

DATED 19th January 2022

ALLAN MICHAEL FROST and ELIZABETH ANN FROST

TO

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH
OF RICHMOND UPON THAMES**

DEED OF UNILATERAL UNDERTAKING

**Made under Section 106 of the Town & Country Planning Act 1990
and Section 16 of the Greater London Council (General Powers) Act 1974
relating to 29 and 31 High Street, Hampton Wick,
Kingston-upon-Thames KT1 4DA**

THIS UNILATERAL UNDERTAKING is made as a Deed on the ¹⁹ day
of ^{5th JANUARY} 2022 (Two Thousand and Twenty Two)

BY

- (1) **ALLAN MICHAEL FROST and ELIZABETH ANN FROST** of
Collendene, Somersbury Lane, Ewhurst, Cranleigh GU6 7SR

IN FAVOUR OF

- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH
OF RICHMOND UPON THAMES** of Civic Centre, 44 York Street,
Twickenham, Middlesex TW1 3BZ

INTERPRETATION

IN this Deed the following words and expressions shall have the following meanings:-

- | | |
|-----------------------------------|---|
| "1972 Act" | the Local Government Act 1972 |
| "1974 Act" | the Greater London Council (General Powers)
Act 1974 |
| "1990 Act" | the Town & Country Planning Act 1990 |
| "2011 Act" | the Localism Act 2011 |
| "Affordable Housing Contribution" | the sum of eighty five thousand five hundred and
seventy six pounds (£85,576.00) Indexed |
| "CPZ" | means the controlled parking zone Hampton
Wick CPZ (Zone X) or any controlled parking
zone amending or replacing the same |
| "Development" | the development described in the Planning
Application |

“Disabled Persons Badge”	means a disabled person’s badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970 (or such other legislation as may supersede it and provide for the issue of disabled persons parking badges/permits)
“the HDM”	the Council’s Head of Development Management or such other person as may be appointed from time to time to carry out that function.
“Implementation”	the carrying out of a material operation as defined by Section 56(4) of the 1990 Act in relation to the Development but shall not include the following: <ul style="list-style-type: none">(i) ground investigatory site survey work(ii) construction of boundary fencing(iii) archaeological investigation(iv) works of decontamination or remediation
“Implementation Date”	the date on which implementation occurs
“Indexed”	increased in accordance with the formula whereby the Affordable Housing Contribution is multiplied by the fraction A divided by B where B represents the value of the Retail Prices Index (All items) as at the date of this Deed and A represents the value of the same index as at the date of payment of the Affordable Housing Contribution to the Council
“Local Plan”	the London Borough of Richmond upon Thames Adopted Local Plan (2018)
“Monitoring Fee”	the sum of one thousand three hundred and sixty four pounds (£1,364.00)
“Motor Vehicle”	means any mechanically propelled vehicles intended or adapted for use on a road and / or highway

“Occupation”	the full and beneficial occupation of the Units (but this expression shall not include occupation for the purposes of construction or fitting out or for marketing or security purposes) and “Occupied” and “Occupy” shall be construed accordingly
“Occupation Date”	the first Occupation of a Unit for purposes as a residential dwelling
“Planning Application”	a Planning Application submitted by the Owner to the Council bearing reference number 21/0586/FUL for Demolition of Nos. 29 and 29b High Street and associated outbuildings, and erection of 8 Units and Class E floorspace with associated works
“Planning Permission”	the Planning Permission that may be granted in respect of the Planning Application
“Property”	land known as 29 and 31 High Street and land to the rear of High Street, Hampton Wick, Kingston-upon-Thames KT1 4DA as delineated in red on the plan attached hereto
“Occupier”	any tenant or individual or leasehold owner of any of the Units and for the avoidance of doubt the term excludes any business or corporate body or bodies
“Residents Permit Parking Bay”	means a parking space within the CPZ designated by the Council by order under the Road Traffic Regulation Act 1984 the Road Traffic Regulations (Parking) Act 1986 the Parking Act 1989 or the Road Traffic Act 1991 (or other relevant legislation)
“Residents Parking Permit”	means a parking permit (whether for residential or visitor use) allowing for a Motor Vehicle to park in a Residents Permit Parking Bay
“Units”	the Units designated for residential dwelling to be constructed pursuant to the Development together with any amenity space or any right to use the same (whether common or not with

others therewith) and Unit shall mean any one of them

“Sale” the Sale of the freehold or the grant of a lease for a period of not less than 21 years at a nominal rent

“Sale Date” the completion date of the first Sale of a Unit

“Use Classes Order” the Town and Country Planning (Use Classes) Order 1987 (as amended)

WHEREAS:

- (1) the Council is the local planning authority for its administrative area within which the Property is situated for the purposes of the Town and Country Planning Act 1990 and for the purposes of Section 106(9) of the 1990 Act is the local planning authority by whom the planning obligations contained within this Deed are enforceable
- (2) the Owner is registered at the Land Registry with absolute title under title numbers MX439850 TGL194372 and SGL229302 as the proprietor of the freehold interest in the Property
- (3) The Council supports the Development but is unable to or unwilling to approve the Planning Application or to grant the Planning Permission in the absence of this Deed which makes provision for regulating the Development and securing the matters referred to in this Deed
- (4) Policy LP 36 of the Council’s Local Plan provides that the Council may consider a financial contribution to its Affordable Housing Fund as an alternative to on-site provision
- (5) Policies LP44 and LP45 of the Local Plan provide that the Council will only approve new development where the transport infrastructure can accommodate it or be adapted to it and new development should be acceptable in terms of traffic generation and traffic impact in the road
- (6) the Owner has agreed to enter into this Deed so that it may be taken into account as a material consideration in the determination of the Planning Application by the Council

NOW THIS DEED WITNESSETH as follows:-

1. This Deed is made pursuant to Section 106 of the 1990 Act, Section 111 of the 1972 Act, Section 16 of the 1974 Act and Section 1 of the 2011 Act and any other enabling statutory provisions
2. The Owner hereby UNDERTAKES to the Council as set out in the Schedule
3. GENERAL:-

Miscellaneous declarations

- (a) Reference to the masculine feminine and the neuter genders shall include the other genders and reference to the singular shall include the plural and vice versa
- (b) A reference to a clause is a reference to a clause contained in this Deed
- (c) The expressions "the Council" and "the Owner" shall include their respective successors in title and assigns

Local land charge provisions

- (d) This Deed is a local land charge and shall be registered in the Council's Register of Local Land Charges immediately on completion thereof

Reference to statutes and statutory instruments

- (e) Reference in this Deed to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

English law applicable

- (f) The construction validity and performance of this Deed shall be governed by English law

Effect of revocation of planning permission

- (g) In the event of the Planning Permission being revoked by the Council or any other authority having powers in relation to planning matters or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner or their successors in title the obligations of the Owner under this Deed shall thereupon cease absolutely

Liability of subsequent owners and release of former owners

- (h) The provisions hereof shall be enforceable by the Council against the Owner and all persons who shall have derived title through or under it in respect of the Property (but so that no person shall be liable to the Council for any breach

of the provisions committed after such a person has parted with all of its freehold interest in such land)

Effect of covenant

- (i) Any covenant contained herein whereby the relevant party is not to do an act or thing shall be construed as if it were a covenant not to do or permit or suffer such act or thing to be done and any covenant whereby the relevant party is not to omit to do an act or thing shall be construed as if it were a covenant not to omit or permit or suffer such act or thing to be omitted to be done
- (j) The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person who is not a party to this Deed is to have the benefit of or be capable of enforcing any term in this Deed and no party is to have any rights to enforce this Deed other than those falling within the definition of the Council and the Owner

VAT clauses

- (k) all consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof
- (l) if at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

Interest on late payment

- (m) if any of the Affordable Housing Contribution due under paragraph 1(i) Part 1 of the Schedule of this Deed is not paid to the Council within the timescales stipulated therein, then interest shall be paid on such contribution at the rate of 4% above the Bank of England base rate from time to time in force from the date that the contribution became due to the date of actual payment

Variations

- (n) The covenants undertakings and restrictions contained in this Deed shall only be capable of being varied by a memorandum to be endorsed upon or annexed to this Deed by or on behalf of the relevant parties hereto or by a subsequent deed of variation
- (o) This Deed shall continue to be valid and enforceable following an amendment or variation to the Planning Permission achieved through the submission of the Planning Application pursuant to Section 73 of the 1990 Act as if this Deed had been completed pursuant to such an application

Official

SCHEDULE

COVENANTS BY THE OWNER

Part I – Payments

- I. To pay to the Council;
 - (i) the Affordable Housing Contribution prior to or on the Occupation Date or the Sale Date (whichever is the sooner) and not to permit the Occupation of the Units until the Affordable Housing Contribution has been paid to the Council
 - (ii) the sum of eight hundred and fifty pounds (£850.00) being its proper and reasonable fees for reviewing and approving this Deed and the Monitoring Fee on the date hereof

Part II – Notifications

2. To provide written notification to the HDM;
 - (i) seven days prior to the Implementation Date and a further written notice of the actual Implementation Date within seven days of the occurrence of the same
 - (ii) seven days prior to the Occupation Date or the Sale Date (whichever is sooner)
3. For the avoidance of doubt, it is hereby agreed that if Implementation occurs and the notice required in paragraph 2(i) Part II of the Schedule has not been given then the failure to give notice shall not affect the liability of the Owner to comply with the planning obligations in this Deed

Part III – Parking Permits

- 4.1 Not to make an application for a Residents Parking Permit in respect of any Unit or knowingly permit any Occupier of a Unit to make such an application and further not to make an application to the Council to enter into a contract (other than individual contracts for one occasion) to park a Motor Vehicle in any car park controlled by the Council Provided Always That the provisions of this paragraph shall not apply to a person who is the holder of a Disabled Persons Badge.
- 4.2 In any case where an application is made as aforesaid and a Residents Parking Permit is issued to the Owner or contract entered into by the Owner then to surrender such Residents Parking Permit to the Council or terminate such contract with the Council (or in the case of a Residents Parking Permit issued to or contract entered into by a third party procure that the same are surrendered or terminated) within 7 days of written demand by the Council.

- 4.3 Not to Occupy or dispose of any interest in any of the Units or cause or permit any person to be an Occupier or dispose of any interest in the Unit unless and until a notice in writing has been served on such person to the effect that such person shall not:
- 4.3.1 be entitled (unless such person is or becomes entitled to be a holder of a Disabled Persons Badge) to be granted a Residents Parking Permit in respect of the Unit; or
- 4.3.2 be entitled to enter into a contract (other than individual contracts for one occasion) with the Council to park a Motor Vehicle in any car park controlled by the Council
- 4.4 That all material used for advertising or marketing the Unit for letting or sale shall notify prospective owners and occupiers that they will not be entitled to apply for a Residents Parking Permit or buy a contract to park within a car park owned or controlled by the Council (other than in the circumstances set out in paragraphs 4.3.1 and 4.3.2 above).
- 4.5 That in respect of every lease tenancy agreement licence or other disposition proposed to be granted or otherwise created by the Owner in respect of the Unit and which would entitle any person to be an Occupier of the Unit the Owner shall impose the following covenant (or a covenant of substantially the same nature) on the lessee tenant licensee or other donee in every lease tenancy agreement licence or other disposition namely:
- “the lessee for himself and his successors in title being the owner for the time being of the terms of years hereby granted hereby undertakes with the lessor and separately with the Mayor and Burgesses of the Royal Borough of Richmond Upon Thames (“the Council”) not to apply for or knowingly permit an application to be made by any person residing in the premises to the Council for a Residents Parking Permit in respect of such premises and if a Residents Parking Permit is issued then it shall be surrendered within 7 days of written request to do so from the Council and this covenant shall be enforceable by the Council under the Contracts (Rights of Third Parties) Act 1999 Provided Always That these provisions shall not apply to a person who is the holder of a disabled persons badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 (or such other legislation as may supersede it and provide for the issue of disabled persons parking badges/permits).”*
- 4.6 Upon receipt of a written request from the Council to provide to the Council such information as the Council may reasonably require to enable it to be satisfied as to compliance with the provisions of this paragraph 4 of this Schedule.

IN WITNESS whereof with the intent that these presents should be executed as a deed the parties hereto have duly executed the same the day and year first before written

EXECUTED AS A DEED by

ALLAN MICHAEL FROST

In the presence of:



Witness signature



Witness name

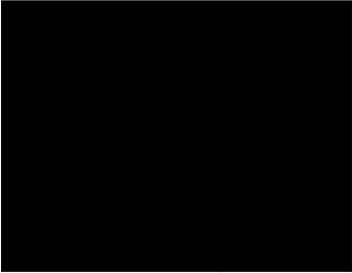
James Hickman

Witness address



EXECUTED AS A DEED by
ELZABETH ANN FROST

In the presence of:



Witness signature



Witness name

James Hickman

Witness address



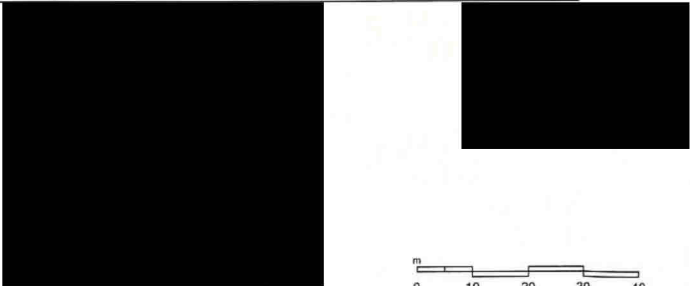


1 OS Map 1:1250



2 Aerial map

Key:
 Site Boundary ———
 Trees Survey ———
 Site Area = 920 m²



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Figured dimensions only are to be taken from this drawing. All dimensions are to be checked on site before any work is put in hand. Where applicable this drawing must be read in conjunction with additional information prepared by Fletcher Crane Ltd and/or others.

Rev	Description	Drawn	Checked	Date

Client's name		Liz & Allan Frost	
Scale		1:1250 @ A3	
Drawn	Checked	Date	
		05/02/2021	

Job title		Hampton Wick High Street	
Drawing title		Location Plan	
Job No	Drawing No	Status	Rev
1911	TP(00)01	PLANNING	

FLETCHER CRANE ARCHITECTS

