

Dated

2023

(1) SOUTH OXFORDSHIRE DISTRICT COUNCIL

(2) PERSIMMON HOMES LIMITED

**Supplemental Deed of Agreement Under Section 106A of the Town & Country
Planning Act 1990 relating to the development of land at Thame Park Road
Thame Oxfordshire**

Planning reference: P13/S2330/O

District reference: 009164

BETWEEN

- (1) **SOUTH OXFORDSHIRE DISTRICT COUNCIL** of 135 Eastern Avenue Milton Park Abingdon Oxfordshire OX14 4SB and any successor to its statutory functions and any duly appointed employee or agent of South Oxfordshire District Council or such successor ("**District Council**")
- (2) **PERSIMMON HOMES LIMITED (Co. Reg. No. 4108747)** of Persimmon House Fulford York YO19 4FE ("**Owner**")

BACKGROUND

- (A) The District Council is the district planning authority within the meaning of the Town and Country Planning Act 1990 (as amended) in respect of the Site
- (B) On 10 June 2014 the District Council (1) Oxfordshire County Council (2) Christopher Holland (3) Michael James Holland (4) and Commercial Estates Projects Limited (5) entered into a Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) relating the development of the Site in accordance with Planning Application P13/S2330/O ("**the Original Deed**")
- (C) The Owner acquired the Site from Christopher Holland and Michael James Holland on 30 June 2015 and is the registered proprietor of that part of the Site comprising the Allotments and Community Orchard as identified on Plan 2 and which is registered at HM Land Registry with title number ON320218
- (D) On 5 May 2016 the District Council granted reserved matters approval for the development of the Site under the District Council's reference P15/S2166/RM which included details pertaining to the Allotments and Community Orchard

- (E) On 5 April 2023 the Owner made an application under section 73 of the 1990 Act to vary the approved plans on the reserved matters approval in order to regularise / retain as built the re-siting of the previously approved allotment building and permissive footpath; the allotment building having been relocated from the previously approved location to the location shown on Drawing Number 100 Rev M dated 12 April 2023
- (F) The District Council and the Owner have agreed that the Original Deed shall be varied in set out in Clause 3 of this Deed

1. Interpretation

- 1.1 The capitalised terms of this Deed shall (unless otherwise provided by this Deed) have the same meaning and interpretation as provided in the Original Deed
- 1.2 References to this Deed means this deed of variation.
- 1.3 This Deed is supplemental to and varies the provisions of the Original Deed
- 1.4 Words and expressions defined in the Original Deed shall, unless the context otherwise requires, bear the same meanings in this Deed.
- 1.5 The provisions in the Original Deed regarding interpretation shall apply to this Deed.
- 1.6 Save as varied by this Deed the District Council and the Owner affirm and confirm the contents of the Original Deed

2. Legal effect

- 2.1 This Deed constitutes a planning obligation for the purposes of the 1990 Act which binds the Site and is a variation to the Original Deed and is made pursuant to section 106 and 106A of the 1990 Act.
- 2.2 Nothing in this Deed shall prejudice or affect the rights, powers, duties and obligations of the District Council in the exercise by it of its statutory functions and the rights, powers, duties and obligations of the District Council under private statutes are effectively exercised as if it were not a party to this Deed.
- 2.3 This Deed shall be registered as a local land charge in the Register of Local Land Charges

- 2.4 This Deed is subject to and will be construed in all respects in accordance with the provisions of English law.
- 2.5 It is hereby agreed between the District Council and the Owner that the provisions of this Deed take effect upon the date hereof.

3. Variation

The District Council and the Owner agree and declare that the Original Deed is hereby varied as follows:

- 3.1 In clause 1.1 of the Original Agreement there shall be added the following definition:
“Thame Town Council” the parish authority for Thame Oxfordshire

- 3.2 In paragraph 1 of the Fifth Schedule the definition for **Certificate of Practical Completion** shall be deleted and replaced with the following definition:

***“Certificate of Practical Completion”** means a Certificate or Certificates issued by the District Council (or for any works required to the Allotments and Community Orchard issued by Thame Town Council confirming that the works in question have been completed to the District Council’s satisfaction or for any works required to the Allotments and Community Orchard to the satisfaction of Thame Town Council*

3.3

- 3.4 In paragraph 1 of the Fifth Schedule there shall be added the following definition:

***“Defects Notice”** a notification or notifications in writing served on the Owner by Thame Town Council during the Defects Period providing details of defects at or on the Allotments and Community Orchard as identified by Thame Town Council*

3.5 In paragraph 1 of the Fifth Schedule there shall be added the following definition:

“Defects Period” a period of 12 months from the date of the transfer of the Allotments and Community Orchard to Thame Town Council

3.6 In paragraph 1 of the Fifth Schedule the definition for **Practical Completion** shall be deleted and replaced with the following definition:

“Practical Completion” means

- (in relation to Affordable Housing) the practical completion of the Affordable Housing Units in accordance with a certificate to that effect issued pursuant to the terms of a build contract for the construction of the Affordable Housing Units
- In relation to the LEAP and the Public Open Space the stage at which works have been completed to the satisfaction of the District Council to enable a Certificate of Practical Completion to be issued and “Practically Complete and “Practically Completed” shall be construed accordingly
- In relation to the Allotments and Community Orchard the stage at which works have been completed to the satisfaction of the Thame Town Council to enable a Certificate of Practical Completion to be issued and “Practically Complete and “Practically Completed” shall be construed accordingly

3.7 Paragraph 3.4 of the Fifth Schedule shall be deleted and replaced with the following:

3.4 To offer to transfer the Allotments and Community Orchard to the District Council or Thame Town Council at nil cost following expiration of the Defects Period and to effect the transfer of the Allotments and Community Orchard within **20** working days of acceptance of the offer by the District Council or Thame Town Council

3.8 Paragraph 3.5 of the Fifth Schedule shall be deleted and replaced with the following:

3.5 In the event that the District Council or Thame Parish Council accepts the offer to transfer the Allotments and Community Orchard pursuant to paragraph 3.4 above to pay the Allotments Commuted Sum to the District Council prior to completion of the said transfer

3.4 Paragraph 3.6 of the Fifth Schedule shall be deleted and replaced with the following:

3.6 In the event that neither the District Council or Thame Council accepts the offer to transfer the Allotments and Community Orchard pursuant to paragraph 3.4 above to continue to manage and maintain the Allotments and Community Orchard to the satisfaction of the District Council (whether through Management Company or otherwise) in accordance with a scheme approved by the District Council

IN WITNESS whereof the parties hereto have executed this instrument as a Deed the day and year first before written

The COMMON SEAL of

SOUTH OXFORDSHIRE

DISTRICT COUNCIL

was hereunto affixed

in the presence of: -

Name:

Designated Officer

EXECUTED AS A DEED by

PERSIMMON HOMES LIMITED

acting by its Attorneys:

and in the presence of:

Witness signature:

Witness name:

Witness occupation

Witness address: