

DATED 21 November 2022

ARUN DISTRICT COUNCIL

- and -

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

THIRD 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
EC4M 3AX



THIS DEED is made the 21st day of November 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 SX107714. [REDACTED]
- 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 in relation to the Section 73 Permission.
- 1.5 On 11 April 2019 the Owner and the Council entered into the Second Deed of Variation in relation to the Second 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;

"Second Section 73 Application" means the application registered by the Council under reference number R/258/18/PL to vary conditions 2 and 3 imposed under the Section 73 Permission relating to amended phases (phase one amended to the conversion of the laundry building, cooks house and dairy and works to the Convalescent Home and phase two amended to the erection of the new build dwellings)

"Second Section 73 Permission" means the planning permission dated 15 April 2019 granted pursuant to the Second Section 73 Application

"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, section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011 and all other enabling powers and its purpose is to further vary the Section 106 Agreement (as varied by the First Deed of Variation and the Second 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 (subject to the exclusions set out in clause 7 of the Section 106 Agreement) 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 further 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 (which for this purpose does not include their successors in title) 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 and the Second 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 and the Second 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

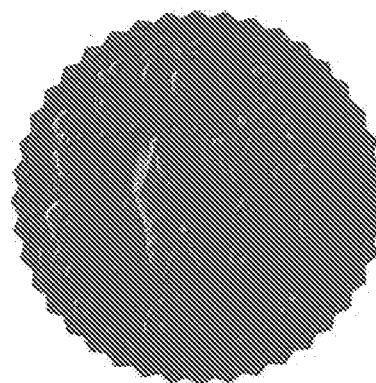
Warden

Clerk

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

Seal Book No:

Authorised Signatory

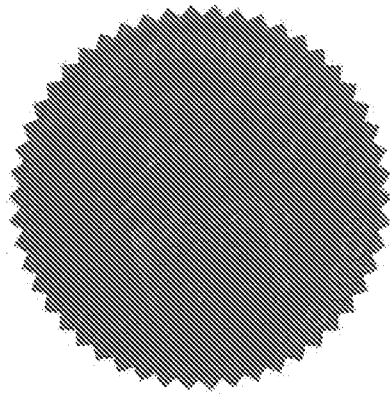


SEALED with the COMMON SEAL of
ARUN DISTRICT COUNCIL
in the presence of:-

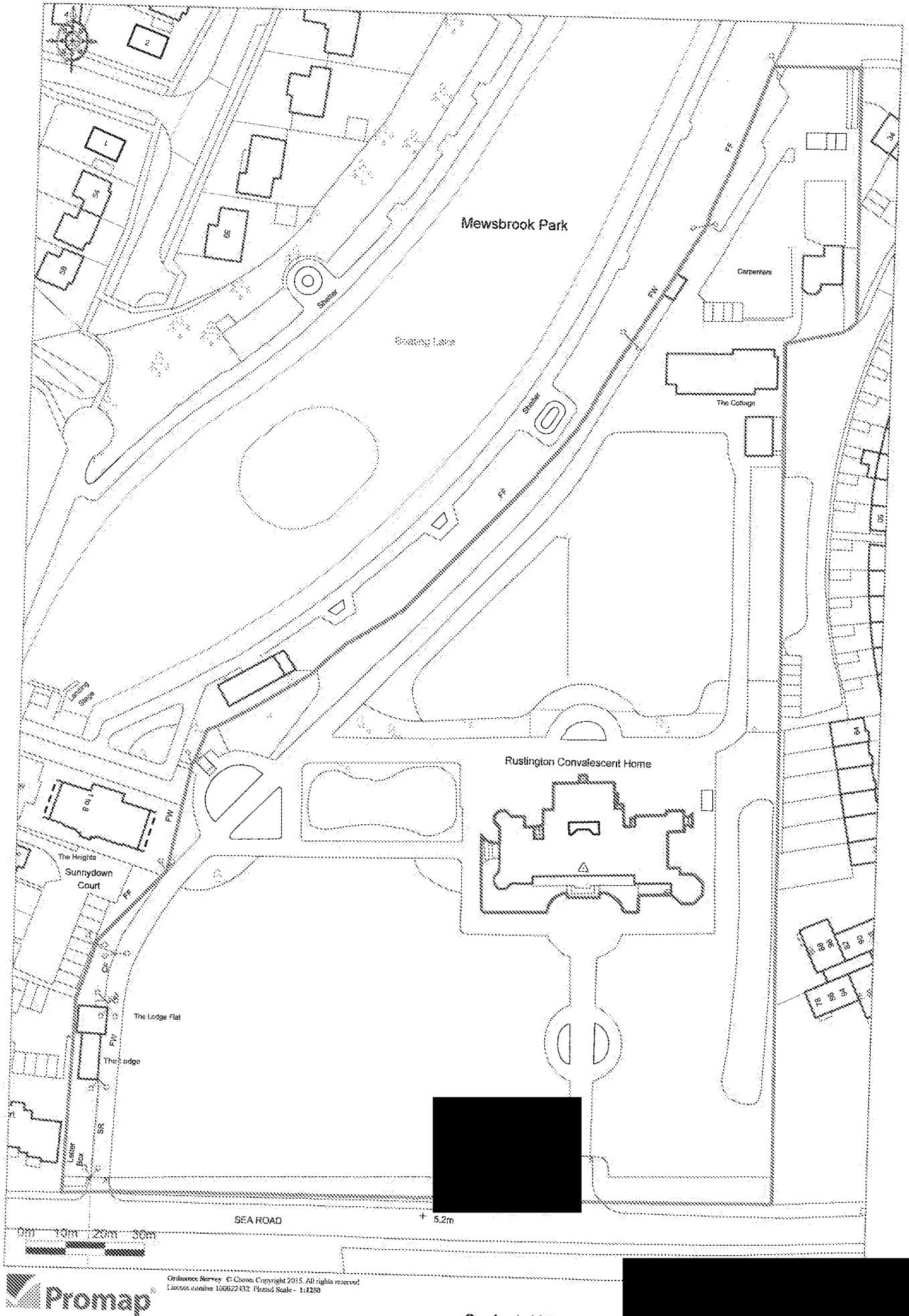
Seal Book No: 384/222.

Authorised Signatory

SOFINA AHMED - SOLICITOR.



Rustington Convalescent Home



Scale 1:1250