

Dated 21<sup>ST</sup> AUGUST 2017

Broadland District Council

-and-

WM Tubby Limited

-and-

Norfolk Homes Limited

- and -

Lidl UK GmbH

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

relating to land to the north of Blue Boar Lane, Sprowston, Norfolk

**THIS DEED** is dated

21<sup>ST</sup> AUGUST

2017

**PARTIES:**

- (1) BROADLAND DISTRICT COUNCIL, Thorpe Lodge, 1 Yarmouth Road, Norwich NR7 0DU (referred to as "the Council")
- (2) WM TUBBY LIMITED, Company Number 00564700 whose registered office is at Stanley House, Stanley Street, Lowestoft, Suffolk NR32 2DZ (referred to as "the First Owner")
- (3) NORFOLK HOMES LIMITED, Company Number 01910791 whose registered office is at 52 Cambridge Road South, London W4 3DA (referred to as "the Second Owner")
- (4) LIDL UK GmbH company number FC017929 registered in West Germany, UK establishment number BR002417 whose UK establishment office is at 19 Worple Road, London, Wimbledon, SW19 4JS (referred to as "the Developer")

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 has entered into a conditional contract in respect of the Site dated 17 February 2016 and has applied for the Permission and the Council has resolved to grant the Permission provided the Parties enter into this Deed
- (C) The First Owner and the Second Owner (together referred to as "the Owners") jointly own 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	<p>The date on which a material operation as defined in Section 56(4) of the Act is first carried out, except operations consisting of:</p> <ul style="list-style-type: none"> <li>site clearance</li> <li>demolition</li> <li>archaeological investigations</li> <li>ground surveys</li> <li>removal of contamination</li> <li>erection of temporary fences</li> </ul> <p>and 'Commence' and 'Commenced' will be construed accordingly</p>
Development	The Development of the Site in accordance with the Permission
Nominated Officer	The senior officer of the Council responsible for development management or other officer of the Council notified to the Owners and the Developer
Index Linked	<p>Index linked from 10 May 2017 until the date any payment referred to in this Deed is made, such index linking being equivalent to any change in the RICS Building Cost Information Service All In Tender Index (or if such index cease to be published, another index notified to the Owners and the Developer by the Nominated Officer)</p>
Occupation	<p>Occupation of the Site, or any part of it, for any purpose authorised by the Permission, but excluding occupation for the purposes of:</p> <ul style="list-style-type: none"> <li>construction</li> </ul>

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 a Lidl store (Use Class A1) and associated works including parking and landscaping and allocated reference number 20161382 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**

Part of the land known as land to the north of Blue Boar Lane, Sprowston, Norfolk and registered at HM Land Registry under title number NK413170 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



**POOLE & PATTLE**  
 chartered arch tects

PROPOSED LUL SPROMSTON, NORWICH	MAY 2015	1:1250 @ A4	08	E
SITE LOCATION PLAN				



*name*

Head of Democratic Services and  
 Monitoring Officer



*George*  
*RB*

*[Signature]*

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, reference to a gender or person includes all genders or classes of person and reference to the singular includes the plural and vice versa where the context so requires
- 2.5 Any covenant in this Deed not to do something includes an obligation not to allow or permit it to be done
- 2.6 This Deed is governed by and interpreted in accordance with the law of England

### **3. COVENANTS**

- 3.1 The Owners covenant with the Council for themselves and their successors in title to observe and perform the obligations and stipulations contained in this Deed
- 3.2 The Council covenants with the Owners and with the Developer to comply with their respective requirements contained in this Deed



#### **4. OTHER PROVISIONS**

- 4.1 No person will be liable for any breach of this Deed if he no longer has an interest in the Site (unless the breach occurred before he disposed of his interest)
- 4.2 The Owners confirm that they are the owners of the Site with full power to enter into this Deed and that there is no person or body other than the Developer with an interest in the Site whose consent is necessary to make this Deed binding on all interests in the Site
- 4.3 This Deed will not bind anyone who acquires an interest in part of the Site for the purpose of the supply of utility services
- 4.4 On completion the Developer will pay the Council's reasonable legal costs in connection with this Deed
- 4.5 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999
- 4.6 If any provision of this Deed is held to be invalid, illegal or unenforceable it will not affect the remaining provisions
- 4.7 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. DISPUTES**

- 5.1 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

- 5.2 Nothing in this Clause will apply to the recovery of liquidated sums or prevent the parties from commencing or continuing court proceedings

## **6. INTEREST AND VAT**

- 6.1 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
- 6.2 All payments under this Deed are exclusive of value added tax (VAT) and any VAT due must also be paid

## **7. NOTIFICATIONS**

- 7.1 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
- 7.2 The Owners will notify the Nominated Officer in writing of the relevant
- 7.2.1 anticipated Triggers seven days in advance of each anticipated date
  - 7.2.2 actual Triggers within seven days of each actual date
- 7.3 If the Owners dispose of their interest in all or part of the Site they 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



## Plan

## **Schedule**

### **Contribution to Mitigate Loss of Community Use on Site**

#### **Part 1 Owner Obligations**

1. Prior to Commencement of the Development to pay to the Council the sum of forty thousand pounds (£40,000.00) Index Linked to be used on improving community facilities at Sprowston Town Council's premises at the Diamond Centre, School Lane, Sprowston.

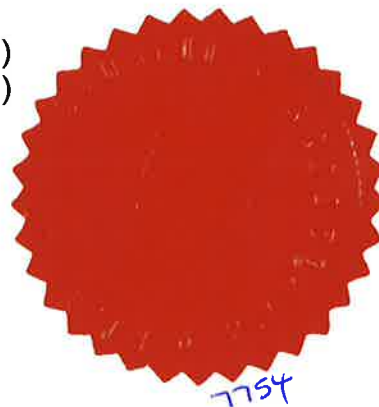
#### **Part 2 Council Obligations**

2. The Council shall hold any contribution received under this Schedule in an interest bearing account and apply the same (together with any interest accrued) towards the purposes for which they were paid and in the event that the contributions have not been committed (by way of contract or expenditure of the monies) within 5 years of receipt of the total amount of the relevant contribution to repay the unspent balance to the payer together with any interest accrued.

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:

)  
)



Authorised Signatory:

*M. Mue*

Head of Democratic Services and  
Monitoring Officer

EXECUTED AS A DEED by WM Tubby Limited  
in the presence of:

)  
)

Director:

*[Signature]*

Director/Secretary:

*[Signature]*

EXECUTED AS A DEED by Norfolk Homes Limited  
in the presence of:

)  
)

Director:

*[Signature]*

Director/Secretary:

*[Signature]*

EXECUTED AS A DEED by Lidl UK GmbH  
in the presence of:

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Director:

Director/Secretary:

