

## HEADS OF TERMS

For the sale of land at Burrscroft, Pond Road, Shoreham By Sea, West Sussex

Subject to Contract and Planning

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**PROPERTY** Land at Burrscroft, Pond Road, Shoreham By Sea, West Sussex shown edged red for identification purposes only on the attached plan: Sale Plan Drawing No – DP/V/1744/2 P2.

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**TITLE NUMBER** The Property is part of Land Registry title WSX331761 as registered at the Land Registry with freehold title absolute.

The title plan and register entries for title WSX331761 are attached.

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**LOCAL PLANNING AUTHORITY** Adur District Council

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**SELLER** West Sussex County Council  
FAO Carrie Anderson  
Northleigh - 2<sup>nd</sup> Floor  
Tower Street  
Chichester  
West Sussex  
PO19 1RF

Tel: 0330 2222 996 (direct line)

Email: [carrie.anderson@westsussex.gov.uk](mailto:carrie.anderson@westsussex.gov.uk)

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**SELLER'S AGENT**

Tel:  
Mobile:  
Email

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**SELLERS' SOLICITOR** West Sussex County Council Legal Services  
FAO Jonathan Brown

Principal Solicitor Property Procurement & Environment  
Legal Services – Room 202  
County Hall  
Chichester  
West Sussex  
PO19 1RQ

Tel: 0330 2227510 Ext: 27510  
Email: jonathan.brown@westsussex.gov.uk

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**BUYER**

TBC

Mob:  
Email:

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**BUYER'S SOLICITOR**

TBC

Tel:  
Mob:  
Email:  
Fax:

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**PURCHASE PRICE**

£..... (.....pounds)(ex of VAT)

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**DEPOSIT**

10% of the Purchase Price being £ (.....pounds)(ex of VAT)

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**CONDITIONAL CONTRACT**

1. Subject to Contract
2. Subject to the Buyer securing a satisfactory full planning permission

The conditional sale contract will be for an initial period of 6 months for the Buyer to pursue and secure a satisfactory full planning permission. The contract will extend by up to three months for one of the conditions below up to a total of six months in the following circumstances:

- a) Where a planning decision is awaited; or
- b) Where a refusal has been given and the Buyer is to pursue an Appeal; or
- c) Where an appeal decision is outstanding; or
- d) Where the period for judicial review has not expired

and for the avoidance of doubt the sale contract will not be extended for a period of over 6 months even if more than one extension is granted

3. Subject to the Planning Longstop Date

4. Subject to the Buyer's internal board approval – to be obtained within 1 week of the date of these heads of terms
5. Subject to the Seller obtaining Cabinet Member approval to the disposal.

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**PLANNING LONGSTOP DATE** 12 months from Exchange of Contracts.

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**PLANNING OBLIGATIONS**

The Buyer will be under an obligation to use all reasonable endeavours to both submit a full planning application and then expeditiously pursue the application to the grant of a Satisfactory Planning Permission by the Planning Longstop Date on the following basis:

1. Before exchange of contracts the Buyer to submit the Planning Application incorporating the Specification to the Seller for approval (such approval not to be unreasonably withheld)
2. The Specification is attached to the heads of terms
3. A Planning Application (as approved by the Seller) will be made by the Buyer within 2 weeks of the date of approval of the Planning Application by the Seller
4. The Buyer to keep the Seller fully informed of the progress of the Planning Application and any subsequent appeal. Without prejudice to the terms of the sale contract the Seller shall be permitted to make objections to the Planning Application in its capacity as a statutory consultee for highways, adult services, education, fire and rescue, and waste.
5. The Buyer may only withdraw the Planning Application where the local authority has considered the Planning Application and indicated that they would be minded to grant permission only if the Buyer changed part of the application. Any such changes in these circumstances shall be with the Sellers prior approval (such consent not to be unreasonably withheld).
6. The Buyer to notify the Seller of all planning decisions and the date of grant of the Planning Permission.
7. If the Buyer has not obtained a Satisfactory Planning Permission by the Planning Longstop Date, then the Seller shall be permitted to terminate the agreement

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**SATISFACTORY PLANNING PERMISSION**

A full planning permission free from challenge for a supported living scheme for use by a mixed group of adults aged 18+ with additional, physical, mental health and or neurodiversity needs. The Planning Permission shall be a Satisfactory Planning Permission if it is a full planning permission containing no condition which is a Seller Unacceptable Condition or a Buyer Unacceptable Condition and which is

immune from challenge (the Challenge Period being defined as a period of 6 weeks and 6 days from the date of grant).

A Seller Unacceptable Condition shall be a condition within the planning permission which:

1. Makes the planning permission personal to the Buyer; or
2. Makes the planning permission limited in time (save that this will not include any requirement to commence development by a certain date); or
3. Limits the occupation or use of the whole or any part of the property to any designated occupier or class of occupier.
4. Permits or requires the construction of any residential dwellings or commercial buildings
5. Will require the execution of a Planning Agreement under Section 106 or CIL in relation to land other than the Property
6. Prevents the Development without the agreement or co-operation of an independent third party which cannot be obtained by the Buyer on terms or at a cost or within 8 weeks of the date of the Planning Permission which is reasonable in the circumstances
7. Will restrict the hours of operation of the care home facility
8. Will restrict the hours or the manner in which the Property may be serviced or supplied with equipment or deliveries
9. Reduces the bedrooms in the care facility to less than 15 bedrooms
10. Reduces the car parking spaces at the care facility to less than 6 car parking spaces.
11. Causes any material variation in the Specification or location of the Property from that shown in the Planning Application
12. Limiting the duration of a planning permission other than requirements to commence the development within three (3) years from the date of grant and or to submit an application for approval of any reserved matters within two (2) years from the date of grant

#### Buyer Unacceptable Conditions

1. Makes the planning permission personal to the Buyer; or
2. Makes the planning permission limited in time (save that this will not include any requirement to commence development by a certain date); or
3. Limits the occupation or use of the whole or any part of the property to any designated occupier or class of occupier.
4. [TBC ]

The Seller and the Buyer shall let the other party know within 10 Working Days of the grant of a Planning Permission whether it contains a Seller Unacceptable Condition or a Buyer Unacceptable Condition and either Buyer or Seller (as appropriate) shall be deemed to approve the Planning Permission if the Buyer or Seller (as appropriate) do not state whether the Planning Permission is satisfactory within 15 Working Days. The Seller shall be able to waive the Seller Unacceptable Conditions and the Buyer shall be able to waive the Buyer Unacceptable Conditions

APPEALS: the Buyer should be obliged to appeal against a refusal to grant Planning Permission, or if Planning Permission is granted but with the imposition of Onerous Conditions, where counsel with a minimum of ten years PQE in planning matters advises that there is a equal or better

than 50% prospect of success. If the Buyer shall not appeal, then the Seller shall have the ability to terminate the contract and return the deposit to the Buyer

**PLANNING AGREEMENTS:** The Buyer shall perform all the planning conditions in the Planning Permission and any Planning Agreements and shall indemnify the Seller against non-observance. The Planning Agreement shall contain a clause releasing the Seller from any liability under the agreement after the Seller has parted with the Property. The Seller shall have the right to approve any Planning Agreement (such approval not to be unreasonably withheld or delayed). The Seller shall assist the Buyer with any Planning Agreement save that this shall not fetter the Sellers role as a statutory consultee for highways, fire and rescue, education and waste and the Seller shall have absolute discretion to act in the best interests as a statutory consultee.

**EXCHANGE OF  
CONDITIONAL  
CONTRACTS**

As soon as reasonably possible and in any event within 6 weeks from the date of the agreement of these heads of terms.

**GRANT OF THE  
BUILDING LEASE**

The grant of the building lease by the Seller to the Buyer to take place within 10 days of the confirmation of the grant of a Satisfactory Planning Permission. Upon grant of the Building Lease the Buyer shall pay £.....(words) [ 45% of the purchase price] to the Seller

**TERMS OF THE  
BUILDING LEASE**

- The Building Lease shall
- (i) Be contracted out of sections 24 to 28 of the Landlord and Tenant Act 1954
  - (ii) Be for a term of 125 years
  - (iii) Be for a rent of a peppercorn
  - (iv) Be granted to the Buyer
  - (v) Require the Buyer to Commence the Development within 12 months of the date of the Building Lease, and the Buyer to complete the Development within 18 months of Commencement.
  - (vi) Require the Buyer to build the Development in accordance with all statutory approvals
  - (vii) Allow for forfeiture by the Seller if the Buyer is in breach of the Building Lease and such breach has not been rectified
  - (viii) A Seller break clause if the Buyer has not built the Development within 18 months of Commencement of the works
  - (ix) Require the buyer's building contractor, subcontractors and professional team to provide Collateral Warranties to the Seller
  - (x) Practical Completion of the Development to be authorised by the Buyers Employers Agent after inspection and agreement by the Sellers Representative
  - (xi) 3 days following Practical Completion the Seller and the Buyer to enter into the Completion Documents

**COMPLETION**

Completion of the sale to occur 3 Working Days following Practical Completion. The Buyer to pay the remaining £ (words)(ex of VAT) to the Buyer [ the remaining 45% of the purchase price] and the Seller and the Buyer to enter into the following documents

The Transfer of the freehold estate of the Property by the Seller to the Buyer, such transfer to be in an agreed form and to contain a land registry restriction preventing disposition of the freehold estate without an incoming owner or lessee to enter into a Nominations Agreement  
The Nominations Agreement [ details to be confirmed] will be protected with a Land Registry Restriction on the Buyers land registry title.  
WSCC will procure the care and support provider and enter into the Nominations Agreement with the Buyer.

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**LEGAL FEES**

The Buyer and the Seller will be responsible for their own legal fees.

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**VAT**

Where VAT is due this will be payable in addition to the Purchase Price.

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**NOVATION OF PLANS  
REPORTS AND  
SURVEYS**

All plans, reports and surveys should be capable of novation If available under the original terms of the appointment to the Seller from the Buyer at no cost which includes any documents submitted within the planning application. Details of which plans reports and surveys are assignable will be provided to the Sellers prior to exchange of contracts.

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**ASSIGNABILITY**

The sale contract will not be assignable. The building lease will not be assignable, and the Buyer cannot require the Seller to grant the freehold transfer to any other party than the Buyer

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**ACCESS FOR  
INSPECTIONS**

The Buyer will be permitted access to the Property to carry out surveys, investigations and measurements subject to giving reasonable notice to the Seller, and any occupiers, and subject to any damage being made good immediately following the surveys. The Buyer will indemnify the Seller against any claims or liabilities and will not carry out any works which would affect the business or operation of any occupiers on the Property. (if any)

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**SPECIAL REMARKS**

1. [The Purchase Price has been agreed on the basis that the Buyer will build in accordance with the Specification]
2. Overage obligations within the nominations agreement. [ TBC based on discussions with potential buyers but overage to protect against planning consent being granted for a change of use of the land and potentially an onward sale]
3. The Buyer will complete any soil & ground investigations survey, topographical survey, marketing report and a ground engineering report which they may deem necessary within 2 weeks of the agreement of the heads of terms and at their own cost. The Buyers agents shall only enter the Property under agreement under licence and shall indemnify the Sellers against all damage caused and shall make good any damage caused immediately.

**SIGNED by the Sellers:**

**Dated.....2023**



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**SIGNED by a Director on behalf of the Buyer:**

**Dated..... 2023**



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DRAFT