



**Delegated Decisions by Cabinet Member for  
Highway Management  
Thursday, 17 November 2022**

**SUPPLEMENTARY DOCUMENT**

- 18. Shiplake - A4155 proposed 30mph speed limit and traffic calming measures (Pages 1 - 34)**

*Annex 5 Copy of Unilateral Undertaking Attached*

This page is intentionally left blank

DATED

20th September

2019

HARJOT BAL

(1)

and

RETIREMENT VILLAGES DEVELOPMENTS LIMITED (2)

to

OXFORDSHIRE COUNTY COUNCIL

(3)

---

**UNILATERAL DEED OF PLANNING OBLIGATION**

made pursuant to

**SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (as amended)**

relating to the development of

land east of Reading Road Lower Shiplake RG9 4BG

Planning Application Ref P18/S3210/O

Appeal reference APP/Q3115/W/19/3220425

---

Certified true copy of the original  
Aardvark Legal Services Ltd  
SRA 627996 Ecton NN6 0QJ

*JERUDES*  
Solicitor  
Date: 20 September 2019.



**CONTENTS**

<b>1. DEFINITIONS.....</b>	<b>2</b>
<b>2. INTERPRETATION .....</b>	<b>4</b>
<b>3. LEGAL BASIS .....</b>	<b>5</b>
<b>4. CONDITIONALITY .....</b>	<b>6</b>
<b>5. COVENANTS AND OBLIGATIONS OF THE OWNER AND DEVELOPER.....</b>	<b>6</b>
<b>6. MORTGAGEE'S LIABILITY.....</b>	<b>6</b>
<b>7. RELEASE AND EXCLUSIONS.....</b>	<b>7</b>
<b>8. DETERMINATION OF THE PLANNING PERMISSION .....</b>	<b>7</b>
<b>9. LOCAL LAND CHARGE.....</b>	<b>7</b>
<b>10. SUCCESSORS IN TITLE .....</b>	<b>8</b>
<b>11. POWERS OF THE COUNTY COUNCIL.....</b>	<b>8</b>
<b>12. SEVERABILITY.....</b>	<b>8</b>
<b>13. RIGHTS OF THIRD PARTIES .....</b>	<b>8</b>
<b>14. WAIVER .....</b>	<b>8</b>
<b>15. JURISDICTION .....</b>	<b>9</b>
<b>SCHEDULE 1: HIGHWAY WORKS.....</b>	<b>10</b>

THIS UNILATERAL DEED OF PLANNING OBLIGATION is dated the

20th

day of

September

2019

**GIVEN BY**

- (1) **HARJOT BAL** of 31 Deardon Way Shinfield Reading RG2 9HF ("the **Owner**") and
- (2) **RETIREMENT VILLAGES DEVELOPMENTS LIMITED** (company number 04533966) whose registered office is at First Floor, Brunswick House, 297-299 Kingston Road, Leatherhead, Surrey KT22 7LU ("the **Developer**")  
to
- (3) **OXFORDSHIRE COUNTY COUNCIL** whose principal office is at County Hall New Road Oxford OX1 1ND ("the **County Council**");

**RECITALS**

- A. The County Council is the county planning authority for the area which includes the Site.
- B. The County Council is also the highway authority and the traffic authority for certain highways in the area which includes the Site.
- C. The Application was made to the District Council who are the local planning authority for the area within which the Site is situated.
- D. The Owner is the registered proprietor of the freehold of the Site under title number ON165143 subject to an agreement for sale and purchase dated 6 May 2016 together with any variations thereto with the Developer but otherwise free from encumbrances
- E. The District Council refused to grant planning permission pursuant to the Application and the Developer has submitted the Appeal against that refusal
- F. The Owner and the Developer state that the obligations contained in this Deed are necessary to make the Development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the Development and thus satisfy the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 as amended.

**NOW THIS DEED WITNESSES** as follows:

**1. DEFINITIONS**

1.1 Unless the context otherwise requires where in this Deed the following defined terms and expressions are used, they shall have the following respective meanings and (where applicable) be supplemented by the interpretation provisions contained in Paragraphs to the relevant Schedule.

- |                                      |   |
|--------------------------------------|---|
| <b>"1980 Act"</b>                    | means the Highways Act 1980   |
| <b>"1990 Act"</b>                    | means the Town and Country Planning Act 1990 (as amended)   |
| <b>"the Appeal"</b>                  | means the appeal with reference<br>APP/Q3115/W/19/3220425   |
| <b>"the Application"</b>             | means the application for outline planning permission for the Development under the District Council's reference number P18/S3210/O   |
| <b>"Commencement of Development"</b> | means the carrying out of a material operation pursuant to the Planning Permission or (where clause 4.2 applies) a Section 73 Permission and "material operation" shall have the meaning given to it in Section 56(4) of the 1990 Act save that a material operation shall not include operations in connection with any archaeological investigations works of excavation demolition site clearance diversion of services installation of services for construction purposes only site or soil investigations remedial action in respect of any contamination landscaping works provision of construction access noise attenuation works or the erection of hoardings and fences or temporary access construction works and "Commence Development" and "Commenced" shall be construed accordingly. |

<b>“District Council”</b>	means South Oxfordshire District Council
<b>“Deed”</b>	means this deed of agreement together with all Schedules and Appendices
<b>“Development”</b>	means the development of land to the East of Reading Road to consist of an extra care development of up to 65 units comprising of apartments and cottages (Use Class C2); associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures as referred to in the Application
<b>“Extra Care Unit”</b>	means a unit of accommodation erected upon the Site pursuant to the Planning Permission or (where clause 4.2 applies) a Section 73 Permission designed for residential occupation by a single household;
<b>“Inspector”</b>	means the Inspector appointed by the Secretary of State to determine the Appeal
<b>“Occupation”</b>	means occupation for the purposes permitted by the Planning Permission or (where clause 4.2 applies) a Section 73 Permission but shall not include occupation for the purposes of construction or fitting out or decoration or as a ‘show-home’ for marketing purposes or security operations and ‘Occupy’ and ‘Occupied’ shall be construed accordingly.
<b>“Parties”</b>	means the Owner and the Developer and the County Council as the context so requires and <b>“Party”</b> means any one of them
<b>“Planning Permission”</b>	means any planning permission granted for the Development pursuant to the Appeal of the Application and

as may from time to time be amended by the approval of a non-material amendment pursuant to Section 96A of the 1990 Act.

**“Secretary of State”** means the Secretary of State for Housing Communities and Local Government or other minister or other authority for the time being having or entitled to exercise the powers conferred on the Secretary of State for Housing Communities and Local Government by the 1990 Act

**“Section 73 Permission”** means a planning permission which may be granted by way of approval of an application under Section 73 of the 1990 Act permitting the Development subject to conditions which differ from the conditions of the Planning Permission.

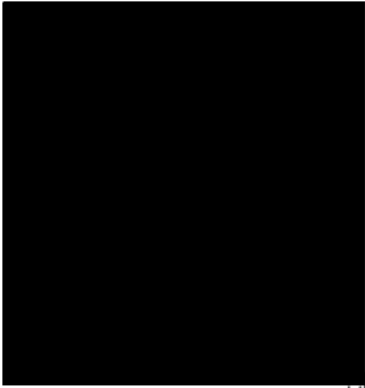
**“Site”** Means land east of Reading Road, Lower Shiplake RG9 4BG shown for identification purposes edged red on the Site Plan.

**“Site Plan”** Means the plan annexed hereto

## 2. INTERPRETATION

- 2.1 A reference to any Clause Plan Paragraph Schedule Appendix or Recital in this Deed is unless the context otherwise requires a reference to a Clause Plan Paragraph Schedule Appendix or Recital in (or in the case of plans attached to) this Deed
- 2.2 The headings in this Deed are for convenience only and shall not be deemed to be part of or taken into consideration in the interpretation of this Deed
- 2.3 Words importing the singular include the plural and vice versa
- 2.4 Words importing the masculine gender include the feminine and neuter genders and vice versa





Client	RETIREMENT VILLAGES
Project	SHIPLEAKE VILLAGE, READING ROAD, LOWER SHIPLEAKE, HENLEY-ON-THAMES
Drawing	SITE LOCATION PLAN
Scale	1:1250 @ A3
Date	08.08.2016
Author	JT
Checked	JT
Jan No.	4802
Eng No.	LPO1
Status	A
Discipline	PLANNING

Drawn: JT

Revision	Date	Description
Rev A	25.10.2015	Revised to correct scale, add north arrow

This drawing is issued for copyright which, together with the drawings, list and must not be reproduced in any form without prior written permission. The drawing should not be used for construction purposes, use signed drawings only.

- 2.5 Words denoting actual persons include companies corporations and firms and all such words shall be construed as interchangeable in that manner
- 2.6 Reference to any Party to this Deed shall include the successors in title to that Party and to any person deriving title through or under that Party and in the case of the County Council shall include any successor to its statutory functions
- 2.7 Wherever there is more than one person named as a Party and where more than one Party undertakes an obligation all their obligations can be enforced against all of them jointly and against each individual severally
- 2.8 Words denoting an obligation on a Party to do any act matter or thing include an obligation to procure that it be done and words placing a Party under a restriction include an obligation not to cause permit or suffer any infringement of the restriction
- 2.9 References in this Deed to statutes bye-laws regulations orders and delegated legislation shall include any statute bye-law regulation order delegated legislation plans regulations permissions and directions amending re-enacting consolidating replacing or made pursuant to the same as current and in force from time to time
- 2.10 In the event of any conflict between the terms conditions and provisions of this Deed and any document attached hereto or referred to herein the terms conditions and provisions of this Deed shall prevail
- 2.11 Any words following the terms including, include, in particular, for example, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms

### **3. LEGAL BASIS**

- 3.1 This Deed is made pursuant to section 106 of the 1990 Act section 278 and section 38 of the 1980 Act 111 of the Local Government Act 1972 sections 12 and 93 of the Local Government Act 2003 section 1 of the Localism Act 2011 and any other enabling powers
- 3.2 The covenants obligations restrictions and requirements imposed upon the Owner and the Developer by this Deed are enforceable by the County Council; and
- (a) are entered into pursuant to the provisions of section 106 of the 1990 Act
- (b) are planning obligations for the purposes of section 106 of the 1990 Act

(c) relate to the Site

(d) are entered into with intent to bind the Owner's interest in the Site and each and every part thereof into whosoever hands the same may come.

3.3 If the Inspector in his decision letter concludes that any of the obligations in Schedule 1 of this Deed are not material considerations in the granting of Planning Permission pursuant to the Appeal or are incompatible with the tests for planning obligations set out at Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended and accordingly attaches no weight to that obligation in determining the Appeal then the relevant obligation shall from the date of the decision letter cease to have effect and the Owner, his successors in title and the Developer shall be under no obligation to comply with such obligation

#### 4. **CONDITIONALITY**

4.1 With the exception of this clause (which take effect immediately on the date of this Deed) this Deed is conditional on the grant of the Planning Permission and Commencement of the Development

4.2 In the event that an application is made pursuant to Section 73 of the 1990 Act for an amendment to the Planning Permission and a Section 73 Permission is granted this Deed shall (unless the District Council and/or the County Council determines that revised planning obligations are required as a result of such amendment) apply to development pursuant to the Section 73 Permission as well as to development pursuant to the Planning Permission without the need for a further agreement to be entered into pursuant to Section 106 of the 1990 Act

#### 5. **COVENANTS AND OBLIGATIONS OF THE OWNER AND DEVELOPER**

The Owner and the Developer covenants with the County Council to perform and observe the covenants obligations restrictions and requirements contained herein

*x within Schedule 1 of this deed.*

#### 6. **MORTGAGEE'S LIABILITY**

*WC ND APL*

No mortgagee chargee or receiver, as applicable from time to time shall have any

liability under this Deed unless it takes possession of the Site or any part of the Site in which case the mortgagee chargee or receiver as applicable will be bound by the provisions of this Deed as a person deriving title from the Owner

**7. RELEASE AND EXCLUSIONS**

7.1 The obligations contained in this Deed shall not be binding upon nor enforceable against:

- (a) any statutory undertaker with any existing interest in any part of the Site or who acquires an interest in any part of the Site for the purpose of the supply of electricity gas water or sewerage drainage or public telecommunication services
- (b) any person after they shall have parted with their entire interest in the Site or that part of the Site in relation to which such breach occurs but without prejudice to the rights of the County Council in relation to any subsisting or any antecedent breach non-performance or non-observance arising prior to parting with such interest
- (c) subject to clause 6, individual owners occupiers or tenants and their mortgagees of individual Extra Care Units and their successors in title

**8. DETERMINATION OF THE PLANNING PERMISSION**

8.1 This Deed shall forthwith determine and cease to have effect (insofar only as it has not already been complied with) if the Planning Permission and any Section 73 Permission shall be quashed following a successful legal challenge, revoked, modified by any statutory procedure or otherwise withdrawn or expires prior to Commencement of Development without the consent of the Owner and the Developer

8.2 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission or Section 73 Permission) granted after the date of this Deed

**9. LOCAL LAND CHARGE**

This Deed is a local land charge and may be registered by the District Council as such.

**10. SUCCESSORS IN TITLE**

The Owner and the Developer enters into the obligations set out in this Deed for itself and its successors in title for the benefit of the County Council to the intent that the obligations in this deed shall be enforceable not only against the Owner and the Developer but also against the successors in title of the Owner and any person claiming through or under the Owner an interest or estate in the Site or any part thereof

**11. POWERS OF THE COUNTY COUNCIL**

Nothing contained or implied in this Deed shall fetter prejudice restrict or affect the rights discretions powers duties responsibilities and obligations of the County Council under all and any legislative instrument including statutes by-laws statutory instruments orders and regulations for the time being in force in the exercise of its function as a local authority

**12. SEVERABILITY**

If any provision (or part thereof) of this Deed shall be held to be invalid illegal or unenforceable the validity legality and enforceability of the remaining provisions (or such part of the provisions as is still enforceable) shall not in any way be deemed thereby to be affected impaired or called into question

**13. RIGHTS OF THIRD PARTIES**

No terms of this Deed may be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party to this Deed save for the successors in title to the Parties and in the case of the County Council the successor to its statutory functions

**14. WAIVER**

No waiver (whether expressed or implied) by the County Council of any breach or default or delay in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the County Council from enforcing any of the relevant terms or conditions or acting upon

any subsequent breach or default and no single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy

**15. JURISDICTION**

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England

**18 DELIVERY**

This Deed is delivered on the date written at the start and the provisions of this Deed (other than this Clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

## SCHEDULE 1: HIGHWAY WORKS

### 1. Interpretation of this Schedule

- 1.1. Unless the context otherwise requires where in this Schedule the following defined terms and expressions are used, they shall have the following respective meanings and (where applicable) be supplemented by Clause 1.1

**“Highways Agreement”** means an agreement made pursuant to inter alia Section 278, and as appropriate s38, of the 1980 Act substantially in accordance with the template form annexed to this Agreement which provides for the execution of the Highway Works by the Owner at the Owners' expense

**“Highway Works”** means the works set out in paragraphs 3 to 5 of this Schedule

**“Drawing No SK19A”** means Drawing No.SK 19 A attached to this Agreement

**“Drawing No SK 25”** means Drawing No.SK 25 attached to this Agreement

**“Order”** means the Order made by the County Council headed the Oxfordshire County Council (Shiplake Parish) (Speed Limit) Order 2019 dated 19 August 2019

### 2. Covenants

- 2.1. The Owner covenants with the County Council not to cause or permit Commencement of Development until the Highways Agreement

(a) incorporating in principle drawings and plans,( including but not limited to plans detailing the land (if any) to be dedicated following completion of the Highway Works) and

- (b) detailing the anticipated duration of construction of the Highway Works, together with the longstop date for completion of the Highway Works and
- (c) detailing any commuted maintenance sum in respect of the cost of future maintenance, and as applicable replacement of the Highway Works and for providing (where necessary) the procurement of any deeds of easement required for the maintenance of the Highway Works or part thereof

has been entered into by the Owner in respect of the Highway Works together with all parties with an interest in any land to be dedicated or over which easements are to be granted further to the Highways Agreement and ( where appropriate) any mortgagee of such land has released it fully and effectively from its charge

- 2.2. The Owner covenants with the County Council not to cause or permit or allow the first Occupation of any Extra Care Unit at the Site until the Highway Works have been completed pursuant to and in accordance with the Highways Agreement.
- 2.3. The Developer further covenants with the County Council that in the event that the Order is not quashed following a successful legal challenge or revoked in part or in whole by the County Council prior to Commencement of Development that it will meet the reasonable costs of the County Council in the promotion, consultation and making of a speed limit order by the County Council to revoke Schedule 3 of the Order and to reduce the speed limit on that part of the A4155 Henley to Reading Road from a point 208 metres south of its junction with Woodlands Road southwards to a point 50 metres north of its junction with Mill Lane, from 40 mph to 30 mph together with the costs of providing any related signage as may be necessary. \*

*\* on request from the County Council*

### 3. Principal Works

*OB  
we ND*

- 3.1. The provision and construction of the following works ("the Principal Works"):
  - (a) Provision of 1.5m wide footway along the eastern side of Reading Road from the northern pedestrian site access for approximately 300m linking to the existing footway provision all as shown indicatively on Drawing No SK19 Rev A.
  - (b) A scheme of traffic calming including a visual narrowing of the Reading Road carriageway, coloured surfacing, solid white centre line on the Northbound approach to the site access, and associated signage all as



shown on indicatively on Drawing No. SK 25

#### **4. Preparatory and Ancillary Works**

- 4.1. The provision and construction of all such preparatory and ancillary works (or in the case of existing works or features necessarily affected by any part of the Principal Works such alteration thereof) as may be required for the proper construction and functioning of the Principal Works including:
- (a) all earthworks and other things necessary to prepare the site and provide proper support for the Principal Works
  - (b) all culverts ditches and other things necessary to ensure the satisfactory movement of surface water
  - (c) all gullies channels grips drains sewers and other things necessary for the permanent drainage of the Principal Works
  - (d) all ducts cables columns lamps and other things necessary for the permanent lighting of the Principal Works and the illumination of traffic signs
  - (e) all kerbs islands verges and reservations including the grading and seeding of grassed areas
  - (f) all measures necessary to ensure visibility for drivers at any bend or junction
  - (g) all traffic signs road markings bollards and safety barriers
  - (h) all tapers joints and reinstatements necessary where the Principal Works abut the existing highway

#### **5. Amenity and Accommodation Works**

- 5.1. The provision and construction of all such amenity and accommodation works as may be required for the protection of the local environment and private and public rights and property in consequence of the Principal Works including:
- (a) any earth bunds and/or planting necessary to screen the Principal Works
  - (b) all fences gates hedges and other means of separation of the Principal Works from adjoining land
  - (c) any necessary alteration of any private access or private or public right of way affected by the Principal Works
  - (d) any necessary embankments retaining walls or other things necessary to give support to adjoining land.

**IN WITNESS** whereof the Owner and the Developer has executed and delivered this Deed on the day and year first before written

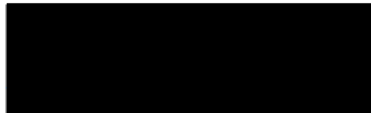
Signed as a deed by

**HARJOT BAL**



In the presence of

Signature of witness



Name of witness

*Martin Atwood*

Address of witness

Berrett & Co  
Solicitors LLP  
SALISBURY HOUSE  
54 QUEENS ROAD, READING  
BERKSHIRE RG1 4AZ  
Telephone 0118 958 9711  
DX 4035 READING

**EXECUTED** as a DEED by

**RETIREMENT VILLAGES DEVELOPMNETS LIMITED**

Acting by two directors or by a director and its secretary



Director



Director/Secretary





**DATED** \_\_\_\_\_ **20[ ]**

**OXFORDSHIRE COUNTY COUNCIL**

-and-

**(OWNER)**

-and-

**(DEVELOPER)**

draft

-----  
Agreement relating to highway works at [ ] to be undertaken  
by Developer (with optional provision for contribution)  
*<sup>1</sup>only applies if contribution*  
-----

Nick Graham  
Chief Legal Officer and Monitoring Officer  
Oxfordshire County Council  
County Hall  
New Road  
Oxford OX1 1ND

**THIS DEED** is made on the \_\_\_\_\_ day of

Two Thousand and [       ]

**BETWEEN:-**

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** ("the Council")
- (2) \_\_\_\_\_ ("the Owner")
- (3) \_\_\_\_\_ (company registration  
number) ("the Developer")

(4)

**1. Interpretation**

In this Deed:-

- 1.1 "the 1980 Act" means the Highways Act 1980
- 1.2 "the 1990 Act" means the Town and Country Planning Act  
1990
- 1.3 "As-Built Drawings" means detailed plans and drawings  
showing the Works in the form in which they have actually  
been executed and completed required under Condition 29  
of the Standard Conditions
- 1.4 "Certificate of Completion" means a certificate issued under  
Condition 30 of the Standard Conditions
- 1.5 "the Council" means the said Oxfordshire County Council  
whose principal office is at County Hall New Road Oxford  
OX1 1ND and any successor to its statutory functions as  
highway authority or planning authority and any duly  
appointed employee or agent of the Council or such  
successor

- 1.6 "the Dedication Plan" means the plan marked 'B' annexed to this Deed or such other plan as the Owner [the Developer and the Mortgagee] and the Council agree should be substituted for it
- 1.7 ["the Developer" means \_\_\_\_\_ of/ whose registered office is at \_\_\_\_\_ and its successors in title and assigns]
- 1.8 "the Development" means [ \_\_\_\_\_ ]
- 1.9 "Implementation" means the carrying out of a material operation as defined in section 56(4) of the 1990 Act and "implement" and "implemented" shall be construed accordingly
- 1.10 "including" means including without limitation and 'include' shall be construed accordingly
- 1.11 "Index-Linked" means adjusted according to any increase occurring between \_\_\_\_\_ and the date of payment to the Council in a composite index comprised of the following indices of the BCIS Price Adjustment Formulae (Civil Engineering) 1990 Series as made available through the Building Cost Information Services (BCIS) of the Royal Institution of Chartered Surveyors weighted in the proportions below set out against each such index namely:-

Index 1	Labour & Supervision	25%
Index 2	Plant & Road Vehicles	25%





- 1.19 "the Site Plan" means the plan marked "Plan A" annexed to this Deed
- 1.20 "the Standard Conditions" means the Council's Standard Conditions for the Control of Highway Works in Conjunction with Development (2016 Edition) a copy of which is annexed to this Deed
- 1.21 "the Works" means the works specified in the Schedule
- 1.22 "the Works Plan" means the drawing(s) numbered [       ] annexed to this Deed
- 1.23 Any reference to an enactment includes any amendments to or modifications of it and the version of it for the time being in force shall apply
- 1.24 Headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation
- 1.25 References to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed
- 1.26 Where the context so requires:-
- 1.26.1 the singular includes the plural and vice versa
- 1.26.2 the masculine includes the feminine and vice versa
- 1.26.3 persons includes bodies corporate associations and partnerships and vice versa

- 1.27 Where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons
- 1.28 Where more than one party enters into any obligation or liability those parties are jointly and severally liable
- 1.29 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction

2. **Preliminary**

- 2.1 The Owner is the owner of freehold of the Site registered with absolute title under title number [ ] subject to an Option in favour of the Developer (and/or) a Charge in favour of the Mortgagee but otherwise] free from incumbrances as the Owner hereby warrants
- 2.2 For the purposes of the 1990 Act the Council is the county planning authority for the area which includes the Site
- 2.3 For the purposes of the 1980 Act, the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 the Council is the highway authority and the traffic authority for certain highways in the area which includes the Site
- 2.4 [The (Owner/Developer) [has] submitted the Planning Application for the Development to the district planning authority

Alternative 1

- 2.5 The district planning authority is minded to grant planning permission for the Development subject inter alia to the completion of this Deed]

Alternative 2

It is a condition of the Planning Permission that the Development shall not be [ ] before certain works (which the Council is authorised to execute) are executed for the provision of safe and convenient access to the Site from the highways in the vicinity.

Alternative 3

The Owner has/it has been agreed [by virtue of an agreement pursuant to Section 106 of the 1990 dated [ ] and made between [ ] that the Development shall not be implemented [as therein defined] prior to the completion of this Deed and shall not be occupied prior to the completion of the Works in accordance with the Deed

- 2.6 The Off-Site Works are works which the Council is authorised to execute by virtue of Part V of the 1980 Act
- 2.7 It has been agreed between the Owner and the Council that in lieu of the Owner paying the cost of the Off-Site Works the Off-Site Works should be executed by the Owner in conjunction with the carrying out of the Development

2.8 This Deed (which the Council are satisfied will be of benefit to the public) is made under Sections 38 72 and 278 of the 1980 Act [Section 106 of the 1990 Act], Section 111 of the Local Government Act 1972 and all other enabling powers [and is a planning obligation for the purposes of Section 106 of the 1990 Act entered into by the Owner the Developer and the Mortgagee in respect of the Site and enforceable by the Council

2.9 [The covenants in this Deed (except that in clause 8 which shall take immediate effect) shall be conditional upon the granting of planning permission for the Development]

**3. Covenants**

The Owner and the Developer covenant:-

3.1 not to cause or permit any [planning permission obtained for the Development the Planning Permission to be implemented (save insofar as is necessary for the execution of the Works)] [building forming part of the Development] [to be occupied] [to open for business] before the Works have been completed]

3.2 to execute the Works entirely at his/its own expense and to the satisfaction of the Council

3.3 in executing the Works to observe and perform all the obligations which fall on "the Developer" under the Standard Conditions and

- 3.4 to complete the Works not later than \_\_\_\_\_ and in any event within \_\_\_\_\_ from the date on which the Works started
- 3.5 not to commence the Works until the Maintenance Costs have been paid to the Council and to pay Maintenance Costs to the Council prior to commencing the Works.
- 3.6 to give the Council written notice of any disposal of an interest in the Site and of the name and address of the new owner and the date of the disposal within 14 days of such disposal
- 3.7 if any payment to be made to the Council is not paid on or before the due date for payment to pay interest at 4% per annum above the base rate from time to time of Lloyds Bank Plc from such due date to the date of payment<sup>1</sup>

4. **Adoption as Highway**

- 4.1 On the issue of a Certificate of Completion for the Works the whole of the land shown [hatched black] on the Dedication Plan (subject to modification as provided in clause 4.2) shall be deemed to have been dedicated as public highway (for all public highway purposes including use by mechanically propelled vehicles) and shall thereafter subject to Conditions 34 and 35 of the Standard Conditions be a highway maintainable at public expense
- 4.2 The Council may after consideration of the As-Built Drawings require the substitution of a modified dedication

plan in which event that shall be agreed with the Owner [the Developer the Mortgagee] and the dedication as provided in clause 4.1 shall have effect in respect of the modified area

4.3 the Owner [and the Mortgagee] consent to the noting of the provisions of clause 4 of this Deed on the register under title number [ ]

5/6 **Act Reasonably**

Where a matter falls within a party's discretion that party shall exercise such discretion in a reasonable and expeditious manner and shall give any requisite notice of that decision and any other notice provided for by this Deed (including the Standard Conditions) without undue delay

6/7 **[the Mortgagee (*consider further amendment to accord with mortgagee provision in Section 106 agreement*)**

The Mortgagee acknowledges that the Site is bound by the obligations contained in this Deed [and in the event that the dedication area is revised further to clause 4.2 the Mortgagee agrees that any part of the dedication area which is subject to its charge shall be released from such charge on dedication pursuant to clause 4.1 and the Mortgagee will execute such further documentation as may be required to effect this]

7/8 **Costs**

7.1 The Owner shall on completion of this Deed pay the reasonable legal costs of the Council in connection with the preparation and completion of this Deed [and [ ]

10

towards the costs of administering and monitoring the provisions of this Deed relating to the Contribution]

7.2 The Owner will reimburse the Council in respect of all legal and administrative costs in connection with the enforcement of any of the provisions of this Deed including correspondence monitoring and site visits by or on behalf of the Council

7.3 [The Owner will not claim any compensation in respect of the provision of this Deed]

## 8 Third Party Rights

This Deed does not create any right enforceable by any person not a party to it except that it may be enforced by the successors in title and assigns of the parties and by any successor to the Council's statutory functions

## 9 Notice

Any notice or notification to be given to the Council under this Agreement shall be sent to the Director for Planning & Place of the Council (Ref ) County Hall, New Road, Oxford OX1 1ND or to such other person at such other address as the Council shall direct from time to time [and any notice or notification to be given to [ ] shall be sent to [ ] or to such other person at such address as the [ ] shall notify in writing to the Council from time to time

## 10 No Waiver

No alteration in the terms of this Deed nor any forbearance or

forgiveness on the part of the Council in or in the extent or nature of any matter or thing concerning this Deed shall in any way release the Owner/the Developer/the Mortgagee from any liability under this Deed

**11 No Fetter**

Nothing in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions in any capacity

**12 VAT**

All works undertaken pursuant to and all payments made in accordance with the terms of this Deed shall be exclusive of value added tax and the Owner shall pay the Council any value added tax properly payable on any sums paid to the Council or works undertaken under this Deed upon presentation of an appropriate value added tax invoice addressed to the Owner

**13 Jurisdiction**

This Deed is governed by and interpreted in accordance with the Law of England

**14 Delivery**

The provisions of this Deed shall be of no effect until this Deed has been dated

**IN WITNESS** whereof the parties hereto have executed this Deed as a deed the day and year first before written





## **SCHEDULE**

### **The Works**

(1) **Principal Works**

The provision and construction in the position indicated in principle on the Works Plan of the following works ("the Principal Works")

(a)

(b)

(c)

(2) **Preparatory and Ancillary Works**

The provision and construction of all such preparatory and ancillary works (or in the case of existing works or features necessarily affected by any part of the Works such alteration thereof) as the Council shall consider requisite for the proper construction and functioning of the Principal Works including:-

(a) all earthworks and other things necessary to prepare the site and provide proper support for the Principal Works

(b) all culverts ditches and other things necessary to ensure the satisfactory movement of surface water

(c) all gullies channels grips drains sewers and other things necessary for the permanent drainage of the Principal Works

- (d) all ducts cables columns lamps and other things necessary for the permanent lighting of the Principal Works and the illumination of traffic signs
- (e) all kerbs islands verges and reservations including the grading and seeding of grassed areas
- (f) all measures necessary to ensure visibility for drivers at any bend or junction
- (g) all traffic signs road markings bollards and safety barriers
- (h) all tapers joints and reinstatements necessary where the Principal Works abut the existing highway

(3) **Amenity and Accommodation Works**

The provision and construction of all such amenity and accommodation works as the Council shall consider requisite for the protection of the local environment and private and public rights and property in consequence of the Principal Works including:-

- (a) any earth bunds and/or planting necessary to screen the Principal Works
- (b) all fences gates hedges and other means of separation of the Principal Works from adjoining land
- (c) any necessary alteration of any private access or private or public right of way affected by the Principal Works
- (d) any necessary embankments retaining walls or other things necessary to give support to adjoining land

