Worthing Borough Council

Planning, Regeneration and Wellbeing

Mr R Brown
4 Norfolk Place
Littlehampton
West Sussex
BN17 5PD

PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

APPLICATION NUMBER: WB/10/0895/FULL

Details of Development

CONVERSION AND PARTIAL DEMOLITION OF PUBLIC HOUSE AND ERECTION OF TWO AND HALF STOREY EXTENSION OFF NORTH AND EAST OF ORIGINAL PUB BUILDING TO PROVIDE FOR 8 NO. RESIDENTIAL APARTMENTS (5 NO. 2 BED SELF CONTAINED FLATS AND 3 NO. 3 BED SELF CONTAINED FLATS), TOGETHER WITH ASSOCIATED SOFT/HARD LANDSCAPING AND ART PIECE, 9 CAR PARKING SPACES AND STORAGE FOR 16 CYCLES AND 1 SCOOTER, ALTERATION OF EXISTING ACCESS ONTO HAM ROAD AND STOPPING UP OF 2 REDUNDANT ACCESSES.

Location of Development

THE HALF BRICK 221 BRIGHTON ROAD WORTHING WEST SUSSEX BN11 2EY

In pursuance of their powers under the above-mentioned Act and Order the Council hereby notify you that they PERMIT the above development, in accordance with the application and relevant correspondence registered on 8th October 2010.

This is for reasons stated on the schedule overleaf and subject to compliance with the conditions specified thereon.

[redacted]

James Appleton
Executive Head of Planning, Regeneration and Wellbeing
29/06/2011

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SCHEDULE

Reasons for Granting Permission

01. This Brownfield site is a sustainable location within the urban area. It has been successfully demonstrated the former Public House is no longer a viable community facility, so its loss cannot be resisted. The new residential housing that replaces it meets the tests set out in Planning Policy Statement 3: Housing and would positively contribute to housing supply in the town.

The scheme is well designed, providing a contemporary approach to complement the adjoining local interest Public House building and to harmonise with its surroundings by adding a visually stimulating development to this important corner site. The impact on neighbours has been demonstrated not to be unacceptable (although it is acknowledged the development would overbear onto the neighbour to the east), with the impact upon the amenities of the local area, including parking and highway safety, likely to be modest (surrounding streets can accommodate the additional demand arising from the shortfall of on-site parking provision). On this basis, the planning application was granted conditional consent.

As such the proposal accords with saved Local Plan Policies CT3, RES7, RES9, H16, H18, and TR9, South East Plan Policies SP3, CC1, CC2, CC4, CC6, CC7, H4, H5, T4, NRM4, NRM10, NRM11, W2, BE1, BE6, BE2, and BE3, and Worthing Core Strategy Policies 7, 8, 9, 11, 12, 14, 15, 16, 17, 18, and 19.

Conditions

01. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: *To comply with Section 51 of the Planning and Compulsory Purchase Act 2004*

02. The development hereby permitted shall be carried out in accordance with the following approved plans except as where specified in any other condition attached to this permission:-

Drawing No. HB-PA1-04 titled Location and Site Plans, and Roof Plan Comparison (excluding ROOF PLAN AS PROPOSED) dated and deposited 08-10-2010
Drawing No. HB-PA1-01-c titled Ground Floor Plan dated and deposited 01-12-2010
Drawing No. HB-PA1-02-c titled Upper Floor Plans dated and deposited 01-12-2010
Drawing No. HB-PA1-03-d titled Elevations dated and deposited 01-12-2010
Drawing No. HB-PA1-07b titled Shaded Elevations dated and deposited 01-12-2010
Drawing No. HB-PA1-06a titled Visibility Splays to Proposed Repositioned Access dated and deposited 22-12-2010
Drawing Ref: HB-PA1-05.2-d titled Street Frontages dated and deposited 01-12-2010
Drawing titled Cill ventilator, rainwater drained down to window below then discharged below cill near ground level and accompanying sketch dated and deposited 25-11-2010.

Reason: *For the avoidance of doubt and in the interests of proper planning.*

03. No development shall take place unless and until a detailed schedule and samples of materials and finishes to be used for all the external facing materials and finishes of the development hereby permitted (including the rendered walls, the roof, and all fenestration and doors) have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be built out on site other than in full accordance with the agreed materials and finishes.

Reason: *In the interests of visual amenity to ensure a building of high quality design in accordance with PPS1: Delivering Sustainable Development and Policy 16 of the Worthing Core Strategy.*

04. No development shall commence unless and until architectural details at a scale not less than 1: 20 have been submitted to and approved in writing by the Local Planning Authority. These architectural details shall include:-

(a) south facing entrance feature,
(b) all external doors and windows (including the details of the dimensions, profiles, proportions of the frames and glazing bars, the pattern of opening windows, the position of any ventilation mechanism and trickle vents, the set back of the window from the external wall face, and the window heads and sills,
(c) new parapet detail and cornice to new parapet,
(d) all boundary walls and entrance piers,
(e) south facing balcony parapet detail, and
(f) external meter boxes, flues, cables etc. associated with utilities and services

The development shall not be built other than in full accordance with the approved details and shall be retained thereafter.

Reason: *To control the development in detail to ensure a high quality development is realised and to safeguard the architectural integrity of the development having regard to Policy 16 of the Worthing Core Strategy and South East Plan Policies CC1 and CC6.*

05. No dwellinghouse hereby permitted shall be occupied unless and until a final Code Certificate from an accredited assessor has been submitted to the Local Planning Authority to certify that the development (excluding the converted former Public House building) hereby permitted has been designed and built to achieve at least Level 3 of the Government's Sustainable Homes Code.

Reason: *To ensure that the development is sustainable having regard to 'Planning and Climate Change' Supplement to PPS1 and Policy 17 of the Worthing Core Strategy.*

06. No development hereby permitted shall take place unless and until a scheme for protecting the proposed noise sensitive development from road traffic noise has been submitted to and approved by the Local Planning Authority. The scheme shall be designed to achieve the 'Good' Standard for bedrooms and living rooms contained within BS8233:1999.

All works, which form part of the scheme, shall be fully completed out on site before any part of the noise sensitive development is occupied and shall specifically include the provision of acoustic double glazing to windows of habitable rooms facing the road. The works shall be retained on the site as agreed to the satisfaction of the Local Planning Authority.

Reason: *In the interests of residential amenity and to comply with saved Policy RES7 of the Worthing Local Plan.*

07. No development shall take place, including any further works of demolition, unless and until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out unless in accordance with the approved Method Statement and only the approved details shall be implemented during the construction period. The Statement shall provide for details of:

(i) Public safety, Amenity and Site Security, including the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials used in constructing the development; erection and maintenance of security hoarding
(ii) Noise and Vibration Controls
(iii) Air and Dust Management, including measures to control the emission of dust and dirt during construction
(iv) Stormwater and Sediment Control, including wheel-washing facilities
(v) Waste and Materials Re-use, including a scheme for recycling/disposing of waste resulting from demolition and construction works.
(vi) Traffic Management

No construction works shall be undertaken outside the hours of 0800hrs to 1900hrs Monday to Friday and 0800hrs to 1600hrs on Saturdays. No construction works shall take place on Sundays, Public and Bank Holidays.

The loading and unloading of contractors' vehicles, the parking of delivery vehicles and for contractors' buildings, plant, and stacks of materials shall not occur unless in the areas so agreed.

The dwellinghouses hereby permitted shall not be occupied unless and until all the buildings and structures shown on the plans hereby approved to be demolished have been so and the debris is removed from the site (unless the material is being recycled) and the site cleared.

Reason: *In the interests of highway safety and to safeguard the residential amenity of neighbours in accordance with saved Worthing Local Plan Policies RES7 and H18, and in accordance with the advice contained in PPG24: Planning and Noise, and visual amenity in accordance with Policy 16 of the Worthing Core Strategy.*

08. No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority plans and details of the positions, design, materials and types of all boundary treatments to be erected out on the site. The boundary treatments so agreed shall be completed out on site fully in strict accordance with the approved details before the development hereby

permitted is occupied. Thereafter the approved boundary treatment shall be retained permanently.

The gate that serves the rear patio should be of palisade design providing observation from either direction and capable of being locked.

Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any Order revoking and re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected or constructed within the curtilage of the development hereby approved.

Reason: *In the interests of visual amenity ensuring the intrinsic architectural integrity of the development approved on this important corner site is realised and preserved having regard to Policy 16 of the Worthing Core Strategy and South East Plan Policies CC6 and BE1, together with the advice contained in PPS1: Delivering Sustainable Development.*

09. The dwellinghouses hereby approved shall not be occupied unless and until there has been submitted to and approved in writing by the Local Planning Authority plans and details of the finalised position, design, materials and types of facilities for the cycle and scooter storage as shown indicatively on the submitted plans, and the agreed storage facilities have been provided out on the site in full and in strict accordance with the agreed details, and made available for use by the future occupiers.

The agreed storage facilities shall provide for at least 16 cycles and 1 Scooter.

The spaces so approved shall not thereafter be used other than for parking of cycles and scooters in connection with the development hereby permitted, and those areas shall be maintained in a safe, clean, and tidy condition to the reasonable satisfaction of the Local Planning Authority, and available for use by the future occupiers.

Reason: *To encourage and provide for a sustainable non-car mode of transport in compliance with PPG13/PPS3 and having regard to Policy 19 of the Worthing Core Strategy.*

10. The dwellinghouses hereby approved shall not be occupied unless and until there has been submitted to and approved in writing by the Local Planning Authority plans and details of the finalised position, design, materials and types of the facilities for storing refuse and waste, including for waste that can be recycled, as shown indicatively on the submitted plans, and the agreed storage facilities have been provided out on the site in full and in strict accordance with the agreed details, and made available for use by the future occupiers.

The spaces so approved shall not thereafter be used other than for storing refuse and waste in connection with the development hereby permitted, and those areas shall be maintained in a safe, clean, and tidy condition to the reasonable satisfaction of the Local Planning Authority, and available for use by the future occupiers.

Reason: *To ensure satisfactory facilities for the storage and disposal of refuse in the interests of hygiene and visual amenity and to minimise landfill having regard to Policy 16 of the Worthing Core Strategy and PPS1.*

11. The dwellinghouses hereby approved shall not be occupied unless and until there has been submitted to and approved in writing by the Local Planning Authority plans and details of the finalised design of a parking/turning area that provides for at least 9 car parking spaces (including a space for disabled users) and associated vehicular manoeuvring and turning space demonstrating vehicles may enter and leave the site in forward gear, as indicatively shown on the submitted plans, and those areas so approved details have been provided, demarked, and laid out on the site in full and strict accordance with those approved details and made available for use by future occupiers.

    The parking/turning areas thereafter shall be used and retained exclusively for their designated purpose, and kept free of obstruction and be available for those purposes to future occupiers.

    Reason: *In the interests of highway safety to ensure vehicles can enter and exit the site in forward gear and to ensure an adequate provision of on-site parking to avoid undue exacerbation of on-street parking congestion in the surrounding streets to comply with the advice in PPG13, Worthing Core Strategy H16 and H18 Policy 19, Saved Worthing Local Plan Policy T4, and South East Plan Policy TR9.*

12. The dwellinghouses hereby permitted shall not be occupied unless and until the 2 no. accesses onto Ham Road existing at the site on the date of this permission have been stopped up permanently and obliterated (including any necessary highway kerbing, footway or verge reinstatement) and/or modified to a design and construction and provided with kerb radii, visibility splays and sight lines in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority that has been fully provided out on site, all to be permanently maintained to a specification to be agreed with the Local Planning Authority and the visibility splays and sight lines shall be kept permanently clear of any obstruction.

    The means of access to the development shall be from B2223 Ham Road only. There shall be no means of vehicular access from A259 Brighton Road.

    Reason: *In the interests of highway safety in accordance with the advice contained within PPG13 and having regard to Manual for Streets.*

13. No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority a comprehensive scheme of soft and hard landscaping. This scheme shall include species that provide varied visual and olfaction stimulation throughout the year and promotes biodiversity and to include tree specimens where feasible.

All planting, seeding or turfing comprised in the approved details of the soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of 5 years from the completion of the 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. All hard landscaping and the art piece shall be provided prior to the occupation of the development hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

The proposed hard surface(s) shall be constructed and thereafter retained using only permeable material(s) and/or a permeable construction or alternatively provision shall be made and thereafter retained to direct surface run-off from the hard surface(s) to a permeable or porous area or surface within the curtilage of the site.

The scheme shall include opportunities for future occupiers to sit outside and allow for their passage throughout the site. It shall also include details of the proposed art piece, including its finalised design and construction, exact publicly visible position on the site between the front face of the residential block and the public highway, its external materials and finishes, and its overall dimensions.

Reason : *To ensure a visually stimulating and active semi-public realm of this important corner gateway site is realised in a timely manner in the interests of amenity and of the environment in accordance with Policy 16 of the Worthing Submission Core Strategy, PPS1: Delivering Sustainable Development, and PPS9: Biodiversity and Geological Conservation, and to reduce the risk of localised flooding and in the interests of sustainability having regard to 'Planning and Climate Change' Supplement to PPS1 and policy 15 of the Worthing Core Strategy.*

14. No development shall take place unless and until details of surface water and foul sewerage water drainage designed so as to prevent the discharge of water onto the public highway and incorporating Sustainable Drainage Systems (SUDS) and responding to the specific hydrological conditions of the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The approved surface water drainage system shall be implemented out on site and thereafter managed and maintained in full accordance with the approved details. Those details shall include a timetable for the implementation of the sustainable surface water drainage system, and a management and maintenance plan for the lifetime of the development which shall include any arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable surface water drainage system throughout its lifetime.

Reason: *To avoid the risk of localised flooding and in the interests of sustainable development having regard to 'Development and Flood Risk' PPS25 and 'Planning and Climate Change: Supplement to PPS1' and Policy 15 of the Worthing Core Strategy.*

15. No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority details of the sedum 'green roof' areas of the buildings hereby permitted, including species to be used in its construction.

All planting, seeding or turfing comprised in the approved details of the soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any plants which, within a period of 5 years from the completion of the 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.

The areas so provided shall be retained for the purpose thereafter to the satisfaction of the Local Planning Authority.

Reason: *In the interests of the environment in accordance with Policy 16 of the Worthing Submission Core Strategy, PPS1: Delivering Sustainable Development, and PPS9: Biodiversity and Geological Conservation, and to reduce the risk of localised flooding and in the interests of sustainability.*

16. No external radio or TV aerial/dish shall be erected or affixed on any individual residential property or flat and provision shall be made for communal aerial/dish facilities to serve the development hereby permitted in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Only the communal radio or TV aerial/dish as may have been approved under this condition shall be erected or affixed onto any part of development.

No cables, wires, aerials, pipework, meter boxes or flues shall be fixed or fitted externally to any elevation of the building facing a highway without the prior approval of the Local Planning Authority [except as where agreed in any other condition attached to this permission].

No roof plant or other externally-sited plant or machinery (including air conditioning/handling equipment) shall be installed without the prior approval of the Local Planning Authority (except as where agreed in any other condition attached to this permission].

Reason: *In the interests of visual amenity and the environment having regard to Policy 16 of the Worthing Core Strategy and PPS1.*

17. Notwithstanding the submitted drawings, the dwellinghouses hereby permitted shall not be occupied unless and until an external lighting scheme to provide on the site lighting around and within the parking area, apartment entrances, communal areas and paths has been submitted to and approved in writing by the Local Planning Authority and provided out on site in a functionable manner. The lighting scheme so agreed shall be retained at all times thereafter and maintained to the satisfaction of the Local Planning Authority.

Lighting in these areas should all be illuminated, conforming to BS 5489-1:2003. The illumination of the parking area should not fall into the active category, i.e. Rooms which provide direct and regular visual connection between the street and parking court.

Reason: *To provide a safe and secure environment in the interests of residential amenity of future occupiers, and to comply with saved Policy RES7 of the Worthing Local Plan.*

18. The first floor bathroom window in the east side elevation of the development hereby permitted shall be obscure-glazed and non-opening (except that part which is above 1.7 metres above the floor of the room in which the window is installed) and it shall not subsequently be altered in any way.

Reason: *To prevent overlooking and to comply with saved Policy H18 of the Worthing Local Plan.*

19. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

1. A preliminary risk assessment which has been identified:

   all previous uses
   potential contaminants associated with those uses
   a conceptual model of the site indicating sources, pathways and receptors
   potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

5. Prior to commencement of the development hereby permitted, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring, carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan and for the reporting of this to the Local Planning Authority.

Any changes to these components require the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

This site is situated on top of a Principle Aquifer so any reports should be forwarded to the Environment Agency for comment.

Reason: *To ensure that any ground contamination is properly remediated, to ensure the protection of the underlying principal aquifer from potential sources of contamination associated with the former site uses, and to ensure that any remediation, if deemed necessary is satisfactorily completed, in the interests of amenity and the environment in accordance with saved Worthing Local Plan Policy RES7 and PPS23: Planning and Pollution Control.*

20. No development shall take place unless and until the developer has arranged for an archaeological organisation or appropriately qualified archaeologists to observe the excavations and record archaeological evidence that may be uncovered as a result of the development in accordance with a written scheme of investigation which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason: *To ensure appropriate investigation and recording of archaeological Heritage Assets on the site during new building works as the site is of archaeological significance and it is important that it is recorded having regard to PPS5 'Planning for the Historic Environment' and South East Plan Policy BE6.*

21. The new finished floor levels of the new residential block hereby permitted shall be set no lower than the existing floor levels.

The dwellinghouses hereby permitted shall not be occupied unless and until a scheme to improve the flood performance of the entirety of the development by the incorporation of flood resilient construction measures within it. This scheme shall include design strategies on avoidance and resistance design options pertaining to site layout, landscaping, drainage, boundary walls and fencing, threshold and floor levels, and water exclusion and entry strategies on its building materials, foundations, floors, walls, doors and windows, and fittings. The development shall not be built out unless in strict and full accordance with that approved scheme.

The dwellinghouses hereby permitted shall not be occupied unless and until a Flood Warning and Evacuation Plan for the site has been submitted to and approved in writing by the Local Planning Authority. This shall include identification and provision of safe routes into and out of the site to an appropriate safe haven. The approved Plan shall be implemented and put into effect throughout the period that the site is occupied unless written variation is granted by the Local Planning Authority otherwise.

Reason: *To reduce risk of flooding as there is wave overtopping of the sea defences in this locality which will increase with climate change by offering some protection against any tidal water penetration, and in the interests of the safety of the occupants having regard to PPS25 and Planning Policy Statement 25 Supplement: Development and Coastal Change Practice Guide.*

Informatives / Notes to Applicant

01. This permission is subject to the requirement for a development contribution of £4,455 towards improving local transport facilities and £15,545 towards improving and maintaining coastal flood defences within the locality of the application site, both payable on first occupation.

02. For avoidance of doubt the former Half Brick Public House validated and advertised and as described in the Decision Notice as 221 Brighton Road and the former Half Brick Public House as described in the accompanying legal undertaking as 223 Brighton Road are one and the same site.

03. If during development, any visible contaminated or odorous material, (for example asbestos containing material, stained soil, petrol/diesel/solvent odour, underground tanks or associated pipework) not previously identified, is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until it has been investigated by the developer. The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented.'

The site is situated on or adjacent to a site which has been identified through Worthing Borough Councils Contaminated Land Inspection Strategy as having the potential to be contaminated. During development of land potentially affected by contamination, it is the responsibility of the owner and developer to establish the extent of any potentially harmful material on this. This is required in accordance with saved Worthing Local Plan Policy RES7 and PPS23: Planning and Pollution Control.

ST 16-5-2011

WB/10/0895/Aul

DATED 4 May **2011**

By AVID DEVELOPMENTS LIMITED (1)

In favour of

WORTHING BOROUGH COUNCIL (2)

S106 Agreement

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relating to

223 Brighton Road
Worthing
West Sussex BN11 2EY

Jeremy Cook
Executive Head of Legal and
Democratic Services
Town Hall
Chapel Road
Worthing
West Sussex BN11 1HA

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THIS AGREEMENT is made the day of Two thousand and eleven

BETWEEN

1) AVID DEVELOPMENTS LTD whose registered office is at 70 South Street Lancing West Sussex BN15 8DJ

IN FAVOUR OF

2) WORTHING BOROUGH COUNCIL of The Town Hall Chapel Road Worthing West Sussex BN11 1HA (the "Council")

WHEREAS:

(1) THE Owner is the freehold owner of the Property which interest is registered under Title No. WSX170464 at H M Land Registry

(2) The Owner intends to develop the Property pursuant to the Planning Permission registered WB/10/0895/FULL Against Title No. WSX170464 at H M Land Registry

(3) The Council is the local planning authority for the purposes of the Act and for the area in which the Property is located

(4) The Owner has submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"Act" the Town and Country Planning Act 1990

"Application"	the application for full planning permission submitted to the Council for the Development and allocated reference number WB/10/895/FULL
"Commencement of Development"	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" shall be construed accordingly.
"Development"	the Development of the Site for conversion and partial demolition of Public House and erection of two and half storey extension off north and east of original pub building to provide for 8 No. residential apartments (5 No. 2 bed self contained flats and 3 No. 3 bed self contained flats), together with associated soft/hard landscaping and art piece, 9 car parking spaces and storage for 16 cycles and 1 scooter, alteration of existing access onto Ham Road and stopping up of 2 redundant accesses as set out in the Application
"Dwelling"	a dwelling (including a house, flat or maisonette) to be constructed under the Planning Permission
"Executive Head of Planning"	The Executive Head of Planning Regeneration &
"Regeneration & Wellbeing"	Wellbeing for the time being or such other proper officer of the Council responsible for planning functions.
"First Occupation"	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.
"Flood Defence Contribution"	means the sum of Fifteen thousand five hundred and forty-five pounds (£15,545.00) for flood defence works in locality.
"Index"	All Items Index of Retail Prices issued by the Office for National Statistics [All In Tender Price Index published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors or any successor organisation].
"Interest"	interest at 4% per cent above the base lending rate of the Bank of England from time to time.
"Party and Parties"	means the Owner, Mortgagee and or the Council.
"Plan"	the plan attached to this Deed
"Planning Permission"	the full planning permission subject to conditions to be granted by the Council pursuant to the Application.
"Site"	the land against which this Deed may be enforced as shown edged red on the Plan.
"Total Access Demand Contribution"	means the sum of Four thousand four hundred and fifty-five pounds (£4,455.00)

2 CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 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 interchangeable in that manner.

2.4 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 an express provision otherwise.

2.5 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 instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 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 and County Council the successors to their respective statutory functions.

3 LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act

3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

4 CONDITIONALITY

This Deed is conditional upon:

(i) the grant of the Planning Permission; and

(ii) the Commencement of Development

save for the provisions of Clauses 6, 12 and 13 which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council to pay the Council prior to the First Occupation of the Dwellings the:

5.1.1 'Total Access Demand Contribution' towards the provision of transport.
5.1.2 'Flood Defence Contribution" towards the provision of flood defence.

6 MISCELLANEOUS

6.1 The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

6.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

6.3 This Deed shall be registerable as a local land charge by the Council.

6.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of:

(i) the Council by the Executive Head of Planning Regeneration and Wellbeing

And any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

6.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

6.6 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

6.7 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.

6.8 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 Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

6.9 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.

6.10 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

7 WAIVER

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

8 CHANGE IN OWNERSHIP

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

9 INDEXATION

Any sum referred to in clause 5 shall be increased by an amount equivalent to the increase in the Index from the date hereof until the date on which such sum is payable.

10 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

11 VAT

All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable.

12 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and Wales.

13 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

Signed as a Deed by AVID DEVELOPMENTS LIMITED)
acting by MAX EMIL EICHENHOFER, a director,)
in the presence of:-)

[redacted]

[redacted]
SIGNATURE OF WITNESS

Director

NAME HELEN NORTON
ADDRESS 13 SOUTH STREET
LANCING BN15 8AH
OCCUPATION OF WITNESS SOLICITOR

Land Registry Official copy of title plan

Title number WSX170464
Ordnance Survey map reference TQ1602NW
Scale 1:1250
Administrative area WEST SUSSEX: WORTHING

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