

DATED 22 February 2023

**KNOWSLEY METROPOLITAN BOROUGH COUNCIL**

**and**

**COUNTRYSIDE PROPERTIES (UK) LIMITED**

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**DEED OF VARIATION UNDER SECTION 106  
AND 106A OF THE TOWN & COUNTRY  
PLANNING ACT 1990 (AS AMENDED)**

**RELATING TO LAND AT THE FORMER  
BRIDGEFIELD FORUM LEISURE CENTRE,  
CARTBRIDGE LANE, HALEWOOD,  
MERSEYSIDE, L26 6LH**

'Goddard Green' housing estate, (site of the  
former Bridgefield Forum leisure centre),  
Cartbridge Lane, Halewood, Knowsley, L26 6LH

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### Clause

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Annex 1          Plan of Public Open Space

Annex 2          Draft decision notice - Section 73 Application

THIS AGREEMENT is dated the

22 day of February

2023

**BETWEEN:**

- (1) **KNOWSLEY METROPOLITAN BOROUGH COUNCIL** of Municipal Buildings Archway Road Huyton L36 9UX (the 'Council'); and
- (2) **COUNTRYSIDE PROPERTIES (UK) LIMITED** (Company Number 00614864) whose registered address is at Countryside House, The Drive, Brentwood, Essex, CM13 3AT (the 'Developer')

**RECITALS:**

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated and is the authority by which the planning obligations herein contained and referred to are enforceable.
- (B) The Developer is the leasehold owner and developer of the Land.
- (C) On 26 January 2016 the Developer and the Council entered into a Section 106 Agreement ("the Original Agreement").
- (D) On 29 January 2016 planning permission with reference 15/00559/FUL was granted ("the Original Permission").
- (E) By a deed of even date which varies the Development Agreement the Developer has agreed to surrender the Public Open Space to the Council.
- (F) The Council confirms receipt of "Commuted Sum 1" (£50,543.14) and "Commuted Sum 2" (£50,543.14) paid by the Developer in accordance with the Original Agreement.
- (G) On 7 October 2021 an application was submitted to the Council (ref 21/00787/FUL) under Section 73 of the Town and Country Planning Act 1990 to vary conditions 4 and 5 of the Original Permission ("the Section 73 Application").
- (H) The Council has resolved to approve the Section 73 Application subject to the prior completion of this Deed. A draft of the permission is attached at Schedule 1 to this Deed.
- (I) Without prejudice to the terms of the other covenants contained in the Original Agreement the Owner and the Council have agreed to vary the terms of Original Agreement in the manner set out in this Deed.
- (J) This Deed is made under section 106 and section 106A of the Act and is supplemental to the Original Agreement.

**IT IS AGREED THAT:**

**1. Interpretation**

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

**1.1 Definitions:**

**The Development Agreement** Means an Overarching Development Agreement Dated 30th September 2015 and Supplemental Agreements Dated 16<sup>th</sup> February 2016 28<sup>th</sup> November 2017 and 9<sup>th</sup> November 2018

**Plan** means the plan attached to this Deed

**Public Open Space**

means the land shown edged red on the Plan

- 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.
- 1.4 A person includes a natural person corporate or unincorporated body (whether or not having separate legal personality).
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party's personal representatives successors in title or assigns or permitted assigns and in the case of the Council the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires a reference to a statute or statutory provision is a reference to it as amended extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 Unless the context otherwise requires references to clauses are to the clauses of this Deed.
- 1.11 Any words following the terms including include in particular for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words description definition phrase or term preceding those terms.
- 1.12 Where an obligation falls to be performed by more than one person the obligation can be enforced against every person so bound jointly and against each of them individually.

**2. Legal Effect**

- 2.1 This Deed is made pursuant to sections 106 and 106A of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all enabling powers to vary the Original Agreement in the manner set out in this Deed and with the intent to bind the Developer's interest in the Land.
- 2.2 All the terms, definitions, conditions and obligations in the Section 106 Agreement (including for the avoidance of doubt any recitals or introductions) are incorporated in full in this Deed and nothing in this Deed shall vary or alter the Section 106 Agreement save where expressly stated otherwise in this Deed
- 2.3 The Original Agreement shall remain fully effective as varied by this Deed and the Original Agreement shall have effect as though the provisions contained in this Deed had been contained in the Original Agreement with effect from the date of this Deed.
- 2.4 It is agreed by the parties that any covenants and obligations pursuant to the Original Agreement which have been fully observed and performed prior to the date of this Deed are satisfied and do not have to be revisited from the date of this Deed.

3. **Commencement**

3.1 The provisions of this Deed shall take effect upon the date of this Deed.

4. **Legal Costs**

4.1 The Owner will pay on completion of this Deed the Council's reasonable legal costs and disbursements in connection with its preparation.

5. **Variations to the Original Agreement**

5.1 The following new definitions shall be inserted into the Original Agreement:

**"Committed"** any amount which the Council has allocated for expenditure relevant to the purpose for which the sum was paid and such amount has been authorised by the relevant committee, or Council member or Council officer or has contracted to expend where such contract provides for payment contingent on the provision of works and/or services and/or supplies

**"Commutated Sum"** means Commuted Sum 1 and Commuted Sum 2

**"Leasehold Estate"** the legal estate created by the Lease

**"Maintenance Period"** means a period of 15 years from the date of the transfer of the Public Open Space from the Owner to the Council

**"Public Open Space"** means the public open space laid out pursuant to the Planning Permission or the Section 73 Permission

**"Section 73 Application"** means the application submitted to the Council made pursuant to Section 73 of the Act and allocated reference number 21/00787/FUL

**"Section 73 Permission"** means the planning permission issued by the Council Pursuant to the Section 73 Application

5.2 The following definitions shall be amended as follows:

**"Application"** means the Application for Planning Permission for the Development submitted to the Council on 29 August 2015 and allocated reference number 15/00559/FUL

5.3 The definition of Development shall be deleted in its entirety and replaced with the following:

**"Development"** means the works pursuant to the Planning Permission or the Section 73 Permission as more particularly described in Schedule 2

5.4 The definition of "Site" shall be deleted in its entirety and replaced with a new definition of "Land" as follows:

**"Land"** means the land against which this Deed may be enforced as shown edged red on the Plan and described in Schedule 1

5.5 The definition of "After Acquired Interest" shall be deleted in its entirety.

5.6 The Recital at clause 3.2 shall be deleted in its entirety and replaced with the following:

*3.2 The Council is the freehold owner of the Land registered at the Land Registry with title number MS556214*

5.7 The Recital at clause 3.4 shall be deleted in its entirety and replaced with the following:

*By a lease dated 16 February 2016 and made between the Council (1) and the Developer (2) ("the Lease") the Leasehold Estate was demised to the Owner for a term of 250 years.*

5.7 The Recital at clause 3.6 shall be deleted in its entirety.

5.8 Clause 6.5.3 shall be deleted in its entirety

5.9 Clause 7.2 shall be deleted in its entirety.

5.10 A new clause 14 shall be added as follows:

*If the Council agrees pursuant to an application under section 73 of the Act to any variation or release of any condition contained in the Planning Permission or the Section 73 Permission or if any 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 and to apply in equal terms to the new planning permission save where the Council in their determination of such an application for the new planning permission or the Secretary of State or Inspector in their determination of such appeal indicate that consequential amendments are required to this Deed to reflect the impact of a section 73 application and in such circumstances a separate deed pursuant to section 106 of the Act will be required to secure relevant planning obligations relating to the new planning permission.*

5.11 **Schedule 1** shall be deleted in its entirety and replaced with the following:

**"The Land"**

*Details of the Developer's Title - Land at the south east of Cartbridge Lane, Liverpool registered at the Land Registry with title number MS629928 and shown for identification purposes only edged red on the Plan*

*Description of the site - 'Goddard Green' housing estate, (site of the former Bridgefield Forum Leisure Centre), Cartbridge Lane, Halewood, Knowsley, L26 6LH*

5.12 **Schedule 2** shall be deleted in its entirety and replaced with the following:

**"The Development"**

*Planning Permission (ref: 15/00559/FUL)*

*Erection of 113 (one hundred and thirteen) dwellings, comprising 44 (forty four) semi detached dwellings and 69 (sixty nine) detached dwellings, together with engineering works (including flood mitigation works), laying out of public open space and other associated works.*

*Section 73 Permission (ref: 21/00787/FUL)*

*Variation of condition No. 4 and No. 5 of Planning Permission 15/00559/FUL (erection of 44 No. semi detached dwellings & 69 No. detached dwellings (113 No. in total), together with engineering works (including flood mitigation works), laying out of public open space and other associated works to amend the volume of the compensatory flood storage area from 4,541 cubic metres to 3,108 cubic metres*

- 5.13 Schedule 4 shall be deleted in its entirety and replaced with the following

*The Council shall apply the Commuted Sum as follows:*

- (i) £12,012.47 of the Commuted Sum shall be used towards the costs of maintaining the trees and nature planting within the Public Open Space for the Maintenance Period*
- (ii) £89,074.11 of the Commuted Sum shall be used towards the costs of the grounds maintenance of the Public Open Space for the Maintenance Period*

*The Council agrees to pay to the Developer such amount of the Commuted Sum paid by the Developer to the Council under this Deed which has not been expended in accordance with the provisions of this Schedule 4 (and money shall be deemed to be expended if such sum has been Committed to be spent by the Council) by the later of*

- (i) twenty (20 years) of the completion of the flood storage works carried out pursuant to Planning Permission or the Section 73 Permission; or*
- (ii) 12 months after the expiry of the Maintenance Period*

6. **Covenants**

The parties to this Deed covenant to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed.

7. **Local Land Charge**

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

8. **Endorsement**

Promptly following completion of this Deed the Council shall endorse a memorandum of variation on the Original Agreement in the following terms:

*"This Agreement has been varied by a deed of variation dated 22 February 2023 and made between (1) Knowsley Metropolitan Borough Council and (2) Countryside Properties UK Limited*

9. **Third Party Rights**

A person who is not a party to this Deed shall 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) shall be governed by and construed in accordance with the law of England and Wales.

11. **Legal and Administration Fees**

The Owner shall pay to the Council on completion of this Deed

11.1 the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed up to a maximum of £850; and

11.2 the sum of £260 in respect of the Council's administrative costs for registering the provisions of this Deed

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

## **12 Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

**Annex 1**  
**Plan**



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| <br><b>COUNTRYSIDE</b><br>Planning<br><small>114, 116 &amp; 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000</small> |                      |
| KNOWSLEY<br>BRIDGEFIELD FORUM                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                      |
| POS TRANSFER PLAN                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                      |
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| FEBRUARY 2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                      |
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| Sheet 1 of 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                      |



The common seal of **KNOWSLEY**  
**METROPOLITAN BOROUGH COUNCIL**  
was affixed to this Deed in the presence of

Authorised signatory

Executed as a Deed by  
[ ] and [ ]

As attorneys for and on  
behalf

Countryside Properties (UK)  
Limited under a Power of  
Attorney

Dated 11<sup>th</sup> November 2022;

Signature

Attorney S

Name:

Attorney S

Address:

Occupation

Signature

Attorney S

Name:

Attorney S

Address:

Occupation

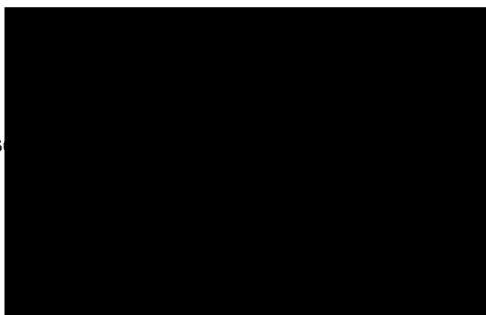
The common seal of **KNOWSLEY**

**METROPOLITAN BOROUGH COUNCIL**

was affixed to this Deed in the presence of



Authoris



SEAL NO 31104

AUTHORITY:- 21/00787/FUL

PLANNING COMMITTEE 09/06/22

MIN 4d

Executed as a Deed by  
[ ] and [ ]

As attorneys for and on  
behalf

**Countryside Properties (UK)  
Limited under a Power of  
Attorney**

Dated 11<sup>th</sup> November 2022;

Signature:

Attorney Signature:

Name:

Attorney Name:

Address:

Occupation:

Signature:

Attorney Signature:

Name:

Attorney Name:

Address:

Occupation:

