



EVERSHEDS

Dated

24th April

2008

- (1) BROADLAND DISTRICT COUNCIL
- (2) ALAN JONES AND LINDA MARY JONES

Agreement

under section 106 Town and Country Planning Act 1990 relating to Plot 36
Roman Drive, Brundall Gardens, Brundall, Norfolk

THIS AGREEMENT is made on

24th April

2008

BETWEEN:

- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU ("**the Council**");
- (2) **ALAN JONES AND LINDA MARY JONES** of Redcliffe House, Lake View Drive, Brundall, Norwich NR13 5LT ("**the Landowners**").

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council is the local planning authority for the area within which the Site is located and the person who is entitled to enforce the obligations contained in this Agreement.
- (B) The Landowners are the freehold owners of the whole of the Site free from encumbrances that would prevent the Landowners entering into this Agreement.
- (C) The Council granted the Certificate of Lawful Use.
- (D) The Council has now granted Planning Permission for the Development.
- (E) Condition 1 of the Planning Permission provides that the Development shall not commence until this Agreement has completed.
- (F) The parties have agreed to enter into this Agreement with the intention that the obligation contained in this Agreement may be enforced by the Council against the Landowners and their respective successors in title and assigns.

OPERATIVE PROVISIONS

1. INTERPRETATION

- 1.1 In this Agreement, the following words and expressions have the following meanings:

"1990 Act"

the Town and Country Planning Act 1990 (as amended)

"Certificate of Lawful Use"

the certificate of lawful use granted by the Council on 6 June 2007 with reference 20050964 relating to the construction of a house with double garage as described in the application reference number 20050964 submitted by Carpenter Planning Consultants on behalf of Mr and Mrs Alan Jones on 21 June

2005 and the particulars submitted with the application, specifically drawing number 260/11c 'elevations and site plan' submitted under application reference number BF13732

"Commencement Date"

the date on which the Development commences by the carrying out on the Site pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act

"Development"

the development of the Site by the erection of a dwelling and detached triple garage pursuant to the Planning Permission

"Plan"

the plan attached to this Agreement

"Planning Permission"

the planning permission granted by the Council on 18 December 2007 for Development on the Site with reference 20071441

"Site"

the freehold property known as Plot 36, Roman Drive, Brundall Gardens, Brundall, Norfolk registered at HM Land Registry as part of title number NK358390 and shown for identification edged red on the Plan

1.2 In this Agreement:

1.2.1 the clause headings do not affect its interpretation;

1.2.2 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;

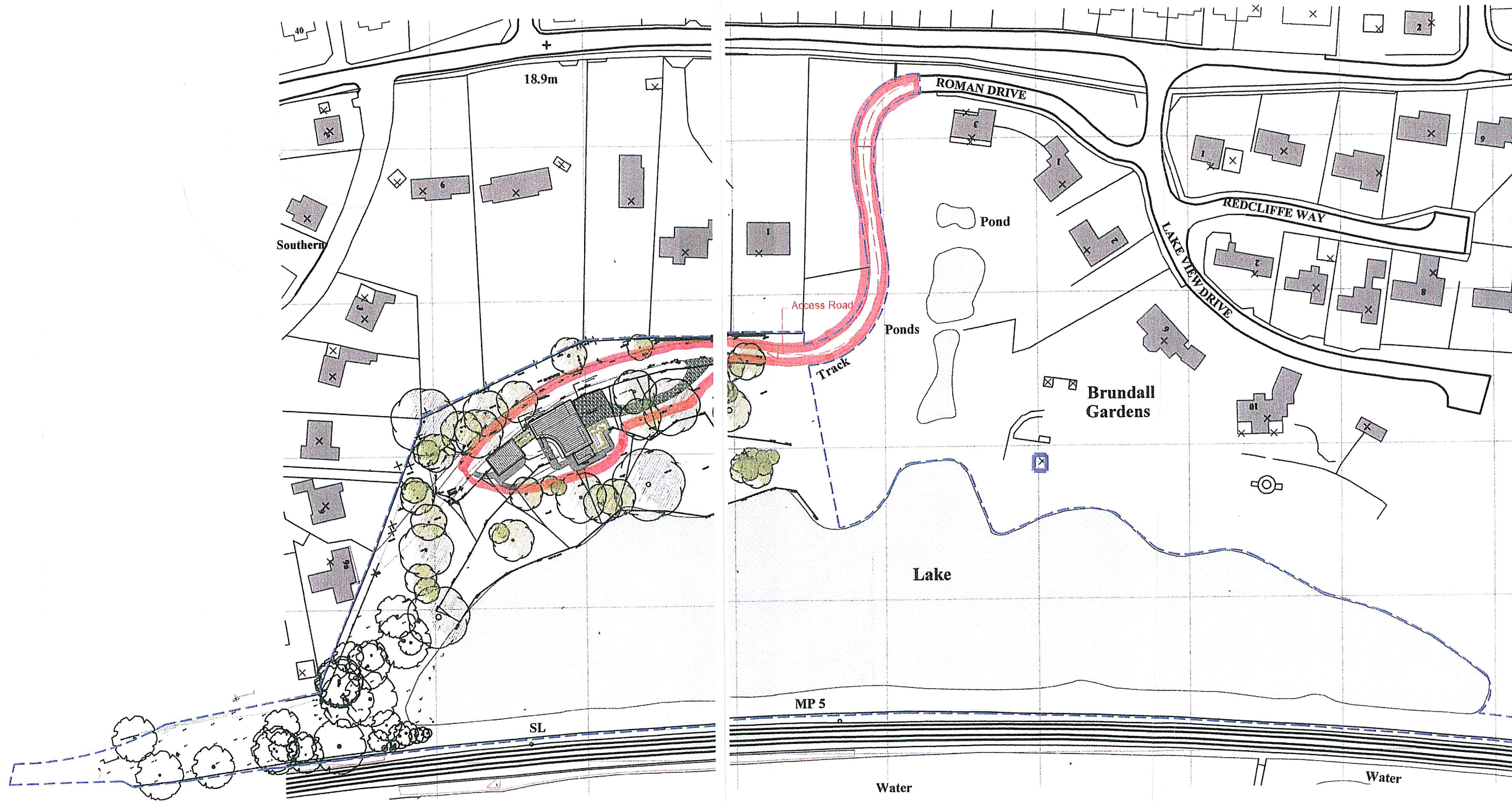
1.2.3 references to any statute or statutory provision include references to:

1.2.3.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and

1.2.3.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;

1.2.4 references to the Site include any part of it;

- 1.2.5 references to any party in this Agreement include the successors in title of that party. In addition, references to the Council include any successor local planning authority exercising planning powers under the 1990 Act;
 - 1.2.6 "including" means "including, without limitation";
 - 1.2.7 any covenant by the Landowners not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
 - 1.2.8 where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them all jointly or against each of them individually; and
 - 1.2.9 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement is to be unaffected.
- 1.3 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
2. **EFFECT OF THIS AGREEMENT**
- 2.1 This Agreement is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council.
- 2.2 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in section 111 Local Government Act 1972, section 2 Local Government Act 2000 and all other enabling powers.
- 2.3 Nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Site or otherwise.
- 2.4 This Agreement will be registered as a local land charge by the Council.
- 2.5 Nothing in this Agreement prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Planning Permission, granted after the date of this Agreement, whether or not pursuant to an appeal.



Site / Location Plan 1:1250

W. J. P. M.
M. J. P.

3. **COMMENCEMENT DATE**

The obligations contained in this Agreement will come into effect on the Commencement Date.

4. **OBLIGATIONS OF THE PARTIES**

4.1 The Landowners agree and covenant with the Council that from the Commencement Date they will not construct or allow to be constructed the dwelling and garage which is subject to the Certificate of Lawful Use and further covenant and agree not to make any claim against the Council including a claim for compensation arising out of the provisions of this Agreement and for the sake of certainty the Landowners agree that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Agreement are hereby waived.

4.2 No person will be liable for any breach of the terms of this Agreement occurring after the date on which they part with their interest in the Site or the part of the Site in respect of which such breach occurs, but they will remain liable for any breaches of this Agreement occurring before that date.

5. **TERMINATION OF THIS AGREEMENT**

5.1 This Agreement will come to an end if:

5.1.1 subject to **clause 5.2**, the Planning Permission is quashed, revoked or otherwise withdrawn at any time so as to render this Agreement or any part of it irrelevant, impractical or unviable; or

5.1.2 the Planning Permission expires before the Commencement Date without having been implemented; or

~~5.1.3 at any time after the date of the this Agreement, the Council or any other competent authority grants a New Permission under which development is implemented for the purposes of section 56 of the 1990 Act.~~

5.2 **Clause 5.1.1** will not apply in respect of any minor modifications to the Planning Permission or the Development agreed from time to time between the Council and the Landowner prior to the Commencement Date.

5.3 Where the Agreement comes to an end under **clause 5.1** the Council is to vacate or cancel the entry made in the Local Land Charges register in relation to

this Agreement or otherwise to record the fact that it has come to an end and no longer affects the Site.

6. JURISDICTION

- 6.1 This Agreement is to be governed by and interpreted in accordance with the law of England.
- 6.2 The courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Agreement.

7. COSTS

The Landowners shall on completion of this Agreement pay the Council's legal costs incurred in the negotiation and completion of this Agreement.

8. EXECUTION

The parties have executed this Agreement as a deed and it is delivered on the date set out above

EXECUTED AS A DEED when the seal of)
BROADLAND DISTRICT COUNCIL)
was affixed in the presence of:)

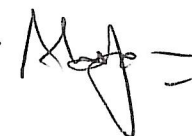
[Member of the council - Specify]

[Clerk or alternate - Specify]


HEAD OF CORPORATE SERVICES
& MONITORING OFFICER

5945

SIGNED as a deed by)
ALAN JONES)
in the presence of:)

x  x

Witness signature:



Name:

Iain Reil

Address:

5 Edenhurst Close, Norwich

Occupation:

Chartered Surveyor

SIGNED as a deed by)
LINDA MARY JONES)
in the presence of:)

x  x

Witness signature:



Name:

Iain Reil

Address:

5 Edenhurst Close, Norwich

Occupation:

Chartered Surveyor