

DATED 16th July 2007

BROADLAND DISTRICT COUNCIL

- AND -

G E SMITH A G H SMITH and J E SMITH

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

relating to the development of land
at Globe Lane Blofield Norwich Norfolk

Broadland District Council
Thorpe Lodge
1 Yarmouth Road
Thorpe
Norwich
NR7 0DU

THIS AGREEMENT is made the 16TH day of JULY 2007

BETWEEN:

BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich Norfolk NR7 0DU (hereinafter called "The Council") of the first part and GEORGE ERNEST SMITH, ALAN GEORGE HERBERT SMITH and JOHN ERNEST SMITH trading as H SMITH & SONS of Quarry Works Dereham Road Honingham Norwich NR9 5AP (hereinafter called "The Owners") of the second part

1. INTERPRETATION AND DEFINITIONS

In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:-

"Act"	the Town and Country Planning Act 1990 (as amended)
"Affordable Housing"	housing which is available to meet the needs of those who cannot afford to rent or buy dwellings generally available on the open market to be owned and/or managed by a Registered Social Landlord
"Affordable Housing Units"	bungalows and houses to be constructed or provided on the Site as part of the Development

"Affordable Rental Units "	eight Affordable Housing Units to be constructed or provided on the Site as part of the Development shown in the position on the drawing no.11 rev. G annexed hereto and to be let for a rent upon either a weekly basis or monthly tenancy basis not exceeding housing corporation target rents (or if such targets cease to be set such other measure of affordable rents as the relevant District Council shall reasonably determine) and to be let by or on behalf of a Registered Social Landlord
"Application"	the application for detailed planning permission registered on 11 th July 2006 for twelve Affordable Housing Units in accordance with the plans deposited with the Council bearing reference no 20061108
"Development"	the development permitted by the Planning Permission
"Inflation Provision"	the increase (if any) in the RICS All In Tender Price Index between 1 August 2003 and the date upon which a payment of money is made pursuant to this Agreement
"Local Lettings Policy"	the order in which the Affordable Housing Units are to be allocated and which is set out under the title "Local Lettings Policy" at Appendix 1 to this Agreement as amended from time to time
"Open Space Contribution"	the sum calculated in accordance with the formula set out in Schedule 2 to this Agreement

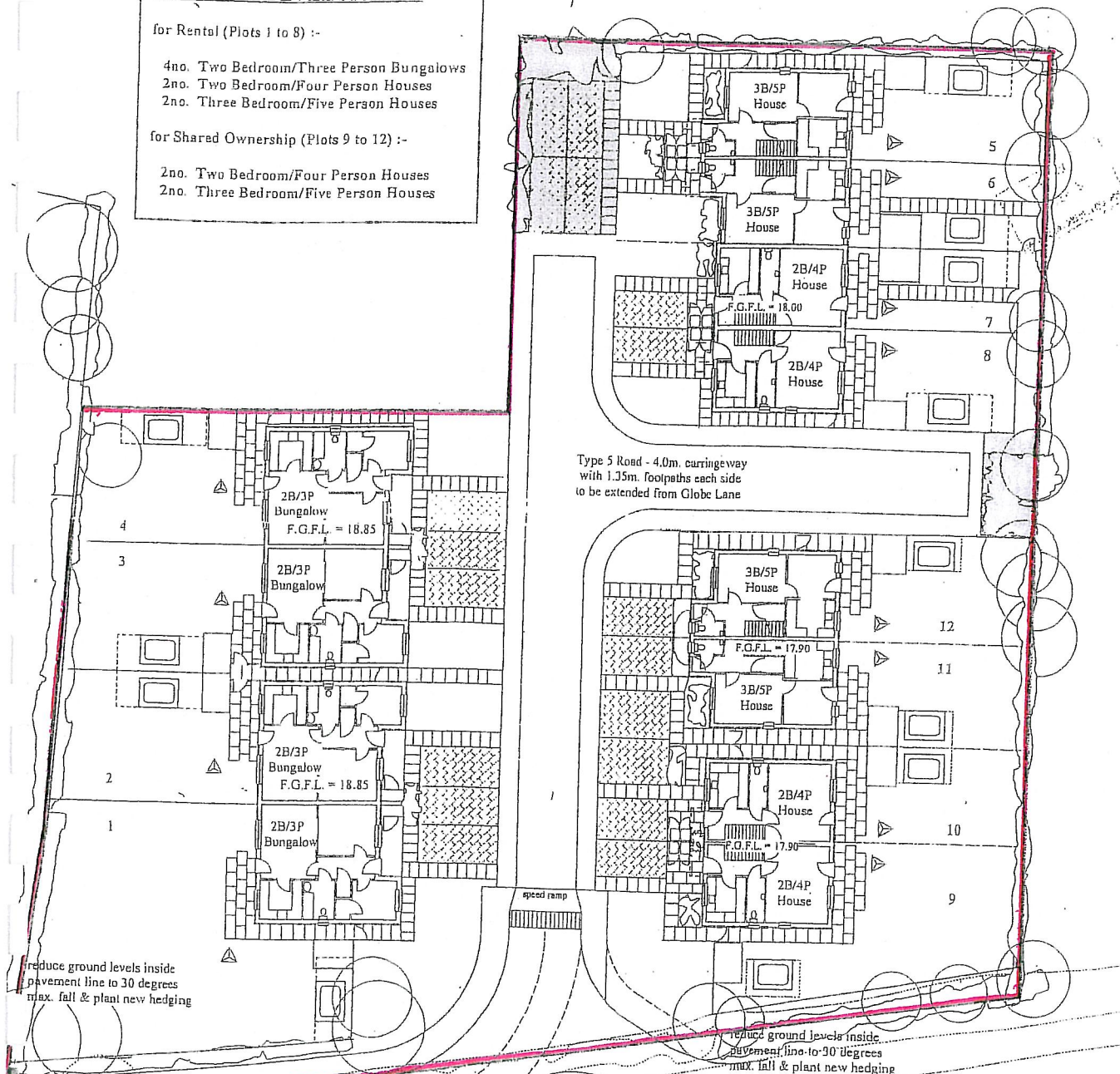
PROPOSED DEVELOPMENT

for Rental (Plots 1 to 8) :-

- 4no. Two Bedroom/Three Person Bungalows
- 2no. Two Bedroom/Four Person Houses
- 2no. Three Bedroom/Five Person Houses

for Shared Ownership (Plots 9 to 12) :-

- 2no. Two Bedroom/Four Person Houses
- 2no. Three Bedroom/Five Person Houses



AMENDED
PLAN

REVISIONS

- Globe Lane closure omitted 21.10.05
- Globe Lane widened to 4.8m. 6.2.2006
- existing length of Globe Lane added based on ALS dwg. ALS2505/200/03 Rev.4; amenity space omitted from site area 4.5.2006
- Plots 9-12 handed on site to avoid overlooking to Highview Close 28.7.2006
- Plots 9-12 turned thro' 90 degrees to avoid overlooking to Highview Close 31.7.2006
- Indow positions adjusted on plan 18.8.2006
- Road altered to Highways requirement (letter of 21.8.06) 1.9.06

JOHNSON + ASSOCIATES
ARCHITECTS

3 White Horse Mews, White Horse Lane, Trowse, Norwich, Norfolk NR14 5TG - telephone (01603) 633874

1:200	Proposed Housing at Globe Lane, Blisfield, for Peddard Way Housing Association	566
June 05	SITE LAYOUT	11 G

"Plan"	the plan annexed to this Agreement
"Planning Permission"	the detailed planning permission dated 19 th September 2006 granted pursuant to the Application
"Qualifying Occupiers"	in relation to any person housed in an Affordable Housing Unit, any person who meets the qualifying criteria as having a total household income at a level which prevents them from obtaining on the open market housing accommodation locally which is reasonably adequate for their needs contained in the Council's policies relating to housing allocation (as amended from time to time and as formulated pursuant to the provisions of the Housing Acts 1985, 1996 and 2004 and the Homelessness Act 2002) and ranked in accordance with the Local Lettings Policy or where such persons have been exhausted any person as nominated by the Council on the Broadland Housing Register that the Registered Social Landlord owning or managing the Affordable Housing Units on the Site is entitled to house within its rules
"Registered Social Landlord"	a registered social landlord in the register kept by the Housing Corporation under Part 1 of the Housing Act 1996 (or any statutory re-enactment or modification thereof) as approved by the Council

"Shared Ownership
Dwellings"

four Affordable Housing Units to be let on a Shared Ownership Lease to be provided on the Site as part of the Development shown in the position on the drawing no.11 rev.G annexed hereto

"Shared Ownership Lease"

a lease of a Shared Ownership Dwelling granted at a premium whereby up to a maximum of 50% (fifty per cent) on first purchase of the equitable interest in the Shared Ownership Dwelling is paid by the tenant upon completion of such lease or raised by mortgage or charge from a bank or building society and which lease shall include arrangements enabling the lessee to acquire up to 80% (eighty per cent) of the legal and equitable interest in the Shared Ownership Dwelling at some future date or dates and shall allow a rent to be charged on the remainder of the equitable interest such rent not to exceed housing corporation target rents (or if such targets cease to be set such other measures of affordable rents as the Council shall reasonably determine) and in any event to be not higher than an annual sum calculated at 2.75% of the value of the equity retained by the Owner at the date of the grant of the Shared Ownership Lease and any increase of the said annual rent shall be no more than the percentage increase in the Retail Price Index (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% of the current annual rent from time to time

"Site" the land at Globe Lane, Blofield, Norfolk shown for the purposes of identification only edged red on the Plan

In this Agreement unless the context otherwise requires:

- (i) references to any party shall include the successors in title and assigns of that party
- (ii) references to clauses and schedules are references to clauses in and schedules to this Agreement
- (iii) 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
- (iv) headings in this Agreement shall not form part of or affect its construction

W H E R E A S:

- A. The Council is the Local Planning Authority for the purposes of the Act for the area within which the Site is situated
- B. The Owners are the freehold owners of the Site
- C. The Owners submitted the Application and the Council has granted the Planning Permission

2. GENERAL PROVISIONS APPLICABLE TO THIS AGREEMENT

- 2.1 This Agreement is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 and any other enabling powers
- 2.2 The obligations of the Owners hereunder are planning obligations enforceable by the Council against the Owners and their successors in title and assigns
- 2.3 The provisions of this Agreement shall have immediate effect upon completion of this Agreement
- 2.4 This Agreement shall cease to have effect if the Planning Permission shall be quashed revoked or otherwise withdrawn
- 2.5 This Agreement shall be registered as a charge in the Council's Register of Local Land Charges
- 2.6 In the event that this Agreement comes to an end the Council if so requested by the Owners will execute a deed of release (or partial release) from the relevant provisions of this Agreement and procure that a note thereof shall be registered on the Council's Register of Local Land Charges

3. AGREEMENTS AND DECLARATIONS

IT IS HEREBY AGREED AND DECLARED as follows:

3.1 No Fetter of Discretion

Save insofar as legally or equitably permitted nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions as Local Planning Authority and the rights powers duties and obligations under all public and private bylaws and regulations may be as fully and effectively exercised as if the Council were not a party to this Agreement

3.2 Invalidity or Unenforceability of any of the Terms of this Agreement

If any provision in this Agreement shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired

3.3 No Waiver

No waiver (whether express or implied) by the Council of any breach or default by the Owners in performing or observing any of the covenants in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof

3.4 No person shall be liable under this Agreement for any breach of the covenants contained in this Agreement after that party has parted with its interest in the Site or the part of the Site in respect of which such breach occurs provided that liability will still remain for any breach occurring prior to the parting of any person's interest in the Site or any part thereof in respect of which any such breach has taken place

4. NOTICES

4.1 Any notice document or other correspondence required to be served or given under the provisions of this Agreement shall be in writing and delivered personally or sent by pre-paid letter or facsimile

4.2 The address for any notice or other written communication in the case of each party to this Agreement shall be as follows:-

The Council	The Strategic Director and Chief Planner (Community Services) Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich NR7 0DU
The Owner	Quarry Works Dereham Road Honingham Norwich NR9 5AP

or such other address for service as may be notified by one party to the other in accordance with the provisions of this clause 4

- 4.3 Any notice or other written communication to be given by the Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Council by a duly authorised officer

5. THIRD PARTIES

- 5.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person who is not a party to this Agreement (other than a successor in title to one of the original parties) shall be entitled in that person's own right to enforce any provisions of this Agreement pursuant to the provisions of the said Act

6. COSTS

- 6.1 The Owners shall on completion of this Agreement pay the Council's reasonable legal and administrative costs properly incurred in the preparation negotiation and completion of this Agreement

7. PAYMENT OF INTEREST

- 7.1 The Owners shall pay interest at the rate of 4% above HSBC Bank base rate for the time being in force on any monies due under the provisions of this

Agreement in the event of late payment for the period from the date the monies should have been paid to the date the money is received

8. VAT

8.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable

8.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Agreement, then to the extent that VAT has not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

9. JURISDICTION

9.1 This Agreement is to be governed by and interpreted in accordance with the law of England and Wales

10. The Owners agrees that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of the Agreement are hereby waived

11. PLANNING OBLIGATIONS

The Owners hereby jointly and severally covenant with the Council as follows:

11.1 To carry out and comply with the obligations and restrictions set out in Schedule 1 to this Agreement

11.2 Prior to the occupation of any Affordable Housing Unit on the Site the Open Space Contribution as increased by the Inflation Provision shall be paid by the Owners (or their successors in title) to the Council

- 11.3 Interest at 4% above the base rate of the Co-Operative Bank PLC shall be paid on any part of the above Contribution not paid within fourteen days of the date upon which it becomes due in accordance with clause 11.2 above

SCHEDULE 1

1. AFFORDABLE HOUSING

- 1.1 To construct or procure the construction of the Affordable Housing Units in accordance with current NHBC standards and building regulations in force at the time of building and to the Housing Corporation's Scheme Development Standards and to meet eco-home rating 'very good' and to the satisfaction of the Council and to complete the construction of the Affordable Housing Units by March 2008 or such later date as may be agreed between the Owners and the Council
- 1.2 Not to use allow or permit the Affordable Housing Units to be occupied for any purpose other than as Affordable Rental Units and Shared Ownership Dwellings
- 1.3 The Affordable Housing Units shall not be occupied other than by Qualifying Occupiers
- 1.4 The Owners shall not dispose of their interest in the freehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to any other Registered Social Landlord
- 1.5 Paragraphs 1.2 1.3 and 1.4 above shall not be binding upon
- (i) Any mortgagee in possession of the Affordable Housing Units or part thereof or any mortgagee in possession of any Shared Ownership Dwelling under a charge of a Shared Ownership Lease or manager (including an administrative receiver) for such mortgagee nor any receiver; or

SIGNED as a DEED by
GEORGE ERNEST SMITH
in the presence of

SALLY CATHERINE LLOYD
Sclloyd

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SIGNED as a DEED by
ALAN GEORGE HERBERT
SMITH in the presence of

SALLY CATHERINE LLOYD
Sclloyd

)
) Alan G.H. Smith
)

SIGNED as a DEED by
JOHN ERNEST SMITH
in the presence of

SALLY CATHERINE LLOYD
Sclloyd

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APPENDIX 1 LOCAL LETTINGS POLICY

1. Nominations Rights Policy

- 1.1 The Policy will apply to all categories of properties on the basis of 100% of all lettings for the first 80 years.
- 1.2 The Council and the Association are both committed to eradicating double scrutiny of nominated households for general needs accommodation. They are also agreed on the move away from a pool nomination system to a direct nomination system where a maximum of 2 households will be nominated in priority order for any letting other than those designated as hard to let where a maximum of 3 households will be nominated.

2. Criteria for Selecting Nominations

In the case of general needs accommodation the Council will attempt to make nominations in line with its current allocation priorities to need exercising the following criteria:

- 2.1 Allocations will be made to people living in the Parish of Blofield, working in the Parish of Blofield or with a need to move to the Parish of Biofield in order to give or receive support;
- 2.2 Priority will then be given to people living in, working in, or with a need to move to the following areas in order to give or receive support

Hemblington
Lingwood and Burlingham
Brundall
Postwick
Great and Little Plumstead
Woodbastwick

- 2.3 Priority will then be given to people living in, working in, or with a need to move to the following areas in order to give or receive support

Strumpshaw
South Waisham
Salhouse
Rackheath
Beighton
Cantley
Acle
Wroxham

- 2.4 Priority will then be given to people living in, working in or with a need to move to any other Parish within Broadland District for the purpose of giving or receiving support.
 - 2.5 The Council will consult the Association in the event of considering changes to its relevant priorities. However it is accepted that the ability to maintain these priorities will be largely dependent on the type of Housing Association property that becomes available.
 - 2.6 In the case of designated special needs accommodation (the designation of which will be agreed between the Council and the Association) the Council will seek to make nominations in line with its relevant allocation programme priorities. However it is accepted by the Associations that the Council is only obliged to ensure that the nominated household is an appropriate nomination for the type of property
3. Administrative Procedure for nominations

The administrative procedure for nominations shall be in accordance with the operational procedures of the Common Housing Register as amended from time to time or in accordance with such alternative procedures as the Council and the Association shall agree between them.