



**Registration of a Charge**

Company name: **THE WAYSIDE PROPERTY COMPANY LIMITED**

Company number: **08045063**



X8561PPM

Received for Electronic Filing: **10/05/2019**

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**Details of Charge**

Date of creation: **30/04/2019**

Charge code: **0804 5063 0003**

Persons entitled: **NEIL UTLEY AND DAVID SMITH**

Brief description: **WAYSIDE, WOODHAM WALTER, MALDON, ESSEX, CM9 6RW - TITLE  
NUMBER EX876500.**

**Contains negative pledge.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ADAM JONES, PARTNER, BIRKETTS LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 8045063

Charge code: 0804 5063 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th April 2019 and created by THE WAYSIDE PROPERTY COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th May 2019 .

Given at Companies House, Cardiff on 13th May 2019

The above information was communicated by electronic means and authenticated  
by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED

30<sup>th</sup> April

2019

**THE WAYSIDE PROPERTY COMPANY LIMITED (1)**

**NEIL UTLEY and DAVID SMITH (2)**

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**LEGAL CHARGE**

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Relating to

Wayside, Woodham Walter, Maldon, Essex CM9 6RW

**Birketts**

THIS LEGAL CHARGE is made on

30 April

2019

BETWEEN

- (1) **THE WAYSIDE PROPERTY COMPANY LIMITED** (Company Registration Number 08045063) whose registered office is at The Warren Golf & Country Club Limited, Woodham Walter, Maldon, Essex CM9 6RW (the **Mortgagor**); and
- (2) **NEIL UTLEY** of Larkins Farm, 199 Nine Ashes Road, Ingatestone, Essex CM4 0JY and **DAVID SMITH** of 35 Hillhouse Drive, Billericay, Essex CM12 0BA (together the **Mortgagee**).

NOW THIS DEED WITNESSES as follows:

**Recitals:**

- (A) Under this deed, the Mortgagor provides security to the Mortgagee for all its present and future obligations and liabilities to the Mortgagee under the Loan Agreement (defined below).
- (B) The Mortgagor is the owner of the Mortgaged Premises.
- (C) This charge provides security which the Mortgagor has agreed to give the Mortgagee for the Secured Sums.

**1. Definitions**

In this charge, unless the context otherwise requires:

- 1.1 'the **Act**' means the Law of Property Act 1925;
- 1.2 'the **Debt**' means the sum of £450,000 loaned by the Mortgagee to the Mortgagor under the Loan Agreement together with all interest, costs, charges and expenses under the Loan Agreement;
- 1.3 'the **Expenses**' means all interest, commission, fees and legal and other costs charges and expenses which the Mortgagee or any receiver may charge or incur in relation to the Mortgagor or this charge and the preparation negotiation and creation of this charge or in relation to the Mortgaged Premises and/or breach of any provision of, and the protection realisation or enforcement of, this charge in each case on a full indemnity basis;
- 1.4 'the **Indebtedness**' means any obligation to pay or repay money, present or future, whether actual or contingent, sole or joint and any guarantee or indemnity of any of

those obligations;

- 1.5 'the **Loan Agreement**' means the term loan facility agreement between the Mortgagee and the Mortgagor dated on or about the date of this Deed;
- 1.6 'the **Mortgaged Premises**' means the freehold property known as Wayside, Woodham Walter, Maldon, Essex CM9 6RW, registered at HM Land Registry with title number EX876500, together with all fixtures in or about it, and all and every interest in it or in the proceeds of sale of it the Mortgagor may charge at law or in equity;
- 1.7 'the **Secured Sums**' means the means the Debt, the Expenses and all present and future monies, obligations and liabilities of the Mortgagor to the Mortgagee, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with this deed, together with all interest (including, without limitation, default interest);
- 1.8 'the **Security Period**' means the period starting on the date of this charge and ending on the date on which the Secured Sums have been unconditionally and irrevocably paid and discharged in full and no further Secured Sums are capable of being outstanding; and
- 1.9 the expression 'the **Mortgagor**', where the context so admits, includes the person for the time being entitled to redeem this security and the expression 'the **Mortgagee**', where the context so admits, includes its successors in title and assigns.

## **2. Covenant to pay**

The Mortgagor covenants with the Mortgagee that as and when the Secured Sums or any part of them are due for payment the Mortgagor shall pay to the Mortgagee the Secured Sums or as the case may be the part of them due by direct debit or such other method as the Mortgagee requires.

## **3. Charge**

The Mortgagor with full title guarantee charges the Mortgaged Premises by way of legal mortgage as a continuing security to the Mortgagee with the payment of all money covenanted to be paid by the Mortgagor under this charge.

#### **4. Covenants by Mortgagor**

The Mortgagor covenants with the Mortgagee to observe and perform the restrictions and obligations set out below:

##### **4.1 *Repair***

The Mortgagor must keep the Mortgaged Premises in a good state of repair and in good working order and condition and renew and replace the fixtures and fittings about the Mortgaged Premises when they become obsolete, worn out or destroyed.

##### **4.2 *Payment of outgoings***

The Mortgagor must pay all rents, rates, taxes, levies, assessments, impositions and outgoings whether governmental, municipal or otherwise that may be imposed upon or payable in respect of the Mortgaged Premises as and when they become payable and on demand must produce the receipt for such payments.

##### **4.3 *Mortgagee's right of inspection***

The Mortgagor must permit the Mortgagee to enter upon all buildings, erections or structures forming part of the Mortgaged Premises, without prejudice to the powers conferred by this charge and without becoming a mortgagee in possession, for any reasonable purpose and to view the state of the same.

##### **4.4 *Not to alter buildings etc***

The Mortgagor must not, without the previous consent in writing of the Mortgagee such consent not to be unreasonably withheld or delayed, or otherwise than in accordance with plans, elevations and specifications previously submitted to and specifically approved by the Mortgagee in writing, make any alterations to any buildings, erections or structures fixed plant or machinery fixtures or fittings for the time being forming part of the Mortgaged Premises or put up or erect any new buildings.

##### **4.5 *Observance of covenants and compliance with notices***

4.5.1 The Mortgagor must observe and perform all covenants, conditions, agreements or obligations on its part to be observed and performed contained in any lease under which the Mortgaged Premises are held by the Mortgagor and enforce observance and performance of the landlord's covenants in any such lease.

4.5.2 If the Mortgagor receives any notice served under section 146 of the Act or any proceedings are commenced for forfeiture of any such lease or any superior lease or the landlord or any superior landlord attempts to

re-enter under the provisions of such lease, it must give immediate notice in writing to the Mortgagee and at the request of the Mortgagee at the expense of the Mortgagor must take such steps as the Mortgagee may require.

#### **4.6      *Insurance***

The Mortgagor must insure and keep insured (or where, in the case of leasehold property, insurance is responsibility of the landlord under the terms of any lease, either procure that the landlord insures and keeps insured, or if and to the extent the landlord does not do so, itself insure and keep insured) the Mortgaged Premises, in the joint names of the Mortgagor and the Mortgagee or with the interest of the Mortgagee endorsed on the policy of insurance, against loss or damage, to their full insurable value in a manner approved by the Mortgagee, and if so required must deposit with the Mortgagee every such policy of insurance and the receipt for the latest premium payable under such policy.

#### **4.7      *Proceeds from insurance claims***

The Mortgagor must ensure that all money payable under any insurance in respect of loss or damage to the Mortgaged Premises, whether effected or maintained pursuant to the covenants contained in this charge or otherwise, shall be paid to the Mortgagee or, if it is paid to the Mortgagor, must hold all money received on trust for the Mortgagee to be applied in making good the loss or damage in respect of which the money is received or, if the Mortgagee so requires, in or towards the discharge of the Secured Sums.

#### **4.8      *Observance of terms of conveyances etc***

The Mortgagor must observe and perform the terms of all conveyances, grants, assignments, contracts, agreements and other deeds and documents from time to time affecting the Mortgaged Premises and binding upon the Mortgagor.

#### **4.9      *Observance of Acts of Parliament***

The Mortgagor must observe any and every enactment, including every Act of Parliament already or subsequently to be passed, relating to or affecting the Mortgaged Premises or any development or the use of the Mortgaged Premises for any purpose or the employment of persons in the Mortgaged Premises, and must execute all works and provide and maintain all arrangements that any authorised person, authority or body recommends, directs or requires should be executed, provided or maintained at any time.

#### **4.10     *Creation of other mortgages etc***

The Mortgagor must not without the prior written consent of the Mortgagee, create or permit to subsist any mortgage, pledge, charge, encumbrance, lien or security interest in the Mortgaged Premises other than this security.

**4.11**     *Sale etc of Mortgaged Premises*

The Mortgagor must not sell or dispose of the Mortgaged Premises or any estate or interest in them or share or part with possession or occupation of them.

**4.12**     *Perfection of security*

The Mortgagor must execute and do all such assurances and things as the Mortgagee may require for perfecting this security, preserving the Mortgaged Premises, facilitating the realisation of the Mortgaged Premises in such manner as the Mortgagee may think fit and directs, and exercising all powers, authorities and discretions conferred by this charge or by law on the Mortgagee or any receiver appointed by it.

**4.13**     *Payment of costs etc*

The Mortgagor must pay on demand, on the footing of a full indemnity by the Mortgagor from and against them, all costs, charges and Expenses, whether in the nature of income or capital, incurred by the Mortgagee or by any receiver appointed by it in or in connection with the exercise of any powers conferred by this charge or by statute, or that they or either of them incur in or in connection with the recovery or attempted recovery of the Secured Sums or the preservation or attempted preservation of this security or of the Mortgaged Premises and the remuneration of any receiver.

**5.        Statutory powers**

**5.1**        The statutory powers conferred upon the Mortgagee as varied and extended by this charge and all other powers conferred in this charge shall in favour of any purchaser, as defined in section 205 of the Act, or person dealing in good faith be deemed to arise and be exercisable immediately after the execution of this charge.

**5.2**        The Mortgagor shall not exercise any of the powers of leasing or accepting surrenders of leases conferred by sections 99 and 100 of the Act or by common law without the consent in writing of the Mortgagee previously obtained but the Mortgagee shall be entitled to grant or accept surrenders of leases without restriction after the power of sale has become exercisable.

**5.3**        The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to this security



## **6. Enforcement of security**

### **6.1 Powers to be exercisable without restrictions**

Section 103 of the Act shall not apply to this security. Failing payment of the Secured Sums as and when they become due or other breach of the covenants and conditions on the Mortgagor's part contained in this charge, this security shall become enforceable and the powers conferred upon the Mortgagee by the Act and this charge immediately exercisable without the restrictions contained in the Act as to the giving of notice or otherwise with respect to the whole or any part of the Mortgaged Premises.

### **6.2 Appointment of receiver**

6.2.1 At any time after this security has become enforceable or if at any time the Mortgaged Premises appear to the Mortgagee acting reasonably to be in danger of being taken in execution by any creditor of the Mortgagor or to be otherwise in jeopardy, the Mortgagee may by writing under the hand of any officer of the Mortgagee and without notice to the Mortgagor:

6.2.1.1 appoint any person, whether an officer of the Mortgagee or not, to be a receiver of the Mortgaged Premises or any part of them, and

6.2.1.2 remove any such receiver whether or not appointing another in his place.

6.2.2 None of the restrictions imposed by the Act in relation to the appointment of receivers or as to the giving of notice or otherwise shall apply.

6.2.3 Any receiver so appointed shall, in addition to the powers conferred by the Act, have power at his discretion, to such extent and upon such terms and conditions as he may in his absolute discretion think fit and without being responsible for any loss or damage that may arise or be occasioned:

6.2.3.1 to take possession of, collect and get in the Mortgaged Premises or any part of them;

6.2.3.2 to repair, insure, protect, improve, enlarge, develop, build on, reconstruct or replace the Mortgaged Premises or any part of them or to acquire by purchase lease or otherwise any further property assets or rights;

- 6.2.3.3 to dispose or concur in disposing of the whole or any part of the Mortgaged Premises, or to let, or surrender or accept surrenders of any lease or concur in letting or surrendering or accepting surrenders of any lease of the whole or any part of the Mortgaged Premises, and in particular but without prejudice to the generality of the above, to carry such disposal, letting or surrender into effect by conveying, transferring, leasing, letting, surrendering or accepting surrenders in the name or on behalf of the Mortgagor or otherwise;
- 6.2.3.4 to exercise all the powers conferred on the Mortgagor by any statute, deed or contract in respect of any part of the Mortgaged Premises;
- 6.2.3.5 to make any arrangement or compromise in respect of the rights of the Mortgagor;
- 6.2.3.6 to appoint employ or dismiss managers, officers, contractors or agents;
- 6.2.3.7 to raise or borrow money upon the security of the Mortgaged Premises from the Mortgagee or otherwise;
- 6.2.3.8 to retain his remuneration and all costs charges and expenses incurred by him out of any money received by him;
- 6.2.3.9 to do all such other acts and things as he may consider incidental or conducive to the exercise of any of the above powers; and
- 6.2.3.10 to do anything in relation to the Mortgaged Premises that he could do if he were absolutely entitled to them.

The receiver shall in the exercise of his powers conform to any regulations and directions made by the Mortgagee and shall not be responsible, nor shall the Mortgagee be responsible, for any loss occasioned as a result. A receiver appointed under this security shall be deemed to be the agent of the Mortgagor and the Mortgagor shall alone be responsible for his acts and defaults and shall alone be responsible for his remuneration.

### **6.3      *Exercise of receiver's powers by the Mortgagee***

At any time after this security has become enforceable and notwithstanding the

appointment of any receiver under it, the Mortgagee may at its discretion and without being responsible for any loss or damage that may arise in that connection and without any consent by the Mortgagor exercise any power which a receiver appointed by it could exercise.

#### **6.4     *Sale of mortgaged premises***

Where the Mortgaged Premises or any part of them are sold by the Mortgagee or any receiver appointed by it they may be sold either:

- 6.4.1       together or in parcels,
- 6.4.2       by public auction or private contract, and
- 6.4.3       for a lump sum, a sum payable by instalments or a sum on account and a mortgage or charge for the balance.

### **7.     Money arising on enforcement of security**

All money arising from the exercise of the powers of enforcement of the security constituted by or pursuant to this charge shall be applied in the following order of priority:

- 7.1     in payment or satisfaction of the costs, expenses and liabilities incurred in or about the exercise of such powers or otherwise in relation to this charge or the Mortgaged Premises including the remuneration of any receiver,
- 7.2     in payment of the interest remaining unpaid, and
- 7.3     in payment of all principal money, premiums or other sums comprised in the Secured Sums;

and any other surplus may be paid to the person so entitled. If the Mortgagee so determines payments may be made on account of such principal, premium or other sums before the interest or the whole of the interest on the Secured Sums has been paid, but such alteration in the order of payment of principal, premium and other sums and interest shall not prejudice the right of the Mortgagor to receive the full amount to which it would have been entitled if the ordinary order of payment had been observed or any less amount the sum ultimately realised from the security may be sufficient to pay.

### **8.     Power of attorney**

The Mortgagor irrevocably and by way of security appoints each of the Mortgagee and any person nominated for the purpose by the Mortgagee in writing under hand by the Mortgagee, including every receiver appointed by it, severally as attorney of

the Mortgagor, for the Mortgagor and in its name and on its behalf and as its act and deed to execute, seal and deliver and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing it ought to execute and do under the covenants, undertakings and provisions contained in this charge or that may be required or deemed proper in the exercise of any rights or powers under this charge or otherwise for any of the purposes of this security, and the Mortgagor covenants with the Mortgagee to ratify and confirm all acts or things made done or executed by such attorney as specified above.

**9. Liability of Mortgagee or receiver**

Neither the Mortgagee nor any receiver appointed by the Mortgagee shall by reason of the Mortgagee or any such receiver entering into possession of the Mortgaged Premises or any part of them be liable to account as mortgagee in possession or for anything except actual receipts or be liable for any loss upon realisation or for any default or omission for which a mortgagee in possession might be liable.

**10. Persons dealing with Mortgagee or receiver**

No person dealing with the Mortgagee or any receiver appointed by it, or with its or his attorney or agent, shall be concerned, bound or entitled to enquire or be affected by notice as to:

- 10.1 whether this security has become enforceable,
- 10.2 whether any power exercised or purported to be exercised by it or him has become exercisable,
- 10.3 the propriety or purpose of the exercise of any power under this charge,
- 10.4 whether any money remains due on the security of this charge, or
- 10.5 the necessity or expediency of the stipulations and conditions subject to which any disposition shall be made.

**11. Continuing security**

- 11.1 This security shall be a continuing security to the Mortgagee and shall not be considered as satisfied or discharged by any intermediate payment of the whole or part of the Secured Sums and shall be in addition and without prejudice to or affect any other mortgages, charges, securities, liens, remedies or guarantees whatsoever that may now or at any time subsequently be held for or in respect of the Secured Sums.
- 11.2 The Mortgagee may on receiving notice that the Mortgagor has encumbered the Mortgaged Premises close any account with the Mortgagor and open a new account

and, without prejudice to any right of the Mortgagee to combine accounts, no money paid in or carried to the Mortgagor's credit in any such new account shall be appropriated towards or have the effect of discharging any part of the amount due to the Mortgagee on any such closed account.

- 11.3 If the Mortgagee does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice and as from that time all payments made by the Mortgagor shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount due from the Mortgagor to the Mortgagee at the time when it received such notice.

## **12. Default by Mortgagor**

Without prejudice to any other rights and remedies of the Mortgagee and whether or not the Secured Sums have become due, if default is at any time made by the Mortgagor in the performance of all or any of the covenants contained in this charge it shall be lawful, but not obligatory, for the Mortgagee to perform them or to settle, liquidate or compound or contest any claim made against the Mortgagor and to pay all costs, expenses and damages occasioned as a result, with power in the case of the failure to repair buildings or to carry out any works or do any things in accordance with the covenants and obligations contained above to enter upon the Mortgaged Premises without being deemed in any of the above events to be mortgagee in possession by reason of such entry.

## **13. Indulgence**

The Mortgagee may at any time or times, without discharging or in any way prejudicing this security or any remedy of the Mortgagee under this charge, grant to the Mortgagor or to any other person time or indulgence or further credit, loans or advances, enter into any arrangement or variation of rights or abstain from perfecting or enforcing any remedies, securities, guarantees or rights it may now or subsequently have from or against the Mortgagor or any other person.

## **14. Demands and notices**

A demand or notice under this charge shall be made in writing signed by an officer of the Mortgagee and may be served on the Mortgagor either personally or by post. A demand or notice by post may be addressed to the Mortgagor at his address and a demand or notice so addressed and posted shall be effective notwithstanding that it is returned undelivered and notwithstanding the death or insolvency of the Mortgagor.

## **15. Representation and warranty**

The Mortgagor represents and warrants during the Security Period to the Mortgagee that the execution of this charge and the observance and performance of its obligations under this charge does not contravene any charge, mortgage, lease, loan facility or other agreement.

**16. Release**

On the expiry of the Security Period (but not otherwise), the Mortgagee shall, at the request and cost of the Mortgagor, take whatever action is necessary to release the Mortgaged Premises from the security constituted by this charge.

**17. Perfection of Security**

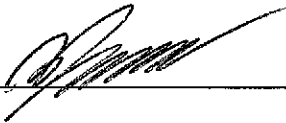
The Mortgagor consents to an application being made by the Mortgagee to the Land Registrar for the following restriction in Form P to be registered against its title to the Mortgaged Premises:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 30 April 2019 in favour of Neil Utley and David Smith referred to in the charges register or their conveyancer.

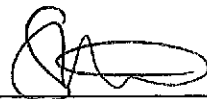
- 18.** To the extent that any action is required to be taken, notice is required to be given or any document is required to be agreed or signed by the Mortgagee, the Mortgagee shall be required to take such action, give such notice or agree and sign such document acting jointly and unanimously only.

IN WITNESS THEREOF the parties have executed this Legal Charge as a Deed the day and year first above written

Executed as a deed by a )  
director of **THE WAYSIDE** )  
**PROPERTY COMPANY** )  
**LIMITED** in the presence of:

  
\_\_\_\_\_

Witness signature

  
\_\_\_\_\_

Witness Name

Simon Munton

Witness Address

12 Cavendish Gardens, W-0-S, Essex, SS09 4XS

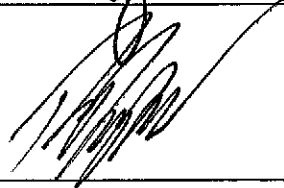
Witness Occupation:

FINANCE MANAGER.

Executed by **NEIL UTLEY**  
in the presence of:

)  
)  
)





Witness signature

Witness Name

Reece Dapson

Witness Address

29 Ilfracombe Avenue,  
SS13 2DR.

Witness Occupation:

Accountant

Executed by **DAVID SMITH**  
in the presence of:

)  
)  
)

Witness signature

Witness Name

Witness Address

Witness Occupation:

Witness Occupation:

Executed by **NEIL UTLEY**  
in the presence of:

Witness signature

Witness Name

Witness Address

Witness Occupation:

Executed by **DAVID SMITH**  
in the presence of:

Witness signature

Witness Name

Witness Address

Witness Occupation:



Reece Dopsan

29 16 Cracombe Avenue

SS13 2DR.

Accountant.