

DATED 6th December 2016

PORTSMOUTH CITY COUNCIL (1)

AND

THE COUNCIL OF THE BOROUGH OF HAVANT (2)

DEED OF VARIATION

Under Section 106 and Section 106A of the Town and Country Planning Act 1990
relating to land at the rear of 2-56 Blendworth Crescent, Havant

THIS AGREEMENT is made the

6th

day of December 2016

BETWEEN:-

1. **PORTSMOUTH CITY COUNCIL** of Civic Offices Guildhall Square Portsmouth PO1 1JW ("the Owner"); and
2. **THE COUNCIL OF THE BOROUGH OF HAVANT** of Public Service Plaza, Civic Centre Road Havant PO9 2AX ("the Council")

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (B) The Owner is the freehold owner of the Land
- (D) On 28 September 2016 the Council and the Owner entered into the Original Agreement.
- (E) 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.
- (F) This agreement is made under section 106A of the Act and is supplemental to the Original

AGREED TERMS

1. INTERPRETATION

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

Original Agreement: the agreement made under the Act dated 28 September 2016 between the Council and the Owner.

- 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 Act 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

3. VARIATIONS TO THE ORIGINAL AGREEMENT

- 3.1 The definitions of Travel Plan, Travel Plan Co-ordinator and Travel Plan Monitoring Fee shall be removed from Clause 2 'Definitions' of the Original Agreement in its entirety.
- 3.2 Paragraphs 2.3 and 8 (8.1, 8.2, 8.3, 8.4, 8.5 and 8.6) of Schedule 1 to the Original Agreement shall be deleted in their entirety.
- 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. COUNCIL'S COSTS

The Owner shall pay to the Council on or before the date of completion of this deed,

the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this deed.

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.

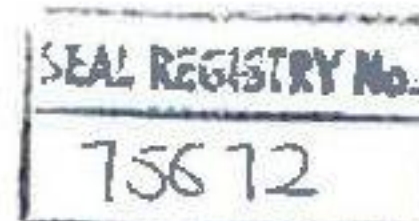
8. THIRD PARTY RIGHTS

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 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.



The COMMON SEAL of
PORTSMOUTH CITY COUNCIL

was hereunto affixed in pursuance of a
resolution of the Council passed at a
meeting duly convened and held:

Authorized Signatory *IAN CLARK*

EXECUTED as a DEED by affixing
THE COMMON SEAL of THE
COUNCIL OF THE BOROUGH OF
HAVANT in the presence of



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Authorized Signatory

