MEMORIAL HALL, BRUNDALL

SUMMARY OF SECTION 106 AGREEMENT

1. **Introduction**

1.1. This note provides a summary of the main provisions in the proposed section 106 agreement (the “agreement”) for land east of the Memorial Hall, Brundall, Norfolk (the “Property”) in connection with the planning application (ref 2017/1386) for the redevelopment of the Site (the “Development”). It is based on the final engrossment draft dated 24.09.20 which is agreed between the parties.

1.2. Please refer to the full agreement for the defined terms and the full details of the provisions.

2. **Parties**

2.1. The parties to the agreement are:

(a) Broadland District Council (the Council);

(b) Mary Marshall Bushell, David Victor Marshall Thurgar and Grant Stanley Pilcher (the First Owners);

(c) Norman John Long, Graham William Long and Timothy Jon Long (the Second Owners); and

(d) Quantum Land (Brundall) Limited (the Developer)

3. **SCHEDULE 1 – AFFORDABLE HOUSING**

3.1. Schedule 1 sets out the following obligations on the Owners (meaning the First and Second Owners):

(a) To submit (and have approved) the Affordable Housing Scheme for Phase 1 prior to Commencement of Phase 1.

(b) To submit (and have approved) the Affordable Housing Scheme (which must confirm the identity of the Provider and the timetable for provisions of the Affordable Dwellings) for Phase 2 prior to Commencement of Phase 2.

(c) Not to Occupy more than 50% of the Open Market Dwellings comprised in a Phase until an exchanged unconditional contract for sale of the Affordable Dwellings has been supplied to the Council.

(d) Not to Occupy more than 70% of the Open Market Dwellings comprised in a Phase until all the Affordable Dwellings for that Phase are Practically Complete and have been transferred to the approved Provider.

(e) To ensure that 33% of the Affordable Housing for Rent complies with the local lettings policy (i.e. first allocations will be made to persons living in the parish of Brundall, or working there, or with a need to move there or if no suitable person can be found, then someone in the Council’s area who complies with the Council’s policies relating to housing allocation)
(f) To provide to the Council nomination rights to 100% of the Affordable Housing for Rent, unless otherwise agreed.

4. SCHEDULE 2 – COUNTRY PARK

4.1. Part 1 sets out the options for the provision and states that on or before Substantial Completion of the Dwellings in Phase 1 the Council shall determine whether the Owners shall comply with Part 2 (the Council provides the Country Park) or Part 3 (the Owners provide the Country Park). The Council shall make this determination within 30 Working Days of written request or such longer period as the parties may agree.

4.2. If the Council fails to make a determination, then Part 3 (Owners provide the Country Park) shall apply.

4.3. If the Council determines that Part 2 applies (the Council provides the Country Park) then Part 2 of Schedule 3 shall similarly to the Village Green. The same applies to Part 3. However, the corresponding part will not apply for the Village Green where the Council considers that there are substantial reasons related to the effective and efficient delivery of the Country Park which justify different determinations.

Part 2 – The Council provides the Country Park

4.4. To pay the Financial Contribution CP1 (Design) of £25,000 prior to Occupation of 4 Open Market Dwellings.

4.5. To pay the Financial Contribution CP2 (Works) of £250,000 prior to Occupation of 49 Open Market Dwellings.

4.6. To pay the Financial Contribution CP3 (Maintenance) of £175,000 prior to Occupation of 85 Open Market Dwellings or within 14 Working Days of notice from the Council that the Country Park is Substantially Complete.

Part 3 – The Owner provides the Country Park

4.7. Prior to Occupation of 84 Dwellings to consult the public on the Country Park Scheme, to get the Scheme approved by the Council and obtain any necessary consents and reserved matters approvals.

4.8. Not to Occupy more than 80% of the Dwellings unless the Country Park Site has been provided in accordance with the Approved Country Park Scheme and transferred to the Nominated Body subject to the Standard Terms.

4.9. Not to Occupy more than 80% of the Dwellings unless the Financial Contribution CP3 (Maintenance) of £175,000 has been paid to the Council.

5. SCHEDULE 3 – VILLAGE GREEN

5.1. Part 1 sets out the options for the provision and states that on or before Substantial Completion of the Dwellings in Phase 1 the Council shall determine whether the Owners shall comply with Part 2 (the Council provides the Village Green) or Part 3 (the Owners provide the Village Green). The Council shall make this determination within 30 Working Days of written request or such longer period as the parties may agree.

5.2. If the Council fails to make a determination, then Part 3 (Owners provide the Village Green) shall apply.
5.3. If the Council determines that Part 2 applies (the Council provides the Village Green) then Part 2 of Schedule 3 shall similarly to the Country Park. The same applies to Part 3. However, the corresponding part will not apply for the Country Park where the Council considers that there are substantial reasons related to the effective and efficient delivery of the Village Green which justify different determinations.

Part 2 – The Council provides the Village Green

5.4. To pay the Financial Contribution VG1 (Design) of £25,000 prior to Occupation of 10 Open Market Dwellings.

5.5. To pay the Financial Contribution VG2 (Works) of £300,000 prior to Occupation of 69 Open Market Dwellings.

5.6. To pay the Financial Contribution VG3 (Maintenance) of £125,000 prior to Occupation of 95 Open Market Dwellings or within 14 Working Days of notice from the Council that the Village Green is Substantially Complete.

Part 3 – The Owner provides the Village Green

5.7. Prior to Occupation of 84 Dwellings to consult the public on the Village Green Scheme, to get the Scheme approved by the Council and obtain any necessary consents and reserved matters approvals.

5.8. Not to Occupy more than 80% of the Dwellings unless the Village Green Site has been provided in accordance with the Approved Village Green Scheme and transferred to the Nominated Body subject to the Standard Terms.

5.9. Not to Occupy more than 80% of the Dwellings unless the Financial Contribution VG3 (Maintenance) of £125,000 has been paid to the Council.

6. SCHEDULE 4 – OPEN SPACE

6.1. The Open Space Scheme must be submitted prior to Commencement of each phase. This can set out that the Open Space Phase Requirement will be provided on site unless the relevant phase 1 requirement is being provided within Phase 2 and unless the Nominated Officer agrees that an Off-Site Open Space Contribution is to be paid in lieu of that element. Any excess Open Space provided on site in Phase 1 will be subtracted from the requirement for Phase 2.

6.2. The Open Space Requirement is in addition to the Country Park and Village Green and is line with the figures set out in Part 4 of Schedule 4.

6.3. If it is agreed that an Off-Site Open Space Contribution is to be paid in lieu, this is to be paid prior to first Occupation of any Dwelling within that Phase and in line with the figures set out in Part 3 of Schedule 4.

6.4. Any Open Space which is being provided on site shall be provided in accordance with the Approved Open Space Scheme and transferred to the Nominated Body subject to the Standard Terms prior to Occupation of 80% of the Dwellings within a Phase.

7. Miscellaneous

7.1. The Council has obligations under both Schedule 2 and 3 to approve the relevant schemes within 30 Working Days, to confirm the Nominated Body without delay and to use any unspent part of any contribution towards the next applicable contribution.

7.2. There is a clause to protect future mortgagees of the Site, any mortgagees of the Affordable Dwellings and any receivers or administrators appointed on their behalf. The Council will only be able to enforce against them if they go into possession.

7.3. Similarly, there is a clause which makes clear that the agreement is not enforceable against any owner or occupier of individual dwellings nor any party who no longer has an interest in the Land.
7.4. The agreement is conditional upon the grant of the Permission pursuant to the Appeal and Commencement of Development, save for paying the Council’s legal fees for negotiating the agreement, which must be paid on completion.

7.5. Clause 6.6 – 6.8 means that if the Inspector finds any obligation in the agreement to not be necessary for the development to be acceptable in planning terms then that obligation shall no longer have effect or shall be appropriately amended.

Town Legal LLP
28 September 2020