

DATED 13th January 2017/2

BARNSELY METROPOLITAN BOROUGH COUNCIL

and

HOMES BY WOODFORD LIMITED

and

ARUNDEL DEVELOPMENTS LIMITED

and

HSBC BANK PLC

and

STRATA HOMES MIDLANDS LIMITED

SECOND SUPPLEMENTAL AGREEMENT AND DEED OF VARIATION

Pursuant to Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended) relating to development on land at the former Perfecta Beds site
Barnsley Road Wombwell Barnsley S73 8EA

A.C. Frosdick, LL.B. DipLG,
Borough Secretary,
Town Hall,
Barnsley S70 2TA.

THIS DEED OF VARIATION is made the 13th day of January Two Thousand and Eleven Twelve

BETWEEN

(1) **BARNSELY METROPOLITAN BOROUGH COUNCIL** of Town Hall Barnsley South Yorkshire S70 2TA ("the Council") of the first part and

(2) **HOMES BY WOODFORD LIMITED** (Company registration number 3527490) whose registered office is situate at Unit 3 Lockside Office Park Lockside Road Preston Lancashire PR2 2YS ("the Leasehold Owner") of the second part

(3) **ARUNDEL DEVELOPMENTS LIMITED** (Company Registration number 4926738) c/o Cowgill Holloway Regency House Chorley New Road Bolton England BL1 4QR ("the Freehold Owner") of the third part

(4) **HSBC BANK PLC** (Company registered number 14259) of Sheffield Securities Processing Centre PO Box 3924 Sheffield S1 9BD ("the Mortgagee") of the fourth part

(5) **STRATA HOMES MIDLANDS LIMITED** (Company Registration Number 04327879) whose registered office is situate at Quay Point Lakeside Doncaster DN4 65PL ("the Developer") of the fifth part

RECITALS

(1) This Second Deed of Variation is supplemental to an agreement entered into pursuant to Section 106 of the Town and Country Planning Act 1990 between the Council (1) the Leaseholder Owner (2) Woodford Land Limited (3) and the Mortgagee (4) dated 10 August 2007 ("the Original Section 106 Agreement") and a

deed of variation to the Original Section 106 Agreement dated 7th June 2011 ("the First Deed of Variation")

- (2) Woodford Land Limited no longer has an interest in the land at the former Perfecta Beds site, Barnsley Road, Wombwell, Barnsley S73 8EA edged red on the plan attached ("the Site").
- (3) The Leasehold Owner is now the registered proprietor of the Site with Absolute Leasehold Title under title number SYK541668 ("the Leasehold Interest")
- (4) The Freehold Owner is the registered proprietor of the Site with Absolute Freehold Title under title number SYK221259 ("the Freehold interest")
- (5) The Mortgagee has a registered charge on the Site dated 7th September 2007
- (6) The Developer has a conditional contract to purchase the Leasehold Interest
- (7) The Assistant Director of Planning and Transportation agrees to vary the Original Section 106 Agreement by entering into this Deed of Variation pursuant to powers granted to him under the Council's Scheme of Delegation.
- (8) Any words or phrases which are defined in the Original Section 106 Agreement (as varied) and which appear in this Deed of Variation shall have the same meaning as are associated to them in the Original Section 106 Agreement (as varied) unless a contrary intention appears from this Deed of Variation

NOW THIS DEED WITNESSETH AS FOLLOWS:-

1 Variation

- 1.1 It is hereby agreed between the parties to this Deed of Variation that the Original Section 106 Agreement (as varied) is further varied in the manner set out in the Schedules to this Second Deed of Variation and that subject to the amendments contained in this Second Deed of Variation the Original Section 106 Agreement (as varied) shall remain in full force and effect and the amendments contained in this Second Deed of Variation shall take effect as if they were included in the Original Section 106 Agreement (as varied)
- 1.2 This Second Deed of Variation is made pursuant to section 106 and section 106A of the Town and Country Planning Act 1990 and all other powers so enabling.
- 1.3 The provisions of this Second Deed of Variation shall have immediate effect upon the completion of this Deed
- 1.4 For the avoidance of doubt the obligation to pay the School Classroom Contribution contained in the Original Section 106 Agreement shall only be payable once and upon implementation of the first of the Planning Permissions
- 2 Miscellaneous**
- 2.1 The Leasehold Owner agrees to pay the Council's legal fees in respect of the drafting negotiation and completion of this Second Deed of Variation in the sum of £500.
- 2.2 The Mortgagee acknowledges and declares that this Second Deed of Variation has been entered into by the Leasehold Owner with its consent and that the Site shall be bound by the obligations contained in this Deed of Variation and that the security of the mortgage over the Site shall take effect

subject to this Second Deed of Variation PROVIDED THAT the Mortgagee shall otherwise have no liability under this Second Deed of Variation unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Leasehold Owner.

- 2.3 Subject to clause 2.1 this Deed of Variation shall otherwise have no effect following the expiry or termination of the Planning Permission in circumstances where the Planning Permission has not been implemented.
- 2.4 No third party shall have any right to enforce the terms of this Deed pursuant to the Contract (Rights of Third Parties) Act 1999 even if the terms are expressed to be for their benefit and nor shall any such third party have by virtue of that Act the right to veto over any future variations of the original Section 106 Agreement (as varied by this Deed of Variation).

Schedule 1

The Original Section 106 Agreement (as varied) shall be further varied as follows:

1 The definition of "Planning Application" and "Planning Permission" in clause 1 shall be deleted and the following definitions inserted into clause 1:

"Planning Application" means an application for planning permission in respect of the Site under reference numbers 2006/1172, 2010/0990 or 2011/0309

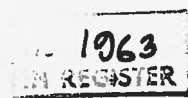
"Planning Permission" means a planning permission granted by the Local Planning Authority pursuant to any of the Planning Applications"

IN WITNESS whereof these presents have been duly executed as a Deed by the parties hereto the day and year first before written

THE COMMON SEAL of Barnsley)
Metropolitan Borough Council was)
hereunto affixed to this Deed in the)
presence of:-)

S. P. [Signature]

Borough Secretary/Authorised Signatory



EXECUTED AS A DEED by)
HOMES BY WOODFORD)
LIMITED)

acting by a Director)

A. [Signature]

[and Secretary/~~Director~~])

[in the presence of:])

F. A. [Signature]

Witness Name: *J. P. [Signature] PARKINSON*

Address:]

EXECUTED AS A DEED by
HOMES BY ARUNDEL
DEVELOPMENTS LIMITED


acting by a Director

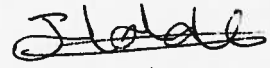
[~~and Secretary/Director~~]

[in the presence of:

Witness Name:

Address:]

)
) 
) C-Daurys

) 
) ~~Witness~~ X J. Holden.
198 Bolton Rd
BL8 4JF.

EXECUTED AS A DEED by
HSBC BANK PLC

acting by a ~~Director~~ ITS ATTORNEY



MARK WILIE HOWMAN

[~~and Secretary/Director~~]

[in the presence of:

Witness Name:

Address:]

) 
) 
) DAVID MARTLAND
R/C 7 MORE LONDON SE1 2RT

EXECUTED AS A DEED by
~~HOMES BY ARUNDEL~~ STRATA HOMES)
~~DEVELOPMENTS LIMITED~~ MIDLANDS)
LIMITED)

acting by a Director

[and Secretary/Director]

[in the presence of:

Witness Name:

Address:]

[Handwritten signatures and marks]