

DATED 19th October

2010

WEST SUSSEX COUNTY COUNCIL

-and-

ARUN DISTRICT COUNCIL

-and-

WEST SUSSEX COUNTY COUNCIL

DEED OF VARIATION of a Unilateral Undertaking
made under Section 106 of the
Town and Country Planning Act 1990
dated 4 August 2010 in relation to

Land on South West side of
Yapton Road,
Barnham, West Sussex

Prepared by Laura Floodgate
West Sussex County Council
County Hall
West Street
Chichester
West Sussex
PO19 1RQ

THIS DEED OF VARIATION is made the 14th day of October 2010

BETWEEN

(1) WEST SUSSEX COUNTY COUNCIL of County Hall, West Street,
Chichester, West Sussex, PO19 1RQ ("the Owner")

(2) ARUN DISTRICT COUNCIL of Arun Civic Centre, Maltravers Road,
Littlehampton, West Sussex, BN17 5HF, ("the Council"),

(3) WEST SUSSEX COUNTY COUNCIL of County Hall, West Street,
Chichester, West Sussex, PO19 1RQ ("the County Council")

RECITALS

1. BY a DEED OF Unilateral Undertaking made pursuant to Section 106 of the Act dated 4 August 2010 (hereinafter referred to as the "Unilateral Undertaking") and given by West Sussex County Council to Arun District Council and West Sussex County Council the development of the Land as described in the Unilateral Undertaking is regulated
2. The Owner made the Application to the Council under planning application reference BN/27/09 for planning permission (thereinafter called "the Application")
3. The Owner submitted the Appeal to the Secretary of State against the Council's refusal to grant Planning Permission pursuant to the Application and the appeal was given Appeal Reference APP/C3819/A/10/21032014/NWF
4. It is the intention of the parties to amend the Unilateral Undertaking to vary the terms in respect of the Public Open Space Contribution and to include terms for payment of monitoring costs and the parties have therefore agreed to enter into this Deed to

give effect to such variations

NOW THIS DEED WITNESSETH AS FOLLOWS:

1. Definitions

- 1.1 Save as otherwise provided herein words phrases and expressions in this Deed (including the Recitals) shall have the same meaning as those contained in the Unilateral Undertaking as though they were contained in and formed part of this Deed

2. Enabling Provisions

- 2.1 This Deed is made pursuant to Section 106A of the Act and all other enabling powers (the "Deed of Variation") the obligations contained herein are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner with the intent that it shall bind the Owner and their successors in title to each and every part of the Land and their assigns
- 2.2 This Deed shall be enforceable by the Council and the County Council as the case may be

3. Agreements and Declarations

- 3.1 It is hereby agreed and declared that except for the modifications as set out in the Schedule hereto the provisions of the Unilateral Undertaking shall remain in full force and effect
- 3.2 This Deed is a local land charge and shall be registered as such by the Council

The Schedule

It has been agreed by the Owner and the Council and the County Council to vary the Unilateral Undertaking as follows:

1. The definition of Community Facilities Contribution shall be deleted from the Unilateral Undertaking and replaced with the following definition:

"Public Open Space Contribution" means the sum payable in accordance with clause 7.2.4 of this Deed being a financial contribution towards the cost of providing a Local Equipped Area of Play (LEAP) on the adjoining land as shown edged blue on the plan attached to this Deed and calculated in accordance with Schedule 2

2. The words "community facilities" shall be deleted from Clause 6.2 of the Unilateral Undertaking and the word "public" shall be added before "open space obligations" in clause 6.2 so that the clause reads as follows:

"6.2 Upon disposal by the Owner of its interest in the Land the County Council shall become the local planning authority responsible for enforcing the planning obligations in this Deed other than in respect of the affordable housing and public open space obligations which shall remain enforceable by the Council"

3. The words "Community Facilities Contribution" shall be deleted from clause 7.2.4 of the Unilateral Undertaking and replaced with the words "Public Open Space Contribution"
4. The words "Community Facilities Contribution" shall be deleted from clause 7.2.5 of the Unilateral Undertaking and replaced with the words "Public Open Space Contribution"

5. Clause 7.2.7 shall be deleted and replaced with the following:

"the Public Open Space Contribution is paid to and accepted by the Council on the basis that it will be used to fund a Local Equipped Area of Play (LEAP) on the adjoining land as shown edged blue on the Plan"

6. Schedule 2 of the Unilateral Undertaking shall be amended as follows:

6.1 The Words "Community Facilities Contribution" shall be deleted and replaced with "Public Open Space Contribution" at Clause A.

6.2 The words "Community Facilities Contribution" shall be deleted and replaced with "Public Open Space Contribution" in the operative part of the clause

7. A new clause 17 shall be added to the Unilateral Undertaking as follows:

"17. Monitoring Costs

17.1 The Owner will on Commencement of Development, pay to the Council a contribution of £250 (major application) incurred in monitoring compliance with this Deed

17.2 The Owner will on Commencement of Development, pay to the Council their administrative costs incurred in monitoring compliance with each obligation contained in this Deed in the sum of £50 for each obligation (amounting in total to £100) calculated as follows:

Affordable Housing - £50

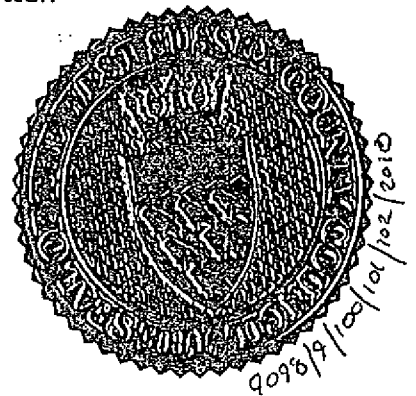
Public Open Space Contribution - £50

(Grant Total of sums due is £250 + £100 = £350)

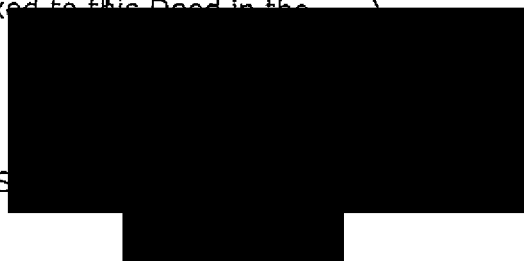
- 17.3 For the avoidance of doubt and without prejudice to the above charges the Council shall be entitled to utilise a proportion of monetary payment specified in this Deed for related project costs up to a maximum of 5% or any payment of £15,000 whichever shall be the larger

IN WITNESS WHEREOF the parties hereto have caused this document to be executed as a Deed the day and year first before written

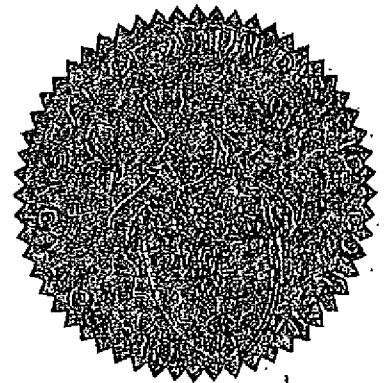
The COMMON SEAL of)
WEST SUSEX COUNTY COUNCIL)
In capacity as Landowner)
was hereunto affixed to this Deed in the)
presence of:-)



The COMMON SEAL of)
ARUN DISTRICT COUNCIL)
was hereunto affixed to this Deed in the)
presence of)



Authorised S



SEAL Book No. 272/2010

The COMMON SEAL of)
WEST SUSEX COUNTY COUNCIL)
In capacity as County Planning Authority)
was hereunto affixed to this Deed in the)
presence of:-)

