

DATED 4th July 2023

DUNMOORE (WEST LONDON) LIMITED (1)

AND

HSBC UK BANK PLC (2)

TO

LONDON BOROUGH OF HILLINGDON (3)

UNILATERAL UNDERTAKING

under Section 106 of the Town and Country Planning Act 1990 (as amended)

relating to Wellington House, 4-10 Cowley Road, Uxbridge, UB8 2XW

Application Reference: 21755/APP/2023/680

THIS UNDERTAKING (signed as a deed) is made the 4th day of July 2023

BY: -

- (1) **DUNMOORE (WEST LONDON) LIMITED** (company number 10250856) whose registered office is situated at Brightwalton House, Brightwalton, Newbury, RG20 7BZ ("the Owner"); and
- (2) **HSBC UK BANK PLC** (company number 9928412) whose registered office is situated at 1 Centenary Square, Birmingham, B1 1HQ ("the Mortgagee")

TO:

- (3) **LONDON BOROUGH OF HILLINGDON** of Civic Centre, High Street, Uxbridge, UB8 1UW ("the Council")

1 DEFINITIONS AND INTERPRETATION

1.1 IN this Undertaking the following words and expressions shall have the following meanings

"the 1990 Act"	means the Town and Country Planning Act 1990 as amended.
"the Application"	means the application for Prior Approval received by the Council on 7 March 2023 and bearing the reference number 21755/APP/2023/680 or as the same may have been amended prior to the date hereof.
"Commencement of Development"	means the carrying out of a material operation for the commencement of the Development as defined in section 56(4) of the 1990 Act.
"the Development"	means the development of the Land by the construction of two additional storeys measuring 5.72m in height (19.6m above ground level) to provide no.16 residential units as described in the Application.
"Dwelling"	means any dwelling constructed pursuant to the Prior Approval.

“the Land”

means such part of Wellington House, 4-10 Cowley Road, Uxbridge, UB8 2XW as shown for identification purposes only edged red on Plan 1 being for the avoidance of doubt limited to the fourth and fifth floors of Wellington House proposed as part of the Development more particularly shown on Plan 2.

“Occupation”

means occupation for any purpose permitted by the Prior Approval but not including occupation by personnel engaged in construction, fitting out, decoration, security or occupation for marketing or sales purposes.

“Parking Permit”

means a resident’s parking permit issued by the Council (which for the avoidance of doubt does not include a disabled person’s badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 as amended or such relevant legislation that may supersede the same) that will allow the parking of vehicles within the local parking management scheme in the vicinity of the Development.

“Plan 1”

means the plan annexed hereto within Annex 1.

“Plan 2”

means the plan annexed hereto within Annex 2.

“Prior Approval”

means the grant of Prior Approval for the Development under Schedule 2, part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (to be issued by the Council pursuant to the Application under reference number 21755/APP/2023/680).

1.2 Where the context so requires: -

- 1.2.1** The singular includes the plural and vice versa and words importing the masculine gender only include the feminine gender and extend to include a corporation sole or aggregate;

- 1.2.2 References to any party in this Undertaking shall include the successors in title and assigns of that party;
- 1.2.3 Where a party includes more than one person any obligations of that party shall be joint and several;
- 1.2.4 Any covenant by the Owner not to knowingly do any act or thing shall be deemed to include a covenant not to cause permit or suffer the doing of that act or thing;
- 1.2.5 A reference to an Act of Parliament refers to the 1990 Act as it applies at the date of this Undertaking;
- 1.2.6 References to clauses paragraphs and schedules are references to clauses paragraphs and schedules to this Undertaking and are for reference only and shall not affect the construction of this Undertaking.

2. RECITALS

- 2.1 By virtue of the 1990 Act the Council is the local planning authority for the purposes of this Undertaking for the area in which the Land is situated and the Council is empowered to discharge and enforce the obligations in this Undertaking.
- 2.2 The Owner is the registered owner of the freehold interest of the Land under HM Land Registry title number NGL400151.
- 2.3 The Mortgagee is the beneficiary of a legal charge dated 23 September 2016 that is secured against the Land and registered in the charges register of title number NGL400151.
- 2.4 The Owner, by entering into this Undertaking, does so to create planning obligations in respect of the Land and each part of it in favour of the Council pursuant to Section 106 of the 1990 Act and to be bound by and observe and perform the covenants agreements conditions and stipulations hereinafter contained in order to obtain a grant of Prior Approval.

3. OPERATIVE PROVISIONS

- 3.1** This Undertaking is a planning obligation made in pursuance of Section 106 of the 1990 Act as substituted by Section 12 of the Planning and Compensation Act 1991 and to the extent that the covenants in this Undertaking are not made under Section 106 of the 1990 Act they are made under Section 111 of the Local Government Act 1972, Section 16 of the Greater London Council (General Powers) Act 1974 and all other powers so enabling.
- 3.2** The obligations comprised in this Undertaking shall not become effective until the date of the grant of Prior Approval and the Commencement of Development.
- 3.3** Subject to clause 3.4.2, the Owner hereby undertakes to the Council that the Land shall be permanently from the date of the grant of Prior Approval and the Commencement of Development subject to the restrictions and provisions regulating the Development and use thereof specified in the First Schedule hereto.
- 3.4** This Undertaking is subject to the following conditions: -
- 3.4.1** No party shall be bound by the terms of this Undertaking or be liable for the breach of any covenants restrictions or obligations contained in this Undertaking occurring after he or it has parted with his or its 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 prior to parting with such interest);
- 3.4.2** If the Prior Approval shall be refused by the Council or expire or lapse before the Commencement of Development or shall at any time be revoked or varied without the consent of the Owner then this Undertaking shall terminate and cease to have effect.

3.4.3 Nothing in this Undertaking shall be construed as restricting the exercise by the Council of any power or discretion exercisable by it under the 1990 Act or under any other Act of Parliament nor prejudicing or affecting the Council's rights powers duties and obligations in any capacity as a local or public authority.

3.4.4 The obligations hereby created may be registered as a Local Land Charge.

3.4.5 No person who is not a party to this Undertaking may enforce any terms hereof pursuant to the Contracts (Right of Third Parties) Act 1999 provided that this clause shall not affect any right of action of any person to whom this Undertaking has been lawfully assigned or becomes vested in law.

3.4.6 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission granted after the date of this Undertaking.

3.4.7 The Mortgagee hereby consents to the Owner entering into this Undertaking but shall not be liable for any breach of its provisions unless it becomes a mortgagee in possession of all or any part of the Land **SAVE THAT** the Mortgagee shall not be liable for any pre-existing breaches of this Undertaking which have arisen prior to the date it takes possession of the Land. The Mortgagee acknowledges that the Land shall be bound by the terms and obligations contained in this Undertaking and should the Mortgagee become a mortgagee in possession of the Land or any part thereof the Mortgagee agrees to be bound by the provisions of this Undertaking.

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

IN WITNESS whereof the Owner and the Mortgagee have executed this Undertaking as a Deed
the day and year first before written

FIRST SCHEDULE

Covenants by the Owner

The Owner hereby covenants with the Council that for such period of time as a local parking management scheme shall operate within the vicinity of the Development:

1. Not to apply to the Council for a Parking Permit save for a permit used by disabled persons issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 (as amended or such relevant legislation that may supersede the same) in respect of any Dwelling nor to knowingly permit any owner or occupier of the Dwelling to apply to the Council for a Parking Permit.
2. That all material used for advertising or marketing the Dwellings for letting or sale will notify prospective owners and occupiers that they will not be entitled to apply for a Parking Permit.
3. That in respect of every freehold transfer or lease granted, assigned, transferred or otherwise provided in respect of any Dwelling the following covenant shall be imposed (or a covenant of substantially the same nature in respect of any tenancy agreement licence or other instrument entitling Occupation of the Dwelling):

"the transferee/lessee for himself and his successors in title being the owner or owners for the time being [of [plot No. []]/the terms of years hereby granted] hereby covenant with the transferor/lessor and separately with the Mayor and Burgesses of the London Borough of Hillingdon ("the Council") not to apply for nor knowingly permit an application to be made by any person residing in the premises to the London Borough of Hillingdon for a parking permit (save for the display of badges on motor vehicles used by disabled persons issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 (as amended or such relevant legislation that may supersede the same) that will allow the parking of vehicles within the local parking management scheme in the vicinity of the premises and if such a permit is issued then it shall be surrendered within seven (7) days of written request to do so from the Council and this covenant shall also be enforceable by the Council under the Contracts (Rights of Third Parties) Act 1999, section 1"

Executed as a deed by
**DUNMOORE (WEST
LONDON) LIMITED** acting by
a director, in the presence
of:


Director


Witness Signature: 

Witness Name: LUCY COLSTON

Witness Address: BUCHTUMPTON STOD
BUCHTUMPTON, NEWBURY RG20 7SZ

Witness Occupation: PA

EXECUTED as a DEED by
HSBC UK BANK PLC


SIOBHAN LAWRENCE-BROWNE

by its Attorney in the presence of:

Witness' Signature: 

Witness' Name: PAVAN MATHARU

Witness' Address:

Witness' Occupation: REF ASSOCIATE

HSBC UK Bank Plc
Corporate Banking
London Real Estate
London Commercial Banking Centre
Level 6, 71 Queen Victoria Street
London EC4V 4AY

Annex 1

Plan 1



Drawn.

Jeffrey Hays

Date 27/02/23	Scale 1:1250			Drawing No. 001	A3
Drawn	Job no. 4780	Rev		Rev -/-	
Checked			ASON WRIGHT		
			www.w-a-w.co.uk		

Annex 2

Plan 2