

Dated

2025

**CHESHIRE WEST AND CHESTER BOROUGH COUNCIL (1)**

and

**xxxxxxxxxx (2)**

and

**xxxxxxxxxxxxxx (3)**

Planning Obligation by Deed of Agreement  
under Section 106 of the Town and Country Planning Act 1990  
relating to land at  
xxxxxxxxxxxxxx

Planning Application Reference: xxxxxxxxxxxx



Head of Legal Services

Cheshire West and Chester Borough Council  
The Portal, Wellington Road, Ellesmere Port, CH65 0BA

Ref: LS/2454400

**DATE**

**2025**

**PARTIES**

- (1) **CHESHIRE WEST AND CHESTER BOROUGH COUNCIL** of the Portal, Wellington Road, Ellesmere Port, CH65 0BA ("**the Council**")
- (2) **xxxxxxx** of xxxxxxxx ("**the Owners**")
- (3) **xxxxxxx** (company registration number xxxxxx) of xxxxxxxxxxxxxxxx ("**the Mortgagee**")

**INTRODUCTION**

- A** The Council is the local planning authority for the area in which the Land and the Site are situated.
- B** The Owners are the proprietors of the freehold interest in the Land, in which the Site is situated, registered at HM Land Registry with title number xxxxx [subject to the registered charge dated xxxxxx in favour of the Mortgagee].
- C** The Council has decided to grant the Planning Permission subject to the prior completion of this Deed without which the Planning Permission would not be granted.
- D** The Parties are satisfied that the obligations in this Deed are:
- (a) necessary to make the development acceptable in planning terms (including where appropriate, obligations necessary to mitigate the adverse impacts of the development in accordance with the development plan for the area and other material considerations);
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development, and in any event will secure other planning benefits.
- E** The Land comprises a xxxxxxxx and there is an operational need for a worker to live on the Site. This Deed imposes restrictions on the Disposal of the Site and the Land associated with the Development and ensures that the New

Dwelling is occupied solely in connection with the xxxxxxxxxxxx. This Deed ties the New Dwelling to the operational requirements of the xxxxxxxxxxxx conducted on the Land.

- F** The Parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed with the intention that the planning obligations contained in this Deed may be enforced by the Council against the Owners and their successors in title and assigns to the Land and/or the Site in the event that the Planning Permission is granted.

## **NOW THIS DEED WITNESSES AS FOLLOWS:**

### **1. DEFINITIONS**

- 1.1. For the purposes of this Deed the following expressions shall have the following meanings:

**"Act"**

the Town and Country Planning Act 1990 (as amended);

**"Application"**

means the application for xxxxxx (received by the Council on xxxxxxxxxxxx) and allocated reference number xxxxxxxxxxxxxx;

**"Commencement of Development"**

means the carrying out on the Site of any material operation (as defined in Section 56(4) of the Act) pursuant to the Planning Permission and "Commence Development" shall be construed accordingly;

**"Deed"**

means this Deed of Agreement as entered into between the Council, Owners and Mortgagee;

**"Development"**

means the development of the Site for the erection of a new single storey dwelling authorised by the Planning Permission;

### **"Dispose"**

means a transfer, conveyance or disposition (as defined within s205(1)(ii) of the Law of Property Act 1925), gift exchange, assignment, the grant of a licence or an easement or otherwise disposed of;

### **"Land"**

means all that land lying to xxxxxxxxxx registered at HM Land Registry with absolute title under title number xxxxxxx which includes the Site as shown edged red on Plan 2 (title plan xxxxxxx) against which this Deed may be enforced;

### **"Monitoring Fee"**

means the sum of xxxxxxx (£xxxxxxx) towards the Council's costs of monitoring the development over the lifetime of the planning obligations;

### **"New Dwelling"**

means the erection of an agricultural workers dwelling to be constructed on the Site pursuant to the Planning Permission (irrespective of any non-compliance with any condition) and labelled **"New dwelling"** on Plan xxxxxx;

### **"Occupation"**

occupation for the purposes permitted by the Planning Permission and "Occupier" and "Occupy" shall be construed accordingly;

### **"Parties"**

means the parties to this Deed being the Council, the Owners and [the Mortgagee] (which expressions shall also include their successors in title and assigns) and

**"Party"** shall be construed accordingly;

### **"Planning Permission"**

the planning permission to be granted under application number xxxxxx for the erection of a new single storey dwelling on the Site;

### **“Plan 1”**

the plan attached hereto which shows the location of the proposed New Dwelling edged red on the Site;

### **“Plan 2”**

the title plan attached hereto which shows the extent of the Land edged red registered under title number xxxxxxxxx (which includes the Site);

### **"Site"**

means all that part of the Land known as xxxxxxxxx (which includes the “New Dwelling”) which is the subject of the Application against which this Deed may be enforced as shown edged red on Plan 1 and forms part of the Land;

### **“Working Day”**

means any day from Monday to Friday (inclusive) which is neither Christmas Day nor Good Friday nor a bank or public holiday in England.

## **CONSTRUCTION OF THIS DEED**

- 1.2. Unless otherwise indicated references to clauses and Schedules are to clauses of and Schedules to this Deed and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule.
- 1.3. Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 1.4. 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.
- 1.5. Wherever there is more than one person named as a Party and wherever 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.

- 1.6. 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.
- 1.7. 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.
- 1.8. Any covenant not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.
- 1.9. Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers functions or discretions in relation to the Land or the Site or otherwise.
- 1.10. The headings are for reference only and shall not affect construction.
- 1.11. Where any approval or agreement of the Council is required pursuant to this Deed such approval or agreement shall be in writing.
- 1.12. A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.13. References to the Land or the Site shall include any part of the Land or the Site.

## **2. LEGAL BASIS**

- 2.1. This Deed is made pursuant to Section 106 of the Act and Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act.
- 2.2. The covenants, restrictions and requirements imposed upon the Owners under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owners and to the extent that any of the obligations are not planning obligations within the 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.

### **3. DELIVERY**

- 3.1. This Deed shall be deemed to be delivered on the date at the top of this Deed and shall come into full force and effect on that date.

### **4. THE OWNERS' COVENANTS**

- 4.1. The Owners covenant with the Council (so as to bind the Land) as follows:
- 4.1.1. to fully observe and perform the obligations in this Deed as set out in the First Schedule and hereby agree that the Land shall be subject to the obligations, restrictions and covenants herein.
  - 4.1.2. that there are no interests (legal or equitable) required for the purposes of section 106 of the Act in the Land other than detailed in this Deed; and
  - 4.1.3. not to encumber or otherwise deal with its interest in the Land or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Deed are rendered impossible to carry out.

### **5. MORTGAGEE'S CONSENT**

- 5.1. The Mortgagee consents to this Deed being entered into with the intention that their interests in the Land in the form of the registered charge detailed in Recital B of this Deed will be bound by the terms of this Deed as if this Deed had been executed and registered as a local land charge before the execution of the registered charge.
- 5.2. Notwithstanding clause 5.1, the Mortgagee (or any other mortgagee or chargee with a charge over the Site) will not incur any liability for any breach of the obligations contained in this Deed unless and until it becomes a mortgagee in possession of the Land or any part of it in which case it too will

be bound by the obligations as if it were a person deriving title from the Owners.

## **6. EXCLUSIONS**

6.1. This Deed does not apply in any way to:

6.1.1. any person who ceases to have an interest in the Land but without prejudice to liability for any subsisting breach arising prior to cessation;

6.1.2. any person whose interest in the Land is solely for the purpose of drainage or sewerage or the supply of electricity, gas, water or telecommunications;

## **7. DETERMINATION OF DEED**

The obligations in this Deed (with the exception of clause 8.1) shall cease to have effect if, before the Commencement of Development, the Planning Permission:

7.1.1. has expired within the meaning of Sections 91, 92 or 93 of the Act;

7.1.2. is varied or revoked or otherwise withdrawn by a statutory procedure without the consent of the Owners; or

7.1.3. is quashed following a successful legal challenge.

## **8. MISCELLANEOUS**

8.1. The Owners shall pay to the Council on completion of this Deed the reasonable costs of the Council incurred in the negotiation, preparation and execution of this Deed plus the Monitoring Fee.

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



- 8.3. Where the agreement, approval, consent or expression of satisfaction is required by the Owners from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall be given on behalf of the Council by the Head of Planning and Place Making and shall not be unreasonably withheld or delayed.
- 8.4. Insofar as any clause (in whole or in part) is found (for whatever reason) to be invalid, illegal or unenforceable then such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of the remaining provisions of this Deed.
- 8.5. No person shall be liable for any breach of any of the obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

## **9. WAIVER AND FETTER**

- 9.1. No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the provisions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant provisions or from acting upon any subsequent breach or default.
- 9.2. Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers functions or discretions in relation to the Land or otherwise.

## **10. JURISDICTION**

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

## **11. LAND REGISTRY AND LOCAL LAND CHARGES**

- 11.1. For the purpose of noting this Deed on the registered title of the Owners registered at HM Land Registry under title number xxxxx the Owners at their own cost and expense will within fifteen (15) Working Days of completion of this Deed submit an application to the Land Registry to enter an agreed notice by filing a completed AN1 form (or any replacement/alternative version of this form) together with the application fee and on doing so will provide proof of such filing to the Council. The Owners will then supply the Council with a copy of the amended official title registers (marked for the attention of Legal Services) as soon as reasonably practicable following receipt by the Owners from the Land Registry.
- 11.2. This Deed shall be registered in the Council's register of local land charges on completion thereof.

## **12. NOTICES**

- 12.1. Any notice, demand or other communication to be delivered to a Party under this Deed shall be in writing or via email and shall be in the manner and marked for the attention of the person from time to time designated by it to the other parties to this Deed. The initial details so designated are as follows:
- 12.1.1. The Council: Head of Planning and Place Making, Council Offices,  
The Portal, Wellington Road, Ellesmere Port, CH65 0BA
- or [section106@cheshirewestandchester.gov.uk](mailto:section106@cheshirewestandchester.gov.uk) quoting reference xxxxxx;
- 12.1.2. The Owners: xxxxxxxxxxxxxxxxx
- 12.1.3. The Mortgagee: xxxxxxxx whose registered office is at  
xxxxxxxxxxxxx;
- 12.2. Subject to clause 12.3 below and unless the date and/or time of actual receipt is proved a notice, demand or other communication sent by the following means is to be treated as having been served as follows:

- 12.2.1. If delivered by hand at the time of delivery;
  - 12.2.2. If sent by pre-paid first class post on the second Working Day after posting;
  - 12.2.3. If sent by recorded delivery at the date and time delivery was signed for;
  - 12.2.4. If sent by email, on the day when acknowledgement of receipt has been provided by the Council.
- 12.3. If a notice, demand or other communication is served after 4.00pm on a Working Day or on a day that is not a Working Day it is to be treated as having been served on the next Working Day.

### **13. CHANGE IN OWNERSHIP**

- 13.1. The Owners agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan.

## **FIRST SCHEDULE**

### **The Owners' Covenants with the Council**

1. To serve written notice on the Council of the proposed date of Commencement of Development on the Site at least 14 (fourteen) Working Days before the actual date of Commencement of Development such notice to state the planning reference number allocated to the Planning Permission.
2. Not to use any part of the Site separately from the rest of the Land and in particular no part or parts of the Site shall be Disposed of or severed from the Land.
3. Not to Occupy the New Dwelling except by:
  - 3.1. A person who works solely or mainly working, (or last working if the person is retired) in agriculture, forestry or other-land-based rural enterprise on the Land;
  - 3.2. the spouse, civil partner, or widow or widower of such a person specified in paragraph 3.1 and any resident dependants residing with such a person
4. For the avoidance of any doubt the obligations in this First Schedule shall also prohibit holiday lettings/letting of the New Dwelling.

**IN WITNESS OF WHICH** this document has been executed as a Deed by the respective parties hereto in the appropriate manner and with the intention of such document being delivered on the part of each of them as a Deed on (but not before) the date at the top of this Deed.

**THE COMMON SEAL** of )

**CHESHIRE WEST AND CHESTER** )

**BOROUGH COUNCIL** )

was hereunto affixed in the presence of: )

Authorised Signatory

**Executed as a Deed by**

**xxxxxxxxxxxx**

\_\_\_\_\_  
Signature

**in the presence of**

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Witness' signature

Address of witness \_\_\_\_\_

**Executed as a Deed by**

**xxxxxxxxxxxxxx**

\_\_\_\_\_  
Signature

**in the presence of**

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Witness' signature

Address of witness \_\_\_\_\_

**Executed as a Deed by**

**xxxxxxxxxxxxxx**

\_\_\_\_\_  
Signature

**in the presence of**

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Witness' signature

Address of witness \_\_\_\_\_

**Plan 1**

**Plan 2**