

DATED

3rd May

2019

HOWARTH HOMES (FARNHAM CLOSE) LIMITED

and

CLOSE BROTHERS LIMITED

and

THE LONDON BOROUGH OF HILLINGDON

DEED OF VARIATION PURSUANT TO
SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990
RELATING TO THE DEVELOPMENT OF LAND AT

SECURITAS HOUSE (FORMERLY LOVELL HOUSE), HIGH STREET, UXBRIDGE

PLANNING APPLICATION REF: **32215/APP/2018/844**

Planning and Corporate Team
Legal Services
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
Middlesex UB8 1UW
Ref: 3E/04/DSO/NC/014365

THIS DEED IS MADE ON THE 3rd DAY OF May 2019

BETWEEN

- (1) **HOWARTH HOMES (FARNHAM CLOSE) LIMITED** (Co. Regn. No. 08436104) of 54 Oxford Road, Denham, Uxbridge UB9 4DN (the Owner) ("**Owner**"); and
- (2) **CLOSE BROTHERS LIMITED** (Co. Regn. No. 195626) of 10 Crown Place, London EC2A 4FT (the **Mortgagee**)
- (1) **THE LONDON BOROUGH OF HILLINGDON** of the Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW ("the Council")

WHEREAS

- (A) The Council is the local planning authority for the purposes of the Act in respect of the Land and by whom the obligations in this Deed are enforceable.
- (B) The Owner is the freehold owner of the Land which is registered at HM Land Registry under title number NGL508409.
- (C) The Mortgagee is the beneficiary of a charge over the Site dated 29 November 2017, and has an interest in the land, and is willing to be party to the Deed.
- (D) The Owner entered into a unilateral undertaking under section 106 of the TCPA 1990 in favour of the Council in respect of the Planning Permission and the Prior Approval on 12 December 2018 (the "**Original Deed**").
- (E) On 5 March 2018 the Owner submitted a minor material amendment application pursuant to section 73 of the Act in order to vary condition 1 of the Prior Approval.
- (F) On 10 January 2019 the Council's Central and South Planning Committee resolved to grant that application pursuant to the prior completion of this Deed.
- (G) For the purpose of securing satisfactory arrangements for the development of the Land and without prejudice to the terms of the other covenants contained in the Original Deed the Parties hereto have agreed to vary the terms of the Original Deed as hereinafter provided.

IT IS AGREED AS FOLLOWS:-

1. INTERPRETATION & DEFINITIONS

IN THIS DEED, UNLESS THE CONTEXT OTHERWISE REQUIRES:

"the Act"	means the Town and Country Planning Act 1990;
"this Deed"	means this Deed of Variation;
"Land"	means all the land and buildings at Securitas House (Formerly Lovell House), High Street, Uxbridge which is registered under title number NGL508409 at the Land Registry;
"New Planning Permission"	means planning permission granted pursuant to a planning application given the Council's reference 32215/APP/2018/844;

2. THE FOLLOWING DEFINITIONS AND RULES OF INTERPRETATION APPLY IN THIS DEED.

- 2.1 All words and phrases defined in the Original Deed shall have the same meaning in this Deed save where the context otherwise requires and for the avoidance of doubt the Original Deed shall remain in full force and effect save as varied by this Deed.
- 2.2 All references in this Deed to clauses in the Original Deed are to clauses within the Original Deed.
- 2.3 Where in this Deed reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Deed.

- 2.4 Headings are for ease of reference only and are not intended to be construed as part of this Deed and shall not be construed as part of this Deed and shall not affect the construction of this Deed.
- 2.5 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.6 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.7 A reference to any party shall include that party's personal representatives, successors or permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 2.8 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
- 2.9 The provisions of the Original Deed in relation to its interpretation and in relation to statutory provisions interests bound disputes liability notices and jurisdiction apply to this Deed except to the extent that they are expressly varied by this Deed.
- 2.10 The Mortgagee consents to the Owner entering into this Deed and acknowledges that the Land shall be bound by the terms and obligations contained in this Deed and PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

3. VARIATIONS TO THE ORIGINAL DEED

- 3.1 Nothing in this Deed affects the Council's powers in respect of any antecedent breach or omission in relation to the Original Deed.
- 3.2 The Parties agree that upon the grant of the New Planning Permission the following definitions contained with the Original Deed shall be deleted in their entirety and shall be replaced as follows:-

- 3.3 The definition of "Planning Permission" at Clause 1" is amended so that the words "or any variation thereof" are **inserted** at the end of that definition.
- 3.4 The definition of "Prior Approval" at Clause 1" is amended so that the words "or any variation thereof" are **inserted** at the end of that definition.
- 3.5 The provisions within the Schedule are **deleted** and **replaced** with the following:

The Owner covenants and agrees with the Council as follows:-

- 1 Upon completion of this Deed not to apply to the Council for a Parking Permit in respect of any Dwelling nor to knowingly permit any owner or occupier of the Dwelling to apply to the Council for a Parking Permit and if such a permit is issued in respect of the Dwelling it shall be surrendered to the Council within seven (7) days of written demand.
- 2 That all material used for advertising or marketing the Dwellings for letting or sale will notify prospective owners and occupiers that they will not be entitled to apply for a Parking Permit.
- 3 That in respect of every freehold transfer or lease granted assigned transferred or otherwise provided in respect of the Dwelling the following covenant shall be imposed (or a covenant of substantially the same nature in respect of any tenancy agreement licence or other instrument entitling Occupation of the Dwelling):

"the transferee/lessee for himself and his successors in title being the owner or owners for the time being [of [plot No. []]/the terms of years hereby granted] hereby covenant with the transferor/lessor and separately with the Mayor and Burgesses of the London Borough of Hillingdon ("the Council") not to apply for nor knowingly permit an application to be made by any person residing in the premises to the London Borough of Hillingdon for a parking permit (save for the display of badges on motor vehicles used by disabled persons issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 as amended) and if such a permit is issued then it shall be surrendered within seven (7) days of written request to do so from the Council and this covenant shall also be enforceable by the Council under the Contracts (Rights of Third Parties) Act 1999, section 1"

- 3.3 Save as otherwise varied by Clause 3 of this Deed the Original Deed shall remain in full force and effect.
- 3.4 This Deed shall come into effect on the date hereof.

4. STATUTORY PROVISION

This Deed is made pursuant to Sections 106 and 106A of the Act, Section 111 of the Local Government Act 1972, Section 16 of the Greater London Council (General Powers) Act 1974, Section 1 of the Localism Act 2011 and any other enabling powers, to the intent that it will bind the Owner and their successors in title to the Land.

5. COVENANTS TO THE COUNCIL

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

6. MORGEES CONSENT

The Mortgagee consents to the Owner entering into this Deed and acknowledges that the Land shall be bound by the terms and obligations contained in this Deed and PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Land in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

7. REGISTRATION AS LOCAL LAND CHARGE

The covenants in the Original Deed as modified by this Deed are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council as provided in the Original Deed as modified by this Deed and the Council shall register this Deed in its register of Local Land Charges.

8. THIRD PARTIES

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

9. INVALIDITY OF CERTAIN PROVISIONS

If any of this Deed or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable the same shall be severable and the remainder of this Deed as to the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each term and provision of this Deed shall be valid and enforced to the fullest extent permitted by law.

10. CONFIRMATION

It is hereby declared by the parties to this Deed saving and excepting for as is expressly provided for by the provisions of this Deed the covenants and provisions contained in the Original Deed continue to have full force and effect.

11. COSTS

On or before the completion of this Deed the Owner shall pay to the Council the Council's reasonable legal costs in this matter.

12. VALUE ADDED TAX

12.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly paid.

12.2 If at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT has not been previously charged in respect of that supply the party making the supply shall have the right to issue a VAT invoice to the party to whom the supply was made and the VAT shall be paid accordingly.

13. JURISDICTION

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

In witness whereof this document has been executed and delivered as a deed on the date first stated above.

THE COMMON SEAL of the MAYOR
AND BURGESSES OF HILLINGDON
was duly affixed to this Deed in the
presence of:

MEMBER OF THE COUNCIL

Alan Chapman

AUTHORISED OFFICER

[Signature]



Executed as a DEED by HOWARTH HOMES (FARNHAM
CLOSE) LIMITED

Director:

[Signature]

In the presence of:-

Witness Name: *Holly Masivi*

Witness Signature: *[Signature]*

Witness Address: *94 Raynton Drive, Hayes, Middlesex, UB6 8BA.*

~~Executed by Close Brothers Limited as a Deed pursuant to a Power of Attorney
dated 14th December 2018 (filed at Land Registry Head Office under reference
CAS/2019/01 pursuant to a facility letter dated 14th January 2019).~~

.....
~~Authorised Signatory~~

.....
~~Authorised Signatory~~

.....

P.T.O.

Executed by Close Brothers Limited as a Deed pursuant to a
Power of Attorney dated 14th December 2018 (filed at Land Registry
Head Office under reference CAS/Close Brothers Limited/2019
pursuant to a facility letter dated 14th January 2019)

.....
Authorised Signatory

Lee Daniel

.....
Name of Signatory

M. Sullivan

.....
Witnessed by

Morgan Sullivan

.....
Authorised Signatory

GARY FLETCHER

.....
Name of Signatory

M. Sullivan

.....
Witnessed by

Morgan Sullivan

.....
Name of Witness

10 Crown Place, London EC2A 4FT 10 Crown Place, London EC2A 4FT