DATED 18th February 2008

BANNER HOMES (WESSEX) LIMITED

and

NATIONAL WESTMINSTER BANK PLC

TO

WORTHING BOROUGH COUNCIL

UNILATERAL UNDERTAKING

pursuant to

Section 106 of the Town and Country Planning Act (as amended)

relating to

Linden Lodge 2 Tennyson Road and 36 Shelley Road
Worthing West Sussex BN11 4BY

Planning Application no WB/07/1126/FULL

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THIS DEED OF UNILATERAL UNDERTAKING is made the 18th day of February Two thousand and eight

BY: **BANNER HOMES (WESSEX) LIMITED** (Company Registration No. 1453522) whose registered office is at Riverside House Holtspur Lane Wooburn Green High Wycombe Bucks HP10 0TJ ("the Developer") and

NATIONAL WESTMINSTER BANK PLC (Company Registration Number 00929027) whose registered office is at 135 Bishopsgate London EC2M 3UR ("the Mortgagee")

TO: **WORTHING BOROUGH COUNCIL** of Town Hall Chapel Road Worthing West Sussex BN 11 1H ("the Council")

RECITALS

A. The Developer has a freehold interest in the Land subject to a Legal Charge dated 28 March 2007 in favour of the Mortgagee

B. The Council is the Local Planning Authority for the purposes of the Act and for the administrative area in which the Land is situated

C. An application has been made to the Council for Planning Permission under Planning Application no WB/07/1126/FULL

D. The Developer considers that the Land should be bound by the Planning Obligations in the manner hereinafter contained

E. The Mortgagee has agreed to join in this Undertaking for the purpose of consenting to the Land being bound by all the provisions contained in this Undertaking

DEFINITIONS

1. In this Deed the following words and expressions shall where the context so admits have the following meanings:

1.1 **"the Act"** means the Town and Country Planning Act 1990 (as amended)

1.2 **"Development"** means amendments to the siting of the approved development for the construction of a block of thirteen two bedroom flats and one three bedroom flat on four floors, underground car parking with provision of 14 spaces (WB/06/1298/FULL)

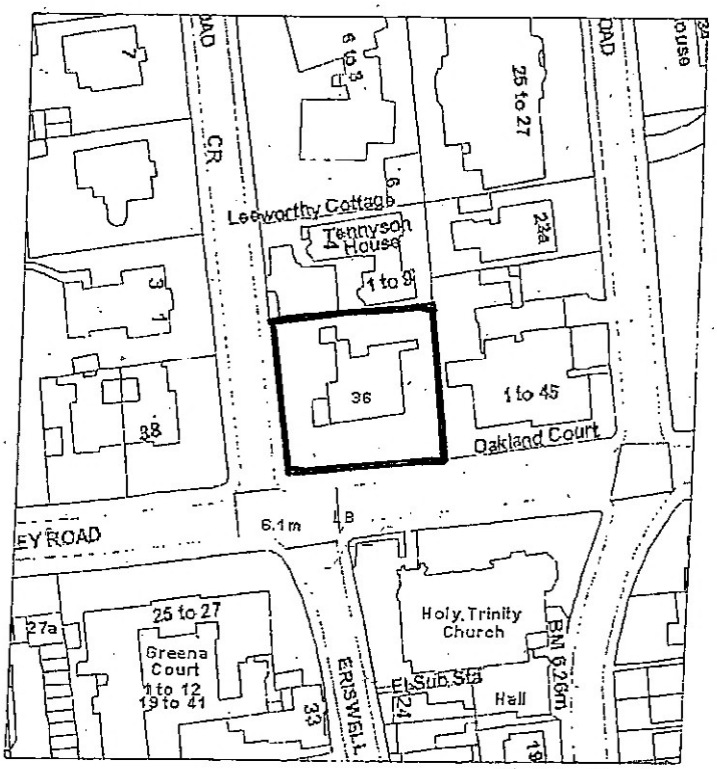
1.3 **"the Commencement of the Development"** means implementation by the carrying out of a material operation as defined in Section 56(4) of the Act save for any works of demolition site clearance soil investigation and archaeological testing

1.4 **"the Developer"** shall include its successors in title and assigns

1.5 **"the Land"** means all that land known as 2 Tennyson Road and 36 Shelley Road Worthing BN11 4BY registered at the Land Registry under Title Number WSX52834 shown for the purposes of identification only edged red on the plan annexed hereto

1.6 **"the Planning Obligations"** means the planning obligations set out and contained in the Schedule to this Undertaking

1.7 **"the Planning Permission"** means the planning permission granted under Planning Application No WB/07/1126/FULL



Not to Scale

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MAIN OPERATIVE CLAUSES

2.1 **THIS** Undertaking is made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended), Section 111 of the Local Government Act 1972 and all other powers and enactments thereby enabling and which may be relevant for the purposes of the enforcement of covenants and or obligations contained herein to the intent that it shall bind the Developer and its successors in title and assigns, each and every part of the Land.

2.2 **THE** Developer hereby covenants with the Council that it will in all respects comply with the conditions that may be contained in the Planning Permission and that it will comply in all respects with the Planning Obligations to the effect that the Land and every part thereof shall be permanently subject thereto.

2.3 **THE** Planning Obligations are conditional upon and shall be of no effect until the Planning Permission has been granted. If the Planning Permission is cancelled, revoked or otherwise withdrawn this Deed shall cease to have effect.

2.4 **THE** Mortgagee hereby consents to the Land being bound by all the provisions contained in this Undertaking

2.5 **NO** party shall be liable for breach of covenant or obligation contained in this Undertaking after the party has parted with all the party's interest in the Land or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant or obligation arising prior to that party parting with such interest.

2.6 **A** person (other than the Council) who is not a party to this Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

2.7 **THIS** Deed is a Local Land Charge and is registerable as such by the Council.

2.8 **THIS** Deed shall be governed by and construed in accordance with the Laws of England and the Developer hereby submits to the exclusive jurisdiction of the English Courts.

2.9 **ANY** notice, consent or approval required to be given under this Undertaking shall be in writing and shall be delivered personally, or sent by prepaid first class recorded delivery post, telex or facsimile transmission. The address for service of any such notice consent or approval as aforesaid shall in the case of the Developer and the Council be the addresses given in the above hereto.

2.10 **THE** Developer agrees to paying the Council's reasonable legal costs in checking that the contents of this Undertaking are correct and that the Developer's title is valid.

THE SCHEDULE

1. The Developer hereby covenants with the Council that it will within seven days of the Commencement of the Development serve notice on the Council to inform the Council of the date of the Commencement of the Development.

2. The Developer hereby covenants with the Council that it will on or before the Commencement of the Development pay to the Council the total sum of THIRTY FOUR THOUSAND AND NINETY POUNDS (£34,090.00) ("the Contributions") comprising:

   2.1 a transport contribution in the sum of ELEVEN THOUSAND SIX HUNDRED AND THREE POUNDS (£11,603.00) towards highway schemes identified in the West Sussex County Council publication 'Schemes to be Progressed if Developer Funding is available' ;

2.2 a fire service contribution in the sum of TWO HUNDRED AND TWENTY THREE POUNDS (£223.00) towards the West Sussex County Council programme of providing relatively small additions to the floorspace of existing fire station buildings;

2.3 an outdoor recreation space contribution in the sum of TWENTY THOUSAND SEVEN HUNDRED AND SIXTY FOUR POUNDS (£20,764.00) towards outdoor recreation space within the locality of the Development; and

2.4 the sum of ONE THOUSAND AND FIVE HUNDRED POUNDS (£1,500.00) towards the cost of amending the Traffic Regulation Order as a consequence of highway works to increase the width of the access to the Development;

PROVIDED THAT where the date for payment of the Contributions or part thereof is after the date of this Deed then that payment or payments shall be increased by an amount equal to the proportionate increase in the All-in Tender Price Index published by the Building Costs Information Service of the Royal Institution of Chartered Surveyors between the quarter preceding the date of this Undertaking and the quarter preceding the date of payment of the Contributions.

IN WITNESS whereof this Undertaking has been executed as a Deed by the Developer and the Mortgagee the day and year first before written

EXECUTED AS A DEED)

by **BANNER HOMES (WESSEX) LIMITED**)

acting by:)

Director

~~Secretary~~/Director

EXECUTED AS A DEED for and on behalf of)

NATIONAL WESTMINSTER BANK PLC)

by a duly Authorised Attorney)

in the presence of:)

Witness signature

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