

From: Matthew Mainstone [REDACTED]
Sent: 10 May 2022 19:34:43
To: Anita Gardner
Cc: Juan Baeza
Subject: Rustington Convalescent Home [WB-WB1.FID6396356]
Attachments: Application to modify s106 agreement.PDF; Statement in support of application to vary section 106 agreement.PDF

Dear Anita,

I enclose my client's application to modify the section 106 agreement dated 11 December 2015, together with a statement in support.

I did try to call you regarding section 4 of the application form as I wanted to check if the deed of variation is agreed in principle. However, as I don't know if it is, I have stated that my client is applying under s106A(1) if the draft deed is agreed in principle, and under s106A(3) if it is not (and I have completed Certificate A if the latter is the case).

Please do let me know if you require any further information or documents to enable you to consider the application. If you feel that the draft deed of variation should be amended in any way, please do let me know and I will take instructions.

Kind regards

Matthew Mainstone
Partner



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Before printing this email please consider whether it is necessary for you to do so.

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SECTION 106A TOWN AND COUNTRY PLANNING ACT 1990

Application for Modification or Discharge of Planning Obligation

1a. Applicant:		1b. Agent:	
Name	The Master Wardens and Commonalty of the Mystery of Freemen of the Carpentry of the City of London	Name	Matthew Mainstone
Address	Carpenters' Hall, Throgmorton Avenue, London	Address	Wedlake Bell LLP 71 Queen Victoria Street London
Post Code	EC2N 2JJ	Post Code	EC4V 4AY
Tel No	See agent's details	Tel No	[REDACTED]
Email	See agent's details	Email	[REDACTED]

2. Address or location of the land to which this application relates:
Rustington Convalescent Home, Sea Road, Littlehampton, BN16 2LZ
The application must be accompanied by a location plan with the site edged red

3. Please state the nature of the applicant's interest in the land (i.e. landowner, leaseholder, developer, prospective purchaser):
Landowner

4. Type of Application	
Application to discharge obligation(s)	NO
Application to modify obligation(s)	YES
Are you applying under S106A (1) to negotiate a new deed for a modification or discharge that has been agreed in principle? <i>If Yes, certificates at the end of this form are not mandatory</i>	Yes, if the new deed is agreed in principle
Are you applying under S106A (3) for a determination under an application to modify or discharge obligations that were agreed over 5 years ago? <i>If Yes, the certificates at the end of this form are mandatory</i>	Yes, if the new deed is not agreed in principle

5. Planning Agreement

Date Planning Agreement was entered into	11 December 2015
Reference of relevant Planning Permission	R/187/16/PL and R/258/18/PL
Obligation(s) to be discharged/modified	Definition of "Profit" in relation to clause 5.4

6. Brief outline of reasons for applying to discharge or modify the obligation:

Please see the attached statement in support.

7. Please state any other information considered relevant to this application**9. Are you, or the person you are acting for, related to any member of staff or Elected member of the Council? If yes please specify details:**

No.

I/We hereby apply for the approval of the planning obligation.

Signed



On behalf of (insert applicants name if signed by agent)

THE CARPENTERS' COMPANY

Certificates – If you are applying under S106A(3) This application must be accompanied by a completed ownership certificate A, B or C (whichever is appropriate) and if Certificate B applies a Notice* must also be served on the Owner(s)
*Separate Notice attached to the end of this form

Data Protection

The information collected from this form will be used by Arun District Council only for purposes as indicated on our Privacy Notice [\[Link to Privacy Notice\]](#)

CERTIFICATE A

I certify that on the day 21 days before the date of the accompanying application, the planning obligation to which the application relates was enforceable against nobody other than the applicant

Signed: 

(If appropriate) On behalf of: THE CARPENTERS' COMPANY

Date: 10 May 2022

CERTIFICATE B

I certify that the applicant has given notice* to everyone else against whom, on the day 21 days before the date of the accompanying application, the planning obligation to which the application related was enforceable as listed below:

Person on whom notice served	Address it was served	Dated it was served

Signed (If appropriate) On behalf of: Date:		

CERTIFICATE C

I certify that the applicant cannot issue a Certificate A or B in respect of the accompanying application; the applicant has taken reasonable steps to ascertain the name and address of every person against whom, on the 21 days before this application, the planning obligation to which this application relates was enforceable and who has not been given notice of the application but has been unable to do so. These steps were as follows:

- (a)
- (b)
- (c)

Insert

(a) description of steps taken

(b) name of local newspaper in which the notice was published

(c) date of publication

Signed (If appropriate) On behalf of: Date:

**The Notice (overleaf) must be served by the applicant on all persons to which this obligation is enforceable. Where the names and addresses of all such persons are not known to the applicant, after he has taken reasonable steps to ascertain that information, he shall during the 21 day immediately preceding the application, publish the notice of the application in a local newspaper circulating in the locality of the land to which the application relates*

NOTICE

Notice of an application to modify or discharge a planning obligation under Section 106A of the Town and Country Planning Act 1990 Regulation 4(5)

I give notice that *(insert name of applicant)*:

Is applying to Arun District Council to modify/discharge the planning obligation described below *(enter brief description of the planning obligation which the application wishes to have modified or discharged)*:

Land to which the obligation relates *(enter the address or location of the land)*:

Date on which the obligation was entered into:

Any person against whom the planning obligation is enforceable who wishes to make representations about this application should write to the Planning Department, Arun District Council, The Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5SS by *(enter a date giving a period of 21 days beginning with the date of service or publication of the notice as the case may be)*:

.....

Signed Date

(if appropriate) on behalf of

Data Protection

The information collected from this form will be used by Arun District Council only for purposes as indicated on our Privacy Notice

.....

The Carpenter's Company
Rustington Convalescent Home

Statement in support of an application to vary a section 106 agreement dated 11 December 2015

Introduction

1. This statement is written on behalf of the Carpenter's Company ("the Company") in relation to the development of the Rustington Convalescent Home and grounds ("the Property"), and specifically in relation to an application by the Company to vary a section 106 agreement that applies obligations relating to the development of the Property.
2. The Property is owned by the Carpenter's Company with freehold title absolute, registered at the Land Registry under title number SX107714. A copy of the register and plan is appended to this statement at Appendix 1.
3. Planning permission reference R/83/15/PL ("the Planning Permission") was granted on 21 October 2015 for the *"Redevelopment of land to the rear of the Convalescent Home to provide 26 new dwellings, reuse of the laundry building to provide five apartments, reuse of both the Cook's House and Carpenter's House to provide two dwellings, with refurbishment works and a first floor rear roof extension to the main house to create four additional patient bedrooms"* ("the Development").
4. An agreement dated 11 December 2015 was entered into under section 106 of the Town and County Planning Act 1990 ("the 1990 Act") in connection with the Planning Permission ("the Section 106 Agreement").
5. A listed building consent reference R/85/15/L was granted on 19 June 2015 for the *"Conversion of the laundry building to provide five apartments, conversion of both the Cook's House and Carpenter's House to provide two dwellings with refurbishment works to the main house"* ("the Listed Building Consent").
6. Planning permission reference R/187/16/PL was granted on 14 November 2016 pursuant to an application under section 73 of the 1990 Act ("the Section 73 Permission") to vary conditions of the Planning Permission to allow the Development to be undertaken in phases.
7. A deed of variation of the Section 106 Agreement was entered into on 24 November 2016 to apply the obligations in the Section 106 Agreement to the development authorised by the Section 73 Permission ("the First Deed of Variation").
8. Copies of the Planning Permission, the Listed Building Consent and the Section 73 Permission are appended to this statement at Appendix 2 and copies of the Section 106 Agreement and First Deed of Variation are appended at Appendix 3.
9. The Development, as authorised by the Section 73 Permission and the Listed Building Consent, was implemented within the time-limits set out in them.
10. The works to renovate the Convalescent Home forming part of the Development have been completed.
11. The Company is in the course of agreeing to transfer land to Millwood Designer Homes (MDH) to enable MDH to undertake the residential development authorised by the Section 73 Permission. A contract is close to being concluded.
12. Before exchanging contracts, MDH require a further deed of variation of the Section 106 Agreement to be entered into to clarify that the profits that MDH make from the sale of the dwellings would not be required to be applied to the endowment fund for the Convalescent Home's charitable purposes ("the Endowment Fund") under clause 5.4 of the Section 106 Agreement. The obligation was never intended to apply to such profits and the further deed of variation is required to make this clear.

Background

13. It is necessary to set out the background to this matter and the reasons for the imposition of the obligation in clause 5.4 of the Section 106 Agreement requiring profits from the overall development to be applied to the Endowment Fund.
14. It must be stressed that the Company does not seek to depart from that requirement, rather to clarify that any profits to be applied to the Endowment Fund will now come from the sale of the residential land rather than the sale of the houses by the Company as originally envisaged.
15. The commentary on page 242 of the officer's report to committee in relation to the original planning application clarifies that the aim of the obligation was to ensure that, once the entire development is completed, any surplus receipts available to the Company are to be applied to the Endowment Fund (the purpose being to further the Convalescent Home's charitable purposes). Effectively, the committee expected that, once the overall development (renovation of the Convalescent Home and the residential development) is completed, any remaining surplus profit to the Company from the scheme would be applied to the Endowment Fund. A copy of the committee report is appended to this statement at Appendix 4.
16. The Company's original intention was to carry out the development as one overall scheme and that was reflected in clause 5.4 of the Section 106 Agreement with the 'profits' comprising any surplus receipts available to the Company once all costs of the development and associated fees had been paid. However, the Company subsequently decided, for reasons explained below, to undertake only the renovation of the Convalescent Home, and to sell the residential land to MDH rather than build and sell the homes itself.
17. The Company will still apply any profits that it makes from the overall development to the Endowment Fund, but because of the changed circumstances the Section 106 Agreement needs to be varied to make it clear that the 'profits' will be those that arise to the Company from the sale of the residential land. This would still be in line with the requirements set out in the committee report.
18. It is important to bear in mind that this does not concern a contribution that is payable to Arun District Council ("ADC") for affordable housing, for example, and the obligation was simply intended as a mechanism to ensure that any profits made by the Company would be applied towards the future upkeep of the Convalescent Home. The proposed amendment to the Section 106 Agreement would ensure that remains the case. A draft deed of variation of the Section 106 Agreement is attached to this statement at Appendix 5 and the proposed amended obligation defines the 'profits' that are to be applied to the endowment fund as being:

"the financial benefit to the Master and Wardens and Commonalty of the Mystery of Freemen of the Carpentry of the City of London that is realised from the proceeds of the sale of land and / or the New Dwellings (or any of them) net of expenditure, costs and taxes incurred in carrying out or in connection with the development authorised by the Planning Permission and the Listed Building Consent"
19. As mentioned above, the works to the Convalescent Home itself, as approved by both the Section 73 Permission and the Listed Building Consent, have been completed. The Section 73 Permission and Listed Building Consent are therefore extant, and the remaining residential elements of the scheme are capable of being implemented.
20. The disposal of the residential land is the only viable and deliverable option for the Carpenter's Company.

Financial implications

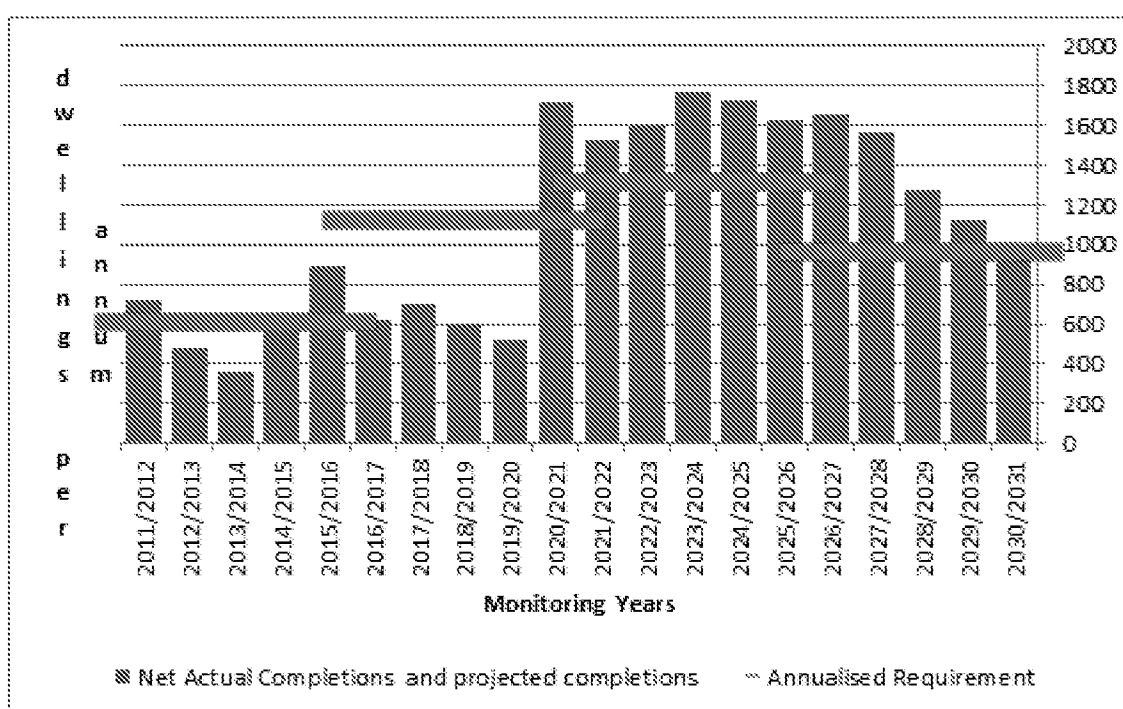
21. The financial implications for the Company of proceeding with a land sale to MDH, rather than building and selling the dwellings (i.e. the 26 new dwellings and the converted laundry building, 'Cook's House' and 'Carpenters House') are set out below.
22. As a registered charity, the Company was required to consider all options to take forward the Development to minimise risk and realise a profit for the Convalescent Home to be invested in the future maintenance of the home. In doing so, the Company had to consider the financial risk and exposure of taking forward such a project. It was decided that the financial risk of undertaking the entire development would be unacceptable, requiring significant borrowing that would be unacceptable due to the collateral required by any bank to insure against the amounts borrowed. The scale of the project is such that the amounts that would have needed to be

borrowed would have significantly outweighed the value of the Convalescent Home, potentially putting the home itself at risk. This clearly would not have been an acceptable position for the Company.

23. In addition, the Company considered that it did not have the expertise to take forward the residential part of the Development, so the two alternatives were to appoint a third-party delivery agent to construct the residential element on its behalf, or to sell the land to a residential developer.
24. Due to the combination of the unacceptable financial risks to the Company and lack of expertise required to deliver such a project, the Company determined that the most prudent way forward would be to sell the residential land independently and realise the financial return from the land sale, rather than from any profits arising from the sale of the homes by the Company post construction, which was not deemed to be feasible/deliverable.
25. Whilst it is possible that the profits from a land sale receipt might be less than the profit from the sale of the units if built out by the Company, the latter option would have carried significant and unacceptable risks to the Company. Further, there are additional risks with escalating build costs and uncertainty in the economy more generally that may lead to the Development not being profitable. The Company therefore requires a third party to take forward the project and accept these risks that, whilst unacceptable to the Company as a charity, are fully accepted by MDH as a reputable housebuilder.

Planning benefits

26. The extant Section 73 Permission and Listed Building Consent would deliver 33 high-quality new homes, including the viable re-use of two listed buildings. This is a significant planning benefit against the context of a well-acknowledged national housing crisis, and even more so against acute historic and persistent under-delivery within the district.
27. This position is recognised in the ADC 2020-2021 Annual Monitoring Report (AMR), published in January 2022. Chapter 4 of the AMR details housing delivery and supply over the reporting period. The AMR reflects significant under-delivery of new homes, and in terms of supply confirms that at present ADC can demonstrate only 2.42 years of housing supply. Since 2019, ADC has been required by central Government to prepare, publish and enact a Housing Action Delivery Plan (HADP) to address its housing delivery issues, on account of its under-delivery (achieving 61% in the Housing Delivery Test (HDT) in 2020) which worsened 2018 to 2020. The below trajectory, forming part of the 2021 HADP, reflects the extent of the under-delivery:



28. Whilst the results of the 2021 HDT (published January 2022) indicate an improved score of 68%, this is not sufficient to reduce the sanctions currently in place. As such, an updated HDAP will be required by July 2022, alongside continuing to apply a 20% buffer to the five-year housing land supply, and the presumption in favour of sustainable development being engaged. Collectively, this reflects significant pressure on ADC to address housing delivery and supply.
29. Demonstrably, there is a significant need for improved rates of both housing delivery and housing supply within ADC's area, and as such it is important to identify the role of the extant planning permission at Rustington Convalescent Home in addressing this.
30. The 2020-21 AMR identifies the extant planning permission as forming part of the 'Large Site Commitments with Planning Permission' supply pool, and therefore part of its identified housing trajectory. Comprising a site with an extant planning permission, it is reasonable to assume that its delivery is more realistic than a site which has only been identified by a landowner, for example within the HEELA, and therefore its ability to provide new homes should be afforded greater weight. Opportunities to ensure sites within this pool are brought forward, including unlocking delivery challenges, should be taken.
31. The site's ability to deliver 33 new homes against this challenging existing and future housing supply context is a demonstrable and significant planning benefit.

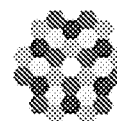
Conclusion

32. It is clear from the above that the effect of the wording of the current obligation in clause 5.4 of the Section 106 Agreement remaining in place would be an impediment to the delivery of much-needed housing in accordance with an extant planning permission, planning policy and the Council's housing supply requirements.
33. The Company therefore seeks the Council's agreement to enter into a further deed of variation of the Section 106 Agreement in the form of the attached draft to facilitate the sale of the residential land to MDH at an agreed market value and for the Company to realise the capital receipt for the land and invest the funds into the future of the Convalescent Home.
34. The purpose of the obligation in the Section 106 agreement was to ensure the re-investment of any profits to the Carpenter's Company, and the revised wording that is being sought does not change that objective. The amendment is designed simply to give MDH comfort that they will not have to apply the profits from the sale of the homes to the Company's endowment fund, which was of course never the intention. It is therefore open to the Council to determine that, in accordance with section 106A (6)(c) of the 1990 Act, the obligation "would serve that purpose equally well if it had effect subject to the modifications specified in the application", and that that it shall have effect subject to those modifications.

Wedlake Bell LLP

9 May 2022

APPENDIX 1
REGISTER AND PLAN



Official copy of register of title

Title number SX107714

Edition date 21.05.2010

- This official copy shows the entries on the register of title on 20 AUG 2021 at 08:44:15.
- 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 Aug 2021.
- 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 : ARUN

- 1 (22.10.1897) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being land and buildings on the north side of Sea Road, Littlehampton.
- 2 A Transfer of the land tinted pink on the filed plan dated 12 October 1951 made between (1) Master Wardens and Commonalty of The Mystery of Freeman of The Carpentry of The City of London (Transferors) and (2) The Urban District Council of Littlehampton (Transferees) reserves the following rights:-

"Reserving unto the Transferors and the owners for the time being of the land edged green on the said plan and their servants and the occupants for the time being of the Rustington Convalescent Home the rights to pass and repass from the land edged green and the roadway on which the same abutts across the land hereby conveyed to and from the foreshore below highwater mark for the purpose of bathing and to use the land hereby transferred for the purpose of bathing subject nevertheless to the rights vested in the Transferees by the Public Health Acts, 1875 to 1925 or any statutory modification or amendment thereof or otherwise in regard to pleasure grounds".

NOTE: The land in this title forms part of the land edged green referred to.

- 3 There are appurtenant to the land in this title the following rights reserved by a Transfer of adjoining land to the north and east dated 12 July 1968 made between (1) The Master Wardens and Commonalty of The Mystery of Freeman of the Carpentry of The City of London (Transferor) and (2) A J Wait & Co Limited (Transferees):-

"THE Transferor hereby reserves unto itself in favour of its adjoining property the right to enter upon the land hereby transferred for the purpose of renewing or maintaining the boundary fence between the points marked A and C on the said plan.

There is reserved out of this Transfer all rights of light and air from the said property hereby transferred in favour of the adjoining property belonging to the Transferor and it is declared that the Transferor may alter the existing buildings or construct new buildings on their said adjoining property notwithstanding that such alteration

Title number SX107714

A: Property Register continued

of existing buildings or construction of new buildings may interfere with the flow of light or air coming to the said land hereby transferred from the said adjoining land of the Transferor".

NOTE: The points marked A and C referred to are reproduced on the filed plan.

- 4 The land in this title has the benefit of the rights of drainage of storm water granted by a Deed dated 11 October 1968 made between (1) The Urban District Council of Littlehampton and (2) The Masters Wardens and Commonalty of The Mystery of Freemen of The Carpentry of The City of London.

NOTE: Copy filed under SX5925.

- 5 (12.02.2004) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.

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 (22.10.1897) PROPRIETOR: THE MASTER WARDENS AND COMMONALTY OF THE MYSTERY OF FREEMEN OF THE CARPENTRY OF THE CITY OF LONDON of Carpenters Hall, Throgmorton Avenue, London EC2.
- 2 (07.11.1951) RESTRICTION: No disposition or other dealing is to be registered without the consent of The Charity Commissioners or an order of the Registrar.

C: Charges Register

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

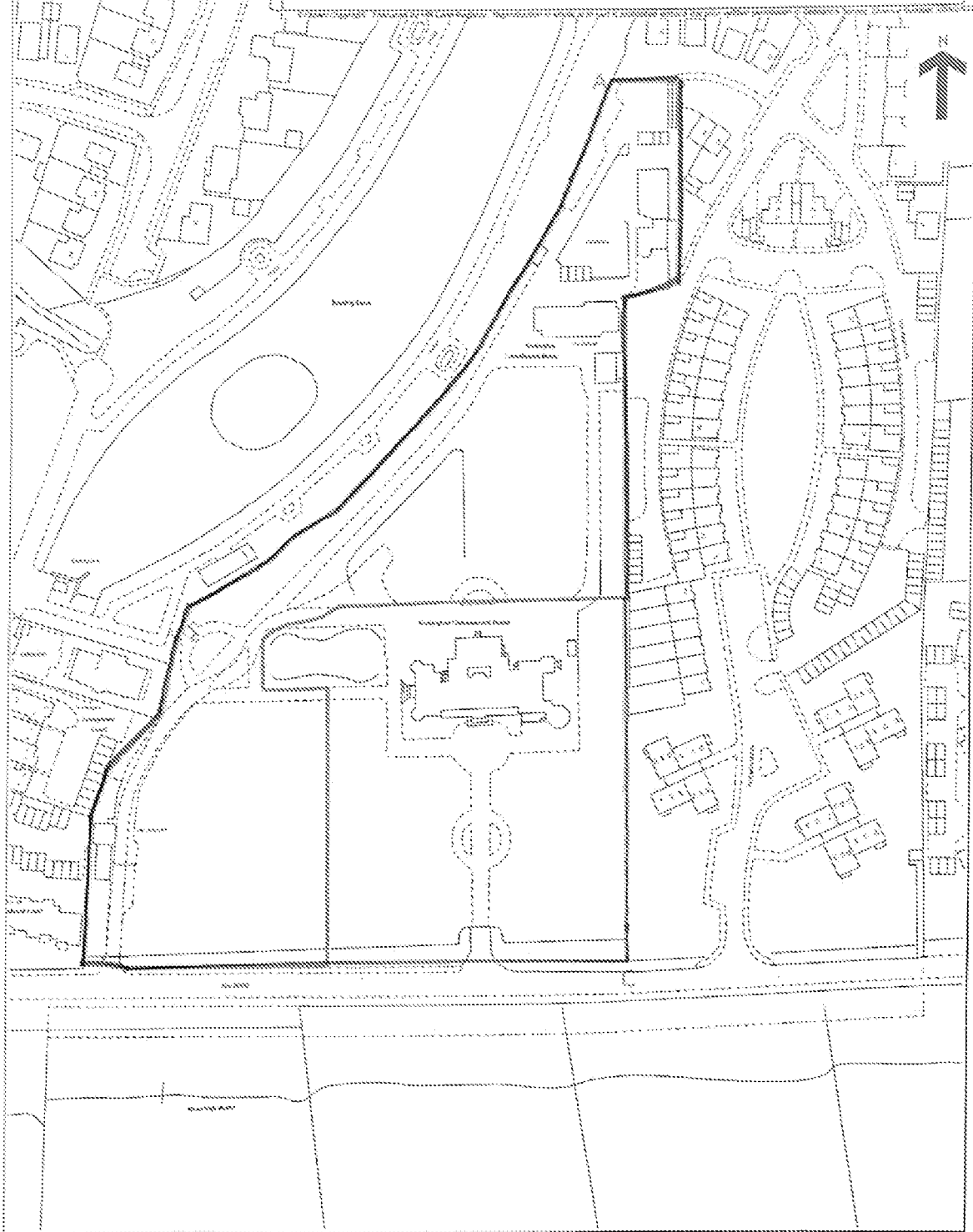
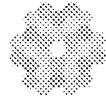
- 1 The land is subject to the following right granted by a Transfer of adjoining land to the south dated 7 February 1961 made between (1) The Masters Wardens and Commonalty of The Mystery of Freemen of The Carpentry of The City of London (Vendors) and (2) The County Council of The Administrative County of West Sussex (Council):-

"Together with full and free right and liberty for the Council to enter on to the adjoining land of the Vendors for the purpose of maintaining any necessary slopes embankments or other similar incidental works thereon provided that the Council shall make good any damage which may be caused by such maintenance as aforesaid"

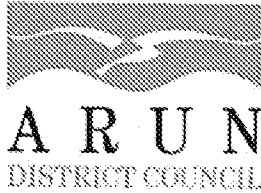
End of register

HM Land Registry
Official copy of
title plan

Title number **SX107714**
Ordnance Survey map reference **TQ04015W**
Scale **1:1250**
Administrative area **West Sussex : Arun**



APPENDIX 2
PLANNING PERMISSIONS AND LISTED BUILDING CONSENT



Town & Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management
Procedure) (England) Order 2015
Application for Planning Permission
DECISION NOTICE

Application Ref: R/187/16/PL

1 To Addressee

Daniel Watney LLP
 165 Fleet Street
 London
 EC4A2DW

2 Site Address

Rustington Convalescent Home
 Sea Road
 BN16 2LZ

3 Description of Development

Variation of conditions 2, 3, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 & 24 imposed under R/83/15/PL to allow for scheme to be brought forward in two phases.

In pursuance of their powers under this Act and related Orders and Regulations the Council **PERMIT** this development to be carried out in accordance with the application and plans and subject to compliance with the following conditions and Section 106 Agreement.

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans location, 222-A-I-P-00, 222-A-I-01, 222-A-I-P-02, 222-A-I-S-00, 222-A-I-E-00, 222-A-I-E-01, 222-A-I-E-02, 222-A-I-E-03, 222-A-x-SE-00, 222-A-D-E-00, 222-A-E-P-00revA, 222-A-x-SE-01 revB, 222-A-x-SE-02revA, 222-A-2-EXP-00, 222-A-2-P-00, 222-A-A-P-00revB, 222-A-B-P-00revB, 222-A-C-P-00revA, 222-A-D-P-00, 222-A-D-E-00 revA, 222-A-E-P-00 revA, 222-A-X-SP-01 revK, 222.901, 10631012 Basement, Ground, First and Second Floor plans of Home, floor plans and elevations of The Cottage, Carpenters Home, 281/700, 281/100 rev9 and 281/101 revB and phasing plan 222-A-x-SP-01 rev M.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 3 Unless otherwise agreed in writing by the Local Planning Authority, the development shall be implemented and undertaken in accordance with the phasing details approved on drawing number 222-A-x-SP-01 Rev M and any reference in this permission to Phase One or Phase Two shall be to Phase One and Phase Two as shown on drawing number 222-A-x-SP-01 Rev M. Any reference in this permission to the submission and approval of details shall be construed as referring to matters remaining to be approved in respect of each phase and may be submitted separately for each phase.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 4 Prior to commencement of development within Phase 2, a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings in Phase 2 shall be submitted to and approved by the Local Planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with policy GEN7 of the Arun District Local Plan.

- 5 Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting this Order) no extensions (including porches or dormer windows) to the dwelling houses shall be constructed or buildings shall be erected within the curtilage unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To safeguard the privacy and amenity of adjoining occupiers, maintain adequate amenity space, protect the setting of the listed building and safeguard the cohesive appearance of the development in accordance with policy GEN7 of the Arun District Local Plan and the NPPF.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that Order) the buildings shall not be altered in any way unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of the amenities of the locality in general and the setting of the listed building in accordance with policy GEN7 of the Arun District Local Plan and the NPPF.

- 7 Prior to commencement of development within each phase, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development, shall be submitted to and approved by the Local Planning Authority. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- Reason: In the interests of amenity and of the environment of the development in accordance with policy GEN7 of the Arun District Local Plan.
- 8 The burning of materials obtained by site clearance or from any other source shall not take place within 6 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or on land adjoining.
- Reason: To protect trees and vegetation from fire damage in the interests of the visual amenities of the locality.
- 9 All proposed works to take place within the Root Protection Areas are to follow the submitted Method statements. This includes hard surface removal (as described in section 11 of the submitted Arboricultural Method statement), and also with the installation of no-dig road surface (section 12 of the submitted Arboricultural Method statement).
- Reason: In the interests of the visual amenities of the locality in accordance with policy GEN7 of Arun District Local Plan.
- 10 All proposed protective fencing (meeting the BS 5837 standard) must be erected before any site works begin. Equally all protective fencing must be kept in place until the completion of the proposed development, as specified in section 6 of the Arboricultural Method statement.
- Reason: In the interests of the visual amenities of the locality in accordance with policy GEN7 of Arun District Local Plan
- 11 If any root is discovered with a diameter of over 25 mm diameter, which requires severing then the Arun District Council tree officer must be informed to supervise any pruning.
- Reason: In the interests of the visual amenities of the locality in accordance with policy GEN7 of Arun District Local Plan

- 12 Prior to occupation of each phase, details of the vehicular access serving the relevant phase of development and refuse vehicle turning space for that phase shall be constructed in accordance with further details to be submitted to and approved by the Local Planning Authority.
- Reason: In the interests of road safety and to accord with approved policy in accordance with policy GEN7 of the Arun District Local Plan.
- 13 Prior to the occupation of Phase Two, provision shall be made within the site in accordance with details to be submitted to and approved by the Local Planning Authority to prevent surface water discharging onto the public highway.
- Reason: In the interests of road safety and to accord with approved policy in accordance with policy GEN7 of the Arun District Local Plan.
- 14 Prior to the occupation of Phase Two, visibility splays of 2.4m by 43m have been provided at the proposed site vehicular access onto Sea Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free from any obstruction to visibility in excess of 0.6 metres above the level of the adjoining carriageway level or as otherwise agreed.
- Reason: In the interests of road safety in accordance with policy GEN7 of the Arun District Local Plan.
- 15 Prior to occupation of each phase the car parking spaces for the relevant phase shall be constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority and such provision shall thereafter be used only for the parking of cars.
- Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways in accordance with policy GEN7 of the Arun District Local Plan.
- 16 Prior to the occupation of each phase, covered and secure cycle parking spaces for the relevant phase shall be provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority and such provision shall thereafter be used only for the parking of cycles.
- Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways in accordance with policy GEN7 of the Arun District Local Plan.

- Page 5 of 9

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- 20 Prior to the commencement of development of each phase full details of the proposed surface water drainage scheme for the relevant phase shall be submitted to and approved in writing by the Local Planning Authority.
- The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, the recommendations of the SUDS Manual produced by CIRIA.
- Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage.
- No unit shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
- Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan.
- 21 Prior to occupation of Phase One or Phase Two formal consent shall be approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site.
- Any discharge to a watercourse must be at a rate no greater than the pre-development run off values.
- Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan.
- 22 Prior to the commencement of each phase of development full details of the maintenance and management of the SUDs system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the SuDs System, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- Reason: To ensure the efficient maintenance and on going operation of the SuDs system and to ensure the best practice in line with guidance set out in 'The SuDs Manual' CIRIA publication ref: C697 Chapter 22

- 23 Prior to the installation of any external lighting within each phase precise details of the position, luminosity and design of the external lighting shall be submitted to and approved by the Local Planning Authority and the development shall proceed in accordance with the approved details.

Reason: In the interests of the setting of the listed building in accordance with Arun District Local Plan policies GEN7 and the National Planning Policy Framework.

- 24 The development shall proceed in accordance with the recommendations set out in the Extended Phase 1 Habitat Survey by PJC Ecology dated June 2013.

Reason: To ensure that the ecological value of the site is maximised in accordance with policy GEN7 of Arun District Local Plan.

- 25 Prior to the occupation of the Phase Two dwellings hereby approved, a detailed Management Scheme which shall include details of grass cutting management, regular repair and repainting of dwellings, control over the cohesive uniformity of the development, maintenance of landscaping and control over additional structures including aerials and satellite dishes, changes to windows/doors, re-pointing, alterations to front garden areas, driveways etc shall be submitted and approved by the Local Planning Authority.

Reason: In the interests of the setting of the listed building in accordance with policy GEN7 of Arun District Local Plan and the National Planning Policy Framework

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

INFORMATIVE: The internal layout has been considered by a senior engineer in the implementation team at WSCC. It is unclear from any of the submitted drawings if the roads are to be offered for adoption. If this is the case it would need to be clarified what is intended for adoption.

The internal roads appear to be very narrow, 4.6m wide in some sections (including footways/verge) e.g. at block E. It would be helpful for the designer to dimension the drawing, i.e. give widths of carriageways, verges, footways etc. The carriageway looks even narrower around Block C.

INFORMATIVE: Application for a S278 Agreement to cover the off-site highway works should be made to WSCC as Highway Authority. Full details are available on the WSCC website. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

INFORMATIVE: Where possible any new entry doors and any ground floor or any easily accessible windows should conform to PAS 024 2012.

INFORMATIVE: Lighting throughout the development should conform to the recommendations in BS 5489 2013.

INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House,

Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119) or
www.southernwater.co.uk

INFORMATIVE: A formal application for connection to the water supply is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119) or www.southernwater.co.uk

INFORMATIVE: Detailed design of the proposed drainage system should take into account the possibility of the surcharging within the public sewerage system in order to protect the development from potential flooding.

INFORMATIVE: This decision has been granted in conjunction with a Section 106 legal agreement relating to the provision of funds from the development being applied to the charity endowment fund or the repair and maintenance of the Convalescent Home and that the repairs are completed prior to occupation of 75% of the units.

INFORMATIVE: For the avoidance of doubt this permission is granted without the provision of play area which was included in the original application prior to amendment.

Case Officer: Mrs A Gardner

Date of Decision:

14 November 2016


Karl Roberts
Director Planning & Economic Regeneration

Arun District Council
The Arun Civic Centre
Maitravers Road
Littlehampton
West Sussex BN17 5LF

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT



Town & Country Planning Act 1990 (as amended) ☐
Town and Country Planning (Development Management
Procedure) (England) Order 2015
Application for Planning Permission
DECISION NOTICE

Application Ref: R/258/18/PL

1 To Addressee

Daniel Watney Llp
 165 Fleet Street
 London

EC4A 2DW

2 Site Address

Rustington Convalescent Home
 Sea Road

BN16 2LZ

3 Description of Development

Variation of conditions 2 & 3 imposed under R/187/16/PL relating to amended phases (phase one amended to the conversion of the laundry building, cooks house & dairy & works to the Convalescent Home and phase two amended to the erection of the new build dwellings).

In pursuance of their powers under this Act and related Orders and Regulations the Council **PERMIT** this development to be carried out in accordance with the application and plans and subject to the following conditions

- 1 The development hereby permitted shall be begun before the expiration of 3 years from 14-11-2016, which is the date of the original planning permission R/187/16/PL.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans location, 222-A-I-P-00, 222-A-I-01, 222-A-I-P-02, 222-A-I-S-00, 222-A-I-E-00, 222-A-I-E-01, 222-A-I-E-02, 222-A-I-E-03, 222-A-x-SE-00, 222-A-D-E-00, 222-A-E-P-00revA, 222-A-x-SE-01 revB, 222-A-x-SE-02revA, 222-A-2-EXP-00, 222-A-2-P-00, 222-A-A-P-00revB, 222-A-B-P-00revB, 222-A-C-P-00revA, 222-A-D-P-00, 222-A-D-E-00 revA, 222-A-E-P-00 revA, 222-A-X-SP-01 revK, 222.901, 10631012 Basement, Ground, First and Second Floor plans of Home , floor plans and elevations of The Cottage, Carpenters Home, 281/700, 281/100 rev9 and 281/101 revB and phasing plan 222-AX-SP-02 rev N.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy DDM1 of the Arun Local Plan.

- 3 Unless otherwise agreed in writing by the Local Planning Authority, the development shall be implemented and undertaken in accordance with the phasing details approved on drawing number 222-AX-SP-02 Rev N and any reference in this permission to Phase One or Phase Two shall be to Phase One and Phase Two as shown on drawing number 222-AX-SP-02Rev N. Any reference in this permission to the submission and approval of details shall be construed as referring to matters remaining to be approved in respect of each phase and may be submitted separately for each phase.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy DDM1 of the Arun Local Plan.

- 4 Prior to commencement of development within Phase 2, a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings in Phase 2 shall be submitted to and approved by the Local Planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with policy DDM1 of the Arun Local Plan.

- 5 Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting this Order) no extensions (including porches or dormer windows) to the dwelling houses shall be constructed or buildings shall be erected within the curtilage unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To safeguard the privacy and amenity of adjoining occupiers, maintain adequate amenity space, protect the setting of the listed building and safeguard the cohesive appearance of the development in accordance with policy DDM1 of the Arun Local Plan and the NPPF.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that Order) the buildings shall not be altered in any way unless permission is granted by the Local Planning Authority on an application in that behalf.
- Reason: To enable the Local Planning Authority to control the development in detail in the interests of the amenities of the locality in general and the setting of the listed building in accordance with policies DDM1 and HERDM1 of the Arun Local Plan and the NPPF.
- 7 Development shall proceed in accordance with the landscaping scheme approved by the Local Planning Authority under R/40/18/DOC. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- Reason: In the interests of amenity and of the environment of the development in accordance with policy DDM1 of the Arun Local Plan.
- 8 The burning of materials obtained by site clearance or from any other source shall not take place within 6 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or on land adjoining.
- Reason: To protect trees and vegetation from fire damage in the interests of the visual amenities of the locality in accordance with policy DDM1 of Arun Local Plan.
- 9 All proposed works to take place within the Root Protection Areas are to follow the submitted Method statements. This includes hard surface removal (as described in section 11 of the submitted Arboricultural Method statement), and also with the installation of no-dig road surface (section 12 of the submitted Arboricultural Method statement).
- Reason: In the interests of the visual amenities of the locality in accordance with policy DDM1 of Arun Local Plan.
- 10 All proposed protective fencing (meeting the BS 5837 standard) must be erected before any site works begin. Equally all protective fencing must be kept in place until the completion of the proposed development, as specified in section 6 of the Arboricultural Method statement.
- Reason: In the interests of the visual amenities of the locality in accordance with policy DDM1 of Arun Local Plan.

- 11 If any root is discovered with a diameter of over 25 mm diameter, which requires severing then the Arun District Council tree officer must be informed to supervise any pruning.
- Reason: In the interests of the visual amenities of the locality in accordance with policy DDM1 of Arun Local Plan
- 12 Prior to occupation of each phase, details of the vehicular access serving the relevant phase of development and refuse vehicle turning space for that phase shall be constructed in accordance with further details to be submitted to and approved by the Local Planning Authority.
- Reason: In the interests of road safety and to accord with approved policy in accordance with policy DDM1 of the Arun Local Plan
- 13 Prior to the occupation of Phase Two, provision shall be made within the site in accordance with details to be submitted to and approved by the Local Planning Authority to prevent surface water discharging onto the public highway.
- Reason: In the interests of road safety and to accord with approved policy in accordance with policies TSP1 and DDM1 of the Arun Local Plan.
- 14 Prior to the occupation of Phase Two, visibility splays of 2.4m by 43m shall have been provided at the proposed site vehicular access onto Sea Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free from any obstruction to visibility in excess of 0.6 metres above the level of the adjoining carriageway level or as otherwise agreed.
- Reason: In the interests of road safety in accordance with policies TSP1 and DDM1 of the Arun Local Plan.
- 15 Prior to occupation of each phase the car parking spaces for the relevant phase shall be constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority and such provision shall thereafter be used only for the parking of cars.
- Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways in accordance with policy DDM1 of the Arun Local Plan.
- 16 Prior to the occupation of each phase, covered and secure cycle parking spaces for the relevant phase shall be provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority and such provision shall thereafter be used only for the parking of cycles.
- Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways in accordance with policy DDM1 of the Arun Local Plan.

- 17 The Construction Management Plan approved under R/43/18/DOC shall be implemented and adhered to throughout the entire construction period.
- Reason: To ensure safe and neighbourly construction in the interests of amenity and road safety in accordance with policy DDM1 of Arun Local Plan.
- 18 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment(FRA) and the following mitigation measures detailed within the FRA:
- Finished floor levels are set no lower than 300mm above existing ground level or the 1 in 200 tidal flood event with climate change whichever is the greater.
- The mitigation measures for each phase shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority (LPA).
- Reason: To reduce the risk of flooding to the proposed development and future occupants. In accordance with policy WDM2 of the Arun Local Plan.
- 19 Construction of Phase Two of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.
- Reason: To ensure that the development is satisfactorily drained in accordance with policy WSP1 of Arun Local Plan.
- 20 No unit for that phase shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the details agreed under R/85/18/DOC and the details so agreed shall be maintained in good working order in perpetuity.
- Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies WDM3 of the Arun District Local Plan.
- 21 Prior to occupation of Phase One or Phase Two formal consent in that phase shall be approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site.
- Any discharge to a watercourse must be at a rate no greater than the pre-development run off values.
- Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies WDM3 and WDM2 of the Arun Local Plan.

- 22 Upon completion of the construction of the SuDs System, approved under R85/18/DOC the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure the efficient maintenance and on going operation of the SuDs system and to ensure the best practice in line with guidance set out in 'The SuDs Manual' CIRIA publication ref: C697 Chapter 22

- 23 Prior to the installation of any external lighting within each phase precise details of the position, luminosity and design of the external lighting shall be submitted to and approved by the Local Planning Authority and the development shall proceed in accordance with the approved details.

Reason: In the interests of the setting of the listed building in accordance with Arun Local Plan policies DDM1 and QEDM2 and the National Planning Policy Framework.

- 24 The development shall proceed in accordance with the recommendations set out in the Extended Phase 1 Habitat Survey by PJC Ecology dated June 2013.

Reason: To ensure that the ecological value of the site is maximised in accordance with policy ENVDM5 of Arun Local Plan.

- 25 Prior to the occupation of the Phase Two dwellings hereby approved, a detailed Management Scheme which shall include details of grass cutting management, regular repair and repainting of dwellings, control over the cohesive uniformity of the development, maintenance of landscaping and control over additional structures including aerials and satellite dishes, changes to windows/doors, re-pointing, alterations to front garden areas, driveways etc shall be submitted and approved by the Local Planning Authority.

Reason: In the interests of the setting of the listed building in accordance with policy DDM1 of Arun Local Plan and the National Planning Policy Framework

INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

INFORMATIVE: The internal layout has been considered by a senior engineer in the implementation team at WSCC. It is unclear from any of the submitted drawings if the roads are to be offered for adoption. If this is the case it would need to be clarified what is intended for adoption.

The internal roads appear to be very narrow, 4.8m wide in some sections (including footways/verge) e.g. at block E. It would be helpful for the designer to dimension the drawing, i.e. give widths of carriageways, verges, footways etc. The carriageway looks even narrower around Block C.

INFORMATIVE: Application for a S278 Agreement to cover the off-site highway works should be made to WSCC as Highway Authority. Full details are available on the WSCC website. The applicant is requested to contact The Implementation Team Leader (01243 642105) to

commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

INFORMATIVE: Where possible any new entry doors and any ground floor or any easily accessible windows should conform to PAS 024 2012.

INFORMATIVE: Lighting throughout the development should conform to the recommendations in BS 5489 2013.

INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119) or www.southernwater.co.uk

INFORMATIVE: A formal application for connection to the water supply is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119) or www.southernwater.co.uk

INFORMATIVE: Detailed design of the proposed drainage system should take into account the possibility of the surcharging within the public sewerage system in order to protect the development from potential flooding.

INFORMATIVE: This decision has been granted in conjunction with a Section 106 legal agreement relating to the provision of funds from the development being applied to the charity endowment fund or the repair and maintenance of the Convalescent Home and that the repairs are completed prior to occupation of 75% of the units.

INFORMATIVE: For the avoidance of doubt this permission is granted without the provision of play area which was included in the original application prior to amendment.

Case Officer: Mrs A Gardner

Date of Decision:

15 April 2019



Neil Crowther
Group Head of Planning

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

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, and you want to appeal against this planning application decision, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and you want to appeal against this planning application decision, then you must do so within 28 days of the date of service of the enforcement notice, or within 12 weeks of the date of this notice, whichever period expires earlier.

Otherwise, if you want to appeal against this decision then you must do so within 6 months of the date of this notice.

Appeals must be using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <http://acp.planninginspectorate.gov.uk>

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

PURCHASE NOTICES

If either the local planning authority or the Secretary of State refused permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for the Park, or in any other case the district council in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town & Country Planning Act 1990.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on highway land).



**Planning (Listed Buildings and Conservation Areas) Act
1990 (as amended)**

**Planning (Listed Buildings and Conservation Areas)
Regulations 1990 (as amended)**

**Application for Listed Building Consent for Alterations,
Extension or Demolition of a Listed Building**

DECISION NOTICE

Application Ref: R/85/15/L

1 To Addressee

Mr C Mills
Daniel Watney LLP
165 Fleet Street
London
EC4A 2DW

2 Site Address

Rustington Convalescent Home
Sea Road

BN17 2LZ

3 Description of Development

Application for Listed Building Consent for conversion of laundry building to provide 5 apartments, conversion of both the cooks house & carpenters house to provide 2 dwellings with refurbishment works to the main house.

4 In pursuance of their powers under this Act and the Regulations the Council **GRANT** Listed Building Consent for the works as described to be carried out in accordance with the application and plans and subject to compliance with the conditions specified below.

If the works approved involve a measure of demolition applicants are reminded of their obligation under Section 8(2)(c) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to give at least one months notice of their intention to carry out the work to English Heritage, Eastgate Court, 195-205 High Street, Guildford, GU1 3EH
Email: e-seast@english-heritage.org.uk

1 The works for which Listed Building Consent is hereby granted must be begun not later than the expiration of 3 years beginning with the date of this consent.

Reason: To comply with Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990.

- 2 No development shall not be carried out unless and until a schedule of new fenestration including drawings at a scale of 1:2 have been submitted to and approved by the Local Planning Authority.
- Reason: To protect the special character of the building for the future in accordance with the National Planning Policy Framework.
- 3 Internal doors/architraves/window shutters/ceiling mouldings/fireplaces/chimneys/staircases within the laundry building must not be removed or altered without the prior written approval of the Local Planning Authority.
- Reason: To preserve the appearance and special character of the Listed Building and its features of architectural interest in accordance with the National Planning Policy Framework.
- 4 Upon completion of the work for which Listed Building Consent is hereby granted any damage caused to the fabric of the building shall be made good to the satisfaction of the Local Planning Authority.
- Reason: To preserve the special character and appearance of the building for the future in accordance with the National Planning Policy Framework.
- 5 At all times during the progress of the work hereby approved adequate measures shall be taken to protect the remaining part of the Listed Building from collapse and/or structural damage.
- Reason: To preserve the character and appearance of the Listed Building in accordance with policy GEN7 of the Arun District Local Plan.
- 6 No development shall take place unless and until details of 2 additional piers to be provided to the East of the entrance to define the pedestrian access have been submitted to and approved by the Local Planning Authority and the piers shall be provided and positioned in accordance with the approved details.
- Reason: To enable the Local Planning Authority to exercise the necessary statutory control over works likely to affect the character of the Listed Building in accordance with the National Planning Policy Framework.
- 7 With regard to the Laundry Building the doors to units 2 and 3 should be retained in a manner that they can be closed to retain the building's character. Minimal glazing could be set inside with a door to allow the wooden doors to remain open when required.
- The door to unit 4 should be improved to be sympathetic with 2 and 3.
- Reason: In order that the architectural and historic interest of this Listed Building is safeguarded in accordance with the National Planning Policy Framework.
- 8 No development shall be carried out unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for the external walls and roof of the proposed extension to the convalescent home have been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the extension.
- Reason: To enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with policy GEN7 of the Arun District Local Plan.

INFORMATIVE: This permission conveys consent under listed building legislation only and

does not purport to grant planning permission for the proposed residential layout which is the subject of a separate application for planning permission.



Karl Roberts
Director Planning & Economic Regeneration

Case Officer: Mrs A Gardner

Date of Decision:

19 June 2015

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

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT

NOTES RELATING TO LISTING BUILDING AND CONSERVATION AREA
APPLICATIONS
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent or conservation area consent for the proposed works, or to grant consent subject to conditions, he may appeal to the Secretary of State in accordance with sections 20 and 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990 within six months of receipt of this notice. Appeals must be made on a form which is obtainable from the Secretary of State, Temple Quay House, 2 The Square, Temple Quay, Bristol BS16PN. The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.

If listed building consent or conservation area consent is refused, or granted subject to conditions, whether by the local planning authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted, he may serve on the council of the district in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

In certain circumstances a claim may be made against the local planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

If the applicant is aggrieved by the decision of the local planning authority:-

- a) to refuse to vary or discharge the conditions attached to a listed building consent or a conservation area consent; or
- b) to add new conditions consequential upon any such variation or discharge,

He may appeal to the Secretary of State in accordance with sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990 within six months of the date of this notice. Appeals must be made on a form which is obtainable from the Planning Inspectorate at the address referred to above. The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on highway land).

APPENDIX 3
SECTION 106 AGREEMENT AND FIRST DEED OF VARIATION

Dated:

17th 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

This Agreement is dated 11th 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.

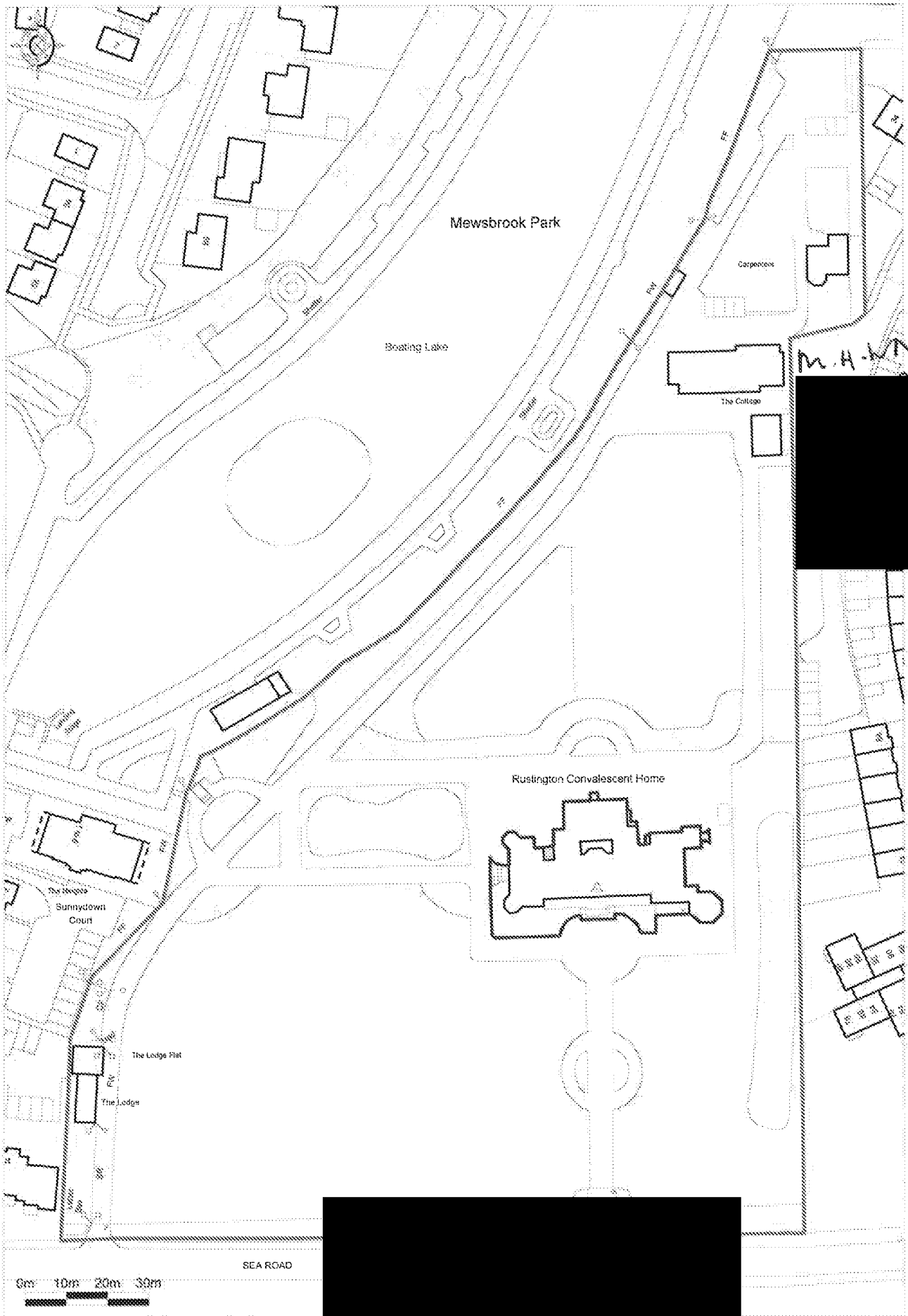
2.20 "New Dwellings" means the 33 new Dwellings to be constructed as part of the Development comprising 26 Dwellings to the rear of the Convalescent Home, five Dwellings within the existing laundry building and two Dwellings within the existing cook's house and Carpenters' House.

- 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 100023432 Plotted Scale = 1:1

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

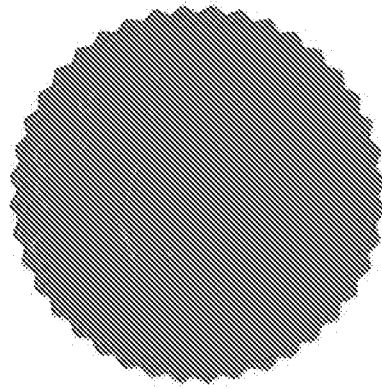
Signed _____

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:	

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:-

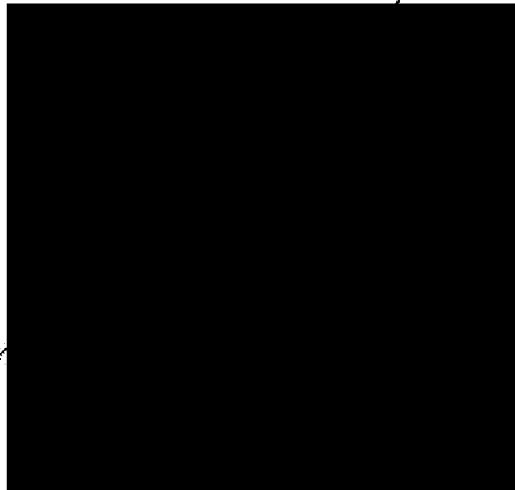
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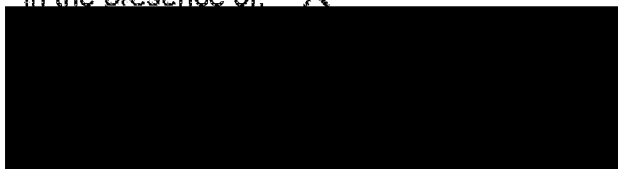
Master

Warden

Clerk



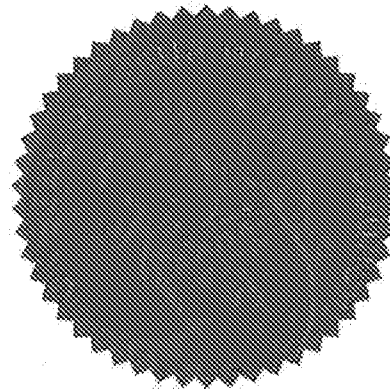
SEALED with the COMMON SEAL
of ARUN DISTRICT COUNCIL
in the presence of:



Seal Book No:

286/2015

Authorised Signatory



DATED

24 November

2016

ARUN DISTRICT COUNCIL

- and -

THE MASTER AND WARDENS AND COMMOMALTY OF FREEMAN OF
THE CARPENTRY OF THE CITY OF LONDON

DEED OF VARIATION UNDER SECTION 106 AND
SECTION 106A OF THE TOWN AND
COUNTRY PLANNING ACT 1990
Relating to Land at Rustington Convalescent Home,
Sea Road, Littlehampton BN16 2LZ

Wedlake Bell

71 Queen Victoria Street
London
EC4V 4AY

Direct Dial +44 (0)207 406 1636
Direct Fax +44 (0)20 7395 3100
Direct Email mmainstone@wedlakebell.com
CAR/0002/00259/WB1-12685283-2

WB1\12685283\2



MEMO

24 November 2016

FROM:
Paul Rooke
Trainee Solicitor

**Re: R/187/16/pl Variation of Conditions imposed on R/83/15/PL
Rustington Convalescent Home - Deed of Variation**

Manuscript amend to Clause 1.2 of the Deed of Variation to correct an error stating the title number as SX1077714 rather than SX107714. Signed on behalf of the Council by Helen Atkinson - Solicitor and authorised by Matthew Mainstone of Wedlake Bell on behalf of The Master and Wardens and Commonalty of Freeman of the Carpentry of the City of London in an email dated 22.11.2016 (attached).

Paul Rooke

From: Matthew Mainstone [REDACTED]
Sent: 22 November 2016 17:29
To: Paul Rooke
Subject: RE: R/187/16/pl Variation of Conditions imposed on R/83/15/PL Rustington Convalescent Home

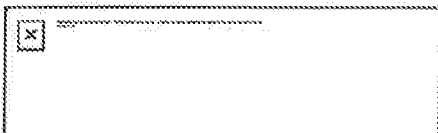
Paul

Many thanks for your email. Please proceed to make the amendments on my client's behalf.

Please could you confirm when the agreement has been completed.

Kind regards

Matthew Mainstone
Partner



We have now moved to 71 Queen Victoria Street, London EC4V 4AY.
Our telephone numbers have not changed.
Our new DX address is DX 307441 Cheapside

Before printing this email please consider whether it is necessary for you to do so.



Proud to be supporting The National Brain Appeal as our Charity of the Year. The charity raises funds for The National Hospital for Neurology and Neurosurgery and the Institute of Neurology. Its vision is to improve the outcome and quality of life for all those affected by a neurological condition: www.nationalbrainappeal.org (Registered Charity No. 290173).

From: Paul Rooke [mailto:Paul.Rooke@arun.gov.uk]
Sent: 22 November 2016 16:54
To: Matthew Mainstone
Subject: RE: R/187/16/pl Variation of Conditions imposed on R/83/15/PL Rustington Convalescent Home

Dear Matthew,

Delwyn is currently out of the office and I have been asked to review the Deed of Variation in relation to the above.

The Deed has been sealed on behalf of the Council, however I have noted that the Title Number at clause 1.2 is slightly incorrect. The Deed states the Title Number as SX1077714, but I believe that this should be SX107714. I believe that this can be corrected by a manuscript amendment and should you be grateful if would you confirm if you wish the documents to be returned to you so that they can be authorised by your client or whether you give the Council authority to make the amendment on your client's behalf.

I can confirm safe receipt of your cheque for the sum of £400.

I look forward to hearing from you.

Kind regards,

Paul Rooke

Paul Rooke | Trainee Solicitor, Arun District Council | Location: 1st Floor, Arun Civic Centre, Maltravers Road,
Littlehampton, BN17 5LF

Internal: 37721 | External: 01903 737721 | E-mail: paul.rooke@arun.gov.uk

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100062237016

DX 57406 Littlehampton

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THIS DEED is made the 24 day of November 2016

BY:-

- 1) **Arun District Council** of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF ("ADC")
- 2) **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")

1. INTRODUCTION

- 1.1 ADC is the Local Planning Authority for the purposes of the Act for the area in which the Land is situated and is the Authority by whom the planning obligations contained in this Deed are enforceable.
- 1.2 The Owner is the freehold owner of the Land which is registered with the Land Registry under title number ~~SX107714~~ SX107714 HOD.
- 1.3 On 11 December 2015 the Owner and the Council entered into the Section 106 Agreement in connection with planning application reference R/83/15/PL and subsequent to the completion of the Section 106 Agreement the Council issued the First Planning Permission.
- 1.4 The Owner has applied to the Council under section 73 of the Act to vary certain conditions of the First Planning Permission and the Council has resolved to grant the Section 73 Permission subject to the prior completion of this Deed.

2. INTERPRETATION

- 2.1 In this Deed the following words and expressions shall unless the context otherwise permits or requires have the following meanings:

"Act" means the Town and Country Planning Act 1990;

"First Planning Permission" means the planning permission issued on 21 October 2015 for the development of the Land under planning reference R/83/15/PL;

"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;

"Parties" means ADC and the Owner;

"Plan" means the plan attached to this Deed;

"Section 106 Agreement" means the agreement entered into by (1) Arun District Council and (2) The Master and Wardens and Commonalty of the Mystery of Freemen of the Carpentry on 11 December 2011 in connection with the First Planning Permission.

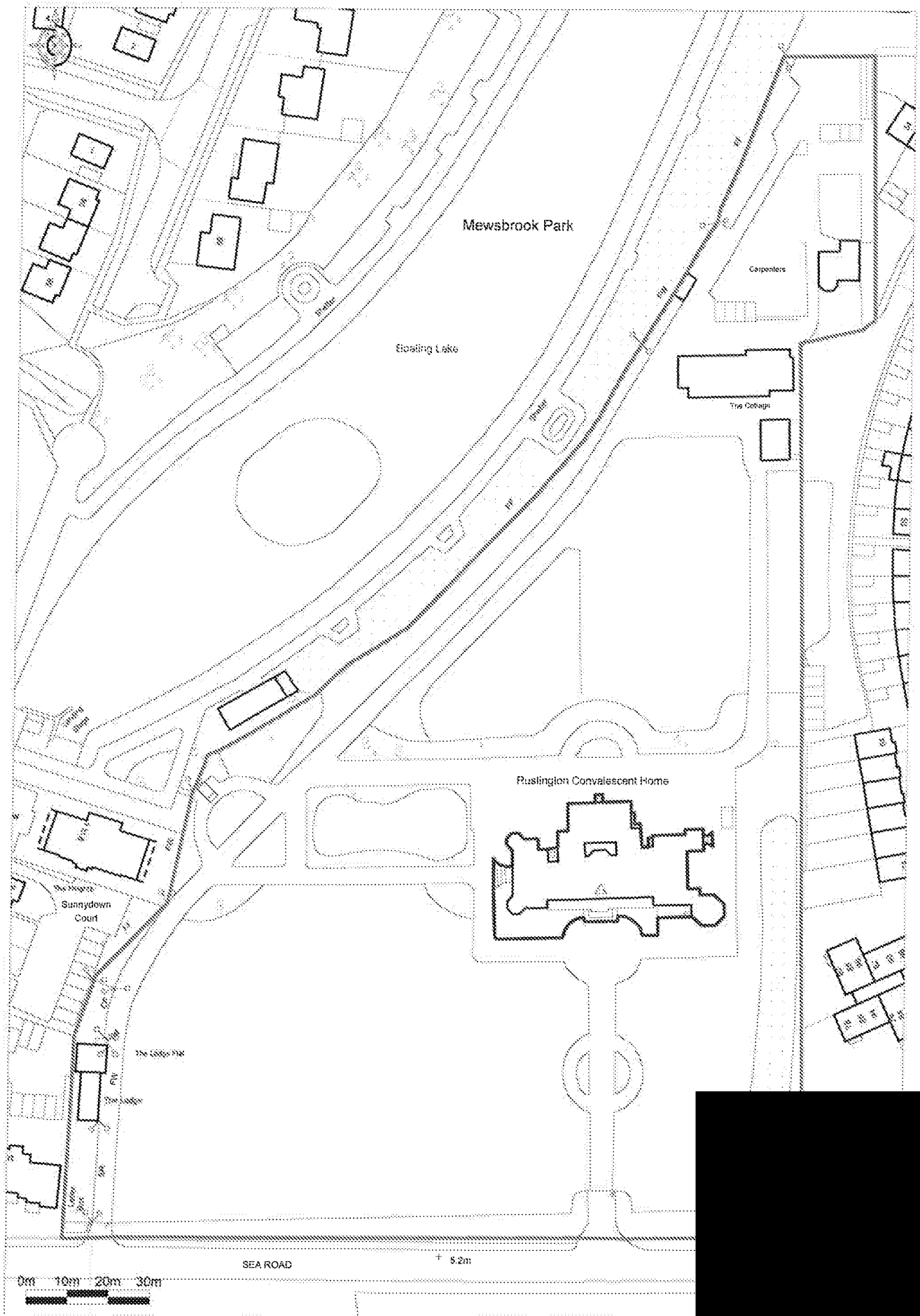
"Section 73 Application" means the application registered by the Council under reference number R/187/16/PL to vary conditions 2, 3, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 & 24 of the First Planning Permission to allow development to be brought forward in two phases;

"Section 73 Permission" means the planning permission to be granted pursuant to the Section 73 Application following the completion of this Deed

3. CONSTRUCTION OF THIS DEED:

In this Deed unless the context indicates or requires otherwise:-

Rustington Convalescent Home



Promap
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Licence number 100022432. Plotted Scale - 1:1250

Scale 1:1250

- 3.1 References in this Deed to Clauses, Paragraphs and Schedules are to Clauses, Paragraphs and Schedules in this Deed;
- 3.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa;
- 3.3 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 as being interchangeable in that manner;
- 3.4 Any reference to an Act of Parliament shall include any modification extension or re-enactment of that Act for the time being in force and shall include all subordinate instruments orders plans regulations permissions and directions for the time being made issued or given under that Act or deriving validity from it;
- 3.5 References to any party to this Deed 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 Council or any other body the successors to its statutory functions;
- 3.6 The headings are for reference only and shall not affect the construction or interpretation of this Deed;
- 3.7 Any covenant by the Owner not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person.

4. LEGAL EFFECT

- 4.1 This Deed is a planning obligation made pursuant to Sections 106 and 106A of the Act and its purpose is to vary the Section 106 Agreement with the intention that the planning obligations contained in the Section 106 Agreement shall also apply to development to be undertaken in accordance with the Section 73 Permission save for any variations contained within this Deed.
- 4.2 This Deed is enforceable against the Owner by the Council as the local planning authority for the area in which the Land is situated.
- 4.3 The planning obligations contained in this Deed:
 - 4.3.1 shall bind the Land; and
 - 4.3.2 shall be enforceable by the Council against the Owner and its successors in title to the Land or any part thereof.

5. COMMENCEMENT

This Deed shall come into effect on the date of the Section 73 Permission.

6. VARIATION OF THE SECTION 106 AGREEMENT

The Parties agree that the Section 106 Agreement shall be varied as follows:

- 6.1 The following new definition shall be included in the Section 106 Agreement:

"Section 73 Application" means the planning application registered by the Council under reference number R/187/16/PL to vary conditions 2, 3, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 & 24 of the Planning Permission
- 6.2 The definition of "Development" in the Section 106 Agreement shall be deleted and replaced with:

"Development" means the development of the Land proposed by the Application or the Section 73 Application

- 6.3 The definition of "Planning Permission" in the Section 106 Agreement shall be deleted and replaced with:

"Planning Permission" means the planning permission to be granted by ADC pursuant to the Application or the Section 73 Application"

7. CONTINUATION OF THE TERMS OF THE SECTION 106 AGREEMENT

The Parties agree that with effect from the date hereof the Section 106 Agreement shall be construed as having been amended by the terms of this Deed but otherwise the terms of the Section 106 Agreement shall continue in full force and effect.

8. COSTS

The Owner covenants with the Council to pay prior to the issue of the Section 73 Permission the sum of £400 being the Council's reasonable legal costs and disbursements in connection with this Deed.

9. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Unless expressly stated to the contrary, the provision 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.

10. GOVERNING LAW AND JURISDICTION

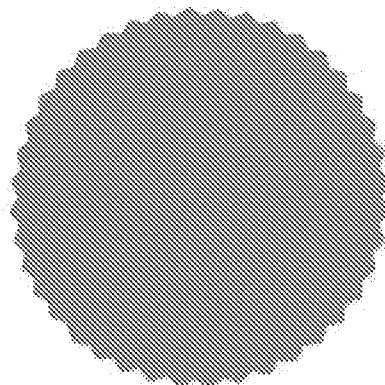
This Deed shall be governed by and interpreted in accordance with the Law of England and Wales and the Parties submit to the jurisdiction of the courts of England and Wales.

11. LOCAL LAND CHARGE

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

This agreement is executed as a deed by the parties and is delivered and takes effect on the date at the beginning of this agreement.

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:)



Master

Warden

Clerk

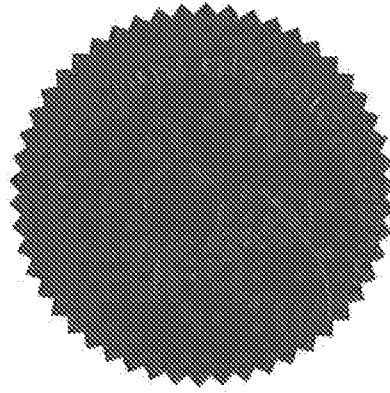
SEALED with the COMMON SEAL of
ARUN DISTRICT COUNCIL
in the presence of:-

)
)
)

Seal Book No:

529/2016

Authorised Signatory



APPENDIX 4
COMMITTEE REPORT

PLANNING APPLICATION REPORT

REF NO: R/83/15/PL

LOCATION: Rustington Convalescent Home
Sea Road
Littlehampton
BN16 2LZ

PROPOSAL: Redevelopment of land to the rear of Convalescent Home to provide 26 new dwellings, reuse of laundry building to provide five apartments, reuse of both the cooks house & carpenters house to provide two dwellings with refurbishment works and first floor rear roof extension to the main house to create 4 additional patient bedrooms.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

As above. The proposed new terraced units are to be sited to the north and west of the convalescent home and would be 2 storeys in height. Units 1-15 would be 3 bed houses and units 16-32, 2 bedroom houses. The proposal includes conversion of the laundry building to 3 x 2 bedroom flats and 2 x 1 bedroom flats and conversion of the cottage building to a 2 bed dwelling and Carpenters to a 3 bedroom unit.

The new accommodation would be set behind the existing convalescent home, which is to remain in its current use, in a series of terraces. Two short terraces to the west of the home face the sea and two longer terraces to the north of the home form the east and west sides of a proposed new courtyard.

The proposal also includes alterations to the main convalescent home which include the provision of 4 additional patient bedrooms at first floor by increasing the height of the roof to the rear and adding dormers and improved disabled access including the provision of a lift to all floors and an improved main entrance to include an external platform lift to enable wheelchair access from the car park. The main driveway would be altered to widen the access to create a wider separate in/out vehicular access.

SITE AREA

3.07 hectares. Approx. 1.7 hectares (excluding area remaining relating to convalescent home)

RESIDENTIAL DEVELOPMENT
DENSITY

15 dwellings per hectare

TOPOGRAPHY

Predominantly flat.

TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Mixture of boundary treatments - open mesh wire fencing; hedging; wall to front.
SITE CHARACTERISTICS	Large detached property of attractive design. Grade II Listed Building with the listing stating:- 'Convalescent Home. 1897 by F Wheeler in a neo-Caroline style. Brown brick with red dressings and some stone enrichment. Slate hipped roof with single and paired segment headed dormers. 2 storeys with attics and 1 storey and attic wing to east. Central square 4 storey tower with stone dressings surmounted by clock stage and octagonal open cupola over. 13 bay central block, with sash windows in pairs, and half-hipped aprons below glazing bars only in broken upper-leaves. Central stone segmental pedimented entrance in tower. 3 bay east wing, windows very closely spaced in centre with balcony over ground floor. 3 bay west wing projecting gable over and with windows closely spaced in centre and 2 storey octagonal corner turret with octagonal conical roof over at south west corner. West front 3 bays with south west corner turret. Central 1 bay projection with pediment over and stone segmental pedimented entrance.' Car parking area is provided behind the main building. Front area of site comprises formal expansive lawns and shrub planting. The building is located approximately 80m from the site frontage. Further Listed Building within the site is the 'Laundry Building' to which the listing states:- 'Staff quarters block for Rustington Convalescent Home. 1897 by F Wheeler in a neo-Caroline style. Brown brick with red dressings. Wooden eaves cornice. Parallel ridge slate roof with central gable pediment to south, containing thermal window, over slight central projection. Octagonal ogee-domed cupola in central roof-valley. 2 storeys; 7 bays, with central 1 bay projection, wider with coupled windows in single opening. Sashes with glazing bars in upper blade and with slight segment heads on 1st floor and with rubbed brick arches and prominent rubbed brick keystones on ground floor. 2 storey 1 bay extension to left with parapetted roof, topped by globes. Irregular fenestration. Brick chimney to rear with upper stone moulded cornice decoration above blank brick arched panels. There is also a 'Cooks House' and 'Carpenters House' on

site. Vehicular access drive running through site to rear.

CHARACTER OF LOCALITY

Mainly residential. Mewsbrook Park to north west of the site, which contains, inter alia, boating lake, children's play area; football area; miniature railway; etc. Beach opposite

RELEVANT SITE HISTORY

R/85/15/L	Application for Listed Building Consent for conversion of laundry building to provide 5 apartments, conversion of both the cooks house & carpenters house to provide 2 dwellings with refurbishment works to the main house.	ApproveConditionally 19-06-2015
R/146/09/	45 new dwellings in grounds of convalescent home and conversion of laundry building to provide 5 apartments together with associated car parking & landscaping & relocation of eastern pier of the western gates to the convalescant home	Refused 06-11-2009

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Rustington Parish Council

Objection

i) The proposal, by reason of the modern design and general aesthetic appearance of the 26 new dwellings, would have a detrimental impact on the setting of the Grade II Listed Rustington Convalescent Home building and would, most certainly, be out of keeping and unsympathetic to the ambience of this historic landmark in the Parish of Rustington

(ii) The proposal in respect of the 26 new dwellings, would be in direct conflict with Policy DEV 11 of the Arun District Local Plan, which states that development in close proximity to Listed Buildings should be sensitively designed and constructed of appropriate materials to ensure that the special qualities of the older buildings remain unimpaired

(iii) The proposal would be in conflict with Policy 2: Housing Design of the Rustington Neighbourhood Plan

(iv) The proposal would adversely affect the amenities and quiet enjoyment of the neighbouring properties in The Martlets, and in particular those in close proximity to the north and north east boundary of the site, and would result in a serious loss of privacy to the occupiers of those properties

(v) The proposal, by reason of the number of units, would give rise to an unacceptable increase in the volume of traffic and associated activity in Sea Road, a very busy through road linking Rustington to Littlehampton. This, together with the movement of vehicles on to and off of the public highway would, most certainly, prove to be detrimental to the safety and free flow of traffic, and would add to the hazards of highway users at this point to an intolerable degree

(vi) The proposal would result in an excessive amount of development being dependent on an

inadequate single point of access and would also be likely to attract standing vehicles which would interrupt the flow of traffic on the public highway, thereby adding even further to the aforementioned hazards for road users at this location.

(vii) The proposed use of the existing pedestrian access to the north east boundary of the site would, most certainly, result in its much increased use by pedestrians, to facilitate a more direct route to local amenities. It has been noted that this access is locked and is therefore, not publicly used at the present time. This would most certainly result in an unacceptable amount of standing/on street vehicles, also using the parking facilities currently available for both residents and/or visitors to The Martlets. This would result in major congestion, as well as inconvenience, to the residents of The Martlets in this vicinity. This particular section of the road is already congested at most times of the day, due to the parking of vehicles by visitors to Mewsbrook Park and the beach.

There is particular concern that the addition of 33 residential properties, in this vicinity, would place excessive pressure on the existing sewage and drainage system, to the detriment of its effectiveness and efficiency. These concerns were based on the fact that recurring flooding problems are experienced in this area during adverse weather conditions.

Littlehampton Town Council - No Objection. Pleased to note that the frontage of the greensward would be retained

Lakeview Residents Association - Request road is constructed sufficiently wide to allow 2 vehicles to pass each other to the east of the existing one which hopefully will prevent building sustaining structural damage and would make Sea Road safer with regard to the volume of vehicles using Hendon Avenue every day of the week.

19 letters of objection - This would bring a large number of undesirable people into the area which would in turn increase crime and traffic. This type of housing is for vulnerable people. Would alter picturesque views of house. Concerns regarding access would not want to see pedestrian access reopened. Footfall through The Martlets will increase substantially not only from new residents, but also the public. This should be prevented by condition. The number of parked cars would increase significantly.

Will not enhance or sustain the architectural or historic significance of the heritage asset as per policy 1 of the Neighbourhood Plan. Will spoil the ambience of the area. Loss of amenity to residents in The Martlets through increased noise, parking and lack of privacy. Plots 16-22 and blocks C and D are too close to the Martlets. Loss of views. Block A has 5 properties with large panoramic windows intruding on privacy. Design is not in keeping. Long wall on north east boundary is unsightly. Concern regarding capacity of sewerage and drainage system and recurring flooding problems in extreme weather conditions and increased risk of flooding to adjoining properties and Mewsbrook Park. Proposals for drainage and sewer system are likely to result in disruption, noise and damage. The natural beauty of a large green area on the Rustington seafront combined with the current iconic building structures should not be destroyed for additional housing. Not convinced the area can provide adequate employment or education.

Want a wall around the entire development to blot out the unsightly new terraces with no access to the northern end thereby allowing the residents of The Martlets to retain part of the peace of this neighbourhood. Should preserve setting of adjoining properties which originally won an award and are unique and complimentary to the nursing home.

Existing access should not be widened. An additional access could be planned on the eastern side of the site.

No development should take place within the grounds of such a historic Grade 2 listed property. This is a beautiful building in beautiful grounds which should be preserved for the future.

Additional dwellings if required should be built to the north of the town.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comment on Rustington Parish Council representation - Not Agreed. The proposal would accord with Policy 1: 'The Rustington Convalescent Home (Carpenters) Sea Road'. It retains the existing home and other heritage assets and provides for their suitable repair, it sustains and enhances the heritage assets and their setting and the open space to the front of the home, it complies with the parking standards and doesn't involve development in flood zones 2 or 3 and protects the vista from the seafront. It also complies with Policy 2: 'Housing Design' in that the scale, density, massing, height, landscape design, layout and materials reflect the historic character and scale of the surrounding properties and the historic setting. The impact on the setting of the building needs to be offset against the financial benefit from the development which will facilitate the use of the building into the future and fund repairs, conversion and maintenance of the heritage assets. This would accord with Government policy set out in paragraph 134 of the National Planning Policy Framework. Policy DEV11 of the Local Plan has not been 'saved'. Parking levels and traffic generation are acceptable. It is not considered that an adverse impact on residential amenity would result. The proposal is acceptable in terms of flooding and drainage. County Highways and Engineers have no objection.

Additional comments on other representations - The house sizes are not designed for family occupation and there is no reason to assume the residents would be 'undesirable'. The loss of a view is not a material planning consideration. It is not considered that any increased footfall through The Martlets would be significant.

This development could not be located to the north of the town since the finance from the development is required to ensure the long term use of the home as a subsidised nursing home and to facilitate the upkeep, maintenance and repair of the Listed Building.

CONSULTATIONS

Environment Agency
Planning and Housing Strategy
Sussex Police-Community Safety
Env. Amenities & Comm. Safety
WSCC Strategic Planning
Listed Building Officer
Engineering Services Manager
Engineers (Fluvial Flooding)
Engineers (structural)
Southern Water Planning

Parks and Landscapes
Surface Water Drainage Team

Arboriculturist
Parks and Landscapes
Solicitor - Legal Services

CONSULTATION RESPONSES RECEIVED:

Arboricultural Officer

The application has allocated category U and C1/C2 trees for removal to facilitate the proposed development. The only slight objection I could find is with T30. Although this tree has been pruned poorly historically, the retention span would have a large potential lifespan.

- Of the trees declared for removal, T30 had the attributes to assess for TPO worthiness; when assessed T30 Yew (*Taxus baccata*) scored 10 on the TEMPO form, thus it did not warrant a TPO order.

- The applicants have outlined the desire to crown lift T24 to 4 meters. This action is unlikely to have a lasting effect on the aesthetical value offered by T24. The applicant has also applied to remove a section G3. G3 was assessed for its TPO worthiness. It scored a 9 - which indicates it is not suitable for a TPO order.

Recommendation: As the proposed trees for removal do not have the attributes to warrant TPO orders, and the proposed pruning works to T24 are unlikely to have an adverse effect on the aesthetical value offered by T24, I would have no objection to the proposed development. The following conditions are to be adhered to when completing the proposed development;

Conditions: All proposed works to take place within the Root Protection Areas are to follow the submitted Method statements. This includes hard surface removal (as described in section 11 of the submitted Arboricultural Method statement), and also with the installation of no-dig road surface (section 12 of the submitted Arboricultural Method statement).

- All proposed protective fencing (meeting the BS 5837 standard) must be erected before any site works begin. Equally all protective fencing must be kept in place until the completion of the proposed development, as specified in section 6 of the Arboricultural Method statement.

- If any root is discovered with a diameter of over 25 mm diameter, which requires severing then the Arun District Council tree officer must be informed to supervise any pruning

Greenspace Officer

This is a significant and sensitive site within a landscape with strong historic connections.

Trees - The proposals indicate the development of buildings in close proximity to the site boundaries. The site is bounded by mature and significant trees with the exception of the southern boundary which is open to the sea. The boundary trees particularly those to the west of the site sit on neighbouring land. However their significance is great and their protection must be paramount. Any considered tree works either within the site or to the boundaries must be in consultation and agreement with Arun District Councils Tree Officer.

Before construction, a tree protection scheme must be in place for all retained trees including and particularly the significant trees whose root protection areas fall within the construction zone from neighbouring land. This should be in accordance with BS 5837:2012 'Trees in relation to construction' The layout of the proposed new buildings and carpark areas would indicate the imperative requirement for this protection to be considered and in place.

Further detail of the Public Open Space on site would be required with detail of the play provision being proposed. The range and style of equipment has been indicated along with the target age range. This appears to be sensitive in choice to the location, but precise detail should be submitted. Children's play incorporated within a formal garden setting may not sit well together with a more informal and natural play space being better considered.

The proposed development will only meet the requirements of the National Planning Policy Framework (NPPF) if the following measure(s) as detailed in the Flood Risk Assessment (FRA) dated 14-185-05 submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Finished floor levels are set no lower than 300mm above existing ground level or the 1 in 200 tidal flood event with climate change whichever is the greater.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

The applicants have included an Affordable housing viability statement as part of their application documentation which I have considered. The key aspects of the statement are an assumed Residual Land Valuation (RLV) of £1.56M and a viability benchmark of £4.58M. My assessment however is that the RLV is considerably higher than the assumed £1.56M and that the viability benchmark is slightly lower than the claimed £4.58M.

I have calculated that the viability of the scheme as proposed is more marginal than that stated

by the applicants consultants BNP Paribas in their viability statement. However, I do agree with their general conclusion that there is insufficient value within the scheme to meet the Council's affordable housing requirements. Taking para 173 into account my recommendation is that the Council should not oppose the application on viability grounds and that the Affordable Housing Policy should not be applied.

Historic Building Adviser - First Consultation Heritage Assessment

In the previous application for 45 units (R/147/09/L) and the subsequent pre-application advice (PAA/101/13/), concerns were raised regarding the impact of any proposed development on the setting of the listed buildings and particularly the main Rustington Convalescent Home. It was suggested that there was a need to fully understand the broader effects of these on the significance of the heritage asset which was designed and laid out specifically as a convalescent home. Para128 of the NPPF states that:

'Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting.'

Given the scale and importance of this scheme this should have really been carried out here as part of a more comprehensive heritage statement and included an assessment of setting in accordance with Good Practice Advice note 3, The Setting of Heritage Assets. This was also discussed in our previous response to the above pre-application advice with some examples of the broader considerations that might be raised. This included an understanding of the asset's physical surroundings and how the asset might be experienced.

Impacts

Without this assessment it is very difficult to agree with and qualify the claims of the planning statement and in particular the suggestion that the new buildings 'preserve and enhance the historic character of the site'. Whilst we have continued to provide input into the design of the new dwellings to mitigate harm, despite objections in principle, the setting of the home will obviously remain transformed by the level and density of development and thus will require justification in accordance with the NPPF. Given that the home has a particular function in providing a place for rest and rehabilitation, this is an important consideration.

In this instance, the harm to the setting of the listed buildings is likely to be considered 'less than substantial' though this still amounts to an objection to the proposed development and recent appeal decisions make it clear that less than substantial harm does not result in a less than substantial objection. In the planning balance the conservation of heritage assets is a desire of the NPPF and therefore already carries weight in its favour.

In such instances and as described in para 134 of the NPPF, where there is this level of harm, it 'should be weighed against the public benefits of the proposal, including securing its optimum viable use.'

Justification and Public Benefits

Para 2.11 of the applicant's planning statement suggests that this will take the form of sustaining the charity by enabling repairs and improvements as well as add to the endowment fund. As the scheme does not appear to be framed as 'enabling development', a view will have to be taken as

part of the planning balance of how this financial benefit is to be weighed against the harm and how it can be secured to provide the benefits described. Enabling development would normally demand the minimum amount of development required to sustain the asset. Here there appears to be a desire to maximize a level of income, though it is appreciated that the expectations have been reduced significantly to try and secure approval.

Design

If the scheme proposed here is considered to be acceptable in principle and in light of the heritage concerns, the individual house designs as they stand can be largely supported. My only main concern here would be the fenestration to blocks E & F and in particular the banks of doors in the north and west elevations.

A longer term concern will be how the design, quality and coherence of the new buildings can be maintained. Whilst the authority can control the quality of the new building to some extent, the future replacement of windows, boundary treatments, paint colours, could potentially undermine the group value of the terraces and in turn result in the deterioration of the listed building's setting. To this end some sort of control in the form of a covenant might be employed by the Charity so that permitted development rights are not harmful. Without this, the scheme could result in a legacy of harm which would not be particularly acceptable to any of those affected.

These controls could also be extended to include any hedging and landscaping which might be used to contribute to the garden setting.

Conclusion

The development will result in a significant impact on the setting of the listed buildings. The housing will represent a change to the historic and spatial appreciation of the asset and as such must represent a level of harm. This is likely to be 'less than substantial'.

Given this context, the application should have sought to assess the level of impact, especially on setting, so that the level of harm could be understood and potentially further mitigated. This has been done to a certain extent with our input and that of the architect into the design of the dwellings and their layout, however there are potentially broader concerns and impacts to be understood. This includes the ongoing management of the development, but also things which will affect the experience of the asset such as views across the development, street lighting, noise, parking etc. These are not in our view fully understood.

Notwithstanding the heritage issues, it is also appreciated that the Charity are seeking to secure funding to continue the work they do and as such any proposal will have to be balanced against this on the basis that it is considered to represent a public benefit. This is ultimately a planning consideration.

2nd Consultation -

As discussed previously and mentioned in earlier consultations, the principle (in historic environment terms) of developing housing within the grounds of this listed building would have to result in a level of harm. To this end, we have no other option than to recommend an objection to the principle of development.

The addendum to the heritage statement reinforces this view as it recognizes and provides

evidence of the importance of the formal gardens to the function of the home. As such they represent an extension of the architectural and spatial appreciation of the site which is still evident in many cases.

It is acknowledged that the planting has changed somewhat and the quality of the landscape is not what it was, however this could be largely restored.

The addendum also recognises that there is harm to the setting of the listed building which it regards as 'less than substantial'. This would be on the basis that a primary significance is not being lost by the proposals. We would agree with this assessment and to this end would advise that the test arising in para 134 of the NPPF will need to be considered in the planning balance:

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.'

This is something that will need to be considered as part of the broader application and is beyond our advice, though I would note that if funds are maintaining the building's original use in the long term, then it would be 'securing its optimum viable use'.

If the principle of development is agreed on the basis of need and the tests within para 134, then I would have no objection to the architectural scheme itself as a response to the site. Whilst this will result in the loss of some of the formal gardens to the west, it is hard to see where else these houses would go. We have worked positively with the architects to mitigate harm where it is occurring and I believe the addendum to the heritage statement also encapsulates some of these benefits.

We would recommend that conditions cover all aspects of the design including materials, window and door details, landscaping and lighting. With respect to the restoration of existing buildings, a schedule of works will also be required. As discussed at our meeting, there should also (if possible) be a withdrawal of Permitted Development Rights which will maintain the quality of the development into the future. The detail, consistency and group value of the housing is fundamental to their relationship and response to the site.

Southern Water

No Objection in principle. Request an Informative.

Council Engineers

Engineers comments in respect to surface water drainage:

Surface water drainage should prioritise infiltration. We have no record of private drainage entering Mewsbrook Lake, other than gullies from the adjacent footpath, but have now found the existing connection. A full system survey would be required if infiltration is found not to work, and a lot of desilting and replacement works would be required. The lake requires desilting works to ensure maximum capacity.

Please apply standard conditions ENGD2A, ENGD4A, ENGD5A.

Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests

Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers.

No Comment at this stage. All structural elements will be covered by Building Regulations.

The proposal to create 26 new dwellings and 7 other dwellings on the site of Rustington Convalescence Home has been considered by WSCC as the Local Highway Authority. No objection is raised subject to any conditions attached.

The access has been widened to accommodate large cars and a refuse vehicle and WSCC are satisfied that this access is appropriate for its intended use.

Visibility splays of 2.4m x 43m can be achieved at the new access and these are in line with Manual for Streets guidance for a 30mph road. A Stage 1 Road Safety Audit has also been submitted to us and an exception report raised by WSCC, due to a conflict in views over some points relating to the site access width, traffic island, and western footway. All issues have been considered by WSCC and an exception report attached to this response confirms we are satisfied with the designers approach.

An interrogation of the Road Traffic Collision and Casualty database showed that there have not been any significant recorded casualties or collisions at this access, or its vicinity in the last three years. Therefore WSCC are satisfied there are no existing highway defects.

The development will provide 77 car parking spaces, and 46 cycle parking spaces. Based on the mix of housing provided the WSCC car parking calculator indicates a development of this size would require 75 car parking spaces if each 2/3 bed dwelling were allocated 2 spaces each and the 4 bed house 3 + spaces. Therefore the proposed car parking provided by the development meets WSCC car parking standards.

TRICS data has been used to determine the traffic impact this development would have on the existing highway network. The data used looked at comparative sites and showed that even in the traditional AM and PM peak hours the quantum of trips expected would not have a material impact on the operation of the highway network.

The internal roads appear to be very narrow, 4.8m wide in some sections (including footways/verge), e.g. at block E. It would be helpful for the designer to dimension the drawing, i.e. give widths of carriageways, verges, footways etc. The carriageway looks even narrower around Block C. What feature is being proposed at the junction near Block C? It would be helpful if this could be annotated.

The site is located close to local amenities and on the South Coast Cycle route network (Sea Road) and local bus routes. Pedestrian links are good and well lit, and overall the site is located in a sustainable location for residents to consider using alternative transport options. Each dwelling will be given a Welcome pack including local travel information to encourage use.

A detailed design of the final proposed surface water drainage system has not been included with this application, but the submitted proposed surface water management strategy meets the requirements of the NPPF, PPG and associated guidance documents. WSCC support the proposed SuDS scheme on this site subject to submission and approval of the detailed design documents. No Objections.

Provision for long-term maintenance should be provided as part of any SuDs scheme submitted to the LPA.

Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.

The Design and Access Statement failed to mention any crime prevention measures to be incorporated into the design and layout. The development has produced outward facing dwellings but has produced unobserved rear parking courts from the dwellings with the only exception being plots 30-33. From a crime prevention viewpoint, where communal parking occurs it must be within view of an active room (where there is direct and visual connection between the room, street or parking area).

The space between public space and private areas should be clearly indicated. It is desirable for dwelling frontages to be open to view, so walls, fences and hedges will need to be kept low (1m) or alternatively feature a combination of wall, railings or picket fence.

The public open space to the rear of the Home does have surveillance from active rooms from the dwellings on 3 sides. Foliage will need to be kept low in order to maintain natural surveillance throughout the area, ground planting no higher than 1 metre with tree canopies no lower than 2 metres.

Lighting throughout the development will be important and should conform with the recommendations within BS 5489:2013

You cannot have a condition to provide money ---various cases say so from Magna Carta and Bill of Rights 1688 and Wilts united Dairies 1921 So you are reliant on a s106 linked to the development

[a] pay a lump sum on a date certain eg on start or on occupation of some many units or
[b] pay a lump sum but in staged payments either on dates agreed or on events happening eg
per unit or per date or number of units built or occupied

It is necessary and linked to the building so as to protect setting and fabric of the building and setting of the development as a guarantee we can refer to other sections eg -S138 LGA 1972 power to gift.

It is linked by development being in the grounds and affecting setting and it will have to be calculated to be proportionate to the development and the needs for repair ---please calculate.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The play space has been deleted from the proposals following concerns raised by the Historic Building Adviser. An Addendum to the Heritage Statement was forwarded by the agent following the initial concerns of the Historic Buildings Adviser which addressed changes in heritage policy guidance and further explained the process and analysis of how the history of the site and building have influenced the design and layout of the current proposal.

With regard to the comments of Sussex Police the following information has been submitted by the agent - The first issue raised by Sussex Police was that the Design and Access Statement failed to mention any crime prevention measures to be incorporated into the design and layout. However, this is incorrect. Page 8 of the statement outlines the crime prevention measures the scheme will follow, as recommended in the Secure by Design guidance.

Access routes which are well-defined, accessible and overlooked. There are clear boundaries between public and private space and a mix of uses within the site, which would generate a useful level of activity. The adaption of the existing maintenance scheme would ensure the whole site would be maintained to a high standard.

Footpaths are not segregated and are in clear view of the home and new dwellings. Streets and paths would be lit to the requirements of B.S. 5489. Side and rear boundaries are secure and robust. Parking is either on plot or within clear view of active rooms. The dwellings themselves will meet the security recommendations in Section 02 of Secure by Design.

To reduce the visual impact of cars, car parking is mainly located in discrete areas behind the main frontages. However, the layout also ensures that the parking bays are within clear view of active rooms. All proposed and existing units have a direct visual connection to the street and car parking areas, with an adequate level of surveillance afforded to the parking bays. Similarly, the bike stores are located in prominent locations within close proximity to both the residential units and the proposed parking bays.

A legal agreement is being drafted and agreed between the Planning Solicitor and the applicant's legal representative.

POLICY CONTEXT

Designation applicable to site:
Within the Built-up Area Boundary
Grade II Listed Building
Class B Road

DEVELOPMENT PLAN POLICIES

Arun District Local Plan(2003):	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development
	GEN8	Development and the Provision of Infrastructure
	GEN10	Tidal Flooding and Coastal Defence

GEN12	Parking in New Development
GEN20	Provision of Public Open Space within New Development

Publication Version of the Local Plan (October 2014):

D DM1 Aspects of Form and Design Quality
D DM2 Internal Space Standards
D DM3 External Space Standards
D DM4 Extensions and Alterations to Existing Buildings (residential and non-residential)
D SP1 Design
HER DM1 Listed Buildings
W DM2 Flood Risk
HER SP1 The Historic Environment
H SP1 Strategic housing, parish and town council allocations
ECC SP2 Energy and climate change mitigation
ENV DM5 Development and Biodiversity
H SP2 Affordable Housing

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

Supplementary Guidance:

XXX6	Interim Affordable Housing Policy
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POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; and Yapton. Policies 1 and 2 of Rustington Neighbourhood Plan are considered relevant to consideration of this application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

SITE HISTORY

This application follows an earlier refused application for development to provide a total of 45 units and conversion of the laundry room to provide 5 apartments (R/146/09).

It was refused on the grounds of cramped, over development, and an adverse impact on the character of the listed building and the lack of sympathy in the design of the new dwellings given their close proximity to the listed building and the unneighbourly impact of the play space to the north of the site.

Listed Building Consent has been granted for the conversion works and alterations to the buildings and home, which are the subject of this application, under R/85/15/L.

The application has been submitted for additional housing within the grounds in order to fund repairs and improvements to the listed convalescent home building and to provide essential funding towards the endowment fund, ensuring that the Charity can continue to subsidise facilities and visitor stays at the home. The Home offers high quality convalescent care for guests who have recently experienced a period of illness, an accident or a stay in hospital. Any person over the age of 18 can stay in the Home in one of the 28 rooms. It is a well used facility. At present the charity subsidises the £1,200 weekly stay of residents by more than half from endowments as a charitable public benefit, resulting in a loss that cannot be sustained in the longer term. This results in a loss that is highly unsustainable and could affect the future of the charity and the long term retention of the use.

EXTENSION OF THE EXISTING BUILDING AND CONVERSION OF THE BUILDINGS ON THE SITE

The site's primary use is as a convalescent home which serves as the sole use of the main home. It is well used and is in need of modernisation to meet modern care standards. The internal alterations and extension have been discussed with the historic building adviser and are considered to have no adverse impact on the historic floor plan and will facilitate easier and safer access within the building by residents. The alterations would facilitate continuity of the established and historic 'optimum' use of the site. The alterations include an extension at the front of the building at first floor level to provide 4 new bedrooms changes to the main entrance to the north and internal alterations to the south west corner of the building where a lift and staircase will be installed. The changes are considered acceptable and would be sympathetic to the character and appearance of the building. The detailing of the dormer windows would replicate others on site and the materials would match the existing property.

The laundry building, carpenter's and cook's house are all ancillary buildings located to the rear of the site and are in a poor state of repair. Bringing them back into use would ensure their long term retention. The use of the former cooks and carpenters accommodation as separate residential units is acceptable. The refurbishment of their tired elevations would improve the historic character of the site. The Carpenters building is 3 storeys high and would provide a 4 bedroom dwelling and the Cook's cottage/Dairy is single storey and will be a one bedroom unit. The agents have advised that no internal or external alterations are proposed to these buildings.

There is also a long single storey glasshouse with a small gardener's shed in this area which will be demolished as part of the proposal. The loss of these structures which are later Edwardian additions of utilitarian design and in a very poor state of repair is considered acceptable given that their removal will assist in redeveloping the site and providing essential funding to secure the long term care home use of the main Convalescent Home. The other small brick garden building to the northwest of the laundry with a pitched roof is to be retained as a bin/bike store. The laundry building is presently cordoned off for safety reasons, having been long-term vacant and subject to

some vandalism. The tall chimney dominates the northeast corner of the building, clearly demarcating its original service function.

The conversion of the listed Laundry to 5 residential units has been approved in the past R/203/96 and R/103/01 and is considered to be acceptable. The interior layout will remain largely as existing apart from some reversible additions to define and create subdivision of larger rooms which is a reversible alteration. Refurbishment of the exterior would enhance the existing historical facade. The external alterations are limited to the addition of a window on the East elevation and the installation of glazed doors to openings on the South elevation. The precise details of these fenestration changes are to be controlled by condition on the listed building consent application.

The alterations to the site entrance are considered acceptable, but the historic building adviser has requested a further increase in width to accommodate pedestrian access with the addition of 2 additional gate posts. Submission of details of this amendment are conditioned on the listed building consent.

IMPACT OF NEW DWELLINGS ON SETTING OF LISTED BUILDING

The provision of dwellings to the rear and side of the Listed building will affect its setting. The home is a significant building centrally sited on the plot and the rear gardens would have been formally laid out areas for the benefit of residents whilst convalescing. The highly ornamental flower beds, tree planting and lines of fruit trees which once characterised large gardens are now undermined. In recent years fewer residents have utilised the garden area and much of it has become over mature with maintenance minimised to mainly regular grass cutting and tidying. This reduction in use and quality of the garden area has resulted in a space that contributes to the setting, but has little value in its own right.

The Home has its main parking area to the rear and the gardens lie beyond this behind a hedgeline they are therefore visually and physically separated. The gardens in the northern part of the site have for some time been closed for access, due to the redundant and in some cases unsafe buildings located within this area. Restoring the connection of the Home with this large part of its historic landscape setting is seen as a key heritage opportunity.

The pattern of pedestrian pathways and driveways which once framed and divided the Homes' various garden spaces are still largely discernible. Where these are in situ it has been identified as desirable that these historic pathways are retained, either as pathways or else interpreted through planting and building footprint arrangements of through framed views. The proposed new residential development is primarily focused within the landscape areas to the west and north of the listed Convalescent Home.

These parts of the site are historically, and presently, characterised by landscape and garden features only, not buildings. It is therefore recognised by this assessment, and the already submitted main Heritage Statement, that the introduction of new buildings and planting within these parts of the application scheme will result in a permanent change to the appearance of the northern and western parts of the site. Some views of the proposed new buildings will also be appreciable in the context of the listed Home, when looking from the south.

To qualify the magnitude of these changes, and their likely impact upon the special interest of listed building, the present contribution of these parts of the site to the listed building's special interest,

the extent of change, and any proposed design mitigations should all be considered.

With regard to the contribution made by these landscape areas at present, although the general historic layout of the northern and western landscape is still discernible, the historic appearance and functional interest of these landscape areas is now nearly impossible to appreciate, thanks to them having been comprehensively stripped of their historic planting. The continued inaccessibility of the northern landscape, and to the historic service building complex, also further erodes the potential for these areas to contribute positively to the special interest and present activities of the listed Home. The heritage value of these landscape areas is therefore limited.

Review of the application scheme has highlighted several design features which are considered to demonstrate 'informed design' which seeks to preserve, or better reveal, historic assets through new place-making. Informed design will often help mitigate potentially harmful impacts, arising from change occurring within the historic environment.

Features of the application scheme considered to demonstrate a heritage-led approach to design include: preservation of the large rectangular garden area to the northeast of the listed building, as an area of open green landscaping; The reinstatement of an attractive, formal planting scheme within the rectangular northeastern garden, as well as in the northwestern triangular garden area, which is considered to be more historically-sympathetic than the present unplanted appearance; Historic pathways will be preserved, including the significant north-south axis path connecting the Home to its ancillary service complex; Where new residential buildings will be introduced within the northern landscape, these have been carefully positioned to help reinforce the historic boundary lines between and around the historic garden zones, with built footprints being orientated to stay well within the established landscape pattern; Significant formal historic views of the listed building, and created between the Home and its historic service buildings, have been taken into account in the layout of the proposed new residential buildings and will not be obscured; New development has been spread out across the northern and western parts of the site, to avoid any part of the landscape becoming overly-dense with new buildings; The scale of proposed buildings will be clearly subservient to that of the listed Convalescent Home, helping to ensure the listed building remains dominant within the site, in line with best practice; The appearance of new buildings will vary slightly across the site, in order to respond to the very specific contextual conditions within each area. In the northernmost part of the site, new building will have historically-sympathetic irregular footprints, of a size subservient to that of the attractive curtilage listed Laundry.

Whilst within the landscape between the Home and the service buildings, a narrow terraced, almshouse-type architecture is to be adopted for new residential architecture, to help ensure that where new buildings are seen, they do not appear incongruous in the context of the decorative detailing and traditional materials of the listed building.

Taking into account the compromised heritage value of landscaping to the north and west of the site at present, and that the proposed development incorporates numerous features of informed design which should minimise the loss of historic landscape features, the impact of the application scheme is not therefore considered to amount to substantial heritage harm.

A less than substantial impact is the more appropriate assessment of the likely impact upon the setting of the listed Convalescent Home. Albeit recognising that some elements of the application scheme may also offer opportunities for heritage benefits, through enabling the re-opening of the

historic northern landscape and service buildings for active use once again, as well as making this historic landscape available again for use by residents of the Convalescent Home itself.

The development of the garden area will provide finance through a section 106 legal agreement for on going maintenance and repair of the listed building, improvement to the main front garden area and will help to subsidise care offered at the home which is fundamental to the charity objectives and the long term retention of the home. The principle of residential development in this position is therefore acceptable. The dwellings would retain a space to the rear of the home. Block C would be 15m from the rear parking area boundary and blocks B and D 10m at their closest points. Block A which is the most southerly block would be set slightly forward of the rear elevation of the home and 15m behind the front elevation. All new dwellings would be separated from the home by driveways and parking areas. The agents have submitted an assessment of key views of the home in the Addendum to the Heritage Statement' to illustrate that the impact is limited. It is considered that the dwellings will not dominate and adversely affect the setting of the building.

VISUAL AMENITY AND CHARACTER OF THE AREA

The character of the area is defined by a mix of dwelling form. Detached and terraced 2 storey dwellings are located to the east and rear of the site and several large blocks of flats front Sea Road to the east. The proposed dwellings would be sited to the rear and west side of the existing home retaining the open lawned areas in front of the home adjacent to the seafront and Sea Road and the setting of the listed building from the main public view. The formal lawned setting to the home is considered to be its most significant area of setting, being the landscape over which the front elevation of the listed building is seen. The proposed dwellings range from 1.4 storeys to the north of the laundry building and the terrace to the eastern boundary. The remainder are 2 storeys high. All of the dwellings would be lower in height than the existing Home.

The design of the properties is similar to Alms Houses and the materials are proposed to be predominantly fair faced stock bricks with feature arch details and a plinth. Roofs are slate with lead dormers and feature chimneys. Windows are traditional timber casements. Bike and bin stores are to be untreated oak with galvanised fittings. The development would be landscaped with maritime planting and trees. Half of the existing garden layout would be preserved with established hedging providing protection from coastal winds. An area of open space is provided without the provision of play equipment which would have been considered to have added to the visual clutter and generate noise that would not have been conducive to the primary use of the site as a convalescent home.

It is considered that the design, form and layout of the development and appropriate to their setting. They would be in keeping with the type of residential development in the area and would not dominate the setting of the Listed Building. Whilst it is accepted that the curtilages are slightly smaller than others in the locality this is considered acceptable given the layout of the site which includes a central open space and replicates a formal garden layout appropriate to this historic setting.

The site borders Mewsbrook Park to the west and development along this side boundary needs careful consideration to ensure that no adverse impacts result to its setting including loss of important trees. The tree report has confirmed that the health of these trees will not be compromised and the closest dwellings in blocks A, B and E are 4m from the boundary and angled away from the boundary. Given the height of the dwellings and this retained space it is considered

that public views into the site from the park would not be compromised. Some additional tree planting is indicated along this boundary adjacent to block F.

RESIDENTIAL AMENITY

The nearest residential properties to the proposed development are located to the north and east. The 2 storey dwellings to the north face onto the site, but are located 11m from the rear boundary and 20m from the rear elevations of Block F. These distances are acceptable to ensure no unacceptable adverse overlooking or overbearing effects result. The closest property to block F to the east is 8m from its side elevation which again is sufficient to ensure no unacceptable adverse impact on residential amenity.

Block D is located on the eastern boundary in an area that abuts an access road which is flanked on the opposite side by flat roofed garages. The back to back distances with the closest dwellings in The Martlets are 23m which are above the generally accepted minimum separation distances of 18m and will ensure no material harm will result to residential amenity.

The agents have confirmed that the overall gross internal floor areas of the units and individual room sizes are all policy compliant in accordance with policy DDM2 of the Emerging Local Plan. The proposal does not accord with the adopted external space standards set out in policy DDM3, but the layout includes a small garden to each unit and formal gardens for use by residents and it is considered that given the constraints to development within the grounds of a Listed Building, the size of the dwellings and the proximity to the park and seafront, the small garden areas are acceptable and would have no adverse impact on the residential amenities of occupiers.

HIGHWAY CONSIDERATIONS

The proposal includes a Transport Statement and Stage One Road Safety Audit. The existing home is served by 2 accesses from Sea Road. The western access accommodates mainly vehicles whilst the eastern access is pedestrian only. The proposal would retain and modify the western access to incorporate pedestrian footway. A second pedestrian access is to be created at the north east end of the site onto The Martlets. The entrance includes splays of 2.4 x 43m to both sides and the carriageway width of internal access roads is 4.8m to allow cars to pass with local widening at bends. All on site footways are 2m wide. The proposal includes 77 car parking spaces. The West Sussex Parking Demand Calculator requires 73. The level of car parking proposed is therefore acceptable. Covered cycle storage parking is provided in 5 locations providing 46 spaces overall in accordance with West Sussex County Council standards. County Highways have no objection to the proposal subject to conditions.

LANDSCAPE AND TREE CONSIDERATIONS

The trees to be removed are not worthy of retention and new tree planting is proposed. Protection of existing trees and comprehensive landscaping controlled by condition are key to the success of the scheme and appropriate conditions have been imposed to the satisfaction of the Council's tree officer and Greenspace department.

FLOODING ISSUES

Whilst the site lies mainly within Flood Zone 1, smaller amounts are located in zones 2 and 3. The proposed buildings are all located outside Flood Zone 3. The requirements for the Sequential test

ECOLOGY AND WILDLIFE CONSIDERATIONS

LEGAL AGREEMENT

'Unless otherwise agreed in writing by the Local Planning Authority, prior to the occupation of no more than 75% of the new dwellings hereby approved, the works relating to the repair and upgrade of the Convalescent Home shall be completed'

'Unless otherwise agreed in writing by the Local Planning Authority, prior to the occupation of the new dwellings hereby approved a detailed Management Scheme should be submitted and approved by the Local Planning Authority.'

An Agreement has been suggested stating that all surplus receipts are applied directly to the Charity endowment fund.

Members will be updated on the progress of such conditions and Agreement before committee

CONCLUSION

It is considered that any damage to the setting of the listed building is offset by the derived finance which will facilitate its long term retention and maintenance and use (the optimum viable use). The application is recommended for approval subject to the following conditions/agreement including control over the provision of repairs and endowment funds.

It is considered that this application should be approved subject to the conditions set out below and a S.106 legal agreement as set out above. However, if the S.106 legal agreement has not been signed within 2 months (by 20-12-2015) of the date of the resolution to approve then the application should be refused for the following reason:

The Local Planning Authority is not satisfied that monies from the development can be adequately controlled and reinvested in the longterm repair/maintenance and use of the listed building and the setting of the building would be unacceptably compromised in conflict with the National Policy Framework (NPPF).

By reason of the number of dwellings proposed, their proximity to the listed buildings and the lack

of spaciousness the proposal represents an over-development of the site, which would cause serious harm to the setting of the historic Listed Buildings in conflict with policy GEN7 of the Arun District Local Plan and the National Planning Policy Framework and the external space standards in policy DDM3 of the Emerging Local Plan.

HUMAN RIGHTS ACT

FOR APPROVAL

Human Rights Act:

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (the right to respect for private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal neutral impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

SECTION 106 DETAILS

The proposal generates a requirement for the finance generated from the development to be utilised to facilitate the renovation and repair of the listed building and to assist the charity to continue to operate the continued use of the listed building as a convalescent home.

RECOMMENDATION

APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans location, 222-A-I-P-00, 222-A-I-01, 222-A-I-P-02, 222-A-I-S-00, 222-A-I-E-00, 222-A-I-E-01, 222-A-I-E-02, 222-A-I-E-03, 222-A-x-SE-00, 222-A-D-E-00, 222-A-E-P-00revA, 222-A-x-SE-01 revB, 222-A-x-SE-02revA, 222-A-2-EXP-00, 222-A-2-P-00, 222-A-A-P-00revB, 222-A-B-P-00revB, 222-A-C-P-00revA, 222-A-D-P-00, 222-A-D-E-00 revA, 222-A-E-P-00 revA, 222.901, 10631012 Basement, Ground, First and Second Floor plans for Home, floor plans and elevations of The Cottage, Carpenters Home, 281/100 rev9 and 281/101 revB.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

- 3 No development shall be carried out unless and until a schedule of materials and finishes to be used for external walls and roofs of the proposed buildings have been submitted to and approved by the Local Planning Authority. A 'statement of detail' shall be submitted setting out details of proposed windows and doors, details of the depth of recess/reveal from the brickwork, sills and lintels, brick bonding, brick detailing, eaves detailing and rainwater goods. The materials and 'statement of details' so approved shall be used in the construction of the buildings.

Reason: To enable the Local Planning Authority to control the development in details in the interests of amenity by endeavouring to achieve buildings of visual quality in accordance with policy GEN7 of the Arun District Local Plan.

- 4 Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking or re-enacting this Order) no extensions (including porches or dormer windows) to the dwelling houses shall be constructed or buildings shall be erected within the curtilage unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To safeguard the privacy and amenity of adjoining occupiers, maintain adequate amenity space, protect the setting of the listed building and safeguard the cohesive appearance of the development in accordance with policy GEN7 of the Arun District Local Plan and the NPPF.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that Order) the buildings shall not be altered in any way unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of the amenities of the locality in general and the setting of the listed building in accordance with policy GEN7 of the Arun District Local Plan and the NPPF.

- 6 No development shall take place until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including details of hard and soft landscaping and details of existing trees and hedgerows to be retained, together with measures for their protection during the course of the development. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner,

and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.'

Reason: In the interests of amenity and of the environment of the development in accordance with policy GEN7 of the Arun District Local Plan.

- 7 The burning of materials obtained by site clearance or from any other source shall not take place within 6 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or on land adjoining.

Reason: To protect trees and vegetation from fire damage in the interests of the visual amenities of the locality.

- 8 All proposed works to take place within the Root Protection Areas are to follow the submitted Method statements. This includes hard surface removal (as described in section 11 of the submitted Arboricultural Method statement), and also with the installation of no-dig road surface (section 12 of the submitted Arboricultural Method statement).

Reason: In the interests of the visual amenities of the locality in accordance with policy GEN7 of Arun District Local Plan.

- 9 All proposed protective fencing (meeting the BS 5837 standard) must be erected before any site works begin. Equally all protective fencing must be kept in place until the completion of the proposed development, as specified in section 6 of the Arboricultural Method statement.

Reason: In the interests of the visual amenities of the locality in accordance with policy GEN7 of Arun District Local Plan

- 10 If any root is discovered with a diameter of over 25 mm diameter, which requires severing then the Arun District Council tree officer must be informed to supervise any pruning.

Reason: In the interests of the visual amenities of the locality in accordance with policy GEN7 of Arun District Local Plan

- 11 No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing.

Reason: In the interests of road safety and to accord with approved policy in accordance with policy GEN7 of the Arun District Local Plan

- 12 The buildings hereby permitted shall not be occupied until provision has been made within the site in accordance with details to be submitted to and approved by the Local Planning Authority to prevent surface water discharging onto the public highway.

Reason: In the interests of road safety and to accord with approved policy in accordance with policy GEN7 of the Arun District Local Plan.

- 13 No part of the development shall be first occupied until visibility splays of 2.4m by 43m have been provided at the proposed site vehicular access onto Sea Road in accordance with the approved planning drawings. Once provided the splays shall thereafter be maintained and kept free from any obstruction to visibility in excess of 0.6 metres above the level of the adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety in accordance with policy GEN7 of the Arun District Local Plan.

- 14 The buildings hereby permitted shall not be occupied until the car parking spaces have been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority and such provision shall thereafter be used only for the parking of cars.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways in accordance with policy GEN7 of the Arun District Local Plan.

- 15 No part of the development shall be first occupied shall not be occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority and such provision shall thereafter be used only for the parking of cycles.

Reason: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways in accordance with policy GEN7 of the Arun District Local Plan.

- 16 Prior to development commencing, including works of demolition, a Construction Management Plan shall be submitted to and be approved in writing by the Local Planning Authority after consultation with the Highway Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details of the following information for approval:

- the means of access and road routing for all construction traffic associated with the development;
- provision of wheel washing facilities and details of their operation and location;
- construction working times including delivery times;
- details of areas for the loading, unloading, parking and turning of vehicles associated with the construction of the development;
- details of areas to be used for the storage of plant and materials associated with the development;
- Contact details for the site contractor, site foreman and CDM co-ordinator (including out-of-hours contact details).
- Evidence of consultation with neighbours prior to works commencing.
- Details of any temporary traffic management that may be required to facilitate the development including Chapter 8 traffic signage.
- the anticipated number, frequency and types of vehicles used during construction,
- erection and maintenance of security hoarding

Reason: To ensure safe and neighbourly construction in the interests of amenity and road

safety.

- 17 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment(FRA) and the following mitigation measures detailed within the FRA:

Finished floor levels are set no lower than 300mm above existing ground level or the 1 in 200 tidal flood event with climate change whichever is the greater.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority (LPA).

Reason: To reduce the risk of flooding to the proposed development and future occupants. In accordance with policies GEN7 and GEN11 of the Arun District Local Plan.

- 18 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water.

Reason: To ensure that the development is satisfactorily drained in accordance with policy GEN9 of Arun District Local Plan.

- 19 Development shall not commence until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.

The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, the recommendations of the SUDS Manual produced by CIRIA.

Winter groundwater monitoring to establish highest annual ground water levels and Percolation testing to BRE 365, or similar approved, will be required to support the design of any Infiltration drainage.

No building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan.

- 20 The development shall not proceed until formal consent has been approved in writing from the Lead Local Flood Authority (WSCC) or its agent (ADC) for the discharge of any flows to watercourses, or the culverting, diversion, infilling or obstruction of any watercourse on the site.

Any discharge to a watercourse must be at a rate no greater than the pre-development run off values.

Reason : To ensure that the proposed development is satisfactorily drained in accordance with policies GEN7 and GEN9 of the Arun District Council Local Plan.

- 21 Development shall not commence until full details of the maintenance and management of the SUDs system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturers recommended design life. Upon completed construction of the SuDs System, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: To ensure the efficient maintenance and on going operation of the SuDs system and to ensure the best practice in line with guidance set out in 'The SuDs Manual' CIRIA publication ref: C697 Chapter 22

- 22 Prior to commencement of development precise details of the position, luminosity and design of the external lighting shall be submitted to and approved by the Local Planning Authority and the development shall proceed in accordance with the approved details.

Reason: In the interests of the setting of the listed building in accordance with Arun District Local Plan policies GEN7 and the National Planning Policy Framework.

- 23 The development shall proceed in accordance with the recommendations set out in the Extended Phase 1 Habitat Survey by PJC Ecology dated June 2013.

Reason: To ensure that the ecological value of the site is maximised in accordance with policy GEN7 of Arun District Local Plan.

- 24 Unless otherwise agreed in writing by the Local Planning Authority, prior to the occupation of the new dwellings hereby approved, a detailed Management Scheme which shall include details of grass cutting management, regular repair and repainting of dwellings, control over the cohesive uniformity of the development, maintenance of landscaping and control over additional structures including aerials and satellite dishes, changes to windows/doors, re-pointing, alterations to front garden areas, driveways etc shall be submitted and approved by the Local Planning Authority.

Reason: In the interests of the setting of the listed building in accordance with policy GEN7 of Arun District Local Plan and the National Planning Policy Framework

- 25 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 26 INFORMATIVE: The internal layout has been considered by a senior engineer in the implementation team at WSCC. It is unclear from any of the submitted drawings if the roads are to be offered for adoption. If this is the case it would need to be clarified what is

intended for adoption.

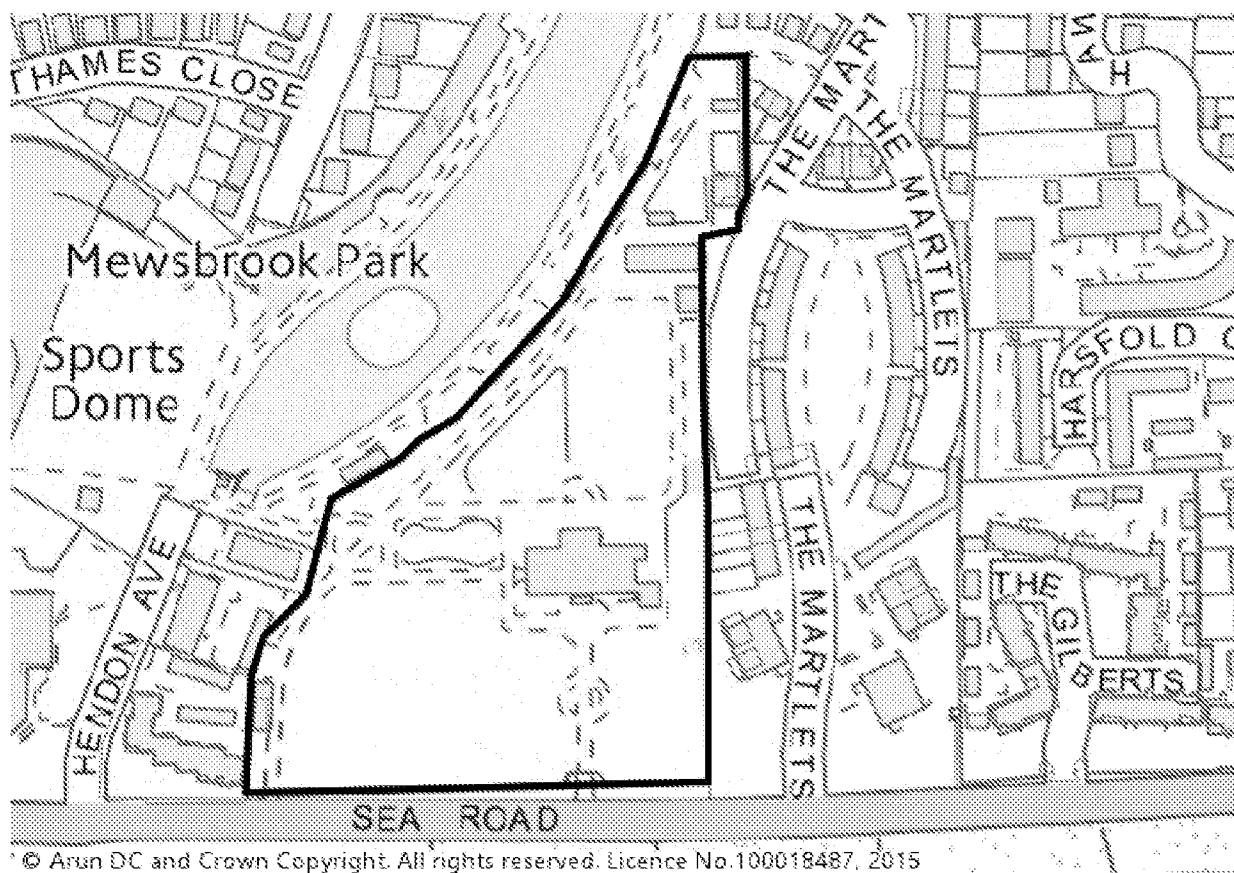
The internal roads appear to be very narrow, 4.8m wide in some sections (including footways/verge) e.g. at block E. It would be helpful for the designer to dimension the drawing, i.e. give widths of carriageways, verges, footways etc. The carriageway looks even narrower around Block C.

- 27 INFORMATIVE: Application for a S278 Agreement to cover the off-site highway works should be made to WSCC as Highway Authority. Full details are available on the WSCC website. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.
- 28 INFORMATIVE: Where possible any new entry doors and any ground floor or any easily accessible windows should conform to PAS 024 2012.
- 29 INFORMATIVE: Lighting throughout the development should conform to the recommendations in BS 5489 2013.
- 30 INFORMATIVE: A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119) or www.southernwater.co.uk
- 31 INFORMATIVE: A formal application for connection to the water supply is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (0330 303 0119) or www.southernwater.co.uk
- 32 INFORMATIVE: Detailed design of the proposed drainage system should take into account the possibility of the surcharging within the public sewerage system in order to protect the development from potential flooding.

R/83/15/PL Indicative Location Plan

(Do not Scale or Copy)

(All plans face north unless otherwise indicated with a north point)



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APPENDIX 5
DRAFT FURTHER DEED OF VARIATION OF SECTION 106 AGREEMENT

DATED

2022

ARUN DISTRICT COUNCIL

- and -

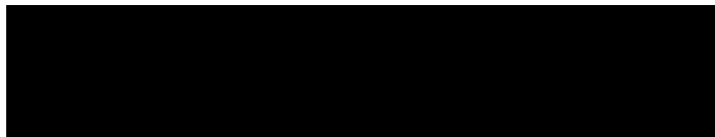
THE MASTER AND WARDENS AND COMMONALTY OF FREEMAN OF
THE CARPENTRY OF THE CITY OF LONDON

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

Relating to Land at Rustington Convalescent Home,
Sea Road, Littlehampton BN16 2LZ

Wedlake Bell

71 Queen Victoria Street
London
EC4V 4AY



THIS DEED is made the day of 2022

BY:-

- 1) **Arun District Council** of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF ("ADC")
- 2) **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")

1. INTRODUCTION

- 1.1 ADC is the Local Planning Authority for the purposes of the Act for the area in which the Land is situated and is the Authority by whom the planning obligations contained in this Deed are enforceable.
- 1.2 The Owner is the freehold owner of the Land which is registered with the Land Registry under title number SX1077714.
- 1.3 On 11 December 2015 the Owner and the Council entered into the Section 106 Agreement in connection with planning application reference R/83/15/PL and subsequent to the completion of the Section 106 Agreement the Council issued the First Planning Permission.
- 1.4 On 24 November 2016 the Owner and the Council entered into the First Deed of Variation that was entered into in relation to the Section 73 Permission.

2. INTERPRETATION

- 2.1 In this Deed the following words and expressions shall unless the context otherwise permits or requires have the following meanings:

"Act" means the Town and Country Planning Act 1990;

"First Deed of Variation" means the agreement entered into by (1) Arun District Council and (2) The Master and Wardens and Commonalty of the Mystery of Freemen of the Carpentry on 24 November 2016 in connection with the Section 73 Permission;

"First Planning Permission" means the planning permission issued on 21 October 2015 for the development of the Land under planning reference R/83/15/PL;

"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;

"Parties" means ADC and the Owner;

"Plan" means the plan attached to this Deed;

"Section 106 Agreement" means the agreement entered into by (1) Arun District Council and (2) The Master and Wardens and Commonalty of the Mystery of Freemen of the Carpentry on 11 December 2011 in connection with the First Planning Permission.

"Section 73 Application" means the application registered by the Council under reference number R/187/16/PL to vary conditions 2, 3, 6, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 & 24 of the First Planning Permission to allow development to be brought forward in two phases;

"Section 73 Permission" means the planning permission dated 14 November 2016 granted pursuant to the Section 73 Application.

3. CONSTRUCTION OF THIS DEED:

In this Deed unless the context indicates or requires otherwise:-

- 3.1 References in this Deed to Clauses, Paragraphs and Schedules are to Clauses, Paragraphs and Schedules in this Deed;
- 3.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa;
- 3.3 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 as being interchangeable in that manner;
- 3.4 Any reference to an Act of Parliament shall include any modification extension or re-enactment of that Act for the time being in force and shall include all subordinate instruments orders plans regulations permissions and directions for the time being made issued or given under that Act or deriving validity from it;
- 3.5 References to any party to this Deed 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 Council or any other body the successors to its statutory functions;
- 3.6 The headings are for reference only and shall not affect the construction or interpretation of this Deed;
- 3.7 Any covenant by the Owner not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person.

4. LEGAL EFFECT

- 4.1 This Deed is a planning obligation made pursuant to Section 106A of the Act and its purpose is to further vary the Section 106 Agreement (as varied by the First Deed of Variation) to amend one of the definitions to make it clear that surplus profits from the sale of part of the Land by the Owner are to be paid to the Owner's endowment fund to use towards the renovation and maintenance of the Convalescent Home.
- 4.2 This Deed is enforceable against the Owner by the Council as the local planning authority for the area in which the Land is situated.
- 4.3 The planning obligations contained in Section 106 Agreement as further varied by this Deed:
 - 4.3.1 shall bind the Land; and
 - 4.3.2 shall be enforceable by the Council against the Owner and its successors in title to the Land or any part thereof.

5. COMMENCEMENT

This Deed shall come into effect on the date hereof

6. VARIATION OF THE SECTION 106 AGREEMENT

The Parties agree that the Section 106 Agreement shall be varied as follows:

- 6.1 The definition of "Profit" in the Section 106 Agreement shall be deleted and replaced with:

"Profit" means the financial benefit to the Master and Wardens and Commonalty of the Mystery of Freemen of the Carpentry of the City of London that is realised from the proceeds of the sale of land and / or the New Dwellings (or any of them) net of expenditure, costs and taxes

incurred in carrying out or in connection with the development authorised by the Planning Permission and the Listed Building Consent

7. CONTINUATION OF THE TERMS OF THE SECTION 106 AGREEMENT

The Parties agree that with effect from the date hereof the Section 106 Agreement (as varied by the First Deed of Variation) shall be construed as having been amended by the terms of this Deed but otherwise the terms of the Section 106 Agreement (as varied by the First Deed of Variation) shall continue in full force and effect.

8. COSTS

The Owner covenants with the Council to pay prior to the completion of this Deed the Council's reasonable legal costs and disbursements incurred in connection with this Deed.

9. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

Unless expressly stated to the contrary, the provision 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.

10. GOVERNING LAW AND JURISDICTION

This Deed shall be governed by and interpreted in accordance with the Law of England and Wales and the Parties submit to the jurisdiction of the courts of England and Wales.

11. LOCAL LAND CHARGE

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

This agreement is executed as a deed by the parties and is delivered and takes effect on the date at the beginning of this agreement.

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:)

Master

Warden

Clerk

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

Seal Book No:

Authorised Signatory