



DATED

2025

MID SUSSEX DISTRICT COUNCIL (1)

AND

WEST SUSSEX COUNTY COUNCIL (2)

AND

SYLVIO ALAIN SHOOKHYE AND ROSINAH CLAUDIA SHOOKHYE (3)

AND

ADELAIDE HEALTHCARE LIMITED (4)

PLANNING OBLIGATION

BY WAY OF AGREEMENT

pursuant to Section 106 of the

Town and Country Planning Act 1990 (as amended)

relating to land at Lingworth, 17 Oathall Road, Haywards Heath, West Sussex, RH16 3EG

DM/24/2214

Julie Galvin

Assistant Director, Governance and Monitoring Officer

Mid Sussex District Council

'Oaklands' Oaklands Road

Haywards Heath

West Sussex

RH16 1SS

IKEN: 8379

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THIS DEED is dated the

day of

2025

BETWEEN

- (1) **MID SUSSEX DISTRICT COUNCIL** of Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS (“**the District Council**”)
- (2) **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, Chichester, West Sussex, PO19 1RQ (“**the County Council**”)
- (3) **SYLVIO ALAIN SHOOKHYE AND ROSINAH CLAUDIA SHOOKHYE** of Chownesmead, Chownes Mead Lane, Cuckfield, West Sussex, RH16 4BS (“**the Owner**”)
- (4) **ADELAIDE HEALTHCARE LIMITED** incorporated and registered in England and Wales with company number 06456136 whose registered office is at 13 Oathall Road, Haywards Heath, West Sussex, RH16 3EG (“**the Developer**”)

BACKGROUND

- (A) The Owner is the registered freehold proprietor of the Land.
- (B) The District Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (C) The County Council is the local authority responsible for highways infrastructure in the area in which the Land is situated.
- (D) The Developer has made the Application to carry out the Development.
- (E) In the event of the District Council resolving to grant Planning Permission for the Development, having regard to the provisions of the District Plan including Policy DP20 (Securing Infrastructure), the Supplementary Planning Document and all other material considerations, it will be subject to the completion of this Deed and to the conditions to which the Planning Permission is expressed to be subject.
- (F) The District Council and the County Council having regard to the Supplementary Planning Document determine the obligations contained in this Deed are necessitated by virtue of this Application.
- (G) The Owner and the Developer have agreed to enter into this Deed to give the following obligations in the manner hereinafter appearing and agree that the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) are met.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1. INTERPRETATION AND DEFINITIONS

1.1. In this Deed the following expressions shall unless the context otherwise requires have the following meanings:

Act	means the Town and Country Planning Act 1990 as amended;
All Requisite Consents	means all requisite consents, orders, agreements, authorisations, licences and permissions required to implement a scheme/the Scheme;
Application	means the application for full planning permission for the Development which was validated by the District Council on 25 September 2024 and allocated reference DM/24/2214;
BCIS Index	means 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;
Commencement Date	means the date on which the Commencement of the Development begins;
Commencement of the Development	means the carrying out of a material operation pursuant to the Planning Permission as defined in section 56(4) of the Act and all references to Commence , Commenced and Commencement shall be construed accordingly;
Commencement Notice	means the written notice confirming the Commencement Date referred to in clauses 4.1 and 5.1 and served in accordance with clause 16;
County Council Contributions	means the Library Contribution and the Total Access Demand Contribution;
County Council Monitoring Contribution	means the total sum of eight hundred and ten pounds (£810) payable to the County Council for monitoring the delivery and performance of the Financial Contribution Trigger contained in this Deed over the lifetime of the Development;

Deed	means this deed;
Default Interest Rate	means four per cent (4%) per annum above the base rate of the Bank of England and Interest shall be construed accordingly;
Development	means the development of the Land by the change of use from a dwelling (Use Class C3) to a care home (Use Class C2) including the erection of side and rear extensions to the main building and roof extension above existing garage to the coach house as set out in the Application and authorised by the Planning Permission;
District Plan	means the Mid Sussex District Plan 2014-2031 adopted by the District Council on 28 March 2018;
Financial Contribution Trigger	means a trigger contained within this Deed applicable to the Total Access Demand Contribution and the Library Contribution that attracts the County Council Monitoring Contribution because its implementation and/or adherence requires monitoring by the County Council;
Index Linked	means in relation to the County Council Contributions, that the Library Contribution and the Total Access Demand Contribution payable under this Deed shall be increased by the application of the following formula: $A = B \times C/D \quad (C/D \text{ is equal to or greater than } 1)$ where A is the sum actually payable on the date of payment B is the original sum mentioned in this Deed C is the BCIS Index at the date payment falls due D is the BCIS Index at the date of consultation being 25 April 2025 and Indexation shall be construed accordingly;
Land	means the land against which this Deed may be enforced known as Lingworth, 17 Oathall Road, Haywards Heath, West Sussex, RH16 3EG which is registered at HM Land Registry under title number SX119117 and is shown for identification purposes only edged red on the Plan;

Library Contribution	means the financial contribution of Four Thousand Seven Hundred and Sixty Seven Pounds (£4,767) subject to adjustment in accordance with the provision of paragraph 2.1 of the FIRST SCHEDULE and which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with this Deed being a financial contribution towards the costs of providing the additional library infrastructure to accommodate the extra demands for library services that would be generated by the Development and to be used towards additional facilities at Haywards Heath Library PROVIDED THAT should Commencement of the Development take place after March 2026, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics;
Occupation	means occupation for any purpose permitted by the Planning Permission, but not including occupation by personnel engaged in the construction, fitting out or occupation for marketing or security, and the words "Occupy" and "Occupied" shall be construed accordingly;
Payment Notice	means a payment notice in the form attached at APPENDIX 2;
Plan	means the plan annexed to this Deed at APPENDIX 1;
Planning Permission	means the planning permission granted pursuant to the Application;
Scheme	means the South Road pedestrian improvements scheme and/or improvements to Commercial Square;
Supplementary Planning Document	means the document entitled Development Infrastructure and Contributions Supplementary Planning Document adopted by the District Council on 25 July 2018;

Total Access Demand Contribution	means the financial contribution of Twenty Five Thousand and Sixty Six Pounds (£25,066) subject to adjustment in accordance with the provisions of paragraph 1.1 of the FIRST SCHEDULE calculated using current occupancy rates from census statistics published by the Office for National Statistics payable in accordance with this Deed and is calculated in accordance with the Total Access Demand Methodology and to be used towards the Scheme PROVIDED THAT should Commencement of the Development take place after March 2026, the sum shall be recalculated 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 District Council which requires contribution towards the cost of infrastructure and other measures that are necessary to mitigate the impact of development; and
Working Day	means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2. Clause and schedule headings shall not affect the interpretation of this Deed.
- 1.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4. A reference to a company shall include any company, corporation or other body corporate, whether and however incorporated or established.
- 1.5. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8. References to clauses and Schedules are to the clauses and Schedules of this Deed.
- 1.9. Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
- 1.10. References to the District Council, the County Council, the Developer and the Owner shall include the successors in title and assigns of each party including any local authority successor.
- 1.11. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. LEGAL BASIS

- 2.1. This Deed is made pursuant to section 106 of the Act, section 1 of the Localism Act 2011, section 111 of the Local Government Act 1972 and all other enabling powers.
- 2.2. The obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner and the Developer with the intention that they bind the interests held by those persons in the Land and their respective successors and assigns.
- 2.3. The obligations contained in this Deed are enforceable by the District Council and the County Council in accordance with section 106 of the Act.

3. CONDITIONALITY

This Deed shall come into effect immediately upon completion of this Deed save for the provisions of clauses 4, 5, 6 and 12 which are conditional upon the grant of Planning Permission.

4. COVENANTS TO THE DISTRICT COUNCIL

The Owner covenants with the District Council:

- 4.1. to give the Commencement Notice to the District Council not less than ten (10) Working Days before the Commencement Date.

5. COVENANTS TO THE COUNTY COUNCIL

The Owner covenants with the County Council:

- 5.1. to give the Commencement Notice to the County Council not less than ten (10) Working Days before the Commencement Date; and
- 5.2. to observe and perform the covenants, restrictions and obligations contained in this Deed including the Schedule hereto.

6. COVENANTS BY THE COUNTY COUNCIL

The County Council covenants with the Owner and the Developer to observe and perform the covenants, restrictions and obligations contained in the SECOND SCHEDULE.

7. DEVELOPER'S CONSENT

The Developer consents to the completion of this Deed and declares that its interest in the Land shall be bound by the terms of this Deed.

8. RELEASE

No person shall be liable for any breach of the obligations in this Deed after parting with all of its interest in the Land, except in respect of any breach subsisting prior to parting with such interest.

9. LOCAL LAND CHARGE

This Deed is a local land charge and shall be registered as such by the District Council.

10. THE DISTRICT COUNCIL AND COUNTY COUNCIL'S COSTS

- 10.1. The Developer shall pay to the District Council on or before the date of this Deed the District Council's reasonable legal costs of Three Thousand Pounds (£3,000) together with all disbursements incurred in connection with the preparation, negotiation and completion of this Deed.
- 10.2. The Developer shall pay to the County Council on or before the date of this Deed the County Council's reasonable legal costs of One Thousand Five Hundred Pounds (£1,500) together with all disbursements incurred in connection with the preparation, negotiation and completion of this Deed and the County Council Monitoring Contribution.

11. INTEREST ON LATE PAYMENT

If any sum or amount has not been paid to the District Council and / or the County Council by the date it is due, the Developer shall pay the District Council and / or the County Council interest on that amount at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

12. OWNERSHIP

- 12.1. The Owner warrants that no person other than the Owner and the Developer have any legal or equitable interest in the Land.
- 12.2. The Owner agrees to give the District Council and the County Council immediate written notice of any change in ownership of any of its interests in the Land 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 Land or unit of occupation purchased by reference to a plan.

13. NO FETTER OF DISCRETION

Nothing (contained or implied) in this Deed shall fetter or restrict the District Council or the County Council's statutory rights, powers, discretions and responsibilities.

14. WAIVER

No failure or delay by the District Council or the County Council to exercise any right or remedy provided under this Deed or by law shall constitute a waiver of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15. AGREEMENTS AND DECLARATIONS

The parties agree that:

- 15.1. Nothing in this Deed constitutes a planning permission or an obligation to grant planning permission.
- 15.2. Insofar as any clause or clauses of this Deed are held (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.
- 15.3. 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 the Development (which for the purposes of this clause shall mean the carrying out of a material operation pursuant to the Application as defined in section 56(4) of the Act).
- 15.4. Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 15.5. If the Owner fails to give the notice required by clauses 4.1 and 5.1 above then the District Council shall be entitled in its absolute discretion to determine the Commencement Date and shall give notice to the Owner of the District Council's determination.
- 15.6. Subject to the proviso to this clause, in the event that any new planning permission(s) are granted by the District Council after the date of this Deed in relation to an application to remove and/or vary condition(s) attached to the Planning Permission pursuant to Section 73 of the Act ("Section 73 Consent"):
 - 15.6.1. the obligations in this Deed (including the Schedule(s) hereto) shall relate to and bind any subsequent Section 73 Consent and the Land without the automatic need to enter into any subsequent deed of variation/supplemental deed to this Deed or new obligation pursuant to Section 106 of the Act; and
 - 15.6.2. the definitions of Application, Planning Permission and Development (other than for the purposes of the Background) in this Deed shall be construed to include reference to (respectively) any application(s) under Section 73 of the Act, any Section 73 Consent granted thereunder and any development permitted by such subsequent Section 73 Consent; and

15.6.3. any Section 73 Consent shall include a condition/informative substantially in the following form:

"The obligations under the planning obligation by way of Agreement dated [] pursuant to the previous application [] will be equally applied to and satisfy the requirements necessitated under this application []".

15.6.4. It is hereby agreed and declared by the parties hereto that nothing in this clause shall fetter the discretion of the District Council in determining any applications under Section 73 of the Act and the appropriate planning obligations required in connection with the determination of the same and the District Council reserves the right to insist upon the completion of any subsequent deed of variation / supplemental deed to this Deed or new obligation pursuant to Section 106 of the Act in connection with any Section 73 applications if the District Council considers it desirable to do so.

15.7. All financial contributions due under the terms of this Deed shall be accompanied by a fully completed Payment Notice.

15.8. The obligations contained in this Deed shall not be binding on any statutory undertaker which has acquired part of the Land for purposes connected to their statutory functions necessary for the Development provided always that such statutory undertaker shall not themselves carry out any part of the Development.

15.9. Any future mortgagee or chargee of the Land or any part thereof shall be bound by the obligations contained in this Deed and its security over the Land shall take effect subject to this Deed provided that such future mortgagee shall have no liability under this Deed unless it takes possession of the Land or the relevant part thereof in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

16. NOTICES

16.1. Any notice required by this Deed shall be in writing and addressed to the Section 106 Monitoring Team of the District Council at the address of the District Council given herein and to the Planning Services Monitoring and Records Team of the County Council at the address of the County Council given herein.

16.2. Any notice may be given by one of the following means and shall be deemed to be served as described unless the actual time of receipt is proved:

- (a) by first class post deemed served two (2) Working Days after posting;
- (b) by hand deemed served on signature of a delivery receipt provided that if delivery occurs before 9.00am on a Working Day, the notice will be deemed to have been received at 9.00am on that day, and if delivery occurs after 5.00pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00am on the next Working Day;
- (c) through a document exchange deemed served on the first Working Day after the day on which it would normally be available for collection by the addressee.

17. THIRD PARTY RIGHTS

It is agreed that nothing in this Deed shall be construed as expressly providing a right for any third party within the meaning of the Contract (Rights of Third Parties) Act 1999 and nothing in this Deed is intended to confer on any third party (whether referred to herein by name class description or otherwise) any benefit or any right to enforce any provision of this Deed.

18. DISPUTES

- 18.1. If in connection with this Deed there shall arise a claim or dispute or difference (including unreasonable delay in providing approval, authority, consent or direction or some other decision or payment required by this Deed) the relevant parties shall first attempt to negotiate a solution.
- 18.2. If matters remain unsolved (as evidenced by the service of a written notice by one party on the other(s)) the parties shall refer the matter as follows:
 - 18.2.1. where the difference or dispute relates to the construction or interpretation of this Deed, be referred to the determination (as an expert and not as an arbitrator) of an independent leading conveyancing/planning counsel agreed upon by the parties in dispute but in default of such agreement appointed by the President of the Law Society of England and Wales on the application of any of the parties in dispute;
 - 18.2.2. where the difference or dispute relates to the carrying out of works or construction be referred to the determination (as expert and not as an arbitrator) of an independent Chartered Surveyor or Civil Engineer as appropriate being a partner or director practising in a leading firm of surveyors or civil engineers based in the South East of England or London and experienced in the matter in dispute agreed upon by the parties in dispute but in default of that agreement appointed by the President of the Royal Institution of Chartered Surveyors or the Institution of Civil Engineers as appropriate on the application of any of the parties in dispute PROVIDED that where a contract for the relevant works has been let and provides that the dispute or difference under it shall be referred to arbitration or the court any such dispute or difference which may arise between the parties in connection with those works shall be determined likewise.
- 18.3. If the parties in dispute shall fail to agree on the nature of the difference or dispute between them then any of them may apply to the President of the Law Society to appoint an independent solicitor being a partner in a leading firm of solicitors practising in the South East of England or London to decide (as expert and not as arbitrator) in relation to any such matter which of Clauses 18.2.1 or 18.2.2 hereto is applicable.
- 18.4. Except as aforesaid any expert appointed pursuant to Clauses 18.2.1 or 18.2.2 or any other person shall:
 - (a) on their appointment serve written notice thereof on the parties in dispute;

- (b) consider any written representations by or on behalf of those parties which are received by them within twenty (20) Working Days of such service and immediately forward a copy of the written representation of one party to the other party;
- (c) allow both parties to the dispute an opportunity of commenting in writing on the other party's representations within twenty (20) Working Days of receipt by the other party thereof;
- (d) have an unfettered discretion to determine the reference to them;
- (e) serve notice of their determination as soon as they have made it;
- (f) give full and clear reasons for their decision;
- (g) be paid their proper fee and expenses in connection with such reference by the parties in dispute in equal shares or in such shares as they may determine and their determination shall be final and binding on the parties in dispute (save in the case of manifest error) PROVIDED THAT if any such expert shall die become insolvent or of unsound mind or if either of the parties in dispute shall serve on them written notice in their opinion they have unreasonably delayed making their determination they shall be ipso facto discharged and be entitled only to their reasonable expenses prior to such discharge and another person shall be appointed in their place as such expert.

18.5. The provisions of this clause shall not affect the ability of the District Council and/or the County Council to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages, any other means of enforcing this Deed and consequential and interim orders and relief.

19. 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.

20. GOVERNING LAW

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

FIRST SCHEDULE
COVENANTS BY THE OWNER TO THE COUNTY COUNCIL

1. Total Access Demand Contribution

- 1.1. To pay to the County Council prior to Occupation of the Development the Total Access Demand Contribution Index Linked.
- 1.2. Not to cause or allow the Occupation of the Development to occur until the Total Access Demand Contribution has been paid to the County Council.
- 1.3. 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 pursuant to Clause 11 and any such interest shall be treated as part of the Total Access Demand Contribution.

2. Library Contribution

- 2.1. To pay to the County Council prior to Occupation of the Development the Library Contribution Index Linked.
- 2.2. Not to cause or allow the Occupation of the Development to occur until the Library Contribution has been paid to the County Council.
- 2.3. If the Library 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 pursuant to Clause 11 and any such interest shall be treated as part of the Library Contribution.

SECOND SCHEDULE

COVENANTS BY THE COUNTY COUNCIL

1. Total Access Demand Contribution

To expend the Total Access Demand Contribution together with any interest accruing thereon only on the Scheme and it is hereby acknowledged for the avoidance of doubt and without prejudice to the above that the County Council is authorised (at its discretion) to apply the Total Access Demand Contribution (or any part thereof) to compensate the County Council for all work done by the County Council's employees servants agents or contractors (in all cases at fair and proper rates) to include without limitation the processing and obtaining of All Requisite Consents and the supervision and design of the implementation of the Scheme and any necessary advertisements.

2. Library Contribution

To expend the Library Contribution together with any interest accruing thereon only on additional facilities at Haywards Heath Library and it is hereby acknowledged for the avoidance of doubt and without prejudice to the above that the County Council is authorised (at its discretion) to apply the Library Contribution (or any part thereof) to compensate the County Council for all work done by the County Council's employees servants agents or contractors (in all cases at fair and proper rates) to include without limitation the processing and obtaining of All Requisite Consents and the supervision and design of the implementation of a scheme and any necessary advertisements.

3. Expenditure

- 3.1. If or to the extent the Total Access Demand Contribution and/or the Library Contribution shall not have been spent within ten (10) years of receipt the County Council shall on such date, upon written request, refund to the party that paid the Total Access Demand Contribution any unexpended sum together with interest thereon from the date of receipt of the relevant contribution to the date of repayment at the base rate of the Bank of England applicable from time to time calculated on a day to day basis.
- 3.2. If at the date referred to in paragraph 3.1 the County Council shall have entered into a contract or other legally binding obligation to expend the Total Access Demand Contribution and/or the Library Contribution or part thereof for the purposes specified in paragraphs 1 and 2 of this SECOND SCHEDULE then the County Council shall not be required to refund any part of the Total Access Demand Contribution and/or the Library Contribution required for that purpose but shall as soon as possible following the completion of the said contract or other legally binding commitment refund any unexpended part of the said contribution in the manner set out in paragraph 3.1 hereof.

APPENDIX 1

THE PLAN

DRAFT

APPENDIX 2
PAYMENT NOTICE

Payment of monies due under a Section 106 Planning Obligation

Payment to be made by/on behalf of:

Development at:

Agreement dated:

Planning application reference number:

Obligation in Agreement (Please continue on a separate sheet if necessary):

(a) Description of Contribution(s) and clause no(s):	
(b) Amount of Contribution(s) due:	
(c) Amount of interest due on Contribution(s):	
(d) If applicable, the amount of interest due on Contribution(s):	
(e) Date upon which the Contribution(s) became due:	
(f) Method of Payment:	

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

Executed as a Deed by
affixing the Common Seal of
MID SUSSEX DISTRICT COUNCIL
in the presence of:-

Authorised Officer

Executed as a Deed by
affixing the Common Seal of
WEST SUSSEX COUNTY COUNCIL
in the presence of:-

Authorised Officer

Executed as a Deed by
SYLVIO ALAIN SHOOKHYE

in the presence of:-

Signature of witness

Name (in BLOCK CAPITALS)

Address

Occupation

Executed as a Deed by
ROSINAH CLAUDIA SHOOKHYE

in the presence of:-

Signature of witness

Name (in BLOCK CAPITALS)

Address

Occupation

Executed as a Deed by

ADELAIDE HEALTHCARE LIMITED

acting by [NAME], [a director] and

[NAME], [a director/Secretary]

Director

Director/Secretary

DRAFT