

20130550

DATED 17<sup>th</sup> March 2013 4

BROADLAND DISTRICT COUNCIL

- and -

D S and C R MURRELL

- and -

SAFFRON BUILDING SOCIETY

---

AGREEMENT  
relating to the development of land  
at Blofield, Norfolk

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THIS AGREEMENT is made the 7<sup>th</sup> day of March 2014  
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 6BZ ("the Owners") and
3. SAFFRON BUILDING SOCIETY of Saffron House, Market Street, Saffron Walden, Essex CB10 1HX ("the Mortgagee")

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. The Owners have submitted the Appeal 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

either in the parish of Blofield or in default thereof in the Administrative District of the Council

ii to enter into this Agreement in order to give effect to such agreement if the Appeal is allowed

- D. The Mortgagee has a Legal Charge over the Blofield Site dated 25 November 2011 and registered under Title Number NK377139

# 1. INTERPRETATION AND DEFINITIONS

In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:-

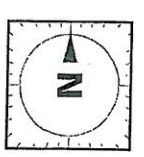
"Act"	the Town and Country Planning Act 1990
"Affordable Housing"	(as amended) housing provided in accordance with the requirements of this Agreement which is available to meet the needs of those who cannot afford to rent or buy dwellings generally available on the open market
"Appeal"	the appeal submitted against the refusal by the Council of the application for full planning permission for the development of 3 (three) detached houses and garages at the Blofield Site submitted to the Council and allocated reference number 20130550
"Commencement"	the date on which any Material

of Development"	Operation forming part of the Development begins to be carried out and "Commence Development" shall be construed accordingly <del>the sum of Eighty thousand pounds (£80,000)</del> Index Linked
"Commuted Sum"	<i>the sum of Eighty thousand pounds (£80,000)</i> Index Linked
"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
"Dwellings"	the 3 (three) detached houses and garages to be constructed and erected as part of the Development and "Dwelling" shall be construed accordingly
"Index Linked"	the indexation adjustment to the Commuted Sum payable under this Agreement in accordance with the requirements of Clause 14
"Material Operation"	a material operation as defined in Section 56(4) of the Act save that for the purposes of this Agreement the following shall not constitute a material operation:- (a) site clearance (b) demolition of existing buildings (c) archaeological investigation (d) assessment of contamination remedial action in respect of contamination the erection of fences or other means of enclosure for site

*H/BW  
Site Owners*



M. Ward



**BROADLAND  
DISTRICT COUNCIL**  
17 May 2013  
20130550 AP  
**PLANNING CONTROL**

A	1,2,3,4,5	secondary position provided	6	new
my date	participation		DATE	CHECKS IN
Residuals				

CF

Additional important funding strategies

# Planning.

D&amp;C Murrell Limited

Doctors Road Phase 2  
Blotfield, Monmouth

100

### Site Location Plan

4557

100

50 A

1

0571:1 71 JPM

krb.

1

<b>Crabtree &amp; Wainwright Limited</b>	<b>51</b>	<b>4552</b>	<b>Site Location Plan</b>	<b>50</b>	<b>A</b>	<b>1:1250</b>	<b>Mar 12</b>
15, Weymouth Road Weymouth Dorset DT9 3JH Tel: 01323 722800 Fax: 01323 722801 Email: <a href="mailto:sales@crabtree-wainwright.com">sales@crabtree-wainwright.com</a> Website: <a href="http://www.crabtree-wainwright.com">www.crabtree-wainwright.com</a>	Plot 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, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 79						

XDSM  
XCPM

Age Group	Percentage of Respondents
18-29	85%
30-49	80%
50-69	75%
70+	70%



	security (f) the diversion and laying of services the erection of a site compound or site office or temporary buildings or structure (g)
"Plan 1"	the plan showing the Blofield Site and annexed to this Agreement
"Planning Permission"	the full planning permission subject to pursuant to the Appeal
"The Blofield Site"	the land off Doctors Road, 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 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 6BZ
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The Mortgagee	Saffron House, Market Street, Saffron Walden, Essex CB10 1HX
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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 and that there are no other parties whose consent is necessary to make this Agreement binding on all interests in the Site (other than the Mortgagee whose consent is given below at clause 13)

## **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 £650

## **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 their 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. Mortgagees Consent**

- 13.1 The Mortgagee acknowledges and declares that this Agreement has been entered into by the Owners with its consent and that the Blofield Site shall be bound by the obligations contained in this Agreement and that the security of the mortgage over the Blofield Site shall take effect subject to this Agreement PROVIDED THAT the Mortgagee shall otherwise have no liability under this Agreement unless it takes possession of the Blofield Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owners

## **14. Index Linking**

- 14.1 Where any sum specified to be payable by the Owners under the terms of this Agreement is expressed to be Index Linked, that sum shall be Index Linked from the date of this Agreement 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. Notification**

15.1 The Owners agree to give the Council at least 14 days written notice of their intention to Commence Development of the third Dwelling

## **16 Conditionality**

16.1 This Deed is conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) the Commencement of Development

save for the provisions of Clauses 7 and 9, ( jurisdiction and legal costs clauses ) which shall come into effect immediately upon completion of this Deed.

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

## **SCHEDULE 1**

### **The Owners covenants with the Council**

1. The Owners will pay the Commuted Sum to the Council prior to the Commencement of Development of the third Dwelling

## **SCHEDULE 2**

### **The Council's covenants with the Owners**

1 To use the Commuted Sum towards the provision of Affordable Housing either

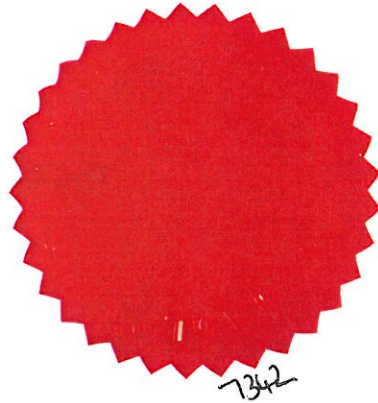
(a) in the parish of Blofield

or

(b) (in the event that the whole or any part of the Commuted Sum has not been utilised in the parish of Blofield within 5 years from the date hereof) then, in respect of any balance remaining uncommitted, in the Administrative area of the Council

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

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



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

) y DSM  
) *DSM*

✓

✓ Signature of Witness ..... *DSM*  
✓ Name of Witness ..... S HUNT  
✓ Address of Witness ..... 24 BRIDGE CLOSE  
..... BRISTON  
✓ Occupation ..... SELF EMPLOYED

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

) XCRM  
) *CRM*

✓

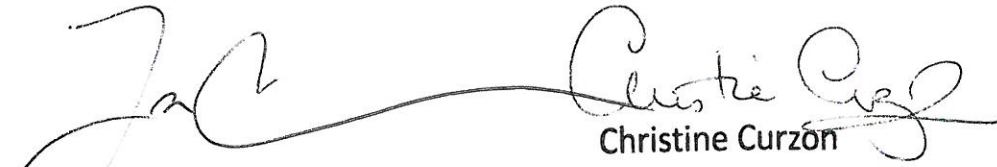
✓ Signature of Witness ..... *DSM*  
✓ Name of Witness ..... S HUNT  
✓ Address of Witness ..... 24 BRIDGE CLOSE  
..... BRISTON  
✓ Occupation ..... SELF EMPLOYED



The Common Seal of Saffron Building Society  
was affixed in the presence of:



By authority of the Board of Directors

  
Christine Curzon  
Logistics Manager  
Saffron Building Society



# Registry Cancellation of entries relating to a registered charge

# DS1

**This form should be accompanied by either Form AP1 or Form DS2**

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Include register entry number, if more than one charge of same date to same lender.


Complete as appropriate where the lender is a company.

The lender must execute this transfer as a deed using the space opposite. If there is more than one lender, all must execute. Forms of execution are given in Schedule 9 to the Land Registration Rules 2003.

Alternatively the lender may sign in accordance with the facility letter referred to in panel 7.

We hereby certify this to be a true  
copy of the original examined at  
this office this 5th day of  
March 2014

*HKB Wiltshires*  
.....  
**HKB Wiltshires**  
21 Hall Quay  
Great Yarmouth  
NR30 1HN

<b>1</b>	<b>Title number(s) of the property:</b> NK377139
<b>2</b>	<b>Property:</b> THE MANOR HOUSE SITE      NORTH ROAD      BLOFIELD NORWICH      NR13 4RG
<b>3</b>	<b>Date:</b> 18 FEBRUARY 2014
<b>4</b>	<b>Date of charge:</b> 16 NOVEMBER 2011
<b>5</b>	<b>Lender:</b> SAFFRON BUILDING SOCIETY  <u>For UK incorporated companies/LLPs</u> Registered number of company or limited liability partnership including any prefix:  <u>For overseas companies</u> (a) Territory of incorporation:  (b) Registered number in the United Kingdom including any prefix:
<b>6</b>	The lender acknowledges that the property identified in panel 2 is no longer charged as security for the payment of sums due under the charge
<b>7</b>	<b>Date of Land Registry facility letter (if any):</b>
<b>8</b>	<b>Execution</b>  The Common Seal of Saffron Building Society was affixed in the presence of:-    <i>Jackie Sewen</i> <b>JACKIE SEWEN</b> Senior Mortgage Officer Saffron Building Society  <i>Diane Spark</i> <b>DIANE SPARK</b> Mortgage Officer Saffron Building Society

**WARNING**

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit an offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment, a fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

HKB  
WILTSHIRES  
SOLICITORS