

DATED

9 August

2023

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**SUFFOLK COUNTY COUNCIL (1)**

and

**MID SUFFOLK DISTRICT COUNCIL (2)**

and

**WINGFIELD BARNS COMMUNITY INTEREST COMPANY (3)**

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**Deed of Variation pursuant to Section 106A of the Town and  
Country Planning Act 1990**

Relating to land to Wingfield College Suffolk

Mid Suffolk District Council  
Endeavour House  
8, Russell Road  
Ipswich  
Suffolk  
IP1 2BX

This Deed is made the 9<sup>th</sup> day of August 2023

**Between:**

- (1) **SUFFOLK COUNTY COUNCIL** of Endeavour House 8, Russell Road, Ipswich, Suffolk IP6 8DL ("the County Council") and
- (2) **MID SUFFOLK DISTRICT COUNCIL** of Endeavour House 8, Russell Road, Ipswich, Suffolk IP6 8DL ("the Freehold Owner") and
- (3) **WINGFIELD BARNS COMMUNITY INTEREST COMPANY** of Wingfield Barns Church Road Wingfield Eye Suffolk IP21 5RA ("the Leasehold Owner")

Together called "the Parties "

**INTRODUCTION**

- A. On 2 July 1998 Mid Suffolk District Council then acting in its capacity as the local planning authority entered into an agreement by deed under Section 106 of the Town and Country Planning Act 1990 (" the Act") with Wingfield Arts & Music the then freehold owner of the Land identified in the said deed (" the Land") to create planning obligations restricting the use of the said Land (" the Original Agreement")
- B. Following completion of the Original Agreement Mid Suffolk District Council issued planning permission under reference number 0108/96/OL for the conversion of redundant farm buildings to a centre for the visual and performing arts including artist in residence accommodation and development occurred in accordance with the said permission with the result that the planning obligations in the Original Agreement now bind the Land
- C. Mid Suffolk District Council (" the Freehold Owner") is now the freehold owner of the Site to which the Original Agreement and this Deed relates and Wingfield Barns Community Interest Company (" the Leasehold Owner") occupies the Land as the lessee under a lease for twenty-five years ending in 2036
- D. The Leasehold Owner has applied to Mid Suffolk District Council under its reference DC/21/02116 for permission to change the use of part of the Land known as The Granary from occasional residential use to a commercial office use under Class E

- E. The Leasehold Owner has also applied to the Mid Suffolk District Council under its reference DC/21/00782 to change the use of part of the Land now known in use as a performance studio to an office use
- F. Mid Suffolk District Council is minded to grant planning permission pursuant to the two planning applications referred to in the recitals above (together referred to as "the Intended Permissions") and accordingly this Deed modifies provisions of the Original Agreement pursuant to Section 106A of the Act so as to allow development to occur in accordance with the intended permissions
- G. The Parties agree that (a) planning obligations set forth in the Original Agreement may be varied in accordance with Section 106A(1) of the Act by agreement in this Deed between the Leasehold Owner as the person against whom the obligations are enforceable and Mid Suffolk District Council as the appropriate authority notwithstanding its current position as the freehold landowner and b) the County Council will join this Deed as a party as is the usual practice where the District Council is a landowner to ensure that the revised planning obligations will bind the land

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 All words and phrases defined in the Original Agreement shall have the same meaning in this Deed save where the context otherwise requires and for the avoidance of any doubt the Original Agreement shall remain in full force and effect save as varied by this Deed
- 1.2 All references in this Deed to clauses in the Original Agreement are to clauses within the Original Agreement as varied
- 1.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Deed
- 1.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not affect the construction of this Deed
- 1.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa
- 1.6 The provisions of the Original Agreement apply to this Deed except to the extent that they are expressly supplemented and varied by this Deed

### **3 OPERATIVE PARTS AND POWERS**

- 3.1 This Deed is made pursuant to all powers enabling the parties to do so and in particular Sections 106 and 106A (1) of the Act to the intent that it together with the Original Agreement which it varies as herein set out shall bind the parties hereto and their successors in title and assigns and any persons claiming under or through them
- 3.2 Obligations contained or referred to in (i) this Deed and (ii) the Original Agreement as varied by this Deed are planning obligations for the purposes of Section 106 of the Act and enforceable by the District Council
- 3.3 The County Council shall be the enforcing authority capable of enforcing the obligations set out within this Deed and the Original Agreement as varied until such time as the Freehold Owner ceases to have an interest in the Land whereafter the Freehold Owner shall be the enforcing authority for this purpose.

### **4 VARIATIONS TO THE ORIGINAL AGREEMENT AND CONFIRMATION**

- 4.1 The Original Agreement shall be varied from the date of this Deed and shall otherwise remain in full force and effect
- 4.2 The Parties hereto hereby agree and declare that the Original Agreement shall be varied as follows:
- a) Mid Suffolk District Council and the Leasehold Owner hereby agree that: The planning obligations set forth in the Third Schedule of the Original Agreement and now reproduced as now modified for ease of reference in the First Schedule to this Deed shall be varied in accordance with section 106A (1) of the Act so as to permit development on the Land in accordance with the Intended Permissions on the relevant parts of the Land
  - b) Mid Suffolk District Council and the Leasehold Owner hereby covenant with the County Council to observe all of the planning obligations as set out in their modified form in the Schedule to this Deed

### **5. INDEMNITY**

- 5.1 The Freehold Owner shall indemnify the County Council in respect of any costs reasonably incurred arising out of the enforcement of the planning

obligations as set out in their modified form in the Schedule to this Deed

**6. EFFECTIVE DATE**

6.1 This Deed shall take effect upon the date when both of the Intended Permissions have been issued

**7. COSTS AND MONITORING FEE**

7.1 The Leasehold Owner shall pay the County Council's reasonable legal costs incurred in the preparation and execution of this Deed

7.2 The Leaseholder Owner shall pay the County Council's monitoring fee of £476 (Four Hundred and Seventy- Six Pounds)

**8. THIRD PARTY RIGHTS**

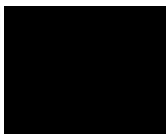
8.1 Nothing in this Deed is intended to confer any benefit (whether pursuant to the Contracts (Rights of Third Parties) Act 1990 or otherwise) on any party other than those executing this Deed

**9. JURISDICTION**

9.1 This Deed is to be governed by and interpreted in accordance with the laws of England and the courts of England and shall have jurisdiction in relation to any dispute.

**IN WITNESS** whereof the parties hereto have executed this Deed on the day and year first before written.

The COMMON SEAL of  
**SUFFOLK COUNTY COUNCIL**  
was affixed in the presence of:



(AUTHORISED SIGNATORY)



Authorised Signatory

The COMMON SEAL of  
**MID SUFFOLK DISTRICT COUNCIL**  
was affixed in the presence of:



[REDACTED]  
At [REDACTED] tory

EXECUTED AS A DEED by **WINGFIELD BARNS COMMUNITY INTEREST COMPANY**

Acting by Dennis Murray a director and Luke Heydon a director

[REDACTED]  
Director

[REDACTED]  
LUKE HEYDON  
Director

## FIRST SCHEDULE

Paragraphs 1 to 4 below contain with their precise wording the planning obligations imposed by the Original Agreement. These obligations are now modified under section 106A(1) of the Act so as not to prevent the development and use of those relevant parts of the Land in accordance with the two intended planning permissions.

1. The converted barn and farm buildings shall be used only by the Owners and entities under its control or associated with its activities as a centre (hereinafter called 'the Centre' for visual and performing arts as follows
  - (i) a multi-purpose space in the main barn for lectures exhibitions performances educational and similar activities with a maximum permitted audience of 180.
  - (ii) Studio facilities for the visual arts
  - (iii) Artists in residence accommodation and for no other purpose (including any other purpose in Class D2 of the Town and Country Planning (Use Classes) Order 1987
2. Prior to the first use of the main barn buildings the Owner shall provide a reinforced grass surface suitable for use as a car park on the land shown shaded blue on the plan ( or such alternative area as may be substituted therefor ) and furthermore the car parking area shall be used for the parking of motor vehicles belonging to staff of and visitors to the Centre or the Old College or to Wingfield Church and shall be for that purpose and for no other at all times subject to paragraph 3 below.
3. The Owner shall prior to the first use install gates to the parking area demised by the lease and shall thereafter ensure that the gates are left shut by 11.30pm on each night and that sufficient notice is given to the public that the car park area will be locked at this time.
4. Any publicity material published by the Owners after the first use containing directions containing directions shall advise visitors to gain access via the C512 and shall not refer to the C509 south of its junction with the C512 provided that the council or Suffolk County Council (as appropriate) shall procure that the signposting directs visitors to Wingfield College from the C508 via the C512a not the C509.