

DATED

30 June 2025

**SECOND SUPPLEMENTAL AGREEMENT UNDER SECTION 106A OF THE TOWN &
COUNTRY PLANNING ACT 1990 RELATING TO LAND AT TURPIN FARM, ELM TREE
AVENUE, KIRBY LE SOKEN CO13 0DA**

between

TENDRING DISTRICT COUNCIL

and

ESSEX COUNTY COUNCIL

and

TAYLOR WIMPEY UK LIMITED

AND

CHELMER HOUSING PARTNERSHIP LIMITED

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THIS DEED is dated 3rd June 2025

- (1) **TENDRING DISTRICT COUNCIL** of Town Hall, Station Road, Clacton On Sea CO15 1SE (Council).
- (2) **ESSEX COUNTY COUNCIL** of County Hall, Market Road, Chelmsford, Essex CM1 1QH (County Council).
- (3) **TAYLOR WIMPEY UK LIMITED** incorporated and registered in England and Wales with company number 01392762 whose registered office is at Gate House, Turnpike Road, High Wycombe HP12 3NR (Developer).
- (4) **CHELMER HOUSING PARTNERSHIP LIMITED** A Community Benefit Society with registration number. 8112 of Myriad House 33 Springfield Lyons Approach, Springfield, Chelmsford, CM2 5LB (RP)

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The County Council is also the local education authority for early years childcare and statutory age education and the local highway authority and the local library authority for the area in which the Property is located.
- (C) The Developer is the freehold owner of part of the Property which is registered at H M Land Registry with title number AA24150 free from any encumbrances that would prevent the Developer from entering into this deed.
- (D) The RP is the freehold owner of part of the Property which is registered at H M Land Registry with title numbers AA58093 and AA58090 free from any encumbrances that would prevent the RP from entering into this deed..
- (E) On 10 February 2017, the Council, the County Council and the Original Owner entered into the Original Agreement in respect of the Original Planning Permission to bind the Property.
- (F) Since the Original Agreement was entered into, the Developer acquired the freehold interest in the Property from the Original Owner save for a small access strip which was retained under title number EX570265 and the RP acquired part of the freehold of the Property from the Developer.
- (G) Part of the Site has since been transferred to a statutory undertaker under title number AA52265 and there are a number of transfers some of which are pending registration at H M Land Registry which relate to individual Dwellings within the Property (as defined in the First Supplemental Agreement), however statutory undertakers and future owners and occupiers of Dwellings are not bound by the obligations in the Original Agreement or the First Supplemental Agreement and so are not party to this deed.

- (H) The small access strip referred to in recital (F) above although within the Property is not required for development of the Property in accordance with the Original Planning Permission the Section 73 Planning Permission or the 2023 Planning Permission and therefore the Original Owner is not party to this deed.
- (I) On 24 November 2021 the Council granted planning permission for the Section 73 Planning Permission which is bound by the terms of the Original Agreement as it falls within the definition of "Planning Application" in the Original Agreement.
- (J) The 2022 Unilateral Undertaking was given by the Developer to the Council on 3 March 2022 in respect of the application for reserved matters approval with reference 20/00307/DETAIL relating to the Planning Permission which was approved by the Council on 24 March 2023 securing the payment of a contribution towards mitigation measures set out in the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy *Habitats Regulations Assessment Strategy document (2018-2038 (RAMS) in respect of 210 Dwellings*.
- (K) On 12 April 2024 the First Supplemental Agreement was entered into by the County Council the Council the Developer and the RP in relation to the 2023 Planning Permission.
- (L) On 16 April 2024 the Council granted the 2023 Planning Permission.
- (M) Without prejudice to the terms of the other covenants contained in the Original Agreement (as varied by the First Supplemental Agreement) the parties have agreed to vary the terms of Original Agreement as set out in this deed.
- (N) This Deed is made under section 106A of the TCPA 1990 and is supplemental to and varies the Original Agreement (as varied by the First Supplemental Agreement).

AGREED TERMS

1. INTERPRETATION

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

1.1 Definitions:

2022 Unilateral Undertaking means the unilateral undertaking made under section 106 of the TCPA 1990 dated 3 March 2022 given by the Developer to the Council in respect of the Planning Permission.

2023 Planning Permission means the planning permission dated 16 April 2024 with reference 22/01333/FUL for:

Proposed re-plan of part of site to provide 21 additional smaller units increasing total from 210 approved to 231 approved (as alternative to part of planning permission 16/00031/OUT, 20/00307/DETAIL and 21/01667/VOC)

First Supplemental Agreement: means a Supplemental Agreement dated 12 April 2024 made between the Council, the County Council, the Developer and the RP in relation to the 2023 Planning Permission.

Original Agreement: the agreement made under section 106 of the TCPA 1990 dated 10 February 2017 between the Council, the County Council and the Original Owner as varied by the First Supplemental Agreement.

Original Owner: Alice Ann Macleod Burghes of Park Palace, Block C, 5 Impasse de la Fontaine, 98000 Monaco and John Edward Foster of 8 Acacia Close, Cheshunt, Herts EN7 6QF

Planning Permission: shall have the same meaning as the Original Agreement namely means “the planning permission granted in pursuance of the Planning Application subject to conditions” and for the avoidance of doubt the Planning Application definition in the Original Agreement incorporates the application made for the Section 73 Planning Permission as well as the application for the Original Planning Permission the definition of Planning Permission includes reference to both the Original Planning Permission and the Section 73 Planning Permission

Property: means the Site which includes the 2023 Planning Permission Site as defined in the Original Agreement

Section 73 Planning Permission: means the planning permission granted by the Council on 24 November 2021 under reference 21/01667/VOC for:

Variation of condition 16 of application 16/00031/OUT to change the form of junction specified in the condition from a priority junction with right turn lane to a simple priority junction, and to re-word the Condition to specify footway provision and dropped kerb/tactile crossing points on Walton Road and Elm Tree Avenue in accordance with an amended drawing.

TCPA 1990: means the Town and Country Planning Act 1990 (as amended).

- 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 and the County 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

- 2.1 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 and any other enabling powers and is binding on the Developer and the RP and their successors in title.
- 2.2 This Deed is supplemental to the Original Agreement (as varied by the First Supplemental Agreement) which shall continue in full force and effect save as varied by this Deed.

3. VARIATIONS TO THE ORIGINAL AGREEMENT

- 3.1 The parties agree that the Original Agreement (as varied by the First Supplemental Agreement) shall be amended as follows from the date of this deed:
- 3.2 In Schedule 2, Part One the following new definitions shall be added as follows:

“Affordable Housing Plan and List” means the plan and list annexed to this Agreement at Appendix 1 the plan with reference [TW024-RE-PL-O6 REV G] **Affordable** showing the size and location within the Site and the 2023 Planning

Permission Site of the Affordable Housing Dwellings and the list showing the plot number, tenure and size of those Affordable Housing Dwellings.”

“**“Affordable Housing for Rent”** has the meaning ascribed to it in paragraph (a) of the definition of affordable housing at Annex 2 of the NPPF “

“Affordable Rented Dwellings” means those Affordable Housing Dwellings that are to be used exclusively for the purpose of Affordable Housing for Rent subject to the terms of this Schedule 2 and the use in this Schedule 2 of the term **“Affordable Rented Dwelling”** shall be construed accordingly.

“Homes England” means a public body set up to fund and regulate the provision of Affordable Housing in England and any successor body.

“NPPF” means the National Planning Policy Framework issued December 2023 issued by HM Government and any revision thereof”

“Shared Ownership Dwellings” means those Affordable Housing Dwellings that are to be used exclusively for the purpose of Shared Ownership Housing subject to the terms of this Schedule 2 and the use in this Schedule 2 of the term **“Shared Ownership Dwelling”** shall be construed accordingly.

Shared Ownership Housing” means Affordable Housing let on a Shared Ownership lease to eligible households regulated by Homes England.”

““Shared Ownership Lease” means a long lease (over 990 years) substantially in the form of the Homes England model shared ownership lease from time to time granted at a premium whereby no less than five per cent (5%) and no more than seventy five per cent (75%) on first purchase of the equitable interest in the Shared Ownership Dwelling is purchased by a lessee upon completion of such lease and/or raised by mortgage or charge from a bank or building society; and which lease shall include arrangements enabling the lessee to acquire up to one hundred per cent (100%) of the equity of the Shared Ownership Dwelling at some future date or dates; and which lease shall allow a rent to be charged on the remainder of the equitable

interest not purchased, such rent not to exceed an annual sum calculated at 2.75% of the value of the equity retained by the Approved Body at the date of the grant of the Shared Ownership Lease or such other figure permitted by Homes England from time to time;"

- 3.3 In Schedule 2, Part One the definition of "Affordable Housing Scheme" shall be deleted and shall be replaced with the following:

"means the scheme as shown on the Affordable Housing Plan and List (which shall unless otherwise agreed by the Council comprise forty eight (48) Affordable Housing Dwellings, 62.5% (being thirty (30) Affordable Housing for Rent and 37.5% (being eighteen (18) Shared Ownership Dwellings)" to be transferred to an Approved Body.

- 3.4 In Schedule 2, Part One the definition of "Affordable Housing Dwellings" shall be deleted and shall be replaced with the following:

"means [thirty-nine (39)] of the Dwellings and [nine (9)] of the 2023 Planning Permission Dwellings to be provided as Affordable Housing pursuant to the Affordable Housing Scheme."

- 3.5 In Schedule 2, Part One the definition of "Approved Body" the words 'regulated by the Homes and Communities Agency' shall be deleted and replaced with 'regulated by the Social Housing Regulator'.

- 3.6 In Schedule 2, Part One the definition of "Homes and Communities Agency" shall be deleted.

- 3.7 In Schedule 2, Part One the definition of "Social Rented Housing" shall be deleted in its entirety.

- 3.8 In Schedule 2, Part One clause 3.1 shall be deleted and shall be replaced with the following:

3.1 To construct the Affordable Housing Dwellings in accordance with the Affordable Housing Scheme and the details outlined in this Schedule 2 unless otherwise agreed by the Council in writing.

- 3.9 The plan annexed to this deed shall be annexed to the Original Agreement as a new "Appendix 1" Affordable Housing Plan and List"

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

4. COVENANTS TO THE COUNCIL AND THE COUNTY COUNCIL

The Developer covenants 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. COSTS

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

7. VALUE ADDED TAX

- 7.1 All consideration given in accordance with the terms of this deed shall be exclusive of any VAT properly paid.

- 7.2 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.

8. THIRD PARTY RIGHTS

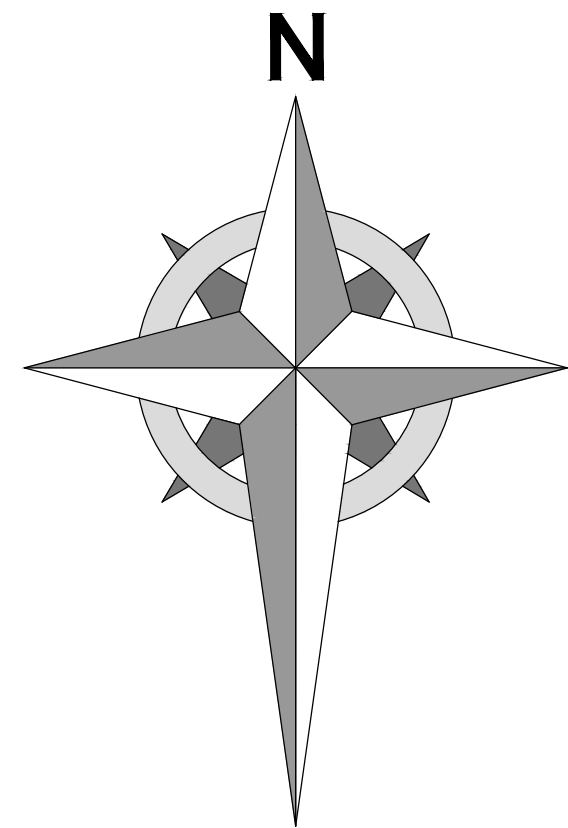
A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

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.

APPENDIX 1
Affordable Housing Plan



- Legend**
- NT42 House Type Reference
 - 6 Plot number
 - Allocated parking space
 - Affordable dwelling
 - Affordable Housing

Rev C - 19-05-2023
Plot 95 updated to be affordable from NA32 to NA34.



Project:-
Turpins Farm, Frinton
on Sea, Essex

Description:-
Affordable Housing
Location Plan
(Re-Plan)

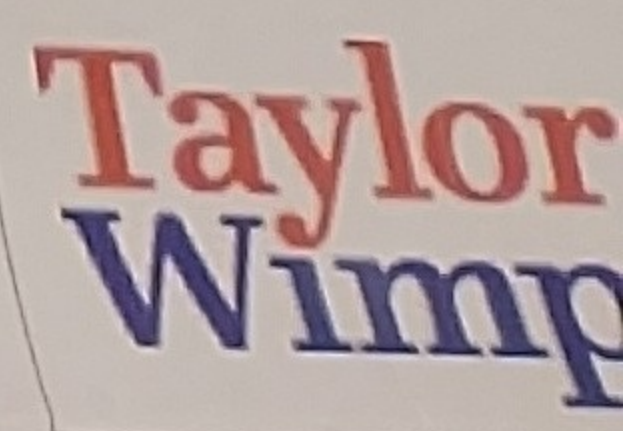
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Legend

- NT42 House Type Reference
- 6 Plot number
- 6 Allocated parking space
- Affordable dwelling
- Affordable Housing

Rev C - 19-05-2023
Plot 95 updated to be affordable
NA32 to NA34.



Project:-
Turpins Farm
on Sea, Essex

Description:-
Affordable
Location Plan
(Re-Plan)

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