

Dated 26 November 2013

BROADLAND DISTRICT COUNCIL

- AND -

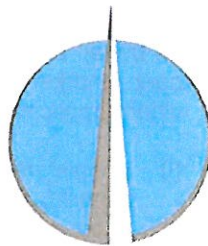
BECKHITHE FARMS LIMITED

-AND-

SAFFRON HOUSING TRUST LIMITED

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

relating to the development of land at
Station Road
Cantley
Norfolk



SPIRE
SOLICITORS^{LLP}

Telephone (01603) 677077

36-40 Prince of Wales Road
Norwich NR1 1HZ
Fax (01603) 610700
DX No 5217 Norwich

THIS DEED is made the

26th

day of November 2013

BETWEEN:

1. **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge 1 Yarmouth Road Thorpe St Andrew Norwich Norfolk NR7 0DU ("the Council") and
2. **BECKHITHE FARMS LIMITED** incorporated and registered in England and Wales with company number 03471248 whose registered office is at Hall Farm Reedham Norfolk NR13 3HW ("the Owner") and
3. **SAFFRON HOUSING TRUST LIMITED** incorporated and registered in England and Wales with company number 04740454 whose registered office is at Saffron Barn Swan Lane Long Stratton Norfolk NR15 2XP ("the Developer")

1. **INTERPRETATION AND DEFINITIONS**

- 1.1 In this Deed unless the context otherwise requires the following expressions shall have the following meanings:-

"Act"	the Town and Country Planning Act 1990 (as amended)
"Affordable Housing"	housing which is available to meet the needs of those who cannot afford to rent or buy dwellings generally available on the open market to be owned and/or managed by or on behalf of an AHP
"Affordable Housing Units"	Dwellings to be provided as Affordable Housing in accordance with Schedule 1 and consisting of the Affordable Rental Units and "Affordable Housing Unit" shall be construed accordingly
"Affordable Rental Units"	8 Affordable Housing Units to be constructed or provided as part of the Development and to be let for a rent by or on behalf of an AHP such rent not to exceed 80% of the open market rental value (including service charges, where applicable).
"AHP" (Affordable Housing Provider)	(i) a registered provider as defined by Section 80 of the Housing and Regeneration Act 2008; or (ii) another body whose object is or contains the provision and/or operation of Affordable Housing and which has been approved by the Council for the provision and/or operation of Affordable Housing within the administrative area of Broadland or has otherwise been approved by the Council for the purposes of this Deed
"Application"	the application for planning permission validated on 9 th April 2013 for the construction of 8 Dwellings on the Site and associated works under reference number 20130461
"Code"	the "Code for Sustainable Homes" published by the Department for Communities and Local Government dated December 2006
"Commencement Date"	the initiation of the Development by the carrying out on the Site of a material operation within the meaning of

	Section 56(4) of the Act (but not including operations relating to clearance of the Site, archaeological investigations or investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure or the temporary display of site notices or advertisements) and "Commence" shall be interpreted in accordance with this definition
"Development"	the development permitted by the Planning Permission
"Director"	the Council's Chief Executive or other officers of the Council acting under his hand
"Dwelling"	any residential dwelling (comprising a bungalow, flat, maisonette or house) constructed on the Site pursuant to the Planning Permission as part of the Development
"HCA Standards"	the "Housing Quality Indicators" and "Design and Quality Standards" specified by the Homes and Communities Agency or its successor body
"Inflation Provision"	the increase (if any) in the Department for Business Innovation and Skills (BIS) Output Price Index for New Construction (2010) : All New Construction between 1 September 2006 and the date upon which a payment of the Off-Site Play Space Contribution is made pursuant to this Deed
"Local Lettings Policy"	The policy of the Council which stipulates the order in which the Affordable Rental Units are to be allocated as set out under the title "Local Lettings Policy" at Schedule 2 to this Deed as amended from time to time
"Occupation"	occupation of a Dwelling for the purposes permitted by the Planning Permission excluding occupation for the purposes of construction, internal and external refurbishment, decoration, fitting-out, marketing or any other activity preparatory to the use of the Site for the purposes permitted by the Planning Permission and the words "Occupy and Occupied" shall be construed accordingly
Play Space Contribution"	the sum of Nine thousand seven hundred and forty two pounds and eighty five pence (£9,742.85) as increased by the Inflation Provision
"the Plan"	the plan annexed to this Deed
"Planning Obligations"	the planning obligations set out in clause 13 of this Deed
"Planning Permission"	the planning permission to be granted pursuant to the Application
"Qualifying Occupiers"	in relation to any person housed in an Affordable Housing Unit, any person who meets the qualifying criteria as having a total household income at a level which prevents them from obtaining on the open market housing accommodation locally which is reasonably adequate for their needs contained in the Council's policies relating to

housing allocation (as amended from time to time and as formulated pursuant to the provisions of the Housing Acts 1975, 1996 and 2004 and the Homelessness Act 2002) and ranked in accordance with the Local Lettings Policy or where such persons have been exhausted, any person as nominated by the Council on the Broadland Housing Register that the AHP owning or managing the Affordable Housing Units is entitled to house within its rules.

"Site"

the land at Station Road Cantley Norfolk shown for the purposes of identification only edged red on the Plan

1.2 In this Deed unless the context otherwise requires:

- (i) references to any party shall include the successors in title and assigns of that party
- (ii) references to clauses and schedules are references to clauses in and schedules to this Deed
- (iii) any mention in this Deed 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
- (iv) headings in this Deed shall not form part of or affect its construction
- (v) a covenant not to do something includes a covenant not to permit or suffer that thing to be done

WHEREAS:

- A. The 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 freehold owner of the Site registered at the Land Registry under title number NK236036
- C. The Developer has entered into an option with the Owner to acquire the Site
- D. The Developer has submitted the Application
- E. The Council has resolved to approve the application and grant the Planning Permission subject to completion of this Deed

2. GENERAL PROVISIONS APPLICABLE TO THIS DEED

- 2.1 This Deed is made under Section 106 of the Act, Section 111 of the Local Government Act 1972 and any other enabling powers
- 2.2 The obligations of the Owner and the Developer hereunder are planning obligations for the provisions of the Act and are enforceable by the Council against the Owner and its successors in title and assigns
- 2.3 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Deed occurring after he has parted with the interest in the Site or the part of the Site in respect of which such breach occurs but without prejudice to liability for any subsisting breach

M. Muneed
Head of Democratic Services and
Monitoring Officer

which occurs prior to parting with such interest in the Site or any part thereof in respect of which any such breach has taken place

- 2.4 The provisions of this Deed shall have immediate effect upon completion of this Deed with the exception of the Planning Obligations which shall not come into effect until both the grant of the Planning Permission and the Commencement Date
- 2.5 This Deed shall cease to have effect if
 - 2.5.1 the Planning Permission shall be quashed revoked or otherwise withdrawn; or
 - 2.5.2 the Planning Permission shall expire prior to the Commencement Date
- 2.6 This Deed shall be registered as a charge in the Council's Register of Local Land Charges
- 2.7 In the event that this Deed comes to an end the Council if so requested by the Owner and the Developer will execute a deed of release (or partial release) from the relevant provisions of this Deed and procure that a note thereof shall be registered on the Council's Register of Local Land Charges
- 2.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or any renewal thereof or any reserved matters approval with respect thereto) granted after the date of this Deed in respect of which development this Deed will not apply

3. DEEDS AND DECLARATIONS

IT IS HEREBY AGREED AND DECLARED as follows:

3.1 No Fetter of Discretion

Save insofar as legally or equitably permitted nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council in the exercise of its functions as Local Planning Authority and the rights powers duties and obligations under all public and private bylaws and regulations may be as fully and effectively exercised as if the Council were not a party to this Deed

3.2 Invalidity or Unenforceability of any of the Terms of this Deed

If any provision in this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired

3.3 No Waiver

No waiver (whether express or implied) by the Council of any breach or default by the Owner or the Developer in performing or observing any of the covenants in this Deed 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

3.4 Proceeds of Sale

Any proceeds realised from the sale of any Affordable Housing Unit (after repayment of any monies required under a statutory obligation or under the provision of any other charge on the Site ("Net Proceeds") shall, in consultation with the Council, be utilised within 5 years of the date of completion of such sale towards the provision of additional Affordable Housing within the Council's administrative area

4. NOTICES

- 4.1 Any notice document or other correspondence required to be served or given under the provisions of this Deed shall be in writing and delivered personally or sent by pre-paid letter or facsimile

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

The Council	The Director Broadland District Council Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich NR7 0DU
The Owner	Beckhithe Farms Limited Hall Farm Reedham Norfolk NR13 3HW
The Developer	Head of Development Saffron Housing Trust Limited Saffron Barn Swan Lane Long Stratton Norfolk NR15 2XP

- 4.3 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

5. **THIRD PARTIES**

- 5.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person who is not a party to this Deed (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 Deed pursuant to the provisions of the said Act

6. **COSTS**

- 6.1 The Developer shall on completion of this Deed pay the Council's reasonable legal costs incurred in the preparation negotiation and completion of this Deed

7. **PAYMENT OF INTEREST**

- 7.1 The Owner shall pay interest at the rate of 4% above HSBC Bank base rate for the time being in force on any monies due under the provisions of this Deed that remain unpaid for a period exceeding 28 days following a formal demand from the Council until payment of the outstanding sums has been made

8. **VAT**

- 8.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable
- 8.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed, then to the extent that VAT has not previously been charged in

respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

9. JURISDICTION

- 9.1 This Deed is to be governed by and interpreted in accordance with the law of England and Wales

10. OWNER AND DEVELOPER'S INDEMNITY

10. The Owner and the Developer agree that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Site under the terms of this Deed are hereby waived

11. TITLE WARRANTY

The Owner hereby warrants that it is the freehold owner of the Site and has full power to enter into this Deed and that the Site is free from all mortgages charges or other encumbrances and that there is no other parties having any interest in the Site whose consent is necessary to make this Agreement binding on all interests in the Site other than the Developer pursuant to its option agreement to purchase the Site

12. DISPUTES

- 12.1 The parties will attempt in good faith to resolve any dispute or claim arising out of or relating to this Deed promptly through negotiations between the respective senior executives of the parties who have authority to settle the same
- 12.2 If the matter is not resolved through negotiation the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution
- 12.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure or if either party will not participate in an ADR Procedure the dispute may be referred by either party to arbitration for decision by a person appointed by Deed between the parties or in default of Deed by the President for the time being of the Institute of Civil Engineers who shall act as an expert and not as an arbitrator and whose decision shall be final and binding upon the parties.
- 12.4 Nothing in Clauses 12.1 and 12.2 shall apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

13. PLANNING OBLIGATIONS

- 13.1 The Owner hereby covenants with the Council to carry out and comply with the obligations and restrictions set out in Schedule 1 to this Deed
- 13.2 The Owner hereby covenants with the Council to pay to the Council the Play Space Contribution prior to the Occupation of any Dwellings on the Site
- 13.3 The Developer acknowledges to the Council that its interest in the Site under its option agreement with the Owner to purchase the Site is bound by the terms of this Deed

14. COUNCIL OBLIGATIONS

- 14.1 The Council hereby covenants with the Owner that it will deposit the Play Space Contribution into an interest bearing account and will apply the capital and any interest accrued wholly and exclusively towards the improvement of existing play space or the provision and maintenance of new play spaces in the Parish of Cantley
- 14.2 The Council hereby further covenants with the Owner that in the event that
- 14.2.1 the element of the Play Space Contribution attributed by the Council for the provision and/or improvement of play spaces has not been so committed within 5 years of the date of receipt of the balance then the Council will repay to the payer so much of the sum as shall remain uncommitted together with all interest accrued
- 14.2.2 the element of the Play Space Contribution attributed by the Council for the maintenance of play spaces has not been so committed within 5 years of the date of receipt of the balance then the Council will repay to the payer so much of the sum as shall remain uncommitted together with all interest accrued

15. ISSUE OF APPROVALS

- 15.1 Where any approval, consent, agreement or the like is required to be given by the Council pursuant to the terms of this Deed it shall be in writing and shall not be unreasonably withheld or delayed

16. STATUTORY UNDERTAKERS

- 16.1 The obligations and restrictions in this Deed shall not be enforceable against any statutory undertaker which acquires any part of the Site or any interest in it for the purposes of its statutory undertaking or function

17. NOTIFICATION

- 17.1 The Owner agrees to notify the Council of the reaching of any of the occupation or completion thresholds relating to obligations contained in this Deed such notification to be given within 14 days of reaching such threshold
- 17.2 For the purposes of clause 3.4, the Owner agrees to notify the Council in writing of the completion of the sale of any Affordable Housing Unit within 14 days of such completion taking place

EXECUTED by the parties as a deed on the date written above

SCHEDULE 1

AFFORDABLE HOUSING

- 1 Not to construct or procure the construction of the Affordable Housing Units otherwise than in accordance with the Planning Permission, to at least level 3 of the Code and to current HCA Standards.
- 2 Not to use allow or permit the Affordable Housing Units to be occupied for any purpose other than as Affordable Rental Units or such other form of tenure as may previously have been agreed by the Council in writing
- 3 The Affordable Housing Units shall not be occupied other than by Qualifying Occupiers
- 4 That all of the Affordable Housing Units will be subject to the Local Lettings Policy and not to allow or permit the disposal of any of the Affordable Housing Units other than in accordance with the Local Lettings Policy or where such persons have been exhausted, any person as nominated by the Council on the Broadland Housing Register that the AHP owning or managing the Affordable Housing Units is entitled to house within its rules
- 5 The Owner shall not dispose of its freehold interest in the Affordable Housing Units other than to an AHP
- 6 After consultation with the Council, to apply any Net Proceeds towards the provision of Affordable Housing within the administrative area of the Council within 5 years of the date of completion of the sale of any Affordable Housing Unit
- 7 Paragraphs 2 to 6 (inclusive) above shall not be binding upon:
 - (a) any mortgagee in possession of the Affordable Housing Units or part thereof or any successors in title to the mortgagee in possession; nor
 - (b) any receiver or manager (including an administrative receiver) for such mortgagee; nor
 - (c) any individual owner or occupier of any Affordable Housing Unit who has purchased an Affordable Housing Unit pursuant to any right to buy under Part V of the Housing Act 1985 or the right to acquire under Section 180 of the Housing and Regeneration Act 2008 or any similar or substitute right applicable provided such right exists in respect of the Site at the date of that purchase; nor
 - (d) any person or body deriving title under any such persons or bodies referred to in paragraphs 7(a) (b) and (c) inclusive above and all their respective successors in title

SCHEDULE 2

LOCAL LETTINGS POLICY

1. Nomination Rights Policy

- 1.1 The Policy will apply to all categories of properties on the basis of 100% of all lettings for the first 80 years.
- 1.2 The Council and the AHP are both committed to eradicating double scrutiny of nominated households for general needs accommodation. They are also agreed on the move away from a pool nomination system to a direct nomination system where a maximum of 2 households will be nominated in priority order for any letting other than those designated as hard to let where a maximum of 3 households will be nominated

2. Allocations

Allocations will be made to applicants on the Housing List managed and maintained by Broadland District Council on the following priority basis:

- 2.1 Residents of Cantley who have lived in the Parish for a total of at least 3 of the last 10 years.
- 2.2 Former residents of Cantley who have had their main home in the Parish for 3 of the last 10 years.
- 2.3 Households who need to move to the parish of Cantley to give/receive support from family/relatives.
- 2.4 Residents of the adjacent parishes of Beighton, Freethorpe, Reedham and Strumpshaw who have lived in these parishes for the last 3 years.
- 2.5 People working in the parish of Cantley who have done so for 1 year or more.
- 2.6 Residents of Cantley who have lived in the parish for less than 3 years.
- 2.7 Residents of the adjacent parishes of Beighton, Freethorpe, Reedham and Strumpshaw who have lived in these parishes for less than 3 years.
- 2.8 Residents of the adjacent parishes of Acle, Brundall, Halvergate and Lingwood and Burlingham, who have lived in these parishes for the last 3 years.
- 2.9 Residents of the adjacent parishes of Acle, Brundall, Halvergate and Lingwood and Burlingham, who have lived in these parishes for less than 3 years.
- 2.10 Residents of Broadland District
- 2.11 Any other person

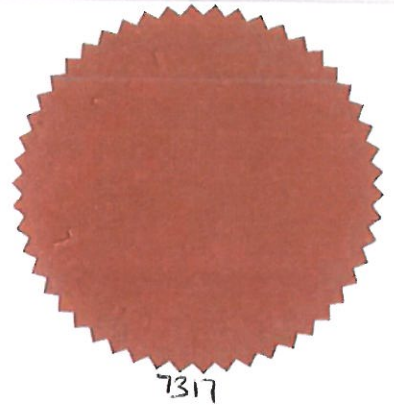
3. Administrative Procedure for Nominations

The administrative procedure for nominations shall be in accordance with the operational procedures of the Home Options Allocations Scheme as amended from time to time or in accordance with alternative procedures as the Council and the AHP shall agree between them.

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

M. Munn
DEMOURANT

Head of Corporate Services
and Monitoring Officer



7317

Executed as a Deed by
BECKHITHE FARMS LIMITED
acting by one director
in the presence of

X *[Signature]*

Witness Signature x

Witness Name x

Witness Address x

DA Cheeseman

DAVID ANDREW CHEESEMAN

30 PRION RD.
NORWICH NR7 0LX

THE COMMON SEAL of
SAFFRON HOUSING TRUST
LIMITED was affixed in the
presence of:

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)
)
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1097

Director

[Signature]

Secretary

[Signature]

