



DATED

26 June

2018

CHERWELL DISTRICT COUNCIL (1)

and

OXFORDSHIRE COUNTY COUNCIL (2)

and

TAYLOR WIMPEY UK LIMITED (3)

and

bpha LIMITED (4)

**DEED OF VARIATION UNDER SECTION 106A
OF THE TOWN AND COUNTRY
PLANNING ACT 1990 (AS
AMENDED)**

in respect of Land at The Paddocks, Chesterton



Perrin Myddelton

10 Waterside
Station Road
Harpenden
Herts
AL5 4US
Ref: PH BPH006.4042

THIS DEED is made the 26th day of June 2018

BETWEEN:

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House, Bodicote, Banbury, Oxfordshire, OX15 4AA ("**District Council**"); and
- (2) **OXFORDSHIRE COUNTY COUNCIL** whose principal office is at County Hall, New Road, Oxford OX1 1ND ("**County Council**"); and
- (3) **TAYLOR WIMPEY UK LIMITED** (Company Number 01392762) whose registered office is at Gate House, Turnpike Road, High Wycombe, Buckinghamshire HP12 3NR ("**Owner**"); and
- (4) **bpha LIMITED** (a registered society under the Co-operative and Community Benefit Societies Act 2014 with registered number 26751R) whose registered office is situate at Bedford Heights Manton Lane Bedford MK41 7BJ ("**Registered Provider**")

WHEREAS:

- (A) This Deed is supplemental to and varies the Section 106 Agreement (as defined below) which is binding in respect of the Site.
- (B) The Owner is the freehold proprietor of the Site (excluding the Affordable Housing Land) pursuant to a transfer dated 9 November 2017 made between Henry Bonner Shouler and Robert Thomas Charles Shouler (1) Phillip Insull Robbins (2) and Taylor Wimpey UK Limited (3).
- (C) The Registered Provider is the freehold proprietor of part of the Site shown edged red on the plan attached to this Deed ("**Affordable Housing Land**") pursuant to a transfer dated 20 December 2017 and made between Taylor Wimpey UK Limited (1) and bpha Limited (2)
- (D) The Registered Provider has requested and the District Council, County Council and Owner have agreed that the Section 106 Agreement shall be varied in the manner hereinafter appearing and pursuant to Section 106A of the Act.

NOW IT IS AGREED as follows:

1. **Definitions and Interpretation**

- 1.1. The definitions in the Section 106 Agreement shall apply to this Deed in addition to the definition set out below and the provisions as to construction contained in clause 2 of the Section 106 Agreement shall apply to this Deed::

"Section 106 Agreement" means the Agreement relating to land to the north of Green Lane, Chesterton, Oxfordshire made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) dated 1 February 2016 between Cherwell District Council (1), Oxfordshire County Council (2), Henry Bonner Shouler and Robert Thomas Charles Shouler (3), Phillip Insull Robbins (4) and Taylor Wimpey UK Limited (5).

2. Legal Basis

- 2.1. This Deed is made under section 106A of the Act and section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and is supplemental to and varies the Section 106 Agreement.

3. Variations

- 3.1. The following variations will be made to the Section 106 Agreement from the date hereof:
- 2.1.1. The definition of "Chargee" in Part 2 of the Second Schedule shall be replaced with the following:

" "Chargee" any mortgagee or chargee of the Registered Provider of the Affordable Housing Site or any part of it and includes any receiver or manager or administrator (including a housing administrator and any receiver appointed pursuant to the Law of Property Act 1925) or any person appointed under any security documentation to enable such mortgagee or chargee to realise its security"

- 2.1.2. Paragraph 3 of Part 2 of Schedule 2 shall be deleted in its entirety and replaced with:

"For the avoidance of doubt paragraphs 2 and 6 are binding on the Chargee PROVIDED THAT paragraph 2 and 6 will not be binding on a Chargee exercising its power of sale or a bona fide purchaser for value from the Chargee exercising its power of sale (other than a purchaser which is a Registered Provider) or the successors in title of such purchaser provided that the provisions of paragraph 4 below have been complied with. "

2.1.3. Paragraph 4.2 shall be deleted in its entirety and replaced with:

"has used reasonable endeavours over a period of three months from receipt of notification pursuant to paragraph 4.1 above to dispose of the Mortgage Land subject to any leases and tenancies then subsisting and to the terms of this Deed to a Registered Provider or the District Council PROVIDED ALWAYS that nothing herein shall require the Chargee to dispose of the Mortgage Land at a price which is less than the greater of the open market value of the Mortgage Land (subject to the restrictions contained within this Schedule) or all sums due under the terms of the Chargee's mortgage or charge together with costs and expenses of the sale of the Mortgage Land and interest due under the mortgage or charge AND FURTHER PROVIDED THAT in any event if upon the expiry of 3 months from the date of receipt by the District Council of the notice in paragraph 4.1 above and provided the steps in this paragraph have been completed and no transfer of the Mortgage Land to either the District Council or a Registered Provider has completed within the said period of 3 months then upon expiry of the said 3 months the Chargee shall be able to sell the Mortgage Land free from the restrictions in paragraphs 2 and 6 of the Second Schedule Part 2 with the effect that they shall cease to bind the Mortgage Land."

3. **Miscellaneous provisions**

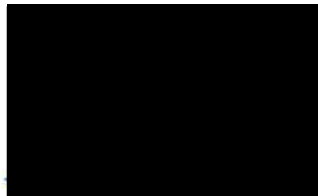
- 3.1 The Section 106 Agreement shall remain fully effective as varied by this Deed and the terms of this Deed have effect as though the provisions contained in this Deed had been originally contained in the Section 106 Agreement.
- 3.2 This Deed is a Local Land Charge and the Council shall register it in its Register of Local Land Charges in accordance with the provisions of the Local Land Charges Act 1975 and Section 106(11) of the Town and Country Planning Act 1990 as amended.
- 3.3 If any provision of this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed to be affected or impaired.
- 3.4 No provisions of this Deed shall be enforceable under the Contracts (Right of Third Parties) Act 1999 (other than by the parties and their successors in title and assigns and any successor to the District Council or the County Council's functions)

3.5 This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the exclusive jurisdiction of the courts of England.

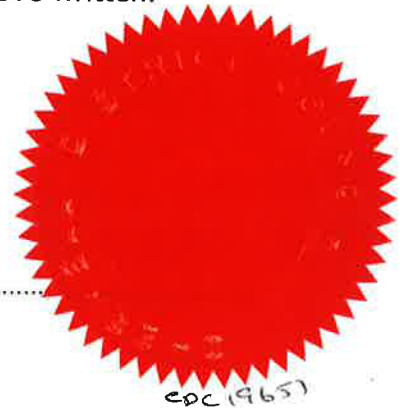
3.5 The Registered Provider will on completion of this Deed pay to the District Council and the County Council their respective reasonable legal costs incurred in the negotiation, preparation and execution of this Deed.

IN WITNESS whereof this Deed has been executed by the parties hereto as a Deed and is intended to be and is hereby delivered on the date first above written.

EXECUTED as a Deed by affixing the Common Seal of **CHERWELL DISTRICT COUNCIL** in the presence of:



Authorised Signatory



EXECUTED as a Deed by affixing the Common Seal of **OXFORDSHIRE COUNTY COUNCIL** in the presence of:



339/18



Authorised Signatory

EXECUTED as a Deed **TAYLOR WIMPEY UK LIMITED** acting by its authorised Attorneys

[...DIANA.....CUMMINGS.....]
and [...REBECCA.....WILKINSON.....]

both

in the presence of:

.....
Attorney



Witness

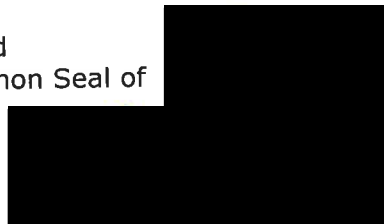
Signature:



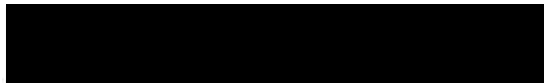
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Attorney

Print full Name: Carly Chapman
Taylor Wimpey UK Limited
Address: 730 Waterside Drive
Aztec West
Occupation: Almondsbury
Bristol
BS32 4UE

EXECUTED as a Deed
by affixing the Common Seal of
bpha LIMITED
in the presence of:



Authorised signatory



Authorised signatory

