

Dated 21 July 2017

Unilateral Undertaking

Pursuant to Section 106 of the Town and Country Planning
Act 1990

GIVEN BY

(1) June Staley and Janine Pearce
(and as Personal Representatives of the estate of Cyril
Hardwick Staley)

TO

(2) South Derbyshire District Council

Relating to land to rear of 69 Woodville Road,
Overseal, Derbyshire

THIS UNILATERAL UNDERTAKING is given the 21 day of July 2017

BY:

- (1) **June Staley** of 69 Woodville Road, Overseal, Swadlincote, Derbyshire and **Janine Pearce** of 32 Main Street, Linton, Swadlincote, Derbyshire ("the Owners") and as Personal Representatives of the estate of Cyril Hardwick Staley

TO:

- (2) **South Derbyshire District Council** of Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH ("the Council")

1. Background

- 1.1 The Owners are the freehold owner of the Site free from encumbrances which is registered at the Land Registry under title number DY332961.
- 1.2 One of the registered proprietors, Cyril Hardwick Staley, died on 13 July 2014 and a Grant of Probate was issued by the District Probate Registry of Birmingham on 27 November 2015 appointing the Owners as personal representatives of the estate.
- 1.3 The Owners warrant that there are no other legal or equitable interests in the Site.
- 1.4 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated and the person by whom the obligations undertaken by the Owners in this Undertaking are enforceable.
- 1.5 The Owners have submitted the Application to the Council and are proposing to carry out the Development in accordance with the Planning Permission.
- 1.6 The Owners have agreed to enter into this Undertaking in order to secure the planning obligations contained herein.

2. Interpretation

2.1 In this Undertaking:

- (a) "Act" means the Town and Country Planning Act 1990 (as amended);
- (b) "Application" means the outline planning application number 9/2015/0518 made by the Owners to develop the Site by the erection of 6 Dwellings;

PROPOSED RESIDENTIAL DEVELOPMENT- LAND OFF WOODVILLE ROAD & FOREST VIEW, OVERSEAL

1:500 @ A2

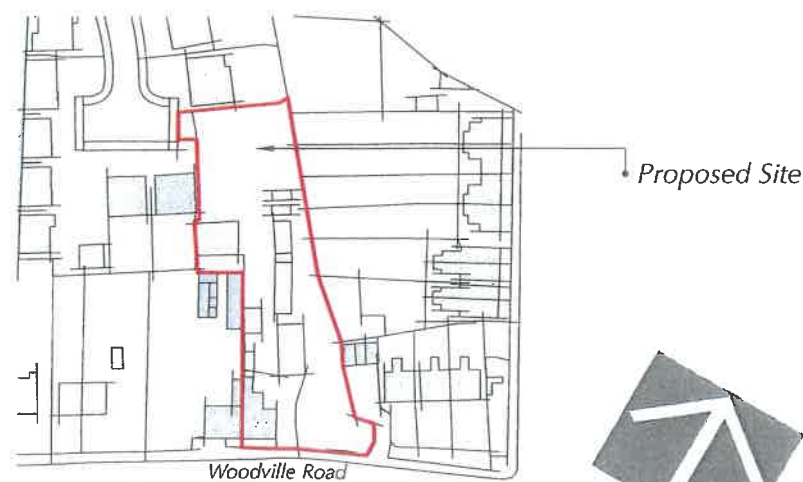
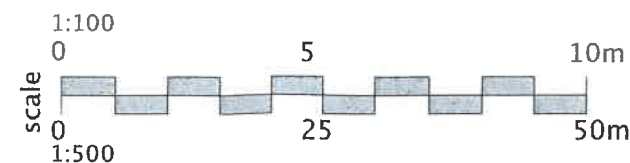


1:500 existing site plan



1:500 proposed site plan

- indicates position of soak away to BRE Digest 365
- indicative foul layout to public sewer



1:1250 site location plan

DESCRIPTION
DEMOLITION OF OUTBUILDINGS AND ERECTION OF 6 DWELLINGS & ASSOCIATED ACCESS.

PLOTS 1 & 2 SERVED OFF FOREST VIEW
PLOTS 3 - 6 AND EXISTING HOUSE SERVED OFF WOODVILLE ROAD

DEVELOPMENT SITE
SITE AREA INCLUDING EXISTING HOUSE 0.185HA

SCHEDULE OF HOUSE TYPES
PLOTS 1 & 2 4 BED DETACHED HOUSES
PLOTS 3 & 4 3 BED DETACHED HOUSES
PLOTS 5 & 6 3 BED SEMI-DETACHED HOUSES
EXISTING HOUSE 3 BED SEMI DETACHED

ON SITE PARKING PROVISION
PLOTS 1 & 2 3 CAR PARKING SPACES
PLOTS 3-6 2 CAR PARKING SPACES
EXISTING HOUSE - 2 CAR PARKING SPACES

GARDEN AREAS
PLOT 1 - 200SQM PRIVATE GARDEN
PLOT 2 - 140SQM PRIVATE GARDEN
PLOTS 3 & 4 - 80SQM PRIVATE GARDENS
PLOTS 5 & 6 - 50SQM PRIVATE GARDENS
EXISTING HOUSE - 60SQM PRIVATE GARDEN

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project:
PROPOSED RESIDENTIAL DEVELOPMENT
address:
69, WOODVILLE ROAD, OVERSEAL, DERBYSHIRE
client:
MESDAMES STALEY & PEARCE
drg:
PLANNING DRAWING
drg no:
705-SP.04B

revision
A. Plot 1 repositioned . 17/03/2015
B. red line revised to site plan access width amended to 6m Design Guide
C. engineering space increased to parking spaces, bin refuge added 24/03/2015
drg. by
DARREN INSLEY
scale:
1:500, 1:1250
date:
DECEMBER 2014

- (c) "Commencement of Development" means the date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out;
- (d) "Development" means the development of the Site in accordance with the Planning Permission;
- (e) "Dwelling(s)" means any dwelling (including a house, flat or maisonette) to be constructed on the Site pursuant to the Planning Permission;
- (f) "Index" means the All Items Index of Retail Prices published by the Office for National Statistics provided that during any period where no such index exists, the index which replaces the same or is the nearest equivalent thereto as notified by the Council shall be applicable;
- (g) "Interest" means interest at 2% per annum above the base lending rate of Barclays Bank plc from time to time;
- (h) "Occupation" means first occupation of a Dwelling 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" shall be construed accordingly;
- (i) "Plan" means the plan attached to this Undertaking;
- (j) "Planning Permission" means the outline planning permission subject to conditions to be granted by the Council pursuant to the Application;
- (k) "Reserved Matters Approval" means the grant of any application for reserved matters approval required pursuant to the Planning Permission;
- (l) "River Mease Contribution" means a sum calculated using the formulae below following a Reserved Matters Approval to be paid by the Owners to the Council in accordance with clause 5 and used towards water quality management of the River Mease:
 - (i) £206.00 multiplied by the total number of Dwellings containing 1 bedroom; and
 - (ii) £303.00 multiplied by the total number of Dwellings containing 2 bedrooms; and
 - (iii) £409.00 multiplied by the total number of Dwellings containing 3 bedrooms; and
 - (iv) £572.00 multiplied by the total number of Dwellings containing 4 or more bedrooms;

- (m) "Site" means the land identified in the Application and shown edged red on the Plan;
- (n) "Working Day(s)" means Mondays to Fridays (excluding days that in England and Wales are public holidays) inclusive.

- 2.2 Where in this Undertaking reference is made to any clause, paragraph or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or recital in this Undertaking.
- 2.3 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.
- 2.4 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed as being interchangeable in that manner.
- 2.5 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and severally.
- 2.6 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.7 References to any party to this Undertaking shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council any successors to its statutory functions.
- 2.8 The headings in this Undertaking are for reference only and shall not affect construction.

3. Statutory Provisions

- 3.1 This Undertaking is given by the Owners to the Council pursuant to Section 106 of the Act.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Undertaking create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owners and their successors in title.
- 3.3 The Owners undertake to the Council to comply with the planning obligations contained in clause 5 of this Undertaking.

3.4 It is acknowledged by the Owners that the obligations contained in this Undertaking are:

- (a) necessary to make the Development acceptable in planning terms;
- (b) directly related to the Development; and
- (c) fairly and reasonably related in scale and kind to the Development.

3.5 Nothing contained or implied in this Undertaking shall prejudice or affect the rights, discretions, powers, duties and obligations of the Council under all statutes, by-laws, statutory instruments, orders and regulations in the exercise of its functions as a local authority.

4. Commencement

This Undertaking is conditional upon the grant of the Planning Permission and the Commencement of Development save for the provisions of this clause 4 and clauses 6, 7.2, 8, 12, 13 and 14 which shall come into effect immediately upon completion of this Undertaking.

5. River Mease Contribution

The Owners undertake to the Council:

- 5.1 to pay the River Mease Contribution to the Council prior to Occupation of any Dwelling;
- 5.2 not to Occupy or cause or permit the Occupation of any Dwelling until the River Mease Contribution has been paid to the Council in full.

6. Legal Costs

The Owners undertake to pay to the Council immediately upon completion of this Undertaking the legal costs incurred by the Council in the drafting and negotiation of this Undertaking.

7. Notice by Owner

- 7.1 The Owners undertake to the Council to give formal written notice of the date when exchange of contracts has occurred on the first Dwelling to be sold by the Owners, such notice to be given within two Working Days of exchange of contracts and thereafter to notify the Council of the date of the first Occupation of each Dwelling no later than five Working Days following the contractual completion date of the sale.
- 7.2 The Owners undertake to the Council to give the Council written notice of any change in ownership of any of their interests in the Site occurring before all the obligations contained in this Undertaking have been complied with such notice to be given within ten Working Days of the

change in ownership and to give details of the transferee's full name and address or registered office (if a company) together with the area of the Site purchased by reference to a plan.

- 7.3 The notice required to be given under clauses 7.1 and 7.2 above shall be delivered personally or by commercial courier or sent by pre-paid post using recorded delivery to the Council's Planning Services Manager at Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH.

8. Determination

- 8.1 This Undertaking shall be determined and have no further effect if the Planning Permission:

- (a) expires before the Commencement of Development;
- (b) is varied or revoked other than at the request of the Owners; or
- (c) is quashed other than at the request of the Owners.

- 8.2 Clause 8.1 shall not apply in respect of:

- (a) any non-material amendments to the Planning Permission or the Development approved by the Council from time to time; or
- (b) a planning permission granted by the Council after the date of this Undertaking pursuant to Section 73 of the Act in respect of the conditions in the Planning Permission (in which case any references in this Undertaking to the Application and the Planning Permission shall be deemed to include any such subsequent application and planning permission granted and this Undertaking shall henceforth take effect and be read and construed accordingly).

9. Local Land Charge

It is intended that this Undertaking shall be a local land charge and registered as such by the Council.

10. Interest

If any payment due under this Undertaking is paid late, Interest shall be payable from the date on which payment is due to the date of payment.

11. Indexation

All sums referred to in this Undertaking shall be increased by an amount equivalent to the increase in the Index from the date of this Undertaking until the date on which such sum is paid.

12. Waiver

The Owners accept and acknowledge that no waiver (whether express or implied) by the Council of any breach or default in performing or observing any of the covenants, terms or conditions of this Undertaking shall constitute a continuing waiver and that no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or acting upon any subsequent breach or default.

13. Legal effect

In so far as any clause or clauses of this Undertaking are found to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Undertaking.

14. Jurisdiction

This Undertaking is governed by and interpreted in accordance with the law of England and Wales and the Owners submit to the non-exclusive jurisdiction of the courts of England and Wales.

IN WITNESS whereof the Owners have executed this Undertaking as a deed the day and year first before mentioned

EXECUTED as a **DEED** by
JUNE STALEY (in her own right
and as Personal Representative
of the estate of Cyril Hardwick Staley)

[Redacted Signature]

Signature

in the presence of:

Signature of witness
Name (IN BLOCK CAPITALS)
Address

.....
.....
.....
.....
.....

[Redacted Witness Signature and Address]

EXECUTED as a **DEED** by
JANINE PEARCE (in her own right
and as Personal Representative
of the estate of Cyril Hardwick Staley)

[Redacted Signature]

.....
Signat

in the presence of:

Signature of witness
Name (IN BLOCK CAPITALS)
Address

.....
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.....
.....
.....

[Redacted Witness Signature and Address]