

DATED

29<sup>th</sup> April

2024

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EAST SUFFOLK COUNCIL (1)

AND

SUFFOLK COUNTY COUNCIL

AND

NIGEL LESLIE HARRISON (2)

AND

HARRISON & WILDON LIMITED

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**DEED OF VARIATION - SECTION 106 AGREEMENT**

Relating to Development Site, Fullers Field, Westerfield  
Suffolk IP6 9AX

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East Suffolk Council

East Suffolk House

Riduna Park

Station Road

Melton

Woodbridge

Suffolk

IP12 1RT



THIS DEED of VARIATION by way of Deed is made the 29<sup>th</sup> day of April Two Thousand and Twenty Four

BETWEEN:

- (1) EAST SUFFOLK COUNCIL of East Suffolk House Riduna Park Station Road Melton Woodbridge Suffolk IP12 1RT (the Council)
- (2) SUFFOLK COUNTY COUNCIL of Endeavour House, 8 Russell Road Ipswich Suffolk IP1 2BX (the County Council)
- (3) HARRISON & WILDON LIMITED (Co. Regn. No. 1319758) of The Stables, Fullers Field, Swan Lane, Westerfield Suffolk IP6 9AX (the First Owner)
- (4) NIGEL LESLIE HARRISON of 21 Fullers Field, Swan Lane, Westerfield Ipswich IP6 9AX Stanley House, Stanley Street, Lowestoft, NR32 2DZ (the Second Owner)

(the Parties)

#### BACKGROUND

- (A) The Council, County Council, the First Owner and Second Owner entered into the Original Agreement relating to the Site.
- (B) The Original Agreement was varied by the First Deed of Variation dated 23 August 2017 between the Council, County Council, First Owner and the Second Owner to include the Further Application and 2015 Permission
- (C) The First Owner has submitted the Second S73 Application to vary the Application and so this Deed is entered into to include the Second 73 Application and future S73 applications within the Original Agreement
- (D) The Council is the local planning authority for the purposes of section 106 and section 106A of the 1990 Act for the area within which the Site is situated and by whom the obligations in the Original Agreement are enforceable.
- (E) The County Council is also a local planning authority and the local education authority and highway authority for the area in which the Site is situated and one of the original parties to the Original Agreement
- (F) The First Owner is the freehold owner in that part of the Site which is now registered at the Land Registry with title absolute under title numbers SK385215 and SK66387 and SK216004 and SK61299 which titles originally comprised all of the land shown edged red on the plan attached to the Original Agreement



- (G) The Second Owner is the freehold owner in that part of the Site which is registered at the Land Registry with title absolute under title number SK358836

## **OPERATIVE PROVISION**

### **1. Interpretation**

The following definition and rules of interpretation apply in this Deed

#### **1.1 Definitions:**

**First Deed of Variation:** means the deed entered into under section 106 of the 1990 Act by the Council (previously known as Suffolk Coastal District Council), County Council, First Owner, Second Owner, Bank of Scotland Plc (Mortgagee) and Orwell Housing Association Limited (Orwell) dated 23 August 2017

**Original Agreement:** means the deed entered into under section 106 of the 1990 Act by the Council (previously known as Suffolk Coastal District Council), the County Council, First Owner and Second Owner dated 9 July 2015 as varied by the First Deed of Variation

**Second Section 73 Permission:** means the application for planning permission pursuant to Section 73 of the Act allocated reference number DC/23/4195/VOC

**the Site:** means the development site at Fullers Field, Westerfield, Suffolk IP6 9AX as shown edged red on the plan attached to the Original Agreement

1.2 Unless the context otherwise requires, all words and phrases defined in the Original Agreement shall have the same meaning in this Deed

1.3 Clause heading shall not affect the interpretation of this Deed

1.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality)

1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders

1.6 A reference to any party shall include the party's personal representatives, successors or permitted assigns and in the case of the Council the successors to its respective statutory functions

1.7 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time



- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision
- 1.9 Unless the context otherwise requires reference to clauses are to the clauses of this Deed
- 1.10 Where an obligation fails to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually

## **2. Statutory Provision**

This Deed is made pursuant to the provisions of section 106 and 106A of the Act, section 111 of the Local Government Act 1972 and any other enabling powers

## **3. Application of the Original Agreement**

It is hereby agreed between the Parties hereto that the terms and obligations set out in the Original Agreement and the First Deed of Variation shall continue in full force and effect (subject to the modifications in this Deed) and shall be deemed by virtue of this Deed to apply to and bind the Site

## **4. Variation of the Original Agreement**

The Parties hereto agree that the Original Agreement and the First Deed of Variation is varied from the date hereof as set out in Schedule 2 of this Deed

## **5. Covenants to the Council**

The Owner covenants to observe and perform the covenants, restrictions, and obligations on the part of the Owner contained in the Original Agreement and the First Deed of Variation as varied by this Deed

## **6. Local Land Charge**

This Deed shall be registered as a local land charge

## **7. Council's costs**

The Owners shall pay to the Council on or before the date of completion of this Deed, the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this Deed

## **8. Execution and Delivery**

This document is executed as a Deed and is delivered on the date stated at the beginning of this Deed





**SCHEDULE 1**

**Description of the Site**

**ALL THAT** piece or parcel of land known as development site at Fullers Field, Westerfield Suffolk IP6 9AX shown for identification purposes only edged with a red line on the Plan attached to the Original Agreement



## SCHEDULE 2

### Variation to the Original Agreement

Insert a new definition of:

“Section 73 Permission” Means the application for planning permission pursuant to Section 73 of the Act seeking a variation of condition 2 of the Further Application and allocated reference number DC/23/4195/VOC

The Original Agreement shall be modified as follows:

1. A new sub-clause 7.13 shall be inserted into the Original Agreement and First Deed of Variation as follows:

7.13 in the event that any new planning permissions are made in respect of the Development pursuant to section 73 of the Act with effect from the date that such new planning permission is granted pursuant to section 73 of the Act

7.14 the obligations in this Deed shall in addition to binding the Site in respect of the Planning Permission relate to and bind the Site in respect of any planning permission granted pursuant to section 73 of the Act; and

7.15 the definition of Development, Application and Planning Permission shall be assumed to include reference to any applications under section 73 of the Act, the planning permission granted thereunder and the development permitted by such subsequent planning permission PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any applications under section 73 of the Act and the appropriate nature and/or quantum of section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under section 73 of the Act whether by way of a new deed or supplemental deed pursuant to section 106 of the Act or a modification pursuant to section 160A of the Act



1328

THE COMMON SEAL OF )  
EAST SUFFOLK COUNCIL )  
was hereunto affixed in the presence of: - )



Authorised signatory



Authorised signatory

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

69/136



Authorised signatory

Authorised signatory



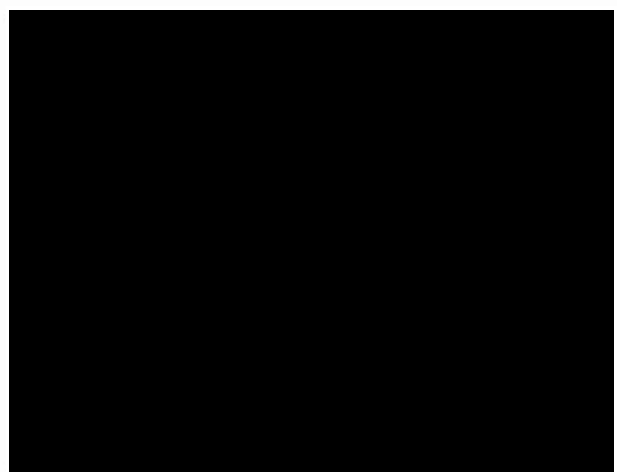
**EXECUTED as a DEED by**  
**HARRISON & WILDON LIMITED**  
acting by a director in the presence of:



Director

Witness Name

Witness Address





EXECUTED as a DEED by  
NIGEL LESLIE HARRISON  
in the presence of:



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