DATED.....6 March.....2025/6

THE COUNCIL OF THE BOROUGH OF KIRKLEES (1)

- and -

NARBOURNE LIMITED (2)

- and -

CREST NICHOLSON OPERATIONS LIMITED (3)

DEED OF VARIATION

made pursuant to Section 106 and 106A
of the Town and Country Planning Act 1990 (as amended)
In connection with an Agreement and Planning Obligation dated 24th October 2013
made under Section 106 of the Town and Country Planning Act 1990 (as amended)
and relating to
Land to North and South of Crossley Lane, Dalton, Huddersfield
HD5 0QP

Planning Permission References: 2011/91152
Planning Application Reference: 2024/70/92776/W

WALKER MORRIS LLP
33 Wellington Street
LEEDS
LS1 4DL
Tel: 0113 2832500
Fax: 0113 2459412
Ref: CAS/CRE02775.12

THIS DEED is made the 6 day of March 2026

BETWEEN:

(1) **THE COUNCIL OF THE BOROUGH OF KIRKLEES** (hereinafter called "the Council") of the first part; and

(2) **NARBOURNE LIMITED** (Company No. 05253509) whose registered office is at 98 Kirkstall Road, Leeds, LS3 1HJ (hereinafter called "the Owner") of the second part; and

(3) **CREST NICHOLSON OPERATIONS LIMITED** (Company No. 1168311) whose registered office is situate at 500 Dashwood Lang Road, Bourne Business Park, Addlestone, Surrey KT15 2HJ (hereinafter called "the Developer") of the third part;

together the "**Parties**" and reference to "**Party**" shall be construed accordingly.

1. **DEFINITIONS & INTERPRETATION**

1.1 In this Deed unless the context otherwise requires the following words and expressions shall have the meanings respectively assigned to them in this Clause:

"**Deed**"	means this deed;
"**Owners**"	means the collectively the Owner and the Developer;
"**2013 Section 106 Agreement**"	means the agreement made pursuant to Section 106 of the Act dated 24th October 2013 and made between (1) The Council of The Borough of Kirklees (2) Alan James Lewis (3) Barnett Waddingham Trustees Limited and (4) Axle Logistics Limited.

1.2 Unless the context otherwise requires all the words and expressions beginning with capital letters in this Deed shall have the same meanings ascribed to them in either clause 1.1 of this Deed or in clause 1.1 of the 2013 Section 106 Agreement save to the extent that this Deed otherwise provides and shall be construed accordingly.

1.3 Clause headings are for reference only and shall not affect the construction of this Deed.

1.4 Where more than one person is included in the expressions "the Council" and "the Owner" and "the Developer" agreements and obligations expressed to be made or assumed by such Party are made or assumed and are to be construed as made or assumed by all such persons jointly and each of them severally.

1.5 Any covenant by the Owners not to do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing.

1.6 The masculine and the feminine and neuter gender include each of the other genders and the singular includes the plural and vice versa.

1.7 A reference to an Act of Parliament refers to the Act as it applies at the date of this Deed and any later amendment or re-enactment of it and any regulations or statutory instrument made under it which is for the time being in force.

1.8 A reference to a clause or schedule or paragraph is a reference to a clause or schedule or paragraph contained in this Agreement and does not affect the interpretation or construction of this Deed.

2. RECITALS

2.1 The Council is the local planning authority for the Kirklees Metropolitan District within which the Site is situated and by whom the planning obligations within this Deed are enforceable.

2.2 This Deed is supplemental to the 2013 Section 106 Agreement and varies the 2013 Section 106 Agreement only to the extent set out in this Deed.

2.3 The Owner is the freehold owner of the part of the Site registered with HM Land Registry under title registration number WYK668858 ("**Owner's Land**").

2.4 The Developer is the freehold owner of that part of the Site registered with HM Land Registry under title registration number YY201270 ("the Developer's Land").

2.5 Drawing number 23:5666:52 referred to in clause 3.3.3(b) is appended to this Deed at the Annex.

2.6 The Parties have agreed that the Section 106 Agreement shall be varied as set out in clause 3.3 of this Deed and the Parties have agreed to enter into this Deed in order to vary the terms of the Section 106 Agreement accordingly.

3. OPERATIVE PROVISIONS

3.1 This Deed is made pursuant to sections 106 and 106A of the Act and is a planning obligation for the purposes thereof with the intent that it shall bind the interests of the:

3.1.1 Owner and any person deriving title from the Owner in respect of every part of the Owner's Land and their assigns; and

3.1.2 Developer and any person deriving title from the Developer in respect of each and every part of the Developer's Land and their assigns;

and to the extent that the covenants in this Deed are not made under sections 106A of the Act they are made under section 111 of the Local Government Act 1972 or section 1 of the Localism Act 2011 and all other powers so enabling.

3.2 Words and expressions in this Deed shall have the same meanings as in the 2013 Section 106 Agreement save to the extent that this Deed otherwise provides.

3.3 The Parties hereto hereby mutually agree to vary and supplement the terms of the 2013 Section 106 Agreement so that the 2013 Section 106 Agreement shall from today be read and construed as follows:

3.3.1 The definition of "Planning Permission" in clause 1.1 of the 2013 Section 106 Agreement shall be deleted and replaced with the following definition:

""**Planning Permission**" means:

(a) the planning permission granted by the Council on 18th November 2013 pursuant to planning application 2011/62/91152/W2 for erection of 131 dwellings, formation of new accesses, laying out of internal access roads, and creation of play areas ("**Planning Permission 2011/62/91152/W2**"); and / or (as appropriate)

(b) a planning permission which may be granted by the Council pursuant to Section 73 Application 2024/70/92776/W ("**Section 73 Planning Permission 2024/70/92776/W**");"

3.3.2 The following new definition be inserted into clause 1.1 of the 2013 Section 106 Agreement between the definitions of "Residual Positive Sum" and "SHMA":

""**Section 73 Application 2024/70/92776/W**"	means the planning application received and validated by the Council on 26th September 2024 and registered by the Council under reference number 2024/70/92776/W for permission to carry out the development permitted by the planning permission reference **2011/62/91152/W2** without complying with certain conditions attached thereto expressed as

'variation of conditions 2 (plans), 3 (materials), 4 (planting), 11 (floor levels), 12 (landscape), 16 (noise), 17 (traffic calming) on Planning Permission 2011/62/91152/W2';"

3.3.3 Clause 3.5 of the 2013 Section 106 Agreement shall be varied as follows:

3.3.3.1 reference to "Parcel C" in the fifth line shall be deleted and replaced with reference to "Parcel 2"; and

3.3.3.2 reference to "drawing number P09 4267 112 rev A" in the sixth line shall be deleted and replaced with reference to "drawing number 23:5666:52".

3.3.4 The following new clause 7 be inserted after clause 6 in the 2013 Section 106 Agreement:

"7. **Council's Covenants**

The Council hereby covenants with the Owners as follows:

General

7.1 That on the reasonable written request of the Owners at any reasonable time or times after any of the planning obligations under this Agreement have been fulfilled issue written confirmation thereof and/or at any reasonable time after all of the planning obligations under this Agreement have been fulfilled or at any reasonable time after this Agreement ceases to have effect issue written confirmation thereof and thereafter cancel all relevant entries in the register of local land charges.

Contributions

7.2 To issue a receipt on request in writing for the:

7.2.1 Affordable Housing Contribution in the sum of £50,000.00 (fifty thousand pounds) payable in accordance with clause 3.1 ("**Affordable Housing Contribution**");

7.2.2 cash deposit in the sum of £30,000.00 (thirty thousand pounds) payable in accordance with clause 4.1 ("**Cash Deposit**");

7.2.3 LEAP Commuted Sum payable in accordance with clause 4.7; and

7.2.3 Inspection and Certification Charge payable in accordance with clause 4.8;

7.3 Upon receipt to place the sums referred to in clause 7.2 in an interest bearing account or in separate accounts as the Council shall in its discretion decide.

7.4 To apply the sums referred to in clause 7.2 and any interest accrued towards the purposes specified in this Agreement and not to apply the sums referred to in clause 7.2 for any other purposes and the Council shall (on the reasonable written request of the payee or the payee's nominee) provide evidence that the sums referred to in clause 7.2 have been so applied.

Repayment

7.5 That:

7.5.1 in the event that the Affordable Housing Contribution or any part or parts thereof are not expended within 10 (ten) years of the date of final payment of the Affordable Housing Contribution then the sum or sums not expended plus interest accrued (if applicable) will be repaid by the Council to the person who paid the sum or sums or its nominee;

7.5.2 in the event that:

(a) the Council confirms satisfactory completion of the LEAP Works in accordance with clause 7.4 then the Council will repay the Cash Deposit to the person who paid the Cash Deposit within 10 (ten) working days of confirmation of satisfactory completion of the LEAP Works; or

(b) the Council is required to apply any of the Cash Deposit towards Default Works in accordance with clause 8.1 then the Council will repay any part of

the Cash Deposit not expended towards the Default Works (if any) to the person who paid the Cash Deposit within 10 (ten) working days of completing the Default Works.

3.4 The Parties hereby agree that the following planning obligations have been discharged:

3.4.1 Clause 3.1 of the 2013 Section 106 Agreement *(payment of the Affordable Housing Contribution in the sum of £50,000.00 (fifty thousand pounds) as a financial contribution towards the provision of Affordable Housing off the Site in the Huddersfield Market Area in accordance with the SHMA policies of the Kirklees Unitary Development Plan and SPD2 in full and final settlement of any and all affordable housing contributions relating to the first 95 Dwellings on the Site);* and

3.4.2 Clause 4.1 of the 2013 Section 106 Agreement *(payment of the cash deposit in the sum of £30,000.00 (thirty thousand pounds) for the performance of the obligations of the Owner under Clause 4 and 5 of the 2013 Section 106 Agreement in lieu of the provision of the Bond)*; and

3.4.3 Clause 4.8 of the 2013 Section 106 Agreement (payment of the Inspection and Certification Charge).

4. **IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:**

4.1 This Deed shall be construed as one with the 2013 Section 106 Agreement.

4.2 The provisions of the 2013 Section 106 Agreement continue to be enforceable by the Council and to bind the Site in all respects save for as varied by this Deed, but for the avoidance of doubt the alterations and amendments hereby made shall to the extent only that they are material supersede specific provisions to the contrary in the 2013 Section 106 Agreement as varied by this Deed and the 2013 Section 106 Agreement as varied by this Deed shall always be read together (mutatis mutandis) with the latter to that extent predominating.

4.3 This Deed does not nor is it intended to confer a benefit on a third party within the meaning of the Contracts (Rights of Third Parties) Act 1999.

4.4 For the avoidance of doubt:

4.4.1 where an obligation in the 2013 Section 106 Agreement has been satisfied in relation to Planning Permission 2011/62/91152/W2, nothing shall require the Owners to comply

with that obligation again in respect of Section 73 Planning Permission 2024/70/92776/W.

4.4.2 the Council shall, on request from any one or more of the parties, provide written confirmation that any obligation so satisfied has been formally discharged.

4.5 This Deed is a Local Land Charge and shall be registered as such.

4.6 The Developer shall pay to the Council on completion of this Deed the sum of no more than ~~£1,000.00 (one thousand pounds)~~ £2470.00 (two thousand four hundred and seventy Pounds) being a contribution to the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

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

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

Authorised signatory

EXECUTED AS A DEED (but not delivered until the date hereof) by **NARBOURNE LIMITED** acting by a director and the company Secretary or by two directors or by a director in the presence of a witness

_____
Director

_____
Director / Secretary

Witness Signature ....

Witness Name ....

Witness Address ....

....

.. ..

Occupation .. ..

EXECUTED AS A DEED by **CHRISTOHER SLATER** as Attorney for **CREST NICHOLSON OPERATIONS LIMITED** under a Power of Attorney dated 18th October 2024 in the presence of a witness

_____
Signature

Witness Signature .....

Witness Name ...

Witness Address

Occupation .....

Annex

(Drawing number 23:5666:52)

KEY:

- PARCEL 1
- PARCEL 2
- PARCEL 3
- PARCEL 4
- PARCEL 5

022862

NORTH

1:1000 SCALE

10m 100m

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Description | Drawn | Check

jrp Architecture Planning Urban Design Landscape

CLIENT: CREST NICHOLSON

DRAWING NUMBER: 23:5666:52

PROJECT: CROSSLEY LANE, HUDDERSFIELD

SCALE @ A1: 1:1000

DRAWING: PHASING PLAN

DRAWN: SD DATE: NOV 25

CHECKED: LM DATE: NOV 25

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