

Section 106 Authority to Seal – Deed of Variation

TOWN AND COUNTRY PLANNING ACT 1990

DOV REF NUMBER:	24/01041/DOVO5
RELATED APPLICATION:	16/00671/FUL and 16/00656/FUL
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 30 November 2018 linked to planning permission 16/00671/FUL and 16/00656/FUL in respect of the holding of escrow monies.
LOCATION:	St Osyth Priory, The Bury St Osyth, Clacton On Sea, Essex, CO16 8NZ

1. Background

Planning permission was originally granted under reference 16/00671/FUL for the erection of 'the erection of 17 dwellings for use as residential and holiday accommodation (C3 use); restoration of park landscape; bunding; re-grading of 9 hectares of land; construction and alterations to access driveway; landscaping and all ancillary works' known as the 'Parkland Development'. This permission has subsequently been varied under planning references 17/00634/FUL, 19/00032/FUL and 22/02122/VOC.

Planning permission was also originally granted under planning reference 16/00656/FUL for the demolition of existing property at 7 Mill Street and the creation of 72 no. two, three and four bedroom houses, plus associated roads, car parking, garages and landscaping. This development is known as the 'Westfield Development' and has also been varied under planning references 17/01175/FUL, 18/01166/FUL and 18/01596/FUL.

Both these applications were the subject of a legal agreement (Original Agreement - dated 14th March 2018 made under Section 106 of the 1990 Act between the Tendring District Council (1); Richard Arthur Sargeant, Timothy Robert Sargeant, David Richard Sargeant and Andrew Ian Sargeant (2); Lloyds Bank PLC (3); and The Agricultural Mortgage Corporation PLC (4) in respect of the Original Planning Permissions containing planning obligations enforceable by the Council) securing, among other things, the payment of enabling development funds into an Escrow account. An initial deposit of £400,000 relating to the commencement of the 'Westfield Development' has been made. The trigger point for the remainder of the monies (£800,000) is yet to be reached.

2. Proposed Deed of Variation

Pursuant to changes to Solicitor Account Rules, the developer's solicitors are no longer able to hold the Escrow monies. Consequently, a Deed of Variation has been submitted to transfer the balance of the Escrow Account to Tendring District Council less any sums subsequently transferred to the Trust and any costs or sums agreed by the parties to be so transferred, and including any interest accrued calculated as at Seven (7) days after the Variation Date (i.e. the date of the completion of the Deed).

New paragraphs are proposed to be added to Paragraph of Part 1, Schedule 1 stipulating the following;

- Within 7 days of the Variation Date, the Owner must provide the Council with an official account statement showing the escrow balance and all withdrawals. The agreed sum must then be transferred to the Council within 7 days of the Council's approval.
- The Council will hold the transferred Escrow funds for the purpose stated in paragraph 5.3 of the original agreement. Any withdrawals require written consent from the Owner, the BPT, and the Council.
- From the Variation Date, any payments due from the owner under paragraph 5.2 of the original agreement must be paid directly to the Council, to be held as per 5.5.
- If the Council faces financial difficulties that could risk the Escrow funds, the Parties must transfer the funds into a designated account with joint mandate, agreed by the Trust, the Owner, and the Council (or its successor authority), to comply with the deed's covenants.

3. **Officer Recommendation**

Officers recommend approval of the proposed variation to ensure the Escrow funds are held securely. No other aspects of the original agreement are to be revised.

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

4. **Authority to Seal**

DATED: 07/01/2026

SIGNED:



John Pateman-Gee
Head of Planning and Building Control