

Planning Application Reference:	FN/56/11/
Document Type:	Unilateral Undertaking
Date of Agreement:	28th March 2012

NB: Above text in bold to be included in free text field.

Check thoroughly for **telephone numbers/email addresses & signatures** and block.
Check **maps** for signatures and block.

Please return original to s106 Monitoring Officer

Dated:

28 March 2012

Between:

[1] SG Oliphant -Hope and JK Oliphant-Hope [The Owner]

[2] Coutts and Co [The Mortgagee]

[3] Hillreed Homes Ltd [The Applicant]

[4] Arun District Council [ADC]

PLANNING OBLIGATION

under Section 106 of the Town & Country Planning Act 1990
and other powers relating to Land at Downs Edge House Stable Lane Findon
West Sussex

To pay affordable housing contribution of £36513.00

Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF
DX57406 LITTLEHAMPTON
Reference: FN/56/11

1. **THIS DEED** is by undertaking and is dated 28 March 2012 and is a Planning Obligation for the purposes of Section 106 Town and Country Planning Act 1990 ("The Act") and is made in favour of Arun District Council

2. PARTIES

Owners	Simon Gerald Oliphant Hope and Joanne Kim Oliphant Hope both of Downs Edge Stable Lane Findon Worthing West Sussex BN14 0RR
Mortgagee	Coutts and Co of Loan Securities Centre 440 The Strand London WC2R 0QS [Co Reg No 36695]
Applicant	Hillreed Homes Limited of Hillreed House 60 College Road Maidstone Kent ME15 6SJ [Co Reg No 012023345]
ADC	Arun District Council, Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex BN17 5LF

3. CAPACITIES TO ENTER INTO DEED AND BASIC DEFINITIONS

Party	Capacity
Owner	Freehold owner under HMLR registered Title no WSX 43012 of land at Downs Edge House Stable Lane Findon West Sussex ("The Land") shown for identification only edged black on the attached plan
Applicant	The Applicant has applied for Planning Permission under Application Ref: FN/56/11 for 3 detached 5 bed houses with garages parking and access and "Planning Applications" and "Development" shall be construed accordingly and holds an option to purchase the Land
Mortgagee	Mortgagee of the Land
ADC	Local Planning Authority under Town and Country Planning Act 1990 and (as relevant) as payee in relation to the statutory functions and purposes identified herein in clause 5 namely affordable housing provider /facilitator .

4. BACKGROUND

- 4.1 The Applicant has made the Planning Application which the ADC is minded to grant subject to the making of the payments specified within this Deed which are required under the Act and Planning Policy Guidance to mitigate any ill effects of the Development and in particular the shortage of affordable housing as identified in the Affordable Housing Policy .
- 4.2 For the avoidance of doubt it is confirmed that the parties to this Deed agree that the provisions of this Deed are necessary fair and reasonable in scale and kind and directly related to the Development and comply with the requirements of the Community Infrastructure Regulations 2010 and that the Development will not be subject to any liability to make any further or additional payments by way of Community Infrastructure Levy
- 4.3 The Mortgagee agrees and consents to the Owner and the Applicant entering into this Deed and to the land being bound by its terms.
- 4.4 No liability in respect of any of the obligations under this Deed shall attach to any mortgagee of the Land save in respect of any breach which commenced while that mortgagee was a mortgagee in possession of all or part of the Land over which its charges apply and which was committed by that mortgagee itself and then only if it shall have caused such breach to have been occasioned and provided further for the avoidance of doubt it shall not in any event be liable for a breach of this Deed arising prior to it becoming a mortgagee in possession of the Land

5. CONTRIBUTIONS PAYABLE

5.1 The Owner and the Applicant undertakes with the ADC to:-

- (i) make the payments specified below
- (ii) to the payee specified below
- (iii) for the purposes specified below
- (iv) and at the time specified below

Payee	Time for Payment ("the Due Date")	Amount	Statutory Function and Purpose
ADC	On or before Commencement of the Development for any purposes of the Planning Permission	£36,513 .00	Affordable Housing within the whole of the Arun District.

5.2 The Owner and the Applicant undertakes with ADC not to start the Development until the payment is made.

6. LEGAL AND MONITORING COSTS

The Owner and the Applicant undertakes with ADC to :-

- [a] pay in addition to the above Contributions
- [b] the sums set out in the table below
- [c] at the time or times set out in the table below and
- [d] for the purposes set out in the table below

Payee	Time for Payment	Amount	Purpose
ADC	Before completion of this Deed	£450	ADC Legal Fees
ADC	On Commencement of the Development for the purposes of the Planning Permission	[£250 major application PLUS £50 per planning obligation in the deed viz 1 x 50 = TOTAL £ 300.00	ADC Monitoring of compliance with the Deed

Legal Costs of ADC

6.1 ADC acknowledges the receipt from the Owner /Applicant the sum of £450 to pay its reasonable legal fees

Monitoring Costs of ADC

6.2 For the avoidance of doubt ADC shall be entitled to utilise a proportion of any monetary contributions specified in this Deed for related project costs up to a maximum of 5% of the sum or £15,000 which ever shall be the larger

6.3 . For the avoidance of doubt the above charges are standard charges and shall not preclude ADC from claiming and receiving any additional monitoring and legal or enforcement costs above and beyond these standard charges when circumstances require that they be incurred in pursuing full compliance with this Deed whether through the courts or otherwise

7. ADDITIONAL CLAUSES

The Owner and the Applicant undertakes with ADC as follows:-

7.1 Start Date of this Deed and Obligations

7.1.1. This Deed will take effect on the grant of the Planning Permission.

7.1.2. S56 of the Act will apply to determine commencement of the Development and in the event of any uncertainty or disagreement concerning this date the determination of ADC shall be final .

7.1.3. On Commencement of the Development the Owner and the Applicant will send to ADC written Notice of that event in the Form of the Notice in Schedule 1.

7.2 Index Linking

General

The Owner and the Applicant undertake to ADC that any sums payable by the Owner or the Applicant under this Deed shall be increased by the application of the following formula:

$$A = B \times \frac{C}{D}$$

where:

- A is the sum actually payable on the Specified Date/ Payment Date
- B is the original sum mentioned in this Deed
- C is the Building Cost Information Service National All-In Tender Price Index for the quarter preceding the Specified Date/Payment Date
- D is the Building Cost Information Service National All-In Tender Price Index for the quarter preceding the date of this Deed
- $\frac{C}{D}$ is equal to or greater than 1

The adjustment in this clause 7.2 shall only be made where the Specified /Payment Date is more than 6 months after the date of this undertaking

8. INTEREST OF PAYMENTS

The Owner and the Applicant undertakes with ADC pay interest on sums due to ADC under this Deed but not paid on the Due Date from the Due Date until actual payment. The rate of interest shall be 4% above the HSBC Bank base rate from time to time.

9. PAYMENT NOTICE

All payments due under this Deed will be sent to the payee with a duly completed Notice in the Form of Schedule 2.

10. GENERAL

- 10.1 This Deed is not a Planning Permission or any other form of consent under any other function of ADC .
- 10.2 This Deed does not restrict or fetter the statutory powers of ADC .
- 10.3 If more than one party to this Deed agrees or undertakes with another then that agreement or undertaking shall be enforceable against that person jointly or severally.
- 10.4 This Deed confers no benefit on any Third Party under Contracts (Third Party Rights) Act 1999.
- 10.5 This Deed shall apply to the Development as authorised by the Planning Permission or as varied or renewed or re submitted from time to time.
- 10.6 This Deed is a Local Land Charge and shall be registered as such.
- 10.7 No covenants or obligations contained in this Deed shall be binding upon any part of the Land that may in future be acquired by a statutory undertaker for the purposes of its undertaking or operational Land as defined in the S262 of the Act
- 10.8 No person or company shall be liable for any breach of this Deed unless he she or it holds an interest in the part of the Land in respect of which such breach occurs or held such an interest at the date of the breach.
- 10.9 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development
- 10.10 Nothing in this Deed shall prohibit or limit the right to develop any of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed

THIS DEED is signed and sealed by the parties as a Deed on the date first appearing.

SCHEDULE 1

Commencement Notice

Pursuant to Clause 7.1.3 in Planning Obligation Described Below

Failure to use this form may prejudice your ability to prove compliance with the planning obligation.

I advise you that the Development described below was commenced on the Start Date stated in this Notice.

Dated this _____ day of _____ 200

Signed _____

On Behalf Of: _____

TO:	[1] Head of Planning Services, Arun District Council, Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex BN17 5LF (DX: 57406] Littlehampton
FROM:	
DEVELOPMENT AT:	
NATURE OF DEVELOPMENT:	
PLANNING PERMISSION DATE & REFERENCE	
PLANNING OBLIGATION DATE & PARTIES	
START DATE:	

SCHEDULE 2

Payment Notice

Payment of Monies due under a Section 106 Planning Obligation.

Failure to use this form may mean problems with acknowledgment of payment and may prejudice your ability to prove compliance with the planning obligation.

If ADC is Payee :
Head of Planning Services
Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN 17 5LF
DX 57406 Littlehampton

Please answer all the questions.

1. Payment to be made by/on behalf of
2. Land at:
3. Agreement dated:
4. Planning application reference number *[where applicable]*
5. Obligation in Agreement

[a]	Clause No.	
[b]	Clause No	
[c]	Contribution towards affordable housing	
[d]	Amount of contribution	
[e]	Date upon which contribution is due	
[f]	Amount of contribution enclosed	
[g]	Amount of monitoring sum	

SIGNED AS A DEED BY
SIMON GERALD OLIPHANT-HOP
IN THE PRESENCE OF

Witness Signature

Witness Name

Witness Address

.....

Richard HALLS
19 BRACKEN GARDENS
CHISWORTH
HANTS
PO10 7JY.

SIGNED as a DEED by

HILLREED HOMES LIMITED

acting by

a Director in the presence of:-

Witness Signature:

Witness Name: ANDREW STUART TOMLINS (Print)

Witness Address: 24 CENTRAL AVENUE

WORTHING

WEST SUSSEX

BN14 0DS

SIGNED AS A DEED BY
JOANNE KIM OLIPHANT-HOPE
IN THE PRESENCE OF

Witness Signatu

Witness Name I. SWALWELL

Witness Address 5 THE STONE

WORTHING BN11 3DT

SIGNED AS A DEED BY
HILLREED HOMES LIMITED
acting by a director and its
secretary or two directors

Director

Secretary/Director

SIGNED AS A DEED BY
AFFIXING THE COMMON SEAL
OF COUTTS AND COMPANY IN
THE PRESENCE OF:



Authorised Signatory

.....
Authorised Signatory

J Bowden
PDT Solicitors
DX 57617 Horsham

Dated 1 March 2012

Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex, BN17 5LF



Your Ref:

Our Ref: FN/56/111

Please ask for:
Mr. D. Jones
Legal Team



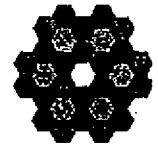
Instruction sheet to complete Planning Obligation

Planning Obligations : Section 106 Town & Country Planning Act 1990
Subject to Contract and Without Prejudice to Final Determination
"Interim Affordable Housing Policy"

1. Thank you for paying the Council its legal fees of £450 .
2. The Deed is enclosed to provide for certain infrastructure requirements specified in the Deed . There is a copy for each signatory.
3. Please sign all the deeds on the last page next to the clause beginning "Signed by the Owner" and then arrange for a witness to sign after this giving their full name address and occupation after the owner's name.
4. If there is a mortgagee please get them to sign on the clause marked "Signed /Sealed by the mortgagee"
5. Without this planning obligation and benefits payable under it the application may not be granted. This is irrespective of other factors relevant to the decision whether or not to grant permission.
6. After signature by all parties please return one copy of the signed and dated deed to the Council together with a HM Land Registry Official Copy of the title to prove ownership.
7. It will expedite matters if you complete this before the matter goes to a decision by our Development Control Committee or delegated to an officer.
8. Please note that any calculations mentioned in commuted sums/other cash sums are subject to change due to passage of time/other circumstances.

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.



Title number WSX43012

Edition date 29-11-2011

- This official copy shows the entries on the register of title on 20 FEB 2012 at 15:56:17.
- 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 20 Feb 2012.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1-A *guide to the information we keep and how you can obtain it*.
- 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 (14.05.1980) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Downs Edge House, Stable Lane, Findon, Worthing (BN14 ORR).
- 2 The land has the benefit of a right of way over the land tinted brown on the title plan.

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 (27.03.2006) PROPRIETOR: SIMON GERALD OLIPHANT-HOPE and JOANNE KIM OLIPHANT-HOPE of Downs Edge, Stable Lane, Findon, Worthing, West Sussex BN14 ORR.
- 2 (27.03.2006) The price stated to have been paid on 8 February 2006 was £1,100,000.
- 3 (27.03.2006) RESTRICTION: No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by the applicant for registration that the provisions of an Agreement for sale dated 23 August 2005 made between (1) Jack Lawrence Leonard and (2) Simon Gerald Oliphant-Hope and Joanne Kim Oliphant-Hope have been complied with.
- 4 (27.03.2006) 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.
- 5 (29.11.2011) RESTRICTION: No disposition of the registered estate by

Title number WSX43012

B: Proprietorship Register continued

the proprietor of the registered estate is to be registered without a written consent signed by Hillreed Homes Limited (Co Regn No 01203345) of Hillreed House, 60 College Road, Maidstone, Kent ME15 6SJ or their conveyancer.

C: Charges Register

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

- 1 A Conveyance of the land tinted pink on the title plan dated 1 June 1923 made between (1) William Apted and others (Vendors) and (2) Ewart Joseph Shadwicke (Purchaser) contains covenants details of which are set out in the schedule of restrictive covenants hereto.
- 2 The land tinted blue on the title plan is subject to rights of way and rights of drainage.
- 3 (10.12.2007) REGISTERED CHARGE dated 27 November 2007.
- 4 (10.12.2007) Proprietor: COUTTS & COMPANY (Co. Regn. No. 36695) (an unlimited company) of Loan Securities Centre 440 Strand, London, Greater London WC2R 0QS.
- 5 (29.11.2011) UNILATERAL NOTICE in respect of an option to purchase in favour of Hillreed Homes Limited contained in an Agreement dated 16 November 2011 made between (1) Simon Gerald Oliphant-Hope and Joanne Kim Oliphant-Hope and (2) Hillreed Homes Limited.
- 6 (29.11.2011) BENEFICIARY: Hillreed Homes Limited (Co Regn No 01203345) of Hillreed House, 60 College Road, Maidstone, Kent ME15 6SJ.

Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Conveyance dated 1 June 1923 referred to in the Charges Register:-

"The Purchaser for himself and all persons claiming under him and so as to bind the Purchaser and the owner and owners for the time being of the said premises hereby conveyed and of any and every part thereof but not so as to make any person or persons responsible (except under the Stipulation Number 12 in the Schedule hereinafter mentioned) for any breach committed after he or they shall have ceased to be the owner or owners of the same or of the part thereof upon or in respect of which such breach shall have been committed doth hereby covenant with the Vendors respectively and their respective heirs and assigns owners and owner for the time being of any of the adjoining or adjacent land that he and they the Purchaser and all persons claiming under him as aforesaid will at all times hereafter observe and perform the restrictions and stipulations contained in the Schedule hereto.

THE SCHEDULE above referred to

1. NO erection or building other than one detached or a pair of semi-detached dwellinghouses with offices stabling and outbuildings adapted for use therewith or with any other dwellinghouse or dwellinghouses built or to be built on adjacent land shall be erected on either the piece of land coloured pink or on the piece of land coloured green on the said plan. The plans drawings and elevations of any such dwellinghouse shall be approved of in writing by the Vendors previously to the erection of the same being commenced and no such dwellinghouse shall be erected except in accordance with such plans drawings and elevations. Every dwellinghouse shall be built with bricks or other suitable material approved by the Vendors and shall be roofed with slates or tiles.

2. ANY office stabling and outbuilding if detached from any dwellinghouse shall be built in the rear thereof.

3. No dwellinghouse shall be of less cost exclusive of the value of the land and the outbuildings than Five hundred pounds in the case of a detached dwellinghouse or One thousand pounds in the case of a pair of

Schedule of restrictive covenants continued

semi-detached dwellinghouses.

4. NO detached dwellinghouse or pair of semi-detached dwellinghouses shall be built nearer than ten feet to the North or South boundaries of the land upon which the same shall be built.
5. EVERY boundary fence distant more than thirty feet from the Eastern boundary of the said land hereby conveyed shall be not more five feet high and no fence shall be used for the display of advertisement. No boundary fence shall be erected unless the same shall be first approved of in writing by the Vendors. The Vendors shall be under no obligation to fence against any adjoining or adjacent land belonging to them.
6. NOTHING whatsoever except walls or boundary fences not exceeding four feet six inches in height shall be erected or built or placed or to be allowed to remain on the said land hereby conveyed within a distance of thirty feet of the Eastern boundary of such land.
7. NO flats or double tenement houses of any kind shall be erected upon the said land hereby conveyed without the previous written consent of the Vendors.
8. NO trade or business whatsoever shall be carried on upon the said land hereby conveyed nor the reception of lunatic persons permitted or suffered but every dwellinghouse erected on the said land shall be used as a private or professional residence only.
9. NO bricks shall be made upon the said land hereby conveyed nor shall any chalk gravel sand clay or soil be dug or removed from the said land except in so far as may be necessary for the foundation of any buildings to be erected on the said land.
10. NO hut shed caravan house on wheels or other chattel intended for use as a dwelling or sleeping apartment and no booth show swing or roundabout shall be erected or placed or be allowed to remain upon the said land hereby conveyed.
11. NEITHER the said land hereby conveyed nor any building at any time erected thereon shall be used for any purpose which shall be or tend to be a nuisance or annoyance to the Vendor or to the neighbourhood.
12. TO pay or bear a fair proportion (according to frontage) of the expense of making up repairing and maintaining the said roads coloured brown on the said plan and the sewers and drains thereunder (if and when constructed by the Vendors) until the same are respectively adopted by the Local Authority such proportion in case of difference to be settled by the surveyor for the time being of the Vendors.
13. THE VENDORS shall be under no liability to make maintain or repair any road or footpath or any sewer or drain thereunder and in particular the Vendors may in their sole discretion determine the time when and the manner in which the said roads coloured brown on the said plan may be laid out as roadways.
14. THE VENDORS reserve the right to vary or withdraw at any time or times any or all of the restrictions and stipulations entered into or to be entered into by any Purchaser of any adjoining or adjacent land nor or formerly belonging to the Vendors and to sell any part or parts of such land free any restrictions and stipulations or subject to such restrictions and stipulations as they may think fit.

NOTE 1: The land coloured pink and green referred to in clause 1 above is the land tinted pink on the title plan

NOTE 2: The roads coloured brown referred to in clause 12 above are tinted brown and tinted blue on the title plan, the road tinted blue continuing to Cedar Cottage.

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from Land Registry.

Additional references, which are not referred to in the register of title, may appear on the title plan in respect of any pending applications.

This official copy is issued on 20 February 2012 shows the state of this title plan on 20 February 2012 at 15:56:17. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). 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. See Land Registry Public Guide 7 - *Title Plans*.

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

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H.M. LAND REGISTRY		TITLE NUMBER	
		WSX43012	
ORDNANCE SURVEY PLAN REFERENCE	TQ 1208	SECTION E	Scale 1:1250
COUNTY WEST SUSSEX	DISTRICT ARUN	© Crown copyright 1979	

FINDON PARISH

