

**Planning Obligation by Deed of Agreement under Section 106 of
the Town and Country Planning Act 1990**
relating to the development at Landfall, 8 Anchor Street, Coltishall, NR12 7AQ

Dated : 15 April 2015

The Broads Authority (1)

Peter Thomas Cobb and Valerie Joan Cobb (2)

DATE 15 April 2015

PARTIES

- (1) The Broads Authority of Yare House, 62-64 Thorpe Road, Norwich, Norfolk, NR1 1RY ("the Authority")
- (2) Peter Thomas Cobb and Valerie Joan Cobb of Landfall, 8 Anchor Street, Coltishall, NR12 7AQ ("the Owners")

INTRODUCTION

- 1 The Authority is the Local Planning Authority for the purposes of Section 106 of the Act for the area in which the Site is situated.
- 2 The Owners are the freehold owners of the Site which is registered at the Land Registry under title number NK389708.
- 3 The Owners have submitted the Application to the Authority and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- 4 The Authority has resolved to grant the Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSETH AS FOLLOWS:

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

- "Act" the Town and Country Planning Act 1990
- "Application" the application for full planning permission dated 26 September 2014 submitted to the Council for the Development and allocated reference number BA/2014/0336/HOUSEH
- "Commencement of Development" the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" and "Commencement" shall be construed accordingly.

"Development"

the Development of the Site with removal of the existing conservatory and replacement with a first floor extension and side extension to form a cross-wing arrangement, as set out in the Application

"Implement"

means to put into practical effect; carry out in accordance with the approval

"Lawson Cypress"

means the tree as shown marked with an x on the Plan

"Plan"

the plan attached to this Deed

"Planning Permission"

the full planning permission subject to conditions to be granted by the Authority pursuant to the Application

"Site"

the land against which this Deed may be enforced as shown edged red on the Plan.

2 CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or recital in this Deed.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Authority the successors to their respective statutory functions.

3 LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and all other enabling powers.

3.2

The covenants, restrictions and requirements imposed upon the Owners under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Authority as local planning authority against the Owners.

4

CONDITIONALITY

This Deed is conditional upon:

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

6.1 11 12

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save for the provisions of Clauses ~~8~~, ~~17~~ and ~~18~~, legal costs clause, jurisdiction and delivery clauses (and any other relevant provisions) which shall come into effect immediately upon completion of this Deed.

5 THE OWNERS' COVENANTS

- (i) Upon Commencement of the Development not to Implement that part of the Permission BA/2014/0012/TCA dated 27 March 2014, which relates to the Lawson Cypress or to remove the Lawson Cypress
- (ii) Prior to Commencement of the Development if the Lawson Cypress is dead, diseased or dying to replace it with a tree of species, size and position to be agreed in writing with the Local Planning Authority.
- (iii) To maintain the Lawson Cypress at:
 - a) a diameter of 2.5m when measured at 3metres from the adjacent ground
 - b) a diameter of 3.0m when measured at 5 metres from the adjacent ground
- (iv) The Owners waive all rights to obtain compensation arising from anything within this Deed.

6

MISCELLANEOUS

6.1

The Owners shall pay to the Authority on completion of this Deed the legal costs of the Authority incurred in the negotiation, preparation and execution of this Deed.

6.2

No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

6.3

This Deed shall be registerable as a local land charge by the Authority.

6.4

Following the performance and satisfaction of all the obligations contained in this Deed the Authority shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

6.5

Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability

shall not affect the validity or enforceability of the remaining provisions of this Deed.

6.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development.

6.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after they shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

6.8 The Authority shall not be liable to any person under this Deed after that person has parted with all interest in the Site but without prejudice to any liability arising prior thereto.

6.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

7 TITLE

The Owners hereby covenant that they are the freehold owners of the Site and have full power to enter into this Deed and that the Site is free from mortgages 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 Solicitor prior to the date hereof.

8 WAIVER

No waiver (whether expressed or implied) by the Authority (or Owners) of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Authority (or Owners) from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

The Owners agree with the Authority to give the Authority immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased or transferred by reference to a plan.

10 DISPUTE RESOLUTION

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

10.2

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.

10.3

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.

10.4

Nothing in Clauses ~~11.1~~ ^{10.1 10.2} and 11.2 shall apply to the recovery of ascertained or ascertainable sums or prevent the parties from commencing or continuing court proceedings.

11

JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

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DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto executed this Deed the day and year first before written

THE COMMON SEAL of
THE BROADS AUTHORITY
Was hereunto affixed
In the presence of:-



Shinner

authorised to sign
on behalf of: HEAD OF LAW

BA1561

SIGNED AS A DEED BY THE
SAID PETER THOMAS COBB
In the presence of:-

[Signature]

[Signature]

42 PASTON ROAD
MUNDENEY
NR11 8BW

JAMES TREVOR WILLIAMS

SIGNED AS A DEED BY THE
SAID VALERIE JOAN COBB
In the presence of:-

[Signature]

[Signature]

42 PASTON ROAD
MUNDENEY
NR11 8BW

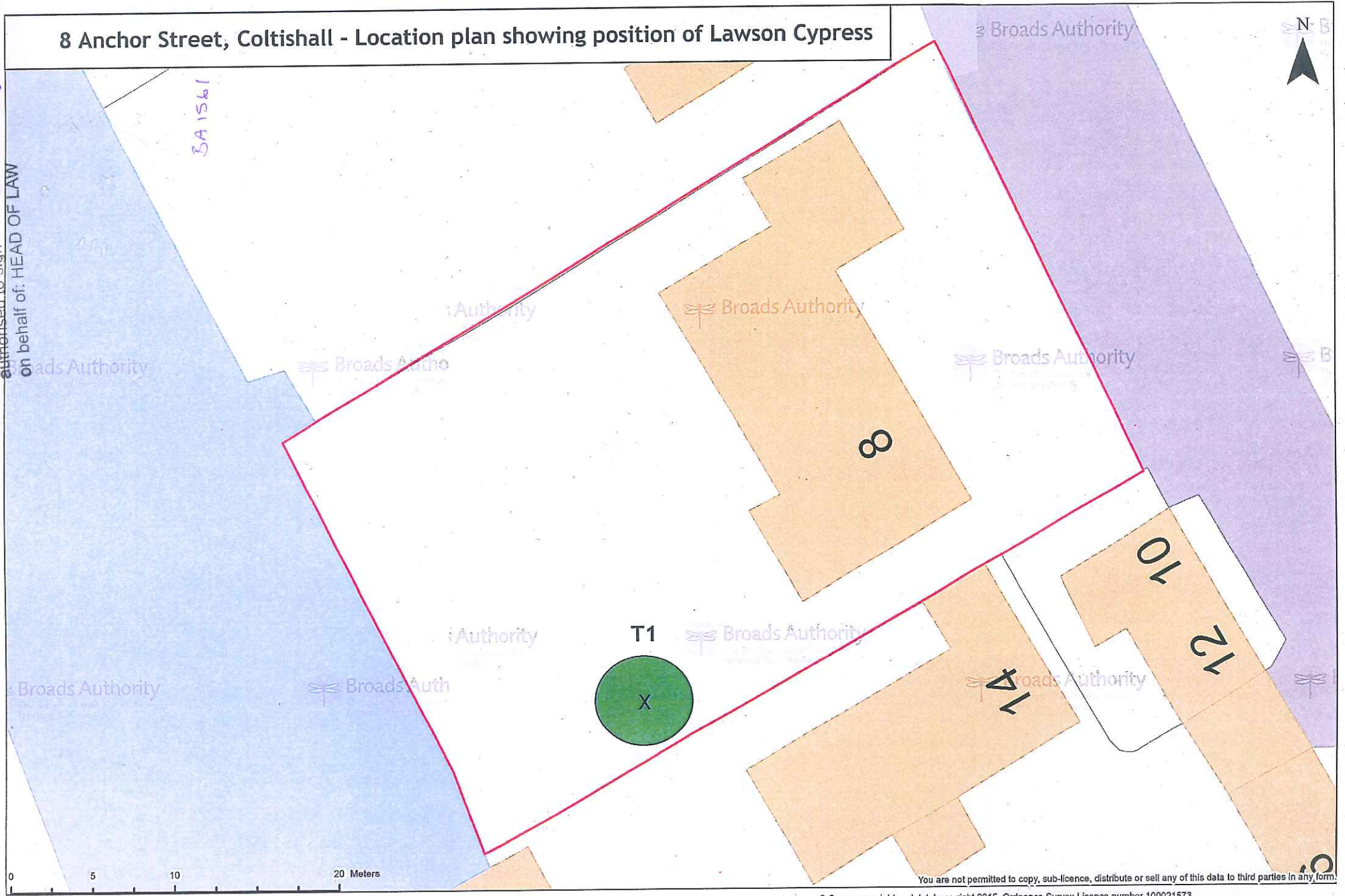
JAMES TREVOR WILLIAMS

8 Anchor Street, Coltishall - Location plan showing position of Lawson Cypress

Chunne

authorised to sign
on behalf of: HEAD OF LAW

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T1 - Lawson Cypress