GUIDANCE NOTES FOR APPLICANTS

Unilateral Undertaking for the payment of Biodiversity Net Gain Monitoring Fees

Where the Council intends on issuing a planning permission which secures land within a development site for the purposes of Biodiversity Net Gain the applicant will be asked to enter into a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended). These notes are intended to assist you in completing this document. They do not constitute legal advice. If you have any concerns about the implications of proceeding further you should obtain independent legal advice.

To provide an effective undertaking and enable your application to be determined you must:

1) Obtain a copy of the land ownership register and title plan relating to the land subject to the application. This can be obtained from H M Land Registry via the Government property search page at https://www.gov.uk/search-property-information-land-registry
2) Update the standard form agreement to include:
    a. The full name and address of each person listed as a "registered proprietor" in the title register document obtained from the Land Registry.
    b. The full company name of any mortgage company listed in the "charges register" section of the title register document.
    c. Remove any parties in the standard form unilateral undertaking which are not shown in the title register (such as any second owner or mortgage company).
    d. Remove any wording or clauses in square brackets from the Background Section ((A) through to (E)) which do not apply.
    e. In the Agreed Terms section insert the description of the land from the Land Registry register in the definition of "Land" and the title number (shown at the top of the Land Registry document starting "NK….").
    f. Update the definition of "Owner" to remove reference to the "Second Owner" if there is only one owner on the Land Registry documents.
    g. Insert the description of the development from the planning application and the reference number in the definition of "Planning Application".
    h. At clause 6 of the document remove the "Mortgagee Consent" clause if you do not have a mortgage.
    i. At the end of the document select the appropriate signature clauses and update accordingly. If you have a mortgage company ask them for their standard signature clause. They will also need to sign the document.
3) submit the document with the Land Registry documents to the planning officer dealing with your application for approval.
4) Once approved print the document and attach a copy of the application site location plan showing the development land edged red. Arrange for the document to be signed by all of the parties (see signing instructions below).

5) Once signed date the document and return to the Council to enable the planning permission to be issued.

Signing Instructions and guidance

Individuals

If you are an individual you should sign the document in the presence of an independent, unrelated witness who should also sign and add his or her own name, address and occupation where indicated.

The witness does not need to know the contents of the document but must be present when you sign.

The witness must not be related to you or to the transaction. A neighbour or other unrelated person would be a suitable witness.

Companies

Execution should be by two directors or a director and a secretary of your company. If you are the sole director of the company please use the Option 2 signatory clause and comply with the guidance under “Individuals” above in relation to witnesses.

Mortgage Companies

Please incorporate the standard execution clause used by your company if this has not already been done. Please also provide any power of attorney referred to.