



DATED

2026

MID SUSSEX DISTRICT COUNCIL (1)

AND

WEST SUSSEX COUNTY COUNCIL (2)

AND

EDEN (DOWNLANDS) LIMITED (3)

AND

9Y CAPITAL LIMITED (4)

**DEED OF VARIATION
OF PLANNING OBLIGATION**

pursuant to Sections 106 and 106A of the
Town and Country Planning Act 1990 (as amended)
relating to land at Downlands Park Care Home, Bolnore Farm Lane, Haywards Heath, West
Sussex
DM/25/2452

Julie Galvin
Assistant Director, Governance and Monitoring Officer
Mid Sussex District Council
'Oaklands' Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

IKEN REF 8500

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THIS DEED is dated the

day of

2026

BETWEEN

- (1) **MID SUSSEX DISTRICT COUNCIL** of Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS (“**the District Council**”)
- (2) **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, Chichester, West Sussex, PO19 1RQ (“**the County Council**”)
- (3) **EDEN (DOWNLANDS) Limited** incorporated and registered in England and Wales with company number 11653917 whose registered office is at 12 Conqueror Court, Sittingbourne, Kent, England, ME10 5BH (“**the Owner**”)
- (4) **9Y CAPITAL LIMITED** incorporated and registered in England and Wales with company number 14864131 whose registered office is at Stag House, Old London Road, Hertford, SG13 7LA (“**the Mortgagee**”)

BACKGROUND

- (A) The Owner is the freehold owner of the Land under Land Registry title number WSX101160.
- (B) The District Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (C) The County Council is the local authority responsible for education, libraries and transport infrastructure in the area in which the Land is situated.
- (D) The Mortgagee has an interest in the Land by way of a charge dated 5 March 2026 against Title Number WSX101160. The application is pending registration with the Land Registry.
- (E) By the Original Obligation the Planning Obligations were given to the District Council and the County Council in respect of the Development and the use of the Land.
- (F) Pursuant to Section 106A of the Act the Owner has requested that the Original Obligation be varied to amend the mix of dwellings and the County Council Contributions in accordance with application reference DM/25/2452.
- (G) The District Council, the County Council, the Owner and the Mortgagee have agreed to enter into this Deed to vary the Original Obligation in the manner hereinafter appearing.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1. INTERPRETATION AND DEFINITIONS

For the purposes of this Deed:

Existing Definitions

- 1.1. The expressions defined in the Original Obligation shall have the same meaning herein (including the Background) unless they differ from the new definitions below (“the New Definitions”) in which case the New Definitions shall prevail.

New Definitions

- 1.2. In this Deed the following words and expressions shall unless the context otherwise requires have the following meanings:

Deed of Variation	means this deed of agreement (also referred to as the “Deed”);
Implementation	means the carrying out of a material operation as set out at Section 56(4) of the Act pursuant to the planning permission granted in accordance with the Variation Application;
Original Obligation	means the agreement dated 28 th of April 2022 between MID SUSSEX DISTRICT COUNCIL (1), WEST SUSSEX COUNTY COUNCIL (2) and EDEN (DOWNLANDS) LIMITED (3) made pursuant to, inter alia, section 106 of the Act relating to the Land;
Planning Obligation	means any obligation by any party to the Original Obligation and or this Deed as the context requires and “Planning Obligations” shall be construed accordingly.
Variation Application	means the application submitted to the District Council under Section 73 of the Act dated 29 September 2025 and given reference number DM/25/2452 seeking to vary condition 24 relating to planning permission reference DM/20/4159 to substitute amended plans;

- 1.3. This Deed shall be construed and interpreted as a modification of the Planning Obligations in the Original Obligation and the Original Obligation shall be read and construed accordingly but for the avoidance of doubt shall remain in full force and effect other than as modified by this Deed.
- 1.4. All provisions of the Original Obligation regarding or relating to the interpretation or construction of the Original Obligation shall apply to the Original Obligation as varied in this Deed.
- 1.5. Unless otherwise specifically stated in this Deed, the modifications herein shall not absolve any party from any liability for any act or omission constituting a breach of any provisions of the Original Obligation occurring before the date of this Deed notwithstanding that the effects hereof render such act or omission lawful if they occur after the date of this Deed.

2. LEGAL BASIS

- 2.1. This Deed is made pursuant to:
 - 2.1.1. Section 106A of the Act insofar as it modifies or discharges any Planning Obligation in the Original Obligation
 - 2.1.2. Section 106 of the Act insofar as any new planning obligations are given by any party hereto; and
 - 2.1.3. Sections 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other powers enabling the District Council as local planning authority and the County Council to enter into it.
- 2.2. Any covenants, restrictions and requirements imposed upon the Owner under this Deed are planning obligations pursuant to Section 106 of the Act and are enforceable by the District Council as local planning authority and the County Council against the Owner.
- 2.3. The parties hereto acknowledge and confirm that the Planning Obligations in the Original Obligation as modified hereby remain in compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 2.4. The obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by those persons in the Land and their respective successors and assigns.

3. COMMENCEMENT

This Deed shall come into effect on the date of this Deed SAVE THAT the provisions of clause 4 and the FIRST SCHEDULE shall come into effect upon Implementation.

4. VARIATION TO THE ORIGINAL OBLIGATION

The District Council, the County Council, the Owner and the Mortgagee agree that:

- 4.1. the Original Obligation shall be varied and supplemented as set out in the Schedule hereto; and
- 4.2. the Original Obligation shall be varied and read and construed as being subject to the terms of this Deed and as having been amended by the terms of this Deed; and
- 4.3. the terms of the Original Obligation shall otherwise continue in full force and effect.

5. COSTS

- 5.1. The Owner shall pay to the District Council on or before the date of this Deed the District Council's reasonable legal costs of One Thousand Five Hundred pounds (£1,500) together with all disbursements incurred in connection with the preparation, negotiation and completion of this Deed.
- 5.2. The Owner shall pay to the County Council on or before the date of this Deed the County Council's reasonable legal costs together with all disbursements incurred in connection with the preparation, negotiation and completion of this Deed.

6. LOCAL LAND CHARGE

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

7. OWNERSHIP

The Owner warrants that no person other than the Owner and the Mortgagee has any legal or equitable interest in the Land.

8. NO FETTER OF DISCRETION

Nothing (contained or implied) in this Deed shall fetter or restrict the District Council or the County Council's statutory rights, powers, discretions and responsibilities.

9. THIRD PARTY RIGHTS

It is agreed that nothing in this Deed shall be construed as expressly providing a right for any third party within the meaning of the Contract (Rights of Third Parties) Act 1999 and nothing in this Deed is intended to confer on any third party (whether referred to herein by name class description or otherwise) any benefit or any right to enforce any provision of this Deed.

10. GOVERNING LAW

This Deed shall be governed by and interpreted in accordance with the law of England.

11. MORTGAGEE CONSENT

The Mortgagee acknowledges that this Deed has been entered into with its consent and that the Land subject to the Mortgagee's charge shall be bound by the obligations contained in this Deed and that the security of its charge over the Land shall take effect subject to this Deed PROVIDED THAT the Mortgagee and any future chargee or mortgagee shall have no liability under this Deed unless they take possession of the Land which is subject to their charge in which case the Mortgagee (or future chargee or mortgagee as the case may be) too will be bound by the obligations as if it were a person deriving title from the Owner.

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

FIRST SCHEDULE

The parties hereto agree that the Original Obligation shall be varied as follows:

1. The definition of **Development** shall be deleted and replaced with the following:

“Development” means the development of the Land by the erection of part two, part three and part four storey building of apartments with community hub together with 15 cottages, to provide extra care facilities, following the demolition of existing care home.”

2. The definition of **Library Contribution** shall be amended by deleting the following words “Thirteen Thousand Six Hundred and Fifty One Pounds (£13,651)” and replacing them with “Seventeen Thousand Four Hundred and Sixty pounds (£17,460)”, by deleting reference to “paragraph 3 of the Third Schedule” and replacing it with “paragraph 2 of the SECOND SCHEDULE”, by deleting the word “stock “ and replacing it with “facilities” and deleting the words “PROVIDED THAT should commencement of development take place after 31st March 2021, the sum shall be recalculated using the latest published census statistics published by the Office for National Statistics” so that the definition of **Library Contribution** reads as follows:

““**Library Contribution**” means the financial contribution of Seventeen Thousand Four Hundred and Sixty Pounds (£17,460) subject to adjustment in accordance with the provision of paragraph 2 of the SECOND SCHEDULE and which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed being a financial contribution towards the costs of providing the additional library infrastructure required to accommodate the extra demands for library services that would be generated by the Development and to be used towards providing additional facilities at Haywards Heath Library.”

3. The definition of **Total Access Demand Contribution** shall be amended by deleting the following words “One Hundred and Five Thousand Nine Hundred and Four Pounds (£105,904)” and replacing them with “One Hundred and Thirty One Thousand Three Hundred and Seventy pounds (£131,370)” and deleting the words “PROVIDED THAT should

commencement of the Development take place after 31st March 2021, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics” so that the definition of **Total Access Demand Contribution** reads as follows:

“ **“Total Access Demand Contribution”** means the financial contribution of One Hundred and Thirty One Thousand Three Hundred and Seventy Pounds (£131,370) subject to adjustment in accordance with the provision of paragraph 1.1 of the SECOND SCHEDULE calculated using current occupancy rates from census statistics published by the Office for National Statistics payable in accordance with this Deed and is calculated in accordance with the Total Access Demand Methodology and to be used towards the Scheme.”

4. The definition of **Index Linked** shall be amended by deleting the words “the date of this Deed” for the letter D in the formula and replacing it with “the 19 November 2025” so that the definition of **Index Linked** reads as follows:

“ **“Index Linked”** means in relation to the County Council Contributions, that the County Council Contributions payable by the Owner under this Deed shall be increased by the application of the following formula:

$A = B \times C/D$ where C/D is equal to or greater than 1

A is the sum actually payable on the date of payment

B is the original sum mentioned in this Deed

C is the BCIS Index for the quarter preceding the date of payment

D is the BCIS Index for the quarter preceding the 19 November 2025

and **Indexation** shall be construed accordingly

**SECOND SCHEDULE
REPLACEMENT APPENDIX 1
DRAFT PLANNING PERMISSION**

Executed as a Deed by
affixing the Common Seal of
MID SUSSEX DISTRICT COUNCIL
in the presence of:-

Authorised Officer

Executed as a Deed by
affixing the Common Seal of
WEST SUSSEX COUNTY COUNCIL
in the presence of:-

Authorised Officer

Executed as a Deed by
EDEN (DOWNLANDS) LIMITED
acting by a director
in the presence of a witness:

Director signature
Name (in BLOCK CAPITALS)

Witness signature
Name (in BLOCK CAPITALS)
Address
Occupation

Executed as a Deed by
9Y CAPITAL LIMITED
acting by a director
in the presence of a witness:

Director signature
Name (in BLOCK CAPITALS)

Witness signature
Name (in BLOCK CAPITALS)
Address
.....
Occupation