

SUPPLEMENTAL AGREEMENT UNDER SECTION 106A OF THE TOWN & COUNTRY PLANNING ACT 1990 RELATING TO LAND AT FELPHAM, BOGNOR REGIS, WEST SUSSEX

ARUN DISTRICT COUNCIL (1)

and

KINGSOAK HOMES LIMITED (2)

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THIS DEED IS DATED

2018

PARTIES

- (1) ARUN DISTRICT COUNCIL of Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF (the **Council**); and
- (2) KINGSOAK HOMES LIMITED incorporated and registered in England and Wales with company number 01993976 whose registered office is at Barratt House Cartwright Way Forest Business Park, Bardonia Hill, Coalville, Leicestershire, LE67 1UF (the **Owner**).

RECITALS

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Site is situated.
- (B) The Owner is the freehold owner of its remaining interest in the Site registered at HM Land Registry under title number WSX313127.
- (C) On 18 September 2006 the Council, Muriel Helen Arbuckle, Roger Charles Philpot, Michael Sidney Langridge, Alan James Langridge, Harold George Langridge, Adames (Flansham) Limited, Judith Erica Mary de la Fuente, Sheila Mary Lyons, Denis Clement Allin Lyons, Jonathan Rupert Lenox Langmead, Margaret Morgan, Hallam Land Management Limited and Felpham Consortium Limited entered into the Original Agreement.
- (D) Without prejudice to the terms of the other covenants contained in the Original Agreement the parties have agreed to vary the terms of Original Agreement as set out in this deed.
- (E) This agreement is made under section 106A of the TCPA 1990 and is supplemental to the Original Agreement.
- (F) The Owner paid the Sports Equipment Contribution to the Council on 19 August 2013. The purpose of this deed is to vary the use of that sum.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Original Agreement the agreement made under section 106 of the TCPA 1990 dated 18 September 2006 between the Council, Muriel Helen Arbuckle, Roger Charles Philpot, Michael Sidney Langridge, Alan James Langridge, Harold George Langridge, Adames (Flansham) Limited, Judith Erica Mary de la Fuente, Sheila Mary Lyons, Denis Clement Allin Lyons, Jonathan Rupert Lenox Langmead, Juliet Margaret Morgan, Hallam Land Management Limited and Felpham Consortium Limited (as varied from time to time).

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 headings 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, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8 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.
- 1.9 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.
- 1.10 Unless the context otherwise requires, references to clauses are to the clauses of this deed.
- 1.11 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.
- 1.12 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. STATUTORY PROVISION

This deed is made pursuant to the provisions of sections 106 and 106A of the TCPA 1990, section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000 and any other enabling powers.

3. VARIATIONS TO THE ORIGINAL AGREEMENT

- 3.1 The definition of "Sports Equipment Contribution" at clause 1 of the Original Agreement shall be deleted and replaced with the following:

"Equipment Contribution means the sum of Forty Two Thousand Four Hundred and Eighty Pounds" and any reference in the Original Agreement to "Sports Equipment Contribution" shall be read as a reference to "Equipment Contribution".

- 3.2 Schedule 5 of the Original Agreement shall be amended by replacing "to be used towards the provision of sports equipment on the Site" to "to be used towards the provision of equipment generally on the Site".
- 3.3 In all other respects the Original Agreement (as varied by this deed) shall remain in full force and effect.

4. COVENANTS TO THE COUNCIL

The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this deed.

5. LOCAL LAND CHARGE

This deed shall be registered as a local land charge.

6. **ENDORSEMENT**

Promptly following completion of this deed the Council shall endorse a memorandum of variation on the Original Agreement in the following terms:

"This Agreement has been varied by a supplemental agreement dated and made between (1) Arun District Council (2) BDW Trading Limited."

7. **THIRD PARTY RIGHTS**

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.

8. **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.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by affixing }

THE COMMON SEAL of }

ARUN DISTRICT COUNCIL }

in the presence of:- }

Authorised Signatory

Signature

Name.....

Job Title.....

Seal Book No.

Executed as a deed on behalf of KINGSOAK
HOMES LIMITED

by []

and []

in exercise of the powers conferred on them by a
power of attorney dated 14 February 2018