

THIS DEED OF AGREEMENT is made the ^{eleven} 21st day of March two thousand and ~~ten~~ ^{eleven} BETWEEN

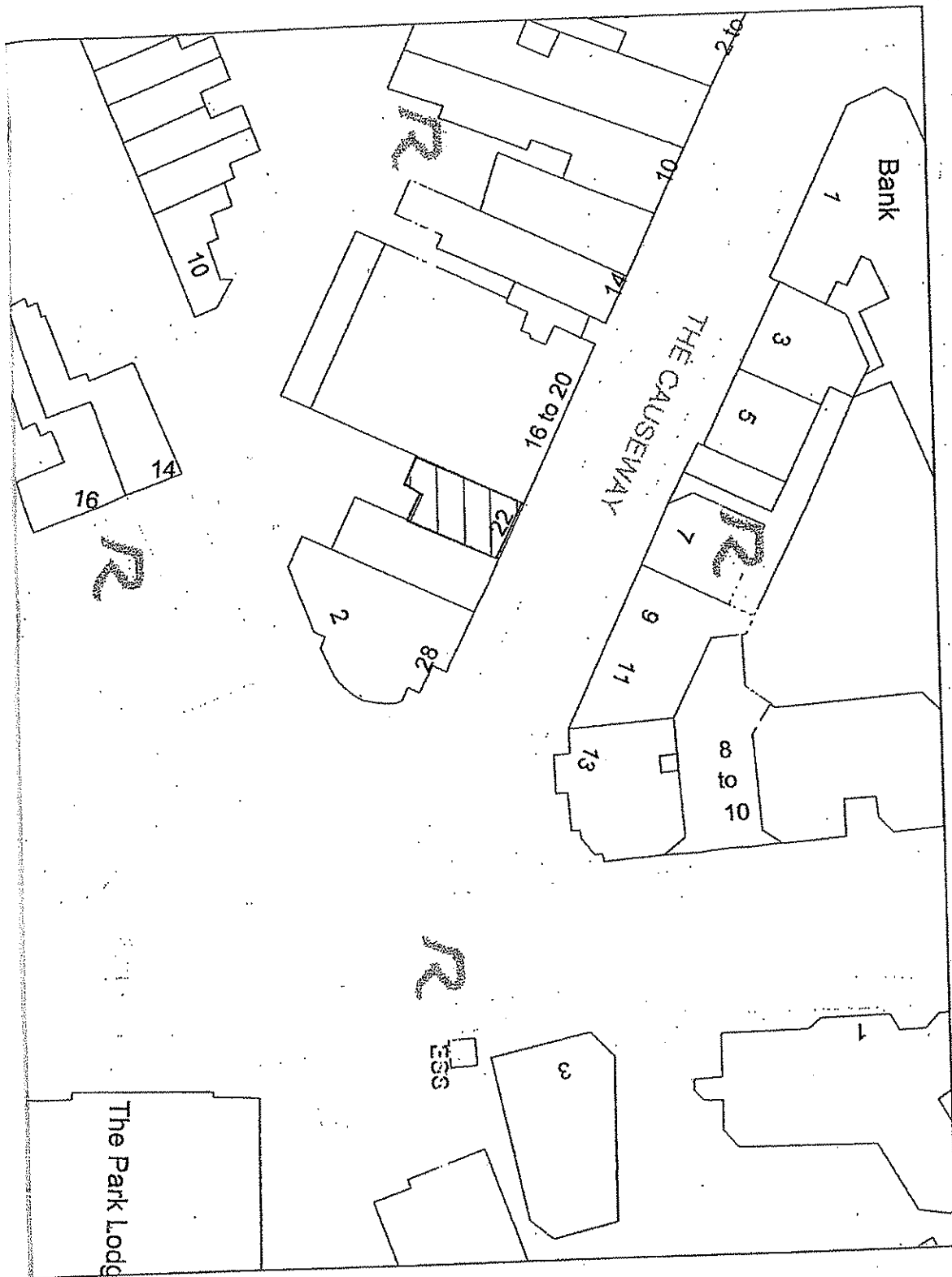
- (1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND UPON THAMES of Civic Centre 44 York Street Twickenham Middlesex, TW1 3BZ ("the Council")
- (2) HOME COUNTY PROPERTY CENTRES LIMITED (company registration No.00931610) whose registered office is situate at 22 The Causeway, Teddington, Middlesex, TW11 0HF ("the Owner")
- (3) MICHAEL DAVID GARSON of 29 The Paddocks Wembley Park, Middlesex HA9 9HG ("the Chargee")

INTERPRETATION

IN this Deed the following words and expressions shall have the following meanings:-

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|--------------------------------|--|
| "the 1990 Act" | the Town & Country Planning Act 1990 |
| "Accredited Car Club Provider" | an organisation accredited in the United Kingdom by Car Plus which provides cars for use by members of a Car Club in consideration of payment therefor |
| "Car Club" | a local club operated and managed by an Accredited Car Club Provider in which members can book cars owned by the Accredited Car Club Provider and parked in specifically reserved car club spaces and use them for the period of the booking |
| "Car Plus" | the national charity (No. 1093980) promoting responsible car use and which operates an accreditation scheme for Car Clubs |
| "the Contributions" | the Health, Open Space and Transport Contributions together |
| "the DCM" | the Council's Development Control Manager for the time being or such other person as may be appointed from time to time to carry out that function |

"the Development"	the development described in the Planning Application
"the Health Contribution"	the sum of one thousand twenty one pounds and sixty five pence (£1021.65) Indexed
"Indexed"	increased in accordance with the formula whereby the relevant contribution is multiplied by the fraction A divided by B where B represents the value of the Retail Prices Index (All Items) as at the date of this Deed and A represents the value of the same index as at the date of payment of the relevant contribution to the Council
"Material Start"	the carrying out in relation to the Development of a material operation as defined in Section 56(4) of the 1990 Act save that such shall not include works of demolition; works of site clearance; ground investigations; site survey works; laying of services and service media; construction of temporary accesses; archaeological investigation; landscaping works off the public highway; and noise attenuation works
"Monitoring Fee"	the sum of six hundred forty five pounds and thirty eight pence (£645.38) being 5% of the Contributions
"the Open Space Contribution"	the sum of four thousand seven hundred and twenty six pounds (£4,726)
"the Planning Application"	a planning application submitted to the Council on 18 March 2010 bearing reference number 09/1983/FUL for the demolition of a three storey office building and replacement with a part three, part four storey building with ground floor offices and residential flats to upper floors at the Property
"the Planning Permission"	a planning permission to be granted by the Council pursuant to the Planning Application



"the Property"	land known as land and property at 22 The Causeway, Teddington, Middlesex, TW11 0HF shown hatched black on the plan attached hereto
"the Transport Contribution"	the sum of seven thousand one hundred and sixty pounds (£7,160) Indexed
"UDP"	the saved policies of the Richmond upon Thames Unitary Development Plan: First Review 2005 and the Local Development Framework Core Strategy adopted April 2009
"Units"	all those self contained business and residential units forming part of the Development

WHEREAS:

- (1) The Council is the local planning authority for its administrative area within which the Property is situate for the purposes of the 1990 Act and for the purpose of Section 106(a) of the 1990 Act is the local planning authority by whom the planning obligations contained within this Deed are enforceable
- (2) The Owner is registered at the Land Registry with absolute title under title number MX341184 as the proprietor of the freehold interest in the Property and the Chargee is similarly registered as the proprietor of a charge over the Property
- (3) At its meeting on 18 March 2010 the Council's Planning Committee resolved to grant planning permission for the Development subject to the completion of an agreement under Section 106 of the 1990 Act to secure financial contributions towards health facilities, open space, traffic management, the provision of a car club and a future restriction on the grant of parking permits within any controlled parking zone within the administrative area of the Council
- (4) Policies TRN 2 and TRN 4 of the UDP provide that the Council will only approve new development where the transport infrastructure can accommodate it or be adapted to it and where the demand for on-street residents parking within a particular zone is considered by the Council to be close to saturation and car parking on site would preclude the optimum utilisation of land or building or would have an adverse impact on residential amenity then a developer would need to enter into a section 106 agreement with the Council for the purpose of restricting the provision of on-street parking permits
- (5) Policy CP17 of the Core Strategy provides that health and wellbeing in the Council's area is important and all new developments should encourage and promote healthier communities and places and the Planning Obligations Strategy adopted 6 June 2005 and modified in January 2007 provides that planning can ensure the provision of primary care facilities as part of new residential and commercial developments (including through Section 106 agreements) (Policy 3.85 of the London Plan)

- (6) Policy CP10 of the Core Strategy provides that all developments will be expected to incorporate appropriate elements of open space and new developments will be expected to contribute in accordance with the Planning Obligations Strategy to areas of deficiency in open space
- (7) The Council's Planning Obligations Strategy adopted as Supplementary Planning Guidance in June 2005 outlines and clarifies the Council's current approach, policies and procedures in respect of planning obligations

NOW THIS DEED WITNESSETH as follows:-

1. THIS Deed is made pursuant to Section 106 of the 1990 Act and the obligations contained in this Deed are planning obligations for the purposes of that section insofar as they fall within the terms of Section 106 of the 1990 Act and receipt of a copy of this Deed pursuant to subsection 106(10) of the 1990 Act is hereby acknowledged by the Council
2. THE Owner hereby covenants with the Council as set out in Schedule 1
3. THE Council covenants with the Owner as set out in Schedule 2
4. The Chargee hereby consents to the Owner completing this Deed with the intention that notwithstanding Section 104 of the Law of Property Act 1925 its interest in the Property shall be bound by the terms of this Deed as if it had been executed and registered as a local land charge prior to the execution of the charge
5. IT IS HEREBY AGREED and DECLARED:-
Miscellaneous agreements and declarations
 - (a) Nothing contained in this Deed constitutes planning permission
 - (b) Nothing contained or implied in this Deed shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its functions as local authority and its rights powers duties and obligations under all public and private statutes bye-laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Deed
 - (c) If any provision in this Deed shall be held to be void invalid illegal or unenforceable or if voidable is avoided this shall not affect the operation validity legality and enforceability of any other provision of this Deed provided severance therefrom is possible
 - (d) Reference to the masculine feminine and neuter genders shall include the other genders and reference to the singular shall include the plural and vice versa
 - (e) A reference to a clause is a reference to a clause contained in this Deed
 - (f) The expressions "the Council" and "the Owner" and "the Chargee" shall include their respective successors in title and assignees

Local land charge provisions

- (g) This Deed is a Local Land Charge and shall be registered in the Council's Register of Local Land Charges immediately on completion thereof
- (h) The Council will, upon written request by the Owner or a Chargee if applicable effect a cancellation of any entry made in the Local Land Charges Register in regard to this Deed forthwith after the obligations of the Owner and/or the Chargee hereunder have been wholly performed or discharged

Reference to statutes and statutory instruments

- (i) References in this Deed to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force

Variations

- (j) The covenants undertakings and restrictions contained in this Deed shall only be capable of being varied by a memorandum to be endorsed upon or annexed to this Deed by or on behalf of the relevant parties hereto or by a subsequent deed of variation
- (k) This Deed shall continue to be valid and enforceable following an amendment or variation to the Planning Permission achieved through the submission of the First Planning Application and the Second Planning Application pursuant to Section 73 of the 1990 Act as if this Deed had been completed pursuant to such an application

English law applicable

- (l) The construction validity and performance of this Deed shall be governed by English law

Effect of revocation of planning permission

- (m) In the event of the Planning Permission being revoked by the Council or any other authority having powers in relation to planning matters or otherwise withdrawn or modified by any statutory procedure without the consent of the Owner or their successors in title the obligations of the Owner under this Deed shall thereupon cease absolutely and in that event the Council will repay to the Owner such monies as have been paid to it pursuant to the obligations contained within this Deed to the extent that they remain unspent

Waivers not to be of a continuing nature

- (n) No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the terms and conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereto by the Owner

Liability of subsequent Owner and release of former Owner

- (o) The provisions hereof shall be enforceable by the Council against the Owner and all persons who shall have derived title through or under them in respect of the Property (but so that no person shall be liable to the Council for any breach of the provisions committed after such a person has parted with all of its freehold interest in such land)

Contracts (Rights of Third Parties) Act 1999

- (p) The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Deed and no person who is not a party to this Deed is to have the benefit of or is capable of enforcing any term in this Deed and no party is to have any rights to enforce this Deed other than those falling within the definitions of the Council the Owner and the Chargee

Release

- (q) This Deed shall be deemed to have been revoked and be of no effect (without any further act or deed on the part of either the Council or the Owner if a Material Start has not taken place within 4 years of the date of this Deed or the Planning Permission having been granted shall be varied or revoked other than at the request of the Owner or the Planning Permission having been granted is quashed following a successful legal challenge and in any such case any sums paid by the Owner under this Deed shall be repaid to the Owner by the Council forthwith together with interest at the Base Rate of Bank of England from the date such sums were received by the Council until the date of repayment

VAT clauses

- (r) all consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable in respect thereof
- (s) if at any time VAT is or becomes chargeable in respect of any supply made in accordance with the terms of this Deed then to the extent that VAT had not previously been charged in respect of that supply the person making the supply shall have the right to issue a VAT invoice to the person to whom the supply was made and the VAT shall be paid accordingly

Interest on late payment

- (t) if any of the contributions is not paid to the Council within two years from a Material Start, then interest shall be paid on such contribution at the rate of 4% above the Bank of England base rate from time to time in force from the date that the contribution became due to the date of actual payment

Indemnity for Chargee

- (u) notwithstanding the terms contained herein the Chargee shall only be liable for any breach of any provision of this Deed during such period (if any) as it is Chargee in possession of the Property and then only if it shall have caused such breach or breaches to have been occasioned and PROVIDED THAT for the avoidance of doubt it shall not in any event be liable for any breach of this Deed arising prior to its becoming Chargee in possession of the Property regardless of whether or not such pre existing breach shall continue for any period during which it is Chargee in possession of the Property

IN WITNESS whereof with the intent that these presents should be executed as a deed the parties hereto have duly executed the same the day and year first before-written

SCHEDULE 1

COVENANTS BY THE OWNER

Part I - Contributions

- 1.1 To pay to the Council the Health Contribution, the Open Space Contribution, the Transport Contribution and the Monitoring Fee within two (2) years of a Material Start
- 1.2 To give notice in writing to the DCM of its intention to commence the Development at least seven (7) days before making a Material Start

Part II – Car Parking Permits

2. In the event that a controlled parking zone is established within five years of the date of this Deed not to occupy or dispose of or allow any person to occupy or dispose of any of the Units to be created as part of the Development unless a notice has been served on such person that pursuant to the Council's policies to which reference is made in recital (5) hereof or any other policy replacing the same such person shall not be entitled (unless such person is or becomes entitled to be a holder of a Disabled Persons' Badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons' Act 1970) and a restriction on the grant of parking permits within any controlled parking zone within the administrative area of the Council

Part III- Car Club

- 3.1 Prior to the making of a Material Start in relation to the Development to submit to the DCM details of the name of and correspondence with Accredited Car Club[®] Providers indicating the intention of the Owner to establish that the residential units to be constructed as part of the Development have membership of a Car Club at the Property including a proposed establishment date for his approval and not to make a Material Start in relation to the Development unless and until the Accredited Car Club Provider for the Development has been approved by the DCM
- 3.2 Not to occupy or permit or allow the occupation of any part of the Development for residential or business purposes until :-
 - 3.2.1 it has procured at its own expense that each residential and business unit forming part of the Development has membership of the approved Car Club (one per household) for the lifetime of the Development and has provided a copy of the final signed and dated contract with the Accredited Car Club Provider to the DCM
 - 3.2.2 it has promoted and advertised to each potential occupier of the Development the value and benefits of membership of a Car Club
 - 3.2.3 it has included a provision in any lease, licence or tenancy agreement affecting the whole or part of the Property that each residential and business unit shall be entitled to belong to the Car Club at the Property
- 3.3 In the event that the Accredited Car Club Provider is no longer able to provide the Car Club for the Development the Owner shall notify the DCM in writing and shall then use all reasonable endeavours to secure another Accredited Car Club Provider for the Development in accordance with the provisions of this Deed

Part IV- Costs

- 4. On the date hereof to pay the Council's reasonable and proper legal costs in the preparation and completion of this Deed in the sum of £600

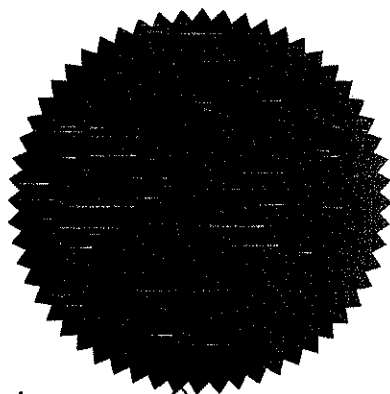
SCHEDULE 2

COVENANTS BY THE COUNCIL

- 1.1 To accept the Owner's covenant contained in clause 2 hereof
- 1.2 To use the Health Contribution paid to it pursuant to Clause 1.1 of Schedule 1 of this Deed for the provision of and improvements to health facilities within its administrative area
- 1.3 To use the Open Space Contribution paid to pursuant to Clause 1.1 of Schedule 1 of this Deed for the provision of and improvements to the open space facilities within its administrative area
- 1.4 To use the Transport Contribution paid to it pursuant to Clause 1.1 of Schedule 1 of this Deed for the provision of transport improvements within its administrative area
- 1.5 Where its approval is required under the terms of this Deed and such approval is given not to unreasonably withhold or delay the giving of that approval

THE COMMON SEAL of the MAYOR
AND BURGESSES
OF THE LONDON BOROUGH OF
RICHMOND UPON THAMES was
hereunto affixed in the presence of:-

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)
)
)
)



[Signature]
Authorised Officer

Seal Reg. No. 1669/03

Signed by
HOME COUNTY PROPERTY CENTRES
LIMITED *certified by two directors*
was hereunto affixed
In the presence of:-

)
)

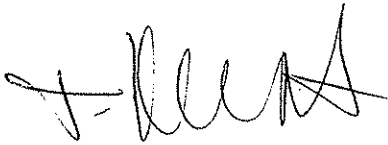
[Signature]

Director *[Signature]*
Secretary *[Signature]*

SIGNED AND DELIVERED as a deed by)

MICHAEL DAVID GARSON
in the presence of :

)
)



TAMMY HUNT
22 The Carboway
Teddington
TW11 0HF