

DATED 14TH FEBRUARY

2018/9

TAYLOR WIMPEY UK LIMITED

and

DAVID GEORGE GRINSTED

and

SAGE HOUSING LIMITED

and

TENDRING DISTRICT COUNCIL

and

ESSEX COUNTY COUNCIL

DEED OF VARIATION

Pursuant to Section 106A of the

Town and Country Planning Act 1990 (as amended)

relating to

Land South of Cockaynes Lane, Alresford

Planning Application Ref: 14/01823/OUT

Appeal Ref: APP/P1560/W/15/3124775

Devonshires Solicitors

30 Finsbury Circus

London

EC2M 7DT

Tel: 0207 628 7576

Ref: NMH.SAG5.20

**It is hereby certified that this is a true
and accurate copy of the original.**

DATED this 20TH day of February 2019

**A Practising Solicitor employed by
Tendring District Council**

THIS DEED of VARIATION is made on the 14TH of FEBRUARY 2018/19.

BETWEEN

- (1) **TAYLOR WIMPEY UK LIMITED** (company number 01392762) whose registered office is at Gate House, Turnpike Road, High Wycombe, Buckinghamshire HP12 3NR (the **Developer**);
- (2) **DAVID GEORGE GRINSTED** of Waitoa Road, BDI Brightwater, Nelson, New Zealand but whose address for service in the United Kingdom is care of Chestnut Tree Farm, Framlington Road, Laxfield, Woodbridge, Suffolk IP13 8HD (the **Owner**);
- (3) **SAGE HOUSING LIMITED** (Company Number 05489096) whose registered office is at 4th Floor Manning House, 22 Carlisle Place, London, SW1P 1JA (**Sage**);
- (4) **TENDRING DISTRICT COUNCIL** of Council Offices, Thorpe Road, Weeley CO16 9AJ (the **Council**);
- (5) **ESSEX COUNTY COUNCIL** of County Hall, Market Road, Chelmsford CM1 1QH (the **County Council**).

WHEREAS

1. The Council and the County Council are the local planning authorities for the purposes of the Act as amended for the area within which the Property is situated and are the authorities by whom the planning obligations contained in this Deed are enforceable.
2. By a Transfer dated 24 August 2017 the Developer acquired the freehold interest in the part of the Property registered at HM Land Registry under title number EX961690.
3. By a Transfer dated 15 December 2017 Sage acquired the freehold interest in the part of the Property registered at HM Land Registry under title number EX966925.
4. The Owner no longer owns the freehold interest in any part of the Property but has a registered charge dated the 19 December 2017 over the part of the Property registered at HM Land Registry under title number EX961690.
5. The Owner and the Developer entered into the Original Agreement for the benefit of the County Council and the District Council.
6. The Developer and Sage have requested that the Original Agreement is varied by the terms of this Agreement.

7. The County Council and the District Council considers it expedient and in the interests of the proper planning of its area and having regard to its statutory function that this Agreement which is a supplemental agreement to the Original Agreement be entered into for the purpose of securing satisfactory arrangements for the development of the Property.

NOW THIS DEED WITNESSES AS FOLLOWS:

1 DEFINITIONS

In this Agreement where the context so admits all expressions shall have the meanings given to them by the Original Agreement save that the following expressions shall have the following meanings:-

"the Act" means the Town and Country Planning Act 1990 (as amended);

"Original Agreement" the deed pursuant to Section 106 of the Town and County Planning Act 1990 dated 1 February 2016 made between (1) Taylor Wimpey UK Limited (2) David George Grinsted (3) Tendring District Council and (4) Essex County Council.

2 CONSTRUCTION OF THIS DEED

- 2.1 The definitions and rules of interpretation in this Clause apply in this Agreement.
- 2.2 All references in this Agreement to Clauses in the Original Agreement are to clauses within the Original Agreement.
- 2.3 Clause headings shall not affect the interpretation of this Agreement.
- 2.4 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 2.5 A reference to a company shall include any company, corporation or other body corporate, whether and however incorporated or established.

- 2.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 2.7 A reference to the singular include the plural and vice versa unless the contrary intention is expressed.
- 2.8 A reference to a party shall include that party's representatives, successors or permitted assigns an in the case of the County Council or the District Council the successors to its respective statutory functions.
- 2.9 A reference to a statute or statutory provisions is a reference to it as it is in force at the date of this Agreement and shall include any statutory re-enactment modification and subordinate legislation made under the statute or statutory provision.
- 2.10 References to clauses, schedules and plans (unless the context otherwise requires) are to clauses, schedules and plans of this Agreement.
- 2.11 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 the individually.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 of the Act and constitutes a planning obligation binding the Property which is enforceable by the Council and the County Council against the Developer and Sage and to the extent that any of the obligations contained in this Deed are not planning obligations contained in this Deed are not planning obligations within the meaning of the Act, they are entered into pursuant to the powers contained in section 1 of the Localism Act 2011 section 111 Local Government Act 1972 and all other enabling powers.
- 3.2 This Deed is supplemental to the Original Agreement which shall continue in full force and effect.
- 3.3 This Deed shall come into effect upon the date of this Deed.
- 3.4 Where any obligation under the Original Agreement as varied by this Deed shall be deemed to have been complied with under the Original Agreement then it shall be deemed to have been complied with as varied by this Deed.

- 3.5 No persons shall be liable for any breach, non-performance or non-observance of the covenants, obligations and restrictions contained in this Deed in respect of any period during which it or they no longer have an interest in the Property or in the part in respect of which the breach, non-performance or non-observance occurs but without prejudice to liability for any subsisting breach, non-performance or non-observance prior to parting with such interest.

4 VARIATION TO THE ORIGINAL AGREEMENT

- 4.1 Save as expressly varied by this Deed the Original Agreement shall remain in full force and effect.
- 4.2 The parties to this Deed agree that the Original Agreement shall be varied from the date hereof as contained in this clause 4.
- 4.3 The definition of "Chargee" in the Deed shall be deleted and replaced with the following:

"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 of the whole or any part of the Affordable Housing Units, or any persons or bodies deriving title through such mortgagee or chargee".

- 4.4 The definition of "Property" in the Deed shall be deleted and replaced with the following:

"Property" means the freehold property being land south of Cockaynes Lane, Alresford registered at the Land Registry under title numbers EX961690 and EX966925 shown for identification purposes only edged red on the Plan attached to this Deed at Appendix 1.

- 4.5 Paragraph 10.1 of Schedule 1 to the Deed shall be deleted and replaced with the following:

A Chargee PROVIDED THAT such Chargee acting pursuant to any event of default has first complied with the provisions of paragraph 11 of this Schedule;

4.6 The words "*which shall determine absolutely*" shall be added to the end of Paragraph 11.3 of Schedule 1 to the Deed.

4.7 Paragraph 6 of Schedule 1 to the Deed shall be deleted.

5 REGISTRATION

This Deed is a local land charge and shall be registered by the Council as such.

6 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it

7 JURISDICTION

All disputes and claims arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the Court of England to which the parties irrevocably submit.

8 DELIVERY

The provisions of this Agreement (other than this clause which shall be on immediate effect) shall be of no effect until this Agreement has been dated.

IN WITNESS whereof this instrument has been executed as a Deed the date and year first before written

EXECUTED AS A DEED in the manner hereinafter but not delivered until the day and year first written

SIGNED as a DEED by

TAYLOR WIMPEY UK LIMITED

acting by its Attorneys

Attorney name:

Attorney signature:



John David Clark
Attorney

Attorney name:

Attorney signature:



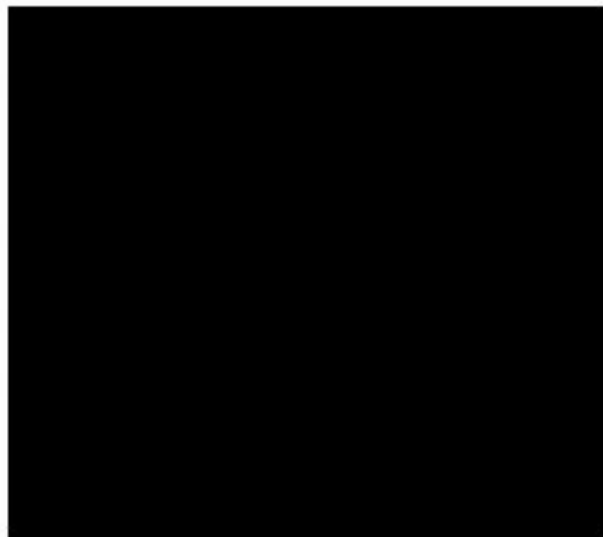
Emily Crowe
Attorney

In the presence of:

Witness signature:

Witness name:

Witness address:



SIGNED as a DEED by

DAVID GEORGE GRINSTED

Signature:

In the presence of:

Witness signature:

Witness name:

Witness address:

EXECUTED as a DEED by
SAGE HOUSING LIMITED

Acting by:

Authorised signatory:

Authorised signatory:

The COMMON SEAL of
TENDRING DISTRICT COUNCIL

was hereunto affixed in the
presence of:

The COMMON SEAL of
ESSEX COUNTY COUNCIL

was hereunto affixed in the
presence of:

Attesting Officer



**EXECUTED as a DEED by
SAGE HOUSING LIMITED**

Acting by:

Authorised signatory:

Authorised signatory:

**The COMMON SEAL of
TENDRING DISTRICT COUNCIL**

was hereunto affixed in the
presence of:

**The COMMON SEAL of
ESSEX COUNTY COUNCIL**

was hereunto affixed in the
presence of:

[REDACTED]

Attesting Officer

[REDACTED]



38545

EXECUTED AS A DEED in the manner hereinafter but not delivered until the day and year first written

SIGNED as a DEED by

TAYLOR WIMPEY UK LIMITED

acting by its Attorneys

Attorney name:

Attorney signature:

Attorney name:

Attorney signature:

In the presence of:

Witness signature:

Witness name:

Witness address:

SIGNED as a DEED by

DAVID GEORGE GRINSTED

Signature:

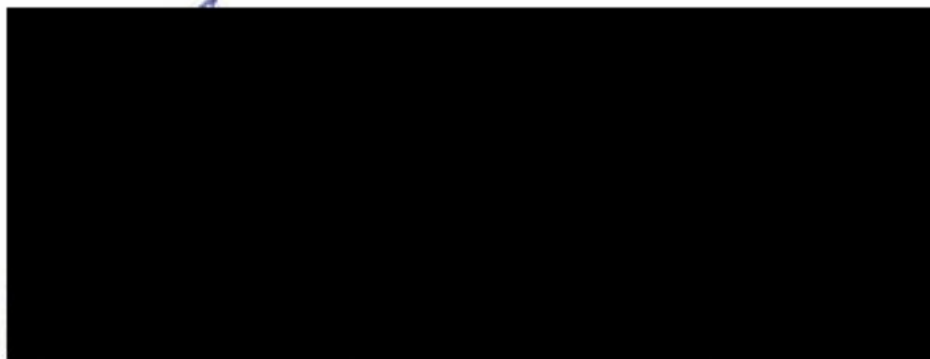


In the presence of:

Witness signature:

Witness name:

Witness address:



EXECUTED as a DEED by
SAGE HOUSING LIMITED

Acting by:

Authorised signatory:

Authorised signatory:

The COMMON SEAL of
TENDRING DISTRICT COUNCIL

was hereunto affixed in the
presence of:

The COMMON SEAL of
ESSEX COUNTY COUNCIL

was hereunto affixed in the
presence of:

Attesting Officer

**EXECUTED as a DEED by
SAGE HOUSING LIMITED**

Acting by:

Authorised signatory:

Authorised signatory:

The **COMMON SEAL** of
TENDRING DISTRICT COUNCIL

was hereunto affixed in the
presence of:



The **COMMON SEAL** of
ESSEX COUNTY COUNCIL

was hereunto affixed in the
presence of:

Attesting Officer