

DATED THIS

DAY OF

2020

(1) ARUN DISTRICT COUNCIL

(2) WEST SUSSEX COUNTY COUNCIL

(3) GOLD (ANGMERING) LIMITED

(4) CLOSE BROTHERS LIMITED

DEED OF VARIATION UNDER
SECTIONS 106 AND 106A OF THE
TOWN AND COUNTRY PLANNING
ACT 1990

Relating to land at Quiet Waters Rounsstone Lane Angmering
Littlehampton West Sussex BN16 4AX
A/132/17/OUT

Arun District Council
Maltravers Road
LITTLEHAMPTON
BN17 5LF
DX57406 LITTLEHAMPTON

Ref: 7814

BETWEEN:

1. **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF ("ADC")
2. **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, CHICHESTER, West Sussex PO19 1RQ ("WSCC")
3. **GOLD (ANGMERING) LIMITED** (company registration 11158361 of Highclere House,180 Main Road, Biggin Hill Westerham TN16 3BB ("the Owner")
4. **CLOSE BROTHERS LIMITED**(company registration number 00195626) of 10 Crown Place, London, EC2A 4FT ("the Mortgagee")

WHEREAS

- A ADC is the Local Planning Authority for the purposes of Section 1 of the Act for the area within which the Land is situated
- B WSCC is the Highway Authority for the area, and is responsible for education functions and the provision of library and fire and rescue services within the area within which the Land is located
- C The Owner is the registered proprietor of the Land under title number WSX22587
- D By a deed hereinafter called the "Principal Agreement" dated 18 January 2018 made between Lindsay Richard Fewkes and Linda Kirsty Fewkes, Santander UK Plc, ADC and WSCC entered into various obligations pursuant to the Planning Permission
- E The Mortgagee is the proprietor of a charge dated 17 October 2019 for which an application has been made to HM Land Registry for registration against the title number WSX22587
- F The parties to this Deed have agreed to vary the terms of the Principal Agreement in the manner hereinafter appearing
- G This Deed is supplemental to and to the extent that its contents so provide, varies the Principal Agreement to the extent only that the Principal Agreement relates to the Land.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS

1. INTERPRETATION

- 1.1. All words and phrases defined in the Principal Agreement shall have the same meaning in this Deed save where the context otherwise dictates and for the avoidance of any doubt the Principal Agreement shall remain in full force and effect save as varied by this Deed.

- 1.2. Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Deed.
- 1.3. Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Deed and shall not affect the construction of this Deed.
- 1.4. Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 1.5. References in this Deed to the Owner, ADC, WSCC and the Mortgagee and shall include their successors in title.

2. LEGAL EFFECT

- 2.1. This Deed contains planning obligations for the purposes of the 1990 Act enforceable by the Council as local planning authority and varies the planning obligations contained in the Principal Agreement and is made pursuant to the provisions of Section 106 of the 1990 Act and, insofar as the provisions hereof do not constitute planning obligations for purposes of Section 106 of the 1990 Act, this Deed is also entered into pursuant to Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000 and all other powers enabling the Council thereunto.
- 2.2. Save as specifically varied by this Deed the Principal Agreement shall remain in full force and effect.
- 2.3. This Deed shall take effect on the date of this Deed

3. VARIATION TO THE PRINCIPAL AGREEMENT

It is hereby agreed by the parties that the Principal Agreement be varied as follows:-

- 3.1 Clause 2.12 Interpretation of **"Affordable Housing Units"**

Delete

"means ten(10) of the Dwelling Units to be provided as Affordable Housing split into the following tenure mix:-

Number of affordable rented Dwelling Units - 5

Number of shared ownership Dwelling Units- 5"

Replace with

"means eight (8) of the Dwelling Units to be provided as Affordable Rented Dwelling Units"

- 3.2 Clause 2.12 Interpretation

Insert definition of **"Affordable Rented Dwelling Units"** as follows-

"means those rented housing units provided by the Affordable Housing Provider to households who are eligible for social rented housing and which are not subject to the national rent regime but in line with ADC's tenancy strategy, the rents will be no more than 80% of local market rent (including service charge)

- 3.3 Clause 2.12 Interpretation

Insert definition of “Affordable Housing Plan” as follows-

“means the plan attached to this Deed as Appendix 1.”

3.4 Clause 5

Delete all and replace with

“5 *Affordable Housing*

5.1 *The Owner covenants with ADC to provide the Affordable Housing Units on the Land in accordance with the terms of this Agreement and this clause and Schedule 4*

5.2 *The Owner covenants with ADC on or before the completion of the disposal of the Affordable Housing Units to pay to ADC the sum of £100,000 as contribution towards off site affordable housing provision within the District of Arun”.*

3.5 Paragraph 1.1 of Part 1 of Schedule 4

Delete all and replace with

“The location of the Affordable Housing Units within the Development shall be provided in accordance with the Affordable Housing Plan”

4. MORTGAGEE’S CONSENT

- 4.1. The Mortgagee consents to its interest being bound by the Principal Agreement as varied by this Deed without liability save in the event that it becomes a mortgagee in possession of the Land.

5. REGISTRATION AS LOCAL LAND CHARGE

- 5.1. This Deed shall be registered as a Local Land Charge by ADC.

6. RIGHTS OF THIRD PARTIES

- 6.1. A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

7. JURISDICTION

- 7.1. This Deed is to be governed by and interpreted in accordance with the law of England and Wales.

8. COUNTERPARTS

- 8.1. This Deed may be executed in any number of counterparts, each of which is an Principal and all of which together evidence the same agreement.

IN WITNESS WHEREOF the parties have entered into this Deed the day and year first above written.

THE COMMON SEAL OF ARUN DISTRICT COUNCIL

Was hereunto affixed
in the presence of:

Authorised Signatory
Seal Book Number

THE COMMON SEAL OF WEST SUSSEX COUNTY COUNCIL

Was hereunto affixed
in the presence of:

Authorised Signatory
Seal Book Number

**EXECUTED as a DEED by
GOLD (ANGMERING) LIMITED**

in the presence of:-

Signature of witness

Name (in BLOCK CAPITALS)

Address.....
.....
.....

EXECUTED by CLOSE BROTHERS LIMITED as a DEED pursuant to a Power of Attorney dated 18 December 2019 (filed at land Registry Head Office under reference CAS/Close Brothers Limited/2020 pursuant to a facility letter dated 22 January 2020)

.....

Authorised Signatory

.....

(Print full name & abbreviated job title)

.....

Witnessed by

.....

Name of Witness

10 Crown Place, London EC2A 4FT

.....

Authorised Signatory

.....

(Print full name & abbreviated job title)

.....

Witnessed by

.....

Name of Witness

10 Crown Place, London EC2A 4FT

DRAFT