

Dated

17th March

2021

Broadland District Council

-and-

Sean Anthony Hickey

-and-

Lloyds Bank Plc

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

relating to Sequoia Rise, Mill Lane,
South Witton, Norfolk NR13 5DS and adjacent land

THIS DEED is dated

17th March

2021

PARTIES:

- (1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge 1 Yarmouth Road Thorpe St Andrew Norwich NR7 0DU (referred to as "the Council")
- (2) **SEAN ANTHONY HICKEY** of Sequoia Rise, Mill Lane, Witton, Norwich, Norfolk NR13 5DS (referred to as "the Owner")
- (3) **LLOYDS BANK PLC** (Co. Regn. No. 2065) of Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton WV9 5HZ (referred to as "the Mortgagee")

together referred to as 'the Parties'

INTRODUCTION

- (A) The Council is a local planning authority for the purposes of this Deed for the area within which the Sites are located.
- (B) The Owner has applied for the Permission and the Council has resolved to grant the Permission provided the Parties enter into this Deed.
- (C) The Owner owns the freehold of the Sites which are registered at the Land Registry under title number NK339338 and held free from encumbrances other than the charge referred to below.
- (D) The Mortgagee has a charge over the Sites.

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

2009 Permission	The planning permission granted by the Council on 7 December 2009 under reference 20091242 for the change of use of buildings and land within the Sites to forestry business
Act	The Town and Country Planning Act 1990 as amended.
Building	Has the same meaning as it does in the Act

Development	The Development of the New Dwellings Site in accordance with the Permission
Forestry Business	Includes the storage, processing, reclamation and sale of timber and logs, together with connected purposes including the operation and maintenance of machinery and the provision of offices and parking
Lawful	Has the meaning ascribed to it by section 191(2) of the Act
New Dwelling	A dwellinghouse to be built on the New Dwellings Site as part of the Development (together with any Lawful extension or alteration) and any Lawful replacement of that dwellinghouse
New Dwelling Curtilage	The curtilage of a New Dwelling
New Dwellings Site	The land known as land adjacent to Sequoia Rise, Mill Lane, South Witton, Norfolk NR13 5DS edged red on the Plan and (together with other land) registered at H M Land Registry under title number NK 339338
Nominated Officer	The senior officer of the Council responsible for development management or other officer of the Council notified to the Owner
Permission	The planning permission to be granted by the Council in relation to the New Dwellings Site for demolition of existing buildings and erection of 3 detached dwellinghouses and garages and allocated reference number 20191598
Plan	The plan attached to this Deed numbered SR01-S-01 Revision A3
Retained Site	The land registered at H M Land Registry under title number NK 339338 excepting the New Dwellings Site
Retained Site Curtilage	The land and Buildings comprised in the Retained Site excepting the Retained Site Dwelling

Retained Site Dwelling	The existing dwellinghouse situated on the Retained Site known as Sequoia Rise (together with any Lawful extension or alteration) and any Lawful replacement of that dwellinghouse
Sites	The New Dwellings Site and the Retained Site
Trigger	The Commencement date and any trigger or threshold in this Deed linked to the taking of specified steps or linked to the prohibition of a specified action

2. LEGAL BASIS

- 2.1 This Deed is made pursuant to Section 106 of the Act and, to the extent that it does not contain planning obligations, under Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011, and all other enabling powers.
- 2.2 The covenants and obligations contained in this Deed create planning obligations for the purposes of section 106 of the Act enforceable by the Council and relate to the Sites.
- 2.3 Covenants given by more than one party can be enforced against them individually or jointly.
- 2.4 A reference to an Act of Parliament includes any later modification or re-enactment, including any statutory instruments made under that Act, and reference to a gender or person includes all genders or classes of person.
- 2.5 Any covenant in this Deed not to do something includes an obligation not to allow, permit or procure it to be done.
- 2.6 References to any party to this Deed shall include successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to its statutory functions.
- 2.7 Representatives of the Council may enter the Sites at any reasonable time to ascertain whether the terms of this Deed are being or have been complied with provided that:
 - 2.7.1 they do not enter any dwelling; and
 - 2.7.2 they adhere to all reasonable health and safety requirements.



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Deputy Monitoring Officer

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3. CONDITIONALITY

This Deed is conditional upon:

- 3.1 The grant of the Permission; and
- 3.2 The Commencement of Development

Save for the provisions of this clause and clauses 5, 6 and 7 which shall come into effect immediately on completion of this Deed.

4 COVENANTS

The Owner covenants with the Council for himself and his successors in title:

- 4.1 Not to use the Sites or any part thereof (including any Building) for the purposes of a Forestry Business or for any other purpose which would be Lawful in consequence of the 2009 Permission or the existing Forestry Business use of the Sites
- 4.2 To use the Retained Site Curtilage solely for purposes incidental to the enjoyment of the Retained Site Dwelling as a dwellinghouse and for no other purpose.
- 4.3 To use each New Dwelling Curtilage solely for purposes incidental to the enjoyment of the relevant New Dwelling as a dwellinghouse and for no other purpose.
- 4.4 To observe and perform the obligations and stipulations imposed on the Owner by the other clauses of this Deed.

5. OTHER PROVISIONS

- 5.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Sites (unless the breach occurred before he disposed of his interest).
- 5.2 The Owner confirms that he is the owner of the Sites with full power to enter into this Deed and that there is no person or body (other than the Mortgagee) with an interest in the Sites whose consent is necessary to make this Deed binding on all interests in the Sites.
- 5.3 On completion the Owner will pay the Council's reasonable legal costs in connection with this Deed.
- 5.4 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

- 5.5 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions.
- 5.6 No waiver, express or implied, by the Council of any breach or failure to perform or observe any of the covenants, terms or conditions of this Deed constitutes a continuing waiver, nor prevents the Council from enforcing any of the provisions in this Deed.
- 5.7 If the Permission is quashed revoked or expires before Commencement then, save for clause 5.3, this Deed will cease to have effect (insofar only as it has not already been complied with).
- 5.8 Subject to clause 5.9, nothing in this Deed prohibits or limits the right to develop any part of the Sites in accordance with a planning permission (other than the Permission) granted after the date of this Deed pursuant to an application made to the Council.
- 5.9 If the Permission is subject to an application under Section 73 of the Act for the removal or amendment of any condition attached to the Permission then the obligations in this Deed shall also apply to the new planning permission resulting from such application as if it were the Permission, if so determined by the Council (acting in its absolute discretion).
- 5.10 This Deed is registrable as a local land charge
- 5.11 The provisions of this Deed (other than this clause which takes immediate effect) will be of no effect until this deed has been dated.
- 5.12 Nothing contained or implied in this Deed will fetter, prejudice or affect the rights, discretions, powers, duties and obligations of the Council in the exercise of any of its functions as local authority.

6. DISPUTES

- 6.1 If any dispute is not resolved between the Parties, any of the Parties may refer it for determination by an expert. The expert will be appointed by agreement between the parties or, in default of agreement, by the President for the time being of the Royal Institution of Chartered Surveyors and the expert's decision shall be final and binding.
- 6.2 The expert is to be replaced by a fresh appointee in the event that he becomes at any time unable or unwilling for any reason to proceed to discharge his

functions. The fresh appointee is to be appointed in the manner prescribed in this clause.

- 6.3 The expert is to make his decision within 6 weeks of being appointed.
- 6.4 The costs of appointing the expert are to be shared equally by the parties to the dispute except where the expert takes the view that one party has acted unreasonably. In that case the expert has binding discretion as to apportionment of the costs.
- 6.5 Nothing in this clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings.

7. NOTIFICATIONS

- 7.1 Any notice or written communication given under this Deed is validly given if hand delivered or sent by recorded delivery post to the address set out at the beginning of this Deed, unless written notification of another address has been received by the giver of the communication.
- 7.2 The Owner will notify the Nominated Officer in writing of the relevant
 - 7.2.1 anticipated Triggers seven days in advance of each anticipated date,
 - 7.2.2 actual Triggers within seven days of each actual date.
- 7.3 If the Owner disposes of his interest in all or part of the Sites he will notify the Nominated Officer within 7 days of the name and address of the new owner and sufficient details to identify the Sites or part of the Sites.

8. MORTGAGEE CONSENT

The Mortgagee consents to this Deed so that its interest in the Sites is bound by the obligations contained in this Deed and agrees that its security over the Sites 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 Sites or carries out (or procures the carrying out) of the Development. (For the avoidance of doubt any person acquiring title to all or part of the Sites as a result of the Mortgagee enforcing its security will be bound by the terms of this Deed.)

10. JURISDICTION

This deed is governed by and interpreted in accordance with the law of England and Wales.

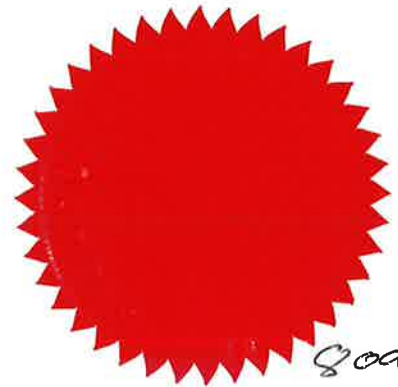
IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

THE COMMON SEAL OF)
Broadland District Council)
was affixed hereto in the presence of:)



Deputy Monitoring Officer

Authorised Signatory:



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

EXECUTED AS A DEED by
Sean Anthony Hickey
in the presence of:

)
) 
)

Witness signature X 

Witness name X Charlie Jennings

Witness address X 1 The Lake Calthorpe
Aylsham NR11 7QW

EXECUTED AS A DEED by


as attorney for and on behalf of **Lloyds Bank plc**

in the presence of:

Witness signature

Witness name

Witness address

EXECUTED AS A DEED	
BY CASE HANDLER as authorised signatory for Lloyds Bank plc in the presence of (signature of witness)	} Per Pro Lloyds Bank plc
 Wobaston Rd, Wolverhampton WV9 5HZ	

Anilar Devi Kumar