

DATED 16th April

2024

HARISH KARSAN YADAV and HERSHRUTA YADAV

and

TO

THE LONDON BOROUGH OF HILLINGDON

**PLANNING OBLIGATION BY UNILATERAL UNDERTAKING AGREEMENT
PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT
1990 AS AMENDED, SECTION 111 OF THE LOCAL GOVERNMENT ACT 1972 AS
AMENDED, SECTION 16 OF THE GREATER LONDON COUNCIL (GENERAL
POWERS) ACT 1974 AS AMENDED, SECTION 1 OF THE LOCALISM ACT 2011 AS
AMENDED AND ALL OTHER ENABLING POWERS**

LAND AT

R/O 800 Uxbridge Road, Hayes, Middlesex, UB4 0RS

Hillingdon Local Planning Authority reference: 75956/APP/2022/3181

Appeal reference: APP/R5510/W/23/3326961

THIS PLANNING OBLIGATION BY UNILATERAL UNDERTAKING is dated ^{16th} April day of 2024 

and is **GIVEN BY:**

1. **HARISH KARSAN YADAV and HERSHRUTA YADAV** both of 788 Uxbridge Road Hayes Middlesex UB4 0RS ("the Owner ");

TO:

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

BACKGROUND

- A The Council is the local planning authority for the purposes of the Act in respect of the Land and by whom the obligations in this Undertaking are enforceable.
- B The Owner has the freehold interest in the Land registered under title numbers and AGL29367 and MX186406 at Land Registry.
- C On 18 October 2022 the Owner submitted the Planning Application to the Council for permission to develop the Land for the purposes and in the manner described in the Planning Application, which was validated by the Council on 18 October 2022.
- D The Council has considered the provisions of the development plan and taken into account planning considerations affecting the Land and considers that in the interests of the proper planning of its area the Development of the Land ought to only be permitted subject to the terms of this Agreement and for that purpose the parties are willing to enter into this Agreement.

- D The Planning Application 75956/APP/2022/3181 was refused by Hillingdon Council on 20th September 2021 and the Owner submitted an appeal on 31st July 2023 which was registered by the Planning Inspectorate on 31st July 2023 (appeal reference number APP/R5510/W/23/3326961) ("the Appeal").
- E The Planning Inspectorate has not yet determined the Appeal and the Owner hereto enter into this Unilateral Undertaking in the knowledge that the Planning Permission may not be granted for the Development.

THIS UNDERTAKING WITNESSES AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1. For the purposes of the recitals and this Undertaking, the following expressions shall have the following meaning:

"1990 Act"	means the Town and Country Planning Act 1990 (as amended);
"Commencement of Development"	<p>means the carrying out in relation to the Development of any material operation (as defined within section 56(4) of the 1990 Act) on the Site pursuant to the Planning Permission but (for the purposes of this Agreement) excluding operations consisting of:</p> <ul style="list-style-type: none">- site clearance;- demolition (provided always that such works do not relate to any listed building within the Site);- archaeological investigations and works;- ground investigations;- site survey works;- temporary access construction works;- preparatory or remediation works;- works for the laying termination or diversion of services;- the erection of any temporary means of enclosure or site notices;- decontamination works;- erection of any fences and hoardings around the Site; and- environmental site investigations,

	<p>and Commence and Commenced shall be construed accordingly;</p> <p>means the date on which any material operation (save for demolition works, site clearance, ground investigations, erecting of temporary fencing and/or hoarding, temporary display of site notices or advertisements, diversion and laying of services) as defined in Section 56 of the Act forming part of the Development begins to be carried out other than (for the purposes of this Undertaking and for no other purpose) and "Commence" and "Commencement" shall be construed accordingly;</p>
"Deputy Director for Planning and Regeneration"	<p>means the Council's Deputy Director for Planning and Regeneration</p> <p>or such person as the Council designates as undertaking this role;</p>
"Development"	<p>means the development of the Site pursuant to the Planning Permission as summarised in Schedule 1;</p>
"Land"	<p>means all the land and buildings at 800 Uxbridge Road Hayes Hillingdon Middlesex which is registered under title no.AGL29367 and MX186406 at the Land Registry and is within the area edged red on the Plan;</p>
"Occupation"	<p>means occupation for any purpose for which Planning Permission has been granted but not including occupation by personnel engaged in the construction, fitting out or</p>

	occupation for marketing or display purposes and for security purposes and Occupation and Occupy shall be construed accordingly;
"Occupation Date"	means the date on which any part of the Development (or any part or phase) is first occupied for the purposes set out in the Planning Permission excluding occupation for the purposes of fitting out or marketing the Development (or any part or phase) and the terms "Occupy", "Occupied", "Occupier" and "Occupation" shall be construed accordingly;
"Parking Permit"	means any residential 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) in accordance with Schedule 8 ;
"Plan"	means the Plan attached to this Undertaking at Appendix 2 ;
"Planning Application"	means the application for planning permission under the Council's reference number 75956/APP/2022/31814 for outline planning consent for the redevelopment of the existing car park, comprising of the construction of a new residential building to provide 19 units, associated access, parking, refuse and cycle provision;
"Planning Permission"	means the planning permission and plans that may be granted pursuant to the Appeal reference APP/R5510/W/23/3326961;
"Principal Planning Obligations"	means the Council's Principal Planning

Officer"	Obligation Officer or such person as the Council designates as undertaking this role;
"Section 106 Reference"	means the Planning Application reference 75956/APP/2022/3181;
"Specified Date"	means the date upon which an obligation arising under this Undertaking is due to be performed;
"VAT"	means Value Added Tax.

- 1.2 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships.
- 1.3 References in this Undertaking to any statute or statutory provision shall be construed as a reference to the same as it may from time to time be amended, extended, modified, consolidated or re-enacted whether before or at the date of this Undertaking.
- 1.4 Unless the context otherwise requires, reference to any clause, paragraph, sub-clause or schedule or appendix is a reference to a clause, paragraph, sub-clause, schedule or appendix of or to this Undertaking.
- 1.5 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Undertaking.
- 1.6 Where a party includes more than one person named as a party any obligations of that party shall be joint and several unless there is an express provision otherwise.
- 1.7 References to any party to this Undertaking 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 the successors to the Council's respective functions PROVIDED THAT no person shall be liable under the provisions of this Deed after parting with all of its interest in the Property except in respect of any breach subsisting prior to parting with such interest.

- 1.8 Where the agreement, approval, consent or an expression of satisfaction is required by the Owner under the terms of this Undertaking from the Council that agreement, approval, consent or satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

2. STATUTORY PROVISIONS

- 2.1 This Undertaking is made pursuant to section 106 of the Act, section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000 and section 16 of the Greater London Council (General Powers) Act 1974 to the intent that it will bind the Owner and their successors in title to the Land.
- 2.2 The covenants, restrictions and requirements imposed upon the Owner under this Undertaking create planning obligations pursuant to section 106 of the Act and are enforceable by the Council as local planning authority against the Owner without limit of time.

3. CONDITIONALITY

- 3.1 The obligations in this Undertaking are subject to and conditional upon:
- (i) the grant of the Planning Permission; and
 - (ii) Commencement of the Development.

4. MISCELLANEOUS

- 4.1 Nothing contained or implied in this Undertaking shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of their functions as local planning authority and their rights, powers, duties

and obligations under all public and private statutes, bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Undertaking.

- 4.2 If any provision in this Undertaking shall be held to be invalid, illegal or unenforceable then the validity, legality and enforceability shall not affect the validity or enforceability of the remaining provisions of this Undertaking.
- 4.3 No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the covenants undertakings obligations or restrictions contained in this Undertaking shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertaking or obligation from acting upon any subsequent breach or default in respect thereof by the Owner.
- 4.4 Nothing in this Undertaking shall be construed as a grant of planning permission.
- 4.5 Unless expressly agreed otherwise in this Undertaking, the covenants in this Undertaking shall be enforceable without any limit of time against the Owner and any successors in title to the Land and assigns of the Owner or any person corporate or otherwise claiming title through or under the Owner an interest or estate to the Land or any part or parts of the Land as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.
- 4.6 No party to this Undertaking nor any of its successors in title nor any person deriving title from or under them shall be liable for any breach of any of the planning obligations or other obligations contained in this Undertaking after it shall have parted with its entire interest in the Land but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

- 4.7 This Undertaking shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed or revoked or otherwise withdrawn or (without the consent of the Owner or its successors in title) is modified by any statutory procedure or expires prior to Commencement of Development.
- 4.8 Nothing in this Undertaking shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Undertaking.
- 4.9 This Undertaking cannot be amended or discharged without the prior consent in writing of the Owner and the Council.
- 4.10 In the event of the planning obligations contained in this Undertaking being modified a note or memorandum thereof shall be endorsed upon this Undertaking.

5. THE OWNER'S PLANNING OBLIGATIONS

- 5.1 The Owner covenants with the Council so as to bind the Land to observe and perform the obligations contained in this undertaking and the Schedules.

6. COSTS

- 6.1 The Owner hereby covenants with the Council that on execution of this Deed it will pay the Council's costs incurred in the negotiation, preparation and execution of this Deed.

9. REGISTRATION OF DEED

The Owner recognises and agrees that covenants in this Deed shall be treated and registered as local land charges for the purposes of the Local Land Charges Act 1975.

10. RIGHT OF ACCESS

Without prejudice to the Council's statutory rights of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Land at all reasonable times for the purpose of verifying whether or not any obligation arising under this Deed has been performed or observed.

11. ARBITRATION

11.1 Any dispute, controversy or claim arising out of or relating to this Deed, including any question regarding its breach, existence, validity or termination or the legal relationships established by this Deed, shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:

10.2.1 the tribunal shall consist of [one] arbitrator appointed jointly by the parties;

11.2.2 in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors;

11.2.3 the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally); and

11.2.4 the seat of the arbitration shall be London.

12. THIRD PARTIES

A person who is not named in this Deed does not have any right to enforce any term of this Deed under the Contracts (Rights of Third Parties) Act 1999.

13. NOTICES

13.1 All notices served under or in connection with this Deed 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;

13.2 Any notice to be served under or in connection with this Deed shall be sent to the:

a) the Principal Planning Obligations Officer, Planning Services at London Borough of Hillingdon, Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW and shall cite the Planning Reference, in addition to e-mailing at cil@hillington.gov.uk; and

b) Owner at xxx;

14. FORM PO1

Prior to Commencement of the Development the Owner shall notify the Council that they intend to Commence the Development by completing and sending Form PO1 to the Council addressed to the Director of Residents Services, 3 North, London Borough of Hillingdon, High Street Uxbridge UB8 1UW and shall cite the Section 106 Reference.

15. CHANGE IN OWNERSHIP

The Owner agrees to provide the Council with immediate written notification of any change in Ownership of any of its interest in the Land occurring before all of the obligations under this Deed have been discharged (such notice to give details of the transferee's full name and registered office) together with the area of the Land or unit of occupation purchased by reference to a plan and the Section 106 Reference.

16. INTEREST

All costs, payments and expenses payable to the Council under this Deed shall bear the Interest rate from time to time being charged from the date such payment is due until the payment is received by the Council.

17. VAT

17.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable.

17.2 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of the Land and the Contributions then to the extent that VAT had not been previously charged in respect of that payment the Council shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

18. JURISDICTION

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

IN WITNESS of which this Undertaking has been duly executed as a Deed and has been delivered once dated.

SCHEDULE 1
DEVELOPMENT

Full Planning Permission sought for replacement of existing car park with new residential building housing a mix of 9 dwellings with car park and associated cycle and bin provision

SCHEDULE 2
PARKING PERMIT RESTRICTION

The Owner hereby covenants with the Council as follows:

1. Upon completion of this deed not to apply to the Council for a Parking Permit in respect of any dwelling at the Land nor to knowingly permit any owner or occupier of any such dwelling to apply to the Council for a Parking Permit and if

such permit is issued in respect of any such dwelling it shall be surrendered to the Council within seven (7) days of written demand.

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 at the Land 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 [of Plot No []/the terms of years hereby granted] hereby covenant with the Transferor and separately with the Mayor and Burgesses of the London Borough of Hillingdon (“the Council”) not to apply for or knowingly permit an application to be made 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) 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.”
4. To provide written notification to the HDM seven days prior to the Implementation Date and a further written notice of the actual Implementation Date within seven days of the occurrence of the same

APPENDIX 1

PO1 FORM

TO: PRINCIPAL PLANNING OBLIGATIONS OFFICER

RESIDENTS SERVICES

LONDON BOROUGH OF HILLINGDON

3N CIVIC CENTRE

HIGH STREET UXBRIDGE

MIDDLESEX UB8 1UW

cil@hillingdon.gov.uk

SECTION 106/278 LEGAL AGREEMENT

SITE ADDRESS: _____

PLANNING REFERENCE: _____

DESCRIPTION OF DEVELOPMENT: _____

DATE OF COMMITTEE AUTHORISATION: _____

SECTION 106 OBLIGATIONS:

DATE OF IMPLEMENTATION OF DEVELOPMENT:

SECTION 106/278 OBLIGATION:

(i) NOTIFIED TO THE COUNCIL: _____

(ii) SUBMITTED TO THE COUNCIL WITH THIS FORM: _____

NB: Please continue of separate sheet(s) if necessary.

TICK BOX IF THIS FORM IS TO CONSTITUTE THE "FIRST NOTICE" UNDER THE SECTION 278 HIGHWAY AGREEMENT IF THIS IS THE "FIRST NOTICE" PLEASE ATTACH THE "FIRST PAYMENT" AS SPECIFIED IN THE AGREEMENT

☐

FOR COUNCIL USE

NB: IF THIS IS THE FIRST NOTICE PASS IMMEDIATELY TO HIGHWAYS ENGINEERS

COST CODE: _____

PLANNING COSTS: _____

LEGAL COSTS: _____

OTHER COSTS (IDENTIFY): _____

MAINTENANCE COSTS (COMMUTED SUM)

INTEREST BEARING ACCOUNT FOR BENEFIT OF OBLIGATIONS _____ **YES/NO**

APPENDIX 2

PLAN

EXECUTED AS A DEED by HARISH KARSAN YADAV

Signature



in the presence of

Witness

Name

 Samuel Ebi TAUBMAN

Address

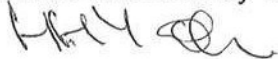
30 ROSE BERRY GARDENS
NH 111

Occupation

Professional Sports Coach.

EXECUTED AS A DEED by HERSHRUTA YADAV


Signature



in the presence of:

Witness

Name

 SAMUEL EBI TAUBMAN

Address

30 ROSEBERRY GARDENS
NH 111

Occupation

Professional Sports Coach!