

Dated 12 November 2018

Between:

- | | | |
|-----|----------------------|--|
| (1) | The First Owner | GEORGE HENRY RICHARDS |
| (2) | The Developer | WILLOWMEAD (PULBOROUGH) LIMITED |
| (3) | The Second Owner | NETWORK RAIL INFRASTRUCTURE
LIMITED |
| (4) | The District Council | HORSHAM DISTRICT COUNCIL |
| (5) | The County Council | WEST SUSSEX COUNTY COUNCIL |

AGREEMENT

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

Land adjacent to Railway Cottages and Pulborough Railway Station, Stopham Road, Pulborough,
West Sussex RH20 1DP

Legal Ref: PS/PAG/1218

Planning Application Ref: DC/16/0728

Sec106-2279

Development Management South Committee 16th August 2016 DCS/33

Horsham District Council
Parkside
Chart Way
Horsham
West Sussex
RH12 1RL

This Agreement is made as a Deed and dated

12 November

2018

Between:

- (1) GEORGE HENRY RICHARDS of 37 Glebelands, Pulborough, West Sussex RH20 2BZ ('the First Owner')
- (2) WILLOWMEAD (PULBOROUGH) LIMITED (Company Regn. No. 9219865) of Wey Court West, Union Road Farnham, Surrey GU9 7PT ('the Developer')
- (3) NETWORK RAIL INFRASTRUCTURE LIMITED of 1 Eversholt Street London NW1 2DN (Company Regn. No. 2904587 ('the Second Owner'))
- (4) HORSHAM DISTRICT COUNCIL of Parkside, Chart Way, Horsham, West Sussex RH12 1RL ('the District Council')
- (5) WEST SUSSEX COUNTY COUNCIL of County Hall, West Street, Chichester, West Sussex PO19 1RQ ('the County Council')

1. Background

- 1.1 The First Owner is the registered proprietor of the First Owner's Land with Title Absolute of land registered at HM Land Registry under Title Number WSX163248 being land on the north side of Stopham Road Pulborough which is shown for identification purposes only outlined in red on Plan 1
- 1.2 The Developer has an interest in the First Owner's Land in respect of an option agreement dated 10th November 2014 and made between the First Owner and the Developer
- 1.3 The Second Owner is the owner of the Second Owner's Land which is shown edged green on Plan 1 with unregistered title comprised in:

(i) Conveyance dated 29 January 1879 between Mr John Sanders, John Tribe and Sarah Harwood Tribe (1) and The London Brighton and South Coast Railway Company (2);

(ii) Conveyance dated 11 May 1858 between John Sanders, Bertha Sanders, John Tribe and Sarah Harwood Tribe (1) and The Mid Sussex Railway Company (2);

(iii) Conveyance dated 11 April 1861 between John Sanders, Bertha Sanders, John Tribe and Sarah Harwood Tribe (1) and The Mid Sussex Railway Company (2);

- 1.4 The Developer and the Second Owner have applied for planning permission to develop the Site in accordance with the Application
- 1.5 The Development will generate additional demands for highways and affordable housing which would not arise but for the Development and which cannot be accommodated by the existing infrastructure
- 1.6 The District Council is the Local Planning Authority as defined in the Act for the area within which the Site is situated for the purposes of this Agreement and for the purposes of Section 106 of the Act and is of the opinion that the obligations contained herein are necessary to address the impacts of the Development
- 1.7 The County Council is the Highways Authority as defined in the Highways Act 1980 and is of the opinion that the Highway Works Traffic Regulation Sum payable to the County Council and highways works are necessary to address the highways impact of the Development
- 1.8 The District Council and the County Council are satisfied that this Agreement is to the benefit of the public
- 1.9 The parties hereto are satisfied that the provisions of this Agreement comply with the requirements of Regulation 122 and Regulation 123 of the Community Infrastructure Levy Regulations 2010 as amended

- 1.10 The First Owner and the Developer have agreed with the District Council and the County Council to pay the Highway Works Traffic Regulation Sum and to carry out highways works, and to provide the Affordable Housing in accordance with this and subject to the terms and conditions set out in this Agreement and the Planning Permission

NOW THIS DEED WITNESSES as follows:-

2. **INTERPRETATION**

In this Agreement:

- 2.1 Words importing the masculine include the feminine and vice versa
- 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 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
- 2.5 Any reference to a clause or schedule or plan is to a clause schedule or plan in to or attached to this Agreement
- 2.6 Any reference to a colour or letter is to a colour or letter on the plan attached to this Agreement
- 2.7 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

2.8 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 District Council and the County Council the successors to their respective functions as local planning authority, local housing authority and highway authority.

2.9 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:

"Accessway"	means the proposed access on the First Owner's Land to the Car Park and shown on Plan 2;
"Act"	means the Town and Country Planning Act 1990 as amended;
"Affordable Housing"	means affordable housing comprising Social Rented Housing and /or Affordable Rented Housing Units and or Shared Ownership Units (or such other forms of intermediate tenure as are defined as affordable housing under the National Planning Policy Framework as that definition may be amended from time to time) provided to eligible households whose needs are not met by the market and which should meet the needs of eligible households, including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices and shall include provision for the home to remain at an affordable price for future eligible households or if these restrictions are lifted for the subsidy to be recycled for alternative affordable housing provision;
"Affordable Housing Land"	means land sufficient to accommodate the Affordable Housing Units and their gardens and related land and all the necessary related infrastructure;
"Affordable Housing Mix"	means two (2) one bed flats and three (3) two bed flats as Social Rented Units/ Affordable Rented Housing Units and one

	(1) two bed flat, three (3) two bed houses and one (1) three bed house as Shared Ownership Units or such other Affordable Housing Mix as shall have been approved in writing by the District Council prior to Commencement of the Development;
"Affordable Housing Unit or Units"	means the ten (10) Dwellings to be constructed on the Affordable Housing Land as Affordable Housing in accordance with the Affordable Housing Mix;
"Affordable Rented Housing Units"	means rented housing let by the Registered Provider to eligible households at a rent which is no more than 80% (including service charges) of the local gross market rent (including an allowance for service charges) calculated using the Royal Institute of Chartered Surveyors approved valuation methods;
"All Requisite Consents"	means all requisite consents orders agreements authorisations licences and permissions required to implement a scheme;
"Application"	means the application for full planning permission submitted to and validated by the District Council on 31 March 2016 for the Development and allocated reference number DC/16/0728;
"BCIS Index"	means the Building Cost Information Service Index published by the Royal Institution of Chartered Surveyors;
"Car Park"	means the car park that forms part of the Development and shown on Plan 2;
"Car Park Scheme"	means a scheme detailing the management and maintenance of the Car Park including charging;
"Commence"	means the carrying out of a material operation as defined in Section 56(4) of the Act 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, site clearance works, earthworks, archaeological investigations and digs, exploratory boreholes, operations permitted by the Town and Country Planning (General Permitted Development) Order 2015 the erection of hoardings and fencing, temporary diversion of services and signage (including the formation of temporary construction accesses) and "Commenced" and

	"Commencement" shall be construed accordingly;
"Commencement Date"	means the date on which the Commencement occurs;
"Commencement Notice"	means the written notice confirming the Commencement Date referred to in clause 7.1 and served in accordance with clause 7.4;
"Development"	means the development of the site to provide 23 dwellings and 6 flats with ancillary parking, garaging, and landscaping, and the construction of a 106-space station car park, all served by new access on to Stopham Road. Construction of private parking bays to serve existing dwellings on Stopham Road served by new access from Stopham Road.
"Disposal"	means a disposal of the Affordable Housing Units to a Registered Provider whether by transfer of the freehold or the grant of a long lease for a term of at least 125 years and "Dispose" shall be construed accordingly;
"Dwelling"	means a residential dwelling forming part of the Development and "Dwellings" shall be construed accordingly;
"Estate Roads"	means the roads associated footways and cycleways that form part of the Development but which shall not be offered for adoption to the County Council;
"Estate Roads Management Company"	means the company formed for the purposes of managing the Estate Roads;
"Existing Accessway"	Means the land owned by the Second Owner shown coloured orange on Plan 4;
"First Owner's Land"	means the land shown edged red on Plan 1;
"General Index"	means the BCIS General Building Cost Index of the Royal Institution of Chartered Surveyors ("the Index") and if the basis of computation of the Index shall change any official reconciliation between the two bases of computation shall be binding upon the parties hereto and shall be applied in adjusting the application of the Index hereto. In the absence of any such official reconciliation such adjustments shall be made to the figures of the Index as to make it correspond as nearly as

	possible to the previous method of computation and such adjusted figures shall be used to the exclusion of the actual published figures (until officially reconciled figures are published);
"Help to Buy Agent"	means the organisation appointed by Homes England to administer low cost home ownership products in each region of England and for the purposes of this Agreement means BPHA Limited Head Office Bedford Heights Manton Lane Bedford MK41 or any other agent from time to time appointed under the Help to Buy Agent Initiative;
"Help to Buy Scheme"	means a scheme under which a Help to Buy Agent (or any third party to be determined from time to time by Homes England) retains the nomination rights for the Shared Ownership Units;
"Help to Buy Agent Initiative"	means the organisations appointed by Homes England to assume administrative responsibilities for all low cost home ownership products in England;
"Highway Works"	means works detailed on drawing number 15/D1074 SK102 revision A received by the LPA on 01 July 2016 and shown on Plan 3 including: (1) the provision of parking bays on the north and south side of the A283 following the stopping up of the existing public highway, (2) the provision of footways on the A283 Stopham Road from the Site eastwards towards Pulborough, (3) the provision of a Puffin crossing, traffic signals and a footway on the A283 Stopham Road beneath the railway bridge, and (4) the installation of measures along the A283 Stopham Road (to include but not be limited to bollards and 'no waiting at any time' restrictions) in the vicinity of the

	proposed access to the Site to prevent parked vehicles obstructing visibility.
"Highway Works Traffic Regulation Order Sum"	means the sum of £7,000 (Seven Thousand Pounds) to be paid to the County Council for the making of the Traffic Regulation Order /s required in connection with extension of the 30mph speed limit westwards of the Site;
"Homes England"	means Homes England or its predecessors or successors;
"Interest"	means interest at the rate of 4% above the Bank of England base rate applicable at the Specified Date which shall be calculated on a day to day basis;
"Local Connection"	means in relation to an individual such individual who: i) immediately before taking up occupation of an Affordable Rented Housing Unit had his only or principal home in the parish of Pulborough for a continuous period of not less than two years; or ii) a member of his household has a parent child brother sister or adult child whose only or principal home or place of residence has been for a continuous period of not less than two years in the parish of Pulborough and he wishes to be near that relative; or iii) is and has been permanently employed in the parish of Pulborough for a continuous period of not less than two years PROVIDED THAT where no person or insufficient persons can be identified as having a connection with the parish of Pulborough as outlined above and in accordance with the nomination agreement then the district of Horsham shall be substituted for the parish of Pulborough;
"Occupation"	means occupation for any purpose for which the Planning Permission has been granted by the District Council but not

	including occupation by personnel engaged in the construction, fitting out or occupation for security, marketing or display and "Occupy" and "Occupied" shall be constructed accordingly;
"Occupation Date"	means the date on which the first Dwelling is Occupied;
"Occupation Notice"	means the written notice confirming the Occupation Date referred to in clause 7. 2 and served in accordance with clause 7.4;
"OMV"	means the market value of the Affordable Housing Units – "market value" being as defined in the Royal Institution of Chartered Surveyors Manual of Valuation Practice Sixth Edition (otherwise known as the "red book") but on the assumption that the Affordable Housing Units can be sold on the open market without restriction on price tenure, ownership or occupation free from the implications contained in this Agreement and assuming that the Affordable Housing Unit is newly completed decorated and equipped and ready in all respects for first residential occupation;
"Open Market Unit"	means all those Dwellings to be constructed on the Site and which are not Affordable Housing Units and "Open Market Units" shall be construed accordingly;
"Owners"	means the First Owner and the Second Owner;
"Payment Notice"	means a payment notice in the form attached at Schedule 6 to this Agreement;
"Plans"	means Plan 1, Plan 2, Plan 3 and Plan 4;
"Plan 1"	means the Site location plan attached to this Agreement;
"Plan 2"	means the plan showing the Car Park, accesses and the residential road numbered 1676-01c attached to this Agreement;
"Plan 3"	means the Highway Works plan numbered 15/D1074/SK102 Rev A attached to this Agreement;
"Plan 4"	Means the plan attached to this Agreement marked "Contract Plan, Stopham Road, Pulborough, Willowmead Ltd, 1676-CO3a"

"Planning Obligations"	means the obligations conditions and stipulations set out in this Agreement;
"Planning Permission"	means the full planning permission for the Development pursuant to the Application;
"Railway Cottages"	means the two railway cottages shown on Plan 1 and marked "railway cottages";
"Registered Provider"	means a registered provider as defined by the Housing and Regeneration Act 2008 and/or registered by Homes England and/or a non-profit making body which is registered with Homes England and/or any other body which is authorised by Homes England to own and manage Affordable Housing;
"Second Owner's Land"	means the land shown edged green on Plan 1;
"Second Owner's Obligations"	means the obligations on the Second Owner set out in Parts 3 (Highway Works), 4 (Estates Roads and Accessway/Existing Accessway) and 5 (Car Park) of Schedule 2;
"Section 73 Consent"	means a 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;
"Section 38 Agreement"	means an agreement made under section 38 of the Highways Act 1980 entered into with the County Council to adopt highway;
"Section 278 Agreement"	means an agreement made under section 278 of the Highways Act 1980 entered into with the County Council to carry out works in the public highway;
"Service Vehicle"	means any vehicle used by Network Rail and any other person (including without limitation any Train Operator): - in connection with the operation, maintenance, alteration and enhancement of the railway and any railway property; - to gain access to, and egress from, any land and property of whatsoever nature owned by Network Rail or any Train Operator or by any other person in connection with the railway - for any purpose and by any person required by Network Rail in its absolute discretion;

"Shared Ownership Unit"	means an Affordable Housing Unit in respect of which a lease is granted at a premium representing a percentage of the OMV of that Dwelling and subject to a rent payable in respect of the retained equity percentage and whether or not the lessee has the right to pay a further premium in respect of a further percentage of purchase price and/or to acquire a leasehold or freehold reversion to the lease details of which shall be approved by the District Council and is provided having regard to local incomes and local house prices and market rents in the administrative area of the District Council on terms whereby the total outgoings of mortgage costs, rental element and any service charges shall be below market rents for an equivalent new Open Market Unit irrespective of the price paid by the Registered Provider to the First Owner for the Affordable Housing Units;
"Site"	means the land adjacent Railway Cottages and Pulborough Railway Station at Stopham Road Pulborough West Sussex RH20 1DP comprising the First Owner's Land and the Second Owner's Land shown for identification purposes only edged respectively red and green on Plan 1;
"Social Rented Units"	means Affordable Housing Units let under an assured tenancy as defined by section 1 of the Housing Act 1988 (or any other statutory re-enactment or modification thereof) by a Registered Provider at a target rent determined through the national rent regime or at a rent which accords with HCA guidance prevailing at the time of the first letting and subsequently varied in line with that guidance from time to time;
"Specialist"	means a person qualified to act as an expert having not less than ten years' professional experience in relation to developments in the nature of the Development;
"Specified Date"	means the date upon which an obligation arising under this Agreement is due to be performed;
"Station"	means the railway station at Pulborough, West Sussex which is operational at the date of this Agreement;

"Stopping Up Works"	means the stopping up of the existing public highway on the north and south side of the A283 Stopham Road to create parking bays for the sole use of the parking of vehicles in connection with the occupation of existing residential dwellings on Stopham Road.
"Train Operator"	means any person authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

4. **ENABLING PROVISIONS**

This Agreement is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, and Section 1 of the Localism Act 2011 and all other enabling powers and has been entered into by the District Council pursuant to its Development Control (South) Committee on the 16th August 2016 under minute number DCS/33

5. **CONDITIONS PRECEDENT**

5.1 This Agreement shall come into effect upon the date hereof but the provisions in the Schedules shall only take effect upon:

5.1.1 the District Council granting the Planning Permission; and

5.1.2 the Commencement of Development

6. **COVENANTS**

The Owners and the Developer covenant with the District Council and the County Council to comply with their respective obligations contained herein in accordance with this and subject to the terms and conditions set out in this Agreement and the Planning Permission

7. NOTICES

- 7.1 The First Owner and the Developer covenant with the District Council to give the Commencement Notice to the District Council not less than 14 days before the anticipated Commencement Date
- 7.2 The First Owner and the Developer covenant with the District Council to give the Occupation Notice to the District Council not less than 14 days before the anticipated Occupation Date
- 7.3 The Second Owner and the Developer covenant with the District Council to give written notice to the District Council not less than 14 days before the anticipated date of the Commencement of the Car Park
- 7.4 The parties to this Agreement agree that if the Owners or the Developer fail to give notice required by clauses 7.1 to 7.3 above then the District Council shall be entitled in its absolute discretion to determine the Commencement Date, the Occupation Date and the date of the Commencement of the Car Park and shall give notice to the First Owner or the Second Order as the case may be and the Developer of the District Council's determination
- 7.5 Any notice certificate or other communication required or permitted to be given hereunder shall be given in writing to the relevant party at the relevant address referred to above or such other address as may be notified in writing to the other party and must be served personally or by registered or recorded delivery post and in the case of the District Council the Owners or the Developer shall address any notice to the Legal Services Manager of the District Council and in the case of the County Council the Owners or the Developer shall address any notice to the Monitoring and Records Team, Strategic Planning Division at the address of the County Council given herein
- 7.6 Any notice certificate or other communication sent by post shall be deemed (in the absence of evidence of receipt) to have been delivered two days after despatch and in

proving the fact of despatch it shall be sufficient to show that the envelope was properly addressed and posted

- 7.7 Any notice certificate or other communication delivered personally shall be deemed to have been delivered on the day of its despatch if despatched during or prior to normal business hours but otherwise on the next business day thereafter

8. INTEREST

The Owners and the Developer agree with the District Council and the County Council to pay the Interest on sums due to the District Council and County Council respectively under this Agreement but not paid on the Specified Date from the Specified Date until actual payment.

9. COSTS

The Owners and the Developer agree with the District Council and the County Council

- 9.1 to pay to the District Council on or before the date hereof:

- 9.1.1 the District Council's reasonable legal costs incurred in preparing and entering into this Agreement of £5250
- 9.1.2 the District Council's monitoring costs of £1200
- 9.1.3 the Planning Officer's costs of £950

- 9.2 to pay to the County Council on or before the date hereof the County Council's reasonable legal costs incurred in preparing and entering into this Agreement

10. GENERAL

The parties agree that:

- 10.1 nothing in this Agreement constitutes an obligation to grant planning permission

- 10.2 nothing in this Agreement grants planning permission or any other approval consent or permission required from the District Council or the County Council in the exercise of any other statutory function
- 10.3 nothing in this Agreement fetters or restricts the exercise by the District Council or the County Council of any of their powers
- 10.4 to the extent that they fall within the terms of section 106 of the Act the obligations contained in clause 6 and the Schedules hereof are planning obligations for the purpose of section 106 of the Act
- 10.5 this Agreement constitutes a deed
- 10.6 this Agreement is enforceable by the District Council and (where applicable) the County Council
- 10.7 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
- 10.8 It is hereby agreed by the parties hereto that failure by the District Council or the County Council at any time to enforce the provisions of this Agreement or to require performance strictly or otherwise by the Owners and the Developer of any of the conditions covenants agreements or obligations of this Agreement or any failure or delay by the District Council or the County Council to exercise any act right or remedy shall not be construed as a waiver of or as 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 District Council or the County Council to enforce any provision and any variation of this Agreement agreed between the Owners and the Developer and the District Council or the County Council shall not vitiate the remainder of the Agreement which shall remain in full force and effect subject to such amendment or amendments
- 10.9 The parties hereby agree that

- (a) this Agreement supersedes and replaces all previous negotiations whether oral or written
- (b) no party has relied on any express or implied statement warranty representation or undertaking given by or on behalf of the other
- (c) nothing herein contained excludes the liability of any of the parties in relation to fraud

10.10 The Owners hereby consent to the registration of this Deed as a Local Land Charge

10.11 The Owners and the Developer hereby give consent for the Plans to be reproduced by the District Council or the County Council

10.12 Entry into this Deed does not constitute a transaction for a chargeable consideration for which Stamp Duty Land Tax is required and thus the District Council hereby certifies that a Land Transaction Return is not applicable in accordance with Section 79(3) of the Finance Act 2003

10.13 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

10.14 Reference to any statute or statutory provisions includes a reference to:-

10.14.1 that statute or statutory provision as from time to time amended extended re-enacted consolidated or replaced; and

10.14.2 all statutory instruments or orders made pursuant to it whether before or after the date of this Agreement.

10.15 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

10.16 Where the agreement approval consent or expression of satisfaction is required by the Owners or the Developer from the District Council or the County Council under the terms of this Agreement such agreement approval consent or expression of satisfaction shall not be unreasonably withheld or delayed

10.17 The obligations in this Agreement (with the exception of clause 10) shall cease to have effect (insofar only as it has not already been complied with) if before the Commencement of Development the Planning Permission:

- (a) expires;
- (b) is varied or revoked other than at the request of the Owners or the Developer; or
- (c) 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.

10.18 The obligations in this Agreement (with the exception of clause 10) shall cease to have effect (insofar only as it has not already been complied with) in so far only as the relevant Section 73 Consent is concerned if before the Commencement of Development the relevant Section 73 Consent:

- (a) expires;
- (b) is varied or revoked other than at the request of the Owners or the Developer or
- (c) is quashed following a successful legal challenge

but will remain in full force and effect so far as the Planning Permission and any other subsisting Section 73 Consent is concerned

10.19 The First Owner, the Second Owner and the Developer (or any person deriving title to their part of the Site from them) shall not be liable for any breach of the restrictions and obligations set out in this Agreement on the First Owner, the Second Owner or the Developer as the case may be where such breach arises after the First Owner or the Second Owner or the Developer has parted with its respective entire interests in the Site or such part of the Site to which such breach relates save that the First Owner, the Second Owner and the Developer shall be liable in respect of any breach of an obligation for which they are liable and which is relevant to their respective interests in the Site that has arisen prior to the disposal of their respective interest having occurred.

10.20 The District Council acknowledges that the Second Owner is a party to this Agreement to ensure that the Second Owner's Land is bound by the Second Owner's Obligations and

the District Council covenants with the Second Owner that it shall not take any enforcement action under this Agreement against the Second Owner or its successor or successors in title or assigns for any breach of any obligations under this Agreement other than in respect of any breach by the Second Owner of the Second Owner's Obligations.

10.21 The County Council acknowledges that the Second Owner is a party to this Agreement to ensure that the Second Owner's Land is bound by the Second Owner's Obligations and the County Council covenants with the Second Owner that it shall not take any enforcement action under this Agreement against the Second Owner or its successor or successors in title or assigns for any breach of any obligations under this Agreement other than in respect of any breach by the Second Owner of the Second Owner's Obligations.

10.22 The obligations in this Agreement shall not be enforceable:

- (a) (save in respect of the obligation contained at paragraph 15 of part 2 of Schedule 2) against individual lessees or purchasers occupying or entitled to occupy dwellings within the development or
- (b) against any statutory undertaker whose apparatus may be situated within the Site.

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

10.24 References to the Site include any part of it

10.25 The term "including" means "including without limitation"

10.26 Any covenant by the Owners or the Developer not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing

10.27 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

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

- (a) the obligations in this Agreement shall relate to and bind such Section 73 Consent; and
- (b) the definitions of Application, Development and 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

PROVIDED THAT:

- (c) nothing in this clause shall fetter the discretion of the District 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;
- (d) 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
- (e) the District 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 District Council (acting reasonably) considers it desirable to do so

11. DISPUTE RESOLUTION

- 11.1 Should a dispute or difference arise between the District Council or the County Council and the Developer or the Owners concerning any obligation in this Agreement then the provisions of this clause 11 shall apply but for the avoidance of doubt this clause does not apply to any dispute between the Owners and the Developer.
- 11.2 Subject to clause 11.1, if any dispute arises relating to or arising out of the terms of this Agreement, a party may give to the other written notice requiring the dispute to be determined under this clause 11. The notice is to propose a Specialist appropriate to the dispute and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 11.3 Any dispute over the identity of the Specialist is to be referred at the request of a party to the dispute to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Law Society.
- 11.4 The Specialist is to act as an independent expert and:
- (a) each party may make written representations within ten working days of his appointment and will copy the written representations to the other party;
 - (b) each party is to have a further ten working days to make written comments on the other's representations and will copy the written comments to the other party;
 - (c) the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;
 - (d) the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross examine each other;

- (e) the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
- (f) the Specialist is to use all reasonable endeavours to publish his decision within thirty working days of his appointment.

11.5 Responsibility for the costs of referring a dispute to a Specialist under this clause 11, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

11.6 The decision of the Specialist is to be final and binding on the parties except in the case of manifest error.

11.7 This clause 11 does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts.

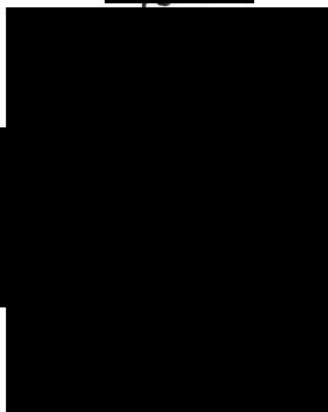
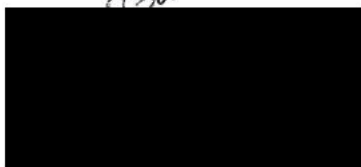
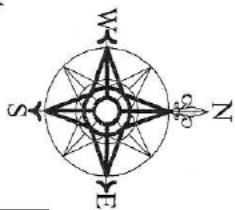
12. CHANGE IN OWNERSHIP

The Owners and the Developer agree with the District Council and the County Council to give the District Council and the County Council immediate written notice of any change in ownership of any of their respective interests in the 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 Site or unit of occupation purchased by reference to a plan

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

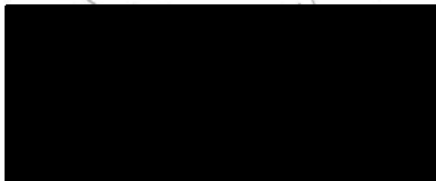


LINEAR SCALE 1:1000
A3@1:1000

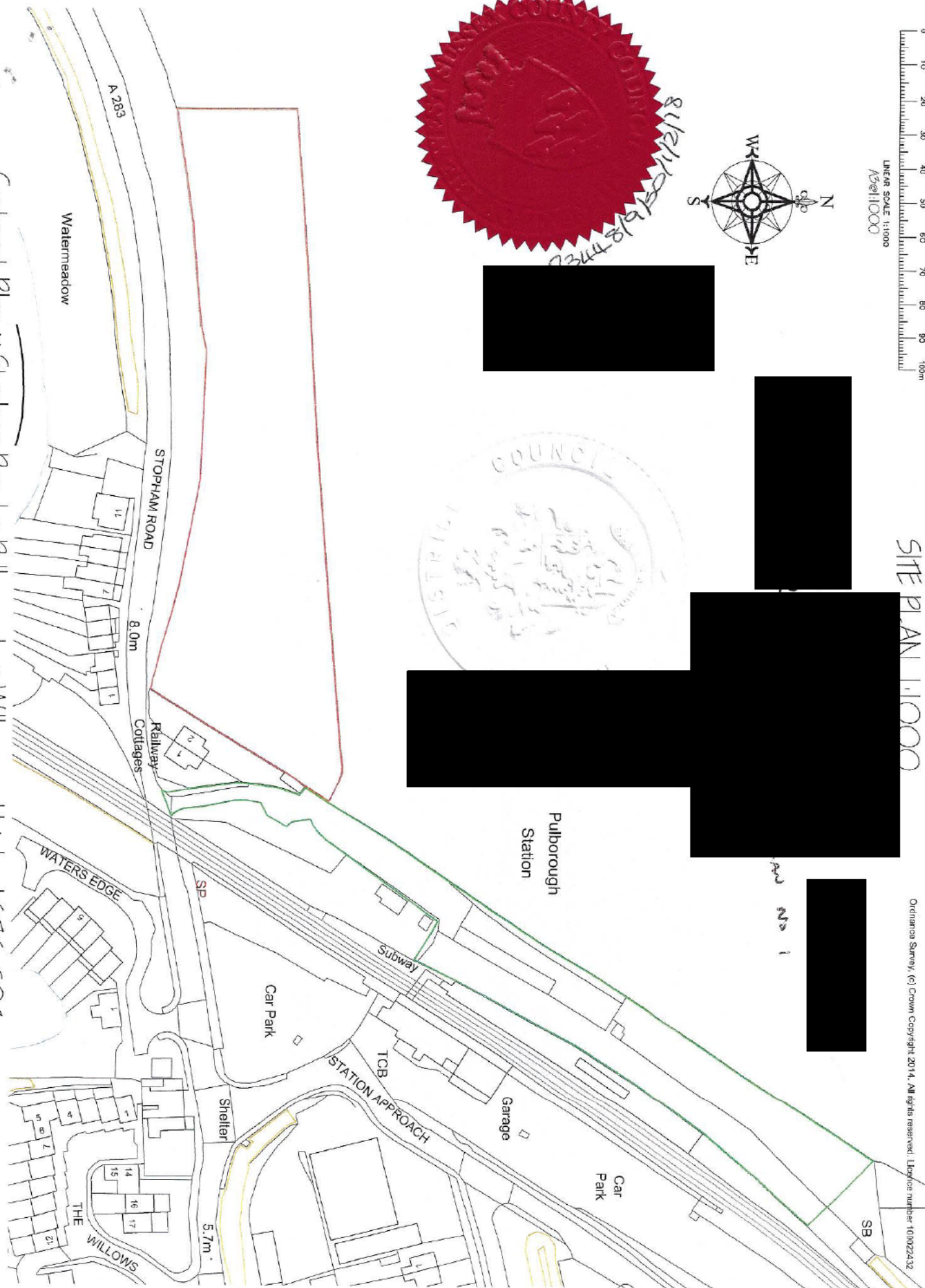


SITE PLAN 1:1000

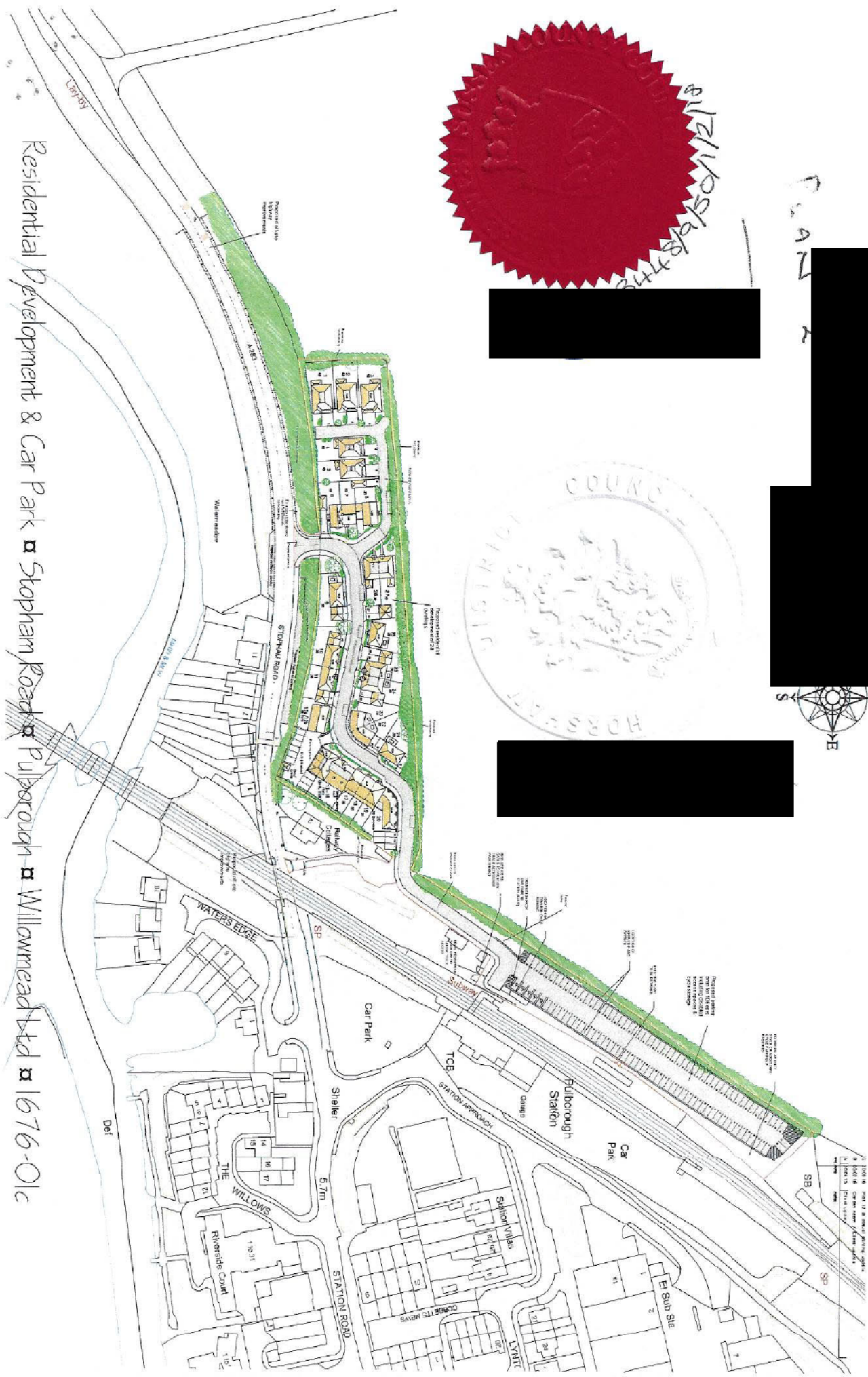
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Pulborough
Station



Contract Plan ☐ Stopham Road ☐ Pulborough ☐ Willowmead Ltd ☐ 676-C03

[illegible]

Residential Development & Car Park ☒ Stopham Road ☒ Pulborough ☒ Willowmead Ltd ☒ 1676-01c



Part 3

- 1 This should be to be read in conjunction with all other RHPs and should be read in conjunction with the relevant RHPs and should be read in conjunction with the relevant RHPs and should be read in conjunction with the relevant RHPs.
- 2 RHP should be read in conjunction with all other RHPs and should be read in conjunction with the relevant RHPs and should be read in conjunction with the relevant RHPs.
- 3 Do not think, with to be read in conjunction with all other RHPs and should be read in conjunction with the relevant RHPs and should be read in conjunction with the relevant RHPs.
- 4 An alternative form, regarding, arising out of the same facts, and should be read in conjunction with the relevant RHPs and should be read in conjunction with the relevant RHPs.

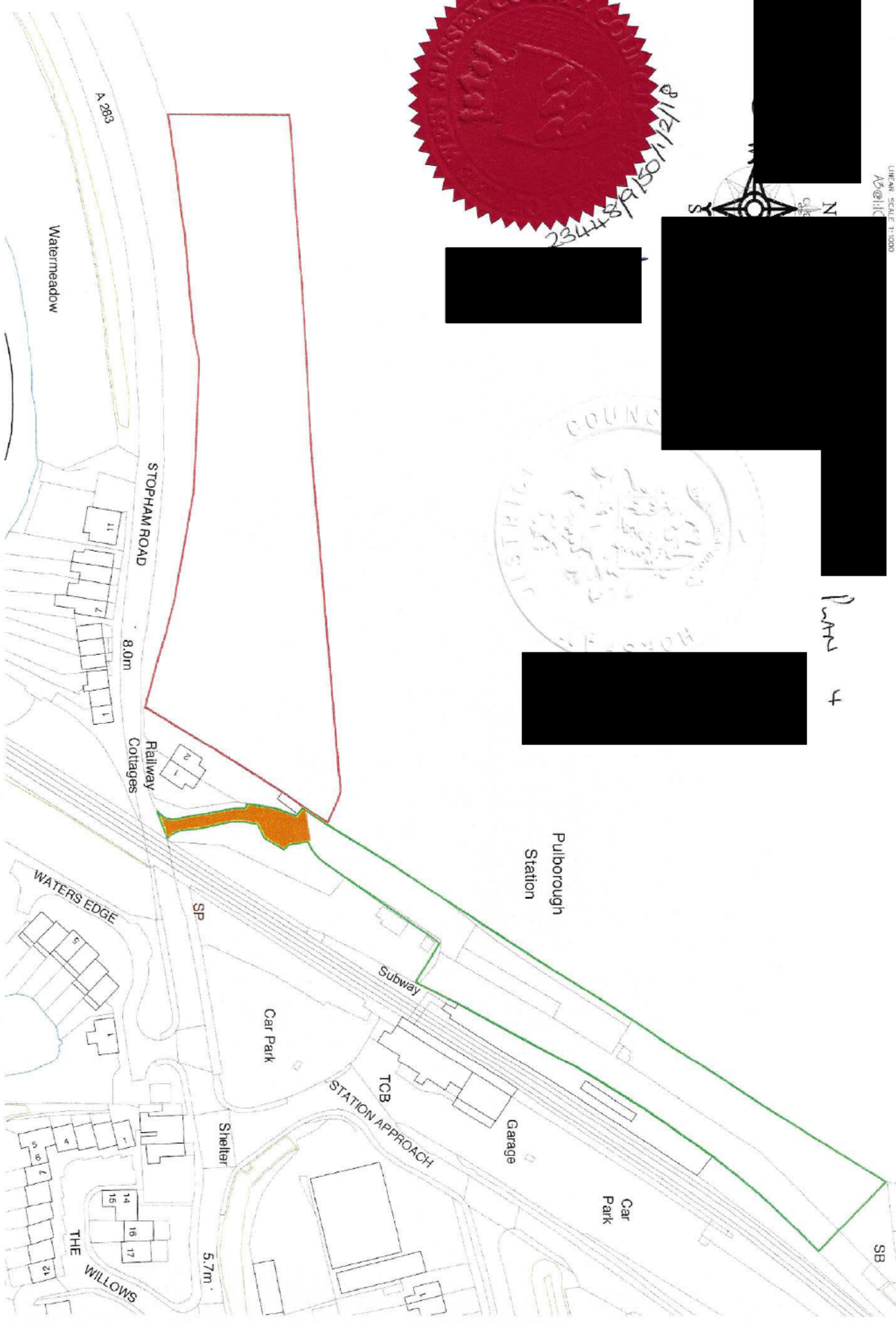


SITE PLAN 1:1000

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Part 4



Contract Plan ☐ Stopham Road ☐ Pulborough ☐ Willowmead Ltd ☐ 676-CO3a