

DATED

28th June

2013

BROADLAND DISTRICT COUNCIL

- and -

NORFOLK COUNTY COUNCIL

- and -

GERALD HOWARD POINTER

- and -

LLOYDS TSB BANK PLC

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

relating to the development of land
at Yarmouth Road, Blofield, Norfolk

THIS AGREEMENT is made the 28th day of June 2013
BETWEEN:

1. BROADLAND DISTRICT COUNCIL of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU (the "Council")
2. NORFOLK COUNTY COUNCIL of County Hall Martineau Lane Norwich NR1 2DH (the "County Council")
3. GERALD HOWARD POINTER of 20, Yarmouth Road, Blofield, Norfolk NR13 4JS ("the Owner")
4. LLOYDS TSB BANK PLC (Co. Regn No. 2065) of Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton WV9 5HZ ("the Mortgagee")

WHEREAS:-

- A. The Council is the Local Planning Authority for the purposes of the Act for the area within which the Site is situated and the County Council is the relevant Education Authority and Library Service Provider and is also a Local Planning Authority for the purposes of the Act
- B. The Owner is the freehold owner of the Site
- C. With the full knowledge and consent of the Owner, Hilditch Homes Ltd of Meadow View, Blofield Road, Brundall, Norfolk NR13 5NU ("the Developer") has submitted the Application to the Council but has no present proprietary interest in the Site.

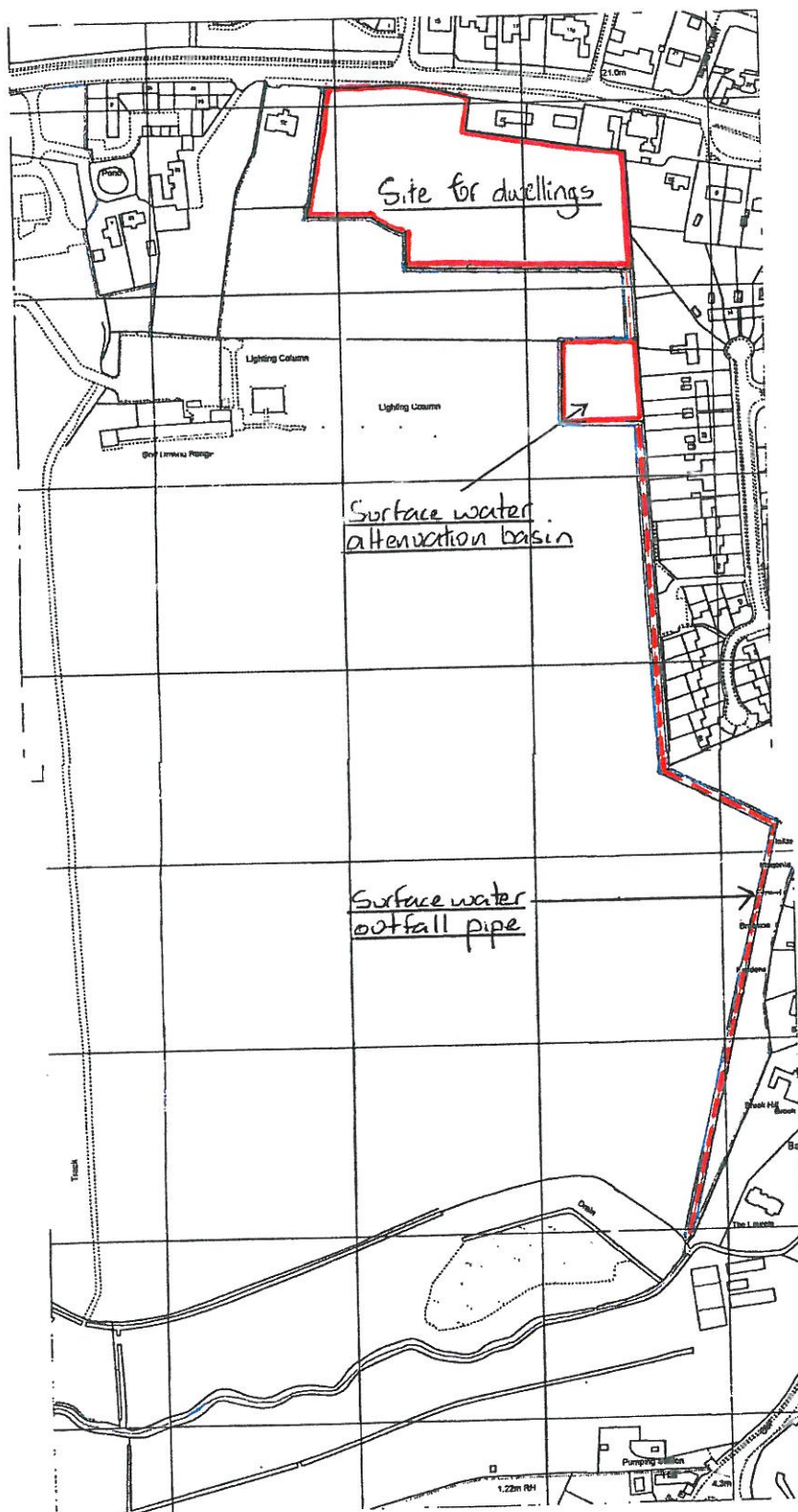
- D. The parties have agreed to enter into this Agreement in order to secure the planning obligations contained in this Agreement and the Mortgagee has agreed to be a party to this Agreement in the manner and for the purposes hereinafter appearing.

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 provided in accordance with the requirements of Schedule 1 to this Agreement which is available to meet the needs of those who cannot afford to rent or buy dwellings generally available on the open market
"Affordable Housing Land"	That part of the Site to be developed by the erection of the Affordable Housing Units and shown for the purposes of identification only crosshatched in blue on the Plan
"Affordable Housing Provider ("AHP")"	either: (i) a registered provider as defined by S.80 of the Housing and Regeneration Act 2008; or (ii) another body whose object is or contains the provision and/or operation of affordable housing and which has been approved by the Council for the provision and/or operation of affordable housing within the administrative area of Broadland or as has otherwise been approved by the Council for the purposes of this Agreement

"Affordable Housing Provision"	the provision of nine (9) Dwellings as Affordable Housing Units on the Site
"Affordable Housing Scheme"	a detailed scheme submitted to and approved by the Council for the provision of Affordable Housing on the Site which complies with the requirements of Schedule 2 and includes a timetable and programme for it's implementation, or such amended or replacement Affordable Housing Scheme as the Council approves in writing from time to time
"Affordable Housing Units"	individual units of residential accommodation constructed or provided as part of the Development as Affordable Housing
"Affordable Rental Units "	The three (3) Affordable Housing Units (2 x 1 bedroom and 1 x 3 bedroom) to be constructed or provided as part of the Development pursuant to the Affordable Housing Scheme and to be let for a rent by or on behalf of an AHP in accordance with the requirements of Schedule 1
"Application"	the application for full planning permission dated 29 June 2012 and bearing reference number 20120910 for the development of the Site by the erection of twenty two (22) Dwellings and associated works of which thirteen (13) are to be Open Market Dwellings and nine (9) are to be Affordable Housing Units
"Code"	the "Code for Sustainable Homes Level 3 and level 4 for Water" published by the Department for Communities and Local Government dated December 2006
"Commencement of Development"	the date on which any Material Operation forming part of the Development begins to be carried out and "Commence Development" shall be construed accordingly



AMENDED
PLAN

BROADLAND COUNCIL
22 NOV 2012
20120910 AP
PLANNING CONTROL

A 14/11/2012 Scale altered to 1:2500, site area extended to include pipe outfall to Witton Run

Rev Date Amendment Drawn

Scheme
DEVELOPMENT OF 22 DWELLINGS AT MANOR FARM
Yarmouth Road, Blofield, Norwich NR13 4JS
For: Hilditch Homes, Plantation Park, Plantation Road,
Blofield NR13 4PL

Title
SITE LOCATION PLAN

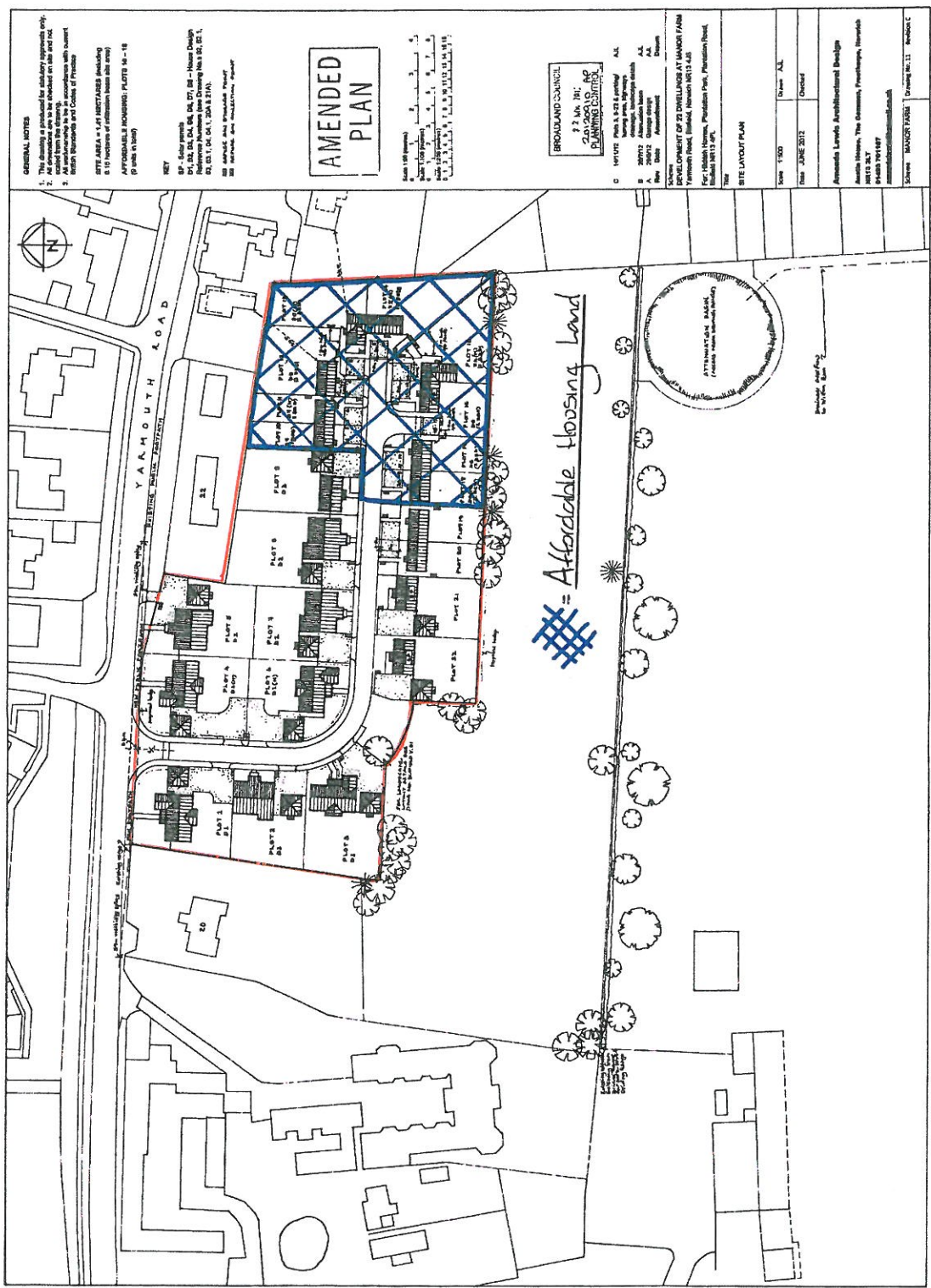
Scale 1:2500 Drawn

Date JUNE 2012 Checked

Amanda Lewis Architectural Design

Austin House, The Common, Freethorpe, Norwich
NR13 3LT
01493 701187
amandalewis@hotmail.co.uk

Scheme. MANOR FARM Drawing No. 10 Revision A



GENERAL NOTES

1. This drawing is prepared for statutory approvals only.
2. All dimensions are given in metres and are to be taken from the site and not from the drawings.
3. All dimensions are to be in accordance with current practice.

KEY

SP - Solid waste
D1, D2, D3, D4, D5, D6, D7, D8 - House Design
Reference: Planning (see drawing No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 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2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194

"Development"	the development of the Site 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 (including an Affordable Housing Unit) being a self-contained house maisonette bungalow or flat constructed as part of the Development and "Dwelling" shall be construed accordingly
"HCA Standards"	the "Housing Quality Indicators" and "Design & Quality Standards" specified by the Homes and Communities Agency
"High School Contribution"	the sum of fifty two thousand six hundred and thirty eight pounds (£52,638) payable by the Owner to the County Council under Schedule 4 to this Agreement such sum to be Index Linked
"High School"	Thorpe St Andrew High School, Laundry Lane, Norwich NR7 0XS
"Index Linked"	the indexation adjustment to the contributions payable under the various provisions of this Agreement in accordance with the requirements of Clause 14 and 'Indexation' shall be construed accordingly
"Library Contribution"	the sum of sixty pound (£60) per Dwelling and payable by the Owner to the County Council under Schedule 3 to this Agreement such sum to be Index Linked
"Material"	a material operation as defined in Section 56(4) of the Act

"Operation"	<p>save that for the purposes of this Agreement the following shall not constitute a material operation:-</p> <ul style="list-style-type: none"> (a) site clearance (b) demolition of existing buildings (c) archaeological investigation (d) assessment of contamination (e) remedial action in respect of contamination (f) the erection of fences or other means of enclosure for site security (g) the diversion and laying of services (h) the erection of a site compound or site office or temporary buildings or structures (i) the erection of temporary advertising or notices (j) the construction of roads, drainage and other services and infrastructure on the Affordable Housing Land
"Occupation"	<p>occupation of a building as a Dwelling Unit (but not including occupation by contractors or for construction or fitting out purposes or as a showroom or sales office) and "Occupy" and "Occupied" shall be construed accordingly</p>
"Open Market Dwellings"	<p>Dwellings other than Affordable Housing Units</p>
"Open Space Commuted Sum"	<p>the sum of ninety seven thousand one hundred and thirty pounds fifteen pence (£97,130.15) Index Linked payable by the Owner to the Council in accordance with of Schedule 2 towards the future costs of the provision of Off Site Open Space and Recreational Provision (inclusive of any future maintenance requirement) by the Council</p>
"Plan"	<p>the plan annexed to this Agreement</p>

"Planning Permission"	the full planning permission to be granted pursuant to the Application in the form of the draft annexed to this Agreement at Appendix 1
"Primary School"	the Blofield Primary School North Street, Blofield, Norfolk NR13 4RH
"Primary School Contribution"	the sum of fifty eight thousand two hundred and twenty pounds (£58,220) payable by the Owner to the County Council under Schedule 4 to this Agreement such sum to be Index Linked
"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 List that the Registered Provider owning or managing the Affordable Housing Units on the Site is entitled to house within its rules
"Shared Ownership Dwellings"	The six (6) Affordable Housing Units to be constructed or provided as part of the Affordable Housing Scheme and to be let on a Shared Ownership Lease
"Shared Ownership Lease"	a lease of a Shared Ownership Dwelling granted at a premium whereby up to a maximum of seventy five percent (75%) 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 purchase the freehold of a Shared Ownership Dwelling by instalments at some future date or dates and allows a rental premium to be charged on the remainder of the equitable interest not exceeding Homes and Community target rents (or if such targets cease to be set such other measures of affordable rents as the relevant Council shall reasonably determine)

"Site"	the land at Yarmouth Road, Blofield, Norfolk which is shown for the purposes of identification only edged red on the Plan
"Sixth Form College"	Thorpe St Andrew Sixth Form College, Laundry Lane, Norwich NR7 0XS
"Sixth Form College Contribution"	The sum of nineteen thousand and twenty nine pounds (£19,029) payable by the Owner to the County Council under Schedule 4 to this Agreement such sum to be Index Linked

1.2 In this Agreement unless the context otherwise requires:

- a) references to any party shall include the successors in title and assigns of that party
- b) covenants given or made by any party which includes more than one person (whether natural or artificial) shall be deemed to be given or made jointly and severally
- c) references to clauses and schedules are references to clauses in and schedules to this Agreement

- d) 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
- e) headings in this Agreement shall not form part of or affect its construction

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 covenants, restrictions, requirements and obligations arising hereunder are planning obligations pursuant to Section 106 of the Act and are enforceable by the Council and the County Council against the Owner and their respective successors in title and assigns
- 2.3 The provisions of this Agreement are conditional upon the grant of the Planning Permission and the Commencement of Development save for the provisions of clauses 6 (costs) and 9 (jurisdiction) which shall come into effect immediately 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 Owner 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 permitted nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of the Council or the County Council in the exercise of their functions as Local Planning Authority and Highway 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 or the County 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 or the County Council of any breach or default by the Owner in performing or observing any of the covenants in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof

3.4 No party shall be liable under this Agreement for any breach of the covenants restrictions or obligations 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 subsisting breach occurring prior to the parting with such person's interest in the Site or any part thereof in respect of which any such breach has taken place

3.5 The covenants, restrictions and requirements contained in this Agreement, save those in relation to use or occupation of Affordable Housing shall not be enforceable against:

3.5.1 an AHP, individual purchasers or lessees of Dwellings constructed on the Site pursuant to the Planning Permission or any of their mortgagees; or

3.5.2 service authorities or utility companies which acquire an interest in the Site in order to provide water, gas, electricity, communication services or foul or surface water disposal facilities to or from the Site.

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	Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew Norwich NR7 0DU
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The County Council	The Head of Library and Information Service or the Director of as the case may be County Hall Martineau Lane Norwich NR1 2DH]
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The Owner	20 Yarmouth Road
-----------	------------------

Blofield
Norfolk NR13 4JS

Lloyds TSB Bank PLC Pendeford Securities Centre
Pendeford Business Park
Wobaston Road,
Wolverhampton WV9 5HZ

4.3 Any notice or other written communication to be given by the Council or County Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Council or County 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 Owner shall on completion of this Agreement pay the Council's and the County Council's reasonable legal and administrative costs incurred in the preparation negotiation and completion of this Agreement

7. Payment of Interest

7.1 The Owner 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. Title Warranty

- 10.1 The Owner hereby warrants to the Council and to the County Council that he is the freehold owner of the Site and has full power to enter in to this Agreement and that save from the Legal Charge revealed on Land Registry title number NK391980 the Site is free from all mortgages charges or other encumbrances and that there is no person having any interest in the Site other than as notified in writing to the Council's and the County Council's Head of Law prior to the date hereof

11. Disputes

- 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 negotiation 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 for Effective 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 Royal Town Planning Institute 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 Clauses 11.1 11.2 and 11.3 shall apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

12. Covenants

12.1 The Owner hereby covenants with the Council to carry out and comply with the obligations and restrictions on its part set out in this Agreement and set out in Schedules 1 and 2 hereto which are expressed to be given to or to be for the benefit of the Council and as a separate covenant with the County Council to carry out and comply with the obligations and restrictions on its part set out in this Agreement and set out in Schedules 3 and 4 hereto which are expressed to be given to or to be for the benefit of the County Council

12.2 The Council covenants to issue the Planning Permission as soon as reasonable practicable following completion of this Agreement

13. Owners Indemnity

13.1 The Owner agrees 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

14. Index Linking

14.1 Where any sum specified to be payable by the Owner under the terms of this Agreement is expressed to be Index Linked, that sum shall be Index Linked from 27 February 2013 until such time as the payment of that sum is made such Index Linking to be equivalent to any increase or decrease in the in the Building Cost Information Service All-In Tender Price Index (or in the event that the Index shall have ceased to be published at the date of the relevant payment, then the closest equivalent Index shall be used as agreed between the parties acting reasonably).

15. Issue of Approvals

15.1 Where any approval, consent, agreement or the like is required to be given by the Council or the County Council pursuant to the terms of this Agreement it shall be in writing and shall not be unreasonably withheld or delayed

16. Statutory Undertakers and Consortium Consent

16.1 the obligations and restrictions in this Agreement shall not be enforceable against any statutory undertaker which acquires any part of the Site for the purposes of its statutory undertaking or function

16.2 The Developer hereby consents to the Site being bound by the provisions of this Agreement provided that the Developer shall have no liability under this Agreement unless and until it shall have acquired a legal interest in the Site

17. Notification

17.1 The Owner agrees to notify the County Council and the Council of the reaching of any of the occupation or completion thresholds relating to obligations contained in this Agreement such notification to be given within 14 days of reaching such threshold

18. Mortgagee Consent

18.1 The Mortgagee consents to the Owner entering into this Agreement and acknowledges that this Agreement binds its interest in the Site provided that the Mortgagee shall not be liable for any breach of this Agreement unless it shall enter into the Site as mortgagee in possession

SCHEDULE 1
Affordable Housing

The Owner covenants with the Council

1 Not to Commence Development of any Dwelling until the Affordable Housing Scheme has been submitted to and approved by the Council. The Affordable Housing Scheme shall, inter alia, deal with and include:

- (a) the number and tenure mix of the proposed Affordable Housing Units on the Affordable Housing Land within the Site (and for the avoidance of any doubt there shall be 9 Affordable Housing Units provided on the Affordable Housing Land, three (3) of which shall be occupied as Affordable Rental Units (referred to in paragraph 6 below as "the 3 Affordable Rental Units") and six (6) occupied as Shared Ownership Dwellings (referred to in paragraph 7 below as "the 6 Shared Ownership Dwellings")) and identifying which are to be Affordable Rental Units and which are to be Shared Ownership Dwellings.
- (b) a draft of an Agreement with an approved AHP for the Development of the Affordable Housing Land (which shall include details of the transfer of the Affordable Housing Land to the approved AHP, a draft transfer or lease of an Affordable Housing Unit to the approved AHP.
- (c) a timetable and programme for the implementation of the Affordable Housing Scheme (including a timetable both for the transfer of the Affordable Housing Land and the construction and provision of the Affordable Housing Units); terms, including timing, for the acquisition and management of the Affordable Housing Land and the Affordable Housing Units by an AHP.
- (d) evidence that all Affordable Housing Units meet the minimum standards contained in the HCA Standards and the Code or such other standard requested by the AHP

And save for any variations agreed in writing between the Owner and the Council prior to Commencement of Development of any Dwelling, upon approval the Affordable Housing Scheme shall be deemed to be incorporated into the provisions of this Agreement.

- 2 To enter into any supplementary agreements reasonably required by the Council in giving approval to the Affordable Housing Scheme and to be responsible for the Council's reasonable costs in negotiating and approving any such agreements.
- 3 Upon approval of the Affordable Housing Scheme by the Council to implement the Affordable Housing Scheme as approved and entirely in accordance with its Provisions and without prejudice to the generality of the foregoing, not to construct or procure the construction of the Affordable Housing Units otherwise than in accordance with the Affordable Housing Scheme, HCA Standards, the Code and the Planning Permission
- 4 Not to Occupy or permit the Occupation of any of the Open Market Dwellings on the Site until such time as the Affordable Housing Land has been transferred to an AHP in accordance with the requirements of the Affordable Housing Scheme
5. Not to use or permit the use of the 3 Affordable Rental Units for any purpose other than as Affordable Rental Units.
6. Not to use or permit the use of the 6 Shared Ownership Dwellings for any purpose other than as Shared Ownership Dwellings
7. Not to allow the Affordable Housing Units to be occupied other than by Qualifying Occupiers.
8. The Owners shall not dispose of its freehold interest in the Affordable Housing Land other than to an AHP
- 9 To comply in all respects with any direction given by the Council under paragraph 8 above
10. To ensure that in any transfer of the Affordable Housing Land to an AHP it is provided that the AHP shall not dispose of its interest in the freehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to any other AHP or to a purchaser of an Affordable Housing Unit pursuant to any right to buy or right to acquire as referred to in the paragraph 11 below.
11. Paragraphs 5 - 10 above shall not be binding upon:

- (a) any mortgagee in possession of the Affordable Housing Units or part thereof nor
- (b) any receiver or manager (including an administrative receiver) for such mortgagee
- (c) any purchaser pursuant to a right to buy under Part 5 of the Housing Act 1985 or a right to acquire under Section 16 of the Housing Act 1996 or any similar or substitute right applicable, and shall not be binding upon any successor in title following such a disposal
- (d) any purchaser or their Mortgagee in possession of a Shared Ownership Dwelling who has stair cased to 100%

12. Under the transfer of the Affordable Housing Land to an AHP such transfer shall be free from encumbrances (other than encumbrances similar to the Planning Obligations) and shall contain the following provisions:- a grant in favour of the AHP of all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Land and reservations of all rights of access and passage of services and rights of entry reasonably necessary for the purposes of the remainder of the Development.

SCHEDULE 2
Open Space Commuted Sum

The Owner covenants with the Council

1. To pay the Open Space Commuted Sum to the Council by a single lump sum payment prior to the Occupation of the fifteenth (15th) Dwelling
2. Not to Occupy or permit the Occupation of more than fourteen (14) of the Dwellings until he has paid the Open Space Commuted Sum as required by paragraph 1

The Council covenants with the Owner

- 3 That it will hold the Open Space Commuted Sum when paid in an interest bearing account and apply it and any interest received only towards the provision of additional Open Space and Recreational Facilities in the parish of Blofield
4. that in the event that the Open Space Commuted Sum or any part of it has not been committed (by way of a contract to provide additional open space or recreational facilities or by the expenditure of the monies) to the provision of the additional open space or recreational facilities referred to in paragraph 3 above within 5 years of the date of receipt then the Council will repay to the Owner so much of the Open Space Commuted Sum as shall remain uncommitted together with any accrued interest thereon

SCHEDULE 3
Library Contribution

The Owner covenants with the County Council

1. To pay the Library Contribution to the County Council in a single lump sum payment prior to the Occupation of the fifteenth (15th) Dwelling
2. Not to Occupy or permit the Occupation of more than fourteen (14) of the Dwellings until it has paid the Library Contribution to the County Council as required by paragraph 1.

The County Council covenants with the Owner

3. to hold the Library Contribution when paid in an interest bearing account and apply it and any interest received only towards the provision and extension of additional library facilities for the library service which serves the Development
4. that in the event that the Library Contribution or any part of it has not been committed (by way of a contract to provide additional library facilities or by the expenditure of the monies) to the provision of the additional library facilities referred to in paragraph 4 above within 5 years of the date of receipt of the balance of the Library Contribution then the County Council will repay to the Owner so much of the Library Contribution as shall remain uncommitted together with any accrued interest thereon

SCHEDULE 4

Education Contribution

The Owner covenants with the County Council

1. To pay each of the High School Contribution, the Primary School Contribution and the Sixth Form College Contribution to the County Council as follows:

1.1 100% (one hundred per cent) of the High School Contribution prior to Occupation of fifteen (15) of the Dwellings

1.2 100 % (one hundred per cent) of the Sixth Form Contribution prior to the Occupation of fifteen (15) of the Dwellings

1.3 100% (one hundred per cent) of the Primary School Contribution prior to the Occupation of fifteen (15) of the Dwellings

2. Not to Occupy or permit the Occupation of more than

(a) fourteen (14) of the Dwellings until it has paid 100% of the High School Contribution to the County Council as required by paragraph 1.1

(b) fourteen (14) of the Dwellings until it has paid 100% of the Sixth Form Contribution to the County Council as required by paragraph 1.2

(c) fourteen (14) of the Dwellings until it has paid 100% of the Primary School Contribution to the County Council as required by paragraph 1.3 above

The County Council covenants with the Owner

3. To hold each of the High School Contribution, the Primary School Contribution

and the Sixth Form College Contribution when paid in an interest bearing account and apply it and any interest accrued upon it only towards the improvement of education facilities serving the Development

- 4 In the event that any of the High School Contribution, the Primary School Contribution or the Sixth Form College Contribution (or any part of any of them) have not been committed (by way of a contract to provide increased educational capacity or by the expenditure of the monies or otherwise) to the improvement of the educational facilities within 5 years from final Occupation of the Development then the County Council shall repay to the Owner on the expiration of such 5 year period so much of any of the High School Contribution, the Primary School Contribution or the Sixth Form College Contribution as shall remain uncommitted together with any accrued interest thereon

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)



7250

M. Murrel

Head of Democratic Services and
Monitoring Officer

~~Head of Corporate Services
and Monitoring Officer~~

THE COMMON SEAL of)
NORFOLK COUNTY COUNCIL)
was hereunto affixed)
in the presence of)



Authorized to sign
on behalf of:

CGH

Head of Law

Signed as a Deed by)
GERALD HOWARD POINTER)

Gerald Howard Pointer

Witnessed by

Name *M. Murrel*

Address *4 Theatre Street Norwich NR2 1G4*

Occupation Legal Executive

Signed as a Deed by

.....

As Attorney for and on behalf of

Lloyds TSB Bank PLC in the

Presence of



ARose

ADAM ROSE

APPENDIX 1

Draft Planning Permission



www.broadland.gov.uk

Application Number
20120910

Hilditch Homes
FAO Mr John Hilditch
Meadow View
Blofield Road
Brundall
Norwich
NR13 5NU

Date Of Decision : 19 June 2013
Development : Erection of 22 Dwellings (9 Affordable & 13 Open Market) On
Former Agricultural Land
Location : Land Adj. 20 Yarmouth Road, Blofield, NR13 4JS
Applicant : Hilditch Homes

Town & Country Planning Act 1990

The Council in pursuance of powers under this Act **GRANTS PLANNING PERMISSION** for the development referred to above in accordance with the details on the application form and subject to the following **conditions** -

- 1 The development to which this permission relates must be begun not later than THREE years beginning with the date on which this permission is granted.
- 2 The development hereby permitted shall not be carried out otherwise than in accordance with the plans and documents listed below.
- 3 No development shall take place until details of water efficiency measures to comply with the Code for Sustainable Homes Level 4 for water have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4 At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of the National Planning Policy Framework 2012). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority before works commences on site. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 5 None of the dwellings shall be occupied until the development hereby permitted has incorporated the provision of a water hydrant for the purposes of fire fighting.
- 6 Prior to the commencement of development, details of all external materials (including samples of roof/walls/windows/doors) to be used in the development shall be submitted to and approved by the Local Planning Authority. The development

shall then be constructed in accordance with the approved details.

- 7 No development shall take place until a Written Scheme of Investigation for a programme of archaeological works has been submitted to and approved by the local planning authority in writing. The scheme shall include:

1. An assessment of the significance of heritage assets present
2. The programme and methodology of site investigation and recording
3. The programme for post investigation assessment of recovered material
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the site investigation
7. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

- 8 No works shall commence on the site until such time as detailed plans of the roads, footways, foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. All construction works shall be carried out in accordance with the approved plans.

- 9 No works shall be carried out on roads, footways, foul and surface water sewers otherwise than in accordance with the specifications of the Local Planning Authority in consultation with the Highway Authority.

- 10 Before any dwelling is first occupied the roads and footways shall be constructed to binder course surfacing level from the dwelling to the adjoining County road in accordance with details to be approved in writing by the Local Planning Authority in consultation with the Highway Authority.

- 11 Prior to the commencement of this development the following must be submitted to and approved in writing by the Local Planning Authority before the commencement of each stage of the following process:

A. A desk study, to be completed in line with current good practice guidance must be completed. The report must include a conceptual site model and risk assessment to determine whether there is a potentially significant risk of contamination which requires further assessment.

B. Based on the findings of the desk study a site investigation and detailed risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originated on the site. The report must include:

1. A survey of the extent, scale and nature of contamination.
2. An assessment of the potential risks to:
Human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes. Adjoining land, groundwater and surface waters, ecological systems, archaeological sites and ancient monuments.

The report must include a revised and updated conceptual site model and risk assessment. There must be a review of the remedial options, and a proposal for the preferred remedial option(s). This must be conducted in accordance

with accepted good practice guidance.

- C. Based on the findings of the site investigation a detailed remediation method statement must be submitted for approval. Remediation must ensure the site is suitable for the intended use by removing or mitigating unacceptable risks to the identified receptors. The method statement must include all work to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990.
- D. Following the completion of the site remediation method statement a verification report that scientifically and technically demonstrates the effectiveness and success of the remediation scheme must be produced. If remediation has not been successful further work will be required
- E. If previously unidentified contamination is found during the development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken as per 'B' above, and where remediation is necessary a remediation method statement and post remedial validation testing must be produced and approved in accordance with 'C' & 'D' above.

- 12 Notwithstanding the submitted landscaping scheme, a scheme for landscaping and site treatment to include grass seeding, planting of new trees, shrubs and hedgerows, specification of materials for fences, walls and other hard surfaces, and the proposed maintenance of amenity area, shall be submitted to and approved by the Local Planning Authority prior to the commencement of development.

The scheme shall also include the positions of all existing trees (which shall include details of species and canopy spread) and hedgerows on the site to be retained within 15m of the boundaries together with measures for the protection of their above and below ground parts during the course of development.

The scheme as approved shall be carried out not later than the next available planting season following the commencement of development or such further period as the Local Planning Authority may allow in writing.

If within a period of FIVE years from the date of planting, any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

- 13 Prior to the commencement of development full details of proposed ground floor levels raised above existing ground levels shall be submitted to the Local Planning Authority for approval. The development shall be carried out in accordance with the approved details.
- 14 The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by Evans Rivers and Coastal dated 27 July 2012 and referenced RE/1085/02 Rev A and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off rate from the site to no more than 3.6 l/s to ensure that in the 1 in 30 year and 1 in 100 year storm events including climate change, the runoff rates will not exceed the run-off rates from the undeveloped site and not increase the risk of flooding off-site.
 2. Provision of sufficient surface water storage in an attenuation basin to accommodate the 1 in 100 year rainfall event including climate change, with a minimum volume of 342m³, with sufficient freeboard volume provided in addition to this.
 3. The installation of an outfall pipe from the attenuation basin to Witton Run watercourse, with regular inspection and maintenance manholes.
- 15 Development shall not commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority in consultation with the Highway Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
1. Details of the dimensions and location of the on-site pipe network along with calculations to demonstrate that the pipes are sized to prevent flooding in the 1 in 30 year rainfall event, and calculations to detail what volumes and locations of flooding would occur in the 1 in 100 year rainfall event including climate change, and plans to show where the water would be stored to prevent buildings flooding or offsite flows.
 2. Details of any SUDS features such as permeable paving and detention basins.
 3. Details of flow routes and pathways across the site along with consideration of where surface water may flow during exceedence events in excess of the design storm to show that properties would not be at risk of flooding.
 4. Details of how the scheme shall be maintained and managed after completion and who will be responsible for this for the lifetime of the development.

The reasons for the conditions are:-

- 1 The time limit is imposed in compliance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans and documents.
- 3 To ensure the development is constructed to an appropriate standard in accordance with Policies 3 and 20 of the Joint Core Strategy for Broadland, Norwich and South Norfolk: 2011.
- 4 To ensure the development is constructed to an appropriate standard in accordance with Policies 3 and 20 of the Joint Core Strategy for Broadland, Norwich and South Norfolk: 2011.

- 5 In order to secure a satisfactory form of development in accordance with Policies GS3 and GS4 of the Broadland District Local Plan (Replacement) 2006.
- 6 To ensure the satisfactory development of the site in accordance with Policy GS3 of the Broadland District Local Plan (Replacement) 2006
- 7 To enable Norfolk County Council Historic Environment Service to keep a watching brief on the site in accordance with Policy ENV20 of the Broadland District Local Plan (Replacement) 2006.
- 8 To ensure the satisfactory development of the site without prejudice to the amenity of the site or to road safety in accordance with Policies GS3 and TRA14 of the Broadland District Local Plan (Replacement) 2006.
- 9 To ensure the roads/footpaths and drainage are constructed to a standard to enable them to be taken over as public repairable highways in accordance with Policy TRA14 of the Broadland District Local Plan (Replacement) 2006.
- 10 To ensure construction of a satisfactory access and in the interests of highway safety in accordance with policy GS3 of the Broadland Local Plan (Replacement) 2006.
- 11 To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy GS3 of the Broadland District Local Plan (Replacement) 2006.
- 12 To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policies GS3 and ENV3 of the Broadland District Local Plan (Replacement) 2006.
- 13 To ensure the satisfactory development of the site in accordance with Policy GS3 of the Broadland District Local Plan (Replacement) 2006.
- 14 To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site in accordance with Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011.
- 15 To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk 2011.

Plans and Documents:-

Amended Dwg No 23A Affordable & Private Housing Elevations received 22 November 2012

Amended Dwg No 22A Affordable Housing Elevations received 22 November 2012

Amended Dwg No 21A Affordable Housing Floor Plans Designs 6 7 & 8 received 22 November 2012

Amended Dwg No 20A Affordable Housing Floor Plans Designs 4 & 5 received 22 November 2012

Amended Dwg No 10A Site Location Plan received 22 November 2012
Amended Dwg No 11C Site Layout Plan received 22 November 2012
Dwg No. 05 Plan & Elevations Double Garage received 22 June 2012
Dwg No. 04.1 Elevations Design 3 received 22 June 2012
Dwg No. 04 Floor Plans Design 3 received 22 June 2012
Dwg No. 03.1 Elevations Design 2 received 22 June 2012
Dwg No. 03 Floor Plans Design 2 received 22 June 2012
Dwg No. 02.1 Elevations Design 1 received 22 June 2012
Dwg No. 02 Floor Plan Design 1 received 22 June 2012
Additional Flood Risk Assessment received 31 July 2012

The reasons for the decision are:-

The main issues to be taken into consideration in the determination of this application are an assessment of the proposal against Development Plan policies and national planning guidance. In particular, regard must be given to whether the proposal accords with Policies 1, 2, 3, 4, 6, 7, 8, 9 and 14 of the Joint Core Strategy and Policies GS1, GS3, GS4, ENV2, ENV3, ENV5, ENV8, ENV14, ENV20, ENV23, HOU1, HOU6, HOU7, TRA4, TRA8, TRA14, RL5 and RL7 of the Broadland District Local Plan (Replacement) 2006. The Parking Standards and Recreational Open Space Supplementary Planning Documents are also relevant as is the National Planning Policy Framework (NPPF), The Planning System: General Principles, Written Ministerial Statement for Growth (March 2011) and Community Infrastructure Levy Regulations.

The application site is outside but adjacent to the settlement limit that has been defined for Blofield and therefore there is a presumption against development proposals unless they comply with a specific allocation and/or policy of the Local Plan. The Local Plan has not allocated any sites for housing at Blofield and Policy HOU1 explains that that estate scale development will be restricted to the Norwich fringe parishes and Aylsham. Elsewhere, estate scale development will not be permitted unless identified on the Local Plan proposals map. The application is therefore contrary to Policy HOU1 of the Local Plan. However, regard must be given to the more up to date policies set out in the NPPF and the JCS (both in their remitted and adopted form).

Policy 14 of the JCS identifies Blofield as a key service centre within the Norwich Policy Area (NPA) capable of accommodating a minimum of 50 dwellings. However, as the settlement is located within the NPA, it may be considered for additional development to help meet the total housing provision target.

It is acknowledged that there is not a supply of deliverable sites sufficient to provide five years housing supply in the Norwich Policy Area as required by Paragraph 47 of the NPPF. Paragraph 49 of the NPPF sets out that relevant policies for the supply of housing should not be considered up to date if a five year supply of deliverable housing sites cannot be demonstrated. In this regard, Policy HOU1 of the Local Plan must be considered out of date. The contribution that this proposal would make towards meeting the need for housing in a reasonably sustainable location for new development in the NPA would be a measurable benefit, helping to meet housing targets while also increasing the amount of affordable housing available and the choice of housing. Regard has also been given to paragraph 14 of the NPPF in reaching this view.

Other potential benefits associated with the development including the potential employment opportunities that works at the site will generate, there being more residents to support existing services and facilities, contributions to improve formal recreation provision within the village and that the Parish Council does not object to the proposal.

For these reasons and those given in the paragraph above, it is considered that the application will not result in demonstrable adverse impacts that will outweigh the benefits.

As this planning application has been submitted in advance of the Site Allocations DPD being adopted, its consideration is premature. However, given the early stage of preparation at which the Site Allocations DPD is at and that it will not be adopted until late-2014 at the earliest, it is considered that a refusal cannot be justified on these grounds alone. In terms of whether the application is prejudicial to the consideration of the SA DPD, other sites have been proposed elsewhere in Blofield and it is acknowledged that in approving this planning application in advance of the SA DPD, it will pre-empt the consideration of the alternative sites. However, it is considered that the benefits associated with this application outweigh the fact that granting planning permission may prejudice the consideration of other sites. The same applies to other applications for residential development currently before the Council for consideration.

Despite the concerns of the Local Planning Authority's Conservation Officer (Design), the layout, scale and design of the development are considered to be acceptable. A design approach has been adopted which delivers more unique style detached properties and more conventional semi-detached properties more reflective of the existing development to the east. This approach is considered acceptable for this fringe of settlement location despite the Conservation Officer's (Design) concerns.

It is considered that appropriate regard has been given to the layout of the site, the type and position of properties throughout the site and the position of windows in relation to neighbouring properties.

In relation to the setting of designated heritage assets, it is not considered that the exterior setting of either of the listed buildings will be harmed within the context of how they can be and would be viewed post development.

It is not considered that development in this location will have a demonstrable impact upon the wider area of important landscape quality and any perceived harm in terms of representations received has to be weighed against the merits / benefits of the proposal as submitted. Matters relating to trees and landscaping have been dealt with by way of an appropriate condition.

Matters relating to affordable housing, off-site recreation and open space provision, education and library provision will be the subject of a Section 106 Agreement.

Despite a small number of objections and concerns raised by local residents and other applicants and the fact that the site is outside of a defined settlement limit, it is considered that this application will not have a detrimental impact on the character and appearance of the area, residential amenity, flood risk or on heritage assets, subject to the use of appropriate conditions.

Account must also be given to other material considerations: Blofield is a reasonably sustainable location for new development; there is not a five year supply of land for housing in the NPA and this development will contribute towards the shortfall in supply while also providing affordable housing; contributions towards off-site recreational space in accordance with the Local Planning Authority's Recreational Open Space SPD will meet the policy requirement and arguably, will ultimately result in a wider community benefit. It is considered that all of these items are sufficient enough to justify granting planning permission for the application.

The Local Planning Authority has taken a proactive and positive approach to decision taking in accordance with the requirements of paragraphs 186-187 of the National Planning Policy Framework.

Informatives:-

- (1) Under the terms of the Water Resources Act 1991 and Anglian Region Land Drainage Byelaws, the prior written Flood Defence Consent from the Environment Agency is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of the nearby main river, the Witton Run. Flood Defence Consent would be required for any outfall structures in the bank of the river. Please contact Sarah Palmer at sarah.palmer@environment-agency.gov.uk or on 01473 706721 to obtain the application forms. We have up to two months to determine an application so please take this into account when planning the intended works.
- (2) The site is subject to a related agreement under Section 106 of the Town and Country Planning Act 1990.
- (3) This development involves works within the public highway that can only be carried out by Norfolk County Council as Highway Authority unless otherwise agreed in writing.

It is an OFFENCE to carry out any works within the Public Highway, which includes a Public Right of Way, without the permission of the Highway Authority. Please note that it is the applicants' responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council. Advice on this matter can be obtained from the County Council's Highway Development Control Group. If required, street furniture will need to be repositioned at the applicants own expense. Public Utility apparatus may be affected by this proposal. Contact the appropriate utility service to reach agreement on any necessary alterations, which have to be carried out at the expense of the developer.

Signed



Mr P Courtier
Head of Planning
Broadland District Council, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich,
NR7 0DU

Information relating to appeals against the decision of the Local Planning Authority.

If you are aggrieved by this decision to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Any appeal must be made within **6 months** of the date of this notice unless an enforcement notice has been served for the same or substantially the same development within the period of two years before this application was made, or subsequently, then the period within which an appeal can be lodged is reduced to **28 days** from the date of this decision or 28 days from the serving of the enforcement notice, whichever is the later.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the District Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

