

DATED

30 October

2024

Deed of Variation under Section 106 and Section 106A of the Town and Country Planning Act 1990

Wrexham County Borough Council

And

SG Estates Limited

And

The National Trust for Places of Historic Interest or Natural Beauty

Relating to Land at Wrexham Road Rhostyllen Wrexham

Deed of Variation
under Section 106 and Section 106A of the Town and Country Planning
Act 1990

relating to Land at Wrexham Road Rhostyllen Wrexham

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PARTIES:

- (1) **WREXHAM COUNTY BOROUGH COUNCIL** of Guildhall Wrexham LL11 1AY
("Council")
- (2) **SG ESTATES LIMITED** (Co. Regn. No. 05145645) of The Croft House Old Wrexham Road Gresford
Wrexham LL12 8UA ("Developer")
- (3) **THE NATIONAL TRUST FOR PLACES OF HISTORIC INTEREST OR NATURAL BEAUTY** (Registered
charity No. 205846.) of Heelis, Kemble Drive, Swindon, Wiltshire SN2 2NA ("The National Trust")

1 INTRODUCTION

- 1.1 This Deed is supplemental to and varies the Original Agreement made under section 106 of the Town and Country Planning Act 1990 ("the 1990 Act") relating to the development of land at Wrexham Road, Rhostyllen, Wrexham (being "the Land" as defined in the Original Agreement and hereafter referred to as "the Site").
- 1.2 The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated.
- 1.3 The Developer now is the freehold owner of the part of the Site which is registered at the Land Registry under title numbers CYM859522, the remainder of the site being registered to the National Trust under title number CYM283465 and CYM236675 (formerly held by first and second owner in the Original Agreement).
- 1.4 The Original Agreement was entered into in connection with the grant of the Original Planning Permission for the development referred to in the Original Agreement.
- 1.5 The Council is prepared to approve the Variation and amend the Original Agreement pursuant to the Variation subject to completion of this Deed and the parties have agreed to enter into this Deed in order to ensure the planning obligations contained in the Original Agreement are varied in relation to the Site.

NOW THIS DEED WITNESSES AS FOLLOWS:

1.1 In this Deed words and phrases shall have the same meanings used in the Original Agreement except as expressly provided for in this Deed.

1.2 The following expressions shall have the following meanings;

“Original Agreement” means the section 106 agreement dated 1st July 2010 and made between (1) The Council (2) The National Trust for Places of Historic Interest or Natural Beauty (3) National Trust Enterprises Limited.

“Original Planning Permission” planning permission reference P/2007/0686 for the construction of 223 dwellings and construction of new vehicular and pedestrian accesses (granted in outline under code no p/2004/0940 and subsequently varied under code no. P/2008/1063).

“Variation” means this deed in association with the s73 planning application reference P/2023/0653 for variation of condition 2 of planning permission p/2007/0686 (plot substitution 83-116).

2 CONSTRUCTION OF THIS DEED

2.1 The headings and contents list are for reference only and shall not affect construction.

2.2 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

- 2.4 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.
- 2.5 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.7 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council the successors to its statutory functions.
- 2.8 This Deed is supplemental to the Original Agreement and the deed of variation dated 5 December 2023.

3 LEGAL BASIS

- 3.1 This Deed is made pursuant to Section 106 and s106A of the 1990 Act and section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and (in relation to Affordable Housing matters) Section 609 of the Housing Act 1985 and all other relevant enabling provisions with the intention that it shall bind the parties interests in the Site.
- 3.2 The covenants, restrictions and requirements imposed upon the parties under this Deed create planning obligations pursuant to Section 106 and section 106A of the 1990 Act and are enforceable by the Council as local planning authority against the parties and to the extent that any of the obligations are not planning obligations within the 1990 Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and all other enabling powers.

4 CONDITIONALITY

4.1 This Deed shall come into effect immediately upon completion of this Deed.

5 THE EFFECT OF THIS DEED OF VARIATION

5.1 The Owner and the Council hereby agree and covenant with each other that ;

- (i) this Deed varies the Original Agreement only as set out in the First Schedule.
- (ii) from the date of this Deed the Original Agreement shall be construed and take effect as varied in accordance with the First Schedule.
- (iii) the Original Agreement as varied by this Deed shall have effect as though the provisions contained in this Deed had been contained in the Original Agreement.
- (iv) the terms and conditions of the Original Agreement as amended by the First Deed of Variation except as are inconsistent with this Deed shall continue to have full force and effect.
- (v) in the event of any inconsistency or ambiguity between the intentions and obligations under this Deed and the Original Agreement then the provisions of this Deed shall prevail.

6 MISCELLANEOUS

6.1 The Owner shall pay to the Council on completion of this Deed the reasonable legal and planning costs of the Council in the sum of £750.00 incurred in the negotiation, preparation and execution of this Deed.

6.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

6.3 This Deed shall be registerable as a local land charge by the Council.

6.4 Nothing in this Deed shall be taken as a waiver of any rights which the Council may have under the terms of the Original Agreement and as varied by this Deed in the event of there being any past and/or future breach or breaches by the parties of their successors in title.

6.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed or of the Original Agreement as amended by the First Deed of Variation.

7 JURISDICTION

7.1 This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the Courts of England and Wales.

8 DELIVERY

8.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the Parties hereto have executed this Deed on the day and year first before written.

THE FIRST SCHEDULE

Variations to Original Agreement

The Original Agreement shall be varied as follows:

1. Amendment of the tenure of Area 5 plots 96 to 99 and 113 to 116 from shared equity to sale contained within Annex A of the Original Agreement.
2. To remove from the Education Contribution definition the figure £229,320.00 and in place £317,130.00 with the additional amount as contributions to Ysgol Rhostyllen (Primary) and Ysgol Clywedog (Secondary).

THE COMMON SEAL of)

WREXHAM COUNTY BOROUGH COUNCIL)

was affixed in the presence of:)



Authorised Signatory:

370/24(6)

EXECUTED as a DEED by)

SG Estates Limited)

acting by a director)

in the presence of:

Andrew Davies
15 Greenhill Avenue
Hawarden, Flintshire, CH5 3JN

Executed as a deed by affixing the
common seal of **THE NATIONAL TRUST
FOR PLACES OF HISTORIC INTEREST
OR NATURAL BEAUTY** in the presence
of: }

Authorised Signatory



Number in Sealing Register

2929a

