

DATE: 8th November 2022



**PLANNING OBLIGATION BY WAY OF UNILATERAL
UNDERTAKING Pursuant to Section 106 of the Town and
Country Planning Act 1990 (as amended)**

**Relating to the development of land on the south east side
of Preston Road, Stourmouth,**

Ref: DOV/21/01587

THIS DEED is made the ^{8th} day of November 2022

THIS UNDERTAKING is GIVEN BY

1. [REDACTED] "the Owner") of [REDACTED]

TO: DOVER DISTRICT COUNCIL of White Cliffs Business Park, Dover, CT16 3PJ
("the District Council")

RECITALS

1. The District Council is the planning authority for the area in which the Site is situated and by whom the obligations in this Undertaking are enforceable.
2. The District Council has decided to grant the Planning Permission pursuant to its scheme of officer delegations subject to the satisfactory completion of this Undertaking and the conditions to which the Planning Permission is expressed to be subject.
3. The Owner is the freehold owner of the Site and is registered with title absolute under title number K809079 at the Land Registry.
4. The Owner has made the Application and is proposing to carry out the Development subject to the terms of this Undertaking and has agreed to comply with the terms and conditions contained herein.
5. The obligations contained in this Undertaking are planning obligations for the purposes of Section 106 of the 1990 Act.
6. The Owner in respect of their interest in the Site agrees to bind their interest therein to the intent that the planning obligations on the part of the Owner herein shall be enforceable against their assigns and successors in title whether pursuant to Section 106(3)(b) of the 1990 Act or otherwise.

1. DEFINITIONS

- 1.1 In this Undertaking the following expressions shall unless the current otherwise requires have the following meanings:-

Phrase	Meaning
"the 1990 Act"	the Town and Country Planning Act 1990 as amended from time to time or any subsequent re-enactment of that Act;
"Acts"	the 1990 Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and in each case any statutory amendment, variation, substitution or re-enactment thereof together with all other statutory powers and acts pursuant to which the District Council shall be empowered to enter into this Undertaking;
"Application"	the planning application seeking planning permission for the Development received by the Council on 13 th October 2021 and given Ref No. DOV/21/01587

"Commencement of Development"

means the carrying out in relation to the Development of a material operation pursuant to the Planning Application within the meaning of section 56(4) of the 1990 Act save that for the purposes of this Deed and for no other purpose operations consisting of:

- (a) site clearance
- (b) demolition work
- (c) archaeological investigations
- (d) investigations for the
purpose of assessing ground conditions
- (e) remedial work in respect of any contamination or other adverse ground conditions
- (f) diversion and laying of services
- (g) erection of temporary means of enclosure
- (h) the temporary display of site notices or advertisements

shall not amount to commencement and all references to commencement shall be construed accordingly

"Development"

the partial change of use of land, erection of a detached residential dwelling and creation of a turning point (existing building to be demolished);

"Disposal"

means either:

- (a) the sale of a freehold interest; or
- (b) the granting of a leasehold interest

"District Council"

Dover District Council of White Cliffs Business Park, Dover, CT16 3PJ and its successors in function.

"Owner"



"Plan"

means the plan attached to this Deed at Schedule 1;

"Planning Permission"

the planning permission to be issued by the District Council to the Owner pursuant to the Application;

"Site"

means both the land shown edged red and the land shown edged blue in the Plan ;

2. APPLICATION OF SECTION 106 OF THE ACT

- 2.1 Both the positive and restrictive covenants and undertakings in the Undertaking on the part of the Owners (pursuant to Section 106(3)(b) of the 1990 Act or otherwise) are entered into

with the intent that the same shall be complied with without limit of time by the Owner and also enforceable by the District Council without limit of time against their successors in title and assigns and any person corporate or otherwise claiming through or under the Owner a freehold or leasehold or other such part or parts thereof as if that person had also been an original covenanting party in respect of such of the covenants and undertaking which relate to the interest or estate for the time being held by that person.

3. OBLIGATIONS OF THE OWNERS

- 3.1 The obligations contained in Schedule 2 of this deed are planning obligations for the purposes of section 106 of the 1990 Act and are entered into by the Owner with the intention that they bind the interests held by those persons in the Site and their respective successors and assigns.;

4. UNDERTAKING GOVERNED BY ENGLISH LAW

- 4.1 This Undertaking is subject to and will be constructed in all respects in accordance with the provisions of English law.
- 4.2 Any covenant by the Owner not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 4.3 Any references to the Acts or any particular statute include any statutory extension, modification, amendment or re-enactment of such Act or statute and also include any subordinate instruments, regulations or orders made in pursuance of it.
- 4.4 Where under this Undertaking any notice, approval, consent, certificate, direction, authority, agreement, action, expression of satisfaction is required to be given or reached or taken by any party or any response is requested any such notice, approval, consent, certification, direction, authority, agreement, action, expression of satisfaction or response shall not be unreasonable or unreasonably withheld or delayed.
- 4.5 The headings appearing in this Undertaking are for ease of reference only and shall not affect the construction of this Undertaking.
- 4.5.1 Where reference is made to a clause, part, plan, paragraph, recital or schedule such reference (unless the context requires otherwise) is a reference to a clause, part, plan, paragraph, recital or schedule of or to (or in the case of the plan attached to) this Undertaking.
- 4.5.2 In this Undertaking the singular includes the plural and vice versa and the masculine includes the feminine and vice versa.
- 4.6 Any obligation herein to construct, complete or undertake any building or engineering operations or implement any element of the Development however expressed shall be deemed to mean construct, complete, undertake or implement the same to the reasonable satisfaction of the Head of Planning and Development and any statement of such satisfaction shall not be unreasonably withheld or delayed and any reference to constructing or undertaking any building or engineering operation shall unless the context otherwise requires be deemed to include completing the same as aforesaid.
- 4.7 Subject to clause 5.2 where more than one person is obliged to observe or perform an obligation contained in this Undertaking the obligation may be enforced against all such

persons jointly or against each of them individually and may be carried out by one or more of them.

5. PLANNING OBLIGATIONS

5.1 This Undertaking is made pursuant to the Acts and all other powers so enabling already provided for in clause 2.1.

5.3 No person shall be liable for any breach of the planning obligations or other provisions of this Undertaking after it shall have parted with its entire interest in the Development Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

5.3 This Undertaking shall come into effect as follows:

5.3.1 this clause 5 and clauses 7.2, 8, 10, 11 and 12, and so far as is necessary for its interpretation, the definitions in clause 1, will come into effect upon completion of this Undertaking;

5.3.2 the remaining provisions of this Undertaking shall come into effect upon the Commencement of Development;

6. NO ENCUMBRANCE

6.1 The Owner HEREBY CONVENANTS with the District Council that in the event that the Planning Permission is implemented, it will not enter into any covenant or agreement relating to any part of the Site whose effect would be to preclude the carrying out of the planning obligations and covenants contained in this Undertaking.

7. GENERAL PROVISIONS

IT IS HEREBY AGREED AND DECLARED that:

7.1 This Undertaking constitutes a planning obligation for the purposes of the Acts which bind the Development Site and the District Council is the local planning authority by whom the obligation is enforceable.

7.2 The covenants on behalf of the Parties hereto to be observed and performed under this Undertaking shall be treated as Local Land Charges and registered at the Local Land Charges Registry for the purposes of the Local Land Charges Act 1975.

7.3 Nothing in this Undertaking shall prejudice or affect the rights, powers, duties and obligations of the District Council in the exercise by its of its statutory functions and the rights, powers, duties and obligations of the Council under private or public statutes, bye-laws, orders and regulations may be as fully and effectively exercised as if it were not a party to this Undertaking.

7.4 If an obligation is owed to or by more than one person that obligation is owed to or by those persons separately jointly or in any combination.

7.5 The District Council will on written request from the Owner and on payment of its reasonable costs and expenses certify whether or not an obligation under this Undertaking has been satisfied and shall ensure that a note of such certificate is forwarded to the District Council's Local Land Charges Department for filing with a copy of this Undertaking.

- 7.6 The Owner shall at nil cost produce copies of the certificates issued by the District Council pursuant to clause 7.5 on request to any intending for filing with a copy of this Undertaking.
- 7.7 References to statute are references to a statute or statutory provision for the time being in force and any regulations orders bye-laws or other subordinate legislation made under any such statute or statutory provisions from time to time.
- 7.8 Unless expressly stated to the contrary any reference to a specific statute includes any statutory extension or modification amendment or re-enactment of the statute any any regulations or orders made under it.

8. SEVERABILITY

- 8.1 Each clause, sub-clause, schedule or paragraph shall be separate, distinct and severable from each other to the extent only that if any clause sub-clause, schedule or paragraph becomes or is invalid because of a change of circumstances or any other unforeseen reasons or if any one or more of such clause, sub-clause, schedule or paragraph shall be held by the Courts to be void for any reason whatsoever but would be valid if severed or any wording was deleted or an time period reduced or scope of activities or area covered diminished then any modifications necessary to ensure such clause, sub-clause or paragraph be valid shall apply without prejudice to any other clause, sub-clause, schedule or paragraph contained herein.

9. OWNER'S ACTIONS ON COMPLETION

- 9.1 The Owner will on completion of this Undertaking pay the District Council's reasonable legal costs and disbursements properly incurred in the review of this Deed shall be limited to £660.00.

10. TERMINATION

- 10.1 The obligations contained in this Undertaking will cease if the Planning Permission is quashed or revoked or withdrawn or expires prior to implementation or is modified in a material way (other than by agreement with or at the request of the Owners) so as to make this Undertaking irrelevant.

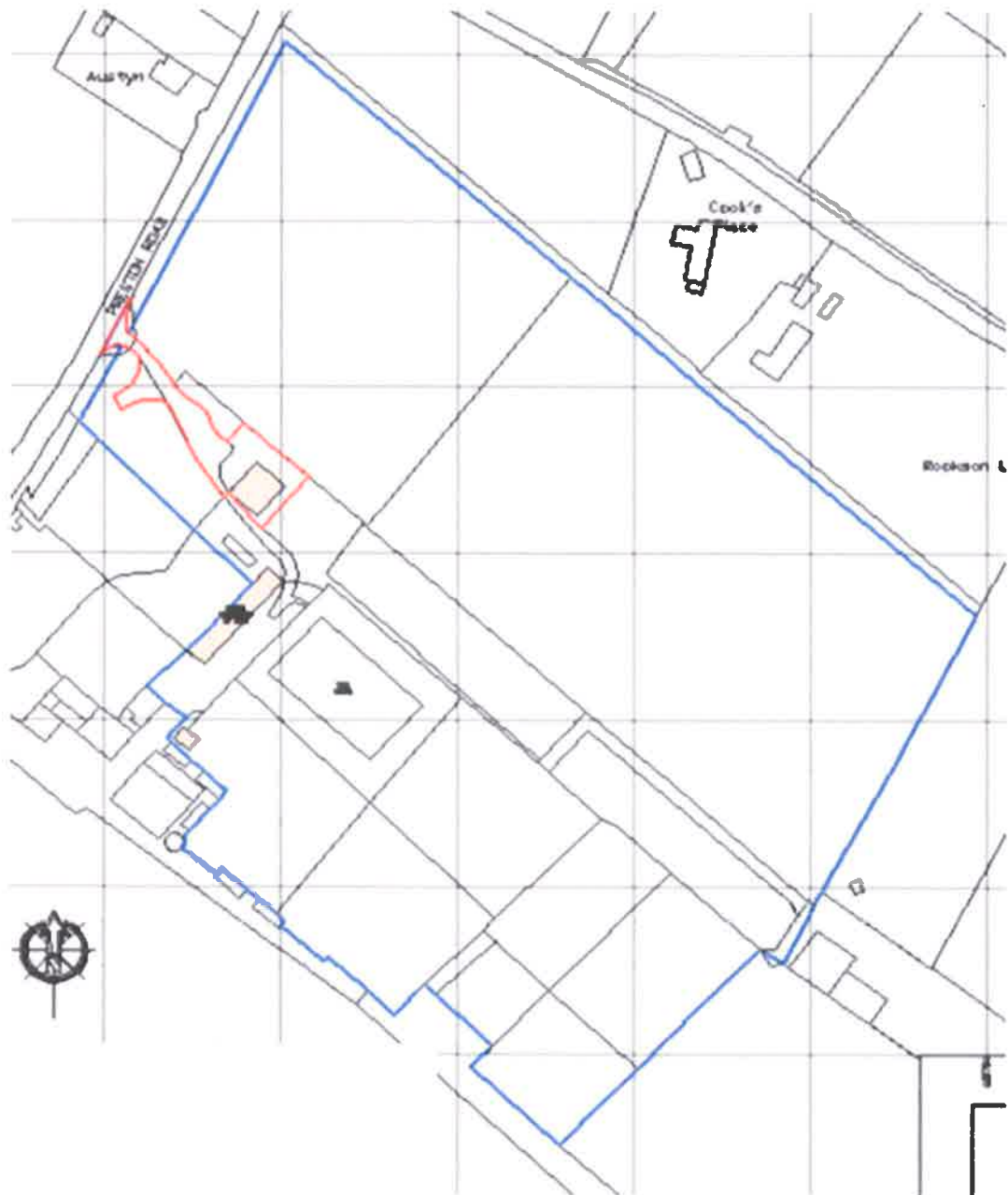
11. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 11.1 The Owner does not intend that this Undertaking should give rights hereunder to a third party arising solely by virtue of the Contracts (Rights of Third Parties) Act 1999.

12. REGISTRATION

- 12.1 This Undertaking shall be registered as a Local Land Charge by the District Council.
- 12.2 The Owner hereby covenant with the District Council that it will within 28 days from the date hereof apply to the Chief Land Registrar to register this Undertaking in the Charges Register(s) thereof and will furnish the District Council forthwith on written demand with office copies of such title to show the entry of this Undertaking in the Charges Register(s) of the title to the Site.

**THE FIRST SCHEDULE:
PLAN**



**THE SECOND SCHEDULE:
THE PLANNING OBLIGATIONS**

The Owner hereby covenants with the District Council as follows:

1. that the new residential dwelling to be constructed on the land edged red on the Plan pursuant to the Planning Permission shall only be occupied for purposes linked with the keeping of animals and agricultural use on the land shown edged blue on the Plan
2. that there shall be no Disposal of part of the Site.
3. that it will within 28 days from the date hereof apply to the Chief Land Registrar to register this Undertaking in the Charges Register(s) thereof and will furnish the District Council forthwith on written demand with office copies of such title to show the entry of this Undertaking in the Charges Register(s) of the title to the Development Site.

IN WITNESS whereof the Owner has executed this Undertaking the date and year first before written:

Signed as a deed by Ms J Sillence

In the presence of:

WITNESS:

NAME:

ADDRESS:

OCCUPATION: