

DATED 29th May 2015

EAST DEVON DISTRICT COUNCIL
WAINHOMES SOUTHWEST (HOLDINGS) LIMITED

SUPPLEMENTAL AGREEMENT UNDER

SECTION 106A

to

PLANNING OBLIGATION DATED

9 August 2012

Relating to

Land adjacent to Louvigny Close

Station road Feniton

in the County of Devon

Ashfords
www.ashfords.co.uk

THIS AGREEMENT is made the 29th day of May Two Thousand and Fifteen

BETWEEN

WAINHOMES (SOUTH WEST) HOLDINGS LIMITED (Company no 4187073) whose registered office is at Owlsfoot Business Centre, Sticklepath, Okehampton, Devon EX20 2PA ("the Owner") of the first part and

EAST DEVON DISTRICT COUNCIL of Council Offices Knowle Sidmouth in the County of Devon ("the Council") of the second part and

1. BACKGROUND

- 1.1. This Agreement is a planning obligation for the purposes of Section 106A(1)(a) of the Town and Country Planning Act 1990 ("the Act")
- 1.2. This planning obligation relates to the Intermediate Affordable Housing Land
- 1.3. The Owner is the registered proprietor of the freehold estate in the Wainhomes Land under title numbers DN637343
- 1.4. On 9 August 2015 the Owner, Norman Earnest Harwood and Patricia Margaret Harwood, the Council and Devon County Council entered into the 2012 Obligation to provide (amongst other things) for Affordable Housing.
- 1.5. The Council and the Owner have agreed to vary the obligations relating to affordable housing to clarify letting arrangements and assist Qualifying Persons to secure mortgages.
- 1.6. The Obligations in the 2012 Obligation to which this Deed relate are not enforceable by the County Council

2. DEFINITIONS

In this Agreement unless the context otherwise requires:-

The expressions used in the 2012 Obligation shall have the meaning set out in that Deed save as varied below and the following expressions shall have the following meanings for the purposes of this Deed:-

2012 Obligation

The planning obligation made between Norman Earnest Harwood and Patricia Margaret Harwood, the Council and Devon County Council dated the 9 August 2012

Intermediate Affordable Housing Land

- (i) the houses on plots 32 and 33 including their curtilages and parking spaces and
- (ii) the first floor flats on plots 34, and 44 (excluding the garages below outlined in green) including their curtilages and parking spaces and
- (iii) the first floor flat on plot 24 (excluding garages G20, G21 and G29 outlined in green below) including its curtilage, garage G24 (outlined in green) and parking spaces
- (iv) the first floor flat on plot 27 (excluding garage G28 outlined in green below) including its curtilage, garage G27 (outlined in green) and parking space

being that part of the Land shown outlined in blue on the Plan

Plan

The plan annexed to this Supplemental Agreement and which shows the extent of the Intermediate Affordable Housing Land

NOW THEREFORE IT IS HEREBY AGREED between the Owner and the Council and the County as follows:-

3. General

- 3.1. This Agreement is made pursuant to Section 106A of the 1990 Act Section 111 of the Local Government Act 1972 and all other powers enabling and any enactments replacing or superseding the same with the intent to bind the Owner's interests in the Intermediate Affordable Housing Land and with the intent that the obligations herein contained shall be planning obligations.

4. Modification of the 2012 Obligations

In the 2012 Obligation:-

existing Chain Link Fence
Proposed Close-Board
Fence to be inside this

TO BE
CONVEYED TO
WAINHOMES

R of W
PLOTS 1, 2 & 3

41

R of W
PLOTS 39-42

SAND PIT

PLAY AREA

CAR PARK



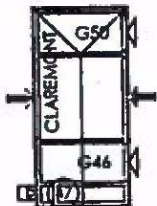
NT HOUSE TYPE
1 FLOOR
ED PLAN



CLAREMONT HOUSE TYPE
FIRST FLOOR
DEED PLAN



NT HOUSE TYPE
ND FLOOR
ED PLAN



CLAREMONT HOUSE TYPE
GROUND FLOOR
DEED PLAN



NT HOUSE TYPE
1 FLOOR
ED PLAN



NT HOUSE TYPE
ND FLOOR
ED PLAN

Boundary runs along
existing Chain Link Fence
Proposed Close-Board
Fence to be inside this

AREA TO BE
CONVEYED TO
HOUSING
ASSOCIATION
(HA)

AREA TO BE
CONVEYED
TO
HOUSING
ASSOCIATION
(HA)

AREA TO BE
CONVEYED
TO
HOUSING
ASSOCIATION
(HA)

AREA TO BE
CONVEYED TO
WAINHOMES

ALLOCATION TO BE
CONFIRMED BY
WAINHOMES

AREA TO BE
CONVEYED TO
WAINHOMES

ALLOCATION TO BE
CONFIRMED BY
WAINHOMES

518
RECONSTRUCTION
SERVICES
CL 58.000
1/27/2020

Boundary
marker

Boundary

hip boundary

privately conveyed
by (R of W) to plots

intained by
company

ace (POS)

using

affordable housing

idoption

or adoption

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GE

role

4.1. In the Definitions insert:-

Chargee	means any mortgagee or chargee of the Registered Provider or of successors in title to such Owner mortgagee or chargee or any receiver) appointed pursuant to the Law of Property Act 1925
Chargee's Duty	means the task and duties set out in paragraph 18 of the First Schedule of this Agreement
Future Sale Price	80% of the Open Market Value of the Affordable Dwelling (assuming that the dwelling could be sold without restriction as to price or occupier) at the time of the future sale at dwelling or such increased percentage acquired by the Owner following Staircasing.
Independent Valuer	means a Valuer whose practice is active in District appointed by agreement between the Council and the Owners and / or Registered Provider (as appropriate) or in default of such agreement nominated by the President for the time being of the Royal Institute of Chartered Surveyors whose costs of such appointment shall be shared equally between the parties
Open Market Value	means the price which 100% of the freehold or long leasehold interest in the relevant Affordable Dwelling would fetch if sold on the open market by a willing vendor and disregarding the obligation and restrictions on sale or rental contained in this Agreement determined by an Independent Valuer or the District Valuer

4.2. In the definition of "Initial Sale Price" delete the words "open market value" in the first line and replace them with the words "Open Market Value"

4.3. In the first Schedule in the Section entitled "**Affordable Dwellings not provided by a Registered Provider**"

4.3.1. Renumber paragraph '11.' so as to refer to '11.1'

4.3.2. In the new paragraph 11.1 delete the words "allocation and" and at the end add "by the Owner (not being a Registered Provider) as a Shared Ownership Dwelling or sale under a Discounted Freehold, or Equity Percentage Arrangement"

4.3.3. Insert in paragraph 11.1.2 in place of the words "three months" the words

"in the case of the first sale or letting after build completion three months, and
in the case of any subsequent sale or let one month ""

4.3.4. after paragraph 11.3 insert

"11.4 If (i) the Council (or its appointed agent) fails to nominate any person in accordance with paragraph 11.1.2 above or (ii) if no person so nominated by the Council (or its appointed agent) exchanges contracts for the purchase of the Affordable Dwelling within 40 working days of their nomination, the Owner may sell or let that Affordable Dwelling to any Qualifying Person identified by the Owner.

11.5 On any sale other than the first sale following build completion of the Affordable Dwelling in the event that the Owner is unable to agree to sell the Affordable Dwelling in accordance with paragraphs 11.1 to 11.4 within a period of 90 (ninety) days of the notice given under paragraph 11.1.2 by the Owner the Affordable Dwelling may be sold at the Future Sale Price to any willing purchaser (who shall be deemed to be a Qualifying Person for the purpose of this Schedule) and such person shall remain bound by the terms of this Agreement"

4.4. In the first Schedule in the Section entitled "Protection of Registered Providers, mortgagees and certain purchasers"

4.4.1. In paragraph 12.1 and 12.1.1 after the words "Registered Provider" insert the words "or Qualifying Person"

4.4.2. In paragraph 12.1.1 and 12.1.3 delete the words "mortgagee or charge" and insert the word "Chargee"

4.4.3. In paragraph 12.1.1 at the end insert the words "provided that the Chargee has complied with the Chargees Duty"

4.4.4. In paragraph 12.1.3 delete the words "(if any)" and insert in their place the words "(not being such a lease granted by a Registered Provider) or a buyer under an Equity Percentage Arrangement" and delete the words "(after obtaining the written consent of the Council which the Council may grant or refuse at its absolute discretion)" and delete the word " purchaser" and inset the words "owner of the freehold" .

4.5. In the First Schedule in the Section entitled "**Equity Percentage Arrangements**"

4.5.1. In paragraph 13.7 delete all words after the word "payments"

4.5.2. In paragraph 13.9 delete the words "(after obtaining the written consent of the Council which the Council may grant or refuse at its absolute discretion)"

4.6. At the end of the First Schedule insert:-

Chargee's Duty

18 The Chargee prior to seeking to dispose of any Affordable Dwelling(s) pursuant to any default under the terms of its mortgage or charge shall give prior notice in writing to the Council of its intention to dispose and

- (i) In the event that the Council responds within six weeks from receipt of the notice indicating that arrangements for the transfer of the Affordable Dwelling(s) can be made in such a way as to safeguard them as Affordable Dwelling(s) then the Chargee shall cooperate with such arrangements and use its reasonable endeavours to legally complete such transfer
- (ii) If the Chargee or any other person cannot within six weeks of the date of service of the Council's response under paragraph 18(i) legally complete such transfer then provided that the Chargee shall have complied with its obligations under paragraph 18 the Chargee shall be entitled to dispose of the Affordable Dwelling(s) as Open Market Unit(s) free of the restriction set out in this Schedule

PROVIDED THAT at all times the rights and obligations in paragraph 19 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interests of the Chargee in respect of monies outstanding under the charge or mortgage

5. Continuity of the 2012 Planning Obligation

Save as varied by this Supplemental Agreement the Principal Deed shall remain in full force and effect

6 **Costs**

The Owner shall pay on the date hereof the reasonable legal costs of the Council and the County in entering into this Deed

IN WITNESS whereof this Deed has been executed by the parties hereto the day and year first before written

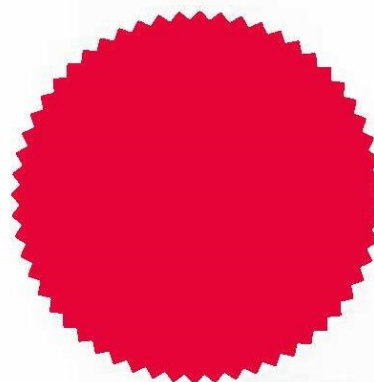
The Common Seal of **WAINHOMES**)
(SOUTH WEST) HOLDINGS LIMITED)
was hereunto affixed in the presence of:)

Director

Secretary

THE COMMON SEAL of **EAST DEVON**)
DISTRICT COUNCIL was hereunto)
affixed in the presence of:-)

Authorised Officer



19215