

DATED

26 September

2022

COUNTRYSIDE ESTATES LIMITED

and

SIRINA PROJECTS LIMITED

to

CHARNWOOD BOROUGH COUNCIL

SECTION 106 UNILATERAL UNDERTAKING

relating to
Land at Gaddesby Lane, Rearsby, Leicestershire
Planning Application Ref: P/22/0669/2

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THIS DEED of UNDERTAKING is dated 26 September 2022 and is given **BY:**

- (1) **COUNTRYSIDE ESTATES LIMITED** incorporated and registered in England and Wales with company number 01188725 whose registered office is at 42 Glebe Street, Loughborough, Leicestershire LE11 1JR (the “**Owner**”); and
- (2) **SIRINA PROJECTS LIMITED** incorporated and registered in England and Wales with company number 10642030 whose registered office is at Lumaneri House, Blythe Gate, Blythe Valley Park, Solihull, West Midlands B90 8AH (the “**Developer**”)

TO:

- (3) **CHARNWOOD BOROUGH COUNCIL** of Southfield Road, Loughborough, Leicestershire LE11 2TX (the “**Council**”).

WHEREAS

- (A) The Council is the Local Planning Authority for the purposes of the Act for the area in which the Site is situated.
- (B) The Owner is the freehold owner of the Site.
- (C) The Developer made the Planning Application and the Council is minded to grant the Planning Permission subject to the completion of this Deed.
- (D) The Developer has entered into an option agreement with the Owner.
- (E) The Developer and the Owner have accepted that the Development should be undertaken in accordance with the terms of this Deed in order to mitigate the impact of the Development.

AGREED TERMS

1. INTERPRETATIONS

The following definitions and rules of interpretation apply in this Deed:

1.1 Definitions:

Act:	means the Town and Country Planning Act 1990 (as amended from time to time);
Biodiversity Contribution:	means the sum of £10,129.00 (Index-Linked) to be paid to the Council to be used for off-site biodiversity mitigation projects in the vicinity of the Development by provision of habitat creation and enhancement equivalent to a minimum of 0.21 habitat units with priority given to woodland planting on public land within the Wreake Valley area of the borough of Charnwood
Commencement of Development:	<p>means the earliest date on which any of the material operations (as defined by Section 56(4) of the Act) pursuant to the implementation of the Development 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 Development:</p> <ul style="list-style-type: none"> (i) trial holes or other operations to establish the ground conditions of the Site site survey work or works of remediation; (ii) archaeological investigations on the Site; (iii) any works of demolition or site clearance; (iv) ecological mitigation works on the Site; (v) construction of site compounds; (vi) construction of boundary fences or hoardings <p>and “Commence” and “Commenced” shall be construed accordingly</p>
Default Interest Rate:	means a rate 4% above the base lending rate from time to time of HSBC Bank PLC or if that base rate

	ceases to be used or published the base lending rate of the Bank of England
Development:	means the development authorised by the Planning Permission;
Implementation	means the earliest date on which any of the material operations (as defined by Section 56(4) of the Act) pursuant to the implementation of the Planning Permission is begun
Index:	means the All in Tender Price Index of Buildings Cost Information Services ("BCIS") as published by the Royal Institute of Chartered Surveyors ("RICS") or in the event that the RICS shall change the basis of compilation or cease to compile or publish the said Index such other index as is similar to the said Index
Index-Linked	means adjusted to reflect the fluctuations to the Index between the date of this Deed and the quarter period in which payment is due to Council
Monitoring Fee	means the sum of £526.00 (Index Linked) towards the Council's costs of monitoring compliance with this Deed and the Development
Plan 1:	means the plan annexed hereto at Appendix 1 being the Location Plan drawing number 3819-01;
Planning Application:	means the application for full planning permission for the erection of three detached two storey dwellings with double carports and associated works registered by the Council on 11 May 2022 under reference number P/22/0669/2;

Planning Permission:	means the planning permission to be issued by the Council in respect of the Planning Application;
Residential Dwellings:	means the dwellings to be constructed on the Site as part of the Development and "Residential Dwelling" shall mean any one of them;
Site:	means the land at Gaddesby Lane, Rearsby, Leicestershire LE7 4YJ shown edged red on Plan 1 and registered at HM Land Registry with absolute title under title numbers LT314184 LT399991 and LT435393;
Working Day:	means any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.

- 1.2 Clause headings shall not affect the interpretation of this Deed.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.5 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.
- 1.6 References to clauses and Schedules are to the clauses and Schedules of this Deed.
- 1.7 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.

2. STATUTORY PROVISIONS

- 2.1 This Deed is made pursuant to the provisions of section 106 of the Act, section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and any other enabling powers.
- 2.2 The covenants, restrictions and obligations contained in this Deed are planning obligations for the purposes of section 106 of the Act and are entered into by the

Owner with the intention that they bind the interests held by those persons in the Site and their respective successors and assigns.

- 2.3 The covenants, restrictions and obligations contained in this Deed are enforceable by the Council in accordance with section 106 of the Act.

3. CONDITIONALITY AND LEGAL EFFECT

- 3.1 Save for the provisions of clauses 1-3 and 5-18 which shall come into effect on the date hereof the provisions of this Deed shall only come into effect once the Planning Permission has been granted and the Commencement of Development has occurred.

4. UNDERTAKINGS AND COVENANTS TO THE COUNCIL

- 4.1 The Owner undertakes and covenants the following to the Council:

4.1.1 that prior to Commencement of the Development the Owner shall pay to the Council the Biodiversity Contribution and the Owner shall not Commence the Development until the Biodiversity Contribution has been paid to the Council in full including any sum due from indexation;

4.1.2 to give the Council no less than 7 days written notice of the occurrence of Commencement of Development or any change in ownership of the Site (save for the transfer of a Residential Dwelling) until such time as the planning obligations in this Deed have been satisfied;

4.1.3 not to Implement the Planning Permission until the Council's Legal Costs and Monitoring Fee have been paid to the Council in full including any sum due from indexation

5. CONFIRMATION OF INTEREST

- 5.1 The Owner hereby warrants and confirms that it remains at the date of this Deed the freehold owner of the Site being land within Title Numbers: LT314184 LT399991 and LT435393 such land being free from any encumbrances other than those noted in the Land Registry official copy of the register for the above title numbers on 12th August 2022.

6. RELEASE

- 6.1 No person shall be liable for any breach of a covenant, restriction or obligation contained in this Deed after parting with all of its interest in the Site, or parting with its interest in that part of the Site to which the relevant covenant, restriction or obligation relates, save in respect of any breach subsisting prior to parting with such interest.

7. DEVELOPER'S CONSENT

- 7.1 The Developer consents to the completion of this Deed and declares that its interest in the Site shall be bound by the terms of this Deed PROVIDED THAT the Developer shall otherwise have no liability under this Deed (except for clause 13.1) unless it takes possession of the Site or becomes a successor in title in relation to the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

8. DETERMINATION OF DEED

- 8.1 If the Planning Permission is quashed revoked or otherwise withdrawn or expires within the meaning of sections 91, 92 and 93 of the Act or is revoked or modified in accordance with sections 97 to 100 inclusive of the Act without the consent of the Owner this Deed shall cease to have effect (but without prejudice to the rights of either party against the other in respect of any antecedent breach).

9. LOCAL LAND CHARGE

- 9.1 This Deed is a local land charge and may be registered as such by the Council.

10. NO FETTER OF DISCRETION

- 10.1 Nothing herein contained or implied shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.

11. WAIVER

- 11.1 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 terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said obligations terms or conditions or from acting upon any subsequent breach or default in respect thereto by the Owner.

12. FUTURE PERMISSIONS

- 12.1 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with any planning permission (other than the Planning Permission or modification, variation or amendment thereof) granted after the date of the Planning Permission.
- 12.2 In the event that the Council shall at any time hereafter grant a planning permission pursuant to an application made under section 73 of the Act in respect of the conditions in the Planning Permission (and for no other purpose whatsoever) references in this Deed to the Planning Application Planning Permission and Development shall be deemed to include any such subsequent planning applications and planning permissions granted as aforesaid and this Deed shall henceforth take effect and be read and construed accordingly and the obligations in this Deed shall relate to and bind such subsequent planning permissions granted as aforesaid **SAVE THAT** nothing in this clause shall fetter the absolute discretion of the Council in determining any future application(s) under section 73 of the Act to require that a new deed or supplemental deed be entered into pursuant to Section 106 and/or Section 106A of the Act if it considers this necessary

13. LEGAL AND MONITORING COSTS

- 13.1 The Developer shall pay on or before completion of this Deed the Council's reasonable legal costs in relation to the approval of this Deed in the sum of £750.00.
- 13.2 The Owner shall pay to the Council the Monitoring Fee on or before Implementation of the Planning Permission

14. NOTICES

- 14.1 Any notice or other written communication to be given under this Deed must be in writing shall be deemed to have been validly served or given if delivered by hand or sent by recorded delivery first class post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing.
- 14.2 Any notice or other written communication to be given under this Deed shall be sent to the addressee (which for the Council shall be the Head of Planning and Growth) at the address stated in this Deed or at such other address as the addressee shall have notified to the others in writing

14.3 Any notice or other communication given in accordance with this clause will be deemed to have been received:

14.3.1 if delivered by hand, on signature of a delivery receipt provided that if delivery occurs before 9.00 am on a Working Day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9.00 am on the next Working Day; or

14.3.2 if sent by pre-paid first class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting; or

15. EXCLUSIONS

15.1 Unless otherwise provided in this Deed the obligations in this Deed shall not be enforceable against:

15.1.1 owner-occupiers or tenants of Residential Dwellings nor against those deriving title from them;

15.1.2 statutory undertakers or other utility suppliers with an interest in the Site only by virtue of the location of their structures or other apparatus on the Site (including electricity substations, poles stays gas governor stations and/or pumping stations);

16. INDEXATION AND INTEREST ON LATE PAYMENT

16.1 All sums payable to the Council under this Deed (save for the Council's legal costs) shall be Index Linked

16.2 If any sum or amount due under this Deed is not paid to the Council by the date it is due the Owner shall pay to the Council the interest on that amount at the Default Interest Rate such interest being accrued at a daily rate in respect of the period from the due date to and including the day of payment

17. THIRD PARTY RIGHTS

17.1 A person who is not a party to this Deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

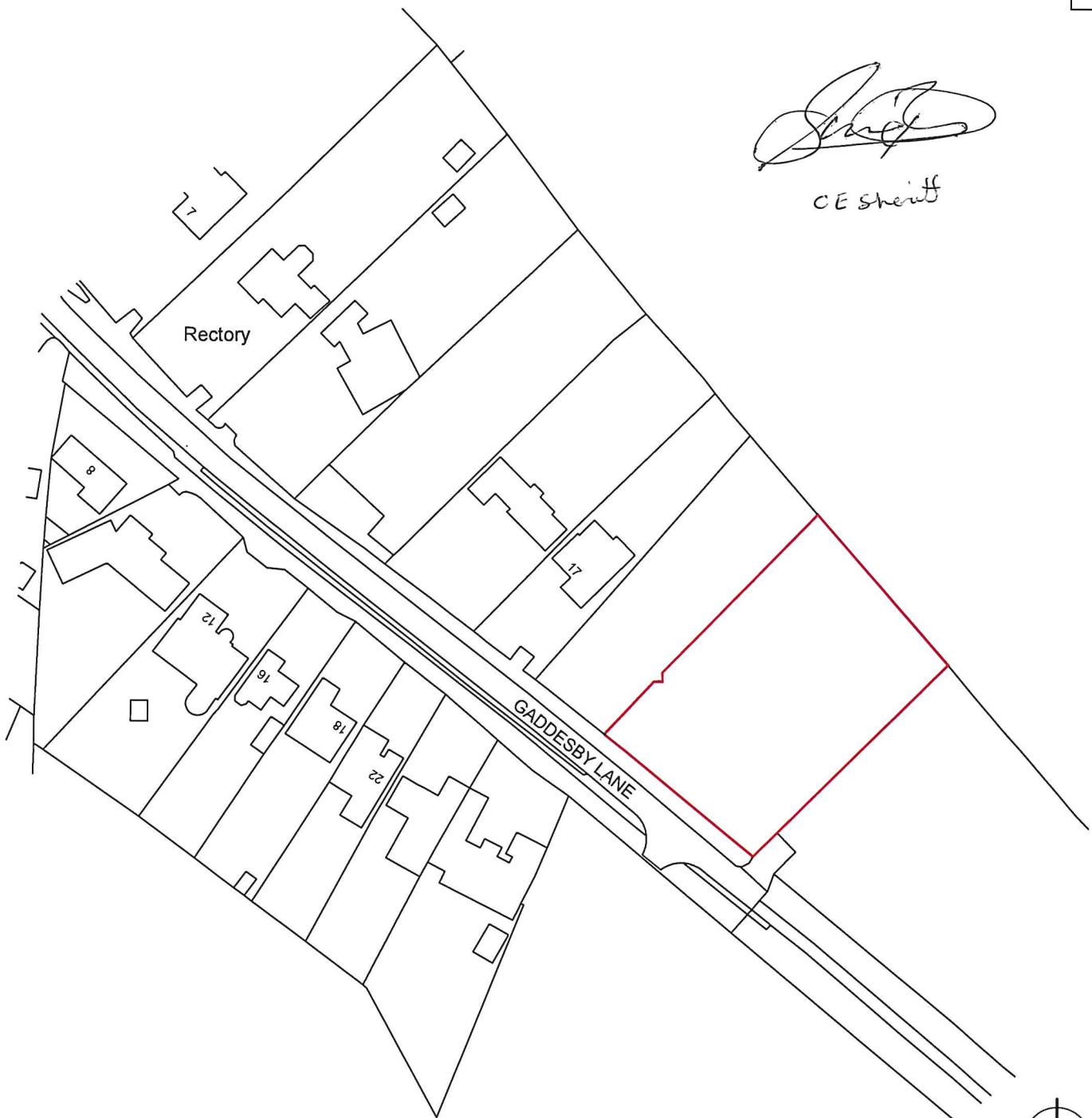
18. GOVERNING LAW

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

Appendix 1 - Plan 1

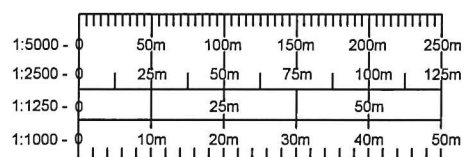


CE Sherriff



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FOR GUIDANCE ONLY



REV		DETAILS		DATE		CHECKED	
 brownhill hayward brown chartered architects							
01543 254357 - mail@bhbarchitects.co.uk							
Land at Gaddesby Lane, Rearsby						DRAWING NO.	
Location Plan						3819- 01	
Sirius Projects						REV	DATE
						/	Mar '22
PLANNING				DRAWN	CHECKED	SCALE	
				LA	MW	1:1250 @ A4	
 ISO 9001 REGISTERED FIRM		 ISO 14001 REGISTERED FIRM		The copyright of this drawing and design is vested in the Architect and must not be copied or reproduced without written consent. All dimensions given are to be verified on site by the responsible contractor.			
				PART OF 			

IN WITNESS whereof the parties have executed this document as a Deed the day and year first written above

EXECUTED as a Deed)
By **COUNTRYSIDE ESTATES LIMITED**)
acting by a Director)

Director *CE Sheint*

in the presence of

Witness Signature: *Catherine Angrave*

Name of Witness: CATHERINE ANGRAVE

Address: Bray & Bray, Spa Place, 36-42
Humberstone Road, Leicester LE5 0PE

EXECUTED as a Deed)
By **SIRINA PROJECTS LIMITED**)
acting by a Director)

Director *[Signature]*

in the presence of

Witness Signature: *Nicholas Cave*

Name of Witness: NICHOLAS CAVE

Address: SUNNYSIDE
SCOTLAND LANE
BURTON OVERY
LEICESTERSHIRE

