

Dated 202[\*]

Isle of wight council

and

Owner

and

[MORTGAGEE]

**Supplemental agreement under section 106a of the town & country planning act 1990 relating to land at [address]**

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This deed is made on the day of 202[\*]

(1) ISLE OF WIGHT COUNCIL of County Hall, Newport, Isle of Wight, PO30 1UD (the **‘Council’**);

(2) [NAME OF OWNER] of [ADDRESS OF OWNER] (the ‘**Owner**’); and

(3) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS](the ‘**Mortgagee**’)]

BACKGROUND

(A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Land is situated

(B) [The Council enters this Deed as successor authority to [Medina Borough Council OR South Wight Borough Council] by virtue of the Isle of Wight (Structural Change) Order 1994]

(C) The Owner is the freehold owner of the Land [subject to a mortgage in favour of the Mortgagee but otherwise] free from encumbrances

(D) [The Mortgagee is the registered proprietor of the charge dated [DATE] referred to in entry number [NUMBER] of the charges register of title number [NUMBER] and has agreed to enter into this Deed to give its consent to the terms of this Deed]

(E) On [DATE] the Council[,] [and] the Owner [and the Mortgagee] entered into the Original Agreement.

(F) 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

(G) This agreement is made under section 106A of the TCPA 1990 and is supplemental to the Original Agreement

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 [DATE] between the Council, the Owner [and the Mortgagee]

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 any other enabling powers.

3. **Variations to the Original Agreement**

3.1 [Paragraph [NUMBER] of Schedule [NUMBER] to the Original Agreement shall be deleted and replaced with the following:

[NEW WORDING]]

3.2 [Paragraph [NUMBER] of Schedule [NUMBER] to the Original Agreement shall be amended by adding to the end of the paragraph the following words:

[NEW WORDING]]

3.3 [Paragraph [NUMBER] of Schedule [NUMBER] to the Original Agreement shall be amended by adding in the [FIRST] line after the words "[WORDS]" the words "[NEW WORDING]"]

3.4 [Paragraph [NUMBER] of Schedule [NUMBER] to the Original Agreement shall be amended by substituting the word "[OLD WORDING]" with the word "[NEW WORDING]"]

3.5 [The following paragraphs shall be inserted after paragraphs [NUMBERS] of Schedule [NUMBER ] to the Original Agreement:

[NEW WORDING]

[NEW WORDING]]

3.6 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 [and the Mortgagee] covenant[s] to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed

5. **Mortgagee's consent**

The Mortgagee consents to the completion of this Deed and acknowledges that from the date of this Deed the Land shall be bound by the terms of this Deed, as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Land. ]

6. **Local land charge**

This Deed shall be registered as a local land charge

7. **Endorsement**

Promptly following completion of this Deed the 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]."]

8. **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

9. **Value added tax**

9.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid

9.2 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

10. **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

11. **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

Executed as a DEED by affixing the common seal of the ISLE OF WIGHT COUNCIL in the presence of:

Authorised signatory

Signed as a deed by OWNER in the presence of:

.......................................

Witness’ Signature

NAME, ADDRESS AND OCCUPATION OF WITNESS:

.......................................

Signature

Executed as a deed by [NAME OF MORTGAGEE] acting by [NAME OF DIRECTOR], a director, in the presence of:

.......................................

[SIGNATURE OF WITNESS]

[NAME, ADDRESS AND OCCUPATION OF WITNESS]

.......................................

Signature

Director