

DATED

SECTION 106 AGREEMENT

TOWN & COUNTRY PLANNING ACT 1990

RELATING TO LAND AT 75 HIGHFIELD ROAD, BOGNOR REGIS. PO22 8PD

Parties:

OWNER [IAN THOMAS PAUL & PATRICIA JUNE PAUL]

and

ARUN DISTRICT COUNCIL

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THIS DEED is dated [5th October 2018]

- (1) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] OR [Ian Thomas Paul & Patricia June Paul] of [19 Springbok Cottages, Alfold, Surrey, GU6 8HT] **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 and is proposing to carry out the Development.
- (D) In consideration of Pagham Harbour policy ENV DM2 of the 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.

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.

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 [conversion of single dwelling to form 6 No. flats with associated ancillary facilities] 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/215/18/PL].

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

Property: the freehold land at [75 Highfield Road, Bognor Regis. PO22 8PD] shown edged red on the Plan and registered at HM Land Registry with absolute title under title number(s) [WSX233495].

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 OR Wales].

- 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.

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 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: [19 Springbok Cottages, Alfold, Surrey. GU6 8HT] marked for the attention of [Ian & Patricia Paul];

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.

Signed as a Deed by [OWNER
FULL NAME]



WITNESS SIGNATURE

In the presence of:-
[WITNESS FULL NAME]

JULIAN CHRISTOPHER BOYD

[WITNESS FULL ADDRESS]

49 TAYLORS CRESENT CRANLEIGH
SURREY

[WITNESS OCCUPATION]

Butcher

Executed as a Deed by affixing
THE COMMON SEAL of }
ARUN DISTRICT COUNCIL in the
presence of:- }

Authorised Signatory

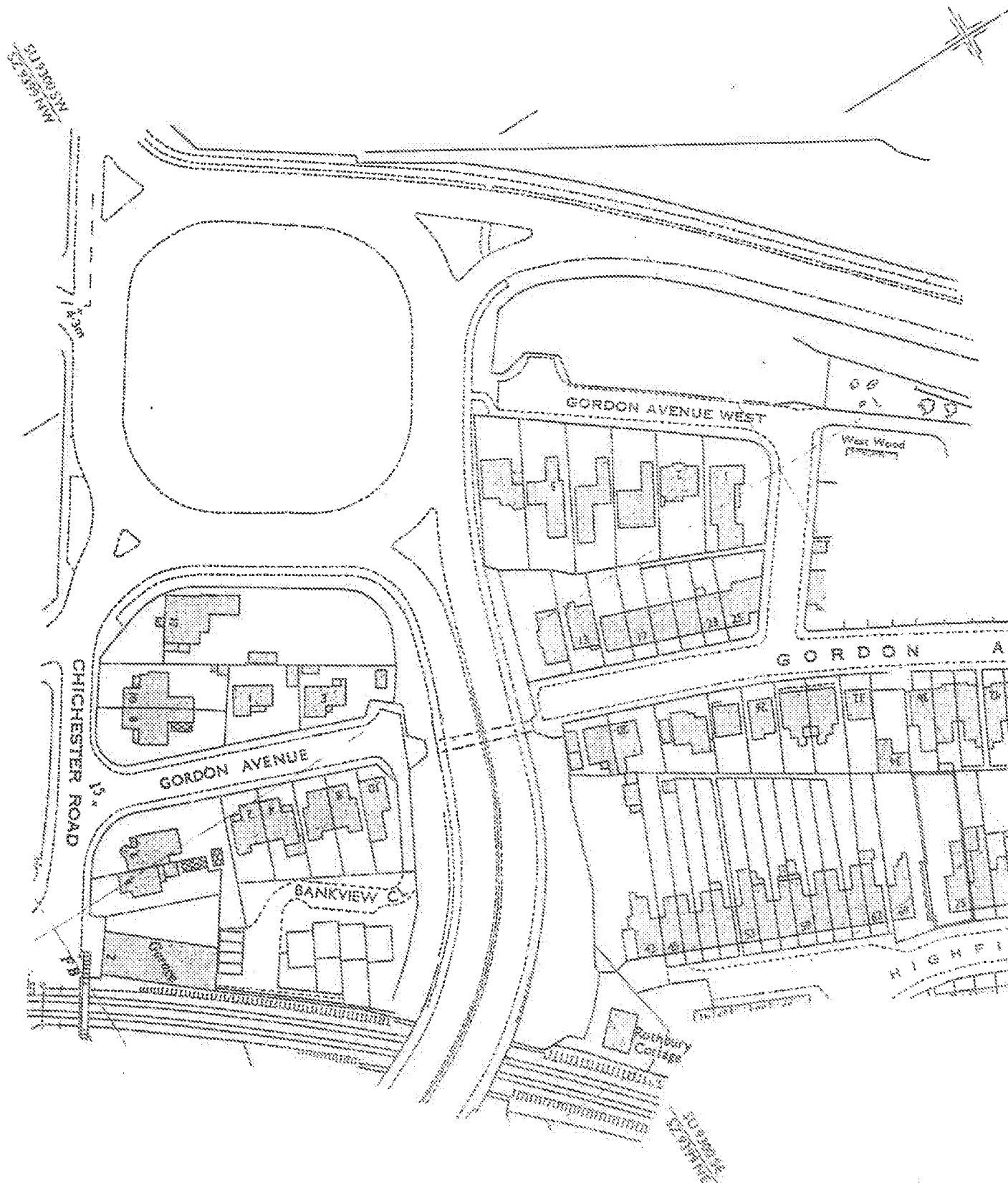
Signature

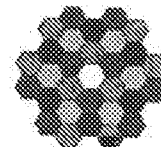
Name

Job Title

Seal Book No.

H.M. LAND REGISTRY		TITLE NUMBER	
		WSX2334	
ORDNANCE SURVEY PLAN REFERENCE	SU 9300	SECTION	U
COUNTY WEST SUSSEX	DISTRICT ARUN	© Crown	
BOGNOR			





Official copy of register of title

Title number WSX233495

Edition date 01.08.2018

- This official copy shows the entries on the register of title on 22 Aug 2018 at 16:20:01.
- 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 22 Aug 2018.
- 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 (01.07.1999) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 75 Highfield Road, Bognor Regis (PO22 8PD).
- 2 (01.07.1999) A Transfer of the land in this title dated 10 June 1999 made between (1) James Eric Parker and Eileen Parker (Transferor) and (2) Darren Seaton Schooley and others (Transferees) contains the following provision:-

"The parties declare that the Transferees shall not by virtue of this transfer acquire or be entitled to any easement or right of light or air which would prejudice the free use or enjoyment of any adjoining or neighbouring land of the Transferors for building or other purposes and any enjoyment of light or air had by the Transferees from or over any adjoining or neighbouring land of the Transferors shall be deemed to be had by consent of the Transferors."

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 (01.08.2018) PROPRIETOR: IAN THOMAS PAUL and PATRICIA JUNE PAUL of 75 Highfield Road, Bognor Regis PO22 8PD and of 19 Springbok Cottages, Springbok Estate, Alfold, Cranleigh GU6 8HT.
- 2 (01.08.2018) The price stated to have been paid on 27 July 2018 was £287,500.
- 3 (01.08.2018) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.
- 4 (01.08.2018) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register

B: Proprietorship Register continued

and of indemnity in respect thereof.

- 5 (01.08.2018) A Transfer dated 10 June 1999 made between (1) James Eric Parker and Eileen Parker and (2) Darren Seaton Schooley, RUSSELL SCHOOLEY and Joyce Schooley contains purchaser's personal covenant(s) details of which are set out in the schedule of personal covenants hereto.

The Transfer to the present proprietor contains a covenant to observe and perform the aforesaid covenant(s) and of indemnity in respect thereof.

- 6 (01.08.2018) 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 27 July 2018 in favour of Paragon Bank PLC referred to in the Charges Register.

Schedule of personal covenants

- 1 The following are details of the personal covenants contained in the Transfer dated 10 June 1999 referred to in the Proprietorship Register:-

"The Transferees hereby covenant jointly and severally with the Transferors that they will for ever hereafter maintain the boundary structure marked 'T' on the plan attached in a good and substantial condition"

NOTE: Copy plan filed.

C: Charges Register

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

- 1 (01.07.1999) A Deed dated 27 October 1891 made between (1) James Hughes (Purchaser) and (2) Arthur Smith (Vendor) contains covenants details of which are set out in the schedule of restrictive covenants hereto.
- 2 (01.08.2018) REGISTERED CHARGE dated 27 July 2018.
- 3 (01.08.2018) Proprietor: PARAGON BANK PLC (Co. Regn. No. 5390593) of 51 Homer Road, Solihull, West Midlands B91 3QJ.
- 4 (01.08.2018) The proprietor of the Charge dated 27 July 2018 referred to above is under an obligation to make further advances. These advances will have priority to the extent afforded by section 49(3) Land Registration Act 2002.

Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Deed dated 27 October 1891 referred to in the Charges Register:-

Each of the Purchasers doth hereby for himself his heirs executors administrators and assigns covenant with every two or more and each one of the other Purchasers and their and his respective heirs and assigns and also with the Vendor his heirs and assigns. That he the Covenantor his heirs and assigns and all persons deriving title through under or in trust for him or them respectively as Lessees Mortgagees or otherwise howsoever shall and will at all times for ever hereafter observe and perform such of the stipulations contained in the Second Schedule hereto as are applicable to the Lot or Lots purchased by him And it is hereby mutually agreed and declared between and by the several persons parties hereto that in the construction and for the purposes of these presents and of the said Schedule hereunder written the term "Owner" with reference to any Lot or Lots shall mean and include the person to whom the same Lot or Lots has or have been or is or are about to be or has or have been agreed to be conveyed as aforesaid and his heirs and assigns and every person who shall

Schedule of restrictive covenants continued

hereafter sign their names and affix their seals to those presents and his heirs and assigns and that the term Lot or Lots shall mean the Lot or Lots as delineated and numbered in the said plan hereto annexed Provided always and it is hereby agreed that the Vendor or his heirs or assigns or the owner of any Lot may at any time enforce the observance or performance of any of the said stipulations by any action or proceeding against any either or other of them (other than the Vendor and his heirs) without making any person a defendant thereto other than the person committed or suffering the breach of such stipulations which is complained of in such action or proceeding and that these presents may be received as a conclusive answer to any objection for want of parties in that respect in any such Action or proceeding

THE SECOND SCHEDULE

referred to by the foregoing Indenture

The Purchaser of each lot his heirs and assigns shall at all times when required by the Vendor his heirs or assigns pay to him or them or contribute an equal or proportionate share with the owners (other than the Vendor and his heirs) of the other Lots adjoining the roads marked on the said plan hereto annexed and thereon coloured brown according to the extent of their respective frontages to such respective roads of the expenses of repairing cleansing and maintaining to the satisfaction of the Vendor his heirs and assigns the said roads and the principal sewers and drains under the same and all other expenses connected therewith until the same respectively shall be adopted by and taken into the charge of the Parish or Local Authority and also of the expenses that may be incurred on the adoption or taking over the said roads by the Parish or Local Authority such share or proportion in case of dispute to be settled by the Surveyor for the time being of the Vendor his heirs or assigns

The Purchaser of each Lot his heirs and assigns shall at all times hereafter when required by the Vendor his heirs or assigns pay him or them or contribute an equal or proportionate share with the owners (other than the Vendor and his heirs) of the Lots adjoining the roads marked on the said plan hereto annexed and thereon coloured brown according to the extent of the respective frontages to such respective roads of the expenses of maintaining and keeping in repair to the satisfaction of the Vendor his heirs and assigns the roadway and foot path on the bridge erected by the Vendor over the London Brighton and South Coast Railway as delineated in the said plan hereto annexed and thereon coloured blue under the provisions of the said Agreement dated the Thirtieth day of December One thousand eight hundred and eighty nine and made between the London Brighton and South Coast Railway Company of the one part and the Vendor of the other part until the same roadway and footpaths shall be adopted by and taken into the charge of the Parish or Local Authority and also of the expenses that may be incurred on the adoption or taking over of the said roads and footpaths by the Parish or Local Authority such share or proportion in case of dispute to be settled by the Surveyor for the time being of the Vendor his heirs or assigns.

Nothing shall be erected nearer to the roads delineated in the said plan hereto annexed and thereon coloured brown than the dotted line on the said plan hereto annexed ten feet from the boundary except the boundary walls or fences (which shall not exceed six feet in height without the permission of the Vendor or his heirs).

No house shall be erected on Lots 1 to 91 inclusive as specified on the said plan hereto annexed of less value than Two hundred and fifty pounds or on any other Lots as specified in the said plan of less value than One hundred and fifty pounds.

No building shall be erected or used as a shop warehouse workshop factory or otherwise than as a private dwellinghouse or offices or stabling attached or appurtenant thereto except on Lots 117 to 120 inclusive as specified in the said Plan hereto annexed and no building shall be erected or used as a public house or hotel except upon Lot 116 as specified in the said plan hereto annexed.

Title number WSX233495

Schedule of restrictive covenants continued

No trade or manufacture of a noisome or offensive nature shall be carried on on any Lot.

NOTE: No copy of the plan referred to was supplied on first registration.

End of register