

23rd day of January
THIS DEED OF AGREEMENT is made the *23rd* day of *January*
fourteen
two thousand and ~~thirteen~~ **B E T W E E N**

**(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) ADRIAN GODWIN and JANET ELIZABETH MARION GODWIN of 644
Hanworth Road Road Hounslow TW4 5NP ("the Owner")**

INTERPRETATION

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

"the 1990 Act"

the Town & Country Planning Act 1990

"Affordable Housing Contribution"

the sum of twenty three thousand one hundred and forty two pounds (£23,142) indexed towards the Affordable Housing Use

"Affordable Housing Use"

in relation to the Affordable Housing Contribution towards affordable housing provision within the administrative area of the Council

"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 Permission

"the Drawing"

the drawing shown on Plan 2 attached hereto

"the Education Contribution"

the sum fifteen thousand seven hundred and twenty five pounds (£15,725) Indexed towards the Education Use comprising nine thousand eight hundred and forty one pounds (£9,841) towards primary education and five thousand eight hundred and eighty four pounds (£5,884) towards secondary education

"Education Use"

in relation to the Education Contribution for the for the provision of education facilities within its administrative area of the Council

"Health Care Use"

in relation to the Health Contribution for the provision of health facilities within the administrative area of the Council

"the Health Contribution"

the sum of one thousand six hundred and twenty eight pounds and seventy six pence (£1628.76) Indexed

"Highways Works"

highways works comprising of the reinstatement of the kerb and shown in principle on the Drawing attached hereto

"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

PLAN 1

UNFINISHED SURVEY
PLAN REFERENCE

GREATER LONDON

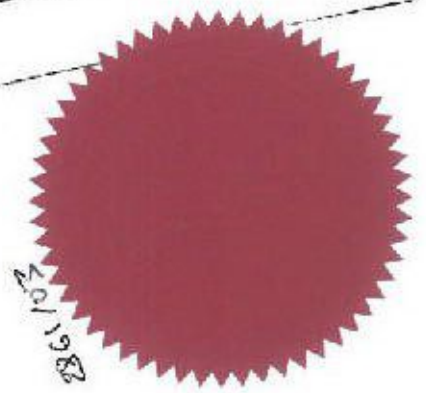
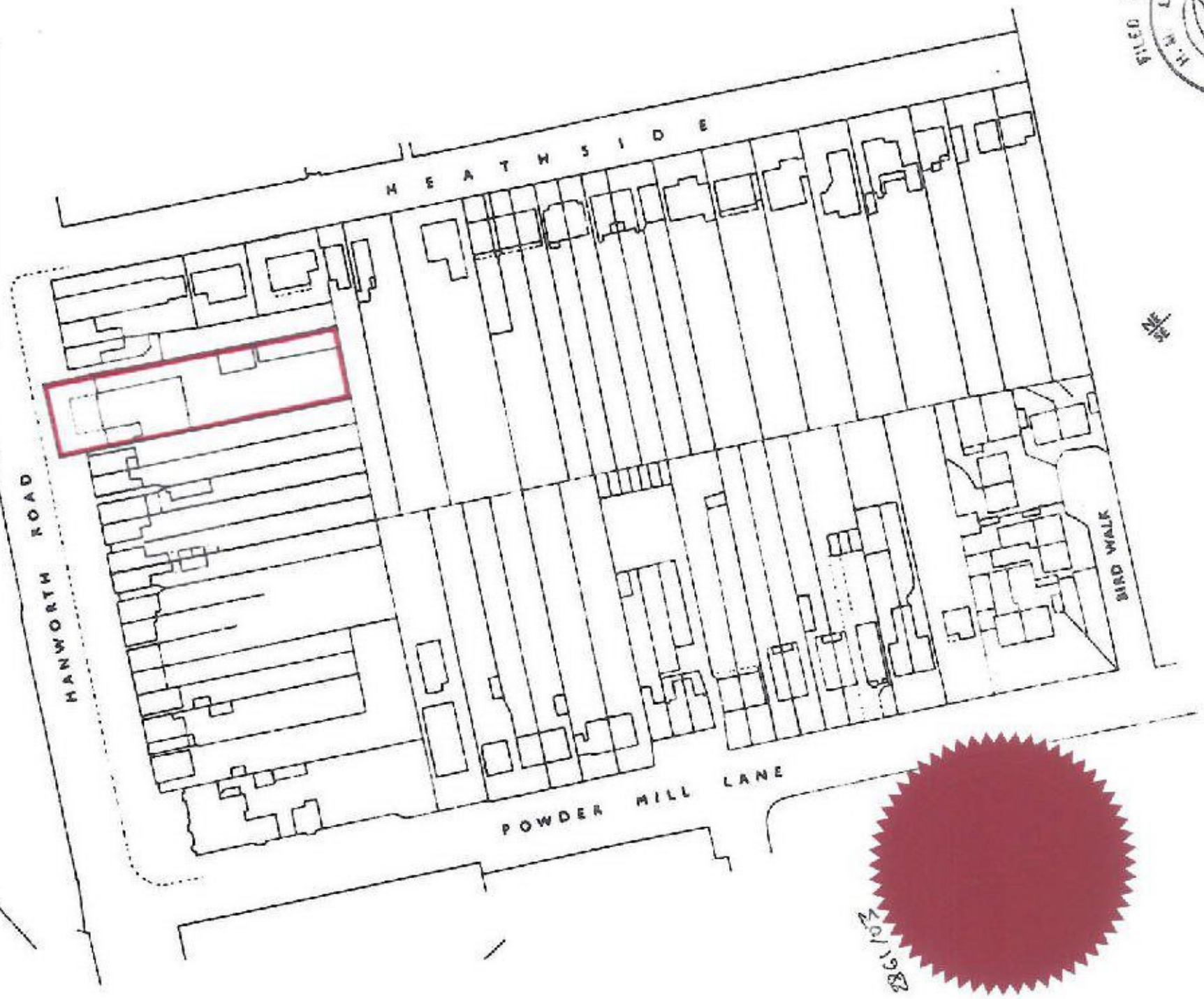
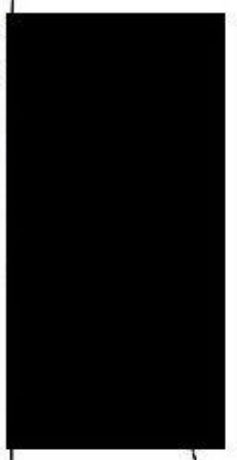
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BOROUGH OF RICHMOND UPON THAMES

Crown Copyright



f Garage site
icillary parking

2707

rw access/modify
isting access to suit

4800

Planting along
site frontage
max height
600mm

isting access
losed off

5300

Passing area
5.3m x 4.8m

Access road 3.5m width

3400

3600

2200

Landscaping along eastern boundary
Tree Planting species to be agreed

refuse bin

2800

1000

bin

Garden

Shops/offices

GF 1

R3

R2

R1

7

2

3

4

5

6

5 Flats

Turning
area

Cycle str

Cycle store

2800

PLAN 2

286
53

"LDF"

the adopted policies of the Richmond upon Thames Local Development Framework Core Strategy 2009 and Development Management Plan 2011

"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"

5% of the combined sum of the Education, Health, Public Realm and Transport Contributions being three thousand three hundred and ninety two pounds and forty one pence (£3,392.41)

"Occupation"

the full and beneficial occupation the Units as a residential dwellings (but this expression shall not include occupation for the purposes of construction or fitting out or for marketing or security purposes) and "Occupied" and "Occupy" shall be construed accordingly

"Occupation Date"

first Occupation of any of the Units for residential purposes within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended)

which constitutes Material Operation
under section 56(4) (e) of the 1990 Act.

"the Planning Permission"

a planning permission granted by the Council on 20th December 2012 bearing reference number 10/0245/FUL for the demolition of the existing buildings and erection of 2, two storey blocks comprising 1 block at front of the site with mixed use and 1 block at the rear with residential use.

"the Property"

land known as land and properly at Woodlawn Garage, 644 Hanworth Road, Hounslow TW4 5NP shown edged red Plan 1 attached hereto

"the Public Realm Contribution"

the sum of seven thousand five hundred and thirty four pounds and forty pence (£7,534.40) Indexed towards the Public Realm Use

"Public Realm Use"

in relation to the Public Real Contribution for the provision of and improvements to the public realm within the Council's administrative area

"Sale Date"

the date on which contracts are exchanged between the Owner and the seller, the deposit is paid and the completion date is set for the first sale of any the Units

"Transport Contribution"

the sum of forty two thousand nine hundred and sixty pounds and twenty

pence (£42,960.20) Indexed towards the Transport Use

"Transport Use" In relation to the Transport Contribution towards the provision of transport improvements within the administrative area of the Council

"Traffic Management Order" Contribution" the sum of two thousand five hundred pounds (£2,500) to be used by the Council towards the cost of amending the Traffic Management Order

"Traffic Management Order" an order pursuant to the Road Traffic Regulation Act 1984 securing the establishment of a loading bay within close vicinage of the Property

"Units" all of the residential units to be formed as 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 MX137871 as the proprietor of the freehold interest in the Property
- (3) At its meeting on 20th December 2012 the Council's Planning Committee resolved to grant planning permission for the Development subject to conditions one of which requires the prior completion of a deed of planning obligation under section 106 of the 1990 Act to secure financial contributions,

towards affordable housing, education, health, public realm, transport and towards a traffic management order

- (4) Policy DM HO 6 of the LDF Development Management Plan provides that the Council may consider a financial contribution to its Affordable Housing Fund as an alternative to on-site provision
- (5) Policy CP18 of the LDF Core Strategy 2009 provides that the Council will ensure the provision of schools, pre-schools and other educational facilities meet the need for additional educational resources any new development may generate and developers will have to take into account the potential need to contribute to the provision of primary and secondary school places in the borough
- (6) Policies DM TP2 and DM TP8 of the LDF Development Management Plan 2011 provide that the Council will only approve new development where the transport infrastructure can accommodate it or be adapted to it and new development should be acceptable in terms of traffic generation and traffic impact in the road
- (7) Policy CP17 of the LDF Core Strategy 2009 provides that health and wellbeing in the Council's area is important and all new developments should encourage and promote healthier communities and places
- (8) Policy CP16 of the LDF Core Strategy 2009 provides that new development will be expected to provide for additional infrastructure and community needs generated by the development

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. 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" 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 by the Council 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 Mortgagee 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 Mortgagee 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 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 and the Owner

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 3 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 Barclays Bank plc 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 are not paid to the Council within the timescales stipulated in clause 1, clause 2 and clause 5 of Schedule 1 of this Deed 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

Community Infrastructure Levy Regulations 2010

- (u) The terms of this deed comply in all respects with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 in that the obligations contained herein are necessary to make the Development acceptable in planning terms, directly relate to the Development and fairly and reasonably related in scale and kind to the Development

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 and Notifications

1. To pay to the Council the Education Contribution, the Health Contribution, the Public Realm Contribution, the Transport Contribution and the Monitoring Fee within one (1) year of a Material Start
2. To pay to the Council the Affordable Housing Contribution prior to the Occupation Date or the Sale Date (whichever is the sooner)
3. 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
4. to provide seven (7) days prior written notice to the DCM of the Occupation Date or within five (5) days of the Sale Date (whichever is sooner)

Part II – Traffic Management Order

5. Prior to the Occupation Date the Owner to pay the Traffic Management Order Contribution to the Council and not to Occupy until such contribution has been paid

Part III – Highways Works

6. Not to occupy any part of the retail unit to be formed as part of the Development until:

- (i) a formal application is made to the Council relating the implementation of the Highways Works
- (ii) the Council's costs for the Highways Works are paid prior to the commencement of the Highways Works
- (iii) The Highways Works have been completed by the Council

Part IV - Costs

7. 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 six hundred and eighty pounds (£680)

**SCHEDULE 2
COVENANTS BY THE COUNCIL**

Part I -Contributions

- 1.1 To use the Education Contribution paid to it pursuant to Clause 1 of Schedule 1 of this Deed towards Education Use
- 1.2 to use the Health Contribution paid to it pursuant to Clause 1 of Schedule 1 of this Deed towards Health Care Use
- 1.3 to use the Public Realm Contribution paid to it pursuant to Clause 1 of Schedule 1 of this Deed towards Public Realm Use
- 1.4 to use the Transport Contribution paid to it pursuant to Clause 1 of Schedule 1 of this Deed towards Transport Use
- 1.5 To use the Affordable Housing Contribution paid to it pursuant to Clause 2 of Schedule 1 of this Deed towards Affordable Housing Use
- 1.6 To use the Traffic Management Order Contribution paid to it pursuant to Clause 5 of Schedule 1 of this Deed to amend the Traffic Management Order to create a loading bay within the vicinity of the Property
- 1.7 To carry out the Highways Works

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



C. Wood

Authorised Officer

Seal Reg. No. 2861/02



SIGNED AND DELIVERED as a deed by)
ADRIAN GODWIN)

in the presence of:

Witness *W* VICTOR EDGAR ROBERT HALL)

SIGNED AND DELIVERED as a deed by)
JANET ELIZABETH MARION GODWIN)

in the presence of:

Witness *W* VICTOR EDGAR ROBERT HALL)

Witness *W* I. PEARMAIN CLOXE SHEPPELTON MINOX TWYBEP RETIRED)

Witness *W* I. PEARMAIN CLOXE)

Witness *W* SHEPPELTON MINOX TWYBEP RETIRED)



deception.

Dated 22 January ~~2018~~

THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH
OF RICHMOND UPON THAMES

-and-

ADRIAN GODWIN

-and-

JANET ELIZABETH MARION GODWIN

DEED OF AGREEMENT

made under Section 106 of the
Town & Country Planning Act 1990
relating to Woodlawn Garage, 644 Hanworth
Road,

Hounslow, TW4 5NP

Paul Evans

Head of Merton and Richmond Shared Legal
Service

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67c St Heller Avenue
Morden
SM4 6HY