

DATED

4th September

2017

SECTION 106 AGREEMENT AND DEED OF DISCHARGE

TOWN & COUNTRY PLANNING ACT 1990

RELATING TO LAND AT 6 YORK ROAD BOGNOR REGIS PO21 1LW

Parties:

FALCON SOLAR LIMITED

and

**ARUN DISTRICT COUNCIL
BR/336/16/PL -1ST APPLICATION
BR/168/17/PL 2ND APPLICATION**

CONTENTS

CLAUSE

1.	Interpretation	2
2.	Statutory provisions	4
3.	The Owner's Covenant with the Council	4
4.	The Council's Covenant with the Owner	4
5.	Release	4
6.	Determination of deed	5
7.	Local land charge	5
8.	Interest on late payment	5
9.	Council's costs	5
10.	Notices	5
11.	Third party rights	6
12.	Governing law	6

THIS DEED is dated

4th September

2017

- (1) Falcon Solar Limited incorporated and registered in England and Wales with company number 07702318 whose registered office is at 8 York Road Bognor Regis West Sussex PO21 1LW **Owner**; and
- (2) Arun District Council of Arun Civic Centre Maltravers Road Littlehampton West Sussex BN17 5LF **Council**

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The Owner owns the Property.
- (C) The Owner has made the Planning Application REF BR/168/17/PL and is proposing to carry out the Development under that reference and now wishes to discharge a previous planning obligation ("the 1st Obligation") dated 6 March 2017 and made between Falcon Solar Limited and Arun District Council ("ADC") and made under ref BR/336/16/PL copy attached for ease of reference .
- (D) In consideration of Pagham Harbour policy ENV DM2 of the emerging Local Plan 2011-2031, and Cabinet's approval of the tariff based system on 20 July 2015, the Owner gives this undertaking to perform the obligations set out in this deed.

DEED OF DISCHARGE OF PLANNING OBLIGATION DATED 6 MARCH 2017 REF BR/336/16/PL

- (E) The Owner and the ADC now agree that Planning Permission Ref BR/336/16/PL shall not be implemented or commenced and the owner shall be entitled to no claim or compensation as result of this agreement
- (F) The Owner and the ADC now agree that 1st Obligation copy attached for ease of reference shall be discharged surrendered and released from the date of signature and date of this deed
- (G) Any money paid to ADC under the 1st Obligation shall continue to be held by ADC in order to satisfy the Owners covenants under this present Deed and the Owner will be given credit for that but will be required to pay any balance outstanding and due under the Owners covenants under this present Deed and/or any money repayable or refundable by ADC to the Owner as a result of any adjustments to the **Access Management Contribution** since the 1st Obligation will be repaid to the Owner within one month of signature of this Deed

AGREED TERMS

1. INTERPRETATION

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

1.1 Definitions:

Access Management Contribution: the sum of £3484 towards the cost of delivering measures to avoid, or mitigate to an acceptable level, the harm caused to Pagham Harbour by the Development

For ease of reference the calculations are :-

Per dwelling =£871

1st obligation for 3 dwellings = £3825 (being £1275 per dwelling)

This application for 4 dwellings = £3484

Balance due and repayable to Owner £3825 – £3484= £341

Please note on 10 April 2017 the ADC Cabinet revised the **Access Management Contribution** down to £871 from £1275 per dwelling

Base Rate: the higher of 5% and the base rate from time to time of Barclays Bank plc.

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 [but disregarding for the purposes of this deed and for no other purpose, the following operations: demolition works, site clearance; ground investigations, site survey works; temporary access construction works; archaeological investigation; and erection of any fences and hoardings around the Property.

Commenced and Commences shall be construed accordingly.

Default Interest Rate: 4% per annum above the Base Rate.

Development: the development of the Property by Extension and alteration of existing building to form 4 no. new residential apartments at third floor level as described in the Planning Application.

Pagham Harbour: A Special Protection Area, also known as a Natura 2000 site, based 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.

Plan: the plan attached to this deed.

Planning Application: an application for planning permission registered by the Council under reference number BR/168/17/PL

Planning Permission: the planning permission to be granted by the Council in respect of the Planning Application.

Property: the freehold land at 6 York Road Bognor Regis PO21 1LW shown edged red on the Plan and registered at HM Land Registry with absolute title under title number WS259017

TCPA 1990: Town and Country Planning Act 1990

Working Day: 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, corporate or unincorporated body (whether or not having separate legal personality).
- 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 the 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 statutory 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 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** excludes faxes and e-mail.
- 1.11 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.

- 1.12 References to clauses are to the clauses of this deed.
- 1.13 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.
- 1.14 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 a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972 and any other enabling powers.
- 2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns.
- 2.3 This deed shall come into effect on the date of grant of the Planning Permission.
- 2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

3. THE OWNER'S COVENANT WITH THE COUNCIL

The Owner covenants with the Council to pay the Access Management Contribution to the Council on the execution of this deed if any is due .

4. THE COUNCIL'S COVENANT WITH THE OWNER

In the event that clause 6 applies, the Council covenants to repay the Access Management Contribution to the Owner that paid the Access Management Contribution upon receipt of a written request for repayment.

5. RELEASE

No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the

Property, except in respect of any breach subsisting prior to parting with such interest.

6. DETERMINATION OF DEED

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

- (a) expires before the Commencement of Development;
- (b) is varied or revoked other than at the request of the Owner; or
- (c) is quashed following a successful legal challenge.

7. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

8. INTEREST ON LATE PAYMENT

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

9. COUNCIL'S COSTS

The Owner shall pay to the Council on the date of this deed the Council's reasonable and proper legal costs of £200 together with all disbursements incurred in connection with the preparation, completion and registration of this deed.

10. NOTICES

10.1 A notice or other communication to be given under or in connection with this deed must be in writing and must be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post or other next working day delivery service.

10.2 Any notice [or other communication] to be given under this deed must be sent to the relevant party as follows:

- (a) 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 number;
- (b) to the Owner at: Falcon Solar limited 6 York Road Bognor Regis PO21 1LT

10.3 Any notice or other communication given in accordance with clause 10.1 and clause 10.2 will be deemed to have been received:

- (a) 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 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that 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 will be deemed to have been received at 9.00 am on the next Working Day;
- (b) if sent by pre-paid first class post or other next working day delivery service at 9.00 am on the second Working Day after posting.

10.4 A notice or other communication given under this deed shall not be validly given if sent by e-mail.

10.5 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.

11. 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.

12. 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.

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

1. *Journal of the American Medical Association*, 2000; 283: 2689-2695.

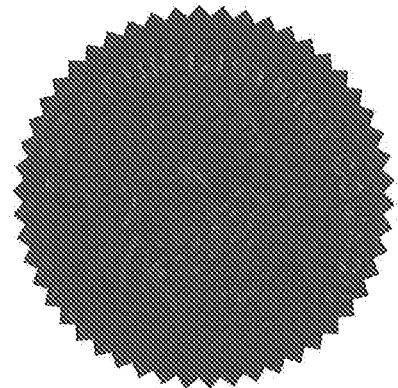
Director

WILSON, WESLEY JAMES 10-28-61-M

}

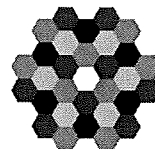
Schictor...

376/20A



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 of title

Title number WSX259017

Edition date 09.05.2016

- This official copy shows the entries on the register of title on 01 SEP 2017 at 12:34:58.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 01 Sep 2017.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Durham Office.

A: Property Register

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

WEST SUSSEX : ARUN

- 1 (24.10.2001) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being 19A High Street and York Road Chambers, 2, 4, 6 & 8 York Road, Bognor Regis, (PO21 1LT).

NOTE: As to the part hatched blue on the filed plan only the first and second floors and the roofspace are included in the title.

- 2 (24.10.2001) The land has the benefit of the following rights granted by a Conveyance of the land tinted yellow on the filed plan and other land dated 7 November 1944 made between (1) Anderson Colin Talbot Edwards and Eileen Talbot Grange (Vendors) and (2) William Arthur Wade (Purchaser) :-

"TOGETHER with full and free right and liberty in common with others having the like right to pass and repass over and along the passage or back road at the rear of the said premises and for all purposes hereafter upon the owner or owners thereof paying a rateable proportion of the expense of keeping the said passage or back road in good repair and condition"

NOTE: Copy Plan filed.

- 3 (24.10.2001) The land has the benefit of the following rights granted by a Conveyance of the land tinted blue on the filed plan dated 30 December 1944 made between (1) Anderson Colin Talbot Edwards and Eileen Talbot Grange and (2) Audrey Helen Talbot Edwards :-

"TOGETHER with the existing rights and easements for many years enjoyed in connection with York Road Chambers over the said land coloured brown on the said land with the intention that the owners of Numbers Twenty-one and 21a High Street aforesaid should do nothing whereby the said York Road Chambers as aforesaid should be prejudiced or their extent reduced."

NOTE: Copy Plan filed.

- 4 (24.10.2001) The land has the benefit of the following rights granted by a Conveyance of the land tinted pink on the filed plan dated 19 January 1945 made between (1) Eileen Talbot Grange and Anderson Colin Talbot Edwards (Vendors) and (2) Walter Langmead (Purchaser) :-

A: Property Register continued

"Together with the full and free right and liberty in common with the respective owners and occupiers for the time being of adjoining and adjacent premises to pass and repass over and along the passage or back road Five feet wide at the rear or west side of the said premises at all times and for all purposes thereafter upon the owner and owners thereof paying their rateable proportion of the expense of keeping the said passage or back road in repair.

NOTE: Copy Plan filed.

- 5 (17.04.2015) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.
- 6 (17.04.2015))The land has the benefit of the rights reserved by but is subject to the rights granted by a Transfer of the land edged and numbered WSX371352 in green on the title plan dated 29 September 2014 made between (1) Roger Turner and others and (2) Falcon Solar Limited.

NOTE: Copy filed under WSX371352.

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 (09.05.2016) PROPRIETOR: FALCON SOLAR LIMITED (Co. Regn. No. 07702318) of 6 York Road, Bognor Regis PO21 1LW.
- 2 (09.05.2016) The price stated to have been paid on 26 April 2016 for the land in this title and in SX67357 was £633,000.
- 3 (09.05.2016) The Transfer to the proprietor contains a covenant to observe and perform the covenants by the Landlord contained in the leases referred to in the Schedule of Notice of Leases and of indemnity in respect thereof.
- 4 (09.05.2016) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 26 April 2016 in favour of Barclays Bank Plc referred to in the Charges Register.

C: Charges Register

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

- 1 (06.05.2005) The parts of the land affected thereby are subject to the leases set out in the Schedule of Leases hereto.
- 2 (22.05.2012) By a Transfer dated 21 May 2012 made between (1) Your-Move.Co.Uk Limited and (2) Roger Turner and Others the terms of the lease dated 6 October 2009 referred to in the schedule of leases hereto were varied.

NOTE:-Copy Deed filed under WSX331297.

- 3 (09.05.2016) REGISTERED CHARGE dated 26 April 2016 affecting also title WSX67357.
- 4 (09.05.2016) Proprietor: BARCLAYS BANK PLC (Co. Regn. No. 1026167) of Business Lending Services P.O. Box 16276, One Snowhill, Snowhill, Queensway, Birmingham B2 2XE.

Schedule of notices of leases

- | | | | |
|---|------------|------------------------|------------|
| 1 | 06.05.2005 | Ground Floor, 19a High | 01.05.1997 |
|---|------------|------------------------|------------|

Title number WSX259017

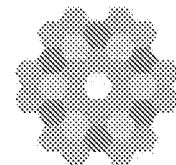
Schedule of notices of leases continued

		Street and 2 York Road.	10 years from 01.05.1997	
2	18.09.2008 1 NSE	Ground Floor Shop 4 York Road	03.09.2008 10 years from 25/12/2007	WSX322666
3	04.11.2009 2 (part of) : 3 (part of)	19a High Street (Ground Floor) and 2 York Road (Ground Floor)	06.10.2009 10 years from 01.05.2007	WSX331297
	NOTE 1: The lease dated 6 October 2009 referred to above has been determined as to 2 York Road (ground floor).			
	NOTE 2: See entry in the Charges Register relating to the variation of the lease dated 21 May 2012.			
4	04.09.2013 1, 2, 3 & 4 in blue (part of)	York Road Chambers (ground, first & second floors)	19.08.2013 10 years from 19.8.2013 to 18.8.2023	WSX359258

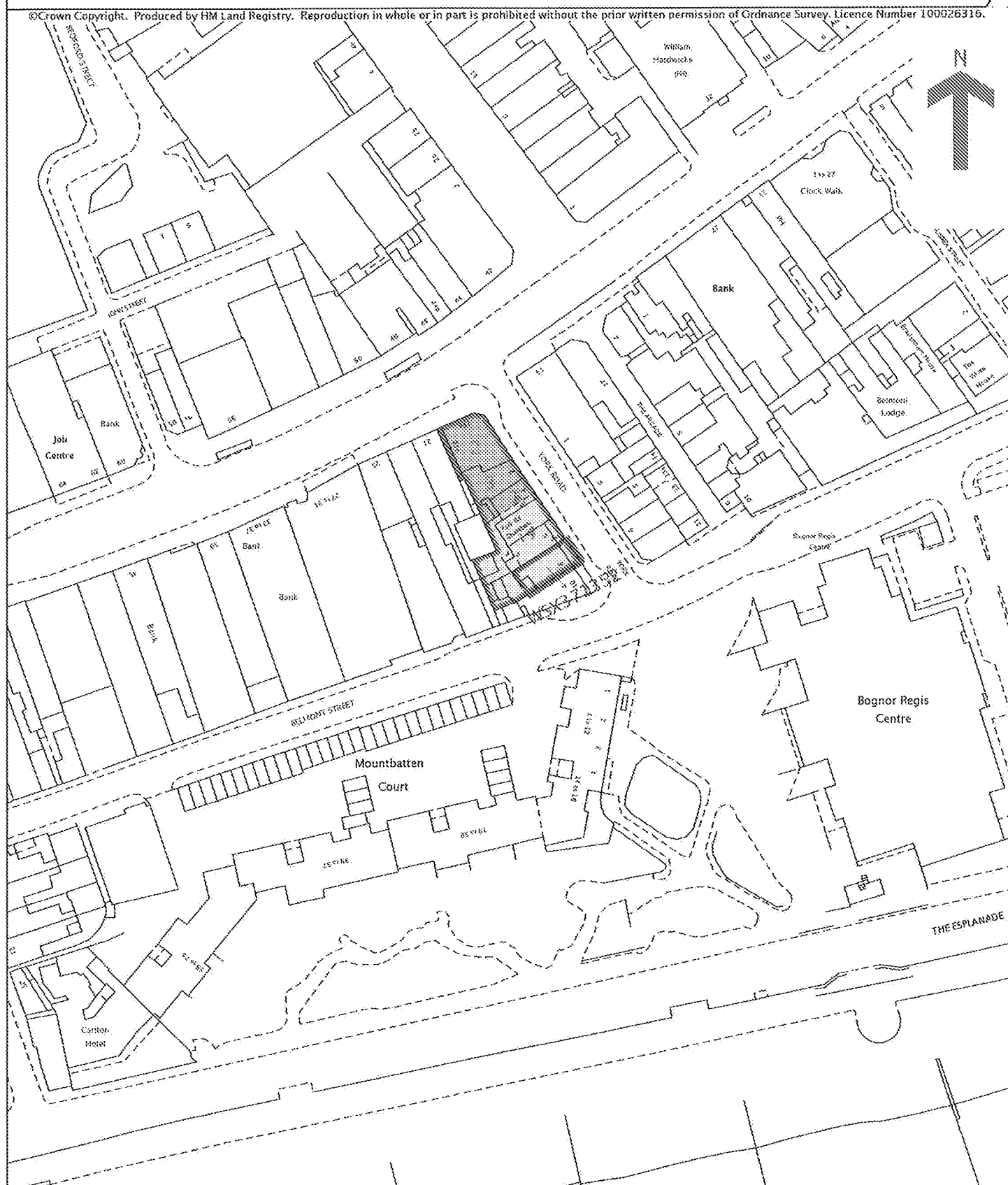
End of register

HM Land Registry
Official copy of
title plan

Title number **WSX259017**
 Ordnance Survey map reference **SZ9399SE**
 Scale **1:1250**
 Administrative area **West Sussex : Arun**



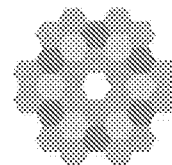
© Crown Copyright. Produced by HM Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.



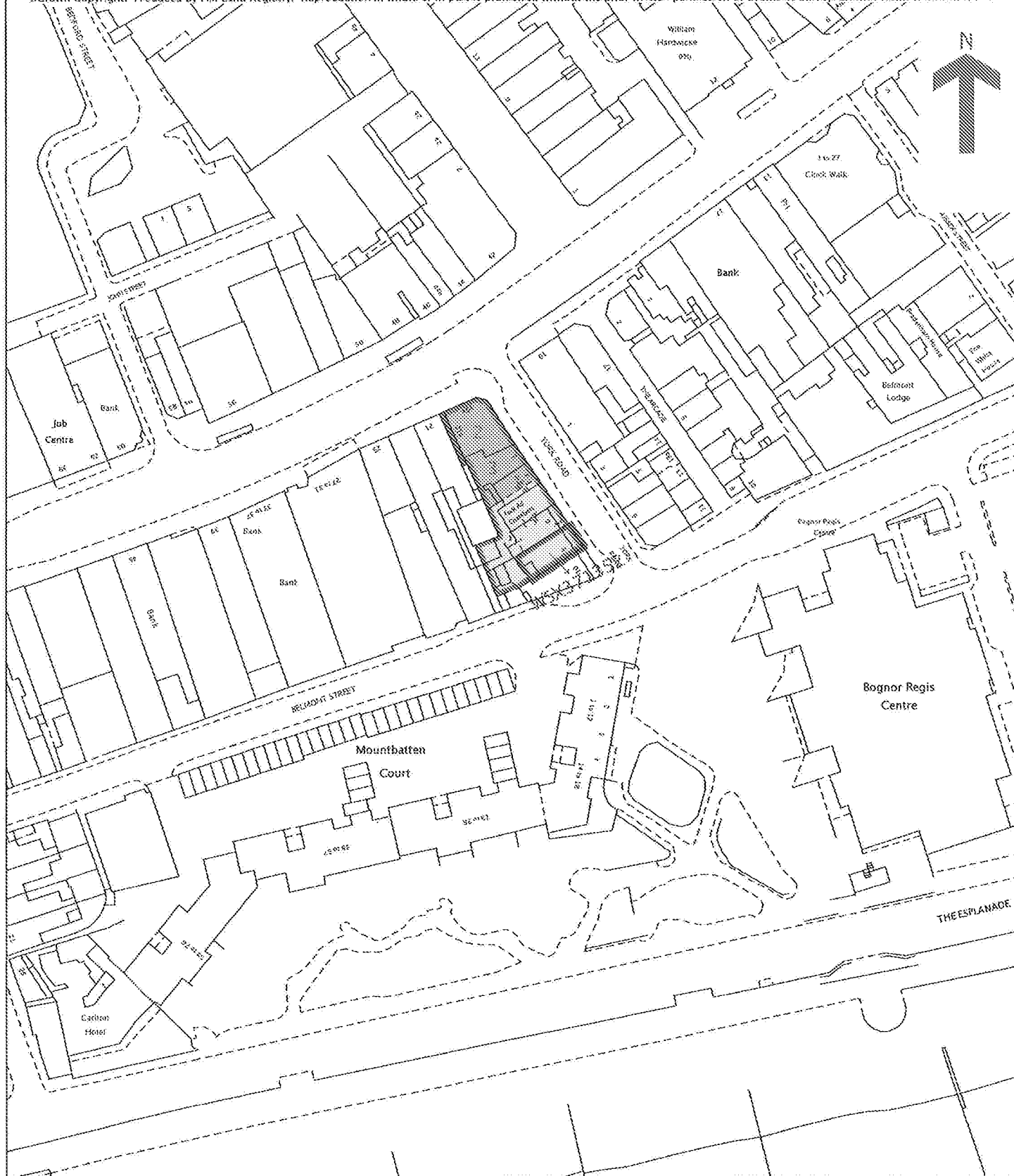
HM Land Registry

Official copy of title plan

Title number **WSX259017**
Ordnance Survey map reference **SZ9399SE**
Scale **1:1250**
Administrative area **West Sussex : Arun**

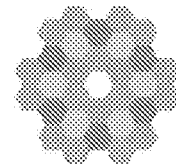


©Crown Copyright. Produced by HM Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.

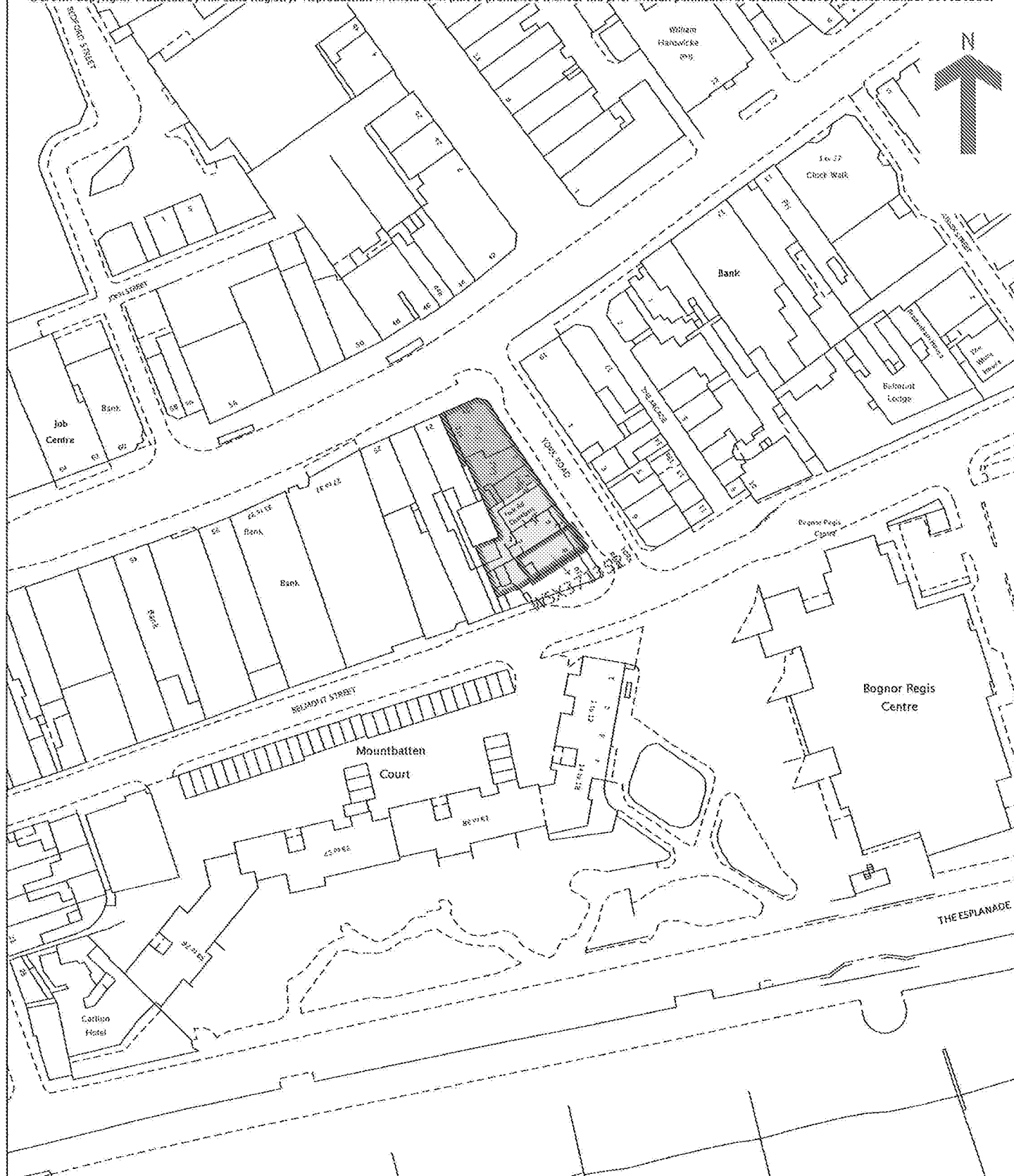


HM Land Registry
Official copy of
title plan

Title number **WSX259017**
Ordnance Survey map reference **SZ9399SE**
Scale **1:1250**
Administrative area **West Sussex : Arun**



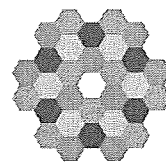
© Crown Copyright. Produced by HM Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.



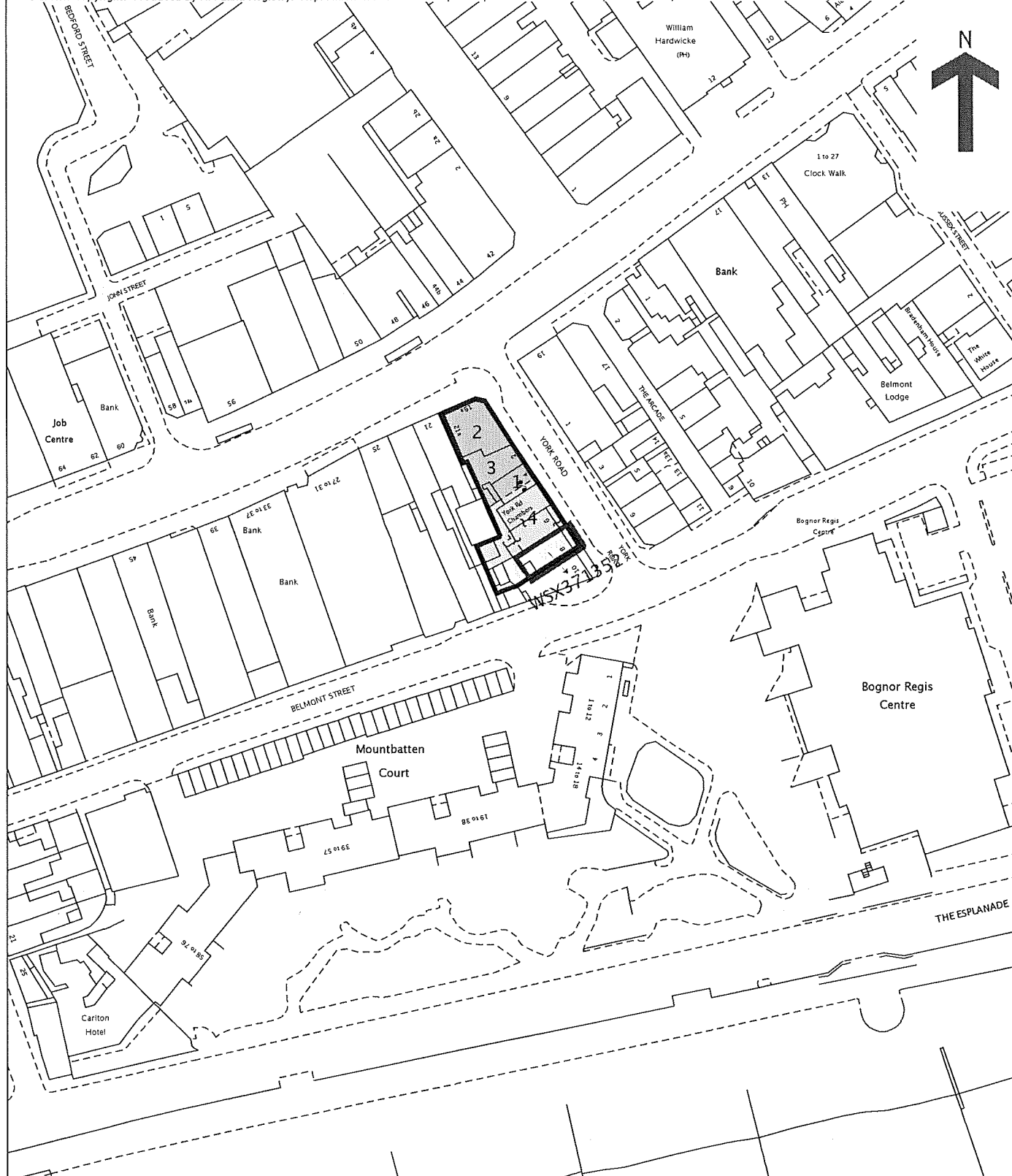
HM Land Registry

Official copy of title plan

Title number **WSX259017**
Ordnance Survey map reference **SZ9399SE**
Scale **1:1250**
Administrative area **West Sussex : Arun**



©Crown Copyright. Produced by HM Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.



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

This official copy is issued on 01 September 2017 shows the state of this title plan on 01 September 2017 at 12:34:58. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Durham Office .

agreement relates to
is a live case with Legal - instruction

Shree issued 30/6/17

ARUN DISTRICT COUNCIL TECHNICAL SUPPORT
28 JUL 2017
ACTION...

ARUN DISTRICT COUNCIL
LOCAL DEPARTMENT
SECTION 100 AGREEMENT & DEED DISCHARGE
RELATING TO 6 WORK ROAD

