

Deed of Variation

**Pursuant to Section 106A of the Town and Country Planning
Act 1990**

In respect of: Land South of Barnham Station

Between: Arun District Council (1)
West Sussex County Council (2)
BDW Trading Limited (3)

Dated 1st July 2026

Osborne Clarke LLP

Halo
Counterslip
Bristol
BS1 6AJ
Telephone
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THIS DEED of VARIATION is made on the 1st of July 2026

BETWEEN

- (1) **ARUN DISTRICT COUNCIL** of the Civic Centre Maltravers Road Littlehampton BN17 5LF (the "**Council**");
- (2) **WEST SUSSEX COUNTY COUNCIL** of County Hall West Street Chichester PO19 1RQ (the "**County Council**"); and
- (3) **BDW TRADING LIMITED** (Co. Reg. No. 3018173) of Barratt House Cartwright Way Forest Business Park Bardon Hill Coalville Leicestershire LE67 1UF (the "**Owner**");

Collectively referred to as the "Parties".

WHEREAS:

1. The Council is the local planning authority for the purposes of the Act for the area within which the Land (as defined in the Principal Agreement) is situated and is the authority by whom the planning obligations contained in this Deed are enforceable.
2. The County Council is a planning authority and the local highway authority for the area in which the Land is situated and is the authority by whom the planning obligations contained in this Deed are enforceable.
3. The Owner is the freehold owner of the Land which is registered at the Land Registry under Title Number WSX438674.
4. The Original Agreement was entered into on 3 December 2021. The Original Agreement was subsequently varied by the Deed of Variation on 21 February 2025.
5. The parties to this Deed being the parties that are interested in the land for the purposes of section 106 and 106A of the Act at the date of this Deed have agreed pursuant to section 106A of the Act to vary the Principal Agreement on the terms set out in this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

- 1.1 In this Deed where the context so admits all expressions shall have the meanings given to them by the Principal Agreement save that the following expressions shall have the following meanings:

"Deed of Variation" the deed of variation to the Original Agreement dated 21 February 2025 and made between (1) the Council; (2) the County Council; and (3) the Owner

"Land" has the same meaning as in the Principal Agreement

"Original Agreement" the agreement made under Section 106 of the Act dated 3 December 2021 and made between (1) the Council; (2) the County Council; (3) Paul Voller and Clare Jane Voller; and (4) Lloyds Bank PLC

"Principal Agreement" the Original Agreement as varied by the Deed of Variation

2 CONSTRUCTION OF THIS DEED

- 2.1 The definitions and rules of interpretation in this Clause apply in this Deed.
- 2.2 All references in this Deed to Clauses in the Principal Agreement are to Clauses within the Principal Agreement.
- 2.3 Clause headings shall not affect the interpretation of this Deed.
- 2.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 2.5 A reference to a company shall include any company, corporation or other body corporate, whether and however incorporated or established.
- 2.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

- 2.7 A reference to a party shall include that party's representatives, successors or permitted assigns and in the case of the Council and the County Council the successors to its respective statutory functions.
- 2.8 A reference to a statute or statutory provisions is a reference to it as it is in force at the date of this Deed and shall include any subordinate legislation made under the statute or statutory provision.
- 2.9 References to clauses, schedules and plans (unless the context otherwise requires) are to clauses, schedules and plans of this Deed.
- 2.10 Where an obligation falls 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.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to all powers enabling the parties and in particular Section 106 and 106A of the Act and Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling acts with the intention that it binds the Owner's interests in the Land and their successors in title.
- 3.2 The obligations imposed upon the Owner contained in this Deed are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council and the County Council in the manner set out in the Principal Agreement.
- 3.3 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the Council and the County Council in the exercise of their functions and their rights, powers, duties and obligations under all public private statutes, byelaws and regulations may be as fully and effectively exercised as if they were not a party to this Deed.
- 3.4 The parties agree that the Principal Agreement shall remain in full force and effect save as expressly varied by this Deed.
- 3.5 It is hereby agreed by the parties that the variation contained at Clause 4 of this Deed shall take effect from the date of this Deed as though it had originally been contained in the Principal Agreement.

4 VARIATION TO THE PRINCIPAL AGREEMENT

With effect from the date of this Deed the Parties agree that the Principal Agreement shall be varied as follows:

- 4.1 The definition of "**Affordable Housing Commuted Sum**" at Clause 1 of the Principal Agreement shall be deleted in its entirety.
- 4.2 The following definitions are to be inserted into Clause 1 of the Principal Agreement:

"Affordable Apartments"	<i>means an Apartment(s) that is an Affordable Dwelling</i>
"Affordable Houses"	<i>means a House(s) that is an Affordable Dwelling</i>
"Apartment"	<i>means a Dwelling which forms part of a building containing more than one Dwelling</i>
"Discount"	<i>means the discount to Market Value in respect of each of the Discount Market Sale Units being a 20% discount (resulting in a sale price not exceeding 80% of the Market Value)</i>
"Discount Market Restriction"	<i>means the restriction to be entered in the Proprietorship Register at the Land Registry in relation to each of the Discount Market Sale Unit in the following terms (subject to any amendment thereto required by the Land Registry and any reasonable non-material amendment agreed between the parties thereto):</i> <i>"No disposition of the registered estate (except by way of a legal charge) by the proprietor of the registered estate is to be registered without a certificate signed by the solicitor of the disponent or the disponent that the provisions of to an Agreement made pursuant to s.106 of the Town and Country Planning Act 1990, as amended, dated [insert date] and made between (1) Arun District Council (2) West Sussex County Council and (3) BDW Trading Limited containing planning obligations relating to Land South of Barnham</i>

	<i>Station have been complied with or that they do not apply to the disposition"</i>
"Discount Market Sale"	<i>means Affordable Housing which is sold at a discount of at least 20% below local DMU Market Value with eligibility deter-mined with regard to local incomes and local house prices and subject to provisions to ensure such housing remains at a discount for future eligible households</i>
"Discount Market Sale Units"	<i>means Dwellings that in accordance with the First Schedule paragraphs 2.14, 2.14A and 2.15.8 may be provided as Discount Market Sale</i>
"House"	<i>means a Dwelling which is not an Apartment</i>
"DMU Market Value"	<i>means the value of a Discount Market Sale Unit to be calculated in accordance with the RICS Valuation – Global Standards 2025 (Red Book) – UK National Supplement (or any variations amendments or replacement of those standards) and being the estimated amount for which in the absence of this Deed residential units of equivalent location, specification, size, state of repair and condition which are not restricted for use as Affordable Housing should exchange on the date of valuation between a willing seller and a willing buyer in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably prudently and without compulsion</i>

4.3 Clause 9.4 shall be deleted in its entirety and replaced as follows:

"9.4 Notwithstanding any other provision of this Agreement the Planning Obligations under this Agreement (other than the obligation at paragraph 2.6 of the First Schedule which subject to paragraphs 2.14, 2.14A, 2.15.8, 2.21 and 2.22 therein shall be enforceable against the Affordable Housing Provider and any Residents of the Affordable Dwellings) shall not be binding or enforceable against:

- 9.4.1 Any Mortgagee of any tenant or person to whom an Affordable Housing Provider grants a shared ownership lease or any receiver appointed by such mortgagee or any person deriving title through any such mortgagee or receiver.
- 9.4.2 Any person to whom a shared ownership lease of an Affordable Dwelling is granted.
- 9.4.3 Any person who has acquired either a reversionary interest or a new lease in an Affordable Dwelling pursuant to the terms of a shared ownership lease.
- 9.4.4 Any Affordable Housing Provider whose interest in the Land relates only to the Affordable Dwellings or their Mortgagee or their successors in title."
- 4.4 Paragraph 2.5.1 of the First Schedule shall be deleted in its entirety and replaced as follows:
"2.5.1 subject to paragraphs 2.14, 2.14A and 2.15.8 of this Schedule, twenty-five percent (25%) of the Market Dwellings (or twenty-five percent (25%) of the Market Dwellings on a Phase as the case may be) (or such other number of Market Dwellings that may be agreed in writing by the Council) until the Owners have entered into a legally binding contract with an Affordable Housing Provider for the Disposal of the Affordable Dwellings (or the Affordable Dwellings on the Phase as the case may be);"
- 4.5 Paragraph 2.6 of the First Schedule shall be deleted in its entirety and replaced as follows:
"2.6 Subject to paragraphs 2.14, 2.14A, 2.15.8, 2.21 and 2.22 of this Schedule, with effect from the date on which they are completed the Affordable Dwellings shall not be Occupied other than by a Qualifying Occupier and for the avoidance of doubt this restriction shall apply not just to the first Occupier of any of the Affordable Housing Units but to all subsequent occupiers of the Affordable Housing Units."
- 4.6 Paragraphs 2.8 to 2.15 of the First Schedule shall be deleted in their entirety and replaced as follows:

"Affordable Houses - Mechanics of Transfer
2.8 The Owner shall offer the Affordable Houses to an Affordable Housing Provider ("**First Housing Offer**") by provision of:
2.8.1 A contract for the sale of land; and
2.8.2 A draft transfer which shall include the provisions set out in paragraph 2.17 below.
2.9 The First Housing Offer shall remain open for acceptance for no less than two (2) months from the date of the First Housing Offer being made ("**First Housing Offer Period**").
2.10 In the event that the First Housing Offer made in accordance with paragraph 2.8 above is not accepted within the First Housing Offer Period then the Owners shall make a

second offer to transfer the Affordable Houses to an Affordable Housing Provider ("**Second Housing Offer**") by provision of:

2.10.1 A contract for the sale of land; and

2.10.2 A draft transfer which shall include the provisions set out in paragraph 2.17 below.

2.11 The Second Housing Offer shall consist of the same terms as the First Housing Offer subject to revisions necessitated by the lapse of time.

2.12 The Second Housing Offer shall be made not later than one (1) month after the expiry of the First Housing Offer Period.

2.13 The Second Housing Offer shall remain open for acceptance for no less than two (2) months from the date of the Second Housing Offer being made ("**Second Housing Offer Period**").

2.14 In the event that the Second Housing Offer is not accepted within the Second Housing Offer Period then the Owners may elect (by service of notice on the Council in writing in respect of all of the Affordable Houses that were the subject of the Second Housing Offer) at any point prior to the Occupation of 25% (twenty five percent) of the Market Dwellings to dispose of the relevant Affordable Houses as Discount Market Sale Units and the Owner and any successors in title shall be released from the obligations within this paragraph 2 insofar as it relates to the Affordable Houses in question;

PROVIDED THAT

2.14.1 the Owner shall have provided the Council with written evidence of their reasonable endeavours to dispose of the Affordable Houses to an Affordable Housing Provider;

2.14.2 the Council shall, acting reasonably, have confirmed in writing that such reasonable endeavours were reasonable or an expert shall have determined that such reasonable endeavours were reasonable; and

2.14.3 the Owner shall only transfer or otherwise dispose of any Discount Market Sale Units in accordance with paragraph 2.15A below.

2.14A It is hereby agreed and acknowledged between the parties that paragraphs 2.8 to 2.13 of this First Schedule have been complied with fully by the Owner and from the date of this Agreement the Owner shall be free to dispose of the Affordable Houses as Discount Market Sale Units pursuant to paragraph 2.14 of this First Schedule.

2.15 **Affordable Apartments - Mechanics of Transfer**

2.15.1 The Owner shall offer the Affordable Apartments to an Affordable Housing Provider ("**First Apartment Offer**") by provision of:

2.15.1(a) A contract for the sale of land; and

2.15.2(b) A draft transfer which shall include the provisions set out in paragraph 2.17 below.

- 2.15.2 The First Apartment Offer shall be made no less than twelve (12) months from the date of the Second Housing Offer being made.
- 2.15.3 The First Apartment Offer shall remain open for acceptance for no less than two (2) months from the date of the First Apartment Offer being made ("**First Apartment Offer Period**").
- 2.15.4 In the event that the First Apartment Offer made in accordance with paragraph 2.15.1 above is not accepted within the First Apartment Offer Period then the Owners shall make a second offer to transfer the Affordable Apartments to an Affordable Housing Provider ("**Second Apartment Offer**") by provision of:
- 2.15.4(a) A contract for the sale of land; and
- 2.15.4(b) A draft transfer which shall include the provisions set out in paragraph 2.17 below.
- 2.15.5 The Second Apartment Offer shall consist of the same terms as the First Apartment Offer subject to revisions necessitated by the lapse of time.
- 2.15.6 The Second Apartment Offer shall be made not later than one (1) month after the expiry of the First Apartment Offer Period.
- 2.15.7 The Second Apartment Offer shall remain open for acceptance for no less than two (2) months from the date of the Second Apartment Offer being made ("**Second Apartment Offer Period**").
- 2.15.8 In the event that the Second Apartment Offer is not accepted within the Second Apartment Offer Period then the Owners may elect (by service of notice on the Council in writing in respect of all of the Affordable Apartments that were the subject of the Second Apartment Offer) at any point prior to the Occupation of 25% (twenty five percent) of the Market Dwellings to dispose of the Affordable Apartments as Discount Market Sale Units and the Owner and any successors in title shall be released from the provisions of this paragraph 2 insofar as it relates to the Affordable Apartments in question;
- PROVIDED THAT
- 2.15.8(a) the Owner shall have provided the Council with written evidence of their reasonable endeavours to dispose of the Affordable Apartments to an Affordable Housing Provider; and
- 2.15.8(b) the Council shall, acting reasonably, have confirmed in writing that such reasonable endeavours were reasonable or an expert shall have determined that such reasonable endeavours were reasonable;
- 2.15.8(c) the Owner shall only transfer or otherwise dispose of any Discount Market Sale Units in accordance with paragraph 2.15A below.

2.15A.1 *The Owner (which for the purposes of this paragraph 2.15A only shall mean the Owner in respect of the first sale of a Discount Market Sale Unit and the owner of the Discount Market Sale Unit in respect of all subsequent resales) covenants:*

2.15A.1(a) *not to cause or permit the sale of any Discount Market Sale Unit for more than the Discount Market Value; and*

2.15A.2(b) *not to dispose of a Discount Market Sale Unit unless it is (or in the case of first sale will be following completion of the registration at the Land Registry of the transfer of such Discount Market Sale Unit) subject to the Discount Market Restriction on the register of title to the relevant Discount Market Sale Unit."*

5 REGISTRATION

This Deed shall be registered as a local land charge in the Register of Local Land Charges maintained by the Council.

6 COSTS

On execution of this Deed the Owner shall pay the Council's and the County Council's reasonable legal costs in connection with the negotiation and completion of this Deed.

7 GOVERNING LAW

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

8 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

IN WITNESS whereof this instrument has been executed as a Deed the date and year first before written

EXECUTED AS A DEED by affixing
THE COMMON SEAL of
ARUN DISTRICT COUNCIL

In the presence of:



Authorised Signatory

Name: **ADAM MALINS**

Job Title: **LITIGATION LAWYER**

Seal Book Number: **81/2026**

EXECUTED AS A DEED by affixing
THE COMMON SEAL of
WEST SUSSEX COUNTY COUNCIL

in the presence of



Authorised Signatory

EXECUTED AS A DEED by
BDW TRADING LIMITED
acting by

and

as the Attorneys in the name of BDW Trading Limited in exercise of the power
Conferred upon them by a Power of Attorney dated 10 April 2026
In the presence of:

[Redacted Signature]

SIGNATURE OF ATTORNEY

SHARON JONES

[Redacted Signature]

SIGNATURE OF WITNESS

Witness Name: RACHEL BALLAM

Witness Address: 79 LUDLOW RD

PORTSMOUTH PO6 4AE

Witness Occupation: PLANNER

[Redacted Signature]

SIGNATURE OF ATTORNEY

ADAM QUAYLE

[Redacted Signature]

SIGNATURE OF WITNESS

Witness Name: RACHEL BALLAM

Witness Address: 79 LUDLOW RD

PORTSMOUTH PO6 4AE

Witness Occupation: PLANNER