

DATED

1st September 2017

SECTION 106 AGREEMENT

TOWN & COUNTRY PLANNING ACT 1990

RELATING TO LAND AT THE REAR OF 41-47 PEVENSEY ROAD BOGNOR REGIS PO21 5NY

Parties:

OWNERS DAVID CLIFFORD BENHAM, JANE ELIZABETH BENHAM, JOHN MAURICE OVERTON
AND SUSAN ELIZABETH OVERTON

and

ARUN DISTRICT COUNCIL

THIS DEED is dated [DATE] *1st September 2017*

- (1) David Clifford Benham and Jane Elizabeth Benham of 43 Pevensey Road Bognor Regis PO21 4NY, Susan Elizabeth Overton of 45 Pevensey Road, Bognor Regis PO21 4NY and John Maurice Overton of 71 Poulsters Lane Worthing BN14 7SX Owners; 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 Owners own 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 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.

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 the erection of 4 no. dwellings, 1 no. detached garage, parking and alterations to existing access and driveway as described in the Planning Application.

- 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.

- (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 Owners at: David Clifford Benham and Jane Elizabeth Benham of 43 Pevensey Road Bognor Regis PO21 4NY, Susan Elizabeth Overton of 45 Pevensey Road, Bognor Regis PO21 4NY and John Maurice Overton of 71 Poulsters Lane Worthing BN14 7SX;

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

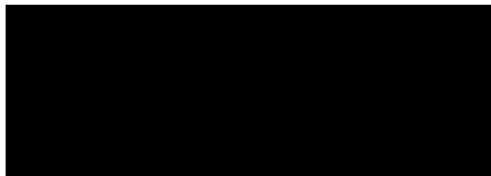
A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

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.

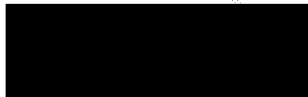
This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Signed as a Deed by Susan
Elizabeth Overton



OWNER SIGNATURE

In the presence of:-
[WITNESS FULL NAME]



Noreen Aswad
Javaid

WITNESS SIGNATURE

[WITNESS FULL ADDRESS]

45 Queen Street
Worthing
West Sussex BN14 7RL

[WITNESS OCCUPATION]

Student

Executed as a Deed by affixing
THE COMMON SEAL of

}
ARUN DISTRICT COUNCIL in the
presence of:-

}

Authorised Signatory

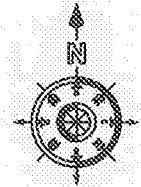
Signature

Name

Job

Title

Seal Book No.



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Scale 1:1250 @ A4

Title Number : SX13472

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

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

Neither this extract nor the full copy is an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy.

This extract shows information current on 5 MAR 2015 at 09:12:11 and so does not take account of any application made after that time even if pending in the Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: SX13472
Address of Property	: 45 Pevensey Road, Bognor Regis (PO21 5NY)
Price Stated	: Not Available
Registered Owner(s)	: JOHN MAURICE OVERTON and SUSAN ELIZABETH OVERTON of 45 Pevensey Road, Bognor Regis, W Sussex PO21 5NY.
Lender(s)	: Bank of Scotland PLC

Title number SX13472

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 6 MAR 2015 at 09:12:11. This copy does not take account of any application made after that time even if still pending in the Land Registry when this copy was issued.

This copy is not an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy. If you want to obtain an official copy, the Land Registry web site explains how to do this.

A: Property Register

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

WEST SUSSEX : ARUN

- 1 (27.11.1945) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being 45 Pevensey Road, Bognor Regis (PO21 5NY).

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 (23.02.1996) PROPRIETOR: JOHN MAURICE OVERTON and SUSAN ELIZABETH OVERTON of 45 Pevensey Road, Bognor Regis, W Sussex PO21 5NY.

C: Charges Register

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

- 1 A Transfer of the land in this title dated 12 June 1947 made between (1) William Arthur Wade and (2) George Elmer and Gertude May Elmer contains restrictive covenants.

NOTE: Original filed.

- 2 A Transfer of the land in this title and other land dated 26 July 1971 made between (1) Victoria Wine-Tylers Limited and (2) John George Brough and Teresa Mary Brough contains the following covenants:-

"The Transferees hereby covenant with the Transferors and its successors and assigns to the intent and so as to bind the property hereby transferred and each and every part thereof into whosoever hands the same may come and to benefit and protect the Transferors and the licensed premises belonging to it and its Associated Companies all subsidiaries of Allied Breweries Limited being Wine Markets Limited Allied Breweries (UK) Limited Ind Coope Limited Friary Maux Limited and Guildford Holdings Limited known as 18 Rose Green Road, Aldwick Bognor Regis Regis aforesaid 45 Hawthorn Road Bognor Regis and 5 Coastguard Parade Aldwick Bognor Regis aforesaid and all other property of the Transferors and its Association Companies situate within five miles of the property hereby transferred and each and every part of the property of the Transferors intended to be benefited and protected as aforesaid That the property hereby transferred and each and every part thereof and each and every building erected or to be erected thereon shall not at any time be used or permitted or suffered to be used for the manufacture sale or supply of intoxicating liquors of any kind whatsoever or for the consumption on the premises by way of trade of intoxicating liquors of any description or for the purpose of a club at which intoxicating liquors are permitted to be sold supplied or consumed or as an hotel boarding house lodging house restaurant and

Title number SX13472

C: Charges Register continued

cafe or for the sale of food for consumption on the premises or as an extension of or in connection with other premises on which any of the said prohibited uses are carried on."

- 3 (12.04.2005) REGISTERED CHARGE dated 4 March 2005.
- 4 (19.12.2007) Proprietor: BANK OF SCOTLAND PLC (Scot. Co. Regn. No. SC327000) of Halifax Division, 1 Lovell Park Road, Leeds LS1 1NS.

End of register

H. M. LAND REGISTRY GENERAL MAP

~~SUSSEX~~ SHEET LXXIV. 1. SECTION

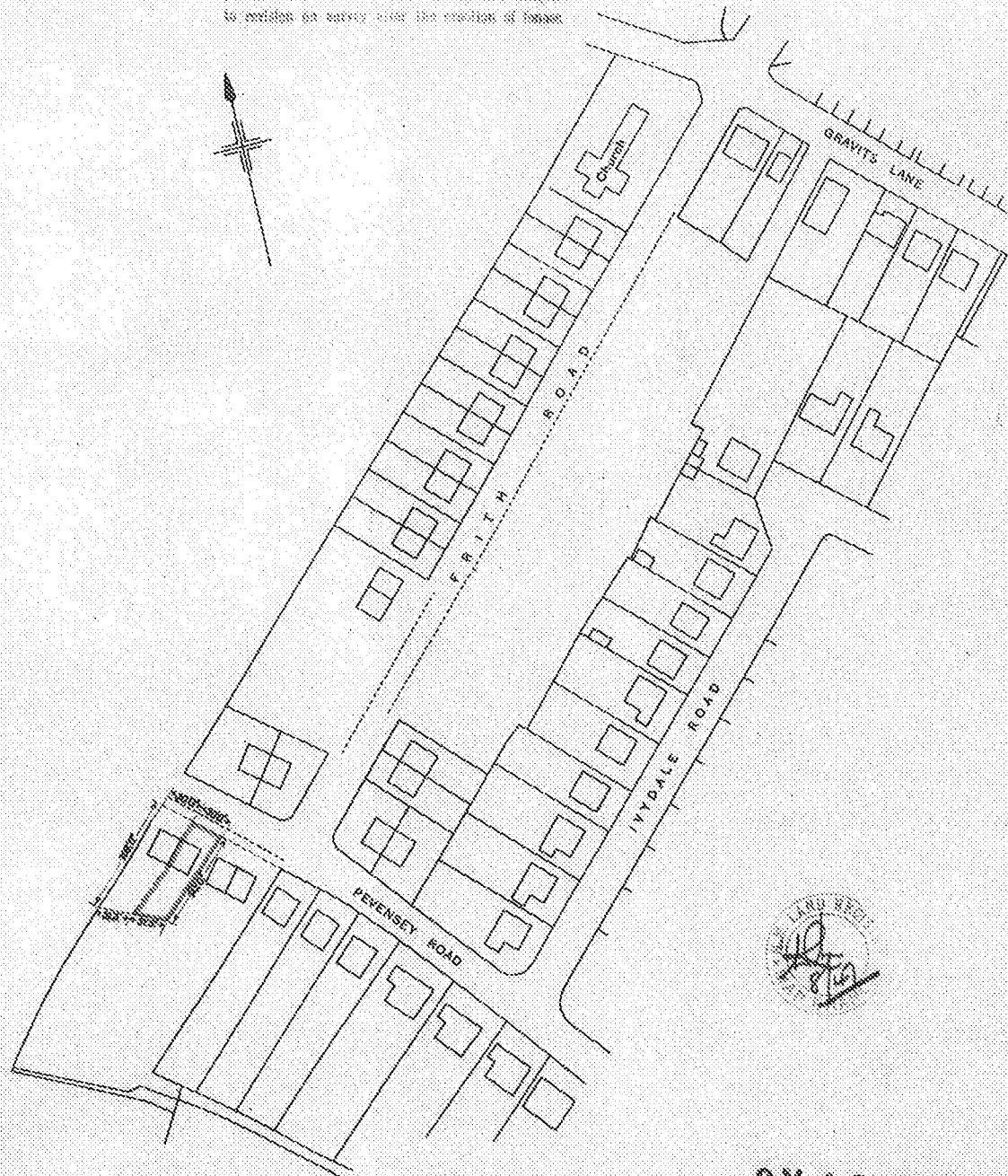
Scale 1/1250. Enlarged from 1/2500.

COUNTY OF WEST SUSSEX

ARUN DISTRICT

~~BOSHAM PARISH~~

The boundaries shown by dotted lines have been plotted from the transfer plan and are subject to revision on survey after the creation of leases.



Filed Plan of Title No. SX 13472

This is a copy of the title plan on: 6 MAR 2018 at 09:12:11. This copy does not take account of any application made after that time even if still pending in the Land Registry when this copy was issued.

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Title Number : SX13498

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The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

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This extract shows information current on 6 MAR 2015 at 10:09:20 and so does not take account of any application made after that time even if pending in the Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: SX13498
Address of Property	: land at the rear of 45 and 47 Pevensey Road, Bognor Regis, (PO21 5NY)
Price Stated	: Not Available
Registered Owner(s)	: JOHN MAURICE OVERTON and SUSAN ELIZABETH OVERTON of 45 Pevensey Road, Bognor Regis, W Sussex PO21 5NY.
Lender(s)	: Santander UK PLC

Title number SX13498

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 6 MAR 2015 at 10:09:20. This copy does not take account of any application made after that time even if still pending in the Land Registry when this copy was issued.

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A: Property Register

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

WEST SUSSEX : ARUN

- 1 (27.11.1945) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land at the rear of 45 and 47 Pevensey Road, Bognor Regis, (PO21 5NY).

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 (23.02.1996) PROPRIETOR: JOHN MAURICE OVERTON and SUSAN ELIZABETH OVERTON of 45 Pevensey Road, Bognor Regis, W Sussex PO21 5NY.

C: Charges Register

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

- 1 A Transfer of the land in this title dated 2 December 1946 made between (1) William Arthur Wade and (2) George Elmer and Gertrude May Elmer contains restrictive covenants.

NOTE: Original filed.

- 2 A Transfer of the land in this title and other land dated 26 July 1971 made between (1) Victoria Wine-Tylers Limited and (2) John George Brough and Teresa Mary Brough contains the following covenants:-

"The Transferees hereby covenant with the Transferors and its successors and assigns to the intent and so as to bind the property hereby transferred and each and every part thereof into whosoever hands the same may come and to benefit and protect the Transferors and the licensed premises belonging to it and its Associated Companies all subsidiaries of Allied Breweries Limited being Wine Markets Limited Allied Breweries (U.K.) Limited Ind Coope Limited Friary Meux Limited and Guildford Holdings Limited known as 18 Rose Green Road, Aldwick, Bognor Regis aforesaid 45 Hawthorn Road, Bognor Regis and 5 Coastguard Parade, Aldwick, Bognor Regis aforesaid and all other property of the Transferors and its Associated Companies situate within five miles of the property hereby transferred and each and every part of the property of the Transferors intended to be benefited and protected as aforesaid That the property hereby transferred and each and every part thereof and each and every building erected or to be erected thereon shall not at any time be used or permitted or suffered to be used for the manufacture sale or supply of intoxicating liquors of any kind whatsoever or for the consumption on the premises by way of trade of intoxicating liquors of any description or for the purposes of a club at which intoxicating liquors are permitted to be sold supplied or consumed or as an hotel boarding house lodging guest house restaurant

Title number SX13498

C: Charges Register continued

and cafe or for the sale of food for consumption on the premises or as an extension of or in connection with other premises on which any of the said prohibited uses are carried on."

- 3 (19.02.2003) REGISTERED CHARGE dated 23 January 2003 affecting also title SX13472 to secure the moneys including the further advances therein mentioned.
- 4 (08.06.2010) Proprietor: SANTANDER UK PLC (Co. Regn. No. 2294747) of Mortgage Customer Services, Customer Service Centre, Narborough, Leicester LE19 0AL.
- 5 (09.03.2007) UNILATERAL NOTICE affecting also other land in respect of an Agreement dated 2 March 2007 made between (1) Kevin Brian Scott and others and (2) Martlet Homes Limited.

NOTE: Copy filed under SX13605.

- 6 (09.03.2007) BENEFICIARY: Martlet Homes Limited of Martlet House, Southern Gate, Chichester, West Sussex, PO19 8SG.

End of register

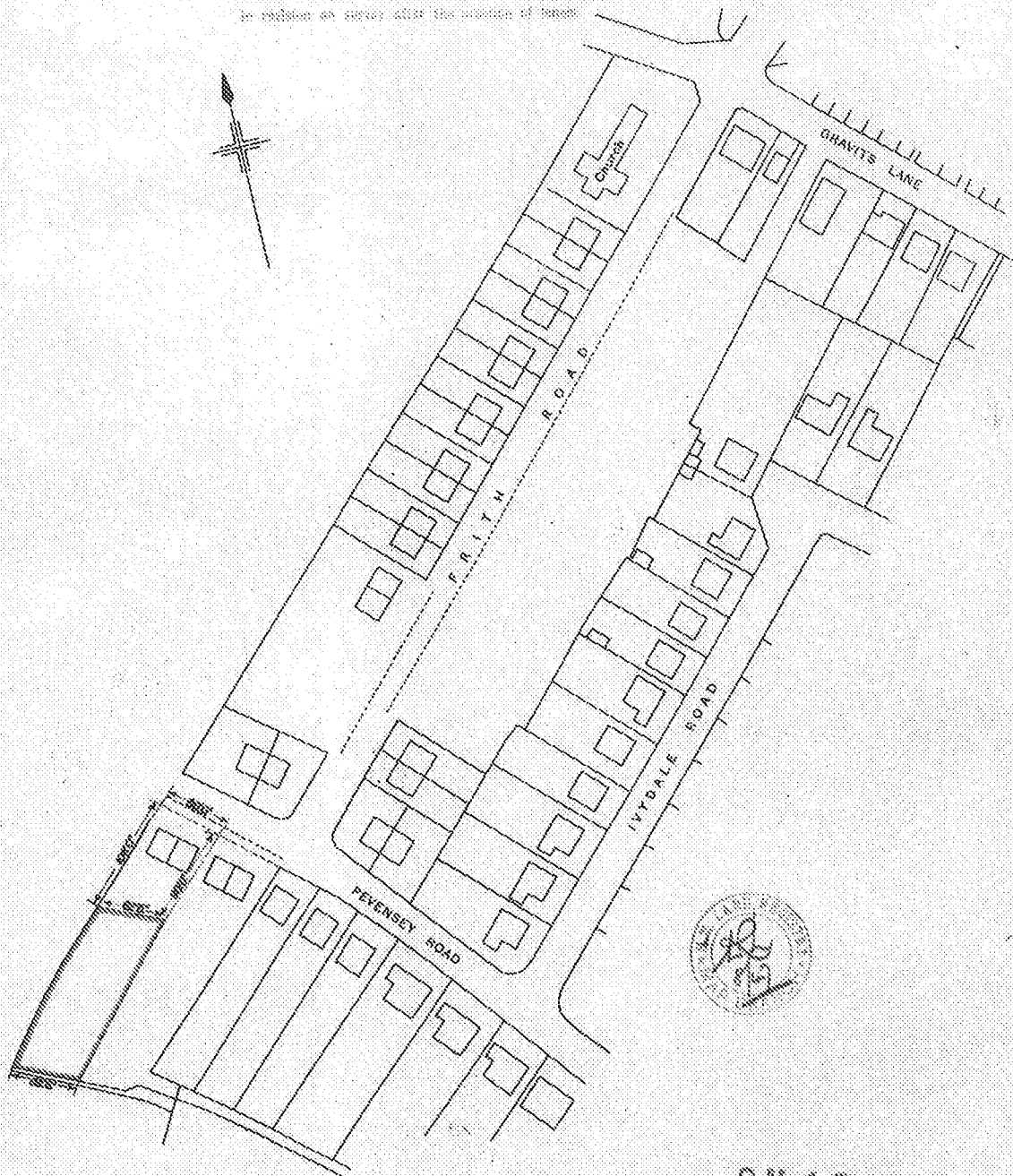
H.M. LAND REGISTRY GENERAL MAP

SUSSEX SHEET LXXIV. 1. SECTION

Scale 1/1250. Enlarged from 1/2500.

COUNTY OF WEST SUSSEX
ARUN DISTRICT

The boundaries shown by dotted lines have been
advised from the transfer plan and are subject
to revision on survey after the creation of tenures.



Filed Plan of Title No. SX 18498

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H. M. LAND REGISTRY GENERAL MAP

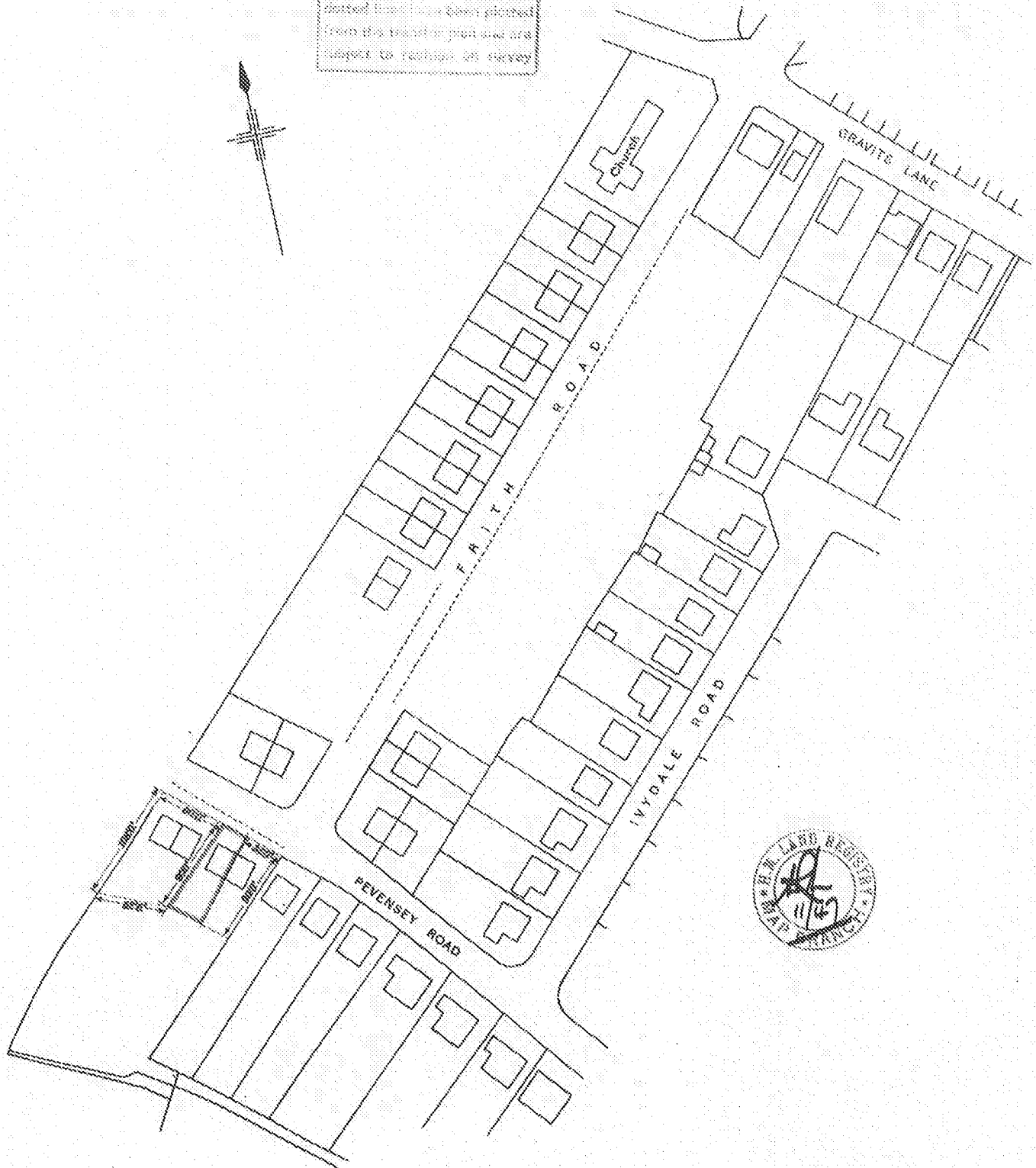
SUSSEX SHEET LXXIV. 1. SECTION

Scale 1/1250. Enlarged from 1/2500.

BOGNOR PARISH

~~ARUN DISTRICT~~

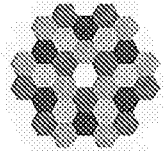
The boundaries shown by
dotted lines have been plotted
from the tithe map and are
subject to revision on survey



Filed Plan of Title No. **SX 13627**

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 SX13627

Edition date 16.01.2014

- This official copy shows the entries on the register of title on 04 OCT 2016 at 09:17:21.
- 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 04 Oct 2016.
- 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 Land Registry, Durham Office.

A: Property Register

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

WEST SUSSEX : ARUN

- 1 (27.11.1945) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 43 Pevensey Road, Bognor Regis (PO21 5NY).

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 (13.01.1997) PROPRIETOR: DAVID CLIFFORD BENHAM and JANE ELIZABETH BENHAM of 43 Pevensey Road, Bognor Regis, W Sussex PO21 5NY.
- 2 (04.07.2013) 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.

C: Charges Register

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

- 1 A Transfer dated 14 August 1947 made between (1) William Arthur Wade and (2) Stanley Montagu Smith contains restrictive covenants.
NOTE: Copy filed.
- 2 (08.06.2007) REGISTERED CHARGE dated 16 May 2007 affecting also title SX13499.
- 3 (31.12.2007) Proprietor: LLOYDS BANK PLC (Co. Regn. No. 2065) of Registrations, Secured Assets, Barnett Way, Gloucester GL4 3RL.

End of register

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.

H. M. LAND REGISTRY GENERAL MAP

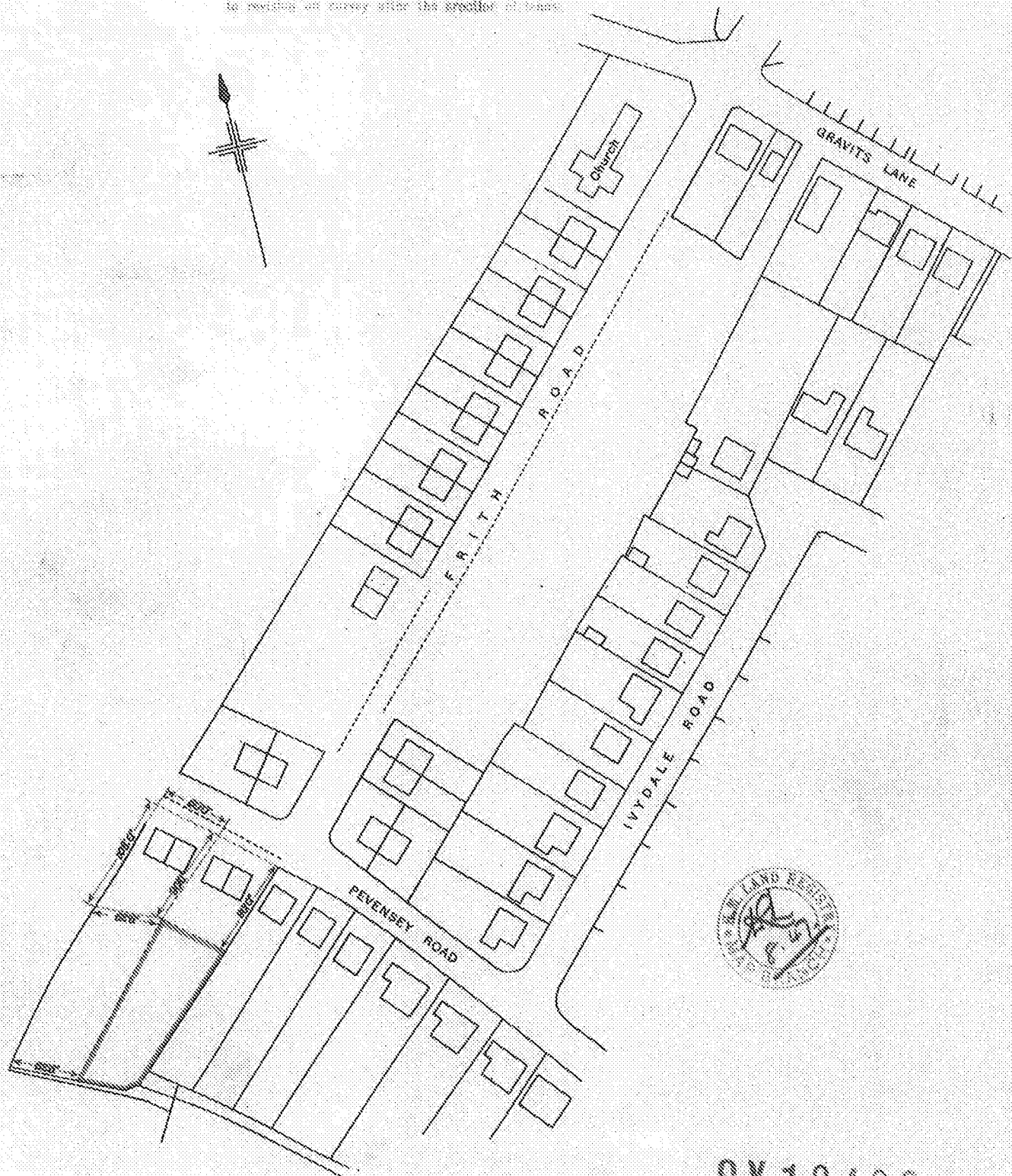
SUSSEX SHEET LXXIV. 1. SECTION

Scale 1/1250. Enlarged from 1/2500.

BOGNOR PARISH

ARUN DISTRICT

The boundaries shown by dotted lines have been plotted from the transfer plan and are subject to revision on survey after the creation of tenures.



Filed Plan of Title No. **SX 13499**

These are the notes referred to on the following official copy

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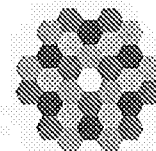
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Official copy of register of title

Title number SX13499

Edition date 10.10.2013

- This official copy shows the entries on the register of title on 28 SEP 2016 at 09:20:43.
- 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 28 Sep 2016.
- 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 Land Registry, Durham Office.

A: Property Register

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

WEST SUSSEX : ARUN

- 1 (27.11.1945) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land at the rear of 41 and 43 Pevensey Road, Bognor Regis (PO21 5NY).

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 (13.01.1997) PROPRIETOR: DAVID CLIFFORD BENHAM and JANE ELIZABETH BENHAM of 43 Pevensey Road, Bognor Regis, W Sussex PO21 5NY.

C: Charges Register

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

- 1 A Transfer dated 30 November 1946 made between (1) William Arthur Wade and (2) Stanley Montagu Smith contains restrictive covenants.

NOTE: Copy filed.

- 2 (09.03.2007) UNILATERAL NOTICE affecting also other land in respect of an Agreement dated 2 March 2007 made between (1) Kevin Brian Scott and others and (2) Martlet Homes Limited.

NOTE: Copy filed under SX13605.

- 3 (09.03.2007) BENEFICIARY: Martlet Homes Limited of Martlet House, Southern Gate, Chichester, West Sussex, PO19 8SG.
- 4 (08.06.2007) REGISTERED CHARGE dated 16 May 2007 affecting also title SX13627.
- 5 (31.12.2007) Proprietor: LLOYDS BANK PLC (Co. Regn. No. 2065) of Registrations, Secured Assets, Barnett Way, Gloucester GL4 3RL.

Title number SX13499

End of register

The electronic official copy of the register follows this message.

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