

DATED 15th April **2013**

BROADLAND DISTRICT COUNCIL

- and -
-

D S and C R MURRELL

AGREEMENT
relating to the development of land
at Blofield, Norfolk

THIS AGREEMENT is made the 15th day of April 2013

BETWEEN:

1. BROADLAND DISTRICT COUNCIL of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk NR7 0DU ("the Council") and
2. DAVID SIDNEY MURRELL and CHRISTINE RUTH MURRELL both of Field Farm, South Walsham, Norfolk NR 13 6 BZ ("the Owners") and

WHEREAS

- A. The Council is the Local Planning Authority for the purposes of the Act for the area within which the Blofield Site is situated
- B. The Owners are the freehold owners of the Blofield Site
- C. By a Unilateral Undertaking given by the D & C Murrell Limited on 11th May 2011 ("the Unilateral Undertaking") as varied by a Deed of Release made between the D & C Murrell Limited and the Council and dated 10th August 2012 ("the Deed of Release") the Owners (as successors in title to D & C Murrell Limited) have covenanted to provide one unit of Affordable Housing on the Blofield Site
- D. The Owners have submitted the Application to the Council and the parties have agreed
 - i. that having regard to Section 9 (Off Site provision and Commuted Payments) of the Council's Affordable Housing Supplementary Planning

Document (SPD) December 2008:

- (a) the Owners may be relieved of their obligation to provide one unit of Affordable Housing on the Blofield Site and
 - (b) that in lieu thereof the Owners will pay the Commuted Sum which will be applied by the Council towards the provision of Affordable Housing in the Administrative District of the Council
- ii to enter into this Agreement in order to give effect to such agreement and to discharge both the Unilateral Undertaking and the Deed of Release

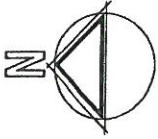
1. INTERPRETATION AND DEFINITIONS

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)
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"Affordable Housing"	housing provided in accordance with the requirements of 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
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"The Application"	the application for full planning permission validated on 17 August 2012 and bearing reference number 20121260 for the development of a detached house and garage at the Blofield Site
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20121260

BROADLAND COUNCIL

17 AUG 2012

PLANNING CONTROL

PLANNING

D Murrell

Manor House
North Street
BROADLAND

Site Location Plan

3938

80

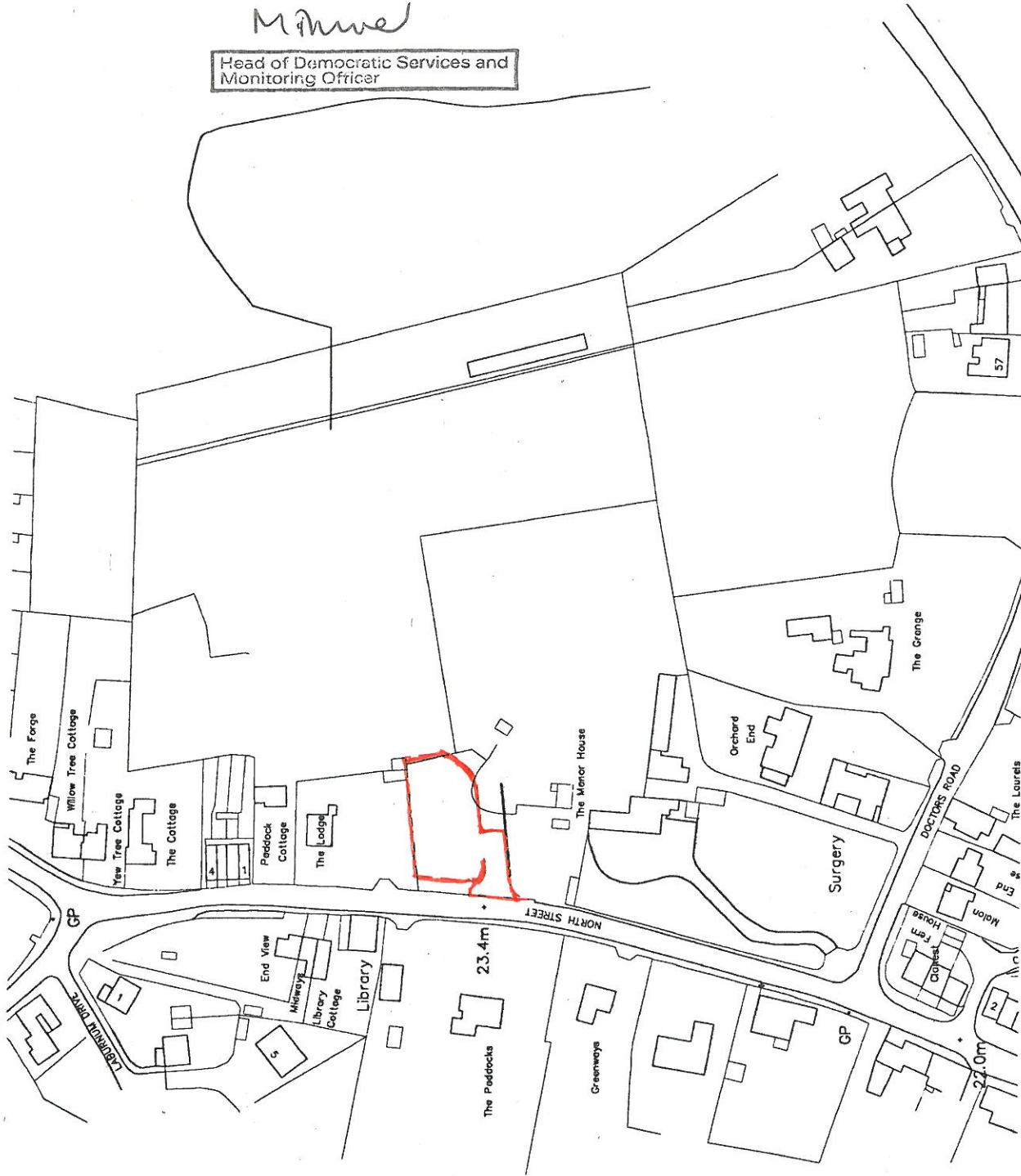
JUNE 12 1:1250 @ A3

slc

Murrell

Head of Democratic Services and
Monitoring Officer

PLAN
1.



LOCATION PLAN 1:1250



DS Murrell

Murrell

"Commuted Sum"	the sum of One hundred and fifty five thousand pounds (£155,000)
"Development"	the development of the Blofield Site permitted by the Planning Permission
"Director"	the Council's Chief Executive or other officers of the Council acting under his hand
"Plan 1"	the plan showing the Blofield Site and annexed to this Agreement
"Planning Permission"	the full planning permission granted pursuant to the Application
"The Blofield Site"	the land at North Street, Blofield which is shown for the purposes of identification only edged red on Plan 1

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 Section 2 of the Local Government Act 2000 and any other enabling powers
- 2.2 The covenants, requirements and obligations arising hereunder are planning obligations pursuant to Section 106 of the Act
- 2.3 This Agreement shall cease to have effect if the Planning Permission shall be quashed revoked or otherwise withdrawn

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 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 was 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 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 Blofield Site or the part of the Blofield 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 Blofield 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	Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk NR7 0DU
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The Owners	Field Farm, South Walsham, Norfolk NR13 4BZ
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- 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. VAT
- 6.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable
- 6.2 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
7. Jurisdiction
- 7.1 This Agreement is to be governed by and interpreted in accordance with the law of England and Wales
8. Title Warranty

8.1 The Owners hereby warrant to the Council that they are the freehold owners of the Blofield Site registered in their names at the HM Land Registry under Title Number NK377139 and have full power to enter in to this Agreement

9. Costs

9.1 The Owners shall on completion of this Agreement pay the Council's reasonable legal and administrative costs incurred in the preparation negotiation and completion of this Agreement up to a maximum of £1375 (one thousand three hundred and seventy five pounds)

10. Payment of Interest

10.1 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

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 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 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 Owners hereby covenant with the Council to carry out and comply with the obligations on its part set out in this Agreement and set out in Schedule 1 hereto which are expressed to be given to or to be given for the benefit of the Council

12.2 The Council covenants with the Owners in the terms set out in Schedule 2 hereto

13. The Unilateral Undertaking and the Deed of Release

Upon payment by the Owners to the Council of the Commuted Sum in accordance with the requirements of this Agreement it is agreed between the Parties that both the Unilateral Undertaking and the Deed of Release are thereupon discharged and the Owners are thereupon released from their obligation to provide Affordable Housing at the Blofield Site

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

SCHEDULE 1

The Owners covenants with the Council

1. That upon execution of this Agreement they will forthwith pay the Commuted Sum to the Council which will be remitted to the Council by a Bank telegraphic transfer

SCHEDULE 2

The Council's covenants with the Owners

- 1 to use the Commuted Sum towards the provision of Affordable Housing in the Administrative area of the Council
2. Upon confirmation that the Commuted Sum has been paid in accordance with the requirements of Schedule 1 above, to immediately issue to the Owners the Planning Permission.
3. Upon confirmation that the Commuted Sum has been paid in accordance with the requirements of Schedule 1 above, the Council agrees that the Owners may immediately commence the construction of the detached house and garage referred to in the Planning Permission and the Council agrees to immediately release and discharge the Owners from the obligations contained in the Unilateral Undertaking and/or Deed of Release

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



DS Murrell

Democratic
Head of Corporate Services
and Monitoring Officer

7189

SIGNED as a Deed by the said)
DAVID SIDNEY MURRELL)
In the presence of)

DS Murrell

2-1-2008

M Moore

M MOORE

*15 HATTON RD
NORWICH NR1 2PT
ENGINEER*

SIGNED as a Deed by the said)
CHRISTINE RUTH MURRELL)
In the presence of)

CMurrell

2-1-2008

M Moore

M MOORE

*15 HATTON RD
NORWICH NR1 2PT*

ENGINEER