

**OXFORDSHIRE COUNTY COUNCIL**

**-and-**

**BICESTER MOTION LIMITED**

**-and-**

**THE SECRETARY OF STATE FOR DEFENCE**

**PLANNING OBLIGATION BY DEED OF AGREEMENT  
under Section 106 of the Town and Country Planning Act 1990**

**relating to**

**Experience Quarter, Bicester Heritage, Buckingham Road, Bicester, Oxfordshire  
OX26 5HA**

THIS DEED is dated

15 March

2023

## PARTIES

- (1) **OXFORDSHIRE COUNTY COUNCIL** whose main office is at County Hall, New Road, Oxford OX1 1ND ("**County Council**");
- (2) **BICESTER MOTION LIMITED (formerly Bicester Heritage Limited)** (Company Number 8273333) whose registered address is at Bicester Heritage, Buckingham Road, Bicester, Oxfordshire OX27 8AL ("**Owner**"); and
- (3) **THE SECRETARY OF STATE FOR DEFENCE** whose address is at Property Legal Team, Ministry of Defence, Defence Infrastructure Organisation, Mailpoint 2216, Poplar 2, Abbey Wood, Bristol BS34 8JH and at Property Legal Team, Ministry of Defence, Defence Infrastructure Organisation, Main Building, House Guard's Avenue, Whitehall London SW1A 2HB and at Property Legal Team, Ministry of Defence, Defence Infrastructure Organisation, Bazalgette Pavilion, RAF Wyton, Huntingdon PE28 2EA ("**Chargee**")

## INTRODUCTION

- (A) The County Council is the local highway authority and the traffic authority for the purposes of the Highways Act 1980, the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004, the county planning authority for the purposes of the Act.
- (B) The Owner is the freehold owner of the Site under title number ON307011 subject to the interest of the Chargee but otherwise free from encumbrances as set out in the Schedule 1.
- (C) The Chargee has a registered charge dated 27 March 2013 over the Site.
- (D) The District Planning Authority has recommended that the Planning Permission be issued subject to the completion of this Deed.
- (E) The Owner and the County Council have agreed that it is necessary in planning terms to enter into this Deed to mitigate the impact of the Development and make it acceptable in the event that the Planning Permission is granted.

**NOW THIS DEED WITNESSES** as follows:

## OPERATIVE PART

### 1 DEFINITIONS

- 1.1 For the purposes of this Deed the following expressions shall have the following meanings:

"Act"	the Town and Country Planning Act 1990 (as amended);
"Application"	the application for outline planning permission submitted to the District Planning Authority for the Development and allocated reference number 21/01224/OUT;
"Building"	a building constructed or proposed to be constructed on the Site as part of the Development or part of such building;
"Commencement of Development"	occurs on and means the carrying out of any material operation (as defined in Section 56(4) of the Act) forming part of the Development

other than (for the purposes of this Deed and for no other purpose) operations consisting of:

- site clearance;
- demolition work;
- archaeological investigations;
- site or soil investigations for the purpose of assessing ground conditions;
- remedial work in respect of any contamination or other adverse ground conditions;
- erection of any temporary means of enclosure;
- diversion or installation of services on the Site;
- provision of construction access;
- noise attenuation works;
- erection of hoardings or fences;
- the temporary display of site notices or advertisements;

and “Commence” “Commenced” and “Commencing” or any other derivation of this term shall be construed accordingly PROVIDED THAT the following additional operations shall be excluded when determining the Commencement of Development for the purpose of triggering the obligation in paragraph 2.1 of Part A to Schedule 3:

- any below ground works but not works for the construction of the (highway) Works described in Schedule 3;

**“District Authority”**

PlanningCherwell District Council;

**“Development”**

the development of the Site to provide an Automotive Experience Quarter comprising Commercial, Business and Services uses (Class E), Light Industrial (Class B2), Local Community and Learning Uses (Class F) and vehicle circuits (Sui Generis) with all matters reserved aside from that of access as referred to in the Application;

**“Due Date”**

the date on which any sum payable hereunder is required to be paid or if any sum is to be paid before an event the day before that event occurs;

<b>"Implementation"</b>	the carrying out of any development which implements any planning permission as set out in Section 56 of the Act and <b>"Implement"</b> and <b>"Implemented"</b> shall be construed accordingly;
<b>"Interest"</b>	Interest at the rate of 4% above the base lending rate of Lloyds Bank PLC from time to time;
<b>"Occupation"</b>	occupation for the purposes permitted by the Planning Permission (or any Qualifying Permission) but not including occupation by personnel engaged in construction; fitting out or decoration or occupation for marketing or display and <b>"Occupied"</b> and <b>"Occupy"</b> shall be construed accordingly;
<b>"Plan"</b>	the plan attached to this Deed at the Annex to the First Schedule;
<b>"Planning Permission"</b>	the planning permission subject to conditions to be granted by the District Planning Authority pursuant to the Application;
<b>"Qualifying Application"</b>	an application for approval of Reserved Matters or any separate application(s) for full planning permission for the Development or any part of the Development or any application under Section 73 of the Act relating to the Planning Permission or any application for approval of Reserved Matters relating to such permission further to an application under Section 73 of the Act;
<b>"Qualifying Permission"</b>	approval of Reserved Matters or planning permission as the case may be issued pursuant to a Qualifying Application;
<b>"Reserved Matters"</b>	details of any one or more of access, appearance, landscaping, layout and scale reserved under the terms of the Planning Permission for subsequent approval;
<b>"Site"</b>	the land against which this Deed may be enforced as shown edged red on the Plan;
<b>"Trigger Event"</b>	any event that when it occurs requires any party to this Deed to pay any sum or carry out any works or take (or desist from taking) any other action including service of any notice; and
<b>"Working Days"</b>	Mondays to Fridays (excluding bank and other public holidays and any day which is on or between 27 <sup>th</sup> and 31 <sup>st</sup> December in any calendar year).

## 2 CONSTRUCTION OF THIS DEED

- 2.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed.
- 2.2 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.



- 2.3 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include companies, corporations and firms and all such words shall be construed interchangeably in that manner.
- 2.4 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 severally unless there is an express provision otherwise.
- 2.5 "Including" means including without limitation or prejudice to the generality of any preceding description defined term phrase or word(s) and "include" shall be construed accordingly.
- 2.6 Words denoting an obligation on a party to do any act or 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 that restriction.
- 2.7 Any reference to an Act of Parliament shall include any modification, extension or re-enactment of that Act for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions for the time being made, issued or given under that Act or deriving validity from it.
- 2.8 References 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 District Planning Authority and County Council the successors to their respective statutory functions.
- 2.9 The headings and contents list are for reference only and shall not affect construction.

### **3 LEGAL BASIS**

- 3.1 This Deed is made pursuant to Section 106 of the Act, Section 111 and Section 120 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other enabling powers.
- 3.2 The covenants, restrictions and requirements imposed upon the Owner under this Deed create planning obligations pursuant to Section 106 of the Act.
- 3.3 Those covenants, restrictions and requirements set out in this Deed are enforceable against the Owner by the County Council and in accordance with Section 106(3)(b) against any person deriving title from that person.

### **4 CONDITIONALITY**

- 4.1 This Deed is conditional upon:
- (a) the grant of the Planning Permission; and
  - (b) the Commencement of the Development,

save for the provisions of clauses 1 to 18 which shall come into effect immediately upon completion of this Deed.

### **5 THE OWNER'S COVENANTS**

The Owner covenants with the County Council as set out in the body of this Deed and in the Schedule 2 and Schedule 3.

### **6 THE COUNTY COUNCIL'S COVENANTS**

The County Council covenants with the Owner as set out in the Schedule 4.

## 7 CHARGEES CONSENT

The Chargee acknowledges and declares that this Deed has been entered into by the Owner with its consent and that the Site shall be bound by the obligations contained in this Deed and that the security of the charge over the Site shall take effect subject to this Deed PROVIDED THAT the Chargee shall otherwise have no liability under this Deed unless it takes possession of the Site or any part of the Site in which case it too will be bound by the obligations as if it were a person deriving title from the Owner.

## 8 MISCELLANEOUS

- 8.1 The Owner shall:
- (a) pay to the County Council on the execution and completion of this Deed the reasonable legal costs of the County Council incurred in the negotiation, preparation and execution of this Deed;
  - (b) reimburse the County Council in respect of all legal and administrative costs reasonably and properly incurred in connection with any enforcement of any of the provisions in this Deed should the need for enforcement arise in the reasonable opinion of the County Council; and
  - (c) on completion of this Deed pay to the County Council the sum of £11,105 (ELEVEN THOUSAND ONE HUNDRED AND FIVE POUNDS) towards the cost of monitoring and administering compliance with the obligations in this Deed.
- 8.2 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 8.3 This Deed shall be registrable as a local land charge by the District Planning Authority.
- 8.4 Save in respect of clause 8.6, where agreement, approval, consent or expression of satisfaction of any party is required under the terms of this Deed such agreement, approval, consent or expression of satisfaction shall not be unreasonably withheld or delayed.
- 8.5 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed and insofar as reasonably practicable the parties shall amend that clause or clauses in such reasonable manner as achieves the intention of the parties without illegality.
- 8.6 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission and every Qualifying Permission are quashed (and refused upon re-determination), revoked or otherwise withdrawn or (without the consent of the Owner) is modified by any statutory procedure or expires prior to Implementation PROVIDED ALWAYS that Implementation of the Planning Permission or any Qualifying Permission has not taken place.
- 8.7 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 8.8 This Deed shall not be enforceable against any public utility company or statutory undertaker having an interest in the Site for the sole purpose of providing utility services to the Site.
- 8.9 Nothing contained or implied 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 and/or a Qualifying Permission granted (whether or not on appeal) after the date of this Deed.

- 8.10 If the District Planning Authority consents pursuant to a Qualifying Application to any variation or release of any condition contained in the Planning Permission (or a Qualifying Permission) or if any such condition is varied or released following an appeal under section 78 of the Act the covenants and provisions of this Deed shall be deemed to bind the Qualifying Permission and to apply in equal terms to that Qualifying Permission save that where a different section 106 obligation is agreed by the County Council as being binding on any Qualifying Permission this obligation shall not apply to that permission if that separate section 106 obligation expressly states that it is in substitution for the obligations in this Deed.

## **9 WAIVER**

No waiver (whether expressed or implied) by the County Council of any breach or default 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.

## **10 NO FETTER**

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

## **11 CHANGE OF OWNERSHIP ETC**

- 11.1 Subject to clause 11.2, the Owner agrees to give the County Council written notice of any change in the ownership of any of its interests in the Site within either:

- (a) 10 Working Days; or
- (b) before the next Trigger Event that arises following such change in ownership if sooner;

provided that the change of ownership occurs before all the obligations under this Deed have been discharged and such notice shall include details of the transferee's full name and registered office if a company or usual address if not together with the area of the Site or unit of occupation purchased by reference to a plan.

- 11.2 This clause shall not apply to:

- (a) the sale of individual Buildings on the Development provided the buyer of any one or more individual Buildings does not become the majority owner on the Site; or
- (b) any disposal of any part or parts of the Site for servicing or utility requirements or to a statutory body or service supply company of an electricity substation gas governor pumping station water pumping station or other statutory service which have been constructed or installed in or on the Site.

## **12 NOTIFICATIONS**

- 12.1 The Owner agrees with the County Council:

- (a) to notify the County Council in writing:
  - (i) no later than 5 Working Days prior to Commencement of the Development of the anticipated date of Commencement of the Development and not to Commence until 5 Working Days have passed since service thereof;

- (ii) within 10 Working Days of the date of the Commencement of the Development the date on which such Commencement of Development occurred; and
  - (b) to notify the County Council in writing no later than 10 Working Days prior to the anticipated date of the following events and after the event to specify in a further notification the date on which it occurred:
    - (i) first Occupation of the Development;
    - (ii) Occupation of the second Building within the Development;
- and not to Occupy or cause or permit Occupation until the appropriate notice has been given pursuant to clause 12.1 and the time therein has expired.

### **13 INTEREST**

- 13.1 If any payment due under this Deed is paid after the Due Date, Interest will be payable on the amount owed from the Due Date to the date of full payment.
- 13.2 Interest shall be calculated and accrue daily and shall be compounded monthly if any payment is made more than three months after the Due Date.

### **14 VAT**

- 14.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any value added tax properly payable and the Owner shall pay to the County Council any value added tax properly payable on any sums paid to the County Council or works undertaken under this Deed upon presentation of any appropriate value added tax invoice addressed to the Owner.

### **15 NOTICES**

- 15.1 Any notice or notification to be given to the County Council under this Deed shall be addressed to the Corporate Director for Environment and Place of the County Council (quoting reference 21/01224/OUT) at County Hall, New Road, Oxfordshire, OX1 1ND or to such other person at such other address as the County Council shall notify to the Owner in writing from time to time.
- 15.2 Any notice to be given to the Owner shall be addressed to the Owner at the Owner's address at the head of this Deed or to such other person at such address as the Owner shall notify to the County Council in writing from time to time.
- 15.3 Any notice or notification to be given pursuant to this Deed shall be in writing and shall, unless otherwise agreed, be delivered by hand or sent by post.
- 15.4 Unless the time of actual receipt is proved, a notice, demand or communication sent by the following means is to be treated as having been served:
  - (a) if delivered by hand, at the time of delivery;
  - (b) if sent by post, on the second Working Day after posting; or
  - (c) if sent by recorded delivery, at the time delivery was signed for.
- 15.5 If a notice, demand or any other communication is served after 16:00 on a Working Day, or at any time on a day that is not a Working Day, it is to be treated as having been served on the next Working Day.
- 15.6 For the avoidance of doubt, where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

**16 JURISDICTION**

This Deed is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

**17 DELIVERY**

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.

**18 DATA PROTECTION**

18.1 The parties to this Deed acknowledge and agree that information as to compliance with obligations pursuant to this Deed (including as to whether or not contributions have been paid) may be passed to:

- (a) persons who make enquiries on such matters and who advise that they or their clients are proposing to acquire an interest in the Site and it is acknowledged that the recipients of such information may then disseminate it further; or
- (b) any person when so required in order to comply with statutory requirements including the Freedom of Information Act 2000.

**IN WITNESS** whereof the parties hereto have executed and delivered this Deed on the day and year first before written.

### Schedule 1

#### Details of the Owner's Title, and Description of the Site

ALL THAT land at Bicester Heritage, Buckingham Road, Bicester, Oxfordshire OX26 5HA shown edged red on the Plan annexed to this Schedule being the freehold land registered at the Land Registry under title number ON307011.

**First Annex to Schedule 1**

**The Plan**



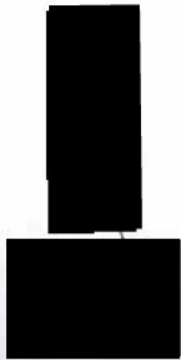


SEAL NO: 36762  
MINISTRY OF DEFENCE  
DEFENCE INFRASTRUCTURE ORGANISATION  
ANDOVER SP11 9JH

PRINCIPAL



DIRECTOR  
BICESTER MOTION LTD



KEY:

- Application Area
- Ownership Boundary
- SNM
- Boundaries
- Highways



SCALE 1:2500

RIDGE

DEFENCE INFRASTRUCTURE ORGANISATION  
ANDOVER SP11 9JH

5002854-RDG-Z01-ST-PL-A-0010 REV D  
SCALE 1:2500

Experience Quarter - Site Location Plan

PLANNING

5002854-RDG-Z01-ST-PL-A-0010 REV D

SCALE 1:2500

A0



## Schedule 2

### Financial Contributions Payable to the County Council

#### 1 DEFINITIONS

1.1 In this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be giving the meaning allocated to it in the main body of this Deed):

<b>Expression</b>	<b>Meaning</b>
<b>“Highway Contribution”</b>	<b>Works</b> the sum of £8,370 (EIGHT THOUSAND THREE HUNDRED AND SEVENTY POUNDS) Index Linked towards the provision of a junction capacity mitigation scheme at the Banbury Road/B4100/A4095 roundabout junction or an alternative scheme of similar benefit;
<b>“Sustainable Highway Works Contribution”</b>	the sum of £386,098.00 (THREE HUNDRED AND EIGHTY SIX THOUSAND AND NINETY EIGHT POUNDS) Index Linked towards the provision of improved pedestrian/cycle connections between the Site and Bicester Town Centre;
<b>“Index Linked”</b>	in relation to <ul style="list-style-type: none"><li>• the Strategic Transport Contribution and the Sustainable Highway Works Contribution adjusted according to any increase occurring between February 2021 and the date when the relevant payment is made to the County Council and in relation to the Highway Works Contribution adjusted according to any increase occurring between November 2021 and the date when the relevant payment is made to the County Council in both cases 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 &amp; Supervision 25% Index 2 Plant &amp; Road Vehicles 25% Index 3 Aggregates 30% Index 9 Coated Macadam &amp; Bituminous Products 20%;</li><li>• the Traffic Regulation Order Payment adjusted according to any increase occurring between April 2020 and the date when the relevant payment is made to the County Council and in relation to the Travel Plan Monitoring Fee adjusted according to any increase occurring between December 2020 and the date when the relevant payment is made to the County Council in both cases in the All Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office for National Statistics; and</li></ul>

<b>Expression</b>	<b>Meaning</b>
	if at any time for any reason it becomes impracticable to use any such index such alternative index as may be agreed between the Owner and the County Council;
<b>"Strategic Contribution"</b>	<b>Transport</b> the sum of £283,201.00 (TWO HUNDRED AND EIGHTY THREE THOUSAND TWO HUNDRED AND ONE POUNDS) Index Linked towards the Strategic Transport Infrastructure improvements outlined under Policy BIC 1 of the Local Transport Plan 4 – Dualling of Eastern Perimeter Route, Skimmingdish Lane section;
<b>"Traffic Regulation Order Payment"</b>	the sum of £6,380.00 (SIX THOUSAND THREE HUNDRED AND EIGHTY POUNDS) Index Linked towards the cost of promoting and, if appropriate, implementing the following (or alternative measures of similar benefit): <ul style="list-style-type: none"> <li>(a) a speed limit order for a 40mph speed restriction on Buckingham Road up to Bicester Road; and</li> <li>(b) a traffic regulation order for a mandatory left turn exit from the Site;</li> </ul>
<b>"Travel Plan Monitoring Fee"</b>	the sum of £2,379.00 (TWO THOUSAND THREE HUNDRED AND SEVENTY NINE POUNDS) Index Linked towards monitoring the framework travel plan for the Development.

## **2 COVENANTS**

### **2.1 The Owner covenants with the County Council as follows:**

- (a) to pay the Traffic Regulation Order Payment to the County Council prior to the Commencement of the Development and not to cause or permit the Commencement of the Development until it has paid the Traffic Regulation Order Payment to the County Council;
- (b) to pay the Highway Works Contribution, the Sustainable Highway Works Contribution and the Travel Plan Monitoring Fee to the County Council prior to the first Occupation of the Development;
- (c) not to cause or permit the first Occupation of the Development until it has paid the Highway Works Contribution, the Sustainable Highway Works Contribution and the Travel Plan Monitoring Fee to the County Council;
- (d) to pay the Strategic Transport Contribution to the County Council prior to the Occupation of more than one Building or the date 12 months after the date of first Occupation of the Development whichever is earlier; and
- (e) not to cause or permit the first Occupation of more than one Building and not to permit any further Occupations 12 months after the date of the first Occupation of the Development unless and until the Strategic Transport Contribution has been paid to the County Council.

### **Schedule 3**

#### **Highways Schedule**

##### **Part A**

## **1 DEFINITIONS**

- 1.1 In this Schedule the following additional definitions shall apply (for the avoidance of doubt any definition which does not appear below shall be given the meaning allocated to it in the main body of this Deed)

<b>Expression</b>	<b>Meaning</b>
<b>"the 1980 Act"</b>	the Highways Act 1980 (as amended);
<b>"Highway Agreement"</b>	an agreement under Section 278 (and if appropriate section 38) of the 1980 Act in accordance with the form appended to this Schedule (subject to any amendments that the circumstances may reasonably and properly require) which provides for the execution of the Works by the Owner at the Owner's expense;
<b>"Highway Plans"</b>	the drawing reference numbers described in paragraph 1.1 of Part B and annexed to this Schedule; and
<b>"Works"</b>	the Principal Works together with associated preparatory and ancillary works and the amenity and accommodation works described in Part B of this Schedule.

- 1.2 The Works are works which the County Council is authorised to execute by virtue of Part V of the 1980 Act.
- 1.3 The parties intend to enter into the Highway Agreement.

## **2 WORKS OBLIGATIONS**

- 2.1 The Owner covenants with and undertakes to the County Council not to cause or permit the Commencement of the Development until
- (a) there has been submitted to the County Council and approved by it in writing in principle drawings for the Works together with associated drawings and technical information as set out in the County Council's Section 278 application form as adjusted from time to time;
  - (b) there has been submitted to the County Council and approved by it in writing plans detailing the land (if any) to be dedicated following completion of the Works and there has been deduced to the satisfaction of the County Council title in respect of any such land to be dedicated;
  - (c) the anticipated duration of construction of the Works has been agreed with the County Council together with the longstop date for completion of the Works and the commuted maintenance sum in respect of the cost of future maintenance, and as applicable replacement of the Works, has been agreed; and
  - (d) the Highway Agreement incorporating in principle drawings and plans and other matters approved and agreed pursuant to paragraphs 2.1(a) to 2.1(c) has been entered into by the Owner in respect of the Works together with all parties with an interest in any land to be dedicated further to the Highways Agreement and any mortgagee of such land has released it fully and effectively from its charge.

- 2.2 Not to cause or permit the first Occupation of the Site unless and until the Works together with associated preparatory and ancillary works and the amenity and accommodation works have been completed pursuant to and in accordance with the Highway Agreement.
- 2.3 To complete the Works together with associated preparatory and ancillary works and the amenity and accommodation works pursuant to and in accordance with the Highway Agreement prior to the first Occupation of the Site.



## Part B

### Principal Works

#### 1 PRINCIPAL WORKS

- 1.1 The provision and construction of the following works as shown indicatively on the Highway Plans ("**Principal Works**"):
- (a) A new site access junction including a ghost island right turn lane; carriageway widening on Buckingham Road to accommodate right turn lane (width to be taken from eastern side of Buckingham Road), splitter island on minor access arm formed to direct all exiting traffic to turn left from the site, including all necessary and associated signage and road markings. As indicated in Drawing No: J32-3684-PS-201 Rev B;
  - (b) A shared use footway/cycleway of 3m width on the northern side of the proposed internal access road. The new pedestrian footway/cycleway will route around the northern corner of the access junction and continue to a point c.30m north to a new dropped kerb crossing point with tactile paving and a central refuge island of 3m between the site access junction and the A4421 junction with Thompson Drive. All necessary signage and road markings. As indicated in Drawing No: J32-3684-PS-201 Rev B;
  - (c) Modification to an existing/historic gated access located on Bicester Road at the northern site boundary (c.90m east of the junction with Buckingham Road) as indicated in Drawing No: J32-3684-PS-006 Rev F, to be utilised as secondary access for emergency and service vehicle access. The access is to be re-instated, resurfaced and improved.
  - (d) Junction mitigation scheme at Skimmingdish Lane / Buckingham Road / A4095 roundabout junction, as indicated in Drawing No: J32-3684-PS-205 including:
    - (i) delivery of a two-lane approach to the junction from the Buckingham Road (N) arm, using the existing deceleration lane into the Bicester Motion main access and Technical Site and kerb realignment (an extent of which is covered by the prior FAST/IQ (Ref: 19/02708/OUT) and Hotel (Ref: 18/01253/F) application approvals);
    - (ii) extension of approach flare on the eastern Skimmingdish Lane arm of the junction and footway/cycleway to be re-provided using land within the highway boundary on the south side of Skimmingdish Lane (an extent of which is covered by the prior FAST/IQ (Ref: 19/02708/OUT) and Hotel (Ref: 18/01253/F) application approvals);
    - (iii) extension of approach flare on the southern Buckingham Road arm of the junction and footway to be re-provided using land within the highway boundary on the west side of Buckingham Road (an extent of which is covered by the prior FAST/IQ (Ref: 19/02708/OUT) and Hotel (Ref: 18/01253/F) application approvals);
    - (iv) extension of the approach lane flare on the western A4095 arm of the junction (as previously approved and included as part of the Hotel and IQ mitigation scheme options); footway/cycleway (including the signalised pedestrian crossing provision) to be re-provided using land within highway boundary on the north side of the A4095 (the extent of which is covered by the prior Hotel application approval (Ref: 18/01253/F)); and,
  - (e) Junction mitigation scheme at the A4421 Buckingham Road / Bicester Road (to Stretton Audley) junction as indicated in Drawing No: J32-3684-PS-008 Rev C. A new ghost island right turn lane, carriageway widening on Buckingham Road

to accommodate right turn lane (width to be taken from eastern side of Buckingham Road, using land within highway boundary and the Site's redline boundary). Carriageway re-alignment and improvement on the Bicester Road approach using land within highway boundary on the north side of Bicester Road.

## **2 PREPARATORY AND ANCILLARY WORKS**

2.1 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 the County 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; and
- (h) all tapers joints and reinstatements necessary where the Principal Works abut the existing highway.

## **3 AMENITY AND ACCOMMODATION WORKS**

3.1 The provision and construction of all such amenity and accommodation works as the County 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; and
- (d) any necessary embankments retaining walls or other things necessary to give support to adjoining land.



Part C

Public Transport Service Provision

**1 DEFINITIONS**

1.1 In this Part C of Schedule 3 the following words and expressions have the following meanings:

<b>Expression</b>	<b>Meaning</b>
<b>"Additional Alternative Transport Service Report"</b>	a report produced by the Owner which sets out details of: <ul style="list-style-type: none"><li>(a) The usual information required for an Alternative Transport Service Report but only for the 6 month period immediately preceding the date of the report</li><li>(b) Alternative Transport Service performance since the commencement of the service; and</li><li>(c) Preliminary conclusions in relation to the continuation of the Alternative Transport Service</li></ul>
<b>"Additional Public Transport Service Report"</b>	a report produced by the County Council which sets out the usual information required for a Public Transport Service Report but only for the 6 month period immediately preceding the date of the report and which following a review of the operation of the Public Transport Service over the whole period of the contract sets out details of: <ul style="list-style-type: none"><li>(a) Public Transport Service performance; and</li><li>(b) Preliminary conclusions in relation to the continuation of the Public Transport Service;</li></ul>
<b>"Alternative Transport Service"</b>	a public bus service procured by the Owner and provided by a licensed bus operator to run at a half hourly frequency, operating as a minimum during the opening hours of the Development; providing a route between the Development and Bicester North and Bicester Village railway stations;
<b>"Alternative Transport Service Report"</b>	a written report containing the following information in relation to the Alternative Transport Service: <ul style="list-style-type: none"><li>(a) Bus passenger numbers including daily, weekly &amp; monthly breakdowns and ticket type breakdowns;</li><li>(b) Full breakdown of operating costs for the service's preceding period;</li><li>(c) Performance statistics, (including customer feedback/survey data, if applicable); and</li><li>(d) revenue and profit and loss analysis, fare structures (including any respective price increases/reductions, as applicable);</li></ul>
<b>"Alternative Transport Service Plan"</b>	a plan for the provision of the Alternative Transport Service to consist of the following: <ul style="list-style-type: none"><li>(a) Proposed service routeing plan;</li></ul>

- (b) Proposed service access points and stops;
- (c) Timetabling information (as intended from the initial operation);
- (d) Details of service vehicle to be used; and
- (e) Hours of service operation;

**“Council’s Additional Alternative Transport Service Report”**

a report produced by the County Council once a review of the Additional Alternative Transport Service Report has been undertaken and which sets out preliminary conclusions in relation to the continuation of the Alternative Transport Service;

**“Gross Cost Contract”**

a contract for the Public Transport Service whereby the County Council pays the bus operator a specified sum to provide a bus service for a specified period (subject to terms and conditions) and annual passenger revenue is returned to the Owner by way of deductions from future payments payable to the County Council;

**“Index Linked”**

in this Schedule, payments adjusted according to any increase occurring between May 2021 and the date when the relevant payment is made to the County Council in the All Items Retail Prices Index excluding mortgage interest payments (RPIX) published by the Office for National Statistics;

**“Private Transport Service”**

a private bus service operated by the Owner for visitors and employees of the Development to run at an hourly frequency during the opening hours of the Development providing a route between the Development and Bicester North and Bicester Village railway stations;

**“Public Transport Service”**

a Gross Cost Contract public bus service to run at a half hourly frequency, operating as a minimum during the opening hours of the Development providing a route between the Development and Bicester North and Bicester Village railway stations;

**“Public Transport Service Contribution”**

£900,000 Index Linked to be used for the Public Transport Service payable in five instalments all Index Linked calculated by operating the principles of a Gross Cost Contract as follows:

For the first instalment, the sum of £180,000 Index Linked

For subsequent instalments the sums calculated by applying the following formula:

$$I = £180,000 - R + (C - £180,000)$$

Where *I* is the amount of the instalment payable

*R* is the revenue received by the bus operator for the previous year as notified to the County Council

And *C* is the cost charged by the bus operator to the County Council for the previous year according to the contract between the County Council and the bus operator;

**"Public Transport Service Reconciliation Payment/Refund"**

the amount of the payment/refund is calculated by applying the following formula:

$$X = C - (R + I)$$

Where X is the amount of the additional payment/refund and if X is a positive figure an additional sum is payable to the County Council and if it is a negative figure a refund is payable to the Owner

C is the total cost charged by the bus operator to the County Council for the whole period of the contract up to and including the month preceding the month when the calculation is carried out

R is the total revenue received by the bus operator for the whole period of the contract up to and including the month preceding the month when the calculation is carried out (as notified to the County Council)

And I is the total of all instalments of the Public Transport Service Contribution already paid by the Owner to the County Council excluding indexation;

**"Public Transport Service Report"**

a written report containing the following information in relation to the Public Transport Service:

- (a) Bus passenger numbers including daily, weekly & monthly breakdowns and ticket type breakdowns;
- (b) Fare structures (including any respective or forecast price increase/reduction, as applicable);
- (c) Full breakdown of operating costs for the services preceding period; and,
- (d) Performance statistics, revenue, profit and loss analysis (including customer feedback/survey data, if applicable);

**"Satisfactorily"**

is as defined in paragraph 2.7 of this Part of this Schedule.

**2 PLANNING OBLIGATIONS**

- 2.1 Not less than eight months prior to Occupation the Owner covenants to notify the County Council in writing whether they will pay the Public Transport Service Contribution or provide an Alternative Transport Service.
- 2.2 If the Owner serves notice that they will pay the Public Transport Service Contribution the following provisions shall apply:
  - (a) The Owner shall pay the Public Transport Service Contribution to the County Council in accordance with paragraph 2.3;
  - (b) On receipt of the first instalment of the Public Transport Service Contribution the County Council shall undertake a procurement process for the provision of the Public Transport Service and shall subject to payment of the first instalment on the Due Date use reasonable endeavours to procure the Public Transport Service to be operational on or before first Occupation of the Development and to operate for an initial period of three years;

- (c) The Owner shall not cause or permit first Occupation of the Development until the first instalment of the Public Transport Service Contribution has been paid to the County Council;
- (d) In the event that the County Council concludes it is unable to procure the Public Transport Service or to do so on acceptable terms it will:
  - (i) notify the Owner in writing of this before or within 6 months following first Occupation of the Development; and
  - (ii) return to the Owner the first instalment of the Public Transport Service Contribution already paid less any expenditure already incurred by the County Council; and
  - (iii) confirm in writing to the Owner that no further instalments of the Public Transport Service Contribution shall be payable.
- (e) Within 3 months of the repayment of monies in paragraph (d)(ii) the Owner will commence the operation of the Private Transport Service and shall continue to operate the Private Transport Service for a period of 5 years from commencement of the Private Transport Service subject to the terms of paragraph 2.5 of this Schedule and in such circumstances no further instalments of the Public Transport Service Contribution shall be payable to the County Council;
- (f) From the date which is 12 months from the date on which the Public Transport Service commences the County Council shall on written request each time provide the Public Transport Service Report annually for three years and if the review described in paragraph 2.2(g) provides for the continuation of the Public Transport Service annually on written request each time for a further two years.
- (g) Following the date which is 30 months after the date on which the Public Transport Service commenced, the County Council shall following written request by the Owner review the operation of the Public Transport Service over the whole period of the contract and shall produce the Additional Public Transport Service Report. The Owner shall be invited to make written representations about the Additional Public Transport Service Report and the County Council shall have regard to those representations when reaching its final conclusions. If:
  - (i) the County Council reasonably concludes that the Public Transport Service has operated Satisfactorily and expects it to continue operating Satisfactorily then the County Council shall notify the Owner of this in writing and shall use reasonable endeavours to procure the continuation of the Public Transport Service for a further period of two years from the date which is 3 years following the commencement of the service in so far as the funding from the Public Transport Service Contribution is sufficient for that purpose; or if
  - (ii) the County Council concludes otherwise it shall notify the Owner of this in writing and no further instalments of the Public Transport Service Contribution shall be payable to the County Council but without prejudice to the terms of paragraph 2.2(j).
- (h) If following the commencement of the Public Transport Service but prior to the expiry of four years since its commencement the County Council decides that it wishes to permanently terminate the Public Transport Service it shall:
  - (i) notify the Owner in writing that it is permanently terminating the Public Transport Service stating in the notification when the service will end and that no further instalments of the Public Transport Service Contribution shall be payable;

- (ii) confirm in writing to the Owner that all obligations in this Part C of Schedule 3 are discharged other than the obligation (if any) in paragraph 2.2(j)
- (i) In the following events the County Council shall carry out a reconciliation of costs, payments and revenue for the whole period up to the point at which the Public Transport Service ceases, to determine whether there is a balancing payment due from the Owner or a refund due to the Owner and the amount of the payment/refund shall be the Public Transport Service Reconciliation Payment/Refund:
- (i) the termination of the Public Transport Service by the County Council further to paragraph 2.2(h);
  - (ii) the discontinuation of the Public Transport Service by the County Council following the review described in paragraph 2.2(g); and
  - (iii) the coming to an end of the Public Transport Service following a period of 5 years or earlier if funding from the Public Transport Service Contribution has been fully spent.
- (j) Following an event described in paragraph 2.2(i) the County Council shall inform the Owner whether there is a balancing payment due from the Owner or a refund due to the Owner together with the amount of the Public Transport Service Reconciliation Payment/Refund AND the balancing payment/refund shall be paid to the other party within 30 Working Days PROVIDED that the Owner shall not be required to make a payment that is in excess of the Public Transport Service Contribution

**2.3 The Public Transport Service Contribution shall be paid as follows:**

- (a) Not later than six months prior to first Occupation the first instalment;
- (b) Not later than one year from the first Occupation the second instalment;
- (c) Not later than two years from the first Occupation the third instalment;
- (d) Not later than three years from the first Occupation the fourth instalment; and
- (e) Not later than four years from the first Occupation the fifth and final instalment.

**2.4 If the Owner serves notice that they intend to provide the Alternative Transport Service, the following provisions shall apply:**

- (a) The Alternative Transport Service shall operate on the route, at the frequency and during the hours of operation specified in the definition of the Alternative Transport Service unless otherwise agreed in writing by the County Council. When considering changes to the Alternative Transport Service, the County Council will have regard to the circumstances including amongst other matters the attractiveness and convenience of the service to users and the numbers of passengers using the service over time;
- (b) Not later than six months prior to first Occupation the Owner shall provide an Alternative Transport Service Plan to the County Council for approval not to be unreasonably withheld or delayed;
- (c) From the date of first Occupation the Owner shall provide the Alternative Transport Service in accordance with the approved Alternative Transport Service Plan (as may be amended from time to time) for three years and in the event that the review described in paragraphs 2.4(f) and 2.4(g) provides for the continuation of the service then for a further two years after that;



- (d) The Owner shall notify the County Council in writing of the date upon which the service commenced within 10 Working Days of its commencement;
  - (e) From the date which is 12 months from the date on which the Alternative Transport Service commences the Owner shall provide the Alternative Transport Service Report annually for two years and if the review described in paragraph 2.4(g) provides for the continuation of the Alternative Transport Service at the end of the third fourth and fifth year of operation of the Alternative Transport Service in each case covering the immediately preceding 12 month period;
  - (f) On the date which is 30 months after the date on which the Alternative Transport Service commenced, the Owner shall provide to the County Council an Additional Alternative Transport Service Report;
  - (g) Following receipt of the Additional Alternative Transport Service Report, the County Council shall review the Additional Alternative Transport Service Report and shall produce the Council's Additional Alternative Transport Service Report. The Owner shall be invited to make written representations about the Council's Additional Alternative Transport Service Report and the Council shall have regard to those representations when reaching its final conclusions. If:
    - (i) the County Council reasonably concludes that the Alternative Transport Service has operated Satisfactorily and expects it to continue operating Satisfactorily then the County Council shall notify the Owner of this in writing and the Owner shall continue operating the service for a further period amounting to a total of five years from the date on which the service commenced; or
    - (ii) the County Council concludes otherwise it shall notify the Owner of this in writing and the Alternative Transport Service may be terminated PROVIDED THAT at least three years have elapsed since the service commenced and not less than 70 days written notice has been given to the County Council of the termination of the service;
  - (h) In the event that the County Council reasonably considers that the Alternative Transport Service has stopped or is not being delivered materially in accordance with the terms of the Alternative Transport Service Plan or this Agreement then the County Council shall be entitled to serve notice in writing upon the Owner to this effect and:
    - (i) if the breach concerning the Alternative Transport Service is remediable and the Owner fails to remedy that breach within a period of 90 days after being notified in writing to do so; or
    - (ii) if the breach is not remediable;

from that point on the requirements of paragraphs 2.2 and 2.3 shall apply, requiring the Owner to pay to the County Council the remainder of the Public Transport Service Contribution pro rata the first such payment to be within 15 Working Days and the County Council shall use reasonable endeavours to procure a Public Transport Service as soon as reasonably practicable following receipt of the first payment;
- 2.5 At no point will the Owner be required to invest, spend or incur any costs in respect of the Alternative Transport Service or the Private Transport Service in excess of what would have been payable to the County Council pursuant to paragraph 2.3 had the County Council been procuring the Public Transport Service AND the County Council shall not be required to continue the Public Transport Service beyond the point at which it ceases to be fully funded solely by the Public Transport Service Contribution;
- 2.6 The Public Transport Service or as applicable the Alternative Transport Service must serve the existing bus stops along Buckingham Road (Caversfield northbound and

southbound stops) directly outside Bicester Heritage; including the new bus stop provision which is part of the Hotel planning application (Ref: 18/01253/F);

2.7 In relation to the review of the Public Transport Service undertaken by the County Council in accordance with paragraph 2.2(g) or the review of the Alternative Transport Service undertaken by the County Council in accordance with paragraph 2.4(g) in reaching a conclusion as to whether the relevant service has operated "Satisfactorily" and the County Council expects it to continue operating "Satisfactorily" the County Council shall have regard to the following criteria and any other criteria the County Council reasonably considers relevant:

- (a) the proportion of costs that are being recovered from revenue;
- (b) the measures taken to advertise and promote the service online and in other suitable locations to those who might wish to use it including visitors and staff.



**First Annex to Schedule 3**

**Highway Plans**

This drawing has been produced by mode transport planning. No responsibility will be accepted for the use of this drawing in any other project.  
 DO NOT SCALE OFF THIS DRAWING  
 Dimensions shown are in meters unless stated otherwise  
 Road markings & traffic signs are to be in accordance with The Traffic Signs Regulations and General Directions 2016  
 Tackle paving is to be in accordance with the use of tactile paving surfaces 2007  
 Visibility Splay shown is in accordance with T1002

**DIRECTOR**  
**BICESTER MOTION LTD**

- Red Line Boundary
- Extent of Adopted Highway
- 2.4m x 160m Visibility Splay (DMRB)



**B2 PRINCIPAL**  
**ES SURVEYOR**

SEAL NO: 36262  
 MINISTRY OF DEFENCE  
 DEFENCE INFRASTRUCTURE ORGANISATION  
 ANDOVER SP11 8JH

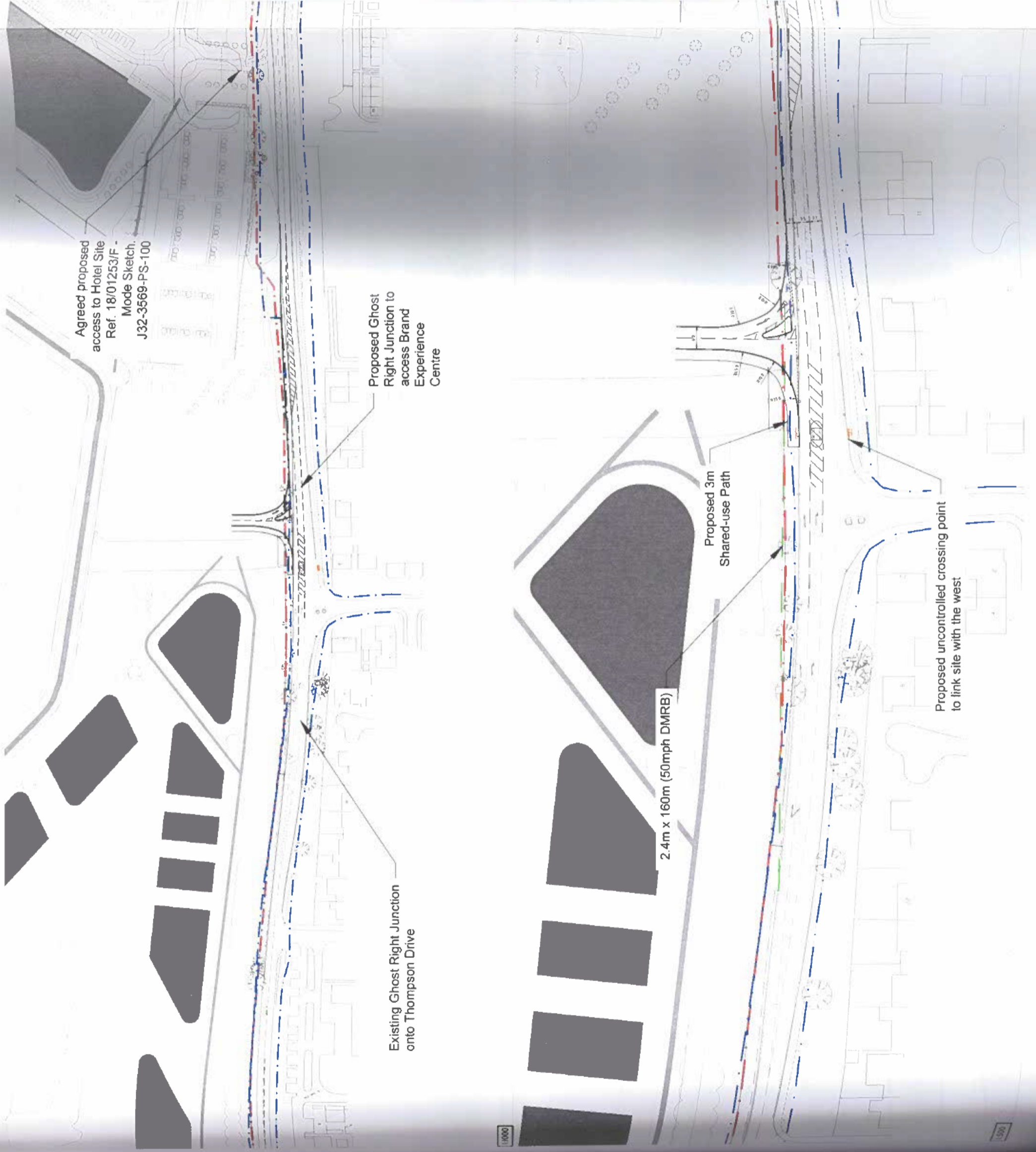
rev	date	client	remarks
B	11-10-22		RESPONSE TO OCC COMMENTS
A	05-11-19		DRAFT for internal comment only

job title: Bicester Motion  
 Brand Experience Application  
 drawing title: Proposed Access

drawing no: J32-3684-PS-201  
 drawn: jwm checked: alf  
 created: Nov '19 scale: Varies as Shown@A1



mode transport planning  
 Limited  
 1st One One One Street  
 Birmingham  
 B1 3LP  
 0121 794 4390  
 info@modetransport.co.uk  
 www.modetransport.co.uk



Agreed proposed access to Hotel Site  
 Ref. 18/01253/F -  
 Mode Sketch.  
 J32-3569-PS-100

Proposed Ghost Right Junction to access Brand Experience Centre

Existing Ghost Right Junction onto Thompson Drive

2.4m x 160m (50mph DMRB)

Proposed 3m Shared-use Path

Proposed uncontrolled crossing point to link site with the west



This drawing has been produced by mode transport planning. No responsibility will be accepted for the use of this drawing in any other project.  
 DO NOT SCALE OFF THIS DRAWING  
 Dimensions shown are in millimeters unless otherwise stated. All markings, scale signs are to be in accordance with the Traffic Signs Regulations and General Directions 2019.  
 Mode planning is to be in accordance with guidance on the use of traffic signs subject to 2019.

**DIRECTOR**  
**BICESTER MOTION LTD**

- Red Line Boundary
- - - Extent of Adopted Highway
- - - Achievable Visibility Splay (DMRB)
- - - Visibility to Tangent



SEAL NO: 36262  
 MINISTRY OF DEFENCE  
 DEFENCE INFRASTRUCTURE ORGANISATION  
 ANDOVER SP11 9JH

rev	date	remarks
F	15-12-20	Amended
E	30-07-19	Amended
D	12-07-19	Amended
C	10-06-19	Amended based on ATC survey results
B	24-05-19	DRAFT Amended
A	10-05-19	DRAFT for internal comment only

client: [Redacted]

job title: Bicester Motion  
 Brand Experience Application  
 Bicester Road - Secondary Access Point

drawing no: J32-3684-PS-006

drawn: jwm checked: alf  
 created: Apr '19 scale: Varies as Shown@AI

mode transport planning  
 445 Oriel Street, Milton Keynes MK11 3JF  
 01908 511111  
 www.mode-transport.co.uk

mode transport planning  
 transport planning



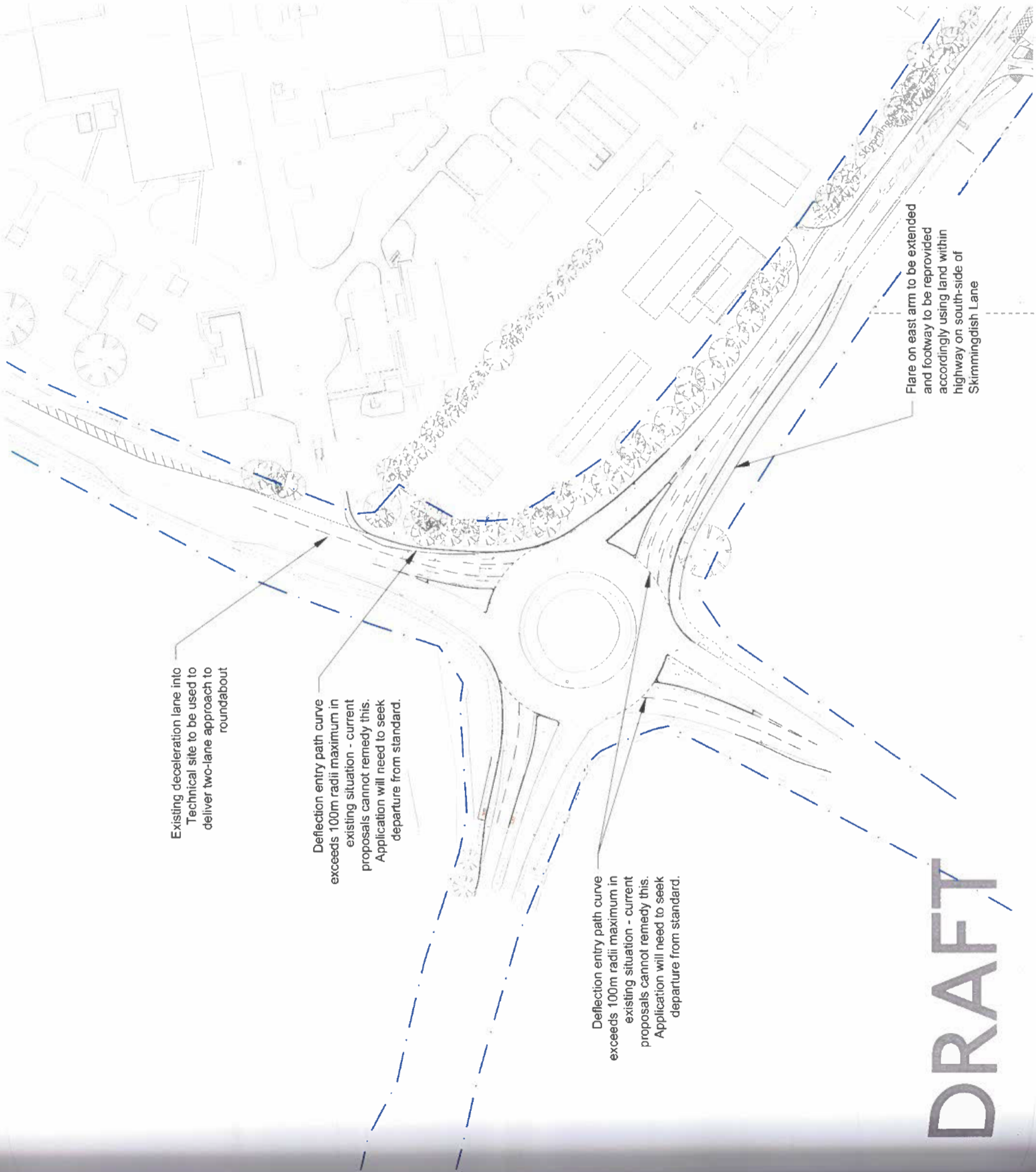
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 LONDON: 100-111 OFF FRIEDLAND ROAD  
 BIRMINGHAM: 100-111 OFF FRIEDLAND ROAD  
 ROAD MARKINGS & WORKS: 100-111 OFF FRIEDLAND ROAD  
 100-111 OFF FRIEDLAND ROAD  
 100-111 OFF FRIEDLAND ROAD

**DIRECTOR**  
**BI CESTER MOTION LTD**

Extent of Adopted Highway



AL NO: 362 62  
 MINISTRY OF DEFENCE  
 DEFENCE INFRASTRUCTURE ORGANISATION  
 BOWER SPIT SHU



Existing deceleration lane into  
 Technical site to be used to  
 deliver two-lane approach to  
 roundabout

Deflection entry path curve  
 exceeds 100m radii maximum in  
 existing situation - current  
 proposals cannot remedy this.  
 Application will need to seek  
 departure from standard.

Deflection entry path curve  
 exceeds 100m radii maximum in  
 existing situation - current  
 proposals cannot remedy this.  
 Application will need to seek  
 departure from standard.

Flare on east arm to be extended  
 and footway to be reproduced  
 accordingly using land within  
 highway on south-side of  
 Skimmingdish Lane

**DRAFT**

30-11-20 rev date  
 DRAFT for internal comment only remarks

Bicester Motion

job title  
 Bicester Motion  
 Brand Experience Application

drawing title  
 Skimmingdish Lane - Offsite Highway  
 Improvements - Buckingham Road Roundabout

drawing no  
 J32-3684-PS-205

drawn  
 jwm  
 checked  
 created  
 Jul '20  
 scale  
 1:500@AI

mode transport planning  
 LONDON: 100-111 OFF FRIEDLAND ROAD  
 BIRMINGHAM: 100-111 OFF FRIEDLAND ROAD



transport planning

0121 764 8390  
 info@modetransport.co.uk  
 www.modetransport.co.uk





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**DIRECTOR**  
**BICESTER MOTION LTD**

- Red Line Boundary
- Extent of Adopted Highway
- 2.4m x 160m Visibility Splay (DMRB)



SEAL NO: 36262  
 MINISTRY OF DEFENCE  
 DEFENCE INFRASTRUCTURE ORGANISATION  
 ANDOVER SP11 4HJ

rev	date	remarks
C	30-07-19	Amended
B	2-07-19	Amended
A	24-05-18	DRAFT for internal comment only

Bicester Motion

job title  
 Bicester Motion Masterplan

drawing title  
 Buckingham Road - Offsite Highway  
 Improvements (Bicester Road Access)

drawing no  
 J32-3684-PS-008

drawn  
 jwm  
 checked  
 bdf  
 created  
 Apr '19  
 scale  
 Varies as Shown@A1



mode transport planning  
 307 794 1550  
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 www.modetransport.co.uk

**Second Annex to Schedule 3**

**Form of Highway Agreement and Standard Conditions**

DATED \_\_\_\_\_ 202[ ]

THE OXFORDSHIRE COUNTY COUNCIL

- and -

(OWNER)

-and-

(MORTGAGEE)

draft

-----  
Agreement relating to highway works at [ ] Oxfordshire  
to be undertaken by Developer  
-----

DLM/

Anita Bradley  
Director of Law & Governance 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) \_\_\_\_\_ (company registration  
number \_\_\_\_\_) ("the Owner")
- (3) \_\_\_\_\_ (company registration  
number \_\_\_\_\_) ("the Mortgagee")

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 Mortgagee] and the Council agree should be substituted for it
- 1.7 "the Development" means the development of the Site by [ ] further to the Planning Permission
- 1.8 "Dwelling" means a dwelling constructed or to be constructed pursuant to the Planning Permission
- 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%
Index 3	Aggregates	30%
Index 9	Coated Macadam & Bituminous Products	20%

or if at any time for any reason it becomes impracticable to compile the said composite index then an index compiled in such other manner as may be agreed in writing by the Owner and the Council

1.12 "the Maintenance Costs" means the sum of [            ] Index-Linked to cover the cost of future maintenance of the Works

1.13 ["the Mortgagee" means the said                                  of/whose registered office is at                                  and its successors in title and assigns]

1.14 "Occupation" means the first occupation of a Dwelling for residential purposes and "Occupy" and "Occupied" shall be construed accordingly

1.15 "the Off-Site Works" means such part of the Works (if any) as is to be executed outside the Site

1.16 "the Owner" means the said                                  of/whose registered office is at                                  and its successors in title and assigns

1.17 "the Planning Permission" means planning permission reference number [            ] for the Development

1.18 "the Site" means the land at [            ] Oxfordshire shown edged in red on the Site Plan

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 plan marked "Plan C" 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 the freehold of the Site [subject to 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 district planning authority granted the Planning Permission for the Development on [ ]

2.5 The Owner has agreed by virtue of an agreement pursuant to Section 106 of the 1990 Act 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 this 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 [and the Mortgagee] in respect of the Site and enforceable by the Council

3. **Covenants**

The Owner covenants:-

- 3.1 not to cause or permit the Occupation of any Dwelling before the Works have been completed
- 3.2 to execute the Works entirely at 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 the 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

4. **Adoption as Highway**

- 4.1 On the issue of a Certificate of Completion for the Works  
the whole of the land shown [coloured pink] 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 [and  
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 **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 **Mortgagee's Consent**

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 **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 Deed

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 provisions 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 and 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 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(s) of the following works ("the Principal Works"):

[TO BE COMPLETED]

(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

# OXFORDSHIRE COUNTY COUNCIL

## STANDARD CONDITIONS FOR THE CONTROL OF HIGHWAY WORKS IN CONJUNCTION WITH DEVELOPMENT

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Anita Bradley  
Director of Law & Governance and  
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New Road  
Oxford OX1 1ND

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County Hall  
New Road  
Oxford OX1 1ND

2016 Edition



## OXFORDSHIRE COUNTY COUNCIL

### STANDARD CONDITIONS FOR THE CONTROL OF HIGHWAY WORKS IN CONJUNCTION WITH DEVELOPMENT

#### GENERAL

##### 1 INTERPRETATION

In these Conditions:-

- 1.1 "the Agreement" means any agreement or other instrument by which these Conditions are applied.
- 1.2 "Authorisations" has the meaning given in Condition 11.1.
- 1.3 "the Bond" means the bond referred to in Condition 12.
- 1.4 "the Certificate of Completion" means the certificate issued under Condition 30.
- 1.5 "Contractor" includes an agent and any sub-contractor or agent of a main contractor.
- 1.6 "the Council" means the Oxfordshire County Council of County Hall New Road Oxford OX1 1ND and, so far as the context admits, includes any employee or contractors duly appointed by them.
- 1.7 "the Developer" means the person or persons by whom the Agreement requires the Works to be executed.
- 1.8 "including" means including without limitation or prejudice to the generality of any preceding description defining term phrase or word(s) and 'include' shall be construed accordingly.
- 1.9 "Safety Audit" means a safety audit in accordance with Oxfordshire Safety Audit Guideline as revised from time to time and incorporating GG 119 - Road safety audit.
- 1.10 "the Scheme of Works" means the matters specified in Conditions 9.1 – 9.3 as may for the time being have been varied and/or augmented under Condition 11 and/or Condition 23.
- 1.11 "statutory requirements" means the requirements of any enactment (being any act and any subordinate legislation as defined in the Interpretation Act 1978) national guidance or good practice guides.
- 1.12 "the Works" means the works which the Agreement requires to be executed in accordance with these Conditions and references to "the Works" includes each and every part of them.
- 1.13 The headings are for ease of reference and shall not affect the construction or interpretation of these Conditions.

1.14 References to the Construction (Design and Management) Regulations are to the Construction (Design and Management) Regulations 2015 as varied or replaced from time to time.

1.15 Any reference to any enactment includes any amendments to or modification of it and the version of it for the time being in force shall apply.

## **2 RELATIONSHIP WITH AGREEMENT**

These Conditions shall be construed together with and subject to the Agreement and in the event of any inconsistency between the Conditions and the Agreement the latter shall prevail.

## **3 COMMUNICATIONS WITH THE COUNCIL**

Any notice or other communication required by these Conditions to be given by the Developer to the Council shall be given in writing to the Council's Director for Environment & Economy at his main office at County Hall, New Road, Oxford OX1 1ND or to such other person and/or at such other place as he may identify in writing to the Developer.

## **4 APPROVALS AND CERTIFICATES**

4.1 No approval consent authorisation or payment as specified in Condition 4.3 shall create any contractual relationship between the Developer and the Council beyond that contained in the Agreement or operate in any way as a warranty or otherwise imply that the subject matter of such approval consent authorisation or payment is fit for its intended purpose nor shall it relieve the Developer or any professional adviser or contractor engaged in connection with the Works from their respective obligations to use all proper skill and care in respect of the Works.

4.2 The Council will not be liable for any loss damage or injury which the Developer may sustain arising from action taken in consequence of such approval consent authorisation or payment.

4.3 The matters referred to in Condition 4.1 are:

4.3.1 any approval or consent given by the Council in respect of the discharge by the Developer of its obligations under these Conditions; or any technical approval or consent issued by the Council in respect of the Works.

4.3.2 any authorisation given or implied by or under these Conditions in respect of anything done or to be done by the Developer on or in relation to any highway; or any payment made by the Developer to the Council under these Conditions.

## **5 COUNCIL TO ACT IN DEFAULT OR EMERGENCY**

5.1 In the event that either of the following circumstances occur:-

5.1.1 if the Developer shall be materially in default in respect of any of the provisions of the Agreement including these Conditions requiring work to be done or not done, or to be done in a particular manner or by a particular time and if such default continues after the Council have given to the Developer not less than 21 days' written notice of the steps they require to be taken to remedy such default; or

5.1.2 if it shall appear to the Council at any time during the course of execution of the Works that danger to persons or prejudice to the structure or stability of the public highway or of adjoining land exists or is imminent, and that it is not reasonably practicable to cause the Developer to take the necessary remedial steps forthwith;

the Council may take such steps themselves to the exclusion of the Developer and charge the expenses incurred (including their reasonable administrative costs) against the Developer.

5.2 Such expenses will be a debt due to the Council and recoverable by them by action or otherwise and for the avoidance of doubt the Council may recover such expenses under the Bond where the Council has taken such steps because the Developer is in default as provided in Condition 5.1.1 or where the Council has taken such steps in an emergency further to Condition 5.1.2 and in the latter case the Developer has failed to discharge the Council's expenses.

## **6 INDEMNITY**

The Developer shall indemnify the Council and keep them indemnified against;

6.1 all actions, liabilities, claims, costs and proceedings which may arise from the execution and completion of the Works (except insofar as may arise from the negligence or default of the Council) and from anything done or not done by the Developer or by its employees or contractors in connection with the Works;

6.2 all actions, liabilities, claims, costs and proceedings arising in connection with or incidental to or in consequence of the lawful use of the highway following upon the carrying out or completion of the Works under the Land Compensation Act 1973 or under regulations made pursuant to Section 20 of the Land Compensation Act 1973 (insulation against noise) and any grants made by the Council under such regulations in accordance with its established policy. The Council may by advertisement invite claims under the Land Compensation Act 1973 and under regulations made pursuant to Section 20 of that Act.

7 **HEALTH AND SAFETY**

The Developer shall act as the only client in respect of the Works for the purposes of The Construction (Design and Management) Regulations.

8 **PAYMENTS**

Where the Council seeks any payment further to these Conditions then save where there is express provision as to timing for payment such payment shall be due within 28 days of written request from the Council and if payment is not made within such 28 day period (or where applicable such other period as expressly provided) then interest at 4% per annum above the base rate from time to time of Lloyds Bank PLC shall be payable from the expiration of the 28 day period until the date of payment.

**PRELIMINARIES**

9 **SUBMISSIONS TO THE COUNCIL**

The Developer shall submit to the Council the information and other matters specified in column 1 below in accordance with the timetable set out in column 2 below and the notes set out in column 3 below: -

**Highway Matters**

9.1

Information	Timetable	Notes
Detailed plans (which shall include a layout plan to a scale of 1:1250 or 1:2500 according to whichever is the Ordnance Survey base scale for the area), drawings and specifications of the Works (including the drainage of them) and the materials to be used to comply with the relevant standards and specifications of the Council for the time being in force, together with such structural and drainage calculations as the Council may consider necessary having regard to the nature of the Works;	No later than <b>3 months before any tender is invited</b> for the execution of the Works	There shall be paid to the Council on the submission a sum equal to 0.4% of the estimated gross cost of the Works as identified in Condition 12

## 9.2

<p><b>A detailed programme</b> designed to ensure the orderly and timely execution and completion of the Work with the minimum of disturbance and disruption to use of the highway and occupiers of property and to facilitate the implementation of any such measures in respect of undertaker's apparatus as may be identified pursuant to Condition 10.</p>	<p>No later than <b>2 weeks after the acceptance of any tender</b> for the execution of the Works</p>	<p>Significant programme changes to be identified not less than 2 weeks prior to the change</p>
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## 9.3

<p><b>(a) Measures for the control of vehicles and plant</b> to be used in the course of execution of the Works (including vehicles engaged on the transport of materials and equipment to and from the Works) and measures for traffic regulation in order to minimise and/or alleviate damage to the highway disturbance to occupiers of property and disturbance and disruption to use of the highway (including traffic congestion) ;and <b>(b) traffic safety measures</b> and measures including lights, guards, fencing and warning signs in order to protect the Works and/or for the safety and convenience of the public</p>	<p>No later than 2 weeks before the Works are expected to commence</p>	
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## 9.4

<p><b>Safety Audit Stage 2 Report</b></p>	<p>No later than <b>3 months before any tender is invited for the execution of the Works</b></p>	
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## 9.5

<p>Details in accordance with Condition 15 of the <b>persons proposed to be invited to tender.</b></p>	<p>No later than <b>1 month before any tender is invited</b> for the execution of the Works.</p>	
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## Other Matters

9.6

Details of the <b>bondsman</b> proposed to be given pursuant to Condition 12, together with any bills of quantities or tenders which the Developer wishes the Council to take into account under that Condition.	No later than <b>1 month before the Works are expected to commence.</b>	
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9.7

Details of the <b>insurances</b> required by Condition 14.	No later than <b>1 month before the Works are expected to commence.</b>	
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9.8

<p><b>Part 1</b>  <b>Noise survey and assessment and modelling</b> sufficient to establish whether any properties will be eligible for noise insulation according to regulation 3 or regulation 4 (as applied by the Council) of the Noise Insulation Regulations 1975 applying the requirements of the Design Manual of Roads and Bridges Volume 11 – Environmental Assessment and the Calculation of Road Traffic Noise 1988 to be undertaken by a noise expert approved by the Council.</p> <p><b>Part 2</b>          If the assessment concludes that there will be any property eligible for noise insulation to submit to the Council:</p> <p>(a) a map and list of all eligible properties. <sup>1</sup></p> <p>(b) a list of all occupiers and landlords</p> <p>(c) a survey and assessment for each eligible property of the work to be carried out to comply with requirements of the Noise Insulation Regulations 1975 and the specification for that work</p>	<p>No later than <b>1 month before the Works are expected to commence or earlier than 3 months before the Works are expected to commence.</b></p> <p>As above</p>	<p>Precise timing of survey to be agreed with the Council.          Location of the survey/testing to be advised to the Council and if applicable adjusted to ensure regulatory compliance.</p>
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<sup>1</sup> Dwellings and other buildings used for residential purposes which will be not more than 300 metres from the edge of the carriageway of the highway after completion of the work.

9.9

<p><b>Condition survey</b> (comprising photographs) of land and highway adjoining and neighbouring the site of the Works together with such further areas as the Council may require.</p>	<p>No later than <b>1 month before the Works are expected to commence.</b></p>	
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9.10

<p>Notification of the <b>identity of the contractor</b> who has submitted a successful tender.</p>	<p>No later than <b>2 weeks after the acceptance of any tender</b> for the execution of the Works.</p>	
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In any particular case any information or matter may be submitted to the Council at such later time as the Council may consider expedient subject to the Council identifying such later time in writing.

**10 UNDERTAKERS' APPARATUS**

10.1 The Developer shall in preparing the Scheme of Works consult every undertaker within the meaning of the New Roads and Street Works Act 1991 whose apparatus or services lie in, on, under or over the site of the Works or may otherwise be affected by the Works (whether or not it is intended to connect into such services in connection with the Works), with a view to the identification and implementation of any measures considered necessary by the undertakers for the protection of, or otherwise in relation to, their apparatus or services, and shall be responsible for all dealings with such undertakers in respect of the implementation of such measures and for all costs payable to the undertakers in that behalf.

10.2 For the avoidance of doubt the Developer shall comply with statutory requirements relating to street works (as defined in the 1991 Act).

**11 AUTHORISATIONS**

11.1 Authorisations signifies all rights, approvals and consents and any other requisite action to enable the Works to be properly and lawfully executed and completed (in accordance with the Agreement including these Conditions) and the subsequent implementation and functioning of the Works including (but not so as to provide an exhaustive list of examples)<sup>2</sup>:-

11.1.1 planning permission for the Works;

11.1.2 authority for stopping up diversion or other alteration of any existing highway so far as necessary to enable the Works to proceed and / or be implemented and function;

<sup>2</sup> Examples may also include noise consent from district council



- 11.1.3 authority or agreement for stopping up (including relocating) any private access to any existing highways which is necessary in the opinion of the Council to enable the Works to proceed and / or be implemented and function<sup>3</sup> ;
  - 11.1.4 street works licence further to the New Roads and Street Works Act 1991;
  - 11.1.5 authorisation for any traffic regulation measures including prohibitions, restrictions and controls where necessary in the Council's opinion to enable the Works to proceed and/or to be implemented and function<sup>4</sup>; and
  - 11.1.6 any rights and easements which in the Council's opinion are necessary to ensure the permanent and satisfactory drainage or lighting of the Works such rights and easements to be in a form previously approved by the Council.
- 11.2 The Developer shall be responsible for ensuring that all Authorisations are secured in timely manner at its own cost.
- 11.3 Save in so far as any consent is expressly granted under the Agreement nothing in the Agreement shall prejudice or affect in any way the exercise by the Council of its powers and duties relating to any application for an Authorisation including the consideration and processing of an application, the carrying out of any procedural requirements (pursuant to any enactment or Council policies or protocols) and the determination as to whether or not the Authorisation should be made, granted or confirmed.
- 11.4 Any costs incurred by the Council relating to any application for an Authorisation - and any related matters shall be discharged by the Developer.
- 11.5 Where the procedures for securing any Authorisation entail consultation and in consequence of such consultation the Council determines that the Works / the Scheme of Works shall be varied and / or augmented then any reference to the Works and / or the Scheme of Works shall be construed as a reference to the Works and / or the Scheme of Works as so varied and / or augmented.
- 11.6 Forthwith on securing any Authorisation the Developer shall supply evidence of this to the Council to the Council's reasonable satisfaction.

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<sup>3</sup> This relates to for example Section 127HA.

<sup>4</sup> This is directed at securing any requisite TROs which are integral to the Works e.g. bus lanes and also there may be various works such as traffic calming and signals where consultation is mandatory.

## 12 BOND

12.1 The Developer and a bondsman satisfactory to the Council shall enter into a Bond in such form as shall have been approved by the Council guaranteeing the execution and completion of the Works in accordance with the Agreement including these Conditions.

12.2 The amount of the Bond shall be

12.2.1. the gross cost of the Works (including any costs payable to undertakers pursuant to Condition 10) as then (being one month before the Works are proposed to be commenced) estimated by the Council and such estimate may take into account any bills of quantities prepared or tenders received by the Developer in respect of the Works and submitted by it to the Council; and

12.2.2. adjusted to take account of inflation for the duration of the Works (and subsequently) as reasonably estimated by the Council; and

12.2.3. adjusted to reflect the full costs that may be incurred by the Council as provided in Condition 5.1 (Council to act in default or emergency).

## 13 MONITORING AND OTHER COSTS

13.1 The Developer shall pay to the Council in respect of the costs to be incurred by the Council in monitoring the execution and completion of the Works (and administration of the Agreement) a sum equal to 10% of the amount of the Bond, subject to a minimum payment of £2,250

Note: The provisions of Condition 27.2 also apply

13.2 The Developer shall pay to the Council legal costs reasonably incurred in connection with the drafting and completion of the Bond.

## 14 INSURANCE

The Developer shall take out and maintain, until two years after the date on which the Council issues the Certificate of Completion (or if later the date on which all defects and outstanding works have been made good and completed as mentioned in Condition 33), such insurances satisfactory to the Council in the sum of £10million (or such higher sum as the Council may require) as may be appropriate to cover the liability of the Developer and of its employees and contractors in respect of any injury or damage to persons or property which may arise from or in connection with the execution and completion of the Works.

## **15 CONTRACTORS**

15.1 The Developer shall not employ any contractor or agent for the execution of the Works except such contractor or agent as shall be recognised by the Council as being of proven competence and good standing in the field of civil and electrical engineering and experienced in the type and scale of the work which is to be the subject of the contract, and for that purpose the Developer shall not invite tenders for the execution of the Works except from persons proposed to and approved in writing by the Council before any such tender is invited; The employment of a contractor or agent shall not remove or abate any obligation on the part of the Developer arising from the Agreement including these Conditions.

15.2 The Developer shall appoint a contractor to undertake the Works in compliance with the following:-

15.2.1 advertising/publication of the proposed contract for carrying out the Works sufficient to open up the market to competition and for the transparency and impartiality of the procurement procedure to be reviewed such advertising/publication to include the essential details of the contract to be awarded and of the award methodology;

15.2.2 awarding the contract for the Works further to competition applying such transparent and impartial procurement procedures and award methodology.

15.2.3 the Developer shall without cost to the Council supply such information as the Council may reasonably require to demonstrate compliance with this Condition.

## **16 PRECONDITIONS TO LETTING CONTRACT**

The Developer shall not let any contract for the execution of Works unless and until:-

16.1 The Scheme of Works has been approved by the Council; and

16.2 Safety Audit Stage 2 Report has been approved by the Council.

## **IMPLEMENTATION OF THE WORKS**

### **17 COMMENCEMENT OF WORKS**

The Developer shall only undertake the Works at such times as have previously been approved by the Council

### **18 NO WORK PENDING APPROVALS ETC**

18.1 The Works shall not be commenced before the following have occurred:

- 18.1.1 the Council has issued written approval of the Scheme of Works;
  - 18.1.2 Safety Audit Stage 2 Report has been approved;
  - 18.1.3 evidence of all Authorisations have been supplied to the Council;
  - 18.1.4 the Bond duly executed as a deed by the Developer and the approved guarantor has been delivered to the Council;
  - 18.1.5 the costs referred to in Condition 13 have been paid to the Council;
  - 18.1.6 the Council has given its written approval to the insurances referred to in Condition 14;
  - 18.1.7 the noise survey assessment and modelling in accordance with Condition 9.8 has been supplied to the Council and if appropriate the information referred to in the second part of that Condition has been supplied to the Council
  - 18.1.8 the surveys referred to in Condition 9.9 (condition survey) has been supplied to the Council.
- 18.2 The Developer must have readily available at the site of the Works a copy of the insurances and approved Scheme of Works and shall retain them at the site for the duration of the Works and produce them to any representative of the Council on request.

## 19 GENERAL CONDUCT

- 19.1 The Developer shall execute and complete the Works in compliance with the approved Scheme of Works, in a sound and workmanlike manner with proper materials and in accordance with good engineering practice and in compliance with all statutory requirements and the provisions of the Agreement including these Conditions.
- 19.2 Without prejudice to the generality of Condition 6.2 and Condition 19.1 the Developer shall provide the Council with such assistance, information and documentation as the Council shall require to comply with any obligations under the Noise Insulation Regulations 1975 including assistance in responding to any claims made under Regulation 13 of those Regulations.

**20 MONITORING OF SITE AND MATERIALS**

20.1 The Developer shall at all reasonable times give to the Council free access to every part of the Works and shall permit them to monitor them and inspect all materials used or intended for use in the Works.

20.2 Where the Council require any such materials to be tested the Developer shall reimburse the Council the reasonable cost of such testing.

**21 ERRORS AND DEFECTS**

If in the course of execution of the Works it shall appear to the Council:

21.1 that any error has arisen in the position, levels, dimensions or alignment of the Works; or

21.2 that any work carried out or materials used for the purpose of the Works are defective to such extent as to prejudice in any respect the structure, stability, durability or subsequent functioning of the Works; or

21.3 that any damage has occurred in respect of the Works; or

21.4 that in any other respect the Works are not in accordance with the Scheme of Works;

and the Council notify the Developer in writing of this then the Developer shall, at its own expense and to the satisfaction of the Council, forthwith take such remedial steps as the Council shall specify in the notice. For the avoidance of doubt this Condition is without prejudice to Condition 19.

**22 SUSPENSION OF WORK**

If in the opinion of the Council some part of the Works ought not properly to be commenced or continued by reason either of:-

22.1 the dependence of that part on the completion of remedial steps specified in a notice given under Condition 21; or

22.2 adverse weather conditions such as to prejudice the structure or stability of that part if executed under those conditions;

the Developer shall on the written order of the Council suspend the progress of that part of the Works for such time or times and in such manner as the Council may consider necessary, and shall during such suspension properly protect and secure the Works so far as is necessary in the opinion of the Council.

## **23 VARIATIONS AND ADDITIONS**

In the event that any of the following circumstances arising in the course of execution of the Works,:-

- 23.1 if discovery is made of adverse ground conditions or artificial obstruction or any other unforeseen factor which in the opinion of the Council necessitate a modification of the Works to avoid or compensate for such conditions, obstruction or other factor in the interests of the satisfactory completion and subsequent functioning of the Works; or
- 23.2 if it shall appear to the Council requisite, in accordance with good engineering practice and to ensure satisfactory completion and subsequent functioning of the Works that any work or materials should be added, or that any such work or materials proposed by the Developer to be done or used should be omitted or changed; or
- 23.3 if it shall appear to the Council expedient that any obligation arising from the approved Scheme of Works should be deferred by reason of delay incurred by the Developer arising from some cause not within the Developer's control; or
- 23.4 otherwise if in a particular case the Developer and the Council so agree;

the Scheme of Works shall be varied and/or augmented in manner notified in writing by the Council to the Developer, and in the application of these Conditions any reference to the Scheme of Works shall be construed as a reference to the Scheme of Works as so varied and/or augmented.

## **24 PREVENTION OF NOISE, DISTURBANCE ETC**

- 24.1 All work shall be carried out without unreasonable noise and disturbance and in such manner as not to interfere unnecessarily or unreasonably with the use and enjoyment of property adjoining or near the Works by their owners and occupiers.
- 24.2 Without prejudice to the generality of Condition 24.1, no work shall be carried on between the hours of 8.00pm and 7.00am the following day or on any Sunday or public holiday except insofar as:-
  - 24.2.1 any operations are necessary to avoid disruption to or for the control of traffic on any highway; or
  - 24.2.2 any work is unavoidable or absolutely necessary for the safety of life or property or the safety of the Works; or
  - 24.2.3 the Council have in writing otherwise agreed.



## **25 PROTECTION OF HIGHWAY**

- 25.1 Insofar as the Works affect in any respect the existing highway such part shall be executed with the minimum of disturbance to that highway and traffic using that highway consistent with the work in hand.
- 25.2 In the event of it appearing to the Council at any time that such disturbance has occurred or is likely to occur to such extent as to prejudice the structure of the highway or the safety of users the Developer shall forthwith take such remedial steps as the Council may require.
- 25.3 Prior to the commencement of the Works the Developer will provide suitable vehicle and wheel cleaning apparatus and ensure that such apparatus is maintained in good and useable condition and used by all vehicles immediately before leaving the site of the Works to prevent mud or other materials being deposited on the adjoining existing highway.
- 25.4 In the event of Developer receiving any complaint it will promptly notify the Council.

## **26 SAFEGUARDING OF COMPLETED WORK**

The Developer shall until the Council have issued the Certificate of Completion take all steps necessary to protect and maintain those parts of the Works which have been executed, so that upon substantial completion of the whole of the Works every part of the Works is in a sound and workmanlike condition and free from any damage and any material wear and tear.

## **COMPLETION AND CONSEQUENTIAL MATTERS**

### **27 COMPLETION OF WORKS**

- 27.1 The Works shall be executed and completed within such period as the Agreement may define (whether by duration or by reference to a specified date or both), provided that in the event of delay to the work arising from some cause not within the Developer's control the Developer shall be entitled to a reasonable extension of such period.
- 27.2 Without prejudice to any right or remedy of the Council, the Council may at any time by notice to the Owner permit an extension of time as the Council shall in its discretion determine and the Developer shall pay within 14 days of demand such additional monitoring fees (in addition to that provided for in Condition 13 ) as is necessary to reimburse to the Council the additional cost incurred in monitoring the Works by reason of the grant of such extension of time

## **28. PRE COMPLETION - CLEARANCE OF SITE AND STAGE 3 SAFETY AUDIT**

28.1 On substantial completion of the Works the Developer shall clear away and remove from the site of the Works all plant, surplus material, rubbish and temporary works and items of every kind, and shall leave the whole of the site of the Works clean and in a workmanlike condition to the satisfaction of the Council.

28.2 On substantial completion of the Works (and clearance of the site of the Works) the Developer shall lodge a stage 3 Safety Audit report together with the 'Designer's response' with the Council and the Developer shall execute and complete all works as advised by the Council arising from the Safety Audit recommendations.

## **29. HEALTH AND SAFETY**

29.1 The Developer shall furnish to the Council the Health and Safety File prepared in accordance with Interim Advice Note 105/08 - Implementation of Construction (Design and Management) 2007 issued by the Highways Agency (now Highways England) as revised and/or replaced from time to time. The Health and Safety File shall include detailed plans and drawings showing the Works as the same have actually been executed and completed and the Developer shall at his own cost ensure that the Council shall not be prevented by copyright or otherwise from reproducing such plans and drawings or part of them as the Council may require for purposes relating only to the Works and the highway and the Developer shall furnish satisfactory evidence to the Council that this has been done. The plans and drawings furnished under this Condition shall be no less detailed than the plans and drawings submitted under Condition 9.1 unless the Council shall in writing otherwise agree.

## **30. COMPLETION CERTIFICATE**

Subject always to prior compliance with the pre completion requirements (Condition 28) and with Condition 29 the Council shall issue the Certificate of Completion forthwith if the Council is satisfied that the Works (save for such minor outstanding works as the Council shall agree) have been completed in accordance with the Agreement including these Conditions

## **31. DEDICATION AS HIGHWAY**

Upon the issue of the Certificate of Completion unless the Agreement provides otherwise the whole of the land comprised in the Works (so far as not already forming part of the public highway and excluding such part as the Developer and the Council may in writing agree) shall be deemed to have been dedicated as public highway and shall thereafter subject always to compliance with Conditions 34 & 35 be a highway maintainable at public expense.

## **32. EASEMENTS**

32.1 The Developer shall forthwith following the issue of the Certificate of Completion:-

32.1.1 transfer to the Council all those rights and easements (so far as the same do not at that time already subsist in favour of the Council) referred to in Condition 11.1.6; and

32.1.2 grant to the Council any easement which in the Council's opinion is necessary to ensure the permanent and satisfactory drainage or lighting of the Works in respect of any land which is retained by the Developer and such easement shall be in a form previously approved by the Council and the Developer will procure that any person with an interest in the relevant land joins in the deed of easement for the purpose of consenting to and confirming such easement.

32.2 The Council shall not be liable for the payment of compensation or legal or any other costs or fees arising from any such transfer or grant of easement.

### **33. NOISE INSULATION**

The Developer shall within 1 month after the opening of the Works to public traffic supply to the Council an update of the information required pursuant to part 2 of Condition 9.8 (noise survey assessment and modelling- map lists and works) which relates to all eligible properties at the date of the opening of the Works to public traffic.

### **34. REMEDYING OF DEFECTS AND OUTSTANDING WORKS**

34.1 If at any time during the period of two years following the date on which the Council issue the Certificate of Completion:-

34.1.1 any defect in the Works becomes manifest (not being a defect arising solely from normal use by the public as a highway or from accidental or wilful damage by any third party); or

34.1.2 the Developer shall fail to complete any of the outstanding works mentioned in Condition 30 (minor outstanding Works on issue of Certificate of Completion) and the Council notify the Developer in writing of this

then the Developer shall at his own expense cause such defect to be made good or outstanding works to be completed (as the case may be) to the satisfaction of the Council.

34.2 Forthwith on receipt of any notification from the Council further to Condition 34.1 the Developer will agree with the Council the timing of the carrying out of such remedial or outstanding works and unless otherwise agreed shall secure their completion within one month of receipt of such notification (except in the event of delay

arising from some cause not within the Developer's control when the Developer shall be entitled to a reasonable extension of time).

### **35. STAGE 4 ROAD SAFETY AUDIT**

35.1 The Council may require the Developer to carry out a Safety Audit Stage 4 at any time within 36 months from the opening of the Works and to lodge the report with the Council together with the "Designer's response" within 2 months and the Council shall notify the Developer of all works required to be undertaken arising from the Safety Audit recommendations

35.2 In the event that notification of works is given by the Council further to Condition 35.1 prior to the full release of the Bond the Developer shall execute and complete all the works as advised by the Council. The Developer will agree with the Council the time that he will be carrying out such works and unless otherwise agreed shall secure their completion within 1 month of receipt of such notification (except in the event of delay arising for some cause not within the Developers control, when the Developer shall be entitled to a reasonable extension of time).

35.3 In the event that notification of works is given by the Council further to Condition 35.1 subsequent to the full release of the Bond the Developer shall pay to the Council within 28 days of written request from the Council the costs incurred or to be incurred by the Council in carrying out such works.

### **36. RELEASE OF BOND**

36.1 Upon the issue of the Certificate of Completion the Bond shall be deemed to be released by eighty per cent (80%) of its original value;

36.2 The Bond shall be deemed to be fully discharged at the latest of the following:

36.2.1 the date two years after the date on which the Council issue the Certificate of Completion; and

36.2.2 the date on which all defects and outstanding works have been made good and completed as referred to in Condition 34; and

36.2.3 the date on which all works have been completed as referred to in Condition 35.2

36.2.4 the Council have recovered their full expenses in all cases where Condition 5 applies (Council may act in default or emergency);

36.2.5 the date on which the Council have received the transfers or grants further to Condition 32;

36.3 Conditions 36.1 and 36.2 are without prejudice to the Council's absolute discretion from time to time upon application of the Developer to release the Bond to an extent commensurate with

the proportion of the Works that have been executed and completed at such time.

**THE COMMON SEAL** of )  
was affixed to this Deed in the )  
presence of:- )

Director

Director/Secretary

**[THE COMMON SEAL** of )  
was affixed to this Deed in the )  
presence of:- )

Director

Director/Secretary]

**THE COMMON SEAL** of **THE** )  
**OXFORDSHIRE COUNTY COUNCIL** )  
was affixed to this Deed )  
in the presence of:- )

Director of Law and  
Governance/  
Designated Officer

**Schedule 4**

**County Council's Covenants to the Owner**

**1 APPLICATION OF MONIES RECEIVED**

The County Council shall not apply any of the contributions referred to in Schedule 2 for any purpose other than as set out in the definition of each contribution.

**2 REPAYMENT**

2.1 Following a written request from the person who paid the relevant contribution (in this paragraph excluding the Public Transport Service Contribution as to which the provisions of Part C of Schedule 3 shall apply) the County Council will repay to that person the balance (if any) of such contribution which at the date of the receipt of such written request has not been expended together with interest which has accrued on the balance after the deduction of tax where required and any other sum required to be deducted by law PROVIDED ALWAYS that no such request shall be made prior to the expiry of 10 years from the Due Date or the date of receipt by the County Council of such contribution (whichever is the later).

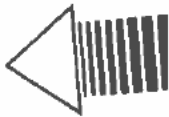
2.2 Any contribution or part of a contribution which the County Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the County Council prior to that date.



THE COMMON SEAL of )  
OXFORDSHIRE COUNTY COUNCIL )  
was affixed to this Deed in the presence of:- )  
Director of Law and Governance/Designated Officer



1981/22



Executed as a deed by **BICESTER MOTION LIMITED** acting by a director, in the presence of:

[SIGNATURE OF WITNESS]

[SIGNATURE OF DIRECTOR]

Director

Name of Witness

[IN BLOCK CAPITALS]

Address of Witness

15 HOLLOW FURLONG

Occupation of Witness

CASSINGTON, OX29 4GT

DEVELOPMENT MANAGER

THE COMMON SEAL of THE SECRETARY OF STATE FOR DEFENCE was affixed in the presence of:-

Authorised Signatory



B2 PRINCIPAL  
ESTATES SURVEYOR



SEAL NO: 36262  
MINISTRY OF DEFENCE  
DEFENCE INFRASTRUCTURE ORGANISATION  
ANDOVER SP11 SHJ

