

S106 493

J.Carr

From: landcharges
Sent: 13 March 2019 09:15
To: S.Dibble
Subject: RE: SRD/002448 - Unilateral Undertaking - Land at the Junction of Outram Street and Park Street, Sutton-in-Ashfield, Nottinghamshire. NG17 4BB

Morning Sarah,

I can confirm that the unilateral undertaking has been placed onto the register, taking effect as of today 13/03/2019

Kind Regards,

James Carr
Local Land Charges and Planning Trainee
Ashfield District Council
Urban Road
Kirkby-In-Ashfield
NG17 8DA

Tel: 01623 457313
Email: J.Carr@ashfield.gov.uk

From: S.Dibble
Sent: 12 March 2019 15:19
To: landcharges <landcharges@ashfield.gov.uk>
Subject: SRD/002448 - Unilateral Undertaking - Land at the Junction of Outram Street and Park Street, Sutton-In-Ashfield, Nottinghamshire. NG17 4BB

Hi,

Please find attached a scanned copy of a completed Unilateral Undertaking which needs to be noted in the appropriate part of the Local Land Charges Register. It was entered into pursuant to S.106 Town and County Planning Act 1990.

Please can you confirm to me once this has been done.

With regards.

Sarah

Sarah Dibble : Legal Executive : Ashfield and Mansfield Legal Services : Urban Road : Kirkby-in-Ashfield : Nottingham : NG17 8DA

Telephone/Ext: 01623 457157 : S.Dibble@ashfield.gov.uk :

002448 / 00084132

DATE: 12th March 2019

AJM PROJECT MANAGEMENT LIMITED

Deed by Unilateral Undertaking
pursuant to Section 106 of the
Town and Country Planning Act 1990
and other powers

in relation to development at land known as
land at the Junction of Outram Street and Park Street,
Sutton-In-Ashfield, Nottinghamshire. NG17 4BB

V/2018/0221

SRD/002448

THIS DEED is made the Twelfth day of March 2019

PARTIES

AJM PROJECT MANAGEMENT LTD (Co. Regn. No: 05616431) whose registered office is situate at 54 The Enterprise Centre, Cranborne Road, Potters Bar, Hertfordshire. EN6 3DQ ("Owner")

BACKGROUND

- (A) The Council is the local planning authority for the purposes of the TCPA 1990 for the area in which the Property is situated.
- (B) The Owner owns the Property.
- (C) The Owner has made the Planning Application and is proposing to carry out the Development.
- (D) The Owner gives this undertaking to perform the obligations set out in this deed.

AGREED TERMS

1. INTERPRETATION

The following definitions and rules of interpretation apply in this deed.

1.1 Definitions:

Base Rate: the base rate from time to time of Barclays Bank plc.

Commencement of Development: the carrying out in relation to the Development of any material operation as defined by section 56(4) of the TCPA 1990 (but disregarding for the purposes of this deed and for no other purpose, the following operations:

- demolition works;
- site clearance;
- ground investigations;
- site survey works;
- temporary access construction works;
- archaeological investigation; and
- erections of any fences and hoardings around the Property.

Commencement Date: the date of Commencement of Development.

Council: Ashfield District Council of Urban Road, Kirkby-in-Ashfield, Nottingham. NG17 8DA

Default Interest Rate: 5% per annum above the Base Rate.

NR. 

Development: the development of the Property being the construction of 24 apartments described in the Planning Application.

Index Linked: increased in accordance with the following formula:
Amount payable = the Contribution x (A/B) where:

A = the figure for the Retail Prices Index (All Items) that applied immediately preceding the date of actual payment.

B = the figure for the Retail Prices Index (All Items) that applied when the index was last published prior to the date of this deed.

Plan: the plan attached to this Deed.

Planning Application: an application for planning permission to carry out the Development on the Site and given the reference number V/2018/0262.

Planning Permission: the planning permission as may be granted by the Council in respect of the Planning Application.

Property: the freehold land and buildings on the West side of the Junction at Outram Street and Park Street, Sutton-in-Ashfield and at H M Land Registry with absolute title under Title number: NT153292 as shown edged red on the Plan.

Public Realm Contribution: the sum of FIVE THOUSAND POUNDS (£5,000.00) toward the Northern Bridge public realm improvements, Sutton-in-Ashfield, Nottinghamshire in order to mitigate the impact the residential development will have on this location.

TCPA 1990: Town and County Planning Act 1990.

Working Day: any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England or Wales.

- 1.2 Clause headings shall not affect the interpretation of this deed.
- 1.3 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 to the body or bodies (as appropriate) having statutory responsibility for the relevant function in replacement for the Council.
- 1.4 In the absence of any contrary provision in this Deed any reference to a statute shall include any statutory extension modification or re-enactment of it and any statutory instrument direction order regulation or byelaw made or issued under the statute or deriving validity from it.
- 1.5 Words importing the masculine gender in this Deed shall include the feminine gender and vice versa.





A. H. G. K.
N. Reuben

PROJECT : OUTRAM STREET
SUTTON-IN-ASHFIELD
CLIENT : CHARDSTOCK
MANAGEMENT SERVICES
DRAWING : SITE LOCATION
DATE : NOVEMBER 2016
SCALE : 1:1250 @ A4
DRAWN BY : D.J.C.

**SIMMONS
BUILDING
DESIGN**



The Old Pumphouse
Rowdens Road
Wells, BA5 1TU
Tel. 01749 879880
Fax. 01749 879882
admin@sbd-wells.co.uk

ARCHITECTS AND DEVELOPMENT CONSULTANTS

RIBA 
Chartered Practice

DRAWING NO.: 1642/03

REV.

This drawing and building works depicted are the copyright of Simmons Building Design and may not be reproduced or amended except by written permission. No liability will be accepted for amendments made by other persons.

- 1.6 Words importing persons in this Deed shall include companies and corporations and vice versa.
- 1.7 Unless in this Deed the context otherwise requires words importing the singular shall include the plural and vice versa.
- 1.8 Headings are for ease of reference only and shall not be construed as part of this Deed.
- 1.9 Reference to any recital clause schedule or paragraph (or any part of them) shall (unless the context otherwise requires) be reference to a recital clause schedule or paragraph (or any part of them) in this Deed.
- 1.10 Wherever there is more than one person named as a party or where more than one party undertakes an obligation all their obligations shall be enforceable against all of them jointly and/or against each individually.
- 1.11 Any covenant by a party to this Deed not to do an act or thing shall be deemed to include an obligation not to permit or knowingly suffer such act or thing to be done by any other person.
- 1.12 A reference to writing or written includes fax but not email.
- 1.13 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. STATUTORY PROVISIONS

- 2.1 This Deed constitutes a planning obligation for the purposes of section 106 of the TCPA 1990, section 111 of the Local Government Act 1972 and all other enabling powers.
- 2.2 The obligations contained in the Schedule to this Deed are all planning obligations for the purposes of section 106 of the TCPA 1990 and are entered into by the Owner with the intention that they bind the interests held by those persons in the Property and their respective successors and assigns.
- 2.3 The sums payable hereunder are payable pursuant to Section 106(1)(d) of the Planning Act.
- 2.4 This deed shall come into effect on the date of the Commencement of Development.
- 2.5 The obligations contained in the Schedule of this deed are enforceable by the Council in accordance with section 106 of the TCPA 1990.

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3. COVENANTS WITH THE COUNCIL

The Owner covenants with the Council to perform the obligations set out in the Schedule.

4. INDEXATION OF CONTRIBUTION

- 4.1 All financial contributions payable to the Council shall be Index Linked.
- 4.2 Where reference is made to an index and that index ceases to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

5. RELEASE

- 5.1 No person shall be liable for any breach of an obligation, restriction or covenant contained in this deed after parting with all of its interest in the Property, except in respect of any breach subsisting prior to parting with such interest.
- 5.2 Any person who takes an interest in the Site solely by way of a legal charge shall not be liable for a breach of a covenant or given planning obligation created by this Deed unless such person shall take possession of the Site in which case they shall be bound by the terms of this Deed as if they were a successor in title to the Owner

6. DETERMINATION OF DEED

This deed 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 following a successful legal challenge.

7. LOCAL LAND CHARGE

This deed is a local land charge and shall be registered as such by the Council.

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8. INTEREST ON LATE PAYMENT

If the Contribution has not been paid to the Council prior to or on the Commencement Date, the Owner shall pay the Council interest on the Contribution at the Default Interest Rate (both before and after any judgment). Such interest shall accrue on a daily basis for the period from the Commencement Date to and including the date of payment.

9. OWNERSHIP

9.1 The Owner warrants that no person other than the Owner has any legal or equitable interest in the Property.

9.2 Until the obligations in the Schedule have been complied with the Owner will give to the Council within FIVE (5) Working Days, the following details of any conveyance, transfer, lease, assignment, mortgage or other disposition entered into in respect of all or any part of the Property:

- (a) the name and address of the person to whom the disposition was made; and
- (b) the nature and extent of the interest disposed of.

10. NOTICES

10.1 Any notice consent or approval to be given under or in connection with this Deed shall be in writing and shall be deemed to be served if delivered personally or sent by pre-paid first class recorded delivery or registered post to the address of the relevant party as described in Clause 1 or such other address as shall have been notified in writing to the party giving the notice consent or approval and in the case of a notice to be served on the Council addressed to the Council's Head of Planning.

10.2 A notice or other communication given under this deed shall not be validly given if sent by email.

10.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

11. THIRD PARTY RIGHTS

A person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed.



12. JURISDICTION

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

13. SEVERANCE

If any provision in this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed thereby to be affected or impaired

14. WAIVER BY THE COUNCIL

No waiver (whether express or implied) by the Council of any breach or default by another party in performing or observing any of the terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions which they are entitled to enforce or from acting upon any subsequent breach or default in respect thereto by that party

15. NO FETTERING OF DISCRETION

This Deed shall not fetter prejudice or affect the exercise of any statutory or regulatory power duty or discretion of the Council

16. VARIATION

No variation or modification of this Deed shall be valid unless made by Deed and executed by Council and all the parties or their respective successors

17. PLANNING PERMISSION

Nothing in this Deed is or amounts to or shall be construed as a planning permission or approval and nothing in this Deed shall restrict the ability to develop the Site in accordance with a planning permission granted whether or not on appeal (other than the Planning Permission)

IN WITNESS whereof this Deed has been duly executed as a Deed by the parties hereto and is intended to be and is hereby delivered as a deed the day and year first before written

NR

THE SCHEDULE

The Owner for itself and its successors in title covenants with the Council as follows:

1. To pay to the Council on or prior to the Commencement of Development the Public Realm Contribution,
2. Not to Commence Development or procure the Commencement of Development until such time as the Public Realm Contribution has been paid to the Council; and
3. To give at least ten (10) Working Days written notice to the Council of the Commencement Date.

**EXECUTED as a DEED by AJM PROJECT
MANAGEMENT LIMITED acting by a director and
its secretary or two directors**

Director

A. McGivern A. MCGIVERN

Secretary

N. Rowlinson N. ROWLINSON

