

**DATED**

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**DEED OF EASEMENT**

**relating to**

**OWLSBURY PARK CHAPEL CROSS OLD HEATHFIELD and LAND ON THE SOUTH SIDE OF BATTLE  
ROAD PUNNETTS TOWN HEATHFIELD**

between

**ROBERT GEORGE BATCHELLER AND LINDSAY GAY BATCHELLER**

and

**HEATHFIELD AND WALDRON PARISH COUNCIL**

Surrey Hills Solicitors LLP  
296 High Street  
Dorking  
Surrey  
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IRD.HEATH01-03  
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This deed is dated

HM Land Registry

**LAND REGISTRATION ACTS 1925 to 2002**

**Grantor's Title Number:** ESX71271

**Administrative Area:** WEALDEN

**Grantee's Title Number:** ESX352270

**Parties**

- (1) **ROBERT GEORGE BATCHELLER AND LINDSAY GAY BATCHELLER** of Owlsbury Chapel Cross Old Heathfield TN21 9BH (**Grantor**)
- (2) **HEATHFIELD AND WALDRON PARISH COUNCIL** of 73 High Street Heathfield TN21 8HU (**Grantee**)

**BACKGROUND**

- (A) The Grantor owns the freehold interest in the Grantor's Property and the Grantee owns the freehold interest in the Grantee's Property.
- (B) The Grantor has agreed to grant the Rights to the Grantee for the benefit of the Grantee's Property on the terms contained in this deed.

**AGREED TERMS**

**1. Interpretation**

The following definitions and rules of interpretation apply in this deed.

**1.1 Definitions:**

**Easement Strip:** the strip 2 metres wide either side of the centre line of the Pipe.

**Grantee's Covenants:** the covenants set out in Schedule 2.

**Grantee's Property:** the property at Punnetts Town Recreation Ground shown edged red on Plan 1 and registered at HM Land Registry under the title number referred to above and each and every part of it.

**Grantor's Covenants:** the covenants set out in Schedule 3.

**Grantor's Property:** the property at Owlsbury Chapel Lane Chapel Cross Heathfield TN21 9BH shown edged red on Plan 2 and registered at HM Land Registry under the title number referred to above and each and every part of it.

**Pipe:** the drainage pipe defined in Schedule 1.

**Plan 1 and Plan 2:** the plans number 1 and 2 annexed to this deed.

**Rights:** the Rights set out in Schedule 1.

- 1.2 Any reference to the **Grantor** or **Grantee** shall include that party's personal representatives, successors or permitted assigns.
- 1.3 Clause, Schedule and paragraph headings shall not affect the interpretation of this deed.
- 1.4 Except where a contrary intention appears, references to Clauses and Schedules are to the Clauses and Schedules of this deed and reference to paragraphs are to paragraphs of the relevant Schedule.
- 1.5 The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision and all orders, notices, codes of practice and guidance made under it.
- 1.7 A reference to laws in general is a reference to all local, national and directly applicable supra-national laws as amended, extended or re-enacted from time to time and shall include all subordinate laws made from time to time under them and all orders, notices, codes of practice and guidance made under them.
- 1.8 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.9 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.10 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.11 A reference to **writing** or **written** excludes fax and email.
- 1.12 Any obligation in this agreement on a party not to do something includes an obligation not to allow that thing to be done.

1.13 Any phrase introduced by 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 terms.

## **2. Grant**

2.1 In consideration of £1 (exclusive of VAT) (the receipt of which the Grantor acknowledges) and the covenants given by the Grantee in clause 4, the Grantor with full title guarantee grants to the Grantee the Rights in fee simple for the benefit of the Grantee's Property.

2.2 The Rights are not granted exclusively to the Grantee and are granted:

- (a) subject to the rights of the Grantor in relation to the Grantor's Property whether or not referred to in this deed.
- (b) in common with any other persons lawfully entitled to the Rights or to similar rights in relation to the Grantor's Property.

## **3. Grantor's covenants**

The Grantor covenants with the Grantee so as to bind the Grantor's Property into whoever's hands it may come, for the benefit of the Grantee's Property, that the Grantor and its successors in title shall at all times observe and perform the Grantor's Covenants.

## **4. Grantee's covenants**

The Grantee covenants with the Grantor so as to bind the Grantee's Property into whoever's hands it may come, for the benefit of the Grantor's Property, that the Grantee, its successors in title [and anyone authorised by any of them to use the Rights shall at all times observe and perform the Grantee's Covenants.

## **5. HM Land Registry**

5.1 The Grantor consents to:

- (a) the registration of the Rights on the registered title to the Grantor's Property.
- (b) any restrictive covenants entered into in this deed by the Grantor being noted against the registered title to the Grantor's Property.

5.2 On completion of this deed the Grantee shall:

- (a) apply to HM Land Registry to register the Rights and to enter a notice of any restrictive covenants against the registered title to the Grantor's Property.

- (b) apply to HM Land Registry to enter a notice of any restrictive covenants made by the Grantee in this deed against the registered title to the Grantee's Property and to enter the Rights in the property register of the Grantee's title as appurtenant rights.

5.3 As soon as possible after completion of this deed the Grantee shall give to the Grantor official copies of the registered title to the Grantor's Property and the Grantee's Property, to show that the Rights and any restrictive covenants made by the Grantor and/or the Grantee have been properly and correctly entered against the respective titles.

## **6. Indemnity**

The Grantee shall indemnify the Grantor and keep the Grantor indemnified against all liabilities, costs, expenses, damages and losses suffered or incurred by the Grantor arising out of or in connection with:

- (a) the exercise of the Rights;
- (b) any breach of any of the Grantee's Covenants;
- (c) any breach of the terms of this deed;

by the Grantee, or by any occupier of the Grantee's Property, or by an employee or invitee of the Grantee, or by any other person who is allowed or permitted by the Grantee to exercise the Rights.

## **7. Joint and several liability**

7.1 Where the Grantor comprises more than one person, those persons shall be jointly and severally liable for the obligations and liabilities of the Grantor arising under this deed. The Grantee may take action against, or release or compromise the liability of, or grant time or other indulgence to any one of those persons without affecting the liability of any other of them.

7.2 The Grantor is not liable for the death of, or injury to the Grantee its employees, invitees or for damage to any property of theirs, or for any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by them in the exercise of the Rights.

## **8. VAT**

8.1 All sums payable by the Grantee are exclusive of any VAT that may be chargeable. Subject to clause 8.3 the Grantee shall pay VAT in respect of all taxable supplies made to it in connection with this deed on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.

8.2 Every obligation on the Grantee, under or in connection with this deed, to pay the Grantor any sum by way of a contribution, refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Grantor, except to the extent that the Grantor obtains credit for such VAT under the Value Added Tax Act 1994.

8.3 The Grantee shall not be required to make any payment of VAT unless and until the Grantor provides the Grantee with a valid VAT invoice addressed to the Grantee.

**9. Third party rights**

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.

**10. Governing law**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

**11. Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

## **Schedule 1 The Rights**

1. The rights for the Grantee and its successors in title and those authorised by it or them in common with the Grantor and other persons having the same right:
  - 1.1 to drain the Grantee's Property into and into the ditches at the boundary of the Grantor's Property
  - 1.2 to use the ditches on the Grantee's Property for the purpose of the right granted by paragraph 1.1
  - 1.3 to inspect the ditches on the Grantor's land
  - 1.4 to install, maintain, repair, clean, replace, renew, inspect and use a drainage pipe of a length of [ ] metres and a diameter of [ ] millimetres and if necessary enlarge and remove the same between the points marked A and B on Plan 2
  - 1.5 of support for the Pipe from land under and adjoining the same
  - 1.6 for uninterrupted passage and flow of water through the Pipe and the ditches on the Grantor's Property
  - 1.7 to remove trees, bushes plants or foliage growing on or in the Easement Strip and adjacent to or within the ditches which if not removed might prevent the flow of water in the Pipe or the ditches
  - 1.8 to carry out the works which the Grantee is obliged to carry out under this deed
  - 1.9 to enter the Grantor's Property for the purposes of the Rights with and without vehicles, plant and workers except in the case of emergency at all reasonable times upon giving to the Grantor at least 48 hours' notice



## **Schedule 2 Grantee's covenants**

The Grantee shall:

### **1. Statutory requirements**

Comply with all laws governing the exercise of the Rights.

### **2. Damage**

Not cause any damage to the Grantor's Property, or to any property of the owners or occupiers of the Grantor's Property, and shall as soon as possible make good any damage caused to the Grantor's reasonable satisfaction and pay full compensation to the Grantor in respect of any damage caused that is not made good and any loss caused to the Grantor due to such damage.

### **3. Nuisance**

Not cause any nuisance, annoyance or disturbance to the Grantor or occupiers of the Grantor's Property, or of any neighbouring land, or to any other person entitled to the Rights in common with the Grantee.

### **4. Obstruction or waste**

Not obstruct the any means of access over the Grantor's Property or deposit any waste, rubbish, soil or other material on any part of the Grantor's Property or in any other way interfere with, or disturb, the exercise of the same Rights or similar rights by any other person authorised by the Grantor.

### **5. As-built drawings**

5.1 Provide to the Grantor copies of as-built drawings of drainage works on the Grantee's Property where they relate to the Rights and affect the Grantor's Property

### **6. Repair**

6.1 Keep the Pipe referred to Schedule 1 clean and free from obstruction and in good repair and condition.

6.2 In the event that the run off from the Grantee's Property exceeds [ ]/s calculated over a period of [ ] months as measured at point C on Plan 2 carry out such works as may be necessary to reduce the flow to that level.

6.3 Carry out ditch clearing works to the ditches between points [ ] and [ ] on Plan 2 at six-monthly intervals

**7. Costs in the event of breach**

Pay to the Grantor on written demand all costs incurred by the Grantor in complying with any of the Grantee's Covenants if the Grantee has failed to comply with them, provided that the Grantor has first served on the Grantee written notice of the breach and the Grantee has failed to rectify the breach within 30 days of service of that notice.

**8. Signs**

8.1 Erect, keep and maintain signs at the stiles marked S1 and S2 on Plan 2 stating "These stiles are for use when retrieving match balls only"..

**9. Pollution**

Not cause or permit any pollution of the water discharging into the ditch at point [ ] on Plan 2.

**Schedule 3 Grantor's covenants**

The Grantor shall:

**1.**

- 1 not to obstruct, interrupt or interfere with the exercise of the Rights by the Grantee.
- 2 not to do or cause on the Grantor's Property or any adjoining land under the control of the Grantor anything calculated or likely to cause damage or injury to the Pipe, to cause any escape therefrom or to affect the purity or quality or flow of water carried by the same or to prevent hinder or obstruct access to the same and to take all reasonable precautions to prevent such damage or injury hindrance or obstruction.
- 3 not to erect any building, carry out any works of construction, install any other pipes drains wires ducts or cables or plant any tree or shrub on the Easement Strip..
- 4 not to do anything whereby the level of the surface of the Easement Strip is altered or to disturb the sub-soil or the Easement Strip or the Property so as to interfere with the right of support granted in Schedule 1.
- 5 not to bring onto or store on the Easement Strip or cause or permit in the ditches any material which may cause pollution.
- 6 not to place or use on the Easement Strip any materials or machinery or vehicles of a weight likely to interfere with or cause damage to the Pipe.

Signed as a deed by ROBERT GEORGE BATCHELLER in the presence of:

.....

[SIGNATURE OF **Grantor**]

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Signed as a deed by LINDSAY GAY BATCHELLER in the presence of:

.....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Executed as deed on behalf of HEATHFIELD AND WALDRON  
PARISH COUNCIL

.....

SIGNATURE OF FIRST  
Councillor

.....

SIGNATURE OF SECOND  
Councillor