

Dated 11th July 2003

Hurstwood Developments Limited

- and -

National Westminster Bank plc

Unilateral Undertaking

**pursuant to Section 106 of the Town and Country
Planning Act 1990 (as amended)
relating to the
erection of 30 Apartments and construction of bridge access on land at Free Lane,
Helmshore
(Planning Application No. 14/2003/025)**

THIS UNILATERAL UNDERTAKING is given this 11th day of July 2003

BY

(1) HURSTWOOD DEVELOPMENTS LIMITED whose registered office is situated at Hurstwood Court New Hall Hey Road Rawtenstall Rossendale Lancashire BB4 6HR ("the Developer") and

(2) NATIONAL WESTMINSTER BANK PLC whose registered office is situated at 135 Bishopsgate London EC2M 3UB and whose address for service is ~~41 Lombard Street London EC2~~ ("the Mortgagee") Preston Commercial Office P.O. box 35 1st floor 35 Postage Preston PA1 2UU.

TO

ROSSENDALE BOROUGH COUNCIL of the Town Hall Rawtenstall Rossendale Lancashire BB4 7LZ ("the Council")

DEFINITIONS

- "Act" the Town and Country Planning Act 1990;
- "Application" the application for planning permission for the Site and submitted under reference 14/2003/025 to the Council or as the same may be varied or amended;
- "Contribution" means the sum of one thousand pounds (£1,000) per apartment unit constructed pursuant to the Planning Permission;
- "Development" development of the Site for residential purposes in accordance with the Application;
- "Planning Permission" a planning permission to be granted pursuant to the Application;
- "Site" the land situated at Free Lane, Helmshore and shown edged in red on Plan 1;

(1) References to numbered plans shall be deemed to be references to plans so numbered

annexed to this agreement

- (2) References to clauses and to Schedules shall be deemed to be references to the clauses of and Schedules to this Agreement and unless otherwise stated references to paragraphs and sub-paragraphs shall be deemed to be references to paragraphs and sub-paragraphs of the Schedule in which such reference appears
- (3) Any reference herein to any statute or to any provision of the same shall be construed as including reference to any statutory modification or re-enactment thereof from time to time in force

WHEREAS:-

- (1) The Council is the local planning authority for the purposes of the Act in respect of the Site and is the authority by whom the obligations hereby created are enforceable
- (2) The Developer is seized for an estate in fee simple in possession of the Site which is registered under Title Number LA740949 at H M Land Registry free from encumbrances save for a Registered Charge in favour of the Mortgagee
- (3) The Developer has by the Application applied to the Council for planning permission to carry out the Development on the Site in the manner set out in the plans specifications and particulars forming part of the Application
- (4) The Council has not determined the Application and the Developer has entered into this obligation with the intent that Planning Permission will be granted on Appeal
- (5) The Developer considers that certain planning obligations should be entered into as of the date of this Undertaking (subject to any conditions as are set out in this Undertaking) in respect of the Site.

NOW THIS DEED WITNESSETH as follows:-

- 1.1 This Agreement is made in pursuance of Section 106 of the Act and all other powers so enabling and covenants in this Agreement falling within Section 106 of the Act are

planning obligations to which the section shall apply

- 1.2 The local planning authority by whom such obligations are enforceable is the Council
- 2.1 This Agreement is conditional upon and shall only have effect upon:
 - 2.1.1 the date upon which Planning Permission is granted pursuant to the Application and
 - 2.1.2 the date upon which the Developer shall begin the Development in accordance with the Planning Permission by the carrying out of a material operation in accordance with the provisions of Sections 56 and 91-93 of the Act (whichever shall be the later)
- 2.2 For the avoidance of doubt it is hereby agreed and declared that in the event of either the Planning Permission being quashed as a result of legal proceedings or the Planning Permission being revoked then this Agreement shall absolutely determine and become null and void but without prejudice to the rights of any party against the others
- 3 The Developer with the consent of the Mortgagee and with the intent to bind itself and the Developer's successors in title hereby undertakes with the Council that the Developer will observe and comply with those provisions of Schedule 1 which the Developer is to observe or comply with;
- 4 The Mortgagee hereby consents to the execution of this Deed and acknowledges that subject as herein provided the Site shall be bound by the restrictions and obligations contained in this Agreement
- 5 Notwithstanding the terms contained herein the parties hereto agree that the Mortgagee shall only be liable for any breach of any provisions of this Agreement during such periods (if any) as it is a mortgagee in possession of the Site and then only if it shall have caused such breach to have been occasioned and provided further for the avoidance of doubt that it shall not in any event be liable for any breach of this Agreement arising prior to it becoming a mortgagee in possession of the Site

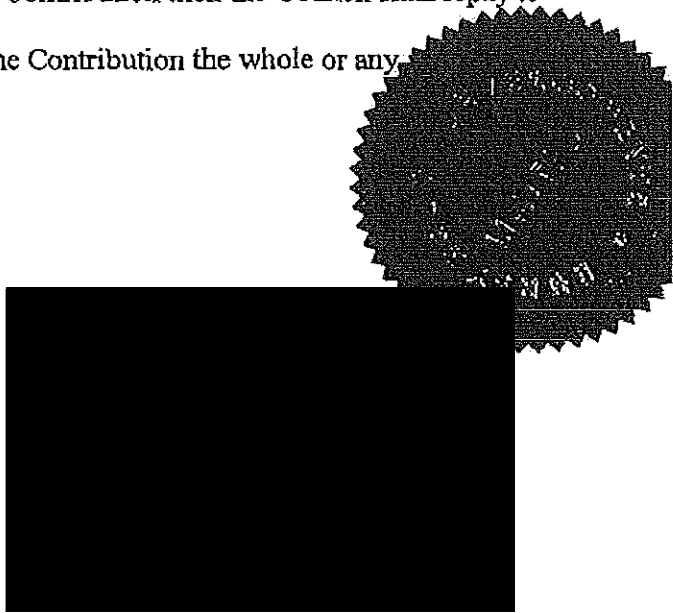
regardless of whether or not such pre-existing breach shall continue for any period during which it is a mortgagee in possession of the site

- 6 If the Planning Permission has not been implemented by the carrying out of a material operation in accordance with the provisions of sections 56 and 91-93 of the Act within five years from the date hereof this Undertaking shall forthwith determine and cease to have effect and the Council shall thereupon cancel all related entries in the Register of Local Land Charges
- 7.1 For the purpose of such parts of this Agreement as may be subject to the law against perpetuities this Agreement shall remain in force for the period of eighty years from the date hereof or (if sooner) as long as any of the covenants conditions stipulations and agreements herein may not have been performed
- 7.2 In this Agreement the expressions "the Developer" and "the Mortgagee" shall where the context so admits be deemed to include their respective successors in title
- 7.3 The Developer shall not be liable for the breach of a covenant or obligation contained in this Agreement after having parted with all interest in that part of the Site on which the breach has occurred but without prejudice to liability for any subsisting breach of covenant or obligation prior to parting with such interest
- 8.5 Nothing in this Agreement 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 Application) granted (whether or not on appeal) after the date of this Agreement
- 8.6 The planning obligations hereby created shall be registered as a Local Land Charge
- IN WITNESS whereof the parties hereto have caused these present to be duly executed as a deed the day and year first above written

Schedule 1

1 The Developer shall pay the Contribution to the Council towards the costs to be incurred by the Council in the purchase upgrading and modernisation of childrens play equipment at Helmshore Park and to further provide for ten years maintenance of the equipment and the payment of the Contribution shall be made by the Developer upon the tenth occupation of the tenth apartment to have been erected on the Site under the Planning Permission or any renewal thereof **PROVIDED ALWAYS** that in the event that within a period of five (5) years from the date of payment the Council does not use the whole or any part of the Contribution then the Council shall repay to the person or body which actually paid the Contribution the whole or any balance of the Contribution.

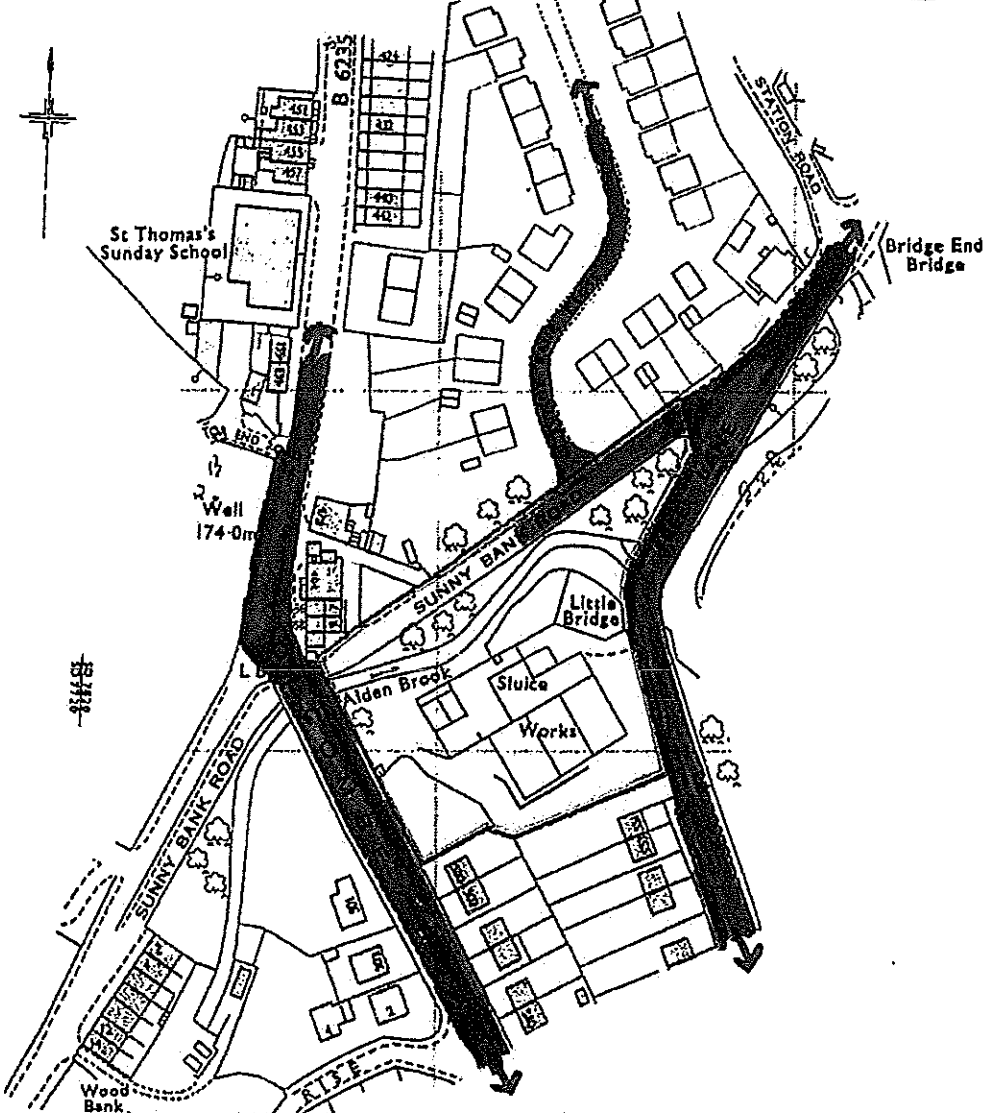
EXECUTED (but not delivered)
 until the date hereof)
AS A DEED by affixing)
 the Common Seal of)
HURSTWOOD DEVELOPMENTS LTD)
 in the presence of :-)



EXECUTED (but not delivered)
 until the date hereof) **AS A DEED** by)



H.M. LAND REGISTRY		TITLE NUMBER LA740949	
ORDNANCE SURVEY PLAN REFERENCE	SD 7820	SECTION A	Scale 1/1250 Enlarged from 1/2500
COUNTY LANCASHIRE	DISTRICT ROSSENDALE		© Crown copyright 1992



N.B. ---
ADOPTED.



This official copy issued on 01/01/2008 shows the state of this title plan on 01/01/2008. It is issued in accordance with the same extent as the original (Land Registration Act 2002). This plan shows the general position, not the exact line, of the boundaries. They may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 7 - The Plans.
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