WB/09/1067/FUL

DATED 19 May **2010**

UNILATERAL UNDERTAKING

By

MICHAEL JOHN CLINCH (1)

AND

LLOYDS TSB BANK PLC (2)

TO

WORTHING BOROUGH COUNCIL (3)

AND

WEST SUSSEX COUNTY COUNCIL (4)

---

relating to

7 The Steyne Worthing
West Sussex BN11 3DS

Jeremy Cook
Executive Head of Legal and
Democratic Services
Town Hall
Chapel Road
Worthing
West Sussex BN11 1HA

Doc. 89146
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13/04/2010

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THIS AGREEMENT is made the 19 day of May Two thousand and ten

BETWEEN

1) MICHAEL JOHN CLINCH of 7 The Steyne Worthing West Sussex BN11 3DS ("the Owner")

AND

2) LLOYDS TSB BANK PLC (Co. regn No. 2065) whose registered office is at Dept 9993 of Leeds Securities Centre P O Box 5 6/7 Park Row Leeds LS1 5LB ("the Mortgagee")

In favour of

3) The Worthing Borough Council of The Town Hall Chapel Road Worthing West Sussex BN11 1HA ("the Council")

AND

4) West Sussex County Council of County Hall Chichester West Sussex PO19 1RG ("the County Council")

WHEREAS:

(1) THE Owner is the freehold owner of the property known as 7 The Steyne, Worthing, West Sussex BN11 3DS the interest of which is registered under Title No. WSX258245 at H M Land Registry with Title Absolute ("the Property")

(2) The Mortgagee holds a legal charge registered against the interest in the Property held by Lloyds Bank Plc

(3) The Council is the local planning authority for the purposes of the Act and for the area in which the Property is located

(4) The County Council is the education authority, highways authority and the fire and rescue authority for the County of West Sussex in which the Property is located.

(5) The Owner has submitted the Application to the Council and the parties have agreed to enter into this Deed in order to secure the planning obligations contained in this Deed.

(6) The Council resolved on 16 February 2010 to grant conditional Planning Permission subject to the prior completion of this Deed.

NOW THIS DEED WITNESSES AS FOLLOWS:

OPERATIVE PART

1 DEFINITIONS

For the purposes of this Deed the following expressions shall have the following meanings:

"Act"	the Town and Country Planning Act 1990
"Application"	the application for full planning permission dated 18 December 2009 submitted to the Council for the Development and allocated reference number WB/09/1067/FULL
"Commencement of Development"	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 other than (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly.

"Development"	the Development of the Site with 3 no. 2-bedroom apartments and 1 no. 2-bedroom maisonette and the erection of a new infill building to provide 8 no. 3-bedroom apartments as set out in the Application
"Education Contribution"	shall mean the sum of £10,712 payable in accordance with clause 5.2.1 Schedule being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for education services that would be generated by the Proposed Development.
"Executive Head of Planning Regeneration & Wellbeing"	The Executive Head of Planning Regeneration & Wellbeing for the time being or such other proper officer of the Council responsible for planning functions.
"Fire and Rescue contribution"	shall mean the sum of £209 to be paid in accordance with clause 5.2.2 to being a contribution towards the provision of fire service infrastructure (excluding fire hydrants) in the vicinity of the Land to serve the additional needs of the community generated by the Proposed Development
"Interest"	interest at 4 per cent above the base lending rate of the Bank of England from time to time.
"Occupation" and "Occupied"	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.
"Outdoor Recreation Space Contribution"	shall mean the sum of £21,247 towards the provision of and/ or improvement of open space facilities payable in accordance with clause 5.

"Party and Parties"	means the Owner, Mortgagee and or the Council.
"Plan"	the plan attached to this Deed
"Planning Permission"	the full planning permission subject to conditions to be granted by the Council pursuant to the Application, a draft of which permission is annexed to this Agreement. .
"Site"	the land against which this Deed may be enforced as shown edged red on the Plan.
"the TAD contribution"	shall mean the sum of £4,840 which is calculated in accordance with the Total Access Demand Methodology;
Total Access Demand Methodology;	shall mean the methodology developed by the County Council and adopted by the District Council

2 CONSTRUCTION OF THIS DEED

2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.

2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeable in that manner.

2.4 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually unless there is an express provision otherwise.

2.5 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.

2.6 References to any party to this Deed shall include the successors in title to that party and to any deriving title through or under that party and in the case of the Council and County Council the successors to their respective statutory functions.

3 LEGAL BASIS

3.1 This Deed is made pursuant to Section 106 of the Act

3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act and are enforceable by the Council as local planning authority against the Owner.

4 CONDITIONALITY

This Deed is conditional upon:

(i) the grant of the Planning Permission; and

(ii) the Commencement of Development

save for the provisions of Clauses 6.1, 6.2, 13 and 14 and any other relevant provisions which shall come into effect immediately upon completion of this Deed.

5 THE OWNER'S COVENANTS

5.1 THE OWNER'S COVENANTS TO THE COUNCIL

The Owner covenants with the Council to pay the Council the Outdoor Recreation Space Contribution within 7 days of the Commencement of Development

5.2 THE OWNER'S COVENANTS TO THE COUNTY COUNCIL

5.2.1 The Owner covenants with the County Council to pay the County Council the Education Contribution within 7 days of the Commencement of Development

5.2.2 The Owner covenants with the County Council to pay the County Council the Fire and Rescue Contribution within 7 days of the Commencement of Development

5.2.3 The Owner covenants with the County Council to pay the County Council the TAD Contribution within 7 days of the Commencement of Development

6 MISCELLANEOUS

6.1 The Owner shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

6.2 The Owner shall pay to the County Council on completion of this Deed the reasonable legal costs of the County Council incurred in the negotiation, preparation and execution of this Deed.

6.3 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999

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

6.5 Where the agreement, approval, consent or expression of satisfaction is required by the Owner from the Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any such agreement, consent, approval or expression of satisfaction shall be given on behalf of the Council by the Executive Head of Planning Regeneration and Wellbeing

And any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.

6.6 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

6.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

6.8 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owner) it is modified by any statutory procedure or expires prior to the Commencement of Development.

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

6.10 This Deed shall not be enforceable against owner-occupiers or tenants of dwellings constructed pursuant to the Planning Permission nor against those deriving title from them.

6.11 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.

7 MORTGAGEE'S CONSENT

7.1 The Mortgagee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the

obligations contained in this Deed and that the security of the mortgage over the Site shall take effect subject to this Deed PROVIDED THAT the Mortgagee shall otherwise have no liability under this Deed unless it takes possession of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

8 WAIVER

No waiver (whether expressed or implied) by the Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

9 CHANGE IN OWNERSHIP

The Owner agrees with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Site or unit of occupation purchased by reference to a plan.

10 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

11 JURISDICTION

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

12 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

Signed as a Deed by MICHAEL JOHN CLINCH) in the presence of:-)

[redacted]

SIGNATURE OF OWNER

[redacted].....

[SIGNATURE OF WITNESS]

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Heidi Wood, 3-9 Cricketers Parade, Broadwater, Worthing, West Sussex BN14 8JB (Solicitor)

Signed as a Deed by LLOYDS BANK PLC)
in the presence of:-)

.....
SIGNATURE OF DIRECTOR

.....
[SIGNATURE OF WITNESS]

Director

[NAME, ADDRESS [AND OCCUPATION] OF WITNESS]

Signed as a deed b[redacted]
Helen Jane Lafbery
As Attorney for and on behalf of
LLOYDS TSB BANK plc[redacted]
in the presence of .....
6/7 Park Row, Leeds

Portland House
Richmond Road
Worthing BN11 1LF

APPLICATION NO. WB/09/1067/FULL

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT PROCEDURE ORDER 1995

Richard J Maile BSc FRICS
72 Portland Road
Worthing
West Sussex
BN11 1QG

PROPOSAL: Conversion of No. 7 The Steyne to provide 3 No. two bedroom apartments and 1 No. two bedroom maisonette and erection of new infill building to provide 8 No. three bedroom apartments.

LOCATION : 7 The Steyne Worthing

DATE REGISTERED : 19th January 2010

APPLICANT : Mr M Clinch

WORTHING BOROUGH COUNCIL, under the above Act and Order, gives you notice that its decision upon your application described above and in Drawing Nos. 09702-Site, 09702-E, 09702, 09702S, 09702B, 09702G, 197021, 097022, 097023, 09702 Roof, LOC, 001D, 002B and 003A and supporting Design Statement and Planning Statement which accompanied the application, or as subsequently amended prior to consideration, is to

GRANT PERMISSION subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

   Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

Cont.....

Dated :

Executive Head of Planning,
Regeneration and Wellbeing

Note: Your attention is drawn to the notes and advice overleaf.

2. At all times during the progress of the work hereby approved, adequate measures shall be taken to protect the remaining part of the Listed Building from collapse or structural damage. Upon completion of the work for which Listed Building Consent is hereby granted, any damage caused to the fabric of the building shall be made good to the written satisfaction of the Local Planning Authority.

   Reason: To safeguard the Listed Building.

3. No development shall take place until details of the boundary walls and railings have been submitted to and approved in writing by the Local Planning Authority. No flat shall be occupied until such walls or railings as may be agreed have been erected.

   Reason: To safeguard the Listed Building.

4. No flat shall be occupied unless or until cycle parking is provided in accordance with details to be submitted and agreed in writing by the Local Planning Authority.

   Reason: To provide for an alternative and sustainable means of transport to the motor vehicle.

5. No work for the implementation of the development hereby permitted shall be undertaken on the site on Sundays or on Bank or Public Holidays. On all other days such work shall only be implemented between the hours of 8.00 a.m. and 6.00 p.m. inclusive.

   Reason: To safeguard the amenities of the occupiers of neighbouring properties.

6. No flat shall be occupied unless or until a hard landscaping scheme has been implemented in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

   Reason: To safeguard the setting of the building and Conservation Area.

7. The development hereby permitted shall not commence unless and until a schedule and samples of materials and finishes to be used for the external walls and roof of the proposed building have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be completed fully in accordance with the agreed materials.

   Reason: To protect the character and setting of the Conservation Area and to assist the integration and harmonisation with the Listed Buildings.

Cont.....

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or as subsequently amended), no parts of the elevations of the building hereby permitted shall be painted other than in a colour as may be submitted to and agreed in writing by the Local Planning Authority.

   Reason: To protect the character and setting of the Conservation Area and to assist the integration and harmonisation with the Listed Buildings..

9. No flat shall be occupied until all external details and finishes, as shown on the approved plans, have been fully completed to the satisfaction of the Local Planning Authority.

   Reason: To protect the character and setting of the Conservation Area and to assist the integration and harmonisation with the Listed Buildings.

10. The development hereby permitted shall not commence unless and until a scheme for protecting the proposed flats from noise has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme as may be agreed shall be completed before any flat is occupied.

    Reason: To safeguard the amenities of the occupiers of the flats.

11. Provision shall be made for combined aerial facilities to serve all flats within the development hereby permitted.

    Reason: To safeguard the character and appearance of the building, the Listed Buildings and the Conservation Area.

12. Before any of the flats hereby permitted are occupied, dustbin enclosures shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

    Reason: To safeguard the appearance of the development, the Listed Buildings and the Conservation Area..

13. No development shall commence unless or until precise details of the roof, parapet, windows, doors, balconies and chimneys and any flues, cables, metres or other external apparatus associated with utilities are agreed in writing with the Local Planning Authority.

    Reason: To ensure that the building is respectful of the Listed Buildings and the Conservation Area.

Cont.....

14. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is of archaeological significance and it should be recorded by excavation before it is destroyed by development.

15. The development hereby permitted shall not be commenced until the following measures have been undertaken:-

(i) the submission of a scheme for the investigation of potential ground contamination;

(ii) the approval of the scheme referred to in (i) above by the Local Planning Authority;

(iii) the completion of a site investigation in accordance with any scheme as may be agreed;

(iv) the submission to and written approval by the Local Planning Authority of the results of any such investigation;

(v) the submission to and written approval by the Local Planning Authority of a detailed action plan for remediation of the site;

(vi) the full implementation of the agreed action plan on the site to the satisfaction of the Local Planning Authority.

Reason: To ensure that any ground contamination is properly remediated in the interests of amenity and the environment.

16. The development hereby permitted shall not be commenced unless and until details of the sustainable design features of the development and its construction have been submitted to and approved by the Local Planning Authority. The development shall not be built or constructed other than in full accordance with any such approval.

Reason: To maximise the opportunities for sustainable design in accordance with South East Plan Policies CC4, NRM5, NRM11 and W2 by improving the energy efficiency of the building and reducing demands on natural resources and waste generation, in accordance with Government guidance PPS22 Renewable Energy; and PPS10 Planning for Sustainable Waste Management.

INFORMATIVES

1. The decision to grant planning permission has been taken having regard to the saved policies and proposals in the Worthing Local Plan 2003 and the South East Plan 2009 set out below, and to all relevant material considerations, including Supplementary Planning Guidance:-

Cont.....

Saved Worthing Local Plan Policies 2003

BE1 - Design Quality
H13 - Conversion to Flats and HMOs
H16 - Domestic Extensions and Alterations
H18 - Amenity of Residents
LR8 - Provision of Play Space/Outdoor Recreation Space in Housing Schemes
RES9 - Contaminated Land
TR9 - Parking Requirements for Development

South East Plan 2009

BE1 - Management for an Urban Renaissance
BE6 - Management of the Historic Environment
CC1 - Sustainable Development
CC4 - Sustainable Design and Construction
CC6 - Sustainable Communities and Character of the Environment
H4 - Type and Size of New Housing
H5 - Housing Design and Density
NRM10 - Noise
NRM11 - Development Design for Energy Efficiency and Renewable Energy
SP3 - Urban Focus and Urban Renaissance

2. Reason for Approval

In reaching its decision the Council concluded that the proposed infill development of this sustainably located brownfield site in the centre of the Steyne Conservation Area adjacent to the Listed Buildings, and having regard to the previously unsuccessful planning applications to develop the site, represents a sympathetic and appropriate solution to completing the terrace provided that the materials and architectural details are carefully selected and agreed with the Local Planning Authority.

This information is only intended as a summary of the reasons for grant of planning permission. For further details on the decision please see the application report which is available from the Planning Reception at Portland House, Richmond Road, Worthing.

3. Unilateral Undertaking

The permission is subject to a unilateral undertaking which covenants the developer to pay upon commencement of development £2,948 towards upgrading first schools; £3,322 towards upgrading middle schools; £4,442 towards upgrading secondary schools; £209 towards upgrading fire and rescue, £4,840 towards upgrading local transport facilities and £21,247 towards improving outdoor recreation space.

POWER OF ATTORNEY FOR EXECUTION OF DOCUMENTS

CORPORATE CUSTOMER SERVICE, LEEDS

By this power of attorney given on 11th March 2009, Lloyds TSB Bank plc, whose registered office is at 25 Gresham Street, London EC2V 7HN ("the bank") hereby appoint:

John Gregory — Senior Specialist Securities Officer

Stephen Gray Allen)
Michael Charnock)
Helen Jane Lafbery) Specialist Securities Officer
Katherine Lawrenson)
Keith Norman Mallaby)

I CERTIFY THAT THIS IS A TRUE COPY
[redacted]
Signature:
Name (Print):
Staff Number: 3 0 4 3 0 6 7

jointly and severally to be attorneys of the bank and in the name of the bank and on its behalf and as its act and deed or otherwise to sign, seal, execute and deliver any deed or document necessary or desirable:

(1) to vacate, receipt, discharge, release, surrender, convey, re-convey, assign or re-assign any mortgage, charge, debenture or other security held by the bank;

(2) to postpone, defer, subordinate or otherwise regulate the priority or ranking of any mortgage, charge, debenture or other security held by the bank;

(3) to grant easements over or impose covenants on, consent to the letting, underletting, assignment, surrender or alteration of any freehold or leasehold property held by the bank as trustee or nominee or charged to the bank;

(4) to transfer, let, under-let, surrender or consent to dealings with or the imposition of encumbrances upon any real or personal property charged to the bank;

(5) to vary, alter, amend, revise, replace or substitute any deed or document to which the bank is a party; and

(6) to register the bank as chargee (as appropriate) in the registers of land charges, pending actions, writs and orders affecting land or deeds of arrangement affecting land under the Land Charges Act 1972, at the Land Charges Department, and to apply for the cancellation, rectification and continuation in any register of any entry recording the bank as chargee or in respect of which the bank is otherwise entitled to apply

and generally for all or any of the purposes aforesaid to act as attorneys of the bank.

The common seal of the bank was affixed to this deed the day and year first above written.

Given under the common seal
of Lloyds TSB Bank plc
[redacted]
Authorised signatory

[redacted]
Authorised counter signatory

Land Registry Official copy of title plan

Title number **WSX258245**
Ordnance Survey map reference **TQ1502NW**
Scale **1:1250**
Administrative area **WEST SUSSEX : WORTHING**

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