

DATED 13th October 2016

PHILIP LIGHTMAN, ROSALIND FENWICK and MALCOLM JARVIS HOMES LIMITED

(1)

to

DOVER DISTRICT COUNCIL (2)

and

THE KENT COUNTY COUNCIL (3)

Unilateral Undertaking

made pursuant to

SECTION 106 TOWN AND COUNTRY PLANNING ACT 1990

in respect of

Land on the south side of New Dover Road, Capel Le Ferne, Folkestone, Kent
Planning Application reference: DOV/15/00525

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THIS DEED is made on

13th October

2016

From

PHILIP LIGHTMAN of Sunnylee, 10 Enbrook Valley, Folkestone, Kent CT20 3PS and **ROSALIND FENWICK** of 72 Canterbury Road, Hawkinge, Folkestone, Kent CT18 7BP ("the Owners") and **MALCOLM JARVIS HOMES LIMITED** (company registration number 4470416) whose registered office is at Great Chilmington Farmhouse, Great Chart, Ashford, Kent, TN23 3DP ("the Developer") (1)

to

DOVER DISTRICT COUNCIL of Council Offices, White Cliffs Business Park, Whitfield, Dover, Kent CT16 3PJ ("the Council") (2) and

THE KENT COUNTY COUNCIL of County Hall Maidstone Kent ME14 1XQ ("the County Council") (3)

1. RECITALS

- 1.1 This Deed is a planning obligation for the purposes of Section 106 of the Town and Country Planning Act 1990 ('the 1990 Act').
- 1.2 The Owners own the freehold interest in land on the south side of New Dover Road, Capel Le Ferne, Folkestone, Kent which is shown for purposes of identification only edged red on Plan 1 and registered at the Land Registry under title no. K754611 ('the Land').
- 1.3 The Council is a Local Planning Authority for the purposes of the 1990 Act for the area within which the Land is situated and the provisions of this Deed are intended to be enforceable by the Council.
- 1.4 The County Council is a Local Planning Authority within the meaning of the 1990 Act, a principal council within the meaning of section 270(1) of the Local Government Act 1972, and the education authority for the area in which the land is situated, and the obligations contained in this Deed are intended to be enforceable also by the County Council.
- 1.5 The Developer has an interest in the Site by virtue of being the registered beneficiary at HM Land Registry of a unilateral notice protecting an option to purchase the Property granted to the Developer by the Owners and dated 23rd May 2008
- 1.6 The Developer has applied to the Council for planning permission, and the Owners and Developer undertake to the Council and the County Council as hereafter appearing

NOW THIS DEED witnesses as follows:

2. **DEFINITIONS AND INTERPRETATION**

2.1 In this Deed the following words and expressions shall unless the context otherwise requires have the following meaning:

"the 1990 Act" means the Town and Country Planning Act 1990 as amended

"Affordable Housing" means housing which is provided with subsidy for rent and intermediate market housing for people who are unable to resolve their housing requirements in the local private sector housing market because of the relationship between housing costs and incomes

"Affordable Housing Land" means that part of the Land on which the Affordable Housing Units will be constructed and provided in accordance with the obligations set out in this Deed

"Affordable Housing NewBuild Home BuyUnits" mean three units of affordable housing to be provided on the Affordable Housing Land for disposal by an RPSH on NewBuild HomeBuy terms

"Affordable Housing Rental Units" mean six units of affordable housing to be provided on the Affordable Housing Land within HCA rent levels

"Affordable Housing Scheme" means a scheme made up of six Affordable Housing Rental Units and three Affordable Housing NewBuild HomeBuy Units (to include a wheelchair adaptable unit) to be provided by the Owner on the Affordable Housing Land for disposal by an RPSH such land having the benefit of full planning permission in accordance with the provisions of Clause 3.2 of this Deed

"Commencement of the Development" means the implementation of the Planning Permission by the carrying out on the Land of a material operation as defined by Section 56(4) of the 1990 Act in connection with the Development save that for the purposes of this Deed none of the following operations shall constitute a material operation:

- archaeological or site inspections
- site or soil surveys
- decontamination works
- demolition or site clearance
- the laying of services
- the erection of a site compound
- the erection of temporary fences or hoardings