

DATED

17th March

2015

MID SUFFOLK DISTRICT COUNCIL (1)

HARROW ESTATES PLC (2)

SUFFOLK COUNTY COUNCIL (3)

**PLANNING OBLIGATION by DEED
under S106 of the Town and Country Planning Act 1990**

relating to land at
St Edmund's Drive
Elmswell
Bury St Edmunds
Suffolk
IP30 9HF

Vincent W Fairclough
Solicitor
Harrow Estates plc
Bridgemere House
Chester Road
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THIS AGREEMENT is made

Seventeenth March

2015

BETWEEN

- (1) **MID SUFFOLK DISTRICT COUNCIL** of Council Offices 131 High Street, Needham Market, Ipswich, Suffolk ("**the District Council**");
- (2) **HARROW ESTATES PLC** (Company Number 6825371) whose registered office is situate at Bridgemere House, Chester Road, Preston Brook, Cheshire, WA7 3BD ("**the Owner**"); and
- (3) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, IP1 2BX ("**the County Council**").

WHEREAS

- A. The District Council is the Local Planning Authority for the purposes of this Agreement for the area within which the land described in the First Schedule ("**the Land**") is situated and by whom the obligations contained in this Agreement are enforceable.
- B. The Owner is the freehold owner of the Land free from encumbrances.
- C. An application has been submitted to the District Council for outline planning permission under planning reference 0846/13 for the development of the Land comprising outline planning permission for the demolition of all buildings on the Land (comprising redundant factory buildings in Use Class B2, settlement tanks and six derelict residential properties) and the erection of up to 190 residential dwellings and a pumping station on the Land and the construction of a new access road to Station Road ("**the Planning Application**") and the District Council has resolved to grant planning permission for such development subject to the obligations secured by this Agreement being given by the Owner.
- D. The District Council considers and acknowledges that the Planning Application should not be approved and the development proposed by the Planning Application should

not proceed unless the obligations secured by this Agreement are given by the Owner.

- E. Pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended), Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers then enabling the District Council has agreed to accept the covenants on the part of the Owner contained in the Second Schedule Part 1 and the County Council has agreed to accept those on the part of the Owner contained in the Second Schedule Part 2.
- F. The County Council is also a local planning authority, the education authority and is the highway authority for the County of Suffolk for all highways other than trunk roads.

NOW THIS DEED is made in pursuance of Section 106 of the Town and Country Planning Act 1990 (as amended) and is a planning obligation for the purposes of that section and

WITNESSES as follows:

1. **DEFINITIONS**

It is agreed and declared that in this Agreement where the context so admits the following expressions shall have the following meanings:

"Affordable Housing" means subsidised housing that will be available to persons who cannot afford to rent or buy housing accommodation generally available in the local private sector housing market;

"Affordable Housing Dwellings" means Eleven per cent (11%) of the Dwellings to be erected as part of the Development to be provided for Affordable Housing pursuant to the Planning Permission and which shall be allocated as to:-

(a) Seventy five per cent (75%) Affordable Rented

Housing; and

(b) Twenty five per cent (25%) Shared Ownership Housing;

and "Affordable Housing Dwelling" shall be construed accordingly Provided Always that where 11% of the Dwellings shall not result in a whole number the actual number of Affordable Housing Dwellings shall be rounded up or down to the nearest whole number;

"Affordable Rented Housing" means Affordable Housing made available or managed by a Registered Provider as low cost rental accommodation (as defined in Section 69 of the 2008 Act) with a rent charged at a level of up to eighty per cent (80%) of the equivalent local market rent for an equivalent property for that size and location. The calculation of the local market rent is to be based on a residential lettings estimate for a property of an appropriate size, condition and area ascertained in accordance with a Royal Institution of Chartered Surveyors approved valuation method;

"Approval of Reserved Matters Consent"

means any approval of reserved matters consent granted pursuant to the Planning Permission;

"BCIS Index"

means the Royal Institution of Chartered Surveyors Building Cost Information Service All-In Tender Price Index or such other organisation discharging its function or if the BCIS Index shall cease to exist such

other index the compilation of which the parties to this Agreement shall agree as nearly as possible matches that of the BCIS Index;

"BCIS Indexed"

means increased by reference to the percentage increase (if any) of the BCIS Index from the BCIS Index first published after the date of this Agreement to the BCIS Index last published before the date that the relevant financial contribution is paid by the application of the formula $A = B \times C/D$ where:-

A is the sum actually payable on the Specified Date;

B is the original sum payable pursuant to the provisions of this Agreement;

C is the BCIS Index for the month 2 months before the Specified Date;

D is the BCIS Index for the month 2 months before the date of this Agreement;

"CIL Charging Schedule"

means a charging schedule adopted by the District Council as Charging Authority pursuant to the Community Infrastructure Levy Regulations 2010 as amended and "CIL" shall be construed accordingly;

"Choice Based Lettings Scheme"

means an integrated electronic and manual information system which enables members of the public who have made or potentially might make an application for housing in the area to which the Choice Based Letting Scheme relates to apply or a selection

of suitable property or be supplied with details of housing available throughout the relevant area operated pursuant to any agreement to which the District Council is a party;

"Commencement of Development"

means the first carrying out of a Material Operation in relation to the Development and "Commence" shall be construed accordingly;

"Commercial FFTP Contribution"

means the sum of Fifty thousand pounds (£50,000) as increased by being BCIS Indexed to be used by the District Council to provide and/or improve FFTP facilities for the commercial premises known as Station Road Industrial Estate and Elmtree Business Park which adjoin the Land;

"Contributions Date"

means the respective dates on which the 25th, 50th, 75th, 100th, 125th, 150th, 175th and the last Dwelling are first Occupied;

"Contributions Payment Date"

means subject to the provisions of clause 15.4 the date fifteen (15) Working Days after the relevant Contributions Date;

"Contributions Period"

means:-

- (a) in the case of the first Contributions Date the period from the Commencement of Development to the date on which the 25th Dwelling is first

Occupied; and

(b) in the case of subsequent Contributions Dates the period from the previous Contributions Date to the next Contributions Date; and

(c) in the case of the last Contributions Date the period from the previous Contributions Date to the earlier of:-

(i) the date on which the last Dwelling is first Occupied; or

(ii) the date 12 (twelve) months after the previous Contributions Date;

"Contributions Statement"

means a written statement prepared by the Owner containing the following information in respect of each Contributions Period:-

(a) the date of completion of each Dwelling Occupied; and

(b) the address and plot number of each Dwelling Occupied; and

(c) the calculation of the District Council Dwelling Contributions payable in respect of Dwellings Occupied during that Contributions Period;

"County Council Contributions"

means:-

	<ul style="list-style-type: none"> (a) the County Council Dwelling Contributions; and (b) the Off-Site Highways Contribution; and (c) the Travel Plan Monitoring Contribution;
"County Council Dwelling Contributions"	means a total sum of Three thousand six hundred and thirty six pounds thirty four pence (£3,636.34) per Dwelling as increased by being BCIS Indexed and comprising:- <ul style="list-style-type: none"> (a) the Pre-School Education Contribution; and (b) the Primary School Education Contribution; and (c) the Libraries and Archives Contribution.
"Date of Completion"	means the date that the last Dwelling is first Occupied;
"Development"	means the development permitted by the Planning Permission and the Approval of Reserved Matters Consent;
"District Council Contributions"	means:- <ul style="list-style-type: none"> (a) the Commercial FTTP Contribution; and (b) the District Council Dwelling Contributions; and (c) the Hawk End Footpath Level Crossing Saving (if any);
"District Council Dwelling Contributions"	means:- <ul style="list-style-type: none"> (a) the Healthcare Contribution; and (b) the Social Infrastructure Contribution;
"Dwelling"	means any unit of accommodation provided on the Land pursuant to the Planning Permission and the Approval of Reserved Matters Consent and

"Dwellings" shall be construed accordingly;

"Elmswell Link Road"

means a road from Station Road, Elmswell to School Road, Elmswell passing through the Land and intended to relieve traffic in the centre of Elmswell;

"First Occupation Date"

means the date on which the first Dwelling is first Occupied;

"FTTP"

means a fibre to the premises broadband service;

"Grant Funding"

means grant funding or any subsidy provided by the HCA or any other body or person to a Registered Provider (who is an approved partner of the HCA) for the purpose of subsidising the provision of Affordable Housing;

"Hawk End Footpath Level Crossing Costs"

means all costs incurred by the Owner in designing, pursuing, managing, planning, or otherwise the Hawk End Footpath Level Crossing Mitigation Scheme;

"Hawk End Footpath Level Crossing Improvement Sum"

means the sum of One million three hundred thousand pounds (£1,300,000);

"Hawk End Footpath Level Crossing Mitigation Scheme"

means such written scheme as may be agreed between the District Council, the County Council, the Owner and Network Rail and any other relevant and appropriate consultees to reduce or mitigate the risk to pedestrians of using the existing Hawk End Lane footpath level crossing over the railway line adjoining

the Land. If the approved Hawk End Footpath Level Crossing Mitigation Scheme shall provide for an upgrading of the existing level crossing (rather than its replacement by a footbridge) then the Hawk End Footpath Level Crossing Mitigation Scheme shall provide for the upgrading of the level crossing by replacing the existing stiles with gates and the upgrading of the footpath deck to make it suitable for pushchairs and wheelchairs (subject to any necessary approvals from Network Rail);

"Hawk End Footpath Level Crossing Mitigation Scheme Costs"

means the actual costs of designing, creating, carrying out, financing, subsidising, contributing to or otherwise paying for the Hawk End Footpath Level Crossing Mitigation Scheme Provided Always that the Hawk End Footpath Level Crossing Mitigation Scheme Costs shall not exceed the Hawk End Footpath Level Crossing Improvement Sum;

"Hawk End Footpath Level Crossing Saving"

means such sum (if any) which shall result from the following formula:-

$$A = B - (C + D)$$

Where:-

A is the Hawk End Footpath Level Crossing Saving.

B is the Hawk End Footpath Level Crossing Improvement Sum.

C is the Hawk End Footpath Level Crossing Mitigation Scheme Costs.

D is the Hawk End Footpath Level Crossing Costs.

Provided Always that where the above calculation shall result in a negative figure the Hawk End Footpath Level Crossing Saving shall be nil;

"HCA"

means the Housing and Regeneration Agency for England established by the government pursuant to the 2008 Act which exercises the function of the former Housing Corporation in relation to financial assistance for new Affordable Housing (or any successor body);

"Healthcare Contribution"

means the sum of Three hundred and forty-two pounds fifty six pence (£342.56) per Dwelling as increased by being BCIS Indexed to be used by the District Council towards the addition of, or improvement to, local healthcare facilities at the General Practitioners surgery which predominantly serves the parish of Elmswell;

**"Implementation" or
"Implement"**

means the implementation of the Planning Permission by the carrying out of a Material Operation;

"Interest"

means interest at 4 (four) per cent above the base lending rate of Lloyds Bank Plc from time to time in

force;

"JOPS"

means a Junior Outdoor Play Space comprising:-

- (a) up to five (5) items of play equipment; and
- (b) safety surfacing; and
- (c) fencing; and
- (d) gates; and
- (e) seating; and
- (f) litter bins;

"Libraries and Archives Contribution"

means the sum of Two hundred and thirteen pounds thirty four pence (£213.34) per Dwelling as increased by being BCIS Indexed to be used by the County Council for the provision of, or improvement to, library facilities in Elmswell to form part of the County Council Dwelling Contribution;

"Link Road Strip"

means the area of land shown coloured yellow on the Phasing Plan which is to form part of the Elmswell Link Road;

"Management Company"

means a company or companies or body or bodies appointed by the Owner and approved in writing by the District Council which shall be responsible for the long term management and ownership of the Public Open Space in accordance with the Planning Permission, the Approval of Reserved Matters Consent, the Open Space Scheme and the terms of

this Agreement;

"Material Operation"

shall have the meaning ascribed to it by Section 56 of the 1990 Act PROVIDED THAT for the avoidance of doubt the following shall not be deemed to constitute a Material Operation: the carrying out of any survey, sampling, inspection, ecology works, archaeological works, demolition works, remediation works; site investigations (including the digging of trial pits and bore holes), temporary access works or the erection of hoardings or fences as a preliminary to the commencement of works pursuant to the Development;

"Network Rail"

means Network Rail Infrastructure Limited or such other body or bodies as shall from time to time be responsible for the railway line adjoining the Land;

"Occupy"

means occupation for the purposes permitted by the Planning Permission but not including occupation for construction, fitting out, marketing (including show homes) or security and **"Occupied"**, **"Occupier"** and **"Occupation"** shall be construed accordingly;

"Off Site Highways Contribution"

means the sum of Ten Thousand (£10,000) pounds as increased by being BCIS Indexed to be used by the County Council to surface Footpath 12 with tarmac for a distance of 50 metres on the south side of the level

crossing over the railway line adjoining the Land;

“Off-Site Highway Improvements”

means the off-site highways improvements to Station Road, Elmswell as indicated on the Site Access Plan to be delivered by the Owner, who will bear the full costs of such works;

“Open Market Dwelling”

means any Dwelling built on the Land pursuant to the Planning Permission which is not an Affordable Housing Dwelling and “Open Market Dwellings” shall be construed accordingly;

“Pedestrian Improvements”

means pedestrian upgrades to the existing public highways on Station Road Industrial Estate as indicated on the Pedestrian Improvements Plan to provide a safe, open and surfaced pedestrian and cycling route from the existing Hawk End Lane footpath level crossing to Station Road as part of the estate road layout such upgrades to include:-

- (a) new surfacing from the boundary of the Land to the edge of the existing public highway; and
- (b) new lighting columns at the locations shown on the Pedestrian Improvements Plan; and
- (c) pedestrian dropped kerbs with tactiles on each side of the carriageway at the locations shown on the Pedestrian Improvements Plan; and

(d) the provision of a non-motorised user connection from the Land to Elmswell railway station by means of an access to the existing public highways on Station Road Industrial Estate in the approximate position indicated on the Pedestrian Improvements Plan

"Pedestrian Improvements Plan"

means the plan annexed to this Agreement Drawing Number 947-200 and marked "Pedestrian Improvements Plan";

"Phasing Plan"

means the plan annexed to this Agreement and marked "Phasing Plan";

"Plan"

means the plan annexed to this Agreement and marked "Plan";

"Planning Permission"

means the planning permission to be issued by the District Council pursuant to the Planning Application in substantially the form annexed to this Agreement at Annex 1;

"Pre-School Education Contribution"

means the sum of Three hundred and ninety six pounds (£396) per Dwelling as increased by being BCIS Indexed to be used by the County Council to improve or enhance pre-school education facilities in Elmswell and to form a part of the County Council Dwelling Contribution;

"Primary School Education"

means the sum of Three thousand and twenty seven

Contribution"

pounds (£3,027) per Dwelling as increased by being BCIS Indexed to be used by the County Council to improve or enhance primary school facilities in Elmswell and to form part of the County Council Dwelling Contribution;;

"Protected Tenant"

means any tenant who:-

- (a) has exercised a right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Dwelling; or
- (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Dwelling; or
- (c) has been granted a shared ownership lease by a Registered Provider (or similar arrangement where a share of the Affordable Housing Dwelling is owned by the tenant and a share is owned by the Registered Provider in respect of a particular Affordable Housing Dwelling and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Dwelling;

"Public Open Space"	means the areas of informal public open space to be provided on the Development in accordance with the Planning Permission, the Approval of Reserved Matters Consent and the Second Schedule Part 1 paragraph 2 of this Agreement;
"Registered Provider"	means either a Registered Social Landlord registered under the provisions of the Housing Act 1996 or a registered provider of social housing as defined in Section 80(2) of the 2008 Act and listed in the register under Chapter III of the 2008 Act or such other body, organisation or company as may be approved in writing by the District Council;
"Residents Travel Survey"	means a survey of residents' travel arrangements to be conducted as part of the monitoring of the Travel Plan;
"Revised Travel Plan"	means the Framework Travel Plan amended with the agreement of the County Council after the results of the first Residents Travel Survey have been analysed;
"Shared Ownership Housing"	means a form of Affordable Housing in which the Occupier owns a share of the Dwelling and the remainder of the Dwelling is owned by a Registered Provider on which the Occupier pays a rent and can purchase further shares up to 80% and "Shared Ownership" shall be construed accordingly;

"Site Access Plan"	means the proposed site access drawing annexed to this Agreement Drawing Number 947-02 Revision K and marked "Site Access Plan";
"Social Infrastructure Contribution"	means the sum of Three thousand six hundred and sixty one pounds seventy four pence (£3,661.74) per Dwelling as increased by being BCIS Indexed to be used by the District Council towards the addition of, or improvement to sports or leisure facilities in the administrative area of the District Council;
"Specified Date"	means the date upon which an obligation arising under this Agreement is due to be performed;
"Travel Plan"	means the Framework Travel Plan submitted to the District Council as part of the Planning Application and to be agreed with the County Council in accordance with the provisions of this Agreement;
"Travel Plan Coordinator"	means the person or body appointed under the provisions of the Travel Plan to administer the Travel Plan;
"Travel Plan Monitoring Contribution"	means the sum of Five thousand pounds (£5,000) as increased by being BCIS Indexed to be used towards the monitoring and support by the County Council of the Travel Plan;
"Working Days"	means Monday to Friday inclusive but excluding days which are public holidays and any day between 24 th

December and 2nd January;

"1990 Act"

means the Town and Country Planning Act 1990 as amended;

"2008 Act"

means the Housing and Regeneration Act 2008 as amended.

2. INTERPRETATION

- 2.1 No person shall be liable for breach of a covenant contained in this Agreement after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenants prior to parting with such interest.
- 2.2 If the Planning Permission is granted and the Planning Permission shall expire before the Development is begun or if the Planning Permission shall at any time be revoked or quashed this Agreement shall forthwith determine and cease to have effect otherwise the obligations referred to in the Second Schedule shall subsist unless or until the District Council by resolution decides that they shall cease to have effect.
- 2.3 The obligations in this Agreement shall not be enforceable against:-
- 2.3.1 the buyer or Occupiers or mortgagees of any individual Dwellings erected on the Land pursuant to the Planning Permission subject to the provisions of Paragraph 4 Part 1 of the Second Schedule to this Agreement;
- 2.3.2 any statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owners to that statutory undertaker.
- 2.4 This Agreement is a local land charge and shall be registered as such by the District Council.

- 2.5 Notwithstanding The Contracts (Rights of Third Parties) Act 1999 nothing in this Agreement confers or purports to confer any right to enforce any of its terms on any person who is not a party other than a successor in title to a party to it.
- 2.6 Any provision in this Agreement which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Agreement.
- 2.7 The expressions "**the District Council**", "**the Owner**" and the **County Council** shall include their respective successors in title and assigns.
- 2.8 Words importing the masculine gender only shall include all other genders and vice versa.
- 2.9 Words importing the singular shall include the plural and vice versa.
- 2.10 Where any party consists of two or more persons companies or corporations the obligations expressed to be made by that party and the conditions and provisions contained in this Agreement shall be deemed to have been made jointly and severally by the persons named as that party.
- 2.11 Unless expressly stated to the contrary any references to a specific statute shall include any statutory extension or modification amendment or re-enactment of that statute and any regulations or orders made under that statute and any general reference to a statute includes any regulations or orders made under that statute.
- 2.12 Nothing in this Agreement shall fetter or restrict the exercise by the District Council or the County Council of their respective powers.
- 2.13 Any consents or approvals required under the provisions of this Agreement shall not be unreasonably withheld or delayed.

- 2.14 The clause paragraph and schedule headings do not form part of this Agreement and are not to be taken into account in its construction or interpretation.

3. COVENANTS

- 3.1 The Owner covenants with the District Council to fulfill the obligations on its behalf specified in the Second Schedule Part 1.
- 3.2 The Owner covenants with the County Council to fulfil the obligations on its behalf specified in the Second Schedule Part 2.
- 3.3. The District Council covenants with the Owner in the manner set out in the Third Schedule Part 1
- 3.4 The County Council covenants with the Owner in the manner set out in the Third Schedule Part 2.

4. WARRANTY

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

5. OWNER'S FURTHER COVENANTS

The Owner covenants with the District Council and the County Council as follows:-

- 5.1 That no compensation shall be payable by the District Council or the County Council to the Owner as a result of the obligations contained in this Agreement.
- 5.2 To supply to the District Council (or the County Council where appropriate) within twenty one (21) days of the date of a written request to do so such information as either the District Council or the County Council within its reasonable discretion considers that

it requires in order to determine whether the terms and conditions of this Agreement are being observed.

5.3 On completion of this Agreement to pay the reasonable legal costs of the District Council and the County Council incurred in connection with the preparation and completion of this Agreement.

5.4 On completion of this Agreement the Owner shall pay to the District Council a contribution of Three thousand nine hundred pounds (£3,900) towards the District Council's administration costs of monitoring compliance with the performance of the planning obligations created by this Agreement which the Owner is required to observe and perform.

6. WAIVER

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

7. CHANGE IN OWNERSHIP

The Owner agrees with the District Council and the County Council to give immediate written notice of any transfer in ownership of its freehold interests in the Land or any part or parts of it occurring before all the obligations under this Agreement have been discharged such notice to be served within twenty one (21) days of such transfer and to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan Provided Always that no such notice shall be required in respect of

any Dwelling or any part of the Land transferred to a statutory undertaker .

8. INTEREST

If any payment due under this Agreement is not paid on the Specified Date Interest will be payable from the Specified Date to the actual date of payment.

9. VAT

Any consideration or monetary payment given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable. If any value added tax is properly payable it shall only be payable upon production of a proper value added tax invoice.

10. DISPUTE RESOLUTION

10.1 Any dispute or difference of any kind whatsoever arising between the parties out of or in connection with this Agreement (including without limitation any question regarding its existence, validity or termination) shall be referred for determination to a single Expert (the "Expert").

10.2 The parties shall jointly appoint the Expert not later than twenty eight (28) days after service of a request in writing by any party to do so.

10.3 If the parties are unable to agree within twenty eight (28) days as to the appointment of such Expert then the Expert shall be appointed on the application of any of the parties as follows:

10.3.1 if the difference or question relates to the rights and liabilities of any party or to the terms or conditions to be embodied in the Agreement or document appertaining to the Agreement it shall be referred to a solicitor or barrister notified by or on behalf of the President for the time being of the Law Society or his deputy; or

- 10.3.2 if the difference or question relates to highway works, engineering demolition building or construction works it shall be referred to a chartered civil engineer notified by or on behalf of the President for the time being of the Institution of Civil Engineers; or
 - 10.3.3 if the difference or question relates to the value of any interest in property it shall be referred to a chartered surveyor agreed upon by the parties but in default of agreement appointed at the request of either party by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors; or
 - 10.3.4 if the difference or question relates to planning and related matters it shall be referred to a chartered town planner agreed upon by the parties but in default of agreement by or on behalf of the President for the time being of the Royal Town Planning Institute.
- 10.4 In the event of a reference to an Expert for determination the parties agree to:
- 10.4.1 prosecute any such reference expeditiously; and
 - 10.4.2 do all things or take all steps reasonably necessary in order to enable the Expert to deliver any award (interim, final or otherwise) as soon as reasonably practicable.
- 10.5 The Expert will have the power to consolidate proceedings or hold concurrent proceedings and to order on a provisional basis any relief which he would have power to grant on a final award.
- 10.6 The award shall be in writing, signed by the Expert and shall give reasons for the award and shall be finalised within fourteen (14) days of the hearing.
- 10.7 The award shall be final and binding both on the parties and on any persons claiming through or under them unless manifestly incorrect and judgment upon the award may

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

10.8 The parties shall in every case continue to comply with its obligations under this Agreement regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution pursuant to this clause 10.

10.9 The provisions of this clause 10 shall not affect the ability of the District Council or the County Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, and any other means of enforcing this Agreement and consequential and interim orders and relief.

11. RIGHT OF ENTRY

At all times on not less than twenty four (24) hours written notice except in case of emergency with or without notice the Owner shall allow any employee or agent of the District Council and/or the County Council entry to the Land for the purposes of inspection and monitoring compliance with the provisions of this Agreement Provided That:

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

11.2 such entry shall be affected between 08.00 and 20.00 on any day;

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

11.4 such employee or agent may take photographs, measurements and levels;

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

11.6 such employee or agent and any other accompanying persons shall comply with the

Owner's or its representative's reasonable precautions in the interests of safety;

11.7 such employee or agent may not enter into any Dwelling or its curtilage which has been sold by the Owner;

11.8 such entry shall be at the employee or agents own risk.

12. JURISDICTION

This Agreement is governed by and interpreted in accordance with English law and (save for any reference to or proceedings in the European Court of Justice) shall be determined in the Courts of England and Wales.

13. DELIVERY

The provisions of this Agreement (other than this clause and clause 5.3 which shall be of immediate effect) shall be of no effect until this Agreement has been dated.

14. COMMUNITY INFRASTRUCTURE LEVY

14.1 The parties to this Agreement agree that for the purposes of the Community Infrastructure Levy Regulations 2010 the obligations imposed in this Agreement are:-

14.1.1 necessary to make the development permitted pursuant to the Planning Application acceptable in planning terms;

14.1.2 directly relate to the development permitted pursuant to the Planning Application; and

14.1.3 fairly and reasonably relate in scale and kind to the development permitted pursuant to the Planning Application.

14.2 If after the date of this Agreement a CIL Charging Schedule is introduced that is applicable to the Development then the parties to this Agreement will use reasonable endeavours to agree variations with the intent that:-

14.2.1 the planning benefits secured by this Agreement shall continue to be secured and delivered; and

14.2.2 there shall be no double counting of infrastructure such that any element of the CIL Charging Schedule that overlaps or which would have the effect of overlapping with the obligations contained in this Agreement shall be deducted from this Agreement.

15 CONTRIBUTIONS STATEMENT

15.1 Within five (5) Working Days of each Contributions Date the Owner shall provide to the District Council a Contributions Statement for the previous Contributions Period.

15.2 Unless the District Council shall give written notice to the Owner within five (5) Working Days of receipt of any Contributions Statement it shall be deemed to be agreed between the Owner and the District Council.

15.3 In the event of a dispute as to any matter contained in or omitted from a Contributions Statement the Owner and the District Council shall use their respective reasonable endeavours to resolve the same but if they have been unable to do that after fifteen (15) Working Days then the matter may be referred by either the Owner or the District Council to determination by the Expert in accordance with clause 10.

15.4 If there shall be a dispute with regard to a Contributions Statement then the Contributions Payment Date for the relevant District Council Dwelling Contributions payments payable pursuant to such Contributions Statement shall be postponed until five (5) Working Days after such dispute is resolved or determined

IN WITNESS whereof the parties to this Agreement have executed this Agreement as a Deed the day and year first before written.

THE FIRST SCHEDULE

DESCRIPTION OF THE LAND

The freehold land at St Edmund's Drive, Elmswell, Bury St Edmunds, Suffolk, IP30 9HF and being part of the land registered at HM Land Registry under Title Number SK159296 and being the land edged red on the Plan.

THE SECOND SCHEDULE

THE OWNER'S COVENANTS

PART 1

The Owner covenants with the District Council as follows:-

1. General

- 1.1 To notify the District Council in writing of the date of Implementation within five (5) Working Days of Commencement of Development occurring.
- 1.2 To notify the District Council in writing within five (5) Working Days of the Date of Completion.

2. Public Open Space

- 2.1 Prior to Commencement of Development (in the context of a comprehensive landscape and open space design for the Development) to provide a scheme ("the Open Space Scheme") for the written approval of the District Council for the provision of:-
 - 2.1.1 Public Open Space in phases as the Development progresses; and
 - 2.1.2 one (1) JOPS on the Public Open Space; and
 - 2.1.3 provisions for the future maintenance and management of the Public Open Space by either the District Council or a Management Company;
 - 2.1.4 provision for the surface treatment and fencing of the Link Road Strip including providing a lockable vehicular gate to the service road serving the adjacent electricity primary substation at the point marked "A" on the Phasing Plan.
- 2.2 Following written approval of the Open Space Scheme by the District Council and the Commencement of Development to:-

2.2.1 implement the Open Space Scheme in accordance with its provisions; and

2.2.2 maintain the Public Open Space in strict accordance with the terms of the Planning Permission, the Approval of Reserved Matters Consent and the Open Space Scheme pending the adoption of the Public Open Space by the District Council or its nominee or the transfer of the Public Open Space to a Management Company PROVIDED ALWAYS that:-

- (a) nothing in this Agreement shall or shall be deemed to bind or require the District Council to take over or adopt or accept a transfer of the Public Open Space or any component part or parts of it; and
- (b) it is recognised and acknowledged by the Owner and the District Council that in the event of the District Council agreeing to take over or adopt or accept a transfer of the Public Open Space or any component part or parts of it then this will need to be the subject of a separate agreement with the District Council and that the District Council will (as consideration for it agreeing to take over or adopt the Public Open Space or any component part or parts of it as public open space) require the owner for the time being of the Public Open Space or any component part or parts of it as appropriate to maintain the same following its completion to the satisfaction of the District Council for at least a twelve month period from completion and will require payment of a commuted sum the amount of which shall be a matter for separate negotiations outside the scope of this Agreement based on the precise nature, extent and specification of the Public Open Space and any equipment thereon and the planting, mowing and maintenance regime relating to them; and
- (c) if the District Council shall agree to adopt or accept a transfer of the

Public Open Space or any component part or parts of it the consideration for such transfer shall be One pound (£1.00); and

- (d) if the District Council shall agree to adopt or accept a transfer of the Public Open Space the freehold title of the Public Open Space or any component part or parts thereof shall be transferred to the District Council free from all encumbrances that will prevent its use for public open space use purposes except easements and wayleaves affecting the same and still subsisting at the date of the transfer substantially in the form of the draft transfer annexed to this Agreement at Annex 2.

3. District Council Dwelling Contributions

- 3.1 On each Contributions Payment Date to pay to the District Council the District Council Dwelling Contributions applicable for the previous Contributions Period.

4. Affordable Housing

- 4.1 Prior to Commencement of Development to include a scheme ("the Affordable Housing Scheme") for the written approval of the District Council detailing the size, specification and distribution of the Affordable Housing Dwellings across the Development.
- 4.2 To ensure the Affordable Housing Dwellings are used as Affordable Housing in accordance with the provisions of this Schedule and the Affordable Housing Scheme.
- 4.3 The Affordable Rented Housing shall be retained and managed by a Registered Provider in accordance with the objectives of the Registered Provider.
- 4.4 The Shared Ownership Housing shall be sold, rented and managed by a Registered Provider in accordance with the objectives of the Registered Provider.
- 4.5 Not to construct the Affordable Housing Dwellings otherwise than in accordance with the Affordable Housing Scheme.
- 4.6 Not to use or occupy the Affordable Housing Dwellings otherwise than in accordance with the Affordable Housing Scheme, the Planning Permission and the Approval of

Reserved Matters Consent.

As soon as possible after the Commencement of Development to use its reasonable endeavours to enter into an agreement with a Registered Provider for the construction and subsequent transfer to the Registered Provider of the Affordable Housing Dwellings which shall include the following provisions:-

4.7.1 the grant in the transfer of the Affordable Housing Dwellings of full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing Dwellings; and

4.7.2 the grant in the transfer of the Affordable Housing Dwellings of full and free rights to the passage of water, soil, electricity, gas and other services through the pipes, drains, channels, wires, cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing Dwellings with all such services to be connected to the mains; and

4.7.3 a covenant in the transfer of the Affordable Housing Dwellings that the Registered Provider will enter into a deed of nomination rights with the District Council and to be determined and completed between the District Council and the Registered Provider within three (3) months of the date of the transfer to the Registered Provider of the Affordable Housing Dwellings; and

4.7.4 a covenant in the transfer of the Affordable Housing Dwellings that the Affordable Housing Dwellings shall only be Occupied by persons allocated in accordance with a Choice Based Lettings Scheme to which the District Council is a party or chosen pursuant to the deed of nomination rights made pursuant to paragraph 4.7.3 of this Schedule which confers nomination rights on the District Council unless otherwise agreed by the District Council in writing;

Within twenty one (21) days of completion of the agreement with the Registered Provider and within twenty one (21) days of the completion of the transfer of the Affordable Housing Dwellings to the Registered Provider as referred in paragraph 4.7 of

this Schedule to produce to the District Council a certified copy of such agreement and transfer by way of a verification of compliance with all requirements set out in paragraph 4.7 of this Schedule.

- 4.9. Unless the District Council otherwise agrees in writing not to Occupy or cause or allow Occupation of more than seventy per cent (70%) of the Open Market Dwellings until the Affordable Housing Dwellings:-

4.9.1 have been constructed to the satisfaction of the Registered Provider; and

4.9.2 are ready for Occupation; and

4.9.3 have been transferred to the Registered Provider.

- 4.10. To notify the District Council in writing when that stage of the Development specified in paragraph 4.9 of this Schedule is expected to be reached.

- 4.11 To construct the Affordable Housing Dwellings in accordance with the HCA's Design and Quality Standards and a minimum of Level 3 of the Code for Sustainable Homes required by the HCA.

- 4.12 In the event that the Owner is unable to comply with the provisions of paragraph 4.7 of this Schedule and it is demonstrated to the reasonable satisfaction of the District Council that the Owner has used reasonable endeavours to conclude an agreement for the sale and purchase of the Affordable Housing Dwellings to a Registered Provider but no such agreement has been entered into the Owner may submit to the District Council, for their prior approval, proposals for the provision of the Affordable Housing Dwellings as Affordable Housing by way of such other form of tenure and/or numbers and/or standards or otherwise that will enable such Affordable Housing Dwellings to be provided either on the Land or elsewhere in the administrative area of the District Council in a commercially viable manner having regard (amongst other factors) to such public or other subsidy as can be utilised by a Registered Provider or the Owner to assist in enabling such Affordable Housing Dwellings to be provided in a commercially viable manner.

4.13 In respect of the Affordable Housing Dwellings:-

4.13.1 Any restrictions upon the Disposal and Occupation of an individual Affordable Housing Dwellings shall not be binding on:-

- (a) any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
- (b) any mortgagee or chargee of an Affordable Housing Dwelling provided that the mortgagee or chargee shall have first complied with its obligations set out in paragraph 4.13.2 below; or
- (c) any purchaser from a mortgagee or chargee of an individual Affordable Housing Dwelling pursuant to any default by the individual mortgagor.

4.13.2 The mortgagee or chargee shall prior to seeking to dispose of the Affordable Housing Dwelling pursuant to any default under the terms of its mortgage or charge shall give to the District Council not less than one (1) months' written notice of the mortgagee or chargee's intention to dispose and:-

- (a) in the event that the District Council responds within one month of the receipt of the notice indicating that arrangements for transfer of the Affordable Housing Dwelling(s) to the Council or to a Registered Provider can be made in such a way to safeguard them as Affordable Housing Dwelling(s) then the mortgagee or chargee shall co-operate with such arrangements and use its best endeavours to secure such transfer;
- (b) if the District Council does not serve its response to the notice under paragraph 4.13.2(a) within the one (1) month period referred to above then the mortgagee or chargee shall be entitled to dispose of the Affordable Housing Dwelling(s) free of the restrictions set out in this Agreement;

(c) if the District Council or any other person cannot within two months of the date of service its response under paragraph 4.13.2(a) secure such transfer then provided that the mortgagee or chargee shall have complied with its obligations under paragraph 4.13.2(a) the chargee shall be entitled to dispose of the Affordable Housing Dwelling(s) free of the restrictions set out in this Agreement Provided That at all times the rights and obligations of this paragraph 4.13 shall not require the mortgagee or chargee to act contrary to its duties under the charge or mortgage.

4.14 If a power of sale shall have become exercisable in respect of any mortgage affecting the Land as a result of which the mortgagee wishes to exercise that power of sale then provided that a mortgagee shall have :-

4.14.1 actively and diligently sought a Registered Provider to purchase the sites upon which it is proposed to construct the Affordable Housing Dwellings ("the Affordable Housing Sites") including any Affordable Housing Dwellings constructed or in the course of construction thereon (such purchase to be subject to the obligations contained in this Agreement) for a period of at least two months; and

4.14.2 where no Registered Provider can be found, offered the Affordable Housing Sites for sale to the District Council for a further period of two months and the District Council declines to accept the offer within that period

then on the expiration of both periods referred to above the mortgagee may dispose of such part of the Affordable Housing Sites and the Dwellings erected thereon free from the obligations contained in this Agreement to the extent necessary to satisfy the sum outstanding under the mortgage but the remaining part of the Land and the Dwellings erected thereon shall remain subject to the obligations contained in this Agreement and

may only be sold subject to the obligations contained in this Agreement.

4.15 In the event that there is Grant Funding and any Affordable Housing Dwelling is subsequently lost to the Affordable Housing sector because a tenant exercises a right to acquire an Affordable Rented Housing Dwelling then any subsidy realised from the sale of such Affordable Housing Dwelling after deduction of outstanding loans and costs of sale and transfer shall be used by the Registered Provider for the provision of additional Affordable Housing within the District Council's administrative area.

4.16. In the event that any of the Affordable Housing Dwellings are sold under any statutory right or scheme to acquire which may from time to time be in force to utilise the proceeds of sale after the deduction of outstanding loans and costs of sale and transfer shall be used by the Registered Provider towards the purchase of a similar suitable dwelling for the provision of additional Affordable Housing within the District Council's administrative area.

4.17 Not to sell or otherwise dispose of any of the Affordable Housing Dwellings under any voluntary purchase grant scheme.

4.18. To produce to the District Council on request the form of tenancy agreement relating to the letting of an Affordable Rented Housing Dwelling and such information as the District Council might reasonably request in respect of the terms of occupation of the Shared Ownership Housing Dwellings.

4.19 Subject to the provisions of Sections 16 and 17 of the Housing Act 1996 the Affordable Rented Housing Dwellings are not to be used except as Affordable Housing Dwellings for rent and that the Shared Ownership Housing Dwellings are not used except for Shared Ownership purposes.

5. **Commercial FTTP Contribution**

5.1 To pay the Commercial FTTP Contribution to the District Council prior to the first Occupation of the ninety fifth (95th) Open Market Dwelling.

- 5.2 Not to Occupy more than ninety five (95) Open Market Dwellings until the Commercial FTTP Contribution has been paid to the District Council.

6. **FTTP**

- 6.1 Subject to availability of the service from an internet service provider to provide an FTTP connection box and all necessary service media to receive broadband (but not for the avoidance of doubt any equipment for the decoding of broadband signals) to an external wall of each Dwelling prior to the first Occupation of each Dwelling

7. **Hawk End Footpath Level Crossing Mitigation Scheme**

- 7.1 Prior to Commencement of Development to agree a written Hawk End Footpath Level Crossing Mitigation Scheme with the District Council to be funded within the financial parameters of the Hawk End Footpath Level Crossing Improvement Sum.
- 7.2 To implement the Hawk End Footpath Level Crossing Mitigation Scheme in accordance with its provisions, including any implementation timetable included as part of such scheme.

8. **Hawk End Footpath Level Crossing Saving**

- 8.1 If following the completion of the Hawk End Footpath Level Crossing Mitigation Scheme there shall be a Hawk End Footpath Level Crossing Saving the Owner shall within twenty (20) Working Days of the Hawk End Footpath Level Crossing Saving being agreed between the Owner and the District Council or determined by an Expert in accordance with the provisions of clause 10 pay to the District Council the Hawk End Footpath Level Crossing Saving Provided Always that the Hawk End Footpath level Crossing Saving shall not be payable earlier than the first Occupation of the fiftieth (50th) Open Market Dwelling.

9. **Phasing of the Development**

- 9.1 On submission of the first application for Approval of Reserved Matters Consent the

Owner shall provide for the District Council's written approval a detailed phasing scheme ("the Phasing Scheme") identifying the number of Dwellings, the number of Open Market Dwellings and the number of Affordable Housing Dwellings including their type and tenure and the anticipated Occupation date for each Dwelling in the relevant phase. Such Phasing Scheme shall reflect the two phase build out of the Development identified on the Phasing Plan.

- 9.2 The Owner shall complete the construction of the Development strictly in accordance with the approved Phasing Scheme unless otherwise agreed in writing with the District Council or unless prevented from doing so by force majeure including lack of sales.

10. **The Link Road Strip**

Prior to the first Occupation of the first Dwelling on Phase 2 as indicated on the Phasing Plan the Owner shall transfer (substantially in the form of the draft transfer annexed to this Agreement at Annex 3) to the District Council for a consideration of One Pound (£1) the freehold estate of the Link Road Strip together with all necessary rights of way over the estate roads and footpaths constructed on the Land for the purposes of access to and egress from the publicly maintained highway subject to the covenants on the part of the District Council contained in the said form of the draft transfer.

PART 2

The Owner covenants with the County Council as follows:

1. **General**

- 1.1 To notify the County Council in writing no less than Fourteen (14) days prior Commencement of Development.
- 1.2 To notify the County Council in writing no less than Fourteen (14) days prior to the

Occupation of the first Dwelling.

- 1.3 To notify the County Council in writing no less than Fourteen (14) days prior to the Occupation of every twenty fifth (25th) Dwelling.
- 1.4 To notify the County Council in writing no less than Fourteen (14) days prior to the Date of Completion.

2. County Council Dwelling Contributions

- 2.1 To pay to the County Council prior to Commencement of Development the County Council Dwelling Contributions applicable for the first Twenty five (25) Dwellings to be built.
- 2.2 Not to allow Commencement of Development until the County Council Dwelling Contributions applicable for the first Twenty five (25) Dwellings to be built has been paid to the County Council.
- 2.3 To pay to the County Council prior to first Occupation of the Twenty sixth (26th) Dwelling the County Council Dwelling Contributions applicable for the Twenty sixth (26th) to the Fiftieth (50th) Dwellings to be built.
- 2.4 Not to allow first Occupation of the Twenty sixth (26th) Dwelling until the County Council Dwelling Contributions applicable for the Twenty sixth (26th) to the Fiftieth (50th) Dwellings to be built have been paid to the County Council.
- 2.5 To pay to the County Council prior to first Occupation of the Fifty first (51st) Dwelling the County Council Dwelling Contributions applicable to the Fifty first (51st) to the Seventy fifth (75th) Dwellings to be built.
- 2.6 Not to allow first Occupation of the Fifty first (51st) Dwelling until the County Council Dwelling Contributions application to the Fifty first (51st) to the Seventy fifth (75th) Dwellings to be built have been paid to the County Council.
- 2.7 To pay to the County Council prior to first Occupation of the Seventy sixth (76th)

Dwelling the County Council Dwelling Contributions applicable for the Seventy sixth (76th) to the One hundredth (100th) Dwellings to be built.

- 2.8 Not to allow first Occupation of the Seventy sixth (76th) Dwelling until the County Council Dwelling Contributions applicable for the Seventy sixth (76th) to the One hundredth (100th) Dwellings to be built have been paid to the County Council.
- 2.9 To pay to the County Council prior to first Occupation of the One hundredth and first (101st) Dwelling the County Council Dwelling Contributions applicable for the One hundredth and first (101st) to the One hundred and twenty fifth (125th) Dwellings to be built.
- 2.10 Not to allow first Occupation of the One hundred and first (101st) Dwelling until the County Council Dwelling Contributions applicable for the One hundred and first (101st) to the One hundred and twenty fifth (125th) Dwellings to be built have been paid to the County Council.
- 2.11 To pay to the County Council prior to first Occupation of the One hundred and twenty sixth (126th) Dwelling the County Council Dwelling Contributions applicable for the One hundred and twenty sixth (126th) to the One hundred and fiftieth (150th) Dwellings to be built.
- 2.12 Not to allow first Occupation of the One hundred and twenty sixth (126th) Dwelling until the County Council Dwelling Contributions applicable to the One hundred and twenty sixth (126th) to the One hundred and fiftieth (150th) Dwellings to be built have been paid to the County Council.
- 2.13 To pay to the County Council prior to first Occupation of the One hundred and fifty first (151st) Dwellings the County Council Dwelling Contributions applicable for the One hundred and fifty first (151st) to the One hundred and seventieth (170th) Dwellings to be built.

- 2.14 Not to allow first Occupation of the One hundred and fifty first (151st) Dwelling until the County Council Dwelling Contributions applicable for the One hundred and fifty first (151st) to the One hundred and seventieth (170th) Dwellings to be built have been paid to the County Council.
- 2.15 If by virtue of the Approval of Reserved Matters Consent more than One hundred and seventy (170) Dwellings are permitted to be built on the Land to pay to the County Council prior to first Occupation of the One hundredth and seventy first (171st) Dwelling the County Council Dwelling Contributions applicable for the One hundred and seventy first (171st) to the final Dwelling permitted to be built pursuant to the Approval of Reserved Matters Consent.
- 2.16 If the provisions of clause 2.15 shall be applicable not to allow first Occupation of the One hundred and seventieth (170th) Dwelling until the County Council Dwelling Contributions applicable for the One hundred and seventieth (170th) to the final Dwelling permitted to be built pursuant to the Approval of Reserved Matters Consent has been paid to the County Council.
- 2.17 For the avoidance of doubt the maximum total of the County Council Dwelling Contributions shall not exceed the sum of £3636.34 as increased by being BCIS Indexed multiplied by the number Dwellings which shall have received Approval of Reserved Matters Consent.

3. Off Site Highways Contribution

- 3.1 If the approved Hawk End Footpath Level Crossing Mitigation Scheme shall require improvements to the existing Hawk End Lane footpath level crossing then, but not otherwise, to pay the Off Site Highways Contribution to the County Council prior to Commencement of Development.
- 3.2 If the provisions of paragraph 3.1 of this part of this Schedule shall be applicable not to allow Commencement of Development until the Off Site Highways Contribution has

been paid to the County Council.

4. Off-Site Highways Improvements

- 4.1 To implement the Off-Site Highway Improvements prior to the First Occupation Date. The Owner will bear the full costs of the Off-Site Highway Improvements.
- 4.2 To enter into an Agreement with the County Council under the terms of Section 278 Highways Act 1980 to enable the Off-Site Highways Improvements to be undertaken.
- 4.3 Not to permit any Dwelling to be first Occupied unless otherwise agreed by the District Council in writing until the Off-Site Highway Improvements have been practically completed, to the satisfaction of the County Council as expressed in writing. .

5. Pedestrian Improvements

- 5.1 To implement the Pedestrian Improvements prior to the first Occupation of the Fiftieth (50th) Dwelling. The Owner will bear the full costs of the Pedestrian Improvements.
- 5.2 To enter into an Agreement with the County Council under the terms of the Section 278 Highways Act 1980 to enable the Pedestrian Improvements to be undertaken.
- 5.3 Not to permit more than Fifty (50) Dwellings to be first Occupied unless otherwise agreed by the District Council in writing until the Pedestrian Improvements have been practically completed, to the satisfaction of the County Council as expressed in writing. .

6. Travel Plan

- 6.1 To finalise the Travel Plan to the satisfaction of the County Council, such agreement to be obtained in writing before Commencement of Development.
- 6.2 Not to allow Commencement of Development until the Travel Plan has been finalised and agreed with the County Council in writing.
- 6.3 To appoint the Travel Plan Coordinator within three months from Commencement of Development.

- 6.4 To pay the costs incurred by the Travel Plan Coordinator in fulfilling the Travel Plan Coordinator role.
- 6.5 To implement the Travel Plan in accordance with its provisions with effect from the First Occupation Date.
- 6.6 To conduct the first Residents Travel Survey on first Occupation of the One hundredth (100th) Dwelling.
- 6.7 To provide to the County Council, within six months from the completion of the first Residents Travel Survey, a revised Travel Plan to cover the period from implementation of the Revised Travel Plan to five (5) years after the practical completion of the Development.
- 6.8 To implement the Revised Travel Plan in accordance with its provisions within Fourteen (14) days of receipt of written agreement from the County Council to the Revised Travel Plan.
- 6.9 To review the Revised Travel Plan on an annual basis after the submission of the Revised Travel Plan, until five (5) years after practical completion of the Development, and to submit any subsequent amendments to the Revised Travel Plan to the County Council for its agreement in writing.

7 Travel Plan Monitoring Contribution

- 7.1 To pay to the County Council the Travel Plan Monitoring Contribution prior to the First Occupation Date.
- 7.2 Not to allow first Occupation of the first Dwelling until the Travel Plan Monitoring Contribution has been paid to the County Council.

THE THIRD SCHEDULE

PART 1

THE DISTRICT COUNCIL'S COVENANTS

The District Council covenants with the Owner as follows:-

1. To issue the Planning Permission within five (5) Working Days of the date hereof.
2. Upon receipt of the District Council Contributions to pay the District Council Contributions into an account which shall accrue interest at the seven day London Inter Bank Bid Rate (LIBID).
3. If the District Council shall fail to expend any District Council Contributions paid to it under this Agreement within ten (10) years of receiving payment for the purposes specified in this Agreement the District Council shall return to the party which paid the relevant District Council Contribution to the District Council any part of the District Council Contribution not expended together with any interest having accrued at the seven day London Inter Bank Bid Rate (LIBID) on such sum so repaid.
4. To use the District Council Dwelling Contributions for the purposes specified in this Agreement and for no other purpose without the previous written approval of the Owner.
5. To use the Commercial FFTP Contribution for the purposes of improving FFTP facilities for the commercial premises known as Station Road Industrial Estate and Elmtree Business Park and for no other purpose.
6. To use the Hawk End Footpath Level Crossing Saving (if any) for the following purposes and no other purpose:-
 - 6.1 Fifty percent (50%) of the Hawk End Footpath Level Crossing Saving to be used for the provision of Affordable Housing in the administrative area of the District

Council; and

- 6.2 Fifty per cent (50%) of the Hawk End Footpath Level Crossing Saving to be used as a contribution towards the Elmswell Link Road Provided Always that if the District Council's approved development plan for Elmswell does not make provision for the Elmswell Link Road within twenty four (24) months of the date of this Agreement then the District Council shall use such sum for the provision of Affordable Housing in the administrative area of the District Council.
7. To supply to the Owner within twenty one (21) days of the date of a written request to do so such information regarding the expenditure of the District Council Contributions as the Owner may from time to time reasonably request.

PART 2

THE COUNTY COUNCIL'S COVENANTS

The County Council covenants with the Owner as follows:-

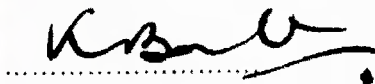
1. To pay the County Council Contributions upon receipt into accounts which shall accrue interest at the seven day London Inter Bank Bid Rate (LIBID) and be free to use them for the purposes specified in this Agreement.
2. To use the County Council Contributions for the purposes specified in this Agreement and for no other purpose.
3. After the expiry of the practical completion of the Development, within a further period of Eleven (11) years, the Owners may request in writing information regarding the expenditure of the County Council Contributions. The County Council covenants to supply such information to the Owner within Twenty One (21) days of the date of a written request to do so.
4. After the expiry of Ten (10) years after the practical completion of the Development

within a further period of One (1) year the Owner may request in writing a refund of any part (including the whole) of the County Council Contributions which have not been committed or expended in accordance with the provisions of this Agreement, together with any interest having accrued at the seven day London Inter Bank Bid Rate (LIBID) on such sum so repaid.

5. To enter into an agreement or agreements with the Owner under Section 278 Highways Act 1980 in respect of the Off-Site Highway Improvements and the Pedestrian Improvements on such terms as the County Council reasonably deems fit.

EXECUTED as a DEED by
MID SUFFOLK DISTRICT COUNCIL
its seal having been affixed in the
presence of:

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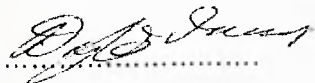


Authorised Officer



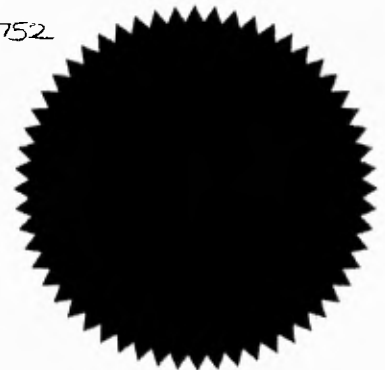
EXECUTED as a DEED by
SUFFOLK COUNTY COUNCIL its seal
having been affixed in the presence of:

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Authorised Officer

21752



**EXECUTED as a DEED by HARROW
ESTATES PLC in the presence of:**

)
)

Director

Director/Secretary

Ally
Viv W. D. W.

LIST OF ANNEXURES

1. Form of Planning Permission.
2. Public Open Space Transfer.
3. Link Road Strip Transfer.
4. Plan.
5. Phasing Plan,
6. Site Access Plan.
7. Pedestrian Improvements Plan.

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Due Date: 15/07/2013

**Mid Suffolk District Council Planning Control Department
131 High Street Needham Market IP6 8DL**

**DRAFT DECISION NOTICE
Town and Country Planning Act 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (ENGLAND) ORDER 2010**

Date of Application: March 26, 2013
Date Registered: April 15, 2013

REFERENCE: 0846 / 13

Documents to which this decision relates:

CORRESPONDENCE ADDRESS:

Mr Bloomfield
Bidwells
16 Upper King Street
Norwich
NR3 1HA

NAME AND ADDRESS OF APPLICANT:

Harrow Estates plc
Bridgemere House
Chester Road
Preston Brook
Cheshire
WA7 3BD

PROPOSED DEVELOPMENT AND LOCATION OF THE LAND:

Outline planning application for demolition of all buildings on site (comprising redundant factory buildings in Use Class B2, settlement tanks and 6 derelict residential properties) and erection of up to 190 residential dwellings and pumping station. Construction of a new access road to Station Road. (Appearance, landscaping, layout and scale to be the subject of a future reserved matters application)

- Former Grampian Harris, St Edmunds Drive, Elmswell

The Council, as local planning authority, hereby gives notice that **OUTLINE PLANNING PERMISSION HAS BEEN GRANTED** in accordance with the application particulars and plans submitted subject to the following conditions:

1. ACTION REQUIRED PRIOR TO COMMENCEMENT OF ANY WORKS

Details of the appearance, scale and layout of the building(s) and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority for each phase of the development, before any development within that phase begins. The development shall be carried out as approved.

Reason – To enable the Local Planning Authority to secure an orderly and well

designed development in accordance with the character and appearance of the neighbourhood and in accordance with the Mid Suffolk Local Plan.

2. TIME LIMIT FOR RESERVED MATTERS APPLICATION

Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates the final approval of the last such matter to be approved.

Reason – Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. PRIOR TO COMMENCEMENT OF DEVELOPMENT - PHASING OF WORKS

No development shall commence, except for demolition and remediation, until a phasing plan for its construction has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out, completed and occupied in accordance with the approved programme.

Reason - In order to secure an orderly development in the interests, and to safeguard the proper and timely build-out of the scheme in the interests of good design.

4. ARCHAEOLOGICAL INVESTIGATION ACTION REQUIRED BEFORE WORKS COMMENCE

No development shall take place within the area the whole site until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

The scheme of investigation shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- g. The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Local Planning Authority.

Reason - To allow proper investigation and recording of the site that is potentially of archaeological and historic significance.

5. PRIOR TO OCCUPATION - ARCHAEOLOGICAL ASSESSMENT COMPLETION

No dwelling shall be occupied until the site investigation and post investigation

assessment has been completed, submitted to and approved in writing by the Local Planning Authority, in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 4 and the provision made for analysis, publication and dissemination of results and archive deposition.

Reason - To allow proper investigation and recording of the site that is potentially of archaeological and historic significance.

6. ACTION REQUIRED PRIOR TO COMMENCEMENT OF ANY WORKS

No development above slab level shall commence in relation to any phase of the development until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development unless otherwise agreed, in writing, at a later date with the Local Planning Authority.

Reason - To secure an orderly and well designed development sympathetic to the character of the existing building(s) and in the interests of visual amenity and the character and appearance of the area.

7. PRIOR TO ANY WORKS COMMENCING: SURFACE WATER DRAINAGE DETAILS REQUIRED

No development shall commence, with the exception of demolition and remediation, until full details of surface water drainage have been submitted to and agreed, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of surface water drainage has been fully installed and is functionally available for use.

Reason - To safeguard the ground water environment and minimise the risk of flooding.

8. ACTION REQUIRED PRIOR TO COMMENCEMENT OF ANY WORKS

No development shall take place, with the exception of demolition and remediation, until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2005 - Trees in Relation to Construction."

Reason - In the interests of visual amenity and the character and appearance of the area.

9. TIMESCALE FOR LANDSCAPING

All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by

the Local Planning Authority. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 5 years of being planted or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and the character and appearance of the area.

10. ACTION REQUIRED PRIOR TO COMMENCEMENT OF ANY WORKS

No development shall commence, with the exception of demolition and remediation, before a scheme has been submitted to and agreed with the Local Planning Authority, which specifies the provisions to protect the amenity of occupiers of the dwellings from noise from adjoining uses.

Reason - To ensure the continuation of the neighbouring uses without detrimentally affecting the amenity of occupiers the proposed dwellings due to noise.

11. HIGHWAYS: PROVISION OF ACCESS PRIOR TO DEVELOPMENT/OCCUPATION

The new vehicular access shall be laid out constructed up to base course level in accordance with Drawing No. 947-02 Rev J and a surface course laying programme will have been submitted to and approved in writing by the local planning authority prior to occupation of the dwellings. The surface course shall be laid in accordance with the agreed programme and the access shall be retained thereafter in its specified form.

Reason - To ensure that the access is designed and constructed to an appropriate specification and made available for use at an appropriate time in the interests of highway safety.

12. HIGHWAYS: BEFORE USE - PROVISION OF VISIBILITY SPLAYS

Before the access is first used visibility splays shall be provided as shown on Drawing No. 947-02 Rev J and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.

Reason - To ensure vehicles exiting the drive would have sufficient visibility to enter the public highway safely and vehicles on the public highway would have sufficient warning of a vehicle emerging in order to take avoiding action

13. CONSTRUCTION OF FOOTWAY LINK

Condition: No occupation shall take place until the details of the proposed footway link to the industrial estate and a programme for its construction has been submitted

to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and programme.

Refuse: To provide a sustainable link to the development.

14. PRIOR TO FIRST OCCUPATION: TRAVEL PLAN

Prior to first occupation of the dwellings hereby approved, a travel plan shall be submitted to and agreed in writing by the Local Planning Authority. The provisions of the approved travel plan shall be maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To encourage the use of public transport in order to limit effects of the proposal of the local highway.

15. PRIOR TO COMMENCEMENT OF DEVELOPMENT: FIRE HYDRANTS

Prior to commencement of development, with the exception of demolition and remediation, details for the phased provision of fire hydrants throughout the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme as approved shall be fully implemented in accordance with the said approved details and phasing plan, unless otherwise agreed, in writing, by the Local Planning Authority, concurrent with the delivery of the buildings to be served hereby.

Reason - To facilitate the provision of appropriate fire protection measures in the interests of safety.

16. ACTION REQUIRED PRIOR TO COMMENCEMENT DEVELOPMENT: MITIGATION TO BE AGREED

Prior to the commencement of development a scheme of appropriate mitigation and biodiversity enhancement measures (including precise details of the timing, any translocation measures deemed necessary and method of protection) shall be submitted to and approved, in writing, by the Local Planning Authority in accordance with the recommendations of Naturally Wild Phase 1 Habitat Survey and Protected Species Surveys, former Grampian Country Foods Factory, Elmswell, Suffolk received 26th March 2013. No development shall be undertaken except in accordance with the approved scheme of mitigation and timings agreed.

Reason - In order to safeguard protected wildlife species and their habitats in accordance with the NPPF.

17. PRIOR TO DEVELOPMENT: MITIGATION OF RISK AT HAWK END LAND CROSSING

No development, with the exception of demolition and remediation, shall take place on the site until a strategy for mitigating risk at Hawk End Lane crossing has been agreed in writing by the planning authority. The strategy shall have been the subject of consultation by the developer with Network Rail and the Parish Council and shall demonstrate the steps taken to address advice given. The strategy shall include a clear timetable for delivery of mitigation of risk relative to the construction and occupation of the development. The development and any risk mitigation measures shall thereafter be delivered in accordance with the agreed strategy and timetable.

Reason: To provide a strategy to mitigate the risk to pedestrians from the development from crossing the railway at Hawk End Lane.

18. CONSTRUCTION MANAGEMENT TO BE AGREED PRIOR TO COMMENCEMENT

No development shall take place, including any works of demolition, until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the demolition and construction periods and shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed.
- d) Details of any protection measures for footpaths surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of a strategy to minimise waste from the site.

The construction shall at all times be undertaken in accordance with the agreed methodology unless otherwise agreed in writing by the Local Planning Authority.

Reason - To minimise detriment to nearby residential and general amenity.

19. PRIOR TO ANY WORKS COMMENCING: SURFACE WATER DRAINAGE DETAILS REQUIRED

No development shall commence, except for demolition and remediation until full details of foul water drainage have been submitted to and agreed, in writing, by the Local Planning Authority. No part of the development shall be first occupied or brought into use until the agreed method of foul water drainage has been fully installed and is functionally available for use.

Reason - To safeguard the ground water environment and minimise the risk of flooding.

20. LISTING OF APPROVED PLANS & DOCUMENTS

The development hereby permitted shall be carried out in accordance with the following approved documents or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission/consent; or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non material amendment following an application in that regard:

947-02 F

Reason - For the avoidance of doubt and in the interests of proper planning of the development.

SUMMARY OF POLICIES AND PROPOSALS WHICH ARE RELEVANT TO THE DECISION:

NOTES:

1. **Summary Reason(s) for Approval**

The proposal has been assessed with regard to adopted development plan policies, the National Planning Policy Framework and all other material considerations.

Taking all relevant matters into account the proposal is considered to be acceptable subject to appropriate conditions.

Statement of positive and proactive working in line with the National Planning Policy Framework (NPPF):

The NPPF encourages a positive and proactive approach to decision taking, delivery of sustainable development, achievement of high quality development and working proactively to secure developments that improve the economic, social and environmental conditions of the area:

In this case the applicant took advantage of the Council's pre-application and duty planning officer service prior to making the application. The opportunity to discuss a proposal prior to making an application allows potential issues to be raised and addressed pro-actively at an early stage, potentially allowing the Council to make a favourable determination for a greater proportion of applications than if no such service was available.

2. It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the Highway Authority.

Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by the County Council or its agents at the applicant's expense.

The County Council's Central Area Manager should be contacted on Telephone 01473 341414.

A fee is payable to the Highway Authority for the assessment and inspection of both new vehicular crossing access works and improvements deemed necessary to existing vehicular crossings due to proposed development.

3. The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:-

- (i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with Sharon Berry Public Rights of Way Officer, Mid Suffolk District Council, 131 High Street, Needham Market, Suffolk IP6 8DL. The telephone number is 01449 724634. (email sharon.berry@midsuffolk.gov.uk)
- (ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.
- (iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Suffolk County Council).

This permission/consent relates only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Dated:

Agreed for Issue

**MID SUFFOLK DISTRICT COUNCIL, 131 HIGH STREET, NEEDHAM MARKET,
IPSWICH IP6 8DL**

DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

Human Rights Act 1998 Declaration

I have considered Human Rights Act 1998 issues raised in relation to this proposal including matters under Article 8 and the First Protocol. I consider that a proper decision in this case may interfere with human rights under Article 8 and/or the First Protocol. I have taken account of exceptions to Article 8 regarding National Security, Public Safety, Economic well being of the country, preventing Crime and Disorder, protection of Health or Morals, protecting the Rights and Freedoms of others. I confirm that the decision taken is necessary, not discriminatory and proportionate in all the circumstances of the case.

CONCURRENCE WITH DECLARATION AND AUTHORITY TO ISSUE DECISION
REF 0846 / 13

OFFICER :

DATE:

Land Registry

Transfer of part of registered title(s)



TP1



If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

1	Title number(s) out of which the property is transferred: SK159296
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	<p>Property:</p> <p>Public Open Space at [] Elmswell Bury St Edmunds Suffolk</p> <p>The property is identified</p> <p><input checked="" type="checkbox"/> on the attached the Plan and shown: edged red</p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown:</p>
4	Date:
5	<p>Transferor:</p> <p>HARROW ESTATES PLC</p> <p>For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix: 6825371</p> <p>For overseas companies (a) Territory of incorporation:</p> <p>(b) Registered number in England and Wales including any prefix:</p>
6	<p>Transferee for entry in the register:</p> <p>MID SUFFOLK DISTRICT COUNCIL or [NOMINEE]</p> <p>For UK incorporated companies/LLPs Registered number of company or limited liability partnership including any prefix:</p> <p>For overseas companies (a) Territory of incorporation:</p> <p>(b) Registered number in England and Wales including any prefix:</p>
7	<p>Transferee's intended address(es) for service for entry in the register:</p> <p>131 High Street, Needham Market, Ipswich, IP6 8DL [or that of Nominee as appropriate]</p>
8	The transferor transfers the property to the transferee

9	Consideration
	<input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): One pound (£1.00)
	<input type="checkbox"/> The transfer is not for money or anything that has a monetary value
	<input type="checkbox"/> Insert other receipt as appropriate:
10	The transferor transfers with
	<input checked="" type="checkbox"/> full title guarantee
	<input type="checkbox"/> limited title guarantee
11	Declaration of trust. The transferee is more than one person and
	<input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants
	<input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares
	<input type="checkbox"/> they are to hold the property on trust:
12	Additional provisions
	Definitions
12.1	In this Transfer the following words and expressions shall have the following meanings:-
	<p>"Estate" means the Transferor's development being the land now or formerly comprised in the title number referred to at Panel 1 other than the Property</p> <p>"Services" means water soil effluent gas fuel oil electricity telephone telephonic signals television visual audio fax electronic mail data information communications and other services</p> <p>"Service Facilities" means sewers drains channels pipes watercourses gutters wires cables ducts flues conduits laser optic fibres electronic data or impulse communication transmission or reception systems and other conducting media septic tanks holding tanks and sewage treatment works and associated equipment</p>
12.2	Unless otherwise stated or the context otherwise requires a reference to a clause sub-clause or schedule is a reference to a clause sub-clause or a schedule to this transfer and reference in a schedule to a paragraph or a sub-paragraph are to a paragraph or sub-paragraph of that schedule
12.3	Reference to "Transferor" and "Transferee" include reference to their respective successors in title and those deriving title under them save where expressly varied by this Transfer
12.4	Rights Granted
	The Transfer of the Property includes the rights set out in Schedule 1

12.5 Exceptions and Reservations

There are excepted and reserved from the Transfer of the Property the matters set out in Schedule 2

12.6 Restrictive Covenants by the Transferee

The Transferee so as to bind the Property and each and every part thereof and so as to benefit the Estate and each and every part thereof hereby covenants with the Transferor not to use or permit to be used the Property or any part thereof other than as public open space amenity land and the provisions of Section 10 of the Open Spaces Act 1906 shall apply accordingly and not to exclude any person or persons from the same (save temporarily in the event of safety pending any necessary maintenance) who have rights to use and enjoy the same

[12.7 Agreements and Declarations

The Property does not include any walls fences hedges or other structural boundary which forms the boundary with any plots on the Estate]

SCHEDULE 1

1. There shall be granted over the Estate (and each and every part thereof) for the benefit of the Property (and each and every part thereof) in fee simple the following rights liberties and easements provided that such rights liberties and easements shall where applicable be in such positions as shall be approved by the Transferor (such approval not to be unreasonably withheld or delayed) but shall not (subject to the proviso as aforesaid) interfere with the development of the Estate:

- (a) a right of way for all purposes by day or night with or without vehicles over and along the roads and a right of way for all purposes by day or night but on foot only over and along the footpaths to the roads which are now or may hereafter be constructed or laid on the Estate
- (b) the full right of passage and running of Services through the Service Facilities which are now or may hereafter be constructed or laid in or over or under the Estate and used in common by the Property and the Estate or by the Property alone with the right to enter upon the Estate to make connections with inspect repair renew cleanse and maintain the Service Facilities or any of them

In exercising the said rights liberties and easements the Transferee will cause as little inconvenience to the Transferor and as little damage as practicable to the Estate and shall without undue or unnecessary delay make good at its own cost any damage caused to the Estate to the reasonable satisfaction of the Transferor

SCHEDULE 2

There shall be excepted and reserved out of the Property (and each and every part thereof) for the benefit of the Estate (and each and every part thereof) in fee simple the following rights liberties and easements provided that such rights liberties and easements shall where applicable be in such positions as shall be approved by the Transferee (such approval not to be unreasonably withheld or delayed) and shall not interfere with the use of the Property as public open space the full right of passage and running of Services from and to the Estate in any Service Facilities which are now or may hereafter be constructed or laid in on over or under the Property and used in common by the Property and the Estate or by the Estate alone with the right to enter upon the Property upon giving prior written notice to the Transferee (except in the case of emergency) to make connections with inspect repair renew cleanse and maintain the Service Facilities or any of them or to lay down and construct any new Service Facilities

	<p>in on over or under such part or parts of the Property</p> <p>In exercising the said rights liberties and easements the Transferor will cause as little inconvenience to the Transferee and as little damage as practicable to the Property and shall without undue or unnecessary delay make good at its own cost any damage caused to the Property to the reasonable satisfaction of the Transferee</p>
13	<p>Execution</p> <p>EXECUTED as a Deed by) HARROW ESTATES Plc) acting by:-)</p> <p>Director</p> <p>Director/Secretary</p> <p>EXECUTION details for the Transferee</p>

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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Land Registry

Transfer of part of registered title(s)

lps

TP1

Vin W Keir

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

1	Title number(s) out of which the property is transferred: SK159296
2	Other title number(s) against which matters contained in this transfer are to be registered or noted, if any:
3	<p>Property:</p> <p>Land at [] Elmswell Bury St Edmunds Suffolk</p> <p>The property is identified</p> <p><input checked="" type="checkbox"/> on the attached the Plan and shown: edged red</p> <p><input type="checkbox"/> on the title plan(s) of the above titles and shown:</p>
4	Date:
5	<p>Transferor:</p> <p>HARROW ESTATES PLC</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix: 6825371</p> <p><u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in England and Wales including any prefix:</p>
6	<p>Transferee for entry in the register:</p> <p>MID SUFFOLK DISTRICT COUNCIL</p> <p><u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:</p> <p><u>For overseas companies</u> (a) Territory of incorporation: (b) Registered number in England and Wales including any prefix:</p>
7	<p>Transferee's intended address(es) for service for entry in the register:</p> <p>131 High Street Needham Market Ipswich IP6 8DL</p>
8	The transferor transfers the property to the transferee

9	Consideration
	<input checked="" type="checkbox"/> The transferor has received from the transferee for the property the following sum (in words and figures): one pound (£1.00)
	<input type="checkbox"/> The transfer is not for money or anything that has a monetary value
	<input type="checkbox"/> Insert other receipt as appropriate:
10	The transferor transfers with
	<input checked="" type="checkbox"/> full title guarantee
	<input type="checkbox"/> limited title guarantee
11	Declaration of trust. The transferee is more than one person and
	<input type="checkbox"/> they are to hold the property on trust for themselves as joint tenants
	<input type="checkbox"/> they are to hold the property on trust for themselves as tenants in common in equal shares
	<input type="checkbox"/> they are to hold the property on trust:
12	Additional provisions
	Definitions
12.1	<p>In this Transfer the following words and expressions shall have the following meanings:-</p> <p>"Elmswell Link Road" means a road from Station Road Elmswell to School Road Elmswell and in part (shown for the purpose of identification of the Drawing Tjp Rev B 12/6/2014) passing through the Estate which is intended to relieve traffic in the centre of Elmswell</p> <p>"Estate" means the Transferor's development being the land now or formerly comprised in the title number referred to at Panel 1 other than the Property</p> <p>"Services" means water soil effluent gas fuel oil electricity telephone telephonic signals television visual audio fax electronic mail data information communications and other services</p> <p>"Service Facilities" means sewers drains channels pipes watercourses gutters wires cables ducts flues conduits laser optic fibres electronic data or impulse communication transmission or reception systems and other conducting media septic tanks holding tanks and sewage treatment works and associated equipment</p>
12.2	<p>Unless otherwise stated or the context otherwise requires a reference to a clause sub-clause or schedule is a reference to a clause sub-clause or a schedule to this transfer and reference in a schedule to a paragraph or a sub-paragraph are to a paragraph or sub-paragraph of that schedule</p>
12.3	<p>Reference to "Transferor" and "Transferee" include reference to their respective successors in title and those deriving title under them save where expressly varied by this Transfer</p>

12.4 Rights Granted

The Transfer of the Property includes the rights set out in Schedule 1

12.5 Exceptions and Reservations

There are excepted and reserved from the Transfer of the Property the matters set out in Schedule 2

12.6 Restrictive Covenants by the Transferee

The Transferee so as to bind the Property and each and every part thereof and so as to benefit the Estate and each and every part thereof hereby covenants with the Transferor that the Property shall be used for no other purpose other than to facilitate the construction provision and completion of the Elmswell Link Road PROVIDED THAT in the event the Elmswell Link Road shall not have been provided within twenty (20) from the date hereof the Transferee shall be at liberty to appropriate the Property for public open space purposes pursuant to the Open Spaces Act 1906 and thereafter shall not use or permit to be used the Property or any part thereof other than as public open space amenity land in accordance with the provisions of Section 10 Open Spaces Act 1906.

12.7 Personal Covenants by the Transferee

Until the Property is adopted as public highway maintainable at public expense as part of the Elmswell Link Road or as public open space pursuant to the Public Open Spaces Act 1906 to maintain and keep the Property in a good and decent state.

SCHEDULE 1

1. There shall be granted over the Estate (and each and every part thereof) for the benefit of the Property (and each and every part thereof) in fee simple the following rights liberties and easements provided that such rights liberties and easements shall where applicable be in such positions as shall be approved by the Transferor (such approval not to be unreasonably withheld or delayed) but shall not (subject to the proviso as aforesaid) interfere with the development of the Estate:

- (a) a right of way for all purposes by day or night with or without vehicles over and along the roads and a right of way for all purposes by day or night but on foot only over and along the footpaths to the roads which are now or may hereafter be constructed or laid on the Estate
- (b) the full right of passage and running of Services through the Service Facilities which are now or may hereafter be constructed or laid in or over or under the Estate and used in common by the Property and the Estate or by the Property alone with the right to enter upon the Estate to make connections with inspect repair renew cleanse and maintain the Service Facilities or any of them

In exercising the said rights liberties and easements the Transferee will cause as little inconvenience to the Transferor and as little damage as practicable to the Estate and shall without undue or unnecessary delay make good at its own cost any damage caused to the Estate to the reasonable satisfaction of the Transferor

SCHEDULE 2

There shall be excepted and reserved out of the Property (and each and every part thereof) for the benefit of the Estate (and each and every part thereof) in fee simple the following rights liberties and easements provided that such rights liberties and easements shall where applicable be in such positions as shall be approved by the Transferee (such approval not to be unreasonably withheld or delayed) and shall not interfere with the use of the Property as either public highway or public open space the full right of passage and running of Services from and to the Estate in any Service Facilities which are now or may hereafter be constructed or laid in on over or under the Property and used in common by the Property and the Estate or by the Estate alone with the right to enter upon the Property upon giving prior written notice to the Transferee (except in the case of emergency) to make connections with inspect repair renew cleanse and maintain the Service Facilities or any of them or to lay down and construct any new Service Facilities in on over or under such part or parts of the Property

In exercising the said rights liberties and easements the Transferor will cause as little inconvenience to the Transferee and as little damage as practicable to the Property and shall without undue or unnecessary delay make good at its own cost any damage caused to the Property to the reasonable satisfaction of the Transferee

13 Execution

EXECUTED as a Deed by)
HARROW ESTATES Plc acting)
by:-)

Director

Director/Secretary

The COMMON SEAL of Mid Suffolk)
DISTRICT COUNCIL was affixed in)
the presence of)

Authorised officer

WARNING

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Land Registry
Official copy of
title plan

Title number SK159296
Ordnance Survey map reference TL9864SE
Scale 1:2500
Administrative area Suffolk : Mid Suffolk



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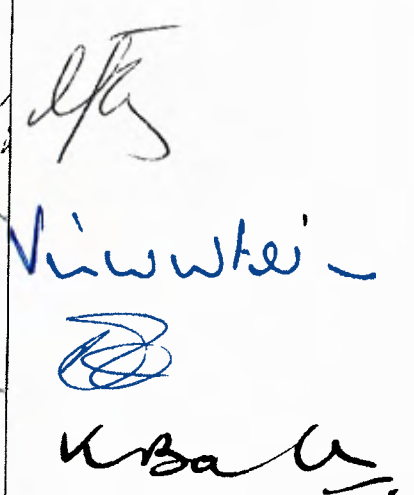


Scale 1:1800 @ A1
Drawn by
Rev'd A. 2008/2014 Access detail amended, emergency access added
Rev'd B. 2009/2014 PCDW related, alternative alignment removed.

11762



1574


PHIL JONES ASSOCIATES
 transport planning consultants

Class

Project

Drawing

Drawn by JL	Date: Jan 15	Scale: 1:500 @ A3
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Drawing No.	Revision
947-200	

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