

Dated this 15 day of November 2018

ARUN DISTRICT COUNCIL (1)

AND

ORCHARD ENTERPRISES (2)
(SOUTHERN LIMITED)

AGREEMENT UNDER SECTION 111
LOCAL GOVERNMENT ACT 1972 AND
SECTION 1 OF THE LOCALISM ACT
2011

Relating to Land at Rear of Barrack Lane
Aldwick West Sussex PO21 4BZ

Planning Reference: AW/259/18/PL

ARUN DISTRICT COUNCIL
ARUN CIVIC CENTRE
MALTRAVERS ROAD
LITTLEHAMPTON
BN17 5LF
Ref: KK/7014

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THIS DEED IS DATED THE 15 DAY OF November 2018

PARTIES

- (1) **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex. BN17 5LF (**"the Council"**)
- (2) **ORCHARD ENTERPRISES (SOUTHERN LIMITED)**, Company Number: 03010021, Registered Office, The Orchard Temple Lane East Meon Hampshire GU32 1PZ (**"the Applicant"**)

RECITALS

- (1) ARUN DISTRICT COUNCIL ("THE Council") is the local planning authority for the purposes of the Town and Country Planning Act 1990 for the area in which the Property is situated
- (2) The Applicant has made a planning application, reference AW/259/18/PL in respect of the Property
- (3) The Applicant does not have any legal or other interest in the Property
- (4) The Council in exercise of its powers as Local Planning Authority would require an applicant with an interest in land to enter into an Agreement or give a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 to make a contribution towards the management of Pagham Harbour
- (5) The Council is satisfied that entering into this agreement is ancillary to the exercise of its functions as Local Planning Authority under the Town and Country Planning Act 1990
- (6) In consideration of Pagham Harbour policy ENV DM2 of the Local Plan 2011-2031, and Cabinet's approval of the tariff based system on 20th July 2015, the Applicant enters into this agreement to perform the obligations set out in this deed.

AGREED TERMS

1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this deed

1.1.1 Access Management Contribution means the sum of £871.00 towards the delivering of measures to avoid, or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development

1.1.2	Base Rate	means the higher of 5% and the base rate from time to time of Barclays Bank plc
1.1.3	Default Interest Rate	means 4% per annum above the Base Rate
1.1.4	Development	means the development of the Property by 1 detached single storey dwelling as described in the Planning Application
1.1.5	Pagham Harbour	means a Special Protection Area, also known as Natura 2000 site, in Pagham, West Sussex in the District of Arun, identified as being of international importance for the breeding, feeding, wintering or migration of rare and vulnerable species of European Union birds
1.1.6	Plan	means the plan attached to this deed
1.1.7	Planning Application	means an application for planning permission registered by the Council under reference number AW/259/18/PL
1.1.8	Planning Permission	means the planning permission to be granted by the Council in respect of the Planning Application
1.1.9	Property	means the freehold land at the rear of 10 Barrack Lane Bognor Regis and to be transferred and registered out of Title number WSX281355 at HM Land Registry as shown edged red on the attached Plan
1.1.10	Working Day	means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England
1.2	Clause headings shall not affect the interpretation of this deed	
1.3	A person includes a natural person, a corporate or unincorporated body (whether or not having a separate legal entity)	
1.4	Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular	
1.5	Unless the context otherwise requires, a reference to one gender shall include a reference to other genders	

- 1.6 A reference to any party shall include that party's personal representatives, successors and permitted assigns
- 1.7 A reference to the Council shall include the successors to its respective 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 A reference to writing or written shall not include faxes or email
- 1.10 A reference to this deed or to any other deed or document referred to in this deed is a reference to this deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this deed) from time to time
- 1.11 References to clauses are to the clauses of this deed
- 1.12 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
- 1.13 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 STATUTORY PROVISIONS

- 2.1 This deed constitutes an contract between the Council and the Applicant under Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011
- 2.2 The agreement shall come into effect on the date at the beginning of this deed
- 2.3 The obligation contained in clause 3 of this deed shall be enforceable as a contract between the Council and the parties hereto

3 THE APPLICANT'S COVENANT WITH THE COUNCIL

The Applicant covenants with the Council to pay the Access Management Contribution to the Council on the execution of this deed.

4 THE COUNCIL'S COVENANT WITH THE APPLICANT

In the event that clause 5 applies, the Council covenants to repay the Access Management Contribution to the Applicant that paid the Access Management Contribution upon receipt of a written request for repayment.

5 DETERMINATION OF DEED

The deed shall be determined and have no further effect if the Planning Permission:

- 5.1 is not granted; or
- 5.2 expires before the Commencement of the Development; or
- 5.3 Is quashed following a successful legal challenge

6 INTEREST ON LATE PAYMENT

If the Access Management Contribution has not been paid to the Council on the execution of this deed, the Applicant shall pay the Council interest on the Access Management Contribution at the Default Interest Rate (both before and after judgement). Such interest shall accrue and shall be cumulative on a daily basis for the period from the date the deed was executed until and including the date of payment

7 COUNCIL'S COSTS

The Applicant shall pay to the Council on the date of this deed the Council's reasonable and proper legal costs, in the sum of £500.00 together with any disbursements incurred in connection with the preparation and completion of this deed.

8 NOTICES

- 8.1 A notice or other communication to be given under or in connection with this deed must be in writing and must be:
 - 8.1.1 delivered by hand; or
 - 8.1.2 sent by pre-paid first class post or next working day delivery service
- 8.2 Any notice of other communication to be given under this deed must be sent to the relevant parties as follows:
 - 8.2.1 to the Council at: Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex. BN17 5LF, marked for the attention of the Planning Department and quoting the Planning Application reference number;
 - 8.2.2 to the Applicant at 32 Dorset Road PO21 2DU marked for the attention of David Groves Director
- 8.3 Any notice or other communication given in accordance with

clause 8.1 and clause 8.2 above shall be deemed to have been received:

8.3.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address provided that if delivery occurs before 09:00 am on a Working Day, and if delivery occurs after 5:00 pm on a Working Day, or on a day which is not a Working Day, the notice shall be deemed to have been received at 09:00 am on the next Working Day;

8.3.2 If sent by pre-paid first class post or other next working day delivery service at 09:00 am on the second Working Day after posting

8.4 A notice or other communication given under this deed shall not be validly given if sent by fax or email

8.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

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

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

THE COMMON SEAL OF
ARUN DISTRICT COUNCIL

was
affixed to this Deed in the
presence of:

AUTHORISED SIGNATOR

Name: SARAH CHARLES
Job Title: PROPERTY LAWYER
Seal Book No 271/2018

EXECUTED AS A DEED by
ORCHARD ENTERPRISES
(SOUTHERN LIMITED) acting as SIGNATURE OF FIRST DIRECTOR

by David Robert Groves, a
Director and

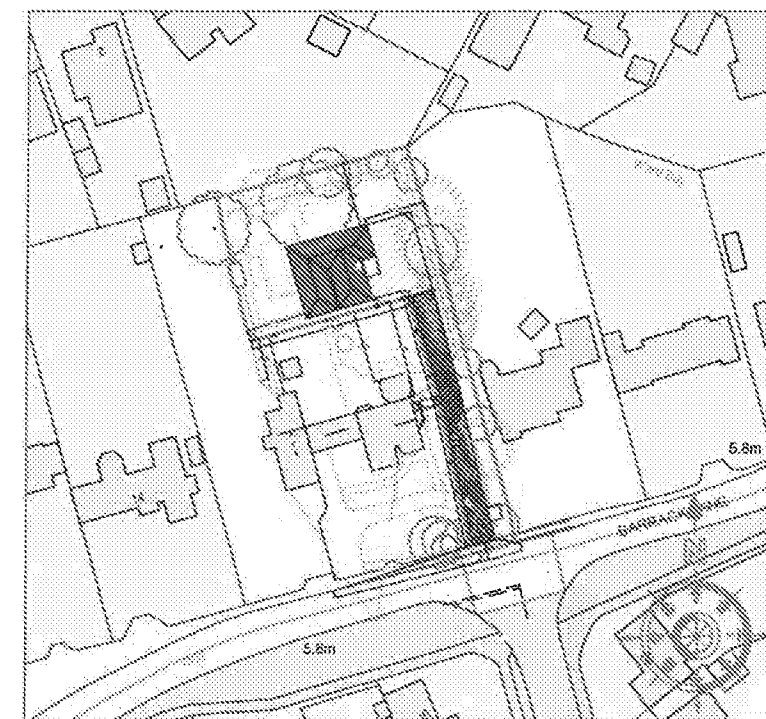
Sarah Jane Cullen, a Director



SIGNATURE OF SECOND DIRECTOR



Block Plan 1 : 500



Location Plan 1 : 1250

General Notes

No.	Revision/Issue	Date

Plan Name and Address
 Orchard Enterprises Southern Ltd
 32 Dorset Road
 Bognor Regis
 West Sussex
 PO21 2DU
 Tel 01243 268201
 Mob 07740 619322

Project Name and Address
 Proposed site plan at
 10 Barrack Lane
 Ardwick
 Bognor Regis
 West Sussex

Project
 Site Plan
 Date
 22nd June 2018
 Scale
 1:500 & 1:1250