

DATED 21 January 1992

Between

- (1) R Vinall (Henfield) Limited
- (2) Peter Stirling Gander
Eric John Wells
Rex McDougall
Richard Edgar Skilton
- (3) John Harry White
- ~~(4) David Edward Green~~
- ~~(5) Philip Michael Harris~~
- (6) Richard George Parsons
- (7) Alan Paul Wickenden
- (8) Mark Anthony Eamon Dowd
- (9) Johannes Nimwegan
- (10) Dominico Luigi Mario Chiarini
- (11) Horsham District Council

A G R E E M E N T

under Section 106 of the Town and
Country Planning Act 1990 and other
powers

Land at: (a) on the east side of
A2037 Henfield Road Henfield
West Sussex (red land and yellow
land)

(b) Milcot West End Lane Henfield
West Sussex (blue land)

(c) Builders Yard Neptown
Henfield West Sussex (green land)

I.R. Davison M.A.
Chief Solicitor
Horsham District Council
Park House, North Street
Horsham, West Sussex RH12 1RL
DX57609 Horsham
Reference IRD/AGT/141

Committee: Area 2 Plans Sub-Committee
Date : 19th June 1990
Minutes Nos: 246 and 247



AGREEMENT dated
between

21 January

1992

- (1) First Applicant: R Vinall (Henfield) Limited
whose registered office is at Neptown Henfield West Sussex BN5 9DZ
- (2) Second Applicant: Peter Stirling Gander Eric John Wells Rex McDougall and Richard Edgar Skilton being the trustees of the R Vinall (Henfield) Limited Pension Fund whose address is at Neptown Henfield West Sussex BN5 9DZ
- (3) The Owner: John Harry White of Holvedean House Henfield West Sussex BN
- 1206* (4) ~~Unit 1, 2 and 13 Occupier: David Edward Green trading as Hayward & Green Aviation House High Street Henfield West Sussex~~
- (5) ~~Unit 3 Occupier: Philip Michael Harris of Iroke Station Road Henfield West Sussex~~
- (6) Unit 5 Occupier: Richard George Parsons trading as R P Motors of Byways Neptown Road Henfield West Sussex
- (7) Unit 6 & 7 Occupier: Alan Paul Wickenden 121 Oakdene Crescent Mile Oak Portslade East Sussex
- (8) Unit 8 Occupier: Mark Anthony Eamon Dowd trading as M & N Coachworks of 2 Gresham Place Henfield West Sussex BN5 9QJ
- (9) Unit 9, 10 & 12 Occupier: Johannes Nimwegan trading as Image of Rose Cottage 4 Henfield Road Upper Beeding West Sussex
- (10) Unit 11 Occupier: Domenico Luigi Mario Chiarini trading as D C Coachworks of 5 Hill View Small Dole Henfield West Sussex
- (11) The Local Planning Authority: Horsham District Council of Park House North Street Horsham West Sussex RH12 1RL

Recitals

- (a) The First Applicant is the freeholder of land on the east side of A2037 Henfield Road Henfield West Sussex (the red land) and has an option to purchase land adjoining to the rear of the red land (the yellow land) and is lessee of the Builders Yard Neptown Henfield West Sussex (the green land)
- (b) The Second Applicant is the freeholder of Milcot West End Lane Henfield West Sussex (the blue land)

- (c) The Owner is the freeholder of land on the east side of A2037 Henfield Road Henfield West Sussex (the yellow land) to the rear of the red land
- MB (d) The parties numbered ^b(4) to (10) inclusive are tenants of units at Milcot Industrial Estate Milcot West End Lane Henfield West Sussex (the blue land)
- (e) The First Applicant has made the first application in respect of the red land
- (f) The Second Applicant has made the second application in respect of the blue land

1. Definitions

IN this agreement:

- 1.1 Whenever there is more than one person named as a party and whenever more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually
- 1.2 A reference to an Act of Parliament refers to the Act as it applies at the date of this agreement and any later amendment or re-enactment of it
- 1.3 'additional unit' means any unit provided on area B additional to the replacement units
- 1.4 'area A' means that part of the red land so marked and hatched orange on plan A
- 1.5 'Area B' means that part of the red land so marked and hatched violet on plan A
- 1.6 'authorised purpose' means a legal use which either does not involve development or where development takes place has the benefit of planning permission granted by the Local Planning Authority or by development order
- 1.7 'the blue land' means the land at Milcot West End Lane Henfield West Sussex comprised within title number WSX124450 shown for identification purposes only edged blue on plan B
- 1.8 'the commencement date' means the date upon which the development of the red land is begun in accordance with section 56 of the Town and Country Planning Act 1990
- 1.9 'the effective date' means the date upon which this agreement comes into effect in accordance with 3.1

- 1.10 'first alternate qualifying person' means a person firm company or other organisation which has for a minimum of two years before taking up possession carried on a business having its principal office or place of business in the district of Horsham
- 1.11 'the First Applicant' means R Vinall (Henfield) Limited
- 1.12 'the first application' means the application (reference HF/15/90 made by the First Applicant concerning the red land for outline planning permission for a builder's yard with ancillary offices and workshops in respect of area A and for a mixed Class B1 and B2 use in respect of area B
- 1.13 'the green land' means the land at the Builders Yard Neptown Henfield West Sussex shown for identification purposes only edged green on plan C
- 1.14 'the industrial estate development' means the development of the land proposed in the first application or permitted by planning permission granted pursuant to the first application or carried out substantially in accordance with the permission
- 1.15 'the Local Planning Authority' means Horsham District Council
- 1.16 'the Milcot development' means the development of the blue land proposed by the second application or permitted by planning permission granted pursuant to the second application or carried out substantially in accordance with that permission
- 1.17 'Milcot unit' means an industrial unit on the blue land
- 1.18 'the Owner' means John Harry White
- 1.19 'plan A' 'plan B' 'plan C' means respectively plans A, B, C attached to this agreement
- 1.20 'qualifying person' means a unit occupier or a person firm company or other organisation which has for a minimum of two years before the commencement date carried on a business lawfully having its principal office or place of business in the parish of Henfield
- 1.21 'the red land' means the land on the east side of A2037 Henfield Road Henfield West Sussex comprised within title number WSX 124813 shown for identification purposes only edged red on plan A

- 1.22 'rent review date' means the date upon which the rent of a replacement unit may be reviewed in accordance with 4.1.7.6.
- 1.23 'replacement unit' means a unit on the red land in substitution for a Milcot unit
- 1.24 'second alternate qualifying person' means a person firm company or other organisation which has immediately before taking up possession carried on a business having its principal office or place of business in the district of Horsham or within 10 kilometres of the red land
- 1.25 'the Second Applicant' means Peter Stirling Gander Eric John Wells Rex McDougall and Richard Edgar Skilton being the trustees of the R Vinall (Henfield) Limited Pension Fund
- 1.26 'the second application' means application (reference (HF/9/90) made by the Second Applicant concerning the blue land for outline planning permission to demolish the existing industrial buildings but not the existing house to change the use of the land to residential and to erect three new houses
- 1.27 'tenancy commencement date' means the date upon which a tenancy of a replacement unit commences
- 1.28 'third alternate qualifying person' means a person approved in writing by the Local Planning Authority
- 1.29 'the unit occupiers' means the parties numbered (4) to (10) inclusive being tenants of Milcot units
- 1.30 'the yellow land' means land on the east side of A2037 Henfield Road Henfield West Sussex shown for identification purposes edged yellow on plan A1

2. Powers and Authority

- 2.1. THIS agreement is made pursuant to section 106 of the Town and Country Planning Act 1990 (as substituted by the Planning and Compensation Act 1991) section 111 of the Local Government Act 1972 and all other enabling powers and has been entered into pursuant to the Local Planning Authority's Area 2 Plans Sub-Committee's resolutions of 19th June 1990 (Minutes Nos. 246 and 247)

3. Commencement

- 3.1. THIS agreement shall come into effect upon the grant of the first application the second application or the Commencement Date (whichever is the earliest)

4. Provisions relating to the development of the red land

- 4.1. The First Applicant agrees with the Local Planning Authority:

4.1.1. not to cause or allow the red land to be used other than for agriculture before the approval of reserved matters further to the first application or the grant of an application for full planning permission for the development of the red land

4.1.2. that the total gross internal floorspace provided on area B shall not exceed 1459 square metres

4.1.3. not to cause or allow the industrial estate development to be carried out other than in accordance with planning permission granted by the Local Planning Authority

4.1.4. to give to the Local Planning Authority notice of the commencement date not later than seven days thereafter

4.1.5. that in the event that the notice referred to in 4.1.4. is not given the Local Planning Authority shall be entitled in its absolute discretion to determine the commencement date for the purposes of this agreement

4.1.6. after the commencement date not to occupy or to cause or allow the red land to be occupied other than as follows:

4.1.6.1. area A - by the First Applicant

4.1.6.2. area B - by the unit occupiers or

4.1.6.3. (where 4.1.8 applies) by qualifying persons or

4.1.6.4 (where 4.1.9.1 applies) by first alternate qualifying persons or

4.1.6.5 (where 4.1.9.2 applies) by second alternate qualifying persons or

4.1.6.6 (where 4.1.9.3 applies) by third alternate qualifying persons

but the provisions of 4.1.6.3 to 4.1.6.6 (inclusive)

shall not become operative unless and until all the Milcot units shall have demolished

4.1.7. not later than the commencement date to offer to each of the unit occupiers a tenancy of a replacement unit including the following terms:

4.1.7.1. the unit occupier shall surrender any right to occupy or any tenancy in respect of the blue land or any part of it and shall vacate the same within one month of taking possession of the replacement unit

4.1.7.2. the unit occupier shall waive any right to a new tenancy in respect of the blue land and shall not seek to assign any rights or tenancy or sublet in respect of the blue land before taking possession of the replacement unit

4.1.7.3. the replacement unit shall (unless the First Applicant and unit occupier otherwise agree) be of a similar size to and have facilities no less suitable for the needs of the occupier of that occupied by the unit occupier at the date of the offer

4.1.7.4. the rent of the replacement unit shall be no more (in terms of cost per square metre) than that charged to the unit occupier in respect of the Milcot unit occupied by him at the date of the offer

4.1.7.5. subject to 4.1.7.6. the rent may be reviewed not more than once annually upon the anniversary of the tenancy commencement date for the replacement unit

4.1.7.6. upon a rent review the rent shall not be increased by more than the increase in the index of retail prices published by the Department of Employment for the period of 12 months ending on a date one month before the rent review date

4.1.7.7. notwithstanding any rent review the rent of the replacement unit at and after the fifth anniversary of the tenancy commencement date shall not exceed the market rent for the unit

4.1.7.8. subject to 4.1.7.1. to 7 inclusive the security of tenure and other terms shall be no less favourable than those enjoyed by the unit occupier at the date of this agreement

4.1.7.9. the offer of tenancy shall be kept open for not less than six months from the date of the offer

4.1.8. that where:

4.1.8.1. a unit occupier refuses or fails to respond to an offer made in accordance with 4.1.7. or

4.1.8.2. fails for any reason to take possession of the replacement unit or

4.1.8.3. having regard to 4.1.2. and 4.1.7.3. any additional units are provided on area B or

4.1.8.4. a unit occupier or qualifying person vacates a replacement unit or additional unit then the replacement unit or additional unit shall not be occupied during the period of 25 years from the commencement date or 1st June 1992 (whichever shall be the later) other than by a qualifying person

4.1.9. that where (after the vacancy has been advertised for a period of not less than two month from the date of the first advertisement of the vacancy) it has not been possible to let the replacement unit or additional unit to a unit occupier or qualifying person (as required by 4.1.8) then if the First Applicant wishes to let the same

4.1.9.1. the First Applicant shall advertise the vacancy for a further period of not less than one month from the first date of readvertisement whereafter the unit shall not be occupied by other than a first alternate qualifying person

4.1.9.2. if at the end of the further period of readvertisement (mentioned in 4.1.9.1) it has not been possible to let the unit to a first alternate qualifying person the First Applicant shall advertise the vacancy for a further period of not less than one month from the first date of second readvertisement whereafter the unit shall not be occupied by other than a second alternate qualifying person

4.1.9.3 if it has not been possible for the unit to have been let in accordance with 4.1.8 or 4.1.9.1 or 4.1.9.2 then provided that the First Applicant shall have used best endeavours so to let the unit and a period of not less than six months from the closure of the period of further readvertisement specified by 4.1.9.2 shall have expired the unit may be occupied by a third alternate qualifying person

4.1.10. that where any unit is built to replace a replacement unit on area B or where area B is redeveloped in whole or in part during a period of 25 years from the commencement date or 1st June 1992 (whichever shall be the later) the restriction on occupancy in 4.1.8. (as extended by 4.1.9) shall apply

4.1.11. not to use or cause or allow the red land or any part of it to be used as a means of access to or egress from the yellow land other than for or in connection with an authorised purpose on the yellow land

4.2. Each unit occupier agrees with the First Applicant and the Local Planning Authority at all times when in occupation of the red land or any part of it to comply with the terms of any planning permission and any and all other statutory requirements

5. Provisions relating to the blue land (Milcot)

5.1. The First Applicant the Second Applicant and each unit occupier jointly and individually agree with the Local Planning Authority:

5.1.1. not to use or to cause or allow the blue land or any part of it to be used other than for agriculture or for residential purposes at any time after the end of a period of three years from the effective date

5.1.2. subject to 5.1.1. not to use or to cause or allow the blue land or any part of it to be used at any time other than for an authorised purpose

5.1.3. without prejudice to 5.1.1 not at any time after the effective date to cause or allow the occupation of any Milcot unit after that unit has been vacated by a unit occupier by reason of relocation to the red land

5.2. The First Applicant and Second Applicant jointly and individually agree with the Local Planning Authority:

5.2.1. to demolish all and any buildings on the blue land (other than those shown to be retained on plans approved by the Local Planning Authority for the Milcot development) within a period of three years and three months from the effective date

6. Provisions relating to the green land (Neptown)

- 6.1. The First Applicant agrees with the Local Planning Authority:
- 6.1.1. not to use cause or allow to be used the green land
 - 6.1.1.1. at any time after the end of the period of three years from the commencement date other than for a funeral director's business or for residential purposes
 - 6.1.1.2. as to the whole at any time after the vacation of the green land by the First Applicant other than for residential purposes
 - 6.1.2. not to surrender assign forfeit or cause to be forfeited the lease dated 29th February 1984 and made between (1) Mabel Gander (2) the First Applicant and (3) Peter Stirling Gander Eric John Wells Rex McDougall and Richard Edgar Skilton as surety in respect of the green land or part with possession of the whole or part of the green land
 - 6.1.3. to use its best endeavours
 - 6.1.3.1. to renew the lease referred to in 6.1.2 upon essentially similar terms but reflecting the user restrictions set out in 6.1.1.1 and
 - 6.1.3.2. to use its best endeavours to ensure that after 28th February 2005 the green land shall be used for no purpose other than for a funeral director's business or for residential purposes

7. Provisions relating to the yellow land (land at the rear of the red land)

- 7.1. The First Applicant the Second Applicant and the Second Owner jointly and individually agree with the Local Planning Authority:
- 7.1.1. that the yellow land shall not be used other than for an authorised purpose and
 - 7.1.2. that for the period from the effective date until a date 25 years after the commencement date or 1st June 1992 (whichever shall be the later) the yellow land shall not be occupied by other than qualifying persons or first second or third alternate qualifying persons on the basis set out in 4.1.6 4.1.8 and 4.1.9 and

7.1.3. it shall be a condition of the occupation of the yellow land by such a qualifying person that he shall have ceased operating from his former premises unless the Local Planning Authority otherwise agrees in writing

8. Costs

- 8.1 THE First Applicant agrees with the Local Planning Authority to pay the legal costs which the Local Planning Authority incurs in preparing and entering into this agreement.

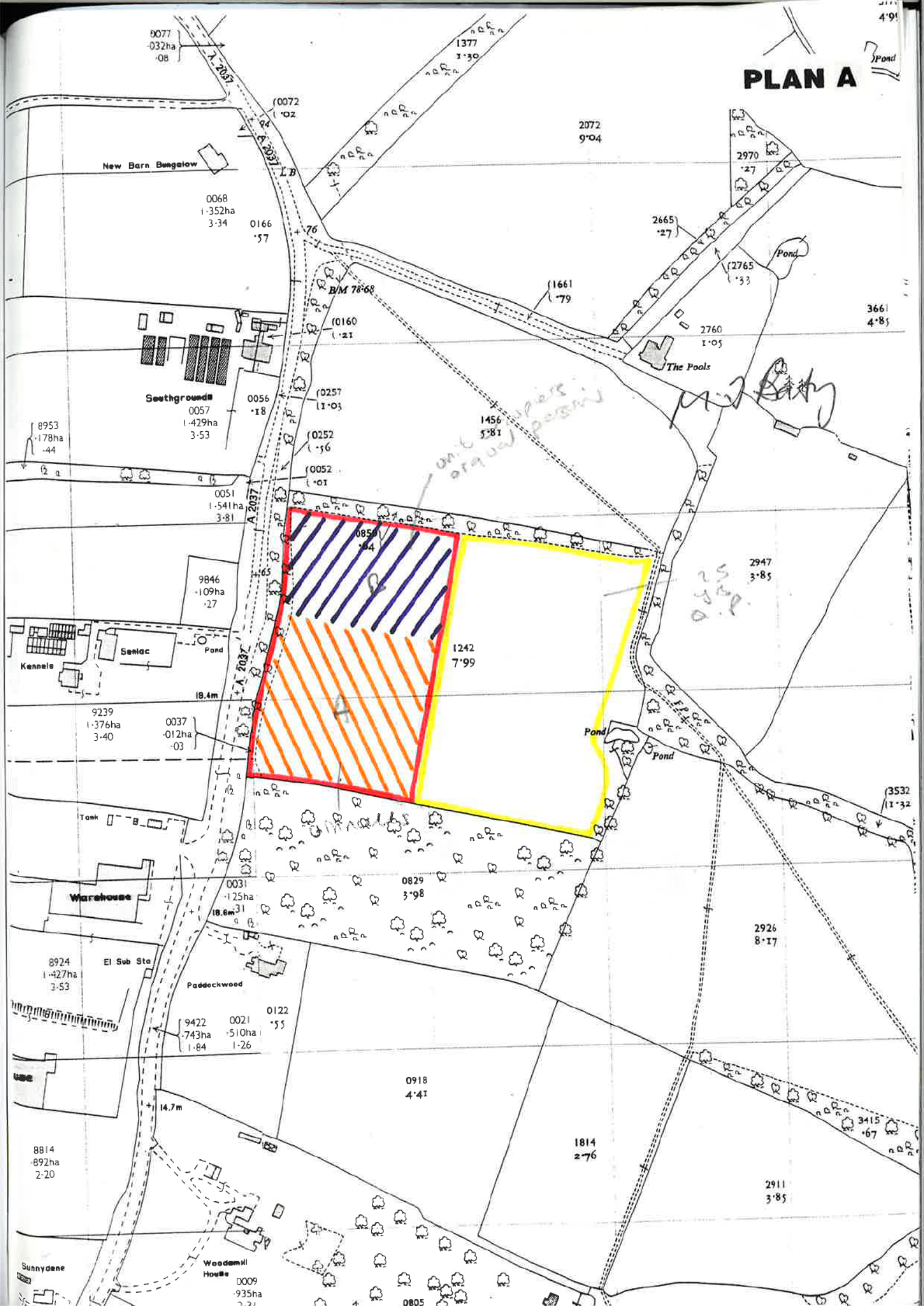
9. Consents

- 9.1 THE First Applicant consents to the unit occupiers' entering into this agreement
- 9.2 The Second Applicant confirms that the appropriate order and certificate have been made and given as required by entry number 2 on the proprietorship register of title number WSX124450 in respect of the blue land
- 9.3 The First Applicant warrants that the First Applicant has the unfettered power to enter into this agreement or has obtained all necessary consents to enable it to do so

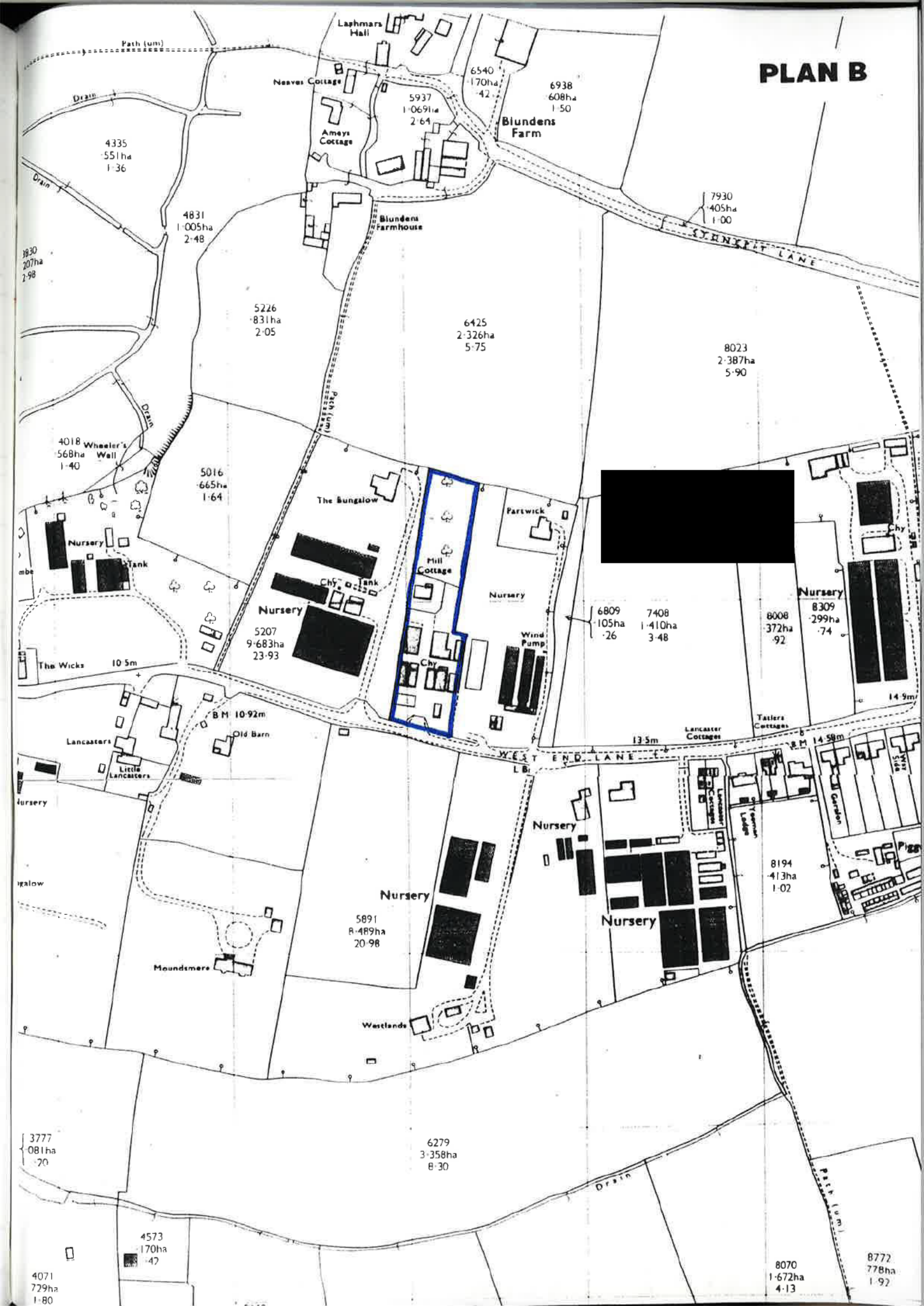
10. Further Agreement

- 10.1 THE parties agree:
- 10.1.1 nothing in this agreement constitutes planning permission
- 10.1.2 nothing in this agreement fetters or restricts the exercise by Horsham District Council of any of its powers
- 10.1.3 nothing in this agreement affects the operation of section 84 of the Law of Property Act 1925
- 10.1.4 this agreement is deemed to be made with and on behalf of the parties' successors in title and binds each parcel of land and each and every part of it
- 10.1.5 this agreement constitutes a deed
- 10.1.6 the obligations contained in 4 to 9 (inclusive) are planning obligations for the purposes of Section 106 of the Town and Country Planning Act 1990

3 Pond



Path (cm)



PLAN C

45

Rose
Mount

Byways

El Sub Sta

59

Cliff

Builder's
Yard

+ 38.3m

Ivybank

West View

House

Orchard

Camass House

Fern
Cottage

The Twitter

Mooltan Cottage

Jennisons

Don Panique
Mou

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Grier

Cutlers Crof

NEP CLOSE

BM

37.49m

6

9

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(1) SEALED with the Corporate
Seal of R Vinall (Henfield) Ltd.

in the presence of)
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Director)
)
Secretary)

(2) SIGNED by Peter Stirling Gander)
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in the presence of:)

SIGNED by Eric John Wells)
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in the presence of:)

SIGNED by Rex McDougall)
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in the presence of:)

SIGNED by Richard Edgar Skilton)
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in the presence of:)

(3) SIGNED by John Harry White)
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in the presence of:)

(4) SIGNED by David Edward Green)
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in the presence of:)

(5) SIGNED by Philip Michael Harris))
in the presence of:)

(6) SIGNED by Richard George)
Parsons)
in the presence of:)

(7) SIGNED by Alan Paul Wickenden)
in the presence of:)

(8) SIGNED by Mark Anthony Eamon)
Dowd)
in the presence of:)

(9) SIGNED by Johannes Nimwegan)
in the presence of:)

(10) SIGNED by Domenico Luis Mario)
Chiarini)
in the presence of:)

(11) SEALED with the Common Seal of)
HORSHAM DISTRICT COUNCIL in the)
presence of:)

DIRECTOR OF PLANNING & LAW



(1) SEALED with the Corporate
Seal of R Vinall (Henfield) Ltd.

in the presence of)

Director)

Secretary)



(2) SIGNED by Peter Stirling Gander)

in the presence of:)

SIGNED by Eric John Wells)

in the presence of:)

SIGNED by Rex McDougall)

in the presence of:)

SIGNED by Richard Edgar Skilton)

in the presence of:)

(3) SIGNED by John Harry White)

in the presence of:)

(4) SIGNED by David Edward Green)

in the presence of:)

(5) SIGNED by Philip Michael Harris)

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in the presence of:

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(6) SIGNED by Richard George

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Parsons

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in the presence of:

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(7) SIGNED by Alan Paul Wickenden)

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in the presence of:

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(8) SIGNED by Mark Anthony Eamon)

Dowd

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in the presence of:

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121, OAKDENE CRESCENT, PORTSCADGE
SUSSEX.

(9) SIGNED by Johannes Nimwegan)

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in the presence of:

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(10) SIGNED by Domenico Luis Mario)

Chiarini

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in the presence of:

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(11) SEALED with the Common Seal of)

HORSHAM DISTRICT COUNCIL in the)

presence of:

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(5) SIGNED by Philip Michael Harris))
in the presence of:)

(6) SIGNED by Richard George)
Parsons)
in the presence of:)

(7) SIGNED by Alan Paul Wickenden)
in the presence of:)

(8) SIGNED by Mark Anthony Eamon)
Dowd)
in the presence of:)

(9) SIGNED by Johannes Nimwegan)
in the presence of:)

(10) SIGNED by Domenico Luis Mario)
Chiarini)
in the presence of:)

(11) SEALED with the Common Seal of)
HORSHAM DISTRICT COUNCIL in the)
presence of:)

13 NARDEEN CLOSE
WOODINGDEAN
BRIGHTON

(5) SIGNED by Philip Michael Harris)

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in the presence of:)

(6) SIGNED by Richard George)

Parsons)

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in the presence of:)

(7) SIGNED by Alan Paul Wickenden)

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in the presence of:)

(8) SIGNED by Mark Anthony Eamon)

Dowd)

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in the presence of:)

(9) SIGNED by Johannes Nimwegan)

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in the presence of:)

(10) SIGNED by Domenico Luis Mario)

Chiarini)

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in the presence of:)

(11) SEALED with the Common Seal of)

HORSHAM DISTRICT COUNCIL in the)

presence of:)

15 NALSON COURT
SHORHAM BUREH
W-SUSSEX

(5) SIGNED by Philip Michael Harris))

in the presence of:)

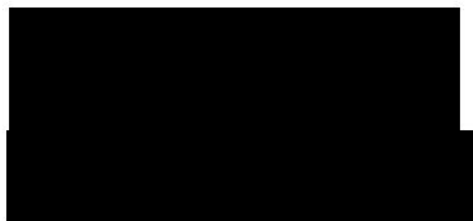
(6) SIGNED by Richard George)

Parsons)

in the presence of:)

(7) SIGNED by Alan Paul Wickenden)

in the presence of:)



2 Gresham Place
Henfield, West Sussex.

(8) SIGNED by Mark Anthony Eamon)

Dowd)

in the presence of:)

(9) SIGNED by Johannes Nimwegan)

in the presence of:)

(10) SIGNED by Domenico Luis Mario)

Chiarini)

in the presence of:)

(11) SEALED with the Common Seal of)

HORSHAM DISTRICT COUNCIL in the)

presence of:)

(5) SIGNED by Philip Michael Harris)

in the presence of:

(6) SIGNED by Richard George
Parsons

in the presence of:

TORLEY FARM
WOODMANCOTE, HENFIELD.

(7) SIGNED by Alan Paul Wickenden

in the presence of:

(8) SIGNED by Mark Anthony Eamon
Dowd

in the presence of:

(9) SIGNED by Johannes Nimwegan

in the presence of:

(10) SIGNED by Domenico Luis Mario
Chiarini

in the presence of:

(11) SEALED with the Common Seal of)
HORSHAM DISTRICT COUNCIL in the
presence of:

(1) SEALED with the Corporate
Seal of R Vinall (Henfield) Ltd.

in the presence of)
)
Director)
)
Secretary)

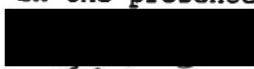
(2) SIGNED by Peter Stirling Gander)
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in the presence of:)

SIGNED by Eric John Wells)
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in the presence of:)

SIGNED by Rex McDougall)
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in the presence of:)

SIGNED by Richard Edgar Skilton)
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in the presence of:)

(3) SIGNED by John Harry White)
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in the presence of:)


John Harry White

(4) SIGNED by David Edward Green)
)
in the presence of:)

(1) SEALED with the Corporate
Seal of R Vinall (Henfield) Ltd.

in the presence of)
Director)
Secretary)

(2) SIGNED by Peter Stirling Gander) 

in the presence of: 

56 Staples Barn
Henfield
W. Sussex
SIGNED by Eric John Wells

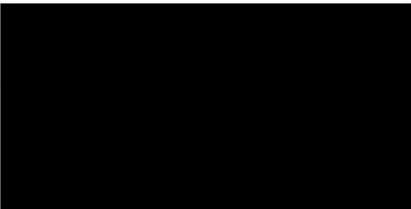
in the presence of: 

as above

SIGNED by Rex McDougall) 

in the presence of: 

as above

SIGNED by Richard Edgar Skilton) 

in the presence of: 

as above

(3) SIGNED by John Harry White)

in the presence of:)

(4) SIGNED by David Edward Green)

in the presence of:)