

DATED THIS 12 DAY OF October 2021

- (1) ARUN DISTRICT COUNCIL
- (2) WEST SUSSEX COUNTY COUNCIL
- (3) MATTHEW HOMES LIMITED

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

Relating to land at The Lillies, Yapton Road, Barnham

Planning Ref(s): BN/32/15/OUT and BN/6/18/RES

Arun District Council
The Civic Centre
Maltravers Road
LITTLEHAMPTON
BN17 5LF
DX57406 LITTLEHAMPTON

Ref: 8436/CP

Date: 12 October

PARTIES:

2021

- 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")
- 3 **MATTHEW HOMES LIMITED** (Co. Regn, NO, 01210027) of Pendragon House,
65 London Road, St. Albans AL1 1LJ ("the Owner")

WHEREAS

- A1. The Council is the Local Planning Authority and the local housing authority for the area in which the Land is situated.
- A2. The County Council is the education, library and fire authority for the area in which the Land is situated.
- A3. The Owner is the freehold owner of the Land registered under title number WSX387038.
- A4. This Deed is supplemental to and to the extent that its contents so provide, varies the Section 106 Agreement to the extent only that the Section 106 Agreement relates to the Land.
- A5. The provisions of this Deed bind the Land, the parties to this Deed and their successors in title.
- A6. The Owner and the Council have agreed to amend the Section 106 Agreement.
- A7. This is made as a Deed

NOW THIS DEED WITNESSETH as follows:

1. Interpretation

- 1.1 In this Deed unless otherwise stated the following expressions shall where the context so admits have the following meanings:

"Section 106 Agreement"

means the Deed means dated 4 April 2016 and made between (1) Roy Rainbow Hartrick and Angela May Hartrick (the Owner), (2) Commercial First Business Limited (the Mortgagee) (3) Arun District Council (ADC) and (4) West Sussex County Council (WSCC) varied in accordance with a Deed dated 28 November 2016 made between (1) Roy Rainbow Hartrick and Angela May Hartrick (the Owner) (2) Commercial First Business Limited (the Mortgagee) (3) Arun District Council (ADC) and (4) West Sussex County Council (WSCC) and a further Deed of Variation dated 27 November 2018 between (1) Matthew Homes Limited (the Owner) and (2) Arun District Council (ADC) and West Sussex County Council (WSCC)

- 1.2 Unless the context otherwise requires, all words and phrases defined in the Section 106 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 a separate legal personality).
- 1.5 A reference to a **"company"** shall include any company, corporation or other body corporate, where and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.7 Unless the context otherwise requires a reference to one gender shall include a reference to other genders.
- 1.8 A reference to any party shall include that party's representatives, successors and permitted assigns and to any person deriving title through or under the party and in the case of the Council and the County Council the successors to their respective statutory functions.
- 1.9 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.

- 1.10 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.
- 1.11 A reference to “writing” and “written” does not include fax or email.
- 1.12 Any words following the terms “including”, “include”, “in particular”, “for example” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.13 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.

2. Legal Basis

- 2.1 This Deed is made under Section 106 and 106A of the Act and its purpose is to vary the Section 106 Agreement with the intention that the planning obligations contained in the Section 106 Agreement shall also apply to development to be undertaken in accordance with the Section 73 Permission save for any variations contained within this Deed .
- 2.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations under Section 106 and Section 106A of the Act and are enforceable by the Council (and County Council (as appropriate)) in accordance with Section 106 of the Act as local planning authorities against the Owner.
- 2.3 The planning obligations contained in this Deed shall bind the Land.

3. Commencement

This Deed shall come into effect on the date first mentioned herein.

4. Variation of the Section 106 Agreement

- 4.1 The parties agree that the Section 106 Agreement shall be varied as follows:
 - 4.1.1 The definition of “Affordable Housing Units” shall be amended by deleting reference to “5 Affordable Rented Units and 6 Shared Ownership Units” and replacing with “9 Affordable Rented Units and 2 Shared Ownership Units”

5. Continuation of the terms of the Section 106 Agreement

It is hereby agreed and declared that saving and excepting as expressly provided for by the provisions of this Deed the covenants and provisions contained in the Section 106 Agreement shall continue to have full force and effect.

6. Costs

- 6.1 The Owner covenants with the Council prior to the completion of this Deed to pay to the Council its reasonable legal costs and disbursements in connection with this Deed.
- 6.2 The Owner covenants with the County Council prior to the completion of this Deed to pay to the County Council its reasonable legal costs and disbursements in connection with this Deed.

7. Miscellaneous

- 7.1 Unless expressly stated to the contrary, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person or persons other than the Parties shall have any rights under it nor shall it be enforceable by any person other than the Parties.
- 7.2 Upon completion this Deed shall be registered as a Local Land Charge by the Council.

8. Governing Law and Jurisdiction

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the jurisdiction of the courts of England.

This Agreement is executed as a deed by the parties and is delivered and takes effect on the date at the beginning hereof:

THE COMMON SEAL of ARUN)
DISTRICT COUNCIL)
was affixed to this deed in the)
presence of:)



Authorised Signatory: [REDACTED]

Name: EDWARD OLIVER, PROPERTY LAWYER

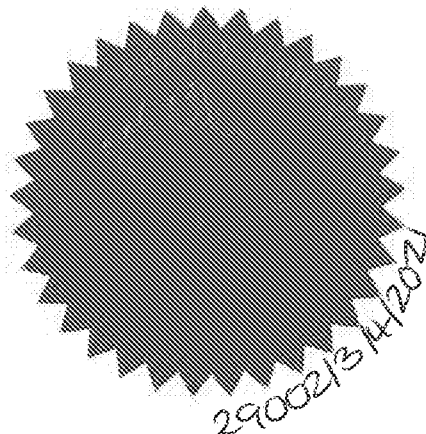
Seal Book No. 20 / 201

THE COMMON SEAL of)

WEST SUSSEX COUNTY COUNCIL)
was affixed to this deed in the presence of:)



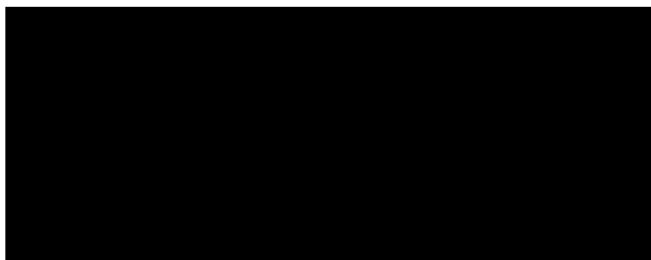
Authorised Signatory: [REDACTED]



Seal Book No: }

EXECUTED as a DEED by
MATTHEW HOMES LIMITED

Director:



in the presence of:

Signature of witness ...



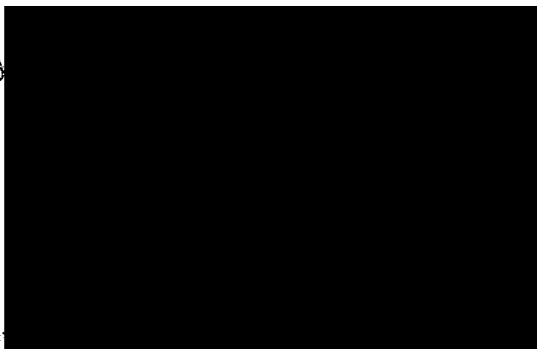
Name (in BLOCK CAPITALS) ... IAN CAREY ...

Address... 27 WATTS ROAD ...

FARMBOROUGH ...

WATTS ...

Director/Company Secretary



In the presence of:

Signature of witness ...

Name (in BLOCK CAPITALS) ... PARITOSH JOB ...

Address... 14 BIGNELL CROFT ...

LOUGHTON, MILTON KEYNES ...

MKS 8BF ...

