

DATED this 15th day of September 2016

JACOBS FOREMAN DEVELOPMENTS LIMITED (1)

and

LLOYDS BANK PLC (2)

and

THE COUNCIL OF THE BOROUGH OF HAVANT (3)

DEED OF VARIATION AND AGREEMENT

Pursuant to (inter alia)

Section 106A of the Town and Country Planning Act 1990
Relating to land south of Ranelagh Road Havant in Hampshire

Solicitor to the Council
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant, Hampshire
PO9 2AX

THIS DEED is made the 15th day of September 2016
BETWEEN

- (1) JACOBS FOREMAN DEVELOPMENTS LIMITED a company registered in England and Wales with company registration number 04622599 whose registered office is situated at Unit 1 Station Industrial Park Duncan Road Park Gate Southampton SO31 1BX ("the Owner")
- (2) LLOYDS BANK PLC a company registered in England and Wales with company registration number 2065 whose registered office is situated at 25 Gresham Street London EC2V 7HN ("the Mortgagee")
- (3) THE COUNCIL OF THE BOROUGH OF HAVANT of Public Service Plaza, Civic Centre Road, Havant PO9 2AX ("the Council")

WHEREAS

- (A) The Council is the local planning authority for the purposes of Section 106 of the Act for the area in which the Land is situated
- (B) The Owner is the sole registered proprietor of the Land under Title number SH39688 subject only to a charge in favour of the Mortgagee
- (C) The Land is subject to a Section 106 agreement made on the 30th day of July 2013 between Orchard Homes and Developments Limited (1) Brockhampton Property Investments Limited (2) Portsmouth Water (3) the Council of the Borough of Havant (4) and Hampshire County Council (5) ("the 2013 Section 106 Agreement")
- (D) On the 31st day of July 2013 the Council granted planning permission for Erection of 79 dwellings consisting of 8No. 1 bed flats, 12No. 2 bed flats, 6No. 2 bed houses and 53No. 3 bed houses, construction of access from Ranelagh Road, provision of landscaping, open space and associated works on the Land under reference number APP/12/00772 ("the Original Planning Permission")
- (E) By a written application pursuant to section 73 of the Town and Country Planning Act 1990 registered on the 14th day of April 2016 and bearing the reference APP/16/00380 the Owner applied to the Council for a variation of condition 43 of the Original Planning Permission to enhance

- the viability of the site (Plots 16, 71 and 72) ("the New Application")
- (F) The Council is minded to grant planning permission ("the New Permission") pursuant to the New Application subject to the Owner entering into this Deed
- (G) In relation to any development to be carried out pursuant to the New Permission the parties have agreed to be bound by the obligations contained in the 2013 Section 106 Agreement as varied in this Deed of Variation

NOW THIS DEED WITNESSETH as follows:

1. CONSTRUCTION OF THIS DEED

- 1.1 Unless otherwise stated or defined herein terms used in this Deed shall have the meanings given to them in the 2013 Section 106 Agreement

2. LEGAL BASIS

- 2.1 This Deed is made pursuant to Section 106A of the Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011.

3. LEGAL EFFECT

- 3.1 This Deed shall take effect from the date hereof.

4. VARIATION OF THE 2013 SECTION 106 AGREEMENT

- 4.1 It is agreed by all parties that on and from the date of this Deed of Variation the 2013 Section 106 Agreement shall be amended so that the definition of the Planning Permission as referred to in the agreed terms of definition of the 2013 Section 106 Agreement shall read:

'means the planning permission granted on the on the 31st day of July 2013 under reference number APP/12/00772 and the planning permission to be granted pursuant to the application registered on the 14th day of April 2016 under reference number APP/16/00380 and any new planning permission granted subsequently pursuant to any further application under section 73 of the Act in respect of the Planning Permission'

5. MORTGAGEE'S CONSENT

- 5.1 The Mortgagee hereby consents to the Owner entering into this deed and acknowledges that the Land is bound by the covenants and obligations in the 2013 Section 106 Agreement as varied by this deed provided that the said covenants shall not be enforceable against the Mortgagee unless it enters the Land as mortgagee in possession of the Land or has appointed a receiver or has exercised its power of sale.

6. MISCELLANEOUS

- 6.1 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 6.2 This Deed is a local land charge and shall be registered as such by the Council.
- 6.3 The Developer agrees to pay the Council's legal costs on completion of this Deed.

7. COUNTERPART

- 7.1 It is hereby agreed by the parties that this Deed may be executed in any number of counterparts each of which shall be an original but such counterparts shall together constitute one and the same Deed

8. JURISDICTION

- 8.1 This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

IN WITNESS whereof this Deed has been executed as a Deed by the parties hereto the day and year first before written

Signed as a DEED by JACOBS)
FOREMAN DEVELOPMENTS LIMITED)
acting by two directors or by one director)
and the company secretary)

Director

Director/Company Secretary

Executed as a DEED by)
as Attorney for and on)
behalf of LLOYDS BANK PLC)
in the presence of :

SIGNED AS A DEED	
BY THOMAS OLIVER BELFORT as authorised signatory for Lloyds Bank in the presence of	Per Pro
Wobaston Rd, Wolverhampton WV9 5HZ	

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

Authorised sign

