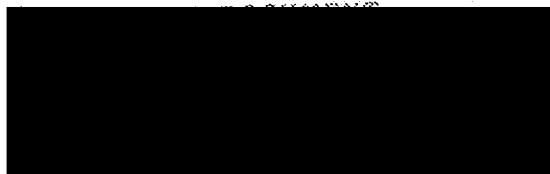


19<sup>th</sup> May 2022

**Deed of Agreement made pursuant to Section 106  
of the Town and Country Planning Act 1990  
relating to  
Land at HMP Ford, Ford Road, Arundel, West  
Sussex, BN18 0BX**

**The Secretary of State for Justice <sup>(1)</sup>  
West Sussex County Council <sup>(2)</sup> and**

I HEREBY CERTIFY THIS TO  
BE A TRUE COPY OF THE



....

CIL

Date: 19th May 2022

**Parties:**

**(1) THE SECRETARY OF STATE FOR JUSTICE** care of Ministry of Justice, Property Directorate, FAO Steve Sumitomo-Wyatt, 10th Floor, Area 10.41, 102 Petty France, London, SW1H 9AJ hereinafter called "the Owner");

**(2) WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, Chichester, West Sussex PO19 1RQ (hereinafter called "the County Council"); and

**WHEREAS**

1. Arun District Council is the District Council and Local Planning Authority for the area in which the Land is situated.
2. The County Council is the Highway Authority for the area in which the Land is situated and is the authority by whom the obligations in this Deed are enforceable.
3. The Owner is the owner of the freehold of the Land edged red on Plan 1.
4. The Owner has made the Application to the District Council and is proposing to carry out the Development.
5. The Owner by entering into this Deed does so to create planning obligations in respect of the Land pursuant to section 106 of the 1990 Act and agrees to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained.
6. The District Council, subject to the completion of this Deed and payment to the County Council of the Travel Plan Monitoring Fee, is minded to grant the Planning Permission subject to the conditions for the Development.



NOW THIS DEED WITNESSETH as follows:

1. Interpretation

1.1 In this Deed unless otherwise stated the following expressions shall where the context so admits have the following meanings:

**"the 1990 Act"** shall mean the Town and Country Planning Act 1990 (as amended).

**"the Application"** means the application for planning permission made to the District Council under reference number F/19/21/PL and validated by the District Council on 13 October 2021.

**"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.

**"the Default Interest Rate"** means interest at the rate of 2% above the Bank of England base rate applicable at the relevant payment date which shall be calculated on a day to day basis.

**"the Development"** shall mean the development authorised by the Planning Permission.

**"the Land"** shall mean land at HMP Ford, Ford Road, Arundel, West Sussex, BN18 0BX and shown edged red on Plan 1 attached hereto.

**"Occupation"** means occupation of the Development for the purposes for which it was designed other than for the purposes of construction, fitting out, marketing or promotion.

**" Plan 1"** shall mean the plan annexed hereto.

**"the Planning Permission"** shall mean a planning permission to be granted by the District Council in respect of the Application.

**"the Travel Plan"** means the travel plan in respect of promoting sustainable transport modes for staff at the Development submitted with the Application.

**"the Travel Plan Co-ordinator"** means the person appointed by the Owner responsible for securing the implementation of the Travel Plan.

**"the Travel Plan Monitoring Fee "** means the sum of one thousand five hundred pounds (£1,500) payable to the County Council for monitoring the delivery of the Travel Plan for a period of 5 years commencing from first Occupation of the Development.

1.2 Words importing the singular includes the plural and vice versa.

1.3 References to clauses sub clauses recitals annexes and schedules are unless otherwise stated references to clauses sub clauses recitals annexes and schedules to this agreement.

1.4 The expression 'Owner' shall include their successors in title and assigns.

1.5 The expression County Council and/or District Council shall include any successor authority to their statutory functions under the 1990 Act.

## **2. Statutory Provisions.**

- 2.1 This Deed secures planning obligations for the purposes of Section 106 of the Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers and the obligations contained herein are planning obligations for the purposes of Section 106 of the Act and are entered into by the Owner with the intention that they bind the Owner's respective interests in the Land and those of his successors and assigns.
- 2.2 This Deed shall have full force and effect from the date hereof.
- 2.3 The Obligations in this Deed are conditional upon and will not take effect until the grant of Planning Permission except Clauses 4, 5 & 6.
- 2.4 The Planning Obligations contained in this Deed are enforceable by the County Council.

## **3. The Owner's Covenants**

- 3.1 The Owner hereby covenants with the County Council that prior to first Occupation the Owner shall pay to the County Council the Travel Plan Monitoring Fee.
- 3.2 It is hereby acknowledged for the avoidance of doubt and without prejudice to the above that the County Council is authorised to apply the Travel Plan Monitoring Fee.
- 3.3 Not to allow Occupation unless a Travel Plan Co-ordinator has been appointed. The Owner shall notify the County Council in writing of the name, address, email address and telephone number of the person appointed.

- 3.4 Upon first Occupation the Owner shall implement the approved Travel Plan or the Travel Plan as amended (as may be agreed with the County Council in writing) for a period of 5 years (or such other time as agreed with the County Council).

#### **4 The County Council's Covenants**

4.1 The County Council hereby covenants:

- a) To issue separate receipts on request for any sum paid to it under this Deed;
- b) Not to apply the Travel Plan Monitoring Fee for any purpose other than the purpose set out within clause 1.1 of this Deed;
- c) Not to unreasonably withhold or delay approval of the Travel Plan once submitted by the Owner; and
- d) To monitor the delivery of the Travel Plan for a period of 5 years following its approval by the County Council.

#### **5 Interest**

If any sum or amount has not been paid to the County Council by the date it is due, the Owner shall pay the County Council interest on that amount at the Default Interest Rate. Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

#### **6 Miscellaneous**

- 6.1 This Deed is a Local Land Charge and shall be registered as such by the District Council.
- 6.2 The Owner shall give notice in writing to the County Council of the date of the Commencement of the Development ("**the Commencement Notice**") the Commencement Notice shall be sent to the County Council's

Planning Monitoring and Records Team at the address herein and shall be delivered as follows:

- a) By hand; or
- b) Sent by pre-paid first class post or other next working day delivery service.

- 6.3 Notwithstanding the provisions of the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed confers or purports to confer any right to enforce any of the terms and provisions herein on any person who is not a party hereto or a successor in title or a statutory successor to a party hereto.
- 6.4 The Owner shall pay to the County Council prior to completion of this deed the County Council's legal costs of £750.00 incurred in connection with the preparation, negotiation, completion and registration of this deed.
- 6.5 No person shall be liable for any breach of a covenant, restriction or obligation 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.
- 6.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 6.7 No waiver whether express or implied by the County Council of any breach or default by the Owner(s) in performing or observing any of the obligations contained herein shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing the relevant obligations or from acting upon any subsequent breach or default.
- 6.8 This Deed shall cease to have any effect (insofar only as it has not been complied with) if the Planning Permission shall be quashed revoked or otherwise withdrawn or if the Commencement Date has not occurred in

accordance with section 56 of the 1990 Act before the expiration of the period specified in the Planning Permission

## 7. 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.

IN WITNESS whereof this agreement has been executed as a Deed and Delivered on the day and year written above.

Executed as a Deed by The Secretary of State for Justice.

The Corporate Seal of the Secretary of State for Justice hereunto affixed is authenticated by:



Authorised Signatory



Executed as a deed by affixing the common seal of West Sussex County Council in the presence of a duly authorised signatory:

*Insert Common Seal of Company*

.....  
Signature

.....  
Print Name

