11/01535

DATED 7th December 2011 23/12/11

DAVID ANTHONY JAMES THOMAS

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

1 Braishfield Road, Havant in Hampshire PO9 2HS

I certify that this is a true copy of the s106 dated 7th December 2011

[redacted]

Deputy to the Solicitor to the Council.

THIS DEED OF UNDERTAKING is made the 7th day of December 2011

BY

(1) THE OWNER

1. In this Deed:

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

1.2 "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.

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

1.4 "the County Council" means Hampshire County Council 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 "the Hampshire County Council Transport Contribution" means the sum of money specified in Paragraph Six of the Schedule being a contribution (being applied at such time and in such manner as the County Council shall in its absolute discretion determine) to the costs to be incurred by the Council or Hampshire County Council in the provision, improvement and maintenance of Hampshire County Council and Havant Borough Council's local transport improvement list.

1.7 "Indexed" means in respect of the Hampshire County Council Transport Contribution such sum to be index linked in accordance with the "All Items" Index of Retail Prices (RPI) published by the Office of National Statistics or any replacement thereof from the date hereof until the date of payment

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

1.9 "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

1.10 "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 Act

1.11 "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)

1.12 "the Plan" means the plan attached to this Deed

1.13 "the Schedule" means the Schedule to this Deed being an integral part of this Deed

1.14 "the Solicitor" means the solicitor giving the certificate at paragraph Five of the Schedule

2.1 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

2.2 This instrument or document hereby expresses itself as executed as a Deed

3. The Owner (and each of them acting in concert in the case of more than one joint owner) has produced at Paragraph Five of the Schedule a certificate of the Solicitor with the intention that the Council may and shall rely upon the truth of the matters therein certified namely that;

3.1 the Owner is immediately entitled to possession and occupation of a freehold estate in the Land

4. 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

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

6. 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

7. 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 1.9 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

8. 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

9. It is acknowledged that pursuant to a Section 106 Undertaking dated 26 May 2011 given by the Owner to the Council under planning permission reference number APP/11/00288 and pursuant to a Section 106 Undertaking dated 28 August 2011 given by the Owner to the Council under planning permission reference number App/11/01177 that the amount of £3,745 has been paid to the County Council as a contribution to the Hampshire County Council Transport Contribution.

THE SCHEDULE

1. (See clause 1.8) the Land

The land known as 1 Braishfield Road, Havant in Hampshire shown edged with a heavy black line on the Plan.

2. (See clause 1.10) the Owner(s):
[Please insert full name(s) and address(es) of every owner of the Land]

David Anthony James Thomas
1 Braishfield Road
Havant

Hampshire
PO9 2HS

3. (See clause 1.2) the Council's planning application reference number:

APP/11/01535

4. (See clause 1.5) the Development

The construction of 2No. 2 bed end of terrace maisonettes (as alternative to previous planning permission APP/11/01177, together with single storey rear extension to existing house.

5. (See clauses 1.14 and 3) Solicitors' Certificate
Certificate of Title
As Solicitor for the Owner we hereby certify that on the date of this Deed what is set out in clauses 3.1 and paragraph 2 of the Schedule to this Deed is true

Signed: [redacted]
Name: [redacted]
Address: Access Law LLP
14-24 Cannon Street
Shirley Southampton SO15 5PA

6. (See clauses 1.6 and 1.7) the Hampshire County Council Transport Contribution

£5,240 (Indexed)

7. (See clause 1.9) the Obligations

7.1 The Owner covenants to notify the Council and the County Council in writing at least 14 days before commencing a Material Operation on the Land.

7.2 The Owner covenants to pay or cause to be paid the Hampshire County Council Transport Contribution to the Council on or before the date of this Undertaking.

7.3 The Council shall pay the Hampshire County Council Transport Contribution

within 28 days of receipt to the County Council.

7.4 The Owner hereby acknowledges that the Hampshire County Council Transport Contribution is lawfully due to the Council.

7.5 In Paragraphs 7.1 of this Schedule "Material Operation" means:

7.5.1 any work of construction in the course of the erection of a building;

7.5.2 any work of demolition of a building;

7.5.3 the digging of a trench which is to contain the foundations or part of the foundations of a building;

7.5.4 the laying of any underground main or pipe to the foundations or part of the foundations of a building or to any such trench as is mentioned in paragraph 7.5.3;

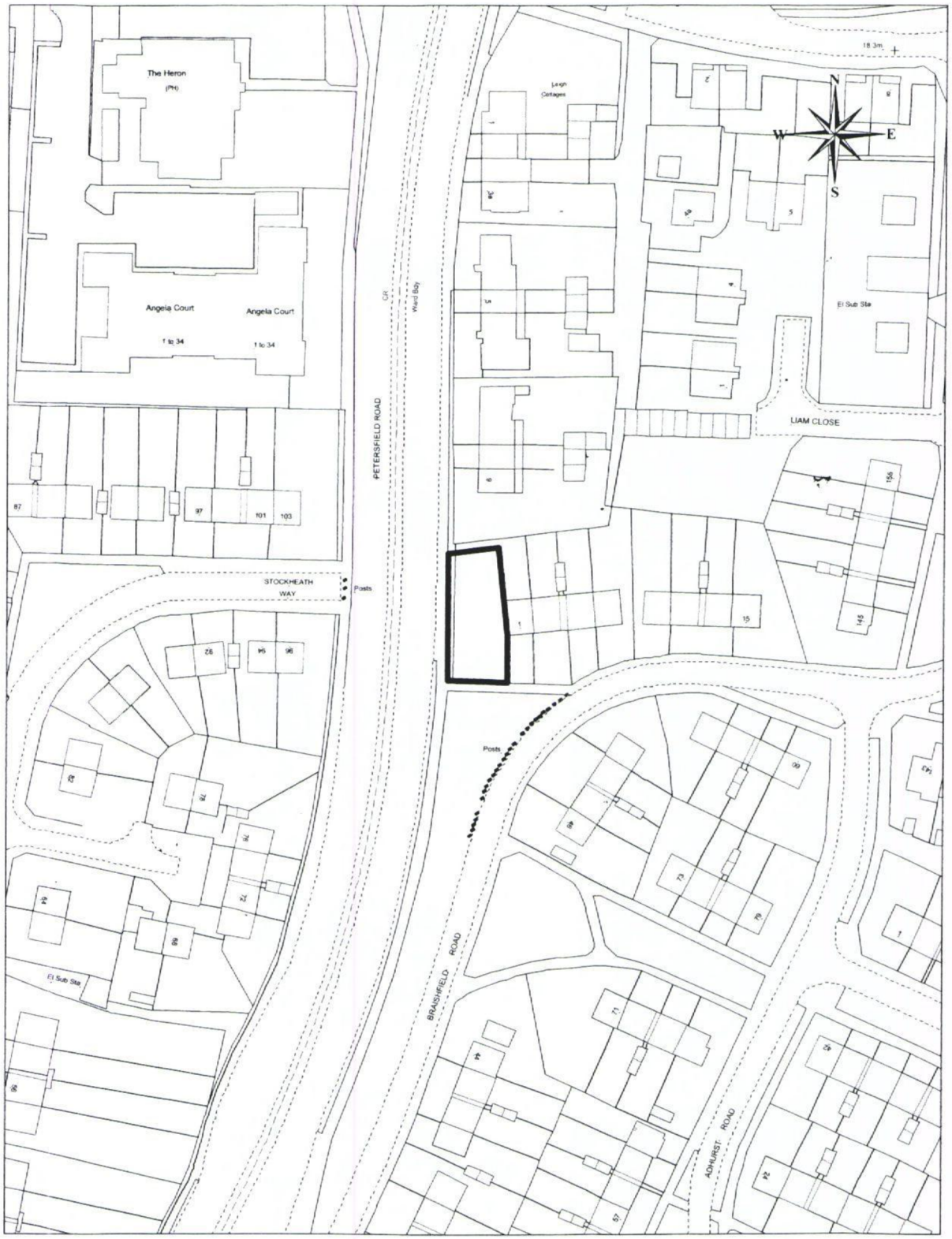
7.5.5 any operation in the course of laying out or constructing a road or part of a road;

7.5.6 any change in the use of the Land which constitutes material development as defined in the Act

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 me) [redacted]
the said)
DAVID ANTHONY JAMES)
THOMAS)
in the presence of:) [redacted]

name: [redacted]
address:



Public Service Plaza
Civic Centre Road
Havant
Hampshire PO9 2AX

tel 023 9247 4174 fax 023 9248 0263
www.havant.gov.uk

Havant BOROUGH COUNCIL

Title:

Town and Country Planning Act 1990
S106 Agreement
1 Braishfield Road,
Havant, PO9 2HS
APP/11/01535

Drawn By: GE

Scale: 1:1250

Drawing No: PC44/0453

Cleaner, Safer, More Prosperous

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