

Dated 15th June

2016

Broadland District Council
-and-
Jenkinson Properties Limited

**DEED OF VARIATION OF PLANNING OBLIGATION
UNDER SECTION 106
OF THE TOWN AND COUNTRY PLANNING
ACT 1990**

relating to land at Woodbastwick Road, Blofield Heath

*I hereby certify this
to be a true copy of
the original*

*C F Shunner
Asst Practice Director
nplaw
15.6.16*

THIS DEED OF VARIATION is dated

15th June

2016

PARTIES:

- (1) BROADLAND DISTRICT COUNCIL of Thorpe Lodge, 1 Yarmouth Road, Norwich, Norfolk NR7 0DU (referred to as "the Council")
- (2) JENKINSON PROPERTIES LIMITED (Company Registration number 2397930) whose registered office is at Freshfield, 16 Birchwood, Thorpe St Andrew, Norwich, Norfolk (referred to as "the Owner")

together referred to as 'the Parties'

INTRODUCTION

- (A) The Council is a local planning authority for the area within which the Site is located
- (B) The Owner has submitted the Application and by a decision notice dated 21st January 2016 under reference 20151213 the Council has refused the Application
- (C) Consequent upon the refusal of the Application the Owner has submitted the Appeal
- (D) The Owner owns the freehold of the Site registered at the Land Registry under title numbers NK246624 and NK234186
- (E) The expressions in this Deed have the meaning ascribed to them in the Original Agreement save as expressly provided in this Deed

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

"Appeal"

The appeal of the refusal by the Council of the Application and made by the Owner to the Secretary of State and allocated reference number APP/K2610/W/16/3148432.

"Application"	The application made by the Owner under Section 73 of the Act for the variation of conditions 3, 13 and 14 of the Original Planning Permission and allocated reference number 20151213
"Original Agreement"	An agreement dated 30 th December 2014 made under Section 106 of the Act between the Council (1) and the Owner (2) containing planning obligations enforceable by the Council
"Original Planning Permission"	The outline planning permission issued by the Council on 31 st December 2014 under reference 20131655 for the demolition of existing buildings on the Site and the erection of 24 dwellings and associated works

2. LEGAL BASIS

- 2.1 This Deed is supplemental to the Original Agreement and is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other enabling powers and the covenants and obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act enforceable by the Council
- 2.2 The terms and conditions of the Original Agreement shall remain in full force and effect except as varied by this Deed
- 2.3 If the Secretary of State states that any obligation in this Deed of Variation does not comply with the requirements and restrictions in regulations 122 and/ or 123 of the Community Infrastructure Levy Regulations 2010 (as amended) this Deed of Variation shall be read as if such obligations were deleted and they shall be of no further effect

3. VARIATION

- 3.1 *In the event that the appeal is allowed, with effect from the date of the decision letter granting planning permission in that behalf, the parties agree to vary the Original Agreement*
- 3.1 ~~With effect from the date of this Deed the Parties agree to vary the Original Agreement as follows:~~

- 3.1.1 The definition of "Application" at clause 1 of the Original Agreement shall be

deleted and in lieu thereof shall be substituted the words:

"either the application for outline planning permission dated 25th November 2013 and bearing reference 20131655 or the application for outline planning permission bearing reference 20151213 for the demolition of existing buildings and the erection of 24 no. dwellings and associated works in accordance with the respective and relevant plans and details deposited with the Council"

- 3.1.2 At clause 1 of the Original Agreement there shall be inserted the following Definition:

" "Green Infrastructure Contribution" means a financial contribution to be used ^{to be provided} towards the provision and improvement of green infrastructure ~~in the parish of Blofield~~ in compliance with Policy EN3 (Green Infrastructure) of the Council's DM Development Plan Document to be subject to the Inflation Provision" ✓

- 3.1.3 The Definition of "Inflation Provision" at clause 1 of the Original Agreement shall be extended by the addition of the words:

"in relation to the Open Space Maintenance Contribution"

at the beginning of the definition and the words:

"and in relation to and for the Green Infrastructure ^{Contribution} ~~the increase~~ (if any) in the Royal Institute of Chartered Surveyors Build Cost Information Service All In tender price Index between January 2015 and the date upon which the payment of the Green Infrastructure Contribution is made pursuant to this Agreement" ✓
at the end of the definition

- 3.1.4 At clause 1 of the Original Agreement there shall be inserted the following Definition:

" "Planning Permission" means any planning permission to be granted subject to conditions by the Council or on appeal to the Secretary of State (or the successor in title to his statutory functions) pursuant to the Application for the Development or such other planning permission for the Development granted pursuant to section 73 or 96A of the Act as the Council may agree in writing"

- 3.1.5 At the Third Schedule of the Original Agreement paragraph 3 shall be deleted and replaced with the following words:

"Not to Occupy or allow Occupation of any Dwelling on the Site unless and until the Off Site Open Space Contribution has been paid to the Council calculated in accordance with the Table of Open Space Contributions annexed as an Appendix to the Deed of Variation dated 15th June 2016 and made between the Council and the Owner"

- 3.1.6 At the Third Schedule of the Original Agreement paragraph 3.1 shall be deleted in its entirety

- 3.1.7 At the Third Schedule to the Original Agreement there shall be inserted an additional paragraph 4 reading:

"4. GREEN INFRASTRUCTURE CONTRIBUTION.

Not to Occupy or allow Occupation of any Dwelling on the Site unless and until the Green Infrastructure Contribution has been paid to the Council calculated in accordance with the Table of Open Space Contributions annexed as an Appendix to the Deed of Variation dated 15th June 2016 and made between the Council and the Owner"

- 3.1.8 At the Fourth Schedule to the Original Agreement there shall be inserted an additional paragraph 3 reading:

"3. To hold the Green Infrastructure Contribution in an interest bearing account and to apply the capital and any interest accrued towards the purposes for which the contribution was made as set out in this Agreement"

- 3.2 In all other respects the contents of the Original Agreement are confirmed and agreed and shall continue to bind the Site as varied by this Deed

4. OTHER PROVISIONS

- 4.1 On completion the Owner will pay the Council's reasonable legal costs in connection with this Deed

- 4.2 The Owner warrants that it has full power to enter into this Deed and there is no

other person whose consent is necessary to make this Deed binding on the Site

- 4.3 The Council covenants with the Owner that if any money paid to it under the provisions of this Deed relating to Green Infrastructure has not been used or committed by way of contract for the purposes of Green Infrastructure within ~~5~~ 10 ¹⁰ years of receipt, it will be repaid to the party that paid it together with any interest accrued

4.4 The Council covenants with the Owner that if any money paid to it under the provisions of this Deed relating to the off site Open Space Contribution has not been used or committed by way of contract towards the purposes for which the Contribution was made as set out in the Original Agreement within 5 years of receipt, it will be repaid to the party that paid it together with any interest accrued.

APPENDIX

TABLE OF OPEN SPACE CONTRIBUTIONS

OFF SITE – Open Space contributions

Table 1 – Cost per dwelling for Open Space land purchase (where required)

Land purchase

Property	Sports	Play	Green Infrastruct ure	Allotments	Total
1 bed	£252	£51	£600	£24	£927
2 bed	£336	£68	£800	£32	£1,236
3 bed	£420	£85	£1,000	£40	£1,545
4 bed	£504	£102	£1,200	£48	£1,854
5 + bed	£588	£119	£1,400	£56	£2,163

Table 2 – Cost per dwelling for equipping open space (where required)

Equipping

Property	Sports	Play	Green Infrastruct ure	allotments	Total
1 bed	£288	£89	£429	£15	£821
2 bed	£385	£119	£572	£19	£1,095
3 bed	£481	£148	£715	£24	£1,368
4 bed	£577	£178	£858	£29	£1,642
5+ bed	£674	£207	£1001	£34	£1,916

Table 3 – Cost per dwelling for maintenance of open space (where required)

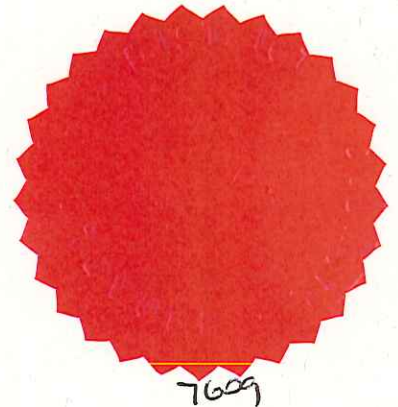
Maintenance

Property	Sports	Play	Green infrastructur e	Total
1 bed	£303	£30	£253	£586
2 bed	£404	£41	£338	£783
3 bed	£504	£51	£422	£977
4 bed	£605	£61	£506	£1,172
5+ bed	£707	£72	£591	£1,370

IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

THE COMMON SEAL of Broadland District Council]
was affixed in the presence of:

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M. Mue

Head of Democratic Services and
Monitoring Officer

Authorised Sealing Officer

Signed as a Deed by
JENKINSON PROPERTIES LIMITED
In the presence of

Director

Director/Secretary

R. A. Jenkins