

**Dated** 02 AUGUST 2017

**BROADLAND DISTRICT COUNCIL**

-and-

**TERENCE DAVIES**

-and-

**JACQUELINE SUSAN DAVIES**

-and-

**LLOYDS BANK PLC**

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

relating to land at 1 and 2 Pitt Farm Green, Ringland, Norwich, Norfolk, NR8 6BF

**THIS DEED** is dated

02 AUGUST

**2017**

**PARTIES:**

- (1) **BROADLAND DISTRICT COUNCIL** Thorpe Lodge 1 Yarmouth Road Thorpe St Andrew NORWICH NR7 0DU (referred to as "the Council")
- (2) **TERENCE DAVIES** of Manor Farmhouse, Ringland, Norwich, NR8 6JH (referred to as "the 1<sup>st</sup> Owner")
- (3) **JACQUELINE SUSAN DAVIES** of Manor Farmhouse, Ringland, Norwich, NR8 6JH referred to as "the 2<sup>nd</sup> Owner")
- (4) **LLOYDS BANK PLC**, Company registration number 00002065, of Recoveries Commercial Banking, Customer, Change & Innovation, Risk Division, Lloyds Bank, 2<sup>nd</sup> Floor, Wine Street, Bristol BS1 2AN whose registered office is at 25 Gresham Street, London, EC2V 7HN (referred to as "the Mortgagee")

together referred to as 'the Parties'

**INTRODUCTION**

- (A) The Council is a local planning authority for the purposes of the Act for the area within which the Site is located
- (B) Owen Bond Partnership applied for the Permission on behalf of the Owners and the Council granted the Permission
- (C) The Owners own the freehold of the Site which is registered at the Land Registry under title numbers NK420713 and NK420714

- (D) The Mortgagee has a charge over the Site registered at the Land Registry under title numbers NK420713 and NK420714

## **1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

“Act”	the Town and Country Planning Act 1990
“Dwellings”	the dwellings on the Site known as 1 and 2 Pitt Farm Green and edged in blue on the plan
“Owners”	the 1 <sup>st</sup> Owner and the 2 <sup>nd</sup> Owner together
“Permission”	the full planning permission for residential development and allocated reference number 2001/0813/F received by the Council on 28 December 2001
“Plan”	the plan attached to this Deed
“Site”	the land known as 1 and 2 Pitt Farm Green, Ringland, Norwich, Norfolk, NR8 6BF and registered at Land Registry under title numbers NK420713 and NK420714 shown edged red on the Plan

## **2. LEGAL BASIS**

- 2.1 This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other enabling powers and the covenants and obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act enforceable by the Council
- 2.2 Covenants given by more than one party can be enforced against them individually or jointly
- 2.3 A reference to an act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that act, and reference to a gender or person includes all genders or classes of person
- 2.4 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 2.5 This Deed is governed by and interpreted in accordance with the law of England
- 2.6 The agreement under Section 106 of the Act and Section 111 of the Local Government Act 1972 dated 9<sup>th</sup> January 2004 is hereby revoked and shall be of no further effect
- 2.7 This Agreement is a Deed and may be modified or discharged in part or in total at any time after the date of this Agreement by agreement between the parties in the form of a Deed
- 2.8 In this Agreement unless the context otherwise requires:
- a) words importing the masculine gender shall where appropriate include the feminine gender and the neuter gender or vice versa as the case may be and

words importing the singular shall where appropriate include the plural number and vice versa

- b) "party" or "parties" means a party or parties to this Agreement
- c) references to any party shall include successors in title and assigns of that party
- d) where a party includes more than one person any obligations of that party shall be joint and several
- e) headings in this Agreement shall not form part of or affect its construction
- f) references to clauses and schedule are references to clauses in and schedules to this Agreement
- g) where a party or any officer or employee is required to give its consent approval or agreement in any specific provision in this Agreement such approval or agreement shall not be unreasonably withheld or delayed
- h) any mention herein of any Act or of any Section Regulation or Statutory Instrument shall be deemed to refer to the same source as at any time amended and where such Act, Section, Regulation or Statutory Instrument has been replaced, consolidated or re-enacted with or without amendment such mention shall be deemed to refer to the relevant provision of the updating consolidating or re-enacting Act or Section or Regulation or Statutory Instrument

### **3. COVENANTS**

- 3.1 The Owners covenant with the Council for themselves and their successors in title to observe and perform the obligations and stipulations contained in this Deed

- 3.2 The Council covenant with the Owner to comply with their respective requirements contained in this Deed

#### **4. OTHER PROVISIONS**

- 4.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site (unless the breach occurred before he disposed of his interest)
- 4.2 The Owners confirm they are the owners of the Site with full power to enter into this Deed and that there is no person or body (other than the Mortgagee) with an interest in the Site whose consent is necessary to make this Deed binding on all interests in the Site
- 4.3 This Deed will not bind anyone who acquires an interest in part of the Site for the purpose of the supply of utility services
- 4.4 On completion the Owners will pay the Council's reasonable legal costs in connection with this Deed
- 4.5 This Deed shall be registered as a local land charge by the Council upon completion
- 4.6 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 4.7 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 4.8 No waiver, express or implied, by the Council constitutes a continuing waiver, nor prevents the Council from enforcing any of the provisions in this Deed

- 4.9 This Agreement shall cease to have effect if either:
- a) the Permission is quashed revoked or otherwise withdrawn; or
  - b) planning permission on the land is granted subsequently and implemented for proposals incompatible with the Permission

## **5. DISPUTES**

- 5.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding
- 5.2 Nothing in this Clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

## **6. NOTIFICATIONS**

- 6.1 Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received
- 6.2 If the Owners dispose of their interest in all or part of the Site they will notify the Council within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site

## **7. MORTGAGEE CONSENT**

The Mortgagee consents to this Deed so that its interest in the Site is bound by the obligations contained in this Deed and agrees that its security over the Site takes effect subject to the provisions of this Deed PROVIDED THAT the Mortgagee is

not required to observe or perform the obligations in this Deed unless it takes possession of the Site. (For the avoidance of doubt any person acquiring title to all or part of the Site as a result of the Mortgagee enforcing its security will be bound by the terms of this Deed.)

## **SCHEDULE ONE**

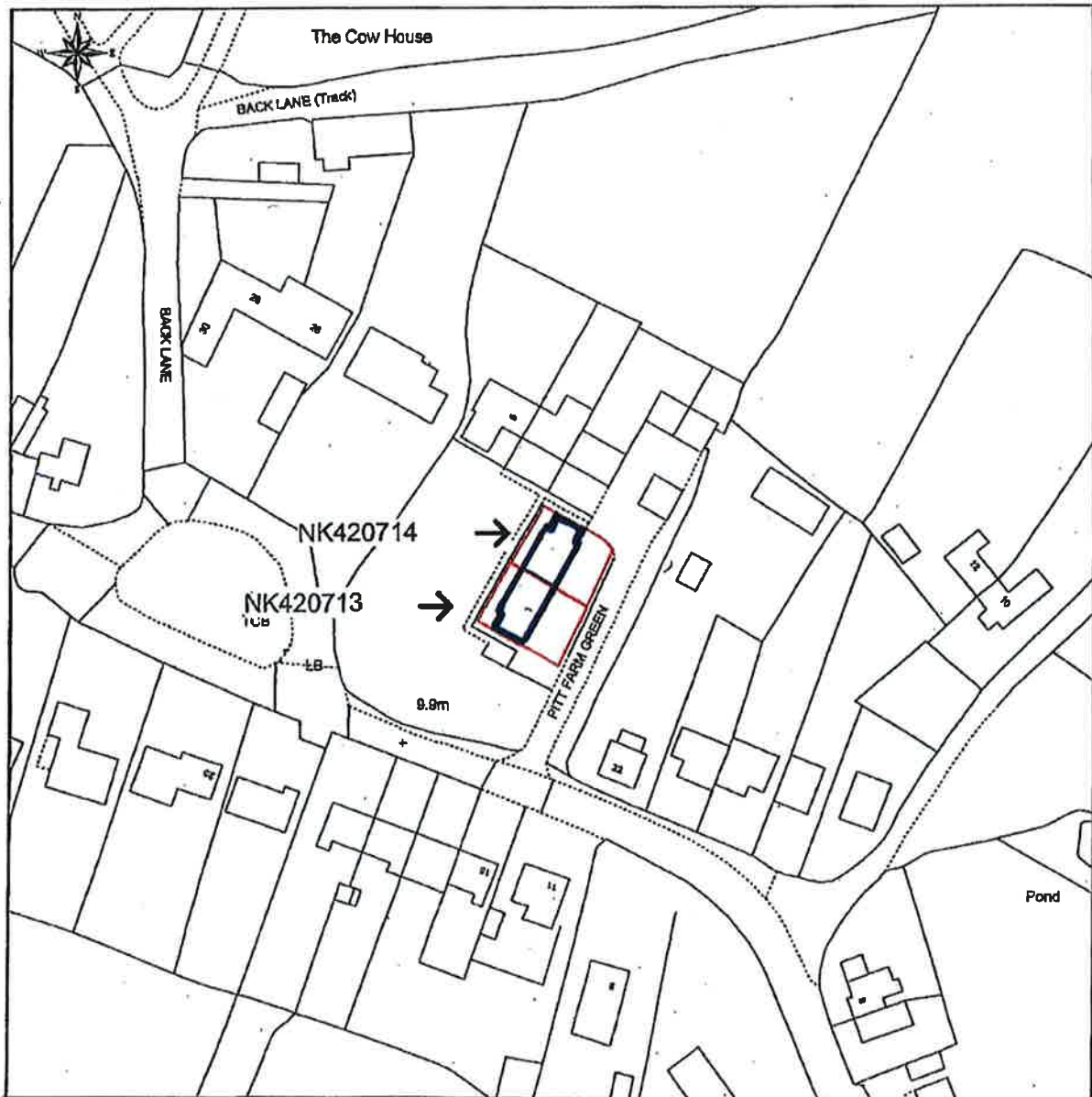
### **Plan**

The land known as 1 and 2 Pitt Farm Green, Ringland, Norwich, Norfolk, NR8 6BF and registered at Land Registry under title numbers NK420713 and NK420714 shown edged red on the Plan



*Lisa Lucas*  
Lisa Lucas

**1 & 2 Pitt Farm Green, Ringland, Norwich NR8 6BF**



*M. Mue*

Head of Democratic Services and  
Monitoring Officer



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## **SCHEDULE TWO**

### **Affordable Housing**

In this Schedule (and elsewhere in this Deed where the context permits) the following words and expressions shall have the following meanings:

<b>"Affordable Dwellings"</b>	the two Dwellings edged blue on the Plan to be used as Discount Market Dwellings
<b>"Discount Market Dwelling"</b>	means Dwellings for sale at prices below local market price that a Qualifying Person can afford being no more than 80% of the open market value as agreed with the Council and subject to the Discount Restriction
<b>"Discount Price"</b>	means 80% of the open market value of the Discount Market Dwelling as at the date of any proposed sale as determined in writing by an independent chartered surveyor of not less than ten years standing having experience of residential property within the Broadland district as approved by the Council prior to commencement of marketing as a Discount Market Dwelling
<b>"Discount Restriction"</b>	a restriction to be registered at the Land Registry to restrict the sale of each Discount Market Dwelling to a Qualifying Person at a Discount Price as agreed with the Council

“Qualifying Person”

means (in priority order) either:

- an applicant who lives within the Broadland district and as evidenced by completion of an local authority proforma and statutory declaration therein
- an applicant who has a local connection to Broadland district (by way of a family or work) and as evidenced by completion of an local authority proforma and statutory declaration therein in accordance with the Local Connection Eligibility Criteria as set out in part 2 of this schedule

All applicants must be approved by the Council (as evidenced by the statutory declaration on the local authority proforma) and must be registered and approved by Help to Buy and must not be a current homeowner

### **Part 1**

#### **Owners obligations**

The Owners hereby covenant with the Council as follows:

- 1.1 Not to transfer or otherwise dispose of any Discount Market Dwelling other than subject to the Discount Restriction

- 1.2 Not to use the Discount Market Dwelling for any purpose other than as a Discount Market Dwelling
- 1.3 To grant to the Council nomination rights to 100% of the Discounted Market Dwellings unless otherwise agreed in writing.

## **Part 2**

### **LOCAL CONNECTION ELIGIBILITY CRITERIA**

1. Unless otherwise agreed in writing first and subsequent occupation of the Discounted Market Dwellings will be in accordance with the local connection criteria as set out below:
  - 1.1 Allocations shall be made to people currently living within Broadland district
  - 1.2 If there is no suitable person in paragraph 1.1 allocations will be made to people who work within the Broadland district
  - 1.3 If there are no suitable persons in paragraphs 1.1 and 1.2 allocations will be made to people who need to move to the Broadland district to give/receive support to/from close family.

### **Administrative Procedure for Nominations**

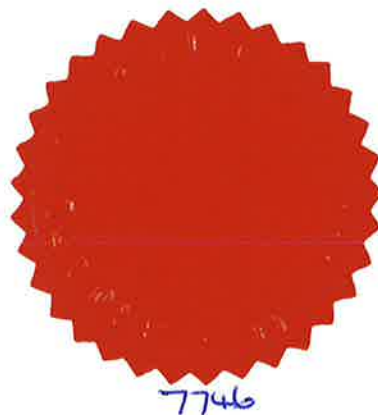
1. All applicants must meet the requirements of Qualifying Person above and be approved by the Council before any sale or transfer can proceed.

2. The administrative procedure for nominations shall be in accordance with the Council's housing allocations policy as amended from time to time or in accordance with alternative procedures as the Council and the Owners shall agree between them.

**IN WITNESS** whereof the parties hereto have executed this Deed as a deed on the day and year first before written.

THE COMMON SEAL of  
**BROADLAND DISTRICT COUNCIL**  
was hereunto affixed

)  
)  
)  
)



Authorised Signatory:

)

*M. Murre*  
Head of Democratic Services and  
Monitoring Officer

Executed as a deed by  
**TERENCE DAVIES**

)  
)

*Terence Davies*

In the presence of:

Name of Witness

)

*John E. Hest*

(in BLOCK CAPITALS):

Signature of witness

)

Address of Witness:

)

)

*[Signature]*  
*Secured by conveyance*  
*Hest.*

Executed as a deed by  
**JACQUELINE SUSAN DAVIES**

)   
)

In the presence of:

Name of Witness  
(in BLOCK CAPITALS):

)   
)



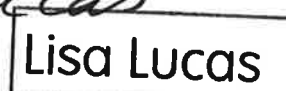
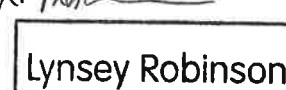
Signature of witness

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Address of Witness:

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)

SIGNED as a Deed by  
As attorney for **LLOYDS BANK PLC**  
in the presence of

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Bank House, Wine Street, Bristol, BS1 2AN