

DATED

22 November

2022

Mr Alexander Bance (1)
and
Mrs Margaret Rachel Bance (2)
To
Woking Borough Council (3)

UNILATERAL DEED OF PLANNING OBLIGATION

made pursuant to

SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

relating to

Warehams Grange, Sutton Green Road, Guildford, Surrey, GU4 7QH



Certified true copy of the original
Aardvark Legal Services Ltd
SRA 627296 / Ecton NN6 0QJ
..... Solicitor
Date..... 23/11/22.....



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THIS UNILATERAL DEED OF PLANNING OBLIGATION is dated the 20th day of November 2022
AND GIVEN BY

- (1) **MR ALEXANDER BANCE** of Warehams Grange, Sutton Green Road, Guildford, Surrey, GU4 7QH; and
 - (2) **MRS MARGARET RACHEL BANCE** of Warehams Grange, Sutton Green Road, Guildford, Surrey, GU4 7QH (together known as the "**Owners**")
- to
- (3) **WOKING BOROUGH COUNCIL** of Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL (the "**Council**")

BACKGROUND

- (A) The Owners are the freehold owners of the Land registered at HM Land Registry under title number SY633138 with title absolute.
- (B) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (C) The Council issued a Planning Enforcement Notice on 10 August 2021 in respect of the unauthorised construction of the detached single storey structure comprising a triple bay garage and guest cottage. The Owners have submitted the Planning Enforcement Notice Appeal for determination by the Secretary of State.
- (D) The Council resolved on 3 December 2021 to refuse planning permission in respect of the Planning Application and the Owner has submitted the Planning Appeal for determination by the Secretary of State. The Owners are prepared to enter into this deed in order to secure the planning obligations it creates in the event that Deemed Planning Permission and/or Planning Permission is granted pursuant to the Planning Enforcement Notice Appeal and/or the Planning Appeal.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1. INTERPRETATION AND DEFINITIONS

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

Act means the Town and Country Planning Act 1990 as amended;

Deemed Planning Permission means the deemed permission granted by the Inspector pursuant to the Planning Enforcement Notice Appeal under ground (a) of section 174 of the Act for the First Development

Dwelling House	means the existing single residential dwelling house on the Land known as Warehams Grange
First Development	means the construction of the detached single storey structure comprising a triple bay garage and guest cottage on the Land pursuant to the Deemed Planning Permission
First Stable Block Permission	means the planning permission ref PLAN/2000/0566 granted by the Council on 13 July 2000 for inter alia the Stable Block
Inspector	means the inspector appointed by the Secretary of State to determine the Planning Enforcement Notice Appeal and/or the Planning Appeal
Land	means the land against which this Deed may be enforced being part of land known as Warehams Grange, Sutton Green Road, Guildford, Surrey, GU4 7QH which is registered at HM Land Registry under title number SY633138 as shown for identification purposes only edged red on the Plan
Plan	means the plan annexed to this Deed
Planning Appeal	means the planning appeal submitted on behalf of the Owners in respect of the refusal by the Council of the Planning Application and given appeal reference APP/A3655/D/21/3288976
Planning Application	means the planning application PLAN/2021/1048 submitted to the Council for the Second Development (part retrospective application)
Planning Enforcement Notice	means the enforcement notice served by the Council on 10 August 2021 on the Owners in relation to an alleged breach of planning control on the Land comprising the unauthorised construction of the detached single storey structure comprising a triple bay garage and guest cottage

Planning Enforcement Notice Appeal means the appeal submitted by the Owners to the Secretary of State against the Planning Enforcement Notice issued by the Council and given appeal references APP/A3655/C/21/3282731 & APP/A3655/C/21/3282732

Planning Permission means the planning permission issued by the Secretary of State in determining the Planning Appeal in respect of the Planning Application

Replacement Stable Block means the replacement stable block permitted pursuant to the Replacement Stable Block Permission

Replacement Stable Block Permission means the planning permission ref PLAN/2008/0347 granted by the Council on 9 October 2008 for the Replacement Stable Block, extension to hard standing and erection of horse walker.

Second Development means erection of an extension to the dwelling consisting of pool house, plant room, loggia, garage/car port on the Land pursuant to the Planning Permission

Secretary of State means the Secretary of State for Housing, Communities and Local Government or other minister or other authority for the time being having or entitled to exercise the powers given under sections 77, 78 and 79 of the Act

Stable Block means the detached building comprising two stables with hay store and tack room permitted pursuant to the First Stable Block Permission

Working Day means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England;

- 1.2. The Clause and schedule headings within this Deed shall not affect the interpretation of this Deed.
- 1.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4. A reference to a company shall include any company, corporation or other body corporate, whether and however incorporated or established.

- 1.5. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.6. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7. Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8. References to clauses and Schedules are the clauses and Schedules of this Deed unless otherwise stated.
- 1.9. Where 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 jointly and against each other individually unless there is an express provision otherwise.
- 1.10. References to the Council and the Owners shall include the successors in title and assigns of each party including any local authority successor.
- 1.11. Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2. LEGAL BASIS

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

3. CONDITIONALITY

With the exception of Clauses 6 and 7 which shall come into effect immediately upon completion of this Deed, this Deed will not have effect unless the Deemed Planning Permission and/or Planning Permission has been granted.

4. COVENANTS TO THE COUNCIL

The Owners covenant with the Council to observe and perform the covenants, restrictions and obligations contained in this Deed including the Schedule hereto.

5. RELEASE

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

6. LOCAL LAND CHARGE

This Deed will be registered as a local land charge.

7. COUNCIL'S COSTS

7.1 The Owner undertakes to pay to the Council on or before the date of this Deed the Council's reasonable and proper legal costs together with all disbursements incurred in connection with the preparation, negotiation, completion and registration of this Deed.

7. OWNERSHIP

- 7.1. The Owners warrant that no person other than the Owners have any legal or equitable interest in the Land.
- 7.2. The Owners will give to the Council immediate written notice of any change in ownership of any of its interests in respect of all or any part of the Land occurring before all the obligations under this Deed have been discharged, such notice to give details of the transferee's full name and registered office (if a company, or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan.

8. NO FETTER OF DISCRETION

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

9. WAIVER

No failure or delay by the Council to exercise any right or remedy for any breach or default by the Owner in performing or observing any of the covenants, restrictions or obligations of this Deed or by law shall constitute a waiver (whether express or implied) of that or any other right or remedy and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions contained in this Deed or acting on any subsequent breach or default of this Deed.. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

10. AGREEMENTS AND DECLARATIONS

It is declared that:

- 10.1. nothing in this Deed constitutes a planning permission or an obligation to grant planning permission;
- 10.2. insofar as any clause or clauses of this Deed are held (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed;
- 10.3. in the event that an application is made pursuant to Section 73 of the Act for an amendment to the Deemed Planning Permission and/or Planning Permission as the case may be and

planning permission is granted in respect of that application, references to the Deemed Planning Permission and the Planning Permission in this Deed shall be to the new planning permission granted pursuant to Section 73 of the Act (" **the Section 73 Consent**") and this Deed shall apply to and remain in full force in respect of that new planning permission without the need for a further agreement to be entered into pursuant to Section 106 of the Act PROVIDED ALWAYS THAT nothing in this clause shall prevent the Council from deciding in determining any such Section 73 application that the issue of any planning permission under Section 73 as aforesaid should be subject to prior completion of a supplemental deed pursuant to Section 106A of the Act and/or other relevant powers.

10.4. Any Section 73 Consent shall include a condition/Informative substantially in the following form:

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

10.5. In the event that the Deemed Planning Permission and/ or the Planning Permission as the case may be is or are varied pursuant to Section 96A of the Act this Deed shall continue in full force in respect of the Deemed Planning Permission and /or Planning Permission as the case may be as varied.

10.6. This Deed will cease to have effect if the Planning Enforcement Notice Appeal and/or the Planning Appeal as the case may be is dismissed by the Inspector.

10.7. In the event that the Inspector appointed to determine the Planning Enforcement Notice Appeal and/or the Planning Appeal states in his decision letter either:

10.7.1 that a planning obligation contained in this Deed (or relevant part of a planning obligation) is not a material consideration in the granting of the Deemed Planning Permission and/or the Planning Permission pursuant to the Planning Enforcement Notice Appeal and/or the Planning Appeal; or

10.7.2 that a planning obligation contained in this Deed (or relevant part of a planning obligation) is incompatible with any one or more of the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended and advice set out in paragraph 204 of the National Planning Policy Framework (NPPF) AND

accordingly attaches no weight to that obligation in determining the Planning Enforcement Notice Appeal and/or the Planning Appeal as the case may be then that planning obligation (or part of the planning obligation), shall cease to have effect from the date of the decision letter and the Owners shall not be required to comply with that obligation.

11. NOTICES

11.1. Any notice required by this Deed will be effective only if it is in writing and delivered by hand or sent by first class post, pre-paid or recorded delivery.

11.2 Any notice, consent, demand or any other communication served on the Council shall be sent to the Head of Planning Services, Woking Borough Council, Civic Offices, Woking, Surrey, GU21 6YL including planning reference PLAN/2021/1048 or to such other address as may be notified in writing to the others at any time as its address for service.

12 NO COMPENSATION PAYABLE

12.1 No compensation shall be payable by the Council as a result of the obligations contained in this Deed.

13 THIRD PARTY RIGHTS

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

14 GOVERNING LAW

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

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

SCHEDULE

Owners Obligations with regard to the use and occupation of Warehams Grange, Sutton Green Road, Guildford, Surrey, GU4 7QH

The Owner hereby covenants and undertakes to the Council:-

Use of the First Development and the Second Development

1. Not to use or permit the use of the First Development and/ or the Second Development for any purpose other than a purpose being connected to and incidental to the use of the existing Dwelling House as a single residential dwelling.
2. Not to use or permit the use of the First Development and/or Second Development as the case may be as a single residential dwelling house or a house in multiple occupation or an independent unit of accommodation (including on a permanent basis for use by a non-dependant member of the family).
3. Not to occupy or permit the occupation of, sell or lease the First Development and/or the Second Development as the case may be independently of the Dwelling House.

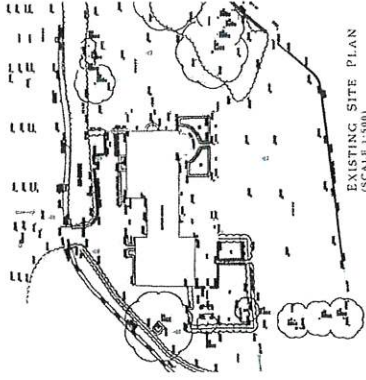
Stable Block

4. To demolish the Stable Block within 9 months from the grant of either the Deemed Planning Permission and/or the grant of the Planning Permission.
5. Not to rebuild or re-erect the Stable Block without express planning permission by the Council, first being obtained.
6. Not to take any action to further implement the Replacement Stable Block Permission.
7. Not to object to or seek or claim to take any action against the Council to obtain compensation as a result of this Deed, any deemed revocation or any future revocation order in respect of the Replacement Stable Block Permission or in relation to that part of the First Stable Block Permission which relates to the Stable Block.
8. To notify the Council of the date of demolition of the Stable Block in writing within 10 Working Days of its occurrence.
9. If there is failure to give notice in accordance with paragraph 8 of this Schedule the Council may investigate demolition of the Stable Block for the purpose of ascertaining whether the obligation in paragraph 4 of this Schedule has become operative and the Owner will pay to the Council as applicable the sum of £500 in respect of the costs of each such investigation.

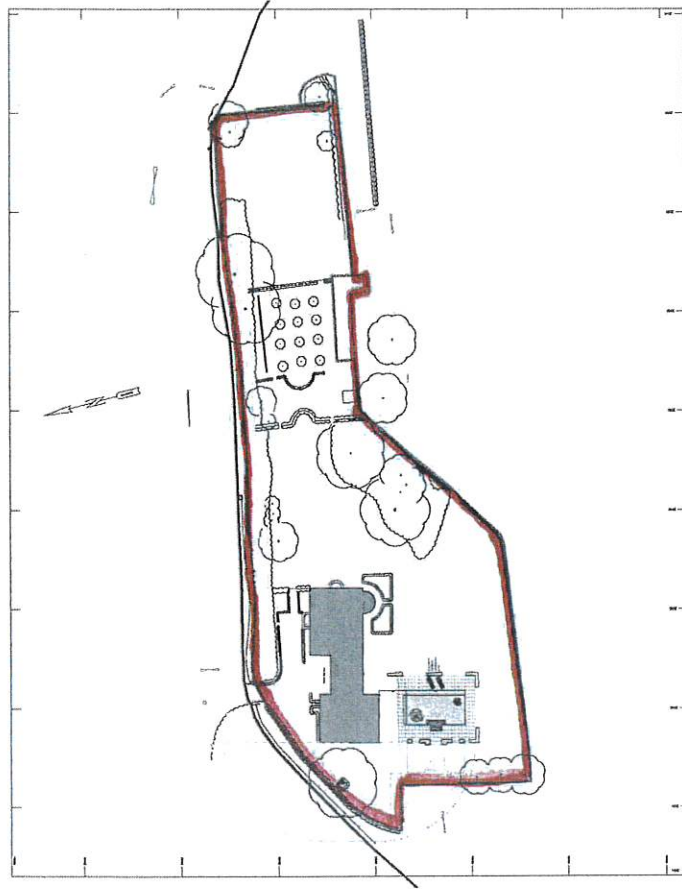
APPENDIX 1

Plan

PROPOSED ADDITIONS & ALTERATIONS TO
SUTTON MANOR, SUTTON GREEN
FOR
MR & MISS DANCE



EXISTING SITE PLAN
(SCALE 1:500)



SITE BLOCK PLAN
(SCALE 1:500)



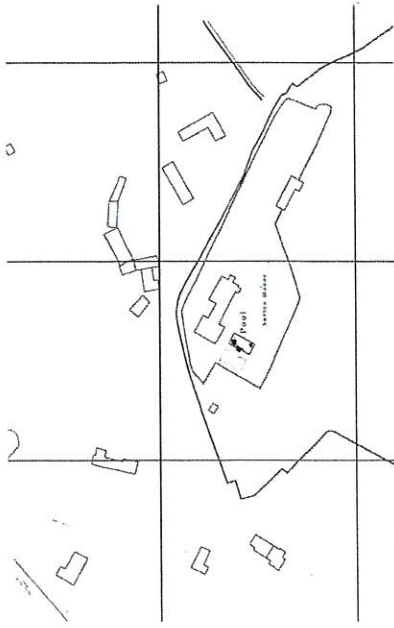
LOCATION & SITE BLOCK PLAN,
DRAWING NO. A5662/750
SCALE 1:1250, 1:500, 1:100

FINE TOWN & COUNTRY HOUSE COMMISSIONS LIMITED

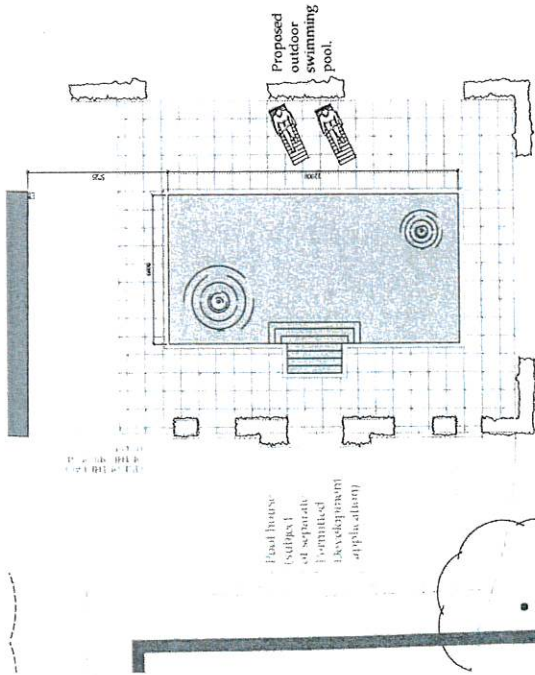
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LOCATION PLAN
(SCALE 1:1250)



POOL PLAN
(SCALE 1:100)

Handwritten signatures and initials in blue ink.

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executed as a Deed by

R ALEXANDER BANCE



.....
the presence of a witness

name *Sebastian Chubb*

address *1 WINDSOR CLOSE ECTON NN6 0QT*

occupation *SUCCESSOR*

executed as a Deed by

MS MARGARET RACHEL BANCE



.....
the presence of a witness

name *Sebastian Chubb*

address *1 WINDSOR CLOSE ECTON NN6 0QT*

occupation *SUCCESSOR*