

**TO BE
SCANNED**

DATED

14th October

2016

CHICHESTER DISTRICT COUNCIL

and

WEST SUSSEX COUNTY COUNCIL

and

MARTLET HOMES LIMITED

and

NICHOLAS JOHN MITCHELL WAY

DEED OF VARIATION
of Agreement made under
S.106A of Town and Country Planning Act 1990
relating to land to the west of Crooked Lane,
Birdham, Chichester, West Sussex

Planning Application Reference: 16/01809/FUL

Chichester District Council
East Pallant House,
East Pallant,
Chichester,
West Sussex. PO19 1TY

TCP/14/797/i (NG)

THIS DEED OF VARIATION is made the *14th* day of *October*
Two Thousand and Sixteen

BETWEEN

1. **CHICHESTER DISTRICT COUNCIL** whose offices are at East Pallant House, East Pallant, Chichester in the County of West Sussex (hereinafter called "**the Council**")
2. **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, Chichester, West Sussex, PO19 1RQ acting in its capacity as planning highway library and fire authority (hereinafter called the "**County Council**")
3. **MARTLET HOMES LIMITED** whose registered office is situated at 30 Park Street London SSE1 9EQ (company registration number IP030648) (hereinafter called "**the Owner**")
4. **NICHOLAS JOHN MITCHELL WAY** of 6 The Saltings, Birdham, Chichester, West Sussex PO20 7JA ("**the Option Holder**")

WHEREAS:

- (1) BY an agreement dated 29th November 2013 (hereinafter referred to as "**the Original Agreement**") made between the Council (1) the County Council (2) the Owner (3) and the Option Holder (4) in pursuance of section 106 of the Town and Country Planning Act 1990 ("**the Act**") the Council granted conditional planning permission under application number 13/01391/FUL ("**the Original Permission**") subject to covenants as therein contained in respect of land known as land to the west of Crooked Lane, Birdham, Chichester, West Sussex (hereinafter called "**the Land**")

- (2) THE Owner is the owner in fee simple of the Land registered at H M Land Registry under title number WSX362152 and subject to the interest of the Option Holder but otherwise free from incumbrances
- (3) The Owner has submitted an application to vary the Original Permission under section 73 of the Act for the variation of conditions 3, 5, 6, 8, 13, 20 and 21 of the Original Permission and given planning reference 16/01809/FUL ("**the S73 Application**")
- (4) The Council is minded to grant the S73 Application subject to the parties entering into this Deed to vary the Original Agreement and apply the terms of the Original Agreement to the granted S73 Application ("**the S73 Permission**")
- (5) Once the S73 Permission is issued by the Council either the Original Permission or the S73 Permission may be implemented and it is the parties intention that the planning obligations contained within the Original Agreement will become applicable and enforceable upon implementation of either the Original Permission or the S73 Permission

1. RULES OF INTERPRETATION

- 1.1. Except where a contrary intention appears references in this Deed to clauses, paragraphs and schedules are references to those in the Original Agreement
- 1.2. The definitions and interpretations of the Original Agreement shall apply to this Deed where appropriate

2. NOW IT IS HEREBY AGREED:

- 2.1. The Council and the County Council in pursuance of their statutory powers and all other enabling powers and the Owner and the Option Holder hereby agree that the Original Agreement shall be **AMENDED** as follows:

- (i) The words "*Affordable Dwelling*" shall be **DELETED** from the first line of the definition of "*Application*"
- (ii) The words "*and/or an application under Section 73 of the Act for variation of conditions of the Permission and given Council reference 16/01809/FUL*" shall be **INSERTED** at the end of the definition of "*Application*";
- (iii) A new definition of "*Surface Water Disposal Scheme*" shall be **INSERTED** with the following meaning; "*the scheme to be approved by the Council in accordance with Condition 6 of the Permission reference 16/01809/FUL*";
- (iv) The word "*Planning*" shall be **DELETED** from the last line of the definition of "*Proposed Development*";
- (v) The words "*in the form of the draft attached to this Agreement as Appendix 1*" shall be **DELETED** from the definition of "*Permission*";
- (vi) The words "*and management plan*" shall be **DELETED** from the first line of the definition of "*Landscape Management Plan*" and **INSERTED** after the word "*Permission*" in the second line of the same definition;
- (vii) The words "*(in the event that Permission reference 13/01391/FUL is Commenced) or prior to First Occupation (in the event that Permission reference 16/01809/FUL is Commenced)*" shall be **INSERTED** after "*Prior to the Operative Date*" in the first line of paragraph 6.1 of the First Schedule;
- (viii) A new paragraph 9 shall be **INSERTED** into the First Schedule as follows:

"9. DRAINAGE

9.1 In the event that Permission reference 16/01809/FUL is Commenced no Development SAVE FOR the erection of boundary ^{perimeter} fencing and/or the pegging out of any road or part of a road in accordance with drawing 381415-CO-01 (entitled "Co-ordinate Setting Out Plan") that have no impact on the

Surface Water Disposal Scheme shall be undertaken until the Surface Water Disposal Scheme has been approved by the Council in writing

9.2 *The Owner shall ensure the Surface Water Disposal Scheme is approved by the Council in writing prior to undertaking any Development SAVE FOR the erection of ^{perimeter} boundary fencing and/or the pegging out of any road or part of a road in accordance with drawing 381415-CO-01 (entitled "Co-ordinate Setting Out Plan") that have no impact on the Surface Water Disposal Scheme"; and*

(ix) Appendix 1 shall be **DELETED**.

2.2. Otherwise than as varied by this Deed the Original Agreement shall remain as drawn and shall be enforceable by the Council and the County Council as the local planning authorities for the purposes of the Act against the Original Application and the Owner agrees to remain bound by all the terms of the Original Agreement

2.3. The Owner shall be responsible for payment of the legal costs of both the Council and the County Council reasonably and properly incurred in connection with the preparation and completion of this Deed

2.4. Nothing contained in this Deed shall affect the powers of the Council and the County Council with regard to the enforcement of planning control under the Act from time to time in force

2.5. This Deed shall be enforceable by the Council and the County Council as the planning authorities in the same manner as the Original Agreement

2.6. This Deed is made pursuant to section 106A of the Act

IN WITNESS whereof the parties hereto have executed this document
as a Deed and delivered it the day and year first before written

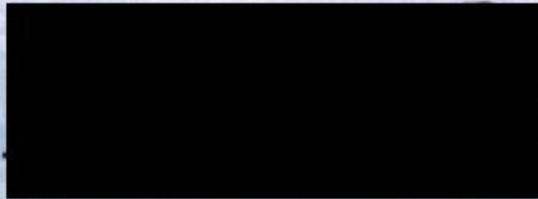
THE COMMON SEAL OF THE)
CHICHESTER DISTRICT COUNCIL)
was hereunto)
affixed in the presence of:-)

Authorised Signatory



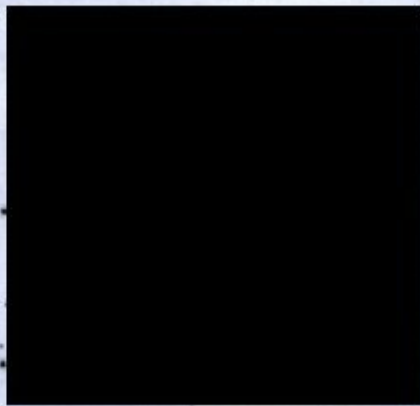
THE COMMON SEAL OF THE)
WEST SUSSEX COUNTY COUNCIL)
was hereunto)
affixed in the presence of:-)

Authorised Signatory ...

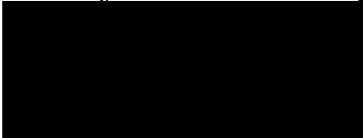
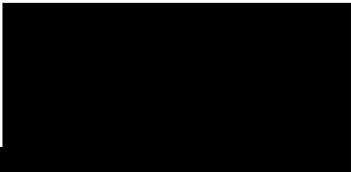


THE COMMON SEAL of **MARTLET**)
HOMES LIMITED was hereunto affixed)
in the presence of:-)

Authorised signatory ..



SIGNED as a Deed by **NICHOLAS**)
JOHN MITCHELL WAY in the presence)
of:)



Witness signature:

Witness name:
(BLOCK CAPS)

Kim Harvey

Address:

3 ST Nicholas Rd
Bridgeton NJ 08310

Occupation:

Administrator