

Dated 13 May 2024

Broadland District Council (1)

and

Norfolk Homes Limited (2)

And

Charles Church Developments Limited (3)

and

Flagship Housing Group Limited (4)

and

Saffron Housing Trust Limited (5)

and

Lloyds Bank PLC (6)

**Deed of Variation under section 106 and 106A of the Town and Country Planning Act
1990 varying the Section 106 Agreement dated 22 January 2021 relating to land off Green
Lane, Rackheath, Norfolk**

This Deed of Variation of Section 106 Agreement is made 13 May 2024

Between:

- (1) **Broadland District Council** of Thorpe Lodge, Yarmouth Road, Thorpe St Andrew, NR7 0DU ("the District Council");
- (2) **Charles Church Developments Limited** (company number 01182689) whose registered office is at Persimmon House, Fulford, York, YO19 4FE ("Developer 1")
- (3) **Norfolk Homes Limited** (company number 01910791) whose registered office is at 52 Cambridge Road South, London, W4 3DA ("Developer 2")
- (4) **Flagship Housing Group Limited** (registered society number 31211R) whose registered office is at 31 King Street, Norwich, NR1 1PD ("the South Phase RP")
- (5) **Saffron Housing Trust Limited** (registered society number 32427R) whose registered office is at Saffron Barn, Swan Lane, Long Stratton, Norfolk, NR15 2XP ("the North Phase RP")
- (6) **Lloyds Bank PLC** (company number 00002065) whose registered office is at 25 Gresham Street, London, EC2V 7HN (the "Mortgagee")

(together "the Parties")

Whereas:

- A The District Council is the local planning authority for the purposes of this Agreement for the area in which the Property is situated.
- B The North Phase RP and the South Phase RP are registered providers of social housing.
- C Developer 1 has agreed to dispose of the Affordable Dwellings (as defined in the Section 106 Agreement) in the South Phase to the South Phase RP and the South Phase RP has agreed to accept the disposal of those Affordable Dwellings.
- D Developer 2 is owner of the North Phase.
- E Developer 2 has agreed to dispose of the Affordable Dwellings (as defined in the Section 106 Agreement) in the North Phase to the North Phase RP and the North Phase RP has agreed to accept the disposal of those Affordable Dwellings
- F The Mortgagee has a charge over the North Phase of the Site
- G The Parties have agreed to vary the Section 106 Agreement as hereinafter provided.

H This Deed is supplemental to the Section 106 Agreement

I The Parties have agreed that the variations contained within the Schedule will not apply to the plots numbered 194 to 197 contained within the South Phrase and more particularly defined in paragraph 2.2.

Now it is agreed as follows:

1. Definitions and Interpretation

In this Deed, the following words and phrases have the following meanings unless the contrary intention appears:

- | | | |
|-----|-------------------------|--|
| 1.1 | "this Deed" | means this Deed of Variation |
| 1.2 | "Section 106 Agreement" | means the Agreement under Section 106 of the 1990 Act dated 25 January 2021 made between (1) the District Council, (2) R & J M Place Limited and (3) Timothy Margetson Place and Catrina Anne Harding Place in respect of the development of the Site. |

2. Effect of this Deed

- 2.1. This Deed of Variation is made pursuant to Section 106 and 106A of the 1990 Act and as such varies the Section 106 Agreement in accordance with the Schedules to this Deed and is a planning obligation for the purposes of Section 106 of the 1990 Act in respect of the Site and is enforceable by the District Council.
- 2.2. The variations contained within the Schedule of this Deed will not apply to the plots hatched yellow as contained within the Plan annexed to this Deed and numbered RACK-PL02 Revision E AND FOR THE AVOIDANCE OF DOUBT the obligations contained within the Section 106 Agreement will continue to bind the plots hatched yellow.

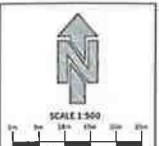
3. Construction

In this Deed, unless the contrary intention appears:

- 3.1. Words and expressions defined in the Section 106 Agreement shall have the same meanings in this Deed save as otherwise provided for in this Deed.
- 3.2. References to any statute include references to:
- 3.2.1. that statute as amended or re-enacted or as other statutes modify its application from time to time; and



Seay
Deputy Monitoring Officer



AFFORDABLE HOUSING KEY
 ● Rented Housing
 ● Intermediate Housing

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1	Amended to accommodate vehicle parking	15.08.21	18
2	Amended to accommodate vehicle parking	15.08.21	18
3	Amended to accommodate vehicle parking	15.08.21	18
4	Amended to accommodate vehicle parking	15.08.21	18
5	Amended to accommodate vehicle parking	15.08.21	18
6	Amended to accommodate vehicle parking	15.08.21	18
7	Amended to accommodate vehicle parking	15.08.21	18
8	Amended to accommodate vehicle parking	15.08.21	18
9	Amended to accommodate vehicle parking	15.08.21	18
10	Amended to accommodate vehicle parking	15.08.21	18



Site Name:
Land off Green Lane West
Rackheath, Norfolk

Drawing:
Affordable Housing Plan

Scale@A0:	Drawn By:	Date:
1:500	CR	Feb 2021
Version:	Drawing No:	Rev:
	RACK-PL02	E

3.2.2. any subordinate legislation made or to be made under that statute.

3.3. References to clauses or Schedules are references to clauses in or Schedules to this Deed.

3.4. References to the singular include the plural and vice versa.

3.5. References to the Parties in this Deed shall include their successors in title or successors in function as appropriate.

3.6. Where a party includes more than one person any obligations of that party shall be joint and several.

3.7. The headings shall not affect the interpretation of this Deed.

3.8. If any provision in this Deed is held to be illegal, void, invalid or unenforceable for any reason the legality, enforceability of the remainder of this Deed shall not be affected.

4. **Variations to the Section 106 Agreement**

From and including the date of this Deed the Section 106 Agreement shall be read and construed as varied by the provisions set out in the Schedule.

5. **Miscellaneous**

5.1. The Section 106 Agreement shall remain in full force and effect save as varied by this Deed.

5.2. This Deed is a Local Land Charge and the District Council shall register it in its Register of Local Land Charges in accordance with the provisions of the Local Land Charges Act 1975 and Section 106(11) of the Act as amended.

5.3. This Deed is governed by and interpreted in accordance with the laws of England.

5.4. The provisions of the Contract (Rights of Third Parties) Act 1999 shall not apply to this Deed.

5.5. This Deed does not release any party to it from any breaches of the Section 106 Agreement existing at the date of this Deed save where variations contained in this Deed remove the obligation of which the party is in breach.

Schedule

1. The Parties agree to vary the Section 106 Agreement, in accordance with paragraph 2.2, as follows:
2. There shall be the following definitions inserted into Part 1 of Schedule 1 of the Section 106 Agreement so as to secure that they are alphabetised:

"DMS Certificate"	Means a certificate issued by the Council upon receipt of evidence that a relevant Dwelling is being disposed of to an Eligible Household on a first sale or Qualifying Person in a subsequent sale at the DMS Discount Price
"DMS Discount Price"	Means not more than 80% of the Open Market Value of the Discount Market Sales Housing
"Discount Market Sales Housing"	Means housing sold at a DMS Discount Price to and occupied by Eligible Households on first sale and Qualifying Persons on resale.
"DMS Discount Restriction"	<p>A restriction on the title of each Discount Market Sales Housing dwelling in the following form:</p> <p>'No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by a conveyancer for the disponor or disponent that the provisions of clause 5 of the Affordable Housing Schedule to the Section 106 Agreement dated 25 January 2021 and made between made between (1) the District Council, (2) R & J M Place Limited and (3) Timothy Margetson Place and Catrina Anne Harding Place have been complied with'</p>
"Open Market Value"	means the open market value (as assessed by a Member or Fellow of the Royal Institute of Chartered Surveyors acting in an independent capacity) of a Dwelling as confirmed to the Council by the owner in the form of a valuation report provided at the owners' cost and assessed in accordance with the RICS Valuation Standards (January 2014 or any such replacement guidance issued by RICS) and for the avoidance of doubt shall not take into account any discount or restriction as an Affordable Dwelling

"Qualifying Person"	<p>Means a person formally approved under the government Help to Buy scheme (or any successor scheme approved by the Council), not being an existing homeowner and (in priority order) being either:</p> <ul style="list-style-type: none"> - a person who lives in Broadland District; or - a person who has a local connection to Broadland District;
"Social Rented Dwellings"	Dwellings owned or managed by a Provider let at rents not exceeding the Target Rent

3. The definition of "Shared Ownership Lease" shall be deleted and replaced as follows:

"Shared Ownership Lease"	<p>a lease in a form approved by Homes England or where there is no such form in a form approved by the Council such lease to provide for the following:</p> <ul style="list-style-type: none"> - 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 or such other rent as complies with the requirements from time to time of the Homes England
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4. The definition of "Affordable Rented Dwelling" shall be deleted and replaced as follows:

"Affordable Rented Dwelling"	<p>means either of the following:</p> <p>(a) a Dwelling to be let by a Provider with an appropriate agreement with Homes England for the provision of affordable rents that limit the rent to no more than 80 per cent of local market rents including any service charges and shall not exceed the local housing allowance for that area or as otherwise agreed by the Council in writing; or</p>
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	(b) Intermediate Rented Dwellings.
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5. There shall be the following covenants inserted into Part 1 of Schedule 1 after paragraph 5 of the Section 106 Agreement:

5A. And in the case of Discount Market Sales Housing dwellings:

5A.1 Not to transfer or otherwise dispose of any Discount Market Sales Housing without a DMS Certificate

5A.2 On first sale, not to transfer or otherwise dispose of any Discount Market Sales Housing dwelling to any person other than an Eligible Household as approved by the Council

5A.3 On any second or subsequent sale, not to transfer or otherwise dispose of any Discount Market Sales Housing dwelling to any person other than a Qualifying Person

5A.4 Not to transfer or otherwise dispose of any Discount Market Sales Housing dwelling other at the DMS Discount Market Price and subject to a Discount Restriction at any time

5A.5 On written request, to supply evidence of compliance with the obligations contained in this clause to the Council

6. Paragraph 6.4 of Part 1 of Schedule 1 shall be deleted.

7. A new Paragraph 14 shall be added to Part 1 of Schedule 1 as follows:

14. Any proceeds realised from the sale of any Intermediate Dwelling shall (after repayment of any monies required under a statutory obligation or under the provision of any other charge on the Site) be used towards the Recycling Obligation

8. Paragraph 13.3 of Part 1 of Schedule 1 shall be deleted in its entirety and replaced with the following:

13.1 In respect of Shared Equity Dwellings only, the first disposal of a Shared Equity Dwelling by the Provider shall be to a purchaser who is registered with Help to Buy South or other agent approved by the Council (such price to be agreed in writing with the Council), and who:

13.3.1 intends to occupy the said Dwelling as his only residence; and

13.3.2 has a total household annual income of not more than £80,000 (or such other figure as is prescribed by Homes England or its successor body)

13.3.3 meets the reasonable eligibility and affordability criteria of the Provider

13.3.4 If contracts for sale of the said Dwelling to the purchaser located in accordance with paragraph 13.3 are not exchanged within 12 weeks, or if there shall be no such persons registered with Help to Buy South or other agent, the Provider shall be entitled to select a nominee of its choosing who complies with the Provider's eligibility and affordability criteria and who satisfies the criteria at 13.3.1-13.3.3 above and shall notify the Council of the same

9. Paragraph 10.2 of Part 1 of Schedule 1 will be deleted in its entirety

10. Paragraph 1 of Part 2 of Schedule 1 shall be deleted in its entirety and replaced with the following:

1. Unless otherwise agreed in writing up to one third of the Affordable Rented Dwellings (as chosen by the Council) shall be let on first occupation in accordance with the local lettings policy set out below:

11. Paragraph 2.1 of Part 2 of Schedule 1 shall be deleted in its entirety (but for the avoidance of doubt the subsequent sub-paragraph shall remain) and replaced with the following:

2.1 To grant to the Council nomination rights to 100% of the Affordable Rented Dwellings on first and future lets unless otherwise agreed in writing

12. There shall be the following provision inserted after paragraph 9:

10. 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.

Executed and delivered as a Deed on the date of this document

The **COMMON SEAL** of
Broadland District Council
was affixed in the presence of:

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)
)



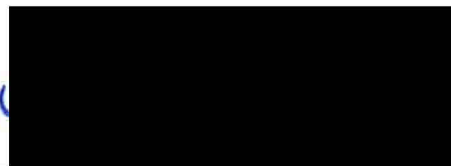
Authorised signatory
Deputy Monitoring Officer
Sinead Carey



8507

Executed as a deed by
NORFOLK HOMES LIMITED
acting by a Director in the
presence of:

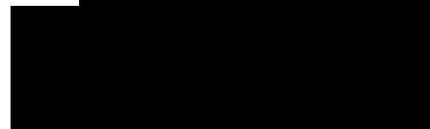
)
)
)



Witness' signature

Witness name

Witness address



*8 EDGEFIELD ROAD
BRISOW, NR24 2HU*

Executed as a deed by
[*SONATHAN RACKER*] as
attorney for SAFFRON
HOUSING TRUST LIMITED
under a power of attorney
dated [*03.01.2024*]

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)
)
)
)



SP0A388

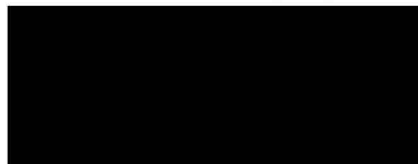
as attorney for SAFFRON HOUSING
TRUST LIMITED

in the presence of:

Witness signature

Witness name

Witness address



*Flint Building
1 Bedding Lane
Norwich
NR3 2R9*

Michelle Baker

EXECUTED as a DEED by

PERSIMMON HOMES LIMITED

Acting by its Attorneys [] Attorney

In the presence of:

Witness Signature)

Witness Name)

Witness Address)

GILLIAN KEILEY PERSIMMON HOMES LIMITED

Persimmon House

Bankside 100

Peachman Way

Broadland Business Park

Norwich

NR7 0WF

And

Joshua For

[

]

)

)

In the presence of:

Witness Signature)

Witness Name)

Witness Address)

GILLIAN KEILEY

PERSIMMON HOMES LIMITED

Persimmon House

Bankside 100

Peachman Way

Broadland Business Park

Norwich

NR7 0WF

EXECUTED as a DEED by)
FLAGSHIP HOUSING GROUP)
LIMITED acting by [a director and)
its secretary][two directors]

Signature of Director

Name (in BLOCK CAPITALS)

Signature of [Secretary][Director]

Name (in BLOCK CAPITALS)

EXECUTED as a DEED by)
[James McCallum])
as attorney for and on behalf of)
FLAGSHIP HOUSING GROUP)
LIMITED under a power of)
attorney dated 31 May 2023 in the)
presence of:



Signature of witness:

Name of witness (IN BLOCK
CAPITALS):

Address:

Flagship Housing Group Limited

31 King Street, Norwich

Occupation:

Norfolk, NR1 1PD

CHARTERED LEGAL EXECUTIVE

EXECUTED AS A DEED by)

an authorised signatory for and)

on behalf of Lloyds Bank Plc)

Authorised Signatory

Name:

Witness:

Name :

11 Earl Gray Street, Edinburgh, EH3 9BN

Address :

MANAGER

Occupation :