

IN FAVOUR OF NORFOLK COUNTY COUNCIL AND BROADLAND DISTRICT
COUNCIL

UNILATERAL UNDERTAKING ISSUED BY MR AND MRS FRANK JERMY

4

RELATING TO LAND AND PREMISES SITUATE AT AND KNOWN AS LAND
ADJOINING STATION NEW ROAD, BRUNDALL IN THE COUNTY OF NORFOLK

ALBION PLANNING CONSULTANTS LIMITED
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THIS UNILATERAL UNDERTAKING is made the 12th day of July Two thousand and seven

THIS UNILATERAL UNDERTAKING is issued in favour of:-

(1) **BROADLAND DISTRICT COUNCIL** of Thorpe Lodge Yarmouth Road Thorpe St Andrew Norwich in the County of Norfolk (hereinafter called “the Council”) and

(2) **NORFOLK COUNTY COUNCIL** of County Hall Martineau Lane Norwich NR1 2SG (hereinafter called “the County Council”)

BY THE OWNERS of the land hereinafter described being **MR FRANK NORMAN JERMY** and **MRS PAMELA JANE JERMY** of 25 Grove Avenue Norwich Norfolk NR1 2QB (hereinafter called “the Owners”)

1. In this Unilateral Undertaking unless the context otherwise requires the following words shall have the following meanings:-

“Application”

the application for Planning Permission to develop the land for four residential dwellings and vehicular access and registered submitted to the Council in accordance with the Application plans and other materials deposited with the Council and bearing reference number 2007/0015

**“Commencement
of Development”**

means the carrying out of a material operation on the Land pursuant to the Permission within the meaning of Section 56 of the Act (but not including any operations relating to the demolition of existing buildings contamination surveys and remedial works site surveys or archaeological investigations or clearance of the Land or the erection of fences and hoardings)

“Land”

means the land situate at and known as land adjoining Station New Road, Brundall in the County of Norfolk and shown encompassed by the bold red line on Plan marked 1 annexed hereto

“TRO”

means a Traffic Regulation Order to prevent vehicles gaining access to Station New Road (private access) from Station Road

**“Garden Curtilage
Woodland”**

means the trees within the Plots marked 1 to 4 inclusive which Plots are shown for the purposes of identification only outlined in green on Plan No. 2

“Development”

means the development permitted by the Permission

“Permission”	means the detailed Planning Permission granted pursuant to the Application together with any renewal or modification thereof
“Plan No. 1”	means the Plan marked No. 1 attached hereto
“Plots”	means the plots comprised within the Development
“1990 Act”	means the Town and Country Planning Act 1990 (as amended)
“Plan No. 2”	means the Plan marked No. 2 attached hereto
“Routing Restriction”	means the provisions set out in Schedule 3 annexed hereto which restrict the route of vehicular traffic ingressing or egressing the application site as specified in the said Third Schedule
“TRO Costs”	means the sum of Five thousand pounds (£5,000.00) being the costs to be paid by the Owners to the Council in drafting making and advertising the TRO and if the said TRO is confirmed of purchasing bollards and carrying out work to place the bollards in the road in furtherance of the TRO

2. In this Unilateral Undertaking unless the context otherwise requires:-

(A)

- (i) words importing the masculine gender shall where appropriate include the feminine gender and the neuter gender or vice versa as the case may be and words importing the singular number shall where appropriate include the plural number and vice versa
- (ii) references to the owners shall include the successors in title and assigns that party
- (iii) where the owners includes more than one person any obligations of that party shall be joint and several
- (iv) headings in the Unilateral Undertaking shall not form part of or affect its construction
- (v) references to clauses and schedules are references to clauses in and schedules to this Unilateral Undertaking
- (vi) where an owner or any officer or employee is to give consent approval or agreement in any specific provision in this Unilateral Undertaking such approval or agreement shall not be unreasonably withheld or delayed

(vii) any mention herein of any Act or of any Section Regulation or Statutory Instrument shall be deemed to refer to the same source as at any time amended and where such Act Section Regulation or Statutory Instrument has been replaced consolidated or re-enacted with or without amendment such mention shall be deemed to refer to the relevant provision of the updating consolidating or re-enacting Act or Section or Regulation or Statutory Instrument

(B) The Council is a Local Planning Authority for the purposes of the 1990 Act for the area within which the Land is situated and the County Council is the relevant Highway Authority

(C) The Owners are seised of land situate at and known as land adjacent to 13 Station New Road Brundall in the County of Norfolk (hereinafter called "the Land") shown for the purpose of identification only edged red on Plan No. 1 for an estate in fee simple absolute free from encumbrances

NOW THIS DEED WITNESSETH as follows:-

1.

1.1 This Unilateral Undertaking and the covenants that appear hereinafter are made pursuant to Section 106 of the 1990 Act

- 1.2 The covenants that appear hereinafter are Planning Obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council and the County Council
- 1.3 This Unilateral Undertaking is a Deed and may be modified or discharged in part or in total at any time after the date of this Unilateral Undertaking by an agreement between the owners and the Council and the County Council in the form of a Deed
- 1.4 This Unilateral Undertaking is a local land charge and upon completion may be registered by the Council as such if the Council chooses to do so.
- 1.5 No waiver (whether express or implied) by the Council or the County Council or any breach or default by the Owners in performing or observing any of the covenants in this Unilateral Undertaking shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing any of the covenants or from acting upon any subsequent breach or default in respect thereof
- 1.6 Any provision of this Unilateral Undertaking which is or may be unlawful void or unenforceable shall to the extent of such unlawfulness invalidity or unenforceability be deemed severable and shall not affect any other provision of this Unilateral Undertaking
- 1.7 This Unilateral Undertaking shall be governed by the Laws of England.
- 1.8 No Owner shall be liable for any breach of the covenants restrictions or obligations contained in this Unilateral Undertaking after that Owner has parted with its interest in the Land or the part of the Land in respect of which such breach occurs provided that liability

will still remain for any breach occurring prior to the parting of any party's interests in the Land or any part thereof in respect of which any such breach has taken place

1.9 The covenants and obligations within this Unilateral Undertaking shall not become enforceable until the Planning Permission is implemented by the Owners

1.10

1.10.1 This Unilateral Undertaking shall cease to have effect if the Permission is quashed revoked or otherwise withdrawn

1.10.2 Nothing in this Unilateral Undertaking shall prohibit or limit the right to develop any part of the Land 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 Unilateral Undertaking

NOTICES

1.10.3 Any notices or other written communication to be served or given by the Owners upon or to the Council or County Council under the terms of the Unilateral Undertaking shall be deemed to have been validly served or given if received by facsimile delivered by hand or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing provided that the notice or other written communication is addressed and delivered or sent by facsimile

or by recorded delivery post to the address of the person concerned as nominated

1.10.4 The address for any notice or other written communication in the case of each legal person identified in this Unilateral Undertaking shall be as follows:-

“The Council” The Strategic Director (Community Services) Thorpe
Lodge Yarmouth Road Thorpe St Andrew Norwich

**“The County
Council”** Council Offices Martineau Lane Norwich

“The Owners” Mr Frank Norman Jermy and Mrs Pamela Jane Jermy of
25 Grove Avenue Norwich

1.10.5 Any notice or other written communication to be given by the Council or County Council shall be deemed to be valid and effective if on its face it is signed on behalf of the Council or the County Council by a duly authorised officer

2. GENERAL

2.1 The Owners **HEREBY FURTHER DECLARE** that any rights to claim compensation arising from any limitations or restrictions on the planning use of the Land under the terms of the Unilateral Undertaking are hereby waived

2.2 All works and activities to be carried out under the terms of this Unilateral Undertaking (including for the avoidance of doubt such works as are of a preparatory ancillary or of a maintenance nature) are (save where expressed provided otherwise) to be at the sole expense of the Owners and at no cost to the Council or County Council

3. RIGHTS OF THIRD PARTIES

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Unilateral Undertaking and no person who is not mentioned in this Unilateral Undertaking (other than a successor in title to a legal person named herein) shall be entitled in that person's own right to enforce any provisions of this Unilateral Undertaking pursuant to the provisions of the said Act

4. COVENANTS

The Owners

4.1 The Owners hereby jointly and severally covenant and undertake to the Council so as to bind the Land and each and every part thereof to carry out and comply with the obligations set out in Schedules 1 and 2 of this Unilateral Undertaking and to remain in compliance therewith at all times in the future

4.2 The Owners hereby covenant and undertake to the County Council so as to bind the Land and each and every part thereof to carry out and comply with the obligations set out in Schedule 3 of this Unilateral Undertaking.

4.3 The Owners hereby covenant and undertake to the County Council so as to bind the Land and each and every part thereof to carry out and comply with the obligations set out in Schedule 4 of this Unilateral Undertaking.

SCHEDULE 1

1. Save as specifically provided in clause 2 of this Schedule not to erect build construct or cause or permit to be erected built or constructed any structure or building including structures or buildings normally permitted under the Town and Country Planning General Permitted Development Order 1995 or any re-enactment thereof in the garden curtilage woodland
2. Prior to the first occupation of any dwelling to be constructed pursuant to the Permission to erect and forever thereafter maintain a post and rail fence of not less than 1.0m height delineating the Garden Curtilage Woodland from any adjoining garden curtilage of any Plots in positions to be approved by the Council.
3. Prior to the first occupation of any dwelling constructed pursuant to the Permission to erect and thereafter maintain a fence of a type and height as may be approved by the Council to secure the peripheral boundary of the Garden Curtilage Woodland

SCHEDULE 2

1. Within twelve months of the date of Commencement of Development hereof:-
 - (a) to identify and make safe any hazardous trees within the Garden Curtilage Woodland under the guidance of an arboricultural consultant approved by the Council such approval not to be unreasonably withheld or delayed
 - (b) to dispose of such dead and/or dying timber as may be agreed with the Council arising as a result of work carried out under clause 2(ii) of this Schedule either by removal or by chipping on site exercising due care to prevent damage to the remaining trees in the Garden Curtilage Woodland
 - (c) to plant trees in the Garden Curtilage Woodland and in accordance with a planting scheme as may be required and approved by the Council (to include replacement for any trees lost or removed as a result of (a) and (b) above)
2. To engage the services of an arboricultural consultant to prepare ongoing management plans for the Garden Curtilage Woodland for which works under the plans should commence on the first anniversary of the Commencement of Development with the intention of ensuring the proper distribution of species and age mix in the Garden Curtilage Woodland

SCHEDULE 3

1. Upon commencement of the Development on the site the Owners shall ensure that all vehicular traffic including all construction traffic either ingressing or egressing the site shall be restricted to use of the route shown stippled black on Plan No. 1 annexed hereto (hereinafter called "The Permitted Route")
2. The Owners shall not cause nor permit any vehicular traffic including all construction traffic to leave the site other than by following the said route shown stippled black on the Plan No. 1 annexed hereto
3. The Owners hereby covenant that they shall not remove or demolish the existing bollards currently located on the pedestrian walkway shown cross-hatched black on Plan No. 1 annexed hereto
4. In relation to vehicles not under the direct control of the Owners all reasonable endeavours shall be used to ensure that such vehicles approach and leave the site via the Permitted Route
5. The Owners shall erect and display and maintain on the said land the necessary directional and other signs reasonably required by the County Council relating to the provision of guidance to those driving vehicles to and from the said land relating to the Permitted Route

SCHEDULE 4

1. Within 28 days of Commencement of Development the Owners will pay to the County Council the TRO costs amounting to £5,000
2. Within 28 days of receiving written confirmation of the Actual Costs of the TRO (including the cost of installing the bollards pursuant to the TRO) the Owners shall pay to the County Council any amount by which the Actual Costs associated with making advertising and confirming the TRO and carrying out and completing the works to install the bollards ("the Actual Costs") exceed the Notified Costs subject to the amount being no more than £1,000.00.

IN WITNESS WHEREOF THIS DEED OF UNILATERAL UNDERTAKING HAS BEEN EXECUTED and delivered by the said owners as a deed on the date first before written above

Frank Norman Jermy

SIGNED AS A DEED BY FRANK NORMAN JERMY in the presence of:-
Witness

Signature *Brian James Jones*

Name *BRIAN JAMES JONES, B.Sc., C.Eng. MICE MIHT.*

Address *CHENISTON HOUSE, CHAPEL ROAD,*

STALMPSHAW, NORWICH, NR13 4PA

Occupation *CHARTERED CIVIL ENGINEER.*

CP Jermy

SIGNED AS A DEED BY PAMELA JANE JERMY in the presence of:-
Witness

Signature *Brian James Jones*

Name *BRIAN JAMES JONES, B.Sc., C.Eng. MICE, MIHT.*

Address *CHENISTON HOUSE, CHAPEL ROAD,*

STALMPSHAW, NORWICH, NR13 4PA

Occupation *CHARTERED CIVIL ENGINEER.*

PLAN 1.



Siteplan® 1:1250

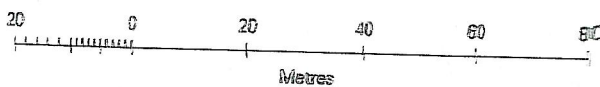


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Centre Coordinates: 633004 307960

National Grid sheet reference at centre of this Siteplan: TG3307

Supplied by: Albion Planning Consults
Serial Number: 00013400

Plan
2



B October 06 Plate 1 of 2
A APRIL 06 REVISED

PETER CODLING ARCHITECTS
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NEW DWELLINGS LAND ADJOINING
13 STATION NEW ROAD, BRUNDALL
MR FN & MRS PJ JERMY

SCALE 1:200
JOB NO. 4408 01 B.
DATE MAR 06 DRAWN BY

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