

Dated 17th MAY ~~April~~ 2016

Unilateral Undertaking

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

GIVEN BY

Sultan Khan

TO

SOUTH DERBYSHIRE DISTRICT COUNCIL

Relating to land to rear of 50 to 60 Wellwood Road, Newhall

THIS UNILATERAL UNDERTAKING is given the 17th day of ~~April~~ ^{MAY} 2016

BY

(1) **SULTAN KHAN** of 66 Lonsdale Road, Branston, Burton-on-Trent. DE14 3ED ("the Owner").

TO

(2) **SOUTH DERBYSHIRE DISTRICT COUNCIL** of Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH

1. Background

- 1.1 The Owner is the freehold owner of the Application Site which is registered at the Land Registry under the title number DY425253
- 1.2 South Derbyshire District Council ('the Council') of Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH is the local planning authority for the purposes of the Act by whom the obligations undertaken by the Owner in this deed are enforceable.
- 1.3 There are no other legal or equitable interests in the Application Site
- 1.4 The Owner has submitted the Application to the Council and is proposing to carry out the Development in accordance with the Planning Permission
- 1.5 The Owner has agreed to enter into this Undertaking in order to secure the planning obligations contained in this Undertaking.

2. Interpretation

In this Undertaking:

- 2.1 'the Act' means the Town and Country Planning Act 1990
- 2.2 'the Application' means the planning application number 9/2015/0794 made by the Owner to develop the Application Site by the erection of 6 dwellings
- 2.3 'the Application Site' means the land identified in the Application and shown edged red on the plan attached to this deed.
- 2.4 '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.

- 2.5 'the Development' means the development of the Application Site in accordance with the Planning Permission.
- 2.6 'the 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 shall be applicable.
- 2.7 'Interest' means interest at 2% per annum above the base lending rate of Co-operative Bank from time to time.
- 2.8 'Open Space Contribution' means the contribution to be paid by the Owner to the Council in accordance with clause 5 to enable the Council to make provision for open space for Children's Play area improvements, youth sport facilities and changing room improvements at Newhall Park, in lieu of a provision of play space within the Development.
- 2.9 'Education Contribution' means the contribution to be paid by the Owner to the County Council in accordance with clause 6 towards the provision of:- additional support spaces at Newhall Community Junior School (Project B: Additional Support Spaces) in the form of the provision of 1 primary school place generated by the development and additional classroom space at William Allitt School (Project B : School Classroom) in the form of 1 secondary school place generated by the development.
- 2.10 'Occupation' means 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 'Occupied' shall be construed accordingly.
- 2.11 'Planning Permission' the full planning permission subject to conditions to be granted by the Council pursuant to the Application.
- 2.12 'Working Day(s)' means Mondays to Fridays (excluding days that in England and Wales are public holidays) inclusive.
- 2.13 References to any party to this deed 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 the successors to its respective functions as local planning authority.

- 2.14 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 severally.

3. Statutory Provisions

- 3.1 This Undertaking is given pursuant to Section 106 of the Act, Section 111 of the Local Government Act 1972 and any other enabling powers.
- 3.2 The obligations contained in 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 are binding on the Owner and their successors in title.
- 3.2 It is acknowledged 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.

4. Commencement

This deed and the obligations in clauses 5 and 6 shall become effective only on the grant of Planning Permission pursuant to the Application and the Commencement of Development.

5. Open Space Contribution

- 5.1 to pay to the Council the Open Space Contribution of twelve thousand, eight hundred and seventy pounds £12,870 such sum to be Index Linked being towards the provision of local open space facilities, as detailed in 2.8 above, generated by the Development.
- 5.2 The Owner undertakes to pay the Open Space Contribution to the Council within seven Working Days of the date on which any of the dwellings constructed on the Application Site pursuant to the Planning Permission are first Occupied.

6. Education Contribution

- 6.1 to pay to the County Council the Education Contribution of twenty eight thousand, five hundred and seventy five pounds and eighteen pence £28,575.18 such sum to be Index Linked being towards the provision of Education facilities, as detailed in 2.9 above, generated by the Development.
- 6.2 The Owner undertakes to pay the Education Contribution to the Council within seven Working Days of the date on which any of the dwellings constructed on the Application Site pursuant to the Planning Permission are first Occupied

7. Notice by Owner

- 7.1 The Owner covenants with 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 Owner, 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 any dwelling on the Application Site no later than five Working Days following the contractual completion date of the sale.
- 7.2 The notice required to be given under clause 7.1 above shall be delivered personally or by commercial courier or sent by pre-paid post using recorded delivery to the Council's Development and Building Control Manager at Civic Offices, Civic Way, Swadlincote, Derbyshire DE11 0AH.

8. Determination

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 Owner; or
- (c) is quashed other than at the request of the Owner.

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 deed is paid late, Interest shall be payable from the date payment is due to the date of payment.

11. Indexation

Any sum 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 payable.

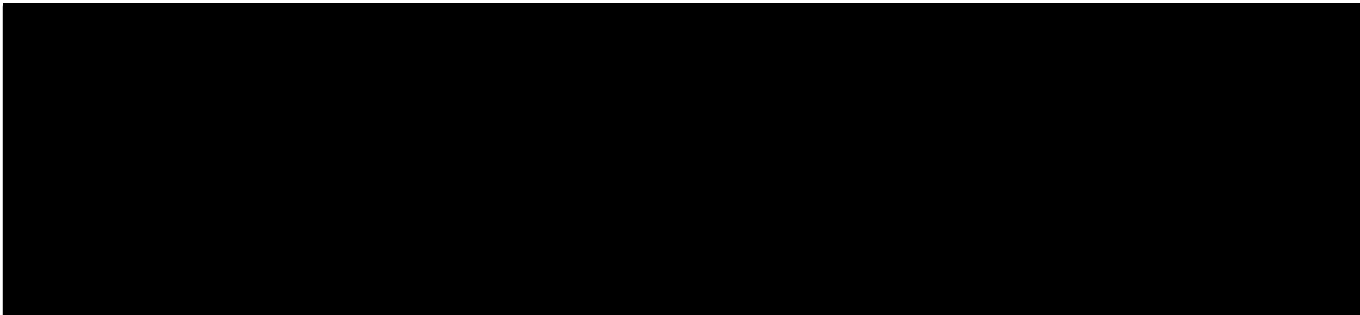
12. Legal effect

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.

13. Jurisdiction

This Undertaking is governed by and interpreted in accordance with the law of England and Wales

IN WITNESS whereof the Owner has executed this deed as a Deed the day and year first before mentioned



Signed as a deed by *(name of company)* acting by a director and its secretary / two directors

Signature

Director

Signature

Director / Secretary

Or *(for a company with no company secretary)*

Signed as a deed by *** Limited
acting by a director in the presence of :

(Signature)
Director

Signature of witness
Name (IN BLOCK CAPITALS)
Address.....

Land Registry
Official copy of
title plan

Title number **DY425253**
Ordnance Survey map reference **SK2920NW**
Scale **1:1250**
Administrative area **Derbyshire : South**
Derbyshire



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