

DATED 20<sup>th</sup> December 2016

**EAST SUSSEX COUNTY COUNCIL**

**To**

**LEWES DISTRICT COUNCIL**

**UNILATERAL UNDERTAKING  
under (inter alia) Section 106 of the  
Town and Country Planning Act 1990  
relating to land at Meridian Community Primary School,  
Roderick Avenue North, Peacehaven, East Sussex BN10 8BZ**

**East Sussex County Council  
County Hall  
St Anne's Crescent  
Lewes  
East Sussex  
BN7 1SW**

**Our Ref: PH/CT505.172/JCH**

THIS UNILATERAL UNDERTAKING is given this 20<sup>th</sup> day of December 2016

BY:

**EAST SUSSEX COUNTY COUNCIL** of County Hall, St Anne's Crescent, Lewes, East Sussex BN7 1SW ("the Owner")

TO:

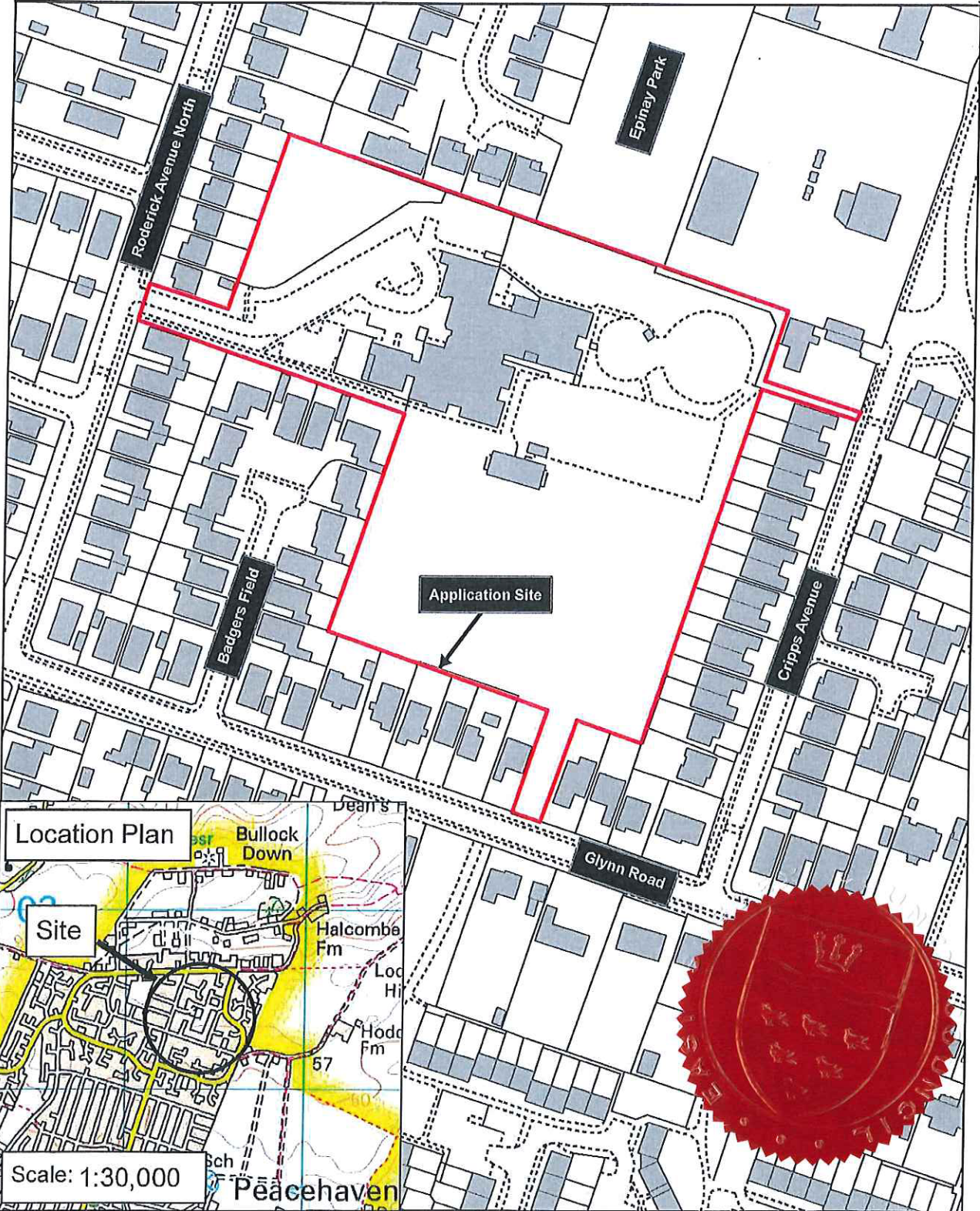
**LEWES DISTRICT COUNCIL** of Southover House, Southover Road, Lewes, East Sussex BN7 1AB ("District Council")

### RECITALS

#### **WHEREAS :**

- (1) Words and phrases in this Deed are defined in Clause 1.1
- (2) The Owner is the freehold owner of the land known as Meridian Community Primary School, Roderick Avenue North, Peacehaven, East Sussex BN10 8BZ shown for the purposes of identification only edged red on the Plan and registered at the Land Registry under title number ESX64315 ESX67115 ESX295840 and ESX71419 ("the Property")
- (3) For the area within which the Property is situated the District Council is for the purposes of Section 106 of the Town and Country Planning Act 1990 as amended ("the 1990 Act") and Section 111 of the Local Government Act 1972 ("the 1972 Act") a local planning authority the County Council (as hereinafter defined) is for the purposes of the 1990 Act the 1972 Act and the Highways Act 1980 ("the 1980 Act") respectively a local planning authority a local authority and the highway authority
- (4) By the Application (as hereinafter defined) the Owner has applied for planning permission to develop the Property by the Development (as hereinafter defined)

LW/3332/CC  
 Meridian Community Primary School, Roderick Avenue North,  
 Peacehaven



Scale: 1:1,750

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 Director of Communities,  
 Economy and Transport  
 East Sussex County Council

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 East Sussex County Council, 100019801, 2016

- (5) On 16 November 2016 the County Council resolved to approve the Application and grant the Planning Permission (as hereinafter described) subject to the completion of this Deed to secure the Traffic Contribution.
- (6) The Owner gives this undertaking pursuant to Section 106 of the 1990 Act in order to secure the planning obligations contained in this Deed.

**NOW THIS DEED WITNESSES** the following:

**1 INTERPRETATION**

1.1 In this Deed unless the context otherwise requires:

**“Application”** means the application for full planning permission submitted to the County Council and allocated reference number LW/3332/CC for the Development

**“the Assistant Chief Executive, Governance Services”** means the Assistant Chief Executive, Governance Services for the time being of the County Council and shall include his duly authorised agents and representatives and any successor of his.

**“Commencement of Development”** shall refer to the commencement of the Development and shall have the same meaning as ascribed to a "material operation" by Section 56(4) of the 1990 Act (PROVIDED THAT for the purposes of determining whether or not a material operation has been carried out there shall be disregarded such operations as site clearance archaeological investigations demolition work investigations for the purpose of assessing ground conditions remedial work in respect of any contamination or other adverse ground conditions diversion and laying of services erection of any temporary means of enclosure and the temporary display of site notices or advertisements) and “Commenced” and “Commencement” shall be construed accordingly

**“County Council”**

means East Sussex County Council of County Hall, St Anne’s Crescent, Lewes, East Sussex, BN7 1SW

**“Deed”**

means this Planning Obligation by unilateral undertaking

**“the Development”**

means the Development of the Property by modular build extension to create 12 new classrooms with ancillary accommodation to east of the existing building including an additional hall extension to the north and internal alterations to the existing building external works include additional parking at the site entrance, landscaping to the playground and further cycle parking and amendments to the bin store to the north including the removal of two mobile classroom blocks and remedial landscaping as set out in the Application

**“Plan”**

means the plan attached to this Deed

**“Planning Permission”**

means the full planning permission subject to conditions granted pursuant to the Application

**“Traffic Regulation Order”**

means an order made pursuant to the Traffic Regulation Act 1984

**“Traffic Contribution”**

means the sum of Ten Thousand Pounds (£10,000) being a financial contribution towards the costs of carrying out parking surveys and, if necessary, towards the costs of Traffic Regulation Order procedures incorporating parking restrictions and any other reasonable ancillary requirements payable as specified in clause 3

1.2 Unless the context requires otherwise references in this Deed to a clause schedule or paragraph are references respectively to a clause schedule or paragraph of this Deed

1.3 Where any party to this Deed comprises two or more persons any obligations on the part of that party contained or implied in this Deed shall be deemed to be joint and several

obligations on the part of those persons and references to that party shall include references to each or any of those persons

- 1.4 A reference to any statute or statutory section shall be taken to include a reference to any statutory amendment modification or re-enactment of it for the time being in force
- 1.5 The headings to this Deed do not and will not by implication form any part of this Deed and shall have no legal force whatsoever
- 1.6 References to any party shall include the successors in title to that party and to any person deriving title through or under that party

## **2 PRELIMINARY**

### **2.1 Legal Powers**

**THIS** Deed is made pursuant to Section 106 of the 1990 Act Section 1 of the Localism Act 2011 and all other enabling powers for the purpose of requiring the Traffic Contribution to be paid.

### **2.2 Enforceability**

- 2.2.1 Pursuant to section 101 of the Local Government Act 1972 the District Council shall act as enforcing authority in respect of all covenants restrictions requirements stipulations and other obligations contained within this Deed.
- 2.2.2 The various covenants restrictions requirements stipulations and other obligations on the part of the Owner contained in this Deed are entered into under the provisions and powers referred to in sub-clause 2.1 and are planning obligations for the purposes of Section 106 of the 1990 Act whether expressed to be planning obligations or not and are enforceable by the District Council against the Owner and any person deriving title from the Owner

2.2.3 Insofar as any clause or clauses of this Deed is/are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not effect the validity or enforceability of the remaining provisions of this Deed

2.3 **Expiry**

If the Planning Permission shall expire or shall have been revoked before the Development has been Commenced this Deed shall forthwith determine and cease to have effect

2.4 **Conditions Precedent**

This Deed shall come into effect upon the grant of the Planning Permission and Commencement of Development save for the provisions of Clauses 2.1 to 2.6, 2.10 to 2.13 and 4.1 which shall come into effect immediately upon completion of this Deed.

2.5 **Registration**

This Deed is a local land charge and shall be registered as such

2.6 **Fettering of discretion**

Nothing in this Deed shall fetter or restrict the discretion of the District Council in the exercise of its powers under any statutory enactment or other enabling power for the time being in force

2.7 **Service of Notices**

2.7.1 Any notice or other written communication to be served by the Owner pursuant to this Deed shall be given by one of the following means and shall be deemed to be served as described unless the actual time of receipt is proved:

2.7.1.1 by first class post deemed served three working days after posting

2.7.1.2 through a document exchange deemed served on the first working day after the day on which it would normally be available for collection by the addressee

2.7.1.3 by facsimile at the time of successful transmission.

2.7.2 Any notice or other written communication as referred to in Clause 2.7.1 above shall be delivered to the party at its address herein specified (and in the case of the County Council shall be marked for the attention of the Assistant Chief Executive, Governance Services) or such other address as may from time to time be notified for the purpose by notice in writing.

## 2.8 **Obligations**

The Owner hereby undertakes as specified in Clauses 3 and 4

## 2.9 **Contracts ( Rights of Third Parties ) Act 1999**

Nothing in this Deed confers or purports to confer on any third party any benefit or rights to enforce any terms of this Deed

## 2.10 **Warranty as to Title**

The Owner confirms and warrants to the District Council that it has not leased mortgaged charged or otherwise created any interest in the property at the date of this Deed and that Recital (2) of this Deed is correct and accurate in every respect.

## 2.11 **Waiver**

No waiver (whether express or implied) by the District Council of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the District Council from enforcing any of the relevant covenants terms or conditions or for acting upon any subsequent breach or default.



2.12 **Jurisdiction**

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

2.13 **Delivery**

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

**3 OWNER'S OBLIGATIONS**

The Owner hereby covenants with the District Council:-

- 3.1 to pay the Traffic Contribution to the County Council on the date hereof
- 3.2. not to Commence Development until the Traffic Contribution shall have been paid to the County Council in full

**4 FINANCIAL PROVISIONS**

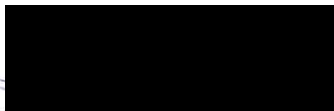
4.1 **Costs**

The reasonable and proper professional and administrative costs of the District Council incurred in connection with the acceptance of this Deed shall be paid by the Owner on the execution hereof

**IN WITNESS** whereof the Owner has executed this Deed on the day and year before written

**THE COMMON SEAL** of **EAST SUSSEX COUNTY COUNCIL** was hereto affixed in the presence of:-

)  
)  
)



.....  
Authorised Signatory



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