

DATED

24th June 2019

SECTION 106 AGREEMENT

TOWN & COUNTRY PLANNING ACT 1990

RELATING TO LAND AT FORMER HOTEL TENNIS COURTS ADJACENT TO THE
ROYAL NORFOLK HOTEL WEST STREET PO21 2LH

Parties:

OWNER

DAVID GEORGE SKINNER AND SALLIE JOANNES SKINNER

and

ARUN DISTRICT COUNCIL

CONTENTS

CLAUSE

1.	Interpretation.....	1
2.	Statutory provisions	3
3.	The Owner's Covenant with the Council	3
4.	The Council's Covenant with the Owner	4
5.	Release	4
6.	Determination of deed	4
7.	Local land charge.....	4
8.	Interest on late payment	4
9.	Council's costs.....	4
10.	Notices.....	5
11.	Third party rights	5
12.	Governing law.....	6

THIS DEED is dated _____

- (1) DAVID GEORGE SKINNER AND SALLIE JOANNE SKINNER of 3 Church Headland Whitchurch Aylesbury Buckinghamshire HP22 4JX "the Owner"
- (2) 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 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 Erection of four terraced residential dwellings, garden cycle storage sheds & associated car parking, utilising the existing access 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/73/19/PL**.

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

Property: the freehold land at the former hotel tennis courts adjacent to The Royal Norfolk Hotel West Street PO21 2LH shown edged red on the Plan and registered at HM Land Registry with absolute title under title number(s) WSX39215 and WSX179247

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) for the attention of the Owner David George Skinner and Sallie Joanne Skinner at: 3 Church Headland, Whitchurch, Aylesbury, Buckinghamshire HP22 4JX

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.

1.

Signed as a Deed by DAVID
GEORGE SKINNER



OWNER SIGNATURE

In the presence of:-

[WITNESS FULL NAME]

[WITNESS FULL ADDRESS]

[WITNESS OCCUPATION]



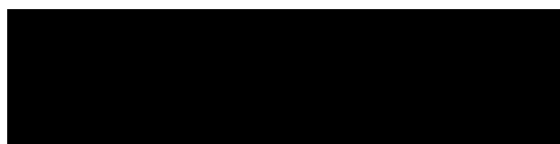
Barnardston Farm
Barnardston Row
Herts HP2 6HX
Rural Sales

1.

Signed as a Deed by SALLIE
JOANNE SKINNER



OWNER SIGNATURE



Barnardston Farm
Barnardston Row
Herts HP2 6HX
Rural Sales

In the presence of:-

[WITNESS FULL NAME]

[WITNESS FULL ADDRESS]

[WITNESS OCCUPATION]

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

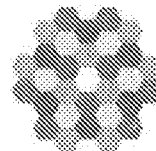
Authorized Signatory

Signature

Name.....

Job Title.....

Seal Book No.



Official copy of register of title

Title number WSX39215 Edition date 11.10.2013

This official copy shows the entries on the register of title on 24 SEP 2018 at 12:43:31.

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 24 Sep 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 : ARDN

- 1 (05.12.1979) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land lying to the north of Royal Norfolk Mews, Bognor Regis.
- 2 (18.08.2003) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.
- 3 (10.01.2005) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan. The property description has been altered to reflect the land remaining in the title.
- 4 (10.01.2005) The land has the benefit of the rights reserved by but is subject to the rights granted by a Transfer of the land edged and numbered WSX286410 in green on the title plan and other land dated 17 May 2004 made between (1) David George Skinner and Sallie Joanne Skinner and (2) Christ For The Nations UK.

-NOTE: Copy filed under WSX286410.

- 5 (27.08.2008) The land has the benefit of the rights reserved by a Transfer which included the land edged and numbered WSX322055 in green on the title plan and other land dated 8 May 2008 made between (1) David George Skinner and Sallie Joanne Skinner and (2) Herongate Land & Developments Limited.

-NOTE:-Copy filed under WSX322055.

- 6 (23.11.2010) The land has the benefit of the rights granted by a Deed dated 22 October 2010 made between (1) Herongate Land & Developments Limited and (2) David George Skinner and Sallie Joanne Skinner.

-NOTE: Copy filed under WSX179247.

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 (08.03.2002) PROPRIETOR: DAVID GEORGE SKINNER and BALLIE JOANNE SKINNER of 3 Church Headland Lane, Whitchurch, Aylesbury, Buckinghamshire HP22 4JX.
- 2 (08.03.2002) The price stated to have been paid on 5 February 2002 for the land in this title and in title WSX179247 was £1,106,340.
- 3 (08.03.2002) The Transfer to the proprietor contains a covenant to observe and perform the covenants referred to in the Charges Register and of indemnity in respect thereof.

C: Charges Register

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

- 1 A Conveyance of the land in this title and other land dated 15 March 1947 made between (1) The Urban District Council of Bognor Regis (Vendors) and (2) Selected Hotels Limited (Purchasers) contains the following covenants:-

COVENANT by the Purchaser with the Vendor so as to bind so far as may be the land thereby conveyed that the Purchaser and its successors in title would at all times thereafter observe and perform the stipulations and restrictions set out in the Second Schedule thereto

The Second Schedule above referred to

(1) The property should be used only for the purpose of a residential hotel or for such other purpose as might be approved by the Vendor subject only to the existing rights of the Lessees and their assigns of the garages and stabling for the remainder of the term of their Lease

(2) Without prejudice to the generality of clause (1) thereof no part of the property should at any time be used as a shooting gallery or for roundabouts swings pin-tables skittle alleys or other amusements or for the purpose of a fun fair circus or for the trade or business of an amusement caterer or showman

(3) No advertisement other than the name of the premises and the display notice referred to in clause (6) thereof should be displayed on the property so as to be visible from Aldwick Road West Street or the Sea Front

(4) No building should be erected on any part of the property or alterations and additions made to existing buildings otherwise than in accordance with plans to be submitted to and approved by the Vendor before the building alterations or additions are commenced

(5) The Purchaser should keep the roadway coloured green on the plan reasonably clear tidy and in good repair and condition for public use provided that if the Purchaser should make default in such maintenance of the said roadway the Vendor might with or without officers and workmen enter upon the said roadway and execute such works of maintenance and the cost of such works should be a debt due from the Purchaser to the Vendor and recoverable by action

(6) The Purchaser should permit the Vendor to erect and maintain at or across the entrance from West Street to the roadway coloured green on the plan a display notice advertising the pleasure grounds and tennis courts of the Vendor to which the said roadway gave access.

NOTE: The roadway coloured green referred to is tinted blue on the filed plan.

- 2 The land is subject to the following rights reserved by the Conveyance dated 15 March 1947 referred to above:-

EXCEPT AND RESERVING unto the Vendor a right of way for themselves their officers and servants and all persons using their adjoining land known as The Swansea Place Lane Tennis Courts at all times to pass and repass with or without carts and other vehicles horses and other animals over and along the access road coloured green on the plan

C: Charges Register continued

annexed thereto.

NOTE: The land coloured green referred to is tinted blue on the filed plan.

- 3 The land is subject to the rights relating to a Drain or sewer thereunder granted by a Deed dated 26 March 1962 made between (1) Selected Hotels Limited and (2) Urban District Council of Bognor Regis.

-NOTE: Original filed.

- 4 (23.01.2009) The land is subject to the rights granted by a Deed dated 22 January 2009 made between (1) David George Skinner and Sallie Joanne Skinner and (2) Herongate Land & Developments Limited.

-NOTE: -Copy filed under WSX322055.

- 5 (11.10.2013) UNILATERAL NOTICE in respect of an option to purchase contained in an Agreement dated 15 October 2013 made between (1) David George Skinner and Sallie Joanne Skinner and (2) Herongate Homes Limited which is supplemental to an Option Agreement made between the same parties dated 29 September 2011.

-NOTE: Copy filed.

- 6 (11.10.2013) BENEFICIARY: Herongate Homes Limited (Co. Regn. No. 06857495) of Brook House, Pound Road, West Wittering, Chichester, West Sussex, PO20 8AJ.

End of register

HM Land Registry

Official copy of
title plan

Title number **WSX39215**

Ordnance Survey map reference **SZ9398NW**

Scale **1:1250**

Administrative area **West Sussex : Arun**

