Land the Buyer wishes to purchase provided that:

3.3.1 the area of such land shall be a minimum of one Net Usable Acre in size;

3.3.2 such land shall abut, and be coextensive with, the full length of the southern boundary of the Option Land and extend northwards.

3.4 An Option Notice shall only be valid if it:

3.4.1 is served upon the Seller or the Seller's Solicitors at their offices specified above;

3.4.2 complies with the provisions of clause 3.3; and

3.4.3 is served on and received by the Seller or the Seller's Solicitors within the relevant Option Period (time being of the essence).

3.5 Without limiting any other method of service an Option Notice shall be deemed to have been received by the Seller or the Seller's Solicitors if and when it is actually delivered to the relevant one of their offices specified above.

3.6 The Option Fee shall not form part of any Price payable under the Contract Terms.

#### **4 MISCELLANEOUS**

The Seller will (and will instruct the Seller's Solicitors to) reply properly to:

4.1 [any reasonable preliminary enquiries relating to the Property which the Buyer's Solicitors may raise before service of an Option Notice (in so far as such enquiries have not been raised and answered before service of such Option Notice); and]

4.2 reasonable requisitions on title relating to the Property which the Buyer's Solicitors may raise after service of an Option Notice.

#### **5 DEALINGS**

The Buyer shall not be entitled to assign, transfer or charge the benefit of this agreement.

#### **6 LAPSE OF OPTION**

If the Buyer does not serve an Option Notice within the Option Period (time being of the essence), the Buyer's right in clause 3.1 shall cease and the Buyer shall promptly cancel any entry which it may have made in respect of the Option Land at The Land Registry and the Buyer hereby gives authority to the Seller to do so on its behalf.

**7 PRICE**

The Price shall be calculated at the Completion Date by using the following formula:

$$P = Ax \left( \frac{CF}{BF} \times BP \right)$$

where:

**P** = the Price

**A** = the size of the Property in acres (to the nearest two decimal places);

**BF** = Base Figure;

**CF** = Current Figure; and

**BP** = Base Price.

**8 BUYBACK OPTION**

8.1 Subject to and in consideration of Buyer exercising the Option to purchase the Property, if the Buyer does not use the Property for the purposes of education recreation use within 3 years of the Completion Date, the Seller shall serve written notice on the Buyer within 12 months of the expiry of such 3 year period to make the Contract Terms (subject to clause 8.3) effective and binding between the parties hereto in respect of the re-purchasing the Property.

8.2 The Seller's written notice as referred to in clause 8.1 shall only be valid if it:

8.2.1 is served upon the Buyer or the Buyer's Solicitors at their offices specified above; and

8.2.2 is served on and received by the Buyer or the Buyer's Solicitors within 12 months of the expiry of the 3 year period referred to in clause 8.1 (time being of the essence).

8.3 Where the Seller exercises the option contained in clause 8.1; the Contract Terms shall apply save that all references in the Schedule 1:

8.3.1 to the "Buyer" shall be construed as references to the Seller; and

8.3.2 to the "Seller" shall be construed as references to the Buyer.

8.4 If the Seller shall not exercise the option contained in clause 8.1 the Seller hereby agrees to release the Buyer from the restriction set out in subclause 7.1.1 of the Schedule should the Buyer wish to dispose of the Land to a third party

## **9 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

9.1 Unless the right of the enforcement is expressly provided it is not intended that a third party should have the right to enforce any term of this agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act.

9.2 The parties may by agreement rescind or vary this agreement without the consent of a third party to whom the rights of enforcements of any of its terms has been expressly provided.

## **10 NOTICES**

Subject to the provisions of clauses 3.4 and 3.5:

10.1 all notices and proceedings under or related to this agreement may be validly served on the Buyer if delivered to the Buyer's address set out in the agreement or such other address in England as shall from time to time be notified in writing to the Seller or the Seller's Solicitors; and

10.2 all notices under this agreement may be validly served on the Seller or the Buyer if delivered or sent by facsimile transmission to the Seller's Solicitors or the Buyer's Solicitors respectively.

## 11 CONFIDENTIALITY

Neither the Buyer nor the Seller shall without the written consent of the other may cause or permit to be made any press or public announcement in relation to the sale hereby effected save as may be required by law or by any requirement of the Stock Exchange.

## 12 NON-MERGER

The provisions of this agreement shall remain in full force and effect (notwithstanding completion of a Transfer) to the extent that they remain to be complied with.

## 13 ENTIRE CONTRACT

13.1 The parties acknowledge that this contract and any document annexed to it contain all the express terms of the contract between them for the sale and purchase of the Property.

13.2 The Buyer acknowledges that:

13.2.1 except for the written replies made by the Seller's Solicitors to the formal written pre-contract enquiries made by the Buyer's Solicitors, it has not relied on or taken into account any statement or representation made by or on behalf of the Seller, whether written or oral (and including any made negligently) in deciding to enter into this contract; and

13.2.2 it shall not be entitled to make any requisition or claim in respect of the state of repair or condition of the Property or the compliance or non-compliance of the Property or its use with any legislation.

13.3 Condition 9.1.1 is varied to read, "If any plan or statement in the contract or in the written replies made by the Seller's Solicitors to any formal written enquiry made by the Buyer's Solicitors before the date of this contract is or was misleading or inaccurate due to any error or omission the remedies (including any remedy based on negligence) available are as follows".

13.4 Nothing in this clause 13 will operate to limit or exclude any liability for fraud.

This agreement has been entered into on the date stated at the beginning of it.

SIGNED and DELIVERED by )  
the said DAVID ~~ACLOQUE~~ EDWARD BROWN )  
as his Deed in the presence of: )

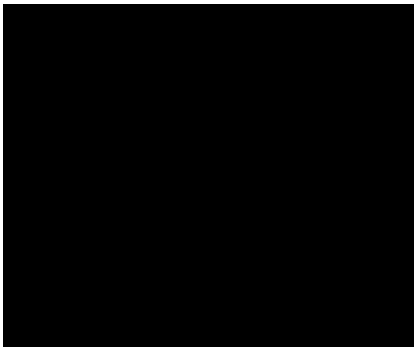


SIGNED and DELIVERED by )  
the said WILLIAM DAVID )  
WINSLOW BARR as his Deed )  
in the presence of: )

THE COMMON SEAL of )  
NORFOLK COUNTY )  
COUNCIL was hereunto affixed )  
to this Deed in the presence of: )

---

SIGNED and DELIVERED by )  
the said KATE ALICE PAUL )  
as her Deed )  
in the presence of: )





**SCHEDULE 1**  
**(Contract Terms)**

**1 SALE AND PRICE**

The Seller shall sell [(or procure the sale of)] and the Buyer shall purchase the Property at the Price.

**2 BALANCE OF PRICE**

The Price shall be paid on Completion in sterling.

**3 TITLE**

3.1 In the Transfer to the Buyer the Seller shall be expressed to transfer the Property subject to the Title Matters.

3.2 The Seller's title has been deduced prior to the date hereof and no objection or requisition shall be made or raised in respect of such title.

3.3 [On completion the Buyer shall discharge and release the Seller from the Legal Charge.]

**4 MATTERS AFFECTING THE PROPERTY**

The Property is sold subject to and (where appropriate) with the benefit of:

4.1 the Title Matters;

4.2 all local land charges and matters capable of registration as local land charges (whether so registered or not) and all development plans, town planning and other schemes proposals resolutions orders or requirements affecting the same in any way whatsoever and any notices given by any local or other competent authority;

4.3 copies of the Title Matters (or such other evidence thereof which the Seller may have) having been with the Buyer or the Buyer's Solicitors prior to the signing hereof (as the Buyer hereby admits) the Buyer shall be deemed to purchase with full knowledge thereof and shall raise no objection or requisition in respect thereof or in respect of any matters revealed therein.

## **5 POSSESSION**

The Property is sold with vacant possession on Completion.

## **6 COMPLETION**

6.1 Completion shall take place prior to 14.00 p.m. on the Completion Date.

6.2 The Seller shall not be obliged to complete the purchase of the Property at any time whilst the Buyer is in material breach of any of its obligations hereunder.

6.3 If the Seller shall agree to Completion by post then Completion shall be at the Buyer's expense and risk in all respects and unless otherwise requested by and at the cost of the Buyer the Seller's Solicitors shall be entitled to post any documents to the Buyer's Solicitors by unregistered post and uninsured or through a document exchange of which the Buyer's Solicitors are members and provided the same were properly addressed neither the Seller nor the Seller's Solicitors shall be liable for their subsequent loss in transit.

6.4 The amount payable on Completion is the Price plus or minus any other sum due from either party to the other under the provisions hereof.

## **7 TRANSFER**

7.1 The Transfer to the Buyer shall include a covenant by the Buyer with the Seller that the Buyer will at all times thereafter:

7.1.1 Not for a period of 50 years from the date of transfer use the Property other than for purposes connected with education;

7.1.2 (by way of indemnity only) duly perform all the covenants conditions and obligations binding upon the Seller and arising under or referred to in the Title Matters;

7.1.3 save harmless and keep indemnified the Seller and the Seller's estate and effects from and against all actions proceedings costs claims demands or liabilities in respect of any future breach non-observance or non-performance of the said covenants conditions and obligations or any of them.

7.2 The Transfer shall at the cost of the Buyer be engrossed and executed in duplicate and the duplicate copy shall be delivered to the Seller's Solicitors within 15 Working Days of Actual Completion for retention by the Seller.

## **8 REGISTRATION**

The Buyer shall not be entitled to note this agreement against the Seller's title other than by unilateral notice and shall not without the consent of the Seller send this agreement or a copy of it to the Land Registry.

## **9 ACKNOWLEDGEMENTS**

9.1 The Seller and the Buyer respectively acknowledge that this agreement (together with any document or documents:

9.1.1 signed by or on behalf of the parties hereto;

9.1.2 expressed to be supplemental to this agreement; and

9.1.3 exchanged or made simultaneously with the exchange or making of this agreement),

shall constitute and form the entire contract between the Seller and the Buyer to the exclusion of any antecedent statement or representation whether oral written or implied or whether contained in any advertisement particulars or other matters issued or in any correspondence entered into by the Seller or the Seller's servants

or agents and the Buyer hereby acknowledges that the Buyer has not entered into this agreement in reliance upon any such statement or representation other than those (if any) which may have been given by the Seller's Solicitors in any written reply to any enquiry made by the Buyer's Solicitors prior to the signing hereof.

- 9.2 The Property is sold in its present state of repair and condition and the Buyer shall be deemed to have full notice and knowledge thereof and shall raise no objections or requisitions in respect thereof and shall take the Property as it stands. The parties agree that all risks associated directly or indirectly with the Property or the state and condition of the Property pass to the Buyer on the date of this agreement.
- 9.3 The Buyer acknowledges that it has inspected the Property, has had the opportunity (and the Seller's permission) to undertake its own investigations and surveys into the state and condition of the Property (both above and below ground) and has satisfied itself as to the state and condition of the Property and has formed its own view as to the suitability of the Property for the Buyer's purposes.
- 9.4 The parties agree that the Seller shall not, under any circumstances, be liable for:
- 9.4.1 the state and condition of the Property, nor
- 9.4.2 any loss or damage or injury of any kind whatsoever arising from:
- (a) the state and condition of the Property, or
- (b) any defect in the Property, or
- (c) the presence of any substances or materials in, on or under the Property or the escape from the Property at any time of any substances or materials.
- 9.5 The parties agree that all warranties, conditions and stipulations whatsoever on the part of the Seller as to the state and condition of the Property are excluded and the Buyer accepts full responsibility for its state and condition.

## **10 INSURANCE**

The risk of damage to or destruction of the Property shall be the same as set out in the agreement.

## **11 STANDARD CONDITIONS**

11.1 The Standard Conditions shall be deemed to be incorporated herein and shall apply to the sale (in so far as they are applicable to a sale of a leasehold interest by private treaty and are not modified by inconsistent with or superseded by the terms of these Contract Terms in which case the latter shall prevail).

11.2 The "contract rate" of interest shall be the Interest Rate.

11.3 Standard Conditions 1.5, 2.2.1, 2.2.2, 5.2, 6.3.3, 6.4 and 6.7 shall not apply to this sale.

## **12 VALUE ADDED TAX**

The Seller may charge VAT on the Price (where applicable) provided that on Completion the Seller delivers a valid VAT invoice to the Buyer.

**SCHEDULE 2**  
**(Title Matters)**

- 1 All entries in the Property Register of the Title as at [ ]
- 2 All entries in the Charges Register of the Title as at [ ]



**PART 18**  
**The Lease Heads of Terms**



(Page not used)

**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride  
Page 1

**BIDWELLS**

## Heads of Terms (Subject to Contract)

These Heads of Terms are for the letting of land by The Trustees of the First Viscount of Halifax Will Trust to Norfolk County Council for use as an extension to the existing Park & Ride site at Thickthorn adjacent to the junction of the A11/A47. The lease is required under a Planning Obligation Deed dated \_\_\_\_\_ associated with the Hethersett North Development in accordance with Section 106 of the T&CP Act 1990. The land is edged red on the attached plan.

**1 The Property**

1.762 hectares (4.35 acres) of land at Cringleford adjacent to the existing Thickthorn Park & Ride Site (edged red on attached plan)

**2 Landlord**

The Trustees of the First Viscount Mackintosh of Halifax Will Trust

**3 Landlord's Solicitors**

Boodle Hatfield LLP  
London

**4 Landlord's Agents**

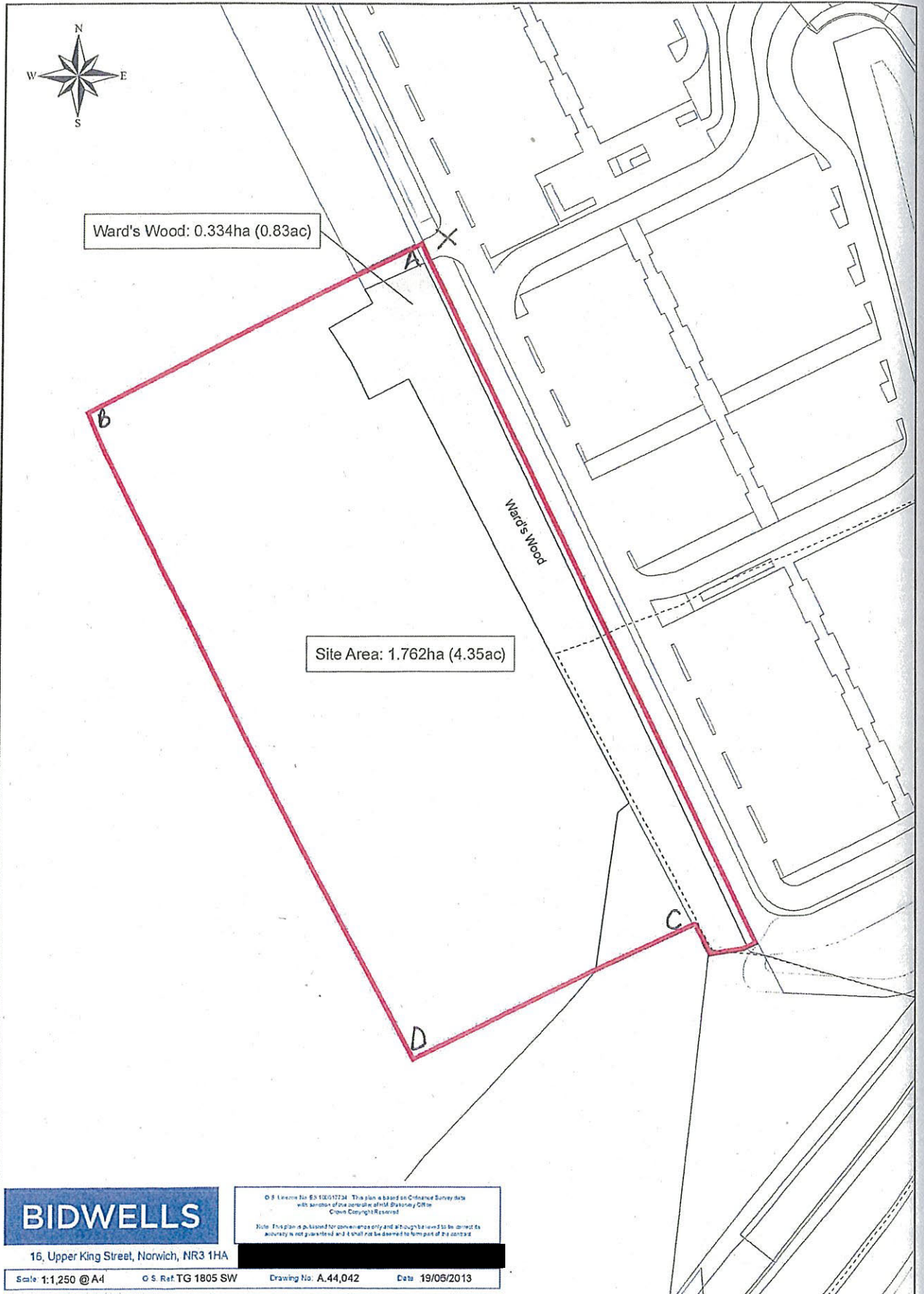
Bidwells LLP  
16 Upper King Street  
Norwich  
NR1 3HA

FAO	John Nash
Telephone	[REDACTED]
Mobile	[REDACTED]
Email	[REDACTED]@bidwells.co.uk
Fax	[REDACTED]

**5 Proposed Tenant**

Norfolk County Council

# Proposed Extension to Thickthorn Park & Ride



**BIDWELLS**

16, Upper King Street, Norwich, NR3 1HA

Scale 1:1,250 @A4

OS Ref: TG 1805 SW

Drawing No. A.44,042

Date 19/05/2013

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Note: This plan is published for convenience only and although believed to be correct, its accuracy is not guaranteed and it shall not be deemed to form part of the contract.



**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride  
Page 2

**BIDWELLS**

**6 Tenant's Solicitors**

Legal Department at Norfolk County Council

**7 Tenant's Agent/Architect**

To be advised

**8 Demise**

All that land at Cringleford being 1.762 hectares (4.35 acres) or thereabouts and adjacent to the existing Thickthorn Park & Ride Site and A11 which is shown for the purposes of identification only edged red on the attached plan

**9 Rent & other outgoings**

Rent premium of £1.00 (One Pound) (if demanded) and peppercorn thereafter for the initial number of car parking spaces as per the proposed design.

An annual rent calculated at open market value will be due to be paid by the Tenant to the Landlord should the number of car parking spaces be increased within the demise during the Term

The Tenant is to be responsible for all rates charges taxes assessments duties impositions and outgoings whatsoever which are now or shall during the Term be assessed charged imposed upon or payable in respect of the Premises

**10 Term**

\_\_\_ years expiring on 31 July 2031

**11 Break Option**

11.1 If the construction of the Park & Ride Site has not been completed within 3 years from the signing of the Lease the Term shall automatically determine but without prejudice to the Landlord's rights in respect of any prior breach of the Tenant's obligations

11.2 If the Term is determined then all planning consents obtained/granted in connection with the construction of the Park & Ride extension will, for no consideration, pass to the Landlord

**12 Rent Payment Date**

On signing of Lease



**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride  
Page 3

**BIDWELLS**

**13 Timing**

In accordance with the Planning Obligation Deed dated \_\_\_\_\_ in accordance with Section 106 of the T&CP Act 1990

**14 Alterations and Brief Description of Works**

14.1 The construction of a car park to include earthworks pavements drainage the provision of all services road lighting building construction close circuit television and alarms installation of ticket machines automatic barriers and all the Accommodation Works (to be defined in the Lease) tree planting and landscaping and other associated works. The construction of link road(s) pavements walkways from/to the existing park & ride site and all associated Accommodation Works and alterations to existing fencing, pavements and roads.

14.2 Save for the works permitted not to erect any buildings or carry out any works alterations development redevelopment rebuilding demolition or reconstruction of the premises or any building(s) on the premises without the Landlord's written consent which shall not be unreasonable withheld or delayed

14.3 The Tenant is to be responsible for all construction costs specified above and in addition provision of adequate drainage facilities away from the site and maintenance of such for duration of the Lease

Carrying out of the Works

14.4 The works shall commence within 12 months of the Lease being completed. The Tenant shall notify the Landlord in writing of the date of commencement of the works

14.5 Subject to all Approvals and Consents being obtained and continuing the Tenant shall at its own expense diligently carry out and complete the works no later than the estimated completion date

14.6 The estimated completion date is the date falling 12 months after the commencement of the Works except for those works relating to landscaping and planting which will be completed in the next appropriate planting season

14.7 The Landlord's Agents will upon notification from the Tenant that the works have been completed inspect the Premises and issue to the Landlord a certificate to that effect and supply a copy to the Tenant together with a schedule of the Works (if any) not completed

14.8 On completion of the Works the Tenant shall remove from the Premises all rubbish and all building and other materials and equipment



**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride  
Page 4

**BIDWELLS**

14.9 Within 3 months after completion the Tenant shall supply to the Landlord a complete set of "as built" plans and drawings in relation to the Works including drainage plans off the site.

14.10 During the progress of the Works the Tenant shall take all necessary measures and precautions to protect the works from damage by fire and keep the Premises secure against trespassers

Approvals

14.11 The Tenant shall obtain all approvals and supply to the Landlord a copy of every application for any Approval (with a copy of all accompanying drawings and other documents) and a copy of every Approval obtained

14.12 The Tenant shall not without the prior written consent of the Landlord vary any Approval or of any condition attached to an Approval

**15 Repair**

The Tenant is to:-

15.1 Repair and keep the Premises in good and substantial repair and condition for the duration of the term

15.2 Keep any buildings erected on the Premises wind and watertight and to carry out all necessary repairs which are in the nature of routine maintenance.

15.3 Keep the Premises in a clean and tidy condition and clear of all rubbish

15.4 Regularly inspect and maintain that part of the tree belt known as Ward's Wood (shaded green on the attached plan and measuring 0.334 hectares or thereabouts) in a safe condition removing any dead or decaying trees as appropriate and replacing the same with English Natural Broadleaf Trees in accordance with Forestry Commission guidelines relevant at the time.

15.5 Give written notice to the Landlord of any defects or items requiring repair in the Premises which might give rise to a duty imposed by common law or statute on the Landlord in favour of the Tenant or any other person forthwith upon the same coming to the attention of the Tenant or those deriving title under it and to indemnify the Landlord against any breach of any such liability

15.6 Keep all landscaped or other cultivated areas within the premises properly tended cultivated mown maintained weeded and stocked with suitable shrubs trees hedges bushes plants



**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride

Page 5

**BIDWELLS**

including without limitation keeping the same cut trimmed and where necessary replaced. For the avoidance of doubt this is to include the maintenance of the woodland belt known as Ward's Wood.

15.7 Keep all roads drives walks paths of the Premises clean and tidy and edged where necessary and all the hedges neatly and properly trimmed

**16 Easements**

16.1 The Tenant is to use its reasonable endeavours to prevent any easement or right belonging to the Premises from being lost. Current easements affecting the property will be set out in a Schedule to the Lease.

16.2 The Tenant shall take all reasonable steps to prevent any encroachment on the Premises or the acquisition of any easement over the Premises and shall notify the Landlord of such an occurrence

**17 Delivery at end of Term**

17.1 At the term date or sooner if the Lease is forfeited the Tenant is to yield up the premises in repair with reversion of the premises to the Landlord freehold with all existing facilities.

17.2 Unless directed otherwise by the Landlord the Tenant is to remove any additions or alterations made to the Premises other than those made under the Lease and any advertisements or signs erected on or near the Premises and to make good any damage caused by such removal and the removal of Tenant's fixtures

**18 Permitted Use**

18.1 The Tenant is not to use the premises or any part otherwise than as a park and ride facility serving the City of Norwich ("The Main Use")

18.2 As ancillary thereto (not more than 15% of that part of the site area of the Premises which is appropriated for car parking) the Tenant may use the site for car parking for employees of the Tenant and any other use which exists on more than 50% of comparable sites to the Premises where such other use is permitted without any additional payment to the Landlord and in addition the Tenant is:

18.2.1 Not to use any part of the Premises this is a landscaped or cultivated area other than as visual amenity

18.2.2 Not to use any part of the Premises which is a road hard standing or assembly area other than for such purposes

**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride  
Page 6

**BIDWELLS**

18.2.3 Not to use any part of the Premises which is a forecourt or car park other than for the parking of private motor vehicles and buses and not to allow any vehicle or other form of transport or any caravan horsebox trailer boat or like chattel to be parked permanently on any part of the Premises

Other restrictions on use

18.2.4 Not to hold any sale by auction on the Premises

18.2.5 Not to permit any person either to sleep in the Premises or to use the Premises for any residential or illegal or immoral purpose

18.2.6 Not to allow to pass into the sewers drains drainage system or groundwater serving the Premises any noxious or deleterious effluent or other substance which may cause an obstruction or damage thereto and to make good any such obstruction or damage caused thereto

18.2.7 Ensure that any skips brought onto the Premises are kept tidy and proper and adequate arrangements are made for the frequent removal of all skips and trade and other waste

18.2.8 Not to erect any pole flagpole mast aerial satellite dish awning on the Premises unless required for the operation of the Main Use

18.2.9 Not to affix or erect on any part of the Premises any sign placard fascia board bunting or advertisement except those required for the operation of the Main Use

18.2.10 Not to fell and remove any trees or timber in Ward's Wood for commercial purposes unless approved in writing by the Landlord

18.3 The Tenant is not to use or occupy the Premises or permit or suffer the Premises to be used or occupied until the Accommodation Works (to be defined in the Lease) and the Works specified below other than landscaping and the construction of any service building have been carried out and substantially completed to the reasonable satisfaction of the Landlord

18.4 The Main Use of the Premises shall commence within 4 weeks of a Certificate date of substantial completion and continue without interruption for the remainder of the Term. If at any time after the Certificate date the Tenant shall cease to use the Premises for the Main Use for a period of 3 months the Term shall automatically determine but without prejudice to the Landlord's rights in respect of any prior breach of the Tenant's obligations unless the cause of such cessation



**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride  
Page 7

**BIDWELLS**

is beyond the control of the Tenant in which case the Term shall not determine provided that the use of the Premises for the Main Use recommences within a period of 9 months

**19 Conditions**

The right for the Landlord and their successors in Title to pass and repass over the roadways on the premises to and from the public highway on foot or with vehicle for all purposes of obtaining access to and from the Landlord's adjacent property between points A to B and C to D from the existing P&R site on the attached Plan. The access point ("X" on attached plan) from the existing park & ride to the park & ride extension is to be maintained. The Tenant is to erect two pairs of metal gates of a total span each of 6 metres on the perimeter fence one at Point B and the other at Point D on the attached plan to enable the Landlord to access his adjacent property.

**20 Insurance**

The Tenant is to insure and keep insured the Premises against:

20.1 Risk of loss or damage by the Insured Risks in the full cost of reinstatement and for the Landlord's interest to be noted on the policy.

20.2 The Landlord's and the Tenant's 3<sup>rd</sup> party public and occupiers' liability risks in a sum approved by the Landlord and to hold the benefit of the policy on behalf of both parties jointly or in their respective proportions

**Exclusion of Liability**

20.3 The Landlord shall not be responsible to the Tenant or anyone at the Premises for any accident happening or injury suffered or for any damage to or loss of any chattel sustained in the Premises

**21 Alienation**

21.1 The Tenant is not to assign underlet charge hold on trust for another or otherwise part with or share possession or occupation of the premises or any part thereof

21.2 The Tenant shall be entitled to assign to any person or body which any statute statutory instrument regulation or order requires provided that no such assignment shall take place without the obtaining of a valid declaration excluding Sections 24 to 28 (inclusive) of Part II of the 1954 Act in relation to the tenancy to be created.

**Heads of Terms (Subject to Contract)**

1.762 ha (4.35 acres) of land at Cringleford adjacent to Thickthorn Park & Ride  
Page 8

**BIDWELLS**

21.3 The Tenant shall be entitled to employ a contractor or other operator to manage the Premises provided that the terms of any contract or management agreement are first approved in writing by the Landlord and that no relationship of Landlord and Tenant is thereby created

**22 Costs**

The Tenant is to pay to the Landlord on demand and indemnify the Landlord against all reasonable costs fees damages charges and expenses (including those of agents bailiffs and professional advisors) properly incurred or suffered by the Landlord in connection with or incidental to:

22.1 The application by the Tenant or any person deriving title under the Tenant in connection with the Premises whether or not such application proceeds or is granted or refused or granted subject to conditions

22.2 The obtaining of all approvals and consents certificates and other matters in the relation to the Works at the Premises

22.3 The preparation and service of a notice or any steps taken requiring the Tenant to remedy any of the Tenant's obligations

22.4 The preparation and service of a schedule of dilapidations

22.5 The recovery of any sums due from the Tenant

**23 Exceptions and Reservations**

23.1 The detailed exceptions and reservations will be specified in the Lease. This will include the ability for the Landlord to use the adjacent property as currently enjoyed, protecting all existing rights.

23.2 The Landlord and those authorised by the Landlord shall be permitted at all reasonable times and on reasonable notice (except in case of emergency) to enter the Premises in order to ascertain whether the Tenant has complied with his obligations, execute repairs or other works to any neighbouring property inspect repair renew connect to cleanse move relay or construct existing or new conduits in over or under the Premises serving or to serve any neighbouring property

**PART 19**  
**The School Sites and Contingency Sites Plan**

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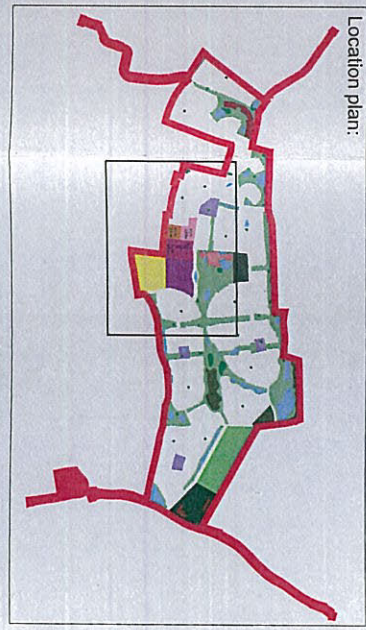
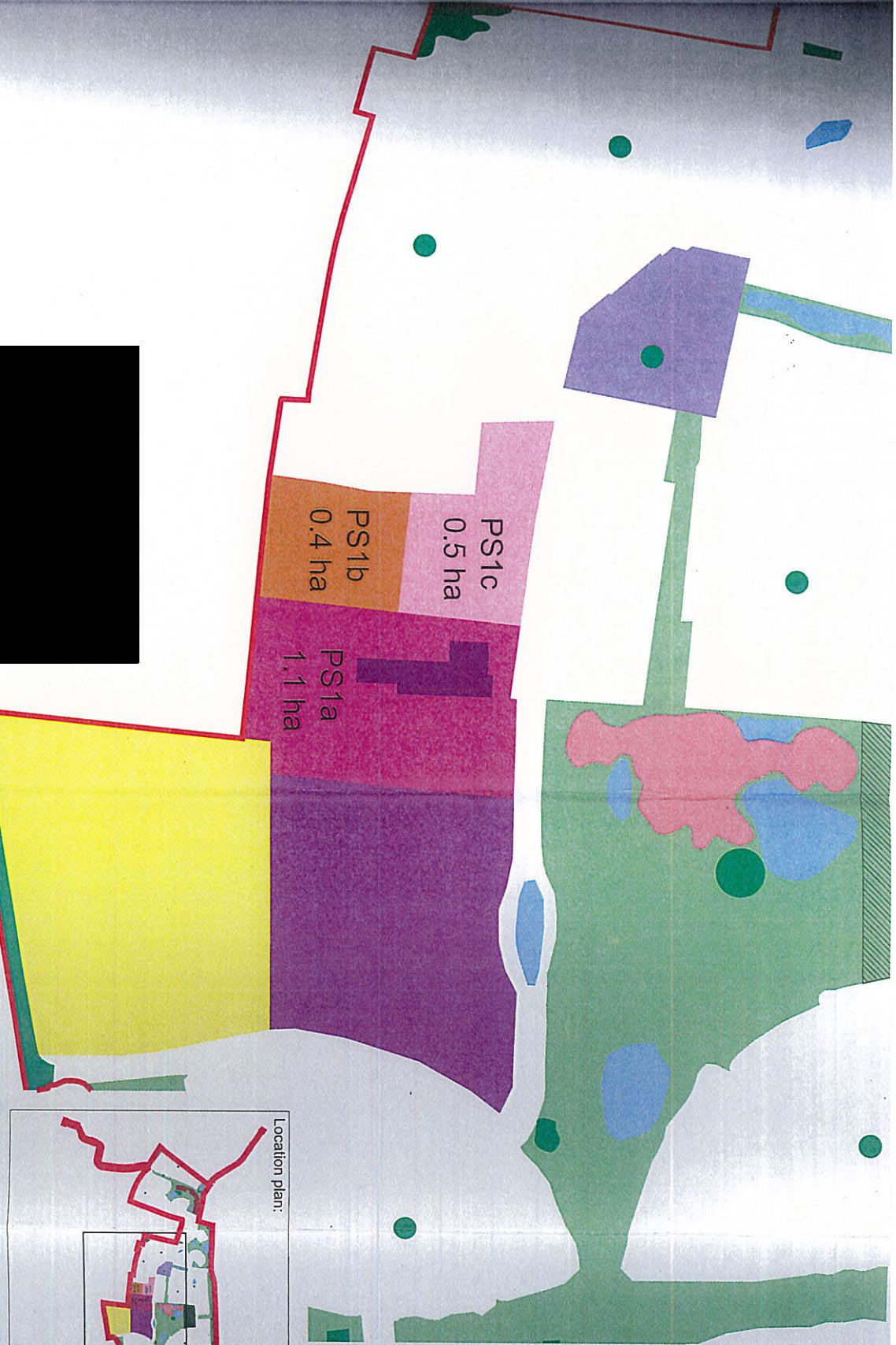


DO NOT SCALE FROM THIS DRAWING.  
 ALL CONTRACTORS MUST VISIT THE SITE AND BE RESPONSIBLE FOR TAKING AND CHECKING DIMENSIONS. ALL CONSTRUCTION INFORMATION SHOULD BE TAKEN FROM FIGURED DIMENSIONS ONLY.  
 ANY DISCREPANCIES BETWEEN DRAWINGS, SPECIFICATIONS AND SITE CONDITIONS MUST BE BROUGHT TO THE ATTENTION OF THE SUPERVISING OFFICER.  
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REVISIONS

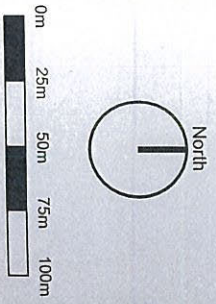
Date	Rev	Description



**Hethersett Land**



- Application Boundary
- Developable Land & Roads
- Informal Leisure
- Formal Children's Play
- Allotments & Community Gardens
- Public Open Space
- Possible Secondary School Extension (contingency)
- Secondary School Extension
- Attenuation Areas
- Amenity woodland
- PS1a: Primary School Grounds 1 form entry
- PS1b: Primary school grounds for 1.5 form entry (in addition to PS1a)
- PS1c: Primary school grounds for 2 form entry (in addition to PS1a and PS1b)

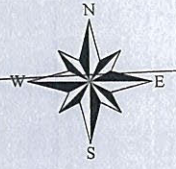


22-23 Great Station Street, London, EC1V 0DN  
 Project: **Hethersett North**  
 Drawing Title: **Primary school parcel s106**

John Thompson & Partners  
 Job Ref: **00248** Drawn: **AKS** Date: **17/04/2013**  
 Scale: **1:1250** Checked by: **SR** Revision: **110**



# Hethersett Land - Primary School Land



Area: 2.002ha (4.95ac)

**BIDWELLS**

Trumpington Road, Cambridge CB2 9LD

Scale: 1:2,500 @ A4

O.S. Ref: TG 1505

O.S. Licence No: ES 100017734 This plan is based on Ordnance Survey data with sanction of the controller of HM Stationery Office. Crown Copyright Reserved.

Note: This plan is published for convenience only and although believed to be correct its accuracy is not guaranteed and it shall not be deemed to form part of the contract.

Drawing No: A.43.842

Date: 03/05/2013



# Hethersett - Primary School Land



PS1a area:  
1.096ha (2.71ac)

**BIDWELLS**

Trumpington Road, Cambridge CB2 9LD

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Note: This plan is published for convenience only and although believed to be correct its accuracy is not guaranteed and it shall not be deemed to form part of the contract.

Scale: 1:2,500 @ A4

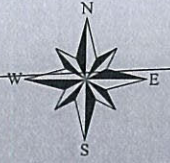
O.S. Ref: TG 1505

Drawing No: A.43,842a

Date: 08/05/2013



# Hethersett - Primary School Extension Land



PS1b area:  
0.408ha (1.01ac)

**BIDWELLS**

Trumpington Road, Cambridge CB2 9LD

O.S. Licence No: ES 100017734 This plan is based on Ordnance Survey data with sanction of the controller of HM Stationery Office.  
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Note: This plan is published for convenience only and although believed to be correct its accuracy is not guaranteed and it shall not be deemed to form part of the contract.

Scale: 1:2,500 @ A4

O.S. Ref: TG 1505

Drawing No: A.43,842b

Date: 08/05/2013



# Hethersett - Primary School Option Land



PS1c area:  
0.499ha (1.23ac)

**BIDWELLS**

Trumpington Road, Cambridge CB2 9LD

Scale: 1:2,500 @ A4

O.S. Ref: TG 1505

O.S. Licence No: ES 100017734 This plan is based on Ordnance Survey data with sanction of the controller of HM Stationery Office. Crown Copyright Reserved.

Note: This plan is published for convenience only and although believed to be correct its accuracy is not guaranteed and it shall not be deemed to form part of the contract.

Drawing No: A.43,842c

Date: 08/05/2013



# Hethersett Land - Secondary School Extension Land



Area: 2.004ha (4.95ac)

**BIDWELLS**

Trumpington Road, Cambridge CB2 9LD

O.S. Licence No: ES 100017734 This plan is based on Ordnance Survey data with sanction of the controller of HM Stationery Office. Crown Copyright Reserved.

Note: This plan is published for convenience only and although believed to be correct its accuracy is not guaranteed and it shall not be deemed to form part of the contract.

Scale: 1:2,500 @ A4

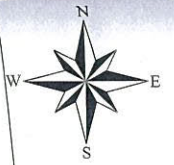
O.S. Ref: TG 1505

Drawing No: A.43,844

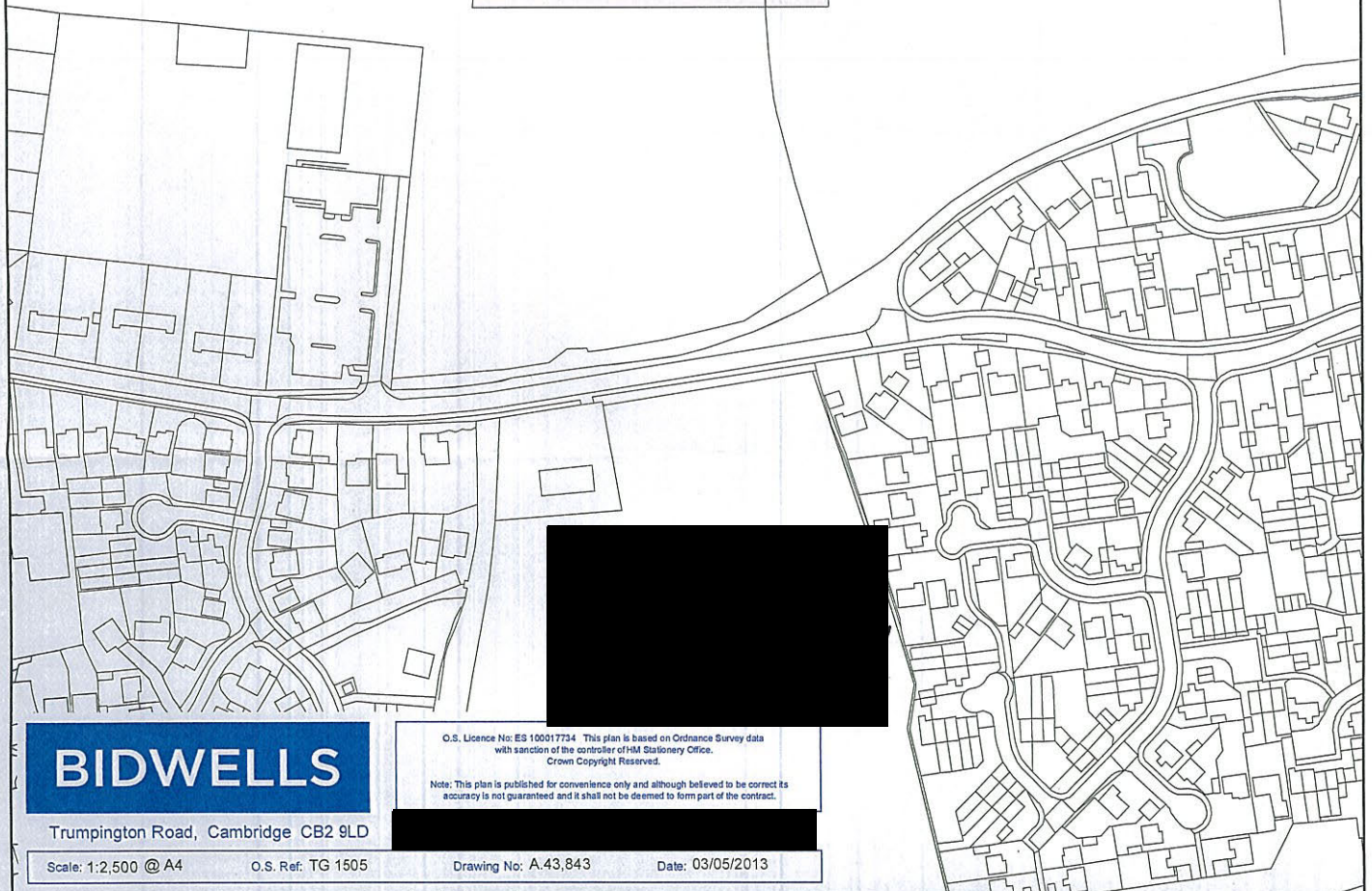
Date: 03/05/2013



# Hethersett Land - Possible Secondary School Land



Area: 1.563ha (3.86ac)



**BIDWELLS**

Trumpington Road, Cambridge CB2 9LD

O.S. Licence No: ES 100017734 This plan is based on Ordnance Survey data with sanction of the controller of HM Stationery Office. Crown Copyright Reserved.

Note: This plan is published for convenience only and although believed to be correct its accuracy is not guaranteed and it shall not be deemed to form part of the contract.

Scale: 1:2,500 @ A4

O.S. Ref. TG 1505

Drawing No: A.43,843

Date: 03/05/2013

**APPENDIX A**  
**Affordable Housing Option**

(Page not used)

DATED

201[ ]

(1) [ ] LIMITED

AND

(2) SOUTH NORFOLK DISTRICT COUNCIL

---

OPTION AGREEMENT

relating to land at North Hethersett [ ]

---

Ref: JDM/32773.2/RDF

---

Minerva House  
5 Montague Close  
London SE1 9BB  
DX: 156810 London Bridge 6

**Winckworth  
Sherwood**

Solicitors and  
Parliamentary Agents

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THIS OPTION AGREEMENT is made

201[ ]

BETWEEN

- (1) [ ] whose registered office is at [ ]  
[ ] (Company registration number [ ]) ("**Seller**"); and
- (2) **SOUTH NORFOLK DISTRICT COUNCIL** whose address is at South Norfolk House,  
Swan Lane, Long Stratton, Norfolk NR15 2XE ("**Buyer**").

It is agreed:

## 1 DEFINITIONS

In this agreement the following expressions shall have the following meanings:

- "Actual Completion" means the date on which Completion actually takes place;
- "Affordable Housing" has the meaning given to that phrase in the S106 Agreement;
- "Base Figure" means the figure in the Index for the month immediately preceding the date of this agreement;
- "Base Price" means four hundred and fifty thousand pounds (£450,000) per Net Developable Acre;
- "Buyback Agreement" means an option agreement in the form annexed at Schedule 4 of this agreement to re-purchase a Property from the Buyer on the terms as set out in that option agreement;
- "Buyer's Solicitors" [ ] (ref: [ ]);



"Completion"	means the completion of the sale of a Property pursuant to this agreement;
"Completion Date"	means the date 28 Working Days from and including the date of an Option Notice;
"Contract Terms"	means the terms of the sale and purchase of a Property incorporated into this agreement at Schedule 1 and which shall become effective on Exercise but not otherwise;
"Current Figure"	means the figure in the Index for the month immediately preceding the relevant Completion Date;
"Exercise"	means the giving of an Option Notice;
"Fully Serviced"	means with suitable access to the adopted highway and provided to the boundary of the site with surface water and foul water drainage and gas, water, electricity and telecommunication services of a sufficient capacity for the intended use of the site
"Index"	means the Consumer Prices Index or any official index replacing it;
"Interest Rate"	means four per centum above the published base rate from time to time of Lloyds Bank Plc;
"Land"	means the land in the ownership of the Owners as set out in Schedule 3;
"Net Developable Acre"	means a gross area of one acre of land which is Fully Serviced land capable of being developed as Affordable Housing and which is not land required for:

(a) distributor roads and the sections of any other roads to which no building plot is intended to have direct access (and related footpaths cycletracks roundabouts road junctions and splay areas) and other strategic footpaths and cycletracks

(b) strategic landscaping (ie major areas of public open space including areas defined by the local planning authority as local areas of play)

(c) areas required for retention of storm water or works in association with land drainage and management of surface water or foul drainage or electricity substations or gas governors

(d) education or other public amenity use where the Transferee is required as a condition of any planning permission (or statutory agreement) to dedicate or transfer land free of consideration to a public authority or management company for the general benefit of the public or a sector of it

(e) such other uses which the parties agree (acting reasonably) prevent the land from being capable of development for the purpose of Affordable Housing

"Option Fee"

means £10.00;

"Option Land"

means the land which is the subject of a Seller's Notice;

"Option Notice"

means written notice served by the Buyer (or by the Buyer's Solicitors on behalf of the Buyer) on the Seller (or on the Seller's Solicitors on behalf of the Seller) within the relevant Option Period and requiring the

	sale to the Buyer of any single part of the relevant Option Land;
"Option Period"	means each period of 10 weeks commencing on the date of the relevant Seller's Notice;
"Owner"	means each of the owners of the Land as set out in Schedule 3;
"Phase"	has the meaning given to that phrase in the S106 Agreement and "Phase 1" shall be construed as the first phase undertaken and completed in accordance with the S106 Agreement and "Phase 5" shall be the last phase undertaken and completed in accordance with the S106 Agreement;
"Phase Commencement Date"	means the date of commencement of development of a Phase (excluding Phase 1);
"Phase Completion Date"	means the date of practical completion of a Phase;
"Phase 1 Completion Date"	means the date of practical completion of Phase 1 and
	"Phase 2 Completion Date" and/or "Phase 3 Completion Date" etc. shall be interpreted accordingly;
"Price"	means the price for a Property as calculated in accordance with the provisions of clause 8;
"Plan"	means the plan attached to this agreement;
"Property"	means that part of the Option Land the subject of an Option Notice;
"S106 Agreement"	means an agreement entered into pursuant to section 106 of the Town and Country Planning Act 1990 made

between [(1) South Norfolk District Council (2) Norfolk County Council (3) Barclays Bank Plc (4) D Acloque and WDW Barr (5) SH Back (6) CAS Baker and DJS Baker (7) GF Evans-Lombe, GRL Spackman and JPN Learmond (8) C Hoare & Co (9) CJ Watt, JC Mackintosh, HD Watt and GC Mackintosh and dated [ ] 2013];

- "Seller" includes the Seller's successors in title and assigns;
- "Seller's Notice" means the written notice served by the Seller in accordance with the provisions of clause 3 and which shall include the following wording " Pursuant to and with eference to the S.106 Planning Obligation Deed dated.....relating to Planning Application No. 2011/1804 O" ;
- "Seller's Solicitors" means Winckworth Sherwood LLP of Minerva House, 5 Montague Close, London SE1 9BB (Ref: JDM/3277.2/RDF);
- "Standard Conditions" means the Standard Commercial Property Conditions of Sale (Second Edition);
- "Title Matters" means all matters affecting the Land referred to in Schedule 1 or in the document specified therein;
- "Title" means the relevant Land Registry Title Number for a Property as referred to in Schedule 3;
- "Transfer" means the transfer of the Property to the Buyer;
- "VAT Act" means the Value Added Tax Act 1994;

"VAT"

means value added tax and includes any similar tax whether in substitution for or in addition to value added tax and any reference to VAT "on" a supply or sum means VAT chargeable in respect of or by reference to or as a result of such supply or sum and the amount of a Price or other sum specified in the provisions of the Contract Terms shall unless expressly stated to the contrary be deemed to be exclusive of any VAT;

"Working Day"

means a day other than Saturday, Sunday or a day on which banks are authorised to close in London for general banking business.

## **2 INTERPRETATION**

- 2.1 References in this agreement to any clause sub-clause or schedule without further designation shall be construed as a reference to a clause sub-clause in or schedule to this agreement.
- 2.2 The clause sub-clause and paragraph headings do not form part of this agreement and shall not be taken into account in their construction or interpretation.
- 2.3 In this agreement unless the context otherwise requires:
- 2.3.1 any obligation by a party comprising more than one person is joint and several;
  - 2.3.2 any word importing an individual includes a company and vice versa;
  - 2.3.3 words importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa;
  - 2.3.4 any obligation on a party not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done; and

2.3.5 any reference to a statute or statutory instrument (whether specifically named or not) includes any amendment or re-enactment thereof for the time being in force and any instrument order notice regulation bye-law direct consent or permission for the time being issued made or given thereunder or deriving validity therefrom (and for the avoidance of doubt in the case of VAT Act this shall include any directives and regulations adopted by the Council of the European Community and which relate to VAT).

2.4 The Interpretation Act 1978 shall apply as if the provisions hereof were contained in an Act of Parliament.

2.5 This agreement shall be governed by and construed in all respects in accordance with the laws of England and the Courts of England shall have exclusive jurisdiction in connection with any dispute arising hereunder.

### 3 SELLER'S NOTICE

3.1 Prior to each Phase Commencement Date, <sup>for each Phase other than Phase One</sup> the Seller shall serve on the Buyer a written notice (the "**Seller's Notice**") confirming to the Buyer <sup>that</sup> ~~which~~ part or parts of the Land <sup>totalling 2 acres which</sup> shall (subject to the provisions of clause 3.2) be the subject of the Option for the purposes of that Phase (the "**Option Land**").

3.2 The Seller shall in its absolute discretion select the location of the Option Land for a Phase and <sup>for the avoidance of doubt no Option Land shall be located in Phase One.</sup>

3.3 Notwithstanding the provisions of Clauses 3.1 and 3.2 above <sup>(and for clarity and the avoidance of doubt) at least 20% of the Dwelling Units will be provided as Affordable Housing in all Phases (including Phase One) in addition to any Affordable Housing that might be built on the Option Land</sup>

### 4 GRANT OF OPTION

4.1 In consideration of the Option Fee paid by the Buyer to the Seller (receipt of which the Seller hereby acknowledges) the Seller hereby grants to the Buyer the option, exercised by the Buyer serving an Option Notice on the Seller on each occasion and in accordance with the provisions of his agreement, to make the Contract Terms effective and binding between the parties hereto in respect of the relevant Option Land (or such part or parts of it as the Buyer wishes to purchase) on each such occasion.

- 6
- 7
- 4.2 The Buyer shall be entitled (but not obliged) to serve one (but only one) Option Notice during any one Option Period. Time shall be of the essence for the service of any Option Notice in the relevant Option Period.
- 4.3 The Option Notice shall state which part or parts of the Option Land the Buyer wishes to purchase provided that each separate area of such land shall be a minimum of one Net Developable Acre in size.
- 4.4 An Option Notice shall only be valid if it:
- 4.4.1 is served upon the Seller or the Seller's Solicitors at their offices specified above; and
- 4.4.2 is served on and received by the Seller or the Seller's Solicitors within the relevant Option Period (time being of the essence).
- 4.5 Without limiting any other method of service an Option Notice shall be deemed to have been received by the Seller or the Seller's Solicitors if and when it is actually delivered to the relevant one of their offices specified above.
- 4.6 The Option Fee shall not form part of any Price payable under the Contract Terms.

## 5 MISCELLANEOUS

The Seller will (and will instruct the Seller's Solicitors to) reply properly to:

- 5.1 [any reasonable preliminary enquiries relating to the Property which the Buyer's Solicitors may raise before service of an Option Notice (in so far as such enquiries have not been raised and answered before service of such Option Notice); and]
- 5.2 reasonable requisitions on title relating to the Property which the Buyer's Solicitors may raise after service of an Option Notice.

**6 DEALINGS**

The Buyer shall not be entitled to assign, transfer or charge the benefit of this agreement.

**7 LAPSE OF OPTION**

If the Buyer does not serve an Option Notice within the relevant Option Period (time being of the essence), the Buyer's right in clause 3.2 shall cease to have effect in respect of the relevant Phase and the Buyer shall promptly cancel any entry which it may have made in respect of the relevant Option Land at The Land Registry and the Buyer hereby gives authority to the Seller to do so on its behalf.

**8 PRICE**

The Price shall be calculated at the Completion Date by using the following formula:

$$P = Ax \left( \frac{CF}{BF} \times BP \right)$$

where:

**P** = the Price

**A** = the size of the Property in Net Developable Acres (to the nearest two decimal places);

**BF** = Base Figure;

**CF** = Current Figure; and

**BP** = Base Price.



## **9 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

- 9.1 Unless the right of the enforcement is expressly provided it is not intended that a third party should have the right to enforce any term of this agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act.
- 9.2 The parties may by agreement rescind or vary this agreement without the consent of a third party to whom the rights of enforcements of any of its terms has been expressly provided.

## **10 NOTICES**

Subject to the provisions of clauses 4.4 and 4.5:

- 10.1 all notices and proceedings under or related to this agreement may be validly served on the Buyer if delivered to the Buyer's address set out in the agreement or such other address in England as shall from time to time be notified in writing to the Seller or the Seller's Solicitors; and
- 10.2 all notices under this agreement may be validly served on the Seller or the Buyer if delivered or sent by facsimile transmission to the Seller's Solicitors or the Buyer's Solicitors respectively or alternatively sent by DX to the Seller or Seller's Solicitors.

## **11 CONFIDENTIALITY**

Neither the Buyer nor the Seller shall without the written consent of the other may cause or permit to be made any press or public announcement in relation to the sale hereby effected save as may be required by law or by any requirement of the Stock Exchange.

## **12 NON-MERGER**

The provisions of this agreement shall remain in full force and effect (notwithstanding completion of a Transfer) to the extent that they remain to be complied with.

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13 ENTIRE CONTRACT

13.1 The parties acknowledge that this contract and any document annexed to it contain all the express terms of the contract between them for the sale and purchase of the Property.

13.2 The Buyer acknowledges that:

13.2.1 except for the written replies made by the Seller's Solicitors to the formal written pre-contract enquiries made by the Buyer's Solicitors, it has not relied on or taken into account any statement or representation made by or on behalf of the Seller, whether written or oral (and including any made negligently) in deciding to enter into this contract; and

13.2.2 it shall not be entitled to make any requisition or claim in respect of the state of repair or condition of the Property or the compliance or non-compliance of the Property or its use with any legislation.

13.3 Condition 9.1.1 is varied to read, "If any plan or statement in the contract or in the written replies made by the Seller's Solicitors to any formal written enquiry made by the Buyer's Solicitors before the date of this contract is or was misleading or inaccurate due to any error or omission the remedies (including any remedy based on negligence) available are as follows".

13.4 Nothing in this clause 13 will operate to limit or exclude any liability for fraud.

This agreement has been entered into on the date stated at the beginning of it.

SIGNED and DELIVERED by )  
the said [ ] )  
as his Deed in the presence of: )

THE COMMON SEAL of )  
SOUTH NORFOLK DISTRICT )  
COUNCIL was hereunto affixed )

to this Deed in the presence of: )

\_\_\_\_\_

\_\_\_\_\_

Officer of the relevant service



**SCHEDULE 1**  
**(Contract Terms)**

**1 SALE AND PRICE**

The Seller shall sell [(or procure the sale of)] and the Buyer shall purchase the Property at the Price.

**2 BALANCE OF PRICE**

The Price shall be paid on Completion in sterling.

**3 TITLE**

3.1 In the Transfer to the Buyer the Seller shall be expressed to transfer the Property subject to the Title Matters.

3.2 The Seller's title has been deduced prior to the date hereof and no objection or requisition shall be made or raised in respect of such title.

3.3 [On completion the Buyer shall discharge and release the Seller from the Legal Charge.]

**4 MATTERS AFFECTING THE PROPERTY**

The Property is sold subject to and (where appropriate) with the benefit of:

4.1 the Title Matters;

4.2 all local land charges and matters capable of registration as local land charges (whether so registered or not) and all development plans, town planning and other schemes proposals resolutions orders or requirements affecting the same in any way whatsoever and any notices given by any local or other competent

authority but for the avoidance of doubt, the owner's liabilities for contributions under the S.106 Agreement shall not pass to the Buyer or its successors in title under this sale

- 4.3 copies of the Title Matters (or such other evidence thereof which the Seller may have) having been with the Buyer or the Buyer's Solicitors prior to the signing hereof (as the Buyer hereby admits) the Buyer shall be deemed to purchase with full knowledge thereof and shall raise no objection or requisition in respect thereof or in respect of any matters revealed therein.

## **5 POSSESSION**

The Property is sold with vacant possession on Completion.

## **6 COMPLETION**

- 6.1 Completion shall take place prior to 14.00 p.m. on a Completion Date.
- 6.2 The Seller shall not be obliged to complete the purchase of the Property at any time whilst the Buyer is in material breach of any of its obligations hereunder.
- 6.3 If the Seller shall agree to Completion by post then Completion shall be at the Buyer's expense and risk in all respects and unless otherwise requested by and at the cost of the Buyer the Seller's Solicitors shall be entitled to post any documents to the Buyer's Solicitors by unregistered post and uninsured or through a document exchange of which the Buyer's Solicitors are members and provided the same were properly addressed neither the Seller nor the Seller's Solicitors shall be liable for their subsequent loss in transit.
- 6.4 The amount payable on Completion is the Price plus or minus any other sum due from either party to the other under the provisions hereof.
- 6.5 On each Completion the Buyer and the Seller shall enter into a Buyback Agreement.

## **7 TRANSFER**

7.1 The Transfer to the Buyer shall include a covenant by the Buyer with the Seller that the Buyer will at all times thereafter:

7.1.1 not use the Property other than for the purposes of Affordable Housing;

7.1.2 (by way of indemnity only) duly perform all the covenants conditions and obligations binding upon the Seller and arising under or referred to in the Title Matters;

7.1.3 save harmless and keep indemnified the Seller and the Seller's estate and effects from and against all actions proceedings costs claims demands or liabilities in respect of any future breach non-observance or non-performance of the said covenants conditions and obligations or any of them.

7.2 The Transfer shall at the cost of the Buyer be engrossed and executed in duplicate and the duplicate copy shall be delivered to the Seller's Solicitors within 15 Working Days of Actual Completion for retention by the Seller.

## **8 REGISTRATION**

The Buyer shall not be entitled to note this agreement against the Seller's title other than by unilateral notice and shall not without the consent of the Seller send this agreement or a copy of it to the Land Registry.

## **9 ACKNOWLEDGEMENTS**

9.1 The Seller and the Buyer respectively acknowledge that this agreement (together with any document or documents):

9.1.1 signed by or on behalf of the parties hereto;

9.1.2 expressed to be supplemental to this agreement; and

9.1.3 exchanged or made simultaneously with the exchange or making of this agreement),

shall constitute and form the entire contract between the Seller and the Buyer to the exclusion of any antecedent statement or representation whether oral written or implied or whether contained in any advertisement particulars or other matters issued or in any correspondence entered into by the Seller or the Seller's servants or agents and the Buyer hereby acknowledges that the Buyer has not entered into this agreement in reliance upon any such statement or representation other than those (if any) which may have been given by the Seller's Solicitors in any written reply to any enquiry made by the Buyer's Solicitors prior to the signing hereof.

9.2 The Property is sold in its present state of repair and condition and the Buyer shall be deemed to have full notice and knowledge thereof and shall raise no objections or requisitions in respect thereof and shall take the Property as it stands. The parties agree that all risks associated directly or indirectly with the Property or the state and condition of the Property pass to the Buyer on the date of this agreement.

9.3 The Buyer acknowledges that it has inspected the Property, has had the opportunity (and the Seller's permission) to undertake its own investigations and surveys into the state and condition of the Property (both above and below ground) and has satisfied itself as to the state and condition of the Land and has formed its own view as to the suitability of the Property for the Buyer's purposes.

9.4 The parties agree that the Seller shall not, under any circumstances, be liable for:

9.4.1 the state and condition of the Property, nor

9.4.2 any loss or damage or injury of any kind whatsoever arising from:



(a) the state and condition of the Property, or

(b) any defect in the Property, or

(c) the presence of any substances or materials in, on or under the Property or the escape from the Property at any time of any substances or materials.

9.5 The parties agree that all warranties, conditions and stipulations whatsoever on the part of the Seller as to the state and condition of the Property are excluded and the Buyer accepts full responsibility for its state and condition.

## **10 INSURANCE**

The risk of damage to or destruction of the Property shall be the same as set out in the agreement.

## **11 STANDARD CONDITIONS**

11.1 The Standard Conditions shall be deemed to be incorporated herein and shall apply to the sale (in so far as they are applicable to a sale of a leasehold interest by private treaty and are not modified by inconsistent with or superseded by the terms of these Contract Terms in which case the latter shall prevail).

11.2 The "contract rate" of interest shall be the Interest Rate.

11.3 Standard Conditions 1.5, 2.2.1, 2.2.2, 5.2, 6.3.3, 6.4 and 6.7 shall not apply to this sale.

## **12 [VALUE ADDED TAX**

The Seller may charge VAT on the Price (where applicable) provided that on Completion the Seller delivers a valid VAT invoice to the Buyer.]

**SCHEDULE 2**  
**(Title Matters)**

- 1 All entries in the Property Register of the Title as at [ ]
- 2 All entries in the Charges Register of the Title as at [ ]

**SCHEDULE 3**  
**(The Owners, the Land and Title)**

<b>OWNERS</b>	<b>DESCRIPTION OF THE LAND</b>	<b>TITLE NUMBER(S)</b>	<b>CLASS OF TITLE</b>

**SCHEDULE 4**  
**(Buyback Agreement)**

**Appendix B**  
**Call Option**

(Page not used)

DATED

201[ ]

(1) SOUTH NORFOLK DISTRICT COUNCIL

AND

(2) [ ] LIMITED

---

CALL OPTION AGREEMENT  
relating to land at North Hethersett [ ]

---

Ref: JDM/32773.2/RDF

Minerva House  
5 Montague Close  
London SE1 9BB  
DX: 156810 London Bridge 6

**Winckworth**  
**Sherwood**

Solicitors and  
Parliamentary Agents

THIS CALL OPTION AGREEMENT is made

201[ ]

BETWEEN

- (1) **SOUTH NORFOLK DISTRICT COUNCIL** whose address is at South Norfolk House, Swan Lane, Long Stratton, Norfolk NR15 2XE [ ] whose registered office is at [ ] (Company registration number [ ]) ("**Seller**"); and
- (2) [ ] whose registered office is at [ ] (Company registration number [ ]) ("**Buyer**").

It is agreed:

## 1 DEFINITIONS

In this agreement the following expressions shall have the following meanings:

- "Actual Completion" means the date on which Completion actually takes place;
- "Affordable Housing" has the meaning given to that phrase in the S106 Agreement;
- "Buyer's Solicitors" [ ] (ref: [ ]);
- "Commence Development" means commencement of the development of a Property as Affordable Housing and "Commenced Development" shall be construed accordingly;
- "Completion" means the completion of the sale of the Property pursuant to this agreement;
- "Completion Date" means the date 28 Working Days from and including the date of an Option Notice;





management of surface water or foul drainage or electricity substations or gas governors

(d) education or other public amenity use where the Transferee is required as a condition of any planning permission (or statutory agreement) to dedicate or transfer land free of consideration to a public authority or management company for the general benefit of the public or a sector of it

(e) such other uses which the parties agree (acting reasonably) prevent the land from being capable of development for the purpose of Affordable Housing

"Option Date" means the date as provided for in clause 3.2 of this agreement;

"Option Fee" means £10.00;

"Option Notice" means written notice served by the Buyer (or by the Buyer's Solicitors on behalf of the Buyer) on the Seller (or on the Seller's Solicitors on behalf of the Seller) within the Option Period and requiring the sale to the Buyer of any single part of the Option Land;

"Option Period" means the period of four weeks commencing on the Option Date;

"Price" means:

(a) where the Property is the whole of the Land [*insert price from the transfer of the Property to the Seller*]; or

(b) where the Property is only part of the Land, the sum of four hundred and fifty thousand pounds (£450,000) per Net Developable Acre;

- "Plan" means the plan attached to this agreement;
- "Property" means the whole or such part of the Land as the Buyer shall buy pursuant to Exercise;
- "Purchase Date" means [*the date on which the transfer of the Property to the Seller was completed*];
- "S106 Agreement" means an agreement entered into pursuant to section 106 of the Town and Country Planning Act 1990 made between [(1) South Norfolk District Council (2) Norfolk County Council (3) Barclays Bank Plc (4) D Aclouque and WDW Barr (5) SH Back (6) CAS Baker and DJS Baker (7) GF Evans-Lombe, GRL Spackman and JPN Learmond (8) C Hoare & Co (9) CJ Watt, JC Mackintosh, HD Watt and GC Mackintosh and dated [ ] 2013];
- "Seller" includes the Seller's successors in title and assigns;
- "Seller's Solicitors" means [ ] (Ref: [ ]);
- "Standard Conditions" means the Standard Commercial Property Conditions of Sale (Second Edition);
- "Title Matters" means all matters affecting the Property referred to in Schedule 1 or in the document specified therein;
- "Title" means the Land Registry Title Number [ ];

"Transfer"	means the transfer of the Property to the Buyer;
"VAT Act"	means the Value Added Tax Act 1994;
"VAT"	means value added tax and includes any similar tax whether in substitution for or in addition to value added tax and any reference to VAT "on" a supply or sum means VAT chargeable in respect of or by reference to or as a result of such supply or sum and the amount of the Price or other sum specified in the provisions of the Contract Terms shall unless expressly stated to the contrary be deemed to be exclusive of any VAT;
"Working Day"	means a day other than Saturday, Sunday or a day on which banks are authorised to close in London for general banking business.

## **2 INTERPRETATION**

- 2.1 References in this agreement to any clause sub-clause or schedule without further designation shall be construed as a reference to a clause sub-clause in or schedule to this agreement.
- 2.2 The clause sub-clause and paragraph headings do not form part of this agreement and shall not be taken into account in their construction or interpretation.
- 2.3 In this agreement unless the context otherwise requires:
- 2.3.1 any obligation by a party comprising more than one person is joint and several;
- 2.3.2 any word importing an individual includes a company and vice versa;

- 2.3.3 words importing one gender shall include all other genders and words importing the singular shall include the plural and vice versa;
- 2.3.4 any obligation on a party not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done; and
- 2.3.5 any reference to a statute or statutory instrument (whether specifically named or not) includes any amendment or re-enactment thereof for the time being in force and any instrument order notice regulation bye-law direct consent or permission for the time being issued made or given thereunder or deriving validity therefrom (and for the avoidance of doubt in the case of VAT Act this shall include any directives and regulations adopted by the Council of the European Community and which relate to VAT).
- 2.4 The Interpretation Act 1978 shall apply as if the provisions hereof were contained in an Act of Parliament.
- 2.5 This agreement shall be governed by and construed in all respects in accordance with the laws of England and the Courts of England shall have exclusive jurisdiction in connection with any dispute arising hereunder.

### **3 GRANT OF OPTION**

- 3.1 In consideration of the Option Fee paid by the Buyer to the Seller (receipt of which the Seller hereby acknowledges) the Seller hereby grants to the Buyer the option to make the Contract Terms effective and binding between the parties hereto in respect of the Property, such option to take effect pursuant to clause 3.2. Subject to the provisions of clause 3.2 the option may be exercised by the Buyer serving an Option Notice on the Seller in accordance with the provisions of his agreement.
- 3.2 Subject to the provisions of clause 3.3 the Buyer shall only be entitled to serve an Option Notice if the Seller has not Commenced Development on the Property within 24 months of the Purchase Date. Where the Seller has not

Commenced Development within such 24 month period, the date of expiry of such period shall be the date of commencement of the Option Period (the "Option Date").

3.3 Where the Seller has Commenced Development on part only of the Land, the Property shall be that part of the Land on which at the Option Date the Seller has not Commenced Development.

3.4 The Buyer shall be entitled (but not obliged) to serve an Option Notice during the Option Period.

3.5 An Option Notice shall only be valid if it:

3.5.1 is served upon the Seller or the Seller's Solicitors at their offices specified above; and

3.5.2 is served on and received by the Seller or the Seller's Solicitors within the Option Period.

3.6 Without limiting any other method of service the Option Notice shall be deemed to have been received by the Seller or the Seller's Solicitors if and when it is actually delivered to the relevant one of their offices specified above.

3.7 The Option Fee shall not form part of the Price payable under the Contract Terms.

#### **4 MISCELLANEOUS**

The Seller will (and will instruct the Seller's Solicitors to) reply properly to:

4.1 any reasonable preliminary enquiries relating to the Property which the Buyer's Solicitors may raise before service of the Option Notice (in so far as such enquiries have not been raised and answered before service of the Option Notice); and

4.2 reasonable requisitions on title relating to the Property which the Buyer's Solicitors may raise after service of the Option Notice.

## **5 DEALINGS**

The Buyer shall not be entitled to assign, transfer or charge the benefit of this agreement.

## **6 LAPSE OF OPTION**

If the Buyer does not serve the Option Notice within the Option Period, the Buyer's right in clause 3.1 shall cease to have effect in respect of the Property and the Buyer shall promptly cancel any entry which it may have made in respect of the Property at The Land Registry and the Buyer hereby gives authority to the Seller to do so on its behalf.

## **7 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

7.1 Unless the right of the enforcement is expressly provided it is not intended that a third party should have the right to enforce any term of this agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 but this does not affect any rights which are available apart from that Act.

7.2 The parties may by agreement rescind or vary this agreement without the consent of a third party to whom the rights of enforcements of any of its terms has been expressly provided.

## **8 NOTICES**

Subject to the provisions of clauses 3.4 and 3.5:

8.1 all notices and proceedings under or related to this agreement may be validly served on the Buyer if delivered to the Buyer's address set out in the agreement or such other address in England as shall from time to time be notified in writing to the Seller or the Seller's Solicitors; and

8.2 all notices under this agreement may be validly served on the Seller or the Buyer if delivered or sent by facsimile transmission to the Seller's Solicitors or the Buyer's Solicitors respectively.

## **9 CONFIDENTIALITY**

Neither the Buyer nor the Seller shall without the written consent of the other may cause or permit to be made any press or public announcement in relation to the sale hereby effected save as may be required by law or by any requirement of the Stock Exchange.

## **10 NON-MERGER**

The provisions of this agreement shall remain in full force and effect (notwithstanding completion of the Transfer) to the extent that they remain to be complied with.

## **11 ENTIRE CONTRACT**

11.1 The parties acknowledge that this contract and any document annexed to it contain all the express terms of the contract between them for the sale and purchase of the Property.

11.2 The Buyer acknowledges that:

11.2.1 except for the written replies made by the Seller's Solicitors to the formal written pre-contract enquiries made by the Buyer's Solicitors, it has not relied on or taken into account any statement or representation made by or on behalf of the Seller, whether written or oral (and including any made negligently) in deciding to enter into this contract; and

11.2.2 it shall not be entitled to make any requisition or claim in respect of the state of repair or condition of the Property or the compliance or non-compliance of the Property or its use with any legislation.



11.3 Condition 9.1.1 is varied to read, "If any plan or statement in the contract or in the written replies made by the Seller's Solicitors to any formal written enquiry made by the Buyer's Solicitors before the date of this contract is or was misleading or inaccurate due to any error or omission the remedies (including any remedy based on negligence) available are as follows".

11.4 Nothing in this clause 11 will operate to limit or exclude any liability for fraud.

This agreement has been entered into on the date stated at the beginning of it.

SIGNED and DELIVERED by)  
the said [            ] )  
as his Deed in the presence of:    )

**THE COMMON SEAL** of    )  
**SOUTH NORFOLK DISTRICT**    )  
**COUNCIL** was hereunto affixed    )  
**to this Deed in the presence of:**    )

\_\_\_\_\_  
\_\_\_\_\_  
Officer of the relevant service

**SCHEDULE 1**  
**(Contract Terms)**

**1 SALE AND PRICE**

The Seller shall sell and the Buyer shall purchase the Property at the Price.

**2 BALANCE OF PRICE**

The Price shall be paid on Completion in sterling.

**3 TITLE**

3.1 In the Transfer to the Buyer the Seller shall be expressed to transfer the Property subject to the Title Matters.

3.2 The Seller's title has been deduced prior to the date hereof and no objection or requisition shall be made or raised in respect of such title.

3.3 [On completion the Buyer shall discharge and release the Seller from the Legal Charge.]

**4 MATTERS AFFECTING THE PROPERTY**

The Property is sold subject to and (where appropriate) with the benefit of:

4.1 the Title Matters;

4.2 all local land charges and matters capable of registration as local land charges (whether so registered or not) and all development plans, town planning and other schemes proposals resolutions orders or requirements affecting the same in any way whatsoever and any notices given by any local or other competent authority;

- 4.3 copies of the Title Matters (or such other evidence thereof which the Seller may have) having been with the Buyer or the Buyer's Solicitors prior to the signing hereof (as the Buyer hereby admits) the Buyer shall be deemed to purchase with full knowledge thereof and shall raise no objection or requisition in respect thereof or in respect of any matters revealed therein.

## **5 POSSESSION**

The Property is sold with vacant possession on Completion.

## **6 COMPLETION**

- 6.1 Completion shall take place prior to 14.00 p.m. on a Completion Date.
- 6.2 The Seller shall not be obliged to complete the purchase of the Property at any time whilst the Buyer is in material breach of any of its obligations hereunder.
- 6.3 If the Seller shall agree to Completion by post then Completion shall be at the Buyer's expense and risk in all respects and unless otherwise requested by and at the cost of the Buyer the Seller's Solicitors shall be entitled to post any documents to the Buyer's Solicitors by unregistered post and uninsured or through a document exchange of which the Buyer's Solicitors are members and provided the same were properly addressed neither the Seller nor the Seller's Solicitors shall be liable for their subsequent loss in transit.
- 6.4 The amount payable on Completion is the Price plus or minus any other sum due from either party to the other under the provisions hereof.

## **7 TRANSFER**

- 7.1 The Transfer to the Buyer shall include a covenant by the Buyer with the Seller by way of indemnity only that the Buyer will at all times thereafter:
- 7.1.1 duly perform all the covenants conditions and obligations binding upon the Seller and arising under or referred to in the Title Matters;

7.1.2 save harmless and keep indemnified the Seller and the Seller's estate and effects from and against all actions proceedings costs claims demands or liabilities in respect of any future breach non-observance or non-performance of the said covenants conditions and obligations or any of them.

7.2 The Transfer shall at the cost of the Buyer be engrossed and executed in duplicate and the duplicate copy shall be delivered to the Seller's Solicitors within 15 Working Days of Actual Completion for retention by the Seller.

## **8 REGISTRATION**

The Buyer shall not be entitled to note this agreement against the Seller's title other than by unilateral notice and shall not without the consent of the Seller send this agreement or a copy of it to the Land Registry.

## **9 ACKNOWLEDGEMENTS**

9.1 The Seller and the Buyer respectively acknowledge that this agreement (together with any document or documents:

9.1.1 signed by or on behalf of the parties hereto;

9.1.2 expressed to be supplemental to this agreement; and

9.1.3 exchanged or made simultaneously with the exchange or making of this agreement),

shall constitute and form the entire contract between the Seller and the Buyer to the exclusion of any antecedent statement or representation whether oral written or implied or whether contained in any advertisement particulars or other matters issued or in any correspondence entered into by the Seller or the Seller's servants or agents and the Buyer hereby acknowledges that the Buyer has not entered into this agreement in reliance upon any such statement or representation other than those (if any) which may have been given by the

Seller's Solicitors in any written reply to any enquiry made by the Buyer's Solicitors prior to the signing hereof.

- 9.2 The Property is sold in its present state of repair and condition and the Buyer shall be deemed to have full notice and knowledge thereof and shall raise no objections or requisitions in respect thereof and shall take the Property as it stands. The parties agree that all risks associated directly or indirectly with the Property or the state and condition of the Property pass to the Buyer on the date of this agreement.
- 9.3 The Buyer acknowledges that it has inspected the Property, has had the opportunity (and the Seller's permission) to undertake its own investigations and surveys into the state and condition of the Property (both above and below ground) and has satisfied itself as to the state and condition of the Property and has formed its own view as to the suitability of the Property for the Buyer's purposes.
- 9.4 The parties agree that the Seller shall not, under any circumstances, be liable for:
- 9.4.1 the state and condition of the Property, nor
- 9.4.2 any loss or damage or injury of any kind whatsoever arising from:
- (a) the state and condition of the Property, or
- (b) any defect in the Property, or
- (c) the presence of any substances or materials in, on or under the Property or the escape from the Property at any time of any substances or materials.
- 9.5 The parties agree that all warranties, conditions and stipulations whatsoever on the part of the Seller as to the state and condition of the Property are excluded and the Buyer accepts full responsibility for its state and condition.

## **10 INSURANCE**

The risk of damage to or destruction of the Property shall be the same as set out in the agreement.

## **11 STANDARD CONDITIONS**

11.1 The Standard Conditions shall be deemed to be incorporated herein and shall apply to the sale (in so far as they are applicable to a sale of a leasehold interest by private treaty and are not modified by inconsistent with or superseded by the terms of these Contract Terms in which case the latter shall prevail).

11.2 The "contract rate" of interest shall be the Interest Rate.

11.3 Standard Conditions 1.5, 2.2.1, 2.2.2, 5.2, 6.3.3, 6.4 and 6.7 shall not apply to this sale.

## **12 [VALUE ADDED TAX**

The Seller may charge VAT on the Price (where applicable) provided that on Completion the Seller delivers a valid VAT invoice to the Buyer.]

**SCHEDULE 2**  
**(Title Matters)**

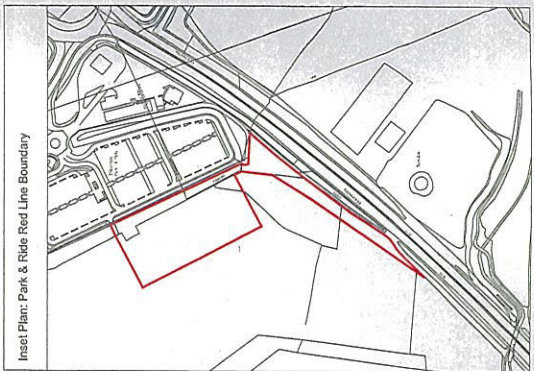
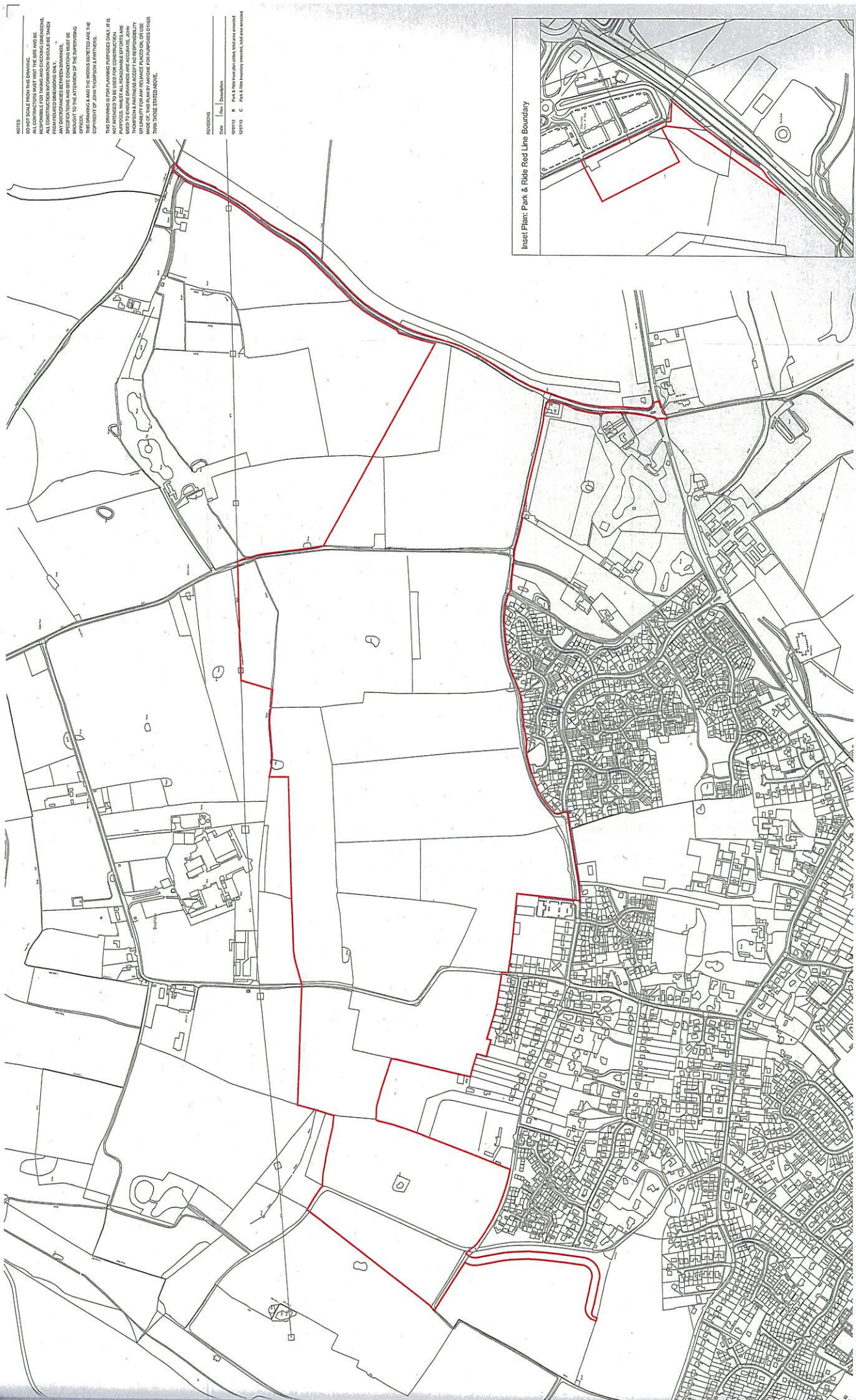
- 1 All entries in the Property Register of the Title as at [ ]
- 2 All entries in the Charges Register of the Title as at [ ]



**Appendix C  
Plans**

(Page not used)





**NOTES**  
 DO NOT SCALE FROM THIS DRAWING.  
 ALL CONSTRUCTION MUST BE IN ACCORDANCE WITH THE PERMITS AND CONDITIONS OF THE PERMITS.  
 ALL CONSTRUCTION INFORMATION SHOULD BE TAKEN FROM THE PERMITS AND NOT THIS DRAWING.  
 ANY DISCREPANCIES BETWEEN DRAWINGS, SPECIFICATIONS AND SITE CONDITIONS MUST BE REPORTED TO THE ATTENTION OF THE SUPERVISING OFFICER.  
 THESE DRAWINGS AND THE WORKS DESCRIBED ARE THE PROPERTY OF JOHN THOMPSON & PARTNERS.  
 THIS DRAWING IS FOR PLANNING PURPOSES ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION OR FOR ANY OTHER PURPOSES. WHILE ALL REASONABLE EFFORTS ARE MADE TO ENSURE ACCURACY, JOHN THOMPSON & PARTNERS ACCEPTS NO LIABILITY FOR ANY RELIANCE PLACED ON, OR USE MADE OF, THIS DRAWING FOR PURPOSES OTHER THAN THOSE INTENDED HEREIN.

**REVISIONS**

Date	Issue	Description
12/2013	B	Plan & site plan added, total area amended
12/2013	C	Plan & site plan amended, total area amended

**KEY**  
 — S106 Red Line Boundary 85.23 Ha

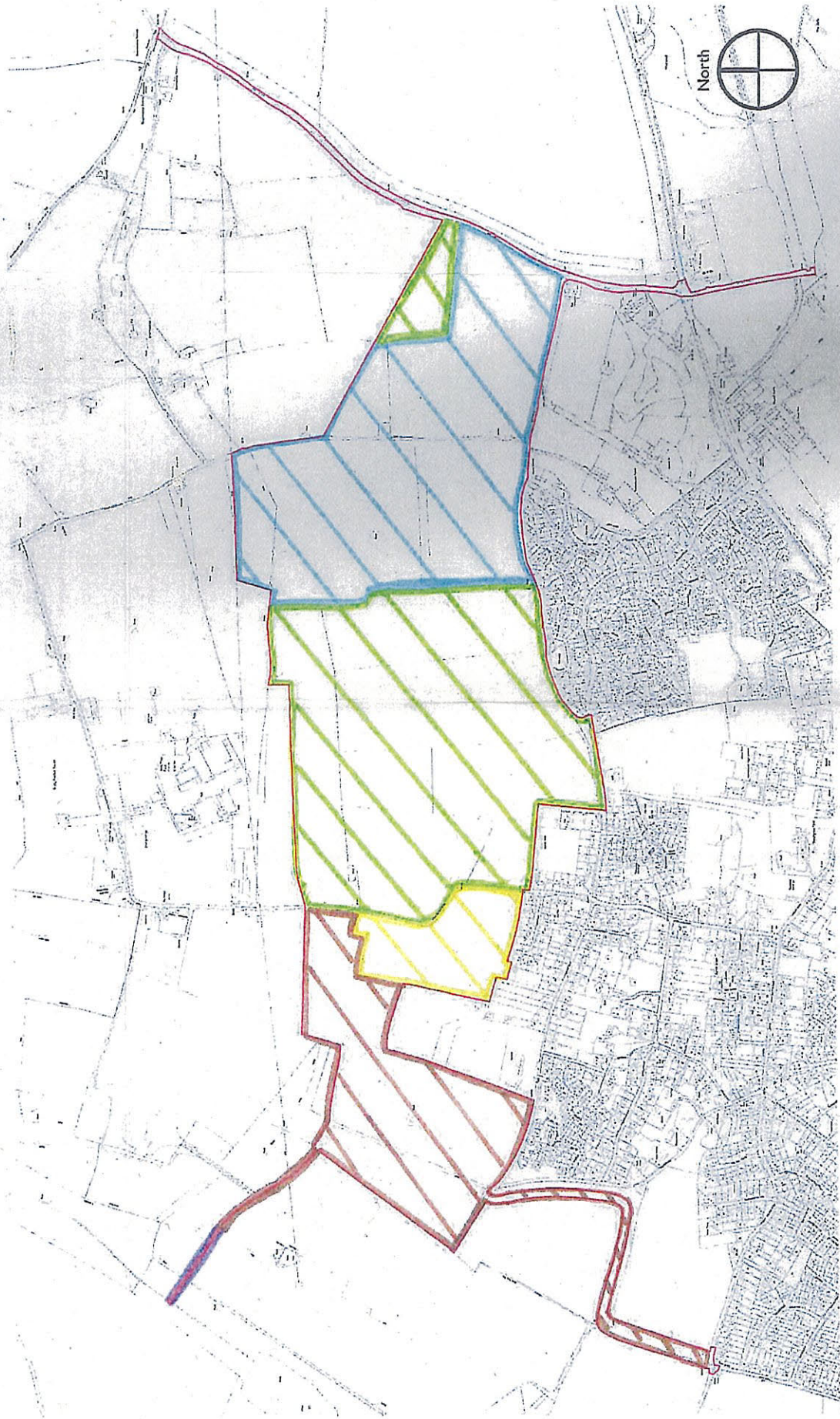


Heihersett Land



**JOHN THOMPSON & PARTNERS**  
 Planning & Design  
 10000  
 12000  
 12000013  
 S106 Red Line Boundary





"PLAN A"

PARAMETER PLAN I  
REDLINE BOUNDARY - Drawing No: 001  
HETHERSETT NORTH

1:2,500 @ A0  
it's a link

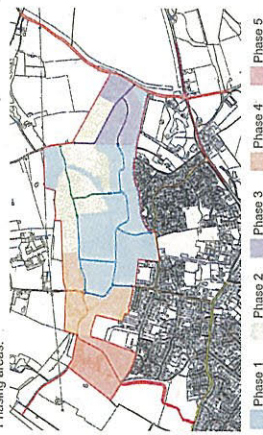




**NOTES**  
 DO NOT SCALE FROM THIS DRAWING.  
 THIS DRAWING IS FOR INFORMATION ONLY AND IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.  
 ALL CONSTRUCTION INFORMATION SHOULD BE TAKEN FROM THE FINAL CONTRACT DOCUMENTS.  
 ANY DISCREPANCIES BETWEEN THIS DRAWING AND THE CONTRACT DOCUMENTS SHALL BE REFERRED TO THE ARCHITECT.  
 THIS DRAWING IS THE PROPERTY OF JOHN THORNTON PARTNERSHIP. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF JOHN THORNTON PARTNERSHIP.  
 THIS DRAWING IS THE PROPERTY OF JOHN THORNTON PARTNERSHIP. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF JOHN THORNTON PARTNERSHIP.

**LEGEND**  
 Phase 1 Phase 2 Phase 3 Phase 4 Phase 5  
 A Allotments and amenity woodland habitat added  
 B Allotments and amenity woodland habitat removed

Phasing areas:



Areas of Open Space by Phase:

Land use	Area in hectares					Total
	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	
Informal Leisure	7.6268	0.5895	2.4933	2.261	1.576	14.50
Formal Children's Play	0.326	0.02	0.1927	0.203	0.147	0.89
Woodland Buffer	0.694	0.7792	1.6392	0.583	0.74	3.20
Amenity Woodland	0.74	-	-	-	0.495	0.495
Allotments	0.476	-	-	-	0.05	0.526
Community Gardens	0.708	0.2842	0.115	-	-	1.1072
Public Open Space	0.708	0.2842	0.115	-	-	1.1072
Sport/Formal Recreation	2	-	-	-	-	2.00
Primary School Grounds (inc. Early Years contingency)	1.563	-	-	-	-	1.563
Possible Secondary School Extension (contingency)	2	-	-	-	-	2.00
Secondary School Extension	2.3009	0.2241	0.13	0.3433	0.2797	3.29
Attenuation Areas	-	-	-	-	-	-

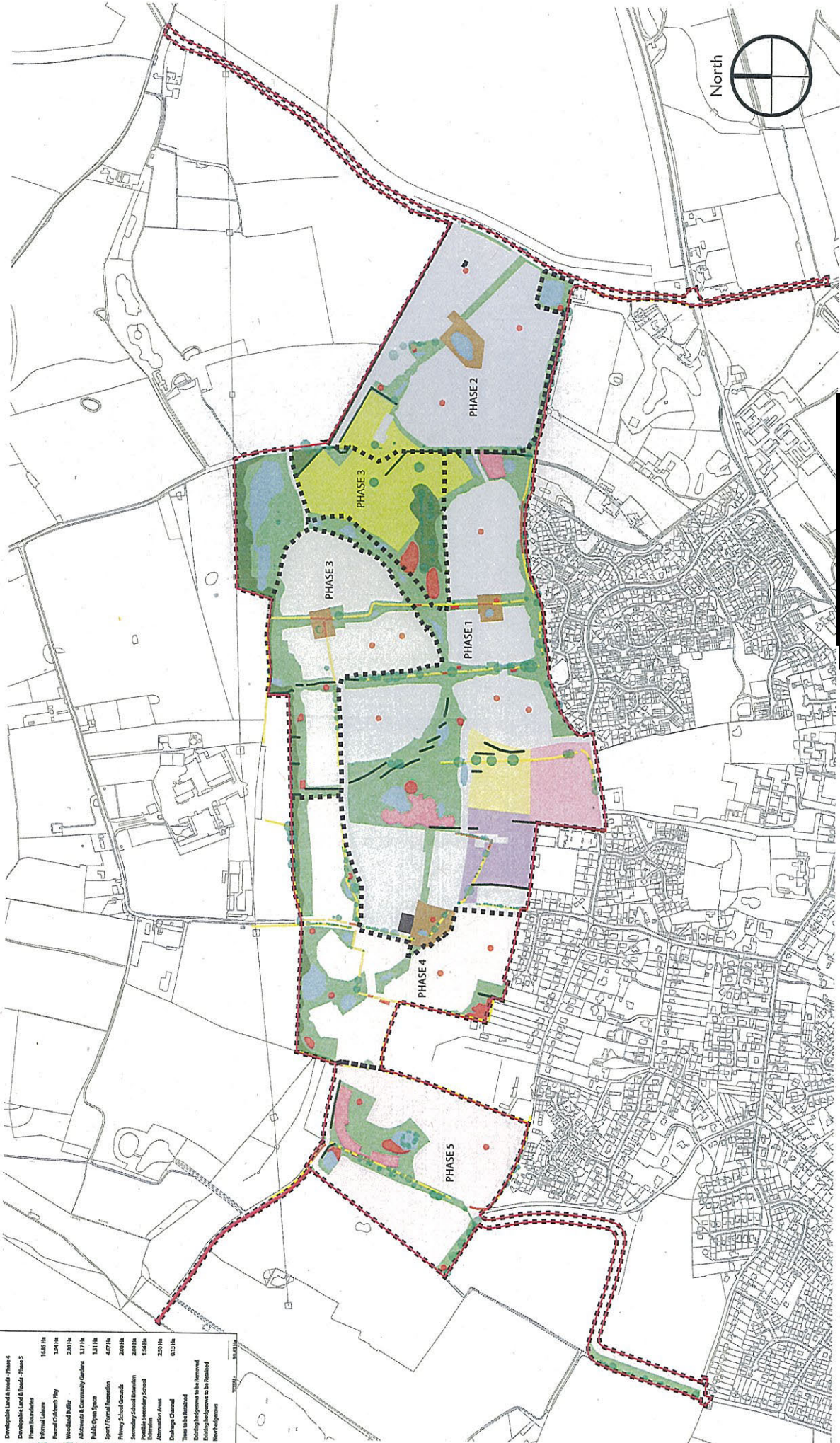
**jtp**  
 Heithersett Land  
 Heithersett North  
 JOHN THORNTON & PARTNERS  
 15000  
 10/07/03



- Phase Boundary
- S106 Boundary
- Developable Land & Roads
- Informal Leisure
- Formal Children's Play
- Woodland Buffer
- Community Gardens
- Public Open Space
- Sport/Formal Recreation
- Primary School Grounds (inc. Early Years contingency)
- Possible Secondary School Extension (contingency)
- Secondary School Extension
- Attenuation Areas
- Allotments
- Amenity woodland
- 83.59 Ha
- 14.50 Ha
- 0.89 Ha
- 3.20 Ha
- 0.49 Ha
- 1.21 Ha
- 3.24 Ha
- 2.00 Ha
- 1.56 Ha
- 2.00 Ha
- 3.29 Ha
- 0.48 Ha
- 0.74 Ha



Application Boundary	44,271 Ha
Developable Land & Roads - Phase 1	16,851 Ha
Developable Land & Roads - Phase 2	15,941 Ha
Developable Land & Roads - Phase 3	4,671 Ha
Developable Land & Roads - Phase 4	2,801 Ha
Developable Land & Roads - Phase 5	2,001 Ha
Phase Boundaries	1,561 Ha
Informal Lakes	2,201 Ha
Formal Children's Play	6,101 Ha
Woodland Buffer	1,171 Ha
Adapted & Community Gardens	1,171 Ha
Public Open Space	1,171 Ha
Sport / Formal Recreation	4,671 Ha
Primary School Grounds	2,001 Ha
Secondary School Grounds	2,001 Ha
Playable Secondary School	1,561 Ha
Playable Primary School	1,561 Ha
Playable Community Area	2,201 Ha
Drainage Channel	6,101 Ha
Items to be Retained	
Existing Infrastructure to be Retained	
Existing Infrastructure to be Relocated	
New Footpaths	











<b>BIDWELLS</b>		01245 250908
drawn	date	
SB	08.10.12	
checked	scale @ A3	
SAA	1:500	
rev.		
client: Hethersett Land Ltd		project no: SS339600006
project: Hethersett		stage: TR 0014
group: Transport Planning		

**NOTES**

Do not scale from this drawing, use figured dimensions only.

All dimensions to be checked on site.

All drawings to be read in conjunction with other contract documentation.

Any discrepancies to be reported to the Contract Administrator before any work commences.



**Appendix D**  
**Draft Affordable Housing Agreement**

(page not used)

**= DRAFT AFFORDABLE HOUSING AGREEMENT =**

**THIS DEED** is made the \_\_\_\_\_ day of \_\_\_\_\_ Two thousand and thirteen **BETWEEN SOUTH NORFOLK DISTRICT COUNCIL** of South Norfolk House, Swan Lane, Long Stratton, Norfolk, NR15 2XE ("the Council") (1) and \_\_\_\_\_ **HOUSING ASSOCIATION LIMITED** whose registered office is situate at \_\_\_\_\_ ("the Owner") (2)

**WHEREAS:-**

- (1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof ("the Planning Act") for the area in which the land described below is situate and is also the housing authority for the purposes of the Housing Act 1985 or any statutory modification or re-enactment thereof ("the Housing Act") and as housing authority is required by Section 8 of the Housing Act to consider housing conditions in its district and the needs of the district with respect to the provision of further housing accommodation
- (2) Pursuant to such consideration the Council has concluded that there is a need in the district for Affordable Housing for local needs and that the provision of the housing the subject of this Deed contributes towards the satisfaction of that need
- (3) The Owner is the owner in fee simple in possession of land being plot numbers \_\_\_\_\_ on the development site located at on land north of Hethersett village centre shown for identification on the attached plan ("the Plan") edged red ("the Land")
- (4) An application dated 1 November 2011 was made to the Council for planning permission to develop the Land and other land ("the Development

Site”) by erection of a housing development which application is more particularly described in the forms, plans and particulars deposited with the Council and numbered 2011/1804/O (“the Application”)

(5) The Council as local planning authority was disposed to grant planning permission in respect of the Application provided that the Development Site was regulated in order to secure part of its future availability for use as Affordable Housing and by an earlier agreement under Section 106 of the Planning Act dated \_\_\_\_\_ 2013 and made between the Council (1) Norfolk County Council (2) Barclays Bank plc (3) David Acloque and William David Winslow Barr (4) Simon Henry Back (5) Carl Andrew Soames Baker and David John Soames Baker (6) Gabrielle Frances Evans-Lombe, Giles Richard Lovell and James Peter Needham Learmond (7) Nicholas Edward Evans-Lombe (8) K B Interests Limited (9) C. Hoare & Co (10) and Charles Jonathan Watt, The Right Honourable John Clive Third Viscount Mackintosh of Halifax, Henry Donald Watt and The Honourable Graham Charles Mackintosh (11) (“the Main Agreement”) which contained a restriction not to complete more than particular numbers in terms of units of Market Housing on the Development Site until the units of Affordable Housing have been built on the Land and completed ready for occupation (“the Units”) pursuant to an agreement under Section 106 of the Planning Act regulating occupations in the form in which this present Deed is entered into

(6) To the extent that the provision of the development and management of the Units in accordance with this Deed fulfils the responsibility of the Council as housing authority and so relieves it of its duty itself to provide and manage that kind of housing accommodation in that location it is a benefit in money's worth to the Council

**NOW THIS DEED WITNESSETH** as follows:-

## ENABLING POWERS

- 1.1 This Deed and the covenants contained in it are made with and are enforceable by the Council pursuant to section 106 of the Planning Act sections 111 and 139 of the Local Government Act 1972 sections 8 and 9 of the Housing Act and any other enabling powers
- 1.2 To the extent to which such covenants are capable of being entered into under section 106 of the Planning Act they shall constitute planning obligations for the purposes of that section

## OWNER'S COVENANTS

- 2.1 The Owner **COVENANTS** with the Council so as to bind the Land and any part of it that it will observe and perform the restrictions obligations and stipulations set out in the Schedule to this Deed **PROVIDED THAT** the said \_\_\_\_\_ shall not be personally liable for any breach of this Deed which first occurs after it shall have disposed of all of its title and interest in the Land **PROVIDED FURTHER** that the restrictions obligations and stipulations set out in the Schedule hereto shall not bind nor be enforceable against
  - 2.1.1 any mortgagee chargee or receiver (including any administrative receiver) of the Owner or the Land or any part which mortgagee chargee or receiver (including any administrative receiver) is in possession of the Land and is exercising its power of sale and any successor in title to such mortgagee chargee or receiver and/or
  - 2.1.2 a lessee of a Unit under a Shared Ownership or Shared Equity lease who has occupied that Unit as a single family dwelling and who has taken a transfer of the freehold reversion of that lease or a purchaser from or a mortgagee of the lessee of that Unit



## **LEGAL CHARGE**

3. In so far as the covenants referred to in clause 2 of this Deed prescribe and restrict
  - 3.1 the categories of persons in need of the accommodation who may occupy the Units; or
  - 3.2 the terms by which such persons may occupy the Units; or
  - 3.3 the terms on which any sale lease assignment or other disposal of the Units may be made

**IT IS DECLARED** that without prejudice to any other enabling power such covenants are entered into pursuant to sections 8 and 9 of the Housing Act and to ensure that they shall be enforceable (without any limit of time) against any person deriving title from the Owner the Owner **CHARGES** the Land to the Council by way of legal mortgage to secure the money's worth to the Council as housing authority consisting of the performance of such covenants ("the Council's Charge") and for the avoidance of doubt section 1(1)(b) of the Local Land Charges Act 1975 shall apply to such covenants

## **POSTPONEMENT**

4. Upon the request of the Owner the Council will grant a postponement of the Council's Charge to any other charge entered into by the Owner secured on the Land provided the following conditions have been satisfied:-
  - 4.1 any prior legal charges have been discharged; and

- 4.2 the Owner has shown to the Council's reasonable satisfaction that the provisions of this Deed have been fulfilled and are being fulfilled at the date of such grant in relation to the Unit or Units in respect of which such request is made

## **AGREEMENTS AND DECLARATIONS**

- [5.1 The Owner declares that it is a body corporate under Part VII of the Charities Act 1993 and the Land is held by the Owner as an exempt charity]
- 5.2 Nothing in this Deed shall be construed as restricting the exercise by the Council or by any other competent authority of any powers exercisable by it or them under the Planning Act or under any statute regulation or byelaws
- 5.3 This Deed will remain in full force and effect notwithstanding the terms and conditions of any planning permission which may be or has been at any time issued by the Council or by any other appropriate person or authority pursuant to the provisions of the Planning Act
- 5.4 Subject only to the provisions of section 106A of the Planning Act the terms and conditions of this Deed can only be varied by a supplemental deed or memorandum endorsed on this Deed executed by the parties or their successors in title
- 5.5 No express or implied waiver by the Council of any breach or default by the Owner or its successors in title in performing or observing any of its obligations under this Deed shall constitute a continuing waiver or prevent the Council from enforcing those obligations against the Owner or its successors in title
- 5.6 The Owner **WARRANTS** that it has full power to enter into this Deed and that there is no person having any charge over or any interest in the Land

other than those entering this Deed whose consent is necessary to make this Deed binding upon the Land and all estates and interests in it

- 5.7 The Owner **WAIVES** any rights to claim compensation arising from any limitation or restriction on the planning use of the Land under the terms of this Deed

## **INTERPRETATION**

- 6.1 The expressions "the Council" and "the Owner" includes their respective successors in title and assigns
- 6.2 One gender includes all the others
- 6.3 A covenant not to do something includes a covenant not to permit or suffer that thing to be done
- 6.4 The headings in this Deed are for ease of reference only and cannot be taken into account in its interpretation

**IN WITNESS** whereof the parties hereto have executed this instrument as their deed and it is the parties' intention that this Deed be delivered and it is hereby delivered on the date first before written

## **THE SCHEDULE**

(restrictions obligations and stipulations)

1. Not to use the Land or allow it to be occupied other than as and for an Affordable Housing Scheme and the Land shall be provided in clusters each



of which shall have no more than 27 units of Affordable Housing and include housing for a rent not exceeding the Affordable Rent as defined in paragraph 9.3 below and shared ownership and/or shared equity) comprising the Units as indicated in the table as set out below or such other mix as agreed in writing with the Council

PROPERTY TYPE AND TENURE	TOTAL NUMBER OF DWELLINGS	CASCADE
2 bedroom 4 person flat – S/O	5%	A or B
1 bedroom 2 person house – S/O	4%	A or B
2 bedroom 4 person house – S/O	17%	A or B
3 bedroom 5 person house – S/O	4%	A or B
1 bedroom 2 person flat – rent	6%	A or B
1 bedroom 2 person house – rent	27%	A or B
2 bedroom 4 person flat – rent	3%	A or B
2 bedroom 4 person house - rent	23%	A or B
3 bedroom 5 person house – rent	9%	A or B

AND FOR THE AVOIDANCE OF DOUBT the first 350 total Dwelling Units shall also include one five bedroom eight person house as an Affordable Housing Unit for rent

AND FOR THE AVOIDANCE OF DOUBT the first 800 total Dwelling Units shall also include five four bedroom six person houses as Affordable Housing Units for rent

#### ABBREVIATIONS

- S/O = for Shared Ownership or Shared Equity
- rent = for a rent of a type to be agreed in writing with the Council and charged by a registered provider (and which can include Affordable Rent as defined in paragraph 9.3 below and Intermediate Rent as defined in paragraph 9.4 below) but not

exceeding the Affordable Rent as defined or any other form of rent which may supersede Affordable Rent or Intermediate Rent

2. To grant occupation of the Units to applicants in the following priority order of category:-

**Either cascade A**

- 2.1 Residents of South Norfolk
- 2.2 any other person

**Or Cascade B**

- 2.1 Residents of the parish of Hethersett who have lived in that parish for a total of at least 3 of the last 10 years
- 2.2 former Residents of the parish of Hethersett who lived in that parish for at least 3 of the last 10 years
- 2.3 Residents of the parish of Hethersett who have lived in that parish for less than 3 years
- 2.4 Residents of South Norfolk
- 2.5 any other person

3. To give priority within each category to applicants in housing need that is to say:

- 3.1 people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions; or

- 3.2 people occupying housing accommodation which is temporary or occupied on insecure terms; or
- 3.3 families with dependent children; or
- 3.4 households consisting of or including someone who is expecting a child; or
- 3.5 households consisting of or including someone with a particular need for settled accommodation on medical or welfare grounds; or
- 3.6 households whose social or economic circumstances are such that they have difficulty in securing settled accommodation; or
- 3.7 those sharing accommodation; or
- 3.8 those living in accommodation which is unsuitable for their needs
- 3.9.1 should there be any person falling within any of the aforementioned categories who is eligible for Affordable Housing accommodation but cannot demonstrate a need for such accommodation then the Owner can ignore that person for the purposes of fulfilling the criteria for the whole of paragraphs 2 and 3 above
- 3.9.2 should there be any person falling within any of the aforementioned categories who is eligible for Affordable Housing accommodation and can demonstrate a need for such accommodation but the accommodation available is unsuitable (either by being too large or too small) then the Owner if it so wishes can ignore that person for the purposes of fulfilling the criteria for the whole of paragraphs 2 and 3 above
4. Not itself or through any contractors or subcontractors to discriminate against any individual on grounds of race religion gender marital status sexual orientation or age and to promote good relations between people of different racial groups

5. Not to permit any Unit to be occupied other than under a tenancy at a rent without a premium or a Shared Ownership lease or a Shared Equity lease
  
- 6.1 Any proceeds realised from the sale of any Unit ("the Net Proceeds") shall (after repayment of any monies required under a statutory obligation or under the provision of any other charge on the Land) be utilised within 3 years of the date of such sale to provide further Affordable Housing within the district of South Norfolk or after three years elsewhere with the consent of the Council
  
- 6.2 For the purpose of paragraph 6.1 above the Net Proceeds shall be calculated by deducting the Costs of Provision as set out in paragraph 6.3 below from the Gross Sale Price as set out in paragraph 6.4 below
  
- 6.3 The Costs of Provision shall be the total of the sums expended by the Owner in the initial provision of the relevant Unit including, but not limited to, professional fees and a fair sum for the Owner's own administrative costs and all such sums shall, if necessary, to be apportioned on a fair and proper basis
  
- 6.4 The Gross Sale Price shall be the gross sale price (or gross premium received for the grant of a lease of the Unit) provided that:
  - 6.4.1 in the case of Units sold pursuant to the Right to Buy or Right to Acquire the Gross Sale Price shall be the aggregate of (i) the discounted sale price (or premium) at which the tenant is entitled to purchase (or be granted a long lease of) the Unit and (ii) the amount of any public subsidy paid to the Owner to compensate the Owner for the amount of any discount received by the tenant; and
  
  - 6.4.2 in the case of a Unit sold or leased on Shared Ownership or Shared Equity terms the Gross Sale Price shall be the total of the sums received for the tranches of the equity in that Unit (and for the

avoidance of doubt paragraph 6.1 above shall not apply until either the Shared Ownership lessee or the Shared Equity lessee has staircased to acquire 100% of the equity in the Shared Ownership or Shared Equity Unit or the freehold of the Shared Ownership or Shared Equity Unit has been transferred to the Shared Ownership lessee or the Shared Equity lessee)

7. To grant to the Council nomination rights to 75% of True Voids for occupation of the Units

8.1 In the event that the Owner is unable to dispose of a Shared Ownership or Shared Equity Unit under the provisions of paragraphs 2 and 3 above within 3 months of such Unit first being offered for occupancy then the following provisions shall apply

8.2 The Owner shall provide the Council with the following information:

8.2.1 evidence that the Shared Ownership or Shared Equity Unit was advertised for a period of at least one month before Practical Completion and at least two months after Practical Completion (such advertising to be in accordance with the methods approved for the time being by the Council)

8.2.2 the Council upon receipt of the information required under 8.2.1 above shall decide whether or not the Owner may vary the originally specified tenure of Shared Ownership or Shared Equity to an alternative tenure to be agreed between the Council and the Owner

8.3 For the avoidance of doubt, the provisions of sub-paragraphs 8.1 and 8.2 above shall apply in respect of a particular Unit only until any first grant of a Shared Ownership or Shared Equity lease of that Unit

9. In this Deed:

- 9.1 "Affordable Housing" means housing of a kind which (having regard to its rent or other consideration) is suitable for occupation by people who are in need of such housing because of their limited means, and is to be built to the standards specified by the Homes and Communities Agency as the latest version of its Design and Quality Indicators at the time of its construction and shall achieve a minimum of Level 3 of the Code for Sustainable Homes
- 9.2 "Affordable Housing Scheme" means a scheme for the provision of units of Affordable Housing
- 9.3 "Affordable Rent" means affordable rented housing as defined in Annex 2: Glossary of the National Planning Policy Framework, March 2012 ("Annex 2") (copy extract annexed)
- 9.4 "Intermediate Rent" means intermediate housing as defined in Annex 2 but limited to homes for rent and excluding homes for sale
- 9.5 "Market Housing" means dwelling units on the Development Site which are sold on the open market at open market value
- 9.6 "Residents" includes persons dwelling in the parish concerned or, in the case of gypsies as defined in the Caravan Sites Act 1968, also includes persons who have habitually resorted to the particular parish (albeit that they have resorted also to a wider area of resort) for the said period
- 9.7 "Shared Equity" means an Affordable Housing Unit that is to be sold by the Developer for a sum not exceeding 75% of its open market value ( the remaining 25% equity to be sold to a Registered Provider) and for which the individual purchaser will pay the same sum for the same percentage of its market value for a lease of not less than 125 years and for which no rent will be charged and such individual purchaser shall be able to staircase to acquire 100% of the equity of the unit after having occupied the unit for a minimum period of 5 years

- 9.8 "Shared Ownership" means an Affordable Housing that is to be sold to a Registered Provider for onward sale to an individual purchaser whereby a maximum of 50% of the equity is to be acquired at first purchase and the annual rent is to be calculated as 2.75% of the value of the equity retained by the Registered Provider and the annual rent shall not be increased by more than the percentage increase in the Retail Price Index (or if such index ceases to be published such other index as the District Council shall reasonably determine) plus 0.5% of the current rent per annum and such individual purchaser shall be able to staircase to acquire 100% of the equity of the unit .
- 9.9 "True Voids" means those Units that are available for letting in any Financial Year but excluding any:
- 9.9.1 that are used for Emergency Transfers; or
  - 9.9.2 which are required by the Owner for the purposes of decanting tenants where properties require structural remedial works
- 9.10 "Financial Year" means the Owner's financial accounting year being each of the periods of a year commencing on the 1st day of April in one year and ending on the 31st March in the following year the first such period having commenced on the 1st day of April 2012
- 9.11 "Emergency Transfers" shall mean transfers to vacant Units effected in the following circumstances:
- 9.11.1 in cases of domestic violence
  - 9.11.2 in cases of racial harassment

9.12 "Practical Completion" means completion of the construction of the Units in accordance with this Deed subject only to the existence of minor defects and/or omissions at the time of inspection which are capable of being made good without materially interfering with the beneficial use and enjoyment of the Units and which it would be reasonable to include in a schedule of minor snagging items and "Practically Completed" shall be construed accordingly

**THE COMMON SEAL of SOUTH )**  
**NORFOLK DISTRICT COUNCIL )**  
was affixed to this Deed in the )  
presence of:- )

\_\_\_\_\_  
\_\_\_\_\_  
Officer of the relevant service

**THE COMMON SEAL of \_\_\_\_\_ )**  
was affixed to this Deed in )  
the presence of:- )

\_\_\_\_\_  
Director



---

Secretary



DATED

2013

SOUTH NORFOLK DISTRICT COUNCIL

(1)

- and -

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**PLANNING OBLIGATION DEED**

under Section 106 of the Town and  
Country Planning Act 1990 as amended  
by the Planning and Compensation  
Act 1991 and

**LEGAL CHARGE**

under Sections 8 and 9 of the  
Housing Act 1985  
relating to plots \_\_\_\_\_ on phase \_\_\_\_ of the  
development site on land to the north of  
Hethersett village centre, Norfolk

**= DRAFT AFFORDABLE HOUSING AGREEMENT =**

Victoria McNeill  
Practice Director  
nplaw  
Martineau Lane  
Norwich  
NR1 2DH



THE COMMON SEAL of )  
SOUTH NORFOLK DISTRICT )  
COUNCIL was hereunto affixed )  
to this Deed in the presence of: )

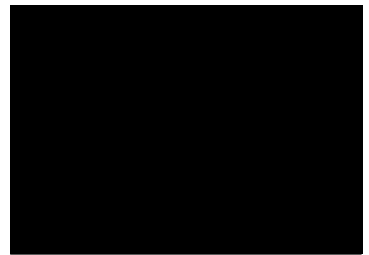
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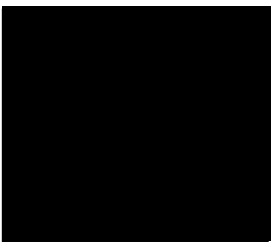
\_\_\_\_\_  
Officer of the relevant service

THE COMMON SEAL of )  
NORFOLK COUNTY )  
COUNCIL was hereunto affixed )  
to this Deed in the presence of: )

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LLOYDS EXECUTED as a Deed by )  
~~BARCLAYS BANK PLC~~ )  
acting by its attorneys in the )  
presence of: )





**SIGNED and DELIVERED** by )  
the said **DAVID AGLOQUE** EDWARD )  
BROWN as his Deed in the presence of: )

**SIGNED and DELIVERED** by )  
the said **WILLIAM DAVID** )  
**WINSLOW BARR** as his Deed )  
in the presence of: )

**SIGNED and DELIVERED** by )  
the said **SIMON HENRY BACK** )  
as his Deed in the presence of: )

**SIGNED and DELIVERED** by )  
the said **CARL ANDREW SOAMES** )  
**BAKER** as his Deed in the )  
presence of: )

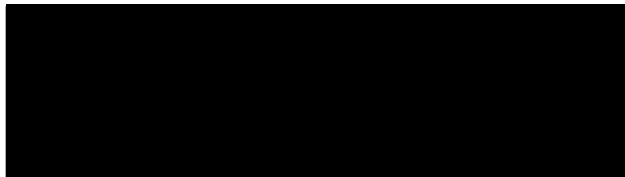
**SIGNED and DELIVERED** by )  
the said **DAVID JOHN SOAMES** )  
**BAKER** as his Deed in the )  
presence of: )

*NICHOLAS*  
**SIGNED and DELIVERED** by )  
the said ~~**GABRIELLE FRANCES**~~ )  
**EVANS-LOMBE** as ~~her~~ Deed )  
in the presence of: *his* )

**SIGNED and DELIVERED** by the )  
said **GILES RICHARD LOVELL** )  
**SPACKMAN** as his Deed )  
in the presence of: )

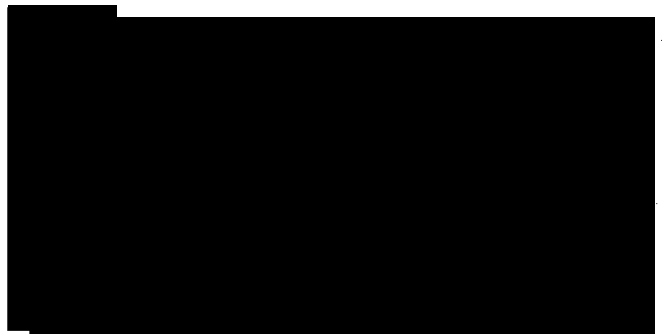
**SIGNED and DELIVERED** by )  
the said **JAMES PETER NEEDHAM** )  
**LEARMOND** as his Deed )  
in the presence of: )

**EXECUTED** as a Deed by )  
**K B INTERESTS LIMITED** )  
acting by its attorneys in the )  
presence of: )

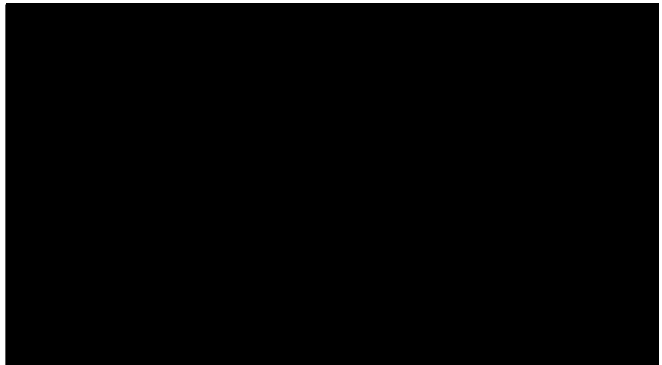


~~EXECUTED~~ as a Deed by )  
~~C. HOARE & CO~~ )  
~~acting by its attorneys in the~~ )  
~~presence of:~~ )

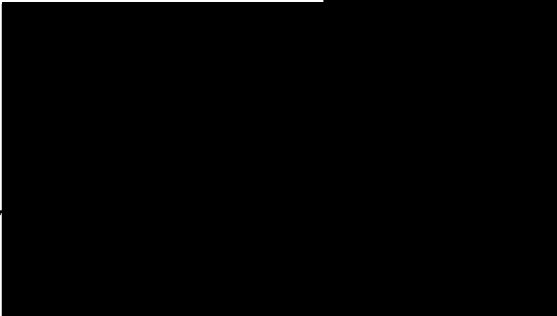
**SIGNED** and **DELIVERED** by )  
the said **CHARLES JONATHAN** )  
**WATT** as his Deed )  
in the presence of: )



**SIGNED** and **DELIVERED** by )  
the said **THE RIGHT** )  
**HONOURABLE JOHN CLIVE** )  
**THIRD VISCOUNT MACKINTOSH** )  
**OF HALIFAX** as his Deed )  
in the presence of: )







MARY  
SHENKMAN

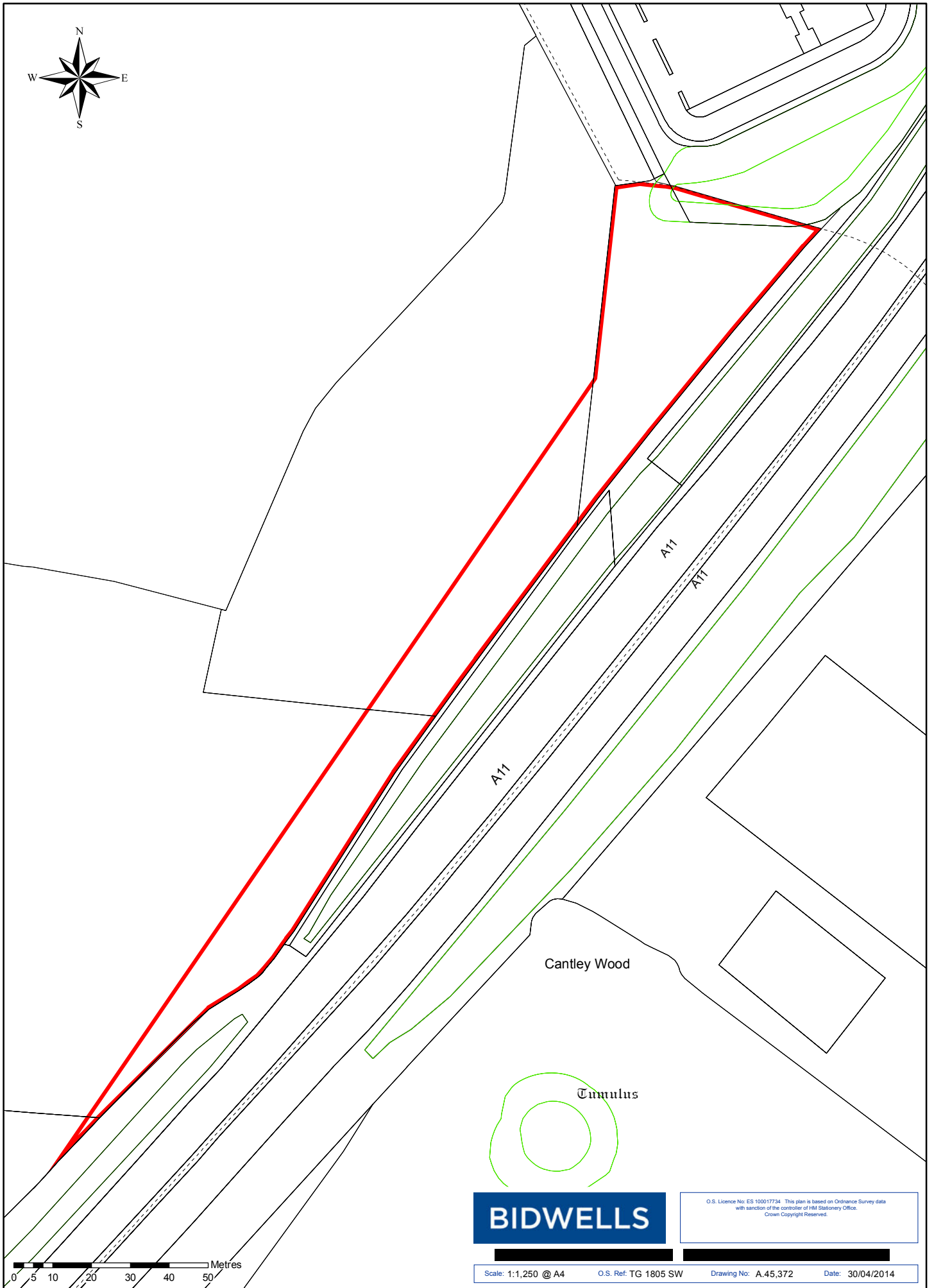
SIGNED and DELIVERED by )  
the said ~~HENRY DONALD~~ SUSAN )  
~~WATT~~ as his <sup>her</sup> Deed )  
in the presence of: )

SIGNED and DELIVERED by )  
the said THE HONOURABLE )  
GRAHAM CHARLES )  
MACKINTOSH as his Deed )  
in the presence of: )



SIGNED and DELIVERED by )  
the said KATE ALICE PAUL )  
as her Deed )  
in the presence of: )

# Slip Road Land Transfer at Hethersett Park and Ride



**BIDWELLS**

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Scale: 1:1,250 @ A4    O.S. Ref. TG 1805 SW    Drawing No: A.45,372    Date: 30/04/2014