

Absence of Easements Insurance Policy

Schedule

Policy Number	LC181048924
Insured	HARPENDEN TOWN COUNCIL and successors in title to the Property including any mortgagee lessee or chargee of the Property or any part or parts thereof all of whom shall be bound by the terms of this policy
Commencement Date	29th October 2018
Period of Insurance	From the Commencement Date and continuing in perpetuity
Premium	£8,400.00 which includes Insurance Premium Tax of £900.00
Limit of Indemnity	£10,000,000.00
Property	Land Lying to the North of St James Road, Harpenden as registered at the Land Registry under title numbers HD498889 and HD518165 at the Commencement Date
Insured Use	The development and use of the Property as 16 residential dwellings and 8 residential flats with associated access road parking and landscaping pursuant to planning permission reference 5/2018/0474/SSM granted by Harpenden Town Council together with the exercise of the Easements in connection with such use of the Property
Easements	Use of the Servient Land for the purposes of: (a) pedestrian and vehicular access and egress at all times to and from the Property (b) the foul water drains and/or surface water drains / mains water supply / gas pipes / electricity and telecommunications cables and conduits serving the Property
Servient Land	The land shown for identification purposes only coloured blue on the Plan
Plan	



Contract

This policy is an insurance contract between the Insured and the Insurer

This policy is issued in accordance with the authorisation granted to Legal & Contingency Limited by Certain Underwriters at Lloyd's, London under a binding authority agreement with unique market reference (UMR) B6083C003412018

The Insured has paid or agreed to pay the Premium and in consideration the Insurer will provide the Insured with the insurance described in this policy during the Period of Insurance subject to the terms and conditions of this policy

This policy, the policy schedule and any endorsement attaching to this policy shall be read as one contract and any word or expression to which a specific meaning has been attached in either shall bear that meaning wherever it may appear

The contractual terms and conditions and other information relating to this contract will be in the English language

The Insured should read the documents carefully and check that the policy gives the Insured the insurance cover which is required. The Insured should also check that all the information provided to the Insurer is complete and accurate. The Insured must inform the Insurer immediately if any of the information provided is incomplete or inaccurate

Where any changes are sought to this policy after the Commencement Date, the Insured and their representatives will remain subject to the Disclosure and Fair Presentation of Risk obligations

Disclosure and Fair Presentation of Risk

1. At the Commencement Date and whenever amendments are made to this policy
 - (a) **where the Insured is a Consumer**
the Insured is under a duty to take reasonable care not to make a misrepresentation to the Insurer
 - (b) **where the Insured is a Non-Consumer**
the Insured is under a duty to make a fair presentation of the risk
2. Where failure to meet the obligations under 1. is due to non-disclosure or misrepresentation by the Insured which is deliberate or reckless the Insurer may:
 - (a) avoid this policy from inception and refuse to pay all claims; and
 - (b) retain all the Premium paid; and
 - (c) recover any amount already paid for any claims including costs and/or expenses
3. Where failure to meet the obligations under 1. is due to non-disclosure or misrepresentation by the Insured which is not deliberate or reckless this policy may be affected in one or more of the following ways depending on what the Insurer would have done if the Insurer had known about the facts which were not disclosed or misrepresented:
 - (a) if no cover would have been offered the Insurer may:
 - (i) avoid the policy from inception and refund the Premium; and
 - (ii) recover from the Insured any amount already paid for any claims including costs and/or expenses
 - (b) if the Insurer would have applied different terms to the cover the Insurer will have the option to treat this policy as if those different terms apply. The Insurer may recover any payments made on claims which have already been paid to the extent that such claims would not have been payable had such additional terms been applied
 - (c) if the Insurer would have charged the Insured a higher premium for providing the cover the Insurer has the option to charge the Insured the additional premium which the Insured must pay in full or reduce proportionately the amount to be paid on a claim
4. If any insured person, other than the Insured relying upon this clause, is responsible for a misrepresentation, or non-disclosure, the Insurer will invoke the remedies available to the Insurer as against that particular person as if a separate insurance contract had been issued to them leaving the remainder of the policy unaffected

Consumer: An individual who enters into the contract wholly or mainly for purposes unrelated to the individual's trade, business or profession

Non-Consumer: Any party that is not a Consumer

Signed on behalf of and with the authority of the Insurer

A handwritten signature in black ink, appearing to read 'S.S. La B...', is written over a circular stamp. The stamp contains the text 'LEGAL & CONTINGENCY LTD' around the perimeter and a small star at the bottom center.

.....
Date of signature **29 October 2018**

Insurer

Certain Underwriters at Lloyd's, London, One Lime Street, London EC3M 7HA further details of which are found on our website www.legal-contingency.co.uk

General Conditions

1. Communications relating to this policy

Except as otherwise provided in Claims Condition 1 of this policy, the Insured should communicate with Legal & Contingency Limited who act on behalf of the Insurer on matters relating to this policy but in any event the Insured and the Insurer shall have the right to communicate with each other directly

2. Disclosure of this Policy

The Insured (including any party authorised by them) must not disclose the existence of this policy without the prior written consent of the Insurer other than to their legal representatives or other professional advisers, or to:

- (a) prospective purchasers of the Property; or
- (b) lessees and tenants of the Property; or
- (c) chargees or mortgagees of the Property; and
- (d) any legal representatives or other professional advisers of the above

3. Protection for Mortgagees and Successors in Title

The Insurer shall not:

- (a) avoid the policy in respect of any Insured, or
- (b) deny liability to any Insured,

solely on grounds of an act, omission or misrepresentation committed or made by any other party unless such other party acted on behalf of, or with the knowledge of, or consent of, such Insured or such Insured had knowledge of the act, omission or misrepresentation prior to the Commencement Date

4. Waiver of Breach of Policy Condition

The Insurer will not exercise any right to deny liability under the policy in respect of an inadvertent breach of any term or condition of the policy provided that such breach does not prejudice the Insurer's rights and remedies under the policy or otherwise directly or indirectly result in a loss or increase the amount of any loss

5. Joint Insured Condition

Any party insured under this policy standing in the relation of parent company, subsidiary company, associated company, branch office or joint venture partner to each other will be deemed to be joint insured for the purposes of this policy and shall be jointly liable and responsible for any breach of any terms and conditions of this policy. If there is any inconsistency between this clause and any other term of this policy, this clause shall prevail

6. Applicable Law

In the UK the law allows both the Insured and the Insurer to choose the law applicable to the contract. This contract will be subject to the relevant law of England and Wales, Scotland, Northern Ireland, the Isle of Man or the Channel Islands depending upon where the Property is situated. If there is any dispute as to which law applies, it will be English law. The parties agree to submit to the exclusive jurisdiction of the English courts

7. Sanctions Law or Regulation

Notwithstanding any other terms of this policy, the Insurer will be deemed not to provide cover nor will the Insurer make any payment or provide any service or benefit to the Insured or any other party to the extent that such cover, payment, service, benefit and or any business or activity of the Insured or other such party would violate any applicable trade, economic or political sanctions law or regulation

8. Contracts (Rights of Third Parties) Act 1999

A person who is not an Insured has no right to rely upon or enforce any term or condition of this policy under the Contracts (Rights of Third Parties) Act 1999. No Insured may assign to any other person any right or cause of action in connection with the policy, without the prior written consent of the Insurer

9. Consent Requirements

Where the consent of the Insurer is required under the terms of this policy such consent will not be unreasonably withheld or delayed

Cover

Absence of Easements Indemnity

The Insurer shall indemnify the Insured in respect of Loss arising directly out of the absence or inadequacy of a legal right to exercise the Easements should the legal title owner of the Servient Land prevent or attempt to prevent the Insured from exercising the Easements for the purpose of the Insured Use during the Period of Insurance

Loss

The Insured's actual financial loss in respect of any or all of the following:

1. damages or compensation including costs and expenses awarded against the Insured by an Order
 2. whichever is the lesser of:
 - (a) the adverse difference in the Market Value being the amount on the Calculation Date that the Market Value without the benefit of the Easements which is the subject of a claim under this policy is less than the Market Value calculated on the assumption that the Property has the benefit of the Easements
 - or
 - (b) the cost of obtaining either:
 - (i) a legal right to use the Easements; and/or
 - (ii) comparable legal easements over under or through other land (including any associated costs of works) together with the adverse difference (if any) in the Market Value being the amount on the Calculation Date that the Market Value including the benefit of such comparable legal easement is less than the Market Value calculated on the assumption that the Property has the benefit of the Easements
 3. costs of and costs incidental to any works in respect of the Insured Use (including but not limited to architects' surveyors' and legal fees) incurred by the Insured or which the Insured is legally liable to pay under a contract made prior to the date of notification to the Insured of any proceedings relative to the Easements to the extent that such works are rendered abortive by an Order or any settlement or compromise approved in writing by the Insurer
 4. any sum paid to effect any compromise or settlement with the prior written consent of the Insurer
 5. the Defence Costs incurred by the Insurer or by the Insured with the Insurer's prior written consent
 6. all other costs and expenses incurred with the prior written consent of the Insurer
- subject to the terms of this policy, the policy schedule and any endorsement attaching to this policy

Exclusions

General

The Insurer shall not be liable to indemnify the Insured in respect of any loss or losses:

1. exceeding in the aggregate the Limit of Indemnity
2. arising from the use of the Property other than in accordance with the Insured Use
3. caused by the Insured or any persons authorised by the Insured
 - (a) communicating on any matter covered by this policy with any party who it is reasonable to believe is or may be entitled to take action against the Insured or cause a Loss to the Insured or who may have contact with any party who is entitled to take such action or cause such Loss without the prior written consent of the Insurer
 - (b) making application to the Land Registry or any court or the Upper Tribunal (Lands Chamber) in respect of any matter covered by this policy without the prior written consent of the Insurer
4. consisting of the cost of fines penalties punitive exemplary aggravated liquidated and multiple damages

Absence of Easements Indemnity

The Insurer shall not be liable in respect of any loss arising out of or contributed to by:

1. any application to register the Easements at the Land Registry without the prior written consent of the Insurer
2. exercise of the Easements other than in accordance with the Insured Use
3. the failure of the Insured to pay a reasonable proportion of the cost of maintaining or repairing any access way or service media used in the exercise of the Easements
4. the Insured or any party authorised by them obstructing any other party's use for whatever purposes of the Servient Land
5. the Insured or any party authorised by them undertaking works consisting of an alteration to the nature of the surface of an access way over land registered as Common Land or Town or Village Green
6. the local Highway Authority or other designated body serving a notice preventing the Servient Land or any part or parts being used other than as a public footpath, bridleway or restricted byway

Claims Conditions

1. Claims Notification

- (a) The Insured shall give written notice to the Insurer as soon as possible but in any event no later than 30 days after being aware of or receiving any information of any claim or loss or occurrence, or circumstances that may give rise to a claim or loss or occurrence for which there may be liability under this policy:
- (b) Such written notice shall:
 - (i) be given to The Claims Manager, Legal & Contingency Limited, 60 Fenchurch Street London EC3M 4AD or DX: 843 London/City; Email: claims@legal-contingency.co.uk; Tel: 020 7397 4343
 - (ii) provide full particulars of any such claim or loss or occurrence or circumstance
- (c) Upon receipt, the Insured shall immediately provide to the Insurer any court documents and/or other communications in respect of any claim or loss or occurrence, or circumstance that may give rise to a claim or loss or occurrence, for which there may be liability under this policy

2. Insured's Duties

- (a) Each and any Insured must not:
 - (i) make any admission compromise offer promise payment or indemnity without the prior written consent of the Insurer
 - (ii) incur any Defence Costs without the prior written consent of the Insurer; or
 - (iii) prejudice the Insurer's interests or its potential or actual rights of recovery
- (b) Each and any Insured will:
 - (i) give the Insurer such co-operation, information or assistance as the Insurer may reasonably require;
 - (ii) do and concur in doing and permit to be done all things reasonably practicable to minimise loss; and,
 - (iii) permit the Insurer at the Insurer's discretion and cost to use the Insured's name for the purposes of any action or proceedings in connection with a claim under this policy

3. Insurer's Rights

- (a) The Insurer may take any reasonable action which the Insurer considers necessary to prevent or minimise financial loss under the policy, including settlement with parties other than the Insured. Any such action will not be taken as any acceptance of liability under the policy or a waiver of any of the terms or conditions contained in this policy
- (b) The Insurer is entitled to decide how to settle or defend a claim brought against the Insured and the Insurer may carry out any proceedings in the name of the Insured. The Insurer has full discretion over the settlement, defence or conduct of any such claim or proceedings
- (c) The Insurer may at any time pay to the Insured in connection with any claim under this policy the Limit of Indemnity (less any sums already paid) or any lesser sum for which the claim against the Insured can be settled and upon such payment, the Insurer shall have no further liability to the Insured under this policy for such claim

In any event, the Insurer shall have no further liability to the Insured under the policy once the Limit of Indemnity has been exhausted
- (d) Upon the Insurer making any payment under this policy, the Insurer shall be subrogated to the extent of such payment to all of the Insured's rights of recovery. Each Insured must execute all documents required, and do everything necessary to secure and preserve such rights and to enable the Insurer to bring proceedings in the name of that Insured. Each Insured will not prejudice the Insurer's interests or its potential or actual rights of recovery, and will give the Insurer such information and co-operation as it may reasonably require
- (e) The Insurer shall be entitled to take legal proceedings, at the Insurer's expense and for the Insurer's benefit, but in the Insured's name, to recover from any other party any payment made under this policy

4. Arbitration

If any dispute shall arise between the Insurer and the Insured as to the amount(s) to be paid under this policy (liability being otherwise admitted) such dispute shall be referred to an arbitrator to be appointed by the parties in accordance with the Arbitration Act. Where any dispute is by this condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against the Insurer

5. Fraudulent Claims

If the Insured or anyone acting on behalf of the Insured makes a claim which is in any way fraudulent the Insurer will be entitled to refuse to pay the whole of the claim and recover any sums that the Insurer has already paid in respect of the claim

The Insurer may also notify the Insured that the Insurer will be treating this policy as having terminated with effect from the date of the fraudulent act

If the Insurer terminates this policy under this condition the Insured will have no cover under this policy from the date of termination and will not be entitled to any refund of premium

If the fraudulent act is carried out by or on behalf of an Insured and not by or on behalf of another Insured seeking to rely upon this policy, this condition should be read as if it applies only to a claim by the Insured carrying out the fraudulent act (or on whose behalf the fraudulent act has or is being carried out) and to the cover effected for that Insured alone and not to the policy as a whole

6. Other insurances

If at the time of a claim resulting in any loss under this policy the Insured has the benefit of any other insurance or indemnity covering the same loss the Insurer shall not pay more than its rateable proportion of such loss

Cancellation Rights

1. Insured's rights to cancel the policy

You may cancel the policy within 14 days of receipt by contacting Legal & Contingency Limited at 60 Fenchurch Street London EC3M 4AD (see our full contact details below)

The Insurer will cancel the policy and may, at their discretion, impose an administration charge of £50.00. There will be no refund of the Premium where you have benefited from the policy to facilitate a transaction or the drawdown of funding secured against the Property unless you can demonstrate why the policy was never required from the Commencement Date. If you cancel this policy after 14 days from receipt there will be no refund of Premium. If a refund is paid the Premium will be paid to the party who paid the Premium less our administrative charge

Notice:

If you cancel the policy you may be in breach of the terms of your mortgage or the terms for the sale of the Property

Where the policy has been taken out to cover multiple parties, any request to cancel the policy must include details of all parties requesting cancellation of their interest in the policy

You may therefore wish to seek legal advice prior to cancellation

2. The Insurer's rights to cancel the policy

- (a) If the Premium due under this policy has not been paid in accordance with the premium payment and settlement terms notified to the Insured or the Insured's insurance adviser who arranged the policy the Insurer will have the right to cancel this policy by notifying the Insured in writing either directly or via such insurance adviser giving 7 calendar days to pay the Premium or any part of the Premium that remains unpaid

In the event of cancellation under this clause the policy will be deemed to have never existed, i.e. will be void ab initio and the Insurer will have no liability to any party in connection with this policy

- (b) In the event of a loss or occurrence prior to the date of cancellation which gives rise to a valid claim under this policy, the full policy Premium will be payable to the Insurer and the Insurer will not deal with or pay any claims until the full policy Premium has been paid to the Insurer
- (c) In the event of cancellation of the policy due to reason of non-innocent or fraudulent misrepresentation or non-disclosure the Insurer may retain the Premium that has been paid

Definitions

Arbitration Act	The Arbitration Act 1996 or any subsequent statutes directly or indirectly amending consolidating extending replacing or re-enacting that statute including any orders regulations instruments or other subordinate legislation made under that statute
Calculation Date	The date the Order is granted or the date that the Insurer agrees in writing to settle a claim by the Insured in respect of loss in Market Value if sooner
Defence Costs	The reasonable and necessary legal and professional costs, charges, fees and expenses of taking, defending or settling any action relating to any matter(s) for which cover is provided by this policy
Market Value	The value of the Insured's interest in the Property as determined by a surveyor acting as an arbitrator who shall be appointed by agreement between the Insurer and the Insured or in the absence of agreement by the President or next most senior available officer of the Royal Institution of Chartered Surveyors who will have the power (with the right to take such further advice as may be required) to determine and appoint the appropriate person or to arrange such person's appointment
Order	A final order decision injunction or judgment from a court of competent jurisdiction relating to any matter(s) for which cover is provided by this policy

Legal & Contingency Limited Customer Commitment

Legal & Contingency Limited is authorised and regulated by the Financial Conduct Authority.

Complaints Procedure

Who to contact in the first instance - Many concerns can be resolved straight away therefore in the first instance please get in touch with your usual contact as they will generally be able to provide you with an immediate response to your satisfaction.

Our Contact Details

Legal & Contingency Limited
60 Fenchurch Street
London EC3M 4AD
DX: 843 London/City

Tel: 020 7397 4343 Fax: 020 7397 4344

Email: enquiries@legal-contingency.co.uk

Please quote the Policy Number and Property address.

If we cannot resolve your complaint straight away we will aim to resolve your concerns as soon as possible and we will keep you informed of progress while our enquiries are continuing. The majority of complaints we receive are resolved within four weeks of receipt.

If you are unhappy with our decision, regarding any complaint, you may be able take your complaint to Lloyd's. For further information please visit www.lloyds.com/complaints

The Financial Ombudsman Service - If we are unable to resolve your complaint to your satisfaction within eight weeks or if you remain dissatisfied following receipt of our final response letter you can ask the Financial Ombudsman Service to formally review your case. You must contact the Financial Ombudsman Service within six months of our final response.

The Financial Ombudsman Service can help with most complaints if you are:

- a consumer
- a business employing fewer than 10 persons that has an annual turnover or balance sheet that does not exceed €2 million
- a charity with an annual turnover of less than £1 million
- a trustee of a trust with a net asset value of less than £1 million.

If you are unsure whether the Financial Ombudsman Service will consider your complaint please contact them directly for further information.

You are entitled to contact the Financial Ombudsman Service at any stage of your complaint.

The Financial Ombudsman Service contact details are as follows:

Financial Ombudsman Service, Exchange Tower, London, E14 9SR

Telephone on 0800 023 4567 or 0300 123 9123 or e-mail complaint.info@financial-ombudsman.org.uk

This is a free and impartial service and will not affect your legal rights.

The website of the Financial Ombudsman Service can be found at www.financial-ombudsman.org.uk

Following this complaints procedure does not affect your legal rights.

Cancellation

Please see the Cancellation Rights section of the policy.

If you cancel the policy you may be in breach of the terms of your mortgage or the terms for the sale of the Property. You may therefore wish to seek legal advice prior to cancellation.

Making a Claim

If you think that you may have a claim under this policy, please be aware of the Conditions to this policy. Please write with details of the claim or loss or occurrence, or circumstance that may give rise to a claim or loss or occurrence, to the address stated in Claims Condition 1 enclosing a full copy of the policy document and coloured copies of any plans that attach to it as well as any court documents and/or other communications with any third parties.

Financial Services Compensation Scheme (FSCS)

The Insurer is covered by the FSCS. If the Insurer is unable to meet its obligations under this policy the Insured may be entitled to compensation. You may contact the FSCS on 0800 678 1100 or 020 7741 4100 for further details, or more information can be found at www.fscs.org.uk

Privacy Policy - How we will use your data

Legal & Contingency Limited is the controller and/or processor of any personal information provided to us (whether directly or through a solicitor, licensed conveyancer, legal executive or broker), or held by us in connection with the policies we issue.

The type of personal data collected and processed includes, but is not limited to, policy holder and potential policy holder names, contact details, policy details, addresses, and claims details.

We also collect information from a number of different sources for example: other third parties who provide a service in relation to your insurance policy or claim such as insurers, surveyors, claim handlers, witnesses, experts and expert's reports, counsel's opinions, claims services providers, publicly available sources such as internet search engines and social media sites, insurance industry fraud prevention and detection databases and sanctions screening tools.

We use and process your information in order to provide you with legal indemnity insurance services which may include providing insurance quotations, granting cover and issuing policies, claims handling and settlement of claims, verifying your identity and for preventing and detecting fraud. We may need to undertake checks using publicly available information in order to prevent fraud (using information held on the electoral roll, county court judgments, and bankruptcy or repossession orders).

We may disclose your information to the third parties listed below for the purposes described in this Privacy Policy:

- (i) the insurer that underwrites your policy
- (ii) third parties such as surveyors, claim handlers, experts, witnesses and other service providers for the purpose of providing you with legal indemnity insurance services and for the handling and settling of claims
- (iii) the appropriate regulatory or legal authorities if our legal, regulatory and/or professional obligations require us to do so.

We do not collect and store any personal information about people who visit our website, other than when you have voluntarily given us your details as part of a request for information about our products and services.

We will keep your personal information only for as long as is necessary for the purposes set out in this privacy notice i.e. the provision of legal indemnity insurance services, handling claims and to fulfil our legal and regulatory obligations.

You have a number of rights in relation to the information we hold about you, these include but are not limited to: the right to a copy of your personal information we hold; object to the use of your personal information; withdraw any permission you have previously provided and complain to the Information Commissioner at any time if you are not satisfied with our use of your information. For a full list of your rights please refer to the full Privacy Policy on our website.

Please note that there are times when we will not be able to delete your information. This may be as a result of fulfilling our legal and regulatory obligations or where there is a minimum, statutory, period of time for which we have to keep your information. If we are unable to fulfil a request, we will always let you know our reasons.

Your information is not transferred, stored or processed outside the European Economic Area. If we do transfer your data in such a way it will be to a country which is considered to have equivalent data protection laws or we have taken all reasonable steps to ensure the firm has suitable standards in place to protect your information.

We will only process personal data in accordance with the applicable data protection legislation.

For further information about how we use and process personal data and to view our full Privacy Policy including your rights please visit our website www.legal-contingency.co.uk

Index

Schedule 1
Contract 2
 Disclosure and Fair Presentation of Risk 2
 Insurer 3
General Conditions 4
 1. Communications relating to this policy 4
 2. Disclosure of this Policy 4
 3. Protection for Mortgagees and Successors in Title 4
 4. Waiver of Breach of Policy Condition 4
 5. Joint Insured Condition 4
 6. Applicable Law 4
 7. Sanctions Law or Regulation 4
 8. Contracts (Rights of Third Parties) Act 1999 4
 9. Consent Requirements 4
Cover 5
Loss 5
Exclusions 5
Claims Conditions 6
 1. Claims Notification 6
 2. Insured's Duties 6
 3. Insurer's Rights 6
 4. Arbitration 6
 5. Fraudulent Claims 7
 6. Other insurances 7
Cancellation Rights 7
 1. Insured's rights to cancel the policy 7
 2. The Insurer's rights to cancel the policy 7
Definitions 8
Customer Commitment 9
 Complaints Procedure 9
 Our Contact Details 9
 Cancellation 9
 Making a Claim 10
 Financial Services Compensation Scheme (FSCS) 10
 Privacy Policy - How we will use your data 10
Index 11