

THIS UNILATERAL UNDERTAKING is made by DEED on the 21<sup>st</sup> of September 2020

#### AND GIVEN BY

Douglas Construction Limited incorporated and registered in England and Wales with company number 04448465 whose registered office is at 3 Stafford Road, Southsea, Hants, PO5 2AD

#### TO

The Council of the Borough of Havant of Public Service Plaza Civic Centre Road Havant PO9 2AX (Council)

#### BACKGROUND

- (A) The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.
- (B) The Owner owns the Land and has made the Planning Application and is proposing to carry out the Development.
- (C) The Owner gives this undertaking to perform the obligations set out in this deed.

#### AGREED TERMS

##### 1. INTERPRETATION

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

##### 1.1 Definitions:

**Act:** The Town and Country Planning Act 1990.

**Administration Fee:** the sum of £23.

**Commencement of Development:** the date on which any material operation (as defined in section 56(4) of the Act) forming part of the Development is begun save that (for the purposes of this Agreement and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, site survey works, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services and "Commence Development" and similar expressions shall be construed accordingly.

**Contribution:** the sum of £2,223.00 as a contribution towards measures to mitigate the water quality impacts of the Development on the Solent European Sites.

**Development:** the development of the Land described in the Planning Application.

**Land:** the freehold land at Manor Road Nurseries, Manor Road, Hayling Island, PO11 0QL, Construction of 1 No. four bed dwelling and 8 No. three bed dwellings, following demolition of existing glasshouse, together with improved site access and associated vehicle parking.

**Occupation:** occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupiers" shall be similarly construed.

**Planning Application:** an application for planning permission registered by the Council on 13 September 2019 under reference number APP/18/01297

**Planning Permission:** the planning permission to be granted by the Council in respect of the Planning Application.

- 1.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.3 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.4 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.
- 1.5 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.6 References to clauses are to the clauses of this deed.
- 1.7 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.

## **2. STATUTORY PROVISIONS**

- 2.1 This deed constitutes a planning obligation for the purposes of section 106 of the Act, section 111 of the Local Government Act 1972 and any other enabling powers.
- 2.2 The obligations contained in clause 3 of this deed are planning obligations for the purposes of section 106 of the Act and are entered into by the Owner with the intention that they bind the interests held by the Owner in the Land and their respective successors and assigns.
- 2.3 This deed shall have effect from the date hereof.
- 2.4 The obligations contained in clause 3 of this deed are enforceable by the Council in accordance with section 106 of the Act.

## **3. OWNERS COVENANTS WITH THE COUNCIL**

- 3.1 The Owner covenants to pay the Contribution and Administration Fee to the Council on the date of this deed.
- 3.2 The Owner covenants not to Occupy or permit Occupation of the Development or any part thereof prior to 1 October 2020.
- 3.3 Subject to clause 3.5, the Owner covenants that clause[s] 3.1 and 3.2 shall apply to any subsequent planning permission that is granted by the Council under section 73 or 73A of the Act which permits non-compliance with any of the conditions attached to the Planning Permission or any subsequent permission granted under such powers ("Subsequent Permission") and the Planning Permission and the Development shall be construed to include the development as granted under a Subsequent Permission.
- 3.4 Where clause 3.3 is engaged, the Owner agrees and acknowledges that the Council may treat the Contribution and Administration Fee as having been made under any Subsequent Permission.
- 3.5 For the avoidance of doubt, clause 3.3 shall not be construed as to require the Owner to fulfil the covenant provided at clause 3.1 more than once.

## **4. DETERMINATION OF DEED**

This deed shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is revoked; or
- (c) is quashed following a successful legal challenge.

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

**Executed and delivered** as a deed by  
Douglas Construction Limited acting by  
Christopher Douglas Hurley, by a  
director

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**Director**

in the presence of:

Witness signature

Witness name

Witness address

Witness occupation