

DATED 13 December 2023

GIVEN BY:

Caroline Mary Brooks-Johnson (1)

Richard John Olley (2)

Margaret Jane Wooding Jones (3)

TO:

Tonbridge and Malling Borough Council

PLANNING OBLIGATION BY UNILATERAL UNDERTAKING Under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to land at Russetings and Lytlewood Riding Lane Hildenborough

Planning Application Ref: 23/01372/FL



THIS DEED is made the

13 December

2023

PARTIES

1. Caroline Mary Brooks-Johnson of Inheritance Law Suite 2, 80 Churchill Square, Kings Hill, West Malling, Kent ME19 4YU ("the Executor")
2. Richard John Olley of Russettings, Riding Lane, Hildenborough, Kent TN11 9LR ("the First Owner")
3. Margaret Jane Wooding Jones of Russettings, Riding Lane, Hildenborough, Kent TN11 9LR ("the Second Owner")

give the undertakings herein to:

Tonbridge and Malling Borough Council

whose address is Gibson Building Gibson Drive Kings Hill West Malling Kent ME19 4LZ (the "Council")

RECITALS

1 The Owners are the freehold owners of the Land, registered with title absolute at Land Registry under title number K799546 and unregistered land an epitome of title having been provided.

2 The Executor has been appointed by the District Registrar as the Executor of the last will and testament of Pamela Margaret Olley, a former freehold owner of the Land, by way of a Grant of Probate dated 5 January 2022.

3 The Council is the local planning authority for the purposes of the Act for the area in which the Land is situated.

4 The Owners have submitted the Application to the Council and the Council has resolved to grant the Permission subject to the completion of this Deed.

NOW THIS DEED WITNESSETH as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following words and phrases shall have the following meanings:

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

"Pool Buildings" means the proposed outbuildings on the Land certified lawful by the certificates issued pursuant to section 192 of the Act in cases TM/22/00960/LDP and TM/22/02450/LDP.

"Pool Buildings Development" means development of the Pool Buildings

"Application" means the application for the Development submitted by or on behalf of the Owners to the Council to which the Council has allocated reference number ref. 23/01372/FL

"Development" means the demolition of two existing bungalows and associated outbuildings and erection of 3(three) replacement Dwellings with associated access and amenity areas

"Dwellings" means all those residential properties for which planning permission was applied for in the Application

“Land” means the land registered at the Land Registry under title number K799546 together with unregistered land described herein and bound by the obligations in this Deed and shown edged in red on the Plan at Appendix 1 attached hereto

“Monitoring Fee” means the sum of £330.00 (three hundred and thirty pounds) as a contribution towards the costs of the Council in monitoring compliance with the terms of this Deed

“Owners” means collectively the First Owner and Second Owner above who own the Land

“Permission” means the planning permission granted pursuant to the Application which term includes Section 73 Consent(s)

“Plan” means the plan annexed to this Deed

“Section 73 Consent(s)” means any subsequent permission granted pursuant to section 73 of the Act to develop the Land without complying with a condition(s) imposed on the Permission

2. CONSTRUCTION OF THIS DEED

2.1 References to any party to this Deed shall include the successors in title to that party and to any person deriving title through or under that party and in the case of the Council the successors to their respective statutory responsibility for the relevant function.

2.2 In the absence of any contrary provision any reference to a statute shall include any statutory extension modification or re-enactment for the time being in force and shall include all statutory instruments directions orders regulations plans permissions or byelaws for the time being made issued or given under the statute or deriving validity from it.

2.3 Words importing the masculine gender shall include the feminine and neuter gender and vice versa.

2.4 Words importing persons include companies corporations and firms and vice versa.

2.5 Unless the context otherwise requires words importing the singular shall include the plural and vice versa.

2.6 Headings are for ease of reference only and shall not be construed as part of this Deed.

2.7 Reference to any recital clause schedule or paragraph (or any part of them) shall (unless the context otherwise requires) be reference to a recital clause schedule or paragraph (or any part of them) in this Deed.

2.8 Wherever there is more than one person named as a party or where more than one party undertakes an obligation all their obligations shall be enforceable against all of them jointly and/or against each individually unless there is an express provision otherwise.

2.9 Any covenant by a party to this Deed not to do an act or thing shall be deemed to include an obligation not to permit or knowingly suffer such act or thing to be done by any other person.

3 STATUTORY PROVISIONS

3.1 This Deed is made pursuant to Section 106 of the Act Section 111 of the Local Government Act 1972 Section 1 of the Localism Act 2011 and all other enabling powers.

3.2 All the covenants restrictions and requirements contained herein create planning obligations pursuant to Section 106 of the Act and are entered into by the Owners to the intent that it shall bind the Owners and their successors in title to each and every part of the Land and their assigns and shall be enforceable by the Council against the Owners.

4 THE OWNERS' UNDERTAKINGS

4.1 The Owners undertake to the Council to observe the restrictions and perform the obligations set out in the First Schedule.

5 DECLARATIONS

5.1 Liability for Breach

No person shall be liable for a breach of any of the planning obligations or other provisions of this Deed after they have irrevocably parted with all their interest in the Land or in the part of the Land in respect of which such breach occurs pursuant to a disposal at open market value to an unconnected third party but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

5.2 Revocation Modification or Expiry of the Permission

This Deed shall determine and cease to have effect (insofar only as it has not already been complied with) if the Permission is quashed revoked or modified by the Council pursuant to the Act without the written consent of the Owners.

5.3 Notices

Any notice consent or approval to be given under this Deed shall be in writing and shall be deemed to be served if delivered personally or sent by pre-paid first class recorded delivery or registered post to the address of the relevant party as described in this Deed or such other address as shall have been notified in writing to the party giving the notice consent or approval and in the case of a notice to be served on the Council it should be addressed to the head of planning quoting reference 23/01372/FL

5.4 Severance

If any provision in this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be deemed thereby to be affected or impaired.

5.5 This Deed is a local land charge to be registered as such by the Council.

5.6 No variation or modification of this Deed shall be valid unless made by Deed and executed by all the parties or their respective successors.

5.7 This Deed does not nor is intended to confer any rights or benefit on a third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

5.8 The obligations contained in this Deed shall not be binding upon any person whose interest in any part of the Land is solely for the purpose of drainage, sewerage or the supply of electricity, gas, water or telecommunications

6. COSTS & MONITORING FEE

6.1 The Owners undertake to the Council that prior to the execution of this Deed they will pay the Council's reasonable legal costs incurred in the negotiation preparation and execution of this Deed

6.2 The Owners undertake to the Council that prior to the execution of this Deed they will pay the Monitoring Fee to the Council.

7 JURISDICTION

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

FIRST SCHEDULE

The Owners for themselves and their successors in title undertake to the Council as follows:

- 1. Not to implement the Pool Buildings Development.

IN WITNESS whereof this Unilateral Undertaking has been duly executed as a Deed by the Owners and the Executor the day and year first before written

Signed as a Deed by

Caroline Mary Brooks-Johnson)

As witnessed by.....

Name:

Address:

Signed as a Deed by

Richard John Olley)

As witnessed by.....

Name:

Address:

Signed as a Deed by

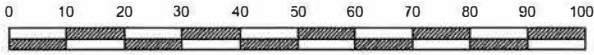
Margaret Jane Wooding Jones)

As witnessed by:

Name:

Address:

Appendix 1 – Plan

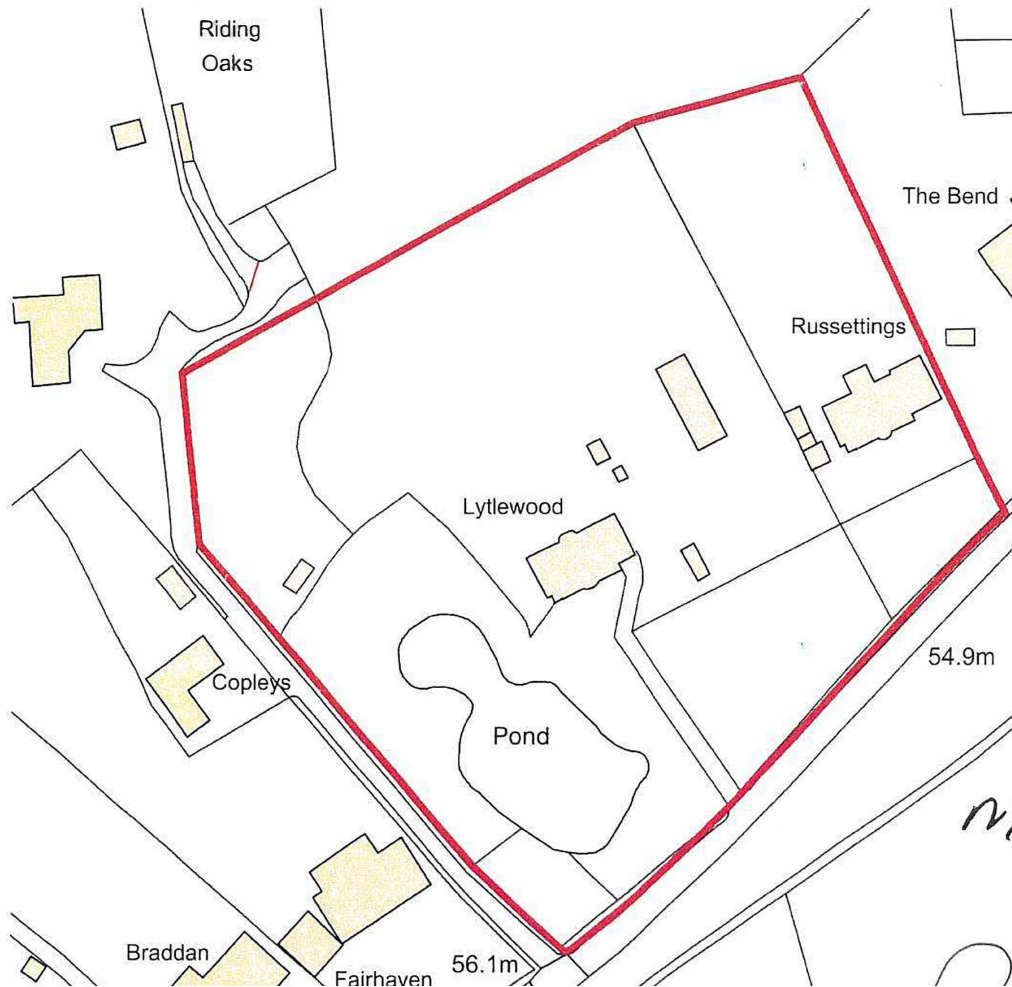
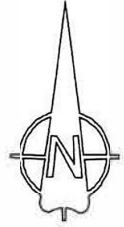


Scale Bar at 1:1250

Notes:

Do not scale except for planning purposes only
 Report all discrepancies, errors and omissions.
 Verify all dimensions on site before commencing any work on site or preparing shop drawings.
 All materials, components and workmanship are to comply with the relevant British Standards, Codes of Practice, and appropriate manufacturers recommendations that from time to time shall apply.
 For all specialist work, see relevant specialist manufacturers drawings.

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Drawing Title Site Location Plan	
Scale 1:1250	A4
Date June 23	
Drawing No PL / 671 / 10	Rev.