DATED 2025

SUPPLEMENTAL AGREEMENT UNDER SECTION 106A OF THE TOWN AND COUNTRY PLANNING ACT 1990 RELATING TO LAND ON THE NORTH SIDE OF LINGARDS ROAD SLAITHWAITE HUDDERSFIELD

between

The Council of the Borough of Kirklees

and

S B Homes (Lingards Road) Limited

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This deed is dated the day of 2025

PARTIES

(1) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** of Town Hall Huddersfield HD1 2TA **(**Council**)**

(2) **S B HOMES (LINGARDS ROAD) LIMITED** incorporated and registered in England and Wales with company number 16171102 whose registered office is at Empire House Lewisham Road Slaithwaite Huddersfield HD7 5AL **(**Owner**)**

BACKGROUND

1. The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
2. The Owner is the freehold owner of the Property free from encumbrances following a transfer from S B Homes Ltd on 10 February 2025.
3. On 6 October 2023, the Council and S B Homes Ltd entered into the Original Agreement.
4. The Original Agreement was entered into to facilitate the grant of the Original Permission.
5. The Owner has submitted the Section 73 Application to the Council to vary conditions of the Original Permission and enters into this deed to facilitate the grant of Section 73 Permission.
6. Without prejudice to the terms of the other covenants contained in the Original Agreement, the parties have agreed to vary the terms of Original Agreement as set out in this deed.
7. This agreement is made under section 106A of the TCPA 1990 and is supplemental to the Original Agreement.

AGREED TERMS

1. Interpretation

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Original Agreement: the agreement made under section 106 of the TCPA 1990 dated 6 October 2023 between the Council and S B Homes Ltd.

Original Permission: the planning permission under reference number 2020/62/93954/W for the erection of 42 dwellings and associated works granted by the Council on 11 October 2023.

Section 73 Application: the application under section 73 of the TCPA 1990 to carry out the Development without complying with certain conditions attached to the Original Permission expressed as "Variation of condition 2 (plans) on previous permission 2020/93954 for erection of 42 dwellings and associated works" which was validated on 20th December 2024 and was given reference number 2024/70/93575/W and any subsequent applications under section 73 of the TCPA 1990 pursuant

Section 73 Permission: the planning permission to be granted by the Council pursuant to the Section 73 Application subject to the prior completion of this deed.

1.2 Unless the context otherwise requires, all words and phrases defined in the Original Agreement shall have the same meaning in this deed.

1.3 Clause headings shall not affect the interpretation of this deed.

2. Statutory provision

2.1 This deed is made pursuant to the provisions of sections 106 and 106A of the TCPA 1990, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

2.2 Insofar as this Agreement is construed as creating planning obligations that did not appear in the Original Agreement such planning obligations are enforceable by the Council against the Owner and all persons deriving title to the site from the Owner save that no planning obligations contained in this deed shall be binding on any freehold or leasehold owners of individual dwellings constructed pursuant to the Original Permission and/or a section 73 Permission (or their respective mortgagees) or land held by any of the statutory utilities and their operational purposes.

3. Variations to the Original Agreement

The Original Agreement shall be modified as follows

3.1 The definition of Planning Permission in clause 1.1 of the Original Agreement shall be deleted and replaced with the following definition:

"**Planning Permission:** the planning permission granted pursuant to the Planning Application or pursuant to the Section 73 Application or as varied pursuant to the section 73 Application".

3.2 A definition of "Section 73 Permission" shall be added to clause 1.1 of the Original Agreement as follows:

3.3 "**Section 73 Permission:** a planning permission to be granted pursuant to the Section 73 Application.".

3.4 A definition of "Section 73 Application" shall be added to clause 1.1 of the Original Agreement as follows:

"**Section 73 Applications:** an application under section 73 of the TCPA 1990 to carry out the Development permitted by the Original Permission without complying with Condition 2 attached to the Planning Permission

3.5 The following clause shall be inserted after clause 23 of the Original Agreement:

24. FUTURE PERMISSIONS

24.1. In the event that an application for planning permission is made pursuant to Section 73 or Section 73A or Section 73B or for a minor amendment to the Planning Permission pursuant to Section 96A of the 1990 Act and permission is granted by the Council in respect of that application then:

24.1.1. references to "Application", "Planning Permission" and "Development" in this Deed shall thereafter be deemed to include the application made pursuant to Sections 73 or 73A or 73B or Section 96A, the new planning permission granted pursuant to Section 73 or 73B of the 1990 Act and the development permitted by that permission or as changed pursuant to Section 96A respectively; and

24.1.2. this Deed shall apply to and remain in full force in respect of both the Planning Permission and that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the 1990 Act unless required to do so by the Council.

but in each case PROVIDED THAT:

24.1.3. nothing in this Clause 24 shall fetter the discretion of the Council in determining any application(s) under Section 73 or 73B or 96A of the 1990 Act or in requiring new or varied planning obligations whether by way of a new or supplemental deed pursuant to Section 106 and/or Section 106A of the 1990 Act; and

24.1.4. to the extent that any of the Planning Obligations have been discharged in respect of the original Planning Permission nothing shall require the Owner to comply with that obligation again in respect of a planning permission granted under Section 73 or 73B of the 1990 Act.

4. Conditionality

Clause 3 shall come into force on the date of the grant of the Section 73 Permissions.

5. Covenants to the Council

The Owner covenants to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this deed.

6. Local land charge

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

7. Council's costs

The Owner shall pay to the Council on or before the date of completion of this deed the Council's legal costs incurred in connection with the preparation, completion and registration of this deed in the sum of £1,360 (inclusive of any VAT).,

8. Value added tax

8.1 All consideration given in accordance with the terms of this deed shall be exclusive of any value added tax (VAT) properly paid.

8.2 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.

9. Third party rights

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

10. Governing law

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) will be governed by and construed in accordance with the law of England and Wales.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

EXECUTED AS A DEED (but not delivered until the date of it) by the affixing of **THE CORPORATE COMMON SEAL of THE COUNCIL OF THE BOROUGH OF KIRKLEES** in the presence of

Authorised signatory

EXECUTED AS A DEED by **S B HOMES (LINGARDS ROAD) LIMITED** acting by Stephen Glen Byram, a director, in the presence of:

.....
Director

Signature of witness: .....

Name of witness [BLOCK CAPITALS]: .....

Address of witness: .....

.....

.....

Occupation of witness: .....