

DATED

2nd October

2020

SHEPHERDS BUSH HOUSING ASSOCIATION LIMITED

and

THE LONDON BOROUGH OF HILLINGDON

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

LAND REAR OF 2 - 24 HORTON ROAD WEST DRAYTON

71582/APP/2019/2584

Planning and Corporate Team
Legal Services
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge
Middlesex UB8 1UW
Ref: 3E/04/15897

THIS DEED IS MADE ON THE 2nd DAY OF October

2020

BETWEEN

- (1) **SHEPHERDS BUSH HOUSING ASSOCIATION LIMITED** registered as under the Cooperative and Community Benefit Societies Act 2014 and whose registered office is at Mulliner House, Flanders Road, London W4 1NN ("the Owner").
 - (2) **THE LONDON BOROUGH OF HILLINGDON** of the Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW ("the Council")
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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 has the freehold interest in the Land registered under Title No. AGL287260 at Land Registry.
- (C) The Original Planning Permission was granted pursuant to the completion of the Original Deed which was entered into on 31st August 2017 between PCDF 111 (West Drayton) LLP and the London Borough of Hillingdon pursuant to Section 106 of the Town and Country Planning Act 1990 ("the Original Deed").
- (D) The Second Planning Application was granted pursuant to the completion of the First Deed of Variation, which was entered into on 16 July 2019 between Shepherds Bush Housing Association Limited and the Council.
- (E) 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 already varied by the First Deed of Variation) 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;
"Deed"	means this Deed of Variation;
"First Deed of Variation"	means the deed of variation entered into on 16 July 2019 between Shepherds Bush Housing Association Limited and the Council;
"Land"	means all the land and buildings at the land rear of 2 - 24 Horton Road West Drayton which is registered under title number AGL287260 at the Land Registry;
"Original Deed"	means the legal agreement dated 31 August 2017 under Section 106 of the Town and Country Planning Act 1990 between PCDF III (West Drayton)LLP, and the Council;
"Original Planning Permission"	means the planning permission granted on 31 August 2017 by the Council for the Land under the Council's reference number 71582/2016/4582;
"Second Planning Application"	means the application for planning permission to amend condition 2 of the Original Planning Permission given the Council's reference 71582/APP/2018/2871;
"Second Planning Permission"	means planning permission granted pursuant to the Second Planning Application dated 17 July 2019 and given the Council's reference 71582/APP/2018/2871;

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.

3. VARIATION OF THE SECTION 106 AGREEMENT

- 3.1 The Parties agree that, except as varied by this Deed, the Original Deed (as already varied by the First Deed of Variation) and as further varied by this Deed shall remain in full force and effect.
- 3.2 Nothing in this Deed affects the Council's powers in respect of any antecedent breach or omission in relation to the Original Deed.

- 3.3 The Parties agree that with effect from the date of this Deed, the Original Deed (as already varied by the First Deed of Variation) shall be varied as set out below:
- 3.4 The definition of Affordable Housing Units in Clause 1.1 of the Original Deed shall be deleted and replaced with the following wording:

"Affordable Housing Units"	means: Block A – Affordable Rented – 20 x 1 bed, 1x 2bed Block B – Shared Ownership – 20 x 1 bed, 16 x 2bed Block C – Shared Ownership – 17 x 1 bed, 12 x 2bed Block D – Affordable Rented – 1 x 3 bed as shown on drawing number 15344-VT 50C attached in Annex 1 of this Deed which shall be Affordable Housing to be constructed within the Development in accordance with Schedule 1.
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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 covenants to observe and perform the covenants, restrictions and obligations contained in the Original Deed as varied by this Deed.

6. **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.

7. 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.

8. 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.

9. 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.

10. 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 in amount £1,000.

11. VALUE ADDED TAX

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

11.2 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.

12. 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.

ANNEX 1

AFFORDABLE HOUSING PLAN

MR

MR

MEMBER OF
THE COUNCIL
Chapman
AUTHORISED
OFFICER

HORTON ROAD

COLHAM
BRIDGE

GRAND UNION
CANAL

Block A: Affordable Shared 20 x 1 bed 1 x 2 bed
Block B: Affordable Shared 20 x 1 bed 1 x 2 bed
Block C: Shared Ownership 10 x 1 bed 1 x 2 bed
Block D: Affordable Shared 1 x 3 bed

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15344-VT50C

AFFORDABLE HOUSING

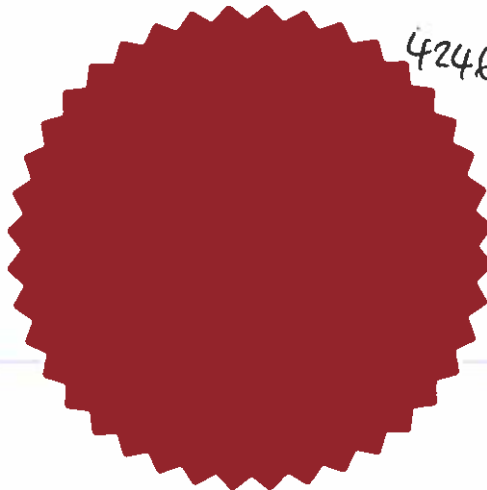
THE COMMON SEAL of the
**MAYOR AND BURGESSES OF
HILLINGDON** was duly affixed to
this Deed in the presence of:

MEMBER OF THE COUNCIL

Alan Chapman

M

AUTHORISED OFFICER



Executed as a deed by the
affixation of the common seal of
**SHEPHERD BUSH HOUSING
ASSOCIATION LIMITED** in the
presence of two Authorised
Signatories:

Authorised Signatory

Authorised Signatory

SIGNED as a deed by Neil Alexander Toner

As attorney for **SHEPHERDS BUSH HOUSING
ASSOCIATION LIMITED**

Under a power of attorney dated 24 MARCH
2020

In the presence of:



SIGNATURE OF NEIL ALEXANDER
TONER

as

attorney for **SHEPHERDS BUSH
HOUSING ASSOCIATION LIMITED**



SIGNATURE OF WITNESS

NAME OF WITNESS: JEREMY STIBBE

ADDRESS: 63 Monkton Street, SE11 4TX