

DATED 12TH JUNE 2024

STEPHEN ANTHONY MICHAEL

to

EASTLEIGH BOROUGH COUNCIL

UNILATERAL UNDERTAKING

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

relating to the
proposed development at
17 O'Connell Road, Eastleigh SO50 9GN

THIS UNDERTAKING is made the 12 day of ~~JUNE~~ Two thousand and twenty four

1. Parties

1.1 The Owner STEPHEN ANTHONY MICHAEL

2. Definitions and Interpretation

2.1 In this Deed:

- 2.1.1 "the Council" means Eastleigh Borough Council of Eastleigh House, Upper Market Street, Eastleigh, Hampshire SO50 9YN
- 2.1.2 "1990 Act" means the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004
- 2.1.3 "Deed" means this Deed
- 2.1.4 "Application" means the application dated 22nd May 2023 for planning permission (reference number F/23/95271) for the development of the site by the erection of new 3.no bedroom detached dwelling on site of existing workshop/store
- 2.1.5 "the Appeal" means the appeal against the refusal of the Application submitted to the Secretary of State and allocated reference number APP/W1715/W/24/3339114
- 2.1.6 "Development" means the development the subject of the Application
- 2.1.7 "Permission" means planning permission granted pursuant to the Application
- 2.1.8 "the Plan" means the plan annexed hereto
- 2.1.9 "Site" means the land situated at 17 O'Connell Road, Eastleigh SO50 9GN aforesaid shown edged red on the Plan

- 2.1.10 "New Forest Recreational Disturbance contribution" means the sum of two thousand two hundred and twenty pounds (£2,220) index linked as hereinafter specified as a contribution towards measures to mitigate the impacts of the Borough's increasing householder population on the New Forest National Park
- 2.1.11 "Nutrient Mitigation Scheme" means a scheme by which the Development may be shown to have fully mitigated the effect that nitrates from the development has on the Protected Sites around The Solent and phosphates from the development has on the River Itchen Protected Site which may include the provision of a Vesting Certificate confirming the purchase of sufficient nitrate and phosphate credits from Eastleigh Borough Council Nutrient Offset Scheme
- 2.1.12 "Solent Recreation Mitigation Strategy Contribution" means the sum of eight hundred and seventy five pounds (£875) index linked as hereinafter specified as a contribution towards measures to mitigate the impacts of the Borough's increasing householder population on the Solent
- 2.1.13 "Commencement of Development" means the carrying out of any material operation as defined in the 1990 Act in connection with the Development and the expression "commenced" and "commence" shall be construed accordingly
- 2.2 In this Deed where the context so requires references:
- 2.2.1 to Clauses are references to Clauses in this Deed
- 2.2.2 to any Act of Parliament refers to the Act as it applies at the date of this Deed and any later amendment or re-enactment of it

3 Recitals

- 3.1 The Owner is the owner of the freehold of 17 O'Connell Road, Eastleigh SO50 9GN which is registered at the Land Registry under title number HP163026
- 3.2 The Council is the local planning authority within the meaning of the 1990 Act for the area within which the Site is situate and by whom the obligations on the part of the Owner herein contained will be enforceable
- 3.3 By a notice of refusal dated 25th August 2023 the Council refused planning permission for the reasons set out therein and the Owner in support of the Appeal enters into this Deed to the intent that any objections of the Council to the grant of planning permission are overcome

4. Legal Effect

- 4.1 This Deed is made pursuant to Section 106 of the 1990 Act to the intent that it shall bind the Owner and its successors in title to each and every part of the Site as provided in those Sections and the covenants contained in Clause 5 hereof are planning obligations for the purposes of Section 106 of the 1990 Act
- 4.2 This Deed shall come into effect upon the grant of the Permission but the obligations in Clause 5 shall become effective only on Commencement of Development in accordance with Section 56 of the 1990 Act
- 4.3 This Undertaking is a local land charge and will be registered as such

5 The Owner's Covenants

- 5.1 The Owner covenants with the Council as follows:
 - 5.1.1 Not to Commence the Development unless the New Forest Recreational Disturbance contribution has been paid to the Council
 - 5.1.2 Not to Commence the Development unless the Solent Recreation Mitigation Strategy Contribution has been paid to the Council

5.1.3 Not to Commence the Development unless the Nutrient Mitigation Scheme has been submitted to and approved in writing by the Council

6. Indexation

6.1 The payments to be made pursuant to Clauses 5.1.1 and 5.1.2 hereof shall be increased by multiplying the same by the index figure shown in the Retail Price Index (excluding Mortgages) maintained by the Office for National Statistics or any Index maintained by HM Government in substitution therefore last published prior to the date of payment of the said sum divided by the index figure shown in that Index last published prior to the date of this Deed

7. Rights of Third Parties

Save as expressly provided in this Deed, any person who is not a party to this Deed shall not have any rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Deed

EXECUTED and delivered as a Deed the day and year first hereinbefore written

EXECUTED and delivered as a DEED by
the said STEPHEN ANTHONY MICHAEL

in the presence of

(Print name)

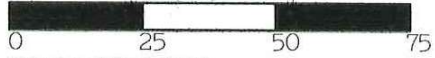
(Signature)

(Address of witness)

(Occupation of witness)



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