

DATED 2 MAY 2016

THE OXFORDSHIRE COUNTY COUNCIL

-and-

PETER WILLIAM DEELEY WILLIAM AUBREY DEELEY AND
SIMON ROBERT DEELEY

-and-

SKIMMINGDISH LANE PROJECTS LLP

(Contribution)

PLANNING OBLIGATION
relating to development at Skimmingdish Lane, Bicester
Application No 15/01012/OUT

Reference: JC/47821

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

THIS DEED is made on the Fourth day of May

Two Thousand and Sixteen

BETWEEN:-

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** ("the Council")
- (2) **PETER WILLIAM DEELEY WILLIAM AUBREY DEELEY AND
SIMON ROBERT DEELEY** ("the Owner")
- (3) **SKIMMINGDISH LANE PROJECTS LLP** (company number
OC393884) ("the Purchaser")

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 "the Bus Service Contribution" means the sum of One
Hundred and Seventy Six Thousand Pounds (£176,000)
Index-Linked towards improvements to the frequency of bus
services serving Launton Road
- 1.4 "the County Contribution" means together the Bus Service
Contribution the Highway Contribution and the Travel Plan
Monitoring Contribution
- 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 and
any duly appointed employee or agent of the Council or
such successor

- 1.6 “the Development” means construction of up to 48,308sqm of employment floor space (Class B1c, B2, B8 and ancillary B1a uses) the siting of buildings to the south of the Site, servicing and circulation areas, vehicular and pedestrian access from Skimmingdish Lane and landscaping on the Site further to the Planning Permission
- 1.7 “the Highway Contribution” means the sum of One Hundred and Ninety Eight Thousand One Hundred and Eighty Four Pounds (£198,184) Index-Linked towards highway capacity improvements to the Bicester eastern corridor peripheral route including dualling and junction capacity improvements along Skimmingdish Lane and Charbridge Lane
- 1.8 “including” means including without limitation or prejudice to the generality of any preceding description, word, term or phrase or otherwise and ‘include’ shall be construed accordingly
- 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 PROVIDED THAT for the purposes of this definition a “material operation” shall exclude operations consisting of site clearance, demolition work, site surveys, archaeological investigations, investigations for the purpose of assessing ground conditions, for remedial work in respect of any contamination or other adverse ground conditions,

diversion and laying of services for construction purposes only, erection of any temporary means of enclosure, the temporary display of site notices or advertisements

1.10 "Index-Linked" means

- in relation to the Highway Contribution adjusted according to any increase occurring between January 2015 and the date when the relevant payment is made 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:-

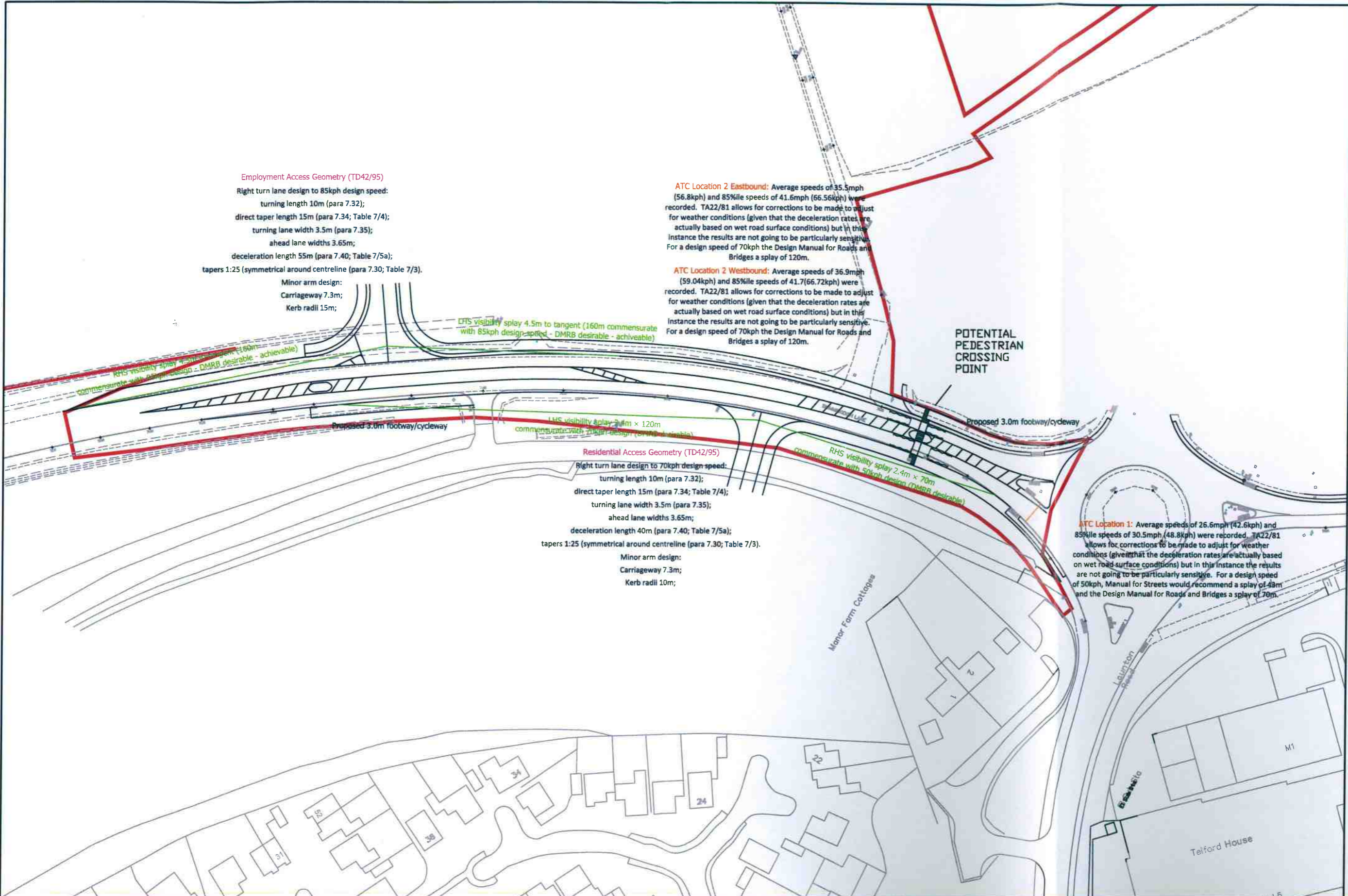
Index 1	Labour & Supervision	25%
Index 2	Plant & Road Vehicles	25%
Index 3	Aggregates	30%
Index 9	Coated Macadam & Bitumous Products	20%

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 Owners and the Council

- in relation to the Bus Service Contribution and the Travel Plan Monitoring Contribution adjusted according to any increase occurring between January 2105 and the date when the relevant payment is made in the All Items Retail

Price Index excluding mortgage interest payments (RPIX)
published by the Office of National Statistics

- 1.11 "Interest" means interest at 4% per annum above the base rate from time to time of Lloyds Bank Plc and compounded annually
- 1.12 "Occupation" means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and "Occupy" and "Occupied" shall be construed accordingly
- 1.13 "the Owner" means together the said Peter William Deeley of Manor Farm Bicester Road Launton Bicester OX26 5DP William Aubrey Deeley of Launton House Launton Bicester OX26 5DB and Simon Robert Deeley of 111c Keslake road London NW6 6DH and their successors in title and assigns to the Site
- 1.14 "the Planning Application" means the application for planning permission for the Development numbered 15/01012/OUT
- 1.15 "Planning Permission" means the planning permission to be issued by the district planning authority by way of approval of the Planning Application and including any permission granted pursuant to an application made under Section 73 of the 1990 Act or any other provision to similar effect



Employment Access Geometry (TD42/95)

Right turn lane design to 85kph design speed:
 turning length 10m (para 7.32);
 direct taper length 15m (para 7.34; Table 7/4);
 turning lane width 3.5m (para 7.35);
 ahead lane widths 3.65m;
 deceleration length 55m (para 7.40; Table 7/5a);
 tapers 1:25 (symmetrical around centreline (para 7.30; Table 7/3).
 Minor arm design:
 Carriageway 7.3m;
 Kerb radii 15m;

ATC Location 2 Eastbound: Average speeds of 35.5mph (56.8kph) and 85%ile speeds of 41.6mph (66.56kph) were recorded. TA22/81 allows for corrections to be made to adjust for weather conditions (given that the deceleration rates are actually based on wet road surface conditions) but in this instance the results are not going to be particularly sensitive. For a design speed of 70kph the Design Manual for Roads and Bridges a splay of 120m.

ATC Location 2 Westbound: Average speeds of 36.9mph (59.04kph) and 85%ile speeds of 41.7(66.72kph) were recorded. TA22/81 allows for corrections to be made to adjust for weather conditions (given that the deceleration rates are actually based on wet road surface conditions) but in this instance the results are not going to be particularly sensitive. For a design speed of 70kph the Design Manual for Roads and Bridges a splay of 120m.

POTENTIAL PEDESTRIAN CROSSING POINT

Residential Access Geometry (TD42/95)

Right turn lane design to 70kph design speed:
 turning length 10m (para 7.32);
 direct taper length 15m (para 7.34; Table 7/4);
 turning lane width 3.5m (para 7.35);
 ahead lane widths 3.65m;
 deceleration length 40m (para 7.40; Table 7/5a);
 tapers 1:25 (symmetrical around centreline (para 7.30; Table 7/3).
 Minor arm design:
 Carriageway 7.3m;
 Kerb radii 10m;

ATC Location 1: Average speeds of 26.6mph (42.6kph) and 85%ile speeds of 30.5mph (48.8kph) were recorded. TA22/81 allows for corrections to be made to adjust for weather conditions (given that the deceleration rates are actually based on wet road surface conditions) but in this instance the results are not going to be particularly sensitive. For a design speed of 50kph, Manual for Streets would recommend a splay of 43m and the Design Manual for Roads and Bridges a splay of 70m.

Based upon the ORDNANCE SURVEY MAPS with the permission of THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE © Crown Copyright AL 100030412

© David Tucker Associates

REV	DESCRIPTION	DRAWN	INITIALS	DATE	DRAWING STATUS	CHECKED BY	DATE



david tucker associates
 transport planning consultants
 Forester House, Doctors Lane,
 Henley in Arden,
 Warwickshire CV35 9AW
 Tel: +44(0)1564 793398
 Fax: +44(0)1564 793383
 www.dtatransportation.co.uk

JOB TITLE	Skimmingdale Lane, Bicester	CLIENT	Albion Land
DRAWING TITLE	Site Access Proposals (with Taylor Wimpey Access)		
SCALE	1/1000@A3	DRAWN BY	BP
DATE	Aug 2015	DRAWING NO	15230-08
REVISION	B		



Based upon the ORDNANCE SURVEY MAPS with the permission of THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE © Crown Copyright AL 100030412
 © David Tucker Associates

REV	DESCRIPTION	DRAWN	INITIALS	DATE	DRAWING STATUS	CHECKED BY	DATE



david tucker associates
 transport planning consultants
 Forester House, Doctors Lane,
 Henley in Arden,
 Warwickshire B95 5AW
 Tel: +44(0)1564 793396
 Fax: +44(0)1564 793963
 www.dta-transportation.co.uk

JOB TITLE		CLIENT	
Skimmingdish Lane, Bicester		Albion Land	
DRAWING TITLE			
Proposed Bus Stop Laybys & Realigned Launton Road			
SCALE	DRAWN BY	DATE	DRAWING NO
1/250@A3	BP	Oct15	15230-13
			REVISION

- 1.16 "the Purchaser" means the said Skimmingdish Lane Projects LLP whose registered office is at Penrose House 67 Hightown Road Banbury OX16 9BE and its successors in title and assigns
- 1.17 "Section 278 Agreement" means an agreement under Section 278 of the 1980 Act in accordance with the form annexed to this Deed (subject to 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.
- 1.18 "the Site" means the land at Skimmingdish Lane, Bicester, Oxfordshire shown edged in red on the Site Plan but excluding that part of the area edged red and hatched green
- 1.19 "the Site Plan" means the plan marked "Plan A" annexed to this Deed
- 1.20 "the Travel Plan Monitoring Contribution" means the sum of One Thousand Two Hundred and Forty Pounds (£1,240) Index-Linked towards the costs of monitoring the travel plan for five years following first occupation
- 1.21 "the Works" means the works described in the Schedule
- 1.22 "Works Plan" means the plans reference 15230-07 Rev B, 15230-08 Rev B and 15230-13 attached to this Deed
- 1.23 Any reference to an enactment includes any amendments to or modifications of it and the version of it for the time being in force shall apply

- 1.24 Headings in this Deed are for convenience only and shall not be taken into account in its construction and interpretation
- 1.25 References to clauses sub-clauses and schedules are references to clauses sub-clauses and schedules in this Deed
- 1.26 Where the context so requires:-
- 1.26.1 the singular includes the plural and vice versa
 - 1.26.2 the masculine includes the feminine and vice versa
 - 1.26.3 persons includes bodies corporate associations and partnerships and vice versa
- 1.27 Where a party comprises more than one person the obligations and liabilities of that party shall be joint and several obligations and liabilities of those persons
- 1.28 Where more than one party enters into any obligation or liability those parties are jointly and severally liable
- 1.29 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause permit or allow infringement of this restriction

2. **Preliminary**

- 2.1 The Owner is the owner of freehold of the Site registered at the Land Registry with absolute title under title number ON270686 subject to a unilateral notice dated 29 July 2014

in favour of the Purchaser 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 and the Road Traffic Regulation Act 1984 and 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 Albion Land Ltd has submitted the Planning Application for the Development to the district planning authority
- 2.5 The district planning authority is minded to grant planning permission for the Development subject inter alia to the completion of this Deed
- 2.6 This Deed (which the Council is satisfied will be of benefit to the public) is made under Sections 278 of the 1980 Act Section 106 of the 1990 Act and 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 Purchaser in respect of the Site and enforceable by the Council
- 2.7 The Works are works which the Council is authorised to execute by virtue of Part V of the 1980 Act.
- 2.8 The parties intend to enter into the Section 278 Agreement and the Owner and Purchaser intends to release the land to

be dedicated (if any) from its interest in such land further to such agreement when the parties enter into such agreement

2.9 The covenants on the part of the Owner and the Purchaser in this Deed shall be conditional upon the granting of Planning Permission for the Development and Implementation save that:

2.9.1 the provisions of Clauses 8, 10, 11, 12, 13 14, 15 and 16 shall take immediate effect; and

2.9.2 the provisions of Clause 4.1 and 7 shall come into effect on grant of Planning Permission

2.10 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

2.11 No person shall be liable for any breach of this Deed after he/it has parted with the whole of his/its interest in the Site unless it/he held an interest at the date of the breach

2.12 The Purchaser shall not be liable for any breach of this Deed in the event that their option expires without them exercising that option or otherwise taking possession of the

Site or any part of it or undertaking any part of the
Development

2.13 The covenants restrictions and obligations contained in this
Deed shall not be enforceable against any service authority
or utility company which acquires an interest in any part of
the Site for the provision of services within the Site

2.14 This Deed shall cease to have effect (insofar only as it has
not already been complied with) if prior to Implementation
the Planning Permission for the Development is quashed or
revoked or withdrawn or (without the consent of the Owners
or the Developer) it is modified by any statutory procedure
so as to render this Deed or any part of this Deed irrelevant,
impractical or unviable and in the event that the Planning
Permission is so revoked, quashed, withdrawn or modified
after Implementation the parties will amend the provisions of
this Agreement in a reasonable manner to reflect that
further development pursuant to the Planning Permission
will not be lawful

2.15 This Deed shall cease to have effect (insofar only as it has
not already been complied with) if the Planning Permission
for the Development expires before Implementation

2.16 Nothing contained 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

granted (whether or not on appeal) after the date of this
Deed

3. **Owner and Purchaser's Covenants**

The Owner and the Purchaser covenants:-

- 3.1 not to cause or permit any building forming part of the Development to be Occupied until he/it has paid the County Contribution to the Council
- 3.2 to pay the County Contribution to the Council before any building forming part of the Development is Occupied
- 3.3 if any payment to be made to the Council further to this Deed is not paid on or before the due date for payment to pay Interest on the sum outstanding from the due date for payment to the date of payment
- 3.4 to give the Council written notice of any disposal of his/its interest in the Site and of the name and address of the new owner and the date of the disposal within 14 days of such disposal
- 3.5 to notify the Council in writing within 14 days of Implementation of planning permission for the Development that Implementation has taken place
- 3.6 to notify the Council in writing within 14 days of the first Occupation of any building forming part of the Development that Occupation has taken place

4. **Works Covenants**

The Owner and the Purchaser covenant with the County Council

4.1 not to cause or permit the Implementation of
Development until

4.1.1 there have been submitted to the County Council
and approved by it in writing

a) in principle drawings of the Works

b) duration of construction of the Works and the
long stop for their completion ; and

c) (if applicable) a plan identifying the land to be
dedicated for the purposes of the Works

4.1.2 title has been deducted to the satisfaction of the
County Council in respect of any land to be
dedicated for the purpose of the Works and any
mortgagee of such land has released it from its
charge; and

4.1.3 a Section 278 Agreement incorporating the
matters agreed and approved as set out in
paragraph 4.1.1 which also provides for
commuted maintenance sums in respect of the
cost of future maintenance of the Works has
been entered into by the Owner and all parties
with an interest in any land to be dedicated have
also joined in such agreement

4.2 not to cause or permit any building forming part of the
Development to be Occupied before the Works have

been completed pursuant to and in accordance with the
Section S278 Agreement

5. **Application of Monies Received**

The Council covenants with the Owner and the Purchaser that

- 5.1 the Council shall not apply the County Contribution for any purpose other than that set out in the relevant definition in Clause 1 above in such form and at such time as the Council shall in its discretion decide
- 5.2 following written request from the Owner the Council will pay to the Owner such amount of the County Contribution paid to the Council in accordance with the provisions of this Deed which has not been expended at the date of such written request together with interest which has accrued on the balance after deduction of tax where required and any other sum required to be deducted by law provided always that no such request will be made prior to the expiry of ten years of the date of receipt by the Council of such payment. Any contribution or part of a contribution which the Council has contracted to expend prior to the date of receipt of such request shall be deemed to have been expended by the Council prior to that date. If capital works have been carried out then commuted sums for maintenance will not be returnable under this paragraph
- 5.3 the Council shall provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the

expenditure of the County Contribution paid under the terms hereof upon a written request by the Owner such request not to be made more than once in any year.

6. **Parties to Act Reasonably**

- 6.1 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 without undue delay
- 6.2 On the written request of the Owner or Purchaser at any time after each or all of the obligations have been performed or otherwise discharged the Council will issue a written confirmation of such performance or discharge

7. **Costs**

- 7.1 The Owner shall on completion of this Deed pay to the Council the sum of £[] in payment of their reasonable legal costs in connection with the preparation and completion of this Deed
- 7.2 The Owner shall on completion of this Deed pay the sum of £3,750 to the Council towards the costs relating to the administration of this Deed
- 7.3 The Owner will reimburse the Council in respect of all legal and administrative costs reasonably and properly incurred 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

7.4 The Owner will not claim any compensation in respect of the provision of this Deed

8. **Notice**

8.1 Any notice or notification to be given to the Council under this Agreement shall be sent to the Director for Environment & Economy of the Council (Ref cdc/15/01012/OUT) 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

8.2 any notice or notification to be given to the Owner under this Agreement shall be sent to:

Peter William Deeley at Manor Farm, Launton, Bicester, Oxfordshire OX26 5DP;

Simon Robert Deeley at 111c Keslake Road, London NW6 6DH; and

William Aubrey Deeley at Launton House, West End, Launton, Bicester, Oxfordshire OX26 5DB;

or to such other person at such other address as the Owner shall notify in writing to the Council from time to time; and,

8.3 any notice or notification to be given to the Purchaser under this Agreement shall be sent to Penrose House, 67 Hightown Road, Banbury, OX16 9BE or to such other

person at such other address as the Purchaser shall notify
in writing to the Council from time to time

9. **Third Party Rights**

This Deed gives no rights under the Contracts (Rights of Third Parties) Act 1999, but this does not affect any rights which are available apart from that Act and it may be enforced by the successors in title of the parties and by any successor to the Council's statutory functions

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 and/or the Purchaser 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. **Value Added Tax**

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. **Data Protection**

The Owner/Purchaser acknowledges and agrees 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:-

13.1 The district planning authority so that it may revise its records including public records accordingly and/or monitor and audit compliance with this Deed

13.2 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

13.3 Any person when so required in order to comply with statutory requirements including the Freedom of Information Act 2000

14. **Jurisdiction**

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

15. **Delivery**

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

ANNEX 1

[S278 Agreement and Standard Conditions]

DATED _____ 2011

OXFORDSHIRE COUNTY COUNCIL

-and-

(OWNER)

-and-

(DEVELOPER)

draft

Agreement relating to highway works at [] to be undertaken
by Developer (with optional provision for contribution)

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

THIS DEED is made on the _____ day of

Two Thousand and []

BETWEEN:-

- (1) **THE OXFORDSHIRE COUNTY COUNCIL** (“the Council”)
- (2) _____ (“the Owner”)
- (3) _____ (company registration
number) (“the Developer”)
- (4) _____

1. **Interpretation**

In this Deed:-

- 1.1 “the 1980 Act” means the Highways Act 1980
- 1.2 “the 1990 Act” means the Town and Country Planning Act
1990
- 1.3 “As-Built Drawings” means detailed plans and drawings
showing the Works in the form in which they have actually
been executed and completed required under Condition 32
of the Standard Conditions
- 1.4 “Certificate of Completion” means a certificate issued under
Condition 29 of the Standard Conditions
- 1.5 “the Council” means the said Oxfordshire County Council
whose principal office is at County Hall New Road Oxford
OX1 1ND and any successor to its statutory functions as
highway authority or planning authority and any duly
appointed employee or agent of the Council or such
successor

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

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

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

2. **Preliminary**

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

Alternative 1

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

Alternative 2

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

Alternative 3

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

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

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

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

3. **Covenants**

The Owner and the Developer covenant:-

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

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

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

- 3.4 to complete the Works not later than _____ and in any event within _____ from the date on which the Works started
- 3.5 not to commence the Works until the Maintenance Costs have been paid to the Council and to pay Maintenance Costs to the Council prior to commencing the Works.
- 3.6 to give the Council written notice of any disposal of an interest in the Site and of the name and address of the new owner and the date of the disposal within 14 days of such disposal
- 3.7 if any payment to be made to the Council is not paid on or before the due date for payment to pay interest at 4% per annum above the base rate from time to time of Lloyds Bank Plc from such due date to the date of payment¹

4. **Adoption as Highway**

- 4.1 On the issue of a Certificate of Completion for the Works the whole of the land shown [hatched black] on the Dedication Plan (subject to modification as provided in clause 4.2) shall be deemed to have been dedicated as public highway (for all public highway purposes including use by mechanically propelled vehicles) and shall thereafter subject to Condition 33 of the Standard Conditions be a highway maintainable at public expense
- 4.2 The Council may after consideration of the As-Built Drawings require the substitution of a modified dedication

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

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

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

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

7 **Costs**

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

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

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

8 **Third Party Rights**

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

9 **Notice**

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

10 **No Waiver**

No alteration in the terms of this Deed nor any forbearance or forgiveness on the part of the Council in or in the extent or nature of any matter or thing concerning this Deed shall in any way release

the Owner/the Developer/the Mortgagee from any liability under this Deed

11 **No Fetter**

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

12 **VAT**

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

13 **Jurisdiction**

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

14 **Delivery**

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

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

SCHEDULE

The Works

(1) **Principal Works**

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

(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

[STANDARD CONDITIONS]

THE COMMON SEAL of)

was affixed to this Deed in the)

presence of:-)

Director

Secretary

THE COMMON SEAL of)

was affixed to this Deed in the)

presence of:-)

Director

Secretary

SIGNED AS A DEED by the said)

)

THE COMMON SEAL of THE)

OXFORDSHIRE COUNTY COUNCIL)

was affixed to this Deed)

in the presence of:-)

Chief Legal Officer/
Designated Officer

OXFORDSHIRE COUNTY COUNCIL

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

CONTENTS

General

1. Interpretation
2. Relationship with Agreement
3. Communications with the Council
4. Approvals and Certificates etc
5. Council to act in Default or Emergency
6. Indemnity
7. Health and Safety
8. Payments

Preliminaries

9. Submissions to the Council
10. Undertakers' Apparatus
11. Authorisations
12. Bond
13. Monitoring and Other Costs
14. Insurance
15. Approval of Contractors
16. Pre-Conditions to Letting Works Contract

Implementation of Works

17. Commencement of Works
18. Pre-Conditions to Commencement of Works
19. General Conduct of Works
20. Inspection of Site and Materials
21. Errors and Defects
22. Suspension of Work
23. Variations and Additions
24. Prevention of Noise, Disturbance etc
25. Protection of Highway

Completion and Consequential Matters

26. Safeguarding of Completed Work
27. Completion of Works
28. Clearance of Site
29. Completion Certificate
30. Dedication as Highway
31. Easements
32. Health & Safety (and Noise Insulation)
33. Remedying of Defects and Outstanding Works
34. Release of Bond

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

S Scane
Director for Environment & Economy
County Hall
New Road
Oxford OX1 1ND

2013 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 29.
- 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 H.D. 19/03 (Road Safety Audit Volume 5 design manual for roads and bridges)
- 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;

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 3 months before any tender is invited 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>A detailed programme 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 2 weeks after the acceptance of any tender for the execution of the Works</p>	<p>Significant programme changes to be identified not less than 2 weeks prior to the change</p>
--	---	---

9.3

<p>(a) Measures for the control of vehicles and plant 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) traffic safety measures 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>	
---	--	--

9.4

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

9.5

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

Other Matters

9.6

<p>Details of the bondsman 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.</p>	<p>No later than 1 month before the Works are expected to commence.</p>	
---	--	--

9.7

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

9.8

<p>Part 1 Noise survey and assessment and modelling 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>Part 2 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. ¹</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 1 month before the Works are expected to commence or earlier than 3 months before the Works are expected to commence.</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>
---	---	---

¹ 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

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

9.10

Notification of the identity of the contractor who has submitted a successful tender.	No later than 2 weeks after the acceptance of any tender for the execution of the Works.	
--	---	--

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)²:-

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;

² 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 function³ ;
 - 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 function⁴; 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.

³ This relates to for example Section 127HA.

⁴ 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 9% of the amount of the Bond, subject to a minimum payment of £1,500

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 agree a commencement date with the contractor appointed to execute the Works which is no less than one month from such agreement and forthwith on agreeing the commencement date the Developer shall notify the Council in writing of the agreed date to the intent that the Council is given no less than one month's notice of the commencement date provided always for the avoidance of doubt this notice is for the purpose of the Agreement only and does not constitute notice for any other function of 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 other unforeseen factor of a like nature 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 CLEARANCE OF SITE

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.

29 COMPLETION CERTIFICATE

29.1 On substantial completion of the Works and clearance of the site of the Works in accordance with Condition 28 the Developer shall lodge a stage 3 Safety Audit report with the Council. 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 and if the Council has approved the Safety Audit Stage 3.

29.2 Where the Council is not satisfied and/or has not approved the Safety Audit Stage 3 report the Certificate of Completion will be issued when all remedial/outstanding work has been carried out to the satisfaction of the Council and without cost to the Council.

30 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 Condition 33 be a highway maintainable at public expense.

31 EASEMENTS

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

31.1.1 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

31.1.2 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.

- 31.2 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.

32 HEALTH AND SAFETY (AND NOISE INSULATION)

32.1 The Developer shall within two months following the issue of the Certificate of Completion (or such longer period as the Council may in writing agree) furnish to the Council the Health and Safety File prepared in accordance with the Construction (Design and Management) Regulations. 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.

32.2 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.

33 REMEDYING OF DEFECTS AND OUTSTANDING WORKS

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

33.1.1 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

33.1.2 the Developer shall fail to complete any of the outstanding works mentioned in Condition 29 (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.

33.2 The Council may require the Developer to carry out the Safety Audit Stage 4 within 3 months of the opening of the Works and to lodge the report with the Council within one month thereafter and if the Council is not satisfied with the Safety Audit Stage 4 report the Council may then notify the Developer of this at any time prior to the expiry of two years following the date on which the Council issue the Certificate of Completion

33.3 Forthwith on receipt of any notification from the Council further to Condition 33.1 and/or as applicable Condition 33.2 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).

34 RELEASE OF BOND

34.1 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;

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

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

34.2.2 the date on which all defects and outstanding works have been made good and completed as referred to in Condition 33; and

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

34.2.4 the date on which the Council have received the transfers or grants further to Condition 31;

34.2.5 the date on which the Developer shall have furnished to the Council the detailed plans and drawings and consent to use as referred to in Condition 32.

34.3 Conditions 34.1 and 34.2 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.

SCHEDULE

THE WORKS

(1) Principal Works

The provision and construction of the following works as shown indicatively on the Works Plan and as attached to this Deed (“the Principal Works”)

- (a) Site access arrangements to include priority junction with ghosted right turn, deceleration lane and pedestrian refuge, footway/cycleway linking Launton Road roundabout and the site access, toucan crossing, as shown on indicative drawing 15230/07 Rev B provided that if the access to the Taylor Wimpey scheme opposite the Site has been created by the relevant owner as shown on indicative drawing 15230/08 Rev B then the arrangements will be adjusted as shown on indicative drawing 15230/08 Rev B and associated street lighting on Skimmingdish Lane
- (b) Widening of the A4421 southern approach to the roundabout junction of Launton Road and Skimmingdish Lane, bus laybys on both sides of the A4421 south of the roundabout, bus shelter with flagpole adjacent to the layby on the east side. Developer to obtain written agreement of Bicester Town Council to bus shelter specification. Works shown on indicative drawing 15230-

Note for s278 agreement – approved in principle drawings will be used

(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

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

THE COMMON SEAL of THE)
OXFORDSHIRE COUNTY COUNCIL)

was affixed to this Deed)

in the presence of:)



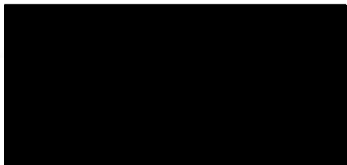
170/16



Chief Legal Officer/
Designated Officer

SIGNED as a Deed by)

PETER WILLIAM DEELEY)



In the presence of:)

Witness Signature x

Witness Name x

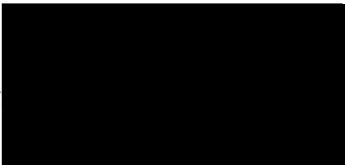
Witness Address x

Witness Occupation x

ROBERT JUDY
31 HENLEY ROAD
SANDFORD ON THAMES
OXFORD OX4 4YW
GARDENER

SIGNED as a Deed by)

WILLIAM AUBREY DEELEY)



In the presence of:)

Witness Signature x

Witness Name x

Witness Address x

Witness Occupation x

KAREN QUINTER,
6 DE CLARE COURT
BUCKINGHAM, MK18 1XD.
OFFICE MANAGER.

SIGNED as a Deed by)
SIMON ROBERT DEELEY)

In the presence of:)

Witness Signature x

Witness Name x

Witness Address x

Witness Occupation x

SIMON COLLIS
STEPTOE & JOHNSON
5 ALDERMANBURY SQUARE
LONDON EC2V 7HR
SOLICITOR

EXECUTED as a Deed by)

Skimmingdish Lane Projects LLP)

acting by PETER DEELEY and)

DULY AUTHORIZED BY SAINFORD DEVELOPMENTS)

WANTED TO SIGN ON ITS BEHALF AS A
MEMBER OF SKIMMINGDISH LANE PROJECTS
LLP IN THE PRESENCE OF :

WITNESS SIGNATURE

WITNESS NAME

WITNESS ADDRESS

WITNESS OCCUPATION

ROBERT JUDD
81 HENLEY ROAD
STAMFORD ON THAMES
GARDENER