DATED

10 November 2022

PLANNING OBLIGATION BY WAY OF UNILATERAL UNDERTAKING UNDER SECTION 106 OF THE TOWN & COUNTRY PLANNING ACT 1990

RELATING TO LAND AT

98-100 CHICHESTER ROAD
BOGNOR REGIS
PO22 5AA

Parties:

OWNER

ASHTON CARE (BOGNOR REGIS) LIMITED

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THIS DEED is dated 10 November 2022

(1) (COMPANY):

Ashton Care (Bognor Regis) Limited incorporated and registered in England and Wales with company number 11419595 whose registered office is at 124-128 Aldwick Road Bognor Regis PO21 2PA Owner

IN FAVOUR OF Arun District Council of The Civic Centre Maltravers Road Littlehampton 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 is the registered proprietor with Title Absolute of the land registered at HM Land Registry under Title Numbers WSX33591 and WSX152040 and known as land at 98-100 Chichester Road Bognor Regis PO21 5AA.

(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 and a reduction in the tariff on 10 April 2017, 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 £871 [Eight Hundred and Seventy One Pounds] 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;

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archaeological investigation; and erection of any fences and hoardings around the Property.] **Commenced** and **Commences** shall be construed accordingly.

Commencement Date: the date of Commencement of Development.

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

Development: the development of the Property by conversion of the existing first floor office space (B1 Business) into 1 No. two bedroom flat (C3 Dwelling house) including rear access, amenity space & general storage 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/315/19/PL.

Planning Permission: means a Planning Permission for the Development pursuant to the Planning Application.

Property: the freehold land at 98-100 Chichester Road Bognor Regis PO21 5AA shown edged red on the Plan and registered at HM Land Registry with absolute title under title number(s) WSX33591 and WSX152040.

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.

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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, Localism Act 2011 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.

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3. COVENANTS WITH THE COUNCIL

The Owner covenants with the Council to pay the Access Management Contribution to the Council on or before the Commencement Date.

4. 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.

5. 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.

6. LOCAL LAND CHARGE

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

7. INTEREST ON LATE PAYMENT

If the Access Management Contribution has not been paid to the Council prior to or on the Commencement Date, 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 Commencement Date to and including the date of payment.

8. 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.

9. OWNERSHIP

9.1 The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property.

9.2 Until the obligations in clause 3 have been complied with the Owner will give to the Council within 14 Working Days, the following details of any conveyance,

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transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Property:

(a) the name and address of the person to whom the disposition was made; and

(b) the nature and extent of the interest disposed of.

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 Planning Department of Arun District Council, quoting the Planning Application number at the following address: The Civic Centre Maltravers Road Littlehampton BN17 5LF;

(b) for the attention of the Owner Ashton Care (Bognor Regis) Limited at: 128 Aldwick Road Bognor Regis PO21 2PA;

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.

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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.

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

1. Signed as a Deed by [OWNER FULL NAME] In the presence of: [WITNESS FULL NAME] [WITNESS FULL ADDRESS] [WITNESS OCCUPATION]	..... OWNER SIGNATURE ..... WITNESS SIGNATURE
2. Executed as a deed by Ashton Care (Bognor Regis) Limited acting by Rebecca Newman-Smith, a director and Susan Newman, a director	[redacted]

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GOV.UK

Search for land and property information

Title register for:

98 Chichester Road, Bognor Regis, PO21 5AA (Freehold)

Title number: WSX33591

Accessed on 09 November 2022 at 14:35:38

This information can change if we receive an application. This service can not tell you if HM Land Registry are dealing with an application.

This is not an official copy. It does not take into account if there's a pending application with HM Land Registry. If you need to prove property ownership, for example, for a court case, you'll need to order an official copy of the register.

Register summary

Title number	WSX33591
Registered owners	Ashton Care (Bognor Regis) Limited 124-128 Aldwick Road, Bognor Regis PO21 2PA
[redacted]	This value covers more than just the land in this title

A: Property Register

This register describes the land and estates comprised in this title.

Entry number	Entry date	
1	1979-06-08	WEST SUSSEX : ARUN

		The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 98-100 Chichester Road, Bognor Regis (PO21 5AA).
2		The land has the benefit of the following rights granted by a Conveyance of the land in this title dated 4 September 1975 made between (1) A.E Cheney Limited (Vendor) and (2) Sydney Austin (Purchaser):- "Together with all other rights and easements appertaining to the said property."

B: Proprietorship Register

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

Class of Title: Title absolute

Entry number	Entry date	
1	2021-07-21	PROPRIETOR: ASHTON CARE (BOGNOR REGIS) LIMITED (Co. Regn. No. 11419595) of 124-128 Aldwick Road, Bognor Regis PO21 2PA.
2	2021-07-21	The price stated to have been paid on 15 July 2021 for the land in this title and in title WSX152040 was £192,000.

HM Land Registry
Current title plan

Title number **WSX33591**
Ordnance Survey map reference **SU9300SW**
Scale **1:1250**
Administrative area **West Sussex : Arun**



This is a copy of the title plan on 9 NOV 2022 at 14:34:53. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

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HM Land Registry endeavours to maintain high quality and scale accuracy of title plan images. The quality and accuracy of any print will depend on your printer, your computer and its print settings. The 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 HM Land Registry, Durham Office.

ARUN DISTRICT COUNCIL BR/264/22/PL

GOV.UK

Search for land and property information

Title register for:

100 Chichester Road, Bognor Regis, PO21 5AA (Freehold)

Title number: WSX152040

Accessed on 09 November 2022 at 15:02:17

This information can change if we receive an application. This service can not tell you if HM Land Registry are dealing with an application.

This is not an official copy. It does not take into account if there's a pending application with HM Land Registry. If you need to prove property ownership, for example, for a court case, you'll need to order an official copy of the register.

Register summary

Title number	WSX152040
Registered owners	Ashton Care (Bognor Regis) Limited 124-128 Aldwick Road, Bognor Regis PO21 2PA
[redacted]	
	This value covers more than just the land in this title

A: Property Register

This register describes the land and estates comprised in this title.

Entry number	Entry date	
1	1990-02-27	WEST SUSSEX : ARUN The Freehold land shown edged with red on the

	plan of the above Title filed at the Registry and being 100 Chichester Road, Bognor Regis (PO21 5AA).

B: Proprietorship Register

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

Class of Title: Title absolute

Entry number	Entry date	
1	2021-07-21	PROPRIETOR: ASHTON CARE (BOGNOR REGIS) LIMITED (Co. Regn. No. 11419595) of 124-128 Aldwick Road, Bognor Regis PO21 2PA.
2	2021-07-21	The price stated to have been paid on 15 July 2021 for the land in this title and in title WSX33591 was £192,000.

C: Charges Register

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

Class of Title: Title absolute

Entry number	Entry date	
1		The land is subject to the following rights reserved by a Conveyance of the land in this title dated 17 April 1937 made between (1) A. E. Cheney Limited (Vendors) and (2) Jane Humphrey and Frederick Edward Humphrey:-:- "RESERVING NEVERTHELESS unto the owner or occupiers of the adjoining premises on the West side of the property hereby conveyed a right of way on foot only over the most western portion of the

property hatched red on the said plan endorsed hereon and also a similar right of way over the passage coloured blue on the said plan AND ALSO reserving unto the Vendors or other the owner or owners occupier or occupiers for the time being of the property on the East side of the property hereby conveyed a right of way on foot only over the most western portion of the property hatched red on the said plan endorsed hereon and also a similar right of way over the portions of land coloured blue and brown on the said plan AND ALSO reserving unto the Vendors or other the owner or owners of the adjoining premises on the East side of the property hereby conveyed all easements rights of way or quasi-easements and reservations which are at the present enjoyed by such adjoining premises in on and over the property hereby conveyed or any part thereof."

NOTE: Copy plan filed.

HM Land Registry
Current title plan

Title number **WSX152040**
Ordnance Survey map reference **SU9300SW**
Scale **1:1250**
Administrative area **West Sussex : Arun**

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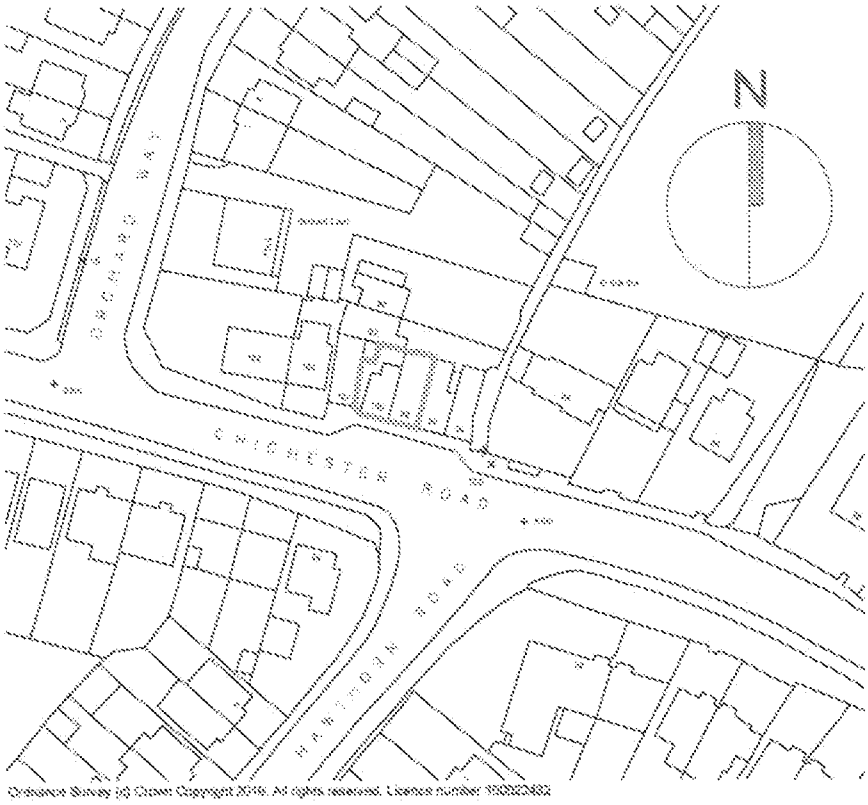
This title is dealt with by HM Land Registry, Durham Office.



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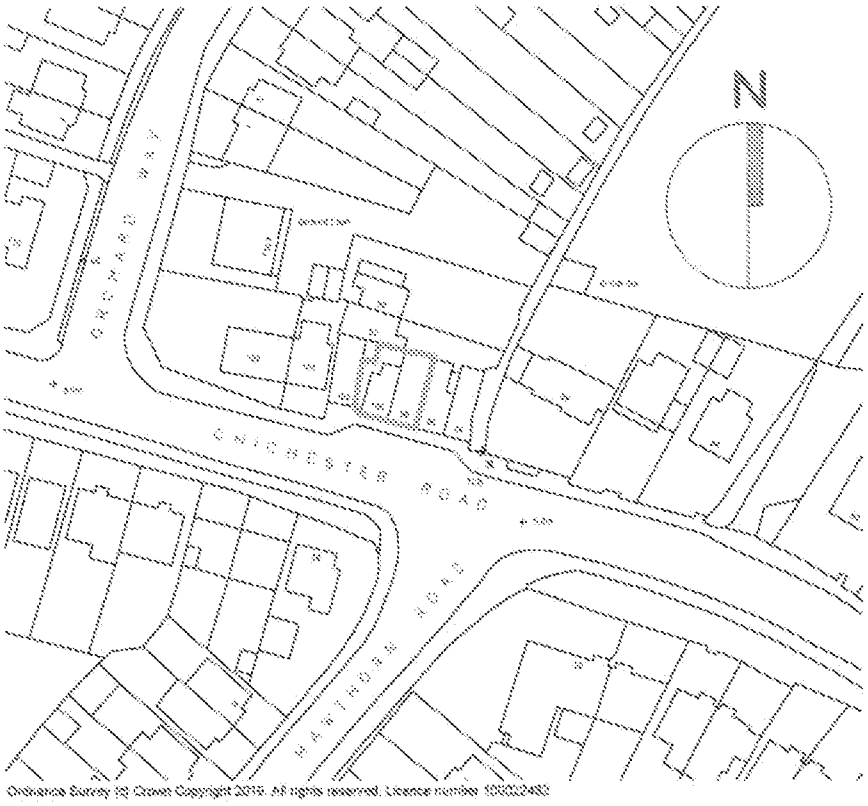
1. Location Plan
scale1 : 1250

98-100 Chichester Road
Bognor Regis
PO21 5AA

Location Plan

2107 0.003

SN



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1. Location Plan
scale1 : 1250

98-100 Chichester Road
Bognor Regis
PO21 5AA

Location Plan

2107 2 008