

Dated 4th June

2019

Broadland District Council

-and-

Broadland Growth Limited

and-

Norfolk County Council

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

relating to land at off Rosebery Road, Great Plumstead, Norfolk

THIS DEED OF VARIATION is dated

2019

PARTIES:

- (1) BROADLAND DISTRICT COUNCIL (referred to as "the Council" and also until such time as it ceases to have an interest in the Site, "the Owner".)
- (2) BROADLAND GROWTH LIMITED (Company number 08822021) whose registered office is at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk, NR7 0DU (referred to as "the Developer")
- (3) NORFOLK COUNTY COUNCIL of County Hall, Martineau Lane, Norwich, Norfolk, NR1 2DH (referred to as "the County")

together referred to as 'the Parties'

INTRODUCTION

- (A) The Council is a local planning authority for the area within which the Site is located
- (B) The Developer and the Council have entered into a supplementary agreement to amend the Original Agreement provided the Parties enter into this Deed
- (C) The Owner owns the freehold of the Site
- (D) The County is also a local planning authority for the county of Norfolk
- (E) Having regard to the Council's ownership of the Site and to avoid any suggestion of a conflict of interest or other improper motive of conduct the County has agreed to be the Enforcing Authority for the purpose of this Deed and in relation to the Council's obligations and stipulations (as Owner) contained therein during such a time as the Council has a proprietary interest in the Site as the Owner
- (F) The expressions in this Deed have the meaning ascribed to them in the Original Agreement save as expressly provided in this Deed

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

Original Agreement	An agreement dated 25 th June 2018 made under Section 106 of the Act between the Council (1) Norfolk County Council (2) and the Developer (3) containing planning obligations enforceable by the Council and the County Council relating to planning permission numbered 20171999
Plan	The Plan of the Site attached to this Deed at Schedule 2
Enforcing Authority	Means the County until such time as the Council ceases to have an interest in the Site after which time it means the Council
Site	That land known as the land off Rosebery Road, Great Plumstead, Norfolk and registered at HM Land Registry under title number NK117150 shown edged red on the Plan

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 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 Council's reasonable legal costs in connection with this Deed
- 4.2 the Owner warrants that he has 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 Developer and the Owner agree to meet in equal share the County's reasonable costs acting as the Enforcing Authority in connection with this Deed.

Schedule 1

Variation

1. The Parties agree to vary the Original Agreement as follows:
 - 1.1 The Affordable Housing Mix table in Schedule 2 Part 3 shall be amended by deleting the words "Shared Equity" in respect of the Tenure of plot 19 and plot 20 and inserting the words "Shared Ownership" in their place
 - 1.2 In Schedule 2 Part 1 the definition of "Recycling Obligation" shall be deleted
 - 1.3 In Schedule 2 Part 1 paragraph 1.5.3 is amended to read "a mortgagee or chargee or receiver appointed by a mortgagee or chargee (including an administrative receiver) or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") of the whole or any part of the Affordable Dwelling or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT it has first complied with the following:"
 - 1.4 In Schedule 2 Part 1 paragraphs 1.5.3 (a) and 1.5.3 (b) are deleted and the following paragraphs inserted as follows.
 - (a) the mortgagee or chargee or Receiver shall prior to seeking to dispose of any of the Affordable Dwellings arising from any default under the terms of its mortgage, charge, or other security document give not less than 4 weeks' prior notice to the Council of its intention to dispose of the Affordable Dwellings and:
 - (b) if the council responds within 4 weeks from receipt of the notice served under paragraph 1.5.3(a) indicating that arrangements for the transfer of the Affordable Dwellings can be made in such a way as to safeguard them as affordable dwellings then the mortgagee or chargee or Receiver shall co-operate with such arrangements and use their reasonable endeavours to complete such transfer. However the mortgagee or chargee or Receiver shall not be required to act in a manner that is contrary to its duties under the charge, mortgage or other security document:
 - (c) if the Council does not serve its response to the notice served under paragraph 1.5.3(a) within 4 weeks of the date the notice was served the

mortgagee or chargee or Receiver shall be entitled to dispose of the relevant Affordable Dwellings free of the provisions of this schedule which provisions shall determine absolutely.

(d) if the Council or any other person (authorised and approved by the Council) cannot within 8 weeks of the date of service of its response under paragraph 1.5.3(b) above complete a transfer of the relevant Affordable Dwellings then provided that the mortgagee or chargee or Receiver shall have complied with its obligations under paragraph 1.5.3(b) the mortgagee or chargee or Receiver shall be entitled to dispose of the relevant Affordable Dwellings free of the provisions of this schedule which provisions shall determine absolutely:

(e) none of the provisions contained within this Deed shall place the mortgagee or chargee or Receiver under any obligation to dispose of the Affordable Dwellings for any sum less than the monies outstanding pursuant to the mortgage or charge or other security document inclusive of the principal monies, interest, costs, and charges. Furthermore the mortgagee or chargee or Receiver shall not be required to act contrary to their duties under the charge or mortgage or other security document and the Council shall give full consideration to protect the interest of the mortgagee, chargee or Receiver.

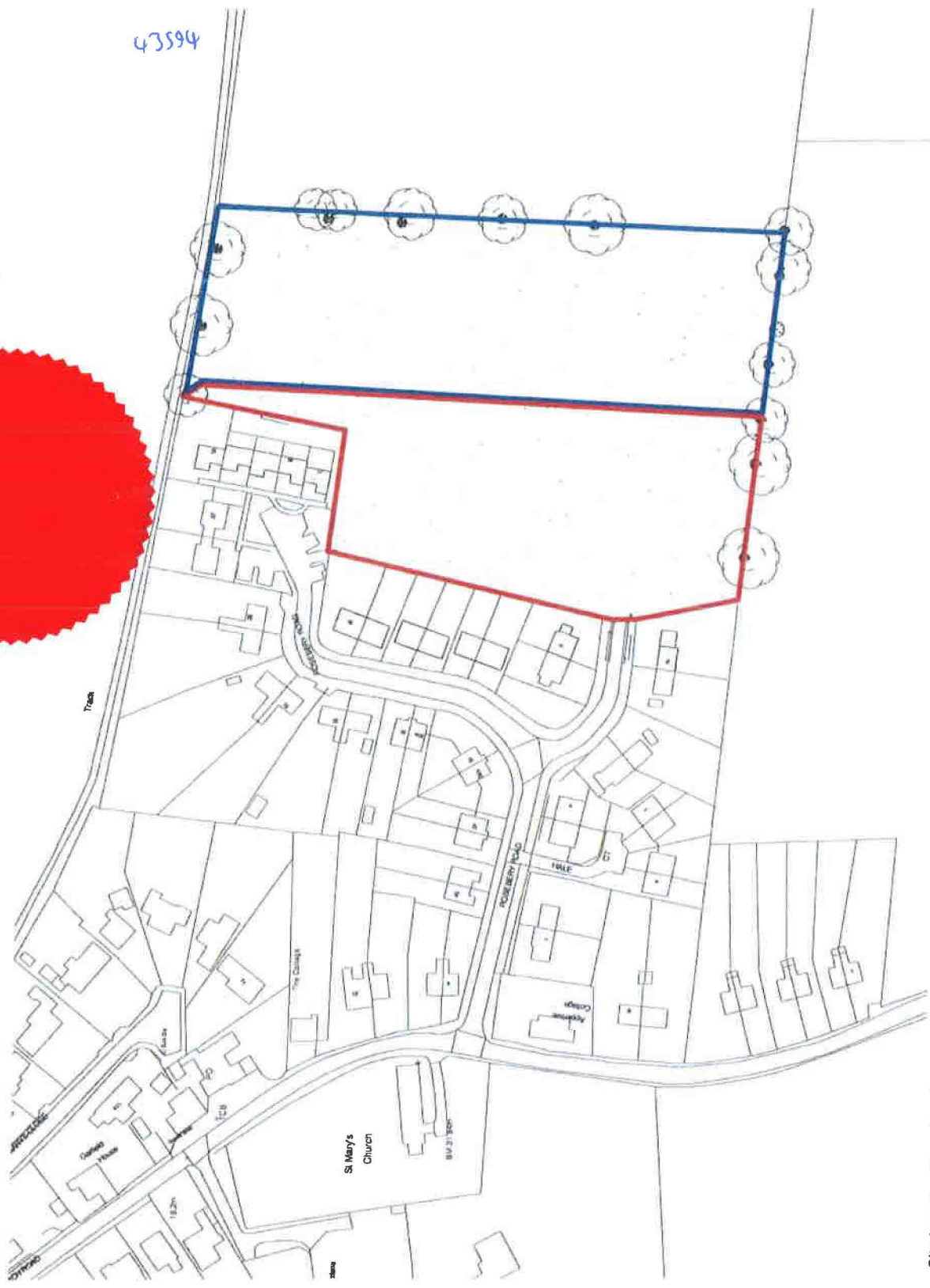
1.5 In Schedule 2 Part 1 paragraph 1.5.4 shall be deleted and replaced by a new paragraph 1.5.4 to read, "any mortgagee or chargee of a Shared Ownership Dwelling lawfully exercising the power of sale contained in the relevant Shared Ownership Lease."

1.6 A new clause 1.5.5 in Schedule 2 Part 1 shall be inserted to read "all persons or bodies deriving title under or through any persons or bodies referred to in paragraphs 1.5.1, 1.5.2, 1.5.3 and 1.5.4 of this Schedule (including their successors in title)"

Schedule 2
The Plan

Head of Democratic Services and Monitoring Officer

943



1 Site Location Plan - Housing
1 : 1250

[illegible]

Rq#	Description	Date
#1	Final Planning Data for Squeeze	07/1/77
#2	Used for Planning	12/1/77

**Hamson
Barron
Smith**

Broadland Growth Ltd	Great Plumstead	Site Location Plan - Housing
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ROLL	PROJECT NUMBER
1250	6004
Architect	
PROJECT NUMBER	REVISED
001	P2
STATUS CODE	DESIGNED BY
S2	Author
FOR PLANNING	

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 the Council
was affixed in the presence of:

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)



Authorised Signatory

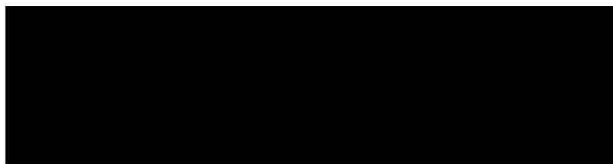
Head of Democratic Services and
Monitoring Officer

7940

Executed as a deed by
BROADLAND GROWTH LIMITED acting by

)
)

Director



THE COMMON SEAL OF Norfolk County Council
was affixed in the presence of:

)
)



Authorised to sign on behalf of Chief Legal Officer

Authorised to sign on behalf of Chief Legal Officer

