

Site: Land at High Street Car Park Carnarvon Road Clacton On Sea Essex CO15 6QF

Planning Application reference: 24/01890/FUL

THIS DEED is made the 15th day of July 2025

By **Tendring District Council** of Town Hall Station Road, Clacton-on-Sea, Essex, CO15 1SE
("the Landowner and Developer")

RECITALS

1. For the purposes of the TCPA 1990 (as defined herein) Tendring District Council of Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE ("the Council") is the Local Planning Authority for the purposes of this Deed for the area within which the Land' (as defined herein) is situated and by whom the obligations contained in this Deed are enforceable.
2. The Landowner and Developer is a person interested in the Land as registered freehold owner.
3. An application given planning reference **24/01890/FUL** by the Council ("the Planning Application") has been made by the Landowner and Developer for permission to develop the Land in the manner and for the uses set out in the Planning Application and in the plans specifications and particulars deposited with the Council and forming part of the Planning Application ("the Development").
4. The Council has resolved to grant the planning permission for the Development in accordance with the Planning Application ("the Planning Permission") subject to the completion of this Deed.
5. The Council considers it expedient in the interests of the proper planning of its area that provision should be made for regulating and facilitating the Development in the manner hereinafter appearing and is satisfied that planning permission for the Development could be granted subject to conditions and the execution of this Deed.
6. The Council is satisfied that the planning obligations contained in this Deed are necessary to make the Development acceptable in planning terms are directly related to the Development and fairly and reasonably relate in scale and kind to the Development.
5. The Landowner is the Developer for the purposes of this Deed and enters into this Deed to bind its interest in the Land and its successors in title.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. Definitions

1.1 In this Deed the following words and expressions shall have the following meanings unless the context requires otherwise:

"Commencement Date"	means the date on which the Development is Commenced;
"Commencement of Development"	means the carrying out on the Land pursuant to the Planning Permission of a material operation as specified in section 56(4) of the 1990 Act but does not include archaeological or site investigations or surveys; site or soil surveys or site decontamination; the clearance or demolition of the Land; works connected with groundworks; works for the provision of drainage or mains services to prepare the Land for development; erection of fencing or boarding; erection of boards advertising the Development; the provision of access to the Land and temporary internal roads, and the use in this Deed of the terms "Commence the Development" and "Commenced" shall be construed accordingly;
"Council's Monitoring Fee"	shall mean a fee of One Thousand Five Hundred Pounds (£1500.00) due to the Council under this Deed towards the Council's reasonable and proper administration costs of monitoring the performance of the planning obligations that the Landowner and Developer is required to observe and perform pursuant to the terms of this Deed;
"Development"	means the development of the Land as set out in and permitted by the Planning Application;
"Dwelling"	means a residential unit constructed as part of the Development and the curtilage related thereto and the use in this Deed of the term "Dwellings" shall be construed accordingly;
"Index"	means the "All Items" index figure of the Index of Retail Prices published by the Office for National Statistics or any such alternative index or comparable measure of price inflation as shall replace such

	index or as the Council reasonably requires;
"Index Linked"	means increased by applying the RPI All Items Index: Jan 1987 = 100 published by the Office for National Statistics using the formula $A = B \times C$ divided by D - where A is the amount actually payable- B is the amount specified as payable – C is the RPI All Items Index two months before the date of payment – and D is the RPI All Items Index two months before the date of this Deed;
"Land"	means the land situated at High Street, Car Park Carnarvon Road, Clacton on Sea Essex CO15 6QF registered at H M Land Registry under title numbers EX812909 and EX812119 for the purposes of identification only shown edged red on the Land Plan;
"Land Plan"	Means drawing number 9613-CPL-ZZ-ZZ-DR-A-08000 attached to or incorporated within this Deed at Annex One;
"Notice of Commencement"	Means notice in writing to advise the Council of the proposed Commencement Date;
"Planning Application"	means the planning application in respect of the Land which the Council has given the reference: 24/01890/FUL for the demolition of the existing multi-story car park and clearance of site. Construction of replacement multi-story car park, 28no. residential (Class C3) apartments, and 5no. flexible units (Class E, F1, F2 and related Sui Generis uses)
"Planning Permission"	means the planning permission granted in pursuance of the Planning Application for the Development of the Land;
"TCPA 1990"	means the Town and Country Planning Act 1990 (as amended);

"Working Days"	means any day(s) upon which banks in the City of London are open to the general public.
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1.2 In this Deed:

- 1.2.1 the clause or Schedule headings do not affect its interpretation;
- 1.2.2 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
- 1.2.3 references to any statute or statutory provision include references to:
 - 1.2.3.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as enacted at the date of this Agreement as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and
 - 1.2.3.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
- 1.2.4 references to the Land include any part of it;
- 1.2.5 references to Landowner and Developer in this Deed shall include the successors in title. In addition, references to the Council shall include any successor local planning authority exercising planning powers under the TCPA 1990;
- 1.2.6 "including" means "including, without limitation";
- 1.2.7 any covenant by the Landowner and Developer not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.8 words importing the singular meaning where the context so admits shall include the plural meaning and vice versa;

- 1.2.9 words of the masculine gender include the feminine and neuter genders and words denoting natural persons include companies corporations and firms and all such words shall be construed interchangeably in that manner;
- 1.2.10 words denoting an obligation on a party to do any act matter or thing shall include an obligation to procure that it be done and words placing a party under a restriction shall include an obligation not to cause permit or allow infringement of the restriction;
- 1.3.1 The terms of this Deed will not be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it and any such rights that arise under that Act are hereby excluded.

2. EFFECT OF THIS DEED

- 2.1 This Deed is made pursuant to Section 106 of the TCPA 1990 and is binding on the Landowner and Developer and their successors in title. To the extent that they fall within the terms of Section 106 of the TCPA 1990 the obligations contained in this Deed are planning obligations for the purposes of Section 106 of the TCPA 1990 and are enforceable by the Council.
- 2.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the TCPA 1990, they are entered into pursuant to the powers contained in Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling power.
- 2.3 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Land or otherwise
- 2.4 No person shall be liable for breach of a covenant contained in this Deed after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.
- 2.5 Nothing in the Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than one relating to the Development as specified in the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 2.6 This Deed is a local land charge and shall be registered as such.
- 2.7 The obligations in this Deed will not be enforceable against a statutory undertaker after the transfer of statutory apparatus (and any land upon or in which the statutory apparatus is situated) by the Landowner and Developer to that statutory undertaker.
- 2.8 The obligations in this Deed will not be enforceable against the individual owners, lessees or occupiers of any Dwellings constructed on the Land pursuant to the Planning Permission or any mortgagee or chargee of such owner, lessee or occupier

save for the covenants and exemptions in Schedule 2 of this Deed in respect of individual owners, lessees or occupiers or mortgagees or Chargees of the Affordable Housing Dwellings.

- 2.9 If any provision of this Deed is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Deed shall continue in full force and effect and shall be amended in such reasonable manner as achieves the intention of this Deed without illegality.
- 2.10 No variation to this Deed shall be effective unless made by deed and for the avoidance of doubt the consent, seal, signature, execution or approval of a statutory undertaker with an interest in the Land and the owner, lessee or occupier of any Dwelling or their mortgagees or chargees or any receiver appointed by a mortgagee or chargee or any person deriving title from them shall not be required to vary any part of this Deed.
- 2.11 In the event that any sum or part thereof due to be paid to the Council by the Landowner and Developer pursuant to this Deed is paid later than the date payment is due under the terms of this Deed then the sum or part therefore payable by the Landowner and Developer to the Council shall in addition include interest at 4% above the Bank of England base lending rate or such other rate as the Council deems appropriate and shall accrue on a daily basis from the date payment is due until the date payment of the amount due is received by the Council.
- 2.12 In addition to the requirement in clause 2.11 above in the event that any sum due to be paid to the Council by the Landowner and Developer pursuant to this Deed shall not be received by the Council by the date that the sum is due then the Landowner hereby covenants to pay to the Council within ten (10) Working Days of receiving a written request all reasonable costs that the Council has incurred as a result of or in pursuance of such late payment including but not limited to Council Officer time and any legal costs.

3. Non-merger

- 3.1 The provisions of this Deed shall not merge on the actual completion of any act or step contemplated under this Deed. To the extent that they remain to be performed and capable of being performed, the provisions shall continue in full force and effect.

4. COMMENCEMENT DATE

- 4.1 Save in respect of Clause 7 (Cost of this Deed) and this clause 4.1 (which will become operative on the date of this Deed) and in respect of obligations expressly in this Deed requiring compliance prior to the Commencement Date and which will become operative on the issue of the Planning Permission this Deed will come into effect on the Commencement Date.

5. COVENANTS WITH THE COUNCIL

- 5.1 The Landowner and Developer covenants with the Council as follows:

5.1.1 to comply with the obligations set out in this Deed as well as the Schedules to this Deed so as to bind the Land; and

5.1.2 to provide Notice of Commencement to the Council not less than ten (10) Working Days prior to the expected Commencement Date.

6. TERMINATION OF THIS DEED

6.1 This Deed will come to an end if (a) the Planning Permission is quashed, revoked, withdrawn or modified without the consent of the Landowner and Developer before the Commencement Date; or (b) the Planning Permission expires.

7. COSTS OF THIS DEED

7.1 Upon completion of this Deed the Landowner and Developer covenants to pay to the Council its reasonable and proper legal costs in connection with the negotiation and completion of this Deed.

7.2 The Landowner and Developer covenant to pay to the Council the Council's Monitoring Fee on or before the Commencement of Development.

8. SECTION 73

8.1 In the event that any new planning permission is granted by the Council pursuant to Section 73 of the TCPA 1990:

8.1.1 The obligations in this Deed shall relate to and bind any subsequent planning permission in respect of the Land granted pursuant to Section 73 of the TCPA 1990 and the Land itself; and

11.1.2 The definitions of Planning Application, Development and Planning Permission in this Deed shall be construed to include reference to any application under Section 73 of the TCPA 1990, the planning permission granted thereunder and the development permitted by such subsequent planning permission; and

11.1.3 This Deed shall be endorsed with the following words in respect of any future Section 73 application:

"The obligations in this Deed relate to and bind the Land in respect of which a new planning permission referenced has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)"

PROVIDED THAT nothing in this clause shall fetter the discretion of the Council in determining any application under Section 73 of the TCPA 1990 or the appropriate nature and/or quantum of Section 106 obligations in so far as they are different to those contained in this Deed and required pursuant to a determination under Section 73 of the TCPA 1990 whether by way of a new Deed or supplemental deed pursuant to Section 106 or Section 106A of the TCPA 1990.

9. JURISDICTION

- 9.1 This Deed is to be governed by and interpreted in accordance with the law of England and Wales; and the courts of England are to have jurisdiction in relation to any disputes arising out of or related to this Deed.

10. EXECUTION

- 10.1 This Deed has been executed and is delivered on the date set out above.

SCHEDULE 1 - RAMS CONTRIBUTION

1. In this Schedule 1 unless the context requires otherwise the following words and expressions shall have the following meanings:

"Natura 2000"	has the meaning ascribed to it in section 3(1) of the Conservation and Habitats and Species Regulations 2017;
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"RAMS"

means the Essex Coast Recreation Disturbance Avoidance and Mitigation Strategy (RAMS) in relation to Essex Coast Natura 2000 European Designations Supplementary Planning Document adopted by the Council;

"RAMS Contribution"

means the sum of One Hundred and Sixty Nine Pounds and Forty Five Pence (£169.45) per Dwelling, and which sum shall be Index Linked which for twenty eight (28) Dwellings is Four Thousand Seven Hundred and Forty Four Pounds and Sixty Pence (£4,744.60) Index Linked as set out in the RAMS towards the RAMS Contribution Purposes;

"RAMS Contribution Purposes"

means the use of the RAMS Contribution towards the funding of strategic off-site measures identified by the RAMS to mitigate any increased use as a result of the Development in particular Colne Estuary SPA, SAC and RAMSAR

2. The Landowner and Developer hereby covenants with the Council as follows:
 - 2.1 To notify the Council prior to the Commencement of the Development to allow the calculation of the RAMS Contribution; and
 - 2.2 Not to Commence the Development or cause or permit the Commencement of the Development unless and until the RAMS Contribution has been paid to the Council.
3. The Landowner and Developer requires the Council to use the RAMS Contribution for the RAMS Contribution Purpose.
4. Notifications and payments shall be marked for the attention of the Section 106 Officer, Tendring District Council, Town Hall, Station Road, Clacton-on-Sea, Essex, CO15 1SE or via email at obligations@tendringdc.gov.uk

SCHEDULE 2 - AFFORDABLE HOUSING

1. In this Schedule 2 unless the context requires otherwise the following words and expressions shall have the following meanings:

“Affordable Housing”	means housing for sale or rent, for those whose needs are not met by the market, including housing that provides a subsidised route to home ownership and/or is for essential local workers, and which complies with the current definition provided in the National Planning Policy Framework (NPPF) or any successor document;
“Affordable Housing Scheme”	means a scheme to be developed by the Landowner and Developer to be submitted to the Council for approval;
“Affordable Housing Dwellings”	means Forty Percent (40%) of the total number of Dwellings forming part of the Development, to be provided in accordance with this Deed.
“Open Market Housing”	means housing units that are not subject to any restriction on sale or occupancy and may be sold at full market value and which are not Affordable Housing Dwellings.
“Open Market Dwellings”	means Sixty Percent (60%) of the total number of Dwellings forming part of the Development to be sold as Open Market Housing.

2. The Landowner and Developer hereby covenants with the Council as follows:
 - 2.1 Not to Commence the Development until the Landowner and Developer has submitted an Affordable Housing Scheme to the Council for approval such scheme to include:
 - 2.1.1 the number and type of Affordable Housing Dwellings; and
 - 2.1.2 the location of the Affordable Housing Dwellings within the Land.
 - 2.2 To ensure that Forty Percent (40%) of the Dwellings constructed on the Land in accordance with the Planning Permission are provided as Affordable Housing Dwellings in accordance with the approved Affordable Housing Scheme.
 - 2.3 The remaining Sixty Percent (60%) of the Dwellings may be sold as Open Market Housing on the open market with no restrictions as to occupancy or price.
 - 2.4 The Affordable Housing Dwellings shall be Occupied for no purpose other than as Affordable Housing.

SCHEDULE 3 – BIODIVERSITY NET GAIN MONITORING FEE

1. In this Schedule 3 unless the context requires otherwise the following words and expressions shall have the following meanings:

“Biodiversity Gain Plan”	means the plan submitted to and approved by the Council to satisfy the Development’s biodiversity net gain requirements pursuant to Schedule 7A of the TCPA 1990;
“Biodiversity Gain Land Monitoring Contribution”	means the sum of Twelve Thousand and Six Pounds and Eight Pence (£12,006.08) Index Linked to be paid by the Landowner and Developer to the Council in accordance with Schedule 3 of this Deed and to be applied by the Council as a financial contribution towards the Council's costs of monitoring the implementation and ongoing compliance of the maintenance of the Habitat Creation and Enhancement Works in accordance with the

	Biodiversity Gain Plan and HMMP as required by conditions 18 and 20 of the Planning Permission as approved by the Council;
“Habitat Creation and Enhancement Works”	means the habitat creation and enhancement works set out in the Habitat Management and Monitoring Plan (excluding any management or monitoring activities specified in the Habitat Management and Monitoring Plan);
“Habitat Management and Monitoring Plan (HMMP)”	means the document titled 'Habitat Management and Monitoring Plan' as required by condition 20 of the Planning Permission as approved by the Council;

2. The Landowner and Developer hereby covenants with the Council as follows:
 - 2.1 To notify the Council prior to the Commencement of the Development to allow the calculation of the Biodiversity Gain Land Monitoring Contribution; and
 - 2.2 Not to Commence the Development or cause or permit the Commencement of the Development unless and until the Biodiversity Gain Land Monitoring Contribution has been paid to the Council.
3. The Landowner and Developer requires the Council to use the Biodiversity Gain Land Monitoring Contribution for no other purpose than the purpose of monitoring implementation and ongoing compliance of the Biodiversity Gain Plan in accordance with the Habitat Management and Monitoring Plan.
4. Notifications and payments shall be marked for the attention of the Section 106 Officer, Tendring District Council, Town Hall, Station Road, Clacton-on-Sea, Essex, CO15 1SE or via email at obligations@tendringdc.gov.uk

ANNEX 1 - LAND PLAN



NOTES

REV	DATE	REVISION DETAILS
P1	11.10.24	Planning draft issue
P2	25.10.24	Draft planning issue set - stage 2
P3	04.12.24	Updated Draft planning issue set - Stage 2
P4	18.12.24	Planning issue set

CLIENT	Tending Distric Council
PROJECT	Camarvon Terrace
DRAWING TITLE	Site Location Plan
DRAWING NUMBER	9613-CPL-ZZ-ZZ-DR-A-08000
PROJECT NUMBER	DATE
9613	02.10.24
REVISION	STATUS
P4	S2
PURPOSE OF ISSUE	SCALE @A1
For Information	1 : 1250

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