

DATED 12 JULY 2017

THE OXFORDSHIRE COUNTY COUNCIL

-and-

RICHARD WARREN JONES and ANN MICHELINE SOUTHWELL  
and ASHLEY WILLIAM MOLLOY

-and-

BLOOMBRIDGE LLP

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**PLANNING OBLIGATION**  
relating to development at Bicester Gateway  
Application No 16/02586/OUT  
Phase 1B Office

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JC/49227

Nick Graham  
Director of Law & Governance and Monitoring Officer  
Oxfordshire County Council  
County Hall  
New Road  
Oxford OX1 1ND

**THIS DEED** is made on the *Twelfth* day of *July*

Two Thousand and Seventeen

**BETWEEN:-**



- (1) **THE OXFORDSHIRE COUNTY COUNCIL**
- (2) **RICHARD WARREN JONES and ANN MICHELINE**  
**SOUTHWELL and ASHLEY WILLIAM MOLLOY**
- (3) **BLOOMBRIDGE LLP** (company number OC349331)

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 Stop Contribution" means the sum of fifteen thousand nine hundred and ten pounds (£15,910) Index Linked towards providing real time information displays at the adjacent north and south bound bus stops on the A41 and a flagpole and timetable case at the adjacent new south bound bus stop on the A41
- 1.4 "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
- 1.5 "the Developer" means the said Bloombridge LLP whose registered office is care of Thorne Lancaster Parker,

Venture House, 27-29 Glasshouse Street, London W1B 5DF  
and its successors in title and assigns

- 1.6 "the Development" means phase 1 of a new business park comprising up to 14,972 sq metres (gross external area) of B1 employment based buildings and a hotel (of up to 149 bedrooms) with associated infrastructure, car parking and marketing boards on the <sup>Development</sup> Site further to the Planning Permission  
- 1.7 "the Development Site" means the land at Oxford Road, Bicester Oxfordshire shown edged in red drawing number 16084 P101 Rev P1 annexed to this Deed
- 1.8 "the First Deed" means this Deed of Agreement
- 1.9 "the First Owner" means the said Richard Warren Jones of Bridge House Care Home, Thame View, Abingdon, Oxfordshire OX14 3UJ and his successors in title and assigns to the Site
- 1.10 "GEA" means the gross external area of any building measured in square metres
- 1.11 "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
- 1.12 "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

Consent to be a condition of the proposed development.  
The applicant is responsible for ensuring that the proposed development is in accordance with the relevant planning legislation and for providing the necessary information to the Council to enable it to make a decision on the application.



**SITE AREA**  
- 3.39 Acres (3.79 Ha)

**APPLICATION SITE**



**EXTENT OF HIGHWAY LAND**

Chief Legal Officer/Designated Officer

By: [Signature] Date: [Date]

**Bicester Gateway, Bicester**  
Red Line Plan - Phase 1

**Bloombridge**  
Development Partners

**umc architects**

Project: Bicester Gateway, Bicester, Oxfordshire OX2 7JL  
Client: Bloombridge Development Partners  
Date: 11/01/2016  
Scale: 1:1000 @ A1

Drawn: [Name]  
Checked: [Name]  
Date: [Date]  
Scale: [Scale]

Drawing no: 15084  
Revision: P1

SCALE 1:1000  
25m



accordingly PROVIDED THAT for the purpose of this definition a material operation shall exclude operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, 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, marketing boards or advertisements

1.13 "Index-Linked" means

- in relation to Strategic Transport Contribution adjusted according to any increase occurring between October 2010 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 Stop Contribution and the Travel Plan Contribution adjusted according to any increase occurring between November 2016 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

1.14 "Interest" means interest at 4% per annum above the base rate from time to time of Lloyds Bank Plc and compounded annually

1.15 "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

1.16 "Office Building" means a building erected upon Phase 1B (Office) of the Site as part of the Development or part of such a building

- 1.17 "the Owner" means together the First Owner and the Second Owner and their successors in title and assigns to the Site
- 1.18 "Phase 1A (Hotel)" means the development on that part of the Development Site edged red and labelled Phase 1A on the Phasing Plan of a hotel pursuant to the Planning Permission
- 1.19 "Phase 1B (Office)" means the development on that part of the Development Site edged green and labelled Phase 1B on the Phasing Plan of Class B1 buildings pursuant to the Planning Permission
- 1.20 "the Phasing Plan" means drawing 16084 P106 Rev P0 attached to this Deed or such amendments to this Phasing Plan or additional Phasing Plan or Plans as shall be agreed in writing between the parties
- 1.21 "the Planning Application" means the application for planning permission for the Development numbered 16/02586/OUT
- 1.22 "Planning Permission" means the planning permission to be issued by the district planning authority by way of approval of the Planning Application
- 1.23 "the Second Deed" means a Deed of Agreement of even date herewith between the parties to this Deed which binds the Phase 1A (Hotel) area.

PHASE 1A	- 2.50 Acres (1.043 Ha)
PHASE 1A Land to be Retained for Future Phase II Road Widening	- 0.02 Acres (0.01 Ha)
Total Area PHASE 1A	- 2.58 Acres (1.044 Ha)

PHASE IB	- 6.58 Acres (2.65 Ha)
PHASE IB Land to be Retained for Future Phase II Road Widening	- .25 Acres (0.10 Ha)
<b>Total Area PHASE IB</b>	<b>- 6.83 Acres (2.75 Ha)</b>

TOTAL AREA	• 8.38 Acres (3.794 Ha)
AREA PHASE II	• 37.6 Acres (15.22 Ha)

PHASE I A

PHASE I B

LAND TO BE RETAINED  
FOR PHASE II ROAD WIDENING

Not Part of Phase I Planning Application

for	environment	by	cid	data
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**Bicester Gateway, Bicester**  
Phasing Plan - Phase 1&2



**Bloomberg**  
Development Partners



Planning Scales	Planning
Reason / Checked	GW / GMC
Date	12.12.2016
Scale	1:1250 @ A1
Drawing no	Revision
16084	P106
	P0

25m  
SCALE 1:1250

Chief Legal Officer/Designated Officer

1.24 “the Second Owner” means together Richard Warren Jones of Bridge House Care Home, Thame View, Abingdon, Oxfordshire OX14 3UJ and Ann Micheline Southwell of 1 Abbots Grange, Marcham, Abingdon, Oxfordshire OX13 6PF and Ashley William Molloy of 37 Woodberry Drive, Walmley, Sutton Coldfield, West Midlands B76 2RH and their respective successors in title and assigns to the Site

1.25 “Section 278 Agreement” means an agreement or agreements under Section 278 and as appropriate Section 38 of the 1980 Act in accordance with the form annexed to this Deed (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.

1.26 “the Site” means the land at Oxford Road, Bicester Oxfordshire shown edged green and labelled Phase 1B on the Phasing Plan

1.27 “the Strategic Transport Contribution” means the sum of Three Hundred and Sixty Seven Thousand Seven Hundred and Twenty Five Pounds (£367,725) Index Linked towards a single carriageway (two-lane) road linking the A41 at its junction with Pioneer Road east of Bicester, with the A41 south of Bicester in the vicinity of the Little Chesterton junction payable in the following instalments:



- 1.27.1 "Instalment 1" means the sum of £157,725 being part  
of the Strategic Transport Contribution
- 1.27.2 "Instalment 2" means the sum of £105,000 being part  
of the Strategic Transport Contribution
- 1.27.3 "Instalment 3" means the sum of £105,000 being part  
of the Strategic Transport Contribution
- 1.28 "the Travel Plan Contribution" means the sum of Four  
Thousand Nine Hundred and Sixty Pounds Index Linked  
towards the monitoring of the travel plan for the Phase 1B  
(Office) for a period of 5 years
- 1.29 "the Works" means the works described Schedule 1
- 1.30 "Works Plan" means the plan attached to this Deed and as  
set out in Schedule 2
- 1.31 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
- 1.32 Headings in this Deed are for convenience only and shall  
not be taken into account in its construction and  
interpretation
- 1.33 References to clauses sub-clauses and schedules are  
references to clauses sub-clauses and schedules in this  
Deed.
- 1.34 Where the context so requires:-
- 1.34.1 the singular includes the plural and vice versa
- 1.34.2 the masculine includes the feminine and vice versa

1.34.3 persons includes bodies corporate, associations and partnerships and vice versa.

1.35 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,

1.36 Where more than one party enters into any obligation or liability those parties are jointly and severally liable,

1.37 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 First Owner is the owner of freehold of the Site registered at the Land Registry with absolute title under title numbers ON301223 and ON184128 subject to an option in favour of the Developer but otherwise free from incumbrances as the First Owner hereby warrants.

2.2 The Second Owner is the owner of freehold of the Site registered at the Land Registry with absolute title under title number ON302533 subject to an option in favour of the Developer but otherwise free from incumbrances as the Second Owner hereby warrants.

2.3 For the purposes of the 1990 Act the Council is the county planning authority for the area which includes the Site.

- 2.4 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.
- 2.5 The Developer has an option to purchase the Site and has submitted the Planning Application for the Development to the district planning authority.
- 2.6 The district planning authority is minded to grant planning permission for the Development subject inter alia to the completion of both the First Deed and the Second Deed.
- 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.
- 2.9 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 Developer in respect of the Site and enforceable by the Council.
- 2.10 The covenants on the part of the Owner and the Developer in this Deed (except that in clause 8 which shall take immediate effect and except that in clauses 3.1 and 4.1 which shall take effect upon the granting of the Planning

Permission ) shall be conditional on Implementation of the Phase 1B (Office).

2.11 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.

2.12 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.

### 3. **Owner's Covenants**

The Owner and the Developer covenant with the Council:-

3.1 not to cause or permit the Phase 1B (Office) to be Implemented until the Bus Stop Contribution has been paid to the Council and to pay the Bus Stop Contribution to the Council before the Phase 1B(Office) is Implemented PROVIDED ALWAYS that it is agreed and acknowledged by the parties that payment of the Bus Stop Contribution in compliance with the Second Deed shall constitute due compliance with this First Deed.

3.2 Not to cause or permit the first Occupation of any Office Building or Office Buildings where that Office Building

together with any other Office Building would take the total gross external area of Office Building(s) to more than 3000 square metres GEA until they have paid Instalment 1 to the Council and to pay Instalment 1 prior to the first Occupation of any Office Building where that Office Building together with any other Office Building would take the total gross external area of Office Building(s) to more than 3000 square metres GEA.

3.3 Not to cause or permit the first Occupation of any Office Building or Office Buildings where that Office Building together with any other Occupied Office Building would take the total gross external area of Office Building(s) to more than 7000 square metres GEA until they have paid Instalment 2 to the Council and to pay Instalment 2 prior to the first Occupation of any Office Building where that Office Building together with any other Office Building would take the total a gross external area of Office Building(s) to more than 7000 square metres GEA.

3.4 Not to cause or permit the first Occupation of any Office Building or Office Buildings where that Office Building together with any other Occupied Building would take the total gross external area of Office Building(s) to more than 10000 square metres GEA until they have paid Instalment 3 to the Council and to pay Instalment 3 prior to the first Occupation of any Office Building where that Office Building



together with any other Office Building would take the total a gross external area of Office Building(s) to more than 10000 square metres GEA.

3.5 Not to cause or permit the first Occupation of any building in Phase 1B (Office) until they have paid Travel Plan Payment 2 to the Council and to pay Travel Plan Payment 2 prior to the first Occupation of any building in Phase 1B(Office).

3.6 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.

#### 4. **Works Covenants**

The Owner and the Developer covenant with the Council

4.1 not to cause or permit the Phase 1B (Office) to be Implemented until:

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

a) in principle drawings of items (A), (B ), (C ) and (D) of the Works

b) duration of construction of the items (A ), (B ), (C) and (D) of the Works and the long stop for their completion

c) commuted maintenance sums in respect of the cost of future maintenance of the items (A), (B ), (C ) and (D) of the Works; and

d) (if applicable) a plan identifying the land to be dedicated for the purposes of items (A ), (B ), (C) and (D) of the Works

4.1.2 title has been deducted to the satisfaction of the 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 4.5.1 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 Office Building forming part of the Development to be Occupied before items (A ), (B ), (C) and (D) of the Works have been completed pursuant to and in accordance with the Section S278 Agreement.

## **5. Notifications**

The Owner and the Developer covenant with the Council:

5.1 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;

5.2 to notify the Council in writing within 14 days of the occurrence of each of the following events:

5.2.1 the date of Implementation of Phase 1B (Office)

5.2.2 the first Occupation of any building in Phase 1B  
(Office)

5.2.3 the first Occupation of any Office Building which  
takes the total completed floor space in Phase 1B  
(Office) to a gross external area in excess of 3000  
square metres

5.2.4 the first Occupation of any Office Building which  
takes the total completed floor space in Phase 1B  
(Office) to a gross external area in excess of 7000  
square metres

5.2.5 the first Occupation of any Office Building which  
takes the total completed floor space in Phase 1B  
(Office) to a gross external area in excess of 10000  
square meters

## 6. **Application of Monies Received**

6.1 The Council shall not apply the Strategic Transport Contribution,  
or the Travel Plan Contribution for any purpose other than for the  
purposes set out in clauses 1.3, 1.27 and 1.28 (or any alternative  
which achieves similar mitigating benefits) in such form and at  
such time as the Council shall in its discretion decide.

6.2 The Council covenants with the Owners and the Developer :

(i) that following a written request from the Owner or the Developer to  
repay to the person who made the payment the balance (if any) of  
the 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 deduction of tax where required and any other sum required to be deducted by law provided always that

- (i) no such request shall be made prior to the expiration of 10 years from the date of payment of the Contribution or if later 10 years from expiration of the due date for payment of the Contribution and
- (ii) 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;

- (ii) to provide to the Owner and/or the Developer such evidence as the Owner and/or the Developer reasonably requires in order to confirm the expenditure of the sums paid by the Owner and/or the Developer to the Council under this Deed upon receiving a written request, such request not being made more than once in any calendar year.

7. **Parties to 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 without undue delay.

8. **Costs**

- 8.1 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

8.2 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.

8.3 The Owner and/or the Developer 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.

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

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 OCC/16/02586/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 any notice or notification to be given to any other party hereto shall be sent to that party or to such other person at such address as such party shall notify in writing to the Council from time to time..

10. **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.

11. **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 Developer from any liability under this Deed.

12. **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.

13. **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.

14. **Data Protection**

The Owner and the Developer 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:-

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

14.2 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

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

15. **Jurisdiction**

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

16. **Delivery**

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

17. **Conditionality**

This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Developer and the Owners) it is modified by any statutory procedure or expires prior to Implementation PROVIDED ALWAYS that the Planning Permission has not been Implemented.

**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:- )

  
[Redacted Signature]  
Director of Law & Governance/  
Designated Officer

**EXECUTED AS A DEED** by )

**BLOOMBRIDGE LLP** )

acting by two members )

Member

Member

**SIGNED AS A DEED** by ANN MICHELINE )

**SOUTHWELL** as Deputy on behalf of )

**RICHARD WARREN JONES** In the presence of )

Signature: \_\_\_\_\_

Signature of witness \_\_\_\_\_

Name (in BLOCK CAPITALS): DOUGLAS SCOTT

Address: \_\_\_\_\_  
Knights Professional Services Ltd

Address: \_\_\_\_\_  
Midland House

Address: \_\_\_\_\_  
West Way

Address: \_\_\_\_\_  
Botley

Address: \_\_\_\_\_  
Oxford

Address: \_\_\_\_\_  
OX2 0PH

**SIGNED AS A DEED** by LUCINDA HEATHER )

**JONES** as Deputy on behalf of **RICHARD** )

**WARREN JONES** in the presence of )

Signature: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Name (in BLOCK CAPITALS): LYNNE PHILLIPS

Address: 1 MUIR DRIVE

Address: SW18 2TJ

Address: \_\_\_\_\_

Address: \_\_\_\_\_

**SIGNED AS A DEED** by the said )

**ANN MICHELINE SOUTHWELL** )

in the presence of )

Signature: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Name (in BLOCK CAPITALS): ANN MICHELINE SOUTHWELL

Address: \_\_\_\_\_

Address: Knights Professional Services Ltd  
Midland House

Address: West Way  
Botley

Address: Oxford

Address: OX2 0PH

**SIGNED AS A DEED** by the said )

**ASHLEY WILLIAM MOLLOY** )

in the presence of )

Signature: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Name (in BLOCK CAPITALS): STEVE BONNER

Address: VILLAGE FARM

Address: BLACK BULL LANE

Address: FENCOTT

Address: OXON



## SCHEDULE 1

### THE WORKS

(1) **Principal Works**

The provision and construction of the following works as shown and in principle on the Works Plan (as listed in Schedule 2 and) attached to this Deed showing the following Works ("the Principal Works"):

- A. Mini-roundabout junction at the junction of Wendlebury Road and Vendee Drive Link road, including speed limit reduction to 30mph on approach arms, together with lighting and signage as required as shown indicatively on drawing 35172/5502/007.
- B. Capacity improvements at the Vendee Drive/A41 roundabout including increased flare length to 32m on the approach from the Vendee Drive Link Road and increased entry width to 8.2m on the approach from Vendee Drive, together with crossing of the A41 footway/cycleway over the Vendee Drive Link Road, as shown indicatively on drawing 35172/5502/008.
- C. A simple priority junction bellmouth access to each office plot on Phase 1B (Office) together with parking restrictions and a reduction in speed limit as shown indicatively on 35172/5502/006 Rev A

- D. 3m wide shared use footway/cycleway linking the Vendee Drive Link Road and the unnamed road leading to Chesterton to the south via the disused slip road and providing access to all plots on Phase 1B (Office) of the Development, as shown indicatively on drawing 35172/5502/006 Rev A

(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

## SCHEDULE 2

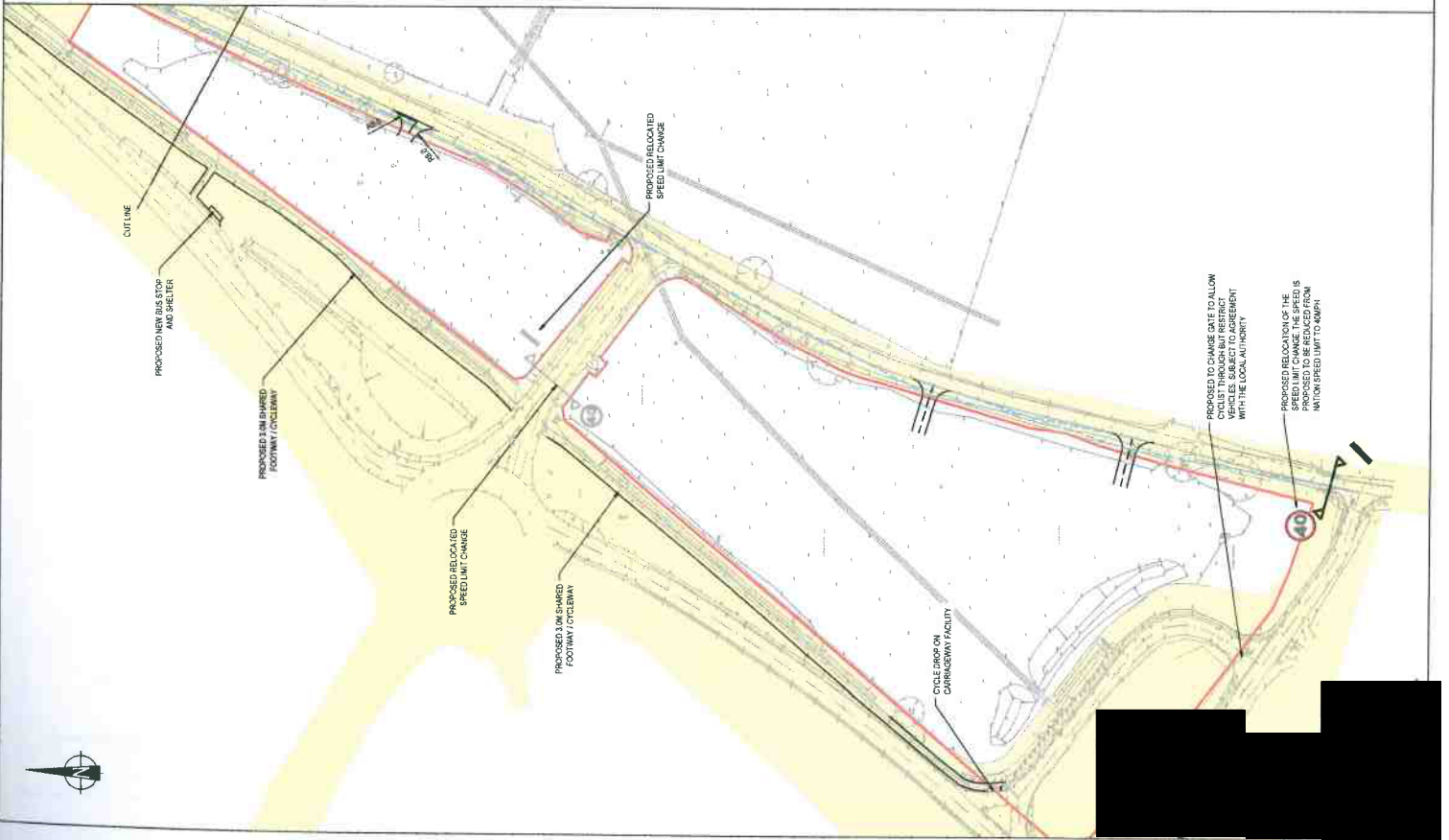
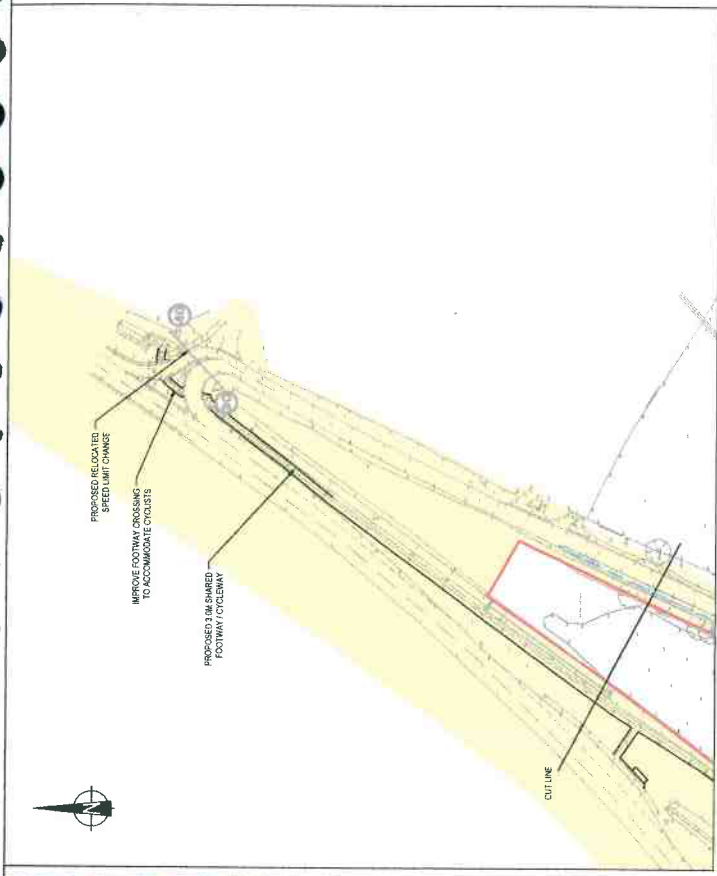
Works Plan: (Indicative plans only)

- (1) Works (C and D) 35172/5502/006 Rev A – A41 footway/cycleway Vendee Drive Link Road to Wendlebury Road
- (2) Works (A) 35172/5502/007 Wendlebury Road/Vendee Drive Link road junction improvements
- (3) Works (B) 35172/5502/008 A41/Vendee Drive Roundabout Mitigation Scheme

- NOTES:
1. THIS LAYOUT IS SUBJECT TO DETAILED DESIGN, CAPACITY TESTING, GROUND INVESTIGATIONS, RESULTS OF A LATE WORKING MODELING, UTILITIES & SERVICES AND COORDINATION OF LAND OWNERSHIP.
  2. THE DETAILED DESIGN LAYOUT WILL BE DESIGNED IN ACCORDANCE WITH ALL RELEVANT GUIDANCE AND STANDARDS.
  3. THE LAYOUT HAS BEEN BASED ON THE APPROPRIATE DESIGN SPEED FOR OUR CURRENT PROPOSALS.
  4. THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT ASSOCIATED DOCUMENTS, AND
  5. THE USE OF THE DRAWING DOES NOT ABSOLVE THE CLIENT FROM THEIR RESPONSIBILITIES IN REGARDS TO HEALTH & SAFETY AND CON REGULATIONS

KEY:

- INDICATIVE RED LINE BOUNDARY
- HIGHWAY BOUNDARY INFORMATION INTERPRETED BY FWA ON 06 SEP 2016
- RECEIVED FROM DCC 17-06-16
- VISIBILITY SPAY 4.5M X 30M TO DMBB FOR 50MPH



Chief Legal Officer/Designated Officer

A		REVISED POSITION OF ACCESS AND KERB RADI TO BM		08.11.16	JHG	REC	REC
Mark	Revision	Date	Drawn	Chief	Appr		

CONCUL NOTE: Do not scale from this drawing. It is a 2D plan. All dimensions are given in metres unless otherwise stated. The drawing is for information only and does not constitute a contract. The client is responsible for the accuracy of the information provided. The drawing is for information only and does not constitute a contract. The client is responsible for the accuracy of the information provided.

Drawing Issue Status

**CONCEPT**

**BICESTER 10**

**PROPOSED SITE ACCESS AND PEDESTRIAN AND CYCLE IMPROVEMENTS ON TOPO**

Client: **BLOOMBRIDGE LLP**

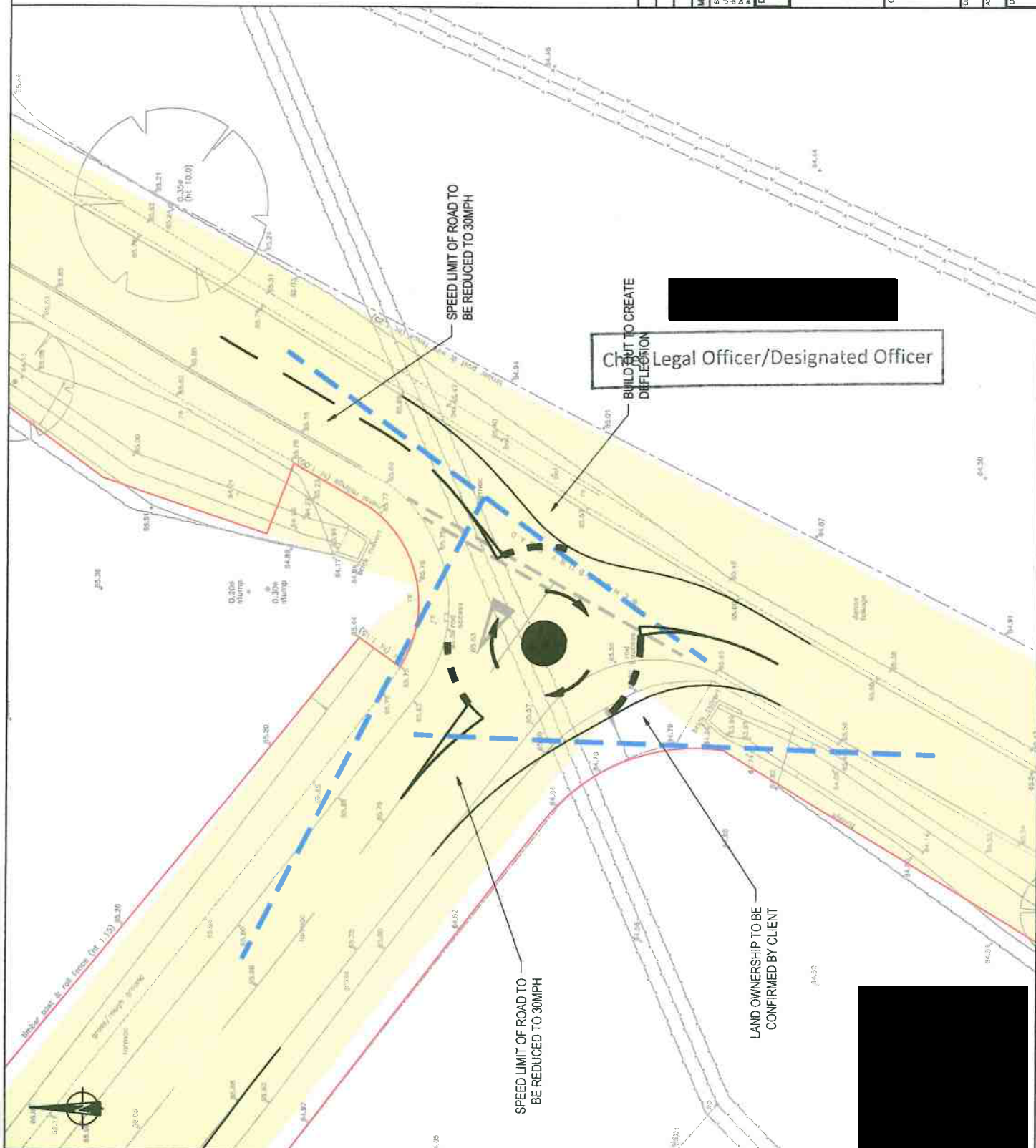
Drawn by	Designed	Checked	Client
JHG	JHG	JHG	JHG
17.10.2016	17.10.2016	17.10.2016	17.10.2016
At Scale	1:1000	1:1000	1:1000

Drawing Number: **35172/5502/006**

Revision: **A**

**peterbrett**  
 Offices throughout the UK and Europe  
 www.peterbrett.com  
 Peter Brett Associates LLP  
 Tel: 0117 928 1880





NOTES:

1. THE LAYOUT IS SUBJECT TO DETAILED DESIGN, CAPACITY TESTING, GROUND INVESTIGATIONS RESULTS & EARTHWORKS MODELLING, UTILITIES & SERVICES AND CONFIRMATION OF LAND OWNERSHIP;
2. THE DETAILED DESIGN LAYOUT WILL BE DESIGNED IN ACCORDANCE WITH ALL RELEVANT DESIGN GUIDANCE AND STANDARDS;
3. THE LAYOUT HAS BEEN BASED ON THE APPROPRIATE DESIGN SPEED FOR OUR CURRENT PROPOSALS;
4. THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH ALL RELEVANT ASSOCIATED DOCUMENTS; AND
5. THE USE OF THE DRAWING DOES NOT ABSOLVE THE CLIENT FROM THEIR RESPONSIBILITIES IN REGARDS TO HEALTH & SAFETY AND CDM REGULATIONS.

KEY:

- INDICATIVE RED LINE BOUNDARY
- HIGHWAY BOUNDARY INFORMATION INTERPRETED BY PBA ON TO OS MAPPING, RECEIVED FROM OCC 17-09-15
- 4.5M X 35M VISIBILITY SPLAY TO THE RIGHT AS DESCRIBED IN DMRB 54/07

Marking	Revision	Date	Drawn	Chkd	Appd


SCALING NOTE: Do not scale from this drawing. If in doubt, ask.  
UTILITIES NOTE: The position of any existing public or private sewers, utility services, part or apparatus shown on this drawing is for information only. It is not intended to be a definitive statement of the location of any such services. The Contractor is therefore advised to undertake his own investigation where the presence of any existing sewers, services, plant or apparatus may affect the operations.

Drawing Issue Status

BICESTER 10

PROPOSED MINI-ROUNDABOUT ON  
WENDLEBURY ROAD

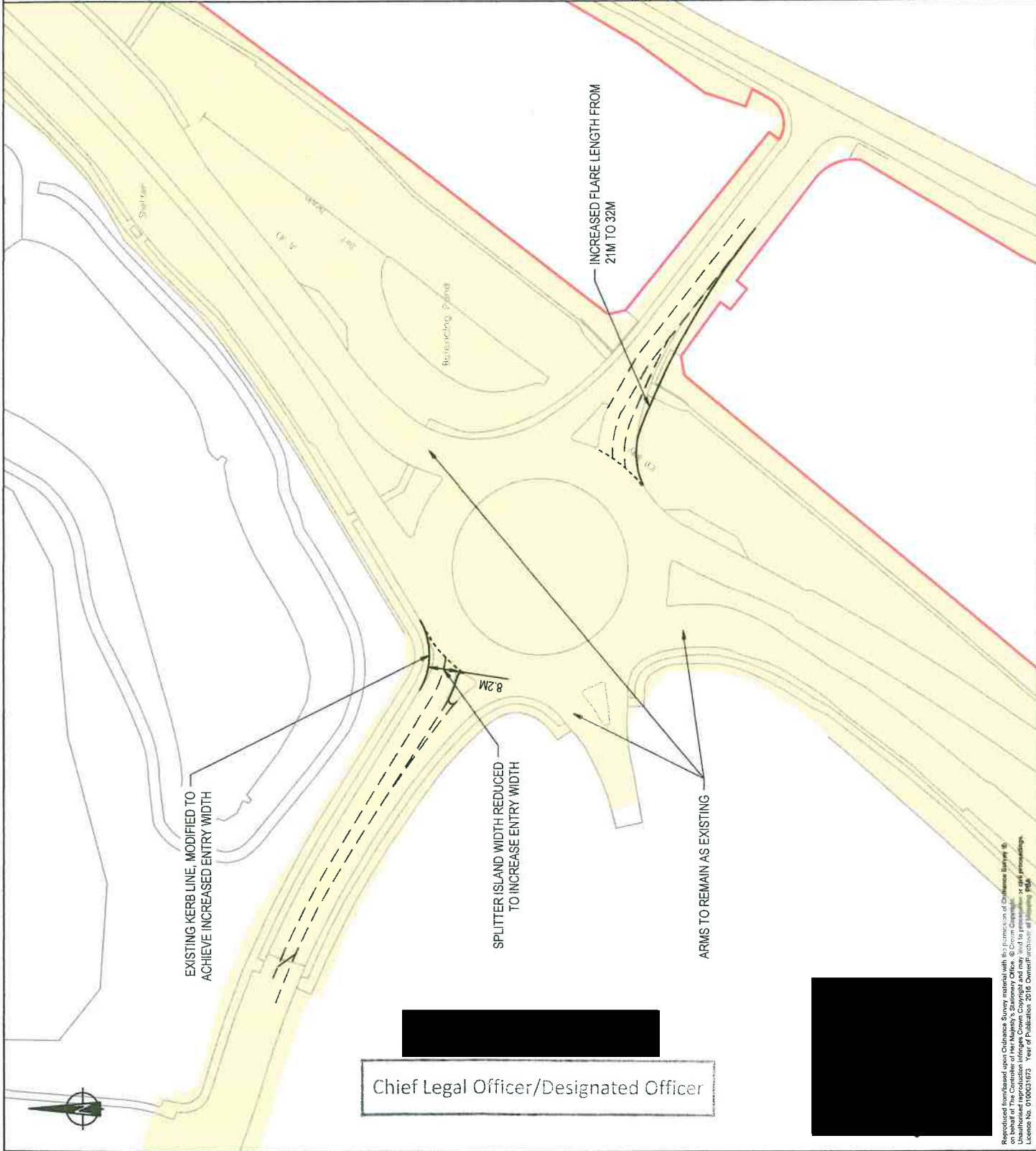
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Date of 1st issue	24.11.2016	Designed	JHo	Drawn	JHo
A3 Scale	1:250	Checked	PC	Approved	FC
Drawing Number	35172/5502/007	Revision	-		





NOTES:

1. THE LAYOUT IS SUBJECT TO DETAILED DESIGN, CAPACITY TESTING, GROUND INVESTIGATIONS RESULTS & EARTHWORKS MODELING, UTILITIES & SERVICES AND CONFIRMATION OF LAND OWNERSHIP;
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KEY:

— INDICATIVE RED LINE BOUNDARY

— HIGHWAY BOUNDARY INFORMATION INTERPRETED BY PBA ON TO OS MAPPING, RECEIVED FROM OCC 17-09-15

Mark	Revision	Date	Drawn	Chkd	Appd

SCALING NOTE: Do not scale from this drawing. If in doubt, ask.  
UTILITIES NOTE: The position of any existing public or private sewers, utility services, plant or apparatus shown on this drawing is for information only. It is not to be used for design purposes. The Contractor is to undertake his own investigation where the presence of any existing sewers, services, plant or apparatus may affect the operations.

Drawing Issue Status

CONCEPT

BICESTER 10

PROPOSED MITIGATION WORKS TO THE  
A41 ROUNDABOUT

Client  
BLOOMBRIDGE LLP



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Date of 1st issue	Designed	Drawn
24.11.2016	JHo	JHo
AS Scale	Checked	Approved
1:1000	PC	PC
Drawing Number	Revision	
35172/5502/008	-	

### **Schedule 3**

### **OCC style Section 278 Agreement**

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

OXFORDSHIRE COUNTY COUNCIL

-and-

(OWNER)

-and-

(DEVELOPER)

draft

\_\_\_\_\_  
Agreement relating to highway works at [ ] to be undertaken  
by Developer  
\_\_\_\_\_

Nick Graham  
Director of Law & Governance and Monitoring Officer  
Oxfordshire County Council  
County Hall  
New Road  
Oxford OX1 1ND

Two Thousand and [      ]

(1) THE OXFORDSHIRE COUNTY COUNCIL (“the Council”)

(2) (“the Owner”)

(3) (company registration  
number) (“the Developer”)

(4)

**In this Deed:-**

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

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

Index 1	Labour & Supervision	25%
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- 1.26 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
- 1.27 Where more than one party enters into any obligation or liability those parties are jointly and severally liable
- 1.28 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)] [any building forming part of the Development [to be occupied] [to open for business] before the Works have been completed]
- 3.2 to execute the Works entirely at his/its own expense and to the satisfaction of the Council
- 3.3 in executing the Works to observe and perform all the obligations which fall on "the Developer" under the Standard Conditions and

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

4. **Adoption as Highway**

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

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

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

5. **Application of Monies Received**

The Council shall not apply the Contribution for any purpose other than the Infrastructure (or any alternative which achieves similar benefits) in such form and at such time as the Council shall in their discretion decide]<sup>1</sup>

5/6 **Act Reasonably**

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

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

The Mortgagee acknowledges that the Site is bound by the obligations contained in this Deed [and in the event that the dedication area is revised further to clause 4.2 the Mortgagee agrees that any part of the dedication area which is subject to its charge shall be released from such charge on dedication



pursuant to clause 4.1 and the Mortgagee will execute such further documentation as may be required to effect this]

7/8 **Costs**

7.1 The Owner shall on completion of this Deed pay the reasonable legal costs of the Council in connection with the preparation and completion of this Deed [and [ ] towards the costs of administering and monitoring the provisions of this Deed relating to the Contribution]

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

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

8 **Third Party Rights**

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

9 **Notice**

Any notice or notification to be given to the Council under this Agreement shall be sent to the Director for 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:- )

Director of Law &  
Governance/  
Designated Officer

# OXFORDSHIRE COUNTY COUNCIL

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

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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

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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

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35. Stage 4 Road Safety Audit
36. Release of Bond

Nick Graham  
Director of Law & Governance and Monitoring  
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Director of Planning & Place  
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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 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. 19/15 (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; 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
<b>Detailed plans</b> (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

<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.	<b>No later than 2 weeks after the acceptance of any tender</b> for the execution of the Works	Significant programme changes to be identified not less than 2 weeks prior to the change
---	--	--

## 9.3

<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 and measures</b> including lights, guards, fencing and warning signs in order to protect the Works and/or for the safety and convenience of the public	<b>No later than 2 weeks before the Works are expected to commence</b>	
--	--	--

## 9.4

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

## 9.5

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

## Other Matters

9.6

Details of <b>the 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>	
--	---	--

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>	
--	---	--

## 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><b>No later than 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.</p> <p>Location of the survey/testing to be advised to the Council and if applicable adjusted to ensure regulatory compliance.</p>
---	---	---

## 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><b>No later than 1 month before the Works are expected to commence.</b></p>	
---	--	--

## 9.10

<p><b>Notification of the identity of the contractor</b> who has submitted a successful tender.</p>	<p><b>No later than 2 weeks after the acceptance of any tender for the</b></p>	
---	--	--

<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.



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;

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

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

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

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>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 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 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