

56/2001/577/KP

DATED 26th March 2002

WELWYN HATFIELD DISTRICT COUNCIL (1)

- and -

HERTFORDSHIRE COUNTY COUNCIL (2)

- and -

FROGMORE DEVELOPMENTS LIMITED (3)

- and -

DAVID WILSON HOMES LIMITED (4)

- and -

GEORGE WIMPEY NORTH LONDON LIMITED (5)

**DEED OF MODIFICATION
UNDER S106A TOWN AND COUNTRY PLANNING ACT 1990**

relating to the redevelopment
of land to the north of Manor Road and west of Hatfield Garden Village
Hatfield Hertfordshire

DAVIES ARNOLD COOPER

6-8 Bouverie Street

London EC4Y 8DD

Tel: 020 7936 2222

Fax: 020 7936 2020

e-mail: daclon@dac.co.uk

REF:S:\CSPECK\CLIENTS\128006.3\DOCUMENTS.S.106A.V.10 FINAL

THIS DEED OF MODIFICATION is made the 26th day of March 2002

BETWEEN

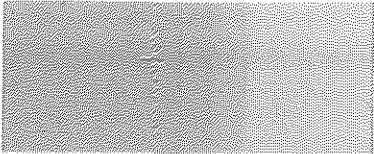
- (1) **WELWYN HATFIELD DISTRICT COUNCIL** of Council Offices, Welwyn Garden City ("the District Council")
- (2) **HERTFORDSHIRE COUNTY COUNCIL** of County Hall, Hertford AL8 8AE ("the County Council")
- (3) **FROGMORE DEVELOPMENTS LIMITED** registered number 01045678 whose registered office is situated at ~~34 North Row Mayfair~~ London W1A 2J7 ("the Developer")
11-15 Wigmore Street
- (4) **DAVID WILSON HOMES LIMITED** (registered company number 830211) whose registered office is situated at Leicester Road Ibstock Leicester LE67 6WB ("David Wilson Homes")
- (5) **GEORGE WIMPEY NORTH LONDON LIMITED** registered company number 1160327 whose registered office is situated at St David's Court Union Street Wolverhampton West Midlands WV1 3JE ("George Wimpey")

NOW THIS DEED WITNESSETH as follows:

1. DEFINITIONS AND INTERPRETATIONS

1.1 This Deed of Modification is made pursuant to the provisions of Section 106A of the Town and Country Planning Act 1990 and to the extent that it contains or may be construed to contain provisions relating to obligations of the Council pursuant to Section 111 of the Local Government Act 1972 and modifies the terms of a Deed of planning obligation made between the District Council (1) the County Council (2) the Developer (3) Rialto Homes PLC (4) and the Town Council (5) dated 7 March 2001 (hereinafter called "the Principal Deed") which related to the grant of planning permission under reference S6/0884/99/FP for the development of the Application Site as defined therein for residential development open space roads footpaths cycle ways and other recreational sports facilities and related development ("the Old Planning Permission")

1.2 This Deed is enforceable by the District Council and the County Council as the local planning authorities for the area in which the Application Site is situated



against the Developer and David Wilson Homes and George Wimpey and their respective successors in title and assigns

- 1.3 In this Deed of Modification all words and expressions shall except where the context otherwise provides have the same meaning as those contained in the Principal Deed
- 1.4 For the purposes of Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 the terms conditions covenants and obligations contained in the Principal Deed shall (save as otherwise provided in this Deed of Modification) remain in full force and effect as though the said terms of the Principal Deed were set out herein in extenso
- 1.5 Rialto Homes PLC no longer has any interest in the proposed residential development of the Application Site
- 1.6 David Wilson Homes has the benefit of a contract dated 22 March 2001 with the Developer to develop the Application Site in conjunction with the Developer
- 1.7 George Wimpey has the benefit of a contract dated 15 June 2001 with David Wilson Homes to develop part of the Application Site in conjunction with the Developer and David Wilson Homes
- 1.8 The Old Planning Permission was granted subject to the terms of the Principal Deed
- 1.9 The District Council the County Council the Developer David Wilson Homes and George Wimpey agree that the Permission hereinafter defined will be subject to and bound by the terms of the Principal Deed as modified by this Deed of Modification

2 MODIFICATIONS TO THE PRINCIPAL DEED

2.1 The Principal Deed shall as from the date hereof be varied as follows:-

2.1.1 The definition of Planning Application in Clause 1 of the Principal Deed shall be deleted and replaced with the following definition:

“ “New Planning Applications” means the application dated 27 April 2001 submitted to the District Council on behalf of Rialto Homes PLC and given reference S6/2001/577/FP and the application dated 28 September 2001 submitted to the District Council by McLean Homes North London Limited and given reference S6/2001/1338/FP”

2.1.2 In the definition of “North West Sector” contained in Clause 1 of the Principal Deed the word “South” shall be deleted and the word “North” shall be inserted in place thereof

2.1.3 The definition of “Permission” in Clause 1 of the Principal Deed shall be deleted and replaced with the following definition:

“ “Permission” means any planning permission in respect of the Application Site or any part thereof whether resulting from the New Planning Applications or whether granted by way of variation alteration substitution or replacement thereof or otherwise”

2.1.4 The definition of “Shared Ownership Lease” in Clause 1 of the Principal Deed shall be amended by inserting the word “initially” after the word “whereby” in line 4 thereof

2.1.5 At the end of Clause 3.1 of the Principal Deed there shall be added the following words “AND PROVIDED FURTHER that no person shall be liable in respect of the covenants and undertakings contained herein once he shall have parted with all right title and interest in the Application Site but without prejudice to their liability for any antecedent breach occurring prior to it parting with such interest”

2.1.6 Insert a new Clause 3.2.1 as follows:-

“3.2.1 The positive obligations contained in this Deed to make financial payments to the County Council and/or the District Council shall not be binding upon individual householders or any RSL to which the Affordable Housing Land is transferred under the provisions of Clauses 4.50 and 4.51 but for the avoidance of doubt all restrictions negative obligations and covenants contained in this Deed (and in particular those restricting Dwelling occupations and/or Commencement of the Development) shall

continue to be enforceable in accordance with the provisions of Sub-clause 3.1 hereof against all persons”

2.1.7 The programme of works contained in Clause 4.33 shall be deleted and replaced with the following:

Description of Works	Number of Dwellings permitted to be occupied prior to completion of relevant facility
Play Space No.1	10 Open Market Dwellings or by 1 April 2002 if earlier
Play Space No. 3	50 Open Market Dwellings
Play Space No. 2	120 Open Market Dwellings
Play Space No. 4	170 Open Market Dwellings
Play Space No. 5	240 Open Market Dwellings

2.1.8 In line 3 of Clause 4.39 of the Principal Deed delete the date of “1st August 2001” and substitute the date “1st August 2002” in place thereof

2.1.9 In line 1 of Clause 4.40 of the Principal Deed delete the number “45” and insert the number “30” in place thereof

2.1.10 In line 4 of Clause 4.45 of the Principal Deed the word “Index” shall be deleted and the words “Index B” shall be inserted in place thereof

2.1.11 In line 3 and in line 4 of Clause 4.53 of the Principal Deed delete the words “South East Sector” and substitute the words “South West Sector” in place thereof

2.1.12 In line 2 of Clause 4.54 of the Principal Deed delete the words "South West Sector" and substitute the words "South East Sector" in place thereof

2.1.13 Insert a new Clause 4.56.1 as follows:-

"4.56.1 The obligations contained in Clauses 4.43 to 4.48 and 4.50 to 4.52 shall not be binding upon

- a) any person acquiring any Affordable Dwelling pursuant to a statutory right to acquire the same
- b) a mortgagee or chargee of the Affordable Housing Land or any part thereof or any Affordable Dwelling or any receiver appointed by such mortgagee or chargee or any person deriving title from them
- c) any lessee of any Shared Ownership Dwelling or any person deriving title from them or from any mortgagee or chargee of such lessee"

3 This Deed of Modification shall be registerable as a local land charge by the District Council and/or the County Council under the provisions of the Local Land Charges Act 1975

4 A copy of this Deed of Modification shall forthwith be attached to the Principal Deed

IN WITNESS whereof the parties have executed this planning obligation as a Deed by affixing their respective seals the day and year first before written

THE COMMON SEAL of)
WELWYN HATFIELD DISTRICT)
COUNCIL was hereunto affixed in)
the presence of:-)

Chairman.



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HERTFOI
COUNCIL
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Chairman

Authorised Signatory

County Secretary



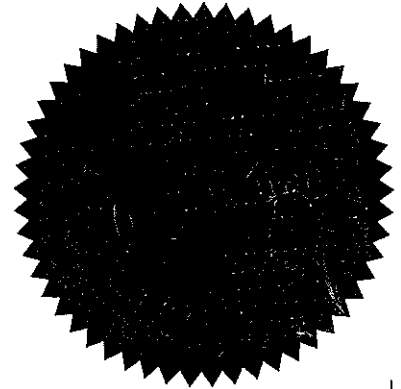
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THE COMMON SEAL of
FROGMORE DEVELOPMENTS
LIMITED was hereunto affixed in
the

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)
)
)

Director

Secretary



THE COMMON SEAL of
DAVID WILSON HOMES LIMITED
was hereunto affixed
the presence of:-

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Director

~~Secretary~~

UTHORISED SIGNATORY

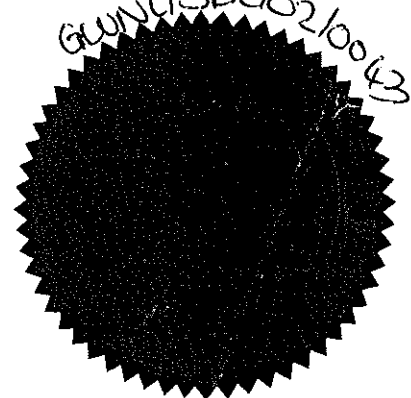
THE COMMON SEAL of
GEORGE WIMPEY
NORTH LONDON
LIMITED was hereunto
affixed in the presence of:-

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)

Director

Secretary

GLUNY/SPDC/02/0043



EXECUTED as a DEED by
~~THE COMMON SEAL~~ of
HATFIELD TOWN COUNCIL
~~was heretofore affixed~~ in
the presence of:-

Member.
Member.

Chairman

Town Clerk
HATFIELD TOWN COUNCIL