

## **Section 106 Authority to Seal – Deed of Variation**

### **TOWN AND COUNTRY PLANNING ACT 1990**

|                             |                                                                                                                     |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------|
| <b>REF NUMBER:</b>          | Deed of Variation Associated with planning permission 20/00239/FUL and subsequent Section 73 reference 21/01302/FUL |
| <b>RELATED APPLICATION:</b> | As above                                                                                                            |
| <b>PROPOSAL:</b>            | Deed of variation to revise the use of the Open Space Contribution                                                  |
| <b>LOCATION:</b>            | Ground Floor 1 Lanswood Park Broomfield Road Elmstead Colchester Essex                                              |

#### **1. Approved / Proposed Development**

Planning permission 20/00239/FUL granted planning permission for a hybrid planning application comprising of an outline application for up to 10,000sqm of new mixed use (B1, B2, B8) commercial space and 14 houses, and full permission for 71 houses, and the amendment of the existing access and new residential access to Clacton Road.

A Section 73 application was then granted under planning reference 21/01302/FUL for the variation of condition 2 of application 20/00239/FUL to include amendments to the previously approved layout drawing and some house types.

On 2 March 2022 the Council, the Owner and Essex County Council entered into a second agreement pursuant to Section 106 of the Town and Country Planning Act 1990 in respect of the site to secure the planning obligations contained in the agreement to the Section 73 permission.

One of the covenants within the agreement requires the payment of an Open Space Contribution to support the delivery of a new 3G artificial grass pitch at the Charity Fields site on School Road, Elmstead Market. The contribution totals £430,000 and is specifically allocated towards the provision of a 3G pitch measuring approximately 61m x 43m, together with associated fencing and sports lighting infrastructure.

The Council, the County Council, and the Owner have now agreed (at the request of Elmstead Market Parish Council) to modify the covenant referred to above to provide for the Open Space Contribution to be used instead towards providing: (a) publicly accessible outdoor gym equipment and/or sports equipment and/or play equipment within the Charity Fields site; (b) works to improve public access to the Charity Fields site; and (c) the provision of a car park at the Charity Fields site.

#### **2. Officer Recommendation**

The proposed revisions within the Deed of Variation seek to amend the specified purpose of the Open Space Contribution following a formal request from Elmstead Parish Council. The updated wording reflects the Parish Council's preferred approach to delivering enhanced

recreational and sporting provision for the local community.

Having reviewed the proposed amendments, the revised planning obligations are considered to satisfy all statutory Community Infrastructure Levy (CIL) Regulation 122 tests.

On this basis, the revisions are judged to remain both appropriate and policy-compliant. It is therefore recommended that the Council authorises entry into the Deed of Variation as drafted.

**3. Authority to Seal**

**DATED:** 27 February 2026

**SIGNED:**

A handwritten signature in black ink, appearing to read 'J Pateman-Gee', written over a horizontal line.

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John Pateman-Gee  
Head of Planning and Building Control