

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

Leeds Road, Old Leeds Road, Pine Street and Union Street, Huddersfield

Dated 2024

(1) The Council of the Borough of Kirklees

(2) University of Huddersfield

THIS DEED OF VARIATION IS MADE ON THE DAY OF 2024

BETWEEN:

- (1) THE COUNCIL OF THE BOROUGH OF KIRKLEES of Town Hall, Huddersfield HD1 2TA ("the Council");
- (2) UNIVERSITY OF HUDDERSFIELD of Queensgate, Huddersfield HD1 3DH ("the Owner")

RECITALS

- (1) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 ("TCPA 1990") for the area in which the Site is situated.
- (2) The Owner owns the freehold interest that comprises the Site and which is registered under title numbers WYK811012, WYK653428, WYK804595 and WYK808315.
- (3) On 15 September 2022 the Principal Agreement (as defined below) was entered into in respect of the Site and the Council granted the Original RMA in respect of the Site on 20 September 2022.
- (4) The Owner has by the Variation Application applied to the Council for permission to vary the Original RMA.
- (5) The Council is minded to approve the Variation Application provided that the Owner enters into this Deed to modify and supplement the Principal Agreement as set out in the Schedule to this Deed.
- (6) The parties agree to vary the Principal Agreement as set out in this Deed with the intention that the covenants contained herein may be enforced by the Council against any person or persons deriving title from the Owner.
- (7) The Principal Agreement will remain in full force and effect as varied and supplemented by this Deed

NOW THIS DEED WITNESSES AS FOLLOWS:

1 Definitions and Interpretations

1.1 For the purposes of this Deed the following expressions shall have the following meaning:

- "Original RMA"** the reserved matters approval granted in respect of the Site on 20 September 2022 with reference number 2021/60/91544/W
- "Principal Agreement"** means the Agreement made under section 106 of the TCPA 1990 dated 15 September 2022 relating to the Development between The Council of the Borough of Kirkless (1) and University of Huddersfield (2)

“Variation Application” planning application reference 2024/90052 made by the Owner to the Council to vary conditions attached to the Original RMA

“Variation Permission” means the planning permission to be granted by the Council pursuant to the Variation Application

1.2 This Deed is supplemental to the Principal Agreement and varies the Principal Agreement pursuant to Section 106 and Section 106A of the 1990 Act and insofar as the provisions hereof do not constitute planning obligations for the purposes of Section 106 of the TCPA 1990, this Deed is also entered into pursuant to Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all powers so enabling.

2 Commencement

2.1 The Clauses and provisions of this Deed shall take effect upon the date of this Deed.

3 Variation of the Principal Agreement

3.1 Save as varied by this Deed, the Principal Agreement shall remain in full force and effect.

3.2 The Parties agree that the Principal Agreement shall be varied, read and construed in the manner provided for in the Schedule to this Deed.

3.3 The parties covenant with each other to give full force and effect to this Deed in the interpretation, performance and enforcement of the obligations contained in the Principal Agreement.

4 Jurisdiction

This Deed is governed by and interpreted in accordance with the laws of England.

5 Miscellaneous

5.1 It is hereby agreed that it is not intended that the Contracts (Rights of Third Parties) Act 1999 shall apply to this Deed and no person other than the parties to this Deed (and any successors in title or assigns or successor bodies) shall have any rights under or be able to enforce the provisions of this Deed.

5.2 Save as otherwise separately defined in this Deed all words and expressions shall have the meaning given to them in the Principal Agreement unless expressly varied by the terms of this Deed.

5.3 In this Deed references to any party to this Deed includes the successors in title of that party. In addition, references to the Council include any successor local planning authority exercising its statutory powers.

5.4 If any provision of this Deed is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Deed is to be unaffected.

6 Local Land Charge

This Deed is a local land charge and shall be registered as a local land charge by the Council.

IN WITNESS whereof the parties hereto have executed this Deed as a deed the day and year first above written.

Executed as a Deed (but not delivered until the date of this Deed) by affixing the COMMON SEAL OF
THE COUNCIL OF THE BOROUGH OF KIRKLEES

was hereunto affixed in the presence of:

Authorised Signatory: _____

EXECUTED as a DEED (but not delivered until the date of this Deed) by affixing the Common Seal of

UNIVERSITY OF HUDDERSFIELD LIMITED

In the presence of:

Authorised signatory: _____

Schedule 1

Variation of the Principal Agreement

1. A new clause 19 shall be inserted into the Principal Agreement as follows:

“19. FURTHER APPLICATIONS

19.1 If the Council agrees following an application under section 73 of the Act to the variation or release of any condition contained in the Outline Planning Permission, the Reserved Matters Approval or any subsequent reserved matters approvals granted pursuant to the Outline Planning Permission or if a condition is varied or released following an appeal under section 78 of the Act the covenants or provisions of this Deed shall be deemed to bind the varied permission or approval and to apply in equal terms to the new permission or approval unless the Council in determining the application for the new permission or approval reasonably considers that consequential amendments are required to this Deed to reflect the impact of the application, when a separate deed under s106 of the Act will be required to secure relevant planning obligations relating to the new permission or approval.