

DATED 26th January 2023 (SEA)

WOKINGHAM BOROUGH COUNCIL

and

CROUDACE HOMES LIMITED

and

BARCLAYS BANK PLC

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SUPPLEMENTAL AGREEMENT UNDER SECTION 106A OF THE TOWN AND  
COUNTRY PLANNING ACT RELATING TO DEVELOPMENT ON THE SOUTH  
EAST SIDE OF NEW BATH ROAD TWYFORD READING

APPLICATION NO. 243124

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THIS DEED IS MADE ON THE 26<sup>th</sup> DAY OF January 2025/6 (SEA)  
BETWEEN

- (1) **WOKINGHAM BOROUGH COUNCIL** of Council Offices, Shute End, Wokingham, Berkshire RG40 1BN ("the Council"); and
- (2) **CROUDACE HOMES LIMITED** (Company Number 00813521) whose registered office is situated at Croudace House, Tupwood Lane, Caterham CR3 6XQ ("Owner") and
- (3) **BARCLAYS BANK PLC** incorporated and registered in England and Wales with company number 01026167 whose registered office is at 1 Churchill Place, London E14 5HP ("Lender")

The Council, the Owner and the Lender shall be known together in this Deed as the Parties.

## RECITALS

- (A) The Owner is the freehold owner of the Application Site registered at HM Land Registry under Title Numbers BK471780 and BK483746.
- (B) The Council is the local planning authority for the purposes of this Deed under the 1990 Act for the area within which the Application Site is situated and by whom the obligations within this Deed are enforceable.
- (C) The Council entered into a Section 106 Agreement dated 5 July 2023 and made between the Council (1) Adrian David Salter Chalker (2) and Croudace Homes Limited (3) ("the Original Agreement") which secured the provision of affordable housing and other planning obligations in the respect of the Application Site.
- (D) The Application Site was charged on 26 February 2024 and 1 November 2024 in the name of Barclays Bank Plc of 1 Churchill Place, London E14 5HP
- (E) Without prejudice to the terms of the other covenants contained in the Original Agreement, the Council and the Owner have agreed to vary the terms of the Original Agreement as set out in this Deed.

## 1. CONSTRUCTION OF THIS DEED

- 1.1 The provisions of the Original Agreement relating to its interpretation apply to this Deed except to the extent that they are expressly varied by this Deed.
- 1.2 The Original Agreement shall be varied in the manner set out in clause 3 of this Deed.
- 1.3 The definitions, clauses, obligations and provisions of the Original Agreement shall remain in full force and effect except as varied or added to by this Deed and shall continue to be applicable to the Application Site as defined in the Original

Agreement and remain to be performed to the extent that they have not already been performed.

- 1.4 Save where the context otherwise requires the expressions used in this Deed shall have the same meaning or meanings as those stated in the Original Agreement.
- 1.5 Headings contained in this Deed are for reference purposes only and are not incorporated into the Deed and shall not be deemed to be an indication of the meaning of the parts of this Deed to which they relate.
- 1.6 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 LEGAL BASIS**

- 2.1 This Deed is supplemental to the Original Agreement and is made pursuant to sections 106 and 106A of the 1990 Act, Section 111 of the Local Government Act 1972 sections 12 and 93 of the Local Government Act 2003, Section 1 of the Localism Act 2011 and any other enabling powers.
- 2.2 The covenants obligations restrictions and requirements imposed upon the Parties by this Deed:
- 2.2.1 are entered into pursuant to the provisions of section 106 of the 1990 Act;
- 2.2.2 are planning obligations for the purposes of section 106 of the 1990 Act;
- 2.2.3 relate to the Application Site;
- 2.2.4 are entered into with intent to bind the Owner's interests in the Application Site and the Owner's successors in title and assigns
- 2.2.5 are enforceable by the Council as local planning authority; and
- 2.2.6 are executed by the respective Parties as a Deed.
- 2.3 To the extent that any obligations contained in this Deed are not planning obligations within the meaning of the 1990 Act they are entered into by the Council pursuant to the powers contained in section 111 of Local Government Act 1972 Section 1 of the Localism Act 2011 and all other powers so enabling.
- 2.4 This Deed shall take effect upon the date hereof.
- ## **3 VARIATIONS TO THE ORIGINAL AGREEMENT**
- 3.1 The parties agree that the Original Agreement shall be varied as set out within the Schedule to this Deed.

## **4 LENDER'S CONSENT**

- 4.1 The Lender consents to the completion of this Deed and acknowledges that from the date of this Deed the Application Site shall be bound by the terms of this Deed, as if it had been executed and registered as a land charge before the creation of the Lender's interest in the Croudace Land.
- 4.2 Any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part or parts of the Application Site (including the Lender) or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee, receiver shall not be personally liable for any breach of the obligations in the Original Agreement (as varied by this Deed) unless it takes possession of the Application Site or any part of the Application Site in which case it too shall be bound by the provisions of this Deed as a person deriving title from the Owner.

## **5 AGREEMENT**

The Parties agree that the Original Agreement shall be varied as set out clause 3 of this Deed but shall otherwise remain in full force and effect

## **6 COVENANTS OF THE OWNER**

The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed.

## **7 MISCELLANEOUS**

- 7.1 This Deed shall be registered as a local land charge by the Council.

## **8. JURISDICTION**

- 8.1 This Deed including its construction, validity, performance and enforcement and any dispute arising or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes and claims) shall be governed by and interpreted in accordance with English law.
- 8.2 The Parties irrecoverably agree that the English courts shall have exclusive jurisdiction to settle any disputes or claims arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes and claims).

## 9 COUNCIL COSTS

The Owner shall pay to the Council on or before the date of completion of this Deed the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this Deed.

## 10. THIRD PARTY RIGHTS

A person who is not a party to this Deed does not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

### SCHEDULE

#### Variations to the Original Agreement

1 Clause 1 of the Original Agreement 'Definitions and Interpretation' shall be modified as follows:

1.1 The definition of 'Affordable Housing Dwellings' in clause 1 of the Original Agreement shall be deleted and the following definition inserted in its place:

**"Affordable Housing Dwellings** means 40% of the Dwellings on the Application Site for use as Affordable Housing consisting of a mix of 7.5% Affordable Rented Housing 35% Social Rented Housing, 25% First Homes and 32.5% Shared Ownership Housing which shall be built in accordance with the Development Standards comprising:-

| Dwelling Type   | First Homes     | Shared Ownership  | Affordable Rent | Social Rent     | Total     | %   |
|-----------------|-----------------|-------------------|-----------------|-----------------|-----------|-----|
| 1 bed           | 8               |                   | 6               | 2               | 16        | 20% |
| 2bed maisonette | 12              |                   |                 |                 | 12        | 15% |
| 2bed house      |                 | 12                |                 | 12              | 24        | 30% |
| 3bed house      |                 | 8                 |                 | 8               | 16        | 20% |
| 4+bed house     |                 | 6                 |                 | 6               | 12        | 15% |
| <b>Total</b>    | <b>20 (25%)</b> | <b>26 (32.5%)</b> | <b>6 (7.5%)</b> | <b>28 (35%)</b> | <b>80</b> |     |

based upon 200 Dwellings being constructed as part of the Development and in the event that less than 200 Dwellings are constructed as part of the Development the numbers of each size of the Affordable Housing Dwellings shall be based proportionately on the mix of numbers of each size of the Affordable Housing Dwellings in the table above unless otherwise agreed in writing which for the

avoidance of doubt will require a formal deed of variation of this Deed if any change is requested to the percentage of the Affordable Housing Dwellings of all Dwellings within the Development

1.2 The following new definitions shall be inserted in the Original Agreement as follows:

**"Affordable Rent"** means a rent up to 80% of the local market rent (inclusive of service charge) for an equivalent property for the size and location and set in accordance with the definition of Affordable Rent in annex 2 of the National Planning Policy Framework for which the landlord is a Registered Provider and with provisions to secure that the Affordable Rent remains at an affordable price for future eligible households and for the subsidy to be recycled for alternative affordable housing provision."

**"Affordable Rented Housing** means housing provided by a Registered Provider at up to a maximum 80% of local market rents (inclusive of service charges, where applicable) and Affordable Rented Unit shall be construed accordingly

2. Paragraph 1.2 of Part 1 of Schedule 1 of the Original Agreement shall be deleted and the following inserted in its place:

"1.2 The Development shall contain 40% Affordable Housing Dwellings of the total number of Dwellings within the Application Site which shall comprise of a mix to be provided to the Council no later than the Reserved Matters stage and which is subject to approval in writing by the Council but which is proposed to be made up 7.5% Affordable Rented Housing, 35% Social Rented Housing, 25% First Homes and 32.5% Shared Ownership Housing. The indicative mix (based on 40% of 200 Dwellings comprised in the Development is as follows):

| Dwelling Type   | First Homes     | Shared Ownership  | Affordable Rent | Social Rent     | Total     | %   |
|-----------------|-----------------|-------------------|-----------------|-----------------|-----------|-----|
| 1 bed           | 8               |                   | 6               | 2               | 16        | 20% |
| 2bed maisonette | 12              |                   |                 |                 | 12        | 15% |
| 2bed house      |                 | 12                |                 | 12              | 24        | 30% |
| 3bed house      |                 | 8                 |                 | 8               | 16        | 20% |
| 4+bed house     |                 | 6                 |                 | 6               | 12        | 15% |
| <b>Total</b>    | <b>20 (25%)</b> | <b>26 (32.5%)</b> | <b>6 (7.5%)</b> | <b>28 (35%)</b> | <b>80</b> |     |

PROVIDED THAT it is agreed that the above Dwelling sizes and numbers are based upon 200 Dwellings being constructed as part of the Development and in the event that less than 200 Dwellings are constructed as part of the Development the sizes and the related percentages of the Affordable Housing Dwellings shall be based on a pro rata mix based on the sizes and the related percentages referred to in the above table

3 Sub-paragraph 2.2.1 of Part 1 of Schedule 1 of the Original Agreement shall be deleted and the following inserted in its place:

"2.2.1 restricting the use of that Affordable Housing Dwelling to either Social Rented Housing, Affordable Rented Housing or Shared Ownership Housing (as appropriate), and"

4 Sub-paragraph 2.3 of Part 1 of Schedule 1 of the Original Agreement shall be deleted and the following inserted in its place:

"2.3 Subject to the terms of the Nomination Agreement:

2.2.1 no Social Rented Unit shall be Occupied other than as Social Rented Housing,

2.2.2 no Affordable Rented Unit shall be Occupied other than as <sup>Affordable</sup> ~~Social~~ Rented Housing Unit. [REDACTED]

2.2.3 no Shared Ownership Unit shall be Occupied other than as Shared Ownership Housing."

In witness to the above the Parties have executed this document as a Deed and the Council has affixed its Common Seal the day and year above written

37544

Executed as a Deed by the Common Seal of )  
**WOKINGHAM BOORUGH COUNCIL** )  
was hereunto affixed under the authentication of:- )

[REDACTED]  
Authorised Signatory - *Siobhan E Allen*  
*Legal Assistant.*



**EXECUTED** as a Deed by the affixing of the )  
Common Seal of **CROUDACE HOMES** )  
**LIMITED** in the presence of [REDACTED] )

Director [REDACTED]

Authorised Signatory [REDACTED]



Signed by an appointed official of the Bank

In accordance with an arrangement with the Land Registry

EXECUTED as a Deed by )

As Attorney for **BARCLAYS BANK PLC** )

*Shane Dempsey*  
Vice President

in the presence of: [REDACTED]

Signature of Witness: [REDACTED]

Name (IN BLOCK CAPITALS) LAURA MORRIS

Address: .....

Barclays Bank PLC  
1 Churchill Place  
Canary Wharf  
London  
E14 5HP