

DATED THIS 11<sup>th</sup> DAY OF April 2019

(1)

ARUN DISTRICT COUNCIL

(2)

THE MASTER AND WARDENS AND  
COMMONALTY OF THE MYSTERY OF  
FREEMEN OF THE CARPENTRY OF  
THE CITY OF LONDON

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

relating to land at Rustington  
Convalescent Home, Sea Road,  
Littlehampton, West Sussex BN16 2LZ  
Planning ref: R/258/18/PL

Arun District Council  
Maltravers Road  
Littlehampton  
West Sussex  
BN17 5LF  
DX 57406 LITTLEHAMPTON  
CMS7216

Date:  
**PARTIES:**

11<sup>th</sup> April

2019

1. **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF ("the Council")
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, EC2N 2JJ ("the Owner")

#### WHEREAS

1. The District Council is the Local Planning Authority, the Local Housing Authority and the Local Authority responsible for Leisure and Open Spaces for the area in which the Land is situated
2. The Owner is registered as freehold owner of the Land at HM Land Registry comprised in the title number SX107714
3. On 11<sup>th</sup> December 2015 the Council and the Owner 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.
4. On 24<sup>th</sup> November 2016 the Council and the Owner entered into a Deed of Variation under section 106 and section 106A of the Act in respect of Application R/187/16/PL ("the First Deed of Variation") and subsequent to the completion of the First Deed of Variation the Council issued the Section 73 Permission.
5. The Owner has further applied to the Council under section 73 of the Act to vary certain conditions of the Section 73 Permission and the Council has resolved to grant the Second Section 73 Permission subject to the prior completion of this Deed.
6. This Agreement is made as a Deed

NOW THIS DEED WITNESSETH as follows:

#### 1. Interpretation

- 1.1 In this Agreement unless otherwise stated the following expressions shall where the context so admits have the following meanings:

" Act" means the Town and Country Planning Act 1990 as amended

"Application" means planning application number R/83/15/PL for the 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 homes with improved disable access

**"First Planning Permission"**

means the planning permission issued on 21<sup>st</sup> 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, West Sussex BN16 2LZ shown for identification purposes only edged red on the Plan

**"Parties"**

means the Council and the Owner

**"Plan"**

means the plan attached to this Deed as Appendix 1.

**"Second Section 73 Application"**

means the application registered by the Council under reference R/258/18PL to vary conditions 2 & 3 of the Section 73 Permission to allow development to be brought forward in two phases.

**"Second Section 73 Permission"**

means the planning permission granted pursuant to the Second Section 73 Application following completion of 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 of the City of London on 11<sup>th</sup> December 2011 in connection with the First Planning Permission.

**"Section 73 Application"**

means the application registered by the Council under reference 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 issued on 14<sup>th</sup> November 2016 pursuant to the Section 73 Application.

**2. INTERPRETATION**

- 2.1 Clause headings shall not affect the interpretation of this Deed.
- 2.2 A “**person**” includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- 2.3 A reference to a “**company**” shall include any company, corporation or other body corporate, where and however incorporated or established.
- 2.4 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 2.5 Unless the context otherwise requires a reference to one gender shall include a reference to other genders.
- 2.6 A reference to any party shall include that party’s representatives, successors and permitted assigns and to any person deriving title through or under the party and in the case of the Council and the County Council the successors to their respective statutory functions.
- 2.7 Unless the context otherwise requires a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.8 Unless the context otherwise requires a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 2.9 A reference to “**writing**” and “**written**” does not include fax or email.
- 2.10 References to clauses and Schedules are to the clauses and schedules of this deed
- 2.11 An obligation on a party not to do something includes an obligation not to allow that thing to be done
- 2.12 Any words following the terms “**including**”, “**include**”, “**in particular**”, “**for example**” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2.13 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually

### **3. LEGAL BASIS**

3.1 This Deed is made under Section 106 and 106A of the Act and its purpose is to further vary the Section 106 Agreement with the intention that the planning obligations contained in the Section 106 Agreement (as varied by the First Deed of Variation) shall also apply to development to be undertaken in accordance with the Second Section 73 Permission save for any variations contained within this Deed

3.2 The covenants, restrictions and requirements imposed upon the Owners under this Deed create planning obligations under Section 106 of the Act and are enforceable by the Council and the County Council as appropriate in accordance with Section 106 of the Act as local planning authorities against the Owners.

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

### **4. COMMENCEMENT**

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

### **5. VARIATION OF THE SECTION 106 AGREEMENT**

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

5.1 The following new definitions shall be included in the Section 106 Agreement:

5.1.1 *"Second Section 73 Application" means the application registered by the Council under reference R/258/18PL to vary conditions 2 & 3 of the Section 73 Permission 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).*

5.1.2 *"Second Section 73 Permission" means the planning permission granted pursuant to the Second Section 73 Application following completion of this Deed.*

5.2 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 or the Second Section 73 Application"*

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

*"Planning Permission" means the planning permission granted by the Council pursuant to the Application, or the Section 73 Application or the Second Section*

*73 Application."*

**6 CONTINUATION OF THE TERMS OF THE SECTION 106 AGREEMENT**

The Parties agree that with effect from the date on which the Second Section 73 Permission is granted 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 shall continue in full force and effect

**7 COSTS**

The Owner covenants with the Council to pay prior to the issue of the Second Section 73 Permission the sum of £500.00 being the Council's reasonable legal costs and disbursements in connection with this Deed.

**8 MISCELLANEOUS**

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

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

**9 GOVERNING LAW AND JURISDICTION**

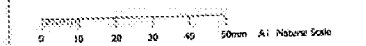
This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the jurisdiction of the courts of England.

## APPENDIX 1 PLAN



Site Plan  
Scale: 1:500

1. The architect is responsible for checking dimensions and references. Any discrepancy should be reported to the client before proceeding with the work.  
2. Where an error is found by drawing to different scales, the larger scale drawing is to be revised.  
3. Do not scale drawing. Figure dimensions to be recorded to 1 in 10 cases. If in doubt, refer to the original.  
4. This drawing is to be used in conjunction with the following:



| rev. | date     | revision/checked                                                                                                                                                                                         |
|------|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1    | 25/01/14 | Amendments to the couple of car park spaces by laundry building 2 (S1)                                                                                                                                   |
| 2    | 24/06/14 | Notes on finished floor levels in accordance to flood risk assessment. Block D visited 1 metre above. Additional canopy over entrance on Block A and B. Pedestrian access included for House type 2 (S2) |
| 3    | 15/10/15 | Dimensions implemented. Internal roads widened to 4500mm. Annotations for car ramp landscaping implemented. J.P.P.                                                                                       |

PHASE ONE - LISTED BUILDINGS

PHASE TWO

project title  
Convalescent Home  
Rustington

drawing no.  
222-A-x-SP-02

drawing title  
Site Plan  
Proposed

scale  
1:500 @ A1

date  
October 2019

purpose  
Planning

checked by  
J.P.P.

drawn by  
J.L.

MBP ARCHITECTS  
Unit 1, The Curve, 100, North Road, London, N16 7JY  
Tel: 0203 818 1778  
Email: info@mbparchitects.com  
www.mbparchitects.com

RIBA

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

THE COMMON SEAL of ARUN  
DISTRICT COUNCIL  
was affixed to this deed in the  
presence of:

)  
)  
)  
)



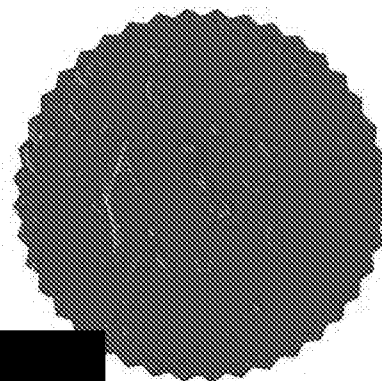
Authorised Signatory: [REDACTED]

Name: APRIL HOSKIN, LAWYER.

Seal Book No.

THE COMMON SEAL of THE MASTER  
AND 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: [REDACTED]

Warden: [REDACTED]

Clerk: [REDACTED]