

DATED

21<sup>st</sup> May

2012

BROADLAND DISTRICT COUNCIL

- AND -

DAVID AND CHRISTINE MURRELL

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

Relating to the development of land adjacent to  
The Manor House, North Street,  
Blofield, Norwich, NR13 4RQ

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Broadland District Council  
Thorpe Lodge  
Yarmouth Road  
Norwich  
NR7 0DU

FC/DK-BDCCTR/36836  
Created: 22.02.12  
Amended: 14.03.12  
Updated: 17.04.12

THIS AGREEMENT is made the 31<sup>st</sup> day of May 2012

BETWEEN:

BROADLAND DISTRICT COUNCIL of Thorpe Lodge 1 Yarmouth Road Thorpe St Andrew Norwich Norfolk NR7 0DU ("the Council") and DAVID SIDNEY MURRELL and CHRISTINE MURRELL of Field Farm, South Walsham Norwich Norfolk NR13 6BZ ("the Owners")

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)
"Application"	the detailed planning application validated on the 14 November 2011 for the erection of one Dwelling under reference number 20111714
"Council's Monitoring Fee"	the sum of three hundred and nineteen pounds and thirty pence (£319.30) Index Linked payable by the Owners to the Council
"Development"	the development permitted by the Planning Permission
"Director"	the Council's Chief Executive or other officers of the Council acting under his hand
"Dwelling"	any unit of residential occupation being a self-contained house or bungalow constructed as

part of the Development

"Inflation Provision"	the increase (if any) in the BIS (Department for Business Innovation and Skills) Output Price Index for New Construction (2010) : All New Construction between 30 September 2006 and the date upon which a payment of the Open Space Contribution is made pursuant to this Agreement
"Open Space Contribution"	the sum of seven thousand seven hundred and twenty two pounds (£7,722)
"Plan"	the plan annexed to this Agreement
"Planning Obligations"	the planning obligations set out in clauses 14 hereof
"Planning Permission"	the planning permission to be granted pursuant to the Application
"Site"	the land adjacent to The Manor House, North Street, Blofield, Norwich, Norfolk which is 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 except where otherwise specified

- (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

#### WHEREAS:

- 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 Council has resolved to approve the Application subject to the completion of this Agreement

#### 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 for the purposes of the Act and enforceable by the Council against the Owners and their successors in title and assigns
- 2.3 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after he has parted with the interest in the Site or the part of the Site in respect of which such breach occurs but without prejudice to liability for any subsisting breach which occurs

prior to parting with such interest in the Site or any part thereof in respect of which any such breach has taken place

- 2.4 The provisions of this Agreement shall have immediate effect upon completion of this Agreement
- 2.5 This Agreement shall cease to have effect if the Planning Permission shall be quashed revoked or otherwise withdrawn
- 2.6 This Agreement shall be registered as a charge in the Council's Register of Local Land Charges

### 3. AGREEMENTS AND DECLARATIONS

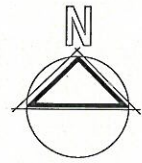
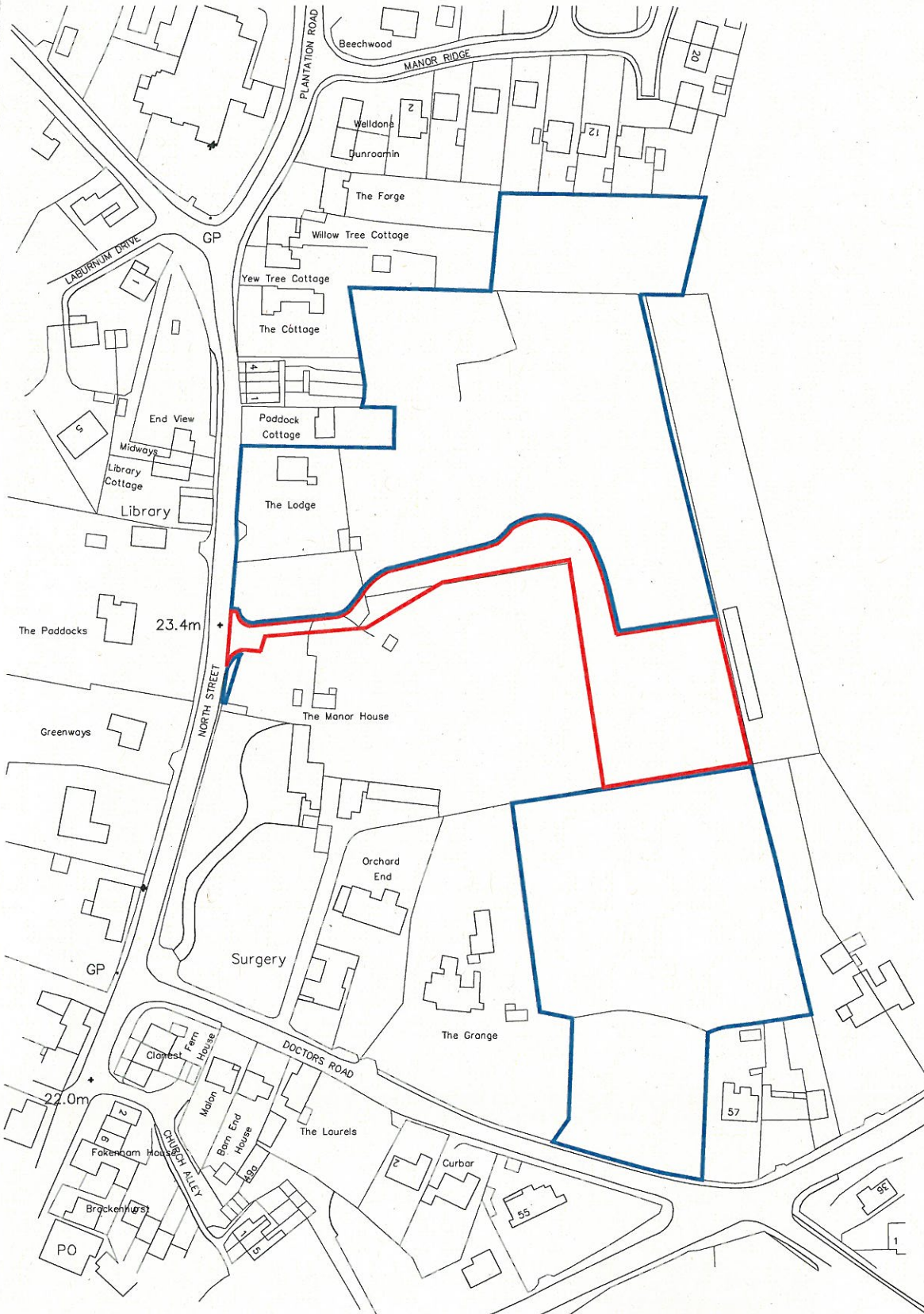
IT IS HEREBY AGREED AND DECLARED as follows:

#### 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 discretions 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



LOCATION PLAN 1:1250

A 24.04.12 Red line boundary altered		Sub	
REV	DATE	DESCRIPTION	CHKD BY
Revisions			
<div> <b>PLANNING</b></div>			
<div><b>Chaplin Farnant Limited</b> 51 Yarmouth Road Norwich NR4 8JY Tel: 01603 700000 Fax: 01603 700005 office@chaplinfarnant.com www.chaplinfarnant.com</div>		<div><b>D Murrell</b> Manor House North Street Biofield</div>	
<div>Also to: London Winchester Southampton Great Yarmouth</div>		<div><b>Site Location Plan</b> <b>3938</b></div>	
<small>This drawing is copyright of the Architects and shall not be reproduced without their permission. Check all dimensions and report any errors to draughtsman. Do not scale from this drawing.</small>			
70	A		
Oct 11	1:1250		
RB	NM		

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

6885



### 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

## 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 Chief Executive Broadland District  
Council Thorpe Lodge 1 Yarmouth Road  
Thorpe St Andrew Norwich Norfolk  
NR7 0DU

The Owners

Mr and Mrs Murrell  
Field Farm  
South Walsham  
Norwich  
Norfolk  
NR13 6BZ

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 to the Council its legal and administrative costs 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 agree 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. DISPUTE RESOLUTION

11.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Agreement promptly through negotiations between the respective senior executives of the parties who have authority to settle the same

11.2 If the matter is not resolved through negotiations the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre of Dispute Resolution

11.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR procedure the dispute may be referred by either party to arbitration for decision by a person appointed by agreement between the parties or in default of agreement by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties

11.4 Nothing in Clause 11.1 and 11.2 shall apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

## 12. TITLE WARRANTY

- 12.1 The Owners hereby warrant that they are the freehold owners of the Site and have full power to enter into this Agreement

## 13. PLANNING OBLIGATIONS

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

- 13.1 On completion of this Agreement to pay to the Council the Open Space Contribution as increased by the Inflation Provision
- 13.2 the Council's Monitoring Fee which is required for checking the implementation and compliance with the terms of this Agreement shall be paid to the Council on completion of this Agreement

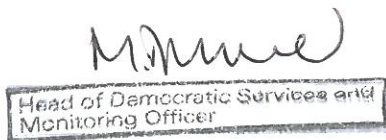
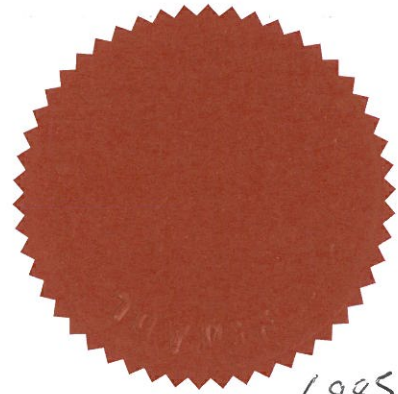
## 14. THE COUNCIL'S OBLIGATIONS

- 14.1 The Council agrees with the Owners that the Open Space Contribution shall be applied towards the provision and/or maintenance of new open space and/or outdoor recreational facilities in the Parish of Blofield or towards the improvement and/or maintenance of existing open space and/or outdoor recreational facilities in the Parish of Blofield

EXECUTED by the parties hereto as a deed on the date written above

THE COMMON SEAL of  
BROADLAND DISTRICT COUNCIL  
was hereunto affixed  
in the presence of

)  
)  
)  
)



Head of Corporate Services  
and Monitoring Officer

6885

SIGNED AS A DEED by the said  
DAVID SIDNEY MURRELL  
in the presence of:

)  
)  
)

*DS Murrell*

Witness

*M Moore*

Print

*M MOORE*

Address

*15 HATTON RD  
NORWICH*

SIGNED AS A DEED by the said  
CHRISTINE MURRELL  
in the presence of:

)  
)  
)

*Christine Murrell*

Witness

*M Moore*

Print

*M MOORE*

Address

*15 HATTON RD  
NORWICH*