

DARREN SHAUN STAPLES of STAPLES UK HOLDINGS LTD.

- to -

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

DEED OF PLANNING OBLIGATION

Made under the provisions of
Section 106 Town and Country Planning Act 1990 (as amended)
Relating to
Land adjacent to Arrow Lea, Eardisland,
Leominster, Herefordshire, HR6 9BU

Herefordshire Council
Plough Lane Offices
Plough Lane
Hereford
HR4 0LE

THIS DEED OF UNDERTAKING dated
Is given by:-

2024

DARREN SHAUN STAPLES of STAPLES U K HOLDINGS LTD. of Homeleigh, Eardisland, Leominster, Herefordshire, HR6 9BN ("the Owner") and

To:-

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL of Plough Lane Offices Plough Lane Hereford HR4 0LE ("the Council")

WHEREAS:-

1. The Council is empowered by Section 106 of the Town and Country Planning Act 1990 (as amended) ("the Act") to enter into an agreement with any person interested in land in its area for the purpose of restricting or regulating the development or use of that land.
2. The Owner is the registered proprietor with title absolute free from encumbrances of land described in the First Schedule to this deed ("the Land").
3. The Application for planning permission as described in the Second Schedule to this deed ("the Application") was submitted to the Council.
4. The Council has refused to approve the Application and issued a refusal notice dated 13th June 2024.
5. The Appeal has been submitted to the Planning Inspectorate against the Council's refusal to grant planning permission and the Owner offers this obligation to the intent that any objections by the Council to the grant of planning permission are overcome.
6. The Council is the local planning authority by whom the restrictions and obligations contained in this deed are enforceable.

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 and enactments which may be relevant for the purposes of giving validity to or the enforcement of the restrictions and obligations herein contained WITNESSES as follows:-

1. Words and Expressions

In this Deed the following words and expressions shall where the context so admits have the following meanings:-

The expressions "the Owner" and "the Council" shall include their respective successors in title and assigns.

Words importing the singular number only shall include the plural number and vice versa and words importing the one gender include the other gender and where there are two or more persons included in the expression “the Owner” covenants expressed or implied to be made by the Owner shall be deemed to be made by such persons jointly and severally.

All references in this deed to a person or persons shall include corporations and unincorporated associations and all other legal entities.

Words denoting an obligation on a party to do any act include an obligation to procure that it be done.

Words placing a party under a restriction include an obligation not to permit infringement of that restriction.

References to any statute or statutory instrument shall except where otherwise specifically provided include reference to any statutory modification or re-enactment thereof for the time being in force.

“Appeal” means the appeal made to the Planning Inspectorate under reference APP/W1850/W/24/3350526 against the refusal of the Council to approve the Application

“CIL Regulations” means the Community Infrastructure Levy Regulations 2010 (as amended)

“Commence Development” and **“Commencement of Development”** mean to commence the Development pursuant to the Permission by the carrying out of a Material Operation.

“Custom Build House” means a Dwelling built to the individual specifications of a prospective occupier

“Development” shall mean the development of the Land disclosed by the Application.

“Dwelling” means a unit of residential accommodation constructed on the Land pursuant to the Planning Permission

“Material Operation” has the meaning given Section 56(4) of the Act.

“Occupy” “Occupied” and **“Occupation”** means the first occupation of the Development for residential purposes but excluding occupation for the purposes of construction and fitting out.

“Permission” shall mean a notice of decision that may be granted by the Planning Inspectorate permitting the Development in accordance with the Appeal.

“Plan” means the plan attached to this deed.

“Planning Inspectorate” means the Planning Inspectorate of Temple Quay House, 2 The Square, Temple quay, Bristol BS1 6PN

“Self-Build House” means a house which is commissioned by an individual from a builder contractor or package company and is built by an individual either by themselves or with the assistance of appropriate tradesmen in accordance with the provisions of the Self-Build and Custom House Building Act 2015

“Self-Build Register” means the list of people or groups maintained by the Council pursuant to the Self-Build and Custom House Building Act 2015

“Serviced Plot” means an identifiable part of the Land which shall be suitable for the construction of a Dwelling and have or be capable of being connected to all necessary mains services and to the highway network.

2. Covenant and Undertaking

The Owner for the purposes of Section 106 of the Act with the intention of binding the Land covenants and undertakes to observe the restrictions and perform the obligations set out in the Third Schedule to this deed.

3. Declarations

IT IS DECLARED that

- 3.1. The restrictions and obligations under this deed are planning obligations pursuant to Section 106 of the Act enforceable by the Council as local planning authority against the Owner and his successors in title to the Land and to the extent that any of the covenants restrictions agreements declarations and all other requirements imposed upon the Owner under this Deed are not planning obligations within the meaning of Section 106 of the Act they are entered into by the Council pursuant Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers and enactments which may be relevant for the purposes of giving validity to this Deed or to facilitate the enforcement of any of the requirements of this Deed.
- 3.2. With the exception of paragraphs 5, 6 and 12, delivery and any other relevant paragraphs of this deed which have effect on the date of this deed none of the terms or provisions of this deed will have operative effect unless and until the date that the Permission is issued by the Planning Inspectorate and the Commencement of Development
- 3.3. If the Permission shall expire before Commencement of Development or shall at any time be revoked this deed shall forthwith determine and cease to have effect insofar only as it has not already been complied with and without prejudice to the validity of anything done whilst this deed is in force.

- 3.4.Nothing in this deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Permission) granted (whether or not on appeal) after the date of this deed.
- 3.5.If any provision in this deed shall be held to be invalid illegal or unenforceable the validity legality or enforceability of the remaining provisions hereof shall not in any way be deemed to be affected or impaired.
- 3.6.The Owner shall not be entitled to any costs or compensation whatsoever from the Council arising from the agreement restrictions and obligations contained in this deed.
- 3.7.It is acknowledged that only the Council shall be entitled to enforce the provisions of this deed and it is not intended that any other third party should have the right to enforce any provisions of this deed pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 3.8.No person shall be liable for a breach of a covenant contained in this deed after parting with all interest in the Land or the part of the Land in respect of which such breach occurs but without prejudice to liability for any subsisting breach of covenant prior to parting with such interest.
- 3.9.The headings in this deed are for convenience only and shall not be taken into account in the construction and interpretation of this deed.

4. Reservations

For the avoidance of doubt nothing in this deed shall prevent the Council from exercising any of its statutory powers or functions in relation to the development of the Land.

5. Local Land Charge Provision

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

6. Notices and Notice of Commencement of Development

- 6.1.A notice under this Deed is valid only if it is given by hand sent by recorded delivery or document exchange or sent by fax provided that a confirmatory copy is given by hand or sent by recorded delivery or document exchange on the same day and it is served at the address shown in this Deed for the receiving party or at any address specified in a notice given by that party to the other parties.

- 6.2.A notice sent to the Council:

- 6.2.1. In relation to any matters arising from all other obligations in this Deed shall be addressed to the 'Planning Obligations Manager', Planning Management Team, Herefordshire Council, Blue School House, Blue School Street, Hereford HR1 2ZB quoting reference 223835.

6.3.A notice:

- 6.3.1. Sent by recorded delivery is to be treated as served on the second working day after posting if sent by first class post or on the third working day after posting if sent by second class post
- 6.3.2. Sent through a document exchange is to be treated as served on the first working day after the day on which it would normally be available for collection by the recipient
- 6.3.3. Sent by fax is to be treated as served on the day on which it is successfully sent or the next working day where the fax is sent successfully after 1600 hours or on a day that is not a working day whenever and whether or not the confirmatory copy is received unless the confirmatory copy is returned through the Royal Mail or the document exchange undelivered

6.4. The Council's Planning Obligation Manager shall be given 14 days prior notice of Commencement of Development.

7. Waiver

No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the obligations or other terms of this deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the obligations or other terms of this deed or from acting upon any subsequent breach or default by the Owner.

8. Arbitration

In the event of any dispute or difference arising out of this deed between the parties (other than a dispute or difference relating to a matter of law or concerning the meaning or construction of this deed) which is not resolved within 14 days such dispute or difference shall at the request of any party be referred for arbitration under the Arbitration Act 1996 to a sole arbitrator to be agreed between the parties or in the absence of agreement within fourteen days after any party has given to the other(s) a written request to concur in the appointment of an arbitrator to be appointed at the request of any party by the President or Vice President of the Chartered Institute of Arbitrators and in these respects these presents shall be construed as a submission to arbitration within the meaning of the Arbitration Act 1996.

9. VAT

All consideration given in accordance with the terms of this deed shall be exclusive of any value added tax properly payable.

10. Jurisdiction

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

11. Warranty as to Title

The Owner warrants to the Council that the title details referred to in recital 2 and in the First Schedule to this deed are complete and accurate in every respect.

12. CIL Regulations

12.1. In the event that any competent authority determines that any planning obligation contained in this deed:

12.1.1. Is not a material planning consideration; or

12.1.2. Does not constitute a reason for granting Planning Permission in accordance with Regulation 122 of the Community Infrastructure Regulations 2010 (as amended)

then subject to clause 3.5 of this deed such planning obligation shall not be enforceable pursuant to this deed and shall cease to have effect within this deed

IN WITNESS of which this instrument has been duly executed as a deed by the parties and delivered the day and year first before written

FIRST SCHEDULE
(the Land)

The freehold land registered together with other land under title number HE68678 and shown edged red on the Plan

SECOND SCHEDULE
(the Application)

An application dated 17th November 2022 for planning permission for proposed erection of 4 No. Self-Build dwellings with garages made under the Council's reference 223881.

THIRD SCHEDULE
(Restrictions and Obligations)

1. Self-Build and Custom Build Houses

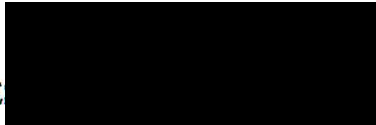
1.1. Four Serviced Plots shall be made available on the Land.

1.2. Freehold title to each Serviced Plot shall be transferred to persons included on the Council's Self-Build Register to enable them to construct a Dwelling which they shall first Occupy as their sole or permanent residence.

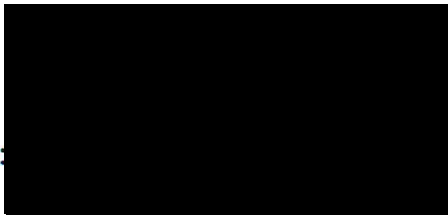
1.3. The Dwellings to be constructed on the Serviced Plots pursuant to the Permission shall be Self-Build Houses or Custom Build Houses.

- 1.4. To provide the Council with written notice of the Commencement of the Development 14 days prior to the Commencement of the Development.

SIGNED AS A DEED by
DARREN SHAUN STAPLE
In the presence of:



Witness signature:



Name (capitals):
Address

JOHN. NEEDHAM /
22, BROAD STREET
LUDLOW
SHROPSHIRE
SY8 1NQ

This is a detailed map of the Glanarrow area in County Wick, Ireland. The map shows various buildings, roads, and geographical features. A large rectangular area is highlighted in red, indicating a specific site of interest. Labels on the map include: 'The Old Barn', 'Anwodea', 'Svandit', 'The Grange', 'Birdsgeese', 'Hunabie', 'Stack House', 'Stack Cottage', 'Riverside Cottage', 'Oak House', 'Pond', 'Glanarrow', and 'Glanarrow Mill'. A north arrow is located in the top right corner.

HM Land Registry endeavours to maintain high quality and scale accuracy of title plan images. The quality and accuracy of any print will depend on your printer, your computer and its print settings. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may

