



**WOKINGHAM
BOROUGH COUNCIL**

DATED

2025

WOKINGHAM BOROUGH COUNCIL

-and-

HICKS DEVELOPMENTS LIMITED

Deed of Variation to an Agreement dated 9th May 2025

pursuant to Section 106A of the Town and Country Planning Act 1990
in relation to the proposed development of land to the West of Park Lane,
Charvil, RG10 9TS

Legal Ref: []

Legal Services
Wokingham Borough Council
Council Offices
Shute End
Wokingham
Berkshire
RG40 1BN

BETWEEN

(1) **WOKINGHAM BOROUGH COUNCIL** of Council Offices, Shute End, Wokingham, Berkshire, RG40 1WH (the “**Council**”), and

(2) **HICKS DEVELOPMENTS LIMITED** (company registration number 01006287) whose registered office is at 15 Headley Road, Woodley, Berkshire, RG5 4JB (the “**Owner**”).

RECITALS

- A. The Council is the local planning authority for the purpose of the Act for the area in which the Site is situated and by whom the obligations created by this Deed are enforceable.
- B. The Owner is the freehold owner of the Site registered at HM Land Registry with title absolute.
- C. The Planning Permission was granted for the Development on the Site subject to completion of the Original Agreement.
- D. The Owner and the Council have now agreed to vary the terms of the Original Agreement as set out in this Deed.

1. DEFINITIONS AND INTERPRETATION

1.1 For the purposes of this Deed the words and expressions shall have the same meanings as set out in the Original Agreement save for the following meanings:

“Original Agreement” the agreement made pursuant to section 106 of the Act dated 9 May 2025 between the Council (1) and the Owner (2) relating to the Planning Permission

2. CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.4 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of the restriction.
- 2.5 Where more than one person is obliged to observe or perform an obligation the obligation can be enforced against all such persons jointly and against each individually unless there is an express provision otherwise.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.7 References to any party to this Deed shall include the successors in title to that party and to anyone deriving title through or under that party and in the case of the Council the successor to its statutory functions.
- 2.8 The clause headings shall not be taken into account for the purposes of the construction or interpretation of this Deed.
- 2.9 References to this Deed include references to its schedules and the schedules form a part of this Deed.
- 2.10 Where the context so admits, words defined in the individual schedules to this Deed apply to the rest of this Deed.

3. LEGAL BASIS

3.1 This Deed is made pursuant to all powers enabling the parties and in particular Section 106A of the Act.

4. CONDITIONALITY

4.1 This Deed shall come into effect on the date hereof.

5. VARIATIONS

5.1 The Council and the Owner hereby agree that the Original Agreement shall be amended as set out in Schedule 1 to this Deed.

5.2 Save as varied by this Deed, the Original Agreement shall remain in full force and effect.

6. MISCELLANEOUS

6.1 The Owner shall pay to the Council on completion of this Deed:

6.1.1 the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed; and

6.1.2 the Land Registry fee of Forty Pounds (£40) payable in connection with the registration of this Deed against the title(s) of the Site.

6.2 It is hereby agreed and declared that a person who is not a party to this Deed shall not be entitled in his own right to enforce any of the terms of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

6.3 This Deed shall be enforceable as a local land charge and shall be registered as such by the Council.

6.4 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

- 6.5 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 6.6 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of its functions in any capacity (including in particular its capacities as highway authority and local planning authority) and the rights, powers, duties and obligations of the Council under private, public or subordinate legislation may be effectively exercised as if it were not a party to this Deed.

7 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England.

8 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

SCHEDEULE 1

The Owner and the Council agree that the Original Agreement shall be varied as follows:

1. Paragraph 7 of Part 2 of Schedule 1 shall be deleted and replaced as follows:

7. The Affordable Housing in this Deed shall not be binding on a mortgagee or chargee (or any receiver (including an administrative receiver) appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator (each a Receiver)) of the whole or any part of the Affordable Housing Dwellings (excluding First Homes) or any persons or bodies deriving title through such mortgagee or chargee or Receiver PROVIDED THAT:

7.1 such mortgagee or chargee or Receiver shall first give written notice to the Council of its intention to dispose of the Affordable Housing Dwellings (excluding First Homes) and shall have used reasonable endeavours over a period of three months from the date of the written notice to complete a disposal of the Affordable Housing Dwellings to another registered provider or to the Council for a consideration not less than the amount due and outstanding under the terms of the relevant security documentation including all accrued principal monies, interest and costs and expenses; and

7.2 if such disposal has not completed within the three month period, the mortgagee, chargee or Receiver shall be entitled to dispose of the Affordable Housing Dwellings (excluding First Homes) free from the Affordable Housing in this Deed which provisions shall determine absolutely.

2. In Schedule 2 the definition of “Reptile Translocation Contribution” and paragraph 2 shall be deleted.
3. After Schedule 11 a new Schedule 12 shall be added as follows:

“Schedule 12 – Reptile Translocation

i. Definitions

In this schedule, the following additional words and expressions shall have the following meanings:

“Completion Notice”	means notice served by the Council on the Owner confirming that the Eldridge SANG is ready to receive the reptiles located on the Site
“Eldridge SANG Enhancement Works”	means providing suitable reptile refugia at the Eldridge SANG so that it is ready to receive the reptiles located on the Site
“Reptile Translocation”	means the translocation of the reptiles from the Site to the Eldridge SANG
“Reptile Translocation Contribution”	means the sum of Five Hundred and Ninety-Seven Thousand Two Hundred and Twenty Pounds (£597,220) Index-Linked (based on a cost of Two Hundred and Forty Eight Thousand Eight Hundred and Forty-Two Pounds (£248,842) per hectare pro rata) to be spent on the Eldridge SANG Enhancement Works and the ongoing maintenance of the Eldridge SANG Enhancement Works
“Translocation Notice”	means notice which may be served by the Owner on the Council specifying the date or dates on which the Owner intends to carry out the Reptile Translocation which shall be at least 20 Working Days after the date of the notice but not longer than 90 Working Days following the service of the notice;

1. Council’s Covenants

- 1.1 The Council covenants to both carry out the Eldridge SANG Enhancement Works and serve the Completion Notice on the Owner within 20 Working Days of receipt of the later of the Translocation Notice and the Reptile Translocation Contribution.
- 1.2 The Council hereby grants an irrevocable licence for the Owner, its agents and contractors with and without vehicles to enter onto the Eldridge SANG in order to undertake the Reptile Translocation in accordance with paragraph 2.2 of this Schedule

and where paragraph 2.3 applies, the right for the Owner to carry out and deliver the Eldridge SANG Enhancement Works.

- 1.3 On completion of the Eldridge SANG Enhancement Works, the Council shall monitor, maintain and keep in good repair the Eldridge SANG Enhancement Works for a minimum of 30 years.

2. OWNER'S COVENANTS

- 2.1 The Owner covenants:

- 2.1.1. to pay the Reptile Translocation Contribution to the Council on or prior to service of the Translocation Notice on the Council and in any event prior to the Commencement of the Development and not to Commence the Development until the Reptile Translocation Contribution has been paid to the Council
 - 2.1.2. to serve the Translocation Notice on the Council prior to Commencement of the Development and not to Commence the Development until the Translocation Notice has been served on the Council
- 2.2 Following receipt of the Completion Notice, the Owner shall carry out the Reptile Translocation on the dates specified in the Translocation Notice or other dates notified to the Council.
- 2.3 In the event that the Council fails to complete the Eldridge SANG Enhancement Works and / or to serve the Completion Notice within the period specified in paragraph 1.1 then the Owner shall complete the Eldridge SANG Enhancement Works prior to carrying out the Reptile Translocation pursuant to paragraph 2.2.

THE COMMON SEAL of)
WOKINGHAM BOROUGH COUNCIL)
was affixed to this Deed in the presence of:-)
)

Solicitor / Authorised Signatory

Executed as a DEED by
HICKS DEVELOPMENTS LIMITED
acting by two directors or a
director and its secretary:

Director signature

Director name

Director / Secretary signature

Director / Secretary name