

DATED

5<sup>th</sup> March

2013

BY WELWYN HATFIELD BOROUGH COUNCIL  
(the Owner)

IN FAVOUR OF

HERTFORDSHIRE COUNTY COUNCIL  
(the County Council)

UNILATERAL UNDERTAKING

Pursuant to Section 106 Town and Country Planning Act 1990  
(as amended by the Planning and Compensation Act 1991)

relating to

Land at Splashlands, Stanborough Road  
Welwyn Garden City  
Hertfordshire

THIS DOCUMENT IS A COPY OF THE ORIGINAL WHICH IS A TRUE COPY OF THE ORIGINAL  
DATE: 15<sup>th</sup> OF March 2013  
BY: [Signature] / [Name]  
FOR: WELWYN HATFIELD BOROUGH COUNCIL  
THE COUNCIL OFFICE, THE CAMPUS  
WELWYN GARDEN CITY, HERTS AL9 8AE

THIS UNILATERAL UNDERTAKING is made the [**\*\* Fifth**] day of **March** 2013 by:

- (1) WELWYN HATFIELD BOROUGH COUNCIL of Council Offices, The Campus, Welwyn Garden City, Hertfordshire, AL8 6AE ("the **Owner**")

In favour of

- (2) Hertfordshire County Council of County Hall, Pegs Lane, Hertford, SG13 8DE ("the **County Council**")

#### WHEREAS

- (1) The County Council is the Local Planning Authority for the purposes of the 1990 Act (as hereinafter defined) for the area within which the Land (as hereinafter defined) is situate and as such is the local planning authority entitle to enforce the planning obligations hereinafter recited
- (2) The County Council is also the Highway Authority for Hertfordshire
- (3) The Owner made a planning application numbered Ref. N6/2010/3120/DC3 ("the Application") for permission under the 1990 Act for the Development (as hereinafter defined)
- (4) The Owner is the freehold owner in possession of land under a Conveyance dated 25 October 1972 and made between Commission For New Towns (1) and The Urban District Council of Welwyn Garden City (2) for the purpose of identification edged red and excluding the area hatched black on plan 1 annexed hereto (hereinafter called "the Land") and known as land at Stanborough Park Stanborough Road Welwyn Garden City Hertfordshire

#### NOW THIS DEED WITNESSES

1. In this Unilateral Undertaking unless the context otherwise requires
  - 1.1 Words denoting any one gender only include any other genders and may be used interchangeably and words denoting natural persons include firms companies and corporations and vice versa

- 1.2 The singular includes the plural and vice versa
- 1.3 Any reference to a statute (whether or not specifically named) shall include any statute amending consolidating or replacing the same and for the time being in force and a reference to a statute includes all statutory instruments orders plans regulations bylaws permissions and directions for the time being made issued or given or deriving validity pursuant to the same and any amendments thereto or replacements thereof
- 1.4 Reference to a clause or sub-clause or schedule or paragraph or sub-paragraph is to a clause or sub-clause or schedule or paragraph or sub-paragraph in this Unilateral Undertaking and any headings appearing in this Unilateral Undertaking are for reference only and shall not affect the construction hereof
- 1.5 The following expressions have the meanings set against them
- |                               |  |
|-------------------------------|--|
| "the 1990 Act                 | the Town and Country Planning Act 1990 as amended or replaced  |
| "Development"                 | means the redevelopment of the former Splashlands complex to include Phase One Development and Phase Two Development   |
| "Green Travel Plan"           | means a travel plan the objective of which is to promote the use of public transport and other means of travel including cycling and walking by making sustainable transport options more attractive when compared to access by car, in journey times, and convenience |
| Occupation of the Development | means Occupation for purposes pursuant to the Permission and the terms "Occupy" and "Occupied" shall be construed accordingly  |

"Phase One Development"	means the construction of high ropes adventure course, supporting ticket kiosk and clearance of former lido area shown edged and hatched red on plan 2 annexed hereto
"Phase Two Development"	means the redevelopment of former lido site to provide a wet play area, extension and refurbishment of existing toilet block to provide a cafe, education room, ticket office, landscaping, associated car park access and highway improvements shown edged yellow on plan 2 annexed hereto
"the Director"	the County Council's Chief Executive and Director of Environment for the time being which expression shall be deemed to include his servants officers agents or licensees
"SPONS Index"	means the index linked by reference to the price adjustment formula for construction contracts in the monthly bulletin of indices published by Her Majesty's Stationary Office as collated into a single index known as the SPONS Construction Civil Engineering Cost Index
"Sustainable Transport Contribution"	the sum of THIRTY THOUSAND POUNDS (£30,000) index linked as hereinafter provided as a contribution

towards real time bus service improvements within the vicinity of the Development or such other measures as will encourage users of the Development to travel to and from the Development by means of public transport which the Director in his absolute discretion determines will contribute to the improvement of highway conditions on parts of the network affected by traffic associated with the Development

“Implementation”

means the carrying out after the date of this Unilateral Undertaking on the Land of a material operation as defined in Section 56(4) of the 1990 Act and “Implement” and “Implemented” shall be construed accordingly

“the Permission”

such planning permission as is granted by the Council for the Development pursuant to the Application

“Wayleaves”

means the wayleaves disclosed in Schedule Two

2. The covenants in this Unilateral Undertaking shall come into effect on the date of this Unilateral Undertaking
3. Whenever any party is more than one person and where more than one party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individually
4. Words denoting an obligation on any party to this Unilateral Undertaking to do an act matter or thing include an obligation to procure that it be done and words placing any party under a restriction include an obligation not to permit or allow infringement of the restriction

PLAN 1



OVERALL MASTERPLAN  
Scale - 1:200

23,927



*PD*  
MAYOR  
*Paul Russell*  
Authorised Officer

PLANNING

- General notes
1. ALL DIMENSIONS ARE IN METRES UNLESS OTHERWISE STATED.
  2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.
  3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.
  4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.
  5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE STATED.

**WELWYN  
HATFIELD  
BOROUGH COUNCIL**



STANBROUGH PARK  
SQUASH CLUBS  
2012

OVERALL MASTERPLAN

Scale	Date	Drawn	Check	Approved	Date
AS SHOWN	11/01/12	...	...	...	...
AS SHOWN	11/01/12	...	...	...	...
AS SHOWN	11/01/12	...	...	...	...

# PLAN 2

KEY



PHASE 1

PHASE 1 WORKS

- DEVELOPMENT & CONSTRUCTION OF HIGH ROBES COURSE.
- SITE CLEARANCE AND RECLAMATION OF FORMER LIDO SITE AND RESTORE TO PUBLIC OPEN SPACE.



PHASE 2

PHASE 2 WORKS

- DEVELOPMENT & CONSTRUCTION OF THE WATER PLAY PARK
- UPGRADING PROVISIONS OF THE CAR PARK AND ACCESS ROADS
- UPGRADING OF EXISTING HIGHWAYS JUNCTION



PHASING REQUIREMENTS PLAN  
SCALE - 1:1000

- GENERAL NOTES
1. DO NOT SCALE. ALL DIMENSIONS ARE IN METRES
  2. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL OTHER RELEVANT CONTRACT DRAWINGS
  3. THE CONTRACTOR SHOULD SITE CHECK ALL EXISTING DIMENSIONS SHOWN. ANY DISCREPANCIES ON THIS DRAWING BY THE CONTRACTOR SHOULD BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO CONSTRUCTION
  4. THE CONTRACTOR SHALL CONFORM TO ALL STATUTORY REQUIREMENTS CHECKING WITH THE CONTRACTOR TO FULLY COMPLY WITH ALL RELEVANT ACTS THAT ARE CURRENTLY IN FORCE.
  5. EXCAVATIONS ETC. TO BE APPROVED BY THE CONTRACTOR.

PLANNING

Reproduction from Ordnance Survey Digital Data by permission of Ordnance Survey © as indicated at the Controller of Her Majesty's Stationery Office. © Crown Copyright. All Rights reserved. Publication number 100017862.



MAYOR  
*Robert B... ..*  
Authorised Officer

REV	DESCRIPTION	BY	CHK	APP	DATE
-----	-------------	----	-----	-----	------



WELWYN BUILDING, LAKE VIEW  
LAKE VIEW DRIVE,  
SHERWOOD BUSINESS PARK,  
ANNESLEY, NOTTINGHAMSHIRE  
NG15 0ED  
TEL: +44 (0)1823 894 530  
e-mail: wch@wch.gov.uk



Project:  
STANBOROUGH PARK  
SPLASHLANDS  
2012

Drawing Title:  
PHASING REQUIREMENTS PLAN

Scale @	A1	Drawn	Date	Checked	Date	Approved	Date
1:1000	ATP	16.11.12	GP	16.11.12	SP	16.11.12	
Project No.	A067207-S	Office	51	Type	C	Drawing No.	1004
Revision							

5. Covenants in this Unilateral Undertaking falling within the provisions of Section 106 of the 1990 Act are planning obligations to which the section shall apply and are enforceable without any limit of time by the County Council
6. The covenants restrictions stipulations and obligations contained in this Unilateral Undertaking shall be enforceable without any limit of time against the Owner and any successors in title of the Owner or any person deriving title under or through the Owner to the Land or any part thereof as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person
7. No waiver (whether express or implied) by the County Council of any breach or default in performing or observing any of the covenants restrictions stipulations or obligations contained in this Unilateral Undertaking shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing any such covenants restrictions stipulations or obligations or from acting upon any subsequent breach or default
8. If any provision in this Unilateral Undertaking shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected or impaired
9. Any notice certificate or other written communication required to be served under the terms of this Unilateral Undertaking shall be served on a party by Special Delivery post during the County Council's business hours of 10.00 am to 4.00 pm on a Working Day to the party's last known address or such other address as shall be notified in writing and delivered by Special Delivery post from time to time
10. This Unilateral Undertaking shall be registered as a local land charge by the County Council
11. Any proper reasonable expense incurred by the County Council for which the Owner is liable under this Unilateral Undertaking is recoverable by the County Council as provided by Section 291 of the Public Health Act 1936 and in particular such expenses and interest accrued thereon shall until received be a charge on the Land and on all estates and interests therein
12. The Owner covenants that:
  - 12.1 it is the freehold owner of the Land



- 12.2 the Land is free from all encumbrances material to this Unilateral Undertaking save for the Wayleaves
13. The Owner hereby further covenants with the County Council with the intention of binding the Land and each and every part thereof and to whosoever hands the same may come
- 13.1 to observe and perform the covenants and obligations contained in the Schedule One hereto
- 13.2 to pay the County Council's reasonable costs in the preparation hereof on the execution of this Unilateral Undertaking
- 13.3 to give to the County Council no less than 5 Working Days prior written notice of an intention to
- (i) Implement the Permission
  - (ii) Implement the Phase One Development
  - (iii) Implement the Phase Two Development
  - (iv) Occupy the Development
14. Without prejudice to the County Councils' statutory rights the Owner hereby grants to the County Council or any person duly authorised or instructed by it an irrevocable licence at all reasonable times to enter the such parts of the Land to inspect any of the works to be carried out for the purposes of the Development and any materials to be used in carrying out those works and for any other purpose directly or indirectly connected with or contemplated by this Unilateral Undertaking
15. This Unilateral Undertaking shall be governed by the Laws of England and Wales
16. The Owner further covenants that:
- 16.1 If prior to receipt of the Sustainable Transport Contribution the County Council incurs any expenditure in providing relevant facilities the need for which arises from or in anticipation of the Development then the County Council may following receipt of any of the said contributions deduct from them such expenditure incurred
- 16.2 where any sum to be paid by the Owner under the terms of this Unilateral Undertaking is required to be index linked then payment shall be made using the latest available forecast figure (or figures as the case

may be) at the date of payment and any payment or payments by way of adjustment shall be made within 14 days of demand by the County Council

- 16.3 The Sustainable Transport Contribution shall be index linked to movements in the SPONS Index from the *5 March 2013* to the date on which the Sustainable Transport Contribution is paid
17. The Provisions of the Contracts (Rights of Third Parties) Act 1999 are excluded from this Deed with the result that nothing in this Unilateral Undertaking confers or purports to confer any right to enforce any of the terms and provisions contained herein on any person who is not a party hereto nor a statutory successor to the Council and/or the County Council

### **SCHEDULE ONE**

#### **The Owner's Covenants Restrictions Stipulations and Obligations**

The Owner hereby covenants with the County Council as follows:

#### **1. Sustainable Transport Contribution**

- 1.1 To pay the Sustainable Transport Contribution to the County Council prior to Implementation of the Phase Two Development
- 1.2 Not to Implement the Phase Two Development until the Sustainable Transport Contribution has been paid in accordance with paragraph 1.1 of this Schedule One

#### **2. GREEN TRAVEL PLAN**

##### **(a) Implementation of Green Travel Plan**

At least two (2) months prior to the Occupation of the Development the Owner shall submit a Green Travel Plan to the County Council for its approval.

- (i) The Owner shall not Occupy the Development until such time as the Green Travel Plan has been approved in writing by the County Council.
- (ii) The Owner covenants with the County Council to implement and observe the requirements and obligations set out in the Green Travel

Plan (or such amended plan as may be agreed from time to time in writing by the County Council) at all times for the duration of the Development and that if it or its successors in title Occupy the Land or any part of the Land pursuant to the Development it or they will implement the approved Green Travel Plan relating to the Land or that part of the Land and shall use reasonable endeavours to achieve the targets set therein

- (iii) That it will in relation to the Land include in any tenants lease or occupiers licence or any part or parts of the Land a covenant that the tenant or occupier will implement the Green Travel Plan for such part or parts of the Land once it has been approved by the County Council and further that it will use all reasonable endeavours to enforce such obligation against any such tenant or occupier
- (iv) Within twenty (20) working days of the letting of the Land or any part or parts thereof it will procure the delivery to the County Council of a notice giving the following details

- (i) the name and address of the tenant

- (ii) a description of the land demised

- (iii) the length of the term and

- (iv) a sufficient extract of the lease setting out the terms of the covenant expressed in favour of the County Council in relation to the Green Travel Plan

(b) Travel Plan Co-ordinator

- (i) The Owner shall not Occupy the Development until such time as it has appointed a travel plan co-ordinator and notified the County Council of such appointment in writing.

- (ii) The travel plan co-ordinator shall monitor and review the working of the Green Travel Plan in accordance with the requirements set out in the Green Travel

Plan and shall submit annual reports to the County Council in respect of such monitoring.


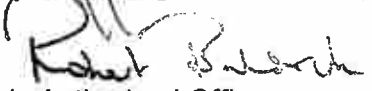
- (iii) The Owner shall maintain the position of Travel Plan Co-ordinator at all times whilst the Development is Occupied and shall notify the County Council in writing of any newly appointed travel plan co-ordinator no later than seven (7) days of their appointment.

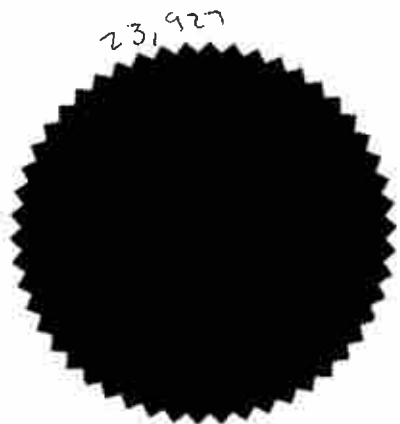
**SCHEDULE TWO**

- 1. Wayleave dated 13 November 1970 in favour of Eastern Electricity Board
- 2. Wayleave dated 19 May 1997 in favour of British Telecommunications plc
- 3. Agreement dated 27 May 2004 in favour of EDF Energy Networks EPN plc

IN WITNESS whereof the Owner has duly executed this Deed as a deed and delivered the day and year first before written

EXECUTED AS A DEED BY )  
AFFIXING THE COMMON SEAL OF )  
WELWYN HATFIELD BOROUGH )  
COUNCIL as Owner in the presence of: )

Mayer   
  
Duly Authorised Officer



## Kim Jeffries

---

**From:** Diane Dennis  
**Sent:** 11 March 2013 15:14  
**To:** Paul Underwood; Sarah Smith  
**Cc:** 'stefan.morgan'; Kim Jeffries  
**Subject:** S106 Unilateral - Splashlands

Dear All, just to confirm the agreement was completed on 5 March 2013. Copies of the agreement are with planning and Land Charges. Legal will keep the original if at any time you need to view the documents.

Kind regards

*Diane Dennis*  
*Principal Conveyancing Officer*  
*Legal Services*  
*Welwyn Hatfield Borough Council*  
*Tel. 01707 352359*