

DATED 30 September 2005

BROADLAND DISTRICT COUNCIL

- and -

MR CHARLES EDWARD BRISCOE

- and -

MRS ANNETTE MOIRA NUTTING

- and -

MR TIMOTHY BRISCOE

A G R E E M E N T

Made pursuant to Section 106 of the
Town and Country Planning Act 1990 (as amended)
1990 relating to the development of land at
Street Farm Brampton Norfolk

Head of Law
Norfolk County Council
County Hall
Martineau Lane
Norwich
NR1 2DH

THIS AGREEMENT is made the 20th day of September Two thousand and five

BETWEEN BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich in the County of Norfolk (hereinafter called "The Council") of the first part and Mr Charles Edward Briscoe of Dudwick Cottage Buxton Norfolk Mrs Annette Moira Nutting of Kingstone House Shelbourne Marlborough Wiltshire SM8 3QH and Mr Timothy Briscoe of Keepers Cottage Buxton Norwich Norfolk (hereinafter called "The Owners")

RECITALS

(A) (1) In this Agreement unless the context otherwise requires the following words shall have the following meanings:-

"Application" means the application for planning permission to develop the land and dated 19 August 2003 submitted to the Council in accordance with the Application plans and other materials deposited with the Council and bearing reference number 20031614

"Development" means the development permitted by the Permission

"Director" means the Council's Strategic Director (Community Services) or other officers of the Council acting under his hand

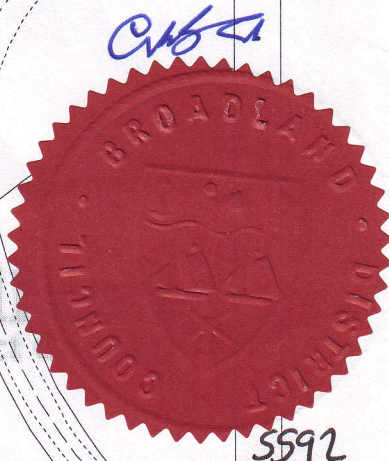
"Dwellings" means three of the residential units to be constructed on the land pursuant to the Permission

"Housing Register" means the register maintained by the Council pursuant to Section 162 of the Housing Act 1996 or any statutory modification or re-enactment thereof

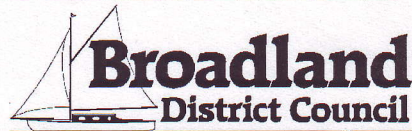
"Implementation" means implementation of the Permission by the carrying out of a material operation as defined in Section 56(4) of the 1990 Act comprised in the Development

"Local Connection and Housing Need" shall be evidenced by entry on the Housing Register
PROVIDED that where there is a person or persons on the Housing Register they shall rank in the following order of priority. Firstly those who are working or living in Bampton, secondly those with a need to live in Bampton to provide or receive support from a resident in Bampton and thirdly those who reside in the parishes of Buxton, Lammas, Burgh and Tuttington, Aylsham, Marsham, Stratton Strawless, Coltishall, Hevingham, Horstead, Hainford, Frettenham or within the Broadland District.
PROVIDED that, if there is no-one with the Broadland district to allocate within a period of 8 weeks then the Owners shall;

- i) notify the Council within 1 day of receiving notice that the Dwellings are vacant or will be vacated by the current occupier at the time
- ii) within 3 days of being notified of a prospective vacancy, the Council shall nominate to the



CHIEF EXECUTIVE



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Owners prospective tenants with Local Connection and Housing Need. If the Owners do not accept the nominated persons the Council shall nominate further prospective persons with Local Connection and Housing Need within 3 working days and the process shall be repeated, as required, for a period of up to 12 weeks

- iii) Provided that suitable references to be agreed with the Council's Housing Department are given, the Owners shall offer to the person so nominated an assured tenancy, but for the avoidance of doubt, without any right to buy of the said Dwelling unless the Owner shall reasonably satisfy the Council that the nominated person is unlikely to comply with reasonable terms of the tenancy or pay the rent reserved (or be eligible for housing or other benefits in respect thereof)

"Local Reference Rent" means such rent as the Council shall reasonably determine as affordable by persons with Local Connection and Housing Need AND IT IS HEREBY DECLARED that the Local Reference Rent will be the prevailing reference rent as set by the Rent Officer of the Council at the time of the allocation of any Dwelling

"Permission" means the detailed planning permission granted pursuant to the Application together with any renewal or modification thereof

Play Area means the play area which is the subject of the Play Area Permission

Play Area Permission means the planning permission (No. 20040160) granted by the Council to Brampton Parish Council on 19 May 2004

"1990 Act" means the Town and Country Planning Act 1990 (as amended)

(2) In this Agreement unless the context otherwise requires:

- (i) words importing the masculine gender shall where appropriate include the feminine gender and the neuter gender or vice versa as the case may be and words importing the singular number shall where appropriate include the plural number and vice versa
- (ii) "party" or "parties" means a party or parties to this Agreement
- (iii) references to any party shall include the successors in title and assigns of that party
- (iv) where a party includes more than one person any obligations of that party shall be joint and several
- (v) headings in the Agreement shall not form part of or affect its construction
- (vi) references to clauses and schedules are references to clauses in and schedules to this Agreement
- (vii) where a party or any officer or employee is required to give its consent approval or agreement in any specific provision in this

Agreement such approval or agreement shall not be unreasonably withheld or delayed

- (viii) any mention herein of any Act or of any Section Regulation or Statutory Instrument shall be deemed to refer to the same source as at any time amended and where such Act, Section , Regulation or Statutory Instrument has been replaced, consolidated or re-enacted with or without amendment such mention shall be deemed to refer to the relevant provision of the updating consolidating or re-enacting Act or Section or Regulation or Statutory Instrument

- (B) The Council is a Local Planning Authority for the purposes of the 1990 Act for the area within which the Land is situated
- (C) The Owners are together (C E Briscoe and A M Nutting are Settled Land Trustees and T Briscoe is the Life Tenant) seised of land situated at and known as Street Farm Brampton in the County of Norfolk (hereinafter called "The Land") shown for the purpose of identification only edged red on the plan annexed hereto (hereinafter called "The Plan") for an estate in fee simple
- (D) Having regard to the Development Plan and other material considerations the Council considers it expedient in the interests of the proper planning of their area that provision should be made for regulating or facilitating the Development of the Land in the manner hereinafter appearing and the Council is satisfied the Permission can only be granted subject to and upon completion of this Agreement

NOW THIS DEED WITNESSETH as follows:-

- 1.1 This Agreement and the covenants that appear hereinafter are made pursuant to Section 106 of the 1990 Act
- 1.2 The covenants that appear hereinafter are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council
- 1.3 This Agreement is a Deed and may be modified or discharged in part or in total at any time after the date of this Agreement by agreement between the parties in the form of a Deed
- 1.4 This Agreement is a local land charge and upon completion shall be registered by the Council as such
- 1.5 No waiver (whether express or implied) by the Council or any breach or default by the Owners performing or observing any of the covenants in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof
- 1.6 Any provision of this Agreement which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Agreement
- 1.7 This Agreement shall be governed by the laws of England
- 1.8 No party shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement after that party has parted with its interest in the Land or the part of the Land in respect of which such breach occurs provided that liability will still remain for any breach occurring prior to the parting of any party's interests in the Land or any part thereof in respect of which any such breach has taken place

1.9 The entry into force of the provisions of this Agreement (other than this clause 1.9 and Clause 7 which has effect immediately) is conditional upon the permission be duly granted and implementation

1.10 This Agreement shall cease to have effect if either:-

1.10.1 the permission is quashed revoked or otherwise withdrawn; or

1.10.2 planning permission on the Land is granted subsequently and implemented for proposals incompatible with the Development

1.11 NOTICES

1.11.1 Any notices or other written communication to be served or given by one party upon or to any other party under the terms of the Agreement shall be deemed to have been validly served or given if received by facsimile, delivered by hand or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is addressed and delivered or sent by facsimile or by recorded delivery post to the address of the party concerned as nominated in sub-clause

1.11.2 The address for any notice or other written communication in the case of each party to this Agreement shall be as follows:-

The Council	The Strategic Director (Community Services) Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich
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The Owners	Mr Charles Briscoe Dudwick Cottage Buxton Norfolk
	Mrs Annette Nutting Kingstone House Shelbourne Marlborough Wiltshire

	Mr Timothy Briscoe of Keepers Cottage Buxton Norwich Norfolk
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1.11.3 Any notice or other written communication to be given by the Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Council by a duly authorised officer

2. GENERAL

2.1 The Owners HEREBY FURTHER AGREE that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Land under the terms of the Agreement are hereby waived

2.2 All works and activities to be carried out under the terms of this Agreement (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressed provided otherwise) to be at the sole expense of the Owners and at no cost to the Council

2.3 The obligations in this Agreement shall be reviewed by the parties after it has been in force for at least 5 years or upon earlier instigation of a review by the Owners

3. ARBITRATION

3.1 Any dispute or difference arising between the parties as a result of this Agreement shall be referred to the arbitration or a single arbitrator to be agreed upon between the parties, or failing agreement within fourteen days after any of the parties has given to the other parties a written request requiring the appointment of an Arbitrator, to a person to be appointed at the request of any of the parties by the President of the Institution of Civil Engineers for the time being

3.2 Any reference to arbitration shall be undertaken in accordance with and subject to the provisions of the Arbitration Act 1996 save as follows:-

(a) the seat of the arbitration shall be at the Council's offices in Norwich

- (b) where appropriate the Arbitrator may consolidate arbitral proceedings
- (c) with the parties agreement the Arbitrator may appoint experts or legal advisers

3.3 Any of the parties mentioned in clause 3.1 concerned in any such dispute or difference arising from this Agreement wishing to refer any such dispute or difference to arbitration shall notify the other parties in writing of such intention without delay

3.4 The Arbitrator shall act as a referee and not as an expert except in any case where the parties to a dispute or difference agree on the Arbitrator when such parties may also agree that such Arbitrator shall act as an expert

4. RIGHTS OF THIRD PARTIES

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no person who is not a party to this Agreement (other than a successor in title to one of the original parties) shall be entitled in that person's own right to enforce any provisions of this Agreement pursuant to the provisions of the said Act

5. COVENANTS

5.1 The Owners hereby covenant and undertake with the Council so as to bind the Land and each and every part thereof to carry out and comply with the obligations and restrictions set out in Clauses 5.2, 5.3, 5.4, 6 and 7 of this Agreement

5.2 The Dwellings shall not be occupied by any person other than by a person with Local Connection and Housing Need and the dependants of such a person living with that person as a single household and the widow/widower of such a person

- 5.3 The rent or other charge to the occupiers of the Dwellings in respect of the said occupation shall not exceed the Local Reference Rent *for rent c. £1000 Ann 2016*
- 5.4 The Dwellings shall not be occupied other than *by* a person nominated by the Council from the Housing Register and nominations shall take place in accordance with the procedure set out in the schedule hereto

THE OBLIGATIONS

6. AFFORDABLE HOUSING

Not to permit the first occupation of more than 3 residential units (other than and in addition to the Dwellings) to be constructed on the land as part of the development on the Land until such time as the Dwellings have been constructed and are ready for occupation

7. THE PLAY AREA

At their own expense and to the reasonable satisfaction of the Council to carry out and complete within twelve months from the date of this Agreement the following within or around the Play Area namely the removal of the existing hedge along The Street, the lowering of the existing bank, spraying off existing grass, levelling the site for the playing field, seeding the area with grass, supplying and erecting stock fencing along four sides and erecting two five bar gates (one of which will incorporate a pedestrian gate) in accordance with the Play Area Permission

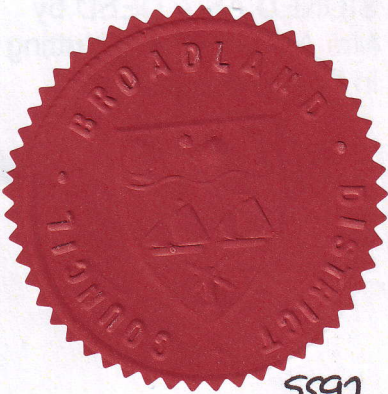
THE SCHEDULE

1. The Owners shall notify the Council within 14 days of receiving notice that the Dwellings are vacant or will be vacated by the current occupier at the time
2. The Council shall nominate to the Owners prospective tenants with Local Connection and Housing Need

3. Provided that suitable references to be agreed with the Council's Housing Department are given, the Owners shall offer to the person so nominated an assured tenancy, but for the avoidance of doubt, without any right to buy of the said Dwelling unless the Owners shall reasonably satisfy the Council that the nominated person is unlikely to comply with reasonable terms of the tenancy to pay the rent reserved (or be eligible for housing or other benefits in respect thereof)
4. If the nominated person shall not accept a tenancy within a reasonable time or shall be rejected in accordance with paragraph 3 then the Council shall nominate further prospective tenants as required

IN WITNESS whereof this Agreement has been executed and delivered as a Deed on the date first written above

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



5592

CWBA

CHIEF EXECUTIVE

~~Head of Corporate Services and Monitoring Officer~~

SIGNED AS A DEED by
Mr Charles Edward Briscoe
in the presence of

) C.E. Briscoe
)
) Dudwick Cottage

BRISCOE
Pott

Barton
Norwich
NR10 5HX

Witness

M J Owen
38 CREBE WAY
HOLSTEAD
NORWICH
NR12 7EU
OWEN.
RETO.

~~Witness~~

SIGNED AS A DEED by
Mrs Annette Moira Nutting
in the presence of

) Annette Moira Nutting
)
)

Witness

Benjamin Leigh
Little Rissington House,
Little Rissington

Witness

Cheltenham GL54 2NB

SIGNED AS A DEED by)
Mr Timothy Briscoe)
in the presence of)

T.B

Timothy Briscoe

Keepers Cottage

Buxton

Norwich

Norfolk

NR10 9AX

Witness

[Signature]

4 Debenne Rd

NTU WALSHAM

Norwich

NR28 0LZ

~~Witness~~