

DATED

3rd October

2023

LAURENCE HOMES (HILLVIEW) LIMITED (1)
EAST SUFFOLK COUNCIL (2)
SUFFOLK COUNTY COUNCIL (3)

DEED OF VARIATION TO S106 AGREEMENT

Relating to land off Millers Way, Church Road, Otley, Suffolk IP6 9HF

THIS DEED IS DATED

3rd October

2023

BETWEEN

- (1) **EAST SUFFOLK COUNCIL** of East Suffolk House, Station Road, Melton, Suffolk IP12 1RT ("the Council"); and
- (2) **SUFFOLK COUNTY COUNCIL** of Endeavour House, 8 Russell Road, Ipswich, Suffolk IP1 2BX ("the County Council"); and
- (3) **LAURENCE HOMES (HILLVIEW) LIMITED** (Company Registration Number 9446934) whose registered office is at 14 Ruskin Close, Stowmarket, Suffolk IP14 1TY and of 1 Nelson Street, Southend-on-Sea, Essex SS1 1EG and care of Birketts LLP, Kingfisher House, 1 Gilders Way, Norwich NR3 1UB ("the Owner")

together "the Parties"

WHEREAS

1. The Council and the County Council are the local planning authorities for the purposes of this Deed for the area in which the Site is situated.
2. The Owner is the registered proprietor of the Site registered at the Land Registry under title number SK359206.
3. The Owner submitted the Application to the Council on 7th November 2013 for the redevelopment of the Site which was allocated reference DC/13/3229/OUT and was granted the Planning Permission on 12th September 2014 subject to the completion of the S106 Agreement.
4. On 13th July 2021 the Parties together with the RP agreed to vary the S106 Agreement by way of a Deed of Variation ("the First Deed of Variation").
5. On 3rd January 2023 the Owner submitted a new planning application to the Council in respect of redevelopment of part of the Site covered by the S106 Agreement and was allocated reference DC/23/0014/FUL ("the Second Application").
6. The Council is minded to grant planning permission in respect of the Second Application but will need to further vary the S106 Agreement.
7. The Parties to this Deed have therefore agreed to vary the S106 Agreement as hereinafter provided and have agreed that as the proposed variation does not affect the RP the RP does not need to be a party to this Deed.

NOW IT IS AGREED AS FOLLOWS

1. Definitions and Interpretation

1.1 In this Deed the following words and phrases have the following meanings unless the contrary intention appears:

"Deed" means this Second Deed of Variation

"First Deed of Variation" means the Deed of Variation dated 13th July 2021 and made between East Suffolk Council (1) Suffolk County Council (2) Laurence Homes (Hillview) Limited (3) and Flagship Housing Group Limited (4)

"Second Application" means the application submitted by the Owner to the Council and allocated reference DC/23/0014/FUL

2. **Effect of this Deed**

- 2.1 This Deed is made pursuant to Section 106 and Section 106A of the Act and varies the S106 Agreement in accordance with the schedule to this Deed and is a planning obligation for the purposes of section 106 of the Act in respect of the Site and is enforceable by the Council and the County Council.

3. **Construction**

- 3.1 In this Deed unless the contrary intention appears:
- 3.1.1 Words and expressions defined in the S106 Agreement and First Deed of Variation shall have the same meanings in this Deed save as otherwise provided for in this Deed.
- 3.1.2 References to any statute include references to:
- 3.1.2.1 that statute as amended or re-enacted or as other statutes modify its application from time to time; and
- 3.1.2.2 any subordinate legislation made or to be made under that statute.
- 3.1.3 References to clauses or schedules are references to clauses or schedules within this Deed.
- 3.1.4 References to the singular include the plural and vice versa.
- 3.1.5 References to the Parties in this Deed shall include their successors in title or successors in function as appropriate.
- 3.1.6 Where a party includes more than one person any obligations of that party shall be joint and several.
- 3.1.7 The headings shall not affect the interpretation of this Deed.
- 3.1.8 If any provision in this Deed is held to be illegal, void, invalid or unenforceable for any reason the legality and enforceability of the remainder of this Deed shall not be affected.

4. **Variations**

- 4.1 From and including the date of this Deed the Section 106 Agreement shall be read and construed as varied by the First Deed of Variation together with the provisions set out in the schedule attached to this Deed.

5. **Miscellaneous**

- 5.1 The Section 106 Agreement shall remain in full force and effect save as varied by the First Deed of Variation and this Deed.
- 5.2 This Deed is a Local Land Charge and shall be registered by the Council in its Register of Local Land Charges in accordance with the provisions of the Local Land Charges Act 1975 and section 106(11) of the Act as amended.
- 5.3 This Deed is governed and interpreted in accordance with the laws of England.
- 5.4 The provisions of the Contract (Rights of Third Parties) Act 1999 shall not apply to this Deed.
- 5.5 This Deed does not release any party to it from any breaches of the S106 Agreement existing at the date of this Deed save where the variations contained in this Deed remove the obligation of which the party is in breach.

6. **Cost**

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

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

THE COMMON SEAL OF)
EAST SUFFOLK COUNCIL)
was affixed in the presence of:)



.....
[Redacted Signature]

Authorised Officer *LICENSING MANAGER*
AND BUILDING CONTROL

~~1134~~
1134

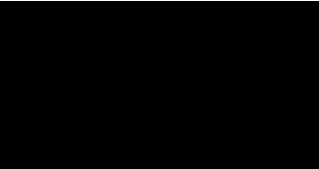
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Authorised Officer

THE COMMON SEAL OF)
SUFFOLK COUNTY COUNCIL)
was affixed in the presence of:)

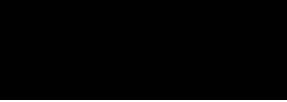


Authorised Officer

EXECUTED AS A DEED BY)
LAURENCE HOMES (HILLVIEW) LIMITED)
acting by one Director and its)
Secret)



Director
Name IAN BAKER



Secretary
Name BAM KEY



WITNESS SIGNATURE:
WITNESS NAME: SIMON MYERS



WITNESS ADDRESS:
WITNESS OCCUPATION: ELECTRICIAN
(DIRECTOR)



SCHEDULE

The Parties agree to vary the Section 106 Agreement as varied by the First Deed of Variation as follows:

1. The definition of B1 Commercial Space as defined within the Third Schedule of the S106 Agreement shall be deleted in its entirety.
2. Paragraph 2.11 of the Third Schedule of the S106 Agreement shall be deleted in its entirety.