

Dated 23 December

2016

Broadland District Council

-and-

Orbit South Housing Association Limited

(Exempt Charity)

-and-

Orbit Group Limited

(Exempt Charity)

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

relating to land at Strumpshaw Road,  
Brundall

THIS DEED OF VARIATION is dated

23 December

2016

**PARTIES:**

- (1) **Broadland District Council** of Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, NR7 0DU (referred to as "the Council")
- (2) **ORBIT SOUTH HOUSING ASSOCIATION LIMITED (EXEMPT CHARITY)**, whose registered office is at Garden Court, Binley Business Park, Harry Weston road, Coventry, West Midlands, CV3 2SU (Registered Society Number 28702R) (referred to as "South")
- (3) **ORBIT GROUP LIMITED (EXEMPT CHARITY)** whose registered office is at Garden Court, Binley Business Park, Harry Weston Road, Coventry, West Midlands, CV3 2SU (referred to as "Group")

(South and Group together referred to as 'the Owners')

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 Owners have applied to the Council for the Original Agreement to be varied and the Council has agreed to the variation provided the Parties enter into this Deed
- (C) South owns Plots 3-10 which are registered at the Land Registry under title number NK458931
- (E) Group owns Plots 11-13 which are registered at the Land Registry under title number Nk458932 and Plots 26-29 which are registered at the Land Registry under title number NK459630.
- (F) The expressions in this Deed have the meaning ascribed to them in the Original Agreement save as expressly provided in this Deed
- (G) The Parties to this Deed have agreed that it is not necessary for the County

Council to be a party to this Deed because it is not an authority by whom any obligation that is being varied by this Deed is enforceable in accordance with section 106A of the Act.

## **1. DEFINITIONS**

In this Deed the following expressions have the following meanings:

Original Agreement	An agreement dated 10 December 2012 made under Section 106 of the Act between the Council (1) Norfolk County Council (2) Graham John Field (3) Wayne Stanley Biss (4) and James Stanley Biss (5) containing planning obligations enforceable by the Council and the County Council
Shared Ownership Dwelling	Means Affordable Housing Units to be constructed or provided as part of and in accordance with the Affordable Housing Scheme and to be let on a Shared Ownership Lease
Shared Ownership Lease	<p>a lease in a form approved by the HCA or where there is no such form in a form approved by the Council such lease to provide for the following:</p> <ul style="list-style-type: none"><li>- not more than 75% and not less than 25% of the equity (or such other percentages the Council may agree) shall be initially sold to the purchaser by the Registered Provider</li><li>- power to the purchaser to increase their ownership up to 100% if they so wish</li><li>- an initial rent not exceeding 2.75% of the value of the equity retained by the AHP subject to annual increases not exceeding Retail Price Index (All Items) published by the Office for National Statistics (or if such index ceases to be published such other index</li></ul>

as the Council shall reasonably determine) plus 0.5%  
or such other rent as complies with the requirements  
from time to time of the HCA

## **2. LEGAL BASIS**

- 2.1 This Deed is supplemental to the Original Agreement and is made pursuant to Section 106A of the Act but to the extent that any obligations contained in this Deed of Variation are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972 and Section 2 of the Local Government Act 2000 and all other enabling powers.
- 2.2 The covenants and obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act enforceable by the Council
- 2.3 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 Owner 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

## **Schedule**

### **Variation**

- 1 Paragraph 1.7 of Schedule 2 of the Original Agreement is deleted and replaced with the following:
  - 1.7 Paragraphs 1.3 and 1.4 and 1.5 above shall not be binding upon:
    - 1.7.1 A person acquiring an interest in an Affordable Housing Unit under a statutory right to buy or acquire;
    - 1.7.2 A Qualifying Occupier who has staircased under a Shared Ownership Lease to acquire 100% of the leasehold or freehold interest.
    - 1.7.3 A mortgagee to a Shared Ownership lessee who is validly exercising the mortgagee protection clause in the Shared Ownership Lease.
    - 1.7.4 A mortgagee or chargee to the AHP (or any receiver (including an administrative receiver or administrator) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security (each a "Receiver") of the whole or any part of the Affordable Housing Unit or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT it is has first complied with the following:
      - a) such mortgagee or chargee or Receiver shall first give notice to the Council of its intention to dispose of the Affordable Housing Units and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Units to another AHP or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest, costs and expenses; and
      - b) if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Units free from the obligations contained in this Schedule which provisions shall determine absolutely in relation to the affected Affordable Housing Units
  - 1.7.5 Successors in title to those persons specified in clauses 1.7.1-1.7.4

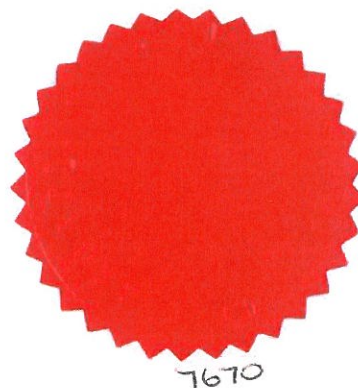


IN WITNESS whereof the parties hereto have executed this document as a Deed on the day and year first before written.

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

*M. Mue*  
Authorised Signatory

Head of Democratic Services and  
Monitoring Officer



The Common Seal of )  
**ORBIT SOUTH HOUSING** )  
**ASSOCIATION LIMITED** )  
(Exempt Charity) )  
was hereunto affixed )  
In the presence of )

Director

Secretary



The Common Seal of )  
**ORBIT GROUP LIMITED** )  
(Exempt Charity) )  
was hereunto affixed )  
In the presence of )

Director

Secretary



