Planning Application Reference:	**R/185/02/**
Document Type:	**Unilateral Undertaking**
Date of Agreement:	**17th June 2003**

NB: Text in bold to be included in free text field.

Guidelines for Blocking

Check thoroughly for **names with addresses** and block.
Check **maps** for signatures and block.
Check throughout for **signatures** and block.

Please return original to s106 Monitoring Officer

ARUN DISTRICT COUNCIL R/185/02/

DATED 17th June 2003

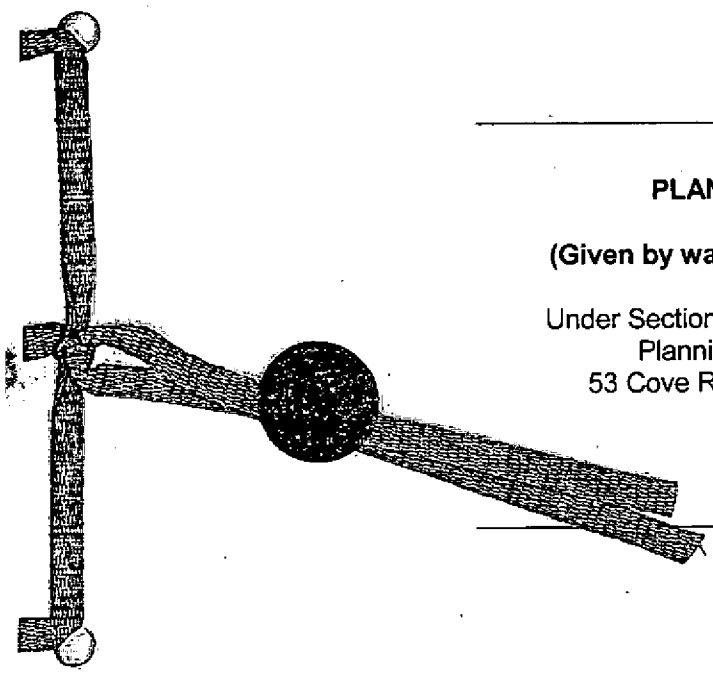
MJH EXECUTIVE HOMES LIMITED

- to -

ARUN DISTRICT COUNCIL

- and -

WEST SUSSEX COUNTY COUNCIL



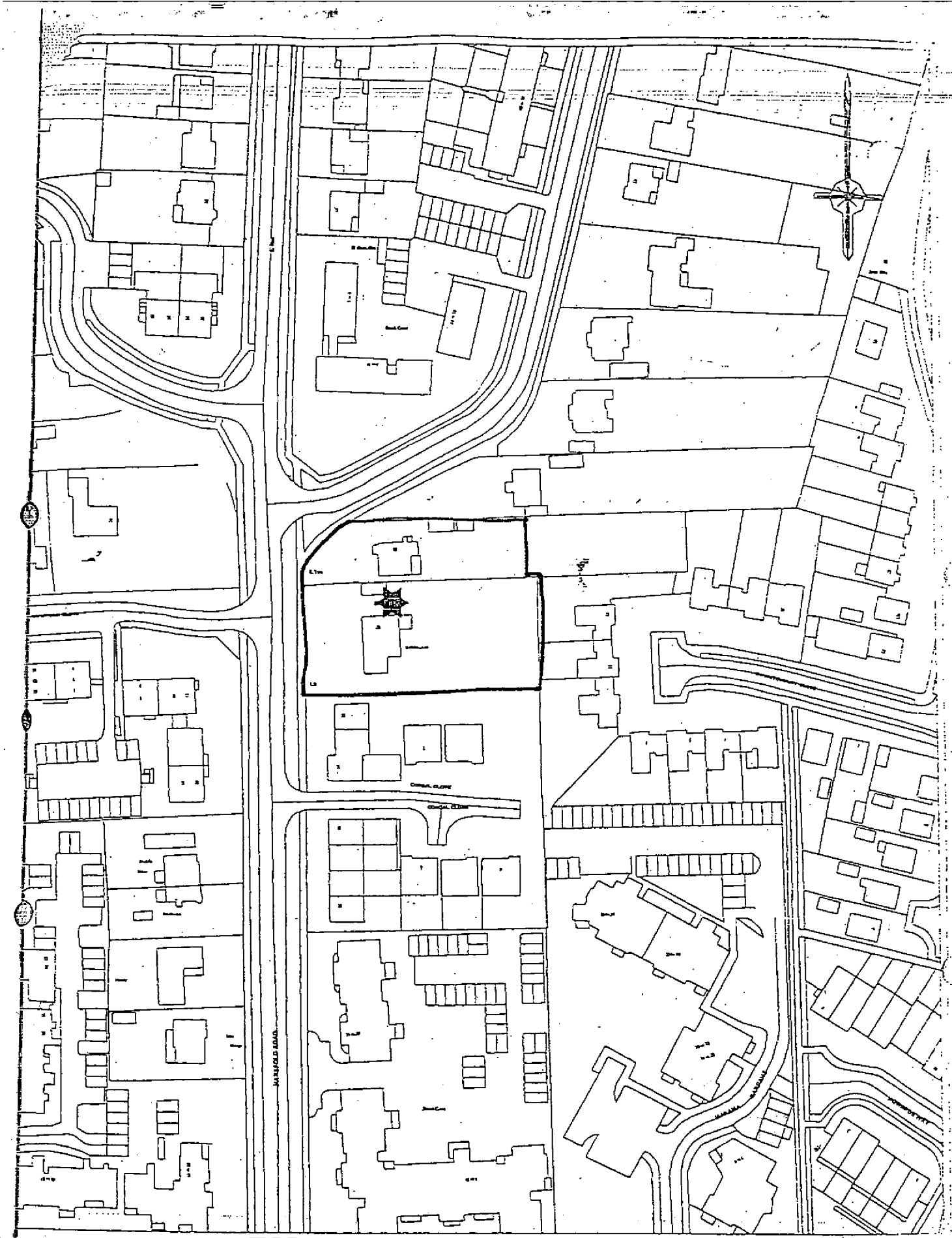
PLANNING OBLIGATION

(Given by way of Unilateral Undertaking)

Under Section 106 of the Town and Country
Planning Act 1990 relating to
53 Cove Road and 41 Harsfold Road
Rustington
West Sussex

The Bott Partnership
Dominion House
Dominion Road
Rustington
West Sussex
BN16 3HQ

ARUN DISTRICT COUNCIL R/185/02/



Location Plan
R/186/02/ [redacted]

1:1,250

ARUN
DISTRICT COUNCIL

[redacted]

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Arun District Council LA077011 1999

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1.7	**"the Planning Application"**	means the planning application allocated reference R185/02 by the Council to develop the Property by the demolition of the existing buildings and the erection of 19 number flats with associated car parking and garaging thereon more particularly described therein
1.8	**"the Planning Permission"**	means the grant of planning permission for the Proposed Development granted by the Secretary of State on appeal
1.9	**"the Property"**	means two parcels of land at 53 Cove Road Rustington and 41 Harsfold Road Rustington West Sussex both of which are shown for the purposes of identification only edged bold black on the Plan
1.10	**"the Proposed Development"**	means the development described in the Planning Application
1.11	**"the Secretary of State"**	means the Secretary of State for the Environment Transport and the Regions and shall include any inspector appointed by the Secretary of State to determine planning appeals

2 **RECITALS**

2.1 The Owner is the freehold owner of the Property

2.2 The Property is situated within the administrative District of Arun District Council which Council is the Local Planning Authority for the purposes of the Act

2.3 The Council has failed to determine the Planning Application

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THIS PLANNING OBLIGATION is made the 7th day of June Two Thousand and Three and is given in the form of a unilateral undertaking

BY MJH EXECUTIVE HOMES LIMITED whose registered office is at MJH House Swan Court Station Road Pulborough West Sussex RH20 1RL (**"the Owner"**) and

TO ARUN DISTRICT COUNCIL of Civic Centre Maltravers Road Littlehampton West Sussex BN17 5LF ("the Council")

TO WEST SUSSEX COUNTY COUNCIL of County Hall West Street Chichester PO19 1RQ ('the County Council')

1 **DEFINITIONS**

In this Planning Obligation the following words and expressions shall where the context so requires or admits have the following meanings:

1.1	**"the Act"**	means the Town and Country Planning Act 1990 as amended
1.2	**"Commencement of Development"**	means implementation by the carrying out of a material operation as defined by Section 56 (4) of the Act
1.3	**"the Council"**	means Arun District Council of Arun Civic Centre Maltravers Road Littlehampton BN17 5LF
1.4	**"the County Council"**	means West Sussex County Council of County Hall West Street Chichester West Sussex PO19 1RQ
1.5	**"the Owner"**	shall include its successors-in-title and assigns
1.6	**"the Plan"**	means the plan annexed hereto

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2.4 The Owner has submitted an appeal to the Secretary of State against the Council's deemed refusal of the Planning Application and such appeal is due to be heard by way of an informal hearing on this 17th day of June 2003

2.5 The Owner is willing to give this unilateral undertaking to the Council and the County Council in the terms and subject to the conditions hereinafter appearing

3 **STATUTORY PROVISIONS**

This Deed constitutes a Planning Obligation for the purposes of Section 106 of the Act and is given by the Owner to the Council pursuant to the provisions thereof with the intention of binding the Owner's freehold interest in the Property

4 **ENFORCING AUTHORITY**

The County Council is the County Planning Authority by which the provisions of this Planning Obligation are intended to be enforceable

5 **CONDITION**

Clause 6 and the Schedule to this Planning Obligation are strictly conditional upon the grant of the Planning Permission

6 **OBLIGATIONS**

Subject to the provisions of this Planning Obligation the Owner hereby covenants with the County Council in the terms of the Schedule hereto

7 **REVOCATION**

In the event that the Planning Permission is quashed lapses or is revoked or otherwise withdrawn or modified this Planning Obligation will cease to have any further force or effect insofar as its obligations remain to be fulfilled unless otherwise agreed in writing with the County Council

8 **CURRENT OWNER**

This Planning Obligation shall only bind the Owner and its successors in title to the Property or any part thereof so long as it shall have an interest in the Property or part thereof

9 **PLOT PURCHASERS**

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The provisions of this Agreement shall not be binding upon or enforceable against the purchasers and/or occupiers of any individual dwelling constructed upon the Property

10 **NOTICES**

10.1 Any notice consent or approval required to be given under this Planning Obligation shall be in writing and shall be delivered personally or sent by pre-paid first class recorded delivery post tested telex or facsimile transmission

10.2 The address for service of any such notice consent or approval as aforesaid shall be the addresses given in the definition of the parties hereto or such other address for service as shall have been previously notified to the other party

10.3 A notice consent or approval under this Planning Obligation shall be deemed to have been served as follows:

10.3.1.1 if personally delivered at the time of delivery;

10.3.1.2 if posted at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom;

10.3.1.3 if sent by facsimile transmission at the time of successful transmission

and in proving such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice consent or approval was properly addressed and delivered into the custody of the postal authority in a pre-paid first class or recorded delivery envelope (as appropriate) or that the facsimile was successfully transmitted on a tested line as the case may be

11 **REGISTRATION**

The Owner shall deliver a copy of the signed Deed to the Council within one month of the grant of planning permission by the Secretary of State to be registered as a local land charge in the Register of Local Land Charges maintained by the Council

12 **INTERPRETATION**

In this Planning Obligation:

12.1 words importing the masculine gender include the feminine and the neuter and vice versa

12.2 words importing the singular include the plural and vice versa

12.3 references to persons include bodies corporate and vice versa

12.4 save where the context otherwise requires all obligations given or undertaken by more than one person in the same capacity are given or undertaken by them jointly and severally so as to apply and be enforceable against all both or any of such persons and their and each of their personal representatives

12.5 the clause headings shall not affect the construction of this Planning Obligation

12.6 save where otherwise stated any reference to a numbered clause or schedule means the clause or schedule in this Planning Obligation which is so numbered

12.7 every reference to any statute or any section of any statute shall be read and construed as including a reference to any statutory amendment modification or re-enactment thereof for the time being in force and to every instrument order direction regulation bye-law permission licence consent condition scheme or other such matter made in pursuance of such statute

IN WITNESS whereof the Owner has executed this Deed the day and year first above written

THE SCHEDULE
(Planning Obligations)

1 On or before Commencement of Development the Owner shall pay to the County Council as calculated at that date an Education Contribution of FIFTEEN THOUSAND POUNDS (£15,000.00) towards the provision of additional school places in the vicinity of the Property PROVIDED THAT where the Education Contribution is paid after 31st March 2004 it shall be increased by the percentage rise in the Index for the Period where the Index means the All-in Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors and the Period

means the period from the date of publication of the Index last before the date of this Agreement to the date of publication of the Index last before the contribution referred to above is payable.

2 The Owner agrees with the County Council to pay interest on the contribution due to the County Council under this Agreement but not paid on the Commencement of Development until actual payment at 4% above the base lending rate of the HSBC Bank plc applicable at the at the date the sum is received

EXECUTED as a **DEED** by
MJH EXECUTIVE HOMES LIMITED
acting by a Director and its Secretary

[redacted]
Director

[redacted]
Secretary