

DATED

17TH April

2000

BROADLAND DISTRICT COUNCIL

and

NORFOLK HOMES LIMITED

and

LLOYDS TSB BANK PLC

AGREEMENT

Relating to:-

Residential Development

Yaxleys Lane Aylsham

Hewitson Becke+Shaw

S O L I C I T O R S

THIS DEED dated 17TH April 2000 is made **BETWEEN BROADLAND DISTRICT COUNCIL** of Thorpe Lodge 1 Yarmouth Road Thorpe St Andrew Norwich Norfolk NR7 0DU ('the Council') (1) **AND NORFOLK HOMES LIMITED** whose registered office is at Weybourne Industrial Estate Sheringham Norfolk NR26 8HF (company number 1910791) ('the Owner') (2) **AND LLOYDS TSB BANK PLC** of 6/7 Park Row, Leeds, LS1 5LB ('the Mortgagee') (3)

WHEREAS:-

1. The obligations imposed by this agreement are planning obligations pursuant to section 106 of the Town and Country Planning Act 1990 ('the 1990 Act')
2. The Council is the Local Planning Authority by whom these obligations are enforceable
3. The Owner is the registered proprietor with absolute title of freehold land ('the Phase III Site') at Yaxleys Lane Aylsham Norfolk as the same is registered at HM Land Registry under Title Numbers NK153996 and 159062 and 154009 and shown for the purpose of identification only edged red upon the plan annexed ('the Plan') subject to a charge dated 2nd January 1997 in favour of the Mortgagee but otherwise free from encumbrances
4. The Council has granted outline planning consent under reference 89.1564 for residential development on the Phase III Site and adjacent land ('the May 1990 Consent')
5. The Owner has undertaken Phases I and II of the development granted by the May 1990 Consent which are nearing completion
6. The Owner has applied (reference 99.1416) for consent under Section 73 of the Town and Country Planning Act 1990 ('Section 73') to vary condition 1 of the May 1990 Consent to provide an extended period to enable application(s) to be made for submissions of reserved matters in respect of the development of the Phase III Site
7. The Council is minded, subject as provided in this agreement to grant consent, subject to conditions differing from those subject to which the May 1990 Consent was granted, pursuant to paragraph (a) of sub-section (2) of section 73 in the form annexed in Schedule 1 ('the Draft Consent')

NOW THIS DEED is made pursuant to S.106 of the 1990 Act and is a planning obligation for the purpose of that section enforceable by the Council

AND WITNESSES as follows:-

1. The Owner covenants with the Council on behalf of itself and the owner or owners for the time being of Phase III Site and each and every part thereof:
 - (a) To withdraw on or before the date hereof the appeal lodged with the Planning Inspectorate against the non-determination by the Council of planning application reference 99.0368
 - (b) Not to further implement the May 1990 Consent in respect of the Phase III Site
 - (c) In recognition of the affordable housing need in the Council's administrative areas:
 - (i) to construct within the Phase III Site not less than 15% of the total number of dwellings upon the Phase III Site and the adjoining parcel of land cross hatched black and numbered '1' upon the Plan ('the Additional land') as 'low cost market housing' which shall mean housing of between 65 and 80 square metres (gross floor area in relation to the ground floor and first floor and second floor of each such dwelling as measured internally excluding external walls but including internal partitions) such dwellings to be constructed marketed and made available for sale in 3 equal proportions prior to the first occupation of the 40th and the 80th and the 120th dwelling to be constructed upon Phase III Site PROVIDED THAT for the purposes only of calculating the said 15% it shall be assumed that not more than 13 dwellings will be developed on the Additional Land
 - (ii) subject to clause 2 to pay to the Council
 - a) the sum of £82,238 ('the Contribution') payable as to one half on or before 2 years after first occupation of any dwellings on the Phase III Site ('the First Contribution Date') and the balance within 2 years thereafter ('the Second Contribution Date') and

- b) such further sum ('the index payment') payable in addition to the Contribution as represents the percentage increase in the RICS Building Cost Information Service from 1 December 1999 to the First Contribution Date with regard to half of the Contribution and to the Second Contribution Date with regard to the balance of the Contribution the index payment to be paid on the First and Second Contribution Dates.

(d) to comply with the obligations set out in the Second Schedule

- 2. The Council covenants with the Owner to repay to the Owner any part of the Contribution not contractually committed by the Council towards the affordable housing needs identified from time to time within Aylsham and adjoining parishes within 5 years of the First Contribution Date
- 3. The expression 'the Council' and 'the Owner' and 'the Mortgagee' shall include their respective successors in title and assigns
- 4. The Owner hereby agrees to apply to register this Agreement with HM Land Registry in the charges register of the above mentioned title numbers within 30 days of the date hereof
- 5. This Agreement is a local land charge and shall be registered as such by the Council
- 6. The Mortgagee has agreed to enter into this Deed **PROVIDED THAT** the Mortgagee shall not be liable for any breach of any of the covenants in this Deed unless the same are either committed by the Mortgagee or are committed during such period as the Mortgagee is in possession of the Phase III Site or the part on which such breach occurs as Mortgagee in possession.



PHASE
III

Aylsham Phase III
Norfolk Homes Ltd.
Section 106 Plan
3 March 2000

For and on behalf of
Lloyds TSB Bank Plc

J. GREGORY
Senior Team Leader
Lloyds Securities Centre

First Schedule

'the Draft Consent'

Date of Decision:

Description: RESIDENTIAL DEVELOPMENT OF LAND WITHOUT COMPLIANCE WITH CONDITION NO.1 OF PLANNING PERMISSION 891564

Location: LAND WEST OF YAXLEY'S LANE, HUNGATE STREET, AYLSHAM

Applicant: NORFOLK HOMES LIMITED

Town and Country Planning Act 1990

The Council in pursuance of powers under this Act GRANTS OUTLINE PLANNING PERMISSION for the development referred to above in accordance with the submitted plans and application forms subject to the following conditions.

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 1 year from the date of this permission.
- (b) The development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. Before any development commences details in respect of the following matters (hereinafter referred to as 'the reserved matters') shall be submitted and approved by the Local Planning Authority:-
 - (i) the layout of the site and any development thereon, which shall be based upon an accurate survey of the site and which shall indicate accurately the position, height, spread and species of all trees and hedges within and on the boundaries of the site (including any trees and hedges which it is proposed to remove);

- (ii) the siting, design and external appearance of all buildings to be erected and the means of access thereto;
 - (iii) the means of access to the site;
 - (iv) the provision, siting and amount of land to be allocated for open space and recreational facilities;
 - (v) the provision, alignment, height and materials of all walls, fences and other means of enclosure;
 - (vi) a landscape design showing proposed planting, the means of forming enclosures, the materials to be used for paved areas and hard surfaces and finished levels in relation to existing levels;
 - (vii) details of the future maintenance of any open space, recreational facilities and landscaped areas.
3. No work shall commence on site until such time as detailed plans of roads, footways, foul and 'on site' surface water drainage have been submitted to and approved by the Local Planning Authority.
 4. No work shall be carried out on roads, footways, foul and surface water sewers otherwise than in accordance with the specifications of the Local Planning Authority.
 5. No dwellings shall be occupied until such time as a road and footway have been constructed from the dwelling to the adjoining county road to a standard to be agreed in writing with the Local Planning Authority.
 6. The landscaping scheme, including surface and boundary treatments as submitted and approved shall be carried out in so far as it affects individual plots before the dwellings on those plots are first occupied unless otherwise agreed in writing by the Local Planning Authority.
 7. Prior to the commencement of the development or the placing of huts, plant or machinery on the site the existing trees shall be enclosed by chestnut pale fencing at least 1.5 metres high erected in accordance with the requirements specified in the attached Policy Note No. 3. Such fencing shall remain in place for the duration of the building works and the

areas enclosed shall remain free of all obstructions, building materials, machinery, equipment and excavations.

8. Any tree or shrub which dies within five years of the planting of the first tree or shrub shown in that position on the approved landscaping scheme shall be replaced to the satisfaction of the Local Planning Authority.
9. The details submitted under Condition 2 (iv) shall include levels, cross-sections, surfacing, equipment and planting of any open space and recreational open space areas.
10. None of the proposed dwellings, adjacent to or opposite any recreational open space area, shall be occupied until the area concerned has been laid out in accordance with the details approved under Condition 9 above.
11. Any planting, surface or enclosure works, approved under Conditions 2 and 9 above, adjacent to either Marriotts Way or Jewels Lane shall be carried out in the first planting season following commencement of development on Phase 3 unless otherwise agreed in writing with the Local Planning Authority
12. Before any development commences on Phase 3 of the application site, approval shall be obtained from the Local Planning Authority of the construction programme, which shall include details of the use of any access required for construction purposes; the location of the site huts and builders compounds; the areas of land to be set aside for the storage of materials and as working areas for construction purposes; the location of any fixed plant and machinery together with appropriate steps for minimising noise therefrom; the provision to be made for drainage during the construction period; the hours of construction work and vehicular routes to and from the site for construction traffic.
13. The provision of private garaging and on site parking spaces, approved under Condition 2 above, must be maintained for the parking of private motor vehicles and available for such at all times.

Second Schedule

1. Not to allow more than 75 dwellings constructed upon the Phase III Site to be first occupied until the Children's Play Space has been laid out in accordance with a scheme to be submitted to and approved by the Council in accordance with the Draft Consent
2. Not to allow more than 110 dwellings constructed upon the Phase III Site to be first occupied until the ownership of the Children's Play Space has been transferred to the Council for a nominal consideration and subject to a covenant on the part of the Council for the benefit of the remainder of the Phase III Site not to use the Children's Play Space except for the purposes referred to in paragraph 4 below
3. Until transfer pursuant to paragraph 2 above has been completed to maintain the Children's Play Space to the satisfaction of the Council
4. Not to permit or allow the use of the Children's Play Space for any other purpose than as children's play space
5. To pay to the Council on the transfer of the Children's Play Space pursuant to paragraph 2 above to a sum in respect of future maintenance of the Children's Play Space by the Council which sum shall be calculated as follows:
 - a) £18.23 for each one and two bedroom dwelling
 - b) £27.42 for each three and four bedroom dwelling
 - c) 36.46 for each dwelling of five bedrooms or more
 - d) A sum representing 'x'% of the total sum payable under 5(a) - (c) above where 'x' is the increase in the index of retail prices from 1st April 1999 to the first day of the month of payment of the total sums payable pursuant to 5(a) - (c).
6. 'The Children's Play Space' for the purpose of this Schedule shall mean the Children's Play Space in respect of the Phase III Site and the Additional Land to be provided by the Owner to the reasonable satisfaction of the Council in terms of area and quality in accordance with the table set out in the Third Schedule.

Third Schedule

No of Bedrooms

Children's Play

M²

1	14
2	14
3	21
4	21
5 or more	28

IN WITNESS whereof the Owner and the Council and the Mortgagee have hereunto affixed their respective common seals the day and year first before written

THE COMMON SEAL of)
NORFOLK HOMES)
LIMITED was hereunto)
affixed in the presence of:)

Director



Secretary

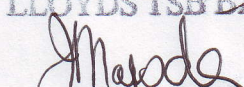
THE COMMON SEAL of)
BROADLAND DISTRICT)
COUNCIL was hereunto)
affixed in the presence of:)



Director of Resources

THE COMMON SEAL of)
LLOYDS TSB BANK PLC)
was hereunto affixed in the)
presence of:)

Signed as a deed by
JOHN GREGORY
as Attorney for and on behalf of
LLOYDS TSB BANK plc in the presence of


6/7 Park Row
LEEDS