

DATED

6th December

2013

^{LM}
LINDEN ~~HOMES~~ LTD

and

HSBC BANK PLC

to

THE COUNCIL OF THE BOROUGH OF HAVANT

**PLANNING OBLIGATION BY
UNDERTAKING**

Pursuant to Section 106 of the Town and Country
Planning Act 1990 (as amended)

relating to land at

St Michaels Convent 354 London Road Waterlooville Hampshire PO7 7SS

THIS DEED OF UNDERTAKING is made the 6th day of December 2013
BY

(1) Linden ~~Home~~^{Wife} Limited ("the Owner") and

(2) HSBC Bank Plc ("the Chargee")

1. In this Deed:

1.1 "the Act" means the Town and Country Planning Act 1990 as amended

1.2 "Alternative Affordable Housing Contribution" means the payment of a financial contribution in lieu of the shortfall of on-site Affordable Housing Unit provision (calculated in accordance with the methodology contained in the Council's "Supplementary Planning Documents – Housing July 2011")

1.3 "Application" means the application for planning permission in respect of the Land given a reference number which is set out in paragraph Three of the Schedule which Application to carry out the Development has been made to the Council as appropriate local planning authority.

1.4 "the Council" means the Council of the Borough of Havant being the local planning authority by whom the within written Obligations are enforceable

1.5 "the Development" means the development described in paragraph Four of the Schedule

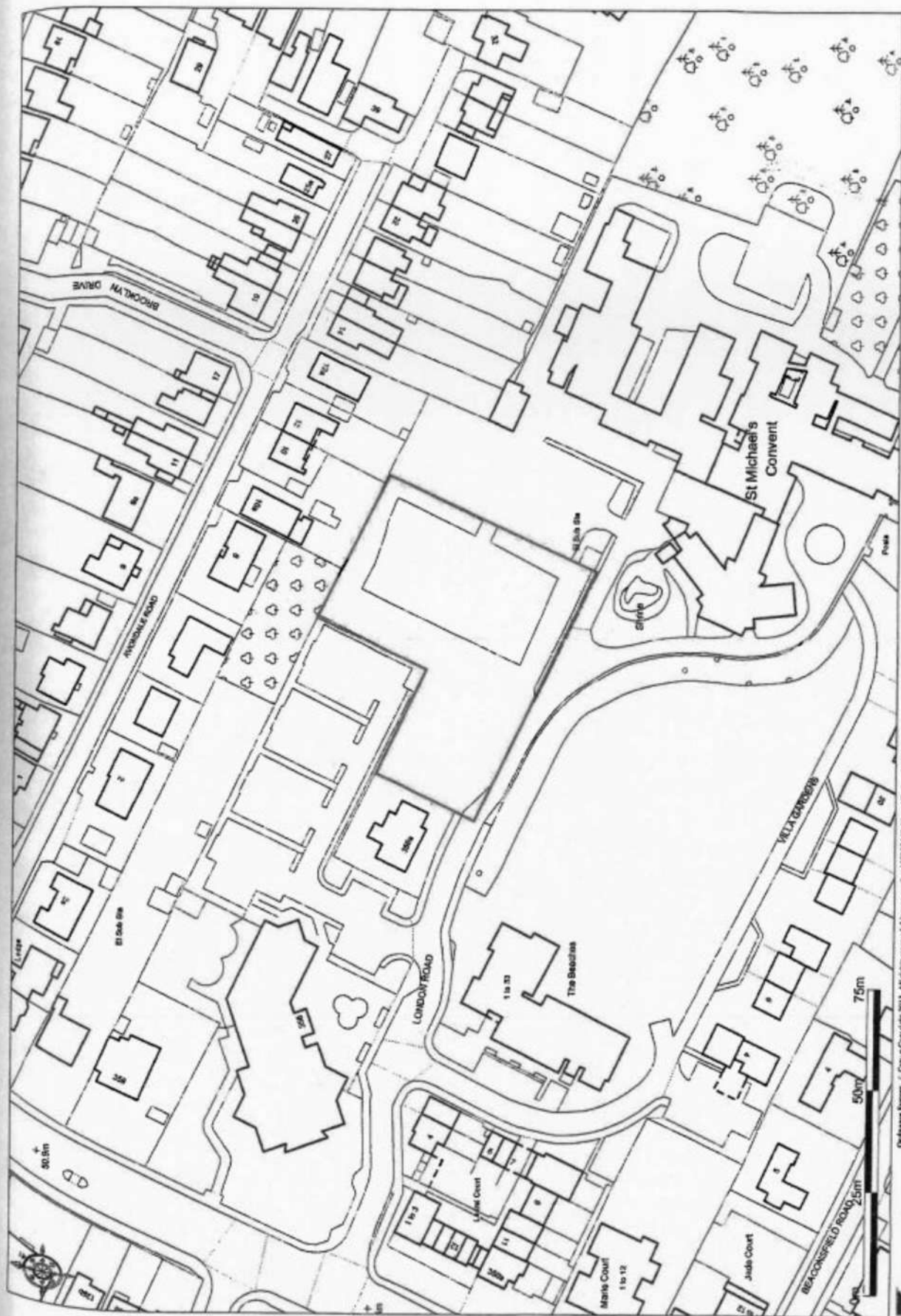
1.6 "Dwelling" means any dwelling (including a house flat or maisonette) to be constructed pursuant to the Planning Permission.

1.7 "the Land" means the land described at paragraph One of the Schedule and any buildings structures or erections at any time thereon

1.8 "Material Operation means the carrying out in relation to the Development of any material operation as defined by section 56(4) of the Act but disregarding for the purposes of this deed and for no other purpose, the following operations:- demolition works; site clearance; ground investigations; site survey works; temporary access construction works; archaeological investigation; investigations for the purpose of assessing contamination, remedial action in respect of contamination, diversion and laying of services and erection of any fences and hoardings around the Land, the erection of

means of enclosure for the purposes of site security and/or the display of advertisements, formation of construction compounds and temporary sales area and Commence and Commences shall be construed accordingly.

- 1.9 "the Monitoring/Legal Costs Fees" means the sum of money specified in Paragraph Six of the Schedule being Fees (being applied at such time and in such manner as the Council shall in its absolute discretion determine) used towards the costs to be incurred by the Council in the provision of suitably qualified and experienced persons whose function interalia is to draft monitor coordinate and enforce section 106 Obligations
- 1.10 "Obligations" and "OBLIGATIONS" means those planning obligations (being restrictions requirements covenants agreements obligations or any of the foregoing) enforceable at law and in particular (but without prejudice to the availability to any enforcing authority of any power which may be available to it for the purposes of the enforcement of this Deed) under the authority of the statutory provision referred to in clause 4 of this Deed and which are set out in paragraph Seven of the Schedule
- 1.11 "the Owner" means the owner and in the case of two or more owners each or all of them as owners of any or all parts of the Land and as parties to this Deed acting and being obliged by this Deed jointly and severally who is (or are) described at paragraph Two of the Schedule being a person or persons identified in accordance with Section 106(9)(c) of the Ac
- 1.12 "the Permission" means the grant of planning permission made in response to the Application including where appropriate any grant of approval in respect of matters reserved by the said grant of planning permission or any subsequent grant of planning permission for the Development or for such other development on the Land as is not materially different from the Development (the determination of materiality being solely at the discretion of the Council)
- 1.13 "the Plan" means the plan attached to this Deed
- 1.14 "the Schedule" means the Schedule to this Deed being an integral part of this Deed
- 1.15 The Chargee has entered into this deed to consent to the Owner binding the Land by the obligations contained in this deed PROVIDED THAT the Chargee shall otherwise have no liability under this Deed unless the Chargee takes



Ordnance Survey © Crown Copyright 2013. All rights reserved. Licence number 100033445 Printed Scale - 1:1250

Promap

possession of the Land in which case the Chargee shall be bound by the obligations as if it were a person deriving title from the Owner.

2. With the intention and so as permanently to bind the Land and all parts thereof so far as lawfully may be effected and into whomsoever hands the same may come and so that the Obligations hereby created shall be enforceable both against the Owner and their successors the Owner (should it or they take possession of any part of the Land or exercise powers of sale under its security) **HEREBY SEVERALLY COVENANT AND UNDERTAKE AS A PLANNING OBLIGATION TO COMPLY FULLY WITH THE OBLIGATIONS**

- 2.1 This instrument or document hereby expresses itself as executed as a Deed

3. This Deed of Undertaking is made pursuant to Section 106 of the Act with the intent that it shall bind the Owner and be enforceable against them and the persons deriving title under them and shall be a planning obligation for the purposes of the Act

4. This Deed shall have effect from the date of this Undertaking.

5. In the event of any difference between the description of the Development in this Deed and the terms of the grant of permission issued by the Council in response to the Application the text of the grant of planning permission only shall be deemed to express the permission granted by the Council in response to the Application

6. The obtaining consequent upon the provisions of this Deed of expressions of acceptance or satisfaction on the part of the Council with things done in discharge of Obligations or determinations of materiality for the purposes of clause 1.12 shall be ineffective and not relied upon by any person unless in writing by the Council's Executive Head of Planning and Built Environment for the time being or such other officer who may be identified in writing by the Council for this purpose

7. In the event that any provision of this Deed is held to be invalid or unenforceable the remaining provisions of this Deed shall remain in full force and effect

8. No person shall be liable for any breach of a covenant, restriction or obligation contained in this deed after parting with its interest in the Land, except in respect of any breach subsisting prior to parting with such interest.

THE SCHEDULE

1. (See clause 1.7) the Land

The land known as St Michaels Convent 354 London Road Waterlooville in Hampshire shown edged in red on the Plan.

2. (See clause 1.11) the Owner(s):

Linden Limited (CRN. 01108676) whose registered office is at Cowley Business Park, Cowley, Uxbridge, Middlesex UB8 2AL ;

3. (See clause 1.3) the Council's planning application reference number:

APP/13/00921

4. (See clause 1.5) the Development

Construction of 10 dwellings (6 no. 3 bedroom dwellings and 4 no. 4 bedroom dwellings) and associated parking, landscaping and access

5. Contributions

Cost Code	Contribution	Amount
B100 7275	Alternative Affordable Housing Contribution (See clause 1.2)	£246,612.00
2875 4411	Monitoring Fee (See clause 1.9)	£2,000.00
4220 4355	Legal Costs Fee (See clause 1.9)	£230
Total		£248,842.00

6. (See clause 1.10) the Obligations

- 6.1 The Owner covenants to notify the Council in writing at least 14 days before commencing a Material Operation on the Land.
- 6.2 The Owner covenants to pay to the Council prior to Occupation of no more than 5 Dwellings the Alternative Affordable Housing Contribution in the amount of Two Hundred and Forty Six Thousand Six Hundred and Twelve Pounds (£246,612)
- 6.3 The Owner covenants not to cause or permit Occupation of more than 5 Dwellings unless and until the Alternative Affordable Housing Contribution has been paid in accordance with paragraph 6.2
- 6.3 The Owner covenants to pay the Monitoring/Legal Costs Fees to the Council on or before the date of this Undertaking.
- 6.4 The Owner hereby acknowledges that the Alternative Affordable Housing Contribution and the Monitoring/Legal Costs Fees are lawfully due to the Council.

IN WITNESS whereof the parties hereto have executed and delivered this instrument or document as a Deed the day and year first before written.

Signed as a DEED by
LINDEN LIMITED
Acting by a Director and its Secretary/
Two Directors

Director

Director/~~Secretary~~

Executed as a Deed
by **HSBC Bank Plc**
in the presence of :-

)
)
)



Authorised signatory

Chris Merrett
Authorised Signatory

Witness

