

Dated 29 MARCH 2021

SUFFOLK COUNTY COUNCIL

-and-

HEATHER ELISABETH RUTH STENNETT and JENNIFER EMMALINE
STENNETT

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

relating to land at Candlet Road, Felixstowe

THIS DEED OF VARIATION is dated 29 MARCH 2021

PARTIES:

- (1) **SUFFOLK COUNTY COUNCIL** of the Endeavour House, 8 Russell Road, Ipswich IP1 2BX ("the County Council"); and

- (2) **HEATHER ELISABETH RUTH STENNETT** of Cowpasture Farm, Gulpher Road, Felixstowe, Suffolk and **JENNIFER EMMALINE JEMMA STENNETT** of Daisy Farmhouse, Melton Park, Melton Constable NR24 2NG ("Owner") together referred to as 'the Parties'

INTRODUCTION

- (A) The County Council is the local planning authority and the local education authority for the purposes of the 1990 Act for the area in which the Site is situated and is the party entitled to enforce the obligations contained in this Deed and to enforce the obligations given to the County Council in the Original Undertaking.
- (B) The Owner owns the freehold of the property at Cowpasture Farm, Gulpher Road, Felixstowe being the freehold land registered at the Land Registry with the title number SK311077 shown for identification purposes coloured green on the Plan attached to the Original Undertaking
- (C) Alan Edward Krailing, Heather Elisabeth Ruth Stennett and Mark Richard Stennett as the Trustees for the time being of the E G Stennett Will Trust owns the freehold of the property at Abbey Farm, Gulpher Road, Felixstowe being the freehold land registered at the Land Registry with title number SK311087 shown for identification purposes coloured blue on the Plan attached to the Original Undertaking
- (D) The Planning Appeal was allowed by the Secretary of State on 31 August 2017
- (E) The County Council has been requested to vary the Original Undertaking and the County Council has agreed to vary the Original Undertaking on the terms set out in this Deed
- (F) The expressions in this Deed have the meaning ascribed to them in the Original

Undertaking save as expressly provided in this Deed

1. DEFINITIONS

In this Deed the following expressions have the following meanings:

- "Original Undertaking" a unilateral undertaking given by Jennifer Emmaline Jemma Stennett and Heather Elisabeth Ruth Stennett (1); and the Owner (2) to Suffolk Coastal District Council (3); and the County Council (4) made pursuant to section 106 of the 1990 Act and dated 7 October 2016
- "Reserved Matters Application" the application submitted to East Suffolk Council and allocated reference DC/20/1002/ARM for "*Approval of Reserved Matters and Discharge of Condition 18 relating to Outline Planning Consent (PP/J3530/W/15/3138710 - DC/15/1128/OUT) - Phase 1 - Residential (262 Dwellings, open space and supporting services and infrastructure)*" that includes drawing 956-P-103 Rev A

2. LEGAL BASIS

- 2.1 This Deed is supplemental to the Original Undertaking and is made pursuant to section 106 and section 106A of the 1990 Act and to the extent that it does not contain planning obligations 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 1990 Act enforceable by the County Council
- 2.2 The terms and conditions of the Original Undertaking shall remain in full force

and effect except as varied by this Deed

- 2.3 Save for this Clause 2.3 and Clauses 1, 2.1 and 4 this Deed shall be conditional upon the approval of the Reserved Matters Application

3. VARIATION

- 3.1 The Parties agree that the Original Undertaking is varied in the manner specified in the Schedule to this Deed
- 3.2 The Original Undertaking shall from the date of this Deed be read and construed as varied by the Schedule to this Deed
- 3.3 In all other respects the contents of the Original Undertaking 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 County Council's reasonable legal costs in connection with this Deed
- 4.2 On completion the East Suffolk Council will register this Deed in its Register of Local Land Charges
- 4.3 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
- 4.4 This Deed shall be governed by and construed in accordance with the laws of England and each of the parties hereby submits to the exclusive jurisdiction of the English Courts
- 4.5 A person who is not a party to this Deed shall have no right under the Contracts

(Rights of Third Parties) Act 1999 to enforce any term of this Deed

- 4.6 If any provision of this Deed shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed to be affected or impaired
- 4.7 Words and expressions defined in the Original Undertaking shall, unless the context or the express terms of this Deed otherwise require, bear the same meaning in this Deed

**Schedule
Variation**

- 1 A definition of "Leveling Plan" shall be added to Clause 1.1 of the Original Undertaking as follows:

"Leveling Plan" means the plan labelled 219213-CDP-DR-XX-XX-A-001 appended to this Deed (or as otherwise agreed between the First Owner and the County Council)

- 2 A definition of "Primary School Site Plan" shall be added to Part 4 of Schedule 2 of the Original Undertaking as follows:

"Primary School Site Plan" means drawing number 956-P-103 Rev A or such other drawing approved under the Reserved Matters Application identifying the location of the Primary School Site (unless otherwise agreed in writing between the County Council and the First Owner)

- 3 The definition of "Primary School Site" at Part 4 of Schedule 2 of the Original Undertaking shall be deleted and replaced with the following:

"Primary School Site" means the area shaded yellow and marked "SCHOOL AREA" for identification purposes only (or as otherwise identified) on the Primary School Site Plan (unless otherwise agreed in writing between the County Council and the First Owner)

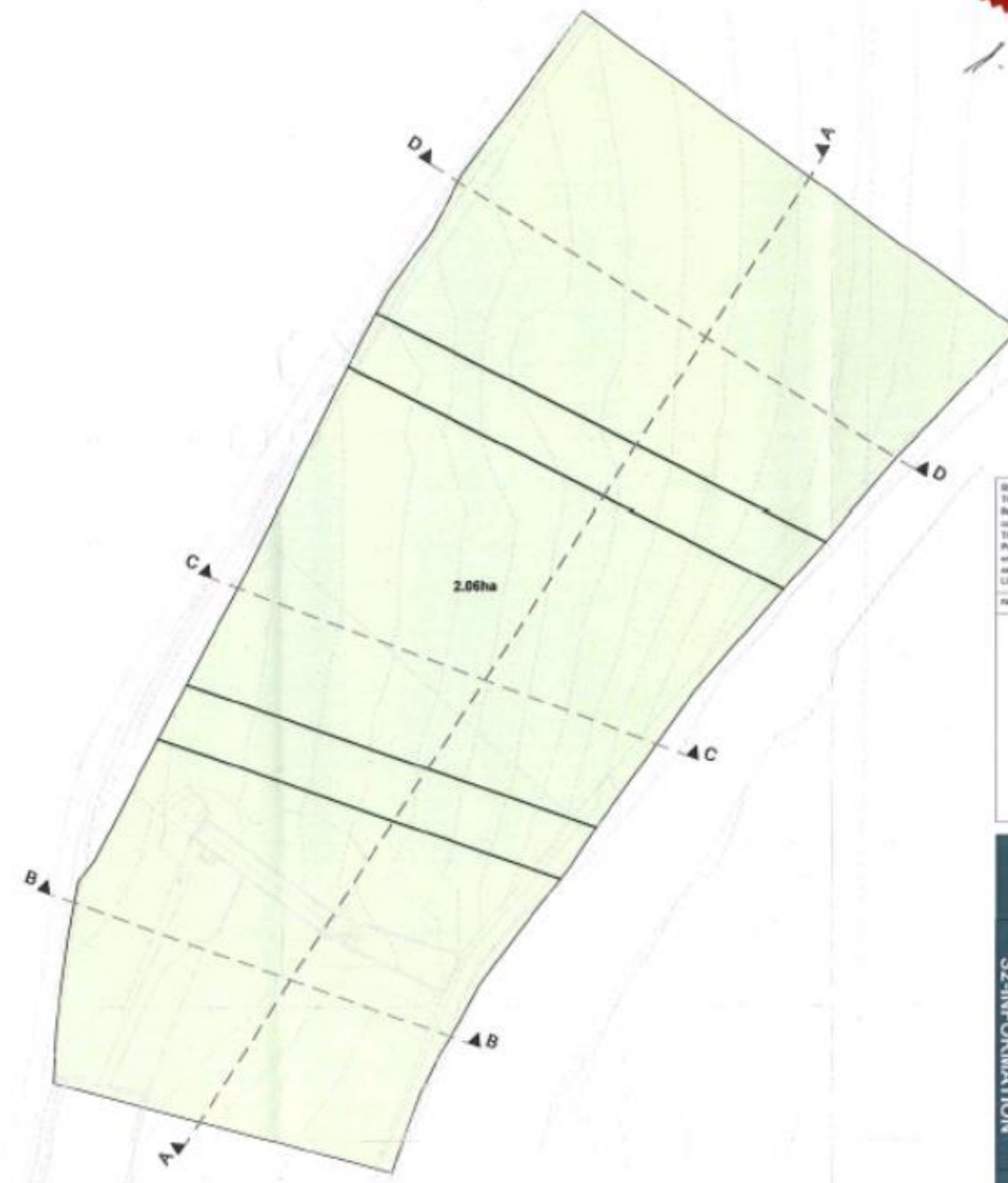
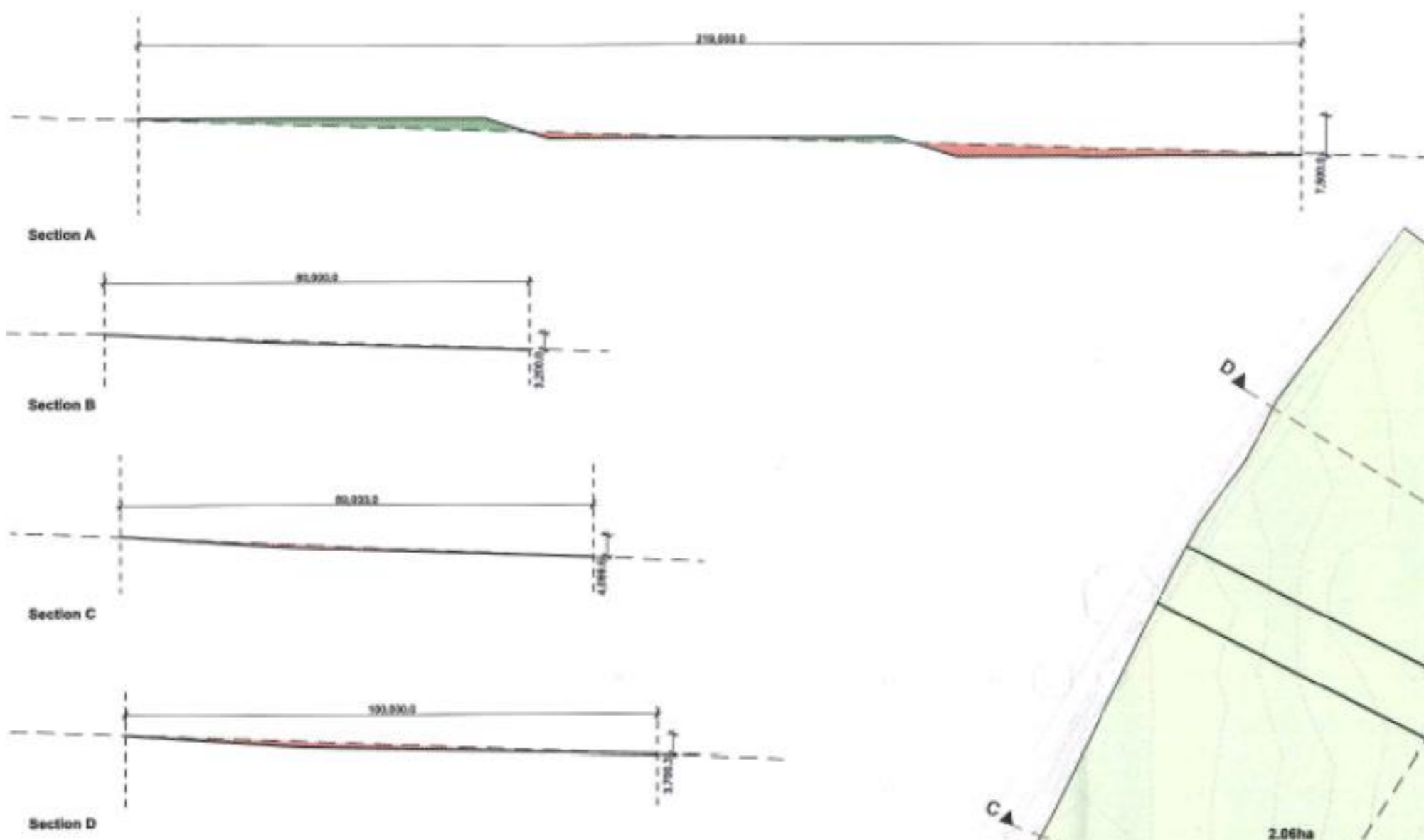
- 4 The definition of "Pre-School Site" at Part 4 of Schedule 2 of the Original Undertaking shall be deleted and replaced with the following:

"Pre-School Site" means an area within the land shaded yellow and marked "SCHOOL AREA" for identification purposes



J. Mc, Con. Miller

219213-CDP-DR-XX-XX-A-0001



Total cut required for Site A - 9,542m³

Disclaimer:
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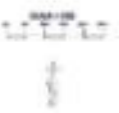
27 York Street, Suite 1000, Toronto, ON M5E 1B4

Project	Project Number
North Faltonville Garden Neighbourhood	219213
Scale	1:500
Drawing Title	4047-200
Proposed New School Site Assessment - Site A	DRW
Lead Designer	DATE
James Foley	Feb-2020
Lead Designer	DATE
James Foley	Feb-2020

Drawing Number: 219213-CDP-DR-XX-XX-A-0001

NO.	DESCRIPTION	UNIT	AREA (sqm)	PERCENTAGE
1	PHASE 2 DEVELOPMENT			
2	SCHOOL AREA			
3	BUSINESS UNIT AREA			
4	CARE HOME AREA			
5	COMMUNITY AREA			
6	ASSISTED LIVING			
7	PHASE 2 DEVELOPMENT (Possible inclusion of assisted living units)			

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S. Ng, G. M. Lee

Notes:
Indicative Landscaping
Indicative Roof Colours

A		No. Description		No.	Date
Project Name: Felkettown Candlet Road					
Drawing: Planning Layout Overview					
Scale:	1:1000	Date:	02.12.09	Drawn by:	DL
Drawn by:	DL	Checked by:	DL	No.	A
Drawing No:					956-P-103

only (or as otherwise identified) on the Primary School Site Plan for the Pre-School Provision (unless otherwise agreed in writing between the County Council and the First Owner)

- 5 The definition of "Pre-School Provision" at Part 4 of Schedule 2 of the Original Undertaking shall be deleted and replaced with the following:

"Pre-School Provision" means the provision of a new 50 place early years setting, including outdoor space and additional external area including parking within the Pre-School Site

- 6 The words "Pre-School Land" shall be replaced with "Pre-School Site" in paragraph 28 of Part 4 of Schedule 2 of the Original Undertaking.

- 7 Paragraph 15.4 (and 15.4.1 and 15.4.2) of Part 4 of Schedule 2 of the Original Undertaking shall be deleted and replaced with the following:

"15.4 The Owners shall have provided (at the Owners' expense and at no cost to the County Council) prior to the transfer;

15.4.1 the highway access (or accesses) to the Primary School Site in the location agreed by the County Council (acting reasonably) to an adoptable standard;

15.4.2 the services agreed in writing with the County Council (acting reasonably) in the location(s) agreed in writing by the County Council such services to be provided to the Primary School Site within one (1) metre inside the Primary School Site boundary; and

15.4.3 the carrying out of site levelling works on the Primary School Site in the manner shown on the Levelling Plan (or as otherwise agreed in writing between the County Council and the First Owner)

up to a cost of £305,344.00 (three hundred and five thousand three hundred and forty four pounds) Index Linked or payment to the County Council of such sum AND FOR THE AVOIDANCE OF DOUBT the First Owner shall not be liable for or required to carry out any site levelling works which cost in excess of £305,344.00 (three hundred and five thousand three hundred and forty four pounds) Index Linked in respect of the Primary School Site or Pre-School Site in total PROVIDED THAT Index Linked in this definition shall be calculated in accordance with clause 9 where D is the Index for the month 2 months before the date of the Deed of Variation dated [29 MARCH 2021]

- 8 Paragraph 27.4 (and 27.4.1 and 27.4.2) of Part 4 of Schedule 2 of the Original Undertaking shall be deleted and replaced with the following:

"27.4 The Owners shall have provided (at the Owners' expense and at no cost to the County Council) prior to the transfer:

- 27.4.1 the highway access (or accesses) to the Pre-School Site in the location agreed by the County Council (acting reasonably) to an adoptable standard;
- 27.4.2 the services agreed in writing with the County Council (acting reasonably) in the location(s) agreed in writing by the County Council such services to be provided to the Pre-School Site within one (1) metre inside the Pre-School Site boundary; and
- 27.4.3 the carrying out of site levelling works on the Pre-School Site in the manner shown on the Levelling Plan (or as otherwise agreed in writing between the County Council and the First Owner) up to a cost of £305,344.00 (three hundred and five thousand three hundred and forty four pounds) Index Linked or payment of such sum to the

County Council AND FOR THE AVOIDANCE OF DOUBT the First Owner shall not be liable for or required to carry out any site levelling works which cost in excess of £305,344.00 (three hundred and five thousand three hundred and forty four pounds) Index Linked in respect of the Pre-School Site or Primary School Site in total PROVIDED THAT Index Linked in this definition shall be calculated in accordance with clause 9 where D is the Index for the month 2 months before the date of the Deed of Variation dated [29 MARCH 2021]

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
SUFFOLK COUNTY COUNCIL was
hereunto affixed in the presence of:-



Authorised Signatory

J. May, Cllr - Millard

SIGNED as a DEED

by

JENNIFER EMMALINE JEMMA STENNETT

in the presence of:

)
)
)



Signature of Witness:



Name of Witness (print):

LINDSEY BAKER.

Address of Witness:

67 KIRTON RD
TRIMLEY ST MARTIN
FELIXSTOWE IP11 0QL

Occupation of Witness:

YARD MANAGER

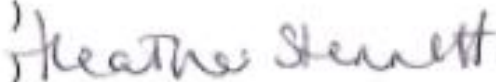
SIGNED as a DEED

by

HEATHER ELISABETH RUTH STENNETT

in the presence of:

)
)
)



Signature of Witness:



Name of Witness (print):

LINDSEY BAKER

Address of Witness:

67 KIRTON RD
TRIMLEY ST MARTIN
FELIXSTOWE IP11 0QL

Occupation of Witness:

YARD GROOM