

Section 106 Authority to Seal – Deed of Variation

TOWN AND COUNTRY PLANNING ACT 1990

DOV REF NUMBER:	25/01560/DOVO5
RELATED APPLICATION:	19/00524/OUT
PROPOSAL:	Deed of variation under the Town and Country Planning (Modification and Discharge of Planning Obligations) Regulations 1992, of the terms of the legal agreement dated 13/08/2019 linked to outline planning permission 19/00524/OUT in relation to the timing of open space and affordable housing delivery.
LOCATION:	Land to The South of Thorpe Road Weeley Essex CO16 9AJ

1. Approved Development

19/00524/OUT approved: Outline planning application with all matters reserved, except for access, for 280 dwellings, a 2 Form of Entry primary school, 56 place early years nursery, up to 3000 sqm of office (B1) buildings on 1 hectare and associated ancillary buildings, drainage systems, boundary treatments and hard surfacing as well as public open space, vehicular access from Thorpe Road a pedestrian footbridge and the closure of existing level crossing and formal diversion of public footpath No 5 - Weeley, over the new railway bridge.

The associated reserved matters approval is 22/00979/DETAIL.

19/00524/OUT was subject to a legal agreement dated 13th August 2019 which secured:

- On-site Affordable Housing (30% of the overall development);
- Education – 2.1ha of land which could be used by the County Council to provide a 2 form entry primary school and early years nursery;
- Education contributions for Primary, Secondary School Places and for Secondary School transport;
- Financial contribution towards increased Healthcare capacity;
- Provision of Public Open Space, equipped play area and Ecology Land on-site – to be laid out to approved specification and then transferred to management company;
- Ecology (off site) – Financial contribution towards off-site ecological mitigation – to improve access within Weeley Hall Wood SSSI;
- Financial Contribution towards RAMS;
- Highways and Transport – A financial contribution towards off-site highway improvements at the A133/B1033/services roundabout and the Frating roundabout;
- Public Rights of Way (PRoW) – Footbridge to be constructed over the railway line and transferred to Network Rail on completion with a commuted sum for future maintenance, PRoW5 to be diverted away from existing level crossing via footbridge on completion.

Development commenced in September 2024.

2. Summary of Planning Obligations

These are detailed in full above. In respect of the current request they seek to amend Schedule 2 clause 7 (open space), and schedule 3 clause 4.2 (affordable housing).

3. **Proposed Deed of Variation**

The applicant wishes to alter the current timings for provision of the two Local Equipped Areas for Play (LEAP) and the affordable housing to make them more compatible with the phasing of the development.

The current requirement is for delivery of the first tranche of 42 affordable units before the occupation of the 138th private unit and the second (final) tranche of 42 additional affordable units before the occupation of the 177th private unit. The residential part of this development is being built out over 3 phases. The third phase is relatively small and includes 7 affordable units. Currently, the trigger for delivering these final 7 affordable units is met in phase 2, meaning that they would need to be built out of sequence. This would create various difficulties for the construction team, inefficiencies, disturbance to the new occupiers of the affordable units, and safety issues.

They therefore seek a DOV to push the second tranche back to the 190th private unit (a delay of 13 units). As recompense, it is proposed to bring forward the trigger for the first tranche to the 120th private unit (18 units ahead of schedule).

The current requirement is for all open space including the two LEAPs to be provided prior to 80% occupation (equivalent to the 252nd occupation). However, these are located in areas that are towards the end of the build programme. This would therefore raise similar construction difficulties and safety issues for users of the LEAPs. It is therefore requested that Schedule 2, clause 7 is edited to refer to the 266th occupation so the LEAP is delivered with the adjacent houses.

4. **Officer Recommendation**

Officers recommend approval of the proposed variation which is a logical solution to the site phasing issues and would not materially delay the provision of the public open space or affordable housing.

It is recommended that the Planning Manager agree the request for the completion of the S106 Agreement under delegated powers.

5. **Authority to Seal**

DATED: 11 November 2025

SIGNED:



John Pateman-Gee
Head of Planning and Building Control