DATED 28 October 2020

THE DISTRICT COUNCIL OF ADUR

- and –

WEST SUSSEX COUNTY COUNCIL

- and –

HAMILTON INVESTMENTS LIMITED

SECTION 106 AGREEMENT

relating to a development at

Land to the North of St Peters Place, Western Road, Sompting West Sussex

Planning application ref: AWDM/0300/20

	DATE	28 OCTOBER 2020
	PARTIES	
(1)	THE DISTRICT COUNCIL OF ADUR of Town Hall, Chapel Road, Worthing, West Sussex BN11 1HA ("the Council")	
(2)	WEST SUSSEX COUNTY COUNCIL of County Hall, Chichester, West Sussex PO19 1RQ ("the County Council");	
(3)	HAMILTON INVESTMENTS LIMITED (Co. Reg. No 00697515) whose registered office address is at Pavilion View, 19 New Road, Brighton, East Sussex, BN1 1EY ("the Owner")	

INTRODUCTION

1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated.

2 The County Council is the local highway authority the county planning authority the education authority and the authority responsible for the provision of the fire service and the library service for the area in which the Site is situated.

3 The Owner is the freehold owner of the Site under title number SX47832.

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.

5 The Council resolved on 11 May 2020 to grant the Planning Permission subject to the prior completion of 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.
"All-In Tender Price Index"	the All-In Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors or (if such index is at the relevant time no longer published) such other comparable index or basis for indexation as the County Council may specify...

"Application"	the application for planning permission submitted to the Council for the Development and allocated reference number AWDM/0300/20 seeking full planning permission for the demolition of existing garages and the erection of 18 1-bedroom apartments (including 30% affordable) within a 3-storey building with associated car parking and landscaping and PV panels on flat roof. Retention of existing flat black to the south and provision of additional car parking spaces for existing flats.
"Commencement of Development"	the date on which the first 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 as permitted by the Planning Permission.
"Dwelling"	any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission.
"Index Linked"	means index linked in accordance with the provisions of clause 12
"Interest"	interest at 4% per cent above the base lending rate of National Westminster Bank plc applicable at the actual date of payment.
"Occupation" and "Occupied"	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 and **Occupy** shall be construed accordingly.
"Plan"	the plan attached to this Deed.

"Planning Permission"	the planning permission subject to conditions to be granted by the Council pursuant to the Application as set out in the Second Schedule.
"Site"	the land against which this Deed may be enforced as shown edged red on the Plan and registered at the Land Registry under title number SX47832.
"Specified Date"	the date on which the relevant sum becomes payable

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 severally 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 person deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

2.7 The headings and contents list are for reference only and shall not affect construction.

3 LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011

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 and County Council in the case of covenants made with them as local planning authorities 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 8.1, 11, 15, 16 and 17 which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

5.1 The Owner covenants with the Council so as to bind the Site to perform the obligations as set out in the Second Schedule.

5.2 The Owner covenants with the County Council so as to bind the Site to perform the obligations as set out in the Third Schedule.

6 THE COUNCIL'S COVENANTS

6.1 The Council covenants with the Owner as set out in the Fourth Schedule.

7 THE COUNTY COUNCIL'S COVENANTS

7.1 The County Council covenants with the Owner as set out in the Fourth Schedule.

8 WARRANTY AS TO TITLE

8.1 The Owner confirms and warrants to the Council that save as disclosed prior to the date of completion of this Agreement it has not leased, mortgaged, charged or otherwise created any interest in the Site at the date of this Agreement and that Recital number 3 of this Agreement is correct and accurate in every respect.

8.2 The Owner warrants to the Council that at the date of this Agreement no other person has a right or interest in the land bound by the obligations that will prevent the Owner from complying with its obligations pursuant to this Agreement.

9 MISCELLANEOUS

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

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

9.3 This Deed shall be registrable as a local land charge by the Council.

9.4 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council or County 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 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.

9.5 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall at the Owner's request effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

9.6 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.

9.7 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.

9.8 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.

9.9 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.

9.10 This Deed shall not be enforceable against any statutory undertaker or other person who acquires any part of the Site or interest therein for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services and any management company.

9.11 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.

9.12 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council and County Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority.

10 WAIVER

10.1 No waiver (whether expressed or implied) by the Council or the County Council or Owner 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 or the County Council or Owner from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

11 CHANGE IN OWNERSHIP

11.1 The Owner agrees with the Council and the County Council to give the Council and County 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 provided that the Owner shall not be required to give notice to the Council or the County Council of any change of ownership affecting a completed Dwelling.

12 INDEX LINKED

12.1 The Owner agrees with the Council that any sum payable by the Owner and referred to in the Second Schedule shall be increased by the application of the following formulae:

A = (B x C) divided by D

Where A is the sum actually payable on the Specified Date;

B is the original sum mentioned in this Deed;

C is the All Items Consumer Prices Index published by the Office for National Statistics or such other index as may be published in substitution thereof for the month two months before the Specified Date;

D is the All Items Consumer Prices Index published by the Office for National Statistics or such other index as may be published in substitution thereof for the month two months before the date of this Deed;

whereby C/D is equal to or greater than 1

12.2 The Owner agrees with the County Council that any sum payable by the Owner and referred to in the Third Schedule shall be increased by the application of the following formulae:

A = (B x C) divided by D

Where A is the sum actually payable on the Specified Date;

B is the original sum mentioned in this Deed;

C is the All-In Tender Price Index for the quarter preceding the Specified Date;

D is the All-In Tender Price Index for the quarter preceding the date of this Deed;

whereby C/D is equal to or greater than 1

13 INTEREST

13.1 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.

14 VAT

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

15 DISPUTE PROVISIONS

Any dispute or difference arising between the parties hereto shall be dealt with as follows:-

15.1 in the case of any difference or dispute arising out of the provisions of paragraph 1 of the Second Schedule ("**Affordable Housing**") the same shall be referred to an independent Chartered Surveyor of at least fifteen (15) years standing who shall be nominated in default of agreement between the Owner and the Council by the President for the time being of the Royal Institution of Chartered Surveyors or his deputy;

15.2 in the case of any legal requirement or interpretation or other matter regarding this Deed the same shall be referred to Counsel of at least fifteen (15) years' experience in such matters who shall be appointed in default of agreement between the Owner and the Council or the County Council (as the case may be) by the President of the Bar or his deputy; and

15.3 any matter referred to an independent Chartered Surveyor or Counsel shall be decided by such person as an expert (and not as an arbitrator) who shall permit one representation and one counter-representation (each in writing) by each party to the dispute and his determination shall be in writing and final and binding on the parties and the costs of such determination shall be paid as the expert shall direct but if he does not direct shall be borne equally between the Owner and the Council or the County Council (as the case may be) provided that in all cases the expert shall direct the costs be borne by the Owner where the expert considers the Council or the County Council's case (as the case may be) is reasonable.

16 JURISDICTION

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

17 DELIVERY

17.1 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.

18 **FUTURE PERMISSIONS**

18.1 Nothing in this agreement shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission.

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

FIRST SCHEDULE

Draft Planning Permission

ADUR DISTRICT COUNCIL

Mr Chris Barker
ECE Planning Limited
Brooklyn Chambers
11 Goring Road
Worthing
West Sussex
BN12 4AP

PLANNING PERMISSION

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (ENGLAND) ORDER 2015

APPLICATION NUMBER: AWDM/0300/20

Details of Development
FULL PLANNING APPLICATION FOR THE DEMOLITION OF EXISTING GARAGES AND THE ERECTION OF 18NO. 1-BEDROOM APARTMENTS (INCLUDING 30% AFFORDABLE) WITHIN A 3-STOREY BUILDING WITH ASSOCIATED CAR PARKING AND LANDSCAPING AND PV PANELS ON FLAT ROOF. RETENTION OF EXISTING FLAT BLOCK TO THE SOUTH AND PROVISION OF ADDITIONAL CAR PARKING SPACES FOR EXISTING FLATS.

Location of Development
GARAGE BLOCK NORTH OF ST PETERS PLACE WESTERN ROAD SOMPTING WEST SUSSEX

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 21st February 2020.

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

G Peck

Gary Peck
Planning Services Manager

DRAFT

Adur District Council, Development Management, Economy Directorate,
Portland House, 44 Richmond Road, Worthing, West Sussex, BN11 1HS
Tel: 01903 221065 Email: planning@adur-worthing.gov.uk
Web: www.adur-worthing.gov.uk

Ref: AWDM/0300/20

SCHEDULE

Conditions

01. The development hereby permitted shall be carried out in accordance with the following approved plans unless specified otherwise in a subsequent condition imposed on this decision notice:-

Reference/Drawing Number	Version	Date Rec
EAST & WEST ELEVATIONS & STREET SCENES PROPOSED	200 Rev P4	17.04.2020
PROPOSED SECTIONS	300 Rev P5	17.04.2020
DESIGN & ACCESS STATEMENT	DOC.01	17.04.2020
PLANNING & AFFORDABLE HOUSING STATEMENT		17.04.2020
PROPOSED SITE PLAN	010 Rev P4	17.04.2020
PROPOSED GROUND FLOOR PLAN	100 Rev P4	17.04.2020
PROPOSED FIRST & SECOND FLOOR PLANS	Drg 101 Rev P3	09.04.2020
NORTH & SOUTH ELEVATIONS	Drg 201 Rev P3	09.04.2020
AIR QUALITY ASSESSMENT		21.02.2020
ENERGY & SUSTAINABILITY STATEMENT		21.02.2020
NOISE ASSESSMENT		21.02.2020
SUDS ASSESSMENT & DRAINAGE STRATEGY		21.02.2020
TRANSPORT REPORT		21.02.2020
LOCATION PLAN	Drg LOC Rev P1	21.02.2020
BLOCK PLAN	Drg BLOC Rev P1	21.02.2020
EXISTING ELEVATIONS	Drg 001 Rev P1	21.02.2020
EXISTING TOPAGRAPHICAL SURVEY	Drg 18051-02-T-E-SP	21.02.2020
PRELIMINARY INVESTIGATION REPORT		21.02.2020

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

/Contd ...

DRAFT

02. 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.*

03. No development above slab level shall take place until a scheme for protecting the proposed flats from noise and vibration from the road, railway and industrial estate has been submitted to and approved by the local planning authority. The scheme should include details of glazing, the provision of Mechnical Ventilation and Heat Recovery and a strategy to prevent overheating. All works, which form part of the scheme, shall be completed before any part of the noise sensitive development is occupied. The scheme shall have regard to the principles contained within the World Health Organisation community noise guidelines and achieve the indoor ambient noise levels for dwellings specified in BS8233:2014. Following approval and completion of the scheme, tests shall be undertaken to demonstrate that the attenuation measures proposed in the scheme are effective and protect the residential units from noise.

Reason: *In the interests of residential amenity and to comply with policies 15 and 34 of the Adur Local Plan.*

04. The windows in the north and south elevations of the central wing of the building hereby permitted shall at all times 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 they shall not subsequently be altered in any way.

Reason: *To prevent overlooking and to comply with policy 15 of the Adur Local Plan.*

05. All works of demolition and construction, including the use of plant and machinery and any deliveries or collections necessary for implementation of this consent shall be limited to the following times:-

Monday Friday
08:00 18:00 Hours
Saturday 09:00 13:00 Hours
Sundays and Bank Holidays: No work permitted.

Reason: *In the interests of residential amenity and to comply with policies 15 and 34 of the Adur Local Plan.*

/Contd ...

DRAFT

06. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:-

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders)
- details of public engagement both prior to and during construction works
- Methods to control dust from the site

Reason: *In the interests of highway safety and amenity having regard to policies 15, 28 and 34 of the Adur Local Plan.*

07. Prior to commencement of the development hereby approved (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 identified:-

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

(2) A site investigation scheme, based on (1) above 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.

/Contd ...

DRAFT

Any changes to these components require the express consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), 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.

Reason: *To prevent pollution of groundwater and in the interests of environmental protection and public health and safety, in compliance with the National Planning Policy Framework and policies 34 and 35 of the Adur Local Plan.*

08. No development above slab level shall take place until details of all acoustic fences have been submitted to and approved in writing by the Local Planning Authority and the building shall not be occupied until the acoustic fences have been erected in accordance with the approved details and they shall thereafter be retained permanently.

Reason: *In the interests of amenity and to comply with policy 15 of the Adur Local Plan.*

09. No development above slab level shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft and hard landscaping, and which shall include indications of all existing trees and hedgerows on the land and details of those to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of 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, and 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. The approved details of hard landscaping shall be completed prior to occupation of the building(s).

Reason: *In the interests of visual amenity and the environment and to comply with policies 15 and 30 of the Adur Local Plan.*

/Contd ...

DRAFT

10. No development shall take place until details of the proposed means of foul water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: *To ensure adequate drainage and to comply with the National Planning Policy Framework and policy 36 of the Adur Local Plan.*

11. Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme, including details of its future maintenance and management, have been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water. 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, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter infiltration testing to BRE DG365, or similar approved, will be required to support the design of any Infiltration drainage. No building / No part of the extended 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.

Immediately following implementation of the approved surface water drainage system and prior to occupation of any part of the development, the developer/applicant shall provide the local planning authority with as-built drawings of the implemented scheme together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.

A site-specific maintenance manual shall be submitted to, and approved in writing, by the Local Planning Authority which shall include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

Reason: *To ensure adequate drainage and to comply with the National Planning Policy Framework and policy 36 of the Adur Local Plan.*

12. No development above slab level shall commence unless and until details of all operational phase air quality mitigation measures have been submitted to and approved in writing by the Local Planning Authority. The mitigation measures set out in section 6 of the Air Quality Assessment, provided as part of the application, shall be implemented in full.

Reason: *In order to mitigate against the emissions generated by the development having regard to policy 34 of the Adur Local Plan.*

/Contd ...

DRAFT

13. No development above slab level shall take place until a schedule and samples of all materials and finishes to be used for the external walls (including windows, doors, balconies) and roofs of the proposed building has been submitted to and approved in writing by the Local Planning Authority and the development shall be completed in accordance with the approved details.

Reason: *In the interests of visual amenity and to comply with policy 15 of the Adur Local Plan.*

14. No part of the development shall be first occupied until the car parking for both St Peter's Place and the proposed development has been constructed in accordance with the approved site plan. At least 6 spaces serving the new development shall be provided with an active charging point for electric vehicles with the remaining spaces provided with ducting to enable future connection.

Reason: *In the interests of amenity and highway safety and having regard to the National Planning Policy Framework, West Sussex 'Guidance on Parking at New Developments' and 'Parking Demand Calculator' (WSCC 2019) and policy 28 of the Adur Local Plan.*

15. No part of the development shall be first 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.

Reason: *To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.*

16. Each dwelling shall be constructed and fitted out so that the potential consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day.

No dwelling shall be occupied unless the notice for that dwelling of the potential consumption of wholesome water per person per day required by the Building Regulations 2010 (as amended) has been given to the Local Planning Authority.

Reason: *In order to set a higher limit on the consumption of water by occupiers as allowed by regulation 36 of the Building Regulations 2010 and to increase the sustainability of the development and make efficient use of water in accordance with policy 18 of the Adur Local Plan.*

17. No buildings on the site shall be occupied until the associated facilities for storing refuse and waste, including for waste that can be recycled, have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: *In the interests of amenity and to comply with the West Sussex Waste Local Plan.*

/Contd ...

DRAFT

18. Details of the proposed PV panels and green roofs shall be submitted to and approved in writing by the Local Planning Authority prior to their installation and they shall be installed in accordance with the approved details.

Reason: *In the interests of sustainability and amenity having regard to policies 15 and 19 of the Adur Local Plan.*

Informatives / Notes to Applicant

01. 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.

02. 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 must be carried out in accordance with BRE DG365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 40% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. 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. Further detail regarding our requirements are available on the following webpage:
https://www.adur-worthing.gov.uk/planning/applications/submit-fees-forms.
A surface water drainage checklist is available on this webpage. This clearly sets out our requirements for avoiding pre-commencement conditions, or to discharge conditions

03. Network Rail strongly recommends the developer contacts Network Rail's Asset Protection team prior to any works commencing on site, with a view to entering into an Asset Protection Agreement to enable approval of detailed works

04. The developer is advised to notify of the Council prior to any works of demolition under the Building Act 1984.

/Contd ...

DRAFT

Ref: AWDM/0300/20

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (AMENDMENT) (ENGLAND) ORDER 2015

YOUR ATTENTION IS DIRECTED TO THE FOLLOWING NOTES FROM THE ABOVE ORDER. THEY ARE FOR INFORMATION ONLY AND DO NOT PRETEND TO SET OUT THE WHOLE OF THE LAW ON THE SUBJECT. IT WOULD BE WELL FOR YOU TO CONSULT YOUR SOLICITOR IF YOU ARE IN ANY DOUBT

Appeals to the Secretary of State

1. 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.

2. If the decision relates to a householder application or minor commercial application, and you want to appeal, then you must do so within 12 weeks of the date of this notice. If the decision relates to express consent for the display of an advertisement, then you must do so within 8 weeks of the date of this notice. If the decision relates to a non-householder application, an appeal must be lodged within 6 months of the date of the decision notice. Appeals must be made 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 https://acp.planninginspectorate.gov.uk.

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

4. The Secretary of State need not consider an appeal if it seems to him 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.

5. In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

6. If either the local planning authority or the Secretary of State refuses 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 District Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Planning Act 1990..

7. Where this notice conveys approval or permission, conditional or unconditional, please note that the decision given does not purport to convey any consent or approval which may be required under the Building Act and Building Regulations, or any other legislation.

Reduced time for making a planning appeal where enforcement action is being taken

Where an enforcement notice has been served in relation to the same, or substantially the same, development as in the planning application no earlier than 2 years before the date the application was made, the period for receiving a planning appeal is within 28 days of the date on the planning application decision notice or of the date by which the LPA should have decided the application.

However, the LPA may formally decline to determine a retrospective planning application for permission for any development contained within a pre-existing enforcement notice served on or after 6 April 2012, where that notice was issued before the application was received by the LPA (see above). There is no right to make a planning appeal in such circumstances.

/Contd ...

DRAFT

Where an enforcement notice was served in relation to the same, or substantially the same, development after the decision notice on the application was issued or after the end of the period the LPA had to determine the application, the period for receiving a planning appeal is within 28 days of the date the enforcement notice was served (unless this would extend the period beyond the normal 12 weeks or 6 months deadline).

DRAFT

SECOND SCHEDULE

The Owner's Covenants with the Council

Definitions

"Affordable Housing"	housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is essential local works) including Affordable Rented and Affordable Shared Ownership housing
"Affordable Housing Units"	Five (5) of the Dwellings on the Site of a type and in a location to be agreed between the Owner, the relevant Registered Provider and the Council; such Dwellings: to comprise four (4) Dwellings as Affordable Rent and one (1) Dwelling as Affordable Shared Ownership or such other mix as may be agreed between the Owner the Council and the relevant Registered Provider from time to time; and any dispute or difference between the Owner, the relevant Affordable Housing Registered Provider and the Council regarding the location of such Dwellings shall be settled or determined pursuant to clause 15 of this Deed "Affordable Housing"
"Affordable Rent"	means affordable rented housing to be made available by a Registered Provider (**RP**) to households with a Local Connection whose needs are not adequately served by the commercial housing market at rents of up to 80% of the local market rent (including service charges where applicable) and **Affordable Rented Units** and **Affordable Rent** shall be construed accordingly.
"Affordable Shared Ownership"	means a form of tenure granted by a lease by a Registered Provider (**RP**) to be disposed pursuant to shared ownership arrangements within the meaning of Section 70(4) of the Housing and Regeneration Act 2008 and in accordance with the Homes England guidance from time to time (or any successor body) whereby a purchaser is able to purchase a share of the equity in an Affordable Shared Ownership Unit at a percentage from 25% to a maximum of 75% initially (at the option of the buyer) and pay an annual rent of up to 2.75% on the retained equity and which lease shall include arrangements enabling the lessee to purchase further shares in the Affordable Shared Ownership Unit by instalments until 100% ownership is achieved and **Affordable Shared Ownership Units** and **Affordable**

	Shared Ownership Lease shall be interpreted accordingly.
"Chargee"	means any mortgagee or chargee of a Registered Provider (or any receiver) (Including an administrative receiver) appointed by such mortgagee or charge or any other person appointed under security documentation to enable such mortgagee or charge to realise its security or any administrator (howsoever appointed) including a housing administrator (each a "Receiver") of such Registered Provider
"First Occupation"	means the first beneficial occupation for any use for which the Development was designed other than occupation for the purposes of construction or fitting out and reference to "**First Occupier**" shall be construed accordingly.
"Homes England"	means Homes England of 50 Victoria Street, Westminster, London, SW1H 0TL or any body undertaking the existing functions of the Homes and Communities Agency within the meaning of Part I of the Housing and Regeneration Act 2008 (or as redefined by any amendment, replacement, or re-enactment of such Act)
"Local Connection"	means a person that lives or works in the Adur District or in a district adjoining Adur District.
"Market Housing Units"	that part of the Development which is general market housing for sale on the open market and which is not Affordable Housing
"NPPF"	means the National Planning Policy Framework published by the Department for Communities and Local Government (March 2012 version)
"Offsite Affordable Housing Contribution"	means the sum of THIRTY FOUR THOUSAND ONE HUNDRED AND TWENTY SIX POUNDS AND FOURTY PENCE (£34,126.40) (Index Linked)
"Open Spaces Contribution"	the sum of EIGHTEEN THOUSAND POUNDS (£18,000) (Index Linked) towards the provision and/or improvement of open space facilities in Sompting payable in accordance with paragraph 3
"Qualifying Occupiers"	means persons who can satisfy the definition of those qualifying for Affordable Housing and including residents of the Adur District who are unable to resolve their housing needs in the local private sector market because of the relationship between housing costs and income.

"Registered Provider" or "RP"	means a provider of social housing as defined in The Housing and Regeneration Act 2008 who is registered as Registered Provider by Homes England or other organisation whose objectives include providing Affordable Housing.

The Owner COVENANTS with the Council as follows:

1 Obligation to provide Affordable Housing

1.1 To pay the Offsite Affordable Housing Contribution to the Council on or before Occupation of the first (1st) Dwelling.

1.2 To construct the Affordable Housing Units within the Development in accordance with the Planning Permission and to provide the Affordable Housing Units in accordance with the terms set out in paragraph 2 of this Schedule and:

1.2.1 procure that the Affordable Housing Units are physically completed in a workmanlike manner with due care and skill; and

1.2.2 not permit First Occupation of more than 75% of the Market Housing Units until:

(a) all of the Affordable Housing Units have been constructed and made ready for residential occupation and written notification of such has been received by the Council; and

(b) long leases (of at least 125 years) have been granted or the freehold interest of all the Affordable Housing Units have been transferred to the Registered Provider and on terms granting the RP all rights of access and passage of services and other rights reasonably necessary for the beneficial enjoyment of the Affordable Housing Units;

1.3 save where paragraph 2.6.2 and/or 2.7 apply, the Owner shall, with effect from the date on which the Affordable Housing Units are physically completed, not allow or permit such units to be occupied other than by Qualifying Occupiers and for the avoidance of doubt this restriction shall apply not just to the First Occupier of any of the Affordable Housing Units but to all subsequent occupiers of them.

2 Terms of Transfer of Affordable Housing

2.1 The Owner shall make an offer to a Registered Provider (RP) for the RP to purchase the Affordable Housing Units (that shall not be used other than for Affordable Shared Ownership or Affordable Rent as set out in the definition of Affordable Housing Units) ("the first offer") and such offer shall remain open for acceptance for no less than 1 month ("the first offer period") from the date of the offer being made.

2.2 In the event that the first offer made in accordance with the above is not accepted within the first offer period then the Owner shall make a second offer to the Council or its nominee to purchase the Affordable Housing Units ("the second offer") not later than one month after the expiry of the first offer period and such offer shall consist of the same terms and conditions as the first offer subject to revisions necessitated by lapse of time and shall

remain open for acceptance for no less than 1 month ("the second offer period") from the date of the offer being made.

2.3 In the event that the offer(s) made pursuant to paragraph 2.1 or 2.2 are accepted by an RP (or the Council or its nominee as the case may be), the Owner shall use reasonable endeavours for a period of not less than 3 months from the date of acceptance of such offer to enter into a binding contract with the RP (or the Council or its nominee as the case may be) for the disposal of the Affordable Housing Units (that shall not be used other than for Affordable Shared Ownership Housing or Affordable Rent as set out in the definition of Affordable Housing Units)

2.4 In the event of:

2.4.1 the second offer not being accepted within the second offer period; or

2.4.2 the offer(s) made pursuant to paragraph 2.1 or 2.2 being accepted but the Owner being unable to conclude a binding contract with the RP (or the Council or its nominee as the case may be) for the disposal of the Affordable Housing Units (that shall not be used other than Affordable Shared Ownership or Affordable Rent as set out in the definition of Affordable Housing Units) within 3 months of the date of acceptance of such offer

then

(i) the Owner will propose to the Council an alternative tenure mix (to be approved in writing by the Council) that will allow the delivery of Affordable Housing within the Development and the provisions of paragraphs 2.1 to 2.3 of this Schedule shall re-apply to the alternative tenure mix approved by the Council; or

(ii) The Owner shall pay an affordable housing contribution to the Council subject always to the Council approving in writing:

a. the payment of an affordable housing contribution in lieu of the on-site provision of Affordable Housing; and

b. the affordable housing contribution amount to be calculated in accordance with the following:

Dwelling Type	**30%**
Studio Flat	£8,928
1 bed flat	£23,868
2 bed flat	£24,255
3 bed flat	£31,532
2 bed house	£25,318
3 bed house	£35,740
4 bed house	£42,238

2.5 In the event that the offer(s) made pursuant to Clause 2.1 or 2.2 are accepted by an RP (or the Council's nominee), the Owner will procure that the RP (or the Council's nominee) grants nomination rights to the Council in accordance with the Council's standard nominations agreement prior to the First Occupation of the Affordable Housing Units but in the event that this cannot be agreed with the RP then to procure that the RP prior to First Occupation shall in seeking to allocate the Affordable Housing Units have regard to the following criteria:

2.5.1 any family association in the said administrative area in accordance with relevant housing allocation policies;

2.5.2 any period of ordinary residence in the said administrative area not immediately before the date on which any unit of accommodation becomes vacant;

2.5.3 any employment opportunity in the locality;

2.5.4 any other connection with the locality

but so that for the avoidance of doubt the satisfaction of such criteria hereof shall be determined by the body responsible for the allocation of the Affordable Housing Units from time to time.

2.6 It is agreed and declared that:

2.6.1 nothing in this Deed shall be construed as imposing or otherwise implying any obligation on the part of the Council to grant or make available any public subsidy or other financial support (or to assist the Owner or the Applicant in obtaining such public subsidy or other financial support) in respect of the Affordable Housing Units;

2.6.2 the provisions of Clause 1.3 above shall cease to bind any of the Affordable Housing Units (and the mortgagees of the tenants/owners of the Affordable Housing Units and their successors in title or mortgagees thereof) if in relation to that Affordable Housing Unit:

(a) a statutory right to acquire it under the Housing Act 1985 or Housing Act 1996 (or any statutory re-enactment amendment or replacement thereof) has been exercised; or

(b) it shall have been sold under a Affordable Shared Ownership Lease and the leaseholder (or its mortgagee) has stair-cased his ownership under the lease to 100 percent; and

2.6.3 in the event of any dispute as to whether any proposed occupier of any Affordable Housing Unit is a Qualifying Occupier the matter shall be determined by the Council (acting reasonably).

2.7 Any Chargee shall prior to seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge give not less than 3 months' prior notice to the Council of its intention to dispose and:

(a) in the event that the Council responds within 3 months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing then the Chargee shall co-operate with such arrangements and use its reasonable endeavours to complete such transfer for a consideration of not less than the moneys outstanding under the charge or mortgage including all accrued principal monies, interest and reasonable costs and expenses no later than 3 months after the Council's receipt of the Chargee's notice; and

(b) if the Council does not respond within 3 months from receipt of the Chargee's notice and/or the Chargee has not within 3 months of the Council's receipt of the Chargee's notice completed a transfer pursuant to paragraph 2.7(a) despite using its reasonable endeavours then provided that the Chargee has complied with its obligations under paragraph 2.7(a) (if applicable) the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this Schedule which shall from the time of completion of the disposal of the relevant Affordable Housing Unit by the Chargee cease to apply

PROVIDED THAT at all times the rights and obligations in this paragraph 2.7 shall not require the Chargee to act contrary to its duties under the charge or mortgage.

3 Open Spaces Contribution

3.1 To pay the Open Spaces Contribution to the Council prior to the First Occupation of the first (1st) Dwelling on the Site.

THIRD SCHEDULE

The Owner's Covenants with the County Council

Definitions

"County Council Contributions"	Means the Fire and Rescue Contribution, Library Services Contribution and Total Access Demand Contribution
"County Council Monitoring Contribution"	Means the total sum of SIX HUNDRED POUNDS (£600) payable to the County Council for monitoring the delivery and performance of a Qualifying Trigger contained in this Deed over the lifetime of the Development;
"Financial Contribution Trigger"	Means a trigger contained within this Deed applicable to the County Council contributions;
"Fire and Rescue Services Contribution"	Means the sum of TWO HUNDRED AND FIFTY FOUR POUNDS (£254) (Index Linked) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed and such contribution being a financial contribution to be used by the County Council towards the supply and installation of additional fire safety equipment/smoke alarms to vulnerable persons homes in West Sussex Fire and Rescue Services southern area serving Lancing;
"Library Services Contribution"	the sum of TWO THOUSAND SEVEN HUNDRED AND THIRTY POUNDS (£2,730) (Index Linked) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed PROVIDED THAT should the Specified Date occur after 2021, the sum shall be re-calculated in using the latest published census statistics published by the Office for National Statistics and such contribution being a financial contribution to be used by the County Council towards additional stock at Lancing Library;

"Qualifying Trigger"	Means any trigger contained within this Deed including a Financial Contribution Trigger that attracts the County Council Monitoring Contribution because its implementation and/or adherence requires monitoring by the County Council;
"Total Access Demand Contribution"	Means the sum of THIRTY TWO THOUSAND SIX HUNDRED FORTY TWO POUNDS (£32,642) (Index Linked) which is calculated using current occupancy rates from census statistics published by the Office for National Statistics payable which is calculated in accordance with the Total Access Demand Methodology and to be used towards cycle link improvements around Lancing/Sompting at A2025 Grinstead Lane/South Street, Busticle Lane/Western Road, West Street/Cokeham Road/Crabtree Lane PROVIDED THAT should First Occupation take place after 2021, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics;
"Total Access Demand Methodology"	means the methodology developed by the County Council and adopted by the Council which requires contribution towards the cost of infrastructure and other measures that are necessary to mitigate the impact of the Development;

The Owner COVENANTS with the County Council as follows:

1 Library Services Contribution

1.1 To pay the Library Services Contribution to the County Council on or before Occupation of the first (1st) Dwelling

1.2 Not to cause or allow first Occupation of any Dwelling to occur before the Library Services Contribution shall have been paid to the County Council.

1.3 The Library Services Contribution shall be Index Linked.

1.4 If the Library Services Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Library Services Contribution.

2 Fire and Rescue Services Contribution

2.1 To pay the Fire and Rescue Services Contribution to the County Council on or before Occupation of the first (1st Dwelling).

2.2 Not to cause or allow first Occupation of any Dwelling to occur before the Fire and Rescue Services Contribution shall have been paid to the County Council.

2.3 The Fire and Rescue Services Contribution shall be Index Linked.

2.4 If the Fire and Rescue Services Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Fire and Rescue Services Contribution.

3 Total Access Demand Contribution

3.1 To pay the Total Access Demand Contribution to the County Council on or before Occupation of the first (1st) Dwelling

3.2 Not to cause or allow first Occupation of any Dwelling to occur before the Total Access Demand Contribution shall have been paid to the County Council.

3.3 The Total Access Demand Contribution shall be Index Linked.

3.4 If the Total Access Demand Contribution is not paid to the County Council on or before the relevant payment date, to pay to the County Council in addition Interest from the relevant payment date until the actual date of payment and any such interest shall be treated as part of the Total Access Demand Contribution.

4 County Council Monitoring Contribution

4.1 To pay the County Council Monitoring Contribution on completion of this Deed and for the avoidance of doubt the costs referred to in this Clause do not constitute or purport to constitute planning obligations for the purposes of Section 106 of the Act and are payable pursuant to other statutory provisions referred to in Clause 3

FOURTH SCHEDULE

The Council and County Council Covenants

The Council and County Council covenant with the Owner as follows:

1 Discharge of obligations

1.1 At the written request of the Owner the Council or County Council as the case may be shall provide written confirmation of the discharge of the obligations contained in this Deed when satisfied that such obligations have been performed.

2 Use of Contributions

2.1 To use all sums received from the Owner under the terms of this Deed for the purposes specified in this Deed for which they are to be paid.

2.2 The Council and County Council shall provide to the Owner such evidence, as the Owner shall reasonably require, in order to confirm the expenditure of the sums paid by the Owner under this Deed.

3 Repayment of Contributions

The Council covenants with the Owner as follows:

3.1 To pay to the Owner such amount of any payment made by the Owner to the Council or County Council under this Deed which has not been expended in accordance with the provisions of this Deed (and money shall be deemed to be expended if the Council has properly entered into a contract for the expenditure of the money for the purpose for which it is paid which is reasonably likely to result in the fulfilment of that purpose) within ten years of the date of receipt by the Council or County Council of such payments save in relation to the Open Space Contribution to which 5 years from the date of receipt of such payment shall apply and together with Interest for the period from the date of payment to the date of refund.

The County Council COVENANTS with the Owner as follows

3.2 The County Council covenants that upon receipt of the County Council Contributions as paid to the County Council pursuant to this Deed it will hold them in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purposes specified in this Deed.

3.3 The County Council covenants upon written request on or after ten years of the date of receipt of the relevant part of the County Council Contributions to issue to the party that paid the said contribution an account certified by the Director of Finance Performance and Procurement for the time being of the County Council detailing how the County Council Contributions have been expended by the County Council.

3.4 If or to the extent that the County Council Contributions shall not have been spent by the County Council by the end of the period referred to in paragraph 3.3 of this Schedule the

County Council shall on such date refund to the party that paid the County Council Contributions any unexpended part of the County Council Contributions together with compound interest on the unexpended part from the date of receipt by the County Council of the County Council Contributions to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.

3.5 If at the end of the period referred to in paragraph 3.3 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the County Council Contributions or part thereof for the purposes specified in this Deed then the County Council shall not be required to refund any part of the County Council Contributions but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the County Council Contributions in the manner set out in paragraph 3.2 of this Schedule and refund any unexpended part of the County Council Contributions in the manner set out in paragraph 3.4 of this Schedule.

EXECUTED as a Deed by
ADUR DISTRICT COUNCIL
by the affixing of its Common Seal in the
presence of:

Authorised Signatory



EXECUTED as a Deed by }
WEST SUSSEX COUNTY COUNCIL
by the affixing of its Common Seal in the
presence:

Authorised Signatory



EXECUTED as a Deed by **HAMILTON INVESTMENTS LIMITED**

Director

In the presence of:

Witness signature: SUSAN LYNN NASH

Witness Name:

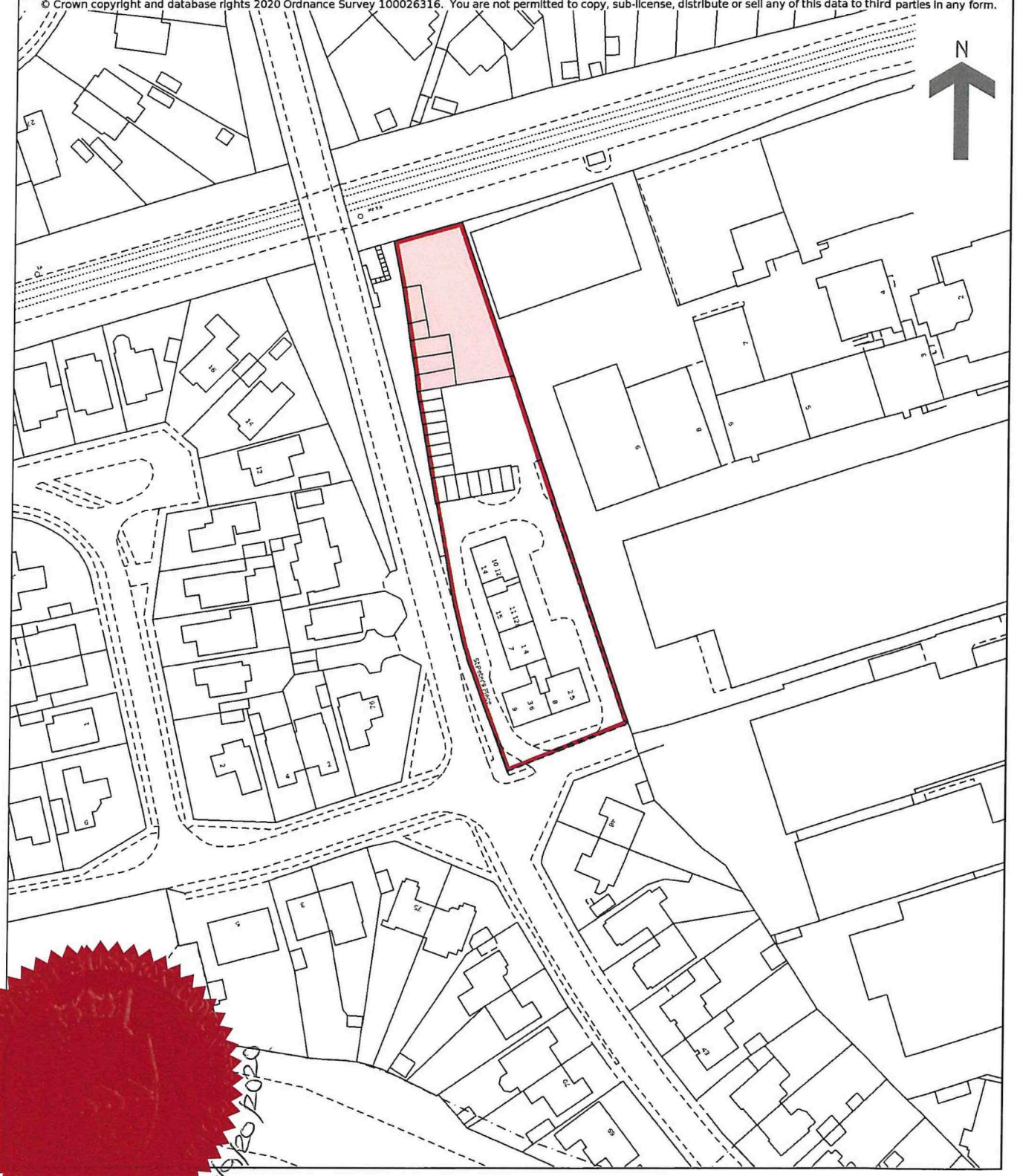
Witness Address: 110 GEORGE V AVENUE, WORTHING
WEST SUSSEX, BN11 5RR

Witness Occupation:

HM Land Registry
Official copy of title plan

Title number **SX47832**
Ordnance Survey map reference **TQ1703NW**
Scale **1:1250**
Administrative area **West Sussex : Adur**

© Crown copyright and database rights 2020 Ordnance Survey 100026316. You are not permitted to copy, sub-license, distribute or sell any of this data to third parties in any form.



27/8/2020

1422

This official copy is incomplete without the preceding notes page.