**Supplemental Deed of Agreement under Section 106 and Section 106A of the Town and Country Planning Act 1990 relating to the development of land at Land to the South of New Cut and Land to the South of Soloman's Lane, Mountfield**

Application number RR/728/CM and RR/825/CM

Dated 5 February 2020

**(1) EAST SUSSEX COUNTY COUNCIL**

**(2) THE TRUSTEES OF THE MOUNTFIELD COURT ESTATE TRUST**

(3) **SOUTHERN WATER SERVICES LIMITED**

**East Sussex County Council**

**County Hall**

**St. Anne's Crescent**

**Lewes**

**East Sussex BN7 lUE**

**ref. CE/CT506.182/SEL**

**DATE 5 February 2020**

**PARTIES**

1. **EAST SUSSEX COUNTY COUNCIL** (Governance Services) of County Hall, St. Anne's Crescent, Lewes, East Sussex BN7 1 UE (hereinafter called "the County Council") of the first part and
2. **ADRIAN GEORGE CHICHESTER and CHRISTOPHER WILMOT-SITWELL AS TRUSTEES OF THE MOUNTFIELD COURT ESTATE TRUST** care of 66 Lincoln's Inn Field, London WC2A 3LH (hereinafter called the " Owners") of the second part
3. **SOUTHERN WATER SERVICES LIMITED** whose registered office is at Southern House Yeoman Road Worthing West Sussex BN13 3NX (hereinafter called "the Developer") of the third part

RECITALS

A On 13th March 2015 the County Council, the Owners and the Developer entered into the Original Agreement.

B The County Council is the local planning authority and the highway authority for the purposes of the 1990 Act, the 1972 Act and the 1980 Act for the area in which the Property is situated.

C 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.

D This agreement is made under section 106A of the TCPA 1990 and is supplemental to the Original Agreement.

E It is agreed that the requirements of this Deed meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and are a) necessary to make the Development acceptable; (b) directly related to the Development; and, (c) fairly related in scale and kind to the Development.

AGREED TERMS

**1. INTERPRETATION**

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

 1.1 Definitions:

Original Agreement: the agreement made under section 106 of the TCPA 1990 dated 15th March 2015 between the County Council ,the Owners and the Developer.

 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 TCPA 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and section 278 and 38 of the 1980 Act and any other enabling powers.

**3 Variations to the Original Agreement**

3.1 Operative Part 1.1 . Definitions "Application" to the Original Agreement shall be removed and replaced with:

Means the application for full planning permission submitted to East Sussex County Council dated 24th January 2014 and allocated reference number RR/728/CM and the application for proposed variation of Conditions 2 (Approved drawings) and 3 (Landscaping) of planning permission RR/728/CM submitted to East Sussex County Council dated 4th July 2019 and given the reference number RR/825/CM for the Development.

3.2 In all other respects the Original Agreement (as varied by this deed) shall remain in full force and effect.

**4 Covenants to the County Council**

The Owners and the Developer covenant 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 Endorsement**

Promptly following completion of this deed the County Council shall endorse a memorandum of variation on the Original Agreement in the following terms:

"This Agreement has been varied by a supplemental agreement dated [DATE] and made between [PARTIES]."]

**7 County Council's costs**

The Developer shall pay to the County Council on or before the date of completion of this deed, the County Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this deed.

**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.

**IN** WITNESS this document has been signed as a Deed and delivered on the date first above written

**EXECUTED as a DEED** by affixing hereto )
the **COMMON SEAL** of **EAST SUSSEX )
COUNTY COUNCIL** in the presence of:- )

|  |  |
| --- | --- |
| The Common Seal of **SOUTHERN WATER SERVICES LIMITED** was hereunto affixed in the presence of:-  | Official ESCC Legal Stamp |
|   |  |
|  |  |
| C MACHELL Authorised Signatory |  |
| **SIGNED AS A DEED** by**ADRIAN GEORGE CHICHESTER**in the presence of: |  |  | ••F |  |  |
|  |  |  |  |
|  |  |  |  |  |

Signature of witness

Name (in BLOCK CAPITALS) MARY FORESTER

Address 55 NORTHBROOK STREET

NEWBURY RG14 1AN

RHENRIETTA J R GELL

Signature of witness

Name (in BLOCK CAPITALS)

Address

**SIGNED AS A DEED** by **CHRISTOPHER**

**WILMOT-SITWELL**

in the presence of:

Address 56A BRUNSWICK GARDENS W8 4AN