

(CMS7778 Deed of Variation re Land at the Lillies, Yapton Road, Barnham, West Sussex,
BN/32/15/OUT, BN/129/19/PL and BN/6/18/RES

DATED

24 April

2020

MATTHEW HOMES LIMITED

and

ARUN DISTRICT COUNCIL

and

WEST SUSSEX COUNTY COUNCIL

FOURTH DEED OF VARIATION OF SECTION 106 AGREEMENT

Under Section 106A of the Town and Country

Planning Act 1990 relating to LAND AT

The Lillies, Yapton Road, Barnham

Planning Ref: BN/32/15/OUT, BN/129/PL and BN/6/18/RES

THIS DEED OF VARIATION is made the 29 day of April 2020
BETWEEN

- (1) **MATTHEW HOMES LIMITED** (Company registration number 01210027)
whose registered office is at Pendragon House 65 London Road St Albans
AL1 1LJ ("the Owner")
- (2) **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road,
Littlehampton, West Sussex, BN17 5LF ("ADC").
- (3) **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street,
Chichester, West Sussex, PO19 1RQ ("WSCC").

1. DEFINITIONS

Wherever the context so permits in this Deed the following shall have the following meanings:

"The Original Deed" shall mean an Agreement dated 4 April 2016 and made between Roy Rainbow Hartrick and Angela May Hartrick (1) (the Owner), Commercial First Business Limited (the Mortgagee)(2) Arun District Council (ADC)(3) and West Sussex County Council (WSCC) (4) varied in accordance with a Deed dated 28 November 2016 made between Roy Rainbow Hartrick and Angela May Hartrick (1), Commercial First Business Limited (2) ADC (3) and WSCC (4) and a Deed dated 27 November 2018 made between Matthew Homes Limited ("the Owner") (1) and Arun District Council (2) and West Sussex County Council (3) and a further deed dated 27 November 2018 made between Matthew Homes Limited (1) and Arun District Council (2) and West Sussex County Council (3).

"Commencement of Development" shall mean the development of the Land by the carrying out of a material operation as defined by Section 56(4) of the Act and for the purposes of this Planning Obligation "material operation" shall not include any operation in connection with site clearance demolition diversion and laying of services and the erection of means of enclosure for site security

NOTES

This drawing is the copyright of Thrive Ltd ©. All rights reserved.
Ordnance Survey Data © Crown Copyright. All rights reserved.
Licence No. 100007359. DO NOT scale from this drawing.
Contractors, Sub Contractors and Suppliers are to check all relevant
dimensions and levels of the site and building before commencing
any shop drawings or building work. Any discrepancies should be
recorded to the Architect.
Where applicable this drawing is to be read in conjunction with the
Consultants' drawings.

REV	DESCRIPTION	DATE	AUTH	CHK'D
A	Full Application (Garage 4 & 5 repositioned)	22/11/19	ZC	
B	Red and Blue Line extended to Yapton Road as per LPA comments	17/02/20	ZC	



scale 1:1250



KEY:



PLANNING



architects
Romsey Office

PROJECT

Lillies, Yapton Road

Barnham

For: Matthew Homes

DRAWING

Location Plan

SCALE	DATE	AUTHOR	CHK'D
1:1250 @ A3	October 2019	MP	
JOB NO.	DRAWING NO.	REV	
MATT151202	LP.02	B	
CLIENT REF.			

11/7/2020

26/7/18/9/2020

“the Land” shall mean the land as identified under title number WSX387038 known as The Lillies Yapton Road Barnham West Sussex as show for identification purposes only edged blue and red on the attached plan

2. CONSTRUCTION

Where the context so admits:

- 2.1 Terms and expressions defined in the Original Deed shall unless the context otherwise requires have the same meaning when used in this Deed.
- 2.2 The term “the Owner” shall include their respective assigns and successors in title to the legal or equitable estate or interest in the Land or any part or parts thereof at the date hereof and to the rights and obligations created by this Deed
- 2.3 A covenant not to do something includes a covenant not to permit or suffer that thing to be done
- 2.4 Any covenant obligations or other commitments given by more than one party to this Deed shall be joint and several and where any party consists of two or more persons obligations expressed to be made by or with that party are deemed to be made by or with such persons jointly and severally
- 2.5 The headings in this Deed are for ease of reference only and cannot be taken in account in its interpretation

3. HISTORY

- 3.1 ADC and WSCC have agreed to vary the Original Deed in manner hereinafter appearing subject to the Owner entering into this Deed
- 3.2 ADC, WSCC and the Owner wish to enter into this Deed for the variation of the Original Deed under and in accordance with Sections 106 and 106A of the 1990 Act
- 3.3 Title SX40542 was transferred to title WSX387038 on the 22nd of December 2016. Title WSX140217 was closed. Title WSX387038 has

changed ownership since the Original Deed. The successor in title to WSX387038 is Mathew Homes Limited (the Owner).

- 3.4 The Owner submitted a reserved matters application reference number BN/6/18/RES which was appealed granted on 14 January 2019.
- 3.5 The Owner submitted an application with reference number BN/129/19/PL ("the Application") which was submitted on 9 December 2019 and validated on 3 January 2020.

4. NOW THIS DEED WITNESSETH as follows:-

- 4.1 This Deed is made pursuant to Sections 106 and 106A of the 1990 Act and Section 111 of the Local Government Act 1972 and all other enabling powers it related to the Land and the covenants contained in it are enforceable by ADC and/or WSCC (as the case may be) pursuant to such Acts
- 4.2 The Owner hereby covenants and undertakes in respect of each and every part of the Land
 - 4.2.1 to vary the Original Deed in manner set out in Clause 7 hereof; and
 - 4.2.2 to observe and perform the covenants contained in the Original Deed as varied by Clause 7 hereof with the intent that the same shall bind the Land and be enforceable without limit of time not only against the Owner but also against their successors in title and any person claiming any legal or equitable estate in the Land or any part or parts of it as if that successor and persons had also been an original covenanting party

5. EFFECTIVE DATE

The provisions of this Deed shall come into effect upon the date hereof

6. NOTICE OF DEED

ADC will register this Deed in the Local Land Charges Register pursuant to the provisions of the Local Land Charges Act 1975

7. VARIATIONS TO ORIGINAL DEED

7.1 Immediately following Commencement of Development in accordance with planning permission granted pursuant to the Application the Original Deed shall be varied in the following manner and shall henceforth take effect and be read and constructed as follows:

7.1.1 Clause 2.11 shall be deleted and replaced with the following:-

2.11 "The Application" means the planning application number
BN/32/15/OUT, BN/6/18/RES and BN/129/19/PL

7.1.12 Clause 1.1 shall be deleted and replaced with the following;

1.1 The Owner is the registered proprietor under title number
WSX387038 of the land at The Lillies Yapton Road Barnham
West Sussex shown for identification purposes only edged blue
and red on the attached Plan ("the Land")

7.1.13 The plan attached to this Deed is to be inserted into the Original Deed and read in line with Clause 1.1

7.1.14 The plan reference 409.000.01 in the Original Deed showing
the Land is to be removed and replaced by the plan at 7.1.13

7.2 Immediately following completion of this deed the Original Deed shall be varied in the following manner and shall henceforth take effect and be read and constructed as follows:

7.2.1 Clause 2.11 shall be deleted and replaced with the following:

"The Application" means the planning application number BN/32/15/OUT and
BN/6/18/RES

8. CONTINUATION

The Original Deed shall continue in full force and effect save as modified by this Deed and shall operate as if the variations made by clause 7 of this Deed are incorporated into the Original Deed from the date hereof

9. COSTS

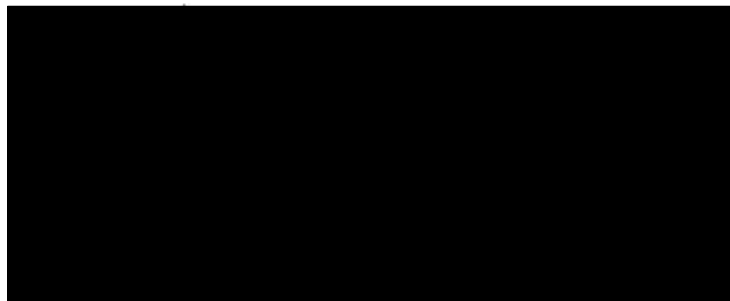
The Owner shall pay to ADC and WSCC and on the date of this deed the reasonable and proper legal costs.

IN WITNESS whereof ADC and WSCC and the Owner have executed this Deed the day and year first before written

EXECUTED as a DEED by)
MATTHEW HOMES LIMITED)
in the)
presence of:-)

Director

Director/Secretary



EXECUTED BY AFFIXING with the)
COMMON SEAL of)
ARUN DISTRICT COUNCIL)
in the)
presence of:-)



Seal Book No. 11712020

Authorised Signatory

Print Name: PALAN CHARLES

Job Title: PROPERTY LAWYER

EXECUTED BY AFFIXING with the)
COMMON SEAL of)
WEST SUSSEX COUNTY COUNCIL)
in the)
presence of:-)



Authorised Signatory

Print Name:

Job Title

