

DATE 13 February 2020

- (1) WEST SUFFOLK COUNCIL
- (2) SUFFOLK COUNTY COUNCIL
- (3) BENNETT PLC
- (4) STEPHEN CHARLES PALMER AND CHRISTOPHER STANLEY PALMER  
AND STUART WILLIAM PALMER

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**Planning Obligation by Deed of Variation under Section 106  
of the Town and Country Planning Act 1990**

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relating to

**Land off Briscoe Way and to the west of Drift Way Lakenheath Suffolk**

West Suffolk Council  
West Suffolk House  
Western Way  
Bury St. Edmunds  
Suffolk

**THIS DEED OF VARIATION** is made the 13 day of February 2020

**PARTIES:**

- (1) **WEST SUFFOLK COUNCIL** of West Suffolk House Western Way Bury St. Edmunds Suffolk IP33 3YU (hereinafter called the "**Council**")
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House 8 Russell Road Ipswich Suffolk IP1 2BX (hereinafter called the "**County Council**")
- (3) **BENNETT PLC** (company registration number 01031743) whose registered address is Low Green Barn Nowton Bury St Edmunds IP29 5ND (hereinafter called the "**Developer**")
- (4) **STEPHEN CHARLES PALMER** of Palmers Heath Farm Station Road Lakenheath Suffolk **CHRISTOPHER STANLEY PALMER** of 74 Covey Way Lakenheath Suffolk and **STUART WILLIAM PALMER** of 12 Elm Close Lakenheath Suffolk (hereinafter called the "**Owners**")

**RECITALS**

- A The Council (formally known as Forest Heath District Council) is a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable
- B The County Council is the local highway authority (except for trunk roads) the local education authority the local library authority and is also a local planning authority for the purposes of the Act for the area in which the Site is situated and by whom the obligations contained in this Deed are enforceable
- C The Developer owns part of and has the benefit of an option agreement to purchase the remainder of the Site
- D The Owners are the freehold owners of the majority of the Site registered at the Land Registry under the title number SK228079 and the Developer is the freehold owner of the remainder of the Site (being the Access Spurs) which is registered at the Land Registry together with other land under title number SK217330
- E On the 23<sup>rd</sup> October 2018 a deed pursuant to Section 106 of the Town and Country Planning Act was entered into by the Parties which was secured by planning permission and given the reference DC/13/0660/FUL (hereinafter called the "**Principal Deed**")

F On the 5<sup>th</sup> July 2019 the Developer submitted a planning application which varies planning permission DC/13/0660/FUL and the council is resolved to grant planning permission under the reference DC/19/1392/VAR (hereinafter called the "**Variation Permission**")

G Without prejudice to the terms of the other covenants contained in the Principal Deed the Parties hereto agree to vary the Principal Deed on such terms as set out herein

**1. DEFINITIONS**

For the purposes of this Deed the words and expressions defined in the Recitals shall have the meanings given to them respectively by the Recitals

**2. INTERPRETATION**

2.1 Words and expressions defined in the Principal Deed shall have the same meanings in this Deed except to the extent that they are expressly varied by this Deed

2.2 Any reference to the "Parties" is a reference to the parties to this Deed

2.3 The Parties do not intend that any of this Deed's terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it

**3. VARIATIONS TO THE PRINCIPAL DEED**

3.1 The Parties agree that the Principal Deed shall be varied as set out in this clause but otherwise the Principal Deed shall remain in full force and effect

3.2 Within the agreed terms of the Principal Deed the definition of "Variation Application" shall be inserted as follows

"Variation Application"	the application made pursuant to section 73 of the Act for variation of condition 20 of planning permission DC/13/0660/FUL which was validated on 22 <sup>nd</sup> July 2019 and given the reference DC/19/1392/VAR by the Council
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3.4 Within the agreed terms of the Principal Deed the definition of "Planning Permission" shall be deleted and replaced with the following definition

"Planning Permission"	the planning permission granted pursuant to the Application and the planning permission granted pursuant to the Variation Application
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#### **4. EFFECTIVE DATE**

The amendments to the Principal Deed made by this Deed shall come into effect on the date of the grant of the Variation Permission

#### **5. CONTINUATION OF THE PRINCIPAL DEED**

This Deed does not release any party to it from any breaches of the Principal Deed existing at the date of this Deed save where variations contained in this Deed remove the obligation of which the Party is in breach

#### **6. AGREEMENTS AND DECLARATIONS**

6.1 This Deed is made pursuant to sections 106 and 106A of the Act section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers

6.2 The covenants restrictions and requirements imposed by this Deed create planning obligations pursuant to section 106 of the Act and are enforceable by the Council as the local planning authority against the Owner and their successors in title

6.3 This Deed will be registered as a local land charge by the Council

6.4 No person or body will be liable for any breach of the terms of this Deed occurring after the date on which they part with their interest in the Property or the part of the Property in respect of which such breach occurs but they will remain liable for any breaches of this Deed occurring before that date

#### **7. MISCELLANEOUS**

7.1 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed

7.2 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions functions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as local authorities

#### **8. LEGAL FEES**

The Developer shall pay the reasonable legal costs of the Council and the reasonable legal costs of the County Council on completion of this Deed incurred in the negotiation preparation and execution of this Deed

**9. JURISDICTION**

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

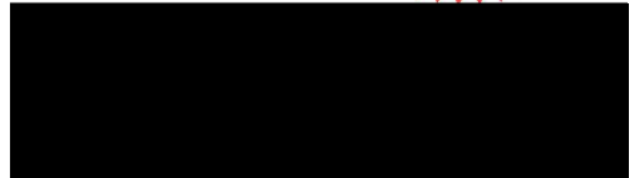
**10. DELIVERY**

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

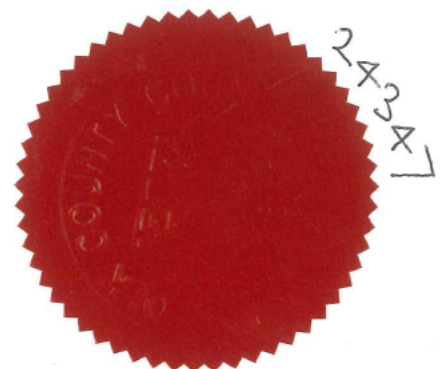
**11. EXECUTION**

The Parties have executed this Deed as a deed and it is delivered on the date set out in this Deed

THE COMMON SEAL OF )  
WEST SUFFOLK COUNCIL )  
was affixed in the presence of: )



THE COMMON SEAL OF )  
SUFFOLK COUNTY COUNCIL )  
was affixed in the presence of: )



Authorised Officer



**SIGNED AS A DEED BY**

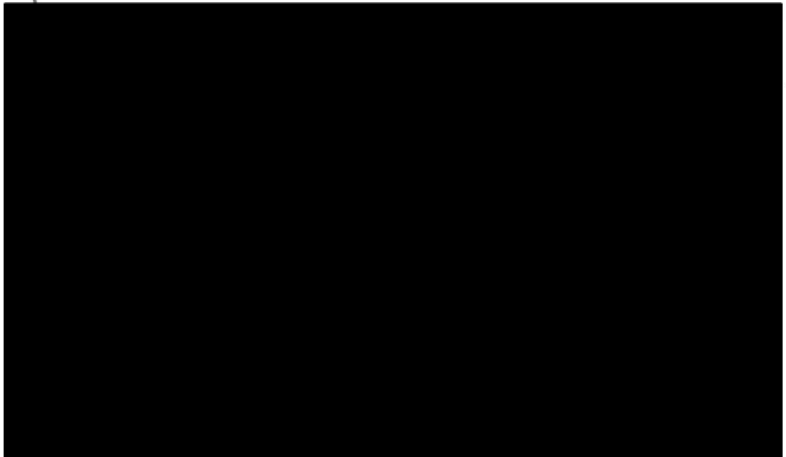
**BENNETT PLC**

acting by a director in the presence of:

Signature of witness

Name of witness

Address



**SIGNED AS A DEED BY**

**STEPHEN CHARLES PALMER**

Signature of witness

Name of witness

Address



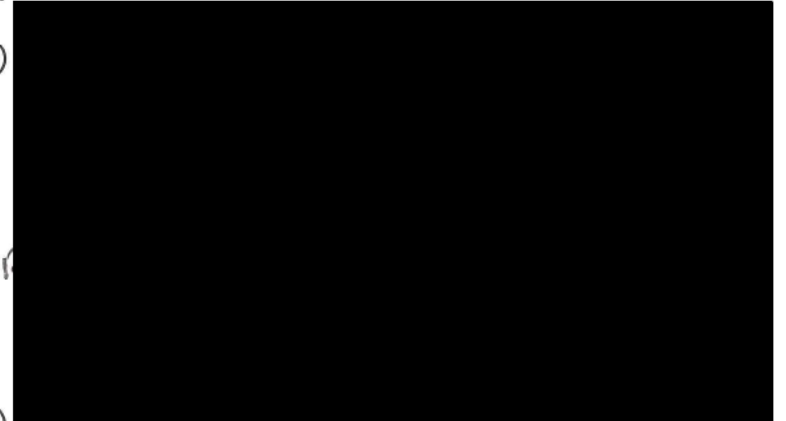
**SIGNED AS A DEED BY**

**CHRISTOPHER STANLEY PALMER**

Signature of witness

Name of witness

Address



**SIGNED AS A DEED BY**

**STUART WILLIAM PALMER**

Signature of witness

Name of witness

Address

