

DATED _____

- (1) ARUN DISTRICT COUNCIL**
- (2) FUTURE GROUP DEVELOPMENT LIMITED**
- (3) BELVEDERE SECURITY LIMITED**

DEED OF VARIATION UNDER
SECTIONS 106 AND 106A OF THE
TOWN AND COUNTRY PLANNING
ACT 1990

Relating to

Land at the rear of Inglenook Hotel 253-255 Pagham Road Pagham

Planning Ref(s): W/4001476

Arun District Council
The Civic Centre
Maltravers Road
LITTLEHAMPTON
BN17 5LF
DX57406 LITTLEHAMPTON

Ref:

Date: _____

PARTIES:

- 1 ARUN DISTRICT COUNCIL** of The Civic Centre, Maltravers Road, LITTLEHAMPTON BN17 5LF (**"the Council"**)
- 2 FUTURE GROUP DEVELOPMENT LIMITED** incorporated and registered in England and Wales with company number 13175698 whose registered office is at 303 Goring Road, Goring-By-Sea, Worthing, England, BN12 4NX (**"the Owner"**)
- 3 BELVEDERE SECURITY LIMITED** a company incorporated in England and Wales (registered number 09175130) and whose registered office is at 3rd Floor, The News Building, 3 London Bridge Street, London, SE1 9SG (**"the Mortgagee"**)

WHEREAS

- A1. The Council is the Local Planning Authority for the area in which the Land is situated
- A2. The Owner is the freehold owner of the Land which is registered with the Land Registry under title number WSX400712 subject to a legal charge in favour of the Mortgagee dated 24 September 2021.
- A3. The Mortgagee has the benefit of a legal charge over the Land.
- A4. On 4 July 2019 the Former Owner and the Council entered into the Section 106 Agreement Unilateral Undertaking in connection with planning application reference number P/58/19/PL. Subsequent to the completion of that agreement, the Council issued the Planning Permission.
- A5. This Deed is supplemental to and to the extent that its contents so provide, varies the Section 106 Unilateral Undertaking to the extent only that the Section 106 Unilateral Undertaking relates to the Land.
- A6. The provisions of this Deed bind the Land, the parties to this Deed and their successors in title.
- A7. The Owner, the Council and the Mortgagee have entered into this Deed pursuant to the provisions of the Operative Acts upon the terms and conditions hereinafter appearing.

A8. This is made as a Deed.

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:

- 1.1.1. **“Former Owner”** means Anthony Stephen Honour being the former owner of the Land.
- 1.1.2. **“Land”** means land at the rear of Inglenook Hotel 253-255, Pagham Road, Pagham registered at the Land Registry under title number WSX400712 as shown for the purposes of identification edged in red on the Plan.
- 1.1.3. **“Operative Acts”** means Sections 106 and 106A of the Act and Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000, Section 1 of the Localism Act 2011 and Section 8, 9 and 609 of the Housing Act 1985
- 1.1.4. **“Plan”** means the plan attached to this Deed as Appendix 1.
- 1.1.5. **“Planning Permission”** means the planning permission issued on 18 December 2020 under planning reference W/4001476.
- 1.1.6. **“Section 106 Unilateral Undertaking”** means the Deed means dated 4 July 2019 between the Former Owner and the Council in relation to Planning Permission.
- 1.1.7. **“Section 73 Application”** means the application by the Owner for permission (insert details of the Application from the planning file)
- 1.1.8. **“Section 73 Permission”** means the planning permission granted in respect of the Section 73 Application.

- 1.2 Unless the context otherwise requires, all words and phrases defined in the Section 106 Unilateral Undertaking shall have the same meaning in this Deed.
- 1.3 Clause heading shall not affect the interpretation of this Deed.
- 1.4 A “**person**” includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- 1.5 A reference to a “**company**” shall include any company, corporation or other body corporate, where and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.7 Unless the context otherwise requires a reference to one gender shall include a reference to other genders.
- 1.8 A reference to any party shall include that party’s representatives, successors and permitted assigns and to any person deriving title through or under the party and in the case of the Council and the successors to their respective statutory functions.
- 1.9 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.
- 1.10 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.
- 1.11 A reference to “**writing**” and “**written**” does not include fax or email.
- 1.12 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.
- 1.13 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. Legal Basis

- 2.1 This Deed is made under Section 106 and 106A of the Act and its purpose is to vary the Section 106 Unilateral Undertaking with the intention that the planning obligations contained in the Section 106 Unilateral Undertaking shall also apply to development to be undertaken in accordance with the Section 73 Permission save for any variations contained within this Deed.

2.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations under Section 106 and Section 106A of the Act and are enforceable by the Council in accordance with Section 106 of the Act as local planning authority against the Owner.

2.3 The planning obligations contained in this Deed shall bind the Land.

3. Commencement

This Deed shall come into effect on the date hereof.

4. Variation of the Section 106 Unilateral Undertaking

4.1 The parties agree that the Section 106 Unilateral Undertaking shall be varied as follows:

4.1.1 {insert details of variation}

5. Continuation of the terms of the Section 106 Unilateral Undertaking

It is hereby agreed and declared by the Council and the Owner that saving and excepting as expressly provided for by the provisions of this Deed the covenants and provisions contained in the Section 106 Unilateral Undertaking shall continue to have full force and effect.

6. Costs

6.1 The Owner covenants with the Council prior to the completion of this Deed to pay to the Council the sum of £200 (TWO HUNDRED POUNDS) being the Council's reasonable legal costs and disbursements in connection with this Deed.

7. Mortgagees consent

7.1 The Mortgagee hereby consents to the completion of this Deed and agrees to be bound by it and that the security of the mortgage over the Land shall take effect subject to this Deed and for the avoidance of doubt the Mortgagee shall be bound by the Owner's obligations in this Deed in the event that it becomes a mortgagee in possession of the Land or exercises any form of control over the Land whether through an administrator (including an administrative receiver) or receiver or manager or otherwise or carries out or procures the carrying out of the development of the Land.

8. Miscellaneous

8.1 Unless expressly stated to the contrary, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person or persons other than the Parties shall have any rights under it nor shall it be enforceable by any person other than the Parties.

- 8.2 Upon completion this Deed shall be registered as a Local Land Charge by the Council.

9. Governing Law and Jurisdiction

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the jurisdiction of the courts of England.

Appendix 1

Plan

This is executed as a deed by the parties and is delivered and takes effect on the date at the beginning hereof:

THE COMMON SEAL of ARUN)

DISTRICT COUNCIL)

was affixed to this deed in the)

presence of:)

Authorised Signatory:

Name:

Seal Book No.

{Company

{EXECUTED as a DEED by

{insert name of party}

Director:

in the presence of:

Signature of witness

Name (in BLOCK CAPITALS)

Address.....

.....

Deed of Variation (insert version and date)

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Director/Company Secretary

In the presence of:

Signature of witness

Name (in BLOCK CAPITALS)

Address.....

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EXECUTED as a DEED by

FUTURE GROUP DEVELOPMENT LIMITED

in the presence of:- Director

Signature of witness

Name (in BLOCK CAPITALS)

Address.....

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EXECUTED as a DEED by

BELVEDERE SECURITY LIMITED

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in the presence of:-

Director

Signature of witness

Name (in BLOCK CAPITALS)

Address.....

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