

DATED

14/03/2018

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

RELATING TO LAND AT 77 ALDWICK ROAD BOGNOR REGIS PO21 2NW

OWNER - MONAIRIT PROPERTIES LIMITED

CONTENTS

CLAUSE

THIS DEED is dated 14th March 2018

(1) Monairit Properties Limited:

Monairit Properties Limited incorporated and registered in England and Wales with company number 00789559 whose registered office is at 15 Whitelands, Felpham, Bognor Regis, West Sussex, PO22 8JG

IN FAVOUR OF Arun District Council of The Civic Centre Maltravers Road Littlehampton BN17 5LF

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 emerging Local Plan 2011-2031, and Cabinet's approval of the tariff-based system on 20th 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 £2,613.00 (3 x £871.00 per unit) 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.

Commencement Date: the date of Commencement of Development.

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

Development: First and Second Floor rear extension to create 3 No. Studio Apartments to the rear of 77 Aldwick Road, Bognor Regis, PO21 2NW 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/63/18/PL

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

Property: the freehold land at 77 Aldwick Road, Bognor Regis, PO21 2NW shown edged red on the Plan and registered at HM Land Registry with absolute title under title number WSX181862.

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. 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, 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 Mr Simon Royall Managing Director at: 15 Whitelands Felpham Bognor Regis West Sussex PO22 8JG;

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.

~~13. [MORTGAGEE'S CONSENT]~~

~~13.1 The Mortgagee consents to the completion of this deed and declares that its interest in the Property shall be bound by the terms of this deed as if it had been executed and registered as a land charge prior to the creation of the Mortgagee's interest in the Property.~~

~~13.2 The Mortgagee shall not be personally liable for any breach of the obligations in this deed unless committed or continuing at a time when the Mortgagee is in possession of all or any part of the Property.]~~

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 Monairit Properties Limited by Simon Royall, a director and Claire Sparrow, a director	... D  ... D
3. Executed as a deed by [NAME OF MORTGAGEE] by affixing the Corporate Seal in the presence of:	 [AUTHORISED SIGNATORY]

Title number WSX181862

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 13 MAR 2018 at 16:14:26. 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.

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 HM 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 The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being 77 Aldwick Road, Bognor Regis (PO21 2NW).
- 2 The mines and minerals are included.
- 3 (12.11.2007) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.

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 (19.08.2002) PROPRIETOR: MONAIRIT PROPERTIES LIMITED (Co. Regn. No. 00789559) care of Simon Royall, 96 The Street, Rustington, West Sussex BN16 3NJ.
- 2 (19.08.2002) The price stated to have been paid on 19 July 2002 was £170,000.

C: Charges Register

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

- 1 A Transfer dated 31 March 1919 made between (1) Ada Mary Stocker and others and (2) Thomas Tregear contains restrictive covenants.
NOTE:-Original Filed under 17474.
- 2 (12.11.2007) The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto.
The leases grant and reserve easements as therein mentioned.

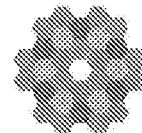
Schedule of notices of leases

- | | | | | |
|---|-------------|--------------------------|---------------|-----------|
| 1 | 12.11.2007 | Ground Floor, 77 Aldwick | 06.11.2007 | WSX314071 |
| | 1 (part of) | Road, Bognor Regis | 10 years from | |
| | | | 6/10/2007 | |

End of register

HM Land Registry Current title plan

Title number **WSX181862**
Ordnance Survey map reference **SZ9298NE**
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 100026318.



This is a copy of the title plan on 13 MAR 2016 at 16:40:52. 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.

This copy is not an 'Official Copy' of the title plan. An official copy of the title plan 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 HM Land Registry web site explains how to do this.

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. 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 HM Land Registry, Durham Office.

Title Number : WSX181862

This title is dealt with by HM 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 13 MAR 2018 at 16:14:26 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: WSX181862
Address of Property	: 77 Aldwick Road, Bognor Regis (PO21 2NW)
Price Stated	: £170,000
Registered Owner(s)	: MONAIRIT PROPERTIES LIMITED (Co. Regn. No. 00789559) care of Simon Royall, 96 The Street, Rustington, West Sussex BN16 3NJ.
Lender(s)	: None

Jeremy Cook

From: [REDACTED]
Sent: 04 April 2018 10:54
To: Jeremy Cook
Subject: RE: (CMS 6694) Land at 77 Aldwick Road, Bognor Regis, PO21 2NW - BR/63/18/PL

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr Cook

I confirm there are no loans or mortgages on the above property and therefore no mortgagee.

Please would you alter the Unilateral Undertaking paperwork by deleting paragraph accordingly.

Yours sincerely

Simon Royall

South Coast Lettings Limited

Client Account Banking. Barclays PLC Chichester Branch.

South Coast Lettings Limited Client Account: -

Sort Code 20-20-62 Account Number 83592383

For payment reference please spell/use the first line of your address and name.

Company Number: - 10761232

Registered address: - 93 Aldwick Road, Bognor Regis, West Sussex, PO21 2NW

From: Jeremy Cook <Jeremy.Cook@arun.gov.uk>

Sent: 04 April 2018 08:53

To: 'Mr Phebey' [REDACTED] Simon Royall [REDACTED]

Subject: (CMS 6694) Land at 77 Aldwick Road, Bognor Regis, PO21 2NW - BR/63/18/PL

Dear Sirs

I have reviewed the signed Unilateral Undertaking in this matter and am not currently not able to advise the Council to accept it. The reason for this is that paragraph 13 (Mortgagee's consent) has been left in the undertaking, but there is no other reference to a mortgagee.

Could you please let me know if there is a mortgagee?

If there is, then I will have to return the undertaking to you to add their details and to obtain their signature, however, if there is no mortgagee can you please authorise me to amend the undertaking by deleting paragraph 13.

I attach a copy of the undertaking for your reference.

Regards

Jeremy Cook

Barrister
For Arun District Council

<http://www.arun.gov.uk>

NLPG UPRN 100062237016

DX 57406 Littlehampton

Important Notice This e-mail is intended exclusively for the addressee and may contain information that is confidential and/or privileged. If you are not the intended recipient (or authorised to receive it for the addressee), please notify the sender and delete the e-mail immediately; using, copying, or disclosing it to anyone else, is strictly prohibited and may be unlawful. Any views, opinions or options presented are solely those of the author and do not necessarily represent those of Arun District Council. The information in this e-mail may be subject to public disclosure under the Freedom of Information Act 2000, therefore we cannot guarantee that we will not provide the whole or part of this e-mail to a third party. The Council reserves the right to monitor e-mails in accordance with relevant legislation. Whilst outgoing e-mails are checked for viruses, we cannot guarantee this e-mail is virus-free or has not been intercepted or changed and we do not accept liability for any damage caused. Any reference to "e-mail" in this disclaimer includes any attachments.
