

Dated 21st November 2019

ARUN DISTRICT COUNCIL (1)

and

WEST SUSSEX COUNTY COUNCIL (2)

and

DREW SMITH HOMES LIMITED (3)

**DEED OF VARIATION AND
AGREEMENT**

**Under section 106 and 106A of the
Town & Country Planning Act 1990
relating to Land at Summer Lane,
Pagham, West Sussex PO21 4NG**

Planning Application P/52/19/PO

Arun District Council
Arun Civic Centre
Maltavers Road
LITTLEHAMPTON
West Sussex.
BN17 5LF
Legal Ref: CMS7362

THIS DEED is dated

21st November

2019

- (1) ARUN DISTRICT COUNCIL of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex BN17 5LF ("Council");
- (2) WEST SUSSEX COUNTY COUNCIL of County Hall, West Street, Chichester, West Sussex PO19 1RQ ("County Council");
- (3) DREW SMITH HOMES LIMITED (Company Registration No.02969951) of Cowley Business Park, High Street, Cowley, Uxbridge, UB8 2AL (the "Owner");

BACKGROUND

- (A) The Council is the local planning authority and the local housing authority and the authority responsible for housing and leisure services including open spaces in the area of the Development.
- (B) The County Council is the local highway authority, the county planning authority, the education authority and the authority responsible for the provision of library and fire and rescue services for the area in which the Site is situated.
- (C) The Owner is the freehold owner of part of the Property registered with absolute title at the Land Registry under title number WSX408494
- (D) The Owner is the freehold owner of the Property registered at the Land Registry under title number WSX340729. The Property was by transfer dated 1st March 2019 Claudia Langmead, Olivia Langmead, Victoria Langmead and Melanie Jenkins transferred part of title WSX340729 to the Owner. The said transfer is in the process of being registered at the Land Registry
- (E) The Owner has made the Application and the parties have agreed to vary the terms of the Original Agreement as set out in this Deed.
- (F) This agreement is made as a deed under section 106 and 106A of the Act and is supplemental to the Original Agreement.

AGREED TERMS:

1. Interpretation

Unless otherwise stated herein the definitions and rules of interpretation contained in the Original Agreement shall apply to this Agreement. The following definitions and rules of interpretation apply to this Agreement

1.1 Definitions

"Act"	means the Town and Country Planning Act 1990 (as amended)
"Application"	means the application made by the Owner for the amendment of the Original Agreement which has been given the reference number P/52/19/PO
"Hanbury"	means Hanbury (PM) Limited (Co Reg No 08060673)
"Original Agreement"	means the agreement made under section 106 of the Act dated 27 th September 2016 between ADC, WSCC, the Original First Owner, the Original Second Owner and Hanbury.
"Original First Owner"	means the Executors of the Estate of the late I V Hutchinson
"Original Second Owner"	Means Claudia Langmead, Olivia Langmead, Melanie Jenkins and Victoria Langmead.
"Original Planning Permission"	means planning permission numbered P/58/15/OUT to which the Original Agreement relates.
"Property"	means the land registered with absolute title at the Land Registry under title numbers WSX408494 and WSX340729 and shown for the purposes of identification as edged red on the plan attached to this deed.

- 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 ADC or WSCC the successors to their respective statutory functions.



THIS DRAWING SHOULD NOT BE SCALED.
THIS DRAWING IS COPYRIGHT.

REV	DATE	DESCRIPTION	BY
1	17-09		

01 SKETCH
02 CLIENT APPROVAL
03 PLANNING
04 TENDER
05 CONSTRUCTION
06 AS BUILT

DRAWING STATUS:
03

01 PRELIMINARY
02 FOR COMMENT
03 FOR APPROVAL
OTHER:

PROJECT:
Land North of Summer Lane
Pagham

DRAWING TITLE:
Location Plan

Scale P1, Street House
Rear Street, South
Chichester,
GL30 3AH
T: 01243 790000
W: www.burton.co.uk

DATE: 22.10.15 SCALE: 1:2500@A3
JOB NO.: 1552 DRAWN BY: NP
DWG NO.: DLA1552.1013.01 REV: 1

Volume 1: DAT1552 Pagham Drainage Report/Location Plan

- 1.8 A reference to "planning permission" shall mean either the Original Planning Permission, the planning permission to be granted pursuant to the Application or both, as the context so requires.
- 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 Unless the context otherwise requires, references to clauses are to the clauses of this Deed.
- 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 Statutory Provision

This Deed is made pursuant to the provisions of sections 106 and 106A of the Act, section 111 and s135 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers and shall be enforceable by the Council and County Council as appropriate.

3 Variation of the Original Agreement

3.1 The Original Agreement shall be varied as follows:

- 3.1.1 In paragraph 2.11 the following words shall be deleted "as Affordable Housing with a Tenure Split of:-
Affordable Rented Housing – 70% (seventy percent) of the Affordable Housing Units being 7 x 1 bed and 12 x 2 bed dwellings
Intermediate Housing Units – 30% (thirty percent) of the Affordable Housing Units being 8 x 2 bed dwellings"
And shall be replaced with:
"Affordable Rented Housing being 25 x 2 bed and 2 x 3 bed"

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 Legal Costs

The Owner agrees with the Council and the County Council that on completion of this agreement to pay their respective legal costs incurred in preparing and entering into this agreement as set out below:

Payee	Sum of legal costs
The Council	£600.00
The County Council	£500.00

6 Local Land Charge

This Deed shall be registered as a Local Land Charge

7 Value Added tax

7.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.

7.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

8 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.

9 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 laws of England.

This document has been executed and delivered 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)

Seal Book Number: 275/2019

Authorised Signatory:

APRIL HEASMAN, LAWYER

EXECUTED as a DEED by affixing)
THE COMMON SEAL of WEST SUSSEX)
COUNTY COUNCIL)

Seal Book Number:

Authorised Signatory

EXECUTED as a DEED by CLAUDIA
LANGMEAD
in the presence of:

.....
Signature

Witness signature:

Witness name:

Witness address:

Witness occupation:

AH

**EXECUTED as a DEED by OLIVIA
LANGMEAD**
in the presence of:

.....
Signature

Witness signature:

Witness name:

Witness address:

Witness occupation:

**EXECUTED as a DEED by VICTORIA
LANGMEAD**
in the presence of:

.....
Signature

Witness signature:

Witness name:

Witness address:

Witness occupation:

AH

EXECUTED as a DEED by MELANIE
JENKINS
in the presence of:

Signature

Witness signature:

AH

Witness name:

Witness address:

Witness occupation:

EXECUTED as a DEED by DREW SMITH
HOMES LIMITED
Acting by an authorised signatory
in the presence of:

Witness signature:

Witness name:

Daniel O'Shea

Witness address:

38 Pitcairney Rd,
Portsmouth,
PO2 8BE

Witness occupation:

Planning Manager