

Dated 10th February 2017

Broadland District Council

-and-

P C J Swann

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

relating to land on the North side of the High Street, Marsham, Norfolk

THIS DEED is dated

10th February

2017

PARTIES:

- (1) BROADLAND DISTRICT COUNCIL, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk NR7 0DU (referred to as "the Council")
- (2) PHYLLIS CLARA JOAN SWANN of Churchfield, Hungate Street, Aylsham, Norfolk NR11 6JZ (referred to as "the Owner")

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 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 Site

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

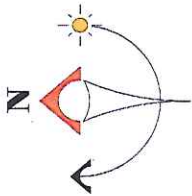
Act	The Town and Country Planning Act 1990
Commencement	The date on which a material operation as defined in Section 56(4) of the Act is first carried out, except operations consisting of: site clearance demolition archaeological investigations ground surveys removal of contamination erection of temporary fences and 'Commence' and 'Commenced' will be

	construed accordingly
Development	The development of the Site in accordance with the Permission
Dwelling	A dwelling to be built on the Site as part of the Development
Nominated Officer	The senior officer of the Council responsible for development management or other officer of the Council notified to the Owner
Inflation Provision	The increase (if any) in the Royal Institute of Chartered Surveyors Build Cost Information Service All in tender price Index. between 1 st January 2015 and the date upon which a payment of each and any of the Contributions referred to in the Second, Third and Fourth Schedules is made pursuant to this Agreement (or if such index ceases to be published, another index notified to the Owner by the Nominated Officer)
Occupation	Occupation of the Site, or any part of it, for any purpose authorised by the Permission, but excluding occupation for the purposes of: construction internal and external refurbishment decoration fitting-out marketing and 'Occupy' and 'Occupied' will be construed accordingly
Permission	The planning permission to be granted by the Council for the erection of 8 dwellings with associated onsite parking provision, garages and gardens and allocated reference number 20161232 or if the Council agrees (in its absolute discretion) in writing another planning permission for the Development

	granted pursuant to section 73 of the Act or a replacement permission for the Development
Plan	The plan attached to this Deed
Site	The land known as land on the North side of the High Street, Marsham and registered at H M Land Registry under title number NK362280 shown edged red on the Plan
Trigger	means the Commencement date and any trigger or threshold in this Deed linked to the taking of specified steps, payment of money, or linked to the prohibition of a specified action

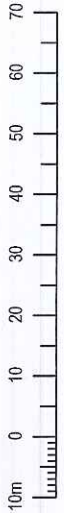
2. LEGAL BASIS

- 2.1 This Deed is made pursuant to Section 106 of the Act and 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 It is agreed by the Parties that any obligation contained within this Deed which sets out how a planning obligation will be performed will not amount to more than one planning obligation per Schedule for the purposes of Regulation 123 of the Community Infrastructure Levy Regulations 2010, as amended
- 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 or permit it to be done



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Site Area = 3782m²



**BROADLAND
DISTRICT COUNCIL**
13 July 2016
20161232
PLANNING CONTROL

Rev	Date	Description	Drawn	Checked
			LA	
			1/1250 @ A4	
			Issue	
			FOR COMMENT ONLY	
			Drawing No.	
			9950-1001	
			All dimensions must be site checked and not scaled from this drawing	
			©COPYRIGHT	

Richard Pike Associates
Building, Design and Planning Specialists
Jonathan Scott Hall Thorpe Road Norwich Norfolk NR1 1UH
t: 01603 611232
e: info@richardpike.co.uk
www.richardpike.co.uk

Project Details	Land to Rear of 42-46 High Street, Marham
Client	Newton Developments Norfolk Ltd
Drawing	Site Location Plan
Date	July 2015

Head of Democratic Services and
Monitoring Officer



Handwritten signature: X P. J. Swann

Handwritten number: 7683

- 2.6 This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales

3. CONDITIONALITY

This Deed is conditional upon:

- (i) The grant of the Planning Permission; and
- (ii) The Commencement of Development

Save for clause 5.4 which shall come into effect immediately upon completion of this Deed.

4. COVENANTS

- 4.1 The Owner covenants with the Council for herself and her successors in title to observe and perform the obligations and stipulations contained in this Deed
- 4.2 The Council covenants with the Owner to comply with its requirements contained in this Deed

5. OTHER PROVISIONS

- 5.1 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 5.2 The Owner confirms that he is the owner of the Site with full power to enter into this Deed and that there is no person or body with an interest in the Site whose

consent is necessary to make this Deed binding on all interests in the Site

- 5.3 This Deed will not bind anyone who acquires an interest in part of the Site for the purpose of the supply of utility services
- 5.4 On completion the Owner will pay the Council's reasonable legal costs in connection with this Deed
- 5.5 This Deed shall be registrable as a local land charge by the Council
- 5.6 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 5.7 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 5.8 No waiver, express or implied, by the Council constitutes a continuing waiver, nor prevents the Council from enforcing any of the provisions in this Deed
- 5.9 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 5.10 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.
- 5.11 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) granted (whether or not on appeal) after the date of this Deed.

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 Any expert howsoever appointed shall be subject to the express requirement that a decision was reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.
- 6.3 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.
- 6.4 Nothing in this Clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

7. INTEREST AND VAT

- 7.1 If any payment due to the Council is paid late interest will be added from the date payment is due to the date of payment at the rate of 4% above the base lending rate of the Bank of England from time to time
- 7.2 All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid upon receipt of an appropriately addressed invoice.

8. NOTIFICATIONS

- 8.1 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
- 8.2 The Owner will notify the Nominated Officer in writing of the relevant
- 8.2.1 anticipated Triggers seven days in advance of each anticipated date; or
 - 8.2.2 actual Triggers within seven days of each actual date
- 8.3 If the Owner disposes of his interest in all or part of the Site he will notify the Nominated Officer within 7 days of the name and address of the new owner and sufficient details to identify the Site or part of the Site

FIRST SCHEDULE

The Site

The land known as land on the North side of the High Street, Marsham and forming part of the land registered at H M Land Registry under title number NK362280 and shown edged red on the Plan

SECOND SCHEDULE

Green Infrastructure

In this Schedule (and elsewhere in this Deed where the context permits) the following words and phrases shall have the following meaning:

Green Infrastructure Commuted Sum	Means the sum of £14,957.95 as increased in accordance with the Inflation Provision.
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1. The Owner covenants with the Council as follows:

- 1.1 Not to Occupy or allow Occupation of any Dwelling until the Green Infrastructure Commuted Sum has been paid to the Council.

2. The Council covenants with the Owner as follows:

- 2.1 To deposit the Green Infrastructure Commuted Sum in an interest bearing account and apply the capital and any interest accrued towards the provision and maintenance of green infrastructure within the administrative area of the Council which will mitigate the potential impact of the Development on sites in Norfolk designated by the European Union as sites of importance for landscape habitats flora or fauna.
- 2.2 In the event that the Green Infrastructure Commuted Sum has not been committed (by way of contract or expenditure of monies) within 10 years of receipt of payment to refund any unspent balance of the contribution to the payer together with any interest accrued.

THIRD SCHEDULE

Equipped Play Space

In this Schedule (and elsewhere in this Deed where the context permits) the following words and phrases shall have the following meaning:

Equipped Play Space Commuted Sum	Means the sum of £1,995.45 as increased in accordance with the Inflation Provision.
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1. The Owner covenants with the Council as follows:

- 1.2 Not to Occupy or allow Occupation of any Dwelling until the Equipped Play Space Commuted Sum has been paid to the Council.

2. The Council covenants with the Owner as follows:

- 2.1 To deposit the Equipped Play Space Commuted Sum in an interest bearing account and apply the capital and any interest accrued towards the improvement of the play area at George Edwards Close, Marsham
- 2.2 In the event that the Equipped Play Space Commuted Sum has not been committed (by way of contract or expenditure of monies) within 10 years of receipt of payment to refund any unspent balance of the contribution to the payer together with any interest accrued.

FOURTH SCHEDULE

Sports Provision Commuted Sum

In this Schedule (and elsewhere in this Deed where the context permits) the following words and phrases shall have the following meaning:

The Sports Provision Commuted Sum	Means the sum of £9799.01 as increased in accordance with the Inflation Provision.
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1. The Owner covenants with the Council as follows:

- 1.3 Not to Occupy or allow Occupation of any Dwelling until the Sports Provision Commuted Sum has been paid to the Council.

2. The Council covenants with the Owner as follows:

- 2.1 To deposit the Sports Provision Commuted Sum in an interest bearing account and apply the capital and any interest accrued towards the provision and maintenance of sports/recreation facilities within the parish of Marsham
- 2.2 In the event that the Sports Provision Commuted Sum has not been committed (by way of contract or expenditure of monies) within 10 years of receipt of payment to refund any unspent balance of the contribution to the payer together with any interest accrued.

FIFTH SCHEDULE

Council Covenants

1. The Council covenants with the Owner as follows:

- 1.1 At the written request of the Owner the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed. For the avoidance, of doubt, no administration charge or other fee shall be payable in respect of this Fifth Schedule.

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

Head of Democratic Services and
Monitoring Officer

Authorised Signatory:

EXECUTED AS A DEED by
Phyllis Clara Joan Swann
in the presence of:

) P.C.S. J. Swann, ✓

signature of witness J. Two. ✓

printed name of witness JEAN TWO

Address of witness 65 HOWARD WAY
AYLSHAM
NORFOLK NR11 6XD