

DATED

7 July

2021

(1) SOUTH HOLLAND DISTRICT COUNCIL

and

(2) JELSON LIMITED

and

(3) CROSS KEYS HOMES LIMITED

DEED OF VARIATION of the Section 106 Agreement dated 23rd November 2016

**Pursuant to Section 106A
of the Town and Country Planning Act 1990 (as amended)**

**in relation to Land at Caulton's Field, Littleworth Drove, Deeping St Nicholas, Spalding, Lincolnshire.
Planning Application reference: H03-0331-16**



Devonshires Solicitors
30 Finsbury Circus
London
EC2M 7DT

THIS DEED OF VARIATION OF SECTION 106 AGREEMENT is made the 7th day of July 2021

BETWEEN:

- (1) SOUTH HOLLAND DISTRICT COUNCIL** of Council Offices, Priory Road, Spalding, PE11 2XE ("**the Council**"); and
- (2) JELSON LIMITED** (Company No. 00571641) of 370 Loughborough Road, Leicester, LE4 5PR ("**the Owner**").
- (3) CROSS KEYS HOMES LIMITED** (Registered Community Benefit Society No. 7643) of Shrewsbury Avenue, Peterborough, PE2 7BZ ("**the Association**").

WHEREAS:

- (A)** The Council is the local planning authority for the purpose of the Act for the area in which the Land is situated.
- (B)** This deed of variation (Deed) pertains to the Section 106 Agreement as varied by the First Deed of Variation.
- (C)** The Owner is the registered proprietor of the freehold estate in the Land registered at HM Land Registry with title number LL301932.
- (D)** The Association will be the Affordable Housing Provider on the Land and will be acquiring the land upon which the Affordable Dwellings will be built from the Owner.
- (E)** The Association have requested and the Owner and the Council have agreed that the Section 106 Agreement shall be varied in the manner hereinafter appearing and pursuant to Section 106 and Section 106A of the Town and Country Planning Act 1990 (as amended).

NOW IT IS AGREED as follows:

1. Definitions and Interpretation

In this Deed the following expressions shall have the following meaning:-

"**Section 106 Agreement**" means the Planning Agreement Section 106 Agreement dated 23rd November 2016 made between (1) South Holland District Council (2) Darby William Dennis (3) Catherine Dennis (4) Hugh Murray Charles Coghill (5)

Patrick William Maule Ramsay (6) Lloyds Bank PLC in relation to Land at Caulton's Field, Littleworth Drove, Deeping St Nicholas, Spalding, Lincolnshire.

"First Deed of Variation" means the deed of variation dated 14th June 2019 made between (1) Jelson Limited and (2) South Holland District Council in respect of residential development at Caulton's Field, Littleworth Drove, Deeping St Nicholas, Spalding, Lincolnshire.

All other expressions contained herein shall have the same meaning as that ascribed to them in the Section 106 Agreement (as varied by the First Deed of Variation).

2. Variations to the Section 106 Agreement

The following variations will be made to the Section 106 Agreement (as varied by the First Deed of Variation), detailed as follows:-

- 2.1 The definition of **"Chargee"** at **1. DEFINITIONS** shall be deleted and replaced with:-

"Chargee" means any mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Dwellings

- 2.2 The definition of "Planning Permission" at **1. DEFINITIONS** shall be deleted and replaced with:-

"Planning Permission" means the planning permission granted by the Council and attached hereto at Schedule 2 and/or any subsequent planning permission granted for the Development pursuant to an application under Section 73 or Section 73A of the Act and including any non-material amendments accepted by the Council under Section 96A of the Act which is subject to this Agreement

- 2.3 The following clause shall be added to the Section 106 Agreement after Clause 8.11

- 8.12 *It is agreed between the parties that where a planning permission is issued in relation to the Development pursuant to an application under Section 73 of the Act, this Deed shall continue to bind the Development and shall be in full force and effect subject to and in accordance with the provisions contained herein **AND PROVIDED THAT** in the event that upon receipt of an application under Section 73 of the Act the Council considers that the obligations contained in this Deed should be varied or amended it is agreed and acknowledged that the Council should retain the right to refuse such application unless and until a deed of variation or alternative agreement has been entered into to secure the appropriate obligations.*
- 2.4 Paragraph 1.9.2 of **SCHEDULE 3** shall be deleted and replaced with the following:-
- 1.9.2 any Chargee or any persons or bodies deriving title through such Chargee provided the Chargee shall have first complied with the Chargee's Duty at 1.10 below and
- 2.5 Paragraph 1.10 of the **SCHEDULE 3** shall be deleted and replaced with the following:-
- 1.10 The Chargee shall prior to seeking to dispose of the Affordable Dwellings pursuant to any default under the terms of its mortgage or charge:
- 1.10.1 first give written notice to the Council of its intention to dispose of the Affordable Dwellings; and
- 1.10.2 shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Dwellings to another Affordable Housing Provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and
- 1.10.3 if such disposal has not completed within the three month period, the Chargee shall be entitled to dispose of the Affordable Dwellings free

from the Affordable Housing provisions in this Deed which provisions shall determine absolutely'

- 2.6 Paragraph '1.10' of **SCHEDULE 3** (under 1.10.3) shall be renumbered as 1.11 for clarity.

3. Miscellaneous provisions

- 3.1 Except as varied by clause 2 of this Deed the Section 106 Agreement and First Deed of variation are otherwise confirmed by the parties hereto and remain in full force and effect.
- 3.2 On completion of this Deed, the Association shall pay to the Council their reasonable legal costs together with all disbursements that have been incurred in the negotiation and completion of this Deed.
- 3.3 This Deed is a Local Land Charge and the Council shall register it 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 Town and Country Planning Act 1990 as amended.

IN WITNESS whereof this deed has been executed by the parties hereto and is intended to be and is hereby delivered on the date first above written.

EXECUTED as a Deed by affixing the
Common Seal of **South Holland District
Council** in the presence of:



C. Marshall
Authorised Signatory

SIGNED as a Deed on
behalf of **Jelson Limited**
by:


.....
Director


.....
Director/Secretary

EXECUTED as a Deed by affixing the
Common Seal of **Cross Keys Homes
Limited**
in the presence of:


.....
Authorised Signatory


.....
Authorised Signatory

