

DATED 6th January 2025⁶

VENTURE REAL ESTATE LTD (1)

TO

WEALDEN DISTRICT COUNCIL (2)

**PLANNING OBLIGATION BY
DEED OF UNILATERAL UNDERTAKING
pursuant to Section 106 of
the Town and Country Planning Act 1990
as amended
relating to the development of
Land at and to the West of Heatherbank,
The Broadway, Crowborough, East
Sussex, TN6 1DE
Planning Ref: WD/2023/1712/F**



Legal Services Manager
Wealden and Rother Shared Legal Service
Wealden District Council
Council Offices
Vicarage Lane, Hailsham
East Sussex
BN27 2AX

PLANNING OBLIGATION BY DEED OF UNILATERAL UNDERTAKING

THIS DEED of UNILATERAL UNDERTAKING is dated the 6th day of January 2025

MADE BY:

(1) **VENTURE REAL ESTATE LTD East Sussex** (Company Registration Number 13631896) whose registered office is at Flat 5 Bede House, Saxon Close, Surbiton, Surrey, England, KT6 6BP ("the Owner")

TO

(2) **WEALDEN DISTRICT COUNCIL** of the Council Offices, Vicarage Lane, Hailsham, East Sussex, BN27 2AX ("the Council").

INTRODUCTION:

- (A) The Owner has the freehold interest in the Land as set out in Schedule 1.
- (B) The Council is the Local Planning Authority for the purposes of the 1990 Act for the area in which the Land is situated and for the purposes of enforcing this Deed.
- (C) Interbay Funding Ltd holds a charge over the Land by a charge dated 22 March 2024 and referred to in Entry No.3 and Entry No.4 of the Charges Register in Land Registry title number ESX390743.
- (D) The Owner has made the Application to the Council in order to develop the Land by carrying out the Development.
- (E) The Owner has agreed to enter into this Deed to secure the planning obligations set out herein.
- (F) The Owner is agreeable as hereinafter provided for their interests in the Land to be bound by the provisions of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

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

“1990 Act” means the Town & Country Planning Act 1990 as amended or any re-enactment or modification thereof for the time being in force.

“Application” means the application for planning permission for the Development bearing reference number WD/2023/1712/F

“Commencement of Development” means the date on which any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the Development begins to be carried out and **“Commence Development”** and **“Commence the Development”** shall be construed accordingly.

“Contributions” means the SAMMS Contribution and the SANGS Contribution.

“Deed” means this planning obligation.

“Development” means the development of the Land for the redevelopment of the site comprising the demolition of existing buildings and erection of three dwellings pursuant to the Planning Permission and any development in respect of which details have been submitted to and approved by the Council pursuant to the Planning Permission.

“Dwelling(s)” means any unit(s) of self contained residential accommodation within the meaning of Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 as amended including any flat apartment or maisonette comprised in the Development.

“Due Date” means the date specified or the occurrence of an event triggering the undertaking of an act or the cessation of an activity under the terms of this Deed.

“Land” means the land against which this Deed may be enforced as shown edged red on the Plan and described in the Schedule 1.

“Plan” means the plan attached to this Deed at Schedule 3

“Planning Permission” means the planning permission(s) to be granted by the Council pursuant to the Application and to any application submitted in amendment to the Planning Permission and for the avoidance of doubt shall include any permission granted pursuant to an application to amend or vary the Planning Permission pursuant to Section 73 of the 1990 Act unless the Council decides that a new agreement under section 106 of the 1990 Act is required.

“SAMMS” means the Council’s Strategic Access Management and Monitoring Strategy for the Ashdown Forest SPA relating to the delivery of a strategic access management and monitoring programme in the Ashdown Forest for the purposes of ensuring effective avoidance and mitigation of any significant effects of new residential developments that could have an impact on the Ashdown Forest SPA.

“SAMMS Contribution” means the sum of Three Thousand Five Hundred and Ten pounds (£3,510.00) based on the sum of £1,170.00 per Dwelling within the Development payable to the Council as a contribution towards the SAMMS.

“SANGS” means the Council’s strategic site(s) of suitable alternative natural green space provided as alternative recreational space(s) to the Ashdown Forest.

“SANGS Contribution” means the sum of Fifteen Thousand pounds (£15,000.00) based on the sum of £5,000.00 per Dwelling within the Development payable towards the maintenance of the Council’s SANGS.

“SPA” means a special protection area registered under regulation 17 of the Conservation of Habitats and Species Regulations 2017 (SI 2017/1012) as amended or other legislation which may replace it.

1.2 CONSTRUCTION OF THIS DEED

- 1.2.1 Words importing the masculine include the feminine and vice versa.
- 1.2.2 Words importing the singular include the plural and vice versa.
- 1.2.3 Words importing persons include companies and corporations and vice versa.
- 1.2.4 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 and the Council may take action against, or release or compromise the liability of any such person or party, or grant time or other indulgence, without affecting the liability of any other such person or party.
- 1.2.5 Any reference to a clause, paragraph, schedule, annex or Plan is to one in or attached to this Deed.
- 1.2.6 Any reference to a colour or letter is to be on the plans attached to this Deed.
- 1.2.7 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.
- 1.2.8 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 the successors to their functions.

2 LEGAL BASIS

- 2.1 This Deed is a unilateral undertaking given to the Council made pursuant to Section 106 of the 1990 Act, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.
- 2.2 The covenants, restrictions and obligations contained in this Deed are planning obligations for the purposes of section 106 of the 1990 Act and are entered into by the Owner with the intention that they bind the interests held by such parties in the Land and their respective successors and assigns.
- 2.3 The covenants, restrictions and obligations contained in this Deed are enforceable by the Council in accordance with section 106 of the 1990 Act.

- 2.4 The obligations in this Deed comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).
- 2.5 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers, duties and obligations of the Council under all statutes, by-laws, statutory instruments, orders and regulations in the exercise of their functions as a local authority.

3 CONDITIONALITY

This Deed shall come into effect immediately upon completion of this Deed.

4 THE OWNER'S COVENANTS

- 4.1 The Owner covenants with the Council to fully comply with and to perform the obligations contained herein and in the Schedules to this Deed in accordance with the requirements and timescales contained therein.
- 4.2 The Owner covenants with the Council that the Development and use of the Land shall be in strict accordance with this Deed.

5 MISCELLANEOUS

- 5.1 On the execution hereof the Owner shall pay to the Council the Council's proper and reasonable legal costs in the sum of £670.00 in connection with the preparation and completion of the unilateral undertaking and of any transaction arising therefrom.
- 5.2 On the execution hereof the Owner shall pay to the Council the Council's registration fee in the sum of £500.00 towards the expenses associated with the registration process of this Deed.
- 5.3 The Owner confirms and warrants to the Council that it has not leased, mortgaged, charged or otherwise created any interest in the Land other than the mortgage referred to in the Introduction at paragraph (C) and Schedule 1 at the date of this Deed and that paragraphs (A) and (C) in the Introduction of this Deed and Schedule 1 are correct and accurate in every respect.
- 5.4 For the purposes of (inter alia) the Contracts (Rights of Third Parties) Act 1999 nothing in this Deed is intended to confer any benefit upon or create rights in favour

of any party other than the parties executing this Deed and their respective successors in title.

- 5.5 For the purposes of (inter alia) the Contracts (Rights of Third Parties) Act 1999 it is hereby AGREED AND DECLARED that the parties to this Deed (and their respective successors in title) may rescind or vary this Deed without the consent of any third party.
- 5.6 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 a statutory procedure or expires prior to the Commencement of Development.
- 5.7 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 Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 5.8 This Deed shall be registered as a local land charge by the Council.
- 5.9 All approvals certificates consents agreements satisfactions confirmations or calculations (or anything of a similar nature) that may be requested by the Owner and/or given by the Council or its officers in accordance with this Deed shall be in addition to any other approvals consents agreements or confirmations that may be required by the 1990 Act or by any other statute or regulations.
- 5.10 In the event that any part of this Deed may be subject to challenge review deletion or otherwise rendered null/void or voidable the balance of the said Deed shall remain in full force and effect.
- 5.11 Notices required to be given or served under this Deed shall be addressed to the parties at their addresses referred to in the introduction of this Deed.
- 5.12 Where this Deed imposes a requirement for the making of a payment or the undertaking of an act or the cessation of an activity on a Due Date if the notice of a Due Date is not given the Council shall be entitled in its absolute discretion to determine the Due Date and shall give notice to the Owner of its determination.
- 5.13 The Owner shall give to the Council 7 working days prior written notice of the Commencement of Development.

5.14 This unilateral undertaking constitutes a Deed.

6 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 covenants, terms or conditions or for acting upon any subsequent breach or default.

7 COVENANTS NOT BINDING

This Deed shall not be enforceable against or binding on any statutory undertaker who has an interest in the Land solely for the purposes of carrying out its statutory functions in connection with the provision of services necessary for the Development.

8 CHANGE IN OWNERSHIP

The Owner agrees with the Council to give the Council immediate written notice of any change in freehold ownership of the whole or part of the Land occurring before all the obligations under this Deed have been discharged such notice shall 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 Land or unit of occupation purchased by reference to a plan.

9 JURISDICTION

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

10 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.

SCHEDULE 1

Details of the Owner's title, Mortgagee's charge and description of the Land

1. The Owner is the registered proprietor of freehold title number ESX390743 registered at the Land Registry.
2. Interbay Funding LTD holds a charge over the Land by a charge dated 22 March 2024 and referred to in Entry No.3 and Entry No.4 of the Charges Register in Land Registry title number ESX390743.
3. The Land comprises part of freehold title number ESX390743 and is known as Heatherbank, The Broadway, Crowborough, TN6 1DE.

SCHEDULE 2

The Contributions

The Owner covenants with the Council to pay to the Council the SAMMS Contribution and the SANGS Contribution on completion of this Deed on the basis that the Contributions are repaid to the Owner if the Planning Permission is refused.

SCHEDULE 3

Plan

NOTES

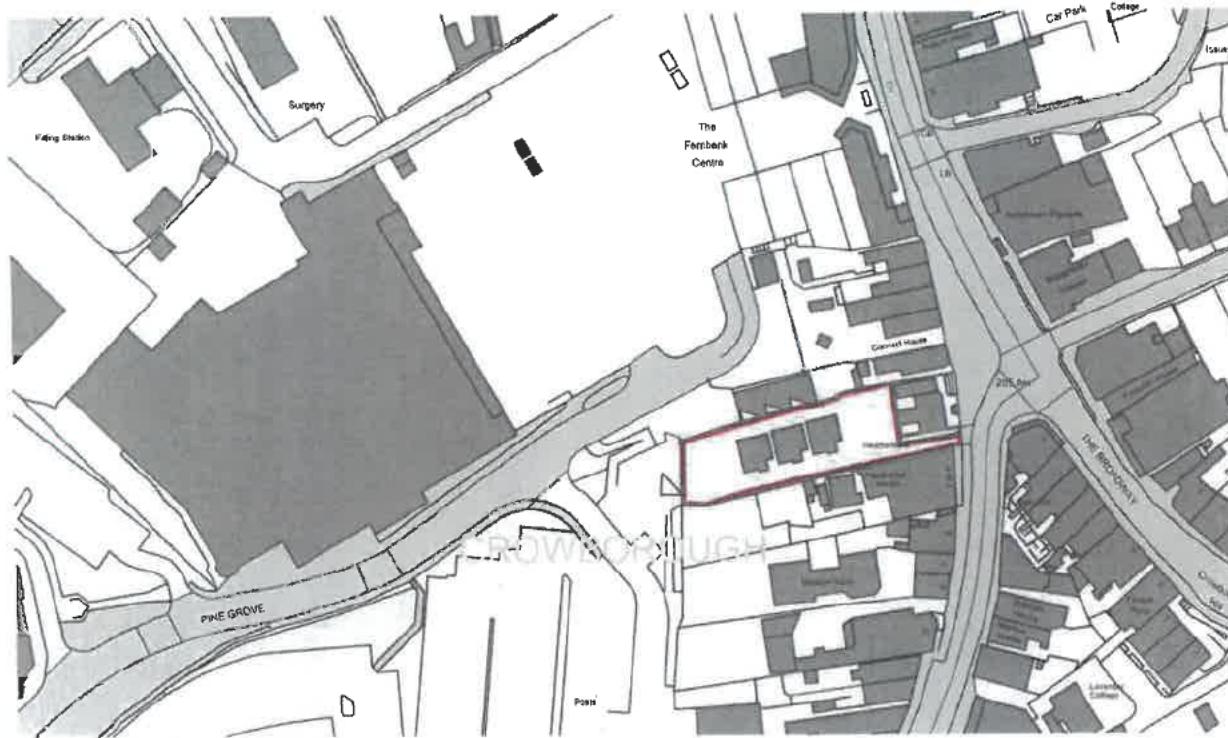
Do not scale from this drawing

Any discrepancies should be reported immediately.

This drawing is copyright. It must not be reproduced or disclosed to third parties without our prior permission.

This drawing is to be read in conjunction with all relevant consultants, specialist manufacturers drawings and specifications.

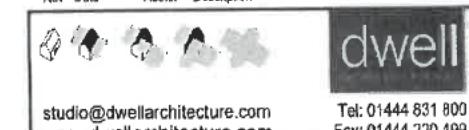
Any surveyed information incorporated within this drawing is accurate unless confirmed by fixed dimension.



1:1250

0 5m 20m 50m 75m 100m

D	05/12/23	SC	Updated in line with LPA validation criteria
C	10/11/23	SC	Reduced scheme
B	06/06/23	SC	Prepared for planning
A	26/05/23	SC	Prepared for planning submission
Rev	Date	Author	Description



PLANNING

Client

Project Proposed Redevelopment

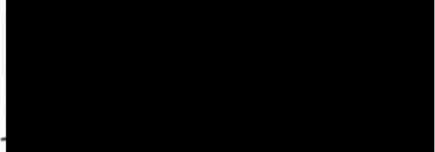
Title Site Location Plan
as Proposed

Day:	1379 SI 00			Rev.
Job No.	1379	Date	Scale	Drawn
	19/07/22	1:1250 @ A3	SER	JSR

In witness this document had been signed as a Deed and delivered on the date first above written

EXECUTED as a DEED by
VENTURE REAL ESTATE LTD
acting by a director and its
secretary / two directors

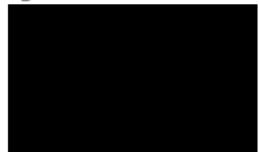
Signature of director



Director

Full name(in block capitals)..... **PAUL HAWTHORN**

Signature of director or secretary



Director / Secretary

Full name(in block capitals)..... **MARTINA TOBY**