

NORTH HERTFORDSHIRE DISTRICT COUNCIL (1)

NODE INVESTMENTS LIMITED (2)

NODE COURT (MANAGEMENT) LIMITED (3)

**DEED
UNDER S106 OF THE TOWN AND COUNTRY PLANNING ACT
1990**

Relating to Node Court, Drivers End, Codicote, Hitchin, Hertfordshire
SG4 8TR
Planning Application Number 23/00407/FP

THIS DEED is made the

day of

2025⁵⁶

BETWEEN:

1. **NORTH HERTFORDSHIRE DISTRICT COUNCIL** of Council Offices Gernon Road Letchworth Garden City Hertfordshire SG6 3JF ("the Council") and
2. **NODE INVESTMENTS LIMITED** (incorporated in Jersey) whose registered office is at 26 Harbour Reach, Waterfront, Jersey JE2 4HR ("the First Owner") and
3. **NODE COURT (MANAGEMENT) LIMITED** of Node Court, Drivers End, Codicote, Hitchin, Hertfordshire ("the Second Owner")

together "The Parties"

RECITALS

- A The Council is the local planning authority for the Land for the purposes of the Act.
- B The Council is a principal council for the purposes of the Local Government Act 1972.
- C The First Owner is the registered freehold proprietor of that part of the Land registered at HM Land Registry under title number HD241709 and registered leasehold proprietor of that part of the Land registered at HM Land Registry under title numbers HD274994, HD252183, HD217688 and HD242400 free from encumbrances that would prevent the First Owner from entering into this Deed.
- D The Second Owner is the registered freehold proprietor of that part of the Land registered at HM Land Registry under title number HD286344 free from encumbrances that would prevent the Second Owner from entering into this Deed.
- E On 20th February 2023 the Owners submitted the Application to the Council for Planning Permission for the Development.
- F On 15th April 2025 the Planning Control Committee resolved to grant Planning Permission for the Development subject to the Parties entering into this Deed.
- G This Deed is entered into to make provision for regulating the Development and securing the matters hereinafter referred to which are required in order to enable the Development to go ahead.

- H The obligations contained herein are planning obligations for the purposes of section 106 of the 1990 Act and may be enforced by the Council against the Owners and their successors in title.
- I The Council in resolving to approve the Application is satisfied that the planning obligations sought under the provisions of this Deed meet the test set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES AS FOLLOWS:
OPERATIVE PART

1. **DEFINITIONS**

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

“1990 Act” means the Town and Country Planning Act (as amended)

“Application” means the application for detailed planning permission for the Development submitted to the Council by or on behalf of the Owners with the application plans and other materials on 20th February 2023 and allocated reference number 23/00407/FP

“Approved Drawings” shall mean those drawings submitted as part of the Application and approved by the Council

“Commencement” means the carrying out by any person (which for the avoidance of doubt may or may not be a Party to this Deed or their agents or representatives) of a material operation comprised in the Development within the meaning of Section 56 of the Act save that for the purposes of this Deed only “material operation” shall not include:

- a. site clearance;
- b. demolition of existing buildings;
- c. archaeological investigation;
- d. the assessment of contamination;

- e. remedial action in respect of any contamination;
 - f. diversion and laying of services;
 - g. the erection of fencing or other means of enclosure for site security;
 - h. the display of advertisements;
 - i. any off-site highways works
- and the term Commence and Commences shall be construed accordingly;

“Development”

means the development authorised by the Planning Permission and described as conversion of Node Court to 8 no. dwellings. Conversion of Midden building to residential and the erection of 6 no. terraced dwelling houses as development to facilitate the restoration of Node Court together with associated car parking, landscaping, boundary treatment and ancillary works within the Application;

“Dwellings”

means an individual residential unit permitted as part of the Development and “Dwellings” shall be construed accordingly;

“Land”

the land known as Node Court, Drivers End, Codicote, Hitchin, Hertfordshire which for identification purposes only is shown edged red on Plan 1;

“Midden Building”

shall mean that building to be converted into a Dwelling as part of the Development shown coloured yellow on Plan 2

“Monitoring Fee”

means the sum of £750 towards the costs of the Council monitoring the obligations in this Agreement.

“New Build”

shall mean the proposed new 6 no. terraced Dwellings to be constructed as part of the

	Development shown coloured green on Plan 2
“Node Court”	shall mean that building to be converted into 8 no. Dwellings as part of the Development shown coloured grey on Plan 2
“Occupation”	means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and the term “Occupied” and “Occupy” shall be construed accordingly;
“Owners”	shall mean the First Owner and the Second Owner;
“Plan 1”	means the plan attached to this Deed and numbered Plan1
“Plan 2”	means the plan attached to this Deed and numbered Plan 2
“Planning Permission”	means the planning permission granted by the Council in pursuance of the Application a draft of which is attached at Schedule One;
“Working Day”	means any day other than a Saturday or a Sunday or a Public Holiday;

2. Where the context provides:

- 2.1 words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa;
- 2.2 references to any Party means a party to this Deed and in the case of the Owners shall include its successors in title and assigns and any persons deriving title through or under them and in the cases of the Council shall include successors to its functions;

- 2.3 where a Party includes more than one person any obligations of that Party shall be joint and several;
- 2.4 any reference to any statute or any section of a statute includes any statutory re-enactment or modification 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 statute or deriving validity from it;
- 2.5 any reference to clauses, paragraphs and schedules are references to clauses, paragraphs and schedules to this Deed unless the context otherwise requires;
- 2.6 headings in the Deed shall not form part of or affect its construction;
- 2.7 where a Party is required to give consent or approval by any specific provision of this Deed such consent or approval shall not be unreasonably withheld or delayed;
- 2.8 any provision of this Deed which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Deed; and
- 2.9 any covenant by the Owners not to do any act or thing includes a covenant not to permit, allow or suffer the doing of that act or thing and words denoting an obligation on the Owners to do any act matter or thing include an obligation to procure that it be done.

3. STATUTORY PROVISIONS AND COVENANTS

- 3.1 This Deed and the covenants within it are made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act the obligations contained in this Deed are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council against the Owners and each of their successors in title and assigns to each and every part of the Land and any person deriving title to each and every part of the Land through or under the Owners.
- 3.2 To the extent that any of the obligations in this Deed are not planning obligations within the meaning of the 1990 Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 section 1 of the Localism Act 2011 and all other enabling powers.

- 3.3 The Owners enter into the obligations for themselves and their successors in title with the Council to the intent that the obligations hereunder shall be enforceable not only against the Owners but also against the successors in title of the Owners and any person claiming through or under the Owners an interest or estate in the Land or any part thereof PROVIDED THAT the obligations and restrictions in this Deed shall not be enforceable against a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by the Owners to that statutory undertaker or in respect of any easements relating to cables, pipes or other service media running under the Land nor enforceable against any highway authority which may be responsible for any public highway maintainable at the public expense.

4. CONDITIONALITY

- 4.1 This Deed is conditional upon:

- a) the grant of the Planning Permission substantially in the form as annexed at Schedule One; and
- b) the Commencement of Development

SAVE FOR the provisions of clauses 6 (council powers), 8 (consents), 11 (costs), 12 (registration), 14.1.1, 14.1.4 (notices), 15 (service), 16 (disputes), 17 (Section 73), 18 (miscellaneous) and paragraph 1.1 of Schedule Two (schedule of works) which shall come into effect immediately upon completion of this Deed.

5. PLANNING OBLIGATIONS

- 5.1 The Owners covenant with the Council to observe the restrictions and to perform the obligations and activities specified in Schedule Two of this Deed.
- 5.2 The Council covenants with the Owners to perform the obligations or activities specified in Schedule Three to this Deed.

6. EXERCISE OF THE POWERS OF THE COUNCIL AND THE COUNTY COUNCIL

- 6.1 Nothing in this Deed whether express or implied shall prejudice or affect the rights discretion powers duties and obligations of the Council under any statute, bye-law, statutory instrument, order or regulation in the exercise of its functions as local planning authority, principle council, education authority, fire and rescue authority, highway authority, library authority and social services authority.

7. WAIVER

- 7.1 No waiver whether expressed or implied by the Council of any breach or default by the Owners in performing or observing any of the covenants in this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing or from acting upon any subsequent breach or default of any of the covenants.

8. CONSENTS

- 8.1 The Owners warrant and confirm:

8.1.1 that they have obtained all necessary permissions and consents to it entering into this Deed.

8.1.2 that they are the freehold owner of the Land with full power to enter into this Deed.

8.1.3 that the Land is free from all mortgages charges or other encumbrances and that no other persons has an interest (legal or equitable) in the Land whose consent is necessary to make this Deed binding on the Land and all estates and interests in it.

9. SUCCESSORS IN TITLE

- 9.1 No person shall be liable for breach of any covenants or obligations in this Deed occurring after the date on which they have parted with their interest in the Land PROVIDED THAT they will remain liable for any breach occurring before that date. Neither the reservation of rights nor the inclusion of any covenants or restrictions over the Land in any transfer of the Land will constitute an interest for the purposes of this clause.

10. PLANNING PERMISSION

- 10.1 This Deed shall cease to have effect if the Planning Permission is quashed, revoked, expires, is modified by any statutory procedure without the consent of the Owners or is otherwise withdrawn.

11. COSTS

- 11.1 The Owners shall pay the Monitoring Fee and the Council's reasonable legal costs plus disbursements incurred in connection with the negotiation and completion of this Deed prior to completion.

12. REGISTRATION OF THIS DEED

- 12.1 This Deed shall be registrable as a local land charge following completion by the Council as local planning authority.

13. THIRD PARTIES

- 13.1 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any right to enforce any of the terms and provisions herein on any person who is not a Party hereto or a successor in title to a Party hereto.

14. NOTICE

- 14.1 The Owners shall give the Council no less than 5 (five) Working Days prior written notice of :-

14.1.1 the Commencement of:

- 14.1.1.1 the Development;
- 14.1.1.2 the works to the Midden Building;
- 14.1.1.3 the works to the Node Court;
- 14.1.1.4 the works to the New Build;

14.1.2 the 1st Occupation of the

- 14.1.2.1 1st Dwelling on the Development;
- 14.1.2.2 Midden Building;
- 14.1.2.3 1st Dwelling in Node Court;
- 14.1.2.4 1st Dwelling in the New Build.

14.1.3 the completion of:

- 14.1.3.1 the Development;
- 14.1.3.2 Midden Building
- 14.1.3.3 Node Court
- 14.1.3.4 the New Build..

- 14.1.4 any change of any interests in the Land occurring before all of 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 Land purchased by reference to a plan.

15. SERVICE OF NOTICES AND DOCUMENTS

- 15.1 Any notice required or authorised to be given by any Party shall be in writing in the form of proforma set out in Schedule Four and shall contain the Application reference number 23/00407/FP and reference to the date of this Deed and shall be sufficiently given if sent by first class post or facsimile to the following persons

15.1.1 The Council: Planning Control and Conservation Manager, North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire SG6 3JF

15.1.2 The First Owner: c/o Birketts LLP, Providence House, 141 - 145 Princes Street, Ipswich, Suffolk IP1 1QJ

15.1.3 The Second Owner: c/o Birketts LLP, Providence House, 141 – 145 Princes Street, Ipswich, Suffolk IP1 1QJ

16. DETERMINATION OF DISPUTES

In the event of there being a dispute arising out of this Deed or the subject matter thereof the following provisions shall apply:

- 16.1 The Parties shall use their reasonable endeavours to resolve the dispute by agreement;
- 16.2 If agreement cannot be reached the matter in dispute shall be referred to and settled by some independent and fit person holding appropriate professional qualifications to be appointed (in the absence of agreement) by the President (or equivalent person) for the time being of the professional body chiefly relevant in England to such qualifications and such person shall act as an expert on the application of either party after giving notice in writing to the other party to this Deed;
- 16.3 The person to be appointed pursuant to clause 16.2 shall be a person having ten (10) years or more post qualification experience of projects comprising works of the scale and nature of the Development;
- 16.4 Reference to the expert shall be on terms that determination shall take place within twenty-eight (28) Working Days of the expert accepting his instructions;
- 16.5 The expert shall have the power to award costs of the determination in favour of either party to the dispute at the expense of the other party and failing such determination such costs shall be borne by the parties in equal shares
- 16.6 The expert shall be limited in his findings to the matter in dispute referred to him and shall provide written reasons for his decision
- 16.7 The findings of the expert shall (other than in the case of a manifest material error) be final and binding on the parties to the dispute.

17. Section 73 Permissions

- 17.1 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the Act and unless otherwise agreed, with effect from the date that the new planning permission is granted pursuant to Section 73 of the Act:

17.1.1 The obligations in this Deed shall (in addition to continuing to bind the Land in respect of the Planning Permission) relate to and d bind all subsequent planning

permission(s) in respect of the Land granted pursuant to Section 73 of the Act and the Land itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the Act;

17.1.2 The definitions of Application, Development and Planning Permission in this Deed shall be constructed to include references to any applications under Section 73 of the Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s); and

17.1.3 This Deed shall be endorsed with the following words in respect of any future Section 73 ~~applications~~permissions:

“The obligations in this Deed relate to and bind the Land in respect of which a new planning permission referenced [] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990”

Provided that nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the Act or requiring a new deed or supplemental deed pursuant to S106A of the Act.

18. MISCELLANEOUS

- 18.1 Without prejudice to the Council's statutory rights the Owners hereby grant to the Council (or any person duly authorised or instructed by it) an irrevocable licence at all reasonable times to enter any part of the Land to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works for any purpose directly or indirectly connected with or contemplated by this Deed provided that the Council complies with any reasonable on site health and safety requirements of the Owners during any such inspection.
- 18.2 At the written request of the Owners at any time after the planning obligations have been fully and satisfactorily discharged/performed, the Council may issue the Owners with written confirmation of the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 18.3 Nothing in this Deed shall be construed as affecting prohibiting or limiting any rights to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted whether before or after the date of this Deed by the Council or any other competent authority.

18.4 Where any approval, agreement, consent, confirmation or expression of satisfaction is required under the terms of this Deed the request for it shall be made in writing and where a request is made the approval, agreement, consent, confirmation or expression of satisfaction shall not be unreasonably withheld or delayed.

198. JURISDICTION

198.1 This Deed is to be governed by and interpreted in accordance with the laws of England.

198.2 The Courts of England are to have jurisdiction in relation to any disputes between the Parties arising out of or related to this Deed. This clause operates for the benefit of the Council who retains the right to sue and enforce any judgment against the Owners in the courts of any competent jurisdiction.

SCHEDULE ONE

DRAFT PLANNING PERMISSION

SCHEDULE TWO

OWNERS' COVENANTS TO THE COUNCIL

1. The Owners covenant with the Council:

- 1.1 To carry out the works to the Midden Building shown in yellow on Plan 2 and Node court shown in grey on Plan 2 in accordance with the Approved Drawings to the satisfaction of the Council prior to the Occupation of any of the Dwellings in the New Build;
- 1.2 Not to Occupy any Dwelling comprised in the New Build until the works to the Midden Building and Node Court have been completed in accordance with the Approved Drawings to the satisfaction pf the Council.

SCHEDULE THREE
COUNCIL'S COVENANTS

1. At the written request of the Owners the Council shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been fully performed.

SCHEDULE FOUR
PROFORMA EVENT NOTIFICATION AND PAYMENT

PURSUANT TO SECTION 106 AGREEMENT

DATED

MADE BETWEEN

PLANNING PERMISSION REFERENCE.....

SITE ADDRESS

.....

.....

.....

SITE OWNER DETAILS

Name

Contact name

Address

.....

.....

Telephone nos.

Main

Mobile

Email

EVENTS BEING NOTIFIED

Commencement Date:-.....

Occupation of Development (Number if relevant) – date:.....

Completion of Development – date:

COMPLIANCE WITH OBLIGATION(S)

Schedule Paragraph

Details of obligation and compliance

.....

EXECUTED and DELIVERED as a **DEED** on the date of this document

EXECUTED under the Common Seal of
NORTH HERTFORDSHIRE
DISTRICT COUNCIL in the
presence of:

Duly Authorised Officer

EXECUTED by **NODE INVESTMENTS**
LIMITED acting by [] a director and
[] a director OR its Secretary

[SIGNATURE OF FIRST DIRECTOR]

Director

[SIGNATURE OF SECOND DIRECTOR OR SECRETARY]

[Director **OR** Secretary]

EXECUTED by **NODE COURT (MANAGEMENT)**
LIMITED acting by [] a director and
[] a director OR its Secretary

[SIGNATURE OF FIRST DIRECTOR]

Director

[SIGNATURE OF SECOND DIRECTOR OR SECRETARY]

[Director **OR** Secretary]