

DATED

10th March

2009

GRAHAM MARTIN DACRE and
JULIE MAY DACRE

**PLANNING OBLIGATION BY
UNDERTAKING**

relating to land at
Clay Hall Farm
Heath Lane Great Witchingham NR9 5QL

THIS PLANNING OBLIGATION BY UNDERTAKING is made on

10th March

2009

BY

- (1) **GRAHAM MARTIN DACRE** and **JULIE MAY DACRE** both of Ash Tree Farm, Station Road, Attlebridge, Norwich NR9 5AA (the "**Owner**") and

TO

- (2) **BROADLAND DISTRICT COUNCIL** whose address is Thorpe Lodge 1 Yarmouth Road Thorpe St Andrew Norwich NR7 0DU (the "**Council**")

WHEREAS

- (A) The Council is a local planning authority for the area in which the Land is situated
- (B) The Owner is the legal owner of the Land
- (C) This Undertaking is entered into for the purposes of providing planning obligations binding the Land under Section 106 of the Act

WHEREBY THIS DEED WITNESSES as follows

1. DEFINITIONS

1.1 In this Undertaking

1.1.1 "**Act**" means the Town and Country Planning Act 1990 (as amended)

1.1.2 "**Dispute Resolution Procedure**" means the procedure referred to in Clause 8 and as set out in Schedule 1

1.1.3 "**Land**" means the land at Clay Hall Farm, Heath Lane, Great Witchingham NR9 5QL shown edged red on the plan at Appendix 1

1.1.4 "**Undertaking**" means planning obligation by undertaking

1.2 The singular includes the plural

1.3 References to the parties to this Undertaking include not only the parties giving this Undertaking but also the Council and references to any party shall include the successors in title of that party and in the case of the Council to the body or bodies (as appropriate) having statutory responsibility for the relevant function in replacement for the Council

1.4 Where a party includes more than one person any obligations of that party shall be joint and several

1.5 References to Clauses and Schedules are references to Clauses in and Schedules to this Undertaking

1.6 Headings in this Undertaking are for ease of reference only and shall not affect construction or interpretation of any of the provisions of this Undertaking

1.7 Where one party agrees to do something it shall be deemed to fulfil that obligation if it procures that it is done

1.8 Save as otherwise provided in this Undertaking any approval in writing or consent to be given by the Council in connection with this Undertaking shall not be unreasonably withheld or delayed

- 1.9 Any statute or revision of any statute referred to in this Undertaking shall be deemed to include any statutory amendment modification or re-enactment thereof for the time being in force and any order instrument or regulation made thereunder
- 1.10 "Including" means "including without limitation"
- 1.11 If any provision is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Undertaking is to be unaffected
- 1.12 A person who is not named in this Undertaking does not have any right to enforce any term of this Undertaking under the Contract (Rights of Third Parties) Act 1999

2. STATUTORY PROVISIONS

- 2.1 This Undertaking is made pursuant to Section 106 of the Act with the intention that the obligations in this Undertaking are planning obligations for the purposes of the Act and are enforceable by the Council

3. LEGAL EFFECT

- 3.1 This Undertaking may be enforced by the Council
- 3.2 No person shall be liable for any breach of this Undertaking which occurs at the time during which he no longer has an interest in the Land
- 3.3 Nothing in this Undertaking shall be construed as prohibiting or limiting any right to develop any part of the Land in accordance with a planning permission granted by the Council or any other competent authority after the date of this Undertaking

4. UNDERTAKING

The Owner undertakes that no "animal by-products" (as defined by Regulation (EC) No 1774/2002) shall be taken onto the Land for any commercial purpose other than the use of agricultural fertiliser in line with good agricultural practice

5. ACCESS

Upon reasonable notice in writing the Owner shall permit the Council's representatives to access the Land to inspect whether the provisions of this Undertaking are being observed and performed

6. DECLARATIONS AND AGREEMENTS

The obligations hereunder shall not be binding upon or enforceable against any statutory undertaker or other person who acquires any part of the Land or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services

7. REGISTRATION AS A LOCAL LAND CHARGE

This Undertaking is capable of and may be registered as a Local Land Charge by the Council

8. DISPUTE RESOLUTION

- 8.1 Any dispute between the parties under the terms of this Undertaking may be referred to an expert under the Dispute Resolution Procedure
- 8.2 The decision of an expert appointed under the Dispute Resolution Procedure shall be final and binding on all of the parties to the dispute

9. **NOTICES**

- 9.1 Any notice to be served on or notification to be given to the Council shall be sufficiently served or given if delivered by hand or if sent by a postal service in which receipt is recorded addressed to the Council's Section 106 Compliance Officer Broadland District Council whose address is Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU
- 9.2 Any notice to be served on or notification to be given to the Owner shall be sufficiently served or given if sent by special delivery post to Ash Tree Farm, Station Road, Attlebridge, Norwich NR9 5AA
- 9.3 Or in each case such other address as may be notified in writing from time to time for the purpose of this Clause 9

EXECUTED AS A DEED by the parties on the date which first appears in this Undertaking

SCHEDULE 1 – DISPUTE RESOLUTION PROCEDURE

1. GENERAL

- 1.1 All differences and questions that arise between any of the parties to this Deed arising out of or connected with this Deed may be referred to an expert
- 1.2 The expert shall be required to give notice to each of the parties to the dispute inviting each of them to submit to him within 10 Working Days written submissions and supporting material and shall afford to the parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material and his decision shall be given in writing within 20 Working Days of his appointment with reasons and in the absence of manifest error shall be binding on the parties and whose costs shall be in his award

2. CHOICE OF EXPERT

- 2.1 If the difference or question relates to the construction of rights and liabilities of any party or to the terms or conditions to be embodied in any deed or document appertaining thereto it shall be referred to a solicitor or barrister agreed upon by the parties but in default of agreement appointed at the request of any such party by or on behalf of the President from time to time of the Law Society or his duly appointed deputy
- 2.2 If the difference or question relates to the occupancy or the terms of letting of any dwelling it shall be referred to a chartered surveyor agreed upon by the parties to the dispute but in default of agreement appointed at the request of any such party by or on behalf of the President from time to time of the Royal Institution of Chartered Surveyors or his duly appointed deputy
- 2.3 If the difference or question relates to a question of a matter usually and properly within the knowledge of a chartered accountant agreed upon by the parties to the dispute but in default of agreement appointed at the request of any such party by or on behalf of the President from time to time of the Institute of Chartered Accountants in England and Wales or his duly appointed deputy
- 2.4 If the difference or question relates to matters usually and properly within the knowledge of a Member of the Chartered Institute of Housing it shall be referred to a member of the said Institute agreed upon by the parties to the dispute but in default of agreement appointed at the request of any such party by or on behalf of the President from time to time of the Chartered Institute of Housing or his duly appointed deputy

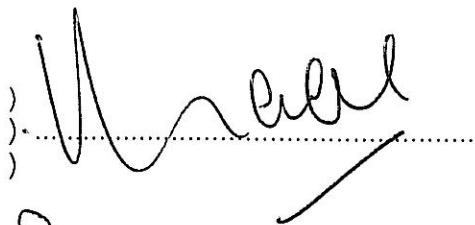
3. NO FURTHER SUBMISSIONS

After delivery of counter submissions or (if none) after submission of written submissions no party shall be entitled to make any further submissions and the expert shall forthwith deliberate and deliver to every party to the dispute their decision in writing within a reasonable time of closing submissions or counter submissions

4. RESTRICTION ON TERMS OF DECISION

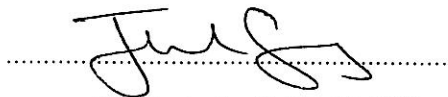
The expert shall be restricted in settling the dispute to choosing between one of the proposals submitted by the parties to the dispute or elements compatible with one another from the submissions of different parties to the dispute

SIGNED by the said
GRAHAM MARTIN DACRE
in the presence of:-



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Signature



Name

JOHN SAVERY

Address

12 THISTLEDOWN ROAD

HORSFORD, NORWICH

Occupation

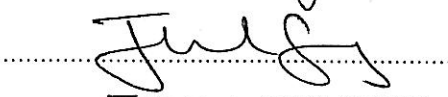
CHARTERED ACCOUNTANT.

SIGNED by the said
JULIE MAY DACRE
in the presence of:-



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Signature



Name

JOHN SAVERY

Address

12 THISTLEDOWN ROAD,

HORSFORD, NORWICH

Occupation

CHARTERED ACCOUNTANT.

APPENDIX 1 - PLAN

