

UNILATERAL UNDERTAKING

THIS DEED is made on the date of 14th APRIL 2025

BY:

- (1) LINDA BENNETT of Nevada, Harts Lane, Ardleigh, CO7 7QH ("the Owner")

and creates planning obligations which are enforceable by

- (2) TENDRING DISTRICT COUNCIL of Town Hall, Station Road, Clacton on Sea, Essex, CO15 1SE ("the Council")

BACKGROUND:

- A. For the purposes of the Act, the Council is the local planning authority for the area within which the Site is located and by whom the obligations in this Deed are enforceable
- B. The Owner is the owner of the freehold interest in the Site which is registered at H M Land Registry under title number EX726106 free from any encumbrances that would prevent the Owner from entering into this Deed
- C. The Owner submitted a planning application under reference number 24/01516/FUL to the Council for planning permission for the Development
- D. Planning Permission given reference 24/01516/FUL ("the Planning Permission") was granted by the Council on 11 December 2024 for permission for the Development of the Site subject to conditions.
- E. The Owner enters into this obligation to discharge condition 3 of the Planning Permission.
- D. This Deed is entered for the purposes of providing planning obligations binding the estate and interest of the Owner in the Site and their successors in title under Section 106 of the Act.

1. DEFINITIONS

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

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

"Commencement of the Development" means the implementation of the Planning Permission by the carrying out of a material operation described in Section 56 of the Act and "Commence the Development" shall include 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, however the temporary display of site notices or advertisements shall not be a material operation
“Development”	means the development of the Site in accordance with the Planning Permission
“Dwelling”	means any residential unit of accommodation built pursuant to the Planning Permission
“Index”	means the “All Items” index figure of the Index of Retail Prices (the RPI All Items Index) published by the Office for National Statistics or any such alternative index or comparable measure of price inflation as the Council reasonably requires
“Index-Link(ed)”	means the amount shall be increased or decreased by applying the RPI All Items Index Jan 1987 = 100 published by the Office for National Statistics using the formula $A = B \times C$ divided by D - where A is the amount actually payable- B is the amount specified as payable – C is the RPI All Items Index two months before the date of payment – and D is the RPI All Items Index two months before the date of this Deed
“Notice of Commencement”	means notice in writing to advise the Council of the expected date of the Commencement of Development
“Planning Permission”	means the conditional planning permission granted by the Council on 11 December 2024 in respect of the Site and given reference 24/01516/FUL for the demolition of a barn and the erection of a single self-build unit (in lieu of Prior Approval, Class Q, of a single dwelling subject of application 24/00331/COUNOT).
“RAMS”	means the Essex Coast Recreation Disturbance Avoidance and Mitigation Strategy (RAMS) in relation to Essex Coast Natura 2000 European Designations Supplementary Planning Document adopted by the Council
“Site”	means land at Nevada, Harts Lane, Ardleigh, CO7 7QH and outlined in red on the plan attached this Deed.

1.2 Where the context so requires:

- (a) A reference in this Deed to an Act of Parliament or any Order Regulation Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same
- (b) Words importing the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa
- (c) Any headings or side notes are for ease of reference only and shall not affect the construction of this Deed
- (d) Where a party includes more than one person any obligations of that party shall be joint and several

2. INTERPRETATION AND LEGAL EFFECT

- 2.1 This Deed is made pursuant to Section 106 of the Act and the covenants contained in it are planning obligations for the purposes of Section 106 of the Act in respect of which:
 - (a) The Owner owns the freehold title to the Site
 - (b) The Council is the Local Planning Authority entitled to enforce the provisions of this Deed
 - (c) This Deed is entered in respect of the Site with the intent that it shall bind the Owner's freehold interest in the Site
 - (d) This Deed shall be binding on all successors and assigns in title of the Owner and any persons claiming under or through them
 - (e) This Deed has been executed as a Deed and the Owner shall supply a copy of it to the Council so that it may be registered by the Council against the Site as a Local Land Charge and entered into the planning register maintained by the Council under the Act
- 2.2 Nothing in this Deed is or amounts to or shall be construed as a planning permission or approval
- 2.3 This Deed shall come into effect (save for clause 4.4) on the date specified by the Owner in the Notice of Commencement served upon the Council as the date the Development is expected to Commence or if no such notice is served the actual date on which the Development is Commenced.
- 2.4 If the Planning Permission shall expire before the Development is Commenced or shall at any time be revoked this Deed shall forthwith determine and cease to have effect
- 2.5 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 Permission) granted (whether or not on appeal) after the date of this Deed.

- 2.6 No person shall be liable for breach of a covenant contained in this Deed after he shall have parted with all interest in the Site or the part in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.
- 2.7 In the event that any sum or part thereof due to be paid to the Council by the Owner pursuant to this Deed is paid later than the date payment is due under the terms of this Deed then the sum or part therefore payable by the Owner to the Council shall in addition include interest at 4% above the Bank of England base lending rate or such other rate as the Council deems appropriate and shall accrue on a daily basis from the date payment is due until the date payment of the amount due is received by the Council.
- 2.8 In addition to the requirement in clause 2.7 above in the event that any sum due to be paid to the Council by the Owner pursuant to this Deed shall not be received by the Council by the date that the sum is due then the Owner hereby covenants to pay to the Council within ten (10) Working Days of receiving a written request all reasonable costs that the Council has incurred as a result of or in pursuance of such late payment including but not limited to Council Officer time and any legal costs.

3. NOTICES

- 3.1 All notices given or served or required to be given or served under this Deed shall be given or served as follows:
- (a) by personal delivery by hand (in which case service is immediate)
 - (b) by first class post (in which case service takes place on the second day after posting)
 - (c) by email (in which case service is the time and date the email is sent)
- 3.2 The address for service of notices for the Council shall be at the Council's address at the head of this Deed and by email to obligations@tendringdc.gov.uk and in both cases notices shall be marked for the attention of the Council's s106 Monitoring Officer and marked with the Planning Permission reference 24/01516/FUL

4. THE OWNER'S COVENANTS

- 4.1 The Owner covenants to the Council:
- 4.2 To serve on the Council a Notice of Commencement not less than four weeks before the expected date of Commencement of the Development to allow the calculation of the contribution in clause 4.3 of this Deed.
- 4.3 To pay a contribution of £169.45 Index Linked to the Council prior to the Commencement of the Development for each Dwelling to be constructed for the funding of strategic off-site measures identified by the RAMS to mitigate any increased use as a result of the Development in particular the Stour and Orwell Estuaries SPA and RAMSAR

- 4.4 On or before the entering into of this Deed the Owner covenants to pay to the Council a contribution of fifty pounds (£50.00) towards the Council's costs for the monitoring and administration of the performance of the planning obligations that the Owner is required to observe and perform pursuant to the terms of this Deed.

5. **JURISDICTION**

- 5.1 This Deed is to be governed by and interpreted in accordance with the law of England and Wales; and the courts of England are to have jurisdiction in relation to any disputes between the parties arising out of or related to this Deed

6. **EXECUTION**

- 6.1 The Owner has executed this document as a Deed and it is delivered on the date set out above.

