

DATED 10 June 2021

(1) CHURCHILL RETIREMENT LIVING LIMITED

(2) WEST SUFFOLK COUNCIL

(3) SUFFOLK COUNTY COUNCIL

DEED OF VARIATION

pursuant to section 106 and section 106A of the Town and Country Planning Act 1990

relating to 28-34 Risbygate Street, Bury St Edmunds, Suffolk

SHOOSMITHS

Shoosmiths LLP
Forum 5
The Forum
Parkway
Whiteley
Fareham
PO15 7PA
Tel: 03700 866800
Fax: 03700 866801
Ref: MYP/M-00950546

DATED

10 June

2021

PARTIES

1. **CHURCHILL RETIREMENT LIVING LIMITED** (Company Regn No. 06260373), of Churchill House, Parkside, Ringwood, Hampshire, BH24 3SG (the "**Owner**");
2. **WEST SUFFOLK COUNCIL** of West Suffolk House, Western Way, Bury St. Edmunds, Suffolk IP33 3YU (the "**Council**");
3. **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX (the "**County Council**")

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council and County Council are local planning authorities for the area within which the Site is located.
- (B) The Owner is now the freehold owner the Site, as defined in the Principal Agreement, registered at HM Land Registry under Title number SK123590.
- (C) A Section 106 Agreement dated 15 December 2020 and made between the Council (1) The County Council (2) Michael Harold Speed Sly and Pamela Marigold Sly and Kenneth Edward King (3) and the Owner (4) (the "Principal Agreement") was entered into in respect of the Site.
- (D) The parties now enter into this Deed to vary the Principal Agreement to add a mortgagee protection clause.

IT IS AGREED AS FOLLOWS

1 INTERPRETATION

- 1.1 The words and expressions in this Deed shall where the context so requires or admits and except as otherwise provided or required by this Deed have the meanings as given to them in the Principal Agreement.

2 OPERATIVE PROVISIONS

- 2.1 The parties to this Deed agree that the Principal Agreement shall be varied as set out in clause 5 of this Deed on the granting of planning permission.
- 2.2 The Principal Agreement remains valid and in force subject to the variations contained in clause 5 of this Deed which are supplemental and collateral to the Principal Agreement.
- 2.3 If any provisions of this Deed shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions shall not be in any way deemed thereby to be affected or impaired.

3 STATUTORY BASIS

- 3.1 This Deed is made pursuant to the provisions of section 106 and section 106A of the 1990 Act and the covenants contained in this Deed are planning obligations for the purposes of those sections.

3.2 Insofar as any of the covenants contained in this Deed are not planning obligations within the meaning of the 1990 Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.

3.3 The parties hereto agree that the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) relating to planning obligations are satisfied.

4 APPLICATION OF THE ORIGINAL AGREEMENT

4.1 For the avoidance of doubt any steps taken pursuant to the Principal Agreement in respect of the Site shall be deemed to have been taken also for the purposes of this Deed.

5 VARIATION

The parties hereby agree that the Principal Agreement shall from the date that this Deed comes into effect be read and construed and observed and performed subject to the following variations:

5.1 The following clause shall be added to clause 2:

"2.12 A mortgagee of the Site will not incur any liability for any breach of the obligations contained in this Deed unless and until it becomes a mortgagee in possession of the Site or appoints a receiver or administrative receiver under a security and it will not be liable for any breach of the provisions of this Agreement after it has parted with or released its interest in the Site."

6. REGISTRATION

6.1 This Deed of Variation shall be registered by the Council as a local land charge by the Council under the Local Land Charges Act 1975

7. COSTS

7.1 The Owner covenants with the Council that on execution of this Deed of Variation it will pay the Council's reasonable costs incurred in the negotiation, preparation and execution of this Deed of Variation.

7.2 The Owner covenants with the County Council that on execution of this Deed of Variation it will pay the County Council's reasonable costs incurred in the negotiation, preparation and execution of this Deed of Variation.

8. THIRD PARTY RIGHTS

8.1 A person who is not named in this Deed does not have any right to enforce any term of this Deed under the Contracts (Rights of Third Parties) Act 1999

9. JURISDICTION

9.1 This Deed of Variation is governed by and interpreted in accordance with the laws of England

IN WITNESS whereof the parties have executed this Deed of Variation the day and year first before written.

Signed as a deed by)
CHURCHILL RETIREMENT LIVING)
LIMITED)
acting by:)
)



.....
Director

.....
Director/Secretary



Sealed as a DEED by affixing the)
COMMON SEAL of)
)
WEST SUFFOLK COUNCIL)



in the presence of:

.....
Authorised Signatory

Sealed as a DEED by affixing the)
COMMON SEAL of)
)
SUFFOLK COUNTY COUNCIL)



in the presence of:

.....
Authorised Signatory