

DATED 9 December 2015

SOLIHULL METROPOLITAN BOROUGH COUNCIL

and

CAPITA (LLRP) TRUSTEE LIMITED

and

LEND LEASE RETAIL PARTNERSHIP ACTING BY LEND
LEASE REAL ESTATE INVESTMENTS LIMITED

AGREEMENT

Pursuant to Section 106 of the
Town and Country Planning Act 1990 and Section 111 of
the Local Government Act 1972

relating to the Touchwood Centre Extension on land and
buildings bounded by the existing Touchwood Centre,
High Street, Church Hill Road/The Square and Church Hill
House, Solihull

LPA Ref: 2015/51464

DATE: 9 December

2015

1. PARTIES

SOLIHULL METROPOLITAN BOROUGH COUNCIL of Council House, Manor Square, Solihull B91 3QB ("the Council");

CAPITA (LLRP) TRUSTEE LIMITED (company registration number 03781543) of The Registry, 34 Beckenham Road, Beckenham, Kent, BR3 4TU ("the Owner"); and

LEND LEASE RETAIL PARTNERSHIP (a limited partnership registered in England and Wales under the Limited Partnership Act 1907 with registered number LP005871) acting by its operator **LEND LEASE REAL ESTATE INVESTMENTS LIMITED** registered in England and Wales (company registration number 03540684) whose registered office is at 20 Triton Street, Regent's Place, London, NW1 3BF ("the Developer")

2. WHEREAS:

- 2.1 The Council is the local planning authority for the purposes of the Act for the area in which the Site is situated
- 2.2 The Application was submitted to the Council by the Developer for Planning Permission for the Development on the Site. The Application was given reference number 2015/51464. The Council at its planning committee on 4 November 2015 resolved to grant Planning Permission pursuant to the Application subject to completion of this Deed.
- 2.3 The Council is the owner of the freehold interest of part of the Site registered under title number WM633676.
- 2.4 The Owner has a leasehold interest in the part of the Site registered under title number WM757813.
- 2.5 A development agreement was entered into on 20 October 2014 between (1) the Council and (2) the Developer ("the Development Agreement"). The Development Agreement includes, inter alia, a requirement that one month following the commencement of the development works (excluding preliminary enabling works) for the shopping centre extension, the Council will grant the Developer or to such person as the Developer may direct a long lease of the Site. This lease will be co-terminus to and sit alongside the existing 210 year lease of the Touchwood Centre (which commenced in September 2001).
- 2.6 The Owner and the Developer wish to enter into the planning obligations herein specified with the intention that the Council will be able to enforce the planning obligations pursuant to section 106 of the Act.
- 2.7 The Owner and the Developer are satisfied that the planning obligations given by this Deed are necessary to make the Development acceptable in planning terms, directly related to the Development and fairly and reasonably related in scale and kind to the Development.

3 DEFINITIONS

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

Act the Town and Country Planning Act 1990 (as amended);

After Acquired Interest any interest in the Site currently in the ownership of a party other than the Owner being an interest giving a power to sell and convey or release any part of the Site which is thereby not presently the subject of obligations contained in this Deed.

Application the application for Planning Permission 2015/51464 seeking Planning Permission for the Development;

Car Park Management Scheme a scheme to be prepared by the Council in consultation with other key town centre partners (as may be varied from time to time following consultation by the Council with the key town centre partners) for the future management of the Car Parks which will include the following objectives:

- (a) promoting collaborative working arrangements between town centre partners to ensure that the Car Parks are managed in a way that supports the vitality and viability of the town centre as a whole;
- (a) to ensure that occupancy within the short stay car parks in the town centre is better balanced, which may include (but which shall not be limited to) the implementation of differential car parking charges;

Car Parks Lode Lane, Marks and Spencer, John Lewis, Touchwood, Mell Square, Poplar Road, Lode Lane and Dominion Court;

Church Hill/Church Square Works a scheme of works including the implementation of traffic regulation orders to address the highway impacts of removing the mini roundabout at Manor Walk and the corner of Church Hill Road; the impacts of additional footfall around the heritage buildings at the eastern end of the High Street; the need to allow for drop offs as deemed necessary to take account of disabled access; the impact of additional HGVs on the conservation area; and the implementation of counterterrorism measures;

Church Hill/Church Square Works Contribution a sum of Three Hundred and Five Thousand Five Hundred Pounds (£305,500) Index Linked;

Commencement the first date on which any material operation (as defined in Section 56(4) of the Act) forming part of the Development begins to be carried out other than (for the purposes of this Deed and for no other purpose) 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, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and "Commence Development" shall be construed accordingly;

Contributions together the sums payable to the Council pursuant to Schedule 1;

Development the Development of the Site by the demolition of unlisted buildings and construction of an extension to Touchwood, remodelling of retained listed buildings, creation of a pedestrian route from High Street and associated development on land bounded by Touchwood, High Street, Church Hill Road, the Square and Church Hill House;

Development Agreement made on 20th October 2014 between the Council and Lend Lease Retail Partnership to facilitate the development of the extension of the existing Touchwood Centre pursuant to the Application

Index the "All Items" Index of Retail Prices issued by the Office of National Statistics but if the Index cease to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or in the event the index is not replaced, to an alternative reasonably comparable basis or index as the Council shall advise the Owner and the Developer in writing;

Index Linked the change in any Contributions payable by the Owner and the Developer pursuant to this Deed equivalent to the increase in the Index from the date of this Deed and the Index for the date on which payment falls due or is received whichever is the greater;

Interest at 2% above the Bank of England base lending rate of the from time to time or in the event this ceases to exist or is replaced or rebased and is not replaced, to an alternative reasonably comparable rate as the Council shall advise the Owner and the Developer in writing;

Malvern Park Environmental Improvements the improvements to the park entrance by the removal of trees, the erection of metal railings and new tree and shrub planting;

Malvern Park Environmental Improvements Contribution the sum of Seventeen Thousand Pounds (£17,000) Index Linked;

Off-Site Tree Planting and Maintenance Contribution the sum of One Hundred and Twenty Four Thousand Eight Hundred Pounds (£124,800) Index Linked for the planting of 192 new trees and including six tree pits;

Parties one or all or any combination of the parties to this Deed and "Party" shall be construed accordingly;

Payment Form the form annexed hereto as appendix at Schedule 3 which is to be completed and sent to the Council when paying monies due under this Deed;

Plan the land shown edged red on the plan being land at the South West of High Street, Solihull appended at Schedule 2;

Planning Obligations the planning obligations created by clause 2 of this Deed and set out in Schedule 1;

Planning Permission the planning permission subject to conditions granted pursuant to the Application and substantially in the form set out in Schedule 4;

Site the land shown edged red on the Plan;

Wayfinding Works updated finger posting and traffic signage relating to the Development;

Wayfinding Works Contribution the sum of Twenty Five Thousand Pounds (£25,000) Index Linked for the improvements to wayfinding within and to the town centre;

4. CONSTRUCTION OF THIS DEED

4.1 Where in this Deed reference is made to any clause, paragraph or schedule or recital such reference (unless the context otherwise requires) is a reference to a clause, paragraph or schedule or recital in this Deed

4.2 In the event of any conflict between the provisions of this Deed and any document annexed hereto as referred to herein the terms and conditions of this Deed will prevail

4.3 A person includes a natural person corporate or unincorporated body (whether or not having separate legal personality) and reference to a company shall include any company corporation or other body corporate wherever and however incorporated or established

4.4 Any obligations of the Parties contained in this Deed which are or may be deemed to be obligations of more than one Party shall be joint and several obligations on the part of those Parties unless there is express provision to the contrary

4.5 Any covenant or obligation by any Party not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done

4.6 References to any Party to this Deed shall include their successors in title and assigns and to any person deriving title through or under or the successors to their respective statutory functions

4.7 Words importing the singular meaning where the context so admits include the plural meaning and vice versa.

4.8 Words importing one gender shall be construed as importing any other gender.

4.9 The clause and paragraph heading in this Deed and the Schedule do not form part of this Deed and shall not be taken into account in its construction or interpretation.

4.10 Any reference to any statutory provision shall include any modification, extension or re-enactment of that provision for the time being in force and shall include all instruments, orders, plans, regulations, permissions and directions or the time being made, issued or given under that provision or deriving validity from it

5. GENERAL

5.1 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a Planning Permission (other than one relating to the Development granted pursuant to the Application) granted (whether or not on appeal) after the date of this Deed

5.2 This Deed is a local land charge and may be registered as such

5.3 Nothing contained or implied in this Deed shall prejudice or affect the rights, discretions, powers, duties and obligations of the Council under all statutes by-laws statutory instruments orders and regulations in the exercise of their functions as a local authority and such rights discretions powers duties and obligations may be as fully and effectively exercised as if the Council were not a party to this Deed

5.4 No waiver (whether expressed or implied) by the Council to exercise any right power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same or any other right or power

5.5 If any payment due to the Council under this Deed is paid late Interest will be payable from the date payment is due to the date of payment

5.6 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable

5.7 Save as permitted by law in equity nothing contained or implied in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in their rights powers duties and obligations under all public and private statutes bylaws and regulations which may be as fully and effectually exercised as if the Council were not a party to this Deed.

6. DETERMINATION OF DISPUTES

6.1 Subject to **clause 6.7**, if any dispute arises relating to or arising out of the terms of this Agreement, either party may give to the other written notice requiring the dispute to be determined under this **clause 6**. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.

6.2 For the purposes of this **clause 6** a "Specialist" is a person qualified to act as an expert in relation to the dispute having not less than ten years' professional experience in relation to developments in the nature of the Development and property in the same locality as the Site.

6.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under **clause 6.4**.

6.4 Any dispute over the identity of the Specialist is to be referred at the request of either party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the parties cannot agree the identity of the organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Law Society.

6.5 The Specialist is to act as an independent expert and:

- 6.5.1 each party may make written representations within ten working days of his appointment and will copy the written representations to the other party;
- 6.5.2 each party is to have a further ten working days to make written comments on the other's representations and will copy the written comments to the other party;
- 6.5.3 the Specialist is to be at liberty to call for such written evidence from the parties and to seek such legal or other expert assistance as he or she may reasonably require;
- 6.5.4 the Specialist is not to take oral representations from the parties without giving both parties the opportunity to be present and to give evidence and to cross-examine each other;
- 6.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
- 6.5.6 the Specialist is to use all reasonable endeavours to publish his decision within 30 working days of his appointment.

6.6 Responsibility for the costs of referring a dispute to a Specialist under this **clause 6**, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any party in relation to a dispute, will be decided by the Specialist.

6.7 This **clause 6** does not apply to disputes in relation to matters of law or the construction or interpretation of this Agreement which will be subject to the jurisdiction of the courts.

6.8 The parties will endeavour to resolve disputes by reference to the Specialist but nothing in the agreement shall affect the ability of the parties to apply for and be granted any of the following: declaratory relief, injunction, specific performance, payment of any sum, damages and any other means of enforcing this Deed and consequential and interim orders and relief

7. OPERATIVE PROVISIONS

7.1 This Deed is a planning obligation made pursuant to section 106 of the Act so as to bind the Land in accordance with that section and shall be enforceable by the Council as the Local Planning Authority against the Owner its successors in title and assigns and the other parties to this Deed

7.2 insofar as any of the covenants contained in this Deed are not planning obligations within the meaning of the Act they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972 section 2 of the Local Government Act 2000 and all other enabling powers

8. TERMINATION OF THIS DEED

8.1 If the Planning Permission shall at any time be revoked, amended (without the consent of the Owner or the Developer) or quashed this Deed shall forthwith be annulled and cease to have effect

9. PLANNING OBLIGATIONS

9.1 The Planning Obligations are planning obligations for the purposes of section 106 of the Act and may be enforced by the Council against the Owner (and any persons deriving title from the Owner) and the Developer.

9.2 No person shall be liable for any breach of any of the planning obligations or other provisions of this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

10. COVENANTS BY THE PARTIES

10.1 The Owner and the Developer hereby covenant with the Council to observe and perform the Planning Obligations contained herein in Schedule 1.

10.2 The Council hereby covenants to observe and perform the Planning Obligations contained herein in Schedule 1.

11. FURTHER COVENANTS BY THE OWNER AND THE COUNCIL

11.1 The Owner and the Developer hereby covenant with the Council to pay to the Council on completion of this Deed its reasonable legal costs and disbursements incurred in the negotiation, preparation and execution of this Deed in the sum of £6,990.

11.2 The Council hereby covenants with the Owner and the Developer to issue the Planning Permission within three days of the date of this Deed.

12. RIGHTS OF THIRD PARTIES

12.1 A person who is not a party to this Deed shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

13. ENFORCEABILITY AND LIABILITY

13.1 A statutory undertaker who acquires any part of the Site or any interest in it for the purposes of the supply of electricity gas water drainage or telecommunication services is not to be treated as a person deriving title from the Owner for the Purposes of Section 106(3) of the Act

14. CONSEQUENTIAL MATTERS

14.1 where the agreement approval consent expression of satisfaction or permission is required by the Council under the terms of this Deed the Council shall in writing provide such agreement approval consent expression of satisfaction or permission which shall not be unreasonably withheld or delayed and shall be given on behalf of the Council by the Director of Managed Growth or such other officer authorised by the said Director to do so;

14.2 insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed;

14.3 following the performance and satisfaction of all obligations contained in this Deed the Council shall on written request by the Owner or the Developer forthwith effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.

15. JURISDICTION

15.1 this Deed is governed by and interpreted in accordance with the law of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England and Wales

16. CONFIRMATORY DEED

16.1 The Owner covenants with the Council that if and to the extent that it shall acquire any After Acquired Interest in the Site not already bound by the obligations of this Deed to forthwith notify the Council and within 14 days enter into and deliver to the Council unconditionally an executed deed substantially in the form of the Confirmatory Deed so as to bind and make such interests subject to the Planning Obligations (insofar as they relate to such interests

and/or parts of the Site and remain to be observed performed and/or complied with) unless otherwise agreed in writing by the Council.

16.2 Unless otherwise agreed with the Council no development shall take place on any part of the Site until that part of the Site has been bound by the terms of this Deed.

17. DELIVERY

17.1 The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated

IN WITNESS WHEREOF this Deed is executed in the manner hereinafter appearing the day and year first before written

SCHEDULE 1

The Owner and the Developer undertake and covenant as follows:

1. **Car Park Management Scheme**

- 1.1 Following Commencement of the Development, to engage collaboratively with the Council and other town centre partners in the production of the Car Park Management Scheme;
- 1.2 To comply with the provisions of the Car Park Management Scheme (once prepared in accordance with paragraph 1.1 of this Schedule) as they relate to the Development for the lifetime of the Development

2. **Church Hill/Church Square Works Contribution**

- 2.1 To pay prior to Commencement of the Development the Church Hill/Church Square Works Contribution to the Council for the purpose of the Church Hill/Church Square Works and not to Commence Development or cause or permit Commencement of Development unless and until the payment has been made to the Council.

3. **Malvern Park Environmental Improvements Contribution**

- 3.1 To pay prior to the Commencement of the Development the Malvern Park Environmental Improvements Contribution to the Council for the purpose of the Malvern Park Environmental Improvements and not to Commence Development or cause or permit Commencement of Development unless and until the payment has been made to the Council.

4. **Off-Site Tree Planting and Maintenance Contribution**

- 4.1 To pay prior to the Commencement of the Development the Off-Site Tree Planting and Maintenance Contribution to the Council for the purpose of off-site tree planting and not to Commence Development or cause or permit Commencement of Development unless and the payment has been made to the Council.

5. **Wayfinding Works Contribution**

- 5.1 To pay prior to the Commencement of the Development the Wayfinding Contribution to the Council for the purpose of the Wayfinding Works and not to Commence Development or cause or permit Commencement of Development unless the payment has been made to the Council.

The Council undertakes and covenants with the Owner and the Developer as follows:

6. **Contributions**

- 6.1 To use the Contributions within five years of the date of payment of the Contributions for the purposes for which they were paid as set out in this Schedule and for no other purposes without the prior written consent of the Owner and the Developer.
- 6.2 To pay to the Owner or the Developer such amount of any of the Contributions made by the Owner or the Developer to the Council under this Deed which has not been expended in accordance with the provision of this Deed (and money shall be deemed to be expended if the Council has entered into a contract for the expenditure of the Contributions for the purpose for which they were paid which is reasonably likely to result in the fulfilment of that purpose) within three years of the date of receipt.
- 6.3 To provide the Owner and/or the Developer (as appropriate) on written request by the Owner or the Developer (as appropriate) such evidence as it may reasonably require in

order for it to ascertain the quantum of the Contributions which has been expended in accordance with this Deed for the purpose specified in this Deed.

7. Attenuation Tank

7.1 The Council covenants with the Owner and the Developer that it will grant an easement as soon as reasonably practicable (and in any event no later than four weeks) following the Owner and the Developer submitting to the Council a draft easement so as to enable the Owner and the Developer to install, repair, maintain and replace the attenuation tank in accordance with condition 5 of the Planning Permission

7.2 In the event that:

7.2.1 the Council fails to comply with the obligation in paragraph 7.1 of this Schedule;
or

7.2.2 acting reasonably the Parties are unable to agree the form of easement within 20 working days of issue of the form of easement pursuant to paragraph 7.1 of this Schedule,

either Party may refer the matter to the Specialist.

7.3 The Owner and the Developer shall pay to the Council on completion of the easement its reasonable legal costs and disbursements incurred in the negotiation, preparation and execution of the easement

SCHEDULE 2

RED LINE PLAN



Team Leader –
 Property and Contracts

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[Handwritten signature]

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 C. E. KILIAN

NOTES

DO NOT SCALE FROM THIS DRAWING.
 DIMENSIONS TO BE CHECKED ON SITE.
 DEVELOPER RESPONSIBLE.

Scale Bar
 5m 10m 20m 30m 40m 50m

Key
 1m Boundary - 1:500
 2m Development Boundary - 1:250

PLANNING

TOUCHWOOD

CLIENT: TOUCHWOOD
 DATE: 23/03/15
 DRAWN: SG
 CHECKED: SB

PROJECT: Touchwood Extension
 Schematic

EXISTING: Existing Site Plan
 Development Boundary



140129 - A - P - 00 - D.007 - B

**SCHEDULE 3
PAYMENT FORM**

Section 106 Payment Form/Remittance Advice

Please forward a completed copy of this form for each payment/instalment relating to this Section 106 Agreement

Payment method:- **BY CHEQUE ONLY**

make cheque payable to SOLIHULL METROPOLITAN BOROUGH and write the Planning Application reference and S106 obligation date on the reverse of the cheque

Planning Application reference:

Development site:

Date Section 106 Agreement completed:

Payment made by:

Contact name and telephone number:

Contact email address:

Monies being paid:

- | | | | |
|---|-------------------------------------|---------------------------|---|
| 1. | £ | (includes indexation of £ |) |
| | Purpose (per Section106 Agreement): | | |
| 2. | £..... | (includes indexation of £ | |
| | Purpose (per Section106 Agreement): | | |
| 3. | £..... | (includes indexation of £ | |
| | Purpose (per Section106 Agreement): | | |
| | Total Payment | £ | |
| Amount(s) previously paid (if applicable) | (1) | £ | |
| | (2) | £ | |
| | (3) | £ | |

Complete and send this form to the Planning Manager

SCHEDULE 4
DRAFT DECISION NOTICE

DRAFT PLANNING DECISION NOTICE



Managed Growth Directorate
Development Management
P.O. Box 11652, Homer Road Solihull B91 9YA
Telephone 0121 704 8008
planning@solihull.gov.uk

DETERMINATION OF APPLICATION FOR PLANNING PERMISSION

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2010

Application No:	PL/2015/51464/MAJFOT
Case Officer:	Julia Sykes
Date of Decision:	
Location:	Land East Of Touchwood, Manor Square, Solihull,
Proposed Development:	Demolition of unlisted buildings and construction of extension to Touchwood, remodelling of retained listed buildings, creation of pedestrian route from High Street and associated development on land bounded by Touchwood, High Street, Church Hill Road/The Square and Church Hill House.
Date Registered:	8th July 2015
Applicant:	Lend Lease Retail Partnership
Agent:	Mr Simon Zargar

The Solihull Metropolitan Borough Council as Local Planning Authority hereby **GRANTS PERMISSION SUBJECT TO CONDITIONS** as shown below, for the above described development.

The development must conform with the terms and approved plans and must remain in conformity with such terms and plans, subject to and save as may be otherwise required by any of the following conditions:-

STANDARD CONDITIONS

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: 140129-A-Si-D001B; 140129-A-P-00-D002B; 140129-A-P-00-B003B; 140129-A-P-00-D004B; 140129-A-P-00-D005B; 140129-A-P-00-D006C; 140129-A-P-00-D007B; 140129-A-P-00-D008B; 140129-A-P-00-D009; 140129-A-P-00-D010B; 140129-A-P-00-D011B; 140129-A-P-00-D012B; 140129-A-P-00-D013B; 140129-A-P-00-

DRAFT PLANNING DECISION NOTICE



Managed Growth Directorate
Development Management
P.O. Box 11652, Homer Road Solihull B91 9YA
Telephone 0121 704 8008
planning@solihull.gov.uk

D014B; 140129-A-P-00-D015G; 140129-A-P-00-D016G; 140129-A-P-00-D017F; 140129-D018D;
140129-A-E-00-D020B; 140129-A-E-Nth-D022; 140129-A-P-00-D019; 140129-A-VA-Va-D024A;
140129-A-E-00-D030B; 140129-A-S-00-B031D; 140129-A-E-00-D032D; 140129-A-E-00-D033D;
140129-A-P-00-D040

To ensure compliance with the approved plans and details to safeguard amenity and the quality of the environment in accordance with Policy P14 and P15 of the Solihull Local Plan 2013

2. i) The development hereby permitted shall be begun before the expiration of three years from the date of this permission
Pursuant to the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004;
- ii) Unless otherwise agreed with the Local Planning Authority in writing no development shall take place on any part of the planning application site unless and until all interests in that part of the site are subject to and bound by the terms of a section 106 agreement or undertaking in the form of the agreement accompanying this permission
The reason to ensure the development is carried out in accordance with the legal agreement which forms an integral part of the development in accordance P21 of the Solihull Local Plan and the NPPF.

3. No building works shall be commenced until a schedule and samples of all bricks, tiles and other materials to be used in the external elevations have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

To safeguard the visual amenities of the area in accordance with Policy P15 of the Solihull Local Plan 2013.

4. The development hereby approved shall not be commenced until details of a scheme to manage the disposal of foul water have been submitted to and approved by the Local Planning Authority. Thereafter the development shall not be occupied until the works have been completed in accordance with the approved details.

To secure the satisfactory drainage of the site in accordance with policy P11 and P15 of the Solihull Local Plan 2013

5. The development hereby permitted shall not be commenced until such time as a scheme to manage surface water runoff has been submitted to, and approved in writing by, the local planning authority. The scheme shall be based upon the following principles as detailed by the applicant: Surface water runoff attenuated in below ground storage; Discharge rate restricted to 5 l/s from North and South drainage tanks prior to discharge to the Severn Trent sewer. Thereafter, the scheme shall be fully implemented in accordance with the timing / phasing arrangements embodied within the approved scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority, and subsequently maintained for the lifetime of the development.

DRAFT PLANNING DECISION NOTICE

To secure satisfactory drainage of the site in accordance with Policy P11 of the Solihull Local Plan.

6. During the commencement of the development hereby approved, if contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

To protect the quality of 'Controlled Waters' receptors on and in the vicinity of the site in accordance with policy P11 of the Solihull Local Plan.

7. Before development hereby approved commences, a schedule of all those trees, hedgerows, shrubs or existing features of the land to be retained, removed and/or treated shall be submitted to and approved by the local planning authority. No tree, hedge or shrub on the site indicated in the approved schedule for retention shall be topped, felled, lopped or root pruned except with the prior written consent of the Local Planning Authority

To safeguard as many natural features of the site as is reasonable for the proposed development in accordance with Policy P10, P14 and P15 of the Solihull Local Plan 2013.

8. Prior to the commencement of work on site, all existing trees/hedges and large shrubs except those agreed for removal, shall be protected by barriers. Details of the type of fencing and its siting shall be submitted to and approved in writing by the Local Planning Authority, thereafter the tree barriers shall be implemented and maintained on site as approved. The protected areas shall be kept free of all materials, equipment and building activity during the site development, and ground levels within the protected areas shall not be raised or lowered.

To safeguard as many natural features of the site as is reasonable for the proposed development in accordance with Policy P10, P14 and P15 of the Solihull Local Plan 2013.

9. Prior to commencement of work, the details of any special engineering required to accommodate the protection of retained trees as specified within BS5837, (e.g. in connection with foundations and surfacing) shall be submitted to and approved in writing by the local Planning Authority. Such details shall specify a site specific method statement regarding foundation design prepared by a qualified engineer and arboriculturist and details of the working methods to be employed for the installation of any drive and paths within the RPAs of retained trees to be in accordance with the principles of No-Dig construction under BS5837.

To minimise the effect and enhance the character of the development in accordance with Policy P10, P14, P15 and P16 of the Solihull Local Plan 2013

DRAFT PLANNING DECISION NOTICE

10. The development hereby approved shall not be occupied until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details include proposed finished levels or contours, means of enclosure, hard surfacing materials, unit sizes and bonding etc., other vehicle and pedestrian access and circulation areas, minor artefacts and structures, proposed walls and planters, such as street furniture, seating, planters, bins, refuse or other storage units, lighting, signage and cycle parking etc.) and retained historic landscape features and proposals for restoration.

To minimise the effect and enhance the character of the development in accordance with Policy P10, P14, P15 and P16 of the Solihull Local Plan 2013.

11. The development hereby approved shall not be occupied until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. To include (but not exhaustive) planters, green screen, green wall, green and brown roof etc. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment) maintenance; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

To minimise the effect and enhance the character of the development in accordance with Policy P10, P14, P15 and P16 of the Solihull Local Plan

12. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. If within a period of 5 years from the date of planting of any tree or hedge, or that tree or hedge any tree planted in replacement for it, is removed, uprooted, destroyed, dies or becomes seriously damaged or defective, another tree or hedge of the same species and size as that originally planted shall be planted at the same place within the next planting season (October-March), unless the Local Planning Authority gives its written consent to any variation.

To minimise the effect and enhance the character of the development in accordance with Policy P10 P14, P15 and P16 of the Solihull Local Plan

13. Before the development hereby approved is brought into use a ventilation system, incorporating grease and odour filtration and/or suppression shall be installed in accordance with a scheme to be submitted to and approved by the Local Planning Authority. The installation shall be subject to testing to demonstrate it is capable of reducing odours to an acceptable level; the methodology for such testing shall form part of the agreed scheme. If as a result of the testing process the equipment does not reduce odours to an acceptable level then upgrading of the system shall take place in accordance with details to be submitted to and approved by the Local Planning Authority. Thereafter the system shall be used and maintained in accordance with the approved scheme.

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To protect the neighbourhood from dust, fumes or odour emissions in accordance with policy P14 of the Solihull Local Plan 2013.

Note: The scheme should specify in detail the provisions made to control grease and odour. Plans showing internal layout of ducting etc. will not be required except where they are relevant to grease and odour control equipment.

14. Before the development hereby approved is brought into use any air conditioning, electrical or mechanical ventilation scheme must be installed and thereafter used and maintained in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority.

To protect the neighbourhood from dust, fumes, odour or noise emissions in accordance with policy P14 of the Solihull Local Plan 2013.

Note: The scheme should specify in detail the provisions made to control noise and odour. Plans showing internal layout of ducting etc. will not be required except where they are relevant to noise and odour control equipment.

15. No illumination of any external area of the site shall take place except with the prior written consent of the Local Planning Authority and in accordance with details submitted to and approved by them.

In the interests of the amenities of the area in accordance with Policy P14 and P15 of the Solihull Local Plan 2013.

16. Notwithstanding the details contained on approved plan no. 140129-A-E-00-D032D (Section FF - Council Office Elevation), the development hereby approved shall not be occupied until a scheme for the provision of public art has been provided in relation to the south elevation of the building, in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented and maintained thereafter unless otherwise agreed in writing by the local planning authority.

In the interest of good design and amenity in accordance with Policy P15 of the Solihull Local Plan 2013.

17. No advertisements, promotional material, transfers or adhered material shall be applied to the internal or external glazed elevations of unit 100 as indicated on approved drawing no.140129-A-P-00-D015G, unless otherwise approved in writing by the Local Planning Authority.

In the interests of maintaining a high quality design and appearance and to preserve the character and setting of the Listed Grade 1 St Alphege Church in accordance with policies P15 design and P16 heritage of the Solihull Local Plan 2013.

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18. Before the development hereby approved is commenced, details of an Employment and Skills Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a method statement to indicate how the Employment and Skills Strategy shall be implemented. Thereafter, the approved Employment and Skills Strategy shall be implemented in accordance with the approved details.

To ensure that recruitment and training is maximised for the local community, in accordance with Policies P1 and P2 of the Solihull Local Plan 2013.

19. The development hereby approved shall not be occupied until a scheme of CCTV coverage has been provided in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

In the interests of the creation of a high quality, safe public realm in accordance with policies P15 and P18 of the Solihull Local Plan 2013.

20. The development hereby approved shall not be commenced until full details have been submitted to and approved in writing to incorporate sustainable design measures that make a positive contribution to minimising energy requirements and reducing CO2 emissions of the development.

In the interests of sustainable development in accordance with Policies P9 and P15 of the Solihull Local Plan 2013.

NOTE: Such details shall include measures to be incorporated to the building fabric that reduce the need for air conditioning or heating, glazing to provide natural light and reduce dependence on artificial lighting and installation of windows that can be opened to reduce the need for cooling and ventilation systems to operate; The use of on-site Low and Zero Carbon Technologies including the use of photovoltaics at rooftop level and rainwater recovery; Waste management planning that reduces the amount of waste sent to landfill; Other measures could include the use of green and brown roofs to increase biodiversity, increase air quality and reduce surface water runoff. Thereafter the approved details shall be incorporated into the built development in accordance with the approved details and retained in perpetuity.

21. A Landscape and Ecology Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas/biodiversity enhancements, including (but not exhaustively) replacement nesting opportunities, green and brown roofs, living walls, green screens and planters provided by the development, shall be submitted to and approved by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The management and maintenance schedules shall include details of the arrangements for their implementation. The landscape and ecology management plan shall be carried out as approved for the lifetime of the Development.

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Not later than the 1st October in each year following, unless otherwise agreed in writing, the implementation of the approved landscape/ biodiversity enhancements in connection with the development hereby permitted shall be carried out and a written statement shall be submitted to the Local Planning Authority detailing:

The number, location and species of any vegetation (trees, shrubs, climbers and hedging plants etc.) which have died, become diseased or seriously damaged in the preceding 12 months, and

Proposals for the replanting and maintenance of any such failures with plants of similar size and species within the 6 months following or first available planting season, whichever is the sooner

None of the approved landscape/ biodiversity enhancements implemented in connection with the development hereby permitted shall be removed, destroyed without the prior written approval of the Local Planning Authority.

To minimise the effect and enhance the character of the development in accordance with Policy P10, P14, P15 and P16 of the Solihull Local Plan 2013.

22. Prior to the commencement of development, notwithstanding the details contained on the plans hereby approved, as set out in condition 1 of this permission, full details of the proposed access to the Council House shall be submitted to and approved by the Local Planning Authority.

To safeguard the interests of users of the highway in accordance with Policies P7 and P8 of the Solihull Local Plan 2013.

23. With the exception of the 'Island Block' which fronts onto Church Square (proposed units 94-99, units 2-6 Church Hill and unit 158 High Street, on approved plan no.140129-A-P-00-D015G), all units within the proposed development and those existing units (which front onto High Street), which are currently serviced from Manor Square, shall be serviced from the roof of Touchwood, including for all deliveries and refuse collection, unless otherwise agreed in writing by the Local Planning Authority.

To safeguard the interests of users of the highway in accordance with Policies P7 and P8 of the Solihull Local Plan 2013.

24. Prior to occupation of the proposed development a Travel Plan shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall contain;

- a. Targets for non-car mode share based on current mode share to work within the town centre.
- b. Annual monitoring of progress and reporting of targets and progress, to be shared with the Local Planning Authority.

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c. A clear action plan to address targets and provision for an annual review of actions to ensure the most effective measures are being implemented.

In the interests of the promotion of sustainable transport modes in accordance with Policies P7 and P8 of the Solihull Local Plan 2013.

25. Prior to the commencement of development a detailed construction/phasing plan shall be submitted to and approved by the Local Planning Authority. Thereafter the approved construction/phasing plan shall be implemented in accordance with the approved details.

In the interests of the satisfactory development of the site in accordance with Policies P2, P7, P8 and P14 of the Solihull Local Plan 2013.

26. Public access shall be retained at all times to the proposed raised footpath (as indicated on approved plan no. 140129-018D), which will provide access to the Town Centre from the Council House along the northern edge of Church Hill adjacent to the development.

In the interests of highway safety and pedestrian movement in accordance with policies P7 and P8 of the Solihull Local Plan 2013.

27. Vehicular access shall be retained at all times to the Council House, including during construction unless otherwise agreed in writing by the local planning authority.

In the interests of the free flow of traffic and highway safety in accordance with Policies P7 and P8 of the Solihull Local Plan 2013.

28. No development shall take place until:

a) A Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Warwickshire County Council Archaeological Information and Advice team.

b) The programme of archaeological evaluative work and associated post-excavation analysis, report production and archive deposition detailed within the approved WSI is to be undertaken. A report detailing the results of this fieldwork is to be submitted to the local planning authority.

To ensure adequate opportunity for site research and recording in accordance with policy P16 of the Solihull Local Plan 2013

29. Prior to any development works (with the exception of any groundworks associated with the archaeological evaluation detailed above) taking place an Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the Local Planning Authority. This should detail a

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strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation detailed in condition 29 above.

The programme of archaeological fieldwork and associated post-excavation analysis, report production and archive deposition detailed within the approved Archaeological Mitigation Strategy is to be undertaken.

To ensure adequate opportunity for site research and recording in accordance with policy P16 of the Solihull Local Plan 2013

30. No development shall be commenced until full details of the landscape public realm provision along the interface between Church Hill House Council buildings and the south of the approved Touchwood development has been submitted to and approved in writing by the Local Planning Authority.

To minimise the effect and enhance the character of the development in accordance with policies P10, P14, P15 and P16 of the Solihull Local Plan.

31. Servicing from High Street will only be permitted for those units within the 'Island Block' which fronts onto Church Square (proposed units 94-99, units 2-6 Church Hill; Unit 158 High Street on approved plan no.140129-A-P-00-D015G), between the hours of Midnight and 8am for the purposes of delivering goods. Refuse collection for this block shall be carried out from the roof of Touchwood in common with the rest of the development hereby approved.

To safeguard the interests of users of the highway in accordance with policies P7 and P8 of the Solihull Local Plan 2013.

32. Notwithstanding submitted plans as set out in condition one, revised details shall be submitted to show the west and north facing wall of unit 82. The design of the wall shall be enhanced with architectural layering, to include the use of varied materials and finishes. The scheme shall be submitted prior to commencement of development and approved in writing by the local planning authority. The details shall be implemented as approved.

To reduce the impact of development on the setting of the Manor House Grade II* listed building in accordance with Policy P16 of the Solihull Local Plan.

33. Notwithstanding submitted plans as set out in condition one, revised details shall be submitted to show the east facing elevation of unit 100 (Belvedere). The scheme shall be submitted prior to commencement of development and approved in writing by the local planning authority. The details shall be implemented as approved.

To reduce the impact of development on the setting of St Alphege Grade I listed building in accordance with Policy P16 of the Solihull Local Plan.

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Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the National Planning Policy Framework.

The following policies of the Solihull Local Plan 2013 were considered relevant:

- P1 - Support Economic Success
- P2 - Maintain Strong, Competitive Town Centres
- P7 - Accessibility and Ease of Access
- P8 - Managing Demand for Travel and Reducing Congestion
- P9 - Climate Change
- P10 - Natural Environment
- P11 - Water Management
- P14 - Amenity
- P15 - Securing Design Quality
- P16 - Conservation of Heritage Assets and Local Distinctiveness
- P18 - Health and Well Being
- P20 - Provision for Open Space, Children's Play, Sport, Recreation and Leisure
- P21 - Developer Contributions and Infrastructure Provision

Informatives

NOTE: The highway scheme developed for mitigation to drop-off for the Touchwood extension, as per the S106 agreement, shall include a drop off at Church Square.

NOTE: Tree planting carried out in mitigation for trees removed on site shall be directed to the Solihull town centre urban fabric.

NOTE: Opportunities for the reclaim and reuse of historic materials from the demolition of the Priory should be explored with a view to incorporating into the fabric of the Touchwood development.

NOTE: Noise from construction and associated works has the potential to cause disturbance to neighbouring residents. In order to minimise this, this Authority would normally recommend that any work audible beyond the boundary of the site should only be carried out between the hours of 8.00 am to 6.00 pm on Mondays to Fridays and 8.00 am to 1.00 pm on Saturdays; there should be no noisy works carried out on Sundays or Bank Holidays. Best practicable means to prevent noise

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from the site should also be employed as defined in British Standard BS 5228 Part 1: 1984 (or its successors/revisions). Failure to keep these hours or to employ best practicable means to control noise could lead to the service of an enforcement notice under Section 60 of the Control of Pollution Act 1974. SMBC encourage applications for prior consent under Section 61 of the Act, particularly where the construction and/or demolition phases(s) may be prolonged or if work may be undertaken beyond the aforementioned hours. Please contact the Contact Centre (0121 704 8000) for further details.

NOTE: Burning of Refuse on Demolition and Construction Sites: Because of the potential for nuisance to neighbours, burning of refuse prior to or during the construction phase is not generally acceptable and may be contrary to waste regulation legislation. If you do have special circumstances, such as a requirement to dispose of wood infected by disease or insects, please contact the Contact Centre on (0121 704 8000) for further details.

NOTE: Dust Control on Demolition and Construction Sites: Because of the potential for nuisance to neighbours and damage to property, reasonable steps to reduce dust emissions should be employed, particularly during any demolition works and in periods of dry weather.

NOTE: A planning agreement/obligation under Section 106 of the Town and Country Planning Act 1990 relates to this site.

Signed



James Carpenter BA (Hons) MSc MRTPI
Head of Development and Regulatory Management

DRAFT PLANNING DECISION NOTICE



Managed Growth Directorate
Development Management
P.O. Box 11652, Homer Road Solihull B91 9YA
Telephone 0121 704 8008
planning@solihull.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision of your application, then you must do so within: 28 days of the date of the service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.

If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

If this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local authority's decision then you must do so within 12 weeks of the date of this notice.

If this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of this notice.

If this is a decision to refuse planning permission other than those specified above, if you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice,

If this is a decision to refuse permission for works to a TPO tree, if you want to appeal against your local authority's planning decision then you must do so within 28 days of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of the appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

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DECISION NOTICE**



Solihull
METROPOLITAN
BOROUGH COUNCIL

Managed Growth Directorate
Development Management
P.O. Box 11652, Homer Road Solihull B91 9YA
Telephone 0121 704 8008
planning@solihull.gov.uk

DRAFT

**SCHEDULE 5
CONFIRMATORY DEED**

Dated

(1) **Solihull Metropolitan Borough Council**

(2)

CONFIRMATORY DEED

made pursuant to Section 106 of the Town and Country Planning Act 1990 (and other appropriate powers) relating to the Touchwood Centre Extension on land and buildings bounded by the existing Touchwood Centre, High Street, Church Hill Road/The Square and Church Hill House, Solihull

THIS CONFIRMATORY DEED is made the [] day of []

BETWEEN

- (1) The Council;
- (2) [] "the Owner".

BACKGROUND

- (A) The Council is the local planning authority for the area within which the Land is situated and is the authority by whom the obligations contained in this Confirmatory Deed and the Planning Agreement are enforceable pursuant to Section 106 of the 1990 Act and other relevant powers.
- (B) By virtue of the Lease the Owner has a leasehold interest in the Land.
- (C) On [DATE] the Council and the Owner entered into the Planning Agreement at which time the Owner had an equitable interest in the Land pursuant to the Development Agreement.
- (D) Clause 16 of the Planning Agreement and Condition 5 of the Planning Permission requires the Owner to enter into a confirmatory planning agreement in the event that it acquires additional interests in the land to ensure that the Owner's interest in the land is made subject to the obligations and other provisions set out in the Planning Agreement.

This Deed of confirmation is entered into accordingly.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Save where provided otherwise words and expressions used in this Confirmatory Deed have the meaning assigned in the Planning Agreement.

1.2 For the purposes of this Confirmatory Deed the following words and expressions have the following meanings:

- "1990 Act"** the Town and Country Planning Act 1990
- "Development Agreement"** an agreement for development and lease dated 20 October 2014 and made between the Council (1) and Lend Lease Retail Partnership acting by Lend Lease Real Estate Investments Limited (2)
- "Land"** the Land shown edged red on the plan annexed hereto which Land is registered at the Land Registry under title number [NUMBER]
- "Lease"** a lease dated [DATE] made between the Council as landlord (1) and the [Developer] [Owner] as tenant (2) and granting to the Owner a lease of the Land for a period of [x] years from and including [DATE]
- "Planning Agreement"** an agreement dated [DATE] between the Council (1) and Lend Lease Retail Partnership acting by Lend Lease Real Estate Investments Limited (2) entered into pursuant to Section 106 of the 1990 Act and other relevant powers.

2. **OPERATION OF THIS CONFIRMATORY DEED**

This Confirmatory Deed is made pursuant to Section 106 of the 1990 Act and is also made pursuant to the other statutory provisions referred to in the Planning Agreement and such other statutory powers as may be appropriate and contains planning obligations for the purposes of the said Section 106 and the Owner agrees that as from the date hereof the Owner's interest and estate pursuant to the Lease shall be bound by the obligations and other provisions contained in the Planning Agreement (if and to the extent that they remain to be observed performed and complied with as at the date hereof) as if the same had been set out in full herein and that the said obligations and other provisions in the Planning Agreement shall be enforceable by the Council not only against the Owner but also against any successors in title to or assigns of the Owner and any person claiming through or under it an interest or estate in the Land as if that person had been an original covenanting party in respect of the interest or estate for the time being held by him.

3. **[MORTGAGEE**

The Mortgagee agrees that as from the date hereof its interest in the Land shall be bound by the obligations and other provisions contained in the Planning Agreement (if and to the extent that they remain to be observed performed and complied with as at the date hereof) as if the same had been set out in full herein and that the said obligations and other provisions shall be enforceable not only against the Mortgagee but also against or by any successors in title to or assigns from the Mortgagee or any persons claiming through or under it an interest or estate in the Land as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by him provided that such obligations and other provisions shall not be enforceable against the Mortgagee (or its successors or assigns) unless it shall take possession of the Land or otherwise enforce its powers under the relevant charge.]

4. **COMPLIANCE BY THE COUNCIL**

As from the date hereof the Council shall comply with the obligations on its part contained in the Planning Agreement (if and to the extent that they remain to be observed performed and complied with as at the date hereof).

5. **MISCELLANEOUS PROVISIONS**

- 5.1 No provision of this Confirmatory Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 5.2 Any invalidity illegality or unenforceability of any clause or paragraph in the Planning Agreement shall not affect the validity or enforceability of the remaining provisions in this Confirmatory Deed.
- 5.3 This Confirmatory Deed shall immediately cease to have effect if and to the extent that the Planning Agreement shall cease to have effect

IN WITNESS of the above the parties hereto have executed this Confirmatory Deed the day and year first above written

THE COMMON SEAL of
SOLIHULL METROPOLITAN BOROUGH
COUNCIL
was affixed to this deed in the presence of:

)
)
)
)

Duly Authorised Officer

EXECUTED as a deed
by **CAPITA (LLRP) TRUSTEE LIMITED**

)
)

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The **COMMON SEAL** of)
SOLIHULL METROPOLITAN BOROUGH COUNCIL)
was affixed in the presence of:)



[Handwritten signature]

By **Team Leader – Property and Contracts**

EXECUTED as a **DEED** by **CAPITA**
(LLRP) TRUSTEE LIMITED acting
through its duly authorised attorney

[Handwritten signature]

in the presence of:

[Handwritten signature]

Name: **ANDREW ROGERS**
Address: 4th Floor, 40 Dukes Place, London EC3A 7NH

EXECUTED as a **DEED** by **LEND LEASE RETAIL**)
PARTNERSHIP acting by **LEND LEASE REAL**)
ESTATE INVESTMENTS LIMITED)

C. E. Allen
.....
Director)
[Handwritten signature]
.....
Director/Secretary