

DATED

10 July 2019

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

**RELATING TO LAND AT CHANDOS ELM GROVE BOGNOR REGIS WEST  
SUSSEX PO21 2SW**

Parties:

**OWNER- JULIA ANDREA AZZOPARDI AND PHILIP JOHN TEASDALE**

**AND**

**APPLICANT - DOMUSEA DEVELOPMENTS LTD**

**AND**

**ARUN DISTRICT COUNCIL**

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### CLAUSE

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THIS DEED is dated 10 July 2019

(1)

DOMUSEA DEVELOPMENTS LTD incorporated and registered in England and Wales with company number 08753483 whose registered office is at Devonshire House Manor Way Borehamwood Hertfordshire WD6 1QQ "the Applicant"

(2) JULIA ANDREA AZZOPARDI AND PHILIP JOHN TEASDALE of Chandos Elm Grove Bognor Regis West Sussex PO21 2SW "the Owner"

(3) Arun District Council of Arun Civic Centre Maltravers Road Littlehampton West Sussex BN17 5LF "the 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 Applicant 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 and Applicant 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 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 Demolition of outbuildings & extension & construction of 1 No. 2-bed dwelling & associated works 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/46/19/PL

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

**Property:** the freehold land at Chandos Elm Grove Bognor Regis PO21 2SW shown edged red on the Plan and registered at HM Land Registry with absolute title under title number WSX25666

**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, Localism Act 2011 and any other enabling powers.
- 2.2 The obligations contained in clause 2.1 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 2.1 of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

**3. COVENANTS WITH THE COUNCIL**

The Owner and Applicant 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 AND APPLICANT**

In the event that clause 6 applies, the Council covenants to repay the Access Management Contribution to the Owner and/or Applicant 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 and/or Applicant 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 and Applicant shall pay to the Council on the date of this deed the Council's reasonable and proper legal costs together with all disbursements

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.

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

|                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1.<br/>Signed as a Deed by JULIA<br/>ANDREA AZZOPARDI</p> <p>In the presence of:-<br/>[WITNESS FULL NAME]<br/>[WITNESS FULL ADDRESS]<br/>[WITNESS OCCUPATION]</p> |  <p>OWNER SIGNATURE</p>  <p>WITNESS SIGNATURE</p> <p>Kajuscha Blende<br/>70 Aldwin Road, PO21 2PE<br/>Estate Agent.</p>  |
| <p>2.<br/>Signed as a Deed by PHILIP JOHN<br/>TEASDALE</p> <p>In the presence of:-<br/>[WITNESS FULL NAME]<br/>[WITNESS FULL ADDRESS]<br/>[WITNESS OCCUPATION]</p>   |  <p>OWNER SIGNATURE</p>  <p>WITNESS SIGNATURE</p> <p>Kajuscha Blende<br/>70 Aldwin Road, PO21 2PE<br/>Estate Agent.</p> |
| <p>3.</p>                                                                                                                                                            |                                                                                                                                                                                                                                                                                                 |

Executed as a deed by DOMUSEA  
DEVELOPMENTS LTD acting by  
[NAME OF FIRST DIRECTOR], a  
director and

[SIGNATURE  
DIRECTOR]  
Director

WITNESS SIGNATURE

In the presence of:-  
[WITNESS FULL NAME]  
[WITNESS FULL ADDRESS]  
[WITNESS OCCUPATION]

AUSTIN LEWIS .  
3 CLAY LANE, CHICHESTER .  
COMPANY DIRECTOR .

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



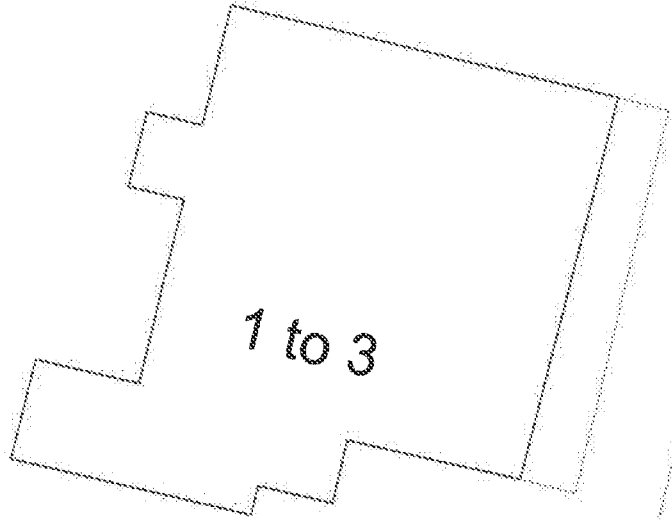
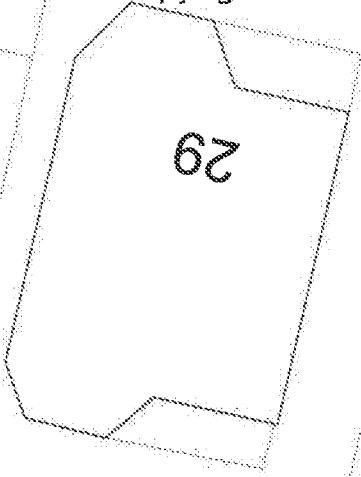
Authorised Signatory

Signature

Name... SARAH CHARLES....

Job Title... PROPERTY MANAGER

Seal Book No. 206/2019



Clayton

0.75m

Elmside

20/6/2019

ELM GROVE