

UNILATERAL UNDERTAKING

Given By

Linden (Thurston) LLP

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

In respect of Land at:

the North side of Norton Road, Thurston, Bury St Edmunds

THIS UNDERTAKING is made on the 8th day of October 2019

BY:

Linden (Thurston) LLP of Cowley Business Park, High Street, Cowley, Uxbridge, UB8 2AL (**"the Landowner"**)

TO:

Suffolk County Council of 8 Russell Rd, Ipswich IP1 2BX (**"the County Council"**)

1. RECITALS

- 1.1 The Landowner has the freehold interest in the Site which is registered at the Land Registry with title absolute under title number SK389507.
- 1.2 The County Council is the Highway Authority for the administrative area of Mid Suffolk which includes the Site.
- 1.3 The Planning Permission (defined hereinafter) was granted on 29 March 2018.
- 1.4 A Deed was made pursuant to Section 106 of the 1990 Act and dated 20 March 2018 and this Undertaking is supplemental to the 20 March 2018 Deed.
- 1.5 NOW this Undertaking is made pursuant to Section 106 of the 1990 Act and is a planning obligation for the purposes of that section and WITNESSES as follows:

2. INTERPRETATION

- 2.1 In this Undertaking unless the context otherwise requires the following words shall have the following meanings:-

"Act" means the Town and Country Planning Act 1990 as amended.

"Application" means the application for RM Approval relating to access, appearance, landscaping, layout and scale pursuant to the Planning Permission.

"Commencement of Development" means the date that a material operation, as defined in Section 56(4) of the 1990 Act, is undertaken pursuant to the RM Approval but for purposes of this Deed does not include any operations relating to demolition, site investigation, surveys, erection of temporary fencing and hoardings, diversion of any services or archaeological investigations.

"Contribution" means the sum of £65,000 (sixty five thousand pounds) to be used by the County Council exclusively for the purposes identified in paragraph 2.1 of Schedule 2.

"Footpath Works" means the work undertaken to complete the footpath works shown illustratively dashed red on the Footpath Works Plan appended at Schedule 3 and to include construction costs, survey work and design fees.

"Footpath Works Plan" means the plan appended to this Undertaking at Schedule 3.

"Location Plan" means the plan appended to this Undertaking at Schedule 4.

"Planning Permission" means outline permission with reference 5070/16 and dated 29 March 2018 for the erection of up to 200 homes (including 9 self-build plots), primary school site together with associated access, infrastructure, landscaping and amenity space (all matters reserved except access).

"RM Approval" means reserved matters approval granted pursuant to the Planning Permission together with any renewal or modification of it made with the consent of the parties to this Undertaking pursuant to section 96A and section 73 of the Act.

"Site" means all the land described in Schedule 1 and shown for illustrative purposes only edged red on the Location Plan appended to this Undertaking at Schedule 4.

"Undertaking" means this Deed.

2.2 In this Undertaking unless the context otherwise requires:

- (1) words importing the masculine gender shall where appropriate include the feminine gender and the neutral 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.
- (2) "party" or "parties" means a party or parties to this Undertaking.
- (3) references to any party shall include the successors in title and permitted assigns of that party and to any person deriving legal title through or under that party.
- (4) where a party includes more than one person any obligations of that party shall be joint and several with such other person(s).
- (5) clause headings in this Undertaking shall not affect its construction.
- (6) references to clauses and schedules are references to clauses in and schedules to this Undertaking.
- (7) references to any statute, statutory instrument or other legislation shall include references to any statute, statutory instrument, or other legislation amending or replacing the same.

LEGAL EFFECT

2.3 In this Undertaking unless the context otherwise requires the words defined in Clause 1 have the meanings given to them by that clause and this Undertaking shall be interpreted in accordance with the provisions of Clause 1.

2.4 Nothing in this Undertaking constitutes or acts as a fetter or constraint on the exercise by the County Council of any of its powers arising by statute or otherwise.

2.5 This Undertaking is a Deed.

2.6 This Undertaking is a Local Land Charge and shall be registered as such by the County Council.

- 2.7 The covenants and obligations contained within this Undertaking are planning obligations for the purposes of the Act and enforceable by the County Council against the Landowner.
- 2.8 No person shall be liable for breach of a covenant contained in this Deed after he shall have parted with all interest in the Land, or in the part of in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenants prior to parting with such interest.
- 2.9 The provisions of this Deed shall come into effect immediately upon completion.
- 2.10 Nothing in this Undertaking shall be construed as prohibiting or limiting the development of the whole or any part of the Site in accordance with any planning permission other than the RM Approval.
- 2.11 Any dispute arising from the terms of this Undertaking will be referred to the decision of a single arbitrator (acting as an expert and not as an arbitrator) under the terms of the Arbitration Act 1996; such arbitrator shall be appointed by agreement between the parties within one month of either party first communicating in writing the need for an arbitrator to the other or in default of agreement by the President for the time being of the Royal Institute of Chartered Surveyors.

3. COVENANTS

- 3.1 The Landowner and the County Council undertake to observe and perform the obligations set out in Schedule 2.

4. UNDERTAKINGS AND DECLARATIONS

- 4.1 Nothing contained or implied in this Undertaking shall prejudice or affect the rights powers duties and obligations of the County Council in the exercise of its functions as a local authority and its rights powers duties and obligations under any statute bylaw or regulation.
- 4.2 If any provision of this Undertaking shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions hereof shall not in any way be deemed to be thereby affected or impaired.

5. TERMINATION

- 5.1 If the RM Approval is quashed, revoked, ceases to have effect by operation of law, or expires before the Commencement of Development then:
- (1) this Undertaking will cease to have effect; and
 - (2) all entries made in the register of Local Land Charges in respect of this Undertaking will be forthwith marked accordingly.

6. THIRD PARTY RIGHTS

This Undertaking is not intended nor shall it purport to confer on any third party any right, entitlement, claim or benefit to enforce any term of this Undertaking for the purposes of the Contracts (Rights of Third Parties) Act 1999.

7. NOTICES

- 7.1 Any notice under this Undertaking shall be in writing and shall be duly served if it is delivered or sent by recorded delivery post to a party at:
- (1) its address given in this Undertaking; or

(2) its registered office; or

(3) such other address as may be notified in writing from time to time.

IN WITNESS of which the Landowner has executed this Undertaking on the date first written above.

Schedule 1

The Land

ALL THAT piece or parcel of land known as land on the North side of Norton Road, Thurston, Bury St Edmunds as shown for illustrative purposes only edged red on the Location Plan.

Schedule 2

The Landowner's Obligations

The Landowner covenants:

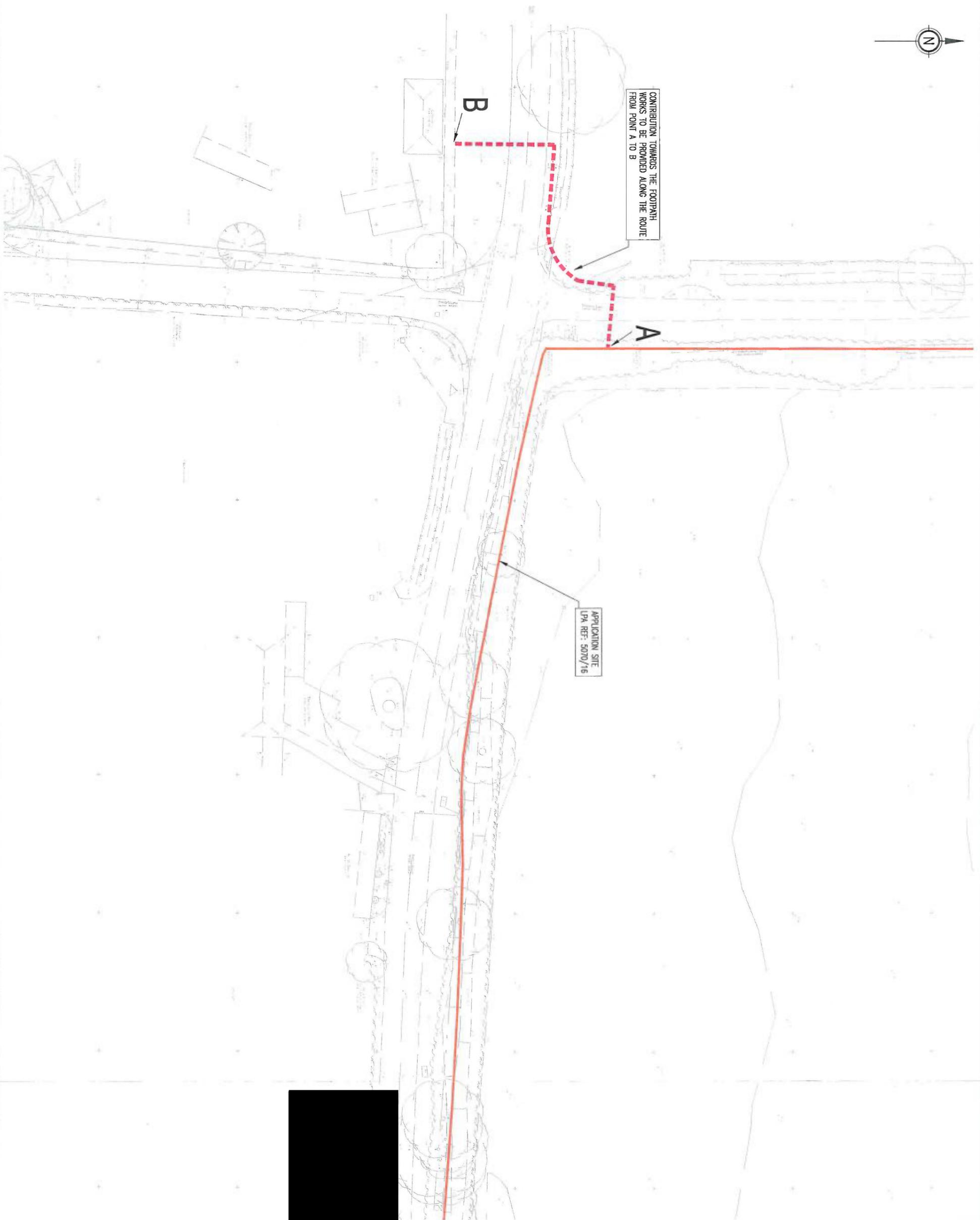
1. to pay the Contribution to the County Council on or before that date that is 3 months following Commencement of Development.
- 1.1 to confirm in writing to the County Council the date of Commencement of Development

The County Council's Obligations

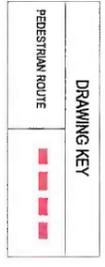
2. The County Council covenants:

- 2.1 to allocate the Contribution purely towards the costs of undertaking the Footpath Works and for no other purpose whatsoever.
- 2.2 to provide, within a reasonable timeframe and if requested by the Landowner, receipts/relevant documentation to evidence that the Contribution has been applied solely and exclusively to the purposes identified within paragraph 2.1 above.
- 2.3 within two weeks of written demand to repay all or any part of the Contribution (together with interest accrued thereon) not applied towards the purposes identified within paragraph 2.1 within five years of the date of this Undertaking to the party that paid the Contribution to the County Council.

Schedule 3
The Footpath Works Plan



- GENERAL**
1. DO NOT SCALE THIS DRAWING. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE NOTED. ANY DISCREPANCIES ARE TO BE RECORDED AND REPORTED TO THE ENGINEER IMMEDIATELY.
 2. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL OTHER ENGINEERS AND ARCHITECTS DRAWINGS AND THE SPECIFICATION.
 3. ALL WORK IS TO BE TO THE SATISFACTION OF THE ENGINEER AND LOCAL AUTHORITY BUILDING CONTROL.
 4. THE CONTRACTOR IS RESPONSIBLE FOR AND MUST TAKE ALL NECESSARY PRECAUTIONS TO ENSURE THE STABILITY OF THE WORKS IN ALL TIMES DURING CONSTRUCTION.
 5. ALL WORKMANSHIP AND MATERIALS ARE TO BE TO CURRENT BRITISH STANDARDS.
 6. ALL SERVICES ARE TO BE LOCATED AND PROTECTED AS NECESSARY BY THE CONTRACTOR PRIOR TO THE COMMENCEMENT OF THE WORKS.
 7. ANY EXISTING DETAILS WHICH ARE SHOWN ON THE DRAWING ARE TO BE MAINTAINED AND PROTECTED BY THE CONTRACTOR. ANY VARIATIONS ARE TO BE RECORDED AND REPORTED TO THE ENGINEER IMMEDIATELY.
 8. ALL HIGHWAY WORKS ARE TO BE IN ACCORDANCE WITH THE LOCAL AUTHORITY'S DESIGN GUIDE AND SPECIFICATION.
 9. PRIOR TO THE OCCUPATION OF THE FIRST DRIVING, STREET LIGHTS SHALL BE ERECTED IN ACCORDANCE WITH THE HIGHWAY ADOPTION AND TO THE WORKING AGREED WITH THE PLANNING AUTHORITY.
 10. DURING CONSTRUCTION WORKS ON SITE, ALL BODIES AND FOOTPATHS ARE TO BE SWEEP AND KERT CLEAR OF OBSTRUCTIONS. THIS IS TO INCLUDE EXISTING HIGHWAYS AS APPROPRIATE TO ENSURE SAFE PASSAGE OF ALL ROAD USERS.
 11. PROVISION SHALL BE MADE FOR THE INSTALLATION OF ALL UTILITIES SERVICES INCLUDING DUCTING PRIOR TO THE LAYING OF THE ROAD BASE-COARSE.
 12. ALL ROAD WORKS AND SPDS ARE TO BE IN ACCORDANCE WITH 'THE TRAFFIC SIGNS REGULATIONS AND DIRECTORS' 2016 FOR ADOPTION 6th EDITION.
 13. ALL SEWER WORKS ARE TO BE IN ACCORDANCE WITH 'SEWERS FOR ADOPTION 6th EDITION'.
 14. ALL PRIVATE CONNECTIONS TO ADAPTABLE SENSORS SHOULD BE A MINIMUM OF 100mm DIAMETER (FOUL) 450mm DIAMETER (SURFACES) MADE IN VIBRATED CLAY CONNECTING SLEATH TO SLEATH.



REV	DATE	BY	CHKD	DESCRIPTION
1	18/09/2019	JK	KK	ISSUED FOR PERMIT TO WORK
2	18/09/2019	JK	KK	ISSUED FOR PERMIT TO WORK
3	18/09/2019	JK	KK	ISSUED FOR PERMIT TO WORK

INGENT
CONSULTING ENGINEERS

Unit 10 Bigholme Barns, Waddingfield Road, Bigholme, Norfolk, IP10 0BL
Tel: 01473 398008 — www.ingent.co.uk — email: info@ingent.co.uk

SKETCH

Project: NORTON ROAD THURSTON

Drawing Title: SECTION 106 PROPOSED FOOTWAY ROUTES

Client:	LINDEN HOMES	Date:	SEP 2019
Drawn:	JK	Checked:	KK
Designed:	JK	Approved:	KK
Scale:	1:250	Drawing No & Revision:	SK100C
Project No:	1811-293	Size:	A1

Schedule 4
The Location Plan

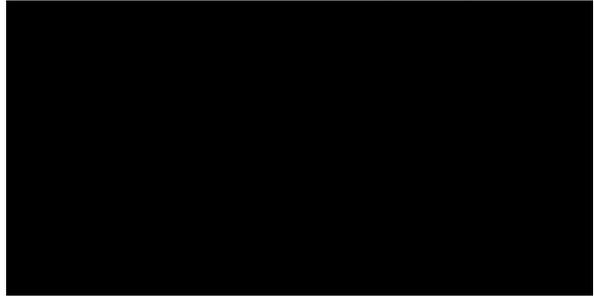


LAND AT NORTON ROAD, THURSTON - SITE LOCATION PLAN **Pegasus**
Design

SIGNED as a DEED by)

Linden (Thurston) LLP)

In the presence [redacted] [redacted]



[redacted] p. [redacted]
[redacted] [redacted] [redacted]
[redacted] [redacted] [redacted] [redacted]
[redacted] [redacted]