

DATED 2026

(1) [INSERT OWNER'S FULL NAME]

(the "Owner")

(2) [INSERT MORTGAGEE'S FULL NAME, if any]

(the "Mortgagee")

to

SOUTH TYNESIDE COUNCIL

(the "Council")

UNILATERAL UNDERTAKING

pursuant to Section 106 of the Town and Country Planning Act 1990
and all other enabling powers

relating to land at

CHURCH BANK, JARROW

(Planning Application Ref: 250408)

Securing a financial contribution towards Biodiversity Net Gain monitoring

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Schedule 1 – Plan 1

THIS DEED OF UNILATERAL UNDERTAKING is made on the day of 2026

GIVEN BY:

- (1) **[INSERT FULL NAME OF OWNER]** [of [address] / (company registration number [●]) whose registered office is at [address]] (the “**Owner**”); and
- (2) **[INSERT FULL NAME OF MORTGAGEE]** (company registration number [●]) whose registered office is at [address] (the “**Mortgagee**”).

Drafting note: Delete party (2) and all Mortgagee references throughout if the Site is unencumbered. Insert details of any additional mortgagee/chargee as necessary.

TO:

- (3) **SOUTH TYNESIDE COUNCIL** of Town Hall and Civic Offices, Westoe Road, South Shields, NE33 2RL (the “**Council**”).

RECITALS

- (A) The Council is the local planning authority for the purposes of the 1990 Act for the area in which the Site is situated.
- (B) The Owner is registered as the [freehold/leasehold] proprietor of the Site at HM Land Registry with title absolute under Title Number [●].
- (C) [The Mortgagee is the beneficiary of a charge dated [●] registered against the [freehold/leasehold] title to the Site under Title Number [●] and has agreed to give its consent to this Deed.]
- (D) On [INSERT DATE] the Council’s Planning Committee resolved to grant planning permission on planning application reference 250408 in respect of the Development at the Site, subject to the prior completion of a planning obligation securing the Biodiversity Gain Land Monitoring Contribution on the terms set out in this Deed.
- (E) The Owner enters into this Deed in order to secure the planning obligation set out herein, being satisfied that it is necessary to make the Development acceptable in planning terms, is directly related to the Development, and is fairly and reasonably related in scale and kind to the Development, in accordance with regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

NOW THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following expressions shall have the following meanings unless the context otherwise requires:

“**1990 Act**” means the Town and Country Planning Act 1990 (as amended);

“**Biodiversity Gain Land Monitoring Contribution**” means the sum of Three thousand seven hundred and seventy pounds (£3,770.00), Index Linked, to be paid by the Owner to the Council under clause 4.1 to be applied by the Council as a

financial contribution towards the Council's reasonable costs of monitoring compliance with the Biodiversity Net Gain requirements secured in relation to the Development, including (without limitation) compliance with the Habitat Management and Monitoring Plan and any condition of the Planning Permission requiring biodiversity net gain;

"Biodiversity Gain Plan" means the plan submitted to, and approved by, the Council to satisfy the Development's biodiversity net gain requirements pursuant to Schedule 7A to the 1990 Act;

"Commencement Date" means the date upon which any material operation as defined in section 56(4) of the 1990 Act (other than operations consisting of site investigation, demolition, site clearance, archaeological investigations, remediation of contamination, diversion or laying of services, or works of erection of hoardings) is first begun in, on, over or under the Site pursuant to the Planning Permission;

"Deed" means this deed of unilateral undertaking;

"Default Interest Rate" means [four per cent (4%)] per annum above the base lending rate of the Bank of England from time to time;

Drafting note: South Tyneside Council to confirm its standard default interest formulation.

"Development" means the development of the Site as authorised by the Planning Permission, namely [INSERT DESCRIPTION OF DEVELOPMENT FROM DECISION NOTICE] at Church Bank, Jarrow;

"Habitat Creation and Enhancement Works" means the habitat creation and enhancement works set out in the Habitat Management and Monitoring Plan (excluding any management or monitoring activities specified in that plan);

"Habitat Management and Monitoring Plan" or "HMMP" means the document titled "Habitat Management and Monitoring Plan" as required by condition [●] of the Planning Permission and approved by the Council;

Drafting note: insert the correct condition number once the draft conditions are finalised; amend/delete if biodiversity net gain is secured otherwise than by HMMP.

"Index" or "Index Linked" means the All-Items Consumer Prices Index published by the Office for National Statistics (or any index which replaces it), calculated from the date of this Deed to the date on which the relevant payment is due;

"Planning Application" means the planning application submitted to the Council under reference 250408 in respect of the Development;

"Planning Permission" means the planning permission to be granted by the Council pursuant to the Planning Application;

"Plan 1" means the site location plan at Schedule 1 on which the Site is edged red;

"Site" means the land known as [LAND AT] CHURCH BANK, JARROW, shown edged red on Plan 1 and registered at HM Land Registry under Title Number [●];

“Working Day” means any day from Monday to Friday inclusive other than a day which is a bank or public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any party shall include that party’s personal representatives, successors and permitted assigns and, in the case of the Council, the successors to its respective statutory functions.
- 1.8 Unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.9 Unless the context otherwise requires, a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to writing or written excludes faxes and e-mail.
- 1.11 A reference to this Deed or to any other deed or document referred to in this Deed is a reference to this Deed or such other deed or document as varied or novated (in each case, other than in breach of the provisions of this Deed) from time to time.
- 1.12 References to Clauses and Schedules are to the Clauses and Schedules of this Deed.
- 1.13 An obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.14 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.15 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually.
- 1.16 This Deed shall not be enforceable against statutory undertakers exercising their statutory functions or against tenants of individual commercial units.

2. LEGAL BASIS

- 2.1** This Deed is made under section 106 of the 1990 Act, section 111 of the Local Government Act 1972 and section 1 of the Localism Act 2011, with the intention that it creates planning obligations binding the Owner's interest in the Site.
- 2.2** The undertakings, restrictions and obligations contained in this Deed are enforceable by the Council in accordance with section 106 of the 1990 Act.
- 2.3** No person shall be liable for any breach of any provision of this Deed after it has parted with its entire interest in the Site, or in the relevant part of the Site, but without prejudice to any liability for a breach subsisting prior to such parting with its interest. For the purposes of this clause a person parts with an interest in the Site notwithstanding the retention of easements or the benefit of covenants, restrictions or reservations which shall not constitute an interest for the purposes of this clause.

3. CONDITIONALITY

- 3.1** Subject to clauses 3.2 and 3.3, this Deed is effective on the date hereof.
- 3.2** The obligation in clause 4.1 is effective from the date on which the Planning Permission is granted.
- 3.3** This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is modified by any statutory procedure, expires before the Development is commenced, or is at any time revoked or quashed following a successful legal challenge, PROVIDED THAT the Council shall not be required to repay any monies to the Owner which have been received and expended (or committed to be expended) prior to such event.

4. THE OWNER'S COVENANTS

- 4.1** The Owner covenants with the Council to pay the Biodiversity Gain Land Monitoring Contribution to the Council prior to the Commencement Date of the Development.

Drafting note: Trigger reflects the planning officer's preferred trigger (payment prior to commencement of development). Senior Planning Officer (Sean Gallagher) email dated 12 March 2026 refers.

- 4.2** The Biodiversity Gain Land Monitoring Contribution shall be applied by the Council towards its reasonable costs of monitoring compliance with the Biodiversity Net Gain requirements in respect of the Development, including (without limitation) monitoring compliance with the HMMP and any related conditions of the Planning Permission, for a period of up to thirty (30) years from the date of receipt of the contribution.
- 4.3** The Owner shall give the Council not less than ten (10) Working Days' written notice of the intended Commencement Date.
- 4.4** Any unspent element of the Biodiversity Gain Land Monitoring Contribution shall be retained by the Council to be applied in accordance with the purposes set out in this Deed.

5. INDEXATION

5.1 All financial contributions payable to the Council under this Deed shall be Index Linked.

5.2 Where reference is made to an Index and that Index ceases to exist or is replaced or rebased, it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or, in the event the Index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner in writing.

6. INTEREST ON LATE PAYMENT

6.1 If any sum due under this Deed is not paid to the Council by the date on which it is due, the Owner shall pay to the Council interest on that sum at the Default Interest Rate. Such interest shall accrue on a daily basis for the period from the due date to and including the date of payment.

7. OWNERSHIP

7.1 The Owner covenants to give the Council immediate written notice of any change in ownership of any of its interests in the Site occurring before all the obligations under this Deed have been discharged, such notice to give details of the transferee's full name and registered office (if a company) or usual address (if not), together with the area of the Site or unit of occupation transferred by reference to a plan.

8. MISCELLANEOUS

8.1 The Owner shall pay to the Council, on the date of this Deed, the Council's reasonable and proper legal and administrative costs and disbursements incurred in connection with the negotiation, preparation, execution, completion and registration (as a local land charge) of this Deed.

8.2 Where any payment of costs or other payments are to be made by the Owner to the Council, such costs and other payments shall be deemed to be reasonable and proper.

8.3 This Deed shall be deemed a local land charge and shall be registered as such by the Council.

8.4 The parties do not intend any person to have the benefit of the Contracts (Rights of Third Parties) Act 1999, save for any successors in title to the Site and the Council (or any successors in function to the Council).

8.5 If any clause of this Deed is found (for whatever reason) to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.

8.6 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the Council in the exercise of its functions in any capacity (including in particular its capacities as local planning authority), and the rights,

powers, duties and obligations of the Council under private, public or subordinate legislation may be effectively exercised as if it were not a party to this Deed.

9. SECTION 73 AND/OR SECTION 73A APPLICATIONS

9.1 In the event that the Council (or the Secretary of State on appeal) grants a planning permission pursuant to an application made under section 73 and/or section 73A of the 1990 Act in respect of any condition of the Planning Permission (or a subsequent permission to which this clause relates), references in this Deed to the Planning Application, the Planning Permission and/or the Development shall be deemed to include any such subsequent planning application and planning permission granted pursuant to such application and/or development permitted by such planning permission respectively, and this Deed shall take effect and be read and construed accordingly, UNLESS the Council in determining the section 73 and/or section 73A application (or the Secretary of State determining any section 78 appeal in relation to that application) requires consequential amendments to this Deed as are necessary to make the development the subject of the section 73 and/or section 73A application acceptable in planning terms, IN WHICH CASE a separate deed under section 106 or section 106A of the 1990 Act (as the case may be) will be required to secure such planning obligations or other planning benefits as may be determined, PROVIDED ALWAYS THAT nothing in this Deed shall in any way fetter the Council in relation to any section 73 and/or section 73A application or the determination thereof.

10. WAIVER

10.1 No waiver (whether express or implied) by the 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 Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

11. AGREEMENTS AND DECLARATIONS

11.1 The parties agree that:

- (a) nothing in this Deed constitutes a planning permission or an obligation to grant planning permission; and
- (b) nothing in this Deed grants planning permission or any other approval, consent or permission required from the Council in the exercise of any other statutory function.

12. MORTGAGEE

12.1 The Mortgagee consents to the Owner entering into this Deed.

12.2 Subject to clause 12.3, the Mortgagee acknowledges that the [part of the] Site over which the Mortgagee has a charge shall be bound by the planning obligations in this Deed.

12.3 The Mortgagee (and any other future mortgagee or chargee of any part of the Site) shall have no liability under this Deed unless it takes possession of the Site, in which case it shall be bound by the obligations in clause 4 as a person deriving title through the Owner.

Drafting note: If there is no Mortgagee as a party, this clause 12 and all references to the Mortgagee can be deleted.

13. VALUE ADDED TAX

13.1 Each amount stated to be payable by the Council or the Owner to the other under or pursuant to this Deed is exclusive of VAT (if any).

13.2 If any VAT is at any time chargeable on any supply made by the Council or the Owner under or pursuant to this Deed, the party making the payment shall pay the other an amount equal to that VAT as additional consideration on receipt of a valid VAT invoice.

14. GOVERNING LAW

14.1 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 document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of this Deed.

EXECUTION

EXECUTED as a DEED by [INSERT OWNER IF INDIVIDUAL]

in the presence of:

Signature of Owner:

Witness signature:

Name (BLOCK CAPITALS):

Address:

Occupation:

EXECUTED as a DEED by [INSERT OWNER IF COMPANY] acting by a director in the presence of a witness:

Director:

Witness signature:

Name (BLOCK CAPITALS):

Address:

Occupation:

EXECUTED as a DEED by [INSERT MORTGAGEE] acting by its authorised signatory / two directors / a director and secretary:

Signatory / Director:

Director / Secretary:

Drafting note: delete Mortgagee execution block if not required.

SCHEDULE 1

Plan 1 – Site Location Plan

[Insert site location plan with the Site edged red – drawing reference [●]].