

Dated 10 MARCH 2022

Broadland District Council

- and -

Norfolk Homes Limited

- and -

Lloyds Bank Plc

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

relating to land at  
Yarmouth Road, Postwick with Witton  
and  
Yarmouth Road/Berryfields, Brundall

THIS DEED OF VARIATION is dated 10 MARCH

2022

**PARTIES:**

- (1) **BROADLAND DISTRICT COUCIL** of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich NR7 0DU (referred to as "the Council")
- (2) **NORFOLK HOMES LIMITED** (Co. Regn. No. 01910791) of 52 Cambridge Road South, London W4 3DA (referred to as "NHL")
- (3) **LLOYDS BANK PLC** (Co. Regn. No. 2065) whose registered office is 25 Gresham Street, London EC2V 7HN (referred to as "the Mortgagee")

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) NHL has requested a variation of the Original Deed as varied by the First Deed of Variation and the Second Deed of Variation and the Parties have resolved to enter into this Deed to secure the variations as set out in the Schedule to this Deed
- (C) The variations set out in the Schedule to this Deed relate solely to the Affordable Housing obligations within the Original Deed and the Parties to this Deed have agreed that it is not necessary for the First Owner, the Second Owner, and the Third Owner (or their successors in title) to be a party to this Deed because they are not a party by whom any obligation that is being varied could be enforced against in accordance with Section 106A of the 1990 Act
- (D) NHL owns the freehold of part of the Site registered at HM Land Registry under title number NK480795 as a successor in title
- (E) The Mortgagee has a charge over NHL's part of the Site
- (F) The expressions in this Deed have the meaning ascribed to them in the Original Deed save as expressly provided in this Deed

## **1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| First Deed of Variation  | The deed of variation pursuant to a S73 application and dated 13 February 2019 and made between (1) Norfolk Homes Limited, (2) Brundall Investments Limited, (3) Arthur John Slapp and Betty Marianne Slapp, (4) Eastern Credit Limited, (5) Broadland District Council and (6) Lloyds Bank PLC                                                                                                                                            |
| Original Deed            | An agreement dated 6 <sup>th</sup> March 2018 made under Section 106 of the 1990 Act between Michael Steven Manning (1) Richard Ashley Hickie, Nicholas Colin Gray and Barclay Ronal Lawrence (2) Arthur John Slapp and Betty Marianne Slapp (3) Brundall Investments Limited (4) Eastern Credit Limited (5) and the Council containing planning obligations enforceable by the Council relating to planning permission numbered 2016/1483 |
| Second Deed of Variation | The deed of variation dated 13 February 2020 and made between (1) Norfolk Homes Limited, (2) Brundall Investments Limited, (3) Arthur John Slapp and Betty Marianne Slapp, (4) Eastern Credit Limited, (5) Broadland District Council and (6) Lloyds Bank PLC                                                                                                                                                                              |

## **2. LEGAL BASIS**

- 2.1 This Deed is supplemental to the Original Deed as varied by the First Deed of Variation and Second Deed of Variation and is made pursuant to Section 106 of

the 1990 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 1990 Act enforceable by the Council

2.2 The terms and conditions of the Original Deed as varied by the First Deed of Variation and the Second Deed of Variation and shall remain in full force and effect except as varied by this Deed

2.3 This Deed may be executed in any number of counterparts each of which shall constitute a duplicate original but all the counterparts shall together constitute one deed

### **3. VARIATION**

3.1 With effect from the date of this Deed the Parties agree to vary the Original Deed as set out in the Schedule to this Deed.

3.2 In all other respects the contents of the Original Deed as varied by the First deed of Variation and the Second Deed of Variation are confirmed and agreed and shall continue to bind the Site as varied by this Deed

### **4. OTHER PROVISIONS**

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

4.2 NHL warrants that it has full power to enter into this Deed and save for the Mortgagee there is no other person whose consent is necessary to make this Deed binding on the Site

### **5. MORTGAGEE CONSENT**

The Mortgagee consents to this Deed so that its interest in the Site is bound by the obligations contained in this Deed and agrees that its security over the Site takes effect subject to the provisions of this Deed PROVIDED THAT the Mortgagee is not required to observe or perform the obligations in this Deed unless it takes possession of the Site. (For the avoidance of doubt any person acquiring title to all or part of the Site as a result of the Mortgagee enforcing its security will be bound by the terms of this Deed.)

## **Schedule**

### **Variation**

1. The Parties agree to vary the Original Deed as follows:
2. There shall be the following definitions inserted into Part 1 of Schedule 1 of the Original Deed so as to secure that they alphabetised:

**“Shared Ownership Housing”** Dwellings purchased on a Shared Ownership Lease”

**“Shared Ownership Lease”** a lease in a form approved by the HCA or where there is no such form in a form approved by the Council such lease to provide for the following:

- not more than 75% and not less than 10% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Provider
- power to the purchaser to increase their ownership up to 100% if they so wish
- an initial rent not exceeding 2.75% of the value of the equity retained by the Provider subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index as the Council shall reasonably determine) plus 0.5% or such other rent as complies with the requirements from time to time of the HCA”

3. The definition of **“Eligible Household”** in Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety and replaced with the following:

**“Eligible Household”** A person or persons in need of accommodation who are unable to rent or buy on the local open market nominated by the Council in accordance with paragraph 13 of this Schedule (Local Lettings

Cascade and Administrative Procedure) and determined in accordance with the Council's housing allocation policy or as otherwise approved by the Council **AND FOR THE AVOIDANCE OF DOUBT** no national or local prioritisation criteria shall apply in respect of Shared Ownership Housing where it is intended to be included in the HCA's National Affordable Housing Programme (or any successor programme approved by the Council in writing) and those provisions would prevent its inclusion"

4. The definition of "**HCA**" in Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety and replaced with the following:

"**HCA**" the Homes & Communities Agency or Homes England or any successor body or other appropriate body as the Council may nominate;"

5. The definition of "**Intermediate Housing**" in Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety and replaced with the following:

"**Intermediate Housing**" one or more of Shared Ownership Housing that Eligible Households can afford as determined by the Council acting reasonably (or as otherwise agreed by the Council in writing);"

6. The definition of "**Shared Equity Dwellings**" in Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety.

7. Paragraph 6 of Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety and **FOR THE AVOIDANCE OF ANY DOUBT** the subsequent paragraphs shall not be renumbered.

8. Paragraph 9.2 of Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety and replaced with the following:

"9.2 an Eligible Household which has staircased under a Shared Ownership Lease to acquire 100% of the leasehold or freehold interest in accordance with this agreement;"

9. Paragraph 10 of Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety and FOR THE AVOIDANCE OF ANY DOUBT the subsequent paragraphs shall not be renumbered.
10. Paragraphs 11, 11.1 and 11.2 of Part 1 of Schedule 1 of the Original Deed shall be deleted in their entirety and FOR THE AVOIDANCE OF ANY DOUBT the subsequent paragraphs shall not be renumbered.
11. Paragraph 14.1 of Part 1 of Schedule 1 of the Original Deed shall be deleted in its entirety and replaced with the following:

"14.1 Unless otherwise agreed in writing, the Affordable Rented Dwellings and the Intermediate Housing shall not be Occupied other than in accordance with this Paragraph 14."

12. Paragraphs 14.4, 14.4.1, and 14.4.2 of Part 1 of Schedule 1 of the Original Deed shall be deleted in their entirety and replaced with the following:

"14.4 In respect of Intermediate Housing, on the second and subsequent disposals of an aforesaid Dwelling where the owner has not staircased to 100% of the equity the owner shall notify the Council in writing of their intention to sell their interest in the said Dwelling. The Council shall be entitled within 28 days of receipt of such notice to nominate a person as a purchaser who complies with the Council's eligibility criteria and who is ready, willing and able to purchase the interest in the said Dwelling at a price equivalent to the percentage of the equity that is then owned of the open market value of the said dwelling as if it were a Market Dwelling (such price to be agreed in writing with the Council) and who:

14.4.1 intends to occupy the said dwelling as their only residence; and

14.4.2 has a total household annual income of not more than £80,000.00  
(or such other figure as prescribed by the HCA or successor body  
as the Council may approve)."

FOR THE AVOIDANCE OF DOUBT paragraphs 14.2, 14.3 and 14.5 shall be  
unchanged

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:

Authorised Signatory:

  
Deputy Monitoring Officer

Linda Mockford



and this deed has been duly and properly executed  
in accordance with the constitution of Broadland District Council

EXECUTED AS A DEED by )

**NORFOLK HOMES LIMITED** )

Acting by a director and its secretary )

Director:

Secretary:

EXECUTED AS A DEED by )

a case handler )

an authorised signatory for )

**LLOYDS BANK PLC** )

In the presence of:

Signature

W  
I  
T  
N  
E  
S  
S

Name

Address

Occupation

