
[redacted]

THIS UNDERTAKING is made the 18th day of April 2007 by: 16.04.07

(1) **McCARTHY & STONE (DEVELOPMENTS) LIMITED** (Company Registration Number 770529) whose registered office is at Homelife House 26/32 Oxford Road Bournemouth BH8 8EZ ("the Applicant")

(2) **DOROTHY CHARLOTTE MACFIE** of The Hirsel 6 Coates Cottages Longniddry East Lothian EH32 0PL ("the Owner")

TO

ARUN DISTRICT COUNCIL of Civic Centre Maltravers Road Littlehampton BN17 5LF ("the Council")

1. DEFINITIONS AND INTERPRETATION

1.1 Wherever the context so permits the following words and phrases shall have the meanings herein attributed to them:-

1.1.1	"the Act":	the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991
1.1.2	"Affordable Housing":	housing to be provided within the administrative area of the Council for those who are unable to access the general housing market by reason of level of income
1.1.3	"the First Application"	the the planning application made by or on behalf of the Applicant bearing the Local Authority reference number BR/165/06
1.1.4	"the Second Application":	the planning application made by or on behalf of the Applicant bearing the Local Authority reference number BR/388/06

ARUN DISTRICT COUNCIL BR/165/06/

1.1.5	"the Appeal":	the appeal submitted by the Applicant to the Secretary of State for the Environment under appeal reference number APP/C3810/A/07/2039836/NWF pursuant to the Second Application
1.1.6	"Commencement of Development":	the carrying out on the Land of a material operation pursuant to the Planning Permission as defined in Section 56 (i) of the Act save for the purpose of determining whether or not a material operation has been carried out there shall be disregarded such operations as marking out surveying ground investigations archaeological investigations demolition site clearance site preparation and "commence" and "commencement" shall be construed accordingly
1.1.7	"the Contribution":	Six Hundred and Seven Thousand Five Hunded and Four Pounds (£607,504.00) index linked to the Retail Prices Index from 17th January 2007 until the date of payment
1.1.8	"the Development":	Category II sheltered accommodation comprising 44 apartments associated communal facilities house managers accommodation landscaping and car parking
1.1.9	"Dwellinghouse":	any unit of residential accommodation forming part of the Development for the sole use as a private residence of the occupier other than the house manager's accommodation

ARUN DISTRICT COUNCIL BR/165/06/

1.1.10	"First Occupation":	the first occupation of a Dwellinghouse at the Development
1.1.11	"the Land":	the Land situate at and known as Aldwick End 262 Hawthorne Road Bognor Regis West Sussex PO21 2UP registered at the Land Registry under Title Number WSX291396 and shown edged red on the Plan
1.1.12	"the Plan":	the plan annexed to this Deed
1.1.13	"the First Planning Permission":	the permission that may be granted pursuant to the First Application
1.1.14	"the Second Planning Permission"	the permission that may be granted pursuant to the Second Application on Appeal

1.2 Where the context so admits:

1.2.1 words of the masculine gender shall incorporate the feminine gender and words of the singular shall include the plural and vice versa

1.2.2 any reference herein to any statute or section of a statute includes any statutory re-enactment or modification thereof

1.2.3 any reference to a clause or a schedule is unless the context otherwise requires a reference to a clause or a schedule of this Deed and any reference to a subclause is a reference to a subclause of the clause in which the reference appears

1.2.4 the expressions "the Applicant" "the Owner" shall except where the context otherwise requires include their respective successors in title and assigns

2. RECITALS

2.1 The Council is the Local Planning Authority for the purposes of the Act in respect of the area which includes the Land and shall be responsible for the enforcement of the obligations contained herein

ARUN DISTRICT COUNCIL BR/165/06/

2.2 The Owner is the beneficial owner of the Land for an estate in fee simple in possession

2.3 The Applicant has entered into a contract dated 28th February 2006 with the Owner for the purchase of the Land

2.4 The Applicant has submitted to the Council the First Application seeking planning permission for the Development of the Land

2.5 The Applicant has submitted to the Council the Second Application seeking planning permission for the Development of the Land and such Second Application is now the subject of the Appeal

2.6 The Applicant and the Owner intend by this Deed to enter into the obligation contained herein for the purpose of restricting or regulating the Development or use of the Land and to secure the carrying out of works on the Land and to facilitate the development of the Land in the terms of the First Application or the Second Application

2.7 This Undertaking is made pursuant to Section 106 of the Act which section shall apply to the covenants herein contained

3. THE OWNER'S AND THE APPLICANT'S COVENANT

The Applicant and the Owner covenant with the Council to the intent that the covenant shall be a planning obligation for the purposes of the Act and shall be binding on and enforceable against them and their successors in title that the Applicant and the Owner shall observe and perform the obligations set out in the First Schedule to this Deed subject to the Conditions set out in the Second Schedule to this Deed

4. LIMITATIONS

4.1 The provisions of this Undertaking shall only become binding on the parties upon the granting by the Council of the First Planning Permission pursuant to the First Planning Application or by the Inspector of the Second Planning Permission pursuant to the

ARUN DISTRICT COUNCIL BR/165/06/

Appeal and the implementation thereof of either the First Planning Permission or the Second Planning Permission by means of Commencement of Development

4.2 No person shall be liable for any breach of Clause 3 occurring after he shall have parted with his interest in the Land or the part in respect of which such breach occurs but without prejudice to any antecedent breach

5. REGISTRATION OF RESTRICTION

This Deed shall be registered as a local land charge

THE FIRST SCHEDULE

(The Covenants by the Owner and the Applicant)

The Owner and the Applicant covenant as follows:

1.To pay the Contribution to the Council prior to First Occupation

THE SECOND SCHEDULE

(The Conditions upon which this Undertaking is given)

1.The Council shall use the Contribution towards the provision of Affordable Housing within the administrative area of the Council at their absolute discretion within 5 years of the receipt of it by them.

2. If any part of the Contribution remains unspent at the end of the period of 5 years such amount as remains unspent shall be returned to the Owner or the Applicant or whichever party has paid the Contribution together with interest thereon calculated at the base rate of the Bank of Scotland as may be varied from time to time.

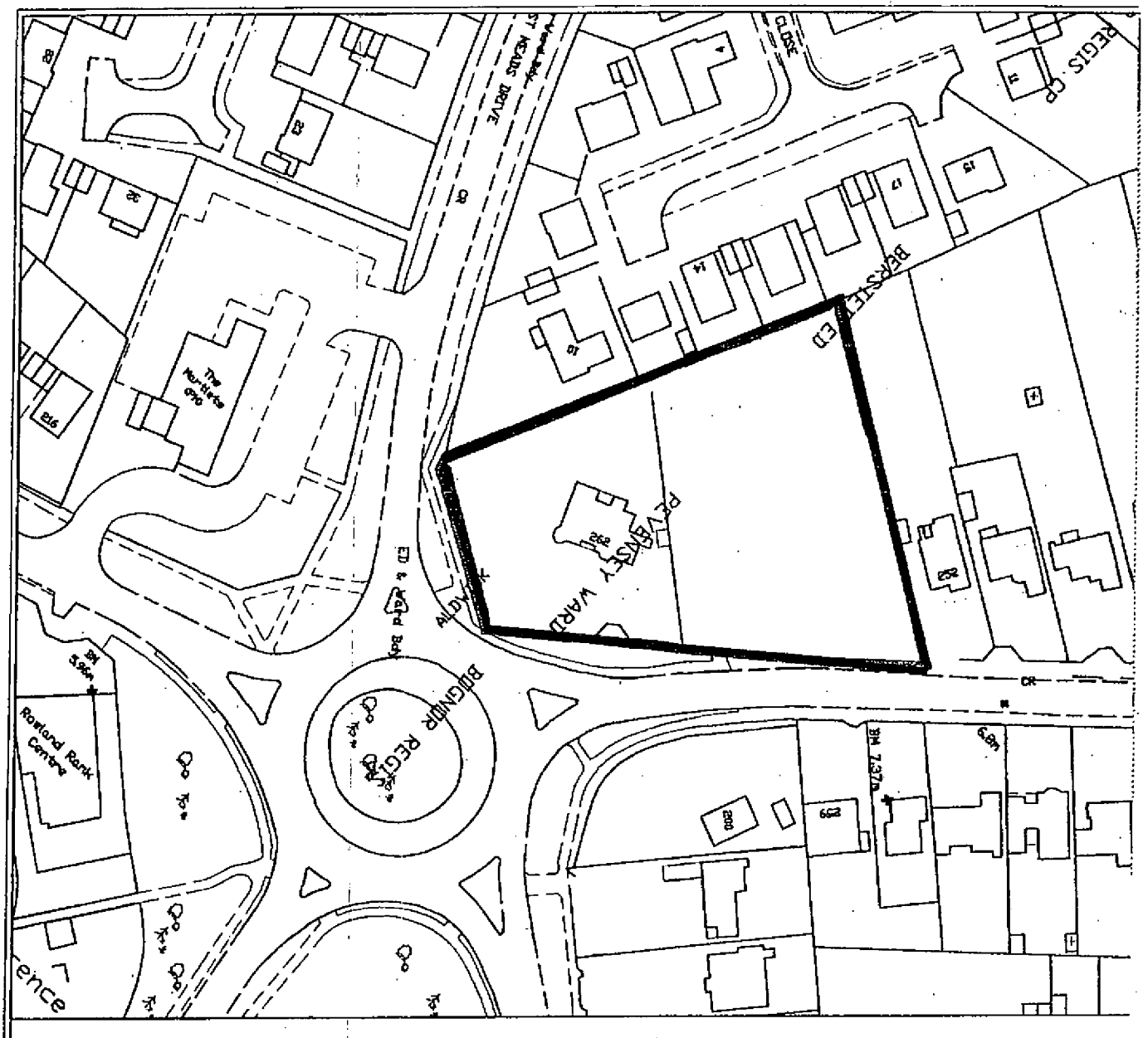
3. To provide the Applicant or the Owner,if requested in writing, of the details of the application of the Contribution.

IN WITNESS WHEREOF the Applicant the Owner have executed this Undertaking as a Deed the day and year first before written

ARUN DISTRICT COUNCIL BR/165/06/

ARUN DISTRICT COUNCIL BR/165/06/

[redacted]



O/S MAP SCALE 1:1250

Crown Copy. All rights reserved. Licence Number 100020449

EXECUTED AS A DEED BY

MCCARTHY & STONE (DEVELOPMENTS) LIMITED

Acting by two Directors or a Director and its Secretary

[redacted]

Director

Director /~~Secretary~~

EXECUTED AS A DEED BY

DOROTHY CHARLOTTE MACFIE

in the presence of

[redacted]

[redacted]

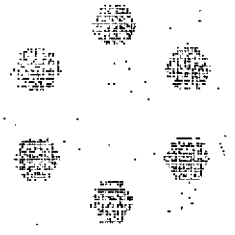
Witness Name ABIGAIL L.K. MARLAND

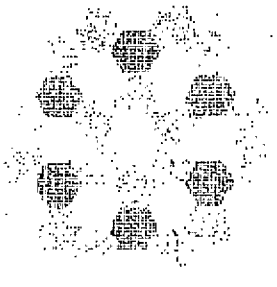
Address EASTER COTTAGE
COATES
LONGNIDDRY
EAST LOTHIAN
EH32 0PL

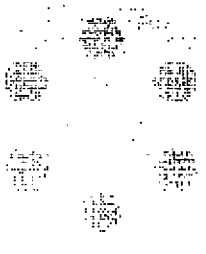
ARUN DISTRICT COUNCIL BR/165/06/

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.







OFFICIAL COPY OF REGISTER ENTRIES

This official copy shows the entries subsisting on the register on 20 March 2007 at 16:48:13.
This date must be quoted as the 'search from date' in any official search application based on this copy.
It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).
Issued on 20 March 2007.
This title is dealt with by Land Registry, Portsmouth Office.

Land Registry

Title Number : WSX291396

Edition Date : 03 March 2006

A: Property Register

This register describes the land and estate comprised in the title.

WEST SUSSEX : ARUN

1 (04.08.2005) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being 262 Hawthorn Road, Bognor Regis (PO21 2UP).

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title Absolute

1 (04.08.2005) PROPRIETOR: %JOHN HARRISON MACFIE% and %DOROTHY CHARLOTTE MACFIE% of The Hirsel 6 Coates Cottage, Longniddry, *East Lothian* EH32 0PL.

2 (04.08.2005) A Conveyance of the land in this title dated 24 June 1930 made between (1) Robert Siegfried Alexander Noakes (Vendor) and (2) Frederick Richard Hole (Purchaser) contains purchasers personal covenant(s) details of which are set out in the schedule of personal covenants hereto.

****

Schedule of Personal Covenants

1 The following are details of the personal covenants contained in the Conveyance dated 24 June 1930 referred to in the Proprietorship Register:-

"AND the Purchaser hereby covenants with the Vendor that he the Purchaser shall forthwith erect and for ever after maintain a good chestnut pale fence six feet in height at the northern boundary of the said land marked "T" within the boundary such fence shall be either close boarded or the pales thereof shall no be more than two inches apart".

NOTE: The "T" mark referred to is reproduced on the title plan.

ARUN DISTRICT COUNCIL BR/165/06/

C: Charges Register

This register contains any charges and other matters that affect the land.

1 (04.08.2005) A Conveyance of the land in this title dated 1 September 1921 made between (1) Albert Benjamin Hills (Vendor) and (2) Harry Archbutt Venables (Purchaser) contains restrictive covenants in the following terms.

COVENANT by the Purchaser for himself and assigns with the Vendor his heirs and assigns that he the Purchaser his heirs and assigns would at all times thereafter observe and perform the restrictions and stipulations in relation to the hereditaments thereby conveyed which were contained in the Schedule thereto

THE SCHEDULE above referred to

1. No buildings shall be erected upon the said land except Private dwellinghouses.

2. Not more than 7 houses shall be erected upon the said land and all houses shall be detached or semi-detached.

3. No detached house erected upon the said land shall be of less value than £700 and if semi-detached of less value than £1200 a pair such value to be the prime cost of labour and materials only for such construction.

By a Deed dated 4 November 1929 made between (1) Harry Archbutt Venables (Vendor) (2) Albert Benjamin Hills (Mortgagee) and (3) Robert Siegfried Alexander Noakes (Purchaser) the said covenants were expressed to be varied in the following terms:-

"It is declared that the restriction No'd 2 contained in the Schedule of the before recited Conveyance of the First September One thousand nine hundred and twenty one shall be varied to the effect that not more than ten houses (in lieu of seven) shall be erected on the said land comprised in such Conveyance and that all houses shall be detached or semi-detached and that so far as regards that part of the land therein comprised and hereby conveyed not more than eight houses shall be erected upon the land hereby conveyed and all houses shall be detached or semi-detached".

2 (03.03.2006) UNILATERAL NOTICE in respect of agreement for sale dated 28 February 2006 made between (1) John Harrison Macfie and Dorothy Charlotte Macfie and (2) McCarthy & Stone (Developments) Limited.

3 (03.03.2006) BENEFICIARY: McCarthy & Stone Group of Homelife House, 26-32 Oxford Road, Bournemouth, Dorset BH8 8EZ.

END OF REGISTER

NOTE 1: The date at the beginning of an entry is the date on which the entry was made in the Register.

NOTE 2: Symbols included in register entries do not form part of the register and are used by Land Registry for internal purposes only.

ARUN DISTRICT COUNCIL BR/165/06/

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy shows the state of the title plan on 06 January 2006 at 15:25:55.
It may be subject to distortions in scale.
Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
Issued on 06 January 2006. This title is dealt with by the Land Registry, PORTSMOUTH office.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground. For more information see Land Registry Public Guide 7 - Title Plans.

TITLE NUMBER

WSX291396

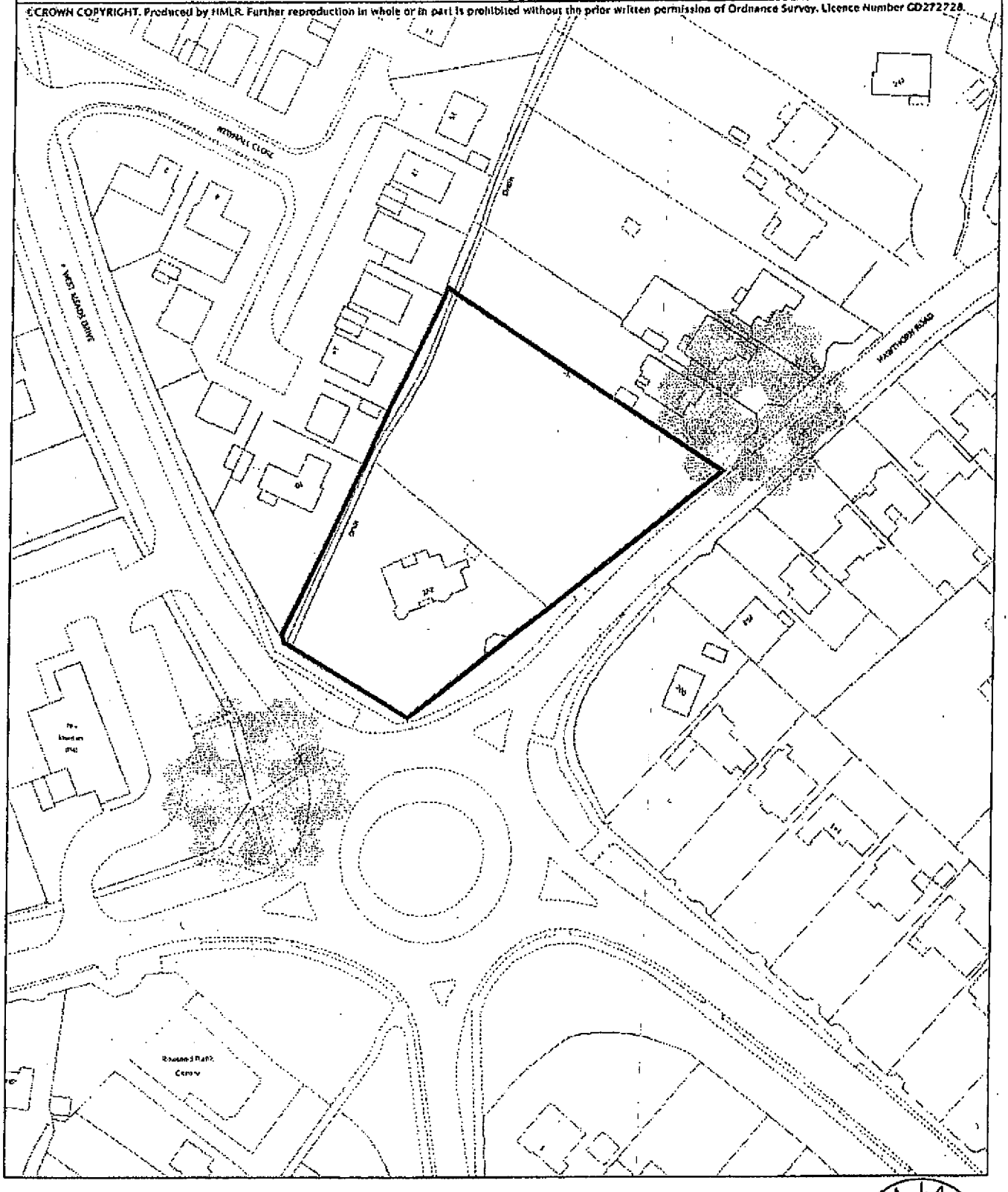
WEST SUSSEX : ARUN

N

ORDNANCE SURVEY MAP REFERENCE: SZ9299SW

SCALE: 1:1250

© CROWN COPYRIGHT. Produced by HMLR. Further reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number GD272728.



H.M. LAND REGISTRY AE 08/2005

This Official Copy is incomplete without the preceding notes page.

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy shows the state of the title plan on 06 January 2006 at 15:25:55.
It may be subject to distortions in scale.
Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
Issued on 06 January 2006. This title is dealt with by the Land Registry, PORTSMOUTH office.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements scaled from this plan may not match measurements between the same points on the ground. For more information see Land Registry Public Guide 7 - Title Plans.

ARUN DISTRICT COUNCIL BR/165/06/"

TITLE NUMBER

WSX291396

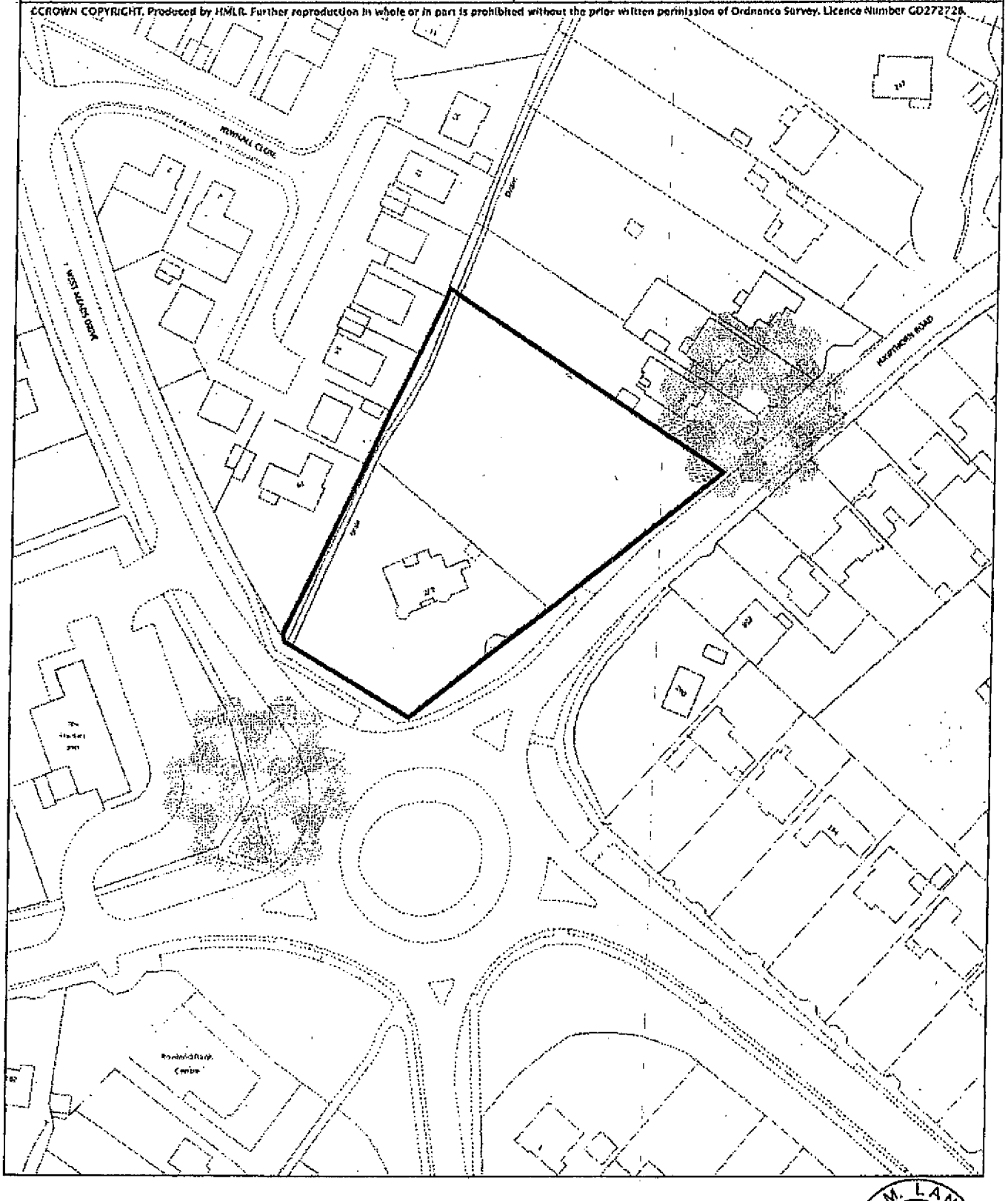
WEST SUSSEX : ARUN

N

ORDNANCE SURVEY MAP REFERENCE: SZ9299SW

SCALE: 1:1250

©CROWN COPYRIGHT. Produced by HMLR. Further reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number GD272728.



H.M. LAND REGISTRY
AE 08/2005

This Official Copy is incomplete without the preceding notes page.