

Dated:

11 December 2015

Between:

- (1) The Master and Wardens and Commonalty of the Mystery of
Freemen of the Carpentry of the City of London
- (2) Arun District Council

AGREEMENT

under Section 106 of the Town & Country Planning Act 1990
and other powers
Land at Rustington Convalescent Home Sea Road Littlehampton BN16 2LZ

Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF
DX 57406 LITTLEHAMPTON
Reference: R/83/15/PL

Solicitor to the Council
Arun District Council
The Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF

I hereby certify this to be
a true copy
Dated

This Agreement is dated 14th December 2015 and is made between:

- (1) The Master and Wardens and Commonalty of the Mystery of Freemen of the Carpentry of the City of London of Carpenters Hall, Throgmorton Avenue, London EC2 ("the Owner")
- (2) Arun District Council of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF ("ADC")

1. Background

- 1.1 The Owner is the registered freehold owner of the Land under title number SX107714.
- 1.2 The Owner is the trustee of the Rustington Convalescent Home (registered charity number 216865) and enters into this Deed in that capacity.
- 1.3 ADC is the local planning authority for the area within which the Land is situated.
- 1.4 The Owner has submitted the Application to ADC and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.
- 1.5 The Council has resolved to grant the Planning Permission subject to the prior completion of this Deed.

2. Interpretation

In this Agreement:

- 2.1 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is express provision otherwise.
- 2.4 Any reference to a clause, paragraph, schedule recital or plan is (unless the context otherwise requires) a reference to a clause, paragraph, schedule, recital or plan in this Agreement.
- 2.5 Any reference to a colour is to be as shown on the plans attached to this Agreement.
- 2.6 In the absence of contrary provision any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it.
- 2.7 References to any party to this Agreement shall include the successors in title to that party and to any deriving title through or under that party and in the case of the ADC the successors to its functions.
- 2.8 "Act" means the Town & Country Planning Act 1990.
- 2.9 "agreed" or "approved" means agreed or approved in writing and given for the purpose of this Agreement.
- 2.10 "Application" means planning application number R/83/15/PL for redevelopment of the Land to provide 26 new dwellings, to reuse the laundry building to provide five apartments, reuse of both the cook's house and Carpenters' House to provide two dwellings, with refurbishment works and first floor rear roof extension to the main house to create four patient rooms with improved disabled access.

- 2.11 "Commencement of Development" means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" and "Commence" shall be construed accordingly.
- 2.12 "Completed" means the date when the contractor carrying out the Works has done all the work that the contract(s) for the Works requires him to do by the completion date, and corrected any defects which would prevent the Owner from using the Works.
- 2.13 "Convalescent Home" means the Rustington Convalescent Home shown edged blue on the Plan.
- 2.14 "Development" means the development of the Land proposed by the Application.
- 2.15 "Dwelling" means any dwelling to be constructed pursuant to the Planning Permission.
- 2.16 "Endowment Fund" means Rustington Convalescent Home's endowment fund which is invested to produce income to be spent on furthering Rustington Convalescent Home's charitable purposes
- 2.17 "Land" means the land at and surrounding the Rustington Convalescent Home, Sea Road, Littlehampton, BN16 2LZ shown for identification purposes only edged red on the Plan.
- 2.18 "Listed Building Consent" means the listed building consent (reference R/85/15/L) granted by ADC on 19 June 2015 for works to the listed buildings on the Land comprising conversion of the laundry building to provide five

apartments, conversion of both the cook's house and Carpenters' House to provide two dwellings, and refurbishment works to the main house.

2.19 "Management Scheme" means a management scheme for the New Dwellings to ensure the maintenance and preservation of the character and setting of the Convalescent Home and its surrounding buildings and land, which shall:

- (a) prohibit without the consent of the Owner:
 - (i) building on, paving over or substantially altering any garden, yard or forecourt;
 - (ii) extending, or altering the external appearance of, any building;
 - (iii) using, permitting or suffering the use of the New Dwellings as anything other than a single residential unit;
 - (iv) the erection of any boundary, wall or fence or the removal, cutting down or destruction of any trees or hedges;
 - (v) the stationing of any caravan or trailer or moveable temporary building for more than 48 hours in any one month or the making of any part of the New Dwellings into a hard standing for any vehicle having two or more wheels or for any boat;
 - (vi) the washing or exposure of clothes from any front elevation or front garden of the New Dwellings; and
- (b) require the exterior and structure of the New Dwellings to be kept in good repair and decorative condition and all boundary walls, fences, hedges and gardens to be properly maintained and the existing colour scheme not to be substantially altered.

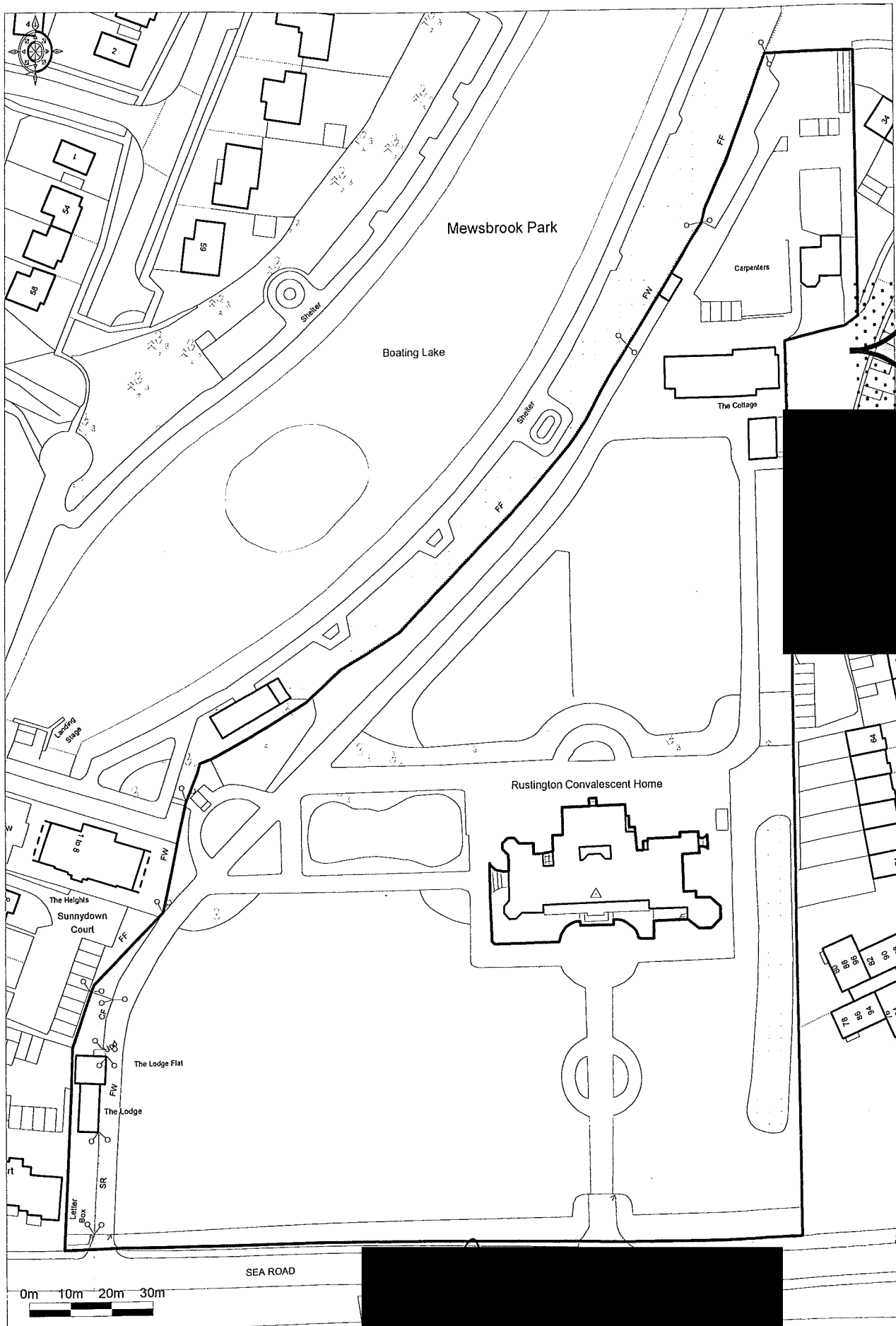
2.20 "New Dwellings" means the 33 new Dwellings to be constructed as part of the Development comprising 26 Dwellings to the rear of the Convalescent Home, five Dwellings within the existing laundry building and two Dwellings within the existing cook's house and Carpenters' House.

- 2.21 "Occupation" means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations.
- 2.22 "Plan" means the plan attached to this Agreement.
- 2.23 "Planning Permission" means the planning permission to be granted by ADC pursuant to the Application.
- 2.24 "Profit" means the financial benefit to the Owner that is realised from the proceeds of sale of the New Dwellings net of the expenditure, costs and taxes incurred in carrying out or in connection with the development authorised by the Planning Permission and the Listed Building Consent.
- 2.25 "Works" means works to the Convalescent Home authorised by the Listed Building Consent and comprising the extension of the rear of the Convalescent Home at first floor level to provide four patient rooms with improved disabled access, including the provision of a lift to all floors, an improved rear entrance to include an external platform lift to enable wheelchair access from the car park, and alteration of the main driveway to create a wider separate in/out vehicular access.

3. Enabling Provisions

- 3.1 This Agreement is entered into as a Deed pursuant to 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.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations binding the Land pursuant to Section 106 of the Act and are enforceable by ADC as local planning authority against the Owner and (unless otherwise stated in this Agreement) its successors in title.

Rustington Convalescent Home



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Licence number 100022432. Plotted Scale - 1:1250

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**SIGN
HERE**

**SIGN
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4. Commencement

4.1 This Agreement shall come into effect upon the date of this Agreement except for the obligations in Clause 5 which shall become effective only on Commencement of Development.

4.2 On Commencement of Development the Owner will give to ADC notice in writing of the Development having been Commenced in the form of the 'Commencement Notice' annexed to this Deed as Schedule 1 and addressed to ADC's Head of Planning Services or equivalent post.

5. Preservation and Enhancement Works to Main House Convalescent Home

The Owner agrees with ADC that:

5.1 Prior to the Occupation of the New Dwellings the Owner shall submit a draft Management Scheme to ADC and obtain ADC's approval of the draft Management Scheme.

5.2 The approved Management Scheme (or any amended or replacement Management Scheme that is agreed with ADC) shall be adhered to by the owners and occupiers of the New Dwellings.

5.3 The Owner shall Complete the Works prior to Occupation of more than 75% of the New Dwellings.

5.4 The Owner shall apply any Profit to the Endowment Fund to produce income to be spent on furthering Rustington Convalescent Home's charitable purposes.

6. Legal Costs

The Owner agrees with ADC to pay on completion of this Agreement to ADC its legal costs incurred in preparing and entering into this Agreement in the sum of £600.

7. General

The parties agree that:

- 7.1 nothing in this Agreement constitutes an obligation to grant planning permission;
- 7.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from ADC in the exercise of any other statutory function;
- 7.3 nothing in this Agreement fetters or restricts the exercise by ADC of any of their powers;
- 7.4 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999;
- 7.5 this Agreement shall apply to the Development as authorised by the Planning Permission issued pursuant to the Application or to the Development after variation or renewal of the planning permission from time to time;
- 7.6 this Agreement is a Local Land Charge and shall be registered as such;
- 7.7 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;
- 7.8 where the agreement, approval, consent or expression of satisfaction is required by the Owner from ADC under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed;
- 7.9 following the performance and satisfaction of all the obligations contained in this Deed ADC shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed;

- 7.10 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;
- 7.11 no person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest;
- 7.12 except in respect of clause 5.2 this Deed shall not be enforceable against owners, occupiers or tenants of individual Dwellings constructed pursuant to the Planning Permission nor against those deriving title from them;
- 7.13 nothing in this Deed shall prohibit or limit the right to develop any part 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.

8. Dispute resolution

- 8.1 If any dispute or difference arises between the parties to this Deed in respect of any matter contained in this Deed such dispute or difference shall be referred to an independent and suitable person holding appropriate professional qualifications to be appointed (in the absence of an agreement) by or on behalf of the president for the time being of the professional body chiefly relevant in England with such matters as may be in dispute and such person shall act as an expert whose decision shall be final and binding on the parties in the absence of manifest error and any costs shall be payable by the parties to the dispute in such proportion as the expert shall determine and failing such determination shall be borne by the parties in equal shares.
- 8.2 In the absence of agreement as to the appointment or suitability of the person to be appointed pursuant to Clause 8.1 or as to the appropriateness of the professional body then such question may be referred by either part to the president for the time being of the Law Society for him to appoint a solicitor to determine the dispute such solicitor acting as an expert and his decision shall

be final and binding on all parties in the absence of manifest error and his costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the parties in equal shares.

8.3 Any expert howsoever appointed shall be subject to the express requirement that a decision is reached and communicated to the relevant parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight working days after the conclusion of any hearing that takes place or twenty-eight working days after he has received any file or written representation.

8.4 The expert shall be required to give notice to each of the said parties requiring them to submit to him within ten working days of notification of his appointment written submissions and supporting material and the other party will be entitled to make a counter written submission within a further ten working days.

9. Severability

The invalidity or unenforceability of any provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

SCHEDULE 1

Commencement Notice

Pursuant to Clause 4.2 in Planning Obligation Described Below

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

Dated this ____ day of ____ 20

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 [2] County Planning Officer, West Sussex County Council, County Hall, Chichester, West Sussex, PO19 1RQ [DX: 30330] Chichester
From:	
Development At:	
Nature of Development:	
Planning Permission Date & Reference	
Planning Obligation Date & Parties	
Start Date:	

**SIGN
HERE**

THE COMMON SEAL of THE MASTER
WARDENS AND COMMONALTY OF THE
MYSTERY OF FREEMEN OF THE
CARPENTRY OF THE CITY OF LONDON
was affixed to this deed in the presence of:-

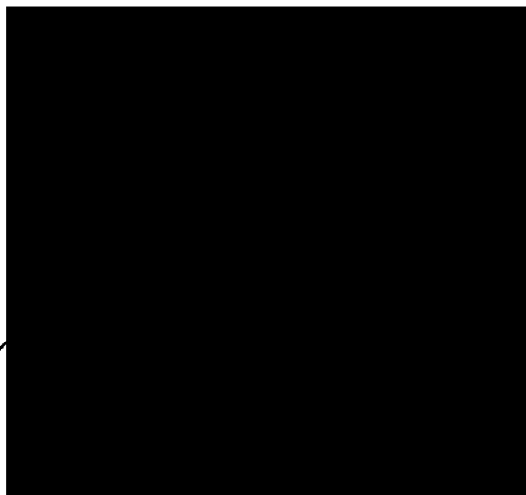
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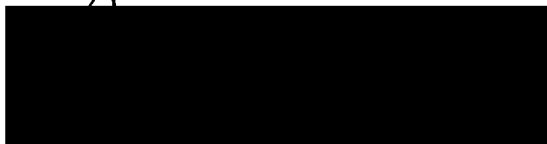
Master

Warden

Clerk

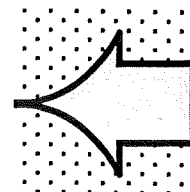


SEALED with the COMMON SEAL
of ARUN DISTRICT COUNCIL
in the presence of:



Seal Book No: 285/2015

Authorised Signatory



**SIGN
HERE**

