

DATE:

2025

REDROW HOMES LIMITED

IN FAVOUR OF

NORTH HERTFORDSHIRE DISTRICT COUNCIL

AND

HERTFORDSHIRE COUNTY COUNCIL

UNILATERAL UNDERTAKING

SECTION 106

TOWN AND COUNTRY PLANNING ACT 1990

RELATING TO:

LAND ADJACENT TO ROYSTON ROAD, BARKWAY, HERTFORDSHIRE

Planning Application Ref. 25/02234/S73



**Waterfront House
Waterfront Plaza
35 Station Street
Nottingham
NG2 3DQ**

File Ref: 901385.32 PAW

THIS UNDERTAKING is made as a deed the day of 2025
and given by:

1 PARTIES

- 1.1 **REDROW HOMES LIMITED** (Company Registration Number 01990710)
whose registered office is at Redrow House St Davids Park Flintshire CH5 3RX
(**“the Owner”**)

IN FAVOUR OF

- 1.2 **NORTH HERTFORDSHIRE DISTRICT COUNCIL** of Council Offices Gernon
Road Letchworth Garden City Hertfordshire SH6 3JF (**“the Council”**)

AND

- 1.3 **HERTFORDSHIRE COUNTY COUNCIL** of County Hall Pegs Lane Hertford
Hertfordshire SG13 8DE (**“the County Council”**)

2 DEFINITIONS

- 2.1 The definitions, clauses, obligations and provisions of the Original Agreement shall remain in full force and effect except as varied or added to by this Undertaking and shall continue to be applicable to the Land in respect of the Development defined in the Original Agreement as varied or added to by this Undertaking and remain to be performed to the extent that they have not already been performed

- 2.2 In this Undertaking (except where the context otherwise requires):

“the Act”	the Town and Country Planning Act 1990 (as amended)
------------------	---

“the S.73 Application”	the application for the variation of wording to condition 3 and condition 20 of planning permission 18/01502/OP granted on 25 July 2023 which was made to the Council on 4
-------------------------------	--

September 2025 under reference
25/02234/S73

**“Commencement of the S.73
Development”**

the earliest date on which any of the material operations (as defined by Section 56(4) of the Act) pursuant to the S.73 Permission is begun save that irrespective of the provisions of Section 56 (4) of the Act none of the following operations shall constitute a material operation for the purposes of constituting Commencement of the S.73 Development

- i. trial holes or other operations to establish the ground conditions of the Land, site survey work, or works of remediation
- ii. archaeological investigations on the Land
- iii. any works of demolition or site clearance
- iv. any structural planting or landscaping works
- v. ecological or nature conservation works associated with the Development
- vi. construction of site compounds boundary fencing or hoardings
- vii. construction of access or highway works or provision of services (including drainage and media)
- viii. any other preparatory works agreed in writing with the Council

“the Development”

the development of the Land as set out in the S.73 Application

“the Land”	the land adjacent to Royston Road Barkway Hertfordshire edged red on the plan attached to the Original Agreement
“the Original Agreement”	the agreement dated 19 July 2023 made pursuant to Section 106 of the Act relating to the Land adjacent to Royston Road Barkway Hertfordshire and made between (1) North Hertfordshire District Council and (2) Hertfordshire County Council) and (3) Frederick David Rand and Christine Helen Rand and (4) Barclays Security Trustee Limited
“the Original Permission”	means the planning permission granted by the Council under reference 18/01502/OP on 25 July 2023
“S.73 Permission”	the planning permission to be granted by the Council pursuant to the S.73 Application

3 INTERPRETATION

3.1 In this Undertaking:

- 3.1.1 Words in the singular include the plural and vice versa
- 3.1.2 A reference to a person includes companies and all other legal entities
- 3.1.3 Wherever there is more than one person named as a part and where more than one party undertakes an obligation all their obligations can be enforced against all them jointly and against each party individually unless there is an express contrary provision
- 3.1.4 References to clauses and schedules are to clauses and schedules of this Undertaking unless stated otherwise

- 3.1.5 Reference to a paragraph is to a paragraph of the schedule to which the reference is made unless stated otherwise
- 3.1.6 The headings and table of contents of this Undertaking are for convenience only and shall not affect its interpretation
- 3.1.7 Unless this Undertaking states otherwise any reference to a statute or any other legislative provision includes any amendment extension modification or re-enactment of it for the time being in force
- 3.1.8 References to Council Departments shall include successor departments arising through any Council internal reorganisation
- 3.1.9 References to the Council the County Council shall include their successors in statutory function and references to the Owner shall include their successors in title and assigns

4 INFORMATION

- 4.1 The Owner owns the freehold interest in the Land and is registered as proprietor at H M Land Registry under Title Number HD627325 free from incumbrances other than those matters contained or referred to in the Property and Charges Registers at the date of this Undertaking
- 4.2 The Council and the County Council the local planning authorities for the Land purposes of the Act
- 4.3 The Council is a principal council for the purposes of the Local Government Act 1972
- 4.4 The County Council is the education authority for the purposes of the Education Acts as defined in section 578 of the Education Act 1996 the Highway Authority for the purposes of the Highways Act 1980 the Fire and Rescue Authority and the Libraries Authority for the County of Hertfordshire
- 4.5 The Council has resolved to grant the S.73 Permission for the Development subject to the completion of a legally binding mechanism to secure the obligations contained within this Undertaking

5 STATUTORY AUTHORITY AND LEGAL EFFECT

- 5.1 This Undertaking shall constitute a planning obligation for the purposes of and made pursuant to Section 106 of the Act
- 5.2 The obligations of the Owner in this Undertaking are planning obligations for the purposes of Section 106 of the Act and are enforceable by the Council and the County Council as local planning authorities
- 5.3 The Owner enters into the obligations contained herein for itself and its successors in title to the Council and the County Council to the intent that the obligations hereunder shall be enforceable not only against the Owner but also against the successors in title to the Owner and any person claiming through or under the Owner an interest or estate in the Land or any part thereof
PROVIDED THAT
 - 5.3.1 an Affordable Housing Provider and the owners and/or occupiers of Affordable Housing Dwellings shall only be liable in respect of the obligations and restriction contained in Schedule Two (Paragraph A, Part I) of the Original Agreement and shall otherwise have no liability pursuant to this Undertaking;
 - 5.3.2 the obligations and restrictions in this Undertaking shall not be enforceable against:
 - 5.3.2.1 a statutory undertaker after the transfer of the statutory apparatus and any land upon or in which the statutory apparatus is situated by he Owner to that statutory undertaking or in respect of any easements relating to cables pipes or other service media running under the Land nor enforceable against any highway authority which may be responsible for any public highway maintainable at the public expense;
 - 5.3.2.2 owner-occupiers or tenants of any Open Market Dwelling nor any mortgagee or chargee of the interest of any such owner-occupier nor against those deriving title from them;

- 5.4 No person shall be bound by any obligations, rights and duties contained in this Land and/or be liable for any breach of a covenant and/or obligation contained in this Undertaking after they shall have parted with all interest in the Land or the part in respect of which such obligation relates or such breach occurs PROVIDED THAT they shall remain liable for any subsisting breach of covenant prior to parting with their interest
- 5.5 If the S.73 Permission expires (within the meaning of Sections 91, 92 or 93 of the Act) or is revoked or otherwise withdrawn before Commencement of the S.73 Development, this Undertaking shall forthwith determine and cease to have effect
- 5.6 Nothing in this Undertaking shall be construed as prohibiting or limiting any right to develop any part of the Land in accordance with a planning permission (other than the S.73 Permission) granted (whether or not on appeal) after the date of this Undertaking
- 5.7 Nothing in this Undertaking shall be construed as restricting the exercise by the Council of any powers exercisable by it under the Act or under any other act or any statutory instrument, order or byelaw in the exercise of their functions as a local authority

6 CONDITION PRECEDENT

- 6.1 The planning obligations contained in this Undertaking shall not be enforceable by the Council or the County Council until the grant of the S.73 Permission by the Council

7 OBLIGATIONS

- 7.1 The Owner covenants with the Council and the County Council in respect of the Land with the intent that these are planning obligations for the purposes of Section 106 of the Act:
 - 7.1.1 The definitions of 'Application', 'Development' and 'Planning Permission' in the Original Agreement shall be construed to include reference to the S.73 Application the S.73 Permission granted thereto and the development

permitted by the S.73 Permission and any reference to 'Dwelling'/'Dwellings' contained within the Original Agreement shall be construed as including any residential dwellings constructed pursuant to the S.73 Permission

- 7.1.2 To comply with and be subject to the terms of the Original Agreement so as to apply it and any obligations contained therein to any development undertaken pursuant to the S.73 Permission as if it were undertaken pursuant to the Original Permission

8 INVALIDITY

- 8.1 It is agreed and declared that if any clause or sub-clause of this Undertaking shall be deemed to be unenforceable or ultra vires the remainder of this Undertaking shall remain in full force and effect provided severance from this Undertaking is possible

9 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 9.1 Nothing contained in this Undertaking shall give or be construed as giving any rights privileges powers or enforceability other than to the Council and to the specific person executing this Undertaking as the Owner and its successors (if any) as defined in this Undertaking and the provisions of the Contracts (Rights of Third Parties) Act 1999 (as amended) and any benefits or rights which could arise from it are expressly excluded to the intent that no other third party within the meaning of that Act shall have any rights of enforcement in respect of any matter contained in this Undertaking

10 OTHER MATTERS

- 10.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval to be served under or in connection with this Undertaking and any such notice or approval shall be in writing and shall specifically refer to the name, date and parties to this Undertaking and shall cite the number and clause of this Undertaking to which it relates
- 10.2 This Undertaking shall be registerable as a local and charge

11 JURISDICTION

11.1 This Undertaking is governed by and interpreted in accordance with the laws of England

12 DELIVERY

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

IN WITNESS of which the parties have executed this Unilateral Undertaking as a deed and have delivered it upon dating the day and year first before written

EXECUTED as a **DEED** by)

REDROW HOMES LIMITED acting by)

two directors or one director and the)

Company Secretary)

Director:

Director/Secretary: