

**Site:** Baytree House, Harwich Road, Little Clacton, Clacton-on-Sea, Essex CO16 9NL

**Planning Application reference:** 20/00245/FUL

THIS DEED is made the 8<sup>th</sup> day of April 2020

By **MILLAR PROPERTY CONSULTANCY LIMITED** (Co. Regn. No. 11769350) whose registered office is situate at 140 Rayne Road, Braintree CM7 2QR ("the Landowner")

#### RECITALS

1. Tendring District Council of Town Hall, Station Road, Clacton-on-Sea, Essex CO15 1SE ("the Council") is the Local Planning Authority for the purposes of this Deed for the area within which the land described in the First Schedule ("the Land") is situated and by whom the obligations contained in this Deed are enforceable.

2. The Landowner is a person interested in the Land as freehold owner.

3. An application Reference 20/00245/FUL ("the Planning Application") has been made for permission to develop the Land in the manner and for the uses set out in the Planning Application and in the plans specifications and particulars deposited with the Council and forming part of the Planning Application more particularly set out in the Second Schedule ("the Development").

4. This Deed is enforceable should planning permission be granted by the Council or subsequently granted on appeal following the refusal of the application by the Council.

5. The Council has not determined the Planning Application and the Landowner enters into this obligation to the intent that any objections by the Council to the grant of planning permission are overcome;

**NOW THIS DEED** is made in pursuance of section 106 of the Town and Country Planning Act 1990 and is a planning obligation for the purposes of that section

#### WITNESSES and as follows:

1. The Landowner covenants with the Council to perform the obligations specified in the Third and Fifth Schedules.

2. It is declared as follows:

2.1 The obligations in this Deed shall be enforceable in accordance with the provisions of section 106(3) of the Town and Country Planning Act 1990.

2.2 No person shall be liable for breach of a covenant contained in this Deed after he shall have parted with all interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.

2.3 The covenants contained in this Deed shall take effect only upon the date specified by the Owner in a written notice served upon the Council as the date upon which the Development is to be commenced or if no such notice is served the actual date on which the Development was begun within the meaning of section 56 of the Town and Country Planning Act 1990.

2.4 If the permission granted pursuant to the Planning Application shall expire before the Development is begun as defined above or shall at any time be revoked this Deed shall forthwith determine and cease to have effect.

2.5 Nothing in the Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than one relating to the Development as specified in the Planning Application) granted (whether or not on appeal) after the date of this Deed.

2.6 This Deed is a local land charge and shall be registered as such.

2.7 The Landowner requires the Council to use the sum paid in accordance with the Third Schedule for the purpose of mitigating harm arising from the Development at the Special Protection Area, Special Areas of Conservation and Ramsar site designated primarily to protect waders & wildfowl specified in the Fourth Schedule.

2.8 The Landowner requires the Council to use the sum paid in accordance with the Fifth Schedule for improvements to the Public Open Space specified in the Sixth Schedule.

IN WITNESS whereof these presents have been duly executed as a Deed by the Landowner hereto the day and year first before written.

#### **FIRST SCHEDULE "the Land"**

The freehold property known as Land adjoining 157 Harwich Road, Little Clacton, Clacton-On-Sea registered at H M Land Registry under title number AA8 for the purposes of identification only shown edged red on the plan attached to or incorporated within this deed.

#### **SECOND SCHEDULE "the Development"**

Erection of one dwelling as described in the Planning Application.

#### **THIRD SCHEDULE Recreational Disturbance, Avoidance & Mitigation Contribution (RAMS)**

1. To notify the Council before commencement of the Development to allow the calculation of the **RAMS** contribution (being £125.58 x (multiplied) by the net increase in the number of new Dwellings) using the Index from April 2020 as the base index and the latest published Index to calculate the percentage change.
2. Not to commence the Development unless and until the said **RAMS** contribution has been paid.
3. Notifications and payments shall be marked for the attention of the Ss.106 Officer, Tendring District Council, Council Offices, Weeley, Clacton-on-Sea, Essex, CO16 9AJ or via email at [obligations@tendringdc.gov.uk](mailto:obligations@tendringdc.gov.uk)

#### **FOURTH SCHEDULE Relevant Designated European Wildlife Site**

Special Areas of Conservation and Ramsar site(s) at Hamford Water SAC designated primarily to protect waders & wildfowl.



#### **FIFTH SCHEDULE Public Open Space Contribution.**

1. Before commencement of the Development to pay to the Council a Public Open Space Contribution calculated using the net increase in the number of dwellings on the Land and applying Table 4 of the Council's Supplementary Planning Document "Provision of Recreational Open Space for New Development" published in May 2008 then Index Linking using the Index from May 2008 (being 215.1) as the base index and the latest published Index to calculate the percentage change.

2. Not to commence the Development unless and until the said Public Open Space Contribution has been paid to the Council.

3. Notifications and payments shall be marked for the attention of the Ss.106 Officer, Tendring District Council, Council Offices, Weeley, Clacton-on-Sea, Essex, CO16 9AJ or via email at [obligations@tendringdc.gov.uk](mailto:obligations@tendringdc.gov.uk)

**Table 4**

Number of bedrooms per Dwelling	Contribution per Dwelling
Studio Flat	£544.00
1 bedroom	£845.00
2 bedrooms	£1690.00
3 bedrooms	£2253.00
4 bedrooms	£2816.00
5+ bedrooms	£3380.00

#### **SIXTH SCHEDULE Location of the Public Open Space to benefit from the Contribution.**

The Council will spend the Public Open Space Contribution on improving the Public Open Space known as Parish Playing Fields and any money not so spent shall if requested be returned in accordance with paragraph 6.7.2 of the Council's Supplementary Planning Document "Provision of Recreational Open Space for New Development" published in May 2008.

Plan



Executed as a deed by

**MILLAR PROPERTY CONSULTANCY LIMITED**

acting by

**SEAN MILLAR**, a director and

**YOLANDE ELAINE MILLAR** a director