

Dated

S.C  
~~16 April~~  
30 April

2020

Broadland District Council

-and-

BDW Trading Limited

**DEED OF VARIATION OF PLANNING OBLIGATION  
UNDER SECTION 106  
OF THE TOWN AND COUNTRY PLANNING  
ACT 1990**  
relating to land east of Holt Road, Horsford

THIS DEED OF VARIATION is dated

30 April 5.c  
~~16 April~~

2020

**PARTIES:**

- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge, Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk, NR7 ODU (referred to as "the District Council")
- (2) **BDW TRADING LIMITED** (Co. Regn. No. 03018173) whose registered office is situated at Barret House, Cartwright Way, Forest Business Park, Bardon Hill, Colville, LE67 1UF (referred to as "the Owner")

together referred to as 'the Parties'

**INTRODUCTION**

- (A) The District Council is the local planning authority for the purposes of the Act for the area within which the Site is situated
- (B) The Owner is the registered proprietor of the Site as successor in title to Michael John Keeler, Deborah Janet Keeler, and Joanne Rose Keeler (respectively referred to in the Original Agreement as the First Owner, the Second Owner, the Third Owner) registered at the Land Registry under title numbers NK477939 and NK479160 (and for the avoidance of any doubt any reference in the Original Agreement to "the Owners" shall be construed as referring to the Owner)

**1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

|                    |                                                                                                                                                                                                                                                                                                                                                   |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Original Agreement | An agreement dated 14 September 2017 made under Section 106 of the Act between the District Council (1) the Michael John Keeler (2) the Deborah Janet Keeler (3) the Joanne Rose Keeler (4) and the BDW Trading Limited (5) containing planning obligations enforceable by the District Council relating to planning permission numbered 20161770 |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

New Permission

The planning permission to be granted by the Council  
and allocated reference number 20190999

## **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 District Council
- 2.2 The terms and conditions of the Original Agreement shall remain in full force and effect except as varied by this Deed

## **3. VARIATION**

- 3.1 With effect from the date of this Deed the Parties agree to vary the Original Agreement as set out in the Schedule to this Deed.
- 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 Developer will pay the District Council's reasonable legal costs in connection with this Deed
- 4.2 The Owners warrant that they have 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 Owner and the District Council further confirm that the memorandum completed in June 2019 recording the arrangements for verifying the sales prices of the Discounted Market Dwellings, establishing entitlement to buy them and

verifying on re-sales that a prospective onward buyer is satisfactory, a copy of which is attached, and which thereby forms part of the Approved Affordable Housing Scheme approved pursuant to the Original Agreement, shall continue to apply

## SCHEDULE 1

### Variation

The Parties agree to vary the Original Agreement as follows:

- 1.1 The definition of "**Phase 1**" is to be deleted and replaced with the following:

"means the Phases of the Development marked on the Phasing Plan as 'Phase 2A' and 'Phase 2B'"

and for the avoidance of any doubt any subsequent reference in the Original Agreement to Phase 1 is to be construed according to this varied definition

- 1.2 The definition of "**Phase 2**" is to be deleted and replaced with the following:

"means the Phase of the Development marked on the Phasing Plan as 'Phase 2C'"

and for the avoidance of any doubt any subsequent reference in the Original Agreement to Phase 2 is to be construed according to this varied definition

- 1.3 Within the definition of "Phasing Plan" the words "Phasing Plan" on the second line shall be deleted and replaced with the words "Replacement Phasing Plan" (hereto attached to this Deed in Schedule 2)

- 1.4 The definition of "**Site**" is to be deleted and replaced with the following:

"means the land east of Holt Road, Horsford, Norfolk, owned by the Owner and which is shown for the purposes of identification only edged red on the drawing marked "PLAN 1" hereto annexed to this Deed"

- 1.5 The definition of "**Owners**" is to be deleted and replaced with the following:

"means the Owner"

- 2.1 The definition of "Affordable Housing Mix" in Schedule 1, Part 1 is to be deleted and replaced with the following:

"40% Rented Housing and 60% Intermediate Housing (or as otherwise agreed by the District Council in its absolute discretion) in general accordance with Appendix 1"

- 2.2 The definition of "Affordable Rented Dwellings" in Schedule 1, Part 1 is to be deleted and replaced with the following:

"Dwellings to be let by a Registered Provider with an appropriate agreement with the HCA for the provision of affordable rents and shall not exceed the local housing allowance for that area."

- 3.1 The definition of "Off-Site Open Space" in the definitions of Schedule 2, Part 3 is to be deleted and replaced with the following:

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| "Off-site Open Space Contributions" | <p>A sum in lieu of any deficiency in the amount or type of Open Space Land being provided compared to that required in accordance with the District Council's current Open Spaces Policies at the date of this Deed such sum to be calculated in accordance with Part 3 of this Schedule and increased in line with the Inflation Provision and applied towards the following:</p> <ul style="list-style-type: none"><li>- Formal recreation: to be used in the Parish of Horsford</li><li>- Allotments: to be used in the Parish of Horsford</li><li>- Green Infrastructure: to be used in line with projects identified in the Councils Green Infrastructure Project Plan</li></ul> |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- 3.2 The following will be added as a new paragraph 1.1 to Schedule 2, Part 3:

"1.1 Where the Nominated Officer has agreed to a deficiency in the amount of Open Space Land within the Site to pay the Off-site Open Space Contributions prior to first Occupation of any Dwelling within that Phase"

**FOR THE AVOIDANCE OF ANY DOUBT** notwithstanding the variations contained within this Deed all provisions relating to Phase 2 shall remain in full force and effect

## **SCHEDULE 2**

### **Replacement Phasing Plan**

Deputy Monitoring Officer

**BROADLAND  
DISTRICT COUNCIL**  
17 Jan 2020  
20190999  
**PLANNING CONTROL**

### ADDITIONAL PLAN

John Farley

**Phasing Plan Key**

 Phase 2A - Completed

 Phase 2B - Under Construction

 Phase 2C - Future Development



**DAVID WILSON HOME**  
SMALLER. JUST AS NEW. EAGER.

Eastern Courses  
7 Springfield Lyons Approach  
Chelmsford, Essex, CM2 5EY  
T 01245 232200

Kingfisher Meadow,  
Horsford Phase 2

Drawing Title  
**Site Layout  
Phasing Plan**

|                 |       |       |
|-----------------|-------|-------|
| Date            | Scale | Drawn |
| 17.01.20        | 1:500 | BV    |
| Design Ref      | Rev   |       |
| H7136-2A-PP-001 |       |       |

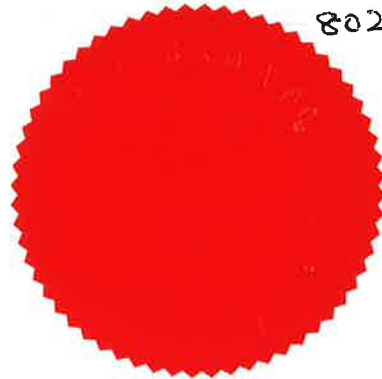
## **ANNEX 1**

### **Memorandum**

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:

)  
)  
)



8022

*[Signature]*  
Cm moaforb

Deputy Monitoring Officer

S.C. Executed as a Deed by  
**BDW TRADING LIMITED**  
acting by its attorneys  
and  
in the presence of:-

)  
)  
)  
)

*[Signature]*

John Farley

Witness signature:

*[Signature]*

Name: ELLE MILES

Address: BDW Eastern Counties  
7 Springfield Lyons Approach  
Chelmsford, CM2 5EY

Occupation: PA to Development Director

**EXECUTED AS A DEED by**

[ JOHN FARLEY ] and

[ MATT WARD ]

as the Attorneys on behalf of

**BDW TRADING LIMITED**

in exercise of the Power conferred

upon them by a Power of Attorney

dated 27 January 2020

 JOHN FARLEY  
Attorney signature

In the presence of:

Witness Name  
Address

Occupation.

Sue Farley  
**SUE FARLEY**  
**1 DODNASH FARM COTTAGES**  
**HAZEL SHRUB**  
**BENTLEY**  
**IPSWICH IP9 2DF**  
**DOCTORS RECEPTIONIST**

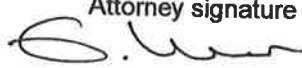
 MATT WARD

Attorney signature

In the presence of:

Witness Name  
Address

Occupation.

  
**EMMA WARD**  
**SUNSET FARM**  
**BACK HANG**  
**WEST CAISTON**  
**NORFOLK. NR30 5SX**

**P.A. / SECRETARY.**

**BDW Trading Ltd  
Development of Kingfisher Meadow, Horsford**

**Agreement under Section 106 of the Town & Country Planning Act 1990 dated 14  
September 2017 made between Broadland District Council, MJ DJ NJR Keeler and BDW  
Trading Limited ("the Section 106 Agreement")**

**Criteria for vetting prospective purchasers for Discounted Market Dwellings (First Sales  
and Resales) and approval of Sale Prices for confirmation that they comply with the  
requirement that the Sale Price is no more than 80% of the Open Market Value (or  
such other percentage as is approved as part of the Approved Affordable Housing  
Scheme)**

**Background**

This memorandum records the arrangements to be made in relation to Discounted Market Dwellings being constructed on the above development pursuant to the Section 106 Agreement, and requirements of verification of the price as being within the limits imposed by the Section 106 Agreement, and for ensuring that prospective buyers of the units are "eligible households" to whom the units can be sold.

**1. First sales of each Discount Market Dwelling**

- 1.1 The prices of which the Discounted Market Units are to be offered for sale are to be submitted to the Housing Department at Broadland District Council for approval. The Developer shall supply any further information reasonably required by the Housing Department to support any value proposed. The Housing Department may require that the percentage of Open Market Value applicable to a particular unit is reduced so as to ensure that it is affordable, and in the case of plots 67, 76 and 81 Kingfisher Meadow, the percentage applicable is 75% (not 80%).
- 1.2 The property will not be offered by the Developer for sale at a price in excess of the price approved by the Housing Department.
- 1.3 The Developer will provide prospective purchasers with an information sheet explaining the scheme. A copy of the current approved Information Sheet is attached.
- 1.4 Each buyer wishing to bid should complete a questionnaire to establish their eligibility, which sheet will include:-
  - (a) confirmation that the relevant dwelling will be the only residence of the prospective purchasers;
  - (b) confirmation that they will not rent out the property;
  - (c) confirmation that they are not a current homeowner; and
  - (d) confirmation that they have registered with the home buy agent under the "Help to Buy" scheme so that their household income is checked, the

applicant having to complete the form by giving their Help to Buy registration number.

The form also includes provision for the prospective buyers to give details of their local connections, being their full work addresses, and details of any "family connection". The relevant criteria for connections are set out in part 3 below.

The complete forms are signed by the applicant to confirm the truthfulness of the information given, and they are submitted to the Housing Department to the Council, which will then confirm whether or not prospective purchasers do meet their criteria, after which a reservation can be taken.

## **2. Procedure on subsequent re-sales**

- 2.1 In order to verify that the property is being re-sold as Discounted Market Dwellings, the owner selling the house will have to confirm in writing to the Housing Department that they understand the limitations on the price that can be achieved, and that they have specifically sold the unit on the basis that it is a Discounted Market Unit subject to the limit on price (80%, or such other figure that may have been set by the Housing Department under section 1 above), backed up by written confirmation from the selling agents of the open market price that the property would have been sold at in their opinion had it been an unrestricted market unit not subject to the Discount Market Unit limitations in the Section 106 Agreement.
- 2.2 The prospective buyer should also be somebody that has registered with the local home buy agent under the Help to Buy scheme, so as to ensure that their income has been verified as qualifying them under the scheme. Please see section 4 below as to what might happen if the Help to Buy scheme is replaced or no longer operates.
- 2.3 The prospective buyer also has to make a statutory declaration confirming that it has registered under the Help to Buy scheme (or any successor scheme approved by the Council under section 4 below) and:-
  - (a) it is not an existing homeowner;
  - (b) it is a person that has a qualifying connection with Broadland District as set out in section 3 below.

The statutory declaration shall be sent to the Housing Department before contracts are exchanged.

## **3. Criteria for establishing that a buyer is a "qualifying person" by reason of their connection with Broadland District**

The criteria applied to ascertain whether or not a person qualifies are as follows:-

- (a) the prospective buyer lives in Broadland District;
- (b) that they are employed in Broadland District; or

- (c) that they have the relevant family connection with Broadland District, which is that their parents, siblings or grandparents live in Broadland District or that there is another relative who is not so closely related, but who lives in Broadland District, and there is a reason why the prospective buyer wishes to move to Broadland District (such as providing support for such relative as a result of any illness, disability or other personal circumstance). The statutory declaration should specify such reason.

**4. Replacement of the "Help to Buy" scheme**

If at any time the "Help to Buy" scheme closes, then the Council will confirm whether any replacement scheme (and in particular any mechanism under such replacement scheme for verifying that prospective buyers qualify for assistance under the scheme) should be substituted for the "Help to Buy" scheme when verifying the eligibility of a prospective buyer. If there is no such scheme currently in existence that is approved by the Council for these purposes, then the Council may require any prospective buyers to provide evidence of their income and any capital resources available to them to assist in the purchase (whether by way of savings or by gift from family members or others) so as to ensure that the Discounted Market Units are only acquired by those who otherwise would not be able to afford to buy houses on the open market in Broadland District.

C  
C mockford

