(1) **CHRISTOPHER EDWIN STEDMAN AND CAROLINE JANE STEDMAN**

(2) **ABINGWORTH VINEYARD LLP**

(3) **HORSHAM DISTRICT COUNCIL**

AGREEMENT

Pursuant to section 106 of the Town and Country Planning Act 1990 in respect of

Land at Champions Farm, Storrington Road, Thakeham, West Sussex RH20 3EF

Lauren Kelly – Head of Legal and Democratic Services
Horsham District Council
~~Parkside~~ Albery House
~~Chart Way~~ Springfield Road
~~Horsham~~ Horsham
~~West Sussex~~ West Sussex
~~RH12 1RL~~ RH12 2GB

[redacted]

Planning Ref: DC/24/0504 and DC/24/0505
Legal Ref: DSM/11956

THIS AGREEMENT is made as a deed and dated 10th March **2025**

Between:

(1) **CHRISTOPHER EDWIN STEDMAN** and **CAROLINE JANE STEDMAN** of Champions Farm, Storrington Road, Thakeham, Pulborough RH20 3EF (**"the First Owner"**);

(2) **ABINGWORTH VINEYARD LLP** (Company Registration No. OC439171) whose registered office address is: Amelia House, Crescent Road, Worthing, West Sussex BN11 1RL (**"the Second Owner"**); and

(3) **HORSHAM DISTRICT COUNCIL** of ~~Parkside, Chart Way, Horsham, West Sussex RH12 1RL~~ Albery House, Springfield Road, Horsham, West Sussex RH12 2GB (**"the Council"**).

together "the Parties"

1. BACKGROUND & RECITALS

Whereas

1.1 The Council is the local planning authority as defined in the Act for the area within which the Application and BNG Site is situated for the purposes of this Agreement and for the purposes of section 106 of the Act and as such is entitled to enforce the planning obligations contained herein.

1.2 On 1st November 2024 a Transfer of Whole of the Registered Title (TR1) was submitted to the Land Registry to transfer the registered title WSX255308 (excluding the driveway) from the First Owner to the Second Owner. The land will be registered at HM Land Registry under the new title number WSX450119 and the new title includes the majority of the Application and BNG Site. The TR1 application is currently pending registration at the Land Registry.

1.3 The Application and BNG Site also incorporates part of the original registered title number which will remain registered at HM Land Registry title number WSX255308.

1.4 Application 1 and Application 2 were both received by the Council on 2 April 2024 and validated on 2 July 2024.

1.5 Both Application 1 and Application 2 were submitted to the Council and are to be granted Planning Permission by the Council subject to the completion of this Agreement to secure the planning obligations herein.

1.6 The First Owner and the Second Owner are willing to enter into and be bound by the obligations and be subject to the restrictions in this Agreement on the terms set out herein.

1.7 The Parties are satisfied that the provisions of this Agreement comply with the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and, accordingly, that the planning obligations contained in this Agreement are necessary to make the Development acceptable in planning terms, are directly related to the Development and fairly and reasonably relate in scale and kind to the Development.

NOW THIS AGREEMENT WITNESSES as follows:

2. INTERPRETATION

In this Agreement:

2.1 Words importing the one gender include reference to all the genders.

2.2 Words importing the singular include the plural and vice versa.

2.3 Words importing persons include companies and corporations and vice versa.

2.4 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those.

2.5 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.

2.6 Any reference to a clause, schedule, paragraph or plan is to a clause, schedule, paragraph or plan in, to or attached to this Agreement, unless expressly stated otherwise.

2.7 Any reference to a colour or letter is to a colour or letter on the plans attached to this Agreement.

2.8 In the absence of contrary provision, any reference to a statute includes any statutory modification or re-enactment of it and every statutory instrument, direction, specification made or issued under the statute or deriving validity from it.

2.9 A reference to writing or written excludes fax and email.

2.10 An obligation on a party not to do something includes an obligation not to allow that thing to be done.

2.11 References to any party to this Agreement 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, the successors to their functions as local planning authority.

2.12 The headings are for reference only and shall not affect construction.

3. DEFINITIONS

It is hereby agreed between the Parties set out in this Agreement that the following expressions have the following meanings:

"2015 Order"	the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended);
"Act"	the Town and Country Planning Act 1990 (as amended);
"Application 1"	the application ascribed reference DC/24/0504 and described as erection of an extension to an existing agriculture winery barn;
"Application 2"	the application ascribed reference DC/24/0505 and described as the erection of a tractor shed;
"Application and BNG Site"	land at Champions Farm, Storrington Road, Thakeham, West Sussex RH20 3EF to which the Application relates and which will accommodate the Development's biodiversity net gain requirements which is shown for identification purposes on the Application and BNG Site Plan;
"Application and BNG Site Plan"	the plan entitled "HABITATS PLAN" and dated "DEC 24" and assigned drawing number 24523/P302 showing the location of the Application and BNG Site which is edged in red comprising Schedule 1 of this Agreement;
"Biodiversity Metric"	the statutory biodiversity accounting tool published by DEFRA or Natural England from time to time which can be used to measure the biodiversity value or relative biodiversity value of habitats or habitat enhancement for the purposes of BNG.
"Biodiversity Net Gain (BNG)"	an increase in biodiversity units resulting from implementing the HMMP (as measured using the Biodiversity Metric) that can be allocated to the Development to fulfil its requirement to create or enhance biodiversity pursuant to Schedule 7A of the 1990 Act.
"BNG Monitoring Contribution"	the sum of **£2,605 (two thousand six hundred and five pounds)** to be used to pay the Council's costs of monitoring compliance with the Biodiversity Net Gain Plan and Habitat Management and Maintenance

	Plan and approved by the Council to be paid by the First Owner and the Second Owner to the Council pursuant to Schedule 2 of this Agreement.
"Biodiversity Gain Plan"	the plan in the form (or substantially in the form) published by DEFRA attached at Schedule 4 of this Agreement, as may be updated from time to time, to be completed and submitted to the Council for approval in writing in accordance with Schedule 2 of this Agreement.
"Breach Notice"	a notice which may be served by the Council on the First Owner and the Second Owner pursuant to paragraph 3 of **Error! Reference source not found.** of this Deed;
"Certificate of Completion"	a written certificate of completion confirming that the Habitat Creation and Enhancement Works have been completed to the reasonable satisfaction of the Council on the Completion Date issued (or deemed to have been issued) by the Council under paragraph 2.6 of Schedule 2;
"Commencement Date"	the date on which Commencement of the Development occurs;
"Commencement Notice"	the written notice confirming the Commencement Date referred to in clause 7.1.1 and served in accordance with Clause 7.3;
"Commencement of Development"	the carrying out of a material operation as defined in section 56(4) of the Act in respect of the Development but excluding (for the purposes of this Agreement and for no other purpose) any operation relating to works of investigations in respect of land contamination or remedial action in respect thereof, enabling works, demolition, site clearance works, earthworks, archaeological investigations and digs, exploratory boreholes, operations permitted by the 2015 Order, the erection of hoardings and fencing, temporary diversion of services and signage (including the formation of temporary construction accesses) and "Commence Development" shall be construed accordingly;
"Completion Date"	the date specified in the Certificate of Completion as the date the Habitat Creation and Enhancement Works were completed;
"Completion Date Notice"	written notice from the First Owner and the Second Owner to the Council of the proposed Completion Date of the Habitat Creation and Enhancement Works served in accordance with paragraph 2.4 of Schedule 2;
"DEFRA"	the Department of the Environment Food and Rural Affairs or any successor body which carries out its functions;
"Development	the development of the Application pursuant to the Planning Permission;
"Habitat Creation and Enhancement Works"	the habitat creation and enhancement works set out in the Habitat Management and Monitoring Plan (excluding any management or monitoring activities specified in the Habitat Management and Monitoring Plan);
"Habitat Management and Monitoring Plan (HMMP)"	the document titled 'Habitat Management and Monitoring Plan' to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan prepared in accordance with the approved Biodiversity Gain Plan and including: a) a non-technical summary; b) the roles and responsibilities of the people or organisation(s) delivering the [HMMP]; c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan

	d) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from Practical Completion; and e) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority;
"Monitoring Report"	the monitoring reports to be issued to the Council as specified in the Habitat Management and Monitoring Plan and to be submitted at a minimum of 1 (one), 2 (two), 5 (five), 10 (ten), 15 (fifteen), 20 (twenty), 25 (twenty five) and 30 (thirty) years following the first Occupation of the development;
"Occupation"	occupation of the Development for any purpose for which the Planning Permission is granted other than occupation for the purposes of construction or fitting out or occupation for security, marketing or display and "Occupy" and "Occupied" shall be construed accordingly;
"Occupation Notice"	the written notice confirming the Occupation Date referred to in Clause 7.1.2 and served in accordance with Clause 7.3;
"Natural England"	the public body known as Natural England which acts as the government's advisor for the natural environment in England or any successor body appointed to carry out its functions;
"Planning Permission"	the planning permission to be granted by the Council pursuant to the Application;
"Practical Completion"	in relation to the Development practically complete save for minor snagging items such that it is reasonably fit for occupation or use and the words "Practical Completion" and "Practically Complete" shall be construed accordingly;
"Section 73 Consent"	any planning permission granted pursuant to section 73 of the Act which varies and/or removes any condition subject to which the Planning Permission and/or such planning permission pursuant to section 73 of the Act was granted;
"Working Day"	Monday to Friday inclusive but excluding any day that is a bank holiday, public holiday or statutory holiday in England.

4. ENABLING PROVISIONS

4.1 This Agreement is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.

5. CONDITIONS PRECEDENT

5.1 This Agreement shall come into effect upon the date hereof, but the provisions of Schedule 2 of this Agreement, with the exception of paragraph 1 and its sub-paragraphs regarding payment of the BNG Site Monitoring Contribution shall only take effect upon the Commencement of Development.

6. COVENANTS

6.1 Subject to clause 5.1:

6.1.1 The First Owner and the Second Owner covenants with the Council to fully comply with and to perform the obligations contained herein and in Schedule 2 of this Agreement in accordance with the requirements and timescales set out;

6.1.2 The First Owner and the Second Owner covenants with the Council that the Development and use of the Application and BNG Site shall be in strict accordance with this Agreement;

7. NOTICES

7.1 The First Owner and the Second Owner covenant with the Council as follows:

7.1.1 to give the Commencement Notice to the Council not less than 14 (fourteen) days before the anticipated Commencement Date; and

7.1.2 to give the Occupation Notice to the Council not less than 14 (fourteen) days before the anticipated Occupation Date.

7.2 The Parties to this Agreement agree that if the First Owner and the Second Owner fails to give the notice required by clause 7.1.1 and clause 7.1.2 above then the Council shall be entitled in its absolute discretion to determine the Commencement Date and Occupation Date and shall give notice to the First Owner and the Second Owner of the Council's determination.

7.3 Any notice, certificate or other communication required or permitted to be given under this Agreement shall be given in writing to the relevant party at the relevant address referred to at the start of this Agreement or such other address as may be notified in writing to the other party and must be served personally or by first class registered or first class recorded delivery post and, in the case of the Council, the relevant party shall address any notice to the Head of Legal and Democratic Services of the Council.

7.4 Any notice, certificate or other communication sent by post shall be deemed (in the absence of evidence of receipt) to have been delivered 2 (two) Working Days after despatch and in proving the fact of despatch it shall be sufficient to show that the envelope was properly addressed and posted.

7.5 Any notice, certificate or other communication delivered personally shall be deemed to have been delivered at the time it is received provided it is received between 0900hrs and 1700hrs on a Working Day but otherwise it shall be deemed to have been received on the next Working Day.

8. COSTS

8.1 The First Owner and the Second Owner has undertaken to pay on or before the date hereof the Council's reasonable legal costs incurred in preparing and entering into this Agreement

9. MORTGAGEE'S LIABILITY

9.1 Any future mortgagee shall not be liable for any breach of the obligations in this Agreement unless committed or continuing at a time when it is in possession of all or any part of the Application and BNG Site in which case it will be bound by the obligations in this Agreement as if it were a person deriving title from the First Owner and the Second Owner.

10. GENERAL

The Parties undertake that:

10.1 this Agreement constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.

10.2 this Agreement constitutes a deed.

10.3 this Agreement is enforceable by the Council in accordance with section 106 of the Act.

10.4 nothing in this Agreement confers or is intended to confer a benefit on a third party under the Contracts (Rights of Third Parties) Act 1999.

10.5 It is hereby agreed by the First Owner and the Second Owner that failure by the Council at any time to enforce the provisions of this Agreement or to require performance strictly or otherwise by the First Owner and the Second Owner of any of the conditions, covenants, agreements or obligations of this Agreement or any failure or delay by the Council to exercise any act, right or remedy shall not be construed as

a creating an estoppel in connection with any such condition, covenant, agreement or obligation and shall not affect the validity of this Agreement or any part thereof or the right of the Council to enforce any provision and any variation of this Agreement shall not vitiate the remainder of the Agreement which shall remain in full force and effect subject to such amendment or amendments.

10.6 The First Owner and the Second Owner hereby undertakes that:

10.6.1 this Agreement supersedes and replaces all previous negotiations whether oral or written;

10.6.2 the First Owner and the Second Owner has not relied on any express or implied statement warranty representation or undertaking given by or on behalf of the Council; and

10.6.3 nothing herein contained excludes the liability of any party in relation to fraud.

10.7 The First Owner and the Second Owner acknowledges that this Agreement will be registered as a local land charge.

10.8 The First Owner and the Second Owner hereby gives consent for the Application and the BNG Plan to be reproduced by the Council.

10.9 If any provision in this Agreement shall be held to be invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions hereof shall not in any way be deemed thereby to be affected or impaired.

10.10 This Agreement shall be governed by and interpreted in accordance with laws of England and the Parties submit to the exclusive jurisdiction of the courts of England.

10.11 The obligations in this Agreement (with the exception of clause 8 (Costs)) shall cease to have effect (insofar only as it has not already been complied with) if, before the Commencement of Development, the Planning Permission:

10.11.1 expires;

10.11.2 is varied or revoked other than at the request of the First Owner and the Second Owner; or

10.11.3 is quashed following a successful legal challenge.

but will remain in full force and effect so far as any subsisting Section 73 Consent is concerned.

10.12 The First Owner and the Second Owner (or any person deriving title to the Application and BNG Site from the First Owner or the Second Owner) shall not be liable for any breach of the restrictions and obligations set out in this Agreement where such breach arises after the First Owner and the Second Owner or such person deriving title has parted with their interest in the Application and BNG Site or part thereof to which such breach relates save in respect of liability for antecedent breach of this Agreement.

10.13 Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 applies to the covenants in this Agreement.

10.14 References to the Application and BNG Site include any part of it.

10.15 Any covenant by the First Owner and the Second Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing.

10.16 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 any modification variation or amendment thereof) granted after the date of the Planning Permission.

10.17 Subject to the proviso to this clause if any Section 73 Consent is granted after the date of this Agreement:

10.17.1 the obligations in this Agreement shall relate to and bind such Section 73 Consent;

10.17.2 the definitions of the Application, Development, Planning Permission (other than for the purposes of clause 1) shall be construed to include reference to (respectively) the planning application for the Section 73 Consent, the

development permitted by the Section 73 Consent and the Section 73 Consent itself; and

10.17.3 nothing in this clause shall fetter the discretion of the Council in determining any planning application for a Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same;

PROVIDED THAT:

10.17.4 to the extent that any of the obligations in this Agreement have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent; and

10.17.5 the Council reserves the right to insist upon the completion of a separate planning obligation by deed of agreement in connection with any Section 73 Consent if the Council (acting reasonably) considers it desirable to do so.

10.18 Except for the planning obligations contained in this Agreement specifically regulating the use of land or buildings after construction pursuant to the provisions of this Agreement or the Planning Permission pursuant to the Application or the planning obligations that relate to the Application, no obligations contained in this Agreement shall be binding on any freehold or leasehold owners or occupiers of individual dwellings constructed pursuant to the Planning Permission (or their respective mortgagees) or land held by any of the statutory utilities for their operational purposes.

11. DISPUTE RESOLUTION

11.1 Should a dispute or difference arise between the First Owner and the Second Owner and the Council concerning anything herein then the provisions of this clause 11 shall apply.

11.2 All differences and disputes which may arise between the Parties concerning this Agreement shall 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 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.

11.3 Any expert appointed pursuant to clause 11.2 shall:

11.3.1 on his appointment serve written notice thereof on the parties in dispute;

11.3.2 consider any written representations by or on behalf of those parties which are received by him within 20 (twenty) Working Days of such service and immediately forward a copy of the written representation of one party to the other party;

11.3.3 allow the parties to the dispute an opportunity of commenting in writing on the other party's representations within 20 (twenty) working days of receipt by the other party thereof;

11.3.4 have an unfettered discretion to determine the reference to him;

11.3.5 serve notice of his determination as soon as he has made it;

11.3.6 give full and clear reasons for his decision; and

11.3.7 be paid his proper fee and expenses in connection with such reference by the parties in dispute in equal shares or in such shares as he may determine and his 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 any of the parties in dispute shall serve on him written notice in their opinion he has unreasonably delayed making his determination he shall be ipso facto discharged and be entitled only to his reasonable expenses prior to such discharge and another person shall be appointed in his place as such expert.

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

12. OWNERSHIP

12.1 The First Owner and the Second Owner warrants that no person other than the First Owner and the Second Owner has any legal or equitable interest in that part of the Application and BNG Site.

12.2 The First Owner and the Second Owner undertakes to the Council to give the Council immediate written notice of any change in the ownership of any of their respective interests in the Application Site or the BNG Site occurring before all the obligations under this Agreement 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 Application and BNG Site purchased by reference to a plan.

IN WITNESS whereof this Agreement has been duly executed the day and year first hereinbefore mentioned

SIGNED as a **DEED** by
CHRISTOPHER EDWIN STEDMAN
[redacted] .. Signature

In the presence of:

[redacted]

W ..... Signature
I ...DOMINIC TRAVERS..... Print name
T ...MOLE END..... Address 1
N ...NEW DOWNE..... Address 2
E ..... Address 3
S ...RH2 0 ZHE..... Post code
S ...MANAGER..... Occupation

SIGNED as a **DEED** by
CAROLINE JANE STEDMAN

[redacted] ... Signature

In the presence of:

W [redacted] ..... Signature
I Dominic Travers ..... Print name
T Mole End ..... Address 1
N Nutbourne ..... Address 2
E ..... Address 3
S RH20 2HE ..... Post code
S Manager ..... Occupation

Executed as a **DEED** by **ABINGWORTH VINEYARD LLP**
acting by

..... Director
Print name

..... Director / Secretary
Print name

OR

[redacted] Director

C E Stedman ..... Print name

In the presence of:

W [redacted] ..... Signature
I Dominic Travers ..... Print name
T Mole End ..... Address 1
N Nutbourne ..... Address 2
E ..... Address 3
S RH20 2HE ..... Post code
S Manager ..... Occupation

1800S x 3

SEALED WITH THE COMMON SEAL of
HORSHAM DISTRICT COUNCIL
in the presence of:

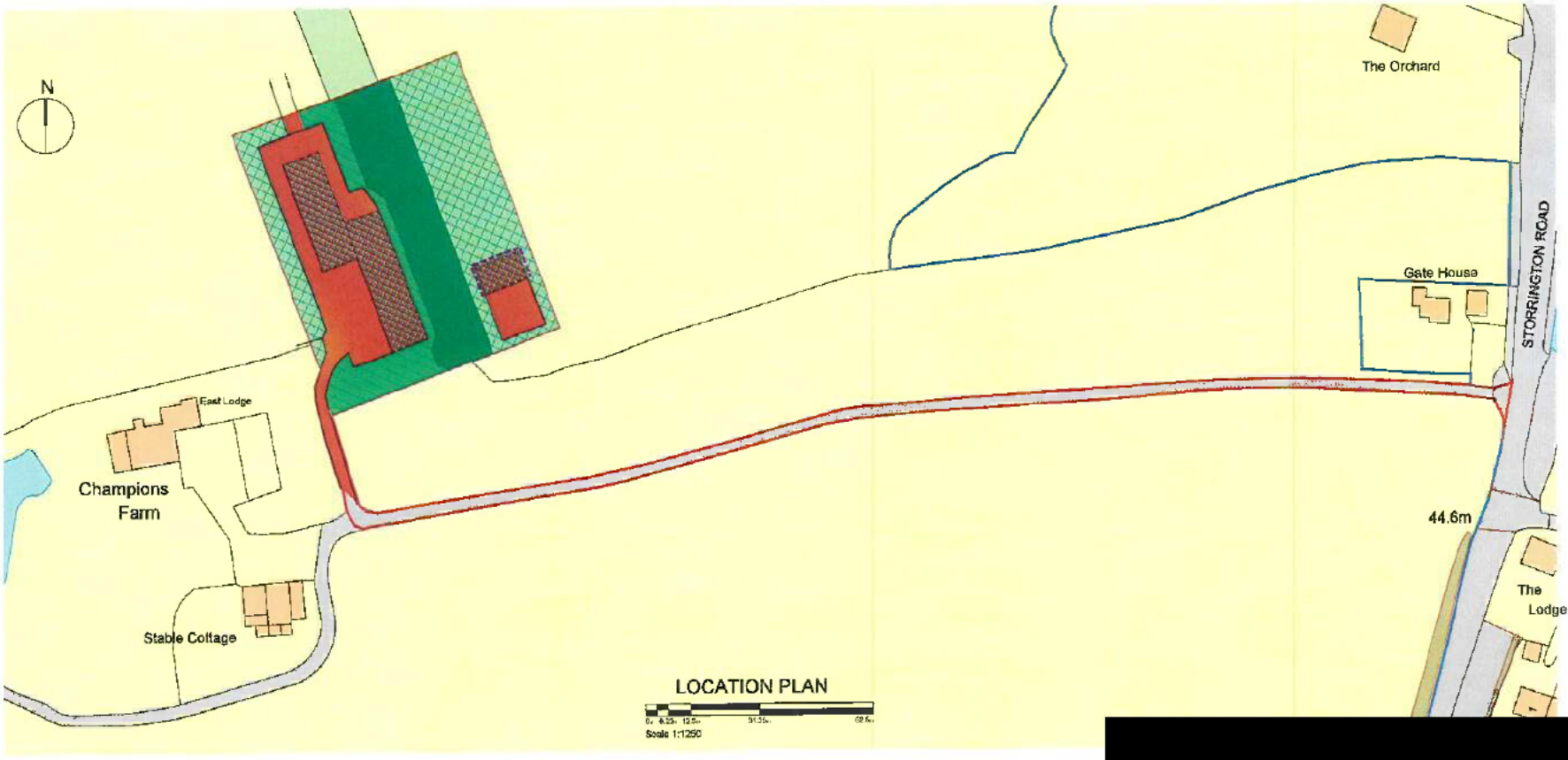
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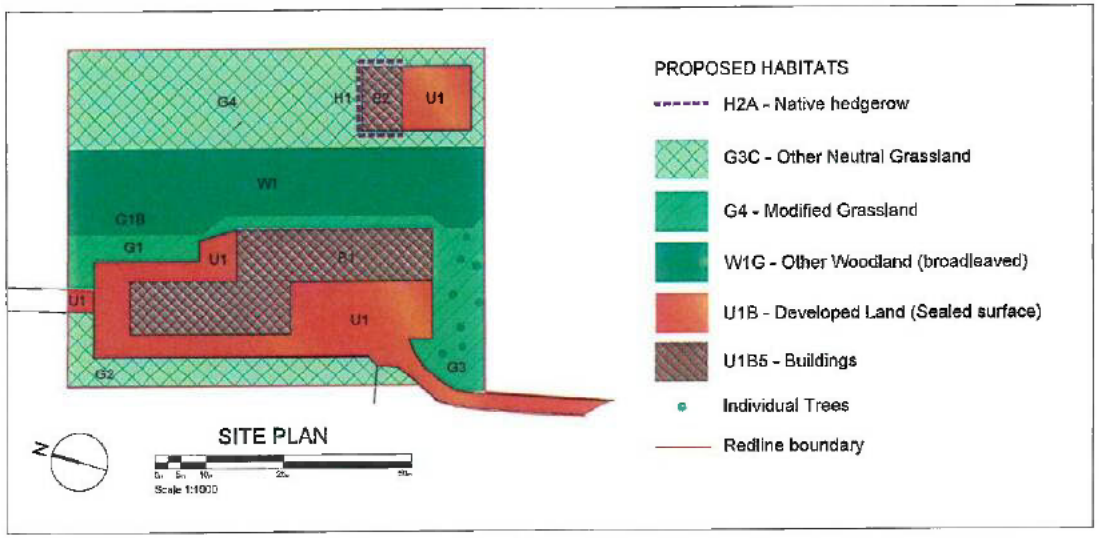
Authorised Officer



Schedule 1

1. **Application and BNG Site Plan**





[redacted]

mark alford design architecture
Heatherlands Bracken Lane Storrington West Sussex RH20 3HS
T: 01903 740033 E: office@markalforddesign.com

client: ABINGWORTH VINEYARD
project title: ABINGWORTH VINEYARD, THAKEHAM
PROPOSED WINERY AND TRACTOR SHED
drawing title: HABITATS PLAN

drawn by: MBA date: DEC 24 scale: 1:500 / 1:1250 @ A3
issue status: FOR PLANNING APPROVALS
drawing number: 24523 / P302 revision:

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Schedule 2

The First Owner and the Second Owner's Covenants to the Council in relation to the Application and BNG Site

With the intention of binding the Application and BNG Site, and for the purpose of allowing Development to be delivered, the First Owner and the Second Owner covenants with the Council as follows:

1. Monitoring Contributions

1.1. To pay the BNG Monitoring Contribution in full to the Council within 10 (ten) Working Days of the Commencement Date.

2. Biodiversity Gain Plan and HMMP

2.1. To submit the Biodiversity Gain Plan and the HMMP to the Council for its approval in writing prior to the Commencement of Development;

2.2. Not to Commence Development until the Biodiversity Gain Plan and the HMMP have been approved in writing by the Council;

2.3. Not to Occupy the Development until the Habitat Creation and Enhancement Works set out within the HMMP have been completed in full and the Council has issued a Certificate of Completion;

2.4. To issue the Completion Date Notice to the Council within 10 (ten) Working Days of the completion date of the Habitat Creation and Enhancement Works;

2.5. To rectify promptly any defects in the Habitat Creation and Enhancement Works identified by the Council and issue a subsequent Completion Date Notice and thereafter to continue to rectify any defects and issue Completion Date Notices until the Council issues a Certificate of Completion;

2.6. To ensure that the Habitat Creation and Enhancement Works set out in the HMMP are retained and maintained from the Completion Date until the 30th anniversary of the date of issue of the Certificate of Completion or Practical Completion of the Development whichever occurs later;

2.7. To provide a Monitoring Report to the Council within 20 (twenty) Working Days of each Monitoring Report date specified in the Habitat Management and Monitoring Plan;

2.8. To notify the Council of any requested amendment to the Habitat Management and Monitoring Plan, such notice to include:

2.8.1. the proposed amended HMMP;

2.8.2. a statement of reasons for such amendment; and

2.8.3. confirmation (with reasons) that the amendment would not prejudice:

2.8.3.1. the use or management of the Application and BNG Site in a manner consistent with its function to deliver Biodiversity Net Gain; and

2.8.3.2. the continued functioning of the Application and BNG Site for BNG or any existing Allocation.

3. Access for Inspection

3.1. From the Commencement Date and without charge, to allow the Council, its agents, and/ or contractors, with or without workmen and/ or equipment to:

3.1.1. enter onto the part of the Application and BNG Site necessary for monitoring compliance with:

3.1.1.1. the obligations in this Deed;

3.1.1.2. any Breach Notice; and

3.1.2. pass and repass across any land in the First Owner and the Second Owner's control necessary for gaining access to the Application and BNG Site in accordance with paragraph 3.1.1.

4. Breach Notice and Step-In Rights

4.1. To notify the Council within 20 Working Days of service of a Breach Notice whether the First Owner and the Second Owner accepts or disputes the notice;

4.2. Where a Breach Notice is disputed, (or remedial steps are not agreed in accordance with sub-paragraph 4.3):

4.2.1. to include a reasoned response in the notice under paragraph 4.1 and

4.2.2. to request, within 10 Working Days of any time limit in the Breach Notice (or other extended timeframe as agreed with the Council in writing), should the matter be referred for determination by an Expert;

4.3. Where a Breach Notice is accepted (or the Expert has determined that it is valid):

4.3.1. to comply with the requirements of the Breach Notice within the time limits specified (or other extended timeframe as agreed with the Council in writing);

4.3.2. to use reasonable endeavours to agree the following with the Council within 20 Working Days of notifying the Council that it accepts the Breach Notice:

4.3.2.1. the steps required to remedy the breach; and

4.3.2.2. any remedial works (if applicable);

4.3.2.3. to remedy the breach within the time period specified in the Breach Notice (or such other period as may be agreed with the Council in accordance with the details agreed under sub-paragraphs 4.3.2.1 and 4.3.2.2.

4.4. To comply with any requirements imposed in connection with a Breach Notice by the Expert within the time limits specified in the Expert's determination.

4.5. Where the First Owner and the Second Owner has failed to comply with a time limit of the Breach Notice or Expert's determination in respect of a Breach Notice, to allow the Council, its agents, and contractors with or without workmen and/ or equipment to enter:

4.5.1. any part of the Application and BNG Site that is necessary for the carrying out the steps set out in the Breach Notice; and

4.5.2. any other land in the First Owner and the Second Owner 's control necessary to access the Application and BNG Site,

PROVIDED THAT reasonable advance notice is given in accordance with paragraph 3 of this Ole 3 to carry out works reasonably necessary to comply with the requirement of the Breach Notice or the Expert's determination, as applicable.

4.6. To pay the Council a sum equivalent to its reasonably and properly incurred costs in exercising its step in rights and carrying out the relevant works pursuant to paragraph 4.5 (including its sub paragraphs) within 20 Working Days of the date of a notice requesting payment (such notice to include a breakdown of such costs).

4.7. In default of payment of a sum falling due to the Council in whole or in part pursuant to paragraph 4.6 of this Schedule, the Council shall be entitled to recoup its costs from the First Owner and the Second Owner or its successors in title and may secure the same by registering a charge or restriction on the title of the Application and BNG Site at HM Land Registry.

5. Restriction on alienation of any part of the Application and BNG Site

5.1. Not to sell, lease, assign, underlet, transfer or otherwise part with its interest in the Application and BNG site, or any part of it, without first providing a surety, performance bond or similar (to be agreed with the Council) to guarantee the cost of carrying out the BNG obligations secured by this Agreement to include any legal or administration costs associated with the carrying out of those obligations pursuant to a Breach Notice by or on behalf of the Council.

5.2. To consent to the entering of the following restriction on the transferee's title to the Application and BNG Site at HM Land Registry following the registration of the transfer and shall provide the transferor with all necessary assistance and/or documentation to permit entry of the restriction:

"No disposition of the registered estate (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by the proprietor for the time being of the estate registered under titled number [ ] or their conveyancer that the provisions of clause XX of [Details of the Transfer] have been complied with".

Schedule 3

The Council's Covenants

The Council covenants with First Owner and the Second Owner as follows:

1. Habitat Management and Monitoring Contribution

1.1. To use the BNG Monitoring Contribution for its intended purpose and not for any other purpose.

2. Right of Access

2.1. To give not less than 5 (five) Working Days' notice to the First Owner and the Second Owner of its intention to access the parts of the Application and BNG Site necessary for the purposes of inspection pursuant to paragraph 3 of Schedule 2 of this Deed to ascertain the First Owner and the Second Owner's compliance with its covenants under this Deed or a Breach Notice.

3. Breach Notice and Step-in Rights

3.1. Where it considers that the First Owner and the Second Owner is not complying with its obligations under this Deed, and intends to take steps to remedy the breach, to first notify the First Owner and the Second Owner:

3.1.1. the reasons for alleging non-compliance;

3.1.2. the steps it proposes the First Owner and the Second Owner should take to remedy any breach or non-compliance, and

3.1.3. the reasonable time limits for the First Owner and the Second Owner to take these steps.

3.2. Where it serves a Breach Notice (or the Expert determines that the First Owner and the Second Owner should take any steps within a specified time limit), it may notify the First Owner and the Second Owner of any extension of time specified in the Breach Notice or Expert's determination, as it considers appropriate (at its absolute discretion).

3.3. Where the First Owner and the Second Owner does not comply with the time limits specified in the Breach Notice (or as otherwise agreed) or the Expert's determination, undertake the requirements imposed on the First Owner and the Second Owner as set out in the Breach Notice or Expert's determination provided that the Council:

3.3.1. provides reasonable notice that it, its agents, and contractors with or without workmen and equipment will enter the Application and BNG Site and/or land in the First Owner and the Second Owner's control to access the Application and BNG Site;

3.3.2. ensures minimal damage and inconvenience to the First Owner and the Second Owner;

3.3.3. promptly repairs any damage caused by exercising the step-in rights under this paragraph; and

3.3.4. issues to the First Owner and the Second Owner a full breakdown of the time spent and costs incurred in exercising its step-in rights under this paragraph.

Schedule 4

DEFRA Biodiversity Gain Plan template

Department
for Environment
Food & Rural Affairs

Biodiversity gain plan

Submit a biodiversity gain plan to show how your development will achieve biodiversity net gain.

When to use this form

A biodiversity gain plan shows how a development will achieve 10% biodiversity net gain (BNG). Submit this form to your local planning authority after they approve your planning application.

Unless your development is exempt, you cannot start the development until the LPA approves your biodiversity gain plan and biodiversity metric calculation tool.

1. Submission details

1.1 Date
For example, 3/11/2023

1.2 Planning application reference number

1.3 Local planning authority (LPA)

1.4 Development site address
If the site does not have an address, enter the OS grid reference.

1.5 Describe the development
Tell us about the proposed development and any changes of use (250 words).

2. Developer details

2.1 Applicant name

2.2 Company name

2.3 Address

2.4 Email address

2.5 Telephone number

2.6 Declaration
By signing this declaration, you confirm that the information you give is complete and correct. Any opinions are your genuine opinions.

2.7 Signature

2.8 Date

3. Responsible person details

Tell us about who is responsible for completing the biodiversity gain plan. For example, a consultancy ecologist or planning agent.

3.1 Name

3.2 Company name

3.3 Address

3.4 Email address

3.5 Telephone number

3.6 Declaration
By signing this declaration, you confirm that the information you give is complete and correct. Any opinions are your genuine opinions.

3.7 Signature

3.8 Date

4. Biodiversity net gain strategy

4.1 Is the relevant date for the pre-development biodiversity value the same date as the planning application?
☐ Yes
☐ No

4.2 If no, what earlier date did you agree with the LPA?

4.3 How have you met the guidance on 'what counts towards your BNG'?
Find out what you can count towards a development's BNG

4.4 How will you avoid or minimise impacts to habitats?
Tell us about the steps you've taken on site, including to avoid or minimise the impact on irreplaceable habitats.

4.5 Did you use your local nature recovery strategy to inform the strategic significance of habitats?
This includes other specified strategies if you do not have a local nature recovery strategy.
☐ Yes
☐ No

4.6 How will you achieve the target net gain percentage?
☐ On-site
☐ Off-site
☐ Both

4.7 Are any of your on-site enhancements considered 'significant'?
Find out what counts as a significant on-site enhancement.
☐ Yes
☐ No

4.8 If yes, tell us about the significant on-site enhancements
Include the appropriate planning condition or how you've secured the habitat.

4.9 How many off-site biodiversity units do you need to meet 10% net gain?

4.10 Explain why you're using off-site biodiversity units
Only answer this question if you're planning to use off-site biodiversity units (250 words).

4.11 Explain why you're planning to use statutory biodiversity credits
Only answer this question if you're planning to use statutory biodiversity credits (250 words).

4.12 Do you have a habitat management and monitoring plan?
☐ Yes
☐ No

4.13 Have you used the statutory biodiversity metric tool?
☐ Yes
☐ No

4.14 Biodiversity metric calculation
Send your biodiversity metric calculation to the LPA and enter the file name.

4.15 Condition assessments
Send your condition assessments to the LPA and enter the file name.

4.16 Pre-development habitat survey report and map
Send your baseline habitat survey report and map to the LPA. Enter the file name.

4.17 Post-development habitat map or landscape plan
Send your post-development habitat survey report and map to the LPA. Enter the file name.

4.18 Have you included an approved habitat degradation in the baseline?
If yes, include the relevant consenting body and reference number.

☐ Yes
☐ No

Consenting body

Reference number

5. Irreplaceable habitats

5.1 Does the development impact any irreplaceable habitats?
If yes, tell us if you've submitted an approved compensation plan.

☐ Yes
☐ No

5.2 Have you submitted an approved compensation plan?

☐ Yes
☐ No

6. On-site habitat enhancements

Answer this section if your development includes on-site habitat enhancements.

6.1 Survey date
For example, 3/11/2023

6.2 Survey constraints
For example, access issues, weather, or seasonal constraints.

6.3 Total pre-development biodiversity value
Enter the number from the headline results in your statutory biodiversity metric calculation.

Number of area habitat biodiversity units

Number of hedgerow biodiversity units

Number of watercourse biodiversity units

6.4 Total post-development biodiversity value
Enter the number from the headline results in your statutory biodiversity metric calculation.

Number of area habitat biodiversity units

Number of hedgerow biodiversity units

Number of watercourse biodiversity units

6.5 Total net change in biodiversity units
Enter the number from the headline results in your statutory biodiversity metric calculation.

Area habitat biodiversity units

Area habitat biodiversity units % change

Hedgerow biodiversity units

Hedgerow biodiversity units % change

Watercourse biodiversity units

Watercourse biodiversity units % change

6.6 Will you register and allocate any biodiversity units from your site to other developments?
If yes or provisionally, give details.
☐ Yes
☐ No

6.7 Give details
Tell us about the amount of biodiversity units and the development location (250 words).

7. Off-site habitat enhancements

Answer this section if your development includes off-site habitat enhancements.

7.1 Tell us about the off-site habitat enhancements
Include whether you're delivering the off-site enhancements or buying biodiversity units.

7.2 Biodiversity gain site register reference number

7.3 How have you secured the off-site habitat enhancements?
Tell us about any responsible bodies and whether you've used an S106 or conservation covenant.

7.4 Total baseline biodiversity value
Enter the number from the headline results in your statutory biodiversity metric calculation.

Number of area habitat biodiversity units

Number of hedgerow biodiversity units

Number of watercourse biodiversity units

7.5 Total biodiversity value post-intervention
Enter the number from the headline results in your statutory biodiversity metric calculation.

Number of area habitat biodiversity units

Number of hedgerow biodiversity units

Number of watercourse biodiversity units

7.6 Total net change in biodiversity units
Enter the number from the headline results in your statutory biodiversity metric calculation.

Area habitat biodiversity units

Area habitat biodiversity units % change

Hedgerow biodiversity units

Hedgerow biodiversity units % change

Watercourse biodiversity units

Watercourse biodiversity units % change

8. Statutory biodiversity credits

Answer this section if you need to use statutory biodiversity credits.

8.1 Do you need to use statutory biodiversity credits?

☐ Yes
☐ No

8.2 How many statutory biodiversity credits do you need?

Tell us the unit shortfall by tier, including the spatial risk multiplier. Enter the number from the headline results in your statutory biodiversity metric calculation.

A1

A2

A3

A4

A5

H

W

8.3 What evidence is there that no units are available through the market?

Send a message from at least 3 habitat providers, or a search result from online registers.

8.4 Proof of purchase

Send proof of purchase and enter the reference number.

9. Trading summary

9.1 Distinctiveness group
Tell us if you met the BNG trading rules on habitat compensation for each distinctiveness group. If you did not meet the trading rules, tell us if you agreed bespoke habitat compensation.

Check the rules on habitat compensation in the statutory biodiversity metric user guide.

Very high

High

Medium

Low

10. Sharing data (optional)

10.1 Can we share your ecological survey data with the Local Environmental Records Centre or other bodies?
☐ Yes
☐ No

Daniela.Smith

From: Dan McEwan [redacted]
Sent: 04 03 2025 19:34
To: Daniela.Smith
Subject: S106 Agreement - Land at Champions Farm - Manuscript Amendment - Requires a Response

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Daniela,

The client agrees to the manuscript amendments.

thanks,

Dan McEwan

[redacted]
8 Riverview Business Park Forest Row RH18 5FS

workbyhere.com

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On 4 Mar 2025, at 12:26, Daniela.Smith [redacted] wrote:

Hello Dan,

The Council has very recently moved offices. If your client agrees, instead of reissuing amended engrossments I am proposing to deal with the amendment on pages 1 and 2 of the S106 by manuscript amendment.

A copy of their approval will be appended to the legal agreement.

Therefore I would be grateful if you could seek your client's approval, in both their capacity as individuals and as director of Abinbworth Vineyard LLP (both signatories), to confirm that they approve the manuscript amendments to both page 1 and page 2 of the S106 agreement for Land at Champions Farm, to delete references to the Council's old address being "Parkside, Chart Way, Horsham RH12 1RL" and to replace both references with the Council's new address being "Albery House, Springfield Road, Horsham, West Sussex RH12 2GB".

Kind regards,
Daniela