

TORBAY COUNCIL**REGISTER OF DOCUMENTS (GENERAL)**

Nature and Date of Document: Agreement under Section 106 of the Town and Country Planning Act 1990 dated 28 May 2021

Name of Other Party or Parties: The Council of the Borough of Torbay (1) and Abacus Projects Ltd (2)

Subject Matter: Land at Inglewood, Brixham Road, Paignton to accord with Planning Application Number P/

Purpose:

1. To record the change in Recital numbered 3 of the Original Agreement, title number "DN690151" shall be deleted and replaced with title number "DN520775"

Terms of Agreement: For further detail, please refer to the Agreement.

Enforceable against individual householders N/A

Determination of Agreement: n/a

Observations: ORIGINAL DEED PACKET: Z7044
FILE NUMBER: PO 1061

Copy of this Entry sent to:-

- david.pickhaver@torbay.gov.uk (Planning and Development Services)
- Wendy.ormsby@torbay.gov.uk
- CILSection106@torbay.gov.uk (Planning Contributions)
- Planning@torbay.gov.uk (Planning)
- (Principal accountant – schools)
- Adam.Luscombe@torbay.gov.uk (Transportation)
- Ian.Hartley@torbay.gov.uk (Service Manager, Waste & NE)
- Neil.Coish@torbay.gov.uk (Natural Environment Services)
- Liam.Montgomery@torbay.gov.uk (Affordable Housing Manager)
- Clare.Talbot@torbay.gov.uk
- Regeneration commissioning employment
- landcharges@torbay.gov.uk (Land Charges)
- Section106Finance@torbay.gov.uk (S106 Finance)
- Legal Services File
- Commercial Services (FAO Becky Fuller, Records, Town Hall, Torquay – **Original Document**)

Name of Officer Registering: A Delaney

DATE: 04 February 2021

DATED

28 May

2021

THE COUNCIL OF THE
BOROUGH OF TORBAY

- and -

ABACUS PROJECTS LIMITED

DEED OF VARIATION

under Section 106 and 106A of the
Town & Country Planning Act 1990
relating to land to the south of White Rock,
adjacent to Brixham Road, Paignton

in the Borough of Torbay

Torbay Council
Town Hall
TORQUAY

THIS AGREEMENT is made on 28 May 2021

BETWEEN:

- (1) **THE COUNCIL OF THE BOROUGH OF TORBAY** of Town Hall Castle Circus Torquay Devon TQ1 3DR ("the Council")
- (2) **ABACUS PROJECTS LIMITED** (Co. Regn. No. 1460919) of Eaton Court, Maylands Avenue, Hemel Hempstead, Hertfordshire, HP2 7TR ("the Owner")

WHEREAS:-

1. The Council is the Local Planning Authority for the purposes of the 1990 Act for the area which includes the Site
2. The Owner is the registered proprietor of the Site and the Farmland (each as defined under the Original Agreement) with title absolute under Title Numbers DN346107, DN562334, DN520775, DN523013 and DN577590 subject to the entries disclosed on the Charges Register of the said titles but otherwise free from incumbrances
3. Planning permission was granted on appeal under reference APP/X1165/W/20/3245011 on 26th April 2021 and it has subsequently been noted that a recital in the Original Agreement incorrectly recites one of the title numbers of the land owned by the Owner

NOW THIS DEED WITNESSETH as follows:

1 Definitions

- 1.1 In this Deed unless the context otherwise requires the following expressions shall have the following meanings:-
 - "**Original Agreement**" means the agreement made under section 106 of the 1990 Act dated 20 January 2021 between the Council and the Owner
- 1.2 Save as otherwise provided, all words and phrases defined in the Original Agreement shall have the same meaning in this Deed
- 1.3 Where in this Deed reference is made to a clause, paragraph or schedule such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule in this Deed
- 1.4 Words importing the singular meaning where the context so admits include the plural meaning and vice versa
- 1.5 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
- 1.6 Wherever there is more than one person named as a party and where 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
- 1.7 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

- 1.8 The headings used in this Deed shall not affect its interpretation

2 Legal Basis

- 2.1 This Deed is made pursuant to Sections 106 and 106A of the 1990 Act, Section 111 of the Local Government Act 1972, Section 33 of the Local Government (Miscellaneous Provisions) Act 1982, Section 1 of the Localism Act 2011 and any other enabling powers

3 Variations to the Original Agreement

- 3.1 IT IS HEREBY AGREED between the parties that the Original Agreement shall be varied by this Deed and shall take effect as from and including today's date as follows:

3.1.1 In Recital numbered 3 of the Original Agreement, title number "DN690151" shall be deleted and replaced with title number "DN520775".

- 3.2 In all other respects the Original Agreement (as varied by this Deed) shall remain in full force and effect.

4 Covenants to the Council

The Owner covenants with the Council to observe and perform the covenants, restrictions and obligations contained in the Original Agreement as varied by this Deed

5 Local Land Charge

This Deed shall be registered as a local land charge

6 Ownership

The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property

7 Council's Costs

The Owner shall pay to the Council on or before the date of completion of this Deed, the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, completion and registration of this Deed

8 Third Party Rights

A person who is not a party to this Deed shall have no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms other than the parties to it under that Act

9 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 as that law applies in England.

IN WITNESS whereof the parties hereto have executed and delivered this document as a deed
the day and year first before written

EXECUTED AS A DEED by affixing
THE COMMON SEAL OF
THE COUNCIL OF THE BOROUGH OF TORBAY
in the presence of :-

S./No.: 8207



Proper Officer
and Authorised Signatory

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)
)
)



EXECUTED AS A DEED by

ABACUS PROJECTS LIMITED

acting by

[NAME OF FIRST DIRECTOR]

a director and

.....

*[NAME OF SECOND DIRECTOR OR
SECRETARY],*

a director **OR** its secretary

.....

[SIGNATURE OF FIRST DIRECTOR]

Director

.....

[SIGNATURE OF SECOND DIRECTOR
OR SECRETARY]

[Director **OR** Secretary]