

UNILATERAL UNDERTAKING

Under Section 106

Town and Country Planning Act 1990 (as amended)

By

(1) BFC Property Investment & Developments Ltd

TO

(2) TONBRIDGE AND MALLING BOROUGH COUNCIL

In relation to the site of

The Primrose Public House, Pembury Road, Tonbridge, Kent, TN9 2JJ

THIS DEED is dated (INSERT DATE)

14/12/19

FROM:

(1) BFC Property Investment & Developments Ltd 2 Lakeview Stables St. Clare Kemsing
Sevenoaks TN15 6NL ("the Owner")

("The Owner" shall include the successors in title and assigns of the Owner, any deriving title through or under the Owner and anyone claiming through, under or in trust for the Owner)

TO:

TONBRIDGE AND MALLING BOROUGH COUNCIL Council Offices, Gibson Building, Gibson Drive,
Kings Hill, West Malling, Kent, ME19 4LZ ("The Council")

INTRODUCTION

- A. The Owner has an interest in the Site by virtue of being the registered proprietor and has made application under reference TM/19/01890/FL)
- B. The Deed is a Planning Obligation for the purposes of Section 106 of the Town and Country Planning Act 1990 and is enforceable by the Council, which is the local planning authority for the area including the Site.
- C. The covenant is required in order to meet the increased demand for public open space and associated facilities, which will be caused by the Development.

INTERPRETATION

1. In this Deed the following words and expressions shall have the meanings given opposite them:

Words and Expressions	Meanings
Development	The development of the Site pursuant to the Planning Permission by the erection of six dwellings.
Planning Application	The application for planning permission for Development registered by the Council under reference number TM/19/01890/FL).
Planning Permission	The planning permission to be granted pursuant to the Planning Application.

Site	The land shown edged red on the plan attached hereto (Plan PO.1) and located at The Primrose Public House, Pembury Road, Tonbridge, Kent, TN9 2JJ.
Commencement of the Development	The carrying out, pursuant to the Planning Permission, of any material operation as defined in Section 56(4) of the Town and Country Planning Act 1990 (as amended).
Index	Means "All items" index figures of the Index of Retail prices published by the Office for National Statistics or any such alternative index or comparable measure of price inflation as the Council reasonably requires.
Index Unked	Means increased in accordance with Clause 6 to reflect any increase in the Index during the period from and including the date of the actual payment.

1.2 Words incorporating the singular meaning, where the context so admits, include the plural meaning and vice versa.

2. OWNER'S COVENANTS

2.1 The Owner covenants with the Council in the terms set out in Schedule 1 to this Undertaking.

3. LEGAL EFFECT AND ENFORCEABILITY

3.1 The construction, validity, performance and enforcement of this Deed shall be governed by English Law.

3.2 Wherever there is more than one person names as a party, this Deed can be enforced against all if those persons jointly and against each individually.

3.3 This Deed shall be of no effect until it has been dated.

3.4 The land bound by this Deed is the Site as identified on the plan attached to this Undertaking, and comprising land within title number K176791 registered at HM Land Registry.

4. CONDITIONALITY

4.1 The Owner's undertaking are condition upon:

4.2 The planning Permission being issued

4.3 The Council not enforcing this Deed against any person who has parted with their entire interest in the Site (except for liability for any subsisting breach arising prior to parting with such interest)

4.4 The Council not enforcing this Deed against a person whose interest in any part of the Site is solely for the purpose of the supply of electricity, gas, water, drainage or telecommunication services.

4.5 The Council not enforcing this Deed again individual occupiers or owner-occupiers of any dwelling erected pursuant to the Planning Permission.

5. GENERAL

5.1 The obligations in this Deed shall be enforceable in accordance with the provisions of S106 (3) of the Town and County Planning Act 1990.

5.2 None of the provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

5.3 If the permission granted pursuant to the Planning Application shall expire before the Development is begun as defined above or shall at any time be revoked this Deed shall forthwith determine and cease to have effect.

5.4 Nothing in the Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than one relating to the Development as specified in the Planning Application) granted (whether or not on appeal) after the date of this Deed.

5.5 This Deed is a local land charge and shall be registered as such.

5.6 The Owner has paid the legal fee to the Council prior to the completion of this Deed.

5.7 No person shall be liable for any breach of the terms of this Deed arising after he has parted with his entire interest in the Land, but he shall remain liable for any subsisting breach which arose before he entirely parted with his interest.

6 INDEXATION

Where any financial contributions in this Undertaking is to be "Index Linked" then the amount of the contribution after application of the Index shall be calculated according to the following formula:

Amount after indexation = $A \times B/C$

Where:

- A- Is the contribution to the Index Linked
- B- Is the Index at the date at which the amount is to be paid; and
- C- Is the Index at the date of this Undertaking.

SCHEDULE 1

PLANNING OBLIGATIONS

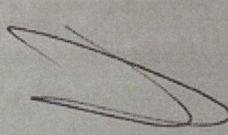
1. The Owner COVENANTS with the Council as follows:

1.1 To pay the Council on or before the commencement of the Development the following sum Index Linked namely the open space and recreation contribution in the sum of £22321 (Twenty two thousand three hundred and twenty one Pounds) for use by the Council for providing and/or enhancing and/or upgrading and/or supplementing and/or maintaining and/or improving off site open space and children's play equipment in the locality of the Development.

1.2 The Owner shall not commence the Development until the aforementioned contribution is paid in full.

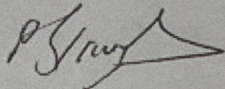
IN WITNESS whereof this Deed has been executed the day and year first before written

EXECUTED as a DEED by)
BFC Property Investment &)
Developments Ltd)
acting by Beth Chapman a)
director in the presence of:)



08/12
2012

witness signs:



witness name:

PAUL SLAUGHTER

witness address:

3 MANDAR HOUSE GARDENS
EDENRIDGE
KENT TN8 5EG.